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Congressional Record

PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, SECOND SESSION

SENATE—*Wednesday, October 15, 1986*

(Legislative day of Tuesday, October 14, 1986)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge Him, and He shall direct thy paths.—Proverbs 3:5-6.

Almighty God, eternal Father, perfect in all virtue whose truth lights our way—we know that ultimate issues are in Your hands—that all authority comes from You. We pray for Your special guidance in these swift yet strangely slow-moving hours. We know the nearer we get to November 4, the greater the pressure and inward struggle, and the greater the possibility for partisanship. We accept this as a reality in our political process, Gracious God, but we ask You to prevent urgent and important issues from being subordinate to political considerations alone. Strengthen Your servants—give them courage to take risks when necessary for the sake of the common good. Help them to entrust themselves to You with confidence in Your oversight and ample provision. In the name of the Prince of Peace, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE of Kansas, is now recognized.

Mr. DOLE. I thank the distinguished Presiding Officer, the President pro tempore, Senator THURMOND from South Carolina.

SCHEDULE

Mr. DOLE. Under the standing order, the leaders have 10 minutes each, followed by routine morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

At 11 o'clock, unless we have some agreement to change it, under the provision of rule XXII, a live quorum will begin, to be followed by a cloture vote on the drug bill. If cloture is invoked, it will be the intention of the majority leader to continue consideration of the drug bill.

Regardless of the outcome of the cloture vote, it will be the intention of the majority leader to turn to the consideration of a number of items. I do believe now we are finally seeing a little daylight. It is my understanding the House will consider the continuing resolution early this evening, somewhere around 6 o'clock. Since the Government will shut down tomorrow, unless we complete action, it would be my intention to stay in late tonight and try to finish the continuing resolution, and it could be rather late, say, 10, 11, midnight, or after.

The reconciliation conference report is hung up on provisions affecting the Finance Committee and the House Ways and Means Committee. Everything else, as I understand it, is settled.

On the debt limit, I have met with the distinguished chairman of the Ways and Means Committee, Chairman ROSTENKOWSKI, just this morning. We think we have made some progress on that.

On the drug bill, it is still my hope that we can resolve the one big issue, the death penalty. I know there were discussions going on yesterday. It was my understanding that I was to have met with Senator BIDEN yesterday, but I do not believe Senator BIDEN was available yesterday. In any event, the Senator from Delaware requested to delay the filing of cloture, so we would have cloture voted today, to give us yesterday to negotiate. I still hope that if there is some way to resolve the major problem, it can be done so that we can continue our bipartisan efforts to have a drug bill passed and signed by the President this year.

That would leave the immigration conference report. I am not certain when the House is going to take that up—I think sometime tomorrow morning.

I believe we may be in a position to take care of all the nominations on the Executive Calendar. Yesterday, I submitted a unanimous-consent request. I did not propound that request, but I now believe, with the Malone nomination withdrawn in effect, we may be able to get an agreement on all the other names on the Executive Calendar, including Helen Marie Taylor, Edwin Corr, Eleanor Constable, plus a number of others on the Executive Calendar. I will submit this request to the distinguished minority leader and, if we can clear it, that is something we can do during the day if we have some free time.

So I alert my colleagues this could be one of those stop-and-go days, with no certainty when we might complete our work. On the other hand, we have reached the point where the present continuing resolution will expire at midnight. If the House completes action on the CR and sends it to us this evening, of course we will be around to act on it.

SENATOR TOM EAGLETON

Mr. DOLE. Mr. President, I have taken the opportunity to make comments about a number of our colleagues who are retiring, and today I would like to speak a moment about a friend and a neighbor, TOM EAGLETON.

TOM EAGLETON is a legislator's legislator. During his three terms in the Senate, he has established a reputation as a man you can talk to and a man you can work with, and that is what legislating and making policy is all about.

TOM has dozens of friends, on both sides of the aisle, and they are his friends because they admire him and respect him. A man of strong feelings

and deep commitments, he has always shown the flexibility and the willingness to change but he has fought hard and often successfully—and more often than not, I might add—for the causes in which he believes.

As a result, TOM has accumulated some very significant legislative accomplishments: He was a key architect in the war powers resolution; a prime mover in establishing the National Institute for the Aging, as well as many programs under the Older Americans Act. TOM was also instrumental in requiring health warning labels on cigarette packages.

Whatever the issue, TOM EAGLETON has always been sensitive to the needs and interests of the average citizen.

I know the people of Missouri were disappointed when TOM announced he would not seek reelection. He has served them in one capacity or another for 30 years, since being first elected to public office at the age of 27 as a circuit attorney in St. Louis. But he will leave behind a record of achievement in the Senate, and legions of friends in the Senate and throughout the Capitol, and he can therefore be justly proud, as I know his Missouri constituents are, of his efforts.

Again, I indicate that he is a close friend and a valued friend, and we will continue to work with him long after his has left the U.S. Senate.

SIX RETIRING SENATORS

Mr. DOLE. Mr. President, I ask unanimous consent to include in the RECORD an article which appeared in USA Today today, comments about who the retiring Senators are. I think it is of some interest.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, Oct. 15, 1986]

WHO'S RETIRING IN THE SENATE

SENATOR RUSSELLL LONG, 67

Background: Louisiana Democrat elected in 1948. Longtime chairman of tax-writng Senate Finance Committee until GOP took control of the Senate.

Top Achievement: "Employee stock ownership. There are about 16 provisions in the (1973) law I passed to make it more attractive for more companies to make shareholders out of their employees. What is important is that they should have a piece of the action and a share of the prosperity in the firm."

Biggest disappointment: "I am sorry I didn't start it (employee stock ownership) sooner."

Plans: "I don't know if I will be running for office again (he's viewed as a potential gubernatorial candidate in Louisiana), practicing law or serving on a corporate board or two."

Advice for successor: "Tell the truth to these senators because they will come to know you for what you are. If you do make (a commitment), keep it."

SENATOR BARRY GOLDWATER, 77

Background: Arizona Republican elected 1952 and 1968. Chairman, Senate Armed Services Committee. GOP presidential nominee in 1964.

Top Achievement: "The Grand Canyon Enlargement Act and the Defense Reorganization Bill . . . but for me the crowning achievement has been (representing) Arizona."

Biggest disappointment: The way the Senate as a whole has changed. . . . There are as many as 20,000 staff people assisting congressmen in ways that make me wonder who is really running the show. . . . In essence, you have a body that works a three-day week considering a convoluted calendar of bills that few people understand."

Plans: I have four children and 10 grandchildren, and I look forward to spending time with them."

Advice for successor: "You need to be honest with yourself first, then always shoot straight with the people."

SENATOR CHARLES MC C. MATHIAS, 64

Background: Liberal Maryland Republican elected in 1968. Had seniority to become chairman of Judiciary Committee but conservative Republicans blocked his path to the chairmanship in 1977.

Top achievement: "Winning my last election by a larger margin than my first." (In his first election, he won with 48 percent of the vote; in his last election, he got 66 percent of the vote.)

Biggest disappointment: "The loss in momentum in the civil rights efforts." (He cited a moribund Civil Rights Commission and the loss of interest in affirmative action.) On the lighter side: "Not getting Maryland crab cakes on the menu of the Senate Dining Room."

Plans: "Practice law, lecture at Johns Hopkins and pull long-overdue weeds at my farm," 30 miles from Frederick, Md.

Advice to Successor: "Don't let your desire to get re-elected get in the way of your judgment."

SENATOR THOMAS EAGLETON, 57

Background: Missouri Democrat elected in 1968. Foreign Relations Committee member Vice presidential candidate (withdrew) in 1972).

Top achievement: "The 1973 amendment to the appropriations bill that prohibited any further expenditures for bombing in Cambodia" that he sponsored.

Biggest disappointment: "Eagleton has seen "billions and billions of dollars poured into innumerable education programs while the quality of education in this country has not increased, but declined."

Plans: "University professor at Washington University in St. Louis, also practice law there."

Advice to Successor: "Get on the Finance Committee; it is becoming the pre-eminent committee in Congress. It's the center of so much activity. Issues of trade, health, the environment, taxes and Social Security are settled there."

SENATOR GARY HART, 49

Background: Colorado Democrat elected in 1974. Third-ranking Democrat on Senate Armed Services Committee. Presidential candidate 1984; expected to run again in 1988.

Top achievement: "What stands out is the Senate itself. I've served with some great American leaders. The great contributions they have made are well documented."

Biggest disappointment: "I and others were not able to bring about some serious movement on arms control, which is still the most serious issue of our day."

Plans: "Well, I've had some inquiries from law firms, universities and businesses about what I can do after January of 1987. But whatever I do, Colorado will continue to be my home."

Advice for successor: "No advice is necessary. I'm confident Rep. Tim Wirth (running against Republican Ken Kramer) will manage just fine in the Senate."

SENATOR PAUL LAXALT, 64

Background: Nevada Republican elected in 1974. Close friend of President Reagan. Sent to the Philippines by Reagan administration earlier this year to persuade President Ferdinand Marcos to step down.

Top achievement: "The fact that I had the opportunity with my relationship with the President to serve as a conduit between two branches of government while not compromising my position as a U.S. senator from Nevada."

Biggest disappointment: "Losing the Panama Canal (treaties) fight."

Plans: "Into private law practice in Washington, D.C."

Advice for successor: "Don't take yourself too seriously because nobody else in Washington will."

□ 1010

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDING OFFICER (Mr. STAFFORD). Under the previous order, the Democratic leader of the Senate, Senator BYRD, is recognized.

Mr. BYRD. I thank the Chair.

THE REYKJAVIK SUMMIT

Mr. BYRD. Mr. President, no one rejoices in the apparent frustrating finale to the Reykjavik meetings. The overwhelming sense of disappointment that has permeated the atmosphere, because agreements were not reached on the key arms control issues, is palpable. But, one must ask, if we look back to the week before this meeting, what were our expectations? A week before the Reykjavik meeting, everyone was supposed to refrain from calling this meeting a "summit." In retrospect, this was obviously unrealistic.

My own standards for a successful meeting were twofold: First, that on arms control matters, progress on the whole range of questions on the table at Geneva be achieved so that detailed instructions for further negotiations on those matters would be given to our negotiators on both sides; second, that the so-called real summit be scheduled so that the respective bureaucracies, would be galvanized to develop solutions to outstanding issues.

Additionally, it was reasonable to expect that other agreements could be reached in Iceland, such as the proposal for risk reduction centers, progress on human rights, and progress on regional problems such as Afghanistan. These agreements would serve to help maintain a positive atmosphere within

which forward movement on arms control issues is more possible.

Democrats in both the Senate and the House made concessions on arms control matters.

President Reagan made a major point of "untying" his hands, and we gave our unqualified support, as we should have done. He went to Reykjavik with bipartisan and bicameral support.

It was unrealistic, Mr. President, that the administration convinced itself that this was not really a summit, that somehow all the issues were not going to be joined. Why, one must ask, did Mr. Gorbachev ask for this meeting?

Did the Soviets come ready to negotiate an "endgame," to cut through the central unresolved problems across the board, to completely engage the United States? I think the President's advisers did not serve him well, in that he was apparently not adequately prepared for what took place.

If we but look back 3 weeks ago, Mr. President, we recall a story in the Washington Post, on September 23, with the headline "Quick Accord on Missiles Seen Unlikely," by R. Jeffrey Smith and Walter Pincus. I read three or four paragraphs therefrom:

> Despite optimistic statements in recent days by U.S. and Soviet leaders about progress on intermediate-range nuclear forces (INF), no agreement is likely until several key issues are resolved in the Reagan administration and between the superpowers, according to U.S. and diplomatic officials.
>
> The two sides have not agreed on the allowable number of Soviet intermediate-range SS20 missiles aimed at Asia and short-range missiles on both sides based in Europe, or on the mix of U.S. intermediate-range weapons in Europe.
>
> The Pentagon and State Department remain bitterly divided on several of these issues, although neither favors the Soviet position. They also disagree about whether the United States should be allowed to redeploy missiles overseas that are removed from Western Europe, and about replacement of the missiles with shorter-range weapons. Given these disagreements, no treaty is likely without substantial negotiation and new compromises by all sides, sources said.

So, there were within the administration itself deep divisions, deep divisions between the Pentagon and the State Department, as the President was soon to make preparations for going to what he described as a base camp on the way to the summit.

The results of the summit and the developments of the final hours of the summit have some important lessons for us. First, it is unwise to attempt to bargain with the Soviets on arms control without thorough preparation in advance.

Second, summits between heads of state should be preserved for the ratification of ideas carefully thought out and hammered out in advance. Third, if the opportunity is at hand to strike a major arms control deal, one should not in anger, frustration, or impatience let the opportunity slip away. The responsibility, it seems, was on both leaders not to let it slip away. Yet, both unprepared to control the crucial moment of decision.

Mr. President, the Soviet leader is an adroit player, articulate, and he obviously came to Iceland with a well-thought-out game plan. He has the capacity to be, at times, too pushy. When I visited with him a year ago in the Kremlin, along with a bipartisan group of seven other Senators, we came away with mixed impressions. He interrupted my presentation at least once in a flare of anger, and was adamant on several occasions in reminding us whom we were attempting to deal with. In my formal report to the Senate, I said,

> Mr. Gorbachev displays irritation when confronted with a position that he seems to interpret as an intrusion into Soviet internal affairs, or that he believes to slight the Soviet Union as a superpower unequal to the United States. At times, this seems to take the form of defensiveness, * * * and he accused the United States of attempting to "intimidate" the Soviet Union on matters such as SDI.

His initial comment to me, after I made a long presentation to him on behalf of the entire Senate delegation was:

> I heard nothing new and, therefore, I don't see any great reason to discuss anything.

He then accused me of asking for Soviet "capitulation" on the major policies under discussion. Not only was this not true; it was also a patently unfair interpretation of our presentation.

So, Mr. President, we are dealing with a complex man—sometimes hypersensitive and even arrogant, who is also highly capable and quick-minded. It is entirely understandable how he could have rubbed President Reagan the wrong way.

It is important for a President to be able to walk away from a bad deal. There is a difference between willingness to walk away from a bad deal and unpreparedness to engage creatively on those issues which we well know are crucial to both nations. There is no doubt that active pursuit of the SDI Program, in the long run, involves a tremendous dedication of national resources to military purposes. There is no doubt that the Soviets would have to counter it with a renewed massive infusion of their own previous resources.

This prospect has the Soviets on edge.

American technology is probably better positioned to break through in many areas of military space technology. I am for the SDI Program—I have supported a vigorous research effort, and I will continue to support a vigorous research effort. As a supporter of SDI, I agree with the President that SDI was the beacon that attracted the Soviets to the negotiating table, but I do not believe SDI should become the rock upon which arms control founders. If the President and General Secretary Gorbachev were as close to a major arms control deal as it appears they were, it is unfortunate that patience and tenacity did not counsel deferring final judgment to another day and another place while experts worked out the technicalities.

□ 1020

There is apparently some question about whether the United States should accept a 10-year ban on deployment and testing of space weapons systems of a defensive nature.

It is my impression that the technical ground for acceptable compromise on component testing outside the laboratory exists, but that the two sides have not yet adequately explored that ground.

SDI's Director, Lt. Gen. James Abrahamson, has said that deployment of SDI systems could not occur until after the mid-1990's. Thus, one must ask whether the quest for Soviet acceptance of a broader interpretation of the ABM Treaty would yield as much in increased U.S. security as would achieving the offensive arms reductions proposed in Iceland.

Mr. President, the Senate is going to have to give its advice and consent prior to ratification of any treaty that this administration comes up with. From all reports, we are told that major progress was made on a variety of issues, including euromissiles, strategic weapons, verification questions, nuclear testing, and perhaps other matters, but that the futuristic SDI possibilities that are the apple of President Reagan's eye could not be constrained, and so the entire fabric of issues is in limbo.

Nevertheless, the progress on many matters that was reported can be taken up again if both sides are willing to start over. It seems to me that an acceptable resolution of the ABM Treaty-SDI Program can be achieved.

It remains an open question whether the summit advanced, or retarded, our efforts to build a safer world. I urge the leaders of both nations to renew their quest for peace, without permitting the disappointments of the moment to obscure this goal. Both leaders have stated their continued committment to continue doing business. To demonstrate this commitment, both governments should pick up the pieces and instruct their negotiations in Geneva to pursue those avenues which appeared most promising in Iceland.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 11 a.m., with statements therein limited to 5 minutes each.

The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may yield briefly to the Senator from Maryland without being charged with the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I thank the Senator from Wisconsin.

ORDER FOR PRINTING OF IMPEACHMENT DOCUMENTS

Mr. MATHIAS. Mr. President, I ask unanimous consent that the proceedings of the Senate, sitting in open session as a court of impeachment to consider the articles of impeachment against United States District Judge Harry E. Claiborne of the District of Nevada; together with statements submitted for the record; briefs, memoranda, and motions submitted by the parties to the Senate following the completion of the Senate Impeachment Trial Committee's hearings on September 23, 1986; legislative proceedings relating to this matter; and briefs filed in the Federal courts by both Judge Claiborne and the Senate and relevant judicial orders; be separately printed for the use of the Senate. I further ask that 300 copies be printed for the use of the Senate Impeachment Trial Committee and 300 copies be printed for the use of the Secretary of the Senate.

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, the distinguished Senator is asking these matters be printed and gathered together as a Senate document?

Mr. MATHIAS. Yes.

Mr. BYRD. I think this is very wise and appropriate. It seems to me it would be of service to the Senate in the future when such cases may again come before the Senate for trial. Our experiences in this event can constitute a guiding light to those Members in the future.

The Senator is rendering a service by making the request.

I remove my reservation.

Mr. MATHIAS. I thank the distinguished minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I further ask unanimous consent that the time not be subtracted from the time of the Senator from Wisconsin.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin is recognized.

IS GORBACHEV PUSHING UNITED STATES TO GO AHEAD WITH STAR WARS?

Mr. PROXMIRE. Mr. President, the one, far and away most persuasive argument for the strategic defense initiative [SDI], or star wars, is that the Soviet Union, specifically Secretary Gorbachev, so vehemently opposes it. Now, suppose the fact is Gorbachev does not oppose SDI, just suppose he favors the United States proceeding with it? Consider, there is solid logic in Gorbachev concluding that the Soviets will gain clear military advantage if the United States pours a trillion dollars into SDI. So Gorbachev should logically pursue a course of conduct that would push our country ahead with star wars. Is Gorbachev doing this? I believe he is doing exactly this. But how can that be? Didn't Secretary Gorbachev make restraint on SDI the absolute condition for his agreement to arms control at the Iceland summit? He did, indeed. And hasn't Secretary Gorbachev vigorously and consistently denounced SDI as a stumbling block to arms control? He has. Now doesn't all this prove that however American critics may demean SDI as an effective defense against Soviet nuclear attack, Gorbachev himself recognizes the serious threat the American SDI poses to the credibility of the Soviet's nuclear deterrent?

Mr. President the answer to these questions is evident to anyone who will put himself in the position of Mr. Gorbachev. So what action by the United States would you view as most likely to serve the military purposes of the Soviet Union if you were Gorbachev? Answer: for the United States to squander its great technological and economic military advantages on a massive $1 trillion project that you believe is bound to fail. If he United States pulls tens of thousands of its best scientists and technicians away from improving its planes and tanks and warships, if it pours hundreds of billions of dollars of its military expenditures into a strategic defense initiative which the Soviets can easily and for far less money overwhelm, penetrate, spoof, underfly, won't that serve the interest of the Soviet Union? Of course, it will. So how does Mr. Gorbachev persuade the United States to proceed with SDI? Easy. He makes the biggest possible fuss about SDI. He denounces it. He calls it a terrible threat to world peace. And then comes the masterstroke. Gorbachev walks right up to a massive arms control agreement that would cut the missile forces of each superpower by 50 percent, and says—we want oh so much to cut our nuclear missile force but we can't do this if the United States continues its SDI project. Is Secretary Gorbachev smart enough to understand that this is precisely the kind of performance that is likely to give SDI its best and biggest chance? You betcha. Certainly Gorbachev understands that it will be much easier for President Reagan to move ahead with SDI inspite of the strong public and congressional opposition to the program if he—Gorbachev—the Communist Leader—persists as its leading critic. There is nothng easier in American politics than to champion a U.S. military security project that has the all-out opposition of the Soviet Union and its top boss. Does Secretary Gorbachev know this? Does he realize that when he opposes a U.S. military project he gives it the strongest possible political support in this country. Of course, he does. And when this leader of the Soviet Union makes the SDI project the one and only reason he won't accept a massive nuclear arms reduction program he achieves other ends too. Gorbachev wins points with peace movements in Europe and even in America. He focuses blame on what he calls stubborn American intransigence with much of the European and American public. At the same time he encourages America to impose an enormously heavy burden on its economy and to divert its military resources to a project that he must know will not and cannot eliminate the credibility of the Soviet's massive nuclear deterrent.

Ah, but suppose SDI or star wars works. Isn't Secretary Gorbachev taking a reckless gamble? No, indeed, the record of hearings before the Defense Appropriations Subcommittee is replete with testimony from former Secretaries of Defense—Republican and Democratic—and from scientific experts who have told the committee that SDI cannot provide an effective shield over our cities. They have testified that the SDI defense can never be fully or adequately tested and repeated testing is absolutely essential to build such a system. They have testified to its immense cost. Secretary Gorbachev knows all this. He also understands enough about American politics to know for a sure and certain fact that he has the power to greatly advance any U.S. military project with the American public and the Congress by simply opposing it. This is precisely what he is doing with SDI. We shouldn't fall for it.

MYTH OF THE DAY: NUCLEAR TERRORISM CAN'T HAPPEN HERE

Mr. PROXMIRE. Mr. President, the myth of the day is the often heard proposition that nuclear terrorism, while an interesting theoretical concept, just can't happen here.

After all, the argument goes, the United States has suffered little in the way of any terrorist activity. We safeguard our military facilities. We guard our nuclear powerplants. Nuclear materials are always under close control. So a nuclear terrorist incident here is just not likely.

Mr. President, this is a comforting conclusion. Nuclear terrorism just can't happen here. But it is a myth and the kind of complacency we cannot afford.

According to the International Task Force on the Prevention of Nuclear Terrorism, the probability of nuclear terrorism is increasing. They cite the growing incidence, sophistication and lethality of conventional terrorist activity—giving rise to the perception among terrorists that a nuclear event might be the biggest victory of all.

In addition, there is increasing State support for international terrorism. Iran, Iraq, Libya, Yemen, are all countries who have demonstrated a willingness to support the most violent terrorist organizations.

In the last 20 years there have been some 155 bombings, attacks or violent demonstrations at civil nuclear installations around the world. Most have not been serious but they demonstrate that nuclear reactors are prime targets.

Building a nuclear device is within reach of terrorists having resources to recruit a team of three or four technically qualified specialists according to the task force. Reactor grade plutonium or highly enriched uranium would be required.

For all these reasons, Mr. President, we must begin now to guard against these possibilities. To continue to say that it can't happen here is a deadly myth—one that strikes at our national security.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EVANS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FEDERALISM ACT OF 1986 [FACT]

Mr. EVANS. Mr. President, I rise to introduce the Federalism Act of 1986 or Fact for short. Senator DURENBERGER and I believe that Fact offers a working draft or blueprint to thoroughly overhaul our Federal, State, and local governmental relationships. Fact is a proposal that would:

First. Achieve sweeping federalism reform and a major reordering of Federal domestic priorities on which Republicans and Democrats; conservatives and liberals; and Federal, State, and local governments can agree;

Second. Provide a responsible, achievable middle ground for the coming debate over welfare reform and family policy;

Third. Offer taxpayers a more effective and efficient government for each of their tax dollars paid; and

Fourth. Present a structural change to government that better defines the future budget decisions that must be addressed.

And, most importantly, the elements of this proposal would be implemented gradually on a fiscally neutral basis—a concept that we inherited from Gramm-Rudman and tax reform.

Mr. President, the effort to develop this legislation began in December 1985, when the Committee on Federalism and National Purpose—established under the auspices of the project on the Federal social role—released its report, "To Form a More Perfect Union." It was the culmination of the work by the committee, cochaired by former Gov. Charles Robb of Virginia and myself. We were joined by a group of 23 other Republican and Democratic representatives from all levels of government, academicians, and well-respected professionals. The legislation we introduce today reflects the consensus achieved by this diverse group.

Mr. President, I ask unanimous consent that a list of those who were members of that committee be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FEDERALISM AND NATIONAL PURPOSE

CHAIRMEN

Daniel J. Evans, U.S. Senator from Washington.

Charles S. Robb, Governor of Virginia.

MEMBERS

Bruce Babbitt, Governor of Arizona.

Samuel H. Beer, Eaton Professor of the Science of Government, Emeritus, Harvard University.

Benjamin L. Cardin, Speaker, Maryland House of Delegates.

Barber B. Conable, Distinguished Professor of the University of Rochester.

Dave Durenberger, U.S. Senator from Minnesota.

Stuart E. Eizenstat, Powell, Goldstein, Frazer & Murphy.

Richard A. Gephardt, U.S. Representative from Missouri.

Charles W. Gilchrist, Montgomery County, Maryland, Executive.

W. Wilson Goode, Mayor of Philadelphia.

Frank Horton, U.S. Representative from New York.

A.E. Dick Howard, White Burkett Miller Professor of Law and Public Affairs, University of Virginia; and Counselor to the Governor of Virginia.

Richard P. Nathan, Professor of Public and International Affairs, Princeton University.

Leon E. Panetta, U.S. Representative from California.

Jane Smith Patterson, Director of Contracts Administration, ITT Telecom, N/A.

Neal R. Peirce, Contributing Editor, National Journal.

Alan Pifer, President Emeritus, Carnegie Corporation of New York.

Lois D. Rice, Senior Vice President for Governmental Affairs, Control Data Corporation.

Alice M. Rivlin, Director, Economic Studies Program, The Brookings Institute.

Robert J. Rubin, M.D., Executive Vice President, ICF, Inc.

Richard S. Schweiker, President, American Council of Life Insurance.

Alair A. Townsend, Deputy Major for Finance and Economic Development, City of New York.

Eddie N. Williams, President, Joint Center for Political Studies.

Richard S. Williamson, Senior Vice President for Corporate and International Affairs, Beatrice Companies, Inc.

DIRECTORS

Forrest P. Chisman.

Stephen B. Farber.

Judith Golub, Project Associate.

Mr. EVANS. Our report, "To Form a More Perfect Union," sets the framework for the legislative drafters. In crafting this legislation we drew on the talents of many experts as well as officials from former Democratic and Republican administrations.

The legislative package we devised takes into account the fact that sweeping change can probably best be accomplished—if it can be accomplished at all—incrementally. Fact presents a straightforward plan for phasing in a comprehensive restructuring of Federal and State governmental relationships. We are introducing the legislation today so that Members can have an opportunity to study our proposals during the long recess. Hopefully, when we convene the 100th Congress, Members will be sufficiently familiar with the legislation so that we can move promptly to hold hearings, to incorporate the best suggestions of Members and other analysts, and then pass this legislation.

Mr. President, let me briefly describe the legislative components of Fact. As I indicated, the changes would be phased in over a number of years, and would be fiscally neutral. Under Medicaid, we would establish more uniform eligibility and benefits standards. We would expand coverage to all children 5 years of age and under as well as pregnant women living in families with incomes below the poverty line. The Federal commitment would be increased to a 90-percent match. By providing medical coverage to all poor children under 5 years of age, we can keep an additional 1.3 million children healthy. This proposal is consistent with this year's reconciliation bill which seeks Medicaid coverage for poor children. Other elements of our proposal would establish more uniform Medicaid standards.

Under AFDC, we would establish a national minimum benefit level for

AFDC benefits and increase the Federal commitment to a 90-percent match. The program would continue to be administered at the State level. In a wealthy nation like ours, it is a disgrace that a poor family of four in one region of the country can receive assistance up to five times as great as a poor family in another region. After all, to be poor and hungry in New York or California is not much different than being poor and hungry in Mississippi, Maine, or Missouri.

In addition, Fact would require all States to join the 26 States that already participate in the AFDC-Unemployed Parent Program. Without the AFDC-UP Program, the current AFDC system encourages the separation of parents in order to qualify for benefits—a policy that is antifamily and must be changed.

It is important to note, Mr. President, that before these AFDC reforms are implemented, Fact requires States to undertake aggressive efforts to develop and operate a program to encourage and assist AFDC recipients to prepare for, seek, and accept work.

To fund these increased Federal commitments, most local community development, infrastructure and many personal social service programs would be terminated at the Federal level. State and local governments could replace Federal spending for programs that are more cost-effective and responsive to local priorities.

Mr. President, when the Federal program terminations included in Fact are balanced against the increased Federal role in Medicaid and AFDC, the result is a fiscally neutral legislative package. But it is not carved in stone. Alternative combinations of program terminations have been explored and can be developed. With further coalition building and additional Member support other options will emerge.

While terminating programs has proven to be difficult for Congress, it becomes much more palatable when it represents a reordering of responsibilities between Federal, State, and local governments. Even with the bold efforts of Senators DOMENICI and CHILES, Congress has been restricted to offering status quo budgets that are responsive to this year's needs but not next. By allowing continued program freezes or spending reductions of 5 or 10 percent, the Congress and the President are not doing an effective job and are slowly strangling many important programs.

If all States and localities were identical, an intergovernmental exchange could be simple. But with the wide fiscal disparities among States and localities, the Federal Government should help meet targeted needs.

Integral to this federalism proposal are fiscal capacity grants targeted to those States and localities with very low tax capacity. Those States with low fiscal capacity would receive grants that would help them provide an adequate level of public services. Furthermore, localities would be allocated grants to cushion the impact of program terminations on communities with limited resources. Such a targeted program is 300 percent more efficient in reducing fiscal disparities than general revenue sharing, at one-half of the cost.

The final component of Fact converts the current Federal spending on the nonmedical aspects of long-term care into block grants to the States, thereby removing the present programmatic bias toward institutional solutions and enabling States to experiment with more efficient and humane forms of service. In addition, Federal funding will rise slowly to help narrow the gap between resources available in different States.

While a comprehensive solution appears to be a decade away, this proposal provides a first step in that direction and goes a long way toward meeting some of the costs and care concerns generated by the current system.

In conclusion, the Federalism Act of 1986 supports a diverse combination of interests.

First, it terminates a number of Federal programs and allows States and localities to determine their own priorities.

Second, it creates greater nationwide uniformity in the benefits provided by Federal safety net programs and it promises to place welfare recipients in jobs.

Third, it removes the tangled web of regulation between Federal and State/local governments.

Fourth, it mitigates the effect of fiscal disparities between the poorest and wealthiest States.

Fifth, it reforms our intergovernmental structure—helping us better define our future budget decisions.

With our Nation celebrating the bicentennial of the Constitution next year, there is no better time to return to the basics—"to form a more perfect Union."

Mr. President, I ask unanimous consent that the summary and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

The Federalism Act of 1986 (FACT) offers a plan to thoroughly overhaul our intergovernmental relationships—a proposal that would:

Achieve sweeping federalism reform and a major reordering of federal domestic priorities on which Republicans and Democrats; conservatives and liberals; and federal, state and local governments can agree;

Provide a responsible, achievable middle ground for the coming debate over welfare reform and family policy; and

Present a structural change to government that better defines the future budget decisions that must be addressed.

And, most importantly, the elements of this proposal would be implemented gradually on a fiscally-neutral basis.

BACKGROUND

In December, 1985, the Committee on Federalism and National Purpose released its report, To Form a More Perfect Union. It was the culmination of the work by the Committee, co-chaired by Senator Daniel J. Evans (R-WA) and former Governor Charles Robb (D-VA), along with a group of 23 other representatives from all levels of government, Republicans and Democrats, academicians and well-respected professionals. Truly, the strength of the Committee was the consensus found from such diverse members.

Experts in the field were enlisted as well as former Democratic and Republican Administration officials, to draw up the FACT of 1986 using To Form a More Perfect Union as a guide.

IMPLEMENTATION PLAN

The proposals offered by FACT can be implemented in a fiscally-neutral way by seeking leadership and member endorsement, building a diverse coalition of support and using the reconciliation process during 1987. As a starting point, however, omnibus legislation was introduced in October which will serve to initiate discussion and to develop alternative options.

INITIAL PROPOSALS

The following outlines a combination of proposals and options that could be pursued gradually in a fiscally-neutral fashion:

Medicaid Reform: In year 1, provide Medicaid coverage for all children 5 years of age and under and pregnant women living in families with income below the poverty line. The federal government will pay 80 percent of the Medicaid program cost for these two groups in year one and 90 percent thereafter. The age of eligibility for children will increase by 1 year through 1994, when children under 12 will be covered. In the first year, this proposal will cover an estimated additional 1.3 million children from poor families, and an additional 1.8 million children through 1994. Furthermore, an additional estimated 286,000 poor pregnant women will be covered in each year of the program.

In year 2, eligibility for the medical components of Medicaid would be made more uniform and broader nationwide. Also beginning in year 2, the federal government will increase its reimbursement rate for state Medicaid costs by 2 percentage points per year. Federal payments to states would be capped at 90 percent.

AFDC Reform: In year 2, all states would be required to join the 26 states that already participate in the AFDC—Unemployed Parent Program. Without the AFDC-UP program, the current AFDC system encourages the separation of parents in order to quality for benefits—a policy that is anti-family and must be changed.

Also in the second year, the federal funding match would increase to 90 percent from the current average of 54 percent, and a minimum AFDC benefit floor would be set for all states which, when combined with the cash value of Food Stamps, would equal 50 percent of poverty level income. The value of this minimum grant would increase by 2 percent of poverty per year each year thereafter. By 1994, the federal minimum

would be 62 percent of poverty, at or above the maximum combined AFDC and Food Stamp benefit currently in effect in 34 states.

A poor family of 4 in one region of the country will receive assistance up to 5 times as great as a similar family elsewhere. Afterall, to be poor and hungry in New York or California is little different from being poor and hungry in Mississippi, Maine or Missouri.

Work-Welfare: Along with providing more uniform and adequate welfare benefits, it is important to pursue initiatives aimed at enhancing the employment prospects of AFDC recipients. The suggested general characteristics of such a program are:

A federal mandate that states develop and operate a program to encourage and assist AFDC recipients to prepare for, seek and accept work, combined with broad state flexibility as to the specific design of that program.

Authorization for the states to require that AFDC recipients participate in offered programs and accept work, subject to certain minimum federal standards (e.g., exemption of the disabled, etc.).

Consolidation of existing federal work/welfare initiatives (with a 10 percent state match), which is administered by the Department of HHS.

Expanded funding for state programs in future years with a portion of the increase tied to the effectiveness of state programs.

It is important to note that AFDC employment requirements begin one year prior to the increasing federal role proposed under AFDC.

Long-term care: In year 3, create a block grant based on the current federal contribution to long term care. Funding levels will rise so as to combine an increased federal presence with additional funds to deal with case load and cost changes. While a comprehensive solution appears to be a decade away, this proposal provides a first step in that direction and goes a long way toward meeting some of the cost and care concerns generated by the current system.

Targeted assistance grants: Integral to this federalism proposal are "fiscal capacity grants" targeted to those states and localities with very low tax capacity. Those states with low fiscal capacity would receive grants that would help them provide an adequate level of public services. Furthermore, localities would be allocated grants to cushion the impact of program terminations on communities with limited resources. A preliminary framework for these two grants is described as follows:

Grants to Localities: These grants are targeted at those localities most in need. Need is to be measured by Total Tax Revenue (TTR), a standard developed by the Department of Treasury. The Department also will administer the funds on the national level. Grants will begin in Year 1 and continue each year thereafter. Funding is set at approximately $2.0 billion per year. Commissions in each state will have the option to develop an alternate formula by which to disburse fund within each state.

Fiscal Capacity Grants to States: These grants will be targeted at those states whose fiscal capacity is below 90 percent of the national average of total taxable resources, as determined by a formula developed by the General Accounting Office. Available funds will be allocated to states falling below 90 percent of the average in proportion to the extent to which these state's capacities fall below that mark. This measurement will be reestimated annually. The Treasury Department will administer these funds nationally. Grants to selected states will be authorized at $2.0 billion annually and will begin in year 3, continuing thereafter.

Program terminations: In year 1, most local community development, infrastructure and many personal social service programs would be terminated. State and local governments could replace federal spending for programs that are more cost-effective and responsive to local priorities.

A combination of program terminations that would provide for a fiscally-neutral proposal include: EDA; Appalachian Regional Commission; CSBG; UDAG; CDBG; UMTA—Research, Training & Human Resources, Interstate Transfer, and Section 9; EPA Wastewater Grants; Rural Water Waste Disposal Grants; Impact Aid; Chapter 2; Vocational Education; Title XX; and low-income housing (new commitments).

Alternative combinations of program terminations have been explored and can be developed. With further coalition building and additional member support other options will emerge.

SECTION-BY-SECTION ANALYSIS

A bill to establish more uniform eligibility and benefit levels under the Aid to Families with Dependent Children program and the Medicaid program, to provide for greater Federal financial responsibility for such programs, to enhance the employment prospects of recipients of Aid to Families with Dependent Children, to provide for a reduced Federal role with respect to certain activities, to provide fiscal capacity grants to States, and for other purposes.

SUMMARY OF TITLE I: AID TO FAMILIES WITH DEPENDENT CHILDREN

To establish more uniform eligibility and benefit levels for the Aid to Families with Dependent Children Program and greater federal responsibility for program costs, and to enhance the employment prospects of recipients so that they may become self-sufficient through a federal mandate that states develop and operate a program to encourage and assist recipients of Aid to Families with Dependent Children to prepare for, seek and accept work, combined with broad state flexibility as to the specific design of that program.

Subtitle A—Benefits and Federal participation

Section 101—AFDC Minimum Benefit Amount: Effective October 1, 1988, a federal minimum monthly benefit is set for all states. This federal minimum is a cash grant which, when combined with the cash value of food stamps, equals 50 percent of the nonfarm income official poverty line established by the Office of Management and Budget and revised annually. The value of the minimum grant increases 2 percent of poverty per year each year until FY95 when it reaches 62 percent of poverty level income. The federal government pays 90 percent of the value of this grant, with states continuing to be reimbursed by the federal government for amounts above this minimum at current reimbursement rates.

Section 102—Mandatory Provision of Aid with Respect to Dependent Children in Two-Parent Families: As of October 1, 1988, all states are required to adopt the AFDC-UP program. The costs of this program would be reimbursed at the same rate as the regular AFDC program.

Subtitle B—Work-related requirements

Section 111—State Plan Requirements; Registration of AFDC Applicants and Recipients for Work-Related Counseling, Assessment, and Assignment: AFDC recipients are required to register for work-related counseling and assessment, and assignment to employment, training, education, and other employment related activities designated by a state agency in each state that would consolidate the administration of each state's work-related functions. Current WIN regulations exempting certain populations would be continued, except that states may require individuals with children under the age of six to register, but only if childcare and transportation arrangements are available. States also may exempt recipients if participation in the program would not improve their employment prospects or if accepting work would lead to a net loss of income. Non-exempted recipients who without good cause do not register or participate in the program if offered to them will lose benefits.

Section 112—Consolidated Administration of Work-Related Programs: The Governor of each state designates the state agency which will administer work-related programs for Title IV-A recipienets. This agency registers all recipients and determines the appropriate kind and level of activity and, to the maximum extent possible, provides for increased coordination between the AFDC agency and other employment, training and education programs offering services to AFDC recipients. Such programs include the work incentive program, the work incentive demonstration program, the state's community work experience and supplementation programs, a work demonstration program (under section 1115), any program under the Job Training Partnership Act, any program of job search and related services, and any other program which could be made available to this population. Childcare, transportation and other necessary assistance is funded at a 90/10 rate.

The federal government authorizes funds of $500 million for FY88. This grant is increased $100 million annually and is capped at $1 billion for each of the fiscal years 1993–1995. First year funding is matched at a 90/10 rate, distributed to states on the basis of caseload. One half of the annual increases is distributed also on the basis of caseload and is matched at a 70/30 rate. The remaining half is matched at a 70 to 90 percent variable based on performance. The federal government contributes 50 percent to cover administrative costs.

In consultation with other officials, the Secretary of Health and Human Services will develop performance standards, giving special weight to the number of AFDC beneficiaries with limited prior work history that each state has placed in employment.

Section 113—Optional Coverage of Employment-Related Support Services for Certain Individuals: States have the option to continue payments for childcare, transportation and other employment-related support services for up to 12 months for families whose eligibility for AFDC has ended due to increased levels of income. States may opt to develop a fee schedule for these recipients.

Section 114—Technical, Conforming and Miscellaneous Amendments: The responsibility for administering the WIN program on the national level is transferred from the Department of Labor to the Department of Health and Human Services. Federal assistance is made equal to the applicable percentage of the costs of carrying out the activities determined by the designated state agency.

Section 115: Except as indicated otherwise, work-related requirements take effect October 1, 1987.

Subtitle C—Hold harmless

Section 121—Hold Harmless: The federal government will reimburse states at a 100% rate for amounts expended by them for AFDC in FY89 that are in excess of the amounts expended by them in FY88 for such aid and activities. This provision mandates federal reimbursement to states for the difference between the additional spending attributable to the AFDC amendments in FY89 and the additional federal reimbursements that occur that same year.

SUMMARY OF TITLE II: MEDICAID

To establish more uniform eligibility and benefit levels for Medicaid, along with greater federal responsibility for program costs.

Section 201—Medicaid Eligibility for Poor Children and Pregnant Women: Starting October 1, 1987, all children under 5 years of age living in families with income below the poverty line and all pregnant women (and during the 60-day period following pregnancy) living in such families would be eligible for Medicaid. The age of eligibility for children will be raised 1 year in each succeeding year, reaching 11 years of age. Secretary of Health and Human Services will set minimum nationwide uniform standards of service coverage and reimbursement.

Section 202—Medicaid Eligibility for Certain Other Individuals: Starting October 1, 1988, the following groups would be made eligible for the medical component of Medicaid: All persons eligible for but not receiving SSI; All institutionalized persons who are not categorically eligible for Medicaid solely by virtue of the more restrictive income eligibility requirements for this population; persons residing in states that do not provide Medicaid to all SSI recipients.

Section 203—Medically Needy Program Required: Starting October 1, 1988, all states are required to institute Medically Needy programs.

Section 204—Federal Medical Assistance Percentage: The federal government will pay 80 percent of the Medicaid costs for poor children and pregnant women in FY88. In FY89, the federal government will pay 90% of the costs. The state medical assistance percentage to cover Medicaid costs for groups other than poor children and pregnant women will be reduced by 2 percentage points beginning on October 1, 1988. By and after October 1, 1994 the state percentage will be reduced by 14 percent.

Section 205—Hold Harmless Provision: The federal government will reimburse states at a 100 percent rate for the costs attributable to the amendments detailed in Title II that a state expends in FY88 and FY89 that are in excess of the amounts states expended in FY87. This provision mandates federal reimbursement for the difference between the additional spending attributable to the Medicaid amendments in FY88 and FY89 and the additional federal reimbursements that occur in those years.

SUMMARY OF TITLE III: TERMINATION OR REDUCTION OF CERTAIN FEDERAL PROGRAMS

To provide for a reduced federal role with respect to certain activities.

Section 301—Repeal of Certain Statutes: The following provisions of the law are repealed: Appalachian Regional Commission; Economic Development Administration; Urban Mass Transit Interstate Transfer; Urban Development Action Grants (UDAG) and Community Development Block Grants (CDBG); Impact Aid; Chapter 2 of the Education Consolidation and Improvement Act of 1981; Vocational Education; Community Services Block Grant; Wastewater—Federal Water Pollution Control Act; Rural Waste Water Disposal.

Section 302—Reduction in Housing Assistance Program Outlays: Federal outlays are reduced for the following programs: Housing Assistance Payments under Section 8; Public Housing Assistance and Loans; Rental Housing Assistance; Section 202 Housing Loans for the Elderly and Handicapped; Congregate Services Assistance; Operating Assistance under Section 201. Congress will reduce aggregate outlays for these programs from the aggregate baseline outlay amount, as determined by the Director of the Congressional Budget Office by the following cumulative amounts: For FY88, $800 million; FY89, $900 million; FY90, $1 billion; FY91, $1 billion; FY92, $1.2 billion; FY93, $1.3 billion; FY94, $1.4 billion; FY95, $1.5 billion.

Section 303—Reduction and Termination of the Social Services Block Grant: The Social Services Block Grant will be reduced in FY88 by $1.6 billion. The program is repealed in FY90.

SUMMARY OF TITLE IV: FISCAL CAPACITY GRANTS TO STATE AND LOCAL GOVERNMENTS

To establish targeted grant programs to reduce fiscal among state and local governments, and ensure that all communities can provide their citizens with a safety net of basic public services, by providing general purpose fiscal assistance to needy communities.

Section 401—Findings and Purposes.

Section 402—Definitions and Special Rules of Application: Defines county, township, city, Indian tribes and Alaskan Native Villages that are eligible to receive funds, defines data factors to be used in calculating grant allotments, and other terms required in the civil rights provisions.

Section 403—Payments to State and Local Governments: Contains technical/administrative provisions related to the timing of payments and making adjustments to payments as may be required.

Section 404—General Fiscal Assistance Trust Fund: Establishes a General Fiscal Assistance Trust Fund to be administered by the Secretary of the Treasury. $2.0 billion are authorized for payment to State governments and $2.0 billion for payments to units of local government. In addition, $500,000 is authorized to be appropriated to the Department of Commerce for collecting and tabulating data on fees and charges and Total Taxable Resources, used in calculating grant payments.

Section 405—Qualifications: Imposes certain requirements on grantees, including: (1) they pay prevailing wages to public employees whose salaries are in part paid with grant funds, and (2) imposes Davis-Bacon provisions on construction projects financed with grant funds.

Section 406—Special Entitlements for Indian Tribes, Alaskan Native Villages, and the District of Columbia: Provides per capita payments to the District of Columbia, each Indian tribe and Alaskan Native village equal to 150 percent of the per capita amount appropriated for all units of local government.

Section 407—State Area Allocations for Units of General Local Government: Funds for units of local government are allocated among state areas according to a 3-factor formula based on population multiplied by tax effort multiplied by relative fiscal capacity using the total taxable resources (TTR) measure of fiscal capacity. The details of the interstate formula are as follows: (1) no state area receives a payment less than 20 percent of the U.S. average per capita payment, (2) a state's tax effort is revenues (taxes plus fees and charges) divided by its TTR, (3) the total taxable resources of all states is adjusted to reflect the higher cost of living in higher income states, and (4) funds are allocated in proportion to the extent to which a state's TTR is less than 150 percent of the TTR of all states.

Section 408—Allocations to Units of General Local Government in the Same State: Allocates each state area allotment to units of general local government using a formula based on the population, tax effort and per capita income of each unit of local government.

Paragraph (b)(1) defines the tax effort of each unit of local government as revenues collected (taxes plus fees and charges) divided by resident's total income. However, the revenues of a unit of local government are limited to no more than twice the state average. This provision is intended to prevent extraordinarily large payments to localities that can export a large proportion of local taxes to non-residents because of large shopping centers or industrial parks that yield large revenues relative to population. The income factor is defined so that local governments whose per capita incomes exceed 120 percent of the U.S. per capital income (adjusted for cost-of-living differences) are ineligible. Per capital payments for the remaining eligible governments increases in proportion to the extent their per capital income is below the 120 percent income eligibility standard.

Section 409—Adjustments of Local Government Allocations Made Under Section 408: Provides adjustments to payments established in Section 408—(1) no local government may receive a per capita payment more than 3 times the national average payment, and (2) if the payment determined in section 408 is less than $1,000 the payment is automatically waived and reallocated to remaining eligible governments.

Section 410—Alternative Distribution of Funds to Local Governments: Establishes a Commission in each state composed of elected local government officials to investigate alternative formulas that may better target aid to local governments with high costs of providing for their public service needs and low revenue raising capacity. If the Commission finds that a better method of allocating funds can be devised then it may recommend an alternative formula, which if approved by the Governor and State Legislature, will replace the allocation provisions contained in sections 408 and 409.

Section 411—Allocations to State Governments: Allocates funds to state governments using the same interstate formula as described in section 407 except that eligibility is limited to only those states whose total taxable resources are below 90 percent of the average taxable resources of all states. However, no minimum per capita payment is provided. In addition, if the formula would allot less than $1.0 million to any state government their allotment would be waived and reallocated to remaining eligible State governments.

Section 412—Information Used in Allocation Formulas: Requires that the latest available data be used for calculating grant allotments, that population data be adjusted to reflect under counts from the 1980 census and provides hold-harmless provi-

sions for areas designated as major disaster areas.

Section 413—Accountability: Contains the same public hearing provisions that has been required under general revenue sharing.

Sections 414 through 420—Discrimination: Contains the same anti-discriminatory provisions as has been required under general revenue sharing.

Section 421—Audits, Investigations and Reviews: Invokes requirements of the Single Audit Act of 1984 for governments receiving $25,000 or more.

Section 422—Reports: Imposes the same reporting requirements on the Treasury Secretary and grant recipients as was required under general revenue sharing.

SUMMARY OF TITLE V: BLOCK GRANTS TO STATES FOR LONG-TERM HEALTH CARE SERVICES

To establish a block grant program with respect to the nonmedical aspects of long-term care, thereby removing the present programmatic bias toward institutional solutions to the problem and enabling the states to experiment with more efficient and humane forms of service. In addition, provide federal funds for the block grants at a level that would help narrow the gap between resources available in different states for the nonmedical aspects of long-term care.

Section 501—Establishment of Block Grant Program with Respect to Long-Term Health Care: Federal spending on long-term care is converted into a block grant to states to cover services supplied by skilled nursing facilities; intermediate care facilities for mentally retarded individuals or individuals with related conditions; intermediate care facilities for other populations; inpatient psychiatric hospitals; and by home health care. The program will take effect beginning the third year after the enactment of the Federalism Act of 1986.

The size of the grant to each state will be based on qualifying expenditures for long-term care in the year prior to the program's implementation. Qualifying expenditures are: the funds required to provide institutional-based services up to the national average in terms of average care days per recipient for each type of service and funds spent in providing home health care services.

The federal block grant to each state will increase according to the primary adjusted federal medical assistance percentage on qualifying expenditures, 5 percent in the first year and for each subsequent fiscal year, the sum of 3 percent and the primary adjustment percentage for the immediately preceding fiscal year. The federal block grant amount to each state also will reflect the secondary adjusted federal medical assistance percentage on expenditures above the qualifying amount, a 2.5 percent reduction in the matching rate in the first year and for each subsequent fiscal year, the sum of 1.5 percent and the secondary adjustment percentage for the immediately preceding fiscal year.

Furthermore, the Secretary of Health and Human Services will increase the qualifying expenditures used in the grant formula to reflect growth in the target population and in unit costs. Except for this percentage increase mandated by the Secretary, long-term care federalization generally is complete when the cumulative annual increments bring the match rate to 90 percent.

Section 502—Report by Secretary with Respect to Technical and Conforming Changes: Within 180 days after enactment, the Secretary of Health and Human Services shall submit to Congress a report describing the necessary technical and conforming changes.

Mr. DURENBERGER. Mr. President, the goal of this legislation can be described in a single word: "responsibility." For two decades, we've known what's wrong with the Federal system. For a decade, at least, we've had a pretty good idea about how to fix it.

But, knowing what we ought to do, and getting it done, are two different matters. Federalism reform is not going to happen until we take the responsibility to make some very tough decisions. By we I mean the Federal Government, State and local governments, and the American people. All of us and each of us.

For the Federal Government, this means finally admitting our responsibility to the poor, establishing a real safety net that supports people on an equal basis—in Mississippi as well as in Minnesota.

For State and local governments, this means abandoning the old illusions that we can have it all—and that we can have it both ways—Federal aid for every purpose under the Sun, everywhere on an equal basis, whether you're Bedford-Stuyvesant or Beverly Hills.

And, finally, responsible federalism makes demands on people as well as governments. Take the case of welfare. Government has a responsibility to provide a minimum level of resources. But, the individual and the family have responsibilities as well, both to themselves and to society.

The legislation that DAN EVANS and I are introducing in the Senate, and that TOM DOWNEY is introducing in the House, is about "responsible federalism."

While this legislation took over a year to develop, it does not mark an end to our discussion and debate on this subject. Instead, this legislation, and the hearing we held on federalism reform last week before the Senate Subcommittee on Intergovernmental Relations, will launch the beginning of a dialog which is well-suited for 1987—a year in which we will celebrate the bicentennial of our Constitution and begin the 100th Congress of the United States.

This dialog, in turn, is not about arcane administrative arrangements of governmental activities. Rather it is about the future direction of our system of government. And it is about the most fundamental questions concerning the role of government in our society—questions like:

Which levels of government should be responsible for delivering which services?

What should be the responsibility of government—and of society as a whole—to assist individuals who have difficulty caring for themselves?

Should there be a uniform, minimum level of income and services, below which no American citizen should be permitted to fall?

What responsibilities do recipients of public assistance owe to society at large?

Can States be trusted to administer devolved programs, given their dramatic advances in State institutional capacity, revenue raising ability, and fairness in electoral participation?

And finally, in a period of retrenchment and record Federal deficits, how can we afford to meet competing demands for services in a fiscally responsible manner?

No issues could be more appropriate for our discussion as we stand on the verge of the 100th Congress and prepare to celebrate the bicentennial of our Constitution. But our interest in comprehensive federalism reform is not an intellectual exercise prompted by mere historical curiosity. Three very real and contemporary problems have combined to place these fundamental issues of governance on the forefront of our national policy agenda.

The first is welfare reform. If 1986 was the year of tax reform, 1987 will likely be the year of welfare reform. As the extremes of family income grow wider in our society, the paradox of poverty in the midst of plenty grows more acute. As the so-called underclass grows and seemingly resists more than two decades of antipoverty programs, the calls mount for a redefinition of society's obligations to the poor—as well as a redefinition of individuals' and families' responsibilities to society as a whole. For all of these reasons, the President has indicated that welfare reform may become an important item on his agenda next year, and this hearing demonstrates that welfare reform will be a major item on the congressional agenda.

The second stimulus for this legislation is a set of longstanding problems in our system of cooperative federalism that demand comprehensive reform. Despite all the budget cuts and block grants, there has been no systematic sorting out of Federal, State, and local responsibilities since 1980, when the Advisory Commission on Intergovernmental Relations concluded that our intergovernmental relations had become both "less" and "more." Less manageable, less effective, and less accountable * * * but more costly, more pervasive, and more intrusive. The intergovernmental aid system remains overloaded, over-regulated, and overly complex.

This intergovernmental confusion has been increased rather than reduced by the third factor shaping federalism today—fiscal retrenchment. During the past 6 years, we have indeed begun to reshape our Federal

aid system. Since 1980, Federal aid adjusted for inflation is down 24 percent—with virtually no area untouched. In health services, real spending is down 14 percent. Child nutrition grants are down another 14 percent. Mass transit—down 19 percent. Economic development—down 39 percent. Social services—down 25 percent. Training and employment—down 69 percent. In short, we in Washington have been busy restructuring fiscal federalism; but we have been doing it almost by accident, without rhyme or reasons, without any set of guiding principles.

Except for cuts and a few block grants created back in 1981, most programs remain unchanged. EDA and UDAG are still there. So is CDBG, family planning grants, the community services block grant, impact aid, mass transit grants, and the Job Corps. The programs are still there, but each year we whittle off 10 percent here and 20 percent there—or we just freeze their budgets and let inflation do the cutting for us. All the while, these programs become worth less and less, the deficit continues to mount, and we do nothing to establish a sense of national priorities.

The problem is not the programs. Each of them has value. The problem has been our unwillingness to make hard choices. By trying to still do everything we did in the past, though we can no longer afford it, we risk doing nothing well. And we risk ignoring new problems or trying new approaches simply because they are locked into today's budget.

That is why we are here today. Because the need for welfare reform, intergovernmental management, and fiscal retrenchment demand that we reexamine Federal, State, and local roles in delivering governmental services, and that we do it in a principled way.

The last time we addressed the issue of sorting out responsibilities in a serious way—back in 1982—I identified three sets of principles that I believe can help define the scope of legitimate national purpose and thus help us make the difficult choices we face.

The first set of principles are constitutional in nature. They have helped us assign responsibilities in our Federal system since 1787; and because they are embodied in our founding document, they continue to shape our pollicies today. By virtue of the Constitution, the National Government has the responsibility: First, to secure the individual rights and liberties guaranteed to all Americans; second, to defend American interests and conduct foreign relations in the community of nations; and third, to promote economic growth and regulate interstate commerce.

Over the past 200 years, these broad constitutional dictates have been reinforced by a set of five time-tested administrative principles which enhance efficiency and effectiveness in the conduct of Government. These principles address problems that are widely experienced and cannot be easily resolved by State and local action. Thus, the National Government has a responsibility to address problems where:

Significant savings can be realized by operating a central program, as in research and development;

Where States cannot be effective by operating alone, as with combating organized crime;

Where benefits spill over to citizens of other States, as in protecting wilderness areas;

Where single States encounter extraordinary costs beyond their means, as in disaster relief and refugee assistance; and finally,

Where competition among the States prevents them from acting in the public good, as in regulating minimum wages and hours and insuring against unemployment.

Finally, there are two principles of fairness that reflect the needs of a changing America as we approach the 21st century. These are principles that, while acknowledging the degree to which we remain a diverse nation, reflect the greater sense of national community that has evolved over the past 50 years. These principles of national fairness establish, first, that the National Government has a responsibility to provide for the income security of all Americans. This includes the regulation of banking and pensions for the employed; social insurance for the retired, sick, and unemployed; and income maintenance for the poor.

The second principle of fairness recognizes a national responsibility to ease disparities in fiscal capacity among States and communities. This is the public-sector counterpart of the principle above. Just as the principle of income security establishes a safety net of private goods—food, housing, medical care—so the narrowing of fiscal disparities establishes a safety net of public goods, to provide a minimum level of basic public services in those States and communities that simply lack the tax base to provide these services alone.

Above all, it is these two national responsibilities—to fill the gaps in our system of income security and to reduce fiscal disparities—that the legislation we are introducing seeks to address. It is these two principles of national community which create a solid foundation on which a true "responsible federalism" can be built.

The legislation before us is only a beginning, not the final word. As we take up this debate in the 100th Congress, let us be guided toward "forming a more perfect Union" by embracing fairness across our national community, building on the firm foundation of constitutional principles and administrative practices that have sustained us for 200 years.

Thank you Mr. President.

ORDER OF PROCEDURE

(The following occurred during the foregoing remarks of Mr. EVANS:)

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EVANS. Mr. President, I ask unanimous consent for an additional 2 minutes.

Mr. CHAFEE. Mr. President, we are running out of time.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, I wonder if the Senator could make it 1 minute. We have several backed up. We have to go to the vote at 11.

Mr. EVANS. I understand, I shall try. Does the Senator want 2 minutes?

The PRESIDING OFFICER. The Senator has a pending unanimous-consent request for 2 minutes. Is there objection?

Mr. LEVIN. Mr. President, I would like to amend the unanimous-consent request that I have 4 minutes, that the Senator from Rhode Island be given 4 minutes, and then that the Senator from Illinois be given 3 minutes.

The PRESIDING OFFICER. Is there objection to the amended request? If not, without objection, it is so ordered.

The Chair now recognizes the Senator from Michigan.

Mr. LEVIN. I thank the Chair.

THE DEATH PENALTY PROVISION IN THE PENDING DRUG BILL

Mr. LEVIN. Mr. President, the issues before us are very simple as we prepare to vote on cloture. Do we want "to bring to an end" debate on a major piece of legislation which we have not yet begun to debate and which has never been the subject of hearings? Are we really ready to foreclose the possibility of amending this bill under the strict germaneness rules which cloture will bring?

Mr. President, it is no secret that I oppose the death penalty in general nor is it a surprise that I oppose the particular form of the death penalty contained in this bill. This is not the time to give you my reasons for opposing the death penalty—though there should have been time for that—but it is the time to say that cloture, and its rules of strict germaneness, will prevent the Senate from considering this bill in a rational manner. No matter what your position on the death penalty or the drug bill, you should oppose cloture now for three reasons.

First, this bill and the new substitute amendment needs to be considered very carefully. It is a major piece of legislation which was drafted under very real time constraints. People have not had an opportunity to carefully study it. Just in terms of the death penalty provision, please recognize that this provision has never been in another death penalty bill considered by the Senate, it has never been the subject of hearings, it is flawed in a number of ways—yet we have never really debated it on the floor in a way which would expose—and perhaps correct—those flaws. We had about 20 minutes of debate on this subject when we considered the drug bill a week or so ago. And that really wasn't debate—only the proponents spoke and then a motion to table was made and then the amendment was withdrawn. Yesterday we had another 20 minutes or so of debate. Not much time, but we did discover a few facts which my colleagues ought to keep in mind. There is no data available to us which indicates how many drug-related deaths might be covered by this provision. And, in reality, there is no agreement as to which drugs related deaths would be covered by this provision.

Yesterday, I believe my friend from Utah was suggesting that this bill would let us sentence to death the drug dealers in the street who sell dope to people who subsequently die of, for example, an overdose. But that is not my understanding of the way the bill operates. And when my staff talked with the staff of the principal sponsor in the House, that was not their understanding either. Since intent must be found before a death sentence can be imposed, the dealer who, for example, sold drugs to a Lennie Bias is probably beyond the reach of this provision unless he or she intended to kill or intended to inflict serious bodily injury or intended to use lethal force. If the Bias case is an example of what we call an accidental overdose, could not be sentenced to death under the provisions of the law.

While the bill arguably deters drug traffickers from killing one another, it does nothing relative to users since pushers don't intend to kill users—they want to keep them alive to buy more drugs. The only people really subject to the death penalty under this bill are major drug traffickers—as the chief of police of the city of Detroit wrote in a letter to me of October 14,

> A survey of drug-related homicides in the city of Detroit indicates that the overwhelming majority of these victims are drug traffickers.

So, if you believe that the death penalty deters, it will deter drug traffickers from killing other drug traffickers. And in that sense this is, in effect, the Drug Trafficker Protection Act.

Hearings would have helped clear up this confusion and perhaps eliminate these problems. But we have had no hearings—and if we invoke cloture, we will have no real debate.

There is something else we will not have if cloture is invoked, Mr. President. We will not have a real opportunity to amend this bill.

While I oppose the death penalty, I suspect that some of the amendments I have prepared and filed at the desk might be supported by those who favor the death panalty. Who would oppose an amendment designed to exclude consideration of the race of the victim as well as the defendant? Who would oppose an amendment designed to allow for Government disclosure of evidence in its files on mitigating circumstances? And who would oppose an amendment clarifying the bill by making intent an element of the crime, as apparently intended by the floor manager, rather than just an aggravating factor? We may never know who would oppose—or who would support—such amendments because all of them, under the technical rules of cloture, could be ruled nongermane even though they are very relevant. While we can, of course, appeal a ruling of the Chair on germaneness, I know how that clouds the issue and makes it difficult to get to the substance of the arguments. And, of course, our ability to debate those issues would be restricted by the 1 hour allocated to each Senator under cloture rules. My point, Mr. President, is simply that cloture is designed to bring debate to a close—but this debate has not even started. If we close debate now, we will foreclose the right of Members to offer constructive and perhaps even acceptable amendments.

And it is not just my amendments which could not be considered if cloture is invoked. Those who have other concerns, concerns which go to other areas of the bill, might also find themselves closed out. The Senator from Louisiana has mentioned one such major concern to me relative to creating a new checkoff on our tax forms right after we have simplified those forms—he might well be prohibited from raising it. Others may find themselves in the same situation if we act prematurely and invoke cloture now.

Let there be no mistake: cloture here is premature. The death penalty provision before us has never been a part of any broader death penalty bill, never been the subject of hearings, and is flawed in many respects. While it is true that I oppose the death penalty, I also have some serious amendments I want to offer and some constructive suggestions to make. There has been no time to do that. The bill was called up on Friday night, very late, and a cloture petition was filed at once. On Tuesday we spent perhaps 20 minutes debating the bill. And here we are today trying to see if we should bring debate to a close? Mr. President, with all due respect, one reason we have postcloture filibusters is because we don't have precloture debate. And, I submit, there is a difference between the two at least in this case. Precloture we could deal with the issue; postcloture we deal with tactics.

I ask my colleagues to give us some time to work on this bill before they vote to close debate and foreclose the opportunity to offer relevant amendments.

The PRESIDING OFFICER. The Senator from Rhode Island is now recognized for 4 minutes.

Mr. CHAFEE. I thank the Chair.

THE COMMUNITY AND FAMILY LIVING AMENDMENTS OF 1985

Mr. CHAFEE. Mr. President, this has been a banner year for individuals with developmental disabilities. We celebrated the 10th anniversary of the Education for all Handicapped Children's Act—Public Law 94-142 and just last week the President signed the reauthorization of that act into law. The reauthorization of the Rehabilitation Act has been passed by the Congress. The Tax Reform Act contains a number of provisions which clarify the status of disability-related expenses. Finally, the reconciliation bill we are currently considering will allow disabled individuals to continue to receive Medicaid assistance after they begin to work, until their wages are sufficient to purchase assistance.

All of these actions are aimed at the same goal: To help disabled individuals achieve their fullest potential by giving them an opportunity they have long been denied—to participate in the American dream.

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However, unfortunately, when the 99th Congress finishes its work this week or next week and adjourns, it will do so without having enacted S. 873, the Community and Family Living Amendments of 1985, legislation which I introduced to reform one of the major problems those with disabilities and their families face; namely, the Medicaid problem.

Why begin with changes in the Medicaid? What is the matter with the Medicaid system?

For all practical purposes, Mr. President, Medicaid is the sole Federal program which provides States with funding for long-term care for the disabled. That is where the money comes from to help the disabled. Currently, those funds flow primarily toward large facilities. Why do they go to large facilities? The Medicaid Program began as a medical assistance program for low-

income individuals. That is what the term is, medical care for those who are low income in the low-income strata.

In time, the program was used to pay for long-term care services for the elderly and the disabled.

Today, more than one-half of all Medicaid funds are used for this purpose. That is, long-term care for the disabled or the elderly.

But the long-term care services the program will pay for are still rooted in the medical model. S. 873 would provide funding for a full range of residential options for independent living, ranging from independent living to institutional placing. Currently, the funds all go to institutions. Is that the best place for a disabled person to be? I do not think so, in many instances.

S. 873 provides the mechanism to move people into the community so they can be close to their families, close to their relatives, close to those that they know, and have the security and the support they need to grow and thrive and reach their fullest potential, something that does not occur when they are in an institution.

Mr. President, S. 873 undoubtedly is controversial. It has stimulated discussions and debates about those who have disabilities and what their future shall be. We have held three hearings in the Finance Committee on this matter, and I have held two unofficial hearings. I have participated in scores of conferences and gatherings on this issue. Congress is coming back in January and I will reintroduce this measure. I hope it will pass.

I would like to take a moment to review the history of this legislation and share my thoughts about its future.

In 1983, a few forward thinking organizations and individuals shared their dream of the future with me—a future in which the values of freedom, work and family association were extended to those with physical and mental impairments—where each person, no matter how disabled, would be assisted and cared for in his or her own community.

It was a future I knew could work because I had seen a glimpse of it already in my own home State of Rhode Island.

In 1983, I made a commitment—to pursue this vision in Congress and to make it a reality for all individuals with severe mental and physical impairments regardless of the State they lived in. In 1983, I introduced the first version of that dream, a bill to reform the Medicaid system.

Why begin by changing the Medicaid Program?

For all practical purposes Medicaid is the sole Federal program which provides States with funding for long term care services for the disabled. Currently these funds flow primarily toward large facilities. Why? The Medicaid Program began as a medical assistance program for low-income individuals. In time, the program was used to pay for long-term care services for the elderly and the disabled. Today more than one-half of Medicaid funds are used for this purpose; but, the long-term care services the program will pay for are still rooted in the medical model.

As our understanding of the capabilities and needs of individuals with disabilities have progressed, however, it has become clear that traditional medically oriented long-term care services provided through Medicaid are inappropriate.

S. 873 would provide funding for a full range of residential options from independent living to institutional placements. In addition, it clearly outlines a wide variety of services that would be eligible for Medicaid funding at the option of individual States. The thrust of the bill is to provide services based on individual needs.

S. 873 provides the mechanism to move people into community living arrangements where they can live safely, with the security and support they need along with the opportunity to grow and develop as individuals. Just as important, it allows individuals who are currently living in the community—at home or in some other arrangement—to remain there by giving them and their families the support and services they need.

Even though the legislation has not yet passed the Congress, the simple introduction of the community and family living amendments was a spark that ignited a fire in the souls of all of us who are concerned about the future of those who have developmental disabilities. Long overdue discussions and debates about the future of those with disabilities have taken place in every State. The Finance Committee has held three hearings on this issue. I have held two unofficial hearings and I have participated in scores of conferences and gatherings on the issue.

These discussions have led to agreement that some change must occur in the Medicaid Program; the only remaining question is what shape that change should take.

A new session of Congress will begin in January 1987. At that time, I will reintroduce the community and family living amendments. Over the next 4 months I will be working to refine and revise certain provisions in the legislation. The hearings that have been held will serve as my base of information for that process. However, the basic premise of the proposal—that a full range of services and options be available and that the funding should flow toward individual needs—will remain the same.

The American dream should not stop outside the lives of those who are disabled. One of the hallmarks of America is that we each believe that out there in the future is a better life for ourselves and our children. Our challenge is to ensure that our fellow citizens with disabilities share in that better future. That's what this legislation is all about.

The PRESIDING OFFICER. The Senator from Illinois.

H. CON. RES. 395, CORRECTING THE ENROLLMENT OF THE TAX REFORM ACT

Mr. DIXON. Mr. President, I know I do not have to tell any of my colleagues that we should have adjourned weeks ago. I know they all share the same desire: to leave Washington and return to their home States. I, too, would like to leave Washington and return to my home State of Illinois. I am a candidate for reelection to the Senate, and election day is a mere 3 weeks from today.

It seems to me, however, that we cannot leave until we complete our work, and that means that we must act on the continuing resolution, which embodies the 13 annual appropriations bills that must be enacted to keep the Government functioning. It means we must act on legislation to increase the public debt limit, as distasteful as that duty is. It means that we must pass the reconciliation bill, to bring the budget into compliance with the Gramm-Rudman-Hollings targets for 1987.

Just as important as these three measures, however, is Tax Reform Act correction concurrent resolution—House Concurrent Resolution 395. Passage of this resolution is essential to correct numerous technical flaws in the Tax Reform Act, and to ensure that the tax reform package includes everything that the conferees agreed that it should.

I think it is unconscionable that we are considering letting the Tax Reform Act be signed into law without the necessary corrections, and without inclusion of the substantive provisions that were always intended to be a part of the final tax reform bill.

Now I understand that there are a number of my colleagues who would like to use the concurrent resolution to revisit issues that they believe were not satisfactorily resolved by the conferees, and I have to say that I share their unhappiness with the bill in a number of areas. I believe Congress ought to revisit several matters the Tax Reform Act settled wrongly early in the next Congress, but I do not believe that it is either fair nor reasonable to expect the Congress to revisit them now, in the few days reamining in this session. There is virtually no way major issues can be reopened without destroying the bill's revenue neutrality or without undermining the many compromises in the bill in ways that we now are not even in a position to be able to foresee.

I know how important many of these issues are to my colleagues. They know, however, the practical considerations involved with this resolution even better than I. They know this resolution simply will not be passed by the other body if any major issue were to be changed here in the Senate. The truth is, therefore, that any significant amendment adopted here would not be made a part of the bill in any event. The only consequence would be to ensure that a sloppy, technically flawed, and incomplete bill would be sent to the President.

I do not believe that is any way to legislate, Mr. President. I think we ought to do our duty by this landmark legislation and send it to the President in as mistake-free and complete a form as we can. I urge the Senate, therefore, not to forget the policy issues in dispute here, but to allow the tax reform bill to go to the President in a way that makes sense. I promise my colleagues I will be the first to work with them to see that the Senate revisits tax questions that must be revisited as early as possible in the next Congress.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

PROMPT PAYMENT AMENDMENTS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 1071, S. 2479, the Prompt Payment Act amendments.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2479) to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Prompt Payment Amendments of 1986".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) the billpaying practices of most Federal Government agencies have substantially improved, with certain exceptions, after three years of experience under the Prompt Payment Act (codified in chapter 39 of title 31, United States Code);

(2) the improvement in such billpaying practices has resulted in fairer treatment of contractors who furnish supplies, services, or construction to the Federal Government, especially small businesses; and

(3) nonetheless, contractors who deal with the Federal Government continue to experience many persistent billpaying problems which are caused by—

(A) a failure to modify the Federal Acquisition Regulation as part of the implementation of the provisions of the Prompt Payment Act;

(B) the implementation of the provisions of the Prompt Payment Act in a manner that denies the Act's protections in cases of certain contract payments;

(C) the implementation of the provisions of such Act in a manner which has permitted Federal Government agencies to take discounts for early payment months after the expiration of the discount period specified in the contractor's invoice;

(D) inadequate implementation of the requirement that Federal Government agencies automatically pay interest penalties with delinquent payments;

(E) the use of the unlimited time afforded agencies to formally accept a contractor's performance for the purpose of avoiding the requirement that the agencies pay an interest penalty with late payments made for supplies or services; and

(F) abusive use of certain payment grace periods which afford the Federal Government additional time to pay its bills without incurring interest penalties otherwise due.

DEFINITIONS AND APPLICATION

SEC. 3. (a) Section 3901(a)(4) of title 31, United States Code, is amended to read as follows:

"(4) the head of the agency is deemed to receive an invoice on the later of—

"(A) the date on which the office or employee of the agency designated by the agency to first receive such invoice actually receives a proper invoice; or

"(B) on the fifth day after the date on which, in accordance with the terms and conditions of the contract, the property is actually delivered or final performance of the services is actually completed, as the case may be, unless the contract specifies a longer period for agency acceptance of the property or services.".

(b)(1) Section 3901 of such title is further amended by adding at the end the following new subsection (c):

"(c) This chapter applies to the United States Postal Service. However, the Postmaster General shall be responsible for issuing the implementing procurement regulations, solicitation provisions, and contract clauses as part of the Postal Contracting Manual.".

(2) Section 410(b) of title 39, United States Code, is amended by inserting after clause (8) the following new clause (9):

"(9) Chapter 39 of title 31.".

INTEREST PENALTIES: REDUCTIONS IN GRACE PERIOD; INCREASED PENALTIES

SEC. 4. (a)(1) Section 3902(b) of title 31, United States Code, is amended—

(A) by striking out "16th" in clause (3) in such sentence and inserting in lieu thereof "8th"; and

(B) by adding at the end the following new sentence:

"Clause (3) of the preceding sentence shall not apply to payments under any contract for which the procurement solicitation is issued on or after October 1, 1988.".

(b) Section 3902 of such title is further amended by redesignating subsections (c) through (e) as subsections (d) through (f), respectively, and by inserting after subsection (b) the following new subsection (c):

"(c)(1) Any amount of an interest penalty which exceeds $1.00 and is owed a business concern under this section shall be paid without regard to whether the business concern has requested payment of such penalty.

"(2) If a business concern—

"(A) is owed an interest penalty by an agency;

"(B) is not paid the interest penalty in a payment made to the business concern by the agency on or after the date on which the interest penalty becomes due; and

"(C) is not paid the interest penalty by the agency within 15 days after the date on which the interest penalty becomes due,

such business concern shall be entitled to receive an interest penalty equal to twice the amount of the interest payment that would otherwise be due.".

INTEREST PENALTIES ON PROGRESS PAYMENTS AND RETAINED AMOUNTS UNDER CONSTRUCTION CONTRACTS

SEC. 5. Section 3903 of title 31, United States Code, is amended—

(1) by striking out clause (4);

(2) by redesignating clause (5) as (6); and

(3) by inserting after clause (3) the following new clause (4):

"(4) in the case of a construction contract, provide for the payment of interest on—

"(A) any progress payment due under the contract for—

"(i) a period of more than 7 days; or

"(ii) a longer period if the contracting officer determines that the prevailing practice in private construction contracts is to provide such longer payment period; and

"(B) any amount which has been retained during the performance of the contract and are due to be released to the contractor after final acceptance of the construction, if such retained amount is not paid to the contractor by the required payment date;".

PERIODIC PAYMENTS UNDER SUPPLY AND SERVICE CONTRACTS

SEC. 6. Section 3903 of title 31, United States Code, as amended by section 5, is further amended by inserting after clause (4) the following:

"(5) provide for periodic payments, in the case of a supply or service contract which authorizes periodic payments and periodic submission of invoices during the contract period, upon—

"(A) submission of an invoice for supplies delivered or services performed during the contract period; and

"(B) either—

"(i) acceptance of the supplies or services by an employee of an agency authorized to accept the supplies or services; or

"(ii) certification, by such an employee, that the performance covered by the invoice conforms to the terms and conditions of the contract.".

PAYMENT CLAUSE FOR SUBCONTRACTS UNDER CONSTRUCTION CONTRACTS

SEC. 7. (a) Chapter 39 of title 31, United States Code, is amended—

(1) by redesignating sections 3905 and 3906 as 3906 and 3907, respectively; and

(2) by adding at the end the following new section 3905:

"§ 3905. Payment clause for subcontracts under construction contracts

"(a) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include, in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material supplier) for the purpose of performing such con-

struction contract, a payment clause which obligates the prime contractor—

"(1) to pay the subcontractor promptly (as determined in accordance with prevailing industry standards) out of amounts paid to the prime contractor by the agency; and

"(2) to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with such payment clause—

"(A) for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

"(B) computed at the most current rate of interest that has been determined by the Secretary of the Treasury for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published by the Secretary in the Federal Register.

"(b) A prime contractor's obligation to pay an interest penalty to a subcontractor pursuant to the payment clause included in a subcontract under subsection (a) may not be construed to be an obligation of the United States. A contractor may not obtain reimbursement from the United States for such interest penalty. A contract modification may not be made for the purpose of providing reimbursement of such interest penalty. A cost reimbursement claim may not include any amount for reimbursement of such interest penalty.".

(b) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 3905 and 3906 and inserting in lieu thereof the following:

"3905. Payment clause for subcontracts under construction contracts.
"3906. Reports.
"3907. Relationship to other laws.".

LIMITATIONS ON DISCOUNT PAYMENTS

SEC. 8. Section 3904 of title 31, United States Code, is amended by inserting after the first sentence the following: "For the purpose of the preceding sentence, the specified time shall be calculated from the date the invoice under the contract is received by the office or employee of the agency designated by the agency to first receive such invoice until the date of payment.".

REPORTS

SEC. 9. Section 3905(a) of title 31, United States Code, is amended to read as follows:

"(a)(1) By the 60th day after the end of the fiscal year, the head of each agency shall submit to the Director of the Office of Management and Budget a report on the agency's payment practices, including a description of the extent to which those practices satisfy the requirements of this chapter.

"(2) In addition to such other information as may be required by the Director, the report required by paragraph (1) shall include—

"(A) the number, amounts, and frequency of interest penalty payments, and the reasons the interest penalties were not avoided by prompt payment; and

"(B) the number, dollar value, and frequency of invoices paid after the required payment date without payment of an interest penalty, and the reasons no obligation to pay interest penalties was incurred with respect to such invoices or no amount for interest penalties were included in the payments of such invoices.".

IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION

SEC. 10. (a) The Federal Acquisition Regulation shall be modified to provide appropriate solicitation provisions and contract clauses that implement chapter 39 of title 31, United States Code, and the regulations prescribed under section 3903 of such title.

(b) The solicitation provisions and contract clauses required by subsection (a) shall include the following matters:

(1) Authority for a contracting officer to specify for a contract or class of contracts a specific payment period, which—

(A) in the case of payments for commercial items or services, is similar to the payment period or periods permitted in prevailing private industry contracting practices;

(B) in the case of payments for noncommercial items and services, does not exceed 30 days unless the circumstances of the procurement action require a longer period for payment; and

(C) in the case of progress payments under construction contracts, does not exceed 7 days, unless the contracting officer determines that the prevailing practice in private construction contracts requires a longer payment period.

(2) Requirements to make periodic payments, in the case of a supply or service contract which authorizes periodic payments and periodic submission of invoices during the contract period, upon—

(A) submission of an invoice for supplies delivered or services performed during the contract period; and

(B) either—

(i) acceptance of the supplies or services by an employee of the contracting agency authorized to accept the supplies or services; or

(ii) certification, by such an employee, that the performance covered by the invoice conforms to the terms and conditions of the contract.

(3) A conclusive presumption that the Federal Government has accepted property or services by the fifth day after the date on which, in accordance with the terms and conditions of the contract, the property is delivered or final performance of the services is completed, unless the circumstances of the procurement require a longer period for acceptance by the Federal Government and such longer period is specified in the solicitation for such contract.

(4) The limitation that the Federal Government may take a discount offered by a contractor for early payment by the Federal Government only in accordance with the time limits specified by the contractor.

(5) The requirements of section 3902(c) of title 31, United States Code.

(c) The regulations required by subsection (a) shall be published as proposed regulations for public comment as provided in section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) within 120 days after the date of the enactment of this Act.

EFFECTIVE DATES

SEC. 11. (a) Section 3(a)(2) and the amendments made by sections 3(a)(1), 4, 5, 6, 7, and 8 shall apply to payments under contracts awarded during or after the first fiscal quarter which begins more than 90 days after the date of the enactment of this Act.

(b) The amendments made by section 3(b) shall apply to payments under contracts awarded on or after October 1, 1987.

(c) The amendment made by section 9 shall apply to the report required by section 3905(a) of title 31, United States Code, for each fiscal year beginning after September 30, 1986.

AMENDMENT NO. 3402

(Purpose: To make various amendments to requirements and procedures for prompt payment of Government contractors)

Mr. CHAFEE. Mr. President, I send an amendment to the desk on behalf of Senator ROTH, which is a committee substitute.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. ROTH, proposes an amendment numbered 3402.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 6, insert ", except section 3905 of this title," after "chapter".

On page 12, line 9, strike out "as" and all that follows through "Manual" on line 10.

On page 12, line 25, strike out "1988" and insert in lieu thereof "1989".

On page 13, line 14, strike out "and".

On page 13, line 16, strike out "15" and all that follows through line 17, and insert in lieu thereof "10 days after the date on which such payment is made; and".

On page 13, between lines 17 and 18, insert the following:

"(D) makes a written demand, not later than 40 days after the date on which such payment is made, that the agency shall pay such a penalty,

On page 16, line 8, strike out "agency;" and insert in lieu thereof "agency for work performed by the subcontractor under that contract;".

Mr. CHAFEE. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not the question is on agreeing to the amendment.

The amendment (No. 3402) was agreed to.

Mr. CHAFEE. Mr. President, I move adoption of the committee substitute, as amended.

The PRESIDING OFFICER. Is there further debate? Hearing none, the question is on agreeing to the committee substitute, as amended.

The committee amendment in the nature of a substitute, as amended was agreed to.

Mr. TRIBLE. Mr. President, I am pleased that the Senate is considering S. 2479, the Prompt Payment Act Amendments of 1986. I urge my colleagues to support its passage.

Forty-two Senators have joined me as cosponsors of S. 2479, designed to get the Government to pay its bills on time. With S. 2479, we take up where the Prompt Payment Act of 1982 left off—insisting on timeliness rather than redtape, efficiency instead of delay, and streamlined procedures rather than complicated layers of payment paperwork.

Slowly but surely, the Government is getting into the habit of paying its bills as our citizens must. Either payment must be made on time or interest penalties must be paid. With the Prompt Payment Act of 1982 (Public Law 97-177) we created a systematic payment procedure: Definite payment standards, penalties for failure, and annual reporting to Congress on progress under the act.

There remains a gap between what we did in 1982 and what the executive branch agencies are doing today. To close that gap, I sponsored S. 2479 and am asking the Senate to approve this measure in order to:

First. Reassert our intention that most bills be paid within 30 days.

Second. Ensure that no payments be deliberately held beyond 30 days without the payment of interest penalties.

Third. Discourage the withholding of interest payments mandated by the law.

Fourth. Ensure that discounts are taken fairly.

Fifth. Extend coverage of the standards in the act to late pay by the Postal Service.

Sixth. Include progress payments, retainage on construction projects, and partial payment for partial delivery among those payments covered by the act.

Seventh. Solve the problem of late payments to subcontractors.

Eighth. Insist that the law be implemented through the Federal Acquisition Regulation.

Ninth. Improve the reports Congress gets for oversight purposes.

Achieving these nine goals will enable us to fulfill the promise of the 1982 act.

While I am convinced that S. 2479 is needed, I want to underscore one point: The Federal Government's bill-paying practices have greatly improved under the 1982 act. This was documented recently by the General Accounting Office:

> Passage of the act and its implementation led to substantial improvement in Federal bill-paying performance. These initiatives resulted in a noticeable reduction in excessively late payments (over 60 days late) and hundreds of millions in savings to the Government by avoiding early payments.

The GAO is not alone in this assessment. When I conducted hearings on this subject on December 2, 1985, and on June 19, 1986, many witnesses commented on the progress to date. So, if Senators are wondering if the 1982 act is working, numerous individuals have stated that, in varying degrees, it is.

With enactment of S. 2479, the Prompt Payment Act can work more effectively. All the witnesses at those hearings described the inadequacies of current law, and eliminating those inadequacies is the goal of S. 2479. Take, for example, the frustration described by William Meuhleib, president, Federal Sales Service (Alexandria, VA) representing the Coalition for Multiple Award Contracts:

> Prior to the implementation of the Prompt Payment Act, the average paytime for Government accounts receivable was in the 68-day area. It took us 68 days to collect from the Federal Government. After the first full year of implementation of the Prompt Payment Act, that dropped from 68 to 66 days, and the following year it dropped to 65 days. However, for October 1985, which would have been the third full year, our accounts receivable is now back up to 67 days. We currently have in our files 328 letters that we have written to various activities requesting that interest be paid.

Or, consider the distress of Jack Greenhalgh who indicated that agencies often lose its invoices. When I asked him why they lost his invoices, he said:

> We don't know exactly. All we know is that when we follow up, receipt is not acknowledged. They respond that they have not received the invoice, and this happens frequently.

Donald H. Redman, chief executive officer, Federal Marketing (Richmond, VA), a division of Virginia Impression Products, broke down his billing to Federal agencies for the committee and said:

> And for a little company like Federal Marketing to have out $289,000 is pretty tough. It's pretty tough, Senator. That's with total receivables with the Federal Government of $1,387,000. So that's a lot of money.

Ironically, with the Government being late on 20 percent of his receivables, Mr. Redman is doing better than the average because the GAO found that, based on dollar volume, 23 percent of the Government's outstanding funds owed are being paid late—after the 45th day.

Mr. President, of the 623 pages of testimony compiled as a result of the hearings I chaired for the Senate Committee on Small Business, 73 pages contain examples of invoices which have been delayed and paid late by Federal agencies. Witness after witness provided the committee with detailed breakdowns of their accounts receivable indicating long delays in receipt of their payments and the poor governmental response to vendors who complain. Several witnesses said they had to hire employees who work full-time to get Federal agencies to pay their bills. Witnesses outlined the daily frustration they face as they endure late payment:

> The average number of days to collect is in the 60-90-day range. If we are able to accept the Government's reason, it is because all the parties involved have lost or failed to route the paperwork properly. Interestingly, they seem to misplace 75 percent of our invoices, and as a result need retyped originals. Douglas D. Guernsey, Guernsey Office Products (Virginia Beach, VA).

> We are practically to the point now where we tie in submission of an invoice to a dispute under the Disputes Act because some of them we know that we had just as well start the clock running there, because otherwise we are not going to ever get paid because they take 60 days to make a decision on the claim itself. T.L. Richards, director of contracts and corporate counsel, Inter Systems (Annandale, VA).

One of the first individuals to suggest to me that prompt pay reforms were needed was R. Alan Fuentes, president of Computer Dynamics (Virginia Beach, VA), who testified that ". . . We paid out last year in interest to finance the Federal Government amounted to somewhere close to $150,000 for the year. If we could get paid, if we were paid reasonably quickly, and I am talking 30 days, we wouldn't have that problem." Mr. Fuentes provided the committee with eight pages of documentation, showing late payments received by his company under 238 different invoices. Agencies mentioned in his testimony included the U.S. Navy, General Services Administration, Federal Aviation Administration, Federal Highway Administration, Department of State, and the Health Care Financing Agency.

Another indication that the problem is widespread and not merely isolated among a few agencies is the fact that at the Virginia State meeting of the White House Conference delegates in August 1985, improvement of the Prompt Payment Act was one of the top three procurement issues selected by delegates from all over Virginia. In the months that followed, delegates in many other States made the same recommendation. We are being told by small firms from all 50 States that they want us to find a solution. Mr. President, I believe we have the solution in S. 2479.

Let me outline the goals of S. 2479.

First. It will eliminate the lengthy periods agencies take to "receive", "accept," and "certify" products and services. The authors of the 1982 act did not anticipate the extraordinary delays the executive agencies would impose before they admit to having received or accepted a product or service. For Federal agencies, 30 days means 30 days—after processing of paperwork begins—which might take months. In S. 2479, we establish that this process should not take longer than 5 days, unless the contract specifies a longer period. This 5-day rule must be established by Congress, as we are doing in S. 2479.

Second. It will ensure that no payments be deliberately held beyond the due date without payment of interest penalties. The 1982 law clearly states that Congress expects payments to be made by set statutory standards, unless otherwise established by contract. However, the GAO report and witnesses before our committee demonstrate that incentives are needed to press the agencies to reach statutory standards. That is why in S. 2479 we are phasing out the grace periods

which give agencies the technical authority to pay later than the standards without penalty. There has been far too much of the grace periods.

Rather than an option of last resort, it has become the loophole of choice. Through S. 2479, we are correcting this problem and restoring the intent of congress in a way that can only be achieved through legislation.

Third. It will discourage the withholding of interest payments mandated by the law. Many agencies fail to pay the interest penalties which are required by law. Therefore, we have added an extra penalty in S. 2479 to improve the incentive to get the job done.

Fourth. It will ensure that discounts are taken fairly. S. 2479 strengthens the language to ensure that discounts are taken only when payments are made within a specified time. This provision in S. 2479 will give OMB more clout to encourage the agencies to comply with the 1982 act.

Fifth. It will extend the act to cover late payments by the postal service. Leaving out the Postal Service from the 1982 act was an oversight which we are correcting in S. 2479. We do not intend to impose more reporting requirements on the Postal Service, but we do want to insist on prompt pay.

Sixth. It will solve the problem of late payments to subcontractors. This is a sensitive matter which Congress should watch carefully in the future to ensure that our goals are met.

Seventh. It will insist that the law be implemented by the Federal Acquisition Regulation. It is interesting to note that shortly after we introduced S. 2479, the executive branch quickly compiled a proposed far provision on prompt pay and rushed it into the Federal Register. This action was several years late and appears to have been encouraged by congressional prodding. When we read the proposed FAR rules, however, instead of seeing a mirror image of the Prompt Payment Act of 1982, we saw myriad loopholes and exceptions that will increase delay and despair for thousands of small businesses. Businesses in Virginia were shocked by the FAR proposals. by enacting S. 2479, we insist that the job be done right.

Eighth. It will improve the reports Congress gets for oversight purposes. getting a thorough annual prompt pay report is a key to ensuring compliance with the 1982 act. Only through S. 2479 can we insist on getting the data we need to obtain proper oversight. For 3 years, we have received glowing reports from OMB indicating that 99 percent of the Government's bills are paid on time. It appeared that we were achieving outstanding results from the 1982 act. GAO told us this summer however, that only 75 percent of the Government's bills are paid on time. Studying the GAO report reveals exactly how this discrepancy occurred: Congress was not getting the right data. We correct this in S. 2479.

Mr. President, before I conclude, I would like to express my opposition to several recent actions among the executive agencies which indicate to me they have strayed far from the intent of Congress when it comes to prompt pay:

First, the proposed regulations appearing in the Federal Register to apply prompt pay provisions to the Federal Acquisition Regulation has badly missed the mark. The Coalition for Prompt Pay has identified 19 different exceptions the FAR proposal has made to the Prompt Payment Act. One would allow agencies to take up to 80 days to pay bills that the act and S. 2479 say should be paid in 30–35 days.

I know many Senators will join me in urging the FAR Secretariat to rewrite the proposal to make it consistent with the Prompt Payment Act. The FAR Secretariat would do well to read the testimony before the Small Business Committee on S. 2479 and to incorporate into the FAR the proposals made in S. 2479. To do less, would be to undermine the 1982 act.

Second, the decision by the Agriculture Department to suspend the application of the act to meat purchases should be withdrawn. There simply is no provision in the act, nor is there in S. 2479, to encourage any agency to exempt itself from the law. The Agriculture Department petitioned neither the Small Business Committee nor the Governmental Affairs Committee for an exception to the law. Therefore, they should obey it. I hope the Office of Management and Budget will join us in underscoring this point to the Agriculture Department.

Third, the proposal by the Defense Department, as described at a Defense Appropriation Subcommittee hearing August 7 to arbitrarily begin to use the 15-day grace period in the act for all payments is quite contrary to the intent of the law. While DOD is moving into the 15-day grace period with the enthusiasm of someone who has just found a way to beat the bank, S. 2479 will limit use of the grace period. Most witnesses testified that the grace period is being abused. The recent GAO study documents this point.

DOD's proposal seems to confirm the allegations and convinces me we need to eliminate the grace period as proposed by S. 2479.

Mr. President, many people were involved in the development of this measure and I appreciate their fine work. Senator COHEN's efforts on behalf of S. 2479, and the work of his Oversight Subcommittee staff, particularly Jeff Minsky, were extremely helpful in crafting the prompt payment amendments. In addition, I want to thank Senator ROTH for convening the Government Affairs Committee to win approval of S. 2479 before the end of the 99th Congress. Both Senator COHEN and Senator ROTH were cosponsors of the Senate version of the act in 1982 and are keenly aware of the need to close the late-payment gap as proposed by S. 2479.

In addition, I want to thank two other original cosponsors of this bill, Senator WEICKER and Senator BUMPERS for their leadership on this issue and their assistance through the Small Business Committee. I also want to acknowledge the hard work of Bill Montalto of the Small Business Committee. His knowledge of the prompt payment issue greatly aided the development of the prompt payment amendments.

Finally, I want to express my thanks to Lori Beth Feld of my staff. Her hard work was instrumental in development of this important legislation.

Mr. President, I ask unanimous consent that the following be inserted into the RECORD:

A list of cosponsors of S. 2479.

A letter from Kenton Pattie, director of the Coalition for Prompt Pay and senior staff vice president of the International Communications Industries Association.

A letter from Yvonne Kidd, executive director of the Coalition for Common Sense in Government Procurement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COSPONSORS

Senators Lowell P. Weicker, Jr., Dale Bumpers, John C. Danforth, Lawton Chiles, Warren B. Rudman, Carl M. Levin, Thad Cochran, James R. Sasser, Mack Mattingly, Alan J. Dixon, Don Nickles, Sam Nunn, Alfonse M. D'Amato, Max Baucus.

Senators Charles E. Grassley, Tom Harkin, John F. Kerry, Edward Zorinsky, Daniel P. Moynihan, David L. Boren, John Melcher, John Heinz, Jeremiah A. Denton, Bob Kasten, Jr., David Pryor, Robert T. Stafford, Thomas F. Eagleton, Claiborne Pell.

Senators Mark Andrews, Donald W. Riegle, Jr., Ernest F. Hollings, Chic Hecht, Malcolm Wallop, Quentin N. Burdick, Spark M. Matsunaga, Ted Stevens, William S. Cohen, David Durenberger, Dan Quayle, John H. Glenn, Jr., Albert Gore, Jr., and William V. Roth, Jr.

COALITION FOR
PROMPT PAY,
October 3, 1986.

Hon. PAUL TRIBLE,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR TRIBLE: On behalf of the Coalition for Prompt Pay, I am pleased to report that the Coalition is in full support of the Prompt Payment Act Amendments, S. 2479, in the form in which the bill was approved by the Senate Governmental Affairs Committee.

We have reviewed the changes made by the Oversight Subcommittee and by the Governmental Affairs Committee during its

markup October 2nd. We believe the bill you introduced, with Senator Weicker and Senator Bumpers, has survived intact in most respects with some important strengthening on some points. Here are our views on the recent changes to S. 2479.

THE SUBCONTRACTOR AMENDMENT

We have carefully reviewed the changes that have been approved to the subcontractor provision and I believe a fair and long-needed solution is now contained in S. 2479. Over the years, we have struggled with complaints from subcontractors who fulfill numerous Federal requirements while performing on Federal property under Federal contracts which require that much of the prime contract be subcontracted. Complaints about late pay have been frustrating because, until S. 2479 there was no reasonable remedy available. Having tried to work out the problem through the prime contractor, the subcontractor had no rules to turn to and certainly no one in the Federal government who would lift a hand to solve the problem.

S. 2479, without adding any expense to the Federal government, and without giving the Federal government new enforcement powers, established the rules for passing through to subcontractors payments that are initially issued to the prime contractor. No special privilege is being established here because unlike a company which deals directly with the Federal government and thus expects payment in 30 days, the subcontractor—living with the fact that the payment has to be processed by the prime contractor—has to adapt to a 37-day standard (30 days for the prime contractor to get the money and 7 days for the prime to reissue the funds to the subcontractor).

The subcontractor provision in S. 2479, based as it is on the accepted industry standard approved by the Associated General Contractors, the American Subcontractors Association, and other organizations in the construction business, is fair to all parties and will have the effect of encouraging small businesses to participate in Federal construction projects knowing they will be paid for their work in a prompt and reliable fashion.

INTEREST PENALTIES

Language in S. 2479 clarifying the method of obtaining a penalty due when an agency deliberately withholds interest is acceptable to the Coalition. The language in S. 2479, with the clarification, will discourage any agency from deliberately withholding the payment and interest penalty in hope that the vendor might overlook its absence. As long as threat of the double interest penalty is there, as proposed by S. 2479, I believe we will see more adherence to the 1982 law which requires payment of late payment interest penalties at the same time principal is being issued.

U.S. POSTAL SERVICE

Language clarifying the relationship between the U.S. Postal Service and the Office of Management and Budget is acceptable to the Coalition. We have had numerous complaints about late pay by the Postal Service and are very pleased that S. 2479 extends coverage of the 1982 Act to the Postal Service. However, we understand the concern expressed by Senator Stevens calling for a continued separation of the Postal Service from the Federal government, and thus we find acceptable Senator Steven's amendment to exempt the Postal Service from the reporting requirements of the bill. While they need not report to OMB they would still be required to fulfill the 30-day standard and penalties established by the 1982 Act and S. 2479. This is fair.

PHASING OUT THE GRACE PERIOD

The language setting the date for finally eliminating the 15-day grace period is acceptable to the Coalition. We believe the Senate is being extraordinarily generous to the executive branch by giving them more than adequate time to make the final adjustment to the 30-day standard. By the time the provisions of S. 2479 become law, the executive branch will have had approximately seven years from the date of enactment in 1982 to get ready for the 30-day standard. We are convinced that they could in fact make the adjustment far sooner. Based on statistics in a recent General Accounting Office report, 75 percent of all payments are already made within the 30-day standard which indicates that the executive branch has the technical ability to pay on time and will be able to comply with the requirements in S. 2479 in whatever year you set as the deadline. Senator, we are pleased to report that the bill was very ably presented to the full committee by Senator Cohen who worked hard to compose the final compromises and adjustments with the help of his subcommittee and staff member Jeff Minsky. Senator Cohen and the Oversight Subcommittee accepted almost all of the provisions you had recommended and by the time he brought the bill to the full committee it had been strengthened by the final agreement on subcontractor language.

We admire the leadership Senator Roth provided by convening the Governmental Affairs Committee to mark-up your bill, despite the busy end-of-the-session workload which made attendance for all the senators difficult and challenging. To make the needed quorum for S. 2479 and to vote for the bill, we are grateful to Senator Roth, Senator Eagleton, Senator Stevens, Senator Cohen, Senator Rudman, Senator Cochran, Senator Chiles and Senator Nunn. They spoke for the entire committee, almost every member of which was a cosponsor of S. 2479.

S. 2479 was approved unanimously by the committee having won the cosponsorship of 41 senators prior to passage. Chairman Roth thoughtfully announced he too would be a cosponsor of your bill.

Senator, we are very pleased you are taking S. 2479 to the Senate floor. While we know this is a busy time for you, we believe there are several important reasons Senate passage of this bill is extremely important and urgent:

1. *80 days is too much.* A proposed change in the Federal Acquisition Regulations would cull out 19 loopholes in the 1982 Act and convert the statutory 30-day payment standard into an 80-day standard. In contrast, S. 2479 reaffirms the Senate's commitment to the 30-day standard and should be read by the authors of the proposed FAR amendment that 80 days is unacceptable.

2. *An end to the loopholes:* The proposed FAR amendment, veering far from the 1982 Act, undermines the intent of Congress in 19 ways. In contrast S. 2479 is a no-loophole bill which underscores the Senate's intention that the 1982 Act be a no-loophole law. Rather than finding loopholes, we would rather see the executive branch finding ways to be more efficient and reliable in their payment practices. S. 2479 calls for no less than an overall improvement and offers neither a loophole nor an excuse for making late payments.

3. *No self-proclaimed exemptions:* While the Agriculture Department has claimed it has the power to exempt certain of its payment practices from coverage of the 1982 Act, neither the Act nor S. 2479 offers any legal basis for such an exemption. In contrast, public consideration of S. 2479 throughout 1986 has given any agency any opportunity to seek a special exemption under the law. No exemption has been sought and no exemption is being granted by S. 2479. Neither the Office of Management and Budget, empowered to issue regulations under the 1982 Act, nor Congress has granted authority to any agency to arbitrarily suspend the application of the 1982 Act. Senate passage of S. 2479 should signal the Agriculture Department, and any other agency contemplating a similar move that the Senate is opposed to self-proclaimed exceptions but instead is insistent that agencies comply with the intent of the 1982 Act.

4. *Abusing the grace period doesn't have a prayer.* The Department of Defense proposes to begin making all its payments after the 30-day grace deadline set by the 1982 Act. In an August 7th, 1986 announcement before the Senate Defense Appropriations Subcommittee, the Department outlined a program of being deliberately late on all payments. The 1982 Act does allow, under very limited and unique circumstances some payments to be mailed after the 30-day deadline but no later than the 45th day. However, the 1982 Act makes it very clear that the Federal policy is for all payments to be made by the 30th day. This extra period, referred to as the "grace period" was never in the Senate version of the 1982 Act but was added in the House at the request fo the Defense Department. At the time the Department said they needed some extra time as a buffer to take care of situations caused by the transition period and by unusual problems that might inadvertently cause an occasional slippage past the 30-day mark.

The August 7th 15-day buffer period proposal indicates that the 1982 provision in the law was just a toe hold for a big loophole in 1986. What was to be the exception in 1982 could become the rule in 1986.

In passing S. 2479, the Senate is offering not the slightest encouragement to any agency which may view the 15-day buffer period as a loophole to justify late payments. S. 2479 deals directly with this problem in the only sensible way: to gradually eliminate the buffer period.

So, passage of S. 2479 should be received at DOD as a signal that delaying payments regularly into the buffer period neither has a prayer nor is it consistent with the intent clearly spelled out by Congress in 1982.

Senator Trible, I want to say how much we admire the determined and sensible way in which you have pursued this problem. You devoted a whole day to a field hearing in Norfolk and generously heard a representative sample of Virginia small businesses experiencing late pay. The same hearing could have been held in many other parts of the country, with similar results. In fact, the Virginia businesspeople experienced late payments being issued by payment offices which serve thousands of companies in many other states.

Then, you held a hearing in Washington at which time you generously devoted a day to hearing the problems as related by national associations and the small businesses they present. It was an honor to represent the Coalition at these hearings.

You listened carefully, and along with your staff member, Lori Beth Feld, you developed a sensible and responsible answer to what you had been hearing. You have earned the deepest appreciation of hundreds of small businesses in Virginia and thousands around the country who admire your leadership on the prompt pay issue.

Senator, we appreciate your bringing this important legislation to the Senate floor and we wish you every success in convincing the Senate to adopt S. 2479 over which you have labored so long.

Sincerely,

KENTON PATTIE,
Director of the Coalition for Prompt Pay and Senior Vice President of the International Communications Industries Association.

MEMBERS OF THE COALITION FOR PROMPT PAY

International Communications Industries Association (ICIA).
National Moving and Storage Association (NMSA).
Association for Information and Image Management (AIIM).
Door and Hardware Institute (DHI).
American Subcontractors Association (ASA).
Association of General Contractors, Rhode Island Chapter (AGC).
National Association of Manufacturers (NAM).
Small Business United (SBU).
Coalition for Common Sense in Government Procurement.
American Meat Institute (AMI).
American Consulting Engineers Council (ACEC).
Associated Specialty Contractors (ASC).
National Electrical Contractors Association (NECA).
Painting and Decorating Contractors of America (PDCA).
Mechanical Contractors Association of America (MCAA).
Mason Contractors Association of America (MCAA).
Sheet Metal & Air Conditioning Contractors National Association (SMACNA).
National Roofing Contractors Association (NRCA).
National Association of Plumbing-Heating-Cooling Contractors (NAPHCC).
National Association of Retail Druggists (NARD).
National Insulation Contractors Association (NICA).
National Association of Wholesalers (NAW).
National Association of Credit Management (NACM).
International Sanitary Supply Association (ISSA).
Association of the Wall & Ceiling Industries—International (AWCI).
American Association of Nurserymen.
Associated Builders and Contractors.
American Logistics Association.

OCTOBER 3, 1986.

Re: S. 2479, Prompt Payment Amendments to the Prompt Payment Act of 1982.

Hon. PAUL S. TRIBLE, Jr.,
Senate Small Business Committee, Russell Senate Office Bldg., Washington, DC.
Attn: Lori Beth Feld

DEAR SENATOR TRIBLE: On behalf of the Coalition for Common Sense in Government Procurement, I wish to express our full support for passage of S. 2479, the Prompt Payment Act Amendments bill.

We have reviewed the bill, including the subcontractor provision, as reported by the Senate Government Affairs Committee on October 2. On balance, we feel that passage of the complete bill before Congress recesses in October is urgently needed to warn the executive branch against its current efforts to gut the 1982 Act. As you know, these efforts include:

The July 17 proposed FAR amendment that would lengthen the current standard for payment from 30 days to 80 days.

The Department of Agriculture's refusal to pay promptly on meat purchases, with the argument that individual agencies are free to suspend the Act altogether when it suits their purposes to do so.

A Department of Defense plan to stretch all payments 10-14 days beyond the statutory 30-day deadline.

Senator Trible, the Coalition congratulates you for your role in sponsoring and crafting a well-balanced Prompt Pay Amendments bill that corrects, to the greatest extent feasible, the problems associated with the 1982 Act. We urge you to push for passage of this bill before Congress adjourns, and stand ready to support your effort in any way possible.

Sincerely,

YVONNE KIDD,
Executive Director.

Attachment.

COALITION BOARD MEMBERS AND MEMBER COMPANIES

BOARD MEMBERS

Association for Information and Image Management.
Business and Institutional Furniture Manufacturers' Association.
Computer and Business Equipment Manufacturers Association.
International Communications Industries Association.
National Association of Manufacturers.
National Association of Photographic Manufacturers.
National Association of Wholesalers-Distributors.
National Office Products Association.
Scientific Apparatus Makers Association.

MEMBER COMPANIES

Accountor Systems.
Acoustical Screens Corp.
Advance Machine Company.
Allied Enterprises.
Amerola Sports Inc.
Anchor Equipment Co.
Ansley Business Materials, Inc.
Arndt & Arndt.
ASC Office Furniture.
Bernard Franklin Company.
Broadway Sporting Goods Co., Inc.
Caddylak Systems, Inc.
The W.D. Campbell Co.
Canon, U.S.A., Inc.
Eli Chappe.
Charvoz-Carsen Corporation.
Columbia Diagnostics.
Commercial Office Environments.
Bill Conklin Associates.
Dantec Electronics.
Datagraphix, Inc.
Robert DeYoung Associates.
Dennison Monarch Systems, Inc.
Digital Equipment Corporation.
Domore Corporation.
EG&G Instruments.
Eastman Kodak Company.
Economics Laboratory, Inc.
Electronic Office Concepts, Inc.
Federal Marketing Co.
Federal Program Management Assoc.
Federal Sales Services, Inc.
Federal Supply Contracts Group, Inc.
Flex-Y-Plan Industries.
The Frick—Gallagher Mfg. Co.
General Binding Corp.
General Electric—Lighting Group.
M.S. Ginn & Company.
GP Technologies, Inc.
Hamilton Sorter Co., Inc.
Haworth Inc.
Herman Miller Inc.
Hewlett-Packard.
Hobart Corporation.
Hoover System.
Howe Furniture Corp.
Infolink Corporation.
Information Handling Services.
Interface, Inc.
Jebco, Inc.
A.J. Lambert.
Library Bureau, Inc.
The Maine Manufacturing Company.
Martech Assoc. Inc.
Martin Business Machines.
Merriam-Webster Inc.
Microdyne Company.
Micrographic Specialties Inc.
Military Service Company.
MODU FORM, Inc.
National Micrographic Systems.
NATCO, Inc.
NEC Information Systems.
NOMDA.
NSSEA.
Olympia USA, Inc.
OMNI International Incorporated.
Panasonic Corporation.
Polaroid Corporation.
RHC & Associates.
Ring King Visibles, Inc.
Savin Corporation.
Seal Products Incorporated.
Security Engineered Machinery.
Shaw/Walker Company.
Sony Communication Products, Steelcase.
Chas. G. Scott & Company Inc.
Super K Sports Corporation.
Supreme Eq. & System Corp.
E.F. Swanell.
Swintec Corporation.
Systems Manufacturing Corp.
Tab Products Company.
3-M Company.
Uniforms Mfg. Inc.
U.S. JVC.
Virco Mfg. Corporation.
Walcott-Taylor Co., Inc.
Wang Laboratories.
Werres Corporation.
Whitaker Brothers Business Machines, Inc.
White Power Files, Inc.
Word Data Systems, Inc.
Wright Line, Inc.
W.S. Spotswood & Sons, Inc.
Xerox Corp.

Mr. COHEN. Mr. President, today I rise in support of S. 2479, the Prompt Pay Amendments of 1986, which is designed to close loopholes in and improve the implementation of the original Prompt Pay Act.

S. 2479 was introduced in May of this year and approved unanimously, with an amendment in the nature of a substitute, by the Governmental Affairs Committee in October. This legislation currently has over 40 cosponsors and is strongly supported by

prime contractor and subcontractor groups alike.

I'd like to commend Senator TRIBLE, sponsor of the legislation, for taking this important initiative, as well as the Small Business Committee, which has developed an extensive hearing record to support the need for the legislation.

By way of background, Mr. President, the Prompt Payment Act of 1982 was enacted to ensure that businesses dealing with the Government are paid in a timely manner and, if not, are paid interest on the overdue amounts. The act, for the first time, established statutory payment terms that generally require an agency to pay a prime contractor within 30 days after receipt of a proper invoice.

If timely payments are not made, the agency is required under the act to pay the contractor interest on the late payment. The interest rate is set by the Department of Treasury twice a year and is paid out of the funds for the program which incurred the interest penalty.

The act also provided a 15-day grace period for the Government in paying its bills to avoid the potential administrative problem of incurring small interest penalties. Under the act, if payment is made during this grace period, and interest penalty is not imposed. If, however, payment is not made by the expiration of the grace period, the interest penalty accrues from the payment due date.

While this law has unquestionably improved the timeliness of the Government's bill paying, implementation of the act has resulted in several problems that require resolution. Witnesses testifying before both the Senate Small Business Committee and the House Government Operations Committee stated that the following problems continue to plague Federal pay practices.

First, agencies still pay nearly 25 percent of their bills after the due date. Second, agencies frequently fail to pay the interest penalty on late payments. Third, agencies often abuse the intent of establishing a grace period by routinely paying invoices within this extended period. Fourth, agencies take discounts offered by contractors for fast payment, although actual payment is made after expiration of the specified discount period. And, finally, agencies inform contractors, who inquire about the nonpayment of interest owed, that a written demand for the interest is required. Some agencies, in fact, have a policy not to pay interest owed unless asked.

According to the Office of Management and Budget, over 99 percent of the Government's bills are now paid on time. Contrary to OMB's assessment, however, the General Accounting Office states unequivocally in an August 1986 report that this is not an accurate assessment. OMB's 99 percent success rate, according to the GAO, is premised on the belief that any payments that did not include interest penalties had been paid on time regardless of whether payment occurred by the due date. OMB's figures, therefore, include payments made on time, those made during the grace period, and late payments in which penalties were owed but not paid.

The GAO concludes in its report that OMB's annual performance reports under the act have been misleading, thereby not highlighting the need for corrective action.

In testimony before the Senate and House committees, the OMB acknowledged that problems exist in the implementation of the Prompt Payment Act, but stated its preference to remedy these problems administratively rather than through legislation. The proposed administrative steps taken thus far, however, have been inadequate. In particular, the proposed changes to the Federal acquisition regulation issued in July stipulate that agencies would generally have a maximum of 75 days to make payment—consisting of a 30-day acceptance term, a 30-day payment term, and a 15-day grace period—before a contractor would be entitled to any later payment interest penalty.

These proposed regulations would clearly extend, rather than limit, the payment term prescribed under the act and consequently exacerbate, rather than remedy, the problems identified with implementation of the act.

In light of the inadequate administrative action taken to date to address the implementation problems, I agree with Senator TRIBLE that legislation is necessary. Even if the proposed administrative action were consistent with legislative objectives, legislation is nonetheless needed, in my judgment, to codify this action to ensure continued and effective implementation.

As chairman of the Governmental Affairs Oversight Subcommittee, which has jurisdiction over S. 2479, I reviewed the extensive hearing records developed by the Small Business Committee and worked closely with Senator TRIBLE in perfecting his legislation. My subcommittee unanimously reported a substitute to S. 2479 that preserves the majority of Senator TRIBLE's original proposal, but revises it to address additional problems and recommendations brought out in the testimony.

The Trible-Cohen substitute, which is before us today, proposes the following changes to the Prompt Pay Act. First, it revises the receipt of invoice trigger to clarify when the prompt payment term starts. Second, it reduces the grace period, within which agencies are permitted to make payment, from 15 to 8 days and subsequently eliminates it altogether. Third, it requires that interest, when due, must be paid automatically without regard to whether the contractor has requested payment of such penalty. Fourth, it entitles a contractor, when an interest penalty is due but not paid, to double interest payments. Fifth, it clarifies that the act applies to progress payments and retained amounts for construction contracts. And, finally, it expands application of the act to include subcontracts under construction contracts.

This last provision is of particular interest to subcontractors who, like prime contractors, want to be paid promptly when working on Federal contracts. For this reason, the committee substitute to S. 2479, which originally did not cover subcontractors, requires that prime contractors must pay their subcontractors in accordance with prevailing industry standards and pay a specified interest penalty when prompt payment is not made.

Mr. TRIBLE. Would the Senator yield for a question? This provision, as you've mentioned, is quite important to the subcontractors. I would ask the senior Senator from Maine to clarify your intent in requiring prime contractors to pay their subcontractors in accordance with prevailing industry standards.

Mr. COHEN. The prevailing industry standards are intended to reflect current industry practices—agreed to in a joint policy statement by the Associated General Contractors, the American Subcontractors Association, and the Associated Specialty Contractors—requiring payment to subcontractors within 7 days after the prime contractor has been paid.

Mr. TRIBLE. I thank my colleague for that clarification and again commend him for his contribution to the legislation, particularly in the area of subcontractor coverage.

Mr. COHEN. In closing, Mr. President, I believe this legislation goes a long way toward improving the Government's bill-paying practices, and urge my colleagues to lend their support.

Mr. ROTH. Mr. President, I rise in support of S. 2479, a bill to amend the Prompt Payment Act of 1982, Public Law 97-177. I am a cosponsor of this legislation, which was approved by the Governmental Affairs Committee last week. I want to commend Senator TRIBLE and Senator COHEN for the work they have done to formulate and advance this proposal. I urge the Senate to approve this measure which is so important to small businesses all across the Nation.

The original Prompt Payment Act was reported by the Committee on Governmental Affairs and enacted in 1982 in response to widely recognized problems in Federal Government pay

practices. The General Accounting Office reported in 1978 that the Federal Government did not pay its bills in a uniform manner. Many bills were paid either too early or too late. Sometimes bills were paid without regard to contract terms, the effect on vendors' cash flow, or Government interest costs. Before passage of this act, only 61 percent of the Government's bills were paid within 30 days, a situation that created a particular hardship for small businesses.

By all available evidence, the Prompt Payment Act has substantially improved the bill paying practices of Federal departments and agencies. The GAO has reported that implementation of the act has resulted in a noticeable reduction in excessively late payments. A GAO report released just last week estimated that 24 percent of Federal vendor payments were made after the due date during a 4-month test period. While the Office of Management and Budget's [OMB] recent estimate of 99 percent agency compliance with the provisions of the act is overstated, it is indicative of the improvements that the 1982 legislation has brought about.

Mr. President, I think it is interesting to note that following the passage of the Prompt Payment Act of 1982, many States have taken similar action based on the Federal statute. In fact, 44 States now have prompt payment laws. Many of these State statutes are modeled after the 1982 Federal law. Clearly prompt pay is a constructive approach, applicable throughout our intergovernmental system. For example, my home State of Delaware enacted prompt pay legislation in 1983, participating in a national movement at the State level to implement the prompt pay principles encompassed in the 1982 Federal law.

Despite the increase in timely payments on the part of the Federal agencies, however, problems still exist. Hearing evidence indicates that Federal agencies continue to pay nearly 25 percent of their bills after the due date and often fail to pay the interest penalty for payments made beyond the date required in the contract or in the act. Certain agencies also abuse the 15-day grace period contained in the act by routinely paying invoices between the 8th and 14th days of this extended period.

S. 2479 addresses these and other problems. It closes several loopholes in the provisions of the original act. And it sends a clear message to the OMB and the agencies that the Senate is adamant in its desire that the provisions of the Prompt Payment Act be complied with both in letter and in spirit. Specifically, the bill revises the receipt of invoice" trigger to clarify when the 30-day payment term starts. It reduces the grace period from 15 days to 8 days, and subsequently eliminates the grace period. The legislation requires that interest, when due, must be paid automatically without regard to whether the contractor has requested payment of the penalty. It also entitles a contractor, when an interest penalty is due but not paid, to double interest payments after a 10-day period.

The bill expands the act to include subcontracts on construction projects by requiring that contracts between prime and subcontractors include a prompt payment requirement as well as an interest penalty clause. Additionally, the bill prohibits the government from taking early payment discounts unless the agency complies with the early payment terms.

Mr. President, a number of technical concerns that arose following committee action on this proposal need to be addressed. I ask that these amendments be considered in block and be accepted by unanimous consent. The nature of these amendments is quite straightforward. The first amendment exempts the Postal Service from the reporting requirements of the Prompt Payment Act as amended. The purpose of this change is to preserve the independence of the Postal Service from direct OMB oversight. Since passage of the 1982 act, the Postal Service has made a concerted effort to pursue the goals of this legislation.

The second amendment revises the date for elimination of the grace period for late payments from the agencies. That date is moved from October 1, 1988, to October 1, 1989 to provide the agencies at least 2 years to adjust their systems for prompt payments without the current grace period.

The amendments also address the circumstances under which Federal agencies must make a double interest penalty payment to a contractor by stipulating that a double interest penalty is due when the interest penalty is not paid by an agency within 10 days after the date on which the payment is made. This is a change from the initial requirement for the double payment 15 days after the date on which the interest penalty became due. This provision of the bill is changed also to State that a business concern, to be eligible for the double interest penalty payment, must make a written demand for such payment not later than 40 days after the due date on which the payment is made. These changes are intended to clarify the date on which a business can first make a claim for a double interest penalty and to ensure that if such claim is to be made, it is requested in a timely manner.

The final change amends the section dealing with payment for subcontracts under construction contracts to stipulate that these funds be taken from the amounts paid to the prime contractor by an agency for work performed by the subcontractor under that contract.

Consideration also was given to an amendment to address the need for a minimum interest penalty higher than $1 as currently provided in S. 2479. We will return to this issue at a later date when more complete information is available on the number and amount of late payments and interest penalties made under these provisions. Such information will better enable us to determine the appropriate level for such a minimum penalty provision.

Mr. President, the provisions of the Prompt Pay Amendments of 1986 clearly indicate that the Senate will tolerate no administrative actions that undercut the Prompt Payment Act. This act is very important to business, especially small businesses, doing work for the Federal Government. Small firms typically operate on narrow margins and are especially jeopardized when any customer does not pay in a timely fashion. Time and energy is needlessly wasted as these contractors attempt to get moneys due them under Federal contracts. And when payments are finally made, they often fail to include interest as required by law or use a discount rate no longer applicable. The discipline imposed on the Federal Government's pay practices by the legislation before us today is crucial to the financial well-being of our Nation's small firms.

As we all know, small businesses are a primary source of the innovation, research, and development that stimulate our economy. Small businesses generate millions of new jobs each year, employing so many of our fellow citizens. By contributing to such characteristics as independence and entrepreneurship, small businesses nurture and sustain the most basic American values.

Mr. President, this legislation will assure that these firms are treated fairly in their dealings with the Federal Government. It is a step we must take, and one I am proud to support.

Mr. President, I ask unanimous consent that attached statements be printed in the RECORD, and that the sectional analysis of the bill and amended version of the bill be printed in the RECORD in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROVISIONS AND STATEMENTS OF CONGRESSIONAL INTENT

SECTION 1. SHORT TITLE

This section establishes the bill's citation as the "Prompt Payment Act Amendments of 1986."

SECTION 2. CONGRESSIONAL FINDINGS

This section enunciates a series of congressional findings based upon the three fiscal years of experience with Federal agency billpaying practices since the

Prompt Payment Act became effective on October 1, 1982. The first congressional findings is that the Prompt Payment Act has substantially improved the billpaying practices of the Federal agencies. This improvement in timely bill paying has resulted in fairer treatment of the thousands of contractors who furnish supplies, services, or construction to the Federal Government. The general success of the Prompt Payment Act has been particularly important to small business government contractors who are especially sensitive to cash flow from their customers. The succeeding paragraph of this Section summarizes the specific problems that have been identified. Remedies to these implementation problems are set forth in the subsequent sections of the bill.

SECTION 3. DEFINITIONS AND APPLICATION

Subsection (a) of this Section amends the Prompt Payment Act by requiring a clearer definition of the starting point for the time period during which an agency is required to effect payment. The length of time for payment is prescribed by either the contract's specific payment provision or in accordance with the Act's standards, in the absence of such a specific contractual payment term. Under the Prompt Payment Act, the starting point for the "payment clock" is the later of the receipt of a proper invoice by the designated payment office or the date the supplies, services or construction were formally accepted by the Federal agency. Acceptance in government contract practice is distinct from simple delivery of supplies or the completion of the performance of a service. Under the Federal Acquisition Regulation (FAR), acceptance constitutes acknowledgement by the Government that the supplies or services (including construction) conform with the requirements of the contract; it is the point at which title passes to the Government. Given that the time of acceptance is solely in the hands of the Federal agency, the agencies are also in control of the starting point of the payment clock.

For example, a contractor makes a timely delivery of supplies specified by its contract to the designated delivery point on June 1st, concurrently furnishing a proper invoice to the designated payment office. The agency formally accepts the supplies on July 31st, some 60 days later. Payment is made on August 30th, within 30 days of acceptance, but 90 days after delivery of the required supplies and the proper invoice. Under the terms of Prompt Payment Act, and current agency practice, the contractor would not be entitled to any interest penalty. Section 3(a) of the bill amends the acceptance provision of the Act by specifying that acceptance is deemd to have been accomplished 5 days after delivery (or final performance of a service, including construction), unless the contract specifies a longer period for acceptance. This amendment preserves the Government's right to assure itself adequate time to accomplish acceptance, but also assures that it will inform the contractor of acceptance periods exceeding five days when the contractor is seeking to compete for the contract rather than when he or she is seeking to get paid for work completed. In implementing this provision in the FAR, contracting officers should be accorded the flexibility to prescribe an acceptance period that comports with the subject matter of the contract. For example, commercial items should require a shorter acceptance period than items fabricated to a Government design specification not subject to inspection prior to shipment. Since acceptance time periods will now have to be announced in the contract solicitation, permitting competing contractors to adjust their prices to account for the financing costs associated with exceptionally long acceptance periods, the implementing procurement regulations should strongly encourage that acceptance periods be kept to the minimum required based on experience.

Finally, it is emphasized that the amendment does not compel the Government to pay for supplies or services (including construction) that it has not had the opportunity to inspect and accept. Rather, it merely lifts the financial burden of unexpected Government delay from the contractor by requiring the payment of interest. Payment of the contract price, and any accrued interest penalties, will only be payable after acceptance (if a proper invoice has been received).

During Subcommittee consideration, a further amendment to 31 U.S.C. 3901(a)(4)(A) was made to reflect that the "payment clock" is triggered when a proper invoice is received by the office or employee of the buying agency designated by the agency to first receive the invoice. Several commentators on the bill noted that under the Act's current language a contract might require an invoice to be first sent to a contracting officer's technical representative (COTR) or auditing activity rather than to the designated payment office which will subsequently be responsible for actually issuing the payment. Some agencies refuse to recognize the start of the "payment clock" until the invoice is received by the payment office. The time an invoice is in the hands of these other designated agency players, is not counted for the purpose of establishing whether timely payment has been made or a late payment interest penalty is due to the contractor. The amendment requires the agency to start counting from the time it first received a proper invoice.

Subsection (b) of this Section amends the Prompt Payment Act to explicitly cover the United States Postal Service (USPS). It was intent of the sponsors of the legislation that became the Prompt Payment Act (S. 1131 and H.R. 4709 in the 97th Congress) that the USPS be covered by the Act's provisions. To attain that objective, the board definition of "agency" found at Section 551(1) of Title 5 was used. However, a required amendment to the USPS's organic statute was not made. This amendment corrects that oversight. The Committee is informed that the USPS has generally adjusted its billpaying procedures and practices to comport with the Act's standards, but the proposed amendment would statutorily assure USPS contractors the same protections accorded to contractors dealing with the departments and agencies of the Executive Branch. It should be noted that the amendment reserves to the Postmaster General the authority to implement the Act through the USPS's own procurement regulations.

The Subsection has been further modified to exempt the USPS from reporting its compliance with the Act to the Office of Management and Budget, in recognition of its independent status. Nevertheless, the USPS is still required to maintain its own data concerning its bill paying performance in furtherance of effective cash management and to permit appropriate oversight by USPS senior management as well as the Congress.

SECTION 4. INTEREST PENALTIES: REDUCTIONS IN GRACE PERIOD; INCREASED PENALTIES

Subsection (a) of this Section would gradually eliminate the Prompt Payment Act's current 15-day "grace period", during which any agency may pay a bill late without incurring any interest penalty. For example, if payment for a routine commercial item is due in 30 days, the buying agency can now pay anytime up to the 45th day without incurring any interest penalty for the late payment. The Act's "grace periods" were included in the Act from the House bill (H.R. 4709) at the request of the Administration. The justification for the "grace periods" was grounded in the argument that some mechanism was essential to protect the Government from the substantial administrative burden and expense anticipated from having to pay tens of thousands of small interest penalties while the agencies adjusted their billpaying systems to the Act's standards—the anticipated result given the Government's dismal billpaying record at the time of enactment. Given that the Act provided almost six-months for agencies to expect an adjustment to their billpaying procedures and became effective at the beginning of a new fiscal year (October 1, 1982), agency transition to the Act's requirements was accomplished with substantially less trauma than predicted. OMB's first report to the Congress in February of 1984 emphasized this effective agency implementation.

Testimony from witnesses representing small business government contractors called for the immediate elimination of the 15-day grace period noting that the substantial improvements in agency billpaying practices being reported by OMB during the first three fiscal years of experience under the Act virtually eliminated the basic rationale for the grace period. Rather, these witnesses characterized the grace period as an interest-free loan taken from the pockets of those dealing with the Government that is readily and frequently abused by buying agencies. Rather than eliminate the 15-day grace period immediately, the bill initially reduces it to 7 days, deferring elimination until October 1, 1988. This was further extended to October 1, 1989 during floor consideration of the bill. This very gradual elimination of the 15-day grace period is responsive to agency concerns.

Subsection (b) of this Section amends the Act to make explicit that interest penalties for late payment are to be paid automatically. Further, it seeks to deter agency finance center personnel from withholding a late payment interest penalty due to a contractor by making the agency liable for twice the interest penalty due under limited circumstances.

Testimony from witnesses representing small business government contractors cite experiences in which they had to make a formal written demand for late payment interest penalties due, despite the Act's clear intent and the explicit direction to the agencies in OMB Circular A-125 (Prompt Payment) that such penalties are to be paid "automatically". GAO found that some payment centers even had "informal" local policies of generally requiring a contractor to make a demand for interest due on a late payment. The likely origin for this reluctance to pay interest can be found in OMB's measure to agency performance under the Act: on the basis of the number of invoices upon which the agency paid a late payment interest penalty. As noted by GAO, this per-

formance measure maintains strong organizational pressures to both pay invoices on time (the objective of the Act) and to avoid paying interest even when it is due (an unintended side-effect of the Act's current reporting requirement).

Subsection (c)(2) provides a countervailing pressure on payment center personnel who might be tempted to withhold payment of late payment interest penalties due contractors, so as to reduce the number of late invoices reported to OMB. Under the amendment, the contractor would become entitled to double any late payment interest penalty (not double the payment due for contract performance), if four conditions are met. First, the contractor must be entitled to a late payment penalty. Second, the agency must have actually made a payment to the contractor which did not include any late payment interest penalty. Third, the agency would have ten days from the date of its payment to the contractor to catch any inadvertant failure to pay the late payment interest penalty and to make such payment. Agency corrective action during the ten day period would eliminate the contractors entitlement to the double interest penalty. And, finally, the contractor must make a written demand for the late payment interest penalty within the forty days of the date of payment.

Given these requirements and the improved internal management controls in most automated payment centers, the double late payment interest penalty authorized by this amendment to the Act could only be expected to fall upon those who deliberately try to avoid paying a late payment interest penalty, so they look "good" in their reports to OMB. In the view of the Committee, the current incentive to withhold late payment interest penalties in order to avoid OMB criticism is counteracted by this provision of the bill. Under the proposed amendment such unacceptable behavior will put the payment center or an individual payment clerk at risk of looking twice as "bad" than if the contractor were automatically paid the interest penalty due under the Act.

SECTION 5. INTEREST PENALTIES ON PROGRESS PAYMENTS AND RETAINED AMOUNTS UNDER CONSTRUCTION CONTRACTS

This section makes explicit the intent of the Prompt Payment Act that progress payments under construction contracts are subject to the Act's requirements and protections. Despite explicit legislative history in the reports accompanying S. 1131 and H.R. 4709 that progress payments fall within the reach of the Act's provision affording coverage to payments for partial executions if authorized by the contract (31 U.S.C. (4)), most agencies have determined by regulation that construction progress payments are "payments . . . made solely for financing purposes", which are exempt from coverage under OMB Circular A-125 (Para. 8(c)).

The section also extends the Act's coverage to amounts "retained" from progress payments paid to the contractor by the agency during the term of a construction contract. Contracting officers are authorized by regulation to retain a percentage of a program payment otherwise due a contractor upon making a specific finding concerning the timeliness of the contractor's performance, for conformity with the contract specifications. Once such deficiencies have been corrected to the agency's satisfaction and the construction project accepted by the Government the contractor is entitled to be paid these retained amounts as promptly as the final payment under the contract.

SECTION 6. PERIODIC PAYMENTS UNDER SUPPLY AND SERVICE CONTRACTS

During subcommittee consideration, 31 U.S.C. 3903 (4) was further clarified with respect to the Act's application to various periodic payments authorized under some supply and many service contracts. Testimony received reflected the fact that some agency buying personnel maintain that such payments are not subject to the Act, and hence not entitled to interest penalties for late payment. The agency's assert this position on the basis of two arguments. First, they may maintain that such periodic payments are not payments for work performed, but rather "payments solely for financing purposes", which have been explicitly exempted from the Act's protection under OMB Circular A-125. Or, second, they will avoid the Act's interest penalty on the basis that the contract does not include the "separate required payment dates" mentioned in the Act. Given that the FAR's menu of contract clauses was never modified to implement this among other provisions in the Prompt Payment Act, contractor's generally do not get paid interest penalties for late periodic payments. The Subcommittee amendments also made a corresponding modification in Section 10, which requires the promulgation of FAR coverage to implement the Act.

SECTION 7. PAYMENT CLAUSE FOR SUBCONTRACTS UNDER CONSTRUCTION CONTRACTS

This amendment adds a new section to the Prompt Payment Act which addresses the issue of extending the Act's coverage to subcontractors under federal construction contracts. The hearing record contains extensive and detailed testimony from witnesses representing subcontractors urging such coverage. They make a strong case that such coverage will contribute significantly to the timely completion of federal projects by eliminating one of the principal causes of delay: payment problems. Their testimony also made a strong case that such coverage is the only way to assure equitable treatment of subcontractors.

Subsection (a) of the proposed new section to the Act requires that the prime contractor include a payment clause in its contracts with its various subcontractors. It adopts "prevailing industry standards" as the payment term. The prevailing industry standard is currently deemed to be seven days, based upon a joint policy statement on prompt payment issued by the Associated General Contractors of America (AGC), the American Subcontractors Association (ASA), and the Associated Specialty Contractors (ASC), as well as an array of standard contract documents used extensively in the industry for both private and governmental construction projects. The Joint Policy Statement on Prompt Payment establishes a seven-day standard for payment of subcontractors after receipt of a payment by the prime contractor from the Owner (the Government). Similarly, the AGC's recommended standard form "Subcontract for Building Construction" (AGC Document No. 600, August 1984) provides for the payment of progress payments to subcontractors not later, then seven days after receipt of a payment by the prime contractor. Finally, the Standard Form of Agreement Between Contractor and Subcontractor (Document A-401, 1978) issued by the American Institute of Architects (AIA, provides for the payment to the subcontractor of each progress payment and the final payment within three days after the prime contractor receives payment from the Owner.

Subsection (a)(1) provides that a subcontractor's entitlement to payment from the prime contractor commences when the prime contractor has been paid by the Government, a so-called "pay when paid" relationship. As with the Act's application between the prime contractor and the Government, the subcontractor's entitlement to timely payment or interest penalties for late payment, only applies when no dispute exists as to performance. The subcontractor is not entitled to payment if his or her performance is not in conformity with the project schedule or the Government's specifications (which the prime contractor is required by its contract with the Government to include in its subcontracts). Similarly, the prime contractor may be entitled by its subcontract to withhold a portion of a payment for: (1) work that is in dispute; (2) third party claims, filed or reasonably expected to be filed; (3) alleged damages suffered by the prime contractor or another subcontractor; or (4) overdue subcontractor payments for labor, equipment or materials. However, to assure equitable treatment of subcontractors, it is essential that a prime contractor identify subcontractor performance deficiencies and other claims in its application for payment, and any accompanying certificate, to the Government and not request payment for amounts in dispute with the subcontractor until such dispute is resolved.

The resolution of any such performance dispute or other claim must remain subject to resolution between the parties to the subcontract and not be devolved upon the Government contracting officer for resolution. It should be noted, however, that Section 8(d) of the Small Business Act (15 U.S.C. 637(d)), as amended by the "Small Business and Federal Procurement Competition Enhancement Act of 1986", Public Law 98-577, would require the contracting officer to ensure compliance with the subcontract's payment provisions in the same manner as any other material provision of the subcontract.

Finally, the provision does not prohibit the prime contractor from withholding retainage from progress payments otherwise due the contractor upon a finding of delay or other performance not in conformity with the performance requirements of their contract. The rate of such retainage, (the percentage of the progress payment otherwise due) should be no higher than the rate the Government withheld from the prime contractor.

Subsection (a)(2) entitles the subcontractor to the payment of an interest penalty, if the prime contractor fails to pay the subcontractor in accordance with the payment clause required to be included in the contract between them. The interest rate specified is the same rate as applies to late payments by the Government to the prime contractor.

Subsection (b) makes clear that the payment of any late payment interest penalties incurred by the contractor may not be passed along to the Government, nor may the subcontractor pursue such late payment interest penalties with the Government.

SECTION 8. LIMITATIONS ON DISCOUNT PAYMENT

This section clarifies the time period during which an agency may legitimately take advantage of a contractor's offer of a

price discount for early payment. For example, a contractor may offer a 2% discount from its contract price in exchange for being paid by the Government within 20 days instead of the 30 days specified in its contract. The proposed amendment to the Prompt Payment Act makes clear that the discount period begins when a proper invoice is received by the first agency office designated in the contract. If the agency is to avail itself of the discount offered, it must make payment before the expiration of the period specified in the contractor's "fast pay" offer. The burden of accomplishing acceptance and other administrative matters prior to making payment against the contractor's proper invoice falls on the agency seeking to accept the discount price. Testimony from small business government contractors demonstrated that some agency payment centers have taken early payment discounts after the expiration of the discount period by not starting the "discount payment clock" until such time as acceptance and other administrative matters have been completed, irrespective of the time consumed by agency personnel. This amendment is designed to prevent such abuses.

SECTION 9. REPORTS

This section amends the Prompt Payment Act's reporting requirements to assure that data will be collected on the number and dollar value of invoices paid after the required payment date without payment of any interest penalty. The provision also requires the reporting agency to identify the reason a late payment interest penalty was not incurred. Currently, agencies are only reporting late invoices upon which an interest penalty was paid. GAO found that measurement of agency performance on the basis of this criteria has distorted the reports submitted to the Congress. This amendment will assure that OMB reports a more accurate and complete picture of agency compliance with the Act. The United States Postal Service (USPS) is specifically exempted from this reporting requirement to the Office of Management and Budget by Section 3(b) of the bill. However, as noted in the discussion of that provision, it is intended that the USPS collect data on its bill paying performance to permit senior management to monitor compliance and to permit congressional oversight.

SECTION 10. IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION

Subsection (a) of this section requires that the Prompt Payment Act be implemented in the Federal Acquisition Regulation (FAR). No coverage is presently included, despite the fact that the FAR was issued subsequent to the enactment of the Prompt Payment Act.

Subsection (b) specifically identifies the provisions of the Act which require FAR implementation, principally through the issuance of appropriate solicitation provisions and contract clauses.

Paragraph (1) establishes parameters for the payment terms to be developed. The fundamental theme is to conform to prevailing market practice whenever possible. This is especially important when acquiring commercial items of supply or services (including construction) in which prevailing practices are defined principally by private commercial activity. When the Government enters an essentially commercial market, it should conform its payment terms to those of the market, unless compelling reasons dictate otherwise. It is also intended that these regulations will afford the contracting officer the flexibility to specify a payment term for an individual contract or a class of contracts that will most effectively tap the market. It is favorably noted that the General Services Administration adopted this approach in Temporary Regulation 66 (Prompt Payment Procedures) to the former Federal Procurement Regulations (FPR) issued on October 5, 1982 to implement the Prompt Payment Act. Unfortunately, these regulations were not incorporated into the FAR, which superceded the FPR when the FAR became effective on April 1, 1984. Finally, the recently proposed FAR implementation of the Prompt Payment Act (51 Fed. Reg. 25976; July 17, 1986) suggests an unacceptably rigid system that would afford the Government at least a 30-day acceptance period and a 30-day payment period in every case. Such periods, when coupled with the currently available 15-day grace period, would effectively establish a minimum 75-day period before a contractor would be entitled to a late payment interest penalty.

Paragraph (2) provides guidance concerning the regulations addressing periodic payments in response to periodic invoices for supplies furnished or services performed during the term of a contract.

Paragraph (3) calls for regulations implementing the bill's amendment regarding periods for acceptance. The purposes of these amendments have been described previously in Section 3 (Definitions and Application) of this Summary of Provisions.

Paragraph (4) requires implementation of the Act's provisions relating to the Government's taking "early payment" discounts.

Paragraph (5) requires implementation of increased late payment interest penalties when the conditions of Section 4(c)(2) of the bill are met.

Subsection (c) specifies a time certain for issuance of proposed regulations and requires their publication for public comment.

SECTION 11. EFFECTIVE DATES

This section establishes the effective dates for the bill's various provisions. Subsection (a) provides the agencies with an implementation period of at least 90 days for most of the bill's provisions. Subsection (b) establishes the effective date for the Prompt Payment Act's explicit application to the United States Postal Service. Subsection (c) requires OMB to change the agency reporting requirements under the Act beginning with FY 87.

DISCUSSION OF THE APPLICATION OF THE PROMPT PAYMENT ACT TO PAYMENTS TO PROVIDERS AND SUPPLIERS UNDER THE MEDICARE PROGRAM FROM THE COMMITTEE ON SMALL BUSINESS

During its hearing on the Implementation of the Prompt Payment Act held on June 19, 1986, the Committee on Small Business received testimony about delays in payments by the Department of Health and Human Services' (HHS) Health Care Financing Administration (HCFA) under the Medicare Program. For some time prior to the hearing, the Small Business Committee received a steady stream of complaints from Medicare Program "providers" (e.g., hospitals, home health organizations, rehabilitation facilities, and pharmacists) and "suppliers" (e.g., durable medical equipment manufacturers and dealers), and the associations representing them, due to very lengthy delays in payments due to them.

To explore the full range of issues surrounding delayed payments under the Medicare Program, witnesses representing Medicare "providers" and "suppliers" were invited to testify along with a representative of the Blue Cross and Blue Shield Association, whose members provide the vast majority of "fiscal intermediary" services to HCFA, making payments to Medicare Program beneficiaries as well as "providers" and "suppliers". During the hearing, the National Association of Rehabilitation Facilities (NARF), and association representing one group of "providers", reported that many outpatient rehabilitation facilities had experienced delays of over 6 months in the payment of claims under Medicare. NARF's witness made a strong argument that there is a very serious problem with delays in Medicare payments, resulting in very adverse effects on Medicare "providers" and that such payment problems are exactly the type which the Prompt Payment Act was enacted to solve. Senator Bumpers, Ranking Minority Member of the Small Business Committee, noted that a number of "providers" of services in Arkansas, particularly pharmacists, had been experiencing severe cash flow problems because of the failure of HCFA and its agents to make timely payments.

The Committee invited HCFA to testify and present its policies regarding the payment of claims and to address the question of the applicability of the Prompt Payment Act to payments due "providers" and "suppliers" under the Medicare Program. Mr. Louis B. Hays, HFCA's Associate Administrator for Operations, appeared for the agency. In his testimony, Mr. Hays noted that HFCA takes the position that the Prompt Payment Act does not apply to payments under the Medicare Program, but that the agency is nonetheless trying to pay its bills promptly. He stated that HCFA's current payment standard is to pay "clean claims" within 27 days of receipt and to pay or otherwise dispose of claims that require further information within 60 days of initial receipt. In response to a question from Senator Trible, Mr. Hays was unable to state why HCFA feels that the Prompt Payment Act does not apply to payments under the Medicare Program. He did offer, however, to provide to the Committee an opinion of the HHS General Counsel substantiating this position.

This opinion was provided to the Committee on Small Business and printed in the appendix to the hearing record. The opinion is contained in a memorandum prepared by an attorney-advisor in HHS's Office of General Counsel, Deborah M. Chaskes, and directed to the Director of HCFA's Bureau of Program Operations, John C. Berry. The memorandum, dated February 6, 1984, addressed a variety of issues relating to payments under the Medicare Program under the subject "Authority to Determine Payment Cycle." The paragraphs of the memorandum which address the relationship between the Prompt Payment Act and the Medicare Program are as follows:

"4. Does the Prompt Payment Act (P.L. No. 97-177) apply to Medicare benefit payments?

In our opinion, the Prompt Payment Act does not apply to the Medicare program. The Act by its terms applies to "Federal agenc(ies) which acquire(s) property or services from a business concern." § 2(a)(1), 31 U.S.C. § 1801. Although "business concern" is defined broadly in the Act and federal policy issuances (see § 6(2) of the Act, 31 U.S.C. § 1805; OMB Circular A-125, 47 Fed. Reg. 37322 (Aug. 25, 1982)) and which encompass Medicare providers, it is not clear

that HCFA "acquires" goods and services in the sense used in the Act. Beneficiaries, not HCFA, "acquire" goods and services under the Medicare program; HCFA, through its intermediaries and carriers, makes payment on behalf of eligible beneficiaries. Therefore, the Prompt Payment Act would not seem to apply to the Medicare program."

"5. Could the Prompt Payment Act be utilized as an indication of Congressional intent for all Federal payment transactions?

We do not believe it is necessary to look outside of title XVIII for indications that Congress intended the Medicare program to be administered in an efficient manner. For example, the requirement in section 1815 that Part A providers be paid no less often than monthly expresses Congress' intent as to the promptness with which Medicare payment should be made."

Under HHS's analysis, HCFA is free from the requirements of the Prompt Payment Act on the basis that HCFA is not "acquiring" services. This conclusion is reached by HHS's Office of General Counsel principally because HCFA uses commercial insurance companies and Blue Cross-Blue Shield organizations as "fiscal intermediaries" in the administration of the Medicare Program and because the various services are rendered to Medicare beneficiaries rather than to the Government.

In the opinion of the Committee, this analysis has proceeded on the proper basis to determine if the Prompt Payment Act applies, i.e., a transactional basis, not a program basis. If a contract exists with the Government, and the contract does not include a specific payment term, then the payment terms specified in the Act control. The question to be answered is whether a contract exists between HHS and Medicare "providers" and "suppliers". This is a question of fact.

The testimony of witnesses appearing before the Committee on Small Business made a strong case that a contractual relationship does in fact exist. For example, under 42 U.S.C. 1395cc, an entity must enter into an agreement with the Secretary of HHS to be a "provider" of services under the Medicare Program. If this agreement and the laws and regulations incorporated into it by reference are found to memorialize the terms of a contract between the Secretary and the "provider", a direct contractual relationship would exist between HCFA and the "provider" organization. It was also persuasively argued that the mere use of "fiscal intermediaries" as HCFA's payment agents would not disrupt a finding of a contractual relationship. Further, the fact that the services of the "providers" are rendered to Medicare beneficiaries does not necessarily void the contractual nature of the relationship between HHS and the "provider". Medicare beneficiaries may well be found to be third party beneficiaries of this relationship, but the terms of the contract are set between the Secretary and the "provider" of the services.

It is noted that on June 17, 1986, Senator Durenberger, joined by twelve original cosponsors, introduced S. 2576, the "Medicare Timely Payment Amendments of 1986." This bill amends the Social Security Act to require that agreements with fiscal intermediaries under Section 1816(c) (42 U.S.C. 1395(c)) require the payment of "clean claims" within 22 calendar days after receipt, or the claimant "provider" or supplier" is entitled to late payment interest penalty.

Subsequently, the substance of S. 2576 was incorporated into S. 2706, the "Sixth Omnibus Budget Reconciliation Act, 1986", at Sec. 612 (Payment of Medicare Claims). The payment standard was modified to require payment within 24 days before an entitlement to a late payment interest penalty would arise. In addition, Section 612(c)(3)(B) established a 14—day "grace period" which expires at the end of FY 87, September 30, 1987.

Section 10221 of H.R. 5300, the "Omnibus Budget Reconciliation Act of 1986", as passed by the House of Representatives on September 24, 1986, contained a similar provision. It required payment of a "clean claim" within 22 calendar days, or the claimant was entitled to a late payment interest penalty. The House provision did not include any "grace period."

Nothing in the legislative history of S. 2576, or the successor provision in S. 2706, suggests that the proposed amendment to the Social Security Act was introduced because the sponsors had determined that payments to "providers" and "suppliers" under the Medicare Program were not covered by the requirements of the Prompt Payment Act. Rather, all indications suggest that the legislation sponsors wanted to bind HCFA's fiscal intermediaries to a stricter payment term than the 30-day payment term prescribed by the Prompt Payment Act for most supplies and services in the absence of a contractually specified payment term. The proposed statutory payment term appears to be closely akin to the stricter payment terms for meat and meat food products or perishable agricultural commodities presently cited in paragraphs (2) and (3) of section 3903, 31 United States Code.

Given the position taken by the Department of Health and Human Services, the application of the Prompt Payment Act to payments due to "providers" and "suppliers" under the Medicare Program will require a judicial determination. This is unfortunate, since the matter of timely payment could have been easily resolved by HCFA's specification of a payment term.

Mr. WEICKER. Mr. President, I rise in support of S. 2479, the Prompt Payment Act Amendments of 1986. I urge my colleagues to join Senator TRIBLE, and the bill's 44 cosponsors in voting to pass this important legislation now, before the adjournment of the 99th Congress.

As chairman of the Committee on Small Business, I feel very strongly about timely payment for Government contractors, since small business firms constitute the vast majority of those who sell to the Government, and are the hardest hit by late Government payments. The Prompt Payment Act of 1982 had its origins as an important initiative of the Small Business Committee during the 97th Congress. Senator SASSER introduced the Late Payment Act of 1981, S. 30, early in the first session. Then, Senator DANFORTH and Senator CHILES, chairman and ranking minority member of the Governmental Affairs Committee's Subcommittee on Federal Expenditures, Research and Rules took up the cause and introduced S. 1131, the Delinquent Payment Act of 1981 along with 22 original cosponsors, including myself and several other members of the Small Business Committee.

A companion measure, H.R. 4709, the Prompt Payment Act was already moving steadily through the House with the strong support of Representatives JACK BROOKS and FRANK HORTON, chairman and ranking minority member of the Committee on Government Operations and a broad, bipartisan array of their colleagues. Given strong support from the broad-based Prompt Pay Coalition, strong concurrent House action, and the persistence of Senators DANFORTH and CHILES in the face of steadfast opposition from OMB and the procuring agencies, S. 1131 was finally signed into law on May 21, 1982, and became effective on October 1 of that year.

Mr. President, Government contractors, small businesses, and large firms, have now had 4 complete fiscal years of experience with agency billpaying practices subject to the Prompt Payment Act. This experience has been monitored by the Prompt Pay Coalition and many of its member associations. This long-term monitoring effort leads to two conclusions: First, that the Prompt Payment Act has substantially improved the Government's billpaying practices from the dismal situation that existed prior to enactment; and second, that the agencies have frustrated full implementation of the act as intended by Congress by exploiting ambiguities and loopholes in the statute.

Given the years of billpaying experience under the act and the problems being repeatedly faced by small business Government contractors, the Prompt Pay Coalition and its member associations began to call for oversight hearings and consideration of amendments to remedy problems identified. For example, the Small Business Committee's National Advisory Council considered the issue of the implementation of the Prompt Payment Act during its meeting on October 25, 1985, and adopted a resolution.

Mr. President, I ask unanimous consent that a copy of the October 25, 1985, resolution of the National Advisory Council on implementation of the Prompt Payment Act be printed in the RECORD following my statement.

The issue of implementational problems regarding the Prompt Payment Act was also surfaced by many small business owners during the State and regional meetings that preceded the White House Conference on Small Business, which was held August 17–21, 1986. Implementation of the Prompt Payment Act was one of the conference's agenda items, as a result of resolutions adopted at these preparatory State conferences. A resolution calling for vigorous enforcement of the act and suggesting a series of amendments finished among the top

40 recommendations from a starting agenda of over 400 issue items.

Mr. President, I ask unanimous consent that a copy of the recommendation concerning the Prompt Payment Act adopted by the White House Conference on Small Business on August 21, 1986, be printed in the RECORD following my statement.

Given The Small Business Committee's sustained interest in small business participation in the Federal procurement market, Senator BUMPERS and I decided to act on the resolution of the committee's National Advisory Council. Senator TRIBLE took the lead in conducting oversight hearings.

On December 2, 1985, Senator TRIBLE chaired a Small Business Committee field hearing in Norfolk, VA. Representatives of small firms providing supplies, an array of services, and construction to various Government agencies provided testimony. A very extensive statement was presented by the Prompt Pay Coalition. The testimony expressed three basic themes. First, the Prompt Payment Act has substantially improved the billpaying practices of those executive agencies which are subject to its provisions. Second, many agencies have devised various stratagems, based on ambiguities in the act, which have permitted them to pay late without incurring late payment interest penalties, principally by delaying the start of the payment clock. Third, agency implementing regulations have restricted the act's application, and thus its protections, with regard to certain types of payments due to contractors, most notably, construction progress payments, and partial and periodic payments under supply and service contracts. Agency testimony was received from Navy personnel representing Defense agency experience and GSA representatives on behalf of the civil agencies. After a careful consideration of this extensive hearing record, additional materials submitted to the committee by individual contractors and the associations comprising the Prompt Pay Coalition, as well as OMB's reports to the Congress on agency performance under the Prompt Payment Act for fiscal years 1982, 1983, and 1984, Senator TRIBLE directed committee staff in the preparation of what became the Prompt Payment Act Amendments of 1986. It should be noted that extensive informal staff discussions preceded the bill. These discussions involved not only groups representing small business Government contractors but individuals within OMB's financial management division. A discussion draft was widely circulated for comment. Copies were provided to OMB, as well as the General Accounting Office [GAO] task force conducting a review of the act's implementation in response to a request from Representative JACK BROOKS in his capacity as chairman of the Legislation and National Security Subcommittee of the House Government Operations Committee.

On May 21, 1986, Senator TRIBLE introduced S. 2479. He was joined by 20 original cosponsors that included most of the members of the Small Business Committee and many of the key sponsors of the original Prompt Payment Act legislation, including Senators DANFORTH and CHILES.

Senator TRIBLE pressed forward for a full committee hearing on the implementation of the Prompt Payment Act, which was held on June 19, 1986. At this all-day hearing extensive testimony was received from 13 witnesses, principally representing small business Government contractors. Many additional statements were submitted for the record.

Testimony was presented on behalf of the Prompt Pay Coalition, the National Federation of Independent Business [NFIB], the Small Business Legislative Council [SBLC], the Associated General Contractors of America [AGC], the American Subcontracting Association [ASA], and others. Most of their testimony followed the themes of the previous field hearing, but expanded to a national scope. Especially useful testimony comparing the objectives of the Prompt Payment Act and agency implementation during the first 3 years was presented by Christopher R. Brewster, who served as staff director to the former Subcommittee on Federal Expenditures, Research and Rules at the time S. 1131 was considered and enacted. John J. Lordan, OMB's Deputy Associate Administrator for Financial Management presented a statement from the OMB Director. Althrough not a legislative hearing, most of the witnesses, including the OMB representative, commented on S. 2479. All of the private sector witnesses supported Senator TRIBLE's bill. OMB's testimony acknowledged that the bill addressed valid implementational problems. However, as expected, they opposed a legislative solution, preferring to make the necessary improvements though amendments to OMB Circular A-125—prompt payment—the issuance of appropriate implementing procurement regulations in the Federal Acquisition Regulation [FAR], and other administrative actions. These arguments failed to persuade me. In fact, as has already been noted by others, the proposed FAR regulations to implement the act would operate as a virtual regulatory repeal of the Prompt Payment Act.

Our full committee hearing did develop one new issue of substantial significance: whether the Prompt Payment Act should be amended to provide protection to subcontractors under Federal construction contracts. Testimony from the witnesses representing ASA and the Associated Speciality Contractors [ASC] addressed this issue extensively, strongly urging such an amendment to the act. Support for such an amendment was also included in the testimony of the witnesses representing the Prompt Pay Coalition, NFIB, and SBLC. AGC's witness opposed such an amendment on the basis that it would be an unwarranted governmental intrusion into what is essentially a private contractual relationship between the prime contractor and its subcontractors. As a fundamental policy, AGC opposes any governmental intrusion on the principle of privity of contract.

Based on the extensive testimony presented at the committee's June 19 hearing, I support such coverage and commend Senator COHEN and his Subcommittee on Oversight of Government Management for tackling this tough issue. I believe that the language which we are considering today does what's needed. It assures that an adequate payment clause is included in the agreements negotiated between the prime contractor and its subcontractors. It assures that the payment term incorporated in such payment clauses will reflect prevailing industry standards. Finally, it provides the necessary enforcement mechanism by entitling the subcontractor to late payment interest penalties on the same basis, and at the same rate, as the prime contractor is now entitled to late payment interest penalties from the Government.

After reviewing the extensive array of contract clauses currently mandated by the FAR for inclusion in the subcontracts awarded by a Federal construction contractor, I cannot accept the argument that this provision is an unwarranted intrusion into a private contractual relationship. Further, after reviewing the explanation of this provision contained in the summary of the bill accompanying the statement of the chairman of the Committee on Governmental Affairs, I cannot accept the argument that the provision will inevitably embroil the Government in disputes between prime contractors and their subcontractors. On the contrary, I believe that the bill's provisions requiring a complete and enforceable payment provision in construction subcontractors will go a long way to avoiding prime contractor-subcontractor conflict, to their benefit as well as the Government's.

Mr. President, it is unnecessary for me to comment further on the bill's provisions. The summary of provisions which Senator ROTH has included with his statement provides a comprehensive analysis of its provisions and their intended purpose.

Nonetheless, in considering this bill and the underlying act which it is de-

signed to improve, it is important that one basic concept remain in clear focus: we are talking about moneys owed to contractors for work that they have performed for the Government in conformity with their contractual responsibilities. The Government has determined that it has gotten what it contracted to obtain; the only issue is fulfillment of the Government's obligation to pay. The Prompt Payment Act's requirements operate, and its protections adhere, only if the contractor has performed.

Mr. President, this legislation has the broad support of the small business community. My colleague from Virginia (Mr. TRIBLE) and my colleague from Maine (Mr. COHEN) have both noted many of the groups who worked hard to get the Prompt Payment Act in 1982, who have closely monitored its implementation, and who have assisted in shaping and moving these amendments. I would be remiss if I did not cite the help provided by them. Special thanks must go to the Prompt Pay Coalition under the able leadership of Kenton Pattie. A listing of the associations that comprise the coalition is included with Senator TRIBLE's remarks. Steadfast support has also been provided by other members of the coalition including the National Federation of Independent Business, the Small Business Legislative Council, the American Subcontractors Association, the National Electrical Contractors Association, the National Association of Plumbing-Heating-Cooling Contractors, and the Associated Speciality Contractors. Small Business United has also lent its strong hand to the advancement of this legislation.

Mr. President, I ask unanimous consent that letters of support from several of these associations be printed in the RECORD following my statement.

In addition, Mr. President, the Prompt Payment Act has enjoyed the strong support of the Associated General Contractors of America. They have helped monitor its implementation in the construction industry. While expressing strong reservations concerning the bill's coverage of construction subcontractors, a matter on which we differ, I must recognize their strong support for the other provisions of the Prompt Payment Act Amendments of 1986.

Finally, Mr. President, I must recognize and commend my friend from Virginia, Mr. TRIBLE, for his leadership on this important small business issue. From the adoption of the resolution by the Small Business Committee's National Advisory Council until today's impending approval by the Senate, he has worked with patience and determination to shape and move this bill, after thoroughly immersing himself in the background, purposes, and operational details of the Prompt Payment Act.

Mr. President, the small business community is also indebted to my colleague from Maine (Mr. COHEN), chairman of the Subcommittee on Oversight of Government Management, and my friend from Delaware (Mr. ROTH), chairman of the full Governmental Affairs Committee. Although their legislative agendas were already quite full, they gave this bill their full attention, made significant improvements, and moved it forward promptly for consideration today by the full Senate. Their cooperation and assistance was essential, and I know the small business community joins me in thanking them.

Mr. President, I urge all my colleagues to join me in voting to adopt S. 2479, the Prompt Payment Act Amendments of 1986.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION OF NATIONAL ADVISORY COUNCIL ON IMPLEMENTATION OF THE PROMPT PAYMENT ACT

Whereas, the members of the National Advisory Council to the Senate Committee on Small Business, having considered the Federal agency implementation of the Prompt Payment Act, Public Law 97-177, during the three years since it became effective on October 1, 1982, have found that the objectives of the legislation and the intent of Congress are not being fully attained;

Whereas, some Federal agencies continue to make payments beyond the payment date specified in its contracts or beyond the times specified in the Act, without the payment of interests;

Whereas, some Federal agencies are abusing the fifteen day "grace period" provided in the Act by failing to initiate payment action on contractors' invoices until the expiration of thirty days;

Whereas, some Federal agencies are delaying payments to small business contractors by rejecting their invoices as "improper" after the fifteen days provided by the Act;

Whereas, some Federal agencies are delaying payments to small business contractors by refusing formal acceptance of supplies, services or construction so as to delay the start of the payment periods mandated by the Act, after which interest must be paid;

Whereas, some Federal agencies are failing to automatically pay interest due to small business contractors, rather requiring them to make a demand for payment of interest contrary to the Act's self-enforcing intent;

Whereas, these problems with agency implementation of the Act are placing substantial financing burdens on small business government contractors, and acting as an obstacle to small business participation in the Federal procurement market, thus denying the Government the advantages of the competition industry, and innovation provided by many small businesses;

Therefore, be it Resolved, That, the National Advisory Council to the Senate Committee on Small Business calls upon the Congress, especially the Senate and House Committees on Small Business, the Senate Governmental Affairs Committee, and the House Government Operations Committee which were instrumental in the passage of the Prompt Payment Act, to:

1. conduct oversight hearings on the implementation of the Prompt Payment Act through OMB Circular A-125, the Federal Acquisition Regulation, and the implementing regulations of individual Federal agencies; and

2. to consider modifications to the Prompt Payment Act that will address demonstrated implementational abuses by some Federal agencies and assure attainment of Congressional intent and objectives in passing the Act.

[The White House Conference on Small Business—August 17-21, 1986]

FINAL RECOGNITION PERTAINING TO PROMPT PAYMENT ACT OF 1982

32. Prompt pay legislation should be extended to cover postal service and federally assisted procurement and strengthened through an amendment to the 1982 Prompt Payment Act to eliminate the fifteen day grace period; require automatic payment of interest penalties; more clearly define that the entire payment process, including acceptance, must occur within 30 days; include progress payments and retainage; and require prime contractors to pay their subcontractors within seven days after receiving payment from the government or incur interest payment penalties. In addition, when the government pays the prime contractors late, interest payments shall flow through from prime contractors to subcontractors on a pro-rata basis. The prompt payment act shall be vigorously enforced by all branches of government. [R.A. 277, Procurement; 652 votes]

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, October 3, 1986.

Hon. LOWELL WEICKER, Jr.,
U.S. Senate,
Washington, DC.

DEAR LOWELL: On behalf of the more than 500,000 small business owner members of NFIB, I urge your support for S. 2479, the Prompt Payment Amendments of 1986, introduced by Senator Paul Trible. The bill was reported out of the Senate Governmental Affairs Committee, and we anticipate action by the full Senate before adjournment.

NFIB supported passage of the original Prompt Pay Act of 1982. We know this is an important issue for small business. Maintaining a steady cash flow is an important issue for small business. Maintaining a steady cash flow is a chronic problem for many small firms, a problem which is exacerbated if bills owed by the government are not paid on time.

Since enactment of this law, government contractors of all sizes report obvious improvements in the payment process. Nevertheless, we continue to hear from our members on spotty implementation of the Act.

S. 2479 amends the Prompt Payment Act to:

Clearly define "receipt of invoice";

Phase out the 15-day grace period;

Require interest penalties be paid automatically;

Require interest penalties be paid on late progress payments and retained amounts for construction;

Extend coverage of the Act to subcontractors on Federal construction projects;

Forbid taking early discounts unless the agency actually complies with the payment terms; and

Require that the annual reports on the implementation of the Act provide more detailed information.

S. 2479 is particularly important now because of recent actions proposed by the agencies, including:

(1) Regulations proposed by the Federal Acquisition Regulation Council that would give federal agencies up to 80 days to pay their bills;

(2) Testimony by Deputy Secretary of Defense William H. Taft, IV, that DOD will delay payments for 40 days beginning in fiscal 1987; and

(3) An announcement by the Commodity Credit Corporation that it is going to "suspend" the Prompt Payment Act.

NFIB believes that this legislation is necessary not only to protect businesses who contract with the federal government, but also to send a firm message to the agencies that Congress expects them to pay their bills on time.

S. 2479 has 41 cosponsors, and we would appreciate your support when this legislation reaches the Senate floor. This will be a Key Small Business Vote.

Sincerely,

JOHN J. MOTLEY III,
Director of Federal Legislation.

SMALL BUSINESS LEGISLATIVE COUNCIL,®
Washington, DC, October 3, 1986.

Hon. LOWELL P. WEICKER, Jr.,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR WEICKER: On behalf of the Small Business Legislative Council I wish to express our support for S. 2479, The Prompt Payment Amendment Act, as reported by the Committee on Governmental Affairs on October 2, 1986.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly ninety trade associations representing over four million small businesses. Our sole mission is to represent the interests of small business in national policy matters.

Small business played an important role in securing passage of the original prompt payment act and at the recent White House Conference on Small Business, 1,800 small business owners voted to recommend enactment of the reforms included in this bill as one of their final sixty priorities.

We are pleased with the progress made to date as a result of the original law. However, as one might suspect, we could not anticipate all of the potential loopholes which existed in the original law. The bill reported by this Committee will result in significant improvements in the prompt payment system. We also believe it is time to recognize the importance of prompt payment to all businesses such as subcontractors, and we are pleased with the provisions of the bill which address this aspect of the problem.

We consider this matter most urgent and ask you to ensure consideration of this measure before adjournment.

Sincerely,

JOHN S. SATAGAJ,
President.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Alliance of Independent Store Owners and Professionals.
American Association of MESBICs.
American Association of Nurserymen.
American Consulting Engineers Council.
American Dental Trade Association.
American Sod Producers Association.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
Architectural Precase Association.
Association of Physical Fitness Centers.
Association of Small Business Development Centers.
Association of Small Research, Engineering and Technical Service Companies.
Automotive Service Association.
Automotive Warehouse Distributors Association.
Building Service Contractors Association International.
Business Advertising Council.
Chicago Gift Show Inc.
Christian Booksellers Association.
Dental Dealers of America, Inc.
Direct Selling Association.
Electronic Representatives Association.
Florists' Transworld Delivery Association.
Helicopter Association International.
Independent Bakers Association.
Independent Bankers Association of America.
Independent Insurance Agents of America, Inc.
Independent Sewing Machine Dealers Association.
Institute of Certified Business Counselors.
International Bottled Water Association.
International Communications Industries Association.
International Franchise Association.
International Reciprocal Trade Association.
Jewelers of America.
Latin American Manufacturers Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Marking Device Association.
Menswear Retailers of America.
National Association for the Self-Employed.
National Association of Aircraft and Communication Suppliers.
National Association of Brick Distributors.
National Association of Catalog Showroom Mechandisers.
National Association of Chemical Distributors.
National Association of Development Companies.
National Association of Home Builders.
National Association of Manufacturing Opticians.
National Association of Minority Contractors.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Realtors.
National Association of Retail Druggists.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Association of Truck Stop Operators.
National Association of Women Business Owners.
National Candy Wholesalers Association.
National Coffee Service Association.
National Council for Industrial Innovation.
National Electrical Contractors Association.
National Fastener Distributors Association.
National Grocers Association.
National Independent Dairy-Foods Association.
National Moving and Storage Association.
National Office Products Association.
National Parking Association.
National Precast Concrete Association.
National Shoe Retailers Association.
National Small Business Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Wine Distributors Association.
Opticians Association of America.
Petroleum Marketers Association.
Power and Communications Contractors Association.
Retail Floorcovering Institute.
Retail Tobacco Dealers of America.
Small Business Council of America, Inc.
Smaller Manufacturers Council.
Society of American Florists.
Specialty Advertising Association International.
United Bus Owners of America.
Urethane Foam Contractors Association.
Web Sling Association.

WALTHAM, MA, *October 9, 1986.*

Hon. LOWELL P. WEICKER,
Chairman, Senate Small Business Committee, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the individual members of the associations making up Small Business United, we wish to urge your support of passage of S. 2479, the Prompt Pay Amendments Act. Regrettably, a host of executive branch agencies have seen fit to ignore the spirit and intent of the 1982 Prompt Payment Act as was amply demonstrated in Senate and House hearings that were held earlier this year addressing the implementation of Public Law 97-177.

As you are aware, the Senate Small Business Committee Advisory Council adopted a resolution last year pointing out that federal agencies ignore statutory payment dates, consciously wait as long as thirty days to begin payment action, purposely wait longer than fifteen days to reject incorrectly submitted invoices, refuse acceptance of supplies or services to delay the beginning of required payment periods, and fail to routinely pay interest dues as stipulated by law.

S. 2479 addresses and recitifies many of these concerns. Its passage now will signal OMB and the abusing agencies that the above mentioned shortcomings should be rectified administratively between now and the beginning of the 100th Congress or else face the legislative consequences next year.

In closing, we wish to thank you, the Ranking Minority Member, Senator Bumpers, and the other members of the Senate Small Business Committee for their support and leadership in helping to resolve this pernicious problem that threatens to undermine your collective efforts promoting increased government competition.

Sincerely,

SAMUEL N. HOPE III,
President.

Mr. NICKLES. Mr. President, I take great pleasure in supporting S. 2479, the Prompt Payment Act Amendments of 1986. As a cosponsor of this legislation, I think S. 2479 represents a significant and carefully crafted im-

provement of a law which has received overwhelming support since its enactment in 1982. To the Nation's business community and particularly to small businesses, the Prompt Payment Act represents the Federal Government's commitment to adhere to a standard of fairness and reliability in its commercial transactions.

The Committee on Small Business, on which I serve, held hearings on prompt pay earlier this year, which were chaired by my distinguished colleague and the principal author of S. 2479, Senator TRIBLE. At the hearing in June, I expressed my hope that the hearing and the interest it generated would lead to remedies to the problems that have been recounted by my constituents and other small business owners. I am delighted to see that the process has served us so well by bringing this legislation to the floor quickly for a vote.

The hearings on prompt pay were enlightening because they raised a number of issues that have either been unresolved by existing law or, in some cases, have been the subject of controversy because of administrative interpretation of the act.

S. 2479 deserves our support. The Prompt Payment Act established a standard of fairness for the Federal Government to follow in doing business with the many firms that we represent. S. 2479 renews our commitment to making that standard work not only for the benefit of business but for the Government and ultimately the taxpayer as well. Mr. President, on behalf of small business and good government, I urge the Senate to approve this bill.

Mr. WALLOP. Mr. President, I rise in support of S. 2479, the Prompt Payment Act amendments and I would like to share with the Senate some of the findings of a new report from the General Accounting Office.

As you know, we passed the Prompt Payment Act in 1982. Since then, complaints have continued and the GAO looked into the situation. Here is some of what they found:

Twenty-four percent of federal vendor payments, involving $7.7 billion, were made after the due date during its 4-month test period. Some were extremely late. For example, GAO found that 7 percent of the late payments in its sample were between 46 and 150 days late and about 1.3 percent were more than 90 days late. Page 3

Required interest penalties were seldom paid. GAO's evaluation of its sample payments showed that agencies paid only one of every six penalties owed. GAO estimated that agencies should have paid approximately $15 million in late payment penalties during the 4 months . . . Page 3

OMB has reported annually since 1983 that the government pays over 90 percent of its bills on time. This is not an accurate assessment . . . Page 5

The 372 late payments in our adjusted universe ranged up to about 5 months late; however, the vast majority (96 percent were paid within 60 days of the due date. Page 21

Although payment performance is not yet fully satisfactory for either civil or defense activities, our analysis showed that civil agency payment centers paid invoices late more than twice as often as defense centers . . . Page 29

Collectively, however, federal agencies still face a major challenge to improve the government's image as a bill payer. Only three fourths of the bills are paid by the due date and many of these are paid too soon. In addition, agencies did not consistently take discounts only during the offered time frame or voluntarily pay any interest penalties owed. Page 31. These come from GAO's Prompt Payment Act: Agencies Have Not Fully Achieved Available Benefits (GAO/AFMD-86-69), August, 1986.

Mr. President, the GAO report is enough to convince anyone that the goals we set with the 1982 act are not being met today. That is why we need to pass S. 2479. As a cosponsor of this bill, I am convinced that we must continue to apply congressional pressure on the agencies, to set the rules they have to act by, until they achieve prompt payment. Without S. 2479, I fear we will once again face complaints about late pay throughout the 100th Congress.

Mr. WARNER. Mr. President, I am pleased to rise in support of S. 2479, the Prompt Payment Act Amendments of 1986. This important measure amends and strengthens the Prompt Payment Act of 1982 which I cosponsored during the 97th Congress.

I am particularly proud to note that S. 2479 was introduced by my colleague from Virginia, Senator PAUL TRIBLE. Senate action on this measure is a tribute to Senator TRIBLE's determination to address a problem facing many small businesses, both in Virginia and across the Nation. That problem involves the timeliness of the U.S. Government in the payment of its debts.

Senator TRIBLE has conducted two hearings on this matter, first in Norfolk, VA, in December of 1985, and then in Washington, DC, on June 19, 1986. As documented by the many small business representatives who testified at the hearings, the impact of the 1982 law has not lived up to our expectations. Executive branch agencies continue to skirt the law through the use of grace periods and suspensions. Meanwhile, many small businesses dealing with the Government find themselves living hand to mouth, trying to meet expenses while waiting for an overdue Government payment.

Mr. President, we would not have the bill before us today without the support of Senators COHEN and ROTH, the respective chairmen of the Governmental Affairs Subcommittee on Oversight of Government Management and the full Governmental Affairs Committee. While the Small Business Committee has exercised its oversight powers with the hearings and investigation, Governmental Affairs has been the committee of jurisdiction.

What we have had, basically, is a coalition of groups seeking a workable solution to the problem of the Government not paying its bills on time. S. 2479 is the product of that coalition, a product cosponsored by more than 40 Members of this body.

I strongly encourage its adoption.

Mr. DURENBERGER. Mr. President, today we have a simple, but important task to complete with the passage of S. 2479, the Prompt Payment Act Amendments of 1986. It is a task that Congress thought had been accomplished with the passage of the original Prompt Payment Act of 1982, of which I was a cosponsor.

That task is to get Federal agencies to pay their bills on time. Though payment policies have improved since the 1982 act was passed, many agencies have exploited serious loopholes in that legislation and have strayed far away from the intent of the act.

Several abuses were documented in June hearings before the Committee on Small Business on implementation of the Prompt Payment Act. These abuses have not been corrected. Indeed, recent policy statement by various Federal agencies have intensified the concern.

For example, the Department of Defense has stated its intention of paying bills in 45 days rather than in 30 days "to save the taxpayer money." In other words, it plans to use the 15-day grace period routinely for all payments. It has abandoned the 30-day standard and has instituted its own 44-day standard. This approach is neither consistent with the intent of the act, nor is it consistent with the statements in 1982 when the DOD requested the 15-day grace period to provide some latitude in exceptional cases.

One prominent advocate of Prompt Payment Act improvements has summed up the implications of this DOD policy in an insightful way:

Not only does their plan undermine the intent of the Act, but it misleads the Congress in a theory that says: late payments equal a savings to the taxpayer. As you know, this is no savings but merely a delay in payment. It is, in effect, borrowing $2.8 billion in late payments from small and large businesses. This is interest-free money so that at the end of the fiscal year, some payments would be postponed until the next fiscal year.

Rather than saving the taxpayer money, it will cost the taxpayer dearly. Companies which know that the Government is going to pay them later will increase prices to cover the added cost of doing business with the Government. So, in the long run, the Government will pay later, but will pay much more than it should for the same goods and services.

Mr. President, I join my colleagues Senator TRIBLE, Senator COHEN, and my fellow members of the Subcommittee on Oversight of Government Management, in supporting the practical and commonsense amendments to the act contained in S. 2479.

The amendments would take a most significant step in restoring the confidence of businesses providing our Federal Government with goods and services. By conducting contractual relationships in a professional and business-like manner, the Federal Government creates an environment where high standards of conduct are expected and considered the norm. Finding loopholes in one piece of legislation only encourages that activity in other arenas.

For example, the amendments would phase out the 15-day grace period. After 4 years, that grace period has become an excuse for abuse rather than a needed cushion for exceptional cases.

Mr. President, I applaud the efforts of those who worked on the original legislation and particularly the current efforts to ensure that the Prompt Payment Act of 1982 is correctly implemented. In this way, we send a strong and credible message to everyone in Government and in the private sector that sound business practices have a high priority.

Mr. D'AMATO. Mr. President, I rise today to commend my colleagues for passing the Prompt Payment Act Amendments of 1986. This legislation amends the Prompt Payment Act, Public Law 97-177, and corrects abusive practices of some Government agencies and to assure the implementation of congressional intent and objectives.

The Prompt Payment Act established payment terms for Government contractors providing supplies, services, or construction to Federal agencies if the individual contract did not specify a specific payment term. This law was necessary to correct the abusive payment practices of some Federal Government agencies; long delays in paying its contractors is injurious to a business enterprise, especially a small business. Therefore, it became necessary to assure that businesses were paid in a timely manner or that interest penalties be paid for late payments.

Mr. President, although the Prompt Payment Act has tremendously increased the timeliness of payments, some agencies continue to delay payment by exploiting the act's purposes. The Prompt Payment Act Amendments of 1986 will correct the abuses in a reasonable and fair manner.

Mr. President, I thank my colleagues for acting expeditiously on this legislation. I especially commend the distinguished chairman, Senator WEICKER, and Senators TRIBLE, BUMPERS, and COHEN for their diligence and hard work in ensuring passage of this important legislation.

Mr. DANFORTH. Mr. President, I am pleased to offer my support for S. 2479, the Prompt Payment Act Amendments of 1986. This legislation would effect certain changes in the Prompt Payment Act to ensure that Government contractors are paid on time, and that interest penalties are paid in those cases where payment is late. Earlier this year, I joined Senator TRIBLE as an original cosponsor of S. 2479, and I commend him and Senator COHEN for their work on behalf of this legislation.

Mr. President, I was one of the principal authors of the original Prompt Payment Act, which was intended to bring some order into the Government's bill paying practices. The history of this legislation was detailed by my former counsel, Christopher Brewster, in testimony before the Senate Small Business Committee earlier this year. I will ask that a copy of his testimony be printed in the RECORD following my statement.

Enactment of the Prompt Payment Act followed a report issued by the General Accounting Office in 1978, which found that some 30 percent of Federal invoices were paid late for no reason whatsoever, and that still others were paid much earlier than required. The Government's bill payment performance was a plain and simple case of sloppy management. It was costing the Government money in foregone interest on early payments. It was costing Government contractors money on late payments. And it was discouraging contractors from doing business with the Government. The cost was staggering. The GAO estimated that some $9.8 billion in Federal contracts were paid late just during the 6-month sampling period of the GAO study—at a cost to Government contractors, many of them small companies, of some $30 million. To correct this problem, the Prompt Payment Act requires specific payment terms in Government contracts, requires the Government to pay bills when due, and awards interest penalties to Government contractors when the Government pays late.

I am pleased to say that the 3 years since enactment of the Prompt Payment Act have seen a measurable improvement in the Government's bill payment performance. Moreover, the Prompt Payment Act has proved to be a model for similar State legislation. Since its enactment in 1982, many States have enacted prompt payment legislation for State contracts, including my own State of Missouri in 1985. Nonetheless, more work must be done. Strengthening the Prompt Pay Act was a principal recommendation of the recently concluded White House Conference on Small Business. It is easy to understand why.

Since 1983, the OMB has reported that fully 99 percent of Government contracts are paid on time, but this statistic masks some troubling facts. In testimony before the House Government Operations Committee only 2 months ago, the GAO reported that agencies paid only 75 percent of their invoices by the due date. The disparity between the GAO and the OMB data is accounted for, in large part, by the fact that OMB did not consider a payment as late unless an interest penalty was paid. For example, payments made after the due date but before the expiration of the 15-day grace period provided for in the act would not be considered late by OMB. Contractors would likely think otherwise. So do I. The routine use of the grace period, as reported by the GAO, is quite troubling. Indeed, one of the principal changes in the act that would be effected by S. 2479 is the gradual elimination of the grace period. I think this change in the law makes sense.

When the Prompt Payment Act was written, the grace period was not part of the original Senate bill. It was added by the House, at the urging of the executive branch, to avoid payment of numerous small interest penalties during the time it took for the executive branch to bring payment practices into line with the requirements of the act. It was intended, in effect, as a safety valve, and a temporary one at that. It was not intended to give the Federal Government carte blanche to pay its bills in 45 days when it was required to pay its bills in 30 days. Nonetheless, the GAO reports that 20 percent of all invoices it reviewed in its recent survey were paid during the grace period.

Unfortunately, it appears that the availability of the grace period has proved to be an invitation to agencies to cut corners. In testimony before the Senate Appropriations Committee only this past August, Deputy Secretary of Defense William Howard Taft IV testified that the Department of Defense was "reviewing the flexibilities available to us under the Prompt Payment Act" as a means of cutting costs. Mr. Taft proposed that the Department pay its bills 10 days into the grace period to reduce outlays.

I am pleased to note that the subcommittee has questioned Mr. Taft's proposal, and that the chairman of the subcommittee, Senator STEVENS, is a cosponsor of S. 2479. In my opinion, Mr. Taft's proposal is no way for the Federal Government to do business. Money the Federal Government saves by paying its bills late is money earned at the expense of Government contractors—many of them small companies that can ill afford delays in payment. If the Federal Government

promises payment in 30 days it should pay its bills in 30 days—not 45.

In any event, the cost savings attributed to late payment would likely prove short-lived. If the Federal Government is saving money by paying its bills late it is only doing so because those goods and services were priced on the assumption that payment would be made in a timely fashion. If the Government is going to routinely pay its bills late it can and should expect to pay more for goods and services. It should also expect to find fewer companies interested in doing business. Unfortunately, abuse of the grace period can be expected for so long as the grace period remains available. The grace period should be eliminated.

Another troubling finding of the GAO report is the fact that agencies are not paying interest penalties. The GAO reports that five out of every six vendors in their survey did not receive interest penalties to which they were entitled. Moreover, some offices were flatly refusing to pay interest penalties unless forced to do so by their contractors.

The Prompt Payment Act is intended to be self-enforcing. Late payments carry an interest penalty. The GAO reports, however, that fully 24 of the 39 payment centers reviewed in their study had unpaid penalties—and that 3 of the 39 centers had local policies not to pay interest unless the vendors asked for it. Mr. President, this is wrong. If the Prompt Payment Act is to work as it was intended to work interest penalties should be paid whenever bills are paid late. This is what the law requires now. Nonetheless, problems persist. The amendments effected by S. 2479 would make it absolutely clear that interest penalties are to be paid to contractors automatically.

In addition to these concerns, it continues to be the case that the Federal Government is taking discounts for prompt payment even when it fails to make payment in a timely fashion. The GAO reports that 18 percent of discounts taken by agencies in their sample were taken after the discount period had expired. It should not take an act of Congress to prevent this sort of practice, but apparently it does. S. 2479 would expressly prohibit agencies from taking prompt payment discounts unless payment is made during the discount period.

Finally, I am pleased to note the bill makes it clear that the U.S. Postal Service is covered by the requirements of the Prompt Payment Act. This has been a particularly vexing problem for several of my constituents. It was our intent to cover the USPS when the act was first written; S. 2479 will make coverage explicit.

Mr. President, the recommendations made by this bill are nothing more than a simple matter of fundamental fairness. It is not fair when the Government promises payment to contractors in 30 days and pays its bill in 45 days—or longer. It is not fair when the Government ignores its responsibility to pay contractors interest penalties when it fails to pay its bills on time. And it is manifestly unfair when the Government takes prompt payment discounts without making prompt payment.

The administration has urged that we forgo this legislation in favor of administrative fixes for the problems identified by the GAO. I have great faith in the sincerity with which this proposal is made, but experience dictates that something stronger than an administrative fix is needed. The reforms made by this legislation are sadly necessary. I strongly support them.

Mr. President, I ask unanimous consent that the statement of Christopher R. Brewster to which I referred be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF CHRISTOPHER R. BREWSTER

Mr. Chairman and members of the Committee, my name is Christopher Brewster. Although I am currently in the private practice of law with the firm of Kaye, Scholer, Fierman, Hays & Handler, I served as Chief Counsel of what was then called the Subcommittee on Governmental Affairs during consideration of the legislation that became the Prompt Payment Act, P.L. 97-177, and in that capacity served as one of the principal staff drafters of the Senate bill. I am pleased to have this opportunity to testify before the Committee concerning the Prompt Payment Act. I salute you and Senator Trible for your leadership in undertaking these hearings, and in sponsoring S. 2479, the Prompt Payment Act Amendments of 1986.

The Subcommittee on Federal Expenditures was charged with oversight responsibility for the Federal procurement process. When Senator Danforth assumed the Chairmanship of the Subcommittee in 1981, he directed the staff to review the procurement system to identify opportunities for reform. To that end, the staff met with all sorts and conditions of government contractors, from large multinational corporations to small mom and pop companies. In meeting after meeting—but most often in our meetings with small businesses—we repeatedly heard complaints about the problems encountered in getting the government to pay its bills on time. Contractors recited story after story of delays in obtaining payment that betrayed a shocking insensitivity on the part of the government to the hardships encountered by businesses, especially small businesses, when payments were late. To make matters worse, we were told that the Government sometimes had the gall to take "quick pay" discounts after making contractors wait weeks, or even months for payment. This anecdotal evidence was bolstered by a 1978 GAO study that found some 30% of invoices were paid late for no good reason whatsoever. All in all, the GAO estimated that $9.8 billion in Federal contracts were paid late during the six month sampling period covered by the study.

We sought explanations from government managers and were met instead with lame excuses. At one point it was suggested to us that no real problem existed because the government's late payments were balanced out by many cases where the government paid bills a good deal earlier than it had to, an argument that reminded us of something Gracie Allen might have said to George Burns, and that somehow failed to give us great faith in the government's financial managers. In short order, we became convinced that prompt payment simply was not a high priority for Federal agencies, and that no amount of administrative saber rattling or GAO studies would do anything to change the slipshod way in which the government paid its bills. Therefore, Senator Danforth, together with Chairman Weicker and some 21 cosponsors, introduced S. 1131, the Delinquent Payments Act, which became, in due time, the Prompt Payment Act. The legislation, as you know, requires the Federal government to write payment due dates into its contracts, pay its bills when due, and pay interest when it fails to pay within 15 days after the payment due date. Interest penalties are to be paid out of agency budgets.

I am very pleased, and to be honest, a little proud that the years following enactment of the Prompt Payment Act have seen a substantial improvement in the government's bill paying practices. Nonetheless, there is no question that inequities remain, and that more can and should be done to ensure that government contractors are treated fairly by their government.

I have read the transcript of the hearing that was held by Senator Trible in Norfolk concerning the implementation of the Prompt Payment Act, and I have reviewed the legislation that he introduced with Chairman Weicker, Senator Bumpers, Senator Danforth, and others, to correct abuses that persist four years after the Prompt Payment Act was signed into law.

The proposed amendments make good sense. Unfortunately, the problems identified by the witnesses at the Norfolk hearing were not unexpected when the Prompt Payment Act was first written. In large measure they stem from concessions that were made by Congress, at the urging of the Executive Branch, or from creative interpretations of the Act that simply ignore the plain language of the Act.

At the outset, I should point out that the inclusion of clearly defined payment dates in all Federal procurement contracts is absolutely critical to the success of any effort to secure prompt payment. Without payment terms in contracts, or some payment standards in generally applicable laws or regulations, the task of evaluating early or late payment, while not impossible, takes on certain metaphysical properties. As was noted in the report of the Governmental Affairs Committee on S. 1131, many of the problems associated with the government's cash management practices can be traced to nonspecific payment terms in government contracts. Indeed, the lack of clearly defined payment terms not only cost contractors money in late payments—it also costs the government money in early payments. By paying bills when due, instead of early, the GAO estimated in that 1978 study that the government could save anywhere from $900 million to $3.8 billion in foregone interest. This was a principal finding of the 1978 study, and ought not to be forgotten.

To correct these problems, the Prompt Payment Act directed the promulgation of regulations providing for payment terms in all government procurement contracts. Nonetheless, four years later, there are still no provisions in the Federal acquisition Regulation (FAR) setting forth authority to specify payment terms. You are right, therefore, to include language in the Prompt Payment Act Amendments directing the amendment of the FAR to include provisions for payment terms, and in specifying exactly how those provisions should read. These regulations are the keystone of the effort to ensure prompt payment.

Another problem that must be addressed is the fifteen day grace period. As you know, the fifteen day grace period was not created by the Senate, but was instead put in the legislation by the House to avoid administrative problems that might be occasioned in calculating minor interest penalties when the government missed a payment date by a few days. The Executive Branch financial managers told us this grace period was essential to avoid imposing substantial costs on the government, especially as the government began to revise its payment practices to meet the requirements of the legislation. And so, a fifteen day grace period was allowed under the Act.

The fifteen day grace period was never intended to be a license to financial managers to pay bills in forty-five days instead of the thirty days typically afforded for payment, and the House report said as much. We suspected, however, that the grace period would be abused, and your hearings confirm that suspicion. Your proposal to phase out the fifteen days grace period therefore makes very good sense to me. Agencies have now had four years of experience under the Act. They should be able, on the basis of this experience, to pay their bills in the time allotted for payment without resorting to a grace period to tide them over, and your proposal to ease them into prompt payment with an eight day grace period is sufficiently generous to allow for any dislocations that might occur.

You are also right to tighten the provisions of the Act respecting receipt of an invoice, to ensure that contractors are promptly informed if an invoice is in error, and to ensure that the clock starts running against the government on receipt of a proper invoice. Since prompt payment is keyed to receipt of a proper invoice, agencies have every incentive in the world to delay receipt, or even lose an invoice, to avoid prompt payment penalties. Your proposal to declare an invoice received on the later of the actual date of receipt or five days from delivery of goods or services should deprive agencies of any effective means to avoid their responsibilities under the Act. I should note that the government has the opportunity, under your bill, to specify a longer period for acceptance of goods or services at the time the contract is written, and this is appropriate. When contractors know, up front, that they can expect delays in payment, they can build in this cost when they prepare bids. Currently, they are at the mercy of the agencies, and that is simply wrong.

You are right in making it clear, through this legislation, that payment of interest penalties should be automatic. This was the intent of the original Act. Requiring contractors to ask for interest penalties only adds insult to injury. It also plays upon the reluctance some contractors have to "rock the boat" and risk opportunities for future contracts. Moreover, since interest penalties accumulate daily, contractors are hard pressed, as a practical matter, to calculate interest penalties.

When a contractor meets the obligations of the contract and submits a proper invoice, timely payment is the law, and interest penalties for late payment are a matter of right. You are justified, therefore, not only in directing automatic payment of interest, but also in doubling the interest penalty in cases where the agency intentionally or capriciously holds back interest payments and forces the contractor to demand payment.

Finally, I think that you are right in making clear that the Act is intended to apply to progress payments. This was always the intent. The Act provides for "separate payment dates for contracts under which goods or services are provided in a series of partial executions or deliveries to the extent the contract provides for separate payments for partial execution or delivery." Nonetheless, progress payments have been said to be outside of the scope of the Act. This makes no sense. It is just as important for progress payments to be paid on time as it is for any other payments to be made on time, and the government should expect to suffer penalties when it does not live up to the terms of its agreements.

Mr. Chairman, when the Prompt Payment Act was written, Senator Chiles observed that "life is full of small victories, and passage of this bill will certainly be one of them." He was certainly right. In the best of all possible worlds, it should not be necessary for Congress to pass a law in order to get the government to pay its bills on time—and it certainly should not be necessary to come back and amend the law to ensure compliance.

After all, in any procurement system there are few things as fundamental as paying bills on time. Nonetheless, the Federal procurement system being something less than the best of all possible worlds, it sometimes becomes necessary to write laws to accomplish what ought to be fundamental business practice, and this is one occasion when legislation is a necessity. I hope and trust that this legislation will find smooth passage in Congress and that the President will support it. I am willing to work with you in that effort, and to assist you in your work in every way possible.

Mr. GRASSLEY. Mr. President, I rise in support of S. 2479, the Prompt Pay Act Amendments of 1986.

The purpose of this legislation is quite simple: to ensure that the Government pays its bills on time. It should not be necessary to legislate prompt pay. Paying bills on time is a matter of course for most businesses and individuals, but the Federal Government has a lamentable record in this area.

S. 2479 closes loopholes in the original prompt pay legislation which was enacted into law in 1982. The 1982 act required that the Goverment pay its bills within 30 days and pay interest when payments are late. The Government's record has improved somewhat since 1982, but significant problems persist. Many Federal agencies do not comply with the provisions of the law either due to inefficiency or due to deliberate circumvention of the law.

The GAO has recently audited the Federal Government's bill paying performance, and the GAO conclusions support the need for the Prompt Pay Amendments Act. The GAO estimated that agencies paid only about 75 percent of invoices by the due date and that five of every six vendors that were entitled by law to interest payments did not receive them.

Several recent executive branch actions indicate that agencies are ignoring the intent of the 1982 law. For example, both the 1982 act and S. 2479 require that agencies pay their bills within 30 days, but regulations published in the July 17 Federal Register call for an 80-day payment period. This is clearly not the intent of Congress.

Deputy Secretary of Defense, William H. Taft IV told a Senate Appropriations subcommittee on Auguest 7, 1986

Further, the Prompt Payment Act provides a 15-day grace period after the payment due date before incurring interest penalties. Delaying payments 10 days into this grace period will reduce outlays by an additional $2.8 billion in FY87.

Neither the 1982 act nor S. 2479 permits such a 10-day delay, and I hope that DOD will reconsider this policy in light of S. 2479. Another example of this deliberate noncompliance is that the Commodity Credit Corporation has suspended application of the 1982 Prompt Payment Act for all payments for purchases of meat.

Mr. President, passage of S. 2479 is a warning to Federal agencies that Congress expects them to pay their bills on time. This is an important issue for small businesses in Iowa and I urge the Senate to support S. 2479 as a fair and well-reasoned solution to the problem.

Mr. DIXON. Mr. President, I rise today to join my colleague Senator TRIBLE in expressing appreciation to the Senate leadership for allotting time on the busy schedule for consideration of the Prompt Payment Act Amendments of 1986.

Small business led the fight for the passage of the original Prompt Payment Act in 1982. In essence, the law was passed to assure that all contractors dealing with the Government are paid on time or receive interest penalties for late payments. Small business Government contractors have now had 3 fiscal years of experience with this legislation. As Senator TRIBLE has detailed in his eloquent opening statement, these 3 years of experience reflect that the act has very substantially improved the Government's bill-paying practices. However, problems still remain.

The prompt payment coalition has been monitoring the act's implementation and collecting examples of how agencies have frustrated the act's pur-

poses by exploiting ambiguities during their implementation. Receiving payment in a timely manner is especially important to small businesses for which cash-flow is such a significant factor in their success.

During the 1986 White House conference on Small Business, the issue of prompt payment became one of the final 60 recommendations. Permit me to quote the report of the final recommendations in reference to prompt payment:

Prompt pay legislation should be extended to cover Postal Service and federally assisted procurement and strengthened through an amendment to the 1982 Prompt Payment Act to eliminate the 15-day grace period; require automatic payment of interest penalties; more clearly define that the entire payment process, including acceptance, must occur within 30 days; include progress payments and retainage; and require prime contractors to pay their subcontractors within 7 days after receiving payment from the Government or incur interest payment penalties.

In addition, when the Government pays the prime contractors late, interest payments shall flow through from prime contractors to subcontractors on a pro rata basis.

The Prompt Payment Act shall vigorously be enforced by all branches of government.

Mr. President, I believe we are now addressing the legislation that cares for the concerns of the small business community. Indeed, all Government contractors will benefit from this bill.

This legislation closes existing loopholes and insures that our small businesses receive contract payments in a timely fashion. We have similar provisions in Illinois law, and I am glad to report that these procedures work well in my State. We should do the same at the Federal level.

I encourage my colleagues to join me in supporting this legislation.

Mr. BURDICK. Mr. President, I welcome the opportunity to participate with Senators TRIBLE, COHEN, and many others in cosponsoring and supporting the call for fast action by this body on S. 2479, the Prompt Payment Act Amendments of 1986.

Over the past 4 years, since the passage of the Prompt Payment Act of 1982, many Government bills have been paid more promptly. Federal agencies have expressed concern about paying interest on those invoices that are paid late. Unfortunately, however, that concern has not always translated into paying bills within the time period indicated on the invoices.

The experience of many businesses that supply goods and services to the Federal Government is that the intent of Congress, clearly set forth in the 1982 act, has not been implemented in payment procedures and practices.

For example, businesses have reported a sharp increase in the number of invoices that have been lost since the Prompt Payment Act went into effect. Other businesses relate that their invoices travel through several individuals or offices before the payment clock starts.

An August, 1986 General Accounting Office study concludes that, during a 4-month test period, 24 percent of all Federal payments were made after their due dates. Some were extremely late—being paid as much as 150 days later than they were due. Required interest payments were seldom paid. The GAO report concluded further that Federal agencies paid only one of every six interest penalties that were actually owed.

Mr. President, S. 2479 spells out exactly when the payment clock begins. It states that an invoice is considered to have been received when the designated person or agency receives a proper invoice, or five days after "the property is actually delivered or final performance of the services is actually completed."

Another clarification in S. 2479 will help remove the burden on businesses who work with the Federal Government. The Prompt Payment Act of 1982 explicitly stated that interest automatically should be included with late payments. This simply has not happened.

Business after business suffers late payments—without interest. Research indicates that only when interest is specifically demanded, on a case by case basis, is it paid.

I need not tell you, Mr. President, that few companies, particularly our small and medium size organizations, have the staff or resources to carry out a lengthy and time consuming campaign to get interest on late payments. It is difficult enough just to get the invoice paid.

S. 2479 states that businesses are entitled to double interest in the event that the Government withholds interest that is clearly due. Such a penalty should stop agencies once and for all from making companies come begging for the interest penalty that is due them.

The legislation at hand more carefully defines and explains payment terms and conditions under the act. I believe that this provides the necessary tools for agencies to carry out the very straightforward intent of Congress—the Government simply must pay its bills on time.

Mr. BUMPERS. Mr. President, it is with pleasure that I rise in support of S. 2479, the Prompt Payment Act Amendments of 1986. When Senator TRIBLE, Senator WEICKER and I introduced this legislation along with 18 original cosponsors, we recognized the need to improve a law that is of major importance to the Nation's small business community.

At a hearing held by the Senate Small Business Committee, where I have the privilege of serving as ranking member, we heard from a number of business people about problems they continue to encounter in trying to get the Federal Government to live up to the terms of the original Prompt Pay Act. I might add that I've been working on this problem since I first learned that the act did not apply payment standards equally to poultry and red meat products. This was an issue of some importance in the Nation's largest poultry producing State, my home State of Arkansas. Congress has since changed this requirement to include poultry with other meat and meat food products, a change that was badly needed.

in addition, my childhood served to enlighten me to the importance of prompt payment of one's debts. My father's small-town business and the businesses which I later operated depended on customers who lived up to their obligations in a fair and honest manner. Prompt payment of debts is among the most basic ethics of business. This same standard of ethics should apply whether the purchaser is a hardware store in Charleston, AR, or an agency of the Federal Government. Indeed, it's the small business owners who suffer most when late payments by the Government either make it impossible to participate in Government markets or cause them harsh economic consequences for taking the risk of doing business with the Government.

S. 2479 represents an attempt to make a good law better and work the way it was intended by Congress. Despite agency protestations to the contrary and indeed contrary to the Office of Management and Budget's own published reports, Federal agencies are still paying about 24 percent of vendor payments after the due date. This information is contained in a report recently issued by the General Accounting Office at the request of the House Subcommittee on Legislation and National Security. The GAO studied, in a 4-month period, 1,520 randomly selected invoices totaling about $17.4 million at 39 statistically selected payment centers for 13 departments and agencies. I recommend this report to my colleagues as it highlights the need for legislation to enforce the Prompt Payment Act.

Other findings by GAO include the fact that—despite clear congressional intent—the supposedly automatic interest penalties on late payments are seldom paid: Only one of every six penalties owed in the GAO sample was paid. Payments made during the grace period allowed by the act constituted about 18 percent of the adjusted sample invoices; 217 invoices could not be studied in this manner because of the agencies' failure to document precise due dates. That means 18 percent of payments, almost one in five, are being made in the grace period when it was clearly the intent of Congress that

the 15 days' grace be used only for extraordinary circumstances that would prevent timely payment. S. 2479 phases out the grace period in the law, and the results of the GAO study underscore the need for its elimination. In the age of computerized bill-paying by Federal agencies, there is little excuse for such delays.

Furthermore, GAO estimates that 8.6 percent of commercial vendor invoices were paid after any applicable grace period. Again, action is needed to ensure that agencies comply with the law. Frankly, the anecdotal evidence received by Senators suggests this problem is even more widespread than 8.6 percent. Some small business owners have told me they were reluctant to ask for an interest payment to which they were legally entitled for fear of bureaucratic retribution.

Other startling disclosures by GAO are the projections that, for the 4-month period in question, agencies should have paid vendors about 278,000 late payment penalties, totaling about $15 million. In addition, GAO estimates that during this period about 146,000 "early payment" discounts, totaling approximately $2 million, were wrongfully taken by Government agencies after the discount period had expired, and were not repaid.

OMB's annual report of compliance with the Prompt Payment Act showed a total of 281,258 interest penalties for a total of $7,121,205 paid during 1985. Unhappily, the reporting does not tell the entire story, and that is another reason why S. 2479 is needed. This legislation requires OMB to report to Congress not only interest penalties paid, but also late payments for which no interest penalty was paid and the reasons why not. Greater accountability is needed for Congress to exercise its oversight responsibilities in this area, and S. 2479 provides the needed tools.

Mr. President, S. 2479 also makes other important and needed changes in the law. This bill will ensure that construction progress payments are subject to payment requirements, and late progress payments will incur interest penalties as they should. We have also extended prompt payment to subcontractors, as a considerable majority of Federal construction work is carried out by subs working under the prime contract.

This bill has broad support among the small business community.

One other point I would like to make is that at the time of the Senate Small Business Committee hearing in June, I was receiving many complaints about late payments by the Health Care Financing Administration [HCFA] to suppliers under the Medicare Program. The committee was told by officials from the administration that HCFA considered these payments exempt from the Prompt Payment Act because they were actually disbursed by fiscal intermediaries. That is, the payments are actually disbursed by contractors such as Arkansas Blue Cross and Blue Shield, which work under close supervision and direction of HCFA. That concerned me greatly and I raised that matter at the hearing. We received testimony by HCFA concerning the administration's payment practices and efforts to address obvious problems. I was impressed by HCFA's apparent goodfaith efforts to address this problem and, consequently, this bill does not contain a provision dealing directly with Medicare. However, if this problem remains unresolved when the 100th Congress convenes, then it may be necessary to amend the Prompt Payment Act to ensure that these Medicare payments are made promptly.

Mr. President, I urge my colleagues to join me in supporting S. 2479.

Mr. GORE. Mr. President, S. 2479, the Prompt Pay Amendments of 1986, will go far in addressing the Federal Government's ability to pay its bills. In 1982, Congress approved the Prompt Payment Act to ensure that businesses would be reimbursed in a timely manner for providing goods and services to the Government. The act also required the Government to pay interest penalties if the businesses were not paid on time.

While this act has significantly improved the manner in which the Federal Government pays its bills, many agencies still continue to pay almost 25 percent of their bills after the due date and fail to pay the interest penalty due on late payments. S. 2479 would address these and other problems in the system. It would clarify exactly when the 30-day payment term begins and require that interest be paid automatically, without demanding that the contractor request the payment. An important addition to the act will be the inclusion of subcontractors under construction contracts by requiring that subcontracts include a payment clause which necessitates prompt payment.

The 1982 act vastly improved the way Federal agencies deal with the businesses that provide the goods and services necessary to their mission. The 1986 prompt pay amendments will augment those changes and create a better system for the Federal Government to pay its bills promptly and efficiently. I am pleased to be a cosponsor of this legislation and I look forward to the quick and speedy implementation of its provisions.

Mr. LEVIN. Mr. President, I am pleased that the Senate is considering S. 2479, the Prompt Payment Amendments Act of 1986, and I urge my colleagues to support it. I was an original cosponsor of the legislation that created the Prompt Payment Act in the 97th Congress, and I am an original cosponsor of this legislation which makes improvements in the act.

In 1978, the General Accounting Office [GAO] reported to Congress that the Federal Government was paying its bills too early or too late. Congress responded to that report by passing the Prompt Payment Act in 1982. That act requires Federal agencies to pay their bills within 30 days or pay interest on overdue amounts. The law even provided a grace period of 15 days. If bills were not paid by the 45th day, interest accrued automatically from the 30th day. This was a solid step toward assuring that those who do business with the Federal Government are treated fairly and paid within a reasonable period of time.

In August of this year, the GAO reported to Congress that, "Passage of the act and its implementation led to substantial improvement in Federal bill-paying performance." The GAO also reported that, "the full potential of the law has not yet been realized," referring to the fact that a significant portion of bills are still being paid later than they should be.

The Senate is responding to this GAO report by proposing the changes in the Prompt Payment Act that we are considering today. These changes will enable us to realize the full potential of the law. The legislation strengthens the interest penalty provision, phases out the grace period, and strengthens the congressional plan that progress payments for completed work are covered by the act.

Hearings on the bill indicated that Congress should consider extending the policy of prompt payment to construction subcontractors and suppliers. After consideration of this matter, the Senate included provisions to provide such an extension.

There are hundreds of thousands of small businesses that provide goods and services to the Federal Government. We have made significant improvements in becoming a better customer for small businesses. As the recent GAO report indicates, we still have a way to go. This bill is an important step in that direction, and I urge its adoption.

Mr. NUNN. Mr. President, as a cosponsor of the Prompt Payment Act of 1982, I joined with Senator TRIBLE, Senator COHEN, and many of my colleagues in urging passage of S. 2479, legislation providing necessary amendments to the act.

Our intent in 1982 was straightforward: To establish guidelines for Federal agencies to pay their suppliers in a timely fashion. The prompt pay legislation was born out of the fact that the Government was in essence borrowing money free of charge from those who supplied goods and services. At that time, millions of dollars were

months past due. For many small and medium-sized businesses, those unpaid Government invoices caused severe hardships.

During consideration of the Prompt Payment Act, Federal agencies indicated that they did not favor the legislation. They expressed the opinion that fiscal management of the taxpayers' money mandated that invoices be held as long as possible. Unfortunately, those savings to the Government really are nonrecoverable losses to the supplier. The reluctance to pay promptly did not stop totally with passage of the 1982 act, and has been a continuing problem in the last 4 years since passage.

Certainly, many invoices are being paid much more promptly today than 4 years ago. There are, however, certain disturbing behaviors that these amendments can correct.

First of all, these amendments reiterate the intention of Congress that bills will be paid on time, in a manner congruent with the standard practices of various business sectors.

Second, the burden that business has borne is now listed. The amendments ensure that the payment clock for invoices is not set back and that interest payments owed on overdue payments are made automatically.

Third, the amendments include a provision for the implementation of the act to be carried out through the Federal acquisition regulation.

Mr. President, I believe that these amendments will provide a clear message to the Federal agencies that paying bills on time is clearly consistent with congressional intent and a necessary component of sound fiscal management.

When Congress approved the Prompt Payment Act in 1982, we were confident that the agencies would comply with our intent. Indeed, early indications were that payment of invoices had speeded up considerably. I am confident that these amendments will facilitate the payment of agency bills in a more timely fashion. With these practical amendments I believe we provide the necessary tools to implement in all agencies the provisions of the 1982 Prompt Payment Act. Mr. President, I urge adoption of the bill by the Senate.

Mr. SASSER. Mr. President, I am pleased to join in today's effort to pass much needed changes to a most worthy program, the Prompt Payment Act. The Prompt Payment Act Amendments of 1986, S. 2479, which we offer today will greatly enhance the prompt pay procedures. As my colleagues will recall, we passed the Prompt Payment Act back in 1982. The act is designed to make the Government pay its bills on time to Federal contractors and others who supply goods and services to the Federal agencies.

This act brought much needed relief to thousands of small businesses which did business with the Federal Government. When we first looked into this issue several years ago, we found that the Federal Government was not paying its bills on time between 30 and 40 percent of the time. Nearly $10 billion in Federal payments to Government contractors was not paid within 30 days.

We have made great improvements since 1982. Indeed, the Prompt Payment Act has diminished the number of late payments made by agencies. But there are several problem areas calling out for action. A handful of agencies and payment centers are not meeting the mandate of this legislation.

Corrective legislation is necessary, Mr. President, because quite frankly, we can't count on the administration to clear up these problem areas. The Office of Management and Budget has shown little inclination to make administrative changes necessary to eliminate recurring late payment problems at various agencies.

The primary OMB document for implementing the Prompt Payment Act is OMB Circular A-125. That circular has not been significantly revised since it was first issued by OMB in 1982. We hear that some proposed changes to the circular will be forthcoming. Well, we have heard that tune before. And even if true, these changes will be too little, too late. We need clear direction in this important area and S. 2479 provides that direction.

Since passage of the act in 1982, we have continued to receive complaints by both large and small contractors of repeated late payments by several agencies. Yet, policymakers at OMB have been unable, and some would suggest unwilling, to revise Circular A-125 to bring defaulting agencies in line. In fact, the so-called cash management philosophy which pervades the circular appears to encourage agencies to make payments as late as possible and still be within the time limits set by the Prompt Payment Act.

This policy of cash management may improve the Government's account ledgers, but it reeks havoc on small firms. These companies are forced to borrow money at high interest rates to finance their operations while they wait for a Government check. Clearly, OMB's present policy is penalizing small businesses. We need to correct that. S. 2479 moves us in that direction.

Let me add, Mr. President, that while S. 2479 makes needed changes necessary to solve many of the persistent late payment problems, the bill does not do this in a way that unfairly or unnecessarily impairs agency operations. To the contrary, the legislation basically clarifies certain aspects of the current law so as to reduce agency discretion as to when bills must be paid. For example, the legislation reduces the grace period in the act from 15 to 7 days and imposes time restrictions for acceptance, rejection, and certification of goods or services rendered.

In short, Mr. President, this bill presents a commonsense approach to refine a current law that is working to the benefit of contractors who do business with the Federal Government. I urge my colleagues to support this important measure.

Mr. CHILES. Mr. President, the Senate's consideration of amendments to the Prompt Payment Act of 1982 is important for many businesses who do business with the Federal Government. I am a cosponsor of S. 2479 because I see this legislation as an extension of the effort that I've been involved with since my membership on the Procurement Commission. In 1982, I cosponsored the generic prompt pay authored by Senator DANFORTH.

Legislative success in this area has been measured in small steps. The idea that the Federal Government should pay its bills on time is foreign practice to many executive branch agencies. It is important yet it is a simple, straightforward principle that the Congress reemphasize that agencies cannot deliberately hold back payments beyond the 30-day time limit or face interest payments—just like any other business firm or individual citizen.

Hearings by the Small Business Committee and Governmental Affairs Committee in the past have detailed some of the problems facing subcontractors who work on Government projects. We heard graphic details of small firms that can almost—and sometimes do—go bankrupt because of the retainage situation where a percent of the payments are held in abeyance long after the contract has been completed.

Subcontractors also have the added problem of trying to get their payments on time from prime contractors. The ripple effect is that sometimes the prime contractors will not be paid promptly and thus will not pay the subcontractor on time. Mr. President, I think the Government should pay its bill on time or pay interest. Let there be no mistake about my feelings on that situation. However, there are large companies that can survive late payments and continue to operate. Almost all of the small contractors on Federal projects operate on such a tight cash flow situation that a late payment can ruin them altogether. It's happened before and will likely happen again.

Many small firms or subcontractors simply don't have the personnel to track down Federal agency personnel and get paid. They don't have enough

people who can call up and followup to be sure that agencies will get tired of being reminded of their indebtedness and pay up. Usually a person key to the company's operation must take time out of their production duties to handle the administrative paperwork and phone calls in order to be paid. That should not have to happen. I am hopeful that when legislation such as S. 2479 becomes law it will no longer happen.

Mr. President, I want to compliment Senators WEICKER, TRIBLE, COHEN, LEVIN, ROTH, and others for the fine work that's been accomplished on this bill.

Mr. EAGLETON. Mr. President, I am a cosponsor of S. 2479, the Prompt Payment Act Amendments of 1986, and I participated in the final approval of the bill in the Governmental Affairs Committee. We approved it unanimously.

The need for this bill illustrates how far the executive branch agencies can stray from the intent of the laws we pass. As a cosponsor of the original Prompt Payment Act of 1982, I thought we had good reason to expect that the agencies would make a sincere effort to follow through on the rules we set. Some did and there has been some progress.

But, when we read in the Federal Register how they planned to administer the law, it was clear that S. 2479 is needed to get them back on the right course. The proposed regulations, if approved, would create 19 different loopholes in the 1982 act. For example, the act calls for payment of bills in 30 days, the regulations allow up to 80 days. These loopholes were very well spelled out by Kenton Pattie, director of the Coalition for Prompt Pay, in his letter to the Federal Acquisition Regulation Secretariat.

To strengthen the record in support of S. 2479, Mr. President I ask unanimous consent that the September 15, 1986, letter from Mr. Pattie be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COALITION FOR PROMPT PAY,
September 15, 1986.

Re: FAR Case 84-30.
GENERAL SERVICES ADMINISTRATION,
FAR SECRETARIAT (VRS),
Washington, DC.

DEAR FAR SECRETARIAT: On Thursday, July 17, 1986, proposed regulations were published in the Federal Register to incorporate the provisions of the Federal Prompt Payment Act of 1982 into the Federal Acquisition Regulation (FAR).

The Coalition for Prompt Pay encourages standardized payment practices which are consistent with the Prompt Payment Act. Inclusion of statutory prompt pay requirements in the FAR would help businesses and agencies conduct their transactions expeditiously.

However, we are concerned because the proposed regulations do not accurately follow the requirements of the statute. In fact, the proposed FAR language misses the intent of Congress by such a wide mark that we believe the FAR Secretariat needs to launch a thorough and serious study of the issue before again attempting to publish on this subject. Among the steps the Secretariat should take:

1. A public hearing open to industry representatives who could describe the impact of the proposed rules on the government and the private sector.

2. A period of reviewing proposals currently being studied by Congess, including those embodied in S. 2479 which is the product of two Senate Committees.

3. A study of the recent General Accounting Office report on implementation of the Prompt Payment Act, a study not available in July when the Far draft was published.

Our specific comments on the Federal Register item follow and we would appreciate your making these a part of the record:

PROPOSED RULE

Parts 32 and 52 titled "Contract Financing" and "Solicitation Provisions and Contract Clauses"

Coalition Comment: We question the desirability and advisability of having two sections of the FAR dealing with prompt payment. Why not have one section? How inconvenient to ask contract officers and vendors to refer to more than one place in the FAR to determine the rules. Furthermore, neither section 32 nor 52 is properly titled to accommodate prompt pay. Certainly "Contract Financing" is not the proper title and nor is "Solicitation Provisions and Contract Clauses". Therefore, the Coalition recommends that a single FAR part be created to encompass all rules and contract clauses regarding prompt payment. Further, we recommend that that part be named "Part xx Prompt Payment".

To maintain two separate FAR parts in future years will invite possible inconsistencies and misinterpretations by those who speculate on proper procedure while trying to put together parallel sets of instructions. One part devoted entirely to prompt pay will suffice.

PROPOSED RULE

32.502-1 Use of customary progress payments

This rule would prohibit progress payments from being made for "quick turnover" items for which progress payments are not customarily made in commercial transactions. The rule defines such items as: "subsistence, clothing, medical and dental supplies, and standard commercial items not requiring a substantial accumulation of predelivery expenditures by the contractor."

Coalition Comments: In this subpart, the FAR proposal attempts to define what will qualify for "progress payments" by indicating what will not qualify. At best this is an awkward approach to a straightforward problem. Why not just say what will qualify for progress payments such as construction, remodeling repairs for such requirements as electrical, plumbing, heating, computer installations, sound and communications systems installations, and other mechanical or electronic performance that involves extended contractor work on site beyond the moment of delivery?

At worst, this provision causes more problems than it solves, by saying: "If progress payments are granted in circumstances such as these, the contracting officer shall certify that such financing was in the best interest of the Government. The certification shall include full justification and specify the financing cost implications of the Government considered by the contracting officer . . ."

Because the Prompt Payment Act already authorizes partial payment for partial completed delivery, the above provision deliberately undermines the Act itself. Under no circumstances should a contract officer be required to develop a certification for every partial payment owed for such things as subsistence, clothing, medical and dental supplies and standard commercial products. The Act calls for no such certification. A-125 calls for no such certification. Therefore, the FAR has no business calling for any such certification.

We recommend that this paragraph be deleted and replaced with one which simply lists areas that would qualify for progress payments and makes no mention of certification for periodic payments.

Further, the replacement paragraph should not refer to "financing cost implications" because partial payments on partial delivery are not considered "financing". Partial payments are for completion of specific steps in a project, for delivered portions of a contract, and are in no way a means of "financing" vendors.

PROPOSED RULE

Subpart 32.9 Prompt Payment

32.901 Applicability

This subpart does not apply to purchases of utilities (gas, water, electricity) when late payment charges are included in the contract or established by tariff or state regulatory commissions.

Coalition comment: Nowhere in either the Act or the A-125 Circular are payments owed to utilities exempt from coverage of the Prompt Payment Act. Congress certainly did not intend to give a blanket exception of any class of contracts.

What the FAR provision does is to hide utilities behind the fact that the law allows contracts which establish payment terms. Since all utilities are procured under contract and are subject to tariff or regulatory commissions, the FAR proposal, if adopted, would leave out utility payments from the Prompt Payment Act henceforth.

The Coalition feels this proposed provision is entirely unnecessary and implies that the FAR writers have the authority to exempt certain classes of payments from time to time. The Act already takes care of the contingency raised by the FAR "applicability" section.

In lieu of this draft provision, we recommend an alternative provision be inserted:

"No purchases or classes of purchases are exempt from the provisions of this regulation."

PROPOSED RULE

Subpart 32.9 Prompt Payment

32.902 Definitions

"Designated payment office" means the place designated in the contract for fowarding invoices and requests for contract financing payment (e.g., disbursing office) or, in certain instances, for approval."

Coalition for Prompt Pay Comments: The above definition while it follows the existing OMB Circular A-125, has been the subject of considerable misunderstanding concerning the intent of Congress in the law. Because of this misunderstanding which has resulted in a variety of different practices among agencies, proposed legislation in the U.S. Senate eliminates the term "designated payment office" and for purposes of deter-

mining date of receipt of invoice substitutes, "office or employee of the agency designated by the agency to first review such invoice".

This change is intended to clarify the problem of delays occurring at the outset of the payment process in which invoices are shuffled for months among various offices. It clearly defines receipt of invoice as the date on which the "office . . . first receives such invoice," or on the fifth day after the date of delivery.

We would suggest that a similar change be made in the FAR. Such a change would not be inconsistent with existing law in that the change merely clarifies when the 30 days allowed for payment begins. Without this provision agencies can cause long and unnecessary delays which are contrary to the intent of the Act, which calls for prompt payment.

The recordkeeping functions, processing of paperwork relating to agency purchases, and issuance of a check should not consume more than the 30 days allotted by law. This change we propose makes that intent clear.

PROPOSED RULE

Subpart 32.9 Prompt Payment

32.902 Definitions

"Contract financing payment" means a disbursement of moneys to a contractor for operating capital incidental to contract performance, such as a progress payment, advance payment, and interim cost reimbursement."

Coalition comment: Under no circumstances should a progress payment be considered a "contract financing payment". A progress payment is simply a payment for a completed stage in a project. A payment at this point is fair compensation for the company's completed work. Neither the company nor the government agency considers it as "financing" nor is it operating capital incidental to contract performance. But instead a progress payment is a payment for services rendered. In contrast, we have no argument with the concept of including "advance payments" as "contract financing". Advanced payments are usually made in a series and are not based on the achievement of specific stages of work but rather are based on the firm's need for a positive cash flow (operating capital) during a special period in the contract fulfillment.

Further, the Coalition questions the inclusion of "interim cost reimbursement" as a form of "contract financing". The term "cost reimbursement" implies a finished job and as such a payment would not constitute "financing" but rather a payment for a service rendered for goods previously purchased. We believe that any form of cost reimbursement is specifically covered by the Prompt Payment Act and we recommend that the FAR so state.

Meanwhile, we recommend that in 32.902, the words "progress payment" and "interim cost reimbursement" be deleted from the definition of "Contract financing payment".

PROPOSED RULE

32.903 Policy

. . . "Prompt payment discounts offered by the contractor shall only be taken when invoice payments are made within the discount period."

Coalition comments: Because so many contractors have reported abuses of early payment discounts, we recommend that language be added to clarify that the discount period begins at receipt of invoice in the office first designated for initial receipt, not at some future date when all the receiving paperwork has been processed in some second, third or fourth office. Again, the change recommended by the Coalition is consistent with Congressional intent.

PROPOSED RULE

32.905 Payment Standards

"(a) Invoice payments shall be made as close as possible to, but not later than, the due date established in the Prompt Payment clause at 52.232.25."

Coalition comments: The Prompt Payment clause at 52.232.25 incorrectly allows an additional 30 days for payment beyond the 30 days specified by statute. Our comments on that section follow in sequential order. However, a policy of making payments "as close as possible to" the due date runs the considerable risk of unintentional delays which can and often do carry the payment beyond the statutory 30-day terms. This phrase "as close to as possible to but not later than" is not in the Act, but has been advanced by OMB as a tool of its Cash Management program. Cash Management is not a legislated program of the government and should OMB wish to enforce this provision they should seek a change in the law to authorize it. Short of a change in the law, agencies should be allowed to pay at any time within the 30 days.

Unfortunately the language you propose created the current practice of routine misuse of the grace period for issuing payment, a misuse of the extra 15 days allotted by Congress to help in emergency situations, but not for routine use. An example of this abuse is the Department of Defense's recent announcement that it wants to begin delaying payments to reduce outlays. Since current practice calls for issuance of the check "as close as possible" to the due date, this means the interest-free grace period will be used routinely by DoD.

We recommend that care be taken in drafting a FAR requirement that still offers the Government the benefit of the statutory payment period of up to 30 days but does not result in abuses. For example, a sentence should be added in the FAR that this requirement does not in any way authorize the routine extension of payments into the 15-day grace period permitted by statute. There are agencies which find they get better prices and more competition when they promise to pay in under 30 days. These agencies should not be precluded from "Fast Pay" and similar programs because such programs are in the interest of the government and encourage participation of small firms. Therefore, the FAR language should be changed to spell out clearly the circumstances in which the grace period may be utilized keeping in mind Congressional intent that it be used to provide flexibility in instances of major catastrophic events, such as phenomenally adverse weather conditions or major systems failures involving a breakdown of several days or weeks, etc. Delays should never be allowed in cases of routine employee leave, work backlog, and lost paperwork. Of course, such delays would have far less impact if agencies could pay anytime within the 30 days.

PROPOSED RULE

32.905 Payment Standards

"(b) If an invoice is determined by the designated payment office to be defective, then the contractor must be notified of the defect within 15 days after receipt of the invoice at the designated payment office. This notification of defects period is 3 days for meat and meat food products and 5 days for perishable agricultural commodities."

Coalition comments: This requirement is included in the statute and also in OMB Circular A-125. However, we are dismayed at reports from contractors and vendors that agencies routinely ignore the notification requirement. Obviously, the language needs to be improved so that more emphasis is placed on the fact that notification within 15 days of a defective invoice is required by law.

PROPOSED RULE

32.905 Payment Standards

"(c) The receiving report should be submitted to the appropriate office within four work days after Government acceptance, unless other arrangements have been made. . . ."

Coalition comments: The statute authorizes a total payment period of 30 calendar days; not 30 days plus 4 work days for receiving reports to be filed. There is no legal basis for this additional period to be added. All agency functions including acceptance, receiving, and payment should be made within the 30 calendar days as authorized by the statute. Further, it should be noted that the Act is entirely written around calendar days, not work days. There is no reason whatsoever why receiving should take a week or four days. Receiving should be done without fail on the date of delivery. Shipping regulations require this. Prompt inspection of goods is in the government's best interest and no FAR provision should encourage delay in receiving.

PROPOSED RULE

32.906 Determining Due Dates

"(a) The due date for invoice payment will be the 30th day after receipt of a proper invoice by the designated payment office or the 30th day after the supplies or services are accepted by the Government, whichever is later. . . ."

Coalition comments: Because Part 52-Solicitation Provisions and Contract Clauses, 52.232-25 Prompt Payment (as proposed) authorizes an acceptance period of 30 days following delivery, this provision has the effect of doubling the statutory 30-day payment period. If 30 days are granted for acceptance and an additional 30 for payment after acceptance, the sum total called for in the FAR provision is 60 days. Add to that the previous 4 days for receiving plus the 15-day grace period permitted by law and the agencies would now have a total of 80 days in which to pay bills. This is an incredible distortion of a statute which clearly says: "30 days".

PROPOSED RULE

32.906 (a)(3) and (d) Determining Due Dates

"(3) Agency heads are authorized to prescribe longer periods, if justified."

"(d) Agency heads may also adopt longer periods as policy (e.g. 30th day after receipt)."

Coalition comments: There is no basis for these statements in the statute. Instead, under the Act, the agency head is responsible for enforcing the provisions of the Act and has no authority whatsoever to waive the Act. Under the Act, there is no justification for being late. No excuses are acceptable, whether prescribed by the agency head or by anyone else in the agency. Congress wanted a "no excuse", on-time payment policy. But, these proposed provisions in the FAR open up a new loophole—an excuse signed off on by the head of the agency. We are opposed to these provisions in the pro-

posed rule and recommend that you remove them.

PROPOSED RULE

32.906 Determining Due Dates

"(b) The Prompt Payment clause at 52.232.25 specifies that, unless otherwise established by the contracting officer under a special provision in accordance with agency procedure, acceptance should occur within 30 days following contractor delivery of supplies or services . . ."

Coalition comments: As stated previously, the statute does not allow an additional 30 days for acceptance beyond the 30 days for payment. Therefore, lacking any statutory base, this provision should be deleted and the following inserted:

"The Prompt Payment clause at (52.232-25) specifies that, unless otherwise established by the contracting officer under a special provision in accordance with agency procedure, all acceptance, receiving and payment functions should occur within 30 days following contractor delivery of supplies of services or receipt of proper invoice by the office or employee of the agency designated by the agency to first review such invoice".

PROPOSED RULE

32.906(b) Determining Due Dates

". . . and it does not compel the disbursing officer to make payment prior to obtaining a receiving report."

Coalition comments: In this provision, the FAR would give the agency 30 days to accept delivery, a period which is outrageously excessive and entirely contrary to the Act, as we shall show later in this paper. But to make the 30-day acceptance period even worse, the FAR adds another loophole: if you don't have the receiving report after 4 working days and after 30 additional acceptance period days you can wait as long as you want until you receive the receiving report. In contrast, the FAR should require that the receiving report be advanced to the payment office immediately, with no excuses being acceptable. There should be no latitude for agency personnel to wait indefinitely for receiving reports. The FAR should establish that it is the responsibility of the payment office to obtain the receiving report in time to make a prompt payment.

In our opinion, the loophole you have outlined here is at the heart of what is wrong with the government's payment practices. Agency employees feel that the word "prompt" in "Prompt Payment Act" applies only to what they do after they get all the paperwork together, and paperwork accumulation can take as long as they wish. Even though you appear to say in 32.906 that under the FAR 30 days should be enough to accumulate the paperwork, in fact by leaving the receiving report loophole, you are trying to open up the 30-day Act to be an indefinite-period Act in [(in d)] which the standard is not set by Congress, but by the agency which loses, or misplaces, or overlooks receiving reports.

PROPOSED RULE

32.907(h) "Interest penalties are not required on . . . amounts temporarily withheld in accordance with terms of the contract . . ."

Coalition comments: If there is a reasonable disagreement over performance under a contract, there is a basis for temporarily holding up part or all of a payment, pending resolution of the disagreement. Under those circumstances, payment must be made promptly on resolution of the disagreement. We recommend that the FAR be very clear on this point: Every effort should be made by both parties to rapidly clear up disputes and, on that resolution, the agency must pay promptly. The regulation should prohibit the withholding of payments for an additional 30 days following resolution of a dispute.

However, there is a further serious loophole proposed by the FAR in refusing to pay interest penalties on "amounts temporarily withheld in accordance with terms of the contract". If the contract calls on the government to hold back 5 percent or 10 percent of a payment for retainage, pending completion of the job, then on completion the entire 5 percent or 10 percent should be released. If that 5 percent or 10 percent is not released promptly, it should be subject to the Prompt Payment Act and should be exposed to late payment interest penalties.

Yet, the proposed FAR language, in effect, exempts retainage under construction contracts from coverage by the Act. In contrast, the Act exempts no class of payments. Therefore, we recommend that, in order for the FAR to comply with the Act, that the regulation state that retained amounts under construction projects, and as a result of withholding under progress payments, are subject to the Act and would, if paid more than 30 days from completion on the job be subject to the interest penalties called for by the Act.

PROPOSED RULE

32.908 Contract Clauses

"The contracting officer shall insert the Prompt Payment clause at 52.232-25 or an alternate prompt payment clause into all contracts except utility contracts exempted by 32.901. Agency heads are authorized to prescribe alternate clauses which stipulate different standards for determining due dates on invoice payments and contract financing payments or establish different payment procedures (e.g. lease payments)."

Coalition comments: Here again the FAR writers have veered dramatically from the intent of Congress. Faced by the absence of an enforced government payment standard, and observing that private commerce had standards in the 25-30 day range, Congress decided to establish the 30-day standard of government payments and to call for enforcement of that standard through interest penalties.

The 7-day meat standard, the 10-day agricultural products standard, and the 30-day products and services standard were intended by Congress to be the rule, not the exception.

Yet, to our dismay, the proposed rule gives contracting officers and agency heads authority to thumb their noses at the Congressionally established standards by setting "different standards". What is so wrong with what Congress has done that you feel agencies can do better?

In fact, the proposed rule just culls out another in a series of loopholes to encourage the agencies to undermine the intent of Congress. When it passed the Act, Congress did not say agency heads could re-write the "Standards for determining the due dates".

Therefore, we recommend that the rule be re-written as follows:

"The contracting officer shall insert the Prompt Payment clause at 52.232-25. Changes to the clause shall be the exception not the rule and shall be the result only of mutual consent between contracting parties. Changes to the clause shall not be made in procuring commercial products and services for which there is no genuine contract negotiation between vendor and government agency. Further, agency heads are not authorized to establish alternative standards except where they find that payment in under 30 days is in the best interests of the government."

PROPOSED RULE

Part 52—Solicitation Provisions and Contract Clauses

52.232.25 Prompt Payment (a) ". . . Contract financing payment" means a disbursement of monies to a contractor for operating capital incidental to contract perforemance, such as a progress payment, advance payment, and interim cost reimbursement voucher."

Coalition comment: As mentioned previously in this paper, the FAR draft is incorrect in calling a "progress payment" or a "cost-reimbursement" a method of "contract financing". Neither payment is for financing, but rather for completion of work or service, or in compensation for a payment already issued by the vendor. Neither payment is designed as a loan, a method of capitalization, or a form of Federal assistance. Rather both are genuine commercial payments. As such, they should be treated as payments due under the terms of the Prompt Payment Act. A late progress payment should be subject to interest penalties, just as a late cost-reimbursement should be subject to interest penalties.

There is absolutely no basis in the Act for the FAR to create this loophole and we recommend that the proposed rule be amended accordingly.

PROPOSED RULE

52.232-25 (b) "An invoice shall be prepared and submitted to the designated payment office in quadruplicate (one copy shall be marked "original"), unless otherwise specified."

Coalition comments: Quadruplicate? Fortunately, the Congress, in passing the Prompt Payment Act, had better sense than recommending such an absurd regulation. Nor was such a recommendation proposed in OMB Circular A-125. "Quadruplicate" can only be the creation of cynical bureaucrats, who knowing that most vendors could not meet this requirement, would rejoice in the ever mounting backlog of rejected invoices stamped "Not Enough Copies—Refer to Quadruplicate Requirement".

Without question, "quadruplicate" sneers at the Paperwork Reduction Act and reveals the underside of a government payment system still overburdened by excessive paperwork, and hungering for more paperwork.

If private commerce can survive with a single invoice, why can't a federal agency? Must the Federal agencies be four-times worse than the businesses they contract with?

The Coalition recommends that the proposed regulation be re-written as follows:

"An invoice shall be submitted to the office or employee of the agency designated by the agency to first review such invoice, unless otherwise specified."

PROPOSED RULE

Part 52—Solicitation Provisions and Contract Clauses

52.232-25 Prompt Payment

"(c)(4) Unless otherwise specified by the contracting officer under a special provision in the contract, the acceptance date for purposes of computing interest penalties owed the contractor shall be deemed to have oc-

curred on the 30th day following the date of contractor delivery of supplies or services. . ."

Coalition comments: Again, an additional 30 days for acceptance of supplies or services is authorized here yet there is no basis for this extended payment period in the statute. Congress specifically authorized payment to be made within 30 days. The addition of standardized periods of time for all of the paperwork functions that take place prior to payment is contrary to the intent of the statute. We recommend that the 30-day payment standard authorized by Congress be adhered to and that regulations clearly spell out that all paperwork processes leading up to issuance of the check be completed within that 30-day time frame.

PROPOSED RULE

52.232-25 Prompt Payment

"(b)(6) Name and address of contractor official or office to which payment is to be sent (which must be the same as that in the contract or on a proper notice of assignment)"

Coalition comment: We question why it is essential for the agencies to match place of payment on contract with place of payment on invoice. Between the date of a contract and the completion of the work, if a vendor changes a box number or wants a payment sent to an office other than the one designated by the contract, that should be allowed. We often get complaints from vendors who say that their payment is being held up because they put one payment address on the invoice and another on the contract.

In our opinion, if the agency has a question about a discrepancy between two company addresses, such a discrepancy could be resolved during the 30 days and need not cause the invoice to be rejected on the basis of being improper. We find that government agencies change addresses during contract periods and government managers come and go, with no penalty to the government. Similar treatment should be accorded companies.

Therefore, we recommend that this provision be re-written as follows:

"(6) Name, address and phone number of contractor official or office to which payment is to be sent."

PROPOSED RULE: PART 52 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.232-25 Prompt Payment

Alternate I (August, 1986) (End of Clause)

"(f) Electronic Wire Transfer. Payments under this contract will be made by the Government either by check or wire transfer (through the Treasury Financial Communications System [TFCS] or the Automated Clearing House (ACH), at the option of the Government."

Coalition comments: This section of the proposed regulations describes the circumstances and manner in which electronic wire transfer payments can be used. The Coalition feels very strongly that use of electronic wire transfer for government payments to vendors can solve a number of the late pay problems currently existing. It is our hope that the proposed regulations will specifically attempt to encourage the use of electronic wire transfer payments as a matter of general practice by federal agencies. The use of wire transfer should be mentioned in each contract to assure the vendor and prompt the finance office to act accordingly.

However, we object to the phrase "at the option of the government".

If the government is willing to make wire transfer payments, an agreement to do so should be reached at the time the contract is signed and there should be no subsequent doubt as to how the payment will be made. The company has a right to know where to expect the payment (in the mail or in the bank) and a firm agreement on this subject should be reached at the begining of the contract. To leave this as an option for the government places some unfair uncertainty on the contractor.

While the goal should be more and more wire transfers, the goal should be to lessen the paperwork and red-tape necessary to get a wire transfer initiated. For example, why should the vender have to fill out a form for each payment over $25,000? This would lead to endless duplication of information. Why not establish a system in which the vendor provides the information once and such information applies to each successive payment?

Proposed rule: The proposed FAR regulations (July 17, 1986) do not address the question of prompt payment to subcontractors.

Coalition comments: Many federal construction contracts require subcontracting with a number of small business firms. When government payments are paid late to the prime contractor, this creates an equal burden for subcontractors who must wait to receive their payment from the prime. Interest penalties paid by the government to prime contractors should therefore be passed through to subcontractors within 7 days. Further, payments should be passed on to subcontractors within 7 days, in accordance with common commercial practice (as established by a published industry standard, the Joint Policy statement of 1978 by Associated General Contractors, American Subcontractors Association, Associated Specialty Contractors) and (2) The Small Business and Federal Procurement Competition Enhancement Act of 1984 (PL 98-577) which states: ". . . the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms and their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals." The FAR should spell this out clearly to ensure a government-wide consistent treatment of contracts involving subcontractors.

Proposed Rule: The proposed FAR regulations (July 17, 1986) do not address the requirements for federal agencies to report their incidences of late payment to the Office of Management and Budget.

Coalition comments: Currently, federal agencies are required by the Act and by OMB to report annually on the incidence of late payments by providing the costs of annual interest penalties incurred. Unfortunately, this reporting system does not provide any data on the actual incidence of late payments for which no interest penalty was paid. OMB is currently reviewing proposed revisions to Circular A-125 which would increase the reporting requirements and we urge that contracts and contract offices be so administered as to produce the following information and that such information be required by regulation in the FAR:

1. Number of interest penalties paid.
2. Amount of interest penalties paid.
3. Relatively frequency of interest penalty payments to the total number of payments.
4. Number, amount, and relative frequency of payments made 3 days or more before the due date, except where cash discounts were taken.
5. Reasons that interest penalties were incurred.
6. An analysis of the progress made from previous years in improving the timeliness of payments.
7. Number, amount and relative frequency of invoices paid during the grace period (stratified 1-5 days, 6-10 days, 11-15 days).
8. Number, amount and relative frequency of invoices paid more than 15 days after the due date that did not include interest penalties, and the reasons therefore.

Proposed rule: The proposed FAR regulations (July 17, 1986) do not address the issue of whether payments made by federal agencies through fiscal intermediaries, and other distributors of Federal money, are subject to the prompt payment provisions.

Coalition comments: We believe that for the purpose of distributing federal funds, contract officers should be granted authority to require that those funds be made subject to the prompt payment provisions of the FAR regardless of whether intermediary payment organizations, grantees, state or local governments perform the actual disbursement.

At the present time, the Prompt Payment Act of 1982 is under scrutiny by Committees of both the House of Representatives and U.S. Senate. A considerable number of questions have been raised as to whether intermediaries or others receiving Federal loans, grants and contracts through assistance programs are complying with the Act's goals. The FAR draft should be amended to require prompt payment by organizations distributing Federal funds or making payments under Federal loan guarantees.

Proposed Rule: The proposed FAR regulations are silent on the authority of an agency to suspend application of the Act to a class of contract payments.

We would also like to see the regulations address another disturbing problem of recent occurence: namely, the announcement by one federal agency (The Commodity Credit Corporation) on June 25, 1986, that the Prompt Payment Act's requirements are suspended in situations where an agency's inability to make payment is due to circumstances beyond the agency's control such as occurred with respect to depletion of CCC's borrowing authority. It should be clearly spelled out in the FAR regulations that no agency has the authority to suspend application of the law or any provision of the law. No such authority was granted by Congress. No such authority was even extended by A-125. By amending the proposed FAR regulation we urge you to take immediate action to prevent future abuses of this nature.

PROPOSED RULE

The proposed FAR is silent on the definition of agency.

Coalition comment: While OMB Circular A-125 defines "agency" for the purposes of the Act, the proposed FAR does not. Because there are three important distinctions made in A-125, we recommend that these be incorporated into the FAR picking up 4.a. from A-125.

(1). Entities acting as instrumentalities of a Federal agency to administer that agency's programs are considered agencies under the Act.

(2). Military posts, base exchanges and commissaries are included as agencies. This is a very important distinction because these agencies spend considerable sums and are

viewed by vendors as part of the U.S. government even though, at times, they may spend non-appropriated funds.

(3). The Tennessee Valley Authority is specifically mentioned in the Act and this reference should be repeated in the Act until such time if ever, that Congress changes this provision.

Proposed rule: The proposed FAR is silent on partial payments for partial deliveries.

Coalition comment: While the Act and OMB Circular A-125 mention partial payment for partial deliveries, this important provision in the Act has been overlooked by the FAR writers.

We recommend that the following be inserted as a clause in each contract:

"Partial payments will be made for partial completed deliveries."

Proposed rule: The proposed FAR is silent on when a check should be mailed.

Coalition comment: While the OMB Circular A-125 deals with this, the FAR does not.

To avoid the danger of agencies holding checks after they have been cut, we recommend that the following provision be added to the FAR:

"Checks will be mailed or transmitted on the day for which the check or transmission is dated."

Proposed Rule: The proposed FAR is silent on how to handle payments for which there is no invoice.

Coalition comment: A lot of unnecessary paperwork is created by the requirement that companies submit monthly invoices to receive payment under a lease. Just as many taxpayers are able to pay mortgage and car payments monthly without having to be billed, so should the government make monthly payments for leased equipment and facilities without requiring a separate invoice.

The FAR should deal directly with this by permitting periodic payments to be made without the periodic invoices being submitted. Agreements concerning leases should specify the payment schedule and should be subject to the Prompt Payment Act and its interest penalties when such payments are late.

Proposed Rule: The proposed FAR does not mention a provision in the act which authorizies recipients of Federal assistance to pay interest penalties.

Coalition comment: The Congress agreed that this is a serious matter which needed to be resolved through the Act. The FAR should treat it with equal seriousness. Therefore, the FAR should have a provision as follows: "Recipients of Federal assistance may pay interest penalties if so specified in their contracts with business concerns. Obligations to pay such interest penalties will not be obligations of the United States. Federal funds may not be used for this purpose, nor may interest penalities be used to meet matching requirements of federally-assisted programs."

Proposed Rule: The proposed FAR is silent on the matter of where agencies and vendors should direct their inquiries.

Coalition comment: When OMB issued A-125, it included in its concluding provision, some offices and phone numbers that could be used for agencies and companies seeking additional information on the Prompt Payment Act.

Including such information in every contract, as a standard contract provision, would be a useful public service and could help reduce the number of misunderstandings and mistakes with respect to compliance on the part of both agencies and companies. Therefore, the Coalition recommends that the FAR be amended to require the following:

In all contracts there shall appear the following information:

"Questions or inquiries concerning the Prompt Payment Act may be directed to the Financial Management Division, Office of Management and Budget, Washington, D.C. 20503, telephone number 202/395-4773.

"Inquiries concerning the applicable interest rate may be directed to the Appropriation and Investment Branch, Department of the Treasury, telephone number 202/566-5651.

"Inquiries concerning payment under this contract, after all other avenues have been exhausted, may be directed to the following, who is the chief fiscal officer for this agency: ——."

In conclusion, The Coalition for Prompt Pay is pleased to see that an attempt is being made to incorporate the Prompt Payment Act into the FAR. This is needed to implement the policy provided in the statute. However, we are distressed by the proposals you have drafted because you have strayed so far from the intent and spirit of the Act. The comments we have made concerning the inconsistencies in the regulations as they relate to provisions in the law are designed to help you reevaluate your draft. Your consideration of our recommendations, including the proposed public hearing, the review of the Congressional and GAO reports should be done deliberately and thoroughly.

In view of the currrent Congressional work on this subject, moreover, we feel you are proceeding in a very sensitive area in which agencies and companies seek a consistent, fair, and red-tape free path to prompt payment.

Respectfully submitted on behalf of the Coalition,

KENTON PATIE,
Director.

MEMBERS OF THE COALITION FOR PROMPT PAY

International Communications Industries Association [ICIA].

National Moving and Storage Association [NMSA].

Association for Information and Image Management [AIIM].

Door and Hardware Institute [DHI].

American Subcontractors Association [ASA].

Association of General Contractors, Rhode Island Chapter [AGC].

National Association of Manufacturers [NAM].

Small Business United [SBU].

Coalition for Common Sense in Government Procurement.

American Meat Institute [AMI].

American Consulting Engineers Council [ACEC].

Associated Specialty Contractors [ASC].

National Electrical Contractors Association [NECA].

Painting and Decorating Contractors of America [PDCA].

Mechanical Contractors Association of America [MCAA].

Mason Contractors Association of America [MCAA].

Sheet Metal & Air Conditioning Contractors National Association [SMACNA].

National Roofing Contractors Association [NRCA].

National Association of Plumbing-Heating-Cooling Contractors [NAPHCC].

National Association of Retail Druggists [NARD].

National Insulation Contractors Association [NICA].

National Association of Wholesales [NAW].

National Association of Credit Management [NACM].

International Sanitary Supply Association [ISSA].

Association of the Wall & Ceiling Industries—International [AWCI].

American Association of Nurserymen.

Associated Builders and Contractors.

American Logistics Association.

JOINT POLICY STATEMENT 1: PROMPT PAYMENT

Undue delays by owners, architects/engineers, general contractors, subcontractors and sub-subcontractors in processing amounts due to general contractors, subcontractors, sub-subcontractors and suppliers, or in making timely payments of these amounts, impose hardships and improper financing burdens on the contractors and suppliers and amount to extensions of credit by the contractors and suppliers to their respective higher tiers.

Accordingly, it is the policy of the Associated General Contractors of America, the American Subcontractors Association and the Associated Specialty Contractors that all payments must be made on all contracts promptly. This should include payment for all labor, services and materials stored on the job site or other approved storage sites as of the closing date of requisitions. This applies to both progress payments and final payments.

All local chapters of AGC, ASA and ASC are urged to make efforts, singly or cooperatively where possible, to persuade all owners, architects/engineers, general contractors, subcontractors and sub-subcontractors to adopt and adhere to this policy in the conduct of their business.

The following schedule of billings, certificates and payments by various participants in the construction process is recommended.

The schedule assumes normal trade contract terms allowing monthly progress payments for work performed and materials suitably stored through the end of the month. This schedule does not refer to payments to suppliers who are not subcontractors.

It is important to note that along the sequence of events, any recipient of a payment request who takes exception to an item of billing should immediately contact the initiating party by telephone and attempt to resolve the matter. Failing resolution, the party taking exception should notify the other party in writing the reasons for the action.

DAY OF CALENDAR MONTH AND EVENT
20th—Sub-subcontractors request payment from subcontractors.
25th—Subcontractors request payment from contractor, incorporating the sub-subcontractor's request in the billing.
1st—Contractor submits to the owner's representative an itemized application for payment with the necessary supporting data, covering the monthly progress of the entire contract being performed.
5th—The owner's representative issues the certificate for payment to the owner for the amount requested.
10th or sooner—The owner makes payment to the contractor for the amount certified by the owner's representative.

No More Than 7 Days After Receipt—The contractor pays each subcontractor the amount received from the owner on his account promptly but not later than seven days after receipt.

No More Than 7 Days After Receipt—Each subcontractor pays each subcontractor the amount received from the owner on his account promptly but not later than seven days after receipt.

The schedule should be adjusted by making appropriate billings and payments on the last working day prior to any listed Saturday, Sunday or holiday. It is also recommended that collection efforts be commenced immediately following the day any payment due was not paid.

● Mr. PRYOR. Mr. President, today I join many of my colleagues in urging approval of S. 2479, the Prompt Payment Act Amendments of 1986. I am a cosponsor of this legislation, and I was a cosponsor of the original 1982 Prompt Payment Act which this legislation amends.

The primary purpose of the 1982 act was, quite simply, to make the Government pay its bills on time, and to assess interest penalties for late payments and improperly taken discounts.

The good news is that the act had substantially improved the Government's bill-paying performance overall. The bad news is that there remain an excessively high number of late payments by agencies, and vendors that are paid late do not automatically receive the interest penalties owed to them under the act.

In testimony before the Legislation and National Security Subcommittee of the House Committee on Government Operations on July 29, 1986, Mr. Frederick D. Wolf of the General Accounting Office [GAO] testified that governmentwide, agencies still paid a quarter of their commercial bills after the due date. Close to 5 percent of these payments should have included penalties. Some of the payments were extremely late.

Mr. Wolf also testified that agencies frequently did not pay the penalties they owed and did not repay improperly taken discounts. The GAO identified 66 invoice payments in its sample which should have included late payment penalties. However, agencies had paid penalties for only 10 of these. In other words, five out of every six vendors entitled to interest penalties did not receive them.

In private commerce, late payments and improperly taken discounts for early payment do not occur so frequently or without some penalty attached. When a consumer does not pay his or her bank credit card balance in full within 30 days, interest charges are automatically assessed and added to the balance due. When the consumer pays off the balance, that payment includes accrued interest penalties.

The 1982 act explicitly stated that agencies should automatically include interest penalties in late invoice payments. Yet five out of six vendors receive their late payment without the interest included. Why should agencies get away with something that an ordinary consumer cannot get away with?

S. 2479 addresses this problem by requring that the interest penalty be doubled if the agency does not automatically include the interest in a late payment to the vendor and more than 15 days elapses after interest first becomes due. This provision adds teeth to the Prompt Payment Act without unduly interfering with agency operations.

The legislation contains many other similar refinements of the Prompt Payment Act. Taken together, they represent important and needed solutions to some of the outstanding problems that have developed in implementing the Prompt Payment Act of 1982.●

Mr. HARKIN. Mr. President, today I join several of my colleagues in supporting S. 2479, the amendments to the Prompt Payment Act of 1982.

The intent of that legislation was clearly articulated in the 1982 act. Unfortunately the bright hopes that the act offered, when President Reagan signed it into law, have not yet been realized totally.

While many invoices are being paid diligently by Federal agencies, we have a 4-year history that displays patterns of policies and behaviors that are far afield from our intention of getting Government bills paid on time.

The pattern of late payment of invoices reflects a conflict of priorities. There should be no such conflict. Incorrectly, agencies have felt that paying their bills late was good fiscal and business practice, because they were saving the taxpayers money. In fact, small, medium and large businesses who supply the Government have been providing interest-free loans.

The amendments contained in S. 2479 will clarify and strengthen the Prompt Payment Act. These amendments also will bring contractual relationships between Federal agencies and their suppliers to a more professional and business-like manner of operating.

This particularly is important, Mr. President, to our small and medium size businesses in Iowa and elsewhere. They have borne a heavy burden in doing business with the Government. This, in spite of the fact that the Government needs suppliers who are reliable and honest, and who compete to supply goods and services at the lowest possible cost.

There is no question that the cost to the supplier of late payments (these interest-free loans to the Government) will be added to the price of the product or service provided.

To make the most responsible use of taxpayer money to provide needed Government services, we must be able to attract the greatest range of businesses to compete for the Government's business. The great difficulty for many small and medium size businesses is that they cannot afford to do business with the Government.

Because often Government payment is so slow, these businesses cannot in turn meet their obligations to employees and suppliers. The task of following up on late bills, wading through a maze of organization charts trying to find the correct individual to talk to, and resubmitting invoices often in triplicate and quadruplicate is simply beyond many organizations' resources. When this happens, all taxpayers lose, not just one business.

Mr. President, while it is discouraging that we must address this difficulty of slow payment of invoices when we have already done so in a clear and straightforward manner, I find it encouraging that we have carefully and steadfastly monitored the implementation of the act to determine its effect on small business and equally important on the efficient working of the Government.

While S. 2479 focuses on the problems that still need to be solved, the hearings held by the Committee on Small Business in June of this year provided many examples of the positive results that the act has had.

The Prompt Pay Coalition, directed by Kenton Pattie of the International Communication Industries Association [ICIA], pointed out difficulties that have been experienced by businesses. He also pointed out, however, the important results that the Prompt Payment Act of 1982 has had.

The Prompt Payment Act of 1982 has been a success. Our 3 years of experience with this law show there has been significant improvement since 1982. I have received many comments from businesspeople indicating that interest is being paid on bills and far more payments are made on time now than before 1982.

Meanwhile, the Federal Prompt Payment Act also has provided an incentive to 44 States to pass their own prompt pay laws. Iowa, I am proud to report, is one of the 44 "prompt pay" States having adopted its law in 1983. Further, in many cases, payment procedures have been streamlined so that invoices move rapidly. So, we have accomplished much of what we intended to with the original legislation.

Now, with the work of my colleagues and their staffs, these current amendments proposed in S. 2479 can take us the final distance to achieving the goal of making the Government a strong, reliable, business partner. When we do this, we will attract the best businesses to compete for Government business. That will give us true, continuing savings without sacrificing quality. Mr.

President, I am pleased to cosponsor S. 2479 and I hope the Senate will pass this bill to encourage the executive branch to live up to the intent of the 1982 law.

Mr. CHAFEE. Mr. President, I ask for a third reading.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2479) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Prompt Payment Amendments of 1986".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) the billpaying practices of most Federal Government agencies have substantially improved, with certain exceptions, after three years of experience under the Prompt Payment Act (codified in chapter 39 of title 31, United States Code);

(2) the improvement in such billpaying practices has resulted in fairer treatment of contractors who furnish supplies, services, or construction to the Federal Government, especially small businesses; and

(3) nonetheless, contractors who deal with the Federal Government continue to experience many persistent billpaying problems which are caused by—

(A) a failure to modify the Federal Acquisition Regulation as part of the implementation of the provisions of the Prompt Payment Act;

(B) the implementation of the provisions of the Prompt Payment Act in a manner that denies the Act's protections in cases of certain contract payments;

(C) the implementation of the provisions of such Act in a manner which has permitted Federal Government agencies to take discounts for early payment months after the expiration of the discount period specified in the contractor's invoice;

(D) inadequate implementation of the requirement that Federal Government agencies automatically pay interest penalties with delinquent payments;

(E) the use of the unlimited time afforded agencies to formally accept a contractor's performance for the purpose of avoiding the requirement that the agencies pay an interest penalty with late payments made for supplies or services; and

(F) abusive use of certain payment grace periods which afford the Federal Government additional time to pay its bills without incurring interest penalties otherwise due.

DEFINITIONS AND APPLICATION

SEC. 3. (a) Section 3901(a)(4) of title 31, United States Code, is amended to read as follows:

"(4) the head of the agency is deemed to receive an invoice on the later of—

"(A) the date on which the office or employee of the agency designated by the agency to first receive such invoice actually receives a proper invoice; or

"(B) on the fifth day after the date on which, in accordance with the terms and conditions of the contract, the property is actually delivered or final performance of the services is actually completed, as the case may be, unless the contract specifies a longer period for agency acceptance of the property or services.".

(b)(1) Section 3901 of such title is further amended by adding at the end the following new subsection (c):

"(c) This chapter, except section 3905 of this title, applies to the United States Postal Service. However, the Postmaster General shall be responsible for issuing the implementing procurement regulations, solicitation provisions, and contract clauses.".

(2) Section 410(b) of title 39, United States Code, is amended by inserting after clause (8) the following new clause (9):

"(9) Chapter 39 of title 31.".

INTEREST PENALTIES: REDUCTIONS IN GRACE PERIOD; INCREASED PENALTIES

SEC. 4. (a) Section 3902(b) of title 31, United States Code, is amended—

(A) by striking out "16th" in clause (3) in such sentence and inserting in lieu thereof "8th"; and

(B) by adding at the end the following new sentence:

"Clause (3) of the preceding sentence shall not apply to payments under any contract for which the procurement solicitation is issued on or after October 1, 1989.".

(b) Section 3902 of such title is further amended by redesignating subsections (c) through (e) as subsections (d) through (f), respectively, and by inserting after subsection (b) the following new subsection (c):

"(c)(1) Any amount of an interest penalty which exceeds $1.00 and is owed a business concern under this section shall be paid without regard to whether the business concern has requested payment of such penalty.

"(2) If a business concern—

"(A) is owed an interest penalty by an agency;

"(B) is not paid the interest penalty in a payment made to the business concern by the agency on or after the date on which the interest penalty becomes due; and

"(C) is not paid the interest penalty by the agency within 10 days after the date on which such payment is made; and

"(D) makes a written demand, not later than 40 days after the date on which such payment is made, that the agency pay such a penalty,

such business concern shall be entitled to receive an interest penalty equal to twice the amount of the interest payment that would otherwise be due.".

INTEREST PENALTIES ON PROGRESS PAYMENTS AND RETAINED AMOUNTS UNDER CONSTRUCTION CONTRACTS

SEC. 5. Section 3903 of title 31, United States Code, is amended—

(1) by striking out clause (4);

(2) by redesignating clause (5) as (6); and

(3) by inserting after clause (3) the following new clause (4):

"(4) in the case of a construction contract, provide for the payment of interest on—

"(A) any progress payment due under the contract for—

"(i) a period of more than 7 days; or

"(ii) a longer period if the contracting officer determines that the prevailing practice in private construction contracts is to provide such longer payment period; and

"(B) any amount which has been retained during the performance of the contract and are due to be released to the contractor after final acceptance of the construction, if such retained amount is not paid to the contractor by the required payment date;".

PERIODIC PAYMENTS UNDER SUPPLY AND SERVICE CONTRACTS

SEC. 6. Section 3903 of title 31, United States Code, as amended by section 5, is further amended by inserting after clause (4) the following:

"(5) provide for periodic payments, in the case of a supply or service contract which authorizes periodic payments and periodic submission of invoices during the contract period, upon—

"(A) submission of an invoice for supplies delivered or services performed during the contract period; and

"(B) either—

"(i) acceptance of the supplies or services by an employee of an agency authorized to accept the supplies or services; or

"(ii) certification, by such an employee, that the performance covered by the invoice conforms to the terms and conditions of the contract.".

PAYMENT CLAUSE FOR SUBCONTRACTS UNDER CONSTRUCTION CONTRACTS

SEC. 7. (a) Chapter 39 of title 31, United States Code, is amended—

(1) by redesignating sections 3905 and 3906 as 3906 and 3907, respectively; and

(2) by adding at the end the following new section 3905:

"§ 3905. Payment clause for subcontracts under construction contracts

"(a) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include, in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material supplier) for the purpose of performing such construction contract, a payment clause which obligates the prime contractor—

"(1) to pay the subcontractor promptly (as determined in accordance with prevailing industry standards) out of amounts paid to the prime contractor by the agency for work performed by the subcontractor under that contract; and

"(2) to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with such payment clause—

"(A) for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

"(B) computed at the most current rate of interest that has been determined by the Secretary of the Treasury for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published by the Secretary in the Federal Register.

"(b) A prime contractor's obligation to pay an interest penalty to a subcontractor pursuant to the payment clause included in a subcontract under subsection (a) may not be construed to be an obligation of the United States. A contractor may not obtain reimbursement from the United States for such interest penalty. A contract modification may not be made for the purpose of providing reimbursement of such interest penalty. A cost reimbursement claim may not include any amount for reimbursement of such interest penalty.".

(b) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 3905 and 3906 and inserting in lieu thereof the following:

"3905. Payment clause for subcontracts under construction contracts.
"3906. Reports.
"3907. Relationship to other laws.".

LIMITATIONS ON DISCOUNT PAYMENTS

SEC. 8. Section 3904 of title 31, United States Code, is amended by inserting after the first sentence the following: "For the purpose of the preceding sentence, the specified time shall be calculated from the date the invoice under the contract is received by the office or employee of the agency designated by the agency to first receive such invoice until the date of payment.".

REPORTS

SEC. 9. Section 3905(a) of title 31, United States Code, is amended to read as follows:

"(a)(1) By the 60th day after the end of the fiscal year, the head of each agency shall submit to the Director of the Office of Management and Budget a report on the agency's payment practices, including a description of the extent to which those practices satisfy the requirements of this chapter.

"(2) In addition to such other information as may be required by the Director, the report required by paragraph (1) shall include—

"(A) the number, amounts, and frequency of interest penalty payments, and the reasons the interest penalties were not avoided by prompt payment; and

"(B) the number, dollar value, and frequency of invoices paid after the required payment date without payment of an interest penalty, and the reasons no obligation to pay interest penalties was incurred with respect to such invoices or no amount for interest penalties were included in the payments of such invoices.".

IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION

SEC. 10. (a) The Federal Acquisition Regulation shall be modified to provide appropriate solicitation provisions and contract clauses that implement chapter 39 of title 31, United States Code, and the regulations prescribed under section 3903 of such title.

(b) The solicitation provisions and contract clauses required by subsection (a) shall include the following matters:

(1) Authority for a contracting officer to specify for a contract or class of contracts a specific payment period, which—

(A) in the case of payments for commercial items or services, is similar to the payment period or periods permitted in prevailing private industry contracting practices;

(B) in the case of payments for noncommercial items and services, does not exceed 30 days unless the circumstances of the procurement action require a longer period for payment; and

(C) in the case of progress payments under construction contracts, does not exceed 7 days, unless the contracting officer determines that the prevailing practice in private construction contracts requires a longer payment period.

(2) Requirements to make periodic payments, in the case of a supply or service contract which authorizes periodic payments and periodic submission of invoices during the contract period, upon—

(A) submission of an invoice for supplies delivered or services performed during the contract period; and

(B) either—

(i) acceptance of the supplies or services by an employee of the contracting agency authorized to accept the supplies or services; or

(ii) certification, by such an employee, that the performance covered by the invoice conforms to the terms and conditions of the contract.

(3) A conclusive presumption that the Federal Government has accepted property or services by the fifth day after the date on which, in accordance with the terms and conditions of the contract, the property is delivered or final performance of the services is completed, unless the circumstances of the procurement require a longer period for acceptance by the Federal Government and such longer period is specified in the solicitation for such contract.

(4) The limitation that the Federal Government may take a discount offered by a contractor for early payment by the Federal Government only in accordance with the time limits specified by the contractor.

(5) The requirements of section 3902(c) of title 31, United States Code.

(c) The regulations required by subsection (a) shall be published as proposed regulations for public comment as provided in section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) within 120 days after the date of the enactment of this Act.

EFFECTIVE DATES

SEC. 11. (a) Section 3(a)(2) and the amendments made by sections 3(a)(1), 4, 5, 6, 7, and 8 shall apply to payments under contracts awarded during or after the first fiscal quarter which begins more than 90 days after the date of the enactment of this Act.

(b) The amendments made by section 3(b) shall apply to payments under contracts awarded on or after October 1, 1987.

(c) The amendment made by section 9 shall apply to the report required by section 3905(a) of title 31, United States Code, for each fiscal year beginning after September 30, 1986.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table is agreed to.

ORDER OF PROCEDURE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the live quorum to occur at 11 a.m. be postponed for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CPR AWARENESS WEEK

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 426, National CPR Awareness Week, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 426) to designate the week of October 19 through October 25, 1986, as "National CPR Awareness Week."

The Senate proceeded to consider the joint resolution.

Mr. CHAFEE. Mr. President, I move adoption of the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 426) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, together with the preamble, reads as follows:

S.J. RES. 426

Whereas heart attacks are the leading cause of death in the United States;

Whereas as many as one million five hundred thousand Americans may be stricken by a heart attack during 1986;

Whereas cardio-pulmonary resuscitation commonly referred to as CPR, is a first aid procedure which significantly reduces the incidence of sudden death due to a heart attack; and

Whereas the death rate due to heart attacks would be reduced if more Americans received training in CPR: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 19 through October 25, 1986, is designated as "National CPR Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1100

ORDER FOR CLOTURE VOTE AT 3 P.M.

Mr. CHAFEE. I ask unanimous consent that the cloture vote occur at the hour of 3 p.m. today, with mandatory quorum under rule XXII being waived.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

AMERICAN PHYSIOLOGISTS WEEK

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 408, American Physiologists Week.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, does the distinguished acting Republican leader

also wish to ask unanimous consent that the Senate move to its immediate consideration?

Mr. CHAFEE. Yes, Mr. President.

Mr. BYRD. If he does, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 408) designating "American Physiologists Week."

The PRESIDING OFFICER. The joint resolution will be considered as having been read the second time at length and the Senate will proceed to its consideration.

The joint resolution (S.J. Res. 408) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 408

Whereas 1987 marks the one-hundredth anniversay of the founding of the American Physiology Society;

Whereas physiology is the taproot for all of the life sciences;

Whereas early findings by physiologists resulted in the development of blood transfusions and modern anesthesia, eradication of many diseases, and the discovery of antibiotics;

Whereas physiology continues to be the fountainhead from which life science research enriches the health and longevity of humans and animals; and

Whereas internationally renowned physiologists from every continent are coming to the District of Columbia to engage in scientific and educational dialogue with the American Physiological Society during its Centennial Week celebration of a century in physiology: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 29, 1987, is designated as "American Physiologists Week". The President is requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. CHAFEE. I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL BOWLING WEEK

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from consideration of Senate Joint Resolution 388, National Bowling Week, and that the Senate proceed to its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to either request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 388) designating the week beginning January 4, 1987, as "National Bowling Week."

The PRESIDING OFFICER. The joint resolution will be considered as having been read the second time at length, and the Senate will proceed to its consideration.

The joint resolution (S.J. Res. 388) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 388

Whereas bowling is one of the oldest and most popular indoor family sports in the world and is played in more than 79 nations;

Whereas people have competed in some form of bowling for thousands of years;

Whereas many immigrants brought a form of bowling from their homeland during the birth of America;

Whereas bowling has contributed to the social fabric of the United States with 8,000,000 people participating as members of local bowling organizations in more than 2,800 cities and towns across our land;

Whereas bowling is played in 8,300 bowling centers, virtually in every community in the Nation, and has emerged as the longest running, most highly rated individual sport television series on Saturday;

Whereas bowling is the largest indoor participation sport in the United States with over 69,000,000 Americans bowling each year; and

Whereas bowling is an excellent form of exercise and recreation for all people regardless of age: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning January 4, 1987, is designated "National Bowling Week". The President is requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

FISHERIES ACTIVITIES AUTHORIZATION

Mr. CHAFEE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 991.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 991) entitled "An Act to provide authorization of appropriations for certain fisheries activities", do pass with the following amendments:

Strike out all after the enacting clause and insert:

TITLE I—FISHERIES CONSERVATION AND MANAGEMENT

SECTION 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, section, subsection, paragraph, or other provision, the reference shall be considered to be made to a title, section, subsection, paragraph, or other provision of the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (Public Law 94-265, 90 Stat. 331 et seq.).

SEC. 102. UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES WITHIN THE EXCLUSIVE ECONOMIC ZONE.

(a) DEFINITION OF EXCLUSIVE ECONOMIC ZONE.—Section 3 (16 U.S.C 1802) is amended—

(1) by striking out paragraph (8);

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting immediately after paragraph (5) the following new paragraph:

"(6) The term 'exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.".

(b) AUTHORITY REGARDING EXCLUSIVE ECONOMIC ZONE.—Title I (16 U.S.C. 1811-1813) is amended to read as follows:

"TITLE I—UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES

"SEC. 101. UNITED STATES SOVEREIGN RIGHTS TO FISH AND FISHERY MANAGEMENT AUTHORITY.

"(a) IN THE EXCLUSIVE ECONOMIC ZONE.—Except as provided in section 102, the United States claims, and will exercise in the manner provided for in this Act, sovereign rights and exclusive fishery management authority over all fish, and all Continental Shelf fishery resources, within the exclusive economic zone.

"(b) BEYOND THE EXCLUSIVE ECONOMIC ZONE.—The United States claims, and will exercise in the manner provided for in this Act, exclusive fishery management authority over the following:

"(1) All anadromous species throughout the migratory range of each such species beyond the exclusive economic zone; except that that management authority does not extend to any such species during the time they are found within any foreign nation's territorial sea or exclusive economic zone (or the equivalent), to the extent that that sea or zone is recognized by the United States.

"(2) All Continental Shelf fishery resources beyond the exclusive economic zone.

"SEC. 102. EXCLUSION FOR HIGHLY MIGRATORY SPECIES.

"The sovereign rights and exclusive fishery management authority asserted by the United States under section 101 over fish do not include, and may not be construed to extend to, highly migratory species of fish.".

(c) CONFORMING AMENDMENTS.—The Act referred to in section 101 of this Act is amended—

(1) by amending section 2—

(A) by amending paragraph (1) of subsection (b) to read as follows:

"(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish except highly migratory species, within the exclusive economic zone

established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources;", and

(B) by amending paragraph (5) of subsection (c) to read as follows:

"(5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources.",

(2) by striking out "fishery conservation zone" each place it appears therein and inserting "exclusive economic zone"; and

(3) by amending the entry for title I in the table of contents to read as follows:

"TITLE I—UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES

"Sec. 101. United States sovereign rights to fish and fishery management authority.

"Sec. 102. Exclusion for highly migratory species.".

SEC. 103. BILATERAL AGREEMENTS REGARDING FOREIGN FISHING.

Section 201(e) (16 U.S.C. 1821(e)) is amended—

(1) by striking out clause (viii) of subsection (e)(1)(E) and inserting the following:

"(viii) whether, and to what extent, such nation is extending to vessels of the United States substantially the same fishing privileges with respect to fishery resources under its authority as the United States extends to vessels of that nation with respect to fishery resources under United States authority; and

"(ix) such other matters as the Secretary of State, in cooperation with the Secretary, considers appropriate.";

(2) by inserting "or (3)" after "paragraph (1)" in paragraph (2)(B); and

(3) by adding at the end thereof the following new paragraph:

"(3)(A) Subject to subparagraph (C), the Secretary of State may initiate and conduct negotiations with any foreign nation, with which there is in effect a governing international fishery agreement, for the purpose of entering into a bilateral agreement that—

"(i) is effective for all, or any portion, of the period in which the governing international fishery agreement is in effect;

"(ii) requires each party to implement during the effective period of the bilateral agreement the respective obligations referred to in subparagraph (B);

"(iii) contains such other understandings and commitments on the part of the parties as may be necessary or appropriate to accomplish the purposes of the bilateral agreement; and

"(iv) provides, and specifies the procedures, for the resolution of disputes that may arise with respect to the exercise of the rights and obligations of the parties under the bilateral agreement.

"(B) A bilateral agreement entered into under the authority of this paragraph—

"(i) may obligate the United States, during the effective period of that agreement—

"(I) to exempt the foreign nation from the provisions of paragraph (1)(C) and (D);

"(II) to guarantee the foreign nation, for each harvesting season within the effective period of that agreement, a specified percentage of the total allowable level of foreign fishing in one or more United States fisheries;

"(III) to a reduction or elimination of the fees imposed on the vessel of that nation under section 204(b)(10); and

"(ii) may obligate the foreign nation—

"(I) to specify those actions that it will take during the effective period of that agreement to benefit the United States in regard to the issues referred to in paragraph (1)(E)(i), (ii), (iii), (v), (vii), and (viii); and

"(II) to limit its exports of fish products to the United States during that effective period.

"(C) The Secretary of State may initiate and conduct negotiations under subparagraph (A) only if the Secretary of State and the Secretary, after consultation with the appropriate Councils, mutually agree upon the objectives to be obtained through the negotiations.

"(D) A bilateral agreement entered into under this paragraph may become effective with respect to the United States only as provided for under section 203.".

SEC. 104. CONGRESSIONAL OVERSIGHT.

Section 203 (16 U.S.C. 1823) is amended—

(1) by amending the section heading by inserting "AND OTHER BILATERAL AGREEMENTS" before the period;

(2) by inserting after the first sentence of subsection (a) the following new sentence: "No bilateral agreement entered into under section 201(e)(3) shall become effective with respect to the United States before the close of the first 30 calendar days of continuous session of Congress after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of that agreement."; and

(3) by amending subsection (d)(2)(A) to read as follows:

"(A) the effect of which is to prohibit the entering into force and effect of any governing international fishery agreement, or any bilateral agreement entered into under section 201(e)(3), the text of which is transmitted to the Congress under subsection (a) of this section; and".

SEC. 105. FOREIGN FISHING PERMITS.

Section 204(b) (16 U.S.C. 1824(b)) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "No permit issued under this section may be valid for longer than a year; and section 558(c) of title 5, United States Code, does not apply to the renewal of any such permit.";

(2) by striking out ", upon its request" in paragraph (4)(C);

(3) by amending paragraph (6) by inserting ", or he may disapprove all or any portion of the application" immediately before the period at the end of subparagraph (A); and

(4) by amending paragraph (12) to read as follows:

"(12) SANCTIONS.—(A) If any foreign fishing vessel has been used in the commission of any act prohibited by section 307, or if the owner or operator of the vessel has committed such an act, the Secretary may, or if any civil penalty imposed under section 308 or any criminal fine imposed under section 309 has not been paid and is overdue, the Secretary shall—

"(i) revoke such permit, if any, issued for the vessel under this subsection, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

"(ii) suspend such permit for the period of time deemed appropriate;

"(iii) deny a permit under this subsection to the vessel; or

"(iv) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under that application.

Any permit which is suspended under this subparagraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

"(B) The Secretary may temporarily deny or suspend the permit of any foreign fishing vessel pending the outcome of any administrative proceeding respecting a violation of section 307 of this Act if the Secretary determines that—

"(i) based upon information available to the Secretary, there are reasonable grounds to believe that the vessel has been used in the commission of such violation;

"(ii) immediate suspension of fishing privileges would serve the purposes of this Act; and

"(iii) either—

"(I) the violation presents a serious threat to the public interest,

"(II) the violation presents a serious threat to the achievement of any purpose or policy of this Act, or

"(III) the owner or operator of the vessel has been involved in a prior violation of this Act.

In applying this subparagraph—

"(I) the Secretary must notify the vessel owner of the proposed denial or suspension and give the owner a reasonable opportunity, not longer than 10 days from service of notice, to respond in writing or otherwise;

"(II) if a permit is denied or suspended under this subparagraph, any administrative proceeding respecting the violation at issue must be held as promptly as possible; and

"(III) if another permit application is pending for such vessel on or after the date of the violation, the Secretary need not act on that application before deciding whether or not to deny or suspend temporarily a permit under this subparagraph.".

SEC. 106. HEALTH AND SAFETY STANDARDS FOR FOREIGN FISHING VESSELS.

(a) STANDARDS FOR UNITED STATES OBSERVERS.—Subsection (i) of section 201 (19 U.S.C 1821(i)) is amended—

(1) by inserting "(A)" after "(1)" in paragraph (1);

(2) by inserting at the end of paragraph (1) the following new subparagraph:

"(B) The Secretary shall by regulation prescribe minimum health and safety standards that shall be maintained aboard each foreign fishing vessel with regard to the facilities provided for the quartering of, and the carrying out of observer functions by, United States observers."; and

(3) by amending subparagraph (B) of paragraph (2) to read as follows:

"(B) the time during which a foreign fishing vessel will engage in fishing within the exclusive economic zone will be of such short duration that the placing of a United States observer aboard the vessel would be impractical; or".

(b) COMPLIANCE WITH VESSEL SAFETY STANDARDS OF THE FLAG COUNTRY.—Paragraph (3) of section 204(b) (16 U.S.C. 1824(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by inserting "and" after the semicolon at the end of subparagraph (F); and

(3) by adding after subparagraph (F) the following new subparagraph:

"(G) all applicable vessel safety standards imposed by the foreign country, and shall include written certification that the vessel is in compliance with those standards;".

SEC. 107. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) VOTING MEMBERS.—(1) Subsection (b) of section 302 (16 U.S.C. 1852(b)) is amended as follows:

(A) Paragraph (2)(A) is amended to read as follows:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable and experienced with regard to the conservation and management, or the recreational or commercial harvest, of the fishery resources of the geographical area concerned. The Secretary, in making appointments under this section, shall ensure a fair apportionment, on a rotating or other basis, of the active participants (or their representatives) involved in the fisheries under Council jurisdiction.".

(B) Paragraph (2)(B) is amended—

(i) by adding after the first sentence thereof the following new sentence: "A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has first consulted with representatives of the commercial and recreational fishing interests of the state regarding those individuals.";

(ii) by striking out "knowledge or experience" in the third sentence thereof and inserting "knowledge and experience"; and

(iii) by adding at the end thereof the following new sentence: "An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).".

(C) Paragraph (3) is amended to read as follows:

"(3) Each voting member appointed to a Council by the Secretary in accordance with subsection (b)(2) shall serve for a term of 3 years; except that the Secretary may designate a shorter term if necessary to provide for balanced expiration to terms of office.".

(2) The amendments made by paragraph (1) shall apply with respect to voting members of regional fishery management councils who are appointed, and to individuals who are nominated for appointment as voting members, on or after the date of the enactment of this Act.

(b) COUNCIL COMMENT ON FEDERAL AND STATE ACTION AFFECTING HABITAT.—Section 302 is further amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by adding after subsection (h) the following new subsection:

"(i) FISHERY HABITAT CONCERNS.—Each Council may comment on, or make recommendations concerning, any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction. Within 45 days after receiving such a comment or recommendation from a Council, a Federal agency must provide a detailed response, in writing, to the Council regarding the matter.".

(c) CLOSURE OF MEETINGS.—Paragraph (4) of section 302(j) (as redesignated by subsection (b)) is amended by striking out "; except that" and all that follows thereafter and inserting "; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 303(d), must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics.".

(d) COMMITTEES AND PANELS.—Subsection (j) (as redesignated by subsection (b)) of section 302 is further amended by adding at the end thereof the following new paragraph:

"(5) Each Council shall specify those procedures that are necessary or appropriate to ensure that the committees and advisory panels established under subsection (g) are involved, on a continuing basis, in the development and amendment of fishery management plans.".

(e) DISCLOSURE OF FINANCIAL INTEREST.—(1) Section 302 is further amended by adding at the end thereof the following new subsection:

"(k) DISCLOSURE OF FINANCIAL INTEREST.—(1) For purposes of this subsection, the term "affected individual" means an individual who—

"(A) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2);

"(B) is a voting member of a Council appointed under subsection (b)(2); or

"(C) is the executive director of a Council.

"(2) Each affected individual must disclose any financial interest held by—

"(A) that individual;

"(B) the spouse, minor child, or partner of that individual; and

"(C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee;

in any harvesting, processing, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction.

"(3) The disclosure required under paragraph (2) shall be made—

"(A) in the case of an affected individual referred to in paragraph (1)(A), before appointment by the Secretary; and

"(B) in the case of an affected individual referred to in paragraph (1)(B) or (C), within 45 days of taking office.

"(4) An affected individual referred to in paragraph (1)(B) or (C) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2)(A), (B), or (C).

"(5) The financial interest disclosures required by this subsection shall—

"(A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe; and

"(B) be kept on file, and made available for public inspection at reasonable hours, at the Council offices.

"(6) The participation by an affected individual referred to in paragraph (1)(B) or (C) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.

"(7) Section 208 of title 18, United States Code, does not apply to an affected individual referred to in paragraph (1)(B) or (C) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).".

(2) For purposes of applying subsection (k) of section 302 (as added by paragraph (1)) to voting members and executive directors of regional fishery management councils who are serving in those capacities on the date on which the regulations prescribed to carry out that subsection first take effect, each such member or director must file a disclosure form under that subsection within 45 days after that date.

SEC. 108. FISHERY MANAGEMENT PLANS; DISCLOSURE OF CONFIDENTIAL STATISTICS.

(a) REQUIRED PROVISIONS.—(1) Section 303(a) (16 U.S.C. 1853(a)) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting a comma; and

(C) by adding after paragraph (5) the following new paragraphs:

"(6) consider, and may provide for, temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safety of the vessels; and

"(7) include readily available information regarding the significance of habitat to the fishery and assessment as to the effects which changes to that habitat may have upon the fishery.".

(2) The amendments made by paragraph (1) apply to each fishery management plan that—

(A) is submitted to the Secretary of Commerce for review under section 304(a), or that is prepared by the Secretary, after January 1, 1986; or

(B) is in effect on that date, but compliance with those amendments is not required except in conjunction with the amendment to the plan next occurring after that date.

(b) DISCRETIONARY PROVISIONS.—Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) by redesignating subparagraphs (A) through (F) of paragraph (6) as clauses (i) through (vi), respectively;

(2) by inserting "(1)" following the subheading and by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively;

(3) by amending paragraph (F) (as redesignated by paragraph (2) of this subsection) by inserting "subject to paragraph (2)," immediately after "(F)";

(4) by redesignating subparagraphs (G) and (H) (as redesignated by paragraph (2) of this subsection) as subparagraphs (H) and (I), respectively;

(5) by inserting after subparagraph (F) the following new subparagraph:

"(G) if a limited access system is established under subparagraph (F), and subject to paragraph (2), establish a fishery compensation plan subject to subsection (f);"; and

(6) by adding at the end thereof the following new paragraph:

"(2)(A) No limited access system or fishery compensation plan referred to in paragraph (1) (F) and (G) may be approved or implemented by the Secretary under section 304 unless—

"(i) the system or plan, or both, are approved by not less than three-fourths of the voting members of the Council having jurisdiction over the fishery for which the system will be implemented; and

"(ii) the establishment of the system or plan, or both, is approved by at least two-thirds of the fishermen presently participating in that fishery.

"(B) No limited access system referred to in paragraph (1)(F) may be approved or implemented by the Secretary under section 304 unless the system prohibits the sale of all permits, shares, or rights that may be granted to fishermen who participate in the system.".

(c) DISCLOSURE OF CONFIDENTIAL STATISTICS.—The first sentence of section 303(d) (16 U.S.C. 1853(d)) is amended to read as follows: "Any statistic submitted to the Secretary by any person in compliance with any

requirement under subsection (a)(5) shall be confidential and shall not be disclosed; except—

"(1) to National Marine Fisheries Service personnel and Council employees who are responsible for management plan development and monitoring; or

"(2) when required by court order.".

(d) FISHERY COMPENSATION PLANS.—Section 303 is further amended by adding at the end thereof the following new subsection:

"(f) FISHERY COMPENSATION PLANS.—(1) For purposes of this subsection, the term 'fishery compensation plan' means a plan, whether administered by the Secretary or by the States represented on the Council that established the plan, for compensating, in whole or in part, fishing vessel owners for the loss or reduction of livelihood that results from the implementation of a limited access system (intended to reduce overcapitalization in a particular fishery) under subsection (b)(1)(F), including, but not limited to, compensation through purchase of their vessels, financial assistance to modify vessels for use in other fisheries, or other financial remunerations as established by the Council. A fishery compensation plan shall be funded through fees levied under subsection (b)(1)(A).

"(2) In developing a fishery compensation plan, the Council and the Secretary shall take into account the factors listed in subsection (b)(1)(F) (i) through (vi) and the effect of the plan on the fishermen who will be displaced by the system.

"(3) All fees collected under a fishery compensation plan shall be deposited into the Fishery Compensation Fund established under paragraph (4).

"(4)(A) There is established in the Treasury of the United States a revolving fund known as the Fishery Compensation Fund (hereinafter in this paragraph referred to as the 'Fund'). Each fishery compensation plan established under subsection (b)(1)(G) shall have a separate account in the Fund and the fees collected under the program that are deposited into the Fund shall be credited to that account.

"(B) The Secretary shall withdraw funds credited to any account at such times and in such amounts as may be necessary for the administration of the fishery compensation plan concerned.".

(e) NORTHERN PACIFIC HALIBUT CONVENTION.—Section 5(c) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773c(c)) is amended—

(1) by striking out ", including limited access regulations," and inserting ", including limited access and fishery compensation plan regulations,"; and

(2) by amending the second sentence thereof to read as follows: "Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited entry system and fishery compensation plan criteria, and the conditions on the approval thereof, set forth in subsections (b) and (f) of section 303 of the Magnuson Fishery Conservation and Management Act.".

SEC. 109. ACTION BY SECRETARY REGARDING FISHERY MANAGEMENT PLANS.

Section 304 (16 U.S.C. 1854) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "(the date of receipt of which is hereafter in this section referred to as the 'receipt date')" in paragraph (1);

(B) by redesignating subparagraphs (A), (B), and (C) of paragraph (1) as subparagraphs (B), (C), and (D), respectively;

(C) by inserting immediately before subparagraph (B), as so redesignated, of paragraph (1) the following new subparagraph:

"(A) immediately make a preliminary evaluation of the management plan or amendment for purposes of deciding if it is consistent with the national standards and sufficient in scope and substance to warrant review under this subsection and—

"(i) if that decision is affirmative, implement subparagraphs (B), (C), and (D) with respect to the plan or amendment, or

"(ii) if that decision is negative—

"(I) disapprove the plan or amendment; and

"(II) notify the Council, in writing, of the disapproval and of those matters specified in subsection (b)(2)(A), (B) and (C) as they relate to the plan or amendment;";

(D) by amending subparagraph (C) (as so redesignated) of paragraph (1) by striking out "75-day" and inserting "60-day";

(E) by amending subparagraph (D) (as so redesignated) of paragraph (1) by striking out "30th day" and inserting "15th day";

(F) by amending paragraph (2)—

(i) by striking out "(1)(A)" and inserting "(1)(B)"; and

(ii) by striking out the period at the end of subparagraph (C) and inserting "and to fishery access adjustments referred to in section 303(a)(6).";" and

(G) by adding at the end thereof the following new paragraph:

"(3)(A) The Secretary shall take action under this section on any fishery management plan or amendment to a plan which the Council characterizes as being a final plan or amendment.

"(B) For purposes of this section, the term 'receipt date' means the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, or an amendment to a plan, that it characterizes as a final plan or amendment."

(2) Subsection (b) is amended—

(A) by amending paragraph (1)(A) to read as follows:

"(A) the Secretary does not notify the Council in writing of—

"(i) his disapproval under subsection (a)(1)(A)(ii), or

"(ii) his disapproval, or partial disapproval, under paragraph (2), of the plan or amendment before the close of the 95th day after the receipt date; or";

(B) by striking out "75th day" in paragraph (1)(B) and inserting "60th day";

(C) by amending paragraph (2) by striking out "paragraph (1)(A)" and inserting "paragraph (1)(B)"; and

(D) by amending paragraph (3)—

(i) by striking out "If the Secretary" in subparagraph (A) and inserting "If the Secretary disapproves a proposed plan or amendment under subsection (a)(1)(A)(ii), or"; and

(ii) by striking out "(a)(1)(A)" in each of subparagraphs (B)(i) and (C)(i) and inserting "(a)(1)(B)".

(3) Subsection (c) is amended—

(A) by striking out "75-day" in paragraph (2)(A)(ii) and inserting "60-day";

(B) by striking out "30th day" in paragraph (2)(A)(iii) and inserting "15th day"; and

(C) by striking out "75-day" wherever it appears in paragraph (2)(B) and inserting "60-day".

(4) Subsection (d) is amended by striking out the period at the end thereof and inserting the following: "; except that if fees are also used to fund a fishery compensation plan under section 303(b)(1)(G), the level of fees shall not exceed the administrative costs incurred in issuing the permits and the costs of funding that plan.".

(5) Subsection (e) is amended—

(A) by inserting ", in cooperation with the Councils," immediately after "maintain";

(B) by striking out "management," and inserting "management and on the economics of the fisheries,"; and

(C) by adding at the end thereof the following: "The Secretary shall annually review and update the comprehensive program and make the results of the review and update available to the Councils.".

SEC. 110. STATE JURISDICTION.

Section 306 (16 U.S.C. 1856) is amended as follows:

(1) Subparagraph (C) of subsection (a)(2) is amended by striking out "(for the purpose of regulating fishing for other than any species of crab)".

(2) Subsection (b) is amended to read as follows:

"(b)(1) If the Secretary finds, after notice and an opportunity for a hearing under section 554 of title 5, United States Code (unless an earlier action is required because the Secretary finds that an emergency exists), and then after consultation with the State that—

"(A) the fishing in a fishery, which is covered by a fishery management plan implemented under this title, is engaged in predominately within the exclusive economic zone and beyond such zone; and

"(B) the State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan;

the Secretary shall promptly notify the State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of the State (other than its internal waters), pursuant to that fishery management plan and the regulations promulgated to implement that plan. The notification shall also inform the State that, at its request if promptly made, the Secretary will submit the matters involved in the finding to arbitration under such procedures as may be mutually agreeable to the Secretary and the State. The entering into arbitration between the Secretary and the State does not affect the authority of the Secretary to commence or continue regulation of the fishery under the authority of this paragraph.

"(2) If the Secretary assumes responsibility under paragraph (1) for the regulation of a fishery that is within the boundaries of a State but regarding which a hearing was not held under paragraph (1), the State may—

"(A) request a hearing in accordance with section 554 of title 5, United States Code, regarding the finding of the Secretary under paragraph (1), but the authority of the Secretary to regulate the fishery under paragraph (1) shall terminate on the 20th day after the date on which the hearing is requested unless the hearing and the Secretary's findings are completed before that day; or

"(B) apply to the Secretary for reinstatement of its authority over the fishery.

If after application under subparagraph (B) the Secretary finds that the reasons for which he assumed regulation of the fishery in the State waters no longer prevail, the Secretary shall promptly terminate that regulation.".

SEC. 111. SUBMISSION OF CERTAIN FALSE STATEMENTS A PROHIBITED ACT.

(a) Paragraph (1) of section 307 (16 U.S.C. 1857(1)) is amended—

(1) by striking out "or" at the end of subparagraph (G);

(2) by inserting "or" after the semicolon at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.".

(b) Section 309(a)(1) (16 U.S.C. 1859(a)(1)) is amended by striking out "or (H)" and inserting "(H), or (J)".

SEC. 112. CIVIL PENALTIES.

Section 308 (16 U.S.C. 1858) is amended—

(1) by amending the first sentence of subsection (b) to read as follows: "Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary, the Attorney General and the appropriate United States Attorney.";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting immediately after subsection (c) a new subsection (d) to read as follows:

"(d) IN REM JURISDICTION.—A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 307 shall be liable in rem for any civil penalty assessed for such violation under section 308 and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.".

SEC. 113. ADMINISTRATIVE FORFEITURES.

(a) PROCEDURES.—Section 310 (16 U.S.C. 1860) is amended—

(1) by amending the second sentence of subsection (c) to read as follows: "The provisions of the customs laws relating to—

"(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

"(2) the disposition of such property or the proceeds from the sale thereof; and

"(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act."; and

(2) by adding at the end of subsection (d)(1) the following new sentence: "Nothing in this paragraph may be construed to require the Secretary, except in the Secretary's discretion or pursuant to the order of a court under section 311(d), to release on bond any seized fish or other property or the proceeds from the sale thereof.".

(b) JURISDICTION OF COURTS.—Section 311 (16 U.S.C. 1861) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Notwithstanding any other provision of law, after September 30, 1986, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, or forfeitures of property for violations of any provision of this Act—

"(1) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance or seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act with respect to that fish or other property; and

"(2) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act.

Any person assessed a civil penalty for, or convicted of, any violation of any provision of this Act shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation concerned.".

SEC. 114. REPEAL.

Section 401 (16 U.S.C. 1881; relating to the Law of Sea Treaty), and the entry referring to that section in the table of contents of the Act, are repealed.

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 406 (16 U.S.C. 1882) is amended by adding at the end thereof the following new paragraphs:

"(12) $69,000,000 for fiscal year 1986.

"(13) $70,800,000 for fiscal year 1987.".

(b) LIMITATIONS REGARDING CERTAIN NOAA FISHERY RESEARCH VESSELS.—During fiscal years 1986 and 1987, the Secretary of Commerce may not replace with chartered fishery survey vessels the fishery research vessels of the National Oceanic and Atmospheric Administration operated by the Atlantic Marine Center, unless a period of 90 days has expired after the Secretary has submitted to Congress a full and complete statement (including relevant supporting studies) concerning the proposed chartering and the reasons therefor.

SEC. 116. CLERICAL AMENDMENTS.

Section 3(4) (16 U.S.C. 1802(4)) is amended—

(1) by striking out "Artica islandica" in the listing of mollusks and inserting in lieu thereof "Arctica islandica"; and

(2) by striking out "Hippiospongia canaliculata" in the listing of sponges and inserting in lieu thereof "Spongia cheiris".

SEC. 117. DIRECTIONS REGARDING FISHERY MANAGEMENT COUNCIL MEMBERSHIP.

Notwithstanding section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852) and effective on and after the date of the enactment of this Act, the Secretary shall take action to ensure, to the extent practicable, that those persons dependent for their livelihood upon the fisheries within the respective jurisdictions of the Regional Fishery Management Councils are fairly represented as voting members of the Councils.

TITLE II—SEAFOOD MARKETING COUNCILS

SEC. 201. SHORT TITLE.

This title may be cited as the "Seafood Marketing Councils Act".

SEC. 202. FINDING.

The Congress finds that it is in the national interest to promote the consumption of fish and fish products.

SEC. 203. PURPOSES.

The purposes of this title are to—

(1) strengthen the competitive position of the United States seafood industry in the domestic and international marketplace;

(2) encourage the development and utilization of all species of fish available for harvest by the United States industry;

(3) encourage the utilization of domestically produced fish and fish products through market enhancement, promotion, and public relations;

(4) encourage the United States fishing industry to develop methods to improve product quality and efficiency in the marketplace;

(5) educate and inform consumers on the use of fish and fish products;

(6) educate and inform the public about the nutritional and dietary value of fish and fish products; and

(7) enhance the role of the private sector in promoting the consumption of fish and fish products.

SEC. 204. DEFINITIONS.

As used in this title—

(1) The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(2) The term "council" refers to a seafood marketing council established under section 205.

(3) The term "consumer education" means actions undertaken to inform consumers on matters related to the consumption of fish and fish products.

(4) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine and freshwater life used for human consumption.

(5) The term "fish processing vessel" means a vessel that is used for the preparation of fish or fish products, other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing or brine chilling, for commercial sale.

(6) The term "fish product" means a product used for human consumption that consists, in whole or in part, of fish.

(7) The term "handle" means—

(A) the sale of fish and fish products by harvesters to receivers;

(B) the purchase of fish and fish products by receivers from harvesters; or

(C) the importation of fish and fish products by importers.

(8) The term "marketing and promotion" means an activity aimed at encouraging the consumption of fish and fish products or expanding or maintaining commercial markets for fish and fish products.

(9) The term "person" means—

(A) any individual who is a citizen or national of the United States;

(B) any group of individuals described in subparagraph (A); or

(C) any partnership, corporation, association, cooperative, or other private entity organized or existing under the laws of the United States or any State, commonwealth, territory, or possession of the United States.

(10) The term "quality standard" means a standard reflecting the relative degree or level of excellence of a fish or fish product.

(11) The term "research" means any type of research designed to advance the image, desirability, usage, marketability, production or quality of fish and fish products.

(12) The term "sector" means any of the following:

(A) The harvesting sector consisting of persons in the business of catching fish for purposes of sale.

(B) The importing sector consisting of persons in the business of importing fish or fish products into the United States or who act as agents, brokers, or consignees for any person or nation that produces fish or fish products outside of the United States for sale in the United States.

(C) The marketing sector consisting of persons in the business of selling fish or fish products in the wholesale, retail, or restaurant trade, but whose primary business function is not the processing or packaging of fish or fish products.

(D) The processing sector consisting of persons in the business of preparing or packaging fish or fish products for sale and who are not receivers.

(E) The receiving sector consisting of owners of fish processing vessels and of persons in the business of acquiring fish directly from harvesters.

(F) The consumer sector consisting of persons professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products.

(13) The term "United States" means the several States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands and any other territory, possession, or commonwealth of the United States.

SEC. 205. COUNCIL ESTABLISHMENT.

(a) IN GENERAL.—An application for a charter for a seafood marketing council for one or more species of fish and fish products of that species may be filed by persons who meet the requirements specified in accordance with subsection (b)(6).

(b) APPLICATION.—An application for a charter for a council shall be made by filing with the Administrator the text of a proposed charter in such form as shall be prescribed by regulation by the Administrator. The text of a proposed charter must contain such information as the Administrator considers necessary or appropriate for carrying out the provisions of this title, including but not limited to—

(1) the name of the council and a provision proclaiming its establishment;

(2) a declaration of the purposes and objectives of the council;

(3) a description of the species of fish and the fish products for which the council will implement marketing and promotion plans under section 206;

(4) the identification of each sector and the number and terms of representatives thereof that will be represented as voting members of the council;

(5) the identification of those sectors (including harvesters, receivers and, if subject to assessment, importers) subject to a referendum to establish a council under subsection (e);

(6) a specification for each sector described under paragraph (5) of the minimum requirements, as measured by income, volume, or other relevant factors, that a person engaging in business in the sector must meet in order to participate in that referendum;

(7)(A) a description of the procedures for determining assessment rates under section 208;

(B) the proposed rate or rates that will be imposed by the council on receivers and, if subject to assessment, importers during its first year of operation;

(C) the maximum amount an assessment rate for any period may be raised above the rate applicable for the immediately preceding period; and

(D) the maximum rate or rates that can be imposed by a council on receivers or importers during the operation of the council;

(8) a provision setting forth the definition of a quorum and the procedures for selecting a council chairman;

(9) a provision setting forth the voting procedures applicable to absentee council members; and

(10) such other provisions relating to council administration as the Administrator deems necessary.

The text of a proposed charter shall be accompanied by a document identifying, to the extent practicable by address of place of business, the persons (hereinafter referred to in this title as "sector participants") that are considered by the applicants to meet the requirements specified in paragraph (6). The text of a proposed charter shall include provisions setting forth procedures for providing refunds to those sector participants subject to assessment under section 208, and may also include provisions which establish a maximum limit on the amount that any one sector participant may be required to pay under an assessment for any period.

(c) COUNCIL REQUIREMENTS.—The Administrator may not approve a proposed charter filed under subsection (a) unless the proposed council meets the following requirements:

(1) The council must have voting members representing the harvesting, receiving and, if subject to assessment, the importing sectors.

(2) The members of a council shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as council members.

(d) APPROVAL OF PROPOSED CHARTERS BY ADMINISTRATOR.—(1) Within 180 days of the receipt of an application to establish a council, the Administrator shall—

(A) identify, to the extent practicable, those sector participants that meet the requirements, specified under subsection (b)(6), for eligibility to participate in the referendum under subsection (e);

(B) determine, to the extent practicable, if the charter is accompanied by a petition comprised of the signatures or corporate certifications, as the case may be, of no less than three sector participants in each sector identified in accordance with subsection (b)(5) who collectively accounted for, in the 12-month period immediately preceding the month in which the application was filed, not less than 10 percent of the value of the fish or fish products described in accordance with subsection (b)(3) that were handled by each sector identified in accordance with subsection (b)(5) during that period; and

(C) determine if the proposed charter is consistent with the provisions of this title and any other applicable law.

(2) If negative determinations are made under paragraph (1) regarding an application and charter, the Administration shall advise in writing the sector participants who made the application of the reasons therefor. A corrected application may be submitted thereafter to the Administrator for approval.

(e) REFERENDA.—(1) Upon making affirmative determinations under subsection (d)(1) regarding a proposed charter, the Administrator, within 90 days after the date of the last of those determinations, shall hold a referendum on the adoption of the proposed charter among all sector participants identified in accordance with subparagraph (d)(1)(A). If a majority of the voting sector participants in each sector who collectively accounted for, in the 12-month period immediately preceding the month in which the proposed charter was filed under subsection (a), 66 percent or more of the value of the fish or fish products described in accordance with subsection (b)(3) that were handled by that sector during that period approve the proposed charter, the Administrator shall by order establish the council and the proposed charter, as so approved, shall thereafter be treated as its charter.

(2) Not less than 30 days prior to holding a referendum under this subsection, the Administrator shall—

(A) publish (by such means as will result in wide publicity in regions affected by the proposed charter) the text of the proposed charter and a list of those sector participants eligible to vote in the referendum; and

(B) provide for public comment including the opportunity for a public meeting.

(3) The Administrator shall pay all costs of the referendum which establishes a council under this subsection; but within 2 years after the council is established, the council shall reimburse the Administrator for any expenses incurred for the conduct of the referendum from assessments collected by the council. Before holding a referendum under this subsection, the Administrator shall require sureties to post a bond or other security acceptable to the Administrator, in an amount which the Administrator determines to be sufficient to pay any expenses incurred for the conduct of the referendum, and shall immediately recover such amount if a referendum fails to establish the council. For the purpose of this title, the term "expenses incurred for the conduct of the referendum" shall not include salaries of Government employees or other administrative overhead, but shall be limited to those additional direct costs incurred in connection therewith.

(f) COUNCIL MEMBER APPOINTMENTS.—(1) Within 30 days after a council is established under subsection (e), the Administrator shall solicit from the sectors represented on the council nominations for council members. If the harvesters and receivers represented on the council are engaged in business in two or more regions of the United States, the nominations made under this paragraph, and the appointments to the council made under paragraph (3), must, to the extent practicable, result in representation for the constituent regions.

(2) No individual is eligible for nomination or appointment as a council member unless that individual is knowledgable and experienced with regard to the activities of the sector which that individual will represent on the council and is or has been actively engaged in the business of the sector which that individual will represent on the council.

(3) The Administrator, within 60 days after the close of the 30-day period in paragraph (1), shall appoint the members of the council from the nominees.

(4) A vacancy on a council shall be filled, within sixty days after the vacancy occurs, in the same manner in which the original appointment was made. A council member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(5) The Administrator shall remove any council member if the council concerned first recommends removal for cause by not less than two-thirds of the council members. A removal recommendation of a council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based.

(g) COUNCIL STATUS.—A council is not an instrumentality of the United States Government.

SEC. 206. FUNCTIONS AND POWERS OF COUNCILS.

(a) FUNCTIONS.—

(1) Each council shall—

(A) adopt a seal which shall be judicially noticed;

(B) implement all terms of its charter;

(C) prepare and submit to the Administrator, for review and approval under section 207(a)(1), a marketing and promotion plan and amendments thereto which contain descriptions of the projected consumer education, research, and other marketing and promotion activities of the council;

(D) implement and administer an approved marketing and promotion plan and amendments thereto;

(E) determine the assessments to be made under section 208 and administer the collection of the assessments to finance council expenses described in paragraph (2);

(F) receive, investigate and report to the Administrator accounts of violations of rules or orders relating to assessments collected pursuant to section 208, or quality standard requirements established under subsection (c);

(G) prepare and submit to the Administrator, for review and approval under section 207(a)(1), a budget (on a fiscal year basis) of the anticipated expenses and disbursements of the council including—

(i) all administrative and contractual expenses,

(ii) the probable costs of consumer education, research, and other marketing and promotion plans or projects,

(iii) the costs of the collection of assessments, and

(iv) the expense of repayment of the costs of each referendum conducted in regard to the council;

(H) maintain books and records, prepare and submit to the Administrator such reports from time to time as may be necessary for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it, and cause a complete audit report to be submitted to the Administrator at the end of each fiscal year;

(I) reimburse the Administrator for the expenses incurred for the conduct of the referendum to establish the council or a subsequent referendum to terminate the council that fails; and

(J) prepare and submit to the Administrator from time to time such reports or proposals as a council determines appropriate for furthering the purposes of this Act.

(2) Funds collected by a council under section 208 shall be used by the council for—

(A) research, promotion and consumer information activities regarding the quality and marketing of fish and fish products;

(B) other expenses as described in subsection (a)(1)(G);

(C) such other expenses for the administration, maintenance, and functioning of the council as may be authorized by the Administrator;

(D) any reserve fund established under subsection (b)(5) and any administrative expenses incurred by the Administrator specified as reimbursable under this Act.

(3) Marketing and promotion plans and amendments thereto prepared by a council under subsection (a)(1)(C) shall be designed to increase the general demand for fish and fish products described in accordance with section 205(b)(3) by encouraging, expanding, and improving the marketing, promotion and utilization of the fish and fish products, in domestic or foreign markets or both, through consumer education, research, and other marketing and promotion activities.

(4) Consumer education and other marketing and promotion activities carried out by a council under a marketing and promotion plan and amendments thereto may not contain references to any private brand or trade name and shall avoid the use of deceptive acts or practices in promoting fish or fish products or with respect to the quality, value, or use of any competing product or group of products.

(b) POWERS.—A council—

(1) may sue and be sued;

(2) may enter into contracts;

(3) may employ and determine the salary of an executive director who may, with the approval of the council, employ and determine the salary of such additional staff as may be necessary;

(4) may collaborate with other councils in establishing and implementing a national marketing and promotion plan for one or more species of fish or fish products; and

(5) may establish a reserve fund from monies collected and received under section 208 to permit an effective and sustained program of research, promotion, and consumer education regarding the quality and marketing of fish and fish products in years when production and assessment income may be reduced; but the total reserve fund may not exceed the amount budgeted for the current fiscal year of operation.

(c) QUALITY STANDARDS.—(1) A council may develop and submit to the Administrator for approval, or upon the request of a council the Administrator shall develop, quality standards for a fish or fish product described in accordance with section 205(b)(3). Any quality standard developed under this paragraph shall be consistent with the purposes of this title.

(2) A quality standard developed under paragraph (1) may be adopted by a council by a majority of the council members if first approved, in a referendum conducted by the council, by a majority of the voting sector participants of the sector concerned who collectively accounted for, in the 12-month period immediately preceding the month in which the referendum is held, not less than 66 percent of the value of the fish or fish products described in accordance with section 205(b)(3) that were handled by that sector.

(3) With respect to a quality standard adopted under paragraph (2), the council shall develop and file with the Administrator an official identification in the form of a symbol, stamp, label, or seal that will be used to indicate that a fish or fish product meets the quality standard at the time the official identification is affixed to the fish or fish product, or is affixed to or printed on the packaging material of the fish or fish product.

(4) The Administrator shall establish by regulation procedures for the use of an official identification filed with the Administrator under paragraph (3). Misuse of an official identification established under this section shall constitute a violation of this title.

(5) Before issuing final regulations under paragraph (4) the Administrator shall—

(A) publish the proposed regulations by such means as will result in wide publicity in affected regions; and

(B) provide for public comment and the opportunity for a public hearing.

(6) A council may receive, investigate and report to the Administrator accounts of violations of regulations issued under paragraph (4).

(7) Any regulation issued under paragraph (4) shall be immediately repealed by the Administrator upon the termination under section 211 of the council that developed the official identification to which the regulations apply.

(8) The procedures applicable to the adoption and the taking effect of a quality standard developed under this subsection also apply to the subsequent amendment or termination of the standard.

(d) CHARTER AMENDMENTS.—A council may submit to the Administrator amendments to the text of the council's charter. Any proposed amendments to a charter shall be approved or disapproved in the same manner as the original charter was approved under section 205(d) and (e) with the exception of section 205(d)(1)(B).

SEC. 207. FUNCTIONS AND POWERS OF THE ADMINISTRATOR.

(a) FUNCTIONS.—In addition to the duties prescribed under section 205, the Administrator shall—

(1) review, for consistency with the provisions of the Act and other applicable law, and approve or disapprove, marketing promotion plans and budgets within sixty days after their submission by a council;

(2) immediately notify a council in writing of the disapproval of a marketing and promotion plan or budget and reasons therefor;

(3) issue orders and amendments thereto that are necessary to implement quality standards under section 206(c);

(4) promulgate regulations necessary to carry out the purposes of this title;

(5) enforce the provisions of this title as provided under section 212; and

(6) make all appointments to the councils in accordance with section 205(f).

(b) POWERS.—The Administrator may provide, on a reimbursable or other basis, such administrative or technical assistance as the councils may request for purposes of the initial organization and subsequent operation of the Council.

SEC. 208. ASSESSMENTS.

(a) IN GENERAL.—A council shall impose and administer the collection of the assessments that are necessary to pay for all expenses incurred by the council in carrying out its functions under this title.

(b) NATURE OF ASSESSMENTS.—(1) Assessments shall be imposed on sector participants in the receiving sector or the importing sector or both as specified in an approved council charter.

(2) An assessment on sector participants in the receiving sector is—

(A) except for owners of fish processing vessels, in the form of a percentage of the value of the fish described in accordance with section 205(b)(3) when purchased by those participants from fish harvesters; and

(B) for owners of fish processing vessels, in the form of a percentage of the value of the fish described in accordance with section 205(b)(3) and harvested by such vessels that is no less than the value of those fish as determined in subparagraph (A).

(3) An assessment on sector participants in the importing sector is in the form of a percentage of the value, as determined for the purposes of the customs laws, of the fish or fish products described in accordance with section 205(b)(3) when entered, or withdrawn from warehouse for consumption, in the customs territory of the United States by those participants.

(c) EXCEPTIONS.—A council may not impose an assessment on any person that was not eligible to vote in the referendum establishing the council under section 205(e) by reason of failure to meet the requirements specified under section 205(b)(6).

(d) VOLUNTARY PAYMENTS.—Any person may make voluntary payments or in-kind contributions to a council for purposes of assisting the council in carrying out its functions.

(e) COUNCIL ACCOUNTS.—All funds collected or received by a council under this section shall be deposited by the council in an appropriate account in the name of the council specified in its charter. Funds eligible to be collected or received by a council shall be limited to those authorized under this section.

(f) CONFIDENTIALITY OF INFORMATION.—(1) Sector participants shall make available to the Administrator such information and data as is necessary for the effectuation, administration or enforcement of this title or any order or regulation issued pursuant to this title. Except as provided in paragraphs (2) and (3), any information obtained in carrying out this subsection shall be kept confidential by all officers and employees of the National Oceanic and Atmospheric Administration, independent accountants and other persons who have access to such information.

(2) If the Administrator or an employee of the United States Government is party to a suit or administrative action involving an assessment, order, or regulation issued under this title, the Administrator may disclose information obtained under paragraph (1) to the extent allowed by the judicial or administrative officer presiding over such suit or action.

(3) This subsection shall not prohibit—

(A) the issuance of general or statistical statements based upon reports of a number of persons subject to the provisions of this title which do not identify the information furnished by any person; or

(B) the publication by direction of the Administrator of the name of any person violating a requirement relating to the assessment imposed under section 208(a) or to quality standards implemented by the Administrator under section 206(c), and a statement of the particular provisions of the requirement violated by such person.

(4) Any individual who is required to keep information confidential under this subsection and who knowingly violates this subsection shall, upon conviction, be—

(A) subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or both; and

(B) removed from office if an officer or employee of a council or the National Oceanic and Atmospheric Administration.

(g) PROHIBITION.—It shall be unlawful for any person to use the seal under section 206(a) or the official identification under section 206(c) unless such person is paying assessments under section 208 or has the express written permission of the council to use the seal or official identification. The Administrator shall issue regulations to implement this prohibition.

SEC. 209. PETITIONS.

(a) IN GENERAL.—Any person subject to assessment under section 208 may file a written petition with the Administrator alleging that—

(1) the assessment;

(2) the plan approved under section 207(a)(1) on which the assessment is based; or

(3) any obligation imposed under the plan; is not in accordance with law and requesting the Administrator to modify, or take other appropriate action regarding the assessment or plan.

(b) PROCEDURAL REQUIREMENTS.—Petitions shall be in writing and filed within the period prescribed by the Administrator. A person who files a petition under this section shall be given an opportunity for a hearing regarding the petition in accordance with regulations issued by the Administrator. After hearing, or if no hearing is requested, after consideration of all documentation and other evidence, the Administrator shall make a ruling upon the petition.

SEC. 210. REFUNDS.

Notwithstanding any other provision of this title, any person who pays an assessment shall have the right to demand and promptly receive from the council a refund of such assessment. A demand for refund must be made in accordance with the procedures and within such time, as shall be prescribed by the council and as approved by the Administrator.

SEC. 211. COUNCIL TERMINATION.

(a) PETITION AND REFERENDUM.—(1) A petition to terminate a council may be filed with the Administrator by no less than three sector participants in any one sector. Any petition filed under this subsection shall be accompanied by a written document explaining the reasons for the petition.

(2) If the Administrator determines that a petition filed under paragraph (1) is accompanied by the signatures, or corporate certifications, as the case may be, of no less than three sector participants in a sector referred to in paragraph (1) who collectively accounted for, in the 12-month period immediately preceding the month in which the petition to terminate was filed, not less than 20 percent of the value of the fish or fish products described in accordance with section 205(b)(3) that were handled by that sector during that period, the Administrator, within 90 days after that determination, shall hold a referendum for termination of the council among all sector participants in that sector.

(3) Not less than 30 days before holding a referendum under this subsection, the Administrator shall publish a notice of such referendum including the document explaining the reasons for the petition filed under paragraph (1) and any other relevant information the Administrator deems appropriate.

(4) If a majority of the voting sector participants who, in the period referred to in paragraph (2), collectively accounted for not less than 66 percent of the value of such fish and fish products that were handled during that period by a sector referred to in paragraph (1) approve a referendum to terminate a council, the Administrator shall by order terminate the council effective as of a date by which the affairs of the council may be concluded on an orderly basis.

(5) The Administrator initially shall pay all costs of a referendum to terminate a council under this subsection. Before holding a referendum under this section, the Administrator shall require sureties to post a bond or other security acceptable to the Administrator in an amount which the Administrator determines to be sufficient to pay any expenses incurred for the conduct of the referendum.

(6)(A) If a referendum conducted under this section fails to result in the termination of the council, the Administrator shall immediately recover the amount of the bond posted by sureties under paragraph (5).

(B) If a referendum conducted under this section results in the termination of the council, the Administrator shall recover the expenses incurred for the conduct of the referendum from the account established by the council under section 208(e). If the amount remaining in such account is insufficient for the Administrator to recover all expenses incurred for the conduct of the referendum, the Administrator shall recover the balance of such expenses from the sureties that posted a bond under paragraph (5).

(b) RETURN OF ASSESSMENTS.—If a council is terminated under subsection (a), the Administrator, after recovering all expenses incurred for the conduct of the referendum under subsection (a), shall take such action as is necessary and practicable to ensure that moneys remaining in the account established by the council under section 208(e) are paid on a prorated basis to the sector participants from whom those moneys were collected under section 208.

SEC. 212. ENFORCEMENT.

(a) IN GENERAL.—(1) The district courts of the United States shall have jurisdiction specifically to enforce and to prevent and restrain any person from violating any assessment, order or regulation made or issued under this title.

(2)(A) If the council has reason to believe that a person subject to an assessment, order or regulation made or issued under this title is violating such assessment, order or regulation, it may refer the matter to the Administrator.

(B) Except as provided in subparagraphs (C) or (D), any civil action authorized to be brought under this subsection, when referred by a council under subparagraph (A), shall be referred to the Attorney General for appropriate action.

(C) If the Administrator believes that the administration and enforcement of the provisions of the title would be adequately served by taking administrative action under subsection (b) or providing written notice or warning to any person committing a violation of this title, the Administrator is not required to refer such violation to the Attorney General.

(D) Whenever a matter has been referred by a council under subparagraph (A) and the Administrator or the Attorney General fails within 60 days of such referral to take appropriate action, the council may, upon filing notice with the Administrator or Attorney General, as appropriate, and other interested parties, bring an action under its own name.

(b) PENALTIES.—(1)(A) When a council brings an action under subsection (a)(2), it shall be entitled to recover costs of litigation, and where the action is brought to collect an unpaid assessment, interest from the date the amount became due and payable.

(B) Any person who violates any provision of any order, (including a cease and desist order previously issued under this paragraph) or regulation issued by the Administrator under this title, or who fails or refuses to pay, collect, or remit any assessment required under this title, may be assessed a

civil penalty by the Administrator of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to, or in lieu of, a civil penalty under this subparagraph, the Administrator may issue an order requiring such person to cease and desist from continuing such violation.

(C) No penalty shall be assessed, or cease and desist order issued, under this paragraph unless the affected person is given notice and opportunity for a hearing before the Administrator with respect to such violation.

(D) Any order of the Administrator under this paragraph assessing a penalty or imposing a cease and desist order shall be final and conclusive, unless the affected person files an appeal from the Administrator's order with the appropriate United States court of appeals.

(2)(A) Any person against whom a violation is found under paragraph (1) may obtain review of such action in the United States court of appeals for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days after the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator.

(B) The Administrator shall promptly file in the court a certified copy of the record upon which such violation was found.

(C) The findings of the Administrator shall be set aside only if found to be unsupported by substantial evidence or if not in accordance with law.

(3)(A) If any person fails to pay a civil penalty after it has become final, the Administrator shall refer the matter to the Attorney General.

(B) The Attorney General shall institute appropriate action to recover the amount assessed under this subsection in a district court of the United States.

(C) If, within 60 days after such referral, the Attorney General fails to file a civil action, the council to whose programs the assessment, order or regulation relates may institute an action in its own name.

SEC. 213. INVESTIGATIONS.

(a) IN GENERAL.—The Administrator may make such investigations as the Administrator determines necessary to—

(1) carry out the Administrator's responsibilities under this title; and

(2) determine whether any person has engaged in any act or practice which constitutes a violation of the provisions of this title.

(b) POWERS.—For the purpose of investigations under subsection (a), the Administrator may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) ENFORCEMENT.—In case of contumacy or refusal to obey a subpoena by any person, the Administrator may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, to require the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Administrator to produce records or to give testimony relating to the matter under investigation.

SEC. 214. APPROPRIATIONS.

Any authority of the Administrator to make payments under this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

TITLE III—INTERJURISDICTIONAL FISHERIES RESEARCH

SEC. 301. SHORT TITLE.

This title may be cited as the "Interjurisdictional Fisheries Research Act of 1986".

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to promote and encourage State research in support of the management of priority interjurisdictional fishery resources; and

(2) to promote and encourage management of priority interjurisdictional fishery resources throughout their range.

SEC. 303. DEFINITIONS.

For the purposes of this title:

(1) The term "Federal fishery management plan" means a plan developed under "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (Public Law 94-265; 90 Stat. 331 et seq.).

(2) The term "fishery resource" means finfish, mollusks, crustaceans, and any other form of marine animal or plant life, other than marine mammals and birds.

(3) The term "interjurisdictional fishery resource" means—

(A) a fishery resource for which there exists a Federal fishery management plan and for which a fishery occurs in waters under the jurisdiction of one or more States and the exclusive economic zone established by Proclamation Numbered 5030, dated March 10, 1983;

(B) a fishery resource for which there exists an interstate fishery management plan; or

(C) a fishery resource which migrates between the waters under the jurisdiction of two or more States bordering on the Great Lakes.

For purposes of applying section 305 during fiscal year 1987, a Federal fishery management plan or an interstate fishery management plan for the fishery resource need not be in existence, but a plan of either kind for that resource must be in the development process during that year.

(4) The term "interstate fishery management plan" means a plan for managing fisheries developed and adopted by an interstate commission.

(5) The term "interstate commission" means a commission or other administrative body established by an interstate compact.

(6) The term "interstate compact" means a compact that has been entered into by two or more States, established for the purposes of conserving and managing interjurisdictional fishery resources throughout their range, and consented to and approved by Congress.

(7) The term "project" means a program for research in support of the management of an interjurisdictional fishery resource.

(8) The term "Secretary" means the Secretary of Commerce.

(9) The term "State" means any of the several States of the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, or the Northern Mariana Islands.

(10) The term "State agency" means any department, agency, commission, or official of a State authorized under the laws of the State to regulate commercial fisheries.

SEC. 304. APPORTIONMENT.

(a) IN GENERAL.—

(1) Funds appropriated under section 308(a) shall be apportioned by the Secretary among the States on October 1 of each fiscal year, or as soon thereafter as practicable. The amount of funds apportioned to each State shall be determined by the Secretary as the ratio which the equally weighted average of the volume and value of fishery resources harvested by domestic commercial fishermen and received within such State during the 3 most recent calendar years for which data satisfactory to the Secretary are available bears to the total equally weighted average of the volume and value of all fishery resources harvested by domestic commercial fishermen received within all of the States during those calendar years.

(2) No State may receive an apportionment under this subsection for any fiscal year if the equally weighted average of the volume and value of fishery resources harvested by domestic commercial fishermen and received within such State during the three most recent calendar years for which data satisfactory to the Secretary are available is less than one-tenth of 1 percent of the total equally weighted average of the volume and value of all fishery resources harvested by domestic commercial fishermen and received within all of the States during those 3 calendar years unless—

(A) the State is a signatory to an interstate fishery compact; or

(B) the State borders one or more of the Great Lakes.

(3) No State which is a signatory to an interstate fishery compact, or which borders one or more of the Great Lakes, may receive an apportionment for any fiscal year under this subsection which is less than 1 percent of the total amount of funds available for apportionment for that fiscal year.

(4) No State may receive an apportionment for any fiscal year under this subsection which is more than 6 percent of the total amount of funds available for apportionment for such fiscal year.

(b) UNUSED APPORTIONMENTS.—Any part of an apportionment for any fiscal year to any State—

(1) that is not obligated during that year;

(2) with respect to which the State notifies the Secretary that it does not wish to receive that part; or

(3) that is returned to the Secretary by the State—

may not be considered to be apportioned to that State and shall be added to such funds as are appropriated pursuant to section 308(a) for the next fiscal year (and shall be treated as having been appropriated for such next year) for apportionment under subsection (a). Any notification or return of funds referred to in paragraph (2) or (3) by a State is irrevocable.

SEC. 305. STATE PROJECTS.

(a) IN GENERAL.—

(1) Any State may, through its State agency or an interstate commission, submit to the Secretary a proposal for a project which includes full plans, specifications, and cost estimates for such project. The total cost of all items included for engineering, planning, inspection, and unforeseen contingencies in connection with any works to be constructed as part of such a proposed project shall not exceed 10 percent of the

total cost of such works, and shall be paid by the State as a part of its contribution to the total cost of the works.

(2) No part of any funds appropriated under any authorization contained in section 308 may be obligated with respect to any project until the proposal for such project has been submitted under paragraph (1) and approved by the Secretary. The Secretary, before approving any proposal for a project, must evaluate the proposal as to—

(A) the soundness of design;

(B) the possibilities of securing productive results;

(C) the minimization of duplication with other research projects in support of the management of interjurisdictional fishery resources and carried out under this title or under any other law or regulation;

(D) the organization and management of the project;

(E) the methods proposed for monitoring and evaluating the success or failure of the project;

(F) the consistency of the project with the purposes of this title specified in section 302; and

(G) such other criteria as the Secretary may prescribe.

(3) The Federal share of the cost of any project conducted under this title shall not exceed 75 percent of the total estimated cost of the project unless—

(A) the State has adopted the interstate fishery management plan for the resource to which the project applies; or

(B) the State has adopted fishery regulations which the Secretary has determined are consistent with the Federal fishery management plan for the species to which the project applies;

in which case the Federal share shall not exceed 90 percent of the total estimated cost of the project.

(4)(A) If the Secretary approves or disapproves a proposal for a project, he shall promptly give written notification, including, if disapproved, a detailed explanation of the reasons for the disapproval, to the State agency submitting the proposal or, if the proposal is submitted through an interstate commission, such commission and the State.

(B) For the purposes of this title, funds apportioned under this section to any State shall be treated as having been obligated with respect to a project during the fiscal year in which the written notification of approval required under subparagraph (A) for the project proposal is made.

(b) RESTRICTION.—The expenditure of funds under this title shall be applied only to projects for which a proposal has been approved under subsection (a), and if otherwise applied such funds shall be replaced by the State before the State may receive any additional funds under this title.

(c) PAYMENT.—When the Secretary determines that a project carried out under a proposal approved by him has been completed, or where he otherwise deems it appropriate, he shall cause to be paid to the proper authority of the State, or to the official or depository designated by the interstate commission if the State agency specifies that payment is to be made to the interstate commission, the Federal share of the project. Any payment made to an interstate commission shall be charged against the apportionment of the State concerned.

SEC. 306. PROPERTY.

(a) APPLICATION OF FEDERAL AND STATE LAWS.—All work, including the furnishing of labor and materials, needed to complete any project approved by the Secretary shall be performed in accordance with applicable Federal and State laws under the direct supervision of the State agency, and in accordance with regulations as the Secretary may prescribe.

(b) TITLE.—Title to all property, real and personal, acquired for the purposes of completing any project approved by the Secretary vests in the State.

(c) DISPOSAL.—If a State disposes of any real or personal property acquired under this title, the State shall pay into the Treasury of the United States the amount of any proceeds resulting from the property disposed to the extent of and in the same ratio that funds provided under this title were used in the acquisition of the property. In no case shall the amount paid into the Treasury of the United States under this section exceed the amount of funds pro- vided by this chapter for the acquisition of the property involved.

SEC. 307. REPORTS.

After consultation with the States receiving funds under this title and with any interstate commission involved in carrying out a project under this title, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 90 days after the end of the fiscal year 1988, and each second fiscal year occurring after that fiscal year, a report which contains—

(1) a description of each project receiving funds under this title during the last 2 fiscal years ending before such report is submitted;

(2) a specification of the total amount of funds from the Federal Government and the total amount of funds from each State spent on each project receiving funds under this title during the last 2 fiscal years ending before such report is submitted;

(3) an assessment of each project receiving funds under this title during the last 2 fiscal years ending before such report is submitted to determine whether such project is furthering the purposes of this title; and

(4) a statement specifying all funds which have been apportioned pursuant to section 305(a) and are available for obligation by a State or the Secretary but which have not been obligated.

SEC. 308. AUTHORIZATION OF APPROPRIATION.

(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title $5,000,000 for each of fiscal years 1987, 1988, and 1989.

(b) ADDITIONAL APPROPRIATIONS.—In addition to the amounts authorized in subsection (a), there are authorized to be appropriated to the Department of Commerce $2,500,000 for each of fiscal years 1987, 1988, and 1989, which shall be available in such amounts as the Secretary may determine appropriate for the purposes of this title; except that—

(1) in providing funds to States under this subsection, the Secretary shall give a preference to those States regarding which he determines there is a commercial fishery failure or serious disruption affecting future production due to a fishery resource disaster arising from natural or undetermined causes, and any sums made available under this subsection may be used either by the States or directly by the Secretary in cooperation with the States for any purpose that the Secretary determines is appropriate to restore the fishery affected by such a failure or to prevent a similar failure in the future; and

(2) the funds authorized to be appropriated under this subsection shall not be available to the Secretary for use as grants for chartering fishing vessels.

Amounts appropriated under this subsection shall remain available until expended.

(c) DEVELOPMENT OF MANAGEMENT PLANS.—In addition to the amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Department of Commerce $350,000 for each of fiscal years 1987, 1988, and 1989 to support the efforts of the following interstate commissions to develop interstate fishery management plans for interjurisdictional fishery resources:

(1) The commission established by the Atlantic States Marine Fisheries Compact, as consented to and approved by Public Law 77-539 (56 Stat. 267), approved May 4, 1942.

(2) The commission established by the Pacific Marir e Fisheries Compact, as consented to and approved by Public Law 80-232 (61 Stat. 419), approved July 24, 1947.

(3) The commission established by the Gulf States Marine Fisheries Compact, as consented to and approved by Public Law 81-66 (63 Stat. 70), approved May 19, 1949.

SEC. 309. REPEAL.

The Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779 et seq.) is repealed.

SEC. 310. EFFECTIVE DATE.

This title takes effect October 1, 1986.

TITLE IV—MISCELLANEOUS PROVISIONS RELATING TO FISH AND FISHERIES

SEC. 401. NOAA MARINE FISHERIES PROGRAM AUTHORIZATIONS.

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a), by striking out "and" after "1984,", and by inserting ", $27,382,000 for fiscal year 1986, $28,121,314 for fiscal year 1987, $28,915,392 for fiscal year 1988, and $29,764,234 for fiscal year 1989" immediately after "1985";

(2) in section 3(a), by striking out "and" after "1984,", and by inserting ", $25,933,000 for fiscal year 1986, $26,633,191 for fiscal year 1987, $27,385,248 for fiscal year 1988, and $28,189,171 for fiscal year 1989" immediately after "1985"; and

(3) in section 4(a), by striking out "and" after "1984,", and by inserting ", $11,395,000 for fiscal year 1986, $11,702,665 for fiscal year 1987, $12,033,120 for fiscal year 1988, and $12,386,365 for fiscal year 1989" immediately after "1985".

SEC. 402. ANADROMOUS FISH CONSERVATION ACT AUTHORIZATIONS.

Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended—

(1) by striking out "and 1985." in paragraph (4) and inserting "1985, and 1986."; and

(2) by adding after paragraph (4) the following:

"(5) $7,702,500 for fiscal year 1987.

"(6) $7,920,000 for fiscal year 1988.

"(7) $8,152,500 for fiscal year 1989.".

SEC. 403. CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT AUTHORIZATIONS.

Section 8 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended—

(1) by striking "and" after "1984,"; and

(2) by inserting immediately after "1985" the following: ", 1986, 1987, and 1988".

SEC. 404. ATLANTIC TUNAS CONVENTION ACT OF 1975 AUTHORIZATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended by striking out "year 1976, the period beginning July 1, 1976, and ending September 30, 1976, and fiscal years 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, and 1986" and inserting "years 1986, 1987, 1988, and 1989".

SEC. 405. GREAT LAKES FISHERY COMMISSION.

(a) INCREASE IN NUMBER OF COMMISSIONERS.—Section 3 of the Great Lakes Fishery Act of 1956 (16 U.S.C. 932) is amended to read as follows:

"SEC. 3. (a)(1) The United States shall be represented on the Commission by 4 Commissioners who shall be appointed by the President and who may not receive compensation for service as Commissioners. Of the Commissioners—

"(A) 1 shall be an official of the United States Government; and

"(B) 3 shall be individuals who reside in different Great Lakes States and who are knowledgeable regarding the fisheries of the Great Lakes, except that 1 of them must also be an official of a Great Lakes State.

"(2) The President shall appoint an alternate Commissioner who shall perform the duties of a Commissioner—

"(A) until a vacancy referred to in subsection (b)(3) is filled; and

"(B) in the event of the absence of a Commissioner from any meeting of the United States Section or the Commission.

"(b)(1) Except as provided in paragraph (2), the term of office of Commissioners appointed under subsection (a)(1)(B) is 6 years.

"(2) Of the Commissioners first appointed under subsection (a)(1)(B) after the date of the enactment of this subsection, 1 shall be appointed for a term of 2 years, 1 shall be appointed for a term of 4 years, and 1 shall be appointed for a term of 6 years.

"(3) Whenever a vacancy occurs among Commissioners appointed under subsection (a)(1)(B), the President shall appoint an individual to fill that vacancy for the remainder of the applicable term.".

(b) TRANSITION.—The term of office of each United States Commissioner on the Great Lakes Fishery Commission who is serving on the date of enactment of this Act is terminated (except the United States Government official appointed under section 3(a) of the Great Lakes Fishery Act of 1956 (16 U.S.C. 932(a), as in effect before the date of enactment). However, the individuals appointed to those terms shall continue to serve as Commissioners until the President makes appointments under section 3(b)(2) of the Act of 1956 (as added by subsection (a)), which appointments shall be made within 60 days after the date of enactment.

(c) CONFORMING AMENDMENT.—Section 201 of the Act entitled "An Act to amend the North Pacific Fisheries Act of 1954, and for other purposes", approved October 9, 1972 (22 U.S.C. 2672a) is amended by striking out "the Great Lakes Fishery Commission,".

SEC. 406. NOAA ESTUARINE PROGRAMS OFFICE.

(a) ESTABLISHMENT.—The Administrator of the National Oceanic and Atmospheric Administration (hereinafter in this section referred to as the "Administrator") shall establish within the Administration an Estuarine Programs Office.

(b) FUNCTIONS.—The Estuarine Programs Office shall—

(1) develop and implement a national estuarine strategy for the Administration that integrates the research, regulatory, and trusteeship responsibilities of the Administration;

(2) coordinate the estuarine activities of the various organizations within the Administration, including activities in estuarine research and assessment, fisheries research, coastal management, and habitat conservation;

(3) coordinate the estuarine activities of the Administration with the activities of other Federal and State agencies; and

(4) provide technical assistance to the Administrator, to other Federal agencies, and to State and local government agencies in—

(A) assessing the condition of estuaries;

(B) identifying estuaries of critical national or regional importance;

(C) identifying technical and management alternatives for the restoration and protection of estuarine resources; and

(D) monitoring the implementation and effectiveness of estuarine management plans.

(c) AUTHORIZATION.—There are authorized to be appropriated to the Administration not to exceed $500,000 for fiscal year 1987, $530,000 for fiscal year 1988, $560,000 for fiscal year 1989, and $600,000 for fiscal year 1990 to carry out the provisions of this section.

SEC. 407. NOAA OFFICERS.

(a) UNDER AND ASSISTANT SECRETARIES OF COMMERCE FOR OCEANS AND ATMOSPHERE.—

(1) Chapter 40 of title 15, United States Code, is amended—

(A) by inserting after section 1503a the following new section:

"§ 1503b. Under and Assistant Secretaries of Commerce for Oceans and Atmosphere.

"Under Secretary

"(a) There shall be in the Department of Commerce an Under Secretary of Commerce for Oceans and Atmosphere who shall serve as the Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) and perform such duties as the Secretary of Commerce shall prescribe. The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

"Assistant Secretary

"(b) There shall be in the Department of Commerce, in addition to the Assistant Secretaries provided by law before the effective date of this section, one additional Assistant Secretary of Commerce who shall have the title Assistant Secretary of Commerce for Oceans and Atmosphere and shall serve as the Deputy Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) and perform such duties and functions as the Under Secretary of Commerce for Oceans and Atmosphere shall prescribe. The Assistant Secretary for Oceans and Atmosphere shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).";

(B) by inserting after the entry for section 1503a in the table of contents the following:

"1503b. Under and Assistant Secretaries of Commerce for Oceans and Atmosphere.".

(2) The individual serving on the date of the enactment of this Act—

(A) as the Administrator of the National Oceanic and Atmospheric Administration shall serve as the Under Secretary of Commerce for Oceans and Atmosphere until such time as a successor is appointed under section 1503b(a) of title 15, United States Code; and

(B) as the Deputy Administrator of the National Oceanic and Atmospheric Administration shall serve as the Assistant Secretary of Commerce for Oceans and Atmosphere until such time as a successor is appointed under section 1503b(b) of title 15, United States Code.

(b) CHIEF SCIENTIST OF NOAA.—Section 2(d) of Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) is amended to read as follows:

"(d) There shall be in the Administration a Chief Scientist of the National Oceanic and Atmospheric Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). The Chief Scientist shall be the principal scientific adviser to the Administrator, and shall perform such other duties as the Administrator may direct. The Chief Scientist shall be an individual who is, by reason of scientific education and experience, knowledgeable in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the Administration.".

(c) CONFORMING AMENDMENTS.—

(1) Section 5314 of title 5, United States Code, is amended by striking out "Administrator, National Oceanic and Atmospheric Administration." and inserting "Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.".

(2) Section 5315 of title 5, United States Code, is amended—

(A) by striking out "Deputy Administrator, National Oceanic and Atmospheric Administration." and inserting "Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration.", and

(B) by striking out "Associate Administrator, National Oceanic and Atmospheric Administration.".

(3) Section 5316 of title 5, United States Code, is amended by inserting at the end thereof the following:

"Chief Scientist, National Oceanic and Atmospheric Administration.".

SEC. 408. TRANSFER OF AUTHORITY FOR REIMBURSEMENT UNDER THE FISHERMEN'S PROTECTIVE ACT OF 1967.

Effective October 1, 1986, paragraph (1) of section 7(f) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(f)(1)) is amended to read as follows:

"(1) the term 'Secretary' means the Secretary of State.".

SEC. 409. FISHERIES LOAN FUND.

The third sentence of section 4(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c(c)) is amended to read as follows: "Any funds received in the fisheries loan fund after September 30, 1986, shall be covered into the Treasury as miscellaneous receipts.".

SEC. 410. CONVEYANCE AGREEMENT PROVISIONS.

(a) IN GENERAL.—Under the Agreement dated December 9, 1977, between the Commandant of the Coast Guard and Koniag, Incorporated, a regional native corporation, pursuant to Public Law 92-203 (a copy of which is recorded beginning at Book 44,

Page 179 of the Kodiak Recording District, Kodiak, Alaska) and any conveyance made under that Agreement, the rights or title conveyed to Koniag, Incorporated, shall be construed to include the following:

(1) Under the Agreement, welding or other equipment or machinery may be operated or maintained on lands conveyed to Koniag, Incorporated, if the equipment or machinery does not cause harmful electromagnetic interference with the Coast Guard Holiday Beach receiver site or is operated or maintained under terms and conditions mutually agreeable to the Coast Guard and Koniag, Incorporated. Harmful electromagnetic interference is defined as radio frequency signals which disrupt or degrade communications reception performance.

(2) The conveyance of the "old shipyard" includes the wharf and all lands of any nature beneath the wharf.

(3) An access and utility easement is intended as part of the conveyance for Parcel 2, known as Cliff Point, which consists of—

(A) a 100-foot wide access easement along the existing access road or a location that is mutually agreeable to the Coast Guard and Koniag, Incorporated, and includes the right to construct and operate an access road, bridges, guard rails, and other associated improvements; and

(B) a 40-foot wide utility easement adjacent to the access easement in paragraph (3)(A) of this subsection or a location that is mutually agreeable to the Coast Guard and Koniag, Incorporated.

(4) The construction, maintenance, and operation of a dock facility or location of any structure or thing on the premises described in section (c) of Schedule 4 of the Agreement is not inconsistent with the easement for the barge landing easement and access to and from the barge landing area reserved by the United States Government (hereinafter referred to in this paragraph as the "Government"), if the dock facility is constructed or the structure or thing is located as approved by the Government. Approval by the Government is deemed to be granted if a proposal for the construction and location of the dock facility, structure, or thing is submitted to the Government and—

(A) the Government does not respond within 60 days of receipt of the proposal; or

(B) if a response with recommendations for modification is submitted by the Government within 60 days of receipt of the proposal, the proposal is modified in a manner necessary to reasonably satisfy the requirements of the Government—

(i) to use the dock facility for a barge landing area as contemplated by the easement; and

(ii) to permit access to and from the barge loading area to public highways for the transportation of materials as specified in Agreement.

(b) APPLICATION.—All rights or conveyances confirmed by this section are subject to the sanctions in the Agreement referred to in subsection (a).

(c) IMPLEMENTATION.—The Commandant of the Coast Guard or other appropriate Federal officer shall issue the appropriate corrective conveyance and perform any other appropriate ministerial or official act necessary to carry out the purposes of this section within 60 days after the date of the enactment of this title.

Amend the title so as to read: "An Act to amend certain provisions of the law regarding the fisheries of the United States; to provide for the establishment of seafood marketing councils; and for other purposes.".

AMENDMENT NO. 3403

Mr. CHAFEE. Mr. President, I move that the Senate concur in the House amendments with a further Senate amendment, which I send to the desk on behalf of Senator DANFORTH in the nature of a substitute.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. DANFORTH, proposes an amendment in the nature of a substitute numbered 3403.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of amendment No. 3403 is printed in today's RECORD under "Amendments Submitted.")

Mr. DANFORTH. Mr. President, I am offering an amendment in the nature of a substitute for S. 991, a bill to authorize appropriations for the marine fishery programs administered by the National Oceanic and Atmospheric Administration [NOAA] of the Department of Commerce and for other purposes. Many of these provisions have already been passed by the Senate when this body first considered S. 991 in October 1985. On August 12 of this year, the House passed as amended version of the bill which included reauthorization of, and amendments to, the Magnuson Fishery Conservation and Management Act, along with other substantive amendments. The bill I am offering on behalf of the Commerce Committee today represents a modified version of that package.

Title I of the bill includes amendments to the Magnuson Fishery Conservation and Management Act [MFCMA]. Under this act, the United States exercises management authority over fishery resources within 200 miles of our Nation's coast. The amendments that are being offered today generally strengthen the management and enforcement provisions of the act.

An important purpose of the MFCMA is to encourage development of the U.S. fishing industry. The United States exercises jurisdiction over approximately 20 percent of the world's fishery resources. Much of this resource has traditionally been harvested and processed by foreign fleets; however, in recent years, the United States has made progress toward full utilization of our fishery stocks. The Commerce Committee will be closely monitoring future developments to determine whether further amendments to the act are necessary to assure that both the domestic harvestng and processing industry are able to fully utilize of our Nation's fishery resources.

Title II of this bill contains the fish and Seafood Promotion Act, which was unanimously reported by the Commerce Committee on September 3 of this year. This bill is patterned after existing agricultural research and promotional boards. It is designed to increase the sales and quality of fish and seafood products in the United States and to expand foreign markets for United States produced fishery products.

Title III of this bill includes the Interjurisdictional Fishery Act. This act will replace the current Commercial Fisheries Research and Development Act and will provide Federal matching funds for important joint State and Federal fishery programs, including the regional marine fishery commission.

Title IV includes authorization and amendments of acts which comprise the bulk of NOAA's non-Maguson Act marine fishery programs. This title includes authorization of the NOAA Marine Fisheries Program Authorization Act; the Anadromous Fish Conservation Act; the Central, Western, and South Pacific Fisheries Development Act; and the Atlantic Tunas Convention Act. It also includes: Amendments to the Great Lakes Fishery Act; establishment of an Estuarine Programs Office and a Chief Scientist at NOAA, as well as an Assistant Secretary and an Under Secretary of the Department of Commerce; provisions dealing with the incidental taking of marine mammals; provisions relating to the Fishermen's Protective Act; provisions relating to the fishery loan fund; provisions relating to a conveyance of land by the Coast Guard; provisions relating to vessel documentation; provisions relating to Coast Guard contracts; and miscellaneous amendments to title 46, United States Code.

This bill is designed to increase the efficiency and effectiveness of U.S. fisheries activities. It is important legislation and I urge my colleagues to join me in supporting it.

Mr. President, I ask unanimous consent that a section-by-section analysis of the legislation be inserted into the RECORD following my statement.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF S. 991

TITLE I—MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

SECTION 101

Section 101 of the bill brings the Magnuson Fishery Conservation and Management Act (MFCMA) into technical conformance with the President's proclamation establishing an exclusive economic zone. This amendment would substitute for the term "Fishery Conservation Zone" the term "Exclusive Economic Zone" (EEZ). Under this section,

the United States exercises sovereign rights and exclusive fishery management authority over all fishery resources within 200 miles of our nation's shoreline, all continental shelf fishery resources extending beyond the EEZ, and all anadromous species of U.S.-origin throughout their migratory range, but not within any foreign nation's EEZ. The United States will not assert management authority over highly migratory species, defined in the MFCMA.

SECTION 102

Section 102 amends the MFCMA to facilitate enforcement in response to requests for such amendments by the administration. Subsection (1) clarifies that foreign fishing permits issued under the MFCMA are not valid for more than one year. In addition, this subsection clarifies that the section of the Administrative Procedure Act (5 U.S.C. 558(c)) requiring formal proceedings does not apply to denials or terminations of foreign fishing permits that are subject to renewal.

Subsection (2) ensures that the appropriate regional fishery management councils receive copies of foreign fishing permit applications, obviating the need for a council to request such copies in order to receive them.

Subsection (3) provides that the Secretary of Commerce may disapprove all, or any portion, of a foreign fishing permit application.

Subsection (4) adds a new enforcement provision which would allow the Secretary of Commerce to modify, suspend, revoke or deny the permit of a foreign fishing vessel under specified circumstances.

SECTION 103

Section 103 requires the Secretary of Commerce to promulgate regulations prescribing health and safety standards that must be maintained by foreign fishing vessels which carry United States observers. It is intended that a foreign vessel that does not meet the minimum standards be denied a permit to harvest fish within the United States EEZ. In addition, this subsection requires that an application for a foreign fishing permit include a written certification that the vessel is in compliance with all applicable vessel safety standards imposed by the foreign country.

SECTION 104

Section 104 modifies certain provisions relating to regional fishery management councils. Subsection (a) requires that individuals who are appointed to serve as council members be both knowledgeable and experienced with regard to the conservation and management, or the recreational or commercial harvest, of the fishery resources of the area concerned. In addition, when making appointments, the Secretary should ensure, to the extent practicable, a fair apportionment of active participants in the fisheries. Furthermore, subsection (a) requires state governors to consult with, to the extent practicable, representatives of the commercial and recreational fishing interest before making Council nominations. Obviously, not every active participant in the fishery can be represented on a council, nor can a governor be expected to consult with every fishing industry representative before making nominations to a council. The phrase "to the extent practicable" is intended to mean that good faith efforts should be made by the Secretary and by state governors.

Subsection (b) provides that a council may comment on activities undertaken by state or federal agencies that affect the habitat of fishery resources within its jurisdiction. A federal agency must respond within forty-five days of receiving a council's comments. It is anticipated that a federal agency receiving comments from a council will, at a minimum, inform the council whether it agrees with the council's assessment as to the impact of the planned activity on habitat, and whether the agency will take steps to mitigate that impact.

Subsection (c) amends the provisions of existing law relating to procedures for the protection of confidential statistics. Council procedures for the protection of confidential statistics submitted to it by either the Secretary of Commerce or a state must be consistent with the procedures of the Secretary or the laws and regulations of the state submitting them.

Subsection (d) requires that each council establish procedures that it deems necessary or appropriate to ensure that the scientific and statistical committees, as well as any advisory panels established by that council, are involved on a continuing basis in the development, monitoring, and amendment of fishery management plans.

Subsection (e) requires all individuals who are nominated to serve on a council, all voting members of a council, and the executive director of each council, to disclose any financial interest in any harvesting, processing, or marketing activity of fishery resources over which the council concerned has jurisdiction. This subsection of the bill further provides that noncompliance with the disclosure requirements may not be treated as a cause for the invalidation of any Council action or decision that had occurred during the time of the noncompliance.

SECTION 105

Section 105 amends the section of the MFCMA relating to the contents of fishery management plans (FMP) and the disclosure of confidential statistics. Subsection (a) adds two new items to the list of elements that must be included in every FMP. First, every FMP must consider temporary adjustments of limitations on access to the fishery for vessels that have been otherwise prevented from harvesting because of weather or other ocean conditions. Second, readily available information on fishery habitat must be included within every FMP. "Readily available information" is intended to include only the habitat information that a council determines appropriate for inclusion within an FMP. It is not intended that the phrase be interpreted to require the inclusion of all information regarding fishing habitat in every FMP.

Subsection (b) provides authority for the Secretary of Commerce to disclose confidential statistics to those National Marine Fisheries Service personnel and council employees who are responsible for the development and monitoring of FMPs and when required by court order to do so.

SECTION 106

Section 106 contains amendments relating to the timing and manner of Secretarial review of FMPs or amendments to FMPs developed by the councils. This section modifies the review process for FMPs by requiring the Secretary to publish proposed regulations within fifteen days after receiving an FMP. In addition, this section requires the Secretary to commence a review of FMPs or amendments to FMPs on the fifth day after the day on which a Council has transmitted to the Secretary a document that it characterizes as an FMP or an FMP amendment.

SECTION 107

Section 107 clarifies that the knowing and willful submission of false information to a council, a state governor, or the Secretary of Commerce regarding any matter that these persons are considering in the course of carrying out the MFCMA is prohibited.

SECTION 108

Section 108 of the bill contains a number of amendments to the MFCMA relating to civil penalties. Subsection (1) clarifies that any person against whom a civil penalty has been assessed by the Secretary of Commerce may obtain a review of that assessment in an appropriate United States district court by filing a complaint in such court within thirty days of the Secretarial assessment order. Subsections (2) and (3) of this section add a new provision to the MFCMA which makes any fishing vessel used in the commission of a prohibited act liable in rem for any civil penalty assessed for violations of the Act. Furthermore, the amount of such assessment shall constitute a maritime lien on the vessel which may be recovered in the district court of the United States having jurisdiction over the vessel.

SECTION 109

Section 109 adds new administrative forfeiture procedures to the MFCMA. Subsection (a) would allow the Department of Commerce to institute forfeiture proceedings against seized fish. In addition, the provision clarifies that the Secretary has discretion as to whether to release on bond fish or other property seized for violations of this Act. Subsection (b) would authorize the Secretary to use money received from penalties and forfeitures of the MFCMA to defray storage costs for seized property and to pay rewards.

SECTION 110

Section 110 deletes reference to the Law of the Sea Treaty from the MFCMA.

SECTION 111

Section 111 authorizes appropriations to carry out the MFCMA through fiscal year 1989. In addition, this section requires the Secretary of Commerce to report to Congress before replacing with chartered vessels any fishery research vessels of the National Oceanic and Atmospheric Administration operated by the Atlantic Marine Center.

SECTION 112

Section 112 makes technical clerical amendments to the MFCMA.

SECTION 113

Section 113 requires that the Secretary of Commerce take action to ensure, to the extent practicable, that those persons who are dependent for their livelihood upon fisheries are fairly represented as voting members on regional fishery management councils. It is not intended that this section require that every fishery group have a representative on an appropriate council, but the Secretary must make a good faith effort to consider the representation of those who depend upon fisheries for their livelihood when making appointments to a council.

TITLE II—FISH AND SEAFOOD PROMOTION

Title II of the bill contains the Fish and Seafood Promotion Act. This title creates a National Fish and Seafood Promotional Council and would authorize the establishment of species-specific promotional councils, which will enable the United States fish and seafood industry to establish a coordinated program of research, education, and

promotion, including export promotion to expand markets for United States fishery products. The National Council would be funded through an increase in foreign fishing fees. A detailed legislative history and section-by-section analysis of the bill as reported by the Commerce Committee is set forth in S. Rept. 99-930.

This bill modifies the Fish and Seafood Promotion Act as reported by the Committee in that the authorization for the National Council is reduced from five million dollars annually to $750,000 in fiscal year 1987, three million dollars in fiscal years, 1988 and 1989, and two million dollars in fiscal year 1990. In addition, the increase in foreign fishing fees is reduced to the same amounts, thereby maintaining the Fish and Seafood Promotion Act as revenue neutral. These figures represent a recognition that the National Council will require less funds during the first year of operation. During the second and third years, the National Council will be critically important in helping to establish species-specific councils. During the National Council's fourth year, it is expected that more of its efforts will be devoted to promotion. In addition, as a technical modification, "the Secretary of Commerce, or his designee" is substituted for the "Administrator of NOAA".

TITLE III—INTERJURISDICTIONAL FISHERIES ACT

Title III of the bill contains the Interjurisdictional Fisheries Research Act. The provisions of this title are similar to the corresponding provisions of S. 991 as passed by the House of Representatives. A section-by-section analysis of those provisions passed by the House is set forth in H. Rept. 99-20.

The text of the Interjurisdictional Fisheries Act in this bill differs from the House text in that it modifies the mechanism for apportioning funds among the states. Section 304 provides that no state shall receive less than one-half of one percent of the total amount of funds available for fiscal year 1988. After fiscal year 1988, no state which lands one-third of one percent or more of the weighted average of volume and value of fishery resources shall receive less than one-percent of the total amount of funds available under this legislation. In addition, after fiscal year 1988, any state which lands less than one-third of one percent of the weighted average of volume and value of fishery resources would receive an apportionment of one-half of one percent only if that state is a signatory to an interstate fishery compact, has entered into a cooperative enforcement agreement with the Secretary of Commerce or Secretary of the Interior, borders one or more of the Great Lakes, or has entered into an interstate cooperative fishery management agreement such as the Upper Mississippi River Conservation Committee.

TITLE IV—MISCELLANEOUS PROVISIONS

SECTION 401

Section 401 reauthorizes the NOAA Marine Fisheries Programs Authorization Act through fiscal year 1989. The 1986 authorization levels are capped at the 1985 appropriation level and an increase is provided for inflation during 1987 through 1989, reflecting the need to provide essential government services while restraining federal spending. The funds authorized by this provision will be used by NOAA's National Marine Fisheries Service to carry out a portion of its duties in the areas of information collection and analysis, fisheries conservation and management, and state and industry assistance programs.

SECTION 402

Section 402 would reauthorize section 4 of the Anadromous Fish Conservation Act through 1989. This Act authorizes a federal-state cost sharing program for research, development, and management necessary to support anadromous fish. The Act encourages a coordinated approach to research and management efforts.

SECTION 403

Section 403 provides an authorization for the Central, Western, and South Pacific Fisheries Development Act through fiscal year 1989 at existing levels of five million dollars annually.

SECTION 404

Section 404 authorizes appropriations to carry out the Atlantic Tunas Convention Act through fiscal year 1989. The Atlantic Tunas Convention Act authorizes U.S. participation in the International Convention for the Conservation of Atlantic Tunas.

SECTION 405

Section 405 amends the Great Lakes Fishery Act by authorizing four U.S. representatives to serve on the Great Lakes Fishery Commission. Current law authorizes only three commissioners; however, the treaty was renegotiated to provide for another commissioner. In addition, this section would limit the terms of office of each commissioner to six years.

SECTION 406

Section 406 provides for the establishment of an Estuarine Programs Office within NOAA. This Office will be responsible for development of an agency-wide strategy for the coordination of estuarine management activities.

SECTION 407

Section 407(a) establishes an Under Secretary of Commerce for Oceans and Atmosphere, who shall also serve as the NOAA Administrator. Subsection (b) establishes an Assistant Secretary of Commerce of Oceans and Atmosphere, who shall serve as the NOAA Deputy Administrator. This change in title will not result in a higher rate of compensation for the current NOAA Administrator and Deputy Administrator or in any change to their respective duties or responsibilities. Subsection (c) establishes within NOAA the position of Chief Scientist to replace the current position of Associate Administrator. The Chief Scientist will be appointed by the President, with the advice and consent of the Senate. The Chief Scientist is required to have a strong background in appropriate scientific disciplines and serves as the focal point for the direction and coordination of agency research programs.

SECTION 408

Section 408 transfers authority to administer section 7 of the Fishermen's Protective Act from the Secretary of Commerce to the Secretary of State.

SECTION 409

Section 409 provides that funds received from foreign fishing fees after September 30, 1986, will be covered into the Treasury as miscellaneous receipts. The fees generated before that date will remain in the Fisheries Loan Fund.

SECTION 410

This Section amends and clarifies a covenant accompanying the conveyance of lands owned by the Koniag Native Corporation at Kodiak, Alaska. This provision clarifies that welding may be undertaken on land transferred from the Coast Guard to the Koniag Corporation in 1977, if it does not cause harmful electromagnetic interference with the Coast Guard's Holiday Beach receiver site or is operated or maintained under terms and conditions mutually agreeable to the Coast Guard and Koniag. If harmful electromagnetic interference is discovered, the Coast Guard would have the authority to halt the activity.

SECTION 411

This section amends the Marine Mammal Protection Act (MMPA) and makes conforming amendments to the Endangered Species Act (ESA) to allow incidental taking of depleted as well as non-depleted specifies of marine mammals under certain conditions.

The 1982 amendments of the ESA contained a provision that allowed the incidental take of listed specifies if the result of the consultation process was a non-jeopardy biological opinion or the specification of reasonable and prudent alternatives, and if the parties concerned took actions to minimize and mitigate the taking. The 1981 amendments of the MMPA contained provisions that allowed similar incidental taking of non-depleted marine mammals. Since species listed as threatened as endangered under the ESA are considered depleted under the MMPA and the more restrictive provisions of the MMPA prevail, the ESA provisions could not be used to authorize incidental taking of depleted marine mammals, even if the take involved was nonlethal and resulted in no jeopardy.

The provisions of this section would amend section 101(a)(5)(A) of the MMPA to allow incidental taking of depleted species of marine mammals under certain conditions and would amend the ESA to clarify that such taking must satisfy section 101(a)(5)(A) as so amended.

The combined provisions of the ESA and the "negligible impact" standard of the MMPA should secure effective protection for such listed marine mammals.

Subsection (a) deletes the phrase "that is not depleted" from section 101(a)(5)(A) of the MMPA, thereby allowing the incidental taking of depleted marine mammals pursuant to the same statutory requirements as are applied to the incidental taking of non-depleted species. It is intended that the new statutory standards applied by the Secretary regarding depleted species be the same as those for non-depleted species. In order that there be no confusion as to the interpretation of the standard now applicable to incidental taking of both depleted and non-depleted species, it is explained below.

It is intended that the term "negligible impact" as contained in subparagraph (5)(A)(i) of the MMPA be determined with reference to the affected population of marine mammals, and not with reference to the effects on individual members of any population, unless the resulting impact on the populations is more than negligible. For instance, an individual whale might be affected by industrial activities so as to alter its course but that would likely result in a negligible impact on the individual and the population absent some other adverse impact. On the other hand, effects on individuals could result in a greater than negligible impact on the population depending on the number of individuals affected in proportion to the total population or the severity of the effect on each individual.

The term "negligible impact" as applied to populations means an impact that cannot reasonably be expected to, and is not reasonably likely to affect adversely the overall population through effects on annual rates of recruitment or survival. It is not intended that the Secretary find impacts to be more than negligible when the effect of specified activities on the population is conjectural or speculative. Impacts which are not negligible must be attributable to the action being considered. The degree of certainty of occurrence required in these judgments should be inversely proportional to the resultant harm to the overall population.

It is intended that if the Secretary finds that mitigating measures would render the impact of a proposed activity negligible when it would not otherwise satisfy that requirement, the Secretary shall require such measures by regulation under subparagraph (5)(A)(ii) as a condition of the authorization for any such incidental taking.

A minor impact upon a small segment of habitat might be found to be more than negligible under the prior standard, even if it has no impact upon the overall population utilizing the habitat. But it is also the case that populations could be affected aversely by actions that damage rookeries, mating grounds, feeding areas and areas of similar significance. The Secretary shall take those impacts into accounts when making a "negligible impact" determination under section 105(A)(5)(i). Because these factors are to be taken into account, in making such a determination, subparagraph (a)(2)(A) of this section deletes the phrase "and its habitat" from subparagraph 5(A)(i) of the MMPA. It is expected that the existing provisions of the ESA relating to protection of critical habitat will secure adequate protection of any habitat so designated. Moreover, the provisions of subparagraph (5)(A)(ii) of the MMPA ensure the least practicable adverse impact upon the species' habitat, even if it is not designated as critical habitat and even if the impact of the activities on the population will be negligible.

Subsection (a) also modifies the standard by which the Secretary is to evaluate the impact on subsistence uses, in effect substituting "unmitigable adverse impact" for "negligible." This is a more workable and effective standard.

An "unmitigable adverse impact" in this context is one that is attributable to the particular activities resulting from the agency action being considered as opposed to environmental or other extraneous factors, and is likely to result in a reduction in availability of marine mammals to a level insufficient to allow for a harvest of resources sufficient to meet the subsistence needs of the community for marine mammals by: (1) causing sufficient numbers of the marine mammal population subject to subsistence use to vacate subsistence hunting areas; or (2) directly displacing subsistence users; or (3) erecting physical barriers between the marine mammals and the subsistence hunters. In addition, such an impact must also be one which cannot be sufficiently mitigated to increase that availability such that a harvest which meets the subsistence needs of the community may be obtained. It is not intended that this section affect the interpretation of any other laws relating to subsistence uses, rights, obligations or responsibilities.

The reference to "a cooperative agreement" in subparagraph (a)(2)(B) is intended to cover cooperative agreements such as the one entered between NOAA and the Alaska Eskimo Whaling Commission under both the Whaling Convention Act of 1949 and the MMPA.

It is further intended that protection of the marine mammals and availability of the marine mammals for subsistence use be secured by regulations under subparagraph (5)(A)(ii) of the MMPA. Subparagraph (a)(3)(B) amends subparagraph (5)(A)(ii)(I) of the MMPA to require that regulations be issued to ensure the least practicable adverse impact on such subsistence use even if the activity will not otherwise have an unmitigable adverse effect. Mitigating measures are intended to facilitate the harvest of sufficient resources to meet subsistence needs of the community and to minimize the impacts upon subsistence species and users. The agency or applicant and affected subsistence users are encouraged to agree upon terms and conditions for activities which satisfy the operational, scientific, or other needs of the agency or applicant and the requirements of the subsistence users. Applicants are also encouraged to meet directly with subsistence users to develop agreements for specified activities which may have an impact on the availability of marine mammals taken for subsistence uses.

It is intended that the Secretary amend the general regulations (50 C.F.R. 228.1-228.6) to implement the amended section 101(a)(5)(A) of the MMPA as it applies to depleted marine mammals in accordance with the legislative intent as contained in this document and the changes brought about by these amendments. It is anticipated, however, that new species-specific regulations would be required by section 101(a)(5)(A)(ii) of the MMPA for specified activities in a specified region involving incidental taking of a depleted species.

It is intended that, immediately upon passage of this legislation and subject to the provisions of other applicable law including the ESA, the Secretary may provide for incidental taking of depleted species under the MMPA by promulgating regulations required by section 101(a)(5)(A)(ii) and issuing letters of authorization through procedures described for incidental taking of non-depleted species in current regulations (50 C.F.R. Part 228). The new regulations and letters of authorization should be patterned after the current regulations for incidental taking of non-depleted ringed seals (50 C.F.R. 228.11-228.14) with necessary modifications to conform to these new provisions and the legislative intent expressed in this document.

Finally, subsections (b) and (c) make conforming amendments to the ESA to reflect the changes to the MMPA and to clarify the relationship between the two statutes. It is intended that the decision processes under the involved statutes be coordinated and integrated to the maximum extent practicable.

SECTION 412

This section contains provisions ordered reported unanimously by the Commerce Committee on September 24, 1986. It grants legislative waivers from restrictions on vessel documentation under the laws of the United States for five vessels:

(1) DUNES SPIRIT

The Committee approved a Jones Act waiver for the Dunes Spirit (U.S. official number 690176) because of the need to correct a questionable action by the Coast Guard regarding this particular vessel. This 45-foot sailboat, which is 49 gross tons and was built overseas, was purchased new from a New Jersey boat dealer in 1985. It is capable of carrying up to 24 passengers with a two-person crew. The buyer, a real estate company from Hilton Head Island, South Carolina, purchased this vessel for the exclusive recreational use of time-share owners of a condominium project at Shelter Cove Harbour on Hilton Head. From August to November 1985, the time-share owners of the condominium development chartered the vessel on a bareboat basis for four days each week. Under terms of the August 1985 agreement, it is clear that the charterers had the full responsiblity to arrange for a competent captain and crew.

In late November 1985, the Coast Guard cited the vessel for failing to comply with the terms of title 46 of the United States Code dealing with small passenger vessel safety. The Coast Guard's position was partly predicated on its judgment that the Jones Act applied to this particular vessel when carrying the time-share condominium owners. The Committee considers this judgment to have been erroneous.

As the Customs Service has indicated in correspondence with the Committee, "the use of a vessel by a person and his guests under conditions amounting to a bareboat charter would not be considered a carriage of passengers for hire and their use of a vessel in activities which ordinarily would be considered coastwise trade would not be in violation of law." The Committee was offered no information indicating that the Dunes Spirit was not being operated in accordance with such a bareboat charter. However, because the Coast Guard appears to be committed to its initial decision, the Jones Act waiver is being granted so that the Dunes Spirit may be operated as originally intended, for the exclusive use of Hilton Head condominium owners. In light of this case, the Committee intends to look into the Coast Guard's practices with regard to Bareboat charters of recreational vessels to determine if broader statutory modification is required to clarify U.S. policy in this area.

(2) KODIAK QUEEN

The Kodiak Queen (U.S. Official Number 507891), a vessel of 478 gross tons and about 144 feet in length, was built in Mare Island, California, in 1941 for the Department of the Navy. It was placed under Liberian registry in 1962 as the M.S. Vardshov when it was purchased by Somhov Tankers, Inc. of Monrovia, Liberia. In 1967, the vessel was acquired by Arntsen and Brechen, Inc. of Kodiak, Alaska, and placed under U.S. flag and registry as the Kodiak Queen. The vessel has been owned since that time by U.S. citizens.

The Kodiak Queen is documented for the fisheries, and has been operating in the tanner crab fishery in and around Kodiak during 1986. Its present owners wish to use the vessel in coastwise trade, to tender salmon, herring, crab or freight for Ocean Beauty Seafoods and other seafood processing companies. However, the Kodiak Queen is restricted from engaging in the coastwise trade of the United States because of alien ownership in its chain of title.

(3) LA REINA

The La Reina (U.S. Official Number 230115), formerly known as Noah's Ark, is a 56-foot Tilghman River Yacht that was built in Florida in 1930. It has been used as a pleasure boat and has never left the waters of Florida.

The present owner is doing business as a golf and tennis resort in Florida. The owner

wishes to use the vessel to carry guests of the resort on a cruise of Lake Harris for dining, entertainment, and sightseeing as part of their visit to the resort. The vessel cannot be documented for such coastwise trade because the most recent previous owner was a resident alien (Canadian citizen) who used the vessel as a pleasure boat in Florida. That alien ownership in the chain of title precludes documentation even though the vessel was built in and has never left the United States.

(4) NORTHWIND

The Northwind (U.S. Official Number 230147), a motor yacht of 221 gross tons and 122 feet in length, was built in Manitowoc, Wisconsin, in 1930. In 1938, the vessel was transferred from United States to British ownership, to be used in the service of the British Government and Royal Navy. After the war, the Northwind was sent on a diplomatic world cruise in support of the British export trade, as well as in the service of the Prime Minister. In 1975, the vessel was purchased by Argyco Compania, based in the Mediterranean, and was placed under Panamanian registry. The vessel is now located in Seattle, Washington.

The vessel had suffered substantial deterioration over the years and required extensive renovation to restore its historic grandeur. In addition, modern navigation and other electrical innovations were installed. The overhaul and modernization, which took place in Seattle, Washington, cost the present owner approximately $400,000, an amount in excess of the 1975 purchase price.

The present owners wish to engage the Northwind in the coastwise trade of the United States as a pleasure charter for groups of up to 12 persons, with a crew of five or six, in and around Seattle, Washington. The vessel is restricted from such trade because of alien ownership in its chain of title.

(5) WANDERBIRD

The Wanderbird (U.S. Official Number 229607), an oak-planked, copper-sheathed schooner of 52 gross tons and about 80 feet in length, was built in Germany in 1883. The vessel was originally commissioned by the German Government to guide vessels through the North Sea. In 1926, the Wanderbird was purchased by Warwick Tompkins. The vessel was refitted, and in 1929, set a transatlantic crossing record of 16 days. In 1936, the Wanderbird was sailed to San Francisco. In 1969, the current owner purchased the Wanderbird and began a full-scale restoration effort in the United States.

The Wanderbird is presently documented for use as a pleasure vessel, capable of accommodating eight passengers. The owner wishes to use the vessel to carry passengers for hire on pleasure sail cruises in San Francisco Bay and along the California coast. The Wanderbird is currently restricted from engaging in the coastwise and fisheries trades of the United States because it is a foreign-built vessel.

SECTION 413

This section was ordered reported unanimously by the Commerce Committee on September 24, 1986. It requires that the Coast Guard include a provision in each contract for construction or services requiring hiring of local residents when the unemployment rate in the state where the contract is to be performed exceeds the national average rate of unemployment. For purposes of this section, the term "local resident" includes individuals who are within daily commuting distance of such state.

SECTION 414

This section was ordered reported unanimously by the Commerce Committee on September 24, 1986.

Subsection (a) clarifies that fishing vessels which incidentally freeze fish during the course of a fishing operation are not to be considered "fish processing vessels" for purposes of title 46. Subsection (b) makes a substantive change to title 46. It grants the Secretary of Transportation the legal authority to receive reimbursement for the travel and subsistence expense incurred by Coast Guard personnel. This authority is limited to instances when applicants desire a certificate or license issued by the Coast Guard and no travel funds are available to perform the requisite tests.

Mr. WEICKER. Mr. President, I am pleased to have this opportunity to express my support for S. 991, the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act. This legislation authorizes appropriations through fiscal year 1989 for NOAA's marine and anadromous fisheries management programs. In addition, I am very pleased at the inclusion of section 507 of the bill which would give NOAA the recognition and stature within the Department of Commerce it has long deserved, by designating the Administrator of NOAA as an Under Secretary of Commerce, the Deputy Administrator as Assistant Secretary, and the Associate Administrator as Chief Scientist.

This organizational change in the Department of Commerce is appropriate and timely. With over 60 percent of the Department's budget and over 40 percent of its employees, and as the Nations' leading civilian oceanic and atmospheric agency, NOAA is one of Commerce's most important agencies. Since the establishment of NOAA in 1970, three Secretary positions have been created within the Department: one for the International Trade Administration, one for Economic Affairs, and one for the Travel and Tourism Administration. NOAA is long overdue in joining these ranks.

The dual titles of Under Secretary and Administrator would better enable the Administrator to manage a $1.2 billion agency with 14,000 employees. In intra- and inter-departmental meetings and negotiations the Administrator may be disadvantaged without the recognition of the rank of Under Secretary. At the international negotiating table, where the term "NOAA Administrator" may be unrecognizable, the position of Under Secretary would be more likely to asssume a higher Oceanographic Commission, the International Whaling Commission, and the London Dumping Convention.

An equally important provision in this legislation is the appointment of a Chief Scientist to replace the Associate Administrator's position. NOAA must have the assurance of someone in upper management with direct scientific experience relevant to the agency's activities. The Chief Scientist would act as the principal scientific advisor to the Under Secretary, and would be required to have experience in oceanic, atmospheric, or other scientific disciplines important to NOAA's missions. It only makes sense that creating a Chief Scientist position will strengthen the agency's scientific direction.

Mr. President, I urge my colleagues to support S. 991, so that we as a nation can continue to maintain sound ocean, coastal, and fisheries research and management programs within NOAA.

Mr. HOLLINGS. Mr. President, I urge the Senate to approve the amendment to S. 991 offered on behalf of the Commerce Committee. This amendment incorporates a number of fishery measures that the committee has had under consideration during this Congress. I would like to make a few comments on several aspects of the amendment that are of special interest to me.

First, the amendment contains multiyear authorizations for most of the fishery programs of the National Oceanic and Atmospheric Administration, including programs for fisheries research, fishing industry development, and the conservation and management of marine fisheries within 200 miles of the U.S. coast. The funding levels are compatible with Senate and House appropriations actions for NOAA.

Second, I note that title II of the amendment contains the Fish and Seafood Promotion Act, which was reported by the Commerce Committee on September 3 in the form of an amendment to H.R. 2935. Certainly seafood is vitally important to my State's coastal economy. The annual dockside value of seafood produced in South Carolina is in the neighborhood of $20 million to $25 million, placing it 19th in the United States. In addition to the actual harvest of seafood that is brought into my State by South Carolina fishermen, fish and shellfish play an important role in our restaurant and tourism industries.

I anticipate that the Fish and Seafood Promotion Act will be beneficial to the fish and seafood industry in my State and across the country. This legislation's goal is to strenghen the U.S. commercial fishing industry through consumer education, research, and other marketing and promotion activities. The fishing industry has never had the benefit of a promotion board, unlike many of its competitors in the protein production business. And in light of the recent medical research findings that point to the significant value of seafood in the diet, such a board can contribute also to wider dis-

semination of useful nutritional information.

The act combines two different approaches to fish and seafood promotion, a product-specific approach and a national promotion effort. This two-tiered system takes into account the fact that the fishing industry is composed of numerous small- and medium-sized firms, which tend to operate very independently. It is hoped that the National Council to be created by this legislation will help stimulate the formation of industry-run bodies for the promotion of specific seafood products. The national group, modestly financed from foreign fishing fees, is to exist for only 4 years, but if it is successful, privately funded councils for specific products will survive for many years to come.

The final item of special interest to me is contained in section 507 of the amendment to S. 991. That section would create the position of Chief Scientist at NOAA, to take the place of the current Associate Administrator position. In addition, it provides that the NOAA Administrator and Deputy Administrator shall also serve as Under Secretary and Assistant Secretary of Commerce, respectively.

Mr. President, I know my colleagues are aware of the major role I played in the establishment of NOAA back in 1970. Since that time, I have followed the agency's progress with great interest. I have worked to develop its programs and budgets through my work on the Commerce and Appropriations Committees. And I remain committed to the goals and ideals that led to the formation of the agency 16 years ago. This is why today I am keenly interested in the replacement of the Associate Administrator position in NOAA with that of a Chief Scientist.

It simply makes good sense to require that someone in NOAA's upper management have direct scientific experience relevant to the agency's work. NOAA has numerous scientific responsibilities vital to the national interest—natural resource conservation, weather forecasting and public warning, aviation and marine safety, the national geodetic network, and oceanic and atmospheric research and services. To successfully accomplish these various missions, NOAA has a vast array of scientific expertise in a number of areas. The Chief Scientist's job will be to coordinate NOAA's internal talent and act as liaison to the scientific community outside of NOAA. In addition, the Chief Scientist will be the principal scientific adviser to the NOAA Administrator.

I think this change is a good idea. I also believe it will be useful to identify the NOAA Administrator and Deputy Administrator for what they are—two of the highest ranking officials in the Department of Commerce. The change to Under Secretary and Assistant Secretary will only clarify their standing within the Department; they will remain at executive levels III and IV, respectively.

For all these reasons, Mr. President, I urge my colleagues to join me in supporting this amendment to S. 991.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island [Mr. CHAFEE].

The motion was agreed to.

Mr. CHAFEE. I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read: "An Act to amend certain provisions of the law regarding the fisheries of the United States, and for other purposes.".

ANTIKICKBACK ENFORCEMENT ACT

Mr. CHAFEE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2250.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2250) entitled "An Act to strengthen the prohibition of kickbacks relating to subcontracts under Federal Government contracts", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Anti-Kickback Enforcement Act of 1986".

SEC. 2. (a) The Act entitled "An Act to eliminate the practice by subcontractors, under cost-plus-a-fixed-fee or cost reimbursable contracts of the United States, of paying fees or kick-backs, or of granting gifts or gratuities to employees of a cost-plus-fixed-fee or cost reimbursable prime contractors or of higher tier subcontractors for the purpose of securing the award of subcontracts or orders", approved March 8, 1946 (41 U.S.C. 51-54), is amended to read as follows:

"SHORT TITLE

SECTION 1. This Act may be cited as the 'Anti-Kickback Act of 1986'.

"DEFINITIONS

"SEC. 2. As used in this Act:

"(1) The term 'contracting agency', when used with respect to a prime contractor, means any department, agency, or establishment of the United States which enters into a prime contract with a prime contractor.

"(2) The term 'kickback' means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"(3) The term 'person' means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"(4) The term 'prime contract' means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"(5) The term 'prime contractor' means a person who has entered into a prime contract with the United States.

"(6) The term 'prime contractor employee' means any officer, partner, employee, or agent of a prime contractor.

"(7) The term 'subcontract' means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"(8) The term 'subcontractor'—

"(A) means any person, other than the prime contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and

"(B) includes any person who offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor.

"(9) The term 'subcontractor employee' means any officer, partner, employee, or agent of a subcontractor.

"PROHIBITED CONDUCT

"SEC. 3. It is prohibited for any person—

"(1) to provide, attempt to provide, or offer to provide any kickback;

"(2) to solicit, accept, or attempt to accept any kickback; or

"(3) to include, directly or indirectly, the amount of any kickback prohibited by clause (1) or (2) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to the United States.

"CRIMINAL PENALTIES

"SEC. 4. Any person who knowingly and willfully engages in conduct prohibited by section 3 shall be imprisoned for not more than 10 years or shall be subject to a fine in accordance with title 18, United States Code, or both.

"CIVIL ACTIONS

"SEC. 5. (a)(1) The United States may, in a civil action, recover a civil penalty from any person who knowingly engages in conduct prohibited by section 3. The amount of such civil penalty shall be—

"(A) twice the amount of each kickback involved in the violation; and

"(B) not more than $10,000 for each occurrence of prohibited conduct.

(2) The United States may, in a civil action, recover a civil penalty from any person whose subcontractor or subcontractor employee violates section 3 by providing, accepting, or charging a kickback. The amount of such civil penalty shall be the amount of that kickback.

"(b) A civil action under this section shall be barred unless the action is commenced within 6 years after the later of (1) the date on which the prohibited conduct establishing the cause of action occurred, and (2) the date on which the United States first knew or should reasonably have known that the prohibited conduct had occurred.

"ADMINISTRATIVE OFFSETS

"SEC. 6. (a) A contracting officer of a contracting agency may offset the amount of a kickback provided, accepted, or charged in violation of section 3 against any moneys owed by the United States to the prime contractor under the prime contract to which such kickback relates.

"(b)(1) Upon direction of a contracting officer of a contracting agency with respect to a prime contract, the prime contractor shall withhold from any sums owed to a subcontractor under a subcontract of the prime contract the amount of any kickback which was or may be offset against that prime contractor under subsection (a).

"(2) Such contracting officer may order that sums withheld under paragraph (1)—

"(A) be paid over to the contracting agency; or

"(B) if the United States has already offset the amount of such sums against that prime contractor, be retained by the prime contractor.

"(3) The prime contractor shall notify the contracting officer when an amount is withheld and retained under paragraph (2)(B).

"(c) An offset under subsection (a) or a direction or order of a contracting officer under subsection (b) is a claim by the Government for the purposes of the Contract Disputes Act of 1978.

"(d) As used in this section, the term 'contracting officer' has the meaning given that term for the purposes of the Contract Disputes Act of 1978.

"CONTRACTOR RESPONSIBILITIES

"SEC. 7. (a) Each contracting agency shall include in each prime contract awarded by such agency a requirement that the prime contractor shall have in place and follow reasonable procedures designed to prevent and detect violations of section 3 in its own operations and direct business relationships.

"(b) Each contracting agency shall include in each prime contract awarded by such agency a requirement that the prime contractor shall cooperate fully with any Federal Government agency investigating a violation of section 3.

"(c)(1)(A) Whenever a prime contractor or subcontractor has reasonable grounds to believe that a violation of section 3 may have occurred, the prime contractor or subcontractor shall promptly report the possible violation in writing.

"(B) A contractor shall make the reports required by subparagraph (A) to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

"(2) In the case of an administrative or contractual action to suspend or debar any person who is eligible to enter into contracts with the Federal Government, evidence that such person has supplied information to the United States pursuant to paragraph (1) shall be favorable evidence of such person's responsibility for the purposes of Federal procurement laws and regulations.

"INSPECTION AUTHORITY

"SEC. 8. For the purpose of ascertaining whether there has been a violation of section 3 with respect to any prime contract, the General Accounting Office and the inspector general of the contracting agency, or a representative of such contracting agency designated by the head of such agency if the agency does not have an inspector general, shall have access to any and may inspect the facilities and audit the books and records, including any electronic data or records, of any prime contractor or subcontractor under a prime contract awarded by such agency.".

(b) The title of such Act is amended to read as follows: "An Act to prohibit kickbacks relating to subcontracts under Federal Government contracts.".

SEC. 3. (a) Except as provided in subsection (b), the Anti-Kickback Act of 1986 (as set out in section 2(a)) shall take effect with respect to conduct described in section 3 of such Act which occurs on or after the date of the enactment of this Act.

(b) Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (as set out in section 2(a)) shall take effect with respect to contract solicitations issued by an agency, department, or other establishment of the Federal Government on or after the date which is 90 days after the date of the enactment of this Act.

Mr. LEVIN. Mr. President, a month ago, on September 12, 1986, the Senate passed S. 2250, the Anti-Kickback Enforcement Act of 1986. The purpose of this legislation was to strengthen existing law against subcontractor kickbacks affecting the Federal procurement system. Specifically, the bill sought to close loopholes in and broaden the coverage of the Anti-Kickback Act, 41 U.S.C. 51-54.

Since the House of Representatives has held hearings on S. 2250 and a companion bill, H.R. 4783, which was introduced in the House by my friend Congressman JOHN BRYANT. The House made a few technical and substantive changes in the Senate bill. On October 7, 1986, the House passed the amended bill and returned it for our further consideration. I believe the resulting bill represents a significant improvement over current law, and I recommend that we enact it into law today.

I wish to thank the many people who participated in the effort to make enactment of this legislation a reality. My good friend Senator COHEN showed leadership and persistence in guiding the bill through the Senate. Congressman JOHN BRYANT, who introduced the companion bill in the House, demonstrated equal skill in bringing the bill to the attention of his colleagues. Congressman JACK BROOKS, chairman of the Government Operations Committee, made an extraordinary effort to consider this bill near the end of the session, to improve it and get it passed. Congressman FRANK HORTON, ranking Republican on the Government Operations Committee, joined in this effort. Congressman RODINO, chairman of the Judiciary Committee, and DAN GLICKMAN, chairman of the Subcommittee on Administrative Law, also made extraordinary efforts to consider this legislation and get it through. I thank you for your efforts and applaud the bipartisan work that has resulted in this legislative overhaul of the Federal law prohibiting subcontractor kickbacks.

PROVISIONS OF THE ANTI-KICKBACK ENFORCEMENT ACT

The House changes in the bill are both technical and substantive. The technical changes included substituting the word "rewarding" for the word "acknowledging;" substituting the word "provide" for the word "pay" when used to describe prohibited kickback activities; substituting the word "possible" for the word "potential" when referring to the types of kickback suspicions that must be reported to Federal authorities; substituting the word "knew" for "became aware" when determining when the statute of limitations for civil suits begins to run; including the word "willfully" in the criminal intent standard; and changing the descriptive title of the act. The substantive changes include using a "civil penalty" rather than a "conclusive presumption" in civil suits by the United States to ensure that the Government can recover kickback costs without having to establish, in each case, that it was injured by the kickback activity; permitting recovery of kickback amounts against persons whose employees, subcontractors, or subcontractor employees engaged in kickback activities; and limiting the United States right to offset kickback amounts, when proceeding under this legislation, to situations where the moneys being offset were owed under the prime contract tainted by the kickbacks.

Because the bill has changed somewhat from the legislation discussed in the House and Senate committee reports, a detailed explanation of the substantive provisions that were changed in the final bill follows:

SECTION 2: DEFINITIONS

Section 2(2) defines "kickback," a term which does not appear in the text of the existing act but is a key element in the bill. I want to make a couple of points that have not yet been made about the definition.

The word "purpose" was included in the definition to stress the importance, in determining whether a specific transaction constitutes a "kickback," of analyzing the reasons for the suspect transaction. For example, when examining an exchange of money, a court should try to determine why the money was exchanged—what each party achieved by participating in the transaction. In determining the transaction's "purpose," a court should examine objective factors, such as what the person paying the money actually received for that payment, and subjective factors, such as what the person paying the money expected or wanted to receive for that payment.

The Government is not limited, in establishing the "purpose" of a payment, to proving the mental states of the participants, and the Government

is in no way required to show that the participants had a specific intent to, for example, defraud the Government. What the Government must prove, through objective or subjective evidence, is that the reason one person provided something of value to another was to improperly influence a procurement decision.

The word "improperly" was included in the definition to emphasize the bill's focus on prohibiting only unethical conduct. The bill is not meant to prohibit conduct which legitimately influences a procurement decision. For example, it is not a kickback when a subcontractor provides a prime contractor employee with an expensively prepared report to explain the subcontractor's bid. Similarly, it is not a kickback when a prime contractor pays a subcontractor a cash bonus to induce the subcontractor to produce a needed part on a rush basis. The bill's prohibition applies only to unethical conduct.

As with the use of the word "purpose," use of the term "improperly" in the definition of kickback is not meant to create an intent element. In other words, to judge whether a payment was made to "improperly" influence a procurement decision, a court should not limit the Government to establishing what was in the mind of any particular individual—whether, collectively or individually, the participants thought they were doing something wrong. Such subjective assessments are less important than external, objective measures of ethical conduct, such as rules and ethics codes governing the procurement process.

For example, in determining whether a subcontractor provided free airfare, hotel space, and meals to a prime contractor employee evaluating its facilities for the purpose of "improperly" influencing the employee's evaluation, a court may consider the subcontractor's subjective feelings about the fairness of its actions, but should concentrate much more on objective ethical standards governing the propriety of the conduct in question.

It is our hope and our design that courts will interpret the definition of "kickback" to condemn conduct leading to an unfair favoritism based on graft and to condone only that conduct contributing to an honest competition among subcontractors based on merit. Our goal is a body of law providing guidance to contractors about the proper way to do business with the United States.

Finally, section 2(9) defines "subcontractor employee," a term not defined in the existing act. The definition encompasses "any officer, partner, employee, or agent" of the subcontractor. The term is intended to be construed broadly and may include, inter alia, a subcontractor's owners, directors, or trustees if any of these persons were acting to benefit or on behalf of the subcontractor when participating in a kickback scheme. The definition's reference to "employee" should be interpreted broadly, consistent with common law.

The definition of "subcontractor employee" gained new importance when the House amended the civil recovery portion of the bill to permit a civil action against any person whose "subcontractor or subcontractor employee" engages in kickbacks. When making this change, the House and Senate authors of the bill relied on the courts using a broad interpretation of "subcontractor employee," In particular, the with respect to the definition's use of the word "agent."

"Agent" should be interpreted broadly to make the definition of "subcontractor kickback" applicable to third parties, such as independent sales representatives and consultants, who make improper payments to induce prime contractors to enter into subcontracts with their clients. For example, in cases where an independent sales representative offers to split a commission with a prime contractor employee if that employee purchases certain products from certain clients, the bill intends such transactions to be considered "kickbacks." For purposes of determining the civil liability of prime contractors whose employees accept such payments, the bill intends the third parties to be considered "subcontractor employees," even if they were acting without the knowledge or consent of the companies they represented and even if they were acting contrary to their clients' instructions. By making prime contractors civilly liable for such kickbacks, the bill provides an incentive for prime contractors to police their employees' relationships with independent sales representatives, consultants and other third parties.

SECTION 4: CRIMINAL PENALTIES

The bill increases the existing criminal penalties for kickbacks. Current law subjects violators to a maximum prison term of 2 years and a maximum criminal fine of $10,000; 41 U.S.C. 54. The bill provides a maximum prison term of 10 years and criminal fines in accordance with the Criminal Fine Enforcement Act of 1984, Public Law 98-596, currently codified at 18 U.S.C. 3623. The Criminal Fine Enforcement Act subjects individuals to a fine equal to the greater of $250,000 or double the amount of any gain by the wrongdoer or of any loss by a victim, and subjects businesses to a fine equal to the greater of $500,000 or double the gain or loss. These penalties are comparable to those in other Federal criminal fraud and corruption statutes.

The bill provides that, to be subject to criminal penalties, the wrongdoer must act "knowingly and willfully." The current Anti-Kickback Act imposes its criminal penalties on those who act "knowingly." The addition in the bill of the word "willfully" is not, however, a change in current law but a reflection of the actual standard being used in kickback cases.

The knowing element in the standard requires the Government to prove that the alleged wrongdoer knew what he or she was doing and was not acting through mistake, inadvertence or mere negligence. The willful element in the standard requires the Government to prove that the alleged wrongdoer was acting on his or her own volition and not because he or she was being coerced. To meet the standard, the Government could demonstrate, for example, that a prime contractor employee realized he was being offered money, freely accepted the money offered, and provided favorable treatment to the payor in return. In such a case, the employee deliberately chose to act as he did and is therefore criminally liable for his actions.

The knowing and willful standard does not require proof of a specific criminal intent such as an intent to defraud the Government. All that is required for criminal liability is proof that the alleged wrongdoer knew what he or she was doing and was acting on his or her own volition.

Adding "willfully" to the criminal provision should not be construed as in any way reinforcing or expanding the scope of the so-called "economic coercion" or "extortion" defense, in which a subcontractor pleads relief from criminal liability, because it did not want to pay the kickback but was "forced" to pay it to survive or prosper economically. This defense has rarely, if ever, been successful in past kickback cases, and Congress in no way intends it to be more successful after passage of the bill.

Finally, in determining the criminal mens rea of a business entity, courts should look to the mens rea of the individuals who were acting on behalf of or to benefit that business.

SECTION 5: CIVIL ACTIONS

The existing act permits the United States to recover the "amount of any [kickback] from the subcontractor or the recipient thereof by * * * an action in an appropriate court of the United States." 41 U.S.C. 51. Section 5 of the legislation expands the act's civil recovery provisions in several ways.

First, where current law provides for the civil recovery of only the amount of the kickback itself, the bill provides that, in cases where a person "knowingly" engages in prohibited conduct, the United States may recover a civil penalty from that person equal to twice the amount of each kickback involved in the case and up to $10,000 for each occurrence of prohibited conduct.

Requiring the United States to prove that the wrongdoer acted "knowingly" is not a change from current law, but a reflection of the cause of action actually being used in civil kickback cases. To meet the standard, the United States has to prove that the alleged wrongdoer was acting with awareness of what he or she was doing and not acting through mistake, inadvertence or mere negligence. The United States does not have to prove any type of specific intent—such as an intent to defraud the Government—it only has to show that the alleged wrongdoer made conscious decisions to act. All of the elements of the civil action authorized by this section of the bill, including proof of knowledge, may be established by a preponderance of the evidence.

Unlike the criminal section of the bill, the civil section does not require the United States to show "willfulness" to justify a recovery. This is because the civil section of the bill has a different purpose than the criminal section of the bill. The criminal section is intended to punish and deter persons who willfully violate the law; it imposes criminal fines and prison terms for that reason. The civil section is not concerned with willful misconduct but primarily with providing the United States with a mechanism to obtain compensation for the damages it suffers when its procurement procedures are tainted by kickbacks.

Civil suits in antikickback law are based upon the principle that Federal contractors who engage in kickback activities pass on their kickback costs to the United States. In the most typical case, the subcontractor who pays a kickback inflates its subcontract price to include the kickback amount so that, in essence, it receives reimbursement from the prime contractor. The prime contractor, in setting its prime contract price, includes its subcontract costs. In this way, the prime contractor passes on the kickback costs to the United States. The United States taxpayers end up footing the bill.

The United States Supreme Court described this process when analyzing a case under the Anti-Kickback Act involving a price redetermination contract:

> The kickbacks here are passed on to the Government in two stages. The prime contractor rarely submits his bid until after he has tentatively lined up his subcontractors. Indeed, as here, the subcontractors frequently participate in negotiation of the prime contract. The subcontractor's tentative bid will, of course, reflect the amount he contemplates paying as a kickback, and then his inflated bid will be reflected in the prime contractor's bid to the Government. At the renegotiation stage, where the prime contractor's actual cost experience is the basis for price redetermination, and kickbacks, paid by subcontractors and passed on to the prime contractor after the prime contract is awarded, will be passed on to the Government in the form of price redetermination upward. *United States* v. *Acme Process Equipment Co.*, 385 U.S. 138, 143 (1966).

Kickback costs are so routinely hidden in contract prices that their inclusion has become a recognized rule of law. English courts have recognized this principle for almost 100 years. See *Hovendon & Sons* v. *Milhoff* [1900] 83 L.T.R. (N.S.) 41 *Grant* v. *Gold Explorations & Development Syndicate, Ltd.* [1900] 1 Q.B. 233; 82 L.T.R. (N.S.) 5; *Mayor, Aldermen, etc. of Slford* v. *Lever* [1891] 1 Q.B., 168; 63 L.T.R. (N.S.) 658. American courts have cited the principle in common law and in cases upholding the existing Anti-Kickback Act. See *United States* v. *Davio*, 136 F. Supp. 423 (E.D. Mich. 1955).

In Davio, a United States district court upheld section 51 of the existing Anti-Kickback Act which states:

> Upon a showing that a subcontractor paid fees, commissions, or compensation or granted gifts or gratuities to an officer, partner, employee, or agent of a prime contractor or of another higher tier subcontractor, in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the cost of such expense was included in the price of the subcontract or order and ultimately borne by the United States.

The court held that this "conclusive presumption" was "not offensive to due process since it is based on a logical and probable connection with the antecedent facts." 136 F. Supp. at 429.

Reaffirmation of principle's validity was received when, as part of the September 22, 1986 hearing before the House Government Operations Subcommittee, Chairman BROOKS asked the Department of Justice whether it was "invariably true that the cost of a kickback will be passed on to the Government as part of the contract price." The Justice Department responded in a letter dated September 30, 1986:

> All of our experience in the investigation of such [kickback] cases supports the proposition that illicit payments *do* inflate the price which the Government pays and, indeed, supports the proposition that the Government's loss *exceeds* the amount of the kickback. We can recall no case in which the evidence refuted this proposition. (Original emphasis.)

Current law authorizes the United States to recover only the amount of any kickback which it can prove has taken place in connection with a prime contract. Simple recovery of the kickback amount, however, often fails to compensate the Government for all of its injury. The Supreme Court recognized this fact in the Acme case:

> [The defendant] argues * * * that the express provision for recovery of kickbacks is enough to protect the Government from increased costs attributable to them. But this argument rests on two false assumptions. The first is that kickbacks can easily be detected and recovered. This is hardly the case. * * * The second * * * is that the increased cost to the Government is necessarily equal to the amount of the kickback which is recoverable. Of course, a subcontractor who must pay a kickback is likely to include the amount of the kickback in his contract price. But this is not all. A subcontractor who anticipates obtaining a subcontract by virtue of a kickback has little incentive to stint on his cost estimates. * * *[H]e will be tempted to inflate [his] proposal by more than the amount of the kickback. And even if the Government could isolate and recover the inflation attributable to the kickback, it would still be saddled with a subcontractor who * * * is perhaps entirely unreliable in other ways. *United States* v. *Acme Process Equipment Co.*, 385 U.S. 138, 144 (1966).

By providing for civil recovery of twice the kickback amount plus $10,000 per instance of wrongdoing, the bill provides a mechanism that will more nearly compensate the Government for all of its damages. For example, the provision will enable the United States to recoup the kickback amount; the amount that the subcontractor inflated its contract price beyond the kickback payment; the costs of detecting and investigating the kickback; the interest lost to the Government during the time of the fraud; and for other excess charges and performance problems that may be caused by a corrupt subcontractor. Cf. *United States ex rel. Marcus* v. *Hess*, 317 U.S. 537, 550–52 (1943); *Peterson* v. *Richardson*, 370 F. Supp. 1259, 1267 (N.D. Tex. 1973) aff'd, 508 F.2d 45 (1975), cert. denied, 423 U.S. 830 (1975) (double damages and forfeitures upheld in cases of false claims against the Government as a mechanism for making the Government whole).

In addition to providing an expanded measure of damages, the bill modernizes the civil mechanism used by the United States to recover on a kickback claim. Both the existing statute and the proposed legislation relieve the United States of the costly and time-consuming burden of demonstrating, in each case, that a kickback caused it injury and damage. Both bills relieve the United States of this burden, because of the longstanding rule of law, explained above, that kickbacks invariably injure the defrauded party. For technical reasons, however, the legislation uses a "civil penalty" rather than the existing "conclusive presumption" to achieve the desired result.

The bill uses a "civil penalty" rather than a "conclusive presumption" to achieve the same result, because the authors of the bill wanted the Anti-Kickback Act to more closely parallel the False Claims Act, 31 U.S.C. 3729, which uses a civil penalty, and because Members of the House felt that use of a "conclusive presumption" was an outdated drafting approach.

In practical terms, the bill's use of a civil penalty in place of a conclusive presumption has and is intended to make no substantive change in the

United States' right to recover civil damages in kickback cases. Contrasting the civil actions authorized by current law and the bill illustrate this point. To recover civilly under the current Anti-Kickback Act, the United States is required to establish the payment of a kickback. Upon making this showing, through the "conclusive presumption," the Government is automatically deemed to have been injured and to be entitled to damages equal to the amount of the kickback. The bill works in a similar way. To recover under the proposed legislation, the United States must prove that a kickback was paid, accepted or included in a contract price. Upon making this showing, the United States is entitled to recover a "civil penalty." The United States is automatically entitled to this penalty, without proving specific injury or damages, because the law recognizes its right to compensation for the kickbacks tainting its procurement system.

In addition to providing a more modern civil recovery mechanism and compensation more nearly commensurate with the damages suffered by the United States, the bill also expands the categories of persons who may be sued civilly for engaging in kickbacks. Current law authorizes civil suits only against "the subcontractor" or the "recipient" of a kickback. 41 U.S.C. 51. Other categories of persons who participate in kickbacks and who should be civilly liable for their misconduct include independent sales representatives who pay kickbacks and prime contractors who include kickback costs in their contract prices or who permit kickback activities within their operations.

The bill accordingly expands the current law in two ways. Section 5(a)(1) permits the United States to institute a civil suit against "any person" who knowingly violates the Act, and section 5(a)(2) enables the United States to recover from "any person whose employee, subcontractor or subcontractor employee violates [the Act] by providing, accepting, or charging a kickback."

Section 5(a)(1) is meant to permit a civil recovery against anyone who knowingly engages in kickback activities—paying a kickback, receiving a kickback, including a kickback cost in a contract price, or attempting to do any of these acts. It is intended to subject not only subcontractors and kickback recipients to civil liability, but also prime contractors, independent sales representatives and others who knowingly participate in kickback activities. It is also intended to reach companies whose employees engage in kickbacks, under the doctrine of respondeat superior. The justification for this approach, described earlier, is that persons who engage in kickbacks in the Federal procurement process invariably finance the kickback costs by passing them along to the United States taxpayer. The United States is thus entitled to seek from any of the wrongdoers compensation equal to twice the kickback amount plus $10,000 per instance of wrongdoing.

Section 5(a)(2) addresses a specific deficiency in current law—the failure to provide a civil incentive to business entities such as prime contractors and subcontractors to deter kickback activities within their operations—by authorizing a limited civil action with a reduced civil penalty. This section allows the United States to recover civilly from any person whose employee, subcontractor or subcontractor employee violates the law by engaging in kickbacks. The United States does not have to show that the person being sued knew of the misconduct—just that the misconduct was perpetrated by that person's business associate—and the United States may recover a civil penalty equal to the amount of each kickback involved in the case.

Because section 5(a)(2) imposes civil liability on one person for the actions of its business associate, its provisions are more circumscribed than those in section 5(a)(1). For example, it permits the United States to recover only the amount of a kickback in question rather than twice that amount plus $10,000, and it limits liability to situations where actual rather than attempted misconduct has occurred.

The goal of the section is not only to provide partial compensation to the Government for kickback costs included in Federal contracts, but also to impose a limited civil liability on companies for the kickback activities of their employees, subcontractors and agents, as a way of encouraging these companies to take steps to stop kickbacks within their operations.

The foundation of this approach is the longstanding doctrine of respondeat superior which holds employers responsible for the actions of their employees. By holding employers civilly liable for injuries caused by their employees, the doctrine encourages employers to supervise their employees to deter misconduct. In light of this broad doctrine of employer liability, it is consistent to hold companies civilly liable to the United States for the kickback activities of the persons they employ.

The bill takes the further step of holding a company civilly liable for the misconduct of its subcontractors and the subcontractor's employees when these persons' kickbacks affect a prime contract with the United States. The Supreme Court has upheld this type of civil liability in other Federal laws. *Cf. American Society of Mechanical Engineers, Inc.* v. *Hydrolevel Corp.*, 456 U.S. 556, 572 (1982) (principal held civilly liable under antitust law for agent's anticompetitive actions in order to encourage the principal to supervise its agents to deter their misconduct). Through this expanded civil liability provision, the bill encourages companies to supervise not only their own employees but also their subcontracting operations as a whole to deter kickback activities.

The bill takes this approach, because representatives of various agencies within the Federal Government testified before Congress that subcontractor kickbacks cannot be eliminated from the Federal procurement system, unless prime contractors and subcontractors are enlisted in the fight against this fraud. These contractors are better situated than the Government to detect and prevent kickback schemes perpetrated by their employees or agents—they select the people they do business with, set workplace procedures and monitor the work. But instituting procedures to detect and prevent kickbacks is difficult and costly. For this reason and based upon past experience with the kickback problem, the authors of the bill concluded that without some measure of civil liability for the wrongdoing, companies would not devote the necessary resources to an anti-kickback effort. The bill thus authorizes the United States to seek a civil penalty against companies based upon the kickback activities of their employees, subcontractors and subcontractor employees.

Should the United States recover a civil penalty under section 5(a)(2) from one person for the misconduct of its employee, subcontractor or subcontractor employee, that person may, of course, take any available legal action to seek reimbursement from the actual wrongdoer.

Section 5(b) clarifies the statute of limitations applicable to civil suits under section 5(a). It specifies a period of 6 years from the date the prohibited conduct occurred or, if the conduct was kept hidden, from the date that the United States knew or should reasonably have known that the prohibited conduct had taken place. Six years is a standard time period for filing Federal civil actions involving Federal contracts. The tolling language is modeled in part after that found in 28 U.S.C. 2416(c).

SECTION 6: ADMINISTRATIVE OFFSETS

The existing act provides that the amount of any kickback "shall be recoverable on behalf of the United States from the subcontractor or the recipient thereof by setoff of moneys otherwise owing to the subcontractor either directly by the United States, or by a prime contractor under any contract . . ." 41 U.S.C. 51. The bill preserves this right of offset, but redrafts the provision in light of existing law on administrative offsets and Federal contract procedures.

In 1982, Congress enacted the Debt Collection Act, codified in part at 31 U.S.C. 3716, to standardize Government procedures for instituting administrative offsets. This statute does not govern all types of administrative offsets, but it covers a large variety of situations. The authors of the bill determined that the Anti-Kickback Act, which was enacted in 1946, should not preempt the Debt Collection Act or other common law and statutory schemes which now govern administrative offsets by the United States.

Accordingly, the bill redrafted the Anti-Kickback Act's offset provision so that it applied only to moneys owed by the United States under a prime contract tainted by a kickback. The Debt Collection Act and other administrative offset laws do not apply to such intra-contractual adjustments. *See Avco Corp.* v. *United States,* Case No. 14-85C (U.S. Claims Court Aug. 19, 1986). By limiting the Anti-Kickback Act in this way, the bill in no way limits the United States' right to recover kickback amounts under other laws authorizing administrative offsets; the bill merely requires the United States to cite these other statutes or common law doctrines, rather than the Anti-Kickback Act, as the basis for its actions.

Section 6(a) provides general authorization for offsets of kickback amounts. It provides, in essence, that where it has been determined that a kickback has been provided, accepted or included in a contract price, the contracting officer may offset the amount of the kickback from any moneys owed by the United States to the prime contractor under the prime contract tainted by such misconduct.

This section limits the U.S. right of offset to cases in which actual, as opposed to attempted, misconduct has taken place. The section does not require the United States to obtain a final judgment by a court of law before submitting a kickback claim to a contracting officer; the bill contemplates the United States following the same procedures to arrive at its kickback claim that it follows in submitting any other Government claim to a contracting officer.

The section coordinates the offset provision with existing Federal contract law by requiring a contracting officer to initiate the offset and by referencing the Contract Disputes Act of 1978, 41 U.S.C. 601-613, which provides general procedures for resolving claims between the United States and its contractors. The section is designed to allow the procedures called for in the bill to be handled in accordance with the procedures set out in the Contract Disputes Act. Under the combined provisions of section 6(a) and the Contract Disputes Act, for example, a contracting officer presented with a Government claim for a kickback amount would, pursuant to 41 U.S.C. 605, issue a decision in writing to the prime contractor demanding reimbursement. The contracting officer could, if he or she wished, combine the kickback claim with other claims affecting the same prime contract and issue a single decision letter on all of them.

A prime contractor who disagrees with the Government's kickback claim may appeal the contracting officer's decision on the claim pursuant to the procedures set out in the Contract Disputes Act. In light of the fact that the Government's claim involves fraud, however, the prime contractor's right of appeal is intended by the authors of the bill to lie exclusively with the U.S. Claims Court under 41 U.S.C. 609(a). An agency board should not handle such appeals, because the boards' factual determinations are subject to only limited review in a judicial forum under a standard requiring a showing of fraud, arbitrariness, capriciousness, bad faith or failure of substantial evidence. In contrast, the U.S. Claims Court may review the facts underlying the kickback claim on a de novo basis. Prime contractors should have de novo review, in a judicial forum, of the facts underlying contract claims involving fraud.

Section 6(b) retains the U.S. right under the existing Anti-Kickback Act to exercise an offset through a prime contractor and further permits the prime contractor, in cases the Government deems appropriate, to recoup the offset sums from a subcontractor. The subsections implementing these provisions work in tandem and should be read together.

For example, read together, subsections 6(b)(1) and 6(b)(2)(A) apply to cases in which the United States wishes to recover kickback costs from a subcontractor with whom it has no direct contractual relationship. In this event, the contracting officer may direct the prime contractor, under subsection 6(b)(1), to withhold the necessary sums from moneys that the prime contractor owes the subcontractor and, under subsection 6(b)(2)(A), to pay those sums to the appropriate contracting agency. In this way, the United States recovers its kickback costs administratively from the subcontractor, by acting through the prime contractor.

Subsections 6(b)(1) and 6(b)(2)(B), read together, apply to cases in which the United States has already executed an offset against a prime contractor but wishes to authorize the prime contractor to recoup the offset sums from an appropriate subcontractor. In this event, on instruction of the contracting officer, subsection 6(b)(1) permits the prime contractor to withhold from sums it owes the subcontractor the amount of any kickback which has been or may be offset against the prime contractor under section 6(a). Again on instruction from the contracting officer, subsection 6(b)(2)(B) permits the prime contractor to keep this money (rather than pay it to the United States) if the United States has already collected that sum from the prime contractor through an administrative offset. Subsection 6(b)(3) requires the prime contractor to notify the contracting officer when, after being instructed to do so, it, in fact, has retained money under the authority of subsection 6(b)(2)(B).

Section 6(b) was designed primarily to benefit those prime contractors who are unwitting participants in subcontractor kickback schemes, by enabling them to pass on or recoup from appropriate subcontractors any kickback costs which the United States may recover or has recovered from the prime contractors through an administrative offset. The provisions are, of course, in addition to other legal remedies which a prime contractor may pursue to recoup such losses from an appropriate party.

As a safeguard, a prime contractor may not invoke section 6(b) unilaterally; it must convince a contracting officer to direct the prime contractor to proceed under the section. By assigning the responsibility of initiating the offset procedures to the contracting officer, the bill seeks to assure that due regard will be paid to the purposes of the Act and the facts of each case. For example, it is not intended that a contracting officer will authorize a prime contractor to retain funds under subsection 6(b)(2)(B) in cases where the prime contractor was a knowing participant in a kickback scheme perpetrated by the subcontractor or in cases where the identity of the subcontractor responsible for paying the kickback is unclear.

SECTION 7: CONTRACTOR REQUIREMENTS

Section 7 of the bill imposes new responsibilities on prime contractors and subcontractors. These provisions are intended to increase contractor participation in efforts to deter subcontractor kickbacks.

Section 7(a) states that each Government contract must require the prime contractor to "have in place and follow reasonable procedures designed to prevent and detect violations of [the Act] within its own operations and direct business relationships." This provision is intended to encourage prime contractors to institute formal procedures to combat subcontractor kickbacks.

Some persons expressed concern that this section would require them to impose burdensome and intrusive procedures on their subcontractors, such as requiring the subcontractors to submit to periodic audits of their books by the prime contractor. The bill does not require prime contractors

to impose burdensome and intrusive procedures on their subcontractors. Again, the provision only requires reasonable antikickback measures. Prime contractors should seek a middle ground between ignoring their subcontractors' possible kickback activities and asserting direct control over their subcontractors' operations and personnel. Examples of nonburdensome, unintrusive procedures are requiring subcontractors: (1) to submit declarations with each bid that they have not engaged in kickbacks to win the award of the subcontract, and (2) to answer questions about whether prime contractor employees are soliciting them for kickbacks.

The word "reasonable" provides needed flexibility to this section of the bill, which requires a wide variety of contractors to implement antikickback procedures. The authors of the bill intend courts, when imposing liability for inadequate procedures, to apply the requirement with consideration for good faith efforts and substantial compliance with the provision. At the same time, courts should not allow prime contractors to use the test of reasonableness to, in essence, shield themselves from providing more than token antikickback procedures.

CONCLUSION

The Anti-Kickback Act had not been amended in 25 years, and a legislative overhaul was long overdue. By stiffening criminal penalties, expanding the civil recovery provisions, prohibiting kickbacks on any type of prime contract to obtain any type of favorable treatment, and otherwise modernizing and broadening the Act, the bill provides a needed strengthening of the legal deterrent to subcontractor fraud.

Mr. CHAFEE. Mr. President, I move to concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

CORRECTION IN THE ENROLLMENT OF S. 2250

Mr. BYRD. Mr. President, I send to the desk a Senate concurrent resolution by Mr. LEVIN, for himself and Mr. COHEN, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 168) authorizing a technical correction to be made in the enrollment of the bill S. 2250.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to, as follows:

S. CON. RES. 168

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 2250) to prohibit kickbacks relating to subcontracts under Federal Government contracts, the Clerk of the Senate shall make the following correction:

In the first sentence of section 5(a)(2) of the Anti-Kickback Act of 1986 (as it appears in section 2(a) of the bill), insert "employee," between "whose" and "subcontractor".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. CHAFEE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL KIDNEY PROGRAM DAY

Mr. CHAFEE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 367.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. J. Res. 367) entitled "Joint resolution to designate September 24, 1986, as "National Kidney Program Day", do pass with the following amendment:

Page 2, line 4, strike out (September 24,), and insert: "October 23,"

Amend the title so as to read: "Joint resolution to designate October 23, 1986, as 'National Kidney Program Day.' ".

Mr. CHAFEE. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider that action.

Mr. BYRD. Mr. President, I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

TRANSFER OF THE COAST GUARD CUTTER "TANEY"

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 5598, dealing with the Coast Guard cutter *Taney,* now being held at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5598) to provide for the transfer of the Coast Guard cutter *Taney* to the city of Baltimore, Maryland, for use as a maritime museum and display.

The Senate proceeded to consider the bill.

Mr. MATHIAS. Mr. President, H.R. 5598 provides for the transfer of the Coast Guard cutter *Taney* to the city of Baltimore, MD, for use as a maritime museum in the city's Inner Harbor area. I understand that this bill has been cleared on both sides and that there are no objections from the executive agencies.

The vessel is named after Roger Brooke Taney of Maryland who served as the fifth Chief Justice of the United States after serving as Secretary of the Treasury and Attorney General. He is buried in Frederick, MD, where he had practiced law as a young man. She was commissioned in 1936 and saw action in both the Atlantic and Pacific Oceans during World War II as well as in Korea and Vietnam.

The *Taney* is due to be decommissioned this December. The Coast Guard has said that, because of its age, she would not be called to duty again. Baltimore will provide the funds for the transfer and drydocking.

I urge my colleagues to support this bill so that the maritime heritage of the *Taney* can be preserved.

Mr. SARBANES. Mr. President, I rise in strong support of H.R. 5598, providing for the transfer of the Coast Guard cutter *Taney* to the city of Baltimore for use as a maritime museum and display, upon decommissioning of the vessel.

Both the cutter and its namesake, Roger Brooke Taney, served the Nation with distinction. Roger B. Taney served as attorney general of Maryland in 1827, Attorney General of the United States in 1831, Secretary of the Treasury in 1833 and was the fifth Chief Justice of the U.S. Supreme Court in 1836. He was born in Calvert County, lived in Baltimore and is buried in Frederick, MD, where his home, the Taney House, is a State historic landmark.

The cutter, commissioned in 1936, is the last of five Coast Guard vessels named after U.S. Secretaries of the Treasury. She is the last U.S. warship out of 101 naval vessels in Pearl Harbor during the attack on December 7, 1941, to be in active service. She also served at Okinawa, Korea, Vietnam, and more recently on the east coast of the United States in law enforcement and search and rescue missions. The impressive historical significance of the *Taney* warrants that once she is decommissioned, the memory of her service and of the Marylander for

whom she is named be preserved as a symbol of Coast Guard heritage.

The transfer to the city of Baltimore would take place after the *Taney* has been decommissioned later this year and the city has agreed to assume all costs associated with transferring and drydocking the cutter. Mr. President, I strongly support this bill and urge its adoption.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5598) was ordered to a third reading, was read the third time, and passed.

Mr. CHAFEE. Mr. President, I move to reconsider that action.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

THE CENTRAL VALLEY PROJECT OPERATION — CONFERENCE REPORT

Mr. CHAFEE. Mr. President, I submit a report of the committee of conference on H.R. 3113 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3113) providing for the coordinated operation of the Central Valley Project and the State Water Project in California, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 14, 1986.)

Mr. McCLURE. Mr. President, the conference agreement on H.R. 3113 marks a great achievement in establishing direction for the management and further development of our western water resources. The agreement is the culmination of not only the efforts of the Senate and House conferees, but reflects a lot of hard work on the part of staff and representatives of the environmental and water resource communities. The agreement is a major step toward the better management of our western water resources.

I express my appreciation for the efforts of my colleagues on the Senate Energy and Natural Resources Committee for their contributions and constructive help in achieving this landmark legislation. I commend also to my colleagues the strong support for the Senate bill by the Senate conferees: Senator DOMENICI, Senator WALLOP, Senator MURKOWSKI, Senator EVANS, Senator JOHNSTON, Senator FORD, Senator METZENBAUM, and Senator MELCHER. Each contributed to the agreement that is before the Senate today.

I particularly thank the chairman of the Subcommittee on Water and Power, Senator MURKOWSKI, for his able assistance in moving the legislation through the subcommittee, the Senate, and the conference. His concerns for the water users and the conservation of our resources helped shape the agreement that is before us.

The text of the agreement is substantially in accord with the Senate version of H.R. 3113 except for title I where the conferees agreed to a true compromise version which, I believe, combines the best elements of both the House and Senate bills.

If I may take just a moment, I will briefly highlight segments of the Statement of the Managers which addresses the areas of compromise in the substitute agreed to by the conferees.

Title I of the substitute amends section 2 of the Act of August 26, 1937, to provide that:

Unless the Secretary of the Interior determines that operation of the Central Valley Project in conformity with State water quality standards for the San Francisco Bay/Sacramento-San Joaquin Delta and Estuary is not consistent with the congressional directives applicable to the project, the Secretary is authorized and directed to operate the project, in conjunction with the State of California Water Project, in conformity with such standards.

This language provides protection for the investment of the taxpayer and the Nation in the facilities of the Central Valley project. Foremost under the reclamation law is the obligation of the Secretary of the Interior to secure repayment of the reimbursable costs of reclamation projects. In operating the Central Valley project to meet appropriate water quality standards, the Secretary must be consistent with the congressional directives applicable to the project. In response to those directives, the Secretary must not place in jeopardy the repayment capability of the project.

This agreement also lays to rest a myth that enactment of this legislation would provide a backdoor authorization for the relocation of the intake of the Contra Costa Canal entirely at Federal expense. I do not know the origin of this myth, but it proved troublesome in reaching a final agreement and is addressed by the legislation.

I would also note that at the insistence of the Senate, the House conferees agreed to modify the provision regarding the reimbursability of costs associated with providing Central Valley project water supplies for the purpose of salinity control and for complying with the State water quality standards identified in the coordinated operation agreement. The conference agreement provides that such costs shall be reimbursed in accordance with existing reclamation law and policy.

The original House version would have made all such costs over and above the so-called "Tracy Standards" nonreimbursable. I commend the House and the Central Valley project participants for their willingness to shoulder the burden of the repayment of the necessary costs. And I thank my Senate colleagues for helping maintain the honesty and integrity of the reclamation program.

Mr. MURKOWSKI. Mr. President, will the chairman yield?

Mr. McCLURE. I would be glad to yield to the distinguished chairman of the Subcommittee on Water and Power.

Mr. MURKOWSKI. I thank the chairman.

I would note that it is customary under the reclamation law for project beneficiaries to pay the costs of mitigating the adverse environmental impacts of such projects.

Mr. McCLURE. Yes, it is. All project purposes share the burden of mitigating adverse environmental impacts and the conference agreement maintains this policy.

Mr. MURKOWSKI. I thank the chairman. It only seems fair to me that those who participate in a Federal project should bear the burden of mitigation commensurate with the benefits received and the impact of that particular project purpose. This is fair.

Mr. McCLURE. Mr. President, I should also advise my colleagues that the agreement provides that the cost of providing water for salinity control and for complying with State water quality standards above those standards in the coordinated operation agreement shall be nonreimbursable. There are three inherent elements in agreeing to this part of the compromise:

First is that the benefits of such efforts are national in scope. The area addressed by the standards, San Francisco Bay and the delta, is of national and international significance as aquatic habitat for wildlife.

Second is the obligation on the part of the Secretary to operate the project in consistency with applicable congressional directives, regardless of what standards may be set.

Third is how we define cost, and here I speak not of dollars and cents, because money alone will not provide salinity control or improved water quality. The real cost of meeting the requirements would be in terms of water. Water is the essential ingredi-

ent in providing for salinity control and water quality standards.

I am totally confident that the participants in the State water project and the Central Valley Project, long before the dollar-and-cents costs could become burdensome on the Federal Treasury, will take every step to ensure that their contractual supplies would not be interrupted. I am not disillusioned as to their ability; these are tough western water users who live in an area where water is worth much more than money.

Mr. MURKOWSKI. Mr. President, will the distinguished chairman yield? I wish to call to the attention of the Senate and those interested in the legislation a letter from the Office of Management and Budget regarding H.R. 3113.

Mr. McCLURE. I will certainly yield to the chairman of the Subcommittee on Water and Power.

Mr. MURKOWSKI. As my colleagues know, the deliberations on this legislation have not been without controversy. Through great efforts in the Committee on Energy and Natural Resources, and on the floor of the Senate, the Senate passed a responsible measure. The Senate version was responsible to the needs of the water users in the Central Valley project in California, responsible to the participants in the Small Reclamation Projects Loan Program, responsible to environmental concerns, and finally, responsible to the taxpayer who carries the initial burden of funding the development of our water resources.

I think the Senate did a good job.

I also agree with the chairman that the conference agreement reflects the efforts of the Senate to ensure fiscal responsibility as well as environmental awareness in perfecting the management of the existing Central Valley project as well as in the granting of loans pursuant to the Small Reclamation Projects Act. We have done a good job—but I am dismayed at the efforts of the Office of Management and Budget. I have here a copy of a letter from the Office of Management and Budget which seems to try and lay down what they believe are the minimum requirements of this legislation if we are to avoid a veto by the President.

First, I resent the late date at which the OMB made their views known, and second, I resent their efforts to try and influence the legislative process of the conference committee.

Mr. McCLURE. I thank the subcommittee chairman for giving me the opportunity to comment on the letter from the OMB. I have a copy. The letter was received by the Committee on Energy and Natural Resources on September 9, 1986.

First of all, the letter was behind the times. The Senate and the conferees had already addressed the concerns expressed by OMB. Perhaps not to the extremes that OMB proposed, but on the other hand, I believe the Congress is in much closer touch with the real world and recognized the practicalities required of the legislation.

Mr. MURKOWSKI. I thank the Chairman.

On balance, I believe that the Senate was far in advance of the OMB in establishing responsible fiscal limitations for both the coordinated operations agreement and the Small Reclamation Projects Act Program. The Senate version of the bill required reimbursability for activities pursuant to the COA, limited the subsidy under the Small Reclamation Projects Act to the smaller, family-sized farm, and provided for a market yield interest rate on interest-bearing components of the loans. In addition, we provided for periodic analysis of the ability to pay capability for the Central Valley project, interest on operation and maintenance deficits for the CVP, shortening of the repayment period for loans pursuant to the Small Reclamation Project Act, and requirements for upfront financing of loans. Individually, these are important steps. Collectively, they amount to a wholesale change in the COA as well as substantial alterations to the Small Reclamation Project Act.

I am pleased to report to my colleagues that the Senate position prevailed in conference and is reflected in the conference agreement.

Most of these actions occurred during consideration of the legislation by the committee and was confirmed on the Senate floor, long before receipt of the letter from the OMB. To the extent that the letter from the OMB supports the actions of the Senate, I am appreciative.

Mr. McCLURE. I thank the subcommittee chairman for his remarks regarding the letter from OMB and I agree with him that the conference agreement more than adequately addresses the issues raised in the letter.

Mr. President, the conferees having adopted title II of the Senate version in its entirety, the next point I would call to the attention of my colleagues is in title III of the agreement.

Title III of the agreement provides for amendments to the Small Reclamation Projects Act of 1956, and here I would take a moment to once again express my gratitude to my colleagues on the Energy and Natural Resources Committee and, in particular, Senators MELCHER and METZENBAUM for their constructive efforts in crafting title III of the Senate version of the bill. The conference agreement reflects their efforts.

Mr. President, as my colleagues will recall from the debate on the floor of the Seante when we considered H.R. 3113, grave concern was expressed regarding the impact of the 20-percent limitation on the appropriation of funds to any one State. Similar concern was expressed on the part of the House conferees and a compromise was adopted. The conference agreement retains the Senate language in a modified form. The conference agreement would impose the 20-percent limitation for a period of 5 years. After that time period, the Secretary may waive the limitation if it is determined that a loan or grant has met the purposes of the act. The Secretary must send the reasons for waiving the limitation to the Congress and allow Congress 60 legislative days in which to pay a joint resolution of dissapproval. I think this compromise reflects the Senate conferees' concern that there should be a mechanism whereby those projects which are worthwhile and clearly meet the objectives of the program should go forward.

Title IV of the agreement is the Senate text with a clarifying amendment.

Mr. President, this legislation is the end product of over 20 years of concerted effort in California regarding the coordinated operations agreement and two Congresses in regard to the Small Reclamation Projects Act. The effort on the part of the staff of the Senate Committee on Energy and Natural Resources should also be recognized. I would like to thank Russ Brown, professional staff of the Subcommittee on Water and Power, for his work, particularly on the Small Reclamation Projects Act, and Bill "Combine" Conway of the minority staff for his efforts on behalf of Senator JOHNSTON and the minority members of the committee.

Mr. President, I urge approval of the conference report.

Mr. JOHNSTON. Mr. President, I am pleased that today we are going to approve the conference report to H.R. 3113. This bill will accomplish a number of meritorious goals.

Title I of the conference report would authorize the Secretary of the Interior to operate the Central Valley project [CVP] on a coordinated basis with the California State water project [SWP] and require the CVP in conjunction with the SWP to meet certain State water quality standards. Under the coordinated operations agreement [COA], both projects will reap benefits from more efficient use of available water resources. In addition, the provisions of the conference report will ensure that the impacts of CVP and SWP operation on water quality in the Sacramento/San Joaquin Delta are mitigated.

Title II of the conference report would reauthorize construction of facilities to protect Suisun Marsh from saline encroachment resulting from operation of the CVP and SWP. I am happy to say that the conferees adopt-

ed provisions in the Senate-passed version of H.R. 3113 requiring significant up-front cost sharing by the State of California and allocation of the Federal share of costs to CVP project purposes.

Title III of the conference report authorizes an additional $600 million for loans and grants under the Small Reclamation Projects Act. For the most part the conferees accepted the Senate-passed language which brings new fiscal discipline to the program. Included in the report the provisions for increased cost sharing by loan recipients, shortened repayment periods, the use of market interest rates, and increased payment of interest by recipients of irrigation benefits. I note that the Small Reclamation Loan Program has an excellent repayment history. Furthermore, most loans are made for purposes of conserving water resources through the rehabilitation and betterment of existing projects. For these reasons, I strongly support the increased authorization for this program.

Finally, title IV of the conference report clarifies that certain irrigation districts which have constructed hydroelectric projects at Bureau of Reclamation dams are not required to pay annual charges for the use of those dams as a result of provisions of their contracts with the Federal Government that exclude such payments.

Mr. President, I believe that it is in the public interest for the Senate to approve the conference report to H.R. 3113. Among other considerations, I believe that this bill will significantly improve repayment of the Federal investment in the Central Valley project. At present the CVP has approximately 1 million-acre-feet per year of firm yield that would ordinarily be available for long-term contract. As a matter of departmental policy, however, the Secretary of the Interior has not marketed this water pending resolution of the obligation of the CVP to meet delta water quality standards. Enactment of H.R. 3113 would resolve this obligation and thus allow the marketing of the water that has previously been reserved. In addition, the provisions of H.R. 3113 would allow the CVP in good water years to expand project yield. The marketing of these new water supplies will increase the revenue stream received by the Federal Government for CVP repayment.

Mr. President, I should note one area of disappointment, and that concerns who is to pay for the costs of meeting State water quality standards in the delta and San Francisco Bay and estuary. Under the provisions of the conference report, the cost of meeting current delta standards is allocated to CVP purposes and required to be reimbursed by project beneficiaries in accordance with existing reclamation law. However, the costs of meeting future delta standards and standards for the bay and estuary—which have yet to be determined—are completely nonreimbursable. That approach is very disturbing to me because it potentially locks in one more layer of subsidy for the benefit of CVP contractors.

To the extent that future water quality standards imposed on the CVP represent mitigation of CVP impacts, as opposed to general environmental enhancement, it is only fair that the cost of meeting those standards should be allocated to project purposes as a "cost of doing business." Yet under the provisions of the conference report, CVP contractors will receive a free ride on all future water quality standards, regardless of their role in making the setting of such standards necessary. I am only able to accept this dubious arrangement because I believe that environmental quality must be maintained and that the ultimate increase in CVP repayment will be greater with enactment of H.R. 3113 than without it.

I note in closing, however, that the unwillingness of CVP contractors in this instance to shoulder a burden that is properly theirs is precisely the sort of position that produces ever more serious assaults upon the Reclamation Program. Undoubtedly, we will revisit many of the issues concerning the Central Valley project. When we do, I would not be surprised to find that, as a result of actions taken today, the case for radical change, perhaps even the charging of interest on repayment of irrigation costs, has become compelling.

Mr. WILSON. Mr. President, the conference report on H.R. 3113 that we are considering today marks what is perhaps the most important Federal legislation on California water issues in the last decade. Putting aside for a moment the substantive provisions of this legislation, what distinguishes this bill and makes it especially important is the spirit of cooperation and comity embodied in this legislation. In a State where it has been said many times that water wars have been raging for decades, H.R. 3113 represents a coming together of a traditionally highly divisive California water community.

Supporting this bill after long and difficult negotiations are the farmers, the environmentalists, the State of California, the communities dependent on the high quality of drinking water provided for by this bill, the fishermen and hunters, and scores other interested parties. Even northern and southern California interests—who rarely agree on any statewide water issues—support this bill, albeit for different reasons.

We have already seen one manifestation of this new-found spirit of cooperation in the work that the environmental defense fund and the Westlands water district have begun together in responding to the Kesterson National Wildlife Refuge crisis.

Leaving the Kesterson problem for another day, let me turn to the conference report at hand. Title I of this bill authorizes the coordinated operations agreement [COA] and in so doing allows for the coordination of the massive Federal Central Valley project and the California State water project. This means a number of things for California, but at least three direct benefits will accrue from this agreement.

First, the Federal Central Valley project is now authorized by this legislation to be operated in conjunction with the State project to meet State-ordered water quality standards in the San Joaquin/Sacramento River Delta and the San Francisco Bay into which the delta feeds. Prior to this agreement, the responsibility for meeting these standards was unclear and created much uncertainty in the water community.

Second, now that the Federal Government's responsibility for meeting State-ordered water quality standards is clearly delineated in the COA and this legislation, the Bureau of Reclamation will be free to begin marketing over 1 million acre-feet of water that it has held back from the market since 1978. For those of my colleagues who are unfamiliar with this Western water law term, an acre-foot of water serves a family of four for about 1 year. There are many anxious buyers in California ready to take advantage of this new water supply, and this legislation will finally give them the opportunity to commence contract negotiations.

Third, the COA contains a provision that authorizes the Bureau of Reclamation to conclude a contractual agreement with the State—subject to congressional approval—that will allow for the sale of as much as 300,000 acre-feet of water to the sprawling metropolitan communities of southern California. In return, the State will make its excess water conveyance system capacity available to the Federal Central Valley project. Simply put, the Federal CVP is short on canal capacity and long on water supply. The State, on the other hand, has the canals but not enough water to service the demands on its system. The potential for a deal here is only too obvious, and this legislation authorizes an agreement to be finalized.

Title II of this conference report authorizes another Federal/State agreement, this one dealing with the protection of the Suisun Marsh located at the nexus of the delta and the San Francisco Bay. Together with the Suisun Resources Conservation Dis-

trict, the State and the Bureau of Reclamation have agreed to cost-share on the building of certain water control facilities in the marsh that will have the effect of maintaining State-ordered water quality standards, thereby preserving the precious wildfowl habitat found at this marsh.

Title III of the conference agreement is the final major provision of this bill. It reauthorizes the Small Reclamation Projects Act of 1956 by making available $600 million for new loans and grants under this program. Since inception, California has benefited extensively from this program. The loans made available under this act have aided water districts throughout California in rehabilitating and restoring their water distribution and supply systems. These loans and grants have also been used for the construction of flood control features, fish and wildlife enhancement, and recreational developments.

When the Senate passed its version of H.R. 3113 earlier this summer, it contained a provision in title III that was very onerous to the State of California. This provision would have capped California's share in the Small Reclamation Projects Act Program at 20 percent. Given that most of the needs intended to be serviced by this program have traditionally been found in California, I objected strenuously to this cap on the floor during the Senate consideration of this bill.

I am most pleased to note that the conference agreement modified this cap provision by allowing the Secretary of the Interior to waive this cap on a loan-by-loan basis after 5 years. I think this a most equitable arrangement and commend the House and Senate conferees for their good work on this issue.

This conference agreement touches on other issues that I will not mention in this statement. But as a general matter, this bill does much for California and I extend my heartfelt thanks to the Energy Committee and its distinguished chairman and staff for their dedicated efforts in bringing this conference report to the floor today. The many hours that the committee spent in hearings, markup, and conference negotiations have come to a successful conclusion, and all of California owes many thanks for this fine work.

I urge adoption of the conference report.

Mr. CRANSTON. I am pleased to support the conference report on H.R. 3113, a bill to authorize the Secretary of the Interior to execute the coordinated operation agreement and Suisun Marsh preservation agreement and reauthorize the Small Reclamation Projects Act.

The coordinated operation agreement is an historic and tremendously important agreement between the Federal Government and the State of California regarding the operation of the Federal Central Valley project and the State water project. It ends years of dispute over the Federal Government compliance with State water quality standards for Sacramento-San Joaquin Delta and provides for use of the State water facilities for conveyance of Federal project water. Importantly H.R. 3113 establishes in Federal law the requirement that the Central Valley project, like the State water project, be operated to protect the water quality of the delta and San Francisco Bay and limit water pumping diversions during drought years, even if it means reducing deliveries to their contract buyers, in order to maintain bay and delta standards. This obligation continues irrespective of the future of the coordinated operation agreement itself. Although the conference report does not contain the House language regarding nonreimbursability of costs associated with meeting these water quality standards, I believe the compromise reached by the conferees is fair and that the legislation is in the best interest of California.

Mr. President, I'm also pleased the conferees have agreed to include authorization of the Suisun Marsh preservation agreement. This agreement will provide for the construction of facilities to restore the marsh which is critical to the Pacific flyway.

Also I'm pleased the conference report includes an additional authorization of $600 million for the Small Reclamation Projects Act. This increase is necessary to continue a program which has been highly successful in California and proven an invaluable tool for the conservation and wise use of limited water resources.

I urge adoption of the conference report.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider that action.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

WILD AND SCENIC RIVERS ACT AMENDMENTS

Mr. CHAFEE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4350.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 4350) entitled "An Act to amend the Wild and Scenic Rivers Act, and for other purposes", with the following amendments:

(1)Page 2, strike out lines 21 to 23, inclusive, and insert:

With respect to the portions of the river segments designated by this paragraph which are within the boundaries of Rocky Mountain National Park, the requirements of subsection (b) of this section

(2)Page 20, strike out all after line 8, over to and including line 2 on page 21.

(3)Page 20, line 3, strike out [511.], and insert: *510.*

(4)Page 22, strike out line 1, and all that follows, over to and including line 2 on page 24.

AMENDMENT NO. 3404

Mr. CHAFEE. Mr. President, I move that the Senate concur in the House amendments with a further Senate amendment which I send to the desk on behalf of Senator McCLURE.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. McCLURE, proposes an amendment numbered 3404.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following new title at the end of the Act:

TITLE VII—TO PROVIDE RELIEF FOR CERTAIN DESERT LAND ENTRYMEN IN IDAHO

SEC. 701. The Congress finds that—

(1) certain developed and productive desert land entries in Idaho, identified in section 702 of this title, made pursuant to the Act entitled "An Act to provide for the sale of desert lands in certain States and Territories", approved March 3, 1877 (43 U.S.C. 321, et seq.), commonly known and hereinafter referred to as the "Desert Land Act", have been cancelled by the Secretary of the Interior pursuant to holding limitation regulations promulgated pursuant to section 7 of the Act (43 U.S.C. 329);

(2) such regulations were retroactively applied to such desert land entries several years after the entries were allowed and more than two years after final development, proof and final payment for such entries were made, without giving the entrymen any opportunity to comply with the new interpretation of such regulations;

(3) cancellation of such desert land entries was harsh and unfair, and resulted in forfeiture to the Government of the developed entries and the monies paid for the land;

(4) such entrymen have fulfilled the requirements of the Desert Land Act in all respects other than such holding limitation regulations; and

(5) such entrymen, or their heirs or devisees, should have the entries reinstated and qualify for issuance of patents to carry out the objectives of the Desert Land Act.

SEC. 702. The names of the entrymen, and the serial numbers of the desert land entries generally known as the "Sailor Creek Project", to which this title applies, are as follows:

Bureau of Land Management

Entryman:	*Serial Number*
G. Patrick Morris	Idaho 013820
John E. Roth	Idaho 013905
Elsie L. Neeley	Idaho 013906
Lyle D. Roth	Idaho 013907
Vera M. Noble (Now Baltzor)	Idaho 014126
Charlene S. Baltzor	Idaho 014128
George R. Baltzor	Idaho 014129
John E. Morris (deceased)	Idaho 014130
Juanita M. Morris	Idaho 014249
Nellie Mae Morris (deceased)	Idaho 014250
Milo Axelsen	Idaho 014251
Peggy Axelsen	Idaho 014252

SEC. 703. (a) The desert land entries identified in section 702 of this title are hereby reinstated. The entrymen, or the heirs or devisees of any deceased entryman, may—

(1) rescind any agreement which is prohibited by the Secretary of the Interior pursuant to regulations under section 7 of the Act (43 U.S.C. 329) within six months after the date of enactment of this title; and

(2) resubmit final proof of reclamation and cultivation of the land in accordance with the provisions of section 7 of the Act (43 U.S.C. 329) before December 31, 1988.

(b) The Secretary of the Interior shall issue patents to the entrymen named in section 702, or their heirs or devisees upon compliance with the provision of subsection (a) and the submission of satisfactory final proof.

SEC. 704. Notwithstanding any other provisions of law, the property right prior to issuance of a patent to the land of any entryman identified in section 702 of this title, or the heirs, or devisees of any such entryman whose entry is reinstated in accordance with section 703 of this title, shall be a personal right, inheritable but not assignable. Any such entry may be mortgaged in the manner permitted by regulations promulgated by the Secretary of the Interior for the purpose of securing repayment of monies borrowed for development of the entry or for farm operating or crop production expenses.

Add at the end of the Act new titles 8, 9 and 10 as follows:

TITLE VIII—BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL

AUTHORIZATION OF MEMORIAL

SEC. 801. The Black Revolutionary War Patriots Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

FUNDING

SEC. 802. The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

TITLE IX—WOMEN IN THE ARMED FORCES MEMORIAL

AUTHORIZATION OF MEMORIAL

SEC. 901. The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

FUNDING

SEC. 902. The Women in Military Service for America Memorial Foundation shall establish the memorial with non-Federal funds.

TITLE X—NEW RIVER GORGE ADMINISTRATIVE SITE

SEC. 1001. Section 1102(a) of the National Parks and Recreation Act of 1978 (Public Law 95-625) is amended by inserting the following after the second sentence: "In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site.".

SEC. 1002. Section 1112 of the same act is amended by striking "$500,000" and inserting "$3,000,000".

Mr. BYRD. Mr. President, included in these amendments is an amendment which was introduced by my distinguished colleague, Mr. ROCKEFELLER, as a bill, S. 2384, Calendar No. 938. My distinguished colleague is on the floor, and I am sure he will want to address himself to this amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank my distinguished senior colleague from West Virginia.

Mr. President, part of this package, I am happy to say, is an amendment of mine which was passed by the Senate Committee on Energy and Natural Resources. I want to particularly give my thanks not only to Chairman MCCLURE of the Senate Energy Committee but also to my distinguished senior colleague, Senator BYRD. If it had not been for the very intense negotiations of both these gentlemen, this package would not have been possible; and this amendment, which will allow for construction of the New River Headquarters and Visitor's Center in Glen Jean, WV, would not have been possible without the work of both those Senators. So I thank them both.

Mr. President, I am pleased to say that my New River headquarters amendment is included in H.R. 4350.

This amendment is identical to S. 2384—which I introduced with Minority Leader BYRD—that cleared the Senate Energy and Natural Resources Committee by a unanimous vote and was reported on September 19. The National Park Service also supports S. 2384.

The bill authorizes the acquisition of land for construction of the New River's administrative headquarters, as well as a visitors' center and maintenance facility.

Over a quarter of a million visitors come to the New River each year. For whitewater rafters, the New River is one of the best rafting rivers in this country. For anglers, the New River has long been a favorite fishing spot. For the local community, the river is an important source of jobs and economic activity in the southern part of my State that has severe economic problems.

Given the sheer volume of New River visitors, it's important that the river be well run and adequately maintained—and it needs the facilities to do that.

Presently, the administrative headquarters for the New River are temporarily located in three rented buildings in Oak Hill. To improve park operations, the National Park Service selected this 10-acre site in the historic coal town of Glen Jean. The Glen Jean headquarters will consolidate and vastly improve the Park Service's New River operation. It will ensure that information and services for Park visitors will be located in a centrally located, accessible place. It will also be a great boost to the local economy.

Mr. President, I thank this body for adopting this measure which makes it clear that funds appropriated for land acquisition within the New River may be used to acquire property for the Glen Jean headquarters site.

Mr. BYRD. Mr. President, I thank my distinguished colleague for the leadership he has demonstrated in introducing this measure and for his leadership in bringing it to fruition on this day as an amendment to the pending measure.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WILD AND SCENIC RIVERS ACT

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 2826, amending the Wild and Scenic Rivers Act, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2826) to amend the Wild and Scenic Rivers Act by designating a segment of the Horsepasture River in the State of North Carolina as a component of the National Wild and Scenic Rivers System.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. BYRD. Mr. President, there is no objection to the two requests.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROYHILL. Mr. President, I am most appreciative of the opportunity to address the Senate on the merits of the Horsepasture River. I am pleased to be representing a multitude of individuals and organizations who have been tireless in their efforts to ensure the protection of this natural resource by having it designated as a portion of the National Wild and Scenic River System.

On July 31, 1986, I introduced S. 2707, a bill to amend the Wild and Scenic Rivers Act by designating a segment of the Horsepasture River in the State of North Carolina as a component of the National Wild and Scenic Rivers System.

On July 28, 1986, the U.S. House of Representatives passed an identical bill, H.R. 2826, by voice vote. Although these important actions have happened just recently, I can assure you that they are the product of years of effort.

In 1984, a broad coalition of individuals and groups began to work together to ensure the permanent preservation of the Horsepasture River. This included State and Federal representatives, Duke Power Co., the Trust for Public Lands, a nonprofit land conservation group, and Friends of the Horsepasture, a local citizens group.

Now I'd like to explain why this river is held in such high esteem. In North Carolina, we are fortunate to have an enviable quantity and diversity of breathtaking natural resources. Why, then, has such an enormous amount of effort been committed to the designation of a 4.25-mile stretch of the Horsepasture River, located in the far western part of the State? It's because the Horsepasture River is very special, particularly for its recreational and scenic value.

In a country known as "the land of the waterfalls," the waterfalls of the Horsepasture River stand out as the most spectacular. Horsepasture River Gorge is the most rugged of those in the Blue Ridge escarpment. It has the highest and steepest walls and it is the narrowest. In just 4 miles, the river drops 1,700 feet off the Blue Ridge escarpment into rocky gorges through rugged terrain, spilling out into Lake Jocassee in South Carolina. Many people have said the most impressive of the river's attractions is the 200-foot Rainbow Falls, a mini-Niagara named for the rainbow that can be seen in the mists above the falls.

Extensive woodlands and rough terrain in the Horsepasture River area is home to varied and abundant wildlife populations. Black bear are present and heavily hunted. Deer, turkey, racoon, grouse, and grey squirrel are abundant as well. More than 20 fish species, four of which are of special concern, have been identified in the river, classified by the State as "designated trout waters."

For generations, the river has been a favorite of hikers, swimmers, fishermen, campers, and picnickers. On a typical summer weekend, as many as 300 visitors hike the narrow, unmarked trail to Rainbow Falls and to the other waterfalls, swimming and fishing holes, and picnic sites that surround it. The river is famous among fishermen in the region for its fine trout fishing.

Efforts to preserve Horsepasture River began in August 1984 when the Federal Energy Regulatory Commission gave preliminary approval to Carrasan Power Co.'s application for a license to dam the Horsepasture River at Drift Falls and to divert the river to a powerhouse below Windy Falls. After this happened, North Carolinians united to preserve the Horsepasture in its wild and scenic state.

Last year, Congress approved a request for $1 million to purchase 435 acres of privately owned land along the Horsepasture, helping clear the way for wild and scenic river designation. By including the Horsepasture in the National Wild and Scenic River System, the Congress will cut short the 3-year study of the river it directed in 1984.

Having been born and bred in North Carolina, and representing North Carolinians in the U.S. House for over 23 years, I will certainly not deny my strong love and devotion to this part of the country. I believe the State of North Carolina has a well-deserved reputation for providing Americans nationwide with a place to go to enjoy the beauty of our country—our mountains, our oceans, our woods, our wildlife, and our rivers.

Over the years, it has been rewarding for me to see more and more people moving to our State, particularly young families, motivated in part by the temperate climate and natural resources. I believe it is important to preserve for our children and future generations the spectacular natural beauty of this area that has enriched the lives of so many generations before us.

I want to reiterate my deepest support for the inclusion of the Horsepasture River in the National Wild and Scenic Rivers System and your favorable consideration of H.R. 2826.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. CHAFEE. Mr. President, I inquire of the distinguished minority leader if he is in position to confirm the following nominations in the Executive Calendar: 1075, 1076, 1127, 1128, and 1129?

Mr. BYRD. Mr. President, the nominations that have been identified by the distinguished acting Republican leader have been cleared on this side of the aisle. We are ready to proceed to their consideration and confirmation.

Mr. CHAFEE. I thank the distinguished Democratic leader.

EXECUTIVE SESSION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate now go into executive session in order to confirm the nominations just identified, and I ask unanimous consent that they be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered en bloc and confirmed en bloc are as follows:

UNITED NATIONS

Joan Clark, of California, to be an Alternate Representative of the United States of America to the Forty-first Session of the General Assembly of the United Nations.

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the Forty-first Session of the General Assembly of the United Nations:

Representatives: Vernon A. Walters, of Florida; Herbert Stuart Okun, of the District of Columbia; Thomas F. Eagleton, U.S. Senator from the State of Missouri; and Larry Pressler, U.S. Senator from the State of South Dakota.

Alternate Representatives: Patricia Mary Byrne, of Ohio; Hugh Montgomery, of Virginia; Joseph Verner Reed, of New York; John Kerry, U.S. Senator from the State of Massachusetts; and Paul S. Trible, Jr., U.S. Senator from the State of Virginia.

EXECUTIVE OFFICE OF THE PRESIDENT

Jorge L. Mas, of Florida, to be a Member of the Advisory Board for Radio Broadcasting to Cuba for a term expiring August 12, 1989. (Reappointment)

WORLD HEALTH ORGANIZATION

Frank E. Young, of Maryland, to be Representative of the United States on the Executive Board of the World Health Organization, vice Edward N. Brandt, Jr., resigned.

DEPARTMENT OF AGRICULTURE

Peter C. Myers, of Missouri, to be a Member of the Board of Directors of the Commodity Credit Corporation, vice John R. Norton III, resigned.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

HOUSE CONCURRENT RESOLUTION 395—RELATING TO TAX REFORM ACT

Mr. PACKWOOD. Mr. President, shortly I am going to propose a unanimous-consent request relating to the concurrent resolution, not to be confused with the continuing resolution. The concurrent resolution is the resolution that makes technical correction in the tax bill which is still to be sent to the President. It has not yet been enrolled, and it is being held to see if this concurrent resolution can pass.

The reason I am not going to make it now is I think there may be some objections to consent, and I do not want to shutoff anyone's rights to make objections to it. I want to lay out the groundwork a bit as to what I will try to do if we get consent.

First, there is in the tax bill many—I do not want to say numerous—but many technical errors, unintended. They affect the following States, and I say there is no objection to the correction of these errors in the concurrent resolution. They affect: Arizona involving general aviation airplanes; California involving Campbell Soup Co.; Los Angeles Central Library; Bell Gardens bonds; San Jose Convention Center; and city of Berkeley bonds.

They affect Colorado; the Colorado School Boards bond pool.

They affect Connecticut, the Bigelow-Hartford Carpet Mill; John Fitch Court; State of Connecticut bonds; and Yale University.

In Delaware, Campbell Soup Co.

In District of Columbia, Willard Hotel.

In Florida, Campbell Soup Co.; Miami Airport bonds; Hernando County bond pool; and Santa Rosa Hotel in Pensacola.

In Georgia, sewage treatment plant in Conyers; Marquis Two projects in Atlanta; Georgia municipal bond pool.

In Illinois, Homewood municipal bond pool.

In Indiana, Indianapolis Union Station; Fort Wayne low income/rehab. project; and Indiana Bank bond pool.

In Kentucky, Kentucky Assn. of Counties bond pool; Kentucky Municipal League bond pool; and East Broadway project.

In Louisiana, retirement center in New Orleans.

In Maine, Bethel cogeneration facility; and Back Bay Tower.

In Maryland, again the Campbell Soup Co.

In Massachusetts, solid waste facility in Haverhill; electric power facility; cogeneration facility in Turners Falls; and Columbia Point Project in Boston.

In Michigan, Muskegon cross lake ferry.

In Minnesota, fiber optic network; Campbell Soup Co.; solid waste facility in Dakota County; satellite industries in Minneapolis; Coch oil refining facility; and River Place.

In Mississippi, Crown Cork and Seal in Batesville.

In Missouri, Kansas City Southern Industries.

In Nebraska, ethanol plant in Blair; and Campbell Soup Co.

In Nevada, electric plant bonds.

In New Hampshire, 2 waste energy projects.

In New Jersey, Campbell Soup Co.

In New Mexico, New Mexico hospital bond pool.

In New York, Flushing Center; 125th Street project; and New York hospital bonds.

In North Carolina, Campbell Soup Co.; South Pack Plaza; and North Carolina Municipal League bond pool.

In Ohio, Campbell Soup Co.

In Oklahoma, Oklahoma State University; and OK Industries.

In Pennsylvania, Campbell Soup Co.; Wood Street Commons project; mattress factory project; Ransom culm facility; Frankford Arsenal; Pennsylvania local government bond pool; and Pennsylvania university bonds.

In Rhode Island, Providence Union Station; and Plat 141 in Newport.

In South Carolina, Charleston solid waste bonds.

In Tennessee, 3 solid waste facilities; Warehouse Row project in Chatanooga; Carriage Trace in Clinton; Tennessee Student Loan bonds; Tennessee Municipal League bond pool; and Tennessee Utility Districts bond pool.

In Texas, Campbell Soup Co.

In Utah, Utah Municipal Finance bond pool.

In Vermont, Bellows Falls building project.

In Virginia, Tobacco Row bonds.

In Washington, Nichols Boar; and Bonneville Power bonds.

In Wisconsin, fiber optic network.

Mr. President, I know of no objection to the technical corrections in that list. I think they have been cleared all around and people know about them. They are genuinely technical.

In addition when I propose my unanimous-consent request there will be the following amendments you can call substantive if you want or technical if you want. One will delete the market bond discount provisions which is limited to 15 life insurance companies and their affiliates and add a revenue-neutral generic rule for all life insurance companies.

This was a mistake we made in the tax bill in allowing only 15 very large insurance companies to provide the market discount bonds and there are literally hundreds, perhaps thousands of smaller insurance companies that were denied the privilege. This will make the generic for all of them. I know of no objection to that.

We will next retain the current law for travel expenses for State legislators, the current law. As the House sent us the bill, they sunset that provision in 1990; we keep the current law, no change. I know of no objection to that. In fact many, many Senators have contacted me on behalf of their State legislators and asked for no change.

Next, we would liberalize the low-income housing transition relief for rural projects assisted under the Farmers Home Administration, clarifies the at-risk rules, applies to real estate generally and also low-income housing project eligible to the low-income housing project. That is about $20 million. I know of no objection to that.

Next, we will change the effective date for the employer-owned life insurance provision from June 20, 1986, to the date of enactment of the Tax Reform Act. I know of no objection to that.

Next, we will reinstate the Senate-passed rule on trucking company transitional rule but limit the value of $8.5 million which is one-half the full value. When we initially passed in the Senate, it was at full value. I know of no objection to that.

We will make the general aviation transitional rule generic, and I know of no objection to that.

There is one provision that is controversial in the sense there are opposite sides on it, and it relates to the custom broker freight forwarder provision. That is a provision the substance of which I agree with. I think it is a good position, and I think it is a proper competitive position, and on the merits, I would support it. But it is

within the Commerce Committee's jurisdiction. It was put in unbeknown to me. I feel a bit embarrassed about it and I certainly did not mean to trample on the jurisdiction of my good friend, Senator DANFORTH, who is the chairman of the Commerce Committee. I chaired that committee for 4 years prior to the Senator DANFORTH, and he is justifiably upset about that provision having been put in without his knowledge and without my knowledge.

So my unanimous-consent request, when I make it, will be to delete that provision even though I agree with the substance of it, and if we were doing it on the merits, probably I would support it.

That, Mr. President, is the sum and substance of the amendments that I will offer.

I say the long list that I read of the different States affected I know of no objections to.

Here is the problem we have. Anybody, of course, can object to the unanimous-consent request, and I do not want this concurrent resolution and will not let this concurrent resolution become a vehicle for simply relitigating everything on the tax bill, whether that be passive losses or book income for corporations or anything else. Those issues are done. We have had fair debate and full debate, conference, and we passed it.

So if there is objection to the unanimous consent, it is my intention for the moment not to go ahead. I may offer it 2 or 3 hours later when we can see if we can work out what objections there may be to the unanimous consent. If not, I will offer it again 2 or 3 hours later. If we cannot get unanimous consent, I will not offer it at all.

So with that in mind, I am now going to propose the unanimous consent.

Do you want to wait until I propose it?

Mr. METZENBAUM. I think I would like to ask you to withhold for a minute.

Mr. PACKWOOD. All right.

Mr. METZENBAUM. As the chairman of the Finance Committee knows, his staff and my staff have been in discussions on this subject for some time. Then the other day, I gathered at one point that the chairman had decided not to even make the effort to go forward, and now he has decided to go forward. I have no objections to his doing that.

However, I would object if the unanimous-consent request were propounded at this point, notwithstanding the fact that we need the bill and I do not want to stand in the way of its passage. However, at the very moment when I was called to the floor, my staff and your staff were in discussion on the subject. I have the feeling that we are not that far apart that we may not be able to resolve our differences.

So, rather than object to the unanimous-consent request at this point, I would request the chairman of the Finance Committee—and if he did, I would have to object—but I would request that you delay that temporarily because if we could work it out, I would think that the whole matter would fly very rapidly and it would not require much time at all.

Mr. PACKWOOD. Given that, I will not propound it. I want to say that the Senator from Ohio has been very fair on this. He and I actually agree on the substance of the provision I am trying to strike out. I am attempting to do it as a matter of comity to the chairman of the Senate Commerce Committee.

Given that, I will not propose it at the moment. But I do appreciate the fact that the Senator from Ohio has been very open and very fair. I think we may be close to an agreement on this.

But I would like, because I see a number of other Senators on the floor—I am not going to propose the request right now—but I do want to find out if others are going to have objections to the request when it is proposed, unrelated to this issue. So we might have a colloquy on that.

Mr. METZENBAUM. If the Senator will yield further, I would want to indicate some concern. I am not opposed to making the general aviation conditon generic, although I think the whole proposition is a very bad one. I do not think it is a right one and I indicated that the other day. But I still would not object to making it generic provided that the chairman of the Finance Committee would indicate where he is going to pick up that money, because there is a cost of doing that. It is not a tremendous amount, but sometimes we fight out here for about $1 million, $2 million, $5 million. This is about $11 million.

Mr. PACKWOOD. I would be happy to do that while we are discussing the other issues. I will try to find out what objections there may be from other Senators on other issues.

Mr. METZENBAUM. We will be in further discussion with the chairman to see if we can get all issues resolved.

Mr. PACKWOOD. I thank my good friend.

Mr. EXON. Will the chairman yield for a question?

Mr. PACKWOOD. Yes.

Mr. EXON. I want to salute the chairman of the Finance Committee for the outstanding job that he has done all the way through on this. I think he would like to hear some good news. I sense a general feeling from most Senators that this is a tremendously important part of the overall tax bill and it should be passed. I think there is a developing consensus to move just as quickly as possible.

At this particular time, I just have one question that we might clear up now. This Senator has written the Senator from Oregon a letter with regard to one portion of the technical corrections part of this legislation that had to do with what we thought could possibly be an unfair proposition benefiting Louisiana and Texas with regard to some type of promotion with regard to football. I am wondering if that particular part has been removed or will we be required to try to get that removed with an amendment?

Mr. PACKWOOD. That relates to the sky boxes?

Mr. EXON. That is correct.

Mr. PACKWOOD. That is removed.

Mr. EXON. I thank my friend.

Mr. MELCHER. Mr. President, will the chairman yield?

Mr. PACKWOOD. Yes.

Mr. MELCHER. I assume that what is in House Concurrent Resolution 395 is revenue neutral.

Mr. PACKWOOD. No; I think it is not revenue neutral.

Mr. MELCHER. Can the chairman advise me what revenue loss there is?

Mr. PACKWOOD. About $100 million.

Mr. METZENBAUM. How much?

Mr. PACKWOOD. Total, about $100 million. These were, I would say, errors in the tax bill. Had they been included in the tax bill, they would have been within our definition of revenue neutrality in the bill itself. So we are correcting errors. We are directing the enrolling clerk to make these changes in the tax bill.

Mr. MELCHER. Then, am I to interpret the chairman's response that passage of this as it stands would be a loss of $100 million in revenue?

Mr. PACKWOOD. As it stands. Had it been appended to the tax bill, which it was intended to be, and had there not been technical errors, then it would have still been revenue neutral. But, standing by itself, that is correct.

Mr. MELCHER. Well, when this catches up with the tax bill, the outcome of what is over in the House now and already passed by the Senate, in addition to House Concurrent Resolution 395, how would it become revenue neutral?

Mr. PACKWOOD. Because, when we were estimating revenue neutrality over a 5-year period, we tried to come as close as we could to hitting revenue neutrality, realizing that we would be collecting over the 5 years almost $5 trillion. The $100 million that is in this, if it were in the tax bill, would still be within the margin of error we had for revenue neutrality.

Mr. MELCHER. If the chairman would continue to yield, there is an amendment he has proposed and is not before us—I believe an amendment of some 22 pages. Is it revenue neutral?

Mr. PACKWOOD. Pardon me?

Mr. MELCHER. Is the amendment that the chairman would propose revenue neutral?

Mr. PACKWOOD. No, it is not.

Mr. MELCHER. Do we have a figure on that?

Mr. PACKWOOD. Rougly $50 million to $55 million.

Mr. MELCHER. Might I advise the chairman that I have grave concerns about dropping income averaging for farmers that was provided in the bill as it left the Senate. As I recall, the revenue loss was something between $75 million and $100 million; am I not correct?

Mr. PACKWOOD. I thought it was closer to $300 million, but I am now reaching back in my memory and I cannot recall.

Mr. METZENBAUM. I believe it was my amendment and I think that we recommended $250 million over the period.

Mr. MELCHER. Well, I thank the Senator from Ohio for his comments. But I believe we had to revise the amendment before we finally got done with it.

But, at any rate, I must advise the chairman that I would want that considered when this is called up.

Mr. PACKWOOD. Let me say to the Senator from Montana, I do not plan to have it as one of the amendments I will offer. If the Senator from Montana is starting he will object to the unanimous-consent request and will until it is offered, then I think there is no point in going on with the unanimous-consent request and we will pull it down.

Mr. LAUTENBERG. Would the chairman yield for a question?

Mr. PACKWOOD. Yes, I am happy to yield.

Mr. LAUTENBERG. I just wanted to make the chairman aware of an interest that I have, though I understand the unanimous-consent request is not going to be offered at this moment, in a transition rule for a U.S.-flag car carrier vessel. It is one of four that are presently being built. Three would be permitted the opportunity to preserve some investment tax credits. The one that is left out is the vessel of New Jersey-based Marine Transport Lines. I just wanted to make the chairman aware of the fact that I have an interest in this and would appreciate the opportunity to discuss it.

This is not meant to object in advance to a request but just to alert the chairman to my interest.

Mr. PACKWOOD. I would be happy to discuss it again with the Senator from New Jersey. He has been very cooperative in the whole process. I would be happy to discuss it.

Mr. LAUTENBERG. I thank the chairman.

Mr. METZENBAUM. Would the chairman yield for a question?

Mr. PACKWOOD. I would be happy to yield for a question.

Mr. METZENBAUM. There is a new provision in there for WPPSS.

Mr. PACKWOOD. For whom? WPPSS? It is not ours.

Mr. METZENBAUM. It came over from the House. My understanding is WPPSS received favorable treatment in other areas of the bill but noe in the concurrent resolution it would exempt $2 billion for advanced refunding bonds from the State-by-State volume caps and the rule limiting the amount of refinancing bonds to the value of the project.

My question is how much would that cost? It seems to me it looks like a pretty costly procedure.

Mr. PACKWOOD. That is in the House concurrent resolution. It is not in the Senate bill. I will see if I can find out what it does cost.

About $50 million.

Mr. METZENBAUM. Over 5 years.

Mr. PACKWOOD. Yes.

Mr. METZENBAUM. Does it have a continued cost beyond that period?

Mr. PACKWOOD. That I cannot answer. That is in the House bill. It is not in the concurrent resolution we are sending back.

Mr. METZENBAUM. It is not in this concurrent resolution?

Mr. PACKWOOD. Let me correct the mistake. It is in our resolution going back. I apologize.

Mr. METZENBAUM. I guess it only goes to prove that the chairman and I have both can find mistakes. We have bills. We write letters. And sometimes we do not know. There is no problem about that.

But I think we would have some concern about that. We might discuss that further.

Mr. PACKWOOD. That is fine.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise as a member of the Finance Committee, and one of the conferees on this legislation, to express to the chairman or perhaps more accurately to the staff of the committee my amazement that the concurrent resolution of technical corrections is only 60 pages long. As the distinguished Presiding Officer knows, this is the most comprehensive change in the Federal Tax Code in half a century. In ways it is the most important event since the introduction of the income tax system in 1913.

It involved a complete revision of the code. And it is a massive document, done under the very normal pressures of time that are associated with the ending of a Congress, and would exist in any event work having to be done.

I would like to say I think it is a good job. It speaks to the quality of the original product. There are mistakes.

I have to note that there is a provision as is well understood, a transition rule in the existing bill to enable the rehabilitation of Carnegie Hall in New York City to go forward with an accompanying development of an office building with the proceeds to be used for the hall. Carnegie Hall is one of the, by general agreement, foremost acoustically near-perfect halls in the world. Everything is known about the quality, but somehow or other we got the address wrong. [Laughter.]

Mr. PACKWOOD. If my good friend will yield, what happened—and I feel sorry for those poor devils that are working on the computers. They have been at it 14, 15 hours a day. We are shoveling material into them. They make 1 mistake in 500 as they are keypunching. Many of them we catch when we read. Some of them we do not. I can appreciate the fact there are relatively few errors in a massive bill made by technicians who were overworked, harassed, and with us calling them up all the time saying, "Why can't you do this faster?"

Mr. MOYNIHAN. Or alternately, we would finish at 2 o'clock in the morning, stumble home, leave it to them to have it ready for us at 8 o'clock the next morning, and they would not go home at all. It turns out Carnegie Hall is at 7th Avenue and 57th Street. That will not be corrected.

These are clerical changes in situations where the meaning of the law was clear, and where I do think there are a number of areas where our clear intention was not in the law. So it is not exactly clerical. As for example, the generic provision on the sale of mortgage discount bonds, we now make that a general entitlement of insurance companies rather than listing the 16 or 17 and leaving out 10 or 12 we did not know about.

Mr. PACKWOOD. I know of no objection to that amendment.

Mr. MOYNIHAN. I know of no objection whatever. We thought we were doing what we now do. So we have changed, Mr. President, and corrected some addresses. We have made more explicit our intention. We have fulfilled our legislative intention with respect to a few matters.

Mr. PACKWOOD. I might pass along a story of the staff. One morning I called over the Finance Committee and I asked for Karen. They said, "Sir, she is not here." I said, "It is 9:15." "Well, she didn't go home until 4 o'clock last night." They said, "Lindy is here. She didn't go home at all."

So indeed we do work morning, noon, and night, and all night on many occasions.

Mr. MOYNIHAN. And with extraordinary devotion from these public servants. None of us who has been

through the experience can have anything but a saddened awareness of what the years have wrought on our capacities, and we see what people 40 years and 30 years younger can do. But also it cheers you up and you might think it is not just entirely age but maybe they are better educated. Even, Heaven knows, although biologists would probably argue, they may even be smarter. But certainly we are in their debt.

Certainly I would like to say to the chairman, and could I ask him? Is it his plan? Are we in a position just to go forward now?

Mr. PACKWOOD. No. We are not. I am going to withhold several hours to see if we can work out two or three questions that were raised by the Senators from New Jersey and Ohio, and see if we can work them out. I would not blindside anybody. I will come back at 2 o'clock or 2:30 to see if we can pose a unanimous consent again. They may flush out somebody else that has a problem.

I will say this. It is now Wednesday. I assume we are leaving Friday or Thursday night or Friday morning or something like that. The Senator from New York has been very good about this. We cannot use this vehicle to start reopening the passage of those provisions and all the other provisions.

If the choice is that or not getting this vehicle through, I would rather not get the vehicle through.

Mr. MOYNIHAN. No. Mr. President, the tax bill has been written and enacted by the Congress. It remains to be signed by the President. We went through 2 years. We do not have it in us to go through again and ought not. The agreement was reached in full and plenary session in both bodies, and for a profound series of changes to be made now under the threat of a deadline would fail in our democratic responsibilities to our colleagues, and to the American citizens who understand that this has happened and now expect to live under this new regimen. I hope they will welcome it as we have sought to make them do.

Mr. PACKWOOD. I thank my friend from New York. Again, I thanked him many times before, and not often enough in public. He was one of the original core group, and stuck with us, and stuck with us, and stuck with us on every vote. I appreciate very much not just his help but his leadership.

Mr. MOYNIHAN. I thank my friend.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Would the distinguished chairman, the Senator from Oregon, yield for a question?

Mr. PACKWOOD. Yes. I would be happy to.

Mr. PRYOR. There are two areas that I frankly do not quite understand, and this point may have been raised previously. I am sorry I was not in the Chamber. One is relative to the issue of airplanes bought in certain States. I am sorry I do not have the language. They are making a copy.

Mr. PACKWOOD. We are going to make that generic. It will cover both Arkansas and Delaware as equally as it covers the planes manufactured in other States.

Mr. PRYOR. For example, more specifically, we have a Falcon jet plant in Little Rock. I think the chairman has been made aware of our stituation.

Mr. PACKWOOD. It will be covered the same as a plant in Kansas would be covered.

Mr. PRYOR. So there would be no plant in the country that would get favorable treatment over another facility?

Mr. PACKWOOD. That is correct.

Mr. PRYOR. I thank the chairman for yielding.

The second question, Mr. President, I have for the Senator from Oregon relates to the issue of athletic scholarships and moneys given to athletic programs.

I talked on many occasions with our athletic director coach, Frank Broyles. He is very concerned and upset with the IRS ruling which precludes deductions from taking place in the athletic programs. I am wondering how this treats that specific area.

Mr. PACKWOOD. The way we are going to treat that is the same as pertaining to band scholarships. You will recall in the bill tuition scholarships are not taxed, but money above tuition is taxed. The same rule will apply whether you have a band scholarship or a football scholarship. To the extent it is above the tuition, it is taxed, but it would be taxed for everybody else also, whether it is athletic or not.

Mr. PRYOR. Is the chairman saying that no specific schools are spelled out?

Mr. PACKWOOD. The only schools that were spelled out related to sky boxes, and that was in Louisiana and Texas. Those are stricken out. That does not relate to scholarships. That related to the sky boxes in their coliseums. They were stricken out.

Mr. PRYOR. I wonder if any thought was given just to repealing the IRS regulation relating to forgiveness. Was any thought given to that?

Mr. PACKWOOD. It was given to it. It had a variety of permutations. One was scholarships. Another was a donor who gives $5,000 to a university and in exchange gets two free athletic tickets.

We went to Boise State on behalf of Senator SYMMS and reviewed their problem. They had a unique problem. The building was built as a principal entertainment center for the city, not just the college. Thought was given to that, but it was not repealed because there was a feeling that you are giving, and in fairness it is probably true, you are giving a fair amount of money but you were getting a quid pro quo back. It was not like a normal charitable contribution. So we did not attempt to repeal that, per se.

Mr. PRYOR. I thank the distinguished chairman. I congratulate the chairman, the Senator from Oregon, for his leadership during this entire year. It has been absolutely something we never thought would happen. I do not think this would have happened without his leadership, patience, and understanding. I know as a member of the committee he always extended me the utmost courtesies and understanding. I know it is a very difficult time.

Mr. PACKWOOD. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LUGAR). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, as I understand, all the principal players are now here on Calendar No. 1007, H.R. 5465, the appliance bill, and I hope that we can get some time agreement on that. I am also hopeful that we could get an agreement on the Executive Calendar. If we could do that, that would dispose of all but three or four nominations, and we are working on those. I think two have holds on this side. We are not going to honor holds. First, let me make the request on H.R. 5465.

I ask unanimous consent that the Senate now turn to Calendar No. 1007, H.R. 5465, the appliance bill, and it be considered under the following time agreement:

That the committee reported amendment be considered agreed to, and there be:

One hour on an amendment to be proposed by Senator GRAMM, for himself and Senator NICKLES, with time to be equally divided between Senator GRAMM and Senator JOHNSTON or his designee. Following the expiration of the hour allotted for debate on the Gramm amendment, I ask that Senator GRAMM be recognized only for the purpose of withdrawing his amendment, and that no amendments be in order, and no intervening motion be in order;

Following disposition of the Gramm amendment, I further ask unanimous consent that no amendments be in order other than two amendments to be offered by Senator McCLURE, and one amendment by Senator EVANS, and that no amendment to these amendments be in order;

Following the disposition of the two amendments described above, I ask unanimous consent that the Senate then proceed immediately with no intervening motion, to third reading, and final passage, without any intervening action or debate, and that no motions to recommit be in order.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I will not object. This agreement has been carefully agreed upon on this side.

As I understand it, there will be some debate on the fuel use amendment but it will be withdrawn; there will be no vote on it, so I have no objection to the agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY CONSERVATION STANDARDS FOR APPLIANCES

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 5465) to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment, on page 61, stike line 7, through and including line 11, which reads as follows:

The Federal Energy Regulatory Commission shall, not later than 60 days after the date of the enactment of this Act, issues a final order in ANR Pipeline Company, FERC Docket No. RP 82-80, filed April 30, 1982.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I ask unanimous consent that we reverse the order of the unanimous consent agreement to take up Senator McCLURE's and my amendments prior to the time that Senator GRAMM takes up his amendment just in order to save time.

The PRESIDING OFFICER. It there objection? Without objection, it is so ordered.

The Senator from Washington.

AMENDMENT NO. 3406

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Assistant legislative clerk read as follows:

The Senator from Washington (Mr. EVANS] proposes an amendment numbered 3406:

On page 40, line 18, after "regulation" insert the following: "effective on or after January 1, 1992".

Mr. EVANS. Mr. President, this is a technical amendment that brings the date of the television appliances into conjunction with the dates that are set for other elements of the bill.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3406) was agreed to.

AMENDMENT NO. 3407

Mr. EVANS. Mr. President, I send an amendment to the desk on behalf of Mr. McCLURE, for himself, Mr. KASTEN, and Mr. PROXMIRE, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for Mr. McCLURE and others, proposes an amendment numbered 3407.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

"SEC. 12. FERC REQUIREMENT.

(a) Notwithstanding any other applicable provisions of law, on November 17, 1986, or within 10 working days thereafter, the Federal Energy Regulatory Commission shall, in the case of ANR Pipeline Company, FERC Docket No. RP82-80, filed April 30, 1982, publish a schedule for issuing a final order in such case, which schedule shall provide for such order to be issued not later than February 28, 1987. Such schedule shall include an opportunity for an oral argument prior to issuance of such final order, as requested by one or more of the parties, unless the Commission determines that such argument would not assist the Commission in deciding such case.

(b) Except as expressly provided in subsection (a), nothing in this section shall affect—

(1) any Stipulation and Agreement reached by the parties in such case or any applicable provisions of law with respect thereto;

(2) the right of any party to such case to appeal the final order issued in such case in accordance with the applicable provisions of law; or

(3) any other applicable provisions of law with regard to any such ruling or order."

Mr. KASTEN. Mr. President, I ask the Senator from Idaho, am I correct that subsection 12(a) requires the Commission to publish a schedule for issuing a final order in FERC Docket No. RP82-80 and that such schedule shall include an opportunity for an oral argument in front of the Commission before such order is issued, unless the Commission determines that such oral argument would not assist the Commission in deciding the case?

Mr. McCLURE. The Senator is correct.

Mr. KASTEN. Am I not correct that although this subsection allows the Commission to not hold oral argument before issuing an order in this docket, that it is your understanding and firm belief that oral argument is critical and essential to the Commission's understanding of the case and therefore would be of great assistance to the Commission in deciding this case?

Mr. McCLURE. The Senator is correct.

Mr. KASTEN. With that understanding I believe that this amendment addresses my concerns in this matter.

Mr. PROXMIRE. I agree with the statement of my colleague, and I move the adoption of this amendment.

Mr. KASTEN. I second the motion.

Mr. JOHNSTON. Mr. President, I want to comment briefly on one aspect of the amendment to H.R. 5465 offered by the Senator from Idaho [Mr. McCLURE]. The amendment includes a new section 12 which directs the Federal Energy Regulatory Commission [FERC] to act on a pending rate case. The amendment directs FERC to publish a schedule for issuing a final order no later than February 28, 1987 in the case of ANR Pipeline Co., docket No. RP 82-80.

When H.R. 5465 passed the House of Representatives it included a provision requiring FERC to take action in the same rate case within 60 days after the date of enactment. That provision was dropped when the Energy and Natural Resources Committee considered H.R. 5465 because of our desire to expedite action on the underlying National Appliance Standards Act. The provision has reemerged in the McClure amendment, but in modified form. The modifications are the subject of my comments.

First the amendment requires FERC to include an opportunity for an oral argument prior to issuance of its final order, as requested by one or more of the parties in the pending case, unless the Commission determines that such argument would not assist the Commission in deciding such case. I fully expect the Commission to hold such an oral argument; indeed, I urge them to do so. The case has significant ramifications for the parties involved, and could have the effect of shifting significant costs from customers in one State served by ANR to customers in another State. While I realize that it is rare for FERC to hold an oral argument in rate cases, I believe that an oral argument is justified in light of the fact that we are legislating a dead-

line by which they must make a decision.

The amendment also includes a provision protecting the stipulation and argument entered into by the parties in the case. The amendment requires that the decision FERC makes in the case shall not affect the stipulation and agreement. It is our intent that the decision shall not affect the timing and judicial review provisions that were included in the stipulation and agreement. All of the parties in the case participated in the negotiations that led to it; the Commission itself approved it. We certainly do not intend for it to be upset by the requirement that the Commission issue a final order by the date specified.

The House-passed provision did not have either of these requirements; I believe that both requirements represent a reasonable accommodation between those who would expedite the FERC's decisionmaking process and those who would prefer to have the case drag on. Within this framework, Mr. President, the Commission will have an opportunity to reach an equitable decision in this important matter.

Mr. EVANS. Mr. President, this is an amendment that has been worked out with the Senators from Wisconsin and with the chairman of the committee. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 3407) was agreed to.

AMENDMENT NO. 3408

Mr. EVANS. Mr. President, I send an amendment to the desk on behalf of Senator McCLURE and Senator SYMMS.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS] for Mr. McCLURE and Mr. SYMMS, proposes an amendment numbered 3408.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

"SEC. 13. MISCELLANEOUS.

(a) FERC ORDER.—Notwithstanding any petition filed by the Idaho Power Company on November 26, 1984 with the Federal Energy Regulatory Commission for a declaratory order concerning an Agreement dated October 25, 1984 (Exhibit A, Petition of Idaho Power Company for Declaratory Order, Docket No. EL-85-38-000) relative to the projects of such company specifically referenced in the petition, the Federal Energy Regulatory Commission is only authorized and directed, in lieu of the petition request, to issue an order within 90 days after enactment of this Act under the Federal Power Act that such Agreement shall not be considered by the Commission in any subsequent proceeding before the Commission during the remaining term of the licenses applicable to such projects, to be (1) inconsistent with the terms and conditions of such licenses concerning project property or the utilization thereof; or (2) imprudent for purposes of section 205 of the Federal Power Act.

(b) SAVINGS PROVISION.—Nothing in this section or in any order issued by the Commission pursuant to this section, shall be construed as affecting any stipulation or other agreement entered into with the State of Idaho or the Idaho Power Company prior to enactment of this section relating to any fish and wildlife matters affected by any such project. Except as expressly provided in subsection (a), nothing in such subsection shall affect the application or requirements of section 10 of the Federal Power Act or any other provision of such Act to any person or project."

Mr. McCLURE. This amendment authorizes and directs the Federal Energy Regulatory Commission to issue an order in lieu of the order requested, in its Docket No. EL 85-38-000 that the agreement of October 25, 1984, shall not be found to be inconsistent with the terms and conditions of the existing licenses referenced, concerning project property (including water rights) or the utilization thereof or imprudent for the purposes of section 205 of the Federal Power Act on the basis of the agreement. The agreement of October 25, 1984, was executed by the State of Idaho and Idaho Power Co. It resolved major issues concerning existing and future uses of the resources of the Snake River and will result in the dismissal of pending litigation between the utility and thousands of individual defendants.

The savings provision of subsection (b) makes it clear that the Commission's authority to act on matters not covered in the agreement will not be affected by this section. This section also is intended to be perfectly clear that any basis, other than the agreement, for challenging or changing the term and conditions of such licenses or for the purposes of section 205 of the Federal Power Act is unaffected.

I would like to express my appreciation to my colleagues Senator SYMMS for his help in this matter, as well as the assistance of Congressmen CRAIG and STALLINGS. This is a matter in which the Idaho delegation is unanimous in its support. I would also like to thank representatives of the Idaho Governor's office, the Idaho Attorney General's office and of the Idaho Power Co. for their cooperation. Finally, Congressmen DINGELL and MARKEY and their staff have been instrumental in this process and their efforts are greatly appreciated. I ask unanimous consent that a letter from Chairman DINGELL in support of this amendment be included at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENERGY AND COMMERCE,
RAYBURN HOUSE OFFICE BUILDING
Washington, DC, October 9, 1986.

Hon. JAMES A. McCLURE,
Chairman, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR JIM: It was a great privilege to work with you in conference on the hydro relicensing bill and the reconciliation legislation. You are an excellent conference Chairman and a good friend.

I understand that in connection with H.R. 5465, the House-passed appliance legislation, Congressman Stallings and you have suggested a germane Senate amendment seeking to settle, on a one-time basis, a petition pending at the Federal Energy Regulatory Commission (FERC) since 1984 concerning several licensed projects in Idaho. As I understand the proposal, it is unique and not precedent-setting. It relates to an agreement that enjoys broad support in the state and will not affect any existing or future actions relative to fish and wildlife resources of the area. Most importantly, it does not affect the application or requirements of section 10 of the Federal Power Act, including existing section 10(a) and the new section 10(j).

The proposal, as worked out with participation of our Committee staff, appears workable, limited, and acceptable. Most importantly, it is not a precedent for similar amendments in the future which is clearly a concern we both share. For these reasons, I can accept it and support it when the bill is returned to the House. I know that Subcommittee Chairman Markey, who also participated in the development of the proposal, shares my view.

I commend you and Congressman Stallings for your joint efforts in working it out and helping to gain passage of the House bill.

With best wishes.

Sincerely,

JOHN D. DINGELL,
Chairman.

Mr. EVANS. Mr. President, this amendment I believe has been cleared by all concerned. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not the question is on agreeing to the amendment.

The amendment (No. 3408) was agreed to.

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Mr. EVANS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EVANS. Mr. President, I am pleased that today the Senate is voting on what is almost certainly the most important piece of energy con-

servation legislation in the past decade, H.R. 5465, the National Appliance Energy Conservation Act of 1986.

This legislation really represents the culmination of a process which began in 1975 when Congress passed the Energy Policy and Conservation Act [EPCA] which directed the Department of Energy [DOE] to consider the issue of appliance efficiency standards. In 1978, Congress took an additional step, passing the National Energy Conservation Policy Act [NECPA] which amended EPCA to require that energy efficiency standards be established for each of 13 classes of home appliances which are major consumers of energy. These standards, which were to be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasibl and economically justified.

The Department issued proposed standards in 1980 for 8 of the 13 classes of covered appliances. In 1982, the new administration reversed the earlier DOE decision and issued zero-level standard, the so-called no-standard standard. This decision was almost immediately challenged in the courts by the Natural Resources Defense Council [NRDC]. On July 16, 1985, the D.C. Court of Appeals issued a unanimous decision striking down the DOE zero-level standard, and ordered DOE to initiate a new rulemaking to establish substantive standards. The rulemaking is currently underway.

The States also expressed a strong interest in the potential savings which would result from appliance efficiency standards. The most notable example is California, which has developed appliance standards for home appliances which have served as a model for the standards in this bill. I should add that in my own State, appliance efficiency legislation was considered in the State legislature during its last session. I am also aware the current power plan released recently by the Northwest Power Planning Council, there is a provision calling upon the four Northwest States to adopt standards similar to those contained in the bill. Several States have already petitioned DOE for a waiver from preemption from Federal standards, and DOE has granted nearly all of these petitions.

The stage was not set for this legislation and the remarkable coalition which produced it. Manufacturers were faced by the enormous economic difficulties which would result from the fragmentation of the marketplace as each State adopted its own set of efficiency standards. The NRDC and other environmental and conservation groups had long understood the benefits to both the consumer and the environment which would result from substantive standards. Rather than continue to oppose each other, the major appliance manufacturers and the NRDC chose to sit down and negotiate a resolution to the situation. At the end of July an agreement was reached, and the bill now before us represents this marvelous accomplishment.

H.R. 5465 is one of those rare instances when all parties concerned in an issue will benefit from the proposed solution. Under the provisions of the bill, manufacturers will have an achievable, uniform initial standard, and a fixed schedule established for the revision of these efficiency levels, rather than a fragmented, confusing array of changing State regulations. Consumers will also realize significant savings, which have been estimated at nearly $300 per household through the year 2000. Finally, this legislation will provide an important tool to utilities and State regulatory agencies as they anticipate their future energy needs.

Mr. President, I realize that this legislation came at the tail end of our legislative session, but I feel strongly that the benefits which will be achieved by enacting H.R. 5465 make it imperative that we act this year. I remind my fellow Senators that without this legislation, we leave manufacturers and consumers in the worst of all possible worlds. Given past history, it is extremely likely that the standards which are currently scheduled to be released next year by DOE will be challenged in the courts, resulting in increased legal fees and further delays. In addition, it seems certain that more States will move to establish their own efficiency standards, joining the seven States which have already done so. Manufacturers costs will rise dramatically, resulting in increased costs to consumers over and above what they will save from reduced energy use.

Finally, Mr. President, I would like to acknowledge the spirit of cooperation which has characterized the movement of this bill to the floor. I have appreciated the willingness of the chairman of the Energy and Natural Resources Committee, Senator McCLURE, to schedule quick hearings and markup. I would also like to thank the Ranking Member of the Committee, Senator JOHNSTON, whose staff has been very helpful in this effort.

Mr. President, I fully expect that after we act favorably on this bill, the House will join us in approving it, sending a strong message to the President and the American consumer that energy conservation remains truly our most cost-effective energy resource.

DEFINITION OF AFUE

Mr. JOHNSTON. Mr. President, the definition of annual fuel utilization efficiency [AFUE] in H.R. 5465 makes certain assumptions about the locations where furnaces and boilers are installed and about the source of air used by nonweatherized furnaces for combustion and ventilation. Is it the Senator's understanding that these assumptions were made solely so that the meaning of the initial standards for furnaces and boilers prescribed in section 325(f) is clear to the manufacturers who must design products to meet the standards, and to those charged with the enforcement of the standards?

Mr. EVANS. Yes; I assure the Senator that nothing in the act is intended to limit how furnaces or boilers are vented, or to limit the source of air used for combustion or ventilation.

Mr. WEICKER. Mr. President, I rise today in support of H.R. 5465, the National Appliance Energy Conservation Act of 1986. As an original cosponsor of this legislation I am glad to see that 35 of my colleagues have joined together as sponsors in support of this measure and I would urge others to support it as well. H.R. 5465 achieves two broad objectives, either of which, I believe, has sufficient merit to enlist the support of my colleagues. First, H.R. 5465 would establish uniform national appliance energy efficiency standards which would preempt the growing number of separate and conflicting State standards. Such preemption greatly reduces the regulatory and economic burdens that separate State standards placed on the appliance industry. Second, H.R. 5465 would significantly reduce the Nation's demand for electricity. Such a reduction in energy demand will assist the Nation in meeting future energy needs and in reducing our growing dependence on foreign energy resources. H.R. 5465 is needed to strengthen our national energy policy.

The history of H.R. 5465 goes back to 1975, when Congress passed the Energy Policy and Conservation Act [EPCA]. EPCA directed the Department of Energy to consider the establishment of appliance energy efficiency standards in response to the energy crisis which the Nation then faced. Although the energy crisis is not as immediate a problem as it was in 1975, I believe that it remains one of the most serious problems still facing the Nation today.

In 1975 the Congress amended EPCA to require the Department of Energy to establish appliance energy efficiency standards. However, in 1983 the Department ruled that no standards were economically justified. This no-standard standard was challenged in court and in July of 1985, the D.C. District Court of Appeals ruled against the Department and ordered that substantive standards be issued. Unfortunately, it will be at least 2 years before the Department can promulgate new standards. In the meantime, the court ruling and current DOE practice allow the 50 States to establish their own

State regulations regarding appliance energy efficiency. States are increasing their adoption of such regulations, resulting in a growing patchwork of separate and conflicting regulations. This patchwork of State regulations has made a nightmare of the design, production, and marketing plans of the Nation's appliance manufacturers. One excellent example of the problems which have resulted from this patchwork of regulations is a small but growing traffic in smuggled applicances; particularly in my region of the country. Appliance retailers have already found that customers are willing to drive to other States in order to purchase cheaper and less efficient appliances. It is obvious that uniform national standards would substantially reduce the current regulatory and economic burden on the appliance industy.

It was in an effort to develop such national standards that representatives of the appliance industry began negotiations with representatives of the environmental community. H.R. 5465 embodies the agreement reached in those negotiations.

The interest of the environmental community in these negotiations was to assure that EPCA would be strengthened and would provide for actual energy conservation. It is currently estimated that approximately 18 percent of the Nation's energy is consumed by major home appliances. It is difficult to quantify how much energy would actually be saved by enactment of this measure. However, because the legislation would require efficiency improvements on the order of 20 percent for many appliances, it is clear that energy savings would be significant.

An analysis by the American Council for an Energy-Efficient Economy of the energy savings which would result from H.R. 5465 concludes that peak electrical loads in the year 2000 would be reduced by 10 percent, or 22,000 megawatts. These estimates seem optimistic to me. However, savings of even a half or a quarter of this amount would justify enactment of this legislation.

I have often stated my concern that the Nation has failed to develop an energy policy capable of dealing with the Nation's pressing energy problems. As a nation we are once again headed toward an energy crisis similar to that which we experienced in the early 1970's. I believe that energy conservation must become and remain an integral part of our national energy policy. H.R. 5465 is a long overdue addition to that policy.

Mr. President, this legislation has broad support from industry and it has broad support from the environmental community. H.R. 5465 was passed by the House and reported unanimously by the Senate Committee on Energy and Natural Resources. I believe that the reasons for enacting this measure are compelling. H.R. 5465 will reduce the economic and regulatory burdens on the Nation's appliance manufacturers and it will strengthen our Nation's energy policy.

Mr. President, I urge my colleagues to support enactment of H.R. 5465.

AMENDMENT NO. 3409

(Purpose: To revitalize oil and gas production in the United States)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself and others, proposes an amendment numbered 3409.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE—OIL AND GAS PRODUCTION REVITALIZATION ACT

SEC. *01. SHORT TITLE.

This title may be cited as the "Oil and Gas Production Revitalization Act".

Subitile A—Oil Provisions

SEC. *11. WINDFALL PROFIT TAX REPEAL.

(a) Chapter 45 of the Internal Revenue Code of 1954 is repealed.

(b)(1) Sections 6050C, 6076, 6232, 6430, and 7241 of the Internal Revenue Code of 1954 are repealed.

(2)(A) Subsection (a) of section 164 of such Code is amended by striking paragraph (5).

(B) Paragraph (3) of section 168(i) of such Code is amended by striking "(A) In general.—" and subparagraph (B).

(C) The following provisions of such Code are each amended by striking "44, or 45" each place it appears and inserting "or 44":

(i) section 6211(a),
(ii) section 6211(b)(2),
(iii) section 6212(a),
(iv) section 6213(a),
(v) section 6213(g),
(vi) section 6214(c),
(vii) section 6214(d),
(viii) section 6161(b)(1),
(ix) section 6344(a)(1), and
(x) section 7422(e).

(D) Subsection (a) of section 6211 of such Code is amended by striking "44, and 45" and inserting "and 44".

(E) Subsection (b) of section 6211 of such Code is amended by striking paragraphs (5) and (6).

(F) Paragraph (1) of section 6212(b) of such Code is amended—

(i) by striking "chapter 44, or chapter 45" and inserting "or chapter 44", and

(ii) by striking "chapter 44, chapter 45, and this chapter" and inserting "chapter 44, and this chapter".

(G) Paragraph (1) of section 6212(c) of such Code is amended—

(i) by striking "of chapter 42 tax" and inserting "or of chapter 42 tax", and

(ii) by striking ", or of chapter 45 tax for the same taxable period".

(H) Subsection (e) of section 6302 of such Code is amended by striking paragraph (2).

(I) Section 6501 of such Code is amended by striking subsection (p).

(J) Section 6511 of such Code is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(K) Subsection (a) of section 6512 of such Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(L) Paragraph (1) of section 6512(b) of such Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(M) Section 6611 of such Code is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(N) Subsection (a) of section 6653 of such Code is amended—

(i) by striking "Gift, or Windfall Profit Taxes", in the heading and inserting "or Gift Taxes",

(ii) by striking ", or by chapter 45 (relating to windfall profit tax)" in paragraph (1), and

(iii) by striking the comma after "subtitle A" in paragraph (1) and inserting "or".

(O) Paragraph (3) of section 6678(a) of such Code is amended by striking subparagraphs (A) and (C) and redesignating subparagraphs (B), (D), (E), and (F) as subparagraphs (A), (B), (C), and (D), respectively.

(P) Subsection (a) of section 6862 of such Code is amended by striking "44, and 45" and inserting "and 44".

(Q) Section 7512 of such Code is amended—

(i) by striking ", by chapter 33, or by section 4986" in subsections (a) and (b) and inserting "or chapter 33", and

(ii) by striking ", chapter 33, or section 4986" in subsections (b) and (c) and inserting "or chapter 33".

(3)(A) The table of contents of subtitle (D) of such Code is amended by striking the item relating to chapter 45.

(B) The table of contents of subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6050C.

(C) The table of contents of part V of such subchapter is amended by striking the item relating to section 6076.

(D) The table of contents of subchapter C of chapter 63 is amended by striking the item relating to section 6232.

(E) The table of contents of subchapter B of chapter 65 is amended by striking the item relating to section 6430.

(F) The table of contents of part II of subchapter A of chapter 75 is amended by striking the item relating to section 7241.

(c) The amendments made by this section shall apply to crude oil removed from the premises beginning after December 31, 1986.

SEC. *12. STRATEGIC PETROLEUM RESERVE PETROLEUM ACQUISITION.

Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding after subsection (e) the following new subsection:

"(f)(1) The Secretary shall assure that at least 50 percent, by volume, of the petroleum products acquired for storage in the Strategic Petroleum Reserve during each

fiscal year, exclusive of crude oil produced from the Naval Petroleum Reserves or received in kind as royalties from production on Federal lands, are derived from domestic crude oil production, provided that these domestic petroleum products can be aquired at delivered prices that are no less favorable to the United States than the price of comparable foreign petroleum products available to the Reserve, exclusive of duty.

"(2) If, during the acquisition of domestic petroleum products for the Strategic Petroleum Reserve, the Secretary determines that the requirement in paragraph (1) of this subsection cannot be met, the Secretary may acquire imported petroleum products totaling more than 50 percent of the petroleum products acquired for storage in the Reserve for that fiscal year.

"(3) The Secretary may issue the regulations and directives necessary to carry out this subsection.".

SEC. *13. INVESTIGATIONS BY DEPARTMENT OF COMMERCE.

(a) The Congress finds that—

(1) falling oil prices are encouraging increased consumption of petroleum products while discouraging petroleum exploration and development;

(2) broad sectors of the economy have suffered severe impacts as a result of the sharp decline of the energy industry;

(3) the decline in domestic exploration and development could result in increased dependence on imports of energy resources from unreliable sources;

(4) surplus worldwide production capacity may discourage oil and gas exploration investment, development of alternative sources of energy, and conservation by the United States and its allies;

(5) a healthy domestic energy industry and reliable international energy sources are critical to assure an adequate supply of energy at a reasonable cost, minimize our dependence on unreliable sources, assure free and fair trade in energy products, and attain the goal of energy independence and diversification; and

(6) the Administration has, in response, implemented a number of appropriate changes in Federal energy programs, including a decision to fill the Strategic Petroleum Reserve, revision of natural gas valuation methods to better reflect actual market prices, and implementation of procedures to prevent premature abandonment of producing oil and gas wells, both onshore and offshore, and is seeking to identify further actions to respond to these conditions and assure our national security.

(b)(1) The Congress is deeply concerned about the adverse effects of the current state of the energy industry on the national security and economic well-being of the United States. Therefore the Congress urges the Administration to expand upon the initiatives already undertaken by identifying and using all authority available, consistent with free market principles and protection of the environment, to increase the exploration and development of domestic energy resources. The Congress also urges the President to take whatever actions are necessary and appropriate to protect our national security. To accomplish this, the Congress strongly urges the Secretary of Commerce to undertake immediately, upon fulfillment of the requirements of section 232(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1862(b)), and to complete as soon as feasible a study under section 232 of the Trade Expansion Act of 1962 of the national security effects and implications of the current and projected levels of petroleum imports into this Nation.

(2) The Congress urges the President to evaluate any study conducted by the Secretary of Commerce pursuant to section 232 of the Trade Expansion Act of 1962 and take appropriate action without causing undue adverse effects on our domestic and international economic interests.

(3) The Congress urges the Department of Commerce in conjunction with other affected departments to fully analyze the economic impact of current restrictions on the export of oilfield equipment and drilling technology as required in the Export Administration Act of 1979, as amended. The Congress specifically urges that the required study for 1986 assess the present effect of such restrictions on employment and growth of the United States economy, taking into account the recent domestic change in a number of sectors of the energy industry, and further assess the availability of other similar technologies from Western countries. Due to the particular impact of foreign policy controls on the domestic oil and gas equipment and technology industry the Congress urges that the study be undertaken immediately upon passage of this title.

Subtitle B—Natural Gas Provisions

SEC. *21. TRANSPORTATION OF NATURAL GAS.

(a) Section 311(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371(a)) is amended by—

(1) amended paragraph (1) to read as follows:

"(1) IN GENERAL.—The commission, by rule or order, may authorize any pipeline to transport natural gas on behalf of any person.";

(2) redesignating paragraph (1)(B) as paragraph (2);

(3) striking paragraph (2)(A);

(4) redesignating paragraphs (2)(B)(i), (2)(B)(ii), (2)(B)(ii)(I), and (2)(B)(ii)(II) as paragraphs (3)(A), (3)(B), (3)(B)(i), and (3)(B)(ii), respectively; and

(5) adding a new paragraph (4) to read as follows:

"(4) NON-DISCRIMINATION.—

"(A) A pipeline transporting gas pursuant to this subsection shall do so without discrimination.

"(B) An intrastate pipeline receiving gas pursuant to this subsection shall provide transportation service pursuant to this subsection without discrimination.".

(b)(1) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361-3375) is amended by adding the following new section:

"SEC. 316. OPEN ACCESS CARRIAGE.

"Upon request by any person, the Commission shall order any interstate pipeline to provide transportation service without discrimination unless the pipeline demonstrates to the Commission that it lacks the physical capacity necessary to render the service. The Commission may implement this section by rule or order, and may attach appropriate terms and conditions consistent with the fullest practicable use of capacity. The rates and charges for transportation service under this section shall be just and reasonable within the meaning of the Natural Gas Act.".

(2) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by adding after the item relating to section 315 the following:

"Sec. 316. Open access carriage.".

SEC. *22. FUEL USE ACT.

(a) The following sections of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) are repealed:

(1) sections 103 (a)(16), (a)(18), (a)(19), and (a)(29) (42. U.S.C. 8302 (a)(16), (a)(18), (a)(19), and (a)(29));

(2) sections 201(1) and 202 (42 U.S.C. 8311(1) and 8312);

(3) section 302 (42 U.S.C. 8342);

(4) section 401 (42 U.S.C. 8371);

(5) section 402 (42 U.S.C. 8372); and

(6) section 405 (42 U.S.C. 8375).

(b) The table of contents in section 101(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301(b)) is amended by striking the items relating to the sections repealed by subsection (1) of this section.

(c)(1) Section 102 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301) is amended by striking "major fuel-burning installations" each place it appears.

(2) Section 103 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8302) is amended—

(A) in subsection (a)(13)(B), by—

(i) striking clause (ii)(III);

(ii) striking "; or" at the end of clause (ii)(II), and inserting a period in its place; and

(iii) inserting "and" at the end of clause (ii)(I);

(B) in subsection (a)(15), by striking "or major fuel-burning installation" each place it appears;

(C) in subsection (a)(20), by striking "or major fuel-burning installation";

(D) by redesignating subsections (a)(17), (a)(20), (a)(21), (a)(22), (a)(23), (a)(24), (a)(25), (a)(26), (a)(27), and (a)(28), as subsections (a)(16), (a)(17), (a)(18), (a)(19), (a)(20), (a)(21), (a)(22), (a)(23), (a)(24), (a)(25), respectively;

(E) in subsection (b), by striking "or major fuel-burning installation" wherever this phrase appears;

(F) in subsection (b)(1)(D), by striking everything after "synthetic gas involved" and inserting in its place a period; and

(G) by striking subsection (b)(3), and redesignating subsection (b)(4) as subsection (b)(3).

(3) Section 104 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8303) is amended to read as follows:

"The provisions of this Act shall apply in all the States, Puerto Rico, and the territories and possessions of the United States.".

(4) Section 211 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8321) is amended by striking subsection (c) and redesignating the following subsections accordingly.

(5) Section 303 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8343) is amended by—

(A) striking "or installation" and "or installations" wherever the phrases appear;

(B) striking "or 302" wherever the phrase appears;

(C) striking subsection (a)(3);

(D) amending subsection (b)(1) to read as follows:

"(1) The Secretary may prohibit, by rule, the use of natural gas or petroleum under section 301(b) in existing electric powerplants.";

(E) in subsection (b)(3), striking "or major fuel-burning installation"; and

(F) amending the last sentence of subsection (b)(3) to read as follows: "Any such rules shall not apply in the case of any existing electric powerplant with respect to

which a comparable prohibition was issued by order.".

(6) Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373) is amended by striking—

(A) in subsection (a)(1), "major fuel-burning installation, or other unit" and the comma immediately preceding this phrase and "installation, or unit" and the comma immediately preceding this phrase;

(B) in subsection (a)(2), "installation, or other unit" and the comma immediately preceding that phrase, and "installation, or unit" and the comma immediately preceding that phrase;

(C) in subsection (a)(2), the last sentence; and

(D) subsection (a)(3).

(7) Section 404 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8374) is amended by striking—

(A) in subsection (c), "new or' in phrase "applicable to any new or existing electric powerplant"; and

(B) subsection (g).

(8) Section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8411) is amended by striking—

(A) in the last sentence of subsection (b), "or installation";

(B) subsection (c);

(C) in the title of subsection (d), "AND EXEMPTIONS";

(D) in the first sentence of subsection (d)(1), "or any petition for any order granting an exemption (or permit)";

(E) in subsection (d)(1)(B), "or in the consideration of such petition";

(F) in subsection (f), "or a petition for an exemption (or permit) under this Act (other than under section 402 or 404),"; and

(G) subsection (g).

(9) Section 702 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8412) is amended by striking—

(A) in the title of subsection (a), "OR EXEMPTION";

(B) in subsection (a), "or granting an exemption (or permit)";

(C) subsection (b), and redesignating subsection (c) as subsection (b);

(D) in the first sentence of subsection (b)(1) (as redesignated) ", or by the denial of a petition for an order granting an exemption (or permit) referred to in subsection (b),";

(E) in the first sentence of subsection (b)(1) (as redesignated), "such rule, order, or denial is published under subsection (a) or (b)" and inserting in its place "such rule or order is published under subsection (a)";

(F) in the first sentence of subsection (b)(2) (as redesignated), "the rule, order, or denial" and inserting in its place "the rule or order";

(G) in the second sentence of subsection (b)(2) (as redesignated), "(or denial thereof)"; and

(H) in subsection (b)(3) (as redesignated), "any such rule, order, or denial" and inserting in its place "any such rule or order".

(10) Section 711 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421) is amended by striking in the first sentence of subsection (a), "or major fuel-burning installation".

(11) Section 721 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8431) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(12) Section 723 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8433) is amended by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(13) Section 731 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8441) is amended by striking—

(A) "or major fuel-burning installation" wherever the phrase appears; and

(B) "title II or" subsections (a)(1) and (g)(3).

(14) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8455) is amended by striking in the first sentence of subsection (a), "from new and existing electric powerplants and major fuel-burning installations" and inserting in its place "from existing electric powerplants".

(15) Section 761 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8471) is amended by striking—

(A) in subsection (a), "any existing or new electric powerplant or major fuel-burning installation" and inserting in its place "any existing electric powerplant"; and

(B) in subsection (b)—

(i) "new or" in the phrase "In the case of any new or existing facility"; and

(ii) "except to the extent provided under section 212(b) or section 312(b)" and the comma immediately preceding that phrase.

(d)(1) Subject to paragraphs (2) and (3), title II of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341-3348) is repealed, and the items relating to title II are stricken from the table of contents of that Act.

(2) A rule promulgated by the Commission under title II of the Natural Gas Policy Act of 1978 shall continue in effect only with respect to the flow-through of costs incurred before the enactment of the Oil and Gas Production Revitalization Act, including any surcharges based on such costs.

(3) The Commission may take appropriate action to implement this section.

SEC. *23. LIMITED ANTITRUST EXEMPTION FOR INDEPENDENT PRODUCER COOPERATIVES.

(a) There shall be available as a defense to any civil or criminal action brought under the Federal antitrust laws as that term is defined in section 2(37) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301(37)), or any similar State law, with respect to action taken to develop cooperative associations of independent producers or actions taken by such cooperative associations to carry out any voluntary agreement or plan of action to market natural gas if—

(1) the action is necessary to market natural gas, and

(2) the action is not taken for the purpose of reducing competition.

(b) For purposes of this section, the term "independent producer" means, with respect to any quarter, any person other than a person to whom subsection (c) of section 613A of the Internal Revenue Code of 1954 does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d) of such Code. For purposes of the preceding sentence, paragraphs (2) and (4) of section 613A(d) shall be applied by substituting "quarter" for "taxable year" each place it appears in such paragraphs, and by substituting "$1,250,000" for "$5,000,000" in paragraph (2) of section 613A(d).

SEC. *24. FAIR STANDARD FOR COMPARING COST OF PURCHASED GAS SUBJECT TO COMMISSION JURISDICTION.

Section 4(a) of the National Gas Act of 1938 (15 U.S.C. 717(b)) is amended by adding at the end thereof the following new paragraph:

"In ascertaining whether any amount paid in any purchase of natural gas for resale (other than a first sale of natural gas as defined in section 2(21)) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301) is just and reasonable, the Commission shall consider the full cost of the purchased gas, both demand and commodity rates, it separately stated. Nothing in this section shall affect the jurisdiction of the Secretary of Energy under section 3 of the Natural Gas Act.

Subtitle C—Regulatory Reform Provisions

SEC. *31. REGULATION OF PRODUCTION WASTES UNDER THE SOLID WASTE DISPOSAL ACT.

Section 8002(m) of the Solid Waste Disposal Act (42 U.S.C. 6982(m)) is amended—

(1) in paragraph (1) by adding at the end the following new sentence: "The Administrator shall conduct the study and prepare the report with the participation of the Secretary of Energy; the Secretary of the Interior; representatives of the industries associated with the exploration, development, or production of crude oil or natural gas or geothermal energy; and representatives of the State agencies that regulate these industries."; and

(2) in paragraph (2) by striking "twenty-four months from the date of enactment of the Solid Waste Disposal Act Amendments of 1980" and inserting in its place "January 1, 1989".

SEC. *32. UNDERGROUND STORAGE TANKS.

Section 9001(1) of the Solid Waste Disposal Act (42 U.S.C. 6991(1)) is amended—

(1) in subparagraph (H) by inserting "; well cellars, sumps, or drip collection devices" after "lines" and by striking out "or" at the end thereof; and

(2) by redesignating paragraph (I) as paragraph (J) and by adding after paragraph (H) the following:

"(I) hydraulic lift reservoirs in petroleum marketing operations, oil/water separators in petroleum marketing, production, and refining operations, and sumps in petroleum marketing and refining operations, or".

SEC. *33. FACILITY VARIANCES.

It is the sense of Congress that—

(1) fundamentally different factors variances should be available for any facility that is subject to national effluent limitation guidelines including, but not limited to, the oil and gas extraction point source category; and

(2) applications for fundamentally different factors variances from national effluent limitation guideline requirements for the oil and gas extraction industry may be based upon information and supporting data which had not been submitted earlier to the Administration, but shall be submitted at the earliest practicable time that such information and data exist or is reasonably available to the applicant.

SEC. *34. RECYCLING ACTIVITIES.

It is the sense of Congress that the "mixture" and "derived from" rules in 40 CFR 261.3 were promulgated to address intentional dilution of hazardous wastes—a mismanagement practice designed to avoid regulation. These rules should not be invoked to curtail recycling activities in the petroleum industry designed to conserve resources or minimize wastes when there is no information to demonstrate that the recycling activities pose any threat to human health and the environment.

SEC. *35. LAND TREATMENT SITES.

It is the sense of Congress that—

(1) the Administrator of the Environmental Protection Agency should encourage

continued use of land treatment for petroleum waste to the extent consistent with protection of human health and the environment;

(2) protection of human health and the environment from air emissions at land treatment units under the Solid Waste Disposal Act should be addressed solely through promulgation of standards under section 3004(n) of such Act:

(3) land treatment should be determined to be protective of human health and the environment under subsections (d), (e), and (g) of section 3004 of the Solid Waste Disposal Act when an owner or operator demonstrates there will be no statistically significant increase of hazardous constituents over background to groundwater arising from placement of hazardous waste at the land treatment unit; and

(4) land treatment of petroleum waste should be considered to be a method of treatment which meets the requirements of section 3004(m) of the Solid Waste Disposal Act (42 U.S.C. 6924(m)).

SEC. *36. INDUSTRY ACCOUNTING METHODS.

It is the sense of Congress that—

(1) the full cost method of accounting for oil and gas operations should continue to be recognized as an acceptable financial accounting practice in the United States;

(2) financial statements using the full cost method should continue to be accepted in documents filed with all Federal agencies, including registration statements, reports and other filings with the Securities and Exchange Commission; and

(3) the use of the full cost method should not be limited by action of any Federal regulatory agency.

Mr. GRAMM. Mr. President, I offer this amendment on behalf of myself and Senators NICKLES, MCCLURE, DOLE, STEVENS, COCHRAN, HELMS, MURKOWSKI, SIMPSON, WALLOP, BOREN, DOMENICI, and KASSEBAUM.

Mr. President, we have seen now for 2 years a decline in the price of petroleum products; and while that has caused applause in some segments of the economy, it has caused great problems in other segments of the economy. We have a growing foreign energy dependence. Oil imports are rising. The impact of declining prices is decimating the economic infrastructure of the oil and gas industry, affecting hundreds of thousands of jobs in Texas, Louisiana, Oklahoma, and all the other oil-producing areas of the country. Declining prices represent bad news for producers, and for all those involved in the production process. Declining prices not only affect our energy production for today, but also our future ability to produce energy here at home, to provide domestic fuel for our national defense and for our economic growth.

As a result of this problem, I began about 6 months ago, along with a half-dozen other Members of the Senate, to have meetings with the oil and gas producing associations, with the Department of Energy, the Department of the Interior, and the White House, to try to come up with a comprehensive program to build a national energy policy.

The amendment I have offered today is not going to be voted on because of the debate concerning the Fuel Use Act, which we know would produce a filibuster, thereby holding up the Senate and denying us a vote. We are also aware that while we had hoped to get this adopted in the Senate, our chances of consideration, much less passage, in the House, in what is hopefully the last day or two of the Senate session, are remote.

We decided that instead of bringing it up for a vote today, we would bring it up for debate. We understand that there are those who wish to join as cosponsors today, but we thought it was important to put the bill on the table before the Senate, before the American people, to let those who are concerned about energy know that there is concern in the Senate and in Congress and in the Federal Government.

The bill before us, the Oil and Gas Production Revitalization Act, is, I believe, the first comprehensive effort we have undertaken that has had the support of the White House and that has also had the support of oil and gas producers around the country. The bill has no special uniqueness. The Senate has voted on provisions of the bill—at least some parts. Many Members of this body and many Members of the House have introduced similar measures. Some elements of this bill have been adopted in one form or another by both Houses.

What is significant about the bill is that it is the first successful effort to bring the industry concerns together with the administration concerns and with senatorial concerns in a comprehensive bill.

The Oil and Gas Production Revitalization Act has four basic provisions related to oil.

No. 1, it repeals the windfall profit tax, something that the Senate, in its wisdom, has already done; something that the House, in the next day or two, will vote on as an amendment to the debt ceiling. Their intention is to strip that provision and kill it. I hope thay will not be successful, but that is the intent.

There are many of us who would argue that the windfall profit tax was never good public policy; but if there ever were any windfall profit, that situation long ago has been eliminated, because now there are no profits whatsoever. This confiscatory amendment, while not collecting any revenues today, would come into effect if oil prices rose by $4 a barrel, and today is imposing over $500 million in paperwork costs on oil and gas producers around the country.

The second oil-related provision is to mandate by law that 50 percent of the oil for the strategic petroleum reserve comes from domestic sources.

The third element of the bill is a vitally important one. It asks for an economic and security assessment of oil imports. It asks that the Department of Commerce and the National Security Council conduct a comprehensive analysis of the security and economic impact of rising oil prices, and that all potential remedies be looked at, including an oil import fee. As I am sure my colleagues are aware, we have had much heated debate on this subject. In fact, cosponsors of this bill differ greatly on the issue of an oil import fee.

The purpose of this study is to put all the facts on the table, to have a comprehensive analysis. By getting the facts on the table, we let the facts speak for themselves. I think it is vitally important that we agree on a common set of facts.

Everybody is entitled to his own opinions but everybody is not entitled to his own facts.

For those of us who opposed the oil import fee, if the facts bear out our position, it will be strengthened; if the facts do not bear out our position, obviously we have to go back and look at our position. And the converse is true for those who take the other position.

But I think it is vitally important if we are ever to build a consensus on this important issue to examine what are the security perils of increasing imports, what remedies are available, what those remedies are to cost and what represents the best national policy that can be undertaken by the Congress and the President. One indispensible ingredient of that debate is going to be getting the facts on the table so we can deal with a commonly agreed-upon set of facts.

The fourth and last oil provision has to do with the exportation of oil field equipment and drilling technology. Again, it is vitally important that we get all the facts on the table concerning the export availabilty of oil field drilling equipment and technology from France, Britain, West Germany, and Japan. We need to determine whether or not current restrictions actually prevent American technology from being transfererd to the Eastern bloc and to the Soviet Union, or whether the net impact is merely to transfer American jobs producing oil field equipment and technology from Houston, New Orleans, and other American cities, Western Europe and Japan.

That I submit, Mr. President, is a critical issue, and only by having the facts, an agreed-upon set of facts on the table, can we hope to settle that issue.

The natural gas provisions of the bill break down into five basic areas.

No. 1 is to set out a nondiscriminatory program to require the pipelines to carry gas from small producers to assure their access to markets.

The second provision has to do with fairness in competition, in terms of rate design. It simply requires, in setting a rate design schedule, that in comparing United States and Canadian gas the comparison has to be on a competitive basis where all costs are allocated and where the comparison is on a full and comparable cost basis.

I want to make it clear to my colleagues that there is nothing protectionist about this provision. This provision in no way affects the ability of Canadians to sell gas. It simply requires that in setting a rate structure the allocation between fixed and variable costs must be taken into account and the comparison of purchase of gas and the interstate pipeline has to be on a full and comparable cost basis.

The next provision simply allows antitrust exemption where small independent gas producers can pool their gas into one supply source for sale to a pipeline.

The next provision would repeal the demand restraints of the Fuel Use Act, and the final provision would repeal incremental pricing.

I know the Fuel Use Act demand constraints are very controversial. There are those who are concerned that if we do something to open up a market for natural gas we are going to hurt coal.

I want my colleagues to know that I have had a series of meetings with coal producers and I worked out what I believe can be an effective compromise to allow us, when this bill is introduced next year, to move ahead with the support of the coal industry. In part, that compromise simply entails requiring future boilers that are built to be coal capable; not that we have to build the transportation to bring the coal to the boiler, not that we have to build the scrubbers, but that it simply has to be coal capable so that at some future time if the price ratio should change the transfer could occur.

I think that represents an important step at compromise, and I am hopeful that when the bill comes up early next year we will have the support of the coal industry and those who are concerned about coal.

I submit, Mr. President, there is no reason that there ought to be a conflict between oil and gas on the one hand and coal on the other, what we want is a viable national energy policy and that is in the interest of everybody.

Finally, there are some six provisions that relate to regulatory reform aimed at trying to prevent the heavy burden of regulation from stifling the production of oil and gas here at home at a price the consumer could afford to pay.

Let me say in conclusion, Mr. President, because I know others want to speak, that I think this is an important step forward. There is nothing in the bill that is dramatic. There is nothing in the bill that in and of itself will solve our energy problems, but it is a first comprehensive step forward. It is a step forward that I believe can speed the day when we can make the energy industry competitive.

I submit, Mr. President, that it is in the interest of every American consumer to preserve a viable domestic energy industry.

I submit this amendment to my colleagues. I want to make it clear that this bill will be introduced on the first day of the new session, that we will, in the interim, after Congress adjourns, have major meetings here in Washington and around the country to develop support for this bill.

We hope to work out a comprehensive compromise with the coal industry so that we can have a unity of purpose when this bill is introduced on January 3.

I am hopeful that consideration of this bill with other suggestions that might be developed over the recess will be one of the first orders of business of the new Congress.

I thank my colleagues and those in the administration who have worked so hard to help us get to this point.

I am happy to yield as much time as he might consume to the distinguished chairman of the Energy Committee, Senator MCCLURE.

Mr. MCCLURE. Mr. President, I thank the Senator from Texas for yielding.

I want to thank him, too, for the leadership that he has given to putting together a package that now has the administration's support.

A great many of these single elements we have looked at separately and sometimes in combination, but never before have we been able to put together a package that had broad enough support that the administration would join in support of it.

I commend the Senator from Texas because without his leadership, I do not believe that would have happened.

In the Energy and Natural Resources Committee, we have held a number of hearings over the last several years, most recently less than 60 days ago, looking at world oil supply and outlook.

I am convinced and I think most of the members of the committee are convinced that there is a danger to the military security of the United States and a threat to the economic well-being of the United States in the massive fluctuations of price in the energy market.

We are not the masters of our own fate. The industry is hostage to actions that are taken outside of this country by other people seeking their own self-interest, much less interested in what is good for the United States or good for the industry in the United States.

This package of proposals, which has been put forward in the form of this amendment and of which I am proud to be a cosponsor, would go a short distance towards dampening some of that tremendous price swing in the marketplace which, when it is going down, feels good to some people; when it is going up, feels good to others and exactly it is true while it is going down, feels awful to some people; when it is going up, feels awful to others.

I think there is a reason for us to try to find a way to dampen those swings.

One of the reasons for my support of this package among its several provisions is the study to which the Senator from Texas has made reference, the study of the effect of import fees. I have been among those who have opposed import fees and I am still opposed to import fees, but I will have to say as I look at the tremendous potential for damage that lies in the fluctuations induced by others for other than market reasons that we may have to try to find some mechanism by which we can dampen that swing.

I guess I have a little sense of deja vu. This is where I entered in 1968. As a Member of the other body, I was forced to look at the old oil import quota program that had been designed in the 1950's to protect the U.S. oil industry against a flood of cheap foreign oil, and it had worked. It had worked to preserve a two-price market system in which the U.S. oil producer had a share and foreign producers had another share.

But it had worked for a number of years and it was under test at that time. It was under test growing during 1968, 1969, 1970, 1971, and 1972 as oil imports increased dramatically over that period of time.

We had gotten above 30 percent, 35 percent, oil imports by 1973, and a great many people were concerned about what it was going to mean to the future security of this country.

Mr. President, if you will look at today's facts, we are about where we were in percentages in 1973, with the future looking very much worse than it looked in 1973 because our own domestic oil industry is in a much more weakened position today than they were in 1973.

I think it is time for us to address this problem.

I commend the Senators who have joined in this and who will join in the sponsorship of this particular package for the forward-looking nature of this proposal.

It may well be that we will not get all of this proposal. It may well be that there will be other things added to it before it is completed, but I join with the Senator from Texas in believ-

ing that it is important for us to raise this flag at this time.

I am sorry we will not get a vote on it, I am mindful of the fact that the repeal of the Fuel Use Act, without any protection for the coal industry, would bring about a filibuster. The senior Senator from Kentucky has made very clear that without protection for the coal industry in the Fuel Use Act this bill would not go anywhere. The junior Senator from Ohio has indicated that the antitrust provisions, without being cleared in the Judiciary Committee, would alone be enough for him to filibuster this issue.

So I suppose it is impossible for us today to expect to be able to pass the piece of legislation, as constructive as I believe it to be. I think that is too bad. I wish we could. And perhaps next year we will be able to persuade those Members and others that the better part of wisdom is to permit us to move forward on some kind of legislation that provides a greater degree of energy security for this country with a lower cost to our economy than simply sitting doing nothing.

Again, I thank the Senator from Texas for his leadership and for yielding me this time that I may make these remarks.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, as the unanimous-consent agreement indicated, this amendment will be discussed and then withdrawn. That is necessary because, in the closing hours, neither this nor any other matter of controversy can be effectively considered here on the floor of the Senate.

I think, however, Mr. President, that this amendment serves a very useful purpose by bringing up the whole question of oil and gas, its domestic production, its importation, and the effect upon not only national security but the economy of the country.

Mr. President, it is very unfortunate that neither the American public nor this administration seems to be aware of what is happening to this country. Just on October 9, an article appeared in the Baton Rouge Morning Advocate quoting my friend, the Secretary of the Interior, Donald Hodel. The article reads:

> Oil industry advocated of government help and their political allies have failed to make a case so far with the Reagan administration and the public interior, Secretary Donald P. Hodel said Wednesday.
>
> "They can make that case until doomsday and nobody is going to have any sympathy for them" Hodel told reporters at a lunch sponsored by the Washington Journalism Center."

Mr. President, I ask unanimous consent that a copy of this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baton Rouge Morning Advocate, Oct. 9, 1986]

HODEL CITES OPPOSITION TO OIL INDUSTRY BAILOUT

WASHINGTON.—Oil industry advocates of government help and their political allies have failed to make a case so far with the Reagan administration and the public, Interior Secretary Donald P. Hodel said Wednesday.

"They can make that case until doomsday and nobody is going to have any sympathy for them," Hodel told reporters at a lunch sponsored by the Washington Journalism Center.

Anyone proposing to aid the industry better know why you disadvantage one industry to benefit another," he said, and that is a question not yet answered.

The Reagan administration "generally opposes bailouts" for particular industries, and the public does not see the oil industry's problems as a general problem, Hodel said.

"People in the industry are urging the administration to do something," but if the administration agreed, "the reaction of the American people would be, 'Why are you doing this?' "

President Reagan has convened an interdepartmental committee to consider whether the industry's problems pose a threat to national security. The domestic oil and gas exploration and production industry has been devastated by a 50 percent price collapse since last December.

The committee's findings will be essential to lay the groundwork for any aid proposals, Hodel said. The panel has not prejudged the issue, he added; "They could come up and say Don Hodel is wrong."

Deputy Energy Secretary William Martin, chairman of the committee, already has said he is "not an easy sell on the national security argument," Hodel said.

As he has on previous occasions, Hodel said he believed that rising oil imports—4.2 million barrels a day last year and currently more than 6 million barrels a day—could pose a threat to national security by leaving the economy vulnerable to supply interruption.

"If you imagine that the citizens will do without, there will always be enough to run fighter planes," he said, explaining that by harm to national security, he meant "a shortfall in the amount of oil needed to run this economy at the level the people expect or demand."

Even if the committee agrees—and other Cabinet officers remain to be convinced, he said—"solutions that will be offered will not be identical with solutions offered to date. I say that without knowing what the solutions are going to be."

As an example, Hodel said, "If the idea is to protect an oil supply, then there are options that haven't been presented to me yet, such as additional agreements with Canada and Mexico."

On other occasions, Hodel has identified Defense Secretary Caspar Weinberger as one who "wants to see the documentation" for the proposition that the industry's troubles pose a threat to national security.

Mr. JOHNSTON. Mr. President, that indeed is very unfortunate. I find it uncharacteristic of Secretary Hodel that he would speak in terms of no sympathy because I am sure he could not have meant that, considering the personal suffering that is inflicted on my State of Louisiana, I know on Texas, and on Oklahoma and other States. So I am sure he did not mean it in that respect.

Nevertheless, Mr. President, this administration ought to be aware of what is going on in terms of the destruction of an industry, the systematic destruction of the domestic oil and gas industry, bit by bit, piece by piece being dismantled; workers are going to other jobs, and, of course, presently being unemployed and having great difficulty.

But in very short order, Mr. President, in historic terms, in a matter of months, that industry is going to be incapable of producing the domestic oil and gas that it needs to and that it soon will be called upon to do once OPEC gets its act back together.

When OPEC gets its act back together—and who knows how long that will be, perhaps 2 years, perhaps 3 years—but when that happens, and they call upon the domestic oil and gas industry, when the sheiks in the Middle East say, "We want $2 a gallon or $3 a gallon for gasoline," or whatever the unacceptable price is, and we say, "All right, Gulf and Standard Oil and Exxon and independents, produce your domestic oil and gas," and they are unable to do so, then it will not be a question of sympathy, it will be a question of national security, It will be a question of the national economics.

So, Mr. President, we ought to be doing more than we are doing. We ought to start with the one measure that I know the senior Senator from Oklahoma has been so active with, and others on this floor, and that is an oil import fee. It is the one and only really effective thing you can do for the oil and gas industry.

Other things are important. Things in this bill are important. For example, the repeal of the Fuel Use Act ought to be done, should have been done a long time ago. And I guess we will have to do it next year. I think we can muster up the votes to do that and some of these other things next year.

But the most important thing that can be done at this time is an oil import fee. That ought to be done not just because of the revenue it raises, which this country direly needs to go against the deficit, but because it will at least preserve in part the domestic oil and gas industry, so that when the time comes where we will call on them again to do their part for domestic industry, when we call on them to produce that 10 million barrels a day which they have produced in the past, they will be able to do so. If we do not have an oil import fee and if the situation goes on very much longer, they will be unable to respond when called upon.

So, Mr. President, the items in this package are good items. I can only say that I would like much more. I know the distinguished Senator from Texas would like more. Instead of a study, I know he would like to do something about the price of oil and gas. I know he would like to get the package enacted, but we must face political reality as we find it.

So, Mr. President, I am delighted that the package has been brought up for discussion here because it renews our resolve, those of us in the oil and gas-producing States, to be ready next year to fight with renewed vigor a battle that is important and vital not only for us in our States, but for the country as a whole and for the industry as a whole. So it reminds us to be ready for next year for those battles.

Mr. President, I yield whatever time the distinguished senior Senator from Oklahoma may need.

Mr. NICKLES addressed the Chair.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Chair would indicate that the junior Senator from Oklahoma was seeking recognition first. There is ample time for both Senators.

The Chair will recognize the junior Senator from Oklahoma.

Mr. NICKLES. I will be happy to defer.

The PRESIDING OFFICER. The Chair will recognize the senior Senator.

Mr. BOREN. Mr. President, I thank my colleague for his courtesy.

I am very pleased to join with him and with the Senator from Texas in cosponsoring this proposal, the Energy Revitalization Act, which is before us in amendment form.

I am very pleased that the Senator from Texas has indicated it is his intention to bring this forward as a bill early next year and we can get action on it as soon as possible. I look forward to being a part of that effort.

It is crucial that we begin to move. I think it is important that we set the stage now; that we bring to the attention of our colleagues in the Congress and those across this country the situation that we face.

We speak here not from a parochial point of view. Of course, as everyone knows, the States of Oklahoma and Texas and Louisiana and other energy producing States are suffering terribly at the current time.

□ 1245

We have what can only be called a severe economic recession bordering on a depression in those particular States. But we must also look more broadly at the national interest. It is not in the interest of anyone in the United States of America to destroy the domestic oil and gas industry in this country. It is not in the interest of the American consumer that they should once again be completely at the mercy of the OPEC nations. We will be the hostages of the OPEC nations in terms of the price and level of production which they then will be empowered to set if we destroy our own domestic industry here at home. It is certainly not in the interest of national security and preparedness that we have that kind of dependence upon sources of production that are very, very unreliable and are subject to disruption by forces beyond our control.

The facts are clear. We are becoming more dependent every single day. We have 470,000 wells in this country—stripper wells that produce less than 10 barrels of oil each day. At the price of $15 a barrel, 28 percent of those wells will be shut in. If the prices fall back into the range of $10 which is not beyond the realm of possibility we will lose 41 percent of those wells. That resource will be forever gone; a tremendous waste, wells that have been paid for by the American people, the environmental costs have already been paid as well as the exploration costs.

So we must take some action to prevent it. In September 1985 we were dependent upon foreign sources for only 27 percent of our petroleum needs in this country. Just less than a year later in July 1986 that figure had risen to 39 percent, jumping from 27 percent foreign dependence to 39 percent dependence in less than a year's time.

Imports from Saudi Arabia during this period, for example, have risen from 27,000 barrels a day to over 700,000 barrels a day in less than a year. We are destroying, as has been said by those who have spoken before me, the domestic industry and our ability for that industry to operate.

I think there are people in this country who simply believe that the producers of this country, the industry, the supply and service industry can simply sit back and when the price of oil recovers, we can turn on the water tap again just like going to the sink in the apartment in the kitchen and turning the water back on when it is time. It is not that simple. Once the industry is destroyed, once those wells are plugged, they cannot be brought back into production at anything approaching a reasonable cost. In some cases it is simply not technologically possible to bring them back into production. Once the supply and service industry is gone and those people have sought jobs in other fields, they simply cannot be brought back overnight into oil and gas production, exploration, and the servicing of those particular operations. We cannot expect people in this country to sit aside for 5 or 10 years without employment, without any source of livelihood, simply waiting until the price of oil in this country again reaches the cost of production. It cannot happen.

We are destroying the future talent pool of this country. You look at what has happened in the four great schools of petroleum engineering; the University of Oklahoma, the University of Texas, Texas A&M, and LSU. Two years ago we had over 7,000 students majoring in fields that related to the production and exploration of oil and gas. This year that number has fallen to fewer than 3,000.

We are destroying an industry important to our national security. We are destroying an industry important to the American consumer in terms of having a stable and fair price for a product that they have to have in the future.

So this is a step in the right direction. Repeal of the windfall profits tax has already passed on the floor of the Senate. It should be passed by both Houses, enacted into law, and signed by the President. He has already indicated he would do so. We are spending millions and millions of dollars on useless paperwork that does not produce one thing. If there was an example of a bureaucratic waste, that is continuing the windfall profit tax with hundreds of millions of dollars of cost to the private sector without the Government collecting one single penny, without any person in this country benefiting by one single cent as a result of this additional burden on the private sector.

Repeal of the Fuel Use Act, and incremental pricing is long overdue so we can use the economic resources to shut in natural gas for example that we have already found. We already can produce it. We can use it now, and yet it is being shut in because of the artificial restrictions in the law and not because of market forces.

I hope we can eventually move to an import fee. I think by the time we come back next year the studies that will have been made by the administration and others will find sufficient justification on the basis of national security to take action. I think that will happen. I hope we can incorporate in this package next year the proposal from Senator BENTSEN, and our colleague, Senator GRAMM, has proposed that the President should establish a national energy policy, and should provide that in no case should the United States be dependent on imports for more than 50 percent of our oil needs.

I think that is critically important. It sets a short timeframe in which to have action from this Congress that would keep us below the 50-percent mark. We are well on our way back to that level if we do not take action. We are well on our way to the loss of thousands of marginal wells across this country. We are well on our way to the destruction of an industry in this country. What will it mean when

3 or 4 years down the road the price of oil recovers and we are having to spend, consumers are having to spend millions of dollars more for the energy they need?

It will mean this: those dollars will not go into the pockets of American producers. They will not go into the paychecks of thousands of American workers here at home. They will not go to keep an industry stable so we will have some impact on world price to keep it reasonable. They will go into the pockets of foreign producers and foreign employees who will be exacting a price far greater from the American consumer than would have been exacted if we had kept a competitive industry here in the United States.

So I commend my colleagues for this effort. I am pleased to join with them on it. I hope we will see very, very quick action on this package and on additional steps soon after Congress comes back into session next year.

I thank my colleague for his courtesy in yielding.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Oklahoma is recognized.

Mr. GRAMM. Mr. President, I yield to the junior Senator from Oklahoma under whose leadership the Senate repealed the windfall profits tax earlier.

Mr. NICKLES. I thank my friend and colleague from Texas. I compliment him on the work that we have done together in putting together this bill, the Oil and Gas Production Revitalization Act.

Mr. President, I will say at the outset I am disappointed we are not going to have a vote on this package today because I think we need it. I think the country needs it. When I say we need it, a lot of people say that is just the Senator from Oklahoma talking about his State. But I am not just speaking for the State of Oklahoma. I am speaking for the country.

Our country needs to wake up to the fact we are growing ever more dependent on foreign sources that are not stable. This is not a free market situation at work today. We have a situation where we have foreign sources that are manipulating the market.

The Presiding Officer knows the OPEC ministers are meeting today in Geneva. They are discussing what type of price arrangements there will be. In other words, they are setting the price. You have manipulated prices set by governments; not a free market price. And if they do not come to an agreement, you will probably see again a real aberration in prices, possibly with oil prices falling down as low as, this Senator might guess if they come to total disagreement, $6 or $7 or $8. If that happens, you are going to have total devastation in the domestic oil and gas industry. We will be making ourselves very much more dependent on foreign sources, even more so than we are today. I think America should wake up to the fact that we are becoming much, much more dependent and we are just standing idly by.

A year ago this country imported 27 percent of its crude oil and products needs. Last month we crossed the 40-percent range. That figure is continuing to accelerate because we are not drilling. We are not replacing the reserves and the production that we found many years ago. A lot of those wells are being depleted. A lot of those wells are being shut in and shut in prematurely as the prices have fallen. They are not economic.

Our lifting costs are much higher than most other countries' costs. So we are shutting down a lot of that marginal production. We have over 450,000 stripper wells which are marginal producing wells. They produce less than 10 barrels per day. And about a third of those right now are not economic. If prices decline much further, as well they might if an accord is not reached in Geneva, we will find even higher and higher percentages of those wells being shut in. If they are shut in, we will be importing more and more and more.

□ 1255

I might remind my colleagues when we had the shortage of 1973 we were only importing, about 35 percent of our oil and refined product needs. In the shortage of 1979, we had the long gaseline lines and we had factories shut in, and we were importing again, about 44 percent. Right now, we just crossed the 40 percent threshold and we are becoming more and more dependent.

So we have not learned from history. There are some things that we ought to be doing to help this industry. I am not talking about having the Government write checks. I am not talking about major subsidies.

The elements in this package were well thought out. They were put together by several of us who were trying to see what we could do to help this industry when it is hurting and it is on its back, really in bad shape. What can we do? Several of these proposals are nothing but common sense. They should have been enacted sometime ago.

I really regret the fact that we are not able to get this bill up for a vote. I know the legislative time schedule is short. I know my good friend, the Senator from Kentucky, has indicated he would speak at great length if we had the coal capability provision put in as it is. I respect his position. But I think we could and should be able to work out a combination to help the coal industry as well as the oil and gas industry. This Senator also happens to have coal production in his State. He is not interested in doing one thing to help one industry to the detriment of another. I really think that economics should be making these fuel choice decisions and not politicians and bureaucrats.

There are several provisions in this legislation that would help, and help today. Repeal the windfall profit tax. We should not have passed the windfall profit tax in 1979, but certainly now there is no justification whatsoever to have a windfall profit tax on the books. There is no windfall profit! The people who are producing oil in my State and throughout the country are losing money. They are not making money. So let us eliminate this ridiculous tax, get it off the books. It is probably the most anti-free enterprise legislation that ever passed Congress. It should be repealed by Congress.

I am pleased that we did repeal it in the Senate. I proposed that amendment. It was repealed by a vote of 51 to 47. It is still pending on the debt limit bill, but most people are saying now that the House will not agree and will strip that provision from the debt limit extension.

I hope that is not the case.

This proposal also calls for an assessment, a study, on the impact and security consequences of the amount of oil that we are importing, which I have already addressed. One of the problems that we have is that we have an industry presently still diverted on an oil import fee. I support an oil import fee. I do not think we should become that dependent on foreign sources.

I also think it is ludicrous that we had a domestic tax called a windfall profit tax, which has only been on domestic producers, not on foreign oil and not on foreign imports. We have had the absurd policy of taxing domestic producers and not taxing imports, thereby hurting our own producers and helping foreign production.

So we have encouraged imports and we have discouraged domestic production. That makes no sense. It makes no sense whatsoever.

I would hope that maybe as a result of this study, we will be able to get some conclusive information together that, yes, we are becoming too dependent on foreign sources. Maybe the minds and powers will agree, and maybe we can get more support throughout Congress, that it really is not to the advantage of this country to become so dependent on unreliable sources, particularly when those sources are Government-controlled and Government-manipulated and very much not in the best interest of the United States in the long term.

We have several other provisions in this proposal that I think will help. We have a transportation provision for natural gas. I know Senator FORD and others have worked on this at some

length in the Energy Committee. We worked on this for a couple of months. This provision basically would help us move gas from the production areas to the consuming area. That is a provision that will help not only the natural gas industry, but also the production industry and the consumers.

In addition, the bill repeals the Fuel Use Act. It makes no sense whatsoever to have politicians and bureaucrats deciding what fuel we will or will not burn. Let us allow the marketplace to make those decisions.

We have several provisions dealing with regulatory reform. We need regulatory reform. Again, this is common sense, with well-thought-out proposals that I think can help the industry and our country.

Mr. President, when we reconvene for the 100th Congress I can say as this Senator, a principal cosponsor of this legislation, I will do everything I can possibly do to enact the legislation. I hope at that time we will be successful. I hope with the meeting in Geneva which is currently occurring, that we are not too late. I hope by the time we are convening in January and February of next year that we will not find the domestic industry of our further decimated.

Mr. President, I rise in support of my distinguished colleague from Texas and the Oil and Gas Production Revitalization Act. As everyone knows by now, our domestic petroleum industry is on the ropes. The energy security of our country is seriously threatened by restrictive laws, declining prices, and imports.

It is high time we got on with the reform measures set forth in this Oil and Gas Revitalization Act. In addition, I believe we need to enact an oil import fee to set a floor on the price of oil in order to keep our marginal wells from being shut in. The economic and security assessment of oil imports provision in this bill will go a long way toward furnishing a basis for such a fee.

Let me recap briefly the symptoms and problems we face in the industry.

RIG COUNT

Rig counts, the tangible test of our energy exploration and development effort, have dwindled from a high of 4,500 rigs in 1982 to 814 nationwide as of yesterday, down from 1,906 a year ago. In my own State, we once had 800 rigs running; today we have only about 100.

OIL PRICES

Prices have dropped to the point where it is no longer economic for many American wells to continue to operate. With west Texas intermediate crude quoted at $14.23 a barrel, stripper wells, which comprise two-thirds of the producing wells in the United States today, have become uneconomic.

At $15 a barrel, the Nation will lose 22 percent of its over 450,000 stripper wells. This means over 100,000 lost wells, 277,000 barrels a day of lost production, and three quarters of a million barrels of lost U.S. reserves.

OIL IMPORTS

Saudi net back arrangements and price cutting have resulted in imports of 5.9 million barrels a day for the last month, up 42 percent above the average a year ago. We are fast reapproaching the reliance levels of the 1970's embargo days. It will not be long until we are 50 percent reliant on foreign oil imports.

JOBS

The fall in oil prices and accompanying increase in imports has had a catastrophic effect on employment in the industry. Studies show that over 51 percent of the oil and gas service industry jobs—some 223,000—have been lost since the beginning of 1985, and another 60,000 to 70,000 additional jobs will disappear by the end of 1986. In my State alone, about 60,000 jobs have been lost.

The loss of jobs has had a ripple effect on the economy. Thirty-three banks have failed in our State in the last 2 years and bankruptcies are up 51 percent.

Mr. President, with conditions such as these, it becomes all the more important that we have an effective oil and gas reform program such as that in our bill. We need to repeal the windfall profit tax as the Senate did a few weeks ago. The industry has paid out $77 billion in the last 5 years and received absolutely nothing in return.

We also need to continue filling the strategic petroleum reserve, preferably with domestic oil. If it ever made sense to buy low and later sell high, now is the time.

We also need to get a strong contract carriage provision in order to get our natural gas to market to keep income up for our producers and save money for consumers. Despite an excess pipeline capacity in the United States, producers in my State are still shut in. The Energy Information Administration predicts that a full implementation of carriage provisions will save the consumer about 30 cents per million cubic feet and stimulate demand for natural gas by about 0.25 trillion cubic feet in the next 3 to 4 years.

Mr. President, the bill contains many other provisions which will help the industry to get back on its feet. Repeal of the Fuel Use Act will allow consumers to choose the least costly fuel available, thus saving the consumer billions of dollars.

In addition, repeal of FUA should further reduce domestic consumption of imported oil. Repeal of incremental pricing will remove legal impediments to the full and efficient use of domestic energy supplies and will further help to reduce the use of imported foreign oil.

Other provisions will help domestic gas to compete with foreign gas imports on an equal basis, encourage the export of oil field equipment and drilling technology, and permit small, independent producers to pool their natural gas for more effective resale to the consumer. In addition, the environmental provisions go a long way toward establishing workable conditions with which the industry can live, while protecting the environment at the same time.

Mr. President, I would ask our distinguished colleagues from the other side of the aisle join us in cosponsoring this bill and making it a truly bipartisan measure with the backing of both parties, as well as industry and the President.

Since it is so late in the legislative year, I promise to work with my colleague and friend from Texas, as well as with my colleague from Idaho, the distinguished chairman of the Senate Energy and Natural Resources Committee, in the coming months to ensure that hearings are held on this landmark legislation and with the distinguished majority leader to ensure that it gets the highest legislative priority in the next Congress.

We owe at least that much and more to the industry and the security of our country.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Who yields time?

Mr. GRAMM. Madam President, I yield such time as the distinguished Senator from New Mexico desires.

Mr. DOMENICI. Madam President, I yield myself 5 minutes.

The PRESIDING OFFICER. There are 4 minutes remaining.

Mr. DOMENICI. I yield myself 4 minutes.

Madam President, obviously, as a Senator from New Mexico, I have a genuine parochial interest in this issue. Frankly, my concern goes well beyond that. I am very concerned about our growing dependence upon foreign oil, and, on the other hand, the significant diminution or lessening of our reserves of both oil and natural gas.

This country is a country that exists on energy. If our country is denied the capability of having enough energy to run its day-to-day life, its industrial life, its business life, if we are denied that even in some small respect as we were in the one boycott that we had, this country just cannot make it.

We can harken back to the days of a very small percentage of the oil that was coming in being denied us by some of the countries in the Middle East who said we could not have any more, but just a very small portion. To show the significance of oil in those days and their derivatives by way of gaso-

line and diesel fuel, we almost had civil strife.

You recall in some of the Eastern States as people waited in line for gasoline starting at 3 or 4 in the morning and sometimes until the evening to get to the pumps, we even had murders occurring in the lines as they waited because of the anxiety and hatred that was generated. I believe in one State a fight occurred and there was even a shooting. We were only talking about a small percentage reduction in the oil necessary for our ordinary daily lives and the operation of this energy-consuming Nation which has received such benefits that our material wealth is unparalleled and unrivaled. They go together. Our material and economic strengths are tied to the fact that we need great quantities of energy every day.

We built that machine around oil and natural gas. Obviously, we have huge quantities of coal and in the electric generating area that is very, very important.

But you see what is happening to the United States today as we have moved in the past few years more toward independence, as we moved away from dependence on imported oil, how strong we began to feel about our future and how confident.

Now, with the precipitous drop in prices, engineered, obviously, because the Middle East countries were no longer capable of managing that market so they created a glut and down came the prices, with it go our hopes of independence and, conversely, our growing dependence on foreign oil. The numbers have all been spoken here today.

The projections into the late part of this decade and the early part of the next have been spoken of in terms of how dependent we will be.

I must say, Madam President, that we do not have the capacity to diversify as we thought. We thought perhaps we would have moved down the line substantially with new technology on converting coal. We have not. We did one of the big programs, synthetic fuels, which went by the boards, for better or for worse; we are still significantly dependent on foreign oil, basically foreign oil in its original form, and we have not broadened our capacity to use coal in diversified ways, in ways that are conversions from the natural state to the extent that we should.

The reason I am here today is I know we are not going to pass this bill.

The PRESIDING OFFICER. May I say to the Senator from New Mexico that he would have to get time from the Senator from North Dakota.

Mr. GRAMM. Madam President, would the distinguished Democratic manager yield me 10 minutes of his remaining 15 minutes?

Mr. BURDICK. I yield to the Senator 10 minutes.

Mr. GRAMM. I thank the Senator.

I yield to the Senator from New Mexico 2 additional minutes.

Mr. DOMENICI. Madam President, I thank both Senators.

I come here not because I believe there is a chance in the waning days of this session to pass this bill, but clearly, I would like to send some hope to those people in my State and surrounding energy States, in particular the oil and gas producers and those who depend upon them for a livelihood, that we have not forgotten about them, that our country understands that we have a real crisis, and that indeed, we must take whatever steps we can consistent with our economic system to alleviate the growing dependence and the tremendous malaise, human and economic, that exists in many of the States that were producing oil and gas in abundance for the United States.

If we passed a windfall profit tax repeal, I am sure it would die in conference. Strategic petroleum reserve—the bill provides for 50 percent of it coming from American production. We know many of the other provisions that have been alluded to. They are good, they are solid, they have a real chance of helping.

I am most pleased with the provision that requires an economic and security assessment of imports and the reliance thereon. I am hopeful that, even without passing this bill, the President and his advisers will do that. The President has the authority to do it and ultimately will have the authority to respond if the study comes out, as we think it will, with some kind of import fees to begin to alleviate the problem that is so rampant in Oil Patch and that will soon be felt across this land if we do not develop more reserves; if we do not get out there and produce more oil for ourselves; and if we continue to grow in reliance, as far as natural gas, on Canadian natural gas and diminished use of it in the United States because we are substituting other products.

I am hopeful that next year, we will get started in a serious way on these items I have enumerated, all those in the proposed bill, many on natural gas, including the repeal of the Fuel Use Act. I compliment the original cosponsors of it. I am pleased to be here to support it and pledge my assistance next year as we attempt to move this kind of measure early in the session so it may reach some kind of fruition and try to do some good for the people in our States and in the United States.

Mr. GRAMM. Madam President, I yield 5 minutes to the distinguished Senator from Wyoming.

Mr. SIMPSON. Madam President, I shall not require that much time. I express my appreciation to the Democratic manager [Mr. BURDICK] for his courtesy in yielding some time to Senator GRAMM.

Madam President, I rise to support the amendment and to commend the efforts of my colleagues, Senator GRAMM, Senator NICKLES, my good friend and fellow Wyomingite, Senator WALLOP, and others who have joined in cosponsoring this very important piece of legislation. This amendment will nicely cover just about all the bases in our attempts to assist the beleaguered oil and gas industry in this country. People, who live outside of the traditional oil and gas exploration States are just starting to realize that our increased dependence on foreign oil imports and our greatly reduced exploration and production activities in this country will result in an unstable and insecure reliance on energy supplies from other countries.

This legislation contains some very important provisions such as the repeal of the windfall profit tax, assessment and review of oil imports from both the economic and security perspective, repeal of the Fuel Use Act and a variety of regulatory reform provisions.

This legislation is a starting point—a good place to begin. It is not perfect, and I trust that all interested parties will take the opportunity to have their voices heard during hearings when this legislation is reviewed both by Congress and by the oil and gas industry.

I will be right there participating in that debate. Many issues will have to be reviewed, such as retaining coal capability to ensure fuel flexibility for new boiler plants. Another issue which needs to receive our serious consideration is the provision which expresses the sense of the Congress that the currently accepted "full cost" and "successful efforts" accounting methods presently used by the oil and gas industry should not be changed. Requiring small independent producers to change from the full cost method to the successful efforts method could affect about 60 percent of the industry and would result in an enormous economic burden during the transition. The successful efforts accounting method would not reflect the business status of independent producers as fairly as would the full cost method. These are but two examples of the provisions that need to be seriously considered and studied and I pledge my support in working hard for the passage of this legislation.

I just want to state, as those of us have from the oil and gas-producing States, that here is an opportunity to do something. We have as yet done nothing.

I do not think people realize what is happening in the oil and gas-producing States. They are pleased with the

lower price of the product. They are pleased with the lower fuel prices and fuel oil prices. It has been covered very well and I shall not be repetitive. I simply say it is a deeply serious problem and I appreciate the recognition of it by our colleagues around the United States.

Madam President, I support the amendment. I know full well we have our time crush upon us. I know it will come before us next year. I am very proud to cosponsor this legislation because I think, finally, it begins to cover all the bases as to what we have to do here. People, as I say, who live outside these traditional States realize this increasing dependence, which presses us back on things that Senator NICKLES so carefully reviewed. But the several things among all the things in this bill that please me the most are the work we do in repealing the windfall profit tax—which is, of course, not in existence right now because there are no profits to windfall. So we do not do it.

There is one provision in here that is particularly good. That is on export of oil field equipment and drilling technology. I think that is one we need to pay attention to. That can help our large construction and machine tool industry. Exporting oil field equipment and drilling technology into China and other countries around the world, I think, will be very, very important and reduce these current restrictions on trade.

The transportation of natural gas portions of the amendment are excellent. The natural gas rate design is something we have needed. The repealing of the demand restraints of the Fuel Use Act is very important; particularly repealing the incremental price requirements of the Natural Gas Policy Act. Those have caused us lots of pain. And decontrol did not lead to increased prices, it led to lower prices.

I hope we will correct all of it. This is a good vehicle to correct all of it and I commend the sponsors for the provisions on waste requirements, underground tanks, land treatment sites, and industry accounting methods.

Madam President, I conclude by urging my colleagues to give this measure consideration during the committee process and during floor debate at the appropriate time. We need to heed the warnings in this country and begin to heal the pain and anguish of the oil and gas industry, which is, indeed, our bread and butter in my State and in the country. I think this is a critically important measure. I commend all the cosponsors of both parties who have been so active on this measure.

I thank the Chair.

Mr. MURKOWSKI. Madam President, I rise today in strong support of the Oil and Gas Production Revitalization Act. I am a cosponsor of this bill and believe that many of its provisions are sorely needed to help our domestic energy industry through these difficult economic times.

This amendment is being offered under a unanimous-consent agreement that provides for the amendment to be withdrawn once a record has been developed on the extreme need for the relief provided by the act. I understand and appreciate the constraints which have forced such an agreement. However, I am disturbed that many Members of the Senate are willing to ignore the very serious situation facing our domestic energy industry.

The ramifications of that situation are extreme—not only to the hundreds of thousands of people who have lost their jobs in recent months because of the decline in oil prices—but to this Nation as a whole.

Mr. President, we are rapidly losing our ability to provide for our own energy needs at a level which ensures any degree of national security. Our reliance on imported oil has increased by 42 percent since last year at this time. And there are plenty of reasons to believe that imports will continue to rise.

The obvious question presented by this scenario is: At what level of imports is our national security put at risk?

This bill provides a clear way to answer that question. It directs the National Security Council and the Department of Commerce to conduct a thorough assessment of the impact of oil imports on national security. Such an evaluation would give us many of the answers that we do not now have.

This bill does other things which would be of great benefit to the energy industry of this country—repeal of the windfall profits tax, repeal of the Fuel Use Act, repeal of incremental pricing of natural gas—just to name a few.

Mr. President, my only objections to this bill is that it does not go far enough. I believe there are other steps we can take to address the problem currently facing us.

An oil import fee proposal comparable to the one introduced by Senator DOMENICI, myself and a dozen other Senators in August would be a welcome addition to this bill. Repeal of the prohibition on the export of Alaska north slope crude oil is another provision that we should be considering in the present context.

I understand the reality of the situation, however, both of those proposals are more controversial than the provisions of this amendment—if that is possible. As a consequence, all that we can do here today is to build a record and hope that we are capable of taking constructive action early next year.

Let me assure my colleagues, Mr. President, that we will be back next year. The problems facing this Nation as a result of the current price of oil will not go away before next year—they will only get worse. Congress must face up to these problems sooner or later, and the sooner the better.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Madam President, under the unanimous-consent request, I yield back the remainder of my time and withdraw the amendment.

Mr. BURDICK. The minority yields back the remainder of its time.

The amendment (No. 3409) was withdrawn.

Mr. JOHNSTON. Madam President, I rise in support of H.R. 5465 , the National Appliance Energy Conservation Act of 1986. I hope the Senate will act promptly to return this bill to the House and that the House will send it on to the President for his signature.

The legislation before us is identical in every provision affecting energy conservation in applicances to the bill the House passed overwhelmingly on September 22. The only difference is the absence of a single section of the House-passed bill affecting a matter being considered by the Federal Energy Regulatory Commission. This provision was deleted by the Committee on Energy and Natural Resources because it is in no way related to appliance energy conservation and because the controversy over the matter could imperil passage of the appliance efficiency legislation that has such widespread support.

These amendments to the appliance efficiency provisions of the National Energy Act are supported by a coalition of more than 40 organizations, running from the National Association of Manufacturers to the Sierra Club and the Methodist Church. The details of the bill establishing national appliance efficiency standards in Federal law for all major appliances are the result of intense negotiations involving representatives of the appliance manufacturers and State and environmental groups. This process is an interesting one and one that we may see more of as long as the current leadership vacuum persists at the Federal level. This legislation was developed by a coalition of private, public interest and local government groups because the current administration, imprisoned in its free market ideology, has abdicated its responsiblities under the existing appliance efficiency law. Ironically, this abdication now threatens the appliance manufacturing industry, and that is the reason we are amending the existing appliance efficiency law to nearly eliminate any substantive administration role in it.

In many respects the provisions of H.R. 5465 resemble the original legislation contained in the 1978 National Energy Act that directed the Depart-

ment of Energy to promulate mandatory appliance efficiency standards.

Then, as now, there was a perception that standards would result in energy savings that the free market would not provide.

Then, as now, States were showing considerable interest in establishing efficiency standards of their own as a way of capturing the benefits of energy conservation for their citizens.

Then, as now, the appliance manufacturing industry was seeking relief from a potential patchwork of State regulation that threatened to make design and marketing of appliances much more costly and difficult.

Then, as now, the quid pro quo for the preemption of State appliance efficiency standards was establishment of uniform, achievable Federal standards.

The policy of the 1970's was never implemented because the administration refused to promulgate the required Federal standards. A clash of conservative ideology led us in a complete 360-degree circle to where we are today. Free-market conservation ideology abhors Federal standards. States-rights conservative ideology abhors preemption of State law.

So the administration completely emasculated the Federal appliance efficiency standards required under the National Energy Act, promulgating a no-standard standard at the Federal level. That was the good news for the appliance industry. The bad news was that the administration has no intention of allowing the Federal no-standard standard to preempt appliance efficiency standards promulgated by States.

The door was open for a system of State regulation of the appliance industry far more extensive than anything that could occur under the most vigorous and lopsided implementation of the National Energy Act. It had taken years to recreate the exact conditions that led to the original appliance efficiency legislation, but this administration had done the job.

We now have States moving agressively to promulgate energy efficiency standards for new appliances. These standards, inevitably, given the vacuum in Federal leadership, will impose a considerable burden on the appliance industry. Meanwhile, consumers have lost years during which the more efficient appliances this legislation would mandate could have been saving them money. And this has happened as a direct and entirely forseeable result of administration policy.

Having recreated the problem, the administration has done nothing to develop the solution to it that is being presented to the Senate today. The administration has simply been irrelevant.

The solution we are considering today has been developed by an extraordinary coalition of industry and environmentalists and other interested parties who, in effect, are playing the role that the administration is supposed to play in our form of Federal Government. This coalition has negotiated a proposal that addresses the national interest in energy conservation, the industry interest in rational regulation and the State interest in protection of its citizens. This coalition has come to Congress with its case for reform because there is no way that an administration that is so beset with contradictory ideological impulses could deal with its problems.

We will deal with them. This legislation will pass, and it will certainly lead to less regulation. Moreover, it will save energy and it will save resources.

It is a shame that, with its ideological blinders so firmly in place, the administration has been able to contribute nothing to these worthy goals.

Consideration of H.R. 5465 in the Committee on Energy and Natural Resources was not without some controversy. It is appropriate that the legislative history reflect that controversy and the manner in which the committee dealt with it. There was a concern on the part of several Members that the rule to be issued by the Department of Energy under the bill to set a standard for small gas furnaces, set a standard for these furnaces that provides a level playing field for gas utilities, especially in the starter homes and multifamily builder markets. First cost—not operating cost—influences builders selecting heating equipment for starter homes and multifamily dwellings. In many cases the consumer does not have a choice because the builder has made it for him. This is a major reason which efficiency standards for appliances achieve benefits for consumers that the free market cannot provide.

According to the American Gas Association, the average annual heating bill for a natural gas home is $457, compared to $1,160 for electric resistance heating. In 1995, the gap may widen. The owner of a natural gas-heated home would pay $404 annually, while an electric-resistance-heated home would require $1,526 annually for heating. Thus, natural gas would seem to be far less costly to operate, offering significant payback advantages over electric resistance heating.

Gas utilities vigorously compete in the marketplace by encouraging builders to add gas water heaters and other gas appliances in the home to provide the ultimate customer with an even greater positive payback.

We were concerned that, if the Secretary establishes a standard for small gas furnaces at 78 percent, as originally proposed, the first cost differential between electric resistance heat and natural gas will increase to the point where builders will not even consider gas heat, particularly in southern areas where heating is a minor part of the overall residential energy requirement. With regard to the first cost, according to AGA, a 71-percent efficient gas furnace costs $475. Electric-resistance-heating equipment costs on an average $350, a difference of $125. By contrast, a 78-percent efficient gas furnace entails additional installation and duct work cost estimated conservatively at $150 to $200. Thus, the builder could save some $500 per living unit by choosing electric resistance heat over a 78-percent efficient gas furnace.

One of the main goals of this legislation is to encourage energy conservation without unduly altering the economics of fuel choices. This goal will be impaired unless the standard for small gas furnaces is set so as to avoid raising the cost of these furnaces to the point where builders are forced to select electric resistance heat instead of a gas furnace purely on the basis of first cost.

That is why I added language in our Energy and Natural Resources Committee report making it clear that the Secretary must pay due consideration to the need for utilities to continue to compete fairly when DOC considers setting the standard for small gas furnaces. I made it clear the committee was concerned that setting a standard for small gas furnaces at or near the 78-percent level mandated in the bill for larger gas furnaces would increase the first cost of the small gas furnace sufficiently to induce a significant switch to electric resistance heating.

The report language goes on to say that the bill will, upon a sufficient showing, "* * * forbid a standard for small gas furnaces being set at a level that would increase the price to the point that the product would be noncompetitive, resulting in minimal demand for the product."

Madam President, I urge adoption of the bill.

Mr. CRANSTON. Mr. President, I am delighted that the Senate today will pass legislation establishing national energy conservation standards for major household appliances, an idea I first authored in S. 1360, introduced in June 1985.

I appreciate the prompt work of Chairman MCCLURE on the latest version of the bill, and want to thank my distinguished colleague from Washington [Mr. EVANS] and the other Senators who have worked so hard for passage of this important legislation.

I have been actively involved with the appliance efficiency issue since the energy crisis in the early 1970's. I realized long ago that the future of our Nation rests, in part, on more efficient use of our energy resources. This bill will result in very large energy savings nationally.

Since S. 1360 was first introduced, extensive negotiations have occurred, and the bill we pass today, which the House has previously passed, has the complete support of the trade associations representing the appliance industry, as well as the National Resources Defense Council and other groups primarily interested in conserving energy and other precious natural resources.

S. 2781, the National Appliance Energy Conservation Act of 1986, is an important step toward ensuring America's energy future. By eliminating the least efficient appliances in the marketplace, this bill will, by 1993, cause major appliances to be at least 15 to 25 percent more efficient than the average appliance sold in 1985. In addition, there are other near-term benefits for the American people.

With national standards and the strong State preemption language in this bill, manufacturers of major home appliances will avoid facing a rapidly multiplying patchwork of varying standards in each State in which they choose to do business, and will have their ability to compete in foreign markets enhanced.

It will benefit consumers who operate new energy-efficient appliances, because they will save money on their electric bills. One-third of the energy we use in our homes operates electrical appliances and this percentage is increasing.

Utility ratepayers and shareholders will benefit, because as consumers use more efficiently the electricity utilities generate, utilities can avoid building expensive new powerplants to meet anticipated demand increases, and can cut use of inefficient, costly to run powerplants. Just replacing with high-efficiency models the 12 million refrigerators and freezers Californians owned in 1982 will enable California consumers to reduce their energy use by an estimated 5 percent, about 1,700 megawatts.

The new appliances will cost consumers about $705 million—much of which people would spend routinely for appliance replacement—while building new powerplants this size to meet increasing demands for electricity would cost more than $6 billion, more than six times as much.

By adopting clear national standards that meet the needs of the States, this bill will satisfy each of these interests.

At the same time, the bill preserves the ability of States to respond to substantial or unusual local energy problems, such as high electricity, gas, high dependence on oil—or fuels whose price is tied to oil—unusual climatic conditions, or adverse environmental or health and safety conditions that can be alleviated by energy-saving appliances, within the regulatory scheme.

The energy savings at stake are very substantial. Before California adopted its appliance efficiency standards, refrigerators and refrigerator-freezers consumed 12 billion kilowatt hours of electricity each year, according to the California Energy Commission.

But in 1983, as a result of the appliance standards on refrigerators and refrigerator-freezers, residential users saved around 213 million kilowatt hours of electricity.

California consumers saved $18 million in operating costs on refrigerators alone.

According to the American Council for an Energy Efficient Economy, this bill will enable the average American household to save over $250, and the economy to save a total of 22,000 megawatts of electricity—the equivalent of the peak output of 22 larger powerplants—between now and the year 2000.

DOE now estimates that new powerplants—which will be needed unless projected electric demand is reduced—could cost utility ratepayers upward of $1.8 trillion by the end of the century.

With efficient appliances much of this capital expenditure and wasteful use of energy resources will be eliminated.

Manufacturers will be able to meet the standards without undue hardship, and consumers, utilities, industry, and the enviroment all will benefit.

National use of efficient appliances will save consumers billions of dollars, ease utility load management problems—especially during peak periods—hold down future energy costs, free capital for other purposes, and permit the rapid and least costly reduction of emissions from coal-fired plants responsible for so much acid rain damage. We can provide for our future energy needs without endangering our environment.

I am very proud of the role I have played in the development of this important legislation.

The PRESIDING OFFICER. All time has been yielded back, is there any further debate?

There being no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So, the bill (H.R. 5465) was passed.

Mr. FORD. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Madam President, I ask unanimous consent that the call for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DRUG BILL

Mr. CHILES. Madam President, at 3 o'clock, it is my understanding that the Senate will proceed to a cloture vote on the drug bill. That vote is very important. We know that we are into the last few days of this session, and we know that if cloture is invoked, we would still have 30 hours available for debate under the bill. If cloture is not adopted, there is no limitation of time.

I know there are some 14 Senators on the Republican side who have written the majority leader expressing their disapproval and that they will conduct a filibuster on the bill if the death penalty is included. I know there are perhaps a like number of Senators on the Democratic side who have also expressed this concern.

We find ourselves in this kind of dilemma: We have people with very strong feelings on both sides of the issue of the death penalty, some who are taking the position that this bill without the death penalty is not worth passing and should not be passed. We have some on the other extreme who say that if the bill has the death penalty, there will be no bill. Somewhere in the middle I think is a majority of the Senate, I think a strong majority, which says we find ourselves with the opportunity to pass the most far-reaching bill to deal with drugs that Congress has ever had before it. We have a bill that has been put together within about 2 months—again, it is historical for the Congress to be able to move this quickly.

We have to ask ourselves why has that happened. It has happened because we are a nation under seige. We are under seige with the onslaught of drugs that have come into our country. We are seeing our children become victims of addiction to crack and many other drugs, but now the new wave of crack cocaine that you cannot experiment with; if you try it once, chances are that you will be hooked. If you use it up to three times, we know that you will become hooked, and it is the strongest addiction that we have found. We find again once people are hooked, all they can think about is staying high, that euphoria which they get, but there is a corresponding down that is just as deep in its trough as the high is at the crest of the wave. And so we find that people, when they are addicted, will go out and steal, rob, lie, cheat, take money

from any savings, take refrigerators out of their houses, anything they can get their hands on to maintain that habit.

That, of course, has caused crime to go up at a tremendously increased rate in our cities and in our States—the crimes of burglary, robbery, assault, purse snatching, mugging, those crimes where people are trying to feed that habit. Our local police and our sheriffs have found themselves unable to cope with the crime, and we are finding areas in which drugs are delivered in curb service—you just drive onto certain streets and the peddlers are out there besieging you to show you that they have a better form of rock, a better form of drugs.

Because of that, there has been this feeling that we had to do something about it. I have never seen anything strike the Congress with such impact; virtually during one recess the minds of the Members of Congress changed entirely, recognizing that we have a terrible problem and we must deal with it.

I think we find in this bill something that goes beyond saying that we are going to get tough. To do that we have very strong penalties, mandatory sentences for the use of crack in small amounts; we distinguish crack and make it one of the most dangerous drugs; we deal with designer drugs; we deal with many other areas, so there are very, very tough law-enforcement provisions.

But at the same time, Madam President, this Congress is recognizing there must be some money for education, we must do something on the demand side if we are going to get to the root of this problem. So we virtually double the funds for interdicting drugs, stopping drugs from coming in, and we say we are going to do something to stop the demand for drugs; we are going to do something to encourage every State to provide mandatory programs of education kindergarten through 12, starting at the earliest grades and going through high school, to see that we inform our young people of the dangers of drugs and teach them to be able to say no, to be able to resist those kinds of drugs.

We also are providing some funds for rehabilitation. We recognize that we have a large number of people who are addicted, many of whom we hope will seek and get help if they know it is available. In my State, the waiting list for beds in public rehabilitation centers is over 500. Private facilities are so terribly expensive there is no way they are available to the mass of the people.

We provide funds for those State and local police forces, assistance which has to be matched by some of their own money, so we are not talking about a revenue sharing situation. It has to be new money. We are talking about new efforts they are making, not just helping in some of their additional efforts. So there are major, major features.

However, Madam President, for those people who do not want to seek treatment, who want to continue trafficking in these drugs, we are talking about building the Federal prison space in which to be able to put those people, lock the door for a while, and throw the key away if they resist any kind of treatment or help.

All those features are in this bill, from interdiction to trying to beef up our own Federal effort, our DEA, our Customs effort, Coast Guard, using the military in a better way, then trying to assist the State and local efforts in law enforcement, then trying to work on the demand side, education, rehabilitation, and providing the necessary prison beds.

□ 1330

To my knowledge, it is the most far-reaching bill I have ever seen dealing with drugs. Will this bill in itself solve the problem? No, it will not. It is going to take a lot of effort at the family level and at the local level to be able to deal with this problem. But the Federal Government will be taking its role of being a major player in this and showing how seriously we consider it.

There is a sense of the Senate provision in here urging the States to call special sessions to change their laws to deal with the drug problem, because we know that many of those crimes will be tried in State courts. I am delighted to say my State is already talking about when they are going to call their special session. I think it will be at their organizational session after the elections. They already have a special panel appointed by the committee that is recommending changes in sentencing, changes in rehabilitation, beefing up the rehabilitation program, and the education efforts that must be made. Those efforts are good, and the States should do those. We, the Federal Government, need to be the leader.

So we have this opportunity in the closing days of this session. It would be tragic if we allowed this to slip by, by this fight over the death penalty. I support the death penalty. If I could draw this bill in its entirety—and I have certainly tried to help in adding some items to it—I would include the kind of narrowly defined death penalty that is in this bill. But, at the same time, there is no way I would sacrifice all the good things in this bill by saying that we have to have the death penalty in it. I will try to urge my colleagues who feel so strongly about the death penalty that they should not sacrifice this bill because they have this feeling against it.

So, regardless of how this cloture vote comes out, I hope we will recognize that we have to pass this bill, not only the Senate but the House as well. If the Senate passes the bill, I assume it will be without the death penalty, and it will be sent back to the House, and then we have to be concerned as to whether the House will accept it on that basis.

I say to our brethren in the House that if we are able to pass the bill in the Senate—and that is a stripped-down version of the bill—I hope the House will not allow this bill to die because they would insist on the death penalty.

So we find ourselves in the position where, in our closing days, we have within our grasp a bill that is important, that has many worthwhile features, that literally is sort of devoid of controversy, that the body almost unanimously is for, other than this one provision. It is the purpose of a deliberative body to deliberate, and it is to conclude, and it is to pass a product that could be very valuable for the people of our States, for the people of this great country, to attack this onslaught in which we find ourselves. I hope we will not pass up this great opportunity we have over the issue of the death penalty.

Madam President, I am urging our colleagues to search their hearts and their consciences and to realize that, regardless of their personal feelings on that one issue, this bill contains so many worthwhile provisions that we need to pass it in the Senate and in the House; and we should give this kind of assistance to the people it will help.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR RUSSELL LONG

Mr. BYRD. Madam President, it is with regret that I say farewell to my friend and colleague, Senator RUSSELL B. LONG. He is a Senator whom I have long watched and admired, and for whom I have learned incalculably much since the first day I took a seat in the U.S. Senate. And I will always be inspired and guided by his example after he leaves the Senate.

Senator LONG came to the Senate under a burden that few of us realize—having to follow in the footsteps of his legendary father, Senator Huey Pierce Long. But as all of us know, he has more than succeeded in that task. His accomplishments as a Senator are legion. His performance as the skillful

chairman of the important and powerful Senate Finance Committee for 14 years was masterful. His legacy is monumental.

RUSSELL LONG was first elected to the Senate in 1948. On most of the landmark tax and trade legislation since that time, you can see the imprint of this remarkable Senator.

During his 37 years as a U.S. Senator—time in which he has ever been attentive to the wants and needs of the people of Louisiana and the people of the entire United States—Senator LONG became one of the Senators who is an institution within this institution. He became one of the Senate's most powerful voices on Federal economic and tax policy, and he dominated legislative areas such as trade, health care finance, tax, and Social Security.

During his tenure in the Senate, he served on the Commerce, Science, and Transportation Committee, the Banking and Currency Committee, the Senate Select Committee on Small Business, the Senate Armed Services Committee, the Democratic steering committee, and the Foreign Relations Committee. He also served on the Select Committee on Ethics and the Joint Committee on Taxation.

He further served as the Senate's assistant majority leader, chairman of the Merchant Marine Subcommittee of the Commerce Committee; chairman of the Surface Transportation Subcommittee; and chairman of the Military Construction Subcommittee of the Armed Services Committee.

But it was on January 10, 1966, that Senator LONG was named chairman of the Senate Committee on Finance—and then a legend began. In his 15 years as chairman of one of the Senate's most powerful and important committees, Senator LONG displayed a mastery of the subject matter and such skillful management abilities that his opponents were often in awe.

Senator LONG's legislative achievements included the landmark 1972 and 1976 Federal revenue sharing laws, the 1969 and 1976 tax reform laws, and increases and changes in Social Security and Medicare benefits to ensure that most of this Nation's aged, blind, and disabled citizens would be raised out of poverty and could receive adequate medical treatment.

He was an influential cosponsor of legislation extending the Voting Rights Act in 1984, and he has pressed for a balanced foreign-trade policy to protect American jobs and to save industries that are vital to the security of the United States.

As the Senate Democratic leader, I have witnessed another special quality in Senator LONG that I have long admired and appreciated over the years.

Senator LONG has never failed to revere the U.S. Senate as an institution crucial to the successful working of American democracy.

Senator LONG has been one of those Senators who understands the working of the Chamber. He reveres its rules, its procedures, its precedents, its customs, and its traditions. He knows that if they are ignored or forgotten, American democracy loses, because the carefully balanced system of government established by our forebears is thrown out of alignment.

Time after time, I have seen Senator LONG brace the momentary political winds and whims to ensure that these time-honored traditions and procedures are continued.

It was his respect for the Senate's traditions, and for the role of the Senate in American society and government, that led him to oppose televising Senate proceedings. This is one of the infrequent occasions when he and I disagreed—but even in our disagreement, as usual, I respected his judgment.

As a matter of fact, when I decided that the time had come for television and radio coverage of Senate proceedings, the very first Senator with whom I talked was Senator LONG. I knew of his strong feelings about the matter, and I realized how important it would be if I could persuade Senator LONG to change his position and support television and radio coverage of Senate debate and deliberations. But even though I felt I might not be able to persuade him to change, I felt it was highly important that I discuss it with him and that at least I might help those of us who were going to work for coverage of Senate debates by having such discussions with Senator LONG in advance, and I felt that in some way it would certainly not be time wasted, it would be time well spent whether or not he was persuaded, that it could do our cause no harm but only good. For those reasons I spent considerable time of his and my own in the course of those discussions.

I am not sorry that I did that. Even though Senator LONG did not change his position, I do feel that those discussions were helpful to both of us and in the long run that they were beneficial to the cause which I came to support.

I respected his judgment. At one point, he expressed his oppositon stating:

> The Senate should give stability to the Government, and the Senate is easy enough to stampede the way it is now. The Senate should be something of a citadel where a minority armed with a righteous cause can stand off an angry mob.

His commitment to this principle, Madam President, spanned his tenure of nearly four decades in the Senate. In his maiden speech to the Senate, on March 2, 1949, Senator LONG expressed his opposition to limitation of debate by curbing the filibuster because it would deprive Senate minorities of their rightful protection. Senator LONG has taken another position that I must respect. "Every Senator should decide for himself at what point he thinks he should retire," Senator LONG recently said. And so he will soon leave us.

In his first Senate campaign in 1948, Mr. LONG stressed his desire to vindicate his father and to work in behalf of the "little people."

As all of us know, Senator LONG succeeded remarkably well in both. I know that his father would be proud of his son RUSSELL. And the "little people," as he called them, obviously appreciated him because they kept sending him back to the Senate—most of the time by overwhelming margins—and they have given him an 80 percent approval rating.

And I have never seen RUSSELL LONG falter in his support for the common man and woman—the people who bear the burdens, most of the burdens, of making this Government run, paying the bills, supplying the blood and the sweat and the tears as well as the sons and daughters in time of war. Those are the people to whom RUSSELL LONG was referring and those are the people to whom he has been faithful.

He will be greatly missed in this Chamber. But the legacy of this important and influential Senator will be with us.

When I came to the Senate 28 years ago, there were the following Senators who were here then and who are still here: Senator STENNIS, Senator LONG, Senator THURMOND, and Senator PROXMIRE. Senator LONG will, by his own volition, be leaving the Senate after this session is completed at the end of the 99th Congress.

Mr. wife Erma and I join in best wishes to RUSSELL and his wife Carolyn as they return to his beloved State of Louisiana.

I cannot say, and I will not say, farewell to this distinguished gentleman and outstanding Senator. I simply say, thank you, and may God bless you in the years ahead.

Mr. LONG. Madam President, will the Senator yield?

Mr. BYRD. Yes, I yield. I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Madam President, it has been a heartwarming experience to hear my dear friend, the minority leader, the Democratic leader, ROBERT BYRD, say, those kind words about me as a Member of this body. I will always think of him as a friend from the heart forever. I was once associated with a group of young men in college and we had that description of one another—"friends from the heart forever." That is how I feel about my leader, ROBERT BYRD of West Virginia.

As the Senator knows, it was my privilege to support him for the leadership on this side of the aisle, even against a very dear friend, the late Hubert Humphrey, who, at that time, indicated that he was planning to run for the same thing. And, at that time, it seemed to me it was an inappropriate idea for him to run and BOB BYRD ought to be our majority leader. And I was never disappointed. He has been a great leader.

He has had some difficult decisions to make now and then. I know sometimes the pressure from colleagues from the left and right, tugging for his help on one side or the other, has been very difficult for him to handle, because you cannot please all of your friends, you cannot please all of your troops. But he has done a great job in doing the best he could as his Maker gave him the light to see it.

He is a very principled man. He is a believer in most of the same things I believe in. I love and admire him and I will always feel the same toward our leader as I have always felt toward him down through the years. It is a little late for me to change in that respect, and I do not think I would change my mind about our leader, ROBERT BYRD, of West Virginia.

Thank you for those kind remarks.

Mr. BYRD. Madam President, I thank my friend.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMITTING REGISTERED PUBLIC UTILITY HOLDING COMPANIES TO OWN CERTAIN INTERESTS IN QUALIFYING COGENERATION FACILITIES

Mr. DOLE. Madam President, I ask unanimous consent that the Senate now turn to H.R. 5056, to permit registered public utility holding companies to own certain interests in qualifying cogeneration facilities, now being held at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5056) to permit registered public utility holding companies to own certain interests in qualifying cogeneration facilities.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3424

Mr. DOLE. Madam President, I send an amendment to the desk on behalf of Senator KASTEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] on behalf of Mr. KASTEN proposes an amendment numbered 3424. "Strike all of Section 2."

Mr. BYRD. Madam President, I ask unanimous consent, on behalf of Mr. PROXMIRE, that he be made a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Madam President, I urge passage of this amendment to delete from H.R. 5056 the House language requiring the Federal Energy Regulatory Commission [FERC] to issue a final order on docket No. RP82-80.

If approved, this amendment would force FERC to issue a decision on a longstanding case that could have a devastating impact on the State of Wisconsin. An adverse ruling on this case, involving minimum billing for pipeline customers, could cost Wisconsin utilities consumers $30 to $50 million per year.

I believe it is absolutely essential that the Commission carefully consider all the potential cost shifts inherent in this case before a final order is made. The Wisconsin delegation has requested, along with the Wisconsin Public Utilities Commission and representatives of Wisconsin utilities, that FERC hear oral arguments on behalf of Wisconsin ratepayers before issuing a decision in this case. So far, our request has not been granted.

Madam President, the Commission needs time to find a way to mitigate a rate shock for Wisconsin consumers. That cannot be accomplished if we rush FERC into a premature decision.

I believe the reasons outlined above in themselves justify deletion of the "FERC Requirement" language from the bill. However, I would only remind my colleagues that this language in no way pertains to the provisions affecting public utility holding companies. This language has no place in the PUHCA bill, and I urge my colleagues to support this amendment which will delete it from H.R. 5056.

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3424) was agreed to.

Mr. PROXMIRE. Madam President, I support passage of H.R. 5056, as amended, to delete House language requiring the Federal Energy Regulatory Commission to issue a final order on docket number RP82-80.

This case is the subject of a letter from the entire Wisconsin delegation to the Federal Energy Regulatory Commission [FERC] dated July 23, 1986. In this letter, we state that:

Because Wisconsin gas customers currently have no alternative means for getting gas from pipeline sources other than ANR, any major change in rate design or in ANR's cost allocation among its customers can have a devastating impact on our State.

We urged the FERC to carefully consider docket number RP82-80 and convene an oral argument to ensure that all the costs and impacts of their decision are fully presented. They have not yet acted.

The House amendment would have had a serious impact on Wisconsin consumers, raising prices as much as $30 to $50 million per year and tied the Commission's hands.

Deletion of this language, which is nongermane to PUHCA, both improves the bill and protects our consumers.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The amendment was engrossed and the bill was read the third time.

The bill (H.R. 5056), as amended, was passed.

Mr. DOLE. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. DOLE. Madam President, I hope that we can get an agreement to move to a number of nominations on the Executive Calendar. It is my understanding that the Malone nomination was the problem and that we are now in a position to withdraw that from consideration.

Madam President, let me indicate what we may be doing the balance of the day. At 3 o'clock there will be a cloture vote on the antidrug bill. Following that vote, we are on the drug bill if cloture is obtained. I assume it will be, but, in any event, there is still hope that we can resolve one major issue in that bill, at least postpone final decision on that issue until maybe sometime next spring.

I know the House Members will not be happy with that result. I have just talked with the sponsor of the amendment on the House side who did not seem to be a bit pleased. But I indicated to him that it was fairly obvious to me that if in fact cloture is invoked, that there could be 30 hours to be stretched into a rather long period of time, maybe 3 or 4 days; and that I did not believe that the Senate would

want to have a drug bill fail because of our failure to agree on one provision, though it is a very important provision, one that I support; and that is the death penalty under certain circumstances.

It was suggested yesterday by a number of Senators on each side of the aisle, and on each side of the issue, that one way to resolve that would be to have an agreement that there would be a death penalty provision reported by the Judiciary Committee sometime early next year, in the spring, and that then the minority and majority leaders not knowing who will be in which spot next year could also suggest that we would be willing to schedule that for floor debate sometime next spring.

So that is in the process. We hope that there could be some resolutions of that. If that can be resolved, then I believe we can pass it. There may be one or two or maybe more additional amendments, but I would hope we can get action on the drug bill by 5:30 or 6 o'clock.

Then we need to make a judgment on whether we should wait for the House to act on the CR. I am advised by the Republican leader, Representative MICHEL, it may be midnight or later before they finish the CR. So I suggest they send us another 24-hour extension. It did not seem to me to make much sense to just sit here until midnight and then stay up all night working on the CR if we can come back in early in the morning and accomplish the same result. So I think that may be progress.

In addition, tomorrow we would have the immigration conference report. They are still negotiating on the reconciliation conference report. If the drug bill were disposed of, that would still leave the debt ceiling.

With reference to the debt ceiling, there are one or two options, as I understand, floating. One would be to put in reconciliation for 7 months, 8 months, or 6 months, but not for a full year's time. Another would be to send us a clean debt ceiling from the House but with 1 year and we would send it back for 6, 7, or 8 months, and have those who are concerned about the Gramm-Rudman-Hollings provision, satisfy them in that way, knowing they would have an opportunity next spring again, March, April, or May to approach the debt ceiling extension at that time.

This matter has been discussed with Senators RUDMAN and GRAMM. I know they have been in contact with Senator HOLLINGS. I believe that approach would be satisfactory to them. That would give them some assurance that there would be another vehicle around in early spring.

I guess what I am hoping is we may be able to do all of these things tomorrow, maybe late tomorrow night, but if so, that would certainly help us be out of here by Friday morning.

Mr. STAFFORD. Madam President, will the majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. STAFFORD. I hope the majority leader might have in mind, the Democratic leader as well, that there is a possibility the conference reports on clean water and on water resources might be available for consideration by the House and Senate tomorrow. I do not think either would take much time. But I hope there would be a chance to handle those matters if indeed the conference reports are available.

Mr. DOLE. I would have no problem with that. I doubt the minority leader would.

There would be a number of those. We have been keeping up fairly well with all of the items of that kind. There may be a defense authorization conference report here this afternoon. Senator GOLDWATER has indicated he would like to bring that up. It would not take over 10 minutes. So we certainly will try to accommodate.

There is the question on the Superfund conference report which was raised yesterday by the minority leader and Senator LAUTENBERG. I know it has been raised a number of times by the Senator from Vermont, Senator STAFFORD.

Again I believe if we could give the President some assurance, and I have discussed this with the chairman of the Ways and Means Committee, that we would not be in here next year trying to raise the funding level with additional taxes, it would certainly make it much easier for the President to look upon that legislation favorably.

Mr. STAFFORD. If the majority leader will yield again, I would certainly be willing to give that assurance as far as I am concerned as chairman of the Environment and Public Works Committee. I have signed a letter to that effect.

Mr. DOLE. I thank the Senator.

Mr. BYRD. Madam President, I want to thank the majority leader for continuing to keep in mind the Superfund legislation. That is a piece of legislation that is very important in my State to the chemical industries therein. I would hope we could work out some arrangement whereby the White House would give us assurance that there would be no veto of that important legislation.

I also think the majority leader was wise in suggesting that a short-term CR, continuing resolution, be sent over from the other body rather than sit around here and wait until midnight, waiting on the CR, the long-term CR, from the other body and trying to transact business on that during the rest of the night.

(Mr. HATFIELD assumed the chair.)

Mr. BYRD. It seems to me that the majority leader has chosen the best course in his thinking. I have a feeling however that instead of the Senate completing its business tomorrow, I hope we could at least think in terms of completing the business of the Senate Friday, if not tomorrow.

Mr. DOLE. I thank the distinguished minority leader. I know the Presiding Officer has a great deal of interest in the continuing resolution. As he indicated earlier, if in fact we would have the bill by 7 or 8 o'clock, or even 8:30 or 9 o'clock, it might be worth doing it this evening. But we will continue to check. My latest advice is, or at least suggested advice, is it would be 11 o'clock, midnight or after.

I know the Presiding Officer wants to pass it as quickly as possible. But I would hope we would start early in the morning rather than at 1 a.m. or something.

Mr. BYRD. The distinguished Presiding Officer, the Senator from Oregon, [Mr. HATFIELD], has already saved the Senate at least 2 or 3 days on the continuing resolution when he advised our friends in the other body that they should not attempt to tack on the Fuel Use Act to the continuing resolution. There would have been a point of order raised against that and continuing debate with respect to that measure because for a major piece of legislation like that to be put on to an omnibus appropriation bill in conference, especially when the legislation had not been added to the appropriation bill and to the continuing resolution by either body, just to go to conference, and have it tacked on there I think would be very unwise on the part of the other body. I am happy that they have had some second thoughts.

The distinguished Senator from Oregon, who is the chairman of the Appropriations Committee of the Senate, I think gave some very helpful advise to them in that respect and to all of us because I have no doubt that the Senate would have done well to have completed the continuing resolution this week if that had been the course taken.

I thank the majority leader.

Mr. DOLE. I thank the distinguished minority leader. We will continue to work on the agreement.

On the Executive Calendar, let me indicate again that if we can complete action on all of these matters we have in the agreement, that would leave only three or four nominees on the Executive Calendar.

□ 1405

I think three were being held by Members on this side. We have already advised Members on this side that we are not going to honor holds

at this time, so we can dispose of at least two additional nominees. That will leave, as I recall, a couple of Denmark treaties that will not be taken up this year, Mr. Lawrence to be an Assistant Secretary of Agriculture, and maybe one additional nomination.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1415

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Nebraska.

Mr. EXON. I thank the Chair.

TRIBUTES TO RETIRING SENATORS

THOMAS F. EAGLETON

Mr. EXON. Mr. President, change is one of the things in life which we know will happen. Many times change is for the better and we must always be ready to accept the desirability or inevitability of change. That is a big part of life and I try to accept or at least deal with change as time goes on.

However, some changes are harder to deal with than others. One very difficult change for me personally will be the retirement of several Senators from this body, all good friends of mine. One of them is the U.S. Senator from Missouri, TOM EAGLETON.

TOM EAGLETON is one of my dearest and closest friends—not just in the Senate, but in life. Few people can combine a high intellect and a fabulous sense of humor as TOM EAGLETON can. Men such as he are rare indeed.

When TOM EAGLETON speaks, I listen. And so do other Senators. Whether the subject is the confirmation of a new Chief Justice of the United States, the complexity of the situation in the Middle East, the future of education, or the fine points of the War Powers Act—I listen. When I want to gain the benefit of a perspective I respect and trust, I go to TOM EAGLETON—and I listen.

It was once said, "A person does not learn anything while he is talking." How true. But we have all learned so much from TOM EAGLETON by listening. I shall continue to seek his advice and counsel in the future even though he will no longer be readily among us every day here in the Senate. However, as a body, we will all miss greatly having the opportunity to sit in our seats in the Chamber or seek him out in the dining room and engage him in a conversation from which we always learn so much.

TOM EAGLETON is truly a fountain of wisdom and knowledge in an institution which needs so much of both qualities. The Senate has been a richer place because of his presence, and the Senate will suffer from his absence.

Now that he will be in St. Louis on a more consistent basis, I suspect he will be able to see the beloved St. Louis Cardinals that he and I have shared so many hours of discussion on and so many hours watching from time to time during the last few years. I shall join him there at every opportunity, to listen to him further and also listen to this discussion of our professional baseball teams.

As this 99th Congress and TOM EAGLETON's 18 years as a Senator come to a close, I want him to know that the 8 years we have shared here together will always be special to me.

TOM, you have made a difference for the better—for your colleagues here, for the U.S. Senate and for our wonderful country.

Godspeed and the best of everything, my friend. You have my admiration, my thanks, and my friendship.

BARRY GOLDWATER

Mr. President, since my arrival in the Senate in 1979, I have served on the Armed Services Committee, where I have had the pleasure and honor of working closely with one of that committee's most respected leaders of all time, my friend, BARRY GOLDWATER.

Long before he became chairman of this committee, BARRY was recognized as one of this body's most knowledgeable Members in the area of national security. In addition to his military career and skills as an aviator, BARRY brought to the Senate much-needed good old, down-to-earth common sense in dealing with the complexities of our defense plans and budget. This was no better demonstrated than in his resounding success in getting a major defense reorganization bill through Congress and made into law.

BARRY GOLDWATER knew what needed to be done and did not hesitate in doing it. As a result, our Nation will continue to benefit from his judgment and hard work for many years to come. He has selflessly dedicated his life to making our Nation strong and I shall miss him greatly in the committee and here in the Senate.

BARRY GOLDWATER has long been known as "Mr. Republican." He has certainly been that. However, I prefer to refer to him as "Mr. National Security." There is not a man or a woman in any of our armed services who does not know that BARRY GOLDWATER is at their side, fighting for them here, in the Halls of Congress. And believe me when I say that, when I am in any kind of a fight, I want BARRY at my side. There is no better testament to a man than that one.

So BARRY, as you return to your beloved Arizona, take with you our thanks for all that you have done for America. The name of BARRY GOLDWATER will always be a part of this institution and of America's history. This Senator, your friend, will miss you very much.

PAUL LAXALT

Mr. EXON. Mr. President, today I rise to pay tribute to retiring Senator PAUL LAXALT.

In the past 8 years, my impressions of Senator LAXALT have been formed from close association and also, sometimes, from a distance. We have not served on the same committees and we do not share the same party affiliation.

Despite those circumstances, I have come to admire the senior Senator from Nevada a great deal. PAUL LAXALT has been a valuable line of communication between this body and the White House. The duties he assumed as "first friend" have been dispatched with unparalleled ability.

Mr. President, there is a common practice here in Washington called, running one up the flagpole. It means to quietly check out a reaction to an idea in a way which, if it proves unpopular or unworkable, the originator of an idea can drop it quietly before the storm hits. PAUL LAXALT has run many ideas "up the flagpole" at the White House for most of us here. It is a double duty which many people outside the Senate do not fully appreciate but which all Senators value and thank him for. His willingness to serve this function is one of the things which makes this Senate work. It is clear to me that his ability to combine personal and professional considerations without compromising either is a trait worth emulating.

When PAUL LAXALT leaves the Senate, the record should be clear that he is admired far beyond his circle of personal and political friends. He has earned the deep respect of many, including this Member of the U.S. Senate.

CHARLES MAC MATHIAS, JR.

Mr. EXON. Mr. President, before coming to this body in 1979, I had already heard of the distinguished senior Senator from the State of Maryland whose reputation for integrity was known to a great many of us from the plains.

CHARLES MAC MATHIAS, Jr. has served his beloved Maryland and this Nation with great distinction. Over the years, MAC MATHIAS has earned the recognition as one of the Senate's truly great thinkers; a man who has shown great strength and fortitude in the many times he has, through conscience, been thrown against the tide. Such times I suggest, were very difficult for him, but MAC always seemed to see through the complexities and far more often than not came down on the side of reason, fairness, and com-

passion. Such abilities, I believe, are inherent in only a few individuals and MAC MATHIAS is one so gifted to be a leader of that pack.

Many Members of this body have taken the floor to pay fitting tribute to Senator CHARLES MAC MATHIAS and his insight into the need to bring the greatest deliberative body in the world into the modern age. During his tenure as chairman of the Senate Committee on Rules and Administration, he was the advocate for and successful in bringing the wonders of the computer age to each of our respective offices and the committees of the Senate. In addition, MAC was a stalwart in his support of bringing the day-to-day activities of the Senate to the American people through radio and television. Such accomplishments only further prove his dedication to the welfare of this body, the public, and to the furthering of democratic ideals.

MAC MATHIAS will soon cast his final vote as the very distinguished senior Senator from the State of Maryland. Though he will leave a great void, he also will leave us with a great legacy; a legacy of conscience and of honor. For this we thank him and wish him God's speed in his days ahead.

GARY HART

Mr. EXON. Mr. President, I rise to pay tribute to the senior Senator from Colorado who will be departing the Senate at the end of this term. I have had the honor and privilege of serving closely with Senator GARY HART on the Senate Armed Services and Budget Committees.

On the Armed Services Committee he has been a strong advocate of building a military machine which "fights smart" and on the Budget Committee he has been a spokesman for fiscal responsibility. As a Senator from a Midwestern State. I have also appreciated the excellent work of Senator HART on the Environment and Public Works Committee. Colorado and Nebraska share many of the same challenges in finding an appropriate balance between developing and preserving our natural resources.

Senator HART has been a valued friend and colleague. The U.S. Senate will miss the clear and thoughtful voice of GARY HART. I have never known him to turn away from a difficult problem or take an easy way out of any situation and never taking an irresponsible position. Senator HART gives thoughtful reflection to each major issue which faces the U.S. Senate and the Nation. While there may have been times when Senator HART and I have disagreed on particular issues, I have always appreciated the keen intellectual analysis that he brought to every debate.

The people of Nebraska hold a special affection for GARY HART. In the spring of 1984, the senior Senator from Colorado stole the hearts of Nebraska Democrats, when he scored an impressive victory in the Nebraska Democratic Presidential primary.

Senator HART leaves the U.S. Senate with an impressive record of accomplishment and the respect of his colleagues. I fully expect that his retirement from the Senate will not be a retirement from politics. I trust that citizens will recognize and realize that GARY HART will continue to offer the Democratic Party and the American people his leadership and new ideas for America's future.

RUSSELL LONG

Mr. EXON. Mr. President, the retirement of RUSSELL LONG will mark the end of a truly outstanding career in the U.S. Senate; probably history will show it to be one of the outstanding careers of all time.

Since my election to this body, I have had the privilege of serving on the Senate Commerce Committee with RUSSELL LONG. There are few Senators who have a better understanding of how this body works and how to get things done. RUSSELL LONG has that rare ability to get right to the heart of any issue.

Being elected to the Senate at the age of 30 and being the son of the legendary Huey Long, RUSSELL LONG had some big shoes to fill. He met those challenges and has established an outstanding record in the U.S. Senate.

Without a doubt, RUSSELL LONG has a better understanding of the Tax Code than any Member of Congress. He has served on the Senate Finance Committee for 34 years and was chairman of that committee for 14 years. In that role, RUSSELL LONG will likely be most remembered as the father of employee stock ownership plans. No Senator has worked harder to expand the free enterprise system and private property ownership among the people of the United States.

RUSSELL LONG has dedicated more than half of his life to serving the people of Louisiana and the United States. To the Senate, he has brought wisdom, humor, and hope. While we will greatly miss RUSSELL LONG here in the Nation's Capital, I am confident that he will find a way to continue to serve the people of his great State.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. BROYHILL). The Chair on behalf of the President pro tempore appoints to the National Commission on Agricultural Finance in accordance with section 501(a) of Public Law 99-205, the following individuals:

Mr. Don C. Steffes, of Kansas, and Mr. Maxie D. Love, Jr., of South Carolina.

DOMESTIC OIL AND GAS INDUSTRY

Mr. DOLE. Mr. President, Congress should not be caught playing our collective fiddle while our national and economic security burns. Make no mistake about it, the United States is an energy-driven economy, and our Armed Forces—the very defense of our country—are energy-driven.

Following the two energy crises which rocked this country during the 1970's, the Congress took aggressive steps to promote alternate fuels, but we have yet to discover the technologies needed to displace oil and natural gas from being the backbone of this country's energy supply. So, whether you think they wear black hats or white hats, we need to ensure domestic oil and gas producers continue to explore for and produce domestic crude oil and natural gas.

IMPORTS

We are now approaching the same level of imports which existed prior to the two oil shocks of the 1970's. Since last October, imports of crude oil and petroleum products have increased 32 percent. Supplies from Arab OPEC countries have nearly doubled in the last 5 months, and now Saudi Arabia, in an effort to regain its market share, has begun to flood the world markets with even lower priced crude. In June of 1985, we bought from the Saudi's only 26,000 barrels of oil per day. In July of 1986, that level had increased to 716,000 barrels of oil per day, putting them into the same category as Mexico and Canada as our top suppliers of oil.

OIL PRICES

I know of no Senator who is proposing a commodity support price program for oil and gas—and do not believe such a program is either warranted or would be beneficial to the domestic oil and gas industry. Unfortunately, it is the price of the commodities that is causing the severe problems now being experienced. Last October, crude oil prices were $24.06 per barrel; today the prices have plummeted to $13, a 46 percent decline. During this same period, 139,600 Americans have lost their jobs in the oil and gas extraction industry—a 25 percent decline.

Three statistics are the best measure for the health of this industry, and all three have been dismal in this past year. Seismic crews, those who look for geologic formations which could hold hydrocarbons, have declined 56 percent. Drilling permits, required prior to any actual exploration, have plummeted 62 percent. Finally, the "rig count," the number of drilling rigs actually exploring for new resources, stands at 814 this week—an all time post-World War II low. The rig count is roughly one-half of what it

was only 1 year ago, and some 3,716 below the level in 1981.

LEGISLATION NEEDED

Clearly, it is time to put to bed the old debate on the black hats versus white hats. The proposal before us today would be an important first step. Time is short, however, and it is impossible to get it enacted into law this year.

It is a good foundation for legislation we will certainly consider next year. Legislation which will be necessary for our economic and national security.

ANIMAL RIGHTS

Mr. HATFIELD. Mr. President, one of the more volatile issues to confront us of late is the growing concern among certain individuals and groups over the use of animals for medical research. The so-called "animal rights movement" has indeed raised some legitimate concerns about the conditions under which biomedical experimentation occurs. Such expressions of concern have resulted in better supervision and more care being taken in the conduct of such research where necessary.

The animal rights effort, however, in the view of a majority of respected academic, medical and scientific leaders, has the potential for seriously impeding our Nation's medical research effort—an effort of which we are extremely proud. Medical research has been of immeasurable benefit to our people in preventing and treating serious illness and injury. The quality of life we now enjoy and the years added to our lives are the direct result of research conducted in the laboratory often utilizing nonhuman subjects.

A recent article appearing in the Washingtonian magazine warns of the potential damage to medical science if extremism within the animal rights movement succeeds in representing the view of all those concerned about the use of nonhuman subjects for medical research. It raises several issues worthy of consideration. To understand the range of views held on this matter, I believe it would be useful to note two letters to the editor responding to the article, one from a respected scientific organization and one from the Humane Society of the United States.

Mr. President, I ask unanimous consent that the article and accompanying letters be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHO WILL LIVE, WHO WILL DIE

(By Katie McCabe)

"Save the Monkeys!" pleads the sign that has dominated the entrance to the National Institutes of Health since spring. Beside it, a painting of a plaintive, heavily bandaged macaque monkey draws the attention of passers-by along Rockville Pike. On the lawn and sidewalk, demonstrators organized by People for the Ethical Treatment of Animals (PETA) have maintained a round-the-clock vigil, holding rallies and press conferences, trying to force the release of fifteen monkeys five years ago from a Silver Spring research lab accused of animal cruelty.

The protest has become a familiar sight to commuters as well as to viewers of the late-night news—where the scene has usually been accompanied by graphic photos of the monkeys, some with unbandaged wounds and others in seemingly torturous restraints.

Ostensibly at issue is the removal of the monkeys from the care of NIH to a primate sanctuary in Texas, a cause that has garnered sympathy among members of Congress, columnists, and some of the public. But there is much more at stake in the debate than the ultimate residence of fifteen monkeys.

The scene being played out at NIH is merely the most visible manifestation of a growing movement that seeks not just to ensure the humane treatment of animals, but to end the use of animals in medical research.

The "animal rights" movement has grown in the past five years from small groups of radical activists to embrace—and dominate—the spectrum of animal-welfare interests at the local, state, and national levels.

Absent from the humane pleas of the PETA demonstrators at NIH is evidence of the human costs of the activists' efforts. Their activities include midnight raids on animal facilities, the pilferage of documents, and the destruction of labs, which in turn have driven up security costs, driven out researchers, and created what activists themselves have described as a "climate of fear in the research community." They have initiated costly litigation and led mainstream animal-welfare organizations in pushing for well-intended but often restrictive legislation that has greatly increased the costs of research and sapped the time, resources, and will of research scientists.

Out of the public's view, this pro-animal activity has measurably impeded research on AIDS, Alzheimer's disease, heart disease, transplantation, and a host of other areas that depend on the use of dogs, cats, and primates—the animals targeted for immediate elimination from laboratories by animal-rights groups. But the self-professed goal of PETA's leaders does not stop there—it is to bring a halt to animal research altogether. And they are closer to that goal than even they ever thought possible.

To understand what is at stake—and to see what is not apparent on the front lawn at NIH—you can travel across town to Children's Hospital, where four-year-old Kendra Hawthorne wriggles impatiently through lab tests to monitor the level of cyclosporine in her bloodstream. Were it not for that anti-rejection drug—and the animal research that led to its development—Kendra would not have survived the liver transplant performed when she was eighteen months old.

That was three years ago. Today, unless you unbuttoned her pink Oshkosh overalls and saw the surgical scar, you'd never know that Kendra had been sick. In March 1982, five-week-old Kendra was diagnosed as having a rare liver disease called biliary atresia. Her chances for survival were slim, doctors said, without a liver transplant.

For two years, Kendra and her parents waited and hoped in their Gaithersburg home. When a donor organ finally became available, they flew to Pittsburgh University Hospital for the operation that saved Kendra's life.

The fourteen-hour operation was the shortest part of a story that goes back to the late 1950s, when human organ transplantation was still science fiction and medical researchers began the first laboratory trials with animals.

For the next 25 years, researchers approached the many problems associated with liver transplantation, working from every direction to perfect surgical techniques, preserve donor organs, and overcome the body's immune barrier with anti-rejection drugs. Time and again, investigators returned to laboratory animals to work out yet another piece of the puzzle.

For people like Kendra, this research produced miracles. But the real miracle, or luck, was her birth date. Had she been born six months earlier—before the completion of animal trials for the anti-rejection drug cyclosporine—her chances of survival would have been only half as good.

Animal research is important to the thousands of critically ill children like Kendra, and also to the millions of children who do not get sick—those who are vaccinated against polio, tetanus, diphtheria, and whooping cough, who survive strep throat, ear infections, bronchitis, and pneumonia because of antibiotics, all developed—and continuously tested today—in animals. It is the story of 11 million diabetics kept alive by insulin, cancer patients treated with radiation and chemotherapy—in short, of every major medical breakthrough in this century.

And of the breakthroughs to come? That is the question. Kendra Hawthorne's life depended on the use of research dogs, the animal model that, along with swine and monkeys, was critical in developing liver-transplant techniques. All the problems are not solved, particularly those having to do with rejection of alien tissue. Yet important work on the problem in Massachusetts has made the cost of acquiring dogs for research prohibitive.

"When money runs out, you simply stop," says Harvard Medical School professor Dr. Anthony Monaco. "Our work on inducing tolerance in organ grafts has come to a complete halt."

The result? Knowledge and techniques that could save another Kendra's life might come too late—or not at all.

Nothing at 4080-B Howard Avenue in Kensington speaks of such life-or-death consequences. The first-time visitor might miss the unmarked warehouse, tucked between an auto-parts store and plumbing contractor, that is the headquarters of People for the Ethical Treatment of Animals—the country's largest animal-rights group, organizers of the NIH demonstrations. Only the bumper stickers on the cars parked in back—"Liberate Laboratory Animals"—signal PETA's location.

There is no knob on the door, and no bell. The visitor peering through a small, high window, sees a poster tacked to bare studding. "Vivisectors Are Scum," it declares.

PETA co-director Ingrid Newkirk echoes the poster's theme as she ushers the interviewer past several large, friendly dogs. "Don't worry," she laughs, "they're only trained to bite vivisectors." She lays out the animal-rights position.

"Animal liberationists do not separate out the *human* animal," she begins, "so there is no rational basis for saying that a human

being has special rights. A rat is a pig or a dog is a boy. They're all mammals."

This ethic, Newkirk explains, "shakes the whole grubby system of biomedical research, because if you jeopardize an animal one iota in something that doesn't benefit it, you're doing something immoral. Even painless research is fascism, supremacism, because the act of confinement is traumatizing in itself."

Newkirk's views on animal experimentation are part of a broader animal-rights philosophy that has its roots in the 1977 book *Animal Liberation*, by Australian philosopher Peter Singer.

Singer—who has called Newkirk "one of the sharpest strategists in the movement"—argues that all sentient beings have equal moral status and regards humans' use of animals for food, sport, or research as "speciesism"—the moral equivalent of racism.

This philosophy goes beyond the traditional animal-welfare concerns of the older humane organizations. As Newkirk explained in a *City Paper* interview last year with Howard University philosopher Charles Griswold, the movement regards "the right to human life as a perversion," meat-eating as "primitive, barbaric, and arrogant," and pet ownership as an "absolutely abysmal situation brought about by human manipulation."

For now, her attention is focused on vivisection. She charges experimenters with "lying and misleading the public" about the benefits of animal research: "The bulk of experimenters are mucking about with pigs and dogs while people are dying." That statement—literally true, yet profoundly false—is characteristic of the logic that has brought thousands of animal-lovers into league with the radical animal-rights campaign.

PETA, which claims 90,000 members across the country, represents the radical end of a broad animal-interest spectrum encompassing 10 million supporters in more than 400 organizations. Of the 70 interest groups formed during the last two years, the majority are—by title or self-description—radical in their position on animal research. And the PETA philosophy is increasingly influential inside the imposing eight-story office building at 2100 L Street, Northwest, home of the Humane Society of the United States.

The visitor is struck not so much by the differences between 2100 L Street and PETA's headquarters at 4080-B Howard Avenue as by the similarities. The rhetoric is softer, the awareness of public image higher, but the substance of the message is the same.

"The HSUS is definitely shifting in the direction of animal rights faster than anyone would realize from our literature," says the society's director of lab-animal welfare, John McArdle, one of several "ethical vegetarians" on the society's executive staff.

Acknowledging the limited appeal of an uncompromising vegetarian philosophy, McArdle advised delegates at the 1984 HSUS convention to "avoid the words 'animal rights' and 'anti-vivisection.' They are too strange for the public. Never appear to be opposed to animal research. Claim that your only concern is the source of the animals."

McArdle was discussing tactics to use in a "pound seizure" campaign—the top HSUS priority for 1986. It concerns the 10 to 15 million unclaimed cats and dogs put to death in pounds each year. About 2 percent of those animals are sent to research institutions instead of being euthanized at the pound. The HSUS wants the transfers stopped.

The impetus—and the emotionalism—behind the pound-seizure campaign is easy to understand. No one likes to think of pets, even former pets, as subjects for scientific experimentation, and instances of illicit animal sales to research laboratories have fueled efforts to improve regulation of traffic in research animals.

But banning the use of pound animals altogether—and legislation toward that end has been introduced in Congress—can have devastating effects. In Massachusetts, which has the strictest laws against the use of pound animals in research, institutions must purchase animals specifically bred for that purpose—at four times the cost. Because funding has not risen accordingly, and is unlikely to in the age of Gramm-Rudman, critical research—including work on heart, liver, and intestinal transplantation at Harvard University—has stopped. It is a small irony, but a telling one, that prohibiting the use of pound animals in research means that twice as many animals ultimately die.

To animal-rights advocates, who oppose all use of animals for human benefit, the source of research animals is immaterial. But the issue has proved useful in soliciting support. As McArdle explained to the HSUS delegates, "It is an ideal issue for the animal-rights community, as it is the easiest to explain to the general public, who are concerned about their pets [being used in research], and it has the greatest potential for adding new members to animal organizations."

McArdle also pointed out that a successful pound campaign can serve as an opening wedge for introducing other laws to eliminate animal research. That is what happened in Massachusetts in 1983; the day after passage of the state's pound-animal ban, ads placed in the *New York Times* and the *Boston Globe* by the New England Anti-Vivisection Society showed a battle-helmeted dog with the caption, "We've won the battle; now help us win the war."

Like Ingrid Newkirk, John McArdle dismisses the value of animal research. "Most of biomedical research has very little to do with human health," he says. Researchers, he believes, "are up on a pedestal, but we're whacking away at the base of that pedestal, and it's going to fall."

Animal research, McArdle says—again echoing Newkirk—is unnecesary to continued medical progress. A PhD, he is at work on a comprehensive study of alternatives to animal testing, including computer models, cell cultures, and improved statistical methods. His most innovative proposal, McArdle says, is the substitution of brain-dead humans for animals in surgical research. "It may take people awhile to get used to the idea," he admits, "but once they do, the savings in animal lives will be substantial."

That there are alternatives to using live animals in biomedical research is a major tenet of the animal-rights movement—though the goal seems not so much to develop such alternatives as to end the use of animals altogether.

Scientists view computer models and tissue cultures as useful adjuncts to, but not replacements for, live animal models. A recent report on the subject by the Office of Technology Assessment, Congress' in-house scientific think tank, agreed. Current technology, it concluded, is not adequate to eliminate animal research.

In order to study the complex interaction of cells, tissues, and organs, the 430-page report said, research will continue to require live animals. The OTA noted that even tissue-culture studies must eventually be validated with results of whole-animal experiments, and that computer models of living systems cannot simulate all the reactions of a living creature.

For now, McArdle and the animal-rights advocates are concentrating their attacks on the use of large mammals—primates and "companion" animals such as cats and dogs, which provide the closest models for humans in many kinds of research, and also are the species for which the public has the most sympathy.

The HSUS, for example, wants NIH's regional primate-research centers converted to "Centers for the Development of Alternatives to Animal Testing." That effort, if successful, would eliminate the primate center where the isolation of the AIDS virus in monkeys provided the first step in developing a vaccine for the disease. More important, say researchers, it would divert limited funds from research that depends on animal use to a search for alternatives.

Along with his lobbying efforts on national issues, McArdle coordinates and guides local humane societies in taking a more aggressive animal-rights stance. On his desk during an interview is a letter from the Peninsula Humane Society in San Mateo, California, one of the country's wealthiest humane organizations.

According to the December 18, 1985, *San Mateo Times*, a "surprise coup" at the Society by local activists forced the resignation of the board's conservative members, one of whom said, "I am resigning because I do not agree the philosophy of extreme activists."

The radicalization of local humane societies is a nation-wide phenomenon. Says PETA's Ingrid Newkirk: "Humane societies all over the country are adopting the animal-rights philosophy, becoming vegetarian, and working harder to get inside labs."

Other high-profile humane organizations that have shifted from traditional animal-welfare goals to an anti-research stance include the 50-year-old Animal Protection League, the Animal Rescue League, and the American Society for the Prevention of Cruelty to Animals.

Campaigning on many fronts animal-rights activists have generated 80 bills in state legislatures to restrict animal research and have precipitated the shutdown of two major labs. They have radically shifted the federal Animal Welfare Act that regulates lab-animal use and have fundamentally altered the research climate.

How has this come about, especially when 80 percent of the public supports the use of animals in medical research, according to a recent Associated Press poll?

Part of the answer can be found in the PETA demonstration at NIH. Shown there is a videotape shot by PETA codirector Alex Pacheco, who posed for four months as a lab volunteer in Dr. Edward Taub's Institute for Behavioral Research in Silver Spring. The scenes on that videotape depict unsanitary lab conditions and monkeys apparently in need of veterinary care. The pictures of monkeys with atrophied limbs and unbandaged wounds are hard to watch; many people turn away.

It is a natural reaction. It was that videotape, along with other evidence gathered by Pacheco, that led to a police raid on the lab in 1981, removal of the monkeys to NIH, and the prosecution of Dr. Taub for animal cruelty.

The impact of those pictures, which have been used repeatedly on television and in PETA appeals for support, has overshadowed Taub's denial of animal mistreatment, the reversal by the Maryland Court of Appeals of his initial conviction, and his exoneration by a U.S. Public Health Service Board of Appeals in 1984.

But if the pictures tell a 60-second story of animal abuse to viewers of the evening news, the court documents in the case tell another. The major dispute in the Taub trial centered on his handling of the complex problems associated with deafferentation—the severing of nerves, in this case to deprive limbs of sensation in order to simulate human stroke and spinal-cord injury. The two groups who gave expert testimony on the proper treatment for deafferentation disagreed as to whether the monkeys' limbs should have been bandaged.

These scientific and veterinary arguments—on which experts still disagree—have been lost in the five years since the trial, overshadowed by sensational headlines and lurid pictures. Pacheco's pictures cast the final shadow of suspicion over the research community's treatment of animals and gave the animal-rights movement a rallying cry.

The case also has advanced activists' efforts to gain legal standing in behalf of animals. In addition to demonstrating outside NIH, PETA has filed suit—now before the Fourth U.S. Circuit Court of Appeals in Richmond—to force the release of the Taub monkeys from NIH, in whose care they have been since 1981.

The monkeys were moved in June, over PETA's protests, to a private NIH-funded facility in Louisiana, where they will be resocialized and allowed to breed and range freely. Though they will be used only for observational studies there, PETA continues to oppose, on principle, their presence at a research facility of any kind, pressing instead to have them sent to a private primate sanctuary in Texas.

It is an appealing notion, and it has gained the sympathy of columnist James J. Kilpatrick, among others, as well as more than 200 Members of Congress who have cosponsored a resolution calling upon NIH to accede to PETA's request.

But the case involves more than relocation. PETA seeks guardianship rights over the monkeys similar to those granted to guardians of minors and mentally incompetent humans. PETA claims those rights by virtue of the "bonding" that has taken place between the monkeys and PETA members during their weekly visits over the past five years.

Should PETA succeed, the precedent would be set for having courts—rather than scientific review boards—decide on the appropriateness of particular animal models to be used in research, including whether they should be used at all. This would trigger widespread legal action by activists seeking to remove animals from laboratories, generating high litigation costs to researchers and eventually, activists hope, bringing animal research to a halt.

Whatever the outcome of the case, the escalation of the debate to the U.S. Congress and a judicial level one step removed from the Supreme Court is a barometer of a movement that was almost nonexistent in 1981, when Alex Pacheco founded PETA.

Says Pacheco: "We've come so far, so fast. To have done what we've done this year would have been unthinkable ten years ago."

The most effective battles against animal research have been waged on non-legal fronts. PETA, which Ingrid Newkirk describes as an "above-ground abolitionist organization," also provides central organization, legal-defense funding, and media coverage for the Animal Liberation Front, an underground group of separate cells that do not divulge their members' identities to other cells or to outsiders.

Over the last five years, the ALF has taken credit for dozens of lab break-ins, bombings, and threats to animal researchers. Three ALF raids in particular—at the City of Hope National Medical Center in Duarte, California, the University of California at Riverside, and the University of Pennsylvania—have disrupted important research and instilled fear in the research community.

If the Taub incident set the animal-rights movement in motion, the even more widely publicized University of Pennsylvania incident marked a turning point.

ALF members conducted a raid in May 1984 on Penn's Head Injury Clinic where a study was under way in which baboons were dealt brain injuries similar to those suffered by humans in auto accidents.

Sixty hours of videotapes, stolen by ALF and edited by PETA to 30 minutes, revealed technicians smoking and making callous remarks while performing non-sterile surgery on inadequately anesthetized baboons.

The reaction was strong. While PETA members demonstrated at NIH, then-Secretary of Health and Human Services Margaret Heckler ordered funding for the project suspended. A report by NIH's Office for Protection from Research Risks cited the project for "material failure to comply with Public Health Service policy for the care and use of laboratory animals," and the US Department of Agriculture—enforcer of the Animal Welfare Act—imposed a $4,000 civil penalty on the university.

The Penn case marked the first time a Cabinet official had intervened in NIH's management of its grantee institutions. Also for the first time, evidence obtained by ALF was used in Congress to enact tighter animal-welfare legislation, especially regarding the care of primates. Most important, many people wondered whether situations like the one at Penn were the exception or the rule.

Like the photos of Taub's monkeys, the Penn videotapes appealed to the normal desire to see animals treated in a humane way.

Despite researchers' claims that Penn was an exception—that the vast majority of laboratory animals are treated humanely—animal liberationists use the visual evidence from the case to argue that all animal experimentation is cruel, unethical, duplicative, and unnecessary.

"I have gone into research out of a profound respect for life at all levels," says Harvard immunologist Dr. Norman Letvin, whose work at the New England Regional Primate Center recently provided a critical link in AIDS-vaccine development. "It's absolutely ludicrous to think I would use animals callously.

"If I use an animal and it dies, it's painful for me. I give it a great deal of thought and planning."

Most researchers echo Letvin's concern. But many are only now discovering what activists have known all along: that the real issue is not how animals are treated, but whether they are used at all.

There was little discussion of legislative reform, new NIH guidelines, or pet-related issues at a national Animal Rights Coalition conference in Minnesota last September, two months after the Penn experiments were halted. According to a representative of the research community who attended the conference—an account later corroborated by PETA's Lori Gruen to *Newsday* reporter David Zimmerman—"the one legitimate goal of the movement, as endorsed by speakers and accepted by the delegates, is to eliminate completely the exploitation of animals for food, for sport, for fashion, and especially for research."

Speakers made clear that the most effective means toward that end was the support of ALF activities, reported the witness, who insists on anonymity for fear of retribution from animal-rights activists. Guerrilla activities were deemed "extremely useful in getting the movement media exposure," although speakers noted that "there are actually many more raids, pilferings of documents, and acts of terrorism than are reported in the press."

That theme was picked up in a recent "Direct Action Paper" of the New York-based Human/Animal Liberation front. Citing the halting of research at Penn as a landmark victory, the paper urged front members to target other facilities for raids, "preferably universities because security is more relaxed and information on research more readily available." Instructions are given on selecting vulnerable targets by using university bulletins. NIH grant-application listings, and Medline abstracts.

"Choose what seems most redundant, absurd, or offensive, and best concentrate on cats, dogs, and primates so as to ensure public sympathy," the paper counsels members. "It is quite possible to know a tremendous amount on a specific researcher without ever walking into a facility or having inside information. The most important aspect of an action is creativity; do not be afraid of being outrageous. One idea . . . is to block the gates of a research center with animal corpses, stolen or negotiated from local shelters."

In the absence of evidence of widespread animal abuse, liberationists have relied largely on visual evidence, used out of context, to trigger public response. Participants in the Animal Rights Coalition conference in Minnesota were advised that "TV and radio are much more effective than newspapers" and urged to "raise hell, be outrageous, present gory details" in order to "put researchers on the defensive."

Donald Barnes, president of the National Anti-Vivisection Society, counseled misrepresentation of facts, stating that he uses a figure of 70 million animals used in research a year—a figure he knows is too high—and forces his opponents to refute his numbers.

Both the immediate and long-term effects of such tactics are clear to the animal-rights activists, who characterized the research situation this way at the Minnesota conference:

"The climate of fear in the research community is causing them to spend more money on security, reducing the amount of funds available for research. It may also discourage young scientists from going into animal research since they fear their chances of advancement may be jeopardized if they become the target of a liberation. In this way, the actions of the ALF save many more animal lives than the ones that are actually liberated."

The animal liberationists' view is confirmed by researchers. Following an April 1985 raid on the University of California at

Riverside—during which ALF members released animals, damaged computers, poured blood on files, and spray-painted liberationist slogans on laboratory walls—scientists throughout California work in a "siege mentality," says Dr. Thomas Hamm of the Stanford University Medical Center. "We are under constant threat of a break-in," he observes.

Following the Riverside raid, research on infant blindness came to a halt while NIH investigated ALF claims of animal abuse. And although the eight-month investigation exonerated the facility, none of the 467 stolen animals or the $638,000 in damages was recovered.

"Worse than the dollar value," notes Stanford's Dr. Hamm, "are the personnel costs. I see a number of colleagues leaving the field because they can't adjust to the harassment of the activist groups."

For obvious reasons, security has become a major concern—and expense—at research facilities. According to Dr. Arthur Butterfield, director of the Research Resources Facility at Georgetown University's new multimillion-dollar animal-research center, "security was the overriding factor" in the facility's design.

At the University of California at San Francisco—where recent animal-rights activism has cut off the supply of dogs for cardiovascular research—Dr. Joseph Spinelli says, "We are losing some faculty because of the problems with large-animal availability. Younger researchers are not going to go someplace where their work and their chances of advancement are impeded."

Says Dr. Frederick Goodwin, director of intramural research programs for the National Institute of Mental Health: "My people speak more and more of extreme fear and demoralization."

The loss of talented researchers could translate quickly into appalling human health costs, says NIMH neuroscientist Dr. Steven Wise. "If the chain of scientific talent is broken, society won't be able to reverse that trend easily,'" he warns. "In five or ten years, when we desperately need good scientists to solve another health emergency like AIDS, the scientific talent just will not be there."

Between the lurid images of widespread animal torture evoked by anti-vivisectionists and the research community's near-universal claims of concern for animal welfare, the question that remains in most people's minds is: Are lab animals treated humanely?

In a sea of emotionalism, a few facts provide some perspective. Current data from the US Department of Agriculture show that more than 90 percent of the 20 million animals used in laboratories each year are rodents; 2 percent are dogs and cats; less than 1 percent are non-human primates. The remainder are other species, including swine, sheep, calves, pigeons, and reptiles.

According to 1984 USDA figures, 61 percent of the nonrodent species are not exposed to pain at all, while an additional 31 percent receive analgesics or anesthetics. The remaining 8 percent are involved in studies of pain and methods of pain relief; even here, scientific protocols require that pain be minimized in order to separate the pain from other stress.

Researchers argue that, in addition to ethical concerns, scientific and economic factors militate against the mistreatment of animals. They note that unhealthy, stressed animals make poor research subjects. "If we're going to do good research, the variables have to be controlled," says Georgetown's Dr. Butterfield.

To activists' charges that much animal research is trivial or duplicative, researchers counter that the highly competitive way in which research grants are awarded eliminates all but the most meaningful, innovative work. Economic incentives—including NIH's limitation of 15 percent of a grant for animal costs—mean that minimal numbers and alternatives are used whenever possible.

Nevertheless, the ALF raids at the City of Hope National Medical Center and the University of Pennsylvania yielded evidence of animal-welfare policy violations that resulted in the suspension of NIH grants at both institutions. The issue of how extensive such violations are is hard to pin down.

Following the raid on the University of California at Riverside last year, PETA circulated photos of a tiny macaque monkey with its eyelids sewn shut as evidence of abuse. But an NIH report exonerating the facility of all abuse charges cited inconsistencies in the photographic evidence submitted by ALF, suggesting that "the ALF deliberately attempted to misrepresent the facts concerning the living conditions of the macaque money."

As for humane treatment, the report also cited videotape of ALF members using sharp-pointed scissors to cut off the monkey's head bandage, failing to restrain its hands and feet to prevent injuries, and exposing the light-deprived animal to intense light for photograhic purposes. The photos of the monkey, dubbed "Britches" in PETA literature, have been used extensively in the group's public-relations efforts.

Perhaps the closest thing to an objective statistical view of lab-animal treatment came last year when an animal-welfare organization, the Society for Animal Protective Legislation, obtained USDA inspection reports under the Freedom of Information Act to provide data in support of amendments to the Animal Welfare Act. The study sampled 186 of the 1,400 major US research institutions, and found that about 23 percent had problems with sanitation, ventilation, veterinary care, or caging.

In amending the Animal Welfare Act last year, Congress took a number of steps to tighten controls on animal research—some of them too tight, researchers contend—and commissioned the National Academy of Science to conduct a two-year study of animal-research conditions.

All but lost in the shrill exchange between anti-vivisectionists and scientists called upon to justify animal research are the voices of moderation, advocates of the "three Rs" of animal welfare—replacement of animals where feasible alternatives exist, reduction in numbers where possible, and refinement of techniques to minimize pain.

That is the concern of the Scientist's Center for Animal Welfare, a science-based humane organization begun six years ago by former NIH physiologist F. Barbara Orlans. "One of the reasons SCAW got started," she says, "was that we saw these polarized viewpoints, and we wanted to provide a forum for unemotional discussion, to identify what reforms are needed, at the same time defending necessary animal experiments."

Discussion, however, has been muted by the tactics of the animal-rights groups. "Terrorism has sidetracked what was at first a productive heightening of concern for animals," says Stanford's Dr. Hamm.

"The fact of that matter is, the movement is not going away; it's gaining momentum," says Frankie Trull, president of the Foundation for Biomedical Research, which was founded three years ago "to educate the public about the downside ramifications" of eliminating animal research.

Actually, the scientific community—which has seen anti-vivisectionist sentiment rise and fall before—was slow in responding to the current animal-rights campaign, tending to dismiss it as the work of a handful of zealots. The movement's sudden and far-reaching impact on research has left many scientists bewildered.

"Perhaps the threat [was] easier to deny because so many of us applaud the sentiments of the movement," wrote Dr. Thomas Insel, a neuroscientist at the National Institute of Mental Health, to a colleague last year. "We deplore suffering, and we care deeply about the welfare of animals, particularly those used in research," he observed, adding that scientist now "find it hard to believe that so many people are working full-time to abolish our research."

And no area of research is immune. Says Harvard AIDS researcher Dr. Norman Letvin: "We who are doing primate research are targeted by animal-rights groups. The fact that we're working on AIDS in no way protects us."

What does all this mean to human health? Sometimes the translation is remote; often it is frighteningly immediate. AIDS research—in which primates are the research model for vaccine development—is an example. The targeting of primate labs for break-ins and legislative restrictions mean slower development of a vaccine for a disease that has already infected more than 1 million men, women, and children, and is expected to have killed 179,000 people in the US by 1991.

Even the $126 million allotted to AIDS research in 1985 has not buffered research from the large additional costs of security or of new primate-caging requirements established under recently revised NIH guidelines. And depending on regulations now being drawn up, new federal requirements that researchers "insure the psychological well-being of primates" could send costs soaring—with no concomitant increase in NIH funding.

The state-by-state efforts of activist groups may ultimately prove more devastating than national action. Local laws banning the use of pound animals for research, greatly driving up animal costs, have forced some Massachusetts researchers to stop work entirely, according to Dr. John Powell, a cardiologist and professor at Harvard Medical School. In other cases, the time lost in shifting to less appropriate animal species—for which new data bases must be built—will markedly slow the pace of research.

This means that in certain kinds of cardiovascular research—where the canine model provides the closest parallels to man—the answers to heart problems that afflict some 60 million Americans will come much more slowly, or not at all. "We simply won't be able to do critical experimentation in cardiac surgery and coronary care," says Powell.

Among cardiovascular researchers affected by the Massachusetts pound legislation is surgeon and Harvard Medical School professor Dr. Willard M. Daggett. "Cost factors have forced us to curtail much of our research," he says, "and one line of research"—involving techniques for minimizing damage to heart muscles after heart attack—"was completely scrapped."

Nine other states have pound laws comparable to those of Massachusetts, and similar laws are under consideration in twenty others. This spring, New York Congressman

Robert Mrazek introduced legislation prohibiting the use of pound animals in all federally funded research.

Increasing layers of regulation, the result of pressure from activist groups, also pose a threat to research. In a year when Gramm-Rudman will cut $232 million from the Health and Human Services research budget, the costs of complying with new federal regulations will tax research resources even harder.

"Who is going to pay for the immense cost of this new bureaucracy?" asked Dr. Clifford Saper of the University of Chicago in an April 10 letter to the New England Journal of Medicine. The submission of dozens of protocols for each experiment, he maintained, "make it so difficult to perform certain types of experiments that the experiments become impractical." Saper noted that the use of routine anesthetics now requires time-consuming documentation of arcane points about veterinary anesthesia; a new regulation limiting repeated surgical procedures on the same animal has forced investigators to double the number of animals used and made it difficult to monitor their physiological responses over a period of time.

The cumulative impact of all these developments has been "subtle, yet profound," says Dr. Frederick Goodwin, director of intramural programs for the National Institute of Mental Health. "If you stop funding or drive up costs by layers of regulations, nobody on the outside knows it's happening. Research just quietly dies."

Observers NIH neuroscientist Dr. Zaven Khachaturian: "Most of society ignores this issue, and yet the impact is colossal."

"It's not just a question of saving or not saving the animals," asserts Howard University philosopher Charles Griswold. "It's a question of saving or not saving us—not just in the sense of self-preservation, but in our understanding of what it means to be human. The thesis that there is no moral difference between man and a rat amounts to the ethical and moral debasement of man."

Says Laurence McCullough of Georgetown University's Kennedy Center for Bioethics: "We have to look at the consequences of giving animals rights. . . . Are you ready to say to the thousands of human beings in this country who have heart attacks every year that we're more obligated not to use those dogs than we are to you and everybody else to try to reduce the long-term consequences of heart attack?" To "stand by and not attempt to reduce the risk of 100 percent lethality" among AIDS victims, he believes, would be to put animals' rights above those of humans.

When the discussion moves from the philosopher's office to the surgical ward, the tone is more urgent. Dr. Glenn Geelhoed, director of surgical research at George Washington University Hospital, says, "I have to recognize the rights of the patients who come to me, one at a time, and say, 'Please don't let me die.' They are not asking for fine philosophical distinctions. They are asking me to do anything I can to help. And today the most successful thing I can do to help them is to perfect medicine and operations in the animal model."

Yet the connections between animal models and human health are often difficult for the layman to see. "People are uncomfortable with the image of an animal in a cage being used for research," says Carol Sherman of the Association of American Universities. "But we are also uncomfortable about seeing a sick child in bed hooked up to tubes. We are uncomfortable about pain and suffering, and we should be. We're human beings, and that part of our humanity is important. But what's also important is using our heads to understand the whys and effects of doing certain things."

Understanding comes easy in the brightly decorated nursery of an Oakton townhouse, where one-year-old Keith Fernandez lets out a hearty cry. His chances of doing so seemed remote a year ago as he lay in the intensive-care nursery at Georgetown University Hospital hooked to a machine called ECMO, which stands for Extra-Corporeal Membrane Oxygenation.

Keith had been born with a lung disorder that failed to respond to conventional high-pressure ventilation therapy. Two hours after his birth, his lungs were collapsing; he was going to die. "They told us how risky ECMO was, about the danger of brain bleeding," recalls Keith's mother, Brana Fernandez. "But he was exhausting himself trying to breathe. ECMO was his only chance." The machine, acting as an artificial lung, gave Keith's lungs a chance to rest and, in time, to heal.

Keith was the fourth "ECMO baby" since Georgetown started its program in March 1985. For a year before that, teams of doctors and nurses at Georgetown had been perfecting in the animal lab the final details of the complex procedure. Since its conception in 1970 by Dr. Robert Bartlett, animal trials—on sheep—had been critical to its development.

"You just can't predict everything that will happen with such a delicate process," explains Georgetown's ECMO director, Dr. Marty Keszler. "Unless you do the procedures in the animal lab first, you're going to be experimenting on babies."

Born July 10, 1985, Keith Fernandez was just in time for ECMO. He is now one of fifteen babies saved at Georgetown since the program began. Says Brana Fernandez: "I can't imagine what it would have been like if that treatment hadn't been ready for my baby when he needed it."

For every child like Keith Fernandez or Kendra Hawthorne born at the right time for the right medical "miracle," there are thousands, like Salinda Smith, to bring to life what is at stake in the animal-rights debate. The only sign that the two-year-old girl is critically ill is the portable IV apparatus that rolls behind her down the halls of Children's Hospital.

The IV is Salinda's lifeline. She does not have enough intestine to enable her to eat, absorb food, and grow. Thousands of children like Salinda race for time, their bodies struggling for independence from the IV before it fails them, as it inevitably does.

Sustained for two years by the IV, Salinda is just now beginning to absorb nutrition through a tube into her intestine. If this method succeeds in the long term, Salinda will be one of the lucky ones. Otherwise, the only answer is intestinal transplantation, a procedure that is years away.

"When the day finally comes that we can do intestinal transplants in human beings," says surgeon Judson Randolph, "it will only be because of animal research" on surgical techniques to join the intestinal arteries and on the various infection and rejection problems that are far more complicated in the intestine than in other organs.

The question for children like Salinda is when these techniques will be perfected. "We can't keep these children on long-term IV forever," says Dr. Randolph. "When they're six or eight years old and we run out of veins to put the tubes in, we'll have to watch them die."

Yet final-stage work on intestinal transplantion has stopped as a result of the Massachusetts ban on the use of pound animals. "Here we are, ready to translate all our preliminary work—done in rats—to the patients whose survival depends on transplantation," says Dr. Anthony P. Monaco, chief of organ transplantation at the New England Deaconess Hospital. "But without adequate documenation in the dog model, we cannot proceed to the human."

So some dogs will die at the pound instead of being used in research. And some children also will die. For those like Salinda, it is a question of time.

What's at Stake: The Immediate Case for Animal Research

Virtually every major medical advance of the twentieth century has depended on animal research. The major health problems we face today are no different.

CHILDHOOD DISEASES

The specter of polio has all but disappeared in the last three decades with the development of the Salk and Sabin vaccines, both of which used monkeys—to which human poliomyelitis could be transmitted—as test subjects. But the testing could not end there. Dr. Joseph Bellanti, director of Georgetown University's Immunology Center, points out that every new batch of vaccine for polio and other childhood diseases must be tested on animals to make sure that the virus has been adequately inactivated.

For every new vaccine produced, live-animal testing answers the questions "Does it work?" and "Is it safe?" This year those questions will be important to everyone who receives the newly released vaccine for Haemophilus influenza (HIB) and the soon-to-be-released chicken-pox vaccine.

Increased use of synthetic vaccines won't reduce the need for animal testing, Dr. Bellanti explains. "If you have no evidence for their efficacy and safety in the animal model, how can you proceed to the human?"

AIDS

The most crucial search now under way is for a vaccine to combat AIDS, which is expected to have killed 179,000 people in the US by 1991. Only a year ago did scientists at the New England Regional Primate Center succeed in isolating the STLV-3 virus (SAIDS, the simian form of AIDS) in macaque monkeys and inducing it in others.

It is not yet clear whether a vaccine can be made to disable the virus, because the way it infects is unlike that of other diseases. But researchers at the National Cancer Institute recently found that chimpanzees could produce antibodies to the AIDS virus and that those antibodies, when cultured with live cells, protected the cells from the virus. The next step is to vaccinate the chimpanzees. If the vaccine works in them, the reasoning is that it will protect humans.

The chimpanzee is so far the only animal that develops the antibodies indicative of AIDS infection but it doesn't exhibit any symptoms of the disease. Macaque monkeys do, however, which means that the infection process can be tracked in them to develop better understanding of AIDS. That may help pinpoint, for instance, the optimum stage for instituting therapy in AIDS patients. "These question can't be answered in

man," explains Dr. Anthony Fauci, director of the Institute for Allergy and Infectious Diseases, "because AIDS in humans is diagnosed very late."

Efforts to isolate the simian form of AIDS actually began in 1979 when primate researchers observed opportunistic infections and tumors in breeding colonies of macaque monkeys. "We realized seven years ago that it was essential to get to the bottom of the disease for the sake of the monkeys," says Dr. Norman Letvin, immunologist at the New England Regional Primate Center. "Now that the virus has been isolated, we have an animal model in which to develop vaccines for monkeys and for humans."

Letvin adds, "It is possible to learn a great deal more from a very small number of animals in a controlled study than you would from observing hundreds of human AIDS patients."

CANCER

Six years of working with laboratory mice lies behind the discovery, by Dr. Steven Rosenberg and his team at the National Cancer Institute, of Interleukin-2, a natural body substance that has proved highly successful, since human trials began last year, in treating cancerous tumors otherwise untreatable by surgery, chemotherapy, or radiation.

Alternatives, such as computer data analysis and genetically engineered bacteria, complemented the live-animal testing, but none could have substituted for it in proving the safety and efficacy of the treatment, Rosenberg maintains.

ALZHEIMER'S DISEASE

"Eight years ago, we were at ground zero," says Dr. Zaven Khachaturian of the National Institute on Aging. "There has been incredible progress in Alzheimer's research because of our investment in basic research concerning brain functioning going back to the 1930s." The bulk of that research involved animals, Khachaturian notes, and they hold the key to continued progress.

Through studies with primates and other animals, researchers have identified the region of the brain—the nucleus basilis of Meynert—that is critical to the development of Alzheimer's. Though autopsy studies of the human brain provide some information, the disease must be observed during its development of find clues to its origins—and that can be done only in animals.

Attempting to simulate the early stages of Alzheimer's researchers have lesioned the areas of rats' and monkeys' brains believed to be affected by the disorder and evaluated the chemical and anatomical alterations. Within two years, Kachaturian predicts, they will have identified the chemical markers for the disease and will be able to diagnose it early. "In the foreseeable future—the next ten to twenty years," he believes, "we will be able to transplant from cell cultures the kinds of cells necessary for normal functioning of the brain."

Brain research holds promise for medical breakthroughs in other mental disorders, too. This year, animal work by NIMH's Dr. Robert Post provided evidence for the success of a new drug, carbamazepine, in treating manic-depressives who do not respond to lithium—a drug treatment also developed and tested in animals. Because primates share 95 percent of human DNA, explains Dr. Frederick Goodwin, director of intramural programs for the National Institute of Mental Health, they are irreplaceable models in the neurosciences. "If you want to understand the human brain, you must first understand the primate brain," he says.

FEDERATION OF AMERICAN SOCIETIES FOR EXPERIMENTAL BIOLOGY,
Bethesda, MD, August 11, 1986.

JOHN A. LIMPERT,
Editor, the Washingtonian, Washington, DC.

DEAR MR. LIMPERT: Katie McCabe, author of "Who Will Live, Who Will Die?" has written what may be the most trenchant analysis yet of the controversy over using animals in biomedical research. Ms. McCabe's article comes to all the right conclusions: that the use of animals as experimental models is essential to understanding disease in humans as well as animals; that without laboratory animals, progress toward treatments and cures for cancer, heart disease, AIDS and other afflictions would be halted at the expense of human life; and that the goal of the so-called animal rights movement is to stop the use of animals in research entirely.

The animal rightists are surely creating a crisis in health research that eventually could affect everyone of us. Ms. McCabe and the Washingtonian have acted in the best traditions of journalism by providing a clear and insightful article that will help the public better understand what is at stake in this matter.

We who represent thousands of biomedical and biological researchers dedicated to improving human and animal health commend Ms. McCabe and the Washingtonian for performing a most courageous and valuable public service.

Sincerely,

ROBERT W. KRAUSS,
Executive Director.

THE HUMANE SOCIETY OF THE UNITED STATES,
Washington, DC, August 6, 1986.

Letter to the EDITOR,
The Washingtonian, Washington, DC.

DEAR EDITOR: I am utterly amazed that a publication as responsible and respected as The Washingtonian would publish an article as poorly researched and slanted as Katie McCabe's "Who Will Live, Who Will Die?" If this article was intended to be nothing more than a promotion piece for those engaged in laboratory animal research, it was a success. But if it was the desire of your magazine to responsibly inform readers about the questions and issues surrounding the use of animals in research, Ms. McCabe did both you and your readers a great disservice.

McCabe's bias is evident. I am confident that discriminating readers will agree that it is inconceivable that any issue worthy of eleven pages in your magazine could be as one-sided as is set forth in McCabe's article. Few things in life are ever quite that simple, and the use of animals in research is clearly a very complex issue.

Be that as it may, I am even more concened with what will have been less evident to many of your readers—the many inaccuracies, misstatements, manipulations of information, and glaring omissions that pervade the article. I seriously object to the grossly distorted and inaccurate portrayal of The Humane Society of the United States. The HSUS has long been recognized as a rational and responsible force within the animal movement by the public, the Congress, the press, and, with few exceptions, by the scientific community itself.

I also wish to state that The HSUS is not an anti-vivisectionist organization. It does not contend that all research using animals is unnecessary. To quote from our Statement of Policy, "The Humane Society of the United States recognizes that benefit for both animals and mankind has been achieved through some scientific research and testing on animals . . . " and we surely recognize that "this research and testing is not likely to end in the immediate future." We do, however, vigorously support the humane treatment of animals in laboratories and elsewhere, an effective system of accountability on the part of the scientists and facilities utilizing animals, and the development and utilization of alternatives that will reduce and hopefully end the suffering of animals in biomedical research and testing laboratories. I am pleased to enclose a copy of our policy statement on the use of animals in biomedical research and request that The Washingtonian print it in its entirety at the end of this letter. I would also urge all interested readers to contact us for a copy. This policy statement was available to McCabe, as it is to anyone, but she either failed to ask for it or chose to ignore it.

There is neither the time nor the space here to detail the numerous McCabe errors, whether deliberate or unintentional, or to point out each item presented as irrefutable scientific fact that is open to legitimate debate. I do, however, wish to mention the most troublesome.

McCabe refers to "the voices of moderation, advocates of the 'three R's of animal welfare—replacement of animals where feasible alternatives exist, reduction in numbers where possible, and refinement of techniques to minimize pain" and applauds the Scientists Center for Animal Welfare for embracing these reforms. The HSUS not only agrees with the "three R's" concept, but in fact adopted and promoted these reforms as early as 1978, several years prior to the advent of SCAW. They remain fundamental to our current endeavors.

McCabe ascribes to the HSUS spokesperson several quotes from a workshop addressing the use of shelter animals for resarch. She fails to cite her source for those comments and leaves the reader with the impression that they were provided by the HSUS spokesperson himself on the occasion of her interview with him. The language within quotation marks in McCabe's story is, however, identical to that in a document that the research community has been circulating since 1984, entitled "Notes taken from the 1984 Annual Conference of the Humane Society of the United States." The document is not a transcript, the workshop was not taped, and nothing in the document is identified as a direct quotation. In fact, several of the notes use the third-person style, "He believes . . .", etc. McCabe, however, using the *notetaker's* comments, embroiders them with quotation marks and attributes them as direct quotes from the HSUS spokesperson. Even the research community didn't have the audacity to purport that the document they were circulating contained direct quotes, but McCabe had no hesitation to do so. Had she asked for confirmation of the information contained in the document, she would have been provided the corrected version of those comments, which has been in print two years.

McCabe depicts the HSUS and PETA as virtual mirror images of each other. In fact, these organizations are vastly different in both substance and style, as well as in the specific goals and policies each embraces. Within the animal movement, as in any other movement, there is a wide range of organizations, the diversity of which enriches and vitalizes the movement as a whole.

Your readers should understand that not everyone who supports animal protection is necessarily an animal rights activist. And not everyone who embraces the concept of animal rights accepts the proposition that there is no legitimate use of animals by humans.

Both researchers and reporters contend that the search for truth is one of their primary goals. It is sadly ironic that in this alleged report about research, so much truth was lost or distorted along the way.

Sincerely,

JOHN A. HOYT,
President.

ANIMALS IN BIOMEDICAL RESEARCH AND TESTING

The Humane Society of the United States recognizes that benefit for both animals and mankind has been achieved through some scientific research and testing on animals, but that the advancement of medicine and human health has also been hindered by an overemphasis on such animal research, safety testing, and other programs are many and varied, and that this research and testing is not likely to end in the immediate future.

While some of the animals used in research and testing are subjected to procedures that result in only momentary discomfort. The HSUS believes that millions of laboratory animals do suffer severely and needlessly in painful experiments, resulting from exposure to noxious substances and pathogenic organisms, or from cruelty, carelessness, ignorance, and indifference. The HSUS also contends that toxicity testing on live animals, as now required by government agencies to test the safety of serums, drugs, cosmetics, and other chemicals, is often unreliable, inaccurate, and unnecessary and should be replaced as soon as possible by new methods not involving animal suffering. Existing measures intended to ensure humane treatment, including the Animal Welfare Act and its enforcement, have proven inadequate. The Animal Welfare Act should be strictly enforced. Coverage should be expanded to include all vertebrates used, protect animals undergoing the actual research and experimental process, and require prohibition of specific painful invasive procedures.

The HSUS believes that scientists and facilities using experimental animals should be held strictly accountable for their care and use and should keep animals in a manner fulfilling both physical and behavioral needs. Experiments should be rigorously planned, with proper statistical design, so as to minimize the number of animals necessary to be used to achieve reliable results and, through the administration of anesthesia and analgesics and other appropriate medication and veterinary care required, to preclude animal suffering. the HSUS believes that government agencies and relevant professional organizations should encourage and actively support efforts to eliminate animal suffering in the laboratory.

Therefore, The HSUS strongly advocates the development and application of alternative methods of research and testing which could reduce the number of animals required, refine existing techniques and procedures so as to minimize the level of stress endured by an animal, and replace the use of laboratory animals. Refinement and reduction are interim steps towards the ultimate goal of complete replacement of animals in biomedical research and product testing.

Therefore, it is the policy of The Humane Society of the United States to use every means in its power to reduce and end the suffering of animals in biomedical research and testing laboratories by advocating the attitudes and approaches set forth in this statement.

TRIBUTE TO SENATOR LONG

Mr. HATFIELD. Mr. President, I cannot let this 99th Congress draw to a close without paying tribute to my dear friend from Louisiana, RUSSELL LONG. One of the joys of serving in this body is the chance to work with those Senators who seem to possess an extra measure of leadership, wisdom, perspective, and good temperament. With the retirement of Senator LONG from the Senate after 36 remarkable years, we lose such a man.

Mr. President, an oftrepeated observation of the Senate is that it is comprised of too many politicians and too few statesmen. In my opinion, RUSSELL LONG is one of the preeminent Senate statesmen. His delightful sense of humor and easy manner combine with his knowledge of parliamentary procedure and his talent for achieving bipartisan consensus to make him one of this body's most effective legislators. In fact, for 36 years if you had RUSSELL LONG on your side of a bill, you probably won.

During his 15-year tenure as chairman of the Senate Finance Committee, Senator LONG developed a reputation for careful strategy and skillful management, both qualities contributing to his impressive list of legislative accomplishments.

Perhaps the greatest accomplishment of Senator LONG's illustrious career, and one most indicative of his concern for the American worker, was an addition to the Tax Code which created the employee stock ownership plan, or ESOP. I was pleased to join him in this effort beginning in 1973.

As is characteristic of the senior Senator from Louisiana, Senator LONG's motivation for the creation of the ESOP was not partisan, nor was it political. His purpose was simply to bring out the best in our free enterprise system and to grant to those who work to make our economy succeed the opportunity to share in that success. Senator LONG was a visionary in his belief that ESOP's could help diversify capital stock ownership, enable citizens to participate directly in the profitability of their employers, and provide a convenient and available source of capital for companies seeking to expand.

Senator LONG has always been concerned about simple and basic equity and he can take pride and satisfaction that he has left a legacy to the American people which will advance economic growth for years to come.

Mr. President, I take great pleasure in calling RUSSELL LONG my friend. His retirement from the Senate and his return home will be this country's loss, but Louisiana's gain.

COMMENT ON IMPEACHMENT

Mr. MATHIAS. Mr. President Prof. Raoul Berger has observed that while impeachment in this country has been "largely a means for the ouster of corrupt judges," it was in England "the chief institution for the preservation of the government." R. Berger, "Impeachment: The Constitutional Problems" 1 (1973). In the 198 years since it first assembled in New York, the Senate has removed only five civil officers of the United States, all judges. While this supports the observation that impeachment in this country has been used narrowly, we must be mindful of the larger purpose, "the preservation of the government," that is served by the framers' decision to import this English institution into our national charter.

The framers did not specify the procedures which the Senate should use when trying impeachments, other than that the Senate shall have "the sole Power to try all Impeachments," that "[w]hen sitting for that Purpose, [Senators] shall be on Oath or Affirmation," that "[w]hen the President of the United States is tried, the Chief Justice shall preside," and that "no Person shall be convicted without the concurrence of two-thirds of the Members present." (U.S. Const., Art. I, sec. 3, cl. 6). Beyond these requirements, the Constitution grants to the Senate discretion, through its authority to "determine the Rules of its Proceedings," (Art. I, sec. 5, cl. 2), to choose the means of implementing its impeachment trial responsibilities.

The Senate's impeachment procedures must serve three objectives. They must enable the Senate to determine if there is sufficient evidence to convict an officer of the United States of a high crime or misdemeanor. They must enable the officer to defend himself against the accusation of the House of Representatives. Finally, in adopting procedures to aid in "the preservation of the government," the Senate must be careful not to diminish its ability to perform the other functions of the Government which it is seeking to preserve.

In the impeachment trial of Judge Harry E. Claiborne the Senate was called upon to consider the propriety of two procedures, one of which the Senate rejected and another of which it utilized. My purpose in addressing the Senate today is to examine these important decisions.

1. THE MOTION BY THE HOUSE FOR SUMMARY DISPOSITION OF THE THIRD ARTICLE OF IMPEACHMENT

The House exhibited four articles of impeachment. The first and second articles alleged that Judge Claiborne had willfully filed fraudulent tax returns for 1979 and 1980 which failed to report substantial income. The third article alleged that he had been convicted of those offenses in a U.S. district court. The fourth article alleged that Judge Claiborne's willful falsification of tax returns brought disrepute on the Federal courts and the administration of justice.

At the outset of the proceedings before the Impeachment Trial Committee, appointed by the Senate in accordance with Impeachment Rule XI, the House filed a motion for summary disposition of the Third Article of Impeachment. The House noted that Judge Claiborne had been convicted of two felony offenses, and asked "that the Senate recognize this judgment of conviction and determine that it is an adequate basis, under article III of the Articles of Impeachment, for Judge Claiborne's conviction by the Senate and removal from office." (S. Hrg. No. 99-812, at 147-48). The House disavowed any intention, with respect to the third article, to present proof of the commission of the underlying offenses. It stated that it would rest its case in support of the third article on the record of the trial and appellate proceedings in the criminal case. The House submitted the trial transcript solely "as evidence of the regularity of the proceedings." Id. at 149 n.2. The House urged the Senate to credit the final judgment of the judicial branch and not to make an independent determination of the facts.

The Impeachment Trial Committee lacked jurisdiction to rule on the House motion for summary disposition, and it referred the motion to the Senate at the conclusion of its hearings. The committee rejected the companion House motion which requested, in essence, that the committee desist from taking evidence and refer the House summary disposition immediately to the Senate. As chairman of the committee, I explained why I believed that the committee should not disturb the Senate's decision that the committee receive the parties' evidence on all of the articles prior to the Senate's consideration of their legal and factual merit.

In my ruling, I noted that the House argument, which was based heavily on principles of comity, the conservation of resources, and the avoidance of inconsistent results, might have been compelling if the Senate had been sitting simply as another court. The Senate, however, has the "sole" power to try all impeachments, and it has no authority to delegate that power to another branch. The evidence is that the framers deliberately constructed a system which would contemplate, in Alexander Hamilton's phrase, a "double prosecution." "The Federalist No. 65", at 429 (B. Wright ed. 1961). The separation of criminal and impeachment proceedings was designed, in Hamilton's further words, to provide impeached officials of the executive and judicial branches with "the double security intended them by a double trial," Id. at 428. The reverse side of double jeopardy. The need to separate criminal proceedings in the judicial branch from impeachment proceedings in the legislative branch is underscored by the framers' rejection of a proposal to confer on the Supreme Court the power to try impeachments.

The Third Article of Impeachment garnered the support of fewer than half of the 98 Members who were present for voting on the articles: 46 Members voted guilty, and 52 voted not guilty or simply announced their presence. In this manner, the Senate convincingly recorded its conclusion that it should not delegate the impeachment function to the courts by making removal a further and automatic consequence of a criminal conviction. While we may hope that the courts will always be virtuous and correct in their judgments, our special function under the separation of powers does not permit us to reunite, in the judicial branch, powers which the framers thought should be separated.

2. SENATE IMPEACHMENT RULE XI

Members are now thoroughly familiar with the provisions of Senate Impeachment Rule XI. The rule authorizes the Presiding Officer to appoint, if the Senate so orders, a committee to take testimony in impeachment proceedings. Upon the committee's report to the Senate of a certified transcript of its proceedings, the testimonial and documentary evidence received by the committee is to be considered, to all intents and purposes, as having been received and taken before the Senate. The rule reserves to the Senate the right to determine the competency, relevancy, and materiality of this evidence. The rule also preserves the right of the Senate to send for any witness and hear that witness' testimony in open Senate, or by order of the Senate to have the entire trial in open Senate.

What may be less familiar to the Senate is the fact, which is demonstrated by rule XI's English antecedents and the Senate's prior impeachment experiences, that it is not novel for Senators to base their judgments in an impeachment trial on a written record of previously recorded testimony.

THE ENGLISH ANTECEDENTS

In 1916, in support of a proposal that the Senate consider alternatives to the taking of evidence in open Senate, Alexander Simpson, who had been one of Judge Robert Archbald's counsels at an impeachment trial several years earlier, cited as authority a passage in "Jefferson's Manual of Parliamentary Practice." See A. Simpson, "A Treatise on Federal Impeachments" 68. Jefferson had prepared the manual for his guidance as President of the Senate during his Vice Presidency from 1797 to 1801. On the subject of witnesses at impeachment trials, Jefferson, reflecting on English impeachment practice, wrote that

> The practice is to swear the witnesses in open House, and then examine them there; or a committee may be named, who shall examine them in committee, either on interrogatories agreed on in the House, or such as the committee in their discretion shall demand.

Constitution, Jefferson's Manual, and Rules of the House of Representatives," (H.R. Doc. No. 277, 98th Cong., 2d Sess., § 614, at 296 (1985)).

While the choice of impeachment procedures cannot be left exclusively to a study of English practice, the evidence appears to be that, at least for a period of time, committees were used in the House of Lords during the trials of impeachments. In 1620, for example, the House of Lords "appointed a select Committee of themselves, to take Examination of Witnesses" in the trial of Sir Francis Bacon. 2 T. Howell, "A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors from the Earliest Period to the Year 1783" (1101 (1816)). The same year the House of Lords appointed a committee to examine witnesses in the trial of Dr. Theophilus Field, Bishop of Landaff. (Id. at 1116.) In 1621, the House of Lords examined witnesses in committees in the trial of Sir Giles Mompesson. (Id. at 1122-24.) Then, in 1624, depositions taken by a committee were read to the House as evidence of impeachment charges against Lord Treasurer Middlesex. (Id. at 1183; 3 H.L. Jour. 350, 352-61, 365.)

I have in my office several volumes of these reports of State Trials which came from an old Maryland law library where I believe they had been since before the Revolution. The Constitutional language "high crimes and misdemeanors" suggests that the Founders were familiar with these reports and presumably with the established practice of employing committees to take impeachment evidence.

The use of committees during impeachment trials in the House of Lords is documented in an article by Prof. Napoleon Williams, which he wrote in response to a brief suggestion to the contrary by Professor Berger. I ask unanimous consent that an excerpt from Professor Williams' article, "The Historical and Constitutional Bases for the Senate's Power to Use

Masters or Committees to Receive Evidence in Impeachment Trials," (50 N.Y.U. L. Rev. 512, 528–32 (1975)), be reprinted as an addendum to my statement today.

These English precedents indicate that, in utilizing Impeachment Rule XI, the Senate is not writing on a blank slate.

THE HISTORY OF RULE XI

While the Claiborne impeachment was the first Senate impeachment trial in which witnesses were examined before a committee and not on the Senate floor, rule XI is not a departure of the practice of receiving evidence through a printed record.

The initial suggestion that a Senate committee receive impeachment evidence was made in 1904 after the House had initiated an investigation of District Judge Charles Swayne. Senator George Hoar proposed an addition to the Senate's impeachment rules to require the Presiding Officer (except in an impeachment of the President or Vice President) to appoint a committee

To take all the testimony on both sides . . . [and] cause all the testimony by them heard to be reduced to writing and reported to the full Senate. 38 Cong. Rec. 3902 (1904)).

The resolution was referred to the Committee on Rules which took no action on it, and the Swayne impeachment trial proceeded in 1905 without the use of a committee.

The suggestion for a committee was renewed in 1912 during the impeachment trial of Circuit Judge Robert Archbald. Senator (later Justice) George Sutherland introduced a resolution to amend the impeachment rules to provide that in all subsequent impeachments, except when the President, the Vice President, a Cabinet member, or a Justice of the Supreme Court is being tried, testimony may be taken by the Judiciary Committee and reported to the Senate. Senator Sutherland compared this procedure to the "reference, in the case of a court of equity, to a master, and in the case of the Senate by reference to a special committee or to a standing committee." (49 CONGRESSIONAL RECORD 698 (1912).)

In the remarks to the Senate, Senator Sutherland paid special attention to the reality that at impeachment trials many Senators learn of all or portions of testimony through a written record rather than by direct observation of witnesses. He noted that because of other business of the Senate,

[m]any of the Senators could not be present to hear the testimony.* * *

Consequently, for those Senators

Of necessity they are obliged to read [the testimony] before they can act. The same result, it seems to me, would be obtained by referring the case in the first instance to the Judiciary Committee to take the testimony and report it to the Senate.

The Senate did not act on Senator Sutherland's suggestion, but his idea and the idea enunciated earlier by Senator Hoar persisted. Several years after the Archbald impeachment, Alexander Simpson, who, as I have indicated, was one of Judge Archbald's counsel, suggested that impeachment evidence be taken by a committee or, preferably in Simpson's view, by U.S. judges, except when the President, Vice President, or a Supreme Court Justice is impeached. Simpson shared Senator Sutherland's observation about attendance during the Archbald trial: "[T]he thing that strikes a common law lawyer most is the few Senators who in fact listen to the evidence. During the Archbald Impeachment the membership of the Senate exceeded ninety, yet rarely over twenty members were present." A. Simpson, A Treatise on Federal Impeachment 67 (1916).

Simpson regretted that few Senators actually heard testimony directly, but he also expressed his understanding that, after periodic quorum calls during the trial, Senators would "return[] from whence they came, leaving the Senate as bare as it had been before. While that result was, and in all such cases must be regretted, yet it is not so much to be wondered at. Most of the work of Congress must now be done by committees, and the Senator who really attends to that work, and is present at the important legislative sessions of the Senate, has all his official time fully occupied." Id.

The impeachment trial in 1933 of District Judge Harold Louderback brought again to the force the problem of attendance at impeachment trials. Three years after the trial, Representative Hatton Sumners, chairman of the House Committee on the Judiciary and one of the managers at the trial recalled the scanty attendance of Senators, noting: "At one time only three Senators were present, and for 10 days we presented evidence to what was practically an empty Chamber." Impeachment No. 13, Time, March 16, 1936, at 19.

In reaction to the Louderback trial and at the urging of many Senators, Senator Henry Ashurst, the chairman of the Committee on the Judiciary, offered in 1934 the resolution which became Impeachment Rule XI following its adoption the next year. Senator Norris, who had experienced impeachment trials as a House manager in 1912 at the Archbald impeachment and as a Senator in 1933 at the Louderback impeachment, related to the Senate, as Senator Sutherland had done 20 years earlier, that most Senators in the final analysis would have to study the evidence in a printed record. In Senator Norris' words,

I think the object of the resolution is to avoid what always takes place in an impeachment trial before the Senate. There are times when there is not a quorum in the Senate present, when a dozen may not be here, when there are less than the number provided as the membership of the proposed committee to take the evidence. There is no use expecting all the Senate, or a quorum of the Senate, to be present every minute while evidence is being taken. Senators have to read the evidence in the RECORD in order to know what it is. 78 CONGRESSIONAL RECORD 9929 (1934).

The use of committees to receive evidence at impeachment trials is a matter, therefore, which has had the attention of thoughtful Senators in this century. In an ideal world we might all prefer that each Senator personally hear all impeachment evidence, just as we might prefer that each Senator personally hear witnesses to every matter bearing upon war or peace or other aspects of the Nation's welfare that we are called upon to consider. However, we are required of necessity to learn through the study of printed records about many of the important matters which compete for our attention.

THE USE OF RULE XI IN THIS IMPEACHMENT

Rule XI, of course, does not require the Senate to receive evidence through a committee nor does it foreclose the Senate, even after evidence has been received by a committee, from calling for some or all of the witnesses to testify in open Senate. The question in any particular impeachment is whether, based on the facts of that impeachment, the rule should be used or used exclusively.

The principal deficiency attributed to rule XI is the contention that the triers of fact, the membership at large of the Senate, are unable to assess the credibility of witnesses. There may, indeed, be cases in which it is essential to observe witnesses directly, and there may be, perhaps, cases in which review of even a videotape is not an adequate substitute for direct observation. While it is not my purpose in these remarks to review in any detail the evidence upon which the Senate convicted Judge Claiborne, I would like to offer several comments about the importance of evaluating the credibility of witnesses in this proceeding.

The point has been urged that the question whether Judge Claiborne wrote to his tax preparer, Joseph Wright, on April 11, 1980, to inform Mr. Wright of his full income from legal fees for 1979 presents an issue of credibility which cannot be determined from the printed record of sworn testimony. The difficulty with this contention is that it assumes that Judge Claiborne had a complete, or at least a compelling, defense if the letter had actually been written.

Of course, if the letter was written after the date it bears, then Judge Claiborne's tax violations would pale beside potential charges of perjury

and the fabrication of evidence. It seemed to me, therefore, that we should begin by assuming that the letter had been written. We could equally assume that, for one reason or another, Mr. Wright had not seen the letter. Ellen Arthur, Judge Claiborne's newly discovered witness, stated in her affidavit that, 2 or 3 days after the judge's secretary had delivered an envelope to Mr. Wright's office, Mr. Wright had stated that the letter could not be found or had been misplaced.

The assumption that the letter was written on April 11, 1980, does not elevate Judge Claiborne to high ground. Rather, the letter confirms an image of Judge Claiborne produced by other evidence. The judge was a person who had a very good sense of his financial situation. He prepared slips to memorialize his legal fee income and he recorded the information from these slips in a financial diary. On or about March 1, 1980, without consulting his detailed records, Judge Claiborne wrote to his accountant that his legal fee income for 1979 amounted to about $46,000. He was off by about $5,000, but he was in the right neighborhood.

Then, if we continue to assume that he wrote the April 11, 1980, letter on the date it bears, Judge Claiborne made a precise calculation of his legal fee income for 1979 on that day. He performed this calculation by totaling, on April 11, 14 separate items of legal fee income, and writing by hand a letter to his accountant which stated the result of this calculation. Judge Claiborne asked the Senate to believe that 19 days later he simply placed this careful calculation out of mind when he spoke to his accountant about the preparation of his 1979 tax return.

Then, 34 days later, when Judge Claiborne filed his judicial financial disclosure report, he again did not use the figure for legal fee income which he had only recently calculated. The disclosure report diminishes the relevance of another credibility issue; namely, whether Judge Claiborne had signed his 1979 return in blank or whether he signed the return in Mr. Wright's office after the return had been prepared. The disclosure report confirms, no matter who is to be believed about the signing of the tax return, that Judge Claiborne knowingly intended to disclose to the Government, both on his disclosure form and on his subsequent tax return, only part of his legal fee income for 1979. These objective circumstances are sufficient to support the conviction on the first article without resolving the credibility of testimony about ancillary matters.

Then, with respect to the second article, it should be recalled that the case presented by the House consisted primarily of documents, including Judge Claiborne's tax return for 1980, and the testimony of an expert. A letter to Judge Claiborne dated April 6, 1981, from his tax preparer for 1980, Jerry Watson, establishes that Judge Claiborne knew that his tax preparer was planning to report a capital loss on the law practice which the judge had abandoned several years earlier. The patently fictitious capital gains transaction on the previously abandoned law practice, which was used to eliminate $88,000 in ordinary income from legal fees, was sufficient to establish a willful failure to report income for 1980.

The demeanor of witnesses may be important in other impeachments, but in this impeachment the critical facts were fairly established based on solely the written record. Furthermore, as Members were aware, videotapes of the committee's hearings were available to any Member who wished to supplement his or her reading of the transcript of the committee's proceedings.

THE SENATE'S OBLIGATION TO "TRY" IMPEACHMENTS

The Constitution provides that the Senate shall have the power to "try" impeachments. If the word "try" imported into the Constitution the exact specifications of a judicial trial, then the Senate might have little latitude to define its rules of proceedings. However, the Framers did not intend to obligate the Senate to replicate all features of a judicial trial. Hamilton recognized that the Senate "can never be tied down by such strict rules, either in the delineation of the offence by the prosecutors, or in the construction of it by the judges, as in common cases serve to limit the discretion of courts in favor of personal security." The Federalist No. 65, at 428 (B. Wright ed. 1961). Justice Story expressed the similar opinion that "it is obvious that the strictness of the forms of proceeding in cases of offences at common law is ill adapted to impeachments." J. Story, Commentaries on the Constitution, § 765, at 532 (3d ed. 1858).

Instead, the requirement that conviction on impeachment be by "trial," I believe, was intended to fulfill the Framers' intent that the Senate act in "judicial character as a court." The Federalist No. 65, at 426 (A. Hamilton). The Framers intended that the Senate perform this judicial function impartially, "to preserve, unawed and uninfluenced, the necessary impartiality between an individual accused, and the representatives of the people, his accusers." Id. at 427 (emphasis omitted).

In my opinion, the Senate performed its judicial task with complete impartiality. There were many outside of the Senate who thought that this impeachment should have taken the Senate only several hours to resolve after the House exhibited its articles in early August. The Senate determined, instead, that Judge Claiborne should have available to him the subpena power of the Senate to bring here witnesses who could testify to the tax transactions in 1979 and 1980. These witnesses were examined and cross-examined by counsel and also questioned by members of the committee over 7 days of hearings. The full Senate received briefs from the parties and then heard closing arguments from the managers, from Judge Claiborne's counsel, and from Judge Claiborne. The Senate deferred its decision whether to hear witnesses in open Senate until it heard and considered these arguments. Senators then deliberated with great care prior to voting. In every sense the Members of the Senate fulfilled their special impeachment oath to "do impartial justice according to the Constitution and laws."

I would like to conclude with a brief note of appreciation. Each member of the Impeachment Trial Committee—the vice chairman, Mr. SARBANES and Mr. HATCH, Mr. WARNER, Mr. RUDMAN, Mr. PRESSLER, Mr. MCCONNELL Mr. HEFLIN, Mr. DECONCINI, Mr. PRYOR, Mr. GORE, and Mr. BINGAMAN—approached the task of the committee with a great sense of purpose and seriousness. The membership of the committee agreed to, and then adhered to, a requirement that a quorum, a majority of the 12-person committee, be present at all times. The committee was presented with important questions about the proper scope of the impeachment proceedings before it, and our ability to resolve those questions, wisely I hope, depended on the intelligence and effort which each Member contributed to our deliberations.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

[New York University Law Review]

THE HISTORICAL AND CONSTITUTIONAL BASES FOR THE SENATE'S POWER TO USE MASTERS OR COMMITTEES TO RECEIVE EVIDENCE IN IMPEACHMENT TRIALS

(Napoleon B. Williams, Jr.)

[Excerpt]

3. THE COMMITTEE PRACTICE OF THE HOUSE OF LORDS

Although the House of Lords turned less frequently to the use of committees in impeachment proceedings than did the Commons, they were at times employed for a variety of purposes. Like the Commons, the Lords occasionally used committees at the pretrial stage of proceedings to search the precedents and to set the proper procedure.[65] More significantly—and despite Professor Berger's assertion to the contrary—even the Lords' power to hear evidence at impeachment trials was at times delegated to a committee,[66] and precedent for this practice was accessible to the American framers.

Jefferson, for example, turned to Selden for "common rules" [67] on examination of witnesses during impeachment trials and

concluded that "the practice is to swear the witnesses in open House, and then examine them there; or a committee may be named who shall *examine them in committee,* either on interrogatories agreed on in the House or such as the committee in their discretion shall demand." [68]

Though Vice President Jefferson's statement postdates the Constitutional Convention, the source on which he relies was cited authoritatively in the colonies as early as 1768.[69] This suggests that the framers were aware of the English practice of using committees in impeachment trials. But more convincing historical evidence is available. Neither Jefferson nor the other Founding Fathers had to rely solely on Selden's version of English trial practice. The *State Trials,* with which the framers were also familiar,[70] reveals a number of English impeachment trials in which the House of Lords used committees to hear evidence.

In 1620, for example, the House of Commons impeached the Lord Chancellor of England, Francis Bacon, specifying in 28 articles its charges of corruption.[71] The Lords then "proceeded to the Examination of the Complaints, and took divers Examinations of Witnesses in the house, and appointed a select Committee of themselves, to take Examination of Witnesses to the Briberies and Corruptions on the Lord Chancellor; which being ended and collected, were ordered to be transcribed with the proofs . . ." [72]

Although Bacon's subsequent confession[73] obviated the need for the Lords to use the committee's evidence, the implication is clear: the Lords felt confident of its power to use transcribed testimony in lieu of examining witnesses before the full House.

In a connected case, the House of Commons impeached the Bishop of Llandaff, Dr. Field.[74] The Lords initally appointed a committee to take evidence on his impeachment and then heard the report of a committeeman, the Earl of Huntingdon.[75] From this report, "a collection was made thereof, which . . . [was] delivered by his lordship into court," [76] *i.e.,* the House of Lords sitting as a high court of impeachment. After this collection was read, the Lords debated the evidence [77] and sent the following declaration to the Commons:

"Whereas the house of commons informed this house of a great misdemeanor committed by Dr. Field . . . and hath also sent since to demand judgment in that cause; the Lords having full examination thereof upon oath, do not find it proved in the same manner as, it seems, they [the Commons] were informed by examinations taken in their house.[78]"

In disputing the Commons's conclusions on the basis of committee testimony alone, the Lords indicated its intention to place committee transcripts on an equal footing with personal examination of witnesses before the bar of the House.

The impeachment of the Lord Treasurer Middlesex [79] in 1624 provided yet another opportunity for the use of committees to take evidence in impeachment trials. Like Sir Francis Bacon, the Lord Treasurer was a man of eminence and prestige. So prominent, in fact, was Lord Middlesex that King James I personally appealed to the Lords on his behalf,[80] urging them to be on guard lest one "man's particular ends bring forth a precedent, that may be prejudical to you all and your heirs after you." [81] Despite the prominence of the respondent and the political significance of the trial, the Lords chose to try the impeachment without having the full House hear testimony, instead relying on depositions taken before sundry committees.[82]

Delegation of authority to a committee in a trial of such importance manifests the ease with which the Lords moved from full house to committees during impeachment proceedings, at least up to the point of final judgment. During the proceedings against Lord Middlesex, for example, a report read before the House of Lords stated that speeches before the examining committee had questioned the honor of the Lord Treasurer, and that he "desired Examinations might be taken, upon oath, for the clearing thereof."[83] The natural response of the Lords was to appoint a "sub-committee . . . constituted to take such Examinations."[84] This committee reported back, and, after some debate, the Lords agreed that yet another committee "should be appointed to draw up the heads of a charge against the Lord Treasurer, out of a brief of the last report, and examinations taken by the former committee."[85] Thus, before the House of Commons had even formulated their own charges, the House of Lords had used three separate committees to investigate and act upon the matter of the Lord Treasurer's honor.

Indeed, the House of Commons subsequently did take cognizance of this matter, deciding at that point to impeach.[86] It asked the Lords for a conference at which the charges in the complaint against the Lord Treasurer were enumerated.[87] The Lords then established a fourth committee, and several days later "the archbishop of Canterbury reported to the house [of Lords], That the Committee appointed to examine into the Complaint against the Lord Treasurer, had met, and examined divers witnesses . . . and had made a collection of Part of said Charge." [88] This collection was disclosed to the Lord Treasurer, who was then asked to present a list of his witnesses.[89] Although there is no direct reference to the forum in which the defense witnesses testified, they too must have been examined in committee,[90] since their testimony was read by the clerk during the trial.[91]

This review of English precedents shows beyond doubt that the House of Lords used committees to hear evidence during impeachment trials in the early 17th century.[92] It is difficult to determine definitively whether this practice continued, as no direct reference to the use of committees during later impeachment trials has been discovered. It is clear, however, that, unlike other practices which were outlawed by affirmative action of the House of Lords, the use of committees to take evidence and examine witnesses has never been banned or disavowed as precedent—as were other impeachment procedures considered to have been wrongly invoked.[93]

Having established the outlines of the English practice with which the framers of the American Constitution were able to become familiar, the extent to which the framers intended to authorize parallel procedures by their use of the term "impeachment" in article I, section 3 of the Constitution must now be determined.

FOOTNOTES

[65] *E.g.,* 4 HATSELL, *supra* note 29, at 174, 185, 210.

[66] *See* text accompanying notes 71-92 *infra.* Professor Berger states that his search of English impeachment proceedings failed to reveal any reference to the Lords' use of committees to hear evidence, BERGER, *supra* note 13, at 171. This may perhaps be explained by his heavy reliance on Hatsell, who overlooked such precedents. Hatsell's shortcomings were known to Vice President Jefferson, who noted that Hatsell "only treated some general heads," making it necessary "to recur to other authorities in support of a number of common rules of practice to which his plan did not descend." JEFFERSON, *supra* note 29, at 432.

[67] The phrase is from the preface to his *Manual of Parliamentary Practice.* JEFFERSON, *supra* note 29, at 432.

[68] *Id.* at 521 (emphasis added).

[69] BERGER, *supra* note 13, at 87 n.160; *see* text accompanying notes 27-30 *supra.*

[70] Berger, *supra* note 13, at 122; *see* text accompanying note 26 *supra.*

[71] 2 State Trials, *supra* note 30, at 1087-88.

[72] *Id,* at 1101.

[73] *Id.* at 1105-11.

[74] *Id.* at 1097.

[75] *Id.* at 1116.

[76] *Id.*

[77] *Id.* 1116-18.

[78] *Id.* at 1118.

[79] *Id.* at 1183.

[80] *Id.* at 1218-19. King James I did not specifically defend the Lord Treasurer but rather pleaded that the lords take special care to search out and establish the facts, reminding them that "all Treasurers, if they do good service to their masters, must be generally hated." *Id.* at 1219.

[81] *Id.* at 1219.

[82] Immediately upon receiving the complaint of the House of Commons, the lords took into their consideration how to proceed in the business, and then referred the Examination thereon to the subcommittee on Munitions . . . [and decided that] their lordships may divide themselves into several committees, if they please, for expediting this business; and may send for any witnesses to be sworn here in court, that may conduce to the Examination thereof. *Id.* at 1197.

[83] *Id.* at 1183.

[84] *Id.*

[85] *Id.* at 1189.

[86] *Id.* at 1190.

[87] *Id.* at 1189.

[88] *Id.* at 1197.

[89] *Id.* at 1199.

[90] The report states that the witnesses were to be "examined as the house shall think fit." *Id.* at 1200.

[91] *Id.* at 1228.

[92] The practice of using committees to hear evidence is also demonstrated by practices in several trials which, although analogous to impeachment trials, are not denominated as such in the State Trials. For example, in proceedings against Lord Kimbolton and five members of the House of Commons in 1641, 4 State Trials supra note 30, at 83, the King's Attorney requested that "a Select Committee of Lords . . . be appointed to take the examination of such Witnesses . . . as formerly hath been done in cases of like nature, according to the justice of this house." Id. at 85. The committee was never formed because the case did not reach trial on the merits. The Lords refused to hear the case since, by circumventing and intimidating the House of Commons, the King's manner of proceeding had breached the privileges of the Commons. Id. at 104-10.

The Lords routinely delegated the evidence-hearing functions, not only to committees of their own members but also to tribunals outside of Parliament. In the 1624 trial of Samuel Harsnett for extortion, for example, the Lords heard the complaint of the Commons and the answer of the accused and then entered an order that "in respect to the shortness of time and the multiplicity of business, now depending to be determined, the complaint of the Commons, against the bishop of Norwich, shall be referred to the High Commission, to be examined by them; and they to make report thereof to the house, and then the house will judge of it." 2 id. at 1258. In thus employing the High Commission, an ecclesiastical body created by the English monarchs to perform judicial and nonjudicial functions beyond the competence of ordinary ecclesiastical courts, 1 Holdsworth, supra note 32, at 605-11, the Lords delegated important functions to a forum external to Parliament.

On the same day, the Bishop of Norwich brought a complaint against his accuser before the House of Lords. The complaint, "with the witnesses the bishop produced to prove it, was referred to the examination of the archbishop of Canterbury, who was to make report thereof to the house for their judgment of the matter." 2 State Trials, supra at 1258. The Archbishop of Canterbury, a lord spiritual, may have assumed the function of a master, an advisory or a trier. Unfortunately, no further men-

tion of the proceedings has been discovered so it is impossible to determine exactly what role he played.

[93] An example of a restriction limiting the use of a procedure to the specific trial for which it was adopted occurred in the Lord Middlesex impeachment proceedings. The House of Lords gave the Lord Treasurer permission to answer the Commons's complaint directly in Commons, but ordered "[t]hat no lord of that house shall hereafter without license, answer any complaint in the house of commons." 2 State Trials, supra note 30, at 1185. Had the Lords believed that examination of witnesses in committee was an equally anomalous impeachment trial procedure, it could easily have provided that no precedent would be established by the use of a committee in any particular trial.

POLICY REVIEW ARTICLE OF MAJORITY LEADER BOB DOLE

Mr. SIMPSON. Mr. President, with the Reykjavik meetings so fresh in our minds, I want to bring to the attention of my colleagues an article entitled "Grappling With the Bear: A Strategy for Dealing With Moscow," written by our bright and distinguished Republican leader, Senator DOLE, for the current issue of policy review, the Heritage Foundation magazine.

The article outlines a tough, thoughtful realistic strategy for conducting our relations with the Soviets, and it would be very worthwhile reading at any time. But it seems to me to deserve special mention now. Though written several weeks before Reykjavik, it is remarkably prescient in zeroing right in on the very negotiating trap that Gorbachev tried to spring on this country over the weekend relating to SDI—the trap the President so wisely and courageously avoided. Let me quote briefly from Senator DOLE's article:

We also need to keep firmly in mind the idea that our strategic posture is a very dynamic concept. What we decide today impacts not only on our immediate position relative to the Soviets but where we can be a decade or so down the road. SDI is the prime case in point. While it may turn out to make sense to trade off SDI deployment over the next 7 to 10 years for some immediate concessions on Soviet weapons levels, let's be sure we examine that proposition meticulously before striking any deal. On an issue of such fundamental importance as SDI, it is far more important that any agreement we sign be sound than soon.

Mr. President, I do not know if the President had the good fortune to read Senator DOLE's excellent article before he met with Gorbachev, but it certainly would appear that the President and the majority leader are on precisely the same wave length—and the right wave length—on this critical issue.

Mr. President, I ask unanimous consent that the full text of the majority leader's article appear in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

GRAPPLING WITH THE BEAR—A STRATEGY FOR DEALING WITH MOSCOW

(Senator Bob Dole)

Despite the Daniloff case, 1986 may be a watershed year in U.S.-Soviet relations. We appear to be on track for a second Reagan-Gorbachev summit and to be engaged in the first truly serious nuclear arms control negotiations we have had with the Russians since the early 1970s. Simultaneously, a second level of political contacts continues on a whole range of regional issues—Afghanistan and Kamphuchea among the most prominent—and we are actively exploring new prospects for trade, especially in the agricultural field. In sum, we are dealing with the Soviets at all levels and on a wide range of subjects. So far, the concrete results have been scanty. But there is reason to hope.

As always, it is difficult to know exactly what game the Soviets might be playing. But that very uncertainty makes it all the more important that we take a new, hard-headed look at our overall strategy for dealing with the Russians; at how we can best shape and respond to the way the situation evolves; and at how we can take advantage of all opportunities to advance our interests, while keeping a firm watch on our flanks, to make sure we don't give or bargain away anything important to our national interest.

In the paragraphs below, I want to suggest some general principles for dealing successfully with the Russians, and I want to relate these principles to the real world issues with which the President, the Congress, and the American people will be grappling in the months ahead.

THE MYTH OF DETENTE

In making a judgment on whether and how to deal with the Soviets, we must start by keeping two related facts clearly in mind. First, the U.S.S.R. is fundamentally different from the United States, in system, in goals, in values. The Daniloff case proves that once again. And, second, some of these differences are so profound they are never going to disappear or be negotiable.

Ronald Reagan termed the Soviet Union an "evil empire," and for that expression he was pilloried. And yet, to cite but one example, there is no dispute that the Russians have invaded and occupied Afghanistan, an independent country—surely the classic definition of an empire; and that in Afghanistan they engage in horrible tactics (the use of toy bombs to kill and dismember children is a case in point) to achieve their political goals—tactics which can reasonably be described as evil.

Time and talk are not going to turn the Soviet Union into a liberal democracy or lead it to drop its global imperialist aims. If we conduct our relations with Moscow believing such miracles can happen, then we are doomed to disappointment and, probably, are ripe to be taken to the cleaners.

If we pursue our general relations with the Soviets, and our general affairs in the world, in the illusion that some day we can bridge the vast differences that exist and achieve some fundamental common ground—that our competition with Moscow will end; that there really will be "detente"—then we are in deep, deep trouble.

In fact, detente is a dangerous myth, based upon a phony premise: that there is more to our relations with the Soviets than a sum of parts; that if we cooperate with Moscow in enough ways and sphere, we will create an atmosphere of goodwill that will be self-generating—that is, the Soviets will begin to make concessions not for some specific quid pro quo but to preserve a constructive ambience.

The danger of worshipping the false god of detente is twofold. Belief in detente breeds unrealistic expectations, which invariably lead to shattering disappointment. More important, the illusion that detente is real and valuable in its own right leads to self-imposed pressure for unilateral concessions, to keep the spirit of detente alive. Only if we can put the idea of detente behind us, once and for all, will we have a realistic chance to accomplish what we want with the Soviets.

CHALLENGING THE RUSSIANS

And there is a flip side to this coin—our paranoid fear of defending our own interests or of challenging the Soviets, even where their activities are unwarranted and indefensible and where they are vulnerable, just because we might somehow sour our overall bilateral relations.

In fact, the opposite is true—when we stand up to Moscow, or keep it on the defensive, we will reduce its long-term aggressiveness and often even find a more willing and flexible negotiating partner. We have rights and interests, too, and when Moscow clearly understands our determination to defend those rights and pursue those interests, the world will be a safer, not a more dangerous, place. That is the lesson of, for example, the Cuban missile crisis and of our determined pursuit of a militarily stronger of a violent, armed response. The keys are: (1) moving where we have the advantage and can bring the most effective power to bear; and (2) avoiding direct assaults on fundamental Soviet interests—such as the survival of the Soviet state—which might engender a massive, violent response.

Let me cite one example. While the Russians have ambitious plans in southern Africa, the vital interests of the Soviet state are *not* engaged. Moscow will likely defend its interests vigorously. But it is not going to launch an attack on the United States, or break off all contacts with us, because we pursue our own interests there aggressively.

Make no mistake about it—we do have interests in that region that are just as important, and certainly more legitimate, than the Kremlin's. And we have just as much right as Gorbachev and his cronies to pursue and defend our interests—in Angola, through strong support for Jonas Savimbi's freedom fighters; in Mozambique, by refusing to provide aid and comfort to the Marxist government, at least until it clearly and definitively turns away from Moscow; and in South Africa, by making clear that while we are determined to see an end to apartheid, we also find the African National Congress's Communist links and violent tactics abhorrent and inimical to the real interests of black South Africans.

A BIG STICK

But it is not enough to be assertive. We also must be able to back up what we say to Moscow with real strength, or we're just not going to get anywhere. Building up our strength—and I'm speaking primarily of our military strength but also of our political and economic strength—is not a substitute for, or a rejection of, constructive bilateral relations with the Russians. On the contrary, it is an essential prerequisite for any successful dealings with the Kremlin.

When Ronald Reagan submitted his first, ambitious defense budgets, the hue and cry was intense. Those budgets, we were told, would set off a new arms race which we

would likely lose; would doom any prospects for arms control negotiations; and would usher in a new Cold War.

The opposite, of course, has happened. While the Soviets continue to spend heavily on military development—and, let's face it, that's something they will continue to do, no matter what—there has been no new destabilizing arms race. Thanks to the MX, the B-1, and other promising research and development projects, we have closed the military gap. The Soviets did come back to the Geneva talks, and they now appear to have made the first serious proposal they have offered in a decade and a half. And, as already noted, the final details are being nailed down for another summit.

In fact, we are where we are, not in spite of, but because of, our military buildup. The Kremlin leadership has understood, and I believe in a curious way respected, the Reagan military strategy far better than the liberal American media. They have understood, though presumably not appreciated, that a strong America deprives them of their preferred tactic—getting what they want through blackmail and intimidation—and forces them to choose between only two options: (1) dangerous confrontation with a potent foe, or (2) accommodation. Happily, they appear to be resigned for the time being to the latter.

The corollary, of course, is that they will continue to pursue this course only so long as we make it the only attractive one. If we in Congress, through draconian defense budget cuts, forfeit what the President has achieved in military capability and readiness since 1980, we will compromise any prospects for successful talks with Moscow. If we refuse further development of the MX, emasculate strategic defense (SDI), cap B-1 production, scrap the 600-ship Navy, and do all the other things that many are advocating, we will be sending the President into the poker game of the next summit with all his cards showing and not one so much as a face card.

SETTING THE AGENDA

Another vital element in dealing successfully with the Soviets is to ensure that our agenda, rather than theirs, is on the table when we do deal. The Soviets still view us with pretty much the same mindset they've always had—what's theirs is theirs; what's ours is negotiable. It's time we relegated that concept to the trash can.

Pursuing our own concerns aggressively, of course, is going to set off a new round of handwringing among our faint of heart—we have to be careful; we can't offend the Soviets, if we push too hard, they won't deal. hogwash!

The experience we've had on SDI is instructive. When confronted with a program or an idea they don't like, such as SDI, the Kremlin's automatic reaction—one reinforced by years of Western concessions—is to refuse even to discuss it. But if we are tough enough, and if we have the means—carrot or stick (and SDI could be both)—to make Moscow realize the practical need for talks, then talks will ensue, despite the propaganda, despite the rhetoric.

In the final analysis, the Russians will deal when one or both of two conditions prevail—when there is something in it for them to gain, or when they stand to lose by not dealing. Our goal should be to create an agenda which forces them to deal with our issues, and as much as possible, on our terms.

Of course, not every issue fits every forum. But every important issue deserves, and demands, some forum. Nothing important to us is "too sensitive" to raise with Gorbachev or any other Soviet leader, no matter how embarrassing it may be to them. And nothing in Soviet history suggests they will be angered, or embarrassed, out of further talks if they see those talks as in their interest or if they see the breakdown of such talks as unduly costly.

This list of subjects we should pursue more vigorously is long. One key issue is Soviet violations of existing arms control agreements. That subject must remain on the front burner, in both substantive and propaganda terms. We should never let the world forget Moscow's sorry record of violations and non-compliance. And we should sign no new arms control agreements, period, unless the Soviets have done two things: (1) satisfactorily responded to our concerns on existing violations; and (2) agreed to effective means of verification.

Another central issue is Soviet human rights violations both in foreign countries such as Afghanistan, and at home. We can never close our eyes to Soviet genocide in Afghanistan or imprisonment of dissidents at home. Despite Soviet efforts to make the next summit a one-issue (arms control) meeting, we must use a smmit or any such meeting to keep the pressure on the Kremlin for its inhumane human rights record.

SOME COMMON INTERESTS

I should also note here, too, that—despite the many things that do divide us—there are some issues which both sides have on their agendas which could be the subject of non-hostile, perhaps even cooperative, dealings. Because the Soviets are, essentially, our enemies, does not mean we have no interests in common.

One issue that comes immediately to mind is nuclear non-proliferation. Neither of us has any long-term interests in seeing the spread of weapons-relevant technology and weapons-grade material to the developing world. Both of us, though—to win the political favor of friends or allies, for commercial gain, or because of our fears of the other—do less than we could and should to stop this spread. Engaging the Soviets in an aggressive non-proliferation program ought to be one of the highest priorities of our arms control talks, not just a small sideshow.

RISKS AND RETURNS

In sum, then, it is in our interest to deal with the Russians whenever: (1) they will engage us on the issues on our agenda, and (2) there is some reason to believe they may be prepared to deal in good faith.

But before we actually deal, there is one additional and critical thing we need to do: decide on our own goals and work out a realistic strategy for accomplishing them. It sounds easy, but it's something at which we've been woefully ineffective.

Too often we have approached our relations with the Soviets as a reactive, damage-limiting exercise. We wait for the Russians to act, or for crisis to emerge, and then we rush into the breach with a stop-gap response—using whatever means is most convenient at hand—with little regard for how our response will fit into our broader relations with the Soviets or our broader interests in the world.

The grain embargo of the Soviet Union is probably the classic example—since we got no cooperation from our allies and friends, it had no impact on Soviet policies in Afghanistan or on the economic well-being of the Soviet homeland. It merely cut us out of a market which yielded far more national benefit to us as grain sellers than to the Soviets as grain buyers.

We need to start our search for the right goals and strategy by refocusing on some of the fundamental questions in U.S.-Soviet relations. We needn't necessarily announce to the world how we really feel about these questions. But we certainly need to know in our own minds how we do. And, right now, I'm not sure that we do.

I would cite two issues in particular that our policy makers must address more comprehensively and decisively.

OUR STRATEGIC POSTURE TOWARD THE U.S.S.R.

First, where do we need to be or—perhaps more precisely—where can we realistically aspire to be, vis-a-vis the Soviet Union in strategic military terms? Do we need to be superior in all major categories of weapons? Superior overall but willing to tolerate some areas of equity or even relative weakness? In rough parity, both overall and system-by-system? Of even inferior overall, but with enough retaliatory punch to deter strategic attack?

And, in fact, we need to address more concretely what superiority and parity actually mean. We need to decide to what degree technological superiority can offset numerical superiority (e.g., in strategic missile systems) and adjust our plans—and our negotiation positions—accordingly.

We also need to keep firmly in mind the idea that our strategic posture is a very dynamic concept. What we decide today impacts not only on our immediate position relative to the Soviets but where we can be a decade or more down the road.

SDI is the prime case in point. While it may turn out to make sense to trade off SDI deployment over the next seven to 10 years for some immediate concessions on Soviet weapons levels, let's be sure we examine that proposition meticulously before striking any deal. On an issue of such fundamental importance as SDI, it is far more important than any agreement we sign be sound than soon.

Once we address these basic issues of strategic doctrine, a working strategy for achieving the goals we set flows more naturally—and, equally important, becomes more compelling politically. My own view, for example, is that we must have significant technological superiority over the Soviets in both nuclear and conventional weaponry (though not necessarily in every individual weapons system) to offset Soviet superiority in numbers of weapons and military personnel. We also need to maintain the technological initiative, so that we can nudge military R&D into the areas where we have the relative advantage. That, in fact, is one of the strongest arguments for SDI.

By starting with these kind of clear-cut assumptions and goals, it becomes much easier to decide which weapons systems need aggressive development and which can be given lower priority. Equally important, it should be much easier to sell a cynical and too often partisan Congress on a program—be it SDI or MX or whatever—that fits these clear criteria of where we need to be in national defense.

SHOULD WE TRADE WITH THE U.S.S.R.?

The other fundamental issue we need to reexamine is the nature of our economic relations with the Soviets. We all would agree, I think, that we must do everything we can to deny the Soviets access to national security-related high technology. But even with that stipulation, the remaining range of

policy choices is wide. We could terminate all economic ties with the U.S.S.R., on the grounds that such relations only strengthen a state which has made itself our implacable enemy. We could try to limit our economic relations to those areas where the direct benefit we derive is clearly greater than the advantage accruing to the Soviets (though the Soviets are not likely to be willing to play that kind of game for very long). A third option would be to view and treat trade and investment primarily as means to broader ends, rather than potentially rewarding ends in themselves, chips in a poker game, to be played ad hoc as the cards are dealt on a wide variety of issues, both economic and non-economic—the logic behind such things as the grain embargo and the Jackson-Varnik bill. Or we could drop all barriers (except those clearly and directly relevant to our national security), treating the Soviet Union as just another trading and investment partner.

I think it is high time that we decided what we want, and critically and comprehensively looked at what we stand to gain and lose through our economic ties with the U.S.S.R. No administration in my lifetime has spoken, or acted, clearly on this issue. Yet no issue, except that of our national defense, is more relevant to our country and our competition with the Soviet Union.

Consider the case of our bilateral trade. The Soviets usually have a multitude of potential suppliers eagerly lined up to provide them the non-strategic goods and commodities they want. That's why unilateral U.S. attempts to win Soviet concessions by withholding exports haven't worked, and aren't likely to work as well as we would like them to.

As long as that situation prevails—if our foreign friends can sell all the non-strategic items the Soviets need; if they have no intention of cutting back on their exports, no matter what we do or say; and, on the contrary, if they are actually carving out larger market shares through unfair trading practices—then we are only shooting ourselves in the foot when we alone refuse to compete.

Of course, the reverse logic holds, too. If there are trade items where we are the sole or clearly preferred supplier, or other forms of economic leverage we have over Moscow, then we should not hesitate to use that pressure judiciously in pursuit of important goals, including non-economic goals. For example, we should seriously consider whether we can use current Soviet hard currency shortfalls growing out of the drop in oil prices to wrest concessions from the Kremlin.

Certainly, I have no desire to subsidize the Soviet state. No thinking American does. But I do want to see our economy strong. I do want us to take advantage of all trade opportunities to revitalize our industry and agriculture, as long as we are not simultaneously undermining other U.S. interests.

And, equally important, I do want to see all sectors of our economy treated fairly, both in combating foreign competition and bearing any burdens imposed by the needs of our foreign policy. Let's quit putting this monkey solely on the backs of our farmers or any other single group. That's bad policy toward the Soviets. That's unfair policy toward our own people.

WE CAN DEAL WITH THE SOVIETS

We can deal with the Soviets, in both senses of the word.

We can handle anything they throw at us—militarily, economically, and politically. We just have to get our act together—know where we want to go, have a plan for getting there, stick to that plan and be willing to pay the price.

And we can interact and negotiate with the Soviets with great success on many—though not all—issues. We have some important things to gain, if we can just keep clearly in mind what they are. And we have the resources to achieve those gains—both the "sticks" and "carrots" to bring Moscow around closer to where we want it to be.

VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED ACT

Mr. DURENBERGER. Mr. President, the opportunity to step into a voting booth and pull a lever expressing a choice is a right many of us take for granted. For thousands of disabled Americans, exercising that right to vote has meant voting as an "absentee" because the polling place, or the registration site was inaccessible, or it has meant not voting at all.

In November of this year, all Federal polling places will be made accessible to all voters, not only the able-bodied who can climb the stairs to a church hall or school classroom. Public Law 98-435, the Voting Accessibility for the Elderly and Handicapped Act, which I sponsored and passed in the 98th Congress with the able assistance of my colleague, the distinguished majority leader, Senator ROBERT DOLE, mandates accessibility.

The Voting Accessibility Act requires that all Federal-polling places, and registration sites conform to accessibility requirements for the disabled. This includes the provision of large-print instructions and registration materials, and telecommunications devices for the deaf.

With the first Federal election since the law went into effect swiftly approaching, a major educational effort has been launched by the National Organization on Disability and the Easter Seal Society for the benefit of Federal election officials, poll workers, and citizens. My colleague, Senator BOB DOLE, a tireless advocate of the handicapped, has been instrumental in promoting this project. At this point I would like to yield to the distinguished majority leader, Senator ROBERT DOLE.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Minnesota for his comments and would like to add a few words of my own on this important topic. Two years ago I joined Senator DURENBERGER in support of "The Equal Access To Voting Rights Act," legislation which safeguards the voting rights of our disabled, and elderly citizens. It was, and is, sound, long-needed legislation. Since that time, our 50 States have taken action to ensure that disabled citizens are no longer blocked from exercising their constitutional right due to physical barriers.

There are about 36 million persons with disabilities in the United States, and, of that number, a full two-thirds are of voting age. Each year many of our fellow citizens, the disabled, and the elderly, do not vote.

As we soon approach the November elections, let me commend the National Association on Disabilities and the National Easter Seal Society, as well as the myriad of other organizations throughout this country, for their efforts to increase the participation of disabled persons in the election process. Democracy clearly works best when everyone can, and does, participate.

Mr. DURENBERGER. Mr. President, I thank my colleague, Senator DOLE, and I applaud his efforts on behalf of voter accessibility. Public Law 98-435 would not be a reality had it not been for the full support of the Senator from Kansas.

The educational initiative discussed by my colleague will not only allow disabled voters to go to the polls, but will encourage the elderly and handicapped who have not voted, to exercise their rights.

Franklin Delano Roosevelt said, "Inside the polling booth every American man and woman stands as the equal of every other American man and woman. There they have no superiors. There they have no masters save their own minds and consciences."

Mr. President, this body must remain vigilant to its responsibility to ensure that equality. In the past, we have fought to ensure the right to vote for various distinct groups, through constitutional amendment and the Voting Rights Act. Our first step in ensuring the right to vote for the disabled came in the passage of the Voting Accessibility for the Elderly and Handicapped Act.

The education of Federal-polling officials, and volunteers is the vital link in extending the spirit of the Voting Rights Act to all citizens. The National Organization on Disability and the Easter Seal Society must be recognized for their efforts, and commended for their public spirit. Not only the physical barriers will be removed, but through education and understanding the greater barriers of fear and confusion which have plagued the elderly and disabled in the past will be eliminated.

Mr. President, I ask unanimous consent that an informational card entitled, "Disabled Citizens at the Polls," an article from the National Organization on Disability's publication report and a copy of Public Law 98-435 be printed in the RECORD following the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISABLED CITIZENS AT THE POLLS

As Americans with disabilities increasingly participate in the life of their communities, more of them will want to vote in person at the polls rather than use absentee ballots. To assist election officials, poll workers and disability organizations cooperating with them, the National Easter Seal Society and the National Organization on Disability have produced this information with suggestions for making voting easier for all concerned. You will find suggestions for Common Courtesies & Guidelines and, on the back, a few adaptations at polling places to make them more accessible and usable. The purpose of offering this information is to strengthen a new federal law, the Voting Accessibility for the Elderly and Handicapped Act, effective December 31, 1985, "to promote the fundamental right to vote."

COMMON COURTESIES & GUIDELINES

Be considerate of the extra time it might take for a person who is disabled or elderly to get things done, and give unhurried attention to a person who has difficulty speaking.

Speak directly to the person who has a disability rather than to a companion who may be along.

Speak calmly, slowly and directly to a person with a hearing problem. Your facial expressions, gestures and body movements help in understanding. Don't shout or speak in the person's ear. If full understanding is doubtful, write a note to the person with a hearing problem.

Before pushing someone in a wheelchair, ask if you may do so and how you should proceed.

Greet a person who is visually impaired by letting the person know what and where you are. Provide a guiding device such as a ruler or card for signing forms. When offering walking assistance, allow the person to take your arm and tell him or her if you are approaching steps or inclines.

Be aware that dogs who assist people with disabilities should be admitted into all buildings. Such dogs are highly trained and need no special care other than that provided by the owner.

Be aware that federal law allows voters with disabilities to be accompanied and to receive assistance by another person in the voting booth.

Remember that all voters deserve courteous attention in exercising their right as citizens to vote.

SUGGESTIONS FOR MAKING VOTING PLACES ACCESSIBLE AND USABLE

Use temporary signs to identify handicapped parking and directions to entries for people with disabilities.

Use a temporary ramp if your voting place has steps at the entrance, but be sure the incline is not too steep.

If your voting place has heavy doors, someone should be available to assist those who need help.

A 32" clearance at non revolving doors will enable a person using a wheelchair to enter the building.

Smooth and hard floor surfaces or those covered with a tightly woven carpet with no pad or a thin pad are best for wheelchair users and others.

Tables to be used by people in wheelchairs should have a clear knee space underneath that is at least 29"-34" high.

Printed instructions will enable persons who are hearing impaired to vote. Printed instructions in simple large lettering will help persons who are vision impaired to vote. Pictures or symbols also help everyone. For example, arrows or a hand point are easier for everyone to understand than signs that say "voters entrance at the east side."

For persons not able to operate voting machines, the availability of paper ballots makes voting possible.

At least one punch card machine with enough knee clearance should be available to allow voting from a seated position.

You will increase voter turnout if you inform people with disabilities that voting places are accessible. A public service announcement on radio and TV, as well as in the newspapers, is the most effective way to reach people with all types of disabilities.

When choosing voting locations in your community, select buildings that are more apt to be accessible, i.e., schools, libraries, community centers, firehouses, park buildings, court houses, post offices, other government buildings and places of worship. Polling places can be moved from inaccessible sites to accessible ones.

Produced by:

The National Easter Seal Society, 2023 West Ogden Avenue, Chicago, Illinois 60612, and the National Organization on Disability, 2100 Pennsylvania Avenue, N.W., Washington, D.C. 20037.

VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED ACT

[An Act to improve access for handicapped and elderly individuals to registration facilities and polling places for Federal elections.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Accessibility for the Elderly and Handicapped Act".

PURPOSE

SEC. 2. It is the intention of Congress in enacting this Act to promote the fundamental right to vote by improving access for handicapped and elderly individuals to registration facilities and polling places for Federal elections.

SELECTION OF POLLING FACILITIES

SEC. 3. (a) Within each State, except as provided in subsection (b), each political subdivision responsible for conducting elections shall assure that all polling places for Federal elections are accessible to handicapped and elderly voters.

(b) Subsection (a) shall not apply to a polling place—

(1) in the case of an emergency, as determined by the chief election officer of the State; or

(2) if the chief election officer of the State—

(A) determines that all potential polling places have been surveyed and no such accessible place is available, nor is the political subdivision able to make one temporarily accessible, in the area involved; and

(B) assures that any handicapped or elderly voter assigned to an inaccessible polling place, upon advance request of such voter (pursuant to procedures established by the chief election officer of the State)—

(i) will be assigned to an accessible polling place, or

(ii) will be provided with an alternative means for casting a ballot on the day of the election.

(c)(1) No later than December 31 of each even-numbered year, the chief election officer of each State shall report to the Federal Election Commission, in a manner to be determined by the Commission, the number of accessible and inaccessible polling places in such State on the date of the preceding general Federal election, and the reasons for any instance of inaccessibility.

(2) Not later than April 30 of each odd-numbered year, the Federal Election Commission shall compile the information reported under paragraph (1) and shall transmit that information to the Congress.

(3) The provisions of this subsection shall only be effective for a period of 10 years beginning on the date of enactment of this Act.

SELECTION OF REGISTRATION FACILITIES

SEC. 4. (a) Each State or political subdivision responsible for registration for Federal elections shall provide a reasonable number of accessible permanent registration facilities.

(b) Subsection (a) does not apply to any State that has in effect a system that provides an opportunity for each potential voter to register by mail or at the residence of such voter.

REGISTRATION AND VOTING AIDS

SEC. 5. (a) Each State shall make available registration and voting aids for Federal elections for handicapped and elderly individuals, including—

(1) instructions, printed in large type, conspicuously displayed at each permanent registration facility and each polling place; and

(2) information by telecommunications devices for the deaf.

(b) No notarization or medical certification shall be required of a handicapped vote with respect to an absentee ballot or an application for such ballot, except that medical certification may be required when the certification establishes eligibility, under State law—

(1) to automatically receive an application or a ballot on a continuing basis; or

(2) to apply for an absentee ballot after the deadline has passed.

(c) the chief election officer of each State shall provide public notice, calculated to reach elderly and handicapped voters of the availability of aids under this section, assistance under section 208 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-6), and the procedures for voting by absentee ballot, not later than general public notice of registration and voting is provided.

ENFORCEMENT

SEC. 6. (a) If a State or political subdivision does not comply with this Act, the United States Attorney General or a person who is personally aggrieved by the noncompliance may bring an action for declaratory or injunctive relief in the appropriate district court.

(b) An action may be brought under this section only if the plaintiff notifies the chief election officer of the State of the noncompliance and a period of 45 days has elapsed since the date of notification.

(c) Notwithstanding any other provision of law, no award of attorney fees may be made with respect to an action under this section, except in any action brought to enforce the original judgment of the court.

RELATIONSHIP TO VOTING RIGHTS ACT OF 1965

SEC. 7. This Act shall not be construed to impair any right guaranteed by the voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

DEFINITIONS

SEC. 8. As used in this Act, the term—

(1) "accessible" means accessible to handicapped and elderly individuals for the purpose of voting or registration, as determined under guidelines established by the chief election officer of the State involved;

(2) "elderly" means 65 years of age or older;

(3) "Federal election" means a general, special, primary, or runoff election for the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) "handicapped" means having a temporary or permanent physical disability; and

(5) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

EFFECTIVE DATE

SEC. 9. This Act shall apply with respect to elections taking place after December 31, 1985.

Approved September 28, 1984.

N.O.D. AND NEW NATIONWIDE COALITION HAVE BEGUN CAMPAIGNS TO INCREASE ROLE OF LARGEST MINORITY IN NATION'S REGISTRATION AND VOTING PROCESS

POINTING TOWARD '86 AND '88 ELECTIONS

(By Mark Lewis)

An extensive and concentrated effort is developing across the country to expand the participation of disabled Americans in the election system.

It is led by the National Organization on Disability (N.O.D.) and a new coalition of more than 30 of the nation's leading private disability groups.

Two intensive and complementary campaigns are being conducted simultaneously on a non-partisan basis; Disabled citizens at the polls and disabled but able to vote.

A major thrust of the Disabled Citizens at the Polls campaign is to assist, educate and train the country's 13,000 election officials and one million poll workers on how to improve the accessibility of polling places and how to make voting easier for disabled citizens.

The simultaneous Disabled But Able to Vote campaign is seeking to increase the registration of disabled voters nationwide.

THE KEY FACTORS

An estimated 35 million Americans have physical or mental disabilities—America's largest minority—and an estimated 20 million of them are eligible disabled voters. According to authorities in the field, most of the eligible disabled voters do not exercise their franchise because of the absence of ramps at voting places, the absence of ballots in braille, lack of interpreters for the deaf, voting machines that are difficult to manipulate, doors too narrow for wheelchairs, signs in small print that are difficult to see and read. As a result, experts suggest, disabled people in many jurisdictions have been discouraged from registering and voting.

"We've been made unwelcome," says Justin Dart, Jr., a member of the National Council on the Handicapped and a wheelchair user.

There are 188,600 polling places in the United States. Many of them, experts report, are not accessible.

NEW FEDERAL LAW

In a speech prepared for delivery in July to a meeting of 500 election officials from across the nation, N.O.D. president Alan A. Reich cited a new federal law as the background for N.O.D.'s Disabled Citizens at the Polls campaign. "Recognizing that America's largest minority, 35 million of us, must be included in the election process, the U.S. Congress passed the Voting Accessibility for the Elderly and Handicapped Act," Reich said.

The new federal law became effective December 31, 1985. Its stated purpose is "to promote the fundamental right to vote by improving access for handicapped and elderly individuals to registration facilities and polling places for federal elections." The law obligates election officials at all levels of government to provide special services for disabled persons. It also requires that the accessibility status of all polling places be reported to the Federal Elections Commission (FEC) by the end of 1986 and that the FEC advise Congress of non-accessible and accessible voting places early next year.

REGISTERING DISABLED VOTERS

The drive to increase registration of disabled voters is being jointly conducted by a Democrat and a Republican: Dr. Philip B. Calkins, community organizer and disability rights coordinator for the Democratic National Committee, and Justin Dart, Jr., disability rights advocate and a Republican who chaired a steering committee for President Reagan's 1984 campaign.

"This is the most extensive coordinated effort ever undertaken to give disabled citizens a voice at the polls," Calkins says. "Without the franchise, you get the business," he adds.

A wheelchair user, Calkins is organizing the campaign from the N.O.D. offices in Washington.

N.O.D. and four other private disability organizations recently joined together as the founding sponsors of the new coalition called Disabled But Able to Vote. The other sponsors of the campaign to increase registration of disabled voters are the Disability Rights Center, Disability Rights Education and Defense Fund, National Parent CHAIN, and Paralyzed Veterans of America. More than 30 other leading disability organizations are participating in the coalition. They include the National Easter Seal Society, United Cerebral Palsy, American Council of the Blind, American Foundation for the Blind, National Association of the Deaf, and the President Committee on Employment of the Handicapped.

OBJECTIVES OF THE CAMPAIGNS

Together, Disabled Citizens at the Polls and Disabled But Able to Vote have interlocking, complementary objectives: To inform disabled citizens of their rights and special services they should expect from the system and urge them to register and vote; To assist election officials and poll workers in expanding the participation of disabled persons in the election process and ensuring equal access; To organize local registration drives in as many states as possible.

HELPFUL TOOLS FOR ELECTION OFFICIALS, POLL WORKERS

To assist election officials and the training of poll workers, N.O.D. has produced a 28-page illustrated manual entitled "Disabled Citizens at the Polls: A Guide for Election Officials." It covers the concerns of disabled persons, the new federal law, the special considerations needed for voting by disabled and elderly citizens, and offers practical suggestions for cost-effective temporary or permanent changes to make polling places accessible, as well as suggestions for assisting disabled citizens at polling places.

"Because there is no financial assistance provided under the new legislation (the Voting accessibility for the Elderly and Handicapped Act), the burden falls squarely on state and local election officials to develop and implement accessibility programs," said N.O.D. president Reich. "So we have produced an illustrated manual to help them," he added.

Copies of the manual are being furnished free of charge to election officials and to the Secretary of State in all states. The manual also has been sent to N.O.D.'s state liaisons, and N.O.D.'s Community Partners can receive limited copies upon request.

Georgia's Secretary of State, Max Cleland, is the Advisory Committee Chairman of the Disabled Citizens at the Polls campaign. Cleland is a triple amputee veteran of the Vietnam war and former director of the U.S. Veterans Administration during the presidency of Jimmy Carter. N.O.D. president Riech is a former senior State Department official during the presidency of Gerald Ford.

In a personal message to the nation's election officials at the start of the manual, Cleland and Reich say: "For most of the estimated 20 million eligible disabled voters, participation in the election process remains an unfulfilled dream."

N.O.D., EASTER SEAL SOCIETY AND AMWAY COLLABORATE

Another tool to assist election officials and guide poll workers has just been jointly produced by N.O.D. and the National Easter Seal Society. It is a small, two-sided flyer, a disabled voter information card. A companion piece to the training manual, the card contains eight suggestions concerning common courtesies at polling places and eleven suggestions for cost-effective temporary adaptations to make voting places more accessible and usable. Through the Cooperation of AMWAY Corporation, one million copies of the card have been printed and copies are being provided free-of-charge to disability organizations and to election officials for the training of poll workers.

STATE MEETINGS TO STIMULATE REGISTRATION

The Disabled But Able to Vote campaign is concentrating on state level meetings where registration drives are planned and organized on a non-partisan basis. Meetings are attended by disabled voters, disability leaders and election officials. The first meeting to organize the registration of disabled voters took place in May in Wilmington, DE. Since then, Dr. Calkins has led meetings in New York, North and South Carolina, Illinois, Pennsylvania, Massachusetts, Rhode Island, New Hampshire, Vermont, Wisconsin, Missouri, Kansas, Kentucky, Ohio, Iowa, and South Dakota. Registration drives in shopping malls are developing in several places, and more state level meetings are planned for 1986.

N.O.D.'s Community Partners are closely linked to the local registration campaigns. They are alerting disabled voters to the Calkins-Dart meetings in their communities and are assisting in the distribution of promotional materials as well as the distribution of the N.O.D. training manual for election officials and the N.O.D.-Easter Seal Society voter information card.

Last year, in response to a survey of the 1800 towns, cities and counties in the N.O.D. Community Partnership Program network, N.O.D.'s local liaisons gave top priority to participation by disabled persons in the election process.

WORKSHOPS FOR ELECTION OFFICIALS

To further train election officials in improving the accessibility of polling places and in assisting disabled voters at the polls, workshops are planned in a half-dozen cities during 1987 and 1988. Workshops for election officials have been conducted in New Orleans, Atlanta and San Diego.

"Disabled Citizens at the Polls is a three-year undertaking," said N.O.D.'s Alan Reich. "Quite naturally, we are pointing toward the General Elections this Fall as the first important goal and then the Presidential election in 1988. We sincerely hope that our new manual and disabled voter information card and the state meetings to organize registration drives will help election officials, poll workers and America's largest minority in our common efforts to make democracy work for everyone.

"Because America's disabled persons have long been non-participants in the voting process," Reich added, "dramatic changes in their voting patterns should not be expected at first. It will take time. Leadership and commitment will make the difference."

This issue of REPORT carries a separate article entitled "What You Can Do To Expand Democracy in Your Community," listing suggestions for supporting the disabled citizens at the polls and disabled but able to vote campaigns.

QUOTABLE QUOTE ABOUT VOTING

"Most of America's 20 million citizens with disabilities don't vote. Deny us this precious constitutional right and you deny our citizenship".—Alan A. Reich, president, N.O.D.

WHAT YOU CAN DO TO EXPAND DEMOCRACY IN YOUR COMMUNITY

Remember that voter registration is a non-partisan activity that can be conducted by members of any non-profit organization without endangering their tax status.

Here are a few things that N.O.D.'s Community Partners and Liaisons and readers of REPORT can do:

1. Form an advisory committee with representatives of local disability groups and develop a plan for registering disabled voters. You may want to set up a booth at your local shopping mall. Have one or more members of your group deputized as registrar.

2. Contact other disability-related groups (Independent Living Center, local chapter of Easter Seal Society, MS Society, etc.) and ask them if they will work with you in 1986 and beyond.

3. Contact your local chapter of the League of Women Voters. In most communities, they are the best source of information on local election laws. Tell them about your local registration drive, the N.O.D. Disabled Citizens at the Polls campaign and ask their cooperation and advice. Limited quantities of the N.O.D. training manual for election officials and the N.O.D.-Easter Seal Society voting information card as a guide for pollworkers are available to N.O.D. Community Partners and Liaisons.

4. Inform your local media about your registration drive and the nationwide Disabled Citizens at the Polls campaign. In some communities, if you provide the background information, local media will support your drive editorially. Background material for the media is available from N.O.D. If your local television and radio stations have Talk Show or interview programs, inform the producers of your registration drive and Disabled Citizens at the Polls.

5. Get on the agenda of your local civic groups' meetings and inform audiences about your campaign or ask the civic group itself to inform its membership and meetings.

6. Inform your local election officials about the project and offer your assistance in implementing the new federal law correctly—the Voting Accessibility for the Elderly and Handicapped Act, enacted by Congress December 31, 1985.

7. Let N.O.D. know how your efforts are progressing and what we might do to assist you.

EDITORIAL

EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS

Senate Majority Leader Robert Dole (R-KS) and Congressman Steve Bartlett (R-TX) have introduced a very important piece of legislation affecting disabled Americans.

The Dole-Bartlett bill is entitled the "Employment Opportunities for Disabled Americans Act." Its purpose is to help remove Federal disincentives to the increased employment of disabled persons.

The bill would make permanent those provisions in the law which currently allow disabled people to work while still retaining Medicaid benefits they are receiving under the SSI program. Medical coverage is a necessary component for employment; it is too often unavailable for disabled persons.

The Dole-Bartlett bill would eliminate barriers to a program known as Section 1619, which is part of the Social Security law. Section 1619 allows disabled persons who are eligible for Supplemental Security Income (SSI) benefits to work while continuing to receive Medicaid benefits. Section 1619 participants may continue to receive Medicaid coverage until their income exceeds a certain amount—it varies by state (in Texas, about $1000 a month). Some participants in Section 1619 may continue to receive Medicaid benefits with higher levels of income when necessary because their medical expenses exceed their state's average.

Of the 1.8 million disabled working age SSI recipients, only 7,210 now participate in Section 1619. Why this low participation? One key factor is that many disabled SSI recipients are either unaware of the 1619 program or fear participating because the program has a termination date. They also may fear loss of reinstatement if they subsequently lose employment. The Dole-Bartlett bill removes those disincentives.

The Section 1619 provision expired in 1983 and remained expired until it was later extended. It is now effective until June 30, 1987. The Dole-Bartlett bill would make the Section 1619 program permanent. And it would also require the Social Security Administration to notify disabled SSI recipients of the program's existence so more people would be aware that they could work without losing Medicaid. Furthermore, the Dole-Bartlett bill woulld provide automatic reinstatement of SSI benefits should a disabled person lose his or her job.

The National Organization on Disability agrees with Senator Dole when he says that "the federal government should be doing everything it can to encourage disabled Americans to lead productive lives." We endorse the Senator's view that the Dole-Bartlett bill "makes good sense economically and socially."

The legislation has two key benefits. It will provide persons with disabilities on SSI with the security they need to accept a job and lead independent lives. And it will provide a cost savings to the federal government as working disabled persons begin paying income taxes to the government rather than collecting SSI benefits from the government.

As Congressman Bartlett has pointed out, "For every person who participates in Section 1619(b) who would otherwise receive a full SSI benefit, the federal government saves a little over $4,000 a year. Thus, for every 10,000 persons who participate in 1619(b), we save $40 million per year."

Major Congressional leaders from both political parties have indicated their support for the Dole-Bartlett bill. We welcome this bipartisan spirit.

The proposed legislation is now before sub-committees, so this is a good time for your voice to be heard in support of this bill. We urge you to let your Senators and Congressmen know that you want to see the Dole-Bartlett bill enacted into law.

JOHN J. COADY NAMED CHAIRMAN OF N.O.D. BOARD, SUCCEEDING RICHARD M. DEVOS

Former Mars, Inc. executive, John J. Coady, has been named new Chairman of the Board of Directors of the National Organization on Disability

He succeeds Richard M. DeVos, president, AMWAY Corporation, who will remain on the Board of N.O.D.

Over more than 30 years, Coady held a number of sales, marketing, administrative and personnel positions at Mars, rising to Group President.

Previously he was chairman of the board and president of Uncle Ben's Rice, Inc. He is presently a Senior Consulting Associate at Food System Associates, Washington, DC.

A World War II Navy submarine veteran, Coady was educated at the University of Minnesota and earned his M.B.A. at Pepperdine University.

Coady, his wife and daughter, who is handicapped, live in McLean, VA.

TOP ADVERTISING EXECUTIVE JOINS BOARD

Newest member of the Board of Directors of the National Organization on Disability is Don Johnston. He is chairman of the board of the J. Walter Thompson Company and chairman and chief executive officer of JWT Group, Inc., founded in 1863. J. Walter Thompson is the nation's oldest advertising agency.

Johnston, 59, has devoted his entire career to J. Walter Thompson. Following graduation from the Michigan State University School of Journalism, he went to work for JWT's Detroit office as a trainee in 1951. A company scholarship to Johns Hopkins University's School of Advanced International Studies led to an M.A. in international economics.

Johnston served J. Walter Thompson in Latin America, Europe, and Japan. He now works in New York and lives in New Canaan, Connecticut.

CHEERS FOR . . .

McDonald's television commercial, "Silent Persuasion," featuring two young people who are deaf and which contains no spoken dialogue—an unprecedented "first." The actors communicate using sign language. The commercial is "open-captioned" for both deaf and hearing audiences.

The Public Broadcasting System's program "Frontline" for its documentary about mentally ill people, "A Matter of the Mind," portraying the mentally ill as human beings rather than as people to be despised.

MATTEL, Inc. for producing a unique new line of dolls designed for children with disabilities, called "Hal's Pals."

PROJECT MATCH, a new employee recruitment project in New York City, designed to link public and private sector employers with disabled college graduates who are seeking employment. Through a consortium of 80 colleges near New York City, PROJECT MATCH now can offer employers access to a centralized database of qualified graduates.

Long Island University (Brooklyn campus) for initiating new fellowship awards at the Master's degree level to enable promising handicapped and minority group students to earn a Master of Public Administration degree or a Master of Arts in Urban Studies. The program was made possible by a grant from the U.S. Department of Education.

IBM, Stroh Brewery, K-Mart, and Prudential for sponsoring closed captioned hours of the ABC-TV broadcast of "Liberty Weekend," the celebration of the Statue of Liberty's Centennial.

Kraft, Inc. for closed captioning of "The Kraft All Star Salute to Ford's Theater," 60-minute special on CBS-TV on June 25. Kraft has captioned selected television specials since 1982 and regularly closed captions its commercials.

Texaco, Inc. for funding the closed captioning of "Bob Hope Birthday Special" on NBC-TV.

The Young Adult Institute of New York, NY for producing a video series about families with members who are mentally retarded or developmentally disabled. "On Our Own" has 26 half-hour shows intended for broadcast by television stations in local areas.

FAREWELL, GOOD LUCK TO OUR JOAN MAYNES

The Coordinator of N.O.D.'s Community Partnership Program and editor of UPDATE, Joan Maynes, has resigned after two and a half years of outstanding service. Joan was married to a British engineer on August 23 and will live in England.

We know that N.O.D.'s Community Partners and liaisons join the staff of N.O.D. in extending our best wishes to Joan. Her ability, friendliness and dedication to improving the lives of disabled persons have left a permanent impact. Her successor is Carol Boyer.

VOTING IDEAS: HOW SOME COMMUNITIES ARE MAKING PROGRESS

N.O.D.'s Community Partners in Buffalo, NY have publicly announced a goal of 10,000 new registered voters in 1986 and have challenged our partners in Cincinnati to top their efforts.

Contact: Tony Serra, Office for the Disabled, 95 Franklin St., Rm. 670, Buffalo, NY 14202, Tel: (716) 846-6215.

In Lansing, Michigan, the Mayor's Handicapped Advisory Committee developed an extensive voter education and accessibility campaign. It included accessibility site reviews, training poll workers, a voter registration drive and special registration efforts for the developmentally-disabled community. A listing of accessible polling sites, upcoming elections, and a special voting information phone number are carried by the local newspapers, Radio Talking Book and captioned news on cable TV.

Contact: Pamala Fowler, Mayor's Office, 9th Floor, City Hall, Lansing, MI 48933, Tel: (517) 483-4141.

The Office of Handicapped Concerns in Oklahoma City designed an accessibility questionnaire to be used in surveying all current polling places. It asks about the accessibility of parking lots, walks, entrances, exits, doors and doorways, and the use of ramps.

Contact: Ernest Simpson, Office of Handicapped Concerns, 4300 North Lincoln Blvd., Suite 200, Oklahoma City, OK 73105, Tel: (405) 521-3756.

The State of Texas has produced a 10-page booklet entitled *"Services Available to Voters with Special Needs."* It includes various methods by which disabled people can vote, the types of assistance available at the polling place and briefly describes the law mandating full accessibility of polling places. The booklet is in English and Spanish.

Contact: Steve Johns, Handicap Services, 1500 Marilla, Suite 7A North, Dallas, TX 75201, Tel: (214) 570-5208.

The N.O.D. Community Partnership Committee of Lake Charles, Louisiana established a Task Force on governmental affairs headed by a member of the League of Women Voters. At pre-election forums, candidates for the state legislature fielded questions on issues of concern to their disabled constituents.

Contact: Beatina O'Carroll, Community Relations Task Force, 715 Ryan St. #200, Lake Charles, LA 70601, Tel: (318) 433-8688.

EDUCATION

The HEATH (Higher Education and the Handicapped) Resource Center in Washington, D.C. has published "Financial Aid and Disabled Students." This fact sheet covers current information for students, parents, counselors and others concerned about how handicapped students can pay for post-secondary education and training.

The fact sheet describes the financial aid system, the process for applying for aid, and the federal financial aid programs. It addresses disability-related expenses and suggests how to include them in a student budget. The roles that both the Vocational Rehabilitation and Social Security systems play in providing financial support and other resources for students with disabilities are covered, as is the necessary cooperation between vocational rehabilitation and campus financial aid offices.

Single copies are free from the HEATH Resource Center, One DuPont Circe, Suite 670, Washington, D.C. 20036-1193, and may be reproduced without prior permission as long as credit is given to HEATH. For information call 800-544-3284.

FUNDRAISING

The 1986-87 edition of the "Handicapped Funding Directory" spotlights a number of new funding sources—such as major corporations and foundations.

The Directory is an important research tool for planners and fund-seekers of programs and services for disabled persons. It contains funding information on more than 700 corporations, foundations, government agencies and associations that fund programs and services for the handicapped. In addition, it contains important guidelines on how to obtain a grant, addresses of state agencies and their directors, and a bibliography of grant-funding publications. Up to date grant information is categorized by disability.

The cost is $25.50 including postage and handling.

Contact: Research Grant Guides, PO Box 10726, Marina del Rey, CA 90295.

RESOURCES

The International Directory of Recreation-oriented Assistive Device Sources" is a 298 page publication filled with recreational devices, useful in sports, games and artistic pursuits. Nicely cross-indexed, it give easy access to ideas drawn from all over the world. Each entry briefly identifies the recreation, disability, problem and activities. It also examines how the device works and lists a source for more information with address and phone number. The price is $29.95 including shipping and handling.

Contact: Lifeboat Press, PO Box 11782, Marina del Rey, CA 90295.

COMMUNITY AWARDS COMPETITION, 1986-87

The fifth annual Community Partnership Awards Program is underway, sponsored by N.O.D. and Westinghouse Electric Corporation. Awards totalling $20,000 will recognize communities for developing local voluntary programs that foster greater participation of disabled citizens in community life. Awards will be presented to 13 communities in the Spring, 1987. Entry materials are being mailed now to N.O.D.'s Community Partners. Candidates will be judged on what has been accomplished in calendar year 1986. The deadline for entering the competition is January 31, 1987.

Prizes will include one top award of $5,000 and two $2,500 awards in the Achievement Category. This means that a community has been working on four different goals. Additionally, there will be ten $1,000 Project Awards, which are given to communities for successfully working on one specific project. A panel of independent judges will select the winners.

Previous CASH award winners are not eligible to compete.

BICENTENNIAL CELEBRATION OF BAYOU LA BATRE

Mr. HEFLIN. Mr. President, I am delighted to rise today to congratulate the citizens of Bayou La Batre, AL, on their bicentennial anniversary. Throughout the month of October 1986, they will join together to celebrate their 200th anniversary. I am certain that it will be a time to remember for many years ahead.

The original settler of the Bayou La Batre community was Joseph Bosarge, a Frenchman who, in 1786, petitioned Stephen Miro, then the Spanish Governor of Louisiana, for a tract of land on the west bank of the bayou. He claimed, in his petition, that he needed "a home to conceal his misery and the poverty of his family from the world." His petition was granted, and he took possession of the property and made improvements. Later, other settlers of French stock joined him. From this humble beginning grew the thriving Bayou La Batre community of today.

Originally, the bayou was called "Riviere D'Erbane"—a name bestowed by Iberville, to commemorate the memory of a Frenchman who was drowned in its mouth. The stream later acquired its present name because the French maintained a battery of artillery on its west bank. They

spoke of the stream as "the bayou of the battery," or in French—"Bayou de la Batre."

The name Bayou La Batre is, therefore, a momento of protective measures provided by the French during their rule in this vicinity. Indeed, a European air has been indelibly instilled into this quaint settlement. Old France is brought to mind not only by the name of Bayou La Batre, but also be many of the old family names. French was the spoken language of the first settlers, and many of the places and streets in the area still have French names. Additionally, Spanish and French influences are seen in the architecture, and in the food. Recipes for gumbo, jumbalaya, and other European recipes are handed down from generation to generation. This influence adds much to the overall atmosphere of Bayou La Batre and of the area. It distinguishes its heritage, and its people.

Since its founding, Bayou La Batre has perhaps been known most for its seafood industry. The bayou and the surrounding gulf waters are rich with all different kinds of delicacies, ranging from oysters, shrimp, and crabs to pompano, redfish, speckled trout, to game fish such as the tarpon and the bluefish. Many people living in Bayou La Batre today are descendants of people who migrated from the Chesapeake Bay country of Maryland in order to work two oyster seasons—the early season in the South and the later season in the North. Since that time, night fishing has been discovered, and the fishing is year round.

In recent years, the total reliance of citizens on fishing has diminished, somewhat, with the discovery of oil and the development of a shipbuilding industry. Additionally, tourism is today an ever-increasing industry. Each year, thousands of tourists from around the State and Nation attend celebrations unique to the area such as "The Blessing of the Fleet." This is a great and unique occasion, indeed, as the Archbishop of Mobile blesses the fishing fleet to ensure a safe and profitable year. The area is also rich with history and beauty. The old live oaks which stand by roadsides and waterside signify the strength of the people of the community. Indian mounds, the sacred burial sites of Indians who once inhabited the area, lie around these oaks. Spanish moss hangs in the trees and seems to signify the mystery of the ages.

The relationship which the citizens of Bayou La Batre have had with the sea and with the gulf coast has been a mixed one. The sea has been Bayou La Batre's primary source of income, food, transportation, and entertainment from the beginning. The earliest travel was done over water, and supplies were brought in from as far away as New Orleans. However, hurricanes have often plagued the citizens of the bayou. These hurricanes have resulted in loss of homes, timber, and personal belongings—not to mention business—and has often frustrated growth and added to a depressed economic state. But, the citizens of Bayou La Batre will never give up. After 200 years of surviving with the sea, of building their homes and businesses, and of raising families, these Alabamians will not be driven away even by the most severe hurricane.

For 200 years, since before the Constitution of the United States was written or the State of Alabama was founded, Bayou La Batre has stood as the home of many great citizens who have made a living with the sea. This bicentennial anniversary is not merely a birthday celebration. Rather, it offers the citizens of Bayou La Batre an opportunity to look into their past and to realize all that they have accomplished. Those successes and rewards which are reaching fruition today were actually initiated some time in the past. The heritage, roots, and history of the citizens of the Bayou should not be forgotten. Keeping one foot firmly entrenched in their present and past, the citizens of Bayou La Batre should step forward to the future.

Now is the time to think of that future. The children of today will be planning for the 250th anniversary of Bayou La Batre in just 50 short years. At that time, the city will have been in existence for a quarter of a thousand years. The dreams of today will grow, take shape and mature between now and then. In the years to come, I am certain that Bayou La Batre will make even greater advances—that it will offer even more to its citizens, its State and its Nation. I am delighted to congratulate the citizens on their bicentennial. And I am very proud to represent each of the citizens of Bayou La Batre.

Thank you, Mr. President.

TRIBUTE TO EUGENE HAMITER GRAVES

Mr. HEFLIN. Mr. President, I am filled with sorrow as I rise today to note the death of Eugene Hamiter Graves, of Eufaula, AL. Mr. Graves, who was better known as Hamp, served the city of Eufaula as mayor for four terms. Throughout his life, he was dedicated to helping the people of Eufaula, and I know that he will be remembered and respected for his great efforts and achievements. I will always remember and respect his memory as a warm close friend.

Hamp Graves was born and raised in Eufaula, where his father also served as mayor. After graduating from the University of Alabama Law School, he worked in Washington, DC, as the administrative assistant to the late Congressman George Andrews. He then settled in Eufaula and established a private law practice.

Perhaps the most memorable qualities of Hamp Graves were his sense of humor, and his informal, easygoing manner. These attributes made him a great favorite with his supporters and opponents alike. I am told that each day he would walk through the streets of Eufaula and stop to talk and joke with each citizen that he saw. This personable, genuine manner distinguished him as the gentleman that he was.

As mayor, Hamp Graves served his constituency with great dedication and loyalty. He provided fair and equal representation to all citizens. Because of his personality, and the diplomatic skills with which he was endowed, he could successfully diffuse any explosive situation until reason prevailed. His death is a great loss to the people of Eufaula and of Alabama. He was a valued and tireless spokesman for their welfare and interests, and a trusted servant who would go to great lengths to perform any task.

I know that many people share the grief of the passing of Hamp Graves. In their sorrow, I hope they will remember the good that Mayor Graves did, and the contributions he made to his city.

Mr. President, I ask that an article which appeared in the Eufaula Tribune be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Eufaula (AL) Tribune, Sept. 4, 1986]

MAYOR HAMP GRAVES LOVED "HIS PEOPLE"

(By Joel P. Smith)

Few politicians are as close to their constituents as was Mayor Hamp Graves. His death caused by a heart attack shocked and saddened Eufaula because the four-term mayor knew and loved so many Eufaulians personally.

The hundreds of people he knew on a first-name basis weren't just constituents—he affectionately called them "my people." And they were.

He was frequently called upon—both as a practicing attorney and as Mayor—to help individuals with their multitude of problems. And he often found a way, but he always took the time to listen. His nickname of Hamp better suited him than Hamiter because he was such a friendly, informal, likeable person.

He was a familiar figure along Broad Street. It often took him 30 minutes or longer to walk from his law offices next door to Eufaula Bank & Trust to the Post Office, which are in the same block. He loved people, especially his people. He took the time to stop and talk.

It bothered some more business-like citizens that he often found great flexibility in city regulations. While Eufaula city fathers had enacted an ordinance years ago regulating signs downtown, as mayor he often made exceptions and accommodated a mer-

chant. Everybody was his friend—even his political opponents.

He indeed came to the aid of people who needed help. The poor, the uneducated had a friend in Hamp Graves. They supported him, and they didn't hesitate to call when they needed help.

"Hamp was an individualistic man," the Rev. Bill Willis said at his funeral Sunday. "He brooked little sympathy for sham and pretense. Wherever you saw him he was just Hamp Graves. His philosophy might have been: if a man does not keep pace with his companions, perhaps it is because he marches to a different drummer. Let him step to the music which he hears, however measured or far away."

He was perfectly content practicing law and serving as mayor in his beloved hometown, after graduating from the University of Alabama and serving as administrative assistant to the late Congressman George Andrews in Washington.

Though the son of a mayor, E.H. Graves Sr., and a member of an old, established Eufaula family, he was a progressive in politics, not a conservative. Perhaps his black constituents didn't really feel they had to have a member of their race sit on the city council because they knew they had the mayor's attention.

Rich or poor he knew and appreciated them all. No doubt, his attitude was significant in dispelling racial tension during trying times. He was truly the people's mayor.

Hamp was also one of Eufaula's delightful characters. His tremendous sense of humor served him and the town well. He was good company, and he was an excellent public speaker. As a ceremonial mayor, he was without peer, save perhaps George Little.

His secretary and patient, devoted wife, Gracelyn, is well named. She also served Eufaula, as the mayor's wife, with grace and charm. She shared his interest and concern for our town.

And children loved the mayor. He took the time to learn our town's children's names. He appreciated—and enjoyed—them as individuals.

Eugene Hamiter Graves Jr. loved Eufaula. And Eufaula loved Hamp.

A CENTURION CELEBRATION—TROY STATE UNIVERSITY, 1887-1987

Mr. HEFLIN. Mr. President, I am very pleased to rise today to congratulate the students, faculty members and alumni of Troy State University on their centennial anniversary. During the last 100 years, Troy State has emerged as a cornerstone of educational progress and activity in Alabama. All who are involved with the university should be proud of its history of achievements and accomplishments.

The roots of Troy State University can be traced back to the beginnings of teacher training in Alabama with the opening of the normal school in Florence in 1873. The 1882 establishment of normal schools at Jacksonville and Livingston gave such a school to each quarter of the State except the southeast. Interest among citizens and town leaders in locating a State normal school in Troy grew, until on November 15, 1886, the House Representative from Pick County, S.J. McLeod, wrote and introduced a bill in the State legislature calling for its creation. The bill passed the House on February 18, 1887, the Senate on February 25, and was signed into law by Gov. Thomas Jefferson Seay on February 28, 1887.

The bill required the city of Troy to provide a suitable home for the school. On May 26 of that same year, a contract was let to Mr. M.M. Tye, an Ozark contractor and builder, to build a two-story, eight-classroom brick building in downtown Troy which would house the Troy Normal School. The cornerstone was set on August 24, 1887. Joseph M. Dill, who had served as principal of the Troy Male High School since 1885, was one of the prime movers in gaining the school for Troy, and was appointed president of the new school.

Thus, the first of many distinguished chapters in the history of the school was written. When Troy Normal School opened its doors on September 19, 1887, the faculty consisted of Dill and 11 others. According to Dill's records, a total of 80 normal school students were enrolled the first year. The new building to house the school was completed around the first of February, 1888, and Troy Normal School was complete. The school saw three graduates that first year.

In June of 1888, the board of directors of the new school announced the hiring of a new president, Edwin R. Aldridge. Aldridge worked to expand the school, and in 1893 the State legislature amended the charter of the Troy Normal School, changing its name to the Troy Normal College and authorizing it to grant degrees. However, some of the faculty charged that Aldridge was undertaking more than school facilities could handle, and that the quality of education was suffering. In 1899, the board of directors voted to replace Aldridge with Edward Shackleford, who had served as professor of English and science since the school's founding. Shackleford served as college president for 38 years.

During his term, the school grew to a point where new facilities became necessary. On July 31, 1922, a deal was closed which allowed for the purchase of a site of about 300 acres in the southeastern section of Troy upon which to build a new campus. The first building erected on the new campus was Kilby Hall, which served as a lab school where Normal College students could practice teach. The school began using Kilby Hall in 1924, busing its teachers and students from the downtown site to the new campus. Finally, on September 15, 1930, with completion of Bibb Graves Hall, the administration and classroom building, and Shackleford Hall, a girl's dormitory, the newly named Troy State Teachers College moved to its new campus. After a long, distinguished career, Shackleford retired on the school's 50th anniversary in 1937. By that time, the faculty had grown to 40, and total enrollment for the year approached 2,000 students.

Charles B. Smith took over the president's office in November of 1937. It was Smith's stay in office, which lasted until 1961, that saw much of the physical growth of the university facilities. The curriculum offered by the college also expanded greatly under Smith's guidance. In 1937, major programs in history and english were offered. Beginning with the 1947-48 school year. Troy State Teachers College began offering a specialized degree in business education. By 1961, the program had grown into a department of the school offering a degree in business. A medical technology program was introduced in 1959, in cooperation with St. Margaret's Hospital in Montgomery, where the nursing students could intern. A year later, the administration launched major programs in mathematics and science.

Another major step in the development of the curriculum during Smith's tenure was the addition of the master's program in the education department. Smith retired in 1961, to be replaced by Frank P. Stewart, who held the office of president until his death in March of 1964.

On August 3, 1964, the State Board of Education appointed Ralph W. Adams as the new president of Troy State College. Adams, whose title is now chancellor, has seen Troy State grow into a liberal arts institution offering a wide range of programs. The University was completely reorganized in 1971, taking its current form then. The university now consists of several distinct divisions each administered by a dean. It offers specialization under the Sorrell College of Business and Commerce, the College of Arts and Sciences, the School of Education, the School of Nursing, the Hall School of Journalism, and the College of Fine Arts.

Under the outstanding leadership of Chancellor Adams and a fine board of trustees, Troy State University has dedicated itself to the improvement of education, knowledge, and the appreciation of life among all people. By providing an environment conducive to excellence in education, and encouraging students to learn by their own initiative in addition to learning under the tutelage of instructors, TSU is developing not only college graduates, but responsible citizens and leaders who will usher Alabama into the future. The contributions of each of the citizens of Troy cannot be overlooked, for it is through their extended, consistent support that Troy

State has developed in the manner that it has.

Mr. President, one of the few constants in our ever changing society is the value of an education. Education is the key to employment, and to economic progress. It is the key to the preservation of individual liberties. It is the key to understanding the vast world around us, and to the appreciation of all which is encompassed by that world.

I am, indeed, proud to congratulate Troy State University for all that it has done in the last 100 years. The lives of its many students have been improved and enriched by the instruction and attention which they have received from their many outstanding professors. I am certain that in the next 100 years Troy State University will continue to expand, and that its instruction will continue to benefit citizens throughout Alabama and throughout America.

NOT-FOR-PROFIT COMPETITION WITH SMALL BUSINESS

Mr. WEICKER. Mr. President, at the recently concluded White House Conference on Small Business, over 1,800 delegates representing small businesses from every jurisdiction in the United States assembled to review the over 350 recommendations submitted for their consideration from the various State delegations and to forward the top 60 to the Congress and the President for consideration and action. And of all the recommendations upon which small business in America by an overwhelming majority could agree, only two were considered more significant than the proposal to prohibit unfair competition from nonprofit tax-exempt organizations which use their tax-exempt status in direct competition with forprofit companies. The conferees urged that tax-exempt entities should not be permitted to use their tax status or postal rates to compete with commercial providers of products and services.

I believe that this is a noteworthy suggestion and one which I, as chairman of the Small Business Committee intend to pursue through hearings and investigations during the next Congress. Our Government should not be in the business of subsidizing companies which under cover of their not-for-profit status exploit this advantage to the detriment of forprofit concerns unaided by any government largess. We must ask ourselves whether organizations that, as a regular feature of their activities, engage in commercial enterprise in direct competition with forprofit companies should be granted tax-exempt status. Where is the rationale in taxing one company which engages in a commercial activity for a profit while exempting the earnings of another company engaged in the exact same commercial activity because it has been awarded 501(c)(3) status. Not only do we deprive the Treasury of earnings which under the logic of our Tax Code it deserves, but we do a disservice to the forprofit companies by giving their competitors an unfair advantage. And I think that even a casual review of our Tax Code and other laws will provide glaring examples of this type of practice. I am heartened that even the chairman of the Ways and Means Committee intends to study the inequities of the current situation and noted in a recent announcement that "in recent years, exempt organizations have become more aggressive in undertaking commercial or entrepreneurial activities. Forprofit businesses have complained that tax-exempt organizations are provided an unfair competitive advantage under present tax law." He has asked for a comprehensive review of the income-producing activities of tax-exempt organizations and I welcome that announcement.

As an example of the type of unfair treatment that has become commonplace, I note that buried in the Tax Reform Act of 1986 is an onerous provision which found its way into the bill at the conference table despite the fact that it had not been included in either the House or Senate versions of H.R. 3838. Section 1605(c) of the bill is a transition request, in essence special interest legislation, which benefits research corporation, a 501(c)(3) organization, which engages in technology transfer, the selling or marketing of technological discoveries and developments to the private markets. As such it is in direct competition with a small, forprofit business in my home State of Connecticut. Section 1605(c) would permit research corporation to fund a new technology transfer organization by transferring a substantial portion of its assets to that entity in exchange for debt, without the imposition of private foundation penalty excise taxes that would otherwise apply. Such a transaction would generally be taxed as either an act of self-dealing, as an excess business holding, as an investment which jeopardizes charitable purpose, or as a taxable expenditure, depending on the precise nature of the proposed transfer. It also might constitute a termination of private foundation status requiring the payback of past tax benefits from exempt status.

The private foundation excise taxes were adopted by Congress in 1969 to curb abuses by private foundations and were intended to subject a private foundation such as research corporation to either the termination tax or other penalty taxes if it transferred its assets out of charitable solution. There is no information in the public record that would warrant a relaxation of the rules to make a special exception for research corporation.

Mr. President, this is the type of provision which does a disservice to our Tax Code. It is special interest legislation which harms a private, forprofit small business. Instead of hampering small business which is the lifeblood of the economy and the primary source of new jobs in the United States, we should be assuring small business a level playing field. I intend to investigate the pervasiveness of this type of Government intrusion on small business early in the next Congress.

RETIREMENT OF SENATOR RUSSELL LONG

Mr. MITCHELL. Mr. President, I have had the rare and educational privilege of serving on the Senate Finance Committee for almost 6 years with the distinguished senior Senator from Louisiana, Senator RUSSELL LONG.

It was with real regret that I heard him announce his retirement at the end of this Congress. Senator LONG's retirement is more than the retirement of an individual Senator. In a very real way, it is the end of a historic American political odyssey.

Senator LONG's role in shaping our Nation's tax policy over the years is too well known to require lengthy discussion. His work in two other areas is less widely recognized, but, to me, symbolizes much of what Senator LONG has stood for in his Senate career.

The interest Senator LONG has devoted to the concept of employer stock ownership plans is squarely in the finest tradition of American populism. It is the means by which working people can earn a real piece of the American pie. And it is due to Senator LONG that they have been able to do so. ESOP's today do not play as large and significant a role in our economy as do other forms of workers investment, such as pension programs, but I believe Senator LONG's predictions of their future role will be proven correct.

Today the economic plight of divorced and single mothers of small children is well known. The statistics that inform us of the feminization of poverty are well documented. The fact that as many as half of all American children will spend part of their growing years in a one-parent household is accepted fact—as is the deprivation that the majority of those children will experience.

When Senator LONG first set out to make people recognize that children all have two parents, both of whom have a financial as well as moral responsibility toward their children, it was not a popular position. Indeed,

many thought it reflected a punitive outlook and that financial support for children would be an unfair and onerous burden to place on absent parents.

What few people saw then was that regardless of the difficulties facing parents, the hardships and unfairness facing their children were infinitely more serious and more damaging to the children. Senator LONG set out to correct that. And with the enactment and subsequent operation of laws that require and enforce the payment of child support by absent parents, he has helped children all around the Nation be better clothed, better housed, and better fed. Few legislative efforts have as happy an outcome. Senator LONG deserves the thanks of every single parent for taking the time and the trouble to pursue this issue when few others would. And he has earned the gratitude of countless children whose growing years are bettered because of his efforts.

It has been a privilege to work with Senator LONG. His influence and presence will be sorely missed.

RETIREMENT OF SENATOR THOMAS F. EAGLETON

Mr. MITCHELL. Mr. President, with the retirement of Senator TOM EAGLETON this year, the Senate loses more than a single Member: It loses part of its history.

It was Senator EAGLETON's pathbreaking effort in the early 1970's which finally led the Congress to cut off the funds which fueled the widening of the war in Southeast Asia.

And it was his early and determined effort to reinvigorate the constitutional demand that, in our Nation, only the Congress may commit Americans to war, which led to the enactment of the War Powers Act of 1973.

During his service on the Senate Committee on Environment and Public Works, he was instrumental in forging and enacting the fundamental environmental laws in our Nation—the Clean Water Act and the Clean Air Act. His commitment to them has never wavered.

His faith in the ultimate success of enlightened and effective governmental action has been a constant factor in his career. And his work has seen that faith vindicated.

From his appointment to the chairmanship of the Committee on the District of Columbia, he worked for and saw enactment of the home rule statute which gave the citizens of the Nation's Capital their first real chance at self-government in over a century.

In his tireless efforts on behalf of the beleaguered Chrysler Corp., in the mid-1970's, he saved 300,000 jobs for Americans and helped ensure the survival of one of our Nation's major corporations.

In developing the inspector generals legislation, long before others considered Government waste and fraud an issue, he demonstrated that grasp of the fundamentals of the Senate role as a legislative body which epitomizes the Senate at its best.

And throughout his long career in public service, a career which began with his election in 1956 at the unprecedently young age of 27 to become the chief prosecutor for the city of St. Louis, TOM EAGLETON has shown a degree of dedication to the public interest which has been reciprocated in the strong victories that have returned him to the Senate.

There is no doubt that if he had not chosen to retire from the Senate, the people of Missouri would once again have returned him to the Senate by a wide margin, and his colleagues, among whom I am proud to number myself, would have warmly welcomed his return.

His decision to retire will mean he can share the accumulated wisdom of his years in public life through teaching, as he intends. His departure will impoverish this body, but he will enrich the lives of those fortunate enough to have a chance to learn from him.

THE HONORABLE BARRY GOLDWATER'S RETIREMENT

Mr. BINGAMAN. Mr. President, as we move toward adjournment, I would like to take a few minutes to honor BARRY GOLDWATER, my chairman on the Armed Services Committee, who will complete 30 years of service in the Senate this year. His contributions to the Armed Services Committee, to this body, and to our country are innumerable and I will not attempt to recount them here. I will, however, comment briefly on his contributions to my own education in the Senate over the past 4 years.

Perhaps the most refreshing thing about BARRY GOLDWATER is his willingness to call a spade a spade without any embellishment or circumlocution. At one of the first hearings I attended on the Armed Services Committee in 1983, I recall BARRY telling a Navy witness that he could build A-6E attack planes "in his garage" at the same rate the Navy was proposing to build them, six a year. Even back then when defense budgets were still growing rapidly, he was bluntly warning that we could not afford the inefficiency of having so many Navy aircraft production lines operating at low rates. On that issue, as on many others, time is proving BARRY right.

But whether right or wrong on specific issues, BARRY has been right for the Senate. Every once in a while, one encounters the term "whale" when it's used to describe certain Members of the Senate. It is a term of affection and respect. It describes those people of character, legislative skill, leadership ability and personal vision who have made a difference to this place and to the country over a long period of service. I suggest, Mr. President, that if anyone from the Arizona desert can be compared to the magnificent water dwelling mammal, it is Senator BARRY GOLDWATER. I am proud to know him.

SENATOR GARY HART

Mr. BINGAMAN. Mr. President, for the last 12 years the Senate has benefitted greatly from the skill and vision of GARY HART. At the close of this session, Senator HART will leave this body to apply that skill and vision to other pursuits. His efforts to bring together the "world of ideas and the world of practice" will continue in another arena, and we will all be the richer for them.

Any time a close friend and neighbor moves on, Mr. President, we all feel the loss. We miss the frequent contact and the regular communication such a relationship holds. We expect to hear a great deal from and about GARY HART in the next few years. While he will certainly be visible and vocal elsewhere, we will miss him in the Senate. I will miss his very substantial and thoughtful contributions to the work in this Chamber and wish him well as he concludes this period of distinguished service in his career.

SENATOR PAUL LAXALT

Mr. BINGAMAN. Mr. President, PAUL LAXALT is retiring from the Senate at the close of this Congress. His home State of Nevada, the Senate and the country have all been well-served by him. His genial, intelligent presence in this Chamber will be missed by all of us who have had the pleasure of serving with him.

The respect he has earned on both sides of the aisle is a credit to his personal reputation as a man of his word and his political reputation as an articulate spokesman for the principles of his party.

SENATOR THOMAS F. EAGLETON

Mr. BINGAMAN. Mr. President, I take this opportunity to join my colleagues in recognizing the contributions of the senior Senator from Missouri, TOM EAGLETON. Before I was even elected to the Senate, I was welcomed here by TOM EAGLETON. He was a source of great encouragement during my campaign and, after the election, provided me with a place to hang my hat and make my phone calls during the transition. We became good friends.

We all know people, Mr. President, who contribute simply by being. I

think TOM EAGLETON is one of those people. His public accomplishments are legion and his political career is a distinguished and enviable one. But it is the man himself and his example of personal courage, deep conviction and sense of values that I so admire. He is a man who listens closely and speaks well. When he does speak, he is heard.

Even though Senator Eagleton is retiring and taking that voice of reason and strength out of this Chamber, I suspect that all of us who know him will be able to hear it whenever we come up against thre great issues, the votes that make a difference, the questions of conscience. With all my colleagues, I wish him Godspeed as he proceeds to a new phase of his honored career.

SENATOR RUSSELL LONG

Mr. BINGAMAN. Mr. President, in the last few weeks we have heard a great deal about tax reform. I am sure we will hear even more in the weeks to come but at this time, I have a comment to make on the tax bill and it has to do with RUSSELL LONG. Much has been said in recent days about the importance of Senator LONG's contribution not only to the bill but to the process by which it was achieved. The fact of the matter is that RUSSELL LONG has forgotten more about tax legislation than most of us will ever know. His firm and steady hand has been present in guiding the development of our tax laws for more than a generation. It will be missed.

Mr. President, Senator LONG's knowledge and skill are legendary. So are his good cheer, keen mind and nimble use of language. His interest, his courtesy and his kindness when I first arrived in the Senate made a great impression on me. I admit that I was a little overwhelmed when I realized that this senatorial hospitality was given by a man who had entered the Senate in the class with Lyndon Johnson, Estes Kefauver, Hubert Humphrey, and New Mexico's Clinton Anderson. Like them, Senator LONG has achieved remarkable prominence because of remarkable service. It will always bring me pleasure to say that I, too, served in the Senate with RUSSELL LONG, a true touchstone to the history of the Senate and to the development of our Nation.

SENATOR CHARLES McC. MATHIAS

Mr. BINGAMAN. Mr. President, I rise to offer a few words on the occasion of the retirement from the Senate of our friend and colleague, MAC MATHIAS. Because of the recent impeachment proceedings, I had an opportunity to work more closely with him than at any other time since I have been in the Senate. I am grateful to have had the experience, Mr. President, to see this man of fairness and compassion at close range.

Mr. President, Otto von Bismarck is reported to have remarked, "Politics ruins character." Mr. President, Bismarck never considered the possibility of a man like MAC MATHIAS being a politician and giving the lie to that opinion.

As he departs from the Senate at the close of this session, Senator MATHIAS leaves a legacy of integrity and a standard of principle to be admired and emulated. Not given to the whims of fashion, his sense of what is right and his deliberate nature create a formidable character which works its way in a dignified manner. His devotion to the people of Maryland and the land on which they live has guided his actions and earned him their respect, affection and gratitude. They will miss his leadership and so will the Senate.

CLOTURE VOTE ON THE ANTI-DRUG BILL

Mr. LAUTENBERG. Mr. President, I am going to vote for cloture on the Anti-Drug Abuse Act of 1986, despite my strong opposition to the death penalty provision of the bill.

This has been a very difficult decision for me. I oppose the death penalty. But, I am concerned that if cloture is not invoked, the drug bill could be lost for this year. A great deal is at stake in this bill. Our children, our cities, our elderly citizens are daily exposed to crime because of the drug menace in our country. I hear from the mayors in many of the cities in my State of New Jersey about the need for action on the drug problem. In Paterson, Jersey City, Newark, Camden, and other cities, they cannot wait another year, and should not have to, for help. This bill is a commitment to them to provide assistance. I have to weigh this desparate need against my own views on the dealth penalty.

Drugs are a scourage in our society. They are ruining the lives of too many of our young people. Drugs distort people's values, sap their energies, and steal their futures. The ready availability of drugs in the schools and on the streets of our cities is a shocking disgrace. We should not adjourn for the year without addressing this issue—now the No. 1 concern of the American public.

To fight this scourge, we need to make the costs of drug dealing unacceptable to those who exploit our young in a cyncial attempt to profit. Drugs cannot be tolerated. Those who would sell them illegally must be stopped. And those who turn to them, either out of unhappiness or from other causes, must be treated. Our young people, at a very early age, must be taught to say no to drugs. The legislation before us gives us the tools to make this fight.

The battle against the tragedy of drugs must be fought on many fronts—no one program, no one proposal will win this war. Every reasonable weapon must be brought into this fight. The bill we are considering today recognizes the multifaceted nature of the drug problem. It is not a perfect bill. But, with the exception of the death penalty provision, I support this bill and believe that it is time to move forward with it. For this reason, I will vote to invoke cloture.

However, Mr. President, I want to make clear my position on the death penalty. I have opposed capital punishment in the past and continue to do so. I hope that the Senate will have an opportunity for a vote, yes or no, on whether to include the death penalty in this bill. Given this chance, I will vote "no" on the death penalty.

The issue raised by the death penalty is whether it is an effective, acceptable form of punishment for use in our society, consistent with our moral and religious values. There are many crimes that our society finds especially abhorrent. Certainly murders associated with illegal drugs fall into that category. A natural reaction to such crimes is outrage and a desire for the strongest possible punishment as an expression of that outrage. The imposition of the death penalty responds to the need to express that view.

But the killing of another person is an awesome act, with no recourse. One violent act cannot wipe out another. Our criminal justice system is fair, but it does make mistakes. People are wrongly convicted. When a mistake is made in a capital punishment case, there is no way to rectify the error. And, Mr. President, it is not clear that the death penalty is an effective deterrent. The fear of a death sentence does not appear to dissuade the people who commit the vicious, dastardly crimes that would be the target of the death penalty.

Swift and certain punishment is the best way for a civilized society to maintain order and to perpetuate its values. The increased penalties for drug-related crimes responds to this dicta. In fact, for certain drug-related murders, I think life imprisonment is in order.

So, Mr. President, I hope that the death penalty will be eliminated from this bill. This legislation reflects a strong commitment by Congress to combat the scourge of drug abuse. For that reason I will vote to allow its consideration.

CAPITAL PUNISHMENT

Mr. WEICKER. Mr. President, I rise in opposition to the amendment which would establish procedures for the im-

position of capital punishment. In ignorance, disregard, or defiance of the authority of the Supreme Court to interpret the Constitution we are considering legislation which violate in varying degrees our proper role as the legislative branch. In our haste to demonstrate to the American people that the U.S. Senate means to do something about drug abuse, we will be setting precedents we will deeply regret in the future. I dearly hope, Mr. President, that the Senate today will summon its courage and wisdom and say, "enough."

In a body sworn to uphold the Constitution of the United States, it should not have to be argued that a question of constitutionality should be decided in the courts. A majority of the Supreme Court has ruled that capital punishment in certain carefully prescribed circumstances is not cruel and unusual punishment and, therefore, is not prohibited by the eighth amendment. In my view, Mr. President, the only situation in which I could support establishing a death penalty is the narrow circumstances of the murder of a law enforcement officer. Those special individuals who we have singled out to protect us deserve that protection. However, recognizing that "the penalty of death is qualitatively different from a sentence of imprisonment, however long," the Supreme Court insists:

> That a State . . . has a constitutional responsibility to tailor and apply this law in a manner that avoids the arbitrary and capricious infliction of the death penalty. (Woodson v. North.)

No less of an obligation rests on the Federal Government. This amendment carelessly ignores many of the guidelines the Court has established to prevent "arbitrary and capricious" executions on the State level.

In Godfrey against Georgia, the Supreme Court wrote:

> In Furman v. Georgia, the court held that the penalty of death may not be imposed under sentencing procedures that creates a substantial rish that the punishment will be afflicted in an arbitrary and capricious manner. Gregg v. Georgia reaffirmed this holding: "Where discretion is afforded a sentencing body on a matter so grave as the determination of whether a human life should be taken or spared, that discretion must be suitably directed and limited so as to minimize the risk of wholly arbitrary and capricious action." A capital punishment scheme must (the Court writes) provide a "meaningful basis for distinguishing the few cases in which (the penalty) is imposed from the many cases in which it is not."

The amendment provides that after a conviction for an offense for which a penalty of death is authorized, the court will hold a separate hearing on whether to impose the death penalty. At this hearing the jury or judge would make a determination as to the existence of statutory aggravating and mitigating factors as a basis for proceeding to an ultimate determination for capital punishment. The five mitigating factors are enumerated in the bill.

The aggravating factors are also enumerated in the bill.

The procedures included in this legislation for considering and weighing both mitigating and aggravating factors may on the surface sound as if the amendment "minimizes the risk of wholly arbitrary and capricious action." However, a closer reading of the language reveals that it does not. For example, one of the aggravating factors to be considered by the sentencer is that the offense was committed in an especially heinous, cruel or depraved manner. In fact a death sentence which was imposed on the basis of language similar to the language of this amendment was overturned by the Supreme Court in Godfrey v. Georgia because it provided virtually no guidance to the sentencer.

Mr. President, where is the safeguard against arbitrary and capricious action if the legislation fails to provide adequate guidance in distinguishing those offenses which are punishable by death from those which are not. The Supreme Court has ruled consistently that a fundamental prerequisite of any capital punishment scheme is that it provide guidance to the sentencer in deciding on a rational basis who should live and who should die. To require the sentencer to find the existence on certain aggravating and mitigating factors which are themselves so broad and vague that is provides no guidance is clearly unconstitutional.

And what of the provisions included in this bill, Mr. President, of requiring the sentencer to consider only those mitigating factors which it finds to exist by a preponderance of the evidence. In Eddings against Oklahoma, the Supreme Court made it clear that the Constitution not only requires that the defendant be permitted to offer any evidence in mitigation, but that the sentencer consider that evidence. As the Court held in Eddings, although the sentencer may determine what weight to give certain evidence of mitigating factors, it is not free to refuse to consider such evidence altogether.

Mr. President, this legislation raises other constitutional questions about the bases for appeal and to whom an appeal is made. There is no requirement that the independent courts of appeal review the cases presented before them to determine whether the imposition of the death penalty is in proportion to other sentences in similar circumstances. In Coker, the Court stated that an appellate court must look at the death penalty sentence to determine whether it is out of proportion to the severity of the crime.

The constitutional question raised in this legislation should be enough to make us pause and reflect on the dangerous flaws we may be about to enact into law and include in the legislative history of this matter. The statistics, which reveal that the institution of a death penalty will not deter violent crime in the future, should lead us to honestly question what this amendment is all about.

Mr. President, the fact that the Supreme Court has ruled that capital punishment is permissible does settle a significant constitutional question for now. And that ruling gives to us as Members of the Congress and others as members of State legislatures a solemn responsibility to craft statutes within this narrow constitutional framework. Mr. President, this legislation falls short of the mark.

And so, Mr. President, instead of responding to the Supreme Court, instead of navigating the shoals of the Constitution in the matter of capital punishment, this legislation at this period of election-year passion, is a broad bay through which can pass the most imprecise, the most undefined and the most ill-equipped.

Anyone who has listened to this debate over the last several years has been confronted by the Senator from Michigan and others with the reality of the fallibility of our criminal justice system. Mistakes have been made, are being made, and will continue to be made in the process of convicting citizens of capital crimes. I believe the case has clearly been made that such mistakes are not isolated incidences but a systematic reality. Police, prosecutors, witnesses, juries, and judges are human beings and will err. Out of this recognition grows the presumption of innocence, the right of appeal, and all of the due process protections which elevate our criminal justice system above any on this planet. But that we would entrust the power to end a human life with such a system is the supreme act of human arrogance.

Distinguished British Jurist Sir William Blackstone stated: "It is better that the guilty persons escape than one innocent suffer."

What ratio of innocents executed to murderers freed should we as a nation deem morally acceptable: 1 to 10? 1 to 100? 1 to 1,000? How can we preach the sanctity of life and state that even a single innocent life taken is worth whatever "benefit" society derives for executions?

Finally, Mr. President, capital punishment is not the hallmark of a civilized nation. Government, in the American tradition, has taken on the role of teacher and example to our people. What lesson do we convey by sanctioning Government execution? Our polite, legalistic reasons not withstanding, capital punishment is based on the desire for revenge: One group settling its grievance by harming an-

other. Have we not risen above that ancient and barbaric standard? We have no way of knowing the price we pay for the spreading of this subtle, moral teaching throughout our land.

The final indictment, Mr. President, is the list of nations with whom we are associating ourselves with a policy of capital punishment, the likes of Afghanistan, Iran, Iraq, Syria, Libya, the Soviet Union, and South Africa.

In closing, Mr. President, I would like to read the words of Justice Benjamin N. Cardozo. Cardozo says:

> The death penalty will seem to the next generation, as it seems to many even now, an anachronism too discordant to be suffered, mocking with grim approach all our clamorous professions of the sanctity of life.

If that is to be the case, Mr. President, if the death penalty is to be a memory in 2 or 20 generations of this country, let that memory be of a constitutional system that wasted no effort in guaranteeing the due process of law.

EXPLANATION OF VOTE ON DRUG BILL—CLOTURE MOTION

Mr. DURENBERGER. Mr. President, I rise to indicate that my vote against the motion to restrict debate on this amendment is an expression of my opposition to the death penalty provision which it contains. If the Senate votes to invoke cloture, the American people will be denied the full and careful debate that a change in law of this gravity requires. Such would be a serious miscarriage of the legislative process on the one hand and the rights of individuals in our society on the other.

As I said on this floor previously, Mr. President, I can only give limited support to the drug package before us. In my analysis it remains a law enforcement bill, with only a secondary interest in the urgent public health issues raised by abuse of both drugs and alcohol. If even a fraction of the number of people with a drug or alcohol problem in the United States came forward today for treatment, the existing facilities would be hopelessly overwhelmed. Private health plans rarely cover such rehabilitation services and the Federal Government, as an employer, does a poor job of helping out its employees. Amendments which I offered on this bill during Senate consideration of the drug package make a start in that direction and I thank the bipartisan leadership for including my language in the pending amendment. Reducing the demand for drugs must be our primary concern.

Mr. President, I would view it as a travesty, however, if the Congress, in its rush to judgment and adjournment, included an unprecedented and hastily considered death penalty in this package. I believe in the sanctity of human life. Consistent with that view, I believe Government has the obligation to protect all life, whether it is in a mother's womb or in a Federal penitentiary. The dignity and worth of all life is at the foundation of our democracy and our advocacy for freedom around the world. For us to take even the limited step proposed here calls that basic commitment into doubt and sows the seeds of its destruction.

It is a rare occasion on this floor when our votes hinge on a clear moral question, when we are asked to choose between right and wrong, as our own consciences guide us. This is one. I will cast my vote, and use the 1 hour allotted to me under cloture if it comes to that, to prevent this Congress from making an ill-considered and wholly unnecessary assault on the sanctity of human life.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Michigan.

Mr. LEVIN. I thank the Chair.

THE RETURN OF PJETER IVEZAJ TO THE UNITED STATES

Mr. LEVIN. Mr. President, I have just been informed that Pjeter Ivezaj of Sterling Heights, MI, has returned to the friendly shores of the United States. My colleagues might recall that last Wednesday, Mr. Ivezaj who is a United States citizen, was sentenced by a court in Yugoslavia to 7 years in prison.

He had been charged with participating in a peaceful protest in the United States and belonging to an organization in the United States which the Yugoslav Government regarded as hostile. In other words, he was convicted in Yugoslavia and sentenced in Yugoslavia for activities that are perfectly legal under the laws of the United States and which occurred in the United States. It was an outrageous sentence, and Mr. Ivezaj's incommunicado detention for the 6 weeks between his arrest and trial was completely contrary to accepted diplomatic custom.

Only after tremendous pressure was exerted in Congress and after our U.S. Ambassador in Yugoslavia, John Scanlan, became personally involved in the case, was Mr Ivezaj freed last Friday. And only a few minutes ago did he actually arrive home. His plane arrived at Kennedy Airport, as I said, just a few moments ago. Mr. Ivezaj's wife, daughter, and mother-in-law will be coming on a later flight from Yugoslavia. We all look forward to celebrating Pjeter's release with his entire family in Sterling Heights one day soon.

But for the moment I simply wish to welcome Pjeter Ivezaj back to the United States.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

The Chair recognizes the majority leader.

Mr. DOLE. Mr. President, at 3 o'clock there will be a cloture vote; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I understand there has now been unanimous consent request which I will propound that has been cleared on both sides with reference to certain nominations. I would like to propound that request before the cloture vote.

Mr. LONG. Reserving the right to object, would the Senator tell me what is the request?

Mr. DOLE. I am not going to make it until the minority leader is here. It is on the Executive Calendar nominations.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1515

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. DOLE. Let me further ask unanimous consent, Mr. President, that the Senate go into executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate Democratic leader has called for order. The Chair agrees. The Senate majority leader will suspend until we get order.

The majority leader is recognized.

UNITED NATIONS

Mr. DOLE. Mr. President, I ask unanimous consent, as in executive session—this will be a long request, I think—that the Foreign Relations

Committee be discharged from further consideration of the nomination of Helen Marie Taylor, to be a representative of the United States to the United Nations General Assembly, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination will be stated.

The legislative clerk read the nomination of Helen Marie Taylor, of Virginia, to be a representative of the United States of America to the 41st session of the General Assembly of the United Nations.

There being no objection, the Senate proceeded to consider the nomination.

The PRESIDING OFFICER. The Chair asks if there is any debate on the nomination.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

NOMINATION OF HELEN MARIE TAYLOR TO BE U.S. REPRESENTATIVE TO THE 41ST SESSION OF THE U.N. GENFRAL ASSEMBLY

Mr. PELL. Mr. President, although I question the nomination of Helen Marie Taylor to be a U.S. Representative to the 41st Session of the U.N. General Assembly, I have chosen not to use procedural devices to block the Senate's consideration of her nomination. I am allowing this nomination to proceed in order to facilitate the Senate's consideration of a number of worthy nominations for other positions.

Mr. President, the administration, since 1982 has been unsuccessfully submitting Mrs. Taylor's name for confirmable positions in the U.S. Government. On each occasion, for various reasons, the Senate Committee considering her monination failed to take action thereby causing her nomination to be returned to the President.

During the Committee on Labor and Human Resources' consideration of her nomination to be a member of the National Council on Humanities, Senator KENNEDY and I submitted a number of questions to her concerning her background and views—all of which she failed to answer. That was a major contributing factor in the committee's failure to act on her nomination.

I have no doubt that Mrs. Taylor may be an excellent actress, political activist, private investor, or architectural and planning consultant. However, I have strong reservations about her nomination. It has not been adequately demonstrated that she has the necessary qualifications to hold this very important post.

Mr. President, I ask unanimous consent that a chronology of Mrs. Taylor's Presidential appointments be printed in the RECORD at this point along with two articles from the Richmond News Leader.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HELEN MARIE TAYLOR—CHRONOLOGY OF PRESIDENTIAL APPOINTMENTS

12/10/82—Member, Board of Directors of Corporation for Public Broadcasting (Commerce Committee).

12/27/82—Returned to President.

1/26/83—Member, Board of Directors of Corporation for Public Broadcasting.

8/8/83—Returned to President.

4/19/84—Member, National Council on the Humanities (Labor Committee).

10/18/84—Returned to President.

7/25/84—Member, National Council on the Humanities.

10/12/84—Returned to President.

1/3/85—Member, National Council on the Humanities returned to President upon August recess.

9/9/85—Same position.

8/12/86—Withdrawn.

9/19/86—U.S. Representative, 41st session, U.N. General Assembly.

[From the Richmond (VA) News Leader, Dec. 12, 1985]

DEMOCRATS HAVE QUESTIONS FOR MRS. TAYLOR

(By Peter Hardin)

WASHINGTON.—Helen Marie Taylor's struggles with Congress soon could enter a new phase.

Democratic Sens. Edward M. Kennedy and Claiborne Pell yesterday submitted 10 pages of lengthy questions they want the conservative Richmond, Va., activist to answer about her background and allegiances as they consider her nomination to the National Council on the Humanities.

Kennedy asked a number of questions about Mrs. Taylor's involvement with Western Goals Foundation, a private anti-communist group based in Northern Virginia and founded by the late Rep. Lawrence P. McDonald, D-Ga., a John Birch Society leader killed in 1983 when Soviet fighters shot down Korean Air Lines Flight 007 near Japan.

Mrs. Taylor said in a telephone interview today she hadn't received the questions yet. Based on a reporter's summary of the questions, she suspected that they were based on political opposition to her, she said.

A spokesman for the Senate Labor and Human Resources Committee, where Mrs. Taylor's nomination has been bottled up, said the Democrats' questions "more than likely" are an effort to stall Mrs. Taylor's confirmation.

Although the committee hasn't acted on Mrs. Taylor's nomination, she has served on the council through an appointment made by President Reagan during a congressional recess in August 1984. That appointment will expire when Congress goes home for the year, which could occur this week or next.

It is extremely unlikely that the committee will consider Mrs. Taylor's nomination to a full six-year term before Congress finishes its work for 1985, Senate sources said. Those sources pointed out that Reagan could make another recess appointment of Mrs. Taylor next year.

Kennedy, D-Mass., top-ranking minority member on the Senate committee, asked Mrs. Taylor her opinions on cultural exchanges with the Soviet Union in light of a 1983 New York Times advertisement by Western Goals.

The advertisement, following the shooting down of KAL 007, said "we must not socialize with uncivilized barbarians."

Kennedy also questioned Mrs. Taylor, who he said is a board member for Western Goals, about litigation in California involving the group and the American Civil Liberties Union of Los Angeles.

Lawyers for the ACLU alleged that the Northern Virginia organization conspired illegally to receive confidential Los Angeles police records as part of a computerized data bank source of information for individuals and law enforcement agencies.

Other questions involved Mrs. Taylor's association with a number of conservative groups such as Coalition for Peace through Strength and the Eagle Forum.

He asked her to discuss a remark from a Washington Post story in 1981. Mrs. Taylor was quoted as calling herself "a soldier in the Judeo-Christian movement."

Kennedy also asked Mrs. Taylor to elaborate on her views on the civil rights movement and voting rights. A Richmond News Leader article in 1969 said Mrs. Taylor had suggested that welfare recipients not be allowed to vote. Pell, D-R.I., inquired about Mrs. Taylor's views on UNESCO and the U.S. withdrawal from that agency, to which she once was a delegate.

Reagan first nominated Mrs. Taylor and six others to the 26-member advisory council in 1984. When the Senate failed to take action, Reagan placed the new members on the council by recess appointment. The other appointees have subsequently been confirmed.

The 1984 appointment followed a defeat a year earlier. Reagan had nominated Mrs. Taylor to the Corporation for Public Broadcasting board of directors, but the nomination eventually was dropped after Republican Sen. Barry Goldwater balked.

Mrs. Taylor, an outspoken woman who once stepped before a paving machine to halt the laying of asphalt on Richmond's historic Monument Avenue, has blamed the controversies over her appointment on politics.

Mrs. Taylor has homes in Richmond and Orange County, Va.

[From the Richmond (VA) News Leader, Sept. 14, 1986]

MRS. TAYLOR AT POST WITHOUT CONFIRMATION

(By Peter Hardin)

WASHINGTON.—Helen Marie Taylor recently has attended United Nations events and has stayed in an East Side New York hotel at taxpayers' expense although the Senate hasn't confirmed her appointment as a representative to the General Assembly.

Mrs. Taylor, a conservative activist from Virginia, belongs to a small group of diplomats, legislators and public citizens appointed to the U.S. delegation to the U.N. General Assembly. Many group members have participated in delegation duties with the expectation their nominations would routinely be confirmed later.

This week, however, the Senate Foreign Relations Committee delayed action on Mrs. Taylor's nomination and there were signs the appointment was facing serious trouble there.

The controversy over her newest nomination took an unusual turn late yesterday when the White House, according to a Senate Foreign Relations Committee aide, told Mrs. Taylor she shouldn't be acting in an official capacity in New York City.

The White House contacted Mrs. Taylor a day after the Senate committee learned she was in New York. The panel told the State Department Mrs. Taylor hadn't been confirmed and shouldn't be handling official roles, the aide said.

Richard C. Hottelet, spokesman for the U.S. Mission to the United Nations, said he was "astonished" to learn from a reporter about the questions regarding Mrs. Taylor's status.

Later, after discussing the situation with various officials, Hottelet said, "Pending her confirmation, Mrs. Taylor will have no official assignments."

Reached twice yesterday in New York through the U.S. Mission offices, Mrs. Taylor said little about her situation.

At midafternoon, she told a reporter she was busy talking on another telephone line. Somewhat later, she again she was very busy and had to catch a shuttle flight.

"As soon as I know anything, I'll let you know—I sure will," Mrs. Taylor told The Richmond News Leader.

Mrs. Taylor maintains homes in Richmond and in Orange County.

Because Congress is expected to adjourn next week, time is running out for Senate confirmation of Mrs. Taylor's appointment, which was sent to the Senate Sept. 19. However, President Reagan could make a recess appointment of Mrs. Taylor after Congress goes home.

The Senate foreign affairs panel so far has approved nine of the delegation appointments but the full Senate hasn't acted, the committee aide said.

Hottelet said Mrs. Taylor has used the U.N. Plaza Hotel, where a bloc of rooms is reserved for U.N. General Assembly representatives. He guessed, but wasn't certain, that Mrs. Taylor probably had used the hotel since at least Sept. 22, when general debate started in the new General Assembly session.

No taxpayer money has been wasted, Hottelet said, because the rooms are reserved and paid for no matter which individual representative uses them.

Delegates to the General Assembly session receive a daily stipend, Hottelet said. The payment usually is made retroactively. He didn't know whether Mrs. Taylor would receive a stipend.

The stipend is calculated from a top government official's annual salary of about $70,000, but Hottelet said he didn't know the precise daily payment.

All duties of the appointed public delegates have been ceremonial so far, Hottelet added.

Each year several members of the general public are named to the delegation—which usually numbers 10 persons, and numbers 12 this year—"to get the input of people who are not professional diplomats and can contribute from their own professional background," Hottelet said.

The scrap over Mrs. Taylor's status and appointment is the latest episode in a series of struggles.

On Wednesday, Sen. Claiborne Pell, D-RI, asked the Senate Foreign Relations Committee to delay its vote on Mrs. Taylor's nomination. The committee could meet again next week, although no date has been set.

The White House submitted the latest nomination of Mrs. Taylor, a wealthy donor to conservative groups and causes, after withdrawing her name twice in the past three years for other appointments.

Her nomination to the National Council on the Humanities was withdrawn in August, and her 1983 appointment to the Corporation for Public Broadcasting board of directors also was withdrawn.

Pell, along with Sen. Edward M. Kennedy of Massachusetts, sent Mrs. Taylor a long list of questions last year about her involvement with a number of conservative groups including Western Goals Foundation, Coalition for Peace through Strength and the Eagle Forum.

Mrs. Taylor didn't answer the written questions. To do so, she said later, would have resulted in denial of the hearing she had requested.

Sen. Paul S. Trible Jr., R-Va., and a member of the Foreign Relations Committee, said Mrs. Taylor's chances of winning Senate confirmation to the U.N. assignment are dim.

"I've talked to both Pell and (Committee Chairman Sen. Richard) Lugar and they say there is no way she will be confirmed," Trible said.

Mrs. Taylor has telephoned him and others "raising hell" about the Senate's failure to confirm her nomination, said Trible, who was named as an alternate representative to the U.N. General Assembly.

A State Department spokesman said representatives to the U.N. General Assembly routinely serve during the period before their appointments are confirmed.

Mrs. Taylor was asked not to handle more official duties out of courtesy to the Senate, the spokesman said.

A White House press spokesman was unfamiliar with the situation and had no comment yesterday.

NOMINATION OF HELEN MARIE TAYLOR

Mr. PRESSLER. Mr. President, I rise to thank my colleagues for their support of Helen Marie Taylor who I know to be a hard worker and a dedicated American. By moving her nomination today, we are improving the effectiveness of our U.N. team. I recently spoke with our U.N. Ambassador, Vernon Walters, and he emphasized the need to complete these nominations. As a member of the Foreign Relations Committee, I am pleased that we have worked this out successfully.

The PRESIDING OFFICER. Is there further debate on the nomination? If not, the question is on the confirmation of the nomination.

The nomination was confirmed.

SENIOR FOREIGN SERVICE

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the nomination of Edwin G. Corr, which is now placed on the Secretary's desk, on the Executive Calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nomination will be stated.

The legislative clerk read the nomination of Edwin G. Corr, placed on the Secretary's desk, in the Senior Foreign Service.

The PRESIDING OFFICER. Is there debate on the nomination? If not, the question is on the confirmation of the nomination.

The nomination was confirmed.

DEPARTMENT OF STATE

Mr. DOLE. Mr. President, I now ask unanimous consent that the Foreign Relations Committee be discharged from further consideration from the nomination of Elinor Greer Constable, of New York, to be Ambassador to Kenya, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nomination will be stated.

The legislative clerk read the nomination of Elinor Greer Constable, of New York, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

There being no objection, the Senate proceeded to consider the nomination.

The PRESIDING OFFICER. Is there debate on the nomination? If not, the question is on the confirmation of the nomination.

The nomination was confirmed.

Mr. DOLE. I thank the Presiding Officer.

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed in executive session to consider the following nominations on the Executive calendar:

Calendar No. 1052, Calendar No. 1053, Calendar No. 1054, Calendar No. 1055, Calendar No. 1057, Calendar No. 1058, Calendar No. 1059, Calendar No. 1060, Calendar No. 1061, Calendar No. 1062, Calendar No. 1063, Calendar No. 1064, Calendar No. 1066, Calendar No. 1123, Calendar No. 1124, Calendar No. 1125, and Calendar No. 1126.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection.

Mr. DOLE. Mr. President, I ask unanimous consent that the nominations just identified be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I think I inadvertently left out Calendar No. 1056.

Mr. BYRD. Yes. Mr. President, there is no objection to Calendar No. 1056. We are ready to proceed.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

L. Paul Bremer III, of Connecticut, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador at Large for Counter-Terrorism.

David C. Fields, of California, a Career Member of the Senior Foreign Service,

Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

Alexander Fletcher Watson, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Peru.

Charles J. Pilliod, Jr., of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

James Daniel Phillips, of Kansas, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Burundi.

Peter O. Murphy, of the District of Columbia, for the rank of Ambassador during the tenure of his service as Special Negotiator for United States-Canada Trade and Investment Issues.

James Roderick Lilley, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

Ronald DeWayne Palmer, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius.

David A. Korn, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister—Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

James Wilson Rawlings, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Zimbabwe.

Everett E. Bierman, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

Everett Ellis Briggs, of New Hampshire, a Career Member of the Senior Foreign Service, Class of Minister—Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Honduras.

Theodore E. Gildred, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

Frank Shakespeare, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Holy See.

James Edward Nolan, Jr., of Maryland, to be Director of the Office of Foreign Missions, with the rank of Ambassador. (New Position)

Donald K. Petterson, of California, a Career Member of the Senior Foreign Service, Class of Minister—Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Walter Edward Stadtler, of New York, a Career Member of the Senior Foreign Service, Class of Minister—Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Benin.

Edward Joseph Perkins, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister—Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of South Africa.

FRANK SHAKESPEARE TO BE UNITED STATES AMBASSADOR TO THE HOLY SEE

Mr. MOYNIHAN. Mr. President, I rise today to express my wholehearted support for the nomination of Frank Shakespeare to be U.S. Ambassador to the Holy See.

He has had an eminent public career. He continues it. There cannot be many occasions in which the Senate can be more confident in giving its advice and consent.

Since 1985, Mr. Shakespeare has served with distinction as our Ambassador to the Republic of Portugal, where his skill in representing American interests—and in understanding the complexities of Portuguese politics—has been invaluable.

Mr. Shakespeare served with equal distinction as Director of the U.S. Information Agency from 1969 to 1973. Together with his experience as Chairman of the Board for Internatioal Broadcasting, and his service in private industry—including a 9-year term as president of RKO General—Frank Shakespeare has built a record of both dynamism and integrity. And I have had the honor of his friendship for many years.

Mr. President, the post of Ambassador to the Vatican is an important one; but never has the Senate faced an easier task in offering its advice and consent.

AMBASSADOR FRANK SHAKESPEARE

Mr. PRESSLER. Mr. President, I rise in support of Mr. Frank Shakespeare, who has been nominated by President Reagan as the second U.S. Ambassador to the Holy See.

Mr. Shakespeare has served his country well in many positions in the public and private sectors. He has held key executive posts in major corporations, including the presidencies of CBS and RKO General. Mr. Shakespeare was also the executive vice president of Westinghouse.

He also has served the Nation effectively as Director of USIA from 1969–73, after which time he returned to the private sector. He has represented the United States admirably in his current post as Ambassador to Portugal.

Ambassador Shakespeare is also the recipient of honorary doctorates from the Colorado School of Mines, Pace University, and the Delaware Law School.

His interest in public affairs has extended to contributions to the debate on some of the most critical issues of our time. This participation includes his active involvement on the boards of various journals and research institutes. He is currently vice chairman of the board of the American Spectator, a director of National Review magazine, chairman of the Heritage Foundation board of trustees, a director of the American Council on Germany, a Director of the National Strategy Information Center, and a member of the Wilson Council—Woodrow Wilson Center. He participated in preparing a response to the economic letter of Catholic bishops, and has worked closely with Cardinal Cooke within the Roman Catholic Church on drug problems.

I am proud that the President has chosen to nominate Frank Shakespeare to the important post of American Ambassador to the Vatican. I will vote to confirm him, and I urge our distinguished colleagues to give Frank Shakespeare the overwhelming vote of confidence he so richly deserves. He is an exceptionally well-qualified individual who will continue to serve our Nation in the most effective manner possible. We are lucky to have such a man in the service of our Nation.

NOMINATION OF EDWARD JOSEPH PERKINS

Mr. HATFIELD. Mr. President, the tremendous attention focused in recent months on sanctions against South Africa has distracted us from a very serious issue: the United States does not now have a viable policy toward South Africa. Carefully crafted sanctions are not in place, but the task of framing a viable policy into which they fit lies ahead. Given our moral and strategic stake in that troubled nation, I believe that task ought to be among our top foreign policy priorities in the coming months.

I am therefore delighted to find before the Senate the nomination of Oregonian Edward Perkins to be U.S. Ambassador to South Africa.

Ambassador Perkins is a career Foreign Service officer with vast experience from which to draw. And he is no stranger to complexity and controversy: Ambassador Perkins has spent much of his career in Southeast Asia, a region fraught with both moral and strategic dilemmas. He has also spent several years in West Africa, first as U.S. Counselor for Political Affairs in Ghana, and most recently as the U.S. Ambassador to Liberia. In Liberia, where he has served as Ambassador since 1985, Ambassador Perkins has been charged with the difficult task of upholding human rights in the exciting context of a developing democracy.

The South Africa to which Ambassador Perkins will soon go is a nation torn by racial injustice and violence. The voices raised in South Africa are diverse and often contradictory. The impetus and indeed the inevitability of change in South Africa is clear. When that change will come and what will become of South Africa after the dust settles are anything but clear. But instead of seeing South Africa as a confused and ultimately hopeless nation, it is my hope that Ambassador Perkins

will go to South Africa with the energy and creativity to see the nation as a land of opportunity for the United States, as well as for the people of South Africa.

Our debate over sanctions has concluded, but the history of a post-apartheid South Africa has just begun to unfold. We will have a great many more decisions to make in future months, and without a coherent policy, we will be left to answer them on an ad hoc basis. Mr. President, I am deeply troubled by that prospect because I think the influence of the United States, both in and on South Africa, could be much stronger if we had a policy behind our actions.

The appointment of Ambassador Perkins offers me hope, however. Working with dedicated men like Undersecretary of State Chester Crocker and Secretary of State George Shultz, Ambassador Perkins has an opportunity to go beyond ad hoc decisionmaking to a viable and constructive United States policy toward South Africa. In that opportunity, Mr. President, lies our hope for a vital and friendly post-apartheid South Africa.

NOMINATION OF CHARLES J. PILLIOD, JR., AMBASSADOR TO MEXICO

Mr. GLENN. Mr. President, it is a distinct honor and pleasure to speak today on behalf of the confirmation of my good friend, Chuck Pilliod, as U.S. Ambassador to Mexico. I have known Chuck Pilliod since our college days and can recommend him to my colleagues without reservation or qualification. Chuck has had a distinguished career with Goodyear Tire and Rubber Co., of Akron, OH, rising through the ranks to become chairman and CEO. A good portion of his time at Goodyear was spent in the international division where he served in Panama, Peru, Colombia and Brazil. Chuck is fluent in Spanish, an undeniable asset in the challenging post he has accepted.

Chuck Pilliod is a man of integrity and ability. I know he will serve our country well in this very important position. Our relationship with our neighbor to the South is one of our most critical bilateral relationships and the Nation can rest assured that we will be most ably represented with Chuck Pilliod as our Ambassador. I congratulate the President on an excellent choice and urge my colleagues to confirm that choice by unanimous vote.

Mr. DOLE. Mr. President, I ask unimous consent that it be in order to move to reconsider the votes by which the nominations were considered and confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I move to reconsider the votes by which the nominations were considered and confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me thank the distinguished minority leader, and all others. We have been conferring on this list. This will almost complete the Executive calendar. I understand there are three or four others that have now been cleared. We can act on those later in the day. But I thank all my colleagues on each side.

CLOTURE MOTION

Mr. DOLE. Mr. President, we are now prepared to vote on the cloture motion.

The PRESIDING OFFICER. The Senate will give attention to the fact that the hour of 3 p.m. having already arrived, under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment with a further amendment to H.R. 5484, the omnibus anti-drug bill.

Bob Dole, Strom Thurmond, Paul Trible, W.L. Armstrong, Mitch McConnell, Malcolm Wallop, Paula Hawkins, Chic Hecht, Don Nickles, Paul Laxalt, Al Simpson, Pete Wilson, Orrin G. Hatch, J. Warner, Chuck Grassley, James T. Broyhill, and Lawton Chiles.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to concur in the House amendment, with further amendments to H.R. 5484, the omnibus antidrug bill, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Nevada [Mr. LAXALT], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 38, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—58

Abdnor	Ford	Murkowski
Armstrong	Garn	Nickles
Baucus	Goldwater	Nunn
Bingaman	Gramm	Packwood
Boren	Grassley	Pell
Bradley	Hatch	Pressler
Broyhill	Hawkins	Quayle
Bumpers	Hecht	Riegle
Byrd	Heflin	Roth
Chiles	Heinz	Rudman
Cochran	Helms	Simpson
Cranston	Hollings	Specter
D'Amato	Kassebaum	Thurmond
DeConcini	Kasten	Trible
Denton	Lautenberg	Wallop
Dixon	Lugar	Warner
Dodd	Mattingly	Wilson
Dole	McClure	Zorinsky
Domenici	McConnell	
Exon	Melcher	

NAYS—38

Bentsen	Harkin	Metzenbaum
Biden	Hart	Mitchell
Boschwitz	Hatfield	Moynihan
Burdick	Humphrey	Proxmire
Chafee	Inouye	Pryor
Cohen	Johnston	Rockefeller
Danforth	Kennedy	Sarbanes
Durenberger	Kerry	Sasser
Eagleton	Leahy	Simon
Evans	Levin	Stafford
Glenn	Long	Stennis
Gore	Mathias	Weicker
Gorton	Matsunaga	

NOT VOTING—4

Andrews	Stevens
Laxalt	Symms

□ 1540

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 38. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I have indicated to a number of Senators that on this one issue, we would like to have a brief meeting in my office now before we do anything else on the bill. Therefore, I suggest the absence of a quorum.

Mr. LONG. Mr. President, before we do that, if the Senator will yield, I would like to say a word on this point.

Mr. DOLE. I would be happy to have him say a word, but not to offer an amendment.

Mr. President, I yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, a number of us, the two Senators from Louisiana and a number of others, voted against cloture on this measure because we are

opposed to the matter involving the tax checkoff on this antidrug measure. Otherwise, we would favor the Senator's proposal.

We are strongly in favor of the provision now in the law that has to do with the $1 checkoff as regards Presidential elections. The $1 donation matter involved in the bill before us is a checkoff system which is prejudicial and works against, perhaps undermines, the checkoff system for financing Presidential election campaigns.

HOW THE CHECKOFF WORKS

The Dole amendment to the House-passed amendment to the Drug Enforcement Act of 1986 (H.R. 5484) would include a tax-return checkoff for taxpayers to use to donate money to the Federal Government for drug-related expenditures. The provision would provide taxpayers with the option of letting the Government keep a portion of their tax refunds and put the donation into the Antidrug Trust Fund. Amounts in the trust fund would be expended to carry out the purposes of the Drug Enforcement Act. Amounts contributed would not be deductible.

CHECKOFF UNDERMINES PUBLIC FINANCING OF PRESIDENTIAL CAMPAIGNS

The drug checkoff would confuse taxpayers and undercut the effectiveness of the Presidential election campaign checkoff. The election checkoff is not a donation and does not increase a taxpayer's taxes. Instead, it designates a portion of taxes paid for the specified purpose. The drug checkoff works the opposite way; checking the box for the drug fund would cost the taxpayer money out of pocket. This would lead many taxpayers to believe the campaign checkoff worked the same way. They would refrain from checking the campaign box because they would think that all checkoffs cost them money.

DRUG CHECKOFF DONATIONS NOT DEDUCTIBLE

Contributions made to the Antidrug Trust Fund through an individual's tax return would not be deductible. This would cause considerable confusion. The general rule is that contributions for public purposes are deductible. It might even be argued that the drug checkoff is a trick on the American people, since contributions to the Federal Government for public purposes are deductible under section 170(c)(1) of the Tax Code.

REVENUE RAISED IS INSIGNIFICANT

It is impossible to justify the degree of confusion which this provision would cause in light of the fact that it will raise only negligible revenue. The Joint Tax Committee estimates that this provision would raise less than $5 million per year.

CHECKOFF TRIVIALIZES ANTIDRUG EFFORT

The fight against drugs is not optional. If we want to leave funding to voluntary contributions, we should leave the programs to volunteer organizations. The Government gets involved in solving a problem because it can do things that the private sector cannot do. If a problem is important enough for the Government to get involved in, it is too important to fund on a voluntary basis.

THE TAX RETURN SHOULD NOT BE USED TO SOLICIT DONATIONS

The tax return system is not the appropriate mechanism for raising voluntary contributions for public causes, no matter how laudable. The tax collection process is designed to collect taxes. Attempts to use it for fund-raising efforts which the Federal Government is not willing to fund through taxation will only serve to confuse taxpayers. It would also create a feeling that certain Federal policies need only be supported on an optional basis.

HOW COULD WE SAY NO TO OTHER CHARITABLE EFFORTS?

We should be careful not to establish the precedent of making the Internal Revenue Service the collector of contributions for various causes. It is better to keep all solicitations for donations off of tax returns than to create a situation where hundreds of other worthy causes will argue for equal treatment. It would also be a bad precedent to provide that a new Government program be funded through a tax return checkoff. If it can be done for drugs now, it can be done for dozens of new programs in the future, and the tax return will wind up looking like a Chinese menu.

Mr. KENNEDY. Mr. President, I share the concerns of the Senator from Louisiana. The worst idea in the drug bill is the notion that we ought to pass the hat via the Internal Revenue Code to pay for the war on drugs. There are very good reasons why we use the dollar checkoff for Presidential campaign financing. Neither political party will trust a partisan Congress to appropriate the necessary funds fairly. And Congress itself is reluctant to appropriate tax dollars for political campaigns.

The dollar checkoff solves this dilemma by permitting taxpayers to make the decision to pay for clean elections. And the miracle of the checkoff is that enough taxpayers care enough about clean elections to fully fund the provision for public financing of Presidential campaigns.

That idea is unique, and it works—singlehandedly, it has taken Presidential elections off the auction block.

For years, we've held the line against using the tax form to raise funds for other worthy causes, and we should not break that precedent now. The most ridiculous aspect of the provision in the bill is that the revenue estimate is so small—only $5 million a year. We will be violating a very important principle for a very small return.

The most insidious feature of the provision is that it may turn out to be a Trojan Horse to kill the dollar checkoff for Presidential elections. President Reagan tried to repeal the dollar checkoff as part of tax reform. But Congress turned him down. Funding for the checkoff has always been precarious. Only one-fourth to one-third of taxpayers use the checkoff, but their dollars are now sufficient to fully fund the program. There is no justification for adding another checkoff for the war on drugs that will only confuse taxpayers and jeopardize the existing checkoff.

We talk a lot about new ideas. But Senator RUSSELL LONG's dollar check is a "genuine original," a new idea that worked, and is working well today. Let's protect it for the future, by deleting the provision from the bill.

If we accept this dubious concept now, what next? Will we start using the checkoff to pay for the Superfund? For Star Wars? For Deficit Reduction?

All of us can understand the frustration over our inability to find a way to fund the war on drugs. But let us face that issue honestly, not with gimmicks on the tax form that jeopardize other valid goals. I urge the Senate to delete this controversial and unjustified provision from the drug bill, and I am proud to cosponsor the Senator from Louisiana's amendment to accomplish that goal.

□ 1550

Mr. LEVIN. I move to reconsider the vote, Mr. President.

Mr. EVANS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I have asked about four or five Members on each side if they could meet briefly in my office to discuss the death penalty, and I hope that we would not take any additional action on the bill until we have had that meeting, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Will the Senate be in order?

ORDER OF PROCEDURE

Mr. GOLDWATER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. GOLDWATER. What is the business before the Senate?

The PRESIDING OFFICER. The pending business is the motion of the majority leader to concur in the amendment of the House with an amendment to the drug bill.

Mr. GOLDWATER. Further parliamentary inquiry. Has the conference report on the fiscal year 1987 Department of Defense authorization bill come over from the House?

The PRESIDING OFFICER. That matter is at the desk.

Mr. GOLDWATER. Pardon?

The PRESIDING OFFICER. The answer to the Senator is in the affirmative. That conference report is at the desk.

Mr. GOLDWATER. Would the Senator from Arizona be out of order if I asked unanimous consent that that become the pending business?

The PRESIDING OFFICER. The Senator could make that request if he desired to do so.

Mr. GOLDWATER. Well, the Senator makes it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1600

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE AUTHORIZATION — CONFERENCE REPORT

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the conference report of fiscal year 1987 Department of Defense authorization bill, which has been reported by the House, be made the pending business.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. SIMPSON. Mr. President, reserving the right to object, we have a problem with regard to time. I had understood that the matter would be brought before us and we would proceed, without a time agreement, for 20 or 25 minutes. That is not the case.

Right now, the leader is involved in a very serious negotiation on the drug bill, as to whether we can resolve the death penalty issue in the drug bill, and all the principals are involved in that particular meeting.

I have not the slightest idea to detract from what Senator GOLDWATER is doing, but I do know that if we go to this matter, we are going to get into some protracted discussion. That is my impression.

Is that not correct?

Mr. GOLDWATER. Mr. President, that is not true. I doubt that there will be a total of 15 minutes in discussion.

Mr. SIMPSON. I inquire of Members who I have been advised wish to speak on this as to how much time might be involved, so that I might withdraw my objection.

Mr. NUNN. If I judge the tone of the Senator's voice correctly, the shorter we speak, the more likely it is that he will withdraw his objection. Is that correct?

Mr. SIMPSON. That sounds like a remarkable surmise.

Mr. NUNN. I will adjust my remarks to whatever time the Senator will accord us. I can put my statement in the RECORD.

Mr. SIMPSON. I inquire of the Senator from California as to his intent.

Mr. WILSON. About 5 minutes. But I am for the Senator from Georgia not to put his remarks in the RECORD. I think they are of critical importance, and they should be heard by the Members, not simply relegated to the written record, and he should use whatever length of time he chooses.

Mr. SIMPSON. Are there other colleagues who are going to participate in this particular conference report?

Mr. QUAYLE. Two or three minutes.

Mr. WILSON. About 5 minutes.

Mr. STENNIS. Mr. President, as I understand it, the proposal is to agree to a very small amount of time for debate on this bill. The bill is really enormous. it has everything in it. It involves billions of dollars. My point is, let us not leave out the Members who are not here now. They are at another conference. They should be notified before you close the door on their time.

Mr. SIMPSON. Mr. President, I think we all realize the importance of this. I have had indications that there would be very few minutes of debate.

I ask unanimous consent that we do proceed to this conference report for action.

Mr. GOLDWATER. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I submit a report of the committee of conference on S. 2638 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legisative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, October 15, 1986.)

Mr. GOLDWATER. Mr. President, I rise to report the actions of the joint House/Senate conference on the fiscal year 1987 Department of Defense authorization bill, S. 2638. This is the last defense conference bill I will report to the Senate, and it is with mixed emotions that I make my report today—mostly happy.

While the President requested $320 billion for defense in 1987, the Congress has decided to provide only $291.9 billion in this bill—a reduction of more than $28 billion. I wish to go on record today, stating in the clearest way I can, we are cutting too much from defense. I remind my colleagues that last year, instead of providing for some reasonable growth in the defense budget, we actually had negative real growth of nearly 4 percent. And this year, we have again set a level of funding which provides negative real growth of almost 3 percent. Let us not kid ourselves. Anyone who thinks we can go on cutting the defense budget to the point where we actually have declining growth rates of more than 3 percent a year, without undermining our defense posture, is indulging in a happy but entirely unrealistic and crazy delusion.

□ 1610

Our defense budgets over the last 2 years have set in motion a dangerous trend which, if not reversed, may have profound consequences on our future. I have a terrible sense that we are returning to the irresponsible policies of the late 1970's.

I remind my colleagues that despite the fact that Soviet leaders have recently acquired a new and more sophisticated public relations strategy, there is no reason to believe the objectives of that totalitarian government are any different nor any less threatening now than were the objectives of their less artful predecessors. And I suggest that before anyone gets carried away by the new Soviet image, we first look very carefully at Soviet actions around the world. Until those actions are consistent with Soviet rhetoric, I suggest we pay more attention to their deeds, and less to their words.

Mr. President, I am not at all pleased that we have had to cut so much from defense. However, we have

complied with the budget resolution targets adopted earlier this year; and at the same time, have tried to minimize the adverse consequences on our Nation's security. This has been a very difficult task.

Our conference during the last 3 weeks has been, without question, the most difficult conference in which I have ever participated. The House leadership, in an attempt to guarantee the outcome on several important issues—most of which were not even germane to our bill—stacked the conference with several groups of exclusive conferees, any one of which had the ability under the rules to block a final conference report. Despite this effort to rig the conference, we were able finally to resolve all issues in disagreement. I would like to point out that there were more than 1,600 funding differences to be resolved, and more than 400 language differences; that is the greatest number of issues we have ever had to resolve in a defense conference.

Before I highlight some of the major provisions in the conference report, I would like to first thank my friend and colleague, Senator NUNN, for his invaluable help in completing the conference. As always, his sound judgment and close cooperation were essential in our efforts to reach agreement with the House conferees. As I said earlier, this was an unusually difficult conference, and it would not be over yet were it not for SAM NUNN's negotiating skills and perseverance. SAM, I am deeply and sincerely grateful to you for your untiring efforts and steadfast support.

Mr. President, I would not be honest with myself, my conscience, or you if I did not mention JOHN WARNER of Virginia in the same vein.

Senator NUNN and Senator WARNER started to work this thing out about 4 days ago and by staying up all day, all night they did reach a point late yesterday where we could reach agreement.

I am totally indebted to JOHN WARNER for having made this conference report possible.

I would also like to express my great appreciation to the chairmen and ranking minority members of each of the subcommittee of the Armed Services Committee for their diligent efforts in resolving the differences within their subcommittee jurisdictions. And my special thanks to those committee members who negotiated with the House the many diversified issues in the conference—from foreign policy to child nutrition. Their efforts consistently went above and beyond the normal call of conference duty.

And I just want to mention at this point in my remarks that beginning with last night or whenever the Air Force desires we have lost the services of Jim McGovern. He will become the Deputy Secretary of the Air Force, and I could not express my feelings of loss in any words that I have. Jim has been a very valued head of our staff for many years and all I can say is that the Air Force is getting some real good help and we are going to miss him. But I have appointed Carl Smith—these are both Navy aviators. I do not know why I am extolling these guys so much.

You can put your thumb down. In fact they are now Marine aviators. That is worse.

Mr. President, as I noted earlier, this is my last defense authorization bill. It is also the last one for Gerald D. Strickler, the committee's printing and documents clerk who is retiring at the end of this year after 31 years of Government service.

I want the Senate to know that since 1975 Gerry Strickler has been the one we have depended on to work printing miracles. This extraordinarily professional printer is a former marine—the Marines are taking the place over—who has willingly taken on countless, seemingly impossible missions under the most arduous conditions and has never failed us. Gerry is a gentleman who is respected and admired by all on the committee. We will miss him. I want to say thank you, Gerry, and wish you and your lovely wife, Hilda, every happiness in the years ahead. You have earned it.

At this time, I would like to briefly highlight the major provisions of the conference report:

SDI. The conferees agreed to provide a total of $3,530 million for SDI, splitting the difference between the Senate and House positions on Department of Defense and Department of Energy funding for SDI.

Binary chemical munitions. The conference report provides full funding for the 155 mm binary artillery shell and provides $35 million for Bigeye production after October 1987.

Peacekeeper (MX). The conference report funds procurement of 12 missiles in fiscal year 1987.

Asat. The conferees agreed to continue the moratorium on Asat tests against an object in space through the end of fiscal year 1987.

Small ICBM. The conferees agreed to provide $1,200 million for the small ICBM.

Bomber modernization. The conferees provided the full amount requested for the advanced technology bomber and advanced cruise missile.

M-1 tank. The conferees approved procurement of 840 M-1 tanks.

F-15 and F-16. The conference report provides for the procurement of 180 F-16 aircraft and 42 F-15's for the Air Force.

A-6. 11 A-6 aircraft were approved by the conferees.

F/A-18. 84 Navy F/A-18 fighter aircraft were approved by the conferees.

AH-64 Apache. The conferees approved the procurement of 120 Apache helicopters.

Airlift aircraft. The conferees approved the procurement of 21 C-5B and 8 KC-10A aircraft, and initial procurement funding for the new C-17 airlifter.

Shipbuilding. The conferees approved $10.6 billion for the construction of 18 new ships and 3 conversions.

Military pay raise. The conferees approved a 3-percent raise in basic pay, basic allowance for subsistence, and basic allowance for quarters to be effective on January 1, 1987.

Operation and maintenance. The conferees approved $78.6 billion of O&M and $0.9 billion for revolving and management funds. The combination of these two are required to sustain the recent improvements in the readiness and sustainability of our Armed Forces.

Mr. President, this summarizes the highlights of key provisions in our conference report. I ask unanimous consent that the remainder of my statement be submitted in the RECORD.

STRATEGIC FORCE ISSUES

The conference committee resolved net differences of over $5.6 billion between the Senate and House involving strategic programs. While adjustments were made in a number of programs due to budgetary constraints, the conferees agreed to maintain the momentum of the strategic modernization program.

Arms control. The conferees agreed to nonbinding language expressing the sense of the Congress on SALT II compliance. The conferees also agreed to drop the House provision on nuclear testing moratorium above 1 kiloton, and to accept a sense of the Congress regarding ratification of the threshold Test Ban Treaty and Peaceful Nuclear Explosions Treaty.

Strategic defense initiative. The Senate bill provided $3.597 billion for the President's strategic defense initiative [SDI] within the Department of Defense without allocation. The House amendment provided $2.830 billion, and specifically allocated this reduction against each of the five major program elements. The Senate and House had approved $356 million and $279 million respectively for SDI related activities of the Department of Energy. The conference committee remained strongly supportive of a vigorous research effort under the strategic defense initiative, with its goal of determining the feasibility of developing strategic defenses for the United States and its allies. The conferees recommended an authorization of $3.213 billion for SDI activities in the Department of Defense in fiscal year 1987, and $317 million for the Department of Energy. The allocation of the

reduction was left to the discretion of the program manager.

Binary Chemical Modernization Program. The conference committee took another important step toward restoring a credible U.S. chemical deterrent capability. Resolving the difference between the two bills on this program was one of the most difficult issues faced by the conferees. The final agreement, which required concessions from both sides, fully funded the 155mm binary artillery shell and restricted the funding for the procurement of the Bigeye bomb—including components—and the associated production facilities. The conferees agreed to provide $35 million for Bigeye in fiscal year 1987 with the provision that no funds be expended for procurement until October 1, 1987, and that no funds be expended for final assembly until October 1, 1988. The conferees agreed that fiscal year 1986 funding for facilities be fenced until a Presidential certification that facility planning was complete and that proceeding with construction was in the national security interest. In addition, the conferees agreed to drop a provision in the House amendment that would have prohibited withdrawal of existing chemical munitions in Europe until replaced with binary munitions stored in at least one NATO country.

Peacekeeper (MX) missile. The conferees provided $1.114 billion for the procurement of 12 MX missiles in fiscal year 1987, and fully funded the request for initial spares.

Antisatellite weapons. The conference report adopts statutory language from the House amendment that continues the prohibition on testing of the U.S. Space Defense System miniature homing vehicle antisatellite [ASAT] system against objects in space until the President certifies that the Soviets have tested a dedicated ASAT system against an object in space. This provision does not prevent testing against "points" in space using celestial bodies. The conferees provided $200 million for space defense system research and development, provided that no funds be expended for production verification. In addition, the conferees denied the request for advanced procurement, and zeroed military construction funds associated within ASAT operational facilities.

Navy strategic communications. The Senate bill fully funded the administration's request of $143.3 million for Navy strategic communications research and development, and $329.3 million for the procurement of 3 E–6A submarine communications relay aircraft and associated spares. The House amendment contained $50 million for research and development and $107.2 million for procurement of 1 E–6A aircraft. In view of the importance the conferees attach to the sea-based leg of the U.S. strategic triad, and their judgment that this leg can be no more survivable or effective than the communications systems that support it, the conferees agreed to provide full funding for procurement of 3 E–6A aircraft, $113.3 million for strategic communications research and development, and $35.8 million for research and development on satellite laser communications, which could potentially complement the TACAMO system.

Advanced technology bomber and advanced cruise missile. The conferees agreed to provide full funding for these programs in fiscal year 1987. The actual funding levels are classified.

ICBM Modernization. The Senate bill provided $322.3 million for MX research and development, $675 million for the small ICBM and $201 million for follow-on basing research. The House amendment provided $200 million for MX, fully funded small ICBM at $1,375 million, and provided no funds for follow-on basing. The conferees agreed to provide $290 million for MX, $32.3 million below the request; $1,200 million for small ICBM: and $120 million for follow-on basing research, $269 million below the request. The conferees expressed their continued strong support for a triad of strategic forces, including modern, survivable ICBM's. The conferees adopted a Senate provision requiring the Department of Defense to provide an ICBM modernization roadmap early in 1987, and a provision that would repeal existing legislation linking the deployment of MX with ICBM development program when the ICBM enters full-scale engineering development.

MANPOWER AND PERSONNEL ISSUES

The most significant differences between the Senate and House were in the end strength levels of military forces; in reform of the military health care system; and in military pay.

Military pay raise. The conferees approved a 3-percent raise in basic pay, basic allowance for subsistence, and basic allowance for quarters to be effective on January 1, 1987.

Selected Reserve. The conferees agreed to authorize end strength for the Army National Guard of 452,681; for the Army Reserve of 318,011; for the Naval Reserve of 149,486; for the Marine Corps Reserve of 43,470; for the Air National Guard of 113,767; for the Air Force Reserve of 79,562; and for the Coast Guard Reserve of 12,850.

Active duty. The conferees agreed to an active duty end strength of 780,000 for the Army; 587,000 for the Navy; 606,850 for the Air Force, and 188,600 for the Marine Corps.

Military health care. The conferees agreed to provisions which will authorize the most significant reform of the military health care system in a number of years. The conference agreement authorizes the demonstration of a Department of Defense proposal called the CHAMPUS reform initiative [CRI], which involves contracting for all or most of the health care needs of a segment of the CHAMPUS beneficiary population from at-risk contracts. In the first year, CRI could be demonstrated with not more than one-third of the CHAMPUS beneficiary population. Following that demonstration, the Secretary of Defense would be authorized to further implement CRI over the remaining two-thirds of the beneficiary population over a 2-year period. The conferees agreed to a number of other significant changes in the military medical system designed to improve care and enhance the delivery of quality care to military beneficiaries.

TACTICAL WARFARE ISSUES

Both the House and Senate Armed Services Committee continue to place strong emphasis on the modernization of our conventional forces. The agreements reached by the conferees will continue—and in some cases accelerate—the modernization of those forces.

Army. The conferees agreed on the procurement of 840 M–1 tanks in 1987, and provided advanced procurement funds for another 840 tanks in 1988.

The conferees expressed strong support for the development of remotely piloted vehicles [RPV's], but expressed concern over the Army's current PRV program, the Aquila. Recognizing the cost and performance problems that have hampered the Aquila program, the conferees agreed to the Senate language directing that the program be capped and meet Army specifications prior to production.

Navy. For the Navy the conferees agreed to authorize 11 A–6 medium attack aircraft. A total of 84 F/A–18 aircraft were approved for 1987, along with advanced procurement funds for 84 aircraft in 1988. The conferees also approved the procurement of 15 F–14D fighter aircraft. The conferees expressed strong support for the protection of weapons inventories. The Harm missile was fully funded in the Navy and the Phoenix, Sparrow, and Sidewinder missiles were reduced to levels which reflect prior year savings.

The conferees agreed to a funding level of $386.9 million for the development of Navy/Marine Corps V–22 tiltrotor aircraft. The V–22 Osprey is expected to begin replacing CH–46 assault helicopters in 1991.

Air Force. The conferees agreed to the Senate funding levels for the procurement of 180 F–16 and 48 F–15 fighter aircraft. The conferees approved the request for air defense fighters and accepted the House provision allowing a multiyear contract for

the winner of the air defense competition.

The conferees also agreed to the requested funding levels for research and development of the advanced medium range air-to-air missile [AMRAAM]. Production funds of $537.3 million and advanced procurement of $73.1 million were approved with the understanding that these funds would be utilized to proceed into low rate initial production if the missile meets Air Force specifications. The conferees reduced the Air Force request for the Harm missile $100 million but protected the procurement of the Sidewinder and Sparrow in the Air Force weapons accounts.

The conferees consolidated electronic warfare funding throughout the service accounts, reduced the funding request by 11 percent and directed the newly appointed Under Secretary of Defense for Acquisition to manage the electronic warfare programs for the Department of Defense. The conferees agreed to fund the JSTARS Program at $300 million which was $55.7 million below the administration's request.

SEA POWER AND FORCE PROJECTION ISSUES

Shipbuilding. The conferees approved $10,607.1 million for 18 new construction ships and 3 conversions. The conferees agreed to fund one Trident ballistic missile submarine, 4 SSN-688 class nuclear attack submarines, three CG-47 class Aegis cruisers, three DDG-51 class Aegis destroyers, one AOE fast combat support ship, and two TAO fleet oilers. In addition, the conferees authorized initial procurement funds for the new SSN-21 Seawolf attack submarine. The conferees also encouraged the Navy to move forward with expanded helicopter support facilities for the DDG-51 class destroyers.

Antisubmarine warfare aircraft. The conferees authorized 17 Lamps Mark-III—Sea Hawk—helicopters, 7 SH-60F CV ASW helicopters, and 6 LAMPS Mark-I—Sea Sprite—helicopters. The conferees agreed that this will be the final year for procurement of LAMPS Mark-I Sea Sprites.

The conferees also authorized nine P-3 Orions and again provided the Secretary of the Navy with the discretion to shift some funds authorized for new aircraft into a program to upgrade older ones.

Airlift aircraft procurement. The conferees agreed to continue funding for the final year of procurement of C-5B cargo aircraft and KC-10A advanced tanker/cargo aircraft. Twenty-one C-5B and eight KC-10A aircraft will be purchased in fiscal year 1987. The conferees also authorized initial procurement of the new C-17 airlifter.

MILITARY CONSTRUCTION ISSUES

The conferees authorized $8.4 billion for military construction and family housing for nearly 1,700 projects at 700 locations worldwide. The Defense Department requested $10 billion. Although I believe a higher level of funding is warranted, the approved construction program will substantially improve our military bases, enchancing both our readiness posture and quality of life.

The conferees provided $425 million for new construction of 4,925 family quarters, $283 million to lease 42,573 family quarters and $165 million to improve existing family quarters. The conferees agreed to extend section 801, build-to-lease family housing program for 2 years with authority to lease an additional 1,000 quarters for each military service. The conferees also extended section 802 rental guarantee family housing program, for 4 years with authority for each service to contract for an additional 600 quarters.

The conferees provided $53 million for the new Navy homeport at Staten Island, NY, and $44 million for the new homeport at Everett, WA. $180 million was included to continue work on the light infantry division at Fort Drum, NY, and $73 million was authorized to initiate construction for the light infantry division at Fort Wainwright, AK. The conferees authorized $45 million in new construction at strategically important naval and air bases in the Philippines.

PREPAREDNESS ISSUES

The conferees approved $78.6 billion for the operation and maintenance of the Armed Forces in fiscal year 1987, including civilian salaries, base operations, and training. The conferees' action represents a reduction of $7.2 billion from the administration's February request of $85.8 billion and $0.2 billion less than the fiscal year 1986 funding level. With this large reduction, the conference report expresses concern whether we can maintain the improvements that have been made in the readiness and sustainability of our Armed Forces over the past several years.

Substantial reductions were made in both the O&M finance and program requests. The resulting impact on readiness and sustainability is difficult to determine at this time. With the current increasing force structure, a number of reprogramming actions will be required during the fiscal year to minimize the readiness reversals.

Humanitarian assistance. The conference report continues the provision which provides assistance to refugees. The provision provided $17 million for transportation of humanitarian relief supplies to Afghan refugees.

Revolving and management funds and other operation and maintenance related issues. The Department of Defense working capital funds were reduced by $289 million; and funding support for the 10th Pan American Games was provided.

ACQUISITION POLICY ISSUES

As part of the conference report, the conferees adopted the Defense Acquisition Improvement Act of 1986. The act has provisions dealing with many aspects of the defense acquisition process and is intended to address recent high-visibility problems. The following major provisions were adopted to improve the process by:

Adoption of the recommendation of the Packard Commission for establishing an Under Secretary of Defense for Acquisition to be the full-time manager of acquisition in the Department of Defense.

Adopting other Packard Commission recommendations including provisions designed for greater program management stability through milestone authorization as well as shorter management lines of authority in defense systems acquisition.

Establishing a preference in law for the use of nondeveloped items to meet the needs of the Department of Defense and thereby reduce costs in defense acquisition.

Clarifying congressional intent with regard to commercial pricing certification, work measurement requirements, rights in technical data, and the requirements under the truth in negotiations act.

Expanding measures to prevent conflict of interest among Department of Defense employees and members of the Armed Forces involved in the negotiation and administration of defense contracts.

Prohibiting the award of defense contracts to companies which are controlled or owned to a significant degree by countries which support worldwide terrorism.

Establishing new protections from reprisals for contractor employees for disclosure of violations of the law.

Preventing the abuses of undefinitized contract actions in the Department of Defense by placing new restrictions on the use of this contracting method; and

Requiring the use of competitive prototype strategies in major defense systems acquisition.

We all owe a debt of gratitude to David Packard and the other distinguished members of the President's Blue Ribbon Commission on Defense Management for pointing out the proper path to address the causes of most of the serious procurement deficiencies in the Department of Defense.

FOREIGN POLICY ISSUES

In the foreign policy area, the conferees adopted a number of provisions designed to improve the defense of NATO and facilitate arms cooperation with our friends throughout the world.

Southern flank modernization. The conferees took an important step forward in assisting the modernization of

NATO's southern flank by adopting a provision that authorized the President, during fiscal years 1987 and 1988, to transfer excess defense equipment to Greece, Portugal, and Turkey free of charge. The administration is expected to request that this authority be made permanent during the fiscal year 1988 foreign aid authorization process. The conferees recognized that the widespread obsolescence of the military forces of Greece, Portugal, and Turkey has serious consequences for the overall defense of NATO. It is the intent of the conferees that the United States assist the modernization efforts of these allies by transferring equipment which is dated by U.S. standards, but which could still make a military contribution to the defense of NATO's southern flank.

Arms cooperation. In the NATO area, the conferees expanded on last year's action to enhance NATO armaments cooperation by facilitating the Department of Defense's ability to enter into cooperative logistics arrangements with our NATO allies under the aegis of the NATO maintenance and supply organization In the non-NATO area, the conferees adopted provisions designed to increase the Department of Defense's participation in cooperative research and development efforts and cooperative projects with our major non-NATO allies. In addition, the conferees agreed to extend the 1980 NATO Mutual Support Act to certain other countries in an effort to remedy the difficulties the United States is encountering in exchanging logistical support, supplies, and services with these countries.

I yield.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, as a member of the Armed Services Committee I want to thank the chairman of that committee and Senator NUNN and Senator WARNER. These people were the main people who worked so hard. The rest of us played other roles in this conference report.

Certainly the chairman is to be saluted for his dedicated leadership.

That was the most difficult conference that I have ever been a part of since being in the U.S. Senate, and were it not for the dedication of those leaders the report would not be on the floor of the Senate right now.

It is a fitting tribute to Senator BARRY GOLDWATER. This is his last conference report as chairman of the Armed Services Committee. Once again he did an outstanding job under the most extreme circumstances.

I would simply say that I hope that somehow, although it may not be in the rules, we can come up with some kind of an understanding with the House of Representatives that never again would they ever appoint a group of conferees as they appointed in this instance. I do not believe that the U.S. Senate cares nor should it attempt to dictate who are the conferees representing the other House. But I simply wanted to say for the record that the chairman of the conference, who was Senator GOLDWATER, and all of us had a most difficult time because we found ourselves trying to deal unsuccessfully time after time with some 160 or 170 or more Members of the House of Representatives who paraded in and out of the room as if it were some kind of circus trying to deal with the full 19 members of the Senate Armed Services Committee.

There was really no way that we could provide the give and take that is necessary to settle disputes by compromise in conference when time after time we found ourselves in a position of being at a stalemate on an issue because there were one or two members of the Foreign Relations Committee or some other committee that had no jurisdiction whatsoever as far as we were concerned in dealing with the important issues that supposedly are to be resolved between the members of the U.S. Senate Armed Services Committee and the committee of the same essential name on the other side.

It was something that is totally difficult to explain and bring any sense to.

Once again I salute the chairman and the leadership that he has already mentioned for hammering out this that I think basically is a good bill. I salute once again the chairman and wish him Godspeed in his retirement.

Mr. GLENN. Mr. President, I join the distinguished Senator from Nebraska in wishing to express our appreciation and our admiration to the distinguished Senator from Arizona.

I concur in his remarks that this was by far the most difficult conference that I have been a part of in 12 years here in the Senate, largely because of some of the difficulties with the House conference organization.

□ 1620

But the distinguished chairman of the committee, in his usual, straightforward fashion, has brought us through. We are going to miss his leadership around here and I am sorry he has chosen to retire at the end of this term.

Mr. President, I want to comment on two parts of this conference report. The first is the conference itself and the issues that came to be considered in this conference and what I think we should do in the future; and, second, I wish to come back and revisit the subject of SDI research for a few moments, something that was knocked out during the conference. I want to make some comments about that. I am certainly not going to suggest that we resubmit the bill with instructions on that particular issue, but I do feel strongly about where SDI research is conducted and I wanted to have my thoughts on record here on the floor today.

No. 1, as to what was addressed in conference, we found that foreign relations, for the first time in my recollection, became one of the major, if not the major, stumbling block in getting the conference report out.

I have advocated for the last couple of years, not formally, and not in a fashion put forward in a way that would alter the way the Senate does its business, but I have expressed that we no longer can bear the luxury of having a separate Foreign Relations Committee and a separate Armed Services Committee. The two functions overlap too much. I think in the next Congress we should probably consider combining those two committees. I know that is a big order. I know this will strike terror in the hearts of many subcommittee chairmen who have their subcommittees all lined up.

But I, for the life of me, having watched this from the foreign relations aspect, having been on that committee for nearly 10 years, and now, having been on the Armed Services Committee for 2 years, I do not see how we can possibly make foreign policy without intimate knowledge of our military posture that we have available to us around this world and that of our allies; nor do I see, on the other hand, how we can continue to operate just as an Armed Services Committee without taking into very close consideration what the foreign policies of this country are.

Now, that sounds very general, but I have seen it in operation too many times. I do not see how we can keep these functions apart. We either have to combine for a series of meetings a number of times each year and do it on a regular basis in order to have a better understanding of the operation of each other's operation, or it seems to me we should combine the two committees. That would certainly be a very large committee, but the Armed Services Committee cannot perform effectively without these foreign policy considerations nor can the Foreign Relations Committee make policy or consider the policy of the administration without having a much broader knowledge of what our actual military strength is and where we are going with it and that of our allies.

So I bring that up because I think in this conference, more than any time I have seen, we had to consider those matters because the House brought them in. And while we resented that, and I resented it, as the committee chairman did and all the Members on the Senate side resented the House bringing in so many of the foreign policy considerations that had to be resolved, they called in a number of

people from the House, in fact, who were not even members of their military committee over there. They brought in their foreign policy people and appointed them as conferees for the first time. Now, that is something new and different. We have not run into that before.

But maybe we should be grateful to the House. Maybe we should be grateful to the House in that they have finally pointed out that foreign policy considerations are intimately involved with military decisions. And maybe we should react to that on the Senate side in a positive way by saying that we, too, are going to consider these things in a more carefully coordinated way than we ever have in the past; and, yes, we are going to organize to see that we are prepared to deal with that.

So I toss this out here today, Mr. President, with the idea that we have to consider this in the future. The House has brought this to a head by what they did during this conference.

Now, the second item that I want to address concerns the strategic defense initiative research program and where this research is conducted. When we were considering this legislation the first time through here in the Senate, I proposed an amendment that passed here in the Senate 64 to 33. That is a 2-to-1 margin.

What that amendment did was to prohibit the award of SDI research contract awards to foreign governments and firms unless the Secretary of Defense certified to the Congress in writing that the work to be performed under the contract could not reasonably be performed by a U.S. firm. In other words, it would do the research in this country, in America. That amendment was passed on a voice vote by the Senate after a tabling motion was defeated by a vote of 33 to 64. So I had a 2-to-1 vote on that, and the Senate was on record as to what they wanted.

Now, I am sorry that this amendment was, as I view it, given away in the conference. I think it is a mistake.

Why do I think it is a mistake? Let me be a little philosophical for a moment or two about our history in this country. If we were asked to choose two items that we think made this Nation what it is, I do not know what two items you would pick but I know the two that I would pick.

I would say that education was No. 1. We set out to have education not just for the kids from the castle or the rich or politically influential, we set out to have education for all of our people. That was one key, fundamental tenet. That is not at issue here.

The second item that I believe made this Nation strong—basic research—is at issue. We are a curious, questing people. We put more into basic, fundamental breakthrough, Nobel laureate, seminal-type research than any Nation in the history of this world. We learned the new things first. We put together the laboratories and the technicians and the scientists and the people that were to do the research in the laboratories. And it was mainly Government-sponsored research, too.

The President recently said that if research is worth doing, let us do it privately. Let us let private business and industry do it. Yet the very history of our Nation shows that we did it through a dozen or so major, rational laboratories where we did the breakthrough research; at the colleges and universities of our Nation; or by private research institutes. More importantly, most were funded using Federal funds and although the dollar amounts compared to our overall Federal budget were small, they were absolutely vital to the long-term future of our country.

A couple of years ago, I conducted a survey where we sent out questionnaires to the Nobel laureates in this country and asked them if they would be willing to share with us where they got the research support, where they got the funding for their research that enabled them to be Nobel laureates. I think there were 85 or 86 percent of them that said without Federal Government help at the college or university they were assigned, or at the national laboratory at which they worked, they could not have conducted the kind of research that enabled them to win the Nobel laureate prize.

Now, that just indicates that this is seminal; it is key to the future of this country.

Where do we see ourselves standing now? We find ourselves now having recovered from World War II. We helped the nations around the world to reach a position after World War II where they can be technologically competitive with us to the point where we now have a trade deficit for this year around $170 billion—$170 billion in 1986.

And what are they doing? They have seen the goose that laid the golden egg in this country of ours and they are beginning to outcompete the United States of America in certain selected areas.

What does that mean in relationship to star wars and the research that is going to be categorized, and channeled into certain areas. What do we do with star wars? We say we are going to give some of that specialized research to foreign governments.

This at a time when our basic research institutions in this country, when our colleges and universities are crying for research funds. Overall, the basic research funding for this Nation was cut about 29 percent in the first year of this administration. Although the administration has been adding back small increments ever since, but the overall cuts have greatly reduced our basic research expenditures.

Now, the private industry approach the President talks about is a valid thing for some companies, but it is tiny compared to the overall research needs of this country. We have some companies that have been exemplary in putting money into long-term research, not the 3- to 5-year research aimed at the bottom-line payoff for a particular chief executive officer; but the kind of research we are talking about are the 10, 15, 20-year research programs.

□ 1630

Those are the ones we are talking about. Blessings on those companies that do that—and we have a few. We have Bell Labs, Monsanto, 3-M, IBM, and a few companies like that. But our basic research moneys for this Nation, the really basic things from which come all the new industries and whole new lines of employment, development and all of that, came basically in the past from Government-oriented research.

Where do we find ourselves now vis-a-vis our colleagues in Europe? Well, the President proposed star wars in 1983 and waited 2 years and got very poor support from our allies around the world—practically none. They basically talked against it. They were not for it. So 2 years later, the President came up with this idea, and I do not blame him. He essentially said, OK, we will share this research money with you. We will let you share in SDI research.

Then that turned them around somewhat and they started talking about participating because they were going to enjoy considerable benefits. In effect, we were buying political support. It is like a kid standing in the schoolyard with a big bag of candy, passing out the candy. He is going to have a lot of kids around. He will be very popular for a while because of what he is giving out.

What does this do to our own research establishments here? It sends money abroad so they can outcompete us even more. We doubted that for a long time. We listened to the words of Helmut Kohl in Germany, who made the point that one of the reasons he wanted to support SDI was because of the civilian spinoffs that would come from this program.

We are talking about huge expenditures of money in optics, computer technology, laser-powered transmission, and other research areas in which there will undoubtedly be enormous civilian spinoffs. These are long-term research projects. They let people build up all the technicians, scientists, laboratories, the scientific community to back all of this up.

You put another factor into this, too. At least most of us on this floor have been trying to encourage, our allies around the world to be more cooperative in burden sharing. Indeed, the distinguished minority member of our Senate Armed Services Committee, Senator NUNN, even proposed an amendment here on the floor 2 years ago, I think, part tongue-in-cheek, and I voted for it part tongue-in-cheek, proposing to take our troops out of Europe unless our allies share more in the burden.

We are procuring carrier task forces at $13 to $15 billion per group to help keep the sealanes open for our allies as well as ourselves. We keep over 350,000 troops in Europe all the time.

We had a commitment from the Europeans for a 3-percent growth in their defense expenditures, but most of them are not living up to that in any consistent fashion since the pledge was made.

We see burden sharing by and large as having been one-sided. Yet we are going to provide SDI research money at a time period when our allies have not been willing to assume their burden sharing obligations in the way we think they should.

In spite of all the history of this, in spite of seeing what research does for a nation over the long term, now we are going to send more research money overseas. I would ask how much money have the Germans, Japanese, French, British, and others sent to this country to help build up our laboratories in years past? They do a lot of procurement in this country and we appreciate it. But we are talking about the research seed money for the long-term future. We are talking about seed money that is going to have a civilian application as well as a straight application in star wars.

We have many, many places in this country, many colleges and universities, the National Science Foundation, the National Academy of Science, private industry research institutes, like Battelle in my State, fully capable of doing this research if we but have them do it.

That is what I think we should do and that is what my amendment addressed when it was presented to the conference committee.

I proposed the original amendment here in the Senate because I believed that the SDI Program involves revolutionary, state of the art, technological research which is very likely to have a significant spinoff capability to our country in many other areas. So at a time when our research base is hurting I believe we should use SDI research dollars for building up our own research infrastructure and not that of our economic competitors. Further, I believe the administration's obvious but unstated policy of buying our reluctant ally support for the SDI Program does not supersede our need to keep defense dollars for SDI research in the United States whenever possible.

I also feel we should not permit our allies unlimited opportunities to bid on this important national security research project at a time when most of our NATO allies have not lived up to their commitment to annually increase by 3 percent in real terms their defense expenditures.

The second amendment I proposed after we were in conference, which modified my first amendment somewhat, made it even more advantageous to the President. It was not as stringent a restriction as I had originally proposed. What it did was to state that no more than 3 percent of annual DOD SDI appropriations could be used for foreign contracts.

It appears that we are not expecting to go above that level anyway so why not cap it at that level? That is what my amendment will do.

It would also state that if our allies are at least willing to share 50 to 50 the burden of that research, then, fine, we go ahead with that kind of contracting without the 3 percent caps and at least we are getting some burden-sharing.

My amendment would also not effect contracts awarded before enactment, nor would it affect funds appropriated specifically for research, development, test and evaluation in connection with the antitactical ballistic missile. That was a program of special concern for our allies.

Also, exempted are contracts performed within the United States.

We even included a provision that ensures that the Bayh amendment would apply to foreign contracts within that 3-percent cap. The Bayh amendment goes back to fiscal 1973 when the Department of Defense Appropriations Act provided that no DOD research and development contracts may be awarded to foreign firms if a U.S. entity is equally competent to carry out the work and willing to do so at a lower cost.

Just a brief, summary on how the amendment would impact the SDI research program. It is helpful, I think, to look at SDI contract awards to date. This information comes from the SDI office.

Foreign contracts awarded are as follows: United Kingdom, fiscal year 1986, $16.7 million; West Germany, $11.7 million; Israel, $1.1 million; France, $1.1 million, and Italy, $0.5 million. So we put out $31.1 million in SDI contracts for fiscal year 1986.

In fiscal 1986 the Department of Defense was authorized $2.75 billion for the SDI Program. Therefore, had this amendment as modified been enacted prior to 1986, it would have permitted the award of $82.5 million in DOD's SDI-related contracts with foreign governments and firms in fiscal 1986. That is $51 million more than what was actually awarded.

As previously noted, my amendment would have permitted additional foreign contract obligations in excess of $82.5 million if you include ATBM research.

I strongly believe that this amendment, as modified, would not place a major burden on our allies or the SDI Program, yet it would signal our clear intent to emphasize our own research base. It would give the Congress a specific and important continuing control mechanism to enforce that intent. That was the intent of it. That was the way I hoped it would be carried out.

I am disappointed that the Senate acceded to the House in the DOD authorization conference on this particular issue, particularly after the will of the Senate had been expressed 2-to-1 in favor of the amendment. Indeed, I even modified it to make it less onerous to the administration and the House by the change I made in committee.

□ 1640

So that was the basic goal I was trying to accomplish with my amendment. I was not trying to be obnoxious to our allies. In fact, I have had some long and lengthy discussions in my office with one ambassador after another and administration representatives on this subject since my first amendment passed 2 to 1 here on the Senate floor. They are very disturbed about it.

When I asked, however, why there was not European support for this program prior to the passing out of SDI dollars for research, they were silent. In fact, as I said before, Helmut Kohl even said civilian spinoffs is one of the main things he used to sell this program to his own people. I want to see those civilian spinoffs go to the United States of America, not to some foreign country.

So I am sorry that my amendment was defeated in conference after such a big win here on the floor of the Senate. I think it was a big mistake and I have every intention to revisit this on later legislation either in the remaining days of this Congress or early next year.

NUCLEAR ENVIRONMENTAL ISSUE

Mr. GLENN. Mr. President, another provision in the conference report that I feel compelled to bring to the attention of my colleagues concerns the Department of Energy's compliance with Federal environmental laws.

The conference report contains a provision that initially exempts the Department of Energy from having to pay any penalties for violation of Federal environmental laws. It also relieves DOE from having to perform

work or services required by another Federal agency or a State in excess of the "amount specifically appropriated to DOE to comply with such environmental requirement."

Just 2 weeks ago, I released the fifth in a series of studies done by the GAO at my request documenting the serious environmental contamination problems of DOE nuclear defense facilities. I also introduced a resolution calling on DOE to, among other things, raise environmental protection to the same level of priority as production of nuclear materials.

The DOD conference report flies in the face of the facts that have been uncovered about groundwater and soil contamination at DOE facilities, and the resulting potential threat to human health.

Consequently, I intend to offer legislation at the beginning of the 100th Congress to correct this unsatisfactory situation.

So I yield the floor.

Mr. STENNIS. Mr. President, will the Senator yield to me for less than half a minute?

Mr. GLENN. Certainly.

Mr. STENNIS. I want to commend him and thank him too for a very fine presentation here. It is something he is familiar with and worked on as have some other members of the committee. I think the Senator is foretelling the future. We must do these things. I commend the Senator very highly.

Mr. GLENN. I thank the distinguished Senator from Mississippi very much for his remarks.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I commend the Senator from Ohio for his outstanding work on this bill. He has done a splendid job. He spends an extraordinary amount of time on national defense issues. He is our ranking Democrat on our Manpower Subcommittee. He gets involved in all realms of the defense authorization bill and his expertise in foreign policy and his military experience have been invaluable to our committee.

I want to commend also the Senator from Ohio for his leadership.

I might say the Senator from Michigan has done an outstanding job on this bill and one of our most valued Members. We are grateful for his tremendous leadership, particularly in the procurement area. That was one of the most difficult areas we had this year. The Senator from Michigan as well as the Senator from Indiana have done a marvelous job of working out very, very thorny and controversial details there. So I commend both the Senator from Michigan and the Senator from Indiana for their great work on this bill.

Mr. President, I am pleased to join my colleague, the distinguished chairman of the Armed Services Committee, Senator GOLDWATER, in bringing the conference report on S. 2638, the Defense Authorization Act for fiscal year 1987, to the floor.

There were times during the last month when I doubted that we would ever reach a conference agreement on this bill. There were approximately 2,000 differences between the House and Senate bills which the conferees had to resolve—1,600 dollar or funding issues and another 400 differences in language. There were several major areas—such as arms control policy and defense acquisition policy—where there were deep and fundamental differences between the House and Senate bills. This has been an extremely difficult conference with very intense negotiations, certainly more so than any I have seen since I have been in the Senate.

Frankly, Mr. President, it is imperative that the first order of business next year be major changes in the way Congress provides oversight for our national security. The President has signed into law the sweeping changes in the organization of the Pentagon in the Goldwater-Nichols bill. Chairman GOLDWATER and I said at the outset that DOD reorganization without parallel major changes in congressional procedures would be incomplete.

This conference is just another example—the most recent example—of why Congress has to get its act together and its house in order.

We cannot continue the duplicative, redundant and thrice yearly debate on DOD programs. We cannot repeat the situation this year when the Senate Armed Services members were essentially conferring with House Members who did not have an institutional stake in finalizing our bill.

I must say on the Senate side that we have to do something about germaneness. I am not suggesting a rule change at this stage. But I do believe if the defense authorization bill each year becomes the dumping ground for every other piece of legislation that has not found a home we just will not ever get through. The Senate is reinforcing the worst tenets of the House because every time we put a nongermane amendment they appoint outside conferees. Every time they appoint outside conferees we have a situation where we reach an impasse. The combination of the two is lethal to the authorization process.

Mr. President, it was in a spirit of compromise and cooperation on which we finally prevailed to pass this conference report in the conference itself. I hope it will be approved here this afternoon. This is a tribute to the leadership of Chairman GOLDWATER of our committee and Chairman ASPIN and Congressman DICKINSON of the House Armed Services Committee.

I must also pay particular tribute to the Senator from Virginia for leading the Senate team in the arms control negotiations as well as many other negotiations because without his outstanding leadership we could not be here with this product today.

Also I have already mentioned the Senator from Michigan, Senator LEVIN, and Senator QUAYLE from Indiana. I also want to pay tribute to Senator COHEN from Maine. Senator COHEN has been one of our most valuable Members. He is an outstanding student of the overall defense posture of our Nation, the challenges we face in the world, and also an outstanding student of arms control issues. So I pay particular tribute to him.

If anyone who has ever been in a conference recognizes that the only way one resolves profound differences is when Members on both sides of the conference have a stake in getting the bill passed. What we have had this year, and we have had in the past, but this year has been the most intense—we have had a number of outside conferees who had a stake in only one provision of the bill. But they could veto the whole conference by holding up that one provision. That means you just cannot get the bill through. That means an authorization process itself in my view which will be impossible to complete in the future if we continue to have this done on the House side.

As the 99th Congress comes to a close, I want to point out that this has been one of the most productive years for the Armed Services Committee since I came to the Senate.

This is the fourth major piece of legislation that the Armed Services Committee has brought before the Senate this year. The President has already signed into law the Military Retirement Reform Act of 1986, which was included as a separate title in the fiscal year 1986 Supplemental Defense Authorization Act.

The Supplemental Act was made necessary in part by many of these frustrations that I have alluded to in this statement this afternoon.

In the last 2 weeks, the President signed the landmark Goldwater-Nichols Department of Defense Reorganization Act of 1986.

I am prone to say here this afternoon that I would like for our colleagues to recognize that has now become law. It became a product of consensus before it was over, although it was one of the most controversial pieces of legislation that we have passed through this body concerning defense in the last 40 years. But the product of consensus meant that when it finally was signed into law nobody knew it. Our friends in the news media, rightly so I am sure, report mainly items that are in controversy. This item was not in controversy when

it was signed by the President but it is the most sweeping reform of the Defense Department we have had since the Defense Department was created in the late forties. Again I want to pay tribute to Senator GOLDWATER for his outstanding work in this regard as well as Congressman NICHOLS.

This conference report on the fiscal year 1987 Defense Authorization Act is the final major piece of legislation produced by the Armed Services Committee this year.

Mr. President, the substantial legislative achievements of the Armed Services Committee this year are due in large part to the outstanding leadership of our chairman. The Senate and the country are fortunate to have a chairman of the Armed Services Committee as experienced, as knowledgeable, and as committed to a strong national defense as is Senator GOLDWATER. It has been a privilege and honor to serve as the ranking member of the Armed Services Committee under Chairman GOLDWATER's leadership during this Congress. His firsthand knowledge of just about every military system, his insight and his wisdom are invaluable and irreplaceable.

His retirement means that the Senate is losing one of the true giants of this body.

Mr. President, Chairman GOLDWATER has outlined the details of the conference agreement, and I will not repeat what he has said. I would just like to highlight the resolution of what I consider some of the more important issues before the conference which will have a major policy impact.

I will just ask again that our colleagues refer to some of the statements in the RECORD on this legislation because it is, as the Senator from Mississippi has already observed, enormously important. It has a tremendous number of legislative initiatives as well as funding, so I commend this bill to careful study as Congress concludes.

Mr. President, I want to also pay tribute to Jim McGovern, the staff director for the majority.

□ 1650

He is leaving us now after this session of Congress and going over to greener fields—at least he thinks so—in the executive branch. He has done a tremendous job for our committee. He goes with our best wishes. I think that is spoken for both sides of the aisle.

I also thank my right arm here, Arnold Punaro, who has worked night after night, day after day, and done a tremendous job for us.

I also want to pay tribute to our senior Senator from Mississippi [Mr. STENNIS], who is on the floor. He has been our link to the chairman in the past years. He has kept our process going. All these frustrations and redundancies between the committees and all the problems we have would have been insurmountable if it were not for the guidance, the patience, the wisdom, and the experience of the Senator from Mississippi. We tip our hats to him as we have so often in the past.

NATIONAL DEFENSE BUDGET SUMMARY

Mr. President, returning to my explanation.

The total amount authorized for defense appropriations in this conference report is $216.9 billion. When the personnel levels authorized by the committee, as well as the remaining elements of the national defense function, are included, the conference report results in a total of $291.9 billion in budget authority for the national defense function in fiscal year 1987 unless the contingency reductions which I will discuss in a moment go into effect. This is very close to the $292.2 billion in national defense budget authority for fiscal year 1987 provided in the fiscal year 1987 budget resolution.

The outlay situation is different. When the Armed Services Committee first brought this bill to the floor in August, we pointed out that the committee just could not meet both the $292.2 billion budget authority and the $279.2 billion outlay figures for national defense. These targets meant we had to reduce the President's budget request by $28.0 billion in budget authority and $17.5 billion in outlays, which would have required us to get 63 cents in outlays out of every $1 of budget authority we cut.

This is totally unrealistic. We pointed out that to legimately meet the budget resolution outlay target, we would have had to cut much deeper in the faster-spending personnel and readiness accounts than we did, or we would have had to cut the overall national defense authority much lower than $292.2 billion.

We found ourselves in the same position in conference. The conferees found it impossible to legitimately meet both the budget authoriy and outlay targets for national defense in the fiscal year 1987 budget resolution without making disproportionate cuts in the personnel and operations and maintenance accounts.

There was a way for the conferees to ease the pain of hitting the budget resolution outlay target, and that was by using budget gimmicks. We did not choose that route.

There are a number of these gimmicks that have surfaced in recent months. Some of them have even been proposed and endorsed by the Defense Department. One gimmick would slip the military payday next September from the last day of the month to the first day of the next month, thereby slipping one military payday—and $2.9 billion in outlays—from fiscal year 1987 to fiscal year 1988. Another gimmick would reduce the level of monthly progress payments to defense contractors.

None of us in the conference liked these budget gimmicks. These gimmicks do not make any real contribution to deficit reduction; they just postpone legitimate spending from one fiscal year to another. Using these gimmicks also undermines our credibility with our colleagues in Congress and with the American people.

The conferees agreed at the start of the conference that we would try to hit the budget authority and outlay targets of the budget resolution honestly, without using any of these gimmicks.

We did not succeed, Mr. President. We hit the budget authority target in the budget resolution, but the overall outlay figure for national defense with our conference report is approximately $281.5 billion, or $2.3 billion above the $279.2 billion outlay target in the budget resolution.

Rather than make up this $2.3 billion in outlay reductions with budget gimmicks, the conferees adopted a contingency authorization. This contingency authorization would reduce the authorizations in the conference report by an amount necessary to hit the budget resolution outlay target only if the final fiscal year 1987 Defense Appropriations Act does not include a provision to delay the military payday by 1 day or to reduce progress payments for defense contractors.

Mr. President, we know that the final fiscal year 1987 Defense Appropriations Act will probably contain both of these provisions, and therefore this contingency will not go into effect. We are not trying to embarrass our colleagues on the Appropriations Committee because they used budget gimmicks and we didn't. The ratio of budget authority to outlay reductions required by the budget resolution put them in an impossible position. The reason our conferees included this contingency authorization reduction was to demonstrate to our colleagues and to the American people the types of reductions in defense programs that would be necessary to meet the $279.2 billion outlay target in the budget resolution honestly, with no gimmicks.

There are a number of ways we could have made the necessary reductions. The contingent reductions adopted by the conferees were allocated across all areas of the defense budget.

If the fiscal year 1987 Defense Appropriations Act does not include one of the budget gimmicks I mentioned above, the contingency in this conference report would:

Reduce the military pay rise from 3 percent on January 1 to 2 percent;

Reduce the authorization for procurement by $3.0 billion;

Reduce the authorization for RDT&E by $1.2 billion;

Reduce the authorization for O&M and Stock Funds by $1.6 billion;

Reduce the authorization for military construction and family housing by $166 million; and

Reduce the Department of Energy National Security Programs by $167 million.

Altogether, the contingency reduction would reduce the fiscal year 1987 defense budget authority authorized in the conference agreement by $6.6 billion in order to save the $2.3–2.9 billion in outlays necessary to hit the $279.2 billion outlay target in an honest, "no gimmick" fashion. This would mean a fiscal year 1987 national defense budget authority level of approximately $285.1 billion, which is below the fiscal year 1986 level of $286.1 billion.

Other than reducing the military pay raise from 3 percent to 2 percent, the contingency reductions are not program-specific. The reductions would simply be general reductions by title Procurement, R&D, O&M, Military Construction, and the Department of Energy programs.

The reductions required by this contingency would be very damaging to our national defense. In procurement, for example, the $3 billion reduction would require the following types of cuts: 1 Aegis cruiser; 1 Trident submarine; 12 F-15 fighters; 36 F-16 fighers; and 120 M1 tanks.

In R&D, we could cut $1300 million out of the ATB bomber; terminate the SRAM II missile, the advance tactical aircraft and advanced technology fighter; cut $200 million out of the SSN-21 new attack submarine; and $300 million out of SDI. However, there is already $1.7 billion of undistributed cuts in the R&D accounts in the final conference report, so these kinds of cuts would be painful on top of these undistributed reductions. I am giving these cuts as an example only. The list could be replaced by similar cuts.

In O&M, there would be larger reductions in depot maintenance programs. Equipment overhauls would be delayed, and operating tempos—flying hours, steaming hours, and field training—would be reduced.

The point of this contingent authorization is to demonstrate what many of us have been saying for several months: The budget authority and outlay targets for national defense in the fiscal year 1987 budget resolution were very unrealistic. We cannot go on adopting a budget authority target for national defense that satisfies most people, then cutting the outlay target far below what can realistically be achieved. By showing the types of cuts that are really and honestly necessary to reach the outlay target in fiscal year 1987, we hope to avoid this situation next year. All of the conferees expressed the hope that the budget resolution for fiscal year 1988 will have a more realistic combination of budget authority and outlay targets that does not force Congress to choose between disproportionate reductions in faster-spending personnel and readiness accounts and the use of budgetary gimmicks that make no meaningful contribution to deficit control.

ARMS CONTROL

By far the most controversial issues in the conference were in the area of arms control. Despite our many differences in this area, though, the discussions between the House and Senate conferees were guided by our mutual interest in establishing a strong bipartisan consensus on arms control prior to the President's meeting last weekend with General Secretary Gorbachev in Reykjavik. I know of no one—Democrat or Republican—who believed that our Nation's interests would have been well served if the President were to have met the leader of the Soviet Union against the backdrop of a sharp, divisive dispute back in Washington on the very issues that were at the heart of the summit agenda.

At another time, I will have more to say about the Reykjavik summit and its implications for national security and United States arms control policy. It is important to note, though, that however history judges the outcome of the summit—whether in retrospect it will be seen as a failure or as an important advance toward an improved United States/Soviet relationship—President Reagan was able to begin his meetings in Iceland with a strong impetus provided by the sound compromise on arms control issues which we struck here in Washington on Friday.

In the final package on arms control that emerged from our discussions, neither the House nor the Senate came away with a clear victory. I am sure that there are many Senators and many in the administration who believe we had to yield too much to the House. And I know there are many in the House who feel quite strongly that the House came away with too little. But that is the nature of conferences. Any compromise, by definition, means that both sides had to give.

Let me briefly outline the major elements of the arms control package.

First, the centerpiece of our discussions involved the nuclear testing issue. The problem we faced was that the President clearly would have vetoed the House's binding moratorium, yet the House insisted on more than just the Senate's nonbinding language. I believe that we were able to find a middle ground between these two positions which is consistent with the broad purposes of both Houses, protects our national security interests, and advances longstanding U.S. arms control objectives with respect to a comprehensive test ban.

As part of this overall arrangement, the President sent a letter, dated October 10, to Chairman GOLDWATER and Chairman ASPIN in which he made two significant pledges. First, he promised to request, as a first order of business next year, the advice and consent of the Senate to the ratification of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties [TTBT/PNE]. The President indicated that if the Soviets will in the next few months agree to United States proposals for an improved set of verification procedures for these treaties, that understanding could be submitted as a protocol to the treaties which the Senate could consider during its ratification proceedings. If, however, the Soviets do not agree to these improved procedures, then the President will work with the Senate in drafting a reservation to the treaties dealing with verification.

Although the United States has been observing the 150 kiloton ceiling on nuclear tests established in these treaties, there are important provisions that have never been implemented since the treaties have not been ratified. For example, the PNE Treaty provides for onsite inspection of nuclear detonations at Soviet PNE sites.

Second, the President pledged that as soon as these two treaties enter into force, he will immediately propose new negotiations on further limits on nuclear testing, leading to a total ban. This program of step-by-step reductions in nuclear testing would proceed in parallel with our arms reduction efforts in Geneva.

Taken together, these two pledges represent a significant change in administration policy on nuclear testing—one which the President acted on in Reykjavik. From the administration's postsummit briefings, we have learned that the United States and the Soviet Union reached a tentative agreement on nuclear testing that included ratification of the TTBT/PNE Treaties with improved verification procedures, to be followed by new negotiations on a step-by-step approach to a total test ban. I regret that this potential agreement fell victim to the final disagreement over SDI, but I hope the Soviets will agree to delink nuclear testing from SDI and permit us to go forward with the sensible approach the two leaders agreed to in Reykjavik.

The other major elements of the arms control package include:

Nonbinding language urging the President to continue to observe the central numerical sublimits of the SALT II Treaty as long as the Soviet

Union continues to observe those same sublimits. This strong expression of the sense of Congress should be carefully considered by President Reagan in the weeks ahead.

For SDI, $3.53 billion—DOD and DOE combined—a figure which split the difference between the House and Senate levels in the authorization bills. This figure is a $1.8 billion reduction from the President's request but more than a 15-percent real increase over last year's SDI funding level.

For Midgetman, $1.2 billion, which will protect the option of going into full-scale engineering development in fiscal year 1987 if the Defense Department agrees later this year to stick with the 37,000-pound, one-warhead baseline design.

Full funding for the 155 millimeter binary chemical artillery shell and the deletion of the House-passed provision that would have blocked the removal of existing unitary stockpiles from Europe. The conferees also agreed to put the procurement of the Bigeye chemical bomb on hold for another year and to prohibit any final assembly of the bomb prior to October 1, 1988, though the establishment of the production facilities can go forward if the President certifies that production of Bigeye is in the national security interests of the United States and that all design, planning, and environmental requirements for the production facilities have been met.

The Senate conferees also reluctantly agreed to extend for another year the ban on testing the United States F-15 ASAT system against an object in space as long as the Soviet Union does not conduct a test of a dedicated ASAT system against an object in space. However, we agreed to provide $200 million for continued research and development of the F-15 ASAT system.

Mr. President, I commend all of the Members of the Senate and House who were involved in the difficult negotiations on these issues for the past month.

STRATEGIC PROGRAMS

In the major strategic programs, this conference agreement authorizes the Trident submarine requested in the fiscal year 1987 budget; keeps the Trident II SLBM development on track; provides full funding for the advanced cruise missile and the advanced technology bomber; and puts to rest all options for more than 100 B-1B's.

The conference agreement also keeps all of our options open on the third leg of the Triad, ICBM modernization. This area continues to be filled with controversy and strongly held views on all sides. The conferees agreed to keep open for 1 more year the option for the administration to identify a more survivable basing mode for additional MX missiles, as was implicit in last year's MX agreement.

At the same time, the conferees provided funds for the Air Force to vigorously pursue the small ICBM, or Midgetman missile should the upcoming DOD Program review support proceeding with a single-RV missile or less than 40,000 pounds on a hard mobile launcher. In sum, we have agreed to keep a number of options open on how best to modernize ICBM's, until the Defense Department completes various ongoing studies and reviews, and we have provided enough funds and enough flexibility to keep the Congress from being an inadvertent obstacle.

SDI AND THE BALANCED TECHNOLOGY INITIATIVE

The strategic defense initiative was also a central concern of the conferees. The Armed Services Committee's recommendation of $3.95 billion for SDI in fiscal year 1987 emerged from our committee with a margin of only a vote. That number survived two additional amendments on the Senate floor to seek lower numbers by a single vote each time. In conference, we faced a substantially lower House number, essentially 3 percent above last year's funding. Moreover, during our conference, our Senate appropriators marked their bill some $200 million below the Senate authorized level. Nonetheless, as I previously mentioned, we were still able to agree on a figure, $3.53 billion, which split the difference between the House and Senate levels in the authorization bills.

I am also very pleased that the conferees accepted the balanced technology initiative [BTI], which Senator COHEN and I sponsored during our committee markup. The BTI is an effort to get DOD to focus the same kind of broad-based, innovative technological research on the problems of conventional defense that has been developed in strategic defenses. It is an effort to redress the imbalances in R&D that have arisen as SDI has begun to consume an inordinate percentage of our military R&D dollars. Indeed, a recent Defense Science Board task force found that, in terms of armor and antiarmor capability, the United States was a full decade behind the Soviets, and falling farther behind on both armor and antiarmor. Yet next year's budget request just for the SDI was projected to be larger than the R&D budget for the entire Department of the Army.

The Senate endorsed a proposal made by Senator COHEN and me that transferred $453 million from SDI into the balanced technology initiative for research on how to "leapfrog" a variety of conventional warfare advantages that the Soviets now enjoy. Our colleagues in the House had similar concerns, although the focus of their conventional defense initiative [DCI] was somewhat nearer-term, and heavily focused on taking advantage of items being developed by our allies. I am pleased to report that the agreement encompasses all of the BTI funds that were in our bill, and also funds $162 million of the House's DCI. This will be an important first step in redressing our deteriorating conventional capabilities in NATO and elsewhere around the globe.

Finally, Members will recall that the report of our committee on SDI provided new guidance and direction to the SDI Program. Our language cited four important reasons for supporting a robust SDI Research Program: to better understand defense technologies to aid us in understanding Soviet capabilities in the strategic defense area; to examine near-term deployment options as a hedge against Soviet ABM breakout or a failure of current restraints on offensive force growth; to explore the technical feasibility of highly effective and survivable strategic defenses that are also cost-effective at the margin; and to continue leverage that this program has provided our arms control negotiators at Geneva.

Our committee's report language further directed that the major emphasis of the SDI henceforth should be focused on the development of options for enhancing the survivability of our retaliatory forces and command, control, and communication systems, rather than toward leakproof or astrodome-type population defenses, which, if feasible at all, are likely to be decades away. That language also suggested that, if we are to capitalize on the historic opportunities in arms control created in part by the SDI, we should be prepared to consider adjustments to the pace and scope of SDI if the Soviet Union agrees to significant, stable, and verifiable reductions in strategic offensive forces. I am pleased to report that the conferees have agreed to adopt the Senate's language on SDI in full.

CONVENTIONAL FORCES

In the area of conventional forces, I am afraid that the conference agreement continues the unfortunate and inefficient practice of stretching out the production rates of major weapons system. The conference report includes serious production rate stretchouts for AH-64 helicopters, M2 fighting vehicles, F/A-18, F-15, and F-16 fighter aircraft. These systems which were stretched out were the few systems that are being produced at relatively efficient rates, and the conferees decided to cut them back.

The conferees did not cut any of the systems that have extremely inefficient production rates because you cannot cut them back without driving unit costs up exorbitantly, and no one is prepared to terminate these pro-

grams. So we are forced to stretch out the efficient programs. This is one of the most serious problems we face in acquisition and we have postponed the solution again.

Even more disconcerting is the fact that all of the major new start programs—the light helicopter in the Army, the V-22 tiltrotor aircraft, advanced tactical aircraft, and SSN-21 new attack submarine in the Navy, and the C-17 transport and advanced technology fighter in the Air Force—were funded with only minor changes. The same year we cut 78 combat aircraft, aircraft that were requested because we cannot afford to buy that many, we start 6 major new programs.

Both the Pentagon and the Congress need to reverse our current practice of starting more programs than we can afford to buy efficiently and cutting back on already inefficient production lines to pay for these new starts.

OPERATIONS AND MAINTENANCE

In the important area of operations and maintenance, the conference agreement includes reductions of approximately $7.2 billion from the original fiscal year 1987 budget request of $85.7 billion.

This authorization level for operations and maintenance is $2.3 billion below the level in the Senate bill, and $3.0 billion below the level in the House bill. The conferees took the unusual step of authorizing a level below both bills only after it became clear that the pressures to meet the budget resolution outlay target would result in a final appropriated level for the operation and maintenance accounts that was well below the levels of either House or Senate authorization bill. In the face of this reality, the conferees agreed to authorize a level of funding for operations and maintenance by account that equalled the higher of the two levels recommended in the House and Senate versions of fiscal year 1987 Defense appropriations bill. The conference report also includes a provision authorizing higher levels of spending for readiness programs in these accounts, if appropriated.

For the past several years, Mr. President, Congress has done a good job of protecting the important readiness programs funded through the operations and maintenance accounts from the affects of budget cuts. I am not sure we can make that claim this year.

The authorization for operations and maintenance in this conference report represents zero real growth over the fiscal year 1986 level. Large amounts of new equipment purchased 3 to 4 years ago is starting to be delivered to the troops, with the result that the costs of operating and maintaining the existing force structure continues to grow. Approximately 80 percent of the operations and maintenance budget goes to meet the fixed costs of stationing and operating our forces. The discretionary and variable parts of the operations and maintenance accounts are largely composed of programs that make a direct contribution to readiness—flying hours, steaming time, depot maintenance and real property maintenance.

It is very probable that the level of operations and maintenance funding approved by the Congress will cut into some of these discretionary areas of the operations and maintenance budget, and readiness could suffer.

We will have to closely watch this area of the Defense budget in the coming year.

DEFENSE MANPOWER

In the area of Defense manpower, the conference report authorizes only half (6,850) of the requested 13,730 increase in active duty military strength. Most of this increase will go to the Navy to man new ships coming into the fleet.

Part-time strength for the Reserve components was increased by 43,021, or two-thirds of the original request, while full-time Reserve strengths were increased by only 4,000, or one-third of the 12,750 requested increase.

The conferees agreed to extend for 1 additional year the current test program which allows the Department of Defense to operate without an end strength on civilian personnel.

The conference report authorizes a 3-percent pay raise for military personnel effective January 1, 1987, which is consistent with the assumptions of the budget resolution. The conference report also includes legislative authority to enable the Defense Department to pursue alternatives to the current CHAMPUS System for providing health care to military beneficiaries.

Finally, the conferees agreed to a modification of a provision in the Senate bill which will reduce the size of the officer corps in the Department of Defense by 6 percent at the end of the next 3 fiscal years. This provision will help reverse the recent disproportionate and unjustified growth in the size of the military services' officer corps over the last 5 years.

DEFENSE ACQUISITION POLICY

Both the Senate and House bills contained a number of provisions in the area of Defense acquisition policy. Some of these were controversial and were very difficult to resolve.

Both bills contained provisions which would implement a number of recommendations by the President's Blue Ribbon Commission on Defense Management, the so-called Packard Commission. Among these provisions was the delineation of duties of the newly established Under Secretary of Defense for Acquisition. The conferees also adopted the Senate provision providing a deputy for the new Under Secretary.

After much discussion and debate, the conferees agreed to the House provision requiring the Director of Operational Testing and Evaluation to continue to report directly to the Secretary of Defense. As my colleagues will recall, there was a very close vote on this issue on the Senate floor.

The conferees implemented a number of other Packard Commission recommendations, including the creation of Defense Enterprise Programs with more streamlined procedures allowing greater flexibility and authority for program managers; milestone authorization procedures; requirements for greater use of off-the-shelf or "non-developmental" items; and greater use of prototyping when appropriate.

On the subject of post-employment activities of Department of Defense employees, or the "revolving door," the conferees agreed to a 2-year ban for those persons with a personal and substantial involvement in defense procurement with specific contractors.

Last year's bill included a "should cost" or "work measurement" provision which established a requirement that defense contractors record certain labor and material costs for contracts over $100,000. The conferees clarified the provision enacted last year by saying that DOD officials should have access to contractor records concerning labor costs and measurement standards in the form and manner that they are kept. The conferees went on to confirm that in no way should this provision cause any new data to be recorded and that Defense officials can get access only to information which contractors choose to record.

Finally, the House bill contained two provisions dealing with protection for contractor and military "whistle-blowers." The conferees adopted a provision which addressed the right of contractor whistleblowers to pursue grievances through the judicial process. However, in the absence of hearings on these issues, action on military whistleblowers was postponed. Many of the conferees felt adequate avenues of recourse for military members already exist, and they were also concerned about the effect of additional remedies on the unique structure of the military system.

In closing, Mr. President, I want to add a personal note of thanks to the Senator from Arizona for his service in this difficult conference. Senator GOLDWATER's knowledge and grasp of the entire range of issues affecting our national security have been an invaluable asset for our Committee, for the Senate, and for the Nation. The Senate and the Nation are indeed fortunate to have a man of his wisdom and experience serving as chairman of the Armed Services Committee.

I also want to thank all of the members of our committee for their diligent work in this conference and throughout the year in bringing us to the point of passing this conference report. I want to particularly note the outstanding leadership of Senator HART and Senator WARNER of the Strategic Subcommittee; of Senator KENNEDY and Chairman GOLDWATER on tactical issues; of Senator EXON and Senator COHEN on the Seapower and Force Projection Subcommittee; of Senator GLENN and Senator WILSON on the Manpower and Personnel Subcommittee; of Senator DIXON and Senator HUMPHREY of the Preparedness Subcommittee; and of Senator BINGAMAN and Senator THURMOND on the Military Construction Subcommittee. The leaders of our Defense Acquisition Subcommittee, Senator LEVIN and Senator QUAYLE, deserve a special commendation for their work in a very difficult and controversial area.

I also want to thank the staffs of both the House and the Senate Armed Services Committees for their untiring and professional efforts. Led by Kim Wincup and Steve Conver in the House and Jim McGovern and Arnold Punaro in the Senate, the staffs of the Armed Services Committee provide superb support year round. I particularly thank our Democratic staff, Bill Hoehn, Jeff Smith, David Lyles, John Hamre, Bob Bell, Patty Watson, Russell Miller, Colleen Getz, Kathy Bognovitz, Shelly Turner, Pamela Powell, and Monica Chavez for their work on this bill and throughout the year. I want to add a special note of thanks to Hugh Evans of the Senate Legislative Counsel and Bob Cover of the House for their support in writing the bill. Hugh and Bob have been doing this work for our committee as far back as I can remember and they do a superb and extremely professional job. And finally, Mr. President, I want to pay a special tribute to Mr. Jerry Strickler, our committee's printing and documents clerk, who will be retiring at year's end, Jerry has been with our committee over 10 years and is capping a long and dedicated career of Government service.

Mr. President, this conference report represents the culmination of a great deal of hard work by many Senators. I urge my colleagues to support it.

Mr. LEVIN. Mr. President, the defense authorization bill we will hopefully pass this afternoon is a special bill. It is BARRY GOLDWATER'S last defense authorization bill. Those words are hard to say, and even harder to accept. BARRY GOLDWATER has meant so much to this institution, to this country, and to the very fiber of its defense. His fairness and his toughness may well be unduplicatable, but they will always be remembered by this Senator and by a legion of admiring friends and colleagues. While this bill will no doubt be his last major legislative act, it is the Goldwater-Nichols Department of Defense Reorganization Act of 1986 which will no doubt be his most enduring legacy to this country's security.

Those of us who have worked the defense authorization bill over these past many weeks must view the presence of this bill on the floor today as a minor miracle. For this I am grateful. The authorization bill plays an integral and vital role in the direction and management of the Nation's security programs. We would have been remiss if we had failed to meet this obligation regardless of the extreme difficulty in coming to terms with the House.

The mere existence of this bill, however, may be its greatest virtue. The bill is unbalanced. We are buying too many weapons at below economical production rates. There is too much for procurement of new and questionable weapons systems. There is too much in research and development for star wars. There is much too little in our operations and sustainability accounts to keep our forces at the level of readiness necessary and desirable to meet our worldwide obligations. We are on the narrow edge in supporting these programs. Next year we will face this challenge again. Next year we will need different and better answers or we will face a critical readiness crisis.

The constraints placed on the authorizing committees by the Budget Committee in terms of budget and outlay authority were artificial and contradictory. The relationship between budget authority and outlays is complex. We need to work with the Budget Committee to develop a model for these relationships that can be used in the authorizing process. We need to clarify our relationships with the Appropriations Committee. The structural imbalances among these committees are serious.

Mr. President, before I speak at greater length on what I consider to be two most important aspects of the bill—changes in the procurement and acquisition processes and the compromise between the President and the Congress on nuclear testing—I want to note with satisfaction two minor provisions of the bill which have been adopted at my urging.

I was deeply concerned to learn this past April that warnings of the terrorist attack at the Berlin disco were not passed to the appropriate authorities by the most expeditious means. This bill directs the Secretary of Defense to insure that terrorist warnings are routed by the most expeditious means to the concerned commands.

I am troubled that despite their obvious military utility that there are no barriers or fortifications in central Germany to give some temporary protection against a sudden attack from the East. To clarify the reasons for the lack of barriers and fortifications, the Secretary of Defense has been directed to submit an explanation to the Congress next year. I look forward to his reply with anticipation.

I served as the ranking Democrat on the acquisition policy package of this bill and am pleased to have worked closely with my good friend from Indiana, DAN QUAYLE, the chairman of the Acquisition Policy Subcommittee on developing a reasonable compromise. We engaged in long and intense negotiations with the House on 50 separate items, and while it was indeed difficult at times, I think the final outcome is one we can all support.

I would like to take a minute to highlight some of the issues.

The first one is the section which establishes the duties and authorities of the Under Secretary of Defense for Acquisition, or the USDA. There were several hotly contested issues relative to the USDA, namely whether or not the Director of Operational Test and Evaluation should report to the USDA or to the Secretary of Defense as provided by current law; whether the USDA should have the authority to direct the Service Secretaries and to take precedence over the Service Secretaries in acquisition matters; whether the Inspector General's statutory role in audit policy should be preserved. The Conference was able to both maintain the Senate's view of the significant responsibility and authority of the USDA in acquisition matters while at the same time preserving the roles of the Director of Operational Test and Evaluation and the Inspector General in the acquisition process.

While the Senate receded to the House in allowing the Director of Operational Test and Evaluation to report directly to the Secretary of Defense, the conferees agreed that the reports of the Director should be sent directly to the USDA and that the Director would serve as the principal adviser to the USDA on matters of operational test and evaluation. I do not think anyone doubts the necessity of having a close working relationship between the USDA and the Director of Operational Test and Evaluation. The sharing of information between the two offices is critical to any analysis of the future of a weapon system program. However, the conferees agreed to retain the right of the Director to report directly to the Secretary of Defense. The USDA may of course request the Director of OTE to conduct tests needed by the USDA.

Mr. President, on the matter of the authority of the USDA to direct the Service Secretaries on acquisition matters, the conferees faced this question again and again, but repeatedly came down on the side of giving the authority to the USDA. The repeated discussions of this issue and the consequent

decisions to abide by the Senate language demonstrate the congressional resolve in giving the USDA the authority to do the job. And what is that authority? No one expects the USDA to participate in the execution of acquisition policy on a daily basis, since the USDA's attention will necessarily usually be paid to the overall picture and not to the day-to-day implementation. But, where that day-to-day implementation is not in keeping with USDA policy or directives, in the opinion of the USDA, then there is no question but that the USDA has the authority to direct the Service Secretaries to take a procurement action in line with the policy. This authority is critical, Mr. President, in making this USDA more than the so-called acquisition executives of the past. We are counting on a lot from the USDA; we do not want business as usual. The chairman of our committee, Senator GOLDWATER, has discussed at length, the instances in which he has seen needless duplication of major purchases by the three services, and it is my hope that the USDA, with this authority to direct the Service Secretaries, will finally be able to get a handle on the duplication and put a stop to it. If one helicopter can adequately perform the same function for each of the three services, then let's purchase one helicopter and not have three different helicopters for each of the three services. This is the authority we are giving to the USDA, and we hope he will not be reluctant to use it and that when he does, he will use it wisely. As the proponent of this language, I am gratified by its inclusion after much discussion and debate.

The conferees spent lengthy discussions on the section of the bill containing the House provision on the so-called revolving door. At the beginning, we were far apart—the House wanted to cover any Department of Defense employee at the GS–13 and O–4 level or higher who participated personally and substantially and in a decisionmaking way in a procurement function through contact with a contractor. The estimate of the number of persons who would be covered by such language was approximately 25,000. The Senate wanted to stay with the current law requiring recusal by Department of Defense employees from work on a contract involving a contractor with whom the employee has had any employment discussion. That provision was enacted into law last year, and the Senate believed that there had not been sufficient experience with it in order to fairly judge its effectiveness.

After considerable discussions and negotiations, as I mentioned earlier, Senator QUAYLE and I agreed to the value a bar on future employment might have for those Department of Defense employees who spend most of their time working on a contract involving one contractor or working at the site of one contractor's facility. The employment of these persons by the companies with whom they have worked so closely for a majority of their time readily creates an appearance of a conflict of interest whether or not one actually exists. And so, the conferees were able to draft language which would create a 2-year bar for these limited types of individuals.

Again, the bar pertains to those procurement employees who spend a majority of their time over the 2-year period preceding their termination with the Department of Defense at the site of a defense contractor or the majority of their time on a contract involving a major weapon system through contact with the contractor. This is expected to prohibit a covered individual from going to work with no more than one contractor. However, it is possible that where the individual has been working over the past 2 years on an equal basis with two contractors on the same weapons system that it would be impossible to distinguish which one involved a majority of the individual's time. In that case, it would be expected that the individual would be barred from working for either company.

The 2-year bar would also apply to the very high officials—Senior Executive Service and O–7 and above—who serve as the primary representative in the negotiation or settlement of a contract or unresolved claim in the amount of $10,000,000 or more. This provision was included to cover those situations where a senior Department of Defense official is called upon to reach a settlement or negotiate a contract. This would be an unusual case, where there is probably high visibility of the employee's involvement in the matter and with the contractor. Here, too, is the possibility of an appearance of a conflict of interest relative to a select number of persons which would be eliminated by the 2-year bar, and that is why the Senate conferees were able to support it.

In order to make this provision fair in its application, because it is so difficult to identify clearly just which situations are covered and which are not, the conferees agreed to establish a conclusive presumption on behalf of the departing employee—or a former employee who during the 2 years after his termination from the Department of Defense decided to work for a defense contractor—that employment with the subject contractor is permitted if the agency ethics officer has so determined in writing. We also agreed that it would be more fair to make any violation of this statute punishable by a civil fine instead of a criminal fine.

Finally, I want to mention a few words about the section in this bill which raises the threshold for notification of contact solicitations. The current threshold above which Federal agencies are required to publish notice in the Commerce Business Daily is $10,000. This bill would increase that to $25,000. I have been a long time supporter of public notice of Federal contract solicitations. I was able to get the notice requirement amended several years ago, through the Competition in Contracting Act and another piece of legislation, to require notification of even sole source contracts in order to encourage competition. And I know how important adequate notice is to the many small businesses who participate in the contract actions under $25,000.

However, I am also aware that notice in the Commerce Business Daily costs precious time, and can really tie the hands of the procuring officer when you're talking about a small purchase. Moreover, the $10,000 threshold for notification has not been changed in over 10 years to reflect the effects of inflation. I became convinced, therefore, that an increase in the threshold was appropriate, provided an alternative method of notification is required. The conferees agreed to mandate the posting of a notice for contract solicitations between $10,000 and $25,000 at the contracting facility and to provide such notice at least 10 days prior to closing. We also agreed to continue to require notice in the Commerce Business Daily of sole source contracts between $10,000 and $25,000. Lastly, the House provision also increased the threshold for the small business reserve—those contracts which are to be exclusively offered to small businesses—from $10,000 to $25,000, which I also support.

In sum, Mr. President, on this issue of contract solicitation notification, I think the conferees were able to reduce administrative burdens while keeping the value of notification for small businesses.

Mr. President, as I stated earlier, I think the acquisition portion of this bill is a good one. It clarifies existing law in many cases; in others it enhances the procurement system; and in others it makes important new contributions to greater efficiency and better management of the defense procurement budget.

Finally Mr. President, one provision in the Conference Report on the Defense Authorization bill needs to be clarified, so that there is a clear legislative history. The matter I refer to is the Minesweeper Hunter Program.

During the past 4 years the Navy has been working to overcome serious shortcomings in this Nation's mine countermeasures capabilities. Two new classes of ships—mine countermeasure ships and minesweeper hunter ships—were authorized for construction. Both classes of ships have had trou-

bles, but they are making great progress on the mine countermeasure ships.

The Minesweeper Hunter Program is another story. The Navy planned to build the new minesweeper using advanced composite materials. The first ship failed critical shock tests, which is unacceptable for minesweepers, obviously. The Navy decided to terminate the program. Rather than start from scratch by designing a new ship, the Navy decided to shorten the acquisition process by procuring a foreign-designed minesweeper.

The Senate passed authorization bill contained a provision (sec. 102(e)) at the Navy's request that would authorize the Secretary of the Navy to procure from one or more allied foreign countries a lead minesweeper hunter ship. Follow on ships of the same design were required to be built in the United States, which is consistent with current law.

During floor consideration of the authorization bill, I sponsored an amendment which modified the committee-reported bill. My amendment, which was cosponsored by Senator KASTEN, prohibited the Secretary of the Navy from proceeding until he certified that no U.S. shipbuilder has the demonstrated capability to meet the requirement to build the new design ships in a timely fashion.

During the intervening months the Navy changed its acquisition strategy. Where originally they intended to have the first ship built in a foreign shipyard, they now intend to have the lead ship built in the United States.

The conference report notes that the Senate receded from the original provision on minesweepers. This means that the Navy must conform with existing law, and build the lead ship and all follow on ships in the United States. It also means that there must be competition for those ships among competing U.S. shipbuilders.

MILITARY DEPENDENTS PROTECTION PROVISION

Mr. BRADLEY. Mr. President, title IV of the National Defense Authorization Act of 1987 contains a measure to assist military dependents that I introduced last March. I thank my colleagues, Senator GLENN and Senator WILSON, who introduced this bill with me and who have worked to insure its inclusion as part of this bill.

This legislation remedies serious problems experienced by dependents of military members who have been discharged under less than honorable conditions, with special consideration for those dependents who additionally have suffered abuse at the hands of the military member.

This issue came to my attention when I tried to help one of my constituents, a military wife, whose husband had sexually abused their children. When she reported the sexual abuse through appropriate military channels, court martial proceedings were initiated. She then discovered that after many years in the service with her husband, she and her children were going to lose all benefits, including those that would help them cope with the immediate crisis of family violence. In addition they would have to immediately vacate their military housing. She felt that she had no choice but to plead for leniency for her husband. Despite the fact that he had sexually abused their children, his punishment would not improve conditions for his children, but would cause them further difficulties.

The most immediate problem for dependents of a military member discharged under less than honorable conditions is that these families must vacate military housing, but are not entitled to movement of their household goods. Currently, a sympathetic base commander may allow the family to remain in military housing a bit longer than permitted, or the Red Cross may step in with assistance. Since military dependents frequently relocate with the military member, they deserve the security that if their spouse or parent violates the law, they will not be abandoned in a place far from their original home and their support networks. This legislation will give the Secretaries of the service branches discretion to ensure that such families are able to move back to their homes, where they can resume their lives. In the special circumstance of family violence, the service Secretaries may authorize a move other than to the home of record if it is in the best interests of the family.

Mr. President, dependents who have been physically or sexually abused by a member of the military are in further jeopardy. Many choose to endure the abuse rather than report it and face, not only the shame of being victimized, but also the loss of benefits critical to cope with this crisis. Loss of the breadwinner is a major disincentive in the civilian population that frequently deters mothers from reporting spousal abuse as well as abuse of their dependent children. Military dependents are even more vulnerable. Military families are isolated from kin and frequently without the longer term friendships and supports that families outside of the military can establish in their communities. Frequent moves, over which they have no control, leaves the military spouses with few opportunities to develop their own careers and independent economic security.

Mr. President, the military has made great strides in recent years to address the problems of child and spousal abuse. Victims of family violence must not be allowed to fall through the cracks of both military and civilian communities when the military member is discharged under less than honorable circumstances. In addition to loss of income and moving benefits, these victimized dependents currently are denied access to necessary medical treatment. Research and clinical evidence on family violence shows that victims need psychiatric counseling. These families need, at the very least, to have their medical needs attended to for a transitory period until they can reestablish themselves in the civilian community. Physically and sexually abused children can be helped, but only if they are provided with appropriate intervention. Without help, the abused children of today are more likely to become the abusive parents of tomorrow. This legislation gives the Secretaries of the military departments discretionary authority to provide dependents who have suffered intrafamilial physical and sexual abuse up to a year of care in a military medical facility or under CHAMPUS.

When I was first made aware of this problem, it seemed impossible that we would allow military families to be punished and abandoned by our Government. While this is current law, it doesn't have to be. If the military member has behaved badly, and has been separated from the service as a result, it is not fair to jeopardize the future of innocent family members. This legislation makes help possible.

Mr. President, this legislation would assure family members who have made a commitment to accompany and support our military forces that they will not be abandoned by our Government. I thank the Subcommittee on Manpower and Personnel for including this important provision in the 1987 National Defense Authorization Act.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, the conference report that we are considering today is the result of 9 months of work by the Senate Armed Services Committee. While we are relieved that the task is complete, we should note that this is the last defense authorization bill that will be acted upon in the 30-year career of BARRY GOLDWATER.

As the chairman of the Armed Services Committee, Senator GOLDWATER has provided excellent leadership and direction in an era in which defense spending is declining rapidiy in real terms. Although I support passage of this conference report, I am concerned about the trends that we are setting in place.

Mr. President, this is the second consecutive year of negative real growth in the defense budget. Because Congress focuses on the defense budget in 1-year increments, we fail to under-

stand the long-term consequences of our actions.

The President requested $320 billion for defense, and we have reduced that amount by more than $28 billion. A downward trend in our readiness and sustainability is already evident. The comparability of military pay has dropped to about 12 percent behind the private sector, and this is in a period of declining manpower availability.

To protect major weapon systems procurement, we have not adequately funded the spare parts accounts for the last 2 years. The United States could very likely find itself in a defense posture in 1990 very similar to that of 1980 if the Congress continues to authorize and appropriate funds that are insufficient to meet our defense needs.

Mr. President, we began our review of the defense budget last January, and the committee members have put in many long hours to bring us here today. We held numerous hearings, markup sessions, and many conference meetings to produce that final product.

Mr. President, as chairman of the Subcommittee on Military Construction, let me summarize the conference action. The conferees authorized $8.4 billion for military construction and family housing for nearly 1,700 projects at 700 locations worldwide. The Defense Department had requested $10 billion. Although I believe a higher level of funding is warranted, the approved construction program will substantially improve our military bases, enhancing both our readiness posture and quality of life.

The conferees provided $425 million for new construction of 4,925 family quarters, $283 million to lease 42,573 family quarters and $165 million to improve existing family quarters. The conferees agreed to extend section 801, the Build to Lease Family Housing Program, for 2 years with authority to lease an additional 1,000 quarters for each military service. The conferees also extended section 802, the Rental Guarantee Family Housing Program, for 4 years with authority for each service to contract for an additional 600 quarters.

The conferees provided $53 million for the New Navy homeport at Staten Island, NY, and $44 million for the new homeport at Everett, WA; $180 million was included to continue work on the light infantry division at Fort Drum, NY and $73 million was authorized to initiate construction for the light infantry division at Fort Wainwright, AK. The conferees authorized $45 million in new construction at strategically important naval and air bases in the Philippines.

Mr. President, I would like to commend some of the members who worked very hard to bring about this conference report. Our committee chairman, BARRY GOLDWATER, provided his able leadership to keep us working together when it often looked like there could be no agreement. Senators JOHN WARNER and SAM NUNN negotiated the resolution of a very difficult group of arms control related issues. Senators DAN QUAYLE and CARL LEVIN solved the controversial defense acquisition provisions. Senator BILL COHEN provided his leadership in resolving issues designed to improve our special operations capabilities. Senator PHIL GRAMM rendered valuable assistance in negotiations concerning homeporting and other matters. Senator PETE WILSON rendered great assistance in many matters during the negotations. Senator JEFF BINGAMAN worked with me to resolve the many disagreements in the military construction account.

Mr. President, as I stated earlier, I am very concerned about the future of our defense capabilities, but I fully support this conference report, and I urge all of my colleagues to do so.

Mr. President, I feel that under the circumstances, we have a very good bill. It is not all we wanted but we feel that it will serve our country well.

Mr. QUAYLE and Mr. WILSON addressed the Chair.

The PRESIDNG OFFICER. The Senator from California.

Mr. WILSON. Mr. President, without losing the floor, I wish to engage my friend from Georgia in a colloquy if he is willing.

First let me concur in the customary eloquence with which he has visited the well-deserved praise on our colleagues. I particularly agree with the comments in praise of the distinguished and deeply beloved and admired chairman of our committee, BARRY GOLDWATER.

Let me then invite the attention of my friend from Georgia to what will unhappily be one of the chairman's last words in connection with the great work he has done so long and so well in defense of America. I refer to the press release which Chairman GOLDWATER issued on the culmination of the conference.

In the section of the press release relating to arms control and specifically that relating to SALT II, the statement is made by Chairman GOLDWATER: "This provision preserves the President's flexibility to take whatever action with respect to the SALT II Treaty that he judges to be in our national security interest."

It is my understanding that that reference to the nonbinding effect of the SALT II provision contained in the conference product is one with which the Senator from Georgia is in full concurrence.

Mr. NUNN. Mr. President, I say to my friend from California, first, that I appreciate the great work the Senator from California has done in the manpower arena. He is chairman of our Manpower Subcommittee. I think that he does a very commendable job there on an extremely difficult issue.

In answer to the Senator's question, I have not seen the chairman's press release, but it is my understanding from what the Senator from California said that the chairman is saying there is nothing binding in this language on SALT II; that the President of the United States still has the leeway to make his own choice about whether to comply or not to comply with those subceilings on SALT II.

Is that a fair statement of the Senator's statement?

Mr. WILSON. That is a correct statement, Mr. President. Let me read the provision. I was under the impression that the Senator from Georgia had seen the release. It says:

> The House agreed to drop its provision binding the United States to the numerical sublimits for the unratified and expired SALT II agreement. Instead, the conferees adopted nonbinding sense-of-the-Congress language urging the President to remain within these sublimits. This provision preserves the President's flexibility to take whatever action with regard to the SALT II Treaty that he judges to be in our national security interest.

Mr. NUNN. I say to my friend from California that generally is correct. The President has the flexibility, if he chooses to do so, to breach the subceilings on SALT II. I would add, though, that it would be in defiance of the sense of Congress as expressed in this bill and in this resolution. Because the clear sense of Congress, and I read this section quoted, "It is the sense of Congress that it is in the national security interest of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II treaty as long as the Soviet Union complies with the sublimits."

□ 1700

Now, the way I would analyze it is that the President is not bound by this sense-of-the-Congress language. He can take what action be believes to be in our national security, but if he does breach those sublimits, he will be doing it in spite of the Congress strong feeling as expressed here that it is in the national security interest of the United States to comply with those sublimits. So that is the way I see it.

Mr. WILSON. I thank the Senator from Georgia.

Mr. President, the reason that I sought to establish by this colloquy the nonbinding effect of the language dealing with the SALT II provisions in the conference product is because it is of enormous importance there be a clear understanding that the President of the United States is not bound by that language.

Mr. President, the final outcome of this conference is a very mixed bless-

ing. As he has indicated, this was the most difficult conference within the memory of Chairman GOLDWATER. The distinguished ranking member, Senator NUNN, and many other conference participants have agreed. I think the final result of the conference makes clear why they feel as they do. It is because the final product of this conference is, to a far, far greater extent than in most conference efforts, a very mixed bag. There is much that is good in it and I join in commendation not only of the chairman but of the ranking member and of the senior Senator from Virginia, Mr. WARNER, who has done yeoman's service in negotiating for the Senate the arms control provisions of this conference in the face of a very, very difficult and dangerously unwise House position.

Mr. President, in the interest of time, I will confine my remarks to a brief criticism of what I think wrong with the final arms control decisions of the conference and then concentrate upon the fundamental issue that almost caused this conference to founder and did cause the President of the United States to threaten, publicly, a veto if certain provisions were adopted by the conference.

We might discuss how unwise it is to impose a total ban of ASAT testing. We might decry the inadequate funding of the Strategic Defense Initiative. At some point soon we must reject explicitly rather than impliedly, as others have done on this floor, what can only be characterized as usurpation by the House of Representatives of the responsibility of the President of the United States, assigned to him exclusively by the Constitution, for the conduct of foreign policy and specifically for the negotiation of treaties, including arms control treaties. That brings us back, Mr. President, to this conference's SALT II provision.

It is a matter of public record that the President threatened to veto language as proposed by the House of Representatives that would bind him to continued observance of the SALT II Treaty.

Yet the SALT II language from the House presumes to do just that—not by binding language as the House first insisted—but by a sense-of-the-Congress expression urging continued adherence to the numerical limits of the unratified and expired SALT II Treaty. I submit to you that any conference involves a great deal of bargaining and often everyone leaves the conference unhappy.

What is at stake in this is critical.

It is clear, as a matter of law, that the President is not legally bound by a sense-of-the-Congress expression. In my judgment, neither is he bound politically or morally. Some of us were at pains to express to the House negotiators, specifically through Senator WARNER, who carried that burden for us, that we would regard this as in effect expressing a sense of the House, because this body is simply not of the same mind as the House of Representatives.

There has been a very different course of history in the Senate. By the narrowest margin in committee by a vote of 10–9, language was passed which parallels the House sentiment, but a unanimous committee vote added to it Senator QUAYLE's clear statement that the United States should not continue to adhere to treaties which the Soviets have violated.

Very simply stated, Mr. President, the President of the United States in my view is under no obligation of any kind to deviate from his announced intention to make ALCM conversions which will exceed the limits imposed by the unratified and expired SALT II Treaty. The President himself made clear to the conferees before they acted that would not feel bound and that he did not intend to be bound in any way, and that if the Congress were to pass binding legislation, or, to put it accurately, legislation which would create a constitutional conflict by seeking to bind him legally, he would veto that legislation.

It is more than unfortunate that we have come to this pass. Perhaps we should have faced that constitutional conflict and had it resolved in a different way than by avoiding it through the device of a nonbinding conference expression. But when the President does, as he has announced he will, act to exceed the numeric limits of SALT II, it will not be in violation of the letter of the law.

And when the President does so, neither his act nor our support of his action will violate any obligation accepted by those members of this conference who have made clear our sharp and emphatic disagreement with the language expressed in this spectacularly presumptious and ill-advised sense-of-the-Congress resolution.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER (Mr. DURENBERGER). The Senator from Maine.

Mr. COHEN. Mr. President, based upon the recent remarks of the Senator from California, I think you can probably get at least a small glimpse of the kind of diversity of opinion that prevailed during the course of the debates not only here on the floor of the Senate but also in the House and in the House-Senate conference committee. There are those who did not support the SALT II Treaty but nonetheless feel it is not in our interest to exceed the central numerical limitations but abide by those provisions of the unratified treaty, which make sense for us from a military point of view, from an economic point of view, and certainly from a policy point of view.

So I do not think anyone should be under the impression that we have given the green light to the President of the United States to go ahead and exceed the limitation contained in that particular agreement. In fact, it is just the contrary. I think both the House and the Senate have passed a sense-of-the Congress resolution urging the President to abide by those limitations while not binding him to that. So I do not think that we should construe this as giving the President the green light to go ahead and put all the ALCM's on the bombers, to breach those limits and give the Soviets some excuse to exceed them well beyond our capacity to match it.

Mr. President, I would like to draw attention to the legislation contained in the authorization bill to enhance the capabilities of the United States to combat terrorism and other forms of unconventional warfare.

At the present time, U.S. special operations forces are underfunded and scattered among the services. There are serious problems in the way we are organized to conduct the planning of special operations and the necessary personnel and equipment. The United States also lacks the necessary coordination among different Government organizations to implement a coherent strategy for combating unconventional warfare.

The legislation we are passing today will not solve all the ills. We must, however, go to the root of the problem and revamp the organization on which our special operations forces are built.

This legislation establishes a joint military organization for special operations forces, creates a structure within the National Security Council to coordinate planning for low-intensity conflict, and establishes an office in the Department of Defense, headed by a high-level official, to ensure that funding needs and policy considerations related to low-intensity warfare are factored into U.S. planning. Together, the provisions of this legislation should:

Provide central direction and close civilian oversight for low-intensity conflict activities.

Provide a diversity of views to civilian decisionmakers concerning possible military responses to low-intensity conflict threats.

Improve interagency planning and coordination for low-intensity conflict; and

Enhance U.S. capabilities for conducting special operations.

I would like to thank Senators NUNN, RUDMAN, DURENBERGER, STEVENS, and CHILES, for their efforts in behalf of this legislation. Their support was critical in helping to overcome unending Pentagon resistance to necessary reforms.

Mr. President, I simply point out that in this bill we have for the first time tried to take some major steps to address the needs of conducting special operations which currently lack the necessary personnel and equipment and doctrine and indeed advocacy within the Pentagon itself.

I would also like to praise the efforts of Senator NUNN. As I indicated in an earlier statement, I feel the bill that has been signed as the Goldwater-Nichols reorganization bill should be the Goldwater-Nichols-Nunn reorganzation bill because of his skills that were so instrumental in bringing that to fruition.

Finally, a couple of words about the Senator from Arizona. As has been said on the floor several times now, this is BARRY GOLDWATER'S last appearance on the Senate floor in bringing to his colleagues a conference report. Those of us who are present witnessed a typical BARRY GOLDWATER performance: his speech was short, it was delivered with a good deal of energy and honor and honesty, with just a touch of anger, a touch of anger about the drift toward reducing our defenses in the fact of a growing threat. I could not help but think, as he was speaking and some of that old fire was coming through, of what was said about Harry Truman at one point. They said "Give em hell, Harry." And Truman responded to his crowd of supporters, "I never give them hell; I just tell them the truth and they think it is hell."

I think that is basically what BARRY GOLDWATER has been doing for a long, long time now—telling the truth and some, unfortunately, feel he is always giving us hell.

□ 1710

There is also a familiar expression, that a pygmy standing on the shoulders of a giant will see further than the giant. Senator GOLDWATER has allowed me to stand on his shoulders and to gain the benefit of his experience and understanding of the complexities of military and intelligence issues. If I ever differ with him, it is perhaps because this pygmy can see a little further as a result of having stood on his broad shoulders.

I will conclude with a quotation that I think many in this Chamber could identify with, by William Butler Yeats, who wrote:

How many loved your moments of glad grace,
And loved your beauty, with love false or true,
But one man loved the pilgrim soul in you,
And loved the sorrows of your changing face.

Senator GOLDWATER has suffered a number of sorrows over the years, and perhaps none greater than the loss of his wife during the past year. But he sits here today and remains today a pioneer, an aviator, an explorer, a patriot, and a pilgrim soul who continues to have a fierce love affair with life.

Mr. WARNER. Mr. President, I, too, join those in expressing our praise and admiration for our chairman. The manner in which I would like to express my thoughts would be that as I look at the history of the Armed Services Committee of the U.S. Senate, we have been fortunate to have leadership unparalleled. We have here in the Chamber a distinguished former chairman of the Armed Services Committee, the Senator from Mississippi, Mr. STENNIS, followed by Mr. Jackson of Washington, then Mr. Tower of Texas. It is in that mold that we shall always remember and respect BARRY GOLDWATER, for he has carried on the tradition of the greats who have directed this committee.

I reserve one name for the last, that of Richard Russell, for today his spirit and leadership are embraced in our distinguished colleague, the ranking minority member, Mr. NUNN. I witnessed that in the past several days when, entrusted with certain responsibilities by all members of the committee, particularly the chairman, we were able together to work the will of the committee in resolving the many differences.

I also note the presence on the Senate floor of our distinguished colleague from Colorado, with whom I have had the privilege of serving on subcommittees dealing with research and development, and now he serves as the ranking minority member of the Strategic Subcommittee. We shall miss him. While I have not always shared the same philosophical approach, nevertheless his wisdom, his determination, and his ability to express his thoughts are hallmarks of a great man and one we will remember and miss.

Those of us serving on the committee have a very special fraternal feeling among ourselves, for this committee has really nonpartisan goals, and we achieve those goals through bipartian efforts. As we worked this conference, we tried carefully to take into consideration the desires of all Members, and I think we did as well as we could, under the leadership of our distinguished chairman, Mr. GOLDWATER.

Mr. President, I share the thoughts of all in expressing our belief that the wisdom of BARRY GOLDWATER remains with us as we look to the uncertain challenges of the future. We wish him the very best. We hope he will come back often to share with us not only his wisdom but also his sense of humor and his sternness and determination.

Mr. President, in the aftermath of last weekend's meeting in Iceland between President Reagan and Soviet General Secretary Gorbachev, there is likely to be an even greater interest—both in the public and in the Congress—in the President's Strategic Defense Initiative [SDI] Program.

As was clear in President Reagan's speech to the Nation last night, a great deal of progress was made on a wide range of arms control issues in Reykjavik. And while the President was unwilling to sacrifice essential elements of the SDI Program in exchange for the promise of reductions in Soviet strategic offensive forces, the business of negotiating deep reductions in nuclear weapons continues between United States and Soviet negotiators in Geneva. I share President Reagan's view that the SDI Program has been the driving force behind the Soviet willingness to discuss deep arms reductions, and that we should continue to vigorously pursue this important program.

As these events increase the level of interest in the SDI Program, there will be a great deal of discussion about the program's goals and objectives. I remain somewhat skeptical about the feasibility of strategic defense that will make nuclear weapons impotent and obsolete in the near future. However, the answer to this issue is one of the goals of the SDI Research Program. And while there has been a great deal of attention paid to this more ambitious vision of SDI, insufficient attention has been paid to the potential contribution to our security of more limited defensive options. It is important to note that these limited initial defensive options can and should be consistent with the development of more comprehensive defenses in the long term.

In this regard, I commend to the attention of my colleagues a recent article by Senator DAN QUAYLE that appeared in the Wall Street Journal on October 2, 1986. In this thoughtful article, my friend and colleague from Indiana discusses some of the possible military missions that SDI could address in the near term. These include defense against limited or third-party attacks, as well as theater defense against short-range ballistic missiles which threaten our allies in Europe, the Middle East, and Asia.

As a member of the Subcommittee on Strategic and Theater Nuclear Forces of the Senate Armed Services Committee, Senator QUAYLE has been a strong and effective advocate for the programs required to maintain our Nation's security. The SDI Program is at the top of his priority list. I might add that Senator QUAYLE was the driving force in the Senate behind the initiation of an anti-tactical ballistic missile [ATBM] system within the SDI Program this year. I believe that an ATBM system is an excellent example of how the SDI Program can make positive contributions to our security and that of our allies in the near term.

I ask unanimous consent that the text of his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BEGIN TO DEPLOY INCREMENTAL SDI WHERE POSSIBLE

(By Dan Quayle)

The Strategic Defense Initiative faces a number of threats. The Soviets want to negotiate it out of existence. The Hill wants to slash its budget, and the President wants to bargain with it in the coming Soviet Summit.

None of these threats, though, even begins to compare to the problems created by the popular assumption that a total attack is what SDI is supposed to counter. As long as a total attack (whether it be against cities or silos) is SDI's first or sole objective, SDI will always appear to be too expensive, too controversial, and militarily of too little value to bother with.

Changes in our approach will have to take place. If we are serious about promoting SDI, we must not only ask that it be deployed in the near-term, but also demand that it be focused on significant threats other than total attacks.

In specific, SDI should be directed to focus on the shorter range Soviet tactical ballistic missile threat now posed against our allies and troops abroad, the threat of a limited Soviet strike against our national command authority or some other valuable military asset, the Soviet anti-satellite weapon (ASAT) threat, and the Soviet threat to jam or confuse our surveilliance and communications systems in Europe or Asia.

Each of these threats is technically less stressful than any all-out attack against our military or population but militarily critical if our country is to remain safe. Each would require the development of SDI components critical to the working of a more complete defense scheme but none would necessarily violate the ABM Treaty. All of them should raise bipartisan concern.

First, the Soviets have deployed accurate tactical ballistic missiles (SS-21s, 22s and 23s) that pose a serious threat against our allies and troops abroad. Although these missiles can carry either nuclear or conventional warheads, they are expected to become accurate enough by the late 1980s to knock out nearly all of NATO's key military assets with conventional warheads alone.

To answer this threat, development of an anti-tactical ballistic missile system is necessary. This system would not violate the ABM's Treaty because it could not destroy strategic missiles aimed against either the U.S. or the Soviet Union. But it could teach us a considerable amount about the interceptors, radars and other sensor systems that defenses against-strategic missiles would require.

Second, we need defenses now to defend against an accidental launch or a limited intentional strike designed to disrupt our national command authority. An attack against our national command authority is especially frightening since this could be done without physically harming a single American citizen. All that would be required to make our generals deaf, dumb and blind would be the detonation of only a handful of submarine-launched weapons at very high altitude over the U.S. A defense against such a limited attack could be begun with mid-course and terminal interceptors deployments under the ABM Treaty's 100-launcher limit. The third threat is Soviet ASATs. The Soviets can already threaten most of our key military satellites in low-earth orbit. By only upgrading their ASATs, the Soviets could soon threaten our satellites in higher orbits. These satellites are critical to our military, providing strategic and tactical warning, surveillance, communication, weather information, and the most sensitive military intelligence.

Yet, against Soviet ASATs we still lack the satellite surveillance and tracking capabilities necessary just to track a possible attack. Two key systems designated to provide such surveillance from space are being developed as the critical eyes for SDI—the Boost Surveillance and Tracking System and the Space Surveillance and Tracking System. If we are at all serious about arms control in space or defending against ASATs, these efforts should be accelerated.

The last threat is the Soviet effort to defeat the conventional, deep-strike "smart" weapons we are developing for the emerging automated battlefield by denying us our ability to find and track targets on the battlefield and by jamming or disrupting our command and communications systems. To counter this, we don't need smarter weapons, but rather more sensitive, survivable and powerful communications, surveillance and tracking systems to ensure these weapons arrive on target and on time. These technologies include new, powerful SDI heat-seeking sensors, high resolution radars based on inexpensive satellites, new powerful battle management computer systems, non-jammable communication satellites and the like.

None of these threats, of course, is as dramatic as countering an all-out attack against our missile fields or cities but if they are not addressed, they can limit our ability to deter or prevail in either strategic or conventional war. More importantly, this approach to SDI is incremental. Certainly, if SDI cannot meet these threats, it is highly unlikely that it can counter more stressing total strategic attacks. On the other hand, if SDI can, it will be able to sustain popular support both in the near and long term.

Mr. QUAYLE. Mr. President, I, too, want to join in the accolades to my dear friend from Arizona, whom I have known for quite some time because I spent about 6 or 7 years of my life in Arizona.

As a matter of fact, one of the first political things I did was to pass out the GOLDWATER literature at the Arizona State Fair in 1958 for his overwhelming reelection.

I can say that being in the U.S. Senate today would not have been possible for me, personally, without BARRY GOLDWATER. Not the fact that he raised a lot of money for me, not the fact that I went in on the GOLDWATER coattails in 1980. But what BARRY GOLDWATER stood for and wrote and said in 1964 and thereafter was a tremendous inspiration for those of us in high school at that time. We were in high school, and we knew of BARRY GOLDWATER. We read about him. We went on to college and to law school, and some of us were fortunate enough to make it into elective office, to carry the GOLDWATER torch forward: His commitment to national security, his understanding of this country's problems, and particularly an understanding of the direction in which this country is heading. BARRY GOLDWATER is a man we have all learned to respect.

He is here today on his last bill, and I can only say that it is with a great deal of emotion that we pay our final tribute to Senator BARRY GOLDWATER for his outstanding public service. I know his commitment to his family; I know his commitment to the State of Arizona; but he always put the country ahead of everything. The country was No. 1, and the country always will be deeply indebted to the public service of BARRY GOLDWATER.

Having said that, Mr. President, it is with a bit of irony, unfortunately, that we have this budget before us, with the man who stood for the strongest national defense of anybody, somebody to whom I am deeply indebted. But we are seeing things change. We have had the strong GOLDWATER years; we have had his leadership on the Armed Services Committee; and we will certainly miss him.

BARRY GOLDWATER had a very good companion in SAM NUNN, and the two of them did the best they could under tremendous problems and situations that are confronting us in the budget.

Unfortunately, this is the second year in a row where defense spending is declining. Yet, you can see an increase in the threat. This was probably the most unique and most difficult conference we have had. It has been said by others, and I want to underscore that.

I hope we can come to some resolution with the House of Representatives on how we are going to have a conference. We simply cannot go on like this. They had over 70 conferees. Half were not even members of the Armed Services Committee. That made it almost impossible. As a matter of fact, if it had not been for BARRY GOLDWATER's leadership, I am sure we would not be here today. He and SAM NUNN and, particularly on the arms control issue, JOHN WARNER deserve an extraordinary amount of credit. He did yeoman service to bring about this compromise. This is a compromise. It is one with which I am not terribly satisfied, one that has been debated back and forth here.

I think the continuation for the second year of the ban on ASAT is a wrong decision. I think it is bad public policy. There is no doubt that the Soviet Union already has an operational ASAT capability and the United States does not.

□ 1720

I think continuing this ban in the spirit of compromise was wrong, but a compromise indeed.

As to the compromise language on the testing, I think we will see what happens down the road. The President, according to letters, is committed to sending up a couple of treaties with stipulations concerning verification on testing.

I think that will be one of the issues that we will be discussing quite intensively and not only in the Senate Armed Services Committee but also in the Senate Foreign Relations Committee, which has primary jurisdiction over this issue. How are we going to be able to verify these tests is something of extraordinary importance and what we can in fact do I think would go a long way in being perhaps a step forward.

The one that was perhaps the most controversial and the one still being debated on the floor today happened to deal with the SALT language. The SALT language that was put in there is a sense of the Congress that the President should abide by the unratified SALT II Treaty.

Mr. President, it is only a sense of the Congress. The President is perfectly free to do anything that he sees in the national interest concerning the SALT Treaty.

The SALT Treaty has been much debated. It was debated in the Chamber and has been debated for a number of years either directly on the floor or indirectly through speeches. It was never ratified, never ratified for very good reasons, and that is that it never had the support of the Senate to ratify it.

I dare say if we even brought the SALT II Treaty up today and called it up under procedure that would be available it probably would not have sufficient votes to be ratified today on its face. I do not believe anybody is calling for ratification. If that would resolve the issue, maybe we ought to bring the treaty up and see where it may be.

We may be beyond that because the President this last summer did, in fact, announce that he had gone the extra mile and fully intended not to have the limitations of the unratified SALT treaty that had not been ratified and that, in fact, he did not feel bound by that and has announced that he will go forward with the 131 ALCM carrier and the B-52 bomber sometime this year.

I fully anticipate the President doing that. He said that. He is a man of his word and certainly he is heading in that direction.

But I can remember when the President announced that decision that he was going to go ahead and not feel bound by this unratified treaty, there was a great hue and cry saying, boy, this is the end of the arms control process, where it is not simply not going to be able to negotiate with the Soviet Union if the President would do this and not go along with this unratified treaty, chaos was going to break out.

I dare say, Mr. President, that is certainly not the case. The case is that the arms control process is going forward. It went forward with a great deal of vigor.

The stumbling block at Reykjavik was not the SALT treaty. The stumbling block happened to be the strategic defense initiative.

To those who say this is somehow going to be injurious to the arms control process, I say the last 6 months speaks for itself and it is simply not the case nor do I think it is the case, and I think the President has every right to do that. He feels it is within the national security interests to go ahead with retaliatory forces and bomber forces, second-strike forces. He thinks he is going to improve our national security. He also feels that what one senses as far as getting real negotiations and agreement—if you are going to simply put a treaty around the United States that has not been ratified that perhaps the Soviets would like to see us comply with, but yet they do not comply with—a unilateral compliance is something we take seriously in the Senate.

Unfortunately, our House of Representatives does not take it very seriously. I was quite struck by their insistence on dropping an amendment I had adopted in the Senate Armed Services Committee on a unanimous vote, a strong bipartisan vote, that in essence said that it was the sense of the Senate that consistent with international law it is not in the national interest of the United States to continue compliance with any strategic arms agreement that the Soviet Union has clearly violated.

That is a rather straightforward simple statement that had unanimous support of the members of the Senate Armed Services Committee.

The Senate Armed Services Committee is a reflection of this entire body of the Senate, and I say had that been offered on the floor we would have had a similar vote—perhaps there would be a couple who would have not voted for it—but a very similar vote.

But the House of Representatives were adamant that this not be included in the final language. In other words, what they are saying is we did not want to have any language that said or made it incumbent upon the Soviet Union to comply with the treaties, and that was certainly what the intent of this amendment was that said you just simply cannot have unilateral compliance, that we have to have either mutual compliance or it simply is not going to be a contract and they simply cannot expect a treaty to be adhered to where you are going to have to have one country violate the essence and the ingredients and the elements of these treaties.

But the House of Representatives in negotiations that were in closed session—because of national security reasons we have always had Senate Armed Services conference in closed sessions—made sure that we could not have this language in the bill.

Well I would hope that once this comes to light that many in the House would see fit to take to the floor and say certainly we agree with the Quayle language that we ought to have compliance with these treaties; if you do not have compliance then in fact it would not be in our national interest to have only unilateral compliance. It is not that difficult a proposition.

But it evidently was a very difficult proposition for those who were negotiating for the House of Representatives because they could not allow this language in there.

I dare say if this would become public and it would be debated in the House of Representatives we would probably have a very similar result as we did in the U.S. Senate.

Mr. President, I think that as we look at this Senate Armed Services Committee bill and look at where we are going perhaps the point that we will be discussing today and will be discussing tomorrow and will be discussing certainly when we come back is where we go on the strategic defense initiative.

Events over the weekend have focused and highlighted SDI. There is no doubt that the debate is going to be more focused and I welcome that debate. I think it is a very important debate.

I have been one of those who has been encouraging the administration to come forward and be more specific on what they are going to do in SDI. I am one of those who believes there is probably ways that we could begin to have incremental deployment of SDI. You could have deployment within the ABM Treaty. You could see where we are there and then we are going to have to take a close examination of that treaty. Even within the treaty we can in fact have research and have testing and have development.

I think that needs to be spelled out very, very clearly of what we can do and what we should be doing in SDI. I believe that the administration is going to have to be far more specific on this. I think we are going to have to refocus and rethink what is going on about SDI. This now has captured the attention of America. This has the attention of the world.

This is the strategic defense initiative. What it stands for is going to have to be clearly defined and I hope that we will find strong bipartisan support for this.

But I do think that the administration, and as one who is as strong a supporter of the administration as perhaps anybody, I call upon them once again that we are going to have to clearly define what our focus is, clearly define are we talking about the long term, are we talking about the short term, what can we do in those years, 5 or 7 years or now between the years of zero and 10 years, what should we be doing in not only research, but what should we be doing in testing and development, what kind of system do we want to deploy. Are we only talking about deployment beyond the turn of the century? I say no, I do not think so.

I think we are going to be talking about deployment much earlier but we are going to have to have answers to those questions.

I and others are going to be asking those questions and looking forward to responses. We certainly know the importance of SDI to the Soviet Union. Make no mistake about it. They think it is important. They certainly went to Reykjavik to kill SDI. They did not get that.

So now they are trying to assess the blame on the President of the United States. That did not get more than about 28 or 48 hours of review in this country, but now that we sort things out we are finding out actual progress was made. The process is going on. Talks are going on in Geneva.

But we do know one thing, Mr. President, and that is that the Soviet Union places a strong importance on the strategic defense initiative.

Since they place a great deal of importance on it, I hope we will in fact take our time to figure out exactly what we want to do.

I quite agree with some of the people who have been critical of SDI that it has not been as clearly defined as it should be, that we need to focus and see where we are in fact going.

So this is just the beginning of that debate and one that I certainly look forward to with anticipation and hopefully will be able to come to a consensus, a consensus that we can have not only in discussions with the Soviet Union but a consensus we can have in discussion with our own constituents in the United States of America.

Finally, Mr. President, as the chairman of the Acquisition Subcommittee, I want to report that we have in fact not only compromised but we have in fact worked out an issue concerning the revolving door that will at least take this beyond the next year.

My comrade in arms, Senator LEVIN, has been very instrumental in working out with the House a number of negotiations and number of compromises.

It was not a terribly pleasant conference because we had again a number of conferees there that we were having to deal with and had to satisfy each and every one of them. Many of the conferees, though nice and very interesting to debate, discuss the issues, were not members of the Armed Services Committee. It was a very complicated process to a certain degree and one that we hope not to have to revisit it.

I hope we do not have to revisit it.

We have to wait and see what the House of Representatives does.

But the acquisition matters are about 50 items of disagreement, significant disagreement on where we are going to go in the area of procurement.

I think we made a major step forward in getting enterprise zones and implementing much of the Packard recommendation, implementing the under secretaries of acquisition that will be under control of the policy yet see the discussion of that policy be done on a decentralized basis and with our service secretary.

But the revolving door issue, which was back once again, to become our old friend, we have revisited each and every year.

□ 1730

We have resolved that. We have resolved it basically saying those people that work onsite and spend a majority of time with one contractor would be prohibited from going to work with that contractor. We also say that an employee that spends a majority of the time on a system dealing with just one contractor would be prohibited from going to work for that one contractor.

Third, we said that anybody that negotiates a settlement of a weapons system of over $10 million with a contractor is also prohibited from going to work for that contractor.

So I believe that we have done is to define the perception and the apperance of conflict of interest, the majority of time that one has to spend and if they do spend a majority of that time then they are going to be prohibited from going to work for that contractor.

Mr. President, in conclusion, I just want to say that this bill, like other bills that go to conference, is a compromise and that it is certainly the best we can do under very difficult circumstances.

Mr. DOLE. Mr. President, I will just take a minute or two. I wanted to indicate first of all that we are trying to negotiate some problems in the drug bill. We have a number of Senators meeting on that at this moment. So we would still like to complete action on that this evening.

This conference report is the result of great effort by the Senate conferees. They were determined to complete action on this very important legislation, which encompasses many high visibility issues. And considering that the cards were heavily stacked against them from the very start, our conferees have done a good job producing an acceptable final product.

The overall spending level of $292 billion is disappointing. It provides only a small increase over fiscal year 1986 spending, less than we should have to meet both the ever-expanding Soviet threat and our security responsibilities throughout the world. But it is probably the best that we can do this year. I hope—though without any great optimism—that we can do better next year funding our Nation's defense.

Arms control issues were probably the biggest challenge our conferees faced. It was clear that most of the House conferees were determined to enact their own arms control agenda, ignoring the fact that we have a President, elected by the people, who is given just that job by our Constitution. So the Senate conferees had to compromise, accepting an unfortunate restriction on Asat testing and underfunding the SDI Program, which has once again proven in Reykjavik to be the key to real nuclear arms reductions. But, on balance, they forged an acceptable compromise arms control package that permitted the President to face Gorbachev in Reykjavik with at least some strong cards to play.

In sum, this is not a perfect package—far from it. But it is worthy of our support. I will vote for it, and I encourage all my colleagues to vote for it, too.

Mr. President, I wish to associate myself with the remarks of Senators WILSON and QUAYLE with reference to trying to comply with the unratified SALT agreement that has never been before the Senate, never been called up. It has been reported out, but never called up. Some would think it was written in stone around this place. I hope the President understands that it is only a sense-of-the-Senate resolution.

I would like to take just a few moments to ask some questions of the distinguished chairman of the committee, Senator GOLDWATER. It is my understanding that the fiscal 1987 defense authorization conference report provides no authorization for the procurement of the Air Force T-46 trainer aircraft. Is that correct?

Mr. GOLDWATER. That is absolutely correct. We already have an airplane to fulfill that mission until a better one comes along, and we did not authorize the T-46 aircraft. In fact, the Air Force does not want it.

Mr. DOLE. My understanding is that the Air Force did not request procurement of the T-46, is that correct?

Mr. GOLDWATER. That is correct. And I just verified that about a half an hour ago in a telephone call to the Chief of the Air Force. He said, "We

don't want it. We don't want it. We don't want it." And yet we have people in this Congress playing unadulterated politics in an attempt to get an airplane that the Air Force does not want.

Mr. DOLE. Could I also ask what the specific intention of the authorization conference language is and was there an understanding between conferees regarding your compromise position being accepted by the appropriations conferees?

Mr. GOLDWATER. Well, this came up, naturally, in our conference because, let us face it, the T-46 is made in New York and New York has a lot of Representatives. They are all running for reelection, so they all want this airplane built regardless of the fact that the Air Force does not want it.

Now, we came to an agreement, though, that enabled us to get past this hurdle. No funds may be obligated or expended until the Secretary of the Air Force conducts a competition evaluating the cost and performance of the T-46, the existing T-37, and the modified T-37. Any other aircraft capable of meeting Air Force training requirements, such as the Navy T-34C or the T-45, would fit in there. And the competition shall include a fly-off between the candidate aircraft. The funds authorized and appropriated in 1986 for the T-46 aircraft are authorized to be appropriated for research and development for the purpose of conducting the competition.

Finally, no funds are authorized to be appropriated in fiscal year 1987 for the procurement of the T-46 aircraft.

Now, Mr. President, I know this is not called for, but I have flown the T-46. I have flown the T-37 many, many times. The T-46 is not a bad airplane, but that is not the question. The question that we cannot seem to get through the heads of people on our Appropriations Committee or the people on the House Appropriations Committee is the Chief of the Air Force, sitting over there in the Pentagon, does not want this airplane. In fact, he told me the other Chief that just retired said: "If the Congress buys that airplane for me, I'm going to put it in a junk pile out in Tucson, AZ."

We do not want to have that happen. I cannot understand it, except for purely political purposes, that it is made in New York and everybody in New York in the Congress wants to have the airplane purchased, even though the do not want it.

It would be a lot like us saying, "Well, let's build an aircraft carrier. The Navy does not want it, but let's build it and give it to them."

I cannot understand for the life of me how people in this Congress can get so hard up for politics that they allow themselves to be pushed into buying something that nobody wants.

Mr. DOLE. I agree with the distinguished chairman of the committee. But I understand the continuing resolution, notwithstanding everything that has been said, does provide funds in fiscal year 1987 for the procurement of the T-46 aircraft. Is it your understanding that the continuing resolution language is inconsistent with and undercuts the authorization conference report?

Mr. GOLDWATER. The continuing resolution language, as I understand it, now has language put in by our body, the Senate, and put in by the House to buy this airplane. It goes much past that. It would bail this manufacturer out.

I would like to report to my friend from Kansas, and I will speak on it probably tomorrow, that the manufacturer of this airplane cannot complete the contract that it was originally given. He is supposed to deliver 10 aircraft to the Air Force. He delivered one. All that was wrong with that, it had a cracked spar. Well, other little things happened that came along, and most aircraft have trouble when they are first brought out.

But he has only delivered two aircraft. Now, if the Air Force says to the manufacturer, "deliver 10," he will go bankrupt. He does not have the money.

But our Appropriations Committee and the House Appropriations Committee want to bail him out, buy up the contract, bail him out and not have any more competition. Just give him a contract to go on.

I think it is absolutely the stupidest thing I have ever heard in my 30 years in this body. I have never known an Appropriations Committee to buy something that nobody wants. I hope we can defeat it with an amendment at the proper time.

Mr. DOLE. I thank the distinguished chairman of the committee.

The only reason I asked was because I thought I heard and read correctly what the authorization committee did and I thought there was some reason for authorization committees. I thought they served some purpose. But, apparently, the Appropriations Committee, if they have the votes, they have the power to override anything that the authorization committee might do. And what they did in this case was direct the Air Force to recompute the T-46A production contracts. They also directed the Secretary of the Air Force to negotiate a reform contract.

Mr. GOLDWATER. That is right.

Mr. DOLE. And a lot of other things that I do not know that you even discussed in the authorization bill. And I though it should be brought to the attention of our colleagues. I hope that there will be an appropriate disposition of this provision in the CR when it comes to the floor tomorrow.

Mr. GOLDWATER. I might point out to my friend, the majority leader, we complained about this very bitterly last year. We are getting to the point, in my opinion, where you can do away with committees. The Appropriations Committee is all you need. They have a subcommittee on there for military purposes. They do not have the expertise. They only have one or two people on the committee.

We spend 9 months arguing about military affairs and they spend a couple of days. I begged them not to put this money in. And yet, by golly, they go ahead and do it.

I think we have to take a hand to that sometime. I do not think we should have two committees on this floor doing the same thing. And the authorization committee, the committee that is supposed to study and understand these things, said no. But the Appropriations Committee, probably at the urging of some politicians from New York, said yes. I think it is wrong.

Mr. DOLE. As I recall, we had a vote on this issue in the authorization bill and the vote was 79 to 14.

Mr. GOLDWATER. It was pretty good. And it is going to be pretty good again.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I wish to make a statement on the provisions relating to SALT II. But before I do so, I will yield briefly, without losing my right to the floor, to the senior Senator from Colorado.

Mr. HART. Mr. President, I thank the distinguished Senator from Tennessee. I appreciate his courtesy very much.

Mr. President, as the author of the language in the Senate authorization bill which has made its way to the floor in this conference report urging the President to continue his policy of abiding by the terms of SALT II, I want to thank all those, the chairman of the committee, the distinguished Senator from Mississippi, and the distinguished Senator from Georgia, for their efforts in protecting and defending the Senate position.

This language is dismissed or minimized as simply a sense-of-the Congress resolution. I would think, in a matter of this sort, the Congress does not speak simply. It speaks very loudly.

□ 1740

And it is because it is in the interest of the U.S. national security to continue to abide by those restrictions and limits in that treaty. It is the reason this President who is ostensibly against the treaty has continued to do so because it is in this country's interest. I hope this administration pays

very, very close attention to this language.

Mr. President, last week, the Senator from Colorado addressed the Senate for what he—and others, I am sure—hoped would be for the last time.

On the eve of the Iceland Summit, I appealed to the Senate and the Nation to recapture something fundamental we have lost these last 6 years.

To recapture our 40-year commitment to the control of nuclear weapons.

To remember that national strength can be expressed as forcefully at the negotiating table as in the laboratory, the battlefield or the situation room.

To work for a future freed from the haunting arsenals of destruction on Earth and to ensure their deadly companions do not occupy orbits in space.

I issued that appeal, quite frankly, out of a sense of frustration and concern. Frustration with a buildup in search of a strategy. Concern that the buildup would leave the country bankrupt and enmeshed in nuclear insecurity. But finally, I issued that appeal out of a sense of anger that for 6 years this administration would not engage in serious arms control.

For some time, Mr. President, patience has been running short in this Congress as Congressmen and Senators, Democrats and Republicans waited vainly for progress in arms control negotiations. Ultimately, many of us decided we could wait no longer. We sought enactment of unprecedented arms control language in the Defense Department authorization and appropriations bills.

Earlier this year, the Senate Armed Services Committee adopted language I introduced urging the President to comply with the SALT II Treaty and a provision to cap the MX missile deployment. If I might say so, this required some persuasion on the part of the Senator from Colorado—the committee's leadership, drawn as they are from the President's party, has supported his program.

The House of Representatives adopted even stronger language. They cut off funds from systems which, if built, would cause us to violate the SALT II limits. They denied the President's SDI funding request, providing only an inflation adjustment. They continued the 17-year ban on nerve gas production and the ban on ASAT tests. In the absence of Presidential leadership on arms control, many of us believed that Congress would have to show leadership instead. The nuclear arms control issue was too important to be left to arms control agnostics.

I joined House and Senate conferees in an attempt to write a good defense bill for fiscal year 1987. I strongly believed we could produce a bill that was good for national security and good for arms control. Toward the end of those discussions, it was announced the President would go to Iceland for what was advertised as a planning session. This session would lead to an adult summit between President Reagan and General Secretary Gorbachev.

Even though arms control was ostensibly not on the agenda for this weekend in Reykjavik, the administration, Democratic and Republican Members of the Congress, made a personal determination. They decided the very progressive measures contained in the defense legislation represented "handcuffs" on the President's negotiating position. They agreed these provisions would be diluted considerably in advance of the President's meeting with the Soviet leader.

The so-called compromise which emerged from that meeting was made in good faith—I know that. But with the events which transpired in Iceland, it is this Senator's opinion that compromise has fallen through. That compromise was made in exchange for assurances from the administration that it was at long last serious about arms control. But if the events in Iceland tell us anything, that claim is very much in doubt.

There is no subtle way to put this Mr. President, but I must say this. President Reagan turned down the most significant and comprehensive arms control agreement in the history of the nuclear era. On the negotiating table were deep reductions in offensive forces, the elimination of missiles in Europe, increased Soviet emigration, and regional conflicts. Extensive reductions were in the offing, and the complete elimination of nuclear missiles was on the horizon. After 6 years of drift in United States-Soviet relations, one weekend of good faith negotiations could have set this relationship back on course.

Nuclear peace could have been President Reagan's legacy—but he has chosen to be remembered for star wars instead. It was the President's inflexible attachment to the development of star wars that became the central obstacle to what might have been the most promising arms control agreement ever proposed.

Three years ago, when the President discovered the ongoing research on strategic defenses—classified research which I and many others supported for years—many of us issued a warning. The technology is speculative at best. The technology is going to be costly. An excessive reliance on what is still lines on the chalkboard, computer programs unwritten, and hardware not yet conceived would be dangerous. And it was not then—and it is not now—a substitute for deep reductions in offensive missiles.

But this President does not understand that. I commend former Secretary of Defense James Schlesinger for stating what I believe to be the case: By refusing to make the sweeping arms control agreement in Iceland, the President missed the opportunity of a generation.

So, this DOD authorization comes to the Senate stripped of most of the effective arms control provisions it could and should have had. There is now no new summit in the offing. SDI has become a central obstacle in United States-Soviet relations. It is a real tragedy.

But what of the future? On or about November 11, the President must decide whether he will violate the SALT II Treaty. If he equips the 131st B-25 bomber with an air-launched cruise missile, we will violate the SALT II Treaty. Such a decision would put out of reach for the foreseeable future. I urge the President not to violate SALT II.

What of the future of United States-Soviet relations? I urge both President Reagan and General Secretary Gorbachev to set a firm date for a summit.

What of the future for all of us. I said in my remarks last week, we must reelevate arms control progress to the very top of this Nation's agenda. There is a time imperative and a moral imperative. We have seen through the breakdown in Iceland the consequences of lost opportunities for arms control. We cannot repeat this mistake again. The consequences are too awful to contemplate.

I thank the distinguished Senator from Tennessee once again.

Mr. GORE. I am certainly honored to do so.

Mr. President, before addressing the SALT II language, I would like to associate myself with the remarks of others with regard to the distinguished service of the chairman of the committee, Senator GOLDWATER. And without belaboring the point, I want to say I hope very much that any who might read the CONGRESSIONAL RECORD for this day years from now would know full well that these sentiments even when expressed by one of the most junior Senators not even on the committee are very heartfelt, and are shared by every single Member of this body.

We are going to miss his hard work, wisdom, and guidance very much in this body. And all of us indeed wish him very well.

With respect to the ranking minority member, it is also redundant to keep on praising but that sentiment is also one unanimously shared in this body. I have learned a great deal from my colleague, the Senator from Georgia, during the brief 2 years I have been privileged to serve in this body. I look forward to working with him even more closely in the future.

I would also like to commend every single member of the committee for

the hard work which obviously went into this bill.

Mr. President, I would like to single out that portion of the bill which relates to the SALT II Treaty. The language included in the bill does not refer to the sentiments of only one House of Congress. It expresses the sense of this House of Congress as well as the other body that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

Mr. President, it goes into some detail. And on the following page specific reference is made to heavy bombers carrying air-launched cruise missiles. That central numerical sublimit which might be exceeded by the United States a few days after the election if the President carries through with his earlier statement of intent—that particular sublimit is specifically referenced in this bill—is an aggregate of more than 1,320 launchers described in paragraph 2 and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

Again, Mr. President, we state categorically our view. Speaking for the American people, both Houses of Congress, say it is in the national security interests of our country to continue complying with the numerical sublimits.

Mr. President, President Reagan will be hounded by some in his party who feel we ought to violate this treaty and exceed the numerical limits; to go ahead and do so in November or later this year. But, Mr. President, I feel very strongly that if President Reagan decides to follow through on that course of action it may very well be judged by history as the worst mistake of his Presidency. There are several reasons for that. I am not going to belabor all of them on this occasion.

Let me just single out one or two. The Soviet Union is in a far better position to take advantage of a SALT-free environment than are we. There are 309 SS-18 missiles deployed already with 10 warheads each. They could very quickly deploy an additional four warheads on each one of those SS-18's and given a little more time, many more than that on each one of those SS-18's.

That would not be in our national security interest. There are also other ways that the Soviet Union could quickly take advantage of a decision by our country to exceed the numerical limits and sublimits expressed in the SALT II treaty.

Mr. President, ironically, in the atmosphere created after the breakdown of discussions at Reykjavik, the Soviets might even feel they could escape world opprobrium by quickly proliferating the number of offensive missile warheads they have deployed. If in this post-Reykjavik atmosphere, we in the United States took it upon ourselves to exceed the central limits in SALT II, we would magnify the problem that we have in Western Europe and elsewhere in the world that we have already created by the sequence of events at Reykjavik.

We are witnessing new pressures on our allies right now, with the opponents of Chancellor Kohl in the Federal Republic and Prime Minister Thatcher in England being moved even further to the left, bringing the prospect of new strains on the NATO Alliance. And if we follow up Reykjavik with a unilateral decision to exceed the central limits in the SALT II treaty, we would shake the very foundations of NATO and cause for ourselves an extremely serious problem in terms of public opinion in Western Germany and elsewhere. Divisions here at home in our own country on this most important issue would be heightened at a time when we so desperately need to build a consensus that would allow the strengthening of our military might and our ability to protect our national security interests.

When President Reagan announced is intention to exceed these limits back in June, he stated that one of his criteria for reconsidering that tentative decision was whether or not the Soviet Union showed a desire to be more forthcoming in arms control negotiations. Can the President of the United States say after Reykjavik that the Soviet Union has not shown a desire to be more forthcoming in arms control negotiations?

I would submit, Mr. President, that one of President Reagan's key criteria has been met. Both President Reagan and General Secretary Gorbachev have both said that the tentative agreements arrived at in Reykjavik are all still on the table ready for continued negotiations.

Yes, they have been more forthcoming as in some respects have we. So that criterion has been met.

If, in the post-Reykjavik atmosphere——

Mr. WILSON. Will the Senator yield?

Mr. GORE. Yes; I will be glad to yield, but only briefly, if I may yield briefly without losing my right to the floor because I would like to complete my statement. Of course, I will yield at this point.

□ 1750

Mr. WILSON. I thank my friend from Tennessee for his graciousness.

I do not want to occupy much of his time, but I do want to ask a question. As I listened to him, and I know the depth of his conviction, I heard him state that one of the conditions that should require the President to continue an adherence to SALT II, the unratified and expired treaty, is more forthcoming behavior on the part of the Soviet Union, and then he made the observation that at Reykjavik the Soviets had indeed been more forthcoming than, in some respects, we had been.

Is the Senator aware, as I am certain indeed he must be, that it was the United States that advanced the proposal for the first 5 years, the elimination of half of all strategic offensive weapons, and in the second 5 years the elimination of all ballistic missiles, the remaining balance?

In agreement for that, we would agree to forego deployment for 10 years of those elements of the strategic defense initiative outside the treaty.

Is he aware that when that proposal was made by the United States, which I would characterize as being distinctly forthcoming and, in fact, a generous offer, that at the last minute it was General Secretary Gorbachev who attached a condition that he had to know, which was unacceptable, and that that condition was that there be laboratory research only with regard to SDI activity?

If the Senator is aware of that, would he not agree that what happened is that the Soviets had their bluff called and found a way to scuttle the deal by making a demand that they knew the United States simply could not accept? Research only relegates SDI to the ash heap.

Incidentally, the Soviets, clearly by their conduct at Reykjavik attached as great a significance to SDI as does the President, I suspect in no small measure because of their own longstanding and very vigorous activity with regard to developing their own ABM capability, one that exists and one—and I think we violate no intelligence or classified information in saying—one that exists and one that is capable of some breakout to a primitive system.

Mr. GORE. I appreciate my colleague's statement. I wish to return to the issue of SALT II. Before doing so, I will respond to my colleague, without engaging in a lengthy postmortem of Reykjavik.

My understanding of what happened is that tentative agreements were reached with regard to a number of issues, including intermediate nuclear forces or the so-called European missiles, and the issue of nuclear testing, but that when the subject of strategic weapons came up there was not a tentative agreement that was halted only by a last-minute dispute over SDI, because there is some confusion in the administration's presentation of exactly what was involved there.

The President and Secretary Shultz have said that we proposed, as the Senator from California points out, a

reduction of 50 percent in all strategic nuclear weapons. Counting rules favorable to us were agreed to by the Soviet Union. And in the second 5-year period, there would be a further reduction down to zero not of all nuclear weapons, but only of ballistic missiles.

Mr. WILSON. That is correct.

Mr. GORE. Under this proposal, we would keep 50 percent of our bombers, including Stealth. And 50 percent of the Soviet bomber fleet, I might add, would be a tiny fraction of that.

We would keep half of our air-launched cruise missiles and half of our sea-launched cruise missiles.

I asked the question, was that the tentative agreement on strategic weapons that was halted at the last minute with the arguments over the SDI?

"No," came the response in briefings from the administration. The Soviets had a different version and it was unclear what the tentative agreement on strategic weapons was.

I would submit that it is a matter of some import whether the world is going to have nuclear weapons or not.

Mr. NUNN. Will the Senator yield.

Mr. GORE. I would be delighted to yield.

Mr. NUNN. There is some confusion on this point, and I am hoping that the story being put out today that our offer was only ballistic missiles is an accurate story.

There is a difference between ballistic missiles and all strategic offensive arms. The latter term includes our present cruise missiles and other types of bomber-delivered weapons.

I would have to say, though, that in the briefing we had at the White House yesterday, we were specifically told that our offer was ballistic missiles going to zero, and the Soviets came back with strategic offensive arms. Then there was a compromise so that we put ballistic missiles and strategic offensive arms. That was all oral. It was certainly all tentative.

What that would have done would have taken the United States and the Soviet Union down to zero in strategic offensive arms and ballistic missiles by 1996. I would hope that that tentative oral agreement, if there was one, and we were told there was one, has been taken from the table. I do not believe that has been thought through by our Government. I do not believe the implications of that are clear, as far as NATO, as far as conventional weapons, as far as the severe imbalance there would be between the United States and the Soviet Union, unless we have some additional conventional weapons agreements that bring down the Soviet forces which are much greater.

Mr. WILSON. Will the Senator yield?

Mr. GORE. I have the floor. I will yield to the Senator from California in a moment. Let me comment on the statement made.

I, too, hope that the clarification from the White House coming out today is a truer picture of what happened.

I personally find it somewhat incredible that we have three or four different statements from the administration about a point as central in importance as whether or not the world is going to have nuclear weapons or not have nuclear weapons; whether or not the United States is going to have a significant advantage in the strategic balance after this proposed 10-year period or not.

This is not a minor matter. It is disturbing to me that our team would come back here to the United States and be all over the lot in describing what the tentative agreement was.

Yesterday, Secretary Shultz said on this very point, when I sought clarification, it was not clear, it was not clear.

I conclude from that, and I would like to continue—I will be glad to yield further briefly to the Senator from California but on this point I want to continue—on this point I conclude from that that there was not a mutually understood agreement on strategic weapons that was stopped at the last minute merely by the disagreement on SDI.

I await further clarification from the White House.

I want to go on with the rest of my speech but out of courtesy of course, Mr. President, I will again yield without losing my right to the floor to my colleague from California.

Mr. WILSON. I thank the Senator for his courtesy. I will try not to detain him and other Members very long.

I do think it is important on this precise point to point out that yesterday in the briefing which has been referred to, the briefing was conducted by Secretary Shultz, where all Senators attended, right off this Chamber in S-207, when asked for clarification on this point the Secretary of State produced from his pocket the document which he said had been read to the Soviets as part of that negotiation.

In that statement, as he read from that document, what was offered was the elimination of 50 percent of all strategic weapons in the first 5 years and in the second 5-year period the elimination of the remaining balance only of ballistic missiles, not of all strategic weapons as the Senator from Georgia has been concerned.

□ 1800

Second, in an on-the-record briefing yesterday to members of the Department of Defense arms expert staff, Secretary Perle made the comment that what happened—and he went through a long, detailed narrative of events that comprised the negotiating record there in Reykjavik—he said that what happened was that in the end, General Secretary Gorbachev made a demand. The demand was that strategic defense initiative activity on the part of the United States be restricted to, and the phrase that was used was "research within the four walls of the laboratory."

The other night, on a national talk show, Mr. Gerasimov, the Soviet spokesman, confirmed that that was true. He said, "What is keeping us apart is one word—'laboratory.'"

Mr. GORE. If my colleague will let me get back to this point——

Mr. WILSON. I am delighted to let the Senator get back to his point. He has been most generous with his time, but I think that point should be made.

Mr. GORE. I shall get back to my point but let me yield first to the Senator from Georgia.

Mr. NUNN. Mr. President, I was not talking about the Secretary of State yesterday afternoon. I was in and out of that briefing, as the Senator from California knows. The briefing I was referring to was the briefing of congressional leaders by the President and the Secretary of State.

I specifically raised the point after the point was made that our point was offensive ballistic missiles. The Soviets came back and said they wanted to include all strategic nuclear arms. We were told, the leadership, that the compromise was that both of those terms were going to be used. I specifically asked the question on that because I felt it had profound implications on the whole question of conventional defense.

The reason I say this is because this whole area has been briefed all over town and this whole area is being talked about. I normally do not even talk about things that go on in a closed meeting, whether in the Senate or the White House. But everything that has been said is on the public record.

Mr. President and the Secretary of State said they wanted it all out on the record. I think this is an important point because what I am hoping is that the stories that are being briefed today, where we never agreed to that, are correct. But what we were told specifically, and it was reiterated yesterday morning, was that both of those terms were being used. That is why I have been under the impression that we had orally and tentatively agreed that we were going to eliminate all strategic offensive arms by 1996.

I am hoping that has been corrected, that we did not agree to that orally or tentatively, but that even if we did, we shall withdraw that from the table because we have not thought through that. All of us would like to arrive at that point some day, but we would like

to arrive at it in a sensible way, conventional arms control, bring it down to NATO armies, tank forces, and so on. We do not want to have all of our efforts in strategic nuclear weapons come to the final fruition of making the world safe for a massive conventional war. I think everyone would agree with that.

Mr. WILSON. I would agree. I think that is why the Secretary of State produced a document from his pocket and read into the record, if you will, in that briefing of the Senators yesterday after the meeting that they had at the White House.

Mr. NUNN. Let me say this: The documents were on pieces of paper back and forth. But the agreement was after those documents supposedly—if there was an agreement—had been swapped back and forth and it was oral. So the documents will reflect both sides of the position, but the oral agreement, if there was one, was tentative.

Again, my finest hope is that it has been withdrawn from the table or will be and is not going to be binding on us.

Mr. GORE. Mr. President, I hope that the administration understands and remembers what it agreed to tentatively in Reykjavik. Maybe they ought to check the bathtub in Hofdi House to see if they left the memorial of understanding over there at 4 o'clock in the morning.

Let me address the other point with regard to Reykjavik on the ABM Treaty. The fact of the matter is that what our side proposed with regard to the ABM Treaty, as I understand it, was that we would continue research, development, and testing as permitted not by the treaty as both sides understood it clearly at the time it was ratified, but research, testing, and development as the administration's new interpretation of the treaty permits.

The administration earlier announced what many feel is a preposterous change in the meaning of the ABM Treaty. What we were proposing to the Soviets was a period of 10 years during which we would comply with this totally new interpretation of the treaty. What the Soviets were proposing was an even broader change in the language of the treaty. They were indeed, as I understand it, seeking an amendment to the ABM Treaty that would tightly restrict the kind of research that might be allowed.

The point is this: From the standpoint of each set of negotiators, the proposal of the other set of negotiators embodied a change in the ABM Treaty. Perhaps the old interpretation of the ABM Treaty might serve as a middle ground in an effort to find some area of compromise on this key point.

On this point, Mr. President, one of the things I do not understand at all about the developments at Reykjavik is, when they reached an impasse on the subject of what research, development, and testing might be permitted during the 10-year period, why did the negotiations and discussions stop there?

Why did President Reagan pick up his papers and walk out of the room at that point? We have known for more than 2 years that in this negotiation, where the rubber meets the road is the kind of research and development allowed under the ABM Treaty. Where do you draw the line between research on the one hand and development and testing on the other hand? We have known that is the key area in dispute.

Both sides made major concessions and changes in their positions and arrived at this impasse involving what research and development is permitted under the ABM Treaty. Why stop there? What not say, Let us get some sleep and come back tomorrow? Then let us see if there is some way to find an area where we can agree on research that allows the United States and the Soviet Union to prove out the concepts that need exploration in order to answer the key unanswered questions with regard to SDI and, at the same time, disallows development and testing of a kind that pushes the program so far down the road toward deployment that deployment becomes a virtual fait accompli and both nations have to anticipate imminent deployment at the conclusion of the 10-year period.

□ 1810

Why did we not explore that critical area?

So I would stand by my earlier characterization of what happened at Reykjavik and the relationship between arms control and SDI. The relationship between SALT II and SDI comes up in another context as well. General Abrahamson, the respected head of the SDI Program, has himself said that in order for SDI to be effective, if it ever is, it will require arms control. The extent to which offensive missiles are reduced by arms control will make any conceivable SDI Program more feasible than it would otherwise be.

So if we are moving toward the deployment of an SDI type system, why scrap the only existing limitation on the kind of weapons that SDI is intended to defend against? It is crazy, it is absolutely crazy, and I hope that the President of the United States takes the occasion of the Soviet Union's demonstrated forthcomingness at Reykjavik to reconsider his earlier announced intention to exceed these sublimits, and I hope that he understands very well that both the House and the Senate are saying in unmistakably clear terms, representing the American people, we believe it is in our national security interest to continue abiding by these SALT II limits.

Let us not be fooled in the post-Reykjavik atmosphere into believing the big public relations campaign that is being mounted now to convince everyone that this was a great success over there. Let us not fool ourselves on this point. Let us keep clearly in mind the fact that the post-Reykjavik atmosphere is one in which the United States has to proceed very carefully with respect to arms control.

Before the Reykjavik meeting, the House of Representatives had a provision in this bill requiring compliance with these sublimits. They were willing, as I understand what happened, to surrender that provision only hours before the meeting began in order to give the President the maximum ability to come home with a success, and with the clear anticipation that what happened at Reykjavik would give new momentum to a possible follow-on strategic agreement.

That is as if they were a trapeze artist leaving one swing in clear anticipation of another one on its way in the form of a follow-on strategic agreement. Now, that other swing is nowhere in sight, or at least we must recognize the clear possibility of a long hiatus before a follow-on strategic agreement is in place, and there is no net.

Do we not want to let go of the only existing strategic arms limitation that we have when it limits the Soviet Union far more than it limits us? I certainly hope not.

We have heard quiet statements from some in the administration that SALT II did not come up in Reykjavik, so maybe the Soviets are not that interested in it.

Why, of course, they want to keep their options open because, Mr. President, if the United States simultaneously says two things to the Soviet Union, if the United States says, first, "We are going to go full speed ahead with SDI even to the exclusion of arms control if necessary," and then we simultaneously say, "We are going to exceed the limits in the SALT II Treaty on offensive weapons," the combination of those two things results in a simple one word message to the Soviet Union—build, build, offensive missiles and deploy them, because the easiest, cheapest and most feasible way to overcome SDI, when and if it is deployed, is to proliferate the number of offensive weapons.

Here we have a treaty in place, and both sides are abiding by its central elements; a treaty that constrains the Soviet Union's ability to so respond. And yet, while we are going forward with SDI, we are going to tell them, "We are going to exceed that limit. Don't you worry about it; go ahead,

build up all those warheads on the SS-18's, make full use of your other advantages in throw-weight and offensive missiles."

It would be absolutely mindless for the United States to take that course of action. I hope the President of the United States takes full notice that both a majority of the House and Senate feel that way.

Mr. President, I appreciate the indulgence of my colleagues and I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I will take just one moment. I am not sure exactly what the Senator from Indiana said about the provision in this bill that was known as the Quayle amendment that has now been deleted. It is not part of the conference report, but I want to make sure that it is understood. In the original Senate Armed Services bill was a provision that was inserted in committee stating that "It is the sense of the Congress that consistent with international law it is not in the national interest of the United States to continue compliance with any strategic arms agreement that the Soviet Union has clearly violated."

That was an amendment which was originally proposed in the Armed Services Committee by the Senator from Indiana, with the words "consistent with international law" not in it. Those words were added by amendment in the committee and then that total paragraph, with those words, was adopted without any dissent. I believe it was a unanimous vote.

Now, those words were important, and it is important for us to understand the context, even though this is not in the bill, because that is a general statement of our rights under international law.

Now, what does international law tell us we are supposed to do if an agreement is breached? The general response is supposed to be proportionate response, and of course that is a matter of subjective judgment. But I did want to make this record clear as to what the original amendment was as proposed, what was done in the committee, and the fact that amendment is not in this provision relating to SALT II.

The SALT II language has been inserted by the conference based on an agreement between the House and the Senate conferees that we would insert strong but nonbinding language in terms of the SALT II Treaty.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I first express my admiration for the remarks of the junior Senator from Tennessee, who spoke with such clarity about the imminent decision the United States has to make—and this Senate has to be part of that choice—as to whether we will continue to abide by an arms control agreement which is far more restraining on the Soviets than it is on us, or whether in a pattern of near absentmindedness make an extraordinary mistake.

We have seen our negotiators in Reykjavik with the greatest of good intentions nonetheless find themselves in almost bizarre negotiating positions. I do not want to say unthought-out positions, but certainly very novel positions with huge implications being presented almost spontaneously, as if to maintain the spirit of the occasion, and not at all the spirit in which we though the occasion had been convened. At some levels they were carried far beyond the consultative process that takes place within the executive branch when considering matters of that magnitude.

The Senator from Georgia has spoken with great clarity about some of the implications of the proposals that were made. Let us be much more deliberate as we approach this fateful decision.

□ 1820

Mr. President, earlier, the distinguished majority leader and my beloved former colleague on the Intelligence Committee, the senior Senator from Arizona, spoke of the provision for the T-46-A trainer in the bill before us, the authorization bill. A number of statements were made which I will not dispute, because we have discussed these before, and our respective positions are well known, and I need not hold up the Senate. But for the record, I would like to say two things.

One is that the Air Force approval of this trainer is elemental, in that we must have a new trainer soon. A new trainer, the T-46-A, has been developed, has been flown, and has proven very successful. The Air Force needs a new trainer; Fairchild's got a good one.

The indefatigable and indomitable Senator from Arizona has flown it, and is here to tell the tale, as have all manner of Air Force officials. The existing plane, the T-37, is a good 25 years old now and cannot be developed into a new plane. To do so would involve a tremendous waste of defense dollars simply to extend its service life a few years. This is not a good plan.

In discussing the next generation trainer, we are talking about a piece of equipment which we expect to be working order well into the second decade of the next century, and a prudent and careful process has taken place whereby the Fairchild Republic Co. was chosen to build it. It is only right that Fairchild keep this duly awarded contract.

Earlier this year, the distinguished majority leader asked the General Accounting Office to report to him and to us on the general subject of aircraft procurement and the development and production of the T-46-A aircraft. I found the GAO report encouraging, as did the workers and managers at the Fairchild firm. I will read just one paragraph:

> The Air Force System Programs Officer and Flight Test Center officials, as well as the contractor test pilot, said that the T-46-A's performance test have been successful. They also said that technical tests have been outstanding, and reliability and maintainability significantly better than predicted. They believed that the T-46-A's airworthiness is excellent.

Mr. President, to the other, technical point: The continuing resolution which we will be dealing with tomorrow, I hope, provides funds in the amount of $151 million for the production of the trainer in fiscal 1987, and specifically provides for the release of $169.9 million that has already been appropriated for fiscal 1986 but not released. That is in the continuing resolution. That is a measure we will pass, and it will become law.

I hate to say something I have not ever said before, I believe, on the floor—that it must pass as it is now written, or I cannot anticipate the time when we will be able to vote on it.

For the moment, however, we consider authorization bill, in which there was admittedly an effort by the Senate conferees to specifically bar the T-46-A. The compromise agreed to in conference would be fatal to Fairchild Republic. The company earned the contract and deserves to keep it. The provisions in the continuing resolution are the wise and fair course.

Mr. President, I hope we will end this discussion. The passage of the continuing resolution will do it.

I see that my distinguished friend is rising, and, not without some trepidation. I await his remarks.

Mr. GOLDWATER. Will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. GOLDWATER. Mr. President, I will not delay the Senate. I have spoken on this before.

I say to my friend from New York that the only question here is that the Air Force does not want the airplane. It is that simple. If you get the Commander of the Air Force to pick up the phone and say, "Goldie, I want that airplane," I will be the first one to vote for it.

Mr. MOYNIHAN. That would be characteristic.

Mr. GOLDWATER. I have flown it. It is a nice airplane. It has some problems. Every airplane that is new always has problems. I am not going to get into the company. The company is in real trouble. The Senator knows that.

If the Air Force asks Fairchild as it is now constituted to complete the original contract, it would not be able to do so. They have built only 2 airplanes, and they are supposed to have delivered 10 by now. I think they have about $170 million left, and completing the contract would bankrupt the company.

I want the Senate to know these things. I am not opposed to the airplane. I have to accept the wishes of the Air Force when they say they do not want it. I will be glad to go to the phone and talk to him, if he wants to change his mind.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Arizona for his gracious, forthright, and absolutely unimpeachable, persuasive statement. What he says is so.

There is more than one Air Force at a given time, as he has learned to his great weariness over a distinguished career on this floor. We will go forward with the continuing resolution.

Mr. KENNEDY. Mr. President, I join my colleagues on both the Senate and House Armed Services Committees in recommending the approval of the conference report on S. 2638, the Defense Authorization Act for fiscal year 1987.

It is a tribute to the hard work and determination of Chairman GOLDWATER, Senator NUNN, House Armed Services Committee Chairman ASPIN, and ranking minority member Congressman DICKINSON that we were able to complete this conference, given the many differences between the Senate and House bills. The betting outside the conference committee is that we would never be able to bring a bill to the floor. My congratulations to all the members on both committees who, against all odds, were able to resolve their differences and complete work on this important piece of legislation.

The submission of this conference report is also a victory for the Senate Armed Services Committee and the entire defense authorization process. While the Appropriations conferees have not yet completed their work, it appears that differences between the final defense authorization and Appropriations products will be for less than in years past. This is encouraging.

The successful completion of the 1987 Defense Authorization Act is also a fitting cap on the long and distinguished career of Senator BARRY GOLDWATER. Throughout this year, BARRY has been riding herd on this committee and on several conferences. The result is the achievement of several major pieces of legislation: The Military Retirement Reform Act, the 1986 Supplemental Defense Authorization Act, the Goldwater-Nichols Department of Defense Reorganization Act, and, now, the 1987 National Defense Authorization Act.

I want to express my deep personal gratitude to BARRY for the leadership he has provided to this committee and to the Nation and for the many years of friendship he has given me. The senior Senator from Arizona will be sorely missed by this committee and this Senate.

While I have signed the conference report, I believe there are both good and bad aspects to this bill.

The conference marked to a budget authority of $291.9 billion for national defense. This is quite close to the level arrived at in the continuing resolution. However, the conference was less successful in achieving outlay savings, having marked to a level of $281.5 billion, $2.3 billion above the budget resolution.

In order to reach the outlay targets, the conference set up a contingency reduction that would reduce the military pay raise, and implement other across-the-board reductions if the Appropriations conferees refrain from using budgetary gimmicks to achieve required outlay savings. I wholeheartedly endorse the authorization conference's decision not to achieve the outlay targets through "gimmicks" like moving the pay date. Nevertheless, I part company with some of my colleagues who suggest that achieving these outlay targets requires making cuts in programs in a manner that will harm our national defense.

I believe that $279.2 billion in outlays is more than enough to provide for the national defense and keep America strong with a military force second to none if the money is properly allocated and distributed. Unfortunately, the 1987 National Defense Act follows historical patterns by distributing a disproportionate amount of the reductions in areas, like operations and maintenance, that can least afford it. It also reflects an unwillingness or inability to make the tough decisions and terminate new, unneeded or redundant weapons systems. Only a handful of "new starts" were cut, while spare parts accounts for aircraft, combat vehicles, and other systems were cut back drastically from administration requests that had already been reduced back at the Pentagon. Even after all the blood was spilled, the strategic defense initiative received a whopping 15 percent over last year. Unneeded and dangerous weapons like the MX, antisatellite and chemical munitions continue to be funded at the expense of less glamorous but far more critical defense items. In this Senator's view, such actions reflect a flawed ordering of priorities.

In addition, if current deficit projections are accurate, we will probably face a similar situation during consideration of the 1988 Defense Authorization bill. The budgetary constraints the Congress will be under in allocating funding for the military next year will be even more severe. We cannot continue to defer tough decisions on research and development, procurement, and especially new starts, and sacrifice operations and maintenance and the readiness of our Armed Forces. It is a method for achieving defense budget cuts that will come back to haunt us if we should ever have to go to war.

Finally, I want to say a few words about the arms control provisions in the bill which became the focus of so much controversy during this conference and, indeed, had national security implications extending far beyond the conference.

I disagree with those on the committees who feel that the House amendments and provisions had no business being in our bill. The administration's flawed arms control policies have had tremendous consequences for our overall national security, and it was perfectly appropriate for the House to seek to implement the will of the American people in retaining those few limits remaining on nuclear forces and seeking ways to end the nuclear arms race.

I commend my House colleagues for their steadfastness and determination in standing tough on these important amendments. I know that many are disappointed on the final outcome of the conference and the decisions to remove binding language on SALT II and nuclear testing. I opposed both decisions and fully supported the House language binding the administration to adhere to the SALT II sublimits and limit nuclear testing.

But this administration is now on notice. The Congress and the American people will no longer tolerate year after year of phony promises, stalemated negotiations, and an escalating arms race. The eyes of the Congress and the American people remain fixed on this administration and its lack of a coherent arms control policy. The Congress cannot legislate arms control, but we can and will expect and demand results.

FISCAL YEAR 1987 DEFENSE AUTHORIZATION ACT—CONSENSUS LEGISLATION TO STRENGTHEN THE NATIONAL SECURITY

Mr. BYRD. Mr. President, I had hoped to speak briefly in support of the fiscal year 1987 Defense Authorization Act before its passage, but I was distracted by other matters and was unable to do so. I did not want to delay passage of the act. But I will make just a few comments at this point with reference to that Authorization Act.

Mr. President, I commend the distinguished Senate managers of the fiscal 1987 defense authorization for their role in shaping a final version of this legislation, which makes a significant contribution to our national security.

The conference report now before us is a special tribute to the lifelong legislative contributions by our esteemed colleague from Arizona, Senator GOLDWATER, the chairman of the Armed Services Committee, to strengthen our security.

The Senate respects and greatly relies upon the judgment of Chairman GOLDWATER on defense matters, and I hope we continue to receive his candid guidance, even after his retirement at the adjournment sine die of the 99th Congress.

It is with much pleasure that I note that this conference report contains an authorization for a scholarship fund named in honor of Senator GOLDWATER. The Barry Goldwater Scholarship and Excellence in Education Foundation will assist worthy students to pursue studies in science and mathematics—a special interest of Senator GOLDWATER's and one which further contributes to our overall security.

This conference report also testifies to the leadership and skill of our distinguished colleague from Georgia, Senator NUNN, the ranking minority member of the Armed Services Committee, and of all other members of that committee. They have combined their talents to produce a legislative package worthy of Senate endorsement.

Mr. President, any conference report represents an attempt to reach reasonable compromises between the different positions of the Senate and House of Representatives. As such, some provisions gain more favor than others, and some components cause more concern than others.

This certainly is true for the present legislation. However, on balance, the total package is a step forward in Congress' endeavors to maintain and improve our national defenses in the most militarily effective manner, and within reasonable budget levels.

The arms control provisions of this package, and the procurement and research programs associated with those sections, have attracted the most attention and controversy. But it also should be remembered that the final bill provides the funding needed to enhance our military posture in the more unglamorous areas of conventional forces modernization and research, daily combat readiness, and military personnel force levels, pay and benefits.

The conference report continues the leadership Congress has demonstrated to ensure that our National Guard and Reserve Forces receive the funding and equipment resources they deserve as an essential component of our total defense posture. As a strong supporter of our Guard and Reserve Forces, I am most pleased that the conferees agreed to recommend authorization of $563.5 million for additional procurement for these components.

Our distinguished colleague from Mississippi, Senator STENNIS, who is the dean of defense matters in the Senate, I should say, deserves high praise for his initiatives to promote the interests of the National Guard and Reserves.

Regarding the arms control matters and related procurement and research programs in the conference report, there are several positive recommendations which should be highlighted.

First, the conferees provided full funding for the advanced technology, or Stealth bomber, and for the advanced cruise missile. These two programs are critical to modernizing the air-breathing element of our strategic nuclear deterrent forces.

I also am gratified that the conferees agreed to accept my amendment to protect these programs from any attempt to divert funding from them, and to prohibit any funds in the fiscal year 1987 defense budget from being used to buy more than 100 B–1B bombers.

Second, the final bill contains $1.2 billion to permit the Midgetman Small Mobile Intercontinental Ballistic Missile Program to begin full scale engineering development in fiscal year 1987. The Midgetman may be our country's best alternative to modernize our land-based deterrent forces in a survivable manner which contributes to a stable nuclear balance.

Third, the conference report recommends a total of about $3.53 billion for the strategic defense initiative [SDI]. These funds provide a 13-percent real increase in the SDI Program, compared with its fiscal year 1986 budget. In this day of staggering Federal deficits and extremely tight fiscal constraints, this recommended funding is a much more appropriate amount than the 71-percent real growth sought by the Pentagon.

Fourth, the conferees made major advances in both arms control and responsible defense program management in the areas of nuclear testing, binary chemical weapons, and antisatellite systems.

In a demonstration of statesmanship to support the President at the Iceland summit, a compromise also was reached on the matter of the SALT II "no undercut" policy. This conference report, in important sense of the Congress language places both Houses of Congress firmly on record in support of continued United States compliance with the central numerical sublimits of offensive strategic arms agreements, as long as the Soviets continue to observe these sublimits.

This compromise is important as both the United States and Soviet Union try, at the Geneva talks, to capitalize on the arms control progress made in Reykjavik, and to avoid the pitfalls which led to the summit meeting's final disappointing outcome. I hope that the administration understands fully that this bipartisan, and bicameral, support for continued U.S. SALT compliance is based on the considered judgment that American national security is best served by such a "no undercut" policy.

Continued United States compliance, later this year, with SALT's central numerical sublimits denies the Soviets both military and propaganda advantages which work against our security. In addition, if either side were to scuttle these key elements of existing offensive arms control agreements, it would cast a dark shadow over the atmosphere in which both nations will strive to pick up the pieces of the Iceland smmit.

Thus, there are compelling national security reasons for the United States not to abandon a SALT "no undercut" policy. This conference report recognizes and underscores these reasons, and the President would well serve our own Nation, and our allies, if he maintains this policy.

On another SALT-related matter, the conference report also gives final approval to my amendment requiring the Joint Chiefs of Staff to provide Congress with a detailed assessment of the military impacts on the United States of abandoning the SALT "no undercut" policy.

Congress needs such information and the American people need such information through their elected representatives and in a timely manner, to assess the full security implications of abandoning U.S. treaty compliance. The Chairman of the Joint Chiefs, Adm. William J. Crowe, Jr., indicated he could submit this report by October 1, and that he would do so as soon as this bill, or the fiscal year 1987 continuing resolution which also contains the requirement, becomes law. Both Houses of Congress are expected to pass both conference reports, so I would hope the admiral would not delay submitting this report, since Congress should receive it before adjournment sine die.

Finally, Mr. President, the conference report adopts my amendment to increase the processing of certain ferroalloys in our national defense stockpile during the next 7 years. These metals are critical components in many weapons systems, and maintaining a national production base is necessary for both security and industrial competitive reasons. My amendment was designed for this purpose.

Mr. President, I urge adoption of this conference report to meet our essential national security requirements.

Again, I commend Mr. GOLDWATER and Mr. NUNN for their outstanding leadership in promoting, developing, and bringing this legislation to its final passage.

Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, I wonder if we might complete action on the conference report.

THE PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. GOLDWATER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GOLDWATER. I thank the Presiding Officer (Mr. DURENBERGER). He is a very generous man. I will go home and pray for him.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

OMNIBUS DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A motion to concur with a further amendment, as modified, to the House amendment to the Senate amendment to H.R. 5484, the Antidrug Abuse Act of 1986.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

The Chair, in his capacity as a Senator from Minnesota, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1830

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, earlier I made reference to the concurrent resolution, House Concurrent Resolution 395, which is better described as the tag correction bill following the tax bill.

I am not at the moment going to propose a unanimous-consent request so that both sides can have a chance to run a hotline on what it is I will propose.

I have talked to a number of Senators who raised questions before. I talked to Senator LAUTENBERG of New Jersey and alleviated the question he had. I talked to Senator WALLOP, and I talked to Senator METZENBAUM.

If there are other Senators who have objections, I do not know about them, but the reason I am going to announce now what I am going to do and subsequently make the unanimous-consent request is so if there is objection, they can come to the floor and let the objections be known.

I will say again what I said before. I will not reread the list and take the time of the Senate, but there are about 25 to 30 States that are affected—Carnegie Hall in New York is affected—with minor transition provisions that were by and large errors.

Mr. MOYNIHAN. It was clerical. If I may ask the manager to yield for a question?

Mr. PACKWOOD. Yes.

Mr. MOYNIHAN. In the specific case of Carnegie Hall.

Mr. PACKWOOD. It was a wrong address.

Mr. MOYNIHAN. Wrong address. Seventh Avenue.

Mr. PACKWOOD. The House has sent a correction bill over. There was some new material in it and we have taken out the new material that they requested be taken out.

When I make the request it will be as follows: To delete the market discount bond provisions which are limited to 15 life insurance companies now and to add a revenue neutral generic rule that allows all insurance companies of whatever size to purchase and sell the bonds; to retain the current law for State legislator expense. The House bill terminates, sunsets it at the end of 1990. It is to liberalize the low-income housing transition relief for rural project assisted under the Farmers Home Administration and clarify the at risk rules that apply to real estate generally and will apply to low-income housing projects eligible to the low-income housing credit. Change the effective date for the employer-owned life insurance provisons from June 20, 1986, to the date of enactment of the Tax Reform Act; to reinstate the Senate-passed rule on trucking company transition rule or limit the value to $8.5 million which is half of the full value; to delete the custom broker freight forward provision.

I might say the Senator from Ohio has been generous in this. It is a good provision. It was put in the bill inadvertently. It is in the jurisdiction of the Commerce Committee, and we all agreed it would be taken out and have hearings in the Commerce Committee and give it full and fair treatment next year.

We would make the general aviation transition rule generic but limit it to purchases on or after August 16.

We delete the transition rule to charitable contributions to certain universities. That is LSU and Texas A and M, the skybox situation. So one of my friends from Nebraska can say all the teams can play on a level playing field. That will be deleted.

We deleted new starters that the House put in and limit the cost of physicians mutual provision to $300,000 per year.

As far as I know there are no objections to any of those provisions.

So at an appropriate time, and I hope it will not have to be too long, I will make a unanimous-consent request which will be a unanimous consent that there be one amendment. I will offer the amendment that will have all of these provisions in it—I think it has been cleared all around—and that there be no other amendments, and we will move to the consideration of the House concurrent resolution, although the vote on it may occur in the morning, but we would try to get a time limit.

With that I am prepared to yield the floor. But I would encourage any Senators who have questions.

Mr. MOYNIHAN. Before the Senator yields the floor, will he yield for a question?

Mr. PACKWOOD. Yes.

Mr. MOYNIHAN. The subject of the address of Carnegie Hall has come up. Is he aware of that ancient New York folk story about the Texas couple who got lost in the subway system and come up in Brooklyn somewhere in Greenpoint? He saw an old bearded gentleman standing by a small shul and the Texan said "Say, good old buddy, could you tell us how you get to Carnegie Hall?"

The old gentleman thought a moment and said, "Practice."

Mr. PACKWOOD. No, but we will include it as a transition rule in the bill.

I yield the floor, Mr. President.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that I might proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LATIN REPORTER ARRESTED

Mr. MOYNIHAN. Mr. President, we read in this morning's New York Times an account of still another foreign visitor to the United States, here in this case by invitation, seized by immigration authorities and literally put into prison under the provisions of the old McCarran Act, which haunts us as if from another era.

This case concerns a Miss Patricia Lara, who is a graduate of the Columbia School of Journalism and is a reporter for El Tiempo. El Tiempo is the most prestigious newspaper of Colombia.

She was coming to the United States to participate in an award ceremony which takes place each year, in which the Maria Moors Cabot prizes are awarded to persons who have distinguished themselves in journalism in the Western Hemisphere. Recipients are awarded a gold medal and an honorarium. For 48 years these awards have been given and they go this year

to the Washington bureau correspondent of the Miami Herald; the South American bureau chief of Time; and a number of other distinguished journalists from South America in addition to Miss Lara.

Miss Lisa arrived for the Cabot awards ceremony on October 14, 1986. She had been in the United States twice in the spring of 1986. She has a master's degree from the Columbia School of Journalism. Suddenly she is arrested under section 235C of the Immigration and Nationality Act. She is arrested, put in effect in prison in Varick Street in Manhattan and not told why.

A spokesman for the Colombian Ambassador to the United States very sensibly informed the New York Times that "Our Embassy has issued a diplomatic note to the U.S. State Department, requesting an explanation and also stating our surprise." That spokesman, Virginia Verela, added with I think every reason and right that "In Colombia we have free press."

It is dismaying, Mr. President, that we behave in this way, and that we cannot explain what we do. I would suppose if the Immigration and Naturalization Service wished to give the maximum attention to its serious difficulties with this statute, it would arrest and imprison a journalist from the most distinguished newspaper of Colombia coming to an award ceremony at the Columbia University School of Journalism. And as I learned today, the INS is intent upon making a further resolution of the case Friday morning, the morning after the evening ceremony.

□ 1840

It makes one weep. What could possibly possess the United States to act in this manner? You could almost become cynical. I have seen no less a person, Mr. President, than the Secretary of State himself fraternizing with known Communists in a foreign country over this past weekend. I have seen persons with access to the highest levels of secret information, such as only the Presiding Officer—as chairman of the Select Committee on Intelligence—would have access to, in close congruity with known agents of the Soviet Union. I mean, heavens, the President of the United States has offered the General Secretary of the Communist Party of the Soviet Union to share with him all of our secrets concerning the strategic defense initiative.

And we have a young lady in the slammer on Varick Street who had no reason in the world to expect she would be in prison. She was here last March and April. Perhaps there was a computer malfunction then, but this time, off she goes to prison.

That is no way to treat a fellow American—we are all from the Americas—and a graduate of one of our distinguished institutions, as well as a reporter from one of the distinguished papers of the hemisphere. It makes no sense. It exposes our country, this Republic, to ridicule. It requires the spokesman for the Colombian Embassy to say Colombia has a free press, not implying but allowing people to read the suggestion: "Does the United States?" Well, of course we do. But then why are we arresting people at Kennedy Airport?

Mr. President, I think this legislation needs to be reviewed. It comes out of an era nearly two generations past. It was enacted by persons who perhaps did not know what they were doing, but their provisions expose the United States of America to ridicule. These provisions do nothing whatever that I can see to maintain our security. If there ever was such an occasion where our security was maintained, I am not aware of it and in my years on the Intelligence Committee never heard of one.

It really does behoove the administration and the Congress to ask that in the next Congress, the 100th Congress, we ought to examine the statute and see how it can be made to reflect what is best in our country and what is free and current and contemporary in our country, and not what comes from us in the legacy from a past which is as little honored in the present time as was the period of the Alien and Sedition Acts in the last decade of the 18th century. We are perfectly capable of protecting our security interests without embarrassing our Nation.

Mr. President, may I further add, however, that I have spoken today with the Commissioner of the Immigration and Naturalization Service and got the fullest cooperation from him. He had not been aware of the matter. That does raise a question as to how the Commissioner could not be told of something of this consequence, where friendly embassies from democracies of the Western Hemisphere send notes to our Government, and when an important story appears in the New York Times. Somehow it may be that the bureaucracy over there does not know what difficulties they are making for their nation. I cannot imagine they would intend to do so. But I do wish to report the Commissioner's cooperation and express my appreciation for it.

Mr. SIMON. Mr. President, I was over in my office and heard my colleague from New York speak on this thing where we go through this again and again and again embarrassing ourselves needlessly. And it is interesting to me that the Attorney General of the United States—and I have asked the Attorney General—and the Secretary of State both have said we ought to change the law. And somehow, we ought to do it.

I had an amendment here 6 months ago or 8 months ago to change the law. Unfortunately, it was defeated. This was before both Attorney General Meese and Secretary of State Shultz came out on the other side.

But if you were to look at the list of people who have been on, you know Pierre Trudeau, Graham Greene——

Mr. MOYNIHAN. Farley Mowat.

Mr. SIMON. Yes. It is just absolutely ridiculous. And he was on that list because he objected at one point to the B–52's flying over his timbered land. And so we put him on some kind of an enemy's list who should not be permitted in the United States.

You know, we are a free country. I always remember when I was in the Army, I visited Hyde Park in London where everyone gets up on the soapbox to speak about whatever you want to speak about. This Moscow Communist leader was speaking. And while he was speaking, this little lady, with a cockney accent, asked, "Why can't we speak in Moscow like you're speaking in London?" And everyone laughed and cheered and jeered.

Of course, that is the essence of the difference in our systems. We ought to be people who welcome people. You can speak out in Canada against United States policy and still be welcomed here, or in Chile or anywhere else, from the right, left or in between. My colleague from New York is absolutely right. Again, I commend him.

Mr. MOYNIHAN. Would my friend from Illinois yield for a question?

Mr. SIMON. I am pleased to yield.

Mr. MOYNIHAN. He most assuredly did bring this matter to the floor of the Senate this year and we were not successful, but then we had not gotten the support of the Attorney General and the Secretary of State. You cannot imagine George Shultz or Edwin Meese wanting anything to do with the nuttiness of the detention of Patricia Lara. Imagine George Shultz, with all he has on his mind, receiving a note from the Ambassador of Colombia saying: "Sir, what are you doing?" And the Director of the Naturalization Service does not even know about it; nobody thinks it important enough to tell officials in Washington.

At least the Service could have said, "Sorry, ma'am, you have to take the next plane back." But, put her in jail?

Would it not be useful to think of a group of us getting together and really pressing legislation in the next session, asking the administration to help so as to stop embarrassing the President of the United States and his country and our country?

Mr. SIMON. Absolutely. And I hope we can do that.

Let me add, our colleague who heads the Immigration Subcommittee, Senator SIMPSON, also believes that a change is needed.

Mr. MOYNIHAN. I cannot doubt but he does.

□ 1850

And we ought to be able to get together next year and fashion something that causes less embarrassment to us and causes us to live up to the ideals that we profess. Again, I commend my colleague from New York. I hope we will move in that direction.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HECHT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARM CREDIT SYSTEM LEGISLATION

Mr. COCHRAN. Mr. President, the House has passed a budget reconciliation bill containing the Farm Credit Amendments Act of 1986. This is legislation which has been developed in concert with members of the Senate Agriculture Committee, the House Agriculture Committee, particularly the chairman of that subcommittee, Congressman ED JONES of Tennessee.

I am asking that we look very carefully at this proposal, and give it the support which it ought to have if we are going to get some relief for borrowers from the Farm Credit System, relief from the high interest rates they are having to pay.

There is a disproportionate share of the burden for sustaining some past practices and decisions by the Farm Credit System that are being imposed on the borrowers. That relief can be provided by the passage of these Farm Credit Act amendments that are included in the reconciliation bill.

There was an article in the Washington Post just in the last few days criticizing these amendments unjustly. I have a copy of that article here, Mr. President. I am going to ask unanimous consent at the appropriate time that it be made a part of the RECORD.

I also have a copy of a letter, Mr. President, which I think Senators should notice which has been sent to the chairman of our Agriculture Committee here in the Senate, Senator HELMS. A copy was sent to this Senator, and also to the distinguished Senator from Nebraska, Mr. ZORINSKY, pointing out the widespread support for this legislation by agriculture groups all over the country.

Mr. President, the Farm Credit Act Amendments of 1986, as included in the Budget Reconciliation Act and as passed by the House in H.R. 5635, represents a bold, self-help program for the financially troubled Farm Credit System [FCS] and its borrowers. Passage of this legislation by this Congress is important because it makes adjustments in the Farm Credit Amendments Act of 1985 necessary to provide FCS the best possibility of remaining a dependable source of agricultural credit at competitive interest rates without an infusion of Federal funds. With this legislation FCS will be able to lower its operating cost and have the flexibility to lower interest rates.

There is, however, some concern that since the legislation does not mandate a minimum interest rate reduction for borrowers, the Farm Credit Administration, the regulator, will insist on having benefits accrue only to FCS member institutions. I want to assure my colleagues that it has been my objective from the initial phase of developing this legislation that the primary purpose was to find a way to have FCS offer more competitive interest rates to its borrowers especially considering today's availability of much lower cost funds. Furthermore, to support the conclusion that this legislation, the Farm Credit Act Amendments of 1986, is capable of providing FCS with the opportunity to lower interest rates to its borrowers, I ask unanimous consent to include in the RECORD an article by John M. Berry, Washington Post, October 12, 1986, that reports in part as follows, "According to Naylor—Frank Naylor, Chairman of the Board, Farm Credit Administration—the maneuver would reduce the FCS cost of funds by enough to allow it to reduce the interest rates its borrowers are paying by between 1½ and 2 percentage points." Another comment in this article suggests that such an interest rate reduction would amount to approximately $1 billion savings in interest expense to borrowers.

I also ask unanimous consent to include in the RECORD a letter to the chairman of the Committee of Agriculture, Nutrition, and Forestry, Senator HELMS, supporting immediate passage of this legislation. The letter is signed by the following agricultural groups: American Soybean Association, National Cattlemen's Association, National Cotton Council, National Milk Producers Federation, National Association of Wheat Growers, National Corn Growers Association, National Grange, and National Pork Producers Council.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 12, 1986]

FARM CREDIT SYSTEM READY TO PAPER OVER ITS RED INK

(By John M. Berry)

With the quiet acquiescence of the Reagan administration, Congress is on the verge of authorizing the Farm Credit System to pretend that it is making money instead of chalking up the largest losses of any financial institution in history.

The Farm Credit System, or FCS, comprises 37 banks and hundreds of local "associations." Last year the system lost a staggering $2.7 billion, and there was another $1 billion loss in the first half of this year.

Many farmers continue to be unable to make payments on the $65 billion worth of loans the system has outstanding and losses are still mounting. In a gamble to hold onto more creditworthy borrowers who could get loans elsewhere, FCS last summer began cutting the variable interest rates it charges to more competitive levels, and in the process added roughly $200 million to this year's losses, which FCS officials expect to hit at least $1.7 billion. The General Accounting Office has warned that the system is in such bad shape that the final 1986 figure could be as much as $2.9 billion.

In a two-year period this borrower-owned cooperative system will have lost, by these estimates, upward of $4.4 billion, with more to come. Remarkably, the system in previous years had accumulated a large enough surplus to cover these losses without dipping into its basic capital, virtually all of which has been provided by borrowers, who are required to buy stock in the system when they get a loan.

To protect the farmers and other rural residents who own that stock, Congress last year gave the system authority to borrow money directly from the U.S. Treasury if needed.

In return for honoring what had long been regarded as an implicit federal guarantee of FCS liabilities, Congress directed the system to clean up its lax management and accounting practices and to submit to serious, arms-length regulation by a revamped Farm Credit Administration. In prior years, the FCA had operated more like a part of the system than a regulator of it, Congress' concern is more for the borrowers, mostly farmers, than for the Farm Credit System itself.

Thus, last year's legislation protected the value of the cooperative banks' stock owned by the borrowers. And this election year, as the losses mounted and it seemed that FCS would soon be knocking on the Treasury's door, the legislators are again moving swiftly to aid the borrowers.

With federal budget deficits so high and the Gramm-Rudman-Hollings deficit reduction law setting ever smaller targets for federal red ink, representatives of FCS proposed some creative accounting changes to postpone the day of reckoning for the system. Reversing some strict provisions of last year's law, including one that FCS must use generally accepted accounting practices, the House last week approved the changes.

The Senate is expected to attach them as an amendment to a pending budget reconciliation bill that likely will pass this week.

Without spending a dime that will show up in the budget, FCS losses likely will be turned into reported profits.

Meanwhile, Congress has made it clear that to the maximum extent possible, the resulting savings are supposed to be passed on to FCS borrowers through lower interest rates.

The theory behind it all is one of postponing recognition of actual losses until American agriculture and the Farm Credit System are in better shape to bear them.

The accounting changes will allow FCS to show much lower current-year costs and thus charge their borrowers lower interest rates.

The system is losing money for several reasons, including:

Depressed commodity prices and plunging farmland values which have left many borrowers without either the current income out of which to make loan payments or valuable assets that can be sold to reduce to pay off the loans.

A very high cost of acquiring funds to relend to borrowers, a cost that is much higher for FCS than its competitors, including commercial banks and some insurance companies.

Unusually high overhead that, according to Frank Naylor, head of the Farm Credit Administration, is partly the result of the system's traditionally decentralized operations through many small local offices.

After a $762 million second-quarter loss, FCS had a little more than $2 billion left in the surplus account built up from prior profits, but the surplus is expected to dwindle fast.

Losses are likely to continue since FCS at mid-year still had $7.6 billion worth of so-called nonaccrual loans—loans on which payments were not being made and on which the value of the land or other collateral was so doubtful that the system was no longer bothering to add overdue interest to the amount that was due. In addition, FCS labeled another $4.7 billion worth of loans "high risk."

At the same time, the system's current cost of funds—about 10.6 percent—is so high, Naylor says, that FCS has a negative interest rate spread. That is, the system is paying more to borrow money than it is receiving on its loans. That means FCS has no cushion at all out of which to absorb provision for loan losses, which are normally treated as a current cost, or even to cover normal operating overhead.

The system's current cost of funds is so high because it has outstanding more than $38 billion worth of securities on which it is paying interest rates in excess of 9 percent. These securities were issued several years ago when interest rates were generally much higher than they are today, and they do not have any provision under which they can be retired early. Another roughly $25 billion worth of FCS securities carry lower interest rates.

At the time the high-yielding bonds were issued, the Farm Credit System set rates on its loans according to its average cost of funds, which in those days was still being held down by a preponderance of older, lower-yielding, securities. Now many of those older bonds have matured but they have not been replaced with a new set of lower-yielding bonds of the same magnitude. The reason is that the size of FCS, and therefore its need for new money, has been shrinking rapidly.

Total outstanding loans, for instance, have dropped by nearly $15 billion in the past year and a half. And because of greatly increased provisions for loan losses, the net amount of loans outstanding has dropped by an even larger $17 billion.

One major feature of the proposed creative accounting that the new legislation would allow is, in effect, pretending that the FCS's $38 billion worth of high-yielding securities are paid off by issuing new bonds. The system would have to incur a one-time loss estimated by system officials at $2.8 billion to buy and retire the high-yielding bonds, if it were possible to do so. Naylor believes the actual market premium would be much higher. But instead of recording that loss all at once, the system would be allowed to write it off over a 20-year period—that is, at the rate of $140 million a year. The difference to the system's income statement would be much greater, however. According to Naylor, the maneuver would reduce to allow it to reduce the interest rates its borrowers are paying by between 1½ to 2 percentage points.

A 2 percentage point reduction in rates on the roughly $50 billion worth of FCS loans that are still in the "performing" category would reduce actual system income by $1 billion a year. But the new accounting procedure would reduce the system's reported interest expense by even more, only the latter reduction is only on paper.

The accounting gimmickry does not stop there, however. The legislation also would allow the system a similar 20-year writeoff period for any loan losses incurred between last June 30 and the end of next year in excess of one-year of 1 percent of total outstanding loans.

Here is how that would work. System officials currently estimate that FCS will lose an additional $1.8 billion over that 18-month period, with much of it due to provisions for loan losses.

Suppose outstanding FCS loans remained at $65 billion. Half of 1 percent of that figure would be $325 million.

If loan losses were, say, $1.325 billion over the period, then the system would report loan losses during the six quarters of only $325 million. The remaining $1 billion would be written off at the rate of $50 million a year.

In this example, this accounting device would reduce reported FCS losses by nearly $700 million in 1987. The losses would still be there, of course.

The resulting better-looking balance sheets for the banks in the 12 FCS regions around the country would also temporarily relieve another major source of strain within the system. The healthier regions, such as those served by the Farm Credit Banks in Maryland, Massachusetts and Texas, would no longer be sending cash to Omaha, Wichita, Kan., and Spokane, Wash., among others, to keep them afloat.

A number of suits have been filed challenging the 1985 law, which required the system to transfer resources from health banks to those in deep trouble before seeking Treasury assistance. While the law itself and various regulations issued by the Farm Credit Administration to implement it generally have been upheld by the courts, the whole idea of transfers remains under fire.

The legislation would bar the FCA from requiring that FCA banks get its permission before lowering interest rates, as is now the case.

The legislation, if it becomes law, won't solve the Farm Credit System's fundamental problems, which are rooted in its past mismanagement and the current depression on America's farms.

As one member put it on the floor of the House, the legislation is intended to place FCS on "more or less of a holding pattern until we can confront this issue head-on next year. . . ."

The administration, no more anxious than anyone else to add cash to FCS right now, passed the word that it has no objection to the new legislation.

Reagan officials want nothing to increase the already huge budget deficit, and as one noted last week, "It was hard to say no when we have already let the savings and loans do it."

OCTOBER 10, 1986.

Senator JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: The undersigned agricultural commodity groups and general farm organizations who have endorsed the Farm Credit Act Amendments of 1986 are concerned by last minute efforts to block passage of this legislation.

As you know, our support was predicated by the need to reduce interest rates for farmer-borrowers, and resolve the high cost embedded debt plaguing the Farm Credit System (FCS). We recognize that the Cochran-Jones legislation is the only feasible alternative to achieve these goals at this point due to budget constraints.

The apparently unsolicited October 6, 1986, General Accounting Office (GAO) letters to you and Chairman de la Garza are troublesome. The GAO statement that FCS could greatly overstate earnings is sobering but largely unsubstantiated. Fears of undisciplined accounting practices and loose credit analysis and approval would appear to be groundless considering the strengthened FCS bank examination procedures of the 1985 amendments, which remain unaffected by this legislation.

In order for farmers to receive lower interest rates prior to the 1987 operating season, the provisions of this legislation must be passed and implemented immediately. This cannot be simply interpreted by FCA as a standby authority.

We strongly urge immediate passage of the legislation in order to provide much needed interest rate relief to our nation's farmers. We appreciate your continuing leadership as we all work together in an effort to resolve the farm credit crisis faced by American agriculture.

Respectfully,

American Soybean Association.
National Association of Wheat Growers.
National Cattlemen's Association.
National Corn Growers Association.
National Cotton Council.
National Grange.
National Milk Producers Federation.
National Pork Producers Council.

Mr. COCHRAN. Mr. President, I urge my colleagues to support this legislation, the Farm Credit Act Amendments of 1986, when the Senate considers the Budget Reconciliation Act later this week.

I hope Senators can support this legislation as a part of reconciliation because without it, we are going to see the farm credit system slide right off the cliff and self-destruct. We cannot have that. Borrowers cannot stand that. We can do something about it by passing this bill.

I thank the Chair.

□ 1900

REAFFIRMING OUR FRIENDSHIP AND SYMPATHY WITH THE PEOPLE OF EL SALVADOR FOLLOWING THE DEVASTATING EARTHQUAKE OF OCTOBER 10, 1986

Mrs. KASSEBAUM. Mr. President, on behalf of myself, Mr. LUGAR, Mr. PELL, Mr. DOLE, Mr. BOREN, Mr. DURENBERGER, Mr. DOMENICI, Mr.

DODD, Mr. BIDEN, Mr. CRANSTON, Mr. SARBANES, Mr. KENNEDY, Mr. TRIBLE, Mr. HELMS, Mr. MURKOWSKI, Mr. CHAFEE, Mr. ABDNOR, Mr. KASTEN, Mr. LEAHY, Mr. KERRY, Mr. SASSER, Mr. LEVIN, Mr. NICKLES, Mr. WILSON, Mr. HEINZ, Mr. INOUYE, Mr. DECONCINI, Mr. BRADLEY, Mr. HARKIN, Mr. MATHIAS, Mr. NUNN, Mr. EVANS, Mr. BOSCHWITZ, Mr. MATTINGLY, Mr. BYRD, Mr. COCHRAN, Mr. SIMPSON, Mr. GARN, Mr. GORTON, Mr. PRESSLER, and Mr. HECHT, I send a joint resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 427) reaffirming our friendship and sympathy with the people of El Salvador following the devastating earthquake of October 10, 1986.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

Mr. BYRD. Mr. President, there is no objection. I am happy to state that this matter has been cleared on this side of the aisle. I compliment the distinguished Senator from Kansas [Mrs. KASSEBAUM]. I urge that the joint resolution be passed forthwith.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time at length and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the joint resolution.

Mrs. KASSEBAUM. Mr. President, the United States has always responded compassionately to the suffering caused by devastating earthquakes in Mexico and in Central America, including Guatemala and Nicaragua. Today we are joining with those countries, and with other nations throughout the world, in helping El Salvador, the most recent victim in this chain of disasters.

Since the earthquake struck in densely populated areas of San Salvador, it killed and injured thousands of people. Over 900 died, and up to 10,000 people were injured. Tens of thousands are suddenly homeless.

The seasonal rains have begun. These storms have added to the suffering of approximately 150,000 people who are living in the streets or in makeshift shelters. Many young children are ill as a result of exposure to the torrential downpours.

The international response has been prompt and generous. The United States has sent 16 plane loads of emergency relief and supplies, including tents, sheets of plastic, and roofing materials, food and water, medicine, and medical teams. However, these efforts need to be expanded and donor coordination improved if the aid is to reach all of the victims.

Secretary of State George Shultz will be going to El Salvador tomorrow in order to express the concern of the United States and offer our assistance in this time of urgent need. Mr. President, I believe that a joint resolution by Congress would also be very helpful in this crisis. It will convey to the people of El Salvador the sympathies of the American people. It is a simple but timely proposal, and I ask for its unanimous approval.

Mr. President, the essence of this joint resolution, which has many cosponsors, is just reaffirming our support and assistance to the people of El Salvador as they face this great tragedy.

Mr. President, I am pleased that there are so many cosponsors. I would like to call attention to it. The joint resolution will be at the desk until the close of business today so that others who wish to, might join as cosponsors. The joint resolution has been cleared on both sides.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 427) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 427

Whereas on October 10, 1986, El Salvador suffered a devastating earthquake resulting in heavy loss of life and injuries to many of its citizens;

Whereas the prolonged and extreme hardship of the people of El Salvador as a result of civil conflict has been deepened by this natural disaster;

Whereas the assistance of many governments, as well as international and nongovernmental organizations, for the people of El Salvador has been prompt and generous;

Whereas Secretary of State Shultz will visit El Salvador during this emergency in order to convey the solidarity and friendship which link the peoples of our two nations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Government of the United States, on behalf of the citizens of the United States, extends to the people and Government of El Salvador our most profound sympathies in this time of tragedy.

SEC. 2. The President should provide all appropriate relief and rehabilitation assistance to help prevent further loss of life, alleviate suffering, and safeguard the public health in El Salvador.

SEC. 3. The United States, in consultation with the Government of El Salvador, is prepared to cooperate with El Salvador in long-term efforts to recover from the effects of the earthquake.

Mrs. KASSEBAUM. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1910

SENATOR THOMAS F. EAGLETON

Mr. BYRD. Mr. President, a few years after being elected to the U.S. Senate on July 24, 1972, Senator THOMAS EAGLETON told Time magazine that he had become "fascinated" with politics at an early age. "The way other kids wanted to be farmers or firemen or cowboys, I wanted to be a politician," he explained.

Mr. EAGLETON did become a politician. In fact, well before his election to the Senate, his political abilities and talents had already been vividly demonstrated.

In 1956, at age of 27, he became the youngest circuit attorney in the history of St. Louis.

Four years later, in 1960, at the age of 31, he became the youngest State attorney general in the history of Missouri.

Four years after that, in 1964, he celebrated his 35th birthday by winning an election to become Missouri's youngest Lieutenant Governor.

By this time, the Saturday Evening Post in 1961, had already put him in its gallery of "people on the way up," and Life magazine, in 1962, had cited him as being one of America's top 100 young leaders. To the people of Missouri, he was the State's liberal "boy wonder."

He has also been a "wonder" in the U.S. Senate where he has been a most effective public official for the people of Missouri and of all the United States. Since taking a seat in the Chamber in 1969, Senator EAGLETON has served on the Senate Foreign Relations Committee; the Labor and Public Welfare Committee; and the District of Columbia Committee. He has also served on the Special Committee on Aging, the Select Committee on Intelligence, and the Appropriations Committee. He is currently the ranking Democrat on the Governmental Affairs Committee.

As a U.S. Senator, THOMAS EAGLETON has been a dedicated and forceful advocate of legislation to improve the well-being of all Americans—especially the poor and powerless. Consequently, he has had a significant role in nearly all of the significant social legislation of the past decade. For example, he was largely responsible for the establishment of the National Institute on Aging, and for the expansion of the services available to the elderly under the Older Americans Act.

He has helped obtain Federal grants for the States to provide nutritious meals for the elderly, supported tougher drug control legislation, and helped draft amendments to the Clean Air Act.

For his efforts in areas of social and human welfare, he has been the recipient of numerous awards including the UPI Missouri Man of the Year Award, the Missouri Association of Social Welfare Award for Outstanding Service, the National Association of Independent Colleges and Universities Distinguished Service Award, and the National Council of Senior Citizens Special Award.

In the area of foreign policy, Senator EAGLETON performed a valuable service for the Nation as an early and effective critic of the war in Southeast Asia, and, with Senators STENNIS and JAVITS, introduced the war powers bill.

He proved beyond any doubt his dedication to his work as a public servant, and his determination to accomplish great things for the people of his State and of the United States. The respect and admiration that all of us have for this conscientious and energetic Senator and our profound respect and admiration for him know no bounds.

Mr. President, the July 24, 1971, issue of Time quoted Senator EAGLETON as saying: "I'd like to . . . hear James Reston or David Brinkley say some day, 'He's a pretty good Senator. He works hard at it.' "

I am not James Reston and I am not David Brinkley, but I consider myself to have some credentials for making an assessment of that sort. I say without the slightest fear of contradiction that Senator EAGLETON worked very hard at being a Senator. I will not say that he was a "pretty good Senator" because he has been so much more than that—he has been one of the most able and conscientious Members to have served in the U.S. Senate during the nearly 30 years I have been a Member of this body.

I know that he has said that he plans to teach and perhaps practice some law. I wish him well in those endeavors, certainly. But I cannot help but express my strong hope that he will make himself available for some form of public service after he leaves this Chamber. Our Nation's need for public servants with his energy, imagination, and conscience is too great for me to feel otherwise—and what TOM EAGLETON has to offer is also too great.

Wherever he is and whatever he is doing, TOM EAGLETON will have the satisfaction of knowing that, to his colleagues who watched him most closely, he is a friend in the truest sense of the word and a model for the devotion to duty and purpose which are essential to this unique body.

My wife Emma and I have only the very best wishes for him and his wife, Barbara, as they move on to the next stage in their lives. May providence continue to watch over and guide them along life's pathway of service to others.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1940

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCURRENT RESOLUTION RELATING TO TAX REFORM ACT OF 1986

Mr. PACKWOOD. Mr. President, I am ready to soon propound the unanimous-consent request on the concurrent resolution, House Concurrent Resolution 395, which is the tag tax bill for the Senate.

It will include an amendment to be offered by Senator MELCHER limited to 30 minutes equally divided, relating to income averaging for farmers and an amendment that I will offer that includes all of the other amendments that we have talked about and have been cleared on all sides, and I know of no objection to it.

The unanimous consent will suggest we start at 9 o'clock in the morning on the concurrent resolution.

I am not yet ready to propound it because I am waiting for the minority leader to appear so that I can show it to him, but I will say if it is not agreed to, it is not my intention to propound it again tonight and I think probably not tomorrow, and the concurrent resolution simply will not be taken up this session.

Mr. DURENBERGER. Mr. President, I rise in support of the amendment offered by the distinguished chairman of the Finance Committee. By this amendment, the chairman has ensured the integrity of the resolution before us which is designed to "correct errors in the enrollment of the bill H.R. 3838."

Mr. President, when I examined the resolution adopted by the House, I was appalled to find that the resolution contained a provision repealing section 162(h) of the Internal Revenue Code at the end of 1990.

Section 162(h), which was adopted in the Economic Recovery Tax Act of 1981, allows State legislators to elect to treat their residences in their legislative districts as their "tax homes" for purposes of computing the deduction for living expenses. This provision allows State legislators to claim a deduction for living expenses incurred while the State legislature is in session.

The deduction permitted is far from lavish. Under section 162(h), a State legislator can either deduct the per diem rate permitted to U.S. Government employees or the amount generally allowed to an employee of the executive branch of the State. However, the State per diem cannot exceed 10 percent of the Federal per diem.

Although State legislators are allowed to claim this deduction even if they do not stay away from home over night, the deduction is not permitted for any State legislator whose actual home within the district represented is 50 miles or less from the State capitol building.

Is this a worthwhile provision? I think it is. There are many State legislators who are paid very little for performing important State legislative responsibilities. Nearly all of them must give up more remunerative jobs during the period that the State legislature is in session.

The section 162(h) tax deduction recognizes the special circumstances that many legislators from rural areas face. Many of them return home frequently and do not stay overnight in the State capital. That is just a fact of life, and that is one of the reasons that we adopted this provision in 1981.

In my own State of Minnesota, nearly half of the 67 members of the State senate—33 senators—live more than 50 miles from the State capital. And nearly half of the 134 members of the Minnesota House must travel more than 50 miles to reach the capital. Many of these legislators are small businessmen or women who have taken on the responsibility of representing their rural communities because they believe in public service.

The per diem deduction allowed these legislators under section 162(h) helps these people make ends meet. If we in Congress decided to end this special deduction, by adopting the pending resolution without the chairman's amendment, I can assure you that many well-intentioned people would opt to leave public service because they just cannot afford the cost of being State legislators.

Mr. President, rural America is under enormous economic pressure in the 1980's. The combination of economic depression and economic deregulation has revised the costs of public service and reduced the rural revenue base. Now more than ever rural America needs to be represented by its best and most committed. The House addition would discourage such representation.

But, Mr. President, we are not here to debate the merits of section 162(h). Whether a good provision or an unreasonable provision is not the question. The simple question is: What is it doing in this resolution and how did it get here?

As I read the resolution, it is supposed to "correct errors in the enrollment of the bill H.R. 3838." There is not a single reference in the 925 pages

of H.R. 3838 to section 162(h). There is not a single reference in the 885 pages of the conference report to section 162(h). This provision never appeared in the House tax reform bill nor in the Senate tax reform bill.

In the months of hearings and markup of the tax reform bill in the Finance Committee and in the Ways and Means Committee, not a single minute that I am aware of was devoted to discussing the pros and cons of section 162(h).

Mr. President, repeal of a substantive provision of the law, using a vehicle designed to correct inadvertent drafting errors in the tax reform bill, demeans the legislative process.

Moreover, in this instance, the coincidence between the time for proposed repeal of this provision and the next scheduled State redistricting, strikes me as a blatant attempt at political blackmail against State legislators by the Members of the House.

I applaud the chairman of the Finance Committee for his decision to strike this offensive provision from the resolution.

Mr PACKWOOD. Mr. President, Senator DURENBERGER has made an excellent speech on the subject of State legislators and how their residents are treated for purposes of homes. The House sunsetted the treatment that State legislators now get. The concurrent resolution solution, as it will go through the Senate, if it goes through the Senate, retains the current law and does not sunset it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I have heard objection will be raised to my propounding this at this moment. I, therefore, indicate it will not be propounded tonight, nor will it be propounded again this session.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1950

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WILSON). Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, the Senator who had indicated previously he might object to this has indicated he will no longer object. I want to cover the ground just once more what it is we are doing.

The tax bill has some errors in it, technical errors—the transition rule for Carnegie Hall, a wrong address for Carnegie Hall. So that there are provisions in the concurrent resolution to correct many, many errors.

They include the States of Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and Wisconsin. These are noncontroversial transitions, technical changes.

In addition the amendment that I will propose will offer the following: One, to delete the market discount bond provisions which are limited to 15 life insurance companies and their affiliates and add a revenue neutral generic rule so that all life insurance companies can participate in the selling of the market discount bonds. That was put in the original tax bill. It turns out these 15 companies, they are the largest life insurance companies. They probably sell 65 to 70 percent of these bonds or handle them. But there are several thousand other small companies located throughout the country that handle them and would have been left out. They will all be treated equally.

We retain the current law for travel expense for State legislators.

We liberalize the low-income housing transitional relief for rural projects, and we clarify the at-risk rules which apply to real estate generally and also will apply to low-income housing.

We change the effective date of the employer life insurance provisions from July 18, 1986, to date of enactment of the Tax Reform Act.

We reinstate the Senate-passed rule on the trucking company transitional rule but limit its value to $8.5 million, which is half of the value.

We delete the custom broker freight forwarder provision.

We make the general aviation transitional rule generic by limiting it to the purchase on or after August 16.

And we delete the transition rules for charitable contributions to the universities. That relates to Louisiana State and I think Texas A&M that has some special provision in the tax bill as it relates to the sky boxes. Those are eliminated and all colleges are treated the same.

We delete the provisions in the House concurrent resolution for three new starters that the House put in and limit the cost of the Physicians Mutual provision at $300,000 a year.

□ 2000

Now, Mr. President, I would like to ask unanimous consent—this is one package, and I am asking for consent for the whole package—that at 9 a.m., on Thursday, October 16, the Senate proceed to the consideration of House Concurrent Resolution 385, making technical corrections in the tax conference report, and it be considered under the following agreement. The following amendments be the only amendments in order, and that they be first-degree amendments and limited to the following time agreements:

An amendment to be offered by Senator PACKWOOD limited to 20 minutes equally divided in the usual form, and that following the conclusion or yielding back of time the amendment be considered agreed to; an amendment to be offered by Senator MELCHER limited to 30 minutes to be equally divided in the usual form dealing with income averaging for farmers.

I further ask unanimous consent that following the disposition of the Packwood and Melcher amendments the Senate proceed without intervening action, motion, or debate to final passage of House Concurrent Resolution 395, as amended.

Finally, I ask unanimous consent that no motions to recommit with or without instructions be in order.

The PRESIDING OFFICER (Mr. COHEN). Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, if I might inquire of the proponent of the unanimous-consent request, do I understand that under the unanimous consent there would only be two amendments offered and no other amendments would be allowed?

Mr. PACKWOOD. Actually it is only two amendments, one of which I will offer, which is a generic package, which I alluded to, which has numerous amendments in it, which I think are not very controversial. The other would be an amendment by Senator MELCHER relating to income averaging by farmers, which was a subject we voted on before. It was voted on in the original tax bill on a controverted subject. Those would be the only two amendments in order.

Mr. HARKIN. Mr. President, further reserving the right to object, we are reaching the end of the session when the opportunities for Senators to offer amendments are extremely limited and circumscribed. The technical corrections to the tax bill is a bill that would indeed allow certain amendments to be offered that would have no budget impact but on which I believe the Senate would like to express itself.

I have such an amendment relating to requiring the President to submit a report to the Congress prior to February 1, 1987, containing a full and complete accounting of all of the advice, logistical support, or any other assistance provided by U.S. Government personnel to the recent aircraft and crew downed over Nicaragua.

I believe it is important for us to get that kind of information to the Congress. If we do not require that report now, as this Congress is about to adjourn, and we go home, it will be the first of the year, and then we will be forced to wait for a new session of Congress before considering this issue.

I believe there is enough evidence on the face of it right now to warrant a report to Congress by this administration as to just where that plane originated, where the crew came from, who was paid, and if any involvement by U.S. personnel took place. If so, there could be direct violations of the law that Congress has passed.

I know the Senate and the House have spoken on Contra aid. Quite frankly, I wish to revisit that issue. I suppose I could draft an amendment that way. But Congress has spoken, and we will see what happens now with the new involvement with the CIA, and the U.S. Armed Forces in the Contra war.

It appears that we have evidence that U.S. personnel probably are involved, and where there may have been involvement of the National Security Council. I believe, if you will pardon the expression, there is a smoking gun that points directly at the National Security Council. We should express ourselves on whether or not we want a report from the administration on whether it obeyed the law.

My amendment is drafted as such that if there are secret or confidential parts of the report they could go to the appropriate committees, the Intelligence Committees. If the entire report were secret, it could be reported solely to the Intelligence Committees, and Senators would of course have freedom to review that report.

Mr. President, I have the greatest respect and admiration for the Senator from Oregon, for the great work that he has done on the tax reform bill; the hours, the days, the weeks, the great amount of his life that he has put into it. The technical corrections have been cleared to place the tax bill in line with the intent of what we voted on previously. However, I also feel very strongly and very deeply about the issue of United States involvement in the Contra war in Central America.

I am not asking for the Contra aid issue to be revisited. I am asking for a report from the President detailing whether or not any United States personnel were involved in this recent incident in Nicaragua.

So while I really do not want to object to the unanimous consent offered by the distinguished Senator from Oregon, I find myself in the situation where, because of the press of business on the Senate floor and because of the lack of opportunity, I will have to object. Obviously, if this incident had happened a month ago or a month and half ago, I would have had plenty of opportunity to have offered this on other pieces of legislation. I have asked my staff, and others, to see if there is some appropriate vehicle on which I might attach this amendment prior to the Senate adjournment. I am aware of none other than this bill.

I had hoped that perhaps the distinguished Senator from Oregon would allow me to offer this amendment. I do not mean to take much time. The amendment is clear on the face of it. I would be most agreeable to a time limit of 15 or 20 minutes, followed by a vote. If this arrangement could be made, of course, I would not object. So it is not my intent to really hold up this resolution, but it is my intent to do whatever I can to see that my amendment is considered before adjournment.

When I visited Iowa this weekend, I have to tell the distinguished Senator from Oregon that time after time in my home State people came up to me and said, "What are you going to do to get the administration accountable, to hold it accountable for this incident in Nicaragua or at least get it to come forward with the facts and the data as to whether or not it violated the law."

So I have to hold faith with my constituents. I have to hold faith with how I feel very strongly about this issue. And without any assurance from the distinguished Senator that I could offer this amendment, Mr. President, I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I regret the distinguished Senator from Iowa has to object. He says he wants to do those things for his constituents. That is fine. I think we all have to do that. But I am sitting down there in Kentucky. That is not the richest State in the Nation. We have put together bond pools to give us an opportunity to do those things in our communities, sewer, water, those sort of things that are important to our communities. We need this technical correction bill in order for our communities to participate in something we worked on for over a year.

We have had a hard time getting this legislation in place. The distinguished Senator from Oregon has worked hard to accommodate those of us that have this problem. In my State in some of the counties 50 percent of the county budget was revenue sharing. We have lost revenue sharing. Now we have to go to bond pools in order to have matching money, and do those things for the communities. But we stand here tonight and deny at least 11 States the opportunity to participate because one Senator wants to object.

Why does he not put it on something that does not have to do with our communities, our ability for sewer, water, and structures that are important to our community? No. He stops that. He stops that. And then I think it is regrettable that he would object to this time agreement. He can put it on anything else. But do not deny my community the ability to work on its own. He stands there and says that this is what his constituents are telling him to do. My constituents are telling me we need these bond issues. We need that opportunity to go to the well and to build things for our community. When the Senator objects, he is saying to my people that Nicaragua, the report by the President which he is not going to get from that side—he knows he is not going to get it from that side. Why does he not take his foot off the rest of us and give us an opportunity to take something home that is important to our communities and to our State?

□ 2010

I implore the Senator not to object based on this amendment. There will be other vehicles where he might be able to place it. We will have the debt ceiling. For goodness sake, do not put us in the posture of saying no to those communities who have worked so hard, the Municipal League in my State and the Association of Counties having worked hard to put this together. What you are doing is denying us that opportunity. I regret that my side of the aisle is objecting.

Mr. PACKWOOD. Mr. President, the Senator's State has two of the biggest bond transactions that we have had in this legislation. This resolution has been here for 10 or 11 days. I have had, perhaps 30, 40, maybe 50 Senators come up wanting to add things. In some cases they wanted to undo the alternative minimum tax, or the corporate minimum tax. But I have had at least 10 to 15 who have asked to add something to it that they said was not controversial. It turns out it usually is. It is very seldom that something is totally noncontroversial. And that they only needed 5 or 10 minutes on a side and that it did not cost any money.

I told them all we were not going to have new starters on this, it was all going to be related to the tax bill.

I say that in good faith to all the others who wanted 10 or 15 minutes apiece. Of course, if the Senator from Iowa wants to object that is his right

and I do not harbor any objections to that, but it is not my intention to bring up the concurrent resolution again for the rest of the session.

Mr. EXON. Mr. President, I have been listening to the discussion and I hope we can work something out here. There are many of us who have very important pieces of legislation on the continuing resolution. I would say that the chairman of the Finance Committee has been very helpful. I know he has thrown some irons in the sand on that side. I do hope this can be worked out.

At the same time, I have to put myself in the position of my colleague from Iowa. He has an amendment which he thinks is important. I guess what he is doing is looking down the line and seeing what possible piece of legislation would he be able to offer this on. We all have had experience with a situation where the railroad is there and the train is leaving the station. We always seem to get into a posture toward the time of a sine die adjournment where the trains are all so loaded or they cannot be touched, you cannot put one more piece of freight on the train.

It would seem to me that there should be some way that we can work out something with the help of the leadership on both sides to guarantee a chance for at least an up or down vote on the proposition being offered by the Senator from Iowa on something coming down the line. I think we would agree to that. Then we could move ahead.

Is there someway we can at least guarantee him a vote on this measure?

Mr. PACKWOOD. I have no objection if the Senator from Iowa wants to propose a unanimous-consent request tomorrow for a freestanding resolution. I do not know whether it is in the form of a resolution. I would not object. But I could not in good faith put it on this one when I have turned down so many Senators on both sides of the aisle on things that were so important to them. I have to say it has been 10 days and I have tried to work it out day by day with each Senator.

Senator LAUTENBERG wanted to bring up something and he agreed to back off. Other Senators have been concerned about their problems. Senator METZENBAUM had a number of things he wanted stricken from the bill that are not stricken.

I would like to pass it. There are about 30 States in this that have something of interest, legitimate, that no one that I know of objects to. I hope we can get to it but we can only do it with a unanimous-consent agreement.

Mr. EXON. I hope we can, too, and still protect the rights of the Senator from Iowa.

Mr. HARKIN. Mr. President, I want to make it clear that I am not objecting to bringing up the concurrent resolution. I do not object to that. What I am objecting to is the time agreement and the unanimous-consent agreement on the amendments themselves.

Mr. FORD. Will the Senator yield without losing his right to the floor?

Mr. HARKIN. Yes.

Mr. FORD. The quesiton, then, is if you object, then we lose the unanimous-consent agreement, then we lose the ability to bring that up, and, in essence, you are then killing it. Is that correct?

Mr. HARKIN. I would respond to the distinguished Senator from Kentucky by saying that is not correct. Obviously, unanimous-consent propositions can be amended or changed, to permit consideration of other amendments. Perhaps something else can be worked out here.

As I said, it is not my intent to object to bringing up the concurrent resolution, I am objecting only to the parameters under which it is being brought up.

Mr. FORD. By virtue of the fact that he is objecting to the whole measure by objecting to the unanimous-consent agreement, therefore, those of us who have a vital interest in this piece of legislation are denied the right of having this legislation voted on and helping our communities based on his objection.

Mr. HARKIN. I would respond to the distinguished Senator from Kentucky that if, in fact, the time agreement stays the same, he is right. But that is not the intent of my objection.

Mr. DURENBERGER. I wonder if my colleague from Iowa might respond to a question by way of clarification.

I came to the floor after I heard the Senator from Iowa describe briefly his concern for what he described as a study or a report, I believe, from the administration or the President relative to something going on in Nicaragua. So I come here with two concerns: one, because I have spent the better part of the last 2 years of my life on this tax bill, not as much time as our colleague from Oregon but over that long a period of time. So I have concerns that we all share in that regard. But I am also here as chairman of the Intelligence Committee, someone who has more than a passing concern that I share with the Senator from Iowa, and probably everybody in the committee, for what may or may not be going on in Nicaragua.

I would just perhaps explore a little bit with my colleague from Iowa precisely what kind of information it is that he thinks the President could bring to us and the American public, through this vehicle, through some amendment to the technical corrections bill, that might not be achieved in some other manner. For example, if the Senator from Iowa made a request through the Foreign Relations Committee or if the Senator from Iowa made a request through the Senate Select Committee on Intelligence, for specific information relative to Nicaragua, I would expect that, as in the case of similar requests with regard to certain Central American countries in the past, the chairs of both those committees might be willing to honor that kind of request.

I cannot make any particular representation as to my position or that of the Intelligence Committee members without knowing a little more about what kind of information it is that my colleague from Iowa is looking for.

If he wants to explore that line a little bit so that we might potentially see our way clear to bringing up the tax bill, I would be glad to explore that with my colleague.

□ 2020

Mr. HARKIN. If the distinguished Senator would yield for my response.

Mr. DURENBERGER. I would be delighted to.

Mr. HARKIN. Let me read the proposed amendment. It is very short. I shall read it in its entirety to the chairman of the Select Committee on Intelligence.

SEC. —. (a) On or before February 1, 1987, the President shall prepare and transmit to the Congress a report containing a full and complete accounting of all advice, logistical support, or any other assistance provided by United States Government personnel to Eugene Hasenfus, Max Gomez, William J. Cooper, Wallace B. Sawyer, Jr., Corporate Air Services, Southern Air Transport, and any other American citizen providing assistance to the Nicaraguan democratic resistance, except for assistance authorized by section 105 of Public Law 99-169 and except for humanitarian assistance to the Nicaraguan democratic resistance authorized by Public Law 99-88.

(b) As used in section (a), the term "United States Government personnel" means—

(1) any member of the United States Armed Forces who is on active duty or is performing inactive duty training; and

(2) any officer or employee of any department, agency, or other component of the executive branch of the United States Government; and

Mr. DURENBERGER. If I understand, and maybe the Senator can correct me, I understand that he is looking for a report which would indicate what kind of advice or logistical support might have been supplied by U.S. officials to certain named Americans outside the parameters of existing law or exceptions to existing law.

Mr. HARKIN. Would the Senator repeat that question?

Mr. DURENBERGER. My understanding of the amendment is that what the Senator from Iowa is looking for from the President is enumeration of advice and logistical support provided by U.S. Government officials—or U.S. personnel, I think was the word

he used—to certain named American citizens. I heard at least four of the names. Does that fairly summarize the Senator's request?

Mr. HARKIN. Yes, Mr. President.

Mr. DURENBERGER. I think it is obviously an appropriate request. It is the kind of request the Senator from Minnesota, who chairs the Intelligence Committee, has in effect already made without being quite that specific. I do not have a precise response from the administration at this point. My interests were slightly professional. I had been concerned that the Central Intelligence Agency is taking a lot of heat for what is going on under the auspices of the United Nicaraguan Opposition and the military branch of the FDN. As yet, I do not have a precise response.

If I formalize that request in some way, I can tell the Senator the response that I expect I would get. That is none. I would expect that that would be the response. Or it might be clarified and amplified as follows: That to the best of the knowledge of anyone in the administration, Eugene Hasenfus and Mr. Gomez and others were employed by the United Nicaraguan Opposition or by some other organization, and that the specifics regarding advice or logistical support from United States personnel are that none exists; that whatever advice or logistical support they got came from or through the United Nicaraguan Opposition.

Where we could take it from there given the protections, constitutional and otherwise, around the Office of the President, this Senator is a little less clear about.

Let me make one other point and that is as to the utility of the information. I think it is appropriate to find out whether or not any U.S. personnel or Government officials are involved in violations of law in one way or another. That is an appropriate request. It is the kind of request that the Intelligence Committee and perhaps the Foreign Relations Committee might, during the course of their review of Nicaragua, make anyway.

I want to make another point to my colleague from Iowa and probably to some others on the floor, that seems to have gotten lost in some of this publicity over what has been going on in Nicaragua. That is, when you vote for the continuing resolution, if you decide to vote for the continuing resolution, all of this sort of thing is relatively moot unless you are concerned retrospectively about who may have provided some advice or some logistical support. Because when, on the morrow, we vote to approve the continuing resolution, we will also vote to approve the $100 million aid package to the United Nicaraguan Opposition and to the Contras.

At that point, in effect, you get to replace Eugene Hasenfus; you get to replace Mr. Gomez; you get to replace the airplanes and the AK-47's and the ammunition and everything else. So whatever some of these privateers may have been doing on contract with or on behalf of the Contras over the last year or so, your Government will now undertake to do.

So, while I do not mean to belittle the Senator's request and I do not mean at all to belittle the concern that the American people have for the flight that went down and maybe other flights or supplies, the fact of the matter is that within a week or two, that is all over with. They may well be out of money now. There probably have not been many flights since that particular C-123 model K went down. That is all over with.

Starting a week or two from now, the U.S. Government supplies the financing for the airplanes, for the equipment, and so forth. If you think there were problems regarding Mr. Hasenfus and other people, I suspect you are going to have substantially more to concern yourself with when we get back here in January.

I say that, Mr. President, so that to the degree that the Senator's concern and mine are the same—I do not think we should be down there providing 100 million dollars' worth of aid. I do not think Eugene Hasenfus or anybody else should be sent in there to carry on these kinds of activities. I question the value at this state of the game, other than to determine whether or not someone deliberately set on a course to violate the law——

Mr. HARKIN. That is it.

Mr. DURENBERGER. I question the value of the Senator's using this particular vehicle to try to get to the heart of a problem that is not going to go away regardless, because whatever was done in the past, potentially illegally, is going to be done in the future legally.

Mr. HARKIN. Will the Senator yield on that?

Mr. DURENBERGER. I am glad to yield.

Mr. HARKIN. I thank the Senator. He is very correct in everything he says. There is not one bit of that that I disagree with.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order.

Mr. HARKIN. I thank the Chair.

The Senator from Minnesota hit the nail on the head when he said the value of this report would be to determine whether or not the administration did indeed violate the law that was passed by Congress. I believe that has value to us. I think it will have value to the next Congress as it reconvenes in January to determine whether or not it will continue on the path this Congress has set on aid to the Contras. If, in fact, it becomes clear that the administration has indeed violated the law, I think that says something about the conduct of our operations in Central America down there heretofore and says something about the goals and methods this administration pursues in supplying aid to the Contras.

□ 2030

It has value for the American people to know whether or not their trust has been violated, that law has been broken, particularly if that trust has been violated by their government. Therein lies the value of this. The Senator is absolutely right; in another week after we pass the continuing resolution we become the suppliers of the Eugene Hasenfuses. We become the ones who send in the aircraft. We become the ones who send in the arms, not some privateer or not the National Security Council or whoever may have been operating this program. But that is what the law will provide. Now I am interested in whether or not the administration has violated the current law. I believe it has value to the American people to know whether or not that has occurred.

Mr. DURENBERGER. I do not disagree with the potential for value, but I would argue that the American people have become either a little cynical or at least somewhat doubtful of the policy and who is telling the truth and where we are headed regardless because by a vote of both the House and the Senate, which will be reconcurred in here tomorrow, we are endorsing whatever policy the administration has followed and whatever program they have selected to implement that policy.

I do not think the President of the United States has ever made any bones about the fact that he is encouraging the kinds of activities that take place here, obviously within the law. I suspect that any investigation that is undertaken, whether it is in connection with this bill or in connection with the specific request, which I am certainly willing to consider presenting to the members of the Intelligence Committee, I am sure you are going to find out that while the administration may in some way have been generally familiar with the activities of the Contras and their resupply activity, they avoided the specifics of direct involvement in the actual supply.

I am not sure that there is the capacity in this body—and I know there is not the legal or the technical capacity in the Intelligence Committee—for us to conduct an independent investigation of who said what to whom. So I would suggest to my colleague that while it may seem very important today, if we looked at it a week or two

or three or certainly 3 or 6 months from now when this report may have been made, compared to what is going on at that particular point in time in Nicaragua, compared to what you will observe by way of your investment and my investment in the Contras at that given point in time, whatever involvement we may have—and I suspect it is relatively minor—it will seem like practically nothing.

I would like to be able to assure my colleague that our concerns are as deep as his, particularly those of us who have never agree that this was an appropriate approach to the problem and that obviously in carrying out our responsibility as it relates to the authorized activities, such as they may be, of the intelligence agencies and other related U.S. agencies we will make the kinds of inquiries about which the Senator from Iowa is concerned.

Mr. President, I have a deep concern for the passage of this bill. I have a deep concern for bringing the 99th Congress to a close, but I also have a deep concern that I share with my colleague from Iowa relative to the situation in Nicaragua. I do not think our concerns are at all disparate. I think, however, I have to disagree with him on the course he would suggest we use in the particular case of determining what involvement the Government may have had with the so-called privateer.

Mr. President, I will be glad to yield the floor.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 2050

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ILOPANGO AND THE CONTRA SUPPLY NETWORK

Mr. HARKIN. Mr. President, after listening to the denials of the White House, Vice President Bush, and retired General Singlaub, I found myself wondering whether the Hasenfus incident ever occurred.

First, the administration knows nothing of the C-123 downed over Nicaragua. The Central Intelligence Agency disavows any association with it, and even retired Major General Singlaub, who has been completely forthcoming about his ties with the Contra supply network, does not own it.

Yet, that same plane was used in a DEA drug sting in 1984; and the CIA put on that C-123 the camera that took the picture of the Nicarguan official cited by President Reagan in an earlier television broadcast.

Second, neither the White House nor Singlaub claim any ties to Hasenfus and his associates. Disregard the fact that Hasenfus's wife, Sally, has stated that her husband works for the CIA. Hasenfus's own statements notwithstanding, our Government was not involved. So, the White House would have us believe.

Third, Max Gomez, former CIA agent charged as the coordinator for Contra supply operations in El Salvador, is not really involved in the Hasenfus and other secret missions. According to the Vice President, Gomez is really a secret employee of the Salvadoran Air Force with responsibility for directing Salvador's war against its Communist guerrillas. In fact, Gomez is so secret an agent that El Salvador's President and the Chief of Staff of its military do not know about his activities.

In other words, he is supposed to be an employee of the Salvadoran Air Force. Yet, both the President of El Salvador and the Chief of Staff of his military say they do not know anything about his activities.

It seems that the administration would like us to believe that the entire incident did not occur, that there is no such person as Eugene Hasenfus, and that the C-123 cargo plane seen on TV screens on evening news shows over the past week never even flew over Nicaragua.

The fact is, Mr. President, that there is an Eugene Hasenfus, that the remnants of a C-123 are strewn across southern Nicaragua and more alarming for the administration, that reports keep surfacing of Hasenfus, Max Gomez, and their associates ties with the United States and Salvadoran Governments.

And in its rush to recess, the Congress should not avoid this issue either. As I said yesterday, nothing less than the laws of this land, and the integrity of the Congress, which wrote those laws, are at stake.

Today's New York Times gives greater detail to Contra supply missions flown out of Ilopango Air Base in El Salvador.

The Times piece paints a picture of a shadow operation, where phantom American guests travel in and out of the Ilopango base, with the knowledge and consent of Salvadoran Air Force Chief of Staff, Rafael Bustillo.

Many of the guests are never officially in the country. Yet, according to news stories, agents from the CIA and the U.S. Military Group of our Embassy in San Salvador, are deeply involved in the operation.

Supply flights to the Contras, according to the Times, began in the spring of 1983, with at least seven CIA agents, a private propeller-driven plane and the loan of some of the Salvadoran C-47's bought with American aid. Sometime in 1984, the Salvadoran Air Force began to permit Contra forces to launch air and sea attacks from Ilopango. The flights out of Ilopango have continued; and earlier this year, a plane laden with supplies for the Contras crashed soon after takeoff from Ilopango.

Mr. President, I believe the New York Times article of this morning contains very serious allegations as to possible U.S. involvement in aiding and supplying the Contras, in contravention to the laws passed by Congress.

Mr. President, I ask unanimous consent that the article be printed in its entirety at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SALVADORAN AIR BASE IS CALLED CENTER FOR C.I.A. OPERATIONS

(By Lydia Chavez)

SAN SALVADOR.—Behind the high concrete-block walls that keep the Ilopango air base here from the public's view is a drab two-story building. Over the last three years, the building has served as the waiting room for agents working for the Central Intelligence Agency, leaders of the Nicaraguan rebels, mercenaries and American military advisers, according to American officials and Nicaraguan rebel sources.

Now more than ever the base is the center of C.I.A.-supported operations to supply Nicaraguan rebel forces, according to an American shot down in a supply plan over Nicaragua.

American men in civilian clothes often pass through the base's gates and American official says privately that it is the center of C.I.A. and other clandestine operations here.

Many American visitors to the base, on the eastern edge of San Salvador, are never "officially" in the country. The honor code of silence prevails.

The base is run by the politically conservative and staunchly independent Gen. Juan Rafael Bustillo. One of the general's most recent phantom guests was the longtime C.I.A. agent, known by the Alias Max Gomez, who directed the contra supply flight shot down by Nicaraguan soldiers last week, according to two highly reliable sources with close C.I.A. contacts here and Eugene Hasenfus, the American captured in Nicaragua.

Vice President Bush said this week that he had met Mr. Gomez three times. He said Mr. Gomez was an adviser in counterinsurgency who worked in El Salvador with the approval of President José Napoleón Duarte and the armed forces.

Despite Mr. Bush's statements, both Mr. Duarte and the armed forces chief, Gen. Aldolfo O. Blandón, deny knowing Mr. Gomez or approving his work.

"The Air force is very jealous of its independence," said Mauricio Salvador Hernández, a spokesman for the armed forces, in trying to explain why Vice President Bush and not the Salvador high command might be ready to acknowledge that Mr. Gomez was an air force adviser.

Although the other branches of the armed forces have often baffled American officials, the air force has always been considered closer to the American way of operating. Nearly all of its pilots have trained in

the United States and most speak fluent English. In addition, the air force has never been accused of lacking discipline.

The air force's military and political importance, as well as its key role in supplying the Nicaraguan rebels, have made it a favorite of the C.I.A. station here, according to Western diplomats.

"The agency loves the air force," one diplomat said.

On a recent afternoon at the air base, an American who identified himself as an adviser sat behind his desk watching a pet parrot jump from the edge of a coffee cup to the desk.

"I HAVE NOTHING TO SAY"

An American sitting with him, dressed in levis and a T-shirt and carrying a radio, declined to identify himself. A third American who walked into the office dressed in an olive-green flight suit and a U.S.S. Iowa cap turned and left when he saw there was a visitor.

"I have nothing to say about what is going on," the adviser said, and quickly invited the reporter to leave his office.

Many men who claim to have no direct link to the American Embassy and little reason for being in El Salvador can be seen in Salvadoran restaurants and hotels. Americans who refuse to identify themselves are among them.

They are not counted among the 55 American advisers based permanently in the country or the more than 100 who are generally here on any one day on temporary assignments. These will readily identify themselves as advisers attached to the United States Embassy. The others will simply say they are passing through or are here "on business."

At a news conference in Managua after his capture, Mr. Hasenfus said that at least 25 people were working with him to supply rebels out of the Ilopango air base. Flight logs from the downed plane list more than 30 crew members who do not have Latin names.

FLIGHTS BEGAN IN 1983

Mr. Hasenfus and the two American crew members killed when the plane was shot down in southern Nicaragua on Oct. 5 carried Salvadoran Air Force cards signed by General Bustillo identifying them as American military advisors here. The American Embassy denied they were advisers.

The tight security around the base and the discipline within made it the perfect place to run covert American operations, American officials who have lived in El Salvador said.

The supply flights to the contras in Nicaragua began in the spring of 1983 with at least seven C.I.A. agents, a private propeller-driven plane and the loan of some of the Salvadoran C-47's bought with American military aid, according to two American officials living in El Salvador at the time.

The spring of 1983 was a busy time at Ilopango and the activity underscored both the power and the independence of General Bustillo.

The longtime air force commander, who likes fast cars and generally dresses in a flight suit, threatened mutiny unless Alvaro Magana, the provisional President at the time, dismissed Defense Minister Jose Guillermo Garcia. The Defense Minister was quickly replaced, confirming General Bustillo's position as one of the most powerful men in the armed forces.

AIR FORCE BUILDUP BEGINS

The spring of 1983 also marked the beginning of an air force buildup that has made it the most crucial service in fighting the war against the leftist insurgents, according to American officials.

At the time it had 10 helicopters, several C-47's and a few propeller planes in 1983; now it has more than 60 helicopters 12 helicopter gunships, at least five AC-47 gunships and more than 10 combat jets.

In using the air base to run supply flights to the contras in Nicaragua in 1983, the C.I.A. was operating without the Congressional restrictions imposed in August of 1984 that prohibit any help to military or paramilitary groups fighting the Nicaraguan Government.

When news of the flights were leaked to the press in October 1983, General Bustillo, a colonel at the time, dismissed a chief aide, but the flights continued until the Congressional restrictions were imposed, American officials said.

Sometime in 1984, the air force also began to premit contra forces to launch air and sea attacks from Ilopango. At the time, Eden Pastora Gomez, a contra leader who has since retired from the battle, was a frequent visitor at the base, according to American and contra sources.

(Mr. DANFORTH assumed the Chair.)

Mr. HARKIN. Mr. President, congressional restrictions on U.S. officials providing direct and indirect military aid to the Contras still apply. Yet, recent news reports tie officials in the Vice President's office to the secret supply operation. According to reports, Max Gomez, who coordinates the Contra missions at Illopango, was introduced to General Bustillo of the Salvandoran Air Force by Mr. Donald Gregg, the National Security Adviser to the Vice President.

The Vice President claims that Gomez is assigned to counterinsurgency work in El Salvador. Yet President Duarte and the chief of staff of the Salvadoran military deny any knowledge of Gomez or his activities.

Mr. President, I repeat my questions of the past week, questions which I have repeated every day on the Senate floor and which I will continue to repeat as long as the Senate is in session this year: who is Max Gomez? What are his activities in El Salvador? On whose payroll is he? What kind of advice and assistance and direction is he getting from the Vice President or from Donald Gregg or from other members of the National Security Council? I ask these questions of Vice President BUSH, his national security adviser, Mr. Gregg, and of the Salvadoran Government.

What role, if any, has the Central Intelligence Agency played in the Contra supply flights flown out of Illopango Air Base since 1984? What assistance, if any, have members of the U.S. Milgroup in San Salvador given to these Contra supply missions?

What assistance, if any, has been provided these missions by the United States Embassy in El Salvador, and what knowledge does our Embassy have of the supply flights run out of Ilopango?

As I pointed out the other day, Mr. President, to the best of my knowledge and understanding, before any U.S. citizen can get in and out of Ilopango Airport, that person must have a clearance by the U.S. military group there. It is obvious on the face of it that Mr. Hasenfus and his pilot and copilot had those clearances. If they were issued by the U.S. military group at Ilopango, who ordered them to do so? That would constitute direct assistance to the Contras and I submit in contravention of the law passed by Congress.

Mr. President, the Hasenfus mission raises another series of questions regarding the role of the Salvadoran Government in transporting arms from its borders to the Contras fighting inside Nicaragua.

Since 1981, the Reagan administration has explained the Contras as a vehicle to halt the transshipment of arms from Nicaragua to the Salvadoran guerrillas. Now, if recent stories are correct, the Salvadoran Government has secretly supported the shipment of arms to the Nicaraguan Contras.

It seems very odd to me that the President, on the one hand, would be arguing we have to stop all supplies of arms from Nicaragua to the Salvadoran guerrillas, but it is perfectly fine for the Salvadorans to supply arms to the Contras fighting in Nicaragua. Evidently, it appears to be permissible for the administration to circumvent the law passed by Congress prohibiting our involvement in that.

What role has the Salvadoran Government and the Salvadoran Air Force played in the Contra supply operations? Has the Salvadoran air base at Ilopango been used to store arms destined for the Contras and to fuel planes carrying those arms and to house people flying those planes? What ties has Salvadoran Air Force Chief of Staff, General Bustillo, maintained with the United States Central Intelligence Agency and the station chief at the United States Embassy in San Salvador?

Mr. President, what may be happening here, again not only in contravention of the laws passed by Congress but also in contravention of our agreements with other nations in Central America, is an escalation of the conflict to the point where we are involving the Salvadoran Government in conducting a proxy war against the Nicaraguan Government, a government with which, I might point out, we have full diplomatic relations and with which we are at peace.

I raised those issues the other day as to the possible violations of the Neutrality Act because of the fact that we are at peace with Nicaragua and we do

maintain diplomatic relations with them.

But do we see here the beginning of a breakdown in the relationships between the Salvadoran Government and the Nicaraguan Government with, I submit, the Honduran Government caught right in the middle?

Will we see more and more reports come out that we have put pressure on the Salvadoran Government or the Salvadoran military or both to involve itself very heavily in the proxy war against the Nicaraguan Government? If so, I suggest that this administration has led us down a very dangerous path and has placed the Salvadoran Government in a very precarious position, not only with Nicaragua but with all of its neighbors and allies in not only Central America but all of Latin America.

We may be, because of these actions, unwittingly—maybe even wittingly—undermining the beginnings of a fragile democracy in El Salvador.

I could see the scenario develop that as more and more of this information comes out, as this administration denies its role in this mission and in other missions, as more and more blame is placed on the Salvadoran Air Force, at the Ilopango Air Base, on General Bustillo, that the Salvadoran military and Government will be drawn into direct conflict with Nicaragua.

I do not believe that President Duarte wants that outcome nor do I believe that the Salvadoran people want it. I doubt whether the Salvadoran military wants that either.

□ 2110

We put that very tenuous democracy in El Salvador at risk. At risk from whom? From the Nicaraguans? No, not at all. But at risk from the right-wing elements and the militarists in El Salvador who have never much cared for democracy anyway and who would just as soon see a return to military dictatorship in El Salvador. They would use this involvement as the pretext for taking such action.

The downing of the C-123 and the capture of Mr. Hasenfus has implications that none of us would like to imagine. That is why it is so critical, Mr. President, that we have a full accounting from this administration. That is why I took the floor this evening to object to the unanimous consent proffered by the distinguished Senator from Oregon earlier, because I believe it is in our national interests, I believe it is in the best interests of the civilian Government of El Salvador, and I believe it is in the best interests of the Contadora peace process to insist and ensure that our Government provides a full accounting on this matter.

Quite frankly, I would have hoped that neither our Government nor our administration would have circumvented the laws. And I would hope that the El Salvadoran military had not been sucked into this operation. I believe that by insisting that this administration make a full and complete accounting to the Congress that we can find out whether or not our administration was involved in the Hasenfus and similar missions and if so to what extent. Then perhaps we can help the government of Duarte in El Salvador.

We must not permit the escalation of the war in Central America until Congress and the American public receive all the facts on this secret private war being waged out of Ilopango.

We must not permit it to be said that Congress slept while the laws were broken and while America's credibility was being destroyed.

We must not let it be said that once again an administration broke the law and Congress did not demand a full accounting.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I thank the Senator from Iowa.

OMNIBUS DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT

Mr. DOLE. Mr. President, we have had a number of our colleagues on both sides and very competent staff working on the closure vote—I cannot remember precisely when that was—to try to reach some agreement on this antidrug bill so we could pass it, get it back to the House, and make certain we have a drug bill this year.

I am going to propound a unanimous-consent agreement. I think it has been cleared. Let me explain just a couple of provisions.

There will be an amendment offered by myself and I think the minority leader which would modify the pending leadership amendment to strike the death penalty, and insert in lieu thereof a provision worked out by Senators LEVIN, KENNEDY, HATCH, THURMOND, BIDEN, and people on both sides of the issue, which is life imprisonment with no probation or parole under certain conditions. That has been agreed to.

There would also be some technical amendments and clerical amendments offered by the leadership and which has been cleared on both sides. They are technical I am advised because I want to see a drug bill passed and not spend another half a day trying to determine what we are going to do.

I have agreed that I would withdraw the voluntary checkoff provision. My own view is it is a good idea. Senator LONG has a different view and feels very strongly about it. We could probably engage in several hours of debate and have a vote. In the meantime, we might lose the drug bill.

We can raise that at another time. I think the important thing is to get the provisions that have been worked out in a bipartisan way up and down the line, and pass them. We can address the death penalty next year. We have had assurances from members of the Judiciary Committee that they would see to it that we would have a chance to do that sometime this spring.

So no other amendments would be in order. We have to stop the nongermane amendments or we are never going to pass the drug bill. So I would now propound that request with that explanation.

I ask unanimous consent that once the Senate resumes consideration of the House message to accompany the drug bill, H.R. 5484, it be considered under the following agreement: That the following amendments by the only amendments in order to the motion to concur and they be limited to 10 minutes each equally divided in the usual from; one amendment to be offered by Senators DOLE and BYRD of their designees dealing with the death penalty—I have explained what this is; one amendment to be offered by Senator DOLE and BYRD or their designees making technical an clerical changes in the drug bill; one amendment by Senator DOLE to withdraw the checkoff provision as requested by Senator LONG; that no other amendments be in order; that following the disposition of the above-mentioned amendments the Senate proceed to vote without any intervening motion or debate to adoption of the motion to concur in the House amendments with further amendments identified above.

Finally, I ask unanimous consent that no motions to recommit with or without instructions be in order, that adoption of the motion to concur with the above-mentioned agreements occur no later than 12 noon on Thursday, October 16.

Mr. BYRD. Mr. President, reserving the right to object, I shall not object, the distinguished majority leader has accurately stated what the various actions will accomplish. He has indicated that while we will be offering a substitute amendment to the death penalty, he has made clear that that substitute amendment would provide for a mandatory minimum of life imprisonment without probation or parole. He has also indicated that the checkoff provisions to which Senator LONG objects will be dropped.

I think this will be a good agreement. We, I think, can pass this bill this evening, possibly by voice vote, in the interest of saving time and realizing that it still has to go back to the House. If there were a rollcall vote on the bill, it would probably have to be put off until tomorrow because there are Senators on both sides who would

want to be here, and we would want to protect them.

I, like the majority leader, favor the death penalty. But it is a situation in which we can make our choice. We can get a drug bill which has a minimum mandatory life sentence in it without probation or parole but without a death penalty, or we can get neither a death penalty nor a bill. So I think it is very clear as to what our choice would be.

I have no objection. I understand Senator LEVIN is on his way up and wants to be here before the consent is finally ordered by the Chair.

Mr. DOLE. Mr. President, let me indicate that I have had a request by the Senator from Colorado, Senator ARMSTRONG. His request is unless we can provide for an amendment on so-called antistrike force, as a result of the Clairborne impeachment, that he would want to offer it to this bill. I can assure Senator ARMSTRONG we will bring it up as a freestanding amendment sometime tomorrow or Friday. I think that will satisfy his request.

Mr. BYRD. I remove my reservation.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

□ 2120

AMENDMENT NO. 3464

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of myself, and Senator BYRD, and other Senators who are working on this proposal.

Mr. President, this is the amendment which modifies the present death penalty provision by requiring under certain conditions there be mandatory life imprisonment with no probation and no parole. I ask unanimous consent that the amendment contained in the motion to concur with an amendment be modified, and I send that amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mr. BYRD, proposes an amendment numbered 3464.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out subtitle U and insert in lieu thereof the following:

SUBTITLE U—MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF PAROLE FOR CERTAIN OFFENSES

SEC. 1951. LIFE IMPRISONMENT WITHOUT POSSIBILITY OF PAROLE FOR CERTAIN CONTINUING CRIMINAL ENTERPRISE DRUG OFFENSES.

(a) ELEMENTS OF OFFENSE.—Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "(a) Any" and inserting "(a)(1) Except as otherwise provided in this section, any" in lieu thereof;

(2) by striking out "; except that if" and inserting ". If" in lieu thereof; and

(3) by adding at the end the following:

"(2) If an individual in the course of a continuing criminal enterprise:

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim; or

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim;

then such individual shall be subject to a sentence of life imprisonment without possibility of parole in accordance with this section.

(b) PROCEDURE APPLICABLE WITH RESPECT TO A SENATOR OF LIFE IMPRISONMENT.—Section 408 of the Controlled Substances Act is amended by adding at the end the following:

"HEARING REQUIRED WITH RESPECT TO A SENTENCE OF LIFE IMPRISONMENT

"(f) A person shall be subjected to life imprisonment without possibility of parole for any offense under this section only if a hearing is held in accordance with this section.

"NOTICE BY THE GOVERNMENT IN LIFE IMPRISONMENT PENALTY CASES

"(g)(1) Whenever the Government intends to seek a sentence of life imprisonment without possibility of parole for an offense under this section for which one of the sentences provided is life imprisonment without possibility of parole, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek a sentence of life imprisonment without possibility of parole; and

"(B) setting forth the aggravating factors which the Government will seek to prove as the basis for a sentence of life imprisonment without possibility of parole.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"HEARING BEFORE COURT OR JURY

"(h)(1) When the attorney for the Government has filed a notice as required under subsection (g) and the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"PROOF OF AGGRAVATING AND MITIGATING FACTORS

"(i) Nowwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (l) and (m), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (m), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors, and as to appropriateness in that case of imposing a sentence of life imprisonment without possibility of parole. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the information.

"RETURN OF FINDINGS

"(j) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any mitigating factors, and any aggravating factors set forth in subsection (m), found to exist. If one of the aggravating factors set forth in subsection (m) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding of any aggravating or mitigating factor by a jury shall be made by unanimous vote. If no aggravating factor set forth in subsection (m) if found to exist, the court shall impose a sentence, other than life imprisonment

without possibility of parole authorized by law. If one or more aggravating factors set forth in subsection (m) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of life imprisonment without possibility of parole. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether such sentence is justified.

"IMPOSITION OF SENTENCE

"(k) Upon a finding that a sentence of life imprisonment without possibility of parole is justified, the court shall sentence the defendant to such sentence. Otherwise the court shall impose a sentence, other than life imprisonment without possibility of parole, authorized by law.

"MITIGATING FACTORS

"(1) In determining whether a sentence of life imprisonment without possibility of parole is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant was less than 18 years of age at the time of the crime.

"(2) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(3) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(4) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"AGGRAVATING FACTORS

"(m) If the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the following aggravating factors shall be considered but are not exclusive:

(1) The defendant has previously been convicted of another Federal offense or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(2) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(4) In the commission of the offense or in escaping apprehension for a violation of subsection (a)(1), the defendant knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(5) The violation of this chapter in relation to which the conduct described in subsection (a)(2) occurred was a violation of section 405.

"(6) The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"(7) The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(10) The defendant committed the offense against a judge, a law-enforcement officer, or an employee of a penal or correctional institution, while that victim was performing official duties or because of that victim's status as a public servant of the United States, or a State or political subdivision of the United States. For purposes of this paragraph the term 'law-enforcement officer' means a public servant authorized by law to conduct or engage in the prevention, investigation, or prosecution of an offense.

"INSTRUCTION TO JURY ON RIGHT OF THE DEFENDANT TO JUSTICE WITHOUT DISCRIMINATION

"(n) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether a sentence of life imprisonment without possibility of parole is justified it shall not consider the race, color, national origin, creed, or sex of the defendant, the victim—the jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant or the victim was not involved in reaching his or her individual decision.

"SENTENCING IN CASES IN WHICH A SENTENCE OF LIFE IMPRISONMENT IS NOT SOUGHT OR IMPOSED

"(o) If a person is convicted for an offense under subsection (a)(2) and the court does not impose a sentence of life imprisonment without possibility of parole, the court may impose a sentence of life imprisonment or any other sentence authorized by law.

"APPEAL

"(p)(1) In any case in which the sentence of life imprisonment without possibility of parole is imposed under this section, such sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of life imprisonment without possibility of parole was not imposed under the influence of passion, prejudice, error of law, abuse of discretion, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with the failure to find sufficient mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

Mr. DOLE. Mr. President, on September 30 the Senate adopted a rational, responsible, drug-abuse package. I am committed, as I believe most of my colleagues on both sides of the aisle are, to approving drug legislation before we adjourn this week. As a recent survey shows, while most drug use is leveling off, cocaine and "crack" usage is on the rise.

Congress cannot by fiat wipe out drug abuse. But the Government can respond to the problem—respond through law enforcement, through cooperation with foreign governments, and through limited use of our military, through education and rehabilitation. Those are the areas the Senate's legislation addressed.

Congress should not give the American people a placebo. Whatever we approve should have the potential for doing some real good—the potential for having a significant impact on drug use in America. I believe the final Senate product will accomplish that goal.

After passing a wide-ranging and extremely expensive bill, the House has wisely decided to accept most of our drug control package. But it has made several substantive changes.

In response to these, we have offered a bipartisan amendment to the House version, which we believe corrects the deficiencies in the House position.

There are four major subjects addressed in the amendment.

Title I deals with enforcement. The House accepted most of the Senate's provisions. However, our amendment will reflect the Senate's position that judges be given the ability to reduce sentences in exchange for cooperation, and it reinstates authority to give rewards for information regarding the killing or kidnaping of Federal drug agents.

Our amendment would also modify provisions on asset forfeiture and money laundering.

Title II addresses international narcotics control. Our amendment restores the original Senate language on the Mansfield amendment, which would allow U.S. law enforcement officers to be present at the arrest of individuals overseas in all countries except those where the President certifies it would be against the U.S. national interest to do so.

In provisions dealing with Mexico, rather than withholding money in narcotics assistance from Mexico, as the House bill would, the Senate amendment lists measures Congress might consider next year should Mexico's pledges of cooperation in narcotics enforcement not be fulfilled.

Title III contains provisions dealing with the military interdiction. In substantive terms, the most important difference in our amendment is how to fund the military aspects of the bill. The Senate's position is that the money should be new money, not funds from existing Department of Defense programs.

Finally, title IV relates to prevention, treatment, and education. There would be minor changes relating to Federal evaluation of State efforts, mental health research on the elderly.

The funding level for education has been increased from the original Senate bill, but it is lower than the House version.

Mr. President, as I said at the outset, the revisions to the House package contained in this amendment were arrived at on a bipartisan basis. There is nothing in this amendment that should be considered controversial. And I hope we will unanimously and quickly adopt it.

Mr. BYRD. Mr. President, I believe that it is critical that the 99th Congress enact a comprehensive antidrug bill.

We have invested a great deal of time and energy on both sides of the aisle in this body toward producing a strong, comprehensive measure. If we fail to enact this bill, it will be personally frustrating to those of us who have labored so long and so hard on this legislation.

But the real losers will be the American people who want—and urgently need—help in combating the drug epidemic ravaging persons of all ages throughout our Nation.

We are very close to enacting this legislation. The Senate passed a good, strong bill. The House earlier passed its own version, incorporating several very controversial provisions that were extremely troublesome to a number of our colleagues on both sides of the aisle in the Senate. In passing our measure late last month, we successfully avoided those issues. The House, however, insisted on attaching to the Senate bill one of those emotionally charged issues—the death penalty.

I believe it is this provision alone, now, which has the potential to snarl this bill and prevent enactment of a sound, thorough drug bill. I personally support the death penalty provision the House attached to the antidrug bill. I have supported broader death penalty legislation that has come before this body.

But just as strong as my support for the death penalty is my understanding that inclusion of this particular provision in this bill could spell the doom for the whole measure.

Mr. President, I want to pass an antidrug bill. The people of this Nation need and expect us to pass an antidrug bill.

The opposition to the death penalty provision is bipartisan—just as support for the drug bill is strongly bipartisan.

I ask all my colleagues, whatever their position on the death penalty provision, to join in this effort to free the drug bill from this issue which could sink our whole effort.

The American people are looking to us to act responsibly, swiftly, and surely to address the drug abuse epidemic. We must not shirk this responsibility.

We can and will return on another day to confront the death penalty. Today, I hope we will do what is both worthwhile and possible, and pass this major antidrug bill.

Mr. BIDEN. Mr. President, I compliment both leaders and Senator CHILES on working this out. The reason why there was suggested a minimum of life imprisonment without parole was to get us out of the impasse but to also keep these so-called kingpins off the street and there would be no way to get back on the street. It is my hope that the House will agree with this position.

Mr. President, I rise today in support of the bipartisan Senate amendment to H.R. 5484. I would like to note from the outset, that although this amendment was drafted by Senators from both sides of the aisle, and as such represents a bipartisan effort, it does not address the death penalty issue, which we have not been able to resolve.

Opposition to the death penalty comes from both sides of the aisle, Republicans and Democrats alike. It is an issue we have debated many times in this body, and given the time constraints we face in completing this session, I think it is an issue better left for another day.

I raise these issues today because comprehensive legislation aimed at reducing drug abuse in America is imperiled over the death penalty. For almost 1 month, bipartisan negotiations have been underway to draft an effective and timely legislative response to America's drug habit. From the outset, it was understood that there was not a clear consensus on every single issue. These differences were basic, philosophical differences, including the death penalty, modification of the exclusionary rule, the role of the military in drug control and the need for a drug czar; a single official responsible for the Federal drug control effort, a proposal I have been advocating since 1982.

But as is so often the case, when we are dealing with problems that effect this Nation in such a profound, and this case adverse way, it is impossible for every Member of this body to agree on every specific provision. Instead, often we must leave the larger battles for another day, so that we may move those initiatives upon which we can all agree and which can move us closer to our goal, in this case a drug-free America.

This is exactly the approach that the leadership from both sides of the aisle adopted in moving drug legislation the last time around. The differences among Members were no less deep seated at that time than they are today. But it was clear that these differences could not be resolved by the end of this session. The question then became, how serious was this body about passing comprehensive drug legislation in the 99th Congress? The answer was not surprising. The Senate passed a bill that would have provided the most sweeping revision to the Federal drug control strategy in almost two decades; a bill that passed 97 to 2, and that should have sailed through the other body.

Today, we are in a similar position. The House of Representatives once again has included a death penalty provision in the drug bill they sent back to us. As a result, the debate accompanying the drug bill has been focused on one single, controversial issue. I can assure you that this debate will involve lofty political rhetoric and more than enough hyperbole. And once again, it is up to the Senate leadership to act responsibly in moving drug legislation.

This time around, the differences are no more nor less than they were the last time. We are all on record as to our positions on this issue. And like last time, the question is not whether we think this is the perfect piece of drug legislation. Rather, the question is how sincere are we in our desire to move this country toward a solution to drug abuse in America? How sincere are we in our belief that we must educate our children, our most precious resource, about the dangers and consequences of drug abuse? How sincere are we in our resolve to increase the possibility that drug traffickers are caught, sentenced, and serve their time in jail?

I am mindful of the argument on the other side. Briefly, this argument says that if we are really serious about doing "something" about drug abuse in America, than we should include a death penalty provision in this bill. But this line of thinking is unending, as we have seen in the debate over this bill. It starts with, "If we are really serious about doing something about drug abuse then . . ." and some ill-conceived, though possibly well intentioned, proposal follows, like the use of the military or changes to the exclusionary rule. We must not get caught up in this game of chicken. The stakes are much to high to allow this type of politicing to prevail.

Drug abuse in America is a problem of staggering proportions. Half a million Americans are addicted to heroin;

4-5 million regularly abuse cocaine. And over 20 million Americans regularly use marijuana. And drug abuse threatens our most precious resource: our young people; 61 percent, let me repeat—61 percent, almost two-thirds—of the 1985 high school seniors had used an illicit drug; 17 percent of the graduating seniors had tried cocaine, the highest rate ever in the 11 years the sample has been taken.

On the overall issue, there is a clear consensus. Congress must respond to this Nation's seemingly insatiable demand for illicit drugs. But that is not all. We agree on many of the specifics, like the need to eradicate abroad, in order to decrease drug production at the source. We agree on the need to interdict more than the 10 percent of the drugs at the border. We agree on the need to enact tough new sentencing provisions for drug traffickers, so that the punishment they receive is proportionate to the crimes they commit. And we agree on the need to educate our young people about the hazards of drug abuse, so that they will be able to "just say no." In fact, we agree on much, much more, and this bill contains provisions reflecting this widespread agreement. Where we do not agree is on the death penalty. And we probably will not reach agreement before the end of this session.

In too many instances in the drug debate, one's sincerity has been measured in terms of the extremes one will advocate in order to demonstrate a "commitment" to doing something about drugs. The fallacy of this approach should be clear. We must set aside our own individual agendas, in order to move those initiatives on which there is a consensus. We must be mindful of the enormous responsibility on our hands. Drug legislation is needed, and it is needed now.

As I mentioned before, the question is: How serious are the Members of this body in moving comprehensive drug legislation? Legislation that is, with one notable exception, a product of extensive bipartisan negotiations. Legislation that includes resources to interdict drugs at the border, to beef up law enforcement in our cities and communities, and to educate our children. Legislation that could move this country toward the goal upon which we all agree: A drug free society.

The situation we face is not new to this body. In 1984, we moved legislation that enacted the most sweeping reform of the Federal criminal law in this Nation's history. In fact, many of the issues are the same, including the death penalty. But there were too many areas upon which there was agreement to let the legislation die because of a few differences. I urge the Members of this body to adopt a similar approach today. There are too many essential areas of agreement to let this legislation die in this body. Let us leave the bigger battles for another day, and let us move drug legislation before the end of this session.

Mr. CHILES. Mr. President, I think this idea was a good idea. I think it is a way of moving this bill along. So many of us feel that there are so many positive aspects to this bill that there is no way we can allow it to die on the basis of the fact that the death penalty is important and a lot of people would like to see it in, including myself. That would have been the death penalty to the bill. This is a way out.

I compliment Senators on both sides of the issue, those who are very strong for the death penalty and those who are not, who have helped us work this language out. Senator EVANS and Senator LEVIN were certainly helpful, along with Senator MATHIAS and Senator HATCH and his staff, and many other people. I am glad that we have this amendment.

Mrs. HAWKINS. Mr. President, I, too, would like to add my congratulations to the leaders who have worked so tirelessly with our bipartisan group to make sure that we get the drug bill this year. It is far-reaching legislation and will serve many generations which will reap the harvest from those problems that we have resolved. No one is 100-percent happy with it but it is a pretty good piece of legislation. Senator BIDEN has given great leadership in helping us reach a solution to the impasse of the death penalty. In my State of Florida, we want the death penalty and feel keen about it.

We are going to try this as a first step.

I must say that the Preamble to the U.S. Constitution lays out the very basis for which the rest was written. That reads:

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

I might say as I reread that today, I thought that all Senators involved in this major piece of legislation are taking a giant step toward defeating the enemy within and without. We have really declared war on the enemy, the war on drugs.

Mr. MATTINGLY. Mr. President I would like to add my congratulations to the majority and minority leaders for their success in getting together a group this afternoon in order to come to an agreement with respect to final passage of this important piece of legislation.

We all know that the death penalty was the major impasse to final passage of this drug bill. The death penalty had prevailed in the House of Representatives by an overwhelming vote. I think there were only 23 votes against the recent version which contained the death penalty provision.

In the U.S. Senate it should have prevailed as the vote of 60 to 25 against the tabling motion to my death penalty demonstrated. It is unfortunate that we are at the end of a Congress, or we would have been successful in obtaining the death penalty for the drug kingpins. I believe not only the majority of the people in the Congress support the death penalty, but the people in the United States do as well. Pragmatism has prevailed this evening. The Congress needs to adjourn soon. So tonight, in order to pass this bill, we must settle for a mandatory life sentence without parole for drug kingpins.

We need a strong drug bill to make certain that we have forceful weapons in this war on drugs going on in the United States. This drug problem is attacking young people. It devastates our population on every side.

I think that the agreement we have arrived at tonight will enable us to pass this drug bill successfully.

I would like to congratulate everyone who has worked so hard on the issue and especially my colleague, Senator HAWKINS, from Florida, who has been very instrumental in bringing the Senate's attention to this important issue.

Mr. DOLE. Mr. President, let me thank all my colleagues. We had a decision to make today. We had a very close vote on cloture. In my view it did not make any difference how the cloture vote came out. Had we invoked cloture we would have a problem and had we not invoked cloture we would have a problem. The cloture vote was really not of significance in the sense that it would change anything we might do.

We have been discussing this with those mentioned. Senator MATTINGLY was out front in the so-called death penalty provision on the Senate side. He agreed because he wants a drug bill. I think that is the attitude we have had on both sides. We are not going to solve all the problems in this one piece of legislation.

I want to thank Senators MATTINGLY, HAWKINS, CHILES, BIDEN, and the many others who were there this afternoon, Senator LEVIN, Senator EVANS, Senator HATCH, Senator THURMOND, and members of our staff. We had a very good discussion with the distinguished Member of Congress from Pennsylvania. It was his provision in the House. I am not certain he will run for the Senate since he sat in on a discussion with Senators. I explained we do not have a Rules Committee here. We cannot say, "We will have a death penalty vote in 30 minutes."

We hope we have spelled it out in the right way. I appreciate the help of all of our colleagues.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this is not only the right solution out of an impasse but it is also the right solution on the merits, to provide a mandatory life sentence without parole for people who perpetrate drug-related murders during the course of continuing criminal enterprise. We made a number of other important changes in this language and I will mention those in a moment.

First, let me again thank Senators DOLE and BYRD, Senators MATHIAS, BIDEN, THURMOND, EVANS, KENNEDY, HATCH, and CHILES—all those who were on both sides of this question who finally played the critical role in drafting the solution which, again, is not only important so that we can get on with the drug bill, and all of us believe we want a drug bill, but also which we believe provides some very stiff, strong, mandatory life sentences without parole for those who would perpetrate any kind of a drug-related killing during the carrying out of one of these enterprises.

To the staffs, in particular, who have been working for the last 3 or 4 hours, and who missed the playoff game, may I add a special thanks.

This amendment follows the basic procedural format of the earlier death penalty provisions in this bill and in S. 239, the death penalty bill reported out by the Senate Judiciary Committee, with a number of very important exceptions.

For instance, intent is now an element of the offense and not just an aggravating factor as the bill originally provided for. I believe this is an important provision which is consistent with the Senate Judiciary Committee bill. It also makes clear that this very strong penalty will only be imposed on people who intended the murder. It thus makes this a strong penalty with proper procedural safeguards.

Second, this amendment adds a safeguard by requiring a jury to certify that it did not consider the race, color, national origin, creed, or sex of not only the defendant, but also of the victim in its sentencing deliberations. There is a very real concern about the possibility of consideration of any of these factors with respect to the victim on sentencing. This amendment makes an important statement to our people and our courts that any consideration of these extraneous factors is impermissible.

Further, this amendment strikes the word substantially from the provision in the bill passed by the House which provided that information relative to mitigating and aggravating factors can only be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. By striking the word "substantially," it makes clear that no evidence the probative value of which is outweighed by such prejudicial or misleading factors can be considered in support of the showing that mitigating or aggravating factors are present. Again, this modification is an appropriate safeguard in light of the very strong penalty of life imprisonment without the possibility of parole provided for in this section.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, the leaders deserve to be congratulated on what is only a beginning, but a very good beginning, and what must be sustained over a long period of years if it is to be "successful and justified," the term so many have employed, in the war on drugs.

In order to be successful, to be vigorously prosecuted, this war is going to require the commitment of adequate resources and not just lipservice. One way that we can in part achieve that, not as a substitute for voting the kind of appropriations that are necessary, is to do a little poetic justice and take the ill-gotten gain from the hands of the traffickers and see to it that it is spent to combat them. One of the so-called technical amendments will do that by lifting the caps on seized assets and those taken from convicted drug traffickers.

It is past time this was done. It will add at least a small amount to what is actually required in order to equip those who are to wage this war on drugs so that the odds can be at least somewhat equal, in terms of the very sophisticated equipment used by aerial smugglers and others in bringing this poison into the country.

I join with others in congratulating the majority leader, and the minority leader, and all who have taken part in this, and those who have, against their own wishes, decided that it is much better to go forward with an imperfect bill than with no bill at all since we are late in coming to the passage of this measure.

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Mr. MURKOWSKI. Mr. President, I wish to join my colleagues in the efforts of the Senate today with regard to the compromise drug bill. As has been stated, it is not necessarily what we would all desire to see, but the United States and the communities and the citizens of our country are watching to determine just how their elected representatives would respond to this challenge. I think we have met the charge.

As a member of the Senate Caucus on International Narcotics, I certainly commend the Senator from Florida [Mrs. HAWKINS]. She has done an extraordinary job, as have a number of others.

I think we can all take pride in the fact that we have considered the situation, particularly in those small communities. Now they are looking for specifics with regard to the amount of funding for law enforcement, for the specifics in regard to education, and, lastly, Mr. President, for assistance and rehabilitation.

I thank the Chair.

Mr. BYRD. Mr. President, will the distinguished majority leader say whether or not Senators need expect any further rollcall votes tonight?

Mr. DOLE. No, Mr. President, I think we can safely assume that there will be no more rollcall votes tonight. We would like to pass this bill on a voice vote. We need to get it to the House this evening. They are working on a continuing resolution. We would like to have our drug bill there tomorrow morning. We are not going to be able to do that if we cannot have an agreement to have a voice vote. I do not know of any requests.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment.

The amendment (No. 3464) was agreed to.

AMENDMENT NO. 3465

Purpose: To strike Anti-Drug Trust Fund.)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3465.

On page 542 of the amendment
Strike lines 21–24.
Strike page 543.
Strike page 544.
Strike page 545.

Mr. DOLE. Mr. President, this is the amendment that strikes out what I think is a good idea. It is the checkoff system where, if you had a refund coming, you could contribute some of that to solving the problem of drug abuse. I think it would raise millions and millions of dollars, but Senator LONG has a sharp disagreement. Rather than have a big debate tomorrow on this one provision, which is not really that significant in the overall frame of reference, this will strike that provision from the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3465) was agreed to.

AMENDMENT NO. 3466

Mr. DOLE. I ask unanimous consent that the Senate proceed to consider the amendment containing the motion to concur with the amendment modi-

fied by the proposal which I now send to the desk on my behalf and on behalf of the distinguished minority leader. These are technical corrections and have been cleared on both sides.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3466.

Mr. DOLE. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is printed in today's RECORD under "Amendments Submitted."

Mr. WARNER. Mr. President, I respectfully inquire of the leadership if there is an appropriate time when I might address the leadership on an amendment in the nature of a technical amendment. It is at the desk. I do not mean to interrupt them, but I wish to make inquiry.

Mr. President, I ask the leadership to consider a technical amendment that has been at the desk as a part of the package. I shall be bound by the judgment of the leadership.

Mr. DOLE. If the Senator could advise what the amendment is, I do not know if it has been cleared on the other side.

CLARIFYING THE PERMISSIBLE LIMITS ON MILITARY INVOLVEMENT IN CIVILIAN LAW ENFORCEMENT ACTIVITIES

Mr. WARNER. Mr. President, I am submitting this amendment to the omnibus drug bill, H.R. 5484, which would ensure the preservation of the spirit and intent of the Posse Comitatus Act.

For well over a century, this landmark law has very effectively served to govern the relations of the military departments and the civilian law enforcement departments, Federal and State.

I am concerned that the Congress, in our need to respond effectively to the worsening drug problem which threatens the very foundations of our society, might fail to take into account the historic, proven principles underlying the Posse Comitatus Act.

The bill authorizes the military departments to provide personnel "to facilitate the enforcement" of certain drug and customs laws, and to provide transportation to civilian law enforcement departments in connection with their enforcement.

Such transportation, however, is limited to locations outside the United States, except for certain "hot pursuit" situations which originate outside the United States and transgress across our borders.

The bill also authorizes, in emergency circumstances, the use of military equipment and personnel for the purpose of intercepting vessels and aircraft outside the United States for the purposes of identifying, monitoring, and locating them.

The authority to declare an emergency circumstance requires joint approval by the Secretary of Defense, the Secretary of State, and the Attorney General.

While this new authority is intended to be used only in clearly delineated and restricted circumstances, I am concerned that this provision not be interpreted to constitute a weakening of the time-tested Posse Comitatus Act.

That law protects the tradition of our military forces not to become involved in civilian law enforcement activities.

The Posse Comitatus Act has served us well for over 100 years, through economic and political crises and through two world wars in which public fears were heightened and civilian police forces substantially reduced by wartime requirements.

It is important to note that, in these stressful times of our history, Congress resisted any dimunition of the principles embodied in the Posse Comitatus Act.

Congress must continue to resist any erosion of the principles of the Posse Comitatus Act.

Some of the proposals, submitted and rejected, during the consideration of this legislation would have constituted a serious erosion of our civil rights.

Further, to the extent we involve the military and commit assets, there is an impact on morale and readiness of our armed forces, both active and reserve.

The vast majority of military personnel are not trained, equipped or dispersed for the purpose of law enforcement, most specifically to perform arrests.

It seems to me to be unwise to consider sending the young men and women in our Guard and Reserve out in hot pursuit, armed against drug traffickers and authorized to perform arrests.

An amendment, proposed but rejected, would have established this authority.

The question of the permissible extent of military involvement in civilian law enforcement is one which has deep roots in our history.

The Supreme court, in the case of ex parte Milligan in 1866, involving the trial of a civilian by a military commission during the Civil War, warned that the issue of military power over civilians "involves the very framework of the government and the fundamental principles of American liberty."

That Court also warned us against the temptation to suspend or alter individual liberties in times of crisis; "Such a doctrine," wrote Mr. Justice Davis, "leads directly to anarchy or despotism."

The turbulent years following the Civil War gave rise to the consensus in Congress that military government, and military enforcement of civilian law, were antithetical to the genius of American institutions.

Accordingly, the 1878 Army Appropriation Act contained a provision prohibiting the use of the Army as a posse comitatus, which, only slightly altered, is the Posse Comitatus Act codified today at 18 U.S.C. 1385.

The act provides:

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than $10,000 or imprisoned not more than two years, or both.

While the act only mentions the Army and the Air Force, judicial construction has made it clear that the Navy and the Marine Corps are included as well. The Coast Guard is not subject to the act.

For over a century, Congress has consistently adhered to the policy embodied in the act. Time and experience have proven the wisdom of the congressional consensus.

The first change in the act occurred 103 years after its enactment, as the worsening drug problem began to receive substantial attention.

In 1981, the distinguished Senator from Georgia, [Mr. NUNN], and I sponsored legislation which authorized limited military assistance to civilian authorities. I hasten to point out that our legislation did not amend the act; rather we granted a specific authority permitted by the act:

First, it allowed information collected in the course of military operations to be used by civil law enforcement authorities; second, it authorized the Secretary of Defense to make available equipment or facilities under his jurisdiction, and training in their use, to such authorities; third, it authorized the Secretary of Defense, in the cases of certain drug, immigration, and customs laws, to assign military personnel to operate military equipment to monitor and follow air and sea traffic; and fourth, in an emergency circumstance, determined to be such under explicit criteria by the Secretary of Defense and the Attorney General, it authorized the use of military equipment and personnel outside the United States as a base by civilian officials, and their transportation by military personnel. It did not authorize the use of such equipment or personnel for the interdiction of air and sea traffic.

All of these provisions were subject to a general requirement that the military preparedness of the Nation not be adversely affected. And, clearly, no power of arrest was conferred on the military.

Experience under this 1981 statute during the ensuing 5 years has proven it to be a success. The Department of Defense has been able to provide assistance of significant value of civilian officials, and military readiness has not been adversely affected.

The present bill, in a similar way, is not an amendment to the Posse Comitatus Act. Rather is seeks to expand authority of the military within terms of the act.

It does three things: First, transportation of civilian officials into the United States may be made by military personnel in hot pursuit cases which begin outside our territory; second, one of the criteria for an emergency determination is relaxed, although State Department participation in the determination is now required; third, in an emergency circumstance, military equipment and personnel may be used to intercept vessels and aircraft outside the United States for the limited purposes of identifying them and monitoring their locations until civilian authorities can take over.

While I believe these modifications will increase the effectiveness of our drug interdiction without adversely affecting military readiness or threatening our liberties, we must continue to closely monitor all military involvement in civilian law enforcement activities.

I am concerned by the attempt of some, which have thus far been rejected, to press the Armed Forces into more active involvement in domestic law enforcement.

I think there should be no doubt as to the intent of Congress that the involvement of the Armed Forces in law enforcement be strictly circumscribed.

Accordingly, I am offering an amendment to the bill to preserve the Posse Comitatus Act.

Specifically, this amendment will codify the traditional understanding, itself upheld by the Senate in floor action on this bill, that the authority bestowed in this legislation does not include direct participation by any member of the Army, Navy, Air Force, or Marine Corps in any arrest, apprehension, search, and seizure involving violations or alleged violations of the statutes for which limited military assistance to civilian authorities is authorized under chapter 18 of title 10, United States Code.

This amendment should not be controversial; it restates a time-tested principle of America law.

I ask my colleagues for their support.

Mr. BYRD. Mr. President, the agreement was that there would be no further amendments.

Mr. WARNER. I do not mean in any way to contest the unanimous-consent agreement, Mr. President. I came as quickly as I could. I just wonder if at this time, since it has been at the desk, it might be considered in the group of technical amendments being sent forward.

Mr. BYRD. Mr. President, I have no better friend in this body than the distinguished Senator from Virginia, but this agreement embodied no other amendments and I am afraid if we open it up to this technical amendment at this time, we are going to have to run this amendment and see if there is any objection.

Mr. WARNER. I respect the wishes of the minority leader. I was not certain as I listened to this request whether the package of technical amendments was established in their entirety or they were being put together.

Mr. DOLE. I am in sympathy with the amendment, Mr. President, but I think the minority leader is correct. Had we had this amendment earlier, we probably would have adopted it. There is a strong sentiment expressed here. I think it might be well if we had the amendment read.

Mr. WARNER. I think it is at the desk at the moment. It is amendment No. 3455.

The legislative clerk read as follows:

On page 217, after line 25, insert the following:

SEC. 3056A. POSSE COMITATUS LIMITATIONS.

The provisions of section 3056 do not authorize or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in any arrest, apprehension, search, or seizure involving violations or alleged violations of the laws referred to in section 374(a) of title 10, United States Code.

Mr. WARNER. Mr. President, this is essentially my interpretation of the bill as amended. As Members of this body well know, the Posse Comitatus Act has served this Nation well for over 105 years. In an earlier version of this legislation, there were attempts, primarily in the other body although, to some extent, in this body, to include within this legislation the authority to have military personnel perform arrests. At that time, I strongly objected. The Senator offering the amendment in large part amended it, then subsequently the Senate rejected the amendment.

I think it is my interpretation of the bill now pending before the Senate that the essence of my amendment is presently in the bill. I wondered if the majority leader and minority leader might give me their views.

Mr. DOLE. I share the view expressed by the distinguished Senator from Virginia that that is the intent, at least. We had a very strong vote on that issue. Four or five to one, as I recall. I think we made some legislative history that might serve here.

Mr. BYRD. Mr. President, I am advised that the bill in no way authorizes or permits direct participation by a member of the Army, Navy, Air Force, or Marine Corps in any arrest, apprehension, search, or seizure involving violations or alleged violations of the laws referred to in section 374(a) of title 10, United States Code. That being the case, and I am confident I can rely on the advice that has been given, the distinguished Senator's amendment will not be necessary.

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The bill's provisions would be in keeping with the intent and substance of the amendment. I am further advised then, to make myself more clear perhaps, that there is no problem with this amendment from the standpoint of substance. It would not add anything because the bill does not provide to the contrary.

We do have this procedural problem, however, in that we have entered into the agreement which provides against any other amendment, and if we were to allow this amendment in now, I am concerned that we might have problems in the future getting agreements in similar situations.

Mr. WARNER. Mr. President, I thank the distinguished minority leader and the majority leader. In essence, it is their interpretation of the bill that the purport of this amendment is covered and that it could easily have been added had I been present a little earlier and asked for its inclusion.

So, Mr. President, that satisfies my purpose and I do not think it is necessary for me to withdraw the amendment because I did not ask for its consideration in view of the unanimous-consent request. We have established the legislative history that I felt was necessary.

Mr. BYRD. I thank the Senator.

Mr. WARNER. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the majority leader.

The amendment (No. 3466) was agreed to.

Mr. LEAHY. Mr. President, the House amendments to the Freedom of Information Act provisions in the Senate-passed drug bill were generally technical in nature and I would have accepted them without change. However, I am happy to join my friend, the distinguished chairman of the Constitution Subcommittee, Senator HATCH, in making minor changes in two of the House amendments and restoring original Senate language in place of a third House modification to our provisions.

The first minor change involves a House amendment clarifying our provision authorizing the assessment of review costs. As explained by Representative ENGLISH, in his statement in the CONGRESSIONAL RECORD of October 8, 1986, the House amendment was intended to establish a limitation on

review costs similar to the one that was included in S. 774, the FOIA reform legislation which was passed by the Senate in the 98th Congress, and in H.R. 6414, a bill which was introduced by Representative ENGLISH, along with Representative KINDNESS, in the same year. Our addition to the language of the House amendment is merely intended to conform it more closely to the language of the earlier legislation; it is not, in any way, intended to indicate any disagreement with Representative ENGLISH's statement regarding the purpose and meaning of the House amendment.

The second minor change which Senator HATCH and I have agreed to would simply establish an effective date of 180 days after enactment for the fee and fee waiver provisions in section 1803 of the drug bill, in place of the House provisions which would have established an effective date of 90 days after enactment.

Our final change to the House amendment of the FOIA provisions in the Senate-passed drug bill would simply restore the original language of section 1802(a) in the Senate version amending section (b)(7)(C) of the FOIA exemption for law enforcement records. The Senate-passed version of this amendment, as I explained in my earlier statement in the CONGRESSIONAL RECORD of September 30, 1986, was based upon an identical amendment in S. 774 designed to clarify the degree of risk of harm from disclosure which must be shown to justify withholding records under that subparagraph of the law enforcement records exemption. Again, let me emphasize that this change in the statutory language substantially reflects current judicial interpretations and would not appreciably alter the meaning of the affected provision in its practical application.

Although the sponsors of the House amendments were concerned that such a change from the current statutory language could create problems with regard to interpretations of a related personal privacy exemption in paragraph (b)(6) of the FOIA, I am confident that the courts will recognize this change as simply codifying their present objective approach to assessing the degree of risk, rather than calling for a departure to a less rigorous standard.

Let me just say that I was pleased to find that both Representative ENGLISH and Representative KINDNESS share my understanding of the purpose and meaning of the FOIA amendments contained in the omnibus drug bill. I concur with their views, as stated in the CONGRESSIONAL RECORD of October 8, 1986, finding them consistent with my own earlier comments on these provisions.

Mr. KERRY. Will the Senator yield for a question?

Mr. LEAHY. I am happy to yield for a question.

Mr. KERRY. As a member of the Foreign Relations Committee, and Senator from a State proud to be home to some of the Nation's pre-eminent research institutions and libraries, I am concerned about the proposed changes in the Freedom of Information Act regarding the fees which can be charged under the act. A week ago the Senate passed by voice vote an amendment to the drug bill (amendment 3066) which I understood to have the effect of correcting the current narrow interpretation of the act's intent by Federal agencies, and making waivers and reductions of fees available to all requesters when the information released contributes to public understanding of the Government. I understood the amendment's chief sponsor, the distinguished Senator from Vermont, to explain in his explanation of the amendment, that any requester engaged in the dissemination of information to the public could also qualify for waiver or reduction of fees.

Therefore, I am perplexed to find additional remarks in the record raising doubts about the status of a certain category or requester—"organizations seeking to establish private repositories of public records" or "this type of private library of public documents." In my lengthy experience in public life, these kinds of organizations are precisely the kinds of groups that should receive every benefit of the Freedom of Information Act. By seeking out documentation on important public policy issues from inside the Government, these organizations have not only saved the taxpayers billions of dollars by helping to expose waste and fraud, bad decisions and misdeeds, but they also have proven essential to public education and the proper functioning of our democracy. The use of the adjective "private" also puzzles me, since the gathering of government documents into a library or repository open to the public can only assist further research and public education. I am sure that the research librarians at "private" institutions in Massachusetts, like Harvard University or Boston College, and at other less-renowned repositories of public records, see their mission as fulfilling the intent of the Freedom of Information Act.

If I may ask my distinguished colleague from Vermont, was it not the intention of this amendment to make more generous the FOIA's fee waiver provisions for the news media and public interest users, not to restrict them? And was it not the intention of this amendment to qualify for fee waivers and reductions all requesters engaged in the dissemination of information to the public, where the information contributes to public understanding of the Government and its policies, and where disclosure is not primarily in the commercial interest of the requester?

Mr. LEAHY. My distinguished colleague from Massachusetts understands the amendment perfectly. Any statements in the record which give a more restrictive meaning to the amendment with regards to the waiver and reduction of fees conflict with the clear language of the amendment itself. With this amendment, we have sought to remove the roadblocks and technicalities which have been used by various Federal agencies to deny waivers or reductions of fees under the FOIA to the news media and public interest users of the FOIA. Information released under the FOIA which contributes to public understanding of the Government clearly qualifies for waiver or reduction of fees, as long as it is not primarily in the commercial interest of the requester. Where disclosure is primarily in the commercial interest of the requester, and the records are requested for a commercial use, the requester will pay search, duplication and review charges under this amendment. FOIA requesters engaged in the dissemination of information to the public—and that of course is the primary function of libraries and repositories of public documents—would qualify for waiver or reduction of fees under the FOIA.

Mr. KERRY. I thank my distinguished colleague, the Senator from Vermont, for his clarification, and for his efforts to assure the free flow of information that is so vital to an informed citizenry and the continued success of our democracy.

Mr. LEVIN. In terms of procedure, the new section providing for a life sentence without parole follows the basic format of the earlier section providing for the death penalty, but with a few significant modifications. For the most part, these modifications are designed to make the provision before us today more consistent with the procedural format of S. 239, the death penalty bill reported out by the Senate Judiciary Committee earlier in this Congress, that was the death penalty provision which was passed as part of the bill by the other body.

I would ask the majority leader, who, along with Senator BYRD, is the principal sponsor of this amendment whether it is his understanding that the moving of the intent requirement from being one of the required aggravating factors which would have had to have been found for imposing the death penalty under the original bill to being an element of the offense punishable by life imprisonment without parole under this modification means that in order to satisfy the elements of the offense, the defendant must reasonably have foreseen that

the defendant's conduct in the course of the commission of the offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person? By implication, therefore, the defendant's showing that he could not have foreseen these consequences is a defense to the charge that his actions included the requisite intent. Is that also the majority leader's understanding of the effect of these changes?

Mr. DOLE. I agree with the interpretation of the Senator from Michigan. In meeting the requirement of intent as an element of the offense in this amendment, the defendant must reasonably have foreseen that the defendant's conduct in the course of the commission of the offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person. Without such reasonable foreseeability, the elements of the offense would not be satisfied. On another matter, Senator LEVIN, I would like to clarify that mandatory life imprisonment without parole means that an individual who is sentenced pursuant to these strict procedures will serve the duration of his life in prison. I understand that the law which created the Sentencing Commission last Congress also provided for the abolishment of parole. Is your understanding that the abolishment of people will not affect in any way the intent of the language "life imprisonment without parole? In other words, will an individual convicted and sentenced under this procedure serve the duration of his life in prison without chance of release under any circumstances?

Senator LEVIN. That is indeed my understanding. There will be no procedure for release of an individual sentenced to life imprisonment without parole under this law.

Mr. HARKIN. I would like to ask Senator BIDEN a question with regard to the bill which is before us. As you know, I am a strong supporter of the efforts to curtail the interdiction of illegal drugs into this country and I have supported measures to halt the resultant widespread trafficking and use of such drugs. I supported the original Senate bill on this subject and intend to vote in favor of the measure which is now before us.

However, it has come to my attention that we may be including in the bill a section which could have a detrimental effect on the legitimate import operations of countless American companies. Specifically, I am looking at one section of the bill which causes me concern.

If I might ask a question with regard to section 3111(5)(m) which defines "controlled substances" as "merchandise" which cannot be imported without a license or permit. As I read this bill, legitimate goods which are controlled by quotas or other legal restrictions could be included in this definition. Is it the intent to include such items in this bill?

Mr. BIDEN. No. The focus of this bill is to attack the importers of illegal substances not legitimate importers. The intent was not to include legal merchandise under the definition of controlled substances, rather the intent of the bill was to control the importation and trafficking of illegal drugs in this country. Further, we did not intend to put more hurdles before or cause more problems for those Americans who are in a legitimate import business.

DEATH PENALTY

Mr. DOLE. Mr. President, since the 1972 Supreme Court decision, numerous attempts have been made in the Senate to repair the constitutional defects found by the Court in existing Federal death penalty legislation. Unfortunately, the House refused to move on the issue.

Now, at long last, the other body has included a death penalty provision—limited to certain drug offenses—in its version of the drug bill. While I applaud this initiative, the House provision did not go far enough.

Federal legislation restoring the death penalty is needed for the most heinous of Federal crimes—crimes that endanger innocent life or compromise our national security. It was my feeling that the Senate should substitute broader death penalty provisions for the House language and insist on its inclusion in the final version of the legislation. However, it does not look like that's in the cards.

The Senate was considering the narrower version. Even with this very limited proposal it was necessary for a cloture petition to be filed. Again it is the same small group of Senators who have objected to the death provision in the drug bill who have consistently opposed proposals such as S. 239. While I have no quarrel at all with those who oppose the death penalty on philosophical grounds, it is most regrettable that cloture had to be invoked in the closing days of this session of the Congress.

The arguments in support of this measure closely parallel the rationale for the broader proposal. First, is the deterrent effect of capital punishment. Although there is no conclusive evidence one way or the other, it is highly likely that penal sanctions beyond those now on the books are necessary to deal with the ever-growing problem of drug trafficking.

Our prisons and jails are bulging with drug offenders. Almost a quarter of the Federal inmate population is incarcerated on drug-related offenses. Many face stiff minimum mandatory terms, yet the flow into the prison system not only continues unabated, but is steadily increasing. Under these circumstances, the ultimate sanction seems appropriate. If minimum mandatories don't work to deter drug criminals, then let's apply the ultimate deterrent.

Second, the death penalty is an instrument of incapacitation. Its effect is obvious. It is clear that those who have been executed are unable to commit similar crimes in the future. Too many drug offenders return to this highly profitable illicit enterprise upon release. They are incorrigible, antisocial, and have proven to be dangerous to society for the rest of their lives. In the institutional setting they are chronic threats to fellow inmates and correctional officials.

Third, there is the matter of retribution. These individuals are directly responsible for the degradation or destruction of hundreds of our young people.

Mr. President, this Senator strongly supports the death penalty, and believes a broad death penalty should have been included. Under the bill as modified those who would have been subject to this penalty will now receive a mandatory life sentence with no chance of probation or parole.

Mr. BYRD. Mr. President, the Senate should feel a fine sense of accomplishment for our work on this bill.

There is no question that drug abuse in the United States is a problem of vast and growing proportions. Millions of Americans use illegal drugs or diverted legal drugs. Over 4 million Americans use cocaine at least once per month. Twenty million Americans use marijuana at least once per month. These statistics are alarming.

The specter of drug abuse is not selective. It affects all segments of society, all classes of citizens, all age ranges. Babies born to drug addicts come into this world as addicts. Elementary school children not only abuse drugs—sixth grade students report peer pressure to smoke marijuana—but they often become "employees" in drug distribution networks, for they are the pushers' agents of choice as "lookouts" or "delivery boys."

Drug abuse is commonplace among American high school and college age students. And adult Americans are by no means immune from its scourge. Its victims run the gamut from the unemployed person, to the assembly-line worker, to the "preppie" professional, all the way into the executive suites of major banks and corporations. Federal experts estimate that between 10 and 23 percent of U.S. workers use dangerous drugs on the job.

We must be cognizant of the reality that drug abuse affects much more than the individual drug user. It also affects families, communities, and entire nations. Drug abuse reaches vir-

tually every aspect of American life: Public safety—law enforcement officials report a high correlation between drug abuse and street crime; the workplace—it is estmated that in 1983, drug abuse caused $33 billion in productivity losses; the integrity of school and professional sports; and on and on. Drug abuse is epidemic in America's large urban areas, but it is also common in our small cities and in rural areas.

Drug abuse in America is a national disgrace. It ruins individual lives, drains billions of dollars each year from American society, and erodes the Nation's quality of life. The source of these illegal drugs—drug trafficking—is the most widespread and lucrative organized crime activity in the United States. It accounts for almost 38 percent of all organized crime activity across the country and generates an income estimated to be as high as $110 billion annually.

It goes without saying that we cannot afford to ignore the drug abuse crisis facing our Nation. In our action tonight, the Senate is saying strongly, with a clear voice, that we will not ignore it.

The bill before us as modified by the bipartisan amendment is a strong, comprehensive bill. It not only represents a compromise consensus on both sides of the aisle in this Chamber, but also reflects informal negotiations with Members in the House Chamber.

It contains all the important elements already agreed to when the Senate passed its bill late last month. It contains urgently needed education and treatment funds, State and local law enforcement assistance funds, funds for eradication and interdiction efforts and international cooperation efforts, and, most importantly, it contains significantly enhanced penalties for drug crimes. It requires minimum mandatory sentences, with no parole, no probation. And it provides for life sentences for major criminals—the drug "king pins."

And while the compromise reached over the controversial death penalty provision has resulted in a minimum mandatory life sentence for career drug criminals whose crime results in the death of another person, I do not believe the Senate has diminished the strength of this bill. We are saying to these career criminals that their lives will never be their own again once they are apprehended and convicted—there will be no parole, no probation, no possibility whatsoever that they will be free to perpetrate their heinous crimes again on the American public. That is strong—some might even say that is merciless. Frankly, Mr. President, I do not believe these criminals deserve mercy. They deserve due process under our system of justice. But if they are duly convicted, I say, "Throw away the key."

Mr. President, I urge all my colleagues to support this extremely important and responsible bill. And I fervently hope that the House of Representatives will accept it and send it to the President.

ALLOWING MERGERS OF RAILROADS AND TRUCKING COMPANIES

Mr. SIMON. Mr. President, I rise in opposition to the provision included in the drug bill in title III, section 3403.

This section of the drug bill has nothing to do with drugs, but was added at the last minute in the other Chamber to the omnibus drug bill. It has not had any hearing in either Chamber; the concept was not introduced in any committee for consideration; it has not even been debated on the floor of either Chamber. A circuit court of appeals ruled that the Interstate Commerce Commission did not have the jurisdiction to decide that such a merger could take place, based upon a strict interpretation of the law. Here we are deciding on an issue which would overturn that decision, as well as the court's interpretation of the law.

This addition to the omnibus drug bill would allow three mergers to take place immediately in spite of the fact that a court ruling was recently handed down, disallowing a merger of this sort. This provision is included to allow those mergers now pending to take place and, purportedly, to give the committee of jurisdiction time to hold hearings on the issue next Congress and decide how the law should be amended—if, indeed, it should be amended. This is simply not a good way of doing business. Certainly next year more rail companies will want to merge and will want an exemption, and the committee will be pressured to agree to amend the law even if it truly should not be amended.

Just recently, a circuit court of appeals decided that this type of merger should not be allowed in the context of present law. We cannot, as a matter of course, legislatively overturn court rulings. This borders on an imbalance of powers.

Ultimately, a major concern of mine is that this is not just a transportation issue. It is also a labor issue. There are two different bodies of law affording protections to railroad workers and trucking company workers. The Railway Labor Act and the National Labor Relations Act are two very different laws. Which law would protect the employees of these newly merged companies? Or would they be given no protections?

I believe that this issue is much more complicated than the proponents of this provision realize. I believe that the Labor and Human Resources Committee and the Commerce, Science and Transportation Committee—and perhaps the Judiciary Committee—should be given an opportunity to truly review the effects of this type of legislation. Let's not rush into accepting a change like this before we truly know the effects of such a change.

While I object to this provision, I have agreed to withhold my amendment to strike the section due to the agreement offered by the majority leader which prevents any further amendments to the Senate amendment. I am still concerned about this type of legislative activity and I hope the Senate will not view this provision as prohibiting future debate on the important employee collective bargaining rights and present legal protections afforded employees of railroads and trucking companies.

Mr. MATTINGLY. Mr. President, I am pleased that the House has once again overwhelmingly approved comprehensive antidrug legislation. As my colleagues know the House legislation includes a provision allowing for the imposition of the death penalty for drug kingpins who kill in the course of their continuing criminal enterprises. Twice the House has considered the issue, and twice the Members of the House have resoundingly affirmed that they believe the death penalty is an essential element of any serious drug enforcement measure. I agree. The majority of our Senate colleagues agree, as they demonstrated when they failed to table my death penalty amendment by a strong vote of 25 to 60 during Senate consideration of the bipartisan drug package. And, I firmly and sincerely believe, the majority of the American people agree. They desire the death penalty for these killers. For this reason, I am disappointed that the Senate cannot, this evening, approve such a provision. As the cloture vote earlier today demonstrated, that is not possible. And this legislation is far too important to delay any further.

I have stated before that the drug problem is the most serious this country faces. The effects of illegal drugs on our citizens is devastating. Too often, we think in terms of statistics. But it is individual lives we are talking about.

I would like to share one conversation with my colleagues. Early one morning last week my office received a phone call from a woman in Georgia. She had heard on the radio that the Senate was considering an omnibus drug bill. She strongly favored the death penalty and she called my office to say she was willing to come to Washington if necessary to appeal to Members of the Senate on this matter. The message she would have brought is this: Major drug dealers are nothing more than murderers in three-piece suits, driven by the unquenchable desire for filthy lucre. They seek only to destroy. Those were her words.

Drugs have destroyed her family. The oldest of her three sons is a drug addict. Before he got hooked on drugs, he had been the captain of the football team, a forward on the basketball team, a straight "A" student. Now, at 19, he is in his fourth month of hospitalization in a rehabilitation program. To finance his rehabilitation, the family sold their home and everything they had. The emotional damage done to that young man and his parents and brothers was impossible to describe. It was irreparable, she said.

The story this mother told is not an isolated one. It is repeated again and again in families across this land everyday. Mr. President, the facts are undeniable. Drug dealers are merchants of destruction and despair, the enemies of the American people. Those who show wanton disregard for the lives of others, must know that society will not tolerate their actions. Although the bill does not contain the death penalty that I and that mother hoped to be included, this legislation, with its enhanced penalty provisions does accomplish that goal.

Mr. President, I have spoken before about the merits of the bill the Senate passed and have remarked on the various other provisions in our package. So I will be brief this evening and not repeat those comments. But I will say once more that I am pleased the Congress has committed itself to a comprehensive, bipartisan effort to solve the drug problem. With this bill, we will not win the war on drugs. The battles will be long and hard. But we will better arm those on the frontlines of the war on drugs—law enforcement officers, prosecutors, and others. We will make funds available for important education, prevention and treatment programs. We will send a strong signal to other nations that the United States is serious in fighting the drug menace. We will hamper those who attempt to launder their filthy profits. In short, we will make a landmark beginning and demonstrate our national resolve to make America drug free.

Let us act responsibly and approve a strong bill.

Mr. DANFORTH. Mr. President, the Senate amendment contains a title that is essentially identical to the "Commercial Motor Vehicle Safety Act of 1986," which was passed as an amendment to the "Antidrug Reorganization and Coordination Act of 1986" on a voice vote. This title is also very similar to legislation favorably reported by the Senate Commerce Committee, S. 1903, the "Commercial Motor Vehicle Safety Act of 1986."

Mr. President, I will not repeat here my earlier remarks about the serious truck and bus safety problems that exist in this country or my discussion of how this legislation would remedy those problems. I want to explain, however, that the Senate amendment based on the Senate passed commercial motor vehicle safety legislation is a stronger weapon to fight unsafe truck and bus drivers and equipment than the approach taken by the House. It is stronger because it prohibits its truck and bus drivers from consuming any alcohol while on duty. Under the Senate approach, a truck or bus driver found to have a 0.04-percent or greater blood alcohol content [BAC] would lose his license for a year the first time he is caught and permanently for the second violation. The 0.04 BAC standard is already applied in the railroad industry and to airline pilots and flight attendants. The same standard is needed here. A driver should not be able to drink and get behind the wheel of a 40-ton truck or a bus carrying dozens of innocent passengers. The Senate approach is also stronger because States receiving Federal grants under the Motor Carrier Safety Assistance Program would have to observe and, where articulable suspicion exists, test drivers who are under the influence of drugs or alcohol.

Finally, the Senate approach is stronger because it does not allow the serious truck and bus safety problem to go unchecked for years to come. Currently 20 States will issue a person a license to drive an 18-wheeler with two trailers provided he passes a driving test in a subcompact car. The Senate approach would require truck and bus drivers to be road tested in the type of vehicle they plan to drive and other testing requirements by 1990. The House version would not require such testing until 1994.

Mr. President, as I noted the Senate motor carrier safety provisions are essentially identical to legislation previously passed by the Senate. They are different only in the sense that they incorporate several of the safety enhancing features in the House legislation. I turn now to a description of those provisions.

One serious motor carrier safety problem is the driver who habitually drives in a reckless manner or at speeds 15 or 20 miles per hour over posted limits. This disregard for the law can lead to tragic consequences. For example, in May of this year, a bus driver drove off the side of a mountain in Walker, CA, killing 21 elderly people and injuring 20 more. That bus driver reportedly had 8 speeding tickets for driving buses in excess of 70 miles per hour. The Senate has accepted the House provision which would establish standards under which such a driver would be disqualified by the Secretary of Transportation or by the State issuing his license. In addition, the driver would be required to notify his employer, or if he is self-employed his State of licensure, of all moving violations or face civil penalties.

Moreover, to combat the drug problem in the motor carrier industry the Senate has accepted the House requirement that any driver who is convicted of using a truck or bus in the commission of a felony involving drugs will lose his commercial license permanently. This will help deter those who brazenly buy and sell drugs over the CB radio at virtually every truck stop in our country. In addition, the Senate has incorporated the House requirement that within 90 days of this act's enactment the Secretary of Transportation must eliminate the rule permitting drivers of big trucks to disconnect their front brakes. Testing dating back to the mid-1970's demonstrates this dangerous practice increases truck stopping time 30 to 35 percent.

Mr. President, I want to point out two technical changes that have been included in the Senate amendment. First, effective July 1, 1987, no commercial driver could have more than one commercial license. In the earlier Senate amendment the Secretary was to promulgate by March 1, 1988, a prohibition against multiple licenses. This provision will help accelerate the end of the notorious practice of using multiple licenses

Second, the Secretary of Transportation may waive application of the new licensing requirements if she determines that the waiver promotes the public interest and does not diminish safety. For example, the Secretary might waive application of the requirement to an operator of a public safety vehicle, such as the driver of a fire engine.

Mr. President, I urge all my colleagues to support the Senate provisions to end the needless death and injury caused by unsafe truck and bus equipment and drivers.

Mrs. HAWKINS. Mr. President, I have lived for 6 decades in the United States. In the early part of my life America was threatened by the Great Depression and her values were threatened by debasement by mass poverty and unemployment. In the third and fourth decades of my life, America was faced with threats from fascism and naziism and needed to rally to fight against that menace.

In the fourth and fifth decades of my life America had to fight communism and turn to face an enemy that confronted us militarily and confronted us with subversions throughout the globe but, today we face an even more incidious enemy. We face truly the enemy within—the drug crisis. We will make no progress on educating our youth as long as drugs dominate their culture. We will make no progress in protecting our citizens as long as drugs motivate crime.

We will make no progress in improving the quality of life for our senior citizens as long as they are threatened

by the ravages of those in search of funds to buy narcotics. Until we realize that drugs are confronting America with a crisis of values as fundamental as any we have ever faced in our history, we will be coping inadequately with the problems of the drug crisis.

The issues we are going to deal with today all hinge on one central fact; do we recognize that drugs are a fundamental causal problem of a great many of the ills which we face in our society, or will we treat drugs as an isolated problem confined to a pigeonhole of its own with limited resources and limited commitment.

Today there are those in the Senate that say we should not force the military to become involved with police actions against drug dealers and against drug distributors. To suggest that drugs are a police action is equivalent to saying that World War II was a police action or that the Korean war was indeed a domestic police action as opposed to the international police action to discipline communism that it really represented.

The military threat that drugs pose to America are as much a military action to us as they were to China in the opium wars in the close of the nineteenth century. If America's military, are fundamental coercive power to protect our country, is not enlisted in the battle to control drugs then what do we have our arms for? If our planes are not sent up to interdict foreign planes coming into the United States carrying drugs, why do we have them?

If American ships are not used on the high seas to intercept those ships that carry cargos of death to our ports, why do we have those ships? If American soldiers are not used to patrol our borders and to invade drug fields and to eradicate narcotics, why do we have them? If we do not use our foreign aid as leverage to prevent countries from growing drugs and sending them across our borders, why do we have foreign aid?

If America is unwilling to harness its resources and its powers to protect its people from so fundamental a crisis as we face today, then when will we rise up and what are we willing to protect?

Others in the Senate today will say we should not use the death penalty against drug pushers. Well, I ask if we do not use the death penalty against those who commit mass murder the genocide of narcotics, then when would we use the death penalty? If we use the death penalty for an isolated murder on a rural street, then what about murder by the tens of thousands from the importation of mass amounts of narcotics.

There are those who say that we should not have mandatory minimum sentencing for drugs because we overcrowd our prisons and we should not spend the extra money that it takes to build the prisons to house the new inmates that the drug culture will put there. Well I say to them, if our prisons are not going to be used for drug peddlers, what do we have cells for?

If our funds are not to be used to build prisons to keep drug dealers out of circulation then why do we spend money on law enforcement? The fundamental crisis that confronts American justice and American values is narcotics. Its causal and triggers all of the other problems we face.

If we only give the death penalty or mandatory minimum sentences for those who are the effects of crime, the symptoms of crime—the murderers; the rapists; the robbers; the burglars, but we do not give out equivilent punishment to those who cause those crimes—the drug dealers, then where is the justice in that system?

There are those who say that we are spending too much money on education and drug prevention programs. But, I ask you if we do not spend billions of dollars today to explain the evils of drugs to our children and deter them from becoming ensnared in the drug culture, then of what use are the tens of billions of dollars spent on public education?

Why should we pay a teacher, pay for the construction of the school building; pay for a principal; pay for custodians; and pay for school buses all to transport students to class when their minds are all befuddled by narcotics? Of what use is it possibly to approve higher education standards when we are teaching students who cannot possibly focus on the subject matter if they are too high on drugs.

The money that we are spending on drug education today is a prerequisite to all other spending that we are committing to education. It represents a fundamental trigger which must be pulled if the other money that we are putting in education at the State, local, and Federal level is going to be effective.

Finally, I hear those today who say that we must turn away from a program of drug testing. That we have no right to ask all Government workers to take drug tests. I ask them, if we have no right to ask that workers for the Federal Government are straight and sober and not high, then what do we have a right to ask them?

If we have no right to ask them when we pay them, we pay them to give their efforts fully to their jobs as opposed to dividing those efforts between the never, never world of drug addiction and their jobs. Finally, American Government must take the initial step of providing help to those who are afflicted by the drug culture.

Unless we do that, and unless we are able to provide rehabilitation to those Government workers we find are ensnared in drugs then the American Government is failing its duty to its employees and in turn failing its duty to the American people.

The central issue that we face today in the U.S. Senate is if we are going to take drugs seriously, or if we will continue to let it off with a slap on the wrist and give something less than a major national commitment to the effort. Were we at war with a foreign power, we would harness our military and our educational system, or criminal justice system and everything we were capable of, to defeating that enemy, that is the equivalent that I call for in the drug war.

Mr. HATCH. Mr. President, I would like to clarify the intent of the formula for distributing new treatment funds. The need criteria will be measured by the latest available data a State may have. It is not our intent that new funds be made available only to those States who have comprehensive data collection systems. We in Congress recognize there is a great need for treatment funding and the extent of that need may not be fully documented. However, it is our hope that States will develop the capacity to measure the demand for such services.

Mr. MOYNIHAN. Mr. President, I agree with my colleague the Senator from Utah, with respect to his concern that States develop data-collection techniques for purposes of documenting need under the treatment formula.

I would add that those States most in need of additional treatment and rehabilitation resources because of a high incidence of drugs and alcohol abuse are more likely to have such data-collection procedures in operation. It is our desire to ensure that the portion of funds to be distributed on the basis of need criteria are used just for that—those States which are experiencing the greatest difficulty in accommodating the demand for treatment and rehabilitation services by drug and alcohol abusers.

Mr. President, the Omnibus Drug Enforcement Act of 1986, marks an important turning point in the war against drug abuse in this country. At last, we have turned from talk to action.

I have been involved in the drafting of this bill ever since my colleague, the minority leader, Senator BYRD, appointed me to the Democratic Working Group on Drugs in early August. And I note, Mr. President, that the law enforcement provisions, and the treatment and rehabilitation provisions of this legislation are based on S. 15, the bill I introduced on the first day of the 99th Congress. I am pleased that as we draw near to the end of this session, the provisions of this bill will indeed become law.

The law enforcement provisions of this bill will assist State and local authorities in combating drug traffick-

ing. Specifically, the legislation we consider today calls for $230 million to be distributed in the form of grants to State and local governments to assist them in apprehending, prosecuting, and incarcerating drug pushers and traffickers.

I have personally heard from many of these local authorities, ranging from the Erie County sheriff's department, to the New York City mayor's office, thanking me and my colleagues for finally giving them the ammunition with which to wage this long and continuous battle.

Law enforcement is only half of the armaments needed in the war against drugs. Treatment is just as critical in any effort to combat illegal drug use. We must treat people who need help and we must do so with the most recent and effective methods available. Thus we must give States with the highest incidence of drug abuse a significant share of the funds. That is why I insisted on the distribution of treatment funds based on both population and need.

Permit me to explain. In the Senate version of this bill, recognizing that some areas of the country are in greater need of assistance than others, we provided that 75 percent of the $175 million grant program be allocated on the basis of need, and 25 percent allocated on the basis of population.

The language substituted by the House states that 100 percent of the money for treatment programs be allocated on the basis of State population between ages 15 through 65, weighted by the State's relative per capita income, regardless of need.

Fortunately, a compromise was reached, and the bill before us today guarantees that over one-half of the money is allocated on the basis of need, with the rest allocated on the basis of population—not weighted by per capita income. This arrangement benefits those States, like New York, which have a disproportionate number of drug abusers in need of treatment, while ensuring that each State will receive at least some of the funds.

Mr. President, one aspect of treatment that holds some promise is the development of chemical antidotes and narcotic antagonists. According to Dr. Herbert D. Kleber and Dr. Frank H. Gawin, both with the Yale School of Medicine and affiliated with the National Institute on Drug Abuse, the key component of treatment of drug abuse is preventing an addict from relapsing into old habits after successfully withdrawing from his or her addiction.

Narcotic antagonists do just that.

I have spoken to the Director of the National Institute on Drug Abuse, Dr. Charles Schuster, on this very subject. He informed me that we do have a drug that is available and which successfully blocks the effect of heroin. However, we do not currently have such antagonists for cocaine.

That is why I urged the inclusion of specific language in this bill directing NIDA to increase and intensify its research into these and other forms of chemical treatments for drug addiction.

Again, let me reiterate how proud and pleased I am to have played an active role in bringing this major antidrug abuse initiative to the floor of the Senate and seeing it passed here today. Since 1969, when I served as President Nixon's Special Assistant for Urban Affairs, I have been immersed in the efforts to stop both the supply of drugs into America, and to reduce the demand. Today, we have finally proven to the people of this country that we are serious, and committed to curing the plague of drug abuse that infects every sector of our society.

COMMENDING STEVEN GERSTEN, A STUDENT AT THE UNIVERSITY OF SOUTHERN CALIFORNIA, FOR HIS EFFORTS AGAINST DRUG PARAPHERNALIA

Mr. WILSON. Mr. President, I rise today in support of the bill, the Anti-Drug Abuse Act of 1986.

Among the bill's important provisions is a section containing the text of a bill that I introduced last year, S. 713, which will ban the import, export, and interstate shipment of drug paraphernalia.

Since introducing the Mail Order Drug Paraphernalia Control Act, community groups and public officials from across the country, including a number of Governors, have contacted me to express their support for this legislation. Among those supporting the bill is the Governor of my own State of California, Gov. George Deukmejian, as well as Californians for Drug-Free Youth and the California Parents and Teachers Association. I am extremely pleased that the bill has been included in the historic antidrug abuse legislation now before us.

Thirty-eight States have laws to regulate the sale of drug paraphernalia at local "head shops" or to regulate the sale of such items to minors. But these laws often are to no avail, because young people can order drug paraphernalia through magazines and mail order catalogs. My bill, as incorporated in this omnibus legislation, will prohibit such mail order sales of drug paraphernalia, which have grown drastically in recent years.

Catalogs and publications promoting drug use, such as High Times, which has a reported circulation of approximately 4 millon, advertise numerous types of drug paraphernalia, including so-called bongs and cocaine spoons. These products glorify the use of drugs, thereby serving to undermine efforts to educate young people about the real dangers of drug abuse. By eliminating mail order sales of drug-related products, this legislation will help discourage drug abuse among teenagers and young adults.

Mr. President, I would like to express my sincere thanks to Steven Gersten of Los Angeles, CA, who first brought the mail order paraphernalia problem to my attention. Steven is a senior at the University of Southern California, majoring in political science and minoring in chemistry. He is active in a number of organizations concerned about drug abuse, including Californians for Drug-Free Youth, the National Federation of Parents for Drug-Free Youth, and Tough on Drugs.

Steven's involvement in the antidrug movement began through his work as a reporter for his high school newspaper. When a fellow student offered drugs to Steven, he turned down the offer and asked the other student if he would be willing to grant an interview. Through the interview, Steven became aware of the drug paraphernalia industry and its advertising. Realizing the impact that the availability of paraphernalia had had on his fellow student, Steven decided to investigate the industry further. During what became a 5-year study, Steven made some frightening discoveries. Most significantly, he became aware of the deceptive methods used by drug paraphernalia companies in their attempts to communicate to our Nation's youth that getting high is "cool," normal and even lawful.

Mr. President, these parasitic, unscrupulous merchants are preying on our young people. Their products enhance or aid consumption of illegal drugs, glorify their usage, and enrich those who would victimize our youth through mind-destroying drugs. If we are to curb the drug abuse problem in this country, we must outlaw such devices. By attacking the drug paraphernalia industry, we are effectively attacking the abuse of drugs.

Mr. President, Steven Gersten, by pressing the need for Federal drug paraphernalia legislation both with the Congress and officials throughout the country, has proven once again that a single individual, young or old, can make a difference—both in the legislative process and in the fight against drugs.

Mr. BIDEN. Mr. President, I rise today in support of the forfeiture amendment. As the author of the provisions establishing the new special forfeiture fund, I believe that the amendment will in no way undermine or hinder the effectiveness of the forfeiture provisions included in this bill.

In establishing the new special forfeiture fund, our intent was to provide that the proceeds from seized and forfeited assets be used to fund a major portion of the Nation's Drug Control Program. Under existing law, the Department of Justice and the Customs

Service each has a forfeiture fund. These funds are used to reimburse the seizing agencies for costs incurred in forfeiture and seizure operations. In this way, agencies have an incentive to rigorously pursue forfeiture operations.

However, any moneys remaining in the forfeiture funds at the end of the year are returned to the General Treasury. With the creation of the special forfeiture fund, 90 percent of the moneys remaining in the Justice and Customs forfeiture funds will be transferred to the new special fund. These moneys will be disbursed by the Attorney General as the Chairman of the National Drug Enforcement Policy Board for Drug Control Efforts at the Federal and State level, including both law enforcement and drug abuse prevention and treatment programs.

The amendment offered by the distinguished chairman of the Budget Committee simply provides that the moneys disbursed from this special fund would be specified in appropriations acts. I would like to note that the provision which establishes this new fund explicitly provides that all moneys disbursed from the special fund would not be used to supplant existing funds, but would be used to supplement any moneys that would otherwise be available. I am confident that the members of the Appropriations Committee will comply with this language, so as to insure that the purposes of this legislation are fully carried out. The oversight role of Congress is one of its most important responsibilities, and I think this amendment will help in insuring that the congressional intent of this legislation is fully implemented by the executive branch.

Finally, I would like to note that it is my expectation that the Attorney General, as Chairman of the Drug Policy Board, will submit a detailed appropriations request for the use of the moneys in the special forfeiture fund. This responsibility is entirely consistent with the role the Policy Board Chairman is supposed to play. In fact, the National Narcotics Act of 1984, which created the Policy Board, explicitly provides that the Policy Board is responsible for coordinating the Federal drug control effort, including the development of budgetary priorities. Unfortunately, the Attorney General, to date, has failed to develop such priorities. In fact, the President's Organized Crime Commission noted with alarm that the Policy Board has failed to undertake the essential task of developing budgetary priorities for the overall Federal drug control effort, despite the clear responsibility the Policy Board has in this area. It is my hope that the Attorney General will develop such priorities in the near future, and that these priorities will be reflected in the appropriations request submitted pursuant to this legislation.

It is about time that drug traffickers begin to pay for the damage they inflict upon our society. This legislation will provide that all moneys derived from seized and forfeited assets will be used to fund drug control efforts. In addition, I support the amendment by the Senator from New Mexico. I am confident that the members of the Appropriations Committee will insure that moneys in the new special forfeiture fund will be used to supplement, and not supplant, otherwise available moneys. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The question is on the motion to concur with amendments.

The motion was agreed to.

Mr. DOLE. I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, will the distinguished majority leader ask unanimous consent that all Senators may have the right to insert their remarks in the RECORD?

Mr. DOLE. Right. I will make that request, that all Senators may have the right to insert their remarks with reference to the bill or any part thereof in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me again thank the staff. I hope now we have improved this to the point where the House will find it so attractive they will just zip it on through tomorrow. But there is some rumor that they may send us another bill tomorrow, and that is another reason we would like to have this one on its way so it will be there to greet them in the morning.

I thank all my colleagues. I know there are one or two who wanted a rollcall vote, but in nearly every case those who requested a rollcall vote voted for almost the same bill earlier so they are on record. I thank my colleagues for moving rather expeditiously once we got started.

Mr. BYRD. Mr. President, I think everyone has been thanked here this evening except the majority leader, and I wish to express my thanks and commendations to him for persistence and his urging that action be taken this evening. That has been taken and I hope the majority leader will say, "Well done, we can all go home."

Mr. DOLE. There will be no more votes and I do plan to recess in just a few moments. I want to make one inquiry on the House side. I am advised by counsel that the continuing resolution will be passed in the morning and as long as it is delivered and signed by the President by noon the Government will not shut down. So we will make certain we have that for him.

SENATE CONCURRENT RESOLUTION RELATING TO TAX REFORM ACT OF 1986

Mr. DOLE. I yield briefly to the Senator from Oregon for an announcement, I hope a temporary announcement.

Mr. PACKWOOD. I do not know if it is temporary or not, Mr. President. I have been on the floor for 6½ hours trying to get a unanimous-consent agreement on the concurrent resolution. We do not have one and we will not get one tonight, and it is what I feared. The longer we delayed, the worse it got.

I just took a phone call from the distinguished junior Senator from Louisiana [Mr. JOHNSTON], who wanted to know if we could offer an amendment he wanted. I said we could not. He was gracious. He said he understood. I have got two other phone messages in my pocket from Senators I have not returned but I will wager I know what they are when I call them. In the meantime I have already advised the distinguished minority leader we have another Democratic objection to any unanimous-consent agreement on this night so there is no point in pursuing it any further tonight.

Mr. BYRD. Mr. President, may I say tomorrow morning I hope new rays of bright sunlight will clear the air in many ways and that we will be able to proceed expeditiously with action on the technical amendments.

□ 2150

AUTHORIZATION FOR FILING STATEMENTS WITH RESPECT TO IMPEACHMENT TRIAL OF HARRY E. CLAIBORNE

Mr. DOLE. Mr. President, I ask unanimous consent that Senators may have until the close of business tomorrow, Thursday, October 16, to file their written statements with respect to the impeachment trial of Harry E. Claiborne.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE METS' VICTORY IN THE NATIONAL LEAGUE PLAYOFFS

Mr. MOYNIHAN. Mr. President, earlier this evening, the New York Mets scored an extraordinarily impressive 7-to-6 victory in the sixth and deciding game of the National League playoffs, defeating the Houston Astros in an almost unprecedented 16-inning contest. While the Senate debated the details of the concurrent resolution, millions of fans, among them a large number of my constituents, witnessed

this marathon baseball game. Anyone who saw the game knows that that was "baseball like it oughta be."

This game, Mr. President, was the culmination of a tremendous season for the Mets, who won a team record 108 games. I salute Davey Johnson, the Mets' irrepressible manager, and the entire Mets organization on an inspiring win. Jesse Orosco—the winning pitcher in three games in the series, including tonight's game—Darryl Strawberry, Gary Carter, and Keith Hernandez—the heart and conscience of the team—Dwight Gooden, Ron Darling, Wally Backman—one-half of the "Partners in Grime"—Mookie Wilson, Ray Knight, Rafael Santana, Bob Ojeda, "HoJo" Howard Johnson, Sid Fernandez, Rick Aguilera, Danny Heep, Roger McDowell, Lenny Dykstra—the other half of the "Partners in Grime"—Ed Hearn, Tim Teufel, Kevin Elster, Kevin Mitchell, Doug Sisk, Lee Mazzilli, Randy Niemann, and Rick Anderson—they have done themselves and New York proud.

Mr. President, as we await the outcome of the American League Championship, I take this opportunity to thank and congratulate the New York Mets for giving us a thrilling season. We look forward to an equally exciting series. Let's go Mets!

TRIBUTE TO TOM EAGLETON

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to a friend and colleague, Senator TOM EAGLETON. After three distinguished terms in the Senate, TOM EAGLETON is leaving to return to his native State to practice law, teach, and write. He will be missed. His voice, which was often sounded as a kind of conscience of the Senate, will be hard to replace.

His opposition to the war in Vietnam was vocal and strong. It was the Eagleton amendment to cut off funds for the bombing of Cambodia that ended the United States combat role in Southeast Asia. He is rightly proud of that legislative achievement.

Senator EAGLETON maintained a strong interest in foreign affairs throughout his Senate career. In the 99th Congress, he chose a seat on the Foreign Relations Committee, a fitting final assignment.

Fairness and justice have marked TOM's actions in domestic legislation as well as foreign affairs. Through his work on the Labor and Human Resources Committee, TOM influenced education, child nutrition, and social services legislation over the years. His work on reestablishing a separate program of desegregation aid is but one recent example.

As ranking minority member of the Governmental Affairs Committee, Senator EAGLETON played an important role in developing the new civil service retirement system. TOM EAGLETON has also been one of the few Senators who maintained an interest in District of Columbia affairs and understood the importance of home rule for the Nation's Capital.

But, Mr. President, his role as the voice of conscience can be seen most clearly in his work on matters of ethics and nominations. In the recent fight over the nomination of Daniel Manion to the appeals court, Senator EAGLETON spoke out about the unsuitability of Manion's qualifications to be a judge. He also reminded us of the permanence of a judicial nomination, and therefore the gravity of the confirmation process. He helped all remember that a Senator's role is not to mindlessly accept all Presidential nominations, but to truly engage in the advise and consent process.

Mr. President, others of our colleagues who have known TOM EAGLETON for more years than I can recount the highlights of his career with greater authority, but no one has more respect than I for the kind of contribution he has made to the Senate and our country. He has made a difference in his 18 years in this body. I salute TOM EAGLETON, and say I hope this is not goodbye and that we will see and hear from him in the years to come.

TRIBUTE TO SENATOR GARY HART

Mr. PELL. Mr. President, at the conclusion of this Congress Senator GARY HART will be leaving the Senate having decided to end his service here after 12 years of distinguished representation of the people of the State of Colorado. During these years Senator HART has made unique and significant contributions to the work of the Senate and to the welfare of the Nation. I am delighted to join my colleagues in congratulating Senator HART on this outstanding record of service.

GARY HART has brought to the Senate the ability to recognize and identify the principal problems confronting our society, and the ability to examine those problems with a fresh eye, producing new, thoughtful and productive approaches to solving those problems.

When GARY HART first came to the Senate in 1973, our Nation was awakening to the need for effective Government action to protect our air, water, and Earth from pollution. It was in response to that challenge that Senator HART founded and served as the first chairman of the Congressional Environmental Study Conference, an organization that continues today to play a major role in assuring that the Congress gives informed and proper consideration to the protection and improvement of the environment.

Similarly, Senator HART was among the first in the Senate to see clearly the need for a fresh look at the organization and functioning of our military defense establishment. To meet that need he led the way in forming the Congressional Military Reform Caucus, and served as its first chairman. Through its constructive, responsible and thoughtful work, the caucus gained the respect not only of critics of the Pentagon but also of those in the military establishment who recognized the need for changes to provide a more efficient, effective and economical military defense system. The Military Reform Caucus, founded by Senator HART, has had a profound and beneficial impact on defense organization, procurement, and personnel policies.

Senator HART and I share a strong continuing interest in one of the keystones of our current military personnel policy—the volunteer armed services. I am the principal cosponsor with Senator HART of legislation requiring a study of a different approach that would require a year or two of national service by every young American, with the service to be performed either in the armed forces or in civilian nonprofit organizations and activities. Senator HART is an articulate proponent of this concept and I will miss his support for it here in the Senate.

We all know that GARY HART's public service to the Nation will not end with his departure from the Senate. In the coming years he will be playing a prominent role in focusing and illuminating public debate over the future course of our Nation. His abilities will be missed here in the Senate, but it is good to know that they will continue to be available to the American people. I know, speaking personally that I shall miss him very much.

SENATOR LAXALT WILL BE MISSED

Mr. PELL. Mr. President, I rise to pay tribute to one of our colleagues who has decided not to seek reelection to a third term in the U.S. Senate after a lifetime devoted to public service.

I am referring to our colleague and friend, the senior Senator from Nevada [Mr. LAXALT], who has made a lasting contribution to the Senate as a leader of his party, as a legislator and counselor, and as a source of wit and wisdom.

PAUL LAXALT attributes his outlook to the fierce independence of his father, a Basque sheepherder.

President Reagan and PAUL LAXALT are friends, a fact that has not escaped public notice. They met back in 1964 and they became friends while serving as Governors of neighboring States. PAUL subsequently became chairman of Ronald Reagan's 1976 and 1980 Presidential campaigns.

He also served as General Chairman of the Republican National Committee during the 98th Congress and, at the same time, was one of the chief architects of a major crime reform bill during that Congress.

The senior Senator from Nevada has been recognized publicly as a key counselor in such important Reagan administration decisions as pulling the Marines out of Lebanon early in 1984, abandoning the multiple-launch basing mode for the MX missile and helping resolve the Marcos Philippines crisis.

He has a proven knack for bringing us together, regardless of political philosophies. He has been quoted as saying: "I have made it a point never to let political differences become personal." I can attest to the success of that axiom I know how much I like and respect him personally.

PAUL LAXALT is a valued friend and colleague. I know we shall miss him and that we all wish him well.

BARRY M. GOLDWATER: PROFILE IN CONSCIENCE

Mr. PELL. Mr. President, when the 100th Congress convenes next January one of our most colorful and forceful colleagues will be absent from the Senate Chamber. After 30 years of distinguished service in the Senate, BARRY M. GOLDWATER is retiring and returning to his native Arizona.

I have been privileged to serve with Senator GOLDWATER for the last 22 years of his service in this body. During that time I have grown to admire and respect his integrity, his passion for freedom and individual rights, and, above all, is candor and unsurpassed ability to "call them as he sees them."

BARRY GOLDWATER began his political career in 1949 when he was elected to the Phoenix City Council on a reform ticket. Three years later he pulled off one of the greatest political upsets in Senate history when he defeated Senate Majority Leader Ernest McFarland. In 1964, BARRY GOLDWATER took on another giant when he opposed incumbent President Lyndon B. Johnson. Although he was defeated in that election by a wide margin, he won the respect of the American people for his refreshingly candid style of political campaigning. Many of the concerns he raised in that campaign—and several of the more controversial positions he adopted—today represent the mainstream views of the American people. As he enjoys what I hope will be a long and healthy retirement, BARRY GOLDWATER will savor the knowledge that he was truly the political and ideological grandfather of the so-called Reagan Revolution of the 1980's.

It was after the 1964 presidential campaign that many Americans living and working abroad told BARRY GOLDWATER of their frustration in not being able to vote. When he returned to the Senate in 1969, BARRY GOLDWATER and I began to work on securing absentee voting rights for Americans temporarily living abroad. Our effort took 9 long years, but—as in every other task he approached in the Senate—BARRY GOLDWATER never gave up. I was privileged to serve as chairman of the Rules Committee, the authorizing committee for this legislation, when the Overseas Voting Rights bill became Public Law 95-593 in 1978.

Senator GOLDWATER capped his career in the Senate by serving as chairman of the Senate Armed Services Committee. No other role could have been more appropriate for BARRY GOLDWATER. He has served and loved the military throughout his entire life, beginning in 1930 when he was commissioned a second lieutenant in the Army infantry reserve. Following active duty service in World War II, Senator GOLDWATER organized the Air National Guard. In 1967, he retired as a major general in the U.S. Air Force Reserve. Every man and woman serving in uniform today owes a debt of gratitude to BARRY GOLDWATER and his unflinching commitment to improving our armed forces.

The range of BARRY GOLDWATER's career in the Senate reveals the diversity and depth of the man. He is a former member of the Senate Aeronautical and Space Sciences Committee and has devoted a great deal of time to aviation problems. He is known as Mr. Communications for his dedicated work on telecommunications legislation and tenure as chairman of the Communications Subcommittee of the Senate Commerce Committee. Senator GOLDWATER's keen interest in photography, centered on the beautiful landscapes of Arizona, prompted his work in protecting the environment and preserving the cultural contributions of native American Indians. He and I have had the pleasure of serving together on the Smithsonian Board of Regents.

Senator BARRY GOLDWATER is a man who has always loved his native land of Arizona and the other lands of the Southwest. His dedication to preserving individual freedoms is an outgrowth of his Southwestern background, his prominent business career before entering politics, and his happy and enriching family life, all of which have been sources of inspiration throughout his public service. BARRY GOLDWATER is not a Senator who will be easy to replace, and our deliberations next year will be diminished in the absence of his feisty and colorful spirit. My wife, Nuala, joins me in wishing BARRY GOLDWATER a long, healthy, and productive retirement in his beloved Arizona.

FREEDOM OF INFORMATION ACT CHANGES

Mr. HATCH. Mr. President, several sections of this important bill will make important changes in the Freedom of Information Act, particularly those which will considerably enhance the ability of Federal law enforcement agencies such as the FBI and the DEA to combat crime, including drug offenses.

At this juncture, the Senate has made three technical amendments in this part of the bill. First, we have restored the originally intended language of exemption 7(C) to provide that that exemption applies to information which "could reasonably be expected to" cause harm to personal privacy interests. This language comports with the other changes being made to other subparts of exemption 7 in this bill. It also is precisely the language that was contained in the earlier Senate-passed bill, S. 744, from which it was agreed all exemption 7 amendments would be taken for purposes of this bill.

Similarly, we have corrected the apparently inadvertent deletion of a phrase in the "review costs" portion of the bill, section 1803, subparagraph (4)(A)(iv). As corrected, the language now reads: "Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purpose of withholding any portions exempt from disclosure under this section." This language is precisely what was contained in the draft bill negotiated between the Justice Department and the staff of the House Subcommittee on Government Information, Justice and Agriculture this year, which I understand was what was intended to be employed for purposes of this bill and is certainly most appropriate.

Third, we have changed the effective date contained in section 1804(b)(1) of the bill to specify a more realistic 180-day effective date. This change is necessary to permit a more reasonable period of time in which the Office of Management and Budget and, in turn, Federal agencies, need promulgate new fee regulations. I am certain that no one in this body or in the other House intends that the assessment of any properly applicable FOIA fee be impaired by any difficulty or delay encountered in the development and promulgation of new fee regulations.

As Chairman of the Judiciary Committee's Subcommittee on the Constitution, which held primary responsibility for considering FOIA reform legislation during these past several years, and as a principal author of much of this bill's FOIA reform sections, I would like to emphasize sever-

al things about the nature of these important provisions and what they are intended to accomplish.

First, it is expected that the law enforcement provisions will greatly enhance the ability of all Federal law enforcement agencies to withhold additional law enforcement information necessary for them to maximize the effectiveness with which they perform their critical functions. As Representative TOM KINDNESS has already observed in the House, the important alterations to the language of exemption 7 that are made by this bill serve to modify the scope of this exemption. There should be no misunderstanding that, as they derive precisely from the provisions of S. 774, they are intended to broaden the reach of this exemption and to ease considerably a Federal law enforcement agency's burden in invoking it.

For example, I do think it should be noted particularly that the bill's substantial broadening of exemption 7(E) is designed to permit agencies to withhold without question all "guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." As such, it will directly overrule any lingering effect of the D.C. Circuit's decision in *Jordan* v. *Department of Justice*, 591 F.2d 753 (D.C. Cir. 1978) (en banc). Because of the great sensitivity of such guidelines in the law enforcement context, and the very significant harm threatened to prosecutorial effectiveness if they were to be freely available under the FOIA, this important modification should be applied where necessary to protect critical law enforcement interests, regardless of the extent of their availability within the law enforcement community.

As for the additional law enforcement provisions of the bill, there likewise should be no misunderstanding that they will logically operate as exclusions—not as mere exemptions—to be applied whenever the special circumstances specified in them are found by the agency to exist. Thus, while the effect of these provisions will be somewhat analogous to the situation in which an agency neither confirms nor denies the existence of responsive records—colloquially known as glomarization—their operation, both administratively and in court, will of necessity be different. An agency invoking one of these special exclusions will necessarily do so without the specific knowledge of the requester—because anything else would defeat the very intention of the exclusion—and any requester who wishes to challenge an agency's possible application of an exclusion can expect the agency to defend against such a challenge with the automatic filing of an in camera affidavit, regardless of whether the exclusion was in fact employed in that case.

In addition to these critical law enforcement amendments, which should be broadly applied in future FOIA cases to achieve their intended law enforcement protection effects, the bill changes and clarifies the FOIA's provisions regarding fees and fee waivers.

A number of points should be noted regarding these provisions, lest there be any misunderstanding about their agreed-upon intended effects. First, as I mentioned in my brief floor statement on September 30, the Senate made a number of specific changes to the fee and fee waiver provisions for specific reasons. As modified here in the Senate, these provisions are not intended to permit a fee waiver to any requester simply on the basis of his status as a disseminator of public information. In fact, the dissemination of Government information as part of a commercial enterprise is not an activity that should be subsidized by the Government, especially in this time of fiscal shortages, and it is not intended that these provisions have such an effect. Nor is it intended to specially favor the speculative possibility that a free-lance writer or hopeful author might be able to disseminate requested information. Of course, a true "media" requester, in the traditional and common sense meaning of that term, should be treated otherwise, as is clearly provided for in the plain language of the bill.

As a matter of fact, it should be noted that the bill's fee and fee waiver language, as modified here in the Senate, is phrased in very clear and plain terms, which should be construed and applied according to their ordinary and common meanings. Certainly no extraordinary meaning is intended to be conveyed by use of terms such as "commercial" and "media." Similarly, the bill's language providing for the continued viability of fees chargeable under "a statute specifically providing for setting the level of fees for particular types of records" is plainly intended to preserve the fee structure of any such statute, such as those which are part of the National Technical Information Service [NTIS] statutory scheme, without any particular other limitation.

As for the bill's new general fee waiver standard itself, it should be likewise taken to mean exactly what it says, which is not so very different from the fee waiver standard found in existing law. The new standard should serve to clarify the law in this area and to permit agencies, under the regulations of the Office of Management and Budget and the guidance of the Department of Justice, to make less controversial fee waiver determinations.

For example, this change will give greater effect to the administrative judgment belatedly reached in the case of *Better Government Association* v. *Department of State*, 780 F.2d 86 (D.C. Cir. 1986), in which the agency erroneously failed to apply a proper "public interest" standard at the administrative level. It is quite significant that the bill's clarified general fee waiver standard, as modified in this particular regard here in the Senate, retains the most important touchstone of the previous statutory standard: Both provide, most fundamentally, that a fee waiver is to be granted only where to do so will be in the "public interest." Agencies should keep this standard uppermost in their minds in making determinations under this revised formulation. It is certainly not intended that any waiver be granted under circumstances in which the public's interest is not being served through the FOIA request.

Indeed, this standard focuses on only those disclosures determined "likely to contribute significantly to public understanding of the operations or activities of the Government," which establishes a considerable standard to be satisfied. It is intended that the word "significantly" in this formulation be given its common force and weight in application and that the qualifying word "public" be applied so as to require a breadth of benefit beyond any particularly narrow interests that might be presented.

It is also quite significant that the reformulated fee waiver standard retains the firm requirement that, regardless of any other consideration, waivers not be granted where disclosure would be "primarily in the commercial interest of the requester." The term "commercial" here, as elsewhere, should of course be given its common meaning, so that information vendors, data brokers, and other second-hand disseminators of documents who do so at a price as the means of their economic self-sufficiency, should not qualify under this language. Such requesters, of course, would hardly qualify under any reasonable construction of the term "media"; indeed, such requesters should be required to pay the new review costs provided for in this bill.

Finally, it is not intended that the general approach of the Justice Department's 1983 fee waiver guidelines be repudiated by this bill's alteration of the general fee waiver standard. Those guidelines logically required agencies to make careful determinations about the circumstances surrounding a FOIA request before determining that a waiver was warranted under the statutory standard. That task will fundamentally be no different under this bill, because agencies will continue to have the responsibility of reaching the judgment, based upon all information provided by re-

questers, as to the propriety of a waiver. Requesters, in turn, should expect to fully document and, where necessary, attest to, the facts which they say warrant the expenditure of public funds on their immediate behalves.

PROFILE OF A UNIQUE RHODE ISLAND FAMILY

Mr. PELL. Mr. President, the Providence Journal recently profiled a very talented and unique family, that of Matthew and Laura Lopes of East Providence. Their five children have excelled in athletics and academics, and brought credit not only to their proud parents but to their entire community. I ask unanimous consent that the text of the article, entitled "East Providence Lopes': They're solid athletes . . . and solid citizens" be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EAST PROVIDENCE LOPES': THEY'RE SOLID ATHLETES AND SOLID CITIZENS

(Bob Leddy)

East Providence—Families, say the sociologists, are the backbone of a society. Cohesiveness.

You don't need experts to see cohesiveness at work in the Lopes household of East Providence. The ties that bind Matthew and Laura Lopes with their five children are not only those of respect, but, in the case of three of the Lopes offspring those of sports, too.

Yes, there are some bona fide good sports in the Lopes clan.

Consider: son Phil Hazard was arguably one of the best sprinters ever to don an East Providence High track uniform. A 1974 E.P. grad, Hazard still owns the state's 100-yard record, a 10.6 clocking in his senior year.

White a Townie, the 6-foot-1, 175-pound Hazard also captured All-State honors in the 220-yard dash outdoors, and in the 50- and 300-yard dashes indoors.

He also played football, where he was a wide receiver.

Hazard went on to Boston College, where he saw football action, but continued his starring role on the track. In his freshman year he was the IC4A indoor champ in the 60-yard event.

Now 30, Hazard is married, the father of four children and a systems engineer for IBM.

Youngest son Matt, Jr. A 1980 Townie grad, Matt was an All-State kicker on coach Bill Stringfellow's football squad. Lopes saw action on the 1979 Super Bowl club.

Like his older half-brother, Phil, Matt Lopes Jr. was no slouch in track, either. He was state indoor champ in the 300, and was king of the hill outdoors in the 220-yard dash.

While at Dartmouth, Lopes also played football and ran track. Now 24, the 5-10, 180-pounder is a third-year law student at the University of Pennsylvania.

And let's not forget youngest daughter Laurie.

She's now 20 and a senior at Dartmouth. But when Laurie Lopes was at East Providence, she was the person to catch in the 100 and 220 dashes. She was All-State in those two events for three years.

In addition, Lopes also played basketball for the Townies. She graduated from high school in 1983.

But Matt Lopes Sr. is also very quick to point to the accomplishment of his other two children—daughters Phyllis, 32, and Carol, 21. As with their other siblings, they too followed in the Townie tradition. Carol, in fact, was a cheerleader. Both Carol and Phyllis are Providence College graduates.

Sitting in the comfortable living room of his Woodward Avenue home, Matt Lopes Sr. is talking about his family. His pride in his children and their achievements is evident.

"Listen, I'd never stop talking if I really started talking about my kids . . . any of 'em. They're good people, good citizens."

Lopes, a youthful-looking 60, was born in Warwick and grew up in Providence's Fox Point section. He graduated from Central High, where he played some sports.

"I was the sixth man on the varsity basketball team," he says. "I always liked sports, and I had a lot of fun at Central."

In the 1950s Lopes returned to athletics, coaching the Providence "Agmacs" a semi-pro basketball team.

Lopes, a man deeply committed to his community, is also familiar with its sports scene. He's a regular at East Providence events and has nothing but praise for the school's coaching staff.

"Billy Stringfellow (AD and head football coach), (track coaches) Ed Cronin and Billy Poland and (girls' basketball pilot) Ginny Duarte. They all treated my kids right. The high school was very supportive to my kids."

Lopes also speaks fondly of those people who coached Matt Jr. and Phil during their youth: George Gennari of the East Providence Boys' Club and Joe Deschene of the Mohawks pre-teen football program. "These people . . . they were there," says Matt Sr.

And while he acknowledges that sports have done much for his children who played games, "academics is important. It's all important!"

Casting an upward glance at a wall lined with his kids' plaques and trophies, Matt Lopes Sr. nods. "I look at all that," he says, "but, you know, I'm more proud of what they're doing now."

TRIBUTE TO SENATOR RUSSELL LONG

Mr. PELL. Mr. President, the conclusion of this 99th Congress will mark also the end of a remarkable 38 years of service in the U.S. Senate by our distinguished colleague, Senator RUSSELL LONG of Louisiana.

It is remarkable when we realize that Senator LONG's service in the Senate spans nearly one-fifth of the entire 198-year history of the U.S. Senate. It is remarkable when we consider that he has served under eight Presidents of the United States, beginning with Harry S. Truman, who was in the White House when Louisiana voters first sent RUSSELL LONG to the Senate in 1948.

The length of RUSSELL LONG's tenure here in the Senate is matched by the quality of his service to the Nation and to his State of Louisiana. Serving for 14 years as the chairman of the Senate Finance Committee, he was and is the Congress' foremost expert on our Nation's tax laws. Tax bills, because they have the potential to touch directly the economic status of every person, industry, and economic sector, always have been the most difficult and contentious pieces of legislation to steer through the Senate to passage. In that difficult art, Senator LONG gained a well-earned reputation as a superb tactician and floor manager who occasionally lost a skirmish, but never a battle.

Over the years, I found myself in basic agreement with Senator LONG on a broad range of tax policy questions, including, for example, his effective advocacy of tax incentives for employee stock partnership plans.

We have not always agreed. Over the years, RUSSELL LONG as a Senator from an oil-producing State, and I as a Senator from an oil-consuming State, understandably found ourselves having differing views over tax, import, and trade policies affecting petroleum. But those differences never prevented RUSSELL LONG from giving a fair consideration, and at times, valuable support to proposals that I had made in other areas. As a member of the Senate Commerce Committee, for example, he was always helpful and forthcoming in his support for programs such as rail passenger service improvements in the Northeast corridor and for the National Sea Grant College Program.

Senator LONG's substantive achievements, his knowledge, and his leadership have earned him the respect of all of his colleagues. Beyond that, his unique and effective style of debate has won him the affection of his colleagues. We all have come to look forward to those moments when debate was most heated and when RUSSELL LONG would both break the tension and make a telling point drawing upon his endless supply of anecdotes.

It is difficult, after all of these years, to imagine the U.S. Senate without RUSSELL LONG. He and his lovely wife, Carolyn, will be sorely missed by me and all his colleagues.

ASYLUM PRACTICES AND PROCEDURES AT THE INS AND STATE DEPARTMENT

Mr. SPECTER. Mr. President, the General Accounting Office has given me a preliminary report on a study I requested on April 4, 1985, examining the asylum practices and procedures at the Immigration and Naturalization Service and at the State Department. The object of the study was to try to determine whether applicants for asylum were being fairly treated, regardless of their country or origin, with a particular focus on Central American refugees. The preliminary report appears to back up my concerns about politicization of the asylum

process and at least the appearance of a bias against refugees from Central America.

The GAO reviewed files of applicants from El Salvador, Nicaragua, Poland, and Iran. It found that those seeking political asylum from Central American countries have a much lower approval rate from the INS than those from other countries, even when their claims are similar. Aliens who stated on their applications that they were arrested, imprisoned, had their life threatened, or were tortured had much lower approval rates if they were from El Salvador and Nicaragua than if they were from Poland and Iran. For example, those who described torture to support their asylum request had an approval rate of 4 percent in El Salvador cases, 15 percent in Nicaragua, 80 percent in Poland, and 64 percent in Iran.

The study also provides evidence that the process is far more controlled by the State Department, and thereby subject to political pressures based on foreign policy concerns, in Central America cases. Justice [INS] changed its original decision to agree with the State Department in 100 percent of the Salvadoran cases and 98 percent of the Nicaraguan cases, compared to 78 percent of the Iranian cases.

Moreover, the study found that among the files of the four countries of origin examined, only applicants from El Salvador had actually been deported.

I am very troubled by the findings in this preliminary report, and am anxious to see the final product later this month. While it is clearly too late to respond legislatively this session, I intend to work with Senator SIMPSON and other interested Senators during the next couple months to determine the appropriate congressional response to these disturbing revelations.

My interest in the plight of Central American refugees dates back to my visits to that region in May and August 1983. I was an early cosponsor of what is now known as the DeConcini-Moakley bill, first introduced on November 17, 1983, calling for a temporary halt of deportations of Salvadorans pending the outcome of a study into the conditions of displaced refugees and the risks of return to their country.

This longstanding concern was heightened on January 14, 1985, when 60 undocumented aliens were arrested across the country, including a Guatemalan family in Philadelphia, in an effort to crack down on the Sanctuary movement. After meeting with the Guatemalan family, Mr. and Mrs. Morelos and their 3-year-old daughter, I wrote INS Commissioner Nelson and Secretary of State George Shultz complaining about the practice of arresting aliens without making a thorough investigation of the basis for doing so, including an investigation into possible defenses, such as a claim for asylum. It was my strong sense that Mr. Morelos would have qualified for asylum, considering his allegations of torture corraborated by scars I personally observed.

As I looked into this matter further, discovered that the approval rates for Guatemalan and Salvadoran refugees were shockingly low, given the social unrest in those countries and the activism of many of their citizens. Only four-tenths of 1 percent of the Guatemalans applying for asylum are granted it, and only 2.5 percent of the Salvadorans.

I raised this issue with Elliot Abrams, then Assistant Secretary of State for Human Rights and Humanitarian Affairs, in a hearing before the Foreign Operations Subcommittee on March 14, 1985, noting the apparent unfairness of the process. He agreed that a GAO study of the process would be a good idea.

On April 4, 1986, I submitted the request for a report to the Comptroller General. The final report is not due until the end of this month, but a preliminary report has been provided and I ask unanimous consent that it be printed at this point in the RECORD, along with additional background correspondence.

There being no objection, the material was ordered to be printed in the RECORD, as follows.

ASYLUM

(The following information is based upon a preliminary compilation of data on the application of asylum eligibility standards. It has not been fully reviewed within GAO nor subjected to GAO's quality assurance standards and is, therefore, subject to revision. In addition, some of the data is projected from a sample to a universe. When a sample is used, each result contains some degree of imprecision. The extent of the imprecision for the following data has not been calculated at this time.)

BACKGROUND

United States law allows aliens in this country legally or illegally to apply for asylum. To be granted asylum, an alien is required to demonstrate a well-founded fear of persecution in his or her home country or country of habitual residence because of race, religion, nationality, political opinion, or membership in a social group.

The Refugee Act of 1980

In response to the rapid increase in the number of refugees entering the United States from around the world, Congress enacted the Refugee Act of 1980. The act provided, for the first time, a comprehensive U.S. refugee policy, and it created a systematic and flexible procedure for the admission of refugees of special humanitarian concern to the United States. The act was a product of widespread dissatisfaction with the ad hoc legislative and administrative actions that made up this country's response to refugee problems over the previous 30 years.

The Refugee Act established the authority for any alien present in the United States, or at a land border or port of entry, to apply for asylum irrespective of the alien's immigration status. The act authorizes the Attorney General in his discretion to grant asylum to an alien who meets the definition of a refugee and requires that the Attonery General establish a uniform procedure for determining the eligibility of an asylum applicant. The Attorney General has delegated his authority to grant asylum to INS district directors and EOIR immigration judges. The Attorney General, by regulation, requires INS district directors and immigration judges, to request an advisory opinion from State on the applicant's eligibility.

According to the House Conference Report 96-78; the act brought the United States into conformity with its treaty obligations under the United Nations Protocol on the Status of Refugees. The act incorporates the internationally accepted United Nations definition of a refugee as a person who is unable or unwilling to return to his or her home country because of a well-founded fear of persecution on account of race, religion, nationality, political opinion or membership in a particular social group. One of Congress' primary objectives in adopting this definition of a refugee was to eliminate past discrimination on the basis of outmoded geographical and ideological consideration. Prior to the act, United States asylum policy favored refugees from communist countries and the Middle East. The House Judiciary Committee felt the previous definition of refugee was clearly unresponsive to the existing diversity of refugee populations and did not adequately reflect the United States' traditional humanitarian concern for refugees throughout the world.

During deliberations on the act, Congress considered expanding the United Nations definition of a refugee to include displaced persons fleeing civil strife. The United Nations (U.N.) guidelines to countries regarding refugee status determinations set forth that persons compelled to leave their country of origin as a result of international or national armed conflicts are not normally considered refugees under the U.N. Protocol. The Senate bill, however, contained a definition that included persons who have been "displaced by military or civil disturbances" or "uprooted by arbitrary detention and unable to return to their usual place of abode." The House bill contained only the U.N. refugee definition. The conference committee adopted the House's definition of a refugee, not the Senate's.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives were to: (1) provide information on the standards and criteria being applied in granting and denying requests for asylum, (2) determine whether DOJ and the State Department are applying the same standards and criteria across the board, regardless of the asylum applicant's country of origin, and (3) provide information on the status of denied asylum applicants.

Work was performed at the headquarters of the Department of Justice's Immigration and Naturalization Service (INS), and Executive Office for Immigration Review (EOIR); the State Department; the United Nations Office of the High Commissioner on Refugees; and INS district offices in New York City, Los Angeles, Miami, Houston, San Francisco, Chicago, Newark, Baltimore and Washington, DC. The work included: conducting interviews with DOJ and State Department officials; observing asylum interviews and deportation hearings and visiting detention facilities; researching appli-

cable legislation, regulations and operating instructions; reviewing existing studies of the asylum adjudication process; and conducting an analysis of approved and denied asylum applications nationwide.

To analyze the asylum applications, we drew a stratified random sample of 2,023 of the 32,426 advisory opinions issued by the State Department during calendar year 1984. We sampled advisory opinions from the four countries with the highest volume of asylum applicants (El Salvador, Nicaragua, Poland, and Iran). These four countries accounted for 82 percent of the total number of cases processed by INS in fiscal year 1984. We randomly selected an approximately equal number of favorable and unfavorable advisory opinions for each of the four study countries in order to do a comparative analysis of the characteristics associated with approved and denied applications. Our sample also included a random selection of 336 advisory opinions irrespective of the applicant's country of origin to provide an overview of worldwide trends.

The advisory opinions rendered in calendar year 1984 included asylum applications filed with INS and EOIR from 1980 to 1984. We requested asylum applicants' files for the 2,023 advisory opinions from INS district offices nationwide to review the applications and supporting documentation. Twenty-eight percent, or 573 files, were either not located, incomplete, or pending an INS action, and were not available at the time of our review.

In reviewing the 1,450 [1] files provided to use, we collected demographic, immigration and persecution information. In extracting data contained in each applicant's file, we made a judgment and categorized the basis of each asylum request using the five categories set forth in the Refugee Act (persecution feared on account of race, religion, nationality, political opinion, or membership in a social group), and another category of internal civil or military strife. This information provides insights regarding the basis of the applicants' requests based on the contents in the files, but does not represent an assessment of the applicant's credibility or eligibility under the statutory standard for asylum. We also requested EOIR docket cards for aliens awaiting deportation or exclusion hearings to determine the current status of each application.

The information was collected and compiled into a computerized data base and weighted. We then analyzed the information and projected to the universe of 32,426 asylum applicants. When a sample is used, each result contains some degree of imprecision. The exact amount of imprecision can be calculated statistically, and we are performing these calculations at the present time. Until the amount of error associated with each value is determined, we advise caution in drawing inferences from the findings reported here. Confidence intervals are at the 95 percent level for the projections.

THE ASYLUM PROCESS

An alien may apply for asylum in any of the following ways.

An alien may apply to the INS district director having jurisdiction over the alien's place of residence if exclusion or deportation proceedings have not been instituted.

An alien may apply for asylum to an immigration judge in EOIR during deportation or exclusion proceedings with an immigration judge.

An alien who was previously denied by an INS District Director may renew his or her asylum request during a deportation hearing.

The application may include the alien's spouse and children under the age of 21.

In order to qualify for asylum, an applicant must satisfy each of the following four conditions contained in the statutory definition of a refugee: (1) the alien must have a fear of persecution, (2) the fear must be well-founded, (3) the persecution feared must be on account of race, religion, nationality, membership in a particular social group, or political opinion, and (4) the alien must be unable or unwilling to return to his or her country of nationality because of persecution or a well-founded fear of persecution. Any person who ordered, incited, assisted or participated in the persecution of others is not eligible for asylum.

The asylum applicant bears the burden of (1) proving the truth of the facts that form the basis of his or her claims, and (2) demonstrating that the supporting facts meet the statutory standard for asylum. No uniform standards or criteria have been established, however, for the type of evidence an applicant needs to prove he or she meets the definition of a refugee and is eligible for asylum.

Applying to the INS District Director

An estimated seventy-seven percent of the asylum applicants (24,856 of 32,426 aliens) applied for asylum by submitting an application form and other supporting documents to an INS district office.

Once an application is received at a district office, an INS examiner interviews the applicant under oath. The applicant's interpreter and/or attorney may be present. The interview is conducted to give the applicant an opportunity to explain in detail the reasons for requesting asylum and to give the examiner an opportunity to assess the credibility of the applicant.

Some of the INS examiners we talked with stated that after the interview they routinely make a preliminary decision which they forward to State. Other examiners said they routinely do not. (See tables I.5 and I.6.) Regardless, the INS examiner sends the application to the Bureau of Human Rights and Humanitarian Affairs (BHRHA) in the Department of State for an advisory opinion before a final determination is made on each case. Based upon their knowledge of conditions prevailing in the applicant's home country, BHRHA gives on opinion on whether the applicant has demonstrated a well-founded fear of persecution.

After the advisory opinion is received, the INS district director may approve or deny the application. The district director states in a letter to the alien whether the applicant has or has not met the burden of proof to establish that he or she qualifies for asylum.

If the application is approved, the alien is granted asylum status for a period of one year and is considered an asylee. After having been physically present in the United States for at least one year, the asylee is eligible to apply for legal permanent residence status. The Refugee Act established that not more than 5,000 asylees may be granted legal permanent residence status in each fiscal year. During fiscal years 1984 and 1985, the 5,000 limit was met and waiting lists were created.

The denied applicants cannot appeal the district director's decision. They can, however, renew the application during deportation hearings before an immigration judge.

Applying for asylum before an immigration judge

Approximately 23 percent of the asylum applicants (7,570 of 32,426 aliens) applied for asylum after being either apprehended at a U.S. land border or port of entry, apprehended through various INS investigative operations, or referred to deportation proceedings from other INS units or law enforcement agencies. These aliens were considered to be in the country illegally. INS takes such aliens into custody and serves them a warrant of arrest and an "order to show cause" why the alien should not be deported. The "order to show cause" outlines the factual allegations and the charges against the alien and initiates the deportation process.

By regulation, INS must advise apprehended aliens of their right to representation by counsel at no expense to the government, and the availability of free legal programs through non-profit organizations. In *Orantes* v. *INS* a decision is expected in early 1987 as to whether INS officials must advise apprehended aliens of their opportunity to apply for ayslum. The INS district director, at this or her discretion, may maintain custody of the alien or release the alien on bond or conditional parole. A hearing is held before an immigration judge to determine whether or not the alien should be deported. If an alien indicates to the judge an interest in applying for asylum, deportation hearings are recessed to permit the alien time to prepare and submit an application.

After the application is received, it is sent to the BHRHA for an advisory opinion. The judge is not required to send for a BHRHA opinion if a previous opinion has been received unless circumstances have changed substantially. Most judges, however, routinely request opinions. After the advisory opinion is received, the immigration judge conducts a hearing. The applicant may have legal counsel and may present evidence and testimony at the hearing. An INS trial attorney is assigned to each proceeding to present evidence, cross-examine the applicant and witness, and otherwise represent the Government at the hearings.

The judge receives evidence, including that gained from the examination of the alien or any witnesses. By regulation, immigration judges must discuss the evidence pertinent to the asylum application and record the reasons for granting or denying the request when rendering a decision.

An immigration judge's decision can be appealed to the Board of Immigration Appeals. The board's decision can be appealed to the U.S. Court of Appeals, and that court's decision can be appealed to the U.S. Supreme Court. Less than one percent of the applicants, or 312 aliens, appealed the judge's decision to the board, and none appealed their cases to the U.S. Court of Appeals or U.S. Supreme Court.

APPLICANT MUST PROVE THAT FEAR OF PERSECUTION IS WELL-FOUNDED

The Refugee Act of 1980 did not define a well-founded fear of persecution or specifically identify how an alien must prove his or her fear is well founded. DOJ regulations and Board of Immigration Appeals decisions establish that the applicant must demon-

[1] El Salvador—126 favorable and 256 unfavorable opinions; Nicaragua—125 favorable and 256 unfavorable; Poland—154 favorable and 145 unfavorable; Iran—164 favorable and 147 unfavorable; Iran—164 favorable and 147 unfavorable; other than the four study countries—15 favorable and 62 unfavorable.

strate that the fear or persecution is more than a purely subjective or conjectural fear. The applicant is required to prove that his or her fear has a sound basis in personal experiences with objective facts or events that show there is a "clear probability" or "realistic likelihood" (greater than fifty percent chance) of persecution. An applicant's broad assertions and undocumented statements are generally not enough to prove that a well-founded fear of persecution exists. The "clear probability" standard was used prior to the Refugeee Act in deciding whether to withhold deportation of an alien for fear he or she may be persecuted upon return to his or her home country.

General conditions existing within a country, such as civil strife, national disasters or political unrest, do not alone provide the evidence needed for granting asylum. The alien must demonstrate that he or she will be singled out or targeted for persecution on the basis of the five categories in the act because of a belief or characteristic which distinguishes the applicant from the population at large. The applicant must show that the persecutor will inflict suffering or harm in order to punish the alien for differing in a way the persecutor deems offensive.

According to the Board of Immigration Appeals, well-founded fear will not be established if (1) the persecutor is not aware, or could not easily become aware, that the alien possesses the characteristic that is the basis for persecution, (2) the persecutor lacks the capability to carry out persecution, or (3) the persecutor has no inclination to punish the alien.

Standard of proof for "well-founded fear of persecution" to be evaluated by the U.S. Supreme Court

To date, federal courts have not agreed upon a common standard of proof for a "well-founded fear of persecution." Several U.S. Courts of Appeals decisions have differed over whether the "clear probability" standard is the same as the "well-founded fear of persecution" standard, or whether the well-founded fear standard is more generous to the alien. Aliens are required to meet the "clear probability" standard to avoid deportation on the grounds of persecution.

The Court of Appeals for the Second Circuit held in *Stevic* v. *Sava* that "asylum may be granted and deportation withheld upon showing far short of a clear probability that an individual will be singled out for persecution." In *INS* v. *Stevic*, DOJ appealed the Second Circuit Court decision. The Supreme Court reversed the decision finding no support for the Second Circuit Court's conclusion in either the language that preceded the Refugee Act, the structure of the amended Act, or the legislative history. The Supreme Court deliberately avoided any attempt to state the governing standard for asylum. Instead, it confined its analysis to the standard that applies for withholding of deportation. The Supreme Court decided withholding of deportation requires evidence establishing it is more likely than not that the alien would be subject to persecution on one of the specified grounds.

The Court of Appeals for the Third Circuit, concluded that the "well-founded" and "clear probability" standards are identical. According to the court, an alien must present "some objective evidence establishing a realistic likelihood that he would be persecuted in his native lands." The Court of Appeals for the Ninth Circuit, on the other hand held that the government could not deport a Nicaraguan asylum applicant as long as she had "some objective basis" for fearing persecution upon return to her home country. The Ninth Circuit Court found that the "clear probability" standard was not applicable to asylum claims. The Court described the "well-founded fear" standard as one based on some objective but not conclusive facts. The government appealed this decision to the Supreme Court, and urged the Supreme Court to rule that aliens are not entitled to asylum unless they can show it is more likely than not that the alien would be subject to persecution. The Supreme Court will hear the case in October 1986.

REASONS FOR INS ASYLUM DECISIONS NOT ALWAYS DOCUMENTED

The Departments of Justice and State have little data to determine whether asylum admission standards are being uniformly applied. INS officials, and State Department officials in rendering advisory opinions, are not required to explain the specific reasons why the facts that form the basis of the asylum application are or are not sufficient to meet the statutory standard of eligibility for asylum.

Immigration judges are required by regulation to give an oral or written decision which includes a discussion of the evidence pertinent to the asylum application and the reasons for granting or denying the request. However, INS district directors and the State Department Office of Asylum Affairs director usually only state that the applicant has or has not met the statutory standard of eligibility. There is generally little or no elaboration of the applicant's specific circumstances as it relates to the law, regulations, or precedent decisions, and there is usually no reason given for the approval or denial of the application. Approval and denial letters sometimes included whether the district directors' decisions were based on the State Department's advisory opinion and a copy of the opinion.

We found that 14 percent of the INS files contained documentation including INS examiner notes and opinions on a case which provided reasons and insights regarding the basis of the decision on the asylum application. However, the examiner notes and reasons were not written or prepared in a uniform format. The remaining 86 percent of the files did not contain any explanation of the decisions beyond the determination and statement that the applicant had or had not met the statutory standard for asylum eligibility.

Five district directors told us that they do not routinely write out the reasons for their decisions because there is no requirement to do so. They stated that the burden of proof is incumbent on the applicant and that INS approves or denies an application at its discretion. INS headquarters officials stated that because asylum decisions by district directors are not applicable and asylum applications may be renewed for consideration by immigration judges, there has been no reasons for detailed explanations of decisions by district directors.

Our case file analysis showed that cases such as the applicant being denied because he or she circumvented the refugee processing system or because the applicant was firmly resettled in a third country before arriving in the United States, usually contained reasons for the denial. Three district directors stated that writing the reason for their decisions would be helpful in their management and review of the asylum process, but they did not have the resources to accomplish this.

Ninety percent of the applicants denied by INS, or 19,216 aliens, were denied because they did not prove their eligibility for asylum to the satisfaction of INS officials. With no requirement to document decisions it is uncertain as to whether all applicants were treated fairly and were held to the same standards.

INS study cites lack of uniformity in asylum decision procedures

A 1983 nationwide INS study of asylum decisions concluded that a lack of uniformity in the procedures used for asylum decisions sometimes result in a district or an officer rejecting a claim that another officer or district would accept. The study stated that there are few guidelines to enable examiners to apply the standard of proof uniformly in each district. The report recommended that INS should, among other things, develop a monitoring and qualify control mechanism to ensure uniformity and consistency among districts.

Since the issuance of the 1983 report, INS has made improvements in managing its asylum workload by clearing the backlog of applications, increasing asylum adjudication training, and encouraging district directors to designate certain INS examiners for the handling of asylum cases thereby improving subject matter expertise. INS headquarters staff have visited several district offices and reviewed cases. However, any review of asylum decisions would be difficult because INS does not require that the applicant's file contain the specific reasons for approving or denying the application. According to INS headquarter officials, as of September 1986, DOJ was considering new asylum regulations that would provide for a centralized system of asylum adjudication. A corps of asylum officers, who would not report to district directors, would be established. This in turn would likely result in more specific guidelines for the adjudication of claims as well as administrative review. INS officials said that no significant change can be made in this area without rulemaking, therefore, they have concentrated efforts on developing new regulations setting forth procedures which promote greater consistency and quality in the decisions.

APPROVAL RATES FOR ASYLUM REQUESTS

We analyzed asylum applications and other available documentation to determine approval rates in a variety of circumstances, identify factors associated with approvals and denials, and determine whether DOJ decisions and the State Department advisory opinions agreed. This analysis reveals differences in approval rates between the four countries in our study, but are not indicative of a bias in the application of asylum standards. Our analysis of 1450, asylum filed projected to a universe of 32,426 applicants is discussed below.

Approval rates vary by country

Of the 32,426 asylum applications worldwide, 25,167 (78 percent) were from El Salvador, Nicaragua, Poland and Iran. Approval rates for El Salvador (two percent) and Nicaragua (7 percent) were many times lower than approval rates from Poland (49 percent) and Iran (66 percent). The worldwide approval rate was 24 percent.

At the completion of our case file analysis in 1986, DOJ had not decided 4,646 of the asylum applications, of which 68 percent (or 3,156 requests) were from the four countries we studied. Requests from El Salvador made

up 53 percent of the undecided cases. Detailed information on the decisions for the cases is presented on table I.1.

Asylum applicants entered the United States legally and illegally

Worldwide, fifty-eight percent (18,723) of the asylum applicants entered the United States legally, predominantly on visitor visas (40 percent) or student visas (12 percent) before applying for asylum. Thirty-eight percent of the applicants were approved. The approval rate was 30 percent for those entering with visitor visas and 58 percent for those entering with student visas. Asylum applicants who entered without inspection (illegally) were approved at a rate of 1.6 percent worldwide.

Approximately 87 percent of the applicants from Iran and Poland entered legally with visitor or student visas and made up most of the approved asylum requests from the four countries. Applicants from Iran entered predominantly on visitor visas (45 percent) and student visas (43 percent), and applicants from Poland entered the United States usually using visitor visas (86 percent). Applicants from Nicaragua also entered legally at a high rate (65 percent) but were approved at a much lower rate (9 percent) than legal entrants from Iran (67 percent) and Poland (49 percent). Almost all applicants from El Salvador entered illegally (87 percent) without inspection, of which .4 percent were granted asylum. Salvadorans who entered legally had approval rates of 11 percent—13 percent for those entering on visitor visas and two percent for those entering on student visas. See table I.2.

Asylum requests to INS or EOIR

Approval rates for cases filed with INS district directors are higher (27 percent) than those originating at the EOIR (6 percent) and those initially denied by INS and renewed before EOIR (11 percent).

Worldwide, 77 percent of asylum requests were filed only with an INS district director, while 16 percent were filed with the EOIR, and 7 percent were denied by an INS district director and renewed before an EOIR judge. Sixty-five percent of the Salvadoran applications and nine out of 10 asylum applications from Iran, Poland and Nicaragua were filed only with an INS district director. See Table I.3.

Asylum requests for fear of persecution because of religion

Worldwide, 4,759 (15 percent) of the asylum applicants claimed fear of persecution because of religion. These applicants were approved at a rate of 82 percent. Most of them, 3,849 (81 percent), were from Iran, with an 87 percent approval rate.

INS and State Department officials stated that the applicants who submitted claims based on fear of persecution because of religious beliefs had the highest approval rate because the applicants' claims were well-documented and persecution of religious groups is well known in Iran. Our analysis support these observations and shows that the claims based on religious beliefs contain supporting documents such as baptismal certificates or letters from clergy. The documents submitted to support a fear of persecution on the basis of religion specifically mentioned the applicant in 86 percent of the cases. See table I.4.

Asylum requests for fear of persecution because of race, nationality, political opinion and membership in a social group

Fear of persecution because of political opinion was claimed by 16,358, or approximately one-half, of the applicants worldwide. About 18 percent of these requests were approved. Close to 90 percent of the Nicaragua and Poland requests were based upon political opinion. Poland political opinion requests were approved at a rate of 51 percent, and Nicaragua requests were approved at a 7 percent rate.

Less than two percent of the applicants worldwide claimed a fear of persecution because of race, nationality, or membership in a social group. Because of the small numbers involved, approval rates cannot be reliably projected to the universe of applications.

Feared mistreatment because of internal strife

Worldwide, 7,643 (24 percent) of the asylum applicants did not fall under the five categories within the refugee definition and feared harm based upon conditions of internal civil or military strife. Eighty-seven percent of these applicants were from El Salvador. All of the requests involving internal strife were denied.

In categorizing asylum claims, we noted that these applications did not always include documentation, and the applicants claimed neutrality in a conflict between the government and guerrilla forces. The applicants seldom belonged to any organizations, and frequently mentioned persons other than themselves as being the victims of mistreatment.

Severity of mistreatment described by applicants.

Asylum applicants described a wide range of mistreatment to themselves and others in support of their requests for asylum. Applicants from different countries who claimed to have suffered similar mistreatment did not have similar approval rates. Aliens who stated on their applications that they were arrested, imprisoned, had their life threatened, or were tortured had much lower approval rates if they were from El Salvador and Nicaragua than if they were from Poland and Iran. For example, those who described torture to support their asylum request had an approval rate of four percent in El Salvador, 15 percent in Nicaragua, 80 percent in Poland, and 64 percent in Iran, See Figure I.1. However, because we did not look at the combined influence of factors on approval rates (such as documentation and severity of mistreatment), those statistics should be viewed with caution.

Justice and State Departments agree on asylum decisions

DOJ's decision to approve or deny an asylum request and the State Department's advisory opinion agreed in 96 percent of the 32,46 applications worldwide. For the four countries, the percentage of agreement was: El Salvador—99 percent; Nicaragua—99 percent; Poland—96 percent; and Iran—87 percent.

In 2,051 applications worldwide, INS received advisory opinions that differed from the INS examiners' preliminary decisions and INS changed its preliminary opinion and concurred with the State Department in 91 percent of the cases. For the four countries, when the State Department's advisory opinion disagreed with INS' preliminary decision, DOJ's final decision agreed with the State Department in 100 percent of the Salvadoran cases, 98 percent of the Nicaraguan cases, 83 percent of the Polish cases, and 78 percent of the Iranian cases. See table I.5 and I–6.

FEW DENIED ASYLUM APPLICANTS ARE DEPORTED

There is a widespread perception that the denial of an asylum application is tantamount to deportation and the potential for a denial applicant to become a victim of persecution upon return to his or her home country. Our analysis, however, shows that few denied asylum applicants are actually deported. See table I.7.

Of the 21,033 alians who were denied asylum, 312 applicants (11.5 percent) where deported to their home country (none of the deported applicants were from Poland, Iran, or Nicaragua); 2,405 applicants (11 percent) were awaiting a hearing before an immigration judge or the Board of Immigration Appeals; 915 applicants (4 percent) were able to remain in the United States because they obtained U.S. residency through non-asylum provisions such as marriage to a U.S. citizen; few applicants (less than one percent) had left the United States on their own; and 16,785 applicants (80 percent) had uncertain immigration status because INS had not initiated deportation proceedings and there was not evidence of their departure in INS's files.[2]

The status of the remaining aliens denied asylum could not be be determined. As our analysis shows, there is a large backlog of denied asylum applicants awaiting deportation perceedings. During our visits to INS district offices, we identified a backlog of approximately 30,000 denied applicants in three cities (Los Angeles, Miami, and San Francisco). INS district officials stated that they do not have sufficient investigative resources to determine whether the aliens have left the United States and, if not, to complete the necessary documents (the "order to show cause") to initiate deportation proceedings.

In June 1985, the INS Commissioner sent a memo to all regional commissioners with instructions to issue OCRs on all denied asylum applicants who are ineligible for discretionary relief and to clear the backlog of these cases. INS district officials we met with stated, however, that they would need a considerable amount of staff time and a reassessment of priorities to accomplish this.

An INS official in San Francisco stated that it would take all of his 30 investigators 2½ months of full-time work to clear their backlog of almost 8,000 cases. He estimated that the EOIR court in San Francisco, which was setting hearing dates for November 1987 at the time of our discussion in September 1986, would be forced to set hearing dates into the 1990s if INS cleared the backlog. INS Los Angeles district officials stated that if their backlog of 12,000 cases were referred for deportation hearings, it would add another year to the court calendar.

While INS officials said that many of the denied asylum applicants who make up this backlog are still present in the United States, they do not have the information to demonstrate this. INS does not collect and summarize information regarding how many denied applicants (1) where deported, (2) voluntarily left the country, (3) remain in the country under other immigration provisions, (4) remain awaiting appeal, and (5) remain in the country awaiting follow-up action by INS.

[2] Some denied asylum applicants were granted "extended voluntary departure" at the discretion of the Attorney General and were not required to leave the United States. However, we could not determine the number.

TABLE I.1.—GAO ASYLUM STUDY CASELOAD ESTIMATES FOR CALENDAR YEAR 1984 ADVISORY OPINIONS

GAO study country	Advisory opinion requested		Undecided cases [1]		Granted cases		Denied cases		Approval rate (percent)
	Number	Percent	Number	Percent	number	Percent	Number	Percent	
El Salvador	11,004	33.9	2,467	53.1	172	2.5	8,365	39.8	2.0
Nicaragua	6,355	19.6	292	6.3	399	5.9	5,665	26.9	6.6
Poland	1,256	3.9	28	0.6	597	8.8	631	3.0	48.6
Iran	6,552	20.2	369	7.9	4,058	60.1	2,125	10.1	65.6
Subtotal	25,167	77.6	3,156	67.9	5,226	77.4	16,786	79.8	23.7
All other countries	7,259	22.4	1,490	32.1	1,523	22.6	4,246	20.2	26.4
Worldwide total	32,426	100.0	4,646	100.0	6,749	100.0	21,032	100.0	24.3

[1] Undecided as of Feb. 1, 1986, for INS cases. Undecided as of Apr. 30, 1986, for EOIR cases.

TABLE I.2.—ESTIMATES OF IMMIGRATION STATUS AT ENTRY INTO THE UNITED STATES

Immigration status	El Salvador			Nicaragua			Poland			Iran			Worldwide		
	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)
Visitor visa	1,075	9.8	13.4	3,863	60.8	9.3	1,076	85.7	44.1	2,917	44.5	63.6	12,843	39.6	30.2
Student visa	131	1.2	2.3	196	3.1	5.1	31	2.5	81.5	2,826	43.1	66.7	3,801	11.7	57.6
Other legal [1]	257	2.3	0.8	82	1.3	29.1	106	8.4	90.8	494	7.5	82.4	2,079	6.4	59.4
Entered without inspection [2]	9,329	84.8	0.4	2,142	33.7	0.7	39	3.1	35.3	232	3.5	50.5	13,331	41.1	1.6
Other illegal	127	1.2	0.0	26	0.4	11.5	0	0.0	NA	51	0.8	50.0	204	0.6	14.1
Missing data [3]	85	0.8	1.2	47	0.7	0.0	4	0.3	100.0	32	0.5	0.0	168	0.5	3.3
Total	11,004	100	2.0	6,356	100	6.6	1,256	100	48.6	6,552	100	65.8	32,426	100	24.3

[1] Other legal includes: other types of nonimmigrant visas, crewmen, and others.
[2] "Entered without Inspection" means that the applicant entered the country illegally by avoiding inspection by a US immigration official at a port of entry.
[3] Other illegal includes; stowaways and excludees.

TABLE I.3.—ASYLUM CLAIMS FILED AT INS AND EOIR [1]

Agency	El Salvador			Nicaragua			Poland			Iran			Worldwide		
	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)
INS	7,169	65.1	2.3	5,911	93.0	6.5	1,192	94.9	50.4	5,882	89.8	69.0	24,856	76.7	26.9
EOIR only	2,981	27.1	0.5	163	2.6	0.0	26	2.1	30.8	389	5.9	50.2	5,149	15.9	6.0
INS and EOIR	854	7.8	0.6	282	4.4	8.9	38	3.0	0.0	281	4.3	8.9	2,421	7.5	10.8
Total	11,004	100.0	2.0	6,356	100.0	6.6	1,256	100.0	48.6	6,552	100.0	65.6	32,426	100.0	24.3

[1] The Justice Department had not reached a decision in all cases. Approval rates were calculated from those cases with a decision.

TABLE I.4.—GAO EXTIMATES/BASIS FOR ASYLUM CLAIMS

Basis [1]	El Salvador			Nicaragua			Poland			Iran			Worldwide		
	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)	Number	Percent	Approval rate (percent)
Political opinion	3,782	34.4	2.8	5,567	87.6	6.7	1,119	89.1	50.9	2,125	32.4	36.7	16,358	50.4	17.5
Religion	85	0.8	[2] NA	73	1.1	4.1	36	2.9	11.1	3,849	58.7	86.7	4,759	14.7	82.1
Race	0	0.0	NA	0	0.0	NA	0	0.0	NA	0	0.0	NA	73	0.2	100.0
Nationality	0	0.0	NA	0	0.0	NA	0	0.0	NA	16	0.2	0.0	314	1.0	0.0
Member of social group	52	0.5	19.2	6	0.1	100.0	0	0.0	NA	58	0.9	43.1	117	0.4	35.9
Multiple reasons [3]	54	0.5	19.2	136	2.1	14.1	79	6.3	46.8	125	1.9	60.8	1,334	4.1	25.4
Civil strife [4]	6,626	60.2	0.0	279	4.4	0.0	9	0.7	0.0	33	0.5	0.0	7,643	23.6	0.0
Other	233	2.1	27.4	272	4.3	4.8	5	0.4	0.0	346	5.3	8.0	1,326	4.1	14.7
Missing data	172	1.6	1.6	23	0.4	0.0	8	0.6	0.0	0	0.0	NA	502	1.5	0.6
Total	11,004	100	2.0	6,356	100.0	6.6	1,256	100.0	48.6	6,552	100.0	65.6	32,426	100.0	24.3

[1] GAO reviewed alien file and determined the basis of claim using categories established by the United Nations, and another category of "civil strife."
[2] No decision has been made on those cases at the time we collected the data.
[3] Claims with more than one basis (using the above five categories established by the United Nations).
[4] Civil strife claims are those which cited general country conditions of war and violence, sometimes mentioned neuturality, but often failed to mention how the applicant or immediate family member would be singled out for persecution.

TABLE I.5.—COMPARISON OF INS PRELIMINARY DECISIONS, STATE DEPARTMENT ADVISORY OPINIONS, AND INS FINAL DECISIONS[1]

Country	INS preliminary decision				State advisory opinion[2]				INS final decision			
	Approval number	Approval rate (percent)	Denial number	Denial rate (percent)	Approval number	Approval rate (percent)	Denial number	Denial rate (percent)	Approval number	Approval rate (percent)	Denial number	Denial rate (percent)
El Salvador	838	14.7	4,867	85.3	60	1.1	5,644	98.9	101	1.8	5,603	98.2
Nicaragua	475	11.9	3,520	88.1	175	4.4	3,820	95.6	158	4.0	3,836	96.0
Poland	153	24.6	470	75.4	291	46.6	333	53.4	261	41.8	363	58.2
Iran	2,823	72.3	1,084	27.7	2,566	65.7	1,341	34.3	2,596	66.4	1,311	33.6
Worldwide	4,708	28.1	12,075	71.9	3,558	21.2	13,225	78.8	3,681	21.9	13,100	78.1

[1] It is possible that some claims renewed before the EOIR are included here but few if any of the renewed cases in our sample had received an EOIR decision.
[2] This table excludes those cases where the State advisory opinion had no definitive decision, e.g., where additional information is requested.

TABLE I.6.—COMPARISON OF STATE DEPARTMENT ADVISORY OPINIONS AND DOJ FINAL DECISIONS WHEN NO INS PRELIMINARY DECISION WAS RENDERED

Country	State advisory opinion[1]				DOJ final decision			
	Approval number	Approval rate (percent)	Denial number	Denial rate (percent)	Approval number	Approval rate (percent)	Denial number	Denial rate (percent)
El Salvador	111	3.9	2,720	96.1	69	2.4	2,762	97.6
Nicaragua	207	10.2	1,820	89.8	234	11.5	1,793	88.5
Poland	340	58.6	240	41.4	332	57.3	247	42.7
Iran	892	52.8	796	47.2	974	57.7	715	42.3
Worldwide	2,335	22.8	7,908	77.2	2,467	24.1	7,776	75.9

[1] This table excludes those cases where the State advisory opinions had no definite decision, e.g., where additional information is requested.

TABLE I.7.—CURRENT STATUS OF ASYLUM APPLICANTS[1]

Denied current status:	El Salvador		Nicaragua		Poland		Iran		Worldwide	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Denials:										
Hearing pending with EOIR	892	10.7	236	4.2	28	4.4	255	12.0	2,405	11.4
Formally deported by INS	212	2.5	0	0.0	0	0.0	0	0.0	312	1.5
No further action by INS	6,961	83.2	5,127	90.5	507	80.3	1,533	72.1	16,785	79.8
Verified departure on own	0	0.0	0	0.0	5	0.8	0	0.0	5	.0
Qualified to stay under other benefits	87	1.0	233	4.1	77	12.2	221	10.4	915	4.4
Otherwise closed	85	1.0	0	0.0	0	0.0	0	0.0	284	1.4
Missing data	128	1.5	69	1.2	14	2.2	116	5.5	327	1.6
Total denials	8,365	100.0	5,665	100.0	631	100.0	2,125	100.0	21,033	100.0
Total current status:										
Denials	8,365	76.0	5,665	89.1	631	50.2	2,125	32.4	21,033	64.9
Approvals	172	1.6	399	6.3	597	47.5	4,058	61.9	6,748	20.8
Qualified to stay under other immigration benefits	42	0.4	26	0.4	4	0.3	140	2.1	808	2.5
No decision	2,128	19.3	166	2.6	17	1.4	181	2.8	3,286	10.1
Missing data	297	2.7	99	1.6	7	0.6	48	0.7	551	1.7
Total	11,004	100	6,355	100	1,256	100	6,552	100	32,426	100

[1] Current Status as of February 1, 1986 for INS cases.
Current Status as of April 30, 1986 for EOIR cases.

U.S. SENATE,
Washington, DC, January 15, 1985.

Mr. LYLE L. KARN,
District Director, Immigration and Naturalization Service, Philadelphia, PA.

DEAR MR. KARN: After reading accounts about the arrest of a Guatemalan family in Philadelphia yesterday, I have reviewed this matter in some detail. I have spoken with the U.S. Attorney's office, agents from your office, attorneys for the family, sponsors of the family, and the family itself.

Based on my review, I believe that the more appropriate way to have dealt with this matter would have been to interview the persons involved after the issuance of a notice or summons to appear rather than having them arrested and taken into custody.

As you know, the Immigration Act defines the standard for asylum as a showing that the person "has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion."

Based upon the information supplied to me, it appears that the Philadelphia family that was taken into custody would categorically qualify for asylum.

I would appreciate it if you would review this matter as quickly as possible and contact me regarding your findings.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, January 15, 1985.

Hon. BOB KASTEN,
Senate Hart Office Building, Washington, DC.

DEAR BOB: I request that our subcommittee, the Foreign Operations Subcommittee of the Appropriations Committee, conduct a hearing on the action of the U.S. Immigration and Naturalization Service on January 14, 1985 in arresting more than 60 aliens including residents of Philadelphia, Pennsylvania. I am especially concerned that the Philadelphia residents were arrested and taken into custody instead of being given a notice, or summons, to appear, which was done with individuals who were indicted in Arizona.

Based upon information provided to me, it appears that the Philadelphia residents that were taken into custody would qualify for asylum.

In any event, it seems to me that federal authorities ought to make an inquiry as to whether there is a valid claim for asylum before making an arrest and initiating legal procedures, instead of putting the burden on the applicant to apply for asylum where such aliens do not understand the complexity of the law and subject themselves to deportation procedures when they file for asylum with the Immigration and Naturalization Service.

In addition, the subcommittee should consider whether a temporary stay of deportation, such as that proposed for Salvadoran refugees in S. 2131, which was introduced in the 98th Congress and which I cosponsored, would be appropriate for Guatemalans. The humanitarian concerns which inspired the "sanctuary" movement that is the focus of these arrests should be explored. These kinds of concerns have prompted the Attorney General to halt the deportations of nationals from a number of countries over the years, and such action may be appropriate today for Guatemalans or other Central American refugees.

These alternatives under the Refugee Act should be considered, and arrest used as a last resort and under proper and just procedures that reflect the unique situation of a

foreign national unfamiliar with our language and process.

Thank you for your consideration of this request.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, January 30, 1985.

Hon. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration and Refugee Policy, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR ALAN: Thank you for agreeing to hold hearings at my request to look into issues on immigration policy and procedures raised by the recent arrest of some 60 aliens across the country and particularly by the arrest of a Guatemalan family in Philadelphia, Pennsylvania on January 14, 1985.

I am enclosing copies of letters I have sent to Immigration and Naturalization Commissioner Alan Nelson and Secretary of State Shultz expressing my concern and detailing the issues I think should be explored.

In terms of witnesses for the hearing, I suggest calling Commissioner Nelson, the Assistant Secretary for Human Rights and Humanitarian Affairs, Elliott Abrams, the Director of the Lawyers' Committee for International Human Rights, and the Guatemalan family arrested in Philadelphia.

I look forward to working with you on this important hearing.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, February 1, 1985.

Hon. ALAN C. NELSON,
Commissioner Immigration and Naturalization Service, Washington, DC.

DEAR COMMISSIONER NELSON: I am deeply concerned about the policy and procedures involved in the recent arrest of some 60 aliens across the country and particularly about the arrest of a Guatemalan family in Philadelphia, Pennsylvania on January 14, 1985.

According to information provided to me, a warrant of arrest was issued for a husband and wife, Mr. and Mrs. Morelos, on grounds of illegal entry. The wife and a three-year-old child were then taken into custody. Later, Mr. Morelos surrendered to Immigration and Naturalization authorities when he found out that his wife and child were in custody.

On the facts as presented to me, Mr. Morelos has a valid claim for asylum on the basis of a well-founded fear of persecution bases on his prior political activities and expressions of political opinions in Guatemala. Mr. Morelos' contention of torture was corroborated by scars which I personally observed on his body.

When I discussed this case with an INS agent in Philadelphia, I was advised that a warrant of arrest was issued because Mr. Morelos had not made an application for asylum.

In my judgment, a law enforcement agency like INS should not issue a warrant of arrest for a person until an investigation discloses a violation of law without a valid defense. As District Attorney of Philadelphia, I made it a stringent rule to inquire as to the surrounding circumstances to find out about potential defense before obtaining warrants of arrest or taking people into custody.

As a matter of fundamental fairness, it is my opinion that the Government of the United States should not take people into custody unless there is a valid basis for doing so after a thorough investigation including potential defenses. It seems to me that it is not sufficient to justify the INS action on the basis that Mr. Morelos had the burden of filing an application for asylum. He is an alien and does not really understand the intricacies of the law; and, if he did, he could hardly be expected to file such an application considering the fact that virtually no such applications are granted and the filing itself would doubtless activate an enforcement proceeding against him.

The action of the Immigration and Naturalization Service was particularly offensive in taking his wife and child into custody. It is an horrendous experience to be arrested and the three-year-old child who was subjected to the arrest will doubtless bear the scars of the incident for many years, to say nothing of the trauma on the mother.

I strongly urge that you as the Director of the Immigration and Naturalization Service review your procedures so that legal proceedings are authorized only where an investigation discloses a violation without a valid defense. If legal proceedings are instituted, a summons rather than a warrant of arrest should be used unless there is valid reason to believe that the person will flee or that bail is realistically necessary to guarantee the appearance of that individual at the next proceeding. In the case of the Morelos family, there was no such reason to be concerned about flight since the Immigration and Naturalization Service had known of their whereabouts since September 1984. In any event, the posting of the $3,000 in bail by other parties was hardly any guarantee of the appearance of the Morelos family for the next proceeding so that the justification for the warrant of arrest was not at all well-founded.

As to the filing of asylum petitions, I urge you to adopt procedures which maintain confidentiality (*in camera proceedings*) so that foreign governments will not know of the contentions of their nationals so as to avoid reprisals and fear of filing such applications.

Beyond these procedures, I am also troubled by the applicable policies which, as I understand it, lead to only 0.4 percent of Guatemalan applications for asylum having been granted in 1984 and only 2.5 percent of the applications for asylum from Salvadorans having been granted in 1984. In light of the social unrest in those countries and the activism of many of their citizens, it strikes me as a shockingly low figure to have such a small number of applications for asylum granted. I would be interested to know what standards are used and whether Mr. Morelos would have qualified, under existing standards, considering his contentions of torture which were corroborated by his scars.

I would be further interested to know whether consideration has been given to halting deportations of Guatemalans through a grant of extended voluntary departure or any other procedure. It seems to me that extended voluntary departure would be appropriate for Guatemalans as it has been applied for those who have fled from other countries with such pervasive social unrest affecting so large a segment of the citizens.

I would very much appreciate your prompt response to the questions raised in this letter.

Sincerely,

Arlen Specter.

U.S. SENATE,
Washington, DC, February 1, 1985.

Hon. GEORGE P. SHULTZ,
Secretary, Department of State, Washington, DC.

DEAR SECRETARY SHULTZ: I am deeply concerned about the policy and procedures involved in the recent arrest of some 60 aliens across the country and particularly about the arrest of a Guatemalan family in Philadelphia, Pennsylvania on January 14, 1985. While the arrests were carried out by the Immigration and Naturalization Service, the procedures employed are inexorably intertwined with our immigration policies in which the State Department plays a key role.

According to information provided to me, a warrant of arrest was issued for a husband and wife, Mr. and Mrs. Morelos, on grounds of illegal entry. The wife and a three-year-old child were then taken into custody. Later, Mr. Morelos surrendered to Immigration and Naturalization authorities when he found out that his wife and child were in custody.

On the facts as presented to me, Mr. Morelos has a valid claim for asylum on the basis of a well-founded fear of persecution based on his prior political activities and expressions of political opinions in Guatemala. Mr. Morelos' contention of torture was corroborated by scars which I personally observed on his body.

When I discussed this case with an INS agent in Philadelphia, I was advised that a warrant of arrest was issued because Mr. Morelos had not made an application for asylum.

In my judgment, as I have written INS Commissioner Alan Nelson, a law enforcement agency like INS should not issue a warrant of arrest for a person until an investigation discloses a violation of law without a valid defense. As District Attorney of Philadelphia, I have made it a stringent rule to inquire as to the surrounding circumstances to find out about potential defenses before obtaining warrants of arrest or taking people into custody.

As a matter of fundamental fairness, it is my opinion that the Government of the United States should not take people into custody unless there is a valid basis for doing so after a thorough investigation including potential defenses. It seems to me that it is not sufficient to justify the INS action on the basis that Mr. Morelos had the burden of filing an application for asylum. He is an alien and does not really understand the intricacies of the law; and, if he did, he could hardly be expected to file such an application considering the fact that virtually no such applications are granted and the filing itself would doubtless activate an enforcement proceeding against him.

This is where the State Department's involvement is particularly relevant. I am troubled by the applicable policies which, as I understand it, lead to only 0.4 percent of Guatemalan applications for asylum having been granted in 1984 and only 2.5 percent of the applications for asylum from Salvadorans having been granted in 1984. In light of the social unrest in those countries and the activism of many of their citizens, it strikes me as a shockingly low figure to have such a small number of applications for asylum granted. I would be interested to know what standards are used in the State Department's review of applications and whether Mr. Morelos would have qualified, under existing standards, considering his contentions

of torture which were corroborated by his scars.

In addition, I urge you to work with Commissioner Nelson to adopt procedures that maintain the confidentiality of asylum applications (*in camera* proceedings), so that foreign governments will not know of the contentions of their nationals so as to avoid reprisals and fear of filing such applications.

I would be further interested to know whether consideration has been given to halting deportations of Guatemalans through a grant of extended voluntary departure or any other procedure. It seems to me that extended voluntary departure would be appropriate for Guatemalans as it has been applied for those who have fled from other countries with such pervasive social unrest affecting so large a segment of the citizens.

I would very much appreciate your prompt response to the questions raised in this letter.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 26, 1985.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR ARLEN: I thank you for your letter concerning hearings on present INS procedures for arresting illegal aliens and adjudicating asylum applications. I also appreciate the copies of the letters you sent to Secretary Shultz and Commissioner Nelson. Let me take this opportunity to express some thoughts with you on this subject.

You are aware of my position on "blanket" suspension of deportation or "EVD" status for the nationals of any Central American country. However, let me reiterate some of the major points on this debate. First, a large portion of Salvadorans here today are not fleeing persecution but are seeking economic opportunity. This is supported by the fact that more than half of the estimated 500,000 to 600,000 Salvadorans here today illegally came before the escalation of the conflict; that Salvadorans have been the second most commonly apprehended illegal immigrant on the southern border since the 1970's; and that all Salvadorans must travel 2,000 miles through a country devoid of violence or persecution—Mexico—before arriving in the U.S. The economic motivation simply cannot be summarily dismissed.

Second, conditions have improved greatly in El Salvador, and there still is no evidence that Salvadorans are persecuted upon return to their country. While civilian deaths in 1980 were high (9,000 according to press reports compiled by the U.S. Embassy), the death rate has decreased dramatically. In 1984, there were 800 civilian deaths reported by the Salvadoran press. Of those civilian deaths, Tutela Legal (the human rights agency affiliated with the Catholic Church) attributed 205 to death squads and 55 to guerrilla assassinations. While I do not approve of any level of violence, it is safe to assume that nearly all of El Salvador's five million residents are not affected by either random or organized violence. In addition, neither a bipartisan Immigration Subcommittee staff report nor a State Department survey of 482 returned Salvadorans was able to detect the political persecution or victimization by violence of Salvadorans who are sent back to El Salvador.

Finally, there are several alternatives to a blanket relaxation of our immigration laws which still recognize the humanitarian needs of Salvadorans and other Central Americans. We currently have an agreement with ICM—the International Committee on Migration—to check on the fate of Salvadorans who are returned from the U.S. As of Dec. 1 of 1984, an ICM representative meets every returned Salvadoran at the San Salvador airport and assesses his or her need for food and shelter, travel arrangements, proper documents for internal travel, and possible referral to displaced persons camps. In addition, these ICM representatives have followed up on the returnees with questionnaires on their safety once they have come home. The responses have shown that no one has felt that safety was a problem, but many have mentioned a lack of employment opportunities. At the end of the 98th Congress, we authorized a doubling of U.S. aid to displaced persons camps—from $10 million per year to $20 million per year. This money will help improve security and living conditions in these camps, and enable them to receive Salvadorans returned from the U.S., if necessary. In addition, I have suggested the following measures: (1) discussions with the government of Honduras and the UNHCR to see if fearful Salvadorans may be returned to UNHCR camps in Honduras, and (2) the creation of guidelines by the INS which would identify certain classes of Salvadorans who might be eligible for an individual review of the need for EVD. There is evidence that Salvadoran teachers and medical personnel may warrant this.

I understand that your interests focus on how the INS apprehends illegal aliens from the countries of Central America, but the recommendations you make certainly affect the broader questions of EVD. How are we to expect INS to "weigh the defenses" and then "issue a summons" for illegal aliens? A summons would simply alert the alien that the INS is aware of his illegal status and encourage him to disappear. With 3.5 to 6 million illegal aliens in the country, the INS does not have the manpower to then go out for the search. INS is already granted the ". . . power without warrant . . . to arrest any alien in the U.S. if (INS) has reason to believe that the alien is in the U.S. in violation of any law or regulation." (Sec. 287(a)(2) of the INA.) "Reason to believe" has been interpreted to mean "probable cause," so there you have it: a clear authority for the arrest and a probable cause standard for the arrest. In this light, it would seem that INS arrests of aliens are quite appropriate and justified. In addition, there is no question of fact when someone enters illegally—and thus, no "defense" to take into account. Whether someone is summoned or arrested, they still have an identical right to request political asylum and have a proper hearing on that request. However, it is most important to bear in mind that U.S. law requires the alien to establish his right to a particular status, whether it be that of asylum, refugee, immigrant or non-immigrant. The burden of proof is always on the alien, not the Government.

I think we might agree, Arlen, that the situation in El Salvador and the proper response in the U.S. is less simplistic than some would suggest. While I respect the compassion that those who argue for EVD display, I believe it is misplaced and likely to have many negative results—such as Americans becoming unwilling to accept the true refugees in the future. I know you are a thoughtful, reasonable guy, and I hope that we might be able to discuss the issue further. It would certainly not serve either of us to react to this issue in an emotional way. There is enough of that surrounding the question already, and I fear that when we legislate based strongly on emotion—then poor law and sometimes extreme reactions are the result. I am certain that neither of us wish to see this result.

I look forward to working with you on this matter.

With best personal regards.

Most sincerely,

ALAN A. SIMPSON,
U.S. Senator.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 1, 1985.

Hon. ARLEN SPECTER,
U.S. Senate.

DEAR SENATOR SPECTER: Thank you for your letter of February 1, 1985 expressing your deep concern about the arrests of some 60 illegal aliens and in particular about the arrest of a Guatemalan family in Philadelphia, Mr. and Mrs. Morelos and their child.

We note in your letter your belief that Mr. Morelos has a valid claim for asylum based on a well-founded fear of persecution because of his prior political activities and opinions in Guatemala. You also urge us to work with I.N.S. Commissioner Nelson to adopt procedures that maintain the confidentiality of asylum applications.

The Department keeps the contents and its views on asylum applications confidential in order to protect the applicant or his relatives. Attorneys for asylum applicants are particularly insistent upon the need for strict confidentiality, and we must maintain this policy. We are confident that the I.N.S. maintains a similar policy.

With respect to the asylum claim by Mr. Morelos and his family, we will be prepared to review the case when the record and file are sent to us by I.N.S. Philadelphia, in accordance with established procedures in these matters. You may be assured that at such time we will take fully into account your views on the validity of the asylum request. However, since we have not had an opportunity to review the application and any supporting documents, we are not in a position to comment on the merits of the case.

We will continue our careful review of applications for asylum on a case-by-case basis, and monitor developments and conditions in the region. This is not always an easy task. However, the procedures for a considered and just determination of asylum requests for Central Americans are in place, and they are applied by our officers in a compassionate and understanding manner.

Sincerely,

J. EDWARD FOX,
Acting Assistant Secretary, Legislative and Intergovernmental Affairs.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 8, 1985.

Hon. ARLEN SPECTER,
U.S. Senate.

DEAR SENATOR SPECTER: Thank you for your letter of January 18, 1985 in which you state your deep concern about the arrests of illegal aliens on January 14, 1985. You inquire about asylum procedures, the granting of extended voluntary departure to Guatemalan and Salvadoran aliens in this country, and you refer to the "sanctuary" movement as the target for arrests.

We realize that violence is an enormous problem in Central America, and that many have fled their country to avoid civil strife. There is also a long history of migration to

the United States by aliens seeking work. Many try to remain here by applying for asylum or seeking extended voluntary departure (EVD) status, which temporarily suspends deportation.

The reason most often cited for granting EVD to Salvadorans, or any other Central American, is the claim that those who have been deported have suffered persecution on the return to their country. However, repeated studies of the treatment and condition of deported Salvadorans have disclosed no such pattern. In the most recent U.S. Embassy survey of about 500 El Salvadoran deportees, not a single case of physical abuse or murder was found. Many deportees could not be located because they had given fictitious or incomplete addresses, and some 39 people had already returned illegally to the United States. Despite the problem in locating some deportees, the study simply does not suggest a pattern of targeted persecution of the deported Salvadorans.

In 1983 the Attorney General and the Secretary of State carefully considered the question of EVD status for Central American aliens and determined that such status was not then appropriate. Their views are still valid at this time and I enclose copies of their letters.

In addition, there is a program in place in El Salvador, conducted by the Intergovernmental Committee for Migration (ICM), a highly respected international organization. ICM meets every Salvadoran who has been sent home by the United States, and each is offered resettlement assistance. Each returnee reports to ICM once a month for six months, discussing any difficulties which he or she may have. If any returnees had been harmed or disappeared, it surely would be made known publicly.

Our international commitments do not permit the forced expulsion of a refugee to a country or frontier where persecution is likely to occur. In addition, the Refugee Act of 1980 provides for the granting of asylum status to those who establish a well-founded fear of persecution upon return to their country of nationality for reasons of race, religion, nationality, membership of a particular social group, or political opinion. By law, the responsibility for establishing a well-founded fear of persecution rests with each applicant. The Department of State reviews each and every asylum application and renders an advisory opinion on the merits of the application. However, the decision on the asylum request is made by the I.N.S. director concerned who takes into consideration our advisory opinion. Since the decision on the asylum application is a matter for I.N.S., you may wish to consult with that Service to ascertain the statistical data on these cases.

The United States is well aware of its legal and treaty obligations and responsibilities, including the prohibition against the forced expulsion of refugees. We have a long-standing record of support for relief activities on behalf of refugees and a generous resettlement policy. No other country has provided as much assistance, or as many resettlement opportunities, to refugees as the United States.

We cannot concur with the position taken by some churches to harbor or conceal illegal aliens from Central America or elsewhere. Our conduct in this matter should be guided by the rule of law. Since the question of harboring or concealing illegal aliens may involve a breach of federal law, you may also wish to consider requesting the Department of Justice to comment on the implications of the actions.

We will continue our careful review of applications for EVD and asylum on a case-by-case basis, and monitor developments and conditions in the region. This is not always an easy task. However, the procedures for a considered and just determination of EVD and asylum request for Central Americans are in place, and they are applied by our officers in a compassionate and understanding manner.

Sincerely,

J. EDWARD FOX,
Acting Assistant Secretary,
Legislative and Intergovernmental Affairs.

U.S. SENATE,
Washington, DC, April 4, 1985.

Hon. CHARLES A. BOWSHER,
Comptroller General, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: I am writing to request a GAO study into the practices and procedures of the Immigration and Naturalization Service and the Department of State for judging claims for asylum in the United States, especially concerning Central America.

The civil strife in Central America has displaced thousands of inhabitants. In visits to Central America in May and August of 1983, I witnessed first-hand the breakdown of justice in El Salvador, and when I returned I succeeded in getting the Congress to withhold 30% of our aid to that country until the guardsmen charged with the murder of the four churchwomen were tried. In addition, I have seen to it that $9 million in aid was earmarked for judicial reform in El Salvador so that the rule of law can begin to replace the reign of terror perpetrated by rampant illegal killings.

It is essential that we treat the displaced victims of the civil strife in Central America fairly and with compassion. I was an original cosponsor of legislation to halt the deportation of Salvadorans pending a study of the circumstances and condition of displaced Salvadorans in Central America and here in the U.S. I have cosponsored this legislation again in the 99th Congress.

I am also deeply concerned about the policy and procedures involved in the arrests of some 60 displaced aliens—mostly Salvadorans and Guatemalans—across the country earlier this year in an effort to crack down on the Sanctuary movement, and particularly about the arrest of a Guatemalan family in Philadelphia on January 14, 1985. I have written Secretary of State George Shultz and Immigration and Naturalization Commissioner Alan Nelson complaining about these arrests and the fundamental offensiveness of taking a Guatemalan mother and her three-year-old child into custody, as was done in Philadelphia.

I have also requested Senate hearings on the issues raised by the INS arrests, and Senator Simpson, Chairman of the Judiciary Subcommittee on Immigration and Refugee Policy, has agreed to schedule such hearings in the near future.

I met with the Guatemalan family arrested in Philadelphia in January—and, on the facts as represented to me, the father, Mr. Morelos, has a valid claim for asylum on the basis of a wellfounded fear of persecution based on his prior political activities and expressions of political opinions in Guatemala. Mr. Morelos' contention of torture was corroborated by scars which I personally observed on his body.

I am troubled by the applicable policies which, as I understand it, lead to only 0.4 percent of Guatemalan applications for asylum having been granted in 1984 and only 2.5 percent of the applications for asylum from Salvadorans having been granted in 1984. In light of the social unrest in those countries and the activism of many of their citizens, it strikes me as a shockingly low figure to have such a small number of applications for asylum granted.

On March 14, 1985, I questioned Elliott Abrams, Assistant Secretary of State for Human Rights and Humanitarian Affairs, about this remarkably low approval rate in 1984 for asylum applications filed by Salvadorans and Guatemalans, and whether it could reflect an appropriate application of a fair standard. Mr. Abrams suggested that a GAO study of the asylum process would be "a good idea."

I am attaching a list of specific areas the GAO report should cover. This kind of thorough analysis is long overdue.

If you have any questions, please contact me, or have your staff contact Suzanne Spaulding at 224-5863.

I appreciate your prompt consideration of this request.

Sincerely,

ARLEN SPECTER.

AREAS REPORT SHOULD COVER

Specifically, I request that the GAO report include the following information:

1. The standard and criteria being applied by INS in considering claims of asylum;

2. Whether the same standard and criteria is applied across the board of asylum applications regardless of the home country of the applicant; if not, please examine and report the differences and reasons for deviance;

3. Whether the approval rate for asylum applications generally and/or by country varies significantly from one INS district office to another, and the reasons for any such variation;

4. The standard and criteria applied by the State Department in recommending approval or denial of asylum applications;

5. Whether the same standard and criteria is applied by the State Department to all applications, regardless of the home country of the applicant, and is applied in the same manner, e.g., same requirements for corroboration and objectives evidence, same criteria for severity of threat, etc., and the nature of and reasons for divergence; and

6. Whether the same procedures are consistently followed within the State Department and the INS, respectively, when considering all asylum applications. If not, describe circumstances under which procedures vary and cite the nature of and reasons for divergence.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT—PM 180

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I hereby transmit for the information of the Congress the Twenty-first Annual Report of the Department of Housing and Urban Development, which covers calendar year 1985.

RONALD REAGAN.

THE WHITE HOUSE, *October 15, 1986.*

MESSAGES FROM THE HOUSE

At 3:15 p.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks, announced that the House has passed the bill (S. 2453) to designate the U.S. Post Office to be constructed in Barnwell, SC, as the "Solomon Blatt, Sr., Post Office Building," with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House recedes from its disagreement to the amendment of the Senate to the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act and to make technical improvements to the act; and agrees thereto, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes.".

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 4:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 209. An act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services on the case of indebtedness owed the United States;

S. 1895. An act for the relief of Marlboro County General Hospital Charity of Bennetsville, SC;

S. 2266. An act to establish a ski area permit system on national forest lands, and for other purposes;

S. 2506. An act to establish a Great Basin National Park in the State of Nevada, and for other purposes;

S. 2750. An act to establish a property tax fund for the Houlton Band of Maliseet Indians in furtherance of the Maine Indian Claims Settlement Act of 1980, and for other purposes;

H.R. 2032. An act entitled the Government Securities Act of 1986;

H.R. 2205. An act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war;

H.R. 2722. An act to amend title 13, United States Code, to eliminate the requirement relating to decennial census of drainage;

H.R. 2921. An act to authorize the Secretary of Agriculture to issue permanent easements for water conveyance systems in order to resolve title claims arising under acts repealed by the Federal Land Policy and Management Act of 1976, and for other purposes;

H.R. 3559. An act to amend the act establishing a Commission on the Bicentennial of the Constitution of the United States to clarify the status of employees of the Commission, to raise the limits of private contributions, and for other purposes;

H.R. 4116. An act to extend and improve the Domestic Volunteer Service Act of 1978;

H.R. 4354. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1987, and for other purposes;

H.R. 5299. An act to amend title 38, United States Code, to increase the rates of compensation and dependency and indemnity compensation for veterans and survivors, and to improve veterans' health-care, education, employment, housing, and national cemetery programs, and for other purposes;

H.R. 5626. An act to make technical corrections in the Federal Employees Retirement System Act of 1986, and for other purposes;

S.J. Res. 169. Joint resolution to commemorate the bicentennial anniversary of the first patent and the first copyright laws;

S.J. Res. 232. Joint resolution to designate October 6, 1986, through October 10, 1986, as "National Social Studies Week";

S.J. Res. 299. Joint resolution to designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week";

S.J. Res. 304. Joint resolution to designate the week of November 16, 1986, through November 22, 1986, as "National Arts Week";

S.J. Res. 306. Joint resolution to designate the week beginning November 23, 1986, as "National Adoption Week";

S.J. Res. 308. Joint resolution to designate March 25, 1987, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy";

S.J. Res. 311. Joint resolution to designate the week beginning November 9, 1986, as "National Women Veterans Recognition Week";

S.J. Res. 322. Joint resolution to designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor;

S.J. Res. 392. Joint resolution to designate the month of December 1986 as "Made in America Month";

S.J. Res. 396. Joint resolution to designate the week October 26, 1986, through November 1, 1986, as "National Adult Immunization Awareness Week";

S.J. Res. 410. Joint resolution to designate the period commencing February 9, 1987, and ending February 15, 1987, as "National Burn Awareness Week";

S.J. Res. 414. Joint resolution to designate March 16, 1987, as "Freedom of Information Day".

S.J. Res. 418. Joint resolution to designate February 4, 1987, as "National Women in Sports Day".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

At 7:50 p.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks, announced that the House has passed the following bill, without amendment:

S. 2351. An act to revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5056) to permit registered public utility holding companies to own certain interests in qualifying cogeneration facilities.

The message also announced that the House agrees to the amendments of the Senate to the following bills:

H.R. 4873. An act to authorize certain transfers affecting the Pueblo of Santa Ana in New Mexico; and

H.R. 5465. An act to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

The message further announced that the House has passed the bill (S. 2534) to authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument, SC, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 386) to confirm a conveyance of certain

real property by the Southern Pacific Transportation Co. to Ernest Pritchett and his wife, Dianna Pritchett, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 412. Concurrent resolution to make a correction in the enrollment of the bill S. 1200.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3857. A communication from the Secretary of State, transmitting, pursuant to law, a request that $50 million in emergency assistance for El Salvador be included in the continuing resolution for fiscal year 1987; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2314. A bill to amend the Newspaper Preservation Act (with additional views) (Rept. No. 99-539).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Noel Gross, of New Jersey, to be an Alternate Representative of the United States to the Forty-first Session of the General Assembly of the United Nations.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EVANS (for himself and Mr. DURENBERGER):

S. 2926. A bill to establish more uniform eligibility and benefit levels under the aid to families with dependent children program and the medicaid program, to provide for greater Federal financial responsibility for such programs, to enhance the employment prospects of recipients of aid to families with dependent children, to provide for a reduced Federal role with respect to certain activities, to provide transitional fiscal capacity grants to States, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 2927. A bill for the relief of the Homer Society of Natural History of Homer, Alaska; to the Committee on the Judiciary.

By Mrs. KASSEBAUM (for herself, Mr. LUGAR, Mr. PELL, Mr. DOLE, Mr. BOREN, Mr. DURENBERGER, Mr. DOMENICI, Mr. DODD, Mr. BIDEN, Mr. CRANSTON, Mr. SARBANES, Mr. KENNEDY, Mr. TRIBLE, Mr. HELMS, Mr. MURKOWSKI, Mr. CHAFEE, Mr. ABDNOR, Mr. KASTEN, Mr. LEAHY, Mr. KERRY, Mr. SASSER, Mr. LEVIN, Mr. NICKLES, Mr. WILSON, Mr. HEINZ, Mr. INOUYE, Mr. DECONCINI, Mr. BRADLEY, Mr. HARKIN, Mr. MATHIAS, Mr. NUNN, Mr. EVANS, Mr. BOSCHWITZ, Mr. MATTINGLY, Mr. BYRD, Mr. COCHRAN, Mr. SIMPSON, Mr. GARN, Mr. GORTON, Mr. PRESSLER, and Mr. HECHT):

S.J. Res. 427. Joint resolution reaffirming our friendship and sympathy with the people of El Salvador following the devastating earthquake of October 10, 1986; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for Mr. LEVIN (for himself and Mr. COHEN)):

S. Con. Res. 168. Concurrent resolution authorizing a technical correction to be made in the enrollment of the bill S. 2250; considered and agreed to.

By Mr. WILSON:

S. Con. Res. 169. Concurrent resolution saluting the tuna man for his contributions to the city of San Diego, the Nation, and the world; to the Committee on the Judiciary.

By Mr. CRANSTON:

S. Con. Res. 170. Concurrent resolution designating jazz as an American national treasure; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EVANS (for himself and Mr. DURENBERGER):

S. 2926. A bill to establish more uniform eligibility and benefit levels under the aid to families with dependent children program and the medicaid program, to provide for greater Federal financial responsibility for such programs, to enhance the employment prospects of recipients of aid to families with dependent children, to provide for a reduced Federal role with respect to certain activities, to provide transitional fiscal capacity grants to States, and for other purposes; to the Committee on Finance.

(The remarks of Mr. EVANS on this legislation appear earlier in today's RECORD.)

By Mr. MURKOWSKI:

S. 2927. A bill for the relief of the Homer Society of Natural History of Homer, AK; to the Committee on the Judiciary.

RELIEF OF HOMER SOCIETY OF NATURAL HISTORY

● Mr. MURKOWSKI. Mr. President, I am introducing a private relief bill to compensate the Homer Society of Natural History for the loss of a $100,000 check from the National Endowment for the Humanities (Endowment) that occurred as a result of an alleged violation of certain savings and loan insurance regulations through no fault of the society.

The society is a nonprofit membership corporation which operates the Pratt Museum in Homer, AK. The society and museum are devoted to the study and preservation of the natural and cultural history of the Katchemak Bay region of southcentral Alaska.

The society had three accounts with Peninsula Savings & Loan Association of Homer, AK. In its general account were the funds from various sources, including the city of Homer, designated for the maintenance and operation of Pratt Museum. The society's building fund account contained funds designated for the renovation and expansion of the museum. The third account contained a relatively small amount collected through a raffle.

On August 4, 1986, the society deposited a Treasury check for $100,000 that it had received from the endowment in its building fund account.

On August 8, 1986, the Director of the Division of Banking, Securities and Corporations of the Department of Commerce and Economic Development of the State of Alaska issued an order closing Peninsula. On that same day, the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation [FSLIC] as sole receiver for Peninsula.

On the day of default Peninsula's records indicated that the society had $212,879.98 invested in its accounts. The general account contained $89,231.53; the building fund account contained $122,522.07, including the $100,000 from the endowment; and the raffle account contained $1,126.38. On August 13, the FSLIC issued its initial insurance determination.

Based upon Peninsula's records, the FSLIC initially determined that the society had $212,879.98 invested in its three accounts on the date of default and that those funds were insured for a total of $100,000, leaving $112,879.98 uninsured.

To appeal FSLIC's initial insurance determination, the society must file a request for reconsideration by October 10, 1986. At the society's request, FSLIC has given it a 30 day extension for appeal until November 10, 1986. Under FSLIC's regulations a decision on the appeal could take as long as 300 days.

Mr. President, while the society pursues its legal remedies I have introduced legislation in the form of a pri-

vate relief bill to compensate the society for the loss of its $100,000 endowment money. The equities of the society's circumstance warrants this body's immediate attention of this bill.

Four days before Peninsula was closed, the society deposited its $100,000 endowment check into a separate building fund account at Peninsula. The society did so in good faith. Unbeknownst to the society, Peninsula was financially troubled at the time of deposit. The society was also unaware that the money would not be insured in case of default, despite the fact that it believed that each of their accounts were insured up to $100,000.

The $100,000 endowment was not fully insured due to FSLIC's determination that Peninsula violated certain alleged savings and loan account insurance requirements. The society is now left to argue on its own that their money was insured. To date it has spent approximately $10,000 in legal fees to recover their $100,000. The society may have to wait up to 1 year to find out where they stand in a very uncertain outcome.

If the society does not recover the $100,000, it may have to forfeit or forego other State of Alaska and endowment grant money already received for the renovation and expansion of the museum. Other money for the museum is hanging in the balance as the society has received over $600,000 from the community of Homer.

Mr. President, due to the timing of the society's deposit, the society's good faith, the loss of the society's money as a result of technical bankng regulations beyond the society's knowledge and control, the potential loss of other moneys for the museum, and the overwhelming support of the community of Homer for the museum, I respectfully offer a private relief bill for the society.●

ADDITIONAL COSPONSORS

S. 2454

At the request of Mr. MURKOWSKI, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2454, a bill to repeal section 1631 of the Department of Defense Authorization Act, 1985, relating to the liability of Government contractors for injuries or losses of property arising out of certain atomic weapons testing programs, and for other purposes.

S. 2651

At the request of Mr. DECONCINI the name of the Senator from Missouri [Mr. EAGLETON] was added as a cosponsor of S. 2651, a bill to reduce Federal liability for the relocation of certain Navajo Indians through the exchange of certain lands between the Hopi and Navajo Indian Tribes, and for other purposes.

S. 2770

At the request of Mr. COCHRAN, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of S. 2770, a bill to amend the Farm Credit Act of 1971 to provide the opportunity for competitive interest rates for the farmer, rancher, and cooperative borrowers of the Farm Credit System, and for other purposes.

S. 2909

At the request of Mr. D'AMATO the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2909, a bill to provide for adherence with the MacBride Principles by U.S. persons doing business in Northern Ireland.

SENATE JOINT RESOLUTION 112

At the request of Mr. PELL, the names of the Senator from West Virginia [Mr. BYRD], the Senator from North Carolina [Mr. BROYHILL], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 112, a joint resolution to authorize and request the President to call a White House Confenece on Library and Information Services to be held not later than 1989, and for other purposes.

AMENDMENT NO. 3284

At the request of Mr. LONG, the names of the Senator from West Virginia [Mr. BYRD] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of amendment No. 3284 intended to be proposed to H.R. 5484, a bill to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes.

SENATE CONCURRENT RESOLUTION 168—AUTHORIZING A TECHNICAL CORRECTION IN THE ENROLLMENT OF S. 2250

Mr. BYRD (for Mr. LEVIN, for himself, and Mr. COHEN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 168

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 2250) to prohibit kickbacks relating to subcontracts under Federal Government contracts, the Clerk of the Senate shall make the following correction:

In the first sentence of section 5(a)(2) of the Anti-Kickback Act of 1986 (as it appears in section 2(a) of the bill), insert "employee," between "whose" and "subcontractor".

SENATE CONCURRENT RESOLUTION 169—SALUTING THE TUNA INDUSTRY

Mr. WILSON submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 169

Whereas the tuna fishing industry is inextricably tied to the economic, cultural, and historical development to the City of San Diego;

Whereas through the ingenuity and tenacity of the tuna man, technological innovations which revolutionized the fishing industry were developed, applied, and perfected;

Whereas through perseverance and mastery, the tuna man built an industry without parallel, an industry which at its height represented the state of the art in tuna fishing, shipping, canning, and marketing;

Whereas their skill and dedication led the San Diego tuna fishermen to become the most efficient and productive in the world;

Whereas the tuna fleet played a significant role in supply and reconnaissance missions in the Pacific Ocean during World War II, sacrificing many lives and vessels;

Whereas many tuna men gave their lives while performing their duties and advancing the tuna industry; and

Whereas Captain Anthony Mascaranhas had the vision and will to conceive, finance, and commission the sculpting of a noble memorial to honor the men of the tuna industry, a memorial to be dedicated on October 26, 1986: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the people of the United States salute, honor, and remember the tuna man for his innumerable and priceless contributions to the City of San Diego, the Nation, and the world.

SENATE CONCURRENT RESOLUTION 170—DESIGNATING JAZZ AS AN AMERICAN NATIONAL TREASURE

Mr. CRANSTON submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 170

Whereas jazz has achieved preeminence throughout the world as an indigenous American music and art form, bringing to this country and the world a uniquely American musical synthesis and culture through the African-American experience;

Makes evident to the world an outstanding artistic model of individual expression and democratic cooperation within the creative process, thus fulfilling the highest ideals and aspirations of our Republic;

Is a unifying force, bridging cultural, religious, ethnic and age differences in our diverse society;

Is a true music of the people, finding its inspiration in the cultures and most personal experiences of the diverse peoples that constitute our Nation;

Has evolved into a multifaceted art form which continues to birth and nurture new stylistic idioms and cultural fusions;

Has had a historic, pervasive, and continuing influence on other genres of music both here and abroad; and

Has become a true international language adopted by musicians around the world as a music best able to express contemporary realities from a personal perspective;

Whereas this great American musical art form has not yet been properly recognized nor accorded the institutional status commensurate with its value and importance;

Whereas it is important for the youth of America to recognize and understand jazz as a significant part of their cultural and intellectual heritage;

Whereas inasmuch as there exists no effective national infrastructure to support and preserve jazz;

Whereas documentation and archival support required by such a great art form has yet to be systematically applied to the jazz field; and

Whereas it is in the best interest of the national welfare and all of our citizens to preserve and celebrate this unique art form: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that jazz is hereby designated as a rare and valuable national American treasure to which we should devote our attention, support and resources to make certain it is preserved, understood and promulgated.

Mr. CRANSTON. Mr. President, today I submit Senate Concurrent Resolution 170, proclaiming jazz as an American national treasure. An identical measure in the House is sponsored by Hon. JOHN CONYERS, JR.

If there is anything more American than apple pie, it's jazz. The qualities of jazz as an art form mirror the qualities of the American Nation—improvisation, cultural fusion. It soars with the wondrous freedom of the human spirit. Yet ironically, jazz is a product of an era of human bondage in this country, when the chants and tribal rhythms of a distant homeland became the field hollers and gospel music of American slaves.

The first thread of jazz in the fabric of American music appeared at the turn of the 20th century, as ragtime. Scott Joplin, and others, linked the classic musical tradition of Europe with African rhythms. In the late twenties Louis Armstrong and Earl Hines nursed the fledgling ragtime into the serious art form that came to be known as jazz. The uniqueness of the new form stemmed from improvisation, and the musical magic created by an individual differing from—but yet supported by and, in fact, enriching—the musical group.

Over the years, jazz has become universal, influencing musical traditions everywhere. Appreciation of this unique American contribution has flourished throughout the world, and especially in Europe. Jazz has made a considerable mark behind the Iron Curtain, as well. Yet many Americans, especially the young, would be hard put to recognize significant jazz artists and their compositions.

Through the concurrent resolution I submit today, we can begin to spotlight the rich and vibrant gift that American jazz has made to world music. We can begin, through this modest congressional action, to encourage public and private support for jazz artists and nonprofit jazz organizations. We can begin, also, to celebrate the towering American figures—most of them black Americans—whose inspiration and artistry brought forth a glorious new language of the human heart and soul.

AMENDMENTS SUBMITTED

ANTI-DRUG ABUSE ACT OF 1986

EVANS AMENDMENT NO. 3346

(Ordered to lie on the table.)

Mr. EVANS submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, as follows:

Subsection (n) of section 408 of the Controlled Substances Act as added by section 1951(b) of the Senate amendment as modified, is amended by inserting "or the victim" after "or sex of the defendant" each place it appears.

DOMENICI AMENDMENT NO. 3347

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

In the amendment, strike section 1152 and insert in lieu thereof the following:

SEC. 1152. ASSET FORFEITURE FUNDS.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Subsection (c) of section 524 of title 28, United States Code, is amended—

(1) by inserting at the end of subparagraph (A) of paragraph (1) the following: "such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;";

(2) by inserting after subparagraph (A) of paragraph (1) the following new subparagraph and renumbering the subsequent subparagraphs appropriately;

"(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;";

(3) by amending newly designated subparagraph (F) of paragraph (1) to read as follows:

"(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service; and";

(4) by striking out in paragraph (4) "remaining after payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))";

(5) by striking out paragraph (8) and renumbering paragraph (9) as paragraph (8); and

(6) by adding at the end of the subsection the following new paragraph:

"(9)(A) If any funds deposited in the Department of Justice Assets Forfeiture Fund or the Customs Forfeiture Fund (19 U.S.C. 1613a, 1613b) are not expended or obligated prior to thirty days after the end of the fiscal year, 90 percent of such funds (not to exceed amounts specified in appropriation Acts) shall be transferred into a Special Forfeiture Fund.

"(B) The funds in the Special Forfeiture Fund shall be disbursed (not to exceed amounts specified in appropriation Acts) during the fiscal year in which they are transferred into the Special Fund, by the Attorney General, after consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Education, to enhance the following efforts:

"(i) Federal drug law enforcement agencies and programs;

"(ii) Federal drug abuse agencies and programs relating to drug abuse education, prevention, treatment, rehabilitation, and research;

"(iii) State, local, and nonprofit agencies with drug abuse responsibilities; and

"(iv) State and local law enforcement agencies for drug law enforcement efforts, under subtitle M of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3721 et seq.).

"(C) Funds disbursed from the Special Forfeiture Fund shall not be used to supplant existing funds, but shall be used to supplement funds that are otherwise available.

"(D) The Attorney General shall report annually to the Congress on all disbursements made under the authority of subparagraph (B).".

(b) CUSTOMS FORFEITURE FUND.—

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98-473, is amended—

(A) by amending paragraph (3) of subsection (a) to read as follows:

"(3) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and"; and

(B) by striking out subsection (h).

(2) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) as added by Public Law 98-573, is repealed.

WILSON AMENDMENT NO. 3348

(Ordered to lie on the table.)

Mr. WILSON submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

In Amendment No. 3275, as modified, strike out section 1152 and insert in lieu thereof the following:

SEC. 1152. ASSET FORFEITURE FUNDS

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Subsection (c) of section 524 of title 28, United States Code, is amended—

(1) in paragraph (1) before subparagraph (A) by inserting "Trust" after "Forfeiture";

(2) by inserting at the end of subparagraph (A) of paragraph (1) the following: "such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than ninety percent of which use will be program related), training, printing, contracting for services directly related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;";

(3) by inserting after subparagraph (A) of paragraph (1) the following new subparagraph and renumbering the subsequent subparagraphs appropriately:

"(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States.

(4) by amending newly designated subparagraph (F) of paragraph (1) to read as follows:

"(F) for equipping for drug law enforcement functions any government owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service; and";

(5) by striking out in paragraph (4) "remaining after payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))"; and

(6) by amending subparagraph (8) to read as follows:

"(8) Such sums are authorized to be appropriated from the fund as may be necessary for the purposes described in paragraph (1). Any sums remaining in the fund at the end of the fiscal year shall remain in the fund and available to be appropriated.".

(b) CUSTOMS FORFEITURE FUND.—

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98-473, is amended—

(A) in subsection (a) before paragraph (1) by striking out "for the United States Customs Service that shall be entitled the 'Customs Forfeiture Fund'" and inserting in lieu thereof "to be known as the 'United States Customs Service Assets Forfeiture Trust Fund'";

(B) by amending paragraph (3) of subsection (a) to read as follows:

"(3) for equipping for law enforcement functions any government owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and"; and

(C) by amending subsection (h) to read as follows:

"(8) Such sums are authorized to be appropriated from the fund as may be necessary for the purposes described in subsection (a). Any sums remaining in the fund at the end of the fiscal year shall remain in the fund and available to be appropriated.".

(2) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) as added by Public Law 98-573, is repealed.

LEVIN AMENDMENT NOS. 3349 THROUGH 3368

(Ordered to lie on the table.)

Mr. LEVIN submitted 20 amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3349

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

Page 171, lines 12 and 13, strike "A finding of any aggravating or mitigating factor by a jury shall be made by unanimous vote." and insert in lieu thereof the following:

"A finding of any aggravating factor by a jury shall be made by unanimous vote, and a finding of any mitigating factor by a jury shall be made by a majority vote."

AMENDMENT No. 3350

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

Page 172, line 15, insert after "." the following:

"The defendant was youthful, although not under the age of eighteen"

AMENDMENT No. 3351

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

Page 172, at line 7 after the word "death" insert:

"Provided that a sentence of death shall not be imposed upon an individual who is unable to understand his impending execution or the reason for it."

AMENDMENT No. 3352

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

On page 170, line 12, strike "substantially".

AMENDMENT No. 3353

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

Amendment to paragraph (m) 173: Strike lines 12, 13 and 14.

Insert the following: "only the following aggravating factors shall be considered:"

AMENDMENT No. 3354

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

Page 167, strike lines 14 through 16, and insert in lieu thereof the following: "intentionally killed any other individual, intentionally inflicted serious bodily injury which resulted in the death of any other individual; or intentionally engaged in conduct intending that any other individual be killed or that lethal force be employed against any other individual, which resulted in the death of such individual, the individual so engaging in conduct during the course of a continuing criminal enterprise shall be subject to the death penalty in accordance with this section."

AMENDMENT No. 3355

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

On page 173, after line 9, insert the following new section:

(6) The defendant had not previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

AMENDMENT No. 3356

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

On page 173, after line 9, insert the following new section:

(6) The defendant had not previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

AMENDMENT No. 3357

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

On page 173, after line 9, insert the following new section:

(6) The defendant had not previously been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

AMENDMENT No. 3358

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

On page 174, after line 5, strike "one" and insert in lieu thereof the following "two"

AMENDMENT No. 3359

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

On page 174, after line 11, strike "one" and insert in lieu thereof the following "two"

AMENDMENT No. 3360

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

Beginning on page 173, strike line 23 through line 2 on page 174.

AMENDMENT No. 3361

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

On page 174, strike lines 3 through 8.

AMENDMENT No. 3362

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

On page 174, strike lines 3 through 13.

AMENDMENT No. 3363

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

On page 174, strike lines 9 through 13.

AMENDMENT No. 3364

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

On page 168, line 10, strike "." and insert in lieu thereof "; and

"(C) describing any evidence in the possession of the government which could be used by the defendant to support any or all of the mitigating factors set forth in subsection (m.)"

AMENDMENT No. 3365

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

On Page 175, strike lines 20 through 24 and insert in lieu thereof

"creed, or sex of the defendant or the victim. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed or sex of the defendant or the victim was not involved in reaching his or her individual decision."

AMENDMENT No. 3366

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

Page 172, strike line 4 through line 9 and insert in lieu thereof the following:

"finding as to whether a sentence of death and/or of life imprisonment without the possibility of parole is justified. The jury, or if there is no jury, the court, shall return a finding as to whether a sentence of death is equally as justified as a sentence of life imprisonment.

'Imposition of Sentence'

(k) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death, provided, however, that upon a finding that life imprisonment without the possibility of parole is equally as justified as a sentence of death, the court shall sentence the defendant to life imprisonment without the possibility of parole. Otherwise the court shall impose a sentence, other than death or life imprisonment with the possibility of parole, as authorized by law."

AMENDMENT No. 3367

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

Page 168 after line 10 insert:

"(C) The Government shall also notify the defendant of the evidence it intends to introduce in support of each aggravating factor."

AMENDMENT No. 3368

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

On page 170, line 4, strike "." and insert in lieu thereof the following:

"which have been identified by the government as required in subsection (g)."

DOLE AMENDMENT NOS. 3369 THROUGH 3377

(Ordered to lie on the table.)

Mr. DOLE submitted nine amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3369

Strike out section 5052 of the amendment.

AMENDMENT No. 3370

Strike out section 3451 of the amendment.

AMENDMENT No. 3471

Strike out section 4031 of the amendment.

AMENDMENT No. 3472

Strike out section 3142 of the amendment.

AMENDMENT No. 3373

Strike out title X of the amendment.

AMENDMENT No. 3474

Strike out subtitle T of title I of the amendment.

AMENDMENT No. 3375

Strike out subtitle K of title I of the amendment.

AMENDMENT No. 3376

Section 1552(c)(1)(c) of the amendment is amended by striking the proposed paragraph (6) and inserting in lieu thereof the following:

"(6) There are authorized to be appropriated $115,000,000 for fiscal year 1987, $115,000,000 for fiscal year 1988; and $115,000,000 for fiscal year 1989, to carry out the programs under part M of this title."

AMENDMENT No. 3377

Section 3141(b)(1)(c) of the amendment is amended by striking $171,050,000 and inserting in lieu thereof the following: "$85,545,000."

Section 3141(b)(1)(c)(i) of the amendment is amended by striking "$93,500,000" and inserting in lieu thereof the following: "$47,750,000."

THURMOND (AND OTHERS) AMENDMENT NO. 3378

(Ordered to lie on the table)

Mr. THURMOND (for himself, Mr. HATCH, Mr. MATTINGLY, Mr. GRAMM, and Mr. DENTON) submitted an amendment intended to be proposed by them to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

On page 167, of the amendment line 1, strike all through page 177, line 8; and insert in lieu thereof the following:

That title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.

'3591. Sentence of death.

"3592. Factors to be considered in determining whether a sentence of death is justified.

"3593. Special hearing to determine whether a sentence of death is justified.

"3594. Imposition of a sentence of death.

"3595. Review of a sentence of death.

"3596. Implementation of a sentence of death.

"3597. Use of state facilities.

"3591. Sentence of death.

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim; or

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than eighteen years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any exist:

"(1) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute only a defense to prosecution;

"(2) the defendant was under unusal and substantial duress, although not such duress as would constitute a defense to prosecution; and

"(3) the defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court shall consider whether any other mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism; or

"(9) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

"(10) the violation of Section 848 of Title 21 of the United States Code in relation to which the conduct described in Section 848(c) occurred was a violation of sections 405, 405A, or 405B of the Controlled Substance Act.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of Rule 32(e) of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The attorney for the government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under section 3592. The jury must find the existence of a mitigating or aggravating factor by a unanimous vote, although it is necessary that there be a unanimous vote

on any specific mitigating or aggravating factor if a majority of the jury finds the existence of such a specific factor.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591(b) or

(c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentenced is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.

"§ 3597. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.";

(b) by repealing sections 3566 and 3567;

(c) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591";

and

(d) in the section analysis of chapter 227, by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 2. Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 3. Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

SEC. 4. Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 5. Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 6. Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 7. The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 8. Section 1116(a) of title 18 of the United States Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. 9. Chapter 51 of title 18 of the United States Code is amended—

(a) by adding at the end thereof the following:

"§ 118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death;

"(3) 'murders' means committing first degree or second degree murder as defined by section 1111 of this title."; and

(b) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

SEC. 10. Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 11. The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 12. Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 13. The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 14. Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

SEC. 15. Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the ver-

dict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

SEC. 16. Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 17. The provisions of chapter 228 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

"SECTION 18. Subsection (a) of Section 1203 of title 18 of the United States Code is amended by striking '.' and inserting in lieu thereof: 'and, if the death of any person results, shall be punished by death or life imprisonment.'."

SEC. 19. Amend Section 408 of the Controlled Substances Act (21 U.S.C. 848) by adding the following:

"If an individual intentionally engages in conduct during the course of a continuing criminal enterprise and thereby knowingly causes the death of any other individual, the individual so engaging shall be subject to the death penalty in accordance with this section.".

DOLE (AND OTHERS) AMENDMENT NO. 3379

(Ordered to lie on the table.)

Mr. DOLE (for himself, Mr. THURMOND, Mr. HATCH, Mr. MATTINGLY, Mr. GRAMM, and Mr. DENTON) submitted an amendment to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra; as follows:

On page 167 of the amendment, line 1, strike "all through", page 177, line 8 and insert in lieu thereof the following:

That title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of state facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim; or

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than eighteen years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(2) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; and

"(3) the defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court, shall consider whether any other mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism; or

"(9) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

"(10) the violation of Section 848 of Title 21 of the United States Code in relation to which the conduct described in Section 848(c) occurred was a violation of sections 405, 405A, or 405B of the Controlled Substances Act.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the of-

fense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or an other judge if that is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall prepared by the United States Probation Service, notwithstanding the provisions of Rule 32(e) of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury the determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury implaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigation factor, and as to the appropriateness in the case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The attorney for the government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under section 3592. The jury must find the existence of a mitigating or aggravating factor by a unanimous vote, although it is unnecessary that there be a unanimous vote on any specific mitigating or aggravating factor if a majority of the jury finds the existence of such a specific factor.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) Review.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section

3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.

"§ 3597. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.";

(b) by repealing sections 3566 and 3567;

(c) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591";

and

(d) in the section analysis of chapter 227, by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 2. Section 34 of title 18 of the United States Code is amended by changing the

comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 3. Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

SEC. 4. Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 5. Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 6. Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 7. The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 8. Section 1116(a) of title 18 of the United States Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. 9. Chapter 51 of title 18 of the United States Code is amended—

(a) by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death;

"(3) 'murders' means committing first degree or second degree murder as defined by section 1111 of this title."; and

(b) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

SEC. 10. Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 11. The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the word "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 12. Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 13. The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 14. Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

SEC. 15. Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

SEC. 16. Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1743), is amended by striking subsection (c).

SEC. 17. The provisions of chapter 228 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 18. Subsection (a) of Section 1203 of title 18 of the United States Code is amended by striking "." and inserting in lieu thereof: "and, if the death of any person results, shall be punished by death or life imprisonment.".

SEC. 19. Amend Section 408 of the Controlled Substances Act (21 U.S.C. 848) by adding the following:

"If an individual intentionally engages in conduct during the course of a continuing criminal enterprise and thereby knowingly causes the death of any other individual, the individual so engaging shall be subject to the death penalty in accordance with this section.".

MATHIAS AMENDMENT NOS. 3380 THROUGH 3383

(Ordered to lie on the table.)

Mr. MATHIAS submitted four amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3380

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

In subsection (p)(3), subparagraph (A), after "factor", insert: "or error of law or abuse of discretion".

AMENDMENT No. 3381

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

In subsection (p)(2), strike the period, and add "regardless of whether any alleged error therein was noted at trial."

AMENDMENT No. 3382

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

In subsection (p)(1), strike the last sentence.

AMENDMENT No. 3383

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

In subsection (p)(1), strike "subject to review," and insert "reviewed", and strike the second sentence.

SIMON AMENDMENT NOS. 3384 and 3385

(Ordered to lie on the table.)

Mr. SIMON submitted two amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3384

On page 177 between lines 4 and 5 insert the following:

"For the purposes of this act, the sentence of death shall not be implemented by hanging. In the event that hanging is the method used in the State in which the sentence is imposed, the court shall designate another State, the law of which does not use hanging."

AMENDMENT No. 3385

On page 177 between lines 4 and 5 insert the following:

"For the purposes of this act, the death sentence shall not be implemented by firing squad. In the event that firing squad is the only method used in the State in which the sentence is imposed, the court shall designate another State, the law of which does not use a firing squad."

MATHIAS AMENDMENT NO. 3386

(Ordered to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

Subsection (m) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified, is amended by inserting "the defendant knew" after "while" in the first sentence in paragraph (10).

DOLE AMENDMENT NOS. 3387 THROUGH 3396

(Ordered to lie on the table.)

Mr. DOLE submitted 10 amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3387

Strike out section 4111(a) and insert in lieu thereof the following:

(a) For the purpose of carrying out this subtitle, there are authorized to be appropriated $100,000,000 for fiscal year 1987.

AMENDMENT No. 3388

Strike out section 4219(a)(2) and 4216(b)(2).

AMENDMENT No. 3389

Strike out section 4229(c).

AMENDMENT No. 3390

Strike out section 4301(c) and insert in lieu thereof the following: "(c) There is to be authorized to be appropriated to carry out programs under Part C of Title I of this Act $10,000,000 for the fiscal year 1987.

AMENDMENT No. 3391

Strike out section 4227(b).

AMENDMENT No. 3392

Strike out section 4218(b).

AMENDMENT No. 3393

Strike out section 4023.

AMENDMENT No. 3394

Sec. . Subsection 505(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)) is amended by adding at the end thereof the following new paragraph:

(4) For the purposes of this section, approval means written notification to an applicant that a new drug meets all prerequisites under this section for immediate introduction into interstate commerce for commercial sale. A notification authorizing the introduction into interstate commerce for commercial sale only after further conditions under this section are met does not constitute approval, until such time as all conditions are satisfied. For the purpose of this subsection, a requirement that the applicant submit prior to the marketing of the new drug labeling for a new drug that conforms with the terms of a notification is a further condition the satisfaction of which occurs only when such labeling is submitted by the applicant and approved by the Secretary.

AMENDMENT No. 3395

Section 1552(c)(1)(C) of the amendment is amended by striking the proposed paragraph (6) and inserting in lieu thereof the following:

"(6) There are authorized to be appropriated $230,000,000 for fiscal year 1987, $230,000,000 for fiscal year 1988, and $230,000,000 for fiscal year 1989, to carry out the programs under part M of this title."

Strike out subsection (d) of section 3053 of the amendment as modified.

Section 3401(c)(2) of the amendment is amended in the quoted matter by striking "such aircraff" and inserting "such aircraft".

After the heading for subtitle H of title III, insert the following:

SEC. 3421. ADDITIONAL FUNDS FOR THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for fiscal year 1987, in addition to any other amounts authorized to be appropriated to the Department for such fiscal year, $7,000,000 for helicopters with forward looking infrared radiation detection devices for drug interdiction operations in Hawaii.

SUBTITLE I—FEDERAL COMMUNICATIONS COMMISSION

Section 3451 of the amendment is amended—

(1) in the first sentence by striking "shall revoke any license" and inserting "may revoke any private operator's license"; and

(2) in the second sentence by striking "shall" and inserting "may".

After section 3451, add the following:

TITLE IV—DEMAND REDUCTION

Section 12003(4) of the amendment is amended by striking "self-proposed" and inserting "self-propelled".

Section 12006(2) of the amendment is amended by striking "section 12005" and inserting "section 12004".

Section 12007 of the amendment is amended—

(1) in subsection (a)(1) by striking "section 6 of this Act" and inserting "section 12006 of this title";

(2) by striking paragraph (8) of subsection (a);

(3) in subsection (b)(1) by striking "Act" and inserting "title"; and

(4) in subsection (b)(5)(D) by striking "section 1 of this Act" and inserting "section 12006 of this title".

Section 12014 of the amendment is amended by inserting "and" after the semicolon in clause (2).

Strike out title 13 of the amendment.

In the table of contents of the amendment, strike the items for title 9 and title 13.

AMENDMENT No. 3396

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by Subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows.

On page 173, strike line 23 and insert in lieu thereof the following:

"(2) The defendant has previously been convicted of another"

SIMON AMENDMENT NOS. 3397 AND 3398

(Ordered to lie on the table.)

Mr. SIMON submitted two amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill, H.R. 5484, supra, as follows:

AMENDMENT No. 3397

On page 177 of the amendment between lines 4 and 5 insert the following:

"For the purposes of this act, the death sentence shall not be implemented by firing squad. Authority shall not be available for execution by firing squad until the state provides for transfer of prisoners so sentenced to a jurisdiction where alternative execution methods are available.

AMENDMENT No. 3398

On page 177 of the amendment between lines 4 and 5 insert the following:

"For the purposes of this act, the sentence of death shall not be implemented by hanging. Authority shall not be available for execution by hanging until the state authority provides for transfer of prisoners so sentenced to a jurisdiction where alternative execution methods are available.

DOLE (AND DURENBERGER) AMENDMENT NO. 3399

(Ordered to lie on the table.)

Mr. DOLE (for himself and Mr. DURENBERGER) submitted an amendment intended to be proposed by them to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484 supra; as follows:

Delete section 2016 of the amendment.

Mr. DOLE. Mr. President, the effect of my amendment would be to delete section 2016 of the Senate amendment. This section pertains to intelligence support to combating the drug problem. In particular, this section would have directed the Director of Central Intelligence to make support to anti-drug efforts a "Level One" priority in his national intelligence strategy. This section would also have required the DCI to improve the collection of drug-related intelligence to the level necessary to meet the reporting requirements of section 481(e) of the Foreign Assistance Act of 1961, which requires drug production data for each country which is a major producer of illicit drugs.

In introducing this amendment, Mr. President, I would like to engage my colleague from Minnesota, Senator DURENBERGER, the chairman of the Select Committee on Intelligence, in a short colloquy.

First, Mr. President, I would ask the Senator from Minnesota to explain the function of the national intelligence strategy.

Mr. DURENBERGER. I am happy to respond to the Senator from Kansas.

The national intelligence strategy is a document the Director of Central Intelligence provides to the Intelligence Committees at the time he presents his annual budget request. The strategy outlines the DCI's vision for U.S. intelligence. That is, in the strategy the DCI lists the missions that he has assumed for the intelligence community, the priority he assigns to each of these missions, and his plan for carrying them out.

Mr. DOLE. I would assume that gathering intelligence that is necessary to combat the importation of illicit drugs is one of these missions. Is that correct?

Mr. DURENBERGER. Yes; indeed it is. Bill Casey specifically identified combating the importation of narcotics as one of his chief missions.

Mr. DOLE. As chairman of the Select Committee on Intelligence, what is your view of the priority assigned to this mission?

Mr. DURENBERGER. The DCI has already assigned the systems necessary to provide the intelligence needed for combating the drug trade his highest priority. Of course, we cannot go

into the details in open session, but this information can be made available to the Members

Generally, though, the select committee has preferred not to give the Director of Central Intelligence specific instructions on how to task national intelligence systems. The DCI is better equipped to evaluate and staff the details of these operations, subject to oversight by the intelligence committees and direction through their classified reports on the annual Intelligence Authorization Act.

Mr. DOLE. This would not, I assume, preclude the select committee from seeing to it that the provisions of section 481(e) of the Foreign Assistance Act are carried out. Am I correct?

Mr. DURENBERGER. Yes. The select committee fully expects the DCI to meet these requirements, and that, if these requirements are not being met now, Mr. Casey will take the necessary steps to ensure that they are in the future. We believe, therefore, that a specific directive is not needed at this time.

Mr. DOLE. I would thank my colleague from Minnesota for that clarification and trust that the select committee will monitor this situation in the future.

Mr. DURENBERGER. I am certain the committee will actively oversee this area of intelligence activities in the future.

Mr. DOLE. Thank you.

DANFORTH AMENDMENT NO. 3400

(Ordered to lie on the table.)

Mr. DANFORTH submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

In section 12004(a) of the amendment:

(1) strike "and" at the end of paragraph (9);

(2) strike the period at the end of paragraph (10) and insert in lieu thereof a semicolon; and

(3) add immediately after paragraph (10) the following:

(11) establish requirements for the disqualification of any person operating a commercial motor vehicle for a period of not less than 60 days who, in a 3-year period, is found to have committed two serious traffic violations, involving a commercial motor vehicle operated by such person; and

(12) establish requirements for the disqualification of any person operating a commercial motor vehicle for a period of not less than 120 days who, in a 3-year period, is found to have committed three serious traffic violations involving a commercial motor vehicle operated by such person.

DOLE AMENDMENT NO. 3401

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

Strike out subtitle U of title I of the amendment.

INTEREST ON OVERDUE FEDERAL PAYMENTS

ROTH AMENDMENT NO. 3402

Mr. CHAFEE (for Mr. ROTH) proposed an amendment to the bill (S. 2479) to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes, as follows:

On page 12, line 6, insert ", except section 3905 of this title," after "chapter".

On page 12, line 9, strike out "as" and all that follows through "manual" on line 10.

On page 12, line 25, strike out "1988" and insert in lieu thereof "1989".

On page 13, line 14, strike out "and".

On page 13, line 16, strike out "15" and all that follows through line 17, and insert in lieu thereof "10 days after the date on which such payment is made; and".

On page 13, between lines 17 and 18, insert the following:

"(D) makes a written demand, not later that 40 days after the date on which such payment is made, that the agency pay such a penalty,

On page 16, line 8, strike out "agency;" and insert in lieu thereof "agency for work performed by the subcontractor under that contract;".

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN FISHERIES ACTIVITIES

DANFORTH AMENDMENT NO. 3403

Mr. CHAFEE (for Mr. DANFORTH) proposed an amendment to the amendments of the House to the bill (S. 991) to provide authorization of appropriations for certain fisheries activities as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

TITLE I—FISHERIES CONSERVATION AND MANAGEMENT

SEC. 101. UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES WITHIN THE EXCLUSIVE ECONOMIC ZONE.

(a) DEFINITION OF EXCLUSIVE ECONOMIC ZONE.—Section 3 of the Magnuson Fishery Conservation and Management Act (hereinafter in this title referred to as the "Act") (16 U.S.C 1802) is amended—

(1) by striking out paragraph (8);

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting immediately after paragraph (5) the following new paragraph:

"(6) The term 'exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.".

(b) AUTHORITY REGARDING EXCLUSIVE ECONOMIC ZONE.—Title I of the Act (16 U.S.C. 1811-1813) is amended to read as follows:

"TITLE I—UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES

"SEC. 101. UNITED STATES SOVEREIGN RIGHTS TO FISH AND FISHERY MANAGEMENT AUTHORITY.

"(a) IN THE EXCLUSIVE ECONOMIC ZONE.—Except as provided in section 102, the United States claims, and will exercise in the manner provided for in this Act, sovereign rights and exclusive fishery management authority over all fish, and all Continental Shelf fishery resources, within the exclusive economic zone.

"(b) BEYOND THE EXCLUSIVE ECONOMIC ZONE.—The United States claims, and will exercise in the manner provided for in this Act, exclusive fishery management authority over the following:

"(1) All anadromous species throughout the migratory range of each such species beyond the exclusive economic zone; except that that management authority does not extend to any such species during the time they are found within any foreign nation's territorial sea or exclusive economic zone (or the equivalent), to the extent that that sea or zone is recognized by the United States.

"(2) All Continental Shelf fishery resources beyond the exclusive economic zone.

"SEC. 102. EXCLUSION FOR HIGHLY MIGRATORY SPECIES.

"The sovereign rights and exclusive fishery management authority asserted by the United States under section 101 over fish do not include, and may not be construed to extend to, highly migratory species of fish.".

(c) CONFORMING AMENDMENTS.—The Act is amended—

(1) by amending section 2—

(A) by amending paragraph (1) of subsection (b) to read as follows:

"(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish except highly migratory species, within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources;"; and

(B) by amending paragraph (5) of subsection (c) to read as follows:

"(5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources.";

(2) by striking out "fishery conservation zone" each place it appears therein and inserting "exclusive economic zone"; and

(3) by amending the entry for title I in the table of contents to read as follows:

"TITLE I—UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES

"Sec. 101. United States sovereign rights to fish and fishery management authority.

"Sec. 102. Exclusion for highly migratory species.".

SEC. 102. FOREIGN FISHING PERMITS.

Section 204(b) of the Act (16 U.S.C. 1824(b)) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "No permit issued under this section may be valid for longer than a year; and section 558(c) of title 5, United States Code, does not apply to the renewal of any such permit.";

(2) by striking out ", upon its request" in paragraph (4)(C);

(3) by amending paragraph (6) by inserting ", or he may disapprove all or any portion of the application" immediately before the period at the end of subparagraph (A); and

(4) by amending paragraph (12) to read as follows:

"(12) SANCTIONS.—(A) If any foreign fishing vessel has been used in the commission of any act prohibited by section 307, or if the owner or operator of the vessel has committed such an act, the Secretary may, or if any civil penalty imposed under section 308 or any criminal fine imposed under section 309 has not been paid and is overdue, the Secretary shall—

"(i) revoke such permit, if any, issued for the vessel under this subsection, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

"(ii) suspend such permit for the period of time deemed appropriate;

"(iii) deny a permit under this subsection to the vessel; or

"(iv) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under that application.

Any permit which is suspended under this subparagraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

"(B) The Secretary may temporarily deny or suspend the permit of any foreign fishing vessel pending the outcome of any administrative proceeding respecting a violation of section 307 of this Act if the Secretary determines that—

"(i) based upon information available to the Secretary, there are reasonable grounds to believe that the vessel has been used in the commission of such violation;

"(ii) immediate suspension of fishing privileges would serve the purposes of this Act; and

"(iii) either—

"(I) the violation presents a serious threat to the public interest,

"(II) the violation presents a serious threat to the achievement of any purpose or policy of this Act, or

"(III) the owner or operator of the vessel has been involved in a prior violation of this Act.

In applying this subparagraph—

"(I) the Secretary must notify the vessel owner of the proposed denial or suspension and give the owner a reasonable opportunity, not longer than 10 days from service of notice, to respond in writing or otherwise;

"(II) if a permit is denied or suspended under this subparagraph, any administrative proceeding respecting the violation at issue must be held as promptly as possible; and

"(III) if another permit application is pending for such vessel on or after the date of the violation, the Secretary need not act on that application before deciding whether or not to deny or suspend temporarily a permit under this subparagraph.".

SEC. 103. HEALTH AND SAFETY STANDARDS FOR FOREIGN FISHING VESSELS.

(a) STANDARDS FOR UNITED STATES OBSERVERS.—Subsection (i) of section 201 of the Act (19 U.S.C 1821(i)) is amended—

(1) by inserting "(A)" after "(1)" in paragraph (1);

(2) by inserting at the end of paragraph (1) the following new subparagraph:

"(B) The Secretary shall by regulation prescribe minimum health and safety standards that shall be maintained aboard each foreign fishing vessel with regard to the facilities provided for the quartering of, and the carrying out of observer functions by, United States observers."; and

(3) by amending subparagraph (B) of paragraph (2) to read as follows:

"(B) the time during which a foreign fishing vessel will engage in fishing within the exclusive economic zone will be of such short duration that the placing of a United States observer aboard the vessel would be impractical; or".

(b) COMPLIANCE WITH VESSEL SAFETY STANDARDS OF THE FLAG COUNTRY.—Paragraph (3) of section 204(b) of the Act (16 U.S.C. 1824(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by inserting "and" after the semicolon at the end of subparagraph (F); and

(3) by adding after subparagraph (F) the following new subparagraph:

"(G) all applicable vessel safety standards imposed by the foreign country, and shall include written certification that the vessel is in compliance with those standards;".

SEC. 104. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) VOTING MEMBERS.—(1) Subsection (b) of section 302 of this Act (16 U.S.C. 1852(b)) is amended as follows:

(A) Paragraph (2)(A) is amended to read as follows:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable and experienced with regard to the conservation and management, or the recreational or commercial harvest, of the fishery resources of the geographical area concerned. The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair apportionment, on a rotating or other basis, of the active participants (or their representatives) involved in the fisheries under Council jurisdiction.".

(B) Paragraph (2)(B) is amended—

(i) by adding after the first sentence thereof the following new sentence: "A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the state regarding those individuals.";

(ii) by striking out "knowledge or experience" in the third sentence thereof and inserting "knowledge and experience"; and

(iii) by adding at the end thereof the following new sentence: "An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).".

(C) Paragraph (3) is amended to read as follows:

"(3) Each voting member appointed to a Council by the Secretary in accordance with subsection (b)(2) shall serve for a term of 3 years; except that the Secretary may designate a shorter term if necessary to provide for balanced expiration to terms of office.".

(2) The amendments made by paragraph (1) shall apply with respect to voting members of regional fishery management councils who are appointed, and to individuals who are nominated for appointment as voting members, on or after the date of the enactment of this Act.

(b) COUNCIL COMMENT ON FEDERAL AND STATE ACTION AFFECTING HABITAT.—Section 302 is further amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by adding after subsection (h) the following new subsection:

"(i) FISHERY HABITAT CONCERNS.—Each Council may comment on, or make recommendations concerning, any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction. Within 45 days after receiving such a comment or recommendation from a Council, a Federal agency must provide a detailed response, in writing, to the Council regarding the matter.".

(c) CLOSURE OF MEETINGS.—Paragraph (4) of section 302(j) of the Act (as redesignated by subsection (b)) is amended by striking out "; except that" and all that follows thereafter and inserting "; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 303(d), must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics.".

(d) COMMITTEES AND PANELS.—Subsection (j) (as redesignated by subsection (b)) of section 302 of the Act is further amended by adding at the end thereof the following new paragraph:

"(5) Each Council shall specify those procedures that are necessary or appropriate to ensure that the committees and advisory panels established under subsection (g) are involved, on a continuing basis, in the development and amendment of fishery management plans.".

(e) DISCLOSURE OF FINANCIAL INTEREST.—(1) Section 302 of the Act is further amended by adding at the end thereof the following new subsection:

"(k) DISCLOSURE OF FINANCIAL INTEREST.—(1) For purposes of this subsection, the term "affected individual" means an individual who—

"(A) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2);

"(B) is a voting member of a Council appointed under subsection (b)(2); or

"(C) is the executive director of a Council.

"(2) Each affected individual must disclose any financial interest held by—

"(A) that individual;

"(B) the spouse, minor child, or partner of that individual; and

"(C) any organization (other than the Council) in which that individual is serving

as an officer, director, trustee, partner, or employee;
in any harvesting, processing, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction.

"(3) The disclosure required under paragraph (2) shall be made—

"(A) in the case of an affected individual referred to in paragraph (1)(A), before appointment by the Secretary; and

"(B) in the case of an affected individual referred to in paragraph (1)(B) or (C), within 45 days of taking office.

"(4) An affected individual referred to in paragraph (1)(B) or (C) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2)(A), (B), or (C).

"(5) The financial interest disclosures required by this subsection shall—

"(A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe; and

"(B) be kept on file, and made available for public inspection at reasonable hours, at the Council offices.

"(6) The participation by an affected individual referred to in paragraph (1)(B) or (C) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.

"(7) Section 208 of title 18, United States Code, does not apply to an affected individual referred to in paragraph (1)(B) or (C) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).".

(2) For purposes of applying subsection (k) of section 302 of the Act (as added by paragraph (1)) to voting members and executive directors of regional fishery management councils who are serving in those capacities on the date on which the regulations prescribed to carry out that subsection first take effect, each such member or director must file a disclosure form under that subsection within 45 days after that date.

SEC. 105. FISHERY MANAGEMENT PLANS; DISCLOSURE OF CONFIDENTIAL STATISTICS.

(a) REQUIRED PROVISIONS.—(1) Section 303(a) of the Act (16 U.S.C. 1853(a)) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting a comma; and

(C) by adding after paragraph (5) the following new paragraphs:

"(6) consider, and may provide for, temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safety of the vessels; and

"(7) include readily available information regarding the significance of habitat to the fishery and assessment as to the effects which changes to that habitat may have upon the fishery.".

(2) The amendments made by paragraph (1) apply to each fishery management plan that—

(A) is submitted to the Secretary of Commerce for review under section 304(a) of the Act, or that is prepared by the Secretary, after January 1, 1987; or

(B) is in effect on that date, but compliance with those amendments is not required except in conjunction with the amendment to the plan next occurring after that date.

(b) DISCLOSURE OF CONFIDENTIAL STATISTICS.—The first sentence of section 303(d) of the Act (16 U.S.C. 1853(d)) is amended to read as follows: "Any statistic submitted to the Secretary by any person in compliance with any requirement under subsection (a)(5) shall be confidential and shall not be disclosed; except—

"(1) to National Marine Fisheries Service personnel and Council employees who are responsible for management plan development and monitoring; or

"(2) when required by court order.".

SEC. 106. ACTION BY SECRETARY REGARDING FISHERY MANAGEMENT PLANS.

Section 304 of the Act (16 U.S.C. 1854) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "(the date of receipt of which is hereafter in this section referred to as the 'receipt date')" in paragraph (1);

(B) by redesignating subparagraphs (A), (B), and (C) of paragraph (1) as subparagraphs (B), (C), and (D), respectively;

(C) by inserting immediately before subparagraph (B), as so redesignated, of paragraph (1) the following new subparagraph:

"(A) immediately make a preliminary evaluation of the management plan or amendment for purposes of deciding if it is consistent with the national standards and sufficient in scope and substance to warrant review under this subsection and—

"(i) if that decision is affirmative, implement subparagraphs (B), (C), and (D) with respect to the plan or amendment, or

"(ii) if that decision is negative—

"(I) disapprove the plan or amendment, and

"(II) notify the Council, in writing, of the disapproval and of those matters specified in subsection (b)(2)(A), (B) and (C) as they relate to the plan or amendment;";

(D) by amending subparagraph (C) (as so redesignated) of paragraph (1) by striking out "75-day" and inserting "60-day";

(E) by amending subparagraph (D) (as so redesignated) of paragraph (1) by striking out "30th day" and inserting "15th day";

(F) by amending paragraph (2)—

(i) by striking out "(1)(A)" and inserting "(1)(B)"; and

(ii) by striking out the period at the end of subparagraph (C) and inserting "and to fishery access adjustments referred to in section 303(a)(6)."; and

(G) by adding at the end thereof the following new paragraph:

"(3)(A) The Secretary shall take action under this section on any fishery management plan or amendment to a plan which the Council characterizes as being a final plan or amendment.

"(B) For purposes of this section, the term 'receipt date' means the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, or an amendment to a plan, that it characterizes as a final plan or amendment."

(2) Subsection (b) is amended—

(A) by amending paragraph (1)(A) to read as follows:

"(A) the Secretary does not notify the Council in writing of—

"(i) his disapproval under subsection (a)(1)(A)(ii), or

"(ii) his disapproval, or partial disapproval, under paragraph (2), of the plan or amendment before the close of the 95th day after the receipt date; or";

(B) by striking out "75th day" in paragraph (1)(B) and inserting "60th day";

(C) by amending paragraph (2) by striking out "paragraph (1)(A)" and inserting "paragraph (1)(B)"; and

(D) by amending paragraph (3)—

(i) by striking out "If the Secretary" in subparagraph (A) and inserting "If the Secretary disapproves a proposed plan or amendment under subsection (a)(1)(A)(ii), or", and

(ii) by striking out "(a)(1)(A)" in each of subparagraphs (B)(i) and (C)(i) and inserting "(a)(1)(B)".

(3) Subsection (c) is amended—

(A) by striking out "75-day" in paragraph (2)(A)(ii) and inserting "60-day";

(B) by striking out "30th day" in paragraph (2)(A)(iii) and inserting "15th day"; and

(C) by striking out "75-day" wherever it appears in paragraph (2)(B) and inserting "60-day".

(4) Subsection (e) is amended—

(A) by inserting ", in cooperation with the Councils," immediately after "maintain";

(B) by striking out "management," and inserting "management and on the economics of the fisheries,"; and

(C) by adding at the end thereof the following: "The Secretary shall annually review and update the comprehensive program and make the results of the review and update available to the Councils.".

SEC. 107. SUBMISSION OF CERTAIN FALSE STATEMENTS A PROHIBITED ACT.

(a) KNOWING AND WILLFUL SUBMISSION.—Paragraph (1) of section 307 of the Act (16 U.S.C. 1857(1)) is amended—

(1) by striking out "or" at the end of subparagraph (G);

(2) by inserting "or" after the semicolon at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.".

(b) CONFORMING AMENDMENT.—Section 309(a)(1) of the Act (16 U.S.C. 1859(a)(1)) is amended by striking out "or (H)" and inserting "(H), or (J)".

SEC. 108. CIVIL PENALTIES.

Section 308 of the Act (16 U.S.C. 1858) is amended—

(1) by amending the first sentence of subsection (b) to read as follows: "Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary, the Attorney General and the appropriate United States Attorney.";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting immediately after subsection (c) a new subsection (d) to read as follows:

"(d) IN REM JURISDICTION.—A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 307 shall be liable in rem for any civil penalty assessed for such violation under section 308 and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.".

SEC. 109. ADMINISTRATIVE FORFEITURES.

(a) PROCEDURES.—Section 310 of the Act (16 U.S.C. 1860) is amended—

(1) by amending the second sentence of subsection (c) to read as follows: "The provisions of the customs laws relating to—

"(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

"(2) the disposition of such property or the proceeds from the sale thereof; and

"(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act."; and

(2) by adding at the end of subsection (d)(1) the following new sentence: "Nothing in this paragraph may be construed to require the Secretary, except in the Secretary's discretion or pursuant to the order of a court under section 311(d), to release on bond any seized fish or other property or the proceeds from the sale thereof.".

(b) JURISDICTION OF COURTS.—Section 311 of the Act (16 U.S.C. 1861) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Notwithstanding any other provision of law, after September 30, 1986, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, or forfeitures of property for violations of any provision of this Act—

"(1) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act with respect to that fish or other property; and

"(2) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act.

Any person assessed a civil penalty for, or convicted of, any violation of any provision of this Act shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation concerned.".

SEC. 110. REPEAL.

Section 401 of the Act (16 U.S.C. 1881; relating to the Law of Sea Treaty), and the entry referring to that section in the table of contents of the Act, are repealed.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 406 of the Act (16 U.S.C. 1882) is amended by adding at the end thereof the following new paragraphs:

"(12) $69,000,000 for fiscal year 1986.

"(13) $70,800,000 for fiscal year 1987.

"(14) $72,900,000 for fiscal year 1988.

"(15) $75,000,000 for fiscal year 1989.".

(b) LIMITATIONS REGARDING CERTAIN NOAA FISHERY RESEARCH VESSELS.—During fiscal years 1986 and 1987, the Secretary of Commerce may not replace with chartered fishery survey vessels the fishery research vessels of the National Oceanic and Atmospheric Administration operated by the Atlantic Marine Center, unless a period of 90 days has expired after the Secretary has submitted to Congress a full and complete statement (including relevant supporting studies) concerning the proposed chartering and the reasons therefor.

SEC. 112. CLERICAL AMENDMENTS.

Section 3(4) of the Act (16 U.S.C. 1802(4)) is amended—

(1) by striking out "Artica islandica" in the listing of mollusks and inserting in lieu thereof "Arctica islandica"; and

(2) by striking out "Hippiospongia canaliculata" in the listing of sponges and inserting in lieu thereof "Spongia cheiris".

SEC. 113. DIRECTIONS REGARDING FISHERY MANAGEMENT COUNCIL MEMBERSHIP.

Notwithstanding section 302 of the Act (16 U.S.C. 1852) and effective on and after the date of the enactment of this Act, the Secretary shall take action to ensure, to the extent practicable, that those persons dependent for their livelihood upon the fisheries within the respective jurisdictions of the Regional Fishery Management Councils are fairly represented as voting members of the Councils.

TITLE II—FISH AND SEAFOOD PROMOTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Fish and Seafood Promotion Act of 1986".

SEC., 202. FINDINGS.

The Congress finds that—

(1) the commercial fishing industry of the United States significantly contributes to the national economy, and could make a greater contribution if fish resources within the United States Exclusive Economic Zone were most fully utilized;

(2) the commercial fisheries of the United States provide significant employment in coastal areas and in processing and distribution centers;

(3) fish contribute an important nutritional component to the American diet;

(4) increased consumption of seafood in the United States could significantly lower the risk of many cardiovascular diseases;

(5) Federally supported development programs for commercial fisheries are unable to meet present and future marketing needs;

(6) many fish species are underutilized by the United States fishing industry because of underdeveloped markets; and

(7) the United States fishing industry has the potential to expand greatly its contribution to interstate and foreign commerce, favorably affecting the balance of trade.

SEC. 203. PURPOSE.

The purpose of this title is to—

(1) strengthen the competitive position of the United States commercial fishing industry in the domestic and international marketplace;

(2) encourage the development and utilization of all species of fish available for harvest by the United States fishing industry;

(3) encourage the utilization of domestically-produced fish through enhancement of markets, promotion, and public relations;

(4) help the United States fishing industry develop methods to improve quality and efficiency in the marketplace;

(5) educate and inform consumers on the use of fish;

(6) develop better coordination of fisheries marketing and promotion activities with commercial fisheries research and development programs; and

(7) educate and inform the public about the nutritional value of fish in the diet.

SEC. 204. DEFINITIONS.

As used in this title, the term—

(1) "consumer education" means actions undertaken to inform consumers on matters related to the consumption of fish and fish products;

(2) "council" means a seafood promotional council established under section 210 of this title;

(3) "fish" means finfish, mollusks, crustaceans, and all other forms of aquatic animal life used for human consumption; the term does not include marine mammals and seabirds;

(4) "Fund" means the Fisheries Promotional Fund established in section 209 of this title;

(5) "harvester" means any individual who is in the business of catching or growing fish for purposes of sale;

(6) "importer" means any person in the business of importing fish or fish products into the United States from another country for commercial purposes or who acts as an agent, broker, or consignee for any person or nation that produces, processes or markets fish or fish products outside of the United States for sale or other commercial purpose in the United States;

(7) "marketer" means any person who is in the business of selling fish or fish products in the wholesale, retail, or restaurant trade, but whose primary business function is not the processing or packaging of fish or fish products in preparation for sale;

(8) "marketing and promotion" means an activity aimed at encouraging the consumption of fish or fish products or expanding or maintaining commercial markets for fish or fish products;

(9) "member" means any person serving on the National Council or on any council;

(10) "National Council" means the National Fish and Seafood Promotional Council established in section 205 of this title;

(11) "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any private entity organized or existing under the laws of the United States or any State, commonwealth, territory or possession of the United States;

(12) "processor" means any person who is in the business of preparing or packaging fish or fish products (including fish of the processor's own harvesting) for sale;

(13) "receiver" means any person who owns fish processing vessels and any person in the business of acquiring fish directly from harvesters;

(14) "research" means any type of research designed to advance the image, desirability, usage, marketability, production or quality of fish and fish products;

(15) "sector" means—

(A) the sector consisting of harvesters;

(B) the sector consisting of importers;

(C) the sector consisting of marketers;

(D) the sector consisting of processors;

(E) the sector consisting of receivers; or

(F) the consumer sector consisting of persons professionally engaged in the dissemination of information pertaining to the nu-

tritional benefits and preparation of fish and fish products;

(16) "Secretary" means the Secretary of Commerce, or the Secretary's designee; and

(17) "United States" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other territory, possession, or commonwealth of the United States.

SEC. 205. ESTABLISHMENT OF THE NATIONAL COUNCIL.

(a) ESTABLISHMENT.—There is established the National Fish and Seafood Promotional Council.

(b) COMPOSITION OF THE NATIONAL COUNCIL.—(1) The National Council shall be composed of the Secretary, who shall be a nonvoting member, and fifteen voting members appointed by the Secretary.

(2) Nominations for appointees shall be submitted in a manner prescribed by the Secretary.

(c) REGIONAL REPRESENTATION.—The National Council shall be comprised of regional representation from the Northeast, Southeast, Pacific, and Alaska regions. The Northeast region shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland and Virginia. The Southeast region shall consist of the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands. The Pacific region shall consist of the States of Idaho, Washington, Oregon, California, and Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands. The Alaska region shall consist of the State of Alaska.

(d) VOTING MEMBERS.—(1) The voting members of the National Council shall be—

(A) three members who reside in or do substantial fishing industry business in the Northeast region;

(B) three members who reside in or do substantial fishing industry business in the Southeast region;

(C) three members who reside in or do substantial fishing industry business in the Pacific region;

(D) three members who reside in or do substantial fishing industry business in the Alaska region;

(E) two members-at-large with demonstrated expertise in fresh-water and inland commercial fisheries; and

(F) one member-at-large from an organized labor union, with demonstrated expertise in the United States fishing industry.

(2) Of the members appointed pursuant to each of paragraphs (1)(A) through (D) of this subsection, one shall be a harvester, one shall be a processor or a receiver, and one shall be a marketer.

(e) TERM OF OFFICE.—Members of the National Council shall be appointed for a term of 4 years. A vacancy in the National Council shall not affect its ability to function. The Secretary shall appoint a new member within sixty days to fill a vacancy in an unexpired term. Any member may remain on the National Council beyond that member's term until a successor is appointed.

(f) CHAIRMAN.—The National Council shall annually elect a Chairman by a majority of those voting, if a quorum is present. Ten members of the National Council shall constitute a quorum, but a lesser number may hold hearings.

(g) FIRST MEETING.—The National Council shall first meet within one hundred and eighty days after the date of enactment of this Act.

(h) COMPENSATION OF MEMBERS.—Members of the National Council shall serve without compensation, but shall be reimbursed in accordance with section 5703 of title 5, United States Code, for reasonable travel costs and expenses incurred in performing their duties as members of the National Council.

SEC. 206. FUNCTIONS AND DUTIES OF THE NATIONAL COUNCIL.

(a) FUNCTIONS AND DUTIES.—The National Council shall—

(1) prepare and submit to the Secretary, for the Secretary's review and approval, an annual marketing and promotion plan which contains descriptions of consumer education, research, and other marketing and promotion activities of the National Council for the following year, including plans to coordinate the activities of councils established under section 210 of this title;

(2) prepare and submit to the Secretary, for the Secretary's review and approval, an annual budget of the anticipated expenses and disbursements of the National Council, including probable costs of consumer education, research, and other marketing and promotion plans or projects, and referenda under section 210 of this title;

(3) maintain accounting records of the receipt and disbursement of all funds entrusted to the National Council, subject to the Secretary's right to review or inspect such records;

(4) maintain such books and records as the Secretary determines appropriate; and

(5) prepare and submit to the Secretary from time to time such reports or proposals as the Secretary or the National Council determines appropriate for furthering the purposes and policies of this title.

(b) ANNUAL PLAN.—Each annual marketing and promotion plan shall be directed to—

(1) increasing the general demand for fish and fish products;

(2) encouraging, expanding, or improving the marketing and promotion and utilization of fish and fish products; and

(3) improving the dissemination of data collected by consumer education, research, and other marketing promotion activities.

(c) PROHIBITION ON CERTAIN REFERENCES.—Consumer education and other marketing and promotion activities of the National Council shall contain no reference to a private brand or trade name and shall avoid use of deceptive acts or practices in behalf of fish or fish products or with respect to the quality, value, or use of any competing product or group of products.

(d) EXECUTIVE DIRECTOR.—The National Council may employ and determine the salary of an executive director, but such salary shall not exceed Senior Executive Service Level 6. The executive director shall have demonstrated expertise in the marketing and promotion of food products and may, without regard to the provisions of title 5, United States Code, with the approval of the Natinal Council, select and employ additional staff as necessary.

(e) FUNDING OF REFERENDUM.—The National Council may enter into agreements with applicants proposing to establish a council under section 210 of this title for the purposes of funding a referendum establishing the council. The National Council may enter into agreements with the councils established under section 210 of this title for the purpose of funding a referendum to establish quality standards, or a referendum to terminate any such council.

(f) AGREEMENTS—The National Council may enter into agreements to develop and carry out activities authorized under this title.

(g) TERMINATION OF NATIONAL COUNCIL.—The National Council shall cease to exist on October 1, 1990.

SEC. 207. DUTIES OF THE SECRETARY WITH REGARD TO THE NATIONAL COUNCIL.

(a) DUTIES OF THE SECRETARY.—The Secretary shall—

(1) within sixty days after its submission by the National Council, review the annual marketing and promotion plan and budget and, if the Secretary determines that such plan and budget are in accordance with the purposes and policies of this title,approve such plan and budget;

(2) administer the Fund and, in accordance with subsection (b) of this section, withdraw from the Fund such sums as are necessary to carry out the National Council's approved marketing and promotion plan and budget;

(3) promulgate regulations necessary to carry out the purposes and policies of this title;

(4) provide such administrative assistance as the National Council may require for purposes of its initial organization and operation; and

(5) make all appointments to the National Council within ninety days after the date of enactment of this Act.

(b) WITHDRAWAL OF FUNDS.—The Secretary shall make withdrawals of sums from the Fund under this section at the request of the National Council, unless the Secretary determines that the purposes for which such sums are requested are not reasonably likely to further the purposes and policies of this title.

SEC. 208. VOLUNTARY PAYMENTS.

Any person may make voluntary payments to assist the Natonal Council to carry out its annual marketing and promotion plan and annual budget. The Secretary shall deposit such payments into the Fund.

SEC. 209. ESTABLISHMENT OF FISHERIES PROMOTIONAL FUND.

(a) ESTABLISHMENT OF THE FUND.—There is established in the Treasury of the United States a Fisheries Promotional Fund. The Fund shall be available for the purpose of making payments to carry out the annual marketing and promotion plan and annual budget of the National Council under this title.

(b) DEPOSITS.—There shall be deposited in the Fund—

(1) $750,000 in fiscal year 1987, $3,000,000 in fiscal years 1988 and 1989, and $2,000,000 in fiscal year 1990 from foreign fishing fees collected under section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10);

(2) payments made voluntarily pursuant to section 208 of this title; and

(3) receipts from investments made under subsection (c) of this section.

(c) DEPOSITS AND INVESTMENTS.—Sums in the Fund that are not currently needed for the purposes of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury, or invested in obligations of, or guaranteed by, the United States. Any revenue accruing from such deposits and investments shall be deposited in the Fund.

(d) AUTHORIZATION.—There are authorized to be appropriated from the Fund, for the purposes of carrying out the annual marketing and promotion plan and annual budget of the National Council under this title, such sums as are deposited in the Fund under subsection (b) of this section in each fiscal year beginning in fiscal year 1987 through fiscal year 1990.

(e) AMENDMENT TO THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.—Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended—

(1) by adding at the end of subparagraph (A) the following: "The Secretary shall increase such schedule by a total of $750,000 in calendar year 1987, $3,000,000 in calendar years 1988 and 1989, and $2,000,000 in calendar year 1990, for purposes of making the deposit required by section 209(b) of the Fish and Seafood Promotion Act of 1986."; and

(2) in subparagraph (B), by inserting immediately after "amount" the second time it appears the following: "equal to such deposit, plus an amount".

SEC. 210. ESTABLISHMENT OF A COUNCIL.

(a) APPLICATION.—An application for a charter for a seafood marketing council for one or more species of fish and fish products of that species may be filed by persons who meet the requirements specified in accordance with subsection (b)(6) of this section.

(b) FORM OF APPLICATION.—An application for a charter for a council shall be made by filing with the Secretary the text of a proposed charter in such form as shall be prescribed by regulation by the Secretary. The text of a proposed charter must contain such information as the Secretary considers necessary or appropriate for carrying out the provisions of this title, including—

(1) the name of the council and a provision proclaiming its establishment;

(2) a declaration of the purposes and objectives of the council;

(3) a description of the species of fish and fish products for which the council will implement marketing and promotion plans under section 211 of this title;

(4) the identification of each sector and the number and terms of representatives of each sector that will be represented as voting members of the council;

(5) the identification of those sectors (including the sector consisting of harvesters, the sector consisting of receivers, and, if subject to assessment, the sector consisting of importers) subject to a referendum to establish a council under subsection (e) of this section;

(6) a specification for each sector described under paragraph (5) of this subsection of the minimum requirements, as measured by income, volume, or other relevant factors, that a person engaging in business in the sector must meet in order to participate in a referendum;

(7)(A) a description of the procedures for determining assessment rates under section 213 of this title;

(B) the proposed rate or rates that will be imposed by the council on receivers and, if subject to assessment, importers during its first year of operation;

(C) the maximum amount an assessment rate for any period may be raised above the rate applicable for the immediately preceding period; and

(D) the maximum rate or rates that can be imposed by a council on receivers or importers during the operation of the council;

(8) a provision setting forth the definition of a quorum for making decisions on council business and the procedures for selecting a chairman of the council;

(9) a provision setting forth the voting procedures by which votes may be cast by proxy; and

(10) such other provisions relating to administration of the council as the Secretary considers necessary.

The text of a proposed charter shall be accompanied by a document identifying, to the extent practicable by address of place of business, the persons (hereinafter referred to as "sector participants") that are considered by the applicants to meet the requirements specified in paragraph (6) of this subsection. The text of a proposed charter shall include provisions setting forth procedures for providing refunds to those sector participants subject to assessment under section 213 of this title, and may also include provisions which establish a maximum limit on the amount that any one sector participant may be required to pay under an assessment for any period.

(c) CONTENTS OF CHARTER.—The Secretary may not approve a proposed charter filed under subsection (a) of this section unless such charter provides that—

(1) the council will have voting members representing the harvesting, receiving and, if subject to assessment, importing sectors; and

(2) the members of the council shall serve without compensation, but shall be reimbursed for their reasonable, expenses incurred in performing their duties as members of the council.

(d) REVIEW OF CHARTER.—(1) Within 180 days of the receipt of an application to establish a council, the Secretary shall—

(A) identify, to the extent practicable, those sector participants that meet the requirements for eligibility to participate in the referendum under subsection (e) of this section;

(B) determine, to the extent practicable, if the charter is accompanied by a petition comprised of the signatures or corporate certifications, as the case may be, of no less than three sector participants in each sector identified in accordance with subsection (b)(5) of this section who collectively accounted for, in the twelve-month period immediately preceding the month in which the application was filed, not less than 10 percent of the value of the fish or fish products described in accordance with subsection (b)(3) of this section that were handled by each such sector during that period; and

(C) determine if the proposed charter is consistent with the provisions of this title and any other applicable law.

(2) If any negative determination is made under paragraph (1) of this subsection regarding a proposed charter, the Secretary shall advise in writing the sector participants who made the application of the reasons for such determination. A corrected application may be submitted thereafter to the Secretary for approval.

(e) CONDUCT OF REFERENDUM.—(1) Upon making affirmative determinations under subsection (d)(1) of this section regarding a proposed charter, the Secretary, within 90 days after the date of the last of such determinations, shall conduct a referendum on the adoption of the proposed charter among all sector participants identified in accordance with subsection (d)(1)(A) of this section. The Secretary shall by order establish the council and approve the proposed charter, if the referendum votes which are cast in favor of the proposed charter constitute a majority of the sector participants voting in each sector and the majority collectively accounts for, in the twelve-month period immediately preceding the month in which the proposed charter was filed under subsection (a) of this section, at least sixty-six percent of the value of the fish and fish products described in accordance with subsection (b)(3) of this section that were handled by that sector during such period.

(2) Not less than thirty days prior to holding a referendum under this subsection, the Secretary shall—

(A) publish (by such means as will result in wide publicity in regions affected by the proposed charter) the text of the proposed charter and a list of those sector participants eligible to vote in the referendum; and

(B) provide for public comment, including the opportunity for a public meeting.

(3)(A) The Secretary shall pay all costs of a referendum which establishes a council under this subsection. Within two years after a council is established the council shall reimburse the Secretary for any expenses incurred for the conduct of the referendum from assessments collected by the council. Prior to the holding of a referendum under this subsection, the Secretary shall require the applicants to post a bond or other security acceptable to the Secretary, in an amount which the Secretary determines to be sufficient to pay any expenses incurred for the conduct of the referendum, and shall immediately recover such amount if a referendum fails to result in the establishment of a council.

(B) As used in this paragraph, the term "expenses incurred for the conduct of the referendum" does not include salaries of Government employees or other administrative overhead, but is limited to those additional direct costs incurred in connection with conduct of the referendum.

(f) NOMINATIONS.—(1) Within thirty days after a council is established under subsection (e) of this section, the Secretary shall solicit from the sectors represented on the council nominations for members of the council. If the harvesters and receivers represented on the council are engaged in business in two or more regions of the United States, the nominations made under paragraph (3) of this subsection, must, to the extent practicable, result in equitable representation for the constituent regions.

(2) No person is eligible for nomination or appointment as a member of a council unless such person is knowledgeable and experienced with regard to the activities of, and is or has been actively engaged in the business of, the sector which such person will represent on the council.

(3) The Secretary shall, within sixty days after the end of the thirty-day period referred to in paragraph (1) of this subsection, appoint the members of the council from among the nominees.

(4) A vacancy on a council shall be filled, within sixty days after the vacancy occurs, in the same manner in which the original appointment was made. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

(5) The Secretary shall remove any member of a council if the council concerned first recommends, by not less than two-thirds of its members, removal for cause. Such a recommendation of a council must be in writing and accompanied by a

statement of the reasons upon which the recommendation is based.

(g) NATURE OF A COUNCIL.—A council is not an instrumentality of the United States Government.

SEC. 211. FUNCTIONS AND POWERS OF COUNCILS.

(a) ACTIVITIES OF A COUNCIL.—(1) Each council shall—

(A) Adopt a seal which shall be judicially noticed;

(B) implement all terms of its charter;

(C) prepare and submit to the Secretary, for review and approval under section 212(a)(1) of this title, a marketing and promotion plan and amendments to such plan which contain descriptions of the projected consumer education, research, and other marketing and promotion activities of the council;

(D) implement and administer an approved marketing and promoting plan and amendments to such plan;

(E) determine the assessments to be made under section 213 of this title and administer the collection of such assessments to finance council expenses described in paragraph (2) of this subsection;

(F) receive, investigate and report to the Secretary accounts of violations of rules or orders relating to assessments collected under section 213 of this title, or quality standard requirements established under subsection (c) of this section;

(G) prepare and submit to the Secretary, for review and approval under section 212(a)(1) of this title, a budget (on a fiscal year basis) of the anticipated expenses and disbursements of the council, including—

(i) all administrative and contractual expenses;

(ii) the probable costs of consumer education, research, and other marketing and promotion plans or projects;

(iii) the costs of the collection of assessments; and

(iv) the expense of repayment of the costs of each referendum conducted in regard to the council;

(H) maintain books and records, prepare and submit to the Secretary such reports from time to time as may be necessary for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it, and cause a complete audit report to be submitted to the Secretary at the end of each fiscal year;

(I) reimburse the Secretary for the expenses incurred for the conduct of the referendum to establish the council or any subsequent referendum to terminate the council that fails; and

(J) prepare and submit to the Secretary from time to time such reports or proposals as the council determines appropriate to further the purposes of this title.

(2) Funds collected by a council under section 213 of this title shall be used by the council for—

(A) research, consumer education, and other marketing and promotion activities regarding the quality and marketing of fish and fish products;

(B) other expenses, as described in subsection (a)(1)(G) of this section;

(C) such other expenses for the administration, maintenance, and functioning of the council as may be authorized by the Secretary;

(D) any reserve fund established under subsection (b)(5) of this section and any administrative expenses incurred by the Secretary specified as reimbursable under this title.

(3) Marketing and promotion plans and amendments to such plans prepared by a council under subsection (a)(1)(C) of this section shall be designed to increase the general demand for fish and fish products described in accordance with section 210(b)(3) of this title by encouraging, expanding, and improving the marketing, promotion and utilization of such fish and fish products, in domestic or foreign markets, or both, through consumer education, research, and other marketing and promotion activities.

(4) Consumer education and other marketing and promotion activities carried out by a council under a marketing and promotion plan and amendments to such plan may not contain references to any private brand or trade name and shall avoid the use of deceptive acts or practices in promoting fish or fish products or with respect to the quality, value, or use of any competing product or group of products.

(b) AUTHORITY OF A COUNCIL.—A council may—

(1) sue and be sued;

(2) enter into contracts;

(3) employ and determine the salary of an executive director who may, with the approval of the council, employ and determine the salary of such additional staff as may be necessary;

(4) collaborate with other councils and with the National Council in establishing and implementing a national marketing and promotion plan for one or more species of fish or fish products; and

(5) establish a reserve fund from monies collected and received under section 213 of this title to permit an effective and sustained program of research, consumer education, and other marketing and promotion activities regarding the quality and marketing of fish and fish products in years when production and assessment income may be reduced, but the total reserve fund may not exceed the amount budgeted for the current fiscal year of operation.

(c) QUALITY STANDARDS.—(1) A council may develop and submit to the Secretary for approval, or upon the request of a council the Secretary shall develop, quality standards for a fish or fish product described in accordance with section 210(b)(3) of this title. Any quality standard developed under this paragraph shall be consistent with the purposes of this title.

(2) A quality standard developed under paragraph (1) of this subsection may be adopted by a council by a majority of the members of the council if first approved, in a referendum conducted by the council, by a majority of the sector participants of the sector concerned voting and the majority collectively accounted for, in the twelve-month period immediately preceding the month in which the referendum is held, not less than sixty-six percent of the value of the fish or fish products described in accordance with section 210(b)(3) of this title that were handled by that sector during such period.

(3) With respect to a quality standard adopted under paragraph (2) of this subsection, the council shall develop and file with the Secretary an official identification in the form of a symbol, stamp, label, or seal that will be used to indicate that a fish or fish product meets the quality standard at the time the official identification is affixed to the fish or fish product, or is affixed to or printed on the packaging material of the fish or fish product.

(4) The Secretary shall establish by regulation procedures for the use of an official identification filed with the Secretary under paragraph (3) of this subsection. Misuse of an official identification established under this section shall constitute a violation of this title.

(5) Prior to issuing final regulations under paragraph (4) of this subsection, the Secretary shall—

(A) publish the proposed regulations by such means as will result in wide publicity in affected regions; and

(B) provide for public comment and the opportunity for a public hearing.

(6) A council may receive, investigate and report to the Secretary accounts of violations of regulations issued under paragraph (4) of this subsection.

(7) Any regulation issued under paragraph (4) of this subsection shall be repealed immediately by the Secretary upon the termination under section 216 of this title of the council that developed the official identification to which the regulations apply.

(8) The procedures applicable to the adoption and the taking effect of a quality standard developed under this subsection also apply to a subsequent amendment or the termination of such standard.

(d) AMENDMENT OF A CHARTER.—A council may submit to the Secretary amendments to the text of the council's charter. Any proposed amendments to a character shall be approved or disapproved in the same manner as the original charter was approved under section 210 (d) and (e) of this title, with the exception of section 210(d)(1)(B).

SEC. 212. FUNCTIONS AND POWERS OF THE SECRETARY.

(a) DUTIES OF THE SECRETARY.—In addition to the duties prescribed under section 210 of this title, the Secretary shall—

(1) review of consistency with the provisions of this title and other applicable law, and approve or disapprove, marketing and promotion plans and budgets within sixty days after their submission by a council;

(2) immediately notify a council in writing of the disapproval of a marketing and promotion plan or budget, together with reasons for such disapproval;

(3) issue orders and amendments to such orders that are necessary to implement quality standards under section 211(c) of this title;

(4) promulgate regulations necessary to carry out the purposes of this title;

(5) enforce the provisions of this title, as provided under section 217 of this title; and

(6) make all appointments to councils in accordance with section 210(f) of this title.

(b) ASSISTANCE.—The Secretary may provide, on a reimbursable or other basis, such administrative or technical assistance as a council may request for purposes of the initial organization and subsequent operation of the council.

SEC. 213. ASSESSMENTS.

(a) AUTHORITY.—A council shall impose and administer the collection of the assessments that are necessary to pay for all expenses incurred by the carrying out its functions under this title.

(b) METHOD OF IMPOSITION.—(1) Assessments shall be imposed on sector participants in the receiving sector or the importing sector, or both, as specified in an approved council charter.

(2) An assessment on sector participants in the receiving sector shall be—

(A) except for an owner of a fish processing vessel, in the form of a percentage of the value of the fish described in accordance

with section 210(b)(3) of this title when purchased by such participants from fish harvesters; and

(B) for an owner of a fish processing vessel, in the form of a percentage of the value of the fish described in accordance with section 210(b)(3) of this title and harvested by such a vessel that is no less than the value of such fish, if such fish had been purchased by a receiver other than an owner of such a vessel.

(3) An assessment on sector participants in the importing sector shall be in the form of a percentage of the value, as determined for the purposes of the customs laws, of the fish or fish products described in accordance with section 210(b)(3) of this title when entered, or withdrawn from warehouse for consumption, in the customs territory of the United States by such sector participants.

(c) PROHIBITION ON ASSESSMENT.—A council may not impose an assessment on any person that was not eligible to vote in the referendum establishing the council under section 210(e) of this title by reason of failure to meet the requirements specified under section 210(b)(6) of this title, unless such person, after the date on which such referendum is held, meets the requirements of section 210(b)(6) of this title.

(d) VOLUNTARY PAYMENTS.—Any person may make voluntary payments or in-kind contributions to a council for purposes of assisting the council in carrying out its functions.

(e) DEPOSIT OF FUNDS.—All funds collected or received by a council under this section shall be deposited by the council in an appropriate account in the name of the council specified in its charter. Funds eligible to be collected or received by a council shall be limited to those authorized under this section.

(f) INFORMATION.—(1) Sector participants shall make available to the Secretary such information and data as is necessary for the effectuation, administration or enforcement of this title or any order or regulation issued pursuant to this title. Except as provided in paragraphs (2) and (3) of this subsection, any information obtained in carrying out this subsection shall be kept confidential by all officers and employees of the Department of Commerce, independent accountants and other persons who have access to such information.

(2) If the Secretary or an employee of the United States Government is a party to a suit or administrative action involving an assessment, order, or regulation issued under this title, the Secretary may disclose information obtained under paragraph (1) of this subsection to the extent allowed by the judicial or administrative officer presiding over such suit or action.

(3) This subsection shall not prohibit—

(A) the issuance of general or statistical statements based upon reports of a number of persons subject to the provisions of this title which do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary of the name of any person violating a requirement relating to an assessment imposed under subsection (a) of this section or to quality standards implemented by the Secretary under section 211(c) of this title, and a statement of the particular provisions of the requirement violated by such person.

(4) Any individual who is required to keep information confidential under this subsection and who knowingly violates this subsection shall, upon conviction, be—

(A) subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or both; and

(B) removed from office if an officer or employee of a council or the Department of Commerce.

SEC. 214. PETITIONS.

(a) FILING OF PETITION.—Any person subject to assessment under section 213 of this title may file a written petition with the Secretary alleging that—

(1) the assessment,

(2) the plan approved under section 212(a)(1) of this title on which the assessment is based, or

(3) any obligation imposed under the plan, is not in accordance with law and requesting the Secretary to modify or take other appropriate action regarding the assessment or plan.

(b) FORM OF PETITION.—Any such petition shall be in writing and filed within the period prescribed by the Secretary. A person who files a petition under this section shall be given an opportunity for a hearing regarding the petition in accordance with regulations issued by the Secretary. After such a hearing, or if no hearing is requested, after consideration of all documentation and other evidence, the Secretary shall make a ruling upon such petition.

SEC. 215. REFUNDS.

Notwithstanding any other provision of this title, any person who pays an assessment under this title may demand and shall promptly receive from the council a refund of such assessment. A demand for refund must be made in accordance with the procedures, and within such time, as shall be prescribed by the council and approved by the Secretary. Procedures to provide such a refund shall be established before any such assessment may be collected. Such procedures shall allow any person to request a refund for not less than ninety days from such collection, and provide that any such refund shall be made within sixty days after demand for such refund is made.

SEC. 216. TERMINATION OF A COUNCIL.

(a) PETITION FOR TERMINATION.—(1) A petition to terminate a council may be filed with the Secretary by no less than three sector participants in any one sector. Any petition filed under this subsection shall be accompanied by a written document explaining the reasons for such petition.

(2) If the Secretary determines that a petition filed under paragraph (1) of this subsection is accompanied by the signatures, or corporate certifications, as the case may be, of no less than three sector participants in a sector referred to in paragraph (1) of this subsection who collectively accounted for, in the twelve-month period immediately preceding the month in which such petition was filed, not less than 20 percent of the value of the fish or fish products described in accordance with section 210(b)(3) of this title that were handled by that sector during such period, the Secretary, within 90 days after such determination, shall conduct a referendum for termination of the council among all sector participants in that sector.

(3) Not less than 30 days prior to holding a referendum under this subsection, the Secretary shall publish a notice of such referendum, including the document explaining the reasons for the petition filed under paragraph (1) of this subsection and any other relevant information the Secretary considers appropriate.

(4) If the referendum votes which are cast in favor of terminating the council constitute a majority of the sector participants voting and the majority, in the period referred to in paragraph (2) of this subsection, collectively accounted for not less than sixty-six percent of the value of such fish and fish products that were handled during such period by a sector referred to in paragraph (1) of this subsection, the Secretary shall by order terminate the council effective as of a date by which the affairs of the council may be concluded on an orderly basis.

(5) The Secretary initially shall pay all costs of a referendum conducted under this subsection. Prior to conducting such a referendum, the Secretary shall require petitioners to post a bond or other security acceptable to the Secretary in an amount which the Secretary determines to be sufficient to pay any expenses incurred for the conduct of such referendum.

(6)(A) If a referendum conducted under this subsection fails to result in the termination of the council, the Secretary shall immediately recover the amount of the bond posted by petitioners under paragraph (5) of this subsection.

(B) If a referendum conducted under this subsection results in the termination of the council, the Secretary shall recover the expenses incurred for the conduct of the referendum from the account established by the council under section 213(e) of this title. If the amount remaining in such amount is insufficient for the Secretary to recover all expenses incurred for the conduct of the referendum, the Secretary shall recover the balance of such expenses from the petitioners that posted a bond under paragraph (5) of this subsection.

(b) PAYMENT OF REMAINING FUNDS.—If a council is terminated under subsection (a) of this section, the Secretary, after recovering all expenses incurred for the conduct of the referendum under subsection (a) of this section, shall take such action as is necessary and practicable to ensure that moneys remaining in the account established by the council under section 213(e) of this title are paid on a prorated basis to the sector participants from whom those moneys were collected under section 213 of this title.

SEC. 217. ENFORCEMENT.

(a) AUTHORITY.—(1) The district courts of the United States shall have jurisdiction specifically to enforce and to prevent and restrain any person from violating any assessment, order or regulation made or issued under this title.

(2)(A) If a council has reason to believe that a person subject to an assessment, order or regulation made or issued under this title is violating such assessment, order or regulation, it may refer the matter to the Secretary.

(B) Except as provided in subparagraphs (C) or (D) of this paragraph, any civil action authorized to be brought under this subsection, when referred by a council under subparagraph (A) of this paragraph, shall be referred to the Attorney General for appropriate action.

(C) If the Secretary believes that the administration and enforcement of the provisions of this title would be adequately served by taking administrative action under subsection (b) of this section or by providing written notice or warning to any person committing a violation of this title, the Secretary is not required to refer such violation to the Attorney General.

(D) Whenever a matter has been referred to by a council under subparagraph (A) of

this paragraph and the Secretary or the Attorney General fails within 60 days of such referral to take appropriate action, the council may, upon filing notice with the Secretary or Attorney General, as appropriate, and other interested parties, bring an action in its own name.

(b) RECOVERY OF COSTS.—(1)(A) When a council brings an action under subsection (a)(2) of this section, the council may recover costs of litigation and, where the action is brought to collect an unpaid assessment, interest from the date the amount became due and payable.

(B) Any person who violates any provision of an order (including a cease and desist order previously issued under this paragraph) or regulation issued by the Secretary under this title, or who fails or refuses to pay, collect, or remit any assessment required under this title, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to, or in lieu of, a civil penalty under this subparagraph, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(C) No penalty shall be assessed, or cease and desist order issued, under this paragraph unless the affected person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(D) Any order of the Secretary under this paragraph assessing a penalty or imposing a cease and desist order shall be final and conclusive, unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2)(A) Any person against whom a violation is found under paragraph (1) of this subsection may obtain review of such action in the United States court of appeals for the circuit in which such person resides or has his place of business, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days after the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall promptly file in the court a certified copy of the record upon which such violation was found.

(C) The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence or not in accordance with law.

(3)(A) If any person fails to pay a civil penalty under this subsection after it has become final, the Secretary shall refer the matter to the Attorney General.

(B) The Attorney General shall institute appropriate action to recover the amount assessed under this subsection in a district court of the United States.

(C) If, within sixty days after such referral, the Attorney General fails to institute such appropriate action, the council to whose programs the assessment, order or regulation relates may institute an action in its own name.

SEC. 218. INVESTIGATIONS.

(a) AUTHORITY TO MAKE INVESTIGATIONS.—The Secretary may make such investigations as the Secretary determines necessary to—

(1) carry out the Secretary's responsibilities under this title; and

(2) determine whether any person has engaged in any act or practice which constitutes a violation of the provisions of this title.

(b) OATHS AND AFFIRMATIONS.—For the purpose of investigations under subsection (a) of this section, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. The attendance of such witnesses and the production of any such records may be required from any place in the United States.

(c) COURT ORDERS.—In case of contumacy or refusal to obey a subpoena issued under this section by any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or has his business, to require the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony relating to the matter under investigation.

SEC. 219. REPORT.

The Secretary shall, not later than March 1, 1989, submit to the Congress a report on the effectiveness of the implementation of this title in achieving the purposes of this title.

TITLE III—INTERJURISDICTIONAL FISHERIES

SEC. 301. SHORT TITLE.

This title may be cited as the "Interjurisdictional Fisheries Act of 1986".

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to promote and encourage State research in support of the management of priority interjurisdictional fishery resources; and

(2) to promote and encourage management of priority interjurisdictional fishery resources throughout their range.

SEC. 303. DEFINITIONS.

For the purposes of this title:

(1) The term "Federal fishery management plan" means a plan developed under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) The term "fishery resource" means finfish, mollusks, crustaceans, and any other form of marine animal or plant life, other than marine mammals and birds.

(3) The term "interjurisdictional fishery resource" means—

(A) a fishery resource for which a fishery occurs in waters under the jurisdiction of one or more States and the exclusive economic zone established by Proclamation Numbered 5030, dated March 10, 1983;

(B) a fishery resource for which there exists an interstate fishery management plan; or

(C) a fishery resource which migrates between the waters under the jurisdiction of two or more States bordering on the Great Lakes.

For purposes of applying section 305(a)(3) during fiscal year 1987, a Federal fishery management plan or an interstate fishery management plan for the fishery resource need not be in existence, but a plan of either kind for that resource must be in the development process during that year.

(4) The term "interstate fishery management plan" means a plan for managing fisheries developed and adopted by an interstate commission.

(5) The term "interstate commission" means a commission or other administrative body established by an interstate compact.

(6) The term "interstate compact" means a compact that has been entered into by two or more States, established for the purposes of conserving and managing interjurisdictional fishery resources throughout their range, and consented to and approved by Congress.

(7) The term "project" means a program for research in support of the management of an interjurisdictional fishery resource or an interstate cooperative fishery management agreement.

(8) The term "Secretary" means the Secretary of Commerce.

(9) The term "State" means any of the several States of the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, or the Northern Mariana Islands.

(10) The term "State agency" means any department, agency, commission, or official of a State authorized under the laws of the State to regulate commercial fisheries or enforce laws relating to commercial fisheries.

SEC. 304. APPORTIONMENT.

(a) TIME WHEN APPORTIONMENTS MADE.—Funds appropriated under section 308(a) shall be apportioned by the Secretary among the States on October 1 of each fiscal year, or as soon thereafter as practicable.

(b) APPORTIONMENT FORMULA.—The amount of funds apportioned to each State shall be determined by the Secretary as the ratio which the equally weighted average of the volume and value of fishery resources harvested by domestic commercial fishermen and received within such State during the 3 most recent calendar years for which data satisfactory to the Secretary are available bears to the total equally weighted average of the volume and value of all fishery resources harvested by domestic commercial fishermen received within all of the States during those calendar years.

(c) LIMITATIONS.—(1) No State may receive an apportionment under subsection (b) for either fiscal year 1987 or fiscal year 1988 which is less than one-half of one percent of the total amount of funds available for that fiscal year.

(2) For any fiscal year after fiscal year 1988, no State that, under the apportionment formula in subsection (b), has a ratio of one-third of one percent or higher may receive an apportionment for any fiscal year which is less than one percent of the total amount of funds available for that fiscal year.

(3) For any fiscal year after fiscal year 1988, no State may receive an apportionment under this section for any fiscal year if that State's ratio under the apportionment formula in subsection (b) is less than one-third of one percent, unless the State—

(A) is signatory to an interstate fishery compact;

(B) has entered into an agreement with the Secretary or the Secretary of the Interior under which the personnel, services, and equipment of the State and the Federal agency concerned will be made mutually available for the enforcement of Federal and State laws pertaining to the protection of fishery resources;

(C) borders one or more of the Great Lakes; or

(D) has entered into an interstate cooperative fishery management agreement.

(3) No State that, under the apportionment formula in subsection (b), has a ratio of less than one-third of one percent and meets any of the requirements set forth in

paragraph (1) (A), (B), (C), or (D) may receive an apportionment for any fiscal year which is less than one-half of one percent of the total amount of funds available for apportionment for such fiscal year.

(4) No State may receive an apportionment for any fiscal year under this section which is more than 6 percent of the total amount of funds available for apportionment for such fiscal year.

(b) UNUSED APPORTIONMENTS.—Any part of an apportionment for any fiscal year to any State—

(1) that is not obligated during that year;

(2) with respect to which the State notifies the Secretary that it does not wish to receive that part; or

(3) that is returned to the Secretary by the State,

may not be considered to be apportioned to that State and shall be added to such funds as are appropriated pursuant to section 308(a) for the next fiscal year (and shall be treated as having been appropriated for such next year) for apportionment under subsection (a). Any notification or return of funds referred to in paragraph (2) or (3) by a State is irrevocable.

SEC. 305. STATE PROJECTS.

(a) IN GENERAL.—(1) Any State may, through its State agency or an interstate commission, submit to the Secretary a proposal for a project which includes full plans, specifications, and cost estimates for such project. The total cost of all items included for engineering, planning, inspection, and unforeseen contingencies in connection with any works to be constructed as part of such a proposed project shall not exceed 10 percent of the total cost of such works, and shall be paid by the State as a part of its contribution to the total cost of the works.

(2) No part of any funds appropriated under any authorization contained in section 308 may be obligated with respect to any project until the proposal for such project has been submitted under paragraph (1) and approved by the Secretary. The Secretary, before approving any proposal for a project, must evaluate the proposal as to—

(A) the soundness of design;

(B) the possibilities of securing productive results;

(C) the minimization of duplication with other research projects in support of the management of interjurisdictional fishery resources and carried out under this title or under any other law or regulation;

(D) the organization and management of the project;

(E) the methods proposed for monitoring and evaluating the success or failure of the project;

(F) the consistency of the project with the purposes of this title specified in section 302; and

(G) such other criteria as the Secretary may prescribe.

(3) The Federal share of the cost of any project conducted under this title shall not exceed 75 percent of the total estimated cost of the project, unless—

(A) the State has adopted an interstate fishery management plan for the resource to which the project applies; or

(B) the State has adopted fishery regulations which the Secretary has determined are consistent with any Federal fishery management plan for the species to which the project applies;

in which case the Federal share shall not exceed 90 percent of the total estimated cost of the project.

(4)(A) If the Secretary approves or disapproves a proposal for a project, the Secretary shall promptly give written notification, including, if disapproved, a detailed explanation of the reasons for the disapproval, to the State agency submitting the proposal or, if the proposal is submitted through an interstate commission, such commission and the State.

(B) For the purposes of this title, funds apportioned under this section to any State shall be treated as having been obligated with respect to a project during the fiscal year in which the written notification of approval required under subparagraph (A) for the project proposal is made.

(b) RESTRICTION.—The expenditure of funds under this title shall be applied only to projects for which a proposal has been approved under subsection (a), except that up to $25,000 each fiscal year may be obligated for a State to carry out an agreement with the Secretary or the Secretary of the Interior under which the personnel, services and equipment of the State and the Federal agency concerned will be made mutually available for the enforcement of Federal and State laws pertaining to the protection of fishery resources. If otherwise applied, such funds shall be replaced by the State before the State may receive any additional funds under this title.

(c) PAYMENT.—When the Secretary determines that a project carried out under a proposal approved by the Secretary has been completed, or where the Secretary otherwise deems it appropriate, the Secretary shall cause to be paid to the proper authority of the State, or to the official or depository designated by the interstate commission if the State agency specifies that payment is to be made to the interstate commission, the Federal share of the project. Any payment made to an interstate commission shall be charged against the apportionment of the State concerned.

SEC. 306. PROPERTY.

(a) APPLICATION OF FEDERAL AND STATE LAWS.—All work, including the furnishing of labor and materials, needed to complete any project approved by the Secretary shall be performed in accordance with applicable Federal and State laws under the direct supervision of the State agency, and in accordance with regulations as the Secretary may prescribe.

(b) TITLE.—Title to all property, real and personal, acquired for the purposes of completing any project approved by the Secretary vests in the State.

(c) DISPOSAL.—If a State disposes of any real or personal property acquired under this title, the State shall pay into the Treasury of the United States the amount of any proceeds resulting from the property disposed to the extent of and in the same ratio that funds provided under this title were used in the acquisition of the property. In no case shall the amount paid into the Treasury of the United States under this section exceed the amount of funds provided by this chapter for the acquisition of the property involved.

SEC. 307. REPORTS.

After consultation with the States receiving funds under this title and with any interstate commission involved in carrying out a project under this title, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 90 days after the end of the fiscal year 1988, and each second fiscal year occurring after that fiscal year, a report which contains—

(1) a description of each project and law enforcement effort receiving funds under this title during the last 2 fiscal years ending before such report is submitted;

(2) a specification of the total amount of funds from the Federal Government and the total amount of funds from each State spent on each project and law enforcement effort receiving funds under this title during the last 2 fiscal years ending before such report is submitted;

(3) an assessment of each project and law enforcement effort receiving funds under this title during the last 2 fiscal years ending before such report is submitted to determine whether such project is furthering the purposes of this title; and

(4) a statement specifying all funds which have been apportioned pursuant to section 305(a) and are available for obligation by a State or the Secretary but which have not been obligated.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title $5,000,000 for each of fiscal years 1987, 1988, and 1989.

(b) ADDITIONAL APPROPRIATIONS.—In addition to the amounts authorized in subsection (a), there are authorized to be appropriated to the Department of Commerce $2,500,000 for each of fiscal years 1988 and 1989, which shall be available in such amounts as the Secretary may determine appropriate for the purposes of this title; except that—

(1) in providing funds to States under this subsection, the Secretary shall give a preference to those States regarding which the Secretary determines there is a commercial fishery failure or serious disruption affecting future production due to a fishery resource disaster arising from natural or undetermined causes, and any sums made available under this subsection may be used either by the States or directly by the Secretary in cooperation with the States for any purpose that the Secretary determines is appropriate to restore the fishery affected by such a failure or to prevent a similar failure in the future; and

(2) the funds authorized to be appropriated under this subsection shall not be available to the Secretary for use as grants for chartering fishing vessels.

Amounts appropriated under this subsection shall remain available until expended.

(c) DEVELOPMENT OF MANAGEMENT PLANS.—In addition to the amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Department of Commerce $350,000 for each of fiscal years 1988 and 1989 to support the efforts of the following interstate commissions to develop interstate fishery management plans for interjurisdictional fishery resources:

(1) The commission established by the Atlantic States Marine Fisheries Compact, as consented to and approved by Public Law 77-539 (56 Stat. 267), approved May 4, 1942.

(2) The commission established by the Pacific Marine Fisheries Compact, as consented to and approved by Public Law 80-232 (61 Stat. 419), approved July 24, 1947.

(3) The commission established by the Gulf States Marine Fisheries Compact, as consented to and approved by Public Law 81-66 (63 Stat. 70), approved May 19, 1949.

SEC. 309. REPEAL.

The Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779 et seq.) is repealed.

SEC. 310. EFFECTIVE DATE.

This title takes effect October 1, 1987.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. NOAA MARINE FISHERIES PROGRAM AUTHORIZATIONS.

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a), by striking out "and" after "1984,", and by inserting ", $27,382,000 for fiscal year 1986, $28,121,314 for fiscal year 1987, $28,915,392 for fiscal year 1988, and $29,764,234 for fiscal year 1989" immediately after "1985";

(2) in section 3(a), by striking out "and" after "1984,", and by inserting ", $25,933,000 for fiscal year 1986, $26,633,191 for fiscal year 1987, $27,385,248 for fiscal year 1988, and $28,189,171 for fiscal year 1989" immediately after "1985"; and

(3) in section 4(a), by striking out "and" after "1984,", and by inserting ", $11,395,000 for fiscal year 1986, $11,702,665 for fiscal year 1987, $12,033,120 for fiscal year 1988, and $12,386,365 for fiscal year 1989" immediately after "1985".

SEC. 402. ANADROMOUS FISH CONSERVATION ACT AUTHORIZATIONS.

Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended—

(1) by striking out "and 1985." in paragraph (4) and inserting "1985, and 1986."; and

(2) by adding after paragraph (4) the following:

"(5) $7,702,500 for fiscal year 1987.

"(6) $7,920,000 for fiscal year 1988.

"(7) $8,152,500 for fiscal year 1989.".

SEC. 403. CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT AUTHORIZATIONS.

Section 8 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended—

(1) by striking "and" after "1984,"; and

(2) by inserting immediately after "1985" the following: ", 1986, 1987, and 1988".

SEC. 404. ATLANTIC TUNAS CONVENTION ACT OF 1975 AUTHORIZATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended by striking out "year 1976, the period beginning July 1, 1976, and ending September 30, 1976, and fiscal years 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, and 1986" and inserting "years 1986, 1987, 1988, and 1989".

SEC. 405. GREAT LAKES FISHERY COMMISSION.

(a) INCREASE IN NUMBER OF COMMISSIONERS.—Section 3 of the Great Lakes Fishery Act of 1956 (16 U.S.C. 932) is amended to read as follows:

"SEC. 3. (a)(1) The United States shall be represented on the Commission by 4 Commissioners who shall be appointed by the President and who may not receive compensation for service as Commissioners. Of the Commissioners—

"(A) 1 shall be an official of the United States Government; and

"(B) 3 shall be individuals who reside in different Great Lakes States and who are knowledgeable regarding the fisheries of the Great Lakes, except that 1 of them must also be an official of a Great Lakes State.

"(2) The President shall appoint an alternate Commissioner who shall perform the duties of a Commissioner—

"(A) until a vacancy referred to in subsection (b)(3) is filled; and

"(B) in the event of the absence of a Commissioner from any meeting of the United States Section or the Commission.

"(b)(1) Except as provided in paragraph (2), the term of office of Commissioners appointed under subsection (a)(1)(B) is 6 years.

"(2) Of the Commissioners first appointed under subsection (a)(1)(B) after the date of the enactment of this subsection, 1 shall be appointed for a term of 2 years, 1 shall be appointed for a term of 4 years, and 1 shall be appointed for a term of 6 years.

"(3) Whenever a vacancy occurs among Commissioners appointed under subsection (a)(1)(B), the President shall appoint an individual to fill that vacancy for the remainder of the applicable term.".

(b) TRANSITION.—The term of office of each United States Commissioner on the Great Lakes Fishery Commission who is serving on the date of enactment of this Act is terminated (except the United States Government official appointed under section 3(a) of the Great Lakes Fishery Act of 1956 (16 U.S.C. 932(a), as in effect before the date of enactment). However, the individuals appointed to those terms shall continue to serve as Commissioners until the President makes appointments under section 3(b)(2) of the Act of 1956 (as added by subsection (a)), which appointments shall be made within 60 days after the date of enactment.

(c) CONFORMING AMENDMENT.—Section 201 of the Act entitled "An Act to amend the North Pacific Fisheries Act of 1954, and for other purposes", approved October 9, 1972 (22 U.S.C. 2672a) is amended by striking out "the Great Lakes Fishery Commission,".

SEC. 406. NOAA ESTUARINE PROGRAMS OFFICE.

(a) ESTABLISHMENT.—The Administrator of the National Oceanic and Atmospheric Administration (hereinafter in this section referred to as the "Administrator") shall establish within the Administration an Estuarine Programs Office.

(b) FUNCTIONS.—The Estuarine Programs Office shall—

(1) develop and implement a national estuarine strategy for the Administration that integrates the research, regulatory, and trusteeship responsibilities of the Administration;

(2) coordinate the estuarine activities of the various organizations within the Administration, including activities in estuarine research and assessment, fisheries research, coastal management, and habitat conservation;

(3) coordinate the estuarine activities of the Administration with the activities of other Federal and State agencies; and

(4) provide technical assistance to the Administrator, to other Federal agencies, and to State and local government agencies in—

(A) assessing the condition of estuaries;

(B) identifying estuaries of critical national or regional importance;

(C) identifying technical and management alternatives for the restoration and protection of estuarine resources; and

(D) monitoring the implementation and effectiveness of estuarine management plans.

(c) AUTHORIZATION.—There are authorized to be appropriated to the Administration not to exceed $500,000 for fiscal year 1987, $530,000 for fiscal year 1988, $560,000 for fiscal year 1989, and $600,000 for fiscal year 1990 to carry out the provisions of this section.

SEC. 407. NOAA OFFICERS.

(a) UNDER SECRETARY.—There shall be in the Department of Commerce an Under Secretary of Commerce for Oceans and Atmosphere who shall serve as the Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) and perform such duties as the Secretary of Commerce shall prescribe. The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

(b) ASSISTANT SECRETARY.—There shall be in the Department of Commerce, in addition to the Assistant Secretaries of Commerce provided by law before the date of enactment of this Act, one additional Assistant Secretary of Commerce who shall have the title Assistant Secretary of Commerce for Oceans and Atmosphere and shall serve as the Deputy Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) and perform such duties and functions as the Under Secretary of Commerce for Oceans and Atmosphere shall prescribe. The Assistant Secretary for Oceans and Atmosphere shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(c) APPLICABILITY.—The individual serving on the date of the enactment of this Act—

(A) as the Administrator of the National Oceanic and Atmospheric Administration shall also serve as the Under Secretary of Commerce for Oceans and Atmosphere until such time as a successor is appointed under subsection (a) of this section; and

(B) as the Deputy Administrator of the National Oceanic and Atmospheric Administration shall also serve as the Assistant Secretary of Commerce for Oceans and Atmosphere until such time as a successor is appointed under subsection (b) of this section.

(d) CHIEF SCIENTIST OF NOAA.—Section 2(d) of Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) is amended to read as follows:

"(d) There shall be in the Administration a Chief Scientist of the National Oceanic and Atmospheric Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). The Chief Scientist shall be the principal scientific adviser to the Administrator, and shall perform such other duties as the Administrator may direct. The Chief Scientist shall be an individual who is, by reason of scientific education and experience, knowledgeable in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the Administration.".

(e) CONFORMING AMENDMENTS.—(1) Section 5314 of title 5, United States Code, is amended by striking out "Administrator, National Oceanic and Atmospheric Administration." and inserting in lieu thereof "Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.".

(2) Section 5315 of title 5, United States Code, is amended—

(A) by striking "Deputy Administrator, National Oceanic and Atmospheric Adminis-

tration." and inserting in lieu thereof "Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration."; and

(B) by striking "Associate Administrator, National Oceanic and Atmospheric Administration.".

(3) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Chief Scientist, National Oceanic and Atmospheric Administration.".

SEC. 408. TRANSFER OF AUTHORITY FOR REIMBURSEMENT UNDER THE FISHERMEN'S PROTECTIVE ACT OF 1967.

Effective October 1, 1986, paragraph (1) of section 7(f) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(f)(1)) is amended to read as follows:

"(1) the term 'Secretary' means the Secretary of State.".

SEC. 409. FISHERIES LOAN FUND.

The third sentence of section 4(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(c)) is amended to read as follows: "Any funds received in the fisheries loan fund after September 30, 1986, shall be covered into the Treasury as miscellaneous receipts.".

SEC. 410. CONVEYANCE AGREEMENT PROVISIONS.

(a) IN GENERAL.—Under the Agreement dated December 9, 1977, between the Commandant of the Coast Guard and Koniag, Incorporated, a regional native corporation, pursuant to Public Law 92-203 (a copy of which is recorded beginning at Book 44, Page 179 of the Kodiak Recording District, Kodiak, Alaska) and any conveyance made under that Agreement, the rights or title conveyed to Koniag, Incorporated, shall be construed to include the following:

(1) Under the Agreement, welding or other equipment or machinery may be operated or maintained on lands conveyed to Koniag, Incorporated, if the equipment or machinery does not cause harmful electromagnetic interference with the Coast Guard Holiday Beach receiver site or is operated or maintained under terms and conditions mutually agreeable to the Coast Guard and Koniag, Incorporated. Harmful electromagnetic interference is defined as radio frequency signals which disrupt or degrade communications reception performance.

(2) The conveyance of the "old shipyard" includes the wharf and all lands of any nature beneath the wharf.

(3) An access and utility easement is intended as part of the conveyance for Parcel 2, known as Cliff Point, which consists of—

(A) a 100-foot wide access easement along the existing access road or a location that is mutually agreeable to the Coast Guard and Koniag, Incorporated, and includes the right to construct and operate an access road, bridges, guard rails, and other associated improvements; and

(B) a 40-foot wide utility easement adjacent to the access easement in paragraph (3)(A) of this subsection or a location that is mutually agreeable to the Coast Guard and Koniag, Incorporated.

(4) The construction, maintenance, and operation of a dock facility or location of any structure or thing on the premises described in section (c) of Schedule 4 of the Agreement is not inconsistent with the easement for the barge landing easement and access to and from the barge landing area reserved by the United States Government (hereinafter referred to in this paragraph as the "Government"), if the dock facility is con- structed or the structure or thing is located as approved by the Government. Approval by the Government is deemed to be granted if a proposal for the construction and location of the dock facility, structure, or thing is submitted to the Government and—

(A) the Government does not respond within 60 days of receipt of the proposal; or

(B) if a response with recommendations for modification is submitted by the Government within 60 days of receipt of the proposal, the proposal is modified in a manner necessary to reasonably satisfy the requirements of the Government—

(i) to use the dock facility for a barge landing area as contemplated by the easement; and

(ii) to permit access to and from the barge loading area to public highways for the transportation of materials as specified in Agreement.

(b) APPLICATION.—All rights or conveyances confirmed by this section are subject to the sanctions in the Agreement referred to in subsection (a).

(c) IMPLEMENTATION.—The Commandant of the Coast Guard or other appropriate Federal officer shall issue the appropriate corrective conveyance and perform any other appropriate ministerial or official act necessary to carry out the purposes of this section within 60 days after the date of the enactment of this title.

SEC. 411. INCIDENTAL TAKING OF DEPLETED MARINE MAMMALS.

(a) AMENDMENT OF THE MARINE MAMMAL PROTECTION ACT.—Paragraph (5)(A) of section 101(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)(A)) is amended—

(1) by striking "that is not depleted";

(2) in clause (i)—

(A) by striking "its habitat, and" and inserting in lieu thereof "will not have an unmitigable adverse impact"; and

(B) by inserting "or, in the case of a cooperative agreement under both this Act and the Whaling Convention Act of 1949 (16 U.S.C. 916 et seq.), pursuant to section 112(c)" immediately after "or section 109(f)"; and

(3) in clause (ii)(I), by inserting ", and on the availability of such species or stock for subsistence uses" immediately after "significance".

(b) STATEMENT BY THE SECRETARY.—Paragraph 4 of section 7(b) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(4)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by inserting "and" after the semicolon at the end of subparagraph (B); and

(3) by inserting after subparagraph (B) the following subparagraph:

"(C) if an endangered species or threatened species of a marine mammal is involved, the taking is authorized pursuant to section 101(a)(5) of the Marine Mammal Protection Act of 1972;";

(4) by striking "and" at the end of clause (ii);

(5) by redesignating clause (iii) as clause (iv) and by striking "clause (ii)" in that clause and inserting in lieu thereof "clauses (ii) and (iii)"; and

(6) by inserting after clause (ii) the following new clause:

"(iii) in the case of marine mammals, specifies those measures that are necessary to comply with section 101(a)(5) of the Marine Mammal Protection Act of 1972 with regard to such taking, and".

(c) EXEMPTIONS.—Subsection (o) of section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536(o)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", sections 101 and 102 of the Marine Mammal Protection Act of 1972," immediately before "or any regulation"; and

(B) by striking "either" and inserting in lieu thereof "any"; and

(2) in paragraph (2)—

(A) by striking out "(b)(4)(iii)" and inserting in lieu thereof "(b)(4)(iv)"; and

(B) by inserting "prohibited" immediately before "taking of the species".

SEC. 412. AUTHORITY TO ISSUE CERTAIN CERTIFICATES.

Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: Dunes Spirit, United States official number 690176; Kodiak Queen, United States official number 507891; La Reina, United States official number 230115; Northwind, United States official number 230147; and Wanderbird, United States official number 229607.

SEC. 413. COAST GUARD CONTRACTS.

Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal year 1987 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of the department in which the Coast Guard is operating may waive the requirements of this subsection in the interest of national security or economic efficiency.

SEC. 414. MISCELLANEOUS AMENDMENTS TO TITLE 46, UNITED STATES CODE.

(a) DEFINITIONS.—Section 2102(11b) of title 46, United States Code, is amended by inserting "freezing," immediately after "icing,".

(b) TRAVEL AND EXPENSE REIMBURSEMENT.—(1) Chapter 75 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 7504. Travel and expense reimbursement

"When a requirement to qualify for the issuance of, or endorsement on, a certificate, license, or document under this part is administered at a place at the request of an applicant or an applicant's representative, the applicant or representative may reimburse the Secretary for the travel and subsistence expenses incurred by the personnel assigned to perform the administration of the requirement. Amounts received as reimbursement under this section shall be credited to the appropriation for operating expenses of the Coast Guard.".

(2) The analysis of chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"7504. Travel and expense reimbursement.".

Amend the title so as to read: "An Act to amend certain provisions of the law regard-

ing the fisheries of the United States, and for other purposes.".

WILD AND SCENIC RIVERS ACT

McCLURE AMENDMENT NO. 3404

Mr. CHAFEE (for Mr. McCLURE) proposed an amendment to the amendments of the House to the amendments of the Senate to the bill (H.R. 4350) to amend the Wild and Scenic Rivers Act, and for other purposes, as follows:

Add the following new title at the end of the act:

TITLE VII—TO PROVIDE RELIEF FOR CERTAIN DESERT LAND ENTRYMEN IN IDAHO

SEC. 701. The Congress finds that—

(1) certain developed and productive desert land entries in Idaho, identified in section 702 of this title, made pursuant to the Act entitled "An Act to provide for the sale of desert lands in certain States and Territories", approved March 3, 1877 (43 U.S.C. 321, et seq.), commonly known and hereinafter referred to as the "Desert Land Act", have been cancelled by the Secretary of the Interior pursuant to holding limitation regulations promulgated pursuant to section 7 of the Act (43 U.S.C. 329);

(2) such regulations were retroactively applied to such desert land entries several years after the entries were allowed and more than two years after final development, proof and final payment for such entries were made, without giving the entrymen any opportunity to comply with the new interpretation of such regulations;

(3) cancellation of such desert land entries was harsh and unfair, and resulted in forfeiture to the Government of the developed entries and the monies paid for the land;

(4) such entrymen have fulfilled the requirements of the Desert Land Act in all respects other than such holding limitation regulations; and

(5) such entrymen, or their heirs or devisees, should have the entries reinstated and qualify for issuance of patents to carry out the objectives of the Desert Land Act.

SEC. 702. The names of the entrymen, and the serial numbers of the desert land entries generally known as the "Sailor Creek Project", to which this title applies, are as follows:

Entryman	Bureau of Land Management Serial Number
G. Patrick Morris	Idaho 013820
John E. Roth	Idaho 013905
Elise L. Neeley	Idaho 013906
Lyle D. Roth	Idaho 013907
Vera M. Nobel (Now Baltzor)	Idaho 014126
Charlene S. Baltzor	Idaho 014128
George R. Baltzor	Idaho 014129
John E. Morris (deceased)	Idaho 014130
Juanita M. Morris	Idaho 014249
Nellie Mae Morris (deceased)	Idaho 014250
Milo Axelsen	Idaho 014251
Peggy Axelsen	Idaho 014252

SEC. 703. (a) The desert land entries identified in section 702 of this title are hereby reinstated. The entrymen, or the heirs or devisees of any deceased entryman, may—

(1) rescind any agreement which is prohibited by the Secretary of the Interior pursuant to regulations under section 7 of the Act (43 U.S.C. 329) within six months after the date of enactment of this title; and

(2) resubmit final proof of reclamation and cultivation of the land in accordance with the provisions of section 7 of the Act (43 U.S.C. 329) before December 31, 1988.

(b) The Secretary of the Interior shall issue patents to the entrymen named in section 702, or their heirs or devisees upon compliance with the provisions of subsection (a) and the submission of satisfactory final proof.

SEC. 704. Notwithstanding any other provision of law, the property right prior to issuance of a patent to the land of any entryman identified in section 702 of this title, or the heirs, or devisees of any such entryman whose entry is reinstated in accordance with section 703 of this title, shall be a personal right, inheritable but not assignable. Any such entry may be mortgaged in the manner permitted by regulations promulgated by the Secretary of the Interior for the purpose of securing repayment of monies borrowed for development of the entry or for farm operating or crop production expenses.

Add at the end of the Act new titles 8, 9 and 10 as follows:

TITLE VIII—BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL

SEC. 801. AUTHORIZATION OF MEMORIAL.

The Black Revolutionary War Patriots Foundation is authorized to establish a memorial of Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

FUNDING

SEC. 802. The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

TITLE IX—WOMEN IN THE ARMED FORCES MEMORIAL

SEC. 901. AUTHORIZATION OF MEMORIAL.

The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

SEC. 902. FUNDING.

The Women in Military Service for America Memorial Foundation shall establish the memorial with non-Federal funds.

TITLE X—NEW RIVER GORGE ADMINISTRATIVE SITE

SEC. 1001. Section 1102(a) of the National Parks and Recreation Act of 1978 (Public Law 95-625) is amended by inserting the following after the second sentence: "In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site.".

SEC. 1002. Section 1112 of the same act is amended by striking "$500,000" and inserting "$3,000,000".

ANTI-DRUG ABUSE ACT OF 1986

DOMENICI AMENDMENT NO. 3405

(Ordered to lie on the table)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra; as follows:

On page 432, strike all beginning with "verifying" on line 7 through "with respect to," on line 8 and insert in lieu thereof "making aid available to".

On page 432, lines 14 and 14, strike "verifying the eligibility of, and".

NATIONAL APPLIANCE ENERGY CONSERVATION ACT

EVANS AMENDMENT NO. 3406

Mr. EVANS proposed an amendment to the bill (H.R. 5465) to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances, as follows:

On page 40, line 18, after "regulation" insert the following: "effective on or after January 1, 1992".

McCLURE (AND OTHERS) AMENDMENT NO. 3407

Mr. EVANS (for Mr. McCLURE, for himself, Mr. KASTEN, and Mr. PROXMIRE) proposed an amendment to the bill H.R. 5465, supra; as follows:

At the end of the bill add the following new section:

SEC. 12. FERC Requirement.

"(a) Notwithstanding any other applicable provision of law, on November 17, 1986, or within 10 working days thereafter, the Federal Energy Regulatory Commission shall, in the case of ANR Pipeline Company, FERC Docket No. RP82-80, filed April 30, 1982, publish a schedule for issuing a final order in such case, which schedule shall provide for such order to be issued not later than February 28, 1987. Such schedule shall include an opportunity for an oral argument prior to issuance of such final order, as requested by one or more of the parties, unless the Commission determines that such argument would not assist the Commission in deciding such case.

"(b) Except as expressly provided in subsection (a), nothing in this section shall affect—

"(1) any Stipulation and Agreement reached by the parties in such case or any applicable provisions of law with respect thereto;

"(2) the right of any party to such case to appeal the final order issued in such case in accordance with the applicable provisions of law; or

"(3) any other applicable provisions of law with regard to any such ruling or order."

McCLURE (AND SYMMS) AMENDMENT NO. 3408

Mr. EVANS (for Mr. McCLURE), (for himself and Mr. SYMMS) proposed an amendment to the bill H.R. 5465, supra, as follows:

At the end of the bill add the following new section:

"SEC. 13—Miscellaneous.

"(a) FERC ORDER.—Notwithstanding any petition filed by the Idaho Power Company on November 26, 1984 with the Federal Energy Regulatory Commission for a declaratory order concerning an Agreement dated October 25, 1984 (Exhibit A, Petition of Idaho Power Company for Declaratory Order, Docket No. EL 85-38-000) relative to the projects of such company specifically referenced in the petition, the Federal Energy Regulatory Commission is only authorized and directed, in lieu of the petition request, to issue an order within 90 days after enactment of this Act under the Federal Power Act that such Agreement shall not be considered by the Commission in any subsequent proceeding before the Commission during the remaining term of the licenses applicable to such projects, to be (1) inconsistent with the terms and conditions of such licenses concerning project property or the utilization thereof; or (2) imprudent for purposes of section 205 of the Federal Power Act.

"(b) SAVINGS PROVISION.—Nothing in this section or in any order issued by the Commission pursuant to this section, shall be construed as affecting any stipulation or other agreement entered into with the State of Idaho or the Idaho Power Company prior to enactment of this section relating to any fish and wildlife matters affected by any such project. Except as expressly provided in subsection (a), nothing in such subsection shall affect the application or requirements of section 10 of the Federal Power Act or any other provision of such Act to any person or project."

GRAMM (AND OTHERS) AMENDMENT NO. 3409

Mr. GRAMM (for himself, Mr. NICKLES, Mr. McCLURE, Mr. DOLE, Mr. STEVENS, Mr. COCHRAN, Mr. HELMS, Mr. MURKOWSKI, Mr. SIMPSON, Mr. WALLOP, Mr. BOREN, Mr. DOMENICI, and Mrs. KASSEBAUM) proposed an amendment to the bill H.R. 5465, supra, as follows:

At the end of the bill, add the following new title:

TITLE —OIL AND GAS PRODUCTION REVITALIZATION ACT

SEC. *01. SHORT TITLE.

This title may be cited as the "Oil and Gas Production Revitalization Act".

Subitile A—Oil Provisions

SEC. *11. WINDFALL PROFIT TAX REPEAL.

(a) Chapter 45 of the Internal Revenue Code of 1954 is repealed.

(b)(1) Sections 6050C, 6076, 6232, 6430, and 7241 of the Internal Revenue Code of 1954 are repealed.

(2)(A) Subsection (a) of section 164 of such Code is amended by striking paragraph (5).

(B) Paragraph (3) of section 168(i) of such Code is amended by striking "(A) In general.—" and subparagraph (B).

(C) The following provisions of such Code are each amended by striking "44, or 45" each place it appears and inserting "or 44":

(i) section 6211(a),
(ii) section 6211(b)(2),
(iii) section 6212(a),
(iv) section 6213(a),
(v) section 6213(g),
(vi) section 6214(c),
(vii) section 6214(d),
(viii) section 6161(b)(1),
(ix) section 6344(a)(1), and
(x) section 7422(e).

(D) Subsection (a) of section 6211 of such Code is amended by striking "44, and 45" and inserting "and 44".

(E) Subsection (b) of section 6211 of such Code is amended by striking paragraphs (5) and (6).

(F) Paragraph (1) of section 6212(b) of such Code is amended—

(i) by striking "chapter 44, or chapter 45" and inserting "or chapter 44", and

(ii) by striking "chapter 44, chapter 45, and this chapter" and inserting "chapter 44, and this chapter".

(G) Paragraph (1) of section 6212(c) of such Code is amended—

(i) by striking "of chapter 42 tax" and inserting "or of chapter 42 tax", and

(ii) by striking ", or of chapter 45 tax for the same taxable period".

(H) Subsection (e) of section 6302 of such Code is amended by striking paragraph (2).

(I) Section 6501 of such Code is amended by striking subsection (p).

(J) Section 6511 of such Code is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(K) Subsection (a) of section 6512 of such Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(L) Paragraph (1) of section 6512(b) of such Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(M) Section 6611 of such Code is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(N) Subsection (a) of section 6653 of such Code is amended—

(i) by striking "Gift, or Windfall Profit Taxes", in the heading and inserting "or Gift Taxes",

(ii) by striking ", or by chapter 45 (relating to windfall profit tax)" in paragraph (1), and

(iii) by striking the comma after "subtitle A" in paragraph (1) and inserting "or".

(O) Paragraph (3) of section 6678(a) of such Code is amended by striking subparagraphs (A) and (C) and redesignating subparagraphs (B), (D), (E), and (F) as subparagraphs (A), (B), (C), and (D), respectively.

(P) Subsection (a) of section 6862 of such Code is amended by striking "44, and 45" and inserting "and 44".

(Q) Section 7512 of such Code is amended—

(i) by striking ", by chapter 33, or by section 4986" in subsections (a) and (b) and inserting "or chapter 33", and

(ii) by striking ", chapter 33, or section 4986" in subsections (b) and (c) and inserting "or chapter 33".

(3)(A) The table of contents of subtitle D of such Code is amended by striking the item relating to chapter 45.

(B) The table of contents of subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6050C.

(C) The table of contents of part V of such subchapter is amended by striking the item relating to section 6076.

(D) The table of contents of subchapter C of chapter 63 is amended by striking the item relating to section 6232.

(E) The table of contents of subchapter B of chapter 65 is amended by striking the item relating to section 6430.

(F) The table of contents of part II of subchapter A of chapter 75 is amended by striking the item relating to section 7241.

(c) The amendments made by this section shall apply to crude oil removed from the premises beginning after December 31, 1986.

SEC. *12. STRATEGIC PETROLEUM RESERVE PETROLEUM ACQUISITION.

Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding after subsection (e) the following new subsection:

"(f)(1) The Secretary shall assure that at least 50 percent, by volume, of the petroleum products acquired for storage in the Strategic Petroleum Reserve during each fiscal year, exclusive of crude oil produced from the Naval Petroleum Reserves or received in kind as royalties from production on Federal lands, are derived from domestic crude oil production, provided that these domestic petroleum products can be aquired at delivered prices that are no less favorable to the United States than the price of comparable foreign petroleum products available to the Reserve, exclusive of duty.

"(2) If, during the acquisition of domestic petroleum products for the Strategic Petroleum Reserve, the Secretary determines that the requirement in paragraph (1) of this subsection cannot be met, the Secretary may acquire imported petroleum products totaling more than 50 percent of the petroleum products acquired for storage in the Reserve for that fiscal year.

"(3) The Secretary may issue the regulations and directives necessary to carry out this subsection.".

SEC. *13. INVESTIGATIONS BY DEPARTMENT OF COMMERCE.

(a) The Congress finds that—

(1) falling oil prices are encouraging increased consumption of petroleum products while discouraging petroleum exploration and development;

(2) broad sectors of the economy have suffered severe impacts as a result of the sharp decline of the energy industry;

(3) the decline in domestic exploration and development could result in increased dependence on imports of energy resources from unreliable sources;

(4) surplus worldwide production capacity may discourage oil and gas exploration investment, development of alternative sources of energy, and conservation by the United States and its allies;

(5) a healthy domestic energy industry and reliable international energy sources are critical to assure an adequate supply of energy at a reasonable cost, minimize our dependence on unreliable sources, assure free and fair trade in energy products, and attain the goal of energy independence and diversification; and

(6) the Administration has, in response, implemented a number of appropriate

changes in Federal energy programs, including a decision to fill the Strategic Petroleum Reserve, revision of natural gas valuation methods to better reflect actual market prices, and implementation of procedures to prevent premature abandonment of producing oil and gas wells, both onshore and offshore, and is seeking to identify further actions to respond to these conditions and assure our national security.

(b)(1) The Congress is deeply concerned about the adverse effects of the current state of the energy industry on the national security and economic well-being of the United States. Therefore the Congress urges the Administration to expand upon the initiatives already undertaken by identifying and using all authority available, consistent with free market principles and protection of the environment, to increase the exploration and development of domestic energy resources. The Congress also urges the President to take whatever actions are necessary and appropriate to protect our national security. To accomplish this, the Congress strongly urges the Secretary of Commerce to undertake immediately, upon fulfillment of the requirements of section 232(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1862(b)), and to complete as soon as feasible a study under section 232 of the Trade Expansion Act of 1962 of the national security effects and implications of the current and projected levels of petroleum imports into this Nation.

(2) The Congress urges the President to evaluate any study conducted by the Secretary of Commerce pursuant to section 232 of the Trade Expansion Act of 1962 and take appropriate action without causing undue adverse effects on our domestic and international economic interests.

(3) The Congress urges the Department of Commerce in conjunction with other affected departments to fully analyze the economic impact of current restrictions on the export of oilfield equipment and drilling technology as required in the Export Administration Act of 1979, as amended. The Congress specifically urges that the required study for 1986 assess the present effect of such restrictions on employment and growth of the United States economy, taking into account the recent domestic change in a number of sectors of the energy industry, and further assess the availability of other similar technologies from Western countries. Due to the particular impact of foreign policy controls on the domestic oil and gas equipment and technology industry the Congress urges that the study be undertaken immediately upon passage of this title.

Subtitle B—Natural Gas Provisions

SEC. *21. TRANSPORTATION OF NATURAL GAS.

(a) Section 311(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371(a)) is amended by—

(1) amended paragraph (1) to read as follows:

"(1) IN GENERAL.—The commission, by rule or order, may authorize any pipeline to transport natural gas on behalf of any person.";

(2) redesignating paragraph (1)(B) as paragraph (2);

(3) striking paragraph (2)(A);

(4) redesignating paragraphs (2)(B)(i), (2)(B)(ii), (2)(B)(ii)(I), and (2)(B)(ii)(II) as paragraphs (3)(A), (3)(B), (3)(B)(i), and (3)(B)(ii), respectively; and

(5) adding a new paragraph (4) to read as follows:

"(4) NON-DISCRIMINATION.—

"(A) A pipeline transporting gas pursuant to this subsection shall do so without discrimination.

"(B) A intrastate pipeline receiving gas pursuant to this subsection shall provide transportation service pursuant to this subsection without discrimination.".

(b)(1) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361-3375) is amended by adding the following new section:

"SEC. 316. OPEN ACCESS CARRIAGE.

"Upon request by any person, the Commission shall order any interstate pipeline to provide transportation service without discrimination unless the pipeline demonstrates to the Commission that it lacks the physical capacity necessary to render the service. The Commission may implement this section by rule or order, and may attach appropriate terms and conditions consistent with the fullest practicable use of capacity. The rates and charges for transportation service under this section shall be just and reasonable within the meaning of the Natural Gas Act.".

(2) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by adding after the item relating to section 315 the following:

"Sec. 316. Open access carriage.".

SEC. *22. FUEL USE ACT.

(a) The following sections of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) are repealed:

(1) sections 103 (a)(16), (a)(18), (a)(19), and (a)(29) (42. U.S.C. 8302 (a)(16), (a)(18), (a)(19), and (a)(29));

(2) sections 201(1) and 202 (42 U.S.C. 8311(1) and 8312);

(3) section 302 (42 U.S.C. 8342);

(4) section 401 (42 U.S.C. 8371);

(5) section 402 (42 U.S.C. 8372); and

(6) section 405 (42 U.S.C. 8375).

(b) The table of contents in section 101(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301(b)) is amended by striking the items relating to the sections repealed by subsection (1) of this section.

(c)(1) Section 102 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301) is amended by striking "major fuel-burning installations" each place it appears.

(2) Section 103 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8302) is amended—

(A) in subsection (a)(13)(B), by—

(i) striking clause (ii)(III);

(ii) striking "; or" at the end of clause (ii)(II), and inserting a period in its place; and

(iii) inserting "and" at the end of clause (ii)(I);

(B) in subsection (a)(15), by striking "or major fuel-burning installation" each place it appears;

(C) in subsection (a)(20), by striking "or major fuel-burning installation";

(D) by redesignating subsections (a)(17), (a)(20), (a)(21), (a)(22), (a)(23), (a)(24), (a)(25), (a)(26), (a)(27), and (a)(28), as subsections (a)(16), (a)(17), (a)(18), (a)(19), (a)(20), (a)(21), (a)(22), (a)(23), (a)(24), (a)(25), respectively;

(E) in subsection (b), by striking "or major fuel-burning installation" wherever this phrase appears;

(F) in subsection (b)(1)(D), by striking everything after "synthetic gas involved" and inserting in its place a period; and

(G) by striking subsection (b)(3), and redesignating subsection (b)(4) as subsection (b)(3).

(3) Section 104 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8303) is amended to read as follows:

"The provisions of this Act shall apply in all the States, Puerto Rico, and the territories and possessions of the United States.".

(4) Section 211 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8321) is amended by striking subsection (c) and redesignating the following subsections accordingly.

(5) Section 303 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8343) is amended by—

(A) striking "or installation" and "or installations" wherever the phrases appear;

(B) striking "or 302" wherever the phrase appears;

(C) striking subsection (a)(3);

(D) amending subsection (b)(1) to read as follows:

"(1) The Secretary may prohibit, by rule, the use of natural gas or petroleum under section 301(b) in existing electric powerplants.";

(E) in subsection (b)(3), striking "or major fuel-burning installation"; and

(F) amending the last sentence of subsection (b)(3) to read as follows: "Any such rules shall not apply in the case of any existing electric powerplant with respect to which a comparable prohibition was issued by order.".

(6) Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373) is amended by striking—

(A) in subsection (a)(1), "major fuel-burning installation, or other unit" and the comma immediately preceding this phrase and "installation, or unit" and the comma immediately preceding this phrase;

(B) in subsection (a)(2), "installation, or other unit" and the comma immediately preceding that phrase, and "installation, or unit" and the comma immediately preceding that phrase;

(C) in subsection (a)(2), the last sentence; and

(D) subsection (a)(3).

(7) Section 404 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8374) is amended by striking—

(A) in subsection (c), "new or' in phrase "applicable to any new or existing electric powerplant"; and

(B) subsection (g).

(8) Section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8411) is amended by striking—

(A) in the last sentence of subsection (b), "or installation";

(B) subsection (c);

(C) in the title of subsection (d), "AND EXEMPTIONS";

(D) in the first sentence granting an exemption (or permit)"; of subsection (d)(2), "or any petition for any order"

(E) in subsection (d)(1)(B), "or in the consideration of such petition";

(F) in subsection (f), "or a petition for an exemption (or permit) under this Act (other than under section 402 or 404),"; and

(G) subsection (g).

(9) Section 702 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8412) is amended by striking—

(A) in the title of subsection (a), "OR EXEMPTION";

(B) in subsection (a), "or granting an exemption (or permit)";

(C) subsection (b), and redesignating subsection (c) as subsection (b);

(D) in the first sentence of subsection (b)(1) (as redesignated) ", or by the denial

of a petition for an order granting an exemption (or permit) referred to in subsection (b),";

(E) in the first sentence of subsection (b)(1) (as redesignated), "such rule, order, or denial is published under subsection (a) or (b)" and inserting in its place "such rule or order is published under subsection (a)";

(F) in the first sentence of subsection (b)(2) (as redesignated), "the rule, order, or denial" and inserting in its place "the rule or order";

(G) in the second sentence of subsection (b)(2) (as redesignated), "(or denial thereof)"; and

(H) in subsection (b)(3) (as redesignated), "any such rule, order, or denial" and inserting in its place "any such rule or order".

(10) Section 711 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421) is amended by striking in the first sentence of subsection (a), "or major fuel-burning installation".

(11) Section 721 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8431) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(12) Section 723 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8433) is amended by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(13) Section 731 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8441) is amended by striking—

(A) "or major fuel-burning installation" wherever the phrase appears; and

(B) "title II or" subsections (a)(1) and (g)(3).

(14) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8455) is amended by striking in the first sentence of subsection (a), "from new and existing electric powerplants and major fuel-burning installations" and inserting in its place "from existing electric powerplants".

(15) Section 761 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8471) is amended by striking—

(A) in subsection (a), "any existing or new electric powerplant or major fuel-burning installation" and inserting in its place "any existing electric powerplant"; and

(B) in subsection (b)—

(i) "new or" in the phrase "In the case of any new or existing facility"; and

(ii) "except to the extent provided under section 212(b) or section 312(b)" and the comma immediately preceding that phrase.

(d)(1) Subject to paragraphs (2) and (3), title II of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341-3348) is repealed, and the items relating to title II are stricken from the table of contents of that Act.

(2) A rule promulgated by the Commission under title II of the Natural Gas Policy Act of 1978 shall continue in effect only with respect to the flow-through of costs incurred before the enactment of the Oil and Gas Production Revitalization Act, including any surcharges based on such costs.

(3) The Commission may take appropriate action to implement this section.

SEC. *23. LIMITED ANTITRUST EXEMPTION FOR INDEPENDENT PRODUCER COOPERATIVES.

(a) There shall be available as a defense to any civil or criminal action brought under the Federal antitrust laws as that term is defined in section 2(37) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301(37)), or any similar State law, with respect to action taken to develop cooperative associations of independent producers or actions taken by such cooperative associations to carry out any voluntary agreement or plan of action to market natural gas if—

(1) the action is necessary to market natural gas, and

(2) the action is not taken for the purpose of reducing competition.

(b) For purposes of this section, the term "independent producer" means, with respect to any quarter, any person other than a person to whom subsection (c) of section 613A of the Internal Revenue Code of 1954 does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d) of such Code. For purposes of the preceding sentence, paragraphs (2) and (4) of section 613A(d) shall be applied by substituting "quarter" for "taxable year" each place it appears in such paragraphs, and by substituting "$1,250,000" for "$5,000,000" in paragraph (2) of section 613A(d).

SEC. *24. FAIR STANDARD FOR COMPARING COST OF PURCHASED GAS SUBJECT TO COMMISSION JURISDICTION.

Section 4(a) of the National Gas Act of 1938 (15 U.S.C. 717(b)) is amended by adding at the end thereof the following new paragraph:

"In ascertaining whether any amount paid in any purchase of natural gas for resale (other than a first sale of natural gas as defined in section 2(21)) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301) is just and reasonable, the Commission shall consider the full cost of the purchased gas, both demand and commodity rates, it separately stated. Nothing in this section shall affect the jurisdiction of the Secretary of Energy under section 3 of the Natural Gas Act.

Subtitle C—Regulatory Reform Provisions

SEC. *31. REGULATION OF PRODUCTION WASTES UNDER THE SOLID WASTE DISPOSAL ACT.

Section 8002(m) of the Solid Waste Disposal Act (42 U.S.C. 6982(m)) is amended—

(1) in paragraph (1) by adding at the end the following new sentence: "The Administrator shall conduct the study and prepare the report with the participation of the Secretary of Energy; the Secretary of the Interior; representatives of the industries associated with the exploration, development, or production of crude oil or natural gas or geothermal energy; and representatives of the State agencies that regulate these industries."; and

(2) in paragraph (2) by striking "twenty-four months from the date of enactment of the Solid Waste Disposal Act Amendments of 1980" and inserting in its place "January 1, 1989".

SEC. *32. UNDERGROUND STORAGE TANKS.

Section 9001(1) of the Solid Waste Disposal Act (42 U.S.C. 6991(1)) is amended—

(1) in subparagraph (H) by inserting "; well cellars, sumps, or drip collection devices" after "lines" and by striking out "or" at the end thereof; and

(2) by redesignating paragraph (I) as paragraph (J) and by adding after paragraph (H) the following:

"(I) hydraulic lift reservoirs in petroleum marketing operations, oil/water separators in petroleum marketing, production, and refining operations, and sumps in petroleum marketing and refining operations, or".

SEC. *33. FACILITY VARIANCES.

It is the sense of Congress that—

(1) fundamentally different factors variances should be available for any facility that is subject to national effluent limitation guidelines including, but not limited to, the oil and gas extraction point source category; and

(2) applications for fundamentally different factors variances from national effluent limitation guideline requirements for the oil and gas extraction industry may be based upon information and supporting data which had not been submitted earlier to the Administration, but shall be submitted at the earliest practicable time that such information and data exist or is reasonably available to the applicant.

SEC. *34. RECYCYLING ACTIVITIES.

It is the sense of Congress that the "mixture" and "derived from" rules in 40 CFR 261.3 were promulgated to address intentional dilution of hazardous wastes—a mismanagement practice designed to avoid regulation. These rules should not be invoked to curtail recycling activities in the petroleum industry designed to conserve resources or minimize wastes when there is no information to demonstrate that the recycling activities pose any threat to human health and the environment.

SEC. *35. LAND TREATMENT SITES.

It is the sense of Congress that—

(1) the Administrator of the Environmental Protection Agency should encourage continued use of land treatment for petroleum waste to the extent consistent with protection of human health and the environment;

(2) protection of human health and the environment from air emissions at land treatment units under the Solid Waste Disposal Act should be addressed solely through promulgation of standards under section 3004(n) of such Act;

(3) land treatment should be determined to be protective of human health and the environment under subsections (d), (e), and (g) of section 3004 of the Solid Waste Disposal Act when an owner or operator demonstrates there will be no statistically significant increase of hazardous constituents over background to groundwater arising from placement of hazardous waste at the land treatment unit; and

(4) land treatment of petroleum waste should be considered to be a method of treatment which meets the requirements of section 3004(m) of the Solid Waste Disposal Act (42 U.S.C. 6924(m)).

SEC. *36. INDUSTRY ACCOUNTING METHODS.

It is the sense of Congress that—

(1) the full cost method of accounting for oil and gas operations should continue to be recognized as an acceptable financial accounting practice in the United States;

(2) financial statements using the full cost method should continue to be accepted in documents filed with all Federal agencies, including registration statements, reports and other filings with the Securities and Exchange Commission; and

(3) the use of the full cost method should not be limited by action of any Federal regulatory agency.

ANTI-DRUG ABUSE ACT OF 1986

MATHIAS AMENDMENT NOS. 3410 THROUGH 3422

(Ordered to lie on the table.)

Mr. MATHIAS submitted 13 amendments intended to be proposed by him to the motion to concur, with an

amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill, H.R. 5484, supra, as follows:

AMENDMENT No. 3410

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment no. 3275, as modified, is further amended as follows:

At the end of the section, add the following new subsection:

( ) No person may be sentenced to death under this section for an offense for which a sentence of death is not authorized under the law of the State in which the defendant resided at the time posecution was initiated.

AMENDMENT No. 3411

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment no. 3275, as modified, is further amended as follows:

At the end of the section, add the following new subsection:

( ) No person may be sentenced to death under this section for an offense for which a sentence of death is not authorized under the law of the State in which the defendant is domiciled.

AMENDMENT No. 3412

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment no. 3275, as modified, is further amended as follows:

At the end of the section, add the following new subsection:

( ) No person may be sentenced to death under this subsection for an offense for which a sentence of death is not authorized under the law of the State in which the execution is to be carried out.

AMENDMENT No. 3413

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment no. 3275, as modified, is further amended as follows:

At the end of the section, add the following new subsection:

( ) No person may be sentenced to death under this section for an offense for which a sentence of death is not authorized under the provisions of the law of the State in which the offense is committed.

AMENDMENT No. 3414

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment no. 3275, as modified, is further amended as follows:

( ) No person may be sentenced to death under this section for an offense for which a sentence of death is not authorized under the law of the State in which the defendant has been indicted.

AMENDMENT No. 3415

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment no. 3275, as modified, is further amended as follows:

At the end of the section, add the following subsection:

"IMPLEMENTATION OF DEATH SENTENCES BY ELECTROCUTION"

"( ) A sentence of death rendered pursuant to this section shall not be implemented by electrocution. If the method of execution prescribed by the sentencing court is prohibited by this section a sentence other than death shall be imposed."

AMENDMENT No. 3416

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment no. 3275, as modified, is further amended as follows:

At the end of the section, add the following subsection:

"IMPLEMENTATION OF DEATH SENTENCES BY INJECTION"

"( ) A sentence of death rendered pursuant to this section shall not be implemented by lethal injection. If the method of execution prescribed by the sentencing court is prohibited by this section a sentence other than death shall be imposed."

AMENDMENT No. 3417

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment no. 3275, as modified, is further amended as follows:

At the end of the section, add the following subsection:

"IMPLEMENTATION OF DEATH SENTENCES BY HANGING"

"( ) A sentence of death rendered pursuant to this section shall not be implemented by hanging. If the method of execution prescribed by the sentencing court is prohibited by this section a sentence of other than death shall be imposed."

AMENDMENT No. 3418

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment no. 3275, as modified, is further amended as follows:

At the end of the section, add the following new subsection:

( ) A sentence of death shall not be imposed upon any individual who is terminally ill.

AMENDMENT No. 3419

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment no. 3275, as modified, is further amended as follows:

At the end of the section, add the following new subsection:

( ) A sentence of death shall not be imposed upon any individual who is pregnant.

AMENDMENT No. 3420

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment no. 3275, as modified, is further amended as follows:

At the end of the section, add the following new subsection:

( ) A sentence of death shall not be imposed upon any individual who is mentally ill.

AMENDMENT No. 3421

Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by subtitle U of Title I of amendment No. 3275, as modified, is further amended as follows:

At the end of the section, add the following new subsection:

( ) A sentence of death shall not be imposed on any person who is unable to understand the fact of his impending execution or the reason for it.

AMENDMENT No. 3422

Subsection (h) of section 408 of the Controlled Substances Act, as added by section 1951(b) of the Senate amendment as modified is amended by inserting the following at the conclusion of paragraph (2) thereof—

"(3) In every criminal action in which a defendant is charged with a crime which may be punishable by death under this subtitle a person may not be disqualified, excused or excluded from service as a juror therein by reason of his/her beliefs or attitudes against capital punishment unless such beliefs or attitudes would render him/her unable to return a verdict of guilty according to law."

DOMENICI AMENDMENT No. 3423

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484 supra as follows:

On page 41, beginning with line 14, strike all through line 13 of page 45 and insert in lieu thereof the following:

SEC. 1152. ASSET FORFEITURE FUNDS.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Subsection (c) of section 524 of title 28, United States Code, is amended—

(2) by inserting at the end of subparagraph (A) of paragraph (1) the following: "such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;";

(3) by inserting after subparagraph (A) of paragraph (1) the following new subparagraph and renumbering the subsequent subparagraphs appropriately;

"(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;".;

(4) by amending newly designated subparagraph (F) of paragraph (1) to read as follows:

"(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United State Marshals Service; and";

(5) by striking out in paragraph (4) "remaining after payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))";

(6) by striking out paragraph (8) and renumbering paragraph (9) as paragraph (8); and

(7) by adding at the end of the subsection the following new paragraph:

"(9)(A) If any funds deposited in the Department of Justice Assets Forfeiture Fund or the Customs Forfeiture Fund (19 U.S.C. 1613a, 1613b) are not expended or obligated prior to thirty days after the end of the fiscal year, 90 percent of such funds (not to exceed amounts specified in appropriation

Acts) shall be transferred into a Special Forfeiture Fund.

"(B) The funds in the Special Forfeiture Fund shall be disbursed (in amounts not to exceed amounts specified in appropriation Acts), during the fiscal year in which they are transferred into the Special Fund, by the Attorney General, after consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Education, to enhance the following efforts:

"(i) Federal drug law enforcement agencies and programs;

"(ii) Federal drug abuse agencies and programs relating to drug abuse education, prevention, treatment, rehabilitation, and research;

"(iii) State, local, and nonprofit agencies with drug abuse responsibilities; and

"(iv) State and local law enforcement agencies for drug law enforcement efforts, under subtitle M of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3721 et seq.).

"(C) Funds disbursed from the Special Forfeiture Fund shall not be used to supplant existing funds, but shall be used to supplement funds that are otherwise available.

"(D) The Attorney General shall report annually to the Congress on all disbursements made under the authority of subparagraph (B).".

(b) CUSTOMS FORFEITURE FUND.—

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98-473, is amended—

(B) by amending paragraph (3) of subsection (a) to read as follows:

"(3) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and"; and

(C) by striking out subsection (h).

(2) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) as added by Public Law 98-573, is repealed.

OWNERSHIP OF CERTAIN COGENERATION FACILITIES BY PUBLIC UTILITY HOLDING COMPANIES

KASTEN (AND PROXMIRE) AMENDMENT NO. 3424

Mr. DOLE (for Mr. KASTEN, for himself and Mr. PROXMIRE) proposed an amendment to the bill (H.R. 5056) to permit registered public utility companies to own certain interests in qualifying cogeneration facilities; as follows:

"Strike all of Section 2."

METZENBAUM AMENDMENT NOS. 3425 THROUGH 3450

(Ordered to lie on the table.)

Mr. Metzenbaum submitted 26 amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, to the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3425

Strike section 1801 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3426

Strike section 1802 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3427

Strike section 1803 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3428

Strike section 1804 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3429

Strike section 2001 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3430

Strike section 2002 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3431

Strike section 2003 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3432

Strike section 2004 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3433

Strike section 2005 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3434

Strike section 2006 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3435

Strike section 2007 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3436

Strike section 2008 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3437

Strike section 2009 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3438

Strike section 2010 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3439

Strike section 2011 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3440

Strike section 2012 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3441

Strike section 2013 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3442

Strike section 2014 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3443

Strike section 2018 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3444

Strike section 2016 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3445

Strike section 2017 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3446

Strike section 2018 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3447

Strike section 2019 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3448

Strike section 2020 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3449

Strike section 2021 of Senate Amendment No. 3275 as modified.

AMENDMENT No. 3450

Strike section 2022 of Senate Amendment No. 3275 as modified.

WILSON AMENDMENT NO. 3451

(Ordered to lie on the table)

Mr. WILSON submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

On page 41, beginning with line 14, strike all through line 13 on page 45 and insert in lieu thereof the following:

SEC. 1152. ASSET FORFEITURE FUNDS.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Subsection (c) of section 524 of title 28, United States Code, is amended—

(1) by inserting at the end of subparagaph (A) paragraph (1) the following: "such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the processing of and accounting for forefeitures, and the storage, protection, and destruction of controlled substances;"

(2) by inserting after subparagraph (A) of paragraph (1) the following new subparagraph and renumbering the subsequent subparagraphs appropriately;

"(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;";

(3) by amending newly designated subparagraph (F) of paragraph (1) to read as follows:

"(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service; and";

(4) by striking out in paragraph (4) "remaining after payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the En-

dangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))";

(5) by striking out paragraph (8) renumbering paragraph (9) as paragraph (8); and

(b) CUSTOMS FORFEITURE FUND.—

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98-473, is amended—

(A) by amending paragraph (3) of subsection (a) to read as follows:

"(3) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and"; and

(B) by striking out subsection (h).

(2) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) as added by Public Law 98-573, is repealed.

SIMON AMENDMENT NOS. 3452 AND 3453

(Ordered to lie on the table.)

Mr. SIMON submitted two amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT No. 3452

Amend H.R. 5484, on page 177 of the amendment between lines 4 and 5 insert the following:

"The sentence of death authorized by this act shall not be implemented by hanging. No such authority shall be available until the State in which the trial was held provides for the transfer of prisoners so sentenced to a State where execution by hanging is not permitted."

AMENDMENT No. 3453

Amend H.R. 5484, on page 177 of the amendment between lines 4 and 5 insert the following:

"The sentence of death authorized by this act shall not be implemented by firing squad. No such authority shall be available until the State in which the trial was held provides for transfer of prisoners so sentenced to a State where execution by hanging is not permitted."

BINGAMAN AMENDMENT NO. 3454

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

At the appropriate place, insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Nutrition Monitoring and Related Rearch Act of 1986".

PURPOSES

SEC. 2. The purposes of this Act are to—

(1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutrient content of the United States food supply;

(3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and the relevant policy implications;

(4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and

(7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including (A) dietary, nutritional, and health status measurements, (B) food consumption measurements, (C) food composition measurements and nutrient data banks, (D) dietary knowledge and attitude measurements, and (E) food supply and demand determinations;

(2) the term "coordinated program" means the National Nutrition Monitoring and Related Research Program established by section 101(a);

(3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 101(c);

(4) the term "comprehensive plan" means the comprehensive plan prepared under section 103;

(5) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title submitted to Congress in September 1981 by the Department of Agriculture and the Department of Health and Human Services, under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178);

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" mean the advisory body established under section 201;

(7) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly; and

(8) The term "local government" means a local general unit of government or local educational unit.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

ESTABLISHMENT OF THE COORDINATED PROGRAM

SEC. 101. (a) There is hereby established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purposes of this Act.

(b) The Secretaries shall be responsible for the implementation of the coordinated program.

(c) To assist in implementing the coordinated program, there is hereby established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as deemed appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months.

(d) To establish a central focus and coordinator for the coordinated program, the Secretaries may appoint a full-time Administrator of Nutrition Monitoring and Related Research. The Administrator shall—

(1) be an individual who is eminent in the field of nutrition monitoring and related areas, and be selected on the basis of his or her established record of expertise and distinguished service; and

(2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

FUNCTIONS OF THE SECRETARIES

SEC. 102. (a) The Secretaries, with the advice of the Board, shall—

(1) establish the goals of the coordinated program and identify the activities required to meet such goals, and identify the responsible agencies with respect to the coordinated program;

(2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;

(3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 103;

(4) include in the coordinated program and the comprehensive plan a competitive grants program, in accordance with the provisions of this act, to encourage and assist the conduct, by Federal and non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (includ-

ing activities described in sections 103(a)(5) and 103(b)(9));

(6) include in the coordinated program each fiscal year an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction, with respect to nutrition monitoring and related research among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses, and publish every two years, or more frequently if appropriate, a report, on the dietary, nutritional, and health-related status of the people of the United States and the nutrient content of the national food supply; and

(9)(A) foster cost recovery management techniques in the coordinated program, and (B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization shall exceed the actual costs incurred by the coordinated program in providing the publications involved).

(b) The Secretaries shall submit to the President for transmittal to Congress by January 15 of each year an annual report that shall—

(1) evaluate the progress of the coordinated program;

(2 summarize the results of such coordinated program components as are developed under section 103;

(3) analyze the dietary, nutritional, and related health status of the people of the United States, the nutritional quality of the national food supply, the relevant policy implications of the analytical findings, and future nutrition monitoring and related research priorities;

(4) include in full the annual report of the Council provided for in section 202; and

(5) include an executive summary of the report most recently published by the scientific body, as provided for in subsection (a)(8).

DEVELOPMENT OF THE COMPREHENSIVE PLAN FOR THE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PROGRAM

SEC. 103. (a) The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed to—

(1) assess, collate data with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status (dealing with such status and trends separately in the case of pre-school and school-age children, pregnant and lactating women, elderly individuals, low income populations, blacks, Hispanics, and other groups, at the discretion of the Secretaries), the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;

(2) assess, analyze, and report, on a continuous basis, for a representative sample of the low income population, food and household expenditures and participation in food assistance programs;

(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) focus the activities of the Federal agencies.

(b) The comprehensive plan, at a minimum, shall include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide, by 1990, for the continuous collection, processing, and analysis of nutritional and dietary status data through a stratified probability sample of the people of the United States designed to permit statistically reliable estimates of the dietary and nutritional status of the population including high-risk groups and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate military and institutionalized populations, where appropriate;

(5) complete the analysis and interpretation of the data sets from the surveys described in paragraph (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training and consultation to State and local governments for the purpose of obtaining dietary and nutritional status data and developing related date base;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities and outcomes, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

(c) The comprehensive plan shall allocate the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved, and shall contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program.

(d) The comprehensive plan shall—

(1) be submitted in draft form to the President for submission to Congress, and for public review, within twelve months after the date of the enactment of this Act;

(2) be available for public comment for a period of sixty days after its submission in draft form under paragraph (a) by means of publication in the Federal Register;

(3) be submitted in final form, incorporating such needed revisions as may arise from comments received during the review period, to the President for submission to Congress within sixty days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2); and

(4) constitute the basis on which each agency participating in the coordinated program request authorizations and appropriations for nutrition monitoring and related research during the ten-year period of the program.

(e) Nothing in this section may be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) that specifies (1) the department or agency to which funds are appropriated, or (2) the obligations of such department or agency with respect to the use of such funds.

IMPLEMENTATION OF THE COMPREHENSIVE PLAN

SEC. 104. (a) The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(3), and shall be—

(1) carried out in accord with, and meet the program objectives specified in, section 103(a) and paragraphs (1) through (11) of section 103(b);

(2) managed in accord with paragraphs (12) through (14) of section 103(b);

(3) carried out, by the Federal agencies involved, in accord with the allocation of functions and activities under section 103(c); and

(4) funded by appropriations made to such agencies as described in section 106, for each fiscal year of the program.

Congress through its appropriate authorizing committees, the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition and Forestry, the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce, shall exercise continuing oversight over the coordinated program, taking

into account the Secretaries' annual reports and such other information and data as may be developed.

(b) Nothing in this title may be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standard, or requirements for regulation under existing law.

AUTHORIZATIONS AND APPROPRIATIONS

SEC. 105. (a) Authorizations and appropriations for the fiscal year in which the comprehensive plan is submitted in final form under section 103(d)(3) and for the nine succeeding fiscal years, for purposes of carrying out the coordinated program and implementing the comprehensive plan, shall be requested by the Secretaries and by each of the agencies that are allocated responsibilites under the coordinated program under section 103(c), in a separate line item of the budget of the agency involved and consistent with the interagency budget for the coordinated program.

(b) Nothing in this title is intended either (1) to authorize the appropriation or require the expenditure of any funds in excess of the amount of funds that would be authorized or expended for the same purpose in the absence of the coordinated program, or (2) to limit the authority of any of the participating agencies to request and recieve funds or those purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

ESTABLISHMENT OF THE COUNCIL

SEC. 201. (a)(1) The President shall establish, withing ninety days after the date of the enactment of this Act, a National Nutrition Monitoring Advisory Council. The Council shall assist in carrying out the purposes of this Act. Provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity to the Secretaries.

(2) The Council shall consist of eleven voting members, of whom—

(A) seven members shall be appointed by the President: and

(B) four members shall be appointed by Congress—one by the Speaker of the House of Representatives, one by the minority leader of the House of Representatives, one by the President pro tempore of the Senate, and one by the minority leader of the Senate.

(3) The Council also shall include the joint chairpersons of the Boards as ex officio nonvoting members.

(b) Each person appointed to the Council shall be—

(1) Eminent in the field of administrative dietetics, clinical dietetics, community nutrition research, public health nutrition, monitoring and surveillance, nutritional biochemistry, food composition and nutrient analysis, health statistics management, epidemiology, food technology, clinical medicine, public administration, health education, nutritional anthropology, food consumption patterns, food assistance programs, agriculture or economics; and

(2) selected solely on the basis of an established record of distinguished service.

(c) The persons appointed to the Council by the President shall include—

(1) one member who is a director of a nutrition research unit that is primarily supported by Federal funds, and who has specialized interest in nutrition monitoring;

(2) one member who is an employee of a State government and has a specialized interest in nutrition monitoring;

(3) one member who is an employee of a local government and has a specialized interest in nutrition monitoring; and

(4) one member who is an appointed representative of the Food and Nutrition Board, National Academy of Sciences.

(d) The Council membership, at all times, shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, minority organizations, and public interest organizations.

(e) The Chairperson of the Council shall be elected from and by the Council membership. The term of office of the Chairperson shall not exceed five years. In case a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(f) The term of office of each of the voting members of the Council shall be five years, except that of the seven members first appointed by the President, one shall be appointed for a term of two years, three for terms of three years, and three for terms of four years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. No member shall be eligible to serve continuously for more than two consecutive terms.

(g) The initial members of the Council shall be appointed or designated (without regard to the requirements of the Federal Advisory Committee Act) not later than ninety days after the date of the enactment of this Act.

(h) The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(i) Appointed members of the Council shall not be employed by the Federal Government, and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(j) The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d)) shall serve as the Executive Secretary of the Council.

FUNCTIONS OF THE COUNCIL

SEC. 202. The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

(4) submit to the Secretaries annual reports that shall contain the components specified in paragraphs (2) and (3), and that shall be included in full in the Secretaries' annual reports to the President for transmittal to Congress under section 102(b).

TITLE III

DIETARY GUIDANCE

SEC. 301. (a). The Secretaries shall review and revise as necessary, at least every 5 years, Dietary Guidelines for Americans based on a consensus of current scientific knowledge. The Dietary Guidelines for Americans shall be the policy of the Federal Government with regard to nutritional advice for the general population. No dietary guidance shall be issued for the general population by any agency of the Federal Government if it is inconsistent with the consensus of scientific and medical knowledge as reflected in the Dietary Guidelines for Americans.

(b)(1) Any agency of the Federal Government planning to issue dietary guidance for the general population shall submit the text of the proposed guidance to the Secretaries for review prior to release. A Federal Register notice will be published announcing the submission of the text to the Secretaries for review. The Secretaries shall review the proposed guidance to assure its consistency with the consensus of scientific and medical knowledge as reflected in the Dietary Guidelines for Americans.

(2) The Secretaries shall review the dietary guidance within 120 days and inform the submitting agency of their approval or disapproval. If the Secretaries both disapprove of the submitted dietary guidance it shall not be published. If both Secretaries do not disapprove, the dietary guidance may be published.

(3) Nothing herein shall be interpreted to limit scientific research by any agency of the Federal Government, the presentation of the scientific findings, or the exchange and review of scientific information within the scientific community.

WARNER AMENDMENT NOS. 3455 THROUGH 3463

(Ordered to lie on the table.)

Mr. WARNER submitted eight amendments intended to be proposed by him to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

AMENDMENT NO. 3455

On page 217, after line 25, insert the following:

SEC. 3056A. POSSE COMITATUS LIMITATIONS.

The provisions of section 3056 do not authorize or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in any arrest, apprehension, search, or seizure involving violations or alleged violations of the laws referred to in section 374(a) of title 10, United States Code.

AMENDMENT NO. 3456

On page 217, after line 25, insert the following:

SEC. 3056A. POSSE COMITATUS LIMITATIONS.

The provisions of section 3056 do not authorize or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in any arrest, apprehension, search, or seizure involving violations or alleged violations of the laws referred to in section 374(a) of title 10, United States Code.

AMENDMENT NO. 3457

On page 217, after line 25, insert the following:

SEC. 3056A. POSSE COMITATUS LIMITATIONS.

The provisions of section 3056 do not authorize or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in any arrest, apprehension,

search, or seizure involving violations or alleged violations of the laws referred to in section 374(a) of title 10, United States Code.

AMENDMENT No. 3458

On page 217, after line 25, insert the following;

SEC. 3056A. POSSE COMITATUS LIMITATIONS.

The provisions of section 3056 do not authorize or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in any arrest, apprehension, search, or seizure involving violations or alleged violations of the laws referred to in section 374(a) of title 10, United States Code.

AMENDMENT No. 3459

On page 217, after line 25, insert the following;

SEC. 3056A. POSSE COMITATUS LIMITATIONS.

The provisions of section 3056 do not authorize or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in any arrest, apprehension, search, or seizure involving violations or alleged violations of the laws referred to in section 374(a) of title 10, United States Code.

AMENDMENT No. 3460

On page 217, after line 25, insert the following;

SEC. 3056A. POSSE COMITATUS LIMITATIONS.

The provisions of section 3056 do not authorize or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in any arrest, apprehension, search, or seizure involving violations or alleged violations of the laws referred to in section 374(a) of title 10, United States Code.

AMENDMENT No. 3461

On page 217, after line 25, insert the following:

SEC. 3056A. POSSE COMITATUS LIMITATIONS.

The provisions of section 3056 do not authorize or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in any arrest, apprehension, search, or seizure involving violations or alleged violations of the laws referred to in section 374(a) of title 10, United States Code.

AMENDMENT No. 3462

On page 217, after line 25, insert the following:

SEC. 3056A. POSSE COMITATUS LIMITATIONS.

The provisions of section 3056 do not authorize or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in any arrest, apprehension, search, or seizure involving violations or alleged violations of the laws referred to in section 374(a) of title 10, United States Code.

HATCH (AND OTHERS) AMENDMENT NO. 3463

(Ordered to lie on the table.)

Mr. HATCH (for himself, Mrs. HAWKINS, Mr. CHILES, Mr. DODD, Mr. D'AMATO, and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them to the motion to concur, with an amendment, as modified to the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra as follows:

Strike out section 4112(a)(2) and insert in lieu thereof the following:

(2) Of the amounts appropriated or otherwise made available to carry out this subtitle for any fiscal year, $5,000,000 shall be available to the Secretary of Health and Human Services for such fiscal year to carry out section 4134 of this Act and sections 508 and 509 of the Public Health Service Act.

Strike out subtitle A of title IV and insert in lieu thereof the following:

Subtitle A—Treatment and Rehabilitation

SEC. 4001. SHORT TITLE; REFERENCE.

(a) This subtitle may be cited as the "Alcohol and Drug Abuse Amendments of 1986".

(b) Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Public Health Service Act.

SEC. 4002. SPECIAL ALLOTMENTS FOR ALCOHOL ABUSE AND DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS.

Title XIX is amended by inserting after section 1920A the following new sections:

"SPECIAL ALLOTMENTS TO STATES FOR ALCOHOL ABUSE AND DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS

"SEC. 1921. (a) To carry out this section and sections 1922, 1923, 508, and 510 there are authorized to be appropriated $241,000,000 for fiscal year 1987. Of the total amount appropriated under the preceding sentence for fiscal year 1987, 7 percent shall be added to and included with the amounts otherwise available under this part for allotments to States under section 1913 for such fiscal year, 72 percent shall be available for allotments to States under this section for such fiscal year, 5 percent shall be available for transfer to the Administrator of Veterans' Affairs under section 1922 for such fiscal year, 1 percent shall be available to carry out section 1923 for such fiscal year, and 15 percent shall be available to carry out sections 508 and 510 for such fiscal year.

"(b)(1) The allotment of a State under this section for a fiscal year shall be the sum of the amounts allotted to such State under paragraphs (2) and (3).

"(2) Forty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted in accordance with this subsection. The allotment of a State under this subsection for a fiscal year shall be an amount which bears the same ratio to the total amount required pursuant to the preceding sentence to be allotted under this subsection for such fiscal year as the population of such State bears to the population of all States.

"(3) Fifty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted by the Secretary to States on the basis of the need of each State for amounts for programs and activities for the treatment and rehabilitation of the alcohol abuse and drug abuse. In determining such need for each State under this subsection, the Secretary shall consider—

"(A) the nature and extent, in the State and in particular areas of the State, of the demand for effective programs and activities for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(B) the number of individuals in the State who abuse alcohol or drugs and the capacity of the State to provide treatment and rehabilitation for such individuals (as determined by the Secretary on the basis of the number of individuals who requested treatment for alcohol abuse and drug abuse in the State during the most recent calendar year ending prior to the date on which a statement is submitted by the State under subsection (d); and

"(C) the ability of the State to provide additional services for the treatment and rehabilitation of alcohol abuse and drug abuse.

"(4) The Secretary shall make allotments to States under paragraph (1) for fiscal year 1987, and shall make payments to States under subsection (c) from such allotments, at the same time that the Secretary makes allotments and payments under sections 1913 and 1914, respectively, for such fiscal year. The Secretary shall make allotments to States under paragraph (2) for fiscal year 1987, and shall make payments to States under subsection (c) from such allotments, within four months after the date of enactment of the Alcohol and Drug Abuse Amendments of 1986.

"(c)(1) For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under paragraphs (2) and (3) of subsection (b) from amounts which are appropriated for that fiscal year and available for such allotments.

"(2) Any amount paid to a State under paragraph (1) for a fiscal year and remaining unobligated at the end of such fiscal year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(d) In order to receive an allotment for a fiscal year under subsection (b), each State shall include with the application submitted to the Secretary under section 1916 a separate statement requesting an allotment under this section. Each such statement shall contain—

"(1) such information as the Secretary may prescribe, including information necessary for the Secretary to consider the matters specified in subparagraphs (A) through (D) of subsection (b)(3);

"(2) a description of the manner in which programs and activities conducted with payments under subsection (c) will be coordinated with other public and private programs and activities directed toward individuals who abuse alcohol and drugs;

"(3) assurances that, in the preparation of any statement under this section, the State will consult with local governments and public and private entities, including community based organizations, involved in the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(4) a description of the manner in which the State will evaluate programs and activities conducted with payments made to the State under subsection (c) and assurances that the State will report periodically to the Secretary on the results of such evaluations; and

"(5) assurances that payments made to the State under subsection (c) will supplement and not supplant any State or local expenditures for the treatment and rehabilitation of alcohol abuse and drug abuse that would have been made in the absence of such payments.

"(e)(1) Except as provided in subsections (f) and (i), amounts paid to a State under subsection (c) may be used by the State for alcohol abuse and drug abuse treatment and

rehabilitation programs and activities, including—

"(A) activities to increase the availability and outreach of programs provided by major treatment centers and regional branches of such centers which provide services in a State in order to reach the greatest number of people;

"(B) activities to expand the capacity of alcohol abuse and drug abuse treatment and rehabilitation programs and facilities to provide treatment and rehabilitation services for alcohol abusers and drug abusers who have been refused treatment due to lack of facilities or personnel; and

"(C) activities to provide access to vocational training, job counseling, and education equivalency programs to alcohol abusers and drug abusers in need of such services in order to enable such abusers to become productive members of society.

"(2) A State may request the Secretary to waive the provisions of section 1915(b)(1) (as such section applies to this section pursuant to subsection (i) of this section) in order to permit such State to conduct model programs for the provision of inpatient hospital services for alcohol abuse and drug abuse treatment, and the Secretary may grant such a waiver.

"(f) Of the total amount paid to any State under subsection (c) for a fiscal year, not more than 2 percent may be used for administering the funds made available under such subsection. The State will pay from non-Federal sources the remaining costs of such administering such funds.

"(g) The Secretary may provide training and technical assistance to States in planning and operating activities to be carried out under this section.

"(h) The Secretary may conduct data collection activities to enable the Secretary to carry out this section.

"(i) Except as provided in subsection (e)(2), the provisions of subsections (a) and (d) and paragraphs (1) through (5) of subsection (b) of section 1917 and the provisions of sections 1914(b), 1915(b), 1918, 1919, and 1920 shall apply to this section in the same manner as such provisions apply to payments made under section 1914 from allotments made under section 1913.

"TRANSFER TO THE ADMINISTRATOR OF VETERANS' AFFAIRS

"SEC. 1922. The Secretary shall transfer to the Administrator of Veterans' Affairs the amount which, under the second sentence of section 1921(a), is available for such transfer. The amount transferred pursuant to the preceding sentence shall be used for outpatient treatment, rehabilitation, and counseling under section 612 of title 38, United States Code, of veterans for their alcohol or drug abuse dependence or abuse disabilities and for contract care and services under section 620A of such title for veterans for such disabilities.

"TREATMENT PROGRAM EVALUATIONS

"SEC. 1923. One percent of the total amount appropriated under section 1921(a) for any fiscal year may be used by the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, to develop and evaluate alcohol and drug abuse treatment programs to determine the most effective forms of treatment. Such programs may be developed and evaluated through grants, contracts, and cooperative agreements provided to nonprofit private entities. In carrying out this section, the Secretary shall assess the comparative effectiveness of various treatment forms for specific patient groups.".

SEC. 4003. ADVISORY COUNCILS.

(a) Part A of title V is amended by redesignating sections 505 and 506 as sections 506 and 507, respectively, and by inserting after section 504 the following new section:

"ADVISORY COUNCILS

"SEC. 505. (a)(1) The Secretary shall appoint an advisory council for the National Institute on Alcohol Abuse and Alcoholism, for the National Institute on Drug Abuse, and for the National Institute of Mental Health. Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Director of the Institute for which it was appointed on matters relating to the activities carried out by and through the Institute and the policies respecting such activities.

"(2) Each advisory council for an Institute may recommend to the Secretary acceptance, in accordance with section 2101, of conditional gifts for—

"(A) study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the Institute was established;

"(B) the acquisition of grounds for the Institute; or

"(C) the construction, equipping, or maintenance of facilities for the Institute.

"(3) Each advisory council for an Institute—

"(A)(i) may on the basis of the materials provided under section 507(d)(2) respecting research conducted at the Institute, make recommendations to the Director of the Institute respecting such research;

"(ii) shall review applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 507(e)(2), and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Institute;

"(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspect of human health with respect to which the Institute was established and with the approval of the Director of the Institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b)(1) Each advisory council shall consist of nonvoting ex officio members and not more than 12 members appointed by the Secretary.

"(2) The ex officio members of an advisory council shall consist of—

"(A) the Secretary, the Administrator, the Director of the Institute for which the advisory council is established, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Institute for which the advisory council is established.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

"(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

"(c) The term of office of an appointed member of an advisory council is 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the Institute for which the advisory council is established to be the chairman of the advisory council. The term of office of chairman shall be 2 years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the Institute for which it was established, but at least 3 times each fiscal year. The location of the meetings of each advisory council is subject to the approval of the Director of the Institute for which the advisory council was established.

"(f) The Director of the Institute for which an advisory council is established shall designate a member of the staff of the Institute to serve as the executive secretary of the advisory council. The Director of the Institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of the Institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.".

(b) The amendment made by subsection (a) does not terminate the membership of any advisory council for the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the National Institute of Mental Health which

was in existence on the date of enactment of this Act. After such date—

(1) the Secretary of Health and Human Services shall make appointments to each such advisory council in such a manner as to bring about as soon as practicable the composition for such council prescribed by section 505 of the Public Health Service Act;

(2) each advisory council shall organize itself in accordance with such section and exercise the functions prescribed by such section; and

(3) the Director of each such institute shall perform for such advisory council the functions prescribed by such section.

(c) Section 217 is amended—

(1) by striking out subsections (a), (b), (c), and (d);

(2) by striking out "(e)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "(2)" and inserting in lieu thereof "(b)";

(4) by striking out "(3)" and inserting in lieu thereof "(c)";

(5) by striking out "(4)" and inserting in lieu thereof "(d)"; and

(6) by redesignating clauses (A) and (B) of subsection (c) (as redesignated by the amendment made by paragraph (4) of this subsection) as clauses (1) and (2), respectively.

SEC. 4004. OFFICE FOR SUBSTANCE ABUSE PREVENTION.

(a) Part A of title V (as amended by section 4003 of this Act) is further amended by adding at the end thereof the following new sections:

"OFFICE FOR SUBSTANCE ABUSE PREVENTION

"SEC. 508. (a) There is established in the Administration an Office for Substance Abuse Prevention (hereafter in this part referred to as the 'Office'). The Office shall be headed by a Director appointed by the Secretary from individuals with extensive experience or academic qualifications in the prevention of drug or alcohol abuse.

"(b) The Director of the Office shall—

"(1) sponsor regional workshops on the prevention of drug and alcohol abuse;

"(2) coordinate the findings of research sponsored by agencies of the Service on the prevention of drug and alcohol abuse;

"(3) develop effective drug and alcohol abuse prevention literature (including literature on the adverse effects of cocaine free base (known as 'crack');

"(4) in cooperation with the Secretary of Education, assure the widespread dissemination of prevention materials among States, political subdivisions, and school systems;

"(5) support programs of clinical training of substance abuse counselors and other health professionals;

"(6) in cooperation with the Director of the Centers for Disease Control, develop educational materials to reduce the risks of acquired immune deficiency syndrome among intravenous drug abusers;

"(7) conduct training, technical assistance, data collection, and evaluation activities of programs supported under the Drug Free Schools and Communities Act of 1986;

"(8) support the development of model, innovative, community-based programs to discourage alcohol and drug abuse among young people; and

"(9) prepare for distribution documentary films and public service announcements for television and radio to educate the public concerning the dangers to health resulting from the consumption of alcohol and drugs and, to the extent feasible, use appropriate private organizations and business concerns in the preparation of such announcements.

"(c) The Director may make grants and enter into contracts and cooperative agreements in carrying out subsection (b).

"(d) Of the amounts available under the second sentence of section 1921(a) to carry out this section and section 510, $20,000,000 shall be available to carry out section 510.

"ALCOHOL AND DRUG ABUSE INFORMATION CLEARINGHOUSE

"SEC. 509. The Secretary, through the Director of the Office, shall establish a clearinghouse for alcohol and drug abuse information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, health and drug treatment and rehabilitation networks, and the general public. The clearinghouse shall—

"(1) disseminate publications by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the Department of Education concerning alcohol abuse and drug abuse;

"(2) disseminate accurate information concerning the health effects of alcohol abuse and drug abuse;

"(3) collect and disseminate information concerning successful alcohol abuse and drug abuse education and prevention curricula; and

"(4) collect and disseminate information on effective and ineffective school-based alcohol abuse and drug abuse education and prevention programs, particularly effective programs which stress that the use of illegal drugs and the abuse of alcohol is wrong and harmful.

"PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH

"SEC. 510. (a) The Secretary, through the Director of the Office, shall make grants to public and nonprofit private entities for projects to demonstrate effective models for the prevention, treatment, and rehabilitation of drug abuse and alcohol abuse among high risk youth.

"(b)(1) In making grants for drug abuse and alcohol abuse prevention projects under this section, the Secretary shall give priority to applications for projects directed at children of substance abusers, latchkey children, children at risk of abuse or neglect, preschool children eligible for services under the Head Start Act, children at risk of dropping out of school, children at risk of becoming adolescent parents, and children who do not attend school and who are at risk of being unemployed.

"(2) In making grants for drug abuse and alcohol abuse treatment and rehabilitation projects under this section, the Secretary shall give priority to projects which address the relationship between drug abuse or alcohol abuse and physical child abuse, sexual child abuse, emotional child abuse, dropping out of school, unemployment, delinquency, pregnancy, violence, suicide, or mental health problems.

"(3) In making grants under this section, the Secretary shall give priority to applications from community based organizations for projects to develop innovative models with multiple, coordinated services for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

"(4) In making grants under this section, the Secretary shall give priority to applications for projects to demonstrate effective models with multiple, coordinated services which may be replicated and which are for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

"(c) To the extent feasible, the Secretary shall make grants under this section in all regions of the United States, and shall ensure the distribution of grants under this section among urban and rural areas.

"(d)(1) In order to receive a grant for a project under this section for a fiscal year, a public or nonprofit private entity shall submit an application to the Governor of the State in which the project will be conducted. Such application shall be in such form, shall contain such information, and shall be submitted at such time as the Secretary may by regulation prescribe.

"(2) The Governor of each State shall review each application received under subsection (a) for a fiscal year and shall submit to the Secretary, by a date prescribed by the Secretary for such fiscal year, the recommendations of the Governor concerning the approval or disapproval of each such application and a ranking recommended by the Governor of the priority for approval of such applications. In making recommendations under the preceding sentence, the Governor shall consider the priorities and requirements for grants established by subsections (b) and (c).

"(e) The Director of the Office shall evaluate projects conducted with grants under this section.

"(f) For purposes of this section, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

"(1) is identified as a child of a substance abuser;

"(2) is a victim of physical, sexual, or psychological abuse;

"(3) has dropped out of school;

"(4) has become pregnant;

"(5) is economically disadvantaged;

"(6) has committed a violent or delinquent act;

"(7) has experienced mental health problems;

"(8) has attempted suicide; or

"(9) is disabled by injuries.".

(b)(1) Section 502(e) is repealed.

(2) Section 503(d) is amended—

(A) by inserting "and" at the end of paragraph (2);

(B) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(C) by striking out paragraph (4).

SEC. 4005. PUBLIC HEALTH EMERGENCIES.

Part A of title V (as amended by sections 4003 and 4004 of this Act) is further amended by adding at the end thereof the following:

"RESEARCH ON PUBLIC HEALTH EMERGENCIES

"SEC. 511. (a) If the Secretary determines, after consultation with the Administrator, the Commissioner of Food and Drugs, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of an Institute of the Administration constitutes a public health emergency, the Secretary, acting through the Administrator—

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for research on such disease or disorder or proposals for contracts for such research;

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in

the case of proposals for contracts for such research;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new research relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed in research assisted under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year if any actions were taken under such subsection in such fiscal year.".

SEC. 4006. PEER REVIEW.

Subsection (b) of section 507 (as redesignated by section 4003(a) of this Act) is amended by inserting "applications made for" after "review of" in the matter preceding paragraph (1).

SEC. 4007. NATIONAL ALCOHOL RESEARCH CENTERS.

Section 511(b) is amended—

(1) by striking out "or rental" before "any land"; and

(2) by striking out "rental," before "purchase".

SEC. 4008. EXPANSION OF DRUG ABUSE RESEARCH.

Section 515(a) is amended—

(1) by striking out "and" after the semicolon in paragraph (4);

(2) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) effective methods of drug abuse prevention, treatment, and rehabilitation, particularly methods of intervention to treat abuse of specific drugs; and"; and

(3) by adding at the end thereof the following:

"(6) the development of chemical antidotes and narcotic antagonists for use in the treatment of cocaine and heroin addiction.".

SEC. 4009. RESEARCH AUTHORIZATION.

(a) Section 513 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 513. There are authorized to be appropriated to carry out this subpart $69,000,000 for fiscal year 1987.".

(b) Section 517 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 517. There are authorized to be appropriated to carry out this subpart $129,000,000 for fiscal year 1987.".

SEC. 4010. SUICIDE.

(a) Section 504 is amended by adding at the end thereof the following new subsection:

"(h) The Director shall—

"(1) develop and publish information respecting the causes of suicide and the means of preventing suicide; and

"(2) make such information generally available to the public and health professionals.

Information developed, published, and distributed under this subsection shall especially relate to suicide among individuals under the age of 21.".

(b) Not later than one year after the date of enactment of this Act, the Director of the National Institute of Mental Health shall report to Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on the activities undertaken under section 504(h) of the Public Health Service Act and shall include in such report an assessment of the effectiveness of such activities.

SEC. 4011. MENTAL HEALTH NEEDS OF THE ELDERLY.

Section 504(c) is amended by adding at the end thereof the following: "Special consideration shall be given to programs for training and research on the mental health needs of the elderly.".

SEC. 4012. TECHNICAL AMENDMENT.

Section 504(e) is amended by striking out the period at the end of paragraph (2)(A) and inserting in lieu thereof a semicolon.

SEC. 4013. INFANT FORMULAS.

(a) Section 412 of the Federal Food, Drug, and Cosmetic Act is amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively,

(2) by amending the last sentence of paragraph (1) of subsection (g) (as so redesignated) to read as follows: "Such records shall be retained for at least one year after the expiration of the shelf life of the infant formula.",

(3) by striking out "(a) and (b)" in the first sentence of subsection (h)(1) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)",

(4) by striking out "(c)(1)" in the second sentence of such subsection and inserting in lieu thereof "(e)(1)",

(5) by striking out "(e)(1)(B)" in such sentence and inserting in lieu thereof "(d)(1)(B)",

(6) by striking out "(a) and (b)" in subsection (h)(2) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)", and

(7) by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"(a) An infant formula, including an infant formula powder, shall be deemed to be adulterated if—

"(1) such infant formula does not provide nutrients as required by subsection (i),

"(2) such infant formula does not meet the quality factor requirements prescribed by the Secretary under subsection (b)(1), or

"(3) the processing of such infant formula is not in compliance with the good manufacturing practices and the quality control procedures prescribed by the Secretary under subsection (b)(2).

"(b)(1) The Secretary shall by regulation establish requirements for quality factors for infant formulas to the extent possible consistent with current scientific knowledge, including quality factor requirements for the nutrients required by subsection (i).

"(2)(A) The Secretary shall by regulation establish good manufacturing practices for infant formulas, including quality control procedures that the Secretary determines are necessary to assure that an infant formula provides nutrients in accordance with this subsection and subsection (i) and is manufactured in a manner designed to prevent adulteration of the infant formula.

"(B) The good manufacturing practices and quality control procedures prescribed by the Secretary under subparagraph (A) shall include requirements for—

"(i) the testing, in accordance with paragraph (3) and by the manufacturer of an infant formula or an agent of such manufacturer, of each batch of infant formula for each nutrient required by subsection (i) before the distribution of such batch,

"(ii) regularly scheduled testing, by the manufacturer of an infant formula or an agent of such manufacturer, of samples of infant formulas during the shelf life of such formulas to ensure that such formulas are in compliance with this section,

"(iii) in-process controls including, where necessary, testing required by good manufacturing practices designed to prevent adulteration of each batch of infant formula, and

"(iv) the conduct by the manufacturer of an infant formula or an agent of such manufacturer of regularly scheduled audits to determine that such manufacturer has complied with the regulations prescribed under subparagraph (A).

In prescribing requirements for audits under clause (iv), the Secretary shall provide that such audits be conducted by appropriately trained individuals who do not have any direct responsibility for the manufacture or production of infant formula.

"(3)(A) At the final product stage, each batch of infant formula shall be tested for vitamin A, vitamin B1, vitamin C, and vitamin E to ensure that such infant formula is in compliance with the requirements of this subsection and subsection (i) relating to such vitamins.

"(B) Each nutrient premix used in the manufacture of an infant formula shall be tested for each relied upon nutrient required by subsection (i) which is contained in such premix to ensure that such premix is in compliance with its specifications or certifications by a premix supplier.

"(C) During the manufacturing process or at the final product stage and before distribution of an infant formula, an infant formula shall be tested for all nutrients required to be included in such formula by subsection (i) for which testing has not been conducted pursuant to subparagraph (A) or (B). Testing under this subparagraph shall be conducted to—

"(i) ensure that each batch of such infant formula is in compliance with the requirements of subsection (i) relating to such nutrients, and

"(ii) confirm that nutrients contained in any nutrient premix used in such infant formula are present in each batch of such infant formula in the proper concentration.

"(D) If the Secretary adds a nutrient to the list of nutrients in the table in subsection (i), the Secretary shall by regulation require that the manufacturer of an infant formula test each batch of such formula for such new nutrient in accordance with subparagraph (A), (B), or (C).

"(E) For purposes of this paragraph, the term 'final product stage' means the point in the manufacturing process, before distribution of an infant formula, at which an infant formula is homogenous and is not subject to further degradation.

"(4)(A) The Secretary shall by regulation establish requirements respecting the retention of records. Such requirements shall provide for—

"(i) the retention of all records necessary to demonstrate compliance with the good manufacturing practices and quality control procedures prescribed by the Secretary under paragraph (2), including records containing the results of all testing required under paragraph (2)(B),

"(ii) the retention of all certifications or guarantees of analysis by premix suppliers,

"(iii) the retention by a premix supplier of all records necessary to confirm the accuracy of all premix certifications and guarantees of analysis,

"(iv) the retention of—

"(I) all records pertaining to the microbiological quality and purity of raw materials used in infant formula powder and in finished infant formula, and

"(II) all records pertaining to food packaging materials which show that such materials do not cause an infant formula to be adulterated within the meaning of section 402(a)(2)(C),

"(v) the retention of all records of the results of regularly scheduled audits conducted pursuant to the requirements prescribed by the Secretary under paragraph (2)(B)(iv), and

"(vi) the retention of all complaints and the maintenance of files with respect to, and the review of, complaints concerning infant formulas which may reveal the possible existence of a hazard to health.

"(B)(i) Records required under subparagraph (A) with respect to an infant formula shall be retained for at least one year after the expiration of the shelf life of such infant formula. Except as provided in clause (ii), such records shall be made available to the Secretary for review and duplication upon request of the Secretary.

"(ii) A manufacturer need only provide written assurances to the Secretary that the regularly scheduled audits required by paragraph (2)(B)(iv) are being conducted by the manufacturer, and need not make available to the Secretary the actual written reports of such audits.

"(c)(1) No person shall introduce or deliver for introduction into interstate commerce any new infant formula unless—

"(A) such person has, before introducing such new infant formula, or delivering such new infant formula for introduction, into interstate commerce, registered with the Secretary the name of such person, the place of business of such person, and all establishments at which such person intends to manufacture such new infant formula, and

"(B) such person has at least 90 days before marketing such new infant formula, made the submission to the Secretary required by subsection (c)(1).

"(2) For purposes of paragraph (1), the term 'new infant formula' includes—

"(A) an infant formula manufactured by a person which has not previously manufactured an infant formula, and

"(B) an infant formula manufactured by a person which has previously manufactured infant formula and in which there is a major change, in processing or formulation, from a current or any previous formulation produced by such manufacturer.

For purposes of this paragraph, the term 'major change' has the meaning given to such term in section 106.30(c)(2) of title 21, Code of Federal Regulations (as in effect on August 1, 1986), and guidelines issued thereunder.

"(d)(1) A person shall, with respect to any infant formula subject to subsection (c), make a submission to the Secretary which shall include—

"(A) the quantitative formulation of the infant formula,

"(B) a description of any reformulation of the formula or change in processing of the infant formula,

"(C) assurances that the infant formula will not be marketed unless it meets the requirements of subsections (b)(1) and (i), as demonstrated by the testing required under subsection (b)(3), and

"(D) assurances that the processing of the infant formula complies with subsection (b)(2).

"(2) After the first production of an infant formula subject to subsection (c), and before the introduction into interstate commerce of such formula, the manufacturer of such formula shall submit to the Secretary, in such form as may be prescribed by the Secretary, a written verification which summarizes test results and records demonstrating that such formula complies with the requirements of subsections (b)(1), (b)(2)(A), (b)(2)(B)(i), (b)(2)(B)(iii), (b)(3)(A), (b)(3)(C), and (i).

"(3) If the manufacturer of an infant formula for commercial or charitable distribution for human consumption determines that a change in the formulation of the formula or a change in the processing of the formula may affect whether the formula is adulterated under subsection (a), the manufacturer shall, before the first processing of such formula, make the submission to the Secretary required by paragraph (1).

"(e)(1) If the manufacturer of an infant formula has knowledge which reasonably supports the conclusion that an infant formula which has been processed by the manufacturer and which has left an establishment subject to the control of the manufacturer—

"(A) may not provide the nutrients required by subsection (i), or

"(B) may be otherwise adulterated or misbranded,

the manufacturer shall promptly notify the Secretary of such knowledge. If the Secretary determines that the infant formula presents a risk to human health, the manufacturer shall immediately take all actions necessary to recall shipments of such infant formula from all wholesale and retail establishments, consistent with recall regulations and guidelines issued by the Secretary.

"(2) For purposes of paragraph (1), the term 'knowledge' as applied to a manufacturer means (A) the actual knowledge that the manufacturer had, or (B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

"(f)(1) If a recall of infant formula is begun by a manufacturer, the recall shall be carried out in accordance with such requirements as the Secretary shall prescribe under paragraph (2) and—

"(A) the Secretary shall, not later than the 15th day after the beginning of such recall and at least once every 15 days thereafter until the recall is terminated, review the actions taken under the recall to determine whether the recall meets the requirements prescribed under paragraph (2), and

"(B) the manufacturer shall, not later than the 14th day after the beginning of such recall and at least once every 14 days thereafter until the recall is terminated, report to the Secretary the actions taken to implement the recall.

"(2) The Secretary shall by regulation prescribe the scope and extent of recalls of infant formulas necessary and appropriate for the degree of risks to human health presented by the formula subject to the recall.

"(3) The Secretary shall by regulation require each manufacturer of an infant formula who begins a recall of such formula because of a risk to human health to request each retail establishment at which such formula is sold or available for sale to post at the point of purchase of such formula a notice of such recall at such establishment for such time that the Secretary determines necessary to inform the public of such recall.".

(b)(1) Subsection (i) of such section (as so redesignated) is amended—

(A) by inserting "(1)" after "(i)",

(B) by striking out "subsection (a)" and inserting in lieu thereof "paragraph",

(C) by striking out the colon and inserting in lieu thereof a period, and

(D) by adding at the end the following:

"(2) The Secretary may by regulation—

"(A) revise the list of nutrients in the table in this subsection, and

"(B) revise the required level for any nutrient required by the table.".

(2) Section 301(s) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(s) The failure to provide the notice required by section 412(c) or 412(d), the failure to make the reports required by section 412(f)(1)(B), the failure to retain the records required by section 412(b)(4), or the failure to meet the requirements prescribed under section 412(f)(3).".

SEC. 4014. STUDY ON ALKYL AND BUTYL NITRITES.

The Secretary of Health and Human Services, through the Commissioner of Food and Drugs, should conduct a study on alkyl and butyl nitrites and report to the appropriate committees of the Congress recommendations concerning whether alkyl and butyl nitrites should be treated as a drug under the Federal Food, Drug, and Cosmetic Act.

SEC. 4015. SENSE OF THE SENATE WITH RESPECT TO POSSESSION OR DISTRIBUTION OF DRUGS UNDER STATE LAW.

It is the sense of the Senate that, if the possession or distribution of a drug is an offense under the Controlled Substances Act, the laws of the States should not be amended or revised to provide that the possession or distribution, respectively, of such drug is not a criminal offense.

SEC. 4016. STUDIES ON HEALTH WARNING LABELS FOR ALCOHOLIC BEVERAGES.

(a) The Senate finds that—

(1) the most abused drug in America is alcohol;

(2) alcohol abuse costs the American economy nearly $120,000,000,000 per year, including increased medical expenses and decreased productivity;

(3) in 1984, 53 percent of the traffic fatalities in the United States, accounting for more than 23,500 deaths, were related to the consumption of alcohol;

(4) over 12,000,000 American adults have one or more symptoms of alcoholism, and this represents an 8.2 percent increase in problem drinking since 1980;

(5) in 1984, almost 3,300,000 individuals between the ages of 14 and 17 experienced serious problems at home, in school, or with the law because of alcohol consumption;

(6) fetal alcohol syndrome is the third leading cause of birth defects, and is the only preventable cause of birth defects among the top three causes;

(7) nearly 5,000 babies per year are born with birth defects related to fetal alcohol syndrome;

(8) the statistics cited in the preceding paragraphs of this subsection indicate that many Americans are not aware of the adverse effects that the abuse of alcoholic beverages may have on health;

(9) it is necessary to undertake a serious national effort to educate the American

people of the serious consequences of alcohol abuse; and

(10) carefully drafted warning labels on the containers of alcoholic beverages concerning serious health consequences resulting from the abuse of alcohol may assist in providing such education.

(b) Therefore, it is the sense of the Senate that—

(1) the Public Health Service should focus attention on the problem of educating the American people on the serious health consequences of alcohol abuse;

(2) the Public Health Service should review available knowledge and conduct studies to assess the most effective means of providing such education, including an assessment of the potential educational impact of health warning labels on the containers of alcoholic beverages; and

(3) the Public Health Service should transmit a report to the Congress within 6 months after the date of enactment of this Act concerning any activities described in paragraph (2) which have been undertaken, and should include in such report any findings respecting the impact and potential benefits of displaying health warnings on the containers of alcoholic beverages and recommendations for specific language for such labels.

SEC. 4017. EFFORTS OF THE ENTERTAINMENT AND WRITTEN MEDIA INDUSTRY.

It is the sense of Congress that—

(1) whereas illegal drug and alcohol consumption and the trafficking in those illegal drugs and alcohol is a major problem in the United States,

(2) whereas the problem of alcohol abuse is particularly prevalent among and harmful to the Nation's young people, and

(3) whereas the values and mores portrayed in various forms of commercially produced entertainment have a profound effect on the attitudes of young people in this country,

the entertainment and written media industry should refrain from producing material meant for general entertainment which in any way glamorizes or encourages the use of illegal drugs and alcohol and the entertainment and written media industry should develop films, television programs, records, videos, and advertising which discourage the use of illegal drugs and alcohol.

SEC. 4018. SENSE OF THE CONGRESS URGING THE CATEGORIZATION OF FILMS WHICH PROMOTE ALCOHOL ABUSE AND DRUG USE.

(a) The Congress finds that—

(1) the abuse of alcohol and the use of drugs has become a societal problem of epidemic proportions,

(2) it is in the interest of all citizens to contribute to the reduction of alcohol abuse and drug use, particularly among youth,

(3) the entertainment industry, particularly the motion picture industry's production of youth-oriented films, often depicts alcohol abuse and drug use in a benign, even glamorous way,

(4) the motion picture industry has a profound impact of societal norms and is a powerful medium which exerts great influence on the values of youth, and

(5) the motion picture industry has recognized the need to inform parents about the contents of movies regarding violence, sex, language, and nudity and therefore currently employs a voluntary rating system.

(b) It is the sense of the Congress that the Motion Picture Association of America should incorporate a new rating in its voluntary movie rating system to clearly identify films which depict alcohol abuse and drug use.

DOLE (AND OTHERS) AMENDMENT NO. 3464

Mr. DOLE (for himself and Mr. BYRD), proposed an amendment to the motion to concur, with an amendment, as modified in the amendment of the House to the amendment of the Senate to the bill H.R. 5484, supra, as follows:

Strike out subtitle U and insert in lieu thereof the following:

SUBTITLE U—MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF PAROLE FOR CERTAIN OFFENSES

SEC. 1951. LIFE IMPRISONMENT WITHOUT POSSIBILITY OF PAROLE FOR CERTAIN CONTINUING CRIMINAL ENTERPRISE DRUG OFFENSES.

(a) ELEMENTS OF OFFENSE.—Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "(a) Any" and inserting "(a)(1) Except as otherwise provided in this section, any" in lieu thereof;

(2) by striking out "; except that if" and inserting ". If" in lieu thereof; and

(3) by adding at the end the following:

"(2) If an individual in the course of a continuing criminal enterprise:

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim; or

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim;

then such individual shall be subject to a sentence of life imprisonment without possibility of parole in accordance with this section.

(b) PROCEDURE APPLICABLE WITH RESPECT TO A SENTENCE OF LIFE IMPRISONMENT.—Section 408 of the Controlled Substances Act is amended by adding at the end the following:

"HEARING REQUIRED WITH RESPECT TO A SENTENCE OF LIFE IMPRISONMENT

"(f) A person shall be subjected to life imprisonment without possibility of parole for any offense under this section only if a hearing is held in accordance with this section.

"NOTICE BY THE GOVERNMENT IN LIFE IMPRISONMENT PENALTY CASES

"(g)(1) Whenever the Government intends to seek a sentence of life imprisonment without possibility of parole for an offense under this section for which one of the sentences provided is life imprisonment without possibility of parole, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek a sentence of life imprisonment without possibility of parole; and

"(B) setting forth the aggravating factors which the Government will seek to prove as the basis for a sentence of life imprisonment without possibility of parole.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"HEARING BEFORE COURT OR JURY

"(h)(1) When the attorney for the Government has filed a notice as required under subsection (g) and the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"PROOF OF AGGRAVATING AND MITIGATING FACTORS

"(i) Nowwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set fort in subsections (l) and (m), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (m), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors, and as to appropriateness in that case of imposing a sentence of life imprisonment without possibility of parole. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the information.

"RETURN OF FINDINGS

"(j) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any mitigating factors, and any aggravating factors set forth in subsection (m), found to exist. If one of the aggravating factors set forth in subsection (m) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding of any aggravating or mitigating factor by a jury shall be made by unanimous vote. If no aggravating factor set forth in subsection (m) if found to exist, the court shall impose a sentence, other than life imprisonment without possibility of parole, authorized by law. If one or more aggravating factors set forth in subsection (m) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of life imprisonment without possibility of parole. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether such sentence is justified.

"IMPOSITION OF SENTENCE

"(k) Upon a finding that a sentence of life imprisonment without possibility of parole is justified, the court shall sentence the defendant to such sentence. Otherwise the court shall impose a sentence, other than life imprisonment without possibility of parole, authorized by law.

"MITIGATING FACTORS

"(1) In determining whether a sentence of life imprisonment without possibility of parole is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant was less than 18 years of age at the time of the crime.

"(2) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(3) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(4) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"AGGRAVATING FACTORS

"(m) If the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the following aggravating factors shall be considered but are not exclusive:

(1) The defendant has previously been convicted of another Federal offense or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(2) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(4) In the commission of the offense or in escaping apprehension for a violation of subsection (a)(1), the defendant knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(5) The violation of this chapter in relation to which the conduct described in subsection (a)(2) occurred was a violation of section 405.

"(6) The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"(7) The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) The defendant committed the offense against a judge, a law-enforcement officer, or an employee of a penal or correctional institution, while that victim was performing official duties or because of that victim's status as a public servant of the United States, or a State or political subdivision of the United States. For purposes of this paragraph the term 'law-enforcement officer' means a public servant authorized by law to conduct or engage in the prevention, investigation, or prosecution of an offense.

"INSTRUCTION TO JURY ON RIGHT OF THE DEFENDANT TO JUSTICE WITHOUT DISCRIMINATION

"(n) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether a sentence of life imprisonment without possibility of parole is justified it shall not consider the race, color, national origin, creed, or sex of the defendant, the victim—the jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant or the victim was not involved in reaching his or her individual decision.

"SENTENCING IN CASES IN WHICH A SENTENCE OF LIFE IMPRISONMENT IS NOT SOUGHT OR IMPOSED

"(o) If a person is convicted for an offense under subsection (a)(2) and the court does not impose a sentence of life imprisonment without possibility of parole, the court may impose a sentence of life imprisonment or any other sentence authorized by law.

"APPEAL

"(p)(1) In any case in which the sentence of life imprisonment without possibility of parole is imposed under this section, such sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of life imprisonment without possibility of parole was not imposed under the influence of passion, prejudice, error of law, abuse of discretion, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with the failure to find sufficient mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

DOLE AMENDMENT NO. 3465

Mr. DOLE proposed an amendment to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill (H.R. 5484), supra, as follows:

On page 542 of the amendment strike lines 21–24.

Strike page 543.

Strike page 544.

Strike page 545.

DOLE AMENDMENT NO. 3466

Mr. DOLE proposed an amendment to the motion to concur, with an amendment, as modified, in the amendment of the House to the amendment of the Senate to the bill (H.R. 5484), supra, as follows:

Section 1552(c)(1)(C) of the amendment is amended by striking the proposed paragraph (6) and inserting in lieu thereof the following:

"(6) There are authorized to be appropriated $230,000,000 for fiscal year 1987, $230,000,000 for fiscal year 1988, and $230,000,000 for fiscal year 1989, to carry out the programs under part M of this title."

Strike out subsection (d) of section 3053 of the amendment as modified.

Section 3401(c)(2) of the amendment is amended in the quoted matter by striking "such aircraft" and inserting "such aircraft".

After the heading for subtitle H of title III, insert the following:

SEC. 3421. ADDITIONAL FUNDS FOR THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for fiscal year 1987, in addition to any other amounts authorized to be appropriated to the Department for such fiscal year, $7,000,000 for helicopters with forward looking infrared radiation detection devices for drug interdiction operations in Hawaii.

SUBTITLE I—FEDERAL COMMUNICATIONS COMMISSION

Section 3451 of the amendment is amended—

(1) in the first sentence by striking "shall revoke any license" and inserting "may revoke any private operator's license"; and

(2) in the second sentence by striking "shall" and inserting "may".

After section 3451, add the following:

TITLE IV—DEMAND REDUCTION

Section 12003(4) of the amendment is amended by striking "self-proposed" and inserting "self-propelled".

Section 12006(2) of the amendment is amended by striking "section 12005" and inserting "section 12004".

Section 12007 of the amendment is amended—

(1) in subsection (a)(1) by striking "section 6 of this Act" and inserting "section 12006 of this title";

(2) by striking paragraph (8) of subsection (a);

(3) in subsection (b)(1) by striking "Act" and inserting "title"; and

(4) in subsection (b)(5)(D) by striking "section 1 of this Act" and inserting "section 12006 of this title".

Section 12014 of the amendment is amended by inserting "and" after the semicolon in clause (2).

Strike out title 13 of the amendment.

In the table of contents of the amendment, strike the items for title 9 and title 13.

Strike out section 2016 of the amendment.

On page 41, beginning with line 14, strike all through line 13 on page 45 and insert in lieu thereof the following:

SEC. 1152. ASSET FORFEITURE FUNDS.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Subsection (c) of section 524 of title 28, United States Code, is amended—

(2) by inserting at the end of subparagraph (A) of paragraph (1) the following: "such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;";

(3) by inserting after subparagraph (A) of paragraph (1) the following new subparagraph and renumbering the subsequent subparagraphs appropriately;

"(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;";

(4) by amending newly designated subparagraph (F) of paragraph (1) to read as follows:

"(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service; and";

(5) by striking out in paragraph (4) "remaining after payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))";

(6) by striking out paragraph (8) and renumbering paragraph (9) as paragraph (8); and

(7) by adding at the end of the subsection the following new paragraph:

"(9)(A) If any funds deposited in the Department of Justice Assets Forfeiture Fund or the Customs Forfeiture Fund (19 U.S.C. 1613a, 1613b) are not expended or obligated prior to thirty days after the end of the fiscal year, 90 percent of such funds (not to exceed amounts specified in appropriation Acts) shall be transferred into a Special Forfeiture Fund.

"(B) The funds in the Special Forfeiture Fund shall be disbursed (in amounts not to exceed amounts specified in appropriation Acts), during the fiscal year in which they are transferred into the Special Fund, by the Attorney General, after consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Education, to enhance the following efforts:

"(i) Federal drug law enforcement agencies and programs;

"(ii) Federal drug abuse agencies and programs relating to drug abuse education, prevention, treatment, rehabilitation, and research;

"(iii) State, local, and nonprofit agencies with drug abuse responsibilities; and

"(iv) State and local law enforcement agencies for drug law enforcement efforts, under subtitle M of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3721 et seq.).

"(C) Funds disbursed from the Special Forfeiture Fund shall not be used to supplant existing funds, but shall be used to supplement funds that are otherwise available.

"(D) The Attorney General shall report annually to the Congress on all disbursements made under the authority of subparagraph (B).".

(b) CUSTOMS FORFEITURE FUND.—

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98-473, is amended—

(B) by amending paragraph (3) of subsection (a) to read as follows:

"(3) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and"; and

(C) by striking out subsection (h).

(2) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613b) as added by Public Law 98-573, is repealed.

In section 1152(a)(7) of the amendment, in the newly created section 524(c)(9)(B) of Title 28 United States Code, strike out ", during the fiscal year in which they are transferred into the Special Fund,"

Strike out section 4112(a)(2) and insert in lieu thereof the following:

(2) Of the amounts appropriated or otherwise made available to carry out this subtitle for any fiscal year, $5,000,000 shall be available to the Secretary of Health and Human Services for such fiscal year to carry out section 4134 of this Act and sections 508 and 509 of the Public Health Service Act.

Strike out subtitle a of title IV and insert in lieu thereof the following:

SUBTITLE A—TREATMENT AND REHABILITATION

SEC. 4001. SHORT TITLE; REFERENCE.

(a) This subtitle may be cited as the "Alcohol and Drug Abuse Amendments of 1986".

(b) Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Public Health Service Act.

SEC. 4002. SPECIAL ALLOTMENTS FOR ALCOHOL ABUSE AND DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS.

Title XIX is amended by inserting after section 1920A the following new sections:

"SPECIAL ALLOTMENTS TO STATES FOR ALCOHOL ABUSE AND DRUG ABUSE TREATMENT AND REHABILITATION PROGRAMS

"SEC. 1921. (a) To carry out this section and sections 1922, 1923, 508, and 510 there are authorized to be appropriated $241,000,000 for fiscal year 1987. Of the total amount appropriated under the preceding sentence for fiscal year 1987, 7 percent shall be added to and included with the amounts otherwise available under this part for allotments to States under section 1913 for such fiscal year, 72 percent shall be available for allotments to States under this section for such fiscal year, 5 percent shall be available for transfer to the Administrator of Veterans' Affairs under section 1922 for such fiscal year, 1 percent shall be available to carry out section 1923 for such fiscal year, and 15 percent shall be available to carry out sections 508 and 510 for such fiscal year.

"(b)(1) The allotment of a State under this section for a fiscal year shall be the sum of the amounts allotted to such State under paragraphs (2) and (3).

"(2) Forty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted in accordance with this subsection. The allotment of a State under this subsection for a fiscal year shall be an amount which bears the same ratio to the total amount required pursuant to the proceding sentence to be allotted under this subsection for such fiscal year as the population of such State bears to the population of all States.

"(3) Fifty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted by the Secretary to States on the basis of the need of each State for amounts for programs and activities for the treatment and rehabilitation of the alcohol abuse and drug abuse. In determining such need for each State under this subsection, the Secretary shall consider—

"(A) the nature and extent, in the State and in particular areas of the State, of the demand for effective programs and activities for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(B) the number of individuals in the State who abuse alcohol or drugs and the capacity of the State to provide treatment and rehabilitation for such individuals (as determined by the Secretary on the basis of the number of individuals who requested treatment for alcohol abuse and drug in the State during the most recent calendar year ending prior to the date on which a statement is submitted by the State under subsection (d); and

"(C) the ability of the State to provide additional services for the treatment and rehabilitation of alcohol abuse and drug abuse.

"(4) The Secretary shall make allotments to States under paragraph (1) for fiscal year 1987, and shall make payments to States under subsection (c) from such allotments, at the same time that the Secretary makes allotments and payments under sections 1913 and 1914, respectively, for such fiscal year. The Secretary shall make allotments to States under paragraph (2) for fiscal year 1987, and shall make payments to States under subsection (c) from such allotments, within four months after the date of enact-

ment of the Alcohol and Drug Abuse Amendments of 1986.

"(c)(1) For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under paragraphs (2) and (3) of subsection (b) from amounts which are appropriated for that fiscal year and available for such allotments.

"(2) Any amount paid to a State under paragraph (1) for a fiscal year and remaining unobligated at the end of such fiscal year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(d) In order to receive an allotment for a fiscal year under subsection (b), each State shall include with the application submitted to the Secretary under section 1916 a separate statement requesting an allotment under this section. Each such statement shall contain—

"(1) such information as the Secretary may prescribe, including information necessary for the Secretary to consider the matters specified in subparagraphs (A) through (D) of subsection (b)(3);

"(2) a description of the manner in which programs and activities conducted with payments under subsection (c) will be coordinated with other public and private programs and activities directed toward individuals who abuse alcohol and drugs;

"(3) assurance that, in the preparation of any statement under this section, the State will consult with local governments and public and private entities, including community based organizations, involved in the provision of services for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(4) a description of the manner in which the State will evaluate programs and activities conducted with payments made to the State under subsection (c) and assurances that the State will report periodically to the Secretary on the results of such evaluations; and

"(5) assurances that payments made to the State under subsection (c) will supplement and not supplant any State or local expenditures for the treatment and rehabilitation of alcohol; abuse and drug abuse that would have been made in the absence of such payments.

"(e)(1) Except as provided in subsection (f) and (i), amounts paid to a State under subsection (c) may be used by the State for alcohol abuse and drug abuse treatment and rehabilitation programs and activities, including—

"(A) activities to increase the availability and outreach of programs provided by major treatment centers and regional branches of such centers which provide services in a State in order to reach the greatest number of people;

"(B) activities to expand the capacity of alcohol abuse and drug abuse treatment and rehabilitation programs and facilities to provide treatment and rehabilitation services for alcohol abusers and drug abusers who have been refused treatment due to lack of facilities or personnel; and

"(C) activities to provide access to vocational training, job counseling, and education equivalency programs to alcohol abusers and drug abusers in need of such services in order to enable such abusers to become productive members of society.

"(2) A State may request the Secretary to waive the provisions of section 1915(b)(1) (as such section applies to this section pursuant to subsection (i) of this section) in order to permit such State to conduct model programs for the provision of inpatient hospital services for alcohol abuse and drug abuse treatment, and the Secretary may grant such a waiver.

"(f) Of the total amount paid to any State under subsection (c) for a fiscal year, not more than 2 percent may be used for administering the funds made available under such subsection. The State will pay from non-Federal sources the remaining costs of such administering such funds.

"(g) The Secretary may provide training and technical assistance to States in planning and operating activities to be carried out under this section.

"(h) The Secretary may conduct data collection activities to enable the Secretary to carry out this section.

"(i) Except as provided in subsection (e)(2), the provisions of subsections (a) and (d) and paragraphs (1) through (5) of subsection (b) of section 1917 and the provisions of sections 1914(b), 1915(b), 1918, 1919, and 1920 shall apply to this section in the same manner as such provisions apply to payments made under section 1914 from allotments made under section 1913.

"TRANSFER TO THE ADMINISTRATOR OF VETERANS' AFFAIRS

"SEC. 1922. The Secretary shall transfer to the Administrator of Veterans' Affairs the amount which, under the second sentence of section 1921(a), is available for such transfer. The amount transferred pursuant to the preceding sentence shall be used for outpatient treatment, rehabilitation, and counseling under section 612 of title 38, United States Code, of veterans for their alcohol or drug abuse dependence or abuse disabilities and for contract care and services under section 620A of such title for veterans for such disabilities.

"TREATMENT PROGRAM EVALUATIONS

"SEC. 1923. One percent of the total amount appropriated under section 1921(a) for any fiscal year may be used by the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, to develop and evaluate alcohol and drug abuse treatment programs to determine the most effective forms of treatment. Such programs may be developed and evaluated through grants, contracts, and cooperative agreements provided to nonprofit private entities. In carrying out this section, the Secretary shall assess the comparative effectiveness of various treatment forms for specific patient groups.".

SEC. 4003. ADVISORY COUNCILS.

(a) Part A of title V is amended by redesignating sections 505 and 506 as sections 506 and 507 respectively, and by inserting after section 504 the following new section:

ADVISORY COUNCILS

"SEC. 505. (a)(1) The Secretary shall appoint an advisory council for the National Institute on Alcohol Abuse and Alcoholism, for the National Institute on Drug Abuse, and for the National Institute of Mental Health. Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Director of the Institute for which it was appointed on matters relating to the activities carried out by and through the Institute and the policies respecting such activities.

"(2) Each advisory council for an Institute may recommend to the Secretary acceptance, in accordance with section 2101, of conditional gifts for—

"(A) study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the Institute was established;

"(B) the acquisition of grounds for the Institute; or

"(C) the construction, equipping, or maintenance of facilities for the Institute.

"(3) Each advisory council for an Institute—

"(A)(i) may on the basis of the materials provided under section 507(d)(2) respecting research conducted at the Institute, make recommendations to the Director of the Institute respecting such research;

"(ii) shall review applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 507(e)(2), and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Institute;

"(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to diseases, disorders, or other aspect of human health with respect to which the Institute was established and with the approval of the Director of the Institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b)(1) Each advisory council shall consist of nonvoting ex officio members and not more than 12 members appointed by the Secretary.

"(2) The ex officio members of an advisory council shall consist of—

"(A) the Secretary, the Administrator, the Director of the Institute for which the advisory council is established, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

"(B) such additional officers of employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Institute for which the advisory council is established.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

"(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

"(c) The term of office of an appointed member of an advisory council is 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the Institute for which the advisory council is established to be the chairman of the advisory council. The term of office of chairman shall be 2 years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the Institute for which it was established, but at least 3 times each fiscal year. The location of the meetings of each advisory council is subject to the approval of the Director of the Institute for which the advisory council was established.

"(f) The Director of the Institute for which an advisory council is established shall designate a member of the staff of the Institute to serve as the executive secretary of the advisory council. The Director of the Institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of the Institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.".

(b) The amendment made by subsection (a) does not terminate the membership of any advisory council for the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the National Institute of Mental Health which was in existence on the date of enactment of this Act. After such date—

(1) the Secretary of Health and Human Services shall make appointments to each such advisory council in such a manner as to bring about as soon as practicable the composition for such council prescribed by section 505 of the Public Health Service Act;

(2) each advisory council shall organize itself in accordance with such section and exercise the functions prescribed by such section; and

(3) the Director of each such institute shall perform for such advisory council the functions prescribed by such section.

(c) Section 217 is amended—

(1) by striking out subsections (a), (b), (c), and (d);

(2) by striking out "(e)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "(2)" and inserting in lieu thereof "(b)";

(4) by striking out "(3)" and inserting in lieu thereof "(c)";

(5) by striking out "(4)" and inserting in lieu thereof "(d)"; and

(6) by redesignating clauses (A) and (B) of subsection (c) (as redesignated by the amendment made by paragraph (4) of this subsection) as clauses (1) and (2), respectively.

SEC. 4004. OFFICE FOR SUBSTANCE ABUSE PREVENTION.

(a) Part A of title V (as amended by section 4003 of this Act) is further amended by adding at the end thereof the following new sections:

"OFFICE FOR SUBSTANCE ABUSE PREVENTION

"SEC. 508. (a) There is established in the Administration an Office for Substance Abuse Prevention (hereafter in this part referred to as the 'Office'). The Office shall be headed by a Director appointed by the Secretary from individuals with extensive experience or academic qualifications in the prevention of drug or alcohol abuse.

"(b) The Director of the Office shall—

"(1) sponsor regional workshops on the prevention of drug and alcohol abuse;

"(2) coordinate the findings of research sponsored by agencies of the Service on the prevention of drug and alcohol abuse;

"(3) develop effective drug and alcohol abuse prevention literature (including literature on the adverse effects of cocaine free base (known as 'crack');

"(4) in cooperation with the Secretary of Education, assure the widespread dissemination of prevention materials among States, political subdivisions, and school systems;

"(5) support programs of clinical training of substance abuse counselors and other health professionals;

"(6) in cooperation with the Director of the Centers for Disease Control, develop educational materials to reduce intravenous drug abusers;

"(7) conduct training, technical assistance, data collection, and evaluation activities of programs supported under the Drug Free Schools and Communities Act of 1986;

"(8) support the development of model, innovative, community-based programs to discourage alcohol and drug abuse among young people; and

"(9) prepare for distribution documentary films and public service announcements for television and radio to educate the public concerning the dangers to health resulting from the consumption of alcohol and drugs and, to the extent feasible, use appropriate private organizations and business concerns in the preparation of such announcements.

"(c) The Director may make grants and enter into contracts and cooperative agreements in carrying out subsection (b).

"(d) Of the amounts available under the second sentence of section 1921(a) to carry out this section and section 510, $20,000,000 shall be available to carry out section 510.

"ALCOHOL AND DRUG ABUSE INFORMATION CLEARINGHOUSE

"SEC. 509. The Secretary, through the Director of the Office, shall establish a clearinghouse for alcohol and drug abuse information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, health and drug treatment and rehabilitation networks, and the general public. The clearinghouse shall—

"(1) disseminate publications by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the Department of Education concerning alcohol abuse and drug abuse;

"(2) disseminate accurate information concerning the health effects of alcohol abuse and drug abuse;

"(3) collect and disseminate information concerning successful alcohol abuse and drug abuse education and prevention curricula; and

"(4) collect and disseminate information on effective and ineffective school-based alcohol abuse and drug abuse education and prevention programs, particularly effective programs which stress that the use of illegal drugs and the abuse of alcohol is wrong and harmful.

"PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH

"SEC. 510. (a) The Secretary, through the Director of the Office, shall make grants to public and nonprofit private entities for projects to demonstrate effective models for the prevention, treatment, and rehabilitation of drug abuse and alcohol abuse among risk youth.

"(b)(1) In making grants for drug abuse and alcohol abuse prevention projects under this section, the Secretary shall give priority to applications for projects directed at children of substance abusers, latchkey children, children at risk of abuse or neglect, preschool children eligible for services under the Head Start Act, children at risk of dropping out of school, children at risk of becoming adolescent parents, and children who do not attend school and who are at risk of being unemployed.

"(2) In making grants for drug abuse and alcohol abuse treatment and rehabilitation projects under this section, the Secretary shall give priority to projects which address the relationship between drug abuse or alcohol abuse and physical child abuse, sexual child abuse, emotional child abuse, dropping out of school, unemployment, delinquency, pregnancy, violence, suicide, or mental health problems.

"(3) In making grants under this section, the Secretary shall give priority to applications from community based organizations for projects to develop innovative models with multiple, coordinated services for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

"(4) In making grants under this section, the Secretary shall give priority to applications for projects to demonstrate effective models with multiple, coordinated services which may be replicated and which are for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

"(c) To the extent feasible, the Secretary shall make grants under this section in all regions of the United States, and shall ensure the distribution of grants under this section among urban and rural areas.

"(d)(1) In order to receive a grant for a project under this section for a fiscal year, a public or nonprofit private entity shall submit an application to the Governor of the State in which the project will be conducted. Such application shall be in such form, shall contain such information, and shall be submitted at such time as the Secretary may by regulation prescribe.

"(2) The Governor of each State shall review each application received under subsection (a) for a fiscal year and shall submit to the Secretary, by a date prescribed by the Secretary for such fiscal year, the recommendations of the Governor concerning the approval or disapproval of each such application and a ranking recommended by the Governor of the priority for approval of such applications. In making recommendations under the preceding sentence, the

Governor shall consider the priorities and requirements for grants established by subsections (b) and (c).

"(e) The Director of the Office shall evaluate projects conducted with grants under this section.

"(f) For purposes of this section, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

"(1) is identified as a child of a substance abuser;

"(2) is a victim of physical, sexual, or psychological abuse;

"(3) has dropped out of school;

"(4) has become pregnant;

"(5) is economically disadvantaged;

"(6) has committed a violent or delinquent act;

"(7) has experienced mental health problems;

"(8) has attempted suicide; or

"(9) is disabled by injuries.".

(b)(1) Section 502(e) is repealed.

(2) Section 503(d) is amended—

(A) by inserting "and" at the end of paragraph (2);

(B) by striking out "; and" at the end of paragraph

(3) and inserting in lieu thereof a period; and

(C) by striking out paragraph (4).

SEC. 4005. PUBLIC HEALTH EMERGENCIES.

Part A of title V (as amended by sections 4003 and 4004 of this Act) is further amended by adding at the end thereof the following:

"RESEARCH ON PUBLIC HEALTH EMERGENCIES

"SEC. 511. (a) If the Secretary determines, after consultation with the Administrator, the Commissioner of Food and Drugs, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of an Institute of the Administration constitutes a public health emergency, the Secretary, acting through the Administrator—

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for research on such disease or disorder or proposals for contracts for such research;

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such research;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new research relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed in research assisted under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year if any actions were taken under such subsection in such fiscal year.".

SEC. 4006. PEER REVIEW.

Subsection (b) of section 507 (as redesignated by section 4003(a) of this Act) is amended by inserting "applications made for" after "review of" in the matter preceding paragraph (1).

SEC. 4007. NATIONAL ALCOHOL RESEARCH CENTERS.

Section 511(b) is amended—

(1) by striking out "or rental" before "any land"; and

(2) by striking out "rental," before "purchase".

SEC. 4008. EXPANSION OF DRUG ABUSE RESEARCH.

Section 515(a) is amended—

(1) by striking out "and" after the semicolon in paragraph (4);

(2) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) effective methods of drug abuse prevention, treatment, and rehabilitation, particularly methods of intervention to treat abuse of specific drugs; and"; and

(3) by adding at the end thereof the following:

"(6) the development of chemical antidotes and narcotic antagonists for use in the treatment of cocaine and heroin addiction.".

SEC. 4009. RESEARCH AUTHORIZATION.

(a) Section 513 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 513. There are authorized to be appropriated to carry out this subpart $69,000,000 for fiscal year 1987.".

(b) Section 517 is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 517. There are authorized to be appropriated to carry out this subpart $129,000,000 for fiscal year 1987.".

SEC. 4010. SUICIDE.

(a) Section 504 is amended by adding at the end thereof the following new subsection:

"(h) The Director shall—

"(1) develop and publish information respecting the causes of suicide and the means of preventing suicide; and

"(2) make such information generally available to the public and health professionals.

Information developed, published, and distributed under this subsection shall especially relate to suicide among individuals under the age of 21.".

(b) Not later than one year after the date of enactment of this Act, the Director of the National Institute of Mental Health shall report to Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on the activities undertaken under section 504(h) of the Public Health Service Act and shall include in such report an assessment of the effectiveness of such activities.

SEC. 4011. MENTAL HEALTH NEEDS OF THE ELDERLY.

Section 504(c) is amended by adding at the end thereof the following: "Special consideration shall be given to programs for training and research on the mental health needs of the elderly.".

SEC. 4012. TECHNICAL AMENDMENT.

Section 504(e) is amended by striking out the period at the end of paragraph (2)(A) and inserting in lieu thereof a semicolon.

SEC. 4013. INFANT FORMULAS.

(a) Section 412 of the Federal Food, Drug, and Cosmetic Act is amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively,

(2) by amending the last sentence of paragraph (1) of subsection (g) (as so redesignated) to read as follows: "Such records shall be retained for at least one year after the expiration of the shelf life of the infant formula.",

(3) by striking out "(a) and (b)" in the first sentence of subsection (h)(1) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)",

(4) by striking out "(c)(1)" in the second sentence of such subsection and inserting in lieu thereof "(e)(1)",

(5) by striking out "(e)(1)(B)" in such sentence and inserting in lieu thereof "d)(1)(B)",

(6) by striking out "(a) and (b)" in subsection (h)(2) (as so redesignated) and inserting in lieu thereof "(a), (b), and (c)", and

(7) by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"(a) An infant formula, including an infant formula powder, shall be deemed to be adulterated if—

"(1) such infant formula does not provide nutrients as required by subsection (i),

"(2) such infant formula does not meet the quality factor requirements prescribed by the Secretary under subsection (b)(1), or

"(3) the processing of such infant formula is not in compliance with the good manufacturing practices and the quality control procedures prescribed by the Secretary under subsection (b)(2).

"(b)(1) The Secretary shall by regulation establish requirements for quality factors for infant formulas to the extent possible consistent with current scientific knowledge, including quality factor requirements for the nutrients required by subsection (i).

"(2)(A) The Secretary shall by regulation establish good manufacturing practices for infant formulas, including quality control procedures that the Secretary determines are necessary to assure that an infant formula provides nutrients in accordance with this subsection and subsection (i) and is manufactured in a manner designed to prevent adulteration of the infant formula.

"(B) The good manufacturing practices and quality control procedures prescribed by the Secretary under subparagraph (A) shall include requirements for—

"(i) the testing, in accordance with paragraph (3) and by the manufacturer of an infant formula or an agent of such manufacturer, of each batch of infant formula for each nutrient required by subsection (i) before the distribution of such batch.

"(ii) regularly scheduled testing, by the manufacturer of an infant formula or an agent of such manufacturer, of samples of infant formulas during the shelf life of such formulas to ensure that such formulas are in compliance with this section.

"(iii) in-process controls including, where necessary, testing required by good manufacturing practices designed to prevent adulteration of each batch of infant formula, and

"(iv) the conduct by the manufacturer of an infant formula or an agent of such manufacturer of regularly scheduled audits to determine that such manufacturer has complied with the regulations prescribed under subparagraph (A).

In prescribing requirements for audits under clause (iv), the Secretary shall provide that such audits be conducted by ap-

propriately trained individuals who do not have any direct responsibility for the manufacture or production of infant formula.

"(3)(A) At the final product stage, each batch of infant formula shall be tested for vitamin A, vitamin B1, vitamin C, and vitamin E to ensure that such infant formula is in compliance with the requirements of this subsection and subsection (i) relating to such vitamins.

"(B) Each nutrient premix used in the manufacture of an infant formula shall be tested for each relied upon nutrient required by subsection (i) which is contained in such premix to ensure that such premix is in compliance with its specifications or certifications by a premix supplier.

"(C) During the manufacturing process or at the final product stage and before distribution of an infant formula, an infant formula shall be tested for all nutrients required to be included in such formula by subsection (i) for which testing has not been conducted pursuant to subparagraph (A) or (B). Testing under this subparagraph shall be conducted to—

"(i) ensure that each batch of such infant formula is in compliance with the requirements of subsection (i) relating to such nutrients, and

"(ii) confirm that nutrients contained in any nutrient premix used in such infant formula are present in each batch of such infant formula in the proper concentration.

"(D) If the Secretary adds a nutrient to the list of nutrients in the table in subsection (i), the Secretary shall by regulation require that the manufacturer of an infant formula test each batch of such formula for such new nutrient in accordance with subparagraph (A), (B), or (C).

"(E) For purposes of this paragraph, the term 'final product stage' means the point in the manufacturing process, before distribution of an infant formula, at which an infant formula is homogenous and is not subject to further degradation.

"(4)(A) The Secretary shall by regulation establish requirements respecting the retention of records. Such requirements shall provide for—

"(i) the retention of all records necessary to demonstrate compliance with the good manufacturing practices and quality control procedures prescribed by the Secretary under paragraph (2), including records containing the results of all testing required under paragraph (2)(B),

"(ii) the retention of all certifications or guarantees of analysis by premix suppliers,

"(iii) the retention by a premix supplier of all records necessary to confirm the accuracy of all premix certifications and guarantees of analysis,

"(iv) the retention of—

"(I) all records pertaining to the microbiological quality and purity of raw materials used in infant formula powder and in finished infant formula, and

"(II) all records pertaining of food packaging materials which show that such materials do not cause an infant formula to be adulterated within the meaning of section 402(a)(2)(C).

"(v) the retention of all records of the results of regularly scheduled audits conducted pursuant to the reguirements prescribed by the Secretary under paragraph (2)(B)(iv), and

"(vi) the retention of all complaints and the maintenance of files with respect to, and the review of, complaints concerning infant formulas which may reveal the possible existence of a hazard to health.

"(B)(i) Records required under subparagraph (A) with respect to an infant formula shall be retained for at least one year after the expiration of the shelf life of such infant formula. Except as provided in clause (ii), such records shall be made available to the Secretary for review and duplication upon request of the Secretary.

"(ii) A manufacturer need only provide written assurances to the Secretary that the regularly scheduled audits required by paragraph (2)(B)(iv) are being conducted by the manufacturer, and need not make available to the Secretary the actual written reports of such audits.

"(c)(1) No person shall introduce or deliver for introduction into interstate commerce any new infant formula unless—

"(A) such person has, before introducing such new infant formula, or delivering such new infant formula for introduction, into interstate commerce, registered with the Secretary the name of such person, the place of business of such person, and all establishments at which such person intends to manufacture such new infant formula, and

"(B) such person has at least 90 days before marketing such new infant formula, made the submission to the Secretary required by subsection (c)(1).

"(2) For purposes of paragraph (1), the term 'new infant formula' includes—

"(A) an infant formula manufactured by a person which has not previously manufactured an infant formula, and

"(B) an infant formula manufactured by a person which has previously manufactured infant formula and in which there is a major change, in processing or formulation, from a current or any previous formulation produced by such manufacturer.

For purposes of this paragraph, the term 'major change' has the meaning given to such term in section 106.30(c)(2) of title 21, Code of Federal Regulations (as in effect on August 1, 1986), and guidelines issued thereunder.

"(d)(1) A person shall, with respect to any infant formula subject to subsection (c), make a submission to the Secretary which shall include—

"(A) the quantitative formulation of the infant formula,

"(B) a description of any reformulation of the formula or change in processing of the infant formula,

"(C) assurances that the infant formula will not be marketed unless it meets the requirements of subsections (b) (1) and (i), as demonstrated by the testing required under subsection (b)(3), and

"(D) assurances that the processing of the infant formula complies with subsection (b)(2).

"(2) After the first production of an infant formula subject to subsection (c), and before the introduction into interstate commerce of such formula, the manufacturer of such formula shall submit to the Secretary, in such form as may be prescribed by the Secretary, a written verification which summarizes test results and records demonstrating that such formula complies with the requirements of subsections (b)(1), (b)(2)(A), (b)(2)(B(i), (b)(2)(B)(iii), (b)(3)(A), (b)(3)(C), and (i).

"(3) If the manufacturer of an infant formula for commercial or charitable distribution for human consumption determines that a change in the formulation of the formula or a change in the processing of the formula may affect whether the formula is adulterated under subsection (a), the manufacturer shall, before the first processing of such formula, make the submission to the Secretary required by paragraph (1).

"(e)(1) If the manufacturer of an infant formula has knowledge which reasonably supports the conclusion that an infant formula which has been processed by the manufacturer and which has left an establishment subject to the control of the manufacturer—

"(A) may not provide the nutrients required by subsection (i), or

"(B) may be otherwise adulterated or misbranded, the manufacturer shall promptly notify the Secretary of such knowledge. If the Secretary determines that the infant formula presents a risk to human health, the manufacturer shall immediately take all actions necessary to recall shipments of such infant formula from all wholesale and retail establishments, consistent with recall regulations and guidelines issued by the Secretary.

"(2) For purposes of paragraph (1), the term 'knowledge' as applied to a manufacturer means (A) the actual knowledge that the manufacturer had, or (B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

"(f)(1) If a recall of infant formula is begun by a manufacturer, the recall shall be carried out in accordance with such requirements as the Secretary shall prescribe under paragraph (2) and—

"(A) the Secretary shall, not later than the 15th day after the beginning of such recall and at least once every 15 days thereafter until the recall is terminated, review the actions taken under the recall to determine whether the recall meets the requirements prescribed under paragraph (2), and

"(B) the manufacturer shall, not later than the 14th day after the beginning of such retail and at least once every 14 days thereafter until the recall is terminated, report to the Secretary the actions taken to implement the recall.

"(2) The Secretary shall by regulation prescribe the scope and extent of recalls of infant formulas necessary and appropriate for the degree of risks to human health presented by the formula subject to the recall.

"(3) The Secretary shall by regulation require each manufacturer of an infant formula who begins a recall of such formula because of a risk to human health to request each retail establishment at which such formula is sold or available for sale to post at the point of purchase of such formula a notice of such recall at such establishment for such time that the Secretary determines necessary to inform the public of such recall.".

(b)(1) Subsection (1) of such section (as so redesignated) is amended—

(A) by inserting "(1)" after "(i)",

(B) by striking out "subsection (a)" and inserting in lieu thereof "paragraph",

(C) by striking out the colon and inserting in lieu thereof a period, and

(D) by adding at the end the following:

"(2) The Secretary may by regulation—

"(A) revise the list of nutrients in the table in this subsection, and

"(B) revise the required level for any nutrient required by the table.".

(2) Section 301(s) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(s) The failure to provide the notice required by section 412(c) or 412(d), the failure to make the reports required by section

412(f)(1)(B), the failure to retain the records required by section 412(b)(4), or the failure to meet the requirements prescribed under section 412(f)(3).".

SEC. 4014. STUDY ON ALKYL AND BUTYL NITRITES.

The Secretary of Health and Human Services, through the Commissioner of Food and Drugs, should conduct a study on alkyl and butyl nitrites and report to the appropriate committees of the Congress recommendations concerning whether alkyl and butyl nitrites should be treated as a drug under the Federal Food, Drug, and Cosmetic Act.

SEC. 4015. SENSE OF THE SENATE WITH RESPECT TO POSSESSION OR DISTRIBUTION OF DRUGS UNDER STATE LAW.

It is the sense of the Senate that, if the possession or distribution of a drug is an offense under the Controlled Substances Act, the laws of the States should not be amended or revised to provide that the possession or distribution, respectively, of such drug is not a criminal offense.

SEC. 4016. STUDIES ON HEALTH WARNING LABELS FOR ALCOHOLIC BEVERAGES.

(a) The Senate finds that—

(1) the most abused drug in America alcohol;

(2) alcohol abuse costs the American economy nearly $120,000,000,000 per year, including increased medical expenses and decreased productivity;

(3) in 1984, 53 percent of the traffic fatalities in the United States, accounting for more than 23,500 deaths, were related to the consumption of alcohol;

(4) over 12,000,000 American adults have one or more symptoms of alcoholism, and this represents an 8.2 percent increase in problem drinking since 1980;

(5) in 1984, almost 3,300,000 individuals between the ages of 14 and 17 experienced serious problems at home, in school, or with the law because of alcohol consumption;

(6) fetal alcohol syndrome is the third leading cause of birth defects, and is the only preventable cause of birth defects among the top three causes;

(7) nearly 5,000 babies per year are born with birth defects related to fetal alcohol syndrome;

(8) the statistics cited in the preceding paragraphs of this subsection indicate that many Americans are not aware of the adverse effects that the abuse of alcoholic beverages may have on health;

(9) it is necessary to undertake a serious national effort to educate the American people of the serious consequences of alcohol abuse; and

(10) carefully drafted warning labels on the containers of alcoholic beverages concerning serious health consequences resulting from the abuse of alcohol may assist in providing such education.

(b) Therefore, it is the sense of the Senate that—

(1) the Public Health Service should focus attention on the problem of educating the American people on the serious health consequences of alcohol abuse;

(2) the Public Health Service should review available knowledge and conduct studies to assess the most effective means of providing such education, including an assessment of the potential educational impact of health warning labels on the containers of alcoholic beverages; and

(3) the Public Health Service should transmit a report to the Congress within 6 months after the date of enactment of this Act concerning any activities described in paragraph (2) which have been undertaken, and should include in such report any findings respecting the impact and potential benefits of displaying health warnings on the containers of alcoholic beverages and recommendations for specific language for such labels.

SEC. 4017. EFFORTS OF THE ENTERTAINMENT AND WRITTEN MEDIA INDUSTRY.

It is the sense of Congress that—

(1) whereas illegal drug and alcohol consumption and the trafficking in those illegal drugs and alcohol is a major problem in the United States,

(2) whereas the problem of alcohol abuse is particularly prevalent among and harmful to the Nation's young people, and

(3) whereas the values and mores portrayed in various forms of commercially produced entertainment have a profound effect on the attitudes of young people in this country,

the entertainment and written media industry should refrain from producing material meant for general entertainment which in any way glamorizes or encourages the use of illegal drugs and alcohol and the entertainment and written media industry should develop films, television programs, records, videos, and advertising which discourage the use of illegal drugs and alcohol.

SEC. 4018. SENSE OF THE CONGRESS URGING THE CATEGORIZATION OF FILMS WHICH PROMOTE ALCOHOL ABUSE AND DRUG USE.

(a) The Congress finds that—

(1) the abuse of alcohol and the use of drugs has become a societal problem of epidemic proportions,

(2) it is in the interest of all citizens to contribute to the reduction of alcohol abuse and drug use, particularly among youth,

(3) the entertainment industry, particularly the motion picture industry's production of youth-oriented films, often depicts alcohol abuse and drug use in a benign, even glamorous way,

(4) the motion picture industry has a profound impact of societal norms and is a powerful medium which exerts great influence on the values of youth, and

(5) the motion picture industry has recognized the need to inform parents about the contents of movies regarding violence, sex, language, and nudity and therefore currently employs a voluntary rating system.

(b) It is the sense of the Congress that the Motion Picture Association of America should incorporate a new rating in its voluntary movie rating system to clearly identify films which depict alcohol abuse and drug use.

In section 4122(a)(2) of the amendment, insert after "counselors" a comma and the following: "athletic directors".

In section 4125(a) of the amendment, strike out clauses (D) through (I) and insert in lieu thereof the following:

(D) programs of in-service and pre-service training in drug abuse and alcohol abuse prevention for teachers, counselors, athletic directors, and other educational personnel, public service personnel (including law enforcement officials), and community leaders, including cooperative programs with higher education institutions;

(E) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach developed by the Department of Education;

(F) community education programs and other activities to involve parents and communities in the fight against drug abuse and alcohol abuse;

(G) public education programs on drug abuse and alcohol abuse, including programs utilizing professionals, and former drug abusers and alcohol abusers and drug dependent and alcohol dependent individuals;

(H) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and families in such efforts and using athletic programs and personnel to prevent drug and alcohol abuse among all students;

(I) on-site efforts in schools to enhance identification and discipline of such drug abusers and alcohol users, and to enable law officials to take necessary action in cases of drug possession and of drug and alcohol supplying to the student population; or

(J) other programs of drug abuse and alcohol abuse education and prevention consistent with the purposes of this subtitle.

In section 4125(a) of the amendment, strike out clauses (D) through (I) and insert in lieu thereof the following:

(D) programs of in-service and pre-service training in drug abuse and alcohol abuse prevention for teachers, counselors, athletic directors, and other educational personnel, public service personnel (including law enforcement officials), and community leaders, including cooperative programs with higher education institutions;

(E) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach developed by the Department of Education;

(F) community education programs and other activities to involve parents and communities in the fight against drug abuse and alcohol abuse;

(G) public education programs on drug abuse and alcohol abuse, including programs utilizing professionals, and former drug abusers and alcohol abusers and drug dependent and alcohol dependent individuals;

(H) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and families in such efforts and using athletic programs and personnel to prevent drug and alcohol abuse among all students;

(I) on-site efforts in schools to enhance identification and discipline of such drug abusers and alcohol users, and to enable law officials to take necessary action in cases of drug possession and of drug and alcohol supplying to the student population; or

(J) other programs of drug abuse and alcohol abuse education and prevention consistent with the purposes of this subtitle.

In section 4122(a)(2) of the amendment, insert after "counselors" a comma and the following: "athletic directors".

On page 432, strike all beginning with "verifying" on line 7 through "with respect to," on line 8 and insert in lieu thereof "making aid available to".

On page 432, lines 14 and 15, strike "verifying the eligibility of, and".

In section 12004(a)—

(1) strike "and" at the end of paragraph (9);

(2) strike the period at the end of paragraph (10) and insert in lieu thereof a semicolon; and

(3) add immediately after paragraph (10) the following:

(11) establish requirements for the disqualification of any person operating a commercial motor vehicle for a period of not less than 60 days who, in a 3-year period, is found to have committed two serious traffic violations involving a commercial motor vehicle operated by such person; and

(12) establish requirements for the disqualification of any person operating a commercial motor vehicle for a period of not less than 120 days who, in a 3-year period, is found to have committed three serious traffic violations involving a commercial motor vehicle operated by such person.

In section 12006(10), strike all after "section" and insert in lieu thereof "12004(a)(5), (6), (7), (11) and (12) of this title.".

Strike out section 4023.

On page 548, line 12, strike "both within and outside" and insert "within."

On page 73, line 10, after the word "property.", insert the following: "Such property when forfeited pursuant to subsection (a)(1)(B) of this section may also be transferred to a foreign country pursuant to a treaty providing for the transfer of forfeited property to such foreign country. A decision by the Attorney General pursuant to this paragraph shall not be subject to review."

On page 548, strike lines 14-20.

ADDITIONAL STATEMENTS

THE REMAINING CHALLENGES OF TEXTILE POLICY

● Mr. HART. Mr. President, the textile and apparel industries' problems are more severe than any recitation of unemployment or falling market share statistics can convey. The human cost is paid in broken families, lost homes, educations cut short, and productive lives shortchanged. And this tragedy affects industries across this land.

Workers in steel, machine tools, electronics, automobiles, and others are paying the price for the absence of national leadership on trade. The problem isn't limited to manufacturing workers—our Nation's farmers face a trade crisis that is costing their livelihoods and their land.

We need to take action. Recently, the House of Representatives declined to override the President's veto of the textile bill. But the issue does not end there. We still need a policy to ensure a competitive textile and apparel industry. We still need to replace this administration's laissez-faire trade policy with an active commitment to make our Nation's industries competitive.

Our choice is not, as some would have it, between doing nothing on the one hand, and protectionism on the other. There is a third and immeasurably better course. We should, simply, get competitive.

What steps are needed to get competitive in the textile industry? First and foremost, we need to stop making our textile, apparel and other trade sensitive industries pay for the irresponsible fiscal policies of the past 5 years. The overvalued dollar taxed our exports and subsidized our competitors. The current, long overdue decline of the dollar will help some, but as long as the fundamental problem—sky high deficits—remains, we will be leaving ourselves open to repeating the recent past.

We need other economic reforms as well. The international monetary system needs to be restructured. The debt crisis faced by the developing world has stymied all American exporters, including the textile and apparel industries. Indeed, while much attention has been paid to the problem of rising textile and apparel imports, many fail to note that exports of American textile and apparel products have dropped by 40 percent since 1981. And the developing world accounts for more than half of the export market. Until these markets are freed of a debt burden that forces them to sell their products here at cutrate prices and prevents them from buying ours, we will see trade problems grow in industry after industry.

I have laid out a general trade and competitiveness strategy in the Competitive America Trade Act, cosponsored by my colleagues Senators BRADLEY and NUNN. This approach will help ensure that fair trade can grow. But it recognizes we can't do it all by ourselves. We've got to get tough on those foreign producers who would ignore fair trading practices. We don't need to turn to blanket protectionism. What we instead need is the reform and enforcement of our trade laws.

Title III of my trade bill would streamline our trade laws and make enforcement automatic. It would establish a clear definition of what constitutes an unfair trade practice and then make enforcement mandatory. When we find that a country has violated the law, the President shouldn't be able to back off on imposing penalties, except when true national security is at stake or when real progress is being negotiated. Perhaps most important for the textile and apparel industries, we need to increase funds for the Customs Service, not slash them—either as the administration has proposed in every budget it has submitted or in the haphazard and senseless way contemplated by Gramm-Rudman.

The textile and apparel industry would benefit greatly from a sensible and comprehensive trade policy. Clear and strong enforcement of streamlined trade laws would bring the worst abuses of our market to a quick halt. New technologies can continue to be developed with the assistance of joint business-Government research. Training programs can be designed to ensure that technology leads to better jobs, not the unemployment line, for current textile and apparel workers. But this may not be enough.

We need a coordinated policy toward the textile and apparel industries. An Office of Textile Enforcement under the Special Trade Representative could serve as a useful focus point. The National Science Foundation and the National Bureau of Standards should be engaging in cooperative research with the industry. Pursuing real reforms in the MFA and GATT treaties is critical.

What is needed is a positive program. We must make clear to the President that we don't subscribe to laissez faire, "let it happen," economic theology. We believe in aidez faire—which means, literally, "to make it happen." We need a policy to help us master the forces of economic change and to use those forces to America's advantage.

Trade policy is a key aspect of international relations and foreign policy.

This Senator recently delivered three lectures on the broad scope of foreign policy and made the following observation:

> If our alliances and friendships are to survive the next few decades, we must remember this: protectionism is isolationism—no less dangerous to our people or our alliances or our collective security than the isolationism of the 1930's. The economic pain that many of our people feel because of trade is real, as are the flaws in the world's trading system. But we must address these flaws directly, not paper them over with . . . trade restrictions that would suffocate prosperity and alliance.

Mr. President, I would urge all Senators to work cooperatively on the trade issue. An effective competitiveness policy would be good for workers, consumers, trade sensitive industries and the foreign policy of the United States.●

RAIL-TRUCK ACQUISITIONS

● Mr. DANFORTH. Mr. President, this bill includes a provision designed to clarify the standards to be used by the Interstate Commerce Commission [ICC] in certain cases in which a rail carrier requests authority to acquire a motor carrier. Under this amendment, the ICC—as well as any court reviewing the ICC's action—would be required to follow the standards set forth in Ex parte 438 in three categories of cases. By following Ex parte 438, the controlling standard for review of the acquisition would be whether the acquisition will enable the rail carrier to improve its overall transportation operations, rather than just its rail operations.

This provision would cover, first, cases where a rail carrier filed an application with the ICC between July 20, 1984, and September 30, 1986, to acquire a motor carrier; second, cases where a rail carrier entered into a contract or signed a letter of intent during that period to acquire a motor carrier; and, third, cases where a rail carrier made a public tender offer during that period to acquire a motor carrier. For these purposes, a rail carrier includes any person controlled by or affiliated with a rail carrier.

This amendment is necessary because recently the U.S. Court of Appeals for the District of Columbia

ruled in the Norfolk Southern/North American Van Lines acquisition case that the ICC must limit its consideration to whether the rail carrier's acquisition of the motor carrier will improve its rail service. This is an overly strict interpretation of the law. Under this amendment, the ICC would be required to apply the broader overall transportation operations standard when it reconsiders the North American Van Lines acquisition case, as well as when it considers other categories of cases.

I urge my colleagues to support the provision.

Mr. FORD. Does section 3403, the provision on ICC review of motor carrier acquisitions, address section 11343 of title 49 as well as section 11344?

Mr. DANFORTH. No; the only section that needs to be addressed is section 11344. That section was the subject of a recent court decision that overruled the ICC policy change that had been relied on by the parties. This provision of the bill reinstates the standards applied by the ICC for certain limited cases.

Mr. FORD. What, then, is the status of the ICC exemption decisions under section 11343(e)?

Mr. DANFORTH. The exemption decisions under section 11343 are not directly affected in any way by this provision. Those decisions however are entirely consistent with the ICC policy statement under section 11344, consistent with this provision of the bill, and I believe accurately reflect congressional intent regarding the standards to be used in section 11343 exemption proceedings.●

NAUM AND INNA MEIMAN: TRAPPED

● Mr. SIMON. Mr. President, the importance of arms control cannot be overestimated. Human rights, too, cannot receive enough attention. I was disappointed, therefore, that human rights did not receive much attention at the Reykjavik meeting.

Perhaps the case of my friends Naum and Inna Meiman could have been resolved at the meeting. The Meimans are Soviet citizens trapped behind the bars of the Iron Curtain. Inna suffers from a rare type of cancer. After the removal of four tumors from her neck, the Soviet doctors feel they can do no more for her fifth and most recent tumor. All the Meimans want is to be permitted to emigrate to the West where there is experimental treatment available to Inna.

I implore the Soviet Union to allow the Meimans to emigrate to Israel.●

ALPHA DELTA KAPPA WEEK

● Mr. PELL. Mr. President, this week, October 12-18, we celebrate Alpha Delta Kappa Week. It is with great pleasure that I stand in this Chamber to pay tribute to the Alpha Delta Kappa sorority for women educators. This year marks the 39th anniversary of this important institution, which is recognized worldwide.

The Alpha Delta Kappa sorority has more than 104,000 members in 1,913 local chapters throughout this country and also has chapters in 8 foreign nations. My home State of Rhode Island in fact now boasts eight energetic chapters.

This sorority is dedicated to the highest professional standards for its members. Its activities include the recognition of outstanding women educators, and promoting charitable projects including college scholarships. The most important function of this excellent organization, however, is the close fraternal fellowship it establishes among women in the teaching profession, and the goal it sets of teaching excellence.

I would urge my colleagues to join me in celebration of Alpha Delta Kappa Week. For, this week we not only celebrate the anniversary of this sorority; we also recognize the fine work and dedication of its members, and the outstanding contribution they make to the education of our society.●

SENATE IMPEACHMENT TRIAL OF JUDGE HARRY E. CLAIBORNE

● Mr. BUMPERS. Mr. President, on October 10, 1986, the Senate completed the impeachment trial of Harry E. Claiborne, U.S. district judge for the district of Nevada, finding the judge guilty under three of the four Articles of Impeachment presented by the House of Representatives.

I voted guilty on all four Articles, and I take this opportunity to set forth my reasoning and some comments concerning the trial.

Article II, Section 4 of the U.S. Constitution provides that "all civil Officers of the United States shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." Article I provides that the House of Representatives shall have the sole power of impeachment and that the Senate shall have the sole power to try all impeachments.

On August 10, 1984, in the U.S. District Court for the District of Nevada, Judge Harry E. Claiborne, while serving as a judge of the U.S. District Court for the District of Nevada, was found guilty by a 12-person jury of making and subscribing a false and fraudulent income tax return for the calendar years 1979 and 1980, and in violation of section 7206(1) of title 26, United States Code. A judgment of conviction was entered against Judge Claiborne for each violation of section 7206(1), and a sentence of 2 years imprisonment for each violation was imposed, to be served concurrently, together with a fine of $5,000 for each violation. The U.S. Court of Appeals for the Ninth Circuit affirmed the conviction, and the U.S. Supreme Court denied defendant's petition for a writ of certiorari. Judge Claiborne began serving his sentence last May at the Federal prison at Maxwell Air Force Base in Alabama. He refused to resign from office and continued to draw his $78,700 judge's annual salary up until his removal from office by the Senate.

The House of Representatives has adopted four Articles of Impeachment against Judge Claiborne for misbehavior and for his crimes and misdemeanors while in office. Those articles, exhibited in House Resolution 461, were passed unanimously by the House on July 22, 1986. The Senate sat as a Court of Impeachment on October 7 through 9, 1986, to determine whether Judge Claiborne was guilty or not guilty of each of the charges stated in the Articles of Impeachment.

First, I think it important to note that impeachment trials in the Senate are sui generis. The Senate, while sitting as a Court of Impeachment, is not bound by the rules of evidence or any other rules of procedure followed in Federal courts. The Senate has adopted its own rules of practice and procedure to be followed in impeachment trials. Under rule XI of those rules, the Senate may choose to appoint a committee of Senators to receive evidence and take testimony during the Senate's consideration of the Articles of Impeachment. Pursuant to this rule, a 12-member, bipartisan committee was appointed by the presiding officer.

That committee, chaired by the distinguished senior Senator from Maryland, Senator MATHIAS, received evidence and took testimony from several witnesses during 7 days of meetings. The committee provided a full record of these proceedings to the Senate. After studying this evidentiary record and listening carefully to the comments of my colleagues who served on the committee as well as the argument by the distinguished managers on the part of the House and by both the respondent and his counsel, I determined that Judge Claiborne should be found guilty under each Article of Impeachment.

Articles I and II charge Judge Claiborne with willfully and knowingly filing false income tax returns for the years 1979 and 1980. Under 28 U.S.C. section 2706(1), any person who willfully makes and subscribes any tax return, under penalties of perjury, which he does not believe to be true and correct as to every material matter is guilty of a felony offense. In *United States* v. *Pomponio*, 429 U.S. 10 (1976), the Supreme Court held that willfulness as used in section 2706(1) simply means a "voluntary, intention-

al violation of a known legal duty." The Court has held that the taxpayer's intent can be inferred from a variety of factors, including evidence of surreptitious cash transactions, inadequate recordkeeping, withholding of material information from the taxpayer's bookkeepers by providing only summary sheets of records in question, and the substantial understatement of taxable income for the years in question. *United States* v. *Hughes*, 766 F. 2d 875, 877-878 (5th Cir. 1985).

I note that the respondent was tried twice on the charge of income tax evasion. In his first trial, he was charged with acceptance of certain bribes in addition to the income tax charges, and the jury was unable to reach a verdict. Upon retrial, the Government elected to drop the charges pertaining to bribery and pursue only the income tax charges.

The evidence presented at Judge Claiborne's second trial, as well as evidence reported by the Senate Impeachment Trial Committee, overwhelmingly supports the finding of willfulness.

Judge Claiborne admits that he kept faulty records and provided his accountants with summary sheets and that he cashed very large checks at local casinos, a change from his previous practice of depositing such checks in banks. He underreported his income for the years in question by over $100,000. In his own words, the tax return, at least for the year 1980, was "abominable." Filing a false return is a felony offense, and thus an impeachable offense. Therefore, I voted "guilty" on both Article I and II, which essentially restate the underlying facts which were the basis of his conviction on two counts of violation of Sec. 2706(1).

Article IV charges that Judge Claiborne, by willfully and knowingly filing false income tax returns and having been convicted of the same while serving as a judge of the U.S. District Court for the District of Nevada, has betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the judiciary. Judge Claiborne has undoubtedly brought disrepute on the Federal courts by refusing to resign his post following his conviction and by continuing to draw his salary while serving his prison term. Public confidence in the Federal judiciary is essential to both the administration of justice and to the preservation of our freedoms which are, in the last analysis, protected by the courts under Article IV of our Constitution. Therefore, I also voted "guilty" on this Article.

I would note that Judge Claiborne was convicted under each of Articles I, II and IV by an overwhelming majority of Senators.

Article III, the only Article under which Judge Claiborne was not convicted by a two-thirds vote in the Senate, presented the Senate with a peculiar question on precedent for future Senate impeachment trials. I write separately to emphasize my views of both the meaning and the limits of the Senate's decisions with respect to the third Article. Article III asserts that Judge Claiborne should be impeached by the Senate because he has been convicted in the district court of filing a false income tax return.

Some Senators obviously believed that had the Senate voted to convict Judge Claiborne under this Article, this could possibly have established an unwanted and unwarranted precedent for future impeachment proceedings. They believed that adopting the standard set forth in Article III would suggest that a conviction by the judicial branch should establish incontrovertible grounds for impeachment in the legislative branch, and that such a standard would overlook the constitutional standard for impeachment established in Articles I and II of the Constitution, which states that the Senate shall have the sole power to try all impeachments.

Conversely, a jury's acquittal of a criminal charge is by no means preclusive of any finding of guilt by the Senate in the event of a subsequent impeachment by the House. The Senate could take judicial notice that an investigation is currently pending in the Court of Appeals for the 11th Circuit against a district judge on conduct for which that judge was tried and acquitted by a jury, but which may cause the House to bring impeachment proceedings against that judge.

The Senate's decisive vote against the respondent's motion to establish guilt beyond a reasonable doubt as the Senate's standard of proof in trying impeachments indicates the desire of this body to retain the independent nature of the impeachment process. While this clearly is an essential component of due process in the criminal justice system, it has no place in the constitutionally distinct process of impeachment.

The vote on this Article was a difficult one for me, but I voted to find Judge Claiborne guilty under Article III as well because I believe that there was a sufficient amount, indeed, an overwhelming amount, of evidence to support his conviction under this Article. However, I was troubled by allegations of new evidence presented to the Senate Impeachment Trial Committee, as well as by the opinions of the three circuit judges who dissented from the order denying Judge Claiborne's petition or rehearing en banc.

Those judges referred to exculpatory evidence which was allegedly withheld from the defense in violation of *Brady* v. *Maryland*, 373 U.S. 83 (1963) and statements by prosecution witnesses requested under the Jencks Act. That evidence pointed to allegedly improper activity on the part of FBI agents assigned to the agency's Strike Force on Organized Crime and other Federal agents operating in Las Vegas.

The judge's allegations of official misconduct are deeply troubling, but they do not undercut the overwhelming evidence of the respondent's guilt. Therefore, I will support the resolution to be offered by Senator PRYOR which will call for a full investigation of strike-force type acivities carried out by Federal law enforcement and intelligence agencies. These Government agencies are, of course, not above the law, and if their activities unfairly deprive citizens, whether they be Federal officers or not, of their constitutional rights, then those activities should be eradicated.●

GRAMM-RUDMAN-HOLLINGS

● Mr. MOYNIHAN. Mr. President, I wish to note some of the more recent effects of the Gramm-Rudman-Hollings law.

Gramm-Rudman-Hollings has not brought the solutions to the deficit crisis that were promised last fall. I cannot say that I am surprised. Instead of decreasing the deficit by magic, or presenting so draconian an alternative that Congress would be forced to undertake responsible deficit reduction, GRH has instead resulted in broken promises and the proliferation of budget gimmickry.

If we have learned anything in the last year, it is that there is no substitute in budgeting for leadership, setting priorities, and making choices. John F. Kennedy was fond of saying: "To govern is to choose." He was right.

The law mandates a declining series of deficit ceilings: $171.9 billion in fiscal year 1986, $144 billion in fiscal year 1987, $108 billion in fiscal year 1988, $72 billion in fiscal year 1989, $36 billion in fiscal year 1990, and $0 in fiscal year 1991.

Despite the inclusion in the law of a deficit target of $171.9 billion for fiscal year 1986, it was understood that such a target could not be reached. By the time a final agreement on GRH was reached last December, the authorizing appropriations processes were near completion, and nearly a quarter of the fiscal year had passed. So, instead citizens were promised a deficit of $208 billion for fiscal year 1986.

That promise was not kept. The deficit for fiscal year 1986 is estimated to be between $224 billion and $230 billion—higher than the deficit estimate prior to the March 1, 1986, sequester of $11.7 billion.

For fiscal year 1987, GRH promised a deficit of $144 billion. We now find that the deficit need be reduced only to $154 billion to meet the terms of the law.

How will we get there? We saved $680 million in fiscal year 1987 when the Treasury Department advanced the payment of the final quarter of general revenue sharing by 5 days, thus increasing the fiscal year 1986 deficit by $680 million, and reducing the fiscal year 1987 deficit the same amount. I should note that the Treasury did no act on its own. The Department took that action only after the Senate passed a reconciliation bill including such a provision.

What else will we do? According to an article in the October 4 Congressional Quarterly, it seems likely that the Defense authorization bill, if we indeed have one, will delay all paydays 1 day so that the disbursement currently scheduled for September 30, 1987, will occur on October 1, 1987. As a result, $2.9 billion of outlays will be charged to fiscal year 1988 instead of fiscal year 1987. It is also likely that operations and maintenance accounts for the Department of Defense will be cut in large part because in such accounts, cuts in budget authority lead to approximately equal reductions in outlays.

We will take advantage of an $11 billion windfall to the Treasury in fiscal year 1987 due to tax reform bill.

Despite all this, at the end of fiscal year 1987, I expect that we will not even come close to a $154 billion deficit. Economic growth will likely be less the rate assumed in the GRH deficit forecast, and outlays for farm programs and the FDIC will be higher than currently expected. The deficit will much more likely be in the $180 to $200 billion range for fiscal year 1987.

Next year we will have to reduce the deficit some $70 or $80 or $90 billion to meet the next GRH target of $108 billion.

If history is a guide, I suspect that after we realize that we have missed the fiscal year 1987 deficit targets, we will begin to advance expenditures due to be made in fiscal year 1988 into fiscal year 1987 to help reach the otherwise unreachable target for fiscal year 1988. And so we will go, until we recognize the folly of Gramm-Rudman-Hollings, and scrap the law instead of spending our time inventing new ways to make it look like we're following the rules.

I ask that on op-ed written by Prof. Benjamin M. Friedman, which appeared in the October 18 New York Times, and an editorial which appeared in the New York Times on October 14 appear in the RECORD at this point.

The material follows:

[From the New York Times, Oct. 13, 1986]

GRAMM-RUDMAN: A SHAM

(By Benjamin M. Friedman)

CAMBRIDGE, MASS.—The Gramm-Rudman-Hollings deficit reduction law has become a sham. Sooner or later, Americans will discover that the legislation that was supposed to halt the spiraling Federal deficit is merely covering it up. When they do, they are likely to be angry. They should be.

Congress passed the bill last year in response to growing public awareness that two of the Reagan Administration's most persistently argued claims were simply not correct. First, despite yearly predictions to the contrary, tax cuts have not unleased any surge of economic growth to narrow the Government's deficit. Instead, business has expanded at an average pace and the deficit has surged.

Second, despite repeated reassurances of growth from Donald Regan, the former Treasury Secretary, and on occasion from President Reagan, Government deficits have impaired the economy's productivity growth and international competitiveness. Interest rates have fallen but remain extraordinarily high in relation to inflation. As a result, investment is sluggish in most industries. The dollar has fallen against foreign currencies but remains historically high, and now not just manufacturers but farmers also cannot compete against foreign sellers.

The deficit reduction law was supposed to change all that. After four record deficits since 1981, culminating with a $212 billion deficit in fiscal year 1985, the Gramm-Rudman-Hollings law mandated deficits of no more than $172 billion for 1986, $144 billion in 1987 and so on down to a balanced budget in 1991. The device for achieving this miracle was supposed to be spending cuts, split evenly between defense and non-defense programs other than Social Security. Even President Reagan hailed the law as a good solution.

It is now clear the Gramm-Rudman-Hollings act has solved nothing. It's easy to blame the Supreme Court, because it ruled invalid the provision mandating across-the-board spending cuts. But even if the Court had left that alone, lawmakers would have found a way to circumvent it rather than make unpopular cuts.

The Government's 1986 fiscal year ended last month with an estimated deficit of $222 billion—yet another new all-time record, an even $50 billion above the target level set by the deficit reduction law.

Now Congress is struggling to set the budget for fiscal 1987. Last week, the Congressional Budget Office and the Office of Management and Budget jointly reported that Congress needed to cut spending by only $19 billion to narrow the deficit to the mandated level. In the end, Congress will instead probably point to a temporary increase in revenues expected as a result of technicalities in the new tax law, in order to claim that the deficit will be within the legal limit. All this comes from the same people who said last year's tax and spending plans were consistent with a $172 billion deficit.

The reality is different from such silliness. Today, an optimist is anyone who thinks the first digit in next year's budget deficit will be a one. No one seriously believes the 1987 deficit will be anything close to $144 billion, because there are no real plans—more importantly, there is no political will—to make that happen.

The Gramm-Rudman-Hollings law is not just ineffective, it is counterproductive. Last year, it took the heat off the President and Congress by letting everyone claim the deficit problem had been solved. This year, Congress and the President will likely escape political pressures by devising a way to pretend that the deficit will be within the legislated limit.

Meanwhile, the combination of tax and spending policies now in place is bleeding our economy's strength and dissipating its prospects. We cannot put off indefinitely the tough choices. We must resolve the issue of defense versus non-defense spending priorities, address hard questions, like what to do about the explosion in farm support payments, and accept a level of taxes not wholly inconsistent with the spending level we choose.

Instead of seriously addressing these tough choices, President Reagan and many in Congress will focus the public's anger on a debate about the technicalities of the deficit reduction law. Legislating mechanical devices is no substitute for facing the hard issues. An unproductive debate would probably lead to a renewed call for a constitutional amendment to balance the budget. That would only delay tough decisions for another five years until everyone finally realizes the amendment worked no better than the deficit reduction law.

[From the New York Times, Oct. 14, 1986]

BUDGET DEADLINE? WHAT DEADLINE?

The Gramm-Rudman-Hollings law to balance the Federal budget was supposed to make Congress discipline itself. As it ignored the law's final deadline for fiscal 1987 last Friday, Congress made clear that it is complying about as well as a teen-ager told to enforce his own curfew.

Congress began the charade by adopting forecasts that the deficit would drop to $173 billion in fiscal 1986, just ended. Instead it rose to some $220 billion. The new law called for more cuts in a 1987 budget to be enacted by Oct. 1. But Congress came up with no budget at all and is still at work on a monster bill that recklessly puts more than $550 billion of appropriations to a single vote. Only by inflating revenue estimates and squeezing spending estimates will it fabricate a $154 billion deficit.

President Reagan's budget office has joined in verifying the fiction that this will meet the law's target. But the law itself says if the target isn't met by Oct. 10, Congress must vote on a bill to cut spending across the board. Silently, everyone just let that deadline go by.

Meanwhile, Senators Gramm, Rudman and Hollings want to fix the part of the law ruled unconstitutional by the Supreme Court. It would have had the Comptroller General impose automatic spending cuts if Congress missed the deficit target. The Senators would now shift the automatic power to the President's Budget Director.

Such an erosion of Congressional authority might satisfy the Court but would make for a dubious technical fix. It would hardly undo the larger damage: in 10 months as law, this scheme has wrecked due budget process and failed as discipline. It is highly unlikely that the 99th Congress would admit error and scrap this exercise in fiscal fantasy. Let voters measure candidates for the 100th by their attention to reality.●

U.S. MACHINE TOOL 232 PETITION

● Mr. GRASSLEY. Mr. President, I know that, last May, many of my colleagues joined me in applauding the President's long-awaited decision to seek voluntary restraint agreements on certain machine-tool imports with the Governments of Japan, Switzerland, Taiwan, and West Germany. The President's national security directive was issued in response to the U.S. machine-tool industry's 232 petition—submitted to the Secretary of Commerce in March 1983 and forwarded by him to the White House in February 1984. It was based upon the Secretary's finding that machine-tool imports pose a very real threat to U.S. national security. I was gratified that the President finally recognized the machine-tool industry for exactly what it is: a small yet essential component of the U.S. defense base.

But I want my colleagues to understand that the issue is far from over. It has been nearly 5 months since the President's decision, and, while I understand that negotiations are underway, no agreements have yet been reached. I intend to continue to follow the course of these negotiations very carefully and, if our trading partners are unwilling to cooperate with us to help maintain this critical element of our defense base, I will strongly urge the President to assert his statutory authority under section 232 and impose mandatory quotas. There is simply too much at stake to let these negotiations drag on interminably. And if the need for Presidential action goes unfulfilled. I am confident that my colleagues will join me in developing an appropriate legislative response.

Mr. HEINZ. If the Senator will yield. I would like to indicate my wholehearted agreement with his concerns. I, too, was appalled at the unconscionable delay which has characterized the administration's response to the machine-tool industry's efforts to secure temporary import relief. I am relieved that our Government is now actively involved in efforts to address the compromise to our national security currently being posed by machine-tool imports. But the Senator from Iowa is correct—the need for import restraints has been firmly established. Whether those restaints will be voluntary or mandatory remains to be seen: that restraints will be imposed is not in question. Our Japanese friends should make no mistake about that.

Mr. DANFORTH. If my colleague from Pennsylvania will yield, I would like to associate myself with his comments and with the remarks of the gentleman from Iowa. Both Senators are to be commended for their leadership on this important issue. While I do not object to the President's decision to seek VRA's instead of acting immediately to restrict imports, I am not prepared for the implementation of the voluntary restraint plan to be "negotiated to death." The Secretary of Commerce has already determined that machine-tool imports theaten to impair the national security. If negotiations cannot be successfully concluded in the very near future and if the President does not assert his statutory authority to take unilateral action, Congress must ensure that the Commerce Secretary's recommendation is put into effect automatically, as provided for in S. 1860.

Mr. GRASSLEY. I agree. Japanese trade negotiators have had a history of prolonging discussions in the hopes that the problem will somehow go away. I want to be sure that both they and the administration understand that this Senator is not prepared to let that happen—and neither are my colleagues. I hope that our Japanese friends don't misread the tea leaves.●

THE DEBT CRISIS

● Mr. HART. We all know, and regularly pay oratorical tribute to, the key role our economic policy plays in our foreign policy. America's greatest strength in the world is our greatest strength at home—the dynamic and powerful combination of democracy and markets. We can extol these virtues endlessly, but it is far more difficult to put our words into action.

In this sense, international economic policy stands much as tax reform did several years ago. We all called for a fundamental revision in our Tax Code. But year after year passed, and the status quo remained largely unchallenged. It took courageous and consistent leadership to push tax reform—and that leadership was in large part supplied by my friend and respected colleague—Senator BILL BRADLEY.

Now again, on the debt crisis, Senator BRADLEY is blazing a better trail. As with tax reform, he is proposing a sweeping, new approach. The details may well need changes here and there, but we now have a bold basis for further discussion.

In a series of lectures on foreign policy this Senator delivered at Georgetown University this past summer, I laid great emphasis on the threat of the debt crisis and the need to develop real solutions. In my comprehensive trade bill, S. 2127—of which Senator BRADLEY is a cosponsor—we call for an international approach to the debt crisis. I am grateful to Senator BRADLEY for, once again, putting forward a good idea and moving us closer to a time when our actions will speak more convincingly than our words.

I ask that the attached article by Senator BRADLEY be inserted in the RECORD.

The article follows:

[From the Washington Post, Oct. 5, 1986]

DEFUSING THE LATIN DEBT BOMB

(By Bill Bradley)

Numerous meetings with U.S. bankers and Latin American politicians during the past week's World Bank and International Monetary Fund annual conferences have reinforced my conviction that the Latin American debt crisis presents the U.S. with a strategic opportunity.

This moment compares in importance with the opportunity at Versailles after World War I, which slipped through our hands, and with the opportunity in Europe after World War II, which we seized with the Marshall Plan.

The meetings this past week have also underlined the high price of failure. In the early 1930's international financial leadership failed—inducing Germany to repudiate its foreign debt, contributing to the rise of the Nazis and eliminating Germany's last hope for parliamentary democracy. The stakes are just as high today in Latin America.

The Latin debt crisis threatens us in two ways—not only by the potential danger to our own security that it poses in terms of communist insurgencies and waves of illegal immigrants but also by the real damages that it is already doing to our own economy.

Until last autumn, the Reagan administration regarded Latin debt as a bankers' problem. Obsessed with debt collection, the administration endorsed austerity programs that offered a trickle of emergency lending if debtors cut consumption and investment to the bone. Growth in Latin America was already faltering. Austerity threw the region into recession. Latin nations could no longer feed their poor or invest in their future. Mexican real wages fell 30 percent. Argentina's investment in health, education and infrastructure fell to zero. And malnutrition spread in Brazil even as that country forced itself to become a grain exporter to the world. All in all, Latin America transferred more than $100 billion to wealthier creditors in the last four years.

Given the dreary possibilities in 1982—payment moratoria, default, repudiation, economic collapse—nobody would have predicted that Latin America would meet most of its debt payments through 1985. Their success in doing so may have been, in relative terms, a windfall for the banks. But it proved disastrous for U.S. farmers, factory workers and exporters.

To earn dollars, Latin countries boosted exports. Since 1981, Argentina's soybean drive has claimed 80 percent of the worldwide markets lost by U.S. soybean growers. Between 1980 and 1984, Brazil expanded textile and apparel exports by a factor of 11. To retain those dollars for debt service payments, Latin countries slashed imports. Between 1981 and 1983, U.S. machinery exports to Latin America dropped 38 percent, steel and motor vehicles dropped 50 percent, construction equipment dropped 80 percent, agricultural equipment dropped 86 percent. By 1985, U.S. wheat exports to Mexico had dropped 98 percent.

The increase in the U.S. trade deficit with Latin America from 1981 to 1984 was bigger than the increase in the deficit with Japan. The loss of U.S. exports to Latin America since the onset of the debt crisis has destroyed 800,000 U.S. jobs; imports from Latin America flooded U.S. markets and destroyed more jobs. The cost of the debt crisis has been well over 1 million U.S. jobs.

Last November, the administration changed course abruptly and recognized the debt crisis as more than a bankers' problem. Treasury Secretary James Baker reoriented the goal of U.S. policy in Latin America toward growth rather than austerity. But the Baker plan is too little, too late. By prescribing more debt and a rigid economic agenda for stricken debtors, it prolongs the disease rather than curing it.

The $12 billion Mexican loan package, the Baker plan's first application, is getting some tough questions even before it is complete. Some of Mexico's largest creditors have been asking how long we can hope to go on piling new debt on troubled debt without destabilizing the banking system. Latin leaders from outside Mexico question whether the infusion of new loans alone can help in the long run.

Mexico needs to stop capital from leaving the country more than it needs new money. As a country goes deeper and deeper into debt, domestic investors lose confidence and ship their capital to safer investments in other countries. In the last three years, Mexico has lost more money in capital flight than it has received in new loans. In fact, according to Morgan Guaranty, Mexico's foreign debt would be $12 billion, not $97 billion if capital flight had been controlled. Capital flight simply cancels the benefits of new loans. If the new $12 billion package just fuels more capital flight, Mexico's precarious situation will rapidly deteriorate as it struggles to service the additional foreign debt next year.

The debt crisis is fundamentally political. It will determine whether democracy thrives in Latin America or whether it dwindles whether people sustain their hopes for a better, freer life or whether repression of the right or left crushes that hope. It will influence whether the American economy regains those 1 million lost jobs or whether we fall back into protectionism, further sealing off opportunity and hope.

Specifically I suggest the following:

Interest rates on existing Latin American debt should be lowered, and, equally important, debts should be selectively written down and forgiven.

Both of these actions could free capital for growth and investment. The forum for determining the precise level of relief should be an annual trade/debt summit during the first three years of the new round of multilateral trade talks. At these meetings, creditor banks and governments should offer interest relief and debt forgiveness to complement debtor reforms that will generate growth. Relief would vary from year to year, and from country to country, depending on individual debtor commitments and results. Without dictating means, creditors should seek certain broad results in debtor countries: policies that will reverse capital flight, increased internal investment, liberalized trade, broad internal political support for reform proposals and freedom from scandal in reform programs.

As a part of the new round, debt relief would give countries like Brazil a reason to offer serious trade concessions and it would expand U.S. exports in goods and services.

Smaller banks should forgive some Mexican loans and interest payments.

Thus far, only the larger banks have been involved in the negotiations with Mexico, although they are pressuring smaller banks to contribute new loans to the rescue package. Smaller banks will find it difficult to resist because of their broader relationships with the larger institutions, even in cases where they would prefer providing other forms of relief. To begin the debt/interest rate relief process, the most exposed banks in the Mexican negotiations should give the smaller, less exposed banks some options that might keep them involved in the workout of Mexico's debt. Instead of contributing yet more loans to what they regard as an unreliable borrower, smaller banks should be allowed to forgive some of their Mexican loans altogether. This would help Mexico in the long run by shrinking its future debt burden and by reducing the incentive for Mexico's investors to ship their money abroad. At the same time, U.S. banks would become more sound, as write-downs removed bad loans from their books and decreased their exposure and vulnerability to Latin default.

In addition, larger banks should allow smaller banks to forgive Mexican interest rather than go through the charade of lending Mexico the money Mexico needs to make those interest payments. The end result is the same, except the level of Mexico's debt would not rise.

One important difference between this approach and the administration's is that it would not increase a debtor nation's debt level and therefore would not frighten domestic investors into withdrawing their funds, thereby making the problem worse.

The role of government leadership is to see clearly and to act boldly. In the matter of Latin debt we can no longer afford to lurch from one crisis to another. Piling new debt on old debt only fuels capital flight. It does not restore U.S. jobs, strengthen U.S. banks or rekindle Latin growth. The recent meetings of the IMF and World Bank conveyed the growing unease felt by all parties with the present policy. Far from signaling a victory, the Mexican package is but a continuation of the marginalist approach that simply delays the day of reckoning.

Our fate in the 21st century depends on our relationship with Latin America. Will it be a growing partner in our own prosperity? Will it be a stronghold for democracy? Or will it be a region overrun by poverty and infested with communist insurgency? The answer in large part will be determined by how bold we are in resolving the Third World debt crisis.●

ABORTION AND INFORMED CONSENT: MISSISSIPPI

● Mr. HUMPHREY. Mr. President, this letter from Wanda is typical of those received in my office from nearly 200 women who insist that they received inadequate counseling regarding abortion. No one tells them they may experience severe depression which the abortion will not solve. It appears that they are ill-informed because more knowledge would compel fewer to abort their children. This would be disastrous for the lucrative abortion industry.

Women must be informed about all of the risks surrounding abortion. It is their right to have enough information to give consent to the procedure. Without information, consent is a mere euphemism. I urge my colleagues to consider Wanda's letter and cosponsor S. 2791.

The letter follows:

U.S. SENATE,
Washington, DC, October 6, 1986.

DEAR SENATOR HUMPHREY: I hope as you read my letter concerning the informed consent legislation for abortions that you'll keep in mind how much my heart aches as I rethink again the memory of my child that I aborted.

When I was about in the fifth grade my parents divorced. I moved around a lot and did not have a "great" childhood. So, when I got 16 and was dating I "fell in love." We thought if I got pregnant that our parents would let us get married. I got pregnant and he left town . . . talk about dumb. I was so excited to think I was going to at last "have a happy home." Well he wasn't excited. I was living with my mother at the time. She just kinda took care of everything. I was really out of what was happening. I had known two other girls that had had abortions and lived so I didn't think too much about it. I didn't think I would die and after all, at two weeks it's just a blob, right? Wrong. Why didn't anybody show me a picture of a six week fetus? Nobody said anything. . . . We went in with many others, this was 1974. We were given forms to sign, antibiotics, Tylenol and sent back to the waiting room. During this time we were given no information to help us understand what we were about to do. No warnings of any danger, nothing about the baby and his development.

The whole thing took an hour at the most. When it was over and I felt the emptiness, I knew that what I had done was wrong. The baby was gone. I cried and had nightmares for months. I still cry and during my last pregnancy I had a nightmare that was only dealt with by God's grace. I couldn't handle it alone. My only comfort is that my baby is with his Heavenly Father, perfectly formed and happy. I can't tell you the torment this has put me through. My mother also has talked about the guilt she has felt helping me murder her first grandchild. Yes murder's a tough word. Believe me it's no easy thing to live with.

I do have that happy home I dreamed about now. Two beautiful children I've given birth to and one special son God allowed me the privilege to care for. We are active in our church and are thankful to live in America. But oh, how it grieves my heart to know that in my country these unknowing girls and women are taking the lives of their children and then as me feeling the emptiness and finding out what they had done—too late.

Thanks for listening, Love,
Wanda Wilson.

TAX TREATMENT OF SMALL AND MID-SIZED MUTUAL INSURANCE COMPANIES

● Mr. DANFORTH. Mr. President, several small and mid-sized mutual insurance companies have approached me to raise a concern relating to section 809 of the Internal Revenue Code as added by the Deficit Reduction Act of 1984. According to these companies, the legislation we enacted in 1984 has the anomalous effect of imposing a larger tax burden on small and mid-sized mutual insurance companies than it imposes on larger mutual insurance companies. If this is the case, I believe the law as written and cur-

rently being implemented does not coincide with our intentions at the time we enacted section 809. Mr. President, this is an issue we should examine in the coming months and, if appropriate, redress with corrective legislation during the 100th Congress.●

TRIBUTE TO BEN-GURION

Mr. SIMON. Mr. President, when I was a young reporter, I had the privilege to interview one of the finest persons I ever expect to meet. He was David Ben-Gurion, then the Prime Minister of Israel.

I visited with him in his small, modest office in Jerusalem, and it remains a vivid memory.

He was one of those people who had a sense of where not only his country must go but where humanity must go.

These memories came to me as I read the fine article by Prime Minister Shimon Peres in the New York Times, a tribute to Ben-Gurion on the 100th anniversary of his birth.

Israel has been fortunate to have had a leader like David Ben-Gurion.

But, much more than that, all of us who populate the Earth are richer for that contribution.

I ask that the article be inserted in the RECORD, and I urge my colleagues to read it.

The article follows:

IN HOMAGE TO BEN-GURION

(By Shimon Peres)

I first met David Ben-Gurion when I was yet a youth, and he already a legend. I spoke with him for the first time when he took me in his car from Tel Aviv to Haifa, a two-hour trip at that time. He was not a man of small talk, and most of the drive passed in disappointment for me, as he sat in silence. Toward the end of the trip, he suddenly turned to me and said: "You know, Trotsky wasn't a true leader. Lenin was." I was dumb-founded. I did not understand why he had suddenly chosen to raise this subject, but I was curious, and I wanted to start a conversation, so I asked: "Why?" And he, as though waiting for the question, immediately replied: "What is this 'no-peace-and-no-war'? This is a Jewish invention. A leader must know how to decide—either war, with all the risks this involves, or peace, and pay the price. Even though intellectually Lenin was inferior to Trotsky, Lenin became the leader of the Russian people because he knew how to decide."

Being a leader is not a profession. It cannot be learned in a university. In a period that demands decisions, sometimes irrevocable decisions, the character of the man who must meet these challenges is part of the synthesis that may lead either to great historical success or to painful national failure.

The period in which Ben-Gurion led our people, first as secretary general of Histadrut, then as chairman of the Jewish Agency and finally as Prime Minister, was unprecedented in the history of the Jewish people, and perhaps in the history of mankind. Never, in the 4,000 years of their existence, did the Jewish people experience anything like that which befell them in the 20th century: the greatest of holocausts, and the greatest of rebirths. Never before has a people matched the achievement of the Jewish people: After 2,000 years of exile, the Jews reassembled anew in their homeland—a land with its own language, its various communities, its teachings, its vitality.

Leading the Jewish people is not an easy task—we are a divided, obstinate, highly individualistic people who have cultivated faith, sharpwittedness and polemics to a very high level. But it is not only the psychology of the people that makes them so exacting—their geographical situation has been equally problematic. To quote Isaiah Berlin: "This is a people richer in history than in geography."

It is therefore no wonder that Ben-Gurion—born 100 years ago, on Oct 16, 1886, an anniversary to be marked in New York on Oct. 19, when East 43d Street, from Vanderbilt Avenue to Madison Avenue, will be renamed David Ben-Gurion Place—found himself surrounded by contradictions. The great migration of East European Jewry—the heart of the Jewish people—that began in 1882 proved very disappointing for Zionism. Of the three million Jews who emigrated from Russia and Poland before the outbreak of World War I in 1914, only 50,000 went to Palestine, and even all of those did not remain. The land to which they came, while indeed the Holy Land, was desolate and uninviting; a land that had been laid waste, thirsty for water, filled with swamps and malaria, lacking in natural resources. And in the land itself there lived another people—a people who neglected the land, but who lived on it. Indeed, the return to Zion was accompanied by ceaseless violent clashes with the small Arab population in Israel, and with the Arab states that incited them and fought alongside them.

What, then, did Ben-Gurion have, aside from a broken and exiled people, a poor and unproductive land, a tangible enemy and a world so indifferent that even the survivors of the Holocaust sailing to the shores of Palestine came up against the British fleet?

Ben-Gurion was a realist. But of what use was his realism, when nothing seemed real after the Holocaust, except for faith, prayer and a stubborn obstinacy? Of all the leaders this world has known, none made more strategic use of faith than he.

I worked with him for almost two decades, beginning in the early 1950's, often day and night, when Ben-Gurion was Defense Minister as well as Prime Minister. For me, this was a time of celebration and a time of enigma. Even today, I am not sure that I fully understood him, so complex was he.

One contradiction in his nature I perceived immediately—the contradiction between his abilities and his character. He had the traits of a true intellectual: an intense curiosity that was never quenched; a phenomenal memory; and extraordinary ability to learn and to absorb; the ability to express himself orally and in writing; a knowledge of languages; the ability to think in abstract terms; a true love of history and philosophy. But he lacked one intellectual quality: the ability to hesitate; the readiness to remain neutral, or at least objective; the patience to wait before reaching binding decisions. He was incapable of acquiring knowledge on a subject without forming an opinion of his own.

For he had the character of a fighter. He knew that some things were frightening, but he could never be a coward. He knew that some things were permanent, yet refused to believe that they could not be changed. He was always eager for battle. He did not believe there were hopeless battles, only fighters who had lost hope. He was eager for ideological battle, and was not dismayed by physical battle. He respected the time factor: Only one who takes the initiative, who uses the element of surprise, understands the hour-glass of history and can adjust it accordingly. The rules of the game must be respected only if they cannot be changed. He believed that change was more important than routine. He had the courage to question all accepted conventions in history, in reality, in philosophy. "All the experts," he used to say, "are experts on what was. There are no experts on what will be."

Thus, he was not afraid of conventions, nor was he intimidated by those who sought to give him advice—Jews and non-Jews alike. On Ben-Gurion's 80th birthday, in 1966, I invited our greatest writer, the Nobel laureate S.Y. Agnon, to come with me to Kibbutz Sde Boker, where Ben-Gurion was then living, to celebrate the occasion. On the way, Agnon said to me: "I thought that Jews are afraid of Gentiles. Ben-Gurion evidently wasn't afraid of them." And, after a pause, he added: "He wasn't afraid of Jews either."

Ben-Gurion questioned everything anew. He formed his own opinions. And once he had formed an opinion there was no one who could make him change his mind.

Yet, without the moral dimension of his nature, his personality would have remained merely dramatic. He was not a leader for the sake of leadership, but was the leader of the Jewish people. He believed with all the fervor of his personality that the greatest contribution of the Jewish people to the world lay in the priority they accorded to morality above all else in the life of the individual and the nation. More than esthetics, more than wealth, more than physical size.

He rejected all the accepted definitions of the Jewish people and the Jewish faith. Judaism is not a religion, he argued, but a belief. It is not a framework, but substance—both national and universal. The national substance requires us to relate to land, language and history; the universal substance requires our dedication to one God, to love for our fellow man, to human equality, justice and truth. These two components are inseparable. They lay the foundations for civilized existence.

For years, Ben-Gurion was prejudiced against Charles de Gaulle. He never reconciled himself to the retreat of the French Army before Hitler's invasion. Although he knew that de Gaulle headed the Frenchmen who resisted this defeat, he never forgave him his excessive pride in his relations with the Allies. When de Gaulle published his memoirs, I tried to convince Ben-Gurion to write an introduction to the Hebrew translation. He refused, and I wrote it in his stead. But, in time—and, what is more, with the improvement in de Gaulle's attitude toward Israel—there was a marked shift in Ben-Gurion's assessment of de Gaulle. Nevertheless, I awaited the first meeting between the two in 1960 with trepidation.

It soon became apparent that my fears were unfounded. Each immediately awakened appreciation and respect in the other. Ben-Gurion later told me that de Gaulle was an intellectual giant. De Gaulle told me that he found Ben-Gurion truly "a lion with a lion's countenance."

After lunch at the Elysée, on a wonderfully sunny Paris day, we sat on the lawn to drink tea. Around our table were de Gaulle, Ben-Gurion, Premier Michel Debré and

myself, as Deputy Defense Minister. De Gaulle suddenly turned to Ben-Gurion and said: "My Prime Minister, what are your secret dreams? Tell me. I won't tell anyone. Do you covet the waters of Lebanon? The Sinai deserts? The mountains of Moab? After all, yours is such a small country . . . ." Ben-Gurion reddened slightly. After reflecting for a moment, he replied: "Had you asked me this question 20 or 30 years ago, I would have sketched my dream on a map, but today my dream is different. Today I dream of more Jews, not more territory . . . ."

"More what?" De Gaulle asked taken aback. "More Jews? Why? Where will they come from?"

"Ours is a land built more on people than on territory," Ben-Gurion said. "The Jews will come from everywhere: from France, from Russia, from America, from Yemen.

"From France?" De Gaulle asked. "They will come from France, and give up everything? From America? Will they give up their Cadillacs and televisions? From Russia, and free themselves from the fetters of ideology? And from Yemen—have they indeed maintained their Jewishness?"

Ben-Gurion raced ahead. "Yes, they will give up everything, except their faith. Their faith is their passport. Their yearning for their homeland is the greatest force in their lives."

Ben-Gurion's great love affair was with history. "A man can truly be judged only by his record," he said. Ben-Gurion's record is unique. If not for him, the State of Israel would not be what it is today; indeed, it might never have been born. He assembled the scattered fragments of the Jewish people and consolidated them into a nation. He stood at the head of a great enterprise to make the desert bloom. He insisted that the Hebrew language must be revived, and Israel is the only place where a people has returned to its ancient language. He conducted a war even before there was a state. And although the odds were heavily against Israel, he emerged the victor.

He altered the image of the Jew from that of rabbi, merchant, wanderer to that of scientist, farmer and soldier. He restored the Bible to its people; he restored the people to the Bible. In his last years he embarked on all-out war against what seemed to him the perversion of truth (in the Lavon Affair, in which Defense Minister Pinhas Lavon was cleared of wrongdoing by Ben-Gurion's cabinet in a security scandal). Ben-Gurion argued with the fervor of youth that ministers cannot be judges, that government must remain separate from justice, that we must take care that even in times of danger or bloodshed the democratic principle of the separation of authorities must be maintained.

Did he leave us a satisfied man? I doubt it. I doubt whether he sought satisfaction. I once accompanied him on a visit to a school in Dimona, in the Negev, where a 10-year-old girl asked him: "Mr. Ben-Gurion, what was the day in your life that cuased you the most satisfaction?" He looked at her, thought a moment and said: "What is satisfaction? We cannot be satisfied. If you are satisfied, you begin to be pampered, to be lazy, you cease to create, to struggle, to believe."

No. He left us in 1973 still unsatisfied. The Negev, where he was buried, still remains largely vacant. The Jewish people have yet to understand the meaning of statesmanship. Peace has not yet been achieved. Most of the Jewish people still live in the Diaspora. And even in Israel there are signs of self-satisfaction.

Yet the memory of David Ben-Gurion lives with us as a leader who achieved the impossible.●

GSA VEHICLE PROCUREMENT

● Mr. GOLDWATER. Mr. President, some time ago my curiosity was aroused at the increasing number of Chrysler-manufactured vehicles I was seeing in the Federal fleet. So, I made a little study of this by contacting the General Services Administration, and was surprised to find out that the last fiscal year—fiscal year 1985—the Federal Supply and Services Office of the GSA purchased over half of their new car procurements from the Chrysler Corp. Moreover, in the last 5 years—fiscal year 1981 through fiscal year 1985—the Federal Government has done roughly $6.5 billion worth of business with Chrysler.

Now, Mr. President I have not finished this study yet, but I find the figures most interesting, and I ask that a chart I have showing GSA vehicle procurement be printed at this point in my remarks.

The material follows:

GSA VEHICLE PROCUREMENT

	All suppliers	Chrysler	Chrysler percentage
Fiscal year:			
1981	51,779	18,967	
	$340,030,674.00	$112,307,971.00	33
1982	28,682	14,519	
	$226,295,448.71	$94,540,786.00	40
1983	48,018	16,640	
	$439,468,430.75	$110,468,203.05	20
1984	50,314	5,938	
	$401,287,251.39	$49,305,104.60	12
1985	56,628	33,796	
	$541,891,523.01	$282,744,855.77	52
Total	$1,948,973,326.00	$649,366,919.00	33

NICARAGUA

● Mr. McCONNELL. Mr. President, during the past session of Congress, aid to the Nicaraguan freedom fighters has been a matter of continuing concern. The issue has been extensively debated on the Senate floor and has been considered in closed sessions of the Senate Intelligence Committee. In fact, I cannot think of another foreign policy issue that has consumed so much of the Senate's time and attention.

As I have listened to the debate, I have been struck by the all or nothing quality to the rhetoric. Either you support the Contras or you support the Sandinistas. The debate on the floor is representative of the mail I have received from my constituents. I am urged to oppose the Sandinistas or oppose aid to the Contras.

However, recently I received a letter from Russell Greenleaf of Louisville, KY that I would like to share with my colleagues. I think his letter fills in the gulf between the all and nothing positions. What makes the letter a credible and thoughtful contribution to the Senate's discussion is Mr. Greenleaf's personal history of involvement on Central American issues.

After working for several months on the steering committee of the Louisville chapter of the Committee on Solidarity with the People of El Salvador [CISPES], Mr. Greenleaf spent 3 months in Nicaragua. As he states in his letter, "I discovered what most of my fellow peace activists back home were preaching bore a strong resemblance to the official Sandinista party line. Yet they believed it to be the unbiased truth. And so did I, until my last couple of weeks in Nicaragua (when) . . . I began to venture off the beaten paths that peace activists tend to follow." Mr. Greenleaf goes on to say he "still does not understand the real nature of the situation in Nicaragua but I did come away with a better sense of what it was not."

I will let the substance of the letter stand on its own merits. I would draw two points to my colleagues attention. First, after his visit to Nicaragua, Mr. Greenleaf resigned from the CISPES steering committee because he disagreed with their position on Nicaragua. Second, Mr. Greenleaf is still not completely certain that it is wise for the United States to provide aid to the Contras.

I would like to insert Mr. Greenleaf's letter to me into the CONGRESSIONAL RECORD because I believe my colleagues will find his observations informative. The Congress will continue to debate the question of assistance to the Nicaraguan freedom fighters in future sessions as frequently and vigorously as we have over the past 2 years. I hope that Mr. Greenleaf's views make a constructive contribution to this debate.

The letter follows:

RUSSELL D. GREENLEAF, JR.,
311 BELVAR AVENUE,
Louisville, KY, September 23, 1986.

Hon. MITCH MCCONNELL,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCONNELL: You asked me to write to you about my experiences in Nicaragua. I am the former peace activist (now Sandinista critic) with whom you talked after speaking at the Wednesday night dinner at Crescent Hill Baptist Church during last Easter break. I enjoyed your talk. I had not realized that your path to the Senate was so arduous. Your stamina and persistence are to be admired, as is your commitment to foreign policy.

I am sorry it has taken so long to write. Part of the reason is that it is still difficult for me to write about what I experienced in Nicaragua. It shook the foundations of my political beliefs (ultra-liberal Democrat), and left me feeling somewhat like a credulous fool. Perhaps "useful idiot" would be a better term.

I went to Nicaragua on November 29, 1985 after working for several months with a

group of Louisville peace activists who were protesting U.S. policy in Central America. They call themselves the Committee in Solidarity with the People of El Salvador (CISPES) and are involved with the people who got arrested for staging sit-ins in your office on June 12, 1985 and July 15, 1986. Like them, I was confident that I understood the situation: the U.S. was clearly wrong, supporting fascism and oppression as usual. The Sandinistas were clearly the good guys. After three months in Nicaragua, many of my initial leftist beliefs had either been disproven or replaced by major unanswered questions. I discovered that what most of my fellow peace activists back home were preaching bore a very strong resemblance to the official Sandinista party line. Yet they believed it to be the unbiased truth. And so did I, until my last couple of weeks in Nicaragua. It took two and one half months in that country before I, with a small but functional knowledge of Spanish, began to venture off the beaten paths that peace activists tend to follow. It was then that I began to see through the propaganda to the reality beyond. Yet my remaining two weeks in the country were only enough time to get a small glimpse of that reality. So I must admit that I still do not understand the real nature of the situation in Nicaragua, but I did come away with a better sense of what it is not.

Actually, one of the few things I can state for certain is that now I truly understand how a perfectly honest, well-intentioned, pro-Sandinista peace activist can go to Nicaragua for a few weeks and end up seeing only what he expected to see, and what the Sandinistas wanted him to see, without ever seeing the other side of Nicaragua. But it would take an entire letter to explain how this "solidarity syndrome" (as I call it) works, so I won't go into it here. I would be happy to write you another letter about that, if you are interested. In the present letter I will just relate a few facts that I learned in Nicaragua, along with some of my very inexpert opinions. Unless otherwise stated, the following applies to the situation during the period from November 29, 1984 to February 25, 1985 in the city of Managua, where I spent most of my time.

One of the facts that I discovered is that Nicaragua was not a revolutionary paradise providing food, education, and medical care to all of the people for the first time in their lives. It was a revolution that had failed in many ways. Nearly all of the people with whom I talked (except the Sandinistas) said they were worse off economically than in the time of Somoza. Inflation was very high. Prices had risen, but wages had not kept pace, so the buying power of the Nicaraguan currency was way below what it had been under Somoza. The result was a loss in the standard of living, much dissatisfaction, and a significant amount of hunger. The Sandinistas supplied rations of basic foods at a fixed price. But many people complained that the rations were not enough to last the week, and besides, the government sometimes ran out of food so there were no rations at all that week. People had to supplement their diets by buying on the free market (dubbed the black market by some) where prices continued to rise. One working class woman who happens to be a genuine Sandinista supporter—I will call her Maria—believed that at least 25 percent of the people in Managua were going hungry, and she knew that some had resorted to stealing to survive.

The story seemed to be the same in medical care. Maria said the government clinics were very crowded, and she seriously questioned the quality of care. She admitted to me "I don't even waste time going there. The best thing is just to go to a private physician, definitely." Even if a person did get to see a doctor, he probably would not have been able to fill his prescription. Most medicines were very hard to find. There were shortages of antibiotics and other essential drugs. I talked with a nurse who said that in the hospital where she worked the only treatment available for serious wounds was to keep the flies off and hope they didn't get infected. There were shortages of many other things as well: deodorant, toilet paper, clothing, gasoline, etc. Shortages had become a way of life in Managua. When I asked Nicaraguans on the street how things were going, they frequently responded: "The situation is critical now. We can't take much more of this." That was in 1985. I hear things have gotten worse since then.

However, as I said, I am no expert. I am uncertain about the real extent of the shortages or the percentage of people going hungry in Nicaragua. Sandinista officials with whom I talked believed that the rations were sufficient if you got them, and that the poor were better off than under Somoza. I don't know for sure. My inexpert opinion is that everyone is economically worse off now, except the higher level Sandinistas, who were about the only ones I saw driving new cars. I do not understand the cause of Nicaragua's economic problems. Some said it was the same economic crisis that is affecting all of Latin America. Others said it was contra attacks on food supplies. Others said it was Sandinista mismanagement of the economy. Still others said it was due to purposeful economic sabotage by the United States. I do not know for sure.

Another fact that I discovered is that Nicaragua was not a country where the whole population was willing to fight for the Sandinistas in their war against the contras. As bad as the economy was, many considered the military draft to be a worse hardship. Everyone between the age of seventeen and thirty was required to serve, but draft evasion was widespread. Various sources told me that 70 percent of those called do not show up for enlistment, and hide from the authorities. Some said this is because the boys do not want to die to strengthen the Sandinista cause, which they do not believe in. Maria's explanation was different. (I keep quoting Maria because the fact that she is pro-Sandinista ensures that she was not simply making these things up to discredit the government. She rated the Sandinistas performance a seven out of ten with ten being perfect.) Here is my paraphrased translation of what Maria had to say about the draft, known as the Patriotic Military Service (SMP):

Yes, I would agree that about 70 percent of the boys don't want to be drafted. It's not that they're afraid to fight the contras, it's just that they fear they will receive insufficient training and then be sent to die in some faraway place. They would rather stay and defend their homes. The draft is definitely the worst aspect of the government. The kids are forcibly pulled off buses and out of cinemas and taken away. I know of plenty of cases of this. It's very common. Just a few days ago in this neighborhood a city bus carrying a lot of boys was stopped by the army. They started pulling boys off and putting them into an army truck. Word spread quickly through the neighborhood and mothers came running. They surrounded the truck and began shouting and throwing rocks at the soldiers, but it was too late. They were only able to save one boy. The rest were taken away.

It's really terrible. A lot of boys are afraid to go out into the streets. They stay indoors all of the time. Some of them become mentally disturbed because of this.

It is humorous to recall something that happened a few months before I left Louisville for Central America. One of my fellow CISPES members stood up and addressed a public gathering in Louisville on the subject of Nicaragua. He presented himself as more or less qualified to fill us in on the situation there because he had visited the country himself. Concerning the draft, he explained that people wanted to fight to defend the gains of the revolution, so there were plenty of volunteers. The draft had simply been instituted as a random method of deciding who would serve, in the interest of fairness. His remarks gave me the impression that there were so many volunteers that they could not take them all. I find this laughable now, but at the time I believed it.

It is interesting to note that, although Maria would disagree with the CISPES member's facts, she would agree with his efforts to end U.S. support for the contra forces that are trying to overthrow her country's government. She believed that the Sandinistas were doing the best they could under the circumstances. She felt that, unlike Somoza, the present leaders genuinely care about the welfare of ordinary Nicaraguans like herself and that they have done a lot of good things for the country—built schools and hospitals, and given poor campesinos land to farm and money to buy seeds. She believed that the problems with the economy and the draft were due to the contra war, and that if the U.S. would just get off the Sandinistas' backs and let them carry on with their programs to help the people then things would be fine in Nicaragua.

One final note on the draft: to say that 70% of those called did not want to serve is not the same as saying that 70% of the draft-aged population did not want to fight. It actually refers to 70% of those who had not already voluntarily enlisted in the regular army, known as the Sandinista Popular Army (EPS). Although I have heard that this army is quite large for the size of the country, I do not know what percent of the draft-aged population it represents, therefore I cannot calculate the actual percentage who remained unwilling to fight for the Sandinistas. I can only say that not all were willing, and that the draft was very unpopular.

I could cite a few more instances where the facts I discovered belied my peace activist friends' glowing accounts of life in Nicaragua, but I do not want to give you a lopsidedly negative and thus untruthful portrayal. So let me also say that one of the facts I discovered is that Nicaragua was not another Cuba. It was not a Stalinist police state with a captive population straining under the yoke of communism, where everyone was afraid to step out of line for fear of being informed on and punished. And this belies the image of Nicaragua as a "communist totalitarian state" that President Reagan has given to the American people on television.

While in Nicaragua I traveled about freely, except that I was not allowed to fly to the Atlantic coast, and I was once denied permission to enter a contra-held area which the Sandinistas were about to attack.

However, travel was so unrestricted that I heard of at least one case in which a Canadian woman wandered around and eventually ended up in a battle zone. The Sandinista officer in charge reportedly asked in amazement "What are you doing here?", explained to her how dangerous it was, and then went about trying to find her some transportation back to a safer area.

I was only asked for my passport once in three months, and the young soldier looked at it and politely handed it back to me saying, "Enjoy your visit." That was in the town of Esteli only a few weeks before the contras launched a major attack against it. Nicaraguans travelled around as freely as I did.

From all that I have ever heard, such freedom of movement is not exactly the hallmark of a communist totalitarian state. So, obviously, there exist both Sandinsita and anti-Sandinista propaganda, and I believe that neither represents an accurate view of the situation in Nicaragua.

This is very true on the subject of freedom of expression. The contra cheerleaders in the United States give the impression that dissent is thoroughly suppressed in Nicaragua. they tell stories of individuals who criticize the government and are informed on, arrested, and thrown into prison, or worse. The peaceniks on the other hand paint a glowing picture of a new "Nicaragua Libre" in which the citizens are bubbling over with outspoken political commentary for the first time in their lives, revelling in freedom of speech now that Somoza's death squads are gone.

I discovered that neither propaganda extreme is accurate. To the dismay of my leftist friends, I found quite a few people who were afraid to criticize the government in public if there were men in uniform or known Sandinista supporters around. And I met one man who convincingly testified that he had spent months in a political prison under very unpleasant conditions (known as "psychological torture") for the simple reason that he had very publicly criticized the government. I heard reliable reports of similar cases in which other critics were imprisoned and mistreated for several months, in an apparent attempt to silence them.

On the other hand, dissent was not effectively suppressed in Nicaragua. Not by a mile. I heard quite a lot of it. The former political prisoner mentioned above seemed in good health when I talked with him, and was criticizing the government again with renewed vigor but more privately. Once out of earshot of probable Sandinistas, the critics were amazingly brash. "The revolution is a failure—we've been tricked by the Sandinistas!" one woman on the street declared. She was wearing a "United States Embassy" sweatshirt emblazoned with a large version of the same eagle and shield symbol that was on my passport (she said she had bought it from an embassy employee). A fellow walked up to me on a beach in San Juan del Sur and talked for a while about how terrible the Sandinistas were, and then he said flatly: "We're waiting for the U.S. invasion. That's the only thing that can save us now." He should have known that nearly all of the gringos in that tiny resort town were either Sandinista employees or supporters (I was a supporter at that time), yet he was asking me, a perfect stranger, to go home and tell my country to invade his country. Wouldn't that pass for treason in most countries at war? But he was not the least bit worried about informers or arrest. He even invited me to his home to hear more, and meet some of his like-minded friends. I had just met my first open contra supporter. He was the first of many. Of course, I also met many people who strongly supported the Sandinista government. There was a broad range of opinion on the subject. I am quoting the most extreme dissenters as an illustration of the level of freedom of expression that actually did exist in Nicaragua. It became apparent that this was not a country where all the walls have ears.

The following week in Managua I walked into the office of one of the opposition political parties where I was told that U.S. aid to the contras is a good thing. Later, I visited the headquarters of another opposition party where I was told that the only solution to Sandinista oppression is a U.S. invasion of Nicaragua. Even in these offices, where one might reasonably suspect electronic eavesdropping, there was flagrant dissent that bordered on treason. So I conclude that either President Reagan's dire description of life in Nicaragua was a bit misleading or else they're just not building communist dungeons the way they used to.

But seriously, Senator McConnell, I assume you are aware that such dramatic and rhetorically effective televised speeches are too one-sided to capture the true nature of life in Nicaragua. When the President quickly reads a litany of Sandinista misdeeds—an arrest for dissent, a mob attack, harassment of a clergyman, mistreatment of a prisoner, etc.—he makes it sound as though these things happen to everyone every day, and that does make Nicaragua sound like a rigid totalitarian state. In fact, I did not see any of these things happen in the three months while I was there. My conversations with over 35 Nicaraguans who had diverse political views gave me the impression that, while such things did occur, they were relatively rare. I got the impression that arrest for dissent, for example, affected only the most publicly vocal criticis. I am not at all condoning it. I am just trying to convey the fact that for most average Nicaraguans, life seemed to go on as usual without a pervasive fear of "big brother."

My first thought was that surely you must already have accurate knowledge of the true nature of things in Nicaragua, because as a U.S. Senator you must have access to reports from the agents of our intelligence services who are bound to be in Nicaragua now and should be in a better position to give you the facts than I. But then I realized that, because the legislative and executive branches are separate, even a Republican Senator may not be able to get those original unedited reports (unless they happen to say what the executive branch wants you to hear). It would be great if you could get them. After all, one needs to know the facts in order to make good policy decisions. But whatever the sources, I hope that you and all of our leaders are relying on first-hand, objective intelligence rather than articles and editorials in the mass media, which are too infrequent and usually too limited in scope to give the complete picture.[1] One thing I have learned in this whole Nicaraguan adventure is that it is very hard to get an accurate understanding of what is really going on in a country unless you actually go there and live for a while and talk with the people in their own language, or, I suppose, unless you have access to a trustworthy person who has recently been living there in that manner, and whom you are able to question at length.

Well, I hope I have not bored you with a lot of things that you already know. But now I would like to do what I, unlike a CIA agent, am uniquely qualified to do as one of your constituents, and that is to give you my personal opinions about Nicaragua and U.S. policy there.

The first half of this letter contains, to the best of my knowledge, very factual information. I'd stake my reputation as an observant person on the accuracy of the statements I made. However, what follows is pure unqualified guessing and speculation. I will be the first to admit that I do not clearly understand what is going on in Nicaragua.

As I said, I know a little bit about what was not going on there during three months in 1984-85, but that is the extent of my reliable knowledge. However, most Americans have opinions, accurate or not, and that is normal. So here is what I believe (speculate, guess) about Nicaragua after spending three months there.

Communism in Nicaragua: When I was there, Nicaragua seemed to be ruled by a dictatorship with a velvet glove. Massive repression was not needed to control the population, as it is in South Africa. Unlike Cuba, the neighborhood Sandinista Defense Committee (CDS) that I observed seemed lackadaisical and ineffective rather than being the feared eyes and ears of "big brother." When I did hear of repression in the cases of several political prisoners, they had been released alive and their treatment, albeit terrible, was mild compared with what the Salvadoran Death Squads have done to people (I saw photos of their grisly handiwork when I was in San Salvador). Frankly, the Sandinistas seemed to treat their people more humanely than some of the governments that the U.S. supports.

So why worry about them? Well, the danger lies not in what Nicaragua was in 1985, but in what it showed signs of becoming, and that is a communist totalitarian state. Many totalitarian features were already in place when I was there, but they were loosely applied. The state had not used them to clamp an iron grip on the people, but the potential for that was evident. One political party, the Sandinista National Liberation Front (FSLN), controlled everything, including all government ministries and services, from the police and judicial system right down to the agencies that issued drivers licenses and food rations. It controlled the army, which is 100 percent politicized and indoctrinated with the ideology of the ruling party. The party controlled the highly political neighborhood watch committees (CDS). It controlled the secret police, called the General Directorate of State Security (DGSE), also known as the "political police" or the "ideological police." (It is they who occasionally arrest dissenters while in pursuit of their main quarry: suspected contra agents.) The party even controlled the fire departments. And, of course, all laws were made by the one party through the decrees of the nineman dictatorship known as the General Directorate of the Sandinista National Liberation Front. And for what it's worth, I got the in-

[1] I have concluded that the mainstream press, such as the Courier-Journal, are pretty accurate in what they report about Nicaragua. The problem is that the concise, news-oriented format of the medium requires them to leave unsaid much of what one needs to know in order to really understand the situation.

tuitive feeling that this one party had no intention of relinquishing power for any reason, elections included. You can bet that this monopoly of power gave me a very uncomfortable feeling, since I am accustomed to the functioning pluralistic democracy that we have here in the United States.

But even more disturbing was the party's zeal for controlling information. All newspapers were thoroughly censored. I recall looking through the door of an office at the only opposition newspaper, La Prensa, and seeing an employee holding a page of the newspaper with over half of the copy blacked out. It remains a haunting image. The only independent radio station, Radio Catolica, was censored. The government owned the only television station. Thus, the party controlled all of Nicaragua's mass media, either directly or by censorship. Amazingly, it even censored the small weekly publications distributed by the opposition political parties! Equally disturbing, I learned that the party controlled the entire public education system, from grade school to the university, and was actively using it for political indoctrination. The doctrine being taught seemed to be Marxism.

By the time I left Nicaragua, the peace activists' standard apologetic explanations for these distressing facts had begun to wear a little thin, and I began wondering "What are these Sandinistas really up to?" I had planned to do some serious research to find out, but personal priorities changed and the research went undone. But since I left Nicaragua, the Sandinistas have banned public gatherings, suspended civil rights, and restricted freedom to travel. They have closed Radio Catolica; closed La Prensa; and censored the Permanent Human Rights Commission (CPDH), which made me particularly angry because its director, Marta Baltodano, was, in my opinion, one of the most truthful, objective, and well-intentioned people with whom I talked during my entire visit. And there have also been press reports about fraud in the government's own human rights commission, and reports confirming atrocities against the Miskito Indians, and most recently, the Time magazine interview in which Robert Leiken made assertions about the level of popular contra support that are believable in light of what I observed there in 1985.

If I were forced to make a guess right now, without having all of the facts, I would guess that the top Sandinista leaders are, as you said at the Wednesday night dinner, true believers. They are probably well-intentioned public-minded people who sincerely (but, I think, erroneously) believe that a Nicaraguan form of communism, patterned after Cuba, is in the long-term best interest of their people. Either that, or they are agents of international communism working for Moscow. It is hard to tell which. Although they have been ruling with a velvet glove, I would have to guess that their ultimate goal is to tighten the grip and create another Cuba—on the American mainland. I believe that that would be bad for both the United States and the Nicaraguan people. If that is what the Sandinistas really intend to do, then the question would become "how to stop them?"

The Contras: From what I saw, I am inclined to suspect that the Sandinistas have lost a lot of popular support, and that the contras have gained some of that support, and are a more potent military threat than most people think. I suspect that if the contras were truly reformed (got rid of their Somocista ties and reputation for human rights violations), and if they convincingly showed that they intend to bring real democracy to Nicaragua, then it is possible that they might become the hub of a popular revolution that could pressure the present Sandinista leadership to step down and open up the country to real pluralism.

But war is a terrible thing. It is one of the worst scourges that can befall a people. And civil war is especially atrocious. I cannot with good conscience support the inflicting of war upon a people unless there are very compelling reasons for it, and strict conditions have been met. Liberty and justice are compelling reasons. And the necessary conditions are: that all nonviolent solutions must have been tried and have failed, that our side must conduct itself honorably according to the Geneva Convention, and finally that the war must be waged as quickly and effectively as possible by honest and competent men (and not be a drawn out tragedy of errors as was the case in Viet Nam).

While in Nicaragua, I met individuals who had been so offended by the Sandinistas that they felt supporting the contras was their only means of redress—the only way to defend their liberty against the consolidation of communist control of their country. I can respect that choice if, after having tried everything else, they really believe that war is the only alternative to communism.

I feel the same way about U.S. policy. If the Sandinistas are trying to create a Cuban-style communist state then they should be stopped. Liberty and justice are at stake. But for me to support the contra war, I must become convinced that the necessary conditions have been met. The U.S. must have exhausted all of the nonviolent means at its disposal, such as: good faith negotiations with the Sandinistas, economic inducements and pressures, covert attempts to generate a bloodless coup that would replace the present leaders with moderate non-communist nationalists, etc. Also, the war must be waged as a just war. The contras will have to clean up their act and abide by the Geneva Convention regarding the fair and humane treatment of prisoners and civilians. A conservative American and leading champion of contra aid recently said that he was shocked to personally witness over twenty contras rape a twelve-year old girl to death because "she was a Sandinista." We cannot use the methods of fascism to fight for freedom. If we use torture and intimidation, we are playing right into the hands of the communists: they make wonderful propaganda out of it and use it to win more converts. And besides those methods are disgusting and immoral and the American people don't want any part of them. Word will have to go down the contra chain of command: "Absolutely no more abuses. From now on, you're Mr. Clean." Any sadistic misfits who can't handle that should be purged. And finally, the war will have to be waged efficiently. Financial accountability must be tightened, corruption rooted out. The incredible corruption that we generated in Saigon should have taught us that we cannot win wars by blindly throwing money at them. That aid has to get to the troops in the field, not into the private bank accounts of their commanders. And those commanders must be honest, competent men who really want to win, and have the military skill and popular support needed to win.

So I think that when you fellows in Washington vote for aid, you create for yourselves the very big and complicated job of properly accounting for, monitoring, and managing the war. And you (or someone) must do that job very thoroughly, or else you may as well have not voted for the aid because it will be unlikely to produce the results you intended.

Popular Support for the Contras: To win, the contras need the support of the Nicaraguan people. I don't think they have a chance without it. First they need it as a local base for military operations. But secondly, they need it in order to get the U.S. aid required to offset the hundreds of millions of dollars' worth of armaments that the Soviets have invested to keep the Sandinistas in power. To ensure an adequate, uninterrupted supply of U.S aid, the contras must eventually win the support of the American people, and the best way to do that is to clearly show us that they have the support of the majority of Nicaraguans.

So how do the Nicaraguan people really feel about what is going on in their country? What do they want? Who do they support? It is crucial for U.S. policy makers to know the answers to those questions. Unfortunately, I do not have the answers. Based on brief interviews of twenty-five Nicaraguans met at random in public places, along with more extensive conversations with eight other Nicaraguans, I would guess that in February, 1985, around 20 percent of the Nicaraguan people still strongly supported the Sandinistas, at least 20 percent supported the contras, and the remaining 60 percent or so were unsure, and just wanted the war to be over and the economy to improve. My two most objective sources (one was Marta Baltodano—certainly no Sandinista sympathizer) said that the 1984 election was fair in terms of the actual voting and counting of the votes—that there was no significant fraud involved. According to Ms. Baltodano, the unfairness lay in the fact that opposition candidates did not have an equal opportunity to campaign: they were granted limited media time, their rallies were sometimes harassed by mobs (turbas), and "a climate of openness and freedom of expression did not prevail." I can only assume that this extreme advantage of incumbency, along with the prevalent mob psychology, allowed the Sandinistas to turn their 20 percent solid support into a 63 percent victory in the election without resorting to actual fraud.

Conclusion: It can become confusing to think that we are inflicting war on a people to overthrow a government that has been more or less humane by Central American standards, and has won an election that may have been pretty fair by Central American standards (even by Mexican standards), and we are doing it in order to save the people from what we think the government is going to do to them but hasn't quite done yet. If that is not confusing enough, try going to Nicaragua where you will find many people like Maria who know that the government does some bad things, but figure it is still a lot better than what the U.S. had to offer, which was Somoza (whose Guardia shot boys dead in the streets rather than just drafting them into the army), and who, like Maria, retain a loyalty to the Sandinistas because they got rid of Somoza (or at least got the credit for it). Throw in a few reports that our side is using torture and gang rape, and you have the makings for total confusion and skepticism. I'm confused, and I know more about it than most Americans. Perhaps that is why the polls show that they oppose contra aid by two to

one. This is the confusion that must be dispelled if the contras are to win our support.

Thank you, Senator McConnell, for reading this letter. I know that as a U.S. Senator you have a difficult and demanding job. This must be especially true when you have to decide whether or not to fund a war. I can scarcely imagine the heavy burden of moral responsibility that you must bear, having power over the lives of so many other people, and knowing that whether thousands live or die may depend on your decisions. I hope that you, and President Reagan, are making the morally right decision on the issue of contra aid. I wish I could congratulate you for doing so, but I am still uncertain about it. At the Wedensday night dinner when I heard you say that you were sure you were right about what was going on in Nicaragua, and about supporting the contras, I reacted with automatic skepticism. I remembered how sure I was about Nicaragua before I actually went there, and how the longer I stayed the less sure I became about everything. As I got closer to the facts of the culture, attitudes, and history of the Nicaraguan people, broad generalizations became less and less adequate.

I honestly believe that you may be right in your position (but, for all I know, you may be wrong). As I said at the time, I am not unhappy with your support of the contras. I am not happy with it either. I just do not understand the situation in Nicaragua well enough to make such a life or death moral decision as sending men to kill and die in war. Nor do I want to make the opposite decision and risk withholding aid from a just cause. I believe the facts are available that would allow a person to arrive at a sound decision on the matter. I think if I thoroughly researched the existing literature and news accounts on the history of the Sandinista and contra revolutions, and then distilled from these a few key questions, and then went to Nicaragua one more time to personally verify the answers, then I would have a strong position on the subject. I have not yet done that. I hope that when you say you are sure of your position on Nicaragua it means that you have really wrestled with the complexity of that situation and have decided that all other solutions have been tried and failed, leaving lethal violence as, regrettably, the only solution.

Thanks again for taking the time to read this letter, and good luck in dealing with these difficult issues. If I can be of any assistance, please let me know.

Sincerely,

RUSSELL D. GREENLEAF, JR.

P.S.: If you are interested, I can send you accurate accounts of several revealing conversations that I had with Nicaraguans. You might be particularly interested in the opinions of a law student, and of a conservative businessman who is acquainted with both the Sandinistas and the opposition. I offer this in the interest of letting the Nicaraguans speak for themselves. After all, it is their country and they understand it much better than I do.

P.P.S.: On August 21, 1985, I resigned from the steering committee of the Louisville Chapter of the Committee in Solidarity with the People of El Salvador (CISPES) because I disagreed with their position on Nicaragua.●

DRUG ABUSE

(By request of Mr. DOLE the following statement was ordered to be printed in the RECORD:)

● Mr. SYMMS. Mr. President, drug abuse is one of the most acute social problems of our time, and its grip on American society is greater than at any time in our history. As the focus of national attention moved to drugs in recent years, horrifying facts came to light which were new to most Americans.

According to the Alcohol, Drug Abuse, and Mental Health Administration, 28 percent of 18- to 25-year-olds have tried cocaine; between 4 and 5 million Americans use cocaine or other drugs at least once a month; and a half million Americans are hooked on heroin.

Mr. President, the supply of drugs coming into the United States has overwhelmed drug enforcement officials; the statistics are staggering. From 1975 to 1984, the amount of cocaine smuggled into the U.S. quadrupled. The most recent report showed that in 1984 alone, 85 tons of cocaine crossed our borders, most of which made it to the streets. And along with the cocaine came 15,000 tons of marijuana and 10 tons of heroin.

Not long ago, the drug scene was confined to a certain class of people: criminals. But today drugs have permeated all segments of our society; schools, business, industry, and even government. And because even respectable people use drugs for recreation, President Reagan has mounted a national campaign for a drug-free America. I support him 100 percent.

Although the drug problem in my State is not nearly as bad as in many urban areas, the problem still exists. When just one life is ruined by dependence on substances calculated only to produce an empty thrill, there is a problem.

Mr. President, fighting illicit drug use must be done on two fronts: At the point of distribution—the pusher—and the point of consumption—the user. Drug enforcement procedures must be improved and penalties against pusher increased. But the primary front for fighting drug abuse is in educating our youth, which will reduce the demand for drugs and put the pusher out of business.

Granted, penalties for those who profit from the destruction of lives should be swift and sure; but along with enforcement of the law, there must be education. An understanding of what drugs really have to offer—dependence, illness and even death—is the key to solving the problem.

Mr. President, teaching our children the devastating effects of drug abuse and the responsibility they have to preserve and develop their own lives is a big job, but it must be done. From the home, the church, and the schoolroom to the athletic field and the workplace, the dangers of drug abuse and the benefits of staying clean must be instilled within our people. Combined with strict enforcement of drug laws, with penalties commensurate with the severity of the offense, education will help preserve the American way of life.●

THE CONVICTION OF HARRY E. CLAIBORNE—OPINION OF SENATOR J. JAMES EXON

● Mr. EXON. Mr. President, it is a sad day when the Senate is compelled to remove an individual from office. Harry E. Claiborne is only the fifth individual in our Nation's history to be removed from office by the congressional power of impeachment.

Our founding fathers designed a Federal Government which stands on the foundation of checks and balances between the three equal branches of Government. Under our Constitution, judges "hold their offices for good behaviour." Life appointments for Federal judges insulate the judicial branch from shifting political winds and allow the judicial branch to operate with independence. Therefore, it should be difficult to remove a Federal judge from office.

The House of Representatives has the power to impeach a Federal officer and the Senate has the "sole power to try all impeachments." In convicting Judge Harry E. Claiborne of three articles of impeachment the Senate rose to one of its most solemn constitutional tasks.

THE COMMITTEE ON TWELVE

For the first time in the Nation's history, the Senate employed a committee of 12 Senators to receive and digest evidence relating to the Articles of Impeachment. The committee is to be commended for its efforts and its diligence. Although the committee did not make a recommendation to the full Senate, or prejudge evidence, their work made the Senate's task manageable.

The usefulness of such a committee in future impeachment trials will depend on the nature and facts of individual cases. In the case of Harry E. Claiborne, the case was comparably simple and the objective facts not in serious dispute. I voted to hear additional witnesses because I felt that there would have been some personal testimony before the full Senate which would have been helpful in the Senate's deliberations. However, just as a judge determines the scope of evidence in a trial, the Senate, as a body, determined that the evidence before the Court of Impeachment was sufficient to reach a judgment on the articles of impeachment.

However, I urge the Senate to further investigate the actions of the ex-

ecutive branch and the events which led to the indictment of Harry E. Claiborne. If the defendant's assertions regarding an executive branch "vendetta" are true, the Senate should review law enforcement practices and the status of the relationship between the executive and judicial branches of our Federal Government. The existence of a "vendetta" does not alter the issue of whether Harry E. Claiborne violated section 7206(1) of title 26 of the United States Code. The evasion of income tax liability is in and of itself an act of misbehavior and a high crime and misdemeanor sufficient to impeach any Federal judge.

THE ARTICLES OF IMPEACHMENT

The four Articles of Impeachment centered around Harry E. Claiborne's tax returns for 1979 and 1980. The first article alleged that Harry E. Claiborne willfully and knowingly made and subscribed a U.S. individual income tax return for calendar year 1979 which failed to report substantial income. The second article alleged that Harry E. Claiborne willfully and knowingly made and subscribed a U.S. individual income tax return for calendar year 1980 which failed to report substantial income. The third article alleged that Harry E. Claiborne was found guilty of two violations of making and subscribing a false income tax return for the calendar years 1979 and 1980 and was, therefore, guilty of misbehavior and of high crimes in office. The final article alleged that by violating income tax laws, Harry E. Claiborne betrayed the trust of the American people; reduced confidence in the judiciary; brought disrepute on the Federal courts and the administration of justice by the courts, and as such was and is guilty of misbehavior and misdemeanors.

ARTICLE I

The objective facts before the Senate indicated that Judge Claiborne received $41,072.93 in ordinary income from the practice of law prior to becoming a Federal district judge. The money was paid in 14 separate checks. Harry E. Claiborne reported only $22,332.87 of this income on his 1979 tax return. In March of 1980, Harry E. Claiborne prepared a memorandum too for the purpose of applying for a loan. In March 1980, Harry E. Claiborne estimated his fee income to be approximately $46,000. In June 1980, Harry E. Claiborne prepared a worksheet for his accountant which set forth his earnings from "private law practice before judgeship." That worksheet which formed the basis of Harry E. Claiborne's 1979 tax return listed his earnings as $22,332.87.

The March memorandum clearly indicates, as the House of Representatives alleges, that Harry E. Claiborne knew his actual fee income when it served his interests. It is unfathomable that an individual could "forget" nearly $20,000 of income in such a short period of time. It is also significant Harry E. Claiborne suddenly changed his routine procedure of depositing each fee check into his bank account. Harry E. Claiborne knew that his accountant prepared his income tax from the bank deposit records.

The defense suggests that the defendant delivered a letter to his accountant which correctly stated his fee income. This assertion is questionable. Whether the April 11 letter was delivered or authentic would not alter my opinion, as to the willfulness of Harry E. Claiborne's understatement of earnings on his 1979 tax return. Furthermore, there is no evidence that Harry E. Claiborne attempted to correct his 1979 tax return prior to his criminal indictment.

There is sufficient evidence to infer that Harry E. Clairborne willfully and knowingly failed to report substantial income on his 1979 tax return.

ARTICLE II

In 1980, Harry E. Claiborne received four checks totaling $87,912 and sold his home for $725,000 incurring a $214,812 taxable gain. On April 13, 1981, Harry E. Claiborne filed with the Internal Revenue Service form 4868 an application for an automatic extension of time to file a U.S. individual income tax return. In that application, Harry E. Claiborne estimated his total tax liability to be $42,847.96

Harry Claiborne retained Jerry Watson of "Creative Tax Planning" to prepare his 1980 tax return. After several discussions, Mr. Watson produced a tax return which resulted in a July tax refund of $44,256.

Harry E. Claiborne working with his "creative tax planner" reduced his tax liability from $97,864 to $1,103. Harry E. Claiborne is a well educated individual who has handled tax matters as a private attorney. The explanations of the defense that Harry E. Claiborne relied in good faith on his tax preparer defy belief. Given the background of Harry E. Claiborne and his tax preparer, Jerry Watson, combined with the tremendous discrepancy between the April tax estimate and July refund check, there can be no case of "good faith" reliance by Harry Claiborne on Watson's advice.

The facts clearly lead to the conclusion that Harry E. Claiborne willfully and knowingly understated his income on his 1980 income tax returns.

ARTICLE III

The third article of impeachment alleged that Harry E. Claiborne was and is guilty of misbehavior and high crimes in office due to the fact that he was convicted of two felonies.

The decisions of the judicial branch do not and should not compel a decision of the U.S. Senate sitting as a Court of Impeachment. However, the U.S. Senate cannot ignore the criminal conviction of a sitting U.S. judge.

At the very least the conviction of Harry E. Claiborne must be considered as evidence of misbehavior and high crimes in office. Mr. Claiborne did not assert that he did not receive a fair trial. In this case, the evidence is conclusive. Because the conviction was valid and the underlying offenses are the type which merited removal from office, I voted guilty on article III.

ARTICLE IV

The final article of impeachment alleged that Harry Claiborne "betrayed the trust of the people of the United States and reduced the confidence in the integrity and impartiality of the judiciary." The facts which compelled a vote of guilty on the first three articles also compelled a similar vote on the fourth and final article. The specter of a convicted felon maintaining the title and honor associated with being a Federal judge, brings disrepute to the Federal judiciary. The Constitution gives the Congress only one method, impeachment, to remove such an individual from the bench.

CONCLUSION

After a careful examination of the evidence, an evaluation of the personal appeal of Harry E. Claiborne before the U.S. Senate, the deliberations and careful reflection, I came to the inescapable conclusion that Harry E. Claiborne committed impeachable offenses and should be removed from office on all four articles of impeachment. This first impeachment trial in over 50 years serves as a disturbing reminder to the U.S. Senate that it has an awesome responsibility in confirming Federal judges to lifetime appointments.●

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Thursday, October 16, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on tomorrow, there be a period for the transaction of routine morning business, not to extend beyond 9:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

71-059 O-87-9 (Pt. 22)

PROGRAM

Mr. DOLE. Mr. President, at 9:30 a.m. tomorrow, the Senate can be expected to turn to the consideration of any of the following items: The immigration conference report; House Concurrent Resolution 395, technical corrections tax conference report; conference report to accompany reconciliation; conference report to accompany the continuing resolution; conference report to accompany clean water; the debt limit conference report.

I think it probably goes without saying that tomorrow will be a very busy and perhaps a very long day. The first thing we will need to do in the morning, I guess, will be to pass either the 1-day or the 2-day CR extension, so that it will be on the President's desk before noon. As soon as we have that, I will be in touch with the distinguished minority leader.

IMMIGRATION REFORM AND CONTROL ACT OF 1986—CONFERENCE REPORT

Mr. SIMPSON. Mr. President, I submit a report of the committee of conference on S. 1200 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes. Having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, October 15, 1986.)

Mr. SIMPSON. Mr. President, I bring to the attention of my colleagues the conference report on the immigration bill, which was reported yesterday, October 14.

The conference bill contains the very essence of immigration reform: Employer sanctions, a secure system to determine work eligibility, significantly increased authorizations for the Immigration Service, agricultural worker programs, antidiscrimination provisions, and a legalization program.

The House passed this conference report earlier this afternoon by a vote of 238 to 173, a very large margin for that body in immigration matters, which has had trouble with the bill before.

CLOTURE MOTION

Mr. President, I am filing a cloture motion now, only as an insurance policy that there will be a final Senate vote on this measure before we adjourn sine die.

It is certainly not my intent to foreclose debate on this issue. I think there will be some serious discussions, some serious questions asked, and there will be ample opportunity for that. But in assuring that we deal with that in this session, I submit this cloture motion.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the conference report to accompany the bill, S. 1200, to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes.

Alan K. Simpson, Robert Dole, Lloyd Bentsen, Jim Sasser, Robert T. Stafford, Bob Packwood, Thad Cochran, Nancy L. Kassebaum, Jake Garn, Slade Gorton, J.R. Biden, Robert C. Byrd, John H. Chafee, Claiborne Pell, J.C. Danforth, and Chuck Grassley.

Mr. SIMPSON. Mr. President, I now ask unanimous consent that the conference report be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SIMPSON. Mr. President, it is my understanding that even though now set aside, the cloture motion will recur Friday morning, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. I thank the Chair.

RECESS UNTIL 9:00 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until the hour of 9 a.m., October 16, 1986.

The motion was agreed to, and at 9:55 p.m., the Senate recessed until Thursday, October 16, 1986, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 15, 1986:

DEPARTMENT OF STATE

Arnold Lewis Raphel, of New Jersey, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

James H. Duff, of Pennsylvania, to be a member of the National Museum Services Board for a term expiring December 6, 1991. (Reappointment)

CONFIRMATIONS

Executive nominations confirmed by the Senate October 15, 1986:

DEPARTMENT OF STATE

L. Paul Bremer III, of Connecticut, a career member of the Senior Foreign Service, Class of Career Minister, to be Ambassador at Large for Counter-Terrorism.

David C. Fields, of California, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

Alexander Fletcher Watson, of Maryland, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Peru.

Charles J. Pilliod, Jr., of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

James Daniel Phillips, of Kansas, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Burundi.

Peter O. Murphy, of the District of Columbia, for the rank of Ambassador during the tenure of his service as Special Negotiator for United States-Canada Trade and Investment Issues.

James Roderick Lilley, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

Ronald DeWayne Palmer, of the District of Columbia, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius.

David A. Korn, of the District of Columbia, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

James Wilson Rawlings, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Zimbabwe.

Everet E. Bierman, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

Everett Ellis Briggs, of New Hampshire, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Honduras.

Theodore E. Gildred, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

Frank Shakespeare, of Connecticut, to be Ambassador Extraordinary and Plenipoten-

tiary of the United States of America to the Holy See.

James Edward Nolan, Jr., of Maryland, to be Director of the Office of Foreign Missions, with the rank of Ambassador.

Donald K. Petterson, of California, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Walter Edward Stadtler, of New York, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Benin.

Edward Joseph Perkins, of Oregon, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of South Africa.

Elinor Greer Constable, of New York, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

Arnold Lewis Raphel, of New Jersey, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

James H. Duff, of Pennsylvania, to be a Member of the National Museum Services Board for a term expiring December 6, 1991. (Reappointment)

UNITED NATIONS

Joan Clark, of California, to be an Alternate Representative of the United States of America to the Forty-first Session of the General Assembly of the United Nations.

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the Forty-first Session of the General Assembly of the United Nations:

Representatives:

Vernon A. Walters, of Florida.

Herbert Stuart Okun, of the District of Columbia.

Thomas F. Eagleton, U.S. Senator from the State of Missouri.

Larry Pressler, U.S. Senator from the State of South Dakota.

Helen Marie Taylor, of Virginia.

Alternate Representatives:

Patricia Mary Byrne, of Ohio.

Hugh Montgomery, of Virginia.

Joseph Verner Reed, of New York.

John Kerry, U.S. Senator from the State of Massachusetts.

Paul S. Trible, Jr., U.S. Senator from the State of Virginia.

EXECUTIVE OFFICE OF THE PRESIDENT

Jorge L. Mas, of Florida, to be a Member of the Advisory Board for Radio Broadcasting to Cuba for a term expiring August 12, 1989.

WORLD HEALTH ORGANIZATION

Frank E. Young, of Maryland, to be Representative of the United States on the Executive Board of the World Health Organization,

DEPARTMENT OF AGRICULTURE

Peter C. Myers, of Missouri, to be a Member of the Board of Directors of the Commodity Credit Corporation,

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

SENIOR FOREIGN SERVICE

The following-named Career Member of the Senior Foreign Service of the Department of State for promotion in the Senior Foreign Service to the class indicated:

Career Member of the Senior Foreign Service of the United States of America, Class of Career Minister:

Edwin G. Corr, of Oklahoma.

HOUSE OF REPRESENTATIVES—*Wednesday, October 15, 1986*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious and ever-loving God, Your blessings have been upon us and You have filled our lives with all good things. We place before You the petitions of our hearts, asking that You would strengthen us when we are needful, correct us when we are wrong, and encourage us when we do right. May Your benediction be with each Member of this assembly as they seek to do justice, and cause Your good spirit to accompany them and give them grace now and ever more. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries, who also informed the House that on the following dates, the President approved and signed bills and joint resolutions of the House of the following titles:

On October 8, 1986:

H.J. Res. 547. Joint resolution to designate October 1986 as "Polish American Heritage Month";

H.J. Res. 611. Joint resolution to designate the period of December 1, 1986, through December 7, 1986, as "National Aplastic Anemia Awareness Week";

H.J. Res. 721. Joint resolution to designate the week of October 12, 1986, through October 18, 1986, as "National Job Skills Week";

H.R. 1246. An act to establish a federally declared floodway for the Colorado River below Davis Dam;

H.R. 5506. An act to amend the International Claims Settlement Act of 1949 to provide that the value of claims be based on the fair market value of the property taken; and

H.R. 5521. An act to extend until October 13, 1986, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982.

On October 9, 1986:

H.J. Res. 749. Joint resolution waiving the printing on parchment of certain enrolled bills and joint resolutions during the remainder of the second session of the Ninety-ninth Congress; and

H.J. Res. 750. Joint resolution making further continuing appropriations for the fiscal year 1987, and for other purposes.

On October 11, 1986:

H.J. Res. 751. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

On October 14, 1986:

H.R. 2183. An act to amend title 28 of the United States Code to make certain changes with respect to the participation of judges of the Court of International Trade in judicial conferences and for other purposes;

H.R. 2721. An act to amend title 13, United States Code, to require the collection of statistics on domestic apparel and textile industries;

H.R. 2971. An act granting the consent of the Congress to the amendments to the Susquehanna River Basin Compact;

H.R. 4217. An act to provide for the settlement of certain claims of the Papago Tribe of Arizona arising from the construction of Tat Momolikot Dam, and for other purposes; and

H.R. 4588. An act to authorize appropriations for the Administrative Conference of the United States, and for other purposes.

THAT'S "HOLLYWOOD"—AS IN "FLORIDA"

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, Tinseltown has thrown down the gauntlet, but the city of Hollywood, FL, will not back away.

The Tinseltown chamber of commerce wants to obtain a trademark for the name "Hollywood." If successful, no item could be marketed with the word "Hollywood" without the Californians' consent. As the Congressman from and for Hollywood, FL, I say, "No Way!"

If Tinseltown is successful, what next? Rome, GA, versus Rome, NY? Portland, OR, versus Portland, ME? We may have a war between the cities starting on the steps of the U.S. Patent Office.

And what does Tinseltown plan to do with the royalties from its trademark? The money would be used to improve Tinseltown's Walk of Fame and sign on the mountainside. As Gary Stein, of the Fort Lauderdale Sun-Sentinel, noted, "I am only surprised they don't want to use the money to buy more chains for Sammy Davis, Jr."

I just want to tell my friends who represent Tinseltown: Don't tread on me or my Hollywood. We will retain our right to Hollywood. The mayor, city commissioners, and citizens are as one.

After all, this is America. The almost 150,000 residents of Hollywood, FL, love their name, all 60 years of history, and they will resist—to the death if necessary—to protect and preserve Hollywood, FL. We have just begun to fight.

THE IVEZAJ CASE IS JUST THE BEGINNING: THE FUTURE OF U.S. TRAVELERS IN YUGOSLAVIA

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I am happy to report that Mr. Pjeter Ivezaj will finally be back in the United States today. He will arrive at Kennedy Airport at 2:30 this afternoon. I appreciate the assistance of the Yugoslav Government in making his release possible.

The freeing of Mr. Pjeter Ivezaj and two other Americans from jails in Yugoslavia is just the beginning of my efforts to resolve the problems faced by American travelers of Yugoslav origin in that country.

While I am gratified that Mr. Ivezaj and two other Americans are now free, I am concerned about future unjustified incidents of this kind. We must ensure that innocent Americans of Yugoslav origin traveling in that country are not picked off the street and imprisoned.

I look forward to working with the Department of State and the Yugoslav Government to ensure that such questionable arrests never happen again.

TRIBUTE TO ELIE WIESEL

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, for 10 years after he was released from Buchenwald—a Nazi death camp—Elie Wiesel was scared to talk and he kept totally silent.

But, 10 years of silence was long enough. As a survivor of man's greatest inhumanity to man, Elie Wiesel felt he had a duty to talk—a duty to serve as a messenger of the 6 million Jews who perished in the Holocaust—a duty to never let the world forget history's darkest hour.

So, in the words of an editorial in today's New York Post, Elie Wiesel "became the conscience of all men of goodwill. A survivor of Auschwitz and Buchenwald—the spiritual voice of the 6 million who perished, including his

mother, father, and sister—Wiesel has come to speak for all victims, regardless of nation, class or creed. He is the champion of those who suffer—and have no voice."

Yesterday, I shared in the joy of millions when Elie Wiesel was honored with the Nobel Peace Prize. Quite simply, there is no one more richly deserving of this award than Elie Wiesel.

Mr. Wiesel, who has stated "I do not want to live off of Jewish suffering," will donate his $290,000 prize to charity. So, just what does the Nobel Peace Prize mean to Elie Wiesel? He has said, "Until now I spoke. Some people listened. Now I hope more people will listen."

ESSENTIAL ARMS CONTROL PROVISIONS LACKING IN DEFENSE AUTHORIZATION BILL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I was one of the conferees on the defense authorization bill in the area of arms control, and I thought after Friday we had an agreement and, therefore, I signed as one of the conferees.

I now find out that the agreement was changed. I tried to find out procedurally if there is any way to remove my name from the defense conference in that section, and I understand that I cannot.

Let me tell Members what changed. Regrettably, it is in the area of chemical weapons. Our hope was we were splitting the difference with the Senate and that we would go ahead with production of the shells but not with the Bigeye.

□ 1010

That was the agreement that we had on Friday, but I find out today that we have left the Bigeye in and the shells in, so we will be producing everything.

I think that is just further disarming of the best part of this bill which was beginning to get some arms control provisions in it. This is not the time to do that. Had I known that, I would have never signed as one of the conferees.

UNPRICED DEFENSE CONTRACTS: FINALLY SOME LIMITS

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, imagine that you hire a builder to construct your new home. It's not likely you would permit the builder to start work before a price is agreed on—or that you would agree to be liable for all the builder's costs until a final price is negotiated.

Unfortunately, through a special financial arrangement known as the unpriced contract, this is the way the Pentagon does a lot of its purchasing. In 1985, the Pentagon had $27 billion of contracts where work begins before the final price is agreed on, and the taxpayers are liable for all costs incurred.

These unpriced contracts have become a breeding ground for massive waste and inefficiency. Instead of limiting their use to necessary safety and readiness needs, the Pentagon has used these unpriced contracts for the sake of convenience and to avoid the loss of appropriated funds.

The good news is that the Defense bill we will vote on today, for the first time, places significant limits on these contracts and the profits that can be made on them.

Clearly, this is a victory for taxpayers who want a strong defense, but are demanding a dollar's worth of value for a dollar spent.

PROMISING REALITY SACRIFICED TO A VISION

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, this week already holds great disppointment for many of us. Rarely have we come so close to a significant arms control agreement, only to have the agreement slip away hours after it was tentatively achieved. Real cuts in offensive forces have been sacrificed to a research program and a vision known as SDI.

In the President's mind SDI is a peace shield worth saving at any cost. In reality it is a complex and phenominally expensive array of mirrors, rockets, and nuclear-powered laser weapons. In theory, it will work perfectly and save the United States from the nuclear threat. In reality it may not work at all and may well increase the likelihood of war. On balance, I believe we have real cause to question the wisdom of the Iceland tradeoff.

President Reagan's own advisors agree that a successful defensive system depends on arms control and limits on offensive forces. Yet the administration is dangerously close to making the two mutually exclusive. I find it frighteningly ironic that in their frenzy to protect the peace shield vision from even a modest delay, the administration is willing to sacrifice the very thing that might make SDI possible. The net result of this weekend's minisummit might well be greatly diminished prospects for both SDI and future arms control talks.

In the interests of all Americans, I hope the President can thaw the freeze that developed in Iceland. His fallacious promise to share SDI technology with the Soviets will not suffice. If he and his advisors cannot find a way around this problem, Congress should not hesitate to fill the void. Mr. Reagan has not taken us to any summit, on the contrary, he seems to have led the way into one of the deepest valleys in recent arms control history.

TWENTY-FIRST ANNUAL REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, 1985—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Finance and Urban Affairs.

(For message see proceedings of the Senate of today, Wednesday, October 15, 1986.)

CONFERENCE REPORT ON H.R. 4613, FUTURES TRADING ACT OF 1986

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 590 and ask for its immediate consideration.

H. RES. 590

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act, the conference report shall be considered as having been read when called up for consideration, and all points of order against the conference report and against its consideration are hereby waived, except against any matter in the conference report originally contained in sections 406, 504 and title VI of the Senate amendment to the bill, under clause 4 of Rule XXVIII.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 590 waives all points of order against the conference report on H.R. 4613, the Futures Trading Act of 1986, with certain exceptions.

The rule states that points of order against three specific portions of the conference report for failure to comply with clause 4 of rule 28 are not waived. Clause 4 of rule 28 prohibits conferees from agreeing to include in a conference report the provisions of

any Senate amendment which, if offered on the floor of the House during the bill's consideration, would have violated clause 7 of rule 16—the germaneness rule.

Mr. Speaker, the first of these provisions consists of an amendment adopted by the Senate that would adjust the basis for computation of emergency compensation for wheat producers under the 1986 Wheat Price Support Program. The second provision contains a Senate amendment that would authorize the transfer of certain national forest land in Nebraska to that State's game and parks commission. The third provision of the conference agreement against which a point of order may be brought under the rule contains amendments to the Federal Meat Inspection Act.

The effect of not waiving clause 4 of rule 28 against these three provisions of the conference report is to permit any Member to raise a point of order that the provision constitutes an agreement of conferees to a nongermane Senate amendment. If such a point of order is sustained, it would then be in order to move to strike the nongermane provision from the conference report. Forty minutes of debate would be in order on each motion to strike.

After debate and votes have occurred on all such motions to strike, the House would vote either on adoption of the conference report, or on a motion to concur in the Senate amendment to the bill with an amendment consisting of the text of the conference report less any provisions which have been stricken by vote of the House.

Mr. Speaker, the provisions of the conference report relating to reauthorization of the Commodity Futures Trading Commission are broadly supported by Members on both sides of the aisle. In reaching a conference agreement, House conferees agreed to accept some of the Senate amendments which are unrelated to the Commodity Futures Trading Commission and succeeded in having several others removed from the bill.

Since the three provisions of the conference report which I identified earlier are controversial and unrelated to the bill's original provisions, the Rules Committee chose to agree to the Agriculture Committee leadership's request to allow separate votes to occur on those issues. I urge my colleagues to support this rule so that the House may move expeditiously to the disposition of these important issues.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this rule. It makes possible consideration of the conference report on the Futures Trading Act of 1986. The conference report provides a 3-year extension through fiscal year 1989 of funding authority for the Commodity Futures Trading Commission. It also includes provisions designed to tighten the agency's regulatory authority in several areas.

Mr. Speaker, this rule waives all points of order against the conference report and against its consideration with three exceptions. The matter in the conference report originally contained in sections 406, 504, and title VI of the Senate amendment to the bill is not protected from the provisions of clause 4 of rule 28. Clause 4 allows a point of order to be made against nongermane material inserted in the conference report by the other body. If the Chair sustains the point of order that the material objected to is not germane, then there can be a separate 40-minute debate and a separate vote on the nongermane material added by the other body.

Mr. Speaker, the first item in this conference report which may be subject to a separate debate and a separate vote is section 406 which provides for a transfer of approximately 173 acres to the State of Nebraska for use as part of a State park.

The second part of the conference report which may be subject to a separate debate and vote is section 504 which provides for changing the time that deficiency payments for wheat alone are made

The second part of the conference report which may be subject to a separate debate and vote is section 504 which provides for changing the time that deficiency payments for wheat alone are made. Under this provision, wheat farmers would receive deficiency payments sooner than other feedgrain farmers. I favor advancing these payments for all feedgrain farmers, Our farmers can use these payments now.

And the third provision which may be subject to a separate debate and vote is title VI which provides for less than continuous inspection of meat plants.

Mr. Speaker, I will support this rule so that the House may proceed to consider the conference report on the Futures Trading Act of 1986.

□ 1020

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, pursuant to the provisions of House Resolution 590, the rule just adopted, I call up the conference report on the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that act.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of Tuesday, October 14, 1986.)

POINT OF ORDER

Mr. WHITLEY. Mr. Speaker, I make a point of order against the nongermane amendment contained in the conference report relating to the transfer of national forest lands in the State of Nebraska.

The SPEAKER. The gentleman from North Carolina [Mr. WHITLEY] will identify that portion of the bill.

Mr. WHITELY. Mr. Speaker, the point of order is specifically made against section 207 of title II of the conference report.

The SPEAKER. Does the gentleman from Texas desire to be heard on the point of order?

Mr. DE LA GARZA. Yes, Mr. Speaker, briefly.

Mr. Speaker, the committee and the conference committee agreed on the text of the legislation which is the Commodity Futures Trade Commission.

The other body then added various and sundry other bills and we have to concede the point that they were not germane and they were extraneous to the matter. Therefore, I find myself in the situation where I could not but otherwise yield to the point of order, Mr. Speaker.

The SPEAKER. The point of order is conceded and sustained.

Does the gentleman from North Carolina [Mr. WHITLEY] move to reject that part of the conference committee report?

Mr. WHITLEY. Mr. Speaker, I do.

MOTION OFFERED BY MR. WHITLEY

Mr. WHITLEY. Mr. Speaker, I move to delete section 207 from the conference report.

The SPEAKER. The gentleman from North Carolina [Mr. WHITLEY] is recognized for 20 minutes.

Mr. WHITLEY. Mr. Speaker, section 207 of title II of the conference report authorizes the conveyance of approximately 173 acres of land in the Nebraska National Forest to the Nebraska Game and Parks Commission, to be added to the Chadron State Park in Nebraska.

I would like to recite to the House just briefly the history of this matter. This is a tract of land which adjoins a State park in Nebraska. Negotiations have been going on between the U.S. Forest Service and the Nebraska Game and Parks Commission for a number of years for the commission to acquire the property. In fact, at one stage, it was agreed between the Nebraska Game and Parks Commission and the Forst Service to bring about this transfer by an exchange of lands,

which is a customary and normal procedure for transferring national forest lands to non-Federal entities.

I certainly would concede that section 207 of title II of the conference report provides that this land is to be used for a public purpose. The understanding is that there would be a reverter in the deed that if it were not used for public purposes, it would revert to the State of Nebraska.

I do not have any problem with the idea of conveying the land. The problem is that the section specifically provides that the property shall be conveyed without consideration.

Mr. Speaker, I have been unable to find a single precedent anywhere where the Subcommittee on Forests, Family Farms, and Energy, the Committee on Agriculture, or the House has ever approved a conveyance of acquired Forest Service land with no consideration.

We were unmistakably led to understand in the conference that if we did not give away this 173-acre tract of land without consideration, there would be no CFTC bill.

Mr. Speaker, I do not think that we should submit to this kind of a threat and I believe that this section ought to be stricken. We can deal with it in the orderly processes that are established for that purpose.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina [Mr. WHITLEY].

The motion was agreed to.

POINT OF ORDER

Mr. MADIGAN. Mr. Speaker, I make a point of order against the conference report to H.R. 4613 under rule XXVIII, clause 4, of the House rules for the reason that it contains a Senate amendment that is in violation of rule XVI, clause 7, because it contains matter nongermane to H.R. 4613 as passed by the House.

H.R. 4613, as reported by the Committee on Agriculture, and adopted in the House, was a bill "to authorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements in that act."

The Senate added a nongermane amendment to H.R. 4613, section 504, entitled "Basis For Computation Of Emergency Compensation Under the 1986 Wheat Program" that amends the Agricultural Act of 1949 relating to the wheat program for cooperating farmers. It is an amendment that would have violated rule XVI, clause 7, had such matter been offered as an amendment in the House.

Some other such Senate amendments to H.R. 4613 have been provided a waiver by the rule (H. Res. 590) to the conference report. The Senate amendment to H.R. 4613 originally contained in section 504 and now contained in section 202 of the conference report has not been provided a waiver by the rule.

The SPEAKER pro tempore (Mr. MOAKLEY). Does the gentleman from Texas [Mr. DE LA GARZA] desire to be heard on this point of order?

Mr. DE LA GARZA. Yes, Mr. Speaker.

Mr. Speaker, the House version of the CFTC, as I have explained previously, did not contain this item of legislation. The other body amended the bill and added other items.

Mr. Speaker, this is a very difficult situation for us inasmuch as a majority of the members of the conference, indeed a majority of the members of the committee, would support the item that the other body has inserted into the legislation. I support it, Mr. Speaker, and the fact is that it is a needed item as far as income and cashflow for the very, very precarious situation of agriculture.

The problem is that we tried and we could not work a similar amendment for corn, as the gentleman from Illinois [Mr. MADIGAN] was desirous of. As difficult as it was for us, we had to go along with the request of the other body.

□ 1030

Therefore, I would hope that the Members of the House would support the committee, because we will not be helping anyone by taking away something that could assist farmers in trouble. It will not be of any benefit to corngrowers, and goodness knows they need the help as much as the wheatgrowers.

We tried, we honestly tried. It was just not technically feasible to do what we would have liked to do.

I had hoped that the distinguished gentleman from Illinois would not interject this point of order and would not request a vote on this issue; but, inasmuch as he has, I reluctantly and with great respect would hope that the House would sustain our position and give assistance to those who need it and not prejudice them by not helping anyone, as much as we would like to help the other sector, because you do not help a friend by injuring another one. This is a no-win situation as far as the House is concerned.

I might add that it is not a money-budget item. It does not impact upon the budget. That is the reason we had difficulty with the corn. No matter how we drafted it, it would impact negativewise upon the budget and goodness knows that no one more than I would want to satisfy the needs and the request of the gentleman from Illinois, but it was just physically and technically impossible.

We would hope that the House would support the committee and not grant the point of order, or if the point of order is granted, that the House then by voting will support the committee and help those farmers who are indeed in trouble and in need and not prejudice them because we cannot help others, because you cannot say that you will benefit one by taking from another. No one gains in that manner, Mr. Speaker.

The SPEAKER pro tempore (Mr. MOAKLEY). The Chair is prepared to rule.

In the opinion of the Chair, section 202 of the conference report as added in the Senate would not have been germane to the House-passed bill; so the point of order is sustained.

MOTION OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Speaker, I move to reject the matter in the conference report originally contained in section 504 of the Senate amendment to H.R. 4613 and now contained in section 202 of the conference report entitled "Basis for Computation of Emergency Compensation Under the 1986 Wheat Program" (H. Rep. 99-995).

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MADIGAN] is recognized for 20 minutes.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during the deliberations on the 1985 farm bill and in order to make it possible to bring that bill in at a fiscal figure in keeping with the target that was being worked on as a result of the Budget Committee instructions to the House Committee on Agriculture, a decision was made to delay the advance deficiency payments to all growers of agricultural commodities entitled to received advance deficiency payments. That was a policy decision made by the managers of the 1985 rewrite of the agriculture bill in order to comply with the budget target.

Growers of all covered commodities, whether they be wheat or corn or whatever, would like to have the advance deficiency payments paid to them as previously was the case, but because of the budget restrictions it is not possible to do that.

Now in a bill that has nothing whatsoever to do with the 1985 farm bill, but is a bill that is supposed to have the purpose of rewriting the Commodity Futures Trading Commission authorization, we see an amendment that would extend to wheat growers only that privilege to receive advance deficiency payments denied to all growers of all covered commodities in the rewrite of the 1985 farm bill. A special consideration is being given here for wheat growers, but for no one else.

It is difficult to object to doing this for wheat growers because they can use the advance deficiency payments made to them on an earlier schedule than that provided in the 1985 farm bill; however, it is very difficult to justify doing that for wheat growers only and not doing it for others, since growers of all commodities face the same type of financial circumstances that

are being faced by the wheat growers. In fact, some in drought-striken areas face financial circumstances much worse than those being faced by the wheat growers.

So it is my purpose in moving to strike this provision from the bill to keep the spirit of the 1985 farm bill alive, to not in effect begin rewriting the 1985 farm bill with amendments that are not germane to the CFTC legislation before us, to keep in spirit and in purpose the decisions that we made in 1985 and to continue to treat all growers of all covered commodities in exactly the same way that we agreed that they should be treated in 1985.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Does any Member wish to rise in opposition?

Mr. STENHOLM. Yes, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman opposed to the motion?

Mr. STENHOLM. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Texas [Mr. STENHOLM] is recognized for 20 minutes.

Mr. STENHOLM. Mr. Speaker, it is with some considerable reluctance that I rise to oppose the gentleman from Illinois on his motion to strike. He has described very accurately the condition that exists as the result of this amendment being added.

The choice those of us who served on the conference had, though, was whether or not we were going to deny some much-needed assistance for wheat growers because we were unable within the confines of the budget to do the same for feed grains and corn producers.

It boiled down to me that it really did not make a lot of sense for us at this time to deny these increases for the speeding up of the payments to wheat growers because we could not, because of the intricacies of the budget process, do it for corn, et cetera.

So as I say, it is with some reluctance that I oppose, and I say to the House that this amendment as it was added in the Senate has the support of the administration. It is budget neutral, I should say, not with the support of the administration per se, but it is budget neutral. Therefore, it was not opposed as we deliberated this in the conference.

That is basically the decision we have to make today. I would urge a "no" vote on the motion to strike.

This is one way we can, in fact, provide some additional assistance to so many of our grain farmers who are having extreme difficulty. It is one way we can do it.

As a member of the House Agriculture Committee, I will assure the gentleman from Illinois and others who are concerned about the equity of this, that it bothers me, too; but I would certainly encourage the Members to look forward to next year in a way in which we can in fact address the equity question and point out that this is for 1 year only. This does not do anything for fiscal year 1988. It is for fiscal year 1987 that we are doing this.

I would assure all my collegues concerned about this that this one Member will seriously attempt to address the equity question when it is possible for us to address that equity question in the next year.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I want to make a little report on what just happened in the Appropriations Committee. We had a chance to address the equity question.

The amendment I proposed in that bill would have included 1986 through 1990 wheat, and 1987 through 1990 feed grains. The difference was to meet that claim that there was a budget problem in fiscal year 1987 unless the 1986 crop of feed grains were excluded.

The administration vigorously opposed the part relating to 1987 through 1990. They are going to oppose it next year, too. They are not going to change on that.

So what we are doing in that bill is separating out wheat for 1986 and then leaving for another time the feed grains part which they will oppose then, too.

I think we should make the deficiency payments based on the first 5 months of the marketing year for both crops. In other words in December for wheat and February for feed grains. It is one of those things that really should have been done in the farm bill. It is one of those mistakes I think that was made, and I understand why it was made, but the fact of the matter is that we started a new policy of paying $1 a bushel deficiency payment on feed grains to reduce the price in the marketplace by $1 a bushel so we could move more of it in world markets, but now the corn producer cannot receive the second half of his deficiency payment until after the next crop is grown. He needs the money before planting the next crop. It is not right. He needs this equity and somehow we need to address it in some bill, but we were denied the opportunity to do it in the appropriations bill due to strenuous opposition by the administration.

Mr. ENGLISH. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Speaker, I thank the gentleman from Texas for yielding.

I think it is very important for us to point out that the real opposition to this amendment is not on the basis of the merit of the amendment. The real reason for the opposition is because of the fact that corn receives its payment in a different fiscal year than wheat does, or would in this particular circumstance; so the real objection that comes about as far as this particular provision is concerned is because in order for it to have an advance deficiency payment it would have to be moved from fiscal year 1988 up to fiscal year 1987; whereas as far as wheat is concerned it would all be paid within the same fiscal year. That shift is what brings about the problem with regard to the budget.

I think the real issue that we are going to have to decide here today is whether wheat producers are to be deprived of receiving an advance deficiency payment because of the fact that corn is not paid in the same fiscal year as wheat in this particular case. That is the real issue.

I would simply plead, and plead very strongly with my colleagues, that what we are looking at particularly in States such as Oklahoma where we have had such a disastrous situation as far as floods are concerned, farmers are hard pressed and in extremely difficult conditions already. Why should they be deprived of this opportunity to survive? What we are talking about is the opportunity to survive, because of the fact that corn is not going to be able to receive a benefit that would be available because of the budget situation, because of the fiscal year. That is what it is all about. It is simply because of when the fiscal year happens to fall, and that is the reason it has that particular budgetary impact.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I say that the gentleman is mistaken. I am not speaking in favor of the motion to strike, as a matter of fact. I do not want to deny wheat producers; but it is not so that advancing the second half of the payment for feed grains requires the payment be made in a different fiscal year. The effective date of the end of the marketing year for corn is the 1st of September. A second payment at the end of the marketing year could be made in September and that is in the same fiscal year as the first half which is due in February. The effective date for the end of the marketing year is in the same fiscal year for corn as it is for wheat. It is in the same fiscal year.

Mr. STENHOLM. Mr. Speaker, if I might reclaim my time, I would point out that both gentlemen are entirely correct in what they are saying.

The problem is that we could not work out because of time restraints at the end of the fiscal year those problems associated with the budget that the gentleman from Oklahoma brings up.

The problem is that we just could not do it for corn and feed grain and meet the constraints of the budget under Gramm-Rudman-Hollings that we are committed to live with on the floor of this House.

The basic question then comes, as both speakers on this side have acknowledged, as to whether or not we deny to wheat producers a little extra earlier benefit because we cannot do it for corn and feed grain producers. That is the basic question.

Mr. ENGLISH. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Speaker, the other point that should be stressed and stressed very strongly is that this will have no budgetary impact as far as the fiscal year 1987, no additional cost to the taxpayers. It is simply a question of when the wheat producer is going to receive that benefit, whether it is going to be later when many are already going to be out of business, or whether it is going to be earlier.

Mr. DURBIN. Mr. Speaker, will the gentleman from Texas yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, this was debated, as the gentleman from Iowa mentioned, in the Appropriations Committee on the continuing resolution.

I just heard my colleague from Oklahoma state the same proposition as was stated in the Appropriations Committee, that there is no fiscal impact involved in this.

I would ask the gentleman from Texas, is it true or is it not true that if a wheat grower should receive under this proposal a larger payment in 1986, rather than 1987, that that wheat grower would be able to income average this year because of our Tax Code changes, whereas he could not do it in 1987, thereby meaning there would be a loss to our Federal Treasury of the funds that otherwise would have been received in tax revenues?

Mr. STENHOLM. That could very well be; but the question here, though, and I am not capable of answering the question of what the tax liability of all the individual wheat farmers, what their income would be in 1986 versus 1987 at this time. We have been told, and maybe the gentleman was told something different, but the best that anyone can estimate today is that it is budget neutral.

Yes, the gentleman is correct in pointing out there could be some budget impact regarding income averaging.

Yes, there can be some budget impact regarding the advanced payments and the interest cost of those advanced payments. That is very possible in this; but those whom we depend upon, the CBO and the OMB, et cetera, have told us that this is the best that we can estimate to date, that it is budget neutral. It can have some effect one way or the other.

□ 1045

Mr. DURBIN. With this issue, as many others, we look for the reason behind it. As in most cases, there is a good reason and a real reason. I am not sure that we have figured out which is which here, but I think that one of the real reasons behind this move is a transition rule for wheat growers so that they will be able to income average more income in 1986 than they otherwise would have been able to. That means a loss to our Treasury, as does the loss of interest that otherwise would have been earned if the money was paid out in 1987 as opposed to 1986.

So I would suggest to the gentleman that there has to be some fiscal impact, a negative fiscal impact, of adopting this provision.

Mr. ENGLISH. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Speaker, I would simply point out that before you can have a budget impact, before you can pay taxes, you have to have income. That is exactly what the problem has been with the American farmer today: not many farmers have income. I can assure you that if you just got finished getting wiped out with a flood, you do not have much to average, and that is what it all comes down to.

I would point out to the gentleman that the real question that we are talking about here is whether the farmers are going to have a chance to survive, whether we are going to give these wheat farmers an opportunity to survive. I wish that we could make it available to corn; I wish that we could make it available to other commodities. But as I pointed out, because of the way that the fiscal year is structured, that is where the difficulty is.

So the question is now, are you simply going to wipe those farmers out that have already been hit with that flood, or not? That is the question: Is compassion going to be available, or not?

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I would say to the gentleman from Oklahoma that the flood waters do not parse out the wheat growers from the corn growers, and in fact we have losers in virtually every major crop in America. I have voted for and supported disaster relief across the board, but in this situation the point that I am trying to make is that we have clearly provided an exception and a benefit to wheat growers that is not going to be made available to growers of other crops.

Mr. STENHOLM. Mr. Speaker, on the point regarding the income averaging, I really believe due to the financial plight of feedgrain corn and wheat growers that the income effects of this are going to be minimal, if any. That would be my judgment.

Mr. ROBERTS. Mr Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Kansas.

Mr. ROBERTS. I thank my friend and colleague for yielding.

Mr. Speaker, it is most unfortunate that we are having this discussion. As far as I am concerned, as you go back into the history of advance deficiency payments, they are made for very good reasons, whether you have an embargo or whether the farm bill was late or whatever, so this does follow that kind of a tradition.

I would suggest to my colleagues that it is not because of the tax advantages. Let me point out that farmers have already made their tax plans, and when we come with an advance deficiency payment, that that is going to cause them some problems as well.

It is true, however, what the gentleman from Illinois has pointed out, that this will be the case in terms of income averaging, and that is why we should have it.

I would also point out to my colleagues that I thought at least at last report from the administration it was a 50–50 chance that we were going to get the advance deficiency payments anyway. So I think that this action merely confirms what we hope will take place with the administration, but if we make a big fuss about it and we get into fighting like cats and dogs between corn and wheat, why I think that obviously we are hurting our chances.

Mr. MADIGAN. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. MOAKLEY). The gentleman from Illinois has 16 minutes remaining.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. BRUCE], a member of the Committee on Agriculture.

Mr. BRUCE. I thank the gentleman for yielding time to me.

Mr. Speaker, I would just like to talk about this particular provision, and I rise in support of the motion to strike of the gentleman from Illinois [Mr. MADIGAN].

Mr. Speaker, the House has seen some interesting developments in the last couple of weeks. We had a nontrade trade for Daniloff. We had a nonsummit summit over the weekend. We had a nonagreement agreement on arms control. Now we have a noninequity inequity.

We are talking about an advance payment to only one commodity. The chairman and the minority spokesman as we went through the 1985 farm bill told me on several occasions, when I would like to have done something special for corn growers or people in my district, they said, "No, we have to stay together. Every commodity is interconnected. If one commodity leave another commodity, it will be to the detriment of the farm bill as a whole, and the farm community must move together. All interests of agriculture must move together. No one should take special advantage." So throughout the 1985 farm bill, more than a year and a half, the chairman and minority spokesman told me, "Stay with the plan. Do what is fair with everybody, and then everyone will get their fair share of what comes out of this Congress."

We are interconnected. There is a balance between every commodity, whether it be wheat or corn or soybeans or rice or any other commodity. We work together, and right now we are trying to break that bond between commodities, and there will be a cost.

The cost that we have talked about here is a cost to the Treasury. We have said that so many dollars will be spent for wheat growers, and we cannot afford to give money to the corn growers because that is too much money. But the cost is not going to be measured in dollars to the Treasury, it is going to be in the cost to the agriculture community when we find a division between the corn growers and the wheat growers.

I think the wheat growers ought to take a look at this particular provision and draw back from it. Everybody would like to have an advance deficiency payment. Everyone would like to have some extra money this year. Corn growers and wheat growers have both had tough times and low prices, but you cannot turn around and say, "I want mine, and nothing for corn," because it drives a wedge between us. It is not going to be just the cost to the Treasury, it is going to be a cost between commodity versus commodity on this floor.

We ought to stick with the plan. We ought to stick with the agreements that we have made over a year and a half, that advance deficiency payments would go out equitably, fairly, and evenly between corn and wheat. No one would get special advantage, no one would be advantaged against the other, and now we have changed that.

The last couple of days, someone wants to say, "Let us give one commodity a special advantage," as Mr. DURBIN has indicated, a transition rule under the farm bill that says to one group, "You get a little something that somebody else does not."

No commodity should get special consideration. This advance deficiency payment should be defeated, and the vote should be with Mr. MADIGAN on his motion to strike.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I hate to see us get into an internecine battle between commodities, corn versus wheat, and I do not think that it is necessary. The fact of the matter is, this provision probably should have been in the 1985 farm bill, and it was not. It was put into this reauthorization. The chairman of the full committee did his best to make it applicable across the board for all commodities, and could not because of budgetary impact.

The wheat producers of this country, as well as the corn producers, need this provision desperately. Because of budget considerations, corn did not fare as well at this particular time as wheat, but that is no reason to deny the benefits to those needy wheat farmers that need these advance deficiency payments so desperately. We will just have to work all the harder next year to try to deal with the problems that the gentleman from Iowa [Mr. SMITH] talked about, to ensure that the corn producers are adequately protected, and this Member will do his best to ensure that.

So do not look at this as some sort of a Big Ten football battle between wheat versus corn. The fact of the matter is that both need help. Let us vote down the Madigan motion, and next year let us do our best to help the corn producers as well.

Mr. MADIGAN. Mr. Speaker, is it correct that I am entitled to close the debate?

The SPEAKER pro tempore. The gentleman is not correct. The gentleman from Texas [Mr. STENHOLM] has the right to close debate.

Mr. MADIGAN. Mr. Speaker, I ask unanimous consent to insert in the RECORD a letter from the Director of the Congressional Budget Office relative to the item of discussion before the House this morning.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The text of the letter is as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, October 14, 1986.

Hon. EDWARD R. MADIGAN,
Ranking Minority Member, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR CONGRESSMAN: At the request of the Committee staff, the congressional Budget Office has reviewed an amendment agreed to by the conferees on H.R. 4613 that would give the Secretary of Agriculture discretion to base the final 1986 crop feed grain deficiency payment of prices observed during the first five months of the marketing year. Currently, this final deficiency payment for corn and grain sorghum, the major feed grains, would be determined by the average market price observed during the entire crop year, which extends from September 1, 1986 through August 31, 1987, and the payment would be made during the first few months of fiscal year 1988. Changing the basis for determing the final deficiency payment rate would not change the size of the final payment but would cause it to be made during the spring of 1987. CBO has assumed that this discretion would be used, resulting in an estimated $2.8 billion increase in Commodity Credit Corporation outlays during fiscal year 1987 and a corresponding decrease during fiscal year 1988.

In the absence of an unequivocal policy statement from the Administration as to how it would implement this provision, CBO must make an assumption about how the Secretary of Agriculture would use the discretion provided in the amendment to develop an estimate of its effect on the budget. We have assumed that this discretion would be used. We believe that the financial sistuations of many farmers will not improve substantially by next spring and that the Department of Agriculture would find the opportunity to advance these payments quite attractive as a means of providing needed funds to farmers during planting time. Moreover, the conference agreement on H.R. 4613 would reuire the Secretary to use the five-month period for determining deficiency payments for wheat producers. The Administration might find it difficult to delay feed grain payments while making earlier wheat payments. We also believe that the Administration would find this shifting of outlays from fiscal year 1988 to 1987 useful in attempting to meet the 1988 deficit target required by the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be plesed to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in summary, I would like to make three points, the first of those being to reemphasize the remarks of the gentleman from Illinois [Mr. DURBIN] with regard to the fact that what we do if we do not strike this provision, this nongermane provision in the CFTC bill, is that we allow for one segment of American agriculture the discretion to determine whether or not they want to receive this money from the Government in 1986 under the terms of the existing Tax Code or in 1987 under the terms

of the new tax bill—a transition rule, as the gentleman from Illinois described it, for wheat growers only, and not for any other agriculture producers.

The second point that I would make is that if advance deficiency payments are calculated on a 5-month rather than a 12-month basis, I do not believe that one can say that that cannot have a budgetary impact, because in that first 5 months, as a result of the harvest, the market prices are going to be lower than they would be over the 12-month period of time, and as a result of the lower market price, the amount of the deficiency payment being made on that 5-month average is going to be greater, and thus I believe that there is a budgetary impact beyond the tax implications described by the gentleman from Illinois.

□ 1055

Finally, let me just reiterate that we made a decision when we wrote the farm bill in 1985 to live within the budget guidelines given us by the Budget Committee. One of the things required in order to do that was that we calculate the advance deficiency payments on a 12-month basis for the growers of all commodities entitled to receive those payments.

Now we are coming back in a bill that has nothing to do with the 1985 farm bill a fews weeks before the election and we are saying that for one segment of American agriculture, whether or not that segment happens to be in the drought stricken areas of this country, or in the flood plagued areas of this country, for one segment of American agriculture we are going to do a special deal a few weeks before the election. But for all other segments of American agriculture we are going to stick with the agreement that we made in 1985.

I do not think that bodes well for the future of working together on agriculture related matters in this assembly, and thus I would urge my colleagues to support the motion to strike.

Mr. Speaker, I yield back the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA] chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, again let me reiterate what I have stated before. If it had been technically possible, if it had been feasible to do for all of the commodities that was done in the other body, we would have done it in the conference.

I will have to cede the point that this is not the best way to legislate. But once having been done, we have no control over what the other body did and our control then is here with what we do now.

I find myself in a situation I think of a parent that has two children but he can only buy shoes for one. Shall he not buy for the one and leave the two barefoot, or should he buy for the one and hope that he can buy for the other down the line? That is about the situation we are in. Everything else I think is superfluous.

We worked together on the farm legislation. Our intent is to continue working together.

But I do not think that we can in effect punish one sector for the ingenuity of some of the Representatives by denying them what they request under the guise that we have not done it for all of the others. I do not think that is fair.

I wish that I could just step aside and let the House work its will. I will ask in all fairness that the House work its will, but I feel in my heart that I cannot say no to a farmer in need because we cannot help the others.

One at a time perhaps we can get to all and that will be done, and we will continue working toward that end.

Mr. STENHOLM. Mr. Speaker, Chairman DE LA GARZA has expressed those words that I might wish to add very, very well.

Mr. DASCHLE. Mr. Speaker, I rise in reluctant opposition to the motion offered by Mr. MADIGAN to strike the wheat deficiency payment provision from the legislation before us this morning. I say reluctantly not because I disagree with the Senate's decision to speed up the deficiency payments for wheat producers. I am reluctant only because my disappointment that the provision did not apply to corn producers as well.

The 1985 farm bill changed the procedure by which wheat and feed grain producers received deficiency payments. Instead of providing the entire deficiency payment based on a 5-month marketing period, the 1985 farm bill changed the calculation period to 12 months. This change could delay by 12 months as much as 50 percent of a producer's deficiency payment.

I have been advised that the House conferees sought the same treatment for corn producers that the Senate amendment afforded wheat producers. I strongly support returning to a 5-month calculation period. This change should apply to both wheat and feed grains, not just wheat as provided by the Senate amendment.

This administration has advocated a farm bill that depresses farm prices, and makes farmers totally reliant on Government payments. Yet, as the gentleman from Iowa, a member of the House Appropriations Committee considering a similar amendment, the administration adamantly opposed an acceptable compromise. This compromise would speed up deficiency payments for 1986–90 wheat and 1987–90 corn.

Mr. Speaker, I will oppose this motion to strike the wheat deficiency payment amendment from this legislation. Corn producers do not deserve less treatment, as the Senate provision provided, and this discrepancy should be eliminated in future legislation.

Mr. STENHOLM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MOAKLEY). The question is on the motion offered by the gentleman from Illinois [Mr. MADIGAN].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MADIGAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 162, nays 239, not voting 31, as follows:

[Roll No. 464]

YEAS—162

Anderson	Green	Obey
Archer	Gregg	Olin
Armey	Guarini	Oxley
Aspin	Gunderson	Packard
Atkins	Hamilton	Panetta
Bateman	Hansen	Parris
Bates	Hayes	Petri
Beilenson	Henry	Porter
Berman	Hiler	Price
Bilirakis	Holt	Pursell
Bliley	Hopkins	Quillen
Boehlert	Hubbard	Reid
Boggs	Hughes	Ridge
Boucher	Hyde	Ritter
Broomfield	Ireland	Rogers
Brown (CO)	Jacobs	Roth
Bruce	Jeffords	Roukema
Burton (IN)	Johnson	Rowland (CT)
Callahan	Kasich	Saxton
Carper	Kastenmeier	Scheuer
Carr	Kemp	Schroeder
Chappell	Kennelly	Schuette
Chappie	Kleczka	Schulze
Clinger	Kolbe	Schumer
Coats	Lagomarsino	Sensenbrenner
Cobey	Leach (IA)	Sharp
Coble	Lightfoot	Shaw
Coleman (MO)	Lipinski	Shumway
Conte	Livingston	Sikorski
Coughlin	Lott	Skeen
Courter	Lujan	Slaughter
Crane	Lungren	Smith, Denny (OR)
Daniel	Mack	Smith, Robert (NH)
Dannemeyer	Madigan	Snowe
Davis	Manton	Snyder
DioGuardi	Markey	Solomon
Dornan (CA)	Martin (IL)	St Germain
Dreier	Martin (NY)	Stump
Durbin	McCain	Tauke
Early	McCandless	Thomas (CA)
Eckert (NY)	McCloskey	Vento
Evans (IL)	McCollum	Visclosky
Fawell	McDade	Vucanovich
Fish	McKernan	Walgren
Florio	McKinney	Walker
Frank	McMillan	Waxman
Frenzel	Michel	Whitehurst
Gallo	Miller (CA)	Williams
Gekas	Miller (WA)	Wolf
Gibbons	Monson	Wortley
Gilman	Montgomery	Young (FL)
Gingrich	Myers	Zschau
Goodling	Nelson	
Gradison	Nielson	
Gray (IL)	Oberstar	

NAYS—239

Abercrombie	Andrews	AuCoin
Ackerman	Annunzio	Barnard
Akaka	Anthony	Barnes
Alexander	Applegate	Bartlett

Barton	Hall, Ralph	Ray
Bedell	Hammerschmidt	Regula
Bennett	Hatcher	Richardson
Bentley	Hawkins	Rinaldo
Bereuter	Hefner	Roberts
Bevill	Hendon	Robinson
Biaggi	Hertel	Roe
Boner (TN)	Hillis	Roemer
Bonior (MI)	Horton	Rose
Bonker	Howard	Rostenkowski
Borski	Hoyer	Rowland (GA)
Bosco	Huckaby	Roybal
Boulter	Hunter	Russo
Boxer	Hutto	Sabo
Brown (CA)	Jenkins	Savage
Bryant	Jones (NC)	Schaefer
Burton (CA)	Jones (TN)	Seiberling
Bustamante	Kanjorski	Shelby
Byron	Kaptur	Shuster
Chandler	Kildee	Siljander
Chapman	Kolter	Sisisky
Cheney	Kostmayer	Skelton
Clay	Kramer	Slattery
Coelho	LaFalce	Smith (FL)
Coleman (TX)	Lantos	Smith (IA)
Collins	Latta	Smith (NE)
Combest	Lehman (CA)	Smith (NJ)
Conyers	Lehman (FL)	Smith, Robert (OR)
Cooper	Leland	Solarz
Coyne	Lent	Spence
Crockett	Levin (MI)	Spratt
Darden	Levine (CA)	Staggers
Daschle	Lewis (CA)	Stallings
Daub	Lewis (FL)	Stangeland
de la Garza	Lloyd	Stark
Dellums	Loeffler	Stenholm
Derrick	Lowery (CA)	Stokes
DeWine	Lowry (WA)	Strang
Dickinson	Luken	Stratton
Dicks	Marlenee	Studds
Dingell	Martinez	Sundquist
Dixon	Matsui	Sweeney
Donnelly	Mavroules	Swift
Dorgan (ND)	Mazzoli	Swindall
Dowdy	McCurdy	Synar
Downey	McEwen	Tallon
Duncan	McGrath	Tauzin
Dwyer	McHugh	Taylor
Dymally	Meyers	Thomas (GA)
Dyson	Mica	Torres
Eckart (OH)	Miller (OH)	Torricelli
Edwards (CA)	Mineta	Traficant
Edwards (OK)	Mitchell	Traxler
Emerson	Moakley	Udall
English	Molinari	Valentine
Erdreich	Mollohan	Vander Jagt
Evans (IA)	Moody	Volkmer
Fascell	Moorhead	Waldon
Fazio	Morrison (CT)	Watkins
Feighan	Morrison (WA)	Weaver
Fiedler	Mrazek	Weber
Fields	Murphy	Wheat
Flippo	Murtha	Whitley
Foglietta	Natcher	Whittaker
Foley	Neal	Whitten
Ford (MI)	Nowak	Wilson
Frost	Oakar	Wirth
Fuqua	Ortiz	Wise
Garcia	Owens	Wolpe
Gaydos	Pashayan	Wright
Gejdenson	Pease	Wyden
Glickman	Penny	Wylie
Gonzalez	Pepper	Yatron
Gordon	Perkins	Young (AK)
Gray (PA)	Rahall	Young (MO)
Hall (OH)	Rangel	

NOT VOTING—31

Badham	Franklin	Moore
Boland	Gephardt	Nichols
Breaux	Grotberg	Pickle
Brooks	Hartnett	Rodino
Campbell	Jones (OK)	Rudd
Carney	Kindness	Schneider
Craig	Leath (TX)	Towns
DeLay	Long	Weiss
Edgar	Lundine	Yates
Ford (TN)	MacKay	
Fowler	Mikulski	

□ 1115

The Clerk announced the following pair:

On this vote:

Miss. SCHNEIDER for, with Mr. TOWNS against.

Messrs. BONIOR of Michigan, HUNTER, and SWINDALL, and Mrs. JOHNSON changed their votes from "yea" to "nay."

Messrs. VENTO, KASICH, BEILENSON, SHARP, PACKARD, BERMAN, CARR, and Mrs. JOHNSON changed their votes from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WILLIAMS. Mr. Speaker, on section 202 of the conference report on the Futures Trading Act of 1986, I intended to vote "nay"; however I inadvertantly pushed the "aye" button on the voting device. The record should show that I intended to vote "nay" and that my vote did not materially affect the outcome of the final tally which was 162 to 238.

(By unanimous consent, Mr. O'NEILL was allowed to speak for 1 minute out of order.)

WELCOME BACK, MRS. BURTON

Mr. O'NEILL, Mr. Speaker, I just want to say that one of our most beloved and dear Members of the Congress for whom we have so much respect, an outstanding member of the Rules Committee, has had a bout with a serious illness. All of us are so pleased to welcome her back today: SALA, we are very happy to have you back with us.

Mrs. BURTON of California. Mr. Speaker, will the Speaker yield?

Mr. O'NEILL. I yield to our beloved colleague.

Mrs. BURTON of California. I thank the Speaker, and I thank you all. Mr. Speaker, thank you so very much.

You do not know how I missed this House.

I just want to say that, although I am a Democrat, I had a Republican disease. I had the same thing as the President. However, I came through with flying colors just like he did.

I thank you all for your kindness, thank you.

The SPEAKER pro tempore (Mr. MOAKLEY). Are there any other points of order against this bill?

VACATING PROCEEDINGS BY WHICH SECTION 207 OF THE CONFERENCE REPORT ON H.R. 4613 WAS DELETED

Mrs. SMITH of Nebraska. Mr. Speaker, I ask unanimous consent to set aside and vacate the proceedings on the motion of the gentleman from North Carolina, [Mr. WHITLEY] to reject the Senate amendment to section 406 of H.R. 4613 that is now section 207 of the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

Mr. WHITLEY. Mr. Speaker, reserving the right to object, I want to advise the Members that earlier in the proceedings today I made a point of order against one of the sections of the bill. I do not have the language in front of me at this moment. My point of order was sustained, and I moved that that section of the bill be stricken. Speaker O'NEILL was in the chair at the time. He ruled that the motion had carried and announced that the section was stricken.

Subsequent to that time, the gentlewoman from Nebraska approached me and told me that the proceedings were somewhat hasty, that she was taken by surprise and did not have an opportunity to present arguments in opposition to my motion.

Mr. Speaker, I will not object to the gentlewoman's request with the clear understanding that I will have the same time to argue in support of my motion that I was originally assigned if the proceeding is vacated.

The SPEAKER pro tempore. If there is no objection and the proceeding is vacated, the Chair will resume as if nothing had happened so that the gentleman from North Carolina [Mr. WHITLEY] will be protected and will have his time.

Mr. WHITLEY. I thank the Chair.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Nebraska?

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. WHITLEY] is recognized for 20 minutes.

Mr. WHITLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge the House to vote for the motion to reject the nongermane Senate amendment included in the conference report on H.R. 4613, specifically section 207 of that conference report, which will convey approximately 173 acres of Nebraska National Forest to the Nebraska Game and Parks Commission to be added to a State park in Nebraska.

This provision is nearly identical to a Senate bill which passed in the other body and was referred to the Committee on Interior and Insular Affairs. That bill has not been reported nor considered by that committee. In addition, it contains matters which are clearly within the jurisdiction of the Committee on Agriculture and its Subcommittee on Forests, Family Farms, and Energy. Certainly this is a matter that should be duly referred to our committee, and that has not taken place.

Mr. Speaker, my objection to the inclusion of this nongermane amendment is not just the fact that it is not germane to this conference report or the fact that it has not been considered either by the Committee on Interior and Insular Affairs or the Com-

mittee on Agriculture, but it clearly violates a longstanding policy of the House and of the Committee on Agriculture that public lands belonging to the Forest Service that have been purchased with taxpayers funds are not conveyed to States, counties, municipalities or anyone else without consideration—either payment of fair value as determined by the Forest Service or equal value exchange. We made an offer to the other body to lower the price on this land, 173 acres of land, to approximately $30,000. I want the Members of this body to know that is all we are talking about, paying $30,000 for 173 acres of land.

The language in the conference report requires that the land be used for public purposes with a reverter in the event that it ceases to be used for public purposes.

We were clearly led to understand, and I want the Members to hear this and to understand it, we were clearly led to understand in no uncertain terms in the conference with the other body that, if we did not agree to the conveyance of this 173-acre tract of land to the State of Nebraska without consideration, that there would be no CFTC bill.

Now, I did not think that I ought to make that decision by myself, and we as conferees did not think we ought to make the decision ourselves. So we want to leave it up to you. Are we going to submit to that kind of a threat and agree to the conveyance of this land without consideration or else have our whole CFTC bill held hostage? That is the question. We have attempted to work with the people involved. The Forest Service has attempted to work with the people involved. The Forest Service has offered a very reasonable land exchange to the Nebraska Game and Parks Commission and has taken everything possible into consideration in getting the estimated value of this land down to $30,000.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. WHITLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, I think a very important point is being made here, that is that this legislation, a nongermane matter, is being inserted at the insistence of one of the other Members from the other body or other Members from that State. The fact is that the Department of Agriculture, the Forest Service, has the opportunity without legislation to make an exchange for their land.

□ 1130

So it really can be resolved without us getting our fingers in it; is that not correct?

Mr. WHITLEY. That is exactly correct.

Mr. VENTO. And on a fair market value.

The gentleman is making the point that in spite of the fact that the value has been lowered to something like $30,000, the other body insists on making it part of the legislative package before us; is that correct?

Mr. WHITLEY. That is correct.

Mr. VENTO. I think the gentleman is certainly within his rights and responsibilities. If we intend to deal in this body with every land exchange that is supposed to be dealt with administratively, we would be in a quagmire from which we would never emerge.

So I commend the gentleman for making the point, and I hope the House will uphold the point that the gentleman is making. I thank the gentleman.

Mr. WHITLEY. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, my final point is this. If we agree to this land conveyance I do not know where we will ever draw the line. The argument has been made that it is a special case, that this land will be used as a State park, that it is surrounded on three sides by the property of the State park, that there will be a reverter and all these things. Every single request we ever get to convey Forest Service land to a State, to a county, to a municipality, to a church, to a Boy Scout troop or for some other public purpose, every one of them is argued as a public purpose and the requestors want it to be done without consideration. If we convey this one without consideration, we will no longer have any basis for insisting that fair value as determined by the Forest Service be paid for Forest Service lands.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is the gentlewoman from Nebraska [Mrs. SMITH] opposed to the motion?

Mrs. SMITH of Nebraska. I am opposed to the motion, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman from Nebraska [Mrs. SMITH] is recognized for 20 minutes.

Mrs. SMITH of Nebraska. Mr. Speaker, I would like to call to the attention of this body that the 173 acres of land under discussion is in my district. It is in a very arid part of the country. The average annual rainfall is 14 inches. The value of this land is small. In fact, $30,000 that the Forest Service now estimates is a higher price than you could get for this land if you were to try to sell it out there.

But I want to point out that this land is surrounded on three sides by Chadron State Park. We need it very much, because we have no camping facilities and no parking facilities in the park, and this is an area that would be extremely helpful.

This land would be turned back to the Federal Government if we should cease to use it for the purposes stated to improve the Chadron State Park area. The Federal Government would retain all mineral rights and all oil rights to the area.

You know, 200,000 people visit this park each year. Many more would visit if there were any camping facilities or more parking facilities. This would greatly enhance the use of this land.

The Nebraska Game and Parks Commission does lease nearly all of the land that it uses. It does not feel that it has any lands that are suitable for exchange. We have tried to work out a compromise, and we do feel that this would not in any way damage the Federal holdings out there to turn this land over to the State of Nebraska to use for a public purpose for the period that it is needed.

Mr. Speaker, I urge the House to agree with this viewpoint.

Mr. Speaker, I yield back the balance of my time.

Mr. WHITLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in summary, I just want to say that I do not think we ought to be held up in this kind of a fashion in the first place; and in the second place, I have been the chairman of the Forest Subcommittee now for 4 years, and every request we get from a State, a county, a city, or a charitable organization to convey Forest Service lands to them is always a special request. I think if we breach precedent in this case and permit this land to be conveyed, or to actually direct the Secretary to convey it, without consideration, I think we are going to find this decision hard to live with in the future.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. WHITLEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. SMITH of Nebraska. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 274, nays 130, answered "present" 1, not voting 27, as follows:

[Roll No. 465]

YEAS—274

Abercrombie	Gaydos	Pashayan
Ackerman	Gejdenson	Pease
Akaka	Gibbons	Penny
Alexander	Gilman	Pepper
Andrews	Glickman	Perkins
Annunzio	Gordon	Petri
Anthony	Gradison	Price
Archer	Gray (IL)	Pursell
Armey	Gray (PA)	Rahall
Aspin	Green	Rangel
Atkins	Guarini	Ray
AuCoin	Gunderson	Reid
Barnard	Hall (OH)	Richardson
Barnes	Hall, Ralph	Rinaldo
Barton	Hamilton	Robinson
Bates	Hatcher	Rodino
Beilenson	Hawkins	Roe
Bennett	Hayes	Roemer
Berman	Hefner	Rogers
Biaggi	Henry	Rose
Boehlert	Hertel	Rostenkowski
Boland	Horton	Roth
Boner (TN)	Howard	Roukema
Bonior (MI)	Hoyer	Rowland (CT)
Bonker	Huckaby	Rowland (GA)
Borski	Hughes	Roybal
Bosco	Hutto	Russo
Boucher	Jacobs	Savage
Boxer	Jeffords	Saxton
Brown (CA)	Jenkins	Scheuer
Bruce	Johnson	Schroeder
Bryant	Jones (NC)	Schuette
Burton (CA)	Jones (TN)	Schumer
Bustamante	Kanjorski	Sensenbrenner
Byron	Kaptur	Sharp
Carper	Kastenmeier	Shaw
Chapman	Kennelly	Shumway
Chappell	Kildee	Sikorski
Chappie	Kleczka	Sisisky
Clay	Kolter	Skelton
Clinger	Kramer	Slattery
Cobey	LaFalce	Smith (FL)
Coble	Lantos	Smith (NJ)
Coelho	Lehman (CA)	Smith, Robert (OR)
Coleman (TX)	Lehman (FL)	
Collins	Leland	Snowe
Conte	Levin (MI)	Snyder
Conyers	Levine (CA)	Solarz
Cooper	Lipinski	Solomon
Courter	Lowry (WA)	Spratt
Coyne	Luken	St Germain
Crane	Manton	Staggers
Crockett	Markey	Stallings
Daniel	Martin (NY)	Stangeland
Dannemeyer	Martinez	Stark
Darden	Matsui	Stenholm
Daschle	Mavroules	Studds
de la Garza	Mazzoli	Swift
Dellums	McCandless	Swindall
Derrick	McCloskey	Synar
Dingell	McCurdy	Tallon
DioGuardi	McHugh	Tauzin
Dixon	McKernan	Thomas (GA)
Donnelly	McKinney	Torres
Dorgan (ND)	McMillan	Torricelli
Dowdy	Mica	Traficant
Downey	Miller (CA)	Traxler
Dreier	Miller (WA)	Udall
Dwyer	Mineta	Valentine
Dymally	Mitchell	Vento
Dyson	Moakley	Visclosky
Early	Mollohan	Volkmer
Eckart (OH)	Montgomery	Waldon
Edgar	Moody	Watkins
Edwards (CA)	Morrison (CT)	Waxman
Erdreich	Morrison (WA)	Weaver
Evans (IL)	Mrazek	Weber
Fascell	Murphy	Wheat
Fazio	Murtha	Whitley
Feighan	Natcher	Whitten
Fish	Neal	Williams
Flippo	Nelson	Wilson
Florio	Nowak	Wirth
Foglietta	Oakar	Wise
Foley	Oberstar	Wolpe
Ford (MI)	Obey	Wortley
Frank	Olin	Wright
Frenzel	Ortiz	Wyden
Frost	Owens	Yates
Fuqua	Packard	Yatron
Gallo	Panetta	Young (MO)
Garcia	Parris	

NAYS—130

Anderson	Hansen	Nielson
Applegate	Hendon	Oxley
Bartlett	Hiler	Porter
Bateman	Hillis	Quillen
Bedell	Holt	Regula
Bentley	Hopkins	Ridge
Bereuter	Hubbard	Ritter
Bevill	Hunter	Roberts
Bilirakis	Hyde	Sabo
Bliley	Ireland	Schaefer
Boggs	Kasich	Schulze
Boulter	Kemp	Seiberling
Broomfield	Kolbe	Shelby
Brown (CO)	Kostmayer	Shuster
Burton (IN)	Lagomarsino	Siljander
Callahan	Latta	Skeen
Carr	Leach (IA)	Slaughter
Chandler	Lent	Smith (IA)
Cheney	Lewis (CA)	Smith (NE)
Coats	Lewis (FL)	Smith, Denny (OR)
Coleman (MO)	Lightfoot	
Combest	Livingston	Smith, Robert (NH)
Coughlin	Lloyd	
Craig	Loeffler	Spence
Daub	Lott	Stokes
Davis	Lowery (CA)	Strang
DeWine	Lujan	Stratton
Dickinson	Lungren	Stump
Dicks	Mack	Sundquist
Dornan (CA)	Madigan	Sweeney
Duncan	Marlenee	Tauke
Durbin	Martin (IL)	Taylor
Eckert (NY)	McCain	Thomas (CA)
Edwards (OK)	McCollum	Vander Jagt
Emerson	McDade	Vucanovich
English	McEwen	Walgren
Evans (IA)	McGrath	Walker
Fawell	Meyers	Whitehurst
Fiedler	Michel	Whittaker
Fields	Miller (OH)	Wolf
Gekas	Molinari	Wylie
Goodling	Monson	Young (AK)
Gregg	Moorhead	Young (FL)
Hammerschmidt	Myers	Zschau

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—27

Badham	Gephardt	MacKay
Breaux	Gingrich	Mikulski
Brooks	Grotberg	Moore
Campbell	Hartnett	Nichols
Carney	Jones (OK)	Pickle
DeLay	Kindness	Rudd
Ford (TN)	Leath (TX)	Schneider
Fowler	Long	Towns
Franklin	Lundine	Weiss

□ 1150

Mr. PRICE and Mr. KOSTMAYER changed their votes from "yea" to "nay."

Messrs. ROBINSON, KRAMER, ANNUNZIO, PRICE, and DORGAN of North Dakota changed their votes from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Pursuant to clause 4, rule XXVIII, the conference report is considered as rejected.

The question is on the motion to recede and concur in the Senate amendment with an amendment consisting of the text of the conference report without section 207.

The gentleman from Texas [Mr. DE LA GARZA] is recognized to offer a motion.

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DE LA GARZA moves that the House recede from its disagreement to the Senate amendment to H.R. 4613 and concur therein with an amendment:

In lieu of the matter inserted by the Senate amendment, insert the text of the conference report on H.R. 4613 without section 207 thereof.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I wish to give special attention to the provision relative to meat inspection. This is essentially a bill the gentleman from Texas and I have been working on since 1984. It will save some $20 million in the next 3 years. It was passed out by the House Agriculture Committee. However, this bill has an identical provision added by the Senate.

I am pleased that it is backed by the Secretary of Agriculture. I have worked hard with all parties to reach a consensus here. Let me quote from the Secretary's letter:

The conference report on S. 2045, the Futures Trading Act of 1986 contains language amending the Federal Meat Inspection Act (FMIA). This amendment would allow the Secretary of Agriculture flexibility in determining the intensity of inspection in meat processing plants, coupled with strengthened authority to enforce the act for those plants which have shown a willful disregard of the law. The Department strongly supports this language amending the FMIA and urges your favorable consideration of it. However, I understand that concern has been expressed by some of your colleagues about the effect this amendment would have on inspection personnel and plant employees.

Let me clarify for you that this amendment will not result in any reductions in force of processing inspectors of the Food Safety and Inspection Service (FSIS). In fact, the only appreciable impact this amendment would have on processing inspectors would be the normal attrition rate which is 5.2 percent. This results from employees retiring or changing careers. FSIS does expect to transfer GS-8 and GS-9 processing inspectors to fill slaughter inspection vacancies as needed. However, no inspector will be shifted from processing to slaughter inspection if it results in downgrading the employee. Slaughter activities are not affected, as this amendment is directed towards processing operations only. Anticipated savings from enactment of this amendment will be used to further train employees, in addition to developing new testing methods detecting residues and undertaking

projects to enhance the service FSIS provides to federally inspected plants.

The Department does not believe enactment of this amendment will negatively affect employees of the plants themselves. In fact, it may encourage more processing plants to establish quality control systems which could result in the additional hiring of plant employees.

Mr. Speaker, not only will it better serve the public by modernizing inspection, the legislation also gives the Secretary the power to take prompt and effective action to withdraw inspection from those companies or individuals who pose a clear and present danger to the public health.

Since 1967, the Secretary has had the power to withdraw inspection from those who are unfit to remain in the business because of a criminal conviction. This sanction, withdrawal of inspection, serves to protect the public health by removing the criminal element from the meat industry. Also, it provides a strong deterrent to those who would disregard the law and so jeopardize the public.

The sanction has served its purpose well. Yet, in a few serious cases where an immediate threat to the public health exists, the Secretary currently lacks the ability to respond promptly. Under current law, withdrawal of inspection can only be imposed after an administrative proceeding which may take months or even years to complete. Meanwhile, the convicted company could still distribute meat to the American consumer and the convicted individual could retain control over the company. Such a delay is not in the public interest when the company or individual currently threatens the public health.

We were all horrified when we heard stories a few years ago of a company opening in the dead of night, with no Government inspector present, to slaughter diseased animals. The meat from such animals could then be distributed to the American consumer or to the School Lunch Program.

Such incidents served to convince both the administration and our committee and subcommittee that those few who would so jeopardize the public health must be dealt with quickly and severely. This legislation provides the Secretary with the extraordinary power to deal with such extraordinary situations.

First, the Secretary may now request a court order removing a convicted individual from an inspected establishment before the administrative proceeding to withdraw inspection is even begun. This authority is available when the individual's criminal conduct so strikes at the heart of the Meat Inspection Act that the court concludes the individual poses a direct and substantial threat to the public health.

Second, the Secretary may move to withdraw inspection before a conviction when prompt action is essential to the public health. When a company or individual has repeatedly failed to comply with the Federal Meat Inspection Act and such failure directly and substantially threatens the public health, the Secretary can now seek a Federal court order authorizing the withdrawal of inspection from the company or the suspension of the individual. Clearly, this power should only be invoked in a few grave instances. Whether such a sanction is appropriate in a given case will be a question for the Federal courts. Nevertheless, the power is available when there has been a criminal disregard of the law which poses a real danger of disease or even death.

Finally, the bill allows the Secretary to withdraw inspection when a company has harmed or threatened to harm an inspector. The Secretary currently has regulations authorizing withdrawal in such cases, this legislation would expressly provide such power.

In short, the legislation gives the Secretary the power to act promptly and forcefully to remove those who endanger the public. The legislation also provides the Secretary with other enforcement tools to deal with less serious violations.

Once again, the bill enhances the public health protection by giving the Secretary a tough set of new sanctions to deal with those who ignore the law. I urge my colleagues to support this legislation.

Another issue, Mr. Speaker, that was of particular interest to me in the CFTC reauthorization bill was leverage.

When the issue of leverage was debated in the subcommittee, it was clear that there were two very divergent points of view on how to handle this issue. Let me say that, as far as Vermont is concerned, until such time as we have futures for butter or cheese or nonfat dry milk, my State has absolutely no parochial interest in this. However, when I observed the impasse we seemed to be at on this issue in subcommittee, I offered what I believed to be a reasonable compromise. Apparently, the majority of the members on the Agriculture Committee agreed with me and the amendment passed by a 30-to-12 vote. It prevailed again when challenged on the floor July 16, 1986. I am pleased that the Senate, during the conference, has also accepted this middle ground.

We will now have the ability to protect customers who deal in this market while not perpetuating a business monopoly as we have had since 1984.

Mr. Speaker, it is a fair, reasonable solution to a longstanding problem and I am pleased to see it come to fruition.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, I rise in support of the conference committee report, and especially the grain quality part of it.

The Commodity Futures Trading Commission is an independent Federal agency that regulates futures trading. Futures trading grew out of agricultural origins and it now has expanded into a risk-sharing endeavor used not only by traders and dealers in traditional agricultural commodities, but also by the world's financial management sector as an essential financial management tool.

I would like to commend the Commission for doing an outstanding job of regulating the futures industry. Through the years, the Commission has matured into an effective regulator of the futures industry and watchdog for the public's best interest.

This conference report continues the basic structure of the futures regulatory system and maintains the industry-supported self-regulation program. The report provides for a 3-year reauthorization for the CFTC and adopts a reasonable compromise on the leverage issue.

The conferees also adopted an amendment to help tighten American grain quality standards. I am convinced that this provision will help improve the integrity of American grain and help boost overseas sales.

This provision forbids handlers from adding dockage or foreign material to grain. Grain exported from the United States is dirtier, wetter, and more infested with insects than our competitor's grain. U.S. grain starts out clean when it leaves the farm, but the practice of "blending" has forced foreign buyers to look elsewhere—costing our farmers millions of dollars in lost sales. Cleaning up American grain should help boost U.S. farm exports and put more money in our farmers' pockets.

According to a recent General Accounting Office report, the number of complaints about the quality of U.S. grain tripled between 1984 and 1985 and that still doesn't capture all such incidences of dissatisfaction. Foreign complaints about the quality of American grains have eroded the integrity of American grain exports. Complaints include protein content, infestation, excessive dockage, heat damage, and others.

It is my understanding that we are the only country that adds dockage, which may include broken kernels and nongrain material such as chaff and stems, to grain for export. This trash must be cleaned out at the buyer's expense. If a foreign buyer has a choice between purchasing Canadian grain or American grain which has been known to contain 25 percent more dirt, it's pretty obvious which grain will be bought.

Under the provisions adopted in the conference report, effective May 1, 1987, it will be illegal to recombine dockage or any other foreign materials with the grain from which it has been removed. In addition, no dockage or any foreign material can be added to grain. These provisions apply to both export and domestic shipments. To maintain quality standards, the bill does not prohibit the treatment of grain to kill insects.

I am convinced that the grain quality provisions in this conference report will help re-

store the confidence in American agricultural products so that we can recapture our hold on the world market and increase the sale of American farm products. When American grain arrives at foreign ports it should carry the same label of excellence it carried when it left the farmers' hand for the market. By restoring the standard of excellence, this legislation marks an important step toward reclaiming lost markets abroad.

I urge my colleagues to join with me in adopting this conference report.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume in support of the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I am very pleased that the entire House will now have the opportunity to consider the Processed Products Inspection Improvement Act. We have an opportunity to truly advance the public interest by modernizing and streamlining our inspection system so that it can do a better job of achieving its mission—protection of the public health.

My colleagues will address some other aspects of this legislation, the product of a number of hearings over the past several years in the Livestock, Dairy, and Poultry Subcommittee, and of a process in which we consulted with representatives of consumer interests, employee groups, the meat industry, and the administration. This legislation represents a good faith attempt to balance all legitimate concerns.

The essence of this amendment centers around the provision which provides the Secretary of Agriculture with greater flexibility in allocating inspection resources in meat processing establishments. Under current law, the Secretary's ability in this area is very limited, and he is locked into providing an outmoded cosmetic type of inspection program in any company which does any degree of meat processing for commerce, regardless of whether such activity is needed to protect the public. This weds the Department to methods of inspection which might have made sense at the turn of the century, but are now outdated. It also inhibits the Secretary's ability to target his resources to true areas of public health concern.

The bill would call for the allocation of these resources based upon three basic criteria—the nature and frequency of processing operations, the adequacy and reliability of processing controls and sanitary procedures, and the establishment's history of compliance with the requirements of the act. Under such a system, a plant with sophisticated controls, excellent sanitation, and a strong compliance record would not require the same investment of Government resources as would a plant which was not as strong in one of these areas.

Common sense alone recommends such an approach. In addition, the industry's increasing reliance upon modern processing control techniques has made a system which so heavily relies upon the five senses of an inspector somewhat outmoded. Therefore, a change is needed.

I want to be quick to point out that this is not a system of self-inspection. USDA will continue to monitor the meat-processing industry, on an ongoing basis, more closely than any other element of the food industry. The basic thing that changes is the Government's ability to sensibly allocate its resources based upon what it learns from the process of continuous monitoring. Any suggestion of decreased responsibility or a threat to the consumer is contradicted by—

The work of the House Agriculture Committee, which has evaluated this issue for several years and reported a bill which enjoys unanimous bipartisan support;

The views of the scientific community. In a 1985 report, the National Academy of Sciences endorsed this very approach to processing inspection;

The administration and the public health professionals at USDA who stand by their history of success in protecting the consumer and who want to enhance this record in the future;

The entire meat industry; from producer to packer to processor, which recognizes the essential need to maintain consumer confidence in its products;

USDA's own Office of Inspector General which, within the past month issued an audit report recommending scientifically based inspection; and

Consumer interests who participated in this process and who have strengthened this bill with a number of their suggestions.

Mr. Speaker, all of these factors demonstrate that we have carefully and conscientiously forged a broad consensus of support for this legislation. I welcome the House's endorsement of these efforts.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, while I have concerns with some aspect of the conference report, I tend to support it.

Mr. Speaker, I rise in support of the conference report on the Commodity Futures Trading Commission reauthorization, but I do have one serious concern about a provision in the report which I fear will come back to haunt us. While the positives of the bill outweigh the negatives the provisions authorizing the continuation of leverage transactions concern me greatly, as these transactions are extraordinarily susceptible to fraud and abuse, particularly with respect to less sophisticated investors. I do not believe that the CFTC has the wherewithall to properly regulate the leverage industry, and I fear that we are going to see, as a result of these provisions, a dramatic growth in off-exchange between transactions, including but not limited to leverage, which threaten the viability and integrity of this Nation's futures markets. Since the reauthorization period is only 3 years, we must continue necessary oversight during that relatively short period of time so that the public is adequately protected. But I want to leave adequate notice that I intend to "bird dog" this issue over the next 3 years, so that this issue will not be left to chance when the reauthorization period has expired.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from Tennessee [Mr. JONES].

Mr. JONES of Tennessee. Mr. Speaker, I rise in support of the conference report on H.R. 4613.

As far as this bill's provisions amending the Commodity Exchange Act are concerned, this has been a relatively calm reauthorization process for the Commodity Futures Trading Commission.

This bill reauthorizes the CFTC for 3 years and gives the agency a number of new enforcement and regulatory tools that will enable it to do a better job of regulating the commodities industry—one of the most dynamic and complex segments of our Nation's economy. I am especially pleased that the conferees have adopted a workable regulatory scheme for off-exchange commodities—known as leverage contracts. H.R. 4613 will finally settle the leverage issue without unfairly putting legitimate businessmen out of business or perpetuating the uncompetitive monopoly that now exists in this industry.

There are several provisions in this conference report that are unrelated to the reauthorization of the CFTC, but were adopted when H.R. 4613 was considered in the other body. I hope these provisions do not divert our attention from the basic purpose of this bill. The conferees have forged a compromise which I believe is worthy of broad support. I urge my colleagues to support the conference report.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of H.R. 4613 conference report, Commodity Futures Trading Act.

This bill contains two provisions that I feel are absolutely essential in providing quality products to our domestic consumers and to our overseas trading partners. The first has to do with meat inspection.

Meat inspection has not been updated since 1978 to any great degree. This provision will allow the USDA to better utilize the funds and personnel available.

It is no longer necessary or practical to have meat inspectors constantly on duty to observe secondary processing of meat products that were inspected at the slaughterhouse. This agreement gives the USDA discretion to determine the degree and frequency of meat inspections at meat-processing facilities. The inspections will be based on the reliability of a plant's monitoring system and its history of compliance with inspection requirements.

The USDA expects to save $62.9 million over the next 5 years. Thereafter it will save $27 million annually. This savings will not be at the expense of Federal meat inspectors and there is no evidence to indicate that plant employees will lose jobs as a result of this arrangement. As of September 1985, 7,256 plants were inspected by 8,122 Federal meat inspectors. Several of the 7,256 plants are processing plants that no longer will be required to have full-time, onsite meat inspectors but will only have periodic inspection of their equipment and techniques.

Another benefit of this measure is the strengthening of the USDA's enforcement powers and the enhancement of USDA's ability to remove violators from the meat industry.

In my district, in Ogallala, NE, Charles Blackstone is trying to open a frozen pizza business. He has not been able to do so because of a lack of available inspectors. With the passage of this provision he will be able to expedite the starting of his business. This is just one example of the benefits that could occur. In this time of depressed economics in rural Nebraska as well as other rural areas, any new business is truly a boon.

The second issue concerns the quality of grain exported by the United States. In 1986, 42 foreign countries stated complaints about the quality of grain that was shipped to them and so far in the 1987 marketing year 4 complaints have been stated.

We recently had a negative agricultural trade balance this summer for the first time in 27 years. Without the benefit of agricultural exports our trade balance would show even more red ink. Even though export sales as of mid-September are beginning to improve with wheat sales up about a fifth over a year ago, soybeans and rice up over 40 percent over a year ago, we need every possible method to help our farmers regain lost export markets. With the provisions in the 1985 farm bill and with improved grain quality our agriculture trade balance should start to improve as the remainder of our commodities become priced closer to world prices.

With this in mind our historical export surplus of agricultural products almost certainly will continue to help offset our overall huge trade deficit. This year the agricultural trade surplus will be the lowest in years; it will be only about $6 or $6.5 billion.

Net farm income in 1986 will be close to $29 billion, down from 1985's $30.4 billion, and way below the record level set in 1984 of $34.5 billion. The decline in net farm income is due primarily from a decline in the value of inventories. The lower value of farm products should help to stimulate the export market which in turn will increase the profitability of farming and ranching. However, lower valued farm products alone will not accomplish the goals of increasing our exports but must go hand in hand with improved quality.

The farm bill has brought the total direct Government payments to a record level of $11.4 billion. This increase in spending can at least be partly blamed on the many accusations and news coverage blasting the quality of grain that leaves our ports. When compared to the statements after visits by members of other countries import boards and grain companies stating how good the quality of our grain is at the farm but how disappointing the final products to reach their shores is, one can only conclude that reforms are needed.

This is just a small step in the right direction but at least it is a step. We must not fail our struggling farmers in their efforts to regain our traditional export markets. Now is the time to act.

Mr. DAUB. Mr. Speaker, I rise in support of this conference report even though I believe it stops short of what could be done for farmers in Nebraska.

This report moves up a portion of deficiency payments for wheat growers. This is sorely needed. These payments will assist wheat growers who have been fighting low prices, low overseas sales and low farm land values.

I am, however, disappointed that corn growers were not also permitted to be paid on the same schedule. Corn growers face similar financial situations and are no less deserving. I understand that there were technical problems in the conference to extending such benefits to corn growers. It is unfortunate that such legalities prevented corn growers from being assisted in this way.

This conference report also contains provisions to reduce the ability of exporters to recombine foreign matter in our grain exports. This has been a constant source of irritation and rightly so for farmers. They are seeing their product maligned and ignored in the world market as a result of this grain shipment contamination. This conference report will curtail such practices.

Finally, this bill contains provisions for a study of the effects of the cattle futures markets on cash prices. This is long overdue. Many cattlemen have come to feel that speculators in the futures markets are manipulating those markets to their detriment. These are questions that must be answered and the study contained in this bill should help us address the issue.

I urge the adoption of this conference report.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA].

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MADIGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and on the several motions just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4469

Mr. NEAL. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4469.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

SOLOMON BLATT, SR., POST OFFICE BUILDING

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate bill (S. 2452) to designate the U.S. post office to be constructed in Barnwell, SC, as the "Solomon Blatt, Sr., Post Office Building," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

□ 1200

Mr. WALKER. Reserving the right to object, Mr. Speaker, I do so for an explanation of what it is doing here and I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, I thank the gentleman for yielding to me.

I regret that we have to take even a few minutes of the valuable time of the House today for this purpose, but I am confident that with a few words of explanation the gentleman will understand why we are doing this.

The Senate bill, S. 2452, is a bill passed by the other body on September 29 to name a new post office in Barnwell, SC, after the late Mr. Solomon Blatt, Sr. Mr. Blatt was a distinguished public servant and we agree wholeheartedly that the Barnwell Post Office should be named in his honor.

My committee also agrees and so does the entire House of Representatives, because we passed virtually the same bill on July 28. For some reason, the other body then chose not to take up the House bill, but to pass its own version, the one before us now, S. 2452.

In a moment I will offer an amendment to the Senate bill striking all after the enacting clause and inserting in lieu thereof the text of the House bill introduced by the gentleman from South Carolina [Mr. DERRICK].

Also included in the amendment will be several House-passed bills that have been laying over there for a year or more because of an attitude that we find difficult to understand, that they will only pass these naming bills on the other side if a Member of the Senate takes an interest in them and decides that he wants the bills passed. They do not pass them because they come from the House.

We would like to send them a message that if they persist in living on a one-way street that we are going to back our truck right back down their street for so long as they want to play the game. Now, three of these bills that we passed here were to name buildings for our colleagues who died while serving here in the House; Ben Rosenthal, Gillis Long and Ed Forsythe, all of whom are well-remem-

bered by this House and well-respected.

In addition to that, there are other public servants who are memorialized in various bills introduced by Members of the House, passed by our committee and passed by the House, which so far have been ignored; so we are putting all those in the amendment back on the Senate bill and sending their bill back to them.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, there is nothing else in the bill other than the naming of a series, by the time the amendment is passed, other than a series of about eight post offices, is that correct?

Mr. FORD of Michigan. Seven or eight—eight.

Mr. WALKER. And there will be nothing else covered by the bill?

Mr. FORD of Michigan. That is right.

Mr. CLAY. Mr. Speaker, I rise in support of the amendment in the nature of a substitute to S. 2452 offered by my colleague, Mr. FORD of Michigan, which includes the langauge of seven other House-passed bills to name post offices after seven distinguished Americans.

I hope this action will pave the way in the Senate for a speedier process in the future for that body to consider the merits of House-passed bills which seek to honor distinguished individuals.

I am pleased that the bill, H.R. 284, which I introduced in the House on January 3, 1985 to rename the post office building at 3415 North Kingshighway in St. Louis the "Frederick N. Weathers Station of the U.S. Postal Service", is included in my colleague's amendment. H.R. 284 was approved by the House Committee on Post Office and Civil Service, by voice vote, on May 8, 1985, and by the full House of Representatives, under the suspension of the House rules, on June 3, 1985, by voice vote.

Because the legislation languished in the Senate, the former Postmaster General Paul Carlin, at my request, used his administrative discretion to rename the lobby of the post office in honor of Fred Weathers. With today's vote, Fred Weathers will receive the full honor of having the entire station named for him.

Fred Weathers served as Democratic committeeman for the 18th ward of St. Louis for 28 years, was the owner of St. Louis' oldest taxicab service, and for many years was active in the YMCA and the NAACP. Fred Weathers, known by many as the dean of black politicians in St. Louis, has contributed immeasurably to the improvement and betterment of St. Louis. His judgment, commitment to social justice, energy, and political astuteness are valued and well known to St. Louisians and others.

Today's House action, which hopefully will be agreed to quicky by the other body, will give Fred Weathers as well as the six other individuals the recognition that is long overdue.

Mr. ACKERMAN. Mr. Speaker, I rise in strong support of S. 2452, as amended. This measure would memorialize eight individuals who have made important contributions to their State and Nation.

One such honor is bestowed upon our departed colleague and friend, Benjamin S. Rosenthal. Both the 98th and 99th Congresses passed measures which would have named the Flushing Post Office in Queens County "the Benjamin S. Rosenthal Post Office Building." Unfortunately, for the past two Congresses the other body has chosen not to consider the legislation. This apathy toward noncontroversial House-passed measures warranted today's action. Therefore, I commend my distinguished chairman for his assistance in attempting to name the Queens postal facility after Ben.

The dedication of the Flushing Post Office to the late Representative Benjamin Rosenthal is a small but lasting tribute for a man whose wisdom, intelligence, and stature towered above the commonplace. Ben Rosenthal was my Congressman from the first time I voted. I was privileged to be elected to succeed him in this Chamber. He was honest and compassionate; a hard-hitting intellectual with great integrity, who gave politics a good name. Ben inspired countless young people, including myself, to embark upon public service. He set the standards which we all try to emulate.

Mr. Speaker, Ben Rosenthal was first elected to Congress in a special election in February 1962. A passionate supporter of the State of Israel, he was well known as a dedicated, committed, and effective Congressman. In the midsixties, he was one of the first to take a stand against the war in Indo-China, blazing a position that many others would soon join. By the end of that decade, he had won a reputation as a consumer advocate and a champion of social welfare.

Ben was patient, yet forceful and unswerving in his mission to aid the needy, handicapped, and aged. He was always one of the first to protect their interests. His positions on diverse issues, ranging from his opposition to the war in Vietnam, to his advocacy of civil liberties and consumer-protection reforms, were determined by his earnest desire to see that all of the world's people were treated fairly.

Mr. Speaker, for more than a decade. Ben Rosenthal served the people of central Queens from his district office in the Flushing Post Office, a historic building still used daily by Queens residents. By creating this memorial to him, we can pay a lasting tribute to a man whose memory will long remain entrenched in the hearts and minds of all with whom he came in contact.

Mr. Speaker, I urge my colleagues to support the passage of S. 2452.

Mr. LELAND. Mr. Speaker, I support the amendment offered by my colleague, WILLIAM FORD, chairman of the House Committee on Post Office and Civil Service, to S. 2452.

Over the past several months, members of the Committee on Post Office and Civil Service have made efforts to work with the other body to secure passage of several House-passed post office naming bills. Unfortunately, these efforts have, to date, been unsuccessful. Chairman FORD's amendment to S. 2452, in the nature of a substitute, inserts the language of the House-passed Solomon Blatt bill and includes seven House-passed bills, H.R. 284, H.R. 2558, H.R. 2563, H.R. 3242, H.R. 3331, H.R. 4782, and H.R. 633. This amendment is necessary in order to assure our Members that the other body will offer due consideration of these House-passed bills. It is difficult to comprehend the other body's position regarding these House-passed bills since all of them have merit and deserve proper and timely consideration. I completely concur with Chairman FORD's amendment and applaud his efforts to secure final passage of these bills.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office to be constructed on Main Street in Barnwell, South Carolina, shall be known and designated as the "Solomon Blatt, Sr., Post Office Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such post office is deemed to be a reference to the "Solomon Blatt, Sr., Post Office Building".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FORD of Michigan: strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SOLOMON BLATT, SR., POST OFFICE BUILDING.

The United States Post Office to be constructed on Main Street in Barnwell, South Carolina, shall be known and designated as the "Solomon Blatt, Sr., Post Office Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be deemed to be a reference to the Solomon Blatt, Sr., Post Office Building.

SEC. 2. FREDERICK N. WEATHERS STATION OF THE UNITED STATES POSTAL SERVICE.

The building located at 3415 North Kings Highway, St. Louis, Missouri, known as the Charles Nagel Station of the United States Postal Service, shall hereafter be known and designated as the "Frederick N. Weathers Station of the United States Postal Service". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Frederick N. Weathers Station of the United States Postal Service.

SEC. 3. BENJAMIN S. ROSENTHAL POST OFFICE BUILDING.

(a) IN GENERAL.—The United States Post Office Building located at 41-65 Main Street, Flushing, New York, shall hereafter be known and designated as the "Benjamin S. Rosenthal Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to

be a reference to the Benjamin S. Rosenthal Post Office Building.

(b) INSTALLATION OF A PLAQUE.—As soon as practicable after the date of the enactment of this Act, the Postmaster General shall install in such post office, in a place in open view to the public, an appropriate plaque indicating the designation of such post office as the "Benjamin S. Rosenthal Post Office Building".

SEC. 4. LESLIE NELSON SHAW, SR., GENERAL MAIL FACILITY OF THE UNITED STATES POSTAL SERVICE.

The United States Post Office Building to be constructed on the property on the northwest corner of the intersection of Florence avenue and Central Avenue in Los Angeles, California, shall be known and designated as the "Leslie Nelson Shaw, Sr., General Mail Facility of the United States Postal Service". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Leslie Nelson Shaw, Sr., General Mail Facility of the United States Postal Service.

SEC. 5. DEBRA SUE SCHATZ POST OFFICE BUILDING.

The United States Post Office Building located at 2909 Rogerdale, Houston, Texas, shall hereafter be known and designated as the "Debra Sue Schatz Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Debra Sue Schatz Post Office Building.

SEC. 6. EDWIN B. FORSYTHE POST OFFICE BUILDING.

The United States Post Office Building at East Second Street and Chester Avenue in Moorestown, New Jersey, shall hereafter be known and designated as the "Edwin B. Forsythe Post Office Building". Any reference in any law, regulation, map, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Edwin B. Forsythe Post Office Building.

SEC. 7. JUANITA CRAFT POST OFFICE OF SOUTH DALLAS.

The United States Post Office Building located at 2120 South Ervay, Dallas, Texas, shall hereafter be known and designated as the "Juanita Craft Post Office of South Dallas". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Juanita Craft Post Office of South Dallas.

SEC. 8. GILLIS W. LONG POST OFFICE BUILDING.

The United States Post Office Building being constructed at 1300 Belle Terre Boulevard in La Place, Louisiana, shall be known and designated as the "Gillis W. Long Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Gillis W. Long Post Office Building.

Mr. FORD of Michigan (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Speaker, as I have indicated, this is an amendment in the nature of a substitute which merely would strike all after the enacting clause and insert the language of the House-passed Solomon Blatt bill (H.R. 4852) and the following seven House-passed bills:

H.R. 284—to designate a post office in St. Louis, MO, in honor of Frederick N. Weathers, as introduced by our distinguished colleague, Hon. WILLIAM (BILL) CLAY.

H.R. 2558—to designate a post office in Los Angeles. CA, in honor of Leslie Nelson Shaw, Sr., as introduced by our distinguished colleague, Hon. MERVYN DYMALLY.

H.R. 2563—to designate a post office in Houston, TX, in honor of Debra Sue Schatz, as introduced by our distinguished colleague, Hon. MICKEY LELAND.

H.R. 3242—to designate a post office in Moorestown, NJ, in honor of the Honorable Edwin B. Forsythe, as introduced by our distinguished colleague, Hon. JIM SAXTON.

H.R. 3331—to designate a post office in Dallas, TX, in honor of Juanita Craft, as introduced by our distinguished colleague, Hon. JOHN BRYANT.

H.R. 4782—to designate a post office in La Place, LA, in honor of the Honorable Gillis W. Long, as introduced by our distinguished colleague, Hon. JOHN B. BREAUX.

H.R. 633—to designate a post office in Flushing, NY, in honor of the Honorable Benjamin S. Rosenthal, as introduced by our distinguished colleague, Hon. GARY ACKERMAN.

With the exception of H.R. 633 (the Ben Rosenthal bill), all of these measures were ordered reported by the Committee on Post Office and Civil Service. H.R. 633 was ordered reported by the Committee on Public Works, and I want to thank its eminent chairman, my good friend JIM HOWARD, for joining with me in this effort today.

Let me briefly review the records of the eight individuals whom the House believes should be honored.

Of course, we all know and treasure the records of our three late colleagues, Ben Rosenthal, Gillis Long, and Ed Forsythe. Volumes would be needed to summarize their achievements in the House, in their States, and in their communities. Sections 3, 8, and 6, respectively, of my amendment would memorialize their lives of public service.

Section 1 of my amendment would recognize the extraordinary achievements of Solomon Blatt, Sr.

Mr. Blatt, the "Speaker Emeritus" of the South Carolina House of Representatives, died on May 14, 1986, at the age of 91. He was one of South Carolina's greatest leaders and was one of the Nation's longest serving State legislators.

Section 2 of my amendment would honor the life and career of Mr. Frederick N. Weathers.

Known as the dean of black politicians in St. Louis, Mr. Weathers has contributed immeasurably to the improvement and betterment of the quality of life for all of that great city's residents. His judgment, his commitment to social justice, his energy, and his political astuteness are valued and well-known in his community, city, and State.

Section 4 of my amendment would honor the life and career of Mr. Leslie Nelson Shaw, Jr.

In addition to his achievements as a southern California civic and business leader, Mr. Shaw was the first black Postmaster of a large American city, having been appointed Postmaster of Los Angeles in 1963 by President Kennedy and serving in a distinguished manner in that position until 1969.

Section 5 of my amendment would honor Debra Sue Schatz, a 23-year-old Houston letter carrier brutally murdered while carrying out her official duties. This would be a fitting tribute to her in her home community, and would be a fitting reminder of the sacrifices of public servants everywhere.

Finally, section 7 of my amendment would recognize and honor the life and career of Juanita Craft.

A Dallas civic leader, a nationally renowned champion of civil rights, and the first black woman elected to the Dallas City Council the late Juanita Craft served the people of her city, her State, and her Nation for six decades.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. FORD].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. FORD of Michigan: Amend the title so as to read: "An Act to provide for the naming or renaming of certain buildings of the United States Postal Service.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON S. 2638, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1987

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 591 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 591

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes, all points of order against the conference report and against its consideration are hereby waived, and the conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR] for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 591 is the rule waiving all points of order against the consideration of the conference report on S. 2638, the National Defense Authorization Act for fiscal 1987.

Under the rules of the House, conference reports are privileged and are considered in the House under the 1-hour rule with no amendments in order. This rule waives all points of order against the conference report and against its consideration. In addition, the rule provides that when the conference report is called up for consideration, it shall be considered as having been read.

It should be emphasized that this is a bipartisan rule intended to ensure expedited consideration of the conference report on the defense authorization bill. The rule was reported by a unanimous voice vote, and I am not aware of any opposition to this rule.

Mr. Speaker, the conference report on S. 2638 resolves over 2,000 different items that were in dispute between both Houses with respect to the defense authorization. Among these were a number of important arms control issues, including a nuclear test ban, SALT adherence, the Asat, and funding for the strategic defense initiative.

In regard to weapons procurement, the conference agreement includes funding for another Trident submarine and full classified funding for the advanced technology bomber.

With respect to acquisition reform, the conference report strengthens "revolving door" legislation and creates new "whistleblower protections."

It also should be noted that the final version of S. 2638 provides for a 3-percent military pay raise, effective January 1, 1987.

Finally, my colleagues should be aware that the overall funding in the conference report tracks closely the budget authority and outlay figures provided in the budget resolution.

Mr. Speaker, while there may be differing views over specific provisions in the conference report on S. 2638, I am not aware of any opposition to this bipartisan rule which waives points of order against it. I urge my colleagues to adopt this rule.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule on the conference report on the Defense Authorization Act waives all points of order against the conference report and against its consideration. The House should not use a rule waiving all points of order on a regular basis.

In the Rules Committee, both the Republican and the Democratic members representing the Committee on Armed Services concurred in seeking this rule. The Rules Committee gave them what they requested.

Mr. Speaker, this rule will permit the House to proceed to complete action on what may well be the largest single authorization bill this session.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Missouri for yielding me this time.

Mr. Speaker, I rise, first of all, with a couple questions that maybe somebody from the Rules Committee can answer for me.

First of all, did the Rules Committee have before it the actual defense conference report at the time that this particular rule was approved?

Mr. Speaker, I yield to the gentleman from Ohio.

Mr. HALL of Ohio. No; it did not.

Mr. WALKER. In other words, Mr. Speaker, we are waiving points of order on a conference report that the Rules Committee did not even have before it at the time it was decided to waive the points of order; is that correct?

Mr. HALL of Ohio. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Ohio.

Mr. HALL of Ohio. Mr. Speaker, it really is a very unusual procedure for the Rules Committee to bring a conference report out like this. We very seldom ever do it. None of us relished the opportunity to present this rule or any of the rules on the conference committee at this late date, but because of it, because of the situation, because of the lateness of the session, it was felt that the conference committee agreement was forthcoming and it was felt that if we did not want to delay the House for more than 24 hours, possibly 48, that we needed to expedite this, so that was the reason for the rule.

I might say to the gentleman from Pennsylvania [Mr. WALKER] that at the time there was no opposition to it. The rule came out in a bipartisan fashion.

I cannot say that members of the Rules Committee are excited about this procedure, but it has been done before.

Mr. WALKER. Well, Mr. Speaker, I certainly understand the gentleman's point. I do understand that it is bipartisan. The fact that it is bipartisan, though, does not, it seems to me, negate that the problem that many of us as Members have is that we have the Rules Committee approving a rule here to waive points of order against a bill that they did not even have before them.

Can somebody explain to me what the points of order are that we are waiving? Do we know what it is?

For example, is the Budget Act being waived as a part of this particular procedure?

It would be helpful before we approve the rule to know whether or not by waiving all points of order what it is we are doing. As pointed out many times by liberal Members on the floor, this is the single largest bit of spending that the Federal Government does. It would be helpful to know just what it is we are doing here.

What points of order is it that we are waiving with this particular rule?

Mr. HALL of Ohio. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Ohio to explain what the points of order are that we are waiving here.

Mr. HALL of Ohio. Mr. Speaker, may I say to the gentleman from Pennsylvania [Mr. WALKER], what has been asked for and what has been granted by the Rules Committee is a waiver of clause 7 of rule XVI; clause 5(a) of rule XXI; clauses 2 and 3 of rule XVIII, and pertinent provisions of the Congressional Budget Act of 1974.

Mr. WALKER. So we are, in fact, waiving the Budget Act for this particular rule? We are taking the step of suggesting that as we make the largest expenditure that this Congress will make that we are going to do it in violation of the Budget Act; is that what I understand from the gentleman?

Mr. HALL of Ohio. The conference report ran afoul of the strict requirements of the Budget Act by retaining

the House position on the 3-percent military pay raise. The trouble is that even though the 3-percent pay raise was contemplated in the budget resolution, no new entitlement authority was allocated to the defense budget function; so as a result of that, there is a violation. Therefore, we need a waiver.

Mr. WALKER. So in order to raise pay for the military and so on, which is something which was one of the smoke and mirror gimmicks that was put in the Budget Act to try to bring down the budget, now we run afoul of the smoke and mirrors with this particular conference report?

I happen to think that that is a pretty good thing to be doing in the bill that is coming before us, but the fact is what it shows up is the phoniness of the budget process that we had out here, because that particular provision was put in there by way of smoke and mirrors to try to come up with figures that we knew were phony all along, so now we run afoul of that, so what we do is simply waive all points of order without the conference report even being before the committee and we run afoul of the Budget Act.

It seems to me that it is a lousy procedure. The gentleman has said that the Rules Committee does not like to do this on a regular basis. I would think that the Rules Committee should not do it at all is my concern.

I am extremely concerned about this business of having things come before the Rules Committee that are not even in print. They have no idea what is in these documents and we end up then waiving all points of order, which are the rules of this House for consideration.

Some of the things mentioned by the gentleman with regard to rule XXI are legislation in an appropriation bill or authorization without appropriation. There are all kinds of things that are involved in rule XXI.

I just think it is a lousy procedure and that this House ought not to be asked to consider legislation in this manner.

I know it is late in the session, but the fact is that a lot of damage gets done in this Congress late in the session. We do an awful lot of spending and that is where budgets are busted to an extent that is unbelievable to most Americans. I would suggest that this is a bad way to do business. I would hope that one way of sending a message that it is a bad way to do business would be to vote against this rule.

Mr. TAYLOR. Mr. Speaker, I yield 18 minutes to the gentleman from Alabama [Mr. DICKINSON], the ranking member of the Armed Services Committee.

□ 1215

Mr. DICKINSON. Mr. Speaker, I too share the frustrations of the gentleman who preceded me in the well as to the rule and as to really the entire procedure that we are having to go through here.

I was on the floor the other day when a member of the Committee on Appropriations brought up the fact that they got the authorization bill late, and if the authorizing committee had done their work in a timely manner, then we would not be jamming up the Appropriations Committee late in the session.

I thought at the time that it was an unusual comment, and certainly far off the mark, and I thought I would take a few moments here just to discuss it for the edification of the Members of the House.

I think that the root cause of most of our problems here is the Committee on the Budget. We have a Budget Committee that we hoped would expedite the business of the House and allow us to go about it in a orderly and businesslike manner: that they would set out for the authorizing committee what the budget levels should be. We would then mark to that figure, and then give that mark to the Appropriations Committee, which in turn would appropriate up to an amount not to exceed the authorized amount. That is the usual course of business.

It is not working. It has not worked. And because of the various time limits put on us, I think that it becomes more apparent with every passing day, and certainly with every passing Congress, that we are going to have to go to a 2-year budget cycle. You cannot do it in 1 year under today's circumstances.

The Budget Committee was scheduled to give us the budget resolution on April 15. Do you know when we got it? June 26, 2½ months late.

All of this time we are sitting there with our motors running, ready to take off and go, but we did not know what level to authorize to.

So we marked twice in the authorizing committee. Initially, we had to guess what the budget figure would be. When we finally got the figure from the Budget Committee, we had already met and done the best we could and, then learned that the final budget figure was different. Then, the Budget Conference with the Senate came back with a different figure, and we had to mark again to that new level.

All this time the clock was running, the calendar was turning, and we were getting closer and closer to adjournment. We will all remember, I am sure, that we were given a target adjournment date of the third of this month. We did not make that, so it moved to the 10th of this month. We did not make that, so here we are today on the 15th and we may not get out of here this week. Many of our colleagues have gone home; they have to get reelected.

We are now in a position where we have a conference report from the authorizing committee coming to the floor, we are now considering the rule under which the report will be considered. As a conferee I sat for 3 weeks conferring with our Senate adversaries on one side and our House adversaries on the other, and some Members who were even on the Armed Services Committee. This conference was the most convoluted and confused of any that I have participated in.

In my 22 years in Congress, there has never been a rule granted like ours. It not only provides conferees that are not on the Armed Services Committee, it mandates that these "exclusive" conferees have to agree with the outcome on their assigned area before the full bill can pass. It is certainly strange when conferees not on the Armed Services Committee can in effect dictate whether or not we will even have an authorization bill or a conference report. These extraneous conferees, many of whom are not interested in the defense bill, have no incentive to compromise on their limited areas of interest. They can say, "Take our position or you cannot get a bill." And this happened.

We had special conferees on arms control. We had special conferees on Davis-Bacon. We had one special conferee on the minority set-aside issue.

So now we are asked to approve a rule which waives points of order. At 10 o'clock last night after I had left, I got a call saying that all the issues were resolved and asking permission to submit it. Without even knowing the deficits in the final agreement, but having debated it for 3 weeks and knowing that this was all that we were going to get, I reluctantly signed the conference report on all but one action.

The point that I am trying to make is that we now have a convergence of several disturbing factors. First we have a rule that is waiving points of order on an authorization bill whose details are still a bit vague. We have only a press release put out by the committee staff describing what is in the authorization bill.

Following the authorization bill is the overall continuing resolution, which we have little or no chance to discuss. There will only be an hour debate on the entire continuing resolution, of which defense is just one part. We will not have time to discuss what the Appropriations Committee did in the continuing resolution, and now I, as the ranking member of the Armed Services Committee, do not know what is in the continuing resolution.

However, I have been told and have been shown language in the statement of managers that is absolutely contrary to what we agreed to in our authorization conference with the Senate on the T-46 trainer, which was one of the main sticking points and one of the main areas of discussion in the conference. Although the company cannot perform under the existing contract, I am told that the Appropriations Committee will provide fiscal 1987 funds and direct the Air Force to go foward with the program, even though in our conference with the Senate we agreed that there should be a competition and any plane could compete using last year's money, most disturbingly, the continuing resolution will direct the Air Force to enter into a new contract, because the company cannot meet the terms of the old contract. This is nothing more than a bailout.

□ 1225

The reason I am taking this time to go through this now is that there will not be sufficient time in the debate on the authorization bill conference report, and certainly not later on the continuing resolution.

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am pleased to yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am asking the gentleman a question because it is difficult, as you know, to find out precisely what is happening in these conferences, in the rules and the conference reports because they seem to be patched together behind closed doors. The question I have is whether the continuing resolution will embrace all aspects of the defense authorization conference report? We were told that if we did get a defense authorization bill conference report, then that would be folded into the continuing resolution. I am asking the gentleman as the ranking minority member on the Defense Authorization Committee whether that, in fact, is the case, and whether the gentleman has been assured that that is the case?

Mr. DICKINSON. The short answer is no, that is not the case. But in fairness to the other body and to the Appropriations Committee, let me say that we met with the appropriators last week who told us that if we did not complete action on our bill by that day, they would have to go forward and that all bets were off. The appropriators also said that if we did not give them the complete bill—not just the numbers, but the complete bill, including language, which we did not finish until 10 o'clock last night—then they were not bound by any agreements that we had tried to observe. And so, we have never seen a copy of the proposed continuing resolution language.

The T-46 is just one example of an appropriation that has not been authorized. I understand that the chairman of the Senate Armed Services Committee is going to offer an amendment to the continuing resolution that would take this language out. Then we will be back at it again and it will be sort of a game of ping-pong between us and the other body. They will take it out and we will say it has to be in.

Mr. COURTER. If the gentleman will yield further, you are talking about the trainer, the T-46?

Mr. DICKINSON. I am talking about the T-46 at the present time. There might be other things that we do not know about.

Mr. COURTER. What about the issues of the various arms control proposals which were a part of the defense authorization bill? You had an obligation to live within SALT II, no antisatellite testing, binary weapons, et cetera.

Mr. DICKINSON. All I can tell the gentleman is that we had a panel and a subpanel on arms control.

Mr. COURTER. I know that.

Mr. DICKINSON. And as the ranking member, I asked the gentleman from New Jersey who is presently speaking if he would represent the minority on that subpanel along with the gentleman from California [Mr. BADHAM]. I understand the gentleman was informed that there was a moving meeting like a moving crap game from here to there and that the gentleman was not always advised about that.

Perhaps the gentleman could enlighten the House about that. Were you advised or did you sit in or were you a party to the final conclusion on the arms control limitations?

Mr. COURTER. The answer to the question is no, I was not. There was, as the gentleman knows, what was called a special panel to deal with the arms control issues, as well as strategic defense, which was quite irritating because that particular panel was filled with Members of this body that are not members of the Armed Services Committee, who were in control of dealing with the issue of the proper level of funding for strategic defense.

But the point is that that special panel met once or twice without a great deal of progress. Then there was a subpanel to that panel of which I thank the gentleman from Alabama for appointing me to as well, so it was down to five, and then that did not meet at all. I do not think that subpanel met once, and then negotiations were taking place without myself, without minority representation that I know of at all. The gentleman is the ranking member of the Armed Services Committee, and I do not think the gentleman was apprised of any types of negotiations with respect to the arms control issues. I notice with a great deal of interest that the other body, when they were negotiating with the House, had representation from their majority and their minority. But when they looked on the negotiations with regard to arms control issues in this body, the House of Representatives, the minority was not represented at all.

So I read in the paper what happened. But of course we did not have any input in it at all.

Is the gentleman telling me that even if we pass this rule and pass the conference report on the defense authorization, that the continuing resolution may not reflect at all the work of the Armed Services Committee?

Mr. DICKINSON. That is exactly my understanding.

I now see the chairman of the Armed Services Committee on the floor, the gentleman from Wisconsin [Mr. ASPIN]. He is on the floor and has been here during the course of my remarks. If he would like to rise in reply or a refutation of anything I have said, I would be glad to yield to him.

He declines to rise, so evidently he agrees with me.

I will tell you, trying to keep up with the panels that were meeting and the product that they came up with, as I said, it was sort of like a floating crap game. You did not know exactly where it was going on, and you did not know whether you could get in on that game or not.

Now getting back to the original point that I tried to make, talking about the timing, the House budget resolution was supposed to be reported on May 15. We made our first mark on June 26 to try to anticipate what it would be. The budget conference was April 15 and it did not come out until the same date, June 26. Then we went back and made our second mark on July 25, which passed on August 15.

So I do not think we are going to change anything here on the floor at this moment. But if there is one point that I would like to make in all of this, it is that under the rules and under the procedures we follow here in the House you cannot do what is required of you by waiting for the Budget Committee, which comes out 2 months late with its mark, and then have to hurry and complete our much so the Appropriations Committee will have an opportunity to appropriate according to what we have done. We are being squeezed on both ends.

So we have labored all year to come up with a bill, and we have sat for 3 weeks with the other body to come up with a conference report. Then later today comes a continuing resolution by the Appropriations Committee that ignores what we have been working on

all year, and we will not even have an opportunity, to discuss the changes, to know what is in the bill, to get at them by way of striking or deleting or amending, because the rule is going to preclude those changes. So the whole process winds up to sort of a nullity so far as the House Armed Services Committee is concerned, unless you happen to be on the inside and made some sorts of deals, but unfortunately we cannot all be there.

I thank the gentleman for yielding me this time.

□ 1235

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 250, nays 159, not voting 23, as follows:

[Roll No. 466]

YEAS—250

Abercrombie	Chapman	Florio
Ackerman	Chappell	Foglietta
Akaka	Clay	Foley
Alexander	Coelho	Ford (MI)
Anderson	Coleman (TX)	Ford (TN)
Andrews	Collins	Frank
Annunzio	Conte	Frost
Anthony	Conyers	Fuqua
Applegate	Cooper	Garcia
Aspin	Coyne	Gaydos
Atkins	Crockett	Gejdenson
AuCoin	Daniel	Gibbons
Barnard	Darden	Gilman
Barnes	Daschle	Glickman
Bateman	de la Garza	Gonzalez
Bates	Dellums	Gordon
Bedell	Derrick	Gradison
Beilenson	Dicks	Gray (IL)
Bennett	Dingell	Gray (PA)
Bentley	Dixon	Guarini
Berman	Donnelly	Hall (OH)
Bevill	Dorgan (ND)	Hall, Ralph
Biaggi	Dowdy	Hamilton
Boggs	Downey	Hatcher
Boland	Durbin	Hawkins
Boner (TN)	Dwyer	Hayes
Bonior (MI)	Dymally	Hefner
Bonker	Dyson	Hertel
Borski	Early	Hillis
Bosco	Eckart (OH)	Hopkins
Boucher	Edgar	Horton
Boxer	Edwards (CA)	Howard
Brown (CA)	English	Hoyer
Bruce	Erdreich	Hubbard
Bryant	Evans (IL)	Huckaby
Burton (CA)	Fascell	Hutto
Bustamante	Fazio	Jenkins
Byron	Feighan	Johnson
Carper	Fish	Jones (NC)
Carr	Flippo	Jones (TN)
Kaptur	Neal	Solarz
Kemp	Nelson	Spratt
Kennelly	Nowak	St Germain
Kildee	Oakar	Staggers
Kleczka	Oberstar	Stallings
Kolter	Obey	Stark
Kostmayer	Olin	Stenholm
LaFalce	Ortiz	Stokes
Lantos	Owens	Stratton
Leath (TX)	Panetta	Studds
Lehman (CA)	Pease	Swift
Lehman (FL)	Pepper	Synar
Leland	Perkins	Tallon
Levin (MI)	Pickle	Tauzin
Levine (CA)	Price	Thomas (GA)
Lipinski	Rahall	Torres
Livingston	Rangel	Torricelli
Lloyd	Ray	Towns
Lowry (WA)	Reid	Traxler
Luken	Richardson	Udall
Manton	Robinson	Valentine
Markey	Rodino	Vento
Martinez	Roe	Visclosky
Matsui	Roemer	Volkmer
Mavroules	Rogers	Waldon
Mazzoli	Rose	Walgren
McCloskey	Rostenkowski	Watkins
McCurdy	Roukema	Waxman
McDade	Rowland (GA)	Weaver
McHugh	Roybal	Wheat
McKinney	Russo	Whitehurst
Mica	Sabo	Whitley
Mikulski	Savage	Whitten
Miller (CA)	Scheuer	Williams
Mineta	Schumer	Wilson
Mitchell	Seiberling	Wirth
Moakley	Sharp	Wise
Mollohan	Sikorski	Wolpe
Montgomery	Sisisky	Wright
Moody	Skelton	Wyden
Mrazek	Slattery	Yatron
Murphy	Smith (FL)	Young (AK)
Murtha	Smith, Robert (OR)	Young (MO)
Natcher		

NAYS—159

Archer	Gunderson	Morrison (WA)
Armey	Hammerschmidt	Myers
Bartlett	Hansen	Nielson
Barton	Hendon	Oxley
Bereuter	Henry	Packard
Bilirakis	Hiler	Parris
Bliley	Hughes	Pashayan
Boehlert	Hunter	Penny
Boulter	Hyde	Petri
Broomfield	Ireland	Porter
Brown (CO)	Jacobs	Pursell
Burton (IN)	Jeffords	Quillen
Callahan	Kanjorski	Regula
Chandler	Kasich	Ridge
Chappie	Kastenmeier	Rinaldo
Cheney	Kolbe	Ritter
Clinger	Kramer	Roberts
Coats	Lagomarsino	Roth
Cobey	Latta	Rowland (CT)
Coble	Leach (IA)	Saxton
Coleman (MO)	Lent	Schaefer
Combest	Lewis (CA)	Schneider
Coughlin	Lewis (FL)	Schroeder
Courter	Lightfoot	Schuette
Craig	Loeffler	Schulze
Crane	Lott	Sensenbrenner
Dannemeyer	Lowery (CA)	Shaw
Daub	Lujan	Shelby
Davis	Lungren	Shumway
DeWine	Mack	Shuster
Dickinson	Madigan	Skeen
DioGuardi	Marlenee	Slaughter
Dornan (CA)	Martin (IL)	Smith (IA)
Dreier	Martin (NY)	Smith (NE)
Duncan	McCain	Smith (NJ)
Eckert (NY)	McCandless	Smith, Denny (OR)
Edwards (OK)	McCollum	Smith, Robert (NH)
Emerson	McEwen	Snowe
Evans (IA)	McGrath	Snyder
Fawell	McKernan	Solomon
Fiedler	McMillan	Spence
Fields	Meyers	Strang
Franklin	Michel	Stump
Frenzel	Miller (OH)	Sundquist
Gallo	Miller (WA)	Sweeney
Gekas	Molinari	Swindall
Gingrich	Monson	Tauke
Green	Moorhead	Taylor
Gregg	Morrison (CT)	Thomas (CA)
Traficant	Walker	Wylie
Vander Jagt	Weber	Yates
Vucanovich	Whittaker	Young (FL)
	Wolf	Zschau
	Wortley	

NOT VOTING—23

Badham	Goodling	MacKay
Breaux	Grotberg	Moore
Brooks	Hartnett	Nichols
Campbell	Holt	Rudd
Carney	Jones (OK)	Siljander
DeLay	Kindness	Stangeland
Fowler	Long	Weiss
Gephardt	Lundine	

□ 1245

Messrs. MICHEL, WORTLEY, and YATES and Mrs. MEYERS of Kansas changed their votes from "yea" to "nay."

Mr. COELHO and Mr. SYNAR changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ASPIN. Mr. Speaker, pursuant to House Resolution 591, I call up the conference report on the Senate bill (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Pursuant to House Resolution 591, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of yesterday, October 14, 1986.)

POINT OF ORDER

Mrs. SCHROEDER. Mr. Speaker, I rise to make a point of order.

The SPEAKER pro tempore. The gentlewoman from Colorado will state her point of order.

Mrs. SCHROEDER. Mr. Speaker, under the rule my understanding is that if neither of the gentlemen are opposed to the bill, and as I am opposed to the bill, I am entitled to one-third of the time.

Mr. Speaker, I would like to demand 20 minutes of the time.

The SPEAKER pro tempore. Is the gentleman from Alabama opposed to the bill?

Mr. DICKINSON. Mr. Speaker, I reluctantly oppose it. I do oppose it.

The SPEAKER pro tempore. The gentleman opposes the bill; therefore the gentleman is entitled to the time.

The gentleman from Wisconsin [Mr. ASPIN] will be recognized for 30 minutes, and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what we are bringing up before us here is the conference report on the Defense Department, DOD authorization bill for fiscal year 1987.

I would at the outset like to compliment a number of the people who have been involved in putting together this conference report. Let me first of all compliment the ranking minority member, the gentleman from Alabama, Mr. DICKINSON. Let me also compliment the majority whip, Mr. TOM FOLEY, who was terribly helpful in putting the bill together, and to compliment Mr. "NICK" MAVROULES, the gentleman from Massachusetts who worked long and hard putting together the procurement reform package, and all of the subcommittee members and the ranking minority members of each of the subcommittees in putting together the negotiations that went into putting this bill before us.

I would like to outline the major issues in this bill and then let the general debate take care of the specifics if anybody has particular questions.

Basically on the issue of the dollars, the dollars in this conference report is a split between the Senate position and the House position. The position of the other body was $295 billion in budget authority, the House position was $286 billion in budget authority. We split the difference and ended up with $291 billion in budget authority, which is under the budget resolution as passed by the House and so is consistent with the budget resolution.

The bill contains some very, very important procurement reforms and some procurement reform issues. The bill contains some very important items for the security of the country that all people, I think, Democrats and Republicans, support; a 3-percent pay raise, funding for Midgetman, and other issues.

Let me talk just a little bit about the arms control provisions because the arms control provisions also apply to the continuing resolution and are an important part of what was agreed to.

The House had in its bill that we passed here a lot of very, very important and far-reaching arms control proposals.

We had an amendment that would have bound the President to stay within the limits of SALT II. We had a testing moratorium that required the Soviets to comply and to go along with and comply with certain verification procedures but would have required no testing above 1 kiloton beginning January 1.

□ 1300

We had a $3.1 billion, a fairly low level of funding, for SDI. We had a ban on chemical weapons testing, and we had a continued ban on the testing of ASAT weapons as long as the Soviet Union continues to abide by the ASAT tests.

We got into the negotiations on those issues, and negotiations were proceeding as normal negotiations ordinarily do. You could see some give on both sides and the process was going along and the negotiations were taking place.

All of a sudden it was announced that the President was going to meet with the Soviet leader in Iceland and the whole tenor of the discussions on the arms control negotiations changed dramatically. Senator WARNER called and said that some of the agreements on ways to resolve these issues, some of the proposals that he would have been willing to entertain before this announcement of the summit, he was no longer willing to entertain. In fact, for about a week the whole discussion on the arms control provisions just kind of ground to a halt.

At the end of last week, it was decided among the House leadership on the Democratic side and a number of people met, and the group decided that what we would do would be to go ahead and make a deal with the Senate on these five issues. It was by no means a 50–50 cut of those issues. I would say it was more like 60–40, maybe 63–35, in favor of the Senate position on those issues. But it was the decision of the leadership that, given the situation that the President was going to an important meeting with the Soviet leader over the weekend, it was important to get these issues behind us and send the President off without these issues unresolved and still waiting his return. So a compromise was reached which did not fill in all the gaps, but in fact structured the outcome in ways that had the broad outline. The broad outline was that we in fact back off on our binding language on SALT II and accepted sense-of-the-Congress language in the resolution. We backed off of our testing moratorium and, in fact, accepted in the interest of going forward with the threshold test ban and the peaceful nuclear exchange treaties and a pledge to begin negotiations toward a CTB.

We did keep the ASAT moratorium. We split the difference on the SDI funding. And we said on the chemical issue we would go ahead with the 155 shell, but we would postpone on the Bigeye. And that was in essence what happened.

The issue was rejoined when we came back after the weekend, and there were several minor issues left to fill in the blanks. One was the issue of the language on the SALT II agreement What we had decided was to back away from the binding prohibition to violate SALT II, and go instead for language. The question was: What language should there be in there? The details were to be worked out on the chemical issue, and the details were to be worked out on issues of MX and Midgetman funding.

We resolved those issues finally yesterday, and we resolved an issue that I think goes toward what most people in favor of those provisions would have liked on the SALT II language. It is unambiguous language that it is the sense of Congress to the President that the United States shall stay within the SALT II sublimits, provided the Soviet Union does likewise.

On the chemical issue we said we will go ahead and produce the 155 shell of binary chemical weapons, but that the production of the Bigeye would be delayed for 1 year. Current law, for example, says no production of Bigeye before October 1, 1986, no final assembly of Bigeye before October 1, 1987. Both of those dates are bumped 1 year. The language in the bill before you says no production of Bigeye before October 1, 1987, and no final assembly before October 1, 1988.

On the final issue we did go ahead and have almost full funding for the Midgetman, and the number of MX missiles was the House position that we would build 12 MX spare missiles instead of the 21 that the Senate had.

In essence, that is the agreement before you. I would say it is a bill that we have before us which is a good bill. Under the circumstances, I would say it is probably a very good bill.

Mr. Speaker, from our markups in committee in the spring, through our consideration in this Chamber in the summer, to our deliberations in conference with the other body in the fall, this bill has required a lot of hard work from a lot of people. I would like to take a moment, however, to single out the team of lawyers from the Office of Legislative Counsel who helped us give clear statutory expression to the will of the Congress. These professional drafters—Bob Cover, Joe Womack, Liz Powell, and Sherry Howman, together with Hugh Evans for the other body—worked 20-hour days on end during each of the seasons through which this bill passed. No one contributed more to its production for our consideration today. I know these legislative counsel have the heartfelt thanks of the Armed Services Committee; I thought they also should receive the recognition of the House.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, first of all, I would like to commend the gentleman for his effective bargaining in the conference. I was very proud of the way the gentleman bargained.

But I would hope that the House would understand the situation on the Bigeye. Whereas we said we would hold back production, the Senate has put in $90 million to proceed with the facilities in order to produce the bomb. It will take 2 years to build the facilities. So the reality is that, whereas we say we have done something, we have really done nothing in terms of delaying the Bigeye more than it would have been if we had done nothing.

So I hope we will not be fooled by what was done on the Bigeye. In my opinion, it was not according to the agreement that was made.

Mr. ASPIN. Mr. Speaker, I think the important thing about the Bigeye is that it is available to be revisited by the House and the Senate in legislation again next year. I think that when we said what we were trying to do was to go ahead with the 155 and delay the Bigeye, the main thing is that it is again available for the people to review the issue, and the House, I am sure, will revisit that issue.

Mr. BEDELL. Mr. Speaker, if the gentleman will yield, I guess the objection I have is that, at least in my opinion, the Senate did not live up to the agreement as it was written in the letter that they provided us and as it was our understanding of the agreement.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I wish to commend the gentleman for his leadership on this bill. It has been a very difficult and arduous task. Having been on the conference committee and sat through the many hours, I understand the many problems, and I think the gentleman did an admirable job in the leadership on behalf of the House.

This is, in my opinion, an excellent bill. In a compromise, we all know there are going to be some very strong pluses and some red lights that cause some concern.

I wish to point out the major step that was made in this bill in restructuring the Special Operations Forces. The thanks goes to the gentleman from Virginia [Mr. DANIEL]. I rode shotgun on this issue in trying to keep it parallel, which we were able to do, with the reorganization bill that we passed earlier. I think that is a step in the right direction which will not be headlines, but which will be a very, very major step toward security.

One question concerning a concern, and this is one I am sure we did the best we could. But if the gentleman would look into the crystal ball and see what he can see in the future regarding the O&M, I am concerned about the fact that the O&M was not what we thought it should have been. I would appreciate the gentleman's comments on that.

Mr. ASPIN. Mr. Speaker, I would like to respond to the gentleman from Missouri. As the gentleman knows, in conference we would have liked to have given more to the O&M account than we did. The reason we ended up cutting it was it became clear that the appropriations conference, which was running parallel to ours, was not going to fund O&M up to our fully authorized level, so we figured we might as well go down to their level and use the money for something else. But it was clearly the concern of all of the conferees, Senate and House, Republican and Democrat, that we were coming up short on the O&M funding in this year's budget.

Mr. SKELTON. I am sure we are going to have to revisit this in the days ahead.

Mr. ASPIN. Mr. Speaker, I reserve the balance of my time.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in looking at this bill, I have finally come to the conclusion that I prefer not to support it, even though I recognize that after 3 weeks in conference with the Senate, this was the best we could do. I have to conclude that the bill has three parts: the good, the bad, and the ugly.

□ 1310

There is some good in here. The budget authority came out at $291.9 billion. This is essentially the same as my amendment level which failed on the House floor, but that is what we offered in committee and it passed. I think that is a reasonable level.

The defense programs were left essentially intact. Because of higher budget authority we were able to fund most of the weapons systems at a reasonably efficient production and protect vital research and development programs.

On the arms control agreement, we did not get what the committee felt that we needed but there was a give and take. I think we can live with the final product. As has been explained by my chairman, on the chemicals we split the difference. We eliminated the Bigeye bomb but went forward with the 155 howitzer. We eliminated the language in there requiring that before any could be removed from Europe that something had to be put in its place.

As to the Comprehensive Test Ban Treaty and the SALT language, I think the chairman has covered that pretty well. It was a fair exchange and fair deliberation where both sides felt cheated but both sides felt like they had enough to support it.

The procurement reform package, like arms control, was a fair compromise. Some of the major compromises with the Senate were: To establish an Under Secretary of Defense for Acquisition which was recommended by the Packard Commission which I recommended: work measurement, which preserved the concept without imposing burdensome data reporting requirements, the revolving door policy, which puts limitations on employing people from both the Government civilian or the military side that had worked on programs to go to work for defense contractors on the same programs. I think that was fair.

Then there was the minority set-aside provision. The Members of the House will remember that we had a rather heated debate on the floor and in the committee. We offered a 5-percent set-aside as a goal to achieve to give the minorities in this country an opportunity to share in defense contracts, whether it be procurement or research and development or military construction. It was not our intent to limit it to every segment of spending but across-the-board. This was not accepted by the House, which put a 10-percent mandatory level for set-asides when an amendment was offered on the floor.

We have debated this long and hard. Let me say to the Members that I think Mr. DELLUMS did an outstanding job in representing the House position. So did Mr. SAVAGE, whose amendment it was to increase the goal from 5 to 10 percent. They were reasonable; they were willing to work toward a conclusion that all could live with. We did this. Their positions were not set in concrete. As a result, we came out with a very fair and workable conclusion. We have a target of 5 percent to run for 3 years. It cuts across-the-board, and it is something that we can work toward. If it cannot be realized then the Secretary is to come back and tell us why it cannot be realized. But it does not tie his hands and mandate that he absolutely achieve a particular percentage. It says this is a target that is reasonable and fair.

Mr. Speaker, I do want to commend the gentleman from California, the chairman of the Military Construction Subcommittee, Mr. DELLUMS, and Mr. SAVAGE for their work.

Mr. MITCHELL. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Maryland.

Mr. MITCHELL. I thank the gentleman for yielding to me.

Mr. Speaker, I appreciate the efforts of the gentleman on behalf of the set-aside. I want to be clear: You are indi-

cating it is a target. It is not a mandated set-aside at 5 percent?

Mr. DICKINSON. That is correct.

Mr. MITCHELL. Then, to follow up on that, under almost any circumstance that target could be not reached or denied; is that correct?

Mr. DICKINSON. No. Well, you say denied. To deny it would be an intentional act on the part of the Secretary of Defense and he does not have the right to do that. He is directed to work toward this goal, but it does not say that he must, under pain of penalty, achieve this goal within a particular time. It says this is desirable; he is directed to work toward it. If he cannot achieve it, then he is to report back to us and tell us why he was unable to achieve it so that we can work to remedy that.

Mr. MITCHELL. I thank the gentleman for his explanation.

Mr. DICKINSON. Mr. Speaker, so much for the good.

As to the bad, we have labored rather extensively here on the House floor to get an amendment in to raise the threshold of Davis-Bacon, which is a requirement dealing with labor contracts on construction. It was made in order and it was ruled in order as germane to military construction on military bases.

Mr. Speaker, this is the bad part. By virtue of the capricious actions of some, we were under time constraints to limit the debates and all amendments had to be approved by the Rules Committee. There were 150 rules made in order. There was one request for a rule that initially was not made in order, and that was mine. As the ranking member I was denied the right to offer an amendment dealing with Davis-Bacon.

As a result of some rather protracted negotiations, this was later remedied. My amendment finally was made in order, but ultimately in conference with the Senate, this entire subject was dropped. There is no language in here, even though we do have an agreement by the chairman of the Education and Labor Committee that there will be hearings and that a bill will be reported out next year. That is one of the bad features.

The T-46 was a bad feature because the Air Force has said that this was a trainer that they did not want. They said they had a contractor that had not complied with terms of the existing contract. The Air Force felt that the contractor could not comply, so we had an extended debate here on the floor. The House voted to put money in, and this was one of the most hotly contested items during the conference. In conference, it was agreed in a spirit of compromise that there would be a competition for any planes: the T-37, a modified T-37, the T-46 and perhaps another candidate which might be the British Hawk trainer that the Navy has bought. This was the agreement that we reached with the Senate. Now, I am told, Mr. Speaker, that in the continuing resolution this will be totally overturned. This agreement to have a competition will be thrown out. The Air Force is to be directed not to have a competition but to buy this particular plane and to renegotiate the contract.

By raising our objections to the T-46, I said that the manufacturer could not perform under the existing contract. He has admitted it. It was to be bought in 2 lots; a first lot of 10 and a second lot of 20. He started building lot one and built two and quit. He also cannot perform under the specified contract of lot two. But the continuing resolution will say nonetheless that the Air Force is directed to cancel the existing contract that the contractor cannot meet, which means that the taxpayers pay the additional costs under a renegotiated contract.

□ 1320

If there ever was flying pork barrel, the T-46 is it.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, first I want to compliment the gentleman for his help in this matter.

Where are we with a defense authorization bill which basically says we are not going to build the T-46, we are going to have a fly-off and an appropriations bill which provides money? What does the Air Force do under those circumstances?

Mr. DICKINSON. We will have to wait and see, will we not? I do not know that that is going to be the final shape of it because I understand there is going to be some additional activity on the other side of the Capitol on this issue. They have more flexibility than do we in offering amendments and correcting the inequities of a continuing resolution.

We are pretty well stuck with it, but we will just have to wait and see.

Mr. GLICKMAN. Mr. Speaker, I just want to compliment the gentleman for his work on the T-46, and I hope that that is what the Air Force looks at in terms of deciding what to do in the future.

Mr. DICKINSON. I thank the gentleman; and there have been currents and cross currents and politics that play here, but let me say they do not build any portion of this in my district. I could not care less as far as the economic impact, but I know that it is the wrong plane at the right time, or perhaps it is the right plane at the wrong time.

The contractor cannot perform, but the Air Force is being ordered to buy them anyway. The same people who make the most noise about efficiency in Government and doing away with waste, fraud, and abuse are going to vote to mandate a $3 billion program that is nothing but waste, fraud, and abuse.

Getting on to the ugly part of our bill. Our conference was set up so that conferees were appointed that are not members of our committee and then they were given the authority to be the sole arbiters on a particular issue. We had one special arms control conference with special conferees. We had Davis-Bacon conferees set up; we had set-aside conferees set up; we had procurement reform conferees set up, and the rule was written so that if each one of those could not reconcile by a majority vote within that special panel, then the special conferees could kill the whole bill.

As I said during the discussion of the rule, that meant that people who are antidefense—and we have some here, who have no interest in passing a defense authorization bill—could just sit down and not care about negotiating to come up with a final product. They would be happy to see the whole thing killed. So it was their way or no way.

This is what we had to contend with; these were the circumstances under which we had to operate. It was most unfair. It is a unique experience, I believe, of this House. You have to wonder where we are going, you have to wonder about the viability of the authorizing process. Will authorizing committees finally be irrelevant to the process so that the Committee on Appropriations will do everything? Will they do the authorization and the appropriation? That is what is happening in this instance with the continuing resolution and with our bill.

As to one of the other ugly things; the bill is brought to us with mismatched budget authority and outlay figures, as the chairman pointed out. Under Gramm-Rudman, our outlays are limited in order to avoid what triggers a Gramm-Rudman sequestration. But the Committee on the Budget came in and said, "There are two sets of figures. Here is budget authority. Here are outlays." But it was a political decision because there is no way that those two can meet without using gimmicks, without using trickery, without using, as we say, smoke and mirrors.

What did they do? They slipped a pay date, 1 day, so that it falls into the next fiscal year. That does not save any money; it is just trickery. They say, "We will take advantage of the unused inflation that had been apportioned." That does not save any money. Again, it is just trickery.

All of these gimmicks are used to arrive at an arbitrary figure that they had to meet because the Committee on the Budget would not give us a realistic outlay figure that would in any

way coincide with the budget authority figure.

So for that reason, plus the fact that the Committee on the Budget was 2 months late giving us a budget figure to mark to, I think many of the ugly things to the bill need to be corrected next year, but I think under today's circumstances, we can only really address and remedy the problem with a 2-year budget cycle. You just cannot do it all in 1 year.

I would hope that we would get to that point.

Mr. Speaker, for that reason, we have done the best we could, but for the fatal flaws that I find in here, I would have to vote against it.

Mr. Speaker, I reserve the balance of my time.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. DANIEL].

Mr. DANIEL. Mr. Speaker, I thank the gentleman for yielding.

While I do not like the product, the chairman and the ranking member deserve credit for the hard work which they have put into the development of this report.

Mr. Chairman, I rise in reluctant support of this measure. In doing so, I am applying the 51-percent rule, which I have used since becoming a Member of this body. Since practically all legislation is compromise, it has been my practice to vote for a bill if it is 51 percent good, and to vote against it if it is 51 percent bad. This report falls in the former category.

The message I wish to bring is that no one should be surprised if they read in the press the phrase "hollow army," as it relates to this bill. In 1981, we undertook to develop a better balance between investment and operation and maintenance. We have made considerable progress.

This, and the appropriation conference report, will reverse that trend.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished chairman for his hard work on behalf of this bill.

I rise in order to clarify a matter having to do with the Brook Army General Hospital at Fort Sam Houston, in San Antonio, which is in my district, and to make sure that the language clearly means that the design work for which $13.5 million has already been expended for a replacement hospital is to continue on the basis of a design for a 450-bed replacement hospital.

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, the gentleman from Texas is correct.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman.

Mr. DICKINSON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey [Mr. COURTER].

Mr. COURTER. Mr. Speaker, I would like to have the chairman of the committee, the gentleman from Wisconsin [Mr. ASPIN], answer an inquiry.

We were talking, during the debate on the rule, as to whether what we are doing here with regard to the passage of the authorization is going to be dovetailed into the continuing resolution. I think it is a legitimate question.

The gentleman from Alabama [Mr. DICKINSON] could not really answer that question, so I would like to have the gentleman from Wisconsin try to answer the question.

If we pass this authorization bill with the T-46, with the arms control provisions, with the provision that the members of the Committee on Armed Services and the conferees, whether they be on that committee or not, worked out, is that going to be included in the continuing resolution or are they going to ignore the work of this conference?

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, I would respond to the gentleman that certainly the arms control provisions, as we worked out, are to be applied in exactly the same language in both forums. We had, as the gentleman in the well knows, in the appropriation bill coming out of the committee exactly the same arms control provisions as we have applied to the floor to the authorization bill.

When the conferees began work on the arms control provisions, it was understood that whatever would be worked out would be applied to both bills, so we would not have two difference conferences going on, going over the same language.

Mr. COURTER. So on arms control, it is the same. On other things, it may or may not be.

Mr. ASPIN. On the other things, it is just like the difference between an authorizing bill and an appropriating bill.

Mr. COURTER. Mr. Speaker, how about the strategic defense initiative and the levels of funding?

Mr. ASPIN. That was included. Whatever number we came up with in our negotiation would be applied to the appropriations. It will be $3.5 billion in both bills.

Mr. COURTER. I thank the gentleman for his explanation.

A couple of things I would like to comment on before I yield back the balance of my time. I think it is important to keep in mind. I know that, as we get about States, as we get about talking to various constituents and people from the media, print and otherwise, there is a perception that more money and more money is being spent on national security concerns, that we are spending more money today than ever before; that it takes a larger percent of our GNP than ever before; that we are spending more money in 1986 over 1985 in real terms; that we are now going to spend more money in 1987 over 1986 in real terms; that, indeed, we kept the proliferating, and as a lot of people say, we should not attempt to balance the budget on our domestic programs; we should look toward defense.

□ 1330

I think it is important to keep in mind for those people who have that perception the fact that it is a misperception. Today in 1987 we will be spending in terms of a percentage of the wealth of this country significantly less than we did during the time that Eisenhower was President, during the time that John F. Kennedy was President, during the time that Lyndon Baines Johnson was President; in other words, we moved from approximately 10 percent, actually 10½ percent of the GNP, down to 7½ percent today. It is important to keep that in mind.

Second, with regard to the percentage of Federal spending, how big a slice of the Federal pie is national security? A lot of people have the idea that it is much more now than before. The reverse is true. Twenty years ago it was better than 50 percent of all of our Federal dollars going to national security. Now it is about 33⅓ percent, a reduction and not an increase.

When we look at the situation with regard to the amount of real dollars, and I think it is important to keep in mind real dollars toward the important function of national security, keeping our safety, keeping our way of life, keeping our liberty, guaranteeing the survival of our country, NATO and our NATO allies, our allies in the Middle East, such as Israel, and so forth.

In this year, 1986, we are spending in real terms 6 percent less than we spent in 1985. That is 6 percent less in 1986 over 1985. I am not saying it is wrong. I am not saying that we still do not have enough money for some vitally important programs, but it is totally different than the perception you get as you drive about America.

What are we doing now? Are we finally making up that 6 percent cut in real terms in defense from 1986 to 1985? This bill, this compromise language with regard to authorization, represents an approximate reduction of 2 percent in real terms in defense spending in 1987 over 1986. That is 6 plus 2, it is 8 percent less that we will be spending in real terms in 1987 over

1985. I think it is important for people to keep that in mind.

I think the most regrettable part, and I want to congratulate the gentleman from Alabama [Mr. DICKINSON], he labored in the vineyards day after day, week after week, month after month this year, in order to get the best we possibly could for our Nation's security. I would just like to thank the gentleman for the excellent job he did.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The time of the gentleman from Illinois has expired.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I would like to engage in a colloquy with the chairman of the committee, the gentleman from Wisconsin, to clarify the intent of language included under the section expressing the sense of the Congress on nuclear testing.

Mr. ASPIN. If the gentleman will yield, I would be happy to help clarify this language.

Mr. DICKS. At the end of section 1002 on nuclear testing, language is included relating to compliance on both sides to any bilateral arms control agreement. It is unclear to me whether this is intended to refer simply to the subject of nuclear testing discussed in this section or whether it is intended to have a wider meaning. Could the gentleman provide some clarification on this point?

Mr. ASPIN. This language, which was included in the nonbinding legislation on nuclear testing passed earlier by this House, is simply intended to ensure that any testing agreement we may agree to at some future date would have to have reciprocol compliance, and is not intended to imply anything beyond that.

Mr. DICKS. It applies only to the section on nuclear testing?

Mr. ASPIN. Yes.

Mr. DICKS. I note that the language in this section states that the United States shall have no obligation to comply with agreements the Soviets are violating. While there is no obligation, is it the gentleman's understanding that it is the sense of the Congress that it is in the United States national security interests to continue compliance with the numerical sublimits included in the SALT agreement?

Mr. ASPIN. Absolutely, unequivocally, yes, and that was clearly the intention of the discussion and explicitly discussed with the Senate conferees.

Mr. DICKS. Mr. Speaker, I must admit I am disappointed with the outcome of the conference on the defense authorization bill on the package of provisions approved by the House which were designed to foster progress in the field of arms control.

I recognize the realities that have led to this outcome even though I fervently wish we had been more successful. I think it is clear that the blame cannot be laid on any Member of this House. I especially want to commend the efforts of the chairman of the Armed Services Committee who worked from the outset with real dedication on these provisions. I know he is just as disappointed as anyone in this body.

I have particular concern regarding the amendment I offered to continue compliance with critical numerical sublimits of the SALT II Treaty so long as the Soviets continue to observe these limits as well. My concern is not one of pride of authorship. It is a concern for the future of the arms race and the prospects for world peace.

We all know that SALT II is not a perfect agreement. But we also know that it represents the only limitations presently in place on existing strategic forces. It makes no sense to throw out these limitations, which are being observed by both sides, before we have something better in hand. It makes no sense from a military perspective, where the Soviets are much better poised to break out than the United States. It makes no sense from an economic point of view in light of the potential cost, estimated as high as $100 billion by the Congressional Budget Office.

Most of all it makes no sense in light of the current situation facing United States-Soviet relations as a result of the stalemate in Iceland. This unfortunate outcome has chilled our relations while at the same time indicating some hope for future progress on arms control. The worst step we could take at this point would be to poison the atmosphere further by unilaterally breaking out of the SALT numerical subceilings. It would make any progress on arms control even more difficult.

Such a step would also hand to the Soviets a major propaganda bonanza, which we can be sure they would exploit in Europe, especially in regard to the upcoming elections in Great Britain and the Federal Republic of Germany.

The conference agreement does convey to the President in no uncertain terms, the advice of both bodies of the Congress. That advice is, and I quote from the bill:

It is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

I fervently hope that the President will heed this advice and avoid what could well be a fatal mistake that would further bury any hope that his Presidency will produce the kind of deep reductions in strategic nuclear forces he says he desires.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, the reason I am not going to support the conference report—and I consider myself a very strong supporter of our Nation's security—is the failure of the conferees to come to grips with the budgetary numbers. Someday, Mr. Speaker, we are going to have to understand that a sound economy is just as important to our national security as a strong military. Failure to address the deficit problem, to use gimmicks to push spending over into the next fiscal year, strikes me as the height of fiscal irresponsibility.

I am also very disappointed, Mr. Speaker, in the provisions on chemical weapons. I had thought that just prior to the meeting in Reykjavik there was an agreement that we would go ahead and produce the 155-millimeter chemical shell, that we would not authorize the Bigeye bomb, that we would leave in the language on keeping our stockpile in Europe. That was my understanding of the deal.

Now we find that we are going to go ahead and produce the 155; that the Bigeye is not eliminated, but funded and then delayed for a year, which means that next year there will be production of the Bigeye bomb unless both the Senate and the House each agree not to do so. You know that the Senate will not agree and therefore the Bigeye bomb, which is a weapon totally unfit for production, will be produced. Finally, Mr. Speaker, the language that the House put into the bill saying that we should keep our stockpile of chemical weapons in Western Europe until they are replaced by the binary weapons is deleted.

So it will mean Mr. Speaker, that in the final analysis we will produce a Bigeye bomb that does not work; we will produce binary weapons that may work, but they will be stationed only in the United States, and that our entire chemical deterrent in Western Europe, our first line of defense against a Soviet chemical attack, will be lost. I think that is absolute folly. That is insane.

Mr. Speaker, I would urge Members to oppose this conference report.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. MITCHELL].

Mr. MITCHELL. Mr. Speaker, I thank the gentleman for yielding me this time. If I could get the gentleman's attention, I would like to engage in a colloquy, when and if I can get the gentleman's attention.

Mr. Speaker, at the gentleman's request, indeed at the gentleman's insistence, we worked together on some changes in procurement for small business procurement activities with the DOD. Am I correct, those five major changes were the issue of a fair share for small business, the issue of a downward adjustment for size standards; the definition of a market or industrial category or specific category; a fair market price under both section 15(a) and 8(a) of the Small Business Act, and a further refinement of the definition of small business where they will be required to do approximately 50 percent of the work?

Am I correct in understanding that all those provisions are included in this conference report?

Mr. ASPIN. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. MITCHELL. The conference report contains in it a special provision with regard to construction at the Great Lakes Air Station. That has a 30-percent set-aside.

In the gentleman's opinion, does that do violence to any of the other set-aside provisions and size standards that were worked out in the conference?

Mr. ASPIN. No.

Mr. MITCHELL. Because this is a special category, apparently, in the gentleman's district in Wisconsin.

Mr. ASPIN. It is a pilot project, because all the provisions that we had worked out that we had in our bill that would take place immediately, the Senate insisted that there would be a 1-year delay for those provisions to take effect. I tried to negotiate a 6-month delay. The Senate would not accept the 6-month delay. What they would accept was a pilot project during the year's delay and we settled on a pilot project during the year's delay.

Mr. MITCHELL. Mr. Speaker, I thank the gentleman. If I have time, I just want to add one other statement. I think I am about finished with my colloquy.

In terms of two parts of the bill, the same business procurement activity and the minority business set aside, it makes it awfully attractive for me to want to vote for the bill.

On the other hand, as I look at the bill, it looks like a quantum step retreat from the kinds of things we have been seeking for peace, so I may be perforce to vote against it because of the retreat on the peace issues.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I would like to engage in a colloquy with the distinguished chairman of the committee, the gentleman from Wisconsin [Mr. ASPIN].

Mr. Speaker, it is my understanding that what is intended by section 3034 of the act is to resolve a Department of Energy problem with land transfers to the communities surrounding the Oak Ridge reservation in Oak Ridge, TN. The agreed-upon language affirms Congress' intent that the purposes of the Atomic Energy Community Act of 1954 remain an agency function falling within the coverage of section 161(g) of the Atomic Energy Act of 1954. However, the purpose of the Community Act to maintain conditions which will not impede personnel recruitment and retention is one of the continuing atomic energy defense functions under the Atomic Energy Act of 1954. Is that the distinguished chairman's understanding of the intent of this provision?

Mr. ASPIN. If the gentlewoman will yield, the gentlewoman is correct. This language affirms that the intent of Congress was not to terminate the Department of Energy's functions under the Atomic Energy Community Act of 1955, and therefore, not to terminate the traditional authorities that the Secretary had exercised pursuant to the Atomic Energy Act of 1954 including the authority under section 161(g) of the Atomic Energy Act.

Mrs. LLOYD. I thank the committee chairman for that explanation.

Mr. Speaker, this bill strikes a middle ground in terms of both policy and funding for our national defense programs. The $292 billion in budget authority provides just $6 billion more than the fiscal year 1986 appropriations level for DOD and DOE nuclear weapons activities and incorporates the Iceland presummit agreements on arms control struck between the House leadership and the administration. I am pleased that the conferees were able to achieve this middle ground and that the House leadership stands behind the retention of the arms control bargains. I do not agree with those who suggest that the Icelandic talks collapsed and who claim there is no plan for a second summit. I look to the U.S.-U.S.S.R. Icelandic dialog as the basis for a very productive summit which we should pursue with the Soviets. But we must send the President well prepared for a range of options that will be based on proposals which were made, hopefully in good faith, by both sides in Reykjavik.

I believe that certain of the programs covered by the $5 billion enhancement over the House bill are critically important to national security. I never supported the deletion of $1.5 billion for the 14th Trident submarine because I believe that the submarine-launched ballistic missile [SLBM] leg of the U.S. strategic triad is the strongest and least susceptible to a Soviet first strike. Thus, I am pleased to see the Trident restored for deterrent's sake. I also believe that the Aegis-type destroyer is one of the most advanced U.S. surface ships for waging warfare, so I am pleased to see that funding is included for two of these high-technology craft.

I have been very interested in the Maverick air-to-surface missile programs, and I am gratified that $335 million in additional funding is to be provided for 3,100 more missiles and that this funding insures second source procurement. As regards critical Air Force programs, the F-15's and F-16's are acknowledged as the world's superior fighter aircraft and it is a great achievement that the conferees were able to achieve additional funding for 18 more F-15's and 30 more F-16's. The fighter and attack aircraft requirements of our conventional deterrent in support of our NATO allies call for these additional aircraft to insure the capability to interdict the Soviets behind the lines. I have also been a strong supporter of the middle ground on the strategic defense initiative. Although I would have preferred a greater increase in funding for R&D in fiscal year 1987, I sensed from the beginning that the administration request was far in excess of what was needed for meaningful program growth. I hope that General Abrahamson and his lieutenants will distribute the $3.5 billion wisely and recognize that the over-15-percent growth in this RDT&E effort is unique given the great deficit reduction pressures on the Congress and the overall $30 billion cut in the administration's request.

I would also remind my colleagues that this bill includes roughly $7.5 billion for DOE defense programs critical to modernization of our nuclear forces. There is also funding for environmental control and security and safeguard upgrading at these facilities, including the Y-12 production plant in Oak Ridge. It also contains major procurement reform provisions which should go a long way toward improving the way DOD does business.

I urge my colleagues to support this bill because it represents a prudent and acceptable middle ground on defense spending while addressing real defense priorities in research and development and weapon systems procurement.

Mr. DICKINSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Alabama for yielding this time, as I join the gentleman in opposition to the bill.

First of all, I want to thank the conferees and the chairman, because people really did work very hard on putting this conference together. There are some very good break throughs here, especially I think in the family provisions that I would like to talk about, because I have cared about military families and what has happened to them, for a long time, and we have made some very good gains there.

We have also made some very good gains in the set-asides, as we have heard and also made some progress in the whole area of procurement reform, although, of course, there is always more to do.

Why am I then rising in opposition to this bill?

Mr. Speaker, I rise in opposition to the defense authorization conference report because the House was hoodwinked on the single most important issue—arms control. The 500 or 600 pages of this conference report contain some good provisions, such as those dealing with military families, and some bad provisions, such as continuing spending for wasteful weapons program. But all these issues pale in importance compared to the basic issue of the future of humanity.

As all my colleagues remember, the House added five key arms control provisions to the defense bill. Adopted by the greatest vote was a provision for a comprehensive ban on nuclear testing above 1 kiloton, provided the Soviets permitted an in-country verification regime to be established. Because the President has announced that he intends to break out of the SALT II limitations in early November, the House prohibited the expendi-

ture of any money to deploy systems which would lead to the violation of the SALT II sublimits. The House also voted to continue the year-old ban on antisatellite testing, to cut star wars funding to $3.1 billion, and to stop the production of binary chemical weapons.

Faced with the specter of the Iceland summit, the decision was made to back down on these provisions. From a political point of view, this decision may have been right or wrong. From the point of view of survival of the species, this decision was immoral. And, after what happened in Iceland, it is obvious that the President's protestations that he wants arms control are hollow. The President went to Iceland, with a cooperative Congress behind him, and he blew the best chance for arms control since the first nuclear explosion. And he kicked over the negotiating table over a fanciful and fantastically expensive system, which is unlikely to ever work. It's clear to me that the President negotiated both with the Congress and with the Soviets with his fingers crossed.

I oppose this conference report and will oppose the conference report on the continuing resolution because I think whatever deal was cut last Friday is now off. The President violated the deal by failing to negotiate in Iceland in good faith. We should reopen these issues and legislate arms control, since the President has made it abundantly clear that he does not intend to negotiate arms control. I know that some Members who believe in arms control will not vote with me on this because they have projects they want in both bills. I do too. I believe, however, that this is the time to make a stand for peace.

As a conferee on the defense bill, I want to report on other features of the conference agreement as well. The bill provides a valuable arsenal of provisions to assist military families. There is a realistic figure for the level of permanent change of station moves (PCS), which should ensure that members of the military are not shortchanged when they are forced to relocate. Additionally, there is specific funding for a pilot program whereby private firms can provide relocation assistance to service members. This relocation assistance can make moves much easier for members of the military.

The defense bill also reaffirms the importance of spouse employment, directs the Secretary of Defense to report on the competing demands of hiring military family members and hiring foreign nationals in Europe, strengthens requirements for dependent care plans, and authorizes space-required transportation for single parents to accompany underage children. The bill strongly encourages the services to avoid moving parents of school age children during the midst of the school year. The bill also allows single parents to enlist in the Reserves, authorizes travel and health care for dependents of military members dishonorably discharged, authorizes the services to reimburse volunteers for expenses, and ensures that temporary storage of household goods can be extended beyond 180 days. The bill ensures that the program of dental care for dependents will go on as passed last year.

There are other provisions worthy of note. The House prevailed over the Senate to ensure that there would be no ceilings of civilian employees at DOD, a wasteful and counterproductive management device. On the other hand, the Senate would not accept the House provision to allow service members to wear conservative, unobtrusive religious apparel. The good House provisions on service of members on State and local juries and on malpractice for military lawyers stayed in, as did the bad House provision limiting Governors authority over the National Guard. The bill also makes some important improvements in the survivor benefit program.

In the area of procurement reform, the House got a bad deal. We lost military whistleblower protections in its entirety and held on to a weakened defense contractor protection provision. Other important reforms in the House bill were weakened or eliminated by Senate conferees who were more interested in protecting contractors than in protecting the taxpayer.

Without the arms control sellout, I would probably vote for this conference report because it is a reasonably good compromise. Yet, as I said at the beginning, all these other issues are microscopic compared to the issues of war and peace, life and death. Because the House lost so badly on the arms control issue, I must oppose this conference report.

One more point. I do not consider any of the arms control issues closed by this agreement. I will be back at every available opportunity to press for a comprehensive testing ban and continued adherence to our treaties.

□ 1345

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of this conference report. Sure, there are some parts of the bill that I would prefer to be different, or even not have in the bill, but it is our bill, and we worked on it.

I want to stress that the basic sections of this bill to run the military are reasonable, and they are good for the military, which include personnel, military construction, O&M, procurement, research and development, and sea power. And certainly, Mr. Chairman, there has been fairness to the National Guard and Reserve. We have been taken care of.

This is a good bill, in my opinion, and I want to thank the chairman and the ranking minority member, and also the conferees, and especially I want to thank the staff for putting up with the Members. We have a bill; let us vote for it.

Mr. ASPIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the conference agreement on S. 2638, the Department of Defense Authorization Act for 1987.

This conference agreement is proof that the democratic process still works. In my short tenure of service in this body, I cannot recall any legislation with so many points of contention. However, every provision that was supposedly a major point of contention, was ultimately worked out. I cannot count the times I read, or heard, that this bill would never get out of conference. Well, Mr. Chairman, the conferees worked out these differences and have given Congress the opportunity to take an important step toward improving our defensive posture.

These major differences included the disagreement on overall funding levels. I supported the funding level of $292 billion originally passed by the House Committee on Armed Services. I opposed the amendment on the floor of this body to lower that funding. However, the conferees agreed to fund our defenses at a level that I believe will meet our national security needs.

The arms control provisions as passed by the House were to be the issue that could not be solved by any conference. However, when it became critical to support our President in his negotiations with the Soviets, an agreement was reached. I did not support the arms control provisions in the House-passed version of S. 2638 because I believed them to be too restrictive. Although I oppose several of the provisions in the compromise agreement, I, like my colleague from Georgia in the other body, strongly believe our Nation will benefit from the overall arms control policies inherent in this agreement.

Mr. Speaker, we cannot allow a few provisions in this bill that we oppose to bring about its death. I oppose many of the provisions of this bill, however, there is more in this bill to enhance our security than there is to hinder it.

I oppose the reduction in funds for military readiness. Members of the House Armed Services Committee agreed that readiness was the most vital element of our national security. Accordingly, the House Armed Services Committee recommended $82.5 billion for "Operations and maintenance." However, due to the approval of a significantly lower figure by the Committees on Appropriations, the conferees agreed to authorize only $79.5 billion. I oppose this lower figure and believe it will be detrimental to our immediate defense posture.

I also oppose the low funding levels for the Strategic Defense Initiative [SDI], commonly referred to as "Star Wars." I strongly supported the higher funding level for this program that was agreed to by the Armed Services Committee. During debate in the House, I opposed every amendment to decrease the funding of the SDI Program from the committee level of $3.8 billion. However, the House passed a funding level of $3.25. In the arms control agreement worked out by Congress and the President, a $3.5 billion figure was agreed upon. I do not believe this is adequate funding for what appears to be the only viable alternative to the mutual assured destruction doctrine.

Mr. Speaker, I am also opposed to the elimination of the B–1 bomber contingency fund as included in the House-passed version of S. 2638. There is no stronger supporter of the advanced technology bomber [ATB] in Congress. I have visited the production facilities for the ATB, and am convinced this is the bomber to meet the future demands of our Nation. However, I also believe we must ensure a viable bomber force for the immediate future, and the most promising method for accomplishing this is by authorizing funds to ensure that the B–1 production line can remain operational if necessary.

There are provisions in this bill that are obviously a waste of taxpayer money. The most visible is the overfunding of the C–17 airlifter. This is an aircraft that most airlift experts agree is not necessary to meet our airlift demands. However, there is no force on Earth quite like the Air Force when it wants a new plane, and thus the conferees have authorized, what I consider to be, a wasted $728 million for research and development and the initial phase of procuring this aircraft.

But, Mr. Speaker, this bill has many more provisions that I believe are necessary to ensure our continued strength and safety.

This bill establishes a 3-percent pay raise for all members of the Armed Forces. During World War II, Gen. George Marshall was asked about America's secret weapon. His reply was that our only secret weapon was the best young people in the world serving in the American uniform. The men and women serving in the military are the key to our freedom, and we must take every opportunity to reward them for their service to America.

This bill allows for the long overdue reorganization of the Special Operations Forces. The Special Operations Panel of the Subcommittee on Readiness, of which I am a member, has been considering this legislation for many months. The dedication of our chairman, the gentleman from Virginia, has finally paid off. S. 2638 combines the Special Operations Forces under a civilian Secretary of Defense for Special Operation and Low Intensity Conflict with a four-star unified commander for special operations immediately under the Assistant Secretary. There is no question this reorganization will benefit our brave forces serving in this capacity. We cannot allow any more disasters such as the one that occurred several years ago in Iran.

One of the most important provisions in this bill is the funding for the Small ICBM, or Midgetman. This missile was first recommended by the Scowcroft Commission. The Midgetman missile is the major strategic weapon that does not escalate the possibility of a nuclear exchange. We cannot allow the development of this system to be sidetracked.

Finally, S. 2638 provides funding for an additional Trident submarine. Although this was not included in the House-passed version of the Defense Authorization Act, I believe it is a necessary addition to our naval forces. The production of this submarine will ensure another protected element of our nuclear deterrent.

In summary, Mr. Speaker, we cannot allow this opportunity to escape. We must pass this legislation to ensure the defense of this Nation is given proper congressional direction. Failure to pass S. 2638 will set a dangerous precedent for the future security of America. Mr. Chairman, I support this bill and encourage other Members to vote for its passage.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I would like to say at the outset that I believe that the gentleman from Wisconsin [Mr. ASPIN] in his bipartisan support for the President prior to the Iceland summit made the right decision, and a tough one. I think critical concessions were made.

My question is, where do we go from here? With this bill, has this Reykjavik respite now become a permanent decision by the House to abandon its constitutional prerogative to initiate and sustain arms control?

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, I think that the gentleman has raised a very important issue, and the answer to the question is "no." It is clear that what has happened is that the issue is quiescent for the next few months, and we will see whether they get back to discussing. The talk in Iceland blew up, but they might get back together and have a summit.

In any case, the issues are not going to go away. In particular the SALT issue is not going to go away, the testing issue is not going to go away, we will revisit these issues for certain next year on the authorization bill, and indeed we are looking for opportunities to revisit them earlier than that on supplementals and other things.

Mr. DURBIN. I thank the gentleman for his assurance.

Mr. DICKINSON. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. DICKINSON. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I greatly appreciate the gentleman's yielding.

Mr. Speaker, I would initially like to pay a compliment to the chairman of the Procurement Subcommittee, the gentleman from Massachusetts [NICK MAVROULES] who was chairman of this very difficult procurement-reform panel. To be honest with you, when you take a look at the issues that surfaced and the difficulty in resolving them, and you look at what the final agreement was, it is prety clear that NICK MAVROULES bats for a higher batting average than Wade Boggs, and he deserves to be complimented for doing an outstanding job to try to clean up the Department of Defense.

Two items that I would like to mention very briefly are the baselining provisions and the commercial-items provisions, provisions that, No. 1, go to controlling weapons systems, and, second, provisions that allow us to buy off-the-shelf commercial items that will clearly mean that we will save, according to some Pentagon estimates, literally billions of dollars by buying smart, something that we clearly ought to do in buying in a competitive manner.

The other people that need to be complimented are two gentleman, also on the Democrat side, the gentleman from Virginia [DAN DANIEL] and the gentleman from Florida [EARL HUTTO]. Why do I say that? Well, working with Senator BILL COHEN, we were able to put something together that I know IKE SKELTON mentioned briefly before, but it is probably going to be missed in the overall writings about this bill.

I want to point out that what we established by creating a special command for low-intensity operations for special forces is a clear signal to the world and to the American people that we are serious about fighting the war and winning the war against terrrorism.

The services have traditionally neglected the special forces operations that are critical and crucial to doing the kinds of things that we need to do in the world in order to respond to the problems of terrorism. But by guaranteeing that these special forces are going to be carved a budget and going to be given resource management and resource control, we are finally saying to the services, "We want to have the most effective special forces counterterrorist forces that are possible in the world today."

So the credit goes to Senator COHEN and to DAN DANIEL, DAN DANIEL particularly, who had the courage, and EARL HUTTO, who sat through all the hearings.

I think that overall we have a very good bill. The gentleman from California [Mr. HUNTER] and I are deeply disappointed that we were not able to keep the B–1 bomber contingency fund. We think that it is a mistake that we have unshackled the Stealth Program without any competition. We will be back, I am sure, to visit that issue again.

But outside of that, and even in view of what the gentleman from New Jersey [Mr. COURTER] said, in terms of the fact that this is the second fiscal year in a row that the Department of Defense budget has been cut, I think that overall we have a pretty good bill that does some very major things.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I rise to oppose the bill. We have embarked on a checkbook defense policy, and it is out of control. There is more money in this defense bill for procurement alone than there was in the entire defense program and budget of 1980.

This is ridiculous. This country is literally in danger of being run by a military establishment with an insatiable appetite, and we cannot control it.

I further believe that corporations have too much say in our defense policy.

Make no mistake, for all of the people who talk about deficits in this country, this wild defense buildup is tied to that deficit process. There are some experts who believe that we could cut $50 billion from this defense bill and not really hurt our national security. To compound it, the other body even threw out the meager "Buy American" amendment that we had.

It is a sad day for me, but I will say this: There is no amount of money put into a military establishment that could compensate for a bankrupt America, and our national security is tied to those blue-collar communities that are unemployed.

Mr. Speaker, I rise to oppose this conference report, and I believe that there is too much influence from the big corporations in this country. We cannot please them, but we are sure trying. It is a sad day for me, and I would like to see us whack this bill right out of the box and send a signal across America that I think the American people want to hear.

Mr. ASPIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise in support of this bill, and I would like particularly to thank the chairman and the staff that did such a super job in putting together what I thought was the very best bill that could be put together.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Speaker, I rise in strong support of this bill.

Mr. Speaker, I want to commend the chairman and the staff for the jobs that they did on this bill, and particularly the chairman for the job that he did managing this very difficult bill, and for the way in which he handled the many diverse and contentious issues that were presented to him.

□ 1355

I think it is a good bill, it is a good conference report. In the R&D areas that I was a conferee on I think the language on Midgetman and MX is very positive. I think the levels achieved on SDI funding are adequate.

I commend the gentleman from Florida [Mr. BENNETT] and the others who worked with me on the conventional defense initiative. In the areas of procurement I think we have made progress in the airlift areas with the C-17. I am a little disappointed in the outcome on the T-46, but the House and the Senate voiced their will.

The field use provisions that passed I think will save taxpayers literally millions of dollars in the next few years. I commend the efforts of the gentleman from Massachusetts and others on the acquisition reform. I chaired a panel in 1981 on procurement reform, and it is a very good day for me to see that we have passed these provisions.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we have heard the lists of what people are unhappy about in this bill. But many of us can say it is the best bill that we have seen in this decade.

In 1981 I began working on procurement reform and worked with the gentleman from Florida [Mr. BENNETT], the gentleman from Wisconsin [Mr. ASPIN], the gentleman from Massachusetts [Mr. MAVROULES], and many Members of the House that were not on the committee. This is the first year we can declare major victories and the first year we have gotten the House position or the Senate position on procurement reform, and I commend the chairman for this aim and goal, and I especially commend the gentleman from Massachusetts [Mr. MAVROULES], who has worked so hard on it.

I chaired a Democratic task force for the last 2 years on procurement reform for the entire caucus. They have taken our recommendations and wrapped them up, and the panel of the gentleman from Massachusetts [Mr. MAVROULES], worked in a bipartisan way, and the House position has prevailed to a higher degree than at any other time. So I commend the gentleman from Massachusetts [Mr. MAVROULES], the chairman of that panel, and I thank the gentleman from Wisconsin [Mr. ASPIN], for his commitment in this area.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in support of the bill.

I think we ought to take about 2 minutes and just talk about some of the reforms that went through. For those who perhaps are venting some frustrations here today, and I think well justified, by the way, let me assure them that we are going to have hearings beginning next year on those particular problems, and maybe we can address those problems.

One of the more important things, of course, is the defense acquisition section. I think we have most of the language we wanted, especially preserving the integrity of the testing department which, of course, will be alone.

SDI has become a major issue here, and in the reform package in the language that we have we retained the SDI institute language whereby we retained the integrity of the House and also the check and balance which is so very necessary on the very important issues that will be taking place next year. In the area of work measurement, we accepted the language of the gentlewoman from California [Mrs. BOXER], who was very cooperative in getting new language. The revolving door that the gentleman from Florida [Mr. BENNETT] so proudly put forth, we have that legislation now in place.

The contractor whisltle blower, which nobody thought would get off the ground, we have that now in place, and we are going to have military whistle-blower hearings beginning next year.

The establishment of the inflation dividends whereby hopefully the one that you and I were able to cosponsor, beginning next year we will be able to monitor and come back to the House and let the people know exactly where the inflation levels are and where the money is going.

I have an awful lot against the bill. Of course we do individually. But I think in the long term basically we have a pretty good bill, and I am going to vote for it.

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I am happy to yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, I would like to commend for all of the members of the committee and for the Members of the Committee of the Whole House here the gentleman in the well for an absolutely outstanding job that he has done on this issue. He has taken a very, very complicated issue, and issue on which it is politically one of the most difficult issues that I can think of for forging a consensus in the House; then negotiating with some of the most difficult negotiators in the other body and coming back

with what I think the gentleman from Michigan [Mr. HERTEL] correctly characterized as a major victory for the first time in the whole procurement era.

I would like to commend the gentleman in the well as well as the gentleman from Michigan and all of the other people who have worked so hard on this and done a very, very good job.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, the House conferees on the Defense authorization bill spent long hours negotiating procurement reforms. We arrived at what I believe is a real compromise between the House position for tough, new protections and the other body's position against them.

This is true for the "Revolving Door" provision sponsored by myself and Mrs. BOXER and others. We spent 2 years on this provision and felt we had built a broad House consensus. The House wanted to bar anyone who had personal and substantial responsibility for procurement from going to work for any contractor with whom they dealt. The other body did not want any bar. We have compromised on a basic revolving door provision. I am pleased that we are now implementing a commonsense bar that will prevent anyone who has been supervising a contractor or negotiating with a contractor from "switching sides" and going to work for that contractor. The conferees intent is to prevent both the appearance and actual occurrence of conflicts of interest which occur when a DOD official accepts a job with a contractor with whom they have been dealing.

We also compromised on new testing legislation sponsored by Congressmen HERTEL, SMITH, and myself. Realistic live-fire testing will now be required of all new systems before they can enter into full-scale production. And we are ending the sometimes scandalous involvement of contractor employees in operational tests.

The conflict of interest provision (section 931) covers:

First, all high officials—SES and O-7 and above—who represent the Government in the negotiation or settlement of a contract worth at least $10 million; and

Second, all officials—GS-12 and O-4 and above—who have spent the majority of their last 2 years with the Government working at a contractor's plant or at a site operated by a contractor; and,

Third, all officials—GS-13 and O-4 and above—who spent the majority of their last 2 years with the Government working on procurement functions relating to a major defense system.

These officials may not accept compensation for 2 years from any contractor with whom they dealt during this period. So plant representatives at a Bell helicopter plant could not go to work for Bell helicopter. The program manager for the MX missile, for example, could not go to work for a contractor involved with that missile if the manager had personal contact with that contractor during the 2-year period. So, if the program manager dealt with Boeing and with Northrop he could not go to work for either.

On this last point, just to be absolutely certain, we checked with the legislative counsel who drafted this provision and he agrees that it covers any contractor involved with the system. Legislative counsel explained that the provision on spending a majority of the person's working days during the last 2 years of Government service applies to performing a procurement function, but all contractors the individual dealt with are covered as long as the individual has participated personally and substantially, and in a manner involving decisionmaking responsibilities, through contact with the contractor. That is what we intended.

The House wanted to cover all high officials as well, but, again we had to compromise with the Senate. We agreed to bar any high official who represents the Government in the negotiation or settlement of a contract from going to work for that contractor for 2 years. We are clear that this does not just mean an official who has technical or official responsibility for the negotiations, but any actual decisionmaker involved in these negotiations. We specifically intend that this provision would cover the kinds of situation that arose in the past, such as those involving officials with the Department of Navy who negotiated contract settlements with General Dynamics and then went to work for General Dynamics. This cannot happen again.

Although we do not prohibit officials with responsibility for more than one weapon system from going to work for defense contractors they dealt with, aside from negotiations, I would hope that these officials would cooperate with the spirit of this bill. High officials should be setting an example by avoiding even the appearance of conflict of interest. It would be a shame if, for example, the head of Air Force Systems Command had substantial dealings with Lockheed, then went to work for Lockheed after his retirement; or if the head of the Army Material Command went to work for TRW after dealing with that company. Any negotiations these officials had with those companies would be covered, of course, if they involved a contract of at least $10 million. There are ways to be involved with a company and not actually have discussions which might not be covered and if there are a number of instances like this, Congress may be forced to consider additional prohibitions. I hope not. I hope these general officers and senior officials will set a proper example of objectivity and impartiality.

Likewise, I hope the Department of Defense drafts appropriate regulations to implement these provisions and feels free to expand on them. We would hate to see any loopholes exploited to avoid the intent of this section. That would be inviting further congressional action. Rather, the Department should understand the congressional concern over this issue and go beyond what we have done to truly help end this problem.

Section 913 contains a provision requiring realistic survivability/lethality and operational testing of all new systems. The House compromised on our detailed and rigorous testing language in order to get some basic test principles established. From now on a system cannot proceed beyond low-rate initial production until realistic live-fire testing and initial operational testing of the system has been completed. By this, we mean testing the survivability or lethality of a given system by reproducing as closely as possible actual combat conditions, not relying on computer simulations or component testing and then extrapolating. A new system would be configured for combat, that is, fully loaded with all the dangerous materials that would normally be on board in combat, and undergo test firings of the munitions the system will encounter in combat. We would expect that actual Soviet munitions would be used, but where that is impossible, weapons with similar capabilities would be permitted.

The same is true for example, for a new antitank weapon. The weapon would now have to be fired not only at sheets of steel to test penetration, but at actual tanks—either Soviet tanks or the closest possible surrogates—fully loaded for combat. It seems impossible, but this is rarely, if ever, done now. We have fielded thousands of antitank weapons without ever knowing if they could kill a tank. The same has been true for torpedoes, and other crucial front-line weapons. Now we will have realistic tests before we produce these weapons. We expect that this will end concurrency or the practice of producing a weapon and testing it at the same time. This is in accordance with the Packard Commission recommendations for tougher test:

A high priority should be given to building and testing prototype systems and subsystems before proceeding with full-scale development. . . . This increased emphasis on prototyping should allow us to "fly and know how much it will cost before we buy". . . . The first units that come off the limited-rate production line should be subjected

to intensive operational testing and the systems should not enter high-rate production until the results from these tests are evaluated.

As part of our conference compromise, we have asked the Secretary of Defense to report to Congress on the Department's testing procedures. This will form the basis for congressional hearings next year—hopefully joint hearings between the two bodies—that would go into this issue in depth. There is great congressional concern over the quality of our weapons testing, for example how thorough and realistic our operational tests really are. We expect that this issue will be one of the major issues the Armed Services Committees examines next year.

I submit for the RECORD a recent editorial from the October 8, 1986, edition of the New York Times:

[From the New York Times, Oct. 8, 1986]

A WEAPONS TEST FOR CONGRESS

Of the many defense issues the House and Senate are struggling to reconcile, only one would make a critical difference to American troops in battle. That's a proposal by the House side to insure that all weapons receive realistic combat testing by a genuinely independent Pentagon test office.

In the Defense Department's ornate procurement system, testing often falls victim to other priorities. Contractors want to keep the money flowing. Program managers get rewards for solving old problems, not finding new ones. In a pernicious practice called "concurrent production," assembly lines often start before testing is complete. Despite the promise to fix flaws later, inadequately tested weapons are delivered to the troops.

Surface ships, helicopters and aircraft all depend on the Mark 46 torpedo to attack Soviet submarines. The Dragon antitank missile is the infantryman's sole means of killing tanks. Yet, as Representative Charles Bennett of Florida notes, "we simply do not know if they will work as advertised because they have not been realistically tested."

Bad enough if weapons don't hurt the other side; how much worse when they hurt our side. Tests would have shown tanks to be needlessly flammable; of 800 Israeli tankers who died in the 1973 war, 300 were burned to death, mostly in hydraulic-fluid fires in the U.S.-made tanks. Even now, ships, planes and armored vehicles are not routinely subjected to testing against live Soviet ammunition. When a courageous Air Force colonel insisted the Army subject its Bradley infantry carrier to realistic live-fire tests, the Bradley proved highly flammable and the colonel was induced to retire.

The Pentagon is supposed to report test results to Congress but does so only selectively. Studying the test results for eight major weapons, the General Accounting Office last year found that "in all cases, the Data Sheets omitted or did not accurately portray important test and evaluation results." The Air Force described certain cruise missile tests as "a partial success" even though the missiles crashed. A few partial weapons successes like that could lead to a very partial victory in battle.

An amendment by Representatives Bennett and Denny Smith of Oregon specifies proper combat testing of all kinds before weapons go into production. Equally important is the House's position that those who test new weapons should be independent from those who develop them.

The House wants the Pentagon's chief weapons tester to report only to the Secretary of Defense. But Senate conferees resist on the ground that the authorization bill already creates a new Pentagon weapons development czar. The testing office, they insist, should come under the procurement czar, who needs to control all aspects of weapons acquisition.

That's an error that would repeat the principal failing of the present system: Letting the weapon developer do his own grading. How can the czar test his own weapons independently? The only substitute for testing a weapon fully on the proving ground is to test it in battle, and that is too late.

Mrs. BOXER. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentlewoman from California.

Mrs. BOXER. Mr. Speaker, I thank the gentleman for yielding and want to congratulate him on his tenacity in terms of the revolving door. I am very pleased that we did come a long way. It is not perfect, but it is the best that we have ever achieved. I just wanted to ask the gentleman if he would work with me next year on a military whistleblower protection bill? We have a situation today where we had to give up military whistleblower protection because the other body had no interest in it, and today we have a situation where there is no clear path for military people who are whistleblowers to take. And these are patriots who speak out about waste, fraud, and abuse. So I would ask the gentleman if he will join with me in that next year?

Mr. BENNETT. I think that is a most important thing that was not done in the reform field, the whistleblower thing with regard to the people actually in the military, and I am sure the gentleman from Wisconsin will also join in working on that effort in the future.

Mr. DICKINSON. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as someone who was very proud to serve with NICK MAVROULES on the subconference on military procurement reform, I have to rise reluctantly against the final product. I was proud of those reforms we achieved. And let me tell you, my friends, it was only because of the tenacity of NICK MAVROULES that we did get any procurement reform.

But I cannot understand why the other body is so opposed to these reforms. We had to struggle to get bits and pieces of what we wanted. We had to struggle so hard, and all we want is an honest system. That is all we want.

We will go back, and I know the gentleman from Massachusetts [Mr. MAVROULES] says that he will have some hearings on military whistleblowers and some of those other reforms which are desperately needed. But I must quickly mention a couple of other areas which lead me to cast a no vote on this authorization bill.

We lost, let us face it, the arms control that we fought so hard to achieve in this bill. It is with a deep sadness that I note that. It was good that the two gentlemen who head the world superpowers discussed these issues at Iceland, but nothing came out of it. It is up to Congress, and there is nothing in this bill that addresses the most critical cases facing the nuclear arms race.

In another area, $6 billion is added to this bill. I have to share the feelings of the gentleman from Ohio [Mr. TRAFICANT] who spoke so deeply from his soul about the situation. We are cutting money from farm programs, from education programs, from environment programs, and where do we put it? We put $6 billion more into this bill.

I say no.

□ 1405

Mr. ASPIN. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I would like to compliment the gentleman from Wisconsin [Mr. ASPIN] and the gentleman from Massachusetts [Mr. MAVROULES], the gentleman from Michigan [Mr. HERTEL], the gentlewoman from California [Mrs. BOXER], people on both sides of the aisle for the work that they have done in this bill.

Mr. Speaker, last week this body agreed to a cease-fire over the five arms control issues that divided us and the Reagan administration: SALT adherence, nuclear testing, star wars funding, chemical weapons funding, and the ASAT moratorium.

What we agreed to was much less than what many of us would have liked to have seen. We ceded to the Senate on two of our most far-reaching proposals, the testing moratorium and binding SALT limits.

We agreed to continue the ASAT test moratorium, split the difference on star wars funding, and fund the production of 155-millimeter chemical artillery shell, but not the Bigeye bomb.

We did this so that the Reagan administration would have no one to blame but themselves if they failed to make progress at Reykjavik, but we never thought that our amendments tied his hands. We believed that they spurred him on; but as we all know, Ronald Reagan is an expert at finding scapegoats for his failure to resolve contradictions, for his failure to compromise.

Frankly, if the administration devoted the same energies and talents to

arms control as it does to public relations, we would be minting the new Reagan dollar coin and renaming National Airport right now. The President did not back away at Reykjavik because he could not conclude such a historic deal in a weekend. No, we know that it was because the administration's intransigence on star wars issue is insurmountable.

Now the administration is launching a public relations offensive to put a smiley face on the whole affair, and to convince us that historic arms control is still in the offing.

Let us not kid ourselves. George Shultz told every talk show in T.V. Guide yesterday that star wars will never be a bargining chip. The well-documented truth is that this President has said "No, no, a thousand times no" to real arms control. Let us believe the President. Star wars is not a bargaining chip.

This Congress cannot let itself be hoodwinked into believing that star wars is necessary for negotiation what is nonnegotiable; that it is necessary for leverage when it is not a bargaining chip.

The militarization of outer space by star wars is a dangerous and expensive, bad idea. Star wars is now nothing more and nothing less than an invulnerable shield against further arms control agreements.

Why did the administration feel it necessary to launch a media offensive? Because they realized if they did nothing, what happened in Iceland would speak for itself. It seems that the further the administration gets from Reykjavik the better it looks, but we supporters of arms control cannot afford to take a wait-and-see attitude here.

The public attitude toward star wars is extremely volatile. But one fact is clear; when the public is asked if they must choose between arms controls and star wars, they choose arms control overwhelmingly. That is our choice. It is a choice of human reason and understanding.

Mr. DICKINSON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me say in closing that I feel between the horns of a dilemma here. I am convinced that this is the best that we can get out of negotiating with the other body.

For 3 weeks we worked on it. We worked until 10 o'clock at night and we came back early in the morning; we broke up into panels and we stayed very busily engaged; and this is the best we could do.

For personal reasons and because it is not good enough, I, on a personal basis, am going to vote against it. I am not going to urge my colleagues to vote against it, because I do not think if we should defeat this thing that we would ever get a bill. We are here in the final days of this Congress, and if it went back to conference with the Senate, I do not think it would ever see the light of day again.

So for that reason I am casting my personal vote and not asking my colleagues to vote as I do; but in closing I would just like to say that I do take the opposite view of the gentleman from Massachusetts [Mr. MARKEY], because I, for one, do not think that this body, and in particular a small group in this body, should be setting foreign policy in treaty negotiations for this great Nation.

Mr. FASCELL. Mr. Speaker, in an effort to forge a bipartisan consensus on arms control issues before the American-Soviet summit in Iceland, the House and Senate leadership and the White House reached an accord last Friday on a number of important provisions, including the SALT agreements, SDI, Asat's, chemical weapons, and nuclear testing. A short overview of the compromise, as reflected in the DOD conference authorization report follows:

SALT: The conference report agrees to adopt a provision containing strong policy language that urges the President to continue observing the SALT II Treaty sublimits, provided that the Soviet Union continues to adhere to these sublimits. The conference language reflects congressional opposition to the U.S. abandonment of the SALT arms control regime and congressional support for continued United States and Soviet adherence to the numerical sublimits of the treaty. Widespread congressional sentiment in favor of continued adherence to the SALT regime is reflected in legislation passed by the House of Representatives on June 19, 1986 that calls upon the President to continue to adhere to SALT's numerical sublimits, as well as in legislation contained in the fiscal year 1987 House version of the DOD authorization bill, which prohibits the expenditures of funds that exceed the sublimits of the SALT II agreements unless the President certifies to Congress that the Soviet Union has exceeded those sublimits. In view of the current arms control impasse, as reflected in the recently concluded United States-Soviet summit in Iceland, it is even more incumbent upon the President to preserve the arms control process as it is now embodied in the SALT framework.

Asat's: The conference report agrees to perserve the ban on the production and deployment of antisatellite weapons. Continuation of the Asat weapons ban reaffirms congressional belief that an agreement between the United States and the Soviet Union on banning Asat's would represent a major step toward averting a costly and destabilizing arms race in space. This continuation of this mutual Asat ban represents the only significant arms control achievement of the past 6 years which can be directly attributed to House insistence.

Nuclear weapons testing: The conference agreement rejects a House provision imposing a 1-year ban on nuclear testing. Under a separate agreement, however, the President has agreed to submit to the Senate two unratified treaties—the 1974 Threshold Test Ban Treaty and the 1976 Peaceful Nuclear Explosions Treaty—recommending their ratification. While the President's decision to submit the two treaties to the Senate for ratification at the beginning of the next Congress represents a significant step in the right direction, a number of potential stumbling blocks remain in the way of Senate ratification of the treaties and the resumption of United States-Soviet discussions that would lead to a comprehensive test ban agreement. It will, therefore, be incumbent upon the next Congress to continue to monitor closely the test ban issue if the ultimate goal of a total cessation in nuclear testing by both sides is to be achieved.

SDI: The conference report agrees to cut the President's funding request to $3.5 billion, approximately half-way between the House and Senate approved versions. While there still remains in Congress a general consensus for maintaining an adequate level of SDI research, the cut in SDI funds from the President's original request of $5.4 billion reflects a belief by many that the level the administration has requested is much too high for an adequate research program alone and also reflects congressional interest in assuring that the SDI Program be conducted within the confines of the longstanding interpretation of the ABM Treaty.

In this regard, I would note that the conference agreement contains a provision which stipulates that action by the Congress in approving SDI funds does not express or imply an intention on the part of the Congress that the United States should abrogate, violate, or otherwise erode the ABM Treaty, and does not express or imply any determination or commitment on the part of the Congress that the United States develop, test, or deploy ballistic missile strategic defense weaponry that would contravene the ABM Treaty.

BINARY CHEMICAL WEAPONS

The binary chemical weapons provisions contained in the DOD conference authorization bill for fiscal year 1987 represents a compromise between proponents and opponents of the binary chemical weapons production program.

It contains the following main elements:

First, prohibits funding for the Bigeye bomb production program, and Bigeye components during fiscal year 1987 and prohibits final assembly of the Bigeye bomb during fiscal year 1987 and fiscal year 1988;

Second, authorizes funding for the production of the 155mm artillery binary shell but prohibits final assembly of the 155mm artillery shell during fiscal year 1987. We understand that the prohibition on final assembly of the 155mm during fiscal year 1987 means that the final stage fill, load, assembly or packaging of the methylphosphoric difluoride [DF] canister of the 155mm binary shell is not allowed before October 1, 1987; and

Third, does not authorize the $15.4 million of fiscal year 1987 funds requested for Bigeye production facilities and limits the fiscal year 1986 funding for Bigeye production facilities to $90 million subject to a certification by the President that the production of the Bigeye is first, in the national interest and second, all design, planning, and environmental requirements for such facilities have been met.

In short, an operational 155mm binary chemical weapon is not possible for at least 1 year—fiscal year 1987—and an operational Bigeye chemical bomb is not possible for at least 2 years—fiscal year 1987 and fiscal year 1988.

In order to understand the significance of this compromise, it is important to recall the history of the Binary Chemical Weapons Production Program.

For three consecutive years, 1982–84, Congress wisely rejected the Pentagon's persistent requests to produce binary nerve gas chemical weapons. When the Pentagon again requested funding for these weapons last year, that proposal again met with considerable opposition. Congress ultimately prohibited all funding for the Binary Chemical Weapons Production Program during fiscal year 1986 and made such funding after fiscal year 1986 dependent upon the satisfaction of four major conditions.

For example, in fiscal year 1986, Congress mandated that U.S. binary production could begin after October 1, 1986, only if environmental, safety, and testing requirements were satisfied. In addition, another key condition, impacting directly on our European allies, specifically stipulates allied acceptance of these new binary chemical weapons as an integral part of our chemical deterrence in Europe.

Based on events this year, two of the four key conditions—testing and allied acceptance—cannot be satisfied this year.

In the testing area, ongoing GAO investigations continue to uncover testing failures, technical deficiencies, structural deficiencies, and structural flaws within the Binary Weapons Program that demonstrate that the Bigeye binary bomb is not even ready for operational tests, let alone production. That was the conclusion of the May 23, 1986, GAO report to Congress entitled "Bigeye Bomb: An Evaluation of DOD's Chemical and Developmental Tests" and the subsequent GAO update to me of August 5, 1986, which now follows:

U.S. GENERAL ACCOUNTING OFFICE,
PROGRAM EVALUATION AND METHODOLOGY DIVISION,
Washington, DC, August 5, 1986.

Hon. DANTE FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: In your letter of July 18, 1986, you asked us to answer some of the criticisms DOD has been making through the news media about GAO's report entitled "Bigeye Bomb: An Evaluation of DOD's Chemical and Developmental Tests." Before the report was published, we had requested, in the usual manner, that DOD submit formal comments. At your direction, we asked that those comments be provided in 10 days. DOD said they could not submit comments in that time frame, but they did not request an extension. They did, however, keep the report for 46 days, uniquely for security review, something which normally takes about 10 days. Clearly, DOD could have used the 46-day period to prepare their formal, official comments. Instead, the agency chose to attack the report in the press and to put forward some manifestly erroneous charges that have not as yet been publicly refuted. Let me address here five persistent claims made by DOD about our report that you have cited in your letter.

1. DOD charges that findings in the GAO report are based on the results of early tests and that we did not examine available results of subsequent tests that demonstrate Bigeye's feasibility.

We believe that our analysis and reporting of test results is both justified and appropriate given the status of the DOD testing program and given the data which have been released to us by DOD. With respect to the status of the testing program, it is necessary to distinguish between developmental and operational tests. Developmental tests are conducted to determine if a weapon meets its technical specifications (e.g., did the Bigeye meet its minimum purity requirements?). Operational tests, performed by the services, explicitly introduce the human element and are conducted to determine if the weapon will be useful in combat (e.g., were the pilots able to deliver the Bigeye on target?). Developmental tests (including chemical tests) have been completed on the Bigeye but operational tests, which only began in September 1985, are not expected to be completed until early 1987. The GAO report is based on test programs completed prior to April 1985; it thus includes all of developmental tests but none of the operational tests.

Despite the fact that the operational tests by the Navy and the Air Force are not complete, some individual test results have now been released by DOD. It is these operational tests to which DOD refers as the "subsequent tests" and it is on the use of those test results by DOD that we disagree, for two reasons. First, because operational tests address different questions from developmental tests, the more recent data cannot be used to refute or substitute for the earlier data. Most of the issues raised during developmental testing, such as pressure buildup and agent lethality, are still unresolved. Operational testing, even when run to completion, will not settle a number of important questions about the Bigeye.

Second, we did not report on operational test results because the results which DOD labels "available" were not in fact available to us even with regard to those individual tests which have been completed. DOD has still not given us the full results (i.e., including supporting data and analyses) of the most recent operational tests even though the agency was instructed by the Congress to do so. Instead, DOD has selectively released information to the press (including the classified Air Force operational test results) that puts the Bigeye in a favorable light, and has then accused GAO of ignoring the latest data. All of this is a matter of record.

But further, we disagree with the use of selected operational tests as "demonstrating Bigeye's feasibility" because such use is premature. Given that, in the past, preliminary test results released by DOD through the media have often looked quite different when viewed in the context of the full technical reports, GAO obviously cannot make comments on "the latest data" without having had the opportunity to review both the data and the evidence behind the results. Moreover, a small number of tests early in a series is not likely to provide statistically significant results and it would thus be difficult to draw many strong conclusions about any of the major Bigeye issues before the testing program is complete.

2. DOD claims that the first phase of operational testing was successfully completed and the bomb is ready for low-rate initial production.

As noted above, DOD has selectively analyzed, declassified, and reported to the press data that put Bigeye in a favorable light. A DOD official provided test results to the New York Times which quoted that official as saying that "most of the weapons dropped . . . had performed properly, once a key component was fixed." That key component was the air turbine generator that is used to initiate the chemical mixing system. The newspaper states, "In Navy tests of 20 weapons, three failures were attributed to a malfunction of the air turbine generator that is used to mix the chemicals. Two additional tests were discounted after the aircraft's bomb rack failed to work. The rack is being fixed separately. Separate Air Force trials over the same period had to be interrupted after the generator failed in three out of the first four attempts to drop the bomb. But even after the problem was fixed, only 12 of 15 further Air Force drops succeeded. One of the failures again was attributed to the generator, while the other two were attributed to fuses in the nose of the bomb."

So DOD's conclusion about the success of operational testing is apparently based on 15 successes of 20 trials for the Navy, and 12 successes of 15 trials for the Air Force. (This information, incidentally, is classified in the reports, although not in the New York Times.) But is this really a sound basis for determining operational success? We think not, because by definition, these component parts should have been tested and fixed during developmental testing DOD has not reported the outcome of other operational test objectives—such as the determination of delivery accuracy, agent deposition density, and system reliability. GAO cannot report these findings here since the data are classified, and unlike DOD, we cannot selectively declassify information. We can, however, say that after reading the Navy and Air force summary reports (but without as yet the benefit of reviewing support documents), our preliminary position is that we do not regard the first phase of operational testing as successful.

Although we are constrained by classified data from presenting the rationale for our position, there are two unclassified examples in the operational testing report that we can report in this letter. A quote from the Air Force report says, "The USAF nonnuclear munitions safety board (NNMSB) has withheld certification of Bigeye for inventory introduction and operation because of design deficiencies in the CCU-13/B impulse cartridge used to activate the ballonet. Final redesign and testing has not been completed." Also from the report, "The Air Force requires the Bigeye weapon service life to be 1 year. Bigeye is not presently certified to meet this requirement because the service life of the FZU-37 [air turbine generator] and EMU-140 [fuse] is 60 and 90 days respectively." Quite apart from our own findings, we would have to question a recommendation to start producing a bomb whose components do not meet required service life and which has not been certified for inventory introduction and operation because of design deficiencies. These examples, along with all the unresolved issues of developmental testing mentioned in the GAO report, support our position that the bomb is not ready for production.

3. DOD says the GAO report dwells on issues that are "non-problems" such as

(a) the low temperature requirement,

We did not make an issue of the low temperature requirement. Contrary to a quote from a DOD spokesman in a Washington Times article of June 11, 1986, the GAO report did not "attack the Bigeye because it doesn't work at minus 40 degrees Fahrenheit;" in fact, anyone who has read our report knows that low temperature tests were hardly mentioned in it. No minus-40-degree tests were performed during the period we focused on in our analysis, and only one test below zero degrees was included. Our reference to that one test appears only in appendix to the report. We agree with DOD that the probability is quite low that the Bigeye will have to function in the low end of the temperature range in an operational setting, particularly given the low altitude penetration tactic. So this issue seems to be a strawman.

(b) agent lethality,

This issue pertains to DOD's self-set standards for generating VX nerve agent with a minimum purity or equivalent biotoxicity level within the required time after chemical mixing is started. The requirement was developed by DOD and what GAO did in the report was to compare actual test results to the standard. When the minimum requirement was not met, DOD introduced the idea of lethality. According to Science magazine, June 20, 1986, a DOD spokesman "acknowledges that some uncertainties exist about the toxicity of the bomb in operational use, but notes that its lethality is so great that even an agent with low potency will be strong enough to meet the military requirements." The problem with this is that there is no separately stated military requirement for "lethality." Indeed, how is lethality measured? It is normally quantified through biotoxicity measures. This brings us right back to the military requirement that DOD has already set for that measure and about which DOD admits there is uncertainty. The term lethality is being used as a verbal subterfuge to divert attention away from the requirement to meet real purity or biotoxicity standards and toward the nebulous idea of "lethality." (It might be of interest for Congress to ask DOD to provide purity data on the current unitary chemical weapons for comparison purposes.) So we would disagree that it is a non-problem when DOD leans heavily on the importance of lethality but fails to require, define, or measure it.

(c) pressure buildup,

Pressure buildup is a very technical issue and not easily discussed in an unclassified letter. However, we will try to outline the evidence in support of our position that pressure buildup warrants attention. GAO is concerned about the rapid pressure buildup that occurs in the first few seconds (not minutes as characterized by DOD) of high temperature tests. During these tests, conducted in a controlled test environment, the bomb was vented and pressure was released through a relief valve which will not be present on the production model of the bomb. In Science magazine, June 20, 1986, a DOD spokesman is quoted as saying, "we know what the pressure curve looks like at the worst case, and it is . . . out of the realm of interest." He goes on to say that "the bomb would have to remain in free-flight for 5 minutes before an explosion could occur, whereas its expected free-flight time is roughly 30 seconds, a point that GAO disputes." And we certainly do dispute the view that pressure buildup is of no concern. The explosion of the Bigeye in an October 1982 test did occur after 5 minutes. But this is not an accurate analogy for the current system for several reasons. First, that test was intended to proceed for 1 hour or until weapon failure. Five minutes after the mixing process was initiated, the weapon failed when excessive pressure forced the ballonet out of the weapon. Army testers said that they were surprised since they had expected the pressure to stabilize below the pressure attained in the test. In other words, the bomb was expected to last for at least an hour, but blew up after only 5 minutes, to the surprise of the testers. Second, the starting temperature of this test was 68 degrees Fahrenheit, not considered a high starting temperature. GAO expects that the temperature for operational deliveries will be considerably higher than that, and tests have shown that as temperature increases, so does the pressure buildup. Third, there have been design changes in the bomb hardware since the 1982 blow-up to accommodate a shorter mixing time. This means temperature and pressure rise more quickly. These and the additional classified information from the test reports since the blow-up indicate that pressure buildup over a short time interval is still a concern. The risk of a premature explosion is not a threat to the planes or pilots, but rather to the success of the mission because the bomb would be rendered useless. We feel pressure buildup is not a "non-problem."

(d) flashing.

Flashing refers to either burning or instant vaporization of the VX agent/reaction mixture during dissemination from the Bigeye bomb. As we explained in our report, GAO believes the likelihood of flashing is speculative, but a very important issue to address. Operational conditions for the Bigeye, especially high temperatures during mixing, will provide an environment similar to that of laboratory studies in which VX readily flashed. In a 1966 study of unitary VX, flashing occurred in 4 out of 6 cases. DOD claims this study is not relevant since there is no buster (explosive charge) in the Bigeye to produce an ignition source. But laboratory combustion studies performed by a contractor for DOD indicate VX flashes above a certain temperature even without an external ignition source. This auto-ignition temperature was reached in several of the Bigeye high temperature lab tests. And the authors of these studies thought this type of combustion (flashing) might occur "more readily" in the atmosphere than in the test chamber. DOD's own studies raised the issue of flashing, yet no more tests or analyses have been done. We feel it is an important issue to address, because any appreciable degree of flashing renders the weapon ineffective, since agent would burn or evaporate before reaching the target.

In summary, we might add that the Director of DOD's Operational Test and Evaluation (OT&E) Office, agrees with GAO that these last three points are not "non-problems" and says that the next phase of operational testing, OPEVAL, will address all critical issues, including the issues of pressure buildup, biotoxicity, droplet size and agent persistency. Apparently, DOD agrees with GAO regarding these unresolved technical issues and the need to address them carefully and systematically. However, the issues the Director of OT&E cites are issues which should have been addressed and resolved during developmental tests, not during operational tests. Indeed, unless the current scope and design of planned operational tests are changed, it is clear these technical issues will not in fact be addressed during OPEVAL.

4. DOD charges that the GAO report is "tendentious," because it dwelled at length on a single test in which the Bigeye exploded.

Our report does not focus on the (October 1982) test in which Bigeye blew up. On the contrary, that blow-up was actually the point of departure for our analysis of chemical mixing in which we described and analyzed in extraordinary detail approximately 100 chemical and developmental tests conducted between late 1982 and 1985. This focus on the later tests was necessary because the Bigeye blow-up triggered extensive redesign and operational changes in the bomb. Thus, the DOD charge is without substance. However, this is a far cry from saying either that the explosion is unimportant or that there are not profound lessons to be learned with regard to the pressure buildup problem that caused it.

5. DOD claims GAO is trying to "goldplate" the Bigeye program.

On several occasions, GAO has been accused of trying to "goldplate" the Bigeye program. We have difficulty in understanding this idea since we are, of course, merely trying to determine whether the weapon meets the DOD's requirements. GAO did not develop the weapon performance criteria and did not seek to challenge DOD's criteria as such. Indeed, we have fully accepted the DOD requirements. What we have done, however, is to criticize the changing of criteria without justification, the vagueness of some criteria, the shortage of data and analyses, and the inconsistency evident in some analyses and in the reporting of test results. GAO has not suggested that the Bigeye be required to do more than the DOD requirements state; we want only to make sure that the Bigeye can provide the capability which is intended. But as we have stated very clearly in our report, our conclusion is that, despite DOD's wish to proceed with production of the weapon, the results of the agency's own test and evaluation process have not persuaded us that that capability is there.

Mr. Chairman, I hope the above discussion will help to clarify some of the points currently being debated in the press. Please call me (275-1854) or Kwai-Cheung Chan (275-6161) if you should have any questions or comments.

With kind regards,

Sincerely,

ELEANOR CHELIMSKY, *Director.*

Finally and most importantly, the GAO has submitted a report to the Appropriations Committees just last Friday on the Bigeye binary chemical bomb as required by Public Law 99-145. While classified, it is appropriate and accurate to note that the GAO has again demonstrated in its October 10, 1986, report to Congress that the many technical deficiencies of the Bigeye have not been resolved by the Defense Department's operational tests this year. The October 10 report indicates that the Bigeye's "unresolved issues continue to plague the program" and point out that for the first time the military services are raising many of the very concerns about the Bigeye that GAO has raised in its May 23, 1986, report to Congress as well as in its August 5, 1986, letter to me.

As to the condition requiring allied acceptance of binary chemical weapons as a part of the chemical deterrence in Europe necessary to deter the Soviet threat, that condition not

only cannot be satisfied, but was in effect rejected by our allies at the NATO ministerial meeting this past spring in Halifax.

As reflected in the NATO statement at Halifax this past May, the North Atlantic Council [NAC] did not even consider binary chemical weapons production. To the contrary, the NAC's only reference to chemical weapons is a call for their elimination, not their production. The NAC statement reads: "We seek a treaty totally eliminating chemical weapons."

As a result, under the administration's plan, all existing U.S chemical weapons in Europe would be withdrawn. None of the U.S. binary chemical weapons proposed for production in the United States would replace chemical weapons now in Europe. The net effect is a total unilateral withdrawal by the United States of all chemical weapons now in Europe.

In its persistent efforts to have the Congress fund the multibillion-dollar binary production program, the administration's plan contributes to the fulfillment of a longstanding Soviet foreign policy objective: The creation of a chemical weapons free zone in which the West withdraws its chemical deterrent from Europe while the Soviets keep their stockpile of deadly chemical weapons in Europe, only miles from NATO troops.

This short overview of the Pentagon's Binary Chemical Program demonstrates congressional opposition to making it the chemical Divad. That's why the compromise as contained in this fiscal year 1987 Defense authorization says "no" to flawed weapons—that is the Bigeye bomb—and why we should say "no" to the flawed strategy of unilateral chemical disarmament in Europe. In prohibiting the final assembly of the 155 mm. binary shell and production of the Bigeye bomb in fiscal year 1987, we are hoping that the superpowers can agree to an arms control agreement that would obviate the need for the final production of any binary chemical weapons.

This last point takes on added significance in view of the joint pledge originally made at the November 1985 summit by President Reagan and Secretary General Gorbachev to actively seek an agreement on the mutual elimination of chemical weapons. Both leaders discussed this issue again just this past weekend during their meeting in Iceland and identified an arms control agreement on chemical weapons as desirable and possible.

While not as conclusive as many of us would like, the conference position on chemical weapons reaffirms Congress position that we should not be funding a weapons system that does not work, is not proven safe for our troops, needlessly adds billions of dollars to the deficit, unilaterally eliminates the present chemical deterrent in Europe, and undermines efforts of the superpowers to agree to an arms control agreement that bans chemical weapons.

As we address this problem in the next Congress, we should not fund a full and final binary chemical production program unless: First, progress on an arms control agreement with the Soviets proves impossible; second, an independent assessment by GAO concludes that binary weapons are technically ready for production and operationally safe and usable; and third, our European allies agree to replace unitary chemical weapons on their soil with binary chemical weapons.

FOREIGN AID PROVISIONS

In addition to the important arms control provisions of this legislation, the Senate version of the DOD authorization contained a number of provisions which fell within the exclusive legislative jurisdiction of the Committee on Foreign Affairs and required the appointment of committee conferees. While the committee was able to protect its jurisdiction in these matters, with the cooperation of Chairman ASPIN and the House Armed Services Committee, I have become increasingly troubled at the recurring practice in the Senate of attaching foreign policy provisions to the Defense Department legislation.

I intend to ask for House Foreign Affairs Committee conferees each year this practice continues. I will also work with the chairman and ranking minority member of the Senate Foreign Relations Committee to arrest the dissipating jurisdictional structure in the Senate, which has led to the poor legislative process we face regarding authorizations for foreign policy programs. The House and its Foreign Affairs Committee have been dragged into this unfortunate situation through no fault of their own.

Of particular interest to the House Members in the conference report are three foreign policy provisions. First, a freestanding Senate provision allowing open ended Presidential authority to provide cost free transfers of military equipment to NATO southern flank nations was changed in the conference agreement to a 2-year program, under the authority of the Foreign Assistance Act. In addition, tighter controls were placed on the type of equipment which could be transferred. Report language was also inserted stating that transfers under this new authority would be consistent with current United States policy that a balance of military forces between Greece and Turkey in the Eastern Mediterranean be maintained. The executive branch was also instructed to submit to the proper committees of legislative jurisdiction—the House Foreign Affairs and Senate Foreign Relations Committees—a request for permanent legislation for such equipment transfers.

The conference report also contains authority for the Defense Department to provide small-scale humanitarian and civic assistance. At the insistence of the House Foreign Affairs conferees, a $3 million cap in fiscal year 1987 and a 5-year $16.4 million cap was placed on the program to insure that the program would remain small scale and not raise serious foreign policy implications beyond the jurisdictional control of the Committee on Foreign Affairs. The Senate definition of the types of humanitarian and civic assistance which could be provided was also tightened to insure that the program did not escalate in a new form of development and/or military assistance.

Finally, the Senate version of the DOD authorization contained a provision which would have required that the United States apply to the foreign missions to Cuba and East European countries the same terms, limitations, restrictions, and conditions applied to the Soviet Union's foreign mission in the United States. Because of executive branch concerns that the provision would hamper United States operational and intelligence capabilities in Eastern Europe and Cuba and contradict longstanding policy objectives of encouraging differentiation between Eastern European countries and the Soviet Union, the conference agreement provides for a comprehensive report on foreign intelligence activities in the United States. Such a report will enable further consideration of this important problem by the proper legislative committees, the House Foreign Affairs and Senate Foreign Relations Committees, in the context of the State Department authorization legislation next year.

Mr. RAHALL. Mr. Speaker, prior to going to Iceland, the President maintained that the summit would be a planning session for an upcoming summit to be held in Washington. Therefore, in response to the President's loud but inaccurate complaints that the House-passed arms control provisions tied his hands in dealing with the Soviets, House negotiators accepted a compromise that provided the administration with virtually everything it had demanded with regard to the House arms control provisions.

However, with the collapse of the Iceland summit, the possibility for a Washington summit is now remote. While some administration officials maintain that progress can be made on lesser agreements, Mr. Gorbachev has clearly linked all arms control issues to limitations on SDI. During the recent summit, Mr. Gorbachev proposed a sweeping package of arms control measures: the elimination of all nuclear weapons in Europe, a 50-percent cut in the United States and Soviet strategic arsenals, and a phased-in ban on all nuclear tests leading to an eventual comprehensive test ban. The agreement on intermediate-range missiles would have limited both sides to only 100 intermediate-range missiles, none of which would be in Europe. The Soviet Union would base its 100 intermediate-range missiles in Asia and the United States would place its 100 missiles on its own soil. The 50-percent cut in strategic weapons would apply to all weapons, whether based on land, sea, or in the air—carried by bombers—and would cover both warheads and launchers. Mr. Gorbachev stated that the Soviet Union would agree to whatever verification the United States deemed appropriate. In addition, Mr. Gorbachev called for restricting the strategic defense initiative [SDI or star wars] research to the laboratory for 10 years and for negotiating on the deployment of SDI at the end of the 10-year period.

President Reagan made a counteroffer to reduce strategic weapons by 50 percent over the next 5 years and totally eliminate them within 10 years. With respect to SDI, however, the President would place no restrictions on testing and development of the SDI Program but would agree not to deploy the system for the next 10 years. After that time, the United States would deploy star wars in space.

Mr. Gorbachev agreed to the new U.S. proposals on offensive weapons but continued to insist on limiting SDI testing to the laboratory and making deployment of SDI subject to negotiation after 10 years. The negotiations deadlocked over SDI and both sides walked out on the entire agreement.

Both President Reagan and Mr. Gorbachev have reasons for their staunch positions on SDI which are based on their political beliefs. However, the greater cause for concern is the ramifications of the stalemate caused by these failed negotiations. The failure of the Iceland summit and the unlikely prospect for another summit in the near future is a severe setback for arms control. It makes the possibility for any arms agreememt within the next 2 to 3 years highly unlikely, will escalate the arms race, and strain relations between the United States and NATO allies.

First, greater tensions among the two superpowers and the administration's refusal to compromise on Star Wars is likely to cause the Soviets to postpone further negotiations until a new President is elected.

Second, U.S. intentions to proceed with research, development, testing, and eventual deployment of a strategic defense program will force the Soviet Union to counter with its own program, and the two will be locked into a massive spending war in space—costing each side up to $1 trillion. Furthermore, the Soviet Union is likely to resume nuclear testing, thereby allowing them to expand and modernize their strategic forces. The United States will then have to answer the Soviet modernization with new weapons of its own. The utter failure of this arms control summit will lead to an even steeper escalation of the arms race than that which it was intended to counter.

The third effect of this summit will be strained relations between the United States and its NATO allies. In his press conference following the Iceland summit, Mr. Gorbachev stated that negotiations in Geneva on limitations on intermediate-range ballistic missiles in Europe are now stalemated because of the summit. Western Europeans are already highly skeptical of the American commitment to arms control and their security interests. They are likely to be outraged that President Reagan passed up the opportunity to eliminate nuclear weapons in Europe in order to develop SDI, about which they are highly skeptical. Western Europeans vehemently protested the placing of U.S. cruise and Pershing II missiles on European soil. The President's walking away from the most significant arms agreement to date is likely to generate far greater opposition and weaken support for the current European governments and the NATO alliance. The U.S.S.R. will try to exploit the situation in order to weaken the NATO alliance and convince the Western Europeans that their security interests and those of the United States are not the same. The unbending U.S. position propagated during the Iceland summit only serves to foster this propaganda.

In light of the collapse of the summit—leaving a second more substantial summit as a very unlikely possibility—I do not see the necessity to uphold the compromise on the House-passed arms control provisions which has been incorporated into the defense authorization conference report.

The agreement, unlike the House-passed bill, permits the administration to proceed with plans to violate SALT II, permits unlimited nuclear tests, and authorizes funds for nerve gas, breaking a 17-year moratorium. The agreement splits the difference on star wars funding, giving the President a $530 million increase over current levels. On only one issue—antisatellite tests—does the agreement incorporate the House proposal, which continues the ban on such tests, provided the Soviets do likewise. And this provision is a hollow victory for arms control in light of the fact that the Air Force has had technical difficulties with the ASAT System being developed, which would limit the number of tests even without a ban.

With regard to spending levels, the conference report authorizes $291.8 billion for defense programs in fiscal year 1987, $4.9 billion more than the House bill and $5.8 billion more than current appropriations. The report adds a total of $6.4 billion to the procurement funds authorized by the House bill; requires certain changes in procurement procedures that are in general weaker and less comprehensive than the wider ranging reforms contained in the House bill; and contains none of the House language providing new legal protections for whistleblowers in the military or employed by defense contractors.

This conference report is an extremely watered down version of the House-passed bill which contained diligent cost saving measures, responsible spending levels, and reasonable arms control provisions that maintained the status quo. In light of the administration's hollow promises to work toward arms control and our responsibility as a legislative body to represent the interests of the American people in all issues of national importance, I will not support this conference report and urge my colleagues to join me in opposition to this measure.

Mr. GREEN. Mr. Speaker, earlier this year, I was pleased to vote for the defense authorization bill presented to the House, in part because it contained the arms control provisions many of us had worked so hard to include. However, I cannot support the defense conference report before us today because it has so badly compromised away those important arms control provisions.

Essentially, all the House was left with, after passing five historic amendments, was one amendment that maintains an Asat moratorium. Surrendered are four others—on a nuclear test ban, on maintaining SALT II limits, on stopping the production of chemical weapons, and on holding the SDI funding to zero growth plus 3 percent inflation—which would have contributed greatly to slowing down the arms race.

The most disturbing blow, I believe, dealt by this so-called compromise is to allow the administration to break the SALT II limits. We all know the Soviets can add warheads more quickly than we. If we allow this agreement to be eradicated, not only will we not have gained an arms control agreement last weekend, we will have lost an existing one that benefits the United States. And as for a nuclear test ban, by agreeing to a mutual test ban beginning January 1, 1987, we have an opportunity to hold the Soviets to their unilateral test ban which they have been observing since August 1985.

While I know why this lopsided compromise was agreed to by the House conferees—no one wants to be seen as "pulling the rug out from under the President" as he is negotiating with the Soviets—I cannot support the a-deal-is-a-deal philosophy which has followed. I do not condone the Soviet bait and switch game at the Iceland presummit, but the administration's apparent disinterest in working for a compromise has nullified its current contract with the Congress.

As one of the coauthors of the test ban amendment which passed the House on a vote of 234 to 155, and as a supporter of the other four provisions which also passed, I urge my colleagues in this House to open their eyes and see what we got in this trade. I'm afraid we got the beads and the administration got Manhattan, and all mankind could be the real loser.

Mr. FRENZEL. Mr. Speaker, I must oppose the conference report before us today. Like many of its predecessors, it simply is too expensive.

Overall spending in the House-passed defense bill was $282 billion. In the Senate, it was $292 billion. Today we are asked to accept a compromise of $290 billion. In my judgment, that figure represents a failed effort to hold down costs in a time of fiscal crisis.

One example will suffice. Congress has mandated that the Air Force buy a new trainer aircraft whether the contractor can build it or not. That's what this Congress believes is procurement reform.

I have pursued freeze funding levels for all areas of Government this year, and believe that greater austerity is needed in defense as in all other areas. I am pleased that the rate of increase of defense spending has slowed, but believe this year's figure remains excessive.

I regret that the conference increased funding for the strategic defense initiative [SDI] substantially over the freeze-plus-inflation approach adopted in the House. Unnecessarily rapid increases in total spending have unnecessarily caused a weakening of confidence in our defense budget. Unnecessarily rapid increases in funding in SDI are weakening confidence in that progarm, too.

I also regret that more of the arms control provisions adopted in the House version of the bill were not adopted.

Mr. Speaker, this bill is not entirely bad. It will provide for the continued effective defense of our Nation and its interests abroad. However, its cost simply is too great. For that reason, I oppose its passage.

Mr. TRAFICANT. Mr. Speaker, I rise in opposition of this measure for the following reasons. First, the conference agreement rejects the House stand on continued adherence to the limits set forth in the SALT II Treaty. The provision adopted in the conference report would merely urge the President to continue observing SALT II limits. The conference report does not require the President to comply with SALT II—this could open the floodgates for an escalation of the arms race—especially in light of the bitter atmosphere following the failure at the Iceland summit. If we allow this President to violate SALT II—as he said he would—then I fear that it will launch a new, a certainly more destabilizing arms race that could lead us one step closer to a nuclear holocaust.

Second, the conference report rejects the House approved ban on nuclear weapons tests above 1 kiloton. Failure to enact such a ban will probably result in the Soviets resuming such testing after a unilateral 14-month moratorium. In light of the failure at Iceland Soviet resumption of nuclear testing is highly likely—especially in light of the Congress' failure to act in this area.

Third, the conference agreement also rejects the House 1-year ban on nerve gas production—thereby ending a 17-year U.S. moratorium on nerve gas production. Again, given the tense nature of Soviet-United States relations following Iceland, to allow the production of nerve gas artillery shells will only increase tensions and further dim the hopes of any future arms control agreement with the Soviets.

Finally, the conference report does not include the buy American language I successfully attached to the House bill. This modest measure would have given American firms bidding on Defense contracts a 5-percent weighted advantage against foreign firms.

Mr. COOPER. Mr. Speaker, the defense Authorization Act includes several provisions of concern to the small business community, in particular a mandated review of small business size standards and a prohibition on subcontracting more than 50 percent of the cost of a setaside contract. As a member of the House Small Business Committee, I took particular interest in these provisions.

The mandated review of size standards is specifically limited to selected industries. This judgment by the Conference reflects the compromise effected on the floor of the House, which struck the across-the-board review that had been proposed by the Armed Services Committee in favor of a limited review. In particular, I note that the review will not extend to the textile and apparel industries. I strongly concur in this decision. Given the hardships endured by the domestic textile industry in recent years, further disruption of the marketplace by changes in small business size standards would have been a serious mistake.

The bill also includes a prohibition on subcontracting more than 50-percent of the cost of a setaside contract. A similar provision appeared in the House-passed bill. In the case of contracts for supplies, the bill exempts the cost of materials from the calculation of the cost of manufacturing. The fact of the matter is that the cost of materials frequently is the largest component of the overall cost of a contract. This is a particular concern for the textile industry, and it is fair to say that the decision to exclude the cost of supplies from the calculation of manufacturing costs reflects that concern.

The purpose of the small business setaside program is to foster the development of domestic small businesses, and a principal purpose of the 50-percent cap on subcontracting is simply to ensure that small business setaside contracts are performed by small businesses—and not by big businesses or foreign concerns under subcontract to a small business contractor. The decision to exclude the cost of supplies from the calculation of the cost of manufacturing is intended to avoid penalizing small businesses in industries with high materials costs. In like manner, the conference wisely agreed to give authority to the SBA Administrator to adjust the permissible percentage of subcontracting in recognition of prevailing practices among small businesses in a given industry.

It is my firm understanding that the purpose of this provision is to permit the Admininstrator to increase the permissible percentage of subcontracting in industries, such as the apparel industry, where small Government contractors frequently subcontract substantial amounts of work to other small businesses. By giving authority to the SBA Administrator to adjust the permissible level of subcontracting in such cases, we protect conventional industry practices among domestic small businesses. It is important to emphasize, however, that this provision is intended to protect small businesses. It is not intended to permit additional subcontracting to big businesses or foreign concerns. I trust that the SBA Administrator will act quickly to make adjustments in the permissible level of subcontracting in the textile and apparel industries, and in other industries where small contractors frequently subcontract to other small companies on Government contracts.

Mr. BEDELL. Mr. Speaker, complete victories are often most difficult to secure here in Congress. Compromise is our byword and will continue to be our byword. Last week, House conferees on the arms control provisions of the Defense Department authorization bill accepted such a bipartisan compromise on the outstanding arms control issues contained in this bill. We did so in an effort to support the President in his presummit meeting with General Secretary Gorbachev in Iceland in the hopes of furthering the cause of peace. While our agreement to this compromise did fall short of a 50–50 arrangement, I believe we acted responsibly in securing significant concessions from our counterparts in the other body with respect to the overall issue of arms control.

One of these concessions was directly related to an issue that I have committed myself to over the last 4 years—an end to nuclear weapons testing. In essence, what the conferees in both bodies agreed to was the inclusion of the text of House Joint Resolution 3, of which I was the primary sponsor in the House, within the text of the Defense Department authorization bill. This measure—House Joint Resolution 3—represented a straightforward approach to achieving an end to nuclear weapons testing through the ratification of both the Threshold Test Ban [TTBT] and Peaceful Nuclear Explosion [PNET] Treaties, as well as through the resumption of negotiations aimed at the conclusion of a mutual, verifiable Comprehensive Test Ban Treaty. In addition to this agreement, a pledge was secured from the President to propose new negotiations on further limits on nuclear testing, leading to a complete ban on such testing, as soon as the TTBT and PNET were in force.

In all honesty, I can tell you that such a personal victory is especially wonderful to attain before I retire from Congress. Nevertheless, I have decided to oppose final passage of this conference report as a result of a flaw in our compromise packages in relation to the production of binary chemical munitions. In a letter sent to the House majority whip, Mr. FOLEY, our counterparts in the other body specified their agreement to recede to the House to bar funding for the production of the Bigeye binary chemical bomb. This agreement was secured through a House commitment to recede to the Senate to allow full funding for the production of the 155mm binary artillery shell. Thus, this agreement appeared to me to be a straight and fair trade, 155 for Bigeye.

Today it appears that the straight and fair trade has an interesting hook attached to it. The hook is the inclusion of $90 million for production facilities for the Bigeye bomb. Thus, while our counterparts in the other body receded to our demands or the cancellation of Bigeye funding, they have resuscitated Bigeye by providing funding for production facilities of Bigeye. While Congress will have the opportunity to revisit the issue of Bigeye production funding against next year, the bottom line is the expenditure of $90 million to pave the way for Bigeye production next year. The bottom line is the expenditure of $90 more million in a year in which we are all endeavoring to meet Gramm-Rudman budget cuts and eliminate wasteful Federal spending.

In reporting to Congress, the General Accounting Office has stated that persistent technical flaws remain rampant in the Bigeye Program that these flaws are so—unrelenting that it is not even ready for development testing, let alone production." That being the case, I see no reason for the House to allow the other body the opportunity to renege on its commitment to recede to the House on the issue of any funding for Bigeye. I see no reason for the House to approve the wasteful expenditure of $90 million for production facilities for a weapon of dubious and decrepit design.

In closing, I would like to commend the efforts of our colleague from Wisconsin, Mr. ASPIN, for being a tough negotiator and defending the House position on those issues associated with arms control. I can say it was an honor to serve on that panel and that we did everything we could to raise both the institutional and public awareness of the importance that arms control plays to the national security interests of the United States. And while I am pleased to see finally the issue of nuclear testing elevated beyond that of sense of the Senate and to that of the sense of Congress, I do believe we fell short of what I understood our compromise agreement on the issue of binary chemical munitions to be. For that reason, I cannot support final passage of this conference report. Although I shall not have the opportunity to serve in the 100th Congress, I would advise my colleagues that each of the arms control issues approved by the House will be visited again by the House. Arms control remains the legacy of the 99th Congress and must be the first order of business in the 100th Congress.

Mr. STARK. Mr. Speaker, the Defense conference report that the House votes on today represents about one-half of half a loaf for Democrats concerned with arms control and a reasonable, effective defense budget. Despite having a clear mandate from the House on such issues as nuclear testing, SALT II compliance, chemical weapons, procurement reform, and star wars, the conferees bowed to

pressure from the administration and the Senate and gave away the store. I voted for the House bill, despite many reservations, but I cannot support the conference report.

My first complaint with the agreement is in the area of arms control. The House conferees knew that there was strong support in the House for the provisions on nuclear testing and SALT II compliance and they pledged to come back with at least one of them. But then President Reagan announced the presummit conference with Secretary Gorbachev and pleaded with the Congress not to tie his hands. Well, the House gave in to his pleas and untied his hands, and all he did was sit on them at the end of the summit. Considering what we got out of Reykjavik—nothing—was it worth what we gave away on arms control—everything?

My second major disagreement is with the cut in funding for operations and maintenance. The agreement basically splits the difference with the Senate on total authorization, adding nearly $5 billion to the House total. But within that increase is a $6.4 billion increase in procurement, a $2.4 billion increase in testing and development, and a nearly $3 billion cut in O&M.

We all know there are two main reasons for doing this. One is that procurement funds are spent more slowly than O&M funds, so shifting money out of O&M into procurement allows us to increase authorization much more than we increase fiscal year 1987 outlays. This does not mean we will not eventually spend the money. We are just deferring tough decisions on budget cutting until the future. The second is that much stronger constituencies are built up around major weapons systems than around O&M expenditures. It's a lot nicer to get your picture taken on a new battleship or submarine than in a mechanic's shed where weapons are repaired.

But the superficial attractiveness of big-ticket procurement does not make it good policy. Not when it comes at the price of good operations and maintenance. I'm sure that my constituents who work in the Alameda Naval Air Rework Facility recognize the importance of keeping the Navy's planes in good working order. I'm sure they know just how much work needs to be done to keep those planes flying. Without them, the much-celebrated top guns would be grounded. But the conference report cuts over $1.2 billion from the Navy's O&M budget alone. This Congress would rather spend money on shiny new weapons than buy spare parts for the ones we already have. As a result, we will now have the world's first disposable F–14.

Let's look at some of the things we bought for that big cut in O&M. We increased star wars to $3.5 billion, an 18 percent increase over last year. This is a folly. There are two main arguments advanced for supporting star wars. One is that it will provide us with an electronic astrodome, protecting the American people from nuclear attack. The other is that it is a bargaining chip to force arms control concessions out of the Soviet Union. As far as I know, nobody except Edward Teller, Ronald Reagan, and some extremists in the American Security Council really think star wars will work. And in Reykjavik, Reagan had an opportunity to use star wars as a bargaining chip and refused. Bargaining chips are worthless if you never cash them in.

That's not all. The conferees also added $1.75 billion for two additional Aegis destroyers. They increased the authorization for purchase of Bradley fighting vehicles—the ones that have failed just about every test—from 593 to 720. They increased the authorization for purchase of AMRAAM missiles, another program plagued with controversy, from 135 to 180, at a cost of an additional $149 million. And, they authorized an additional $98 million to add Navy homeports in Everett, WA and Staten Island, NY, a transparent pork-barrel move to buy support for this defense buildup.

Mr. Speaker, in addition to all these drawbacks, the conferees gave away some very important procurement policy reforms that had been accepted by the House. The conference report does not include a House section providing new legal protections for whistle blowers employed by either the Defense Department or defense contractors. It weakens House language regarding the revolving door arrangement which is responsible for many of the wasteful, sweetheart deals we see between the Pentagon and various defense contractors. It eliminates entirely House language requiring the chief financial officers of defense contractors to certify that the costs they have charged are indeed allowable—to certify, that is, that they are not cheating the American taxpayer. And, the agreement guts House language requiring that 10 percent of procurement contracts be set aside for minority-owned businesses.

Mr. Speaker, I regret that the House conferees caved in as they did. I regret it because I thought that we had finally turned a corner and that we were going to hold the Defense Department to the same standards of prudence and fiscal restraint that we have established for the rest of the Government. Unfortuately, it didn't happen. We gave the Pentagon another blank check so they could continue to throw away hundreds of billions of dollars without regard for cost or effectiveness and with no requirement that they formulate a strategy—a matching of ends and means—in their weapons purchases. I cannot in good conscience support that.

Mr. MOODY. Mr. Speaker, I rise to oppose this DOD authorization package. I do primarily because of my disappointment on the arms control portion. From the perspective of one who cares deeply about arms control, the stability of the United States-Soviet relationship, and the security of our country, I don't believe this appropriations can be supported. The compromise last week on the House arms control provisions was reached in good faith by the House on the eve of a Reagan-Gorbachev meeting filled with potential. But we now know all to well that that meeting did not reach its potential. No agreement was achieved, even though we had an opportunity to cut Soviet strategic missiles in half. Tensions between the superpowers seem as great as ever. Against this backdrop, I believe the House and the Congress as a whole now have a right and an obligation to wage a battle for stronger arms control provisions for 1987 before we go home.

We should have stronger restrictions in this bill on production of the Bigeye chemical weapon bomb. We should have a lower, more reasonable funding level for SDI, and some limits on U.S. underground nuclear testing. But more than anything, we should have binding language on U.S. adherence to the SALT II Treaty.

Unless Congress acts before the end of this session, the administration plans to abrogate the SALT II Treaty on November 11—while Congress is out of session—by deploying the 131st cruise missile-carrying bomber. Instead of having a DOD appropriations bill with policy conducive to arms control and greater reductions in nuclear weapons, we will have a more arduous path to any new arms agreements. Opening pandora's box by discarding SALT will make closing the box much more difficult in the future, no matter how good the administration's current intentions may be. We must face that fact and act before it is too late.

Given the outcome of the Iceland summit, I believe we should reject this bill and the inadequate position it takes on arms control. This is not the time for mild measures. It is time to have the courage to do what President Reagan would not do—enhance and extend arms control. We owe that to the people of this country, and to mankind.

Mr. ASPIN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The Speaker. pro tempore The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 283, nays 128, not voting 21, as follows:

[Roll No. 467]

YEAS—283

Abercrombie	Bryant	Derrick
Akaka	Burton (IN)	DeWine
Alexander	Bustamante	Dicks
Anderson	Byron	Dingell
Andrews	Callahan	DioGuardi
Annunzio	Carper	Donnelly
Anthony	Carr	Dowdy
Archer	Chandler	Downey
Armey	Chapman	Duncan
Aspin	Chappell	Dwyer
Barnard	Chappie	Dyson
Bartlett	Coats	Eckart (OH)
Barton	Cobey	Eckert (NY)
Bateman	Coble	Edwards (OK)
Bates	Coelho	Emerson
Bennett	Coleman (MO)	English
Bentley	Coleman (TX)	Erdreich
Bevill	Collins	Fascell
Bliley	Combest	Fawell
Boehlert	Cooper	Fazio
Boggs	Courter	Feighan
Boland	Craig	Fiedler
Boner (TN)	Crane	Fields
Bonker	Daniel	Fish
Borski	Dannemeyer	Flippo
Boucher	Darden	Florio
Boulter	Daub	Foley
Broomfield	Davis	Ford (TN)
Brown (CA)	de la Garza	Franklin

Frost	MacKay	Sabo
Fuqua	Madigan	Saxton
Gallo	Manton	Scheuer
Gaydos	Marlenee	Schuette
Gejdenson	Martin (IL)	Schulze
Gephardt	Martin (NY)	Schumer
Gibbons	Martinez	Sharp
Gilman	Mavroules	Shaw
Glickman	Mazzoli	Siljander
Gonzalez	McCain	Sisisky
Goodling	McCloskey	Skeen
Gordon	McCollum	Skelton
Gradison	McCurdy	Slattery
Gray (IL)	McGrath	Slaughter
Gregg	McHugh	Smith (FL)
Guarini	McKernan	Smith (NE)
Hall (OH)	McKinney	Smith (NJ)
Hall, Ralph	McMillan	Snowe
Hamilton	Meyers	Snyder
Hammerschmidt	Mica	Solarz
Hatcher	Michel	Solomon
Hawkins	Mikulski	Spence
Hefner	Miller (WA)	Spratt
Hendon	Moakley	Staggers
Hertel	Molinari	Stallings
Hiler	Mollohan	Stangeland
Hillis	Montgomery	Stenholm
Hopkins	Moorhead	Strang
Horton	Morrison (WA)	Stratton
Howard	Mrazek	Sundquist
Hoyer	Murphy	Sweeney
Hubbard	Murtha	Swift
Huckaby	Myers	Synar
Hughes	Natcher	Tallon
Hutto	Neal	Tauzin
Hyde	Nelson	Taylor
Jacobs	Nielson	Thomas (GA)
Jeffords	Oakar	Torres
Jenkins	Oberstar	Traxler
Johnson	Olin	Udall
Jones (NC)	Ortiz	Valentine
Jones (TN)	Owens	Vander Jagt
Kanjorski	Oxley	Visclosky
Kaptur	Packard	Volkmer
Kennelly	Parris	Waldon
Kolbe	Pashayan	Walgren
Kolter	Pepper	Watkins
Kramer	Pickle	Weber
Lagomarsino	Price	Whitehurst
Lantos	Quillen	Whitley
Leath (TX)	Ray	Whittaker
Lent	Reid	Whitten
Levin (MI)	Richardson	Wilson
Levine (CA)	Ridge	Wirth
Lewis (CA)	Rinaldo	Wise
Lewis (FL)	Ritter	Wolf
Lipinski	Roberts	Wolpe
Livingston	Robinson	Wortley
Lloyd	Roe	Wright
Loeffler	Roemer	Wylie
Lott	Rogers	Yatron
Lowery (CA)	Rose	Young (AK)
Lujan	Roth	Young (MO)
Luken	Roukema	Zschau
Lungren	Rowland (CT)	
Mack	Rowland (GA)	

NAYS—128

Ackerman	Dickinson	Kasich
Applegate	Dixon	Kastenmeier
Atkins	Dorgan (ND)	Kemp
AuCoin	Dornan (CA)	Kildee
Barnes	Dreier	Kleczka
Bedell	Durbin	Kostmayer
Beilenson	Dymally	LaFalce
Bereuter	Early	Leach (IA)
Berman	Edgar	Lehman (CA)
Biaggi	Edwards (CA)	Lehman (FL)
Bilirakis	Evans (IA)	Leland
Bonior (MI)	Evans (IL)	Lightfoot
Bosco	Foglietta	Lowry (WA)
Boxer	Ford (MI)	Markey
Brown (CO)	Frank	McCandless
Bruce	Frenzel	McDade
Burton (CA)	Garcia	Miller (CA)
Cheney	Gekas	Miller (OH)
Clay	Gingrich	Mineta
Clinger	Gray (PA)	Mitchell
Conte	Green	Monson
Conyers	Gunderson	Moody
Coughlin	Hansen	Morrison (CT)
Coyne	Hayes	Nowak
Crockett	Henry	Obey
Daschle	Hunter	Panetta
Dellums	Ireland	Pease
Penny	Sensenbrenner	Swindall
Perkins	Shelby	Tauke
Petri	Shumway	Thomas (CA)
Porter	Shuster	Torricelli
Pursell	Sikorski	Towns
Rahall	Smith (IA)	Traficant
Rangel	Smith, Denny (OR)	Vento
Regula	Smith, Robert (NH)	Vucanovich
Rodino	Smith, Robert (OR)	Walker
Rostenkowski	St Germain	Waxman
Roybal	Stark	Weaver
Russo	Stokes	Wheat
Savage	Studds	Williams
Schaefer	Stump	Wyden
Schneider		Yates
Schroeder		Young (FL)
Seiberling		

NOT VOTING—21

Badham	Grotberg	Lundine
Breaux	Hartnett	Matsui
Brooks	Holt	McEwen
Campbell	Jones (OK)	Moore
Carney	Kindness	Nichols
DeLay	Latta	Rudd
Fowler	Long	Weiss

□ 1415

The Clerk announced the following pair:

On this vote:

Mr. Nichols for, with Mr. Weiss against.

Messrs. PERKINS, KASICH, BERMAN, WAXMAN, CLINGER, COYNE, and SWINDALL changed their votes from "yea" to "nay."

Messrs. MRAZEK, BATES, COLEMAN of Missouri, and ABERCROMBIE changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BADHAM. Mr. Speaker, during consideration of the conference report on the Department of Defense authorization bill, I was unavoidably detained in my district with the Secretary of Transportation, Elizabeth Dole. Had I been present on rollcall 467, I would have voted "aye."

GENERAL LEAVE

Mr. ASPIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

IMPACT OF NATIONAL DEFENSE AUTHORIZATION ACT ON SMALL BUSINESS

(Mr. MITCHELL asked and was given permission to revise and extend his remarks at this point in the RECORD.)

Mr. MITCHELL. Mr. Speaker, section 921 of the report amends the Small Business Act in five important ways dealing with set-aside awards. First, it sets out a national policy that small business should receive a fair share of each product and service purchased by the Government. Present law requires that small business receive a fair share of total Federal purchases. This latter provision has allowed agencies, in effect, to set aside virtually entire industries for exclusive small business competition while ignoring other industrial areas where small business participation rates have been relatively low. Under this bill, small business potential in every category or purchases must be ascertained, and buying agencies must make efforts on an individual industry-by-industry basis to insure that small business receives its fair share of each product and service being purchased. On the other hand, the domination of a market through set-asides is prohibited. Consequently, small business potential in every industry is to be exhausted. If small business participation levels remain very low only then should consideration be given to raising the size standard. Conversely, if set-aside participation levels are very high, SBA should give consideration to lowering the standard.

The second major provision of this measure is the mechanism that would trigger the mandatory downward adjustment to size standards in four enumerated industries. The report provides that, if over a 3-year period, more than 30 percent of any one of these markets has been awarded pursuant to sections 8(a) and 15(a) of the Small Business Act, SBA must reduce the size standard for that market "to a size that will likely reduce the number of contracts which may be set-aside to approximately 30 percent of the value of contracts to be awarded" under these two programs. The four covered industries are construction (including dredging), architectural and engineering services (including surveying and mapping services), shipbuilding and ship repair and refuse system and related services.

By taking this approach, Congress would establish size standards as the "regulator" for the number of small business set-asides in each industry. This is the easiest and most efficient way of achieving the statutory intent for the set-aside programs. Administratively, Federal buying agencies need only concern themselves with such new size standards as may be promulgated by SBA. There would be no automatic curtailment of set-asides by each buying activity or Federal agency because a certain percent of set-asides were obtained over any given time period or because an agency's perception of "fair share" were achieved in any one category of purchases. The new size standards will be conveyed to each buying agency as they are issued by SBA. With respect to the four enumerated industries, the newly adjusted standards, when applied against the "rule of two" test of competition for small business set-asides, should automatically reduce the number of set-asides in such industries. This will happen because under present procurement regulations, a contract cannot be set-aside for exclusive competition among small businesses unless there are two or more responsible small businesses

capable of performing the work at reasonable prices. Succinctly stated, the smaller the universe of small businesses, the fewer requirements meet the "rule of two" test for set-asides.

This is also an efficient way to achieve the statutory purpose for set-asides—that is, increased competition—because it constantly redirects set-asides to smaller firms, encourages new market entrants, prevents market domination by "large" small businesses, and provides incentive to firms to grow and achieve economies of scale since there is a market beyond set-asides. At least 70 percent of each of the enumerated markets under this bill must be made available for award outside of the set-aside programs.

It should be noted that while the bill requires a mandatory cut in size standards for these four industries if the 30-percent threshold is reached, there is no mathematical formula contained in the bill that SBA is required to use to set the new size standard. SBA is to conduct its own analysis to determine how deep to make the "cut". In this regard it should conduct market research to ascertain the size of the Federal market, the number and characteristics of firms in that market, the medium size of a Federal award, the distribution of awards by value, and any correlation between contractor size and ability to perform contracts of varying values. In this regard extensive public participation should be sought before SBA proposes any adjustment and another comment period should be conducted after SBA discloses its intent on what specific adjustment it plans to make final. Of course, it is expected that extensive contact with appropriate senior officials of buying agencies will be had in order to ascertain the perspective of Federal acquisition personnel.

The conference report does not preclude size standard adjustments for the enumerated industries at any time prior to the triennial review in order to achieve a "fair share", provided that the adjustment will not likely result in exceeding the 30-percent limit. While the amendment does not change present statutory language giving SBA the exclusive authority to set size standards, it does place limitations on the agency's exercise of that discretion. For example, SBA has no discretion but to cut the size standard in one of the four industries when more than 30 percent of that market has been set-aside and it appears that the present size standard would exceed that threshold in the future. SBA's failure to act under such circumstances would constitute a violation of this provision. Accordingly, in my opinion, a mandamus action would lie in such a circumstance to force SBA to make a "cut" in the standard although the specific cut—that is the new size standard—could only be overturned if a court found it to be unreasonable under all attending circumstances.

The third issue presented by section 921 of the report is a definition of what constitutes a "market" or "industrial category" to which a specific size standard should be applied.

The report requires that SBA use four-digit standard industrial classification codes to define Federal industrial categories or markets. However, SBA must segment or split the market into more discrete units whenever it receives evidence that further segmentation is warranted due to: First, capital equipment needs; second, special labor; third, geographic requirements; or fourth, the emergence of a new industry.

A segmentation based upon capital equipment needs should take place when SBA receives evidence showing that a submarket of a four digit SIC requires substantially different equipment to produce a product or service dissimilar from others produced or rendered under the general SIC heading. For example SIC 3731, shipbuilding and repairing, covers such diverse areas as repairing a tugboat and building an aircraft carrier. These efforts obviously require greatly varying types of equipment indicating that a segmentation of the market between ships repair and ship building is an obvious first step to measure properly the economic concentration and participation rates of small business in such endeavors. In addition, however, further segmentation is needed, also based upon capital needs, to take into account nuclear and nonnuclear ship repair and construction. It is estimated that as much as $100 million is needed to certify a shipyard as nuclear qualified. Moreover, there are only two yards in the United States that are so qualified and their volume of work approximates 55 percent of the entire volume under SIC 3731, thereby greatly distorting the level of small business participation in the nonnuclear segment of the industry.

Another example where segmentation based upon capital equipment needs is warranted is presented by SIC 1629, heavy construction, not elsewhere classified (NEC). SBA has already segmented SIC 1629 into two categories: heavy construction NEC and dredging, each carrying their own size standard. But, the dredging industry is not as homogenous as SBA believes and the agency should, pursuant to this bill, segment further that market based upon equipment needs. In the dredging industry, work is customarily performed by using either a "dustpan" or "hopper" dredger.

Hopper dredgers are far more expensive and must be used to perform certain requirements that cannot be accomplished through the use of any other type of equipment. To aggregate these statistics with awards calling for dustpan dredging work both understates small business participation in the dustpan segment of the market, and overstates small business participation in the overall dredging industry.

Segmentation based upon special labor skills should take place when SBA receives evidence that shows that a submarket of a four-digit SIC requires substantially different labor skills to produce a product or service different from others produced or rendered under the general SIC heading. For example, SBA has already segmented SIC 8911, engineering, architectural, and surveying services into four different categories: First, engineering, except military and aerospace equipment and weapons; second, engineering services for military aerospace and weapons; third, marine engineering and naval architecture; and fourth, architectural services—except naval—and surveying services. Without such a segmentation, SIC 8911 would have covered such diverse services as engineering on the MX missile system and surveying a road in a national park. This bill would require SBA to make such segmentations in all similar types of situations.

It should also be noted that specialized skills often go hand in hand with the use of specialized equipment. For example, the repair of a nuclear powered ship requires not only special equipment but also the employment of persons with special labor skills. In such a situation, SBA should cite both reasons as justification for its segmentation of the market.

The bill also requires segmentation on the basis of geographic considerations when: (a) the Government typically designates the area where the work is to be performed; (b) Government purchases comprise the major portion of the entire domestic market for the goods or services being procured; and (c) due to the fixed location of facilities, high mobilization costs, or similar economic factors, it is unreasonable to expect competition from business concerns located outside of the general areas where such concerns are located.

The only two examples that I know of that can now satisfy this requirement are nonnuclear ship repair and dredging.

In the ship repair industry the Navy typically directs that the work be performed in specific ports. Moreover, to build a facility suitable for most ship repair work, I am told, requires an investment of between $10 to $20 million. Since the Government is the major domestic purchaser of ship repair work, and competition between ports does not generally take place (due to the Navy's restrictions and the economic impossibility of moving repair facilities from port to port) a geographic segmentation of ship repair work is clearly warranted.

I am told the nonnuclear ship repair is presently performed in 10 major geographic port areas. On the west coast those areas are: (a) Puget Sound area including Portland, OR; (b) San Francisco Bay area; (c) Los Angeles/Long Beach area; and (d) the San Diego area. On the east coast the following port areas have been identified: (a) the New England area (Connecticut, Massachusetts, Rhode Island, New Hampshire, Maine); (b) the New York, Philadelphia and New Jersey area; (c) Norfolk, VA, and the Port of Baltimore, MD; (d) Charleston, SC; (e) Jacksonville, FL; and (f) the gulf coast area.

The dredging industry is in much the same position as the ship repair industry. With dredging the Government, however, always designates the place of performance and, due to very high mobilization costs and similar economic factors, it is unreasonble to expect dredgers to be competing across geographic boundaries. Geography has placed natural limitations on competition in this industry and, I am told, the following markets, among others, are clearly discernible in this industry: (a) the Northeast; (b) Southeast; (c) gulf coast; (d) west coast; and (e) the Great Lakes area.

Shipbuilding and repair and dredging are the two markets that would be most changed under the report although a number of other market areas may undergo some less severe change.

Accordingly, under the terms of the conference report, I fully expect that SIC 3731 would

be segmented as follows: nuclear ship repair and building; shipbuilding; nonnuclear ship repair: Puget Sound/Portland; San Francisco; nonnuclear ship repair: Los Angeles/Long Beach; nonnuclear ship repair: San Diego; nonnuclear ship repair: New England; nonnuclear ship repair: New York, Philadelphia and New Jersey; nonnuclear ship repair: Norfork/Baltimore; nonnuclear ship repair: Charleston; nonnuclear ship repair: Jacksonville, FL; and nonnuclear ship repair: gulf coast.

It is also my expectation that, under the terms of this amendment, SIC 1629, dredging will be segmented as follows: Dustpan: Northeast; Hopper: Northeast; Dustpan: Southeast: Hopper: Southeast; Dustpan: gulf coast; Hopper: gulf coast; Dustpan: west coast; Hopper; west coast; Dustpan: Great Lakes; Hopper: Great Lakes.

It should also be noted that the bill requires market segmentation in order to recognize a new industry. Such segmentation may be appropriate, for example, to give proper recognition to industries such as the manufacturer of microchips, and genetic engineering.

The fourth area addressed by this section of the report requires that agencies pay a fair market price for contracts awarded under sections 15(a) and 8(a) of the Small Business Act. The Federal Acquisition Regulations (FAR) have a definition of "fair market price" which is found in section 19.806. That section requires that a fair market price "be based on reasonable costs under normal competitive conditions and not on lowest possible costs." It is expected, that this definition will be maintained and its scope expanded to include contracts awarded under the small business set-aside program.

Under this standard a contracting officer cannot reject a set-aside bid merely because some large firm may be able to offer a lower price, provided, of course, that the set-aside offer is reasonable. When a particular item or service has an adequate procurement history, the contracting officer should determine "reasonableness" by reviewing past award prices and adjusting them to ensure comparability. Past prices which do not represent typical or normal competitive conditions should not be used in this analysis. Prices under previous set-asides should, of course, be used unless there is some very clear indication that such prices were unreasonable and not typical of normal competitive conditions.

For items or services not having an adequate procurement history the contracting officer would be required to perform an in-house analysis to determine reasonable cost under normal competitive conditions. Once again, a set-aside bid cannot be rejected solely because of some big business alleging that it can supply the product or service at a cheaper price.

Finally, the amendments to the Small Business Act provide that a business cannot be considered a "small business concern" for purposes of a set-aside or 8(a) contract unless it agrees, for a service contract, to perform at least 50 percent of the cost of the contract for direct labor with its own employees, and, for a manufacturing contract, to perform at least 50 percent of the cost of manufacturing the supplies—not including the cost of materials. SBA must promulgate subcontracting percentages for the construction industry and other industries not specifically covered by the report language. In addition, SBA is given the discretion, on an industry-by-industry basis, to change the 50-percent limitation—either up or down—to reflect conventional industry practices.

To compute compliance under this provision with respect to a manufacturing contract, it is necessary to first subtract the cost of raw materials from the face value of the contract or offering price. The resulting number should represent the awardee's—offeror's—direct labor, profit and overhead. Unless SBA specifies a different percentage, the small business must agree to perform at least 50 percent of this amount in-house.

There may be some initial difficulty in distinguishing between raw materials and what might be termed "subassemblies." It will, of course, be the function of SBA to define more precisely this distinction when it promulgates regulations implementing this section. In my opinion raw materials or components are those types of items customarily purchased by manufacturers in that industry to produce the end item called for under the contract. If the contractor has a subcontractor assemble or manufacture those raw materials to a degree not customary in the industry, the entire value of the subcontract should be deemed to be other than a cost of raw materials.

In conclusion, these provisions of section 921 of the report present a reasoned approach to very difficult set-aside problems that have been mounting over recent years. If implemented as intended by its authors, the small business share of Federal procurements should increase. All Americans will benefit from this additional competition that small business can and will bring to the Federal acquisition system.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 2826. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Horsepasture River in the State of North Carolina as a component of the National Wild and Scenic Rivers System, and

H.R. 5598. An act to provide for the transfer of the Coast Guard cutter "Taney" to the city of Baltimore MD, for use as a maritime museum and display.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5465. An act to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3113) "An act providing for the coordinated operation of the Central Valley project and the State water project in California."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 2250) "An act to strengthen the prohibition of kickbacks relating to subcontracts under Federal Government contracts."

The message also announced that the Senate agrees to the amendments of the House to the joint resolution (S.J. Res. 367) "Joint resolution to designate September 24, 1986, as "National Kidney Program Day."

The message also announced that the Senate agrees to the amendments of the House to the bill (H.R. 4350) "An act to amend the Wild and Scenic Rivers Act, and for other purposes," with an amendment.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 991) "An act to provide authorization of appropriations for certain fisheries activities," with amendments.

The message also announced that the Senate had passed a bill, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2479. An act to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes;

S.J. Res. 388. Joint resolution designating the week beginning January 4, 1987, as "National Bowling Week";

S.J. Res. 408. Joint resolution designating "American Physiologists Week";

S.J. Res. 426. Joint resolution to designate the week of October 19 through October 25, 1986, as "National CPR Awareness Week"; and

S. Con. Res. 168. Concurrent resolution authorizing a technical correction to be made in the enrollment of the bill S. 2250.

CONFERENCE REPORT ON H.R. 5234, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1987

Mr. YATES submitted the following conference report and statement on the bill (H.R. 5234) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for other purposes:

CONFERENCE REPORT (H. REPT. 99-1002

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5234) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 9, 12, 17, 19, 27, 29, 30, 31, 32, 37, 41, 44, 45, 48, 54, 70, 73, 77, 79, 80, 81, 82, 83, 84, 85, 92, 107, 108, 113, 117, 121, 148, 149, 151, 152, 158, and 167.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 11, 28, 50, 51, 55, 57, 64, 76, 99,

102, 116, 129, 131, 135, 140, 146, 153, 157, 159, 161, 164, 166, 168, 170, and 172, and agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$54,524,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$9,253,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$7,000,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$10,628,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$24,250,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$87,220,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$418,665,000*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$160,697,000*; and the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$44,904,000*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$203,720,000*; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as to read as follows: *: Provided further, That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$55,668,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$76,101,000*; and the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$78,224,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$75,501,000*; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$20,880,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

In lieu of the section number named insert: *115.*; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

In lieu of the section number named insert: *116.*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$128,882,000*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$6,000,000*; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$58,946,000*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$261,436,000*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$25,332,000*; and the Senate agree to the same.

Amendment numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$236,104,000*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$26,500,000*; and the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$280,129,000*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That $2,000,000 of the amount provided under this heading shall be available for continuing a research and development initiative with the National Laboratories for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: Provided further, That obligation of funds for these activities shall be contingent on an agreement to provide cash*

or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal Government obligations: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purpose of this appropriation, except as amortized, depreciated, or expensed in normal business practice: Provided further, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$60,301,000*; and the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$47,200,000*; and the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$14,568,000*; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$183,920,000*; and the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$3,322,000*; and the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$28,420,000*; and the Senate agree to the same.

Amendment numbered 155:

That the House recede from its disagreement to the amendment of the Senate numbered 155, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$20,000,000*; and the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$109,990,000*; and the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$21,250,000*; and the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$2,397,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 3, 5, 8, 10, 13, 15, 16, 18, 20, 21, 24, 25, 33, 34, 35, 40, 42, 43, 46, 52, 56, 58, 59, 60, 62, 63, 65, 68, 69, 71, 72, 74, 78, 86, 87, 90, 91, 93, 94, 95, 100, 101, 103, 109, 110, 111, 112, 114, 115, 118, 119, 120, 122, 123, 125, 127, 132, 133, 134, 136, 137, 141, 142, 143, 144, 147, 160, 163, 169, 171, 173, 174, 175, 176, 177, and 178.

SIDNEY R. YATES,
JOHN P. MURTHA,
NORMAN D. DICKS,
EDWARD P. BOLAND,
LES AUCOIN,
TOM BEVILL,
JAMIE L. WHITTEN,
RALPH REGULA,
JOSEPH M. MCDADE,
SILVIO O. CONTE,
Managers on the Part of the House.

JAMES A. MCCLURE,
TED STEVENS,
PAUL LAXALT,
JAKE GARN,
THAD COCHRAN,
MARK ANDREWS,
WARREN RUDMAN,
LOWELL P. WEICKER, JR.,
ROBERT C. BYRD,
J. BENNETT JOHNSTON,
DENNIS DECONCINI,
QUENTIN N. BURDICK,
DALE BUMPERS,
ERNEST F. HOLLINGS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5234), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1987, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Management of lands and resources

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $483,610,000 instead of $380,370,000 as proposed by the House and $474,029,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase above the amount proposed by the House consists of increases of $200,000 for Alaska programs in mining law administration; $3,250,000 for the Alaska lands program and the Alaska automated land records system in lands and realty management; $1,000,000 for commercial forest management in Colorado, Montana, Wyoming, and Idaho; $5,000,000 for wild horse and burro management; $500,000 for noxious weed control in Idaho, Montana, Oregon, Utah, Washington, and Wyoming; $5,000,000 for grasshopper control projects in range management; $450,000 for the Challenge Grant program for fish and wildlife activities in wildlife management; $600,000 for the Hagerman Fauna Site National Natural Landmark in cultural resources management; $650,000 for Alaska maintenance, including Tangle Lakes campgrounds, and $400,000 for the San Pedro Riparian Area, both in recreation resources management; $3,990,000 for Alaska cadastral survey; and $83,000,000 for firefighting; and decreases of $500,000 in oil and gas leasing for Alaska programs; and $300,000 for plans in wildlife habitat management.

The managers expect the Bureau to report to the Appropriations Committees by May 1, 1987 on the rate of adoption of excess wild horses and burros in fiscal year 1987 in relation to planned rates.

In soil, water, and air management the managers agree the amount for hazardous waste management is $1,782,000.

The managers expect the Bureau to give proper consideration to the surveying of Alaska Native allotments in the Alaska cadastral survey program and to work with BIA in assuring that the highest Native priorities are met.

For forest management on public domain lands, the managers expect the Bureau to provide a report to the Appropriations Committees by May 1, 1987 of the components of the costs and revenues by State of providing proper management of timber lands both in the case where no "commercial" sales are offered and in the case where such sales would be offered.

The managers agree that, within funds for wildlife habitat management, $200,000 is available for increased management of the desert tortoise as described in the Senate report.

Within funds for recreation management, the managers agree that there is $188,000 for Soda Springs, $42,000 for Calico-Early Man, and $70,000 for the Barstow Way Station in the Mojave Desert.

Of the additional $500,000 provided for noxious weed control, $100,000 shall be available for Idaho.

With regard to Western Oregon management plans, the managers agree that existing management plans may be modified only to the extent that existing allowable cut in any master unit is affected by less than one million board feet, in order to provide for orderly management.

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following: *, of which $83,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, and $5,000,000 for insect and disease control projects, including grasshoppers, shall remain available until expended*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Bill language is included making funds for firefighting and grasshopper control available until expended.

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *; Provided, That regulations pertaining to mining operations on public lands conducted under the Mining Law of 1872 (30 U.S.C. 22, et seq.) and sections 302, 303, and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, and 1782) shall be modified to include a requirement for the posting of reclamation bonds by operators for all operations which involve significant surface disturbance, (a) at the discretion of the authorized officer for operators who have a record of compliance with pertinent regulations concerning mining on public lands, and (b) on a mandatory basis only for operators with a history of noncompliance with the aforesaid regulations: Provided further, That surety bonds, third party surety bonds, or irrevocable letters of credit shall qualify as bond instruments: Provided further, That evidence of an equivalent bond posted with a State agency shall be accepted in lieu of a separate bond: Provided further, That the amount of such bonds shall be sufficient to cover the costs of reclamation as estimated by the Bureau of Land Management*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Bill language is also included providing for new procedures for bonding hardrock mining operations. Bonds would be required of all operators with a record of non-compliance involving surface disturbances. Bonds would continue to be discretionary for operators with a proven record of compliance with BLM regulations and stipulations. The managers have also included a broader concept of bonding to include acceptance of equivalent State bonds, third party surety bonds or irrevocable letters of credit as recommended by the Department of the Interior bonding task force.

The managers understand that the Bureau of Land Management is establishing a task force to examine activities conducted under the Mining Law of 1872 on public lands with specific emphasis directed toward adequacy and necessity of reclamation bonding for operations involving less than five acres. The managers expect that upon completion of the task force examination, the Bureau of Land Management will inform the appropriate committees in the House and Senate of its findings, and expect a progress report no later than May 1, 1987.

Construction and access

Amendment No. 4: Appropriates $2,800,000 for construction and access as proposed by the Senate instead of $1,200,000 as proposed by the House.

Land acquisition

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $6,220,000 for land acquisition instead of $850,000 as proposed by the House and $800,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to the following distribution, including allocation by reprogramming of $305,000 in unobligated balances from the Rogue Wild and Scenic River.

Acquisition management	$300,000
El Malpais Natural Area, NM	250,000
Gila Lower Box Area of Critical Concern, NM	250,000
King Range Conservation Area, CA	1,000,000
Owyhee National Wild River, OR	700,000
Red Rock Recreation Area, NV	3,000,000
Steens Mountain Recreation Area, OR	225,000
Upper Missouri Wild and Scenic River, MT	500,000
Inholdings, including designated wilderness areas	300,000
Total	6,525,000

Oregon and California grant lands

Amendment No. 6: Appropriates $54,524,000 instead of $54,260,000 as proposed by the House and $55,642,000 as proposed by the Senate. The $264,000 increase above the House amount is for Forestry Intensive Research (FIR) and the Coastal Oregon Productivity Enhancement program (COPE). The managers agree that the $1,100,000 unobligated balanced adjustment proposed by the House will be applied for timber development, management, and reforestation in renewable resources management. An additional $1,350,000 for mapping assistance for decadal planning for the O&C lands is included in the "Surveys, investigations, and research" account of the Geological Survey.

Range improvements

Amendment No. 7: Appropriates $9,253,000 instead of $8,506,000 as proposed by the House and $10,000,000 as proposed by the Senate.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

LAND ACQUISITION

Rescission

Of the funds appropriated under this head in Public Law 98-396 to carry out the provisions of Public Law 93-531, as amended, $3,200,000 are rescinded.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to delete House language on the assignment of grazing permits, but expect the Bureau to prosecute illegal subgrazing vigorously.

The managers agree to a rescission of $3,200,000 which is no longer required for cash equalization payments related to Navajo-Hopi land exchanges.

UNITED STATES FISH AND WILDLIFE SERVICE

Resource management

Amendment No. 9: Provides $1,000,000 for the Youth Conservation Corps as proposed by the House instead of no funds as proposed by the Senate.

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $314,692,000 for resource management instead of $313,352,000 as proposed by the Senate and $306,500,000 as proposed by the House. The managers on the part of the Senate will offer a motion to recede and concur in the amendment of the House to the amendment of the Senate.

The net increase above the amount provided by the Senate includes increases of $300,000 to continue the Des Plaines wetlands study, $1,000,000 for waterfowl mortality factors, $250,000 for non-game research, $115,000 for initial operating expenses of the Northeast Anadromous Fish Research Laboratory, $150,000 for the Gainesville National Fishery Research Laboratory, $135,000 for red wolf recovery, $250,000 for endangered species listing, $260,000 for the Senecaville NFH, OH, $100,000 for fishery mitigation, $300,000 for endangered species law enforcement and $300,000 for consultation; and decreases to the Senate position of $702,000 for refuge maintenance, $340,000 for Alaska refuges operations and maintenance, $250,000 for prelisting, and $125,000 for research on Chinook and Chum Salmon on the Yukon River. There is also a decrease of $153,000 to the amount provided by the Senate for fixed costs and to replace unrealized administrative savings and a reduction of $250,000 in the amount provided the Fish and Wildlife Foundation for matching grants.

The $300,000 provided to continue the Des Plaines wetland study is with the understanding that there is no commitment to involve the Fish and Wildlife Service beyond the research stage. The additional $1,000,000 for waterfowl mortality factors includes $500,000 for research and $500,000 for waterfowl habitat production.

The managers agree to designate the Washington cooperative research unit as a combined fish and wildlife cooperative research unit and establish a unit at the University of Minnesota.

The report requested by the Senate on FTE levels at refuges expanded to include staffing levels at research units and for law enforcement. The report should be provided to the Committees by March 1, 1987.

The managers reiterate the House report language directing the Service to provide management and technical support to North Carolina and the Environmental Protection Agency in designing a comprehensive research plan for the Albemarle/Pamlico estuary.

The managers have reviewed the issuance of special use permits at the Tennessee National Wildlife Refuge. The managers direct the Service to negotiate and reoffer special use permits at the Tennessee National Wildlife Refuge to landowners on the north shore of Swamp Creek that held such permits in 1984. The reissued permits shall provide for land use activities that are consistent with the National Wildlife Refuge System Administration Act. The Service shall enforce the terms and conditions of all special use permits in an evenhanded manner. The managers have agreed to review the progress made by the Service during the fiscal year 1988 appropriations hearings.

The managers have provided a total of $4,500,000 above the budget for the Service's contaminant program. For refuge lands, the managers have recommended an increase of $2,000,000. Of this amount, the managers recommend that $1,500,000 be used to move aggressively to initiate necessary studies, to accelerate the analysis of

refuge samples, and to continue to develop and implement strategies to clean up affected refuges and initiate clean-up actions where appropriate. Further, the Service is urged to develop and implement a plan for long term contaminant monitoring of refuge habitats and wildlife. This activity should be designed to detect the presence of contaminants throughout the National Wildlife Refuge System through repetitive sampling, resulting in early detection and correction of identified problems in the future. The managers have provided $500,000 within the allowance for this activity and the funding may also be used for development sampling and analytical protocols and to train refuge employees to participate in the collection of samples. The Service is to enter into an agreement providing one-half of the funding to the Idaho National Engineering Lab (INEL) for design of the long term monitoring system, development of sampling and analytical protocols, and employee training.

In research and development, the managers recommend five initiatives totaling $2,500,000: (1) $500,000, to be used to assess the effects of new contaminants; (2) $550,000, to begin a long term study on the upper Mississippi River; (3) $450,000 for a long term study of contaminants and diving ducks on the Gulf Coast; (4) $600,000, to be spent pursuant to an agreement between the Service and INEL, for developing a scientifically sound national strategy and plan that reviews and integrates activities and responsibilities of all Federal agencies relative to contaminant monitoring in aquatic and terrestrial ecosystems including surface and groundwater, and for training the non-Federal sector in appropriate quality assurance/quality control procedures for contaminant analysis, to enable them to meet Service analytical lab needs; and (5) $400,000 for a long term study in the San Francisco Bay.

The managers direct the Secretary to enter into a long term Memorandum of Understanding (MOU) with the State of Ohio for the State to operate the Senecaville National Fish Hatchery. Such long term MOU is contingent upon the State of Ohio agreeing to rear or allow the rearing of striped bass for the Department of the Interior's Chesapeake Bay restoration program as needed by the Fish and Wildlife Service, through 1990. Any costs at Senecaville associated with the striped bass program incurred by the State of Ohio shall be reimbursed by the Service to the State. The managers have included a total of $416,000 in fiscal year 1987. Of that amount $166,000 is provided for necessary maintenance and repairs at the facility. The remainder of the funds may be used to reimburse the State of Ohio for rearing the required fish, to contract with private producers for the production of fish, for continued (through 1990) limited operations at Senecaville assciated with the striped bass program, to cover the costs of added production at other Federal hatcheries, or in any combination of the above.

The managers generally endorse the Service's statement of fishery roles and responsibilities and the current production and distribution priorities.

The $300,000 provided for Leetown National Fishery Center is for striped bass.

Amendment No. 11: Provided no limitation on the Office of Legislative Services as proposed by the Senate.

Amendment No. 12: Deletes language proposed by the Senate on the coordination of research efforts.

The managers have agreed to drop language included in the bill by the Senate directing the Southeastern Fish Culture Laboratory to coordinate its research with the Alabama Cooperative Fishery Research Unit, but affirm their support of the intent of the language.

Construction and anadromous fish

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $26,513,000 instead of $21,113,000 as proposed by the House and $23,603,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase above the House includes increases of $1,500,000 for Kenai NWR, AK rehabilitation, $1,200,000 for a Bogue Chitto NWR, LA visitor center, $2,000,000 for Leetown National Fishery Center raceway and pond rehabilitation and $900,000 for a Kilauea Point, HI visitor facility; and a decrease of $200,000 for the National Fishery R&D Laboratory, PA.

Language is included to earmark $2,000,000 for Anadromous Fish grants, including $500,000 to continue striped bass studies.

The managers encourage efforts to reduce overall costs at the Minnesota Valley NWR visitor center and to raise private contributions to help reduce the cost to complete this facility.

Migratory bird conservation account

Amendment No. 14: Appropriates $7,000,000 as an advance to this account instead of $3,000,000 as proposed by the House and $10,561,000 as proposed by the Senate.

The managers encourage the use of these funds for acquiring part of the Little River Wildlife Refuge at a level of $1,100,000 if the study presently being conducted by the U.S. Fish and Wildlife Service and the Corps of Engineers proves the wildlife refuge to be compatible.

The managers also urge the Migratory Bird Conservation Commission to consider additional acquisition activity in the Chickasaw NWR, Tennessee and Arkansas, and additional land acquisition at Cache NWR, LA with willing sellers only.

Land acquisition

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $42,425,000 instead of $33,225,000 as proposed by the House and $41,775,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House of the amendment of the Senate.

The following table shows the allocation agreed to by the managers:

Inholdings	$1,000,000
Acquisition management	1,750,000
Alligator River NWR, NC	650,000
Aransas NWR, TX	3,000,000
Ash Meadows NWR, NV	500,000
Bayou Sauvage NWR, LA (subject to authorization)	3,000,000
Bogue Chitto NWR, LA	1,000,000
Bon Secour NWR, AL	500,000
Connecticut Coastal NWR, CN	600,000
Eastern Shore NWR, VA	375,000
Finnegan Cut, CA	1,100,000
Florida Panther NWR, FL	3,000,000
Great Dismal Swamp NWR, NC	750,000
Hakalau Forest, HI	3,000,000
Kirtlands Warbler, MI	300,000
Lower Rio Grande NWR, TX	6,000,000
Lower Suwanee NWR, FL	1,500,000
Minnesota Valley NWR, MN	1,500,000
National Key Deer NWR, FL	2,000,000
Rachel Carson NWR, ME	900,000
Red Rocks Lake Refuge, MT	2,000,000
Sacramento NWR, CA	2,200,000
San Francisco Bay NWR, CA	1,500,000
Tensas River NWR, LA	1,000,000
Willapa NWR, WA	3,300,000
Total	42,425,000

Within the $1,750,000 for acquisition management the managers have provided $150,000 for the Sacramento River National Wildlife Refuge study with the understanding that the Fish and Wildlife Service will coordinate any plans for a refuge with other Federal, State, and local agencies and landowner groups along the river. The managers anticipate that taking into account multiple views will lead to an overall plan using a variety of tools and policies to achieve multiple objectives. The managers recognize that proper coordination with the State may require the Fish and Wildlife Service to take more time in the preparation of the study than set forth by the House.

The managers have not provided land acquisition funds for the Carrizo Plain NWR, CA in this bill. The Fish and Wildlife Service and the Bureau of Land Management are to continue to work together to plan for the refuge.

Administrative provisions

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides the Fish and Wildlife Service authority to construct buildings necessary for a forensics laboratory on a site leased by the Service.

NATIONAL PARK SERVICE

Operation of the National Park System

Amendment No. 17: Provides $1,000,000 for the Youth Conservation Corps as proposed by the House instead of no funds as proposed by the Senate.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $649,613,000 for Operation of the National Park System instead of $628,875,000 as proposed by the House and $579,055,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Increases above the House include $470,000 for Glen Canyon NRA, $421,000 for New River Gorge NR0, WV, including $330,000 for operations and $91,000 for development of concept plans, $150,000 for Saguaro NM, AZ, $250,000 for Jean Lafitte NHP, LA, $60,000 for the National Capital Region's July 4 mall celebration, $80,000 for new exhibits and $85,000 for police support at Harpers Ferry NHP, WV, $170,000 for maritime preservation activities, $247,000 for resource evaluation of sensitive habitat at Organ Pipe NM, AZ, $53,000 for the Alaska Land Use Council, $75,000 for Congressional Affairs, $15,000,000 for enhanced park operations as related to the entrance fee proposal, $3,500,000 for additional costs

of fee collection, and $991,000 for fixed costs. There are decreases to the House position of $64,000 for Ford's Theater support, $100,000 for Ellis Island NHS, NY interpretation and visitor services, and $150,000 for Delaware Water Gap NRA, PA and $500,000 for the Volunteers-in-Parks program.

The managers are concerned about Park Service employee housing conditions. To address this concern, the Park Service should complete a housing study and make recommendations to the Committees about methods to improve housing conditions for employees. Innovative leasing and ownership arrangements should be considered.

The managers direct that the $398,000 made available for a cooperative agreement with the Johnstown Flood Museum Association shall be obligated by the National Park Service as soon after November 30, 1986 as possible, by which time the cooperative agreement, required pursuant to Section 2 of Public Law 99-388 (100 Stat. 826), shall have been executed. A match, as required in Public Law 99-388 remains in effect.

The managers agree that hereafter the Service should use its internal reprogramming authority so that there will be no diminution of the amount provided for the Roosevelt Campobello International Park Commission, unless reduced by the House or Senate in a report accompanying the appropriations bill.

The additional amount provided for park operations at Santa Monica may be used to handle land acquisition activities at the park.

The appropriation provides $790,000 for a new Park Police rookie class. The managers agree to continue the practice of staffing the law enforcement needs at Golden Gate NRA and Gateway NRA with Park Police. The Service is directed to meet seasonal fluctuations in law enforcement needs with temporary staff and to discontinue the past practice of detailing Park Police from the National Capital Region to the other units as a method of meeting seasonal workload.

The managers note that the Inspector General of the United States Department of the Interior recently concluded an investigation of allegations of mismanagement, falsification of records, and obstruction of a GAO inquiry at Gateway NRA, NY. The managers are pleased to note that the investigation disclosed no evidence to support the allegations. The managers encourage the Secretary to follow through on this finding, if appropriate.

Amendment No. 19: Provides restrictions on the Office of Legislative and Congressional Affairs as proposed by the House.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $85,000 to assist the police force of Harpers Ferry, WV.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following: *Provided further, That to advance the mission of the National Park Service, for a period of time not to extend beyond fiscal year 1987, the Secretary of the Interior is authorized to charge park entrance fees for all units of the National Park System, except as provided herein, of an amount not to exceed $3 for a single visit permit as defined in 36 CFR 71.7(b)(2) and of an amount not to exceed $5 for a single visit permit as defined in 36 CFR 71.7(b)(1): Provided further, That the cost of a Golden Eagle Passport as defined in 36 CFR 71.5 is increased to a reasonable fee but not to exceed $25 until September 30, 1987: Provided further, That for units of the National Park System where entrance fees are charged the Secretary shall establish an annual admission permit for each individual park unit for a reasonable fee but not to exceed $15, and that purchase of such annual admission permit for a unit of the National Park System shall relieve the requirement for payment of single visit permits as defined in 36 CFR 71.7(b): Provided further, That all funds derived from National Park Service entrance fees during fiscal year 1987 and all funds collected during fiscal year 1987 under subsections (a), (b), and (c) of section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-6a), shall be transferred to the General Fund of the Treasury of the United States: Provided further, That notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations, nor shall an admission fee be charged at any unit of the National Park System which has a current, specific statutory exemption: Provided further, That where entrance fees are established on a per person basis, children 12 and under shall be exempt from the fees: Provided further, That if permanent statutory language is enacted during fiscal year 1987 establishing National Park System entrance fees, the provisions of that language shall supersede the fee provisions contained in this Act: Provided further, That of the funds provided under this head, $15,000,000 shall be distributed to units of the National Park System, to be available for resource protection, research, interpretation, and maintenance activities related to resource protection, to be distributed in the following manner: 50 percent shall be provided to all units of the System based on each unit's proportion of park operating expenses, and 50 percent shall be provided to units with entrance fees based on each collecting unit's proportion of total entrance fee collections: Provided further, That the following may be cited as the "Steamtown National Historic Site Act of 1986":*

SECTION 1. DESIGNATION AS NATIONAL HISTORIC SITE.

The property known as Steamtown, consisting of the land, historic roundhouse, switchyard, and associated buildings, track and equipment, and located on approximately 40 acres in Scranton, Pennsylvania, is hereby designated as the Steamtown National Historic Site (hereafter in this Act referred to as "the Site"). The Site is generally depicted on the map entitled "Steamtown National Historic Site", numbered STTO-80,000 and dated September 1986. A copy of the map shall be on file and available for inspection in the offices of the National Park Service in Washington, D.C., and in appropriate regional and local offices.

SEC. 2. MANAGEMENT OF SITE.

(a) PREPARATION OF MANAGEMENT PLAN.—The Secretary shall prepare a comprehensive management plan for the Site, which shall include all of the elements required for general management plans under section 12 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (U.S.C. 1a-7), and shall be submitted to the Congress no later than September 30, 1987.

(b) ADMINISTRATION OF SITE.—(1) The Secretary shall administer the Site through cooperative agreements and grant agreements, as appropriate, with the owner or owners of the property. The Secretary may provide financial and technical assistance in planning interpretation, maintenance, preservation, and appropriate public use of the Site and associated rolling stock in order to further public understanding and appreciation of the development of steam locomotives in the region.

(2) The Secretary of the Interior may acquire the Site, and all or part of the associated rolling stock, by donation or with donated funds and may begin to take such actions as are called for in the management plan. Upon acquisition pursuant to this paragraph, the Site and any acquired associated rolling stock shall thereafter be administered by the Secretary in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects and antiquities of national significance, and for other purposes" approved August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 3. ADVISORY COMMITTEE.

The Secretary is authorized to establish a Steamtown Advisory Committee and appoint up to ten members, who shall serve at no cost to the United States.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $20,000,000 for the administration of the Steamtown National Historic Site and for assistance to the owner thereof pursuant to the agreements referred to in section 2(b).

SEC. 5. APPROPRIATIONS.

For expenses necessary to carry out the provisions of this Act, $8,000,000, to remain available until expended

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Bill language is included establishing the Steamtown National Historic Site in Scranton, PA. An authorization of $20,000,000 is provided and $8,000,000 is appropriated so that necessary facility maintenance and rolling stock protection may begin immediately.

Bill language has been included providing for a one-year National Park System entrance fee to further park purposes. The provisions included in the bill will be superceded by the provisions of permanent statutory language if such language is enacted during fiscal year 1987.

The language provides for a top fee of $5.00 per vehicle and exempts children 12 and under from entrance fees where the fee is collected on a per person basis. The language amends the Senate proposal to provide that existing entrance fees, new entrance fees, user fees and the additional entrance fees shall go toward park purposes. The managers have provided a direct appropriation of $15,000,000 as the amount available for enhanced park operations due to this park fee provision. A specific list of appropriate uses for this money is included in the bill. This money shall be distributed as

follows: 50 percent to all park units based on total operating budgets and 50 percent to collecting parks based on the estimated share of entrance fee revenue collected. The managers have provided an additional $3,500,000 to cover the increased costs of fee collection. The managers encourage the Director to consider allocating the additional fee collection funding and staffing through the regional offices, in an effort to prevent park managers from having to choose between fee collection staffing and staffing for other park management activities.

To simplify the collecting, accounting, and utilization of fee receipts, the language provides that the fee receipts shall be deposited directly into the General Fund. As a result of the direct appropriation of additional funding for enhanced park operations, the Service shall have the estimated fee receipts available at the beginning of the year, while fees shall be returned to the Treasury as they are collected throughout the year.

There is considerable concern about which park units will actually have an entrance fee program during fiscal year 1987. Bill language has been included establishing an exemption for any unit which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations. An additional exemption has been provided for any unit which has a current, specific statutory exemption. The managers direct the Secretary to consider existing statutory fee criteria stated in the Land and Water Conservation Fund Act, as amended, when determining which park units will have new fees. Further, the Secretary is encouraged to charge fees only at units where receipts will exceed collection costs and to consider other appropriate factors, including the current charging of user fees.

The managers direct the Secretary to send a list of park units and the existing and new entrance fees proposed, and the existing user fees for all units, to the appropriate Congressional committees by December 15, 1986.

National recreation and preservation

Amendment No. 22: Appropriates $10,628,000 for National Recreation and Preservation instead of $10,904,000 as proposed by the House and $10,277,000 as proposed by the Senate.

The net decrease below the House includes reductions of $294,000 for national register programs and $17,000 for environmental compliance review and an increase of $35,000 for maritime activities to be done by the Historic American Engineering Record.

Historic preservation fund

Amendment No. 23: Appropriates $24,250,000 for the Historic Preservation Fund instead of $24,200,000 as proposed by the House and $24,300,000 as proposed by the Senate. This includes $20,000,000 for grants to the States and $4,250,000 for the National Trust for Historic Preservation.

The allowance for the Trust includes an additional $50,000 to continue maritime preservation efforts.

Construction

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $88,095,000 instead of $75,989,000 as proposed by the House and $76,518,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to the following changes to the House bill:

Cape Hatteras NS, NC	+4,070,000
C&O Canal Flood Repair, MD	+2,000,000
Cuyahoga Valley NRA, OH	−245,000
Delaware Water Gap NRA, PA	−800,000
Denali NP, AK	+3,550,000
Eugene O'Neill NHS, CA	−724,000
Fort Union NHS, ND	+700,000
Glen Canyon NRA, UT	+30,000
Grand Canyon NP, AZ	+435,000
Guadalupe Mtns. NP, TX	−250,000
Haleakala NP, HI	+500,000
Harpers Ferry NP, WV (completion of water system)	+140,000
Jean Lafitte NHP, LA	+1,080,000
Katmai NPP, AK	+320,000
New River Gorge NR, WV	+2,600,000
Sitka NHP, AK	+700,000
Springfield Armory NHS, MA	−1,000,000
Yellowstone NP, WY	−1,000,000

Within the amount provided for planning, the managers agree to the following projects:

Canyonlands NP, UT—visitor facility	$495,000
Knife River NHS, ND—visitor facility	435,000
Harpers Ferry NHP, WV—bldg. rehabilitation	80,000
Glen Canyon NRA, UT—State line project	400,000
Little Kinnakeet Lifesaving Station, Cape Hatteras NS, NC	55,000
Guadalupe Mtns. NP, TX—visitor facility	250,000
Wolf Trap Farm Park, VA—traffic study and improvements	100,000
Glen Echo Park, MD—rehabilitation	50,000
Johnstown Flood NM, PA	150,000

In addition there is $2,000,000 within available funds for the Buffalo NR, AR, Tyler Bend Facility.

Of the funds provided for Denali NP, AK, the Service is to provide $620,000 for rehabilitation at the Wonder Lake campground, $349,000 for the Polychrome Pass comfort station, and the remainder of $2,581,000 to initiate construction of a visitor facility.

The managers understand that future construction needs at the Glen Canyon NRA (State line project) will be met by the concessioner, without establishing a possessory interest.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That for payments of obligations incurred for improvements to the George Washington Memorial Parkway, $2,500,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, subject to the availability of funds for an additional lane on the Theodore Roosevelt Bridge: Provided further, That funds appropriated under this head to carry out the provisions of sections 303 and 304 of Public Law 95-290 shall also be available to carry out the provisions of section 302*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to the inclusion of $2,500,000 to be derived from the Highway Trust Fund for the construction of an additional inbound lane on the George Washington Memorial Parkway as proposed by the House.

The addition of section 302 provides additional authority to the Secretary relating to the implementation of the Lowell Park Preservation Plan.

Land acquisition and State assistance

Amendment No. 26: Appropriates $87,220,000 instead of $101,100,000 as proposed by the House and $73,400,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers:

Assistance to States:	
Matching grants	$32,700,000
Administrative expenses	2,270,000
Total, Assistance to States	34,970,000
National Park Service:	
Acquisition management	5,000,000
Hardships, inholdings and emergencies	5,000,000
Acadia NP, ME	3,500,000
Apostle Islands NL, WI	300,000
Appalachian Trail	7,000,000
Big Cypress NP, FL	2,000,000
Big Thicket NP, TX	4,000,000
Cuyahoga Valley NRA, OH	4,500,000
Delaware Water Gap NRA, PA	2,000,000
Gates of the Arctic NP, AK (Walker Property)	175,000
Golden Gate NRA, CA	2,000,000
Haleakala NP, HI	1,000,000
Indiana Dunes NL, IN	1,000,000
Lake Clark NPP, AK (including $175,000 for Twin Lakes)	1,675,000
Lowell NHP, MA	800,000
Mound City Group, OH	1,000,000
New River Gorge NR, WV	1,000,000
North Cascades NP, WA	500,000
Olympic NP, WA	2,000,000
San Antonio Mission NHP, TX	500,000
Santa Monica Mountains NRA, CA	6,000,000
Sequoia-Kings Canyon NP, CA	1,100,000
Wind Cave NP, SD	200,000
Subtotal, NPS	52,250,000
Total, National Park Service	87,220,000

The highest priority for Santa Monica Mountains NRA, CA acquisition is hardship cases. The funds provided are not to be used to reimburse California for land purchases.

Amendment No. 27: Provides $2,270,000 for state grant administration as proposed by the House instead of $2,300,000 as proposed by the Senate.

Amendment No. 28: Deletes language proposed by the House providing funds for Apostle Islands National Lakeshore subject to authorization.

Amendment No. 29: Appropriates $250,000 for the Illinois and Michigan Canal National Heritage Corridor Commission as proposed by the House instead of nothing as proposed by the Senate. The managers will carefully review funding for the Commission in fiscal year 1988.

Amendment No. 30: Appropriates $75,000 for the Jefferson National Expansion Memorial Commission as proposed by the House instead of nothing as proposed by the Senate. The managers will carefully review funding for the Commission in fiscal year 1988.

Administrative provisions

Amendment No. 31: Allows the transfer of no-year funds to cover emergencies as proposed by the House instead of allowing the transfer of annual funds only as proposed by the Senate.

Amendment No. 32: Restores language stricken by the Senate allowing the use of any funds available to the Park Service to maintain law and order and for other emergency situations.

The managers have agreed to continue bill language which allows the Park Service to transfer no-year funds to cover costs of emergency search and rescues, law and order emergencies and unforeseen law enforcement situations. The managers are concerned about abuses of this authority as reported by GAO and request monthly reports on its use. Bill language has been included under Amendment No. 34 to make any transfers subject to Committee reprogramming guidelines.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *consistent with the process employed in the Amerecord, Inc. test case which was settled on August 20, 1983, and other applicable legal principles to determine whether any or all of such claimants ought to be awarded equitable compensation by the Congress, and, if so, in what amount*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment modifies language proposed by the House and stricken by the Senate and retains language added by the Senate regarding settlement of certain claims of the licensees of the American Revolution Bicentennial Administration to state that the process used in settling the test case should be applied to the remaining cases.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: : *Provided further, That any funds available to the National Park Service may be used, with the approval of the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to strike House language prohibiting issuance of a request for proposals to lease any or all of Glen Echo Park. The Park Service is encouraged to continue to work out a mutually satisfactory arrangement with the newly formed Glen Echo Park Foundation. The Foundation is willing to raise private funds for the rehabilitation of existing Glen Echo Park facilities in order to maintain the current character of the park. The managers have provided $50,000 in planning funds to help start the process.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds received by the National Park Service as reimbursement for the cost of providing security, law enforcement, interpretive, and other services with respect to the operation of facilities at the Jefferson National Expansion Memorial National Historic Site shall be credited to the appropriation bearing the cost of providing such services.

GEOLOGICAL SURVEY

Surveys, investigations, and research

Amendment No. 36: Appropriates $418,665,000 for surveys, investigations and research instead of $423,220,000 as proposed by the House and $402,933,000 as proposed by the Senate. The decrease below the amount proposed by the House consists of increases of $1,500,000 for continuation of Louisiana coastal erosion studies; $700,000 for administration of water resources research institutes; $370,000 for national water resources research and technical development competitive grant programs; and $524,000 for grants to water resources research institutes on a per capita basis; and decreases of $249,000 for cartographic and geologic information; $500,000 for equipment for Parkfield, CA, in earthquake hazards reduction; $900,000 in landslide hazards reduction; $1,000,000 in energy geologic surveys for coal investigations; $2,000,000 in National water data collection and analysis; and $3,000,000 for the National water quality assessment.

The managers agree that grant funds made available to State water resources research institutes which are not matched by States on the statutory basis of one and a half State dollars for each Federal dollar shall be available for the competitive grant programs.

Amendment No. 37: Provides $52,835,000 for cooperative water resource investigations as proposed by the House instead of $50,195,000 as proposed by the Senate.

MINERALS MANAGEMENT SERVICE

Leasing and royalty management

Amendment No. 38: Appropriates $160,697,000 instead of $162,893,000 as proposed by the House and $155,187,000 as proposed by the Senate.

In outer continental shelf lands, the difference over the amount proposed by the Senate is a result of increases of $1,087,000 in leasing and environmental programs and $1,000,000 in regulatory program. These increases are offset by a reduction of $436,000 in resource evaluation which includes a restoration of a general reduction of $764,000 which is offset by a reduction of $1,200,000 for geological and geophysical data acquisition.

In mineral revenue collections the difference over the amount proposed by the Senate is a reduction of $105,000 for two attorneys with the Solicitor's Office which is offset by an increase of $523,000 which the Senate had proposed as a general reduction. The managers agree that costs associated with the Solicitor's Office should be in the Solicitor's budget. No funds have been included in mineral revenue collections for late interest payments as proposed by the Senate. In mineral revenue compliance the difference over the amount proposed by the Senate is an increase of $2,500,000 for 50 additional auditors and support staff as well as an increase of $369,000 which the Senate had proposed as a general reduction. The managers agree that MMS is to report quarterly to the Committees on the number of FTE's involved in conducting audits, the cost of this effort and any return realized as well as a projection of the assignment of the auditors for the balance of the fiscal year. Bill language is included which specifies that not less than $11,059,000 shall be spent for the mineral revenue compliance audit program.

In general administration the difference over the amount proposed by the Senate is an increase of $624,000 in general support services which is offset by a reduction of $52,000 for office consolidation since shuttle service will not be needed for the entire fiscal year.

The managers agree that the Department is to report back to the Committees by December 31, 1986, on how best to structure cooperative agreements with States for the auditing of revenues from section 9(g) Outer Continential Shelf lands. In addition, the Department must implement, by no later than the end of the fiscal year, an accurate and regular reporting system for payments from the 8(g) settlement in accordance with 30 U.S.C. 1715(a). In every month prior to the implementation of that reporting system, the Department is directed to provide the States with information description of payment, the period covered, the payor and source of payment, including amount, quality and unit value of production by lease and royalty rates as well as unit resources, and the basis for valuation to the extent that information is available.

The managers are concerned that adjustments are being made in the Auditing and Financial System with no restrictions. These adjustments create an increased workload on a monthly basis and a disruption of audit trails. As a result, the government cannot be assured that there is an accurate accounting of the royalties due. Therefore, the Secretary is to request that a study be conducted by the Royalty Management Advisory Committee on the current adjustment procedures with an emphasis on developing ways to simplify this process while maximizing revenues. This study is to be submitted with the fiscal year 1988 budget request for the Minerals Management Services.

The managers agree that product value guidelines need to be deatermined expeditiously so that auditors will have sound criteria within which to work. Therefore, proposed product value guidelines for coal and oil are to be published in the Federal Register within 90 days of enactment and gas guidelines within 120 days of enactment of this Act.

The Minerals Management Service is to continue to notify the Commitees by quarterly reports on progress in meeting its system integration plan for the new royalty management computer system as well as the status of the operation of the system, including any anticipated enhancements and their cost once the reimplementation of the Auditing and Financial System is completed and placed in operation. Any difficulties in reaching these deadlines are to be included in the quarterly report along with the reasons for not achieving them.

Amendment No. 39: Provides $44,904,000 for royalty management instead of

$45,354,000 as proposed by the House and $41,617,000 as proposed by the Senate.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That not less than $11,059,000 is to be used for the mineral revenue compliance audit program*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment earmarks funds for the auditing program and deletes House language on deduction of costs of collection of mineral leasing receipts.

Amendment No. 41: Deletes language proposed by the Senate regarding payments for geological and geophysical data.

BUREAU OF MINES

Mines and minerals

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $138,162,000 instead of $126,429,000 as proposed by the House and $130,965,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

In health and safety technology the difference over the amount proposed by the Senate is a result of increases of $1,000,000 for robotics; $250,000 for fires and explosions; $250,000 for post disaster research; $2,500,000 for respirable dust research to be conducted by Pennsylvania State University, West Virginia University, the University of Minnesota and the Massachusetts Institute of Technology; $1,000,000 for ground control to continue mountain bump research on in-mine evaluation of geological conditions; and $800,000 for methane research. These increases are offset by a decrease of $500,000 for rock burst research.

In advanced mining technology the difference over the amount proposed by the Senate is a result of an increase of $1,500,000 for proof-of-concept validation to complete surface and underground evaluations of previously developed prototype mining equipment. This increase is offset by decreases of $500,000 for predictive research and $500,000 for the in-situ copper mining demonstration at Casa Grande, Arizona. In resource conservation technology the difference from the amount proposed by the Senate is due to increases of $500,000 for acid mine drainage research; $500,000 for subsidence research; $1,900,000 for the transfer of title IV research from the Office of Surface Mining to the Bureau of Mines; and an offsetting decrease of $500,000 for water contamination research. In transferring the title IV research from the Office of Surface Mining, the managers expect that the Bureau will focus on research which can be completed in a short timeframe. If the research originally conducted by the Office of Surface Mining cannot be conducted by the Bureau in-house, it should be competitively bid. The Bureau is to coordinate its activities with the Office of Surface Mining and other Federal agencies to assure a coordinated approach to maximize the benefit derived from these expenditures and avoid duplication. Specifically, the Bureau is to consult with the OSM Assistant Directors for Field Operations to assure the research conducted meets the needs of those in the field.

In minerals and materials the difference over the amount proposed by the Senate is a result of increases of $750,000 to restore research in this area; $100,000 to continue research initiated in fiscal year 1986 on a flame reactor which will recover strategic materials from a wide variety of sources; and an offsetting decrease of $1,000,000 for research to be conducted at the Idaho National Engineering Laboratory.

In mineral institutes the difference over the amount proposed by the Senate is due to increases of $550,000 for allotment grants and $333,000 for the administration of the program. These increases are offset by a decrease of $3,271,000 for research grants. In respect to the competitive research program, it is the managers' expectation that there will be open competition among the mineral institutes for these funds within the generic areas of research with the focus being on the highest priority research problems.

In general administration there is an increase of $1,535,000 over the amount proposed by the Senate.

With the increases provided, the Bureau is directed to hold their FTE level at the fiscal year 1986 post-sequestration level.

The managers understand that the Bureau of Mines has a carryover balance from fiscal year 1986 of approximately $4,000,000 which will serve to complete many of the Bureau's research projects. The managers direct the Bureau to use up to $500,000 for not less than seven months of full operation to continue to fruition the controlled burnout program in Albright, West Virginia.

In addition, the managers agree that within available funds the Bureau is to conduct a study on the status of the chromium industry including an analysis of the chromite extracting and ferrochromium processing technologies in commercial use in the United States in relation to the technologies used by United States competitors.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which provides $83,130,000 to remain available until expended instead of $77,505,000 as proposed by the House and $74,680,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Administrative provisions

Amendment No. 44: Deletes language proposed by the Senate allowing the sale of excess property or land.

Amendment No. 45: Deletes language proposed by the Senate allowing the proceeds of land sales to be used to purchase other land or property.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Regulation and technology

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $100,003,000 instead of $99,078,000 as proposed by the House and $96,130,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The difference over the amount proposed by the Senate includes an increase of $3,000,000 in State regulatory program operations. These additional funds have been provided to allow States to administer the inspectable units program. States are to establish an inventory of all sites subject to the Act since 1977, determine a priority system for their inspection, take photographs of site conditions and take enforcement action where necessary. The State files are to be open to OSM inspection at any time.

In regulatory program operations the difference over the amount proposed by the Senate includes an increase of $843,000 for 10 additional two-acre and bond forfeiture inspectors and the use of a helicopter; $700,000 for 10 troubleshooters to be divided equally between the Eastern and Western technical centers with one specifically assigned to Ohio; and $100,000 for 2 additional inspectors for the inspection of both production and non-production sites.

In technical services, training and research the difference from the level of funding proposed by the Senate is a result of a reduction of $500,000 for training.

In general administration the difference from the amount proposed by the Senate consists of reductions of $70,000 for executive direction and $200,000 for general services for decentralization costs.

Abandoned mine reclamation fund

Amendment No. 47: Appropriates $203,720,000 instead of $232,720,000 as proposed by the House and $187,020,000 as proposed by the Senate.

In State reclamation program grants the difference from the amount proposed by the Senate is a result of an increase of $10,000,000.

In reclamation program operations the difference from the amount proposed by the Senate is a reduction of $1,900,000 for title IV research which is being funded in the Bureau of Mines.

In the rural lands reclamation program there is an increase of $8,600,000 over the amount proposed by the Senate.

The managers continue to be concerned about the high unobligated balances from prior year State reclamation grants. OSM is to keep updated obligation records for each State and report quarterly to the Committees on the progress made by the States in obligating prior year unobligated balances as well as the issuance of any administrative and construction grants to the States.

The managers are concerned about the problems with the State of Ohio's surface mining regulatory program. Periodic evaluations by the Office of Surface Mining have highlighted a number of recurring problems in Ohio's implementation and enforcement of the Federal Surface Mining Control and Reclamation Act. The Office of Surface Mining is directed to work with the Ohio Division of Reclamation to address these problems through a public forum. This directive should not be construed as a precursor to Federal takeover of the Ohio program. OSM and the State should work together to develop an explicit plan of action to correct the enforcement deficiencies. The managers strongly support the concept of State primacy and it is their hope that problems will be resolved that will maintain Ohio State primacy.

Bill language has been added under General Provisions, Department of the Interior, which amends the Surface Mining Control and Reclamation Act of 1977 to allow quali-

fied registered professional land surveyors to prepare and certify maps and plans where they are so authorized.

Amendment No. 48: Restores language proposed by the House and stricken by the Senate requiring State participation in a nationwide Applicant Violator System (AVS).

The Office of Surface Mining is presently studying a range of options with respect to the design of the Applicant Violator System (AVS). Definitions under examination for "ownership" and "control" vary from ten percent to fifty percent. At this time the managers take no position with respect to the final design of the AVS but have included bill language to permit the Office of Surface Mining to delay the pending rulemaking until March 31, 1987. This three month extention will permit the Committees on Appropriations to review this matter during the fiscal year 1988 hearings.

Amendment No. 49: Restores and clarifies language proposed by the House and stricken by the Senate.

Bill language has been included allowing the Secretary to deny up to 50 percent of a State reclamation grant, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines a State is inadequately enforcing its State program.

Amendment No. 50: Deletes language proposed by the House regarding the cost sharing matching fund.

The managers are concerned over internal discussions involving an AML cost sharing initiative and understands the Department will take no action in fiscal year 1987. Additionally, the managers expect the Office of Surface Mining to discuss any future initiatives affecting the AML State Grant Program with the appropriate legislative and Appropriations Committees.

Amendment No. 51: Deletes language proposed by the House regarding apportionment of the Secretary's discretionary fund.

BUREAU OF INDIAN AFFAIRS

Operation of Indian programs

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$911,182,000, of which $25,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190 shall remain available until expended, and*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Appropriates $911,182,000 for the operation of Indian programs instead of $892,328,000 as proposed by the House and $887,708,000 as proposed by the Senate. The net increase over the amount proposed by the Senate consists of increases of $1,200,000 for the Indian school equalization formula, $1,428,000 for the institutionalized handicapped program, $200,000 for declining enrollment adjustments, $1,000,000 for education contract support, $750,000 for Johnson-O'Malley educational assistance, $250,000 for special higher education grants, $750,000 for tribally-controlled community colleges, $2,000,000 for residential care for handicapped children, $200,000 for the Winnebago tribe retrocession costs, $550,000 for retrocession costs of the Colville tribe, $556,000 for self-determination grants and training and technical assistance for Alaska, $4,182,000 for contract support, $208,000 for the Inchelium ferry, $750,000 for reforestation, $9,000,000 for water resources, $980,000 for the United States-Canada Pacific Salmon Treaty, $120,000 for grizzly bear surveys, $166,000 for the Klamath conservation program, $347,000 for fish hatchery operations, $200,000 for fire suppression equipment, $5,000,000 for fire suppression costs, $800,000 for mineral inventories, $800,000 for litigation support, and $200,000 for program management; and decreases of $18,000 for school operations, $50,000 for central office operations for tribal government services, $100,000 for the social services quality control program, $85,000 for the special investigative unit, $100,000 for tribal accounting services, $50,000 for wildlife and parks central office operations, $7,500,000 for water resources under Indian rights protection, $160,000 for the consolidated training program, and $100,000 for ADP services.

The managers direct that $900,000 of the funds received from the Department of Education for education of handicapped children be directed toward the institutionalized handicapped program. The Bureau is requested to seek outside evaluation of their educational program for exceptional children. A Bureau-wide policy for determining which handicapped children are supported by the Bureau and which by the public schools shall be developed and provided to the Committees on Appropriations. The Bureau shall also ensure that all schools use the same criteria in classifying the exceptional children.

Of the amounts provided for the Indian Child Welfare Act (ICWA), $1,200,000 shall be used to provide fourth quarter funding to extend through the fiscal year those grants approved late in fiscal year 1986. The remainder of the funds are available for the regular competitive grant program. For fiscal year 1988 it is the intent of the managers to put the entire program back on the full fiscal year schedule. As in the past, the managers intend the ICWA grants to be made available for the highest priority projects, whether or or off reservation. Alaskan tribes and organizations are eligible to apply for ICWA grants and small tribe core management grants on the same basis as every other tribe. General assistance grants have been reduced $3,000,000 below the budget estimate. Should there be a shortfall, the Bureau should notify the Committees on Appropriations in a timely manner.

The $818,000 reduction in contrast support is the amount requested for pre-1985 contracts. The Bureau is directed to correct any errors and omissions in these contracts from within the amounts that were transferred to the programs in fiscal year 1985. The managers expect the Bureau to improve contract management and contract support payments by ensuring that fringe benefits are controlled and that direct program costs are not charged to indirect costs. Contract support should not be "grandfathered" on an individual contract basis and only additional costs which can be shown to be a direct result of contracting should be allowed.

The managers note that as part of the effort to control contrast support costs, the Bureau has decided that only one-third of the support costs for pre-1985 contracts will be released at the beginning of fiscal year 1987. In order to provide for a transition period in the payment rates for contract support, the released funds should be budgeted for only one-third of the fiscal year. If current regulations are amended, changes in contract support payments should be phased in over the remainder of the fiscal year with full implementation delayed until the beginning of fiscal year 1988. If the regulations are not amended, the Bureau should release the full year's funding as early in the year as possible.

The managers agree that no Bureau funds shall be used to meet the matching requirement for the economic development grant program. The allowance for employment development includes $1,633,000 for the United Tribes Educational Technical Center.

Within the amount provided for wildlife and parks, $80,000 is available for the Creston, MT fisheries program. A total of $433,000 is provided for operation of the Inchelium ferry, $225,000 of which is derived by transfer from road maintenance.

The allowance for the United States-Canada Pacific Salmon Treaty is the total amount available for all direct and indirect costs of the program. The managers agree that funds provided for water investigations are available for tribal contracting and that within the allowance for water investigations are funds to continue the work at Flathead ($390,000), Zuni, and Yakima ($545,000). The manages intend that the funds provided for minerals investigations not be limited solely to efforts oriented toward precious metals exploration or to programs with expected immediate financial returns. Mining and minerals funds shall be available for tribal contracting.

The managers agree that attorney fees for the Navajo and Hopi tribes shall be reviewed on the same basis as all other requests and that such costs shall not be subject to any arbitrary ceiling.

Within the allowance for facilities management, an additional $189,000 is provided for the Hopi High School. The Bureau shall begin implementation of the program recommended by the Office of Construction Management to provide operation and maintenance funding to schools based on enrollment. The Department should continue to monitor the facilities program and report quarterly to the Committees on Appropriations. The Department and the Bureau are reminded that the Committees will decide when the facilities program is ready to be returned to Bureau control from the Office of Construction Management, based on consideration of the progress or accomplishment of the following:

significant improvement in the rate of FI&R obligations and procurements, indicating improved management capabilities and procedures;

acceleration of the reduction of total plant size;

completion of the comprehensive education plan, to be submitted to and approved by the Appropriations Committees;

a final plan for reorganization of facilities management, approved by the Appropriations Committees and under active implementation; and

a plan for an O&M allocation formula based on BIA student space planning requirements, approved by the Committees and implemented.

The additional reduction below the Senate allowance for the consolidated management training program represents the amount requested for salary costs for Bureau participants in the Departmental manager development program. The manag-

ers agree that $113,000 shall be used to train contracting officers and that the program should be managed by the Central office.

The managers have deferred action on requests to establish additional offices in Lafayette, LA and San Juan, NM. The Bureau is requested to submit to the Committees on Appropriations a detailed report of the costs of operating agency and field offices along with recommendations for consolidating existing operations and/or adding additional offices.

Amendment No. 53: Provides $55,668,000 for scholarships and Johnson-O'Malley educational assistance instead of $56,418,000 as proposed by the House and $54,918,000 as proposed by the Senate.

Amendment No. 54: Deletes earmarking of firefighting funds as proposed by the Senate.

Amendment No. 55: Provides $2,431,000 for the Navajo and Hopi program as proposed by the Senate instead of $2,931,000 as proposed by the House.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following: *: Provided further, That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, the amounts appropriated for fiscal year 1987 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available for use under part A of that Act and—*

(1) that Act shall be implemented in a reasonable period of time and shall be fully implemented by no later than October 1, 1987,

(2) until the earlier of—

(A) October 1, 1987, or

(B) the appointment and confirmation of a majority of the members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development under section 1505(a)(1)(A) of that Act,

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

(3) until the earlier of—

(A) October 1, 1987, or

(B) the appointment of a President of such Institute under section 1508 of that Act, the Secretary of the Interior shall have the authority conferred upon the President of such Institute under this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Bill language has been included to allow the use of funds provided for the Institute of American Indian Arts to be used to implement Part A of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act. The language also gives the Secretary continued authority to operate the Institute until the governing body of the Institute is appointed.

Amendment No. 57: Deletes langauge proposed by the House regarding relocation of the Northern California agency office.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits payments which might otherwise be made pursuant to section 1128(b) of Public Law 95-561.

The managers have included bill language placing a one year moratorium on any payments that would otherwise be required under section 1128(b) of Public Law 95-561. The Bureau shall provide a report on this matter as outlined in the Senate report.

Amendment No. 59: Reported in technical disagreement. The managers of the part of the House will offer a motion to recede and concur in the amendment of the Senate which continues through fiscal year 1987 the formula used in fiscal year 1986 to distribute Johnson-O'Malley funds.

Bill language is included maintaining the current formula for payments under the Johnson-O'Malley Educational Assistance Act (JOM). If the JOM formula is to be changed, the managers direct that votes occur on a regular schedule and that provisions be made to phase in new formulas. The managers agree to review this matter for fiscal year 1988.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that certain requirements be met prior to initiation of action to close the Phoenix Indian School.

Construction

Amendment No. 61: Appropriates $76,101,000 for construction instead of $86,066,000 as proposed by the House and $67,951,000 as proposed by the Senate. The net increase over the amount proposed by the Senate consists of increases of $4,150,000 for facility improvement and repair and $5,000,000 for the Navajo Indian Irrigation Project; and a decreased of $1,000,000 for the Flathead irrigation project. No additional funds are provided for the Ft. Belknap irrigation project pending further review.

The managers agree that of the unobligated balances from irrigation funds made available in Public Law 98-8, $900,000 shall be reprogrammed to complete the Fort McDowell rehabilitation project and $390,000 shall be reprogrammed for the Papago, AZ high school. Together with the amount reprogrammed, unobligated balances from the Papago project may be used to construct six units of quarters and to improve the playing fields to the extent funds are available.

Within the allowance for buildings and utilities, $90,000 shall be available for planning the Taholah, WA high school. As the work at the Marty school is not of the highest priority, no additional funds are provided. The managers agree that there is no requirement for new construction at the Oglala Sioux school as the needs of the facility can be met through the facility improvement and repair program. Improvements to the Santa Rosa dormitory which are required to make space available for students from the Papago high school shall be made within available funds for facility improvement and repair. The Bureau shall review the need for emergency repairs at the Standing Rock, ND high school and make any required life/safety repairs.

The managers agree that the Bureau should ensure that tribal personnel costs are brought in line with the amount of funds available for housing construction and repairs. Of available prior year balances, $1,500,000 shall be reprogrammed to meet the Bureau's share of the Alaska 500 housing settlement. No fiscal year 1987 funds are made available for this purpose.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided, That $1,225,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719: 25 U.S.C. 640d-14(d)(3)), may be used for counseling, water production and administration related to the relocation of Navajo families.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Bill language has been included by the managers which revises language in the fiscal year 1986 continuing resolution to permit funds for Navajo and Hopi relocations to be used for counseling ($500,000); water production ($600,000); and administration ($125,000).

Under existing law, the Commission is authorized to call upon any department or agency of the United States to assist in implementing the relocation plan. The managers have approved the involvement of the Bureau of Indian Affairs and the Indian Health Service. Although the managers are aware of and have not changed 25 USC 640d-11(i), authority has been given to the Bureau of Indian Affairs to utilize their funds to provide social service counseling and water production. The determination of eligibility for relocation benefits and the execution of contracts for relocation still remain the responsibility of the Commission. In addition, the Commission will continue with other aspects of new land development such as range improvements and electricity. The managers will hold each party accountable for their respective tasks and will expect each to report on the progress of their actions during their testimony on their fiscal year 1988 budget requests before the Committees. In addition, the managers expect quarterly reports on the meetings held between the Commission, Bureau of Indian Affairs and Indian Health Service which are to include the timelines in which they expect to achieve their objectives.

Road construction

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

Of the funds otherwise available to the State of Oklahoma from the Federal Highway Trust Fund, $10,000,000 shall be available for construction of the Honobia Indian Road: Provided, That the matching requirement is hereby waived with respect to funds spent on the Honobia Road: Provided further, That not

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Appropriates no funds for road construction instead of $2,500,000 as proposed by the House. Bill language has been included to earmark $10,000,000 of Federal Highway Trust Funds available to the State of Oklahoma for the construction of the Honobia Indian Road, and waiving the requirement for a 25% match with local funds.

White Earth trust fund

Amendment No. 64: Appropriates $6,600,000 for the White Earth Trust Fund, as proposed by the Senate.

Indian loan guaranty and insurance fund

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $2,452,000 instead of $2,652,000 as proposed by the House and $2,485,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amount reflects an increase of $167,000 over the budget level of $2,485,000, to allow an additional amount of $10,000,000 in loans to be guaranteed; and an offsetting decrease of $200,000 for management and technical assistance, leaving a balance of $500,000. The managers do not intend for any additional funds to be obligated for contracts for model business development centers.

TERRITORIAL AND INTERNATIONAL AFFAIRS

Administration of territories

Amendment No. 66: Appropriates $78,224,000 instead of $78,874,000 as proposed by the House and $76,016,000 as proposed by the Senate. Included is $75,501,000 for grants and technical assistance and $2,723,000 for the Office of Territorial and International Affairs. The net decrease below the House consists of a decrease of $900,000 for the Guam mental health facility, and an increase of $250,000 for four FTE's in the Office of Territorial and International Affairs, for supervision of Compact programs in the Freely Associated States, one each in Palau, the Marshall Islands, the Federated States of Micronesia, and in Washington. The managers intend to add four additional FTE's in the future, for a total of eight. The $2,000,000 provided for construction of the Guam mental health facility is the total of Federal funding that will be provided.

Amendment No. 67: Provides $75,501,000 to remain available until expended instead of $76,401,000 as proposed by the House and $73,543,000 as proposed by the Senate.

Amendment No. 68: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *and (3) an additional $250,000 for salaries and expenses of the Office of Territorial and International Affairs: Provided further, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Bill language is included which amends the language proposed by the Senate, to clarify that covenant grant funding to the Northern Mariana Islands shall be subject to the terms of the Agreement of the Special Representatives of Future United States Financial Assistance, but only as approved by and provided in Public Law 99-396.

Trust Territory of the Pacific Islands

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $67,387,000 instead of $14,340,000 as proposed by the House and $66,987,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net decrease from the amount proposed by the Senate consists of increases of $900,000 for the Enewetak support program, $500,000 for the Bikini food program, and $1,000,000 for the Bikini Atoll Rehabilitation Committee program; and a decrease of $2,000,000 for construction of the Palau hospital. The managers agree that Palau should complete plans and initiate construction of the hospital with the funds provided in fiscal year 1986, and that the balance of the $10,000,000 total cost will be provided in a future appropriations act.

The managers have agreed to provide the regular grant funding to the Trust Territory governments, until the Compacts of Free Association become effective.

The managers direct the Department of the Interior and the Department of Energy to develop a plan for providing Federal funding for the necessary continuing activities related to the activities of the Lawrence Livermore Laboratory and the Bikini Atoll Rehabilitation Committee on Atoll after fiscal year 1987, in order that those activities may be completed as required, in order that those activities may be completed as required, and a final report and recommendation as to the preferred method for rehabilitation of the atoll be provided to the Congress. A report on the DOI-DOE plan for funding and completing these activities shall be submitted to the Committees on Appropriations by February 1, 1987. In addition, the Departments of Energy and the Interior are directed to provide the Committees with a report by December 1 of each year detailing how funds were spent during the previous fiscal year for the radiological health care program, and the agricultural and food programs for Enewetak and Bikini, as referenced in section 103(h) of Public Law 99-239. The report shall also specify the anticipated needs during the current fiscal year and the following fiscal year in order to provide for the radiological health care, and the planting, agricultural maintenance, and food programs for Enewetak and Bikini at a level not less than that which existed prior to the implementation of Public Law 99-239, and as anticipated in section 103(h) of Public Law 99-239. The managers believe that the United States has a moral obligation to fund these programs and intend to do so in the absence of compelling considerations to the contrary.

Amendment No. 70. Restores language proposed by the House and stricken by the Senate allowing funds from the Bikini Trust Fund to be used for settlement outside of the Marshall Islands. The managers expect the expenditure of any funds from the Trust Fund to continue to be subject to the same controls as now exist. The managers also intend that the costs of future relocations outside the Marshall Islands, or back to the Marshall Islands, chosen by the Bikinians will be paid from funds available in the Trust Fund.

Compact of free association

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *no additional funds are provided, and*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *for the Enjebi Community Trust Fund, as authorized by Public Law 99-239, $2,250,000: Provided, That notwithstanding any other provision of law, the funds made available under this head in Public Law 99-349 shall remain available for obligation until expended: Provided further, That notwithstanding any other provision of law, for purposes of economic assistance as provided pursuant to the Compacts of Free association, the effective date of the Compact shall be October 1, 1986, except that the effective date for commencing the Kwajalein use and impact payments pursuant to sections 211(a)(1) and (213(a) of Public Law 99-239 shall be October 1, 1985: Provided further, That the $60,719,000 made available in fiscal year 1986 for the Compacts pursuant to Public Law 99-349 from the "Trust Territory of the Pacific Islands" appropriation shall remain available until expended for the Trust Territory of the Pacific Islands: Provided further, That upon the effective date determined by the President for implementing the Compacts, $60,719,000 of the amount made available for fiscal year 1987 under the "Trust Territory of the Pacific Islands" appropriation pursuant to this act shall be considered to have been made available and expended for the "Compact of Free Association" appropriation as of October 1, 1986.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

In accordance with the provisions of Public Law 99-239, the Compact of Free Association Act, Federal programs in the Federated States of Micronesia and the Republic of the Marshall Islands shall continue to be provided until the effective date of the Compact, which has not yet been determined. Even after the effective date, Federal funds will continue to be provided for those Federal programs and activities to be continued under the Compact, pursuant to Public Law 99-239.

Appropriates $2,250,000 instead of $36,170,000 as proposed by the House and $27,920,000 as proposed by the Senate. The amount provided is for the second installment of the Enjebi Community Trust Fund, making a total of $5,000,000. The managers remain committed to providing the balance of funding necessary to provide the full $10,000,000 authorized for the Fund in future appropriations acts.

Bill language has been included changing the effective date of the Compact of Free Association for the Federated States of Micronesia and the Republic of the Marshall Islands to October 1, 1986, and establishing

that date as the effective date for the Compact for the Republic of Palau. This change does not affect the Kwajalein use and impact payments, for which the effective date remains October 1, 1985. The managers have very reluctantly agreed to this change, given the current uncertainty as to when the Compacts will become effective, and when the Compact funding will be released. The managers are committed to providing the second year of funding for the Compacts at the earliest possible opportunity once this uncertainty has been resolved.

Bill language has also been included providing that both the funds made available for the Compacts, and the funds to be offset against them as provided in Public Law 99-349, shall remain available until expended. Language is also included that will offset $60,719,000 of the Trust Territory funds provided in this Act against the Compact funds in fiscal year 1987 when the Compacts become effective.

With regard to the funding for Federal education progams included in section 105(i)(2) of the Compact, the managers believe this language is sufficient to allow the freely associated states to continue to apply to the Department of Education, and to continue to be funded, up to the levels specified in section 105(i)(2), without any further action by the Congress.

Amendment No. 73: Deletes language proposed by the Senate extending the availability of funds.

DEPARTMENTAL OFFICES

Office of the Secretary

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *including $1,586,000 for the Immediate Office of the Secretary, $42,816,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Appropriates $24,816,000 instead of $42,482,000 as proposed by the House and $42,822,000 as proposed by the Senate.

The mangers have agreed to the following distribution of funds:

Secretary's Office	$1,586,000
Executive Secretary	374,000
Congressional and Legislative Affairs	1,046,000
Equal Opportunity	1,274,000
Public Affairs	784,000
Small and Disadvantaged Business Utilization	381,000
A/S Water and Science	625,000
A/S Lands and Minerals	840,000
A/S Fish and Wildlife and Parks	600,000
A/S Indian Affairs	600,000
A/S Territorial and International Affairs	508,000
A/S Policy, Budget and Administration	825,000
Environmental Project Review	1,404,000
Acquisition and property management	1,264,000
Office of Personnel	1,617,000
Administrative Services	1,032,000
Information resources management	4,450,000
Policy analysis	1,950,000
Office of Budget	1,404,000
Financial Management	954,000
Hearings and Appeals	5,200,000
Aircraft Services	1,658,000
Central Services	12,440,000
Total	42,816,000

Bill language is included earmarking $1,586,000 for the Immediate Office of the Secretary.

No funds are recommended for a cooperative agreement with the Benjamin Franklin Institute.

Office of the Solicitor

Amendment No. 75: Appropriates $20,880,000 for salaries and expenses instead of $21,255,000 as proposed by the House and $19,385,000 as proposed by the Senate. The net decrease below the House position includes reductions of $225,000 for travel, $50,000 for subscriptions and legal books, $100,000 for overtime/promotions; $50,000 as a general reduction and an increase of $50,000 for Statue of Liberty support.

Amendment No. 76: Deletes language proposed by the House earmarking funds for Office of Surface Mining Reclamation and Enforcement activities.

The managers are in agreement that work associated with the Office of Surface Mining is of highest priority.

Office of Inspector General

Amendment No. 77: Appropriates $16,300,000 as proposed by the House instead of $15,424,000 as proposed by the Senate.

DEPARTMENTWIDE PROVISIONS

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds a requirement that funds used pursuant to this authority must be replenished by supplemental appropriations.

Amendment No. 79: Restores the provision proposed by the House and stricken by the Senate prohibiting leasing activities on certain Outer Continental Shelf areas in the North Atlantic.

Amendment No. 80: Restores section number 108 as proposed by the House instead of 107 as proposed by the Senate.

Amendment No. 81: Restores section number 109 as proposed by the House instead of 108 as proposed by the Senate.

Amendment No. 82: Restores section number 110 as proposed by the House instead of 109 as proposed by the Senate.

Amendment No. 83: Restores the provision proposed by the House and stricken by the Senate which provides the Secretary of the Interior the authority to adopt recommendations proposed by the negotiating team on California offshore leasing as authorized in section 111 of Public Law 99-190, as well as delaying the publication of a call for information and nomination for Sale 95 until March 1, 1987 and delaying the final notice of sale for Sale 91 until January 1, 1989.

Amendment No. 84: Restores section number 112 as proposed by the House instead of 110 as proposed by the Senate.

Amendment No. 85: Restores the provision proposed by the House and stricken by the Senate designating the Laurel Highlands National Recreational Trail as part of the Potomac Heritage Trail.

Amendment No. 86: Reported in disagreement.

The House bill contained a provision for purchasing oil rigs for the Outer Continental Shelf containing specific percentages of American materials and labor. The Senate passed bill contained no such provision. This provision is in disagreement.

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 114. (a) In order to provide for needed facilities for visitors to Fort Sumter National Monument, including a tour boat dock and associated facilities, and an interpretive and museum facility in cooperation with the State of South Carolina and the city of Charleston, the Secretary of the Interior (in this section referred to as the "Secretary"), is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange, not to exceed 8.91 acres of lands, including submerged lands, and interests in lands, within the area generally depicted on the map entitled "Dockside II, Proposed Site, Tourboat Facility", which map shall be on file and available for public inspection in the office of the National Park Service. When acquired, lands, including submerged lands and interests in lands, depicted on such map shall be administered by the Secretary as a part of Fort Sumter National Monument, subject to the laws and regulations applicable to such monument, and subject to the provisions of this section.

(b)(1) With respect to the lands, including submerged lands, and interests in lands acquired pursuant to section (a), the Secretary is authorized—

(A) to convey, notwithstanding the provisions of section 5 of Public Law 90-400 (82 Stat. 356) and subject to the provisions of subsection (2), a leasehold interest in not to exceed one and a half acres to the State of South Carolina or the city of Charleston or either of them for development by either of them or their agents or lessees of a marine museum and associated administrative facilities;

(B) to grant covenants or easements for ingress and egress to the State of South Carolina, the city of Charleston, and to other parties as the Secretary may deem necessary to facilitate public use; and

(C) to enter into cooperative agreements with the State of South Carolina, the city of Charleston, and other parties as the Secretary may deem necessary, pursuant to which construction, maintenance, and use of buildings, utilities, parking facilities, and other improvements may be shared among the parties to the agreement.

(2) Any conveyance made pursuant to subsection (b)(1)(A) and any renewal thereof may be for a period of up to 50 years, and may include the option to purchase the property in fee by the lessee within the first 10 years, upon payment by the lessee of the cost of the property to the United States plus interest based on the average yield of United States Treasury notes with maturities of one year. The Secretary may convey title to the property in fee in the event such option to purchase is exercised, subject to the condition that the property is used for a public marine museum and associated administrative facilities. Notwithstanding any other provision of law, any leasehold interest conveyed pursuant to subsection (b)(1)(A) shall be conveyed without monetary consideration. The proceeds from any conveyance of property in fee pursuant to subsection (b)(1)(A) shall be deposited in the Land and Water Conservation Fund in the Treasury of the United States.

(c) Section 117 of Public Law 96-199 (94 Stat. 71) is hereby repealed.

(d)(1) Notwithstanding any other provision of law, sums heretofore appropriated but not, on the date of enactment of this joint resolution, obligated for construction of a tourboat facility at the Broad Street site, and for the acquisition and construction of the Fleet landing site for Fort Sumter National Monument, which was authorized by section 117 of Public Law 96-199 (94 Stat. 71) are hereby made available for obligation for the acquisition of the lands including submerged lands, and interests in lands identified in section (a) and for construction of necessary facilities thereon, and to the extent that sums heretofore, appropriated for land acquisition of the Fleet landing site are not sufficient to cover the cost of acquisition of the properties identified in section (a), sums heretofore appropriated for construction of facilities at the Broad Street site and the Fleet landing site may be obligated for the purposes of acquisition as authorized in section (a).

(2) In addition to the sums made available under subsection (d)(1), there is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(e) The Secretary of the Interior shall transfer administrative jurisdiction over the Federal property, consisting of approximately 1 acre, known as the Broad Street site, to the Secretary of the Department in which the Coast Guard is operating, who shall transfer to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes, administrative jurisdiction over the Federal property, consisting of approximately 1 acre located near Fort Moultrie on Sullivan's Island for purposes of a maintenance workshop, storage, and seasonal housing in connection with the administration and protection of the Fort Sumter National Monument.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment deletes House language prohibiting the submission of a settlement to the court in Westlands versus the United States and includes language proposed by the Senate in H.J. Res. 738 authorizing the acquisition and development of a mainland tour boat facility for Fort Sumter National Monument, South Carolina.

Amendment No. 88: Restores House language stricken by the Senate designating the Visitor Center associated with the headquarters of the Illinois and Michigan Canal National Heritage Corridor as the "George M. O'Brien Visitor Center" and changes the section number to 115.

Amendment No. 89: Restores House language stricken by the Senate providing for an exchange of Land and Water Conservation Fund assisted land in Berkeley, Illinois, and changes the section number to 116.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *Sec. 117.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Language is included, as proposed by the Senate, which prevents final regulations concerning paleontological research on Federal lands until the Secretary has received a report from the National Academy of Sciences on such regulations and forwarded to Congress a comparison of that report and the Department's proposed regulations.

Amendment No. 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *Sec. 118.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Language proposed by the Senate amending the Act of August 9, 1955, to allow the Tulalip Tribe to enter into long-term leases if the lease is executed under tribal regulations approved by the Secretary, is included.

Amendment No. 92: Deletes language proposed by the Senate applying the exception in Public Law 87-279 to the Flathead Indian Irrigation Project.

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 119. (1) The primary term of any geothermal lease in effect as of July 27, 1984, issued pursuant to the Geothermal Act of 1970 (Public Law 91-581, 84 Stat. 1566, 30 U.S.C. 1001-1025) is hereby extended to December 31, 1988, if the Secretary of the Interior finds that—

(a) a bona fide sale of the geothermal resource, from a well capable of production, for delivery to our utilization by a facility or facilities, has been completed (1) due to administrative delays by government entities, beyond the control of the lessee, or (2) such sale would be uneconomic;

(b) substantial investment in the development of or for the benefit of the lease has been made; and

(c) the lease would otherwise expire prior to December 31, 1988.

(2)(a) The Secretary of the Interior (hereinafter in this section referred to as "the Secretary" shall publish for public comment in the Federal Register within 120 days after the date of enactment of this section a proposed list of significant thermal features within the following units of the National Park System:

Mount Rainier National Park;
Lassen Volcanic National Park;
Yellowstone National Park;
Bering Land Bridge National Preserve;
Gates of the Arctic National Park and Preserve;
Yukon-Charley Rivers National Preserve;
Katmai National Park;
Aniakchak National Monument and Preserve;
Wrangell-St. Elias National Park and Preserve;
Glacier Bay National Park and Preserve;
Denali National Park and Preserve;
Lake Clark National Park and Preserve;
Hot Springs National Park;
Sequoia National Park;
Hawaii Volcanoes National Park;
Lake Mead National Recreation Area;
Big Bend National Park;
Olympic National Park;
Grand Teton National Park;
John D. Rockefeller, Jr. Memorial Parkway;
Haleakala National Park; and
Crater Lake National Park.

The Secretary shall include with such list the basis for his determination with respect to each thermal feature on the list. Based on public comment on such list, The Secretary is authorized to make additions to or deletions from the list. Not later than the 60th day from the date on which the proposed list was published in the Federal Register, the Secretary shall transmit the list to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives together with copies of all public comments which he has received and indicating any additions to or deletions from the list with a statement of the reasons therefor and the basis for inclusion of each thermal feature on the list. The Secretary shall consider the following criteria in determining the significance of thermal features:

(1) size, extent, and uniqueness;

(2) scientific and geologic significance;

(3) the extent to which such features remain in a natural, undisturbed condition; and

(4) significance of thermal features to the authorized purposes for which the National Park System unit was created.

The Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, 84 Stat. 1566), as amended, until such time as the Secretary has transmitted the list to the Committees of Congress as provided in this section.

(b) The Secretary shall maintain a monitoring program for those significant thermal features listed pursuant to subsection (a) of this section.

(c) Upon receipt of an application for a geothermal lease the Secretary shall determine on the basis of scientific evidence if exploration, development, or utilization of the lands subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section. Such determination shall be subject to notice and public comment. If the Secretary determines on the basis of scientific evidence that the exploration, development, or utilization of the lands subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section, the Secretary shall not issue such geothermal lease. In addition, the Secretary shall withdraw from leasing under the Geothermal Steam Act of 1970, as amended, those lands, or portion thereof, subject to the application for geothermal lease, the exploration, development, or utilization of which is reasonably likely to result, based on the Secretary's determination, in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section.

(d) With respect to all geothermal leases issued after the date of enactment of this section the Secretary shall include stipulations in leases necessary to protect significant thermal features listed pursuant to subsection (a) of this section where a determination is made based on scientific evidence that the exploration, development, or utilization of the lands subject to the lease is reasonably likely to adversely affect such significant features. Such stipulations shall include, but are not limited to:

(1) requiring the lessee to reinject geothermal fluids into the rock formations from which they originate;

(2) requiring the lessee to report annually to the Secretary on its activities;

(3) requiring the lessee to continuously monitor geothermal production and injection wells; and

(4) requiring the lessee to suspend activity, temporarily or permanently, on the lease if the Secretary determines that ongoing exploration, development, or utilization activities are having a significant adverse effect on significant thermal features listed pursuant to subsection (a) of this section until such time as the significant adverse effect is eliminated.

(e) The Secretary of Agriculture shall consider the effects on significant thermal features of those units of the National Park System identified in subsection (a) of this section in determining whether to consent to leasing under the Geothermal Steam Act of 1970, as amended, on national forest or other lands administered by the Department of Agriculture available for leasing under the Geothermal Steam Act of 1970, as amended, including public, withdrawn, and acquired lands.

(f) Nothing contained in this section shall affect the ban on leasing under the Geothermal Steam Act of 1970, as amended, with respect to the Island Park Known Geothermal Resources Area, as provided for in Public Law 98-473 (98 Stat. 1837) and Public Law 99-190 (99 Stat. 1267).

(g) Except as provided herein, nothing contained in this section shall affect or modify the authorities or responsibilities of the Secretary under the Geothermal Steam Act of 1970, as amended, or any other provision of law.

(h) The provisions of this section shall remain in effect until Congress determines otherwise.

SEC. 120. (a) Section 1102(a) of the National Parks and Recreation Act of 1978 (Public Law 95-625) is amended by inserting the following after the second sentence: "In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site.".

(b) Section 1112 of Public Law 95-625 is amended by striking "$500,000" and inserting "$3,000,000".

SEC. 121. (1) The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

(2) The organization or organizations approved by the Secretary shall establish the memorial with non-Federal funds.

SEC. 122. (1) The Black Revolutionary War Patriots Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

(2) The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment deletes language proposed by the Senate and included under amendment No. 88 concerning naming a visitor center, and includes language proposed by the Senate in H.J. Res. 738 as follows:

1. Section 119. (1) extends the term of geothermal leases in existence as of July 27, 1984 through December 31, 1988.

2. Section 119. (2) directs the Secretary of the Interior to establish a list of significant thermal features in several National Parks and establishes a program for determining and protecting those features.

3. Section 120 authorizes acquisition of certain lands outside the boundaries of the New River Gorge National River and increases the authorization limit from $500,000 to $3,000,000.

4. Section 121 authorizes the establishment of a memorial to Women in Military Service in accordance with the provisions of H.R. 4378 as passed the Senate on September 10, 1986 (Senate Report 99-421).

5. Section 122 authorizes the establishment of a memorial to Black Revolutionary War Patriots in accordance with the provisions of H.R. 4378 as passed the House on September 29, 1986.

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *Sec. 123.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment will allow land surveyors to prepare and certify maps for surface mining permit applications.

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *Sec. 124.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides for a 180 day delay in implementing an out-of-court settlement with regard to various oil shale claims in Colorado provided that all parties to the case, including the courts involved, agree and directs the Secretary of the Interior to seek such agreement.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Forest Service

Forest research

Amendment No. 96: Appropriates $128,882,000 for forest research instead of $129,183,000 as proposed by the House and $123,282,000 as proposed by the Senate. The managers agree that the changes from the budget request of $111,481,000, by program are as follows:

Fire and atmospheric sciences:

+$200,000—atmospheric deposition research at Fort Collins, CO.

+$300,000—fire research at Riverside, CA and Missoula, MT.

Forest insect and disease research:

+$325,000—eastern hardwoods research cooperative at Broomall, PA.

+$300,000—western conifers research cooperative at Corvallis, OR (to be managed by the Environmental Protection Agency).

+$697,000—to be distributed to the highest priority insect and disease research projects.

Forest inventory and analysis:

+$1,200,000—atmospheric deposition research at Research Triangle Park, NC.

+$900,000—restore forest inventory cycle to previous level.

+$1,000,000—western ecosystems acid raid monitoring pursuant to an agreement with the Idaho National Engineering Laboratory.

Renewable resources economics research:

−$86,000—maintain at 1986 level.

Trees and timber management:

+$325,000—eastern hardwoods research cooperative at Broomall, PA.

+$300,000—western conifers research cooperative at Corvallis, OR.

+$500,000—Fairbanks, AK.

+$300,000—genetic engineering research at Berkeley, CA.

+$288,000—Parsons, WV: $188,000 for rehabilitation and $100,000 for research. Additionally, the $196,000 proposed for transfer to Morgantown shall be returned to Parsons.

+$200,000—Boise, ID.

+$50,000—Honolulu, HI.

Watershed and minerals management research:

+$600,000—atmospheric deposition research at Oxford, MS, Grand Rapids, MN, Riverside, CA, and Fort Collins, CO.

+$152,000—University Park, PA.

+$125,000—soil stabilization research at Corvallis, OR.

+$375,000—watershed research at Arcata, CA, Durham, NH, and Parsons, WV. Additionally, the $349,000 proposed for transfer to Morgantown shall be returned to Parsons.

Wildlife, range and fish habitat research:

+$1,500,000—spotted owl research at Fresno and Arcata, CA and Olympia, WA, to be matched by $500,000 in private funds.

+$200,000—endangered species research at Missoula, MT.

+$200,000—trout stream productivity research at Blacksburg, VA.

+$100,000—semiarid habitat research at Albuquerque, NM.

+$100,000—moose habitat research at Fairbanks, AK.

+$100,000—tropical wildlife research at Rio Piedras, PR.

Forest recreation research:

+$150,000—wilderness management research at Missoula, MT.

+$150,000—urban/wildland research at Riverside, CA.

Forest products and harvesting research:

+$450,000—Forest Products Laboratory, Madison, WI.

+$100,000—for whitewood shake and shingle preservative treatment research and market development, to be conducted on a fifty-fifty match basis with funds to be provided by private industry.

+$300,000—research on products from low quality logs at Blacksburg, VA.

Competitive grants:

+$6,000,000—to be divided equally between basic improved harvesting, processing and utilization research; and basic forest biology, including biotechnology.

The managers note that within the fire and atmospheric sciences program, $206,000 of research that was formerly conducted at Fairbanks, AK will be conducted at Anchorage, AK in fiscal year 1987. The Forest Service is directed to maintain the fire research work unit in East Lansing in fiscal year 1987.

Included in the appropriation is $1,000,000 to be provided for the Idaho National Engineering Laboratory's intermountain ecological and environmental study, pursuant to an agreement to be developed between INEL and the Forest Service. This agreement will provide that all activities will be compatible with the existing National Acid Precipitation Assessment Program (NAPAP) and the Mountain Cloud Chemistry Program (MCCP), including measurement and monitoring protocols. The increase will enable the Forest Service to accelerate research on effects of atmospheric deposition on alpine/sub-alpine ecosystems.

Amendment No. 97: Earmarks $6,000,000 for competitive grants instead of $3,400,000 as proposed by the House and $6,500,000 as proposed by the Senate.

State and private forestry

Amendment No. 98: Appropriates $58,946,000 instead of $57,671,000 as proposed by the House and $61,771,000 as proposed by the Senate. The net increase over the amount proposed by the House consists of: an increase of $1,600,000 for cooperative lands pest suppression; and decreases of $200,000 for the Boundary Waters Canoe Area grant, $50,000 to pest management special projects, Federal lands, and $75,000 to urban forestry.

The managers agree that within the amount provided for cooperative lands pest suppression, the Forest Service is to provide $1,500,000 for spruce budworm in Yakima, WA and $211,000 for budworm control in New Mexico, if these projects are of high enough priority.

Within the funds provided for wood utilization, $100,000 is to be used for a study on the proposed marketing initiative, for which no funds are provided. The study, which should be submitted to the Appropriations Committees by March 1, 1987, should include at a minimum the following:

a list of projects suggested by the Forest Service;

the criteria to be considered in selecting projects;

the amounts to be provided for technical assistance and financial assistance through the States, and how these amounts are to be determined;

the rationale for providing Federal funding for these activities;

the role of private industry, the States and other non-Federal entities in such a program; and

a proposal on cost-share rates, and the basis therefor.

The managers agree that there is no commitment to Federal funding for this program, but it will be reviewed in conjunction with the 1988 hearings.

Amendment No. 99: Earmarks $2,800,000 for the Boundary Waters Canoe area grant, as proposed by the Senate instead of $3,000,000 as proposed by the House.

National Forest System

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $1,158,294,000 for the National forest system instead of $996,687,000 as proposed by the House and $1,137,894,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The change from the amount proposed by the Senate includes: increases of $1,700,000 for land line location, $24,000,000 for fighting forest fires, $2,635,000 for trail maintenance, $7,152,000 for recreation management, $2,000,000 for wilderness management, $1,000,000 for spotted owl management, $500,000 for threatened and endangered species, $1,900,000 for soil and water improvements and $1,300,000 for soil and water inventories; and decreases of $2,266,000 to fire protection, $340,000 to cooperative law enforcement, $2,500,000 to road maintenance, $8,392,000 to timber sales preparation, $4,050,000 to reforestation, $2,202,000 to timber stand improvement, $900,000 to habitat improvement, and $1,137,000 to grazing.

The managers agree the additional funds for land line location are to be used for multiple resource management purposes.

The managers are concerned about the costs per acre of reforestation and timber stand improvement, and request the Forest Service to provide a report by March 1, 1987, as to specific steps to be taken to better control costs, and a methology to be used to determine the economic feasibility of reforestation and TSI projects before they are undertaken.

Within the increase provided for noxious weed control, $80,000 is for the Boise National Forest.

Within the funds provided for soil and water improvements, $250,000 is for a 50 percent cost shared acid neutralization research and demonstration project in the Cranberry River area of the Monongahela NF, WV. An additional $250,000 is for a project in the Blackwood Creek watershed of the Lake Tahoe Basin Management Unit.

In the wildlife and fish habitat management program, there is included an increase of $425,000 for anadromous fish habitat improvements in the Northeast. Included in the soil, water and air program is $280,000 for Bull Run watershed monitoring.

The managers agree that the funds available for spotted owl inventory activities shall be used in various types of habitat, including old growth and non-old growth areas, and in various land use classification areas, including wild and scenic areas, research natural areas, and designated wilderness areas. The managers are concerned that if the Forest Service focuses its inventory on old growth areas and commercial timber lands only, it might miss spotted owl populations in other land use areas, including those already protected by statute or regulation.

The managers are concerned that the Service has developed plans for reorganizing the national forests in Arizona that will result in disruption and economic hardship in small communities. Therefore, the managers direct the Service not to implement the plans without first satisfying Congressional concerns.

The allowance provides for a 1987 timber sales program of 11.2 billion board feet (BBF). This approximates historic levels and is recommended on the basis of continuing high harvest levels and softwood timber demand. The allowance also includes funds to maintain timber support activities and to begin the advanced sales preparation work necessary to maintain the option of continuing historic sales levels after the supply of reoffer volume has been exhausted. The managers agree that the costs of maintaining this option will need to be examined in detail as part of the consideration of the FY 1988 budget for the Forest Service, and expect the Forest Service to have detailed, supportable bases for their estimates available for review at that time. The managers also expect the Forest Service to be prepared to discuss in detail how future years' timber sales levels will be impacted by the land management plans which are now in the final stages of review. The Forest Service is encouraged to offer up to 7.0 BBF of new green sales in fiscal year 1987, and to maintain the sales level in Region 6 at 5.2 BBF gross, 4.5 BBF net merchantable sawtimber, and in Regions 1 and 4 at about 1.0 BBF and 0.4 BBF, respectively. The sales program is intended to be a balanced one across the country.

The managers have agreed to provide $1,000,000 for 1987 costs related to the Helistat. Additional costs required in the future should be submitted as a budget request.

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which provides $263,323,000 to remain available until expended instead of $144,767,000 as proposed by the House and $245,780,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 102: Adds the word "firefighting" as proposed by the Senate.

Amendment No. 103: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

The Forest Service is to continue to complete as expeditiously as possible development of land and resource management plans to meet the requirements of the National Forest Management Act of 1976 (NFMA). Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service may continue the management of units of the National Forest System under existing land and resource management plans pending the completion of plans developed in accordance with the Act. Nothing shall limit judicial review of particular activities on management units of the National Forest System: Provided, however, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated: Provided further, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers understand that the current land management planning process is proceeding on a forest-by-forest basis. The managers have agreed to includce bill language intended to prevent the existing land and resource management plans from being enjoined in their entirety, solely on the basis that they are outdated, pending the completion of the new plans, and have also agreed to restate the direction provided in Section 6(c) of the NFMA that the Forest Service may continue the management of units of the National Forest System under existing plans pending the completion of new plans.

Under the provisions of Section 6(c), the Forest Service is encouraged to begin to incorporate new standards and guidelines into existing plans as soon as practicable. The managers are concerned, however, that in

carrying out this direction, the Forest Service must not contravene the public participation requirements of NFMA. Section 6(d) required full public participation in the development, review, and revision of existing land management plans. The managers therefore direct The Forest Service to provide for public review of new suitability standards, yield tables, minimum management requirements and other standards and guidelines prior to their incorporation into existing plans, in accordance with the provisions of Section 6(d) of NFMA.

Construction

Amendment No. 104: Appropriates $261,436,000 for construction instead of $192,409,000 as proposed by the House and $268,130,000 as proposed by the Senate. The changes from the amounts proposed by the Senate consist of: increases of $9,856,000 for facilities and $570,000 for trail construction; and a decrease of $17,120,000 to road construction.

Within the amount provided for recreation facilities is $587,000 for Clear Creek, AL, $568,000 for Mount St. Helens NM, WA, and $150,000 for Mount Rogers NRA, VA. A slippage adjustment of $300,000 is made against budgeted facility construction projects. The managers have provided $10,000,000 for high priority recreation facility rehabilitation projects, with the first emphasis to be on health and safety-related projects.

The managers agree that a total of $1,617,000 is provided for flood repair in the Monongahela NF, WV, consisting of $1,021,000 for facilities, $431,000 for roads, and $165,000 for trails.

The allowance for road construction also includes $8,473,000 for Mount St. Helens, WA, $5,114,000 for Clear Creek, AL, and $100,000 for design and survey in the Hells Canyon NRA.

The managers agree that within available administrative facilities funds, $100,000 is provided for design of the Bug Sur multiagency work center. There is also $1,570,000 for Mount St. Helens administrative facilities. There is no objection to shifting $538,000 budgeted for the Vernon work center on the Kisatchie NF to other high priority projects on the Desoto NF, MS; the Francis Marion and Sumter NF, SC; the Chattahoochie and Oconee NF, GA; the Holly Springs NF, MS; and the Homochitto NF, MS.

The allowance provides $165,000,000 for engineering, design and construction costs for forest roads needed to support the fiscal year 1987 sales program of 11.2 BBF, and $15,000,000 for advanced engineering and design activities required to enable the Forest Service to be able to maintain the option of continuing historic sales levels and related road construction programs. The managers will review the Forest Service road construction program again next year and determine the progress the Forest Service has made in regaining the option of maintaining sales levels, especially in Region 6, after the supply of reoffer volume has been exhausted, and what impact other factors may have on the sales levels, and resulting need for road construction. It is the intent of the managers that the projects funded be undertaken pursuant to all applicable forest management laws and regulations, and that the Forest Service should not unduly accelerate its access into released roadless areas.

The managers are concerned about allegations that the Forest Service cannot specify where specific road segments will be constructed. The managers are also concerned that funds provided for Forest Service roads be used in a manner consistent with multiple use resource guidelines. Therefore, the managers direct that each Forest Supervisor make available for public review the anticipated location, mileage, cost and use for all local, arterial and collector roads required in an annual timber sales program as determined by a forest management plan. While such forest road data may vary with the dynamics of the timber sales program, such information shall be published annually and be updated every six months.

The managers expect the Forest Service to maintain the funding breakdown of the road construction budget submitted in the budget request, as modified by Congressional action. If funds are to be shifted between categories within the road construction line item, the Forest Service should notify the Appropriations Committees in advance of the proposed changes, and the reasons for them.

Amendment No. 105: Provides $25,332,000 for construction of buildings and other facilities instead of $36,736,000 as proposed by the House and $15,476,000 as proposed by the Senate.

Amendment No. 106: Provides $236,104,000 for roads and trails instead of $155,673,000 as proposed by the House and $252,654,000 as proposed by the Senate.

Amendment No. 107: Deletes language proposed by the Senate earmarking funds for a number of projects.

Amendment No. 108: Deletes language proposed by the Senate limiting obligations for construction of timber purchaser roads.

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That the Forest Service shall achieve a 5 per centum reduction in the average cost per timber road mile as compared to the adjusted fiscal year 1985 average cost by a combination of the following two actions: (1) the application of road construction standards used to construct or reconstruct Forest Service timber roads, purchaser credit roads, or purchaser elect roads, and (2) reducing the direct personnel cost of designing and constructing timber roads to these standards: Provided further, That the Forest Service shall take administrative cost saving actions, including reductions in indirect personnel, overhead charges, and productivity improvements, in fiscal year 1987 in a manner so as to achieve a 5 per centum reduction in the average cost per timber road mile as compared to the adjusted fiscal year 1985 average cost: Provided further, That such actions shall be taken so as to achieve these 5 per centum reductions in each Forest Service region*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers continue to be concerned about allegations that the Forest Service is building roads to a standard greater than is necessary for timber use or multiple use management. Therefore, bill language is included, as proposed by the Senate, requiring further reductions in the unit costs of timber roads. The managers expect a complete report at the end of the fiscal year on how these reductions were achieved, and also expect the Forest Service to notify the Committees immediately during the year if this effort to reduce costs will result in potential environmental damage.

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates certain receipts for construction at the Mt. Elden Work Center, Flagstaff, AZ.

Bill language has been included appropriating $300,000 for the construction of administrative improvements at the Mount Elden Work Center in Flagstaff, AZ. This is in addition to other projects identified in the statement of the managers and is in addition to the $261,436,000 also appropriated for construction.

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates Highway Trust Funds for road construction at Mount St. Helens National Volcano Monument, WA.

Bill language is included correcting language carried in the fiscal year 1986 Continuing Resolution regarding Highway Trust Fund money for Mount St. Helens road construction.

Land acquisition

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $49,236,000 instead of $39,936,000 as proposed by the House and $36,906,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The following table shows the allocation agreed to by the managers:

Acquisition management	$3,206,000
Appalachian Trail	1,500,000
AuSable-Manistee Rivers, MI	6,000,000
Columbia River Gorge, OR and WA	4,650,000
Jefferson NF, VA	280,000
Lake Tahoe, CA and NV	7,000,000
Mono Lake/Inyo NF, CA (wilderness)	400,000
Monongahela NF/Shavers Fork, WV	12,800,000
Mount Rogers NRA, VA	1,000,000
Ottawa NF, MI	3,000,000
Pisgah NF, NC	900,000
Wasatch NF/Little Cottonwood Canyon, UT	2,500,000
Wayne NF, OH	2,000,000
Endangered Species Habitat	2,000,000
Inholdings and recreation composites	5,000,000
Total	$52,236,000

Included in the inholding and recreation composite allowance are funds to acquire the Reed Ranch in the Payette NF.

Administrative provisions, Forest Service

Amendment No. 113: Restores language stricken by the Senate requiring compliance with section 313(a) of the Federal Water Pollution Control Act.

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows reimbursement for licenses and certification fees.

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede

and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

Notwithstanding any other provision of law, the Secretary of Agriculture is hereafter authorized to use from any receipts from the sale of timber a sum equal to the cost of construction of roads under the purchaser election program as described and authorized in section 14(i) of the National Forest Management Act of 1976.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides that purchaser elect funding will be available for actual rather than estimated road construction costs. This does not change the criteria for award of a contract to the lowest acceptable bidder.

Amendment No. 116: Provides that a minimum of $26,000,000 shall be available from the Timber Salvage Sales Fund as proposed by the Senate instead of $26,781,000 as proposed by the House.

Amendment No. 117: Earmarks $1,000,000 for the Youth Conservation Corps as proposed by the House.

Amendment No. 118: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

The Forest Service is authorized and directed to negotiate, within 90 days after the enactment of this Act, settlement of claims against the United States resulting from a forest fire in the Black Hills National Forest: Provided, That notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to pay the amount of the settlement from the Claims, Judgments, and Relief Act Fund (P.L. 95-26).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Bill language has been included directing the Forest Service to negotiate claims resulting from the Black Hills National Forest forest fire, and providing that the negotiated amounts shall be paid from the Claims, Judgments and Relief Act Fund (P.L. 95-26) in the Department of the Treasury.

Amendment No. 119: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which modifies the boundary of the Gifford Pinchot National Forest.

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment insert: *$500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Bill language has been included limiting costs for the Resources Planning Act Washington staff to $500,000 for the costs of developing the 1990 RPA Program called for by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

The Congress has only recently received the 1985 Program and the managers are concerned about its timeliness and its content. In addition, the relationship between the range of outputs called for in the recommended program and the current generation of land management plans is not clear.

Therefore, the Committee directs that the Forest Service provide the following information to the appropriate Congressional Committees by March 1, 1987: (1) a detailed breakdown of Forest Service Washington office and field office funding and staffing that are to be spent annually in preparing the 1990 assessment and the 1990 program; (2) a detailed breakdown of Forest Service Washington office and field office funding and staffing that are to be spent annually in preparing the land management plans; (3) a detailed analysis of the factors that have resulted in the national forest plans differing from the RPA goals.

In doing the analysis, the Service is directed to address: (1) the role that the RPA targets played, and should play in the future, in the decision-making process in the development of specific national forest management plans; (2) the role that each RPA alternative program had in the selection of the final RPA recommended program and in the selection of preferred forest plan alternatives; and (3) the actions the Service will take if the national forest planning process is not in agreement with the RPA goals for any resource, and how these relate to the legal and regulatory requirements under which the land management plans were developed.

In developing the 1990 RPA Program, the Congress directs the Forest Service to identify and recommend a single, strategic proposal within the range of alternatives developed, to guide the management, research, protection, and other activities of the Forest Service for the succeeding five years. The plan should respond to the short term and long term National and natural resource needs of the Nation as identified by the Resource Assessment. The Congress fully expects the 1990 RPA Program to be transmitted to the Congress on time, in conjunction with the provisions of the Forest and Rangeland Renewable Resources Act, as amended.

The managers want to stress that the allowance is not intended to slow in any way the development of new forest plans or to reduce funding availability for development of revisions and updates to the assessment.

DEPARTMENT OF ENERGY

Clean coal technology

Amendment No. 121: Provides for submission of statements of interest and informational proposals within 60 days after a Federal Register notice soliciting such statements and proposals, as proposed by the House instead of eighty days as proposed by the Senate.

Amendment No. 122: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *March 6, 1987, submit to Congress a summary report of statements of interest and informational proposals received and no later than one hundred and twenty days after the receipt of such statement and proposals.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment provides a summary report on March 6, 1987 as proposed by the Senate, and a detailed report within 120 days of receipt of such statements and proposals as proposed by the House.

The managers agree that the solicitation provided for in this Act shall specify, but not be limited to, the following generic emission reduction technologies and processes:

1. coal cleaning;
2. dry sorbent injection;
3. (a) partial stack gas scrubbing or (b) advanced scrubbing techniques;
4. NO_x controls; and
5. repowering of existing equipment.

It is not the managers' intent to consider projects which duplicate previous demonstrations.

The managers agree that proposals are not limited to those connected with electric power generating technologies.

Fossil energy research and development (including transfer of funds)

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment insert the following: *$411,000 to be derived by transfer from unobligated balances in the "Permitting and enforcement" account of the Federal Inspector for the Alaska Gas Pipeline, $295,866,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to appropriate $295,866,000 instead of $314,512,000 as proposed by the House and $242,947,000 as proposed by the Senate and transfer $411,000 of unobligated balances from the Office of the Federal Inspector for the Alaska Gas Pipeline to offset new budget authority requirements. The decrease below the amount proposed by the House consists of increases of $71,000 for advanced separation technology and $1,000,000 for acid rain control technologies in flue gas cleanup; $4,931,000 for the Calderon hot gas process and $768,000 for direct coal fired turbines in gas stream cleanup; $500,000 for university coal research and $1,000,000 for biological processing of coal in advanced research and technology development; $1,000,000 for close-coupled catalytic concepts in direct liquefaction; $1,600,000 for advanced pressurized fluidized bed (PFB) systems in combustion; $300,000 for technology base research in molten carbonate fuel cells; $500,000 for high Btu defense fuels in advanced process development and $1,300,000 for high temperature in-situ sulfur capture in systems engineering concepts, both in gasification; and decreases of $500,000 for joint EPRI/DOE advanced physical coal cleaning and $250,000 for chemical and electrochemical coal cleaning in coal preparation and analysis; $500,000 for advanced NO control and $100,000 for enhanced mass transfer in flue gas cleanup; $1,400,000 for on-line zinc ferrite regeneration in gas stream cleanup; $342,000 for field monitoring of wastes and energy recovery in waste management technology; $547,000 for materials and components, $194,000 for instrumentation, and $452,000 for direct utilization in advanced research and technology development; $525,000 for advanced research in liquefaction; $2,000,000 for co-processing research and $1,000,000 for pyrolysis research in direct liquefaction; $1,800,000 for the La-Porte, TX, pilot plant in indirect liquefaction; $700,000 for atmosphere fluidized beds (AFB) in combustion; $200,000 for component evaluation at NYU, $325,000 for Gri-

methorpe, $400,000 for corrosion/erosion testing, and $414,000 for basic research in pressurized fluidized beds (PFB) in combustion; $177,000 in advanced combustion technology; $711,000 for work using highly beneficiated coals in alternate fuel utilization; $1,000,000 for the 7.5 MW system, $1,000,000 for the 11 MW system, $1,000,000 for the 40 KW on-site system, and $500,000 for the 25 KW organic fueled technology in phosphoric acid fuel cells; $300,000 for the competitive stock development procurement in molten carbonate fuel cells; $800,000 for solid oxide modules and $200,000 for advanced research in advanced concepts in fuel cells; $1,600,000 in heat engines; $1,300,000 for support of the Wyoming field test and $400,000 for modeling and data support in underground coal gasification; $3,500,000 in magnetohydrodynamics; $214,000 for advanced research in gasification; $270,000 for hot gas cleanup testing in gasification systems engineering; $119,000 for extraction and process research and $425,000 for environmental mitigation in advanced exploratory research in advanced process technology; $450,000 for heavy oil; $1,000,000 in oil shale; $400,000 for western tight sands; $440,000 for advanced research in unconventional gas recovery; $1,500,000 for equipment not related to construction; $1,750,000 for general plant projects; and $500,000 for use of prior year balances.

The managers agree that:

1. Funding for the Calderon hot gas regenerative system ($4,931,000) is conditioned on (a) access to an existing test site; (b) non-Federal cost-sharing of at least 20 percent; (c) a maximum Federal share of $8 million; and (d) a commitment to commercialize the project with no further Federal funding after completion of this feasibility demonstration.

2. Funds added in advanced combustion technology ($1,000,000) are not limited to slagging combustors.

3. Funding for the water-cooled on-site phosphoric acid program ($2,000,000) is conditioned on an equivalent amount being provided by non-Federal sources.

4. In molten carbonate fuel cells, there is a total of $1,000,000 for contaminant resistant cell research.

5. Work in fuel cell advanced concepts shall include solid polymer electrolyte technology.

6. The $2,000,000 for pollutant recycle and hot particulate removal in systems engineering concepts in gasification is for the existing facility at Schenectady, NY.

7. The $7,000,000 for the Wilsonville liquefaction pilot plant is to continue work with the existing owners and operating contractors.

8. $75,000 in heat engines is for work at UNDERC.

9. $621,000 for tar sands work in enhanced oil recovery is for WRI, not for UNDERC as stated in the House report.

10. The additional $1,000,000 for extraction and processing research in advanced exploratory research is for work in oil and oil shale with national laboratories and universities.

11. The $11,000,000 for oil shale consists of $3,471,000 for WRI, $4,000,000 for direct eastern shales work as detailed in the House report, $1,000,000 for work at INEL, and $2,529,000 for research allocated in a manner similar to the Department's budget submission to OMB.

12. The amounts provided for WRI and UNDERC may be transferred to activities within programs without prior reprogramming notification to Congress.

13. Support Argonne National Laboratory for fossil energy and conservation research in total shall be at levels equivalent to fiscal year 1986.

14. The Department shall transfer $1,613,000 from various direct program activities to program direction in order to provide a uniform method of accounting for costs at Energy Technology Centers (ETC's).

The managers agree that additional funds will be required for continued support for configuration "B" of the 11 megawatt technology, and for extended operation and testing of the IFC phosphoric acid, water cooled, on-site fuel cell verification test article in fiscal year 1988, and intend to provide funds at that time. For the 11 megawatt project, the managers recognize that IFC's private sector cost-sharing investment will exceed $30,000,000 by the end of calendar year 1986 and recommend that the Department of Energy also recognize this as a cost-sharing effort. For the on-site project, the funding provided includes endurance testing of a full area short stack of configuration "B" cells, incorporating results of the ongoing technology program. This funding does not constitute a new start, but rather a continuation of the ongoing program.

The Department projects a $2,724,000 ETC program direction shortfall, even with sums added by Congress. The shortfall is $1,498,000 at METC and $1,226,000 at PETC, and shall be absorbed in those amounts by each ETC. The managers agree that such shortfalls may be absorbed either by reducing allocations to the direct research program, as long as Congressionally added programs are not affected, or by reducing overhead contracting support or other overhead expenses. In either case, government personnel levels shall not be affected.

Amendment No. 124: Provides $26,500,000 for magnetohydrody- namics instead of $30,000,000 as proposed by the House and $23,500,000 as proposed by the Senate.

Naval petroleum and oil shale reserves

Amendment No. 125: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

CLEAN COAL TECHNOLOGY

Notwithstanding guidance provided by the Department in the February 17, 1986 Clean Coal Technology Program Opportunity Notice, funds expended by a private sector participant during the period of Congressional review or approval of the projects selected by the Department for agreements may be eligible for cost-sharing, as appropriate, commencing immediately after a full and comprehensive report on the project in question is submitted to the Congress for a 30-day review pursuant to the Administrative Provisions of the Department of Energy in this Act: Provided, That such cost-sharing may only be reimbursed after the Congress has approved the project or the 30-day review period has elapsed and the agreement executed by the Department: Provided further, That in no case shall funds expended by the private sector during the review period by eligible for cost-sharing reimbursement of any project disapproved by the Congress.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to delete the Senate provisions for the sale of the reserves but include a general provision in title III of the bill limiting the funds to be expended for such studies and requiring a report based on such studies to the Speaker of the House and the President of the Senate by June 30, 1987. That provision is addressed in Amendment No. 171.

Bill language is also included providing that notwithstanding guidance provided by the Department in the February 17, 1986 Clean Coal Technology Program Opportunity Notice, funds expended by a private sector participant during the period of Congressional approval or review of projects for which agreement has been reached may be eligible for cost-sharing, as appropriate, commencing immediately after the required report on the project in question is submitted to the Congress for 30-day review pursuant to the Administrative Provisions of the Department of Energy in this Act. Such cost-sharing may only be reimbursed after the Congress has approved the project or the 30-day review period has elapsed and the agreement is executed by the Department. In no case shall funds expended by the private sector during the review period be eligible for cost-sharing reimbursement of any project disapproved by the Congress.

Energy conservation

Amendment No. 126: Appropriates $280,129,000 for energy conservation instead of $285,825,000 as proposed by the House and $246,413,000 as proposed by the Senate. The decrease below the amount proposed by the House consists of increases of $1,175,000 for dynomometer testing and analysis of battery and powertrain technologies in electric vehicles; $1,000,000 for capital equipment for advanced materials in transportation; and $2,800,000 for grant monitoring in State and local program direction; and decreases of $100,000 for windows and daylighting and $300,000 for retrofit of multi and single family residences in building systems; $500,000 for advanced refrigeration systems and $250,000 for non-oil based combustion systems in technology and consumer products; $500,000 for research utilization in analysis and technology transfer; $100,000 for the Federal Energy Management Program; $750,000 for capital equipment in the buildings program; $200,000 for industrial wastes and $200,000 for improved combustion efficiency in waste energy reduction; $500,000 for sensors, $679,000 for thin-strip casting steel research and $500,000 for the Steel Technology initiative in industrial process efficiency; $500,000 for adiabatic diesels in vehicle propulsion; $490,000 for methanol work in alternative fuels utilization; $250,000 for the EXT–II propulsion system in electric vehicles; $140,000 for the transportation energy data book in transportation systems utilization; $3,000,000 for grant monitoring as a separate line item; $250,000 for materials and $200,000 for combustion in ECUT; $300,000 for innovation grants in the inventors program; and $962,000 for the use of prior year balances.

The managers agree that:

1. $250,000 added for lighting in technology and consumer products may be used for any lighting research.

2. Battery research in electric vehicles shall include research on lithium-metal sulfide batteries.

3. Funding beyond Phase I of the program for fuel cell/battery hybrid buses will not be

considered without assured private sector cost-sharing in future phases.

4. The total amount of schools and hospitals administrative expense funds shall be allocated to States based on the provisions of part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371 et seq.), shall not exceed the statutory limit of 5 percent of grant funds, shall be subject to the matching provisions of 10 CFR 455.83 (a) and (c), and shall remain available to each State for administering Exxon funds in a subsequent year if not fully utilized in fiscal year 1987.

5. $1,200,000 of weatherization funds shall be provided to Indian tribes. The remaining $109,000,000 is available for grants to States. In combination with other funds, such as funds from the Exxon settlement, no more than 10 percent may be used for administrative expenses, as provided by law.

6. Support for Argonne National Laboratory for fossil energy and conservation research in total shall be at levels equivalent to fiscal year 1986.

The managers agree that transfers of personnel and funds among conservation research and development program direction amounts for buildings and community systems, industrial conservation, transportation, and multi-sector are not considered reprogramming actions. Changes to these activities should appear, however, in the periodic update of the Department's "Base Table" submitted to the Committees.

Amendment No. 127: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: , *of which $10,000,000 shall be available for a grant for an energy demonstration and research facility at Tufts University when authorized by an Act of Congress: Provided, That award of such grant may be made only upon approval of an appropriate technical review panel convened by the Department of Energy for the specific purpose of reviewing such grant application and subject to conditions, if any, contained in legislation authorizing such project, and of which $112,450,000 for the Weatherization Assistance Program authorized by Part A of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6861 et seq.) and the Institutional Conservation Program authorized by Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371 et seq.) shall be available effective March 1, 1987, only in such sums (up to a total of $112,450,000) as are equal to the difference between $200,000,000 and the excess amount for fiscal year 1987 disbursed by the Secretary of Energy for use in energy conservation programs under the provisions of section 3003(d) of subtitle A of title III of the conference agreement on H.R. 5300, the Omnibus Budget Reconciliation Act of 1986, or equivalent legislation enacted into law by March 1, 1987: Provided further, That if no such legislation is enacted into law by March 1, 1987, effective such date, such sums ($112,450,000) shall be immediately available to be derived from amounts held administratively in escrow by the Secretary of Energy pending restitution for actual or alleged petroleum product violations under the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970 (and the regulations issued thereunder)*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides that funding for an energy demonstration and research facility at Tufts University is contingent on authorization legislation and upon approval of an appropriate technical review panel convened by the Department.

The amendment also provides that appropriations of $112,450,000 for weatherization and schools and hospitals are contingent on a determination by the Secretary of Energy that "excess" funds derived from oil product escrow funds are less than $200,000,000. The conference agreement on the Budget Reconciliation Act of 1986 provides that up to $200,000,000 from product escrow amounts held by the Department of Energy under procedures established by budget reconciliation legislation shall be made available for State energy conservation programs, including weatherization and schools and hospitals, as long as enough funds remain in escrow for restitution to injured parties. Only amounts that equal the difference between $200,000,000 and the "excess" amount would be appropriated, provided the excess is less than $200,000,000. If "excess" funds are more than $200,000,000, the appropriation does not take effect.

The amendment also states that if such legislation does not pass by March 1, 1987, the full amount of $112,450,000 shall become available from amounts held administratively in escrow by the Secretary of Energy.

Amendment No. 128: Provides that $2,000,000 be available for a cost-shared research program instead of $2,500,000 as proposed by the House and nothing as proposed by the Senate, and deletes a limitation proposed by the House that none of the funds be used to gather industrial energy use data.

Language is included in the bill continuing cost-sharing provisions for the steel research and development program established in fiscal year 1986.

The managers agree that the annual Federal commitment of about $7,500,000 for the steel initiative is a reasonable target but, because of the availability of funds previously deferred, only $2,000,000 is required in fiscal year 1987 to meet that commitment.

The managers agree to delete House language repealing industrial reporting requirements of the Energy Policy and Conservation Act because the repeal is included in budget reconciliation legislation.

SPR petroleum account

Amendment No. 129: Appropriates no funds for purchase of petroleum for the Strategic Petroleum Reserve instead of $220,000,000 and a requirement to fill the Reserve at 75,000 barrels a day as proposed by the House. Approximately $550,000,000 available from unobligated balances for oil purchases would allow for filling the Reserve in fiscal year 1987 at up to 90,000 barrels a day at prices of $16.45 a barrel, including transportation.

The managers have agreed to delete bill language on minimum rates of fill for the Reserve because minimum rates are included in budget reconciliation legislation.

Energy Information Administration

Amendment No. 130: Appropriates $60,301,000 for the Energy Information Administration instead of $60,361,000 as proposed by the House and $59,651,000 as proposed by the Senate. The reduction of $60,000 below the House amount is for the Foreign Energy Supply Assessment.

The managers agree that annual reports of the financial performance of major energy producing companies should be based on available publicly reported information, instead of information independently gathered for that purpose, such as on form EIA-28.

Amendment No. 131: Deletes House language mandating a manufacturing energy survey as proposed by the Senate because it is included in budget reconciliation legislation.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Indian health services

Amendment No. 132: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $841,809,000 for Indian health services instead of $836,336,000 as proposed by the House and $833,106,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the Senate consists of decreases of $305,000 for direct operations and $147,000 for two urban health demonstration projects; and increases of $407,000 for mandatory costs in hospitals and health clinics, $1,000,000 to expand the model diabetes program, $2,500,000 for tribal contracting costs, $93,000 for dental health, $55,000 for mental health, $1,300,000 for alcoholism prevention programs, $2,000,000 for community health representatives, $200,000 for urban health programs, and $1,600,000 for health manpower.

In addition to the alcoholism prevention and fetal alcohol syndrome (FAS) programs proposed by the House, the Indian Health Service should use base resources in the alcoholism program to implement the recommendations contained in the recent review of the alcohol and substance abuse programs. In the FAS program, $100,000 is provided for the University of Washington research program.

Of the amount provided for direct operations, $600,000 is to provide salary costs for personnel transferred to the Indian Health Service and $600,000 is for the management fellowship program.

Prior to implementation of any changes in eligibility, the managers direct that a summary of the major issues raised during the comment period and how IHS has responded to them be provided to the Committees on Appropriations for review.

The Indian Health Service should continue to advise the Committees of any shortfalls in tribal contracting and what steps are being taken to meet these costs.

The new policy covering contract care payments should be implemented on an area-by-area basis and IHS should continue working with the tribes to ensure that needed health services are provided. A report on the costs of the new system, as well as cost savings realized by the program should be presented to the Committees on Appropriations once sufficient data is compiled.

The managers agree that the staffing levels provided for the Kanakanak, AK hospital shall be sufficient to ensure a deficiency rate no greater than 11 percent.

The health manpower program includes $240,000 for the MPH program and $323,000 for INMED.

Amendment No. 133: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which establishes a Catastrophic Health Care Fund.

Indian health facilities

Amendment No. 134: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $65,555,000 for Indian health facilities instead of $54,921,000 as proposed by the House and $60.920,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount recommended by the Senate includes increases of $807,000 for planning and design of the Harlem, MT health center; $428,000 for planning and design of the Fort Hall, ID health clinic, and $5,000,000 for sanitation facilities; and decreases of $100,000 to new and replacement hospitals, and $1,500,000 for the ventilation project at the Mount Edgecumbe, AK hospital. The managers direct that the Mount Edgecumbe project is to be accomplished with $1,500,000 of available unobligated balances in this account.

With regard to the Parker, AZ outpatient health clinic, the IHS is directed to perform an engineering analysis, within available funds, to determine the condition of the existing Parker health center, including structural, mechanical and electrical systems, and report to the Committee prior to the fiscal year 1988 hearings.

Within funds appropriated for the Rosebud hospital, the IHS is directed to enclose totally the third floor of the facility.

The managers agree that the IHS should provide a new temporary facility of 2,600 square feet at Sisseton, SD, within available funds.

Amendment No. 135: Deletes language proposed by the House regarding allocation of resources.

Although bill language regarding changes in allocation methodology, as proposed by the House, has not been included, the managers agree that any allocation using the new Area Resource Allocation Methodology (ARAM) shall follow the general outline of the report, dated August 11, 1986, as submitted to the House and Senate Appropriations Committees. In no case should the allocation affect more than three percent of the base resources of the IHS for fiscal year 1987, unless the IHS submits a report to the Committees sixty days in advance on the proposed changes in excess of three percent, including the reason for the proposed changes and the likely effects. The report should also include a statement certifying that the IHS has held consultations regarding the proposed allocation of base resources with all Indian tribes or tribal organizations affected by the proposed allocation. The managers recognize the importance of continued tribal participation in development of the new ARAM methodology, both on policy matters and on technical issues, and direct IHS to continue to provide tribes with the most current information on ARAM, consult with tribes, and consider their views carefully. As major developments in ARAM occur, IHS should continue its practice of holding national and area workshops that will both inform tribes and provide a vehicle for consideration.

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows for exchange of land in Anchorage and Kotzebue, AK, as proposed by the Senate.

The managers agree that the provisions set forth in Public Law 96-126 restricting authority for initial leasing of permanent structures by the Indian Health Service shall not apply whenever such arrangements are completed in accordance with established General Services Administration procedures (for space to be occupied by Federal employees).

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Indian education

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted, insert the following: *and on the condition that funds appropriated for fiscal year 1987 under this or any other Act to carry out part A of title IV of Public Law 92-318 (Indian Education Act) shall be distributed under the same proof of eligibility requirements as applied in fiscal year 1986, $64,036,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Appropriates $64,036,000 instead of $67,236,000 as proposed by the House and $62,000,000 as proposed by the Senate.

Bill language has been included as proposed by the House in H.J. Res. 738 which prohibits the Department of Education from implementing eligibility requirements for the Part A Indian Education program in fiscal year 1987. This language ensures that school districts have adequate time to review any new eligibility requirements before they are forced to include them in their grant requests to the Department of Education.

The allowance includes a reduction of $198,000 from the House level for administration.

Amendment No. 138: Provides $47,200,000 for Part A instead of $50,021,000 as proposed by the House and $46,832,000 as proposed by the Senate. The change over the amount proposed by the Senate includes an increase of $368,000 for Part A for Indian controlled schools.

Amendment No. 139: Provides $14,568,000 for Parts B and C instead of $14,749,000 as proposed by the House and $12,900,000 as proposed by the Senate. The change over the amount proposed by the Senate includes increases of $261,000 for Part B fellowships; $1,845,000 for Part B projects for Indian children; and $62,000 for Part B educational personnel development. The offsetting decrease is $500,000 from Part B planning, pilot and demonstration.

OTHER RELATED AGENCIES

Navajo and Hopi Indian Relocation Commission

Salaries and Expenses

Amendment No. 140: Appropriates $22,335,000 as proposed by the Senate instead of $22,289,000 as proposed by the House.

The managers agree that district six evictees are eligible to relocate to the new lands.

Amendment No. 141: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *has already received one new or replacement home, which is the maximum entitlement for a household certified as eligible, or who has not yet received relocation benefits and who*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that the Commission has not implemented relocation as efficiently as Congress expected. Therefore, relocation has taken longer than envisioned. While the managers remain committed to full implementation of the relocation program and to the return of the Hopi Partitioned Lands to the Hopi tribe, the managers feel that the Congress must deal with the entire problem, rather than attacking it in a piecemeal fashion.

Bill language has been included which states that there will be no eviction of those on the Hopi Partitioned Land who have not been provided a new or replacement home. In addition, language has been included which states that only one new or replacement home will be provided to relocatees. It is not the intent of the managers to allow migration back to the Hopi Partitioned Land. Funds have been provided to the Commission and the Bureau of Indian Affairs to move forward with the development of the new lands so that relocation may proceed. Therefore, if the managers learn of a problem of resettlement back to the Hopi Partitioned Land by those who have already relocated, this problem will be addressed in the supplemental appropriations bill.

Amendment No. 142: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *such sums as may be necessary*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have not included bill language limiting the amount which may be spent for contracted attorney's fees. Nonetheless, it is the understanding of the managers that these expenditures will be reduced due to the approval of an on-staff legal position and by the Commission's compliance with the recommendations contained in the Inspector General's report.

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10: Provided further, That for certified eligible households for whom a benefit level has not been determined, such level shall hereafter be determined consistent with the interpretation of 25 U.S.C. 640d-14 issued by the Solicitor of the Department of the Interior on August 25, 1986*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have included language stating that the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or on the new lands or selected a replacement residence off the Navajo reservation.

Language has also been included which states that for those certified eligible households for whom a benefit level has not been determined such level shall hereafter be determined consistent with the interpretation of 25 U.S.C. 640d-14 issued by the Solicitor of the Department of the Interior on August 25, 1986.

Bill language earmarking funds for post-move counseling and the Office of Policy and Direction has not been included. Sufficient funds for counseling have been provided to the Bureau of Indian Affairs for this purpose.

Amendment No. 144: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

The Commission shall review the eligibility of all households certified as eligible who have not received relocation benefits and shall decertify any household which was certified contrary to law or regulation: Provided, That those who are decertified are to be provided the opportunity to appeal that decision in accordance with 25 CFR 700.305.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Language is included which requires the Commission to review the eligibility of all households certified as eligible and decertify those who have been certified contrary to law or regulation. Those decertified are to be given the opportunity to appeal this decertification before an administrative law judge.

SMITHSONIAN INSTITUTION

Salaries and Expenses

Amendment No. 145: Appropriates $183,920,000 for salaries and expenses instead of $189,318,000 as proposed by the House and $180,550,000 as proposed by the Senate.

The net decrease below the amount proposed by the House consists of increases of $200,000 for equipment for the hospital at the National Zoological Park, $75,000 for the Sackler Gallery, $6,000 for the Museum of African Art, $10,000 for Public Service, $15,000 for the Office of Exhibits Central, $300,000 for the Conservation Analytical Laboratory, $100,000 for International activities, and $500,000 for acquisition and conservation of the Duke Ellington Collection; and decreases of $150,000 for computer equipment for the Smithsonian Astrophysical Observatory, $60,000 for research at the Museum of Natural History, $137,000 for research at the Smithsonian Tropical Research Institute, $1,012,000 related to the closure of the Environmental Research Center's Rockville facility, $25,000 for research at the Cooper-Hewitt Museum, $60,000 for the inventory of sculpture, $772,000 for the National Museum Act, $300,000 for collection management and inventory, $431,000 for moving costs of the Museum Support Center (MSC), $1,500,000 for MSC equipment, $115,000 for postage, $216,000 for telephone services, $116,000 for rent, $710,000 for inflation, and $1,000,000 for Quadrangle support.

The decrease to the Environmental Research Center includes a transfer of $862,000 to the renovation account for the Edgewater, MD facility.

In agreeing to terminate funding for the National Museum Act, the managers have provided an increase of $300,000 to the Conservation Analytical Laboratory to provide increased training in the field of conservation.

The managers agree that future support for moving costs related to the Museum Support Center should come from base resources of the Smithsonian.

The remainder of the $500,000 not required for acquisition of the Duke Ellington collection shall be applied to conservation of the collection.

A reduction of $1,000,000 and 25 positions has been applied to the request for activities associated with the Quadrangle. The Smithsonian may allocate the reduction to lower priority activities.

The managers request reports from the Smithsonian examining ways to increase curatorial and exhibition functions of the Museum of Natural History and on all public programs and outreach activities. These reports should be available prior to hearings on the fiscal year 1988 budget.

The managers agree that within existing resources the Smithsonian should support activities associated with the International Space Year.

Construction and improvements, National Zoological Park

Amendment No. 146: Appropriates $2,500,000 as proposed by the Senate.

Restoration and renovation of buildings

Amendment No. 147: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $12,975,000 instead of $12,113,000 as proposed by the House and $12,028,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase of $862,000 over the amount proposed by the House is for construction at Edgewater, MD. The managers direct the Smithsonian to redirect $1,325,000 from other restoration and renovation projects of lower priority, and not related to health and safety, in order to accomplish the PCB removal project over a two year period. Together with the $475,000 included in the budget request, this will provide a total of $1,800,000 for this project in fiscal year 1987.

The managers agree that major renovation projects, such as that proposed for the Arts and Industries building, estimated to cost $24,000,000, and for the Museum of Natural History, estimated at $55,000,000, should be presented to the authorizing committees for review prior to requests for appropriations.

The funds for the dormitory project at Naos in Panama have been deferred, pending review of the report requested by the House.

Construction

Amendment No. 148: Restores language proposed by the House and deletes language inserted by the Senate describing the Tropical Research Institute.

Amendment No. 149: Appropriates $6,095,000, as proposed by the House instead of $6,130,000 as proposed by the Senate.

The managers agree that the Smithsonian is to maintain the fifty-fifty match of Federal/non-Federal funding in completing construction of the Quadrangle.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

Salaries and expenses

Amendment No. 150: Appropriates $3,322,000 for salaries and expenses instead of $3,383,000 as proposed by the House and $3,138,000 as proposed by the Senate. The increase of $184,000 over the amount proposed by the Senate is a result of an increase of $200,000 for conference planning and offsetting decreases of $8,000 for scholar support and $8,000 for general administration.

Endowment challenge fund

Amendment No. 151: Appropriates no funds for the Endowment Challenge Fund as proposed by the House instead of $300,000 as proposed by the Senate.

The purpose of the endowment was to raise general funds for the Center rather than specific funds for planned conferences and events. Therefore, funds raised for individual regional programs do not constitute a match for the Endowment Challenge Fund. Funds raised after October 1, 1985 can be considered as matching funds for the Federal appropriations provided for this purpose in fiscal year 1986.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Grants and administration

Amendment No. 152. Appropriates $136,661,000 as proposed by the House instead of $132,950,000 as proposed by the Senate. This includes $15,900,000 for administrative programs as proposed by the House instead of $16,000,000 as proposed by the Senate.

The managers agree on the following allocation of funds:

Program grants:	
Artists-in-Schools	$5,300,000
Dance	8,847,000
Design Arts	4,276,000
Expansion Arts	6,655,000
Folk Arts	2,982,000
Inter Arts	3,885,000
Literature	5,100,000
Media Arts	12,000,000
Museums	11,400,000
Music	12,236,000
Opera/Musical Theatre	4,200,000
Locals Test	2,180,000
Theatre	10,800,000
Visual Arts	6,200,000
Advancement	200,000
Subtotal, program grants	96,261,000
State Programs	24,500,000
Subtotal, grants	120,761,000
Administration area:	
Policy Planning and Research	1,000,000
Administration	14,900,000
Subtotal, administrative area	15,900,000
Total, grants and administration	136,661,000

The $12,000,000 for the media program continues the 1986 initiative to increase resources for television and radio programming in the arts.

Amendment No. 153: Deletes House bill language restricting reprogrammings.

Matching grants

Amendment No. 154: Appropriates $28,420,000 instead of $29,000,000 as proposed by the House and $27,000,000 as proposed by the Senate. This includes $20,000,000 for challenge grants and $8,420,000 for Treasury funds.

Amendment No. 155: Earmarks $20,000,000 for challenge grants instead of $20,580,000 as proposed by the House and $18,000,000 as proposed by the Senate.

National Endowment for the Humanities

Grants and administration

Amendment No. 156: Appropriates $109,990,000 instead of $110,141,000 as proposed by the House and $107,700,000 as proposed by the Senate. This includes $95,790,000 for program and state grants as proposed by the House instead of $93,500,000 as proposed by the Senate; and $14,200,000 for administrative areas as proposed by the Senate. The managers agree on the following allocation of funds:

Program grants:	
Media Grants	$8,900,000
Museums and Historical Organizations	8,780,000
Humanities programs for adults	2,000,000
Humanities projects in libraries	2,900,000
Education programs	16,350,000
Fellowships and seminars	15,460,000
Research grants	16,400,000
Subtotal, program grants	70,790,000
State programs	21,000,000
Office of Preservation	4,000,000
Subtotal, grants	95,790,000
Administrative area: Administration	14,200,000
Total, grants and administration	109,990,000

Amendment No. 157: Deletes House bill language restricting reprogramming.

Matching grants

Amendment No. 158: Appropriates $28,500,000 as proposed by the House instead of $29,000,000 as proposed by the Senate. This includes $12,000,000 for Treasury funds and $16,500,000 for challenge grants.

National Capital arts and cultural affairs

Amendment No. 159: Appropriates $4,000,000 as proposed by the Senate instead of $3,500,000 as proposed by the House.

Amendment No. 160: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided, That Public Law 99-190 (99 Stat. 1261) is amended under this heading as follows:*

(1) in the first paragraph, strike the words "which are engaged primarily in" and insert in lieu thereof "whose primary purpose is",

(2) in the second paragraph, strike the words "an annual operating budget" and insert in lieu thereof "annual income, exclusive of Federal funds,",

(3) in the fourth paragraph, strike the words "operating budget" and insert in lieu thereof "annual income, exclusive of Federal funds,", and

(4) in the fourth paragraph, strike the words "operating budgets" and insert in lieu thereof "annual income, exclusive of Federal funds,"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have deleted language proposed by the House limiting grants to certain organizations. New language has been included to clarify the original authorization by setting total non-Federal income of at least $1,000,000 annually for a period of three years as a condition of eligibility.

Amendment No. 161: Deletes language proposed by the House limiting implementation of portions of the authorization.

INSTITUTE OF MUSEUM SERVICES

Amendment No. 162: Appropriates $21,250,000 for grants and administrations instead of $21,394,000 as proposed by the House and $18,888,000 as proposed by the Senate. The managers agree to the following distribution of the funds:

Operating support grants	$16,962,000
Conservation grants	3,400,000
Museum Services Board	58,000
Program administration	830,000
Total	21,250,000

Amendment No. 163: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which restricts the Museum Services Board to no more than three meetings during fiscal year 1987.

COMMISSION OF FINE ARTS

Salaries and expenses

Amendment No. 164: Appropriates $450,000 for salaries and expenses as proposed by the Senate instead of $420,000 as proposed by the House.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Salaries and expenses

Amendment No. 165: Appropriates $2,397,000 for salaries and expenses instead of $2,342,000 as proposed by the House and $2,437,000 as proposed by the Senate.

Public development

Amendment No. 166: Appropriates $3,924,000 for public development as proposed by the Senate instead of $3,869,000 as proposed by the House.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

Holocaust Memorial Council

Amendment No. 167: Appropriates $2,040,000 as proposed by the House instead of $2,057,000 as proposed by the Senate.

The difference from the amount proposed by the Senate consists of reductions of $35,000 for museum development and $1,000 for travel which are offset by increases of $70,000 for the archive project with the National Archives. The managers agree to restore $65,000 of the funds reduced by the House for staff positions which is a reduction of $51,000 from the Senate level. These funds are to be used by the Council to hire a chief financial officer who is to implement the recommendations outlined in the August 25, 1986 Touche Ross report.

Amendment No. 168: Deletes House provision, as proposed by the Senate, which would have made reimbursement for travel subject to approval by the Chairman of the Council.

Amendment No. 169: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That the Chairman of the Council may waive any Council bylaw when the Chairman determines such waiver will be in the best interest of the Council: Provided further, That immediately after taking such action the Chairman shall send written notice to every voting member of the Council and such waiver shall become final if 30 days after the Chairman has sent such notice, a majority of Council members do not disagree in writing with the action taken*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment gives the Chairman of the Council authority to waive any bylaw when the Chairman determines it to be in the best interest of the Council. This waiver may take effect, if after 30 days written notice, a majority of council members do not object to the action of the Chairman.

TITLE III—GENERAL PROVISIONS

Amendment No. 170: Deletes House language, as proposed by the Senate, which required regulations promulgated by the Secretary of the Interior to be consistent with existing regulations promulgated by the Secretary of Agriculture.

Amendment No. 171: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Sec. 314. Not to exceed $500,000 appropriated or made available under this or any other Act may be used by the executive branch for soliciting proposals, preparing or reviewing studies or drafting proposals designed to aid in or achieve the transfer out of Federal ownership, management or control in whole or in part the facilities and functions of Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912, and Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915: Provided, That a report on any such studies shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30, 1987.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides up to $500,000 for studying the sale of the Naval Petroleum Reserves and requires a report to Congress on such studies by June 30, 1987.

Amendment No. 172: Deletes House language, as proposed by the Senate, which would have provided that Section 1013 of the Budget Impoundment Control Act, dealing with deferrals, shall not apply to funds in this appropriation.

Amendment No. 173: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede

and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment insert: *Sec. 315.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment includes language, as proposed by the Senate, stating that funds shall be available to the Trust Territory of the Pacific Islands on the same basis as in fiscal year 1986 until alternative funding is available under the terms of the Compact of Free Association.

Amendment No. 174: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *Sec. 316.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment includes language as proposed by the Senate stating that any lease within the Gallatin and Flathead National Forests affected by Case CV-82-42-BU in the U.S. District Court for Montana is excepted from the limits on aggregate acreage set out in previous law.

Amendment No. 175: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *Sec. 317.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment includes language as proposed by the Senate preventing enforcement of regulations of the U.S. Fish and Wildlife Service requiring the use of steel shot in any State unless State regulatory authorities approve implementation.

Amendment No. 176: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *Sec. 318.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment includes language providing a one-year extension for negotiating biomass energy loan guarantees with projects previously submitted to the Department of Energy as proposed by the Senate.

Amendment No. 177: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *Sec. 319.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment includes language as proposed by the Senate reducing the amount of townships the Cook Inlet Region, Incorporated in Alaska, may select outside its region from 10 to 7, which entitles the Corporation to receive bidding credits on surplus Federal property.

Amendment No. 178: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 320. To assure that National Forest and Bureau of Land Management timber included in sales defaulted by the purchaser, or returned under the Federal Timber Contract Payment Modification Act (Public Law 98-478), is available for resale in a timely manner, such sales shall be subject only to one level of administrative appeal. This limitation shall not abridge the right of judicial review. Actions on such administrative appeals should be completed within 90 days of receipt of the notice of appeal. Sales that are reoffered shall be modified, including minor additions or deletions, as appropriate, to reduce adverse environmental impacts, pursuant to current land management plans and guidelines, and such modifications in themselves should not be construed to require the preparation of new or supplemental environmental assessments. This section shall not apply to any decision on the determination of damages due to the Government for defaulted or canceled contracts.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to include modified Senate language which limits administrative appeals to one level of appeal on all returned or defaulted timber sales within the Forest Service and Bureau of Land Management. The modified language retains opportunities for judicial review. The agencies should complete action on such appeals within 90 days whenever possible, but may, at their discretion, extend the deadline for completion of such action. The managers make no attempt to prejudge the nature, cause, basis or standing of an administrative appeal brought before the agencies on returned or defaulted timber sales; however, because of the heavy reliance on such sales in this year's timber sales program, and because of the importance of a timely and stable sales program, administrative appeals shall be limited to one level of appeal within the respective agencies.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1987 recommended by the Committee of Conference, with comparisons to the fiscal year 1986 amount, the 1987 budget estimates, and the House and Senate bills for 1987 follow:

New budget (obligational) authority, fiscal year 1986	$8,210,987,000
Budget estimates of new (obligational) authority, fiscal year 1987	6,617,320,000
House bill, fiscal year 1987	8,151,795,000
Senate bill, fiscal year 1987	7,855,704,000
Conference agreement, fiscal year 1987	8,333,076,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1986	+122,089,000
Budget estimates of new (obligational) authority, fiscal year 1987	+1,715,756,000
House bill, fiscal year 1987	+181,281,000
Senate bill, fiscal year 1987	+477,372,000

SIDNEY R. YATES,
JOHN P. MURTHA,
NORMAN D. DICKS,
EDWARD P. BOLAND,
LES AUCOIN,
TOM BEVILL,
JAMIE L. WHITTEN,
RALPH REGULA,
JOSEPH M. MCDADE,
SILVIO O. CONTE,
Managers on the Part of the House.

JAMES A. MCCLURE,
TED STEVENS,
PAUL LAXALT,
JAKE GARN,
THAD COCHRAN,
MARK ANDREWS,
WARREN RUDMAN,
LOWELL P. WEICKER, Jr.,
ROBERT C. BYRD,
J. BENNETT JOHNSTON,
DENNIS DECONCINI,
QUENTIN N. BURDICK,
DALE BUMPERS,
ERNEST F. HOLLINGS,
Managers on the Part of the Senate.

□ 1430

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1987

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5495) to authorize appropriations to the National Aeronautics and Space Administration, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment: strike out all after the enacting clause and insert:

That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1986".

Sec. 2. There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1986:

(a) For "Research and development", for the following programs:

(1) Space station, $410,000,000;

(2) Space transportation capability development, $515,500,000;

(3) Physics and astronomy, $529,400,000;

(4) Life sciences, $74,300,000;

(5) Planetary exploration, $374,300,000;

(6) Space applications, $552,600,000;

(7) Technology utilization, $13,300,000;

(8) Commercial use of space, $27,000,000;

(9) Aeronautical research and technology, $376,000,000;

(10) Transatmospheric research and technology, $40,000,000;

(11) Space research and technology, $183,200,000; and

(12) Tracking and data advanced systems, $17,100,000.

(b) For "Space flight, control and data communications", for the following programs:

(1) Space shuttle production and operational capabilitly, $783,800,000;

(2) Space transportation operations, $1,350,700,000; and

(3) Space and ground network, communications and data systems, $860,900,000.

(c) For "Construction of facilities", including land acquisition, as follows:

(1) Construction of addition to Orbiter Processing Facility Annex, John F. Kennedy Space Center, $3,400,000;

(2) Construction of addition to the Systems Integration and Mockup Laboratory, Johnson Space Center, $5,000,000;

(3) Construction of Central Computing Facility, Johnson Space Center, $9,000,000;

(4) Modifications to Test Stand 300 for Space Station Hydrogen/Oxygen Propulsion Systems Development, George C. Marshall Space Flight Center, $2,100,000;

(5) Construction of Spacecraft Systems Development and Integration Facility, Goddard Space Flight Center, $8,000,000;

(6) Construction of Engineering Support Building, Jet Propulsion Laboratory, $9,800,000;

(7) Modification of Uninterruptible Power System in Space Flight Operations Facility, Jet Propulsion Laboratory, $2,600,000;

(8) Construction of Human Performance Research Laboratory, Ames Research Center, $9,400,000;

(9) Construction of Integrated Test Facility, Dryden Flight Research Facility, $17,500,000;

(10) Modifications to 8-Foot High Temperature tunnel, Langley Research Center, $9,700,000;

(11) Construction of addition for Non-Destructive Evaluation Research Laboratory, Langley Research Center, $2,000,000;

(12) Construction of Power Systems Facility, Lewis Research Center, $5,800,000;

(13) Construction of the Second Tracking and Data Relay Satellite System Ground Terminal Facility, New Mexico, $22,000,000;

(14) Repair of facilities at various locations, not in excess of $750,000 per project, $24,000,000;

(15) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $30,000,000;

(16) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $7,000,000; and

(17) Facility planning and design not otherwise provided for, $14,000,000.

Notwithstanding paragraphs (1) through (17) of this subsection, the total amount authorized by this subsection shall not exceed $161,300,000.

(d) For "Research and program management," $1,425,000,000.

(e) Notwithstanding the provisions of subsection (h), appropriations authorized in this Act for "Research and development" and "Space flight, control and data communications" may be used for (1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronattical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the President of the Senate and the Speaker of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

(f) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development," for "Space flight, control and data communications" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(g) Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(h) Of the funds appropriated pursuant to subsections (a), (b), and (d), not in excess of $100,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection (a) or (b), not in excess of $500,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 3. Authorization is granted whereby any of the amounts prescribed in paragraphs (1) through (11) of section 2(c) of this Act—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives on the circumstances of such action, may be varied upward 25 percent.

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 4. Not to exceed one-half of 1 per cent of the funds appropriated pursuant to section 2 (a) or (b) of this Act may be transferred to and merged with the "Construction of facilities" appropriation, and when so transferred, together with $10,000,000 of funds appropriated pursuant to section 2(c) of this Act (other than funds appropriated pursuant to paragraph (12) of such section) shall be available for expenditure to construct, expand, and modify laboratories and other installations at any location (including locations specified in section 2(c)), if (1) the Administrator determines that such action is necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) the Administrator determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the President of the Senate and to the Speaker of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a written report containing a full and complete statement concerning (a) the nature of such construction, expansion, or modification, (B) the cost thereof including the cost of any real estate action pertaining thereto, and (C) the reason why such construction, expansion, or modification is necessary in the national interest.

SEC. 5. Notwithstanding any other provision of this Act, no amount appropriated pursuant to this Act may be used for any program—

(1) deleted by the Congress from requests as originally made either to the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science and Technology of the House of Representatives;

(2) in excess of the amount actually authorized for that particular program by section 2(a), (b), and (d); and

(3) which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by the President of the Senate and the Speaker of the House of Representatives and each such committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SEC. 6. The President shall, on the date of the submittal to the Congress of a budget for the National Aeronautics and Space Administration for fiscal year 1988, submit to the Congress budget estimates for the recommended level of program activity and subactivity funding for fiscal years 1989 and 1990 of a permanently manned space station.

SEC. 7. No civil space station authorized under section 2(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 8. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 9. (a) Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended by adding at the end thereof the following: "There is authorized to be appropriated to the Secretary to carry out this Act $1,120,000 for fiscal year 1987.".

(b) Section 5(a)(1) of the Commercial Space Launch Act (49 App. U.S.C. 2604(a)(1)) is amended to read as follows:

"(1) pursuant to authorization and subject to the availability of appropriations, encourage and facilitate commercial space launches by the private sectors, in consonance with the space policies of the United States as established in public law; and".

(c) Section 15(b) of the Commercial Space Launch Act (49 App. U.S.C. 2614(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) For purposes of paragraph (1), direct costs shall not include costs associated with meeting the space transportation needs of the United States. Notwithstanding the provisions of this paragraph, charges for the use of government payload processing facilities and associated services for commercial payloads shall continue to be based on the current full cost recovery standard.".

SEC. 10. The Administrator of the National Aeronautics and Space Administration shall review the proposed space agenda submitted by the National Commission on Space pursuant to title II of the National Aeronautics and Space Administration Authorization Act, 1985 (Public Law 98-361; 98 Stat. 427) and recommended to the appropriate committees of the Congress a long-range plan to implement such proposed space agenda, including a specific agenda for the five-year period beginning on the date of enactment of this Act. Such recommendations shall be made not later than February 15, 1987.

SEC. 11. (a) The Administrator of the National Aeronautics and Space Administration shall prepare and submit to the Congress, not later than March 31, 1987, a comprehensive acquisition strategy and plan for the continued procurement of space shuttle solid rocket motors. Such strategy and plan shall specifically address (1) the decisions made by the Administrator regarding the motor design or designs, (2) alternatives for establishing and maintaining competition in the future procurements, and (3) costs and benefits of each such alternative.

(b) Upon completion of the solid rocket motor redesign and the upgraded motor evaluation efforts, and the determination of a safe and reasonable flight rate, but before signing or extending any production contract for follow-on solid rocket motors beyond those currently under contract, the Administrator shall (1) issue a request for proposal for a second source for a redesigned motor, or (2) issue a request for proposal for an upgraded motor.

(c) The Administrator shall determine whether a request to the Congress for second source qualification funding is necessary or desirable in order to permit the second source to compete with the incumbent on a fair and effective basis, consistent with the Competition in Contracting Act of 1984 (Public Law 98-369; 98 Stat. 1175).

(d) The Administrator shall consider the competitive advantages of the nozzle and solid rocket motor separately. No determination of the advantages of the second source of either the solid rocket motor or the nozzle shall preclude a judgment on the advantages of the other. In evaluating proposals received in response to the request for proposal issued pursuant to subsection (b) of this section, the Administrator shall consider costs and cost savings in accordance with applicable law.

(e) The comprehensive aquisition strategy and plan prepared under subsection (a) of this section and proposals for a second source for a redesigned motor under subsection (b) of this section shall apply to all modifications of the solid rocket motor that are intended for production.

(f) In addition to the requirements of subsection (b) of this section, the Administrator, before signing or extending any production contract for follow-on solid rocket motors beyond those currently under contract, shall notify the Congress of the number of additional solid rocket motors required in order to allow the space shuttle transportation system to continue to operate if a new contractor, selected pursuant to subsection (b)(1) or (2) of this section, is not able to provide any of such additional solid rocket motors. The Administrator shall not sign or extend any such contract until a period of 30 calendar days during which either House of Congress is in session has passed after the date of such notification.

(g) Nothing in this section shall be construed to direct the Administrator to select and qualify a second source or upgraded source of production for solid rocket motors if the proposals received pursuant to subsection (b)(1) of this section are inconsistent with the requirements of section 2304(b)(1) of title 10, United States Code, or if the proposals received pursuant to subsection (b)(2) of this section are inconsistent with the requirements of section 2304(a)(1) of title 10, United States Code.

SEC. 12. (a) It is the sense of the Congress that the United States must promptly restore its space transportation capabilities and such restoration must be accomplished without deemphasizing other space programs.

(b) The Administrator of the National Aeronautics and Space Administration is directed to take the necessary steps to return safely the space shuttle fleet to flight status.

(c) There are authorized to be appropriated for fiscal year 1987 $100,600,000 to carry out this section.

SEC. 13. (a)(1) The Administrator of the National Aeronautics and Space Administration shall promptly take such steps as may be necessary to construct a fourth space shuttle orbiter as a replacement for the space shuttle orbiter Challenger.

(2) There are authorized to be appropriated for fiscal year 1987 $272,000,000 to begin the construction required by paragraph (1) of this subsection.

(b) The Administrator shall explore the availability of private funding for construction of the replacement orbiter authorized by subsection (a) of this section. The Administrator shall accept private funding for such construction—

(1) if the Administrator finds that such private funding is available; and

(2) if the Administrator finds that such funding—

(A) is in the best interests of the United States; and

(B) results in no additional net costs to the Federal Government.

Private funding accepted under this subsection shall replace appropriated funding obligated or expended for such a replacement orbiter.

SEC. 14. (a) The Administrator of the National Aeronautics and Space Administration, in cooperation with the Secretary of Defense, and before July 1, 1987, shall submit to the Congress a five-year plan, to be updated annually and presented to Congress along with the President's annual budget request, setting forth—

(1) a schedule for planned reimbursements from the Department of Defense for space shuttle services; and

(2) a schedule for the provision of such services.

(b) There is authorized to be appropriated for fiscal year 1987 $531,000,000 as payment to the National Aeronautics and Space Administration for reimbursable services provided to the Department of Defense.

SEC. 15. (a) The space shuttle shall be the primary United States launch system for manned missions and missions needing its unique capabilities. The space shuttle shall also be available for other missions, including the launch of non-shuttle-unique foreign and commercial payloads, pursuant to the priorities specified in subsection (b)(2) of this section.

(b) The Administrator of the National Aeronautics and Space Administration shall make best efforts to develop a space shuttle launch manifest that—

(1) ensures that existing commitments of the National Aeronautics and Space Administration to its customers, including launch service agreements, are met within the priority constraints contained in paragraph (2) of this subsection; and

(2) reflects the following priorities (in descending order):

(A) Payloads deemed critical to the national security.

(B) Significant civil government missions, including those having limited launch opportunities.

(C) Government payloads other than those referred to in subpargraphs (A) and (B) of this paragraph.

(D) Payloads other than those referred to in subparagraphs (A) through (C) of this paragraph, including foreign and commercial payloads.

(c) The Administrator shall submit the current flight manifest to the Congress reflecting the priorities contained in this section not later than November 1, 1986. The Administrator shall keep the Congress fully and currently informed of the status of the flight manifest.

SEC. 16. (a) It is the sense of the Congress that the shuttle pricing policy established in title II of the National Aeronautics and Space Administration Authorization Act of 1986 (Public Law 99-170; 99 Stat. 1017) remains valid and should be implemented so as to assure reliable access to space for all United States space users.

(b) In the report required by title II of such Act submitted with the budget request for fiscal yaer 1988, the Administrator of the National Aeronautics and Space Administration shall include a description of how the Administrator's implementation of the pricing policy will accomplish the objectives of this section.

SEC. 17. (a) It is the sense of the Congress that in order to ensure reliable access to space, in order to meet national security, scientific, and commercial objectives of the United States space program, and in order to ensure that the United States does not conclude the commercial launch vehicle business to foreign competition, the United

States should utilize the capability of expendable launch vehicles as well as the space shuttle for placing government payloads into orbit.

(b) In order to meet the requirements of subsection (a) of this section, the Administrator of the National Aeronautics and Space Administration shall develop a plan for the purchase, through competitive procurement, of expendable launch vehicle services for the purpose of launching government payloads, as aggregated by the Administrator. The services purchased under this subsection shall be provided on a reimbursable basis.

(c) The Administrator shall report to the Congress on how the Administrator will carry out this section not later than February 15, 1987. Such report shall include—

(1) an estimate of expendable launch vehicle requirements for the five years following the date of enactment of this Act;

(2) an explanation of how the National Aeronautics and Space Administration intends to utilize expendable launch vehicle launches for future civil launch requirements, including but not limited to the availability of a commercial expendable launch vehicle capability, a National Aeronautics and Space Administration expendable launch vehicle capability, and a Department of Defense expendable launch vehicle capability;

(3) an explanation of how such utilization of expendable launch vehicles can be carried out in a manner which fosters the development of a competitive expendable launch vehicle industry;

(4) a proposed procurement plan for commercial expendable launch vehicle services for the five years following the date of enactment of this Act; and

(5) an estimate of the authorizations of appropriations that are necessary to procure launch services for United States Government satellites by expendable launch vehicles for fiscal year 1988 and the four succeeding fiscal years.

SEC. 18. (a) Congress finds that the National Aeronautics and Space Administration should take every action available to it to restore, to its previous standards of excellence, its commitment to quality assurance, reliability, and safety.

(b) The Administrator of the National Aeronautics and Space Administration shall identify as a separate item in the budget submitted by the President under section 1105 of title 31, United States Code, for any fiscal year, the number of individuals per facility of the National Aeronautics and Space Administration whose functions relate to quality assurance, reliability, and safety.

SEC. 19. (a) There is hereby established, in the Executive Office of the President, the National Aeronautics and Space Council (hereinafter called the "Council") which shall be composed of—

(1) the Vice President, who shall be Chairman of the Council;

(2) the Secretary of State;

(3) the Secretary of Defense;

(4) the Secretary of Transportation;

(5) the Secretary of Commerce;

(6) the Director of Central Intelligence; and

(7) the Administrator of the National Aeronautics and Space Administration, who shall be the Vice Chairman of the Council.

(b) The President shall from time to time designate one of the members of the Council to preside over meetings of the Council during the absence, disability, or unavailability of the Chairman.

(c) Each member of the Council may designate another officer of their department or agency to serve on the Council as their alternative in their unavoidable absence.

(d) Each alternate member designated under subsection (c) of this section shall be designated to serve as such by and with the advice and consent of the Senate unless at the time of such members' designation the member holds an office in the Federal Government to which the member was appointed by and with the advice and consent of the Senate.

(e) It shall be the function of the Council to advise and assist the President, as the President may request, with respect to the performance of functions in the aeronautics and space field, including the following functions:

(1) survey all significant aeronautical and space activities, including the policies, plans, programs, and accomplishments of the United States, including all departments and agencies of the United States engaged in such activities, and other nations;

(2) develop a comprehensive program of aeronautical and space activities to be conducted by departments and agencies of the United States;

(3) designate and fix responsibility for the direction of major aeronautical and space activities;

(4) provide for effective cooperation among all departments and agencies of the United States engaged in aeronautical and space activities, and specify, in any case in which primary responsibility for any category of aeronautical and space activities has been assigned to any department or agency, which of those activities may be carried on concurrently by other departments or agencies; and

(5) resolve differences arising among departments and agencies of the United States with respect to aeronautical and space activities under this Act, including differences as to whether a particular project is an aeronautical and space activity.

(f) The Council may employ a staff to be headed by a civilian executive secretary who shall be appointed by the President by and with the advice and consent of the Senate. The executive secretary, subject to the direction of the Council, is authorized to appoint and fix the compensation of such personnel, including not more than seven persons, as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions. Each appointment under this subsection shall be subject to the same security requirements as those established for personnel of the National Aeronautics and Space Administration appointed under section 203(c)(2) of this Act. Other provisions of law or regulations relating to Government employment shall apply to employees of the Council reporting directly to the Chairman to the extent that such provisions are applicable to employees in the Office of the Vice President.

(g)(1) The Council shall establish a Users' Advisory Group composed of nine non-Federal representatives of industries and other persons involved in space activities.

(2) The Vice President shall name a Chairman of the Users' Advisory Group.

(3) The Council shall from time to time, but not less often than once a year, meet with the Users' Advisory Group.

(4) The functions of the Users' Advisory Group is to ensure than the interests of industries and other non-Federal entitites involved in space activities, including in particular commercial entities, are adequately represented in the Council.

(5) The Users' Advisory Group may be assisted by the staff of the Council.

SEC. 20. The Administrator of the National Aeronautics and Space Administration shall submit a report to the Congress by January 30, 1987, detailing the Administrator's actions to comply with Executive Order 12564.

SEC. 21. (a) The Congress finds and declares that—

(1) the implementation of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) has begun and some of the major milestones contained in such Act have been met;

(2) the Congress remains strongly committed to the guiding principles set forth in such Act;

(3) notwithstanding the accomplishments thus far, the relationships among the involved Federal agencies and the private sector have not been adequately defined; and

(4) inasmuch as the technical development and commercial applications of future land remote-sensing systems cannot now be predicted with certainty, it is in the national interest of the United States that the involved Federal agencies and the private sector remain flexible in carrying out their respective responsibilities under such Act.

(b) It is therefore the purpose of this section to set forth amendments to the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) to ensure that—

(1) the original intent of such Act is carried out in the most effective manner consistent with the guiding principles expressed in such Act;

(2) specific mechanisms for carrying out the original intent of such Act are provided in those cases where none have materialized thus far; and

(3) the working relationships among involved Federal agencies and priviate sector parties for the purpose of carrying out such Act are fully developed and mutually understood.

(c) Section 202(a)(4) of the Land remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4212(a)(4)) is amended by inserting before the semi-colon the following: ", except in the case of research and development activities conducted in accordance with section 504".

(d) Title III of the Land Remote-Sensing Commercialization Act of 1984 (15 U.SC. 4221 et seq.) is amended by adding at the end thereof the following:

"DISPOSITION OF GOVERNMENT ASSETS

"SEC. 308. Following the completion of a contract made pursuant to this title, the Secretary may, upon 30 days advance notice to the Committee on Commerce, Science, and Transportation of the Senate and the Committee, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives, dispose of assets (other than real property) under the control of the Secretary in a manner which best ensures the continuation of the contractor's commercial activity.".

(e) Section 502 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C 4262) is amended to read as follows:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF FEDERAL AGENCIES

"SEC. 502. Each Federal agency is authorized and encouraged to provide data gathered in experimental remote-sensing space

programs to related research and development programs funded by the Federal Government (including applications programs) and to cooperative research programs if the Federal agency involved determines that the data will not be used—

"(1) for any commercial purpose, or

"(2) in substantial competition with data available from a licensee under this Act,

except pursuant to section 503.".

(f) Title V of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C 4261 et seq.) is amended by adding at the end thereof the following:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF SYSTEM OPERATORS

"SEC. 504. Notwithstanding section 601, any system operator under title II, III, or IV, or any marketing entity under section 503, may provide data for research and development programs if—

"(1) a complete and timely disclosure of the results of such research and development is made in the open technical literature or is otherwise made publicly available;

"(2) the system operator or marketing entity provides to the Secretary an annual report of all research and development data transactions including the nature of any cooperative agreements and the prices charged for data; and

"(3) the data are not used for commercial purposes or in substantial competition with data available from a licensee under this Act.".

(g) Section 603 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4273) is amended to read as follows:

"NONREPRODUCTION

"SEC. 603. In addition to such other terms and conditions as the system operator may set forth in compliance with section 601, the system operator may require that unenhanced data not be reproduced or disseminated by any foreign or domestic purchaser.".

SEC. 22. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its public warning and forecast service duties under law, $330,598,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to public warning and forecast specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and by any other law involving such duties. Such duties include meteorological, hydrological, and oceanographic public warnings and forecasts.

(b) Of the amount authorized to be appropriated by subsection (a) of this section, $45,500,000 is authorized to be appropriated only for activities related to the Next Generation Weather Radar Program. Such activities may include site surveys, preparation for production radars, limited radar production, initial operational test and evaluation of radars, training of personnel, release of long lead items for full production, award of the production contract, and land acquisition for radar sites.

SEC. 23. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric and hydrological research duties under law, $68,044,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to atmospheric and hydrological research specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.,) and by any other law involving such duties. Such duties include research for developing improved prediction capabilities for atmospheric and hydrological processes.

SEC. 24. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite services duties under law, $72,606,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to satellite services specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), the National Aeronautics and Space Administration Authorization Act, 1985, approved July 16, 1984 (Public Law 98-361; 98 Stat. 422), and by any other law involving such duties. Such duties include satellite maintenance and operations and satellite data analysis.

SEC. 25. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite systems duties under laws, $168,139,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used by the National Oceanic and Atmospheric Administration to purchase, launch and operate the most reliable polar-orbiting meteorological satellite system that is feasible, including a full complement of all present instruments in the afternoon orbit and a backup capability for additional reliability in the morning orbit. In addition, such moneys shall be used to fund those duties relating to satellite systems specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), the National Aeronautics and Space Administration Authorization Act, 1985, approved July 16, 1984 (Public Law 98-361; 98 Stat. 422), and by any other law involving such duties. Such duties include spacecraft procurement, launch, and associated ground station system changes involving polar-orbiting and geostationary environmenal satellites.

SEC. 26. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services duties under law, $22,734,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and by any other law involving such duties. Such include environmental data and information products and services in the atmospheric, marine, solid earth, and solar-terrestrial sciences.

SEC. 27. (a) Section 2(d) of Reorganization Plan No. 4 of 1970 (5 U.S.C. App. I) is amended to read as follows:

"(d) There shall be in the Administration a Chief Scientist of the National Oceanic and Atmospheric Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). The Chief Scientist shall be the principal scientific adviser to the Administrator, and shall perform such other duties as the Administrator may direct. The Chief Scientist shall be an individual who is, by reason of scientific education and experience, knowledgeable in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the Administration.".

(b) Section 5315 of title 5, United States Code, is amended by striking "Associate Administrator, National Oceanic and Atmospheric Administration.".

(c) Section 5316 of title 5, United States Code, is amended by inserting at the end thereof the following:

"Chief Scientist, National Oceanic and Atmospheric Administration.".

House amendment to the Senate amendment: In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1987".

TITLE I—NASA AUTHORIZATION

SEC. 101. There is hereby authorized to be appropriated to the National Aeronautics and Space Administration, to become available October 1, 1986:

(a) For "Research and development", for the following programs:

(1) Permanently manned space station, $410,000,000.

(2) Space transportation capability development, $515,500,000.

(3) Physics and astronomy, $529,400,000.

(4) Life sciences, $74,300,000.

(5) Planetary exploration, $374,300,000.

(6) Solid earth observations, $74,100,000.

(7) Environmental observations, $313,900,000.

(8) Materials processing in space, $43,900,000.

(9) Communications, $99,500,000.

(10) Information systems, $21,200,000.

(11) Technology utilization, $13,300,000.

(12) Commercial use of space, $27,000,000.

(13) Aeronautical research and technology, $376,000,000.

(14) Transatmospheric research and technology, $40,000,000.

(15) Space research and technology, $183,200,000.

(16) Tracking and data advanced systems, $17,100,000.

(b) For "Space flight, control and data communication", for the following programs:

(1) Space shuttle production and operational capability, $783,800,000.

(2) Space transportation operations, $1,350,700,000.

(3) Space and ground networks, communication, and data systems, $860,900,000.

(c) For "Construction of facilities," including land acquisition, as follows:

(1) Construction of Central Computing Facility, Johnson Space Center, $9,000,000.

(2) Facilities for a permanently manned space station as follows:

(A) Construction of addition to the Systems Integration and Mockup Laboratory, Johnson Space Center, $5,000,000.

(B) Construction of Power Systems Facility, Lewis Research Center, $5,800,000.

(C) Modifications to Test Stand 300 for Space Station Hydrogen/Oxygen Propulsion Systems Development, George C. Marshall Space Flight Center, $2,100,000.

(3) Construction of addition to Orbiter Processing Facility Annex, John F. Kennedy Space Center, $3,400,000.

(4) Construction of Spacecraft Systems Development and Integration Facility, Goddard Space Flight Center, $8,000,000.

(5) Construction of Engineering Support Building, Jet Propulsion Laboratory, $9,800,000.

(6) Modification of Uninterruptible Power System in Space Flight Operations Facility, Jet Propulsion Laboratory, $2,600,000.

(7) Construction of Human Performance Research Laboratory, Ames Research Center, $9,400,000.

(8) Construction of Integrated Test Facility, Dryden Flight Research Facility, $17,500,000.

(9) Modifications to 8-Foot High Temperature Tunnel, Langley Research Center, $9,700,000.

(10) Construction of addition for Non-Destructive Evaluation Research Laboratory, Langley Research Center, $2,000,000.

(11) Construction of the Second Tracking and Data Relay Satellite System Ground Terminal Facility, New Mexico, $22,000,000.

(12) Repair of facilities at various locations, not in excess of $750,000 per project, $24,000,000.

(13) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $30,000,000.

(14) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $7,000,000.

(15) Facility planning and design not otherwise provided for, $14,000,000.

In no case shall the total amount appropriated under paragraphs (1) through (15) exceed $161,300,000.

(d) For "Research and program management", $1,425,000,000.

(e) Notwithstanding the provisions of subsection (h), appropriations hereby authorized for "Research and development" and "Space flight, control and data communications" may be used (1) for any items of a captial nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator of the National Aeronautics and Space Administration (hereinafter in this Act referred to as the "Administrator") determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the President of the Senate and the Speaker of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

(f) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development", for "Space flight, control and data communications", or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(g) Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(h) Of the funds appropriated pursuant to subsections (a), (b), and (d), not in excess of $100,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities. Of the funds appropriated pursuant to subsection (a) or (b), not in excess of $500,000 for each project, including collateral equipment, may be used for any of the foregoing for unforseen programmatic needs.

(i)(1) The Administrator shall submit by November 15, 1986, to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the reassignment of technical work responsibilities for a permanently manned Space Station.

(2) The report referred to in paragraph (1) shall include a full justification in terms of—

(A) anticipated costs and benefits;

(B) management factors; and

(C) impacts on facility and personnel resources;

of any such proposed reassignment.

SEC. 102. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (14), inclusive, of section 101(c)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator of his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one-half of 1 percent of the funds appropriated pursuant to section 101(a) or 101(b) may be transferred to and merged with the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of funds appropriated pursuant to subsection (c) of section 101 (other than funds appropriated pursuant to paragraph (15) of such subsection) shall be available for expenditure to construct, expand, and modify laboratories and other installations at any location (including locations specified in section 101(c)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the President of the Senate and to the Speaker of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a written report containing a full and complete statement concerning (A) the nature of such construction, expansion, or modification, (B) the cost thereof including the cost of any real estate action pertaining thereto, and (C) the reason why such construction, expansion, or modification is necessary in the national interest.

SEC. 104. Notwithstanding any other provision of this Act, no amount appropriated prusuant to this Act may be used for any program—

(1) deleted by the Congress from requests as originally made to either the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science and Technology of the House of Representatives;

(2) in excess of the amount actually authorized for that particular program by sections 101(a) 101(b), and 101(d); and

(3) which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by the President or the Senate and the Speaker of the House of Representatives and each such committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SEC. 105. The President shall, on the date of the submittal to the Congress of a budget for the National Aeronautics and Space Administration for fiscal year 1988, submit to the Congress budget estimates for the recommended level of program activity and subactivity funding for fiscal years 1989 and 1990 of a permanently manned space station.

SEC. 106. It is the sense of the Congress that it is in the national interest that con-

sideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 107. No civil space station authorized under section 101(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. Any civil space station may be used only for peaceful purposes.

SEC. 108. (a) The Administrator of the National Aeronautics and Space Administration shall prepare and submit to the Congress, not later than March 31, 1987, a comprehensive acquisition strategy and plan for the continued procurement of space shuttle solid rocket motors. Such strategy and plan shall specifically address (1) the decisions made by the Administrator regarding the motor design or designs, (2) alternatives for establishing and maintaining competition in future procurements, and (3) costs and benefits of each such alternative.

(b) Upon completion of the solid rocket motor redesign and the upgraded motor evaluation efforts, and the determination of a safe and reasonable flight rate, but before signing or extending any production contract for follow-on solid rocket motors beyond those currently under contract, the Administrator shall either (1) issue a request for proposal for a second source for a redesigned motor, or (2) issue a request for proposal for an upgraded motor.

(c) The Administrator shall determine whether a request to the Congress for second source qualification funding is necessary or desirable in order to permit the second source to compete with the incumbent on a fair and effective basis, consistent with the Competition in Contracting Act of 1984 and the amendments made by that Act (Public Law 98-369; 98 Stat. 1175).

(d) The Administrator shall consider the competitive advantages of the nozzle and solid rocket motor separately. No determination of the advantages of the second source of either the solid rocket motor or the nozzle shall preclude a judgment on the advantages of the other. In evaluating proposals received in response to the request for proposal issued pursuant to subsection (b) of this section, the Administrator shall consider costs and cost savings in accordance with applicable law.

(e) The comprehensive acquisition strategy and plan prepared under subsection (a) of this section and proposals for a second source for a redesigned motor under subsection (b) of this section shall apply to all modifications of the solid rocket motor that are intended for production.

(f) In addition to the requirements of subsection (b) of this section, the Administrator, before signing or extending any production contract for follow-on solid rocket motors beyond those currently under contract, shall notify the Congress of the number of additional solid rocket motors required in order to allow the space shuttle transportation system to continue to operate if a new contractor, selected pursuant to subsection (b)(1) or (2) of this section, is not able to provide any of such additional solid rocket motors. The Administrator shall not sign or extend any such contract until a period of 30 calendar days during which either House of Congress is in session has passed after the date of such notification.

(g) Nothing in this section shall be construed to direct the Administrator to select and qualify a second source of production for solid rocket motors if the proposals received pursuant to subsection (b)(1) of this section are inconsistent with the requirements of section 2304(b)(1) of title 10, United States Code, or if the request for proposals issued pursuant to subsection (b)(2) of this section is consistent with the requirements of section 2304(a)(1) of title 10, United States Code.

SEC. 109. (a) Congress finds that the National Aeronautics and Space Administration should take every action available to it to restore, to its previous standards of excellence, its commitment to safety, reliability, and quality assurance.

(b) The Administrator shall identify as a separate item in the budget submitted by the President under section 1105 of title 31, United States Code, for any fiscal year, the number of individuals per NASA facility whose functions relate to safety, reliability, and quality assurance.

SEC. 110. The Administrator shall—

(1) review the findings and recommendations of the National Commission on Space (established pursuant to the National Aeronautics and Space Administration Authorization Act, 1985 (Public Law 98-361)); and

(2) submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by February 15, 1987, a long-range plan for implementing the findings and recommendations referred to in paragraph (1), including a specific agenda for the five-year period beginning on the date of enactment of this Act.

SEC. 111. (a) The Administrator is authorized and encouraged to award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 5 percent.

(b) This section shall not apply to the extent to which the Administrator determines that—

(1) such applicability will not be in the public interest; or

(2) compelling national security considerations require otherwise.

(c) For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) This section shall apply only to contracts for which—

(1) amounts are made available by this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

TITLE II—OFFICE OF COMMERCIAL SPACE TRANSPORTATION

SEC. 201. Section 24 of the Commerical Space Launch Act (49 U.S.C. App. 2623) is amended by adding at the end the following: "There s authorized to be appropriated to the Secretary to carry out this Act $1,120,000 for fiscal year 1987."

TITLE III—SPACE TRANSPORTATION RECOVERY

SEC. 301. RETURNING THE SPACE SHUTTLE FLEET TO FLIGHT STATUS.

(a) It is the sense of the Congress that the United States must promptly restore its space transportation capabilities and such restoration must be accomplished without deemphasizing other space programs.

(b) The Administrator is directed to take the necessary steps to safely return the space shuttle fleet to flight status.

(c) There are authorized to be appropriated for fiscal year 1987 $100,600,000 to carry out this section.

SEC. 302. CONSTRUCTION OF A REPLACEMENT ORBITER.

(a)(1) The Administrator shall promptly take such steps as may be necessary to construct a fourth space shuttle orbiter as a replacement for the space shuttle orbiter Challenger.

(2) There are authorized to be appropriated for fiscal year 1987 such sums as may be necessary to begin the construction required by paragraph (1).

(b) The Administrator shall explore the availability of private funding for construction of the replacement orbiter authorized by subsection (a). The Administrator shall accept private funding for such construction—

(1) if the Administrator finds such private funding is available; and

(2) if the Administrator finds that such funding—

(A) is in the best interest of the United States; and

(B) results in no additional net costs to the Federal Government.

Private funding accepted under this subsection shall replace appropriated funding obligated or expended for such a replacement orbiter.

(c) Title I of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end the following:

"DONATIONS FOR SPACE SHUTTLE ORBITER

"SEC. 208. (a) The Administrator may accept gifts and donations of services, money, and real, personal, tangible, and intangible property, and use such gifts and donations for the construction of a space shuttle orbiter.

"(b)(1) The authority of the Administrator to accept gifts or donations pursuant to subsection (a) shall terminate five years after the date of the enactment of this section.

'(2) All gifts and donations accepted by the Administrator pursuant to subsection (a) which are not needed for construction of a space shuttle orbiter shall be used by the Administrator for an appropriate purpose—

"(A) in tribute to the dedicated crew of the space shuttle Challenger, and

"(B) in furtherance of the exploration of space.

"(c) The name of a space shuttle orbiter constructed in whole or in part with gifts or donations whose acceptance and use are authorized by subsection (a) shall be selected by the Administrator of the National Aeronautics and Space Administration from among suggestions submitted by students in elementary and secondary schools.".

SEC. 303. SPACE SHUTTLE LAUNCH PRIORITIES.

(a) The space shuttle shall be the primary United States launch system for manned missions and missions needing its unique capabilities. The space shuttle shall also be

available for other missions, including the launch of non-shuttle-unique foreign and commercial payloads, pursuant to the priorities specified in subsection (b)(2).

(b) The Administrator shall make best efforts to develop a space shuttle launch manifest that—

(1) ensures that commitments of the National Aeronautics and Space Administration to its customers in effect in January 1986, including launch service agreements, are met within the priority constraints contained in subsection (b)(2); and

(2) reflects the following priorities (in descending order):

(A) Payloads deemed critical to the national security.

(B) Significant civil government missions, including those having limited launch opportunities.

(C) Government payloads other than those referred to in subparagraphs (A) and (B).

(D) Payloads other than those referred to in subparagraphs (A) through (C), including foreign and commercial payloads.

(c) The Administrator shall submit the Administrator's current flight manifest to the Congress reflecting the priorities contained in this section no later than December 1, 1986. The Administrator shall keep the Congress fully and currently informed of the status of the flight manifest.

SEC. 304. SHUTTLE PRICING POLICY.

(a) It is the sense of the Congress that the Shuttle pricing policy established in title II of Public Law 99-170 remains valid and should be implemented so as to assure reliable access to space for all United States space users.

(b) In the report required by title II of Public Law 99-170 submitted with his budget request for fiscal year 1988 the Administrator shall include a description of how this implementation of the pricing policy will accomplish the objectives of this title.

SEC. 305. USE OF EXPENDABLE LAUNCH VEHICLES.

(a) It is the sense of the Congress that in order to ensure reliable access to space, in order to meet national security, scientific, and commerical objectives of the United States space program, and in order to ensure that the United States does not concede the commerical launch vehicle business to foreign competition, the United States should utilize the capability of expendable launch vehicles as well as the space shuttle for placing government payloads into orbit.

(b) In order to meet the requirements of subsection (a), the Administrator of the National Aeronautics and Space Administration shall develop a plan for the purchase, through competitive procurement, of expendable launch vehicle services for the purpose of launching government payloads, as aggregated by the Administrator. The services purchased under this subsection shall be provided on a reimbursable basis.

(c) The Administrator shall report to Congress on how he will carry out this section no later than February 15, 1987. Such report shall include—

(1) an estimate of expendable launch vehicle requirements for the five years following the date of enactment of this Act;

(2) an explanation of how the National Aeronautics and Space Administration intends to utilize expendable launch vehicles (ELV) launches for future civil launch requirements, including but not limited to the availability of a commercial ELV capability, a NASA ELV capability, and a Department of Defense ELV capability;

(3) an explanation of how such utilization of ELV's can be carried out in a manner which fosters the development of a competitive expendable launch vehicle industry;

(4) a proposed procurement plan for commercial expendable launch vehicle services for the five years following the date of enactment of this Act; and

(5) an estimate of the authorizations of appropriations that are necessary to procure launch services for United States Government satellites by expendable launch vehicles for fiscal year 1988 and the four succeeding fiscal years.

SEC. 306. REIMBURSEMENT POLICY.

(a) The Administrator, in cooperation with the Secretary of Defense, and before July 1, 1987, shall submit to the Congress a five year plan, to be updated annually and presented to Congress along with the President's annual budget request, setting forth—

(1) a schedule for planned reimbursements from the Department of Defense for space shuttle services; and

(2) a schedule for the provision of such services.

(b) There is authorized to be appropriated for fiscal year 1987 such sums as may be necessary as payment for reimbursable services provided by the National Aeronautics and Space Administration to the Department of Defense.

SEC. 307. USE OF GOVERNMENT LAUNCH FACILITIES.

Section 15(b) of the Commercial Space Launch Act is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) For purposes of paragraph (1), direct costs shall not include costs associated with meeting the space transportation needs of the United States.".

SEC. 308. RESPONSIBILITIES UNDER COMMERCIAL SPACE LAUNCH ACT.

Section 5(a)(1) of the Commercial Space Launch Act is amended to read as follows:

"(1) pursuant to authorization and subject to the availability of appropriations, encourage and facilitate commercial space launches by the private sector, in consonance with the space policies of the United States as established in public law; and".

TITLE IV—DRUG TESTING

SEC. 401. DRUG TESTING.

The Administrator of the National Aeronautics and Space Administration shall submit a report to the Congress by January 30, 1987, detailing the Administrator's actions to comply with Executive Order 12564.

TITLE V—LAND REMOTE-SENSING COMMERCIALIZATION

SECTION 501. SHORT TITLE.

This title may be cited as the "Land Remote-Sensing Commercialization Act Amendments of 1986".

SEC. 502. FINDINGS.

The Congress finds and declares that—

(1) the implementation of the Land Remote-Sensing Commercialization Act of 1984 has begun and some of the major milestones contained in that Act have been met;

(2) Congress remains strongly committed to the guiding principles set forth in that Act;

(3) notwithstanding the accomplishments thus far, the relationships among the involved Federal agencies and the private sector have not yet been adequately defined; and

(4) inasmuch as the technical development and commercial applications of future land remote-sensing systems cannot now be predicted with certainty, it is in the national interest of the United States that the involved Federal agencies and the private sector remain flexible in carrying out their respective responsibilties under this title.

SEC. 503. PURPOSES.

It is therefore the purpose of this title to set forth amendments to the Land Remote-Sensing Commercialization Act of 1984 to ensure that—

(1) the original intent of that Act is carried out in the most effective manner consistent with the guiding principles expressed therein;

(2) specific mechanisms for carrying out the original intent of that Act are provided in those cases where none have materialized thus far; and

(3) the working relationships among involved Federal agencies and private sector parties for the purpose of carrying out this title are fully developed and mutually understood.

SEC. 504. CONTRACTOR EXEMPTION FROM FEDERAL FULL REIMBURSEMENT PROVISION IN THE CASE OF RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 202(a)(4) of the Act is amended by inserting before the semicolon at the end thereof the following: ", except in the case of research and development activities conducted in accordance with section 504".

SEC. 505. DISPOSITION OF ASSETS FOLLOWING THE TERMINATION OF THE SECRETARY'S AUTHORITY.

Title III of the Act is amended by adding at the end thereof the following new section:

"DISPOSITION OF GOVERNMENT ASSETS

"SEC. 308. Following the completion of a contract made pursuant to this title, the Secretary may, upon 30 days advance notice to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate, dispose of assets (other than real property) under the control of the Secretary in a manner which best ensures the continuation of the contractor's commercial activity.".

SEC. 506. CLARIFICATION OF THE USE OF EXPERIMENTAL DATA FROM FEDERAL RESEARCH AND DEVELOPMENT PROGRAMS.

Section 502 of the Act is amended to read as follows:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF FEDERAL AGENCIES

"SEC. 502. Each Federal agency is authorized and encouraged to provide data gathered in experimental remote-sensing space programs to related research and development programs funded by the Federal Government (including applications programs) and to cooperative research programs if the Federal agency involved determines that the data will not be used—

"(1) for any commercial purpose, or

"(2) in substantial competition with data available from a license under this Act,

except pursuant to section 503.".

SEC. 507. CLARIFICATION OF THE USE OF NON-FEDERAL DATA FOR RESEARCH AND DEVELOPMENT PROGRAMS.

Title V of the Act is amended by adding at the end thereof the following new section:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF SYSTEM OPERATORS

"SEC. 504. Notwithstanding section 601, any system operator under title II, III, or IV of this act, or any marketing entity under

section 503 of this Act, may provide data for any research and development programs if—

"(1) a complete and timely disclosure of the results of such research and development is made in the open technical literature or is otherwise made publicly available;

"(2) the system operator or marketing entity provides to the Secretary an annual report of all research and development data transaction including the nature of any cooperative agreements and the prices charged for data; and

"(3) the data are not used for commercial purposes or in substantial competition with data available from a licensee under this Act.".

SEC. 508. CLARIFICATION OF OPERATOR RIGHTS TO IMPOSE LIMITATION ON REPRODUCTION, DISSEMINATION, AND OTHER ACTIVITIES ON A NONDISCRIMINATORY BASIS.

Section 603 of the Act is amended to read as follows:

"NONPRODUCTION

"SEC. 603. In addition to such other terms and conditions as the system operator may set forth in compliance with section 601 of this Act, the system operator may require that unenhanced data not be reproduced or disseminated by any foreign or domestic purchaser.".

TITLE VI—NOAA AUTHORITY

SEC. 601. ORGANIZATION OF NOAA.

(a) Section 2(d) of Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) is amended to read as follows:

"(d) There shall be in the Administration a Chief Scientist of the National Oceanic and Atmospheric Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule (5 U.S.C. 5316). The Chief Scientist shall be the principal scientific adviser to the Administrator, and shall perform such other duties as the Administrator may direct. The Chief Scientist shall be an individual who is, by reason of scientific education and experience, knowledgeable in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the Administration.".

(b) Section 5315 of title 5, United States Code, is amended by striking "Associate Administrator, National Oceanic and Atmospheric Administration.".

(c) Section 5316 of title 5, United States Code, is amended by inserting at the end thereof the following:

"Chief Scientist, National Oceanic and Atmospheric Administration.".

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida?

Mr. LUJAN. Mr. Speaker, reserving the right to object, and I do so to ask the gentleman from Florida to give us some of the particulars of the bill as it is and of some of the amendments that will be in it.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Florida [Mr. FUQUA].

Mr. FUQUA. Mr. Speaker, I rise today to urge my colleagues to support H.R. 5495; the NASA fiscal year 1987 authorization bill. The House overwhelmingly passed the bill on September 25 and the other body has now sent it back with an amendment in the nature of a substitute. We propose a further amendment in the nature of a substitute which represents a compromise which has been hammered out among respresentatives of both Houses of Congress on both sides of the aisle. Although the House substitute does not accomplish everything that would have been accomplished by the original version of H.R. 5495, it does have great merit.

The provisions of the House amendment are very significant and will be valuable in getting our space program back on track. First, the amendment establishes an authorization of appropriations for NASA which provides concrete congressional direction for the recovery of that agency. It continues funding for important scientific research and development efforts in support of this country's aeronautics and space program. It authorizes a replacement for the space shuttle *Challenger*, recognizing the important role of the space shuttle in maintaining the preeminence of America's space activities. And it takes the first step toward the next generation in aerospace transportation—the aerospace plane. Finally, the bill ensures the authorization of reimbursement of NASA by DOD for shuttle programs and services that ultimately support DOD.

The House substitute also contains a majority of the policy directives which had been included in H.R. 5495 as overwhelmingly supported by my colleagues on September 25.

Among these, the bill:

Takes steps to assure this country's access to space, including encouraging the development of a commercial expendable launch vehicle industry. One particular provision needs emphasis. Section 307 of our amendment would facilitate the use of Government launch facilities by private expendable launch vehicle companies. This would be done by making sure that such a private user would only pay the additive costs of using Government launch facilities. That is, the private user would not have to pay part of the costs incurred by the Government for meeting its own space transportation needs. The other body had added language related to payload processing facilities. That language apparently anticipates a situation in which a private operator of payload processing facilities could be undercut by a Government operation if the Government could charge merely additive cost for the processing. We would agree that such a situation is undesirable, but feel that it is already precluded by OMB Circular A-76 which prohibits the Government from competing with private sector activities. Thus, the new language is unnecessary and, therefore, is not included in our amendment which retains the original House-passed language.

Sets priorities for establishment of the shuttle manifest after the shuttle resumes flying. Directs NASA to honor launch commitments existing as of January 1986.

Requires that the Administrator review the recommendations of the National Commission on Space and develop a plan for implementing those recommendations.

Requests out-year budget estimates for the Permanently Manned Space Station Program and reaffirms that the space station will be used for peaceful purposes.

Directs NASA to consider and competitively select a second source for supply of the redesigned space shuttle solid rocket motors if it is economical to do so; however, should NASA decide to go to an upgraded design of solid rocket motor, the new motor must be competitively procured. In the bill "redesigned" refers to motors that are modifications of the preaccident design and which can use some existing motor cases. The term "upgraded design" refers to a totally new design which would mean starting over. NASA will probably begin flying with a redesigned motor, but may later switch to an upgraded design when it is available. We should know fairly soon—by March 1987—whether they plan to go to an upgraded design.

In addition, both Houses of Congress are committed to review the shuttle pricing policy during the next Congress to determine how that policy might be revised to reflect the realities of the situation facing the Nation and its ability to have reliable access to space.

In the original House-passed version of this bill we provided for reestablishment of the National Aeronautics and Space Council. That Council had been first created in the 1958 act establishing NASA and then was disbanded in 1972 by President Nixon by means of a reorganization plan. The other body has sent back a version of the Council having a significantly expanded membership and also greatly diluting the input of non-Federal users of space.

Furthermore, it has now become clear that for various reasons the administration strongly opposes the Council. Several top officials have threatened by letter even to recommend a veto of the bill because of the Council.

We had included the Council in the bill reported out of the Committee on Science and Technology for two main reasons. First, the present mechanism for policymaking on space matters—the Senior Interagency Group for Space—just is not working. This has been made plain through interminable wrangling over even fairly straightforward decisions such as whether or not to replace *Challenger*. Other decisions—such as establishing a shuttle launch pricing policy for commercial users—took months. So, we sought to do something positive in the original House-passed bill.

Second, reestablishment of the Council was highly recommended. In particular, the National Commission on Space, chaired by Thomas A. Paine, strongly recommended its reestablishment. I personally remember that the earlier Council had worked quite well during the Apollo days.

But I remembered something else. I remembered the trouble we had in 1976 reestablishing a Science Adviser in the White House when the White House wasn't quite sure it wanted one. Chairman Olin Teague steered a very careful course in getting the Office of Science and Technology Policy, headed by a Science Adviser, accepted by the President. He had to let a lot of people think that they had the idea first, even though he had exhaustive hearings on it for over a year.

I now believe a much wiser course is to hold thorough hearings in the next Congress and work out a cooperative solution. I am sure that we can reach an agreement on a policymaking mechanism that will be acceptable to all, and even more important, that will be listened to and respected by all.

For that reason, our amendment will strike the Senate version of the Council from the bill. Earlier we had thought that the time was right, but the lack of consensus shows this is not true.

Finally, our amendment provides for the establishment of the position of Chief Scientist in the National Oceanic and Atmospheric Administration. This has been strongly recommended for several years.

At this point in my remarks, I would like to include in the RECORD a table which contains a breakdown of all of the authorized funding levels contained in this bill. However, I would like to highlight the following authorizations:

$410,000,000—the full request—has been authorized for a Permanently Manned Space Station program.

$1,530,600,000 has been authorized to continue NASA's important science and applications programs. We intend that these programs continue fully funded even in this time of budget stress for NASA.

The bill continues the Advanced Communications Technology Satellite Program, authorizing funding of $80,000,000.

$100,600,000 has been authorized to return the space shuttle fleet to flight status. This should cover the extra costs NASA will incur in fiscal year 1987 over and above the savings from not flying.

Funds have been authorized to begin the construction of a fourth space shuttle orbiter as a replacement for the *Challenger*

Finally, this House substitute of H.R. 5495 includes amendments which were adopted by the House. That are:

Technical amendments to the Land Remote-Sensing Commercialization Act of 1984, Public Law 98-365, which affect NASA's role in research and development in the remote-sensing area.

The provisions of H.R. 4316 dealing with inventions in outer space which would extend the applicability of U.S. patent law to activities occurring on U.S. space vehicles.

Language which authorizes and encourages the administrator to provide an advantage for American firms bidding on NASA contracts as long as final assembly of the procured item is in the United States with at least 50 percent domestic context.

A provision which requires the Administrator of NASA to report on implementation of a drug testing program.

This has been a year of turmoil and confusion for America's space program. It is incumbent on Congress to demonstrate its support for NASA and the importance of the space program to America.

H.R. 5495 as amended is good legislation and important space policy. I urge the adoption of the amendment and the bill.

NASA fiscal year 1987 authorization

Program	
Research and development in millions	*In millions*
Space station	$410.0
Space trans. cap. dev	515.5
Space science and applications	1,530.6
Technology utilization	13.3
Commercial use of space	27.0
Aeronautics res. & tech	376.0
Transatmospheric res. & tech	40.0
Space research and technology	183.2
Tracking & data advanced systems	17.1
Space flight, control & data com.:	
Space shuttle prod. & cap. dev.	783.8
Space transportation operations	1,350.7
Space & ground network, com	860.9
Construction of facilities	16.1.3
Research and program management	1,425.0
Returning the shuttle to flight status	100.6
Total	7,795.0

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I rise today in strong support of H.R. 5495, the Fiscal Year 1987 Authorization Act for the National Aeronautics and Space Administration. The House passed this legislation on September 25 on the Suspension Calendar by a recorded vote of 407 to 8. We bring to the House today a compromise version in response to the other body which has sent us an amendment in the nature of a substitute.

Mr. Speaker, while this version is not as broad as the legislation first passed by the House, it is a compromise which all Members of the House can support.

The first, and most significant point I would make to the House is that we have maintained the budget levels approved by the House with a single exception. This bill went to the other body with a total authorization of $7.69 billion. We bring it back to the House at $7.79 billion. The difference between the versions is $100 million in additional funding for NASA to complete the corrections necessary following the *Challenger* accident before we return to flight status. The overwhelming majority of the American people support NASA, and they want to see us move swiftly, and surely, to correct the deficiencies and return to flying. This bill provides the necessary authorization for NASA to accomplish that goal.

The bill also provides a number of important policy guidelines. Among these are several which should be mentioned in order to establish the appropriate legislative intent of the Committee on Science and Technology, the House of Representatives, and the Congress, in adopting this measure.

Mr. Speaker, this bill does include an important provision which directs the Administrator of NASA to seek private sector financing for a new orbiter to replace the *Challenger*. The only condition placed on the acceptance of such financing is that it be in the best interests of the taxpayers of this Nation. Mr. Speaker, the importance of this provision is that it is the first step in reversing the manner in which the United States has historically financed our space efforts. From the beginning, until today, it was accepted as given, that the space program of this great Nation would always be paid for by the taxpayer. Today, we are entering a grand new era in which the Administrator will have the ability to open the door to the investors of America to take a chance on our space future. For the first time we will have the opportunity to purchase shares in an orbiter. And this is only the first step in building the space infrastructure that will lead to the multibillion dollar space based economy of the next century. Mr. Speaker, I understand that the Appropriations Committee will soon bring to the floor a measure which will provide full public funding for a new orbiter. I want to emphasize that this public funding is an important step in starting the construction on a replacement for *Challenger*, but under the terms of this NASA authorization before the House today, such funding will only be a stopgap measure which would carry construction forward while the Administrator seeks acceptable private financing. Under the

terms of H.R. 5495 the acceptance of private financing would mean that all of the appropriated funds used to commence construction would be recouped by the Treasury Department. Mr. Speaker, I urge all Members to support this provision.

This bill takes important steps in the direction of establishing a viable domestic commercial expendable launch vehicle industry. I would like to point out that section 307 would allow private ELV companies to use Government facilities at additive cost to the Government. We have removed language added in the other body relating to payload processing facilities. It is the position of the House that OMB circular A-76 prohibits the Government from competing with private sector activities. Thus, we believe that new legislative language is not necessary to address payload processing.

This bill also sets critical priorities in establishing the payload manifest for the space shuttle when it resumes flight, and directs the Administrator to honor launch commitments which existed in January 1986.

We have also included language which directs NASA to consider and select a second source for the solid rocket boosters for the space shuttle, if it is economical, and will result in significant savings to the Government. I would point out that both the author of the second source language, the gentleman from New Jersey [Mr. TORRICELLI], and the chairman of the Space Science and Applications Subcommittee, the gentleman from Florida [Mr. NELSON], have assured the House that the purpose of this language is to save money for the taxpayers of this country, if real savings are possible, through second sourcing. I support the attempt to realize significant savings on the procurement of solid rockets, I fully support their announced intent, and I want to congratulate both gentlemen for their efforts on the behalf of the American taxpayers.

We have also reached the decision that the National Aeronautics and Space Council which was included in the original bill does not yet have a sufficient constituency to move forward. I regret to say that we have received indications that the Council would be strongly resisted by the Department of Defense, the Joint Chiefs of Staff, the Central Intelligence Agency, and the Director of the Office of Management and Budget. We have also been told that any version of the Council would invite a Presidential veto of this legislation. Therefore, we have concluded that it would be better to drop the Council at this time, and we will explore the idea in hearings next year.

Finally, Mr. Speaker, we have included compromise language to effect the drug testing program sought in the House by the gentleman from Florida [Mr. SHAW], by directing the Administrator of NASA to report to the Congress on the implementation of a drug testing program.

Mr. Speaker, H.R. 5495, as amended, is a strong bill that is a tangible demonstration of the continuing commitment of the Congress, and the American people, to keeping the dream of manned space flight alive. I strongly urge the adoption of the amendment and the bill.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Speaker, I rise to support the fiscal year 1987 authorization bill for NASA, H.R. 5495. The bill before us today contains an amendment adopted by the other body. That amendment has some problems, so we will propose an amendment in the nature of a substitute which will cure those problems.

Our amendment will restore some of the provisions which the House overwhelmingly adopted on September 24, and which are not in the amended bill sent back to us.

I want to acknowledge the hard work and cooperation we have received from Mr. WALKER, ranking Republican, and Members on both sides of the aisle. Our negotiations have been made all the easier by virtue of the strong bipartisan support we have achieved.

In view of the severe difficulties that have been encountered in our space program over the past year, this legislation is of the utmost importance in providing leadership and guidance and I urge my colleagues to join me in its support.

Title I of this bill provides the authorization for the regular NASA programs. The total amount authorized is $7.694 billion which was the same as the administration's request and the same as that previously passed by the House. Within this total we are providing full funding for the space station which will allow NASA to proceed into the developmental phase for this important program. We have increased funding for space transportation capability development to meet the Senate's estimate for this budgetary requirement. We have maintained the overall budget for space science and applications at a slightly higher level than the fiscal year 1986 budget and this will meet some inflationary increases. We have provided funding for the Advanced Communications Technology Satellite Program that can lead to a launch readiness date in 1990.

In other areas such as space flight operations, the precise funding requirements are not yet clear but we have provided amounts sufficient to keep these programs on track until space shuttle flights resume.

We have also included key policy provisions in title I that will help NASA deal with the problems raised by the *Challenger* accident. We have retained an important amendment passed on the floor of the House which requires NASA to seek a second source for its solid rocket booster motors. We have included a provision passed by the Senate which requires NASA to clearly identify the resources and staffing associated with the safety reliability and quality assurance function. We have retained a section requiring NASA to review the findings of the National Commission on Space, which will provide the groundwork for our next major steps in the space program. We have also retained a requirement originally passed as a floor amendment that authorizes and encourages NASA to award contracts to domestic firms unless it is not in the public interest to do so.

Title II of this bill authorizes $1.12 million for the Office of Commercial Space Transportation within the Department of Transportation, to carry out its responsibilities of encouraging and facilitating commercial space launches by the private sector.

In the policy area, title III of this bill establishes several important provisions related to the space shuttle. These include:

Directing the NASA Administrator to take the necessary steps to safely return the space shuttle fleet to flight status and authorizing the appropriation of an additional $100.6 million for this purpose in fiscal year 1987.

Authorizing the construction of an orbiter to replace the *Challenger* and the appropriation of such funds as may be necessary to begin that construction.

Directing the Administrator to explore the availability of private funding to construct the replacement orbiter.

Authorizing the NASA Administrator to accept private gifts and donations for the construction of a space shuttle orbiter.

Citing the space shuttle as the primary U.S. launch system for manned missions and missions needing its unique capabilities but indicating that the shuttle should continue to be available to nonshuttle-unique foreign and commercial payloads.

Directing the NASA Administrator to make best efforts to ensure that existing commitments to its customers are met.

Directing that available space shuttle launch capacity be filled in the following priority order:

First, payloads deemed critical to the national priority.

Second, significant civil Government missions, including those having limited launch opportunities.

Third, other Government payloads.

Fourth, all other payloads including foreign and commercial payloads.

Revalidating the space shuttle pricing policy enacted last year as appropriate for assuring reliable access to space for all U.S. space users.

Directing the NASA Administrator and the Secretary of Defense to annually submit a 5-year plan to the Congress which specifies a schedule of the

space shuttle services that will be provided to the Defense Department and a schedule of the planned reimbursements from DOD to NASA for these and related services.

Authorizing to be appropriated in fiscal year 1987 such sums as may be necessary as payment for reimbursable services provided by NASA to the Defense Department.

In addition to its actions on key space shuttle policy issues, title III of this bill also establishes major policies related to expendable launch vehicles. The bill expresses the sense of the Congress that the United States should use expendable launch vehicles as well as the space shuttle for placing Government payloads into orbit. Accordingly, the bill directs the NASA Administrator to develop a plan for the competitive purchase of launch services by expendable launch vehicle and to submit a report to the Congress by January 15, 1987, on how he will implement this policy and conduct it in such a manner that will foster the development of a viable commercial expendable launch vehicle industry.

This bill amends the Commercial Space Launch Act to make it clear that commercial users of U.S. Government launch facilities will not be charged for any costs that are associated with meeting the space transportation needs of the United States. This bill also amends the Commercial Space Launch Act to remove promotion of commercial space launches by the private sector from the responsibilities of the Department of Transportation. Under the act, however, DOT will continue to be responsible for encouraging and facilitating commercial space launch activities by the private sector.

Title IV of this bill recognizes the importance of dealing with drug abuse in this country by directing the Administrator to submit a report to the Congress by January 30, 1987, detailing the Administrator's actions to comply with Executive Order 12564, which deals with testing of employees.

Title V of this bill incorporates some amendments to the Land Remote Sensing Commercialization Act of 1984. It includes provisions that will grant significant relief to NASA and the private sector in carrying out research and developing activities unencumbered by the act's requirements for commercial data sales. This will allow researchers in universities and elsewhere to receive data grants.

Mr. Speaker, after extended discussions with the other body we have decided to defer some policy matters until we can consider them more fully next year. The most important of these is the policymaking body—the Space Council—which we had hoped to establish through this bill. I believe that the decisions we will reach will be stronger in the long run. In particular I hope we can establish a policymaking body which will be acceptable to the administration.

The legislation before you retains the fundamental House position and will be of great value to this Nation's space program. I urge my colleagues to join me in passing this important bill.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the compromise.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I rise also in support of the bill and urge the Members to approve these amendments.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO HAVE UNTIL OCTOBER 29, 1986, TO FILE ITS INVESTIGATIVE REPORT, "THE INVESTIGATION OF THE CHALLENGER ACCIDENT"

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until October 29, 1986, to file its investigative report, "The Investigation of the Challenger Accident," in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

RESTRICTING USE OF GOVERNMENT VEHICLES UNDER CERTAIN CONDITIONS

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3614) to restrict the use of government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes, with a Senate thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That (a) section 1344 of title 31, United States Code, is amended to read as follows:

"§ 1344. Passenger carrier use

"(a)(1) Funds available to a Federal agency, by appropriation or otherwise may be expended by the Federal agency for the maintenance, operation, or repair of any passenger carrier only to the extent that such carrier is used to provide transportation for official purposes. Notwithstanding any other provision of law, transporting any individual other than the individuals listed in subsections (b) and (c) of this section between such individual's residence and such individual's place of employment is not transportation for an official purpose.

"(2) For purposes of paragraph (1), transportation between the residence of an officer or employee and various locations that is—

"(A) required for the performance of field work, in accordance with regulations perscribed pursuant to subsection (e) of this section, or

"(B) essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties,

is transportation for an official purpose, when approved in writing by the head of the Federal agency.

"(b) A passenger carrier may be used to transport between residence and place of employment the following officers and employees of Federal agencies:

"(1)(A) the President and the Vice President;

"(B) no more than 6 officers or employees in the Executive Office of the President, as designated by the President; and

"(C) no more than 10 additional officers or employees of Federal agencies, as designated by the President;

"(2) (A) officers compensated at Level I of the Executive Schedule pursuant to section 5312 of title 5; and

"(B) a single principal deputy to an officer described in subparagraph (A) of this paragraph, when a determination is made by such officer that such transportation is appropriate;

"(3) principal diplomatic and consular officials abroad, and the United States Ambassador to the United Nations;

"(4) the Deputy Secretary of Defense and Under Secretaries of Defense, the Secretary of the Air Force, the Secretary of the Army, the Secretary of the Navy, the Joint Chiefs of Staff, and the Commandant of the Coast Guard;

"(5) the Director of the Central Intelligence Agency and the Director of the Federal Bureau of Investigation;

"(6) the Chairman of the Board of Governors of the Federal Reserve System;

"(7) the Comptroller General of the United States and the Postmaster General of the United States; and

"(8) an officer or employee with regard to whom the head of a Federal agency makes a determination, in accordance with subsection (d) of this section and with regulations prescribed pursuant to paragraph (1) of subsection (e), that highly unusual circumstances present a clear and present danger, that an emergency exists, or that other compelling operational considerations make such transportation essential to the conduct of official business.

Except as provided in paragraph (2) of subsection (d), any authorization made pursuant to paragraph (8) of this subsection to permit the use of a passenger carrier to transport an officer or employee between residence and place of employment shall be

effective for not more than 15 calendar days.

"(c) A passenger carrier may be used to transport between residence and place of employment any person for whom protection is specifically authorized pursuant to section 3056(a) of title 18 or for whom transportation is authorized pursuant to section 28 of the State Department Basic Authorities Act of 1956 or section 8(a)(1) of the Central Intelligence Agency Act for 1949.

"(d)(1) Any determination made under paragraph (8) of subsection (b) shall be in writing and shall include the name and title of the officer or employee affected, the reason for such determination, and the duration of the authorization for such officer or employee to use a passenger carrier for transportation between residence and place of employment.

"(2) If a clear and present danger, an emergency, or a compelling operational consideration described in paragraph (8) of subsection (b) extends for a period in excess of 15 calendar days, the head of the Federal agency shall determine whether an authorization under such paragraph shall be extended in excess of 15 calendar days for a period of not more than 90 additional calendar days. Determinations made under this paragraph may be reviewed by the head of such agency at the end of each such period, and, where appropriate, a subsequent determination may be made where such danger, emergency, or consideration continues to exist and whether an additional extension, not to exceed 90 calendar days, may be authorized. Determinations made under this paragraph shall be in accordance with regulations prescribed pursuant to paragraph (1) of subsection (e).

"(3) The authority to make designations under subsection (b)(1) of this section and to make determinations pursuant to subsections (a)(2), (b)(2)(B), and (b)(8) of this section and pursuant to paragraph (2) of this subsection may not be delegated, except that, with respect to the Executive Office of the President, the President may delegate the authority of the President under subsection (b)(8) of this section to an officer in the Executive Office of the President. No designation or determination under this section may be made solely or principally for the comfort or convenience of the officer or employee.

"(4) Notification of each designation or determination made under paragraphs (1), (2)(B), and (8) of subsection (b) and under paragraph (2) of this subsection, including the name and title of the officer or employee affected, the reason for any determination under paragraph (8) of subsection (b), and the expected duration of any authorization under such paragraph, shall be transmitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate.

"(e)(1) Not later than March 15, 1987, the Administrator of General Services, after consultation with the Comptroller General, the Director of the Office of managment and Budget, and the Director of the Administrative Office of the United States Courts, shall promulgate regulations governing the heads of all Federal agencies in making the determinations authorized by subsections (a)(2)(A), (b)(8), and (d)(2) of this section. Such regulations shall specify that the comfort and convenience of an officer or employee is not sufficient justification for authorizations of transportation under this section.

"(2) In promulgating regulations under paragraph (1) of this subsection, the Administrator of General Services shall provide criteria defining the term 'field work' for purposes of subsection (a)(2)(A) of this section. Such criteria shall ensure that transportation between an employee's residence and the location of the field work will be authorized only to the extent that such transportation will substantially increase the efficiency and economy of the Government.

"(f) Each Federal agency shall maintain logs or other records necessary to establish the official purpose for Government transportation provided between an individual's residence and such individual's place of employment pursuant to this section.

"(g) As used in this section—

"(1) the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government; and

"(2) the term 'Federal agency' means—

"(A) a department (as such term is defined in section 18 of the Act of August 2, 1946 (41 U.S.C. 5a));

"(B) an Executive department (as such term is defined in section 101 of title 5);

"(C) a military department (as such term is defined in section 102 of title 5);

"(D) a Government corporation (as such term is defined in section 103(1) of title 5);

"(E) a Government controlled corporation (as such term is defined in section 103(2) of title 5);

"(F) a mixed-ownership Government corporation (as such term is defined in section 9101(2) of this title);

"(G) any establishment in the executive branch of the Government (including the Executive Office of the President);

"(H) any independent regulatory agency (including an independent regulatory agency specified in section 3502(10) of title 44);

"(I) the Smithsonian Insitution; and

"(J) any nonappropriated fund instrumentality of the United States,

except that such term does not include the government of the District of Columbia.

"(h) Notwithstanding section 410(a) of title 39, this section applies to the United States Postal Service.".

(b) The table of sections for chapter 13 of such title is amended by striking out the item relating to section 1344 and inserting in lieu thereof the following:

"1344. Passenger carrier use.".

SEC. 2. (a) Title 10, United States Code, is amended—

(1) by striking out section 2637 thereof; and

(2) in the table of contents of chapter 157 thereof, by striking out the item pertaining to section 2637.

(b) Section 636(a)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396 (a)(5)) is amended by striking out "(without regard to the limitations contained in section 5 of Public Law 63-127, as amended (31 U.S.C. 638a(c)(2)), and section 201 of Public Law 85-468 (31 U.S.C. 638c))".

(c) Section 48 of the Arms Control and Disarmament Act (22 U.S.C. 2588) is amended by striking out "without regard to the limitations contained in section 78(c) of title 5 of the United States Code".

(d) Section 11 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2678) is repealed.

(e) Section 660 of title 14, United States Code, is amended by striking out subsection (e).

SEC. 3. Within one year after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare, in consultation with the Marshal of the Supreme Court of the United States, the Clerk of the United States Court of Military Appeals and the Court Administrator of the United States Tax Court, and transmit to the Congress, appropriate recommendations concerning the transportation needs of the judicial branch and of courts established pursuant to Article I of the Constitution.

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida?

Mr. HORTON. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from Florida [Mr. FUQUA] to explain the bill.

Mr. FUQUA. Mr. Speaker, the bill as passed by the House restricted the use of Government vehicles to official purposes only. It authorized home-to-work transportation only for specified Government employees. It also established appropriate procedures should an agency head find that a clear and present danger, an emergency, or similarly compelling operational considerations make such transportation essential on a temporary basis. All other employees would be responsible for providing their own means of transportation between their residences and places where official duties are performed.

The Senate amendment contains most of the House-passed language and adds additional language to further ensure that the bill addresses the needs of Federal agencies and to provide adequate procedural guidance for its implementation.

Mr. Speaker, in these times of fiscal austerity, it is essential to reduce the costs of the Government and to stop the proliferation of home-to-work transportation in Government vehicles. I should add that the administration supports this measure.

Mr. HORTON. Mr. Speaker, further reserving the right to object, I would say that as my distinguished colleague has explained, this bill is intended to clear the air, once and for all, on the question of which Government officials may be provided home-to-office transportation. The bill will result in a signficant reduction in the number of officials who receive this service.

The legislation now before us contains very slight amendments to the bill which passed the House earlier

this year. I enthusiastically endorse the measure and urge its approval.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

CORRECTING A TECHNICAL ERROR IN ENROLLMENT OF S. 475, MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

Mr. DINGELL. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 411) to correct a technical error in the enrollment of the bill S. 475, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. RINALDO. Mr. Speaker, reserving the right to object, and I will not object, but I want to ask the distinguished chairman if he would explain the concurrent resolution.

Mr. Speaker, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, this House concurrent resolution is a technical change to correct an error in S. 475, which is the odometer fraud bill in the form reported from our committee.

The words in the bill were included in the committee and, while we believe that if they were correct and could be adequately and properly administered, both the Justice Department and the National Highway Traffic Safety Administration, through the NHTSA General Counsel, have advised us that, in their belief, the words in question would hinder enforcement actions and could have unforeseen regulatory effects. That is not the intention of the committee.

Basically the change would be to substitute the word "making" for "lieu of." The practical effect would be to say that, "For purposes of this section, if the lessor transfers ownership of any leased motor vehicle without obtaining possession of such vehicle, the lessor may in 'making' the disclosure," as opposed to "in lieu of."

We believe that it is desirable.

□ 1440

We believe that it is desirable and we are prepared to go along with the Administration on this matter.

Mr. RINALDO. Mr. Speaker, further reserving the right to object, in other words, this is the same as the version that has been cleared, the change that has been cleared with the minority?

Mr. DINGELL. If the gentleman will yield, as a matter of fact, it has been suggested by the Administration.

Mr. RINALDO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan [Mr. DINGELL]?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 411

Resolved by the the House of Representatives (the Senate concurring), That, in the enrollment of the bill (S. 475) to amend the Motor Vehicle Information and Cost Savings Act to require certain information to be filed in registering the title of motor vehicles, and for other purposes, the Secretary of the Senate shall strike out "lieu of" and insert "making" in section 408(e)(4) of the Motor Vehicle Information and Cost Savings Act, as proposed to be added by section 2 of the bill.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 1200, IMMIGRATION CONTROL AND REFORM ACT OF 1985 AND AGAINST THE CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 592 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 592

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes, all points of order against the conference report and against its consideration are hereby waived, and the conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 592 is a rule providing for the consideration of the conference report on S. 1200, the Immigration Control and Legalization Amendments of 1986. The rule waives all points of order against the conference report and against its consideration

Mr. Speaker, the committee would like to commend the gentleman from New Jersey, Chairman RODINO, the gentleman from New York [Mr. FISH], the gentleman from Kentucky [Mr. MAZZOLI], the gentleman from California [Mr. LUNGREN], the gentleman from New York [Mr. SCHUMER], and the gentleman from Wyoming from the other body, Mr. SIMPSON, for their relentless efforts in bringing this important measure to this phase of the legislative process.

As Members of this body are well aware, a great many long hours have been spent since 1981 working to achieve a compromise on immigration reform, and that conference committee report is now finally before us.

The conference report retains three key facets of H.R. 3810, which the House passed last week. These are sanctions against employers who hire unauthorized aliens, legalization for those aliens who have resided in the United States since January 1, 1982, and an agricultural program which will guarantee growers a sufficient supply of labor while providing those laborers with human dignity and protection against exploitation.

The conference report appropriates $1 billion annually for 4 years with a carryover of unexpended funds through 1994. All parties closely associated with this issue believe the conference report provides the necessary funding to reimburse State and local governments for the costs associated with the Legalization Program.

Mr. Speaker, the conference agreement strikes a reasonable balance and represents a consensus on moving toward enactment of this necessary legislation. The work of the conferees deserves the appreciation of all Members of the House and I urge Members to support the rule and the conference report.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume. a15oc7.251

Mr. Speaker, House Resolution 592 waives points of order against the conference report on S. 1200, and against consideration of the report. The report, which was filed last night, is a landmark reform measure that prohibits the hiring of illegal aliens and offers legal status to several million aliens already in the country.

The rule makes the conference report on S. 1200, the Immigration Control and Reform Act of 1986, in order and waives all points of order that would otherwise lie against the report and against its consideration.

The rule also provides that the conference report shall be considered as ready when called up for consideration.

Mr. Speaker, the conference report made in order by this rule makes major, substantive changes in our Nation's immigration laws. Those who have been attempting to get this bill passed for the last several years say it

makes the biggest changes in the law in at least 20 years.

When the House passed H.R. 3810 last week, I voted against the bill because it extended a form of amnesty to millions of illegal aliens who were in this country on January 1, 1982.

I am sorry to say that the House managers are bringing back a conference report that contains those provisions, the provisions that will allow between 12 and 20 million illegal aliens to apply for—and receive—legal status.

Mr. Speaker, this measure is still as controversial as it was 2 weeks ago, when the House refused to consider it.

The conferees have reached an agreement, and in doing so they were apparently unable to improve upon the bill the House passed in rather short order last week.

The conference report made in order by this rule at least does still contain the civil and criminal provisions which prohibit employers from hiring illegal aliens, as a way to more adequately control our borders.

I submit, however, that the House should not rush to judgment on this report simply because the House managers were able to reach an agreement in near-record time.

The bill appropriates over $1 billion a year for the next 4 years to State agencies for the cost of supplying public assistance or other benefits to illegal aliens.

Mr. Speaker, when the Committee on Rules granted this rule late yesterday afternoon, we did not even have a copy of the conference report available to us.

The distinguished gentleman from Florida, the chairman of the Committee on Rules [Mr. PEPPER] noted that it is not a good practice for the committee to get into—the granting of rules on conference reports when the actual agreement has yet to be concluded.

Mr. Speaker, I do not intend to oppose this rule, but I do believe it is important for the House to realize just exactly how fast this measure is being processed.

To the credit of our chairman, the gentleman from Florida [Mr. PEPPER], the Committee on Rules reserved unto itself the right not to call up this rule if the House managers included provisions that would be objectionable to the committee.

Mr. Speaker, since House Resolution 592 has been called up by the gentleman from California [Mr. BEILENSON], it appears to me that the House managers have kept their word.

Mr. Speaker, I support this rule because it will allow the House managers to adequately explain and justify the conference agreement.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. I thank the gentleman for yielding to me.

Mr. Speaker, I just want to say that I wholeheartedly support this rule. It does contain waivers in it but those waivers are necessary to allow us to bring this bill to the floor at this late date.

Some people would say we have rushed this bill through but those of us who followed it recognize that this has been on the legislative plate for at least 6 years. We dealt with this in the last Congress; we dealt with this in the Congress prior to that. We are in the last days of this Congress. If we do not act on it now we do not known when we will act on it.

I would suggest to those of you who are concerned about having a humane bill, this is probably the most humane bill you are going to get. I would suggest to those of you who are concerned about this being too generous a bill, you might get a more generous bill next time.

When you have to compromise, each side or all sides have to give up something. I think we all have given up something. If you believe we need immigration reform; if you believe this is an immigration problem that confronts the country that must be addressed, as most of your constituents do; if you believe it is a tough issue that is difficult to address at any time, I would ask you to support this rule. If this rule goes down, the bill goes down. The chance for immigration reform goes down.

We will not see it again, obviously, in this Congress. I do not know when we will ever see comprehensive immigration reform again. My colleagues on the Republican side, I would ask you to vote for this rule. It is the only shot we have got.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding me this time.

Mr. Speaker, I hope that the body was listening to the gentleman from Missouri when he made his remarks because he told us very flatly that when the Rules Committee considered this particular rule, it did not have the conference report before it.

This is the second rule that has been brought to this floor today by the Rules Committee where they waived all points of order against the bill without even knowing what was in the resolution that was being brought before them.

I tell you that that is a practice that is a disgrace to the House of Representatives. We ought not allow that kind of process to take place. I understand that we are pressed for time, but the fact is that one of the methodologies being used in this House to rush through bad legislation is to put legislation in a pattern where you have got to consider it in this way. That is precisely what is happening here. We are being asked to rush to judgment and the Rules Committee is bringing up rule after rule after rule that they did not even have the material before them when they made their decision.

In this particular instance, we have waivers of points of order, we have waivers of the Budget Act. The Budget Act waiver in this particular bill is no small waiver; it is a billion-a-year item.

□ 1450

It seems to me that we have a real problem here. I happen to think that the conferees did a pretty good job. They have cleaned up a bill that I could not vote for when it left the House.

I congratulate them for their work, but that does not mean that we ought to be making an end run-around procedure for every bill that comes down the pike. That is precisely what is happening here.

We have bill after bill coming to this floor to take end runs around our procedure, and the fact is that what we are doing is adding more and more costs onto the taxpayers.

This is the second rule today where we have waived the Budget Act and said that this does not seem to matter to us out on the floor. It seems to me that the Committee on Rules has decided, as a matter of course, to just ignore the Budget Act when we get to the end of the session.

That is a travesty, given what the American people feel that the deficit problem in this country is all about.

Mr. ROYBAL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Speaker, I would like to again inform the gentleman that that is precisely what we have been objecting to right along, the unfairness of the rule that has been presented with regard to the bill, the so-called immigration reform bill.

We protest, also, the fact that everything was done behind closed doors. When they bring in a bill such as this, and you noticed it just a little while ago, they brought it in, of course, with rules that only benefit their viewpoint.

None of us have been offered 1 minute in opposition. Instead of that, they say we have no more time available or no one has requested any time.

Mr. WALKER. If the gentleman will allow me to reclaim my time, let me say to the gentleman that I understand his concern about this bill. I hope he will join me in showing some concern about the other bills that we have coming out here because this is not just a one-bill problem. This is a pattern of abuse that is being raised

upon this floor and it is a disgrace for our processes.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the distinguished gentleman from Massachusetts [Mr. MOAKLEY], my colleague from the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of the rule.

I commend by friend from California [Mr. BEILENSON], who is presenting his third rule on the long path to enacting an immigration bill. The gentleman has taken a strong leadership role in moving this measure both in the Committee on Rules and in the conference committee. His leadership and energy have been important factors in producing a generally satisfactory bill.

On the whole, it's a good agreement. I certainly support the rule which allows the House to work its will on the agreement. On balance, I am also prepared to vote for the conference agreement.

However, Mr. Speaker, I declined to sign the conference agreement, because of my disappointment that we were unable to hold the House position with respect to temporary suspension of deportation of refugees from war-torn El Salvador and Nicaragua,

During committee consideration of the bill, the distinguished chairman of the Committee on Rules, the gentleman from Florida [Mr. PEPPER] and I had proposed language which would provide for a detailed GAO investigation of conditions in El Salvador and Nicaragua, particularly with respect to the fate of returnees from the United States. Our amendment provided a temporary stay of deportation for refugees from those countries, pending congressional review of that study.

Our amendment was sustained on the House floor, on a recorded vote, during consideration of the bill.

Mr. Speaker, the amendment offered the same temporary relief we have provided for refugees from other countries where conditions are unsettled. That authority has been used 15 times since 1960, and extended voluntary departure currently applies to individuals from Ethiopia, Uganda, Afganistan, and Poland.

The amendment raised an important question relating to our responsibility, morally and under international law, to those who have sought haven here from the dangers attendant to wars for which we, as a nation, have more than passing responsibility.

The gentleman from Florida and I, for example have come to different conclusions about whether the United States should actively intervene to overthrow the Sandanistas. But we had no trouble reaching agreement that it is lunacy to deport a Nicaraguan youngster who has fled to avoid the draft, and send him home for induction into an army, whose opposing force we are going to pay.

Our amendment was fair, balanced, and bipartisan. It was faithful to our national tradition and our responsibilities under international law. I am deeply disappointed that the Senate conferees held out so firmly against a provision which enjoyed significant support from the House managers.

Those who argued against the amendment primarily cited the Refugee Act of 1980, and argued that the way to handle this issue was through the asylum procedures under the act. However, this is not a satisfactory answer. First asylum is intended to deal with individuals who have an individualized fear of persecution. EVD is the more traditional means to deal with people whose fear is more generalized, based on instability, war, or violence in their homelands.

Also it would appear that the asylum process has become entirely politicized. A preliminary GAO study, released only today, indicates that approval rates for individuals who apply for asylum, based on arrest, imprisonment, threats to life, or torture vary enormously, and reflect a correlation to our relationship to the respective governments. The current approval rates are 4 percent for Salvadorans and 80 percent for Poles.

Although asylum is supposed to be decided in a hearing process which gives appropriate weight to the generalized State Department findings, the fact of the matter is that the State and Justice determination agree in 99 percent of Salvadoran cases but only 80 percent of those with respect to individuals from Iran.

Mr. Speaker, from the beginning of the conference, the principal Senate conferee opposed the provision, and he very clearly had the voting support of all the Senate managers from his side of the aisle. Nevertheless, he bargained in good faith. The able chairman of the Committee on the Judiciary was extraordinarily supportive. The chairman of the subcommittee [Mr. MAZOLLI] was opposed to the provision, but handled it with great fairness, and did the senior minority House managers.

From our discussions in the conference, and between members of the conference committee and the administration, we managed to make important progress on the issues.

The senior managers from the Judiciary Committees of each House have agreed to act on the matter in a separate bill very early in the next Congress, and to raise no procedural obstacles to a straight House and Senate vote on the issue. In addition, the conferees were advised by the Attorney General that he will initiate a case by case study of all pending deportations to El Salvador, and more closely examine subsequent cases.

On these assurances, I will vote for the agreement and urge its adoption.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GARCIA], for purposes of debate only.

Mr. GARCIA. Mr. Speaker, to the members of the conference committee, those of us who have looked after this legislation over the last 6 years and who have been opposed to it, we have two dilemmas which we have had to face. One dilemma was the question of sanctions; the other dilemma was the question of amnesty. Did amnesty outweight sanctions?

I must say, and I must congratulate the conferees, I believe what they were able to do for amnesty was the best deal that we could have ever hoped for. I believe, by moving up to the 1982 date and allowing many thousands of people to be able to walk the streets of this great country without looking over their shoulders, it is a credit to the conferees. I applaud the conferees for this generous offer to the thousands of people who will come under this umbrella.

However, the other side is the question of sanctions, and what I consider to be that portion of the bill which will have a discriminatory effect on many people in this country who either speak with an accent or look or sound different.

I want to make it clear. I am going to oppose the bill, as I have from day one. I will vote for the rule because I think, as I said in two other debates this year, that we must discuss it. But this bill, as it related to that portion which I have placed into the House side, with the 6½-year sunset of sanctions, was the first item taken out of this bill when the conferees met.

□ 1500

I do not know why they placed that 6½-year sunset in there if their first intent was to remove it; but having said that, I must say that I hope that 3 or 4 years from now the Members on both sides of the aisle can look at me and say to me, "GARCIA, you were wrong," because if I am wrong, based on what my own personal life experiences have been as it relates to discrimination, then I will take to this floor and say that I am wrong; but I think, unfortunately, that history and the future will combine together.

You are placing in the hands of employers all over this country, you are making them judges and juries, and they are going to be faced with hard choices. They are going to turn down people who come in for employment because they are going to be afraid to hire those people because of the sanctions portions of this bill.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 8 minutes to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, I do not know whether this is an exercise in futility or not, but I would like to just take this time to try to inform the Members of the House as to just what happened in the conference committee and why we find ourselves in this particular situation where we have a rule before us that waives all points of order.

To begin with, I think if we go back to the very beginning of this effort to bring this bill to the floor before adjournment, we find that secret meetings were held all over the place, that conferences were held with Members of the other body in secret and behind closed doors. Now, no one can dispute the fact that we tried very hard to gain entrance to some of those meetings, to heard, to offer assistance, or whatever, but we were constantly turned down.

Now, we ask why is it then necessary for them to come to the House with a rule that waives all points of order? Well, the reason for that is very obvious. In the conference, they undid many of the items that were passed by the House of Representatives. One, of course, was the sunset on sanctions, already discussed. Many other items most important, not only to the farm workers, but important to every State in the union were taken out of the bill even though passed by the House.

For an example, it is a true fact that in the bill originally the House voted for 100-percent reimbursement to the States. Every Member thought that their State would be reimbursed for whatever costs were involved, that is those costs that came about as the result of this bill. The truth of the matter is that 100-percent reimbursement was knocked out.

What the conference committee did instead of 100-percent reimbursement is put a ceiling of $1 billion to be distributed among all 50 States, but distributed only after all Federal costs were deducted.

We do not know how much those Federal costs are going to be. Some say there are only 4 million in the United States illegally, and the other day we were told there were 12 million.

The truth of the matter is that it is the States that are going to finance the major cost of this bill. Conferees took it upon themselves to change the legislation and bring in a rule that protects it. Los Angeles County opposes this bill and so would other counties if they only knew about it. That is one reason why they have a rule that waives all points of order, to protect all actions which were not the original intent of the House.

Then there are other reasons. For example, they dropped the Moakley amendment that would have protected Salvadorans and Nicaraguans from deportation for 2 years while the GAO prepared their report on conditions in Central America and at that time would give Congress this time to consider legislation to extend or revise the extended voluntary departure protection. That was changed.

I remember the discussion on just that one point. It seemed to me that this House voted affirmatively for the Moakley amendment, but that was taken out, as were other things in the legislation.

Now, we know that sanctions are in this bill and that every employer in the United States, including housewives who may hire a maid, will be effected by sanctions with the exception of course, of the farmers and the growers.

We also know that the bill makes available a steady flow of cheap labor to farmers starting with 350,000 who worked on the farms in the previous years, give them almost instant legalization, and after the first year give them a green card so that they can work anyplace else in the United States with full rights as a legal resident.

They provided two things. First, a magnet for those people to come in to work on the farms because the farmers are exempt from sanctions; and, second, by exempting the farmer, he can continue to hire anyone who may be here illegally, in addition to the original 350,000, and still not be subject to the sanction provisions.

Our biggest protest is the fact that no opportunity was really given to thoroughly debate this issue, that most of the things that were done were done along the same lines that we have now, waiving all points of order, making it impossible for intelligent discussion, doing only those things that the so-called kingmakers want done and only those things that they proposed, with little possibility of this House working its will and when it did work its will, the conferees took it out.

One last thing, and I must repeat this, that those who voted for this bill and will vote today for the conference report will also have the responsibility of voting to finance it, to finance the enforcement of sanctions, for without enforcement they will succeed only in the promotion of discrimination. Don't think that it is going to cost just a few million dollars or $425 million, as you provide for in the bill. It is going to cost a lot more than that.

Your State will also have to pay for all of those things that they took out of the bill. Instead of the 100-percent reimbursement to the States, they must do with a lot less and end up paying most of the cost of a Federal law which you imposed upon them.

If that is what you want to do, fine, go ahead and do it; but I do not think I want to place myself in that position. Gramm-Rudman and other fiscal problems are before us. We should not take upon ourselves the added burden of having to finance this piece of legislation, or pass it on to our States.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I support this rule and I support this bill. Maybe it was the best that we could do under the circumstances. However, this bill will impose an enormous burden on this Congress, on the American people and on the administration to complete the job of preparing for what I believe will be the enormous cost and the enormous challenge of amnesty.

Let me say right off that I believe amnesty is right and amnesty is moral.

Let me also say right off that I believe amnesty will be sought after by the vast preponderance of the illegals in this country. I believe that the January 1, 1982, cutoff date to be eligible for amnesty is an illusory date. It is ephemeral. In a sense, we are deluding ourselves if we try to convince the public that it is real. I believe that is a fraud on the public, because the fact is that forged immigration documents such as birth certificates, marriage certificates, confirmation documents, employment records, rent receipts, and Social Security documents, are all available in a neat package for about $200 or $250 anywhere in the Southwest. Any illegal alien in this country, regardless when he came here, can prove that he came over not only before January 1, 1982, but he can prove he came over on the Mayflower, if that suits his purpose.

So I believe we have to look at the pool of potential applicants for amnesty as being the entire illegal alien population in the United States.

I, for one, think that is good, because I do not think we ought to have two groups in our society: one group of illegal immigrants who can receive all the benefits and privileges and glories of American citizenship; and another group to whom we say, "No, you got here too late. You are here and we are not going to send you home, but you got here too late to be bona fide American citizens." I do not think that is healthy and in a sense I think it is right that they are all going to be eligible, but we should not delude ourselves that the only eligible group is the pre-January 1, 1982 group.

Mr. Speaker, the prospect of U.S. citizenship and legalization, regardless of whether there is a job or not at the end of the line, regardless of the exist-

ence of employer sanctions, is a powerful magnet. The magnet of the American way of life, the magnet of freedom from oppression, freedom of speech, of a decent life in a decent caring society and the chance to get a job, legally or illegally, is going to be such an incentive that if we do not do something to harden and regularize our porous borders, borders that Senator SIMPSON has accurately described as out of control, this country is going to see an inundation and an explosion of illegal immigration far above and beyond the 2 million a year we face now.

One of the reasons that I have some confidence in this bill is that we did agree to a 50-percent increase in authorization for the Immigration and Naturalization Service, but I believe that is just a drop in the bucket. I believe that we are going to have to get to work next year and sit down and put together a plan of border control that really makes sense and that really will stop the overwhelming percentage of illegals from crossing our borders.

We have a great tradition and a noble tradition of welcoming immigrants, but we ought to do it legally. There are millions of people who want to come to our country who have filed, who have followed our laws and who are standing in line. We ought to be in control of that flow. We should not have a vast flow of people who are crashing through our borders, while other people who want just as badly to come and who have been waiting for years are quietly obeying our laws.

□ 1515

So, Mr. Speaker, I support the rule, I support the bill, I believe that the increase in authorization— 50 percent— in the Immigration and Naturalization Service is good, but I believe that that is only one step toward the vast job that we must do.

Now, Mr. Speaker, we recently had a Hispanic Immigration and Naturalization Service Director, Leonel Castillo, who served with great distinction in that role. He testified before the Select Committee on Population about 5 or 6 years ago that we could establish a border control program that would work and would halt perhaps 80 to 85 or 90 percent of the illegal immigration using methods that were not offensive. We would not have to build a Berlin wall with machine gun towers and guards with police dogs. We could do it with normally accepted law enforcement methods, with normal surveillance, and with normal enforcement personnel.

He said at that time that it would cost $800 or $900 million a year. Perhaps it would be 50 or 60 percent more today. It could be the best money that we could possibly spend, because we are totally incapable at the present time of dealing realistically and constructively with the enormous needs of our own minority populations, both legal and illegal, who are in this country now.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in support of the conference report. And this is a weaker bill than the one that we passed on Thursday. Gone is the sunset provision on sanctions; gone is the provision changing the political status of refugees from El Salvador and Nicaragua; gone is the free-trade zone with Mexico to promote border revitalization; but, thankfully, discrimination protection stays. But the heart of the bill, legalization, stays.

We must act now. This is the final hour for immigration reform. This is the final hour for millions of people who have no lobbyists but who deserve some status in this country. These are men and women who are black, brown, and yellow-skinned. They come from Mexico, from Italy, from Greece, and every corner of this Earth, and they are good citizens now, and they deserve to come out of serfdom.

Mr. Speaker, this bill affects Hispanics more than any other ethnic group in this country, and as a Hispanic it is an extremely difficult vote for me, having opposed similar bills in the past. And I deeply respect my Hispanic colleagues who will be opposing this bill today.

My final decision was reached when I realized that there is no realistic alternative to this bill. It poses a lot of risks, and it poses a lot of problems. Nonetheless, I do not want my legacy to be that as a Hispanic, I obstructed immigration reform. As Americans, it is incumbent upon us to act, as painful as it may be.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the gound that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 274, nays 132, not voting 26, as follows:

[Roll No. 468]

YEAS—274

Abercrombie	Gaydos	Nelson
Ackerman	Gejdenson	Nielson
Alexander	Gephardt	Nowak
Anderson	Gibbons	Oakar
Andrews	Gilman	Oberstar
Annunzio	Gingrich	Obey
Anthony	Glickman	Olin
Applegate	Goodling	Owens
Aspin	Gordon	Oxley
Atkins	Gradison	Packard
AuCoin	Gray (IL)	Panetta
Barnard	Gray (PA)	Parris
Barnes	Green	Pashayan
Bateman	Guarini	Pease
Bates	Gunderson	Penny
Bedell	Hall (OH)	Pepper
Beilenson	Hamilton	Perkins
Bennett	Hammerschmidt	Pickle
Bereuter	Hatcher	Price
Berman	Hefner	Pursell
Bevill	Henry	Quillen
Biaggi	Hiler	Rahall
Boehlert	Hillis	Rangel
Boggs	Hopkins	Ray
Boland	Horton	Richardson
Boner (TN)	Howard	Ridge
Bonior (MI)	Hoyer	Rodino
Bonker	Hubbard	Roe
Borski	Huckaby	Rogers
Bosco	Hutto	Rose
Boucher	Jeffords	Rostenkowski
Boxer	Jenkins	Roukema
Brown (CA)	Johnson	Rowland (CT)
Bruce	Jones (NC)	Rowland (GA)
Bryant	Jones (TN)	Russo
Burton (CA)	Kanjorski	Sabo
Bustamante	Kaptur	Scheuer
Byron	Kastenmeier	Schneider
Carper	Kemp	Schumer
Chandler	Kennelly	Seiberling
Chapman	Kildee	Sharp
Chappell	Kleczka	Shaw
Clay	Kolter	Sikorski
Clinger	Kostmayer	Sisisky
Coats	LaFalce	Skelton
Coelho	Lagomarsino	Slattery
Coleman (MO)	Lantos	Smith (FL)
Collins	Leach (IA)	Smith (IA)
Conte	Leath (TX)	Smith (NE)
Cooper	Lehman (CA)	Smith (NJ)
Coughlin	Lehman (FL)	Solarz
Coyne	Levin (MI)	Spratt
Crockett	Levine (CA)	Stallings
Daniel	Lipinski	Stangeland
Darden	Livingston	Stark
Daschle	Lott	Stokes
Davis	Lowery (CA)	Studds
Derrick	Luken	Swift
DeWine	Lungren	Synar
Dicks	MacKay	Tauzin
Dingell	Manton	Taylor
DioGuardi	Markey	Thomas (CA)
Dixon	Martin (IL)	Thomas (GA)
Donnelly	Matsui	Torres
Dorgan (ND)	Mazzoli	Torricelli
Dowdy	McCandless	Towns
Downey	McCloskey	Udall
Durbin	McCurdy	Valentine
Dwyer	McDade	Vento
Dymally	McHugh	Visclosky
Dyson	McKinney	Volkmer
Early	McMillan	Waldon
Eckart (OH)	Mica	Walgren
Edgar	Michel	Watkins
Edwards (OK)	Mikulski	Waxman
English	Miller (CA)	Weber
Erdreich	Miller (WA)	Wheat
Fascell	Mineta	Whitehurst
Fazio	Moakley	Whitley
Feighan	Mollohan	Whitten
Fish	Monson	Williams
Flippo	Montgomery	Wise
Florio	Moody	Wolf
Foglietta	Moorhead	Wolpe
Foley	Morrison (CT)	Wortley
Ford (MI)	Morrison (WA)	Wright
Ford (TN)	Mrazek	Yates
Frank	Murphy	Yatron
Frenzel	Murtha	Young (MO)
Frost	Myers	Zschau
Fuqua	Natcher	
Garcia	Neal	

NAYS—132

Akaka	Hall, Ralph	Roth
Archer	Hansen	Roybal
Armey	Hawkins	Savage
Bartlett	Hayes	Saxton
Barton	Hendon	Schaefer
Bentley	Hertel	Schroeder
Bilirakis	Holt	Schuette
Bliley	Hughes	Schulze
Boulter	Hunter	Sensenbrenner
Broomfield	Hyde	Shelby
Brown (CO)	Ireland	Shumway
Burton (IN)	Jacobs	Shuster
Callahan	Kasich	Siljander
Carr	Kolbe	Skeen
Chappie	Kramer	Slaughter
Cheney	Leland	Smith, Denny (OR)
Cobey	Lewis (CA)	Smith, Robert (NH)
Coble	Lewis (FL)	Smith, Robert (OR)
Coleman (TX)	Lightfoot	Snowe
Combest	Lloyd	Snyder
Courter	Loeffler	Solomon
Craig	Lowry (WA)	Spence
Crane	Lujan	Staggers
Dannemeyer	Mack	Stenholm
Daub	Madigan	Strang
de la Garza	Marlenee	Stratton
DeLay	Martin (NY)	Stump
Dellums	Martinez	Sundquist
Dickinson	McCain	Sweeney
Dornan (CA)	McCollum	Swindall
Dreier	McGrath	Tallon
Duncan	McKernan	Tauke
Eckert (NY)	Meyers	Traficant
Edwards (CA)	Miller (OH)	Vander Jagt
Emerson	Molinari	Vucanovich
Evans (IA)	Ortiz	Walker
Evans (IL)	Petri	Whittaker
Fawell	Porter	Wirth
Fiedler	Regula	Wyden
Fields	Reid	Wylie
Franklin	Rinaldo	Young (AK)
Gallo	Ritter	Young (FL)
Gekas	Roberts	
Gonzalez	Robinson	
Gregg	Roemer	

NOT VOTING—26

Badham	Jones (OK)	Moore
Breaux	Kindness	Nichols
Brooks	Latta	Rudd
Campbell	Lent	St Germain
Carney	Long	Traxler
Conyers	Lundine	Weaver
Fowler	Mavroules	Weiss
Grotberg	McEwen	Wilson
Hartnett	Mitchell	

□ 1535

Mr. CARR and Mr. RINALDO changed their votes from "yea" to "nay."

Mr. COATS changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of the clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5056. An act to permit registered public utility holding companies to own certain interests in qualifying cogeneration facilities.

CONFERENCE REPORT ON S. 1128, WATER QUALITY ACT OF 1986

Mr. ROE submitted the following conference report and statement on the Senate bill (S. 1128) to amend the Clean Water Act, and for other purposes:

CONFERENCE REPORT (H. REPT. 99-1004)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1128) to amend the Clean Water Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO FEDERAL WATER POLLUTION CONTROL ACT; DEFINITION OF ADMINISTRATOR.

(a) SHORT TITLE.—This Act may be cited as the "Water Quality Act of 1986".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendments to Federal Water Pollution Control Act; definition of Administrator.
Sec. 2. Limitation on payments.

TITLE I—AMENDMENTS TO TITLE I

Sec. 101. Authorizations of appropriations.
Sec. 102. Small flows clearinghouse.
Sec. 103. Chesapeake Bay.
Sec. 104. Great Lakes.
Sec. 105. Research on effects of pollutants.

TITLE II—CONSTRUCTION GRANTS AMENDMENTS

Sec. 201. Time limit on resolving certain disputes.
Sec. 202. Federal share.
Sec. 203. Agreement on eligible costs.
Sec. 204. Design/build projects.
Sec. 205. Grant conditions; user charges on low-income residential users.
Sec. 206. Allotment formula.
Sec. 207. Rural set aside.
Sec. 208. Innovative and alternative projects.
Sec. 209. Regional organization funding.
Sec. 210. Marine CSO's and estuaries.
Sec. 211. Authorization for construction grants.
Sec. 212. State water pollution control revolving funds.
Sec. 213. Improvement projects.
Sec. 214. Chicago tunnel and reservoir project.
Sec. 215. Ad valorem tax dedication.

TITLE III—STANDARDS AND ENFORCEMENTS

Sec. 301. Compliance dates.
Sec. 302. Modification for nonconventional pollutants.
Sec. 303. Discharges into marine waters.
Sec. 304. Filing deadline for treatment works modification.
Sec. 305. Innovative technology compliance deadlines for direct dischargers.
Sec. 306. Fundamentally different factors.
Sec. 307. Coal remining operations.
Sec. 308. Individual control strategies for toxic pollutants.
Sec. 309. Pretreatment standards.
Sec. 310. Inspection and entry.
Sec. 311. Marine sanitation devices.
Sec. 312. Criminal penalties.
Sec. 313. Civil penalties.
Sec. 314. Administrative penalties.
Sec. 315. Clean lakes.
Sec. 316. Management of nonpoint sources of pollution.
Sec. 317. National estuary program.
Sec. 318. Unconsolidated quaternary aquifer.

TITLE IV—PERMITS AND LICENSES

Sec. 401. Stormwater runoff from oil, gas, and mining operations.
Sec. 402. Additional pretreatment of conventional pollutants not required.
Sec. 403. Partial NPDES program.
Sec. 404. Anti-backsliding.
Sec. 405. Municipal and industrial stormwater discharges.
Sec. 406. Sewage sludge.
Sec. 407. Log transfer facilities.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Audits.
Sec. 502. Commonwealth of the Northern Mariana Islands.
Sec. 503. Agricultural stormwater discharges.
Sec. 504. Protection of interests of United States in citizen suits.
Sec. 505. Judicial review and award of fees.
Sec. 506. Indian tribes.
Sec. 507. Definition of point source.
Sec. 508. Special provisions regarding certain dumping sites.
Sec. 509. Ocean discharge research project.
Sec. 510. San Diego, California.
Sec. 511. Limitation on discharge of raw sewage by New York City.
Sec. 512. Oakwood Beach and Red Hook Projects, New York.
Sec. 513. Boston Harbor and adjacent waters.
Sec. 514. Wastewater reclamation demonstration.
Sec. 515. Des Moines, Iowa.
Sec. 516. Study of de minimis discharges.
Sec. 517. Study of effectiveness of innovative and alternative processes and techniques.
Sec. 518. Study of testing procedures.
Sec. 519. Study of pretreatment of toxic pollutants.
Sec. 520. Studies of water pollution problems in aquifers.
Sec. 521. Great Lakes consumptive use study.
Sec. 522. Sulfide corrosion study.
Sec. 523. Study of rainfall induced infiltration into sewer systems.
Sec. 524. Dam water quality study.
Sec. 525. Study of pollution in Lake Pend Oreille, Idaho.

(c) AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act.

(d) DEFINITION.—For purposes of this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 2. LIMITATION ON PAYMENTS.

No payments may be made under this Act except to the extent provided in advance in appropriation Acts.

TITLE I—AMENDMENTS TO TITLE I

SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.

(a) RESEARCH AND INVESTIGATIONS.—Section 104(u) is amended—

(1) in clause (1) by striking out "and" after "1975,", after "1980,", and after "1981,", and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and not to exceed $22,770,000 per fiscal year for each of the fiscal years 1986 through 1990,";

(2) in clause (2) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $3,000,000 per fiscal year for each of the fiscal years 1986 through 1990,"; and

(3) in clause (3) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $1,500,000 per fiscal year for each of the fiscal years 1986 through 1990,".

(b) GRANTS FOR PROGRAM ADMINISTRATION.—Section 106(a)(2) is amended by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $75,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

(c) TRAINING GRANTS AND SCHOLARSHIPS.—Section 112(c) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $7,000,000 per fiscal year for each of the fiscal years 1986 through 1990,".

(d) AREAWIDE PLANNING.—Section 208(f)(3) is amended by striking out "and" after "1974," and after "1980," and by inserting after "1982" the following: ", and such sums as may be necessary for fiscal years 1983 through 1990".

(e) RURAL CLEAN WATER.—Section 208(j)(9) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "and such sums as may be necessary for fiscal years 1983 through 1990,".

(f) INTERAGENCY AGREEMENTS.—Section 304(k)(3) is amended by inserting after "1983" the following: "and such sums as may be necessary for fiscal years 1984 through 1990".

(g) CLEAN LAKES.—Section 314(c)(2) is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $30,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

(h) GENERAL AUTHORIZATION.—Section 517 is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $135,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

SEC. 102. SMALL FLOWS CLEARINGHOUSE.

Section 104(q) is amended by adding at the end thereof the following new paragraph:

"(4) SMALL FLOWS CLEARINGHOUSE.—Notwithstanding section 205(d) of this Act, from amounts that are set aside for a fiscal year under section 205(i) of this Act and are not obligated by the end of the 24-month period of availability for such amounts under section 205(d), the Administrator shall make available $1,000,000 or such unobligated amount, whichever is less, to support a national clearinghouse within the Environmental Protection Agency to collect and disseminate information on small flows of sewage and innovative or alternative wastewater treatment processes and techniques, consistent with paragraph (3). This paragraph shall apply with respect to amounts set aside under section 205(i) for which the 24-month period of availability referred to in the preceding sentence ends on or after September 30, 1986.".

SEC. 103. CHESAPEAKE BAY.

Title I is amended by adding at the end the following new section:

"SEC. 117. CHESAPEAKE BAY.

"(a) OFFICE.—The Administrator shall continue the Chesapeake Bay Program and shall establish and maintain in the Environmental Protection Agency an office, division, or branch of Chesapeake Bay Programs to—

"(1) collect and make available, through publications and other appropriate means, information pertaining to the environmental quality of the Chesapeake Bay (hereinafter in this subsection referred to as the "Bay");

"(2) coordinate Federal and State efforts to improve the water quality of the Bay;

"(3) determine the impact of sediment deposition in the Bay and identify the sources, rates, routes, and distribution patterns of such sediment deposition; and

"(4) determine the impact of natural and man-induced environmental changes on the living resources of the Bay and the relationships among such changes, with particular emphasis placed on the impact of pollutant loadings of nutrients, chlorine, acid precipitation, dissolved oxygen, and toxic pollutants, including organic chemicals and heavy metals, and with special attention given to the impact of such changes on striped bass.

"(b) INTERSTATE DEVELOPMENT PLAN GRANTS.—

"(1) AUTHORITY.—The Administrator shall, at the request of the Governor of a State affected by the interstate management plan developed pursuant to the Chesapeake Bay Program (hereinafter in this section referred to as 'the plan'), make a grant for the purpose of implementing the management mechanisms contained in the plan if such State has, within 1 year after the date of the enactment of this section, approved and committed to implement all or substantially all aspects of the plan. Such grants shall be made subject to such terms and conditions as the Administrator considers appropriate.

"(2) SUBMISSION OF PROPOSAL.—A State or combination of States may elect to avail itself of the benefits of this subsection by submitting to the Administrator a comprehensive proposal to implement management mechanisms contained in the plan which shall include (A) a description of proposed abatement actions which the State or combination of States commits to take within a specified time period to reduce pollution in the Bay and to meet applicable water quality standards, and (B) the estimated cost of the abatement actions proposed to be taken during the next fiscal year. If the Administrator finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and will contribute to the achievement of the national goals set forth in such section, the Administrator shall approve such proposal and shall finance the costs of implementing segments of such proposal.

"(3) FEDERAL SHARE.—Grants under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms contained in the plan in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing the management mechanisms contained in the plan during such fiscal year.

"(4) ADMINISTRATIVE COSTS.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this subsection shall not exceed in any one fiscal year 10 percent of the annual Federal grant made to a State under this subsection.

"(c) REPORTS.—Any State or combination of States that receives a grant under subsection (b) shall, within 18 months after the date of receipt of such grant and biennially thereafter, report to the Administrator on the progress made in implementing the interstate management plan developed pursuant to the Chesapeake Bay Program. The Administrator shall transmit each such report along with the comments of the Administrator on such report to Congress.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section:

"(1) $3,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, to carry out subsection (a); and

"(2) $10,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, for grants to States under subsection (b).".

SEC. 104. GREAT LAKES.

Title I is amended by adding at the end the following new section:

"SEC. 118. GREAT LAKES.

"(a) FINDINGS, PURPOSE, AND DEFINITIONS.—

"(1) FINDINGS.—The Congress finds that—

"(A) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as an important source of food, fresh water, recreation, beauty, and enjoyment;

"(B) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978 with particular emphasis on goals related to toxic pollutants; and

"(C) the Environmental Protection Agency should take the lead in the effort to meet those goals, working with other Federal agencies and State and local authorities.

"(2) PURPOSE.—It is the purpose of this section to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978 through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such agreement.

"(3) DEFINITIONS.—For purposes of this section, the term—

"(A) 'Agency' means the Environmental Protection Agency;

"(B) 'Great Lakes' means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border);

"(C) 'Great Lakes System' means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes;

"(D) 'Program Office' means the Great Lakes National Program Office established by this section; and

"(E) 'Research Office' means the Great Lakes Research Office established by subsection (d).

"(b) GREAT LAKES NATIONAL PROGRAM OFFICE.—The Great Lakes National Program Office (previously established by the Administrator) is hereby established within the Agency. The Program Office shall be headed by a Director who, by reason of management experience and technical expertise relating to the Great Lakes, is highly qualified to direct the development of programs and plans on a variety of Great Lakes issues. The Great Lakes National Program Office shall be located in a Great Lakes State.

"(c) GREAT LAKES MANAGEMENT.—

"(1) FUNCTIONS.—The Program Office shall—

"(A) in cooperation with appropriate Federal, State, tribal, and international agencies, and in accordance with section 101(e) of this Act, develop and implement specific action plans to carry out the responsibilities of the United States under the Great Lake Water Quality Agreement of 1978;

"(B) establish a Great Lakes system-wide surveillance network to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants;

"(C) serve as the liaison with, and provide information to, the Canadian members of the International Joint Commission and the Canadian counterpart to the Agency;

"(D) coordinate actions of the Agency (including actions by headquarters and regional offices thereof) aimed at improving Great Lakes water quality; and

"(E) coordinate actions of the Agency with the actions of other Federal agencies and State and local authorities, so as to ensure the input of those agencies and authorities in developing water quality strategies and obtain the support of those agencies and authorities in achieving the objectives of such agreement.

"(2) 5-YEAR PLAN AND PROGRAM.—The Program Office shall develop, in consultation with the states, a five-year plan and program for reducing the amount of nutrients introduced into the Great Lakes. Such program shall incorporate any management program for reducing nutrient runoff from nonpoint sources established under section 319 of this Act and shall include a program for monitoring nutrient runoff into, and ambient levels in, the Great Lakes.

"(3) 5-YEAR STUDY AND DEMONSTRATION PROJECTS.—The Program Office shall carry out a five year study and demonstration projects relating to the control and removal of toxic pollutants in the Great Lakes, with emphasis on the removal of toxic pollutants from bottom sediments. In selecting locations for conducting demonstration projects under this paragraph, priority consideration shall be given to projects at the following locations: Saginaw Bay, Michigan; Sheboygan Harbor, Wisconsin; Grand Calumet River, Indiana; Ashtabula River, Ohio; and Buffalo River, New York.

"(4) ADMINISTRATOR'S RESPONSIBILITY.—The Administrator shall ensure that the Program Office enters into agreements with the various organizational elements of the Agency involved in Great Lakes activities and the appropriate State agencies specifically delineating—

"(A) the duties and responsibilities of each such element in the Agency with respect to the Great Lakes;

"(B) the time periods for carrying out such duties and responsibilities; and

"(C) the resources to be committed to such duties and responsibilities.

"(5) BUDGET ITEM.—The Administrator shall, in the Agency's annual budget submission to Congress, include a funding request for the Program Office as a separate budget line item.

"(6) COMPREHENSIVE REPORT.—Within 90 days after the end of each fiscal year, the Administrator shall submit to Congress a comprehensive report which—

"(A) describes the achievements in the preceding fiscal year in implementing the Great Lakes Water Quality Agreement of 1978 and shows by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amounts expended on Great Lakes water quality initiatives in such preceding fiscal year;

"(B) describes the progress made in such preceding fiscal year in implementing the system of surveillance of the water quality in the Great Lakes system, including the monitoring of groundwater and sediment, with particular reference to toxic pollutants;

"(C) describes the long-term prospects for improving the condition of the Great Lakes; and

"(D) provides a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Great Lakes Water Quality Agreement of 1978, which assessment shall—

"(i) show by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amount anticipated to be expended on Great Lakes water quality initiatives in the fiscal year to which the assessment relates; and

"(ii) include a report of current programs administered by other Federal agencies which make available resources to the Great Lakes water quality management efforts.

"(d) GREAT LAKES RESEARCH.—

"(1) ESTABLISHMENT OF RESEARCH OFFICE.—There is established within the National Oceanic and Atmospheric Administration the Great Lakes Research Office.

"(2) IDENTIFICATION OF ISSUES.—The Research Office shall identify issues relating to the Great Lakes resources on which research is needed. The Research Office shall submit a report to Congress on such issues before the end of each fiscal year which shall identify any changes in the Great Lakes system with respect to such issues.

"(3) INVENTORY.—The Research Office shall identify and inventory Federal, State, university, and tribal environmental research programs (and, to the extent feasible, those of private organizations and other nations) relating to the Great Lakes system, and shall update that inventory every four years.

"(4) RESEARCH EXCHANGE.—The Research Office shall establish a Great Lakes research exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning research projects which are on-going or completed and which affect the Great Lakes system.

"(5) RESEARCH PROGRAM.—The Research Office shall develop, in cooperation with the Coordination Office, a comprehensive environmental research program and data base for the Great Lakes system. The data base shall include, but not be limited to, data relating to water quality, fisheries, and biota.

"(6) MONITORING.—The Research Office shall conduct, through the Great Lakes Environmental Research Laboratory, the National Sea Grant College program, other Federal laboratories, and the private sector, appropriate research and monitoring activities which address priority issues and current needs relating to the Great Lakes.

"(7) LOCATION.—The Research Office shall be located in a Great Lakes State.

"(e) RESEARCH AND MANAGEMENT COORDINATION.—

"(1) JOINT PLAN.—Before October 1 of each year, the Program Office and the Research Office shall prepare a joint research plan for the fiscal year which begins in the following calendar year.

"(2) CONTENTS OF PLAN.—Each plan prepared under paragraph (1) shall—

"(A) identify all proposed research dedicated to activities conducted under the Great Lakes Water Quality Agreement of 1978;

"(B) include the Agency's assessment of priorities for research needed to fulfill the terms of such Agreement; and

"(C) identify all proposed research that may be used to develop a comprehensive environmental data base for the Great Lakes system and establish priorities for development of such data base.

"(f) INTERAGENCY COOPERATION.—The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, is concerned with, or has authority over programs relating to research, monitoring, and planning to maintain, enhance, preserve, or rehabilitate the environmental quality and natural resources of the Great Lakes, including the Chief of Engineers of the Army, the Chief of the Soil Conservation Service, the Commandant of the Coast Guard, the Director of the Fish and Wildlife Service, and the Administrator of the National Oceanic and Atmospheric Administration, shall submit an annual report to the Administrator with respect to the activities of that agency or office affecting compliance with the Great Lakes Water Quality Agreement of 1978.

"(g) RELATIONSHIP TO EXISTING FEDERAL AND STATE LAWS AND INTERNATIONAL TREATIES.—Nothing in this section shall be construed to affect the jurisdiction, powers, or prerogatives of any department, agency, or officer of the Federal Government or of any State government, or of any tribe, nor any powers, jurisdiction, or prerogatives of any international body created by treaty with authority relating to the Great Lakes.

"(h) AUTHORIZATIONS OF GREAT LAKES APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed $11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, 1990, and 1991. Of the amounts appropriated each fiscal year—

"(1) 40 percent shall be used by the Great Lakes National Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

"(2) 7 percent shall be used by the Great Lakes National Program Office for the program of nutrient monitoring; and

"(3) 30 percent shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.".

SEC. 105. RESEARCH ON EFFECTS OF POLLUTANTS.

In carrying out the provisions of section 104(a) of the Federal Water Pollution Control Act, the Administrator shall conduct research on the harmful effects on the health and welfare of persons caused by pollutants in water, in conjunction with the United

States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other Federal, State, and interstate agencies carrying on such research. Such research shall include, and shall place special emphasis on, the effect that bioaccumulation of these pollutants in aquatic species has upon reducing the value of aquatic commercial and sport industries. Such research shall further study methods to reduce and remove these pollutants from the relevant affected aquatic species so as to restore and enhance these valuable resources.

TITLE II—CONSTRUCTION GRANTS AMENDMENTS

SEC. 201. TIME LIMIT ON RESOLVING CERTAIN DISPUTES.

Section 201 is amended by adding at the end thereof the following new subsection:

"(p) TIME LIMIT ON RESOLVING CERTAIN DISPUTES.—In any case in which a dispute arises with respect to the awarding of a contract for construction of treatment works by a grantee of funds under this title and a party to such dispute files an appeal with the Administrator under this title for resolution of such dispute, the Administrator shall make a final decision on such appeal within 90 days of the filing of such appeal.".

SEC. 202. FEDERAL SHARE.

(a) LIMITATION ON ELIGIBILITY AFTER 1990.—The last sentence of section 202(a)(1) is amended by inserting before the period at the end the following: "for any grant made pursuant to a State obligation which obligation occurred before October 1, 1990,".

(b) PROJECTS UNDER JUDICIAL INJUNCTION.—Section 202(a)(1) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph, in the case of a project for which an application for a grant under this title has been made to the Administrator before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, such project shall be eligible for grants at 75 percent of the cost of construction thereof.".

(c) PROJECTS UNDER JUDICIAL ORDER AND OTHER PROJECTS.—Section 202(a)(1) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph, in the case of the Wyoming Valley Sanitary Authority project mandated by judicial order under a proceeding begun prior to October 1, 1984, and a project for wastewater treatment for Altoona, Pennsylvania, such projects shall be eligible for grants at 75 percent of the cost of construction thereof.".

(d) BIODISC EQUIPMENT.—Section 202(a)(3) is amended by adding at the end thereof the following: "In addition, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of biodisc equipment (rotating biological contactors) in any publicly owned treatment works if the Administrator finds that such equipment has failed to meet design performance specifications, unless such failure is attributable to negligence on the part of any person, and if such failure has significantly increased capital or operating and maintenance expenditures.".

(e) INNOVATIVE PROCESS.—The activated bio-filter feature of the project for treatment works of the city of Little Falls, Minnesota, shall be deemed to be an innovative wastewater process and technique for purposes of section 202(a)(2) of the Federal Water Pollution Control Act and the amount of any grant under such Act for such feature shall be 85 percent of the cost thereof.

(f) AVAILABILITY OF CERTAIN FUNDS FOR NON-FEDERAL SHARE.—Notwithstanding any other provision of law, Federal assistance made available by the Farmers Home Administration to any political subdivision of a State may be used to provide the non-Federal share of the cost of any construction project carried out under section 201 of the Federal Water Pollution Control Act.

SEC. 203. AGREEMENT ON ELIGIBLE COSTS.

Section 203(a) is amended by inserting "(1)" after "(a)", by designating the last sentence as paragraph (3) and indenting such sentence as a paragraph, and by inserting before paragraph (3) as so designated the following:

"(2) AGREEMENT ON ELIGIBLE COSTS.—

"(A) LIMITATION ON MODIFICATIONS.—Before taking final action on any plans, specifications, and estimates submitted under this subsection after the 60th day following the date of the enactment of the Water Quality Act of 1986, the Administrator shall enter into a written agreement with the applicant which establishes and specifies which items of the proposed project are eligible for Federal payments under this section. The Administrator may not later modify such eligibility determinations unless they are found to have been made in violation of applicable Federal statutes and regulations.

"(B) LIMITATION ON EFFECT.—Eligibility determinations under this paragraph shall not preclude the Administrator from auditing a project pursuant to section 501 of this Act, or other authority, or from withholding or recovering Federal funds for costs which are found to be unreasonable, unsupported by adequate documentation, or otherwise unallowable under applicable Federal cost principles, or which are incurred on a project which fails to meet the design specifications or effluent limitations contained in the grant agreement and permit pursuant to section 402 of this Act for such project.".

SEC. 204. DESIGN/BUILD PROJECTS.

Section 203 is amended by adding at the end the following new subsection:

"(f) DESIGN/BUILD PROJECTS.—

"(1) AGREEMENT.—Consistent with State law, an applicant who proposes to construct waste water treatment works may enter into an agreement with the Administrator under this subsection providing for the preparation of construction plans and specifications and the erection of such treatment works, in lieu of proceeding under the other provisions of this section.

"(2) LIMITATION ON PROJECTS.—Agreements under this subsection shall be limited to projects under an approved facility plan which projects are—

"(A) treatment works that have an estimated total cost of $8,000,000 or less; and

"(B) any of the following types of waste water treatment systems: aerated lagoons, trickling filters, stabilization ponds, land application systems, sand filters, and subsurface disposal systems.

"(3) REQUIRED TERMS.—An agreement entered into under this subsection shall—

"(A) set forth an amount agreed to as the maximum Federal contribution to the project, based upon a competitively bid document of basic design data and applicable standard construction specifications and a determination of the federally eligible costs of the project at the applicable Federal share under section 202 of this Act;

"(B) set forth dates for the start and completion of construction of the treatment works by the applicant and a schedule of payments of the Federal contribution to the project;

"(C) contain assurances by the applicant that (i) engineering and management assistance will be provided to manage the project; (ii) the proposed treatment works will be an operable unit and will meet all the requirements of this title; and (iii) not later than 1 year after the date specified as the date of completion of construction of the treatment works, the treatment works will be operating so as to meet the requirements of any applicable permit for such treatment works under section 402 of this Act;

"(D) require the applicant to obtain a bond from the contractor in an amount determined necessary by the Administrator to protect the Federal interest in the project; and

"(E) contain such other terms and conditions as are necessary to assure compliance with this title (except as provided in paragraph (4) of this subsection).

"(4) LIMITATION ON APPLICATION.—Subsections (a), (b), and (c) of this section shall not apply to grants made pursuant to this subsection.

"(5) RESERVATION TO ASSURE COMPLIANCE.—The Administrator shall reserve a portion of the grant to assure contract compliance until final project approval as defined by the Administrator. If the amount agreed to under paragraph (3)(A) exceeds the cost of designing and constructing the treatment works, the Administrator shall reallot the amount of the excess to the State in which such treatment works are located for the fiscal year in which such audit is completed.

"(6) LIMITATION ON OBLIGATIONS.—The Administrator shall not obligate more than 20 percent of the amount allotted to a State for a fiscal year under section 205 of this Act for grants pursuant to this subsection.

"(7) ALLOWANCE.—The Administrator shall determine an allowance for facilities planning for projects constructed under this subsection in accordance with section 201(l).

"(8) LIMITATION ON FEDERAL CONTRIBUTIONS.—In no event shall the Federal contribution for the cost of preparing construction plans and specifications and the building and erection of treatment works pursuant to this subsection exceed the amount agreed upon under paragraph (3).

"(9) RECOVERY ACTION.—In any case in which the recipient of a grant made pursuant to this subsection does not comply with the terms of the agreement entered into under paragraph (3), the Administrator is authorized to take such action as may be necessary to recover the amount of the Federal contribution to the project.

"(10) PREVENTION OF DOUBLE BENEFITS.—A recipient of a grant made pursuant to this subsection shall not be eligible for any other grants under this title for the same project.".

SEC. 205. GRANT CONDITIONS; USER CHARGES ON LOW-INCOME RESIDENTIAL USERS.

(a) INCLUSION OF PROJECT IN AREAWIDE PLAN.—Section 204(a)(1) is amended to read as follows:

"(1) that any required areawide waste treatment management plan under section 208 of this Act (A) is being implemented for such area and the proposed treatment works are included in such plan, or (B) is being developed for such area and reasonable progress is being made toward its implementation and the proposed treatment works will be included in such plan;".

(b) CONTINUING PLANNING PROCESS.—Section 204(a)(2) is amended to read as follows:

"(2) that (A) the State in which the project is to be located (i) is implementing any required plan under section 303(e) of this Act

and the proposed treatment works are in conformity with such plan, or (ii) is developing such a plan and the proposed treatment works will be in conformity with such plan, and (B) such State is in compliance with section 305(b) of this Act;".

(c) USER CHARGES ON LOW-INCOME RESIDENTIAL USERS.—Section 204(b)(1) is amended by adding at the end thereof the following: "A system of user charges which imposes a lower charge for low-income residential users (as defined by the Administrator) shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph if the Administrator determines that such system was adopted after public notice and hearing.".

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act, except that the amendments made by subsections (a) and (b) shall take effect on the last day of the two-year period beginning on such date of enactment.

SEC. 206. ALLOTMENT FORMULA.

(a) FORMULA.—

(1) EXTENSION OF EXISTING FORMULA FOR 1986.—Section 205(c)(2) is amended by striking out "and September 30, 1985," and inserting in lieu thereof "September 30, 1985, and September 30, 1986,".

(2) FISCAL YEARS 1987–1990.—Section 205(c) is amended by adding at the end the following new paragraph:

"(3) FISCAL YEARS 1987–1990.—Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1987, 1988, 1989, and 1990 shall be allotted for each such year by the Administrator not later than the 10th day which begins after the date of the enactment of this paragraph. Sums authorized for such fiscal years shall be allotted in accordance with the following table:

"States:	
Alabama	.011309
Alaska	.006053
Arizona	.006831
Arkansas	.006616
California	.072333
Colorado	.008090
Connecticut	.012390
Delaware	.004965
District of Columbia	.004965
Florida	.034139
Georgia	.017100
Hawaii	.007833
Idaho	.004965
Illinois	.045741
Indiana	.024374
Iowa	.013688
Kansas	.009129
Kentucky	.012872
Louisiana	.011118
Maine	.007829
Maryland	.024461
Massachusetts	.034338
Michigan	.043487
Minnesota	.018589
Mississippi	.009112
Missouri	.028037
Montana	.004965
Nebraska	.005173
Nevada	.004965
New Hampshire	.010107
New Jersey	.041329
New Mexico	.004965
New York	.111632
North Carolina	.018253
North Dakota	.004965
Ohio	.056936
Oklahoma	.008171
Oregon	.011425
Pennsylvania	.040062
Rhode Island	.006791
South Carolina	.010361
South Dakota	.004965
Tennessee	.014692
Texas	.046226
Utah	.005329
Vermont	.004965
Virginia	.020698
Washington	.017588
West Virginia	.015766
Wisconsin	.027342
Wyoming	.004965
American Samoa	.000908
Guam	.000657
Northern Marianas	.000422
Puerto Rico	.013191
Pacific Trust Territories	.001295
Virgin Islands	.000527".

(b) EXTENSION OF MINIMUM ALLOTMENTS.—Section 205(e) is amended by striking out "and 1985" each place it appears and inserting in lieu thereof "1985, 1986, 1987, 1988, 1989, and 1990".

(c) COSTS OF ADMINISTRATION.—Section 205(g)(1) is amended by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1994".

(d) CONTROL OF POLLUTANTS FROM STORM SEWERS.—Section 211(e) is amended by striking out "1985," and inserting in lieu thereof "1990,".

SEC. 207. RURAL SET ASIDE.

(a) INCREASE IN MANDATORY SET ASIDE FOR RURAL STATES.—The first sentence of section 205(h) is amended by striking out "four per centum" and inserting in lieu thereof "a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent".

(b) INCREASE IN AUTHORIZED SET ASIDE FOR OTHER STATES.—The second sentence of section 205(h) is amended by striking out "four per centum" and inserting in lieu thereof "7½ percent".

SEC. 208. INNOVATIVE AND ALTERNATIVE PROJECTS.

Section 205(i) is amended to read as follows:

"(i) SET-ASIDE FOR INNOVATIVE AND ALTERNATIVE PROJECTS.—Not less than ½ of 1 percent of funds allotted to a State for each of the fiscal years ending September 30, 1979, through September 30, 1990, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the preceding sentence, a total of 2 percent of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 percent of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (c) of this section shall be expended only for increasing grants for construction of treatment works pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent of the funds allotted to such State under subsection (c) of this section for each of the fiscal years ending September 30, 1982, through September 30, 1990, shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.".

SEC. 209. REGIONAL ORGANIZATION FUNDING.

Section 205(j)(3) is amended by adding at the end thereof the following: "In giving such priority, the State shall allocate at least 40 percent of the amount granted to such State for a fiscal year under paragraph (2) of this subsection to regional public comprehensive planning organizations in such State and appropriate interstate organizations for the development and implementation of the plan described in this paragraph. In any fiscal year for which the Governor, in consultation with such organizations and with the approval of the Administrator, determines that allocation of at least 40 percent of such amount to such organizations will not result in significant participation by such organizations in water quality management planning and not significantly assist in development and implementation of the plan described in this paragraph and achieving the goals of this Act, the allocation to such organization may be less than 40 percent of such amount.".

SEC. 210. MARINE CSO'S AND ESTUARIES.

Section 205 is amended by adding at the end thereof the following new subsection:

"(l) MARINE ESTUARY RESERVATION.—

"(1) RESERVATION OF FUNDS.—

"(A) GENERAL RULE.—Prior to making allotments among the States under subsection (c) of this section, the Administrator shall reserve funds from sums appropriated pursuant to section 207 for each fiscal year beginning after September 30, 1986.

"(B) FISCAL YEARS 1987 AND 1988.—For each of fiscal years 1987 and 1988 the reservation shall be 1 percent of the sums appropriated pursuant to section 207 for such fiscal year.

"(C) FISCAL YEARS 1989 AND 1990.—For each of fiscal years 1989 and 1990 the reservation shall be 1½ percent of the funds appropriated pursuant to section 207 for such fiscal year.

"(2) USE OF FUNDS.—Of the sums reserved under this subsection, two-thirds shall be available to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, and one-third shall be available for the implementation of section 320 of this Act, relating to the national estuary program.

"(3) PERIOD OF AVAILABILITY.—Sums reserved under this subsection shall be subject to the period of availability for obligation established by subsection (d) of this section.

"(4) TREATMENT OF CERTAIN BODY OF WATER.—For purposes of this section and section 201(n), Newark Bay, New Jersey, and the portion of the Passaic River up to Little Falls, in the vicinity of Beatties Dam, shall be treated as a marine bay and estuary.".

SEC. 211. AUTHORIZATIONS FOR CONSTRUCTION GRANTS.

Section 207 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; and for each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988, not to exceed $2,400,000,000; and for each of the fiscal years ending September 30, 1989, and September 30, 1990, not to exceed $1,200,000,000.".

SEC. 212. STATE WATER POLLUTION CONTROL REVOLVING FUNDS.

(a) ESTABLISHMENT OF PROGRAM.—The Act is amended by adding at the end thereof the following new title:

"TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

"SEC. 601. GRANTS TO STATES FOR ESTABLISHMENT OF REVOLVING FUNDS.

"(a) GENERAL AUTHORITY.—Subject to the provisions of this title, the Administrator shall make capitalization grants to each State for the purpose of establishing a water pollution control revolving fund for provid-

ing assistance (1) for construction of treatment works (as defined in section 212 of this Act) which are publicly owned, (2) for implementing a management program under section 319, and (3) for developing and implementing a conservation and management plan under section 320.

"(b) SCHEDULE OF GRANT PAYMENTS.—The Administrator and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State under this title. Such schedule shall be based on the State's intended use plan under section 606(c) of this Act, except that—

"(1) such payments shall be made in quarterly installments, and

"(2) such payments shall be made as expeditiously as possible, but in no event later than the earlier of—

"(A) 8 quarters after the date such funds were obligated by the State, or

"(B) 12 quarters after the date such funds were allotted to the State.

"SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

"(a) GENERAL RULE.—To receive a capitalization grant with funds made available under this title and section 205(m) of this Act, a State shall enter into an agreement with the Administrator which shall include but not be limited to the specifications set forth in subsection (b) of this section.

"(b) SPECIFIC REQUIREMENTS.—The Administrator shall enter into an agreement under this section with a State only after the State has established to the satisfaction of the Administrator that—

"(1) the State will accept grant payments with funds to be made available under this title and section 205(m) of this Act in accordance with a payment schedule established jointly by the Administrator under section 601(b) of this Act and will deposit all such payments in the water pollution control revolving fund established by the State in accordance with this title;

"(2) the State will deposit in the fund from State moneys an amount equal to at least 20 percent of the total amount of all capitalization grants which will be made to the State with funds to be made available under this title and section 205(m) of this Act on or before the date on which each quarterly grant payment will be made to the State under this title;

"(3) the State will enter into binding commitments to provide assistance in accordance with the requirements of this title in an amount equal to 120 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

"(4) all funds in the fund will be expended in an expeditious and timely manner;

"(5) all funds in the fund as a result of capitalization grants under this title and section 205(m) of this Act will first be used to assure maintenance of progress, as determined by the Governor of the State, toward compliance with enforceable deadlines, goals, and requirements of this Act, including the municipal compliance deadline;

"(6) treatment works eligible under section 603(c)(1) of this Act which will be constructed in whole or in part before fiscal year 1995 with funds directly made available by capitalization grants under this title and section 205(m) of this Act will meet the requirements of, or otherwise be treated (as determined by the Governor of the State) under sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1), and 513 of this Act in the same manner as treatment works constructed with assistance under title II of this Act;

"(7) in addition to complying with the requirements of this title, the State will commit or expend each quarterly grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

"(8) in carrying out the requirements of section 606 of this Act, the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

"(9) the State will require as a condition of making a loan or providing other assistance, as described in section 603(d) of this Act, from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

"(10) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 606(d) of this Act.

"SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

"(a) REQUIREMENTS FOR OBLIGATION OF GRANT FUNDS.—Before a State may receive a capitalization grant with funds made available under this title and section 205(m) of this Act, the State shall first establish a water pollution control revolving fund which complies with the requirements of this section.

"(b) ADMINISTRATION.—Each State water pollution control revolving fund shall be administered by an instrumentality of the State with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of this Act.

"(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance (1) to any municipality, intermunicipal, interstate, or State agency for construction of publicly owned treatment works (as defined in section 212 of this Act), (2) for the implementation of a management program established under section 319 of this Act, and (3) for development and implementation of a conservation and management plan under section 320 of this Act. The fund shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing such financial assistance.

"(d) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, a water pollution control revolving fund of a State under this section may be used only—

"(1) to make loans, on the condition that—

"(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed 20 years;

"(B) annual principal and interest payments will commence not later than 1 year after completion of any project and all loans will be fully amortized not later than 20 years after project completion;

"(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

"(D) the fund will be credited with all payments of principal and interest on all loans;

"(2) to buy or refinance the debt obligation of municipalities and intermunicipal and interstate agencies within the State at or below market rates, where such debt obligations were incurred after March 7, 1985;

"(3) to guarantee, or purchase insurance for, local obligations where such action would improve credit market access or reduce interest rates;

"(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of such bonds will be deposited in the fund;

"(5) to provide loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies;

"(6) to earn interest on fund accounts; and

"(7) for the reasonable costs of administering the fund and conducting activities under this title, except that such amounts shall not exceed 4 percent of all grant awards to such fund under this title.

"(e) LIMITATION TO PREVENT DOUBLE BENEFITS.—If a State makes, from its water pollution revolving fund, a loan which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works, the State shall ensure that if the recipient of such loan receives a grant under section 201(g) of this Act for construction of such treatment works and an allowance under section 201(l)(1) of this Act for non-Federal funds expended for such planning and preparation, such recipient will promptly repay such loan to the extent of such allowance.

"(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—A State may provide financial assistance from its water pollution control revolving fund only with respect to a project which is consistent with plans, if any, developed under sections 205(j), 208, 303(e), 319, and 320 of this Act.

"(g) PRIORITY LIST REQUIREMENT.—The State may provide financial assistance from its water pollution control revolving fund only with respect to a project for construction of a treatment works described in subsection (c)(1) if such project is on the State's priority list under section 216 of this Act. Such assistance may be provided regardless of the rank of such project on such list.

"(h) ELIGIBILITY OF NON-FEDERAL SHARE OF CONSTRUCTION GRANT PROJECTS.—A State water pollution control revolving fund may provide assistance (other than under subsection (d)(1) of this section) to a municipality or intermunicipal or interstate agency with respect to the non-Federal share of the costs of a treatment works project for which such municipality or agency is receiving assistance from the Administrator under any other authority only if such assistance is necessary to allow such project to proceed.

"SEC. 604. ALLOTMENT OF FUNDS.

"(a) FORMULA.—Sums authorized to be appropriated to carry out this section for each of fiscal years 1989 and 1990 shall be allotted by the Administrator in accordance with section 205(c) of this Act.

"(b) RESERVATION OF FUNDS FOR PLANNING.—Each State shall reserve each fiscal year 1 percent of the sums allotted to such State under this section for such fiscal year, or $100,000, whichever amount is greater, to carry out planning under sections 205(j) and 303(e) of this Act.

"(c) ALLOTMENT PERIOD.—

"(1) PERIOD OF AVAILABILITY FOR GRANT AWARD.—Sums allotted to a State under this section for a fiscal year shall be available for obligation by the State during the fiscal year for which sums are authorized and during the following fiscal year.

"(2) REALLOTMENT OF UNOBLIGATED FUNDS.—The amount of any allotment not obligated

by the State by the last day of the 2-year period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under title II of this Act for the second fiscal year of such 2-year period. None of the funds reallotted by the Administrator shall be reallotted to any State which has not obligated all sums allotted to such State in the first fiscal year of such 2-year period.

"SEC. 605. CORRECTIVE ACTION.

"(a) NOTIFICATION OF NONCOMPLIANCE.—If the Administrator determines that a State has not complied with its agreement with the Administrator under section 602 of this Act or any other requirement of this title, the Administrator shall notify the State of such noncompliance and the necessary corrective action.

"(b) WITHHOLDING OF PAYMENTS.—If a State does not take corrective action within 60 days after the date a State receives notification of such action under subsection (a), the Administrator shall withhold additional payments to the State until the Administrator is satisfied that the State has taken the necessary corrective action.

"(c) REALLOTMENT OF WITHHELD PAYMENTS.—If the Administrator is not satisfied that adequate corrective actions have been taken by the State within 12 months after the State is notified of such actions under subsection (a), the payments withheld from the State by the Administrator under subsection (b) shall be made available for reallotment in accordance with the most recent formula for allotment of funds under this title.

"SEC. 606. AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN.

"(a) FISCAL CONTROL AND AUDITING PROCEDURES.—Each State electing to establish a water pollution control revolving fund under this title shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for—

"(1) payments received by the fund;

"(2) disbursements made by the fund; and

"(3) fund balances at the beginning and end of the accounting period.

"(b) ANNUAL FEDERAL AUDITS.—The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of funds deposited in the water pollution revolving fund established by such State shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

"(c) INTENDED USE PLAN.—After providing for public comment and review, each State shall annually prepare a plan identifying the intended uses of the amounts available to its water pollution control revolving fund. Such intended use plan shall include, but not be limited to—

"(1) a list of those projects for construction of publicly owned treatment works on the State's priority list developed pursuant to section 216 of this Act and a list of activities eligible for assistance under sections 319 and 320 of this Act;

"(2) a description of the short- and long-term goals and objectives of its water pollution control revolving fund;

"(3) information on the activities to be supported, including a description of project categories, discharge requirements under titles III and IV of this Act, terms of financial assistance, and communities served;

"(4) assurances and specific proposals for meeting the requirements of paragraphs (3), (4), (5), and (6) of section 602(b) of this Act; and

"(5) the criteria and method established for the distribution of funds.

"(d) ANNUAL REPORT.—Beginning the first fiscal year after the receipt of payments under this title, the State shall provide an annual report to the Administrator describing how the State has met the goals and objectives for the previous fiscal year as identified in the plan prepared for the previous fiscal year pursuant to subsection (c), including identification of loan recipients, loan amounts, and loan terms and similar details on other forms of financial assistance provided from the water pollution control revolving fund.

"(e) ANNUAL FEDERAL OVERSIGHT REVIEW.—The Administrator shall conduct an annual oversight review of each State plan prepared under subsection (c), each State report prepared under subsection (d), and other such materials as are considered necessary and appropriate in carrying out the purposes of this title. After reasonable notice by the Administrator to the State or the recipient of a loan from a water pollution control revolving fund, the State or loan recipient shall make available to the Administrator such records as the Administrator reasonably requires to review and determine compliance with this title.

"(f) APPLICABILITY OF TITLE II PROVISIONS.—Except to the extent provided in this title, the provisions of title II shall not apply to grants under this title.

"SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out the purposes of this title the following sums:

"(1) $1,200,000,000 per fiscal year for each of fiscal years 1989 and 1990;

"(2) $2,400,000,000 for fiscal year 1991;

"(3) $1,800,000,000 for fiscal year 1992;

"(4) $1,200,000,000 for fiscal year 1993; and

"(5) $600,000,000 for fiscal year 1994.".

(b) STATE-OPTION TO USE TITLE II FUNDS.—Section 205 is amended by adding at the end thereof the following new subsection:

"(m) DISCRETIONARY DEPOSITS INTO STATE WATER POLLUTION CONTROL REVOLVING FUNDS.—

"(1) FROM CONSTRUCTION GRANT ALLOTMENTS.—In addition to any amounts deposited in a water pollution control revolving fund established by a State under title VI, upon request of the Governor of such State, the Administrator shall make available to the State for deposit, as capitalization grants, in such fund in any fiscal year beginning after September 30, 1986, such amount of the amounts allotted to such State under this section for such fiscal year as the Governor considers appropriate; except that (A) in fiscal year 1987, such deposit may not exceed 50 percent of the amounts allotted to such State under this section for such fiscal year, and (B) in fiscal year 1988, such deposit may not exceed 75 percent of the amount allotted to such State under this section for this fiscal year.

"(2) NOTICE REQUIREMENT.—The Governor of a State may make a request under paragraph (1) for a deposit into the water pollution control revolving fund of such State—

"(A) in fiscal year 1987 only if no later than 90 days after the date of the enactment of this subsection, and

"(B) in each fiscal year thereafter only if 90 days before the first day of such fiscal year,

the State provides notice of its intent to make such deposit.

"(3) EXCEPTION.—Sums reserved under section 205(j) of this Act shall not be available for obligation under this subsection.".

(c) REPORT TO CONGRESS.—Section 516 is amended by adding at the end thereof the following new subsection:

"(g) STATE REVOLVING FUND REPORT.—

"(1) IN GENERAL.—Not later than February 10, 1990, the Administrator shall submit to Congress a report on the financial status and operations of water pollution control revolving funds established by the States under title VI of this Act. The Administrator shall prepare such report in cooperation with the States, including water pollution control agencies and other water pollution control planning and financing agencies.

"(2) CONTENTS.—The report under this subsection shall also include the following:

"(A) an inventory of the facilities that are in significant noncompliance with the enforceable requirements of this Act;

"(B) an estimate of the cost of construction necessary to bring such facilities into compliance with such requirements;

"(C) an assessment of the availability of sources of funds for financing such needed construction, including an estimate of the amount of funds available for providing assistance for such construction through September 30, 1999, from the water pollution control revolving funds established by the States under title VI of this Act;

"(D) an assessment of the operations, loan portfolio, and loan conditions of such revolving funds;

"(E) an assessment of the effect on user charges of the assistance provided by such revolving funds compared to the assistance provided with funds appropriated pursuant to section 207 of this Act; and

"(F) an assessment of the efficiency of the operation and maintenance of treatment works constructed with assistance provided by such revolving funds compared to the efficiency of the operation and maintenance of treatment works constructed with assistance provided under section 201 of this Act.".

SEC. 213. IMPROVEMENT PROJECTS.

(a) AVALON, CALIFORNIA.—The Administrator shall make a grant of $3,000,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of California for fiscal year 1987 to the city of Avalon, California, for improvements to the publicly owned treatment works of such city.

(b) WALKER AND SMITHFIELD TOWNSHIPS, PENNSYLVANIA.—Out of funds available for grants in the State of Pennsylvania under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make grants—

(1) to Walker Township, Pennsylvania, for developing a collector system and connecting its wastewater treatment system into the Huntingdon Borough, Pennsylvania, sewage treatment plant, and

(2) to Smithfield Township, Pennsylvania, for rehabilitating and extending its collector system.

(c) TAYLOR MILL, KENTUCKY.—Notwithstanding section 201(g)(1) of the Federal Water Pollution Control Act or any other provision of law, the Administrator shall make a grant of $250,000 from funds allotted

under section 205 of such Act to the State of Kentucky for fiscal year 1986 to the city of Taylor Mill, Kentucky, for the repair and reconstruction, as necessary, of the publicly owned treatment works of such city.

(d) NEVADA COUNTY, CALIFORNIA.—Out of funds available for grants in the State of California under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make a grant for the construction of a collection system serving the Glenshire/Devonshire area of Nevada County, California, to deliver waste to the Tahoe-Truckee Sanitary District's regional wastewater treatment facility.

(e) TREATMENT WORKS FOR WANAQUE, NEW JERSEY.—In fiscal year 1987 and succeeding fiscal years, the Administrator shall make grants to the Wanaque Valley Regional Sewerage Authority, New Jersey, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of New Jersey for such fiscal year, for the construction of treatment works with a total treatment capacity of 1,050,000 gallons per day (including a treatment module with a treatment capacity of 350,000 gallons per day). Notwithstanding section 202 of such Act, the Federal share of the cost of construction of such treatment works shall be 75 percent.

(f) TREATMENT WORKS FOR LENA, ILLINOIS.—The Administrator shall make grants to the village of Lena, Illinois, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of Illinois for fiscal years beginning after September 30, 1986, for the construction of a replacement moving bed filter press for the treatment works of such village. Notwithstanding section 202 of the Federal Water Pollution Control Act, the Federal share of the cost of construction of such project shall be 75 percent.

(g) PRIORITY FOR COURT-ORDERED AND OTHER PROJECTS.—The State of Pennsylvania, from funds allotted to it under section 205 of the Federal Water Pollution Control Act, shall give priority for construction of—

(1) the Wyoming Valley Sanitary Authority Secondary Treatment project mandated under Federal court order, regardless of the date of start of construction made pursuant to the court order; and

(2) a project for wastewater treatment for Altoona, Pennsylvania.

SEC. 214. CHICAGO TUNNEL AND RESERVOIR PROJECT.

The Chicago tunnel and reservoir project may receive grants under the last sentence of section 201(g)(1) of the Federal Water Pollution Control Act without regard to the limitation contained in such sentence if the Administrator determines that such project meets the cost-effectiveness requirements of sections 217 and 218 of such Act without any redesign or reconstruction and if the Governor of the affected State demonstrates to the satisfaction of the Administrator the water quality benefits of such project.

SEC. 215. AD VALOREM TAX DEDICATION.

For the purposes of complying with section 204(b)(1) of the Federal Water Pollution Control Act, the ad valorem tax user charge systems of the town of Hampton and the city of Nashua, New Hampshire, shall be deemed to have been dedicated as of December 27, 1977. The Administrator shall review such ad valorem tax user charge systems for compliance with the remaining requirements of such section and related regulations of the Environmental Protection Agency.

TITLE III—STANDARDS AND ENFORCEMENTS

SEC. 301. COMPLIANCE DATES.

(a) PRIORITY TOXIC POLLUTANTS.—Section 301(b)(2)(C) is amended by striking out "not later than July 1, 1984," and inserting after "of this paragraph" the following: "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989".

(b) OTHER TOXIC POLLUTANTS.—Section 301(b)(2)(D) is amended by striking out "not later than three years after the date such limitations are established" and inserting in lieu thereof "as expeditiously as practicable, but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989".

(c) CONVENTIONAL POLLUTANTS.—Section 301(b)(2)(E) is amended by striking "not later than July 1, 1984," and inserting in lieu thereof "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989, compliance with".

(d) OTHER POLLUTANTS.—Section 301(b)(2)(F) is amended by striking "not" after "subparagraph (A) of this paragraph" and inserting in lieu thereof "as expeditiously as practicable but in no case", and by striking "or not later than July 1, 1984," and all that follows through the end of the sentence and inserting in lieu thereof "and in no case later than March 31, 1989.".

(e) STRICTER BPT.—Section 301(b) is amended by adding at the end the following new paragraph:

"(3)(A) for effluent limitations under paragraph (1)(A)(i) of this subsection promulgated after January 1, 1982, and requiring a level of control substantially greater or based on fundamentally different control technology than under permits for an industrial category issued before such date, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989; and

"(B) for any effluent limitation in accordance with paragraph (1)(A)(i), (2)(A)(i), or (2)(E) of this subsection established only on the basis of section 402(a)(1) in a permit issued after enactment of the Water Quality Act of 1986, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are established, and in no case later than March 31, 1989.".

(f) DEADLINES FOR REGULATIONS FOR CERTAIN TOXIC POLLUTANTS.—The Administrator shall promulgate final regulations establishing effluent limitations in accordance with sections 301(b)(2)(A) and 307(b)(1) of the Federal Water Pollution Control Act for all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives which are discharged from the categories of point sources in accordance with the following table:

Category	Date by which the final regulation shall be promulgated
Organic chemicals and plastics and synthetic fibers.	December 31, 1986.
Pesticides.....	December 31, 1986.

SEC. 302. MODIFICATION FOR NONCONVENTIONAL POLLUTANTS.

(a) LISTING OF POLLUTANTS.—Section 301(g) is amended by redesignating paragraph (2) (and any references thereto) as paragraph (3) and by striking out all that precedes subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(g) MODIFICATIONS FOR CERTAIN NONCONVENTIONAL POLLUTANTS.—

"(1) GENERAL AUTHORITY.—The Administrator, with the concurrence of the State, may modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge from any point source of ammonia, chlorine, color, iron, and total phenols (4AAP) (when determined by the Administrator to be a pollutant covered by subsection (b)(2)(F)) and any other pollutant which the Administrator lists under paragraph (4) of this subsection.

"(2) REQUIREMENTS FOR GRANTING MODIFICATIONS.—A modification under this subsection shall be granted only upon a showing by the owner or operator of a point source satisfactory to the Administrator that—".

(b) PROCEDURE FOR LISTING ADDITIONAL POLLUTANTS; REMOVAL.—Section 301(g) is further amended by adding at the end thereof the following new paragraphs:

"(4) PROCEDURES FOR LISTING ADDITIONAL POLLUTANTS.—

"(A) GENERAL AUTHORITY.—Upon petition of any person, the Administrator may add any pollutant to the list of pollutants for which modification under this section is authorized (except for pollutants identified pursuant to section 304(a)(4) of this Act, toxic pollutants subject to section 307(a) of this Act, and the thermal component of discharges) in accordance with the provisions of this paragraph.

"(B) REQUIREMENTS FOR LISTING.—

"(i) SUFFICIENT INFORMATION.—The person petitioning for listing of an additional pollutant under this subsection shall submit to the Administrator sufficient information to make the determinations required by this subparagraph.

"(ii) TOXIC CRITERIA DETERMINATION.—The Administrator shall determine whether or not the pollutant meets the criteria for listing as a toxic pollutant under section 307(a) of this Act.

"(iii) LISTING AS TOXIC POLLUTANT.—If the Administrator determines that the pollutant meets the criteria for listing as a toxic pollutant under section 307(a), the Administrator shall list the pollutant as a toxic pollutant under section 307(a).

"(iv) NONCONVENTIONAL CRITERIA DETERMINATION.—If the Administrator determines that the pollutant does not meet the criteria for listing as a toxic pollutant under such section and determines that adequate test methods and sufficient data are available to make the determinations required by paragraph (2) of this subsection with respect to the pollutant, the Administrator shall add the pollutant to the list of pollutants specified in paragraph (1) of this subsection for which modifications are authorized under this subsection.

"(C) REQUIREMENTS FOR FILING OF PETITIONS.—A petition for listing of a pollutant under this paragraph—

"(i) must be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 304;

"(ii) may be filed before promulgation of such guideline; and

"(iii) may be filed with an application for a modification under paragraph (1) with respect to the discharge of such pollutant.

"(D) DEADLINE FOR APPROVAL OF PETITION.—A decision to add a pollutant to the list of pollutants for which modifications under this subsection are authorized must be made

within 270 days after the date of promulgation of an applicable effluent guideline under section 304.

"(E) BURDEN OF PROOF.—The burden of proof for making the determinations under subparagraph (B) shall be on the petitioner.

"(5) REMOVAL OF POLLUTANTS.—The Administrator may remove any pollutant from the list of pollutants for which modifications are authorized under this subsection if the Administrator determines that adequate test methods and sufficient data are no longer available for determining whether or not modifications may be granted with respect to such pollutant under paragraph (2) of this subsection.".

(c) DEADLINE FOR APPROVAL OF MODIFICATIONS.—Section 301(j) is amended—

(1) in paragraph (2) by striking out "Any" and inserting in lieu thereof "Subject to paragraph (3) of this section, any"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) COMPLIANCE REQUIREMENTS UNDER SUBSECTION (g).—

"(A) EFFECT OF FILING.—An application for a modification under subsection (g) and a petition for listing of a pollutant as a pollutant for which modifications are authorized under such subsection shall not stay the requirement that the person seeking such modification or listing comply with effluent limitations under this Act for all pollutants not the subject of such application or petition.

"(B) EFFECT OF DISAPPROVAL.—Disapproval of an application for a modification under subsection (g) shall not stay the requirement that the person seeking such modification comply with all applicable effluent limitations under this Act.

"(4) DEADLINE FOR SUBSECTION (g) DECISION.—An application for a modification with respect to a pollutant filed under subsection (g) must be approved or disapproved not later than 365 days after the date of such filing; except that in any case in which a petition for listing such pollutant as a pollutant for which modifications are authorized under such subsection is approved, such application must be approved or disapproved not later than 365 days after the date of approval of such petition.".

(d) CONFORMING AMENDMENTS.—(1) Paragraph (3) of section 301(g), as redesignated by subsection (a) of this section, is amended by inserting "LIMITATION ON AUTHORITY TO APPLY FOR SUBSECTION (c) MODIFICATION.—" before "If an owner" and by aligning such paragraph with paragraph (4) of such section, as added by such subsection (c).

(2) Paragraph (2) of section 301(g) (as designated by subsection (a) of this section) is amended by realigning subparagraphs (A), (B), and (C) with subparagraph (A) of paragraph (4), as added by subsection (b) of this section.

(e) APPLICATION.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply to all requests for modifications under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act and shall not have the effect of extending the deadline established in section 301(j)(1)(B) of such Act.

(2) EXCEPTION.—The amendments made by this section shall not affect any application for a modification with respect to the discharge of ammonia, chlorine, color, iron, or total phenols (4AAP) under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act; except that the Administrator must approve or disapprove such application not later than 365 days after the date of such enactment.

SEC. 303. DISCHARGES INTO MARINE WATERS.

(a) CONSIDERATION OF OTHER SOURCES OF POLLUTANTS.—Section 301(h)(2) is amended by striking out "such modified requirements will not interfere" and inserting in lieu thereof the following: "the discharge of pollutants in accordance with such modified requirements will not interfere, alone or in combination with pollutants from other sources,".

(b) LIMITATION ON SCOPE OF MONITORING.—

(1) GENERAL RULE.—Section 301(h)(3) is amended by inserting before the semicolon at the end thereof the following: ", and the scope of such monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge".

(2) LIMITATION ON APPLICABILITY.—The amendment made by subsection (b) shall only apply to modifications and renewals of modifications which are tentatively or finally approved after the date of the enactment of this Act.

(c) URBAN AREA PRETREATMENT PROGRAM.—Section 301(h) is amended by redesignating paragraphs (6) and (7), and any references thereto, as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) in the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant there is no applicable pretreatment requirement in effect, sources introducing waste into such works are in compliance with all applicable pretreatment requirements, the applicant will enforce such requirements, and the applicant has in effect a pretreatment program which, in combination with the treatment of discharges from such works, removes the same amount of such pollutant as would be removed if such works were to apply secondary treatment to discharges and if such works had no pretreatment program with respect to such pollutant;".

(d) PRIMARY TREATMENT FOR EFFLUENT.—

(1) GENERAL RULE.—Section 301(h) is amended by striking out the period at the end of paragraph (8) (as redesignated by subsection (c) of this section) and inserting in lieu thereof a semicolon and by inserting after such paragraph (8) the following new paragraph:

"(9) the applicant at the time such modification becomes effective will be discharging effluent which has received at least primary or equivalent treatment and which meets the criteria established under section 304(a)(1) of this Act after initial mixing in the waters surrounding or adjacent to the point at which such effluent is discharged.".

(2) PRIMARY OR EQUIVALENT TREATMENT DEFINED.—Such section is further amended by inserting after the second sentence the following new sentence: "For the purposes of paragraph (9), 'primary or equivalent treatment' means treatment by screening, sedimentation, and skimming adequate to remove at least 30 percent of the biological oxygen demanding material and of the suspended solids in the treatment works influent, and disinfection, where appropriate.".

(e) LIMITATIONS ON ISSUANCE OF PERMITS.—Section 301(h) is further amended by adding at the end thereof the following new sentences: "In order for a permit to be issued under this subsection for the discharge of a pollutant into marine waters, such marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previously discharged effluent from such treatment works. No permit issued under this subsection shall authorize the discharge of any pollutant into saline estuarine waters which at the time of application do not support a balanced indigenous population of shellfish, fish and wildlife, or allow recreation in and on the waters or which exhibit ambient water quality below applicable water quality standards adopted for the protection of public water supplies, shellfish, fish and wildlife or recreational activities or such other standards necessary to assure support and protection of such uses. The prohibition contained in the preceding sentence shall apply without regard to the presence or absence of a causal relationship between such characteristics and the applicant's current or proposed discharge. Notwithstanding any other provisions of this subsection, no permit may be issued under this subsection for discharge of a pollutant into the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.".

(f) APPLICATION FOR OCEAN DISCHARGE MODIFICATION.—Section 301(j)(1)(A) is amended by inserting before the semicolon at the end thereof the following: ", except that a publicly owned treatment works which prior to December 31, 1982, had a contractual arrangement to use a portion of the capacity of an ocean outfall operated by another publicly owned treatment works which has applied for or received modification under subsection (h), may apply for a modification of subsection (h) in its own right not later than 30 days after the date of the enactment of the Water Quality Act of 1986".

(g) GRANDFATHER OF CERTAIN APPLICANTS.—The amendments made by subsections (a), (c), (d), and (e) of this section shall not apply to an application for a permit under section 301(h) of the Federal Water Pollution Control Act which has been tentatively or finally approved by the Administrator before the date of the enactment of this Act; except that such amendments shall apply to all renewals of such permits after such date of enactment.

SEC. 304. FILING DEADLINE FOR TREATMENT WORKS MODIFICATION.

(a) EXTENSION.—The second sentence of section 301(i)(1) is amended by striking out "of this subsection." and inserting in lieu thereof "of the Water Quality Act of 1986.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to those treatment works which are subject to a compliance schedule established before the date of the enactment of this Act by a court order or a final administrative order.

SEC. 305. INNOVATIVE TECHNOLOGY COMPLIANCE DEADLINES FOR DIRECT DISCHARGERS.

(a) EXTENSION OF DEADLINE.—Section 301(k) is amended by striking out "July 1, 1987," and inserting in lieu thereof "two years after the date for compliance with such effluent limitation which would otherwise be applicable under such subsection,".

(b) EXTENSION TO CONVENTIONAL POLLUTANTS.—Section 301(k) is amended by inserting "or (b)(2)(E)" after "(b)(2)(A)" each place it appears.

SEC. 306. FUNDAMENTALLY DIFFERENT FACTORS.

(a) GENERAL RULE.—Section 301 is amended by adding at the end the following new subsections:

"(n) FUNDAMENTALLY DIFFERENT FACTORS.—

"(1) GENERAL RULE.—The Administrator, with the concurrence of the State, may establish an alternative requirement under subsection (b)(2) or section 307(b) for a facility that modifies the requirements of national effluent limitation guidelines or categorical pretreatment standards that would otherwise be applicable to such facility, if the owner or operator of such facility demonstrates to the satisfaction of the Administrator that—

"(A) the facility is fundamentally different with respect to the factors (other than cost) specified in section 304(b) or 304(g) and considered by the Administrator in establishing such national effluent limitation guidelines or categorical pretreatment standards;

"(B) the application—

"(i) is based solely on information and supporting data submitted to the Administrator during the rulemaking for establishment of the applicable national effluent limitation guidelines or categorical pretreatment standard specifically raising the factors that are fundamentally different for such facility; or

"(ii) is based on information and supporting data referred to in clause (i) and information and supporting data the applicant did not have a reasonable opportunity to submit during such rulemaking;

"(C) the alternative requirement is no less stringent than justified by the fundamental difference; and

"(D) the alternative requirement will not result in a non-water quality environmental impact which is markedly more adverse than the impact considered by the Administrator in establishing such national effluent limitation guideline or categorical pretreatment standard.

"(2) TIME LIMIT FOR APPLICATIONS.—An application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection must be submitted to the Administrator within 180 days after the date on which such limitation or standard is established or revised, as the case may be.

"(3) TIME LIMIT FOR DECISION.—The Administrator shall approve or deny by final agency action an application submitted under this subsection within 180 days after the date such application is filed with the Administrator.

"(4) SUBMISSION OF INFORMATION.—The Administrator may allow an applicant under this subsection to submit information and supporting data until the earlier of the date the application is approved or denied or the last day that the Administrator has to approve or deny such application.

"(5) TREATMENT OF PENDING APPLICATIONS.—For the purposes of this subsection, an application for an alternative requirement based on fundamentally different factors which is pending on the date of the enactment of this subsection shall be treated as having been submitted to the Administrator on the 180th day following such date of enactment. The applicant may amend the application to take into account the provisions of this subsection.

"(6) EFFECT OF SUBMISSION OF APPLICATION.—An application for an alternative requirement under this subsection shall not stay the applicant's obligation to comply with the effluent limitation guideline or categorical pretreatment standard which is the subject of the application.

"(7) EFFECT OF DENIAL.—If an application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection is denied by the Administrator, the applicant must comply with such limitation or standard as established or revised, as the case may be.

"(8) REPORTS.—Every 6 months after the date of the enactment of this subsection, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the status of applications for alternative requirements which modify the requirements of effluent limitations under section 301 or 304 of this Act or any national categorical pretreatment standard under section 307(b) of this Act filed before, on, or after such date of enactment.

"(o) APPLICATION FEES.—The Administrator shall prescribe and collect from each applicant fees reflecting the reasonable administrative costs incurred in reviewing and processing applications for modifications submitted to the Administrator pursuant to subsections (c), (g), (i), (k), (m), and (n) of section 301, section 304(d)(4), and section 316(a) of this Act. All amounts collected by the Administrator under this subsection shall be deposited into a special fund of the Treasury entitled 'Water Permits and Related Services' which shall thereafter be available for appropriation to carry out activities of the Environmental Protection Agency for which such fees were collected.".

(b) CONFORMING AMENDMENT.—Section 301(l) is amended by striking out "The" and inserting in lieu thereof "Other than as provided in subsection (n) of this section, the".

(c) PHOSPHATE FERTILIZER EFFLUENT LIMITATION.—

(1) LIMITATION ON APPLICABILITY.—The effluent limitation established by the Administrator pursuant to section 301(b) of the Federal Water Pollution Control Act for the phosphate subcategory of the fertilizer manufacturing point source category shall not apply to facilities which had commenced construction on or before April 8, 1974, and for which the Administrator is proposing to revise the applicability of such limitations to exclude such facilities.

(2) ISSUANCE OF PERMIT.—As soon as possible after the date of the enactment of this Act, but not later than 180 days after such date of enactment, the Administrator shall issue permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act with respect to the facilities described in paragraph (1). Such permits shall remain in effect until, after such date of enactment, issuance of a permit under effluent guidelines applicable to discharges for the phosphate subcategory.

SEC. 307. COAL REMINING OPERATIONS.

Section 301 is amended by adding at the end thereof the following:

"(p) MODIFIED PERMIT FOR COAL REMINING OPERATIONS.—

"(1) IN GENERAL.—Subject to paragraphs (2) through (4) of this subsection, the Administrator, or the State in any case which the State has an approved permit program under section 402(b), may issue a permit under section 402 which modifies the requirements of subsection (b)(2)(A) of this section with respect to the pH level of any pre-existing discharge, and with respect to pre-existing discharges of iron and manganese from the remined area of any coal remining operation or with respect to the pH level or level of iron or manganese in any pre-existing discharge affected by the remining operation. Such modified requirements shall apply the best available technology economically achievable on a case-by-case basis, using best professional judgment, to set specific numerical effluent limitations in each permit.

"(2) LIMITATIONS.—The Administrator or the State may only issue a permit pursuant to paragraph (1) if the applicant demonstrates to the satisfaction of the Administrator or the State, as the case may be, that the coal remining operation will result in the potential for improved water quality from the remining operation but in no event shall such a permit allow the pH level of any discharge, and in no event shall such a permit allow the discharges of iron and manganese, to exceed the levels being discharged from the remined area before the coal remining operation begins. No discharge from, or affected by, the remining operation shall exceed State water quality standards established under section 303 of this Act.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) COAL REMINING OPERATION.—The term 'coal remining operation' means a coal mining operation which begins after the date of the enactment of this subsection at a site on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

"(B) REMINED AREA.—The term 'remined area' means only that area of any coal remining operation on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

"(C) PRE-EXISTING DISCHARGE.—The term 'pre-existing discharge' means any discharge at the time of permit application under this subsection.

"(4) APPLICABILITY OF STRIP MINING LAWS.—Nothing in this subsection shall affect the application of the Surface Mining Control and Reclamation Act of 1977 to any coal remining operation, including the application of such Act to suspended solids.".

SEC. 308. INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS.

(a) IN GENERAL.—Section 304 is amended by adding at the end thereof the following new subsection:

"(l) INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS.—

"(1) STATE LIST OF NAVIGABLE WATERS AND DEVELOPMENT OF STRATEGIES.—Not later than 2 years after the date of the enactment of this subsection, each State shall submit to the Administrator for review, approval, and implementation under this subsection—

"(A) a list of those waters within the State which after the application of effluent limitations required under section 301(b)(2) of this Act cannot reasonably be anticipated to attain or maintain (i) water quality standards for such waters reviewed, revised, or adopted in accordance with section 303(c)(2)(B) of this Act, due to toxic pollutants, or (ii) that water quality which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water;

"(B) a list of all navigable waters in such State for which the State does not expect the

applicable standard under section 303 of this Act will be achieved after the requirements of sections 301(b), 306, and 307(b) are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a);

"(C) for each segment of the navigable waters included on such lists, a determination of the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each such toxic pollutant discharged by each such source; and

"(D) for each such segment, an individual control strategy which the State determines will produce a reduction in the discharge of toxic pollutants from point sources identified by the State under this paragraph through the establishment of effluent limitations under section 402 of this Act and water quality standards under section 303(c)(2)(B) of this Act, which reduction is sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than 3 years after the date of the establishment of such strategy.

"(2) APPROVAL OR DISAPPROVAL.—Not later than 120 days after the last day of the 2-year period referred to in paragraph (1), the Administrator shall approve or disapprove the control strategies submitted under paragraph (1) by any State.

"(3) ADMINISTRATOR'S ACTION.—If a State fails to submit control strategies in accordance with paragraph (1) or the Administrator does not approve the control strategies submitted by such State in accordance with paragraph (1), then, not later than 1 year after the last day of the period referred to in paragraph (2), the Administrator, in co- operation with such State and after notice and opportunity for public comment, shall implement the requirements of paragraph (1) in such State. In the implementation of such requirements, the Administrator shall, at a minimum, consider for listing under this subsection any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after such last day."

(b) JUDICIAL REVIEW.—Section 509(b)(1) is amended—

(1) by striking out "and (F)" and inserting in lieu thereof "(F)"; and

(2) by inserting after "any permit under section 402," the following: "and (G) in promulgating any individual control strategy under section 304(l),".

(c) GUIDANCE TO STATES; INFORMATION ON WATER QUALITY CRITERIA FOR TOXICS.—Section 304(a) is amended by adding at the end the following new paragraphs:

"(7) GUIDANCE TO STATES.—The Administrator, after consultation with appropriate State agencies and on the basis of criteria and information published under paragraphs (1) and (2) of this subsection, shall develop and publish, within 9 months after the date of the enactment of the Water Quality Act of 1986, guidance to the States on performing the identification required by section 304(l)(1) of this Act.

"(8) INFORMATION ON WATER QUALITY CRITERIA.—The Administrator, after consultation with appropriate State agencies and within 2 years after the date of the enactment of the Water Quality Act of 1986, shall develop and publish information on methods for establishing and measuring water quality criteria for toxic pollutants on other bases than pollutant-by-pollutant criteria, including biological monitoring and assessment methods.".

(d) WATER QUALITY CRITERIA FOR TOXIC POLLUTANTS.—Section 303(c)(2) is amended by inserting "(A)" after "(2)" and by adding the following new subparagraph:

"(B) Whenever a State reviews water quality standards pursuant to paragraph (1) of this subsection, or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria for all toxic pollutants listed pursuant to section 307(a)(1) of this Act for which criteria have been published under section 304(a), the discharge or presence of which in the affected waters could reasonably be expected to interfere with those designated uses adopted by the State, as necessary to support such designated uses. Such criteria shall be specific numerical criteria for such toxic pollutants. Where such numerical criteria are not available, whenever a State reviews water quality standards pursuant to paragraph (1), or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria based on biological monitoring or assessment methods consistent with information published pursuant to section 304(a)(8). Nothing in this section shall be construed to limit or delay the use of effluent limitations or other permit conditions based on or involving biological monitoring or assessment methods or previously adopted numerical criteria.".

(e) MODIFICATIONS OF EFFLUENT LIMITATIONS.—

(1) IN GENERAL.—Section 302(b) is amended to read as follows:

"(b) MODIFICATIONS OF EFFLUENT LIMITATIONS.—

"(1) NOTICE AND HEARING.—Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the Administrator shall publish such proposed limitation and within 90 days of such publication hold a public hearing.

"(2) PERMITS.—

"(A) NO REASONABLE RELATIONSHIP.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for pollutants other than toxic pollutants if the applicant demonstrates at such hearing that (whether or not technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this Act) from achieving such limitation.

"(B) REASONABLE PROGRESS.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for toxic pollutants for a single period not to exceed 5 years if the applicant demonstrates to the satisfaction of the Administrator that such modified requirements (i) will represent the maximum degree of control within the economic capability of the owner and operator of the source, and (ii) will result in reasonable further progress beyond the requirements of section 301(b)(2) toward the requirements of subsection (a) of this section.".

(2) CONFORMING AMENDMENTS.—Section 302(a) is amended—

(A) by inserting "or as identified under section 304(l)" after "in the judgment of the Administrator"; and

(B) by inserting "public health," after "protection of".

(f) SCHEDULE FOR REVIEW OF GUIDELINES.—Section 304 is amended by adding at the end the following new subsection:

"(m) SCHEDULE FOR REVIEW OF GUIDELINES.—

"(1) PUBLICATION.—Within 12 months after the date of the enactment of the Water Quality Act of 1986, and biennially thereafter, the Administrator shall publish in the Federal Register a plan which shall—

"(A) establish a schedule for the annual review and revision of promulgated effluent guidelines, in accordance with subsection (b) of this section;

"(B) identify categories of sources discharging toxic or nonconventional pollutants for which guidelines under subsection (b)(2) of this section and section 306 have not previously been published; and

"(C) establish a schedule for promulgation of effluent guidelines for categories identified in subparagraph (B), under which promulgation of such guidelines shall be no later than 4 years after such date of enactment for categories identified in the first published plan or 3 years after the publication of the plan for categories identified in later published plans.

"(2) PUBLIC REVIEW.—The Administrator shall provide for public review and comment on the plan prior to final publication.".

(g) WATER QUALITY IMPROVEMENT STUDY.—

(1) STUDY.—The Administrator shall study the water quality improvements which have been achieved by application of best available technology economically achievable pursuant to section 301(b)(2) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the effectiveness of the application of best available technology economically achievable pursuant to such section in attaining applicable water quality standards (including the standard specified in section 302(a) of such Act) and an analysis of the effectiveness of the water quality program under such Act and methods of improving such program, including site specific levels of treatment which will achieve the water quality goals of such Act.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under subsection (a) together with recommendations for improving the water quality program and its effectiveness to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 309. PRETREATMENT STANDARDS.

(a) EXTENSION OF COMPLIANCE DATE BY POTW.—Section 307 is amended by adding at the end the following:

"(e) COMPLIANCE DATE EXTENSION FOR INNOVATIVE PRETREATMENT SYSTEMS.—In the case of any existing facility that proposes to comply with the pretreatment standards of subsection (b) of this section by applying an innovative system that meets the requirements of section 301(k) of this Act, the owner or operator of the publicly owned treatment works receiving the treated effluent from such facility may extend the date for compliance with the applicable pretreatment standard established under this section for a period not to exceed 2 years—

"(1) if the Administrator determines that the innovative system has the potential for industrywide application, and

"(2) if the Administrator (or the State in consultation with the Administrator, in any case in which the State has a pretreatment program approved by the Administrator)—

"(A) determines that the proposed extension will not cause the publicly owned treatment works to be in violation of its permit under section 402 or of section 405 or to contribute to such a violation, and

"(B) concurs with the proposed extension.".

(b) INCREASE IN EPA EMPLOYEES.—The Administrator shall take such actions as may be necessary to increase the number of employees of the Environmental Protection Agency in order to effectively implement pretreatment requirements under section 307 of the Federal Water Pollution Control Act.

SEC. 310. INSPECTION AND ENTRY.

(a) UNAUTHORIZED DISCLOSURE.—

(1) IN GENERAL.—Section 308(b) is amended by striking out all that follows "Code" and inserting in lieu thereof a period and the following: "Any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) who knowingly or willfully publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information which is required to be considered confidential under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both. Nothing in this subsection shall prohibit the Administrator or an authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records, reports, or information to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.".

(2) CONFORMING AMENDMENT.—Section 308(a)(B) is amended by inserting "(including an authorized contractor acting as a representative of the Administrator)" after "or his authorized representative".

(b) ACCESS BY CONGRESS.—Section 308 is amended by adding at the end the following new subsection:

"(d) ACCESS BY CONGRESS.—Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of Congress, to such committee.".

SEC. 311. MARINE SANITATION DEVICES.

(a) STATE REGULATION OF HOUSEBOATS.—Section 312(f)(1) is amended by striking out "After" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), after" and by adding at the end thereof the following:

"(B) A State may adopt and enforce a statute or regulation with respect to the design, manufacture, or installation or use of any marine sanitation device on a houseboat, if such statute or regulation is more stringent than the standards and regulations promulgated under this section. For purposes of this paragraph, the term 'houseboat' means a vessel which, for a period of time determined by the State in which the vessel is located, is used primarily as a residence and is not used primarily as a means of transportation.".

(b) STATE ENFORCEMENT.—Section 312(k) is amended by adding at the end the following: "The provisions of this section may also be enforced by a State.".

SEC. 312. CRIMINAL PENALTIES.

Section 309(c) is amended to read as follows:

"(c) CRIMINAL PENALTIES.—

"(1) NEGLIGENT VIOLATIONS.—Any person who—

"(A) negligently violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

"(B) negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or by both.

"(2) KNOWING VIOLATIONS.—Any person who—

"(A) knowingly violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

"(B) knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or by imprisonment of not more than 6 years, or by both.

"(3) KNOWING ENDANGERMENT.—

"(A) GENERAL RULE.—Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than $1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(B) ADDITIONAL PROVISIONS.—For the purpose of subparagraph (A) of this paragraph—

"(i) in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury—

"(I) the person is responsible only for actual awareness or actual belief that he possessed; and

"(II) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant;

except that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information;

"(ii) it is an affirmative defense to prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

"(I) an occupation, a business, or a profession; or

"(II) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent;

and such defense may be established under this subparagraph by a preponderance of the evidence;

"(iii) the term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons; and

"(iv) the term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(4) FALSE STATEMENTS.—Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

"(5) TREATMENT OF SINGLE OPERATIONAL UPSET.—For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pol-

lutant parameter shall be treated as a single violation.

"(6) RESPONSIBLE CORPORATE OFFICER AS 'PERSON'.—For the purpose of this subsection, the term 'person' means, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

"(7) HAZARDOUS SUBSTANCE DEFINED.—For the purpose of this subsection, the term 'hazardous substance' means (A) any substance designated pursuant to section 311(b)(2)(A) of this Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of this Act, and (E) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act.".

SEC. 313. CIVIL PENALTIES.

(a) VIOLATIONS OF PRETREATMENT REQUIREMENTS.—

(1) GENERAL RULE.—Section 309(d) is amended by inserting ", or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act," after "section 404 of this Act by a State,".

(2) SAVINGS PROVISION.—No State shall be required before July 1, 1988, to modify a permit program approved or submitted under section 402 of the Federal Water Pollution Control Act as a result of the amendment made by paragraph (1).

(b) INCREASED PENALTY.—

(1) GENERAL RULE.—Section 309(d) is amended by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation".

(2) INCREASED PENALTIES NOT REQUIRED UNDER STATE PROGRAMS.—The Federal Water Pollution Control Act shall not be construed as requiring a State to have a civil penalty for violations described in 309(d) of such Act which has the same monetary amount as the civil penalty established by such section, as amended by paragraph (1). Nothing in this paragraph shall affect the Administrator's authority to establish or adjust by regulation a minimum acceptable State civil penalty.

(c) FACTORS TO CONSIDER IN DETERMINING PENALTY AMOUNT.—Section 309(d) is amended by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.".

(d) VIOLATIONS OF SECTION 404 PERMITS.—Section 404(s) is amended—

(1) by striking out paragraph (4);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) in paragraph (4), as so redesignated—

(A) by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation";

(B) by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require.".

SEC. 314. ADMINISTRATIVE PENALTIES.

(a) GENERAL RULE.—Section 309 is amended by adding at the end thereof the following:

"(g) ADMINISTRATIVE PENALTIES.—

"(1) VIOLATIONS.—Whenever on the basis of any information available—

"(A) the Administrator finds that any person has violated section 301, 302, 306, 307, 308, 318, or 405 of this Act, or has violated any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 by a State, or

"(B) the Secretary of the Army (hereinafter in this subsection referred to as the 'Secretary') finds that any person has violated any permit condition or limitation in a permit issued under section 404 of this Act by the Secretary,

the Administrator or Secretary, as the case may be, may, after consultation with the State in which the violation occurs, assess a class I civil penalty or a class II civil penalty under this subsection.

"(2) CLASSES OF PENALTIES.—

"(A) CLASS I.—The amount of a class I civil penalty under paragraph (1) may not exceed $10,000 per violation, except that the maximum amount of any class I civil penalty under this subparagraph shall not exceed $25,000. Before issuing an order assessing a civil penalty under this subparagraph, the Administrator or the Secretary, as the case may be, shall give to the person to be assessed such penalty written notice of the Administrator's or Secretary's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(B) CLASS II.—The amount of a class II civil penalty under paragraph (1) may not exceed $10,000 per day for each day during which the violation continues; except that the maximum amount of any class II civil penalty under this subparagraph shall not exceed $125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Administrator and the Secretary may issue rules for discovery procedures for hearings under this subparagraph.

"(3) DETERMINING AMOUNT.—In determining the amount of any penalty assessed under this subsection, the Administrator or the Secretary, as the case may be, shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

"(4) RIGHTS OF INTERESTED PERSONS.—

"(A) PUBLIC NOTICE.—Before issuing an order assessing a civil penalty under this subsection the Administrator or Secretary, as the case may be, shall provide public notice of and reasonable opportunity to comment on the proposed issuance of such order.

"(B) PRESENTATION OF EVIDENCE.—Any person who comments on a proposed assessment of a penalty under this subsection shall be given notice of any hearing held under this subsection and of the order assessing such penalty. In any hearing held under this subsection, such person shall have a reasonable opportunity to be heard and to present evidence.

"(C) RIGHTS OF INTERESTED PERSONS TO A HEARING.—If no hearing is held under paragraph (2) before issuance of an order assessing a penalty under this subsection, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with paragraph (2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty. If the Administrator or Secretary denies a hearing under this subparagraph, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

"(5) FINALITY OF ORDER.—An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (8) or a hearing is requested under paragraph (4)(C). If such a hearing is denied, such order shall become final 30 days after such denial.

"(6) EFFECT OF ORDER.—

"(A) LIMITATION ON ACTIONS UNDER OTHER SECTIONS.—Action taken by the Administrator or the Secretary, as the case may be, under this subsection shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act; except that any violation—

"(i) with respect to which the Administrator or the Secretary has commenced and is diligently prosecuting an action under this subsection,

"(ii) with respect to which a State has commenced and is diligently prosecuting an action under a State law comparable to this subsection, or

"(iii) for which the Administrator, the Secretary, or the State has issued a final order not subject to further judicial review and the violator has paid a penalty assessed under this subsection, or such comparable State law, as the case may be,

shall not be the subject of a civil penalty action under subsection (d) of this section or section 311(b) or section 505 of this Act.

"(B) APPLICABILITY OF LIMITATION WITH RESPECT TO CITIZEN SUITS.—The limitations contained in subparagraph (A) on civil penalty actions under section 505 of this Act shall not apply with respect to any violation for which—

"(i) a civil action under section 505(a)(1) of this Act has been filed prior to commencement of an action under this subsection, or

"(ii) notice of an alleged violation of section 505(a)(1) of this Act has been given in accordance with section 505(b)(1)(A) prior to commencement of an action under this subsection and an action under section 505(a)(1) with respect to such alleged violation is filed before the 120th day after the date on which such notice is given.

"(7) EFFECT OF ACTION ON COMPLIANCE.—No action by the Administrator or the Secretary under this subsection shall affect any person's obligation to comply with any section of this Act or with the terms and conditions of any permit issued pursuant to section 402 or 404 of this Act.

"(8) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under this subsection or who commented on the proposed assessment of such penalty in accordance with paragraph (4) may obtain review of such assessment—

"(A) in the case of assessment of a class I civil penalty, in the United States district court for the District of Columbia or in the district in which the violation is alleged to have occurred, or

"(B) in the case of assessment of a class II civil penalty, in United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business,

by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or the Secretary, as the case may be, and the Attorney General. The Administrator or the Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

"(9) COLLECTION.—If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (8) has entered a final judgment in favor of the Administrator or the Secretary, as the case may be,

the Administrator or the Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

"(10) SUBPOENAS.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(11) PROTECTION OF EXISTING PROCEDURES.—Nothing in this subsection shall change the procedures existing on the day before the date of the enactment of the Water Quality Act of 1986 under other subsections of this section for issuance and enforcement of orders by the Administrator.".

(b) REPORTS ON ENFORCEMENT MECHANISMS.—The Secretary of the Army and the Administrator shall each prepare and submit a report to the Congress, not later than December 1, 1988, which shall examine and analyze various enforcement mechanisms for use by the Secretary or Administrator, as the case may be, including an administrative civil penalty mechanism. Each of such reports shall also include an examination, prepared in consultation with the Comptroller General, of the efficacy of the Secretary's or the Administrator's existing enforcement authorities and shall include recommendations for improvements in their operation.

(c) CONFORMING AMENDMENT.—Section 505(a) is amended by inserting "and section 309(g)(6)" after "Except as provided in subsection (b) of this section".

SEC. 315. CLEAN LAKES.

(a) ESTABLISHMENT AND SCOPE OF PROGRAM.—Section 314(a) is amended to read as follows:

"(a) ESTABLISHMENT AND SCOPE OF PROGRAM.—

"(1) STATE PROGRAM REQUIREMENTS.—Each State on a biennial basis shall prepare and submit to the Administrator for his approval—

"(A) an identification and classification according to eutrophic condition of all publicly owned lakes in such State;

"(B) a description of procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes;

"(C) a description of methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes;

"(D) methods and procedures to mitigate the harmful effects of high acidity, including innovative methods of neutralizing and restoring buffering capacity of lakes and methods of removing from lakes toxic metals and other toxic substances mobilized by high acidity;

"(E) a list and description of those publicly owned lakes in such State for which uses are known to be impaired, including those lakes which are known not to meet applicable water quality standards or which require implementation of control programs to maintain compliance with applicable standards and those lakes in which water quality has deteriorated as a result of high acidity that may reasonably be due to acid deposition; and

"(F) an assessment of the status and trends of water quality in lakes in such State, including but not limited to, the nature and extent of pollution loading from point and nonpoint sources and the extent to which the use of lakes is impaired as a result of such pollution, particularly with respect to toxic pollution.

"(2) SUBMISSION AS PART OF 305(B)(1) REPORT.—The information required under paragraph (1) shall be included in the report required under section 305(b)(1) of this Act, beginning with the report required under such section by April 1, 1988.

"(3) REPORT OF ADMINISTRATOR.—Not later than 180 days after receipt from the States of the biennial information required under paragraph (1), the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status of water quality in lakes in the United States, including the effectiveness of the methods and procedures described in paragraph (1)(D).

"(4) ELIGIBILITY REQUIREMENT.—Beginning after April 1, 1988, a State must have submitted the information required under paragraph (1) in order to receive grant assistance under this section.".

(b) DEMONSTRATION PROGRAM.—Section 314 is amended by adding at the end thereof the following new subsections:

"(d) DEMONSTRATION PROGRAM.—

"(1) GENERAL REQUIREMENTS.—The Administrator is authorized and directed to establish and conduct at locations throughout the Nation a lake water quality demonstration program. The program shall, at a minimum—

"(A) develop cost effective technologies for the control of pollutants to preserve or enhance lake water quality while optimizing multiple lakes uses;

"(B) control nonpoint sources of pollution which are contributing to the degradation of water quality in lakes;

"(C) evaluate the feasibility of implementing regional consolidated pollution control strategies;

"(D) demonstrate environmentally preferred techniques for the removal and disposal of contaminated lake sediments;

"(E) develop improved methods for the removal of silt, stumps, aquatic growth, and other obstructions which impair the quality of lakes;

"(F) construct and evaluate silt traps and other devices or equipment to prevent or abate the deposit of sediment in lakes; and

"(G) demonstrate the costs and benefits of utilizing dredged material from lakes in the reclamation of despoiled land.

"(2) GEOGRAPHICAL REQUIREMENTS.—Demonstration projects authorized by this subsection shall be undertaken to reflect a variety of geographical and environmental conditions. As a priority, the Administrator shall undertake demonstration projects at Lake Houston, Texas; Beaver Lake, Arkansas; Greenwood Lake and Belcher Creek, New Jersey; Deal Lake, New Jersey; Alcyon Lake, New Jersey; Gorton's Pond, Rhode Island; Lake Washington, Rhode Island;

Lake Bomoseen, Vermont; Sauk Lake, Minnesota; and Lake Worth, Texas.

"(3) REPORTS.—The Administrator shall report annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate on work undertaken pursuant to this subsection. Upon completion of the program authorized by this subsection, the Administrator shall submit to such Committees a final report on the results of such program, along with recommendations for further measures to improve the water quality of the Nation's lakes.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection not to exceed $40,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

"(B) SPECIAL AUTHORIZATIONS.—

"(i) AMOUNT.—There is authorized to be appropriated to carry out subsection (b) with respect to subsection (a)(1)(D) not to exceed $15,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

"(ii) DISTRIBUTION OF FUNDS.—The Administrator shall provide for an equitable distribution of sums appropriated pursuant to this subparagraph among States carrying out approved methods and procedures. Such distribution shall be based on the relative needs of each such State for the mitigation of the harmful effects on lakes and other surface waters of high acidity that may reasonably be due to acid deposition or acid mine drainage.

"(iii) GRANTS AS ADDITIONAL ASSISTANCE.—The amount of any grant to a State under this subparagraph shall be in addition to, and not in lieu of, any other Federal financial assistance.".

(c) LAKE RESTORATION GUIDANCE MANUAL.—Section 304(j) is amended to read as follows:

"(j) LAKE RESTORATION GUIDANCE MANUAL.—The Administrator shall, within 1 year after the date of the enactment of the Water Quality Act of 1986 and biennially thereafter, publish and disseminate a lake restoration guidance manual describing methods, procedures, and processes to guide State and local efforts to improve, restore, and enhance water quality in the Nation's publicly owned lakes.".

(d) CONFORMING AMENDMENTS.—Section 314 is further amended—

(1) in subsection (b) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (a) of this section";

(2) in subsection (c)(1) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section"; and

(3) in subsection (c)(2), by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section".

SEC. 316. MANAGEMENT OF NONPOINT SOURCES OF POLLUTION.

(a) IN GENERAL.—Title III is amended by adding at the end the following new section:

"SEC. 319. NONPOINT SOURCE MANAGEMENT PROGRAMS.

"(a) STATE ASSESSMENT REPORTS.—

"(1) CONTENTS.—The Governor of each State shall, after notice and opportunity for public comment, prepare and submit to the Administrator for approval, a report which—

"(A) identifies those navigable waters within the State which, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this Act;

"(B) identifies those categories and subcategories of nonpoint sources or, where appropriate, particular nonpoint sources which add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

"(C) describes the process, including intergovernmental coordination and public participation, for identifying best management practices and measures to control each category and subcategory of nonpoint sources and, where appropriate, particular nonpoint sources identified under subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such category, subcategory, or source; and

"(D) identifies and describes State and local programs for controlling pollution added from nonpoint sources to, and improving the quality of, each such portion of the navigable waters, including but not limited to those programs which are receiving Federal assistance under subsections (h) and (i).

"(2) INFORMATION USED IN PREPARATION.—In developing the report required by this section, the State (A) may rely upon information developed pursuant to sections 208, 303(e), 304(f), 305(b), and 314, and other information as appropriate, and (B) may utilize appropriate elements of the waste treatment management plans developed pursuant to sections 208(b) and 303, to the extent such elements are consistent with and fulfill the requirements of this section.

"(b) STATE MANAGEMENT PROGRAMS.—

"(1) IN GENERAL.—The Governor of each State, for that State or in combination with adjacent States, shall, after notice and opportunity for public comment, prepare and submit to the Administrator for approval a management program which such State proposes to implement in the first four fiscal years beginning after the date of submission of such management program for controlling pollution added from nonpoint sources to the navigable waters within the State and improving the quality of such waters.

"(2) SPECIFIC CONTENTS.—Each management program proposed for implementation under this subsection shall include each of the following:

"(A) An identification of the best management practices and measures which will be undertaken to reduce pollutant loadings resulting from each category, subcategory, or particular nonpoint source designated under paragraph (1)(B), taking into account the impact of the practice on ground water quality.

"(B) An identification of programs (including, as appropriate, nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to achieve implementation of the best management practices by the categories, subcategories, and particular nonpoint sources designated under subparagraph (A).

"(C) A schedule containing annual milestones for (i) utilization of the program implementation methods identified in subparagraph (B), and (ii) implementation of the best management practices identified in subparagraph (A) by the categories, subcategories, or particular nonpoint sources designated under paragraph (1)(B). Such schedule shall provide for utilization of the best management practices at the earliest practicable date.

"(D) A certification of the attorney general of the State or States (or the chief attorney of any State water pollution control agency which has independent legal counsel) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program. A schedule and commitment by the State or States to seek such additional authorities as expeditiously as practicable.

"(E) Sources of Federal and other assistance and funding (other than assistance provided under subsections (h) and (i)) which will be available in each of such fiscal years for supporting implementation of such practices and measures and the purposes for which such assistance will be used in each of such fiscal years.

"(F) An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's nonpoint source pollution management program.

"(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—In developing and implementing a management program under this subsection, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in control of nonpoint sources of pollution.

"(4) DEVELOPMENT ON WATERSHED BASIS.—A State shall, to the maximum extent practicable, develop and implement a management program under this subsection on a watershed-by-watershed basis within such State.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) COOPERATION REQUIREMENT.—Any report required by subsection (a) and any management program and report required by subsection (b) shall be developed in cooperation with local, substate regional, and interstate entities which are actively planning for the implementation of nonpoint source pollution controls and have either been certified by the Administrator in accordance with section 208, have worked jointly with the State on water quality management planning under section 205(j), or have been designated by the State legislative body or Governor as water quality management planning agencies for their geographic areas.

"(2) TIME PERIOD FOR SUBMISSION OF REPORTS AND MANAGEMENT PROGRAMS.—Each report and management program shall be

submitted to the Administrator during the 18-month period beginning on the date of the enactment of this section.

"(d) APPROVAL OR DISAPPROVAL OF REPORTS AND MANAGEMENT PROGRAMS.—

"(1) DEADLINE.—Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or management program under this section (other than subsections (h), (i), and (k)), the Administrator shall either approve or disapprove such report or management program, as the case may be. The Administrator may approve a portion of a management program under this subsection. If the Administrator does not disapprove a report, management program, or portion of a management program in such 180-day period, such report, management program, or portion shall be deemed approved for purposes of this section.

"(2) PROCEDURE FOR DISAPPROVAL.—If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that—

"(A) the proposed management program or any portion thereof does not meet the requirements of subsection (b)(2) of this section or is not likely to satisfy, in whole or in part, the goals and requirements of this Act;

"(B) adequate authority does not exist, or adequate resources are not available, to implement such program or portion;

"(C) the schedule for implementing such program or portion is not sufficiently expeditious; or

"(D) the practices and measures proposed in such program or portion are not adequate to reduce the level of pollution in navigable waters in the State resulting from nonpoint sources and to improve the quality of navigable waters in the State;

the Administrator shall within 6 months of the receipt of the proposed program notify the State of any revisions or modifications necessary to obtain approval. The State shall thereupon have an additional 3 months to submit its revised management program and the Administrator shall approve or disapprove such revised program within three months of receipt.

"(3) FAILURE OF STATE TO SUBMIT REPORT.—If a Governor of a State does not submit the report required by subsection (a) within the period specified by subsection (c)(2), the Administrator shall, within 30 months after the date of the enactment of this section, prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (a). Upon completion of the requirement of the preceding sentence and after notice and opportunity for comment, the Administrator shall report to Congress on his actions pursuant to this section.

"(e) LOCAL MANAGEMENT PROGRAMS; TECHNICAL ASSISTANCE.—If a State fails to submit a management program under subsection (b) or the Administrator does not approve such a management program, a local public agency or organization which has expertise in, and authority to, control water pollution resulting from nonpoint sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a management program which is described in subsection (b) and can be approved pursuant to subsection (d). After development of such management program, such agency or organization shall submit such management program to the Administrator for approval. If the Administrator approves such management program, such agency or organization shall be eligible to receive financial assistance under subsection (h) for implementation of such management program as if such agency or organization were a State for which a report submitted under subsection (a) and a management program submitted under subsection (b) were approved under this section. Such financial assistance shall be subject to the same terms and conditions as assistance provided to a State under subsection (h).

"(f) TECHNICAL ASSISTANCE FOR STATES.—Upon request of a State, the Administrator may provide technical assistance to such State in developing a management program approved under subsection (b) for those portions of the navigable waters requested by such State.

"(g) INTERSTATE MANAGEMENT CONFERENCE.—

"(1) CONVENING OF CONFERENCE; NOTIFICATION; PURPOSE.—If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of pollution from nonpoint sources in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from nonpoint sources to such portion. If, on the basis of information available, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of significant pollution from nonpoint sources in another State, the Administrator shall notify such States. The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification, whether or not the State which is not meeting such standards requests such conference. The purpose of such conference shall be to develop an agreement among such States to reduce the level of pollution in such portion resulting from nonpoint sources and to improve the water quality of such portion. Nothing in such agreement shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws. This subsection shall not apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a management conference shall not be subject to the provisions of section 505 of this Act.

"(2) STATE MANAGEMENT PROGRAM REQUIREMENT.—To the extent that the States reach agreement through such conference, the management programs of the States which are parties to such agreements and which contribute significant pollution to the navigable waters or portions thereof not meeting applicable water quality standards or goals and requirements of this Act will be revised to reflect such agreement. Such management programs shall be consistent with Federal and State law.

"(h) GRANT PROGRAM.—

"(1) GRANTS FOR IMPLEMENTATION OF MANAGEMENT PROGRAMS.—Upon application of a State for which a report submitted under subsection (a) and a management program submitted under subsection (b) is approved under this section, the Administrator shall make grants, subject to such terms and conditions as the Administrator considers appropriate, under this subsection to such State for the purpose of assisting the State in implementing such management program. Funds reserved pursuant to section 205(j)(5) of this Act may be used to develop and implement such management program.

"(2) APPLICATIONS.—An application for a grant under this subsection in any fiscal year shall be in such form and shall contain such other information as the Administrator may require, including an identification and description of the best management practices and measures which the State proposes to assist, encourage, or require in such year with the Federal assistance to be provided under the grant.

"(3) FEDERAL SHARE.—The Federal share of the cost of each management program implemented with Federal assistance under this subsection in any fiscal year shall not exceed 60 percent of the cost incurred by the State in implementing such management program and shall be made on condition that the non-Federal share is provided from non-Federal sources.

"(4) LIMITATION ON GRANT AMOUNTS.—Notwithstanding any other provision of this subsection, not more than 15 percent of the amount appropriated to carry out this subsection may be used to make grants to any one State, including any grants to any local public agency or organization with authority to control pollution from nonpoint sources in any area of such State.

"(5) PRIORITY FOR EFFECTIVE MECHANISMS.—For each fiscal year beginning after September 30, 1987, the Administrator may give priority in making grants under this subsection, and shall give consideration in determining the Federal share of any such grant, to States which have implemented or are proposing to implement management programs which will—

"(A) control particularly difficult or serious nonpoint source pollution problems, including, but not limited to, problems resulting from mining activities;

"(B) implement innovative methods or practices for controlling nonpoint sources of pollution, including regulatory programs where the Administrator deems appropriate;

"(C) control interstate nonpoint source pollution problems; or

"(D) carry out ground water quality protection activities which the Administrator determines are part of a comprehensive nonpoint source pollution control program, including research, planning, ground water assessments, demonstration programs, enforcement, technical assistance, education, and training to protect ground water quality from nonpoint sources of pollution.

"(6) AVAILABILITY FOR OBLIGATION.—The funds granted to each State pursuant to this subsection in a fiscal year shall remain available for obligation by such State for the fiscal year for which appropriated. The amount of any such funds not obligated by the end of such fiscal year shall be available to the Administrator for granting to other States under this subsection in the next fiscal year.

"(7) LIMITATION ON USE OF FUNDS.—States may use funds from grants made pursuant to this section for financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects.

"(8) SATISFACTORY PROGRESS.—No grant may be made under this subsection in any fiscal year to a State which in the preceding

fiscal year received a grant under this subsection unless the Administrator determines that such State made satisfactory progress in such preceding fiscal year in meeting the schedule specified by such State under subsection (b)(2).

"(9) MAINTENANCE OF EFFORT.—No grant may be made to a State under this subsection in any fiscal year unless such State enters into such agreements with the Administrator as the Administrator may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this subsection.

"(10) REQUEST FOR INFORMATION.—The Administrator may request such information, data, and reports as he considers necessary to make the determination of continuing eligibility for grants under this section.

"(11) REPORTING AND OTHER REQUIREMENTS.—Each State shall report to the Administrator on an annual basis concerning (A) its progress in meeting the schedule of milestones submitted pursuant to subsection (b)(2)(C) of this section, and (B) to the extent that appropriate information is available, reductions in nonpoint source pollutant loading and improvements in water quality for those navigable waters or watersheds within the State which were identified pursuant to subsection (a)(1)(A) of this section resulting from implementation of the management program.

"(12) LIMITATION ON ADMINISTRATIVE COSTS.—For purposes of this subsection, administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with a grant under this subsection shall not exceed in any fiscal year 10 percent of the amount of the grant in such year, except that costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs shall not be subject to this limitation.

"(i) GRANTS FOR PROTECTING GROUNDWATER QUALITY.—

"(1) ELIGIBLE APPLICANTS AND ACTIVITIES.—Upon application of a State for which a report submitted under subsection (a) and a plan submitted under subsection (b) is approved under this section, the Administrator shall make grants under this subsection to such State for the purpose of assisting such State in carrying out groundwater quality protection activities which the Administrator determines will advance the State toward implementation of a comprehensive nonpoint source pollution control program. Such activities shall include, but not be limited to, research, planning, groundwater assessments, demonstration programs, enforcement, technical assistance, education and training to protect the quality of groundwater and to prevent contamination of groundwater from nonpoint sources of pollution.

"(2) APPLICATIONS.—An application for a grant under this subsection shall be in such form and shall contain such information as the Administrator may require.

"(3) FEDERAL SHARE; MAXIMUM AMOUNT.—The Federal share of the cost of assisting a State in carrying out groundwater protection activities in any fiscal year under this subsection shall be 50 percent of the costs incurred by the State in carrying out such activities, except that the maximum amount of Federal assistance which any State may receive under this subsection in any fiscal year shall not exceed $150,000.

"(4) REPORT.—The Administrator shall include in each report transmitted under subsection (m) of the a report on the activities and programs implemented under this subsection during the preceding fiscal year.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsections (h) and (i) not to exceed $70,000,000 for fiscal year 1988, $100,000,000 per fiscal year for each of fiscal years 1989 and 1990, and $130,000,000 for fiscal year 1991; except that for each of such fiscal years not to exceed $7,500,000 may be made available to carry out subsection (i). Sums appropriated pursuant to this subsection shall remain available until expended.

"(k) CONSISTENCY OF OTHER PROGRAMS AND PROJECTS WITH MANAGEMENT PROGRAMS.—The Administrator shall transmit to the Office of Management and Budget and the appropriate Federal departments and agencies a list of those assistance programs and development projects identified by each State under subsection (b)(2)(F) for which individual assistance applications and projects will be reviewed pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983. Beginning not later than sixty days after receiving notification by the Administrator, each Federal department and agency shall modify existing regulations to allow States to review individual development projects and assistance applications under the identified Federal assistance programs and shall accommodate, according to the requirements and definitions of Executive Order 12372, as in effect on September 17, 1983, the concerns of the State regarding the consistency of such applications or projects with the State nonpoint source pollution management program.

"(l) COLLECTION OF INFORMATION.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to management practices and implementation methods, including, but not limited to, (1) information concerning the costs and relative efficiencies of best management practices for reducing nonpoint source pollution; and (2) available data concerning the relationship between water quality and implementation of various management practices to control nonpoint sources of pollution.

"(m) REPORTS OF ADMINISTRATOR.—

"(1) ANNUAL REPORTS.—Not later than January 1, 1988, and each January 1 thereafter, the Administrator shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from nonpoint sources and improving the quality of such waters.

"(2) FINAL REPORT.—Not later than January 1, 1990, the Administrator shall transmit to Congress a final report on the activities carried out under this section. Such report, at a minimum, shall—

"(A) describe the management programs being implemented by the States by types and amount of affected navigable waters, categories and subcategories of nonpoint sources, and types of best management practices being implemented;

"(B) describe the experiences of the States in adhering to schedules and implementing best management practices;

"(C) describe the amount and purpose of grants awarded pursuant to subsections (h) and (i) of this section;

"(D) identify, to the extent that information is available, the progress made in reducing pollutant loads and improving water quality in the navigable waters;

"(E) indicate what further actions need to be taken to attain and maintain in those navigable waters (i) applicable water quality standards, and (ii) the goals and requirements of this Act;

"(F) include recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from nonpoint sources; and

"(G) identify the activities and programs of departments, agencies, and instrumentalities of the United States which are inconsistent with the management programs submitted by the States and recommend modifications so that such activities and programs are consistent with and assist the States in implementation of such management programs.

"(n) SET ASIDE FOR ADMINISTRATIVE PERSONNEL.—Not less than 5 percent of the funds appropriated pursuant to subsection (j) for any fiscal year shall be available to the Administrator to maintain personnel levels at the Environmental Protection Agency at levels which are adequate to carry out this section in such year.".

(b) POLICY FOR CONTROL OF NONPOINT SOURCES OF POLLUTION.—Section 101(a) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(7) it is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.".

(c) ELIGIBILITY OF NONPOINT SOURCES.—The last sentence of section 201(g)(1) is amended by—

(1) striking out "sentence," the first place it appears and inserting in lieu thereof "sentences,";

(2) inserting "(A)" after "October 1, 1984, for"; and

(3) inserting before "except that" the following: "and (B) any purpose for which a grant may be made under section 319 (h) and (i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution),".

(d) RESERVATION OF FUNDS.—Section 205(j) is amended by adding at the end the following new paragraph:

"(5) NONPOINT SOURCE RESERVATION.—In addition to the sums reserved under paragraph (1), the Administrator shall reserve each fiscal year for each State 1 percent of the sums allotted and available for obligation to such State under this section for each fiscal year beginning on or after October 1, 1986, or $100,000, whichever is greater, for the purpose of carrying out section 319 of this Act. Sums so reserved in a State in any fiscal year for which such State does not request the use of such sums, to the extent such sums exceed $100,000, may be used by such State for other purposes under this title.".

(e) CONFORMING AMENDMENT.—Section 304(k)(1) is amended by inserting "and nonpoint source pollution management programs approved under section 319 of this Act" after "208 of this Act".

SEC. 317. NATIONAL ESTUARY PROGRAM.

(a) PURPOSES AND POLICIES.—

(1) FINDINGS.—Congress finds and declares that—

(A) the Nation's estuaries are of great importance for fish and wildlife resources and recreation and economic opportunity;

(B) maintaining the health and ecological integrity of these estuaries is in the national interest;

(C) increasing coastal population, development, and other direct and indirect uses of these estuaries threaten their health and ecological integrity;

(D) long-term planning and management will contribute to the continued productivity of these areas, and will maximize their utility to the Nation; and

(E) better coordination among Federal and State programs affecting estuaries will increase the effectiveness and efficiency of the national effort to protect, preserve, and restore these areas.

(2) PURPOSES.—The purposes of this section are to—

(A) identify nationally significant estuaries that are threatened by pollution, development, or overuse;

(B) promote comprehensive planning for, and conservation and management of, nationally significant estuaries;

(C) encourage the preparation of management plans for estuaries of national significance; and

(D) enhance the coordination of estuarine research.

(b) MANAGEMENT PROGRAM.—Title III is amended by adding at the end thereof the following new section:

"SEC. 320. NATIONAL ESTUARY PROGRAM.

"(a) MANAGEMENT CONFERENCE.—

"(1) NOMINATION OF ESTUARIES.—The Governor of any State may nominate to the Administrator an estuary lying in whole or in part within the State as an estuary of national significance and request a management conference to develop a comprehensive management plan for the estuary. The nomination shall document the need for the conference, the likelihood of success, and information relating to the factors in paragraph (2).

"(2) CONVENING OF CONFERENCE.—

"(A) IN GENERAL.—In any case where the Administrator determines, on his own initiative or upon nomination of a State under paragraph (1), that the attainment or maintenance of that water quality in an estuary which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water, requires the control of point and nonpoint sources of pollution to supplement existing controls of pollution in more than one State, the Administrator shall select such estuary and convene a management conference.

"(B) PRIORITY CONSIDERATION.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; and Galveston Bay, Texas.

"(3) BOUNDARY DISPUTE EXCEPTION.—In any case in which a boundary between two States passes through an estuary and such boundary is disputed and is the subject of an action in any court, the Administrator shall not convene a management conference with respect to such estuary before a final adjudication has been made of such dispute.

"(b) PURPOSES OF CONFERENCE.—The purposes of any management conference convened with respect to an estuary under this subsection shall be to—

"(1) assess trends in water quality, natural resources, and uses of the estuary;

"(2) collect, characterize, and assess data on toxics, nutrients, and natural resources within the estuarine zone to identify the causes of environmental problems;

"(3) develop the relationship between the inplace loads and point and nonpoint loadings of pollutants to the estuarine zone and the potential uses of the zone, water quality, and natural resources;

"(4) develop a comprehensive conservation and management plan that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;

"(5) develop plans for the coordinated implementation of the plan by the States as well as Federal and local agencies participating in the conference;

"(6) monitor the effectiveness of actions taken pursuant to the plan; and

"(7) review all Federal financial assistance program and Federal development project in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan prepared under this section.

For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

"(c) MEMBERS OF CONFERENCE.—The members of a management conference convened under this section shall include, at a minimum, the Administrator and representatives of—

"(1) each State and foreign nation located in whole or in part in the estuarine zone of the estuary for which the conference is convened;

"(2) international, interstate, or regional agencies or entities having jurisdiction over all or a significant part of the estuary;

"(3) each interested Federal agency, as determined appropriate by the Administrator;

"(4) local governments having jurisdiction over any land or water within the estuarine zone, as determined appropriate by the Administrator; and

"(5) affected industries, public and private educational institutions, and the general public, as determined appropriate by the Administrator.

"(d) UTILIZATION OF EXISTING DATA.—In developing a conservation and management plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the estuary that have been developed by or made available to Federal, interstate, State, and local agencies.

"(e) PERIOD OF CONFERENCE.—A management conference convened under this section shall be convened for a period not to exceed 5 years. Such conference may be extended by the Administrator, and if terminated after the initial period, may be reconvened by the Administrator at any time thereafter, as may be necessary to meet the requirements of this section.

"(f) APPROVAL AND IMPLEMENTATION OF PLANS.—

"(1) APPROVAL.—Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the affected Governor or Governors concur.

"(2) IMPLEMENTATION.—Upon approval of a conservation and management plan under this section, such plan shall be implemented. Funds authorized to be appropriated under titles II and VI and section 319 of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.

"(g) GRANTS.—

"(1) RECIPIENTS.—The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

"(2) PURPOSES.—Grants under this subsection shall be made to pay for assisting research, surveys, studies, and modeling and other technical work necessary for the development of a conservation and management plan under this section.

"(3) FEDERAL SHARE.—The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies, and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources.

"(h) GRANT REPORTING.—Any person (including a State, interstate, or regional agency or entity) that receives a grant under subsection (g) shall report to the Administrator not later than 18 months after receipt of such grant and biennially thereafter on the progress being made under this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not to exceed $12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 for—

"(1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;

"(2) making grants under subsection (g); and

"(3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated.

The Administrator shall provide up to $5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j).

"(j) RESEARCH.—

"(1) PROGRAMS.—In order to determine the need to convene a management conference under this section or at the request of such a management conference, the Administrator shall coordinate and implement, through the National Marine Pollution Program Office and the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, as appropriate, for one or more estuarine zones—

"(A) a long-term program of trend assessment monitoring measuring variations in pollutant concentrations, marine ecology, and other physical or biological environmental parameter which may affect estuarine zones, to provide the Administrator the capacity to determine the potential and actual effects of alternative management strategies and measures;

"(B) a program of ecosystem assessment assisting in the development of (i) baseline studies which determine the state of estuarine zones and the effects of natural and anthropogenic changes, and (ii) predictive models capable of translating information on specific discharges or general pollutant loadings within estuarine zones into a set of probable effects on such zones;

"(C) a comprehensive water quality sampling program for the continuous monitoring of nutrients, chlorine, acid precipitation dissolved oxygen, and potentially toxic pollutants (including organic chemicals and metals) in estuarine zones, after consultation with interested State, local, interstate, or international agencies and review and analysis of all environmental sampling data presently collected from estuarine zones; and

"(D) a program of research to identify the movements of nutrients, sediments and pollutants through estuarine zones and the impact of nutrients, sediments, and pollutants on water quality, the ecosystem, and designated or potential uses of the estuarine zones.

"(2) REPORTS.—The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress no less often than biennially a comprehensive report on the activities authorized under this subsection including—

"(A) a listing of priority monitoring and research needs;

"(B) an assessment of the state and health of the Nation's estuarine zones, to the extent evaluated under this subsection;

"(C) a discussion of pollution problems and trends in pollutant concentrations with a direct or indirect effect on water quality, the ecosystem, and designated or potential uses of each estuarine zone, to the extent evaluated under this subsection; and

"(D) an evaluation of pollution abatement activities and management measures so far implemented to determine the degree of improvement toward the objectives expressed in subsection (b)(4) of this section.

"(k) DEFINITIONS.—For purposes of this section, the terms 'estuary' and 'estuarine zone' have the meanings such terms have in section 104(n)(4) of this Act, except that the term 'estuarine zone' shall also include associated aquatic ecosystems and those portions of tributaries draining into the estuary up to the historic height of migration of anadromous fish or the historic head of tidal influence, whichever is higher.".

SEC. 318. UNCONSOLIDATED QUATERNARY AQUIFER.

Notwithstanding any other provision of law, no person may—

(1) locate or authorize the location of a landfill, surface impoundment, waste pile, injection well, or land treatment facility over the Unconsolidated Quaternary Aquifer, or the recharge zone or streamflow source zone of such aquifer, in the Rockaway River Basin, New Jersey (as such aquifer and zones are described in the Federal Register, January 24, 1984, pages 2946-2948); or

(2) place or authorize the placement of solid waste in a landfill, surface impoundment, waste pile, injection well, or land treatment facility over such aquifer or zone.

This section may be enforced under sections 309 (a) and (b) of the Federal Water Pollution Control Act. For purposes of section 309(c) of such Act, a violation of this section shall be considered a violation of section 301 of the Federal Water Pollution Control Act.

TITLE IV—PERMITS AND LICENSES

SEC. 401. STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.

(a) LIMITATION ON PERMIT REQUIREMENT.—Section 402(l) is amended by inserting "(1) AGRICULTURAL RETURN FLOWS.—" before "The Administrator" and by adding at the end thereof the following:

"(2) STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.—The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, by-product, or waste products located on the site of such operations.".

(b) CONFORMING AMENDMENTS.—Section 402(l) is further amended—

(1) by inserting "LIMITATION ON PERMIT REQUIREMENT.—" after "(l)"; and

(2) by indenting paragraph (1) of such section, as designated by subsection (a) of this section, and aligning such paragraph with paragraph (2) of such section, as added by such subsection (a).

SEC. 402. ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.

Section 402 is amended by adding at the end thereof the following new subsection:

"(m) ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.—To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to section 304(a)(4) of this Act into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.".

SEC. 403. PARTIAL NPDES PROGRAM.

(a) PARTIAL PERMIT PROGRAM.—Section 402 is amended by adding at the end the following:

"(n) PARTIAL PERMIT PROGRAM.—

"(1) STATE SUBMISSION.—The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

"(2) MINIMUM COVERAGE.—A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

"(3) APPROVAL OF MAJOR CATEGORY PARTIAL PERMIT PROGRAMS.—The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

"(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

"(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

"(4) APPROVAL OF MAJOR COMPONENT PARTIAL PERMIT PROGRAMS.—The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

"(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

"(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.".

(b) RETURN OF STATE PERMIT PROGRAM TO ADMINISTRATOR.—

(1) IN GENERAL.—Section 402(c) is amended by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS ON PARTIAL PERMIT PROGRAM RETURNS AND WITHDRAWALS.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

"(A) a State partial permit program approved under subsection (n)(3) only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and

"(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.".

(2) CONFORMING AMENDMENT.—Section 402(c)(1) is amended by striking out "as to those navigable waters" and inserting in lieu thereof "as to those discharges".

SEC. 404. ANTI-BACKSLIDING.

(a) GENERAL RULE.—Section 402 is amended by adding at the end thereof the following new subsection:

"(o) ANTI-BACKSLIDING.—

"(1) GENERAL PROHIBITION.—In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 301(b)(1)(C) or section 303(d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 303(d)(4).

"(2) EXCEPTIONS.—A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if—

"(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

"(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

"(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

"(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

"(D) the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

"(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this Act or for reasons otherwise unrelated to water quality.

"(3) LIMITATIONS.—In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.".

(b) LIMITATIONS ON REVISION OF CERTAIN EFFLUENT LIMITATIONS.—Section 303(d) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS ON REVISION OF CERTAIN EFFLUENT LIMITATIONS.—

"(A) STANDARD NOT ATTAINED.—For waters identified under paragraph (1)(A) where the applicable water quality standard has not yet been attained, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section may be revised only if (i) the cumulative effect of all such revised effluent limitations based on such total maximum daily load or waste load allocation will assure the attainment of such water quality standard, or (ii) the designated use which is not being attained is removed in accordance with regulations established under this section.

"(B) STANDARD ATTAINED.—For waters identified under paragraph (1)(A) where the quality of such waters equals or exceeds levels necessary to protect the designated use for such waters or otherwise required by applicable water quality standards, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section, or any water quality standard established under this section, or any other permitting standard may be revised only if such revision is subject to and consistent with the antidegradation policy established under this section.".

(c) STUDY.—The Administrator shall study—

(1) the extent to which States have reviewed, revised, and adopted water quality standards in accordance with section 24 of the Municipal Wastewater Treatment Construction Grant Amendments of 1981; and

(2) the extent to which modifications of permits issued under section 402(a)(1)(B) of the Federal Water Pollution Control Act for the purpose of reflecting any revisions to water quality standards should be encouraged or discouraged.

The Administrator shall submit a report on such study, together with recommendations, to Congress not later than 2 years after the date of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 402(a)(1) is amended by inserting "(A)" after "either" and by inserting "(B)" after "this Act, or".

SEC. 405. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

(a) Section 402 is amended by adding at the end thereof the following new subsection:

"(p) MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.—

"(1) GENERAL RULE.—Prior to October 1, 1992, the Administrator or the State (in the case of a permit program approved under section 402 of this Act) shall not require a permit under this section for discharges composed entirely of stormwater.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to the following stormwater discharges:

"(A) A discharge with respect to which a permit has been issued under this section before the date of the enactment of this subsection.

"(B) A discharge associated with industrial activity.

"(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

"(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

"(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

"(3) PERMIT REQUIREMENTS.—

"(A) INDUSTRIAL DISCHARGES.—Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 301.

"(B) MUNICIPAL DISCHARGE.—Permits for discharges from municipal storm sewers—

"(i) may be issued on a system- or jurisdiction-wide basis;

"(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

"(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

"(4) PERMIT APPLICATION REQUIREMENTS.—

"(A) INDUSTRIAL AND LARGE MUNICIPAL DISCHARGES.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after such date of enactment. Not later than 4 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

"(B) OTHER MUNICIPAL DISCHARGES.—Not later than 4 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after such date of enactment. Not later than 6 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

"(5) STUDIES.—The Administrator, in consultation with the States, shall conduct a study for the purposes of—

"(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection,

"(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

"(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

"(6) REGULATIONS.—Not later than October 1, 1992, the Administrator, in consultation

with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.".

SEC. 406. SEWAGE SLUDGE.

(a) IDENTIFICATION AND REGULATION OF TOXIC POLLUTANTS.—Section 405(d) is amended—

(1) by inserting "(1) REGULATIONS.—" before "The Administrator, after";

(2) by striking "(1)", "(2)", and "(3)" and inserting in lieu thereof "(A)", "(B)", and "(C)", respectively; and

(3) by adding at the end the following new paragraphs:

"(2) IDENTIFICATION AND REGULATION OF TOXIC POLLUTANTS.—

"(A) ON BASIS OF AVAILABLE INFORMATION.—

"(i) PROPOSED REGULATIONS.—Not later than November 30, 1986, the Administrator shall identify those toxic pollutants which, on the basis of available information on their toxicity, persistence, concentration, mobility, or potential for exposure, may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each such pollutant for each use identified under paragraph (1)(A).

"(ii) FINAL REGULATIONS.—Not later than August 31, 1987, and after opportunity for public hearing, the Administrator shall promulgate the regulations required by subparagraph (A)(i).

"(B) OTHERS.—

"(i) PROPOSED REGULATIONS.—Not later than July 31, 1987, the Administrator shall identify those toxic pollutants not identified under subparagraph (A)(i) which may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each pollutant for each such use identified under paragraph (1)(A).

"(ii) FINAL REGULATIONS.—Not later than June 15, 1988, the Administrator shall promulgate the regulations required by subparagraph (B)(i).

"(C) REVIEW.—From time to time, but not less often than every 2 years, the Administrator shall review the regulations promulgated under this paragraph for the purpose of identifying additional toxic pollutants and promulgating regulations for such pollutants consistent with the requirements of this paragraph.

"(D) MINIMUM STANDARDS; COMPLIANCE DATE.—The management practices and numerical criteria established under subparagraphs (A), (B), and (C) shall be adequate to protect public health and the environment from any reasonably anticipated adverse effects of each pollutant. Such regulations shall require compliance as expeditiously as practicable but in no case later than 12 months after their publication, unless such regulations require the construction of new pollution control facilities, in which case the regulations shall require compliance as expeditiously as practicable but in no case later than two years from the date of their publication.

"(3) ALTERNATIVE STANDARDS.—For purposes of this subsection, if, in the judgment of the Administrator, it is not feasible to prescribe or enforce a numerical limitation for a pollutant identified under paragraph (2), the Administrator may instead promulgate a design, equipment, management practice, or operational standard, or combination thereof, which in the Administrator's judgment is adequate to protect public health and the environment from any reasonably anticipated adverse effects of such pollutant. In the event the Administrator promulgates a design or equipment standard under this subsection, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(4) CONDITIONS ON PERMITS.—Prior to the promulgation of the regulations required by paragraphs (2), the Administrator shall impose conditions in permits issued to publicly owned treatment works under section 402 of this Act or take such other measures as the Administrator deems appropriate to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge.

"(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section is intended to waive more stringent requirements established by this Act or any other law.".

(b) MANNER OF SLUDGE DISPOSAL.—Section 405(e) is amended to read as follows:

"(e) MANNER OF SLUDGE DISPOSAL.—The determination of the manner of disposal or use of sludge is a local determination, except that it shall be unlawful for any person to dispose of sludge from a publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established pursuant to subsection (d) of this section, except in accordance with such regulations.".

(c) IMPLEMENTATION THROUGH PERMITS.—Section 405 is further amended by adding at the end thereof the following:

"(f) IMPLEMENTATION OF REGULATIONS.—

"(1) THROUGH SECTION 402 PERMITS.—Any permit issued under section 402 of this Act to a publicly owned treatment works or any other treatment works treating domestic sewage shall include requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section, unless such requirements have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, part C of the Safe Drinking Water Act, the Marine Protection, Research and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Administrator, where the Administrator determines that such programs assure compliance with any applicable requirements of this section. Not later than December 15, 1986, the Administrator shall promulgate procedures for approval of State programs pursuant to this paragraph.

"(2) THROUGH OTHER PERMITS.—In the case of a treatment works described in paragraph (1) that is not subject to section 402 of this Act and to which none of the other above listed permit programs nor approved State permit authority apply, the Administrator may issue a permit to such treatment works solely to impose requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section. The Administrator shall include in the permit appropriate requirements to assure compliance with the regulations established pursuant to subsection (d) of this section. The Administrator shall establish procedures for issuing permits pursuant to this paragraph.

"(g) STUDIES AND PROJECTS.—

"(1) GRANT PROGRAM; INFORMATION GATHERING.—The Administrator is authorized to conduct or initiate scientific studies, demonstration projects, and public information and education projects which are designed to promote the safe and beneficial management or use of sewage sludge for such purposes as aiding the restoration of abandoned mine sites, conditioning soil for parks and recreation areas, agricultural and horticultural uses, and other beneficial purposes. For the purposes of carrying out this subsection, the Administrator may make grants to State water pollution control agencies, other public or nonprofit agencies, institutions, organizations, and individuals. In cooperation with other Federal departments and agencies, other public and private agencies, institutions, and organizations, the Administrator is authorized to collect and disseminate information pertaining to the safe and beneficial use of sewage sludge.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out the scientific studies, demonstration projects, and public information and education projects authorized in this section, there is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $5,000,000.".

(d) ENFORCEMENT.—(1) Section 308(a)(4) is amended by inserting "405," before "and 504".

(2) Section 505(f) is amended by striking out "or" before "(6)", and by inserting before the period ", or (7) a regulation under section 405(d) of this Act,".

(3) Section 509(b)(1)(E) is amended by striking out "or 306" and inserting in lieu thereof "306, or 405".

(e) REMOVAL CREDITS.—The part of the decision of Natural Resources Defense Council, Inc. v. U.S. Environmental Protection Agency, No. 84-3530 (3d. Cir. 1986), which addresses section 405(d) of the Federal Water Pollution Control Act is stayed until August 31, 1987, with respect to—

(1) those publicly owned treatment works the owner or operator of which received authority to revise pretreatment requirements under section 307(b)(1) of such Act before the date of the enactment of this section, and

(2) those publicly owned treatment works the owner or operator of which has submitted an application for authority to revise pretreatment requirements under such section 307(b)(1) which application is pending on such date of enactment and is approved before August 31, 1987.

The Administrator shall not authorize any other removal credits under such Act until the Administrator issues the regulations required by paragraph (2)(A)(ii) of section 405(d) of such Act, as amended by subsection (a) of this section.

(f) CONFORMING AMENDMENTS.—Section 405(d) is further amended—

(1) by inserting "REGULATIONS.—" after "(d)";

(2) by indenting paragraph (1) (as designated by subsection (a)(1) of this section) and aligning such paragraph with paragraph (3), as added by subsection (a)(3); and

(3) in such paragraph (1) by aligning subparagraphs (A), (B), and (C) (as designated by subsection (a)(2) of this section) with subparagraph (C) of paragraph (2), as added by subsection (a)(3) of this section.

SEC. 407. LOG TRANSFER FACILITIES.

(a) AGREEMENT.—The Administrator and Secretary of the Army shall enter into an agreement regarding coordination of permitting for log transfer facilities to designate a lead agency and to process permits required under sections 402 and 404 of the Federal Water Pollution Control Act, where both such sections apply, for discharges associated with the construction and operation of log transfer facilities. The Administrator and Secretary are authorized to act in accordance with the terms of such agreement to assure that, to the maximum extent practicable, duplication, needless paperwork and delay in the issuance of permits, and inequitable enforcement between and among facilities in different States, shall be eliminated.

(b) APPLICATIONS AND PERMITS BEFORE OCTOBER 22, 1985.—Where both of sections 402 and 404 of the Federal Water Pollution Control Act apply, log transfer facilities which have received a permit under section 404 of such Act before October 22, 1985, shall not be required to submit a new application for a permit under section 402 of such Act. If the Administrator determines that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act satisfies the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, a separate application for a permit under section 402 of such Act shall not thereafter be required. In any case where the Administrator demonstrates, after an opportunity for a hearing, that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act do not satisfy the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, modifications to the existing permit under section 404 of such Act to incorporate such applicable requirements shall be issued by the Administrator as an alternative to issuance of a separate new permit under section 402 of such Act.

(c) LOG TRANSFER FACILITY DEFINED.—For the purposes of this section, the term "log transfer facility" means a facility which is constructed in whole or in part in waters of the United States and which is utilized for the purpose of transferring commercially harvested logs to or from a vessel or log raft, including the formation of a log raft.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. AUDITS.

Section 501(d) is amended by inserting at the end the following new sentences: "For the purpose of carrying out audits and examinations with respect to recipients of Federal assistance under this Act, the Administrator is authorized to enter into noncompetitive procurement contracts with independent State audit organizations, consistent with chapter 75 of title 31, United States Code. Such contracts may only be entered into to the extent and in such amounts as may be provided in advance in appropriation Acts.".

SEC. 502. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) DEFINED AS A STATE.—Section 502(3) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Samoa,".

(b) DEFINED AS PART OF UNITED STATES.—Section 311(a)(5) is amended by striking out "the Canal Zone," and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands,".

SEC. 503. AGRICULTURAL STORMWATER DISCHARGES.

Section 502(14) (relating to the definition of point source) is amended by inserting after "does not include" the following: "agricultural stormwater discharges and".

SEC. 504. PROTECTION OF INTERESTS OF UNITED STATES IN CITIZEN SUITS.

Section 505(c) is amended by adding at the end thereof the following new paragraph:

"(3) PROTECTION OF INTERESTS OF UNITED STATES.—Whenever any action is brought under this section in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General and the Administrator. No consent judgment shall be entered in an action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.".

SEC. 505. JUDICIAL REVIEW AND AWARD OF FEES.

(a) LOCATION; DEADLINE FOR APPEAL.—Section 509(b)(1) is amended—

(1) by striking out "transacts such business" and inserting in lieu thereof, "transacts business which is directly affected by such action"; and

(2) by striking out "ninety" and "ninetieth" and inserting in lieu thereof "120" and "120th", respectively.

(b) VENUE; AWARD OF FEES.—Section 509(b) is amended by adding at the end thereof the following new paragraphs:

"(3) VENUE.—

"(A) SELECTION PROCEDURE.—If applications for review of the same agency action have been filed under paragraph (1) of this subsection in 2 or more Circuit Courts of Appeals of the United States and the Administrator has received written notice of the filing of one or more applications within 30 days or less after receiving written notice of the filing of the first application, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that applications have been filed in 2 or more Circuit Courts of Appeals of the United States, and shall identify each court for which he has written notice that such applications have been filed within 30 days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall, within 3 business days of receiving such written notice from the Administrator, select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the Circuit Court of Appeals of the United States which remanded such action.

"(B) ADMINISTRATIVE PROVISIONS.—Where applications have been filed under paragraph (1) of this subsection in two or more Circuit Courts of Appeals of the United States with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the Circuit Court of Appeals of the United States in which the record has been filed. Pending selection of a court pursuant to subparagraph (A), any court in which an application has been filed under paragraph (1) of this subsection may postpone the effective date of the agency action until 15 days after the Administrative Office has selected the court in which the record shall be filed.

"(C) TRANSFERS.—Any court in which an application with respect to any agency action has been filed under paragraph (1) of this subsection, including any court selected pursuant to subparagraph (A), may transfer such application to any other Circuit Court of Appeals of the United States for the convenience of the parties or otherwise in the interest of justice.

"(4) AWARD OF FEES.—In any judicial proceeding under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever it determines that such award is appropriate.".

(c) CONFORMING AMENDMENT FOR CITIZEN SUIT ACTIONS.—The first sentence of section 505(d) is amended by inserting "prevailing or substantially prevailing" before "party".

SEC. 506. INDIAN TRIBES.

Title V is amended by redesignating section 518, and any references thereto, as section 519 and by inserting after section 517 the following new section:

"SEC. 518. INDIAN TRIBES.

"(a) POLICY.—Nothing in this section shall be construed to affect the application of section 101(g) of this Act, and all of the provisions of this section shall be carried out in accordance with the provisions of such section 101(g). Indian tribes shall be treated as States for purposes of such section 101(g).

"(b) ASSESSMENT OF SEWAGE TREATMENT NEEDS; REPORT.—The Administrator, in cooperation with the Director of the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 205 of this Act and priority lists under section 216 of this Act, and any obstacles which prevent such needs from being met. Not later than one year after the date of the enactment of this section, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this Act, and (2) methods by which the participation in and administration of programs under this Act by Indian tribes can be maximized.

"(c) RESERVATION OF FUNDS.—The Administrator shall reserve each fiscal year beginning after September 30, 1986, before allotments to the States under section 205(e), one-half of one percent of the sums appropriated under section 207. Sums reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve Indian tribes.

"(d) COOPERATIVE AGREEMENTS.—In order to ensure the consistent implementation of the requirements of this Act, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the requirements of this Act.

"(e) TREATMENT AS STATES.—The Administrator is authorized to treat an Indian tribe as a State for purposes of title II and sections 104, 106, 303, 305, 308, 309, 314, 319, 401, 402, and 404 of this Act to the degree necessary to carry out the objectives of this section, but only if—

"(1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

"(2) the functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and

"(3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and of all applicable regulations.

Such treatment as a State may include the direct provision of funds reserved under subsection (c) to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation with the Director of the Indian Health Service, is authorized to make grants under title II of this Act in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this Act. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of the Act.

"(f) GRANTS FOR NONPOINT SOURCE PROGRAMS.—The Administrator shall make grants to an Indian tribe under section 319 of this Act as though such tribe was a State. Not more than one-third of one percent of the amount appropriated for any fiscal year under section 319 may be used to make grants under this subsection. In addition to the requirements of section 319, an Indian tribe shall be required to meet the requirements of paragraphs (1), (2), and (3) of subsection (d) of this section in order to receive such a grant.

"(g) ALASKA NATIVE ORGANIZATIONS.—No provision of this Act shall be construed to—

"(1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any Alaska Native organization, including any federally-recognized tribe, traditional Alaska Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), over lands or persons in Alaska;

"(2) create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska; or

"(3) in any way affect any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist in Alaska.

"(h) DEFINITIONS.—For purposes of this section, the term—

"(1) 'Federal Indian reservation' means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and

"(2) 'Indian tribe' means any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.".

SEC. 507. DEFINITION OF POINT SOURCE.

For purposes of the Federal Water Pollution Control Act, the term "point source" includes a landfill leachate collection system.

SEC. 508. SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES.

(a) FINDING.—The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge.

(b) GENERAL RULE.—Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is further amended by inserting after section 104 the following new section:

"SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

"SEC. 104A. (a) NEW YORK BIGHT APEX.—(1) For purposes of this subsection:

"(A) The term 'Apex' means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

"(B) The term 'Apex site' means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

"(C) The term 'eligible authority' means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

"(2) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

"(3) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

"(A) December 15, 1987; or

"(B) the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex.

"(b) RESTRICTION ON USE OF THE 106-MILE SITE.—The Administrator may not issue or renew any permit under this title which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C), to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 102(c) by the Administrator and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005).".

SEC. 509. OCEAN DISCHARGE RESEARCH PROJECTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator is authorized to issue a research permit to the Orange County, California, Sanitation Districts for the discharge of preconditioned municipal sewage sludge into the ocean for the purpose of enabling research to be conducted in assessing and analyzing the effects of disposing of sewage sludge by pipeline into ocean waters—

(1) if the Administrator is satisfied that such local governmental agency is actively pursuing long-term land-based options for the handling of its sludge with special emphasis on remote disposal alternatives set forth in the 1980 LA/OMA sludge management project and on reuse of sludge or use of recycled sludge; and

(2) if the Administrator determines that there is no likelihood of an unacceptable adverse effect on the environment as a result of issuance of such permit and that such permit would meet the requirements of paragraph (2) of section 301(h) of the Federal Water Pollution Control Act, as amended by this Act, and of the sentences following the first sentence of such section if such permit were being issued under such section.

(b) PERMIT TERMS.—

(1) PERIOD.—The permit for the discharge of sludge shall be for a period of 5 years commencing on the date of such discharge and shall not be extended or renewed.

(2) MONITORING.—Such permit shall provide for monitoring (including whole effluent monitoring) of permitted discharges and other discharges into the ocean in the same area and the effects of such discharges (including cumulative effects) in conformance with requirements established by the Administrator, after consultation with appropriate Federal and State agencies, and for the reporting of such monitoring to Congress and the Administrator every 6 months.

(3) VOLUME OF DISCHARGE.—Such permit shall provide that the volume of such local agency's sludge disposed of by such experimental pipeline shall be no more than one and one-half times that being disposed of by such remote disposal and alternatives for the reuse of sludge and the use of recycled sludge. In no event shall the agency dispose of more than 50 percent of its sludge by the pipeline.

(4) TERMINATION.—The permit shall provide for termination of the permit if the Administrator determines that the disposal of sewage sludge is resulting in an unacceptable adverse impact on fish, shellfish, and wildlife. The Administrator may terminate a permit issued under this section if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown. If the effluent from a source with a permit issued under this section is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.

(c) LIMITATION ON PRECEDENCE.—The facts and circumstances described in subsection (a) present a unique situation which will not establish a precedent for the relaxation of the requirements of the Federal Water Pollution Control Act applicable to similarly situated discharges.

(d) REPORT.—Such districts shall report the results of the program and an analysis of such program to Congress under this section not later than four and one-half years after issuance of the permit.

SEC. 510. SAN DIEGO, CALIFORNIA.

(a) PURPOSE.—The purpose of this section is to protect the economy, public health, environment, surface water and public beaches, and water quality of the city of San Diego, California, and surrounding areas, which are endangered and are being polluted by raw sewage emanating from the city of Tijuana, Mexico.

(b) CONSTRUCTION GRANTS.—Upon approval of the necessary plans and specifications, the Administrator is authorized to make grants to the Secretary of State, acting through the American Section of the International Boundary and Water Commission (hereinafter in this section referred to as the "Commission"), or any other Federal agency or any other appropriate commission or entity designated by the President. Such grants shall be for construction of a project consisting of—

(1) defensive treatment works to protect the residents of the city of San Diego, California, and surrounding areas from pollution resulting from any inadequacies or breakdowns in wastewater treatment works and systems in Mexico; and

(2) treatment works in the city of San Diego, California, to provide primary or more advanced treatment of municipal sewage and industrial waste from Mexico, including the city of Tijuana, Mexico.

(c) LIMITATION ON GRANTS.—Notwithstanding subsection (b), the Administrator may make grants for construction of treatment works described in subsection (b)(2) only if, after public notice and comment, the Administrator determines that treatment works in Mexico, in conjunction with any defensive treatment works constructed under this or any other Act, are not sufficient to protect the residents of the city of San Diego, California, and surrounding areas from water pollution originating in Mexico.

(d) OPERATION AND MAINTENANCE.—The Commission or such other agency, commission, or entity as may be designated under subsection (b) is authorized to operate and maintain any treatment works constructed under subsection (b) in order to accomplish the purposes of this section.

(e) APPROVAL OF PLANS.—Any treatment works for which a grant is made under this section shall be constructed in accordance with plans developed by the Commission or such other agency, commission, or entity as may be designated under subsection (b), in consultation with the city of San Diego, and approved by the Administrator to meet the construction standards which would be applicable if such treatment works were being constructed under title II of the Federal Water Pollution Control Act.

(f) FEDERAL SHARE.—Construction of the treatment works under subsection (b) shall be at full Federal expense less any costs paid by the State of California and less any costs paid by the Government of Mexico as a result of agreements negotiated with the United States.

(g) OCEAN OUTFALL PERMIT.—Notwithstanding section 301(j) of the Federal Water Pollution Control Act, upon application of the city of San Diego, California, the Administrator may issue a permit under section 301(h) of such Act which modifies the requirements of section 301(b)(1)(B) of such Act to permit the discharge of pollutants for any ocean outfall constructed with Federal assistance under this section if the Administrator finds that issuing such permit is in the best interests of achieving the goals and requirements of such Act. The Administrator may waive the requirements of section 301(h)(5) of such Act with respect to the issuance of such permit if the Administrator finds that such waiver is in the best interests of achieving the goals and requirements of such Act.

(h) TREATMENT OF SAN DIEGO SEWAGE.—If any treatment works constructed pursuant to this section becomes no longer necessary to provide protection from pollution originating in Mexico, the city of San Diego, California, may use such treatment works to treat municipal and individual waste originating in the city of San Diego and surrounding areas if the city of San Diego enters into a binding agreement with the Administrator to pay to the United States 45 percent of the costs incurred in the construction of such treatment works.

(i) DEFINITIONS.—For purposes of this section, the terms "construction" and "treatment works" have the meanings such terms have under section 212 of the Federal Water Pollution Control Act.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, such sums as may be necessary to the Administrator to make grants under this section and such sums as may be necessary to the Commission or such other agency, commission, or entity as the President may designate under subsection (b), to carry out this section.

SEC. 511. LIMITATION ON DISCHARGE OF RAW SEWAGE BY NEW YORK CITY.

(a) IN GENERAL.—

(1) NORTH RIVER PLANT.—If the wastewater treatment plant identified in the consent decree as the North River plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1986, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1986 (as determined by the Administrator), except as provided in subsection (b).

(2) RED HOOK PLANT.—If the wastewater treatment plant identified in the consent decree as the Red Hook plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1987, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1987 (as determined by the Administrator), except as provided in subsection (b).

(b) WAIVERS.—

(1) INTERRUPTION OF PLANT OPERATION.—In the event of any significant interruption in the operation of the North River plant or the Red Hook plant caused by an event described in subparagraph (A), (B), or (C) of paragraph (5) occurring after the applicable deadline established under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to such plant, but only to such extent and for such limited period of time as may be reasonably necessary for the city of New York to resume operation of such plant.

(2) INCREASED PRECIPITATION.—In the event that the volume of precipitation occurring after the applicable deadline established under subsection (a) causes the discharge of raw sewage to exceed the limitation under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to either or both such plants, but only to such extent and for such limited period of time as the Administrator determines to be necessary to take into account the increased discharge caused by such volume of precipitation.

(3) VARIATIONS IN CERTAIN NORTH RIVER DRAINAGE AREA DISCHARGES.—In the event that an increase in discharges from the North River drainage area constituting a violation of subsection (a)(1) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1986, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(1), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(4) VARIATIONS IN CERTAIN RED HOOK DRAINAGE AREA DISCHARGES.—In the event that an increase in discharges from the Red Hook drainage area constituting a violation of subsection (a)(2) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1987, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(2), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(5) CIRCUMSTANCES BEYOND CITY'S CONTROL.—The Administrator shall extend either deadline under paragraph (1) or (2) of subsection (a) to such extent and for such limited period of time as may be reasonably required to take into account any—

(A) act of war,

(B) unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or

(C) other circumstances beyond the control of the city of New York, except such circumstances shall not include (i) the unavailability of Federal funds under section 201 of the Federal Water Pollution Control Act, (ii) the unavailability of funds from the city of New York or the State of New York, or (iii) a policy decision made by the city of New York or the State of New York to delay the achievement of advanced preliminary treatment at the North River plant or Red Hook plant beyond the applicable deadline set forth in subsection (a).

(c) PENALTIES.—Except as otherwise provided in subsection (b), any violation of subsection (a) shall be considered to be a violation of section 301 of the Federal Water Pollution Control Act, and all provisions of such Act relating to violations of such section 301 shall apply.

(d) CONSENT DECREE DEFINED.—For purposes of this section, the term "consent decree" means the consent decree entered into by the Environmental Protection

Agency, the city of New York, and the State of New York, on December 30, 1982, relating to construction and operation of the North River and Red Hook wastewater treatment plants.

(e) COOPERATION.—The Administrator shall work with the city of New York to eliminate the discharge of raw sewage by such city at the earliest practicable date.

(f) SAVINGS CLAUSE.—Nothing in this section shall be construed as modifying the terms of the consent decree.

(g) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator should not agree to any further modification of the consent decree with respect to the schedule for achieving advanced preliminary treatment.

(h) TERMINATION DATES.—

(1) NORTH RIVER PLANT.—The provisions of this section shall remain in effect with respect to the North River drainage area until such time as the North River plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(2) RED HOOK PLANT.—The provisions of this section shall remain in effect with respect to the Red Hook drainage area until such time as the Red Hook plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(i) MONITORING ACTIVITIES.—The Administrator shall promptly establish and carry out a program within available funds to implement the monitoring activities which may be required under subsection (a).

(j) ESTABLISHMENT OF METHODOLOGIES.—The Administrator shall establish the methodologies, data base, and any other information required for making determinations under subsection (b)—

(1) for the North River drainage area (as defined in the consent decree) by July 31, 1986, unless the requirements of subsection (h)(1) have been satisfied, and

(2) for the Red Hook drainage area (as defined by the consent decree) by July 31, 1987, unless the requirements of subsection (h)(2) have been satisfied.

(k) VIOLATIONS.—In carrying out this section, if the Administrator finds that a violation of subsection (a) has occurred, the Administrator shall also determine, within 30 days after such finding, whether a provision of subsection (b) applies. If the Administrator requires information from the city of New York in order to determine whether a provision of subsection (b) applies, the Administrator shall request such information. If the city of New York does not supply the information requested by the Administrator, the Administrator shall determine that subsection (b) does not apply. The city of New York shall be responsible only for such expenses as are necessary to provide such requested information. Enforcement action pursuant to subsection (c) shall be commenced at the end of such 30 days unless a provision of subsection (b) applies.

SEC. 512. OAKWOOD BEACH AND RED HOOK PROJECTS, NEW YORK.

(a) RELOCATION OF NATURAL GAS FACILITIES.—Notwithstanding any provision of the Federal Water Pollution Control Act, the Administrator shall pay, to the extent provided in appropriation Acts, in the same proportion as the Federal share of other project costs, all expenses for the relocation of facilities for the distribution of natural gas with respect to the entire wastewater treatment works known as the Oakwood Beach (EPA Grant Numbered 360392) and Red Hook (EPA Grant Numbered 360394) projects, New York.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $7,000,000 to carry out this section.

SEC. 513. BOSTON HARBOR AND ADJACENT WATERS.

(a) GRANTS.—The Administrator shall make grants to the Massachusetts Water Resource Authority for purposes of—

(1) assessing the principal factors having an adverse effect on the environmental quality of Boston Harbor and its adjacent waters;

(2) developing and implementing a management program to improve the water quality of such Harbor and waters; and

(3) constructing necessary waste water treatment works for providing secondary treatment for the areas served by such authority.

(b) FEDERAL SHARE.—The Federal shate of projects described in subsection (a) shall not exceed 75 percent of the cost of construction thereof.

(c) EMERGENCY IMPROVEMENTS.—The Administrator is authorized and directed to make grants to the Massachusetts Water Resource Authority for a project to undertake emergency improvements at the Deer Island Waste Water Treatment Plant in Boston, Massachusetts. The Federal share of such project shall not exceed 75 percent of the cost of carrying out such improvements.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $100,000,000 to carry out this section for fiscal years beginning after September 30, 1986, to remain available until expended. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

SEC. 514. WASTEWATER RECLAMATION DEMONSTRATION.

(a) AUTHORITY TO MAKE GRANTS.—The Administrator is authorized to make a grant to the San Diego Water Reclamation Agency, California, to demonstrate and field test for public use innovative processes which advance the technology of wastewater reclamation and which promote the use of reclaimed wastewater.

(b) FEDERAL SHARE.—The Federal share of grants made under this section shall be 85 percent of the costs of conducting such demonstration and field test.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $2,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 515. DES MOINES, IOWA.

(a) GRANT.—The Administrator is authorized to make a grant to the city of Des Moines, Iowa, for construction of the Central Sewage Treatment Plant component of the Des Moines, Iowa, metropolitan area project. The Federal share of such project shall be 75 percent of the cost of construction.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section not to exceed $50,000,000 for fiscal years beginning after September 30, 1986. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

SEC. 516. STUDY OF DE MINIMIS DISCHARGES.

(a) STUDY.—The Administrator shall conduct a study of discharges of pollutants into the navigable waters and their regulation under the Federal Water Pollution Control Act to determine whether or not there are discharges of pollutants into such waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant and to determine the most effective and appropriate methods of regulating any such discharges.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study along with recommendations and findings concerning the most effective and appropriate methods of regulating any discharges of pollutants into the navigable waters in amounts which the Administrator determines under such study to be not significant.

SEC. 517. STUDY OF EFFECTIVENESS OF INNOVATIVE AND ALTERNATIVE PROCESSES AND TECHNIQUES.

(a) EFFECTIVENESS STUDY.—The Administrator shall study the effectiveness on waste treatment of innovative and alternative wastewater treatment processes and techniques referred to in section 201(g)(5) of the Federal Water Pollution Control Act which have been utilized in treatment works constructed under such Act. In conducting such study, the Administrator shall compile information, by State, on the types of such processes and techniques utilized, on the number of facilities constructed with such processes and techniques, and a description of such processes and techniques which have not performed to design standards. The Administrator shall also determine which States have not obligated the full amount set aside under section 205(i) of such Act for such processes and techniques and the reasons for each such State's failure to make such obligations.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study, along with recommendations for providing more effective incentives for innovative and alternative wastewater treatment processes and techniques.

SEC. 518. STUDY OF TESTING PROCEDURES.

(a) STUDY.—The Administrator shall study the testing procedures for analysis of pollutants established under section 304(h) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the adequacy and standardization of such procedures. In conducting the analysis of the standardization of such procedures, the Administrator shall consider the extent to which such procedures are consistent with comparable procedures established under other Federal laws.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under this subsection, together with recommendations for modifying the test procedures referred to in subsection (a) to improve their effectiveness, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 519. STUDY OF PRETREATMENT OF TOXIC POLLUTANTS.

(a) STUDY.—The Administrator shall study—

(1) the adequacy of data on environmental impacts of toxic industrial pollutants discharged from publicly owned treatment works;

(2) the extent to which secondary treatment at publicly owned treatment works removes toxic pollutants;

(3) the capability of publicly owned treatment works to revise pretreatment requirements under section 307(b)(1) of the Federal Water Pollution Control Act;

(4) possible alternative regulatory strategies for protecting the operations of publicly owned treatment works from industrial discharges, and shall evaluate the extent to which each such strategy identified may be expected to achieve the goals of this Act;

(5) for each such alternative regulatory strategy, the extent to which removal of toxic pollutants by publicly owned treatment works results in contamination of sewage sludge and the extent to which pretreatment requirements may prevent such contamination or improve the ability of publicly owned treatment works to comply with sewage sludge criteria developed under section 405 of the Federal Water Pollution Control Act; and

(6) the adequacy of Federal, State, and local resources to establish, implement, and enforce multiple pretreatment limits for toxic pollutants for each such alternative strategy.

(b) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of such study along with recommendations for improving the effectiveness of pretreatment requirements to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 520. STUDIES OF WATER POLLUTION PROBLEMS IN AQUIFERS.

(a) STUDIES.—The Administrator, in conjunction with State and local agencies and after providing an opportunity for full public participation, shall conduct studies for the purpose of identifying existing and potential point and nonpoint sources of pollution, and of identifying measures and practices necessary to control such sources of pollution, in the following groundwater systems and aquifers:

(1) the groundwater system of the Upper Santa Cruz Basin and the Avra-Altar Basin of Pima, Pinal, and Santa Cruz Counties, Arizona;

(2) the Spokane-Rathdrum Valley Aquifer, Washington and Idaho;

(3) the Nassau and Suffolk Counties Aquifer, New York;

(4) the Whidbey Island Aquifer, Washington;

(5) the Unconsolidated Quaternary Aquifer, Rockaway River area, New Jersey;

(6) contaminated ground water under Litchfield, Hartford, Fairfield, Tolland, and New Haven counties, Connecticut; and

(7) the Sparta Aquifer, Arkansas.

(b) REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the studies conducted under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $7,000,000 for fiscal years beginning after September 30, 1986, to carry out this section.

SEC. 521. GREAT LAKES CONSUMPTIVE USE STUDY.

(a) STUDY OF CONSUMPTIVE USES.—In recognition of the serious impacts on the Great Lakes environment that may occur as a result of increased consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, and in recognition of the national goal to provide environmental protection and preservation of our natural resources while allowing for continued economic growth, the Secretary of the Army in cooperation with the Administrator, other interested departments, agencies, and instrumentalities of the United States, and the 8 Great Lakes States, is authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that can be implemented to reduce the quantity of water consumed.

(b) MATTERS INCLUDED.—The study authorized by this section shall at a minimum include the following:

(1) a review of the methodologies used to forecast Great Lakes consumptive uses, including an analysis of the sensitivity of key variables affecting such uses;

(2) an analysis of the effect that enforcement of provisions of the Federal Water Pollution Control Act relating to thermal discharges has had on consumption of Great Lakes water;

(3) an analysis of the effect of laws, regulations, and national policy objectives on consumptive uses of Great Lakes water used in manufacturing;

(4) an analysis of the associated environmental impacts and of the economic effects on industry and other interests in the Great Lakes region associated with individual consumptive use control strategies; and

(5) a summary discussion containing recommendations for methods of controlling consumptive uses which methods maximize benefits to the Great Lakes ecosystem and also provide for continued full economic growth for consuming industries as well as other industries which depend on the use of Great Lakes water.

(c) GREAT LAKES STATES DEFINED.—For purposes of this section, the term "Great Lakes States" means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, $750,000 to carry out this section. Sums appropriated under this section shall remain available until expended.

SEC. 522. SULFIDE CORROSION STUDY.

(a) STUDY.—The Administrator shall conduct a study of the corrosive effects of sulfides in collection and treatment systems, the extent to which the uniform imposition of categorical pretreatment standards will exacerbate such effects, and the range of available options to deal with such effects.

(b) CONSULTATION.—The study required by this section shall be conducted in consultation with the Los Angeles City and County sanitation agencies.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study, together with recommendations for measures to reduce the corrosion of treatment works, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 523. STUDY OF RAINFALL INDUCED INFILTRATION INTO SEWER SYSTEMS.

(a) STUDY.—The Administrator shall study problems associated with rainfall induced infiltration into wastewater treatment sewer systems. As part of such study, the Administrator shall study appropriate methods of regulating rainfall induced infiltration into the sewer system of the East Bay Municipal Utility District, California.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the results of such study, along with recommendations on reasonable methods to reduce such infiltration.

SEC. 524. DAM WATER QUALITY STUDY.

The Administrator, in cooperation with interested States and Federal agencies, shall study and monitor the effects on the quality of navigable waters attributable to the impoundment of water by dams. The results of such study shall be submitted to Congress not later than December 31, 1987.

SEC. 525. STUDY OF POLLUTION IN LAKE PEND OREILLE, IDAHO.

The Administrator shall conduct a comprehensive study of the sources of pollution in Lake Pend Oreille, Idaho, and the Clark Fork River and its tributaries, Idaho, Montana, and Washington, for the purpose of identifying the sources of such pollution. In conducting such study, the Administrator shall consider existing studies, surveys, and test results concerning such pollution. The Administrator shall report to Congress the findings and recommendations concerning the study conducted under this section.

And the House agree to the same.

ROBERT A. ROE,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
BOB EDGAR,
EDOLPHUS TOWNS,
JAMES J. HOWARD,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
ARLAN STANGELAND,
BILL CLINGER,
BUD SHUSTER,

As additional conferees, solely for sections 59 and 73 of the House amendment and modifications committed to conference:

HENRY J. NOWAK,

Solely for sections 5, 16, 30(a), 34(b), and 45 of the House amendment and modifications committed to conference:

J. ROY ROWLAND,

Managers on the Part of the House.

ROBERT T. STAFFORD,
JOHN CHAFEE,
AL SIMPSON,
DAVID DURENBERGER,
LLOYD BENTSEN,
GEORGE MITCHELL,
DANIEL MOYNIHAN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1128) to amend the Clean Water Act, and for other purposes, submit the following joint statement to the House and the

Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

Senate bill

The Senate bill may be cited as the Clean Water Act Amendments of 1985.

House amendments

The House amendment provides that it may be cited as the Water Quality Renewal Act of 1985.

Conference substitute

The Conference substitute may be cited as the Water Quality Act of 1986.

AMENDMENTS OF FEDERAL WATER POLLUTION CONTROL ACT, DEFINITION

Senate bill

No comparable provision.

House amendments

The House bill provides that unless provided otherwise, all amendments to, or repeal of, a section or provision will be considered to be amendments to, or repeal of, a section or other provisions of the Federal Water Pollution Control Act. The amendment also defines "Administrator" for purposes of the bill to mean the Administrator of the Environmental Protection Agency.

Conference substitute

The conference substitute adopts the House provisions.

LIMITATION ON PAYMENTS

Senate bill

No comparable provision.

House amendment

The House amendment provides that no payments may be made under this Act except to the extent provided in advance in appropriation Acts.

Conference substitute

The conference substitute adopts the House provision.

AUTHORIZATION OF APPROPRIATIONS

Senate bill

The Senate bill continues authorizations for a number of programs, most of which have existed since the Federal Water Pollution Control Act (now referred to as the Clean Water Act) was enacted in 1972. These include research, manpower training, forecasting, grants to State and interstate water pollution control agencies, training grants and scholarships to institutions of higher education, grants for the Clean Lakes program, and authorizations for all other sections of the Act for which funds are not specifically authorized elsewhere. Authorizations contained in this section continue these programs as fiscal year 1982 levels for fiscal years 1986 through 1989.

Section 104(u)(1) is amended to authorize $22,770,000 annually for such activities as research technical services, investigations, monitoring and coordination.

Section 104(u) is amended to provide $3 million annually for the manpower development training program provided for by section 104(g)(1). This program provides assistance to States and other entities to develop trained personnel to operate and maintain sewage treatment works. $1.5 million is authorized annually for the employment needs and forecasting program provided for by section 104(g)(2).

Section 106(a)(2) is amended to provide $75 million annually for grants to States and interstate agencies to assist them in administering programs for the prevention, reduction, and elimination of pollution, including enforcement directly through appropriate State enforcement officers or agencies

Section 112(c) authorizes $7 million per year for the program of training grants and scholarships to institutions of higher education to assist them in carrying out programs for the preparation of undergraduate students to enter water quality control-related occupations. This program is provided for by sections 109, 110, 111, and 112 of the Clean Water Act.

Section 314(c)(2) is amended to authorize $30 million annually for grants to States for assistance in determining the eutrophic conditions of publicly-owned freshwater lakes, ways of controlling pollution in those lakes, and methods of working with Federal agencies to restore lake water quality.

Finally, $160 million per year is authorized for section 517 for carrying out provisions of the Clean Water Act for whch funds have not otherwise been authorized.

House amendment

The amendment continues through Fiscal Year 1990 authorizations for a number of programs in the Water Pollution Control Act as follows:

—$22,770,000 per fiscal year for research activities and investigations on the causes and effects of water pollution;

—$3 million per fiscal year for the training of personnel who operate and maintain treatment plants.

—$1,500,000 per fiscal year for forecasting the supply of and demand for occupational categories needed in the water pollution control field.

—$75 million per fiscal year for grants to state and interstate agencies to assist in administering programs for water pollution control;

—$7 million per fiscal year for grants to educational institutions for programs to train personnel in the operation of water pollution control facilities and to provide scholarships for students entering the field of operation and maintenance of publicly owned treatment works;

—$50 million per fiscal year for grants under section 208 for developing and implementing areawide waste treatment management planning processes;

—$50 million per fiscal year for the rural clean water program.

—$50 million per fiscal year to implement interagency agreements for the utilization of other Federal laws to assist in controlling water pollution;

—$30 million per fiscal year for the Clean Lakes Program, which provides for the restoration of the quality of water in lakes; and

—$110 million per fiscal year for general administration of the Federal Water Pollution Control Act by the Environmental Protection Agency.

Conference substitute

The conference substitute contains a modified version of the authorization levels contained in both the House and Senate bills.

In order to not break continuity in the Act, the substitute authorizes appropriation of such sums as may be necessary for fiscal years 1983 through 1985 for: research and investigation under section 104(u); grants for program administration under section 106; training grants and scholarships under section 112(c); areawide planning under section 208(f); rural clean water under section 208(j); the Clean Lakes Program under section 314, and the general program authorization under section 517. For fiscal years 1986 through 1990, the substitute authorizes appropriations in the following amounts for the following programs:

—$22.77 million per fiscal year for research activities and investigations on the cause and effects of water pollution (section 104(u)(1));

—$3 million per fiscal year for the training of personnel who operate and maintain treatment plants (section 104(u)(2));

—$1.5 million per fiscal year for forecasting the supply of, and demand for, occupational categories needed in the water pollution field (section 104(u)(3));

—$75 million per fiscal year for grants to State and interstate agencies to assist in administering programs for water pollution control (section 106(a)(2));

—$7 million per fiscal year for grants to educational institutions for programs to train personnel in the operation of water pollution control facilities and to provide scholarships for students entering the field of operation and maintenance of publicly owned treatment works (section 112(c));

—such sums as may be necessary per fiscal year for grants under section 208 for developing and implementing areawide waste treatment management planning processes (section 208(f));

—such sums as may be necessary per fiscal year for the rural clean water program (section 208(i));

—such sums as may be necessary per fiscal year for the Clean Lakes Program (section 314) which provides for the restoration of the quality of water in lakes; and

—$135 million per fiscal year for general administration of the Federal Water Pollution Control Act by the Environmental Protection Agency.

In addition, the substitute authorizes such sums as may be necessary for fiscal years 1984 through 1990 to implement interagency agreements for the utilization of other Federal laws to assist in controlling water pollution.

SMALL FLOWS CLEARINGHOUSE

Senate bill

The Senate bill amends section 104(q) of the Act to use a portion of the funds set aside for innovative and alternative (I&A) technologies, but not obligated within the 2 year deadline, to fund the Small Flows Clearinghouse. This Clearinghouse was established under the 1977 amendments to collect and disseminate information on alternatives to traditional expensive community-wide sewage treatment systems, suitable for rural settings and individual or cluster application.

At the end of the last two obligation periods, several million dollars remained unobligated and had to be reallotted. The amendment dedicates $1 million of that to funding the Clearinghouse.

House amendment

Substantially the same as the Senate bill.

Conference substitute

The conference substitute adopts the House provision.

CHESAPEAKE BAY

Senate bill

The Senate bill requires the Administrator to establish an Office of Chesapeake Bay Programs in support of a continuing State/Federal Chesapeake Bay program, at an authorization level of $3 million for the purposes of a) collecting, coordinating, and disseminating all research information concerning the environmental quality of the Bay, b) conducting research to identify the sources, quantity, and effects of sediment deposition on the Bay, and c) conducting research on the impacts of pollutant loadings on the Bay's water quality and biota.

The Administrator is authorized to make grants to those States affected by the Chesapeake Bay interstate management plan, at the request of the Governors, which commit to implement all or substantially all aspects of the plan within one year from enactment. States are required to submit a description of selected abatement actions and estimated costs for the Administrator's approval. The Federal share, with an authorization level of $10 million per year, will not exceed 55 percent of annual implementation costs. Administrative costs are limited to 10 percent of the annual Federal grant made to the State. States receiving grants must submit a progress report 18 months after receipt and biennally thereafter.

House amendment

Substantially the same as the Senate bill, but also included a provision on Narragansett Bay.

Conference substitute

The conference substitute combines the House and Senate provisions (making no substantive changes except as to grant percentage) as follows:

—House amendment on establishment and responsibilities of Office of Chesapeake Bay programs.

—Senate bill on grants to implement management mechanisms, with House 50 percent grants in lieu of Senate's 55 percent grants.

—House amendment on State reports to E.P.A. and E.P.A. transmittal of reports, with comments, to Congress.

The conference substitute deletes the separate provision on Narragansett Bay and adds it to the list of estuaries for priority consideration by the Administrator in the National Estuary Program in new section 320 of the Act.

In review of funding proposals submitted under subsection (b)(2) of this section, the Administrator shall consider the need to provide for effective control of nonpoint sources of pollution to the Bay and should use the authority provided in subsection (b)(1) to assure that such sources are adequately addressed.

GREAT LAKES

Senate bill

The Senate bill establishes the Great Lakes National Program Office within the Environmental Protection Agency and describes the duties and responsibilities of the Program Office.

The Program Office is given three basic duties: 1) developing and implementing plans to carry out U.S. responsibilities under the Great Lakes Water Quality Agreement of 1978; 2) establishing a water quality surveillance network; and 3) serving as a liaison to the Canadian members of the International Joint Commission and the Canadian counterpart to the EPA. In addition, the office is required to develop programs for the control of nutrients, including phosphates, and toxic chemicals.

The nutrient program will incorporate any actions taken in the Great Lakes Basin under the nonpoint source pollution program which is established by section 319 of this Act. The toxic chemical program will emphasize the removal of pollutants from bottom sediments.

Under the provisions of this amendment the annual budget submission of the Environmental Protection Agency to the Congress is to include a funding request for the Program Office as a separate line item.

The Administrator is required to submit a comprehensive report at the end of each fiscal year detailing the achievements of the program.

The bill establishes a Great Lakes Research Office in the National Oceanic and Atmospheric Administration. The Research Office is to identify issues on which research is needed and is to compile an inventory of on-going research on those questions. The Research Office is to develop a comprehensive data base for the Great Lakes System and may conduct research and monitoring activities.

For each fiscal year the Program Office and the Research Office are to prepare a joint research program for the following fiscal year. The head of each Federal department, agency or instrumentality which is engaged in programs or activities which may have an impact on the quality of the Great Lakes shall submit an annual report to the Administrator with respect to those activities and their effect on compliance with the Great Lakes Water Quality Agreement.

The bill authorizes $50 million over a five-year period to carry out the purposes of this section, 50% of which is to be used for demonstrating methods to control toxic pollution, 7% of which is for nutrient monitoring and 30% of which is for the Research Office.

House amendment

The House amendment includes a statement of purpose for this section which is to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978. The amendment establishes the Great Lakes International Coordination Office. The Office is to: carry out the Great Lakes Water Quality Agreement of 1978; conduct toxic pollutant control demonstration programs at five specific sites; coordinate the activities of the Agency related to the Great Lakes; coordinate actions of other Federal departments and agencies related to the Great Lakes; establish a system-wide surveillance network; and serve as a liaison to Canadian members of the International Joint Commission.

The annual budget submission of the Agency to Congress is to include a specific line item for the Office. The Administrator is to submit annual assessments and reports on progress in meeting the Great Lakes Water Quality Agreement of 1978.

The amendment establishes a Great Lakes Research Office in the National Oceanic and Atmospheric Administration. The Research Office is to identify issues on which research is needed and is to compile an inventory of on-going research on those questions. The Research Office is to develop a comprehensive data base for the Great Lakes System and may conduct research and monitoring activities.

For each fiscal year the Coordination Office within EPA and the Research Office at NOAA are to prepare a joint research program.

The amendment authorizes $52 million over a five-year period for the EPA Coordination Office of which $17.5 million is to be used to carry out the toxic pollutant control demonstration projects. In addition $10 million is authorized to carry out the existing Great Lakes authorities of the Clean Water Act in fiscal year 1986 and $16 million is authorized for the activities of the Research Office over a five-year period.

Conference substitute

The conference substitute contains a statement of purpose which is to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978. It establishes the Great Lakes National Program Office within the Environmental Protection Agency and specifies the duties and responsibilities of the Program Office.

The Program Office is to: develop and implement action plans to carry out the duties of the United States under the Great Lakes Water Quality Agreement of 1978; establish a system-wide surveillance network; coordinate the activities of the Environmental Protection Agency with respect to the Great Lakes; to work with other Federal agencies to achieve the objectives of the Agreement.

The Program Office is to develop a five-year plan for reducing the amount of nutrients that enter into the Great Lakes and shall incorporate into that plan management programs for nonpoint sources of pollution developed pursuant to section 319 of this Act.

The Program Office is to conduct a five-year study of methods to remove toxic pollutants from the Great Lakes with emphasis on the removal of toxic pollutants from bottom sediments. Demonstration projects at Saginaw Bay, Michigan; Sheboygan Harbor, Wisconsin; Grand Calumet River, Indiana; Ashtabula River, Ohio; and Buffalo River, New York are to receive high priority under this program.

The annual budget submission of the Agency to the Congress is to include a line item for the Great Lakes Program Office. At the end of each fiscal year the Administrator is to submit to the Congress a comprehensive report on the achievements of the Program Office during the preceding fiscal year.

The conference substitute establishes a Great Lakes Research Office in the National Oceanic and Atmospheric Administration. The Research Office is to identify issues with respect to Great Lakes water quality on which research is needed and is to compile an inventory of on-going research on those questions. The Research Office is to develop a comprehensive data base for the Great Lakes System and may conduct research and monitoring activities.

For each fiscal year the Program Office and the Research Office are to prepare a joint research program. The head of each Federal department, agency or instrumentality which is engaged in programs or ac-

tivities which may have an impact on the quality of the Great Lakes shall submit an annual report to the Administrator of the Environmental Protection Agency with respect to those activities and their effect on compliance with the Great Lakes Water Quality Agreement of 1978.

The conference substitute provides an authorization to the Administrator of the Environmental Protection Agency of $11,000,000 for each of the fiscal years 1987 through 1991 to carry out the provisions of this section. Of the amounts appropriated, 40 percent is to be used by the Program Office to demonstrate the control and removal of toxic pollutants; 7 percent is to be used for nutrient monitoring; and 30 percent is to be transferred to the Research Office for its programs.

RESEARCH ON EFFECTS OF POLLUTANTS

Senate bill

No comparable provision.

House amendment

The House amendment directs EPA, when establishing national programs to reduce and eliminate pollution, to conduct research on the harmful effects on persons caused by pollutants in water. Special emphasis is to be placed on the effects of bioaccumulation of pollutants in aquatic species. The study will be carried out in conjunction with the Fish and Wildlife Service, the National Oceanic and Atmospheric Administration and other Federal and State agencies.

Conference substitute

The conference substitute adopts the House provision requiring the Administrator to undertake research on the harmful effects of pollutants in water but deletes the specific authorization of appropriations to carry out the purposes of this section. Research required by this section should be undertaken using funds made available to carry out section 104 of the Act. In conducting this research, the Administrator should address the health impacts of waterborne pollutants on both human and aquatic species.

TIME LIMIT ON RESOLVING CERTAIN DISPUTES

Senate bill

No comparable provision.

House amendment

This provision states that in any case in which a dispute arises with respect to the awarding of a contract for construction of treatment works by a grantee of funds under this title and a party to such dispute files an appeal with the Administrator for resolution of the dispute, the Administrator shall make a final decision on the appeal within 60 days of the filing of such appeal.

Conference substitute

The conference substitute adopts the House provision, except that the time limit for final decision is 90 days after the filing of the appeal.

FEDERAL SHARE

Senate bill

No comparable provision.

House amendment

The House amendment amends section 202(a)(1) of the Act by adding projects to address water quality problems due to impacts of discharges from combined storm water and sanitary sewer overflows. This is the subsection which provides that projects which have received a step three construction grant before October 1, 1984, will continue to receive a Federal grant of 75 percent until completion.

The House amendment provides that, in the case of any project for which an application for a grant has been made before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, the project shall still be eligible for grants of 75 percent of the construction cost.

The House amendment also provides that in the case of the Wyoming Valley Sanitary project required by judicial order, the Federal share shall be 75 percent of the cost of construction.

The House amendment provides that, in addition, the Administrator is authorized to make a grant to fund all the costs of the modification or replacement of biodisc equipment (rotating biological contractors) in any publicly owned treatment works if the Administrator finds that the equipment has not met design performance specifications, unless the failure is attributable to negligence on the part of any person, and if the failure has significantly increased capital or operating and maintenance expenditures.

The House amendment provides that the activated bio-filter feature for treatment works of the City of Little Falls, Minnesota, shall be deemed to be an innovative wastewater process and technique and shall be eligible for the increased grants which the Act makes available for innovative technology projects.

Federal assistance made available by the Farmers Home Administration is authorized to be used to provide the non-Federal share of construction projects costs.

CONFERENCE SUBSTITUTE

The conference substitute adopts the House amendment as modified. Subsection (a) of the House amendment is deleted. The conference substitute adopts a modification of a Senate provision limiting the eligibility of facilities to receive 75 percent Federal grants to those grants made pursuant to a State obligation occurring before October 1, 1990. The conference substitute also provides that a project for wastewater treatment at Altoona, Pennsylvania, shall be eligible for 75 percent grants.

Subsection (f) clarifies that assistance made available to communities through the Farmers Home Administration may be used to provide the non-Federal share of the cost of a construction project carried out under section 201 of this Act. A number of projects have proceeded with Farmers Home Administration funding of the non-Federal share. Subsection (f) is intended to simply clarify that such practices have been and continue to be acceptable. Adoption of this provision should not be interpreted as implying that, prior to this action, such practices were not acceptable.

ELIGIBILITIES AFTER 1990

Senate bill

The bill amends three sections of the Act to provide consistency between programmatic aspects of title II and the funding phaseout. The bill amends section 202(a)(1) of the Act to prohibit grandfathering of the 75 percent Federal share for grants for phased or segmented projects that receive a grant award on or after October 1, 1990. Section 204(c) of the Act is amended to prohibit grandfathering of reserve capacity for phased or segmented projects that receive a grant award on or after October 1, 1990. Section 205(g)(1) of the Act is amended to extend the Administrator's authority to reserve four percent of the State's allotment through fiscal year 1994 for the purpose of making grants to States for the management of the delegated construction grant program. This is to assure that management funds will be available for any project constructed within the legal obligation period after 1990.

House amendment

The House amendment also amends section 205(g)(1) of the act, but only extends the reservation for costs of administration until 1990.

Conference substitute

The conference substitute adopts the Senate bill, as modified, among other things to provide that 75 percent Federal grants will no longer be available for any grant made pursuant to a State obligation made after September 30, 1990, and to delete the resource capacity prohibition after October 1, 1990, for certain phased or segmented projects.

AGREEMENT ON ELIGIBLE COSTS; GRANTEE CERTIFICATION OF TREATMENT PROCESS

Senate bill

No comparable provision.

House amendment

Section 203(a) of the Federal Water Pollution Control Act requires each applicant for a grant to submit to the Administrator for his approval plans, specifications and estimates for each proposed project for the construction of treatment works for which a grant application is made. The House amendment amends this provision to provide that before taking final action on such plans, specifications and estimates, the Administrator must first enter into an agreement with the applicant which establishes and specifies to the extent practicable which items of the proposed project are eligible for Federal payments under this section. Once this agreement has been entered into, the Administrator may not refuse to make payments for the Federal share of those reasonable costs of any item specified in the agreement which are incurred on the project.

The House amendment also provides that the approval of construction plans and specifications by the Administrator under Section 203(a) shall not include a determination or approval of the treatment work's unit processes, or the configuration of the treatment work's unit processes, which constitute the treatment technology. In addition, the Administrator is not to approve plans, specifications or estimates for a project unless the applicant certifies that the proposed unit processes and treatment technology are capable of meeting the effluent limitations for which they are designed.

Conference substitute

The conference substitute basically adopts the House language, but adds language which provides that the requirements of this section are only applicable to final action on plans, specifications, and estimates submitted sixty days after enactment of the Water Quality Act of 1986. In addition, the conference substitute deletes language specifying that approvals by the Administrator under this section shall not include a determination or approval of the treatment work's unit process or the configuration of the treatment work's unit process, which constitute the treatment technology. Also deleted is language prohibiting the Administrator from approving plans, specifications, and estimates under section 203 of the Act unless the applicant certifies the

ability of the process or technology to meet the applicable effluent limitations.

DESIGN-BUILD PROJECTS

Senate bill

Section 203 of the Act is amended to provide that communities applying for construction grant assistance may enter into an agreement with the Administrator to erect treatment works under alternate "design-build" grant management procedures. This alternate management procedure allows applicants to contract for both the design and construction of treatment works, thereby avoiding several costly review and bidding requirements.

The agreement between the applicant and Administrator provides for a specified Federal contribution, start and end dates for construction, effective project management procedures, and a bond to assure performance.

Design-build project management procedures are limited to those projects which have a total cost of less than $8 million and are specified, simple treatment systems (e.g., aerated lagoons). In addition, not more than 25 percent of a State grant allocation may be used under this alternate management procedure.

House amendment

The House amendment authorizes grants for turnkey provisions for construction of treatment works which have an estimated total cost of $8 million or less. E.P.A. and the applicant must enter into an agreement specifying maximum Federal contribution, completion dates, and the like. The Federal share is to be deposited into an interest-bearing account and earned interest is available for payments to the grantee. The House provision allows use of "turnkey" management for any type of treatment system.

CONFERENCE SUBSTITUTE

The conference substitute adopts a combination of Senate and House bills. The interest-bearing account provision of the House amendment is deleted. The House provision limiting use of more than 20 percent of the amount allotted to a State for grants under this subsection is adopted. And, the Senate provision limiting use of the design/build approach to specified, simple treatment systems is adopted.

The provision in the conference substitute provides that the agreement between the Administrator and applicant must include an amount agreed to as the maximum contribution to a project. This amount is to be based on a determination of the Federally eligible costs of the project at the applicable Federal share under section 202 of the Act and on a competitively bid document of basic design data and applicable standard construction specifications. Because design-build management is limited to specified, conventional treatment systems, the facility plan is expected to provide sufficient, basic information to assure that bids reflect comparable design and construction standards. The applicant, with the assistance of the State and the Administrator, may supplement the facility plan with additional basic design data and construction specifications prior to bidding if necessary.

It is expected that applicants will not need to hire professional services to upgrade a facility plan to a bid document. However, if the Administrator or State determines that additional professional services are needed in order to prepare a bid document, costs of such services are to be eligible under section 201(1) of this Act. The Administrator may decline to agree to an amount of Federal contribution and decline to enter an agreement under this section if he finds that the bid document is not adequate to assure that bids reflect comparable design and construction standards.

GRANT CONDITIONS—USER CHARGES ON LOW-INCOME RESIDENTIAL USERS

Senate bill

No comparable provision.

House amendment

The House amendment amends section 204(a)(1) of the Federal Water Pollution Control Act to require the Administrator, before approving sewage treatment construction grants for any project, to determine that either any required areawide waste treatment management plan under section 208 is being implemented for such area and the proposed treatment works are included in such plan or that reasonable progress toward implementation is being made.

It also amends section 204(a)(2) of the Act and requires similar conformance with plans and reports in section 303(e) and 305(b) of the Act.

These amendment made shall take effect two years after the date of enactment of this legislation.

Section 204(b)(1) of the Federal Water Pollution Control Act provides that, notwithstanding any other provisions of the Act, the Administrator shall not approve any grant for any treatment works unless he shall first have determined that the applicant has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction will pay its proportionate share of the costs of operation and maintenance of any waste treatment services provided by the applicant.

The House amendment amends this by providing that a system of user charges which imposes a lower charge for low-income residential users, as defined by the Administrator, shall be deemed to be a user charge system meeting the requirements of section 204, if the Administrator determines that the system was adopted after public notice and hearing. Any additional user charges required of other users of the waste treatment services resulting from application of this subsection are to be determined in accordance with the proportionality requirements of section 204.

Conference substitute

The conference substitute adopts the House provision. The inclusion of subsection (d), providing for an effective date beginning two years after the date of enactment for new provisions concerning areawide plans and continuing planning processes, is not intended to affect or override any related provision of this Act.

ALLOTMENT OF CONSTRUCTION GRANT FUNDS

Senate bill

The bill amends section 205(c) of the Act to establish an allotment formula for distributing construction grant funds and State revolving fund capitalization grants among States for the fiscal years 1986 through 1990. The formula in existing law expires with the fiscal year 1985 authorization. The allotment formula in the bill states as a 6-place decimal fraction the share of the total appropriation each State will receive in each of the fiscal years for which it is applicable. The first table in the bill contains the allotment share for each State for fiscal years 1986-1988. Table 2 is for fiscal years 1989-1990.

House amendment

The House amendment extends the existing allotment formula through fiscal year 1990.

Conference substitute

The conference substitute adopts a new formula for distributing construction grant funds and the State revolving loan fund capitalization grants among States for fiscal years 1987 through 1990. The allotment formula for fiscal year 1986 is the same as under current law.

RURAL SET-ASIDE

Senate bill

The Senate bill extended the rural set-aside of current laws.

House amendment

The House amendment amends section 205(h) of the Act which relates to alternatives to conventional sewage treatment works in rural areas by changing the four percent mandatory set-aside to provide that it shall be a minimum of four percent, but shall be increased to as much as seven and one-half percent at the request of the Governor. Also, the authorization of a discretionary set-aside for other states of up to four percent at the request of the Governor is changed to authorize a set-aside of up to seven and one-half percent.

Conference substitute

The conference agreement adopts the House amendment.

INNOVATIVE AND ALTERNATIVE PROJECTS

Senate bill

The bill amends section 205(i) of the Act to extend through fiscal year 1990 the requirement that a percentage of allotted funds be reserved to be used to increase the Federal share for innovative and alternative projects.

House amendment

The amendment amends section 205(i) to extend the set aside for innvative and alternative processes until 1990.

Conference substitute

The conference substitute combines the House and Senate provisions, including technical amendments included in the Senate provision.

REGIONAL ORGANIZATION FUNDING

Seante bill

No comparable provision.

House amendment

The House amendment contains a provision requiring States to allocate 50 percent of the funds received in each year pursuant to the provisions of section 205(j) of the Act and with respect to water quality planning for use by regional and interstate comprehensive public planning organizations. An exception to the requirements of the section is made if the Administrator, in consultation with the affected Governor, determines that such an allocation will not significantly assist in encouraging participation by such entities.

Conference substitute

The conference substitute adopts the House provision with modifications. The States are to allocate at least 40 percent of the 205(j) planning funds for use by regional comprehensive public planning organizations and appropriate interstate planning organizations. The Governor, after receiving

approval from the Administrator, may allocate a lesser amount in any fiscal year, but only where allocation of 40 percent will not result in significant participation by such entities in the water quality planning activities conducted pursuant to this Act.

This provision establishes a minimum allocation and the conferees encourage States to provide a larger percentage of funds to regional and interstate organizations where a higher allocation will encourage participation by such entities in water quality planning.

MARINE CSO'S AND ESTUARIES

Senate bill

The Senate bill amends section 205 of the Act to provide for reservation of not to exceed 1 percent of the construction grant funds for fiscal years 1986-1988 and 1½ percent for fiscal years 1989-1990.

Two-thirds of the reserve, or one percent of the construction grants appropriation, shall be available for marine CSO correction where lower levels of water quality exist in marine bays and estuaries as a result of discharges by marine CSO's. The remaining one third of the reserve, or one half of one percent of the construction grants appropriation, shall be made available to supplement the funding of the newly established National Estuary Program pursuant to section 320 of the Act. The total reserve authorized by this provision is subject to the two year period of availability for obligation as provided for in section 205(d).

House amendment

Amends section 201(g)(1) of the Federal Water Pollution Control Act by adding projects to address water quality problems due to impacts of discharges from combined storm water and sanitary sewer overflows to the list of categories which are eligible for Federal grant assistance.

Conference substitute

The conference substitute adopts the Senate provision, except that the reservation is 1% for fiscal years 1977-1978 and 1.5% for 1989-1990. The conference substitute also treats certain portions of tributaries draining into marine bays and estuaries as marine bays and estuaries.

CONSTRUCTION GRANT AUTHORIZATION

Senate bill

The bill amends section 207 of the Clean Water Act to authorize $2.4 billion annually for the Title II construction grants program for fiscal years 1986 through 1988, and not to exceed $1.2 billion annually for fiscal years 1989 and 1990.

The bill amends section 205(e) of the Clean Water Act (providing a minimum allotment of ½ percent to each State, but not more than ⅓ percent in the aggregate for the territories) by extending authorization dates through 1994.

House amendment

The House amendment extends the authorization level for the Construction Grants Program of $2.4 billion per fiscal year through fiscal year 1990 and extends the Act through 1990.

The House amendment adds fiscal years 1986 through 1990 to section 205(e) and changes the maximum amount available to Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territories from one-third of one percent to two-thirds of one percent in order to better meet their water quality needs.

Conference substitute

The conference substitute is the same as the Senate bill for construction grants authorizations.

REPORT TO CONGRESS

Senate bill

The bill amends section 516 of the Act to require the Administrators to submit a report to Congress on the financial status and operations of the Water Pollution Control Revolving Funds.

House amendment

The House amendment contains a similar provision.

Conference substitute

The conference substitute adopts a comparable provision, which is included in the State Water Pollution Control Revolving Fund section.

STATE WATER POLLUTION CONTROL REVOLVING FUNDS

Senate bill

The bill adds a new title VI to the Clean Water Act to provide for the establishment of State-administered Water Pollution Control Revolving Funds (SRFs). The creation of SRFs through a program of capitalization grants to States will provide a feasible transition to State and local financing of municipal wastewater treatment facilities.

To complete the remaining core municipal wastewater treatment needs, funds must be dedicated as quickly as possible. This policy is implemented through a provision which requires that binding loan agreements for the use of Federal funds be completed within one year of receipt of such funds, and that the projects financed with such loans comply with the eligibility and other requirements that are applicable to grant-funding projects under title II. In addition to meeting title II eligibility requirements, a State must also commit to first using its revolving fund resources in financing the construction of municipal treatment works needed to meet the 1988 municipal compliance deadline.

The bill authorizes $8.4 billion in the period beginning fiscal year 1989 and ending fiscal year 1994 and provides that appropriations from the authorized amounts be allotted among the States in accordance with the same allocation formula that is used to allot title II construction grant funds. Funds allotted under a grant award in a given fiscal year must be made by the end of that fiscal year. Funds allotted to a State that have not been awarded by the end of the fiscal year that such funds became available will be reallotted among the States that have already established acceptable State Revolving Funds.

Under the Senate bill States are required to enter into agreements with the Administrator prior to receiving the award of a capitalization grant.

A State must establish (through statute or other legal mechanism creating a legal entity of the State with the powers and limitations prescribed in this bill) a revolving fund dedicated solely to such purposes. The State must also negotiate a schedule of payments as described above. Prior to receiving payments, a State must make a 15 percent matching contribution to the revolving funds. This section also enables a State to meet the 15 percent matching requirements by depositing State monies in the dedicated revolving fund during fiscal years prior to the fiscal year that Federal grant funds are received.

All funds available to the revolving fund must be committed in an expeditious and timely manner; funds provided by capitalization grants (or an amount equal to such funds), however, must be made available to loan recipients in binding loan agreements within one year of receipt of the Federal funds by the State Revolving Fund. Binding loan commitments entered into within 12 months of receipt of a Federal grant payment may also be greater than 100 percent of the amount of the Federal grant payment. Any treatment project that is financed with funds directly made available by capitalization grants, prior to fiscal year 1985, will have to meet the same requirements that the project would have had to have met if it had received a grant under Title II.

A State must further agree to first use funds available in the State Revolving Fund to assure maintenance of progress in completing municipal treatment works needed to comply with enforceable requirements of the Act, including the 1988 municipal compliance deadline.

The Senate bill provides that a State must establish a Water Pollution Control Revolving Fund, which must be administered by an instrumentality of the State, to be eligible for an award of a capitalization grant. The State must provide the SFR with powers and impose limitations on the Revolving Fund; some of the powers and limitations are specified in the remaining subsections of section 603.

The bill also provides that SRFs be maintained and credited with repayments so that the fund balance shall be available in perpetuity. The Revolving Fund is dedicated for only two purposes: one, to provide financial assistance for the construction of publicly owned treatment works as defined in Section 212(2) of the Act; and two, to provide financial assistance (except from funds made directly available to the SFR in the capitalization grant) for the implementation of projects and programs established under sections 319 (Nonpoint Source Pollution Control Program) and 320 (National Estuarine Program). In both cases, the financial assistance must be for capital projects that are capable of enabling the State to establish a revenue stream to support repayment of the financial assistance.

The State Revolving Fund may buy or refinance debt obligations of local communities which were incurred for construction of publicly owned treatment works after March 7, 1985. The purpose of this provision is to encourage municipalities to proceed with construction with their own means of interim financing in advance of availability of a loan from the revolving fund, by offering municipalities the prospect of project refinancing at reasonably better financial terms at a later date.

The bill requires fiscal control and accounting procedures be established for SFRs. The State is required to establish fiscal controls and procedures to assure proper accounting for payment periods, disbursements, and fund balances. All funds must be accounted for, including capitalization grants, State matching grant, and loan repayments. The Administrator shall conduct, or the State shall have an entity independent of the State conduct an audit, not less than annually, of the operations of each SRF.

The bill requires each State to prepare a plan for the intended uses of amounts available in the Revolving Fund. The intended use plan may be adopted from the priority

systems and lists developed under section 216 of the Act for construction grant projects. The State may also consider other information on the extent and nature of water pollution problems. The State must provide an opportunity for public comment on the use of the funds.

The bill requires the State to prepare a report to the Administrator describing how the State implemented its intended use plan prepared pursuant to subsection (c). This report is to be prepared annually and the first report must be provided in the first fiscal year after receipt of payments. The report shall include identification of loan recipients, amounts, and terms.

The bill requires the Administrator to conduct an annual review of the intended use plan and the annual report to determine whether the State is complying with the annual report to determine whether the State is complying with the requirements of this Title. Subsection (e) also requires that a State or loan recipient make records available to the Administrator, after reasonable notice, to help in making a determination.

The bill amends the Clean Water Act by adding a new subsection (m) to Section 205. This section would provide States with the option of using all or a portion of their funds available for obligation under Title II for capitalization grants for State Revolving Funds under Title VI.

The House amendment establishes a program for grants to states for establishment of water pollution control revolving funds.

Subsection (a) of new section 220 directs the Administrator to make a grant to each state for the purpose of establishing a Water Pollution Control Revolving Fund for providing assistance to municipalities and intermunicipal and interstate agencies for construction of treatment works as defined in section 212 of the Act which are publicly owned.

Before receiving a grant, the state must first deposit in the fund an amount equal to 20 percent of the amount allotted to the state for a fiscal year. In addition, the Governor may deposit not to exceed twenty percent of the amount allotted to the state under section 205 (construction grant funds), if the state has deposited from non-Federal funds an amount equal to twenty percent of the section 205 funds to be deposited.

Each state must submit annually to the administrator a certification that, upon completion of any project for treatment works for which financial assistance is made available under this section, discharges from such treatment works will meet all applicable requirements necessary to achieve applicable state and Federal water quality standards. The state must further certify that it will comply with all provisions of section 16.

A state may use amounts in the Revolving Fund only to make loans, loan guarantees, payments to reduce interest on loans and loan guarantees, bond interest subsidies, and bond guarantees to municipalities and intermunicipal and interstate agencies, or purchase of insurance for obligations. A state may also use the fund as security for revenue bonds issued to finance construction of treatment works.

Each state shall establish a Water Pollution Control Revolving Fund to provide assistance under this section. The state must deposit in the revolving fund any Federal funds allotted to the state under this section, any amounts received by the state for repayment of loans made by the state with amounts in the fund, any amounts required to be deposited in the fund state 20 percent share and up to 20 percent of construction grant funds and any additional funds which the state wishes to deposit in the fund.

A state may provide assistance under this section to a municipality or intermunicipal or interstate agency with respect to the non-Federal share of the costs of a project for which such municipality or agency is receiving assistance from the Administrator under any other section of Title II.

A state may provide assistance from a revolving fund to a municipality or intermunicipal or interstate agency for the non-Federal share of the costs of a project which is receiving assistance under the construction grants program.

A state may only make a loan from the revolving fund if the recipient establishes a dedicated source of revenue for repayment of the loan.

A state may provide financial assistance from the revolving fund only for projects which are on the state priority list. Assistance may be provided regardless of the rank of a project on the priority list.

Each state must annually make a full and complete report to the Administrator concerning the use of Federal funds made available under this section in such manner as the Administrator shall prescribe. Also, at least annually, the Administrator shall conduct, or require each state to have independently conducted, reviews and audits as may be deemed necessary and appropriate by the Administrator to carry our the objectives of this section. Audits of the use of Federal funds shall be conducted in accordance with the auditing procedures of the General Accounting Office.

The provisions of Title II of the Federal Water Pollution Control Act shall not apply to financial assistance under new section 220 except to the extent specifically provided in new section 220.

There is authorized to be appropriated to carry out this section not to exceed $600,000,000 per fiscal year for each of the fiscal years 1986 through 1990, $2,400,000,000 for fiscal year 1991. $1,800,000,000 for fiscal year 1992. $1,200,000,000 for fiscal year 1993, and $600,000,000 for fiscal year 1994. These funds are to be allotted by the administrator in accordance with the same table which provides for allotment of Construction Grant funds. Sums allotted to a state for a fiscal year shall remain available for a grant to such state for the fiscal year for which authorized and for the following two fiscal years as well. Any funds granted to a state for a fiscal year under this section which are not utilized by such state for any of the purposes of this section during such fiscal years shall be repaid to the Administrator for reallotment among the other states.

The conference substitute combines both House and Senate bills.

The provision provides that the Administrator and States may enter into capitalization grant agreements under this title. States must agree to accept payments under a schedule to be developed jointly with the Administrator, must agree to provide a 20% match of Federal funds, and must agree to make binding commitments for assistance in an amount equal to 120% of the amount of the grant payment within one year. Monies contributed by a State match Federal capitalization grants under section 602(b)(3) are to be cash and not in-kind.

The schedule under which payments are to be made by the Administrator to the State shall be developed jointly by the State and the Administrator. Such schedule shall be based on the State intended use plan and shall provide that payments be made as expeditiously as possible, consistent with such plan. Payments to a State must me made not later than the earlier of eight quarters after the date funds were obliged by the State or 12 quarters after the date such funds were alloted to the State.

In addition, the State must agree to assure, as part of the intended use plan submitted annually, that all Federal and State funds provided to the SRF will be committed in an expeditious and timely manner. This provision reinforces the requirement that States make binding commitments for funds within one year of any given payment to the fund.

Section 602(b)(5) refers to all Federal funds, in the form of capitalization grants, and all other funds in the SRF as a result of those capitalization grants, including repayment of loans originating from those grants and State funds contributed as the required match for those grants, and funds deposited in the fund under section 205(m). The State must use these funds first to assure that treatment works maintain progress toward compliance with the enforceable deadlines, goals and requirements of this Act, including the municipal compliance deadline of July 1, 1988, or are on enforceable schedules for compliance after that date.

Progress toward compliance with enforceable deadlines, goals and requirements of the Act, in the case of treatment works that are not voluntarily on a schedule to achieve compliance, may be assured through a funding commitment or through establishment of an enforceable compliance schedule. Thus, the requirement of section 602(b)(5) is met if treatment works in a State are on an enforceable schedule to achieve compliance with uniform secondary treatment requirements of the Act, whether or not there is a commitment to fund such treatment works from a State revolving loan fund or with a grant under Title II of this Act. Governors of each State shall make the determination of progress toward compliance required under this subsection and the Administrator shall oversee such determinations.

Once a State has met the requirement of paragraph (B), funds from the SRF may be used for any other treatment works as defined by section 212 of the Act (subject to the restrictions of section 602(b)(6), programs and projects identified under the Nonpoint Source Pollution Control Program (section 319), or programs and projects identified under the National Estuaries Program (section 320). This provision is intended to allow States the flexibility to utilize funds from the SRF to support a variety of measures that the State determines are needed to achieve water quality goals.

Further, a State must demonstrate that any treatment works which is constructed in whole or in part prior to fiscal year 1995 with funds directly made available by capitalization grants under this title or section 205 (m), will meet the requirements of the sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1) and 513. This restriction on the use of Federal capitalization grant funds does not apply to funds contributed by the State in accord with section 602(b)(3), monies repaid to the fund, or other monies. State Governors shall assure that the requirements of this subsection are met.

The restrictions on the use of capitalization grant funds used directly to support treatment works are intended to assure that Federal funds are used in an effective and efficient manner. However, nothing in the conference substitute limits or otherwise affects the authority a Governor has by virtue of section 201(g)(1) of the Act to reserve 20 percent of the State's allotment for otherwise ineligible assistance.

Section 201(b) requires that projects apply best practicable waste treatment technology.

Section 201(g)(1) limits assistance to projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. This subsection also provides that State Governors may reserve 20 percent of a State's allotment for projects which meet the definition of treatment works in section 212(2) but are otherwise not eligible for assistance under this subsection. This Governor's reserve is intended to apply to funds made available under this title.

Section 201(g)(2) requires that alternative waste treatment techniques be considered in project design.

Section 201(g)(3) requires the applicant to show that the related sewer collection system is not subject to excessive infiltration.

Section 201(g)(5) requires that applicants study innovative and alternative treatment technologies and take into account opportunities to make more efficient use of energy and resources.

Section 201(g)(6) requires that the applicant analyze the potential recreation and open space opportunities in the planning of the proposed facility.

Section 201(n)(1) provides that funds under section 205 may be used to address water quality problems due to discharges of combined stormwater and sanitary sewer overflows, which are not otherwise eligible, if such discharges are a major priority in a State. This provision is intended to apply to use of funds under title VI as well as section 205.

Section 201(o) calls on the Administrator to encourage and assist communities in development of capital financing plans.

Section 201(a) (1) and (2) require that treatment works projects be included in plans developed under sections 208 and 303(e).

Section 204(b)(1) requires communities to develop user charge systems and to have the legal, institutional, managerial, and financial capability to construct, operate and maintain the treatment works.

Section 204(d)(2) requires that, one year after the date of construction, the owner/operator of the treatment works must certify that the facility meets design specifications and effluent limitations included in its permit.

Section 211 provides that collectors are not eligible unless the collector is needed to assure the total integrity of the treatment works or that adequate capacity exists at the facility.

Section 218 assures that treatment systems are cost effective and requires that projects of over $10 million include a value-engineering review.

Section 511(c)(1) applies the National Environmental Policy Act to treatment works projects.

Section 513 applies Davis-Bacon labor wage provisions to treatment works construction.

As noted above, the fund may be used to assist publicly owned treatment works as defined by section 212 of the act, the development and implementation of a nonpoint source management program established under section 319 and development and implementation of an estuary program under section 320. This provision is intended to provide a basis for funding of projects to control nonpoint pollution and pollution to estuaries where such projects are conducted by municipalities, a State, other public organizations, or individual. All fund management provisions of this title apply to such projects.

The definition of projects eligible for funding under the loan program includes publicly owned treatment works as defined by section 212 of the Act. This definition includes planning and design as defined in section 212(1), treatment works as defined in section 212(2) and replacement as defined in section 212(3). Each of these aspects of treatment works is eligible for assistance under this title.

Some municipalities have developed, or may develop in the future, innovative financing arrangements involving private ownership and operation of portions of municipal sewage treatment systems. It is not the intent of this section to prohibit or discourage States from using their revolving loan funds to support the publicly owned portion of such treatment systems.

Funds under this title may be used to make loans as provided under section 603(d)(1), but are not to be used to provide direct grants. If as a result of audits under this section, the Administrator finds a consistent and substantial failure to repay loans, he may take corrective action as provided under this title.

Section 603(d)(2) provides that loan funds may be used to refinance debt obligations of municipalities for eligible projects, where such obligations were incurred after March 7, 1985.

Section 603(h) limits the authority of section 603(d)(2) by providing that funds may not be used to make direct loans to support the non-federal share of a project receiving assistance under title II of this Act. This limitation on direct loan assistance does not include ancillary assistance to the municipality which results in a lowering of costs of the obligation (e.g. guarantee of the local share obligation, insurance of the obligation, etc.). However, such indirect assistance to support the costs of the non-Federal share shall only be available to municipalities which face severe financial constraints, as determined by the State Governor.

This section provides that wastewater treatment projects, but not other eligible projects, assisted with funds in the loan fund are required to be on the State priority list. Such assistance may be provided without regard to rank of the project on the list.

The provision provides for the allotment of certain funds to states, reservation of funds for planning, and the reallotment of unobligated funds. Funds reserved for water quality management planning under this provision are to be used by whichever agency or agencies in the State conduct environmental programs, rather than an agency established to manage the financing of projects with funds provided under this title.

The provision contains requirements for audits, fiscal controls, and corrective action by the Administrator where needed.

Authorizations are provided as in the Senate bill. In addition, the conference substitute allows transfer of funds under title II to a loan fund established under this title. Such transfers may not exceed 50% of grant funds in FY 1987 and 75% of grant funds in 1988. Such title II funds are to be treated as capitalization grants when transferred to the fund.

The provision provides for reports to Congress on the progress and status of State loan funds.

Funds available to States under section 205(g) for the management of construction grant programs under title II may be used to assist the development of revolving loan funds under this title.

EMPLOYMENT PROJECTS

Senate bill

No comparable provision.

House amendment

The House amendment provides that the Administrator shall make a grant of $3,000,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of California, for fiscal year 1986 to the city of Avalon, California for improvements to the publicly owned treatment works of such city.

Subsection (b) provides that the Administrator shall make grants from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of Pennsylvania for fiscal year 1986—

(1) to Walker Township, Pennsylvania, for developing a collector system and connecting its wastewater treatment system into the Huntingdon Borough, Pennsylvania, sewage treatment plant, and

(2) to Smithfield Township, Pennsylvania, for rehabilitating and extending its collector system.

The House amendment provides that notwithstanding section 201(g)(1) of the Federal Water Pollution Control Act or any other provision of law, the Administrator shall make a grant of $250,000 fron funds allotted under section 205 of such Act to the State of Kentucky for fiscal year 1986 to the city of Taylor Mill, Kentucky, for the repair and reconstruction, as necessary, of the publicly owned treatment works of such city.

The House amendment provides that the Administrator shall make a grant of $27,000,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of California for fiscal years beginning after September 30, 1985, to the city of Watsonsville, California, for improvements to the wastewater treatment and disposal facilities of such city.

The House amendment directs the Administrator to make a grant from funds allotted to the State of New Jersey to the Wanaque Valley Regional Sewerage Authority for the construction of treatment works with a total capacity of 1,050,000 gallons per day.

The House amendment provides for a grant to the village of Lena, IL, from funds allotted to Illinois, for the construction of a replacement moving bed filter press for the city's treatment works.

The House amendment directs the Commonwealth of Pennsylvania, from the sums allocated to it under this Act, give first priority to the Wyoming Valley Sanitary Authority Secondary Treatment project mandated under federal court order, regardless of the date of start of construction made pursuant to the court order.

Conference substitute

The conference agreement adopts the House amendment relating to Avalon, California; adopts the House amendment, as

modified, relating to Walker and Smithfield Townships, Pennsylvania; adopts the House amendment relating to Taylor Mill, Kentucky; deletes the House amendment relating to Watsonville, California; adopts the House amendment, as modified, relating to Nevada County, California; adopts the House amendment, as modified, relating to Wanaque, New Jersey; adopts the House amendment relating to Lena, Illinois; and, adopts the House amendment relating to the Wyoming Valley Sanitary Authority Secondary Treatment project, modified to require a funding priority, and modified to include funding priority for the Altoona, Pennsylvania, wastewater treatment project.

The Federal and non-Federal shares for the Avalon treatment works will be determined in accordance with the provisions of section 202(a)(1) of the Act.

CHICAGO TUNNEL AND RESERVOIR PROJECT

Senate bill

The Senate bill provides that the Chicago tunnel and reservoir project may receive grants without regard to the allocation limitation, if the Administrator determines that such project meets the cost-effectiveness requirements of sections 217 and 218 without any redesign or reconstruction, and the governor of the affected State demonstrates to the satisfaction of the Administrator the water quality benefits of such project.

House amendment

No comparable provision.

Conference substitute

The conference substitute includes language consistent with the Senate bill but as a free standing provision, rather than as an amendment to the Federal Water Pollution Control Act.

HAMPTON, NH AD VALOREM TAX AMENDMENT

Senate bill

This section permits the town of Hampton, New Hampshire, to continue using its ad valorem tax user charge system for collecting the costs of operation and maintenance of its sewage treatment works. Previously, Hampton had been unable to submit its ad valorem tax system to the Environmental Protection Agency for review and approval because of a disagreement over whether the tax system was dedicated to this purpose as of December 27, 1977.

House amendment

No comparable provision.

Conference substitute

The conference substitute adopts the Senate provision as modified to include the city of Nashua, New Hampshire.

COMPLIANCE DATES

Senate bill

The bill extends deadlines for compliance with several technology-based requirements of existing law. Section 301(b)(2)(C) is amended to require compliance with best available technology (BAT) effluent limitations for toxic pollutants as expeditiously as practicable but not later than three years after promulgation of the effluent limitations, but in no case later than July 1, 1988.

Under section 301(b)(2)(E) as amended, best conventional pollutant control technology (BCT) effluent limitations for conventional pollutants must also be complied with by those deadlines. Compliance with BAT effluent limitations for nonconventional, nontoxic pollutants under section 301(b)(2)(F) as amended is required not later than three years after such limitations are promulgated but in no case later than July 1, 1988.

A new paragraph (3) is added to section 301(b), providing that best practicable control technology (BPT) effluent limitations promulgated after January 1, 1982, which require a level of control substantially greater or based on fundamentally different control technology than limitations in the permits for such industrial category issued before that date, shall be complied with as expeditiously as practicable but not later than three years after promulgation of the effluent limitations but in no case later than July 1, 1988.

New section 302(b)(3)(B) provides that effluent limitations established in permits issued after enactment of these amendments on the basis of best engineering judgment or best professional judgment, in lieu of effluent guidelines for BPT, BAT, or BCT for toxic conventional or nonconventional pollutants, shall be complied with as expeditiously as practicable but no later than three years after such limitations are established in the permit (and in no case later than July 1, 1988). These extensions only affect deadlines for technology-based effluent limitations for direct dischargers. They do not affect pretreatment compliance dates.

House amendment

The amendment extends the compliance dates for achievement of best available technology and best conventional technology.

Subsection (a) of section 4 extends the compliance date for all toxic pollutants referred to in Table 1 of Committee Print 95-30 of the House Committee on Public Works and Transportation (the priority pollutants). Compliance is to be as expeditiously as possible, but in no case later than three years and six months after the date such effluent limitations are established.

The amendment extends the compliance date for all other toxic pollutants which may be listed under Section 307(a). Compliance is to be as expeditiously as possible, but in no case later than three years and six months after the date of establishment of any applicable effluent limitations.

The amendment extends the compliance date for application of best conventional technology (for conventional pollutants—biological oxygen demand, fecal coliform, suspended solids and pH). Compliance is to be as expeditiously as possible, but in no case later than three years and six months after the establishment of applicable effluent limitations.

The amendment extends the requirement for best available technology for all other pollutants. Compliance is to be as expeditiously as possible, but in no case later than three years and six months after the date the effluent limitations are established.

The amendment requires the Administrator of the Environmental Protection Agency to promulgate final regulations establishing effluent limitations for direct dischargers and limitations requiring pretreatment for all of the toxic pollutants referred to in Table I of Committee Print 95-30 in accordance with the following schedule:

Foundries	June 30, 1985.
Nonferrous metals forming	June 30, 1985.
Organic chemicals and plastics and synthetic fibers.	March 31, 1986.
Pesticides	August 31, 1985.
Nonferrous metals (phase II).	July 31, 1985.

Conference substitute

The Conference substitute establishes compliance deadlines for all technology-based requirements specified in both the House and Senate bills. These include compliance deadlines for effluent limitations applicable to priority toxic pollutants under section 301(b)(2)(C), other toxic pollutants under section 301(b)(2)(D), conventional pollutants under section 301(b)(2)(E), and non-conventional pollutants under section 301(b)(2)(F), as well as for best practicable control technology and best professional judgment effluent limitations established under section 301(b)(1)(A)(i) or on the basis of section 402(a)(1), respectively. The deadline established in each case is as expeditiously as practicable but in no case later than three years after the date the requirement is promulgated or established, and in no case later than March 31, 1989. In addition, the Conference substitute adopts modified House language directing the Administrator to establish effluent limitations by December 31, 1986, for toxic pollutants discharged from the two remaining categories of industrial dischargers for which no such limitations have been established.

With respect to the establishment of an outside date of March 31, 1989, for compliance with technology based requirements, the conferees note that prompt promulgation of the relevant effluent limitations will be essential to allow dischargers sufficient time to come into compliance. Therefore, the conferees direct that the Administrator promulgate such limitations as expeditiously as possible.

If dischargers in an entire category are unable to meet the March 31, 1989, deadline provided in the conference substitute as a result of the Administrator's failure to promulgate effluent limitations in sufficient time to allow for compliance by such date, noncompliance resulting from the Administrator's delay can be dealt with under EPA's current post-1984 deadline enforcement policy. That policy calls for the Agency, at the same time a permit containing the statutory deadline is issued, to issue an administrative order to the non-complying company which specifies a schedule of compliance as expeditiously as practicable, but not later than three years after permit issuance. Permits issued on the basis of best professional judgment, in advance of promulgation of effluent guidelines, will be able to comply with the statutory deadline, and EPA and the States should consider the use of such permits if effluent guidelines are delayed.

MODIFICATION FOR NONCONVENTIONAL POLLUTANTS

Senate bill

The bill amends section 301(g) of the Act to restrict the circumstances under which a modification from best available technology standards (BAT) can be granted for nonconventional pollutants.

The amendment to section 301(g) allows modifications to BAT guidelines only for five well studied nonconventional pollutants—ammonia, chlorine, color, iron and total phenols (4AAP). EPA has developed adequate information on these pollutants as a result of currently pending applications for modifications from the iron and steel and steam electric industries.

The Administrator may evaluate additional nonconventional pollutants and recommend to Congress that they are eligible for inclusion under section 301(g), but any such recommendation must be enacted by Congress to become effective.

The provision also limits to one year the time in which the Administrator can make a determination on a request for a modification under section 301(g)(4). The discharger must, in its application, make an affirmative showing that the discharge will meet the conditions in section 301(g)(4). The discharger must, in its application, make an affirmative showing that the discharge will meet the conditions in section 301(g)(A), (B) and (C). For the purposes of this provision, final Agency action means the administrative decision document or final permit issued by EPA, following public notice and comment as appropriate.

Section 301(g)(5) clarifies that this amendment applied to all modification requests under this subsection which are pending upon the date of enactment of the Clean Water Act Amendments of 1985. Specifically, for such pending requests, this provision is intended to restrict EPA's consideration to requests for modification to only those five nonconventional pollutants listed in section 301(g)(1) as amended. Pending requests for modification for other nonconventional pollutants cannot be granted and therefore will not be acted upon. For completed applications pending at the time of enactment of the Clean Water Act Amendments of 1985, EPA must take final Agency action within one year of the date of submission of the completed application to EPA, or under section 301(g)(4) the application will be deemed to be denied. This restriction applies specifically to completed applications as defined in EPA's regulations. Applicants with pending initial applications filed in accordance with section 301(j) may file completed application within a reasonable time after enactment.

The bill amends section 301(j) of the Act to forbid the stay of any requirements or limitations for any pollutant other than for the pollutants for which a section 301(j) modification may be sought.

House amendment

The House amendment amends section 301(g) of the act which provides for variances from effluent limitations for conventional pollutants. The amendment provides that variances may be sought only for ammonia, chlorine, color, iron and phenols. The Administrator may add pollutants to this list of those for which variances may be sought and may also remove pollutants from this list.

Conference substitute

NON-CONVENTIONAL POLLUTANTS

The Conference substitute specifies five pollutants for which modifications under section 301(g) may be sought. It provides that the Administrator may list additional pollutants in response to a petition. To apply to a particular industrial category, this listing must occur prior to the deadline for submitting applications for modifications, which is 270 days after promulgation of an applicable effluent limitation guideline. A petitioner may file an application for modification simultaneously with a petition for listing a pollutant under section 301(g).

Before listing a pollutant under section 301(g), the Administrator first must determine whether the pollutant meets the criteria for listing as a toxic pollutant under section 307(a)(1), as that term is defined in section 502(13). If the Administrator determines that the pollutant does meet these criteria, then the Administrator is required to list the pollutant under section 307(a)(1). If the Administrator determines that the pollutant does not meet these criteria, and the Administrator determines that adequate methods and sufficient data about the pollutant are available to enable the Administrator to make decisions respecting modifications under subsection (g)(2), then he shall list it under section 301(g). The burden of proof respecting submission of these data and for showing the adequacy of the data and of test methods is upon the person submitting the application for listing.

An application for listing a pollutant under section 301(g) or for a modification of permit respecting such pollutant does not stay compliance deadline requirements for any pollutant other than that for which the modification is being sought. The Administrator is required to approve or disapprove an application for a modification within one year of the date of application or, in a case in which a petition for listing the pollutant under section 301(g) is approved, within one year of such approval.

If an application for modification under section 301(g) is disapproved, the applicant must meet compliance deadlines for all applicable effluent limitations, including those for the pollutant subject to the application. If such an application is approved, the applicable compliance date with respect to the pollutant for which the modification is sought will be determined under section 301(b) and section 309.

DISCHARGE INTO MARINE WATERS

Senate bill

The bill establishes restrictive conditions on the qualifications of applicants for a section 301(h) modification and the ocean water into which they discharge. In order to apply for a section 301(h) ocean discharge modification, a municipal treatment facility must be in compliance with applicable pretreatment regulations. In the absence of Federal categorical pretreatment standards, treatment works serving a population of 5,000 or more persons must be enforcing a comparable pretreatment program to assure the control of toxic pollutants at the time of application.

The bill clarifies that marine waters receiving discharges must exhibit characteristics which assure that the diluting water does not contain significant amounts of effluents previously discharged from the POTW.

Another amendment to section 301(h) deals with discharges into stressed waters. The amendment provides that a section 301(h) modification may not be issued for esturaine waters if, at the time of application, the waters do not support a balanced indigenous population or allow recreational activities, or exhibit water quality below the water quality standards adopted to protect public water supplies, wildlife, or recreational activities. The prohibition applies regardless of any causal relationship between such characteristics and the applicant's discharge.

Section 310(j) is amended to allow a period of thirty days after enactment for a publicly owned treatment works with an existing contract to discharge its sewage into another treatment works which has applied for a section 301(h) modification, in which to apply for such a modification in its own right.

House amendment

The amendment amends section 301(h) of the Act with respect to discharges into marine waters. The amendment provides that in order to obtain a permit for less than secondary treatment where the effluent will be discharged into the ocean the applicant must have in effect a pretreatment program and must provide at least primary treatment. Also, section 307(b)(1) relating to pretreatment removal credits is amended to provide that these credits must be given where effluent limitations will not be violated, and will be no interference with the method of disposal of the sludge and the revised pretreatment standards will not interfere with the operations of a treatment works. The other provisions of section 307(b)(1) relating to effluent limitation and determination of removal by the treatment works remain in effect.

This amendment also prohibits the discharge of sewage treatment effluent into estuaries.

The amendment relating to applications for ocean discharge modifications provides that a publicly-owned treatment works which has a contractual arrangement to use a portion of the capacity of an ocean outfall operated by another treatment works which has applied for a modification may also apply for a modification in its own right.

Conference substitute

The conference substitute adopts a combination of the House and Senate provisions. The House amendment concerning consideration of other sources of pollutants, and limitations on scope of monitoring, is adopted. The limitation on monitoring is limited to modifications not tentatively or finally approved as of enactment. The House provision concerning urban areas pretreatment programs is adopted and modified by including the Senate language requiring sources to be in compliance with applicable pretreatment requirements, and requiring the applicant to enforce such requirements. House and Senate language is combined to provide that an applicant must be discharging effluent which has received at least primary or equivalent treatment and meets section 304(a)(1) criteria after initial mixing. The phrase "initial mixing" shall not be interpreted expansively. The substitute adopts Senate language regarding the definition of primary or equivalent treatment and on limitations on issuance of permits. The conference substitute prohibits issuing any modification for the discharge of any pollutant into the New York Bight Apex.

Section 301(h) is amended by the conference substitute to provide that in order for a permit to be issued, the marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previously discharged effluent from the treatment works from which the discharge is made. The reference to water supplying dilution does not include those waters immediately surrounding the point at which the effluent is discharged in which initial mixing occurs.

With respect to the amendments to Section 301(j) of the Act, the Conference substitute adopts the Senate language.

FILING DEADLINE FOR TREATMENT WORKS MODIFICATION

Senate bill

No comparable provision.

House amendment

The provision amends section 301(i) by removing the filing deadline for applications for extensions of the date by which secondary treatment must be achieved and provides that the extension of a filing date does not apply to treatment works which are subject to an administrative or judicial compliance schedule.

Conference substitute

In lieu of the House language, the conference substitute extends the filing deadline for such applications to 180 days after enactment of the Water Quality Act of 1986. The conference substitute adopts language of the House bill limiting the application of the extension to treatment works not subject to a court order or final administrative order issued by EPA or a State. The Administrator should use the discretion provided under this subsection to assure that granting such request would not upset an existing compliance schedule or delay compliance with the July 1, 1988, compliance deadline. This amendment should be read to be consistent with the EPA's National Municipal Policy.

INNOVATIVE TECHNOLOGY COMPLIANCE DEADLINES FOR DIRECT DISCHARGERS

Senate bill

No comparable provision.

House amendment

Section 301(k) of the Act provides that, in the case of any facility which proposes to comply with the requirements of best available technology by replacing existing production capacity with an innovative production process, which will result in an effluent reduction significantly greater than that required by the otherwise applicable effluent limitation or with the installation of an innovative control technique that has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable limitation, the Administrator may establish a compliance date no later than July 1, 1987, three years later than the final compliance date otherwise provided in the Act. The House bill amends this provision, changing the compliance date from July 1, 1987, to a date two years after the date for compliance with the effluent limitation which is otherwise applicable.

The House bill also amends section 301(k) to permit the same extension for conventional pollutants.

Conference substitute

The conference substitute adopts the House provision.

The conferees intend that the term "industry-wide application" means that application of the innovative system, production process, or control technique is technically feasible at a significant portion of the facilities in an industrial category or subcategory and will be made commercially available by the applicant, unless the applicant is the only facility in the subcategory.

FUNDAMENTALLY DIFFERENT FACTORS

Senate bill

The Senate bill authorizes the Administrator to grant fundamentally different factors (FDF) modifications and defines the conditions under which the Administrator may do so.

The amendment specifies four criteria that must be demonstrated by the applicant to the satisfaction of the Administrator, before alternative requirements can be established.

First, a facility must be fundamentally different with respect to at least one factor, other than cost, specified in section 304(b), 304(g), or 307(b) and considered by the Administrator in establishing the specific national effluent limitations guidelines and standards of concern to the facility. Cost may not be a factor upon which relief may be granted.

The second criteria requires that applications for an FDF modification must be based solely on information and supporting data which have been submitted to the Administrator during the rulemaking process and which specifically raise the factors that are fundamentally different for the facility.

Third, the amendment specifies that the alternative requirement imposed on the applicant can be no less stringent than justified by the applicant's fundamental difference from the rest of the category or subcategory with respect to the statutory factors (other than cost) specified in section 304(b) or (g) of the Act.

Fourth, if relief is granted, any alternative requirement shall not result in any nonwater quality environmental impact markedly more adverse than the impact considered by the Administrator in establishing the applicable national effluent limitations guidelines and standards.

The bill contains several additional restrictions on EPA's authority to grant modifications in order to avoid the delays in "fundamentally different factors" proceedings. An applicant for an alternative requirement must submit a complete application to the Administrator not later than 120 days after publication of the final effluent limitation guideline or categorical pretreatment standard in the Federal Register. The Administrator may not waive this deadline or extend it for submission of additional data.

If EPA amends a guideline or standard, an applicant may submit an FDF variance request within 120 days of publication of the final revision in the Federal Register. In such a case, the revision must specifically affect the discharge limitations or standards applicable to the facility and must be the limitations or standards from which the applicant is seeking relief under this subsection.

Section 301(n)(2) requires the Administrator to deny any application that is not complete, without providing for an opportunity for reapplication. The applicant must submit a complete application within the 120 day period.

Section 301(n)(2)(B) requires that final EPA action be taken within 240 days after submission of an application to a State or to EPA, or the application will be deemed to be denied.

Pending applications on the date of enactment shall be deemed to have been submitted to the Administrator 30 days after enactment of this amendment. This provision sets in motion the Administrator's duty to act on the application within 240 days. Applications filed after enactment shall not be deemed complete unless accompanied by the required application fee.

Section 301(n)(3) provides that an application for alternative requirements under section 301(n) shall not stay the facility's obligation to comply with the effluent limitations guideline or standard which is the subject of the application.

House amendment

The House amendment adds a new subsection and to section 301 of the Federal Water Pollution Control Act. Section 301 requires compliance with effluent limitations based on best practical best available, and best conventional technologies.

The new subsection provides that upon application of any person who provided or did not have a reasonable opportunity to provide information to the Administrator in the rulemaking to establish or revise any effluent limitation under section 301 or section 304 of the Act, the Administrator may grant a variance from the application of the limitation with respect to the discharge by the person of any pollutant if the Administrator determines that factors relating to the facilities, equipment, and processes of the person are fundamentally different than the factors considered in the establishment of the effluent limitations.

An application for a variance must be made within 180 days after the establishment or revision of an effluent limitation for which a variance is sought. If the application is denied, the applicant must comply with the original compliance date for the limitation. E.P.A. is directed to take prompt action in making a decision, and is directed to do so within 180 days, to the maximum extent practicable.

The House amendment applies only to effluent limitations established or revised after the date of enactment. The granting of variances from effluent limitations established or revised prior to the date of enactment is to be in accordance with procedures established before the date of enactment. Also, the amendment shall not affect any procedures or requirements in effect before the date of the enactment with respect to the granting of variances from the application of effluent limitations established or revised on or before the date of the enactment with respect to the granting of variances from the application of effluent limitations established or revised on or before the date of enactment in accordance with any provision of the Federal Water Pollution Control Act.

Conference substitute

The conference substitute limits the authority of the EPA Administrator to modify a minimum, national treatment requirement for an indivdual facility within an industry if the facility is found to be fundamentally different from other facilities within the industry on the basis of certain factors considered by the Administrator in establishing the guidelines or standards applicable to the facility's industrial category.

This new provision provides a clearly defined and limited authority in the statute for modification of treatment requirements for individual facilities. The provision is intended to assist the Administrator in addressing unique circumstances and other variations in development and effective administration of national effluent guidelines and standards.

This section will require the EPA Administrator to make difficult decisions with regard to the magnitude of differences among similar facilities within an industry. In exercising this judgment, the Administrator should place high priority on the principle that all similarly situated facilities within an industrial category or subcategory are to meet national minimum treatment requirements. The authority of this section is intended only to provide the Administrator with the authority needed to implement this aspect of the statute effectively and should not be used to generally relax or retreat from national minimum requirements for an industry.

The conference substitute places several important new limits on the Administrator's fundamentally different factors authority.

The new provison provides that a facility may be found to be fundamentally different based on factors identified in sections 304(b)(2) and (g). These factors include the age of equipment and facilities, the process employed, the engineering aspects of the

types of control techniques, process changes, and other factors deemed appropriate by the Administrator.

The bill specifically excludes consideration of costs, independent of other eligible factors, as a basis for establishing a fundamental difference with regard to an individual facility.

This new subsection is not intended to prohibit the EPA from modifying treatment requirements in a case where a fundamental difference in an aspect of a facility which is eligible for consideration (e.g., age of facility, process employed) would result in a reduction in costs to a facility. When such an eligible factor is under review, EPA may consider the costs specifically associated with that factor, but must be able to justify a finding of a fundamental difference on the basis of eligible factors. EPA shall not replace a substantive and technical assessment of eligible factors with a shortened cost test designed to indicate a fundamental difference (e.g., by suggesting that when the costs of an eligible factor at an individual facility are twice the costs at average facilities, the factor is fundamentally different).

The reported bill specifies several procedural requirements and other limitations governing applications for modifications under this section.

Subsection (n)(1)(B) provides that an application be based solely on information and supporting data submitted to the Administrator during the development or revision of a guideline or on information the applicant did not have a reasonable opportunity to submit during the rulemaking. The lack of a reasonable opportunity to submit information is based on a lack of actual or constructive notice of the rulemaking or on the development of new circumstances in the field facing specific facilities. This provision will assure that effluent limitations and standards are as comprehensive as possible, and thereby reduce the need for applications under this subsection. This provision will also discourage withholding of information during the rulemaking process for subsequent use in an application for treatment modification under this subsection.

The conferees recognize that, where the record is already closed and an applicant has new information to present bearing on the guideline or standard, the applicant continues to have the right to petition the Administrator to reopen the rulemaking and record and consider creation of a subcategory. The Administrator's disposition of such a petition is subject to judicial review under section 509(b) of the Act.

Subsection (n)(1)(C) provides that the alternative requirement imposed on the applicant can be no less stringent than justified by the applicant's fundamental difference from the rest of the category or subcategory with respect to eligible factors.

Subsection (n)(1)(D) provides that any alternative requirement shall not result in a nonwater quality environmental impact which is markedly more adverse than the impact considered by the Administrator.

Subsection (n)(2) requires that an applicant under this section shall be submitted within 180 days after the publication of the initial guideline or standard. Subsection (n)(3) provides that an application shall be approved or denied by final Agency action within 180 days after submission. For the purposes of this section, final Agency action means the administrative decision issued by the EPA, following public notice and comment, as appropriate and including a statement of the basis for the decision. Subsection (n)(4) states that the Administrator may allow the applicant to submit additional information and supporting data with regard to an application prior to the 180-day decision deadline.

In the case of guidelines for the oil and gas extraction industry and with respect to three cane sugar processing mills along the Hamakua Coast of Hawaii, the EPA may temporarily withdraw the applicable guideline at any time, issue a Best Practical Judgment permit to affected facilities, and then reissue the guideline with an appropriate subcategory.

Subsection (n)(5) provides that an application for an alternative requirement based on fundamentally different factors which is pending on the date of enactment may be amended by the applicant within 180 days after such date of enactment.

Section 301(n)(6) provides that an application for an alternative requirement under this section shall not stay the facility's obligation to comply with the effluent limitation guideline or standard which is the subject of the application. If an application for an alternative requirement is denied by the Administrator, the applicant must comply with the limitation or standard as established and the original deadline. The compliance date for a requirement for which an alternative is granted is to be determined under sections 301(b) and 309.

Section 301(n)(8) of the conference substitute also provides that the Administrator shall provide to the Congress a report on the status of applications for modifications under sections 301, 304 and 307(b) of the Act every six months after the date of enactment.

The conference substitute shall apply to primary and secondary national effluent limitations and categorical pretreatment standards for industrial categories currently identified, such categories as may be identified in the future, and to any revisions of guidelines or standards for such categories.

The owner or operator of a facility seeking a fundamentally different factor modification has the burden of proving to the satisfaction of the Administrator that the facility is eligible for an alternative requirement under this subsection.

Under the conference substitute, section 301(l) of the Act, which excludes toxic pollutants from modifications under this Act, is amended to allow modifications only under this section for toxic pollutants. This amendment to section 301(l) does not in any way weaken the application of the section to modifications of the Act other than provided under section 301(n).

The Administrator shall obtain the concurrence of a State before approving any alternative requirements under this subsection.

All of these provisions are to be self-implementing and are to take effect upon enactment of the Water Quality Act of 1986. The Administrator is encouraged to amend the appropriate regulations to make them consistent with these requirements; however, the failure of the Administrator to make such revisions will not affect the implementation of these provisions.

Section 301(o) of the conference substitute requires the Administrator to establish a system of fees to recover costs of reviewing and processing these applications. Applications are to be accompanied by an appropriate fee, as determined by the Administrator.

Fees collected under this section shall be deposited into a special fund in the United States Treasury entitled "Water Permits and Other Services". Such funds are to be available for appropriation to carry out the Agency activity for which the fee was charged. Creation of this special fund will assure that fees charged for processing of applications will be used to support water permit related activities, rather than other activities. The existence of this fund shall not be a basis for reductions in funding levels for related program activities.

The Administrator is to withdraw existing effluent guidelines applying to fertilizer plants in Louisiana which had commenced construction on or before April 8, 1974. Within 180 day, the Administrator is to issue Best Practical Judgment permits to facilities no longer covered by the guidelines.

COAL REMINING OPERATIONS

Senate bill

No comparable provision.

House amendment

The House amendment allows the issuance of a permit modifying effluent limitations with respect to the pH level of preexisting discharges of iron and manganese from the remined area of a coal remining operation. The applicant for such a permit modification must demonstrate to the satisfaction of EPA or, where applicable, the State that the coal remining operation will result in the potential for improved water quality from the remining operation.

Conference substitute

The conference substitute adopts the House amendment. The conferees specifically agreed to retain the language "potential for" with the understanding that EPA and the States may be "satisfied" based on a conviction that it is probable that there will be actual improvement in water quality as a result of modified requirements.

INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS

Senate bill

The reported bill modifies sections 302, 303, 304, and 305 of the Act, to provide for the development of water quality based effluent limitations after the implementation of best available technology (BAT).

States are required to undertake a progressive program of toxic pollutant load reduction where BAT is not sufficient to meet State water quality standards and support public health and water quality objectives of the Act. The following scheduled requirements are included in this provision.

(1) Under new section 305(c), within two years of enactment of the Clean Water act Amendments of 1985, States must identify those water bodies within or adjacent to them which will not meet State water quality standards because of toxic pollutants after the implementation of BAT.

(2) Under new section 303(c)(2)(B), whenever a State reviews or revises existing water quality standards or adopts new standards, it must adopt numerical criteria for those toxic pollutants which could reasonably be expected to interfere with designated water uses and set such criteria at the levels necessary to support such uses. States shall establish specific numerical criteria based on the Environmental Protection Agency's existing national water quality criteria and other sources. A State may also utilize toxic pollutant criteria based on biomonitoring techniques or assessment methods to supplement numerical criteria. While numerical criteria are immediately required for toxic pollutants which are highly per-

sistent, bioaccumulative, or known or suspected carcinogens, mutagens, or teratogens, for other toxic pollutants biomonitoring can be used until numerical criteria can be developed.

(3) Under new section 304(a)(8), the Administrator, in consultation with appropriate State agencies, is to provide information within two years of enactment of the Clean Water Act Amendments of 1985, on methods of establishing criteria with biomonitoring assessment techniques.

(4) Under new section 303(d)(4), not later than two years after the identification of water bodies with toxic pollutant water quality standard problems, States must establish effluent limitations for individual dischargers into such water bodies, based on established toxic pollutant criteria and adequate to attain water quality standards. These effluent limitations must be incorporated into permits which must be complied with no later than three years after the establishment of the effluent limitation.

Section 302(a) of the Act, as amended by the reported bill, provides for effluent limitations to be established whenever, in the judgment of the Administrator, a water body will not attain or maintain the level of water quality which will assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, even after the application of all the technology-based requirements of the Act, or whenever such a water body has been identified under new section 305(c)(1)(B). For such water bodies, the Administrator must establish effluent limitations for any point sources interfering with attainment or maintenance of that level of water quality providing a degree of control which can reasonably be expected to contribute to attaining or maintaining the required water quality.

Under section 302(b), as amended, the Administrator is permitted, with the concurrence of the State, to modify effluent limitations for non-toxic pollutants established by the Administrator under section 302(a) if the applicant demonstrates at the time the effluent limitation is proposed that there is no reasonable relationship between the economic and social costs and the benefits to be obtained from achieving the proposed limitation.

The Administrator, with the concurrence of the State, may also modify effluent limitations established under section 302(a) for discharges of toxic pollutants, for single period not to exceed five years, if the applicant demonstrates at the time the effluent limitation is proposed that the modified requirement represents the maximum degree of control within the economic capability of the owner of the particular source, and will result in reasonable further progress (beyond BAT) toward attaining the level of water quality specified in section 302(a). The provisions of new section 302(b)(2) apply only to effluent limitations established by the Administrator under section 302(a).

The provisions of section 302(b)(2) authorizing the modification of effluent limitations apply only to the effluent limitations established under section 302(a).

New section 304(l) requires the Administrator to publish within 12 months a plan (1) establishing a schedule for the annual review and revision of effluent guidelines already promulgated; (2) identifying categories of sources of toxic or nonconventional pollutants for which guidelines have not yet been promulgated; and (3) establishing a schedule for promulgation of those guidelines, no later than 3 years after identification of the categories. Guidelines are required for any category of sources discharging significant amounts of toxic pollutants.

House amendment

The House amendment provides for the development and implementation of individual control strategies to achieve compliance with applicable water quality standards where it is determined that such compliance will not result from the application of best available technology and best conventional technology.

The House amendment requires each state, not later than one year after the date of enactment of this legislation, to submit to the Administrator a list of all navigable waters in such state for which the State does not expect the applicable water quality standard to be achieved after the requirements for best available technology and best conventional technology are met, due entirely or substantially to discharges from point sources of toxic pollutants listed pursuant to section 307(a). For each segment of the waters included on this list, the State is to determine the specific point sources discharging toxic pollutants which are believed to be preventing or impairing such water quality, and the amount of each toxic pollutant discharged by each source. The State submission is to also include an individual control strategy, which the state determines will produce a reduction in the discharge of toxic pollutants from point sources identified by the state, through the establishment of effluent limitations and water quality standards. The State's proposed reduction in toxic discharges must be sufficient, in combination with other controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than three years after the date of the establishment of the strategy.

Not later than 120 days after the last day of the one-year submittal period, the Administrator shall approve or disapprove the control strategies submitted by a state.

If a State fails to submit control strategies or the Administrator does not approve the control strategies submitted by a State, then, not later than one year after the last day of the submittal period the Administrator, in cooperation with the State and after notice and opportunity for public comment, shall publish in the Federal Register a list of all navigable waters in the State for which the Administrator does not expect the applicable water quality standard will be achieved after the requirements for best available technology and best conventional technology are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a). For each segment of the navigable waters included on the list, the Administrator shall determine the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each such toxic pollutant discharged by each such source. At a minimum, the Administrator shall consider for listing any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after the last day of the submittal period.

Not later than one year after the date of publication of the required list, the Administrator, in cooperation with the States, shall issue proposed regulations setting forth, for each segment of the navigable waters listed, an individual control strategy. Each individual control strategy shall produce a reduction in the discharge of toxic pollutants from point sources identified by the Administrator through the establishment of effluent limitations and water quality standards which reduction is sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than three years after the date of promulgation of the final strategy. Not later than 180 days after issuing the proposed regulations, the Administrator shall promulgate each individual control strategy as a final regulation.

The Administrator shall implement each individual control strategy established or promulgated under this subsection by modifying or requiring the modification of permits under section 402 of the Act.

The House amendment also amends the citizen suits provision of section 509 of the Act to allow interested persons to bring a legal action for review of the Administrator's promulgation of individual control strategies.

Conference substitute

The conference substitute adopts a comprehensive program for development of individual control strategies for toxic pollutants based on elements from both the Senate and House bills.

The conference substitute modifies sections 303 and 304 of the Act, to provide for the development of water quality based effluent limitations after the implementation of best available technology (BAT).

Under subsection (a) of the conference substitute, States are required to undertake a progressive program of toxic pollutant load reduction where BAT is not sufficient to meet State water quality standards and support public health and water quality objectives of the Act. Under new section 304(l), within two years of enactment of the Water Quality Act of 1986, States must identify those water bodies within or adjacent to them which will not meet State water quality standards because of toxic pollutants after the implementation of BAT, new source performance standards and pretreatment standards. For each segment of the waters included on this list, the State is to determine the specific point sources discharging toxic pollutants which are believed to be preventing or impairing such water quality, and the amount of each toxic pollutant discharged by each source. The State submission is to also include an individual control strategy which the State determines will produce a reduction in the discharge of toxic pollutants from point sources identified by the State, through the establishment of effluent limitations and water quality standards containing numerical criteria. The State's proposed reduction in toxic discharges, in combination with other controls on point and nonpoint sources of pollution, must achieve the applicable water quality standard as soon as possible, but not later than three years after the date of the establishment of the strategy.

Not later than 120 days after the day the submittal is due, the Administrator must approve or disapprove the control strategies submitted by a State. If a State fails to submit control strategies or the Administra-

tor does not approve the control strategies submitted by a State, then not later than one year after the day the submittal is due, the Administrator, in cooperation with the State and after notice and opportunity for public comment, must devlop an individual control strategy which meets the requirements otherwise applicable to the State. At a minimum, the Administrator shall consider for listing any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after the last day of the submittal period.

Subsection (b) of the conference substitute adopts language in the House bill amending section 509 of the Act to allow interested persons to bring a legal action for review of the Administrator's promulgation of individual control strategies.

Subsection (c) adopts Senate language requiring the Administrator to develop and publish (1) guidance to be used by the States in identifying those waters for which individual control strategies will be required and (2) information on methods for establishing and measuring water quality criteria for toxic pollutants.

Subsection (d) of the substitute follows language in the Senate bill to require that during State review, revision, or adoption of water quality standards, the State must adopt criteria for all priority toxic pollutants for which quality criteria have been published under section 304(a). The State's criteria are to be based on specific numerical criteria. Where numerical criteria are not available, the State shall use biological monitoring or assessment methods.

Subsection (e) adopts Senate language amending section 302 of the Act.

Subsection (f) adopts Senate language providing for development of a plan which will include a schedule for periodic review and revision of promulgated effluent guidelines, categorization of toxic and nonconventional pollutant sources for which effluent limitation guidelines and new source performance standards have not been established, and a schedule for promulgation of effluent limitations for such categories of point sources.

Subsection (g) contains slightly modified language taken from the House bill calling for EPA to undertake a study of water quality improvements achieved pursuant to the application of technology-based effluent limitations under section 301(b)(1) of the Act. The Administrator is to report the results of the study within two years.

WATER QUALITY IMPROVEMENT STUDY

Senate bill

No comparable provision.

House amendment

The House amendment directs the Administrator to study the water quality improvements which have been achieved by application of best available technology. The study must include an analysis of the effectiveness of, and the costs and benefits associated with, application of best available technology and must also include an analysis of methods of improving the Nation's water quality program and its effectiveness.

Conference substitute

The Conference substitute adopts the House amendment with modification.

PRETREATMENT STANDARDS

Senate bill

No comparable provision.

House amendment

The amendment amends section 307 of the Federal Water Pollution Control Act to authorize the owner or operator of a publicly owned treatment works to grant up to a two-year extension for compliance with a categorical pretreatment standard to an indirect discharger that intends to comply with such applicable standard by using an innovative treatment system that meets the criteria specified in section 301(k) of the Act, if (1) the Administrator determines that the innovative system has the potential for industry-wide application and the action will not cause the publicly owned treatment works to violate its NPDES permit and (2) the Administrator or a State having an approved pretreatment program concurs with the proposed action of the owner or operator of the publicly owned treatment works.

The amendment directs the Administrator to increase the number of employees in the Agency in order to effectively implement the Federal Water Pollution Control Act's pretreatment requirements.

Conference substitute

The Conference Agreement adopts the House Amendment and amends section 307 of the Federal Water Pollution Control Act. A 2-year compliance extension is available for existing but not new, facilities using innovative pretreatment systems. Application for such modification does not extend the time in which compliance guidelines must be met, and general pretreatment and sludge regulations must be complied with.

No facility that receives an innovative pretreatment modification can cause or contribute to any violation of section 402 or section 405 of the Act.

The conferees intend that the term "industry-wide application" in section 307(e) means that application of the innovative system or control technique is technically feasible at a significant portion of the facilities in an industrial category or subcategory and will be made commercially available by the applicant unless the applicant is the only facility in the subcategory.

INSPECTION AND ENTRY

Senate bill

No comparable provision.

House amendment

The amendment imposes a penalty on any authorized representative of the Administrator who discloses confidential information obtained in the inspection and monitoring of a discharger.

Conference substitute

The Conference substitute adopts the House amendment as modified to provide that all information reported to, or otherwise obtained by, EPA shall be made available upon written request to any committee of Congress.0ZSmith, Johnie Lovell Jr, 85111 J.091-060 F. Filnam A15oc7.894

MARINE SANITATIAN DEVICES

Senate bill

No comparable provision.

House amendment

The amendment modifies the requirement for marine sanitation devices to provide that a State may impose a more stringent standard for vessels which are used primarily as residences.

Conference substitute

The conference substitute adopts the House language with the addition of a provision authorizing States to enforce Federal standards for all vessels.

The question of whether a houseboat is used primarily as a residence is a matter to be determined by the State in which the houseboat is located.

CIVIL AND CRIMINAL PENALTIES

Senate bill

The bill amends sections 309 and 404 of the Clean Water Act relating to civil and criminal penalties.

Civil Penalties

Sections 309 and 404 of the Act are amended to increase the civil judicial penalty limit from $10,000 to $25,000 per violation, to clarify that each distinct violation is subject to a separate daily penalty assessment of up to $25,000, and to clarify that violations of pretreatment program requirements are subject to civil penalties.

The bill would also expressly require the courts to consider a number of factors, including, in particular, the economic benefit gained as a result of the violation. Reasonable approximations of economic benefit will suffice. Other objective factors customarily taken into account in assessing penalties, such as the history of violations, good faith efforts to comply and economic impact on the violator, also may be taken into account in arriving at an appropriate penalty.

Administrative civil penalties

The Clean Water Act currently provides the Administrator with two civil enforcement options. When faced with a violation of the Act, the Administrator may issue an order requiring compliance or the Administrator may bring a civil action in the appropriate U.S. district court for penalties and injunctive relief.

The bill gives the Administrator a third option: to assess administrative civil penalties of up to $10,000 per day for each violation of a Clean Water Act requirement. The total maximum administrative penalty that may be assessed under this provision is $125,000 for an individual enforcement action.

This new authority to administratively assess civil penalties sunsets after five years.

Prior to issuing an administrative order assessing a civil penalty, the Administrator must give the person against whom the penalty is to be assessed written notice of the proposed penalty and an opportunity to request, within 30 days of receipt of such notice, a hearing. Such a hearing includes the right to a reasonable opportunity to be heard and to present evidence. Because administrative penalty assessments will be used in smaller cases and often will be based on discharge monitoring reports routinely submitted by permittees, formal administrative procedures strictly in accordance with the formal adjudicatory procedures of the Administrative Procedures Act are not required.

However, the Administrator is required to provide the public with notice of the proposed penalty assessment and a reasonable opportunity to comment on the proposal. Public notice of such proceedings must be given in a manner that will apprise interested citizens of the proceeding. If a hearing on the proposed assessment is conducted, any citizen who commented on the proposal shall be given notice of such a hearing and a reasonable opportunity to be heard and to present evidence at the hearing. If no hearing is held, the Administrator must set aside the penalty order and provide a hearing when presented with evidence that the order was inadequate or improper.

An order assessing a penalty becomes final and nonappealable 30 days after its issuance or, in the case of a post-assessment request for a hearing, 30 days following the final action by the Administrator.

No one may bring an action to recover civil penalties under sections 309 (b) and (d), 311(b), or 505 of this Act for any violation with respect to which the Administrator has commenced and is diligently prosecuting an administrative civil penalty action, or for which the Administrator has issued a final order not subject to further judicial review (and for which the violator has paid the penalty). This limitation applies only to an action for civil penalties for the same violations which are the subject of the administrative civil penalties proceeding. It would not apply to an action for civil penalties for a violation of the same requirement of the Act that is not being addressed administratively or for a past violation of another pollutant parameter (even one resulting from the same discharge which is the subject of the administrative civil penalty proceeding). In addition, this limitation would not apply to: 1) an action seeking relief other than civil penalties (e.g., an injunction or declaratory judgment); 2) an action under section 505(a)(1) of this Act filed prior to commencement of an administrative civil penalty proceeding for the same violation; or 3) a violation which has been the subject of a notice of violation under section 505(b)(1) of this Act prior to initiation of the administrative penalty process, provided that, in the latter case, an action under section 505(a)(1) of this Act is filed within 120 days of the notice of violation.

The Agency can prevent duplicate proceedings by intervening in the ongoing citizen enforcement suit or by bringing its own judicial action before a citizen suit is filed. This amendment does not preclude administrative or judicial enforcement actions by the Administrator for any violations not specifically penalized by the initial enforcement action.

Judicial review of a penalty assessment is available to any person against whom a civil penalty order is issued as well as to any citizen who commented on a proposed assessment. Judicial review is not to be de novo review, but will be based upon whether the Agency's findings of a violation is supported by substantial evidence in the administrative record and whether the assessment of the penalty is an abuse of discretion. Where it is clear that the Agency has assessed such an unreasonable low penalty as to constitute an abuse of discretion, the court may choose to impose its own higher penalty rather than exercise its authority to remand. District courts are free to remand cases in appropriate circumstances.

The penalty collection proceeding will not be an opportunity to contest the penalty assessment. The discretion to compromise, mitigate or abandon such claims continues to reside with the Attorney General.

Criminal penalties

The bill would elevate penalties for persons who knowingly or negligently introduce into a sewer system or a POTW, a pollutant or hazardous substances which such person knew or reasonably should have known could cause personal injury or property damage. Criminal liability shall also attach to any person who is not in compliance with all applicable Federal, State and local requirements and permits and causes a POTW to violate any effluent limitation or condition in any permit issued to the treatment works under section 402 of the Act.

The felony level penalties for knowing violations (not less than $5,000 nor more than $50,000 per day of violation and imprisonment for up to three years) are more closely comparable to the levels provided by the 1984 amendments to the Solid Waste Disposal Act RCRA and reflect the commensurately serious nature of the violations to be criminally prosecuted under the Clean Water Act. Existing misdemeanor penalties are retained to address those negligent violations which merit lesser punishment.

This section also adds to section 309(c) enhanced felony penalties for certain life-threatening conduct based upon knowing violation of certain predicates in the Act. In the event of such knowing violation, the Senate bill subjects to greater punishment one who knows that he thereby placed another person in imminent danger of death or serious bodily injury. The criminal penalties that apply upon conviction (up to 15 years imprisonment plus fine of up to $250,000 for individuals, a fine of up to $1,000,000 for organizations) are equivalent to the RCRA knowing endangerment provision, as recently amended.

The maximum term of imprisonment contained in the provision of the current law penalizing the knowing making of false statements, representations and certification, or tampering with monitoring equipment required under the Act, is increased from six months (a petty offense) to two years (a felony). The provision doubling the maximum punishment with respect to both fine and imprisonment for second and subsequent convictions under the same paragraph of the Act is extended to this provision as well as to the knowing endangerment provision.

This bill also extends and consolidates criminal sanctions involving violations of the provisions of section 405 governing disposal of sewage sludge, violations of requirements imposed in State pretreatment programs approved under section 402(b)(8), violations of section 318 permits, and violations of section 404 permits issued by the Secretary of the Army or by a State.

CIVIL PENALTIES

House amendment

The amendment increases the maximum amount of a civil penalty for violating certain provisions of the Act from $10,000 per day to $25,000 per day.

The amendment provides that the Federal Water Pollution Control Act shall not be construed as requiring a state to have a civil penalty for violations described in section 309(d) which has the same monetary amount as the civil penalty established by this section. This relates to the requirement in the Act that a state have adequate enforcement and penalty provisions in order to assume management of the National Pollution Discharge Elimination System under section 402 of the Act.

The amendment provides that a civil penalty may not be assessed with respect to a violation if a penalty has been assessed with respect to the same violation of a violation having substantially the same cause.

ADMINISTRATIVE PENALTIES

The amendment authorizes the assessment of administrative civil penalties for violations of the Act. Whenever on the basis of any information available to him the Administrator finds that any person is in violation of sections 301 except with respect to a violation of section 404), 302, 306, 307, 318 or 405 of the Act or is in violation of any permit condition or limitation implementing any of these sections in a permit issued under section 402 of the Act, he may, after consultation with the state in which the violation occurs, assess a civil penalty of not more than $10,000 per day of violation, except that the penalty shall not exceed a total of $125,000. The Secretary of the Army is given similar authority in connection with permits issued under section 404 of the Act, which relates to the discharge of dredged or fill material.

A civil penalty is assessed under this provision by the Administrator or the Secretary, as the case may be, by an order made on the record after opportunity for a hearing. Before issuing such an order, the Administrator or the Secretary is required to give written notice to the person to be assessed the civil penalty of the proposal to issue such an order and is required to provide the person with an opportunity to request, within 15 days, a hearing on the order. Public notice and reasonable opportunity to comment must also be provided.

Any person who comments on a proposed assessment shall be given notice of any hearing held and any order assessing a penalty. In any such hearing, the person shall have a reasonable opportunity to present evidence.

If no hearing is held before the issuance of an order assessing a penalty, any person who commented on the proposed assessment may petition the Administrator or Secretary to set aside the order and to provide a hearing on the penalty. The Administrator or Secretary must set aside the order and provide a hearing if the Administrator or Secretary determines that the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order. If the Administrator or Secretary denies a hearing, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of the reasons for the denial.

Any person who requested a hearing with regard to the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other Circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making the assessment was issued.

If any person fails to pay an assessment of his civil penalty, after the order making the assessment has become a final order, and where the person does not file a petition for judicial review of the order, or after the court has entered a final judgment in favor of the Secretary of the Administrator, the Attorney General shall recover the amount assessed in an action brought in any appropriate District Court of the United States. A penalty for late payment of a fine is provided.

The Administrator and the Secretary are given the authority to issue subpoenas in connection with hearings under this provision and may request the Attorney General to bring an action to enforce any subpoena.

Any violation with respect to which any civil penalty is imposed under this provision is not subject to a civil penalty under section 309(d) of section 311(b) of the Federal Water Pollution Control Act.

When a state has proceeded with an enforcement action relating to a violation with respect to which the Administrator or the Secretary is authorized to assess a civil penalty under this provision the Administrator and the Secretary are not authorized to take any action under this subsection if the state demonstrates that the state-imposed penalty is appropriate.

No action by the Administrator under section 24 shall affect any person's obligation to comply with any section of the Act or with the terms and conditions of any permit issued pursuant to section 402 or 404 of the Act.

The citizen suits provision in section 505(b)(1) of the Federal Water Pollution Control Act is amended to provide that no action can be commenced by a citizen if the Administrator or state has commenced and is diligently pursuing the assessment of a civil penalty. The same prohibition applies in existing law to those instances where the Administrator or a state is diligently pursuing a civil or criminal action.

In determining the amount of a administrative civil penalty, the Administrator or Secretary must take into account the nature, circumstances, extent and gravity of the violation or violations and with respect to the violator, ability to pay, effect on ability to continue to do business any history of prior such violations, the degree of culpability, economic savings if any resulting from the violation, and such other matters as justice may require.

The maximum administrative penalty that may be assessed in an administrative enforcement action under this provision is $125,000.

The amendment provides that civil penalties under other provisions of the law shall not apply where a person has paid an administrative penalty for the same violation.

The amendment provides that where an administrative penalty is being pursued, a citizen suit may not be filed for the same violation.

A citizen suit is barred not only by an EPA administrative action but also by a State proceeding under a comparable State law.

CRIMINAL PENALTIES

The amendment amends section 309 of the Federal Water Pollution Control Act to provide penalties for dischargers or individuals who knowingly or negligently violate or cause the violation of certain of the Act's requirements.

Punishment by fine of between $25,000 and $25,000 per day, or imprisonment for up to a year, or both, is required with respect to (1) any person who negligently violates section 301, 302, 306, 307, 308, 318, or 405 of the Federal Water Pollution Control Act, or any permit condition or limitation implementing any of these sections in an NPDES permit, or any requirement imposed in an approved pretreatment program, or any requirement in a dredge and fill permit under section 404 of the Act, or (2) any person who negligently introduces into a sewer system or a publicly owned treatment works any pollutant or hazardous substance which causes or may reasonably be anticipated to cause personal injury or property damage or which causes the treatment works to be in violation of its NPDES permit requirements. Second and subsequent violations shall be punished by a fine or not more than $50,000 per day, or by imprisonnment of up to two years. or both.

The House amendment also requires punishment by fine of between $5,000 and $50,000 per day, or imprisonment for up to two years, or both, for (1) any person who knowingly violates section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any permit condition or limitation implementing any of these sections in an NPDES permit or any requirement imposed in an approved pretreatment program, or any requirement in a dredge and fill permit under section 404 of the Act; or (2) any person who knowingly introduces into a sewer system or a publicly owned treatment works any pollutant or hazardous substances which causes or may reasonably be anticipated to cause personal injury or property damage or which causes the treatment; works to be in violation, of its NPDES permit requirements. As with negligent violations, for subsequent knowing violations, the maximum punishment which may be imposed for these knowing violations is twice that pertaining to the initial violation.

The House amendment provides for a fine or imprisonment of any person who knowingly violates provisions of the act or permit conditions knowing that he thereby places another person in imminent danger of death or serious bodily injury.

The House amendment provides, for both of these negligent or knowing violations, an affirmative defense that the introduction of any pollutant or hazardous substance into the sewer system or treatment; works was in compliance with all applicable Federal, state and local requirements governing the introduction.

Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the Act shall upon conviction be punished by a fine of up to $10,000 or imprisonment for up to two years, or both. Second and subsequent convictions shall be punished by fine of up to $20,000 or by imprisonment of up to four years or both.

For the purpose of section 22, the term "person" means any responsible corporate officer in addition to the definer of the term in section 502.5 of the Federal Water Pollution Control Act. The term "hazardous substance" means any substance designated pursuant to section 311 of the Federal Water Pollution Control Act; any element, compound, mixture, solution, or substance designated under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act; any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act;nd any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act.

Conference substitute

The conference substitute combines provisions from the Senate bill and House amendment to provide increased penalties for civil and criminal violations of the law and to provide new authority to assess civil penalties administratively.

For all three classes of penalties covered by the conference substitute—criminal, judicial civil, and administrative civil—the conference substitute provides that a single operational upset which leads to simultaneous violations of more than one pollutant parameter in an NPDES permit shall be treated as a single violation.

The conference substitute provides for criminal penalties as set forth in the Senate bill, with an amendment contained in the House bill deleting the reference to section 303.

Civil judicial penalties are as set forth in the Senate bill with amendments based on the House amendment. The conference substitute provides that no State shall be required, before July 1, 1988, to modify a section 402 percent program as a result of the civil penalty amendments in the conference substitute. With respect to civil penalties for violation of a pretreatment program, the provision of the Senate bill regarding State permit programs is retained, but with a July 1, 1988, date. With respect to the increased amount of civil penalties, the House amendment providing that no State shall be required, as a result of these amendments, to modify a permit program is adopted with the addition of a clarification. The additional language preserves the Administrator's authority to establish, for purposes of program delegation, minimum acceptable levels of State civil penalty authorities.

The new authority to assess administrative civil penalties combines provisions of the Senate bill and the House amendment. As in the Superfund Amendments and Reauthorization Act of 1986, the conference substitute provides for a two-tiered penalty authority. The first tier involves an informal process with relatively low penalty limits. The maximum first tier penalty that may be assessed in any enforcement action is $25,000, regardless of the number of violations or number of days of violation. The second tier is subject to a maximum penalty limit of $125,000 and a formal Administrative Procedure Act hearing process.

The conference substitute authorizes the Secretary of the Army to levy administrative civil penalties, as provided in both the Senate bill and the House amendment, for Clean Water Act violations relating to permits issued by the Secretary under Section 404 of the Act. The conference substitute authorizes the Administrator, as in the Senate bill, to issue administrative civil penalties with respect to unpermitted discharges violating section 301 as it relates to section 404 of the Act and violations of State-issued section 404 permits. It is the conferees' intention that the Administrator and the Secretary of the Army develop a memorandum of agreement concerning the implementation of this new administrative civil penalty authority relating to unpermitted section 404 violations. The conferees expect the Administrator and the Secretary to reach agreement on this matter as soon as possible, but in no event later than six months after the date of enactment.

In the administrative penalties provision, language is included from the House amendment on required consultation with States prior to assessing any administrative penalties, on assessment of additional penalties for late payment and collection fees, and on the standard for setting aside a penalty assessed without a hearing. From the Senate bill, language on collection procedures and court authority to impose additional penalties is included in the conference substitute, as is the language on preclusion of citizen suits.

For any given violation, the government must choose from among the three approaches included in this section: informal administrative process; formal administrative process; or judicial process. A single violation shall not be subject to multiple civil penalties.

In certain instances settlements of fines and penalties levied due to NPDES permit and other violations have been used to fund research, development and other related projects which further the goals of the Act. In these cases, the funds collected in connection with these violations were used to

investigate pollution problems other than those leading to the violation. Settlements of this type preserve the punitive nature of enforcement actions while putting the funds collected to use on behalf of environmental protection. Although this practice has been used on a selective basis, the conferees encourage this procedure where appropriate.

CLEAN LAKES.

Senate bill

The Senate bill provided for effective reporting of lake quality by State agencies on a regular basis. Reports were to identify lakes in each State, identify lakes with impaired uses, and include a descripton of the State program for lake protection.

To avoid unnecessary reporting burden, the lake quality reports were to be included in the State water quality report prepared every two years under section 305(b) of the Act. Also, a State must prepare and submit a lake quality report to EPA in order to receive a grant under section 314 of the Act.

Finally, section 314 was amended to inlcude saline lakes under the Clean Lakes Program.

House amendment

The House amendment provided for a new grant program for control of nonpoint sources contributing pollution to lakes. A total authorization of $250,000,000 was provided.

In addition, the amendment authorized the Administrator to carry out a demonstration program to restore the biological integrity of acidified lakes through liming. The provision provided for a report to Congress and an authorization of $10,000,000.

The amendment also provides for a program of grants to States to carrying out methods of mitigating the effects of high acidity in lakes. A total authorization of $125,000,000 was provided and an annual report to the Congress was required.

The amendment also provided for projects for the clean-up of selected lakes.

Finally, the amendment provided for publication of a lake restoration guidance manual.

Conference substitute

The conference substitute includes modified provisions of Senate and House bills.

The Conferences reaffirm their belief that lakes are a vital national resource. Fifty percent of the Nation's water supply comes from lakes and lakes offer outstanding recreational opportunities. There is evidence, however, of declines in lake quality. A recent survey by the North American Lakes Management Society found that 4,200 lakes in 38 States suffer impaired uses.

Despite this evidence there is currently no comprehensive and complete picture of the quality of lakes nationally. In addition, there is no clear description of trends in lake quality.

The conference substitute provides that States are to submit reports on lake quality on a biennial basis. Reports are to provide a list and description of the quality of lakes and description of methods and procedures to control sources of pollution to lakes including methods and procedures to mitigate the harmful effects of high acidity, inlcuding innovative methods of neutralizing, restoration of buffering capacity, and the like. States reports shall be included in reports proposed under section 305(b) of the Act, beginning with the report required by April 1, 1988. The provision provide that States not submitting reports are not eligible for grants under this section.

Not later than 180 days after receipt of biennial reports from States, the Administrator shall submit to congress a report on the status of water quality in lakes. This national report is intended to be published separately from the reports to Congress prepared under section 305(b) of the Act.

The provision also provides that the Administrator is to establish and conduct a lake water quality demonstration program. As a priority, the Administrator shall undertake demonstration projects at several lakes identified in the bill. The Administrator is to provide an annual report to the Congress on work undertaken pursuant to this section. The demonstration program is supported by a total authorization of $40,000,000. An additional authorization of $15 million is provided for acid mitigation award of a grant under this provision shall not effect or restrict award of grants under related assistance programs.

The conference substitute also directs the Administrator to develop a lake restoration guidance manual within one year and to revise the manual biennially.

MANAGEMENT OF NONPOINT SOURCES OF POLLUTION

Senate bill

The Senate bill provides $300 million over 3 years to States and combinations of adjacent States to implement nonpoint source pollution management programs.

States are to submit to the Administrator of the Environmental Protection Agency, within 18 months of enactment, programs which: identify waters which without additional action to control nonpoint sources of pollution cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of the Act; categories, subcategories or, where appropriate, particular sources that contribute significant pollution loadings; best management practices which will be undertaken; programs (including nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to achieve implementation of best management practices; a schedule containing annual milestones for program implementation at the earliest practicable date; and which identify Federal programs and projects which the State will review pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance is consistent with the purposes and objectives of the program under this section.

Within 6 months of receipt, EPA is to approve or disapprove the program; states have 3 months to revise the program, and the Administrator an additional 3 months to approve or disapprove the revised program. If the Administrator fails to approve or disapprove the program within the allotted times, the program is deemed to have been approved.

The State may make use of local agencies or organizations in developing and implementing the program.

The Federal share of grants shall not exceed 75%. Two-thirds of the funds appropriated are to be allotted by formula, one-third for priority purposes.

States may use Federal funds authorized by the bill for financial assistance to individuals only insofar as the assistance is related to costs of implementing demonstration projects. Federal funds are not to be used as a general subsidy or for general cost sharing to support implementation of best management practices. However, a State is not precluded from using or directing other funds for cost sharing or other incentive programs if it chooses. The term "demonstration projects" includes projects designed to educate individuals as to the use of best management practices and to demonstrate their feasibility and utility as well as research projects to establish the cost effectiveness of particular BMPs.

Each State shall report annually to the Administrator. The Administrator shall transmit to the Office of Management and Budget and appropriate Federal departments and agencies a list of the programs and projects identified by each State under the consistency provision, and each Federal department or agency shall modify its regulations and accommodate the concerns of the state according to the requirements and definitions of Executive Order 12372 as in effect on September 17, 1983.

The Administrator shall submit to Congress within 3 years of enactment a report on the program.

Section 205(j) is amended to contain a new paragraph (5), setting aside 1% of each state's allotment, or $100,000, whichever is greater, to carry out this section.

House amendment

Establishes a national policy that plans for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.

Provides $150 million per year over 5 years to States to implement nonpoint source control programs.

Each State shall submit to the Administrator a State Assessment Report which includes an identification of those waters which as a result of pollution from nonpoint sources are not meeting applicable water quality standards or the goals and requirements of the Act, and those categories and subcategories of nonpoint sources which add significant pollution to those waters. Each State shall also submit a four-year Implementation Plan which includes an identification of those waters with respect to which the State plans to implement best management practices and measures; the schedule for expeditious implementation of such practices and measures; those categories and subcategories with respect to which controls will be implemented; an identification of best management practices to be implemented; and an identification of methods (including but not limited to demonstration, enforcement, technical assistance, education, training and cost sharing programs) which will be used. The State shall also identify Federal departments and agencies which are likely to engage in activities which would be inconsistent with implementation of the plan, and recommend to the Administrator methods for modifying such activities to make them consistent with plan implementation.

Programs shall be developed and implemented, to the maximum extent practicable, with the involvement of local and other entities with expertise and experience in control of nonpoint sources of pollution. The States shall to the maximum extent practicable develop and implement programs on a watershed-by-watershed basis.

States have 270 days from enactment to submit the above, with an additional 270 days if necessary. The Administrator shall consolidate recommendations for modifica-

tion of Federal activities and programs, and submit them to the appropriate Federal departments, agencies and instrumentalities which shall, to the maximum extent practicable and consistent with existing law, accommodate such recommendations. The Administrator shall have 180 days to approve or disapprove the submissions, or portions of them, or they shall be deemed approved. The Administrator may disapprove a plan or portion of it upon determination, among other considerations, that it is not likely to satisfy the goals and requirements of the Act, that the implementation schedule is not sufficiently expeditious, or that the practices and measures proposed in the plan are not adequate to improve water quality and to reduce nonpoint source pollution. States have 90 days to revise their plans. If a State fails to submit a plan, or if it is not approved, a local public agency or organization with expertise in and adequate authority to control nonpoint sources may with the State's approval submit and implement a plan for its area under the same conditions as States do.

Where waters in a State with an approved plan are not meeting applicable water quality standards or the goals and requirements of the Act, because of upstream pollution, the State may petition EPA to convene and EPA shall convene, or EPA may initiate, an interstate management conference to develop an agreement. The involved states shall revise their plans and submit them to EPA for approval. The plans shall be consistent with Federal and State law.

The maximum Federal share shall be 50%, except where a significant number of local interests in an area are willing and able to participate, in which case the Federal share shall be between 50% and 60%.

States shall submit annual reports to EPA, and EPA shall report annually to Congress on the program. Not later than July 1, 1990 the Administrator shall submit a final report to the Congress.

Section 201(g)(1) is amended to permit use of these funds to implement this section.

Conference substitute

The conference substitute establishes a national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.

The provision provides $400 million over 4 years to States or combinations of adjacent States to implement nonpoint source management programs. An authorization for grants to States to carry out ground water quality protection activities as part of a comprehensive nonpoint source pollution control program is also provided.

Each State is required to submit a report which identifies state waters which without additional action to control nonpoint sources of pollution cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of the Act. A particular water body or segment should not be excluded from identification under this subsection on a theoretical showing that it would be possible to meet water quality standards without nonpoint source controls. "Reasonably expected" is intended to mean that all waters for which nonpoint controls would be an appropriate and effective means to achieving water quality standards will be identified in the State's report.

The report shall also include identification of and management practices for categories and subcategories of nonpoint sources and may include, where appropriate, particular nonpoint sources which add significant pollution to each portion of the identified waters. It would be appropriate to identify such particular sources where they contribute significant nonpoint pollution to waters not meeting water quality standards.

States or combinations of adjacent States shall also prepare and submit to EPA Management Programs for implementation, which shall include an identification of best management practices and measures which the state will undertake. When identifying best management practices for categories and subcategories which will be undertaken to reduce nonpoint pollution, it is appropriate for States to focus on specific categories and subcategories or watersheds where nonpoint pollution is a significant problem and to set priorities among categories, subcategories and watersheds. Setting priorities, however, should not be construed to allow States to exclude watersheds not meeting water quality standards, or categories or subcategories contributing significant nonpoint pollution, from the report and management program submitted by the State.

The management program shall also identify the programs (including, as appropriate, nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to achieve implementation of best management practices; a schedule containing annual implementation milestones and providing for utilization of best management practices at the earliest possible date; and an identification of Federal programs and projects which the State will review pursuant to the procedures set forth in Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance is consistent with the purposes and objectives of the program under this section. Programs shall be developed and implemented, to the maximum extent practicable, with the involvement of local and other entities with expertise and experience in control of nonpoint sources of pollution. States shall, to the maximum extent practicable, develop and implement programs on a watershed-by-watershed basis.

The States shall submit their reports and management programs to EPA within 18 months of enactment. The Administrator must approve or disapprove the submissions within 180 days or they are deemed approved. The Administrator may disapprove a program or portion of it upon determination, among other considerations, that it is not likely to satisfy the goals and requirements of the Act, or that the practices and measures proposed in the plan are not adequate to reduce nonpoint source pollution and to improve water quality. The State shall have 3 months to revise its plan and the Administrator shall approve or disapprove the revised program within 3 months. If a state fails to submit the report, or if it is not approved, a local public agency or organization with expertise in and authority to control nonpoint sources, may, with the approval of the State, develop and implement a program for its area.

Where waters in a State with an approved program are not meeting applicable water quality standards or the goals and requirements of the Act because of upstream pollution, the State may petition EPA to convene and EPA shall convene, or EPA may initiate, an interstate management conference to develop an agreement. Nothing in the agreement shall supersede or abrogate water rights established by interstate water compacts, Supreme Court decrees or State water laws. Nor shall the subsection apply to any pollution subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a conference shall not be subject to Section 505 of this Act. To the extent that States reach agreement through the conference, their management programs will be revised to "reflect" agreements reached at an interstate management conference. It is intended that the agreements will be incorporated in revised state programs and will be carried out. Management programs shall be consistent with Federal and State law.

In making grants under this provision, the Administrator shall give priority to effective mechanisms particularly difficult nonpoint source problems; implement innovative methods or practices; control interstate nonpoint source pollution; carry out ground water quality protection activities.

The Federal grant share shall not exceed 60% of the implementation costs, and non-Federal sources shall provide at least 40% of the costs.

States may use Federal funds authorized by the bill for financial assistance to individuals only insofar as the assistance is related to costs of implementation of best management practices.

No grant may be made unless the Administrator determines that the State has made satisfactory progress in the preceding year in meeting its schedule.

Each State shall submit annual progress reports to the Administrator. The Administrator shall transmit to the Office of Management and Budget and appropriate Federal departments and agencies a list of the programs and projects identified by each State under the consistency provision, and each Federal department or agency shall modify its regulations and accommodate the concerns of the State according to the requirements and definitions of Executive Order 122372 as in effect on September 17, 1983.

The Administrator shall report annually to Congress on the activities, programs and progress made in the preceding year, and shall transmit a final report not later than January 1, 1990 on the activities carried out under this section.

The conference substitute contains both the Section 205(j) (5) and Section 201(g) (1) set-aside provisions.

GRANTS FOR PROTECTING GROUNDWATER QUALITY

Senate bill

No comparable provision.

House amendment

The House amendment authorizes the Administrator to make 50 percent grants to States for the purpose of assisting the States in carrying out ground water quality protection activities.

Conference substitute

The Conference substitute includes a comparable provision in the new nonpoint source pollution section.

NATIONAL ESTUARY PROGRAM

Senate bill

The bill adds a new section 320 which authorizes the Administrator to convene management conferences to solve pollution problems in interstate and international estuaries. Under the provisions, EPA would convene a management conference if the

Administrator determine that the attainment and maintenance of water quality in an estuary requires the control of interstate or international pollution.

The management conferences would be convened for up to five years and would develop comprehensive conservation and management plans which recommend priority actions for the control of point and nonpoint sources of pollution. These conferences shall include representatives of international, interstate, and regional agencies; state and local governments and entities; interested Federal agencies; affected industries, public and private educational institutions and the general public in the estuarine zone. It is important to note, however, that any priority corrective actions or compliance schedules recommended by the conference shall in no manner be less stringent than any requirements of Federal law. Nothing in this section shall affect compliance schedules or other requirements established by law or by the Agency for municipal, industrial or other dischargers.

The Administrator shall approve the plan if it satisfies the purposes of section 320, and the affected Governor or Governors concur. Once a plan is approved, funds authorized to be appropriated under the title II construction grants program, the title VI water pollution control revolving loan program and the section 319 nonpoint source pollution program may be used in accordance with the applicable requirements of the Act, to assist states in implementing programs. This provision does not in any way preclude the use of funds for any eligible project under title II, title VI of section 319 of the Act.

The provision authorizes $12 million annually for the management conferences. Expenses related to the administration of management conferences are not to exceed 10% of amounts appropriated. Grants are provided on a 75 percent Federal, 25 percent non-Federal basis to states, interstate or regional water pollution control agencies to conduct research, monitoring, modeling and other technical work necessary to develop conservation and management plan. Those agencies which receive grants are required to report to the Administrator 18 months after receipt of the grant and biennially thereafter.

The Administrator is directed to provide not to exceed $5,000,000 per fiscal year of the authorized funds to the Administrator of NOAA to do water quality monitoring and ecosystem assessment research in the estuaries. The Administrator of EPA, in cooperation with the Administrator of NOAA, shall submit a biennial report to Congress on the results of such monitoring and research. This report shall provide a listing of priority monitoring and research needs; and assessment of the state and health of the Nations' estuarine zones to the extent evaluated; a discussion of pollution problems and trends in pollutant concentrations that have a direct or indirect effect on water quality, the ecosystem, and designated or potential uses of each estuarine zone; and evaluation of pollution abatement activities and management measures implemented to determine the degree of improvement made toward restoring and maintaining the chemical, physical, and biological integrity of the estuaries studied.

House amendment

The House amendment establishes a program to improve water quality in estuaries. EPA is authorized to convene management conferences on estuaries in order to develop master plans for the improvement of the environmental quality of estuaries. The participants in the conference include EPA, NOAA, and the States. Fifty percent grants are authorized for implementation of the master plans.

Conference substitute

The conference substitute contains purposes and policies of the National Estuary Program which declare that the Nation's estuaries are of great national significance for fish and wildlife resources and provide important recreation and economic opportunities. As such, it is national policy to maintain and enhance the water quality in estuaries and provide for the biological integrity of these waters.

A Governor of a State may nominate an estuary which lies in whole or in part within such State and request a management conference to develop a comprehensive management plan. The Administrator is also authorized to nominate an estuary under his own initiative. In either case, the Administrator must make a determination as to whether an estuary can be included in the program on the basis of the ecological significance of the estuary; the biological productivity of the estuary and its contribution to fish and wildlife resources of commercial and recreational significance; the degree to which commercial, residential, recreational, or industrial activities within the estuary and its watershed have impaired or may impair the health and ecological integrity of the estuary; and the degree to which comprehensive planning and management may contribute significantly to the wise use of the estuary and to its health and ecological integrity.

Although the national estuary program established in this legislation is national in scope, several estuaries are listed in the conference substitute for priority consideration. These estuaries, which are of national significance, are as follows:

Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albermarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; and Galveston Bay, Texas.

The management conferences are, among the other purposes stated in the conference substitute, required to develop comprehensive conservation and management plans which recommend priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary. This includes restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in the estuary. Plans shall assure that the designated uses of the estuary are protected. Another important responsibility of the management conferences is to review any Federal financial assistance program or Federal development project subject to the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of any plan prepared under this section. These programs and projects shall not be limited to the assistance programs or development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of any plan developed by the management conference.

Members of the management conference shall include the Administrator and representatives of State and foreign governments, appropriate interstate or regional agencies and as determined by the Administrator other appropriate Federal agencies, local governments, affected industries, public and private education institutions and the general public. Management conferences shall be convened for a period up to five years and may be extended or reconvened by the Administrator.

Management conferences shall consider any relevant special area management plan under the Coastal Zone Management Act. The estuarine management conferences shall also cooperate fully with the State coastal management program agencies so as to assure effective coordination of all relevant coastal activities affecting the estuary. When appropriate, approved estuarine conservation and management plans may be incorporated into State coastal zone management programs.

The plan developed by a management conference shall include requirements necessary for attainment of water quality in estuaries and may include, but not be limited to:

The development of water quality standards for waters within the estuarine zone.

The development of toxicity-based standards for toxic pollutants.

The development of water quality based standards for significant point sources pollution.

The development of best management practices to control nonpoint sources of pollution.

Other measures providing for the conservation and management of the living resources of the estuary.

Once plans are approved by the Administrator with the concurrence of the affected Governor or Governors, the plan shall be implemented. Funds authorized under titles II and VI and section 319 may be used to assist States with implementation of plans.

The Administrator is authorized to make grants to appropriate public and private agencies, institutions, or individuals to assist in research, surveys, studies, modeling and other technical work necessary for the development of a conservation and management plan. The amount of such grants shall not exceed 75 percent and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources. Any entity or person receiving a grant shall report to the Administrator within 18 months of receipt of such grant and biennially thereafter.

The authorization under this section shall not exceed $12 million per year for fiscal years 1987, 1988, 1989, 1990, and 1991. Up to $5 million per fiscal year of the sums authorized to be appropriated under the section shall, at the Administrator's discretion, be provided to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to do water quality monitoring and ecosystem assessment in estuaries.

The Administrator, in cooperation with the Administrator of NOAA is required to submit a biennial report to Congress on the results of such monitoring and research. This report shall provide an assessment of the state and health of the Nations' estuarine zones to the extent evaluated; a discussion of pollution problems and trends in pollutant concentrations that have a direct or

indirect effect on water quality, the ecosystem, and designated or potential uses of each estuarine zone; and evaluation of pollution abatement activities and management measures implemented to determine the degree of improvement made toward restoring and maintaining the chemical, physical, and biological integrity.

The definition of estuaries includes associated aquative ecosystems and those portions of tributaries drained into the estuary up to the historic height of migration of anadromous fish or the head of tidal influence, whichever is higher. The definition was specifically included in this section to ensure that management conferences addressed problems created by the degradation of wetland areas or upstream diversions of water from tributaries draining into the estuary. The definition of "estuarine zone" in section 104(n)(4) continues to apply to other provisions of the Act.

PUGET SOUND

Senate bill

No comparable provision.

House amendment

The House amendment provides for the development of a comprehensive master plan for Puget Sound, Washington. Fifty percent grants are authorized for implementation of the plan.

Conference substitute

The conference substitute deletes this separate House provision and addresses Puget Sound in the National Estuary Program.

SAN FRANCISCO BAY

Senate bill

No comparable provision.

House amendment

The House amendment authorizes the Administrator to study and develop information on the quality of San Francisco Bay, develop a master plan to reduce pollution loadings in the bay, and to make grants for implementation of the plan.

Conference substitute

The conference substitute deletes the separate House provision and addresses the San Francisco Bay in the National Estuary Program.

NEW YORK AND NEW JERSEY HARBOR AREA

Senate bill

No comparable provision.

House amendment

The House amendment authorizes EPA to assist in the study of environmental problems in the New York and New Jersey harbor areas, and to make 50 percent grants for implementation of plans to improve the area.

Conference substitute

The conference substitute deletes the separate House provision and addresses the New York and New Jersey Harbor area in the National Estuaries Program.

UNCONSOLIDATED QUATERNARY AQUIFER

Senate bill

No comparable provision.

House amendment

The House amendment provides that no person may locate or authorize the location of a landfill, surface impoundment, waste pile injection well or land treatment facility over the unconsolidated quaternary aquifer in New Jersey.

Conference substitute

The conference substitute adopts the House provision.

STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS

Senate bill

The Senate bill adds a new paragraph to section 403(1) of the Clean Water Act, specifically exempting certain stormwater runoff discharges from permit requirements and effluent limitations. Discharges from oil or gas exploration, production, processing, or treatment operations are covered by this provision. To be exempted, such discharges must be composed entirely of flow of precipitation, runoff from conveyances or systems of conveyances used for collecting and conveying such water. Such flows cannot be contaminated with process wastes, toxic pollutants, hazardous substances, or oil and grease. The Administrator shall determine what constitutes contaminated runoff for the purposes of this subsection.

House amendment

The House amendment provides that the Administrator shall not require a permit under section 402 or directly or indirectly require any state to require such a permit for discharges of stormwater run-off which (1) are from mining operations or oil gas exploration, production, processing, or treatment operations, (2) are composed entirely of flows from conveyances or systems of conveyances used for collecting and conveying precipitation run-off; and (3) do not come in contact with any overburden raw material, or product located on the site.

Any person discharging stormwater runoff described in the preceding sentence shall monitor the quality of water in such flows and shall report not less often than annually to the Administrator on the results of such monitoring.

Conference substitute

The conference substitute adopts the House provision, eliminating the separate monitoring requirement and adding a provision dealing with contamination by contact with raw materials or waste products based on the Senate bill.

The substitute provides that permits are not required where stormwater runoff is diverted around mining operations or oil and gas operations and does not come in contact with overburden, raw material, product, or process wastes. In addition, where stormwater runoff is not contaminated by contact with such materials, as determined by the Administrator, permits are also not required. With respect to oil or grease or hazardous substances, the determination of whether stormwater is "contaminated by contact with" such materials, as established by the Administrator, shall take into consideration whether these materials are present in such stormwater runoff in excess of reportable quantities under section 311 of the Clean Water Act or Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or in the case of mining operations, above natural background levels.

ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED

Senate bill

In cases where a publicly owned municipal treatment works is not able to meet the requirements of its permit because of operational, mechanical, or design failures, the Administrator should not require pretreatment of conventional pollutants by indirect discharges to allow the treatment works to meet the conditions of their permits. This provision does not modify or limit the Administrator's authority and obligation to promulgate pretreatment standards which regulate pollutants which interfere with a publicly owned treatment works. It does not affect a discharger's obligation to comply with Federal, State, and local pretreatment requirements. The Administrator's enforcement authorities against indirect dischargers or municipalities under the Act are not limited by this provision. Nor does it restrict a POTW from imposing any treatment conditions it chooses on its contributors.

House amendment

The House amendment provides that, in issuing a permit to a publicly owned treatment works, the Administrator shall not require additional pretreatment by any indirect discharger of conventional pollutants introduced into the treatment works as a substitute for inadequate pollution removal by the treatment works due to design or operation problems for which the treatment works is responsible. Indirect dischargers into the works must comply with all applicable pretreatment standards promulgated under the Federal Water Pollution Control Act. Nothing in this subsection affects the Administrator's authority under sections 307 and 309 of the Act, affects state and local authority under section 307(b)(1) (pretreatment programs) or section 510 (state authority to establish limitations on discharges or pollutants), relieves the treatment works from its obligations to meet requirements of the Act, or otherwise precludes the treatment works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit.

Conference substitute

The conference substitute adopts the House provision.

PARTIAL NYPDES PROGRAM

Senate Bill

The Senate bill amends section 402 of the Clean Water Act to permit the Administrator of the Environmental Protection Agency to delegate a protion of the National Pollutant Discharge Elimination System program to a State under conditions.

A State would have two options. Under either option, the Governor must submit a plan to the EPA for approval. Such a plan must either show that the State is prepared to administer program components representing a significant part of the State program, and be prepared to make all reasonable efforts to assume administration of the total program within the ensuing five years, or the plan must provide for administration of a permit program for all of one or more discharge categories. Under this option, the plan must cover all categories of discharges and represent a complete permit program for all categories of discharges under the jurisdiction of the State.

In the event that a State wishes to return NPDES program administration authority to the Federal Government, or in the event the Administrator withdraws approval of a state-operated program, the entire program must be returned to the Federal Government.

House amendment

The House amendment amends section 402 of the Federal Water Pollution Control Act by adding new subsection (n). New subsection (n) allows partial delegation to the states of the Act's NPDES program. Under this provision, the Governor of a State may submit and the Administrator may approve a partial permit program for point source

discharges into the navigable waters of the State where the State's partial permit program covers, at a minimum, either administration of a major category of the discharges into the state's navigable waters or a major component of the state's NPDES permit program. With respect to a partial permit program covering administration of a major category of discharges, the Administrator is authorized to approve such a program if the program covers in a complete fashion all of the discharges under the jurisdiciton of a department or agency of the state and if the Administrator determines that the partial program represents a significant and identifiable part of the state's NPDES program. Under partial delegation and assumption, States with point source jurisdiction split among two or more State agencies could apply for all of the point sources under the jurisdiction of a single state agency. Upon approval, the State agency could assume full administration of all point sources within that agency's jurisdiction and responsibility. Such state agency could assume and administer its part of the total NPDES program regardless of whether other state agencies with jurisdiction over other parts of the total program assumed administration of their respective parts.

With respect to a partial and phased permit program covering a major component of the State's NPDES program, the Administrator is authorized to approve such a program if the Administrator determines that the partial program represents a significant and identifiable part of the State's NPDES program, such as all major industrial dischargers of all major municipal dischargers, and if the State submits and the Administrator approves a plan for the State to assume administration by phases of the remainder of the State's NPDES program within five years. Under partial and phased assumption, the State would be required to assume all of the program within the specified period of time, but it could do so by assuming some significant part of the program each year up to the end of the specified period.

A state may return or the Administrator may withdraw approval of delegated NPDES program responsibilities. In the case of an approved partial permit program covering administration of a major category of a state's point source discharges, the entire permit program related to that category and being administered by one of the state's departments or agencies must be returned or withdrawn.

Partial programs relating to other categories and being administered by other of the state's departments or agencies, if such is the case, may remain delegated. In the case of an approved partial and phased program covering administration of a major component of a state's NPDES program, any approved phased component must be returned or withdrawn.

Conference substitute

The conference substitute adopts the House amendment with regard to partial NPDES program approval and NPDES program return. Nothing in either provision confers authority to a State to return parts of a program approved prior to the date of enactment.

ANTI-BACKSLIDING

Senate bill

The Senate bill adds new subsections to section 303 and 402 which clarify the Clean Water Act's prohibition of backsliding on effluent limitations.

The amendment to section 402 makes explicit that where a permit limitation is based on section 402(a)(1)(B), that limitation may not be made less stringent because there has been a subsequently promulgated effluent guideline that would have resulted in less stringent effluent limitations had it been used as a basis for the permit. The proposed amendment states that best professional judgment (or) (BPJ) permits may not be made less stringent "solely" on the basis of a subsequent guideline.

Where the permittee can demonstrate that installation and adequate operation of treatment facilities has failed to achieve the permitted effluent limitation, limits in the new permit may reflect the level of control actually achieved, but shall not be less stringent than required by the effluent guidelines in effect at the time of permit issuance or renewal.

The amendment to section 402 also provides that, with respect to permits developed on the basis of water quality based effluent limitations under section 301(b)(1)(c) or section 303(d) or (e), permits may be renewed, reissued or modified on the basis of subsequently revised waste load allocation formulas (WLAs) but only if those WLAs are in compliance with new section 303(d)(5).

Under new paragraph (5)(A) where the applicable water quality standard has not been attained, the total maximum daily load of pollutants or other WLA may be revised only under two circumstances. First, the cumulative effect of the revised effluent limitations based on the total maximum daily loads or WLA must assure attainment of water quality standards. Second, the daily maximum load of pollutants or the WLA may only be revised if the designated use of the receiving waters which is not being attained is changed in accordance with the water quality standards regulations established under section 303.

Under paragraph (5)(B) of the new subsection, where water quality in the receiving waters exceeds or equals water quality standards or the levels needed to protect the actual or designated uses of the receiving waters, backsliding from water quality-based effluent limitations is prohibited except to the extent EPA or an approved NPDES state agency proceeds according to the procedures and applying the decision standard of the antidegradation policy established by section 303 of the Act (1984), and the proposed backsliding is found to be consistent with this antidegradation policy.

House amendment

The House amendment amends Section 402 of the Federal Water Pollution Control Act to provide that, except in specific limited circumstances, neither water quality based permits nor permits based on best professional judgment may be renewed, reissued, or modified to contain less stringent effluent limitations. Under the House amendment, the only situations in which a BPJ permit may be adjusted to contain less stringent effluent limitations are where there have been material and substantial alterations to the permitted facility, persuasive new information becomes available, good cause exists due to matters outside the permittee's control, a variance request has been filed, the permittee's operation and maintenance costs are disproportionately high, mistakes of fact or law were made, or the permittee has installed and properly operated and maintained required equipment and facilities but has nonetheless been unable to meet the permit limitations. For water quality based permits, these same situations applicable to BPJ permits may lead to less stringent effluent limitations in renewed, reissued, or modified permits, except for mistakes of fact or law. In no event under the House amendment may either BPJ or water quality based permits be renewed, reissued, or modified to contain less stringent limitations than required pursuant to applicable effluent guidelines, and in no event may a water quality based permit be changed in a way that would result in a violation of an applicable water quality standard. The House provision is effective for two and one-half years, beginning on date of enactment.

Conference substitute

The conference substitute combines concepts and provisions from both the Senate and House bills, while preserving the intent underlying both bills' provisions: to preserve pollution control levels achieved by dischargers by prohibiting the adoption of less stringent treatment or control limitations, standards, or conditions than those already contained in a permit, except in certain narrowly-defined circumstances.

The conference substitute prohibits the renewal, reissuance, or modification of BPJ and water quality based permits to contain less stringent effluent limitations, except as provided in the substitute. Best professional judgment permits may be adjusted if material and substantial alterations or additions to the permitted facility occurred after issuance of the permit which justify the application of a less stringent effluent limitation; information is available which was not available at the time the permit was issued (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at that time; the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit; a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy; the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a) of the Act; or the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations.

For water quality based permits, all of the circumstances under which BPJ permits may be adjusted to reflect less stringent effluent limitations may also lead to the same result for water quality based permits, except for technical mistakes or mistaken interpretations of law.

For both BPJ and water quality based permits when the permittee has installed and properly operated required treatment facilities but has not been able to achieve the effluent limitations required in its permit, the permit's limitations may be adjusted, but never to a level less stringent than the level of pollutant control actually being achieved and never to a level less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification.

The conference substitute also provides that neither the new information exception—for both BPJ and water quality based

permits—nor the mistake of fact or law exception—for BPJ permits—allows permits to be adjusted to require less stringent effluent limitations with respect to any revised waste load allocation or any alternative grounds for translating water quality standards into effluent limitations, except in one narrow circumstance. Where the cumulative effect of a revised waste load allocation results in a decrease in the amount of pollutants being discharged into the waters covered by the allocation and the revised waste load allocation is not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of the Clean Water Act or for reasons otherwise unrelated to water quality, then the two exception may be used to allow permit adjustments.

With respect to water quality based permits, in addition to justification based on the limited circumstances just described, the conference substitute also provides that permits developed on the basis of water quality based effluent limitations under section 301(b)(1)(c) or section 303(d) or (e), may be renewed, reissued or modified on the basis of subsequently revised waste load allocation formulas, only in compliance with new section 303(d)(4).

Under paragraph (5)(A) of subsection 303(d), where the applicable water quality standard has not been attained, the total maximum daily load of pollutants or other waste load allocation may be revised only under two circumstances. First, the cumulative effect of the revised effluent limitations based on the total maximum daily loads or waste load allocation must assure attainment of water quality standards. Second, the daily maximum load of pollutants or the waste load allocation may only be revised if the designated use of the receiving waters which is not being attained is changed in accordance with the water quality standards regulations established under section 303.

Under paragraph (5)(B) of the subsection, where water quality in the receiving waters exceeds or equals that required by applicable water quality standards or the levels needed to protect the actual or designated uses of the receiving waters, backsliding from water quality-based effluent limitations can only proceed according to the procedures and applying the decision standard of the antidegradation policy established by section 303 of the Act, and where the proposed backsliding is found to be consistent with this antidegradation policy.

The conference substitute establishes the general antibacksliding limitation that, with respect to both BPJ and water quality based permits, in no event may such a permit be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. Similarly, in no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of an applicable water quality standard established under section 303 of the Clean Water Act.

Finally, the conference substitute requires the Administrator to study the extent to which States have reviewed, revised, and adopted water quality standards in accordance with section 24 of the Municipal Wastewater Treatment Construction Grant Amendments of 1981, and the extent to which modifications of permits issued under section 402(a)(1)(B) of the Federal Water Pollution Control Act for the purpose of reflecting any revisions to water quality standards should be encouraged or discouraged. The Administrator is required to submit a report on the study, together with recommendations, to Congress not later than two years after the date of the enactment of the Water Quality Act of 1986.

MUNICIPAL INDUSTRIAL STORMWATER DISCHARGES

Senate bill

The Senate bill includes an amendment providing that, prior to October 1, 1992, the Administrator or the State (in the case of a State with a permit program approved under section 402 of the Act) shall not require a permit for discharges composed entirely of stormwater, other than (a) those associated with industrial activity or a municipal separate storm sewer, or (b) those for which the Administrator or the State determines that the stormwater discharge violates a water quality standard or is a significant contributor of pollutants to waters of the United States; and providing for a report to Congress prior to October 1, 1988.

House amendment

The House amendment establishes procedures for the regulation of stormwater discharges. For the period ending December 31, 1989, EPA may not require a permit for discharges composed entirely of stormwater runoff unless the administrator determines in the case of a class or category of discharges that the class or category may be a significant contribution of pollutants or, in the case of an individual discharge, that it violates a water quality standard or is a significant contributor of pollutants.

All discharges from municipal separate storm sewers must be regulated through the permit program.

With regard to discharges from industrial sites, within one year EPA must promulgate regulations identifying the classes and categories for which permits are required. Not later than 6 months after the study of regulation of stormwater runoff required to be undertaken by EPA, then regulations must be revised as necessary to take into account the results of the study. The study is to be submitted to Congress not later than December 31, 1987.

Conference substitute

The conference substitute follows the Senate provision with respect to stormwater associated with industrial activities. The permit requirements of the Clean Water Act respecting such stormwater discharges are not affected by this amendment.

With respect to municipal separate stormwater discharges, the conference substitute temporarily prohibits the Environmental Protection Agency and States from requiring permits for certain municipal separate storm sewers for discharges composed entirely of stormwater, in order to provide a sufficient period of time to develop and implement methods for managing and controlling discharges from municipal storm sewers. The relief afforded by this provision extends only to October 1, 1992. After that date, all municipal separate storm sewers are subject to the requirements of sections 301 and 402.

Before October 1, 1992, relief from the permit requirement is afforded only to discharges composed entirely of stormwater. Storm sewers that discharge any other type of effluent or into which pollutants are introduced by means other than incidental to stormwater runoff are required to obtain a permit.

The conference substitute estabishes a schedule for developing necessary regulations and issuing permits for municipal separate storm sewers. Before the end of the four-year period beginning on the date of enactment, EPA and the States are to issue permits for all storm sewer systems serving a population of 250,000 persons or more. All permits for these systems are to be issued by the end of this four year period.

Beginning four years after enactment, EPA and the States are to issue permits for storm sewer systems serving a population of more than 100,000 persons and fewer than 250,000 persons. These permits are to be issued no later than six years from the date of enactment.

After October 1, 1992, the permit requirements of the Clean Water Act are restored for municipal separate storm sewer systems serving a population of fewer than 100,000 persons.

Subsection (o)(2)(B) requires that permits for municipal storm sewers contain a requirement to effectively prohibit non-stormwater discharges into storm sewers. Under this provision, all such permits must assure that such discharges are prohibited. The conference substitute does not specify the type of permit requirement to be used, but it does require that the permit requirement be effective in achieving prohibition of non-stormwater discharges.

Permits for discharges from municipal separate stormwater systems may be issued on a system or jurisdiction-wide basis. They must include a requirement to effectively prohibit non-stormwater discharges into storm sewers and controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and systems, design and engineering methods, and other provisions determined appropriate by the EPA or a State. These controls may be different in different permits. All the types of controls listed in subsection (o)(2)(C) are not required to be incorporated into each permit.

SEWAGE SLUDGE

Senate bill

Section 405 of the Clean Water Act is amended to establish a timetable for promulgation of toxic contaminant criteria for sewage sludge use and disposal, to establish a public health and environmental protection basis for these criteria, and to provide authority to implement and enforce criteria for toxic and other pollutants.

A new section 405(d)(2) requires the Administrator to identify by April 1, 1986, toxic pollutants which may be present in sewage sludge in concentrations which may affect public health or the environment. These toxic pollutants are those about which the Administrator currently has available information on the toxicity, persistence, concentration, mobility or potential for exposure on which to base use and disposal criteria. The criteria are to be promulgated by March 1, 1987. Toxic sludge contaminants not included on this list are to be identified by February 1, 1987, and criteria promulgated by December 15, 1987.

New section 405(d)(2)(C) requires compliance with these criteria within twelve months of their promulgation. If new pollution control technology must be constructed, the compliance deadline is extended to two years. In recognition of the fact that some compliance deadlines for toxic con-

taminants in the second phase of regulation may extend to late 1989, new section 405(d)(2)(E) requires the Administrator to impose permit conditions or to take other steps he deems necessary to protect against adverse effects from contaminated sludge prior to the promulgation of the required regulations.

Section 405(e) is amended to expand the applicability of the 405(d) sludge use and disposal regulations to "any person" and to broaden the scope of the section beyond publicly owned treatment works to include any treatment works treating primarily domestic sewage.

Because the current language of section 405 does not specifically define compliance mechanisms, a new subsection (f) is designed to provide for this by allowing the 405(d) guidelines to be imposed through the NPDES permit program under section 402 of the Clean Water Act, a comparable Federal permit program, or an approved State permit program. To be approved, a State's permit program must have substantive standards at least as stringent as those contained in the 405(d) guidelines. These alternative programs may be used when the Administrator determines that they will assure compliance with applicable requirements of section 405. New subsection (f)(2) authorizes EPA to issue a separate permit solely to impose section 405(d) requirments if the treatment works, such as a land treatment system, does not require a discharge permit under one of the authorities listed in subsection (f)(1) and is not covered by an appropriate State permit.

Section 405(d) guidelines that are incorporated into a Federal or State permit would be enforceable in the same manner as other permit provisions under the applicable statutory permit-issuance authority.

Notwithstanding the issuance of a permit that implements a section 405(d) guideline, the guideline itself would remain directly enforceable under sections 309 and 405(e) of the Act.

House amendment

The House amendment directs E.P.A. to identify toxic pollutants which may be present in sewage sludge. E.P.A. must publish regulations on acceptable management practices for sludge and establish numerical limitations for toxics in sludge. If numerical limitations are not feasible, E.P.A. may promulgate design, equipment, management practices, or operational standards.

The House amendment also authorizes E.P.A. to conduct studies, demonstration projects and public information projects designed to promote the safe and beneficial use of sewage sludge. E.P.A. may make grants to states and organizations and individuals to carry out this provision. To carry out the studies, demonstration projects and information projects, $15 million is authorized to be appropriated.

Conference substitute

The conference substitute combines the provisions of the Senate bill with those in the House amendment. It retains the original 1978 deadline for promulgation of sewage sludge regulations as in current law. The conference substitute also sets additional 1987 and 1988 deadlines for issuing these regulations. These new deadlines are intended to put EPA on a schedule to correct its failure to meet the 1978 promulgation deadline in section 405 and are not intended to excuse the Agency from its failure to meet the original deadline.

Similarly, the provision requiring periodic review and revision of sludge regulations is intended to allow for future changes in the regulations as technical knowledge increases. It is not intended to excuse the Agency from writing comprehensive regulations on the schedule required by the conference substitute. Agency officials informed the Congress over three years ago that there were at that time sufficient data to regulate comprehensively approximately twenty of the most common toxic sludge pollutants. The conferees intend these twenty to be regulated in the 1987 regulations.

The conference substitute directs the Agency to impose conditions in individual section 402 permits incorporating criteria and limitations on sludge use or disposal or take other appropriate measures to protect public health and the environment. This provision is intended to protect public health and the environment until the Agency implements the regulations required by paragraph (2). It does not substitute for sludge regulations, so compliance with this provision does not relieve the Agency of the need to comply with paragraph (2) for purposes of both regulating sludge use or disposal and granting removal credits.

The conference substitute modifies the Senate provision by deleting an exclusion of privately owned treatment works operated in conjunction with industrial manufacturing and processing facilities. Such treatment works are covered by the Conference substitute, and their sludge is to be regulated by the same criteria as sludge from publicly owned treatment works. Similarly, the Conference substitute regulates any treatment works treating domestic sewage, not just treatment works treating "primarily" domestic sewage.

Section 307(b)(1) of the Clean Water Act provides that a publicly owned treatment works may issue removal credits to industrial users so long as sludge use or disposal in accordance with regulations under section 405 is not prevented. However, in the absence of full 405 sludge regulations, twelve publicly owned treatment works (POTW's) have obtained EPA approval to grant removal credits, and the industrial users of these POTWs may have relied on EPA's approval in planning their pollution control systems. The U.S. Court of Appeals for the Third Circuit recently invalidated the regulations on which these credits were based in *Natural Resources Defense Council, Inc.* v. *U.S. Environmental Protection Agency*, No. 84-3530 (1986).

The conference substitute prevents temporary inequities that may arise regarding industrial users in these twelve cities. It stays the effect of that part of the court's decision which addresses section 405(d) for these twelve cities until August 31, 1987, the date established by subsection (d)(2)(A)(ii) for the promulgation of sludge regulations. This will allow these cities to issue removal credits, assuming all other criteria for removal credits are met. Similarly, the court's decision is stayed for up to fourteen cities which have applications to issue removal credits pending on the date of enactment and for which EPA approves a program to issue removal credits after the date of enactment and before August 31, 1987. This interim authority may not extend beyond August 31, 1987, and neither may the Agency approve any additional programs to issue removal credits until the regulations required by subsection (d)(2(A)(ii) are published. Pursuant to subsection (d)(4), the Agency should revise the permits for these cities to incorporate the sludge criteria required by this subsection.

The court's decision is stayed only with respect to that part of the decision relating to the promulgation of regulations under section 405(d). Other bases used by the Court for invalidating the removal credit program regulations are not affected by this subsection.

Section 304(h) of the Clean Water Act requires the Administrator to promulgate guidelines establishing test procedures for the analysis of pollutants. These guidelines have been published. In light of the subsequent enactment of the Water Quality Act of 1986 the Administrator should revise the section 301(h) guidelines to include procedures for testing for regulated pollutants in sewage sludge. Promulgation of these procedures should not delay promulgation of the regulations required by section 405(d)(2), as amended.

The purpose of removal credits under section 307(b)(1) is to allow reduced pretreatment requirements on the basis of treatment consistently achieved by the particular publicly owned treatment works. Evaporation into the air of toxic volatile organic chemicals does not constitute treatment of these pollutants. Consequently, removal credits cannot be issued for such pollutants on the basis of their evaporation from treatment works.

In making grants under subsection (g) the Administrator may assist projects related to incineration of sludge.

LOG TRANSFER FACILITIES

Senate bill

The Senate bill provides that not later than October 12, 1985, the Administrator and the Secretary of the Army shall enter into an agreement to designate a lead agency and to process permits required under section 402 and section 404 of the Act, where both sections apply, for discharges associated with the construction and operation of log transfer facilities.

House amendment

The House amendment sets forth a regulatory procedure for log transfer facilities which are required to have a permit under both section 402 and section 404. Where a section 404 permit (discharge of dredged or fill material) has been obtained EPA is to determine, after opportunity for a public hearing, whether the section 404 permit satisfies other requirements of the act. If this is the case, a section 402 permit (discharges of pollutants) need not be applied for. If EPA determines that these other requirements are not satisfied, EPA proposes permit modifications to the Secretary of the Army. If the modifications are not made, then EPA requires that a section 402 permit be obtained.

Conference substitute

LOG TRANSFER FACILITIES

The conference substitute adopts the Senate provision, with modifications.

The Memorandum of Agreement between the Department of the Army and the Environmental Protection Agency contemplated by this section was entered into on October 22, 1985. This agreement represents a promising high degree of early and continuing cooperation between the agencies and the private sector and a proper reliance on their joint efforts in developing Alaska Timber Task Force log transfer facility guidelines. The terms and conditions of permits subject to this section are to be implemented and enforced in accordance with the appropriate statutory authority of the respective federal agencies.

AUDITS

Senate bill

No comparable provision.

House amendment

The House amendment provides that for the purpose of carrying out audits and examinations with respect to recipients of Federal assistance under the Act, the Administrator is authorized to enter into non-competitive procurement contracts with state audit organizations. These contracts may only be entered into to the extent and in such amounts as may be provided in advance in appropriations Acts.

Section 501(d) of the Act provides that the Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipients that are pertinent to the grants received under the Act. The purpose of the amendment is to clarify EPA's authority to negotiate contracts with state audit organizations rather than seeking competitive bids.

Conference substitute

The conference substitute is substantially the same as the House amendment. It authorizes EPA to enter into contracts with independent State audit organizations consistent with the Single Audit Act.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Senate bill

No comparable provision.

House amendment

The House amendment amends the definition of "State" in section 502 and "United States" in section 311 to include the Commonwealth of the Northern Mariana Islands. Since the Act was last reauthorized in 1977, a portion of the Trust Territory of the Pacific Islands has been redesignated as the Commonwealth of the Northern Mariana Islands. Amending the definitions of the terms "State" and "United States" to include the Northern Marianas reflects the new status of the Commonwealth.

Conference substitute

The conference substitute adopts the House provision.

AGRICULTURAL STORMWATER DISCHARGES

Senate bill

No comparable provision.

House amendment

The House amendment amends section 502(14) of the Federal Water Pollution Control Act to provide that the term "point source" of pollution does not include agricultural stormwater discharges.

Conference substitute

The conference substitute adopts the House amendment.

PROTECTION OF INTERESTS OF THE UNITED STATES IN CITIZEN SUITS

Senate bill

The Senate bill modifies the citizen suit provision of the Act to provide that the Attorney General and the Administrator of EPA must be notified when such a suit is commenced and to provide that no consent judgment shall be entered in an action brought under this section on which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Administrator and Attorney General.

House amendment

The House amendment is similar to the Senate bill, but also provides that no judgment in any action to which the United States is not a party may be binding on the United States.

Conference substitute

The conference substitute adopts the Senate provision.

JUDICIAL REVIEW AND AWARD OF FEES

Senate bill

The Senate bill revises the provisions of section 509 of the Clean Water Act governing judicial review of certain actions of the Administrator of EPA and provides for the awarding of costs of litigation in actions brought pursuant to section 505 or 509 to prevailing or substantially prevailing parties.

The purpose of the changes in section 509(b)(1) is to clarify the proper venue for court of appeals review of certain actions of the Administrator under the Clean Water Act and to extend the period within which an application for review of such actions must be filed from ninety to one hundred and twenty days.

The Senate bill provides that proper venue for judicial review under section 509 of the Act shall be in the Circuit Court of Appeals of the United States for the Federal judicial district in which the applicant resides or transacts business which is directly affected by the action in question.

The Senate bill changes from ninety to one hundred and twenty days the period within which an application under section 509 of the Act for judicial review of an action must be made.

The Senate bill establishes a random selection procedure, to be administered by the Administrative Office of the United States Courts, to determine in an orderly fashion the court of appeals in which an agency action is to be reviewed when applications for review have been filed in two or more courts of appeals. Following the selection of a court of appeals, other courts in which applications have been filed are directed to promptly transfer such applications to the court in which the agency record has been filed. Notwithstanding the outcome of the random selection procedure, any court in which an application has been filed would retain the power to transfer the application to any other court of appeals for the convenience of the parties or otherwise in the interest of justice. The court of appeals would be given the power to award costs of litigation to a prevailing or substantially prevailing party when such an award is appropriate.

The Senate bill limits the award of costs of litigation in citizen's suits under section 505(d) of the Act to prevailing or substantially prevailing parties.

Section 509(b)(3)(B), as amended, provides new authority for any court of appeals to grant a temporary stay of the effective date of a final agency action pending selection of the court of appeals in which the action will be reviewed.

House amendment

No comparable provision.

Conference substitute

The conference substitute adopts the Senate provisions.

INDIAN TRIBES

Senate bill

The bill amends title II of the Clean Water Act to accord Indian tribes assistance in the development and implementation of wastewater treatment facilities, including a one-year study of sewage treatment needs of Indian lands. Beginning in fiscal 1987, the section authorizes the use of up to one-half of one percent of the construction grants program for grants to Indian tribes to address unmet needs identified by the Administrator's report. This section also adds a definition of Indian tribes to the definitions contained in section 502 of the Act.

Title II of the Act is amended to direct the Administrator of the Environmental Protection Agency to conduct a study, in coordination with the Director of Indian Health Services, Department of Health and Human Services, to assess sewage treatment needs to serve Indian tribes. Additionally, this study will identify the degree to which such needs will be met through funds allotted to States under the construction grants program, and identify any obstacles which may prevent these needs from being met. Within one year of the date of enactment of the Clean Water Act amendments of 1985, the Administrator is directed to submit such report to Congress.

The Act is further amended to make tribes eligible, beginning in fiscal 1987, for direct EPA construction grants to address unmet needs identified in the Administrator's report to Congress. The Administrator is authorized to treat Indian tribes as States to the degree necessary to allot funds for sewage treatment needs, and is authorized to waive, where necessary, the non-Federal cost-sharing requirement, consistent with the trust responsibility and relationship which exists between tribal governments and the Federal Government.

Finally, this provision adds to the Act a definition of Indian tribes specifying that, for the purposes of the Clean Water Act, the Indian tribes to be covered by the provisions of this section include any Indian tribe, band, nation, or other organized group or community, including an Alaska Native village, which is recognized as eligible for the special programs and services provided by the United States. The definition does not include Alaska Native regional or village corporations, which are organized for other purposes.

House amendment

The House amendment contains a similar provision, except the Administrator is authorized to treat Indians as States under sections 104, 106, 303, 305, 308, 309, 314, 319, 402, and 404 of the act in addition to title II. The House amendment also contains a different definition of Indian tribes and establishes a setaside of ½ of 1 percent as a floor rather than a ceiling (as contained in the Senate bill).

Conference substitute

The conference substitute adopts the House amendment with modifications. Generally, the Conferees intend that to the extent to which the Administrator treats an Indian tribe as a State for purposes of this Act, such Indian tribe shall also be subject to the various provisions of the Act, such as section 101(g), which generically defines the regulatory reach of the Act. Further, with respect to section 101(g), the conference substitute adds explicit statutory recognition that the Indian tribes provisions do not in any way alter the requirements of section 101(g), and that Indian tribes are to be considered as States for the purposes of section 101(g).

The conference substitute also includes specific provisions related to the authority

of Indian tribes to exercise authority under section 303.

The conference substitute directs EPA, in consultation with Indian tribes, to promulgate regulations which specify how Indian tribes shall be treated as States for the purposes of the Act. EPA is also directed in promulgating these regulations to consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. The conference substitute also provides for the explicit consideration of relevant factors in the dispute resolution mechanism, including but not limited to the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards.

The Conferees also considered the question of the judicial review of water quality standards adopted by Indian tribes. The Conferees intend that the Agency's final action on a water quality standard adopted by an Indian tribe governing body pursuant to this section shall be subject to judicial review in the same manner and to the same extent as water quality standards adopted by States under this Act. However, the Congress does not intend to affect the outcome of pending litigation. Additionally, during the pendency of a judicial appeal, nothing in this provision shall be construed to enlarge, diminish or otherwise affect the authority of a tribal government which is a party to the appeal to set and enforce its own standards within and on land and water in its jurisdiction.

The conference substitute includes a section related to the application of the Indian tribes provision to Alaska Native organizations. It confirms that no provision of the Act shall be construed to have any effect on the scope of governmental authority, if any, of any Alaska Native organization (including any regional or village corporation) over lands or persons in Alaska. Additionally, the conference substitute provides that no provision of the Act shall be construed to create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska. Finally, it provides that no provision of the Act shall affect any assertion that Indian country, as defined in section 1151 of Title 18, United States Code, exists or does not exist in Alaska.

The conferees intend that any Indian tribe be eligible for grant assistance under subsection (c) of this section, regardless of whether a tribe is treated as a State under subsection (d).

In allocation of funds under subsections (c) and (f), the Administrator shall consider the needs of tribes and the seriousness of the water quality problems to be addressed.

The Administrator, in cooperation with the Director of the Indian Health Service, may assist Indian tribes in development of waste treatment management plans and construction of treatment works.

This section does not override the provisions of the Maine Indian Claims Settlement Act (25 U.S.C. 1725). Consistent with subsection (h) of the Settlement Act, the tribes addressed by the Settlement Act are not eligible to be treated as States for regulatory purposes under subsection (d) of this provision. In addition, consistent with subsection (i) of the Settlement Act, such tribes are eligible for funds reserved under subsections (c) and (f) of this provision.

DEFINITION OF POINT SOURCE

Senate bill

No comparable provision.

House amendment

The House amendment provides that "point source" includes a leachate collection system, other than a leachate collection system used for agricultural purposes.

Conference substitute

The conference substitute adopts the House amendment which is intended to clarify existing law.

SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

Senate bill

No comparable provision.

House amendment

No comparable provision.

Conference substitute

The conference agreement amends title I of the Marine Protection Research and Sanctuaries Act of 1972 and prohibits issuance of any new permit to noneligible authorities (those not presently permitted to use the N.Y. Bight), to dump or transport municipal sludge within the New York Bight Apex. In addition, no permit may be issued or renewed to anyone other than an eligible authority to dump or transport municipal sludge within the 106-mile Ocean Waste Dump Site designated by E.P.A.

OCEAN DISCHARGE RESEARCH PROJECT

Senate bill

No comparable provision.

House Amendment

The House amendment authorizes EPA to issue a research permit to Orange County, CA, for the discharge of preconditioned sludge into the ocean for the purpose of enabling research to be conducted on the effects of disposing sewage sludge in ocean waters. The permit term is for a period of 5 years, and results of monitoring activities must be transmitted to Congress every 6 months. The permit is to be terminated at any time EPA determines that an unacceptable adverse impact on fish, shellfish and wildlife is occurring.

Conference substitute

The conference substitute is the House provision with the following changes. A requirement is added that, in order for the permit to be issued, the Administrator must determine that the permit would meet the requirements of section 301(h)(2) and the sentences after paragraph (9) of that subsection. These requirements include demonstrating that the permit will not interfere with the attainment or maintenance of water quality which assures protection of public water supplies, the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife and allows recreational activities in and on the water. In addition, the discharge must occur where there is strong tidal movement and other hydrological and geological characteristics which will allow compliance with the goals of this Act and section 301(h)(2).

The permit shall be for a period of five years commencing on the date of the discharge and cannot be extended or renewed.

Monitoring will include whole effluent monitoring—the monitoring of all of the constituents of the discharge—and bioassay methodology testing.

The facts and circumstances involved present a unique situation which is not to establish a precedent for the relaxation of the requirements of the Federal Water Pollution Control Act applicable to similarly situated discharges.

The provision on termination of the permit is modified to allow the Administrator to terminate the permit if there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a cause and effect relationship cannot be shown.

SAN DIEGO, CALIFORNIA

Senate bill

No comparable provision.

House amendment

The House amendment addresses the problems facing the economy, public health, environment, surface water, public beaches, and water quality of the city of San Diego, California, and surrounding area, which are endangered and are being polluted by raw sewage emanating from the city of Tijuana, Mexico.

The House amendment provides that, upon approval of the necessary plans and specifications, the Administrator is authorized to make grants to the Secretary of the Army, acting through the Chief of Engineers or any other Federal agency or any other appropriate commission or entity designated by the President. Such grants shall be for construction of a project consisting of treatment works in the city of San Diego, California, to provide primary or more advanced treatment of municipal sewage and industrial waste from the city of Tijuana, Mexico, and a publicly owned treatment works in the city to provide primary or more advanced treatment of municipal sewage and industrial waste for the city of San Diego as may be necessary to meet the objectives of the Federal Water Pollution Control Act.

The House amendment provides that upon application of the city of San Diego, the Administrator may issue a permit under section 402 of the Federal Water Pollution Control Act which modifies the requirements of section 301(b)(1)(B) of such Act to permit the discharge of pollutants for any ocean outfall constructed with Federal assistance under this Act if such pollutants have received primary or more advanced treatment. Any permit issued pursuant to this subsection shall not be effective after December 31, 1993.

Conference substitute

The conference substitute modifies the House amendment. Construction grants are authorized for the construction of defensive waste treatment works to protect the residents of the city of San Diego, California, and surrounding areas from pollution resulting from any inadequacies or breakdowns in wastewater treatment works and systems in Mexico. Grants are also available to provide primary or more advanced treatment of municipal sewage and industrial waste from Mexico; however, such grants are available only if the Administrator determines that treatment works in Mexico, in conjunction with any defensive treatment works constructed under this or any other act, are not sufficient to protect the residents of the city of San Diego, California, and surrounding areas from water pollution originating in Mexico.

In addition, the conference agreement provides that the Commission or such other agency, commission, or entity as may be des-

ignated under subsection (b) is authorized to operate and maintain any treatment works constructed under the subsection.

If treatment works are constructed to protect San Diego and surrounding areas from pollution originating from Mexico, and those treatment works are no longer needed for that purpose, the city may use the treatment works to treat municipal and individual waste generated by San Diego and surrounding areas, provided the city agrees to pay the United States 45% of the treatment works construction costs.

LIMITATION ON DISCHARGE OF RAW SEWAGE BY NEW YORK CITY

Senate bill

The bill contain provisions which limit the volume of raw sewage discharged by the city of New York. The limitations apply to the drainage areas of two sewage treatment plants currently under construction, North River in Manhattan and Red Hook in Brooklyn.

Raw discharges from the North River drainage area will be limited after August 1, 1986, if the North River plant has not achieved advanced preliminary treatment by that deadline, as required by a consent decree signed on December 29, 1982 by the United States, the State of New York, and the City of New York. The raw discharge in any 30 day period may not exceed 30 times the average daily raw discharge during a specific one year base period. The base period is the year ending on March 15, 1986, or on the date the plant becomes operational, whichever is earlier.

Raw discharges from the Red Hook drainage area will be similarly limited, except that the deadline and the base period are one year later than for the North River drainage area.

The Administrator shall waive these limitations if an increased discharge constituting a violation is caused by certain events, but only to such extent and for such limited period of time as the Administrator determines to be necessary to take into account the event. These events include an interruption in plant operation due to circumstances beyond the control of New York City, and precipitation. In addition, a waiver shall be granted in the event that a violation is due to a random or seasonal variation in flow, and that any sewer hookup occurring or permit granted after July 31, 1986, for North River and July 31, 1987, for Red Hook is not responsible for such violation.

The Administrator is also required to extend either deadline if necessary to account for circumstances beyond the control of New York City. A deadline may not extended on the basis of a lack of Federal funding under section 201 of the Federal Water Pollution Control Act, a lack of New York State or New York City to delay the achievement of advanced preliminary treatment.

For enforcement purposes, violations of the discharge limitations are to be treated as violations of section 301 of the Federal Water Pollution Control Act. If the Administrator makes a determination that a violation has occurred and that there is no basis for a waiver or deadline extension, the Administrator must start an enforcement action under section 301 within another 30 days.

This section states that it is the sense of the Congress that the Administrator should not agree to any further modification of the consent decree with respect to the schedule for achieving advanced preliminary treatment.

Under a "sunset" provision, any limitations remain in effect in a drainage area until the treatment plant for that area has achieved advanced preliminary treatment for six consecutive months.

The Administrator is responsible for performing all flow monitoring needed to determine the discharge limitations. The Administrator must, by July 31, 1986, for North River and July 31, 1987, for Red Hook, establish the methodologies and collect any information necessary for making determinations whether a waiver or deadline extension will be required. If the Administrator detects a violation, the Administrator must determine within 30 days whether a waiver or deadline extension is required. New York City is responsible for providing any additional information requested by the Administrator in order to make this determination.

House amendment

Substantially the same as the Senate bill.

Conference substitute

The conference substitute adopts the House amendment which is nearly identical to the Senate bill.

OAKWOOD BEACH AND RED HOOK PROJECTS, NEW YORK

Senate bill

No comparable provision.

House amendment

The House amendment provides that, notwithstanding any provision of the Federal Water Pollution Control Act, the Administrator of the Environmental Protection Agency shall pay, to the extent provided in appropriation Acts, in the same proportion as the Federal share of other project costs, all expenses for the relocation of facilities for the distribution of natural gas with respect to the entire wastewater treatment works known as the Oakwood Beach (EPA Grant Number 360932) and Red Hook (EPA Grant Number 360394) projects, New York.

Conference substitute

The conference agreement adopts the House amendment and changes the fiscal year to 1986, while authorizing $7,000,000.

BOSTON HARBOR AND ADJACENT WATERS

Senate bill

No comparable provision.

House amendment

The House amendment directs the Administrator to make grants to the Massachusetts Water Resource Authority for purposes of assessing the principal factors having an adverse effect on the environmental quality of Boston Harbor and its adjacent waters, developing and implementing a management program to improve the water quality of such Harbor and waters, and constructing necessary wastewater treatment works for providing secondary treatment for the areas served by such authority.

Conference substitute

The conference substitute adopts the House amendment and adds authority for the Administrator to make grants for emergency improvements to the Deer Island Waste Treatment Plant in Boston, Massachusetts. A total of one hundred million dollars is authorized for fiscal years beginning after 1986, to remain available until expended.

DEER ISLAND TREATMENT PLANT, MASSACHUSETTS

Senate bill

No comparable provision.

House amendment

The House amendment authorizes and directs the Administrator of the Environmental Protection Agency to make grants to the Metropolitan District Commission, Massachusetts, for a project to undertake emergency improvements at the Deer Island Waste Water Treatment Plant in Boston, Massachusetts.

Conference substitute

The conference substitute incorporates the House amendment in the provision on Boston Harbor, at a total authorization of $100 million.

WASTEWATER RECLAMATION DEMONSTRATION

Senate bill

No comparable provision.

House amendment

The House amendment authorizes the Administrator of the Environmental Protection Agency to make a grant to the San Diego Water Reclamation Agency, California, to demonstrate and field test for public use innovative processes which advance the technology of wastewater reclamation and which promote the use of reclaimed wastewater.

Conference substitute

The conference substitute adopts the House amendment and authorizes $2,000,000 for the San Diego, California, Water Reclamation Agency. The Federal share of grants made to the agency shall be 85% of the costs of conducting demonstration and field testing.

DES MOINES, IOWA

Senate bill

No comparable provision.

House amendment

The House amendment authorizes the Administrator of the Environmental Protection Agency to make a grant to the City of Des Monies, Iowa, for construction of the Central Sewage Treatment Plant component of the Des Moines, Iowa, metropolitan area project.

Conference substitute

The conference substitute adopts the House amendment and authorizes $50,000,000 to provide a 757 grant for the construction of the treatment plant.

STUDY OF REGULATION OF DE MINIMIS DISCHARGES

Senate bill

No comparable provision.

House amendment

The House amendment directs the Administrator to study the feasibility and desirability of eliminating the regulation of discharges of pollutants into the navigable waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant.

Conference substitute

The conference substitute adopts the House amendment with modifications to direct a study of discharges of pollutants to determine whether or not there are discharges in amounts which, in terms of volume, concentration, and type of pollutant, are not significant, and to determine the most effective and appropriate methods of regulating such discharges.

STUDY OF EFFECTIVENESS OF INNOVATIVE AND ALTERNATIVE PROCESSES AND TECHNIQUES

Senate bill

No comparable provision.

House amendment

The House amendment directs the Administrator of the Environmental Protection Agency to study the effectiveness on waste treatment of innovative and alternative wastewater treatment processes and techniques which have been utilized in treatment works constructed under the Act.

Conference substitute

The conference substitute adopts the House amendment, modifying the deadline for submission of the Administrator's report from two years to one year after date of enactment of this Act.

STUDY OF TESTING PROCEDURE

Senate bill

No comparable provision.

House amendment

The House amendment directs the Administrator to study the testing procedures for analysis of pollutants. The Administrator is also directed, biennially after the date of submission of the report on testing procedures, to conduct a state-of-the-art review of the testing procedures for the analysis of pollutants for the purpose of determining the adequacy and effectiveness of such procedures and, based on the results of such review, to submit to the Committees recommendations for modifying testing procedures to improve their effectiveness.

Conference substitute

The conference substitute adopts the House provision. The study and biennial review of test procedures established under section 304(h) should include test procedures for pollutants in sewage sludge.

STUDY OF PRETREATMENT OF TOXIC POLLUTANTS

Senate bill

No comparable provision.

House amendment

The House amendment directs the Administrator of the Environmental Protection Agency to conduct a study and make a report with recommendations concerning a number of pretreatment-related issues.

The Administrator is directed to study the adequacy of data on environmental impacts of toxic industrial pollutants discharged through publicly owned treatment works; the extent that secondary treatment by these treatment works removes toxic pollutants; the capability of publicly owned treatment works to grant pretreatment removal credits authorized under section 307(b)(1) of the Federal Water Pollution Control Act; posssible alternative regulatory strategies for protecting the operations of publicly owned treatment works from industrial discharges, including an evaluation of how effective each strategy might be in achieving the goals of the Water Pollution Control Act and the Federal Water Pollution Control Act, and the adequacy under each of the strategies studied of Federal, state and local resources to establish, implement, and enforce multiple pretreatment limits for toxic pollutants.

Conference substitute

The conference substitute adopts the House provision, modified to assure that issues related to contamination of sewage sludge are included in the study for each identified alternative regulatory strategy. The study shall be completed within four years.

STUDIES OF WATER POLLUTION PROBLEMS IN AQUIFERS

Senate bill

No comparable provision.

House amendment

The House amendment authorizes the Administrator in conjunction with State and local agencies to conduct studies of a number of aquifers for the purpose of identifying point and nonpoint sources of pollution and identifying measures necessary to control such pollution.

Conference substitute

The conference substitute includes a provision authorizing the Administrator of the Environmental Protection Agency to conduct studies of ground water quality problems for seven aquifers or areas of underground water supply. In addition to those aquifers originally identified in the House amendment, the areas include the northwestern portion of Connecticut including all or portions of Litchfield, Hartford, Fairfield, Tolland and New Haven counties. The conference substitute includes a one-time authorization of $7,000,000 to conduct such studies.

GREAT LAKES CONSUMPTIVE USE STUDY

Senate bill

No comparable provision.

House amendment

The House amendment authorizes EPA to conduct a study of control measures which can be implemented to reduce the quantity of Great Lakes water consumption.

Conference substitute

The conference substitute modifies the House amendment to provide that the Corps of Engineers and EPA must conduct a study of the effects of Great Lakes water consumption on economic growth or environmental quality in the Great Lakes region. The section authorizes $750,000.

The consumptive use study is to be responsive to the findings in the 1985 report of the International Joint Commission and is not to imply an immediate need for far reaching water conservation requirements. The 1985 report of the IJC indicated, among other things, the uncertainty of consumptive use estimates. Thus, the conferees recognize the need for improving data on water use trends.

SULFIDE CORROSION STUDY

Senate bill

No comparable provision.

House amendment

The House amendment provides that, in order to protect the Federal and other investment in treatment works, the Administrator shall conduct a study of the problem of the corrosive effects of sulfides in collection and treatment systems, the extent to which the uniform imposition of categorical pretreatment standards will exacerbate this problem, and the range of available options to deal with the effects. The required study is to be conducted in consultation with the Los Angeles City and County sanitation agencies which have observed examples of corrosion, probably caused by sulfides.

Conference substitute

The conference agreement adopts the House amendment with the authorization reduced from $2 million to $1 million.

STUDY OF RAINFALL INDUCED INFILTRATION INTO SEWER SYSTEMS

Senate bill

No comparable provision.

House amendment

The House amemdment directs the Administrator to study problems associated with rainfall induced infiltration into wastewater treatment sewer systems. The study shall include an examination of methods to regulate such infiltration into the sewage system of the East Bay Municipal Utility District, California.

Conference substitute

The conference substitute adopts the House amendment as modified.

DAM WATER QUALITY STUDY

Senate bill

No comparable provision.

House amendment

The House amendment directs the administrator, in cooperation with State and Federal agencies, to study and monitor the effects impoundment and discharge of water by dams have on water quality.

Conference substitute

The conference substitute is the House provision as modified.

LAKE PEND OREILLE STUDY

Senate bill

A comprehensive water quality investigation of the Clarks Fork/Lake Pend Oreille system in Idaho and Montana is authorized to identify sources of pollution and the remedial measures necessary to protect and enhance the water quality of this important resource. The Clarks Fork/Pend Oreille system is a primary feature of the environment of northern Idaho, western Montana and eastern Washington.

House amendment

Contains a similar provision.

Conference substitute

The conference substitute adopts the Senate language but broadens the area of the study to include the Clark Fork River and its tributaries in the States of Idaho, Montana, and Washington.

RESERVATION OF FUNDS FOR INTERSTATE SANITARY COMMISSION

Senate bill

No comparable provision.

House amendment

The House amendment amends section 205(g)(1) by adding a provision that the Administrator shall reserve each fiscal year beginning after September 30, 1985, $900,000 from the sums available to the State of New York under the subsection for such fiscal year, $900,000 from the sums available to the State of New Jersey under the subsection for such fiscal years and $200,000 from the sums available to the State of Connecticut under the subsection for such fiscal year. These sums shall be used by the Administrator to make a grant for each such fiscal year to the Interstate Sanitation Commission established by these States by interstate compact to carry out the functions of such Commission under the Federal Water Pollution Control Act.

Conference substitute

The conference substitute drops the House amendment.

GRANTS FOR PROTECTING GROUNDWATER QUALITY

Senate bill

No comparable provision.

House amendment

The House amendment authorized a new grant program to assist States in carrying out groundwater protection activities which the Administrator determines will advance the State toward implementation of an approved comprehensive nonpoint source pol-

lution control program. Not more than $7.5 million is authorized to be appropriated for each of fiscal years 1985 through 1990 to assist States with research, planning, groundwater assessments, demonstration programs, enforcement, technical assistance, education and training to protect groundwater quality and prevent contamination. Not more than $150,000 may be appropriated to any one State in any one fiscal year. The Federal share of activities eligible for grants would be 50 percent.

Conference substitute

The House provision was included in slightly modified form in the conference susbstitute as part of the new program for management of nonpoint source pollution in section 319 of the Act.

RESERVATION FOR INVESTIGATIONS AND AUDITS

Senate bill

The Senate bill contains no provision.

House amendment

The House amendment contains a provision reserving one-quarter of one percent of any amount appropriated pursuant to section 207 of the Act for carrying out audits and investigations.

Conference substitute

The conference substitute deletes the House provision.

INTERSTATE DISPUTE RESOLUTION

Senate bill

The bill amends section 402 of the Clean Water Act to require the Administrator to finally decide disputes between States as to whether a discharge for which one State proposes to issue a permit will cause or contribute to a substantial violation of water quality requirements or adversely affect public health in another State. Under current law, a State whose waters may be affected by the issuance of a permit in another State may submit recommendations to the permitting State. If those recommendations are not accepted by the permitting State, the Administrator may object to the issuance of the permit.

The Senate bill requires the Administrator to decide the merits of such a dispute. Where the permitting State fails to accept the recommendations of the downstream State, the Administrator shall determine whether any substantial violation of a water quality requirement (including any standard) or adverse effect on public health of the downstream State would result from the issuance of the permit. If so, the Administrator must object to the issuance of the permit or provide specific modifications to the permit. Any determination by the Administrator under this provision would constitute the issuance or denial of a permit and would be subject to judicial review under section 509(b).

In addition to the procedure established for resolving disputes over proposed permits, the bill requires that a permit which is in effect shall be reconsidered for termination or modification when a downstream State provides notice that the permitted discharge is causing a substantial violation of a water quality requirement (including any standard) or adversely affecting the public health of such State and seeks a modification of the permit. Then, in the permit proceeding to terminate, or modify, or reissue the permit, the affected State may make recommendations which, if not accepted, would be subject to the new dispute resolution provision proposed in the Senate bill.

A new section 511(e) is added by the bill, providing a new method of resolving disputes between States over the effects of activities in one State on the water quality of another State. The provision is intended to address sources of pollutants not covered by permits, and therefore not subject to the interstate dispute resolution mechanism proposed for inclusion in section 402. Under section 511(e) a State or municipality which alleges that its water quality is being adversely affected by pollutants from another State may petition the Administrator. The Administrator must then determine on the record, after a hearing under the Administrative Procedures Act, whether such pollution is causing a substantial violation of a water quality requirement (including any standard) of the downstream State or adversely affecting the public health of such State.

If the Administrator so determines, the Administrator must issue an order within 90 days restraining any permit causing or contributing to such pollution or providing such other relief as is appropriate, taking into account the goals and requirements of the Clean Water Act and other equitable considerations. Such an order is judicially reviewable.

In no case shall orders or other relief based solely on amendments proposed to section 511 supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws. This new subsection does not apply in any case in which the new disputes resolution provisions in the Senate amendments to section 402 are available, nor to any pollution which is subject to the Colorado River Salinity Control Act of 1974, nor to any water pollution which results from emissions from mobile or stationary sources which are regulated under the Clean Air Act.

House amendment

No comparable provision.

Conference substitute

The conference substitute deletes the provisions in the Senate bill.

PRESERVATION OF OTHER RIGHTS

Senate bill

The bill amends section 505 of the Clean Water Act, the citizen suit provisions, to clarify that nothing in the Act displaces, preempts, or limits the ability of any person injured by noncompliance with any Clean Water Act requirement or permit to seek damages under other Federal statutes. In addition, new subsection (e)(3) provides that States or municipalities may bring actions involving State law, in cases involving water pollution arising in another State, in Federal district court, in either the State bringing the action or the State in which the cause of action arose.

House amendment

The amendment contains a provision substantially the same as the Senate bill with respect to suits for damages under other Federal statutes but does not have a provision comparable to the treatment of States and municipalities as citizens.

Conference substitute

The conference substitute contains no comparable provision.

RELATIONSHIP TO OTHER LAWS

Senate bill

No comparable provision.

House amendment

The amendment provides that discharges from a deepwater port or a vessel within a deepwater port safety zone which are subject to the Deepwater Port Act are not also subject to the liability and penalty provisions of the Water Pollution Control Act.

Conference substitute

The conference substitute deletes Section 31 of the House bill solely in order to address the matter on the more appropriate context of comprehensive oil spill legislation. This section's purpose is to remove the current confusion over what liability and penalty provisions apply to deepwater port licenses and owners or operators of vessels within deepwater port safety zones. Presently, there is the potential for dual liability under Section 311 of the FWPCA and Section 18 of the Deepwater Port Act of 1974. Although not including Section 31 in the Conference Report, the Conferees continue to believe that reform is needed in this area, so that such licensees and vessel owners or operators are not exposed to overlapping or conflicting liability and penalty provisions.

TEST PROCEDURES

Senate bill

No comparable provision.

House amendment

The House amendment changes the date by which the Administrator must promulgate guidelines establishing test procedures for the analysis of pollutants to ninety days after the date of enactment.

Conference substitute

The conference substitute deletes the House provision because the guidelines for analysis of pollutants already have been issued. However, the Administrator also should publish guidelines for testing for pollutants in sewage sludge. All guidelines should be renewed every two years to insure their continued adequacy.

WATER QUALITY CRITERIA

Senate bill

No comparable provision.

House amendment

Section 304(a)(1) of the Act directs the Administrator to develop and publish criteria for water quality accurately reflecting the latest scientific knowledge on the kind and extent of all identifiable effects on health and welfare. The House amendment amends this provision by adding the requirement that, in developing, publishing and revising criteria, the Administrator shall consider, among other things, the effects on the ecosystem of water hardness ph, chemical and physical interactions, persistence of pollutants and the long-term effects of pollutants; sedimentation from chemical reaction of pollutants, the absorptive properties of sediments, resuspension, and biouptake.

The House amendment states that EPA, in issuing new or revised water quality criteria, should set criteria which will provide an ample margin of safety to protect human health and fish and wildlife resources.

The House amendment also adds the requirement that in the development of new or revised criteria with respect to a pollutant, whenever the Administrator determines that a well-founded and significant difference of opinion exists as to the latest scientific and research knowlege on the matters referred to in the section, the Administrator shall publish a description of this difference of opinion along with the publication of the criteria.

The House amendment also states that it is the sense of the Congress that the Admin-

istrator and the States in developing, publishing, and revising water quality criteria under section 304(a)(1) of the Federal Water Pollution Control Act, should consider the economic impact of their decisions on the impacted States.

Conference substitute

The conference substitute contains no comparable provision.

STUDY OF PH IN DISCHARGES FROM MINING OPERATIONS

Senate bill

No comparable provision.

House amendment

The House amendment directs the Administrator to study effluent limitations as they relate to pH in discharges from mining operations. Not later than one year after the date of enactment, the Administrator is to submit to Congress a report on the results of the study along with recommendations as to the feasibility of permitting modifications of such effluent limitations to permit lower pH in such discharges than is otherwise required.

Conference substitute

The conference substitute deletes the House amendment.

PULP MILL STUDY

Senate bill

No comparable provision.

House amendment

The House amendment directs the Administrator of the Environmental Protection Agency, in consultation with the State of Alaska to conduct and prepare a study-report which shall determine the feasibility of resolving the air pollution control, solid waste disposal, water quality standards compliance, and energy impacts associated with the achievement of best practicable technology under section 301 of the Federal Water Pollution Control Act with respect to the Alaska Lumber and Pulp Company, located at Sitka, Alaska (NPDES permit numbered AK000053-1).

Conference substitute

The conference substitute deletes the House amendment.

TREATMENT WORKS IN WASHINGTON STATE

Senate bill

No comparable provision.

House amendment

The House amendment authorizes the Administrator to make grants to the sewage treatment authorities discharging into Puget Sound and adjacent marine waters, including the Strait of Juan de Fuca and Bellingham Bay, to construct necessary treatment works for providing secondary treatment for the areas served by such authorities.

Conference substitute

The conference substitute deletes the House amendment.

CHIPPEWA TOWNSHIP, PENNSYLVANIA

Senate bill

No comparable provision.

House amendment

The House amendment providies that, in order to protect the public health, environment, and water quality endangered by the destruction of the Chippewa Township, Pennsylvania, sewage treatment facility and the resultant raw sewage discharge into Brady's Run, Pennsylvania, the Administrator of the Environmental Protection Agency is directed to remove the raw sewage.

Conference substitute

The conference substitute deletes the House amendment.

NACO, ARIZONA

Senate bill

No comparable provision.

House amendment

The House amendment provides, that, for purposes of protecting the economy, public health, environment, and surface and ground water of the community of Naco, Arizona, which are in danger and are being polluted by raw sewage emanating from the community of Naco, Sonora, Mexico, upon application of the County of Cochise, Arizona, the Administrator of the Environmental Protection Agency shall make grants to such County for construction of a project consisting of a publicly owned treatment works to provide primary or more advanced treatment of not less than 150,000 gallons of untreated sewage emanating from the City of Naco, Sonora, Mexico, and treatment of waste from Naco, Arizona.

Conference substitute

The conference substitute deletes the House amendment.

NEWTOWN CREEK, NEW YORK

Senate bill

No comparable provision.

House amendment

The House amendment authorizes the Administrator to make a grant to the City of New York to install such additional facilities in, and make such modifications to, the Newtown Creek sewage treatment plant as are necessary for the plant to provide secondary treatment. The Federal share of the project is 75 percent of the cost of installing such facilities and making such modifications.

Conference substitute

The conference substitute deletes the House amendment.

GRANTS FOR REPLACEMENT OF CONTAMINATED GROUNDWATER

Senate bill

No comparable provision.

House amendment

The House amendment authorizes EPA to make 50 percent grants to any public water supply system or local government for the provision of alternative water supplies where the water supply system is unable to supply water which is fit for human consumption because of ground water contamination. The Administrator is directed to make a grant to Jacksonville, Arkansas, for the purpose of providing a temporary alternative water supply.

Conference substitute

The conference substitute contains no comparable provision.

NPDES PERMIT AREA

Senate bill

No comparable provision.

House amendment

Section 402(b)(1)(B) of the Federal Water Pollution Control Act currently provides that permits for the discharge of pollutants are to be for fixed terms not exceeding five years.

The House amendment authorizes the issuance of certain permits for terms of up to ten years.

For a permit to be granted for a term not to exceed ten years, the State must determine, in accordance with regulations established by the Administrator, or the Administrator must determine (depending on whether the permit program is administered by the State or EPA) that the applicant has consistently complied with any permit issued under section 402 of the Act, and that toxic and nonconventional pollutants (other than the five nonconventional pollutants for which effluent limitation variances may be granted under section 301(g)) are not detectable in the effluent or that these pollutants are present only in trace amounts and are neither causing nor are likely to cause toxic effects, alone or in combination with pollutants from other sources.

For a permit issued for a term in excess of five years, the permit must be modified promptly to ensure compliance with any new or revised effluent limitation under section 307(a) of the Act (toxics) or any new or revised requirement pursuant to a standard under section 303 of the Act (water quality standards) when the effluent limitation is more stringent than the existing limitation or controls a pollutant not controlled in the permit and must ensure compliance with other revised effluent limitations, pretreatment standards, or sewage sludge regulations.

Conference substitute

The conference substitute has no comparable provision.

IN MEMORIAM

The managers on the part of the House and the Senate wish to acknowledge the contribution of the late Peter Perez of the Environmental Protection Agency to this reauthorization of the Clean Water Act. Mr. Perez' detailed knowledge of the clean water program and his tireless commitment to improve the quality of the Nation's environment have left an indelible mark on this legislation and those who benefit from it.

ROBERT A. ROE,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
BOB EDGAR,
EDOLPHUS TOWNS,
JAMES J. HOWARD,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
ARLAN STANGELAND,
BILL CLINGER,
BUD SHUSTER,

As additional conferees, solely for sections 59 and 73 of the House amendment and modifications committed to conference:

HENRY J. NOWAK,

solely for sections 5, 16, 30(a), 34(b), and 45 of the House amendment and modifications committed to conference:

J. ROY ROWLAND,

Managers on the Part of the House.

ROBERT T. STAFFORD,
JOHN CHAFEE,
AL SIMPSON,
DAVID DURENBERGER,
LLOYD BENTSEN,
GEORGE MITCHELL,
DANIEL MOYNIHAN,

Managers on the Part of the Senate.

CONFERENCE REPORT ON S.1200, IMMIGRATION REFORM AND CONTROL ACT OF 1985

Mr. RODINO. Mr. Speaker, I call up the conference report on the Senate bill (S. 1200) to amend the Immigra-

tion and Nationality Act to effectively control unauthorized immigration to the United States and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to House Resolution 592, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, October 14, 1986.)

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. RODINO] will be recognized for 30 minutes, the gentleman from California [Mr. LUNGREN] will be recognized for 30 minutes.

Mr. EDWARDS of California. Mr. Speaker, I rise in opposition to the bill.

The SPEAKER pro tempore. Is the gentleman from California [Mr. EDWARDS] opposed to the conference report?

Mr. EDWARDS of California. I am opposed to the conference report, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman from New Jersey [Mr. RODINO] opposed to the conference report?

Mr. RODINO. No, Mr. Speaker.

The SPEAKER pro tempore. Under the rules, the gentleman from California [Mr. EDWARDS], the senior member of the originally reporting committee, is entitled to 20 minutes.

POINT OF ORDER

Mr. SENSENBRENNER. Mr. Speaker, I rise to a point of order. I believe that the member of the minority would have preference to control the 20 minutes in oppositon to the conference report under the precedents of the House and rule XXVIII, clause 2(b).

I am opposed to the conference report, Mr. Speaker.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The Chair would state to the distingushed gentleman from Wisconsin under a ruling this year recognition goes to the opposition on the issue but not necessarily the minority party in the House; and under the rules the Chair is constrained to recognize the senior member of the Judiciary Committee.

Mr. LUNGREN. Mr. Speaker, I could not hear the Chair's ruling. It seems to me, Mr. Speaker, that a member of the Subcommittee on Immigration would have the right to this time.

The SPEAKER pro tempore. The Chair was stating that under a situation like this, it is regrettable where two Members are seeking equal time, the Chair must rule that under the precedents of the House that in this case 20 minutes should be given to the senior Member in opposition to the conference report. That senior Member is the gentleman from California [Mr. EDWARDS].

Therefore, the time will be divided, 20 minutes to the gentleman from New Jersey [Mr. RODINO], 20 minutes to the gentleman from California [Mr. LUNGREN], and 20 minutes to the gentleman from California [Mr. EDWARDS].

The Chair recognizes the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, at this time last week I stated that it was "almost a miracle" that the House was ready to proceed with the consideration of immigration reform legislation. This occurred after reaching a bipartisan agreement on the so-called Schumer agricultural compromise.

I wish to now state that indeed a miracle has occurred, as we now are considering a conference report on immigration reform legislation.

This is indeed historic legislation. It is the first comprehensive revision of our immigration laws in 34 years and it is something the Judiciary Committee has been considering since 1971.

The conference report before us contains the fundamental twin components of immigration reform—that is, employer sanctions and legalization. Those interlinked components have been in every Judiciary Committee bill since 1975 and any bill that does not contain both of these elements cannot be called immigration reform.

In my judgment, employer sanctions are essential if this country is to regain control of its borders. Indeed, it is our sovereign responsibility to do so.

I also believe legalization is essential in order to regularize the status of those aliens who have built up equities in this country and who have contributed for years toward our economic and social well-being.

Mr. Speaker, I am pleased to report that the House conferees were able to preserve the House position on legalization and have brought back the House legalization structure and the House 1982 legalization date. This was not easy and I am most gratified that we prevailed on this very important issue.

I know that this was a troubling issue to many of our colleagues on both sides of the aisle, but I can assure you that it is our intention and the conferees intention that legalization be a "one-time" only event and I wish to emphasize that with a 1982 date, we are talking about aliens who have been in this country almost 5 years—who have roots and families here—and who should be made a part of American society.

Mr. Speaker, this conference agreement is fair and balanced and I believe it will be effective in accomplishing the goals we set out to achieve.

The sanctions provisions are fair to decent and honest employers, but at the same time, ensure that repeat offenders will be subject to strong civil and criminal penalties.

Legalization is fair to the American people because it regularizes the status of only those who have resided continuously in this country for almost 5 years, but does not reward those who have been here for short periods of time or who have returned for lengthy periods to their home country.

The conference report is balanced because it contains both sanctions and legalization. You cannot have sanctions without legalization and you cannot have legalization without sanctions. As I have noted, this is the basic tradeoff in our attempt to legislate meaningful immigration reform.

Mr. Speaker, I would like to state that the positions of the Judiciary Committee and all of the other six committees to which this legislation was sequentially referred have been completely protected and preserved during the conference negotiations process. This could not have been achieved without the support and cooperation of all of the House conferees. There was a spirit of complete bipartisan cooperation throughout the difficult—and often emotional—conference deliberations.

I want to particularly commend some of the Judiciary Committee conferees who have worked so long and so hard as we have gone through this torturous process of reforming our immigration laws.

I want to particularly commend the chairman of the Immigration Subcommittee, Mr. MAZZOLI, as well as the ranking minority member of the full Judiciary Committee, Mr. FISH, and the ranking minority member of the Immigration Subcommittee, Mr. LUNGREN for their extraordinary efforts on this matter, not only in this Congress, but over the past three Congresses.

Further, I do not believe we could have reached this point in the legislative process had it not been for the diligent and tireless efforts of the gentleman from New York [Mr. SCHUMER] and the gentlemen from California [Mr. BERMAN and Mr. PANETTA].

I would now like to briefly discuss some of the major agreements reached by the conferees on the other significant provisions in the bill.

First, the so-called Frank antidiscrimination provision is included in this conference agreement. We were able to reach agreement with the conferees of the other body as long as the antidiscrimination provision was treated identically to the "soft sunset" on sanctions that was in the original Senate bill.

This provision is a direct response to the fears and concerns expressed by

many Hispanic organizations that sanctions would automatically result in discrimination based on national origins. We included this provision to allay their concerns and to provide an immediate and effective remedy should discrimination occur.

Antidiscrimination legislation of this nature is unprecedented in that it is based upon anticipated discrimination, rather than an historical pattern of past discrimination. Nevertheless, we included this provision to meet the concerns expressed about sanctions and I believe this can be viewed as one of the most far-reaching and important civil rights provisions in recent history.

At the same time, procedures are built into the bill to ensure that sanctions and the antidiscrimination mechanism are reviewed closely by GAO and by the Congress.

The studies will reveal whether sanctions work, whether they result in discrimination and whether the antidiscrimination mechanism has been effective in responding to discriminatory conduct. Nothing would happen, however, until Congress reviewed these findings and enacted subsequent legislation.

The conference agreement also provides substantial funding to meet State and local costs incurred for legalized aliens. In effect, the provision provides $1 billion each year for 4 years to meet these costs. The provision has been drafted in the form of a directed appropriation of this level of funding. This subject was discussed directly with the President last spring and he assured me and the Director of OMB assured me that this amount of funding—$4 billion over 4 years—would be supported.

The agricultural provisions of the conference agreement are in every respect identical to the provisions already approved by the House. Those provisions accommodate the needs of Western growers of perishable crops by assuring an adequate supply of labor. At the same time, they ensure that all such workers will be fully protected under our various labor laws and that they will have the freedom to select their employer on the basis of free market principles and will be able to exercise the same collective bargaining rights as their U.S. citizen counterparts.

This program has none of the elements of the old Bracero Program and can in no way be classified as a guestworker program. On the other hand, for those who felt that some of our original proposals in this area were overly generous, I would note that no one under this program will receive immediate permanent residency.

Mr. Speaker, in closing I wish to simply state that the conference report is a humane, reasonable, and effective approach to a vexing, complex and multifaceted problem. I am proud of this conference report and believe it deserves the wholehearted support of my colleagues.

I urge an "aye" vote on it.

SUMMARY OF CONFERENCE COMPROMISE
(S. 1200/H.R. 3810)

I. CONTROL OF ILLEGAL IMMIGRATION

A. Employer sanctions

Makes it unlawful for any person, knowingly to hire for employment or to recruit or refer for a fee, after the date of enactment, any alien not authorized to work in the United States.

Requires employers to verify all new hires by examining either (1) a U.S. passport, or (2) a U.S. birth certificate or social security card and a driver's license, state issued I.D. card, or an alien identification document. Requires each employer to attest in writing under penalty of perjury, that he has seen the documentation mentioned above. Requires the employee to attest in writing that he is authorized to work in the U.S.

States that nothing in the bill directly or indirectly authorizes the creation of a national identification card.

Permits the President to implement a more secure verification system upon notice and approval of Congress. Directs the appropriate agencies to study the feasibility of a telephone verification system for employment eligibility.

Establishes employer sanction penalties as follows:

First offense—a civil fine of not less than $250 nor more than $2,000 per each alien involved;

Second offense—a civil fine of not less than $2,000 nor more than $5,000 per each alien involved;

Third offense—a civil fine of not less than $3,000 nor more than $10,000 per each alien involved.

Authorizes criminal penalties of up to six months imprisonment and/or $3,000 fine for "pattern or practice" violations.

Provides a six-month education period during which no enforcement actions may be taken. During the subsequent 12-month period a warning citation will be issued for first offenses.

Requires employers, referrers and recruiters to keep records and establishes a civil fine of not less than $100 and no more than $1,000 for failure to keep records.

Establishes an affirmative defense for all employers who comply in good faith with the verification procedure.

Relieves employers from verification when a state employment agency has verified worker and the worker retains a certification of such verification.

Terminates sanctions after three years if the Comptroller General has determined that sanctions have resulted in discrimination in employment or have unduly burdened employers and Congress enacts a joint resolution adopting that determination.

B. Antidiscrimination measures.

Creates the Office of Sepcial Counsel in the Justice Department for the purpose of investigation and prosecuting any charges of discrimination due to an unlawful immigration-related employment practice.

Prohibits discrimination based on citizenship or alien status if the person alleging discrimination is a U.S. citizen or permanent resident alien, refugee, kasylee or newly legalized alien, who has filed a notice of intent to become a U.S. citizen.

Exempts employers of three or fewer from coverage.

Terminates measures if employer sanctions are terminated or if Congress enacts a joint resolution to terminate.

C. Increased enfocement and service

Provides a two-year authorization for the INS to carry out its added responsibilities resulting from passage of this bill: $422 million extra in FY 1987 and $419 million extra in FY 1988. Also authorizes $12 million and $15 million for The Executive Office for Immigration Review for fiscal years 1987 and 1988 respectively, to carry out the added duties imposed by this bill. Authorizes supplemental authorization for wage and hour enforcement.

Revises criminal penalties for the unlawful transportation of aliens to the U.S.

Authorizes a contingency fund of $35 million for use in immigration emergencies.

Requires the Attorney General to establish an in-service training program and community outreach program within the INS through the establishment of community task forces.

Requires states to verify the status of non-citizens applying for public assistance and reimburses the states 100% for the implementation costs of this provision. Permits appropriate Secretaries to waive programs from coverage.

Revises the liability of international bridge owners.

Requires a search warrant for INS officers to enter outdoor agricultural operations for immigration law purposes.

II. LEGALIZATION

A. Eligible aliens

Provides temporary resident status for aliens who have continuously resided in the U.S. since before January 1, 1982 and who are not excludable.

Provides for adjustment to permanent resident status after eighteen months in temporary status if an individual can show minimal understanding of English and knowledge of history and government of the U.S. or is pursuing instruction to achieve that understanding and knowledge.

Federally funded public assistance (other than emergency medical care, aid to aged, blind, or disabled, and for serious injury or in the interest of public health) will not be available to newly legalized aliens for five years (other than "Cuban/Haitian entrants").

Provides for adjustment to permanent resident status for certain Cubans and Haitians who entered the United States prior to January 1, 1982.

B. Procedures

Provides for administrative and judicial review of a denial of an application for legalization.

Ensures confidentiality of records by prohibiting use of information contained in an application for any purpose other than determining the merits of the applications or whether fraud is involved.

C. Registry date

Updates the registry date from 1984 to January 1, 1972.

D. Assistance to States

Provides $1 billion a year for four years to state and local government for assistance for the public assistance, health, and education costs resulting from legalization.

Reimburses states for the costs of incarcerating certain aliens.

III. LEGAL IMMIGRATION

A. H-2 workers

Special procedure established for H-2 seasonal workers in agriculture:

The employer must apply to the Secretary of Labor no more than 60 days in advance of need, asking for foreign workers; employer then must attempt to recruit domestic workers;

The Secretary of Labor must provide a decision on the certification no later than 20 days in advance of need;

If the Secretary of Labor determines that a certain number of qualified U.S. workers will be available at the time needed, but at the determined time those workers are not qualified and available, an expedited procedure to determine need would be available.

H-2 agricultural workers guaranteed certain benefits such as housing and worker compensation (to be provided by the employer if not available under a state program), and travel and subsistence costs.

H-2 workers can access legal services only for representation concerning work-related matters.

B. Seasonal agricultural workers

Provides temporary resident status to aliens who have worked at least 90 days in agriculture during the period May 1, 1985 through May 1, 1986. Aliens who have worked 90 days a year for three years may adjust to permanent resident status one year after the end of the application period. Aliens who have worked 90 days a year during May, 1985 to May, 1986 may adjust to permanent resident status two years after the end of the application period.

Disqualifies workers from AFDC for five years.

Allows replenishment workers to enter as temporary residents as long as they work at least 90 days in agriculture each year for three years in the event of an agriculture labor shortage. Workers can adjust to permanent residence after three years of temporary status. Workers are disqualified from most forms of public assistance.

Terminates the replenishment worker mechanism seven years after enactment.

Establishes a Commission on Agricultural Workers.

C. Colonial quotas

Increases legal immigration ceilings for colonies to 5,000 from the present 600.

D. G-4's

Provides immigration benefits to dependents and spouses of G-4 visa holders and retired G-4 visa holders.

E. Visa Waiver Pilot Program

Establishes a nonimmigrant visa waiver pilot program for nationals of certain countries.

IV. MISCELLANEOUS

A. Putative fathers

Recognizes, for preference petitioning purposes, the relationship between a biological father and his illegitimate child.

B. Suspension of deportation

States that brief, casual and innocent trips outside the U.S. shall not be deemed to have broken an alien's continuous physical presence in the U.S. for purposes of meeting the requirements for suspension of deportation.

C. Sense of Congress

States the Sense of Congress that political prisoners from Cuba should be admitted to the United States, notwithstanding any other provision of law.

D. Nonpreference immigrants

Makes additional visas available for certain non-preference immigrants.

E. Deportation of aliens

Requires the expeditious deportation of convicted aliens and a list of facilities available to incarcerate deportable or excludable aliens.

V. REPORTS

Requires President to submit (1) three comprehensive reports on legal immigration; (2) a report on the push-pull factors causing illegal immigration; (3) two reports on the legalization program; and (4) two reports on employer sanctions.

Requires Administration to submit reports on the H-2 program every two years.

Requires Administration to submit reports on the visa waiver pilot program.

Requires the Attorney General to report to Congress on resources required to improve the capabilities of the Immigration Service.

States a Sense of Congress that Mexico should be consulted on the implementation of the legislation.

VII. COMMISSIONS

Establishes a commission for the study of international migration and cooperative economic development.

VIII. FOR SALVADORANS AND NICARAGUANS

Deletes the House provision with Statement of Managers language that "the Conferees believe that deportations should be suspended on a case-by-case basis in cases such as El Salvador where natural disasters have added other societal problems in a manner which adds significantly to the difficulties inherent in the resettlement of deportees.

Noting in this statement is intended to set a precedent for ignoring the basic standards set forth in the Refugee Act of 1980.

The Conferees strongly recommend that Congress consider and take up this issue expeditiously next Congress."

□ 1545

Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the chairman very much.

Mr. Speaker, I would like to return the commendations to the chairman, the gentleman from New Jersey [Mr. RODINO], for his remarkable work, also the gentleman from New York [Mr. FISH] and the gentleman from California [Mr. LUNGREN].

I would like to congratulate the three Congressmen who worked on the agricultural part, Congressmen SCHUMER, BERMAN, and PANETTA, not to forget the contributions of Congressman BEILENSON, Senator PEPPER, and Congressman MOAKLEY who, working from the vantage point of the Committee on Rules, were very helpful.

Staff did yeoman work, Skip, Lynn, Gene, Peter, Bonnie, Erin, Sheryl, Judy, Margaret, Ed Grossman, the legislative counsel, did a superb job and we appreciate it.

They say that a cat has nine lives. If this bill were a cat, this is its ninth life. It has no more lives. It cannot pop up out of any more graves.

It cannot have breath breathed back into its corpse again. It is now or never, ladies and gentleme of the House; it is now or never.

As my chairman said, it is a historical moment. This is a watershed piece of legislation; historic legislation.

It will help us control the borders and at the same time doing justice and decency and equity to the people who are in this country illegally. It is not a perfect bill, but it is the least imperfect bill that we will ever have before us.

There is no other bill on the horizon which is a likely prospect for passage. We will never get the perfect bill in the world in which we live.

We therefore have to settle for something less than perfection. But this bill, in that context, is an excellent piece of legislation.

I think that its durability, its resilience, its long life, because it began 6 years ago with three major parts, employer sanctions, legalization, and some form of agricultural worker provision, and it is that way now 6 years later, three Congresses later; it seems to me that that fact more than any demonstrates how close to reality this bill really is. It is the best think that we could do under the circumstances having 535 authors working with the bill.

I do not think it will ever change if it comes back next year, the year after, 10 years from now; it will look essentially like it looks today and I would therefore urge its passage.

Ladies and gentleman of the House, your conferees kept faith with you and the votes that you cast on this bill. It has generous legalization. You sent us to conference to keep it, and we kept it. It has tough antidiscrimination provisions. You sent us to conference to keep it, and we kept it. It has legal services for H2 workers. You sent us to conference to keep it, and we kept it. It has universal application of employer sanctions. You sent us to conference to keep it, and we kept it.

Finally, it has criminal sanctions. You sent us to conference to keep it, and we kept it. This is a very good effort by your conferees. Please support our work product and pass this bill.

Mr. Speaker, we stand on the verge of culminating a task that began many years ago. That task, of course, is to reform our immigration laws—to bring some order and sense to our immigration policy by regaining control of our borders and dealing with the hard reality that many of the finest, most law-abiding residents of the United States are in an undocumented status.

On September 26, when the House voted not to consider the immigration reform bill on the floor, there were many who thought that any chance for enacting immigration reform in

the 99th Congress had vanished. But because our immigration problems will not quietly and magically disappear, because they must be addressed immediately, the legislation was revived, brought to the House floor, and was passed by a comfortable vote margin. As my distinguished chairman, the gentleman from New Jersey, noted at that time, the revival of immigration reform in the 99th Congress was nothing short of a miracle.

Over the weekend, House/Senate conferees came up with a second miracle: agreement upon a conference bill that includes tough but fair employer sanctions, and a generous but carefully defined legalization program. Furthermore, the delicately crafted agricultural provisions already approved by the House were preserved completely intact.

As I have said before, those who are looking for a perfect immigration bill will not find it here, since there can be no perfect immigration bill. This is, however, a good bill and the best we are likely to produce. It reflects the best and most careful thinking not only of the House, but also of the other body, not only of this Congress, but of previous Congresses as well. It also reflects the input and concerns of the various committees of the House that had jurisdiction over the bill. I stand before my colleagues today proud of the conference agreement we have crafted and secure in the belief that this agreement represents the best immigration reform measure Congress is ever likely to produce.

With regard to employer sanctions, the conference agreement remains essentially the program previously approved by the House. Criminal penalties for pattern or practice violations are preserved. Universal and mandatory verification of documents is similarly still required. In addition, the so-called Frank antidiscrimination program remains part of this package, but now with an additional provision that ensures that if discrimination does not result from employer sanctions Congress will have a fully informed basis for considering amendments to the program, or if necessary, terminating it.

Regarding legalization, the conference agreement preserves the House's 1982 cutoff date and ensures that legalization will begin immediately upon enactment.

Regarding legalization funding, the agreement strikes an eminently fair and sensible compromise between the House provision of full reimbursement—which the administration found unacceptable—and the Senate provision limiting the amount of available funds to $3 billion over 6 years. The agreement blends the best of each of these to create a 4 year, $4 billion program that guarantees the States that their costs will not be subject to the vagaries of the funding process.

On the question of treatment of Salvadorans and Nicaraguans, the House, faced with the virtual certainty of a Presidential veto, receded to the Senate. Nonetheless, the conferees strongly urged the Congress to consider this issue early next Congress, and for my part I pledge to my colleagues, and in particular to my distinguished colleague and friend from the Rules Committee, the gentleman from Massachusetts, that I will do everything within my power to ensure that this important question is fully and expeditiously considered in the next Congress.

Regarding legal services for H-2 workers, the agreement again strikes what I think is a very sensible compromise. Workers will have access to such services but only for the purpose of strictly defined work-related purposes. This ensures that workers will receive the protections they need but will not burden our legal services capabilities.

Finally, the bill includes more money for Border Patrol enforcement than ever before. In fact, it authorizes at least a 50-percent increase in Border Patrol officers.

Mr. Speaker, the conference was a tough and arduous process. There were no giveaways, and the House fought strenuously for each of its provisions. Some of my colleagues may be disappointed that the House did not prevail on every issue, but that is not what conferences are all about. The important point is that the essential elements of reform are absolutely preserved in this agreement. I urge my colleagues to look not at what is not in the agreement, but what is in the agreement, and to consider carefully not whether there may theoretically exist a better bill, but whether the status quo—which is clearly unacceptable and intolerable—is preferable to the legislation before us.

I urge my colleagues not to let this opportunity slip away. Support the conference agreement of S. 1200.

Mr. LUNGREN. Mr. Speaker, I rise in support of the conference report, and I yield 3 minutes to the ranking member of the full Committee on the Judiciary, the gentleman who has served his penance on this subcommittee for well over a decade, the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, after many years of discussion and debate on the urgent need for immigration reform legislation, we finally have such legislation before us today which the House and Senate conferees have agreed to.

The conference agreement of S. 1200 is the result of many hours of discussions—of give and take—by House and Senate conferees on some of the controversial issues. As you can imagine, this has been no easy task. Although it is not a perfect bill, I believe it is a good bill which deserves our strong support.

As My colleagues know, this legislation has been pending before us for three consecutive Congresses. As a member of the House Judiciary Subcommittee on Immigration I have been intimately involved in the evolution of this legislation. I would like to express my deep appreciation to all my colleagues who have devoted so much time and effort to this legislation. I think many of us who have worked on this bill, especially in the past Few weeks, have felt that there is a growing consensus on the need for immigration reform. This belief has kept us working toward a compromise even when the bill appeared doomed after the rule was defeated on the House floor 2 weeks ago.

I think my colleagues will agree with me that this kind of immigration reform bill comes none too soon for this country. As has been stated many times before, apprehensions along our southern borders have shot up dramatically in the first several months of 1986, as compared to 1985. As of September 30 of this year, the Immigration Service has apprehended 1.8 million undocumented aliens. This is almost double the amount apprehended in all of 1980, when the number of apprehensions was approximately 900,000 undocumented aliens.

The public perception that immigration is out of control is, unfortunately, a correct perception. No legislation before this Congress is of higher priority. I am hopeful that enactment of this legislation will help us regain control of our borders and avoid a future repressive public reaction that will fail to distinguish lawful immigrants and refugees from illegal aliens. The American people in the face of an illegal immigration crisis should not lose sight of the fact that immigrants have been a great source of this country's strength, and refugees have made an immense contribution to our society. But in recent years, huge numbers of illegal aliens rushing past our borders may have started to blur that understanding.

Mr. Speaker, I believe the conference report before us today contains the essential provisions needed for comprehensive immigration reform. Most of us who have been intimately involved in the debate are firmly convinced that employer sanctions and legalization provisions in this bill are necessarily intertwined. In addition, this legislation contains a needed temporary foreign worker program for agriculture that is regulated to protect the rights of American workers as well as those who participate in the program. The bill also contains funding for States to reimburse them for the costs of implementing this legislation.

Mr. Speaker, I urge my colleagues to support this conference report. This may be our last opportunity for comprehensive immigration reform before the problems at our borders precludes compassionate solutions rather than radical actions.

Mr. EDWARDS of California. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I regret that I must oppose the bill because there are some items in the bill that are very commendable such as the Legalization Program, the Frank antidiscrimination provisions and much-needed increase of resources for the INS.

However, my concerns about the bill outweigh these items. The linchpin of this bill is still employer sanctions, a totally failed concept proven ineffective whenever and wherever tried, both here and abroad.

In my view, Mr. Speaker, it is an invitation to racial discrimination.

The bill also creates unbearable burdens for our State and local governments, unbearable for if the Federal Government is not willing to bear the cost of this bill, how do we except the State and local governments to do this?

The proponents of the bill have once again lost sight of the fact that immigration is a Federal responsibility; while State and local governments have no responsibility to control the costs resulting from this legislation, the proponents of the bill have not hesitated to shift the costs to them. And to make matters worse, the bill mandates that Federal costs for SSI and Medicaid are to be deducted right off the top of the reimbursement in the bill.

So out of the possible $1 billion per year supposedly targeted for the cost of the bill to State and local governments, the Federal Government will eat up at least $250 million per year. Then because of the formula in the bill allocating the remainder, States are pitted against each other for the totally inadequate remaining funds.

I assure you there will be little left to trickle done to the local governments who are the front line bearing the cost.

For these reasons and others, Mr. Speaker, I oppose the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. SEIBERLING]

Mr. SEIBERLING. Mr. Speaker, 16 years ago when I came to the House, the first piece of legislation I worked on was illegal immigration legislation with the same basic concepts in it as the bill before us. As the years went by, I began to think that this was the legislative equivalent of Charles Dickens' famous novel "Bleak House", in which the famous case of Jarndyce versus Jarndyce went on for decades and finally when it ended, the entire corpus had been consumed by lawyers fees, and all of the original parties were dead. I am glad to see that we are on the brink of resolving this important issue in a constructive and definitive way.

This is a desperately needed piece of legislation; it was 16 years ago, it is far more even today.

I commend the chairman, Mr. RODINO, the chairman of the subcommittee, Mr. MAZZOLI, and particularly also Mr. SCHUMER, Mr. BERMAN, Mr. LEON PANETTA, and the members of the Judiciary Committee who worked so hard to make this a possibility, and to work out the very difficult compromises that had to be made in order to get this bill finally put together.

In my view it is a good bill, we should all support it and be glad that this long controversy has been finally put to rest.

Mr. LUNGREN. Mr. Speaker, I yield 3 minutes to a distinguished member of the subcommittee, the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I would like, as a conferee from the very beginning, to clarify one portion of this. Some of my colleagues are particularly concerned about the legal services provision dealing with the H-2 temporary workers that we conferenced and came to an understanding with in this bill.

Section 305 of the conference report sets forth very specific and limited conditions under which an H-2 agricultural worker might be provided legal assistance by the Legal Services Corporation. These services may only be provided on matters concerning wages, housing, transportation, and other employment-related matters under the provisions of the specific contract under which each individual comes here to work.

The statement of managers expresses the intent of the conferees that future H-2 contracts comply with laws and regulations of the Departments of Labor and Agriculture. But this was done to express our hope that these contracts comply. The conferees specifically and intentionally avoided language that would allow legal assistance to be given outside the parameters of the specific contracts, or legal assistance to be given to sue or argue that a contract is not in compliance with law or regulation, or to sue or argue that a contract has to be rewritten, or revised, or to sue or argue that any other provisions have to be put into a contract or to sue or argue that a worker has rights or benefits under any law or regulation that is not specifically incorporated within the applicable contract.

The narrow language that is in the conference bill, as this conferee understands, is for the purpose of providing, as it states on its face, legal assistance strictly limited to the parameters of the contract in dealing with wages, housing, transportation, and other employment-related matters under the provisions of each separate contract.

I would like to ask the gentleman from California if that is his understanding of the agreement that we made in conference.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Speaker, that is my understanding of the agreement that we reached.

□ 1600

Mr. MCCOLLUM. I would like to ask the gentleman from Kentucky if I am correct in his understanding.

Mr. MAZZOLI. Mr. Speaker, if the gentleman will yield, that is my understanding. The gentleman is correct.

Mr. MCCOLLUM. Mr. Speaker, I am still very much concerned about much of what is in this bill. I would be less than honest with my colleagues if I did not tell you that there has not been any significant move off the House version on the amnesty question, which I am very strongly opposed to still to this day. Each Congress I have offered an amendment to strike that provision from this bill, because I do believe that we are going to have unexpected and unintended results from the amnesty provisions that so many have argued are necessary. I lost that point. I lost it in each Congress, this time by a very narrow margin in the House, but we nonetheless lost it.

I would also be less than honest with my colleagues if I did not tell you that I still do not like the Schumer agriculture provisions as they were modified and as they were left in this conference report.

But I am going to hold my nose and I am going to vote for this conference report. I do not blame anybody else for voting against it, mind you, but I think that the issue of employer sanctions of making it illegal to hire an illegal alien, of regaining control of our borders, of making this country free at some point in the future from the invasion that is occurring across our land borders by those who come here for jobs, is too important for me to turn the other cheek and to vote "no" in this particular case.

I do not know when we will get another opportunity if we do not pass this conference report to pass employer sanctions and to get a crack at closing the borders. So I am voting for the conference report.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. GONZALEZ].

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Speaker, I rise in opposition to this legislation for its failure to deal with units of local government and State governments.

Mr. GONZALEZ. Mr. Speaker and colleagues, from time immemorial, as long as man has memory or written history, people have migrated or fled because of two primary reasons: one, to escape injustice; and two, to escape deprivation.

When the 12 tribes of ancient Israel fled Egypt, they certainly did not wait to get a visa. They did not sit around and wait until somebody gave them permission. They went to seek the Promise Land because they had to escape the tyranny of the Pharoah and the deprivation they were suffering in Egypt.

When the Irish fled the potato famine in 1849, including one of my ancestors, they did not wait to get a visa or for an immigration bill or sanctions or anything. They fled out of necessity.

This is what gives rise to concern today in this Congress.

Let there be no mistake about it. This bill solves some problems; that is the problem of the exploiter who will be given a 20th century version of indentured servants to work with. A sizable number; as yet to be determined number. It protects him. He is all right. He is made whole in this bill.

It does not address in any meaningful way the big pretext for this legislation, and that is the immigration problem that confronts the country.

It guarantees that those who want to exploit cheap, foreign labor on farms and ranches can continue to do so with impunity. It guarantees that those who want to discriminate on the basis of race can do so with impunity. It solves the problem of the exploiters, and that is about it.

To sweeten all of this, the report says that those who can prove that they have been here at a given magical date can become legalized through what has loosely been called an amnesty process. But many people who live in the world of the undocumented, which none of my colleagues are familiar with, closely associated with, or over a period of time, even knows the dimensions of its existence.

It guarantees that those who want to discriminate on the basis of race can do so with impunity. It solves the problems of the exploiters.

To sweeten all this the report says that folks who can prove they have lived here continuously since a magic date, can become legalized through an amnesty program. But how many people who live in the world of the undocumented will be able to produce the necessary documents? And what will those be? It is a cruel joke. It will produce a boom for those who will prey on people who need help to prove their cases; it will produce anguish for those who know they qualify but can't prove it; and it will not end the twilight existence of those who do not want to take the risks that are implicit with applying at all.

As for the cost, the bill tells the States that they can have perhaps $1 billion to help meet the education, housing, and other needs of those who are eligible for amnesty. This would amount to a pittance compared to what was allocated for Cuban refugees or Southeast Asian refugees admitted under the Refugee Act. Even what little is allocated is largely taken back, since anything spent through Medicaid or the SSI Program would be counted against the total. The amount made available is not likely even to cover more than a fraction of the real cost of adjustment.

Most important of all and most fatally, the bill fails to address in any way the real sources of the crisis that justifies its existence.

The most basic cause of the problem is the mistake made 21 years ago in the Immigration Act of 1965, which placed an unrealistic ceiling on immigration from countries within the Western Hemisphere. From that day forward, legal entry became all but impossible for the vast majority of those who sought to come here because they could find work and freedom and dignity here. All that was required until that time was the showing of good character and the offer of a good job. The quota that was imposed by the 1965 act was unrealistically low, it did not recognize the fact that our southern border is only a political—not an economic or social—boundary. The pending bill still fails to recognize that fact.

It is a fatal flaw to continue the imposition of quota limits that have no relationship to the history or economy or social reality of the world. Yet that is what this bill does. It guarantees that illegal entry will continue on a vast scale, because legal means will be available only to a fraction of those who can and who are determined find work and freedom and dignity in this country.

Further, the bill in no way redresses the economic pressures that drive people toward our borders. There is for example an economic disaster in Mexico, driving people northward just as surely as drought drove the Okies to California. But this bill in no way recognizes the need to deal with that economic problem, nor even study it. This is incredible, when we all know, beyond a shadow of a doubt, that surges of immigration is the surest index of desperation in the world, and always has been. There are a whole series of wars and political calamities in Central America, driving people by the thousands to seek refuge here. Even that is not recognized, in the tiniest way, not even the modest provisions so narrowly supported in the Moakley amendment. Further to the south there is savage repression in Chile, a savagery duplicated in other countries as well, all of which drives people toward us for shelter. But the bill does not in any way address those issues. The result is that the forces that create the problem in the first place—the 1965 immigration law, the economic and political scourges that we know about but would rather ignore—all are ignored here.

And what is the sentiment of the majority who supported this bill last week. It is clear enough: vote after vote was to deny any form of help to aliens who come here out of desperation; vote after vote was to strengthen the hand of those who would exploit those same aliens. This report, what little we are able to know of it, does nothing to solve the real problem. It solves the problems of vicious exploiters of foreign labor, it even reinvents indentured servitude. It solves the political problems of those who want to say we did something. Even so, in the long run it will have the same result as the 1965 act; it writes a law that will not and cannot work, because it ignores every lesson of history and reality.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I take this time to engage the chairman in a colloquy.

Mr. Speaker, the statement of managers that accompanies the conference report on S. 1200 contains a clerical error.

On the issue of time for compliance with the verification process, the sentence in the statement that reads "However, the conferees direct the Attorney General to develop and promulgate regulations regarding the time for compliance which address the practical problems of farmworkers and agricultural employers in satisfying the discrimination and verification requirements of this legislation" should be the last sentence on this issue. Is that not correct, Mr. Chairman?

Mr. RODINO. Yes; the further language does not reflect the agreement of the conferees.

Mr. FORD of Michigan. Mr. Speaker, I would like to yield to the gentleman from California and ask the gentleman if that is correct.

Mr. LUNGREN. The gentleman is correct. That should be the last sentence, and the further language is in error and should not be a part of the report.

Mr. LUNGREN. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, as the chairman of the Judiciary Committee put it, it is a miracle that this legislation is before us. It is a legislative Lazarus. I commend him, his Senate counterpart, and all the many Members who have worked so hard to bring this much-needed legislation to life—again and again.

The pieces of this bill—sanctions, legalization, enforcement, discrimination protections—all fit together. As my colleague from Massachusetts remarked during the conference, the knee bone is connected to the shin bone. But in our rush to patch this patient together and bring it out from under anesthesia, I think that we may have sewed the shin bone to the elbow.

Unlike past Congresses, when this issue was deliberated to death, in this Congress we have brought it to life largely by avoiding deliberation.

I say this not as a criticism, for I sincerely believe this is a necessary bill, and overall a good one. It is merely a statement of fact. Members should not heave a sigh of relief and believe they have solved the problems of immigration, legal and illegal, nor that this is a perfect bill.

I think we will have to revisit these issues soon. The discrimination provisions, which I believe are important, are structurally unsound. The formula for legalization assistance also needs to be examined. With regard to this formula, I am glad that the conferees agreed to the education formula proposed by my colleague, BILL GOODLING. However, my preference would have been for the higher share of education funding supported by the Education and Labor Committee. I think it is vital to the adjustment process that we provide aliens not just with legal status, but the educational tools that they will need to become full citizens in our society.

I think the conferees also erred in not accepting the Moakley amendment granting extended voluntary departure status to Salvadorans and Nicaraguans. However, I will certainly do what I can to support Mr. MOAKLEY's efforts to promote this legislation in the next Congress.

Mr. Speaker, this is a good bill, and time may prove it a great bill. But it is not a perfect bill. For today, Congress can indulge in congratulation. For tomorrow, we must begin the process of careful consideration, both of what we have done and what remains undone.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, I am grateful for at least the 3 minutes that have been made available for me to discuss this bill.

I listened with great interest to what the chairman of the committee had to say with regard to the bill itself. The congratulations were passed from one Member to the other for the tremendous job that has been done, but every one made some excuse for voting for, including having to hold their nose as they voted.

May I say that not everything in this bill is bad. There are some good things; but there is no doubt that most of the things are bad.

I do not think that every Member of this House knows what is in this bill. In just little conferences I had here and there, I came to the conclusion that they do not. They thought, for example, that they voted for immigration reform with sanctions, but they did not. What they voted for is a farm labor bill, a bill that is designed to provide cheap labor for the farmers and growers of this country, a bill that exempts them from sanctions, while it legalizes the men that work for them. That is one of the most important features of this bill, but one that offers no work, sanitary or health protection for the workers.

No one can point out where there is real immigration reform. Those who voted for the bill thought, for example, that the Federal Government would bear the cost. The truth of the matter is that the States are going to pay the costs.

And then my colleagues also thought that the Salvadorans and Nicaraguans who are in this country would be protected with extended voluntary departure. But they are not. The conferees took that out. It now is necessary for them to wait until next year when legislation is passed to try to protect them. What is going to happen to them between now and the time this House gets ready to pass that piece of legislation?

□ 1610

No one answers that question. My colleagues also thought that all immigrants in the future would be treated equally. The truth of the matter is that in this bill they increased the quota system for Europe by 60,000 and then refused to increase by 20,000 the quota system for this hemisphere.

That is not fair. But they never intended to be fair. You can call it reform all you want, but it is not reform. It is a self-serving bill that protects only the farmers and the growers. Then they say, the Frank amendment will prevent discrimination. The Frank amendment is not worth the paper that it is written on, for we all know that the Committee on Appropriations defunded the Civil Rights Commission because for the last 6 years they have not taken up one case, not one, in which a matter of violation of civil rights has been adjudicated in any manner.

The Frank amendment is good to have on paper but it is not going to protect those who are going to suffer the consequences of sanctions. Those that will suffer the most will be the Hispanic and Asian communities of the United States, and a yes vote will only guarantee discrimination as is written in this bill.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding me this time.

Mr. Speaker, it is my understanding that the legal services language is clear on its face and contains very specific instructions in the statement of the managers that the contracts for H-2 workers not violate any provision of the Immigration and Nationality Act authorizing the H-2 Program or any regulations issued pursuant to that act.

Is that your understanding, Mr. Chairman?

Mr. RODINO. If the gentleman will yield, yes, the gentleman from California is correct. The statement on the part of the managers which was included stated that it is the intent of the conferees that contracts entered into shall not violate any provision of the Immigration and Nationality Act, authorizing the H-2 program or any regulations issued pursuant to the act.

As chairman of the House conferees I want to state that the colloquy initiated by the gentleman from Florida overreaches and contradicts the language of the conference report as well as the statement of managers.

When we provided that it was our intent that H-2A contracts "shall not violate any provision of the Immigration and Nationality Act authorizing the H-2 Program or any regulations" and went on to authorize legal services representation to secure "the rights* * *under the* * *contract," we obviously intended that such workers could use Legal Services attorneys to sue not only to enforce breaches of their contract but also, obviously, when those contracts violated the act or regulations. To hold otherwise is to deny the plain meaning of those two dictates. For it would allow an employer to offer illegal contracts that violate the law, but allow suit if, and only if, there was a breach of those—illegal—terms.

The language of the report and statement of the managers would be completely vitiated by such an interpretation. It was agreed to on this side only because we had too little time, with the haste of bringing this report to the floor in our final days, to scrutinize it closely. Now that we have, however, we reject it.

Mr. BERMAN. Mr. Speaker, 2 years ago I urged my colleagues on this floor to defeat the immigration bill for it sought to reform our immigration laws on the backs of American farmworkers. It did this by institutionalizing a system of oversupply and worker exploitation in Western agriculture that exists now in a de facto situation.

This time we have done it a different way. We have finally dealt with the asserted needs of agriculture in a fashion that protects the legal status and the rights and the dignity of farmworkers, in a way that we can all be proud of.

For that, I wish to congratulate the efforts of my colleagues, Mr. PANETTA, who always said that agriculture's desire here was not exploitation but simply to maintain its existing work force. Mr. SCHUMER, whose almost obsessive desire to see a bill had him give hundreds and hundreds of hours of work in keeping the negotiations

going. To Mr. MAZZOLI, even though he did not like the program, but supported it in the interests of getting a bill, and to the chairman of the Judiciary Committee, without whom none of the negotiations that took place would have been possible.

Mr. LUNGREN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the conference report accompanying S. 1200, the Immigration Reform and Control Act of 1986. I have worked on the issue of immigration reform for a number of years and, as a member of the House Judiciary Committee, I have served on two conference committees on this issue. Both the House and the Senate have worked tirelessly on this legislation and Members representing many divergent points of view were able to come together in order to fashion a compromise bill. While the bill before us is by no means a perfect bill, it is the best bill we can get at this time.

Never before in our Nation's history have our borders been so severely tested by the huge numbers of people attempting to illegally cross them. There is already a crisis on the southern border and our Border Patrol is inadequate to meet the crisis and carry out effective border enforcement. Nearly 1.8 million illegal aliens were apprehended in fiscal year 1986. This represents a 50-percent increase over the previous fiscal year's level and by every indication the numbers are growing.

There are tremendous social and fiscal costs which many of our communities, particularly in the Southwest, must bear as a result of illegal immigration. Drug smuggling and increased criminal violence are turning our border into a war zone. More and more crimes in our border communities are attributed to illegal aliens. In addition, our social service costs are rapidly increasing, especially costs for hospitals and maternity care.

S. 1200 represents what Congress can do to begin to solve the tremendous problems we face. Employer sanctions and improved enforcement are at the heart of this bill. Another basic part of the legislation is a program of legislation for all those illegal aliens who have been here since before January 1, 1982. Despite estimates by some that only about one-third of the total illegal population will be eligible for legalization under the bill, the fact remains that significant chain migration will occur because newly legalized aliens will be able to bring in their spouses and children, and eventually their brothers and sisters and, in turn, their offspring. The numbers involved here could be staggering. As an opponent of amnesty I have voted consistently to take it out of the bill, but the House insisted by a mere seven votes to retain the provision.

Perhaps the most objectionable aspect of blanket amnesty is the fact that it penalizes those tens of thousands of potential immigrants who are waiting legally to enter our country.

There has been a compromise in the area of special agricultural workers and while the program outlined in the bill is not an ideal one, it is the best we can do if we intend to get an immigration reform bill out this year.

I am especially pleased to report that the conference agreement retains the House language, which I authored along with Congressman DREIER, on increasing the Border Patrol by 50 percent. This provision is an essential part of the bill and is critical to effective border enforcement. Under the conference agreement, the Border Patrol would be able to hire up to 50 percent more Border Patrol agents over the fiscal year 1987 through 1988 period. I have long advocated this kind of measure having first introduced similar legislation in the 96th Congress.

While there are features of the bill, including those I just mentioned, which trouble me and I am sure trouble other Members in this House, I believe we should vote to approve this conference report and get a bill to the President. Our country desperately needs to regain control over its borders. This bill will help us start that process and will provide the immediate relief on the border that we need.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. I thank the gentleman for yielding me this time.

Mr. Speaker, just let me say to all of my colleagues who are here today that, as I said during the debate on the rule, that this is the end; Rasputin will live.

The fact of the matter is that I just want to make it clear that in kind of a crazy way I am glad that it is over; that this is it. An immigration bill is here 6 years after debate and turmoil and emotions up and down. This is the final hour.

I want to make it clear to every Member on this floor that the question of hungry people, whether they live north of us or live south of us will not deter them from coming to where they can feed their children. Our grandparents did it; our great-grandparents did it. It is not going to stop today. I want to make that very clear.

I am a product—my two sons—my grandfather who died several years back, I remember only too well, he came across the border from Brownsville and for 40 years he lived in this country always looking over this shoulder but always producing, always a taxpayer, always providing the best for his family. So for the amnesty I am grateful, but I want to make it very, very clear that this bill as it stands today is not to stop illegal immigrants from coming into the United States.

The policies that we have for our neighbors south of our border are horrendous. We have always taken a mañana attitude toward every one of those countries south of our border. This migration is different. These are not the migrants that came across through the Statue of Liberty; these migrants are walking. It is the first walking migration that this country has ever felt and it will continue. I say that because where hunger is, hunger will try and find an escape.

To my colleagues in the congressional Hispanic caucus who are voting for the bill, I just want them to know the following: They measured the bill as they saw it. They measured the amnesty against the sanctions, and we all had to make our judgments. As far as I am concerned, if they feel they made the right judgment, I am happy for them.

I hope that I can come back, as I said earlier today, and say to every Member in this Congress that I was wrong, that I was wrong, but history, I am afraid, will show that I am right. Three years from now when people who speak or sound different, who do not look the norm, are going to be pulled aside by INS inspectors and asked for identification, then we will come back and we will say, "That was a bad part of the bill."

Having said that, it is over, let us make the bill try and work, let us do everything humanly possible to get those persons who were here, who have been living here since prior to 1982, let us afford them every opportunity to become part and parcel of this great country.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to engage in a colloquy with Chairman RODINO and the gentleman from California [Mr. LUNGREN].

On page 36 of the statement of managers there is a statement clarifying the residency requirements of the special agricultural workers. As a conferee, the language as it reads does not reflect the intent of the conferees. My understanding is the the intent of the conferees is to place at least a 6-month requirement on the first group and a 3-month requirement on group 2. Is that correct?

Mr. RODINO. If the gentleman will yield, the gentleman's understanding is correct.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California.

Mr. LUNGREN. That is my understanding.

Mr. PANETTA. I thank the gentleman for that clarification.

Mr. Speaker, we are on the threshold of enacting what I consider one of the major legislative accomplishments of the 99th Congress. I pay special tribute to all of those that have shown their leadership throughout the years and a special tribute to my friends CHUCK SCHUMER and HOWARD BERMAN who worked so long and diligently over these last 8 months on the agricultural issue.

□ 1620

The choice is a simple one for this House. The choice is protecting an existing system, where we have uncontrolled borders, employers who easily can exploit, workers who can easily be exploited, fear, death, discrimination, random raids, hiding versus a reform bill that tries to correct those concerns.

I do not know that this bill is going to work. We know that it is imperfect. Nobody can say it is going to work. But one thing is clear; the present situation is intolerable, and it must be responded to. Nobody can justify the situation as it exists today.

With leadership and with persistence and with oversight and with the same kind of courage that brought this bill to the floor, and with the same kind of oversight, this bill can succeed. That is why it should be supported by all Members.

Mr. LUNGREN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW], a member of the full committee.

Mr. SHAW. Mr. Speaker, I rise in very strong support of the bill.

Mr. Speaker, we have heard speaker after speaker get up and say, "This is not a perfect bill." There has not been a perfect bill to come to this floor, but this bill certainly falls in the classification of making the best out of a bad situation.

I would like to speak for just one moment to the Members of Congress who voted, as I did, against amnesty. Let us take another look at what we have set up and what we are doing here.

I think that we made a strong statement when we voted against amnesty in that we did not want to reward those who have violated our laws. But you are not going to send them back. There are millions and millions of illegal aliens in this country that now will have an opportunity to start on the road toward citizenship. They will have the opportunity to come out of the shadows.

Now, you may think that is rewarding them, and I guess it is rewarding them in a way, but what is the alternative? The alternative is to have our INS people continue to labor, overwhelmed by numbers, being able only to keep up with the paperwork, and then say to them, "Go out and enforce employer sanctions."

It cannot be done. The only way we are going to be able to secure our borders is to take care of the backlog. We are not going to take care of the backlog by sending them back. That is not going to work. The only solution is what is in this bill.

It is a complex bill. It deals with not only amnesty and employer sanctions, which are the two most important parts of this billl, it also does provide for farm labor, which benefits us, the consumers. Compensation to the States: There is $1 billion in here that will go out to the States each and every year for the expense caused by amnesty. That is a fair solution; that is a fair compromise.

I think, also, one of the items that has not been mentioned in the debate today is we are doubling up the border patrol. This immigration bill says we are going to get tough with immigration laws; we are going to expedite our exclusionary process; we are going to take care of the backlog; and we are going to blunt the economic magnets that draw these people into the country illegally.

What more can we ever do with a piece of legislation than what is here?

Mr. EDWARDS of California. Mr. Speaker, I yield 2½ minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER], a member of the committee.

Mr. LUNGREN. Mr. Speaker, I yield I minute additionally of my time to the gentleman from Wisconsin.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. SENSENBRENNER] is recognized for 3½ minutes.

Mr. SENSENBRENNER. Mr. Speaker, there are four things that are terribly wrong with this bill, which are bad as public policy, and which this Nation will live to regret.

First, despite claims to the contrary, the employer sanctions in this bill are still sunsetted. Rather than having the automatic Garcia sunset of 6½ years, the legislation has a procedure that allows the Comptroller General to, after 3 years, sunset the employer sanctions, subject to validation by the Congress through a joint resolution.

The way the Kennedy sunset is worded, the Comptroller General will practically have to make that determination and employer sanctions will be gone.

Second, the House provision on amnesty was accepted, and there is no delay in amnesty to see whether employer sanctions will work. That means that any illegal alien who has been here continuously since January 1, 1982 will be able to petition for amnesty, receive amnesty, become a permanent resident alien, and eventually a citizen. Citizens have petitioning rights to bring in their relatives, and the comments that were made in opposition to amnesty by the gentleman from Florida [Mr. MCCOLLUM] last week still hold true today; literally one-third of the population of Mexico will be eligible to come into this country under this bill.

Third, the agricultural labor provisions are much too generous. The replenishment provisions are not good public policy, and in effect, we have a rolling legalization program which will bring in more aliens, qualify them for citizenship and petitioning rights, even over and above the regular legalization provisions contained in the conference report.

Finally, there is no 100 percent reimbursement to State and local governments for the expenses attendant to amnesty. I think that if we decide to change the policy relative to immigration, which is our prerogative under the Constitution, we ought to put out money where our mouth is and not saddle property-tax payers at the State and local level with literally hundreds of millions of dollars in additional education and welfare costs. Yet, this bill does precisely that.

The sum and substance of the conference report is that once sanctions expire, we will have nothing to stop the magnet drawing illegal aliens across our border. At the same time, we will have legalized millions of people and given them petitioning rights.

With permanent sanctions and no amnesty or delayed amnesty, as was contained in the bill from the other body, the jobs for the illegals will dry up, and the illegals will just find their way back home without massive deportation.

This bill does just the opposite of that and will not bring about the result of protecting our borders. I think that the Congress will live to rue the day when this legislation passed.

While I know that it is greased, I think that a contrary viewpoint has validity to it and I would hope that those who support this piece of legislation will be willing to pay for its huge costs, as well as be willing to fix up the mistake that is being made today.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in reluctant opposition to this conference report. The sponsors of this legislation, and the many Members who have worked on this bill have tried very hard to craft a balanced and workable product. I admire their dedication and effort.

On balance, however, the final product is not something that I can support. This conference report does not include the much needed House provision protecting El Salvadoran refugees, nor does this report contain adequate protection for State and local governments against the financial burdens that legalization will impose upon them.

But most importantly of all, Mr. Speaker, this bill's provision for employer sanctions takes us down the road toward an insidious racial discrimination.

Most Members of this House will never be asked to affirm, let alone prove their citizenship or residency. Looking and sounding American, they will never see these sanctions as an important factor in their lives.

But Mr. Speaker, no matter how many decades and generations nonwhites have been here, they will find these sanctions one more unfair and discriminatory burden to bear.

In many ways, Mr. Speaker, I would like to be able to support this bill. Among other things, it contains a long overdue increase in the colonial Hong Kong quota to 5,000 visas a year. As the original author of this provision, I am delighted to see it become law.

But Mr. Speaker, I cannot vote for a bill that will make it harder than ever for non-white Americans to be accepted for what they are: loyal Americans. No more, and no less.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I would like to offer my congratulations to the gentleman from New Jersey [Mr. RODINO] and the gentleman from Kentucky [Mr. MAZZOLI] for an excellent job and for biblical persistence in this very difficult matter.

Mr. Speaker, some of my closest friends in Texas, and some of my longest-term political supporters during the 4 years I have served in Congress and the 9 years in the State legislature before that, have urged me not to vote for this bill. They have strong concerns about some parts of this bill, and I understand those concerns. I identify with those concerns.

But the growing numbers of people entering this county illegally, and the growing perception that our Government does not have an effective immigration policy, has led to a rise, in my district, in many parts of Texas, and in many other parts of the country, of hostility and prejudice toward Hispanic Americans. I have witnessed this hostility increase dramatically in the 4 years I have been in Congress. It has been tearing apart my community, and many other communities as well.

If there were a better way to address this problem and reduce these tensions and hostilities, I would champion it. But there is not a better way. If there were, someone would have suggested it by now. And with every week that this problem goes unaddressed, it gets worse and the hostilities and the tensions increase.

So I have worked to bring this bill before Congress, and I have worked to make it the best bill I could. I have not succeeded at every turn. But I and others like me, some of whom have been fighting this fight much longer than I, have succeeded enough that the bill we have before us is a good, fair, effective bill, one that we can be proud to support.

The current effort to enact employer sanctions into law—to make it against the law to hire someone who is in this country illegally—began 14 years ago. Strong employer sanctions are absolutely essential to turn off the jobs magnet that encourages people to enter the United States illegally. They are the centerpiece of effective immigration control. And because of my efforts, they apply to all employers—no loopholes.

Many Americans are concerned that employer sanctions will lead to increased discrimination against Hispanics and other Americans who are legally here and entitled to work. I am very sensitive to that concern. And I have worked hard to put the maximum protections against discrimination into the bill.

The bill contains a number of strong protections against discrimination, more protections than have been included ever before, and in all likelihood more than we will be able to put in any future immigration bill if we fail to pass the bill before us today. There is universal verification, which means that employers are required to verify the legal status of all people they hire, no matter what they look like or how they talk. Employers have an affirmative defense against sanctions if they do the verification. There is also a specific provision, included in the bill for the first time, to make it clear that no employer is required to ask for any documentation other than that spelled out in the bill, and no employee is required to produce any other documentation. These two provisions prevent an employer from only verifying the status of certain people, or asking for more and more documentation from certain people, on the basis of skin color or accent.

There is the Frank amendment, the anti-discrimination amendment which establishes a special counsel in the Justice Department to investigate claims of employment-related discrimination. And there is the triggered sunset, which requires the General Accounting Office to study the implementation of employer sanctions and report to Congress after 3 years on whether the sanctions are causing widespread discrimination. If they are, then Congress is required to vote, on an expedited procedure, on sunsetting or revising them.

Many employers fear that sanctions may prove to be a burden on them. But the sanctions have been carefully designed for the minimum burden necessary for them to be effective. The bill spells out simple requirements for verification. It requires the GAO to work on an even simpler verification method using a more fraud-proof Social Security number. It imposes criminal penalties only on employers who engage in a continuous, habitual practice of knowingly hiring illegal immigrants; no inadvertent paperwork violations could give rise to criminal penalties. And even the civil sanctions could not be imposed for the first 6 months, and for the next 6 months every employer would get one warning before incurring any sanction.

The so-called Schumer agricultural guestworker compromise is deservedly one of the most controversial aspects of the bill. I would prefer to see no agricultural guestworker provision in the bill. I don't believe the growers need a special program to provide their labor force; I believe the growers should be subject to the rigors of a competitive employment market like every other industry in this country is. But it has become clear to me that the growers will end up either getting a special program in any immigration bill we pass or will use their muscle to keep us from passing one.

The Schumer compromise is the only guestworker program that very creative, dedicated, and persistent colleagues and staff members have been able to come up with that the growers will accept that does not make serfs out of people who grow our crops for us. It makes people who worked in U.S. agriculture for a major part of last year's growing season available to the growers—not as serfs who have no rights, but as temporary legal residents. If these people choose to do so, and can meet the English language, steady employment, and other legal requirements. Growers can recruit extra foreign workers under this program only if they first try their best to recruit American workers at a decent wage and decent working conditions. And the importation of foreign workers to work in America under this program would end completely after 1994. As Chairman RODINO and others have made clear, if it were not for this guestworker compromise, there would not be a bill before us today.

Many people do not believe the bill should contain a generous blanket amnesty program for people who entered the country illegally. I have opposed this concept as well. There is a legalization program in this bill; but to think of it as a blanket amnesty program is off the mark.

Except for the special agricultural guestworker compromise, no people would be eligible for legal status under the bill unless they could prove they had been in this country continuously for 6 years. Then, they would have to apply, and could only receive temporary legal status. They would have to wait another year and a half to apply for adjustment to permanent legal status, and then they must actually apply for permanent status within the next year after that. While they wait, they must remain continuously in the United States, keep a steady job, work to learn the English language and about our history and form of government, and stay out of trouble with the law.

If they are granted permanent status—a difficult step—it will be another 5 years of exemplary citizen-like behavior before they can apply to become U.S. citizens, and they will become citizens only if they are eligible. So we are not granting citizenship to anyone under this bill; we are not giving green cards to anyone under this bill. The "road to U.S. citizenship" we are allowing these people to travel is a long and difficult one, as it should be. No one will reach the end of it until he or she has been in this country for at least 11 years and has satisfied all of the requirements of citizenship. By that time, we will be assured that these people, whatever method they originally used to enter this country, will be ready for the responsibilities of citizenship.

We all know that the root cause of illegal immigration is the poor economic situation in the countries from which people come here illegally. Any effective immigration policy must ultimately address this root cause, I amended this bill to create a Commission for the Study of International Migration and Cooperative Economic Development. The Commission will study over a 3-year period and report to Congress on the ways in which we can use our international trade, investment and development laws to best help improve the conditions which lead people to immigrate here—without compromising in any way our own trade and investment policies.

Every one of us can find, if we want, something in this bill to oppose; some excuse, if you will, to vote against it. But everyone who is concerned about the rising tide of illegal immigration—the millions of jobs it has already taken from legal workers here, the cruel exploitation it has permitted of impoverished workers from other lands, the discrimination it has fostered among some of our fellow citizens, the tensions and misdirected passions it has created in almost every community of our Nation—everyone of us can and must find more in this legislation to support than to oppose.

On balance, this is a carefully crafted, balanced, tough, effective, fair bill, deserving of our support. It is one which will once again give the United States a practical, enforceable immigration policy. I urge your vote for the conference committee report.

Mr. LUNGREN. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. DAUB].

Mr. EDWARDS of California. Mr. Speaker, I yield an additional 2 minutes to the gentleman from Nebraska.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from Nebraska [Mr. DAUB] is recognized for a total of 3 minutes.

Mr. DAUB, Mr. Speaker, it is with a great deal of dismay that I rise in opposition to the conference report on S. 1200, the Immigration Reform Act. I was honored to be appointed to the Immigration Conference Committee and envisioned that we would be able to develop a workable compromise on immigration reform.

Having said that, I want to say that for all the principal players, the principal participants in crafting this legislation and going through the 6 years that they have engaged in, I have nothing but increased esteem for each of these persons who have worked so hard and labored so long to bring this bill to the floor.

I have been a longstanding and strong advocate for immigration reform and firmly believe that we must regain control of our borders.

I do know that many of my concerns can be addressed by legislation which it is my understanding will be considered next year on legal immigration, preference limitation and fraudulent documentation. I look forward to working with Chairman MAZZOLI's subcommittee and to contributing to the needed changes in these particular areas.

I have had a chance to be involved in immigration for the better part of my adult life as an immigration lawyer and have some particular feelings about the kind of action we are here about ready to take. The final conference agreement contains not only the contentious "blanket amnesty" provisions, but the entire package of special preference for agricultural workers—a provision I liken as the "western growers buyout" provision. The general amnesty provisions retained in the final agreement are those which would bestow amnesty on all those illegal aliens who can prove by documentation that their residence existed in the United States since 1982. The Senate receded completely on their more realistic 1980 date and on their provision conditioning the granting of amnesty upon a commission report which confirmed that our borders had been secured.

Just as we indicated only 6 days ago that the question of amnesty is a question of fairness and confidence in our immigration laws, just as we consider amnesty to reward lawbreakers and perhaps set the stage for a future amnesty, then I must indicate to my colleagues that these are exactly the considerations that will be sanctioned with passage of this final conference report.

Husbands, wives, and unmarried children of immigrants from Mexico have been waiting for over 9 years to come to America. Brothers and sisters of United States citizens who are attempting to immigrate from Hong Kong have been waiting since 1974, over 12 years, to reunite with their families in our country, and with one fell swoop we are about to legalize all those who illegally crossed our borders, who have been here illegally residing and who have preempted the legal immigration of those who are trying to obey our laws. I sincerely believe that this process will cheapen the value of American citizenship, our most precious right, and this is something to which I cannot be a party.

As a strong conservative, I seldom if ever attempt to enact open-ended entitlement programs; however, I feel strongly that the conference did not legitimately outline the costs that will be incurred by the Federal Government upon enactment of the legalization program, an agreement that places a cap of $1 billion per year for each 4 years on the amount that will be reimbursed to the States.

The bill does contain strong employer sanctions and retains the Moorhead provisions calling for beefed up border control authorizations. Certainly these provisions, along with other "sweeteners" may entice many to vote for final passage of this conference report. All of the reasoning we have heard in support of the bill, coupled with the growing media sentiment for passage of a reform bill, I certainly understand. For the record, though, this is just too much to give away for the sake of enactment of a bill in 1986.

Mr. EDWARDS of California. Mr. Speaker, I yield the remainder of my time, which I believe is about 3 minutes, to the gentleman from California [Mr. MARTINEZ].

The SPEAKER pro tempore. The gentleman from California [Mr. MARTINEZ] is recognized for 3½ minutes.

Mr. MARTINEZ. Mr. Speaker, I rise today in opposition to an immigration bill that has something for everyone and nothing for anyone. It has been dressed up to bridge all sorts of interest gaps and to satisfy the powers that be, but in one task it utterly fails: giving the American people a better, more effective and more humane immigration law.

This bill proposes to give amnesty to undocumented aliens who have resided in this country since 1982. Who

are we kidding about amnesty? Aside from the requirements set out in this bill, the INS still practices over 20 principles of exclusion whereby they can decide to deport any alien instead of legalize him. And when an alien has spent a good deal of his effort while in this country trying to avoid being caught, how is he supposed to turn around and prove to the Government that he has been living in this country for all these years? He could get proof from his past employers, some of my colleagues say. My friends, when his employers have never deducted or reported his wages. And how many employers are going to testify to the Government that illegals was here before 82 and admit they broke the law and employed an undocumented alien?

This amnesty program is a farce. Six months after the bill is enacted, it gives aliens 18 months to apply for the program. Is this fair to those who apply after the 18-month deadline? Undocumented aliens in the barrio and in on the farms are not the best informed people. To notify millions of illegal immigrants about this law, and convince them that it is safe for them to apply, is going to take a lot longer than 18 months.

Legalization should be done on cases of merit, not in a blanket amnesty. The Government should determine how undocumented aliens have benefited and how they have hurt society, and adjust the numbers and qulifications for legal status accordingly. Strangely enough, the bill does this for Western European immigrants, in an attempt to reinstate numbers that were reduced in 1965. These numbers go by a tried and true preference system, which specifically takes into account the skills needed by our country and the skills these immigrants can offer. This is just and reasonable. The blanket amnesty contained in this bill is a monstrous farce. Someone who has been here 10 years may have a much more stable and productive livelihood, and may be contributing much more to society, than someone who has been here 4 years. Yet this bill requires that the two be considered for legalization under equal terms.

One of our own INS regional commissioners describes illegal immigrants in general as drug users and thieves. Would he, then, consider all of them together under a blanket amnesty? We saw the unfortunate result of such a policy during the Mariel boatlift of 1981, when our blanket acceptance of Cuban immigrants gave our country a boatload of people seeking refuge and some seeking a place to practice their criminal activity. A blanket amnesty is a quick fix, not a policy. Treating applicants like potential American citizens—on a basis of merit—is our present policy and should continue to be our policy. This bill continues this policy in the case of Europeans. Do the authors of this legislation consider European immigrants people but undocumented aliens who live in the United States cattle? Undocumented aliens are not different; they are more numerous. We should not put them under a different policy; we should provide more resources for the INS to process them under existing policy.

There is a provision in this legalization program which is particularly glaring in its shortsightedness and its injustice. That is the so-called Schumer proposal, which would give legal status to 350,000 illegal aliens who had worked for 90 days last year in perishable agriculture. It further allows for admission of so-called replenishment workers, who would be eligible for permanent resident status after working in agriculture for 3 years for at least 90 days per year. Why should we make special provisions for farmworkers but not for garment or factory workers? I assure my colleagues that there are many more American farmworkers than garment or factory workers who are displaced by illegal aliens. The only difference is that the garment industry does not have the lobby that agriculture does. This is ironic because, after the 90 days of work on the farms, where are these workers going to go for the other 9 months of the year? To the cities, where they will compete with American workers for jobs in the factories.

Another factor in this legalization program is cost. This bill places a cap of $1 billion in each of 4 years on Federal reimbursement to States for costs incurred by fulfilling the medical, educational, and administrative costs of legalization. Let me read you a telegram I received today from the Honorable Peter Shabarum, chairman of the Los Angeles County Board of Supervisors. Los Angeles County has more undocumented alien residents than any other county in the Nation. The telegram reads:

Dear Congressman Martinez: I urge that you oppose conference report on immigration reform legislation. I am concerned that the bill's legalization assistance provisions would leave most of Los Angeles County's estimated $190 million in annual costs for legalized alien health and welfare unreimbursed. The Schumer farm worker amendment makes a mockery of the amnesty date and renders the law vulnerable to abuse leading to higher Government costs. The consequences of both the Schumer amendment and the amnesty provision aggravate an already impossible physical dilemma facing the taxpayers of Los Angeles County. We firmly believe that the Federal Government should reimburse all legalization-related costs so county taxpayers would not have to bear the costs of the Federal decision to grant legal status to undocumented aliens.

Sincerely, Peter F. Schabarum, chairman, Los Angeles County Board of Supervisors.

For the first time in history, this bill institutes Federal penalties for private citizens who hire illegal aliens. This provision is latent with discrimination—if it weren't, the House and Senate would not both have agreed to attach an elaborate antidiscrimination measure to it. This country cannot countenance a law that promotes discrimination, no matter how it is dressed up. The solution is not a Frank amendment, no matter how well-intentioned, because the employer sanctions approach is fundamentally flawed. We should make work permits conditional on having a Social Security card, which cannot be obtained by anyone who is not a citizen or a legal resident. This will put the burden of enforcing the law on the Government, where it belongs, not on private employers. Not only is this unfair to private employers, but it will cause them, out of fear, to discriminate against prospective employees who are "foreign-looking." We need legislation that incorporates immigrants into American society, not reactive measures that are bound to foster discrimination and hatred.

This legislation is a bad product built on a misguided foundation. Immigration reform we need, but let us produce it according to the longer term, more enlightened principles by which our Nation has always approached this extremely important subject. I urge my colleagues to look beyond tomorrow, beyond this pressured moment, and think seriously and humanely about guiding the formation of the great country in which we live.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, listening to this debate reminds me of the old adage: "The perfect is the enemy of the good." We have produced a good bill, not a perfect bill, but we have done the best that we could.

Every nation has the responsibility and obligation to control its own borders, to do it responsibly, with compassion and fairness, and that is exactly what we have done. We have protected America and its citizens from the unreasonable flow of illegal immigration. We have protected undocumented aliens who have been here for a long time, treating them with dignity and compassion, and we have protected the civil rights and liberties of Americans in the process, particularly in light of the fact that we are requiring no national identification card in this bill, nor authorizing it.

This is not a perfect bill. It is a good bill. It deserves passage.

Mr. LUNGREN. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, what a difference a few days can make. It just seems like a matter of hours ago when Congressman LUNGREN was here leading the charge to defeat a rule, and thank goodness for the sake of an issue that is vitally important to this country that the gentleman from California [Mr. LUNGREN], with the leadership of the gentleman from New Jersey [Mr. RODINO], the gentleman from Kentucky [Mr. MAZZOLI], and the help of the gentleman from New York [Mr. SCHEUER], and the gentleman from California [Mr. PANETTA], and others—I must be careful with the list because I will leave some people out—that we are here today in a relatively tranquil setting, all of us agreeing that this package is not perfect, but we have it in front of us and it is an answer to a number of difficulties that have plagued this Nation now for decades.

I particularly am pleased with the farmworker provisions. I would have preferred the structured arrangement that we saw to in 1984; however, the package we have works, I believe, for all of us. It has the endorsement of all America's major farm groups, as well as farmworker organizations. That has to be a record as far as the consideration of sensitive issues such as immigration reform.

So I urge my colleagues to support this measure and commend all those parties who have been responsible for bringing this day to the House of Representatives.

Mr. LUNGREN. Mr. Speaker, I yield myself such time as I may consume.

Well, Mr. Speaker, a number of Members have put it in a number of different ways. Yesterday I told a member of the press that this is not the Sistine Chapel, but it is not a bad paint job. I guess what that means is this may not be artistic, this may not be the best thing that some of us think we could produce, but it is a workmanlike product. It is the best we can bring to the floor of the House and the Senate and hopefully to the desk of the President in this Congress and perhaps for many, many years.

Immigration reform is absolutely needed. It is needed not only in my home State of California, not only throughout the Southwest, but it is needed throughout the country because it is in fact a national issue.

The question of who shall and who shall not become citizens, who shall and who shall not be allowed into the United States and whether in fact the United States as an act of its sovereignty may determine its own borders, all of those are national issues. Those are not things that we in California or Los Angeles or Orange County can do for ourselves. We do not want to do that. The Constitution does not allow us to do that; but for far too long people in those areas have asked, "How long, how long must we wait until Congress does something about the problem?"

We have enormous costs associated with this, fiscal costs on local communities and local jurisdictions, social costs, whole costs that have not even been thought of in this Congress for many years.

We need to act. We need to act as soon as possible.

For those of you who say that we would get a better bill in 2 years, I ask, what happened when you argued that 2 years ago and 4 years ago?

For those of you who say that we need a more generous amnesty, I ask you, did you get a more generous amnesty 2 years or 4 years ago?

For those of you who say, "I don't want any amnesty at all," I ask you, do you want to have to worry about an amnesty that is even more generous next time around with a date that is brought up even further?

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What I am suggesting is that all parties have had to compromise on this issue, as is the case most times with comprehensive legislation.

We have retained employer sanctions. It is an important part of this bill; it is an indelible part of this bill.

We have removed the automatic sunset. For those who worry that we would have an actual, real legalization but no real employer sanctions, we have taken care of that.

For those who have been concerned about the Senate provisions that we might postpone legalization for those we determine to be legalized for at least 3 years, we have removed that. You have a legalization that is actual, that is real, that will mean something to those people who have been in your community for long periods of time and become members of those communities for long periods of time—those very same people that many Members have asked our subcommittee to pass private bills on behalf of, I might add; those same people that we have received letters on behalf of in prior times when we dealt with private legislation, letters from the community leaders saying, "We know they came here illegally, but make an exception for this person, who has become a good member of our community." We have done that in a general sense in the legalization.

We have assisted enforcement, because the Border Patrol will tell you that the single thing that they have needed and asked for and been without for years is employer sanctions. "How," they say, "can we enforce a law that says that it is illegal to come here for work without proper documentation, but it is not illegal for the employer to hire that person?" We will answer the question as to those who have been exploited by those few employers—and I say that they are few, but they are nonetheless here—who have hired illegal aliens specifically so that they can exploit them. That is unfair to those workers. It is unfair to the competitors in those industries, other employers, who follow the law and are undercut in their competitiveness by the fact that those are breaking the law and taking advantage.

We have answered the question of what are we going to do about the spider holes that I find in my State, where people have burrowed into the ground; first, because they think that they cannot pay for housing; but second, because they fear the INS on the one hand, and they fear being subjected to victimization by the criminal element on the other hand—those people who have been in the dark shadows in our communities, who have been victimized by the criminal element and have not felt free to come forward to law enforcement to say that they have been victims because they fear that they will be identified as being here illegally.

Yes; we did make a special program for the agricultural problem, and the reason that we did that is because there is finally recognized to be a problem in this country. I do not think that we could have gotten a bill without recognizing that. I do not particularly like the grand outlines of this provision, but it is the best that we can do. I preferred the Wilson amendment; I have been promoting it for 8 years. It will never get on the floor. So you can either just sulk in the corner and say, "I can't get exactly what I want, and therefore, nothing will go through," or you try and work out a compromise.

This is a grand compromise. This satisfies no one entirely, but I would suggest that it does violence to no one entirely. It takes care of the legitimate needs that are recognized in this country.

We still have missionary work to do. If we pass it on this floor, we still have to make sure that it is going to be passed on the other side of the Capitol. That is going to take some work. We still have to sit down and talk with some at the other end of Pennsylvania Avenue as to why we made the compromises that we did.

I would just say, if you look at the various elements of this bill in a vacuum, you probably would not pass it. If you look at them in total and you look at them in comparison to the alternatives, I think that you cannot do anything but pass this package.

The alternatives are basically do nothing, continue with the problem that we have now, or look into the unknown and hope that we are going to do something in the next Congress or the Congress beyond that, or the Congress beyond that. If you look at the

history of Congress, immigration reform comes about if you are lucky once a generation. This is our time in this generation to do something about it. This is our time to stand up and be counted. This is our time to not just stop by and say that the status quo is appropriate.

Mr. ROYBAL. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to my friend, the gentleman from California.

Mr. ROYBAL. I appreciate the gentleman's yielding.

Mr. Speaker, I would like to have some explanation as to what constructively was done for the people who are going to work in farms. For example, you probably remember that just last year we proposed an amendment here that would have provided toilets and fresh water for people working the fields. Is that in the bill?

Mr. LUNGREN. What we have incorporated into the law are all the protections that were agreed upon by the farmworker rights groups and the agricultural groups. They are now in law, not just regulation. They will have the opportunity to have those protections that they never had before.

Mr. ROYBAL. But it is not in the bill.

Mr. LUNGREN. The fact of the matter is, if they are not legalized, they have very little ability to come forward and protect themselves. With legalization, they will have more protection, not less protection. It seems to me that if you want to do something for these people, vote for this bill.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I will support this imperfect bill becaue I am committed to do something about our immigration policy. There are questions whether the bill will adequatly provide for the costs this legislation will impose on States and local governments. I understand that the reimbursement provision is to ensure that States and localities will not be forced to increase taxes to pay for the costs of legalization. If the current reimbursement formula to States does not adequately cover the costs, we will have to revisit this issue to ensure that local governments will not bear the burden of this Federal provision.

The legalization provision prohibits legalized aliens from receiving federally funded benefits, and therefore places the responsibility for providing services such as acute health care on States and localities. According to the Congressional Budget Office, the cost associated with the legalization provision will amount to $5 billion. However, since no one really knows how many aliens would be eligible for legalization and how many services they would consume, our home States are liable to face a financial burden of untold proportions as a result of this change in Federal policy. I therefore urge my colleagues to join in ongoing efforts to ensure that States and local government are appropriately compensated.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding time to me.

Mr. Speaker, in 1 minute, let me just say this is something that needed to be done. The American people want immigration reform. We have given them immigration reform. It is good in many respects. It falls short in some respects, but it is not over. There is going to be addressing of these problems for many years to come, but we made a good start.

We will be bringing people out of a shadow economy, people will be paying taxes, people will be coming out in the sunshine, there will not be the abuse of workers, employers will not be able to provide poor-quality jobs for people, they will not be able to oppress people, sanctions will keep a magnet from attracting these people here—all of those things we know.

We also know that there is an important issue here, and it is not amnesty. This is legalization. Everyone who was excludable yesterday will be excludable tomorrow. Someone who did not qualify for citizenship tomorrow will not qualify the day after. It is not amnesty. We are not bringing families here, only people who qualify have to apply.

And finally, may I just salute all of those who worked hard, and I would urge my colleagues to call this bill the Rodino-Simpson-Mazzoli Act of 1986.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I rise in support of this historic conference agreement. It's not perfect. God knows there are things in here that I wish weren't.

But an omnibus immigration bill can't be all things for all people. What we ultimately have to ask ourselves is whether this bill, on balance, serves the national interest.

Any, in my view, the answer to that question is a resounding "yes." Illegal immigration into this country is a national crisis, and if we don't act now to regain control of our borders we may forever lose the chance.

Reject this conference report, whatever its imperfections, and there's no looking back. We will have lost a historic opportunity. Far-reaching and critically needed immigration reform will be by the boards.

I urge my colleagues to vote "yes." Put the national interest above local interests; put our future above our past; put political leadership above political posturing. Vote up this report.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding time to me.

Mr. Speaker, to me immigration reform, this bill, has become a metaphor for governance. Can the Congress do what the Founding Fathers intended it to do? Can we legislate, in the noblest sense of the word? And in this day and age, with all the crosscutting pressures upon us, as the country becomes bigger and more diverse, it seems sometimes that we cannot. But this bill, and those like it, represent Congress at its noblest. This bill, my colleagues, is why we are here.

We are here to solve problems before they become crises, and sure as we are sitting here today, if we do nothing, our immigration problem will explode into an immigration crisis. We are here to do what America needs, despite the intense lobbying of myriads of special interests, and for sure on this bill, the special interests were out to kill it, and yet up to this point Congress stood its ground.

We are here finally to have the courage to stick our necks out and vote for an imperfect, easily criticized solution, but which we know in our hearts is far superior to doing nothing and continuing the deplorable status quo. In this way, too, on this bill, Congress has gloriously risen to the occasion.

Mr. Speaker, the passage of this bill, added to the passage of the tax reform bill, make this a historic Congress. We can all be proud to have played a part.

Mr. LOWERY of California. Mr. Speaker, it is said that good things come to those who wait.

Well, if this is true, then Californians who have been waiting 8 years for immigration reform should expect a perfect legislative package addressing this critical problem. S. 1200 is not perfect, but it does offer the best hope for a desperately needed revision in this Nation's immigration laws. Therefore, I rise in support of this conference report and urge my colleagues to vote in favor of S. 1200.

Mr. Speaker, there is no more important issue to my constituents in San Diego than control of our southern border. The illicit flow of aliens who regularly pass through our porous border is a national embarrassment and has reflected a lack of will by the Congress to protect our sovereign borders. Fortunately, S. 1200 attempts to address this most critical issue.

S. 1200 provides more lenient amnesty provisions than I would prefer. Aside from the fundamental inequity of any two-tiered legalization system, I fear these amnesty provisions will have a damaging impact on local governments who must bear the increased

costs—educational, health, and others—associated with legalization of a large number of illegal aliens. However, I do recognize that some amnesty is needed if we are to formulate a politically balanced bill and regard the amnesty provisions as acceptable. The overriding need to control our borders compels me to support this bill, and I do so with a sense of urgency and hope.

S. 1200 imposes civil and criminal penalties on those employers who knowingly hire undocumented aliens and provides additional resources for enforcement agencies. The primary reason for the influx of aliens is the prospect for gainful employment. Until and unless employers are threatened with civil and criminal penalties, there is little hope that the United States will be able to stem the flow of illegals pouring into the United States. Moreover, unless our Federal agents—the INS and Border Patrol—are given the resources necessary to control the border and efficiently process legalization petitions, the lure of successful illegal entry will drive aliens across our border. S. 1200 acts responsibly in these two important areas.

In closing, Mr. Speaker, I would like to thank this Congress for formulating a workable legislative package which addresses this most important issue. My constituents are demanding action now—not tomorrow—and the 99th Congress has risen to the task.

Mr. FRENZEL. Mr. Speaker, after a half dozen years of steady, intense work, the Congress seems to be at last poised on the brink of passage of an immigration bill.

To say it is overdue is an understatement. To say it is imperfect is also an understatement. I have voted for a number of versions of immigration reform. All of them have been flawed. Most of them have been seriously flawed.

This bill is seriously flawed, too. It still rewards successful law breaking by giving the prize of citizenship. Amnesty is a provision that insult all the law-abiding people around the world waiting patiently, and legally, for their numbers to come up.

Another flaw is the cost, $1 billion per year. That's a very heavy price to pay for the long-range potential for control of the border.

However, the need for control of illegals is growing. The problem is worsening daily. The need is great enough that I will vote for the bill in spite of its egregious faults. My vote is cast in hope. It may not work. It may work badly.

The net of it all is that Congress can't wait any longer. It must act. This bill, flawed as it is, gives some promise of helping us to control our borders. On that basis, it deserves a try.

Mr. DONNELLY. Mr. Speaker, I support the conference report on the immigration reform bill with great reluctance. It is better than no change from current law, but not much.

The House-passed immigration reform legislation contained a provision which I sponsored to make available approximately 65,000 nonpreference visas for western Europe for each of the next 5 years. The conference report provides for only 5,000 nonpreference visas for all of western Europe for each of the next 2 years. It is extremely disappointing that today, as the House considers historic immigration reform, we are unable to also resolve the problem of western European immigration.

The problem western European immigrants face today is rooted in the most recent immigration reform effort, undertaken in 1965. That legislation was intended to correct the apparent discrimination against residents of countries in southern and eastern Europe. It eliminated country-by-country quotas in favor of a single, worldwide quota of 270,000.

Postwar European prosperity slowed the demand for immigrant visas from that continent, and the authors of the legislation expected the new worldwide quota to accommodate virtually anyone who wanted to come to the United States.

Events of the last 20 years, however, have exacerbated the problem of discrimination, not eliminated it. No one predicted, in 1965, the massive wave of immigration from Asia. Attorney General Robert Kennedy told Chairman RODINO's subcommittee in 1964 that immigration for the Asian-Pacific triangle would be approximately 5,000 in the first few years, and would decline after that.

The experience of the last 20 years has been very different. Immigration from Asia and the Pacific last year was not 5,000, but rather 121,000. It accounted for 46 percent of the worldwide quota, not 2 percent as Attorney General Kennedy predicted. In addition, the huge number of immigrants who qualify for preference visas outstrips the worldwide quota, so there is now a lengthy list even for those who are supposed to be at the head of the waiting line. Would-be immigrants who do not qualify for a preference visa have not been admitted since 1978.

As a result of this policy, in effect since 1965, Europeans are being squeezed out of the immigration mix. In the 1950's, more than half of our Nation's new arrivals came from Europe. In the 1970's, the percentage declined to less than 18 percent. Last year, fewer than 8.3 percent of the immigrant visas granted under the world-wide quota went to immigrants from Europe.

My legislation, which became a provision of the House immigration reform bill, restored balance and fairness to our immigration law. It authorized approximately 65,000 new visas reserved specifically for immigrants from countries that have historically contributed to our immigrant stock, but have suffered a sharp drop in admissions in recent years.

To my great regret, the conferees failed to include this language in the conference report. The conference report provides, instead, for 5,000 additional nonpreference visas for all of western Europe for each of the next 2 years. Visas are to be directed to those countries that have had a sharp falloff in immigration since 1965, among them Italy, Ireland, Greece, and over a dozen other countries. While I concede that providing 5,000 additional visas is an improvement over current law, it is hardly an adequate solution to the sharp drop in western European immigration. Inclusion of my provision, authorizing a sufficient number of visas to redress the present imbalance, would have been appropriate for this immigration reform legislation. It is fully consistent with the goal of reestablishing control of our borders by reducing illegal immigration. I am sorry the House does not have the opportunity today to adopt my provision.

This conference report does represent, however, a substantial first step toward restoring geographic balance to the immigration mix. Further, the statement of conference managers instructs the immigration subcommittees to address the issue of legal immigration early next year, and I intend to work closely with them in that effort. I therefore support the conference report, despite the fact that it falls far short of what I hoped it would achieve, because it represents a first step toward true reform of the worldwide quota system.

Mr. McKINNEY. Mr. Speaker, after many long hours, months, and even years of debate, I am pleased that the House today passed immigration reform legislation—a monumental event. Two years ago at this time, the House and Senate passed their own versions but then the measure became deadlock during conference and time ran out on the 98th Congress. This Congress witnessed courageous resolve by many Members determined to effect immigration reform before the 99th Congress ends. Those who helped to orchestrate this measure to passage are to be commended.

Mr. Speaker, while there is wide agreement that immigration reform is necessary, there are a sufficient number of issues involved such as amnesty, employer sanctions, and foreign agriculture workers, which make reform a divisive issue. The bill that came before the floor today covered all these areas and difficult compromises were worked out.

I must admit that the bill is not perfect, containing such provisions as granting agriculture workers temporary resident status even if they worked for just 90 days on a farm. Yet the bill was daring enough to provide temporary resident status to all aliens continuously living in the United States from before 1982, to prohibit employers from knowingly hiring unauthorized aliens to work in the United States by imposing civil and criminal penalties on offenders, and to expand border-patrol personnel by 50 percent.

Mr. Speaker, I know that back home in my district in Connecticut, many of my constituents will be pleased with the passage of today's immigration reform bill. Many, however, will be disappointed with what they might consider to be a lenient amnesty program. I only want to say to these constituents that I sincerely believe the amnesty provision is essential to the reform package and is not only the fairest option for those aliens who have made this country their home, but is also the most pragmatic choice.

Not legalizing aliens would have a negative impact on the social and legal fabric of our country. Presently, aliens are being exploited as a result of fear of discovery. A subclass of people who cannot exercise their rights has been created. This leads to disrespect and disregard of the law and promotes crime—not on the part of aliens, but by those who take advantage of their situation. Those who disagree and wish to see aliens deported are not facing reality. Aliens simply cannot all be found, let alone deported. It took 8,000 man-

hours to deport just three Iranian students during the time of the Iranian hostage crisis.

Mr. Speaker, a wise psalmist once wrote that those who sow in tears shall reap rejoicing. Today we rejoice over a job hard fought and well done.

Mr. LEVINE of California. Mr. Speaker, I rise to express my deep disappointment that the provision to temporarily suspend deportation of Salvadorans and Nicaraguans was dropped by the House-Senate conference on S. 1200, the "Immigration Control and Legalization Amendments." Although this legislation contains some important reforms of our immigration laws, it would have been a significantly stronger bill had these provisions been retained.

Granting temporary asylum to Salvadoran and Nicaraguan refugees is primarily a humanitarian issue. These countries are involved in civil conflicts characterized by extreme brutality and random violence. In response to this violence refugees from El Salvador and Nicaragua are fleeing to the United States. But under our current immigration law, they are considered illegal aliens, and subject to being returned to their own countries. Our standards of justice, decency, and human rights demand that we do not return desperate and frightened people to situations of civil danger and violence.

Additionally, there are compelling legal reasons that we must halt deportation of refugees. The Geneva Conventions of 1949, the Protocols Additional to the Geneva Conventions, and customary humanitarian law require protection for Salvadoran refugees. Refugees have the right to flee from armed conflict, seek asylum, and receive at least temporary refuge. When we refuse to grant even temporary refuge, we violate our international agreements, and weaken our credibility internationally.

Allowing temporary refuge to people fleeing El Salvador and Nicaragua would give Congress the opportunity to study the issue and formulate policy, without the pressure of continued deportations. By deleting this provision, Congress is missing a key opportunity to construct a fair policy which balances humanitarian issues, international law, and U.S. immigration concerns.

Although I will support this much-needed legislation on final passage, I deeply regret that it does not contain the House-approved language to protect El Salvadorans and Nicaraguans who are fleeing the violence in their countries.

The SPEAKER pro tempore. All time has expired.

Mr. RODINO. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GARCIA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 173, not voting 21, as follows:

[Roll No. 469]

YEAS—238

Abercrombie	Goodling	Oxley
Ackerman	Gray (IL)	Packard
Alexander	Gray (PA)	Panetta
Anderson	Green	Pashayan
Annunzio	Gunderson	Pease
Anthony	Hamilton	Penny
Aspin	Hatcher	Pepper
Atkins	Hefner	Perkins
AuCoin	Henry	Pickle
Barnes	Hillis	Price
Bates	Howard	Quillen
Bedell	Hoyer	Rahall
Beilenson	Huckaby	Richardson
Bennett	Hutto	Ridge
Bereuter	Ireland	Rodino
Berman	Jeffords	Roe
Boehlert	Johnson	Rogers
Boland	Kanjorski	Rose
Bonior (MI)	Kasich	Rostenkowski
Bonker	Kastenmeier	Roth
Borski	Kennelly	Rowland (CT)
Bosco	Kildee	Sabo
Boucher	Kostmayer	Schaefer
Brown (CA)	LaFalce	Scheuer
Bruce	Lagomarsino	Schneider
Bryant	Lantos	Schulze
Bustamante	Leach (IA)	Schumer
Byron	Lehman (CA)	Seiberling
Carper	Lehman (FL)	Sharp
Chandler	Levin (MI)	Shaw
Cheney	Levine (CA)	Shumway
Clay	Lewis (CA)	Sikorski
Clinger	Lightfoot	Sisisky
Coelho	Lipinski	Slattery
Coleman (MO)	Livingston	Smith (FL)
Collins	Lott	Smith (IA)
Conte	Lowery (CA)	Smith (NE)
Cooper	Lowry (WA)	Smith (NJ)
Coughlin	Luken	Snowe
Coyne	Lungren	Solarz
Dannemeyer	MacKay	Spratt
Darden	Manton	Stallings
Daschle	Markey	Stangeland
Davis	Martin (IL)	Stark
Derrick	Matsui	Stokes
DeWine	Mavroules	Strang
Dicks	Mazzoli	Studds
Dingell	McCandless	Swift
DioGuardi	McCloskey	Synar
Dixon	McCollum	Tauke
Donnelly	McCurdy	Thomas (CA)
Dorgan (ND)	McDade	Thomas (GA)
Dornan (CA)	McHugh	Torres
Dowdy	McKernan	Torricelli
Downey	McKinney	Traxler
Durbin	McMillan	Udall
Dwyer	Mica	Vento
Early	Michel	Volkmer
Eckart (OH)	Mikulski	Vucanovich
Eckert (NY)	Miller (CA)	Waldon
Edgar	Miller (WA)	Walgren
Evans (IA)	Mitchell	Walker
Fascell	Moakley	Waxman
Fazio	Mollohan	Weber
Feighan	Monson	Wheat
Fish	Montgomery	Whitehurst
Florio	Moody	Williams
Foglietta	Moorhead	Wilson
Foley	Morrison (CT)	Wise
Ford (MI)	Morrison (WA)	Wolf
Ford (TN)	Mrazek	Wolpe
Frank	Murtha	Wortley
Frenzel	Natcher	Wright
Fuqua	Nelson	Wyden
Gejdenson	Nielson	Wylie
Gephardt	Nowak	Yates
Gibbons	Oberstar	Young (MO)
Gilman	Obey	Zschau
Gingrich	Ortiz	
Glickman	Owens	

NAYS—173

Akaka	Gallo	Porter
Andrews	Garcia	Pursell
Applegate	Gaydos	Rangel
Archer	Gekas	Ray
Armey	Gonzalez	Regula
Barnard	Gordon	Reid
Bartlett	Gradison	Rinaldo
Barton	Gregg	Ritter
Bateman	Guarini	Roberts
Bentley	Hall (OH)	Robinson
Bevill	Hall, Ralph	Roemer
Biaggi	Hammerschmidt	Roukema
Bilirakis	Hawkins	Rowland (GA)
Bliley	Hayes	Roybal
Boggs	Hendon	Russo
Boner (TN)	Hertel	Savage
Boulter	Hiler	Saxton
Boxer	Holt	Schroeder
Broomfield	Hopkins	Schuette
Brown (CO)	Horton	Sensenbrenner
Burton (CA)	Hubbard	Shelby
Burton (IN)	Hughes	Shuster
Callahan	Hunter	Siljander
Carney	Hyde	Skeen
Carr	Jacobs	Skelton
Chapman	Jenkins	Slaughter
Chappell	Jones (NC)	Smith, Denny (OR)
Chappie	Jones (TN)	Smith, Robert (NH)
Coats	Kaptur	Smith, Robert (OR)
Cobey	Kemp	Snyder
Coble	Kleczka	Solomon
Coleman (TX)	Kolbe	Spence
Combest	Kolter	Staggers
Courter	Kramer	Stenholm
Craig	Leath (TX)	Stratton
Crane	Leland	Stump
Crockett	Lent	Sundquist
Daniel	Lewis (FL)	Sweeney
Daub	Lloyd	Swindall
de la Garza	Loeffler	Tallon
DeLay	Lujan	Tauzin
Dellums	Mack	Taylor
Dickinson	Madigan	Towns
Dreier	Marlenee	Traficant
Duncan	Martin (NY)	Valentine
Dymally	Martinez	Vander Jagt
Dyson	McCain	Visclosky
Edwards (CA)	McGrath	Watkins
Edwards (OK)	Meyers	Whitley
Emerson	Miller (OH)	Whittaker
English	Mineta	Whitten
Erdreich	Molinari	Wirth
Evans (IL)	Murphy	Yatron
Fawell	Myers	Young (AK)
Fiedler	Neal	Young (FL)
Fields	Oakar	
Flippo	Olin	
Franklin	Parris	
Frost	Petri	

NOT VOTING—21

Badham	Hansen	McEwen
Breaux	Hartnett	Moore
Brooks	Jones (OK)	Nichols
Campbell	Kindness	Rudd
Conyers	Latta	St Germain
Fowler	Long	Weaver
Grotberg	Lundine	Weiss

□ 1705

The Clerk announced the following pairs:

On this vote:

Mr. St Germain for, with Mr. Brooks against.

Mr. Hansen for, with Mr. Conyers against.

Mr. WALDON changed his vote from "nay" to "yea."

Mr. CHAPPELL changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on S. 1200 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL EXPLANATION

Mr. BADHAM. Mr. Speaker, during the consideration of the conference report on the immigration and legalization amendments I was unavoidably detained in my district meeting with the Secretary of Transportation, Elizabeth Dole.

Had I been present, on Rollcall 469, I would have voted aye.

REQUEST FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 412, CORRECTING THE ENROLLMENT OF S. 1200, IMMIGRATION REFORM AND CONTROL ACT OF 1985

Mr. RODINO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 412) to make a correction in the enrollment of the bill S. 1200.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr LUNGREN. Mr. Speaker, reserving the right to object. I reserve the right to object to give the gentleman from New Jersey [Mr. RODINO] an opportunity to explain what I believe is a technical request that he has made.

Under my reservation, I yield to the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I merely want to advise the gentleman that the purpose of the concurrent resolution is to make a correction in the enrollment to reflect a House provision which was agreed to in conference, but which the staff inadvertently omitted in the filing of the conference report, a technical error.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for his explanation, and I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, as I understand it, this is just a technical correction to take care of a staff error.

Mr. LUNGREN. Staff error. That is correct, and I have been assured that is the case.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. GONZALEZ. Mr. Speaker, reserving the right to object, and I do not think I will, but could the gentleman from New Jersey [Mr. RODINO] tell us what this has reference to? What is the subject matter of that which was omitted?

I yield to the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, it was an omission, a technical omission that was inadvertently left out when the legislative people put together the conference report which we have presented to them.

Mr. GONZALEZ. Nothing of substance?

Mr. RODINO. Well, the whole bill is of substance, but this was left out inadvertently as a technical error.

Mr. GONZALES. Well, that is what I mean; the nature of the technical amendment is really not substantial, or is it?

Mr. RODINO. Well, the amendment itself may be a portion of the bill which, when read together of course could be substantial, because it forms a part of the bill. But it was a matter that had been agreed to; and that as a result of the filing of the conference report, the legislative counsel, in filing it, left out this language.

Mr. GONZALEZ. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

□ 1715

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 738, CONTINUING APPROPRIATIONS, 1987

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 738) making continuing appropriations for the fiscal year 1987, and for other purposes:

CONFERENCE REPORT (H. REPT. 99-1005)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.J. Res. 738) "making continuing appropriations for the fiscal year 1987, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 61, 62, 63, 64, 65, 66, 67, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 95, 97, 98, 99, 100, 102, 103, 104, 105, 106, 107, 110, 111, 112, 115, 116, 121, 123, and 125.

That the House recede from its disagreement to the amendments of the Senate numbered 13, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 52, 55, 57, 58, 118, and 126, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(a) Such amounts as may be necessary for programs, projects or activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

An Act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including not to exceed $75,000 for employment under 5 U.S.C. 3109, $1,623,000: Provided, That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $455,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $48,728,000: Provided, That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of the Washington, D.C. Agriculture building complex pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $18,039,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,308,000: Provided, That no other funds in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $3,611,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $17,616,000; making a total of $21,227,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, re-

pairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: Provided, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

WORKING CAPITAL FUND

An amount of $5,708,000 is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $318,000.

OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,293,000, of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: Provided, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

For necessary expenses for liaison with the Congress on legislative matters, $465,000.

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $440,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $44,461,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95–452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $75,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and Section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $17,131,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $448,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $43,982,000; of which not less than $200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: Provided, That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: Provided further, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): Provided further, That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $56,787,000: Provided, That, hereafter, no funds available to the Department of Agriculture shall be available to publish estimates of apple production for other than the commercial crop: Provided further, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,608,000: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $350,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; $497,664,000: Provided, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: Provided further, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: Provided further, That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: Provided further, That of the appropriations hereunder not less than $10,526,600 shall be available to conduct marketing research: Provided further, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $150,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $275,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $150,000 whichever is greater: Provided further, That the limitations on alterations contained in this Act shall not apply to a total of $250,000 for facilities at Beltsville, Maryland: Provided further, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): Provided further, That the limitation on purchase of land shall not apply to the purchase of land at Fresno, California, or to an option to purchase land at Florence, South Carolina, for a term of not to exceed one year: Provided further, That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives: Provided further, That this appropriation

shall be available for transfer of all necessary equipment and germplasm to fully equip the National Small Grains Germplasm Facility in Aberdeen, Idaho.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,000,000.

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $37,400,000: Provided, That these funds may be transferred to such other accounts in this Act as may be appropriate to carry out these purposes: Provided further, That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $148,792,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $12,412,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $22,320,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $28,037,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $40,651,000 for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $20,368,000 for grants for research and for construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $9,508,000 for grants to upgrade 1890 land-grant college research facilities as authorized by section 1433 of Public Law 97-98, as amended, to remain available until expended; $4,754,000 for higher education strengthening grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,000,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977; $2,000,000 for grants as authorized by section 1411 of Public Law 99-198, to remain available until expended; and $2,630,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $300,573,000.

EXTENSION SERVICE

(INCLUDING TRANSFERS OF FUNDS)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $229,713,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $57,635,000, of which $38,627,000 shall be derived by transfer from the appropriation "Food Stamp Program" and merged with this appropriation; payments for the urban gardening program under section 3(d) of the Act, $3,329,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; payments for a financial management assistance program under section 3(d) of the Act and section 1440 of Public Law 99-198, $3,277,000; payments for an integrated reproductive management program under section 3(d) of the Act, $47,000; payments for the rural development centers under section 3(d) of the Act, $689,000; payments for extension work under section 209(c) of Public Law 93-471, $935,000; payments for carrying out the provisions of the Renewable Resource Extension Act of 1978, $2,378,000; for special grants for financially stressed farmers and dislocated farmers as authorized by section 1440 of Public Law 99-198, $1,500,000; payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $16,877,000; in all, $326,147,000; of which not less than $79,400,000 is for Home Economics: Provided, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $6,025,000; of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $10,936,000: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That not to exceed $575,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $327,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, $300,967,000; of which $10,000,000 shall be available for the control of outbreaks of insects, plant diseases and animal diseases to the extent necessary to meet emergency conditions: Provided, That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: Provided further, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: Provided further, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: Provided further, That, in addition, in emergencies

which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious diseases or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $2,246,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $361,400,000: Provided, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $6,697,000: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: Provided further, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require, nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICE EXPENSES

Not to exceed $36,829,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,469,000; of which $99,000 shall be available for a field office in Hawaii: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $30,945,000; of which not less than $1,501,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $28,164,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $7,147,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,340,000: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $8,945,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $473,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202 and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended; sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $491,856,000, to be derived by transfer from the Commodity Credit Corporation fund: Provided, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: Provided further, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $95,000: Provided, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $209,568,000: Provided, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $135,743,000.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), $16,808,806,000, and in addition $3,000,000,000 which shall be available only to the extent an official budget request is transmitted to the Congress, such funds to be available, together with other resources available to the Corporation, to finance the Corporation's programs and activities during fiscal year 1987: Provided, That of the foregoing amount, not to exceed the following amounts shall be available for the following programs: export guaranteed loan claims, $683,350,000; conservation reserve program, $700,000,000; export enhancement program, $667,000,000; Federal crop insurance program, $375,000,000; targeted export assistance program, $325,000,000; storage facility loan program under section 4(h) of the Commodity Credit Corporation Charter Act, $100,000,000; and interest payments to the United States Treasury, $1,932,000,000.

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $6,027,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager who shall work to expand and strengthen sales of United States commodities (including those of the Corporation) in world markets pursuant to existing authority (including that contained in the Corporation's charter), and that such funds shall be used by the General Sales Manager to carry out the above activities. The General Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $394,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $2,033,093,000, of which not less than $2,032,519,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718).

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $160,310,000 to be added to and merged with the authority provided for this purpose in prior fiscal years: Provided, That of this amount, not to exceed $28,413,000 is available for additional units financed by section 515 of the Housing Act of 1949, as amended, and not less than $5,082,000 is for additional units financed under sections 514 and 516 of the Housing Act of 1949: Provided further, That agreements entered into or renewed during fiscal year 1987 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: Provided further, That agreements entered into or renewed during fiscal years 1984, 1985, and 1986, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $2,247,000 as authorized by section 521(c) of the Act, $2,296,283,000. For an additional amount as authorized by section 521(c) of the Act such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $400,000,000 of which $325,000,000 shall be guaranteed loans; $14,000,000 for water development, use, and conservation loans of which $3,000,000 shall be guaranteed loans; operating loans, $3,595,000,000 of which $2,170,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; and for emergency insured and guaranteed loans, $695,000,000 to meet the needs resulting from natural disasters.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,723,403,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: insured water and sewer facility loans, $330,380,000; guaranteed industrial development loans, $95,700,000; and insured community facility loans, $95,700,000.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Con-

solidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $656,645,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $713,000.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490h); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which Farmers Home Administration has the responsibility for administering, $386,867,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(e) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: Provided, That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: Provided further, That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: Provided further, That not to exceed $2,047,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: Provided further, That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: Provided further, That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: Provided, That loans made pursuant to section 306 of that Act are in addition to these amounts but during 1987 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: Provided further, That as a condition of approval of insured electric loans during fiscal year 1987, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: Provided further, That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $20,000,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,591,000.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1987, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $29,447,000.

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $363,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $367,043,000 of which not less than $4,870,000 is for snow survey and water forecasting and not less than $4,408,000 is for operation and establishment of the plant materials centers: Provided, That of the foregoing amounts not less than $293,400,000 is for personnel compensation and benefits: Provided further, That the cost of any permanent building, purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a

cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: Provided further, That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: Provided further, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: Provided further, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: Provided further, That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas into a single national technical center.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $11,819,000: Provided, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008), $8,480,000: Provided, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $165,885,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): Provided, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $4,755,000 shall be available for emergency measures as provided by sections 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203–2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That $7,949,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): Provided further, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $25,020,000: Provided, That $1,207,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): Provided further, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q), and sections 1001–1004, 1006–1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501–1504, 1506–1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $176,935,000, to remain available until expended for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: Provided, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: Provided further, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: Provided further, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: Provided further, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: Provided further, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: Provided further, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $11,891,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301–1311), $8,371,000, to remain available until expended.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and

the Republic of Mexico, $3,804,000, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: Provided, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: Provided further, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $330,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1761, 1766 and 1769b) and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788-1789); $4,233,617,000, to remain available through September 30, 1988, of which $937,680,000 is hereby appropriated and $3,295,937,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): Provided, That, of funds provided herein, $775,281,000 shall be available only to the extent an official budget request is transmitted to the Congress: Provided further, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: Provided further, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: Provided further, That if the funds available for nutrition education and training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be $50,000: Provided further, That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL MILK PROGRAM

For necessary expenses, to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $14,869,000, to remain available through September 30, 1988: Provided, That only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $1,663,497,000, to remain available through September 30, 1988: Provided, That none of the funds provided herein shall be used to issue interim or final regulations before May 1, 1987, to modify the formula used during fiscal year 1986 to divide funds among State agencies under section 17(i) of such Act to carry out such program, or to implement such regulations before October 1, 1987.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $2,950,000 for the projects in Detroit, New Orleans, and Des Moines, $41,497,000: Provided, That funds provided herein shall remain available through September 30, 1988: Provided further, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2029), $12,684,665,000: Provided, That funds provided herein shall remain available through September 30, 1987, in accordance with section 18(a) of the Food Stamp Act: Provided further, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: Provided further, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: Provided further, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: Provided further, That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: Provided further, That $852,750,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028.

food donations programs for selected groups

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)) and section 4(b) of the Food Stamp Act (7 U.S.C. 2013), $193,589,000.

temporary emergency food assistance program

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: Provided, That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $82,578,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification and prosecution of fraud and other violations of law: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $6,876,000: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $81,109,000: Provided, That not less than $255,000 of this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by

other countries to move farm commodities in world trade on a competitive basis.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $834,727,000, of which $454,727,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales and carryover balances, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $628,344,000, of which $628,344,000 is hereby appropriated: Provided, That not to exceed 15 per centum of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $5,035,000; and the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS

(FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704 (b)(1), (3)), $2,500,000: Provided, That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: Provided further, That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: Provided further, That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $411,803,000: Provided, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: Provided further, That of the sums provided herein, not to exceed $1,000,000 shall remain available until expended, and shall become available only to the extent necessary to meet unanticipated costs of emergency activities not provided for in budget estimates and after maximum absorption of such costs within the remainder of the account has been achieved.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $1,879,000.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $24,627,000: Provided, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for Rental Payments (FDA) to or from this account.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $29,761,000; including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $39,420,000 (from assessments collected from farm credit system banks) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249.

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1987 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed seven hundred thirty-four (734) passenger motor vehicles, of which seven hundred twenty-six (726) shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances as authorized by law (5 U.S.C. 5901-5902).

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, July 28, 1954, and September 6, 1958 (7 U.S.C. 427, 1621-1629; 42 U.S.C. 1891-1893), shall be available for contracting in accordance with said Acts.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marihuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: Provided, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, Buildings and Facilities; Agricultural Stabilization and Conservation Service Salaries and Expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Rural Housing for Domestic Farm Labor; Agricultural Research Service, Buildings and Facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $5,000,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C. 3152(a)(3)(B)); and Buildings and Facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and inter-

mittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

Sec. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 620. During fiscal year 1987, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act.

SEC. 622. In fiscal year 1987, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this or any other Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. All funds appropriated for this fiscal year and all funds appropriated hereafter by this or any other Act that are determined to be part of the "extramural budget" of the Department of Agriculture for any fiscal year for purposes of meeting the requirements of section 9 of the Small Business Act (15 U.S.C. 638), as amended by the Small Business Innovation Development Act of 1982, Public Law 97-219, shall be available for contracts, grants or cooperative agreements with small business concerns for any purpose in furtherance of the small business innovation research program. Such funds may be transferred for such purpose from one appropriation to another or to a single account.

SEC. 631. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: Provided, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: Provided further, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: Provided further, That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 632. Unless otherwise provided in this Act, none of the funds appropriated in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 633. (A) Disaster Assistance to meet needs resulting from drought in the southeastern states, floods and excessive moisture in Michigan and Oklahoma and other natural disasters in such other states as may be determined by the President.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount, for emergency measures under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000 to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For an additional amount, for necessary expenses to carry out the program authorized under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000 to remain available until expended.

EMERGENCY ASSISTANCE TO AGRICULTURAL PRODUCERS

As authorized by existing law, and within the funding levels provided by this Act, for disasters occurring in 1986, the Secretary of Agriculture shall, in the case of any farmer or rancher suffering a major loss from such disaster, direct the Administrator of the Farmers Home Administration to, under such rules and regulations as the Secretary may determine as long as the objective of enabling farmers to stay in business is carried out:

(1) Refinance existing debt at the lowest allowable interest rate and such term as will give the borrower a reasonable chance to repay;

(2) Provide loans for financing 1987 crop production;

(3) Stretch out loan payments over a period of years, and base such payments on regaining our normal fair share of world markets; and

(4) Coordinate disaster assistance programs with the Administrator of the Small Business Administration to assure that all individuals affected by natural disasters are provided with the appropriate financial assistance.

(B) Within the funds made available by this section, the Secretary of Agriculture shall:

(a)(1) As soon as practicable, but not later than forty-five days after the date of application by an eligible producer, make available to eligible producers for losses of pro-

duction due to drought, excessive heat, floods, hail or excessive moisture in 1986 payments determined in accordance with this subsection.

(2) An eligible producer shall be a producer of the 1986 crop of wheat, feed grains, upland cotton, rice, soybeans, sugar beets, sugar cane or peanuts who—

(A) is eligible to receive price support under section 107D, 105C, 103A, 101A, 201 or 108B of the Agricultural Act of 1949 (7 U.S.C. 1445b-3, 1444e, 1444-1, 1446, or 1445c-2); and

(B) is in a county in which producers are eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as the result of drought, excessive heat, floods, hail or excessive moisture which occurred in 1986.

(3) Payments made available to each eligible producer shall not exceed $100,000 for all crops (without regard to other limitations in farm program payments) and shall be determined for each crop of such commodities by multiplying—

(A) the payment rate; by

(B) the loss of production of the eligible producer.

(4)(A) Except for sugar beets and sugar cane, the payment rate shall be equal to the level of price support established for the crop of the commodity for the farm.

(B) For purposes of determining the payment rate for sugar beets and sugar cane, the Secretary shall establish a payment rate which is fair and reasonable in relation to the level of price support which is established for the 1986 crop of sugar beets and sugar cane.

(5)(A) The loss of production of the eligible producer shall be the quantity of wheat, feed grains, cotton, rice, soybeans, sugar beets and sugar cane or peanuts that eligible producers on a farm are unable to harvest due to reduced yields or are prevented from planting to such commodity or other nonconserving crops due to drought, excessive heat, floods, hail or excessive moisture in 1986. Such loss of production of the eligible producer for each such crop shall be the difference between—

(i) The result determined by multiplying (I) 50 per centum of the farm program payment yield established for the crop of the commodity, by (II) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary; and

(ii) The actual production on the farm of such crop of the commodity if such quantity is less than the quantity determined in accordance with clause (i).

(B) The sum of the acreage determined in accordance with paragraph (5)(A)(i)(II) shall not exceed—

(i) with respect to wheat, feed grains, upland cotton, or rice, the 1986 permitted acreage determined for such crop of the commodity; and

(ii) with respect to soybeans, peanuts, sugar beets and sugar cane, the acreage so affected but not to exceed the acreage planted in the immediately preceding year to soybeans or peanuts, respectively, for harvest including any acreage that the producer was prevented from planting to such commodity or to other nonconserving crops in lieu of soybeans or peanuts because of drought, excessive moisture, flood, hail, or other natural disaster, or other condition beyond the control of the producer.

(6) Payments determined in accordance with paragraph (3) with respect to any producer with crop insurance shall be reduced to the extent the amount determined by adding the total amount of crop insurance indemnity payments (gross indemnity less premium paid) received by the producer for the loss of production of each crop of such commodities on the farm and the payment determined in accordance with paragraphs (3) through (5) exceeds the amount determined by multiplying—

(A)(i) the quantity determined by multiplying 100 percent of the farm program payment yield established for each crop of such commodities by (ii) the sum of the acreage of each such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary (the total not to exceed the quantity determined in accordance with subparagraph (5)(B)); by

(B) the payment rate for each crop of the commodity.

(7) The total amount of payments made under paragraph (3) to producers on a farm with respect to each crop of such commodities and the total amount of price support loans and purchases (and program benefits for sugar beets and sugar cane) made with respect to such crop on such farm may not exceed the amount determined by multiplying—

(A) The farm program payment yield for the crop of the commodity; by

(B) The sum of (i) the acreage of the crop of the commodity planted for harvest and (ii) the acreage for which prevented planted credit is approved by the Secretary, but for each such crop such sum shall not exceed the quantity determined in accordance with subparagraph (5)(B); by

(C) The payment rate for each crop of the commodity.

(8)(A) For purposes of determining the farm program payment yield, the Secretary shall use the 1986 farm program payment yield established for the crop of the commodity or, if such data is not available, a yield determined by the Secretary to be fair and equitable.

(B) Notwithstanding any other provision of this subsection—

(i) a loss of production of quota peanuts from a farm as otherwise determined under paragraph (5) shall be reduced by the quantity of peanut poundage quota which was the basis of such anticipated production which has been transferred from the farm; and

(ii) payments made under this subsection shall be taken into account whether the lost production for which the loss of production is claimed was a loss of production of quota or additional peanuts and the payment rate shall be established accordingly. Further, notwithstanding any other provision of law, the amount of undermarketings of quota peanuts from a farm for the 1986 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 for purposes of future quota increases shall be reduced by the quantity of lost production of such peanuts for which payment has been received under this subsection.

(9) The disaster payments required by this section shall be made in the form of generic, negotiable commodity certificates redeemable from stocks of commodities held by the Commodity Credit Corporation.

(b)(1) notwithstanding any other provision of this section for the 1986 crop year, the Secretary of Agriculture shall utilize certificates redeemable from stocks of commodities held by the Commodity Credit Corporation, for the purpose of making disaster payments to producers of nonprogram crops, in counties in which producers became eligible subsequent to July 1, 1986, to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as the result of drought, excessive heat, flood, hail, or excessive moisture, and

(2) the Secretary of Agriculture shall make such payments (not to exceed $100,000 to any individual producer) if the Secretary determines that—

(A) the producer has suffered a substantial loss of production due to drought, excessive heat, flood, hail, or excessive moisture, and

(B) such loss has created an economic emergency for the producer to the extent that additional assistance must be made available to alleviate such economic emergency, and

(c) Within 30 days following the enactment of this Act the Secretary of Agriculture shall issue such rules and regulations as the Secretary determines necessary to carry out the program authorized by subsections (a) and (b) of this section. Such regulations shall provide that the term "nonprogram crops" shall include all crops insured directly or indirectly by the Federal Crop Insurance Corporation for crop year 1986, and in addition—

(1) the term shall include other commercial crops for which such insurance was not available for purchase or, if available, was not purchased by such by producers for crop year 1986, if—

(A) in accordance with rules and regulations issued by the Secretary of Agriculture, the producer of such crop(s) provides satisfactory evidence of actual crop yield for at least one of the immediately preceding 3 crop years: Provided, That in the event such data does not exist for any of the three preceding crop years the Secretary shall use county average crop yield data; and

(B) that the producer of such crop(s) also provides satisfactory evidence of 1986 crop year losses resulting from dought, excessive heat, flood, excessive moisture, or hail exceeding 50 per centum of the crop yield established in subparagraph (A) of this paragraph, and

(2) that payments made available to producers of such crops shall be based upon the average market prices received by producers of such crops, as determined by the Secretary.

(d)(1) The Secretary shall carry out the program authorized by this proviso through the Commodity Credit Corporation.

(2) Applications for payments made in accordance with this proviso must be filed by January 31, 1987.

(3) Payments made by the Secretary of Agriculture to eligible producers under this section shall be made as soon as practicable but not later than 45 days following the producer's application.

(e)(1) The Secretary of Agriculture shall reduce the amount of funds available for emergency insured and guaranteed loans to meet the needs resulting from natural disasters from funds in the Agricultural Credit Insurance Fund by $400,000,000.

(2) For purposes of making payments in accordance with this proviso, there is transferred to the Commodity Credit Corporation $400,000,000 from funds in the Agricultural Credit Insurance Fund.

SEC. 634. Notwithstanding any other provision of law, including section 502(c)(2) of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), none of the funds appropriated under this or any other Act shall be used prior to June 30, 1987 to accept prepayment of any

loan made under section 515 of the Housing Act of 1949, unless such loan was made at least twenty years prior to the date of prepayment or, for loans made before December 21, 1979, the Secretary makes a determination that a supply of adequate, comparable housing is available in the community, or that prepayment of such loans will not result in a substantial increase in rents to tenants in residence upon date of prepayment or displacement of such tenants.

SEC. 635. The Secretary of Agriculture may transfer surplus agricultural commodities from inventory to the Department of Defense for use in complementing support provided by the Department of Defense to the Tenth International Pan American Games to be held in Indianapolis, Indiana.

SEC. 636. The Food Security Act of 1985 is amended by inserting at the end thereof the following new sentence: "Effective for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person solely on the ground that a family member cosigns for, or makes a loan to, such person and leases, loans, or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985.".

SEC. 637. Section 106A(d)(1)(A) of the Agricultural Act of 1949 is amended by—

(1) striking out the parenthetical phrase in clause (i);

(2) inserting "and" at the end of clause (i);

(3) striking out clause (ii); and,

(4) redesignating clause (iii) as clause (ii).

SEC. 638. (a) Clause (B) of the last sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking out "for the excess shelter expense deduction contained in clause (2)" and inserting in lieu thereof "contained in clause (1)".

(b)(1) Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall become effective 30 days after the date of enactment of this Act.

(2) Except as provided in paragraph (3), the amendment made by subsection (a) shall not apply to an allotment issued to any eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) for any month beginning before the effective date of this subsection.

(3) If a State elected before the date of enactment of this Act to compute household income in accordance with section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) (as amended by subsection (a)), the amendment made by subsection (a) shall become effective on May 1, 1986.

SEC. 639. Section 108B(4)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445c-2(4)(A)) is amended by inserting after "additional peanuts" the following: "(other than net gain on additional peanuts in separate type pools established under paragraph (3)(B)(i) for Valencia peanuts produced in New Mexico)".

SEC. 640. Section 623B(b)(2) of the Community Economic Development Act of 1981 is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, any Utah or Ohio local public body to which a loan was made after December 31, 1982, from the Rural Development Loan Fund may, at the discretion of such local public body and with the approval of the Secretary of Health and Human Services, transfer such loan to a nonprofit corporation designated by such body to serve as an intermediate borrower and to carry out the purposes of the loan."

SEC. 641. (a) Section 1323(a)(1) of the Food Security Act of 1985 is amended by striking out "September 30, 1986," and inserting in lieu thereof "September 30, 1987,", and

(b) Section 1323(a) is further amended by adding at the end thereof a new subsection—

"(5) Notwithstanding any provision to the contrary of subsection (4) above, the $20,000,000 which was available pursuant to subsection (4) shall continue to be available and shall be used by the Secretary prior to September 30, 1987, to guarantee loans for the national rural development and finance program and shall remain available until expended.".

and,

(c) Section 1323(b)(1) of such Act is amended by striking out "September 30, 1986," and inserting in lieu thereof "September 30, 1987,", and inserting the words "made or to be" after the word "guarantees". Provided further, That such grant funds may be used by such corporation to provide technical assistance and financial assistance, including capitalizing revolving loan programs, pursuant to the Act.

SEC. 642. During fiscal year 1987, the Commodity Credit Corporation shall use $500,000 worth of surplus agricultural commodities owned by the Corporation in establishing and carrying out a research and development program on external combustion engines under section 4(m) of the Commodity Credit Corporation Charter Act. In addition to any sales required under any other Act, the Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than $500,000.

SEC. 643. Section 1231 of the Food Security Act of 1985 is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this subtitle, alfalfa and other multi-year grasses and legumes in a rotation practice, as approved by the Secretary, shall be considered agricultural commodities.".

SEC. 644. Paragraph (16) of section 103(h) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended to read as follows:

"(16)(A) Notwithstanding any other provision of law, except as provided in subparagraph (B), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans or payments under this subsection.

"(B) In the case of each of the 1989 and 1990 crops of extra long staple cotton, the Secretary may require that, as a condition of eligibility of producers for loans or payments under this subsection, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base established for the farm for that commodity.

"(C) Notwithstanding any other provision of law, in the case of each of the 1987 and 1988 crops of extra long staple cotton, compliance with the terms and conditions of the program authorized by this subsection may not be required as a condition of eligibility for loans, purchases, or payments under any other commodity program.".

SEC. 645. The fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) (as amended by section 3 of Public Law 99-253 (100 Stat. 36)) is amended—

(1) by inserting after the third sentence the following new sentence: "Notwithstanding the preceding sentence, there may be 1 local administrative area in any county for which there had been established less than 3 local administrative areas as of December 23, 1985."; and

(2) in the sixth sentence (as it existed before the amendment made by paragraph (1)), by striking out ": Provided," and all that follows through the period and inserting in lieu thereof a period.

SEC. 646. (1) It is the sense of the Senate that the Secretary of Agriculture should make available not less than $10,000,000 worth of flour and cornmeal using the wheat and cornstocks of the Commodity Credit Corporation. Such flour and cornmeal shall be in addition to the traditional level of assistance made available under section 1114 of the Agriculture and Food Act of 1981, section 416(a) of the Agricultural Act of 1949, section 4 of the Agriculture and Consumer Protection Act of 1973, and any other provision of law administered by the Secretary.

(2)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's and cooperatives and to governments a total of at least 500,000 metric tons of wheat, 500,000 metric tons of soybeans, and 50 million pounds of dairy products under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949, notwithstanding paragraph (11)(c) of section 416(b) of such Act.

(b) Commodities made available under this section during any fiscal year shall be—

(1) subject to the agreement of recipient nations—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the 3 preceding years.

(B) to permit the sale of commodities furnished under this section in the recipient nation and to use the local currency generated from such sales—

(i) by PVO's and cooperatives to carry out approved programs of assistance in the recipient nation;

(ii) to operate lending programs in the manner provided for in section 108 of Public Law 480; and

(iii) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, during the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under this paragraph if they are used to pay expenses of the United States in the recipient nation.

(2) No greater than such amounts as is requested by recipient nations.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of these fiscal years.

(d) It is the sense of Congress that commodities provided for in this subsection be made available to PVO's and cooperatives operating in the Republic of the Philippines, and the government of the Philippines.

(3)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to the friendly countries, under paragraph (b)(11)(A) of section

416 of the Agricultural Act of 1949, at least 500,000 metric tons of wheat and 45 million pounds of dairy products, notwithstanding paragraph (11)(c) of section 416(b) of such Act.

(b) Commodities made available to a nation under this section during any fiscal year shall be—

(1) subject to the agreement of the Nation—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years.

(B) to sell any commodities furnished under this section within the nation and to use the local currencies generated from such sales to (i) establish and carry out lending programs in such nations in the manner provided for in section 108 of the Agricultural Trade Development and Assistance Act of 1954 and (ii) reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient Nation.

(2) No greater than such amounts as is requested by such governments.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

(d) For purposes of this section, the term "friendly countries" shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954.

(e) It is the sense of Congress that commodities provided for in this subsection be made available to the Philippines and friendly countries of Africa.

(4)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's cooperatives and governments, 460,000 metric tons of wheat, 137 million pounds of dairy products, and 180,000 metric tons of soybeans; under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949, notwithstanding paragraph (11)(C) of section 416(b) of such Act.

(b) Commodities made available to a nation, or PVO's and cooperatives operating in such nation, under this section during any fiscal year shall be—

(1) subject to the agreement of the nation—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years;

(B) to permit the sale of commodities furnished under this section within the nation and to use the local currencies generated from such sales (i) by PVO's and cooperatives to carry out approved programs of assistance in the country and (ii) to operate lending programs in the manner provided for in section 108 of Public Law 480; and

(C) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient nation.

(2) No greater than such amounts as is requested by such government.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

(d) For purposes of this section, the term "friendly countries" shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954.

(e) It is the sense of Congress that of the commodities made available under this subsection—

(1) 400,000 metric tons of wheat, 80 million pounds of dairy products and 180,000 metric tons of soybeans be made available to Nigeria;

(2) 1 million metric tons of wheat be made available to friendly countries in Africa, other than Nigeria;

(3) 30,000 metric tons of soybeans, and 50 million pounds of dairy products be made available to India; and

(4) 60,000 metric tons of wheat and 7 million pounds of dairy products be made available to Bangladesh.

This Act may be cited as the "Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987".

And the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(b) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes

TITLE I—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $36,300,000.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $90,780,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $172,000,000, to remain available until expended.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, $30,000,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $180,443,000 of which $250,000 shall be obligated for the Center for International Trade Development at Oklahoma State University: Provided, That during fiscal year 1987 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: Provided further, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: Provided further, That notwithstanding any provision of title I of the Local Public Works Capital Development and Investment Act of 1976, as amended (Public Law 94-369), or any other provision of law to the contrary, any funds authorized and appropriated under title I of such Act, as amended, in any fiscal year for projects in New York, New York, but obligated as of December 19, 1985 and not disbursed, shall remain available for obligation and expenditure through March 31, 1988 for any authorized project in New York, New York, until title I of such Act, as amended, or for any project in New York, New York, determined to be eligible under title I of the Public Works and Economic Development Act of 1965, as amended, if the total amount of such funds is not finally determined by October 15, 1986: Provided further, That notwithstanding any other provision of law or a contract to the contrary, the SEDA-COG Joint Rail Authority, Lewisburg, Pennsylvania, may sell any portion of the real property that was acquired in part with proceeds of a grant from the Economic Development Administration (grant number 01-19-02563) and may retain all of the proceeds of any such sale so long as the proceeds are used for purposes which meet the criteria of and are approved by the Economic Development Administration: Provided further, That notwithstanding any other provision of law or regulation, including title I of the Public Works and Economic Development Act of 1965, as amended, and OMB Circular A-102 Attachment N, the Administrator of the Economic Development Administration is hereby directed to release, without any further requirement or delay, the funds previously appropriated in Public Law 99-190 to Lexington County, South Carolina, as a direct grant: Provided further, That in addition to funds made available pursuant to Public Law 99-190 for infrastructure projects and economic development activities at the site of the General Motors plant in the city of South Gate, California, such amounts as may be necessary shall be available for this purpose such that the total amount of funds available shall not exceed $431,012: Provided further, That in addition to funds made available pursuant to Public Law 99-190 for infrastructure projects and related economic development activities at the Jasper Industrial Park in Jasper, Alabama, such amounts as may be necessary

shall be available for this purpose such that the total amount of funds available shall not exceed $470,224.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $25,000,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1987.

REGIONAL DEVELOPMENT PROGRAM

REGIONAL DEVELOPMENT PROGRAMS

(RESCISSION)

Of the funds available for Regional Development Program, "Regional Development Programs", $1,576,000 are rescinded.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

(INCLUDING RESCISSION)

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $253,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $197,500,000, to remain available until expended, of which $6,785,000 is for the Office of Textiles and Apparels, including $3,349,000 for a grant to the Tailored Clothing Technology Corporation and, of which $3,500,000 is for a grant for support costs for a new materials center in Ames, Iowa: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: Provided further, That none of the funds appropriated herein may be used for activities associated with conferences, trade shows, expositions, and/or seminars which feature or convey the advantages of relocating U.S. industries, manufacturing and/or assembly plants, or companies, in a foreign country.

Of available funds under this head provided for direct loans in Public Law 98-411 and Public Law 99-180, $8,100,000 are rescinded.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,675,000, of which $26,080,000 shall remain available until expended: Provided, That not to exceed $13,595,000 shall be available for program management for fiscal year 1987: Provided further, That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and carrying out the provisions of the 1981 Tourism Policy Act; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $8,000 for representation expenses abroad; $11,500,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $1,038,588,000, to remain available until expended, of which $27,500,000 shall be available only for commercialization of the land remote sensing satellite system subject to the approval of the House and Senate Committees on Appropriations pursuant to section 607 of this Act; and in addition, $29,000,000 shall be derived from the Airport and Airways Trust Fund; and in addition, $51,800,000 shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $9,673,000 shall be derived by transfer from the Coastal Energy Impact Fund; and in addition, $1,800,000 shall be derived by transfer from the Fisheries Loan Fund: Provided, That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: Provided further, That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to other Department of Commerce activities pursuant to ordinary interagency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $750,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $2,000,000, to remain available until expended.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $1,800,000 to be derived from the receipts collected pursuant to that Act, to remain available until expended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $98,000,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $122,000,000 to remain available until expended, of which not to exceed $2,144,000 may be transferred to the "Working Capital Fund".

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law of the National Telecommunications and Information Administration, $13,000,000 of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $20,500,000 to remain available until expended: Provided, That not to exceed $1,200,000 shall be available for program

management as authorized by section 391 of the Communications Act of 1934, as amended: Provided further, That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advance payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

This title may be cited as the "Department of Commerce Appropriation Act, 1987".

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $67,000,000: Provided, That none of the funds in this Act shall be used for positions for the Departmental Leadership offices of the Department of Justice in excess of 56.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,300,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $208,934,000, of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1988: Provided, That of the funds available in this appropriation, $1,537,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys and the Antitrust Division, to remain available until expended: Provided further, That of the funds appropriated to the Department of Justice in title II of this Act, not to exceed $1,000,000, may be transferred to this appropriation to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq., upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds contained in section 607 of this Act.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $43,000,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $320,000,000.

SALARIES AND EXPENSES, OVERSIGHT OF BANKRUPTCY CASES

For necessary expenses of the bankruptcy trustees, $11,500,000. Effective immediately before November 10, 1986, section 408(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687), is amended by striking out "November 10, 1986" and inserting in lieu thereof "September 30, 1987".

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $564,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft, $142,000,000.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $50,000,000; and in addition, $5,000,000 shall be available under the Cooperative Agreement Program until expended for the purposes of renovating, constructing, and equipping State and local correctional facilities: Provided, That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: Provided further, That following agreement on or completion of any Federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement: Provided further, That funds earmarked for the support of United States prisoners in non-Federal institutions in the Department of Justice Appropriations Acts, 1984 and 1985 that remain unobligated at the end of fiscal year 1986, are restored effective immediately before September 30, 1986, for the purpose of liquidating any 1986 obligations for that activity that cannot be funded from 1986 appropriations.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $52,187,000, to remain available until expended, of which not to exceed $1,350,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $29,637,000 of which $23,266,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: Provided, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed one thousand five hundred seventy-nine passenger motor vehicles of which one thousand four hundred fifty will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,260,000,000, of which not to exceed $10,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1988; of which $3,000,000 for research related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: Provided, That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the Federal Bureau of Investigation may es-

tablish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit not more than $15,500,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: Provided further, That not to exceed $45,000 shall be available for official reception and representation expenses: Provided further, That $13,800,000 for the expansion and renovation of the New York field office shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed five hundred seventy-five passenger motor vehicles of which four hundred eighty-nine are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $412,000,000 of which not to exceed $1,200,000 for research shall remain available until expended and not to exceed $1,700,000 for purchase of evidence and payments for information shall remain available until September 30, 1988: Provided, That $140,000 shall only be available for the establishment and operation of an office in Hilo, Hawaii: Provided further, That notwithstanding section 1345 of title 31, United States Code, funds made available to the Drug Enforcement Administration in any fiscal year may be used for travel, transportation, and subsistence expenses of State, county, and local law enforcement officers attending conferences, meetings, and training courses at the FBI Academy, Quantico, Virginia.

CONSTRUCTION

For necessary expenses of the Drug Enforcement Administration for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for an all source intelligence center, $7,500,000, to remain available until expended: Provided, That such funds shall be available for obligation upon submission by the Attorney General to the Committees on Appropriations no later than July 1, 1987, of a reprogramming request in accordance with section 607 of this Act which sets forth specific details for the use of such funds.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed four hundred ninety, all of which shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $593,000,000, of which not to exceed $400,000 for research shall remain available until expended: Provided, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That no funds appropriated in this Act may be used to implement Immigration and Naturalization Service reorganization proposals which would have the purpose of or would result in the closing of the Northern Regional Office of the Immigration and Naturalization Service at Fort Snelling, Minnesota: Provided further, That effective immediately before September 30, 1986, $3,385,000 made available for "Construction" for the Immigration and Naturalization Service in Public Law 99-88 shall be available for the Immigration and Naturalization Service, "Salaries and Expenses".

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed forty of which thirty are for replacement only) and hire of law enforcement and passenger motor vehicles; $598,807,000: Provided, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $9,000,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $122,511,000, to remain available until expended: Provided, That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of not to exceed five (for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,157,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $7,208,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act including salaries and expenses in connection therewith, $115,368,000 and of the unobligated funds previously appropriated for the Juvenile Justice and Delinquency Prevention Act, other than funds subject to provisions of sections 222(b), 223(d), and 228(e) of title II of such Act, $3,500,000 shall be made available for programs authorized under parts D and E of the Justice Assistance Act of 1984, all funds appropriated herein to remain available until expended; and for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $70,282,000 to remain available until expended. In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1986 through September 30, 1987, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: Provided, That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1987, a listing of names of such Mariel Cubans incarcerated in their respective facilities: Provided further, That the Attorney General, not later than April 1, 1987, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: Provided further, That the amount of reimbursements per prisoner per annum shall not exceed $12,000. Not to exceed $64,000,000 shall be obligated during fiscal year 1987 for victim compensation and assistance programs, notwithstanding section 1402, 1403, or 1404 of the Victims of Crime Act of 1984 (Public Law 98-473).

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law or this Act, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counter-intelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1987—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operation" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356) is amended by inserting after subsection (c) the following new subsections:

"(d) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Attorney General shall charge and collect $5 per individual for the immigration inspection of each passenger arriving at a port of entry in the United States, or for the preinspection of a passenger in a place outside of the United States prior to such arrival, aboard a commercial aircraft or commercial vessel.

"(e) LIMITATIONS ON FEES.—(1) No fee shall be charged under subsection (d) for immigration inspection or preinspection provided in connection with the arrival of any passenger whose journey originated in the following:

"(A) Canada,

"(B) Mexico,

"(C) a territory or possession of the United States, or

"(D) any adjacent island (within the meaning of section 101(b)(5) of this title).

"(2) No fee may be charged under subsection (d) with respect to the arrival of any passenger—

"(A) who is in transit to a destination outside the United States, and

"(B) for whom immigration inspection services are not provided.

"(f) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the United States shall—

"(A) collect from that individual the fee charged under subsection (d) at the time the document or ticket is issued; and

"(B) identify on that document or ticket the fee charged under subsection (d) as a Federal inspection fee.

"(2) If—

"(A) a document or ticket for transportation of a passenger into the United States is issued in a foreign country; and

"(B) the fee charged under subsection (d) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the United States and shall provide such passenger a receipt for the payment of such fee.

"(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Attorney General at any time before the date that is thirty-one days after the close of the calendar quarter in which the fees are collected. Regulations issued by the Attorney General under this subsection with respect to the collection of the fees charged under subsection (d) and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of the Internal Revenue Code of 1954, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

"(g) PROVISION OF IMMIGRATION INSPECTION AND PREINSPECTION SERVICES.—Notwithstanding section 1353(a) of this title, or any other provision of law, the immigration services required to be provided to passengers upon arrival in the United States on scheduled airline flights shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (d)) to airlines and airline passengers at:

"(1) immigration serviced airports, and

"(2) places located outside of the United States at which an immigration officer is stationed for the purpose of providing such immigration services.

"(h) DISPOSITION OF RECEIPTS.—(1)(A) All of the fees collected under subsection (d) shall be deposited in a separate account within the general fund of the Treasury of the United States. Such account shall be known as the 'Immigration User Fee Account.' At the end of each 2-year period, beginning with the creation of this account, the Attorney General, following a public rulemaking with opportunity for notice and comment, shall submit a report to the Congress concerning the status of the account, including any balances therein, and recommend any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two years equal, as closely as possible, the cost of providing these services.

"(B) Notwithstanding any other provisions of law, all fines, penalties, liquidated damages or expenses collected pursuant to sections 271 and 273 of this title shall be deposited in the 'Immigration User Fee Account.'

"(2)(A) The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and preinspection services for commercial aircraft or vessels and:

"(i) providing overtime immigration inspection services for commercial aircraft or vessels;

"(ii) administration of debt recovery, including the establishment and operation of a national collections office;

"(iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;

"(iv) detection of fraudulent documents used by passengers traveling to the United States;

"(v) providing detention and deportation services for excludable aliens arriving on commercial aircraft and vessels.

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(i) Notwithstanding any other provision of law, the Attorney General is authorized to receive reimbursement from the owner, operator, or agent of a private or commercial aircraft or vessel, or from any airport or seaport authority for expenses incurred by the Attorney General in providing immigration inspection services which are rendered at the request of such person or authority (including the salary and expenses of individuals employed by the Attorney General to provide such immigration inspection services). The Attorney General's authority to receive such reimbursement shall terminate immediately upon the provision for such services by appropriation.

"(j) REGULATIONS.—The Attorney General may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

"(k) ADVISORY COMMITTEE.—In accordance with the provisions of the Federal Advisory Committee Act, the Attorney General shall establish an advisory committee, whose membership shall consist of representatives from the airline and other transportation industries who may be subject to any fee or charge authorized by law or proposed by the Immigration and Naturalization Service for the purpose of covering expenses incurred by the Immigration and Naturalization Service. The advisory committee shall meet on a periodic basis and shall advise the Attorney General on issues related to the performance of the inspectional services of the Immigration and Naturalization Service. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Attorney General shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

"(l) EFFECTIVE DATES.—(1) The provisions of this section and the amendments made by this section, shall apply with respect to immigration inspection services rendered after November 30, 1986.

"(2) Fees may be charged under subsection (d) only with respect to immigration inspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1986.".

SEC. 206. Section 232 (8 U.S.C. 1222) is amended by striking "on board the vessel or at the airport" and all that follows through "as circumstances may require or justify," and inserting in lieu thereof "by the Attorney General", and section 233 (8 U.S.C. 1223) is repealed.

SEC. 207. Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(b)) is amended—

(1) in subsection (3) by striking the semicolon at the end thereof and inserting in lieu thereof "and an officially recognized or designated public employee member of a rescue squad or ambulance crew who was responding to a fire, rescue or police emergency;"; and

(2) in subsection (7) by striking all after the words "law enforcement officer" and inserting ", a firefighter, or rescue squad or ambulance crew.".

SEC. 208. (a) None of the funds appropriated or otherwise made available in this title may be available for the performance of any pre-inspection activities by the Immigration and Naturalization Service (1) at Shannon International Airport in Ireland or (2) at Gander Airport in Newfoundland.

(b) The General Accounting Office shall conduct a comprehensive analysis of the trial pre-inspection program conducted by the Immigration and Naturalization Service at Shannon International Airport from July 1, 1986 to October 31, 1986, and shall issue a report to Congress by April 30, 1987. The report shall include an evaluation of the economic impact on American airports and of whether pre-inspection is a cost-effective means of facilitating international air travel and enhancing law enforcement.

SEC. 209. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: Provided, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 210. The Director of the Federal Bureau of Investigation and the Administrator of the Drug Enforcement Administration shall not establish and collect fees to provide training to State and local law enforcement officers at the F.B.I. National Academy. Any fees collected for training of State and local law enforcement officers, which occurred at the National Academy on or after October 1, 1986, shall be reimbursed to the appropriate official or agency. In addition, the Director of the National Institute of Corrections shall not establish and collect fees to provide training to State and local officers which was not provided on a reimbursable basis prior to October 1, 1986.

This title may be cited as the "Department of Justice Appropriation Act, 1987".

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department

Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; not to exceed $4,000,000 for expenses necessary for the Inspector General of the Department of State, pursuant to the Inspector General Act of 1978; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; $1,527,000,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, $4,460,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), $440,000,000, of which $15,000,000 shall become available for expenditure on October 1, 1987, to remain available until expended: Provided, That the funds appropriated in this paragraph shall be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in House Report 99–669: Provided further, That balances of previous appropriations for "Acquisition, operation, and maintenance of buildings abroad" shall be transferred to and merged with this appropriation: Provided further, That up to $1,000,000 shall be available for transfer under the Economy Act to the Director of the National Bureau of Standards for the purpose of conducting an independent analysis of the new United States embassy office building being constructed in Moscow: Provided further, That a report including this analysis, an assessment of the current structure and recommendations and cost estimates for correcting any structural flaws or construction defects shall be transmitted by the Director of the National Bureau of Standards to the Speaker of the House of Representatives and the President of the Senate no later than April 15, 1987: Provided further, That beginning on February 1, 1987, the Secretary of State shall report every six months to the Speaker of the House of Representatives and the President of the Senate on any failures during the past six months by Soviet agencies to perform obligations to United States diplomats or United States missions to the Soviet Union and the actions undertaken by the Department of State to redress these failures.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service to be expended pursuant to the requirement of 31 U.S.C. 3526(e), $4,000,000.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $9,379,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $127,398,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $385,000,000, of which $130,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987: Provided, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, $29,400,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws, $5,460,000, to remain available until expended, of which not to exceed $200,000 may be expended for representation as authorized by law.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the United States and Mexico International Boundary and Water Commission, and to comply with laws applicable to the United States Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, $10,800,000: Provided, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): Provided further, That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: Provided further, That not to exceed $500,000 of the amount appropriated in this paragraph shall be available to reimburse the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For detailed plan preparation and construction of authorized projects, to remain available until expended, $3,900,000: Provided, That activities for the New River Project may be financed from these funds or from carry over balances under the heading, "International Boundary and Water Commission, United States and Mexico, Construction".

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $6,000 for representation, $3,700,000; for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, $10,800,000: Provided, That the United States share of such expenses may be advanced to the respective commissions.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For expenses, not otherwise provided for, to enable the United States to participate in programs of scientific and technological cooperation with Yugoslavia, $1,900,000, to remain available until expended.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $8,800,000, to remain available until expended.

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, $4,600,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger or freight transportation.

SEC. 302. The Secretary of State shall report to the appropriate Committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every thirty days from the date of enactment of this Act.

This title may be cited as the "Department of State Appropriation Act, 1987".

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not to exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $14,600,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); $2,279,000, of which $375,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, $6,800,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $7,000,000: Provided, That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and all necessary expenses of the courts, including the purchase of firearms and ammunition, $929,500,000, of which not to exceed $160,000,000 shall be available for payment of charges for space and facilities: Provided, That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; $68,378,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; $44,635,000, to remain available until expended: Provided, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; $36,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, $29,500,000, of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $9,600,000.

BICENTENNIAL EXPENSES, THE JUDICIARY

BICENTENNIAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses to be incurred by the Judiciary for the observance of the Bicentennial of the Constitution of the United States, $1,000,000, to remain available until expended. Funds appropriated under this heading in The Judiciary Appropriation Act, 1976, shall also be available for this purpose.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $5,800,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Administrator of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1987.

SEC. 405. Such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

SEC. 406. Pursuant to section 140 of Public Law 97-92, during fiscal year 1987, justices and judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305).

SEC. 407. (a) Section 1914(a) of title 28, United States Code, is amended by striking out "$60" and inserting in lieu thereof "$120".

(b) Section 1930(a)(1) of title 28, United States Code, is amended by striking out "$60" and inserting in lieu thereof "$90".

(c) Chapter 123 of title 28, United States Code, is amended by adding at the end thereof the following:

"§ 1931. Disposition of filing fees

"The following portion of moneys paid to the clerk of court as filing fees under this chapter shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the courts of the United States as provided in annual appropriation Acts:

"Under section 1914(a), $60.".

(d) The table of section headings preceding chapter 123 of title 28, United States Code, is amended by adding at the end thereof the following:

"1931. Disposition of filing fees.".

This title may be cited as "The Judiciary Appropriation Act, 1987".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES
(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $320,000,000, to remain available until expended.

RESEARCH AND DEVELOPMENT

For necessary expenses for research and development activities, as authorized by law, $3,500,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $64,000,000, to remain available until expended: Provided, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program.

GENERAL PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: Provided, That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $48,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $29,000,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $140,000,000, of which not to exceed $52,000 may be made available for official reception and representation expenses, and of which $15,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission, $220,000, to remain available until November 15, 1992.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $13,200,000, to remain available until expended, of which $3,700,000 is for carrying out the provisions of Public Law 99-194, including $2,700,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $1,000,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $7,500,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: Provided, That not to exceed $20,000 may be used to employ consultants: Provided further, That not to exceed $185,000 may be used to employ temporary or special needs appointees: Provided further, That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service, exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: Provided further, That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: Provided further, That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $526,000 to remain available until expended: Provided, That not to exceed $6,000 of such amount shall be available for official reception and representation expenses.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $165,000,000.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $700,000 for land and structures; not to exceed $200,000 for improvement and care of grounds and repair to buildings; not to exceed $3,000 for official reception and representation expenses; purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $95,000,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1988, for research and policy studies: Provided, That notwithstanding any other provision of law, the Federal Communications Commission, during fiscal year 1987, may recover the costs incurred to assess and collect charges authorized by section 5002 of Public Law 99-272 from receipts generated by such charges: Provided further, That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): Provided further, That funds appropriated to the Federal Communications Commission by this Act shall be used to consider alternative means of administration and enforcement of the Fairness Doctrine and to report to the Congress by September 30, 1987.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $11,600,000: Provided, That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of $65,000,000: Provided, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374): Provided further, That (a) The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate, to the Committee on Energy and Commerce of the House of Representatives and to the Appropriations Committees of the Senate and House of Representatives the information specified in subsection (b) of this section every 6 months during fiscal year 1987. A report containing such information shall be submitted when the Commission submits its annual report to the Congress during such fiscal year, and such report may be included in the annual report. A separate report containing such information shall be submitted 6 months after the date of submission of any such annual report. Each such report shall contain such information for the period since the last submission under this section.

(b) Each such report shall list and describe, with respect to instances in which predatory pricing practices have been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission;

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include copies of all such consent agreements and complaints executed by the Commission referred to in such report. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The descriptions required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies complained about or those subject to investigation that have not otherwise been made public. The report shall include any evaluation by the Commission of the potential impacts of predatory pricing upon businesses (including small businesses.)

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $33,900,000 of which $4,000,000 shall remain available until expended for expenses related to relocation of the Commission.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,408,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,200,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: Provided, That not to exceed a total of $2,500 of such amounts shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $305,500,000 of which $261,293,672 is for basic field programs, $7,022,000 is for Native American programs, $9,698,000 is for migrant programs, $1,339,800 is for program development and law school clinics, $1,000,000 is for supplemental field programs, $623,964 is for regional training centers, $376,036 is for training development and technical assistance, $7,528,218 is for national support, $7,842,866 is for state support, $865,000 is for the Clearinghouse, $510,444 is for computer assisted legal research grants, and $7,400,000 is for Corporation management and administration: Provided, That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of Public Law 99-180 and section 112 of Public Law 99-190: Provided further, That the funds distributed to each grantee funded in fiscal year 1987 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1987 at not less than 1 percent more than the annual level at which each grantee and contractor was funded in fiscal year 1986 or $8.30 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $14.56 per poor person within its geographical area under the 1980 census:

Provided further, That if a Presidential Order pursuant to section 252 of Public Law 99-177 is issued for fiscal year 1987, funds provided to each grantee covered by the second proviso shall be reduced by the percentage specified in the Presidential Order: Provided further, That if funds become available because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs, to be distributed in the manner specified by this paragraph, if the Appropriations Committees of both Houses of Congress have been notified pursuant to section 607 of this Act: Provided further, That none of the funds appropriated by this Act may be used to implement or enforce the regulations issued by the Legal Services Corporation regarding legislative and administrative advocacy (45 CFR part 1612) printed for final publication in the "Federal Register" on May 31, 1984, (49 FR 22651) and on August 1, 1986 (51 FR 27539).

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $900,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $13,300,000: Provided, That not to exceed $59,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $110,500,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including purchase of one motor vehicle for replacement only, and hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses, $162,000,000; and for grants for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, $35,000,000: Provided, That notwithstanding any other provision of law, the Small Business Administration is authorized to recognize all costs incurred prior to December 16, 1980, by a small business development center at the University of Georgia in pursuit of the purposes of the small business development center program as allowable costs chargeable to a fiscal year 1981 cooperative agreement, provided such costs were incurred subsequent to October 1, 1979, and have not been reimbursed from non-Federal sources. In addition, $92,000,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $164,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $97,000,000, to remain available without fiscal year limitation.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $14,245,000, to remain available without fiscal year limitation.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $7,200,000 to remain available until expended.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Infor-

mation Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921–5928 and 22 U.S.C. 287e–1; and entertainment, including official receptions, within the United States, not to exceed $20,000; $570,000,000, none of which shall be restricted from use for the purposes appropriated herein: Provided, That not to exceed $1,000,000 may be used for representation abroad: Provided further, That not to exceed $15,558,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: Provided further, That receipts not to exceed $1,000,000 may be credited to this appropriation from fees or other payments received from or in connection with English-teaching programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: Provided further, That not to exceed $2,750,000 shall be available for the Office of Inspector General.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), $135,270,000, of which $24,270,000, to remain available until expended, shall be available for expenditure on October 1, 1987. For the Private Sector Exchange Programs, $9,730,000 of which $730,000, to remain available until expended, shall be available for expenditure on October 1, 1987, and of which $1,500,000, to remain available until expended, is for the Eisenhower Exchange Fellowship Program notwithstanding section 209 of Public Law 99–93.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $46,000,000, to remain available until expended: Provided, That not to exceed $12,000,000 of these funds shall be available for construction of facilities for Radio In the American Sector: Provided further, That such amounts as may be necessary shall be available until expended for contingent termination or cancellation costs: Provided further, That the Funds appropriated in this paragraph shall be available for expenditure on October 1, 1987.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $11,250,000, to remain available until expended.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: Provided, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $15,000,000.

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

Funds appropriated under this title to the United States Information Agency shall be available notwithstanding the provisions of sections 203, 204, 205, and 210(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93).

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: Provided, That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate.

SEC. 606. None of the funds appropriated by this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion, except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 607. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 608. (a) Notwithstanding any provision of chapter 11 of title 11, United States Code, the trustee shall pay benefits until May 15, 1987 to retired former employees under a plan, fund, or program maintained or established by the debtor prior to filing a petition (through the purchase of insurance or otherwise) for the purpose of providing medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death.

(b) This section is effective with respect to cases commenced under chapter 11, of title 11, United States Code, in which a plan for reorganization has not been confirmed by the court and in which any such benefit is still being paid on October 2, 1986, and in cases that become subject to chapter 11, title 11, United States Code, after October 2, 1986.

(c) This section shall not apply during any period in which a case is subject to chapter 7, title 11, United States Code.

TITLE VII—CHILD ABUSE VICTIMS' RIGHTS ACT OF 1986

SHORT TITLE

SEC. 701. This title may be cited as the "Child Abuse Victims' Rights Act of 1986".

FINDINGS

SEC. 702. The Congress finds that—

(1) child exploitation has become a multimillion dollar industry, infiltrated and operated by elements of organized crime, and by a nationwide network of individuals openly advertising their desire to exploit children;

(2) Congress has recognized the physiological, psychological, and emotional harm caused by the production, distribution, and display of child pornography by strengthening laws prescribing such activity;

(3) the Federal Government lacks sufficient enforcement tools to combat concerted efforts to exploit children prescribed by Federal law, and exploitation victims lack effective remedies under Federal law; and

(4) current rules of evidence, criminal procedure, and civil procedure and other courtroom and investigative procedures inhibit the participation of child victims as witnesses and damage their credibility when

they do testify, impairing the prosecution of child exploitation offenses.

CIVIL REMEDY FOR PERSONAL INJURY

SEC. 703. (a) Chapter 110 of part I of title 18, United States Code, is amended by redesignating section 2255 as section 2256, and by inserting after section 2254 the following:

"§ 2255. Civil remedy for personal injuries

"(a) Any minor who is a victim of a violation of section 2251 or 2252 of this title and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than $50,000 in value.

"(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability.".

(b) The table of sections for chapter 110 of part I of title 18, United States Code, is amended by striking out the item relating to section 2255 and inserting in lieu thereof the following:

"2255. Civil remedy for personal injuries.
"2256. Definitions for chapter.".

MINIMUM SENTENCE FOR REPEAT OFFENDERS

SEC. 704. (a) Section 2251(c) of title 18, United States Code, is amended by striking out "or imprisoned not less than two years" and inserting in lieu thereof "or imprisoned not less than five years".

(b) Section 2252(b) of title 18, United States Code, is amended by striking out "or imprisoned not less than two years" and inserting in lieu thereof "or imprisoned not less than five years".

ATTORNEY GENERAL REPORT

SEC. 705. (a) Within one year after the date of enactment of this title, the Attorney General shall submit a report to Congress detailing possible changes in the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, and other Federal courtroom, prosecutorial, and investigative procedures which would facilitate the participation of child witnesses in cases involving child abuse and sexual exploitation.

(b) In preparing the report, the Attorney General shall consider, but not be limited to, such changes as—

(1) use of closed-circuit cameras, two-way mirrors, and other out-of-court statements;

(2) judicial discretion to circumscribe use of harassing, overly complex, and confusing questions against child witnesses;

(3) use of videotape in investigations to reduce repetitions of interviews;

(4) streamlining investigative procedures; and

(5) improved training of prosecutorial and investigative staff in special problems of child witnesses, including handicapped children.

TITLE VIII

JAMES MADISON MEMORIAL FELLOWSHIP

SHORT TITLE

SEC. 801. This title may be cited as the "James Madison Memorial Fellowship Act".

PURPOSE

SEC. 802. It is the purpose of this title to establish the James Madison Fellowship Program which is designed to encourage graduate study of the American Constitution, its roots, its formation, its principles, and its development.

FOUNDATION

SEC. 803. (a) In order to commemorate the bicentennial of the Constitution, there is established, as an independent establishment of the executive branch, the James Madison Memorial Fellowship Foundation.

(b)(1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) Two Members of the Senate, of different political parties, shall be appointed by the President upon the recommendation of the President pro tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate.

(B) Two Members of the House of Representatives, of different political parties, shall be appointed by the President upon the recommendation of the Speaker of the House, in consultation with the Minority Leader of the House of Representatives.

(C) Two members of the Federal judiciary shall be appointed by the President upon the recommendation of the Chief Justice of the United States.

(D) Six members, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, two shall be members of the general public, and three shall be members of the academic community, appointed upon the recommendation of the Librarian of Congress.

(E) The Secretary of Education or his designate shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(2) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made. This provision shall not apply to members ex officio.

(c) Members of the Board shall elect from the members of the Board a Chairman and such other officers as may be necessary to carry out the duties of the Foundation.

(d) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

FELLOWSHIP RECIPIENTS

SEC. 804. (a) The Foundation is authorized to award fellowships to outstanding students and teachers who will pursue graduate study leading to the degree of Master of Arts in teaching or other apporpriate masters degree for teachers, with a major in social studies or American history. Each recipient must take at least twelve semester hours, or its equivalent in topics directly related to the Constitution of the United States, as determined by the Board.

(b)(1) James Madison fellowships shall be awarded to individuals who are, or who desire to become, social studies and American history teachers in accordance with paragraphs (2) and (3).

(2) Junior fellowships shall be awarded to graduate students who are about to complete or have recently completed their undergraduate course of study, and plan to begin graduate work on a relatively full-time basis.

(3) Senior fellowships shall be awarded to experienced teachers who wish to undertake work for a graudate degree on a part-time basis during summers or in evening programs.

PERIOD FOR AWARD

SEC. 805. Junior fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed two academic years. Senior fellowship shall be granted for such periods as the Foundation may prescribe, but not to exceed five calendar years.

RECIPIENT'S CHOICE OF INSTITUTION

SEC. 806. Fellowship recipients may attend any institution of higher education in the United States with an accredited graduate program which offers courses of study or training which emphasize the origins of the Constitution of the United States, its principles, its development, and its comparison with other forms of government, as determined according to criteria established by the Foundation.

RECIPIENT'S ELIGIBILITY

SEC. 807. Each student awarded a fellowship under this title shall demonstrate the potential, and a serious intention, to follow a career of educating students in secondary schools. Each institution of higher education at which such a student is in attendance shall make reasonable efforts to encourage such a student to meet the objectives of this section.

Each student receiving a Fellowship under this Act shall enter into an agreement under which the recipient shall:

(a) within a 5-year period after completing the education for which the fellowship was awarded, teach on a full-time basis students in secondary school for a period of not less than one year for each year for which assistance was received;

(b) repay all of the Fellowship assistance received plus interest at the rate of 6% per annum and, if applicable, reasonable collection fees for each school year for which assistance was received for which such recipient failed to teach as provided in paragraph (a); and

(c) not be considered to be in violation of the agreement entered into during any period during which the recipient:

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months; or

(6) is seeking and unable to find full-time employment as a teacher.

SELECTION OF FELLOWSHIP RECIPIENTS

SEC. 808. (a) Madison Fellows shall be selected for their academic achievements and their potential to become secondary school teachers of social studies and American history.

(b)(1) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for

the selection of fellowship recipients. Each applicant must have a demonstrated interest in pursuing a course of study which emphasizes the Constitution, its principles, and its history, and have a demonstrated record of willingness to devote themselves to civil responsibility.

(2) Each application shall be accompanied by an essay explaining the importance of the study of the Constitution both to the applicant's career aspirations and contributions to public service, and to citizenship generally in a constitutional regime.

(3)(A) Each application shall include a description of a program of study for the graduate program, designating the courses to be taken, and the proposed Master's thesis, where appropriate.

(B) For the purpose of this paragraph, the Board of Trustees of the Foundation shall establish general criteria for programs in constitutional studies.

(c) The Foundation shall adopt selection procedures which shall assure that at least one Madison Fellow shall be selected each year from each State, the District of Columbia, and the Commonwealth of Puerto Rico, and considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas in which there are at least two resident applicants who meet the minimum criteria established by the Foundation; and, if sufficient funding is available, to invite applications from scholars overseas for study in the United States.

AMOUNT OF FELLOWSHIPS

SEC. 809. Each student awarded a fellowship shall receive a stipend which shall not exceed the cost to the student for tuition, fees, books, room and board, or $12,000, whichever is less, for each academic year of study.

FELLOWSHIP CONDITIONS

SEC. 810. (a) A student awarded a Madison Fellowship shall continue to receive payments only during such periods as the Foundation finds that the student is maintaining satisfactory progress in an approved program of study or research. Recipients of junior fellowships shall devote essentially full time to their program of study.

(b) The Foundation is authorized to require reports from any fellowship recipient containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in a program of study or research, with such exceptions as the Foundation may establish.

JAMES MADISON MEMORIAL FELLOWSHIP TRUST FUND

SEC. 811. (a)(1) There shall be established in the Treasury of the United States a trust fund consisting of appropriations and amounts contributed by the Foundation for the Commemoration of the Constitution an other private sources to be available, in accordance with the provisions of this title, to carry out the provisions of this title.

(2) No funds in the Trust Fund may be available for fellowships until the contributions from private sources are equal to $10,000,000.

(b) It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated and contributed to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) Any obligations acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

EXPENDITURES AND AUDIT

SEC. 812. (a) The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this title.

(b) The activities of the Foundation under this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

EXECUTIVE SECRETARY OF FOUNDATION

SEC. 813. (a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade GS-18 of the General Schedule set forth in section 5332 of title 5.

ADMINISTRATIVE PROVISIONS

Sec. 814. (a) The Foundation is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade GS-15 of the General Schedule set forth in section 5332 of title 5;

(2) to procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of such title;

(3) to prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) to receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) to enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of title 41;

(7) to make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 529 of title 31;

(8) to rent office space;

(9) to conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging research and study of constitutionalism in America; and

(10) to make other necessary expenditures.

(b) The foundation shall submit to the President and to the Congress an annual report of its operations under this chapter.

DEFINITIONS

SEC. 815. As used in this title—

(1) the term "Board" means the Board of Trustees of the James Madison Memorial Fellowship Foundation;

(2) the term "Foundation" means the James Madison Memorial Fellowship Foundation;

(3) the term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965; and

(4) the term "secondary school" has the same meaning given that term by section 1201(d) of the Higher Education Act of 1965.

APPROPRIATIONS

SEC. 816. There are appropriated to the James Madison Memorial Trust Fund $20,000,000 to carry out the provisions of this title, $10,000,000 of which shall be available on November 1, 1987, and to remain available until expended; and $10,000,000 of which shall be available on November 1, 1988, and to remain available until expended.

CONSTITUTIONAL LAW RESOURCE CENTERS

SEC. 817. (a) It is the purpose of this section to establish four centers where nationally recognized distinguished experts in Constitutional law will produce, on a periodic basis, articles of current interest relating to the Constitution of the United States which are suitable for use by James Madison scholars, educational institutions, law school reviews, bar associations, and the news media.

(b) In order to encourage recipient universities to provide such a continuing service, four endowments shall be established with funds from appropriations provided herein

and such other amounts as may be contributed from other sources.

(c) The income from each endowment shall be used to help support a chair for a Professor of Constitutional law. Each endowment shall be held in trust with the income from the portion provided herein used exclusively to contribute toward the salary and related costs of the professor filling the chair and for services directly related to the support of such professor such as secretarial and research services. The recipient university shall from sources other than that portion of the endowment funded herein furnish the office, classroom and related services suitable to such a member of the faculty.

The professor holding each chair shall file a copy of such articles with the Library of Congress, which shall make them available to libraries in the usual manner and the recipient of the endowment shall also make a copy available upon request by accredited educational institutions, bar associations, and general news media without royalty or charge other than the costs associated with printing or reprinting, handling and distribution.

(d) That portion of each endowment provided by this Act and any accumulations attributable to such grant shall be invested by the recipient university in interest bearing obligations of the United States or in obligations guaranteed both as to principal and interest by the United States and shall be subject to audit by the General Accounting Office for the sole purpose of determining that such funds are accounted for or have been used as provided herein. If a grantee university elects to discontinue such chair and support services, the corpus of the endowment attributable to the Federal grant shall revert to the Treasury of the United States.

(e) The application for the grant for an endowment shall require only such information and supporting material as is reasonably necessary to assure that the funds will be used for the purposes described herein. Acceptance of the grant by each university shall constitute an agreement and obligation of that university to fulfill the obligations set forth in this section.

(f) The grants for each endowment shall be for $800,000 and shall be offered to Howard University School of Law in Washington, D.C., Drake University School of Law in Des Moines, Iowa, the University of Akron School of Law in Akron, Ohio, and the University of South Carolina School of Law at Columbia, South Carolina.

SEC. 818. There is hereby appropriated to each recipient University named above or to the trustee of the fund designated by the President of the University the sum of $800,000 to carry out the provisions of section 817, to be available on November 1, 1987, and to remain available until expended.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1987".

And the Senate agree to the same.

Amendment numbered 3:

That the House receded from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(c) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $22,353,990,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $17,104,850,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $5,266,053,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $18,940,731,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,323,210,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,464,453,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $303,968,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $629,200,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,323,145,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty

under section 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,027,778,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $15,664,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $20,022,399,000, of which not less than $1,705,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $3,919,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $22,939,674,000, of which not less than $795,000,000 shall be available only for the maintenance of real property facilities, and of which $75,000,000 shall be available only to reimburse United States Coast Guard Operating Expenses for operations and training relating to the Coast Guard defense, military readiness and drug enforcement missions: Provided, That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than $3,415,000,000 shall be available for the performance of such work in Navy shipyards: Provided further, That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards and air rework facilities. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards and air rework facilities. Competitions shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the fiscal year 1985 Department of Defense Authorization Act, or Office of Management and Budget Circular A-76: Provided further, That funds herein provided shall be available for payments in support of the LEASAT program in accordance with the terms of the Aide Memoire, dated January 5, 1981: Provided further, That of the funds appropriated herein, not to exceed $5,080,000 shall be available for a grant to the Battleship Texas Advisory Board of the State of Texas for the restoration of the Battleship Texas.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,793,750,000, of which not less than $280,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, including the lease and associated maintenance of replacement aircraft for the CT-39 aircraft to the same extent and manner as authorized for service contracts by section 2306(g), title 10, United States Code; and not to exceed $6,171,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $18,636,816,000, of which not less than $1,650,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,978,674,000: Provided, That not to exceed $10,904,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided further, That $372,000 is available to the Office of Economic Adjustment for making community planning assistance grants pursuant to section 2391 of title 10, United States Code, and joint community/military planning assistance grants for mitigation of operational impacts from encroachment: Provided further, That not less than $116,465,000 shall be available only for the maintenance of real property facilities: Provided further, That $1,500,000 shall be transferred to the Department of Commerce, International Trade Administration, "Operations and administration", for export administration activities.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $769,966,000, of which not less than $38,336,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $884,097,000, of which not less than $37,248,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $63,875,000, of which not less than $3,146,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $911,200,000, of which not less than $22,969,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,734,447,000, of which not less than $56,300,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,755,658,000, of which not less than $41,000,000 shall be available only for the maintenance of real property facilities.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide

support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; not to exceed $4,316,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board: Provided, That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313.

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; $144,400,000: Provided, That section 4 of chapter III of Public Law 99-349 is amended by adding before the period at the end thereof the following: "without a determination of legal liability based on an act or omission of an agent or employee of the Federal Government": Provided further, That the Secretary of the Navy is authorized and directed to pay from previously authorized and appropriated funds not to exceed $10,000,000 to reimburse upon verification, the business entity responsible for performance of construction of the Norfolk Navy Steam Plant for losses incurred by said entity arising out of construction according to drawings reviewed and approved by the Navy and issued or released for construction in said performance.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $3,200,000, and not to exceed $1,500 can be used for official representation purposes.

TENTH INTERNATIONAL PAN AMERICAN GAMES

For logistical support and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Tenth International Pan American Games) provided by any component of the Department of Defense to the Tenth International Pan American Games; $15,000,000.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $375,900,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: Provided further, That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

HUMANITARIAN ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For transportation for humanitarian relief for refugees of Afghanistan, acquisition of transportation assets to assist in the distribution of such relief, and distribution of excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $10,000,000: Provided, That not more than $2,500,000 may be transferred to the Secretary of State to provide for necessary expenses related to the transportation of humanitarian relief: Provided further, That of the funds provided under "Operation and Maintenance, Air Force" in Public Law 99-190, $7,000,000 shall remain available for obligation until September 30, 1987, for nonlethal aid to Afghanistan.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,762,750,000, to remain available for obligation until September 30, 1989.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,206,800,000, to remain available for obligation until September 30, 1989.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,804,300,000, to remain available for obligation until September 30, 1989: Provided, That none of these funds may be used for the noncompetitive procurement of the M249 Squad Automatic Weapon.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,087,150,000, to remain available for obligation until September 30, 1989.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed two hundred and ninety passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $5,118,752,000, to remain available for obligation until September 30, 1989.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $9,794,262,000, to remain available for obligation until September 30, 1989: Provided, That four P-3C aircraft shall be for the Navy Reserve.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of

public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Poseidon, $3,974,000;
TRIDENT I, $4,739,000;
TRIDENT II, $1,362,439,000;
UGM-73A Poseidon Modifications, $95,000;
Support equipment and facilities, $3,790,000;
Tomahawk, $723,800,000;
AIM/RIM-7 F/M Sparrow, $269,394,000;
AIM-9L/M Sidewinder, $35,800,000;
AIM-54A/C Phoenix, $267,272,000;
AIM-54A/C Phoenix advance procurement, $20,000,000;
AGM-84A Harpoon, $123,000,000;
AGM-88A HARM, $256,682,000;
SM-2 MR, $478,611,000;
SM-2 ER, $217,017,000;
RAM, $40,000,000;
Stinger, $39,740,000;
Sidearm, $22,858,000;
Laser Maverick, $165,691,000;
IIR Maverick, $35,200,000;
Aerial targets, $96,000,000;
Drones and decoys, $36,136,000;
Other missile support, $22,017,000;
Modification of missiles, $13,692,000;
Support equipment and facilities, $74,803,000;
Ordnance support equipment, $79,192,000;
MK-48 ADCAP torpedo program, $254,770,000;
MK-46 torpedo program, $97,861,000;
MK-50 torpedo program, $68,137,000;
Antisubmarine rocket (ASROC) program, $13,597,000;
Vertical launched ASROC, $74,289,000;
Modification of torpedoes, $97,705,000;
Torpedo support equipment program, $52,610,000;
MK-15 close-in weapons system program, $105,606,000;
MK-75 gun mount program, $14,875,000;
MK-19 machine gun program, $632,000;
25mm gun mount, $3,919,000;
Small arms and weapons, $10,082,000;
Modification of guns and gun mounts, $57,215,000;
Guns and gun mounts support equipment program, $873,000;
Spares and repair parts, $150,734,000;

In all: $5,290,847,000, to remain available for obligation until September 30, 1989: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $104,000,000.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,446,400,000;
SSN-688 attack submarine program, $2,250,800,000;
SSN-21 attack submarine program, $375,000,000;
Aircraft carrier service life extension program, $83,500,000;
CG-47 cruiser program, $2,725,500,000;
DDG-51 destroyer program, $1,750,100,000;
LHD-1 amphibious assault ship program, $35,000,000;
T-AO fleet oiler program, $259,000,000;
AO conversion program, $40,000,000;
T-AGOS ocean surveillance ship program, $228,000,000;
AOE fast combat support ship program, $499,000,000;
Oceanographic research ship program, $33,000,000;
Strategic sealift program, $77,800,000;
T-ACS auxiliary crane ship program, $61,100,000;
For craft, outfitting, and post delivery, $470,789,000;

In all: $10,210,989,000, to remain available for obligation until September 30, 1991: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $124,000,000: Provided further, That additional obligations may be incurred after September 30, 1991, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction; and each Shipbuilding and Conversion, Navy, appropriation that is currently available for such obligations may also hereafter be so obligated after the date of its expiration: Provided further, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: Provided further, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed five hundred and ninety-nine passenger motor vehicles of which five hundred and seventy-four shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ship support equipment, $1,037,619,000;
Communications and electronics equipment, $2,006,277,000;
Aviation support equipment, $788,366,000;
Ordnance support equipment, $1,245,355,000;
Civil engineering support equipment, $209,041,000;
Supply support equipment, $71,823,000;
Personnel and command support equipment, $502,498,000;
Spares and repair parts, $293,692,000;

In all: $6,033,371,000, to remain available for obligation until September 30, 1989: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $121,300,000.

COASTAL DEFENSE AUGMENTATION

For the augmentation of United States Coast Guard inventories to meet national security requirements; $200,000,000, to remain available until expended: Provided, That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, which assets are to be made available to the Coast Guard for operation and maintenance.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed sixty-four passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands, and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,465,215,000, to remain available for obligation until September 30, 1989.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $17,131,281,000, to remain available for obligation until September 30, 1989: Provided, That none of the funds in this Act may be obligated on B-1B bomber production contracts if such contracts would cause the production portion of the Air Force's $20,500,000,000 estimate for the B-1B bomber baseline costs expressed in fiscal year 1981 constant dollars to be exceeded: Provided further, That notwithstanding the provisions of section 9032 of this Act (A) the Secretary of the Air Force may award a multiyear contract that employs economic order quantity procurement for the purchase of Air Defense Aircraft in accordance with section 2306(h) of title 10, United States Code, without prior notice to Congress if the results of the competitive source selection demonstrate that (1) a multiyear contract will yield significant savings over the amount that would have resulted under an annual contract with the selected offeror; and (2) those savings have a positive present value; (B) the cancellation ceiling associated with the first year of a multiyear contract under subsection (A) may be carried as an unfunded contingent liability subject to section 2306(h)(5) of title 10, United States Code: Provided further, That $151,000,000 is available only for production of T-46A air-

craft and related costs: Provided further, That $170,100,000 provided in fiscal year 1986 under this heading is available only for the production of T-46A aircraft and related costs: Provided further, That none of the funds provided in this or any prior Act may be used for the T-46A airframe production contract which existed on October 1, 1986 for other than lot one production: Provided further, That (1) the maximum program production cost for the T-46A aircraft program is $3,100,000,000 (in fiscal year 1986 dollars), based upon procurement of 650 aircraft. The maximum production unit cost for such program is $4,800,000 (in fiscal year 1986 dollars). The program production cost and production unit cost for such program determined for the purposes of this proviso shall be determined without regard to amounts for initial spares. (2) If during any fiscal year, after fiscal year 1987, the maximum program production cost or production unit cost for procurement of 650 aircraft is exceeded, the Secretary of the Air Force may not procure any T-46A aircraft during a later fiscal year no earlier than fiscal year 1989 until the Secretary has conducted a competition for procurement of that aircraft.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,446,718,000, to remain available for obligation until September 30, 1989: Provided, That no funds may be obligated or expended for Lot 1 low-rate production of the Advanced Medium Range Air-to-Air Missile, with the exception of long-lead procurement, until this missile has demonstrated, in flight test, the capability to successfully engage a minimum of two targets with two missiles on the same intercept in an electronic countermeasure environment after the missiles have been launched: Provided further, That funds made available for a portion of the MX missile program by the appropriation "Missile Procurement, Air Force, 1985/1987" and prior year funds referred to in that appropriation, shall remain available for the period originally appropriated for the purchase of the first 33 MX missiles of the MX missile program.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed seven hundred and forty-seven passenger motor vehicles of which six hundred and fifty-nine shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $9,254,941,000, to remain available for obligation until September 30, 1989.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, as follows:

Army Reserve, $90,000,000;
Army National Guard, $146,000,000;
Air National Guard, $50,000,000;
Navy Reserve, $61,000,000;
Marine Corps Reserve, $60,000,000;
Air Force Reserve, $150,000,000;

In all: $557,000,000, to remain available for obligation until September 30, 1989.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed seven hundred and seventy-nine passenger motor vehicles of which two hundred and fifty-nine shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,498,256,000, to remain available for obligation until September 30, 1989.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $13,000,000, to remain available for obligation until September 30, 1989.

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,556,076,000, to remain available for obligation until September 30, 1988.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,326,418,000, to remain available for obligation until September 30, 1988; of the total amount available for obligation $173,525,000 is available only for full-scale development of the MK-50 Advanced Lightweight Torpedo Program, $39,704,000 is available only for the Low Cost Anti-Radiation Seeker Program, and $3,000,000 is available only for the Aircrew Impact Injury Prevention Project: Provided, That the funds available for the V-22 Osprey Program shall not be subject to obligational limitations set forth in a National Defense Authorization Act for fiscal year 1987: Provided further, That funds made available for the Surface ASW Systems Improvement Program shall not be obligated or expended until a Joint Resources Management Board Milestone II decision and a Secretary of Defense Decision Memorandum have approved the initiation of full-scale engineering development: Provided further, That $1,800,000 shall be made available for research and development and related equipment for the Institute for Technology Development, as a grant, for the National Center for Physical Acoustics.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $15,062,783,000, to remain available for obligation until September 30, 1988; of the total amount available for obligation $17,375,000 is available only for the Low Cost Seeker Program.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $6,742,091,000, to remain available for obligation until September 30, 1988: Provided, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: Provided further, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred: Provided further, That $200,000,000 is available to the Secretary of Defense only for the Conventional Defense Initiatives (CDI) program, which shall include conventional defense initiatives and conventional applications of the technologies developed under the Strategic Defense Initiative (SDI): Provided further, That such funds shall be under the control and management of the Secretary of Defense, who, with the concurrence of the Joint Chiefs of Staff, shall develop a plan for the utilization of emerging technologies for conventional applications including such technologies applicable from the Strategic Defense Initative: Provided further, That not more than $100,000,000 of these funds shall be obligated or expended until the Secretary of Defense identifies the specific technology development efforts to be drawn from SDI, and the conventional defense applications for which they will be utilized. None of the restricted funds shall be obligated or expended until 15 days after the Secretary of Defense provides such notification to Congress,

but not earlier than July 1, 1987: Provided further, That no portion of the $200,000,000 made available to the Secretary of Defense be applied to any program, project, or activity in support of the Strategic Defense Initiative: Provided further, That $55,000,000 of funds made available for the National Aerospace Plane (NASP) Program may not be obligated or expended until the Secretary of Defense certifies that the Department of Defense and the National Aeronautics and Space Administration (NASA) have negotiated revised funding arrangements for NASP development which significantly increase NASA investment as a percentage of total NASP research, development, test and evaluation costs and which incorporate mandatory industry investment out of private capital.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Under Secretary of Defense, Developmental Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance of joint developmental testing and evaluation; and administrative expenses in connection therewith; $105,546,000, to remain available for obligation until September 30, 1988.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $11,300,000, to remain available for obligation until September 30, 1988.

TITLE V

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; $3,500,000, to remain available for obligation until September 30, 1988: Provided, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VI

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $110,100,000.

NAVY STOCK FUND

For the Navy stock fund; $352,570,000.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund; $822,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; $139,980,000.

DEFENSE STOCK FUND

For the Defense stock fund; $47,200,000.

TITLE VII

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; $118,700,000, of which $59,900,000 shall remain available for obligation until September 30, 1987, $9,600,000 shall remain available for obligation until September 30, 1988, and $49,200,000 shall remain available for obligation until September 30, 1989.

TITLE VIII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $125,800,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $21,738,000.

THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FUND

For payment to the Barry Goldwater Scholarship and Excellence in Education Fund in the Department of the Treasury, pursuant to section 5104 of the National Defense Authorization Act for Fiscal Year 1987 (S. 2638) as passed the Senate on August 9, 1986, as if said section had been enacted into law; $40,000,000, to remain available until expended.

THE HENRY M. JACKSON FOUNDATION

For payment to the Henry M. Jackson Foundation, a direct and unrestricted grant, including any interest or earnings therefrom, to support the purposes of the Foundation, its on-going educational and public services programs and to serve as a memorial to the late Senator Henry M. Jackson; $10,000,000: Provided, That, notwithstanding any other provision of law or of this Act, the Secretary of Defense is hereby authorized and directed to make the grant authorized by this section to the Henry M. Jackson Foundation, and such grant shall be transferred to the Foundation by January 1, 1987.

TITLE IX

GENERAL PROVISIONS

SEC. 9001. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 9002. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 9003. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: Provided, That such contracts may be renewed annually.

SEC. 9004. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 9005. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 9006. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 9007. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 9008. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 9009. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army, or to the appropriations provided in this Act for Claims, Defense.

SEC. 9010. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from

foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: Provided, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: Provided further, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 9011. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000 shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: Provided, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: Provided further, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: Provided further, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: Provided further, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 9012. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 9013. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $13,900,000 for the current fiscal year: Provided, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: Provided further, That costs for military retired pay accrual shall be included within this limitation.

SEC. 9014. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: Provided, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 9015. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,100,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 9016. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 9017. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

SEC. 9018. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 9019. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code.

SEC. 9020. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $43,900,000: Provided, That costs for military retired pay accrual shall be included within this limitation.

SEC. 9021. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: Provided, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 9022. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: Provided, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: Provided further, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: Provided further, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 9023. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1988.

SEC. 9024. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time

military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 9025. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 9026. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

SEC. 9027. During the current fiscal year the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. 9028. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 9029. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: Provided, That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 9030. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 9031. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 9032. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

UH-60/EH-60 airframe;

Patriot missile system;

Stinger missile system; and

Defense support program.

SEC. 9033. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 9034. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 9035. In the administration of the provisions of chapter 13 of title 38, United States Code, Michael J. Smith, pilot of the space shuttle, Challenger, shall be deemed to have held the grade of captain, United States Navy, at the time of his death on January 28, 1986, while so serving as pilot of such space shuttle.

SEC. 9036. (a) None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(b) TECHNICAL DATA PACKAGES FOR PRODUCTION OF LARGE-CALIBER CANNON.—(1) Chapter 433 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception

"(a) GENERAL RULE.—Funds appropriated to the Department of Defense may not be used—

"(1) to transfer to a foreign country a technical data package for a defense item being manufactured or developed in an arsenal; or

"(2) to assist a foreign country in producing such a defense item.

"(b) EXCEPTION.—The Secretary of the Army may use funds appropriated to the Department of Defense to transfer a technical data package, or to provide assistance, described in subsection (a) if—

"(1) the transfer or provision of assistance is to a friendly foreign country (as determined by the Secretary of Defense in consultation with the Secretary of State);

"(2) the Secretary of the Army determines that such action—

"(A) would have a clear benefit to the preservation of the production base for the production of cannon at the arsenal concerned; and

"(B) would not transfer technology (including production techniques) considered unique to the arsenal concerned; and

"(3) the Secretary of Defense enters into an agreement with the country concerned described in subsection (c).

"(c) COPRODUCTION AGREEMENTS.—An agreement under this subsection shall be in the form of a Government-to-Government Memorandum of Understanding and shall include provisions that—

"(1) prescribe the content of the technical data package or assistance to be transferred to the foreign country participating in the agreement;

"(2) require that production by the participating foreign country of the defense item to which the technical data package or assistance relates be shared with the arsenal concerned;

"(3) subject to such exceptions as may be approved under subsection (d), prohibit transfer by the participating foreign country to a third party or country of—

"(A) any defense article, technical data package, technology, or assistance provided by the United States under the agreement; and

"(B) any defense article produced by the participating foreign country under the agreement; and

"(4) require the Secretary of Defense to monitor compliance with the agreement and the participating foreign country to report periodically to the Secretary of Defense concerning the agreement.

"(d) TRANSFERS TO THIRD PARTIES.—A transfer described in subsection (b)(3) may be made if—

"(1) the defense article, technical data package, or technology to be transferred is a product of a cooperative research and development program in which the United States and the participating foreign country were partners; or

"(2) the President—

"(A) complies with all requirements of section 3(d) of the Arms Export Control Act (22 U.S.C. 2753(d)) with respect to such transfer; and

"(B) certifies to Congress, before the transfer, that the transfer would provide a clear benefit to the production base of the United States for large-caliber cannon.

"(e) NOTICE AND REPORTS TO CONGRESS.—(1) The Secretary of the Army shall submit

to Congress a notice of each agreement entered into under this section.

"(2) The Secretary shall submit to Congress a semiannual report on the operation of this section and of agreements entered into under this section.

"(f) ARSENAL DEFINED.—In this section, the term 'arsenal' means a Government-owned, Government-operated defense plant that manufactures large-caliber cannon.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception.".

(c) EFFECTIVE DATE.—Section 4542 of title 10, United States Code, as added by subsection (b), shall apply with respect to funds appropriated for fiscal years after fiscal year 1986.

(TRANSFER OF FUNDS)

SEC. 9037. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 9038. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 9039. None of the funds available to the Department of Defense shall be available for the procurement of manual typewriters which were manufactured by facilities located within states which are Signatories to the Warsaw Pact.

SEC. 9040. None of the funds appropriated by this Act may be used to appoint or compensate more than 39 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 9041. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 67,557: Provided, That none of the funds appropriated by this Act shall be available to support more than 45,098 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: Provided further, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

SEC. 9042. (a) The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1987 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1987, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1988 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1988 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1988.

SEC. 9043. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department to exceed, outside the fifty States of the United States and the District of Columbia, the aggregate civilian workyear totals in fiscal year 1986 for both direct hire and indirect hire employees including foreign national employees: Provided, That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298-2, Book IV.

(TRANSFER OF FUNDS)

SEC. 9044. Appropriations or funds available to the Department of Defense during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 9045. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended during fiscal year 1987 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 106 of the Intelligence Authorization Act for fiscal year 1987.

(RESCISSION)

SEC. 9046. The following funds are hereby rescinded from the following accounts in the specified amounts:

Aircraft procurement, Army, 1985/1987	$15,600,000
Aircraft procurement, Army, 1986/1988	$78,800,000
Missile procurement, Army, 1985/1987	$32,800,000
Missile procurement, Army, 1986/1988	$66,800,000
Procurement of weapons and tracked combat vehicles, Army, 1985/1987	$25,100,000
Procurement of weapons and tracked combat vehicles, Army, 1986/1988	$188,200,000
Procurement of ammunition, Army, 1985/1987	$33,000,000
Procurement of ammunition, Army, 1986/1988	$39,562,000
Other procurement, Army, 1985/1987	$45,400,000
Other procurement, Army, 1986/1988	$133,300,000
Aircraft procurement, Navy, 1985/1987	$170,700,000
Aircraft procurement, Navy, 1986/1988	$408,200,000
Weapons procurement, Navy, 1985/1987	$59,500,000
Weapons procurement, Navy, 1986/1988	$185,100,000
Shipbuilding and conversion, Navy, 1983/1987	$338,500,000
Shipbuilding and conversion, Navy, 1984/1988	$53,000,000
Shipbuilding and conversion, Navy, 1985/1989	$141,100,000
Shipbuilding and conversion, Navy, 1986/1990	$737,900,000
Other procurement, Navy, 1985/1987	$18,434,000
Other procurement, Navy, 1986/1988	$214,769,000
Procurement, Marine Corps, 1985/1987	$7,100,000
Procurement, Marine Corps, 1986/1988	$19,400,000
Aircraft procurement, Air Force, 1985/1987	$513,300,000
Aircraft procurement, Air Force, 1986/1988	$619,500,000
Missile procurement, Air Force, 1985/1987	$41,600,000
Missile procurement, Air Force, 1986/1988	$629,700,000
Other procurement, Air Force, 1985/1987	$68,611,000
Other procurement, Air Force, 1986/1988	$122,900,000
Research, development, test and evaluation, Army, 1986/1987	$45,523,000
Research, development, test and evaluation, Navy, 1986/1987	$54,878,000
Research, development, test and evaluation, Air Force, 1986/1987	$167,000,000
Research, development, test and evaluation, Defense Agencies, 1986/1987	$48,400,000
Director of developmental test and evaluation, Defense, 1986/1987	$200,000

(TRANSFER OF FUNDS)

SEC. 9047. In addition to any other transfer authority contained in this Act, amounts from working capital funds may be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: Provided, That such transfers shall not exceed $755,300,000 for Operation and Maintenance, Army; $2,341,400,000 for Operation and Maintenance, Navy; $29,200,000 for Operation and Maintenance, Marine Corps; $1,864,100,000 for Operation and Maintenance, Air Force; $40,600,000 for Operation and Maintenance, Defense Agencies; $14,526,000 for Operation and Maintenance, Army Reserve; $66,500,000 for Operation and Maintenance, Navy Reserve; $800,000 for Operation and Maintenance, Marine Corps Reserve; $63,000,000 for Operation and Maintenance, Air Force Reserve; $31,874,000 for Operation and Maintenance, Army National Guard; and $176,700,000 for Operation and Maintenance, Air National Guard.

SEC. 9048. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercial-

ly available in the private sector: Provided, That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: Provided further, That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 9049. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 9050. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process. Further, any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 9051. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

SEC. 9052. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 9053. No more than $174,598,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 9054. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 9055. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: Provided, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 9056. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 9057. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 9058. Of the funds made available to the Department of the Air Force in this Act, not less than $5,000,000 shall be available for the Civil Air Patrol.

SEC. 9059. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

(TRANSFER OF FUNDS)

SEC. 9060. Not to exceed $100,000,000 may be transferred from the appropriation "Operation and Maintenance, Defense Agencies" to operation and maintenance appropriations under the military departments in connection with demonstration projects authorized by section 1092 of title 10, United States Code: Provided, That the Secretary of Defense shall promptly notify the Congress of any such transfer of funds under this provision: Provided further, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act.

SEC. 9061. None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984.

SEC. 9062. Of the funds appropriated for the operation and maintenance of the Armed Forces, obligations may be incurred for humanitarian and civic assistance costs incidental to authorized operations, and these obligations shall be reported to Congress on September 30, 1987: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

SEC. 9063. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 9064. None of the funds appropriated by this Act may be obligated or expended for the purposes delineated in section 1002(e)(2) of the Department of Defense Authorization Act, 1985, without the prior notification to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 9065. It is the sense of the Congress that the Secretary of Defense should formulate and carry out a program under which contracts awarded by the Department of Defense in fiscal year 1987 would, to the maximum extent practicable and consistent with existing law, be awarded to contractors who agree to carry out such contracts in labor surplus areas (as defined and identified by the Department of Labor).

SEC. 9066. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 9067. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 9068. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: Provided, That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 9069. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1987 for construction or services to be performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 9070. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. 9071. Notwithstanding any other provision of this Act, no funds appropriated by this Act shall be expended for the research, development, test, evaluation or procurement for integration of a nuclear warhead into the Joint Tactical Missile System (JTACMS).

SEC. 9072. So far as may be practicable, Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of Defense: Provided, That the products must meet pre-set contract specifications.

SEC. 9073. Section 615 of S. 2638, as passed by the Senate on August 9, 1986, shall be deemed to be enacted into law as fully as if

set forth herein: Provided, That the test authority provided for in section 618 of Public Law 99-145 and section 8083 of Public Law 99-190 shall remain in effect until such time as the system provided for in this section is implemented for both Department of Defense military and civilian employees.

SEC. 9074. Notwithstanding any other provision of law, during fiscal year 1987, the Department of Defense is to conduct a pilot test project of providing home health care to dependents entitled to health care under section 1076 of title 10, United States Code: Provided, That such care is medically necessary or appropriate, more cost effective than to continue paying for otherwise authorized CHAMPUS benefits in medical facilities, and the beneficiary is not covered for such care under any other public or private health insurance plan.

SEC. 9075. Not more than $2,506,389,000 of the funds appropriated by this Act may be expended for permanent change of station travel (including all expenses of such travel for organizational movements): Provided, That assignments for temporary duty may not be increased in order to circumvent this limitation: Provided further, That this limitation may be exceeded only upon a determination and notification to the Congress by the Secretary of Defense that such action is necessary to meet national security requirements.

SEC. 9076. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 9077. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 9078. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 9079. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: Provided, That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 9080. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 9081. None of the funds appropriated in this Act may be obligated or expended for procurement of C-12 aircraft unless such aircraft are procured through competitive procedures (as defined in section 2302(2) of title 10, United States Code), which shall be restricted to turboprop aircraft.

SEC. 9082. None of the funds in this Act may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: Provided, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 9083. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: Provided, That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 9084. Within the funds made available under title II of this Act, the military departments may use such funds as necessary, but not to exceed $4,700,000, to carry out the provisions of section 430 of title 37, United States Code.

SEC. 9085. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 9086. Notwithstanding section 213(b) of the Joint Chiefs of Staff Reorganization Act of 1985 or any other provision of law, none of the funds in this or any other Act may be used to alter the command structure for military forces in Alaska.

SEC. 9087. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment: Provided, That the Navy may use these funds to paint aluminum-hulled craft as necessary, and, in addition, the Navy may paint no more than fifteen steel-hulled ships to conduct research as described in the "Navy Organotin Program Plan for Two Case Study Harbors".

SEC. 9088. No funds appropriated under this Act for the Strategic Defense Initiative Program shall be earmarked by any agency of the United States Government or any contractor exclusively for contracts with non-United States contractors, subcontractors, or vendors, or exclusively for consortia containing non-United States contractors, subcontractors, or vendors, prior to source selection in order to meet a specific quota or allocation of funds to any allied nation. Furthermore, it is the sense of the Congress that, whenever possible, the Secretary of Defense and others should attempt to award Strategic Defense Initiative contracts to United States contractors, subcontractors, and vendors unless such awards would degrade the likely results obtained from such contracts: Provided, That allied nations should be encouraged to participate in the Strategic Defense Initiative research effort on a competitive basis and be awarded contracts on the basis of technical merit.

SEC. 9089. The Secretary of Defense may only procure ammunition containing a depleted uranium penetrator component if the procurement of such component is done competitively and procured from at least two sources in the existing production base for such component.

SEC. 9090. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which a military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in states which are not contiguous with another state: Provided further, That alcoholic beverages other than wine and malt beverages in contiguous states and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 9091. Notwithstanding any other provision of law, funds available in this Act shall be available to the Defense Logistics Agency to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

(TRANSFER OF FUNDS)

SEC. 9092. No later than September 30, 1987, unobligated balances and appropriations made available to the Department of Defense for fiscal year 1983 that expired for obligation on September 30, 1985, may be transferred into the appropriation "Foreign Currency Fluctuations, Defense" to be merged with and available for the same time period and the same purposes as the appropriation to which transferred: Provided, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amount in the appropriation "Foreign Currency Fluctuations, Defense" does not exceed $970,000,000 at the time such a transfer is made.

SEC. 9093. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications—electronics depot maintenance at an amount above the strengths assigned to those depots

on September 30, 1985: Provided, That the foregoing limitations shall not apply to civilian personnel who perform caretaker-type functions at these installations: Provided further, That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

(TRANSFER OF FUNDS)

SEC. 9094. In addition to the amounts appropriated or otherwise made available in this Act, $1,911,000,000 shall be available for military and civilian pay raises as authorized by law: Provided, That such amounts shall be transferred and merged with "Military Personnel" and "Operation and Maintenance" appropriations accounts as applicable and that such transfer authority shall be in addition to that provided elsewhere in this Act: Provided further, That such sums as may be necessary for authorized pay raise costs in excess of this appropriation shall be accommodated within the levels appropriated in this Act.

SEC. 9095. None of the funds appropriated by this Act shall be available to pay a variable housing allowance under section 403a of title 37, United States Code, with respect to an area at rates that are greater than the rates in effect for that area on August 1, 1986.

SEC. 9096. (a) None of the funds appropriated or made available by this Act shall be used to enter into a contract for the performance by contractor personnel of functions that on the date of enactment of this Act are performed by employees of the Department of Defense at the Crane Army Ammunition Activity, Crane, Indiana, or the McAlester Army Ammunition Plant, McAlester, Oklahoma.

(b) The prohibition in subsection (a) does not apply to a contract (or the renewal of a contract) for the performance of a function that on the date of the enactment of this Act is already under contract for performance by contractor personnel.

SEC. 9097. None of the funds appropriated by this Act shall be available to pay temporary lodging expenses pursuant to section 404a(a) of title 37, United States Code: Provided, That during fiscal year 1987, this provision shall not apply to those military personnel with dependents in grades E-4 and below.

SEC. 9098. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: Provided, That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 9099. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose by section 8110 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1222), the program proposed by the Department of Defense in a letter dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: Provided, That such action shall be subject to the use of only the most cost effective fuel system in the construction of new plants or the conversion of existing plants: Provided further, That during fiscal year 1987, the amount of anthracite coal purchased by the Department shall be at least 300,000 short tons: Provided further, That the funds identified in section 8110 of Public Law 99-190 shall continue to be made available until expended to be used on a non-reimbursable basis for the administrative costs of this program.

SEC. 9100. Notwithstanding any other provision of law, the Department of Defense or the General Services Administration, whichever agency has jurisdiction, custody, and control shall convey at no cost real property described in "Department of the Army Final Report of Excess, NAN-85-3A, Hancock Field, New York," to Onondaga County, New York, for aviation and related industrial activities. This conveyance should be accomplished as soon as possible, but no later than ninety days after enactment of this Act.

SEC. 9101. No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.

SEC. 9102. After September 30, 1987, no appropriated funds may be used to support revenue generating Morale, Welfare and Recreation activities located in large metropolitan areas, as defined by Department of Defense regulation, of the fifty United States.

SEC. 9103. (1) Chapter 19 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 1013. Payment date for pay and allowances

"(a) Amounts of basic pay, basic allowance for quarters, basic allowance for subsistence, and other payments of military compensation (other than travel and transportation allowances and separation allowances) shall be paid on the first day of the month beginning after the month during which the right to such compensation accrues.

"(b) Subsection (a) does not preclude one payment in midmonth for any element of compensation and does not affect any authority to make advance payments of pay and allowances.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1013. Payment date for pay and allowances.".

(3) Section 1466(a)(2) of title 10, United States Code, is amended by striking out "paid" and inserting in lieu thereof "accrued".

(4) Section 1013 of title 37, United States Code, as added by subsection (a), and the amendment made by subsection (b) shall take effect on September 1, 1987.

SEC. 9104. For the current fiscal year, the minimum requirement for the amount of payments received in a fiscal year by working capital funds for industrial-type activities to be used for the acquisition of capital equipment for such activities shall be equal to the minimum required percentage for fiscal year 1986.

SEC. 9105. None of the funds appropriated under this or any other Act for the Department of Defense shall be available to make progress payments at a percentage higher than 5 percentage points below the rate in use on the effective date of this Act (except for contracts under solicitation before the effective date of this Act and except for shipbuilding, military construction and architect-engineering contracts if the Secretary of Defense certifies to Congress that an exclusion is justified for these activities) for (a) contracts which provide for progress payments based either on the percentage of work accomplished or on the contractors' costs under fixed-price type contracts and (b) modifications to existing contracts for additional supplies or services not contemplated by the existing contracts, unless a higher percentage is approved by the head of the contracting activity or designee based on demonstrated financial need: Provided, That for solicitations issued after the effective date of this Act, which require price negotiation, contracts may only be awarded if such negotiation is based on new profit calculation procedures which provide for increased emphasis on facilities capital employed and contractor risk and which procedures do not provide an explicit fixed rate for working capital and which do not include profit based on specific individual elements of contract costs: Provided further, That no contractor may be reimbursed directly under a contract awarded 90 days after the effective date of this Act, where the purchase of additional quantities of like items is contemplated in subsequent years, for more than 50 percent of the full acquisition cost of production special tooling and production special test equipment as a direct cost unless (a) such special equipment is to be used solely for final production acceptance test or (b) additional reimbursement that is in the best interest of the Government is approved in advance by the Service Secretary for programs reported on Selected Acquisition Reports or approved by an Assistant Service Secretary for all other programs: Provided further, That the contract may provide that if such a contract is terminated for any reason that does not reflect a failure of the contractor to perform, the contractor shall be entitled to be paid by the United States for the cost of any special tooling and special test equipment which has not been fully amortized and the United States may elect to take title to such special tooling and special test equipment.

SEC. 9106. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Philadelphia Municipal Authority, a State authority, (hereinafter in this section referred to as the "PMA"), all right, title, and interest of the United States in and to approximately 29 acres of land located in the United States Naval Base, Philadelphia, Pennsylvania, together with any improvements thereon.

(b) The exact acreage and legal description of the lands to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the PMA.

(c) In consideration for any conveyance authorized under subsection (a), the PMA shall pay to the United States an amount equal to the fair market value of the property to be conveyed (as determined by the Secretary).

(d) The Secretary may require such additional terms and conditions with respect to the conveyance under this section as he con-

siders appropriate to protect the interests of the United States.

(e) In addition to the authority provided in subsection (a) and pursuant to section 2394 of title 10, United States Code, the Secretary, upon his determination that there is an economic advantage to the Navy, is authorized to enter into a long-term contract with the PMA for the purchase of steam generated from a facility to be constructed upon the land authorized to be conveyed herein.

SEC. 9107. Authority for reimbursement provided pursuant to section 3 of Public Law 96-357 (10 U.S.C. 7572 note) is hereby extended through September 30, 1987, at an amount not to exceed $1,657,000.

SEC. 9108. Notwithstanding any other provision of law, appropriations available in this Act may be used for the procurement, product improvement and modification of the Copperhead and five-inch guided projectiles, without regard to whether or not a second production source program or contract has been established for those programs, provided that the Secretary of Defense determines that such expenditures are in the interest of the Government of the United States.

SEC. 9109. (a) IN GENERAL.—The Administrator of General Services shall release to the Virginia Port Authority, an instrumentality of the Commonwealth of Virginia, all residuary rights of use held by the United States in three warehouses located in the city of Norfolk, Virginia, within the area operated as a public port facility and known as the Norfolk International Terminals.

(b) TIME LIMITATION; COMPENSATION.—The Administrator of General Services shall execute such documents and take such other actions as may be necessary to release, within one hundred and eighty days after the date of the enactment of this Act, the rights referred to in subsection (a). The release shall be made without any compensation in addition to compensation paid to the United States for such warehouses and other facilities by the city of Norfolk, Virginia, in 1968.

SEC. 9110. (a) IN GENERAL.—During fiscal year 1987 and during each of the six succeeding fiscal years, the Administrator of General Services shall obtain bids from domestic producers of high carbon ferrochromium and of high carbon ferromanganese and award contracts for the conversion of chromium and manganese ores held in the National Defense Stockpile into high carbon ferrochromium and high carbon ferromanganese, respectively.

(b) STOCKPILE GOALS.—(1) Contracts awarded under subsection (a) shall provide for the addition of not less than 53,500 short tons of high carbon ferrochromium and 67,500 short tons of high carbon ferromanganese to the National Defense Stockpile in each of the fiscal years referred to in the preceding sentence.

(2) If, in any fiscal year referred to in subsection (a), the minimum quantity of high carbon ferrochromium or high carbon ferromanganese to be added to the National Defense Stockpile, as prescribed in paragraph (1), is not met, the quantity of such material to be added to such stockpile in the succeeding fiscal year shall be increased by the quantity of the deficiency.

(c) SEVEN-YEAR MINIMUM QUANTITIES.—The total quantities of high carbon ferrochromium and high carbon ferromanganese to be added to the National Defense Stockpile over the seven fiscal years referred to in subsection (a) shall be as follows:

(1) High carbon ferrochromium, 374,000 short tons.

(2) High carbon ferromanganese, 472,000 short tons.

(d) In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98c).

SEC. 9111. None of the funds appropriated or made available by this Act shall be used to implement or enforce the rule proposed on May 7, 1986 (51 Fed. Reg. 16988-16991), or section 8.304-91 of the Air Force FAR Supplement issued on June 24, 1985.

SEC. 9112. (a) It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber Program and the Advanced Cruise Missile Program are a critical national security asset for maintaining an adequate and credible deterrent posture;

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the Soviet Union and as a consequence enhance the deterrent posture of the United States;

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) None of the funds appropriated in this Act to carry out the Advanced Technology Bomber Program or the Advanced Cruise Missile Program may be used for any other purpose.

(c) None of the funds appropriated in this or any other Act may be used for research, development, demonstration, procurement or any other purpose related to B-1B bombers beyond the 100 such bombers previously authorized.

SEC. 9113. (a) Not later than October 14, 1986, the Chairman of the Joint Chiefs of Staff of the Armed Forces of the United States shall submit to Congress a report, in both classified and unclassified versions, containing a detailed assessment, including the individual views of each of the Chiefs, of the military impacts on the national security of the United States, of the possible military responses of the Soviet Union to an American decision to no longer comply with major provisions of existing strategic offensive arms limitation agreements, including the central numerical sublimits on strategic nuclear delivery vehicles contained in the SALT II accord. This assessment shall concentrate on possible Soviet military responses during the period between fiscal year 1987 and fiscal year 1996, inclusive, and shall address, among other considerations, the following:

(1) the impact on the ability of United States strategic forces to accomplish their nuclear deterrent mission, including the impacts on the survivability of United States strategic forces and on the ability of United States strategic forces to achieve required damage expectancies against Soviet targets, of any expansion of Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements;

(2) the additional cost to the United States, above currently projected military expenditures for those periods for which such budget projections are available, of research, development, production, deployment, and annual operations and support for any additional strategic forces required to counter any expansion in Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements;

(3) under average annual real growth projections in defense spending of 0 percent, 1 percent, 2 percent, and 3 percent, the percent of the annual defense budget in each year between fiscal year 1987 and fiscal year 1996 which would be consumed by increased United States strategic forces needed to counter the Soviet force expansions;

(4) the military impacts on United States national security of the diversion of the funds identified in subsection (a)(2) away from nonstrategic defense programs and to strategic programs to counter expanded Soviet strategic capabilities, including the military impacts of such a diversion on the ability of United States conventional forces to meet the Nation's specific non-nuclear defense commitments as a member of the North Atlantic Treaty Organization, and under the 1960 Treaty of Mutual Cooperation and Security with Japan;

(5) in addition, this report shall address the military implications for the United States of determined Soviet violations of offensive arms control agreements.

(b) Notwithstanding any other provision of law, none of the funds authorized or appropriated by this or any other Act may be obligated or expended, directly or indirectly, by the Organization of the Joint Chiefs of Staff for prospective studies and analyses to be accomplished by individual civilian contractors or civilian contractor entities, after October 14, 1986, if the report mandated in subsection (a) has not been received by the Congress; and

(c) The prohibition contained in subsection (b) on the obligation or expenditure of funds after October 14, 1986, shall cease to have effect upon the receipt by Congress of the report mandated in subsection (a).

SEC. 9114. Subsection (b) of section 223 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 613) is amended—

(1) by designating the matter after the subsection caption as paragraph (1); and

(2) by adding at the end the following:

"(2) The report required by paragraph (1) shall include the following information:

"(A) The cost goals or cost objectives—

"(i) for the production and deployment of a Strategic Defense Initiative System; and

"(ii) for the individual components of such system,

determined on the basis of capabilities expected to be developed in the future.

"(B) The estimated costs of—

"(i) the production and deployment of the Strategic Defense Initiative System; and

"(ii) the production and deployment of the individual components of such system,

determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report.".

SEC. 9115. (a) ASSISTANT SECRETARY OF DEFENSE.—Section 136(b) of title 10, United States Code (as amended by section 106 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986), is amended by adding at the end the following new paragraph:

"(4) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations

activities (as defined in section 167(j) of this title) and low intensity conflict activities of the Department of Defense.".

(b) UNIFIED COMBATANT COMMAND.—(1) Chapter 6 of such title (as added by section 211 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986) is amended by adding at the end the following new section:

"§ 167. Unified combatant command for special operations forces

"(a) ESTABLISHMENT.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for special operations forces (hereinafter in this section referred to as the 'special operations command'). The principal function of the command is to prepare special operations forces to carry out assigned missions.

"(b) ASSIGNMENT OF FORCES.—Unless otherwise directed by the Secretary of Defense, all active and reserve special operations forces of the armed forces stationed in the United States shall be assigned to the special operations command.

"(c) GRADE OF COMMANDER.—The commander of the special operations command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

"(d) COMMAND OF ACTIVITY OR MISSION.—(1) Unless otherwise directed by the President or the Secretary of Defense, a special operations activity or mission shall be conducted under the command of the commander of the unified combatant command in whose geographic area the activity or mission is to be conducted.

"(2) The commander of the special operations command shall exercise command of a selected special operations mission if directed to do so by the President or the Secretary of Defense.

"(e) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities, including the following functions:

"(A) Developing strategy, doctrine, and tactics.

"(B) Training assigned forces.

"(C) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

"(D) Validating requirements.

"(E) Establishing priorities for requirements.

"(F) Ensuring combat readiness.

"(G) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

"(H) Ensuring the interoperability of equipment and forces.

"(I) Formulating and submitting requirements for intelligence support.

"(J) Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.

"(2) The commander of such command shall be responsible for monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions.

"(f) BUDGET.—In addition to the activities of a combatant command for which funding may be requested under section 166(b) of this title, the budget proposal of the special operations command shall include requests for funding for—

"(1) development and acquisition of special operations-peculiar equipment; and

"(2) acquisition of other material, supplies, or services that are peculiar to special operations activities.

"(g) INTELLIGENCE AND SPECIAL ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require—

"(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

"(2) a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413).

"(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the special operations command. Such regulations shall include authorization for the commander of such command to provide for operational security of special operations forces and activities.

"(i) IDENTIFICATION OF SPECIAL OPERATIONS FORCES.—(1) Subject to paragraph (2), for the purposes of this section special operations forces are those forces of the armed forces that—

"(A) are identified as core forces or as augmenting forces in the Joint Chiefs of Staff Joint Strategic Capabilities Plan, Annex E, dated December 17, 1985;

"(B) are described in the Terms of Reference and Conceptual Operations Plan for the Joint Special Operations Command, as in effect on April 1, 1986; or

"(C) are designated as special operations forces by the Secretary of Defense.

"(2) The Secretary of Defense, after consulting with the Chairman of the Joint Chiefs of Staff and the commander of the special operations command, may direct that any force included within the description in paragraph (1)(A) or (1)(B) shall not be considered as a special operations force for the purposes of this section.

"(j) SPECIAL OPERATIONS ACTIVITIES.—For purposes of this section, special operations activities include each of the following insofar as it relates to special operations:

"(1) Direct action.

"(2) Strategic reconnaissance.

"(3) Unconventional warfare.

"(4) Foreign internal defense.

"(5) Civil affairs.

"(6) Psychological operations.

"(7) Counterterrorism.

"(8) Humanitarian assistance.

"(9) Theater search and rescue.

"(10) Such other activities as may be specified by the President or the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"167. Unified combatant command for special operations forces.".

(c) MAJOR FORCE PROGRAM CATEGORY.—The Secretary of Defense shall create for the special operations forces a major force program category for the Five-Year Defense Plan of the Department of Defense. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, with the advice and assistance of the commander of the special operations command, shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

(d) PROGRAM AND BUDGET EXECUTION.—To the extent that there is authority to revise programs and budgets approved by Congress for special operations forces, such authority may be exercised only by the Secretary of Defense, after consulting with the commander of the special operations command.

(e) GRADE FOR COMMANDERS OF CERTAIN AREA SPECIAL OPERATIONS COMMANDS.—The commander of the special operations command of the United States European Command, the United States Pacific Command, and any other unified combatant command that the Secretary of Defense may designate for the purposes of this section shall be of general or flag officer grade.

(f) BOARD FOR LOW INTENSITY CONFLICT.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

"(f) The President shall establish within the National Security Council a board to be known as the 'Board for Low Intensity Conflict'. The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.".

(g) DEPUTY ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS FOR LOW INTENSITY CONFLICT.—It is the sense of Congress that the President should designate within the Executive Office of the President a Deputy Assistant to the President for National Security Affairs to be the Deputy Assistant for Low Intensity Conflict.

(h) REPORTS.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the plans of the Secretary for implementation of this section, including a description of the progress made on such implementation.

(2) Not later than one year after the date of the enactment of this Act, the President shall transmit to Congress a report on the capabilities of the United States to conduct special operations and low intensity conflicts. The report shall include a description of the following:

(A) Deficiencies in such capabilities.

(B) Actions being taken throughout the executive branch to correct such deficiencies.

(C) The principal low intensity conflict threats to the interests of the United States.

(D) The actions taken and to be taken to implement this section.

(i) EFFECTIVE DATE.—Section 167 of title 10, United States Code (as added by subsection (b)), shall be implemented not later than 180 days after the date of the enactment of this Act.

(j) FUNDING FOR FISCAL YEAR 1987.—The Secretary of Defense may spend unobligated funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 in such sums as necessary in order to carry out this section and section 167 of title 10, United States Code (as added by subsection (b)), during fiscal year 1987.

SEC. 9116. (a) The Secretary of Defense shall award to a United States firm a contract pursuant to a solicitation issued on or after the date of enactment of this Act under the Department of Defense overseas fuel procurement programs that would otherwise be

awarded to a foreign firm if such United States firm—

(1) has a crude oil refining capacity of not more than 75,000 barrels a day;

(2) participates in the Department of Defense overseas fuel procurement program;

(3) agrees to the contract on the terms proposed by the foreign firm to which the contract would otherwise be awarded; and

(4) does not use processing agreements in order to fulfill the contract.

(b) This provision shall not apply if the total cost of supplies offered by the United States firm, including transportation as specified in the solicitation, would exceed the total evaluated cost to the government if the contract were awarded to the foreign firm.

(c) This provision shall not supersede any status of forces agreement and shall not apply to acquisitions subject to the Agreement on Government Procurement of 1979 and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and including acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(d) For purposes of this section, the term "United States firm" means a corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

SEC. 9117. (a) None of the funds appropriated in this Act may be available for any country if the President determines that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances cultivated or produced or processed illicitly, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States personnel or their dependents, or from being smuggled into the United States. Such prohibition shall continue in force until the President determines and reports to the Congress in writing that—

(1) the government of such country has prepared and committed itself to a plan presented to the Secretary of State that would eliminate the cause or basis for the application to such country of the prohibition contained in the first sentence; and

(2) the government of such country has taken appropriate law enforcement measures to implement the plan presented to the Secretary of State.

(b) The provisions of subsection (a) shall not apply in the case of any country with respect to which the President determines that the application of the provisions of such subsection would be inconsistent with the national security interests of the United States.

SEC. 9118. (a) None of the funds made available by this Act to the Department of Defense may be used to procure the Federal Supply Classes of machine tools set forth in subsection (b) of this section, for use in any government-owned facility or property under control of the Department of Defense, which machine tools were not manufactured in the United States or Canada.

(b) The procurement restrictions contained in subsection (a) shall apply to Federal Supply Classes of metalworking machinery in categories numbered 3408, 3410-3419, 3426, 3433, 3441-3443, 3446, 3448, 3449, 3460, and 3461.

(c) When adequate domestic supplies of the classifications of machine tools identified in subsection (b) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case by case basis by the Secretary of the Service Branch responsible for the procurement.

(d) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 9119. (a) Notwithstanding sections 2394(b) and 2690 of title 10, United States Code, the Secretary of the Army may use funds appropriated for the construction and operation of the Louisiana Army Ammunition Plant for the provision and operation of energy production facilities at such plant.

(b) Funds available to the Secretary of the Army under subsection (a) may be obligated without seeking third party contracts for the financing and construction of heating and power plants.

SEC. 9120. Of the funds appropriated by this Act, $8,100,000 shall be made available to the Department of Defense in order to implement the recommendations of its Security Review Commission concerning personnel and industrial security programs: Provided, That the Department shall submit a reprogramming notification identifying funds for this purpose.

SEC. 9121. No funds shall be expended for implementation of the Department of Defense Federal Acquisition Regulation Supplement; Cargo Preference, published as proposed regulations on July 28, 1986, at page 27016 of volume 51, numbered 144 of the Federal Register.

SEC. 9122. Section 672 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.".

SEC. 9123. (a)(1) Notwithstanding any other provision of law, except as provided in paragraph (1) or (2), the Secretary of the Navy shall reimburse Valerie S. Ford of Richmond, Virginia, for the expenses she incurred for her travel and the travel of her two dependent children and the transportation of her household goods in moving herself and her children from Makakilo, Hawaii, to Richmond, Virginia, in May, 1984.

(2) The Secretary of the Navy may not make the reimbursement authorized in paragraph (1) unless, within one year after the date of enactment of this Act, the Secretary receives from Valerie S. Ford such application for reimbursement and documentation of expenses as the Secretary considers appropriate.

(3) The amount paid to Valerie S. Ford pursuant to paragraph (1) may not exceed the amount that would have been payable for the travel and transportation referred to in such paragraph if the travel and transportation had been timely and a proper and timely application had been submitted in the case of the said Valerie S. Ford as provided by law or applicable regulations.

(b) No part of any amount reimbursed pursuant to subsection (a) of this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such reimbursement, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

SEC. 9124. From existing funds the Secretary of Defense shall take additional steps for further development of planning, research, and facilities for physical acoustics and related matters and shall develop facilities for advanced microelectronics design research and development including but not restricted to military components replacement and the Mapped Array Differential Equation Machine.

SEC. 9125. Notwithstanding any other provision of law, appropriations available to the Department of Defense during the current fiscal year shall be available to make payments to a hospital that obtains 12 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions: Provided, That payment may not be denied for a claim for otherwise reimbursable services submitted under a plan contracted for under sections 1079(a) and 1086(a) of title 10, United States Code, solely on the basis that such hospital does not impose a legal obligation, including a patient cost share or deductible, on its patients to pay for such services.

SEC. 9126. Notwithstanding the provisions of subsection 502(a)(1) of the National Security Act of 1947, funds appropriated by this Act may be obligated and expended for particular intelligence activities contained in this Act: Provided, That the funds appropriated or made available by this Act may be obligated and expended for the particular activities contained in this Act should the enactment of a National Defense Authorization Act for fiscal year 1987 fail to occur and this Act shall then be considered to provide the authorization and appropriation authority necessary to obligate and expend the funds provided herein.

SEC. 9127. Notwithstanding any other provision of law, where an error of the magnitude of four or greater in a financial ratio is made in the evaluation of an application for extension made by any firm in accordance with C.F.R. Section 124.1—(1)(f)(4)(i) (effective January 1, 1986), the maximum extension shall be granted.

SEC. 9128. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 9129. Of the funds appropriated in this Act for the procurement of P-3C aircraft, the Secretary of the Navy may carry out Navy obligations under the classified Maritime Surveillance Agreement of 1986: Provided, That two of the P-3C aircraft to be procured may be used to implement United States obligations under such classified agreement.

SEC. 9130. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 9131. Section 642 of S. 2638, as passed by the Senate on August 9, 1986, shall be deemed to be enacted into law as fully as if set forth herein: Provided, That the total amount herein appropriated for "Military Personnel" appropriations accounts shall be reduced by $350,000,000.

SEC. 9132. During the current fiscal year, the Department of Defense shall conduct a

new competition for 9mm handguns, with procurement starting in fiscal year 1988 in parallel with the current contract.

SEC. 9133. Funds appropriated to the Department of Defense during fiscal year 1987, or otherwise available for obligation during fiscal year 1987, shall be available for obligation notwithstanding any provisions contained in any Act authorizing appropriations for the Department of Defense for fiscal year 1987, heretofore or hereafter enacted, that would otherwise limit obligations of the aggregate amount that may be obligated at the appropriation account level, appropriations subdivision level, or appropriation budget activity level, unless a subsequently enacted provision expressly and specifically references this provision and directly amends or repeals this provision.

SEC. 9134. (a) Notwithstanding any other provision of this Joint Resolution, none of the funds appropriated in this or any other Act shall be used to sell, lease, transfer, or otherwise dispose of any portion of the approximately twenty-six acres of Fort DeRussy, Hawaii, lying southwest of Kalia Road, which includes the Hale Koa Hotel, the Armed Forces Recreation Center, and beachfront area.

(b) Notwithstanding any other provision of this Joint Resolution, to include section 509 of the Department of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Joint Resolution, or any other provision of the law, including section 809 of the Military Construction Authorization Act, 1968, section 807(d) of the Military Construction Authorization Act, 1984, or any other provision of an annual Appropriation Act restricting use of funds for the sale, lease, rental, or excessing of Fort DeRussy, Hawaii, any right or interest of the United States in the remaining forty-five acres of Fort DeRussy, Hawaii, lying northeast of Kalia Road, which comprises the three United States Army Reserve Centers and miscellaneous facilities, may not be sold, leased, or transferred in accordance with Federal laws and Department of Defense regulations governing the disposal of Defense installations prior to August 1, 1987: Provided, That no such sale, lease, transfer, or other disposition proposed by the Secretary of the Army after August 1, 1987 shall occur until 60 legislative days after notification of the proposed action to the Committees on Armed Services and Appropriations of the House of Representatives and Senate.

(c) The exact acreage and legal descriptions of the property addressed by this section shall be determined by surveys which are satisfactory to the Secretary of the Army.

SEC. 9135. None of the funds appropriated or otherwise made available by this or any other Act may be obligated or expended during fiscal year 1987 for, or in connection with, a Strategic Defense Initiative Institute unless—

(1) obligation or expenditure of funds for such purpose is specifically authorized by law in an Act other than this Act; and

(2) funds are specifically appropriated for such purpose in an Act other than this Act.

For purposes of this section, a Strategic Defense Initiative Institute is a Federally Funded Research and Development Center intended to lend technical support to the Strategic Defense Initiative Organization, as described in the Federal Register on March 18, 1986, April 24, 1986, and May 21, 1986.

SEC. 9136. (a) The Secretary of Defense shall conduct through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) a demonstration project on the treatment of alcoholism designed to compare the use of chemical aversion therapy with the use of other treatments. The Secretary shall submit to the Committees on Appropriations and Armed Services of the Senate and House of Representatives a report describing the proposed conduct of the demonstration project not later than November 1, 1986. The Secretary shall implement the demonstration project not later than February 1, 1987. At the conclusion of the demonstration project, the Secretary shall submit to such committees a report on the results of the project: Provided, That the demonstration project shall be conducted at only one location: Provided further, That coverage for chemical aversion therapy under this demonstration project is extended to those beneficiaries referred for such treatment by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

(b) Until the report required by subsection (a) on the results of the demonstration project is submitted, the Secretary of Defense shall ensure that coverage of beneficiaries under section 1079(a) or 1086(a) of title 10, United States Code, shall continue under the provisions of subsection (a).

SEC. 900. SHORT TITLE

This title may be cited as the "Defense Acquisition Improvement Act of 1986".

PART A—MANAGEMENT OF THE ACQUISITION PROCESS

SEC. 901. DUTIES AND PRECEDENCE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

Section 133 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended to read as follows:

"§ 133. Under Secretary of Defense for Acquisition

"(a) There is an Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive management background in the private sector.

"(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform such duties and exercise such powers relating to acquisition as the Secretary of Defense may prescribe, including—

"(1) supervising Department of Defense acquisition;

"(2) establishing policies for acquisition (including procurement, research and development, logistics, developmental testing, and contract administration) for all elements of the Department of Defense;

"(3) establishing policies of the Department of Defense for maintenance of the defense industrial base of the United States; and

"(4) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Department of Defense with regard to matters for which the Under Secretary has responsibility.

"(c) The Under Secretary—

"(1) is the senior procurement executive for the Department of Defense for the purposes of section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3));

"(2) is the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive; and

"(3) to the extent directed by the Secretary, exercises overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law.

"(d)(1) The Under Secretary shall prescribe policies to ensure that audit and oversight of contractor activities are coordinated and carried out in a manner to prevent duplication by different elements of the Department.

"(2) In carrying out this subsection, the Under Secretary shall consult with the Inspector General of the Department of Defense.

"(3) Nothing in this subsection shall affect the authority of the Inspector General of the Department of Defense to establish audit policy for the Department of Defense under the Inspector General Act of 1978 and otherwise to carry out the functions of the Inspector General under that Act.

"(e)(1) With regard to all matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary of Defense for Acquisition takes precedence in the Department of Defense after the Secretary of Defense and the Deputy Secretary of Defense.

"(2) With regard to all matters other than matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.".

SEC. 902. ESTABLISHMENT OF POSITION OF DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

(a) ESTABLISHMENT OF POSITION.—(1) Chapter 4 of title 10, United States Code (as amended by title I of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting after section 133 the following new section:

"§ 133a. Deputy Under Secretary of Defense for Acquisition

"(a) There is a Deputy Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Deputy Under Secretary of Defense for Acquisition shall assist the Under Secretary of Defense for Acquisition in the performance of his duties. The Deputy Under Secretary shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 133 the following new item:

"133a. Deputy Under Secretary of Defense for Acquisition.".

(b) PAY GRADE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Under Secretary of Defense for Acquisition.".

SEC. 903. OTHER SENIOR CIVILIAN ACQUISITION OFFICIALS.

(a) PRECEDENCE OF UNDER SECRETARY FOR POLICY.—Section 134 of title 10, United State Code (as designated by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting "the Under Secretary of Defense for Acquisition," in subsection (c) after "Deputy Secretary of Defense,".

(b) FUNCTIONS AND GRADE OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—(1) Section 135 of title 10, United States Code (as amended by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(A) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Except as otherwise prescribed by the Secretary of Defense, the Director of Defense Research and Engineering shall perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition may prescribe."; and

(B) by striking out subsection (c).

(2)(A) Section 5314 of title 5, United States Code, is amended by striking out "Director of Defense Research and Engineering.".

(B) Section 5315 of such title is amended by adding at the end the following:

"Director of Defense Research and Engineering.".

(c) INDEPENDENCE AND STAFF OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—Section 138 of title 10, United States Code (as redesignated by section 101(a), of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended—

(1) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in the first sentence of subsection (b);

(2) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in subsection (b)(2);

(3) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (b)(5) after "Secretary of Defense";

(4) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (c) after "Secretary of Defense" the first place such term appears;

(5) by inserting "personally" in the first sentence of subsection (d) after "Secretary of Defense";

(6) by inserting ", the Under Secretary of Defense for Acquisition," in the second sentence of subsection (g)(1) after "Secretary of Defense"; and

(7) by adding at the end the following new subsection:

"(i) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law.".

(d) DIRECTOR OF OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.—Section 15(k)(3) of the Small Business Act (15 U.S.C. 644(k)(3)) is amended by inserting ", except that in the case of the Department of Defense the Director of the Office of Small and Disadvantaged Business Utilization shall be responsible to, and report directly to, the Under Secretary of Defense for Acquisition".

(e) CONFORMING AMENDMENT FOR ARMED FORCES POLICY COUNCIL MEMBERSHIP.—Section 171(a) of title 10, United States Code is amended—

(1) by redesignating paragraphs (3) through (11) as paragraphs (4), (5), (6), (7), (9), (10), (11), (12), and (13), respectively;

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) the Under Secretary of Defense for Acquisition;"; and

(3) by striking out paragraph (7) (as so redesignated) and inserting in lieu thereof the following:

"(7) the Under Secretary of Defense for Policy;

"(8) the Deputy Under Secretary of Defense for Acquisition;".

SEC. 904. ENHANCED PROGRAM STABILITY FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) PROGRAM STABILITY.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2434 (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) the following new section:

"§ 2435. Enhanced program stability

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for a major defense acquisition program under the jurisdiction of such Secretary—

"(A) before such program enters full-scale engineering development; and

"(B) before such program enters full-rate production.

"(2) A baseline description required under paragraph (1) shall include the following:

"(A) In the case of the full-scale development stage—

"(i) a description of the performance goals for the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) total development costs for such stage by fiscal year; and

"(iv) the schedule of development milestones.

"(B) In the case of the production stage—

"(i) a description of the performance of the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system

"(iii) number of end items by fiscal year;

"(iv) the schedule of development milestones;

"(v) testing;

"(vi) initial training;

"(vii) initial provisioning; and

"(viii) total procurement costs for such stage (including the cost of all elements included in the baseline description) by fiscal year, which may not exceed the amount of the independent cost estimate for that program submitted to the Secretary of Defense under section 2434 of this title.

"(b) PROGRAM DEVIATION REPORTS.—(1) The program manager of a major defense acquisition program shall immediately submit a program deviation report for such program to the Secretary of the military department concerned and to the senior procurement executive of such military department (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))) if such manager determines at any time during the full-scale engineering development stage or the production stage that there is reasonable cause to believe that—

"(A) the total cost of completion of the program will be more than the amount specified in the baseline description established under subsection (a) for such stage;

"(B) any milestone specified in such baseline description will not be completed as scheduled; or

"(C) the system to be acquired under the program will not fulfill the description of performance, technical characteristics, or configuration specified in such baseline description.

"(2) The Secretary of the military department concerned shall, with respect to any major defense acquisition program for which a program deviation report is received under paragraph (1)—

"(A) establish a review panel to review such program; and

"(B) submit a report containing the program deviation report and the results of such review to the Under Secretary of Defense for Acquisition before the end of the 45-day period beginning on the date that the program deviation report is submitted under paragraph (1).

"(c) DEFINITION.—In this section, the term 'major defense acquisition program' has the meaning given that term in section 2432(a)(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2434 the following new item:

"2435. Enhanced program stability.".

(b) EFFECTIVE DATE.—Section 2435 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major defense acquisition programs that enter full-scale engineering development or full-rate production after the date of the enactment of this Act.

SEC. 905. DEFENSE ENTERPRISE PROGRAMS.

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2435 (as added by section 904) the following new section:

"§ 2436. Defense enterprise programs

"(a) IN GENERAL.—The Secretary of Defense shall conduct, through the Secretaries of the military departments, a program with respect to increasing the efficiency of the management structure of defense acquisition programs by reducing the number of officials through whom a program manager reports to the senior procurement executive of the military department concerned.

"(b) DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of a military department may designate any defense acquisition program under the jurisdiction of the Secretary to participate in the program described in subsection (a). A program designated under this subsection shall be known as a 'defense enterprise program'.

"(c) GUIDELINES.—The Secretary of Defense shall issue guidelines governing the management of defense enterprise programs. Such guidelines shall include the following requirements:

"(1) The Secretary concerned shall designate a program executive officer for each program.

"(2) The program manager for each program shall report with respect to such program directly, without intervening review or approval, to the program executive officer for the program.

"(3) The program executive officer for a program shall report with respect to such program directly, without intervening review or approval, to the senior procurement executive of the military department concerned designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(4) The program executive officer to whom a defense enterprise program manager reports shall evaluate the job performance of such manager on an annual basis. In conducting an evaluation under this paragraph, a program executive officer shall consider the extent to which the manager has achieved the objectives of the program for which the manager is responsible, including quality, timeliness, and cost objectives.

"(5) The manager of a defense enterprise program shall be authorized staff positions for a technical staff, including experts in business management, contracting, auditing, engineering, testing, and logistics.

"(d) APPLICABLE RULES AND REGULATIONS.—(1) Except as specified by the senior procurement executive of the military department concerned, a defense enterprise program shall not be subject to any regulation, policy, directive, or administrative rule or guideline relating to the acquisition activities of the Department of Defense other than the Federal Acquisition Regulation and the Department of Defense supplement to the Federal Acquisition Regulation.

"(2) Paragraph (1) shall not be construed to limit or modify the application of Federal legislation relating to the acquisition activities of the Department of Defense.

"(3) In this subsection the term 'Federal Acquisition Regulation' has the meaning given such term in section 2320(a)(4) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2435 (as added by section 904) the following new item:

"2436. Defense enterprise programs.".

(b) The Secretary of each military department shall designate for fiscal year 1988 not less than three defense acquisition programs under the jurisdiction of the Secretary to participate in the program described in section 2436(a) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 906. MILESTONE AUTHORIZATION OF DEFENSE ENTERPRISE PROGRAMS.

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2436 (as inserted by section 905) the following new section:

"§ 2437. Defense enterprise programs: milestone authorization

"(a) DESIGNATION OF PARTICIPATING PROGRAMS.—(1) The Secretary of Defense may designate defense enterprise programs in each military department (as designated by the Secretary of the military department under section 2436 of this title) to be considered for milestone authorization under subsection (b).

"(2) The Secretary may designate a defense enterprise program under paragraph (1) only if the program—

"(A) is ready to proceed into the full-scale engineering development stage or the full-rate production stage; or

"(B) is in either of such stages.

"(b) SUBMISSION OF BASELINE DESCRIPTIONS.—Not later than the end of the 90-day period beginning on the date that a defense enterprise program is designated under subsection (a), the Secretary of Defense shall—

"(1) in the case of a program that is subject to section 2435(a) of this title, submit to the Committees on Armed Services of the Senate and House of Representatives the baseline description for the program required to be submitted under such section;

"(2) in the case of a program that is not subject to such section—

"(A) establish a baseline description that meets the requirements of such section; and

"(B) submit the baseline description to such committees; and

"(3) request from Congress the authority to obligate funds in a single amount sufficient to carry out the stage for which the baseline description is submitted.

"(c) MILESTONE AUTHORIZATION.—Congress shall authorize funds for the full-scale engineering development stage or the full-rate production stage of a program designated by the Secretary of Defense under subsection (a) in a single amount sufficient to carry out that stage, but not for a period in excess of five years, if such program is approved by Congress to—

"(1) proceed into or complete the full-scale engineering development stage; or

"(2) proceed into or complete the full-rate production stage.

"(d) PROGRAM DEVIATIONS.—(1) If the Secretary of Defense receives a program deviation report under section 2435(b) of this title with respect to a defense enterprise program for which funds are authorized under subsection (b)—

"(A) the Secretary of Defense shall notify the Committees on Armed Services of the Senate and House of Representatives of the receipt of such report before the end of the 15-day period beginning on the date on which the Secretary receives such report; and

"(B) except as provided in paragraph (2), after the end of the 45-day period beginning on the date on which the Secretary of Defense receives such report, the Secretary concerned may not obligate amounts appropriated or otherwise made available to the Department of Defense for purposes of carrying out the program.

"(2) Paragraph (1)(B) does not apply if the Secretary of Defense notifies Congress that the Secretary intends to—

"(A) convene a board to formally review the program; and

"(B) submit to Congress a revised baseline description for the program and the recommendations of the board convened under subparagraph (A) concurrent with the submission by the President of the budget for the next fiscal year under section 1105(a) of title 31.

"(3) The Secretary concerned may not obligate, for the purpose of carrying out a program described in paragraph (1) for which a program deviation report is received, amounts appropriated or otherwise made available to the Department of Defense for the fiscal year following the fiscal year during which the program deviation report was received unless such amounts are authorized to be appropriated after the date on which such report was received.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2436 (as inserted by section 905) the following new item:

"2437. Defense enterprise programs: milestone authorization.".

(b) INITIAL DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of Defense shall designate for fiscal year 1988 not less than three defense enterprise programs to be considered for milestone authorization under subsection (b). The Secretary shall make such designations as part of the budget submission of the Department of Defense for such fiscal year.

SEC. 907. PREFERENCE FOR NONDEVELOPMENTAL ITEMS.

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2325. Preference for nondevelopmental items

"(a) PREFERENCE.—The Secretary of Defense shall ensure that, to the maximum extent practicable—

"(1) requirements of the Department of Defense with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of nondevelopmental items.

"(b) IMPLEMENTATION.—The Secretary of Defense shall carry out this section through the Under Secretary of Defense for Acquisition, who shall have responsibility for its effective implementation.

"(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(d) DEFINITION.—In this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously-developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply that is currently being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2325. Preference for nondevelopmental items.".

(3) The Secretary of Defense shall prescribe regulations as required by section 2325(c) of title 10, United States Code (as added by subsection (a)(1)), before the end of the 180-day period beginning on the date of the enactment of this Act.

(b) REMOVAL OF IMPEDIMENTS TO ACQUISITION OF NONDEVELOPMENTAL ITEMS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) identifying actions taken, including training of personnel and changes in regulations and procurement procedures, to implement the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) identifying all statutes and regulations that are determined by the Secretary to impede the acquisition of nondevelopmental items by the Department of Defense; and

(C) recommending any legislation that the Secretary considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(2) The Secretary shall take appropriate steps to remove any impediments identified by the Secretary under paragraph (1)(A) that are under the jurisdiction of the Secretary.

(3) The report required by paragraph (1) shall be submitted before the end of the one-year period beginning on the date of the enactment of this Act.

(c) EVALUATION BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct an independent evaluation of the actions taken by the Secretary of Defense to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1)).

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation required by paragraph (1). Such report shall include—

(A) an analysis of the effectiveness of the actions taken by the Secretary to carry out the requirements of section 2325 of title 10,

United States Code (as added by subsection (a)(1));

(B) a description of any programs conducted to notify acquisition personnel of the Department of Defense of the requirements of such section and to train such personnel in the appropriate procedures for carrying out such section;

(C) a description of each law, regulation, and procedure which prevents or restricts maximum practicable use of nondevelopmental items to fulfill the supply requirements of the Department of Defense; and

(D) such recommendations for additional legislation as the Comptroller General considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(3) The report required by paragraph (2) shall be submitted before the end of the two-year period beginning on the date of the enactment of this Act.

(d) DEFINITION.—For the purposes of subsections (b) and (c), the term "nondevelopmental items" has the meaning given such term in section 2325(d) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 908. REQUIREMENTS RELATING TO UNDEFINITIZED CONTRACTUAL ACTIONS.

(a) LIMITATION ON USE OF FUNDS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—(1) On the last day of each six-month period described in paragraph (4), the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretary of each military department shall determine—

(A) the total amount of funds obligated for contractual actions during the six-month period;

(B) the total amount of funds obligated during the six-month period for undefinitized contractual actions; and

(C) the total amount of funds obligated during the six-month period for undefinitized contractual actions that are not definitized on or before the last day of such period.

(2) On the last day of each six-month period described in paragraph (4), the amount of funds obligated for undefinitized contractual actions entered into by the Secretary of Defense (with respect to the Defense Logistics Agency) or the Secretary of a military department during the six-month period that are not definitized on or before such day may not exceed 10 percent of the amount of funds obligated for all contractual actions entered into by the Secretary during the six-month period.

(3) If on the last day of a six-month period described in paragraph (4) the total amount of funds obligated for undefinitized contractual actions under the jurisdiction of a Secretary that were entered into during the six-month period exceeds the limit established in paragraph (2), the Secretary—

(A) shall, not later than the end of the 45-day period beginning on the first day following the six-month period, submit to the defense committees an unclassified report concerning—

(i) the amount of funds obligated for contractual actions under the jurisdiction of the Secretary that were entered into during the six-month period with respect to which the report is submitted; and

(ii) the amount of such funds obligated for undefinitized contractual actions; and

(B) except with respect to the six-month period described in paragraph (4)(A), may not enter into any additional undefinitized contractual actions until the date on which the Secretary certifies to Congress that such limit is not exceeded by the cumulative amount of funds obligated for undefinitized contractual actions under the jurisdiction of the Secretary that are not definitized on or before such date and were entered into—

(i) during the six-month period for which such limit was exceeded; or

(ii) after the end of such six-month period.

(4) This subsection applies to the following six-month periods:

(A) The period beginning on October 1, 1986, and ending on March 31, 1987.

(B) The period beginning on April 1, 1987, and ending on September 30, 1987.

(C) The period beginning on October 1, 1987, and ending on March 31, 1988.

(D) The period beginning on April 1, 1988, and ending on September 30, 1988.

(E) The period beginning on October 1, 1988, and ending on March 31, 1989.

(b) OVERSIGHT BY INSPECTOR GENERAL.—The Inspector General of the Department of Defense shall—

(1) periodically conduct an audit of contractual actions under the jurisdiction of the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretaries of the military departments; and

(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each Secretary, including the amount of contractual actions under the jurisdiction of each Secretary that is represented by undefinitized contractual actions.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of this section for urgent and compelling considerations relating to national security or public safety if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of such waiver before the end of the 30-day period beginning on the date that the waiver is made.

(d) ESTABLISHMENT OF REQUIREMENTS WITH RESPECT TO UNDEFINITIZED CONTRACTUAL ACTIONS.—(1)(A) Chapter 137 of title 10, United States Code, is amended by adding after section 2325 (as added by section 907) the following new section:

"§ 2326. Undefinitized contractual actions: restrictions

"(a) IN GENERAL.—The head of an agency may not enter into an undefinitized contractual action unless the request to the head of the agency for authorization of the contractual action includes a description of the anticipated effect on requirements of the military department concerned if a delay is incurred for purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

"(b) LIMITATIONS ON OBLIGATION AND EXPENDITURE OF FUNDS.—(1) A contracting officer of the Department of Defense may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price by the earlier of—

"(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

"(B) the date on which the amount of funds obligated or expended under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

"(2) Except as provided in paragraph (3), the contracting officer for an undefinitized contractual action may not expend with respect to such contractual action an amount that is equal to more than 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(3) If a contractor submits a qualifying proposal (as defined in subsection (g)) to definitize an undefinitized contractual action before an amount equal to more than 50 percent of the negotiated overall ceiling price is expended on such action, the contracting officer for such action may not expend with respect to such contractual action an amount that is equal to more than 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(4) This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

"(c) INCLUSION OF NON-URGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action for spare parts and support equipment that are needed on an urgent basis unless the head of the agency approves such inclusion as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(d) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the head of the agency approves such modification as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(e) ALLOWABLE PROFIT.—The head of an agency shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

"(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

"(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

"(f) APPLICABILITY.—This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(g) DEFINITIONS.—In this section:

"(1) The term 'undefinitized contractual action' means a new procurement action entered into by the head of an agency for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action. Such term does not include contractual actions with respect to the following:

"(A) Foreign military sales.

"(B) Purchases of less than $25,000.

"(C) Special access programs.

"(D) Congressionally-mandated long-lead procurement contracts.

"(2) The term 'qualifying proposal' means a proposal that contains sufficient information to enable the Department of Defense to conduct complete and meaningful audits of the information contained in the proposal and of any other information that the Department is entitled to review in connection with the contract, as determined by the contracting officer.".

(B) The table of sections at the beginning of such chapter is amended by adding after

the item relating to section 2325 (as added by section 907) the following new item:

"2326. Undefinitized contractual actions: restrictions.".

(2) Section 2326 of title 10, United States Code (as added by subsection (d)(1)), applies to undefinitized contractual actions that are entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

(e) DEFINITION.—For purposes of this section, the term "undefinitized contractual action" has the meaning given such term in section 2325(g) of title 10, United States Code (as added by subsection (d)(1)).

SEC. 909. COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) ESTABLISHMENT OF REQUIREMENT.—Chapter 139 of title 10, United States Code, is amended by adding after section 2364 (as added by section 234) the following new section:

"§ 2365. Competitive prototype strategy requirement: major defense acquisition programs

"(a) COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT.—Except as provided in subsection (c), the Secretary of Defense shall require the use of a competitive prototype program strategy in the development of a major weapons system (or a subsystem of such system).

"(b) QUALIFYING STRATEGIES.—An acquisition strategy qualifies as a competitive prototype strategy if it—

"(1) requires that contracts be entered into with not less than two contractors, using the same combat performance requirements, for the competitive design and manufacture of a prototype system or subsystem for developmental test and evaluation;

"(2) requires that all systems or subsystems developed under contracts described in paragraph (1) be tested in a comparative side-by-side test that is designed to—

"(A) reproduce combat conditions to the extent practicable; and

"(B) determine which system or subsystem is most effective under such conditions; and

"(3) requires that each contractor that develops a prototype system or subsystem, before the testing described in subparagraph (B) is begun, submit—

"(A) cost estimates for full-scale engineering development and the basis for such estimates; and

"(B) production estimates, whenever practicable.

"(c) EXCEPTION.—Subsection (a) shall not apply to the development of a major weapons system (or subsystem of such system) after—

"(1) the Secretary submits to Congress—

"(A) written notification that use of a competitive prototype program strategy is not practicable with respect to such system or subsystem; and

"(B) a report that fully explains why use of such a strategy is not practicable, including cost estimates (and the bases for such estimates) comparing the total program cost of the competitive prototype strategy with the total program cost of the alternative acquisition strategy; and

"(2) 30 days elapse after the Secretary submits the notification and report required by paragraph (1).

"(d) DEFINITIONS.—In this section:

"(1) The term 'major weapons system' means a major weapons system that is acquired under a program that is a major defense acquisition program.

"(2) The term 'major defense acquisition program' means a Department of Defense acquisition program that—

"(A) is not a highly sensitive classified program (as determined by the Secretary of Defense); and

"(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars).

"(3) The term 'subsystem of such system' means a collection of components (such as the propulsion system, avionics, or weapon controls) for which the prime contractors, major subcontractors, or government entities have responsibility for system integration.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2364 (as added by section 234) the following new item:

"2365. Competitive prototype strategy requirement: major defense acquisition programs.".

(b) EFFECTIVE DATE.—Section 2365 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major weapons systems (as defined in subsection (c)(1) of such section) that enter the advanced development stage after September 30, 1986.

SEC. 910. TESTING OF CERTAIN WEAPON SYSTEMS AND MUNITIONS.

(a) SURVIVABILITY AND LETHALITY TESTING AND OPERATIONAL TESTING.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2365 (as added by section 909) the following new section:

"§ 2366. Major systems and munitions programs: survivability and lethality testing; operational testing

"(a) REQUIREMENTS.—The Secretary of Defense shall provide that—

"(1) a covered system may not proceed beyond low-rate initial production until realistic survivability testing of the system is completed in accordance with this section;

"(2) a major munition program or a missile program may not proceed beyond low-rate initial production until realistic lethality testing of the program is completed in accordance with this section; and

"(3) a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed in accordance with this section.

"(b) TEST GUIDELINES.—(1) Survivability and lethality tests required under subsection (a) shall be carried out sufficiently early in the development phase of the system or program to allow any design deficiency demonstrated by the testing to be corrected in the design of the system, munition, or missile before proceeding beyond low-rate initial production.

"(2) In the case of a major defense acquisition program, no person employed by the contractor for the system being tested may be involved in the conduct of the operational test and evaluation required under subsection (a).

"(3) The costs of all tests required under that subsection shall be paid from funds available for the system being tested.

"(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, or missile program if the Secretary, before the system or program enters full-scale engineering development, certifies to Congress that live-fire testing of such system or program would be unreasonably expensive and impractical.

"(d) WAIVER IN TIME OF WAR OR MOBILIZATION.—In time of war or mobilization, the President may suspend the operation of any provision of this section.

"(e) DEFINITIONS.—In this section:

"(1) The term 'covered system' means a vehicle, weapon platform, or conventional weapon system—

"(A) that includes features designed to provide some degree of protection to users in combat; and

"(B) that is a major system within the meaning of that term in section 2303(5) of this title.

"(2) The term 'major munitions program' means—

"(A) a munition program for which more than 1,000,000 rounds are planned to be acquired; or

"(B) a conventional munitions program that is a major system within the meaning of that term in section 2302(5) of this title.

"(3) The term 'major defense acquisition program' means—

"(A) a conventional weapons system that is a major system within the meaning of that term in section 2302(5) of this title; and

"(B) is designed for use in combat.

"(4) The term 'realistic survivability testing' means, in the case of a covered system, testing for vulnerability and survivability of the system in combat by firing munitions likely to be encountered in combat (or munitions with a capability similar to such munitions) at the system configured for combat, with the primary emphasis on testing vulnerability with respect to potential user casualties and taking into equal consideration the operational requirements and combat performance of the system.

"(5) The term 'realistic lethality testing' means, in the case of a major munitions program or a missile program, testing for lethality by firing the munition or missile concerned at appropriate targets configured for combat.

"(6) The term 'configured for combat', with respect to a weapon system, platform, or vehicle, means loaded or equipped with all dangerous materials (including all flammables and explosives) that would normally be on board in combat.

"(7) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2365 (as added by section 909) the following new item:

"2366. Major systems and munitions programs: survivability and lethality testing; operational testing.".

(b) EFFECTIVE DATE.—Section 2366 of title 10, United States Code (as added by subsection (a)), shall apply with respect to any decision to proceed with a program beyond low-rate initial production that is made—

(1) after May 31, 1987, in the case of a decision referred to in subsection (a)(1) or (a)(2) of such section; or

(2) after the date of the enactment of this Act, in the case of a decision referred to in subsection (a)(3) of such section.

(c) TIME FOR SUBMISSION OF ANNUAL REPORT OF DIRECTOR (OT&E).—Subsection (g)(1) of section 138 of such title (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended by striking out "January 15" in the second sen-

tence and all that follows through 'is prepared' and inserting in lieu thereof "10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31".

SEC. 911. GOALS FOR INCREASED USE OF MULTIYEAR CONTRACTING AUTHORITY IN FISCAL YEAR 1988.

(a) IN GENERAL.—The Secretary of Defense shall take appropriate actions to ensure that the Department of Defense increases the use of multiyear contracting authority in fiscal year 1988.

(b) MULTIYEAR PROCUREMENT GOAL.—The total amount obligated under multiyear contracts (authorized by section 2306(h) of title 10, United States Code) for Department of Defense procurement program eligible for multiyear contracting during fiscal year 1988 should be an amount that is not less than 10 percent of the total obligational authority used by the Department of Defense for procurement programs of the Department during such fiscal year.

(c) APPORTIONMENT OF GOAL.—The Secretary of Defense shall specify the percentage of obligational authority of each military department and Defense Agency that is to be used for multiyear contracts to achieve the goal prescribed in subsection (b).

(d) BASELINE REPORT.—Not later than January 1, 1987, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a written report which contains—

(1) a list of all procurement programs which the Secretary determines to be procurement programs eligible for multiyear contracting that are subject to the requirements of section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433));

(2) the Secretary's assessment of the feasibility and desirability of the multiyear procurement goal prescribed in subsection (b); and

(3) whether the Secretary expects to achieve the goal prescribed in subsection (b) for fiscal year 1988 and, if the Secretary does not expect to achieve such goal, the reasons why such goal will not be achieved.

(e) DEFINITIONS.—As used in this section the term "procurement program eligible for multiyear contracting" means a procurement program of the Department of Defense—

(1) which satisfies the conditions of clauses (A) through (F) of section 2306(h)(1) of title 10, United States Code; and

(2) under which production of fully configured end items is planned for a period exceeding three fiscal years.

SEC. 912. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) IN GENERAL.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2366 (as added by section 910) the following new section:

"§ 2367. Use of Federally funded research and development centers

"(a) LIMITATION ON USE OF CENTERS.—Except as provided in subsection (b), the Secretary of Defense may not place work with a federally funded research and development center unless such work is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement of the Department of Defense with such center.

"(b) EXCEPTION FOR APPLIED SCIENTIFIC RESEARCH.—This section does not apply to a federally funded research and development center that performs applied scientific research under laboratory conditions.

"(c) LIMITATION ON CREATION OF NEW CENTERS.—(1) The head of an agency may not obligate or expend amounts appropriated to the Department of Defense for purposes of operating a federally funded research center that was not in existence before June 2, 1986, until—

"(A) the head of the agency submits to Congress a report with respect to such center that describes the purpose, mission, and general scope of effort of the center; and

"(B) a period of 60 days beginning on the date such report is received by Congress has elapsed.

"(2) In this subsection, the term 'head of an agency' has the meaning given such term in section 2302(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2366 (as added by section 910) the following new item:

"2367. Use of Federally funded research and development centers.".

(b) GAO STUDY.—The Comptroller General shall conduct a study of the national defense role of federally funded research and development centers. Such study shall consider the following:

(1) The effectiveness of procedures in effect on the date of the enactment of this Act in ensuring that such centers are established on the basis of the criteria set forth in Office of Federal Procurement Policy Circular 84-1.

(2) The effectiveness of such procedures in ensuring that work placed with such centers is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement with such center.

(3) The growth in the size of such centers during fiscal years 1982 through 1986, measured—

(A) in dollar value of work placed with such centers; and

(B) in man-years of effort required to complete work placed with such centers.

(4) The effect of the exemption of contracts with such centers from the competitive procedures required by section 2304 of title 10, United States Code.

(5) The relationship of such centers to their sponsors.

(c) GAO REPORT.—(1) The Comptroller General shall submit to Congress a report on the study required by subsection (b). Such report shall include a discussion of each of the matters listed in subsection (b).

(2) The report required by paragraph (1) shall be submitted not later than one year after the date of the enactment of this Act.

PART B—REQUIREMENTS RELATING TO THE ACQUISITION PROCESS

SEC. 921. SMALL BUSINESS SET-ASIDES.

(a) PROPORTION OF CONTRACTS SET ASIDE DETERMINED ON INDUSTRY CATEGORY BASIS.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by inserting "in each industry category" in paragraph (3) after "Government", and

(2) by adding at the end the following new sentences: "For purposes of clause (3) of the first sentence of this subsection, an industry category is a discrete group of similar goods and services. Such groups shall be determined by the Administration in accordance with the four-digit standard industrial classification codes contained in the Standard Industrial Classification Manual published by the Office of Management and Budget, except that the Administration shall limit such an industry category to a greater extent than provided under such classification codes if the Administration receives evidence indicating that further segmentation for purposes of this paragraph is warranted due to special capital equipment needs or special labor or geographic requirements or to recognize a new industry. A market for goods or services may not be segmented under the preceding sentence due to geographic requirements unless the Government typically designates the area where work for contracts for such goods or services is to be performed and Government purchases comprise the major portion of the entire domestic market for such goods or services and, due to the fixed location of facilities, high mobilization costs, or similar economic factors, it is unreasonable to expect competition from business concerns located outside of the general areas where such concerns are located.".

(b) AWARDING OF CONTRACTS AT FAIR MARKET PRICES.—(1) Section 15(a) of such Act (15 U.S.C. 644(a)) is further amended by adding at the end the following new sentence: "A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price.".

(2) Section 8(a)(1)(A) of such Act (15 U.S.C. 637(a)(1)(A)) is amended by striking out the semicolon at the end and adding in lieu thereof the following: ". A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price;".

(c) ASSURANCE AS TO COMPOSITION OF LABOR FORCE.—(1) Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by adding at the end the following new paragraph:

"(14)(A) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(i) in the case of a contract for services (except construction), at least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern; and

"(ii) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(B) The Administrator may change the percentage under clause (i) or (ii) of subparagraph (A) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category. A percentage established under the preceding sentence may not differ from a percentage established under section 15(n).

"(C) The Administration shall establish, through public rulemaking, requirements similar to those specified in subparagraph (A) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph. The percentage applicable to any such requirement shall be determined in accordance with subparagraph (B), except that such a percentage may not differ from a per-

centage established under section 15(n) for the same industry category.".

(2) Section 15 of such Act (15 U.S.C 644) is amended by adding at the end the following new subsection:

"(o)(1) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(A) in the case of a contract for services (except construction), the concern will perform at least 50 percent of the cost of the contract with its own employees; and

"(B) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(2) The Administrator may change the percentage under subparagraph (A) or (B) of paragraph (1) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category.

"(3) The Administration shall establish, through public rulemaking, requirements similar to those specified in paragraph (1) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph.".

(d) EXPANSION OF ANNUAL PARTICIPATION GOALS.—Section 15(g) of such Act is amended—

(1) by striking out "having values of $10,000 or more" in the first sentence; and

(2) by adding at the end the following: "For the purpose of establishing goals under this subsection, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(1) contracts awarded as the result of unrestricted competition; and

"(2) contracts awarded after competition restricted to eligible small business concerns under this section and under the program established under section 8(a).".

(e) DISCLOSURE OF INFORMATION CONCERNING APPLICANTS FOR PROCUREMENT SET-ASIDES.—Section 15 of such Act is further amended by adding at the end the following new subsection:

"(p)(1) Except as provided in paragraphs (2) and (3), the head of any Federal agency shall, within five days of the agency's decision to set aside a procurement for small business concerns under this section, provide the names and addresses of the small business concerns expected to respond to the procurement to any person who requests such information.

"(2) The Secretary of Defense may decline to provide information under paragraph (1) in order to protect national security interests.

"(3) The head of a Federal agency is not required to release any information under paragraph (1) that is not required to be released under section 552 of title 5, United States Code.".

(f) REVIEW OF SIZE STANDARDS.—Section 3 of the Small Business Act is amended—

(1) by inserting "(1)" after "SEC. 3. (a)"; and

(2) by adding at the end of subsection (a) the following:

"(2)(A) The Small Business Administration shall establish a program for the review of the size standards for eligibility of business concerns in the industry categories described in subparagraph (B) for a procurement restricted to small business concerns under section 8(a) or 15(a).

"(B) Subparagraph (A) shall apply only to business concerns in the following industry categories:

"(i) Construction.

"(ii) Architectural and engineering services (including surveying and mapping services).

"(iii) Ship building and ship repair.

"(iv) Refuse systems and related services.

"(3) If the Administrator determines, on the basis of any such review, that contracts awarded under the set-aside programs under such sections exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined under the last sentence of section 15(a)(3), the Administrator shall adjust the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections.

"(4)(A) An interested person may petition the Administrator at any time to review an adjustment to a size standard made under paragraph (3) or any designation of an industry category made under section 15(a)(3) if the petitioner presents credible evidence that any such adjustment or designation—

"(i) is not likely to further the purposes of paragraph (3)(A) or section 15(a); and

"(ii) has caused the petitioner to suffer severe financial loss.

"(B) The Administrator shall render a final determination on any petition filed under subparagraph (A) before the end of the 30-day period beginning on the date that such petition is received by the Administration. Such determination shall be reviewable in the manner prescribed in chapter 7 of title 5, United States Code.

"(C) The Administrator shall prescribe regulations to carry out the provisions of this subsection.

"(5) The Administrator shall conduct a review under the program established under paragraph (2) at least once during every three years. Such review shall be completed and appropriate size standard adjustments made with the expiration of 180 days after each three-year review period.".

(g) EFFECTIVE DATE.—Except as otherwise provided in subsection (h), the amendments made by this section shall take effect on October 1, 1987.

(h) INITIAL REVIEW OF SIZE STANDARDS.—(1) Paragraph (2) of section 3(a) of the Small Business Act (as added by subsection (f)) shall take effect on the date of the enactment of this Act.

(2) The first review conducted by the Administrator under such paragraph shall review the periods beginning on October 1, 1983, and ending on September 30, 1986, and shall be completed not later than 180 days after the date of the enactment of this Act.

(3) If the Administrator of the Small Business Administration determines, on the basis of the review referred to in paragraph (2), that contracts awarded under the set-aside programs under sections 8(a) and 15(a) of the Small Business Act in any industry category subject to that review exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined in accordance with the last sentence of section 15(a)(3) of such Act, the Administrator shall propose adjustments to the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections. The Administrator shall publish such proposed adjustments in the Federal Register for public comment. The Administrator may not issue final regulations implementing revised size standards for an industry category under section 3(a)(3) of such Act (as added by subsection (f)) until October 1, 1987.

(i) REPORT ON EFFECT OF AMENDMENTS MADE BY THIS SECTION.—(1) The Administrator of the Small Business Administration shall submit to the Committees on Armed Services and the Committees on Small Business of the Senate and House of Representatives a report on the amendments made by this section. The report shall include the Administrator's views on the advisability and feasibility of implementing such amendments.

(2) The report shall also include—

(A) the Administrator's findings and determinations under the review of size standards for businesses that qualify as small businesses carried out pursuant to section 3(a)(2)(B) of the Small Business Act (as amended by subsection (f));

(B) a determination of whether or not the amendments made by subsection (f) will further the interests of the set-aside program; and

(C) recommendations for furthering the interests described in subparagraphs (A) and (B) in a more efficient or more effective manner than provided in such amendments.

(3) In preparing the report required by paragraph (1), the Administrator of the Small Business Administration shall seek the views of all affected agencies of the Government and the views of the public, including the views of business concerns of all sizes and of trade, business, and professional organizations. The views of such agencies, and a summary of the views of the public, shall be included in the report.

(4) The report shall be submitted not later than July 15, 1987.

(j) LIMITATION RESPECTING GREAT LAKES NAS.—Of the total dollar amount of the contracts awarded for fiscal year 1987 for construction and/or refuse systems and related services at Great Lakes Naval Training Station, Illinois, not more than 30 percent of such dollar amount may be under contracts awarded through the so-called small business set-aside programs under sections 8 and 15 of the Small Business Act.

SEC. 922. THRESHOLDS FOR CERTAIN REQUIREMENTS RELATING TO SMALL PURCHASES.

(a) SMALL BUSINESS ACT NOTICE THRESHOLDS.—Section 8(e)(1) of the Small Business Act (15 U.S.C. 637(e)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or"; and

(D) by inserting after clause (ii) the following new clause:

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "subsection (b); and" and inserting in lieu thereof "subsection (f);";

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(b) OFFICE OF FEDERAL PROCUREMENT POLICY ACT NOTICE THRESHOLDS.—Section 18(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)(A)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears in and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(c) SMALL BUSINESS SET-ASIDES.—The first sentence of section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended by striking out "$10,000" and inserting in lieu thereof "25,000".

(d) CONFORMING AMENDMENTS.—(1) Section 8(f) of the Small Business Act is amended by striking out "subsection (e)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (e)(1)".

(2) Section 18(b) of the Office of Federal Procurement Policy Act is amended by striking out "subsection (a)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (a)(1)".

SEC. 923. REQUIREMENTS RELATING TO PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.

(a) LIMITED SOURCES.—Section 2304(c)(1) of title 10, United States Code, is amended by inserting "or only from a limited number of responsible sources" after "only one responsible source".

(b) UNSOLICITED PROPOSALS FOR SERVICE.—Subparagraph (A) of section 2304(d)(1) of such title is amended by striking out "a unique and innovative concept" and all that follows and inserting in lieu thereof "a concept—

"(i) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability of the source to provide the service; and

"(ii) the substance of which is not otherwise available to the United States, and does not resemble the substance of a pending competitive procurement; and".

(c) FOLLOW-ON CONTRACTS.—Subparagraph (B) of such section is amended—

(1) by inserting ", or the continued provision of highly specialized services, such property or services may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures" after "highly specialized equipment";

(2) by inserting a one-em dash after "would result in";

(3) by paragraphing clauses (i) and (ii) and aligning their margins so as to be cut in four ems;

(4) by striking out the comma after "competition" at the end of clause (i) and inserting in lieu thereof a semicolon; and

(5) by striking out ", such property" and all that follows and inserting in lieu thereof a period.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply with respect to contracts for which solicitations are issued after the end of the 180-day period beginning on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to contracts awarded on the basis of unsolicited research proposals after the end of the 180-day period beginning on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply with respect to follow-on contracts awarded after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 924. EVALUATION FACTORS IN AWARD OF CONTRACTS.

(a) EVALUATION FACTORS.—Subsection (a) of section 2305 of title 10, United States Code, is amended—

(1) in paragraph (2)(A)(i)—

(A) by striking out "(including price)";

(B) by inserting "(including price)" after "sealed bids"; and

(C) by inserting "(including cost or price)" after "competitive proposals"; and

(2) by adding at the end the following new paragraph:

"(3) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency shall clearly establish the relative importance assigned to the quality of the services to be provided (including technical capability, management capability, and prior experience of the offeror).".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by inserting "cost or" in paragraph (4)(B) before "price".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 925. COMPUTATION OF CONTRACT BID PRICES.

(a) IN GENERAL.—Section 2301(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the head of an agency, in issuing a solicitation for a contract to be awarded using sealed-bid procedures, not include in such solitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) EFFECTIVE DATE.—Section 2301(a)(7) of title 10, United States Code (as added by subsection (a)), shall not apply to solicitations for sealed bids issued before the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 926. PRICES FOR SPARE OR REPAIR PARTS SOLD COMMERCIALLY.

(a) ESTABLISHMENT OF COMMERCIAL PRICING REQUIREMENT.—(1) Section 2323 of title 10, United States Code, is amended to read as follows:

"§ 2323. Commercial pricing for spare or repair parts

"(a) LIMITATION ON PRICE OF COMMERCIALLY AVAILABLE PARTS.—Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), if the head of an agency, using procedures other than competitive procedures, enters into a contract with a contractor for the purchase of spare or repair parts which the contractor also offers for sale to the general public, the price charged the United States for such parts under the contract may not exceed the lowest commercial price charged by the contractor in sales of such parts during a period described in subsection (b)(1).

"(b) REQUIREMENTS FOR INCLUSION IN OFFER.—The head of an agency, with respect to an offeror who submits an offer to the head of an agency to enter into a contract for the supply of spare or repair parts under a contract awarded using procedures other than competitive procedures, and who also offers such parts for sale to the general public, shall require that the offeror—

"(1) certify in such offer that, to the best of the knowledge and belief of the offeror, the price proposed in the offer does not exceed the lowest commercial price at which such offeror sold such parts during the most recent regular monthly, quarterly, or other period for which sales data are reasonably available; or

"(2) submit with such offer a written statement—

"(A) specifying the amount of the difference between the price proposed in the offer and the lowest commercial price at which such offeror sold such parts during a period described in paragraph (1); and

"(B) providing a justification for that difference.

"(c) EXCEPTION TO LIMITATION.—Subsections (a) and (b) do not apply in the case of a contract with respect to which the contracting officer includes in the file on the

contract a written determination by such officer that the use of the lowest commercial price with respect to such contract is not appropriate because of—

"(1) national security considerations; or

"(2) significant differences between the terms of the commercial sales of the parts to be acquired under such contract and the terms of such contract, including differences in—

"(A) quantity;

"(B) quality;

"(C) delivery requirements; or

"(D) other terms and conditions.

"(d) AUDITING.—(1) In order to verify any certification or statement made under subsection (b) with respect to a contract, the contracting officer who awards such contract (or any representative of the contracting officer who is an employee of the United States or a member of the armed forces), during the time period specified in paragraph (2), may examine and audit all records of sales (including contract terms and conditions) maintained by or for the contractor that are directly pertinent to sales by the contractor of spare or repair parts identical to those covered by the contract during the period covered by such certification or statement.

"(2) The head of an agency shall require an offeror who submits a certification or written statement under subsection (b) to make available the records, books, data, and documents described in paragraph (1) for examination, audit, or reproduction for the purposes of such paragraph during the three-year period beginning on the date that the offeror submits such certification or statement to such head of an agency.

"(3) The authority provided by this subsection is in addition to the authority of the head of an agency under section 2306a of this title.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of Transportation and the Administrator of the National Aeronautics and Space Administration, shall prescribe regulations to carry out this section. Such regulations may not require the disclosure or submission of any data related to any element underlying the price of a commercial product not otherwise required by law.

"(f) DEFINITIONS.—In this section:

"(1) The term 'spare or repair part' means any individual piece, part, subassembly, or component which is furnished for the logistic support or repair of an end item and not as an end item itself.

"(2) The term 'lowest commercial price' means the lowest price at which a sale was made to the general public of a particular part. Such term does not include the price at which a sale was made—

"(A) to any agency of the United States;

"(B) to any person for resale by such person after such person performs a service or function in connection with such part that increases the cost of the part, unless the agency procuring the part can demonstrate that the agency is procuring the part before such service or function has been performed by any such person;

"(C) to a subsidiary, affiliate, or parent business organization of the contractor, or any other branch of the same business entity;

"(D) to any person at a price that, for the purpose of making a donation, has been substantially discounted below the fair market value or regular price of such part; or

"(E) to a customer located outside the United States.

"(g) APPLICABILITY.—This section does not apply to a contract entered into using simplified small purchase procedures established under section 2304(g) of this title.".

(2) The item relating to section 2323 at the beginning of chapter 137 is amended to read as follows:

"2323. Commercial pricing for spare or repair parts.".

(b) EFFECTIVE DATE.—Regulations prescribed under section 2323(e) of title 10, United States Code (as amended by subsection (a)(1)), shall take effect on the date of the enactment of this Act.

SEC. 927. ALLOCATION OF OVERHEAD TO PARTS TO WHICH CONTRACTOR HAS ADDED LITTLE VALUE.

(a) IN GENERAL.—Section 2304 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Secretary of Defense shall prescribe by regulation the manner in which the Department of Defense negotiates prices for supplies to be obtained through the use of procedures other than competitive procedures, as defined in section 2302(2) of this title.

"(2) The regulations required by paragraph (1) shall—

"(A) specify the incurred overhead a contractor may appropriately allocate to supplies referred to in that paragraph; and

"(B) require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value.

"(3) Such regulations shall not apply to an item of supply included in a contract or subcontract for which the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.".

(b) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 2304(i) of such title (as added by subsection (a)) not later than 180 days after the date of the enactment of this Act.

(c) REPEAL.—Section 1245 of the Department of Defense Authorization Act, 1985 (Public Law 98-525, 98 Stat. 2609), is repealed.

SEC. 928. CLARIFICATION OF REQUIREMENTS TO MARK SUPPLIES TO IDENTIFY SUPPLIERS AND SOURCES.

(a) EXCEPTION FOR CERTAIN COMMERCIAL ITEMS.—Section 2384(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)";

(3) by inserting "(other than a contract described in paragraph (2))" after "delivery of supplies"; and

(4) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a contract that requires the delivery of supplies that are commercial items sold in substantial quantities to the general public if the contract—

"(A) provides for the acquisition of such supplies by the Department of Defense at established catalog or market prices; or

"(B) is awarded through the use of competitive procedures.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

PART C—PROCUREMENT PERSONNEL POLICY

SEC. 931. CONFLICT-OF-INTEREST IN DEFENSE PROCUREMENT.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2397a the following new sections:

"§ 2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors

"(a)(1) Subject to subsections (c) and (d), a person who is a former officer or employee of the Department of Defense or a former or retired member of the armed forces may not accept compensation from a contractor during the two-year period beginning on the date of such person's separation from service in the Department of Defense if—

"(A) on a majority of the person's working days during the two-year period ending on the date of such person's separation from service in the Department of Defense, the person performed a procurement function (relating to a contract of the Department of Defense) at a site or plant that is owned or operated by the contractor and that was the principal location of such person's performance of that procurement function;

"(B) the person performed, on a majority of the person's working days during such two-year period, procurement functions relating to a major defense system and, in the performance of such functions, participated personally and substantially, and in a manner involving decisionmaking responsibilities, with respect to a contract for that system through contact with the contractor; or

"(C) during such two-year period the person acted as a primary representative of the United States—

"(i) in the negotiation of a Department of Defense contract in an amount in excess of $10,000,000 with the contractor; or

"(ii) in the negotiation of a settlement of an unresolved claim of the contractor in an amount in excess of $10,000,000 under a Department of Defense contract.

"(2) In the application of paragraph (1) to a former officer or employee of the Department of Defense or a former or retired member of the armed forces, a person's status as a contractor shall be determined as of the date of the separation from service in the Department of Defense of the officer or employee or member or former member involved.

"(b)(1) Any person who knowingly violates subsection (a)(1) shall be subject to a civil fine, in an amount not to exceed $250,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(2) Any person who knowingly offers or provides any compensation to another person, and who knew or should have known that the acceptance of such compensation is or would be in violation of subsection (a)(1), shall be subject to a civil fine, in an amount not to exceed $500,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(c) This section does not apply to any person with respect to—

"(1) duties described in clause (A) or (B) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for grade GS-13 of the General Schedule; or

"(B) as a member of the armed forces in a pay grade below pay grade O–4; or

"(2) duties described in clause (C) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for a Senior Executive Service position; or

"(B) as a member of the armed forces in a pay grade below pay grade O–7.

"(d) This section does not prohibit any person from accepting compensation from any contractor that, during the fiscal year preceding the fiscal year in which such compensation is accepted, was not a Department of Defense contractor or was a contractor under Department of Defense contracts in a total amount less than $10,000,000.

"(e)(1) Any person may, before accepting any compensation, request the appropriate designated agency ethics official to advise such person on the applicability of this section to the acceptance of such compensation. For purposes of the preceding sentence, the appropriate designated agency ethics official is the designated agency ethics official of the agency in which such person was serving at the time such person separated from service in the Department of Defense.

"(2) A request for advice under paragraph (1) shall contain all information that is relevant to a determination by the designated agency ethics official on such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1), such official shall issue a written opinion on the applicability of this section to the acceptance of compensation covered by the request.

"(4) If a designated agency ethics official, on the basis of a complete disclosure as required by paragraph (2), states in a written opinion furnished to any person under this subsection that this section is inapplicable to the acceptance of compensation by such person from a contractor in a particular case, there shall be a conclusive presumption in favor of such person, for the purposes of this section, that the person's acceptance of such compensation in such case is not a violation of subsection (a)(1).

"(f) In this section:

"(1) The term 'compensation' includes any payment, gift, benefit, reward, favor, or gratuity—

"(A) which is provided, directly or indirectly, for services rendered by the person accepting such payment, gift, benefit, reward, favor, or gratuity; and

"(B) which is valued in excess of $250 at the prevailing market price.

"(2)(A) The term 'contractor' means a person—

"(i) that contracts to supply the Department of Defense with goods or services;

"(ii) that controls or is controlled by a person described in clause (i); or

"(iii) that is under common control with a person described in clause (i).

"(B) Such term does not include—

"(i) an affiliate or subsidiary of a person described in subparagraph (A) that is clearly not engaged in the performance of a Department of Defense contract; or

"(ii) a State or local government.

"(3) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the negotiation, award, administration, or approval of the contract;

"(B) the selection of a contractor;

"(C) the approval of changes in the contract;

"(D) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(E) the management of the procurement program.

"(4) The term 'armed forces' does not include the Coast Guard.

"(5) The term 'major defense system' has the meaning given the term 'major system' in section 2302(5) of this title.

"(g) For the purposes of this section, a person who is a retired member or a former member of the armed forces shall be considered to have been separated from service in the Department of Defense upon the date of the person's discharge or release from active duty.

"§ 2397c. Defense contractors: requirements concerning former Department of Defense officials

"(a)(1) Each contract for the procurement of goods or services in excess of $100,000 entered into by the Department of Defense shall include a provision under which the contractor agrees not to provide compensation to a person if the acceptance of such compensation by such person would violate section 2397b(a)(1) of this title.

"(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

"(A) $100,000; or

"(B) three times the amount of the compensation paid by the contractor to the person in violation of such contract provision.

"(b)(1)(A) Any contractor that was awarded one or more contracts by the Department of Defense during the preceding fiscal year in an aggregate amount of at least $10,000,000 that is subject during a calendar year to a contract provision described in subsection (a) shall submit to the Secretary of Defense, not later than April 1 of the next year, a written report covering the preceding calendar year. Each such report shall list the name of each person (together with other information adequate for the Government to identify the person) who—

"(i) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces; and

"(ii) during the preceding calendar year was provided compensation by that contractor, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense.

"(B) In the case of each person named in a report submitted under subparagraph (A), the report shall—

"(i) identify the agency in which the person was employed or served on active duty during the last two years of the person's service with the Department of Defense;

"(ii) state the person's job title and identify each major defense system, if any, on which the person performed any work with the Department of Defense during the last two years of the person's service with the Department;

"(iii) contain a complete description of any work that the person is performing on behalf of the contractor; and

"(iv) identify each major defense system on which the person has performed any work on behalf of the contractor.

"(2) A person who knowingly fails to file a report required by paragraph (1) shall be subject to an administrative penalty, not to exceed $10,000, imposed by the Secretary of Defense after an opportunity for an agency hearing on the record pursuant to regulations prescribed by the Secretary of Defense. The determinations of the Secretary shall be included in such record. The determinations of the Secretary shall be subject to judicial review under chapter 7 of title 5.

"(3) The Secretary of Defense shall review each report under paragraph (1) for the purposes of (A) assessing the accuracy and completeness of the report, and (B) identifying possible violations of section 2397b(a)(1) of this title or of a contract provision required by subsection (a). The Secretary shall report any such possible violation to the Attorney General.

"(4) The Secretary shall make reports submitted under this subsection available to any Member of Congress upon request.

"(d) Subsection (g) of section 2397b of this title, and the definitions prescribed in subsection (f) of such section, apply to this section.".

(2) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by inserting after the item relating to section 2397a the following new items:

"2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors.

"2397c. Defense contractors: requirements concerning former Department of Defense officials.".

(b) REPEAL.—Section 921 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 10 U.S.C. 2397a note) is repealed.

(c) EFFECTIVE DATES.—(1) Subject to paragraph (2), this section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2)(A) The amendments made by this section—

(i) do not preclude the continuation of employment that began before the effective date of this section or the acceptance of compensation for such employment; and

(ii) do not, except as provided in subparagraph (B), apply to a person whose service in the Department of Defense terminates before the effective date of this section.

(B) Subparagraph (A)(ii) does not preclude the application of the amendments made by this section to a person with respect to service in the Department of Defense by such person on or after the effective date of this section.

SEC. 932. PLAN FOR ENHANCEMENT OF PROFESSIONALISM OF ACQUISITION PERSONNEL.

(a) DEVELOPMENT OF PLAN.—The Secretary of Defense shall develop a plan for a personnel initiative designed to enhance the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(b) REQUIREMENTS FOR PLAN.—The plan required to be developed under subsection (a) shall—

(1) include standards for the examination, appointment, classification, training, and assignment of acquisition personnel; and

(2) assess the feasibility and desirability of—

(A) the designation of certain acquisition positions of the Department of Defense as professional positions; and

(B) the establishment of an alternative personnel system that would—

(i) include acquisition positions that are designated as professional positions; and

(ii) include quality of performance as a factor in promotions for persons in such positions.

(c) REPORT.—(1) The Secretary shall submit to Congress a report—

(A) describing the plan developed under subsection (a); and

(B) recommending any changes in existing law that would facilitate the enhancement of the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(2) The report required by subparagraph (A) shall be submitted not later than April 15, 1987.

(d) EFFECTIVE DATE.—The report required by subsection (c) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

SEC. 933. EDUCATIONAL REQUIREMENTS FOR ACQUISITION PERSONNEL.

Section 1622(b)(1) of title 10, United States Code, is amended by striking out "attended" and inserting in lieu thereof "completed".

SEC. 934. PLAN FOR COORDINATION OF DEFENSE ACQUISITION EDUCATIONAL PROGRAMS.

(a) COORDINATION PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a plan for the coordination of educational programs managed by the Department of Defense for acquisition personnel of the Department.

(b) REQUIREMENTS FOR PLAN.—The plan required by subsection (a) shall provide for—

(1) the education of acquisition personnel of the Department of Defense through programs offered by the Department or through educational courses offered by organizations other than the Department;

(2) the education of acquisition personnel of the Department in various acquisition specialties, including contracting, logistics, quality, program management, systems engineering, production, and manufacturing; and

(3) the elimination of duplication of functions and courses by schools of the Department that provide educational courses for acquisition personnel of the Department.

(c) EFFECTIVE DATE.—The report required by subsection (a) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

PART D—REQUIREMENTS RELATING TO DEFENSE CONTRACTORS

SEC. 941. CODIFICATION AND EXTENSION OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES AND RELATED CRIMINAL PENALTY ON DEFENSE CONTRACTORS.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors

"(a) PROHIBITION.—A person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period, as determined by the Secretary of Defense, of not less than one year from the date of the conviction.

"(b) CRIMINAL PENALTY.—A defense contractor shall be subject to a criminal penalty of not more than $500,000 if such contractor is convicted of knowingly—

"(1) employing a person under a prohibition under subsection (a); or

"(2) allowing such a person to serve on the board of directors of such contractor.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.".

(b) CONFORMING AMENDMENT.—Section 932 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 699) is repealed.

(c) EFFECTIVE DATE.—Section 2408 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to employment or service on a board of directors after the date of the enactment of this Act.

SEC. 942. PROTECTION OF CONTRACTOR EMPLOYEES FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2408 (as added by section 941) the following new section:

"§ 2409. Contractor employees: protection from reprisal for disclosure of certain information

"(a) PROHIBITION OF REPRISALS.—An employee of a defense contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of the Department of Defense or the Department of Justice information relating to a substantial violation of law related to a defense contract (including the competition for or negotiation of a defense contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the Department of Defense. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the Secretary of Defense.

"(c) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2408 (as added by section 941) the following new item:

"2409. Contractor employees: protection from reprisal for disclosure of certain information.".

(b) EFFECTIVE DATE.—Section 2409 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to any reprisal action taken on or after the date of the enactment of this Act.

SEC. 943. REVISION OF WORK MEASUREMENT PROVISIONS.

(a) IN GENERAL.—(1) Section 2406 of title 10, United States Code, is amended to read as follows:

"§ 2406. Availability of cost and pricing records

"(a) REQUIREMENT.—(1) The head of an agency shall require a contractor under a covered contract with that agency to make available in a timely manner to any authorized representative of the head of the agency records of the contractor's cost and pricing data described in subsection (b) with respect to work under the covered contract.

"(2) The head of the agency (or the representative of the head of the agency) shall be entitled to have access to records in the form and manner maintained by the contractor.

"(b) COVERED RECORDS.—Records covered by subsection (a) include (for a covered contract and end items under such a contract) the following:

"(1) Work measurement system data (and any revision to such data), including records of labor content expressed in standard hours of work content for—

(A) the contractor's proposal for the contract; and

(B) the contract as negotiated.

"(2) The costs described in subsection (c)—

"(A) as proposed by the contractor;

"(B) as negotiated by the contractor with the head of the agency; and

"(C) as incurred by the contractor.

"(3) Bills of material.

"(c) COVERED COSTS.—Costs referred to in subsection (b)(2) are—

"(1) labor costs;

"(2) material costs;

"(3) subcontract costs;

"(4) overhead costs;

"(5) general and administrative costs; and

"(6) fee or profit.

"(d) NATURE OF RECORDS TO BE MAINTAINED.—Nothing in this section shall require a contractor under a covered contract to—

"(1) collect or maintain additional data not otherwise collected or maintained by the contractor, or

"(2) maintain data in a form or manner different from that in which the contractor maintains such data.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall specify the period for which records shall be covered by this section, which shall not be less than three years after final payment under the contract to which the records pertain.

"(f) DEFINITIONS.—In this section:

"(1) The term 'head of an agency' means the Secretary of Defense or the Secretary of a military department.

"(2) The term 'covered contract' means a manufacturing contract—

"(A) that is awarded under a major defense acquisition program (as such term is defined in 2432(a) of this title); and

"(B) that is subject to the provisions of section 2306a of this title.

"(3) The term 'work measurement system data' means—

"(A) data generated from time standard setting, time monitoring, and variance analysis; and

"(B) such data described in subparagraph (A) as included in planning, cost estimating, and productivity improvement.

"(4) The term 'authorized representative' means a representative of the head of an agency who is an employee of the United States or a member of the armed forces.".

(2) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2406. Availability of cost and pricing records.".

(b) APPLICABILITY OF SECTION.—Section 2406 of title 10, United States Code, as amended by subsection (a), shall apply with respect to—

(1) contracts entered into on or after the date of the enactment of this Act; and

(2) contracts entered into before such date that are not completed before such date.

(c) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe regulations as required by section 2406(e) of title 10, United States Code (as amended by subsection (a)(1)), not later than the end of the 180-day period beginning on the date of the enactment of this Act.

PART E—MISCELLANEOUS

SEC. 951. CONTRACTING WITH FIRMS OWNED OR CONTROLLED BY GOVERNMENTS THAT SUPPORT TERRORISM.

(a) CONSIDERATION OF NATIONAL INTERESTS WITH RESPECT TO DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding after the item relating to section 2326 (as added by section 908) the following new section:

"§ 2327. Contracts: consideration of national security objectives

"(a) DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT.—The head of an agency shall require a firm or a subsidiary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(b) PROHIBITION ON ENTERING INTO CONTRACTS AGAINST THE INTERESTS OF THE UNITED STATES.—Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

"(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary); and

"(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(c) WAIVER.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary after the date on which such head of an agency submits to Congress a report on the contract.

"(B) A report under subparagraph (A) shall include the following:

"(i) The identity of the foreign government concerned.

"(ii) The nature of the contract.

"(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

"(iv) The reasons for entering into the contract.

"(C) After the head of an agency submits a report to Congress under subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report.

"(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

"(A) The relationship of the United States with the foreign government concerned.

"(B) The obligations of the United States under international agreements.

"(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

"(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

"(d) APPLICABILITY.—This section does not apply to a contract for an amount less than $100,000.

"(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of State, shall prescribe regulations to carry out this section. Such regulations shall include a definition of the term 'significant interest'.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2326 (as added by section 908) the following new item:

"2327. Contracts: consideration of national security objectives.".

(b) CONFORMING AMENDMENT.—Section 503 of the Military Retirement Reform Act of 1986 (Public Law 99-348; 100 Stat. 708) is repealed.

(c) EFFECTIVE DATE.—Section 2327 of title 10, United States Code (as added by subsection (a)(1)), shall apply to contracts entered into by the Secretary of Defense after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 952. TRUTH-IN-NEGOTIATIONS ACT AMENDMENTS.

(a) STRENGTHENING OF PREVENTION OF UNEARNED AND EXCESSIVE CONTRACTOR PROFITS.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2306 the following new section:

"§ 2306a. Cost or pricing data: truth in negotiations

"(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) The head of an agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this chapter to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of the contract if the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(C) An offeror for a subcontract (at any tier) of a contract under this chapter shall be required to submit cost or pricing data before the award of the subcontract if—

"(i) the price of the subcontract is expected to exceed $100,000; and

"(ii) the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the agency concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by the head of an agency on behalf of a foreign government.

"(5) The head of the agency may waive the requirement under this subsection for a contractor, subcontractor, or offeror to submit cost or pricing data. For purposes of paragraph (1)(C)(ii), a contractor or subcontractor granted such a waiver shall be considered as having been required to make available cost or pricing data under this section.

"(b) EXCEPTIONS.—This section need not be applied to a contract or subcontract—

"(1) for which the price agreed upon is based on—

"(A) adequate price competition;

"(B) established catalog or market prices of commercial items sold in substantial quantities to the general public; or

"(C) prices set by law or regulation; or

"(2) in an exceptional case when the head of the agency determines that the requirements of this section may be waived and states in writing his reasons for such determination.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the agency if the head of the agency determines that such data are necessary for the evaluation by the

agency of the reasonableness of the price of the contract or subcontract.

"(d) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the head of the agency that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification), the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(e) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with the Department of Defense subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1954; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Except as provided under subsection (d), the liability of a contractor under this subsection shall not be affected by the contractor's refusal to submit a certification under subsection (a)(2) with respect to the cost or pricing data involved.

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—(1) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section with respect to a contract or subcontract, the head of the agency, acting through any authorized representative of the head of the agency who is an employee of the United States or a member of the armed forces, shall have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(2) The right of the head of an agency under paragraph (1) shall expire three years after final payment under the contract or subcontract.

"(3) In this subsection, the term 'records' includes books, documents, and other data.

"(g) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all information that is verifiable and that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (f) of section 2306 of such title is amended to read as follows:

"(f) So-called 'truth-in-negotiations' provisions relating to cost or pricing data to be submitted by certain contractors and subcontractors are provided in section 2306a of this title.".

(2) Section 934(a) of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 700) is repealed.

(c) CLERICAL AMENDMENTS.—(1) The heading of section 2306 of title 10, United States Code, is amended to read as follows:

"§ 2306. Kinds of contracts".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2306 and inserting in lieu thereof the following:

"2306. Kinds of contracts.
"2306a. Cost or pricing data: truth in negotiations.".

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), section 2306a of title 10, United States Code (as added by subsection (a)), and the amendment and repeal made by subsection (b), shall apply with respect to contracts or modifications on contracts entered into after the end of the 120-day period beginning on the date of the enactment of this Act.

(2) Subsection (e) of such section shall apply with respect to contracts or modifications on contracts entered into after November 7, 1985.

SEC. 953. RIGHTS IN TECHNICAL DATA.

(a) RIGHTS IN TECHNICAL DATA.—Subsection (a) of section 2320 of title 10, United States Code, is amended to read as follows:

"(a)(1) The Secretary of Defense shall prescribe regulations to define the legitimate interest of the United States and of a contractor or subcontractor in technical data pertaining to an item or process. Such regulations shall be included in regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation. Such regulations may not impair any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in technical data otherwise established by law.

"(2) Such regulations shall include the following provisions:

"(A) In the case of an item or process that is developed by a contractor or subcontractor exclusively with Federal funds, the United States shall have the unlimited right to—

"(i) use technical data pertaining to the item or process; or

"(ii) release or disclose the technical data to persons outside the government or permit the use of the technical data by such persons.

"(B) Except as provided in subparagraphs (C) and (D), in the case of an item or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontractor may restrict the right of the United States to release or disclose technical data pertaining to the item or process to persons outside the Government, or permit the use of the technical data by such persons.

"(C) Subparagraph (B) does not apply to technical data that—

"(i) constitutes a correction or change to data furnished by the United States;

"(ii) relates to form, fit, or function;

"(iii) is necessary for operation, maintenance, installation, or training (other than detailed manufacturing or process data); or

"(iv) is otherwise publicly available or has been released or disclosed by the contractor

or subcontractor without restriction on further release or disclosure.

"(D) Notwithstanding subparagraph (B), the United States may release or disclose technical data to persons outside the Government, or permit the use of technical data by such persons, if—

"(i) such release, disclosure, or use—

"(I) is necessary for emergency repair and overhaul; or

"(II) is a release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the United States and is required for evaluational or informational purposes;

"(ii) such release, disclosure, or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose, or use such data; and

"(iii) the contractor or subcontractor asserting the restriction is notified of such release, disclosure, or use.

"(E) In the case of an item or process that is developed in part with Federal funds and in part at private expense, the respective rights of the United States and of the contractor or subcontractor in technical data pertaining to such item or process shall be agreed upon as early in the acquisition process as practicable (preferably during contract negotiations), based upon consideration of all of the following factors:

"(i) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(ii) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

"(iii) The interest of the United States in encouraging contractors to develop at private expense items for use by the Government.

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract, to sell or otherwise relinquish to the United States any rights in technical data except—

"(i) rights in technical data described in subparagraph (C); or

"(ii) under the conditions described in subparagraph (D).

"(G) The Secretary of Defense may—

"(i) negotiate and enter into a contract with a contractor or subcontractor for the acquisition of rights in technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense if necessary to develop alternative sources of supply and manufacture; or

"(ii) agree to restrict rights of the United States in technical data pertaining to an item or process developed entirely or in part with Federal funds if the United States receives a royalty-free license to use, release, or disclose the data for purposes of the United States (including purposes of competitive procurement).

"(3) The Secretary of Defense shall define the terms 'developed' and 'private expense' in regulations prescribed under paragraph (1).

"(4) For purposes of this subsection, the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulations as defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)).".

(b) VALIDATION OF PROPRIETARY DATA RESTRICTIONS.—Subsections (a) and (b) of section 2321 of title 10, United States Code, are amended to read as follows:

"(a) A contract for supplies or services entered into by the Department of Defense which provides for the delivery of technical data shall provide that a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data.

"(b)(1) The Secretary of Defense shall ensure that there is a thorough review of the appropriateness of any restriction on the right of the United States to release or disclose technical data delivered under a contract to persons outside the Government, or to permit the use of such technical data by such persons. Such review shall be conducted before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later.

"(2)(A) If the Secretary determines, at any time before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later, that a challenge to a restriction is warranted, the Secretary shall provide written notice to the contractor or subcontractor asserting the restriction. Such a determination shall be based on a finding by the Secretary that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time. Such notice shall—

"(i) state the specific grounds for challenging the asserted restriction;

"(ii) require a response within 60 days justifying the current validity of the asserted restriction; and

"(iii) state that evidence of a validation by the Department of Defense of a restriction identical to the asserted restriction within the three-year period preceding the challenge shall serve as justification for the asserted restriction if—

"(I) the validation occurred after a review of the validated restriction under this subsection; and

"(II) the validated restriction was asserted by the same contractor or subcontractor (or any licensee of such contractor or subcontractor) to which such notice is being provided.

"(B) Notwithstanding subparagraph (A), the United States may challenge a restriction on the release, disclosure, or use of technical data delivered under a contract at any time if such technical data—

"(i) is publicly available;

"(ii) has been furnished to the United States without restriction; or

"(iii) has been otherwise made available without restriction.".

(c) CONFORMING AMENDMENTS.—Section 1202 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2301 note), is amended—

(1) by inserting "and" at the end of paragraph (4);

(2) by striking out "; and" at the end of paragraph (5) and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

(d) DEADLINE FOR REVISION OF REGULATIONS.—(1) Proposed regulations under section 2320(a)(1) of title 10, United States Code (as amended by subsection (a)), shall be published in the Federal Register for comment not later than 90 days after the date of the enactment of this Act.

(2) Proposed final regulations under such section shall be published in the Federal Register not later than 180 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contracts for which solicitations are issued after the end of the 210-day period beginning on the date of the enactment of this Act.

SEC. 954. RECOVERY OF COSTS TO PROVIDE TECHNICAL DATA.

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding after section 2327 (as added by section 951) the following new section:

"§ 2328. Release of technical data

"(a) IN GENERAL.—(1) The Secretary of Defense shall, if required to release technical data under section 552 of title 5 (relating to the Freedom of Information Act), release technical data to a person requesting such a release if the person pays all reasonable costs attributable to search and duplication.

"(2) The Secretary of Defense shall prescribe regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees under this section.

"(b) DISPOSITION OF COSTS.—An amount received under this section—

"(1) shall be retained by the Department of Defense or the element of the Department of Defense receiving the amount; and

"(2) shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs incurred in complying with requests for technical data were paid.

"(c) WAIVER.—The Secretary of Defense shall waive the payment of costs required by subsection (a) which are in an amount greater than the costs that would be required for such a release of information under section 552 of title 5 if—

"(1) the request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable such citizen or corporation to submit an offer or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States (except that the Secretary may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, to be refunded upon submission of an offer by the citizen or corporation);

"(2) the release of technical data is requested in order to comply with the terms of an international agreement; or

"(3) the Secretary determines, in accordance with section 552(a)(4)(A) of title 5, that such a waiver is in the interests of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2327 (as added by section 971) the following new item:

"2328. Release of technical data.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 955. COMPARABLE BUDGETING FOR SIMILAR SYSTEMS.

(a) MATTERS TO BE INCLUDED IN ANNUAL DEFENSE BUDGETS.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

(1) specifically identify each common procurement weapon system included in the budget;

(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

(b) ASSISTANT SECRETARY (COMPTROLLER).—The Secretary of Defense shall carry out this section through the Assistant Secretary of Defense (Comptroller).

(c) DEFINITIONS.—In this section:

(1) The term "defense budget" means the budget of the Department of Defense included in the President's budget submitted to Congress under section 1105 of title 31 United States Code, for a fiscal year.

(2) The term "common procurement weapon system" means a weapon system for which two or more of the Army, Navy, Air Force, and Marine Corps request procurement funds in a defense budget.

SEC. 956. FUNDING OF PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS SERVING DISTRESSED AREAS.

(a) DEFINITIONS.—Section 2411 of title 10, United States Code, is amended to read as follows:

"§ 2411. Definitions

"In this chapter:

"(1) The term 'eligible entity' means any of the following:

"(A) A State.

"(B) A local government.

"(C) A private, nonprofit organization.

"(2) The term 'distressed area' means the area of a unit of local government (or such area excluding the area of any defined political jurisdiction within the area of such unit of local government) that—

"(A) has a per capita income of 80 percent or less of the State average; or

"(B) has an unemployment rate that is one percent greater than the national average for the most recent 24-month period for which statistics are available.

"(3) The term 'Secretary' means the Secretary of Defense acting through the Director of the Defense Logistics Agency.

"(4) The terms 'State' and 'local government' have the meaning given those terms in section 6302 of title 31.".

(b) SERVICE AREAS.—Section 2413(b) of such title is amended—

(1) by inserting "sponsor programs to" after "agree to";

(2) by inserting "under such programs" after "cost of furnishing such assistance";

(3) by striking out "an eligible entity that is a distressed entity" and inserting in lieu thereof "a program sponsored by such an entity that provides services solely in a distressed area"; and

(3) by inserting "with respect to such program" before the period.

SEC. 957. SUBCONTRACTOR INFORMATION TO BE PROVIDED TO PROCUREMENT OUTREACH CENTERS.

(a) CONTRACTORS TO FURNISH INFORMATION.—(1) Chapter 142 of title 10, United States Code, is amended—

(A) by redesignating section 2416 as section 2417; and

(B) by inserting after section 2415 the following new section:

"§ 2416. Subcontractor information

"(a) The Secretary of Defense shall require that any defense contractor in any year shall provide to an eligible entity with which the Secretary has entered into a cooperative agreement under this chapter, on the request of such entity, the information specified in subsection (b).

"(b) Information to be provided under subsection (a) is a listing of the name of each appropriate employee of the contractor who has responsibilities with respect to entering into contracts on behalf of such contractor that constitute subcontracts of contracts being performed by such contractor, together with the business address and telephone number and area of responsibility of each such employee.

"(c) A defense contractor need not provide information under this section to a particular eligible entity more frequently than once a year.

"(d) In this section, the term 'defense contractor', for any year, means a person awarded a contract with the Department of Defense in that year for an amount in excess of $500,000.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2416 and inserting in lieu thereof the following new items:

"2416. Subcontractor information.
"2417. Regulations.".

(b) EFFECTIVE DATE.—Section 2416 of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1987.

PART F—MISCELLANEOUS REPORTS

SEC. 961. SELECTED ACQUISITION REPORTS.

(a) REVISION OF REPORTING REQUIREMENTS.—Section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) by adding at the end of subsection (a)(3) the following new sentence: "If for any fiscal year the funds appropriated, or the number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities.";

(2) by striking out "$2,000,000" in subsection (a)(4) and inserting in lieu thereof "$40,000,000";

(3) by striking out "three-month" in subsection (b)(2)(B) and inserting in lieu thereof "six-month";

(4) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be designed to provide to the Committees on Armed Services of the Senate and House of Representatives the information such Committees need to perform their oversight functions. A change in the content of the Selected Acquisition Report for the first quarter of a fiscal year from the content as reported for the first quarter of the previous fiscal year may not be made until appropriate officials of the Department of Defense consult with such Committees regarding the proposed changes.";

(5) by inserting "that is produced at a rate of six units or more per year" in subsection (c)(3)(C) after "report" in the matter preceding clause (i); and

(6) by adding at the end the following new subsection:

"(h)(1) Total program reporting under this section shall apply to a major defense acquisition program when funds have been appropriated for such and the Secretary of Defense has decided to proceed to full-scale engineering development of such program. Reporting may be limited to the development program as provided in paragraph (2) before a decision is made by the Secretary of Defense to proceed to full-scale engineering development if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of the intention to submit a limited report under this subsection not less than 15 days before a report is due under this section.

"(2) A limited report under this subsection shall include the following:

"(A) The same information, in detail and summarized form, as is provided in reports submitted under subsections (c)(1) and (c)(3) of section 2431 of this title.

"(B) Reasons for any change in the development cost and schedule.

"(C) The major contracts under the development program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

"(D) The completion status of the development program expressed—

"(i) as the percentage that the number of years for which funds have been appropriated for the development program is of the number of years for which it is planned that funds will be appropriated for the program; and

"(ii) as the percentage that the amount of funds that have been appropriated for the development program is of the total amount of funds which it is planned will be appropriated for the program.

"(E) Program highlights since the last Selected Acquisition Report.

"(F) Other information as the Secretary of Defense considers appropriate.

"(3) The submission requirements for a limited report under this subsection shall be the same as for quarterly Selected Acquisition Reports for total program reporting.".

(b) UNIT COST REPORTS.—Section 2433 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) in subsection (b), by inserting "(excluding Saturdays, Sundays, and legal public holidays)" after "days" both places such term appears in the second sentence; and

(2) by adding at the end the following new subsection:

"(h) Reporting under this section shall not apply if a program has received a limited reporting waiver under section 2432(h) of this title.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1987.

SEC. 962. REPORT ON EFFORTS TO INCREASE DEFENSE CONTRACT AWARDS TO INDIAN-OWNED BUSINESSES.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the efforts by the Department of Defense during fiscal years 1986 and 1987 to increase awards of defense contracts to Indian-owned businesses in accordance with the memorandum of understanding between the Department of Defense and the Small Business Administration of September 29, 1983. Such report shall include, to the maximum extent practicable, any data regarding the

number and value of prime contracts awarded by the Department of Defense during such fiscal years to such businesses.

(b) DEADLINE.—The report required by subsection (a) shall be submitted no later than March 31, 1988.

(c) INDIAN-OWNED BUSINESS DEFINED.—For purposes of this section, the term "Indian-owned business" means a firm owned and controlled by American Indians, including a tribally owned for-profit entity.

SEC. 963. REPORT ON INCREASED GEOGRAPHIC DISTRIBUTION OF DEFENSE CONTRACTORS.

(a) IN GENERAL.—(1) The Secretary of Defense shall submit to Congress a report on the actions taken by the Department of Defense during fiscal years 1985 and 1986 to increase contract competition and the national defense industrial base by increasing the participation in defense contracts of contractors in all geographic areas of the United States.

(2) Such report shall be submitted not later than March 31, 1987.

(b) CONTENTS OF REPORTS.—The report required by subsection (a)(1)—

(1) shall include a description of the use of procurement technical assistance centers, procurement conferences sponsored or supported by the Department of Defense, and any other Department of Defense programs conducted for the purpose of expanding the base of defense contractors; and

(2) shall categorize, by State and other appropriate geographic region, the actions described in the report.

TITLE XI

ARMS CONTROL

SEC. 1101. (a) LIMITATION ON TESTING OF ANTI-SATELLITE WEAPONS.—The Secretary of Defense may not carry out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated anti-satellite weapon.

(b) EXPIRATION OF MORATORIUM.—The prohibition in subsection (a) expires on October 1, 1987.

SEC. 1102. (a) REPORT BY THE SECRETARY OF DEFENSE ON ICBM MODERNIZATION.—At the same time the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives the report on the intercontinental ballistic missile (ICBM) modernization program required by section 1231(c) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; Stat. 614), the Secretary shall submit to such Committees a statement containing the basis of the Secretary's recommendation to the President, and any decisions of the President, regarding the following matters:

(1) The configuration of a small intercontinental ballistic missile in terms of weight, number of warheads, and production schedule.

(2) The selected options for more survivable follow-on basing modes and basing locations for MX (Peacekeeper) missiles.

(3) The advisability of going forward with one or more selected basing modes to a full scale engineering development decision.

(b) LIMITATION ON DEPLOYMENT OF PEACEKEEPER (MX) MISSILE; DEVELOPMENT OF SMALL ICBM.—The limitations contained in sections 206 and 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 614), on the deployment of the MX missile and the development of a small intercontinental ballistic missile shall cease to apply when full-scale engineering development of a small mobile intercontinental ballistic missile begins.

(c) LIMITATIONS ON FUNDING.—Of the amounts appropriated herein for fiscal year 1987 for the ICBM Modernization Program—

(1) $120,000,000 shall be available for research and development on follow-on basing options;

(2) $290,000,000 shall be available for research and development of the Peacekeeper (MX) missile; and

(3) $1,200,000,000 shall be available for research and development of a small mobile intercontinental ballistic missile and basing for such missile.

SEC. 1103. Of the amount appropriated by this Act for research, development, test, and evaluation for the Defense Agencies, not more than $3,213,000,000 is available for the Strategic Defense Initiative (SDI) program.

SEC. 1104. Of the amounts appropriated in the Energy and Water Development Appropriations Act for fiscal year 1987 for national security programs for the Department of Energy, $317,000,000 is available for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

SEC. 1105. (a) SENSE OF CONGRESS RELATING TO CONTINUED ADHERENCE TO SALT II NUMERICAL SUBLIMITS.—It is the sense of the Congress that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

(b) DEFINITION.—For purposes of this section, the central numerical sublimits of the SALT II Treaty include prohibitions on the deployment of the following:

(1) Launchers for more than 820 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles.

(2) Launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles and submarine-launched ballistic missiles carrying multiple independently-targetable reentry vehicles.

(3) An aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

SEC. 1106. (a) SENSE OF CONGRESS ON NUCLEAR TESTING.—The Congress makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, at the earliest possible date, the President should—

(1) request the advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

SEC. 1107. (a) LIMITATION ON FISCAL YEAR 1987 FUNDS FOR THE BIGEYE BINARY CHEMICAL BOMB.—Before October 1, 1987, funds appropriated for fiscal year 1987 for procurement of the BIGEYE binary chemical bomb may not be obligated—

(1) for procurement (including procurement of components) of such bomb; or

(2) for assembly of such bomb.

(b) LIMITATION ON FINAL ASSEMBLY.—Before October 1, 1988, funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended for the final assembly of complete BIGEYE binary chemical bombs.

(c) LIMITATION ON FISCAL YEAR 1986 FUNDS FOR PRODUCTION FACILITIES.—(1) Of the funds appropriated for fiscal year 1986 for production facilities for the BIGEYE binary chemical bomb, not more than $90,000,000 may be obligated or expended. None of such amount may be obligated or expended until the President certifies to Congress that—

(1) production of the BIGEYE binary chemical bomb is in the national security interests of the United States; and

(2) the design, planning, and environmental requirements for such facilities have been satisfied.

(d) GAO MONITORING AND REPORT.—(1) The Secretary of Defense shall provide for the involvement of the Comptroller General in monitoring the operational testing of the BIGEYE bomb.

(2) After any such testing is completed, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such testing. The report shall include an assessment of such testing and any comments the Comptroller General considers appropriate.

(e) REPORT ON LONG-RANGE STANDOFF CHEMICAL MUNITIONS.—(1) The Secretary of Defense shall submit to Congress a report on the military requirements for long-range stand-off chemical weapons. The report shall address the military advantages and disadvantages of such weapons and the potential

of such weapons to complement the currently planned binary chemical weapon systems.

(2) Such report shall be submitted not later than March 15, 1987.

SEC. 1108. Of the amount appropriated by this Act for research, development, test, and evaluation for the Air Force, not more than $200,000,000 is available for the Space Defense System. None of such amount may be used for the production verification of the Miniature Homing Vehicle.

This Act may be cited as the "Department of Defense Appropriations Act, 1987".;

And the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

(d) Such amounts as may be necessary for programs, projects, or activities provided for in the District of Columbia Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1987, and for other purposes

TITLE I

FISCAL YEAR 1987 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1987, $444,500,000: Provided, That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

For payment to the District of Columbia for the fiscal year ending September 30, 1987, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $28,810,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $35,000,000.

CRIMINAL JUSTICE INITIATIVE

For the design and construction of a prison within the District of Columbia, $20,000,000, to become available October 1, 1987 together with funds previously appropriated under this head for the fiscal years ending September 30, 1986 and September 30, 1987: Provided, That the District of Columbia shall award a design and construction contract on or before October 15, 1986: Provided further, That the District of Columbia is directed to proceed with the design and construction of a prison facility within the District of Columbia without respect to the availability of Federal funds: Provided further, That a plan that includes the construction of not less than a 700 bed, medium security facility on the South part of Square E-1112 as recorded in Subdivision Book 140, Page 199 in the Office of the Surveyor of the District of Columbia is hereby approved: Provided further, That this approval shall satisfy the provisions as set forth in the first proviso under the heading "Criminal Justice Initiative" in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, approved December 19, 1985: Provided further, That the $50,000,000 herein and heretofore made available for the prison project shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $108,407,000: Provided, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That not less than $320,000 shall be used by the Office of Personnel exclusively for the administration of programs for the training of District of Columbia government employees: Provided further, That notwithstanding any other provision of law, there is hereby appropriated $3,772,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $754,000 shall be derived from the general fund and not to exceed $3,018,000 shall be derived from the earnings of the applicable retirement funds: Provided further, That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: Provided further, That of the $100,000 appropriated for fiscal year 1987 for Admission to Statehood, $50,000 shall be for the Statehood Commission and $50,000 shall be for the Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $128,960,000, of which $2,000,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Housing and Community Development: Provided, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: Provided further, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the holders of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: Provided further, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) and 14 replacement passenger-carrying vehicles for fire-type use without regard to the general purchase price limitation for the current fiscal year, $600,165,000: Provided, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: Provided further, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That, notwithstanding any other provision of law, in the case of the 23 employees who retired from the Fire Department of the District of Columbia between November 24, 1984, and April 13, 1985 (both dates inclusive), and who on the date of the enactment of this Act are receiving annuities based on service in the Fire Department, the District of Columbia Retirement Board shall cause to be paid not later than October 15, 1986, to each such employee a lump-sum payment equal to three percent of his or her annuity: Provided further, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal

year since inception in fiscal year 1975: Provided further, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: Provided further, That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: Provided further, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: Provided further, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia, for expenses incurred by the counties during fiscal year 1987 in relation to the Lorton prison complex. Such reimbursement shall be paid in all instances in which the District requests that the counties provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison. The District shall make a quarterly report to the House and Senate Subcommittees on District of Columbia Appropriations regarding the amount and purpose of reimbursements made to the counties, and the amount of the authorization remaining for such reimbursements: Provided further, That within 30 days after the date of enactment of this Act, the District of Columbia shall establish a free, 24-hour telephone information service, whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: Provided further, That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: Provided further, That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: Provided further, That none of the funds provided by this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: Provided further, That the District of Columbia shall not renovate or construct prison bed space at the Occoquan facilities of Lorton prison beyond the number of prison bed spaces which were damaged or destroyed there during the fire that occurred on July 25, 1986.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $541,318,000, to be allocated as follows: $394,406,000 for the public schools of the District of Columbia, of which $8,000,000 shall be for non-recurring pay-as-you-go capital projects of the public schools of the District of Columbia; $58,800,000 for the District of Columbia Teachers' Retirement Fund; $68,861,000 for the University of the District of Columbia; $16,646,000 for the Public Library; $2,368,000 for the Commission on the Arts and Humanities; and $237,000 for the Educational Institution Licensure Commission: Provided, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: Provided further, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: Provided further, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1987, a tuition rate schedule which will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: Provided further, That of the amount made available to the University of the District of Columbia, $1,146,000 shall be used solely for the operation of the Antioch School of Law: Provided further, That acquisition or merger of the Antioch School of Law shall have been previously approved by both the Board of Trustees of the University of the District of Columbia and the Council of the District of Columbia, and that the Council shall have issued its approval by resolution: Provided further, That if the Council of the District of Columbia or the Board of Trustees of the University of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the $1,146,000 shall be used solely for the repayment of the general fund deficit.

HUMAN SUPPORT SERVICES

Human support services, $654,315,000, of which $298,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Human Services: Provided, That the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be at the per diem rate established pursuant to section 2 of an Act to authorize certain expenditures from the appropriation of Saint Elizabeths Hospital, and for other purposes, approved August 4, 1947 (61 Stat. 751; Public Law 80-353; 24 U.S.C. 168(a)): Provided further, That total funds paid by the District of Columbia as reimbursements for operating costs of Saint Elizabeths Hospital, including any District of Columbia payments (but excluding the Federal matching share of payments) associated with title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; Public Law 89-97; 42 U.S.C. 1396 et seq.), shall not exceed $71,200,000: Provided further, That $13,800,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $204,748,000, of which not to exceed $4,150,000 shall be available for the School Transit Subsidy: Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $6,261,000: Provided, That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); the Departments of Labor, and Health, Education and Welfare Appropriation Act of 1955, approved July 2, 1954 (68 Stat. 443; Public Law 83-472); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $204,514,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $244,934,000 general fund accumulated deficit as of September 30, 1985, $20,000,000, of which not less than $11,325,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): Provided, That if the Federal payment to the District of Columbia for fiscal year 1987 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $3,750,000.

CAPITAL OUTLAY

For construction projects, $361,860,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That $17,425,000 shall be available for project management and $24,139,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That $10,298,000 of the $361,860,000, shall be financed from general fund operating revenues to be allocated as follows: $8,000,000 for pay-as-you-go capital projects for public schools of the District of Columbia; $2,000,000 for pay-as-you-go capital projects for the Department of Housing and Community Development; and $298,000 for pay-as-you-go capital projects for the Department of Human Services: Provided further, That $19,218,000 of the $361,860,000, shall be available to the Board of Education of the District of Columbia for pay-as-you-go capital projects (maintenance improvements), for the construction of new roofs for various school buildings, and for school safety and building improvements projects, with $15,999,000 of these funds available for construction, $1,881,000 available for architectural design, and $1,338,000 available for project management: Provided further, That notwithstanding the last sentence of section 405(b) of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; D.C. Code, sec. 31-1535(b)), the Board of Education of the District of Columbia may procure contracts for its pay-as-you-go capital projects, for the construction of new roofs for various school buildings, and for school safety and building improvements projects: Provided further, That all such funds shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1988, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1988: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse: Provided further, That $50,000,000 of the $361,860,000 is for the construction of a prison facility in the District of Columbia which is financed with Federal funds appropriated to the District of Columbia; namely, $10,000,000 appropriated in fiscal year 1986; $20,000,000 appropriated for fiscal year 1987, and $20,000,000 appropriated for fiscal year 1988.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $176,876,000, of which $32,834,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $54,850,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; D.C. Code, sec. 43-1512 et seq.): Provided, That the requirements and restrictions which are applicable to general fund capital improvement projects and which are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91, as amended), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $5,458,000, to be derived from non-Federal District of Columbia revenues: Provided, That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $250,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcyles used for the performance of official duties at rates established by the Mayor: Provided, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: Provided, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: Provided, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1987, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 33,549, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to

permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1988, shall be transmitted to the Congress by no later than April 15, 1987.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: Provided, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.)

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: Provided, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1986 shall be deemed to be the rate of pay payable for that position for September 30, 1986.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. None of the funds appropriated by this Act may be used to transport any output of the municipal waste system of the District of Columbia for disposal at any public or private landfill located in any State, excepting currently utilized landfills in Maryland and Virginia, until the appropriate State agency has issued the required permits.

SEC. 128. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 129. (a) Section 131 of the District of Columbia Appropriation Act, 1986 (H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190), is amended—

(1) by inserting "or leased" after "owned" in subsection (a); and

(2) by inserting before the period at the end of subsection (b)(3) the following: ", and includes any tax imposed with respect to the use or rental of a motor vehicle and levied on, with respect to, or measured by the sales price or market value of the vehicle or the gross proceeds from the rental".

(b) The amendments made by subsection (a) shall apply to all taxable periods described in section 131(c) of such Act.

SEC. 130. No later than 30 days after the end of the first quarter of fiscal year 1987, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1987 revenue estimate as of the end of the first quarter of fiscal year 1987: Provided, That these estimates shall be used in the fiscal year 1988 annual budget request: Provided further, That the officially revised estimates at midyear shall be used for the midyear report.

SEC. 131. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1986" and inserting in lieu thereof "sold before October 1, 1987".

SEC. 132. The District of Columbia shall construct three signs which contain the words, "Sakharov Plaza". These signs shall be placed immediately above existing signs on the corners of 16th and L and 16th and M Streets, Northwest. These should be similar to signs used by the city to designate the location of Metro stations. In addition, a sign shall be placed on city property directly adjacent to, or directly in front of, 1125 16th Street designating the actual location of Andrei Sakharov Plaza. Hereafter the proper address of the Soviet Embassy in Washington, District of Columbia, shall be No. 1 Andrei Sakharov Plaza.

SEC. 133. The Congress of the United States reaffirms the authority of the Council of the District of Columbia, as authorized by the Street and Alley Closing and Acquisition Procedures Act of 1982 (D.C. Code, sec. 7-421), to enact the Closing of a Portion of 8th Street, Northwest, and Public Alleys in Square 403 Act of 1984 (D.C. Law 5-148), and the Closing of a Portion of 8th Street, Northwest, and Public Alleys and Square 403 Emergency Act of 1984 (D.C. Act 5-206).

SEC. 134. (a) Section 906 of the Leadership in Educational Administration Development Act of 1984 (20 U.S.C. 4206) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) the term 'State' includes the 50 States and the District of Columbia.".

(b) The amendments made by subsection (a) shall be effective as though they had been

included in section 906 of the Leadership in Educational Administration Development Act of 1984 at the time of its enactment.

TITLE II

FISCAL YEAR 1986 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

For an additional amount for "Governmental Direction and Support", $1,738,000.

ECONOMIC DEVELOPMENT AND REGULATION

For an additional amount for "Economic Development and Regulation," $5,658,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public Safety and Justice," $47,093,000: Provided, That of the funds appropriated under this heading for the Police and Fire Retirement System for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $12,735,000 are rescinded.

PUBLIC EDUCATION SYSTEM

For an additional amount for "Public Education System," $92,000, for the Commission on the Arts and Humanities: Provided, That of the amount available for the District of Columbia Teachers' Retirement Fund for the fiscal year ending September 30, 1986, $3,423,000 shall be used solely for the purpose of reducing the fund's unfunded liabilities.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human Support Services", $3,545,000: Provided, That of the funds appropriated under this heading for the Unemployment Compensation Fund for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $1,982,000 are rescinded: Provided further, That of the amount available from the revenue sharing trust fund for the fiscal year ending September 30, 1986, $2,463,000 are rescinded.

PUBLIC WORKS

For an additional amount for "Public Works", $4,216,000.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center Fund", $150,000.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $16,316,000 are rescinded.

PERSONAL SERVICES

(INCLUDING RESCISSION)

For "Personal services", $1,000,000, to be apportioned by the Mayor to the various appropriation titles for optical and dental costs for nonunion employees: Provided, That of the funds appropriated under the various headings for the fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $3,423,000 in personal services costs are rescinded.

ADJUSTMENTS

(RESCISSION)

The Mayor shall reduce authorized appropriations and expenditures within Object Class 30A (energy) in the amount of $1,000,000 within the various appropriation titles of H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, approved December 19, 1985 (99 Stat. 1224).

CAPITAL OUTLAY

For an additional amount for "Capital Outlay", $126,791,000: Provided, That $5,165,000 shall be for project management and $836,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System.

WATER AND SEWER ENTERPRISE FUND

For an additional amount for "Water and Sewer Enterprise Fund", $300,000.

GENERAL PROVISIONS

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1986.

This Act may be cited as the "District of Columbia Appropriations Act, 1987".

And the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(e) Such amounts as may be necessary for programs, projects or activities provided for in the Energy and Water Development Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

An Act making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $135,517,000, to remain available until expended, and in addition, $250,000, to remain available until expended, for the Bolsa Chica/Sunset Harbor, California, study; and in addition, $520,000 to remain available until expended, for the Red River Waterway, Shreveport, Louisiana, to Index, Arkansas, project for continuation of preconstruction planning: Provided, That not to exceed $18,000,000 shall be available for obligation for research and development activities.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,065,950,000, of which $26,000,000 shall be derived from the Inland Waterway Trust Fund, to remain available until expended, and in addition, to remain available until expended, $2,300,000 for that increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, of which $1,300,000 shall be made available for the Sea Bright to Ocean Township reach and of which $1,000,000 for the Asbury Park to Manasquan reach; and in addition, $6,800,000 to remain available until expended for the construction of the Yatesville, Kentucky, construction project; and in addition, $1,600,000, to remain available until expended for construction of the Sturgeon Point Marina, New York, project authorized by section 107 of the Rivers and Harbors Act of 1960, as amended; and in addition, $1,600,000 to remain available until expended, for construction of recreation facilities at New Melones Lake, California; and in addition, $1,200,000 to remain available until expended to be equally divided between the Crossett Harbor Public Access/Recreation Site and the Grand Marais Lake Public Access/Recreation Site at the Felsenthal National Wildlife Refuge, Arkansas (Ouachita and Black Rivers, Arkansas and Louisiana); and in addition, $1,100,000 to remain available until expended, for construction, at a standard project level of protection, for the Barbourville, Kentucky, project as authorized by section 202 of Public Law 96-367; and in addition, $3,600,000, to remain available until expended, for construction at a standard project flood level of protection, for the Harlan, Kentucky, project as authorized by section 202 of Public Law 96-367 (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia, and Kentucky); and in addition, $68,000,000, to remain available until expended, for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, $38,000,000 for Locks and Dams 1 and 2, and $30,000,000 with which the Secretary of the Army is directed, as a minimum, to award continuing contracts in fiscal year 1987 for construction and completion of each of the following features of the Red River Waterway: Lock and Dam No. 3 Phase III (consisting of the main lock and dam and connecting channels), realignment and bank stabilization measures in Pools 3, 4, and 5, including but not limited to Saint Maurice, Kadesh, Socot, Powhattan, Ile Au Vaches, Campti, Smith Island, Carroll, and Wilkerson Point Realignments, and Cognac and Lumbra Revetments. The Secretary is further directed to initiate and complete both the Lock and Dam No. 3 Phase IIB (consisting of the initial excavation for the lock and dam, the north cofferdam, the reservation mound and disposal area) and Phase IIC (consisting of the remaining access roads) contracts in fiscal year 1987. None of these contracts are to be considered fully funded. Contracts are to be initiated, or initiated and completed, with funds herein provided: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, shall provide funds for design and construction of a storage facility including necessary conveyances, to resolve a water quality problem associated with Dam Site 18 of the Papillion Creek and Tributaries Lakes, Nebraska. The funds are to be provided from available funds: Provided further, That the Secretary

of the Army, acting through the Chief of Engineers, is authorized to construct flood control structures in accordance with the plan contained in the reevaluation report of the Chief of Engineers for Papillion Creek and Tributaries Lakes, Nebraska, dated March 1985 (revised October 1985). Features of such project authorized by the Flood Control Act of 1968 but eliminated by or otherwise not in accordance with the reevaluation report are not authorized after the date of enactment of this Act: Provided further, That section 123 of Public Law 99-190 is amended by striking out "at an estimated cost of $1,000,000" and inserting in lieu thereof "a cost of $2,300,000".

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, $10,000,000, to remain available until expended.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $310,797,000, to remain available until expended: Provided, That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist. The Secretary of the Army, acting through the Chief of Engineers, is hereby directed to repair the Pumping Station and Gravity Outlets at the City of DeValls Bluff, Arkansas, authorized by the Flood Control Act of August 18, 1941, as amended by the Flood Control Act of July 24, 1946, at an estimated cost of $250,000.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; administration of laws pertaining to preservation of navigable waters; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,389,846,000, to remain available until expended, of which $12,500,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601), and of which $7,400,000 shall be for construction of recreation facilities (including a recreation lake) at Sepulveda Dam, California: Provided, That not to exceed $8,000,000 shall be available for obligation for mobilization planning activities.

REVOLVING FUND

For construction of a dustpan dredge and for the Corps of Engineers Automation Plan, $12,000,000, to remain available until expended (33 U.S.C. 576).

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $115,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed $2,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 250 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS

SEC. 101. None of the funds appropriated in this title, except as specifically contained herein, shall be used to alter, modify, dismantle, or otherwise change any project which is partially constructed but not funded for construction in this title.

SEC. 102. The Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, design, engineering, construction and the operation and maintenance of the Des Moines Recreational River and Greenbelt project as described in Conference Report 99-236 using funds heretofore, herein and hereafter appropriated. Notwithstanding the language contained in the 1985 Supplemental Appropriations Act, Public Law 99-88, the Corps of Engineers shall continue their work on the General Design Memorandum, which shall be completed by October 1987 to serve as a master plan for the overall project. The design memorandum must address all enhancements contained in the list prepared by the Des Moines Recreational River and Greenbelt Advisory Committee. The project after construction will be operated and maintained at full Federal expense.

SEC. 103. Notwithstanding any conditions to the contrary in executed local cooperation agreements, where such agreements exist, initiation of construction of new Department of the Army water resource projects funded and authorized by Public Law 99-88 shall not be contingent upon enactment of legislation imposing a Federal port use charge or increasing the tax imposed by section 4042 of the Internal Revenue Code of 1954. Upon fulfillment of all other conditions and subject to such other terms as might appear in a local cooperation agreement, where required, for such a project, the Secretary shall initiate and complete construction of the project. Once construction has been initiated, no work in connection with such project shall be considered a "new start" for budgetary or funding purposes.

SEC. 104. None of the funds provided in this act, or any other act, may be used by the Corps of Engineers to lease, contract or otherwise transfer to a non-government entity any parks or recreation resources, or the management or operation thereof, located at Greers Ferry Lake or Little Red River in the State of Arkansas, for which such arrangements did not exist on or before September 1, 1986, until the Corps has studied the economic, environmental and public use impact of leasing to private enterprise the parks and other recreation resources at lakes, reservoirs and reaches of river under its jurisdiction and such study has been reviewed by the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works in the Senate.

SEC. 105. None of the funds made available by this Act or any other Act for any fiscal year may be used hereafter to study, to plan, to implement, to construct, or to issue any permit for the Northfield Mountain Water Supply Project, Massachusetts or the Millers and Tully Rivers Water Supply Project, Massachusetts: Provided, That this section shall not apply to environmental studies undertaken by the United States Fish and Wildlife Service: Provided further, That this shall not be construed as a precedent for any other Corps permit in any other state or region.

SEC. 106. Within available funds, the Secretary of the Army acting through the Chief of Engineers is authorized and directed to modify the Black Warrior and Tombigbee Rivers, Alabama, project, to provide a safe channel and general navigation facilities in the vicinity of Jackson, Alabama, at an estimated cost of $8,200,000. Necessary training works to provide a safe channel shall be constructed at full Federal expense as part of the Operation and Maintenance, General program. Development of general navigation facilities to provide a spur canal for a port facility at Jackson, at an estimated cost of $2,300,000, shall be part of the Construction, General program and shall be cost shared under terms and conditions acceptable to the Secretary of the Army as set forth in a binding agreement with a non-Federal sponsor desiring to participate in project construction.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $29,409,000: Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: Provided further, That funds contributed by non-Federal entities for purposes similar to this appropriation

shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $602,158,000, of which $110,929,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $145,596,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation to the heading: Provided further, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: Provided further, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: Provided further, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: Provided further, That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be non-reimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: Provided further, That of the amount herein appropriated, such amounts as may be required shall be available to continue improvement activities for the Lower Colorado Regional Complex: Provided further, That section 507 of Public Law 92-514 (86 Stat. 970) is amended by striking out "$79,500,000 (based upon January 1972 prices)" and inserting in lieu thereof "$333,865,000 (based upon July 1984 prices)": Provided further, That of the total herein appropriated in this account, the Secretary of the Interior is authorized to obligate no more than $8,800,000 by August 1, 1987, for the San Joaquin Valley Drainage Program: Provided further, That Section 8 of the Act of June 3, 1960 (74 Stat. 156; Public Law 86-488), is amended by inserting "(a)" after "Sec. 8." and by inserting at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, none of the costs associated with, or resulting from, the following which have been or will be incurred shall be recovered by the Secretary, directly or indirectly, from power contractors of the Central Valley project:

"(1) the construction of such distribution systems and drains as are not constructed by local interests;

"(2) the construction of the San Luis interceptor drain; or

"(3) the construction of acquisition of any facilities by the United States or the Westlands Water District as partial or full alternatives to the San Luis interceptor drain.".

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $140,000,000; Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: Provided further, That fund advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: Provided further, That nonreimbursable funds will be available from revenues for performing examination of existing structures on participating projects of the Colorado River Storage Project.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-4221), including expenses necessary for carrying out the program, $37,480,000, to remain available until expended: Provided, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That during fiscal year year 1987 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $43,806,000: Provided further, That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver Engineering and Research Center, and offices in the six regions of the Bureau of Reclamation, $51,200,000, of which $2,000,000, shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administration expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

WORKING CAPITAL FUND

For acquisition of the Bureau's computer aided design and drafting system, $6,400,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571), the total amount to be derived from the reclamation fund.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or the Colorado River development fund are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) and the Act of July 19, 1940 (43 U.S.C. 618a), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the special fund from which derived.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 12 passenger motor vehicles of which 10 shall be for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act, 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleonto-

logical remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461–467) and June 27, 1960 (16 U.S.C. 469): Provided, That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses" and amounts provided for plan formulation and advance planning investigations, and general engineering and research under the head "General Investigations".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

The costs of the Seedskadee Project may be reallocated in order to reflect revised project beneficial purposes.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: Provided, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): Provided, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. Of the appropriations provided for the Central Utah Project, in this or any other Act, not more than 20 percent of the total in any one fiscal year may be expended by the Secretary for all administrative expenses: Provided, That the Inspector General of the Department of the Interior shall annually audit expenditures by the Bureau of Reclamation to determine compliance with this section: Provided further, That the Bureau of Reclamation's General Administrative Expenses appropriation shall be used to fund the audit: Provided further, That the Bureau of Reclamation shall not delay or stop construction of the project due to this limitation and shall apply all the remaining appropriations to completion of the project.

SEC. 206. The Central Utah Water Conservancy District shall pay principal and interest on those features of the Central Utah Project which develop 60,000 acre-feet of municipal and industrial water supply for which deferral was invoked in 1981, without the benefit of exceptions (1) and (2) of the last proviso of the first sentence of section 301(b) of the Water Supply Act of 1958, 43 U.S.C. 390(b)(2): Provided, That in the event that the Bonneville Unit is not substantially complete, as determined by the Secretary, at the end of fiscal year 1995, the Central Utah Water Conservancy District will be credited with $2,000,000 to be applied to its repayment obligation for the Bonneville Unit each year that the project is not substantially complete, as determined by the Secretary, but in no case beyond fiscal year 2000.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 18 for replacement only), $1,347,048,000, to remain available until expended; in addition $684,158,000 shall be derived by transfer from Uranium Supply and Enrichment Activities provided in prior years and shall be available until expended; and of which $84,100,000 which shall be available only for the Center for New Industrial Materials; the Center for Nuclear Imaging Research; the Energy Research Complex; Saint Christopher's Hospital for Children—Energy Demonstration Project; Center for Excellence in Education—Energy Utilization Performance Project; the Institute of Nuclear Medicine; the Advanced Science Center; the Center for Science and Engineering; and funds provided for byproducts utilization activities shall be available only for the following regional projects: Florida Department of Agriculture and Consumer Services; Hawaii Department of Planning and Economic Development; Iowa State University; Oklahoma, Red-Ark Development Authority; Washington, Port of Pasco; State of Alaska.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 33 for replacement only); $1,210,400,000, to remain available until expended; Provided, That revenues received by the Department for the enrichment of uranimum and estimated to total $1,286,400,000 in fiscal year 1987, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302(b) of section 484, of title 31, United States Code: Provided further, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1987 so as to result in a final fiscal year 1987 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy, activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or facility or for plant or facilities acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 12 for replacement only); $708,400,000 to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, including the acquisition of real property or facility construction or expansion, $499,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury: Provided, That of the funds available, $2,500,000 shall be provided to the State of Oregon for the purpose of researching, with respect to nuclear activities carried out at the Hanford Federal Reservation in Richland, Washington, the effects of such nuclear activities on the health of the people of Oregon and on the environment of Oregon.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the

Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 344 of which 320 are for replacement only) including 36 policy-type vehicles; and purchase of five aircraft, three of which are for replacement only, $7,477,750,000, to remain available until expended: Provided, That the Department is directed to provide the Committee on Appropriations within 120 days of enactment of this Act with a plan and schedule to discontinue disposal of contaminated liquids into the soil at the Hanford Reservation: Provided further, That (a) To provide for a security buffer zone for the United States Department of Energy's Savannah River Plant near Aiken, South Carolina, title, control, and custody to six thousand twenty-one acres, more or less, of United States Department of Agriculture, Forest Service, lands shown on a map entitled "Forest Service Property Transfer, Savannah River Plant, Aiken, South Carolina", dated June 1984, are transferred without cost or reimbursement to the United States Department of Energy. The map and legal description of the boundaries of these lands shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture, the Director of Real Property and Facilities Management, United States Department of Energy, and appropriate field offices of those agencies. (b) This joint resolution does not affect valid existing rights, or interests in existing land use authorizations, except that any right or authorization shall be administered by the Department of Energy after the enactment of this joint resolution. Reissuance of any authorization shall be in accordance with applicable law and the regulations of the Department of Energy, except that the change of administrative jurisdiction shall not in itself constitute a ground to deny the renewal or reissuance of any authorization: Provided further, That if the Department of Defense Authorization Act, 1987, is enacted into law by December 31, 1986, the funds provided in this paragraph for the Strategic Defense Initiative shall be limited to the amount and in the manner provided for in that legislation.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $17,500) $395,558,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total $251,947,000 in fiscal year 1987 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: Provided further, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1987 so as to result in a final year 1987 appropriation estimated at not more than $143,611,000.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $2,881,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for Enloe Dam Fish Passage Facilities. Expenditures are also approved for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1987, and within the resources and authority available, gross obligations for the principle amount of direct loans shall not exceed $10,000,000.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $19,647,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $25,337,000, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase of passenger motor vehicles (not to exceed 4 for replacement only), $236,846,000, to remain available until expended, of which $214,835,000, shall be derived from the Department of the Interior Reclamation fund: Provided, That the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $3,463,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $1,500); $99,079,000, of which $3,000,000 shall remain available until expended and be available only for contractual activities: Provided, That hereafter and notwithstanding any other provision of law revenues from licensing fees, inspection services, and other services and collections, estimated at $78,754,000 in fiscal year 1987, may be retained and used for necessary expenses in this account, and may remain available until expended: Provided further, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1987, so as to result in a final fiscal year 1987 appropriation estimated at not more than $20,325,000.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $72,000, to remain available until expended: Provided, That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

SEC. 303. The unexpended balances of prior appropriations provided for activities covered in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter

of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. None of the funds provided in this joint resolution or in any other law may be used to implement the following provisions of the uranium enrichment criteria submitted to Congress on July 24, 1986:

(i) Section 762.3, which specifies the permitted enrichment of source material of foreign origin for use in domestic utilization facilities;

(ii) the third sentence of section 762.11, to the extent that it provides limitations on free choice of transaction tails assays from 0.2% to 0.3% U-235 or imposition of an additional charge for selections in that range;

(iii) section 762.15, to the extent it might be construed to validate contract provisions permitting unrestricted delivery and enrichment of foreign-origin feed material after a final court decision requiring restriction of enrichment of foreign-origin source material for domestic use or permitting imposition of additional charges for customer selections of transaction tails assays within the range of 0.2% to 0.3% U-235;

(iv) any portion of the criteria or provision in any contract which permits or results in reduction of the amount of feed material otherwise required to be delivered to DOE by commercial customers as a result of use of source material or special nuclear material from the government stockpiles in providing toll enrichment services for commercial customers;

(v) section 762.6 hereafter, insofar as it may convey a determination of the level of unrecouped costs that must be returned to the Treasury by the enrichment program, which determination shall be made by the Congress in future legislation.

The funds provided in this joint resolution shall be used to operate the enrichment program, consistent with the spending limitations imposed by this section, on the basis that the uranium enrichment criteria submitted to Congress on July 24, 1986 (except section 762.3 thereof) are in force and effect as modified above: Provided, That notwithstanding the effectiveness of the criteria as described above until amended or superseded in accordance with the Atomic Energy Act, except as is otherwise specifically provided by law, foreign-origin uranium may be enriched for domestic use only until a final judgment or dismissal in the pending litigation that determines whether section 161(v) of the Atomic Energy Act requires restriction of enrichment of foreign-origin source material, in which case the criteria shall be amended to impose such restrictions, or such unrestricted enrichment may continue, whichever is consistent with the decision of this question in the pending litigation: Provided further, That in expending funds hereunder, the Department shall be required to offer each customer, free of additional charge and irrespective of percentage of requirements contracted for, a transaction tails assay from 0.2% to 0.3% U-235: Provided further, That no provision of this joint resolution or the July 24, 1986, criteria shall affect the merits of the legal position of any of the parties concerning the questions whether section 161(v) of the Atomic Energy Act requires restriction of enrichment of foreign-origin source material destined for use in domestic utilization facilities, and whether distribution may be made of source material or special nuclear material from the government stockpile for commercial customers, in the pending litigation in the United States Court of Appeals for the Tenth Circuit and in the United States District Court for the District of Colorado.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, except expenses authorized by section 105 of said Act, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $105,000,000.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $185,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $200,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $79,000.

NATIONAL COUNCIL ON PUBLIC WORKS IMPROVEMENT

SALARIES AND EXPENSES

For expenses necessary to carry out provisions of the Public Works Improvement Act of 1984, section 3121 of title 42, United States Code, $1,750,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $8,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $401,000,000, to remain available until expended: Provided, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: Provided further, That moneys received by the Commission for the cooperative nuclear safety research program and the material and information access authorization programs including criminal history checks under Section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $179,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $240,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $100,000,000 to remain available until expended: Provided, That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948A of title 5, United States Code: Provided further, That the official of the Tennessee Valley Authority referred to as the "inspector general of the Tennessee Valley Authority" is authorized, during the fiscal year ending September 30, 1987, to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and other documentary evidence necessary in the performance of the audit and investigation functions of that official, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: Provided further, That procedures other than subpoenas shall be used by the inspector general to obtain documents and evidence from Federal agencies.

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reductions", or the provisions of Public Law 99-177.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter

of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act shall be used to pay the salary of the Administrator of a Power Marketing Administration or the Board of Directors of the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, may be used to pay the salary of the Administrator of the Bonneville Power Administration, unless such Administrators or Directors award contracts for the procurement of extra high voltage (EHV) power equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: Provided, That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: Provided, That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: Provided further, That this section shall not apply to procurement of domestic end product as defined in 48 C.F.R. sec. 25.101: Provided further, That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to HEV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. None of the funds in this Act may be used to construct or enter into an agreement to construct additional hydroelectric units at Denison Dam—Lake Texoma.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1987".

And the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

(f) such amounts as may be necessary for projects or activities provided for in the Foreign Assistance and Related Programs Appropriations Act, 1987, at a rate for operations and to the extent and in the manner provided for in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I--MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $55,805,000 for the General and Selective Capital Increase, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $688,261,667.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $622,623,251, for the United States contribution to the seventh replenishment, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

For payment to the Special Facility for Sub-Saharan Africa by the Secretary of the Treasury, $64,805,000, to remain available until expended: Provided, That funds made available under this heading shall be obligated to the Special Facility for Sub-Saharan Africa no later than March 1, 1987.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations, $17,263,000, to remain available until expended; and $16,417,000, for the United States share of the increase in paid-in capital stock to remain available until expended: Provided, That no such payment may be made while the United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $1,111,561,128.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $13,232,676 to remain available until expended; and for the United States contribution to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $91,406,000 to remain available until expended: Provided, That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $251,367,220.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $53,788,000, for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $13,988,000, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States

Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $41,980,980.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $237,264,000: Provided, That no funds shall be available for the United Nations Fund for Science and Technology: Provided further, That the total amount of funds made available by this paragraph shall be available only as follows: $107,500,000 for the United Nations Development Program; $51,080,000 for the United Nations Children's Fund; $1,818,000 for the World Food Program; $861,000 for the United Nations Capital Development Fund; $219,000 for the United Nations Voluntary Fund for the Decade for Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; $20,500,000 for the International Atomic Energy Agency; $6,800,000 for the United Nations Environment Program; $789,000 for the United Nations Educational and Training Program for Southern Africa; $250,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $172,000 for the Convention on International Trade in Endangered Species; $219,000 for the World Heritage Fund; $86,000 for the United Nations Voluntary Fund for Victims of Torture; $100,000 for the United Nations Fellowship Program; $150,000 for the UNIDO Investment Promotion Service; $400,000 for the Center on Human Settlements; $13,500,000 for the Organization of American States; and $28,710,000 for the International Fund for Agricultural Development, of which $10,000,000 shall be made available for the Special Program for Sub-Saharan African Countries Affected by Drought and Desertification.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1987, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agriculture, rural development and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, $639,613,000: Provided, That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: Provided further, That not less than $6,000,000 shall be provided for the Vitamin A Deficiency Program: Provided further, That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this paragraph may be available for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations.

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), $234,625,000: Provided, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: Provided further, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), $166,762,500.

Child Survival Fund: For necessary expenses to carry out the provisions of section 104(c)(2), $75,000,000, notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, $155,000,000: Provided, That of this amount not less than $6,000,000 shall be made available only for the International Student Exchange Program.

Energy and selected development activities, Development Assistance: For necessary expenses to carry out the provisions of section 106, $140,328,500: Provided, That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: Provided further, That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project.

Science and technology, Development Assistance: For necessary expenses to carry out the provisions of section 106, $9,661,500.

Limitation on Development Assistance: None of the funds made available by this Act in order to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, may be expended to provide an amount which would result in the percentage of funds expended for centrally funded, country, or regional programs for areas other than Sub-saharan Africa exceeding the percentage of total funds designated for centrally funded, country, or regional programs for areas other than Sub-saharan Africa in fiscal year 1986, as shown in the fiscal year 1987 congressional presentation materials.

Limitation on Development Assistance: None of the funds made available by this Act in order to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, may be expended to provide an amount which would result in the percentage of funds expended for centrally funded, country, or regional programs for areas other than Central America exceeding the percentage of total funds designated for centrally funded, country, or regional programs for areas other than Central America in fiscal year 1986, as shown in the fiscal year 1987 congressional presentation materials.

Haiti, Development Assistance: Of the funds made available to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, as amended, not less than $37,000,000 shall be available to support a transition to democracy through activities emphasizing job creation, rural development, health care, sanitation, small scale irrigation projects, reforestation, land conservation, and literacy education projects: Provided, That funds made available pursuant to this paragraph for Haiti shall be used to provide assistance, to the maximum extent practicable, equitably among the various regions of Haiti.

Private and Voluntary Organizations: None of the funds appropriated or otherwise made available in this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: Provided, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

Private sector revolving fund: For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, as amended, not to exceed $15,553,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1987, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $15,553,000.

Loan allocation, Development Assistance: In order to carry out the provisions of part I, the Administrator of the agency responsible for administering such part may furnish loan assistance pursuant to existing law and on such terms and conditions as he may determine: Provided, That to the maximum extent practicable, loans to private sector institutions, from funds made available to carry out the provisions of sections 103 through 106, shall be provided at or near the prevailing interest rate paid on Treasury obligations of similar maturity at the time of obligating such funds: Provided further, That amounts appropriated to carry out the provisions of chapter 1 of part I which are provided in the form of loans shall remain available until September 30, 1988.

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, $35,000,000.

International disaster assistance: For necessary expenses to carry out the provisions of section 491, $70,000,000, to remain available until expended: Provided, That not less than $50,000,000 shall be available only for

earthquake relief, reconstruction, and rehabilitation in El Salvador, notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

Sahel development program: For necessary expenses to carry out the provisions of section 121, $70,000,000, to remain available until expended: Provided, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 percent of the total contributions to such program.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $45,492,000.

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667, $340,600,000: Provided, That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: Provided further, That the Agency for International Development may use amounts appropriated to carry out the provisions of chapter 1 of part I (with the exception of the "Child Survival Fund") and chapter 4 of part II of the Foreign Assistance Act of 1961, for the overseas local support costs of its economic assistance programs and for the operating expenses of the Agency for International Development Office of Inspector General: Provided further, That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1987 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this proviso, economically and socially disadvantaged individuals shall be deemed to include women.

Operating expenses of the Agency for International Development Office of Inspector General: For necessary expenses to carry out the provisions of section 667, $21,000,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: Provided, That up to three percent of the amount made available under the paragraph "Operating expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this paragraph: Provided further, That the full-time equivalent staff years for the Office of the Inspector General for the fiscal year 1987 shall not be less than one hundred and ninety-three: Provided further, That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to another country.

Housing and other credit guaranty programs: During the fiscal year 1987, total commitments to guarantee loans shall not exceed $145,464,000 of contingent liability for loan principal: Provided, That the President shall enter into commitments to guarantee such loans in the full amount provided by this paragraph, subject only to the availability of qualified applicants for such guarantees: Provided further, That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961, as amended, borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1987.

Economic support fund: For necessary expenses to carry out the provisions of chapter 4 of part II, $3,550,000,000 including such funds as may be made available in fiscal year 1987 for Economic support funds for Central American countries through final enactment of section 205 of H.R. 5052: Provided, That of the funds appropriated under this paragraph, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1986, whichever is later: Provided further, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not less than $115,000,000 shall be provided as a cash transfer in accordance with the provisions of section 202(b) of Public Law 99-83, and not less than $200,000,000 shall be provided as a Commodity Import Program: Provided further, That notwithstanding any other provision of law, the Agency for International Development is authorized to obligate such funds as it deems necessary in excess of $115,000,000 from the funds appropriated for assistance to Egypt for the fiscal year 1987 as direct cash transfer for Egypt: Provided further, That such obligations in excess of $115,000,000 shall only be made in support of the implementation of a comprehensive structural economic reform program by the Government of Egypt: Provided further, That all such cash transfers in excess of $115,000,000 shall be subject to the regular notification procedures of the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Appropriations Committees of the House and Senate: Provided further, That such notifications for the provision of cash transfers in excess of $115,000,000 shall include detailed descriptions of the comprehensive structural economic reform program of the Government of Egypt: Provided further, That if the Agency for International Development obligates cash transfer assistance for Egypt exceeding $115,000,000, as permitted above, then such increased funding shall be derived through proportionate reductions in both the Commodity Import Program and project assistance: Provided further, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords: Provided further, That not less than $250,000,000 of the funds appropriated under this paragraph shall be available only for Pakistan: Provided further, That not less than $35,000,000 of the funds appropriated under this paragraph shall be available for a United States contribution to the International Fund for Northern Ireland and Ireland: Provided further, That not less than an additional sum of $200,000,000 shall be available only for the Philippines: Provided further, That not less than $15,000,000 of the funds appropriated under this paragraph shall be available for Cyprus: Provided further, That up to $15,000,000 shall be made available for Jordan in addition to funds otherwise made available by this paragraph and allocated to Jordan: Provided further, That any of the funds appropriated under this paragraph for El Salvador which are placed in the Central Reserve Bank of El Salvador shall be maintained in a separate account and not commingled with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): Provided further, That pursuant to section 660(d) of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this paragraph shall be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: Provided further, That a report of the investigation shall be provided to the Congress: Provided further, That up to $20,000,000 of the funds appropriated under this paragraph may be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: Provided further, That up to $20,000,000 of the funds made available by this paragraph may be provided to countries that are receiving "International Narcotics Control" assistance and that have made substantial progress in illicit drug control efforts: Provided further, That all funds made available pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations and that such notifications shall contain an explanation of the progress in illicit drug control that has been made by the recipient country: Provided further, That all of the funds provided under this paragraph which are made available for disadvantaged persons in South Africa shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That after February 1, 1987, any country which receives in excess of a total of $5,000,000 as cash transfer assistance shall maintain such funds in a separate account and shall not commingle such funds with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): Provided further, That all local currencies that may be generated with funds provided as a cash transfer in accordance with the previous proviso shall be deposited in a special account to be used in accordance with section 609 of the Foreign Assistance Act of 1961: Provided further, That not more than $5,000,000 of the funds made available under this paragraph may be

available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: Provided further, That funds made available under this paragraph shall remain available until September 30, 1988.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $6,500,000, notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $11,800,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1987 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $23,000,000.

During the fiscal year 1987, total commitments to guarantee loans shall not exceed $200,000,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $130,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: Provided, That none of the funds appropriated in this paragraph shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481, $65,445,000, notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $346,856,000: Provided, That not less than $25,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: Provided further, That these funds shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: Provided further, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: Provided further, That not more than $8,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: Provided further, That amounts appropriated under this heading shall be available notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $14,000,000, to remain available until expended.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II, $9,840,000.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $31,689,000: Provided, That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1987: Provided further, That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts: Provided further, That not more than half of the funds which are appropriated under this paragraph and which are allocated for the United Nations Force in Cyprus may be obligated for the United States contribution to that Force until the Secretary of State submits a report to the Congress detailing how the United States and other contributing countries plan to eliminate the financial deficit of that Force.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $900,000,000: Provided, That none of the funds under this heading shall be obligated for law enforcement agencies in El Salvador and Honduras until the notification required under Section 660(d) of the Foreign Assistance Act of 1961, as amended, is provided to the Committees on Appropriations: Provided further, That of the funds provided under this paragraph not more than $37,000,000 shall be used for "Overseas Military Program Management": Provided further, That the reports required by section 702 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) shall also be provided to the Committees on Appropriations: Provided further, That funds appropriated under this paragraph shall be expended at the minimum rate necessary to make timely payment for defense articles and services: Provided further, That amounts appropriated under this heading shall be available notwithstanding section 10 of P.L. 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $56,000,000.

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,040,441,284 of which not less than $1,800,000,000 shall be available only for Israel, not less than $1,300,000,000 shall be available only for Egypt, and not less than $312,500,000 shall be available only for Pakistan: Provided, That if the Government of Israel requests that funds be used for such purposes, up to $150,000,000 of the amount of credits made available for Israel pursuant to this paragraph shall be available for research and development in the United States for the Lavi program, and not less than $300,000,000 shall be for the procurement in Israel of defense articles and services, including research and development, for the Lavi program and other activities if requested by Israel: Provided further, That funds for the Lavi program shall be expended upon the Department of Defense's determination that the proposed contracts meet applicable technical standards: Provided further, That during fiscal year 1987, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $4,040,441,284: Provided further, That any funds made available by this paragraph, other than funds made available for Israel and Egypt, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act: Provided further, That the concessional rate of interest on foreign military credit sales loans for countries other than Israel and Egypt shall be not less than 5 percent per year: Provided further, That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: Provided further, That funds appropriated under this paragraph shall be expended at the minimum rate necessary to make timely payment for defense articles and services: Provided further, That of the funds made available by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 and section 23 of the Arms Export Control Act, a total of $490,000,000 shall be available only for Turkey and, of the funds made available by this paragraph, only $343,000,000 shall be available for Greece, notwithstanding sections 101(e)(1) and (f) of P.L. 99-83.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $315,820,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1987.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation,

and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: Provided, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1987 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $900,000,000, including such resources and authority as are made available in Public Law 99-349 for fiscal year 1987: Provided, That, if the Chairman of the Export-Import Bank certifies that such budget authority will not be fully utilized during the fiscal year 1987, up to $100,000,000 of that amount may be available, subject to the regular notification procedures of the Appropriations Committees of the Senate and House of Representatives, as tied aid credits in accordance with the provisions of the Export-Import Bank Act Amendments of 1986: Provided further, That there is appropriated to the Export-Import Bank of the United States an amount equal to the grant amount of tied aid credits which are made available from time to time, but not to exceed $100,000,000, which shall be subject to the limitation on gross obligations for the principal amount of direct loans specified under this heading: Provided further, That during the fiscal year 1987, total commitments to guarantee loans shall not exceed $11,355,000,000 of contingent liability for loan principal: Provided further, That the direct loan and guaranty authority provided in this paragraph shall remain available until September 30, 1988.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $18,371,500 (to be computed on an accrual basis) shall be available during fiscal year 1987 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: Provided, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661, $20,000,000.

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1987, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" shall not exceed $275,000,000 of contingent liability for loan principal.

TITLE V—GENERAL PROVISIONS

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

SEC. 502. Except for the appropriations entitled "International disaster assistance", and "United States emergency refugee and migration assistance fund" not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $110,000 shall be for official residence expenses of the Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $10,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $100,000 shall be for representation allowances for the Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: Provided further, That of the total funds made available by this Act under the headings "Military assistance" and "Foreign military credit sales", not to exceed $2,500 shall be available for entertainment expenses and not to exceed $70,000 shall be available for representation allowances: Provided further, That of the funds made available by this Act under the heading "International military education and training", not to exceed $125,000 shall be available for entertainment allowances: Provided further, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,500 shall be available for entertainment and representation allowances: Provided further, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: Provided further, That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,000 shall be available for representation and entertainment allowances.

SEC. 510. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria.

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree.

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress.

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the paragraphs under the heading "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations in such paragraphs or until September 30, 1987 whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: Provided, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds.

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the

United States not authorized before the date of enactment of this Act by the Congress.

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: Provided, That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act.

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by the management of the international financial institution.

SEC. 521. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: Provided, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

SEC. 522. The Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

SEC. 523. None of the funds made available under this Act for "Agriculture, rural development and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "Education and human resources development, Development Assistance", "Energy and selected development activities, Development Assistance", "Science and technology, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Sahel development program", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Military assistance", "International military education and training", "Foreign military credit sales", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

SEC. 526. None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1986, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

SEC. 527. Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States' proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

SEC. 528. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

(c) The report required by subsection (a) of this section shall be in the identical format as the "Report to Congress on Voting Practices in the United Nations" which was submitted pursuant to Public Law 99-190 and Public Law 98-164 on June 6, 1986.

SEC. 529. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

SEC. 530. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

SEC. 531. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursu-

ing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic support fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

SEC. 532. None of the funds made available in this Act shall be restricted for obligation or disbursement solely as a result of the policies of any multilateral institution.

SEC. 533. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent act unless such act specifically so directs.

SEC. 534. The Secretary of the Treasury and the Secretary of State are directed to submit to the Committees on Appropriations by February 1, 1987, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States including, where appropriate, an analysis of the foreign assistance programs conducted by these recipient nations.

SEC. 535. None of the funds appropriated or otherwise made available pursuant to this Act for "Economic support fund" or for "Foreign military credit sales" shall be obligated or expended for Lebanon except as provided through the regular notification procedures of the Committees on Appropriations.

SEC. 536. Of the funds made available by this Act for Jamaica and Peru, not more than 50 per centum of the funds made available for each country shall be obligated unless the President determines and reports to the Congress that the Governments of these countries are sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States: Provided, That this provision shall not be applicable to funds made available to carry out section 481 of the Foreign Assistance Act of 1961: Provided further, That assistance may be provided to Bolivia for fiscal year 1987, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only in accordance with the provisions of section 611 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) as amended by section 2011 of H.R. 5484 as passed by the Senate on September 30, 1986.

SEC. 537. None of the funds available in this Act may be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate are notified at least fifteen days in advance in accordance with the procedures applicable to notifications.

SEC. 538. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

SEC. 539. (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks to—

(1) vigorously promote a commitment of these institutions to—

(A) add professionally trained staff with experience in ecology and related areas to undertake environmental review of projects, and strengthen existing staff exercising environmental responsibilities;

(B) develop and implement management plans to ensure systematic and thorough environmental review of all projects and activities affecting the ecology and natural resources of borrowing countries, including—

(i) creation of a line unit to carry out such reviews as part of the normal project cycle,

(ii) appointment of an environmental advisor to the Presidents of the Multilateral Development Banks,

(iii) institution of a regular program of monitoring all ongoing projects to ensure that contract conditions and general bank policies to protect the environment and indigenous peoples are fully complied with;

(C) create career and other institutional incentives for all professionally trained bank staff to incorporate environmental and natural resources concerns into project planning and country programming activities;

(2) vigorously promote changes in these institutions in their preparation of projects and country programs that will prompt staff and encourage borrower countries to—

(A) actively and regularly involve environmental and health ministers, or comparable representatives, at the national, regional and local level, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(B) actively and regularly seek the participation of non-governmental indigenous peoples and conservation organizations in the host countries at all stages of project planning and strategy sessions;

(C) fully inform local communities and appropriate non-governmental organizations with interests in local development projects of all project planning sufficiently in advance of project appraisal to allow informed participation of local communities and non-governmental organizations that may be adversely affected by them;

(3) establish a regular integrated multidisciplinary planning process to conduct land use capability analyses in reviewing potential loans. Such plans shall include, but not be limited to, a review of ongoing or other potential resource utilization efforts in and adjacent to the project area;

(4) vigorously promote a commitment of these institutions to develop and implement plans for the rehabilitation and management of the ecological resources of borrower nations on a sustained basis. Special attention shall be paid to soil conservation, wildlife, wetlands, estuaries, croplands, grasslands, forests, and fisheries, including—

(A) long-term programs of research designed to manage ecosystems properly;

(B) provision of adequate extension workers, park rangers, social forestry experts, and other appropriate personnel; and

(C) improved programs of training in environmental science and land-use planning;

(5) vigorously promote a commitment of these institutions to increase the proportion of their programs supporting environmentally beneficial projects and project components, such as technical assistance for environmental ministries and institutions, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate light capital technology projects. Other examples of such projects include small scale mixed farming and multiple cropping, agroforestry, programs to promote kitchen gardens, watershed management and rehabilitation, high yield wood lots, integrated pest management systems, dune stabilization programs, programs to improve energy efficiency, energy efficient technologies such as small scale hydro projects, rural solar energy systems, and rural and mobile telecommunications systems, and improved efficiency and management of irrigation systems.

(6) place an increased emphasis on upgrading the efficient use of energy and other resources by borrower nations. Such efforts shall include, but not be limited to—

(A) significantly increasing the proportion of energy project lending for energy efficiency improvements, and decentralized small scale facilities such as solar, wind, or biomass generating facilities; and

(B) conducting an analyses of the comparative costs of any new energy generating facilities with the cost of increasing the energy efficiency in the project service area;

(7) seek a commitment of these institutions to fund projects to protect and preserve crucial wetland systems and to avoid expenditures for projects designed to convert major wetland systems. Development proposals which may affect these areas should be the subject of detailed impact assessments so as to avoid detrimental impacts to fisheries, wildlife and other important resources;

(8) vigorously promote the establishment within the Economic Development Institute of the World Bank of a component which provides training in environmental and natural resource planning and program development;

(9) regularly raise, at meetings of the Boards of Directors of these institutions, the issue of their progress in improving their environmental performance, with specific focus on the measures set forth above; and

(10) require at least a four week project review period between the time when staff recommendations are presented to the board and board action on any projects.

(b) The Secretaries of Treasury and State, and the Administrator of the Agency for International Development, shall ensure and coordinate a thorough evaluation within the U.S. Government of the potential environmental problems, and the adequacy of measures to address these problems, associated with all proposed loans for projects involving large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; and agricultural and rural development programs. The potential environmental problems to be addressed in such evaluations shall include those relating to deterioration of water quality; siltation; spread of waterborne diseases; forced resettlement; deforestation; threats to the land, health and culture of indigenous peoples; wetlands disruption; topsoil management, water logging and salinization in irrigation projects; and pesticide misuse and resistance.

(c) The Secretary of the Treasury and the Secretary of State shall regularly undertake and continue diplomatic and other initiatives, in addition to those mentioned in subsection (a)(5), to discuss measures to improve the environmental performance of the Multilateral Development Banks with the representatives to these institutions, and with ministries from which they receive

their instructions, of borrower and donor nations. In particular, joint efforts shall be undertaken with borrowers and donors to ensure cooperative implementation of the reforms described above.

(d) The Secretary of the Treasury and the Secretary of State shall propose formally that the Boards of Governors of each Multilateral Development Bank hold a special meeting within the next twelve months, focused specifically on environmental performance and better implementation of multilateral development policies designed to protect the environment and indigenous peoples.

(e) The Secretary of the Treasury shall prepare and submit to the Committees on Appropriations by January 15, 1987, and annually thereafter, a report documenting the progress the Multilateral Development Banks have made in implementing the environmental reform measures described in paragraphs one through eight of subsection (a).

(f) In the report of the Secretary of the Treasury required by subsection (e), regarding the implementation of staffing measures suggested in subsection (a)(1)(A), the Secretary of the Treasury shall specifically discuss the progress of the International Bank for Reconstruction and Development in upgrading and adding environmentally trained professionals to each of its six regional offices to review projects for their prospective ecological impacts.

(g) The Administrator of the Agency for International Development in conjunction with the Secretaries of Treasury and State shall—

(1) instruct overseas missions of the Agency for International Development and embassies of the United States to analyze the impacts of Multilateral Development Bank projects proposed to be undertaken in the host country well in advance of a project's approval by the relevant institution. Such reviews shall address the economic viability of the project; adverse impacts on the environment, natural resources, and indigenous peoples; and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts. If not classified under the national security system of classification, such information shall be made available to the public;

(2) in preparation of reviews required by subsection (g)(1), compile a list of categories of projects likely to have adverse impacts on the environment, natural resources, or indigenous peoples. The list shall be developed in consultation with interested members of the public and made available to the Committee on Appropriations by December 31, 1986 and semiannually thereafter; and

(3) study the feasibility of creating a cooperative "early warning system" for projects of concern with other interested donors.

(h) If a review required by subsection (g)(1) identifies adverse impacts to the environment, natural resources, or indigenous peoples, the Secretary of the Treasury shall instruct the United States Executive Director of the Multilateral Development Bank to seek changes to the project necessary to eliminate or mitigate those impacts.

(i) The Administrator of the Agency for International Development shall appoint a Committee on Health and the Environment to examine opportunities for assisting countries in the proper use of agricultural and industrial chemicals and processes and alternatives such as integrated pest management. The committee shall be broadly representative of industry, agriculture, labor, health and environmental interests and shall report its preliminary findings to Congress before hearings on the fiscal year 1988 budget.

SEC. 540. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

SEC. 541. Not less than $30,000,000 of the aggregate amount of funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

SEC. 542. None of the funds provided in this Act shall be available for the Sudan if the President determines that the Sudan is acting in a manner that would endanger the stability of the region, or the Camp David peace process.

SEC. 543. The President shall make available to the Cambodian non-Communist resistance forces not less than $1,500,000 nor more than $5,000,000 of the funds appropriated by this Act for "Military assistance" and for the "Economic support fund", notwithstanding any other provision of law: Provided, That funds appropriated by this Act for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

SEC. 544. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

SEC. 545. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January, 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January, 1981 murders.

SEC. 546. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic support fund", "Foreign Military Credit Sales", "Military Assistance" program, "International military education and training", Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

SEC. 547. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International De-

velopment will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

SEC. 548. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SEC. 549. None of the funds appropriated in this Act shall be obligated or expended for Sudan or Liberia except as provided through the regular notification procedures of the Committees on Appropriations.

SEC. 550. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic support fund; Military Assistance; and Foreign military credit sales, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the Executive Branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of a Foreign Assistance and Related Programs Appropriations Act or of enactment of a continuing resolution containing funding for these programs for the balance of the fiscal year 1987, as required by Section 653(a) of the Foreign Assistance Act of 1961, as amended, whichever is the more recent action.

SEC. 551. Of the funds made available by this Act and appropriated for the "Child Survival Fund" and "Health, Development Assistance", up to an additional $4,150,000 may be used to reimburse the U.S. Public Health Service or the Centers for Disease Control for the full cost of up to an additional thirty Public Health Service employees specifically for the purpose of carrying out immunization activities of the Child Survival Fund.

SEC. 552. Earmarks, limitations, and ceilings on programs, projects, and activities for fiscal year 1987 shall be treated as follows: (1) earmarks, limitations, and ceilings shall be as designated in this Act; (2) earmarks, limitations, and ceilings, in other legislation which pertain to foreign assistance programs funded by this Act, shall be reduced proportionately by a percentage equal to the percentage decrease in funds available in each account for countries other than Israel, Egypt, and Pakistan from fiscal year 1986 post sequestration funding levels to fiscal year 1987 appropriation levels; and (3) nothing in this section shall preclude the application of sequestration action in fiscal year 1987, if it occurs, from applying to all earmarks, limitations, and ceilings in this Act and in applying to earmarks, limitations, and ceilings in corresponding authorizations legislation.

SEC. 553. If any funds appropriated by this Act for "Economic support fund", "Military assistance", "International military education and training", or "Foreign military credit sales" are not used for assistance for the country for which those funds were allocated because that country has not taken adequate steps to halt illicit drug production or trafficking (including any funds withheld pursuant to section 481(h) of the Foreign Assistance Act of 1961 or section 611 or 612 of the International Security and Development Cooperation Act of 1985), those funds shall be used for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(1) Except as provided in paragraph (2), those funds shall be transferred to the "International Narcotics Control" account in order to provide additional narcotics control assistance to those countries. Such transfers may be made without regard to the 20-percent increase limitation contained in section 610(a) of the Foreign Assistance Act of 1961. Such transfers shall be subject to the regular notification procedures of the Committees on Appropriations.

(2) Any of those funds—

(A) which the President determines (and reports to the Congress) should not be used for additional narcotics control assistance for those countries because the additional assistance could not be used effectively in halting illicit drug production or trafficking,

(B) whose transfer pursuant to paragraph (1) is not approved by the Appropriations Committees, or

(C) which are appropriated for "Foreign military credit sales",

shall be reprogrammed within the account for which they were appropriated (subject to regular reprogramming procedures of the Committees on Appropriations) in order to provide additional economic or military assistance (as the case may be) to those countries.

SEC. 554. The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to work with the representatives, and with the ministries from which they receive their instructions, of other donor nations to the Inter-American Development Bank, to develop a coordinated economic development program for the assistance activities of the Bank for Haiti. Such program should be developed in cooperation with the Department of State and the Agency for International Development to ensure that the bilateral economic assistance programs of the United States for Haiti are effectively coordinated with the activities of the Inter-American Development Bank.

SEC. 555. (a) Section 49 of the Bretton Woods Agreements Act (22 U.S.C. 286gg) is amended by adding at the end the following new subsection:

"(d) For purposes of this section, the term 'multilateral development banks' means the International Bank for Reconstruction and Development, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.".

(b) Section 49(a)(1) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(a)(1)) is amended—

(1) by inserting before "the Fund" the first place it appears the following: "each of the multilateral development banks (in this section referred to as the 'banks') and of";

(2) by inserting "each of the banks and of" before "the Fund" the second place it appears;

(3) by inserting "banks and of the" before "Fund" the third place it appears; and

(4) by striking "Fund" the fourth place it appears.

(c) Section 49(a)(3) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(a)(3)) is amended—

(1) by inserting "each of the banks and of" before "the Fund" the first place it appears; and

(2) by striking "Fund" the second place it appears and inserting "their".

(d) Section 49(b)(1) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(b)(1)) is amended—

(1) by inserting "each of the banks and of" before "the Fund" the first place it appears;

(2) by inserting "the banks and by" before "the Fund" the second place it appears; and

(3) by inserting "the banks and" before "the Fund" the third place it appears.

(e) Section 49(c) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(c)) is amended by inserting "bank and" before "Fund" each place it appears.

(f) Sections 49(c) (1) and (2) of the Bretton Woods Agreements Act (22 U.S.C. 286 gg(c)) is amended by inserting after the word "for" the first time it appears "loans or".

SEC. 556. Section 901(d) of the International Security and Development Cooperation Act of 1985 is hereby repealed.

SEC. 557. (a) It is the sense of Congress that pursuant to Section 701 of the International Institutions Act of 1977, the United States Government should oppose all loans to Chile from multilateral development institutions, except for those for basic human needs, until—

(1) the Government of Chile has ended its practice and pattern of gross abuse of internationally recognized human rights;

(2) significant steps have been taken by the Government of Chile to restore democracy, including—

(A) the implementation of political reforms which are essential to the development of democracy, such as the legalization of political parties, the enactment of election laws, the establishment of freedom of

speech and the press, and the fair and prompt administration of justice; and

(B) a precise and reasonable timetable has been established for the transition to democracy.

(b) None of the funds made available by this Act for the "Economic support fund" or for Title III shall be obligated or expended for Chile.

SEC. 558. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: Provided, That this section shall not prohibit:

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SEC. 559. None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, 19 U.S.C. 1202, Schedule 8, Part I, Subpart B, Item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1)(A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1)(A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1)(A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1)(A) and (E)).

SEC. 560. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

This Act may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1987".

And the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(g) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5313, the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-977) as filed in the House of Representatives on October 7, 1986, as if enacted into law: Provided, That, notwithstanding any other provision of this joint resolution, including section 102, in addition to the funds otherwise made available in this subsection, the following amounts are made available: (1) an additional $36,000,000, to remain available until September 30, 1988, is hereby appropriated for the National Aeronautics and Space Administration, "Research and development"; and (2) an additional $2,398,000,000, to remain available until expended, is hereby appropriated for the National Aeronautics and Space Administration, "Space flight, control and data communications", including (a) $2,100,000,000 for orbiter production only, which amount shall not become available for obligation until August 1, 1987, and (b) $265,000,000 for space shuttle operations, which amount, together with $266,000,000 otherwise made available for this account by this subsection (or by enactment into law of the above named Act) shall not become available for obligation until January 15, 1987.

And the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

(h) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act.

An Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $483,610,000, of which $83,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, and $5,000,000 for insect and disease control projects, including grasshoppers, shall remain available until expended: Provided, That regulations pertaining to mining operations on public lands conducted under the Mining Law of 1872 (30 U.S.C. 22, et seq.) and sections 302, 303, and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, and 1782) shall be modified to include a requirement for the posting of reclamation bonds by operators for all operations which involve significant surface disturbance, (a) at the discretion of the authorized officer for operators who have a record of compliance with pertinent regulations concerning mining on public lands, and (b) on a mandatory basis only for operators with a history of noncompliance with the aforesaid regulations: Provided further, That surety bonds, third party surety bonds, or irrevocable letters of credit shall qualify as bond instruments: Provided further, That evidence of an equivalent bond posted with a State agency shall be accepted in lieu of a separate bond: Provided further, That the amount of such bonds shall be sufficient to cover the costs of reclamation as estimated by the Bureau of Land Management.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $2,800,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

(INCLUDING RESCISSION)

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $6,220,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

Of the funds appropriated under this head in Public Law 98-396 to carry out the provisions of Public Law 93-531, as amended, $3,200,000 are rescinded.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $54,524,000, to remain available until expended: Provided, That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: Provided further, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than $9,253,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $10,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: Provided, That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": Provided further, That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: Provided further, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: Provided further, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $314,692,000 of which $4,300,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $6,411,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and shall remain available until expended.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $26,513,000, to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g).

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k-3, 5), $7,000,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $42,425,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: Provided, That $3,000,000 for Bayou Sauvage NWR shall be available subject to authorization.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $5,645,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 72 passenger motor vehicles for replacement only (including 72 for police-type use); purchase of 1 new aircraft for replacement only; not to exceed $300,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; construction of permanent improvements for use as a forensics laboratory, and structures appurtenant thereto, on a site leased by the Service; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $408,000 for the Roosevelt Campobello International Park Commission and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $649,613,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451) and $15,158,000 to be derived from unappropriated balances in the National Park Service "Planning, development and operation of recreation facilities" account: Provided, That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: Provided further, That none of these funds may be used to compensate a quantity of staff greater than existed as of May 1, 1986, in the Office of Legislative and Congressional Affairs of the National Park Service or to compensate individual staff members assigned subsequent to May 1, 1986, at grade levels greater than the staff replaced: Provided further, That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: Provided further, That to advance the mission of the National Park Service, for a period of time not to extend beyond fiscal year 1987, the Secretary of the Interior is authorized to charge park entrance fees for all units of the National Park System, except as provided herein, of an amount not to exceed $3 for a single visit permit as defined in 36 CFR 71.7(b)(2) and of an amount not to exceed $5 for a single visit permit as defined in 36 CFR 71.7(b)(1): Provided further, That the cost of a Golden Eagle Passport as defined in 36 CFR 71.5 is increased to a reasonable fee but not to exceed $25 until September 30, 1987: Provided further, That for units of the National Park System where entrance fees are charged the Secretary shall establish an annual admission permit for each individual park unit for a reasonable fee but not to exceed $15, and that purchase of such annual admission permit for a unit of the National Park System shall relieve the requirement for payment of single visit permits as defined in 36 CFR 71.7(b): Provided further, That all funds derived from National Park Service entrance fees during fiscal year 1987 and all funds collected during fiscal year 1987 under subsections (a), (b), and (c) of section 4 of the Land and Water

Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-6a), shall be transferred to the General Fund of the Treasury of the United States: Provided further, That notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations, nor shall an admission fee be charged at any unit of the National Park System which has a current, specific statutory exemption: Provided further, That where entrance fees are established on a per person basis, children 12 and under shall be exempt from the fees: Provided further, That if permanent statutory language is enacted during fiscal year 1987 establishing National Park System entrance fees, the provisions of that language shall supercede the fee provisions contained in this Act: Provided further, That of the funds provided under this head, $15,000,000 shall be distributed to units of the National Park System, to be available for resource protection, research, interpretation, and maintenance activities related to resource protection, to be distributed in the following manner: 50 percent shall be provided to all units of the System based on each unit's proportion of park operating expenses, and 50 percent shall be provided to units with entrance fees based on each collecting unit's proportion of total entrance fee collections: Provided further, That the following may be cited as the "Steamtown National Historic Site Act of 1986":

SECTION 1. DESIGNATION AS NATIONAL HISTORIC SITE.

The property known as Steamtown, consisting of the land, historic roundhouse, switchyard, and associated buildings, track and equipment, and located on approximately 40 acres in Scranton, Pennsylvania, is hereby designated as the Steamtown National Historic Site (hereafter in this Act referred to as "the Site"). The Site is generally depicted on the map entitled "Steamtown National Historic Site", numbered STTO-80,000 and dated September 1986. A copy of the map shall be on file and available for inspection in the offices of the National Park Service in Washington, D.C., and in appropriate regional and local offices.

SEC. 2. MANAGEMENT OF SITE.

(a) PREPARATION OF MANAGEMENT PLAN.—The Secretary shall prepare a comprehensive management plan for the Site, which shall include all of the elements required for general management plans under section 12 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (U.S.C. 1a-7), and shall be submitted to the Congress no later than September 30, 1987.

(b) ADMINISTRATION OF SITE.—(1) The Secretary shall administer the Site through cooperative agreements and grant agreements, as appropriate, with the owner or owners of the property. The Secretary may provide financial and technical assistance in planning interpretation, maintenance, preservation, and appropriate public use of the Site and associated rolling stock in order to further public understanding and appreciation of the development of steam locomotives in the region.

(2) The Secretary of the Interior may acquire the Site, and all or part of the associated rolling stock, by donation or with donated funds and may begin to take such actions as are called for in the management plan. Upon acquisition pursuant to this paragraph, the Site and any acquired associated rolling stock shall thereafter be administered by the Secretary in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects and antiquities of national significance, and for other purposes" approved August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 3. ADVISORY COMMITTEE.

The Secretary is authorized to establish a Steamtown Advisory Committee and appoint up to ten members, who shall serve at no cost to the United States.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $20,000,000 for the administration of the Steamtown National Historic Site and for assistance to the owner thereof pursuant to the agreements referred to in section 2(b).

SEC. 5. APPROPRIATIONS.

For expenses necessary to carry out the provisions of this Act, $8,000,000, to remain available until expended.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $10,628,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $24,250,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1988: Provided, That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): Provided further, That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $88,095,000, to remain available until expended, of which $8,500,000 shall be derived by transfer from the National Park System Visitor Facilities Fund, including $2,700,000 to carry out the provisions of sections 302, 303, and 304 of Public Law 95-290: Provided, That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $10,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended: Provided further, That for payments of obligations incurred for improvements to the George Washington Memorial Parkway, $2,500,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, subject to the availability of funds for an additional lane on the Theodore Roosevelt Bridge.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $87,220,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, including $2,270,000 to administer the State Assistance program: Provided, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $893,000 shall be available in 1987 for administrative expenses of the State grant program.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,771,000.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

For operation of the Jefferson National Expansion Memorial Commission, $75,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 400 passenger motor vehicles, of which 348 shall be for replacement only, including not to exceed 300 for police-type use and 20 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: Provided, That no funds available to the National Park Service may be used, unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: Provided further, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided further, That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: Provided further, That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: Provided further, That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing neces-

sary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: Provided further, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: Provided further, That the Secretary of the Interior shall begin processing claims of the licensees of the American Revolution Bicentennial Administration within 30 days of enactment of this Act, and that licensees who filed claims with the Department between July, 1984, and January, 1985, or who filed for relief from the Department under the Federal Tort Claims Act on December 31, 1979, or who were mentioned in the December 30, 1985, Opinion of the Comptroller General shall be eligible claimants: Provided further, That the Secretary shall process such claims consistent with the process employed in the Amerecord, Inc. test case which was settled on August 20, 1983, and other applicable legal principles to determine whether any or all of such claimants ought to be awarded equitable compensation by the Congress, and, if so, in what amount: Provided further, That these claims will be processed to completion in a judicious and expedient manner not to exceed one year from the date of enactment of this Act: Provided further, That none of the funds made available by this Act may be used to plan or implement the closure of the Pacific Northwest Regional Office in Seattle, Washington: Provided further, That notwithstanding any other provision of law, hereafter funds received by the National Park Service as reimbursement for the cost of providing security, law enforcement, interpretive, and other services with respect to the operation of facilities at the Jefferson National Expansion Memorial National Historic Site shall be credited to the appropriation bearing the cost of providing such services.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $418,665,000: Provided, That $52,835,000 shall be available only for cooperation with States or municipalities for water resources investigations: Provided further, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: Provided further, That in fiscal year 1987 and thereafter the Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: Provided further, That, heretofore and hereafter, in carrying out work involving cooperation with any State, Territory, possession, or political subdivision thereof, the Geological Survey may, notwithstanding any other provision of law, record obligations against accounts receivable from any such entities and shall credit amounts received from such entities to this appropriation.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 14 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: Provided, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: Provided further, That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government: Provided further, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $160,697,000, of which not less than $44,904,000 shall be available for royalty management activities including general administration: Provided, That not less than $11,059,000 is to be used for the mineral revenue compliance audit program: Provided further, That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): Provided further, That in fiscal year 1987 and thereafter, the Minerals Management Service is authorized to accept land, buildings, equipment and other contributions, from public and private sources, which shall be available for the purposes provided for in this account.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $138,162,000, of which $83,130,000 shall remain available until expended.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: Provided, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $100,003,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1987.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, $203,720,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals with-

held if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: Provided further, That notwithstanding any legislative or judicial requirement, the Office of Surface Mining Reclamation and Enforcement may delay the finalization of the proposed rulemaking amending Parts 773 and 778 of the Code of Federal Regulations as published in the Federal Register on April 5, 1985 (50 FR 13724) until March 31, 1987: Provided further, That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: Provided further, That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $911,182,000, of which not to exceed $55,668,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1988, and $25,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190 shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988: Provided, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $2,431,000, to remain available until expended: Provided further, That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: Provided further, That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, the amounts appropriated for fiscal year 1987 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available for use under part A of that Act and—

(1) that Act shall be implemented in a reasonable period of time and shall be fully implemented by no later than October 1, 1987,

(2) until the earlier of—

(A) October 1, 1987, or

(B) the appointment and confirmation of a majority of the members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development under section 1505(a)(1)(A) of that Act,

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

(3) until the earlier of—

(A) October 1, 1987, or

(B) the appointment of a President of such Institute under section 1508 of that Act,

the Secretary of the Interior shall have the authority conferred upon the President of such Institute under this Act: Provided further, That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: Provided further, That none of the funds contained in this Act shall be available for any payment to any school to which such school would otherwise be entitled pursuant to section 1128(b) of Public Law 95-561, as amended: Provided further, That the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) shall be distributed on the same basis as such funds were distributed in fiscal year 1986: Provided further, That before initiating any action to close the Phoenix Indian School but no later than February 1, 1987, the Secretary shall submit to the Congress a report (1) on the school as required under section 1121(g)(3) of Public Law 95-561, as amended, including any warranted recommendations for the establishment of special programs at existing schools or the establishment of a new school or schools to be operated either by the Bureau of Indian Affairs or by a public school district to meet the needs of students from Arizona who are attending or might otherwise have attended the Phoenix Indian School; (2) on the Secretary's recommendation for the disposition of the property (including real property, supplies, and equipment) used for the school which recommendations may include the donation (with any restrictions on use and subject to a reverter for specified reasons the Secretary deems necessary or desirable) of some or all of the property to the State of Arizona, one or more local or tribal governments, or another Federal agency or the sale or exchange of some or all of the property at fair market value and a recommendation for the use of any cash received for a sale or to equalize values in an exchange; and (3) documentation of the Secretary's efforts to consult with the affected tribes and to offer assistance to the tribes in planning for future educational requirements for those currently eligible to attend the Phoenix Indian School, including those students from the Phoenix area attending school in California: Provided further, That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until action by the Congress affirming or modifying the recommendations of the Secretary.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $76,101,000, to remain available until expended: Provided, That $1,225,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may be used for counseling, water production and administration related to the relocation of Navajo families.

ROAD CONSTRUCTION

Of the funds otherwise available to the State of Oklahoma from the Federal Highway Trust Fund, $10,000,000 shall be available for construction of the Honobia Indian Road: Provided, That the matching requirement is hereby waived with respect to funds spent on the Honobia Road: Provided further, That not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

WHITE EARTH TRUST FUND

For deposit into the White Earth Economic Development and Tribal Government Fund established pursuant to section 12 of Public Law 99-264, to be held in trust for the benefit of the White Earth Band of Chippewa Indians, $6,600,000.

MISCELLANEOUS TRUST FUNDS

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed $1,000,000 from tribal funds not otherwise available for expenditure.

REVOLVING FUND FOR LOANS

During fiscal year 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed $16,320,000.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $2,452,000, to remain available until expended: Provided, That during fiscal year 1987, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974 may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits; and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $78,224,000, of which (1) $75,501,000 shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $2,723,000 for salaries and expenses of the Office of Territorial and International Affairs: Provided, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: Provided further, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: Provided further, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $67,387,000, to remain available until expended: Provided, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: Provided further, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: Provided further, That notwithstanding the proviso under "Trust Territory of the Pacific Islands" in Public Law 97-257 making funds available for the relocation and resettlement of the Bikini people in the Marshall Islands, such funds shall be available for relocation and resettlement of the Bikini people to any location.

COMPACT OF FREE ASSOCIATION

For the Enjebi Community Trust Fund, as authorized by Public Law 99-239, $2,250,000: Provided, That notwithstanding any other provision of law, the funds made available under this head in Public Law 99-349 shall remain available for obligation until expended: Provided further, That notwithstanding any other provision of law, for purposes of economic assistance as provided pursuant to the Compacts of Free Association, the effective date of the Compacts shall be October 1, 1986, except that the effective date for commencing the Kwajalein use and impact payments pursuant to sections 211(a)(1) and 213(a) of Public Law 99-239 shall be October 1, 1985: Provided further, That the $60,719,000 made available in fiscal year 1986 for the Compacts pursuant to Public Law 99-349 from the "Trust Territory of the Pacific Islands" appropriation shall remain available until expended for the Trust Territory of the Pacific Islands: Provided further, That upon the effective date determined by the President for implementing the Compacts, $60,719,000 of the amount made available for fiscal year 1987 under the "Trust Territory of the Pacific Islands" appropriation pursuant to this Act shall be considered to have been made available and expended for the "Compact of Free Association" appropriation as of October 1, 1986.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, including $1,586,000 for the Immediate Office of the Secretary, $42,816,000, of which not to exceed $10,000 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $20,880,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $16,300,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $684,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 12 additional aircraft, 10 of which shall be for replacement only: Provided, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: Provided, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone

service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: Provided, That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190.

SEC. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 109. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 110. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 111. (a) The Secretary of the Interior may consider and accept, as part of the Outer Continental Shelf oil and gas leasing program for 1987 to 1992, any recommendation included in any proposal submitted to him with respect to lease sales on the California Outer Continental Shelf by the cochairmen of the Congressional panel established pursuant to Public Law 99-190 or by the Governor of California on May 7, 1986. The major components of those proposals shall be examined in the final environmental impact statement for the program. Consideration or acceptance of any such recommendation shall not require the preparation of a revised or supplemental draft environmental impact statement.

(b) The Secretary shall submit a copy of the draft proposed final leasing program for offshore California to the cochairmen of the negotiating group referred to in subsection (a) who shall have a period of 30 days in which to review such program and provide their comments and the comments of the negotiating group on it to the Secretary prior to its submission to the President and the Congress. When submitting the proposed final leasing program to the President and the Congress in accordance with section 18(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(d)), such submission shall indicate in detail why any specific portion of the proposals referred to in subsection (a) of this section was not accepted.

(c) Prior to the approval of the Final Program, referenced in subsection (a), the Secretary may conduct prelease activities for proposed California OCS Lease Sales 95, 91, and 119 and may make changes in those sales on the basis of comments submitted by the Congressional negotiating group or others, except that the Secretary may not issue a: (1) call for information and nominations for Sale 95 prior to March 1, 1987, and no draft environmental impact statement shall be published for Sale 91 sooner than 90 days after the Secretary's submission of the draft of the proposed Final Five Year Program to the members of the Congressional panel, and (2) final notice of lease sale for Lease Sale 91 prior to January 1, 1989.

(d) The members of Congress designated under Sec. 111 of Public Law 99-190 (99 Stat. 1243) are hereby authorized to continue as the Congressional negotiating group and to negotiate with the Department of the Interior, to provide the Secretary of the Interior with the appropriate range of advice, including proposals, and to review and comment on proposals by the Department of the Interior with respect to future oil and gas leasing and protection of lands on the California Outer Continental Shelf.

SEC. 112. Notwithstanding any other law, the Secretary of the Interior shall convey without reimbursement to the State of Montana no later than December 31, 1986, all of the right, including all water rights, title, and interest of the United States in and to the fish hatchery property located south of Miles City, Montana, and known as the Miles City National Fish Hatchery, consisting of 168.22 acres, more or less, of land, together with any improvements and related personal property thereon.

SEC. 113. The Secretary of the Interior is directed to designate the Laurel Highlands National Recreational Trail, as designated by the Secretary of the Interior pursuant to section 4 of the National Trails System Act, as part of the Potomac Heritage Trail, as requested by the State of Pennsylvania in its April 1984 application, subject to the provisions of paragraph (11) of section 5(a) of the National Trails System Act, as amended.

SEC. 114. (a) In order to provide for needed facilities for visitors to Fort Sumter National Monument, including a tour boat dock and associated facilities, and an interpretive and museum facility in cooperation with the State of South Carolina and the city of Charleston, the Secretary of the Interior (in this section referred to as the "Secretary"), is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange, not to exceed 8.91 acres of lands, including submerged lands, and interests in lands, within the area generally depicted on the map entitled "Dockside II, Proposed Site, Tourboat Facility", which map shall be on file and available for public inspection in the office of the National Park Service. When acquired, lands, including submerged lands and interests in lands, depicted on such map shall be administered by the Secretary as a part of Fort Sumter National Monument, subject to the laws and regulations applicable to such monument, and subject to the provisions of this section.

(b)(1) With respect to the lands, including submerged lands, and interests in lands acquired pursuant to section (a), the Secretary is authorized—

(A) to convey, notwithstanding the provisions of section 5 of Public Law 90-400 (82 Stat. 356) and subject to the provisions of subsection (2), a leasehold interest in not to exceed one and a half acres to the State of South Carolina or the city of Charleston or either of them for development by either of them or their agents or lessees of a marine museum and associated administrative facilities;

(B) to grant covenants or easements for ingress and egress to the State of South Carolina, the city of Charleston, and to other parties as the Secretary may deem necessary to facilitate public use; and

(C) to enter into cooperative agreements with the State of South Carolina, the city of Charleston, and other parties as the Secretary may deem necessary, pursuant to which construction, maintenance, and use of buildings, utilities, parking facilities, and other improvements may be shared among the parties to the agreement.

(2) Any conveyance made pursuant to subsection (b)(1)(A) and any renewal thereof may be for a period of up to 50 years, and may include the option to purchase the property in fee by the lessee within the first 10 years, upon payment by the lessee of the cost of the property to the United States plus interest based on the average yield of United States Treasury notes with maturities of one year. The Secretary may convey title to the property in fee in the event such option to purchase is exercised, subject to the condition that the property is used for a public marine museum and associated administrative facilities. Notwithstanding any other provision of law, any leasehold interest conveyed pursuant to subsection (b)(1)(A) shall be conveyed without monetary consideration. The proceeds from any conveyance of property in fee pursuant to subsection (b)(1)(A) shall be deposited in the Land and Water Conservation Fund in the Treasury of the United States.

(c) Section 117 of Public Law 96-199 (94 Stat. 71) is hereby repealed.

(d)(1) Notwithstanding any other provision of law, sums heretofore appropriated but not, on the date of enactment of this joint resolution, obligated for construction of a tourboat facility at the Broad Street site, and for the acquisition and construction of the Fleet landing site for Fort Sumter National Monument, which was authorized by section 117 of Public Law 96-199 (94 Stat. 71) are hereby made available for obligation for the acquisition of the lands including submerged lands, and interests in lands identified in section (a) and for construction of necessary facilities thereon, and to the extent that sums heretofore appropriated for land acquisition of the Fleet landing site are not sufficient to cover the cost of acquisition of the properties identified in section (a), sums heretofore appropriated for construction of facilities at the Broad Street site and the Fleet landing site may be obligated for the purposes of acquisition as authorized in section (a).

(2) In addition to the sums made available under subsection (d)(1), there is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(e) The Secretary of the Interior shall transfer administrative jurisdiction over the Federal property, consisting of approximately 1 acre, known as the Broad Street site, to the Secretary of the Department in which the Coast Guard is operating, who shall transfer to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes, administrative jurisdiction over

the Federal property, consisting of approximately 1 acre located near Fort Moultrie on Sullivan's Island for purposes of a maintenance workshop, storage, and seasonal housing in connection with the administration and protection of the Fort Sumter National Monument.

SEC. 115. (1) The primary term of any geothermal lease in effect as of July 27, 1984, issued pursuant to the Geothermal Act of 1970 (Public Law 91-581, 84 Stat. 1566, 30 U.S.C. 1001-1025) is hereby extended to December 31, 1988, if the Secretary of the Interior finds that—

(a) a bona fide sale of the geothermal resource, from a well capable of production, for delivery to or utilization by a facility or facilities, has not been completed (1) due to administrative delays by government entities, beyond the control of the lessee, or (2) such sale would be uneconomic;

(b) substantial investment in the development of or for the benefit of the lease has been made; and

(c) the lease would otherwise expire prior to December 31, 1988.

(2)(a) The Secretary of the Interior (hereinafter in this section referred to as "the Secretary" shall publish for public comment in the Federal Register within 120 days after the date of enactment of this section a proposed list of significant thermal features within the following units of the National Park System:

Mount Rainier National Park;
Lassen Volcanic National Park;
Yellowstone National Park;
Bering Land Bridge National Preserve;
Gates of the Arctic National Park and Preserve;
Yukon-Charley Rivers National Preserve;
Katmai National Park;
Aniakchak National Monument and Preserve;
Wrangell-St. Elias National Park and Preserve;
Glacier Bay National Park and Preserve;
Denali National Park and Preserve;
Lake Clark National Park and Preserve;
Hot Springs National Park;
Sequoia National Park;
Hawaii Volcanoes National Park;
Lake Mead National Recreation Area;
Big Bend National Park;
Olympic National Park;
Grand Teton National Park;
John D. Rockefeller, Jr. Memorial Parkway;
Haleakala National Park; and
Crater Lake National Park.

The Secretary shall include with such list the basis for his determination with respect to each thermal feature on the list. Based on public comment on such list, the Secretary is authorized to make additions to or deletions from the list. Not later than the 60th day from the date on which the proposed list was published in the Federal Register, the Secretary shall transmit the list to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives together with copies of all public comments which he has received and indicating any additions to or deletions from the list with a statement of the reasons therefor and the basis for inclusion of each thermal feature on the list. The Secretary shall consider the following criteria in determining the significance of thermal features:

(1) size, extent, and uniqueness;

(2) scientific and geologic significance;

(3) the extent to which such features remain in a natural, undisturbed condition; and

(4) significance of thermal features to the authorized purposes for which the National Park System unit was created.

The Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, 84 Stat. 1566), as amended, until such time as the Secretary has transmitted the list to the Committees of Congress as provided in this section.

(b) The Secretary shall maintain a monitoring program for those significant thermal features listed pursuant to subsection (a) of this section.

(c) Upon receipt of an application for a geothermal lease the Secretary shall determine on the basis of scientific evidence if exploration, development, or utilization of the lands subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section. Such determination shall be subject to notice and public comment. If the Secretary determines on the basis of scientific evidence that the exploration, development, or utilization of the land subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section, the Secretary shall not issue such geothermal lease. In addition, the Secretary shall withdraw from leasing under the Geothermal Steam Act of 1970, as amended, those lands, or portion thereof, subject to the application for geothermal lease, the exploration, development, or utilization of which is reasonably likely to result, based on the Secretary's determination, in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section.

(d) With respect to all geothermal leases issued after the date of enactment of this section the Secretary shall include stipulations in leases necessary to protect significant thermal features listed pursuant to subsection (a) of this section where a determination is made based on scientific evidence that the exploration, development, or utilization of the lands subject to the lease is reasonably likely to adversely affect such significant features. Such stipulations shall include, but are not limited to:

(1) requiring the lessee to reinject geothermal fluids into the rock formations from which they originate;

(2) requiring the lessee to report annually to the Secretary on its activities;

(3) requiring the lessee to continuously monitor geothermal production and injection wells; and

(4) requiring the lessee to suspend activity, temporarily or permanently, on the lease if the Secretary determines that ongoing exploration, development, or utilization activities are having a significant adverse effect on significant thermal features listed pursuant to subsection (a) of this section until such time as the significant adverse effect is eliminated.

(e) The Secretary of Agriculture shall consider the effects on significant thermal features of those units of the National Park System identified in subsection (a) of this section in determining whether to consent to leasing under the Geothermal Steam Act of 1970, as amended, on national forest or other lands administered by the Department of Agriculture available for leasing under the Geothermal Steam Act of 1970, as amended, including public, withdrawn, and acquired lands.

(f) Nothing contained in this section shall affect the ban on leasing under the Geothermal Steam Act of 1970, as amended, with respect to the Island Park Known Geothermal Resources Area, as provided for in Public Law 98-473 (98 Stat. 1837) and Public Law 99-190 (99 Stat. 1267).

(g) Except as provided herein, nothing contained in this section shall affect or modify the authorities or responsibilities of the Secretary under the Geothermal Steam Act of 1970, as amended, or any other provision of law.

(h) The provisions of this section shall remain in effect until Congress determines otherwise.

SEC. 116. (a) Section 1102(a) of the National Parks and Recreation Act of 1978 (Public Law 95-625) is amended by inserting the following after the second sentence: "In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site.".

(b) Section 1112 of Public Law 95-625 is amended by striking "$500,000" and inserting "$3,000,000".

SEC. 117. (1) The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the Senate on September 10, 1986 (S. Rpt. 99-421).

(2) The organization or organizations approved by the Secretary shall establish the memorial with non-Federal funds.

SEC. 118. (1) The Black Revolutionary War Patriots Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

(2) The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

SEC. 119. The Secretary of the Interior shall designate the visitor center to be associated with the headquarters of the Illinois and Michigan Canal National Heritage Corridor as the "George M. O'Brien Visitor Center" in recognition of the leadership and contributions of Representative George M. O'Brien with respect to the creation and establishment of this national heritage corridor.

SEC. 120. Notwithstanding any other provisions of the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended, or other law, Land and Water Conservation Fund assisted land in Berkeley, Illinois, assisted under project No. 17-00180, may be exchanged for existing public lands if Land and Water Conservation Fund conversion criteria regarding equal fair market value and reasonably equivalent use and location are met.

SEC. 121. None of the funds provided by this Act shall be expended by the Secretary of the Interior to promulgate final regulations

concerning paleontological research on Federal lands until the Secretary has received the National Academy of Sciences' report concerning the permitting and post-permitting regulations concerning paleontological research and until the Secretary has, within 30 days, submitted a report to the appropriate committees of the Congress comparing the National Academy of Sciences' report with the proposed regulations of the Department of the Interior.

SEC. 122. Subsection (b) of the first section of the Act of August 9, 1955, as amended (25 U.S.C. 415(b)) is further amended—

(1) by striking "or" immediately before "(2)"; and

(2) by inserting immediately before the period at the end thereof the following: ", or (3) if the term does not exceed seventy-five years (including options to renew), and the lease is executed under tribal regulations approved by the Secretary under this clause (3)".

SEC. 123. Section 515(b)(10)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 is amended by inserting after "qualified registered engineer" the following: "or a qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans".

SEC. 124. Notwithstanding any other provision of law, no funds appropriated by this Act shall be available for the implementation, by the Secretary of the Interior or the Attorney General or any other officer acting on behalf of the United States, of the "Agreement to Settle Pending Litigation Between the United States and the Owners of Certain Oil Shale Mining Claims in Colorado", dated August 4, 1986, or for the patenting of any other oil shale placer claims located prior to passage of the 1920 Mineral Leasing Act, for a period of 180 days from the date of enactment of this provision, in order to provide a period for Congressional review of this agreement: Provided, That the provisions of this section affecting the aforesaid settlement agreement shall be effective only if the United States Court of Appeals for the Tenth Circuit and the United States District Court for the District of Colorado approve a stay in the cases affected by such settlement agreement for 180 days and the parties to such agreement agree to continue to be bound by such agreement for the 180-day period: Provided further, That the Attorney General of the United States and the Secretary of the Interior are directed to immediately and in good faith seek concurrence of all parties to the agreement to continue such agreement for 180 days and to request such courts to issue stays for such period.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $128,882,000, of which $6,000,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $58,946,000, to remain available until expended, to carry out activities authorized in Public Law 95-313: Provided, That a grant of $2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for repayment of advances made in the preceding fiscal year pursuant to 16 U.S.C. 556d for forest fire protection and emergency rehabilitation of National Forest System lands, and including administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,158,294,000, of which $263,323,000 for reforestation and timber stand improvement, cooperative law enforcement, firefighting, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1988.

The Forest Service is to continue to complete as expeditiously as possible development of land and resource management plans to meet the requirements of the National Forest Management Act of 1976 (NFMA). Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service may continue the management of units of the National Forest System under existing land and resource management plans pending the completion of plans developed in accordance with the Act. Nothing shall limit judicial review of particular activities on management units of the National Forest System: Provided, however, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated: Provided further, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $261,436,000, to remain available until expended, of which $25,632,000 is for construction and acquisition of buildings and other facilities; and $236,104,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: Provided, That funds becoming available in fiscal year 1987 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: Provided further, That the Forest Service shall achieve a 5 per centum reduction in the average cost per timber road mile as compared to the adjusted fiscal year 1985 average cost by a combination of the following two actions: (1) the application of road construction standards used to construct or reconstruct Forest Service timber roads, purchaser credit roads, or purchaser elect roads, and (2) reducing the direct personnel cost of designing and constructing timber roads to these standards: Provided further, That the Forest Service shall take administrative cost saving actions, including reductions in indirect personnel, overhead charges, and productivity improvements, in fiscal year 1987 in a manner so as to achieve a 5 per centum reduction in the average cost per timber road mile as compared to the adjusted fiscal year 1985 average cost: Provided further, That such actions shall be taken so as to achieve these 5 per centum reductions in each Forest Service region.

Pursuant to section (b)(2), the Act of December 23, 1980, Public Law 96-581 (94 Stat. 3372), not to exceed $300,000 from the sale of 18.13 acres to the Flagstaff Medical Regional Center, Flagstaff, Arizona, are hereby appropriated and made available, until expended, to the Forest Service for the specific purpose of contract administration and overruns resulting from the construction of administrative improvements at the Mt. Elden Work Center, Flagstaff, Arizona: Provided, That the Secretary of Agriculture shall ensure that outlays associated with such action shall not cause the total outlays during fiscal year 1987 from Forest Service land acquisition and construction activities and construction activities in region 3 (including Arizona and New Mexico) to exceed the total that otherwise would have occurred as a result of enactment of this or previous appropriations Acts.

There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $9,915,000 to be transferred to the Forest Service for road construction to serve the Mount St. Helens National Volcanic Monument, Washington: Provided, That the funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of this project shall be 100 per centum, and such funds shall remain available until expended: Provided further, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any State other than the State of Washington.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $49,236,000, to be derived from the Land and Water Conservation Fund, and $3,000,000 for acquisition of land and interests therein in the Columbia River Gorge, Oregon and Washington, as depicted on a map entitled "Columbia Gorge Acquisitions—1986" on file with the Forest Service, pursuant to the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428(a)), to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of land within the exterior boundaries of the Cache and Uinta National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 245 passenger motor vehicles of which eight will be used primarily for law enforcement purposes and of which 235 shall be for replacement only, of which acquisition of 148 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 58 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Notwithstanding any other provision of law, the Secretary of Agriculture is hereafter authorized to use from any receipts from the sale of timber a sum equal to the cost of construction of roads under the purchaser election program as described and authorized in section 14(i) of the National Forest Management Act of 1976.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, and technical information and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: Provided, That no less than $26,000,000 shall be made available to the Forest Service for obligation in fiscal year 1987 from the Timber Salvage Sales Fund appropriation.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

The Forest Service is authorized and directed to negotiate, within 90 days after the enactment of this Act, settlement of claims against the United States resulting from a forest fire in the Black Hills National Forest: Provided, That notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to pay the amount of the settlement from the Claims, Judgments, and Relief Act Fund (Public Law 95-26).

In order to provide for more comprehensive and effective management, the exterior boundary of the Gifford Pinchot National Forest in the State of Washington is hereby modified as generally depicted on a map entitled "Boundary Modification, Gifford Pinchot National Forest", dated August 1986. Such map and legal description of the boundary modification of said National Forest shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture and in appropriate field offices of that agency. This boundary modification shall not affect valid existing rights or interests in existing land use authorizations.

No more than $500,000 made available to the Forest Service for obligation in fiscal year 1987 shall be expended to support Washington office staff in the development of the RPA: Provided, That this shall not reduce funds available for the development of forest plans pursuant to the National Forest Management Act of 1976.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The Secretary of Energy pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577), shall—

(1) no later than thirty days after the date of the enactment of this Act, publish in the Federal Register a notice soliciting statements of interest in, and informational proposals for, projects meeting the cost-sharing criteria contained under this head in Public Law 99-190 and employing emerging clean coal technologies which are capable of retrofitting, repowering, or modernizing existing facilities, which statements and informational proposals are to be submitted to the Secretary within sixty days after the publication of such notice; and

(2) no later than March 6, 1987, submit to Congress a summary report of statements of interest and informational proposals received and no later than one hundred and twenty days after the receipt of such statements and proposals submit to Congress a report that analyzes the information contained in such statements of interest and informational proposals and assesses the potential usefulness and commercial viability of each emerging clean coal technology for which a statement of interest or informational proposal has been received.

Notwithstanding guidance provided by the Department in the February 17, 1986 Clean Coal Technology Program Opportunity Notice, funds expended by a private sector participant during the period of Congressional review or approval of the projects selected by the Department for agreements may be eligible for cost-sharing, as appropriate, commencing immediately after a full and comprehensive report on the project in question is submitted to the Congress for a 30-day review pursuant to the Administrative Provisions of the Department of Energy in this Act: Provided, That such cost-sharing may only be reimbursed after the Congress has approved the project or the 30-day review period has elapsed and the agreement executed by the Department: Provided further, That in no case shall funds expended by the private sector during the review period be eligible for cost-sharing reimbursement of any project disapproved by the Congress.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $295,866,000, to remain available until expended, of which $221,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), $411,000 to be derived by transfer from unobligated balances in the "Permitting and enforcement" account of the Federal Inspector for the Alaska Gas Pipeline, and $2,074,000 to be derived by transfer from unobligated balances in the "Fossil energy construction" account, and in addition, $437,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: Provided, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, $26,500,000 is for implementation of the June 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept test-

ing: Provided further, That 20 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1987, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: Provided further, That cost-sharing shall not be required for the costs of constructing or operating government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: Provided further, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserves activities, including the purchase of not to exceed 1 passenger motor vehicle, for replacement only, $122,177,000, to remain available until expended.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $280,129,000, to remain available until expended, of which $10,000,000 shall be available for a grant for an energy demonstration and research facility at Tufts University when authorized by an Act of Congress: Provided, That award of such grant may be made only upon approval of an appropriate technical review panel convened by the Department of Energy for the specific purpose of reviewing such grant application and subject to conditions, if any, contained in legislation authorizing such project, and of which $112,450,000 for the Weatherization Assistance Program authorized by Part A of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6861 et seq.) and the Institutional Conservation Program authorized by Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371 et seq.) shall be available effective March 1, 1987, only in such sums (up to a total of $112,450,000) as are equal to the difference between $200,000,000 and the excess amount for fiscal year 1987 disbursed by the Secretary of Energy for use in energy conservation programs under the provisions of section 3003(d) of subtitle A of title III of the conference agreement on H.R. 5300, the Omnibus Budget Reconciliation Act of 1986, or equivalent legislation enacted into law by March 1, 1987: Provided further, That if no such legislation is enacted into law by March 1, 1987, effective such date, such sums ($112,450,000) shall be immediately available to be derived from amounts held administratively in escrow by the Secretary of Energy pending restitution for actual or alleged petroleum product violations under the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970 (and the regulations issued thereunder): Provided further, That $2,000,000 of the amount provided under this heading shall be available for continuing a research and development initiative with the National Laboratories for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: Provided further, That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal Government obligations: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: Provided further, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $23,400,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,044,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $147,433,000, to remain available until expended.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $60,301,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: Provided, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: Provided further, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: Provided further, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXI and section 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $841,809,000: Provided, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1988; and $10,000,000 shall remain available until expended, for the establishment of an Indian Catastrophic Health Emergency Fund (hereinafter referred to as the "Fund"). Hereafter, the Fund is to cover the Indian Health Service portion of the medical expenses of catastrophic illness falling within the responsibility of the Service and shall be administered by the Secretary of Health and Human Services, acting through the central office of the Indian Health Service. No part of the Fund or its administration shall be subject to contract or grant under the Indian Self-Determination and Education Assistance Act (Public Law 93-638). There shall be deposited into the Fund all amounts recovered under the authority of the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), which shall become available for obligation upon receipt and which shall remain available for obligation until expended. The Fund shall not be used to pay for health services provided to eligible Indians to the extent that alternate Federal, State, local, or private insurance resources for payment: (1) are available and accessible to the beneficiary; or (2) would be available and accessible if the beneficiary were to apply for them; or (3) would be available and accessible to other citizens similarly situated under Federal, State, or local law or regulation or private insurance program notwithstanding Indian Health Service eligibility or residency on or off a Federal Indian reservation. Funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1988, for the purpose of achieving compliance with the appli-

cable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): Provided further, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1988.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $65,555,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: Provided, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: Provided further, That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: Provided further, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: Provided further, That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: Provided further, That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: Provided further, That hereafter the Indian Health Service may seek subrogation of claims including but not limited to auto accident claims, including no-fault claims, personal injury, disease, or disability claims, and worker's compensation claims, the proceeds of which shall be credited to the funds established by sections 401 and 402 of the Indian Health Care Improvement Act: Provided further, That notwithstanding any other provision of law or regulation, for purposes of acquiring sites for new hospital facilities in Anchorage, Alaska, and in Kotzebue, Alaska, the Secretary of Health and Human Services may exchange any or all interests in any land administered by the Secretary in Alaska for any or all interests in any land of the State of Alaska, any political subdivision of the State, or any corporation, including the University of Alaska and may receive money if necessary to equalize the exchange: Provided further, That any such receipts shall be credited to the Indian Health facilities appropriation and be used to offset the cost of construction of these two facilities.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $64,036,000 of which $47,200,000 shall be for part A and $14,568,000 shall be for parts B and C: Provided, That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1988: Provided further, That funds appropriated for fiscal year 1987 under this or any other Act to carry out part A of title IV of Public Law 92-318 (Indian Education Act) shall be distributed under the same proof of eligibility requirements as applied in fiscal year 1986.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $22,335,000, to remain available until expended, for operating expenses of the Commission: Provided, That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: Provided further, That no relocatee will be provided with more than one new or replacement home: Provided further, That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10: Provided further, That for certified eligible households for whom a benefit level has not been determined, such level shall hereafter be determined consistent with the interpretation of 25 U.S.C. 640d-14 issued by the Solicitor of the Department of the Interior on August 25, 1986.

The Commission shall review the eligibility of all households certified as eligible who have not received relocation benefits and shall decertify any household which was certified contrary to law or regulation: Provided, That those who are decertified are to be provided the opportunity to appeal that decision in accordance with 25 CFR 700.305.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $183,920,000, including such funds as may be necessary to support American overseas research centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $2,500,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $12,975,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: Provided further, That notwithstanding any other provisions of law, the Secretary of the Smithsonian Institution is authorized to expend and/or transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $100,000 within available funds for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

CONSTRUCTION

For necessary expenses to construct, equip, and furnish the Center for African, Near Eastern, and Asian Cultures in the area south of the original Smithsonian Institution Building, and a research laboratory and conference facility at the Smithsonian Tropical Research Institute in Panama, $6,095,000, to remain available until expended.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9,

Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $34,607,000, of which not to exceed $2,420,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds, and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $2,400,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: Provided further, That unexpended balances of amounts previously appropriated for this purpose under the heading "Salaries and expenses, National Gallery of Art" may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $3,322,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $136,661,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,420,000, to remain available until September 30, 1988, to the National Endowment for the Arts, of which $20,000,000 shall be available for purposes of section 5(l): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $109,990,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,500,000 to remain available until September 30, 1988, of which $16,500,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $4,000,000: Provided, That Public Law 99-190 (99 Stat. 1261) is amended under this heading as follows:

(1) in the first paragraph, strike the words "which are engaged primarily in" and insert in lieu thereof "whose primary purpose is",

(2) in the second paragraph, strike the words "an annual operating budget" and insert in lieu thereof "annual income, exclusive of Federal funds,",

(3) in the fourth paragraph, strike the words "operating budget" and insert in lieu thereof "annual income, exclusive of Federal funds,", and

(4) in the fourth paragraph, strike the words "operating budgets" and insert in lieu thereof "annual income, exclusive of Federal funds,".

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,250,000: Provided, That none of these funds shall be available for the compensation of Executive Level V or higher positions: Provided further, That the Museum Services Board shall not meet more than three times during fiscal year 1987.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $450,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,533,000: Provided, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,684,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $5,000, to remain available until September 30, 1988.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,397,000 for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,924,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, $2,040,000: Provided, That persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: Provided further, That any persons so designated shall serve without cost to the Federal Government: Provided further, That none of these funds shall be available for the compensation of Executive Level V or higher positions: Provided further, That the Chairman of the Council may waive any Council bylaw when the Chairman determines such waiver will be in the best interest of the Council: Provided further, That immediately after taking such action the Chairman shall send written notice to every voting member of the Council and such waiver shall become final if 30 days after the Chairman has sent such notice, a majority of Council members do not disagree in writing with the action taken.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for

use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: Provided, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: Provided, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1)(A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: Provided, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: Provided further, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: Provided further, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: Provided further, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: Provided further, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: Provided further, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1987 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 314. Not to exceed $500,000 appropriated or made available under this or any other Act may be used by the executive branch for soliciting proposals, preparing or reviewing studies or drafting proposals designed to aid in or achieve the transfer out of Federal ownership, management or control in whole or in part the facilities and functions of Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912, and Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915: Provided, That a report on any such studies shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30, 1987.

SEC. 315. Notwithstanding any other provision of law, funds appropriated by this or any other Act shall be available to the Trust Territory of the Pacific Islands on the same basis as such funds were available during fiscal year 1986 until alternative funding is available under the terms of the Compact of Free Association Act of 1985 (Public Law 99-239).

SEC. 316. Notwithstanding any other provision of law, any lease for those Federal lands within the Gallatin and Flathead National Forests which were affected by case CV-82-42-BU of the United States District Court for the District of Montana, Butte Division, for which the Secretary of the Interior or the Secretary of Agriculture has directed or assented to the suspension of operations and production pursuant to section 39 of the Act of February 25, 1920 (30 U.S.C. 184) shall be excepted from the limits on aggregate acreage set out in that Act: Provided, That any person, association or corporation receiving relief under this section shall

bring its aggregate acreage into compliance with the provisions of the Act of February 25, 1920 (30 U.S.C. 184) within six months from the date the suspension of operation and production ends.

SEC. 317. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

SEC. 318. Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96-294; 42 U.S.C. 8821) is amended by striking out "June 30, 1986" and inserting in lieu thereof "June 30, 1987".

SEC. 319. Section 12(b)(7)(iv) of the Act of January 2, 1976 (Public Law 94-204), as amended, is amended by striking the word "ten" and inserting in lieu thereof the word "seven".

SEC. 320. To assure that National Forest and Bureau of Land Management timber included in sales defaulted by the purchaser, or returned under the Federal Timber Contract Payment Modification Act (Public Law 98-478), is available for resale in a timely manner, such sales shall be subject only to one level of administrative appeal. This limitation shall not abridge the right of judicial review. Actions on such administrative appeals should be completed within 90 days of receipt of the notice of appeal. Sales that are reoffered shall be modified, including minor additions or deletions, as appropriate, to reduce adverse environmental impacts, pursuant to current land management plans and guidelines, and such modifications in themselves should not be construed to require the preparation of new or supplemental environmental assessments. This section shall not apply to any decision on the determination of damages due to the Government for defaulted or canceled contracts.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1987".

And the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(i) Such amounts as may be necessary for programs, projects, or activities provided for in H.R. 5233, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-960) as filed in the House of Representatives on October 2, 1986, as if enacted into law: Provided, That funds made available under such Act, and the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1986 (Public Law 99-178; 99 Stat. 1103), under the paragraph of each Act entitled "STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS" that are authorized under section 6 of the Wagner-Peyser Act (29 U.S.C. 49e) may be used to carry out the targeted jobs tax credit program under section 51 of the Internal Revenue Code of 1986.

And the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

(k) Such amounts as may be necessary for programs, projects or activities provided for in the Military Construction Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

An Act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—MILITARY CONSTRUCTION

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1987, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $1,260,110,000, to remain available until September 30, 1991: Provided, That of this amount, not to exceed $131,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: Provided further, That of the amount available for study, planning, design, architect and engineer services, $1,000,000 shall be available for the design of facilities at Fort Benning, Georgia necessary due to the establishment of the United States Army School of the Americas at Fort Benning: Provided further, That of the funds available for obligation for "Military Construction, Army" under Public Law 99-173, $36,400,000 is hereby rescinded. In addition, for construction at Fort Drum, New York, there is appropriated in advance to be available for obligation in fiscal year 1988, $221,000,000, to remain available until September 30, 1992, and to be available for obligation in fiscal year 1989, $214,000,000, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, 1,376,715,000, to remain available until September 30, 1991: Provided, That of this amount, not to exceed $143,770,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: Provided further, That of the funds available for obligation for "Military Construction, Navy" under Public Law 99-173, $25,800,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, 1,242,530,000, to remain available until September 30, 1991: Provided, That of this amount, not to exceed $117,260,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: Provided further, That of the funds available for obligation for "Military Construction, Air Force" under Public Law 99-173, $24,700,000 is hereby rescinded.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $534,170,000, to remain available until September 30, 1991: Provided, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the some purposes, and for the same time period, as the appropriation or fund to which transferred: Provided further, That of the amount appropriated, not to exceed $83,000,000, shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees, on Appropriations of both Houses of Congress of his determination and the reasons therefor.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition of personal property, for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $232,000,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $140,879,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $148,925,000, to remain available until September 30, 1991. In addition, notwithstanding any other provision of law, $5,000,000 shall be available only for transfer in fiscal year 1988 to the Federal Highway Administration of the Department of Transportation as the first increment of a four year program for construction of a defense access road under title 23, United States Code, section 210 at Greater Pittsburgh ANG base; and, notwithstanding any other provision of law, the Secretary of the Air Force may assure the Secretary of Transportation that funds will be provided for the remaining three annual increments of $5,000,000 each.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $86,700,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $44,500,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization acts, $58,900,000, to remain available until September 30, 1991.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $379,680,000; for Operation and maintenance, $1,209,914,000; for debt payment, $8,063,000; in all $1,597,657,000: Provided, That the amount provided for construction shall remain available until September 30, 1991.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $171,392,000; for Operation and maintenance, $528,230,000; for debt payment, $9,071,000; in all $708,693,000: Provided, That the amount provided for construction shall remain available until September 30, 1991.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $104,840,000; for Operation and maintenance, $703,215,000; for debt payment, $7,365,000; in all $815,420,000: Provided, That the amount provided for construction shall remain available until September 30,1991.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $240,000; for Operation and maintenance, $16,403,000; in all $16,643,000: Provided, That the amount provided for construction shall remain available until September 30, 1991.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,000,000.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this title may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this title shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers of the Naval Facilities Engineering Command, except; (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this title shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committee on Appropriations.

SEC. 108. No part of the funds appropriated in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this title for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: Provided, That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this title may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this title for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds appropriated by this title may be obligated and expended in any way for the express purpose of sale, lease, or rental of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

SEC. 114. None of the funds in this title may be used to initiate a new installation overseas without prior notification to the Committees an Appropriations.

SEC. 115. None of the funds appropriated in this title may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 116. None of the funds appropriated in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: Provided, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 117. The Secretary of Defense is to inform the Committees on Appropriations and Committees and Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts ex-

pended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 118. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1987, shall be transferred to the appropriations for Family Housing provided in this title, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 119. Not more than 20 per centum of the appropriations in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 120. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the Ninety-ninth Congress.

SEC. 121. For Transfer by the Secretary of Defense to and from appropriations and funds not merged pursuant to subsection 1552(a)(1) of title 31 of the United States Code and available for obligation or expenditure during fiscal year 1987 or thereafter, for military construction or expenses of family housing for the military departments and Defense agencies, in order to maintain the budgeted level operations for such appropriations and thereby eliminate substantial gains and losses to such appropriations caused by fluctuations in foreign currency exchange rates that vary substantially from those used in preparing budget submissions, an appropriation, to remain available until expended: Provided, That funds transferred from this appropriation shall be merged with and be available for the same purpose, and for the same time period, as the appropriation or fund to which transferred, and funds transferred to this appropriation shall be merged with, and available for the purpose of this appropriation until expended: Provided further, That transfers may be made from time to time from this appropriation to the extent the Secretary of Defense determines it may be necessary to do so to reflect downward fluctuations in the currency exchange rates from those used in preparing the budget submissions for such appropriations, but transfers shall be made from such appropriations to this appropriation to reflect upward fluctuations in currency exchange rates to prevent substantial net gains in such appropriations: Provided further, That authorizations or limitations now or hereafter contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for military construction and family housing expenses are hereby increased to the extent necessary to reflect downward fluctuations in foreign currency exchange rates from those used in preparing the applicable budget submission: Provided further, That for the purposes of the appropriation "Foreign Currency Fluctuations, Construction, Defense" the foreign currency rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on the Acts making appropriations for military construction for the Department of Defense; Provided further, That the Secretary of Defense shall provide an annual report to the Congress on all transfers made to or made from this appropriation: Provided further, That contracts or other obligations entered into payable in foreign currencies may be recorded as obligations based on the currency exchange rates used in preparing budget submissions and adjustments to reflect fluctuations in such rates may be recorded as disbursements are made: Provided further, That no later than the end of the second fiscal year following the fiscal year for which appropriations for Family Housing Opertion and Maintenance have been made available to the Department of Defense, and no later than the end of the sixth fiscal year following the fiscal year for which the appropriations for Military Construction and Family Housing Construction have been made available to the Department of Defense, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense": Provided further, That, at the discretion of the Secretary of Defense, any savings generated in the military construction and family housing programs may be transferred to this appropriation.

SEC. 122. The Secretary of the Navy shall enter into negotiations with shipyards located on Sampson Street, San Diego, California, and on Fort George Island, Jacksonville, Florida, to determine what liability (if any) the United States has for damages suffered by such a shipyard resulting from facility improvements made by such shipyard during 1982 in good faith reliance on representations and assurances provided to officials of such shipyard by representatives of the Department of the Navy in 1981 and 1982 with respect to furture work of the Department of the Navy at such shipyard.

SEC. 123. For Military Construction for the strategic homeporting initiative, no more than $799,000,000 shall be appropriated or obligated through fiscal year 1991.

SEC. 124. Of the total amount of budget authority provided for fiscal year 1987 by this Act that would otherwise be available for consulting services, management and professional services, and special studies and analyses, 10 percentum of the amount intended for such purposes in the President's budget for 1987, as amended, for any agency, department or entity subject to apportionment by the Executive shall be placed in reserve and not made available for obligation or expenditure: Provided, That this section shall not apply to any agency, department or entity whose budget request for 1987 for the purposes stated above did not amount to $5,000,000.

SEC. 125. (a) None of the funds appropriated in this Act may be available for any country if the President determines that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances cultivated or produced or processed illicitly, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country of United States personnel or their dependents, or from being smuggled into the United States. Such prohibition shall continue in force until the President determines and reports to the Congress in writing that—

(1) the government of such country has prepared and committed itself to a plan presented to the Secretary of State that would eliminate the cause or basis for the application of such country of the prohibition contained in the first sentence; and

(2) the government of such country has taken appropriate law enforcement measures to implement the plan presented to the Secretary of State.

(b) The provisions of subsection (a) shall not apply in the case of any country with respect to which the President determines that the application of the provisions of such subsection would be inconsistent with the national security interests of the United States.

SEC. 126. Section 4, chapter III of Public Law 99-349, dated July 2, 1986, is amended to read as follows: Of the amounts available to the Department of Defense, not to exceed $5,000,000 shall be available for such claims arising from property losses caused by the explosion of Army munitions near Checotah, Oklahoma on August 4, 1985, and claims determined by the Department to be bona fide shall be paid from the funds made available by this section without a determination of legal liability based on an act or omission of an agent or employee of the Federal Government.

SEC. 127. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1987, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1987 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

This title may be cited as the "Military Construction Appropriations Act, 1987".

TITLE II—CENTRAL AMERICA

PURPOSES

SEC. 201. The purposes of this title are to promote economic and political development, peace, stability and democracy in Central America, to encourage a negotiated resolution of the conflict in the region, and toward these ends, to enable the President to provide additional economic assistance for the Central American democracies as well as assistance for the Nicaraguan democratic resistance, subject to the terms and conditions of title.

POLICY TOWARD CENTRAL AMERICA

SEC. 202. (a) It is the policy of the United States that—

(1) the building of democracy, the restoration of peace, economic development, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States;

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America; and

(3) the September 1983 Contadora Document of Objectives, which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region, is to be encouraged and supported.

(b) The United States strongly supports as essential to the objectives set forth in subsection (a)—

(1) a long-term commitment of economic assistance to the Central American democracies in amounts recommended by the Na-

tional Bipartisan Commission on Central America;

(2) national reconciliation in Nicaragua and the creation of a framework for negotiating a peaceful, democratic settlement to the Nicaraguan conflict; and

(3) efforts to reach a comprehensive and verifiable final agreement based on the Contadora Document of Objectives, including efforts to encourage the Government of Nicaragua to pursue a dialogue with the representatives of all elements of the Nicaraguan democratic opposition for the purpose of achieving a democratic political settlement of the conflict, including free and fair elections

POLICY TOWARD THE GOVERNMENT OF NICARAGUA

SEC. 203. (a) United States policy toward the Government of Nicaragua shall be based upon that government's responsiveness to continuing concerns affecting the national security of the United States and Nicaragua's neighbors about—

(1) Nicaragua's close military and security ties to Cuba and the Soviet Union and its Warsaw Pact allies including the presence in Nicaragua of military and security personnel from those countries and allies;

(2) Nicaragua's buildup of military forces in numbers disproportionate to those of its neighbors and equipped with sophisticated weapons systems and facilities designed to accommodate even more advanced equipment;

(3) Nicaragua's unlawful support for armed subversion and terrorism directed against the democratically elected governments of other countries;

(4) Nicaragua's internal repression and lack of opportunity for the exercise of civil and political rights which would allow the people of Nicaragua to have a meaninful voice in determining the policies of their government through participation in regularly scheduled free and fair elections and the establishment of democratic institutions; and

(5) Nicaragua's refusal to negotiate in good faith for a peaceful resolution of the conflict in Central America based upon the comprehensive implementation of the September 1983 Contadora Document of Objectives and, in particular, its refusal to engage in a serious national dialogue with all elements of the Nicaraguan democratic opposition.

(b) The United States will address the concerns described in subsection (a) through economic, political, and diplomatic measures (including efforts to secure the cooperation of other democratic nations in such measures), as well as through support for the Nicaraguan democratic resistance. In order to assure every opportunity for a peaceful resolution of the conflict in Central America, the United States will—

(1) engage in bilateral discussions with the Government of Nicaragua with a view toward facilitating progress in achieving a peaceful resolution of the conflict, if the Government of Nicargua simultaneously engages in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition; and

(2) limit the types and amounts of assistance provided to the Nicaraguan democratic resistance and take other positive action in response to steps taken by the Government of Nicaragua toward meeting the concerns described in subsection (a).

(c) The duration of bilateral discussions with the Government of Nicaragua and the implementation of additional measures under subsection (b) shall be determined, after consultation with the Congress, by reference to Nicaragua's actions in response to the concerns described in subsection (a). Particular regard will be paid to whether—

(1) freedom of speech, assembly, religion, and political activity are being respected in Nicaragua and progress is being made toward the holding of regularly scheduled free and fair elections;

(2) there has been a halt to the flow of arms and the introduction of foreign military personnel into Nicaragua, and a withdrawal of all foreign military personnel has begun;

(3) a cease-fire with the Nicaraguan democratic resistance is being respected; and

(4) Nicaragua is refraining from acts of aggression, including support for insurgency and terrorism in other countries.

(d) The actions by the United States under this title in response to the concerns described in subsection (a) are consistent with the right of the United States to defend itself and to assist its allies in accordance with international law and treaties in force. Such actions are directed, not to determine the form or composition of any government of Nicaragua, but to achieve a comprehensive and verifiable agreement among Central American countries, based upon the 1983 Contadora Document of Objectives, including internal reconciliation within Nicaragua based upon democratic principles, without the use of force by the United States.

(e) Notwithstanding any other provision of this title, no member of the United States Armed Forces or employee of any department, agency, or other component of the United States Government may enter Nicaragua to provide military advice, training, or logistical support to paramilitary groups operating inside that country. Nothing in this title shall be construed as authorizing any member or unit of the Armed Forces of the United States to engage in combat against the Government of Nicaragua.

POLICY TOWARD THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 204. (a) It is the policy of the United States to assist all groups within the Nicaraguan democratic resistance which—

(1) are committed to work together for democratic national reconciliation in Nicaragua based on the document issued by the six Nicaraguan opposition parties on February 7, 1986, entitled "Proposal to the Nicaraguan Government for a Solution to the Crisis in Our Country"; and

(2) respect international standards of conduct and refrain from violations of human rights or from other criminal acts.

(b) No assistance under this title may be provided to any group that retains in its ranks any individual who has been found to engage in—

(1) gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961); or

(2) drug smuggling or significant misuse of public or private funds.

(c)(1) It is recognized that the Nicaraguan democratic resistance has been broadening its representative base, through the forging of cooperative relationships between the United Nicaraguan Opposition (UNO) and other democratic resistance elements, and has been increasing the responsiveness of military forces to civilian leadership.

(2) The President shall use the authority provided by this title to further the developments described in paragraph (1) and to encourage the Nicaraguan democratic resistance to take additional steps to strengthen its unity, pursue a defined and coordinated program for representative democracy in Nicaragua, and otherwise increase its appeal to the Nicaraguan people.

(d) In furtherance of the policy set out in this section, not less than $10,000,000 of the funds transferred by section 6(a) shall be available only for assistance to resistance forces otherwise eligible and not currently included within UNO, of which amount $5,000,000 shall be available only for the Southern Opposition Bloc (BOS) and $5,000,000 shall be available only for the Indian resistance force known as Misurasata.

SEC. 205. (a) There are hereby transferred to the President for assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) in accordance with the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961; $300,000,000 of unobligated funds from the accounts specified in subsection (b). Amounts transferred under this section shall be administered in accordance with the terms and conditions of chapter 6 of part I of the Foreign Assistance Act of 1961. Notwithstanding any other provision of law, funds made available by this section—

(1) shall be in addition to amounts previously appropriated for the fiscal year 1986 and allocated for assistance to Central American countries, and

(2) shall remain available for obligation until September 30, 1987, except that no less than $100,000,000 shall be obligated on or before September 30, 1986.

(b) Amounts made available by this section shall be transferred from such accounts as the President may designate for which appropriations were made by title II of the Foreign Assistance and Related Programs Appropriations Act, 1986, title IV of the Agriculture, Rural Development and Related Agencies Appropriations Act, 1986, (as contained in Public Law 99-190), and title II of the Urgent Supplemental Appropriations Act 1985 (Public Law 99-10).

(c)(1) The Secretary of State, the Administrator of the Agency for International Development, and the Director of the Office of Management and Budget, shall—

(A) develop a plan for fully funding the assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) proposed in the January 1984 report of the National Bipartisan Commission on Central America; and

(B) provide a report describing this plan to the President and the Congress no later than March 1, 1987.

(2) The report required by paragraph (1) shall include an analysis and recommendations, prepared in consultation with the Secretary of Agriculture, on how more effective use can be made of agricultural commodities from the United States in alleviating hunger in Central America and contributing to the economic development of the Central American democracies.

(d)(1) There are hereby transferred to the President out of funds appropriated by the Supplemental Appropriations Act, 1985 (Public Law 99-88), under the heading "Assistance For Implementation of a Contadora Agreement" such sums as the President may require but not more than $2,000,000, to facilitate the participation of Costa Rica, El Salvador, Guatemala, and Honduras in regional meetings and negotiations to promote peace, stability, and security in Central America.

(2) Funds transferred under paragraph (1) shall remain available for the same period of time as such funds would have been available under the Supplemental Appropriations Act, 1985 (Public Law 99-88), but for the enactment of this title.

(e) The Congress reaffirms its support for the establishment of a Central American Development Organization, authorized by section 464 of the Foreign Assistance Act of 1961, as an effective forum for dialogue on, and the continuous review and advancement of, Central America's political, economic, and social development, including the strengthening of democratic pluralism and respect for internationally recognized human rights. Toward this end, not less than $750,000 of the funds transferred by this section should be used to establish the Central American Development Organization and its administrative apparatus so as to ensure that Central American development objectives are encouraged.

ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 206. (a)(1) The Congress hereby approves the provision of assistance for the Nicaraguan democratic resistance in accordance with the provisions of this title.

(2) There are hereby tansferred to the President for the purposes of this section $100,000,000 of unobligated funds from such accounts for which appropriations were made by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), as the President shall designate.

(b) Notwithstanding the Impoundment Control Act of 1974, not more than 40 percent of the funds transferred under subsection (a) may be available for obligation or expenditure in accordance with this title upon the date of its enactment; not more than an additional 20 percent of such funds may be so available no earlier than October 15, 1986, and 15 days after the transmittal to the Congress of the determination required by section 11(c); and not more than the remaining 40 percent may be so available no earlier than February 15, 1987, and 15 days after the transmittal to the Congress of the determination required by section 11(e).

(c) Funds transferred under subsection (a) shall remain available for the same periods of time, but not to exceed September 30, 1987, as such funds would have been available under the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), but for the enactment of this title.

COORDINATION OF AND ACCOUNTABILITY FOR ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 207. (a) The Secretary of State (or his designee) shall be responsible for policy guidance, coordination, and supervision of United States Government activities under this title.

(b) Any agency to which funds transferred under section 6(a) are allocated shall establish standards, procedures and controls necessary to assure that such funds are fully accounted for and are used exclusively for the purposes authorized by this title. Such standards, procedures and controls shall be developed in consultation with the Comptroller General and the appropriate committees of the Congress, and shall include such safeguards as segregation of accounts, monitoring of deliveries, and requirements for the keeping of complete records available for audit by authorized representatives of the United States Government.

FUNDS FOR HUMANITARIAN ASSISTANCE

SEC. 208. (a) Of the amounts transferred under section 6(a), $30,000,000 shall be available only for the provision of humanitarian assistance to the Nicaraguan democratic resistance.

(b) Of the $30,000,000 made available only for purposes of subsection (a), $3,000,000 shall be available only for strengthening programs and activities of the Nicaraguan democratic resistance for the observance and advancement of human rights.

APPLICATION OF EXISTING LAWS

SEC. 209. (a) Except as otherwise provided in this title, funds transferred under section 6(a) shall be available for the purposes described in section 105(a) of the Intelligence Authorization Act for Fiscal Year 1986, and all the requirements, terms, and conditions of such section and sections 101 and 102 of such Act, section 502 of the National Security Act of 1947, and section 106 of the Supplemental Appropriations Act, 1985 (Public Law 99-88), shall be deemed to have been met for such use of such funds.

(b) The use of funds made available under this title is subject to all applicable provisions of law and established procedures relating to the oversight by the Congress of operations of departments and agencies.

(c) Nothing in this title shall be construed as permitting the President to furnish additional assistance to the Nicaraguan democratic resistance from funds other than the funds transferred under section 6(a) or otherwise specifically authorized by the Congress for assistance to the Nicaraguan democratic resistance.

(d) No limitation or restriction contained in section 10 of Public Law 91-672, section 8109 of the Department of Defense Appropriations Act, 1986, section 502 of the National Security Act of 1947, or any other provision of law shall apply to the transfer or use of funds transferred to the President under this title.

USE OF FUNDS AFTER A PEACEFUL SETTLEMENT

SEC. 210. If the President determines and so reports to the Congress that a peaceful settlement of the conflict in Central America has been reached, then—

(1) the unobligated balance, if any, of funds transferred under section 6(a) shall be available for the purposes of relief, rehabilitation, and reconstruction in Central American countries in accordance with the authorities contained in Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to economic support fund assistance);

(2) the President shall terminate any economic embargo of Nicaragua then in effect; and

(3) the President shall take such further actions as appropriate to carry out the policy described in section 2(a)(1) of this title with respect to all Central American countries, including Nicaragua.

INCENTIVES FOR A NEGOTIATED SETTLEMENT

SEC. 211. (a) Assistance to the Nicaraguan democratic resistance under this title shall be provided in a manner designed to encourage the Government of Nicaragua to respond favorably to the many opportunities available for achieving a negotiated settlement of the conflict in Central America. These opportunities include the following proposals:

(1) Six opposition Nicaraguan political parties on February 7, 1986, called for an immediate cease-fire, an effective general amnesty, abolition of the state of emergency agreement on a new electoral process and general elections, effective fulfillment of international commitments for democratization, and observance of implementation of these actions and commitments by appropriate international groups and organizations;

(2) President Reagan on February 10, 1986, offered simultaneous talks between the Government of Nicaragua and the United States Government;

(3) President Jose Napoleon Duarte of El Salvador on March 5, 1986, offered an additional dialog between the Government of El Salvador and the insurgents in El Salvador if the Government of Nicaragua would simultaneously engage in a dialog with all elements of the Nicaragua democratic opposition; and

(4) The United Nicaraguan Opposition on May 29, 1986, reiterated its support for the six-party proposal described in paragraph (1) as a means to achieve national reconciliation and democratization.

(b)(1) In furtherance of the objectives set forth in subsection (a), and except as provided in subsection (e), assistance to the Nicaraguan democratic resistance under this title shall be limited to the following:

(A) humanitarian assistance (as defined in section 722(g)(5) of the International Security and Development Cooperation Act of 1985);

(B) logistics advice and assistance;

(C) support for democractic political and diplomatic activities;

(D) training, services, equipment and supplies for radio communications, collection, and utilization of intelligence, logistics, and small-unit skills, tactics and operations; and

(E) equipment and supplies necessary for defense against air attacks.

(2) The assistance described in paragraph (1) shall be limited, by type and value, to the matters specified in the classified annex to the communication from the President to the Speaker of the House of Representatives and the President of the Senate dated June 24, 1986.

(3) No weapons or ammunition shall be delivered under this title to the Nicaraguan democratic resistance prior to September 1, 1986.

(c) On and after October 15, 1986, an additional $20,000,000 of the funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contradora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity, leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialog, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance.

(d)(1) Nothwithstanding any other provision of this title, on or after October 15, 1986, funds transferred under section 6(a) may be obligated or expended only if the President determines and reports to the Con-

gress that the Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement—

(A) confederation and reform measures to broaden their leadership base;

(B) the coordination of their efforts;

(C) the elimination of human rights abuses;

(D) the pursuit of a defined and coordinated program for achieving representative democracy in Nicaragua; and

(E) the subordination of military forces to civilian leadership; and

(F) the application of rigorous standards, procedures and controls to assure that funds transferred under section 6(a) are fully accounted for and are used exclusively for the purposes authorized by this title.

(2) In making his determination under paragraph (1), the President shall take into account the effectiveness and legitimacy of the political leadership of those Nicaraguan democratic resistance groups receiving assistance under this title, including the ability of that political leadership—

(A) to reflect the views and objectives of the internal and external Nicaraguan democratic opposition;

(B) to function as the spokesman for the Nicaraguan democratic opposition with Central Americans, international organizations, and the United States Government;

(C) to represent the Nicaraguan democratic opposition in dealing with the Government of Nicaragua;

(D) to provide command and control for the military forces of all resistance groups receiving assistance under this title and to establish the goals for their military operations;

(E) to determine the distribution of and maintain accountability for assistance provided under this title; and

(F) to provide the legal mechanisms necessary for the enforcement of standards of conduct applicable to all members of the resistance groups receiving assistance under the title.

(e) On and after February 15, 1987, the restrictions in subsection (b) shall cease to apply and the remaining funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialog, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance,

unless the Congress has enacted a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subsection (b)(1) within the limits of funds previously made available).

(f)(1) Notwithstanding subsection (e), no assistance (other than the assistance described in subparagraphs (A) through (C) of subsection (b)(1) shall be provided at any time to the Nicaraguan democratic resistance under this title if—

(A) the President determines that—

(i) the Central American countries have concluded a comprehensive and effective agreement based on the Contadora Document of Objectives; or

(ii) the Government of Nicaragua is engaging in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; or

(B) the Congress enacts a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subparagraphs (A) through (C) of subsection (b)(1)).

(2) The prohibition contained in paragraph (1) shall not apply—

(A) with respect to assistance described in subparagraph (D) of subsection (b)(1) if the Government of Nicaragua fails to observe an applicable cease-fire; or

(B) with respect to assistance described in subparagraph (E) of subsection (b)(1) if the Government of Nicaragua acquires additional equipment or materiel to carry out air attacks.

CONGRESSIONAL PRIORITY PROCEDURES

SEC. 212. (a)(1) A joint resolution described in subsection (e) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title of the Military Construction Appropriations Act, 1987, except as provided in section 11(b) thereof within the limits of funds previously made available.".

(2) A joint resolution described in subsection (f)(1)(B) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title of the Military Construction Appropriations Act, 1987, except as provided in subparagraph (A) through (C) of section 11(b)(1) and paragraph (2) of section 11(f) thereof.".

(b) A joint resolution described in subsection (a)(1) or (a)(2) shall be considered in the House of Representatives and in the Senate in accordance with the provisions of paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(1) references in such paragraphs to a joint resolution shall be deemed to be references to the respective joint resolution set forth in subsection (a)(1) or subsection (a)(2);

(2) references in such paragraphs to Committee on Appropriations shall be deemed to be references to the appropriate committee or committees of the respective House of Congress; and

(3) references in such paragraphs to the eighth day and to fifteen calendar days shall be deemed to be references to the fifth day and to five calendar days, respectively.

(c) The provisions of this section are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under section 11, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

COMMISSION ON CENTRAL AMERICAN NEGOTIATIONS

SEC. 213. (a)(1) There is established the Commission on Central American Negotiations (hereafter in this section referred to as the "Commission"), which shall be composed of five members appointed as follows:

(A) One individual appointed by the Speaker of the House of Representatives;

(B) One individual appointed by the Minority Leader of the House of Representatives;

(C) One individual appointed by the Majority Leader of the Senate;

(D) One individual appointed by the Minority Leader of the Senate; and

(E) One individual who shall serve as Chairman of the Commission, selected by majority vote of the other members of the Commission.

(2) No officer or employee of the United States may be appointed as a member of the Commission.

(3) The appointments referred to in subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be made within 5 calendar days following enactment of this title, and the selection of a chairman referred to in subparagraph (E) of paragraph (1) shall be made within 10 days following enactment of this title.

(b) The purpose of the Commission is to monitor and report on the efforts of the Nicaraguan democratic resistance to coordinate and reform and on the status of any negotiations on the peace, stability, and security of Central America, including negotiations conducted between or among—

(1) the Government of Nicaragua and all elements of the Nicaraguan democratic opposition, including the Nicaraguan democratic resistance;

(2) the governments of Central American countries;

(3) the Government of the United States and the Government of Nicaragua;

(4) the governments of the Contadora and Support Group countries and the governments of the Central American countries; and

(5) the Government of El Salvador and the insurgents in El Salvador.

(c)(1) The Commission may appoint and fix the pay of not more than seven staff personnel, but at such rates not in excess of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(2)(A) Each member of the Commission shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which such

member is engaged in the performance of duties as a member of the Commission.

(B) While away from his home or regular place of business in the performance of duties for the Commission, a member or staff personnel of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(3) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(d)(1) A majority of the members of the Commission shall constitute a quorum.

(2) All decisions of the Commission shall be by majority vote.

(e) The Commission may make such reports in connection with its duties as it deems necessary to the Speaker of the House of Representative and the chairman of the Committee on Foreign Relations of the Senate, except that—

(1) not later than 5 days after receipt by the Congress or a report by the President under section 14 the Commission shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report addressing all the matters which are required to be included in reports of the President by paragraphs (1), (3), and (4) of section 14; and

(2) not later than September 30, 1986, the Commission shall prepare and transmit to the Congress a report on whether the Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement measures described in subparagraphs (A) through (F) of section 11(d)(1) and an evaluation of the factors described in section 11(d)(2).

(f)(1) Salaries and expenses of the Commission, but not more than $400,000, shall be paid from the contingent fund of the Senate out of the Account for Miscellaneous Items, in accordance with the provisions of this section.

(2) Funds made available to the Commission by paragraph (1) shall be disbursed on vouchers approved by the Chairman, except that no voucher shall be required for the disbursement of the salary of an individual appointed under subsection (c).

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use of funds in accordance with such section.

(g) The Commission shall terminate not later than 90 days after transmittal of the reports required by subsection (e).

PRESIDENTIAL REPORTING REQUIREMENT

SEC. 214. The President shall prepare and transmit to the Congress with each determination required by section 11 a report on actions taken to achieve a resolution of the conflict in Central America in a manner that meets the concerns described in section 3(a). Each such report shall include—

(1) a detailed statement of the status of negotiations toward a negotiated settlement of the conflict in Central America, including the willingness of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate a settlement;

(2) a detailed accounting of the disbursements made to provide assistance with the funds transferred under section 6(a) and a detailed statement of how the accountability standards, procedures and controls established under section 7(b) and 11(d)(1)(F) are being implemented so as to assure that all such funds are fully accounted for and are being used exclusively for the purposes authorized by this title;

(3) a discussion of alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses; and

(4) an evaluation of the progress made by the Nicaraguan democratic resistance in broadening its political base and defining a unified and coordinated program for achieving representative democracy in Nicaragua.

REQUESTS FOR ADDITIONAL ASSISTANCE

SEC. 215. The provisions of subsections (s) and (t) of section 722 of the International Security and Development Cooperation Act of 1985 shall apply—

(1) with respect to any request described in section 722(p) of such Act submitted by the President to the Congress on or after the date of enactment of this title, and

(2) with respect to any request by the President for additional economic assistance for the Central American democracies to carry out recommendations contained in the report required by section 5(c)(1)(B) (in which case references to a joint resolution in subsections (s) and (t) of section 722 of such Act shall be deemed to be references to a joint resolution without a preamble, the matter after the resolving clause of which is as follows: "That the Congress approves the additional economic assistance for the Central American democracies that the President requested pursuant to title of the Military Construction Appropriation Act, 1987."),

except that, for purposes of consideration in a House of Congress of a joint resolution under subsection (s) or (t) of such section, amendments to such a joint resolution may be in order but only if such amendments are germane.

LIMITATION ON PARTICIPATION OF UNITED STATES GOVERNMENT PERSONNEL IN DELIVERY OF ASSISTANCE

SEC. 216. (a) United States Government personnel may not provide any training or other service, or otherwise participate directly or indirectly in the provision of any assistance, to the Nicaraguan democratic resistance pursuant to this title within those land areas of Honduras and Costa Rica which are within 20 miles of the border with Nicaragua.

(b) As used in this section, the term "United States Government personnel" means—

(1) any member of the United States Armed Forces who is on active duty or is performing inactive duty training; and

(2) any employee of any department, agency, or other component of the executive branch of the United States Government;

but does not include any officer or employee of the United States General Accounting Office of any employee of the Inspector General of the Department of State and the Foreign Service who is carrying out inspections, investigations, or audits with respect to assistance for the Nicaraguan democratic resistance pursuant to this title.

TITLE III—EMERGENCY RESERVE FOR AFRICAN FAMINE RELIEF

SEC. 301. Title II of Public Law 99-10 is amended, under the heading "Emergency Reserve for African Famine Relief", by striking out "$225,000,000" and inserting in lieu thereof "$525,000,000".

SEC. 302. Of the funds appropriated under title II of Public Law 99-10, as amended by this Act, $300,000,000 shall remain available for obligation until September 30, 1987, notwithstanding any other provision of law or this Act.

And the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(l) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5205, the Department of Transportation and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-976) as filed in the House of Representative on October 7, 1986, as if enacted into law, except that such conference agreement shall be considered as including the following language in lieu of section 331 of H.R. 5205 as passed by the House of Representatives on July 30, 1986:

"SEC. 331. AIR TRAFFIC CONTROLLER WORK FORCE REQUIREMENTS.—The Federal Aviation Administration shall satisfy the following criteria by September 30, 1987:

(a) total air traffic controller work force level of 15,000;

(b) with respect to the air traffic controller work force, of those individuals eligible to be Full Performance Level controllers, 70 percent shall have achieved Full Peformance Level status;

(c) with respect to staffing at particular air traffic control facilities, of those individuals eligible to be Full Performance Level controllers, at least 60 percent at all centers and level 3 and above terminals shall have achieved Full Performance Level status."

And the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(m) Such amounts as may be necessary for programs, projects or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1987, and for other purposes

TITLE I—TREASURY DEPARTMENT

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to

exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $650,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex, $52,642,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary, hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $22,442,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed eight for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; not to exceed $3,000,000 for repair, alteration, minor construction, and related equipment for the Federal Law Enforcement Training Center facility to remain available until expended; not to exceed $2,000 for official reception and representation expenses; and services as authorized by 5 U.S.C. 3109: Provided, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; acceptance of gifts; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center; $29,499,000.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $240,117,000, of which not to exceed $2,137,000 shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of three hundred vehicles for police-type use for replacement only; and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; $193,463,000, of which $15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1987, and of which $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): Provided, That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: Provided further, That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: Provided further, That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to five hundred motor vehicles for replacement only, including four hundred and ninety for police-type use; hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $786,000,000, of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $1,000,000, to remain available until expended, for research: Provided, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: Provided further, That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: Provided further, That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: Provided further, That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1987: Provided further, That the United States Customs Service shall hire and maintain an average of 14,891 full-time equivalent positions in fiscal year 1987: Provided further, That none of the funds made available in this or any other Act may be used to fund more than nine hundred and fifty positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1986 and the Customs Service shall begin planning to reduce headquarters staff to no more than nine hundred positions by September 30, 1987: Provided further, That no funds appropriated by this Act may be used to implement single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1987.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $77,819,000.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $8,000,000, as authorized by Public Law 98-473 and Public Law 98-573; to be derived from deposits in the Fund.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $365,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports, and to remain available until expended.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $42,508,000, of which $1,325,000 shall remain available until expended for research and development projects.

EXPANSION AND IMPROVEMENTS

For expansion and improvements to existing Mint facilities, $694,000, to remain available until expended.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $198,564,000.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services, as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $95,147,000, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended, for research.

PROCESSING TAX RETURNS

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,332,902,000, of which not to exceed $50,000,000 shall remain available until expended for systems modernization initiatives.

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,623,162,000.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C.

1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: Provided, That notwithstanding any other provision of this Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: Provided further, That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at $2,400,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $2,400,000 can be devoted to program requirements; $1,196,581,000.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 1 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: Provided, That approval is obtained in advance from the House and Senate Committees on Appropriations; including $6,000,000 for continued construction at the James J. Rowley Secret Service Training Center; for research and development; not to exceed $7,500 for official reception and representation expenses; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $318,000,000, of which $500,000 shall remain available until expended for research.

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communication in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 1 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds made available by this Act may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

This title may be cited as the "Treasury Department Appropriations Act, 1987".

TITLE II—POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (b) and (c) of section 2401 of title 39, United States Code; $650,000,000: Provided, That mail for overseas voting and mail for the blind shall continue to be free: Provided further, That six-day delivery and rural delivery of mail shall continue at the 1983 level: Provided further, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: Provided further, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1987: Provided further, That

(a) Section 2254 of title 18, United States Code, is amended by adding after subsection (b) the following:

"(c) The Postal Service may carry out a forfeiture under this section if the violation involves the mails. The Postal Service shall exercise the authority of the Attorney General under subsection (b) of this section with respect to such forfeiture.".

(b) Section 2003 of title 39, United States Code, is amended—

(1) in subsection (b)(5), by striking out "and";

(2) in subsection (b)(6), by striking out the period at the end and inserting "; and" in lieu thereof;

(3) by inserting at the end of subsection (b) the following:

"(7) amounts (including proceeds from the sale of forfeited items) from any civil administrative forfeiture conducted by the Postal Service under title 18."; and

(4) in the first sentence of subsection (e)(1), by striking out "under this title" and inserting in lieu thereof "as provided by law".

(c) Section 2254 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting before the period at the end of paragraph (1) ", and any property, real or personal, tangible or intangible, which was used or intended to be used, in any manner or part, to facilitate a violation of this chapter";

(2) in subsection (b) by striking "Attorney General," and inserting "Attorney General or the Postal Service,"; and

(3) by adding at the end the following new subsection:

"(d) The authority of the Postal Service under subsection (b) shall be exercised only where the conduct with respect to which such seizure or forfeiture occurs includes use of the mails in violation of this chapter.".

This title may be cited as the "Postal Service Appropriations Act, 1987".

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: Provided, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: Provided further, That none of the funds made available for official expenses shall be considered as taxable to the President.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $15,700,000 including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $24,450,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $4,700,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, and not to exceed $60,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $211,000: Provided, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $1,790,000.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,275,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $2,600,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $175,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $4,550,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $37,000,000 of which not to exceed $5,408,000 shall be available for the Office of Information and Regulatory Affairs: Provided, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): Provided further, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the review of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: Provided further, That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: Provided further, That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: Provided further, That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $1,600,000.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1987".

TITLE IV—INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.) including not to exceed $1,000 for official reception and representation expenses; $1,469,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended, 42 U.S.C. 4271-79; $1,750,000, and additional amounts collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $201,000.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, including hire of passenger motor vehicles; $778,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $12,800,000.

GENERAL SERVICES ADMINISTRATION

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement (including royalty payments), inspection, standardization, property management, and other supply management activities, transportation activities, transportation audits by in-house personnel; utilization of excess and disposal of surplus personal property, and the rehabilitation of personal property including services as authorized by 5 U.S.C. 3109; $160,944,000: Provided, That in addition to this appropriation, the annual limitation of $5,200,000 through September 30, 1989, in the Supplemental Appropriations Act, 1985, Public Law 99-88 payable from overcharges collected, for expenses of transportation audit contracts and contract administration is increased to $10,500,000 for fiscal year 1987.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(Including transfer of funds)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property; the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98, et seq.) the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, et seq.) including services as authorized by 5 U.S.C. 3109 and reimbursement for recurring security guard service; $39,108,000, of which $11,000,000 shall be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5), and of which $28,108,000 for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile shall remain available through fiscal year 1988.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

For the year ending September 30, 1987, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, pursuant to 50 U.S.C. 98a and g(a), (2)(c), and 50 U.S.C. 100a, notwithstanding the provisions of 50 U.S.C. 98h, an additional $5,000,000 is appropriated, to be available until expended, for a grant for construction of a strategic materials research facility at the University of Massachusetts at Amherst. For the year ending September 30, 1987, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, pursuant to 50 U.S.C. 98a and g(a), (2)(c), and 50 U.S.C. 100a, notwithstanding the provisions of 50 U.S.C. 98h, an additional $5,000,000 is appropriated, to be available until expended, for a grant for construction of a strategic materials research facility at the University of Nevada at Reno. Notwithstanding any other provision of law, funds previously made available to the fund before January 1, 1985, may be used for evaluating, testing, relocating, and upgrading stockpile materials to meet current stockpile goals and specifications.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $120,289,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: Provided, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $29,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; $21,108,000: Provided, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,171,800: Provided, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with (1) cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129); and (2) appropriations or funds available to other agencies, and transferred to the General Services Administration, in connection with property transferred to the General Services Administration pursuant to the Act of July 2, 1948 (50 U.S.C. 451ff) and such appropriations or funds may be so transferred, with the approval of the Office of Management and Budget.

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements, performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 4. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. Funds in the Federal Buildings Fund made available for fiscal year 1987 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 6. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $100,321,000 of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $99,000,000 in addition to $60,900,000 for administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: Provided, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: Provided further, That funds made available by this appropriation may be used, at the discretion of the Director of the Office of Personnel Management, to provide salaries, administrative support and for other expenses of the Commission on Executive, Legislative, and Judicial Salaries. No part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive order 9358 of July 1, 1943, or any successor unit of like purpose.

REVOLVING FUND

Pursuant to section 1304(e)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $1,459,000,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,557,000,000: Provided, That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Retirement Thrift Investment Board as authorized by the Federal Employees' Retirement System Act of 1986 (Public Law 99-335); $5,250,000: Provided, That Section 701(a) of Public Law 99-335, the Federal Employees' Retirement System Act of 1986, is amended by striking "shall" after "1987" and inserting in lieu thereof, "may".

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $19,140,000, together with not to exceed $1,200,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts detemined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $4,396,000.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as

authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $16,330,000: Provided, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistance as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $25,538,000: Provided, That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1987".

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: Provided, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: Provided, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: Provided, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds is necessary to comply with a final order of the Federal court system.

SEC. 509. (a) The General Services Administration shall not sell, lease, transfer, or otherwise dispose of any portion of the approximately twenty-six acres of Fort DeRussy, Hawaii, lying southwest of Kalia Road, which includes the Hale Koa Hotel, the Armed Forces Recreation Center, and beachfront area.

(b) However, notwithstanding any other provision of law, including any limitation on appropriations in this or any other Act which, but for this provision, limit the obligation or expenditure of funds for the sale, lease, rental, or excessing of Fort DeRussy, Honolulu, Hawaii, the Secretary of the Army (hereinafter referred to as the "Secretary") is directed to sell and convey to the State of Hawaii or the city and county of Honolulu through the General Services Administration, at the fair market value as determined by, and upon such terms and conditions as are acceptable to the Administrator of General Services, the remaining approximately forty-five acres of Fort DeRussy lying northeast of Kalia Road, which comprises the three United States Army Reserves Centers and miscellaneous facilities. The exact acreages and legal descriptions shall be determined by the Secretary.

(c) The Secretary is authorized to acquire land and design and construct such facilities as are necessary to replace those on the land to be sold pursuant to subsection (b). The Secretary is also authorized to relocate activities currently located at Fort DeRussy to such replacement facilities.

(d) Notwithstanding any other provision of law, the General Services Administration is authorized to make funds available for the acquisition of land and replace facilities authorized to be acquired or constructed pursuant to subsection (c) and to pay associated relocation costs, and funds are hereby made available for this purpose.

(e) The proceeds of the sale authorized in subsection (b) shall be covered by the Administrator of General Services into the Treasury as miscellaneous receipts.

(f) A conveyance under subsection (b) shall provide that all of the land conveyed shall remain the property of the State of Hawaii, or the City and County of Honolulu, Hawaii, as the case may be.

SEC. 510. None of the funds appropriated in this Act may be used for administrative expenses to close the Information Resources Management Office of the General Services Administration located in Sacramento, California.

SEC. 511. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 512. None of the funds made available by this Act shall be available for any activity or for paying the salary of any government employee where funding an activity or paying a salary to a government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 513. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, out of the Treasury Department.

SEC. 514. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 515. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 516. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purpose or special mission automobiles.

SEC. 517. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverages for abortions.

SEC. 518. The provision of section 517 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 519. Effective September 30, 1987, none of the funds made available by this Act or any other Act with respect to fiscal year 1987 and any other fiscal year may be used to store, to maintain or to protect more than 128,000,000 troy ounces of silver deposited in the National Defense Stockpile. The Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all proceeds generated from the disposal of silver to purchase, no later than October 1, 1988, stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 520. No later than October 1, 1988, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 521. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 522. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing or disposal of any portion of land on which the Phoenix Indian School is located at Phoenix, Arizona without the specific approval of Congress.

SEC. 523. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas administered by the Corps of Engineers, Department of the Army without the specific approval of Congress.

SEC. 524. The Administrator of the General Services Administration, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the U.S. Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 525. The United States Courthouse located at 223 Park Avenue Southwest in Aiken, South Carolina, shall be known and designated as the "Charles E. Simons, Jr., Federal Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such courthouse is deemed to be a reference to the "Charles E. Simons, Jr., Federal Courthouse".

SEC. 526. The Director of the Office of Management and Budget shall include in the area designated as the Wichita Metropolitan Statistical Area the County of Harvey, Kansas.

SEC. 527. (a) The Director of the Office of Personnel Management (hereafter in this section referred to as the "Director") shall pay out of the Civil Service Retirement and Disability Fund, an annuity of $1,500 per month to Gladys Pyle of Huron, South Dakota, who served as a United States Senator from November, 1938, to January, 1939, and is not otherwise eligible to receive an annuity on the basis of her services as a Senator.

(b) The annuity provided under subsection (a)—

(1) shall commence on the first day of the month in which this joint resolution is enacted; and

(2) shall terminate on the date of the death of the said Gladys Pyle.

(c)(1) The Director shall administer the provisions of this section.

(2) Sections 8340, 8346, 8348(a), and 8348(f) of title 5, United States Code, shall apply with respect to the annuity provided under the subsection (a).

SEC. 528. In the administration of the provisions of section 603 of this Act, during fiscal year 1987, Erna Avari Patrick of Columbia, South Carolina shall be considered to have satisfied the requirement of clause (3) of such section.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SECTION 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: Provided, That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: Provided further, That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-5924.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian and Laotian refugees paroled in the United States after January 1, 1975: Provided, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: Provided further, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: Provided further, That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: Provided further, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: Provided, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has

voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: Provided, That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act, shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): Provided, That when the Administrator of General Services delegates responsibility to protect property under his charge and control to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Building Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1987.

SEC. 611. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 612. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted.

SEC. 613. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1987, or September 30, 1988, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 613 of H.R. 3036, incorporated by reference in section 101(h) of Public Law 99-190, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1987 and that portion of fiscal year 1988 that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1988, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1987.

(b) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, the provisions of subsection (a) of this section shall apply (in such manner as the Office of Personnel Management shall prescribe) to any prevailing rate employee to whom such section 9(b) applies, except that the provisions of subsection (a) may not apply to any increase in a wage schedule or rate that is required by the terms of a contract entered into before the date of enactment of this Act.

(c) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(d) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1986, shall be determined under regulations prescribed by the Office of Personnel Management.

(e) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1986, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(f) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1986.

(g) For the purpose of administering any provision of law, rule, or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(h) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(i) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 615. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 616. (a) If any individual or entity which provides or proposes to provide child care services for Federal employees applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such service, such officer or agency may allot space in such a building to such individual or entity if—

(1) such space is available;

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

(b)(1) If an officer or agency allots space to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses as-

sociated with telephone service), and security systems (including installation and other expenses associated with security systems).

SEC. 617. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 618. (a) ELIGIBILITY TO PARTICIPATE IN 1986.—(1) Notwithstanding any other provision of law, and any regulations prescribed thereunder, any application by the Federal Employee Education and Assistance Fund (a nonprofit corporation incorporated in the District of Columbia) for admission to the Combined Federal Campaign, whether in a particular community or otherwise, shall be considered without regard to any eligibility requirements, to the extent that such requirements relate to any period before the date on which such Fund became incorporated.

(2) The eligibility of the Fund to be admitted to the Combined Federal Campaign in a particular community shall also be determined without regard to any criteria relating to having a "direct and substantial presence" in the community involved.

(3) This subsection shall be effective only with respect to the Combined Federal Campaign as conducted during calendar year 1986.

(b) DEFINITIONS.—For the purpose of this section, the term "Combined Federal Campaign" and the term "community" each has the meaning given such term by section 950.101 of title 5 of the Code of Federal Regulations (as in effect on the date of the enactment of this Act).

SEC. 619. None of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing any regulations dealing with organization participation in the 1986 and 1987 Combined Federal Campaign other than repromulgating and implementing the 1984 and 1985 Combined Federal Campaign regulations, unless such regulations provide that any charitable organization which participated in any prior campaign shall be allowed to participate in 1986 and 1987 campaign: Provided further, That none of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing new regulations dealing with the Combined Federal Campaign ("CFC") which require or allow the Office of Personnel Management to directly or indirectly determine the eligibility of any agency to participate in the CFC (other than the local service of those agencies which perform a substantial preponderance of their services in the United States) if that agency is a member of a qualified federated group.

SEC. 620. None of the funds appropriated or made available by this Act shall be used to implement or enforce the rule proposed on May 7, 1986 (51 Federal Register 16988-16991), or any other regulation issued pursuant to statute requiring competitive bidding for electricity, gas, or steam utility services acquired by the Federal Government.

SEC. 621. None of the funds appropriated by this or any other Act may be used prior to July 15, 1987, to repeal, amend, or modify any policy, procedure, or practice contained in subpart 19.5 of title 48 of the Code of Federal Regulations (as such subpart was in effect on July 31, 1986) except if such subpart requires modification to implement the amendments made by section 911 (relating to small business set-asides) of H.R. 4438 (99th Congress, 2d Session), or the amendments made by any successor provision to such section, if such bill is enacted into law.

SEC. 622. Section 202 of title 3, United States Code, is amended by inserting a new clause (3) to read "(3) the Treasury Building and grounds;" and by renumbering previously existing clauses (3) through (8) as clauses (4) through (9). The word "immediately" in prior clause (6) (renumbered clause (7)) is stricken and the word "immediate" is inserted in its place.

SEC. 623. The Rural Electrification Act of 1936 is amended by inserting after section 310 (7 U.S.C. 940) the following new section:

"SEC. 311. PRIVATIZATION PROGRAM.—The Administrator shall establish a privatization demonstration program which shall permit borrowers to prepay loans made by the Federal Financing Bank and guaranteed under section 306 of this Act by paying the outstanding principal balance due on the loans. No sums in addition to the payment of the outstanding principal balance due on the Federal Financing Bank loans may be charged as the result of such prepayment against the borrower, the fund, or the Rural Electrification Administration. Federal Financing Bank loans shall be refinanced using the existing section 306 loan guarantee, with private capital, in an amount not to exceed the outstanding principal amount prepaid: Provided, That such guarantee of private capital shall be 90% of the principal amount of the loan or any portion thereof plus accrued interest outstanding at any time during the maturity period of the loan and shall be fully transferable and assignable. Notwithstanding any other provision of law, borrowers may prepay Federal Financing Bank loans under this section, except that such borrowers shall be required to prepay all of their outstanding loans made or guaranteed under this Act within one year of prepayment of the first loan. A direct or insured loan prepaid under this section shall be prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan's present value discounted from the face value at maturity at the rate set by the Administrator. A Rural Telephone Bank loan shall be prepaid by paying the outstanding principal balance on the loan. No guarantee or other financial assistance shall be available to the borrowers to refinance outstanding loans prepaid hereunder. In the case of an electric borrower prepaying under this section or otherwise prepaying a loan at less than the outstanding principal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this Act to the borrower or its successors or for the purpose of financing the construction or operation of generating plants or bulk transmission lines for the purpose of furnishing electric energy in the area served on a retail or wholesale basis by such borrower. In the case of a telephone borrower prepaying under this section, or otherwise prepaying a loan at less than the outstanding principal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this Act to the borrower or its successors or for the purpose of furnishing or improving telephone service in the area served by such borrower. In determining the service area of electric borrowers, the Administrator shall make allowances and adjustments to avoid adversely affecting the eligibility of other borrowers for financial assistance under this Act where such borrowers are currently providing electric supply services for retail loads in the same area and which are reasonably expected to continue providing electric supply services for retail loads in such areas. In the event that the borrower prepaying under this section shall be using a majority of its generating capacity to directly serve its retail consumers, other borrowers which are purchasing power from such borrower as of September 30, 1986, shall continue to remain eligible for financing under this Act for needs in their service area. Nothing in this section shall prohibit a borrower which has prepaid pursuant to this section from participating in generation and transmission projects with borrowers which have not prepaid, so long as the borrower which has prepaid utilizes private capital financing without financial assistance under this Act: Provided further, That nothing in this section shall prohibit short-term power purchases by borrowers which have prepaid under this section from borrowers which have not prepaid. The Administrator shall issue regulations to implement this section within 60 days."

TITLE VII—TRANSFER OF ANNUAL LEAVE AND SICK LEAVE

SECTION 701. (a) IN GENERAL.—(1) Notwithstanding any provision of chapter 63 of title 5, United States Code, and with the approval of the director of the Fort Lauderdale district of the Internal Revenue Service, an employee of the Internal Revenue Service whose official station is the Fort Lauderdale district may transfer accumulated annual leave accrued under section 6303 of title 5, United States Code, and accumulated sick leave accrued under section 6307 of such title to the account of either Shannon Chiles or Joe Chiles, Jr., employees of the Internal Revenue Service in the Fort Lauderdale district.

(2) For purposes of chapter 63 of title 5, United States Code, annual leave and sick leave transferred under paragraph (1) shall be treated as the annual leave and sick leave accrued by the individual to whose account the leave is transferred, except that such annual leave accumulates without regard to the limitation imposed by section 6304(a) of title 5, United States Code.

(3) The transfer of annual leave or sick leave under paragraph (1) by an employee reduces the account of such employee by the amount of the leave so transferred.

(b) AUTHORITY TO RESTORE TRANSFERRED LEAVE.—With the approval of the director of the Fort Lauderdale district, Shannon Chiles or Joe Chiles, Jr., may, by transfer, restore unused leave to an employee from whom leave was received, except that the amount of leave so restored by each of them may not exceed the amount of leave received by them, respectively, from such employee.

(c) EXPIRATION OF AUTHORITY.—The authority to transfer leave under subsection (a)(1) and the authority to restore unused leave under subsection (b) shall terminate 180 days after the disease of Shannon Chiles no longer exists.

(d) TEMPORARY AUTHORITY TO TRANSFER LEAVE.—(1) Notwithstanding any other provision of law, under regulations prescribed by the President, the unused accrued leave of one officer or employee of the Federal Government may be transferred for use by another officer or employee of the Federal Government in not more than three cases of personal emergencies defined for the purposes of this paragraph in such regulations.

(2) The authority prescribed in paragraph (1) shall terminate upon the issuance of a report to Congress which contains the find-

ings of the President on voluntary leave policy.

TITLE VIII—PAPERWORK REDUCTION REAUTHORIZATION

SHORT TITLE

SECTION 801. This title may be cited as the "Paperwork Reduction Reauthorization Act of 1986".

PART A—AMENDMENTS TO THE PAPERWORK REDUCTION ACT OF 1980

PURPOSE

SEC. 811. (a) Section 3501(3) of title 44, United States Code, is amended to read as follows:

"(3) to maximize the usefulness of information collected, maintained, and disseminated by the Federal Government;".

(b) Section 3501(5) of such title is amended to read as follows:

"(5) to ensure that automatic data processing, telecommunications, and other information technologies are acquired and used by the Federal Government in a manner which improves service delivery and program management, increases productivity, improves the quality of decisionmaking, reduces waste and fraud, and wherever practicable and appropriate, reduces the information processing burden for the Federal Government and for persons who provide information to and for the Federal Government; and".

DEFINITIONS

SEC. 812. Section 3502 of title 44, United States Code, is amended—

(1) by inserting "collection of information requirement," after "reporting or recordkeeping requirement," in paragraph (11);

(2) by redesignating paragraphs (13) through (16) as paragraphs (14) through (17), respectively; and

(3) by inserting after paragraph (12) the following new paragraph:

"(13) the term 'information resources management' means the planning, budgeting, organizing, directing, training, promoting, controlling, and management activities associated with the burden, collection, creation, use, and dissemination of information by agencies, and includes the management of information and related resources such as automatic data processing equipment (as such term is defined in section 111(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a));".

OFFICE OF INFORMATION AND REGULATORY AFFAIRS

SEC. 813. (a) Section 3503(b) of title 44, United States Code, is amended to read as follows:

"(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information policy and shall report directly to the Director.".

(b) The amendment made by this section, insofar as it relates to appointment of the Administrator of the Office of Information and Regulatory Affairs, shall take effect on the earlier of—

(1) January 20, 1989; or

(2) the date on which a vacancy in that Office first occurs after the date of enactment of this Act.

AUTHORITY AND FUNCTIONS OF DIRECTOR

SEC. 814. (a) Section 3504(a) of title 44, United States Code, is amended to read as follows:

"(a) The Director shall develop and implement Federal information policies, principles, standards, and guidelines and shall provide direction and oversee the review and approval of information collection requests, the reduction of the paperwork burden, Federal statistical activities, records management activities, privacy and security of records, agency sharing and dissemination of information, and acquisition and use of automatic data processing, telecommunications, and other information technology for managing information resources. The authority of the Director under this section shall be exercised consistent with applicable law.".

(b) Section 3504(d) of such title is amended to read as follows:

"(d) The statistical policy and coordination functions of the Director shall include—

"(1) developing and periodically reviewing and, as necessary, revising long-range plans for the improved coordination and performance of the statistical activities and programs of the Federal Government;

"(2) reviewing budget proposals of agencies to assure that the proposals are consistent with such long-range plans;

"(3) coordinating, through the review of budget proposals and as otherwise provided in this chapter, the functions of the Federal Government with respect to gathering, interpreting, and disseminating statistics and statistical information;

"(4) developing and implementing Government-wide policies, principles, standards, and guidelines concerning statistical collection procedures and methods, statistical data classification, statistical information presentation and dissemination, and such statistical data sources as may be required for the administration of Federal programs;

"(5) evaluating statistical program performance and agency compliance with Government-wide policies, principles, standards, and guidelines;

"(6) integrating the functions described in paragraphs (1) through (5) of this subsection with the other information resources management functions specified in this chapter; and

"(7) appointing a chief statistician who is a trained and experienced professional statistician to carry out the functions described in paragraphs (1) through (6) of this subsection.".

(c) Section 3504(g) of such title is amended by striking out "and telecommunications" each place it appears and inserting in lieu thereof "(including telecommunications)".

ASSIGNMENT OF TASKS AND DEADLINES

SEC. 815. Section 3505 of title 44, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2)(E);

(2) by striking out paragraph (3)(E) and inserting in lieu thereof the following:

"(E) develop and annually revise, in consultation with the Administrator of General Services, a 5-year plan for meeting the automatic data processing equipment (including telecommunications) and other information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757, 759) and the purposes of this chapter; and";

(3) by striking out the period at the end of paragraph (3)(F) and inserting in lieu thereof a semicolon; and

(4) by inserting after paragraph (3) the following new paragraphs:

"(4) upon the enactment of the Paperwork Reduction Reauthorization Act of 1986—

"(A) set a goal to reduce, by September 30, 1987, the burden of Federal collections of information existing on September 30, 1986, by at least 5 percent; and

"(B) for the fiscal year beginning on October 1, 1987, and each of the next two fiscal years, set a goal to reduce the burden of Federal collections of information existing at the end of the immediately preceding fiscal year by at least 5 percent;

"(5) maintain a comprehensive set of information resources management policies; and

"(6) within one year after the date of enactment of the Paperwork Reduction Reauthorization Act of 1986—

"(A) issue, in consultation with the Administrator of General Services, principles, standards, and guidelines to implement the policies described in paragraph (5);

"(B) report to the Congress on the feasibility and means of enhancing public access, including access by electronic media, to information relating to information collection requests required by this chapter to be made available to the public; and

"(C) identify further initiatives to reduce the burden of Federal collections of information associated with the administration of Federal grant programs.".

FEDERAL AGENCY RESPONSIBILITIES

SEC. 816. Section 3506(c) of title 44, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) systematically inventory its major information systems and periodically review its information resources management activities;";

(2) by striking out "and" at the end of paragraph (4);

(3) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and "and"; and

(4) by adding at the end thereof the following new paragraphs:

"(6) implement applicable Government-wide and agency information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, statistical activities, records management activities, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

"(7) periodically evaluate and, as needed, improve, the accuracy, completeness, and reliability of data and records contained within Federal information systems; and

"(8) develop and annually revise a 5-year plan, in accordance with appropriate guidance provided by the Director, for meeting the agency's information technology needs.".

PUBLIC INFORMATION COLLECTION ACTIVITIES

SEC. 817. (a) Section 3507(a)(2)(B) of title 44, United States Code, is amended by inserting before the semicolon the following: "and setting forth a title for the information collection request, a brief description of the need for the information and its proposed use, a description of the likely respondents and proposed frequency of response to the information collection request, and an estimate of the burden that will result from the information collection request".

(b) Section 3507(b) of such title is amended by inserting ", including an explanation thereof," after "decisions" in the first sentence.

(c) Section 3507 of such title is further amended by adding at the end thereof the following new subsection:

"(h) Any written communication to the Administrator of the Office of Information and Regulatory Affairs or to any employee thereof from any person not employed by the Federal Government or from an agency concerning a proposed information collection request, and any written communication from the Administrator or employee of the Office to such person or agency concerning such proposal, shall be made available to the public. This subsection shall not require the disclosure of any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.".

FEDERAL INFORMATION LOCATOR SYSTEM

SEC. 818. Section 3511(a) of title 44, United States Code, is amended to read as follows:

"(a) There is established in the Office of Information and Regulatory Affairs a Federal Information Locator System (hereafter in this section referred to as the 'system') which shall be composed of a directory of information resources, a data element dictionary, and an information referral service. The system shall serve as the authoritative register of all information collection requests, and shall be designed so as to assist agencies and the public in locating existing Government information derived from information collection requests.".

RESPONSIVENESS TO CONGRESS

SEC. 819. Subsection (a) of section 3514 of title 44, United States Code, is amended—

(1) by striking out "and" after the semicolon in paragraph (7);

(2) by striking out the period at the end of paragraph (8)(C) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (8) the following new paragraph:

"(9)(A) a summary of accomplishments in the improvement of, and planned initiatives to improve, Federal information resources management within agencies;

"(B) a detailed statement with respect to each agency of new initiatives to acquire information technology to improve such management; and

"(C) an analysis of the extent to which the policies, principles, standards, and guidelines issued and maintained pursuant to paragraphs (5) and (6) of section 3505 of this title promote or deter such new initiatives; and

"(10) with respect to the statistical policy and coordination functions described in section 3504(d) of this title—

"(A) a description of the specific actions taken, or planned to be taken, to carry out each such function;

"(B) a description of the status of each major statistical program, including information on—

"(i) any improvements in each such program;

"(ii) any program which has been reduced or eliminated; and

"(iii) the budget for each such program for the previous fiscal year and the fiscal year in progress and the budget proposed for each such program for the next fiscal year; and

"(C) a description and summary of the long-range plans currently in effect for the major Federal statistical activities and programs.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 820. Section 3520 of title 44, United States Code, is amended to read as follows:

"§ 3520. Authorization of appropriations

"(a) Subject to subsection (b), there are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, $5,500,000 for each of the fiscal years 1987, 1988, and 1989.

"(b) No funds may be appropriated pursuant to subsection (a) unless such funds are appropriated in an appropriation Act (or continuing resolution) which separately and expressly states the amount appropriated pursuant to subsection (a) of this section. No funds are authorized to be appropriated to the Office of Information and Regulatory Affairs, or to any other officer or administrative unit of the Office of Management and Budget, to carry out the provisions of this chapter, or to carry out any function under this chapter, for any fiscal year pursuant to any provision of law other than subsection (a) of this section.

"(c) Funds appropriated pursuant to subsection (a) may not be used to carry out any function or activity which is not specifically authorized or required by this chapter, but funds so appropriated may be used for necessary expenses of a function or activity which is so authorized or required, such as hire of passenger motor vehicles and services authorized by section 3109 of title 5, United States Code. For the purposes of this subsection, the review of a rule or regulation is specifically authorized or required by this chapter only to the extent that such review is for the sole purpose of reviewing an information collection request contained in, or derived from, such rule or regulation.".

PART B—AMENDMENTS TO THE BROOKS ACT

INFORMATION TECHNOLOGY FUND

SEC. 821. (a)(1) Section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) is amended to read as follows:

"INFORMATION TECHNOLOGY FUND

"SEC. 110. (a)(1) There is established on the books of the Treasury and Information Technology Fund (hereinafter referred to as the 'Fund'), which shall be available without fiscal year limitation. There are authorized to be appropriated to the Fund such sums as may be required. For purposes of subsection (b), the Fund shall consist of—

"(A) the capital and assets of the Federal telecommunications fund established under this section (as in effect on December 31, 1986), which are in such fund on January 1, 1987;

"(B) the capital and assets which are in the automatic data processing fund established under section 111 of this Act (as in effect on December 31, 1986) which are in such fund on January 1, 1987; and

"(C) the supplies and equipment transferred to the Administrator under sections 111 and 205(f) of this Act, subject to any liabilities assumed with respect to such supplies and equipment.

"(2) The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall submit plans concerning such requirements and such other information as may be requested for the review and approval of the Director of the Office of Management and Budget. Any change to the cost and capital requirements of the Fund for a fiscal year shall be made in the same manner as provided by this section for the initial fiscal year determination. If approved by the Director, the Administrator shall establish rates to be charged agencies provided, or to be provided, information technology resources through the Fund consistent with such approvals. Such cost and capital requirements may include funds—

"(A) needed for the purchase (if the Administrator has determined that purchase is the least costly alternative of information processing and transmission equipment, software, systems, and operating facilities necessary for the provision of such services;

"(B) resulting from operations of the Fund, including the net proceeds of disposal of excess or surplus personal property and receipts from carriers and others for loss or damage to property; and

"(C) which are appropriated, authorized to be transferred, or otherwise made available to the Fund.

"(b) The Fund shall—

"(1) assume all of the liabilities, obligations, and commitments of the funds described in subparagraphs (A) and (B) of subsection (a)(1); and

"(2) be available for expenses, including personal services and other costs, and for procurement (by lease, purchase, transfer, or otherwise) for efficiently providing information technology resources to Federal agencies and for the efficient management, coordination, operation, and utilization of such resources.

"(c)(1) In the operation of the Fund, the Administrator is authorized to enter into multiyear contracts for the provision of information technology hardware, software, or services for periods not in excess of five years, if—

"(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and any costs of cancellation or termination;

"(B) such contract is awarded on a fully competitive basis; and

"(C) the Administrator determines that—

"(i) the need for the information technology hardware, software, or services being provided will continue over the period of the contract;

"(ii) the use of the multiyear contract will yield substantial cost savings when compared with other methods of providing the necessary resources; and

"(iii) such a method of contracting will not exclude small business participation.

"(2) Any cancellation costs incurred with respect to a contract entered into under this subsection shall be paid from currently available funds in the Fund.

"(3) This subsection shall not be construed to limit the authority of the Administrator to procure equipment and services under section 201 of this Act.

"(d) Following the close of each fiscal year, the uncommitted balance of any funds remaining in the Fund, after making provision for anticipated operating needs as determined by the Office of Management and Budget, shall be transferred to the general fund of the Treasury as miscellaneous receipts.

"(e) A report on the operation of the Fund shall be made annually by the Administrator to the Director of the Office of Management and Budget. Such report shall identify any proposed increases to the capital of the Fund and shall include a report on information processing equipment inventory, utilization, and acquisition.

"(f) For purposes of this section, the term 'information technology resources' includes

any service or equipment which had been acquired or provided under this section or section 111 of this Act, including other information processing and transmission equipment, software, systems, operating facilities, supplies, and services related thereto, and maintenance and repair thereof.".

(2) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by striking out the item pertaining to section 110 and inserting in lieu thereof the following:

"Sec. 110. Information Technology Fund.".

(b)(1) Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended—

(A) by striking out subsections (c) and (d); and

(B) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), and (g), respectively.

(2) Section 3504(g) of title 44, United States Code, is amended—

(A) by striking out "section 111(f)" in paragraph (1) and inserting in lieu thereof "section 111(d)"; and

(B) by striking out "section 111(g)" in paragraph (2) and inserting in lieu thereof "section 111(e)".

(3) Section 3(b) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3503 note) is amended by striking out "section 111" and inserting in lieu thereof "sections 110 and 111".

APPLICATION OF ACT

SEC. 822. (a) Section 111(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)) is amended—

(1) by inserting "(1)" after "SEC. 111. (a)"; and

(2) by adding at the end thereof the following:

"(2)(A) For purposes of this section, the term 'automatic data processing equipment' means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching interchange, transmission, or reception, of data or information—

"(i) by a Federal agency, or

"(ii) under a contract with a Federal agency which—

"(I) requires the use of such equipment, or

"(II) requires the performance of a service or the furnishing of a product which is performed or produced making significant use of such equipment.

"(B) Such term includes—

"(i) computers;

"(ii) ancillary equipment;

"(iii) software, firmware, and similar procedures;

"(iv) services, including support services; and

"(v) related resources as defined by regulations issued by the Administrator for General Services.

"(3) This section does not apply to—

"(A) automatic data processing equipment acquired by a Federal contractor which is incidental to the performance of a Federal contract;

"(B) radar, sonar, radio, or television equipment;

"(C) the procurement by the Department of Defense of automatic data processing equipment or services if the function, operation, or use of which—

"(i) involves intelligence activities;

"(ii) involves cryptologic activities related to national security;

"(iii) involves the command and control of military forces;

"(iv) involves equipment which is an integral part of a weapon or weapons system; or

"(v) is critical to the direct fulfillment of military or intelligence missions, provided that this exclusion shall not include automatic data processing equipment used for routine administrative and business applications such as payroll, finance, logistics, and personnel management; or

"(D) the procurement of automatic data processing equipment or services by the Central Intelligence Agency.".

(b) Section 111(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) If the Administrator finds that a senior official of an agency designated pursuant to section 3506(b) of title 44, United States Code, is sufficiently independent of program responsibility and has sufficient experience, resources, and ability to carry out fairly and effectively procurements under this section, the Administrator may delegate to such official the authority to lease, purchase, or maintain automatic data processing equipment pursuant to paragraph (2) of this subsection, except that any such delegation shall not relieve the Administrator of the responsibilities assigned to the Administrator under this section. A delegation by the Administrator under this subsection shall not preclude the Administrator from reviewing individual procurement requests if the Administrator determines that circumstances warrant such a review. The Administrator shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Administrator, any official to whom approval authority has been delegated under this subsection shall comply fully with the rules and regulations promulgated by the Administrator.".

REVIEW OF DELEGATION DETERMINATIONS

SEC. 823. Section 111(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(e)) (as redesignated by section 821(b)(1) of this Act) is amended—

(1) by striking out "specifically affecting them or the automatic data processing equipment or components used by them" and inserting in lieu thereof "whether or not the automatic data processing equipment will be provided by the Administrator or whether or not the authority to lease, purchase, or maintain the equipment will be delegated"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "If the Administrator denies an agency procurement request such denial shall be subject to review and decision by the Director of the Office of Management and Budget, unless the President otherwise directs. Such review and decision shall be made only on the basis of a written appeal, and such written appeal, together with any written communications to the Administrator or any officer or employee of the Office of Management and Budget concerning such denial shall be made available to the public.".

BOARD OF CONTRACT APPEALS PROCEEDINGS

SEC. 824. Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) (as redesignated by section 821(b)(1) of this Act) is amended—

(1) in the first sentence of paragraph (1) thereof, by striking out "in connection with any procurement conducted under the authority of this section" and inserting in lieu thereof "in connection with any procurement which is subject to this section";

(2) in such sentence, by striking out "conducted under delegations" and inserting in lieu thereof "subject to delegation"; and

(3) by inserting before the last sentence of such paragraph the following new sentences: "The authority of the board to conduct such review shall include the authority to determine whether any procurement is subject to this section and the authority to review regulations to determine their consistency with applicable statutes.

A proceeding, decision, or order of the board pursuant to this subsection shall not be subject to interlocutory appeal or review."; and

(4) in paragraph (5) thereof, by adding at the end of subparagraph (A) the following: "The board may consider any decision, determination, opinion, or statement made by the Director of the Office of Management and Budget or any officer of any other Federal agency regarding applicability of this section to a particular procurement, and may request the advice of the Director or such officer with regard to such applicability, but shall not be bound by any such decision, determination, opinion, or statement when determining whether a procurement is subject to this section.".

CONFORMING AMENDMENT

SEC. 825. Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is further amended by striking out "Bureau of the Budget" each place it appears and inserting in lieu thereof "Office of Management and Budget".

PART C—MISCELLANEOUS PROVISIONS

EXTENSION OF AUTHORITY OF GENERAL SERVICES BOARD OF CONTRACT APPEALS

SEC. 831. Section 2713 of the Deficit Reduction Act of 1984 (98 Stat. 1184) is amended by striking out subsection (b).

CLARIFICATION OF AUTHORITY OF GENERAL SERVICES ADMINISTRATOR

SEC. 832. Section 101 of Federal Property and Administrative Services Act of 1949 (40 U.S.C. 751) is amended by adding at the end thereof the following:

"(f) The Administrator shall have authority to prescribe regulations to carry out this Act.".

EFFECTIVE DATE

SEC. 833. This title and the amendments made by this title shall take effect on the date of enactment of this Act, except as provided in section 813(b) and except that the provisions of section 821 and the amendments made by such section shall take effect on January 1, 1987.

And the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: 1980, except that the amount necessary for continuing such activities at the current rate shall be reduced, on an activity-by-activity basis, by the total of amounts of prior appropriations remaining available to the States for conducting any such activities, other than education assistance for children and social services, in fiscal year 1987 or thereafter, and shall not be available for conducting any such activities other than education assistance for children and social services in any fiscal year after 1987; ; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *Activities authorized by the Follow Through Act;* ; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *Economic Development Administration, notwithstanding any other provision of this Joint Resolution, for additional amounts for "Economic development assistance programs", $1,000,000, to remain available until expended, for a grant to the City of Portland, Oregon, for preliminary engineering, design and other related activities associated with expansion of the Orgeon Museum of Science and Industry; and $1,000,000, to remain available until expended, for a grant to improve the existing County Road in Sumter County, Alabama, from the Mississippi State line to Alabama Highway #17 (also known as Scooba Road); and $7,500,000, to remain available until expended, for a grant to continue economic development facilities and related infrastructure activities of the Fort Worth Stockyards Project at full Federal expense: Provided, That in addition, the Secretary of the Army, acting through the Chief of Engineers, using any funds heretofore, herein, and hereafter available to the Corps of Engineers, is authorized and directed to develop at full Federal expense detailed plans and specifications and to construct measures in Tarrant County, Texas, to eliminate flood damage in the historical stockyards area along Tony's Creek and Marine Creek;* ; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the section number named in said amendment, insert: *110*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the first section number named in said amendment, insert: *111*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 112. Notwithstanding any other provision of law, none of the funds in this or any other Act shall be used by the Coast Guard to participate in any demonstration project or to implement in any way the extension of the navigation season on the Great Lakes or the St. Lawrence River without written notification to and prior approval of the House and Senate Committees on Appropriations: Provided, That nothing in this section shall preclude the Coast Guard from performing routine search and rescue operations.

And the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the section number named in said amendment, insert: *113*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: *114*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *145*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: *146*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 147. Section 61(a) of the Arms Export Control Act is amended by adding at the end thereof the following: "The President may waive the requirement of paragraph (3) with respect to a lease which is made in exchange with the lessee for a lease on substantially reciprocal terms of defense articles for the Department of Defense, except that this waiver authority—

"(A) may be exercised only if the President submits to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, in accordance with the regular notification procedures of those Committees, a detailed notification for each lease with respect to which the authority is exercised; and

"(B) may be exercised only during the fiscal year 1987 and only with respect to one country, unless the Congress hereafter provides otherwise.

The preceding sentence does not constitute authorization of appropriations for payments by the United States for leased articles.".

And the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *148*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 149. Notwithstanding any other provision of law or this joint resolution, assistance to Bolivia shall be provided in accordance with the provisions of the Anti-Drug Abuse Act of 1986, as passed by the Senate on September 30, 1986.

And the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: 150; and the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 151. (a) Notwithstanding any other provision of law, the Administrator of General Services is authorized during fiscal year 1987 to accept periodic reimbursement from the Senate and from the House of Representatives for the cost of any equipment purchased for the Senate or the House of Representatives, respectively, with funds from the General Supply Fund established under section 109 of the Federal Property and Administrative Services Act of 1949. The amount of each such periodic reimbursement shall be computed by amortizing the total cost of each item of equipment over the useful life of the equipment, as determined by the Administrator, in consultation with the Sergeant at Arms and Doorkeeper of the Senate or the Clerk of the House of Representatives, as appropriate.

(b) Subsection (a) applies to reimbursements to the General Supply Fund for any equipment purchased for the Senate or the House of Representatives before, on, or after the date of enactment of this section

And the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 152. Section 107D(c)(1)(E)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(E)(ii)) is amended by striking out "marketing year for such crop" and inserting in lieu thereof "first 5 months of the marketing year for the 1986 crop and the marketing year for each of the 1987 through 1990 crops".

And the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 153. (a) The Congress finds that the activities conducted under the authorities of the Foreign Assistance Act of 1961 have contributed greatly to the alleviation of human suffering and the promotion of economic development in the recipient countries. The Congress finds further that changing circumstances in the developing countries and changing availability of resources from the United States require that a comprehensive review of the activities under that Act be undertaken.

(b) It is, therefore, the sense of the Congress that the President should undertake a comprehensive review of the activities authorized by the Foreign Assistance Act of 1961 and should send to the Committees on Appropriations and to the Senate Foreign Relations Committee and the House Foreign Affairs Committee by February 1, 1987, his recommendations for amending the Act or otherwise modifying those activities.

And the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: *154*; and the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

TITLE II

OMNIBUS DRUG SUPPLEMENTAL APPROPRIATIONS ACT OF 1987

CHAPTER I

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and expenses, United States Attorneys", $31,000,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", $17,000,000.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States prisoners", $5,000,000.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forefeiture Act of 1984 and the Anti-Drug Abuse Act of 1986 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law, such sums as may be necessary to be derived from the Department of Justice Assets Forefeiture Fund.

FEDEREAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," $2,000,000.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," $60,000,000.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $28,000,000.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities", $96,500,000, to remain available until expended.

OFFICE OF JUSTICE PROGRAMS.

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance", $225,000,000, to remain available until expended, for grants for drug law enforcement programs, to be used only to carry out provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by H.R. 5484 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law: Provided, That $2,000,000 shall be available only to carry out a pilot prison capacity program.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $12,000,000, to carry out the provisions of the Drug and Alcohol Dependent Offenders Treatment Act of 1986 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law.

DEFENDER SERVICES

For an additional amount for "Defender services", $18,000,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of Jurors and commissioners", $7,500,000, to remain available until expended.

RELATED AGENCY

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,000,000, to be available only for drug edcation programs abroad.

CHAPTER II

FOREIGN ASSISTANCE

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

Education and Human Resources Development, Development Assistance:

For an additional amount to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, $3,000,000: Provided, That these funds shall be used pursuant to section 126(b)(2) of the Foreign Assistance Act of 1961 for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries: Provided further, That funds made available by this paragraph shall be available through the regular notification procedures of the Committee on Appropriations.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For an additional amount to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $53,000,000: Provided, That of this amount $45,000,000 shall be made available only in accordance with the provisions of section 2001(2) of H.R. 5484, as passed in the Senate on September 30, 1986: Provided further, That funds made available by this paragraph shall be available through the regular notification procedures of the Committees on Appropriations.

CHAPTER III

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", $1,000,000.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $10,000,000: Provided, That funds made available to tribes and tribal organizations through grants or contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988.

CONSTRUCTION

For an additional amount for "Construction", $12,500,000, to remain available until expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For an additional amount for "Indian health services", $16,200,000: Provided, That funds made available to tribes and tribal organizations through grants or contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988.

INDIAN HEALTH FACILITIES

For an additional amount for "Indian health facilities", $5,500,000, to remain available until expended.

CHAPTER IV

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

For an additional amount for the development of information on drug abuse in the workplace, $3,000,000 to remain available until September 30, 1988.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For an additional amount for substance abuse prevention and treatment activities as authorized by titles III, V and XIX of the Public Health Service Act, $262,000,000 to remain available until September 30, 1988.

DEPARTMENT OF EDUCATION

SPECIAL PROGRAMS

For an additional amount for carrying out drug abuse education and prevention activities, $200,000,000 to remain available until September 30, 1988, of which $5,500,000 shall be used for the development of audiovisual materials for distribution to local educational authorities.

RELATED AGENCY

ACTION

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities as authorized by the Domestic Volunteer Service Act of 1973, $3,000,000.

CHAPTER V

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $39,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, construction, and improvements", $89,000,000, to remain available until September 30, 1991.

CHAPTER VI

DEPARTMENT OF TREASURY

U.S. CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $44,120,000.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for "Operation and Maintenance, Air Interdiction Program", $93,131,000, of which up to $10,000,000 is available for the U.S.—Bahamas Task Force; $25,000,000 is available for establishment of command, control, communications, and intelligence (C-31) centers under the exclusive control of the U.S. Customs Service; and $9,131,000 for additional modification of Customs P-3 aircraft with 360 degree radar, such sums to remain available until expended.

CUSTOMS FORFEITURE FUND

For an additional amount for the "Customs Forfeiture Fund", $10,000,000, to be derived from deposits in the Fund

UNITED STATES SECRET SERVICE
SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,000,000.

PAYMENT TO THE GOVERNMENT OF PUERTO RICO

For payment of a grant to the government of Puerto Rico, $7,800,000, to remain available until expended.

EXECUTIVE OFFICE OF THE PRESIDENT

WHITE HOUSE CONFERENCE ON DRUG ABUSE AND CONTROL

SALARIES AND EXPENSES

For necessary expenses of the White House Conference on Drug Abuse and Control, $5,000,000.

CHAPTER VII

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $15,000,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $12,615,000.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $18,000,000.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $183,000,000.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $71,385,000.

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, all purchases, leases, or other uses of military type equipment acquired from appropriations provided in this chapter shall be procured under existing procedures established by the Department of Defense.

This title may be cited as the "Omnibus Drug Supplemental Appropriations Act of 1987".

And the Senate agree to the same.

Amendment numbered 120:

That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

TITLE III

SCHOOL LUNCH AND CHILD NUTRITION AMENDMENTS

SEC. 301. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "School Lunch and Child Nutrition Amendments of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 301. Short title; table of contents.
Subtitle A—Reauthorization of Child Nutrition Programs
Sec. 311. Summer food service program for children.
Sec. 312. Commodity distribution program.
Sec. 313. State administrative expenses.
Sec. 314. Special supplemental food program for women, infants, and children.
Sec. 315. Nutrition education and training program.
Subtitle B—School Lunch and Breakfast Programs
Sec. 321. Basis of commodity assistance.
Sec. 322. Inclusion of whole milk as a school lunch beverage.
Sec. 323. Automatic eligibility for certain programs.
Sec. 324. Limitation on meal contracting.
Sec. 325. Change in tuition limitation for private schools.
Sec. 326. Use of school lunch facilities for elderly programs.
Sec. 327. Pilot projects for administration of child nutrition programs by contract or direct disbursement.
Sec. 328. Department of Defense overseas dependents' schools.
Sec. 329. Restoration of certain kindergartens to the special milk program.
Sec. 330. Improvement of breakfast program meal pattern.
Sec. 331. Extension of offer versus serve provision to the school breakfast program.
Sec. 332. Staffing standards.
Subtitle C—Special Supplemental Food Program for Women, Infants, and Children
Sec. 341. Costs for nutrition services and administration.
Sec. 342. State eligibility for WIC funds.
Sec. 343. Participation report.
Sec. 344. Plan of operation and administration.
Sec. 345. Public comment.
Sec. 346. Availability of program benefits.
Sec. 347. Repayment of certain benefits by recipients.
Sec. 348. Priority funds for WIC migrant programs.
Sec. 349. Improving State agency administrative systems.
Sec. 350. Paperwork reduction.
Sec. 351. Allocation standards.
Sec. 352. Advance payments.
Sec. 353. Availability of funds.
Subtitle D—Other Nutrition Programs
Sec. 361. Hearings on Federal audit actions under the child care food program.
Sec. 362. Basis for nutrition education grants.
Sec. 363. Extension of alternative means of assistance.
Sec. 364. National donated commodity processing programs.
Subtitle E—Technical Corrections
Sec. 371. Obsolete provisions.
Sec. 372. Obsolete references to Health, Education, and Welfare.
Sec. 373. Conforming amendments.
Subtitle F—Sale of Agricultural Notes and Other Obligations
Sec. 381. Sale of agricultural notes and other obligations.

Subtitle A—Reauthorization of Child Nutrition Programs

SEC. 311. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

Section 13(p) of the National School Lunch Act (42 U.S.C. 1761(p)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 312. COMMODITY DISTRIBUTION PROGRAM.

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 313. STATE ADMINISTRATIVE EXPENSES.

Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(i)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 314. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (c)(2), by striking out "Subject to" and all that follows through "1984" and inserting in lieu thereof "Subject to amounts appropriated to carry out this section under subsection (g)";

(2) in subsection (g)—

(A) by designating the first and second sentences as paragraphs (1) and (3), respectively; and

(B) by amending paragraph (1) (as so designated) to read as follows:

"(1) There are authorized to be appropriated to carry out this section $1,580,494,000 for the fiscal year ending September 30, 1986, such sums as may be necessary for each of the fiscal years ending September 30, 1987, and September 30, 1988, and $1,782,000,000 for the fiscal year ending September 30, 1989."; and

(3) in subsection (h)(2), by striking out "1984" and inserting in lieu thereof "1989".

SEC. 315. NUTRITION EDUCATION AND TRAINING PROGRAM.

The first sentence of section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "1984" and inserting in lieu thereof "1989".

Subtitle B—School Lunch and Breakfast Programs

SEC. 321. BASIS OF COMMODITY ASSISTANCE.

Section 6(b) of the National School Lunch Act (42 U.S.C. 1755(b)) is amended—

(1) in the first sentence, by striking out "May 15" and inserting in lieu thereof "June 1"; and

(2) in the second sentence, by striking out "June 15" and inserting in lieu thereof "July 1".

SEC. 322. INCLUSION OF WHOLE MILK AS A SCHOOL LUNCH BEVERAGE.

Effective July 1, 1986, section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively; and

(2) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) In addition to such other forms of milk as the Secretary may determine, the lunches shall offer whole milk as a beverage.".

SEC. 323. AUTOMATIC ELIGIBILITY FOR CERTAIN PROGRAMS.

Effective July 1, 1986, section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) A child shall be considered automatically eligible for a free lunch and break-

fast under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is a member of—

"(i) a household receiving assistance under the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(ii) an AFDC assistance unit (under the aid to families with dependent children program authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)), in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(B) Proof of receipt of food stamps or aid to families with dependent children shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).".

SEC. 324. LIMITATION ON MEAL CONTRACTING.

Effective July 1, 1986, section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end thereof the following new subsection:

"(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced-price, and full-price reimbursable meals to all eligible children.".

SEC. 325. CHANGE IN TUITION LIMITATION FOR PRIVATE SCHOOLS.

(a) SCHOOL LUNCH PROGRAMS.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended in the first sentence by striking "except private schools whose average yearly tuition exceeds $1,500 per child,".

(b) SCHOOL BREAKFAST PROGRAMS.—Section 15(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1784(c)) is amended in subparagraph (A) of the first sentence by striking "except private schools whose average yearly tuition exceeds $1,500 per child,".

(c) The amendments made by this section shall take effect July 1, 1987.

SEC. 326. USE OF SCHOOL LUNCH FACILITIES FOR ELDERLY PROGRAMS.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end thereof the following new subsection:

"(i) Facilities, equipment, and personnel provided to a school food authority for a program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).".

SEC. 327. PILOT PROJECTS FOR ADMINISTRATION OF CHILD NUTRITION PROGRAMS BY CONTRACT OR DIRECT DISBURSEMENT.

(a) PILOT PROJECTS.—Section 20 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) The Secretary may conduct pilot projects in not more than three States in which the Secretary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for schools, institutions, or service institutions referred to in section 10 of this Act and section 5 of the Child Nutrition Act of 1966 (42 U.S.C. 1774).".

(b) CONFORMING AMENDMENT.—The first sentence of section 20(c) of the National School Lunch Act is amended by striking out "except for the pilot projects conducted under subsection (d) of this section,".

SEC. 328. DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS.

(a) SCHOOL LUNCHES.—Section 22(d) of the National School Lunch Act (42 U.S.C. 1769b(d)) (as added by section 1408(a) of the Education Amendments of 1978 (92 Stat. 2368)) is amended by striking out "and for" and all that follows through "reduced-price lunch".

(b) SCHOOL BREAKFASTS.—Section 20(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1789) is amended by striking out "and for" and all that follows through "reduced-price breakfast".

SEC. 329. RESTORATION OF CERTAIN KINDERGARTENS TO THE SPECIAL MILK PROGRAM.

Effective July 1, 1987, section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" after the subsection designation;

(B) by redesignating clauses (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) in subparagraph (A) (as so redesignated), by inserting "except as provided in paragraph (2)," after "and under,";

(2) by designating the second through eighth sentences as paragraphs (3) through (9), respectively; and

(3) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.).".

SEC. 330. IMPROVEMENT OF BREAKFAST PROGRAM MEAL PATTERN.

(a) ADDITIONAL ASSISTANCE.—Effective July 1, 1987, section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall increase by 3 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act (42 U.S.C. 1766). These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.

"(4) Notwithstanding any other provision of law, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in value to not less than 3 cents for each breakfast served under this Act and section 17 of the National School Lunch Act.

"(5) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of funds or commodities received under paragraph (3) or (4).".

(b) NUTRITION REQUIREMENTS.—(1) The Secretary of Agriculture shall review and revise the nutrition requirements for meals served under the breakfast program authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and section 17 of the National School Lunch Act (42 U.S.C. 1766) to improve the nutritional quality of the meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local food authorities.

(2) Not later than 180 days after the date of enactment of this title, the Secretary of Agriculture shall promulgate regulations to implement the revisions.

SEC. 331. EXTENSION OF OFFER VERSUS SERVE PROVISION TO THE SCHOOL BREAKFAST PROGRAM.

Section 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the full charge to the student for a breakfast meeting the requirements of this section or the amount of payments made under this Act to a school for the breakfast.".

SEC. 332. STAFFING STANDARDS.

Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) (as amended by section 313) is further amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c) through (i) as subsections (b) through (h), respectively.

Subtitle C—Special Supplemental Food Program for Women, Infants, and Children

SEC. 341. COSTS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) DEFINITIONS.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively; and

(3) by inserting after paragraph (3) (as so redesignated) the following new paragraph:

"(4) 'Costs for nutrition services and administration' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.".

(b) CONFORMING AMENDMENTS.—Section 17 of such Act is amended—

(1) by striking out "administrative funds" each place it appears in subsections (f)(11), (h)(2), (h)(3), and (h)(4) and inserting in lieu thereof "funds for nutrition services and administration"; and

(2) by striking out "administrative costs" each place it appears in subsection (h) and inserting in lieu thereof "costs for nutrition services and administration".

SEC. 342. STATE ELIGIBILITY FOR WIC FUNDS.

(a) ELIGIBILITY.—Section 17(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)) is amended by adding at the end thereof the following new paragraph:

"(4) A State shall be ineligible to participate in programs authorized under this section if the Secretary determines that State or local sales taxes are collected within the State on purchases of food made to carry out this section.".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a State beginning with the fiscal year that commences after the end of the first regular session of the State legislature following the date of the enactment of this title.

SEC. 343. PARTICIPATION REPORT.

(a) BIENNIAL REPORT.—Section 17(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary shall report biennially to Congress on—

"(A) the income and nutritional risk characteristics of participants in the program;

"(B) participation in the program by members of families of migrant farmworkers; and

"(C) such other matters relating to participation in the program as the Secretary considers appropriate.".

(b) USE OF EVALUATION FUNDS FOR REPORT.—Section 17(g)(3) of such Act (as amended by section 314(2)(A)) is further amended by inserting "preparing the report required under subsection (d)(4)," after "health benefits,".

SEC. 344. PLAN OF OPERATION AND ADMINISTRATION.

(a) PLAN.—Paragraph (1) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended to read as follows:

"(1)(A) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for a fiscal year.

"(B) To be eligible to receive funds under this section for a fiscal year, a State agency must receive the approval of the Secretary for the plan submitted for the fiscal year.

"(C) The plan shall include—

"(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program, to be administered in accordance with standards developed by the Secretary;

"(ii) a description of the financial management system of the State agency;

"(iii) a plan to coordinate operations under the program with special counseling services, such as the expanded food and nutrition education program, immunization programs, prenatal care, well-child care, family planning, alcohol and drug abuse counseling, child abuse counseling, and with the aid to families with dependent children, food stamp, and maternal and child health care programs;

"(iv) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants and Indians;

"(v) a plan to expend funds to carry out the program during the relevant fiscal year;

"(vi) a plan to provide program benefits under this section to unserved and underserved areas in the State, if sufficient funds are available to carry out this clause;

"(vii) a plan to provide program benefits under this section to eligible persons most in need of the benefits and to enroll eligible women in the early months of pregnancy, to the maximum extent practicable; and

"(viii) such other information as the Secretary may require.

"(D) The Secretary may permit a State agency to submit only those parts of a plan that differ from plans submitted for previous fiscal years.

"(E) The Secretary may not approve any plan that permits a person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program authorized under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a plan submitted by a State agency under section 17(f)(1) of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1987, and each fiscal year thereafter.

SEC. 345. PUBLIC COMMENT.

Paragraph (2) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(2)) is amended to read as follows:

"(2) A State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.".

SEC. 346. AVAILABILITY OF PROGRAM BENEFITS.

Paragraph (8) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(8)) is amended to read as follows:

"(8)(A) The State agency shall, in cooperation with participating local agencies, publicly announce and distribute information on the availability of program benefits (including the eligibility criteria for participation and the location of local agencies operating the program) to offices and organizations that deal with significant numbers of potentially eligible persons (including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas).

"(B) The information shall be publicly announced by the State agency and by local agencies at least annually.

"(C) The State agency and local agencies shall distribute the information in a manner designed to provide the information to potentially eligible persons who are most in need of the benefits, including pregnant women in the early months of pregnancy.".

SEC. 347. REPAYMENT OF CERTAIN BENEFITS BY RECIPIENTS.

Effective October 1, 1986, section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(15) If a State agency determines that a member of a family has received an overissuance of food benefits under the program authorized by this section as the result of such member intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such member an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective.".

SEC. 348. PRIORITY FUNDS FOR WIC MIGRANT PROGRAMS.

(a) PRIORITY FUNDING.—Effective October 1, 1986, section 17(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)) (as amended by section 314(2)(A)) is further amended by inserting after paragraph (1) the following new paragraph:

"(2) Of the sums appropriated for any fiscal year for programs authorized under this section, not less than nine-tenths of 1 percent shall be available first for services to eligible members of migrant populations. The migrant services shall be provided in a manner consistent with the priority system of a State for program participation.".

(b) ACCOUNTABILITY.—To the extent possible, accountability for migrant services under section 17(g)(2) of the Child Nutrition Act of 1966 (as added by subsection (a)) shall be conducted under regulations in effect on the date of the enactment of this Act.

SEC. 349. IMPROVING STATE AGENCY ADMINISTRATIVE SYSTEMS.

Section 17(g)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(3)) (as amended by sections 314(2)(A) and 343(b)) is further amended by inserting "providing technical assistance to improve State agency administrative systems," after "subsection (d)(4),".

SEC. 350. PAPERWORK REDUCTION.

Section 17(h)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(1)) is amended by adding at the end thereof the following new sentence: "The Secretary shall limit to a minimal level any documentation required under the preceding sentence.".

SEC. 351. ALLOCATION STANDARDS.

Section 17(h)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(3)) is amended—

(1) in the second sentence, by striking out ", which satisfy allocation guidelines established by the Secretary"; and

(2) by striking out the last sentence.

SEC. 352. ADVANCE PAYMENTS.

Effective October 1, 1986, section 17(h)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(4)) is amended by striking out "shall" and inserting in lieu thereof "may".

SEC. 353. AVAILABILITY OF FUNDS.

(a) AVAILABILITY.—Section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)) is amended—

(1) by designating the first, second, third, fourth, and fifth sentences as paragraphs (1), (2), (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3)(A) Notwithstanding paragraph (2)—

"(i) not more than 1 percent of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for expenses incurred under this section for supplemental foods during the preceding fiscal year; or

"(ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year.

"(B) Any funds made available to a State agency in accordance with subparagraph (A)(ii) for a fiscal year shall not affect the amount of funds allocated to the State agency for such year.".

(b) APPLICATION.—Section 17(i)(3)(A)(i) of the Child Nutrition Act of 1966 (as amended by subsection (a)) shall not apply to appropriations made before the date of enactment of this title.

Subtitle D—Other Nutrition Programs

SEC. 361. HEARINGS ON FEDERAL AUDIT ACTIONS UNDER THE CHILD CARE FOOD PROGRAM.

Section 17(e) of the National School Lunch Act (42 U.S.C. 1766(e)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

"(3) If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.".

SEC. 362. BASIS FOR NUTRITION EDUCATION GRANTS.

Section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "$75,000" each place it appears and inserting in lieu thereof "$50,000".

SEC. 363. EXTENSION OF ALTERNATIVE MEANS OF ASSISTANCE.

Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end thereof the following new subsection:

"(g)(1) As used in this subsection, the term 'eligible school district' has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

"(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

"(3)(A) On request of a participating school district (and after consultation with the Comptroller General of the United States with respect to accounting procedures used to determine any losses) and subject to the availability of funds, the Secretary shall provide cash compensation to an eligible school district for losses sustained by the district as a result of the alteration of the methodology used to conduct the study referred to in section 1581(a) of such Act during the school year ending June 30, 1983.

"(B) There are authorized to be appropriated $50,000 to carry out this paragraph, to be available without fiscal year limitation.".

SEC. 364. NATIONAL DONATED COMMODITY PROCESSING PROGRAMS.

In accordance with the terms and conditions of section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)), whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of the commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies.

Subtitle E—Technical Corrections

SEC. 371. OBSOLETE PROVISIONS.

(a) NUTRITION PROGRAM STAFF STUDY; TRUST TERRITORY APPROPRIATIONS.—(1) Sections 18 and 19 of the National School Lunch Act (42 U.S.C. 1767 and 1768) are repealed.

(2) The first sentence of section 3 of such Act (42 U.S.C. 1752) is amended by striking out "sections 13, 17, and 19" and inserting in lieu thereof "sections 13 and 17".

(b) STUDY OF MENU CHOICE.—Section 22 of such Act (42 U.S.C. 1769c) (as added by section 9 of the Child Nutrition Amendments of 1978 (92 Stat. 3623)) is repealed.

(c) CONFORMING AMENDMENTS.—(1) The National School Lunch Act (as amended by sections 327 and 328(a) and subsection (b)) is further amended by redesignating sections 20, 21, and 22 (42 U.S.C. 1769, 1769a, and 1769b) as sections 18, 19, and 20, respectively.

(2) Clause (3) of the first sentence of section 6(a) of such Act (42 U.S.C. 1755(a)) is amended by striking out "section 20" and inserting in lieu thereof "section 18".

SEC. 372. OBSOLETE REFERENCES TO HEALTH, EDUCATION, AND WELFARE.

(a) REFERENCES IN NATIONAL SCHOOL LUNCH ACT.—Clause (1) of the sixth sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) REFERENCES IN CHILD NUTRITION ACT OF 1966.—(1) The Child Nutrition Act of 1966 is amended by striking out "Health, Education, and Welfare" each place it appears in section 4(a) (42 U.S.C. 1773(a)), subsections (b)(6), (b)(13), (e)(2), (k)(1), and (k)(2) of section 17 (42 U.S.C. 1786), and subsections (d)(2) and (d)(3) of section 19 (42 U.S.C. 1788) and inserting in lieu thereof "Health and Human Services".

(2) Section 19(j)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(3)) is amended by striking out "Office of Education of the Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".

SEC. 373. CONFORMING AMENDMENTS.

(a) DEFINITION OF SECRETARY.—Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)) is amended by adding at the end thereof the following new paragraph:

"(8) 'Secretary' means the Secretary of Agriculture.".

(b) REDESIGNATION OF SUBSECTION.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) (as amended by sections 315, 362, and 372(b)(2)) is further amended by redesignating subsection (j) as subsection (i).

Subtitle F—Sale of Agricultural Notes and Other Obligations

SEC. 381. SALE OF AGRICULTURAL NOTES AND OTHER OBLIGATIONS.

(a) IN GENERAL.—The Secretary of Agriculture shall, under such terms as the Secretary may prescribe, sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) in such amounts as to realize net proceeds of not less than—

(1) $25,000,000 from such sales during fiscal year 1987;

(2) $36,000,000 from such sales during fiscal year 1988; and

(3) $37,000,000 from such sales during fiscal year 1989.

(b) COLLECTION AND SALE OF NOTES.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended—

(1) by inserting "and other obligations" after "Notes"; and

(2) by striking out the period at the end thereof and inserting the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes and other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

(c) FARM CREDIT SYSTEM INSTITUTIONS.—Notwithstanding any other provision of law, institutions of the Farm Credit System operating under the Farm Credit Act of 1971 (12 U.S.C. 2001) shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institutions' interests in such notes and other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and such purchasing institutions and as are approved by the Farm Credit Administration.

And the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

TITLE V—AVIATION SAFETY

SHORT TITLE

SEC. 501. This title may be cited as the "Aviation Safety Commission Act of 1986".

COMMISSION ESTABLISHED

SEC. 502. (a) There is established a commission to be known as the Aviation Safety Commission (hereinafter referred to as the "Commission").

(b)(1) The Commission shall be composed of seven members appointed by the President no later than 30 days after the date of enactment of this Act.

(2) Appointees to the Commission shall possess extensive experience and expertise at the highest executive levels of public or corporate management.

(3) No member of the Commission shall, at the time of such member's appointment, be an employee or officer of the Federal Government, nor shall any member have been an employee of the Federal Government for at least 3 years before such member's appointment to the Commission.

(4)(A) At least four members of the Commission, including the Chairman, shall not have performed any service or have been involved in any way in any business concern in air commerce or any aviation-related industry for at least 3 years before their appointment to the Commission.

(B) For the purposes of this paragraph, the term "air commerce" has the meaning given to such term in section 101(4) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(4)).

(c) The President shall appoint one of the members to serve as Chairman of the Commission.

(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f)(1) The Commission shall hold its first meeting within 30 days after the appointment of all members.

(2) The Commission shall meet at the call of the Chairman or a majority of the members.

(g) Members of the Commission shall serve until the expiration of the Commission.

(h) The Commission shall cease to exist 18 months after the date of enactment of this Act.

FUNCTIONS OF THE COMMISSION

SEC. 503. The Commission shall make a complete study of the organization and functions of the Federal Aviation Administration (hereinafter referred to as the "Ad-

ministration") and the means by which the Administration may most efficiently and effectively perform the responsibilities assigned to it by law and increase aviation safety.

(a)(1) In conducting such study, the Commission shall consider whether—

(A) the dual responsibilities of the Administration of promoting commercial aviation and ensuring aviation safety are in conflict, and whether such conflict impedes the effective maintenance and enhancement of aviation safety;

(B) the Administration should be reorganized as an independent Federal agency with the promotion, maintenance, and enhancement of aviation safety as the sole responsibility of such agency;

(C) the promotion of commercial aviation should be assigned as a responsibility to another agency of the Federal Government;

(D) airline deregulation has an adverse effect on the margin of aviation safety, including a review of whether the practice of airline self-compliance with respect to aviation maintenance standards is an outmoded approach in an environment designed to maximize cost-savings;

(E) it is feasible to make mandatory certain or all of the safety recommendations issued by the National Transportation Safety Board; and

(F) the Administration has adequately used its resources to ensure aviation safety.

(2) The study conducted under this subsection shall include findings and recommendations, including any recommendations for legislative action, regarding—

(A) the most appropriate and effective organizational approach to ensuring aviation safety; and

(B) measures to improve the enforcement of Federal regulations relating to aviation safety.

(3) In conducting such study, the Commission shall consult with the National Transportation Safety Board and a broad spectrum of representatives of the aviation industry, including—

(A) air traffic controllers;

(B) representatives of the commercial aviation industry;

(C) representatives of airways facilities technicians;

(D) independent experts on aviation safety;

(E) former Administrators of the Administration; and

(F) representatives of civil aviation.

(4) Within 9 months after the date of enactment of this Act, the Commission shall submit a report on the study conducted pursuant to this subsection to the President and to each House of Congress. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative and administrative actions.

(b) The Commission shall also make a complete investigation of management and employee relationships within the Administration, particularly the air traffic control system, and recommend actions for improvements.

(1) In conducting such investigation, the Commission shall:

(A) consider the findings and recommendations of the March 17, 1982, report of the "Task Force for the Study of Management-Employee Relationships in the FAA" (Jones Report) and document the progress made in implementing the recommendations of that report;

(B) assess the safety impact of rehiring former air traffic controllers who were dismissed as a result of the 1981 air traffic controller strike;

(C) assess the adequacy of the Administration's air traffic controller staffing standards, especially as they relate to the number of "full performance level" controllers, and review the Administration's experience in meeting those standards in each year since 1981; and

(D) formulate cost-effective recommendations to improve aviation safety based on the findings and conclusions of its investigation.

(2) Within 18 months after the date of enactment of this Act, the Commission shall submit a report on the investigation conducted pursuant to this subsection to the President and to each House of Congress. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative and administrative actions.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 504. (a) The Commission may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and publish such reports as the Commission considers appropriate.

(b)(1) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 of such title relating to classification or chapter 53 of such title relating to General Schedule pay rates, may—

(A) appoint and fix the compensation of such staff personnel as the Chairman considers necessary, including an executive director who may be compensated at a rate not in excess of that provided for level V of the Executive Schedule in title 5, United States Code; and

(B) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(2) Any person appointed as executive director pursuant to paragraph (1)(A) of this subsection shall meet the same qualifications required of members pursuant to section 502(b) of this Act.

(c) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the Commission, upon request made by the Chairman, such information as the Commission considers necessary to carry out its functions.

(d) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(e) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) The Commission may use the United States mail in the same manner and under the same conditions as departments and agencies of the United States.

(g) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission may take under this section.

COMPENSATION OF MEMBERS

SEC. 505. Members of the Commission shall serve without compensation, but shall be reimbursed for travel or transportation expenses under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business and engaged in the actual performance of duties of the Commission.

AUTHORIZATION

SEC. 506. There is hereby authorized to be appropriated such sums as may be necessary in fiscal years 1987 and 1988 to carry out the provisions of this Act.

APPROPRIATIONS

SEC. 507. There is hereby appropriated for fiscal year 1987, $2,000,000 to carry out the provisions of this Act, to remain available until expended.

And the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 19, 23, 59, 60, 117, and 124.

For the entire resolution and Senate amendments:

JAMIE L. WHITTEN,
(Except for amendment No. 19)
EDWARD. P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVE OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
BILL CHAPPELL,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W.G. HEFNER,
SILVIO O. CONTE,
JOSEPH M. MCDADE,
JOHN T. MYERS,
CLARENCE E. MILLER,
LARRY COUGHLIN,
C.W. BILL YOUNG,
(Except for secs. 1101–1109 of Defense Title)
JACK KEMP,
(Except for amendment Nos. 3 and 6),
RALPH REGULA,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on Agriculture, Rural Development, and Related Agencies, and modifications committed to conference:

BOB TRAXLER,
MATTHEW F. MCHUGH,
DANIEL K. AKAKA,
WESLEY W. WATKINS,
RICHARD J. DURBIN,
VIRGINIA SMITH,
HAROLD ROGERS,
JOE SKEEN,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, and modifications committed to conference:

BILL ALEXANDER,
JOSEPH D. EARLY,
BERNARD J. DWYER,
BOB CARR,
ALAN B. MOLLOHAN,
HAROLD ROGERS,
ROBERT H. MICHEL,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on the Department of Defense, and modifications committed to conference:

JOHN P. MURTHA,
NORMAN D. DICKS,
CHARLES WILSON,

LES AUCOIN,
MARTIN O. SABO,
CLARENCE E. MILLER,
ROBERT L. LIVINGSTON,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on the District of Columbia, and modifications committed to conference:

LOUIS STOKES,
CHARLES WILSON,
MARTIN O. SABO,
STENY H. HOYER,
BILL GREEN,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on Energy and Water Development, and modifications committed to conference:

LINDY (MRS. HALE) BOGGS,
WESLEY W. WATKINS,
BILL BONER,
VIRGINIA SMITH,
ELDON RUDD,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on Foreign Operations, and modifications committed to conference:

MATTHEW F. MCHUGH,
CHARLES WILSON,
WILLIAM H. GRAY III,
ROBERT J. MRAZEK,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on the Development of Housing and Urban Development-Independent Agencies, and modifications committed to conference:

BOB TRAXLER,
LOUIS STOKES,
LINDY (MRS. HALE) BOGGS
BILL BONER,
ALAN B. MOLLOHAN,
BILL GREEN,
JERRY LEWIS,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on the Department of the Interior and Related Agencies, and modifications committed to conference:

JOHN P. MURTHA,
NORMAN D. DICKS,
LES AUCOIN,

Solely for consideration of Senate amendments under the jurisdiction of the Subcommittee on Military Construction, and modifications committed to conference:

BILL ALEXANDER,
RONALD COLEMAN,
JOSEPH D. EARLY,
NORMAN D. DICKS,
MICKEY EDWARDS,
TOM DOEFFLER,
ELDON RUDD,
BILL LOWERY,

Solely for consideration of Senate amendments under the jurisdiction of the Subcommittee on the Department of Transportation and Related Agencies, and modifications committed to conference:

WILLIAM H. GRAY III,
BOB CARR,
RICHARD J. DURBIN,
ROBERT J. MRAZEK,
MARTIN O. SABO,
CARL D PURSELL,
FRANK R. WOLF,

Solely for consideration of Senate amendments under the jurisdiction of the Subcommittee on Treasury, Postal Service, and General Government, and modifications committed to conference:

DANIEL K. AKAKA,
STENY H. HOYER,
RONALD COLEMAN,
JOE SKEEN,
BILL LOWERY,
FRANK R. WOLF,

Managers on the Part of the House.

MARK O. HATFIELD,
LOWELL P. WEICKER,
JAMES A. MCCLURE,
PAUL LAXALT,
JAKE GARN,
THAD COCHRAN,
MARK ANDREWS,
JAMES ABDNOR,
BOB KASTEN,
ALFONSE D'AMATO,
MACK MATTINGLY,
WARREN RUDMAN,
JOHN C. STENNIS,
ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
LAWTON CHILES,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
JIM SASSER,
DENNIS DECONCINI,
FRANK R. LAUTENBERG,
TOM HARKIN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 738) making continuing appropriations for the fiscal year 1987, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT

Amendment No. 1: Section 101(a) of House Joint Resolution 738 provides appropriations for programs, projects and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987. The House version of the joint resolution provides appropriations for programs, projects and activities at a rate of operations and to the extent and in the manner provided for in H.R. 5177 as passed by the House of Representatives on July 24, 1986. The Senate version of the joint resolution provides appropriations for these programs, projects and activities at the rate and in the manner provided for in H.R. 5177 as reported to the Senate on September 11, 1986, with certain additional provisions and exceptions provided for in the joint resolution.

The conference agreement on House Joint Resolution 738 incorporates some of the provisions of both the House and Senate versions of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-686 and Senate Report 99-438 should be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. The Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, put in place by this joint resolution incorporates the following agreements of the managers:

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

The conference agreement appropriates $1,623,000 for the Office of the Secretary instead of $1,648,000 as proposed by the House and $1,598,000 as proposed by the Senate.

ADVISORY COMMITTEES

The conference agreement appropriates $1,308,000 for advisory committees as proposed by the Senate instead of $1,358,000 as proposed by the House.

DEPARTMENTAL ADMINISTRATION

The conference agreement earmarks $17,616,000 for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer as proposed by the Senate instead of $17,569,000 as proposed by the House. This increases funds earmarked for the Office of Administrative Law Judges by $47,000 over the House amount.

The conference agreement appropriates $21,227,000 for Departmental Administration as proposed by the Senate instead of $21,180,000 as proposed by the House.

OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS

The conference agreement appropriates $7,293,000 for public affairs activities as proposed by the House instead of $7,365,000 as proposed by the Senate.

The conference agreement appropriates $465,000 for legislative liaison as proposed by the House instead of $471,000 as proposed by the Senate.

The conference agreement appropriates $440,000 for intergovernmental affairs as proposed by the House instead of $444,000 as proposed by the Senate.

OFFICE OF THE GENERAL COUNSEL

The conference agreement provides $17,131,000 for the Office of the General Counsel instead of $16,832,000 as proposed by the House and $17,430,000 as proposed by the Senate.

NATIONAL AGRICULTURAL STATISTICS SERVICE

The conference agreement provides for changing the name from the Statistical Reporting Service to the National Agricultural Statistics Service as proposed by the Senate. The House bill contained a provision, which has been in every appropriations bill since 1941, that prohibits publishing estimates of apple production for other than the commercial crop. The Senate amendment deleted the House language. The conference agreement retains the House language but makes it permanent law.

AGRICULTURAL RESEARCH SERVICE

The conference agreement appropriates $499,664,000 for the Agricultural Research Service instead of $498,748,000 as proposed by the House and $498,175,000 as proposed by the Senate. The conference agreement includes the following increases above the budget request for human nutrition research programs:

Tufts University	$1,000,000
Children's Nutrition Research Center	1,000,000
North Dakota Center	250,000

Beltsville Center	250,000
Western Research Center	500,000

The conferees are aware that the facilities at the Human Nutrition Research Centers could be of use in supporting programs for graduate students in nutrition and health sciences. Therefore, the conferees will expect the Department to allow conference rooms and other facilities to be used for programs for graduate students so long as such use is compatible with ARS objectives and does not interfere with the Centers' ongoing research program.

The conference agreement restores the following increases above the budget request which were proposed by the House and stricken by the Senate:

Dioxin contamination in the Great Lakes	$190,000
Fish hatchery at Tishomingo, Oklahoma	100,000
Wheat research in Michigan	69,000
Agricultural Research and Development Consortium (Illinois)	2,000,000

The conference agreement deletes a Senate increase of $1,870,000 proposed for agricultural research.

The conference agreement also includes the following increases above the budget request for research as proposed by the Senate:

Dairy forage research at Madison, WI	$142,000
Forage seed research at Corvallis, OR	300,000
Appalachian fruit research at Kearneysville, WV	138,000
Appalachian soil and water research at Beckley, WV	89,000
Fruit research at Wenatchee, WA	97,000
Sheep research at Dubois, ID	150,000

The conference agreement deletes language proposed by the House providing for coordination of and program leadership for higher education and transfers this responsibility to the Cooperative State Research Service as proposed by the Senate. The conference agreement continues language which was previously included in the fiscal year 1986 bill to allow the Department to purchase a one-year option on land at Florence, South Carolina.

The conference agreement includes modified Senate language to allow ARS funds to be used to transfer equipment and germplasm to equip the Small Grains Facility at Aberdeen, Idaho.

BUILDINGS AND FACILITIES

The conference agreement appropriates $37,400,000 for buildings and facilities of the Agricultural Research Service instead of $35,500,000 as proposed by the House and $12,900,000 as proposed by the Senate. The conference agreement provides for the following facilities:

	House	Senate	Conference
Construction of the Plant and Animal Science Research Center at University of Illinois	$27,000,000		$27,000,000
Construction of veterinary medicine facility at Tuskegee University	5,400,000	$5,400,000	5,400,000
Planning for the U.S. Salinity Laboratory at Riverside, California	1,000,000	1,000,000	1,000,000
Planning for agricultural sciences and industry facility at Pennsylvania State University	1,800,000	1,800,000	1,800,000
Construction of veterinary training facilities at Blacksburg, Va.	300,000	300,000	300,000
Construction of Wheat Marketing and Demonstration Laboratory at Portland, Oregon		900,000	900,000
Planning for the George D. Aiken Center for Microbiology and Agricultural Science in Vermont		900,000	900,000
Feasibility studies on the Plant Science Research Center and an Educational Satelite Video Communications Center in Kansas		100,000	100,000
Construction of a High Containment Poultry Research Facility at Athens, Georgia		2,500,000	
Total	35,500,000	12,900,000	37,400,000

The conferees will expect the Department to conduct an in-depth study of the need for a high containment research facility for studying poultry diseases and report its recommendations to the House and Senate Appropriations Committees not later than January 31, 1987, with respect to either supplemental funding requirements or reprogramming proposals.

The conference agreement also deletes Senate language providing that buildings and facilities funds shall be available for transfer of all necessary personnel, equipment, and accessions to fully staff and equip the Small Grains Facility at Aberdeen, Idaho.

COOPERATIVE STATE RESEARCH SERVICE

The conference agreement earmarks $28,037,000 for special research grants instead of $26,778,000 as proposed by the House and $26,957,000 as proposed by the Senate. The following table reflects the conference agreement for special research grants:

	House bill	Senate bill	Conference agreement
Special Research Grants (P.L. 89-106):			
STEEP-Soil Erosion in N.W.	591	591	591
Food Systems Research Group (Wisconsin)	148	148	148
Pest Management	2,840	2,940	2,940
Rural Development Centers	363	363	363
Soybean Cyst Nematode (Missouri)	285	285	285
Bean and Beet (Michigan)	93		93
Animal Health	5,705	5,705	5,705
Aquaculture (Stoneville)	400	400	400
Dairy and Beef Photoperiod (Michigan)	33		33
Pesticide Clearance	1,369	1,369	1,369
Minor use animale drugs (IR-4)	229	229	229
Pesticide Impact Assessment	1,968	1,968	1,968
Dairy goat research (Texas)	95	95	95
Aquaculture (general)	485	485	485
Milk consumption (Pa.)	285	285	285
International Livestock program (Ks.)		95	95
Stored grain insects (Ks.)		285	285
Germplasm resources			
Blueberry shoestring virus (Michigan)	92		92
Peach tree short life (S. Carolina)	183	183	183
TCK Smut (wheat)	343	193	193
Sugarland use research (Hawaii)	142	142	142
Mosquito research	456	456	456
Int'g Prod. Systems (Oklahoma)	188	188	188
Preservation and processing research (Okla.)	242	142	242
Dried Bean (North Dakota)	48	75	75
Sunflower insects (North Dakota and South Dakota)	190	190	190
Tropical and subtropical	3,091	3,091	3,091
Potato research	761	761	761
Dark end syndrome		150	150
Asparagus yield decline (Minchigan)	95		95
Bio-control of grasshoppers	48	48	48
Wool research (Texas)	142	142	142
Ag Policy Institute (Iowa and Mo.)	357		357
Biomass from dairy processing waste (Missouri)	285	285	285
Stone fruit decline (Michigan)	285	285	285
EDB replacement (Hawaii)	285	285	285
Wood utilization research	2,852	2,852	2,852
Integrated reproduction management (NEB)	95	95	95
Cranberry/Blueberry disease and breeding (N.J.)	95	95	95
Alternative cropping systems (Southeast)	285	285	285
Maple research (Vermont)	95	95	95
Apple quality research (Michigan)	95	95	95
Aquaculture planning grant (Hawaii)			
Multi-cropping strategies for aquaculture (Hawaii)	152	142	152
Fruit and vegetable production and marketing (Ky.)	142	142	142
Plant stress (N. Mexico, Calif. and Texas)	385	385	385
Prime farm land reclamation	300		300
Belgian endive	60	60	60
Remote Sensing (Kan.) [1]		191	191
Acid precipitation [2]		661	661
Total, Special Research Grants	26,778	26,957	28,037

The conference agreement earmarks $40,651,000 for competitive research grants instead of $32,804,000 as proposed by the House and $41,651,000 as proposed by the Senate. The following table reflects the conference agreement for competitive research grants:

Competitive Research Grants

[In thousands of dollars]

	House Bill	Senate bill	Conference Agreement
Competitive research grants:			
Plant Science	4,279	13,126	12,126
Soybean research	(493)		(493)
Acid precipitation	(661)		
Alcohol fuels	(514)		(514)
Animal Science	4,279	4,279	4,279
Brucellosis	(475)		(475)
Reproductive efficiency	(2,377)		(2,377)
Pest Science	2,853	2,853	2,853
Gypsy moths	(951)		(951)
Boll weevil/Boll worm	(951)		(951)
Pine bark beetle	(951)		(951)
Human Nutrition	2,377	2,377	2,377
Biotechnology	19,016	19,016	19,016
Total, Competitive research grants	32,084	41,651	40,651

The conference agreement earmarks $20,368,000 for funding activities under the Critical Agricultural Materials Act instead of $1,143,000 as proposed by the House and $14,668,000 as proposed by the Senate. The conference agreement expands the research authority to other types of research in addition to critical agricultural materials. Included in the agreement is $668,000 for research on guayule and $10,000,000 for construction of facilities to further the implementation of research at the Polymer Institute at the University of Southern Mississippi.

The conference agreement also includes funds to establish the National Center for Physical Acoustics to conduct and transfer scientific research into usable technology for government and commercial application. Participation in the research either directly or by contract will involve the Department of Defense, National Science Foundation, National Institutes of Health, Department of Agriculture and University and State entities. This major national research center which will be located on the University of Mississippi campus, or land acquired adjacent thereto, which is convenient to Sardis Reservoir, will involve $9,700,000 in construction and support funds.

For higher education strengthening grants the conference agreement earmarks

$4,754,000 as proposed by the House instead of $4,988,000 as proposed by the Senate. The conference agreement includes $2,852,000 for graduate training and $1,902,000 for grants to the 1890 institutions, the same amount as the post-Gramm-Rudman-Hollings level provided for fiscal year 1986.

The conference agreement earmarks $3,000,000 for the aquaculture centers instead of $2,000,000 as proposed by the House and $4,000,000 as proposed by the Senate. The centers shall be established as follows: in the Western region, to be administered by the University of Washington; in the Northeastern region, to be administered by Southeastern Massachusetts University; in the Southern, to be administered by Mississippi State University; and a center for tropical and subtropical aquaculture species, to be jointly administered by the University of Hawaii and the Oceanic Institute.

The conferees will expect the Department to review the need for additional aquaculture centers and submit its report to the appropriate committees of Congress regarding any need to increase the number of authorized centers above the current level of four.

The conferees recommend an appropriation of $2,000,000 for start-up construction costs for Food-Human Nutrition Center at Washington State University as proposed by the Senate. The Center will provide invaluable research in the areas of animal and plant biotechnology, food quality, food marketing, and food processing. It will also house the Western Wheat Quality Laboratory presently located in Pullman. The State of Washington is committed to provide matching funds for this project. The conferees also included bill language to allow these construction funds to remain available until expended as proposed by the Senate.

The conference agreement adds bill language assigning the Cooperative State Research Service responsibility for "coordination and program leadership for higher education work" as proposed by the Senate. This authority was previously assigned to the Agricultural Research Service.

In all, the conference agreement appropriates $300,573,000 for the Cooperative State Research Service instead of $269,092,000 as proposed by the House and $295,877,000 as proposed by the Senate.

Extension Service

The conference agreement restores House language transferring $38,627,000 from the food stamp program to the expanded food nutriton and education program (EFNEP). The Senate proposed to delete the transfer from the food stamp program. The conference agreement provides for a total of $57,635,000 for the expanded food and nutrition education program.

The conference agreement also earmarks $3,329,000 for the urban gardening program as proposed by the House instead of $2,000,000 as proposed by the Senate.

For the farm safety program the agreement earmarks $970,000 as proposed by the House instead of $500,000 as proposed by the Senate.

The conference agreement includes $1,427,000 for the farm financial management and counseling assistance program and $1,850,000 for grants under section 1440 of the Food Security Act of 1985 for programs in North Dakota, Kansas, Oklahoma, Mississippi, and Vermont as proposed by the Senate. The House bill proposed a total of $1,427,000 for this program.

The conference agreement earmarks $47,000 for integrated reproductive management, the same as the amount proposed by the House. The Senate amendment proposed to delete funds for this program.

The conference agreement earmarks $2,378,000 for funding programs under the Renewable Resources Extension Act as proposed by the Senate. The House bill contained no funding for programs under the Act.

The agreement restores $1,500,000 for grants under section 1440 to aid financially stressed or dislocated farmers as proposed by the House. The $1,500,000 will be used for three grants in the amount of $500,000 each for establishing or continuing programs in Nebraska, Iowa, and Missouri.

The conference agreement appropriates $6,025,000 for Federal administration as proposed by the House instead of $5,540,000 as proposed by the Senate.

The conference agreement includes $500,000 for Extension Service funding of the Appropriate Technology Transfer for Rural Areas (ATTRA) program at Agri-Center International in Memphis, Tennessee. The conferees will expect ATTRA to consult with other organizations and institutions with expertise in low-input agriculture in implementing this program.

The conference agreement provides a total of $332,172,000 for the Extension Service instead of $327,944,000 as proposed by the House and $328,341,000 as proposed by the Senate.

Animal and Plant Health Inspection Service

Salaries and Expenses

The conference agreement appropriates $300,967,000 for the salaries and expenses of the Animal and Plant Health Inspection Service instead of $296,229,000 as proposed by the House and $302,407,000 as proposed by the Senate.

For the golden nematode program the agreement includes $957,000 as proposed by the House instead of $897,000 as proposed by the Senate.

For agricultural quarantine inspection the agreement includes $52,209,000 as proposed by the Senate instead of $54,209,000 as proposed by the House.

For animal compliance and enforcement the agreement includes $13,307,000 as proposed by the Senate instead of $13,807,000 as proposed by the House.

The conference agreement includes $1,500,000 for the pseudorabies program as proposed by the House. The Senate amendment proposed to delete funding for this program.

For the animal damage control program the conference agreement includes $21,377,000 instead of $21,227,000 as proposed by the House and $21,465,000 as proposed by the Senate. Within this total funding, the conference agreement includes $240,000 to resume the animal damage control program in Hawaii for the control of rat damage to sugarcane and macadamia nuts. The conferees will also expect the Department to significantly expand its efforts in connection with the control of blackbirds and starlings which are a very serious problem in many parts of the country including the development of environmentally acceptable toxicants or other population-managing devices, and the continuance of the pilot project in the flyway. The agreement includes $300,000 for the grackle program now underway in the Rio Grande Valley. The conferees are also aware of conditioned taste aversion research that is now underway and support the expansion of such work. The conferees expect that the guarding dog program in Oregon be expanded to include Washington and that a new program be initiated in Idaho that would include Wyoming. The conferees also expect APHIS to take advantage of existing and on-going research efforts and to use available funds for the procurement of dogs and travel expenses, where needed, and to maintain the existing funding mechanism with the Extension Service.

The conference agreement includes a total of $5,000,000 for the plant disease and pest control contingency fund and a total of $5,000,000 for the animal disease and pest control contingency fund. These funds are to be earmarked for citrus canker and avian influenza, respectively, and shall be available to carry out those programs as needed. The conferees have included these two programs in the contingency accounts because of the uncertainty over the actual funding requirements. Should these funds not be needed for these two programs, they would be available to meet other contingency needs of the agency.

The conferees are concerned with the northward migration from South America of the Africanized bee. The Africanized bee is an aggressive variety that dominates local species and poses a serious threat to the lives and health of animals and humans and the well-being of American agriculture. The conferees direct the Animal and Plant Health Inspection Service within available funds to conduct a study of the situation and report to the appropriate committees of Congress with recommendations on ways to halt the migration of the Africanized bee. The report should be submitted not later than June 1, 1987.

Agricultural Marketing Service

The conference agreement includes $100,000 for fiscal year 1987 for the marketing program being conducted by the Horticultural Producers Federation which has 14 co-ops in five states.

Funds for Strengthening Markets, Income, and Supply (Section 32)

The conference agreement provides $7,147,000 for funds for strengthening markets, income, and supply as proposed by the Senate instead of $6,773,000 as proposed by the House.

Office of Transportation

The conference agreement appropriates $2,340,000 for the Office of Transportation as proposed by the House instead of $1,233,000 as proposed by the Senate. The conferees reject the proposal to terminate the Office of Transportation so as to ensure that the Nation's transportation system will adequately serve the agricultural and rural areas of the United States.

The conferees concur in the Senate report language calling on the Department to conduct a study on construction and maintenance of roads in rural areas.

Agricultural Stabilization and Conservation Service

Salaries and Expenses

The conference agreement provides for a transfer from Commodity Credit Corporation funds of $491,856,000 for salaries and expenses of the Agricultural Stabilization and Conservation Service instead of $449,403,000 as proposed by the House and $521,138,000 as proposed by the Senate. The additional funding provided in the conference agreement over the House amount is to

carry out increased activities related to the Food Security Act of 1985. The agreement also adds appropriate citations to the bill language to allow for the administrative expenses of the Colorado River Basin Salinity Control program.

The conferees are concerned that regulations implementing Title XII of the Food Security Act of 1985 will have a negative impact upon the Hawaiian sugarcane industry. Under the June 23, 1986, regulations proposed by the Department, up to 67,000 acres, or one-third of the State's cane acreage, may be classified as highly erodible. If implemented without modification, these regulations could cause a major portion of the Hawaiian sugarcane industry to have to cease the growing of cane. As is discussed under the Agricultural Research Service account of Senate report 99-438, similar impacts are apparent in other traditional crops, such as cotton, due to the lack of available conservation tillage systems.

The Department's attention is directed to page 459 of the conference report to accompany P.L. 99-198 which provides that "It is not the intent of the conferees to cause undue hardship on producers to comply with these provisions" and that "standards of reasonable judgment" should be applied to avoid such an outcome.

In Hawaii, cane has been grown on croplands which have a demonstrated capacity to retain moisture with increased productivity and improved topsoil conditions during a century of cultivation. The conferees agree that the case of the Hawaiian sugarcane industry certainly justifies the application of "standards of reasonable judgment" which will allow crops produced on this land to remain eligible for commodity programs. Furthermore, recognition must be given to the fact that sugarcane is a giant perennial grass which serves as an excellent cover crop. Cane grown on this land should continue to be eligible for commodity programs.

The conferees direct USDA to: (1) coordinate agency resources and accelerate research efforts to develop conservation tillage systems for highly erodible land, to allow the continued production of traditional crops, and (2) report to the approriated committees of Congress by January 15, 1987, the status of this coordinated research effort, and a general overview of the impact of this new provision by major crop and by geographic region.

Federal Crop Insurance Corporation

FEDERAL CROP INSURANCE CORPORATION FUND

The conferees appropriate $135,743,000 as proposed by the House instead of $200,000,000 as proposed by the Senate.

Commodity Credit Corporation

REIMBURSEMENT FOR NET REALIZED LOSSES

The conference agreement appropriates a total of $16,808,806,000 for reimbursement for net realized losses of the Commodity Credit Corporation as proposed by the House instead of a current, indefinite appropration as proposed by the Senate. The conference agreement also includes $3,000,000,000 to be available upon receipt of an official budget request, since these additional funds would be required should the Department provide for an advance deficiency payment on 1987 crops. Such advance deficiency payments are now discretionary under the 1985 Farm Bill and should the Department decide to make such payments, the amount requested in the President's budget for reimbursement for net realized losses would be inadequate. The conferees will also expect the Department to defer all payment of interest to the U.S. Treasury until the end of the fiscal year since early payment of interest could create cash flow problems for the Corporation.

The conference agreement restores limitations on certain programs funded by the CCC, as proposed by the House, and increases the limitation for the Federal Crop Insurance Corporation from $100,000,000 up to $375,000,000 and the Conservation Reserve Program from $550,000,000 up to $700,000,000. The Senate amendment proposed deletion of all of the caps.

The conferees will also expect the Department to submit legislation to the appropriate committees of Congress to propose the raising of the $25 billion cap on the Commodity Credit Corporation. At $25 billion the Commodity Credit Corporation no longer can function as a true revolving fund and has required numerous supplemental appropriations in recent years to restore capital impairment.

General Sales Manager

The conference agreement provides $6,027,000 for the Office of the General Sales Manager instead of $5,827,000 as proposed by the House and $6,089,000 as proposed by the Senate. The $200,000 increase above the House amount is to allow the Office of the General Sales Manager to embark upon expanded export efforts.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Rural Development Assistance

Farmers Home Adminstration

RURAL HOUSING INSURANCE FUND

The conference agreement deletes the earmarking by the House of $14,355,000 for direct low-income loans as proposed by the Senate, and increases the total allocations by $11,335,000. As a result of this action, $2,033,093,000 will be available for loans from the Rural Housing Insurance Fund, of which $2,032,519,000 will be for subsidized interest loans to low-income borrowers.

For additional units financed under section 515 of the Housing Act of 1949, the conference agreement provides not to exceed $28,413,000. For additional units financed under sections 514 and 516 of the Housing Act of 1949, the conference agreement provides $5,082,000. The House bill proposed $33,495,000 for section 515 units, of which $4,785,000 was for sections 514 and 516 units. The Senate amendment proposed $22,222,500 for additional units, including $5,082,000 for additional units financed under sections 514 and 516.

The conferees will expect that first priority shall be given to renewals.

For reimbursement to the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, the conference agreement appropriates $2,296,283,000 as proposed by the House instead of $2,714,566,000 as proposed by the Senate.

The conference agreement also makes several technical corrections to the bill language as proposed by the Senate.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

The conference agreement provides $500,000 in loans from the Self-Help Housing Land Development Fund instead of $1,000,000 as proposed by the Senate. The House bill contained no provision for this program.

AGRICULTURAL CREDIT INSURANCE FUND

The conference agreement includes the following loan levels for the Agricultural Credit Insurance Fund:

[In millions of dollars]

	House	Senate	Conference
Farm ownership loans:			
Insured	190.0	325.0	75.0
Guaranteed	325.0	325.0	325.0
Soil and water loans:			
Insured	12.0	10.0	11.0
Guaranteed	5.0	1.0	3.0
Operating loans:			
Insured	1,298.0	1,500.0	1,425.0
Guaranteed	2,170.0	2,175.0	2,170.0
Indian tribe land acquisition loans	3.8	2.0	2.0
Disaster loans	700.0	700.0	700.0
Soil Conservation loans:			
Watershed and flood prevention	13.4	2.5	7.9
RC&D	1.9	.5	1.2
	4,719.1	4,716.0	4,720.1

For restoration of interest subsidies and losses sustained in prior years by the Agricultural Credit Insurance Fund the conference agreement appropriates $1,723,403,000 as proposed by the House instead of $2,440,203,000 as proposed by the Senate.

RURAL DEVELOPMENT INSURANCE FUND

The conferees urge that within the available funds of the Rural Development Insurance Fund, Community Facilities Loan Program, up to $3,000,000 be provided to the Choctaw Electric Cooperative for a loan to develop and make improvements for an industrial development park.

For reimbursement to the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years the conference agreement appropriates $656,645,000 as proposed by the House instead of $736,619,000 as proposed by the Senate.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings the conference agreement appropriates $12,500,000 instead of $11,891,000 as proposed by the House and $13,891,000 as proposed by the Senate.

MUTUAL AND SELF-HELP HOUSING

For mutual and self-help housing grants the conference agreement appropriates $8,000,000 instead of $7,610,000 as proposed by the House and $8,610,00 as proposed by the Senate.

SALARIES AND EXPENSES

For salaries and expenses of the Farmers Home Administration the conference agreement appropriates $386,867,000 instead of $381,867,000 as proposed by the House and $393,474,000 as proposed by the Senate.

The conference agreement earmarks $2,047,000 for the circuit rider program instead of $1,997,000 as proposed by the House and $2,100,000 as proposed by the Senate. The conference agreement includes a general increase of $50,000 over the post-Gramm-Rudman-Hollings level of $1,997,000 as proposed by the House.

Rural Electrification Administration

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

The conference agreement appropriates $20,000,000 to reimburse the Rural Electrification and Telephone Revolving Fund for interest subsidies and losses sustained in prior years instead of $100,000,000 as proposed by the House. The Senate proposed to delete the appropriation for interest subsidies and losses.

CONSERVATION

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

The conference agreement appropriates $367,043,000 for conservation operations instead of $361,520,000 as proposed by the House and $372,566,000 as proposed by the Senate. The conferees are concerned about the Department's ability to comply with extensive soil and water conservation provisions in the Food Security Act of 1985. Accordingly, the conference agreement provides a general increase to the fiscal year 1986 amount of $18,703,000. Included within the amount provided for conservation operations is a total of $4,870,000 for snow survey and water forecasting, and a $2,000,000 increase above the fiscal year 1986 level for soil surveys.

The conferees agree to the necessity to explore new technologies for soil and water erosion detection. One such program is the pilot computer mapping project in Dane County, Wisconsin, which is designed to demonstrate the use and efficiency of land information systems. The conferees, however, are concerned over the potential high cost of such programs at a time when budget constraints dictate necessary caution in proceeding with any new programs. Accordingly, the conferees agree to provide $250,000 to initiate a three-year pilot project in Dane County, Wisconsin.

The conference agreement earmarks $4,408,000 for operation and establishment of plant materials centers as proposed by the Senate instead of $3,972,000 as proposed by the House. This increase is to establish a center at Booneville, Arkansas.

The conference agreement restores and amends the House language providing no less than $293,400,000 for personnel compensation and benefits.

The conferees agree that the Soil Conservation Service should not consolidate its four national technical centers into a single national technical center at this time.

RIVER BASIN SURVEYS AND INVESTIGATIONS

The conference agreement appropriates $11,819,000 for river basin surveys and investigations instead of $14,166,000 as proposed by the House and $9,472,000 as proposed by the Senate.

WATERSHED AND FLOOD PREVENTION OPERATIONS

The conference agreement appropriates $165,885,000 for watershed and flood prevention operations instead of $174,885,000 as proposed by the House and $156,885,000 as proposed by the Senate. To the ongoing joint Corps of Engineers and Soil Conservation Service demonstration project, the conferees agree to include Sherman Creek in Tallahatchie County.

The conference agreement provides $7,949,000 for insured conservation loans from the Agricultural Credit Insurance Fund of the Farmers Home Administration instead of $13,398,000 as proposed by the House and $2,500,000 as proposed by the Senate.

RESOURCE CONSERVATION AND DEVELOPMENT

The conference agreement provides $1,207,000 for insured loans from the Agricultural Credit Insurance Fund of the Farmers Home Administration instead of $1,914,000 as proposed by the House and $500,000 as proposed by the Senate.

The conferees are pleased with the progress that has been made with an entity of the State of Oklahoma under contract to maximize the agricultural and natural resources potential of South Central and Southeast Oklahoma, as stated in the House report, including work in Hughes County.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

The conference agreement appropriates $176,935,000 for the agricultural conservation program as proposed by the Senate instead of $180,739,000 as proposed by the House.

WATER BANK PROGRAM

The conference agreement appropriates $8,371,000 for the water bank program as proposed by the Senate instead of $5,000,000 as proposed by the House.

TITLE III—DOMESTIC FOOD PROGRAMS

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

The conference agreement restores House language providing that $775,281,000 for child nutrition programs shall be available only to the extent an official budget request is transmitted to Congress.

SPECIAL MILK PROGRAM

The conferees agree to allow funds for the special milk program to remain available through September 30, 1988.

FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN

(WIC)

The conference agreement appropriates $1,663,497,000 for the feeding program for women, infants and children (WIC) instead of $1,671,500,000 as proposed by the House and $1,655,494,000 as proposed by the Senate.

The conferees direct the Department of Agriculture to issue a new proposed regulation for the allocation of WIC funds to the State agencies, superceding the proposed regulation issued on September 9, 1986. The new regulation should be promulgated after arriving at a consensus with the State WIC directors and other interested parties. The conference agreement prohibits the Department from issuing a final or interim-final regulation before May 1, 1987, and directs that a final regulation should be issued as soon after May 1 as possible, and in no case later than July 1, 1987, with an implementation schedule to coincide with the beginning of the fiscal year. This timetable will allow States to plan for and properly implement any new formula.

The conferees agree that continued study of long-term benefits from the WIC program is necessary. Therefore, the conferees expect the Department to do a further evaluation to test whether WIC benefits in pregnancy have an effect on the growth and development of preschool children.

FOOD STAMP PROGRAM

On October 1, 1986, the Department issued proposed regulations pertaining to the employment and training requirements for employable Food Stamp recipients. The Food Security Act of 1985 imposes a deadline of April 1, 1987, for implementation of these regulations. The conferees urge the Department to issue the final rule as soon as possible in order to allow states to develop their plans.

FOOD PROGRAM ADMINISTRATION

The conference agreement appropriates $82,578,000 for food program administration as proposed by the House instead of $83,563,000 as proposed by the Senate.

HUMAN NUTRITION INFORMATION SERVICE

The conference agreement appropriates $6,876,000 for the Human Nutrition Information Service as proposed by the Senate instead of $8,976,000 as proposed by the House.

TITLE IV—INTERNATIONAL PROGRAMS

PUBLIC LAW 480

For titles I, II and III of Public Law 480 the conference agreement includes the following amounts:

[In thousands of dollars]

	House	Senate	Conference
Titles I and III:			
Program level	(831,600)	(837,854)	(834,727)
Appropriation	451,600	457,854	454,727
Title II:			
Program level	(731,118)	(525,570)	(628,344)
Appropriation	731,118	525,570	628,344
Total:			
Program level	(1,562,718)	(1,363,424)	(1,463,071)
Appropriation	1,182,718	983,424	1,083,071

In meeting the minimum and sub-minimum tonnage requirements for title II, the quality of the commodity mix must be maintained. Processed and fortified foods, including, but not limited to, vegetable oil, bulgur wheat, and blends of corn, soy, and milk are necessary to meet nutritional and humanitarian needs. For instance, children cannot digest raw wheat, but they can eat bulgar or fortified cereals. These value-added products not only meet the humanitarian purposes of the Food for Peace program, but also are important to American processing industries.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

The conference agreement appropriates $5,035,000 for the Office of International Cooperation and Development instead of $3,513,000 as proposed by the House and $5,131,000 as proposed by the Senate. The conference agreement includes $1,427,000 for agricultural scholarships for foreign students from middle-income countries as proposed by the Senate.

SCIENTIFIC ACTIVITIES OVERSEAS

FOREIGN CURRENCY PROGRAM

The conference agreement restores subtitles proposed by the House for the scientific activities overseas program.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement appropriates $411,803,000 for salaries and expenses of the Food and Drug Administration as proposed by the Senate instead of $410,540,000 as proposed by the House.

The conference agreement provides an increase of $34,197,000 above the fiscal year 1986 level. Included within the total is $14,390,000 for FDA's responsibilities related to Acquired Immune Deficiency Syndrome (AIDS) and $5,250,000 for orphan product work, of which not less than $3,500,000 shall be available only for orphan product grants and contracts. Also included within the amount is $1,000,000 to replenish FDA's contingency fund. The conferees agree to the budget request for the program management functions. The remainder of the unspecified increase should be divided among the human drugs and biologics, food safety, and devices and radiological products

programs proportional to the budget request of each program.

The conferees agree that it is premature at this time to include language in the appropriations bill that would provide that if user fee legislation is enacted, such fees may be credited to the appropriations available to FDA. By deleting the Senate provision, the conferees do not wish to infer a position for or against user fees. The conferees further agree that should such user fee legislation be enacted, it should incorporate language crediting fees collected to FDA's salaries and expense account.

COMMODITY FUTURES TRADING COMMISSION

The conference agreement appropriates $29,761,000 for the Commodity Futures Trading Commission instead of $29,161,000 as proposed by the House and $30,418,000 as proposed by the Senate. The agreement includes 15 additional staff years for increased enforcement and other activities.

TITLE VI—GENERAL PROVISIONS

SEC. 607. The conference agreement deletes limitation on the amount that can be charged to the Working Capital Fund for personnel compensation and benefits as proposed by the Senate.

T4SEC. 608. The conference agreement provides that $5,000,000 for grasshoppers and Mormon cricket control and $2,852,000 for higher education training grants shall remain available until expended. These two accounts were added by the Senate, but the conference reduced the funds for higher education training grants from $3,000,000 to $2,852,000.

SEC. 626. The conference agreement amends the floor on Farmers Home Administration staff years to 12,675 instead of 12,700 as proposedby the House and 12,400 as proposed by the Senate.

SEC. 630. Deletes section 630 of the House bill and inserts new section as proposed by the Senate which allows the continuation of current procedures of section 9 of the Small Business Act, as amended.

SEC.T1 631. INSERTS NEW SECTION AS PROPOSED BY THE SENATE WHICH PROHIBITS THE RELEASE OF INFORMATION ACQUIRED IN CONNECTION WITH THE ADMINISTRATION OF MARKETING ORDERS, OTHER THAN AGGREGATE DATA.

SEC. 632. Inserts new section proposed by the Senate which prohibits the use of private debt collection agencies by the Farmers Home Administration. The conference agreement modifies the provision to add, "Unless otherwise provided in this Act,".

SEC. 633. The conference agreement inserts and amends Senate language related to disaster payments to producers of program and non-program crops. The conference agreement also provides for a direct appropriation of $10,000,000 each to the Soil Conservation Service and the Agricultural Stabilization and Conservation Service for emergency conservation work in connection with restoration work associated with natural disasters. The conference agreement also requires the Farmers Home Administration, under such rules and regulations as the Secretary may determine, to provide disaster loan assistance and refinancing to farmers and ranchers suffering a major loss from natural disasters. To provide the necessary financing for the payment provision, the conferees have directed the Secretary to transfer $400,000,000 in disaster loans from the Agricultural Credit Insurance Fund. Should the $400,000,000 made available for payments be insufficient to carry out the program a request for a supplemental appropriation should be submitted to the Congress or additional funds transferred from the disaster loan account.

SEC. 634. Inserts a new section as proposed by the House which places a moratorium until June 30, 1987, on the prepayment of section 515 loans. The provision as agreed to limits the moratorium until June 30, 1987, unless such loan was made at least 20 years prior to the date of prepayment or, for loans made before December 21, 1979, the Secretary makes a determination that a supply of adequate, comparable housing is available in the community, or that prepayment of such loans will not result in a substantial increase in rents to tenants in residence upon date of prepayment or displacement of such tenants.

SEC. 635. Amends a new section proposed by the House which provides that surplus agricultural commodities may be used to support participants in the Tenth International Pan American Games to be held in Indianapolis, Indiana. The Senate amendment deleted the House language, and the conference agreement restores the transfer authority and deletes the cap on the transfer.

SEC. 636. Inserts a new section as proposed by the House that amends the Food Security Act of 1985 regarding the definition of "separate person".

SEC. 637. Inserts a new section to modify sign-up requirements under the burley tobacco program.

SEC. 638. Inserts a new section as proposed by the Senate that amends the Food Stamp Act regarding the dependent care deduction.

SEC. 639. Inserts a new section as proposed by the Senate that amends the Food Security Act of 1985 with respect to Valencia peanuts produced in New Mexico.

SEC. 640. Inserts a new section as proposed by the Senate that amends the Community Economic Development Act of 1981 to allow the transfer of loans made from the Rural Development Loan Fund to a non-profit corporation.

SEC. 641. Inserts a new section as proposed by the Senate that amends the Food Security Act of 1985 regarding the nonprofit national rural development and finance corporation by extending the authorization and requiring $20,000,000 in loans from the Rural Development Insurance Fund.

SEC. 642. The conference agreement amends a new section as proposed by the Senate to require that $500,000 of surplus commodities be used to fund the development of the external combustion engine, the cost to be offset by selling $500,000 in loans from the Rural Development Insurance Fund.

SEC. 643. Inserts a new section as proposed by the Senate that amends the Food Security Act of 1985 regarding the use of alfalfa, and other multi-year grasess and legumes in rotation in the Conservation Reserve Program.

SEC. 644. Inserts a new section as proposed by the Senate that amends the Agricultural Act of 1949 to modify cross compliance requirements for producers of extra long staple cotton.

SEC. 645. Inserts a new section as proposed by the Senate that amends the Soil Conservation and Domestic Allotment Act of 1949, as amended, with regard to local administrative areas for ASCS county committees.

SEC. 646. Adds and amends Senate amendment No. 111. The conference agreement includes Sense of the Congress provisions specifying countries which would most likely benefit from this amendment, and deletes other references to specific nations. The conference agreement also ensures that the provisions of this amendment do not significantly alter existing programs or existing law.

It is the Sense of the House conferees that, recognizing the need to move basic commodities which are surplus to domestic needs into world trade so as to maintain volume is just as important as price, and further recognizing that if American products are offered for sale at competitive prices and sold to the highest bidder then such commodities will move through regular trade channels and the purchaser will help to have it brought into his country. The Secretary of Agriculture, as authorized by the Charter of the Commodity Credit Corporation is directed to offer commodities from the Commodity Credit Corporation inventory for sale for export to the highest bidder in such amounts and quantities as may in his judgment not upset normal markets, but at a total level necessary to regain our fair share of world markets. The Secretary shall announce, at the start of each year, minimum export levels for each basic commodity. Should adequate quantities in inventory of any basic commodity, such as soybeans, be insufficient to meet stated export needs, the Secretary shall acquire such basic commodities as are needed on the domestic market. Lot sizes and delivery dates shall be at the discretion of the Secretary to allow for orderly sales and will hopefully move the amount of commodities listed in the Melcher amendment. It being expensive to the farmer, and to the Government to produce more than the domestic and foreign market can absorb, the Secretary of Agriculture, on a trial basis, shall issue such regulations as will enable producers of any basic agricultural commodity to produce the amount needed for domestic consumption, to maintain the pipeline, and to retain by competitive sales our normal share of the world market and the Secretary of Agriculture shall use his authority under existing law to provide for nonrecourse loans on basic agricultural commodities as such levels as will reflect a fair return to the farm producer above the cost of production, and to issue such regulations as will carry out this provision and as will provide for payment by the purchaser, rather than by appropriation, for basic commodities sold for domestic use.

COMMERCE, JUSTICE, STATE, JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT

Amendment No. 2: Section 101(b) of House Joint Resolution 738 provides appropriations for programs, projects, or activities provided for in the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987 (H.R. 5161). The House version of the joint resolution provides appropriations for programs, projects, or activities at a rate for operations and to the extent and in the manner provided for in H.R. 5161 as passed the House of Representatives on July 17, 1986. The Senate version of the joint resolution provides appropriations for these programs, projects, or activities at a rate for operations and to the extent and in the manner provided for in H.R. 5161 as reported to the Senate on September 3, 1986 with certain modifications.

The conference agreement on House Joint Resolution 738 incorporates some of the provisions of both the House and Senate versions of the Departments of Commerce, Justice, and State, the Judiciary, and Relat-

ed Agencies Appropriations Act, 1987, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-669 and Senate Report 99-425 shall be complied with unless specifically addressed to the contrary in this joint resolution and accompanying statement of the managers. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987 put in place by this joint resolution incorporates the following agreements of the managers.

TITLE I—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Appropriates $36,300,000 instead of $36,450,000 as proposed by the Senate and $35,000,000 as proposed by the House.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

Appropriates $90,780,000 as proposed by the House instead of $90,375,000 as proposed by the Senate.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

Appropriates $30,000,000 instead of $30,500,000 as proposed by the House and the Senate.

The conference agreement includes $250,000 for the Center for Utilization of Federal Technology (CUFT) as authorized by Section 11 of the Stevenson-Wydler Technology Act.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Appropriates $180,443,000 instead of $190,000,000 as proposed by the House and $140,000,000 as proposed by the Senate.

The conferees intend that the funds be available for the following purposes:

Public works grants	$122,443,000
Planning assistance	24,000,000
Districts	(16,000,000)
Indians	(3,000,000)
States	(2,000,000)
Urban	(3,000,000)
Technical assistance	7,000,000
University centers	(5,000,000)
Research and evaluation	1,000,000
Economic adjustment grants	26,000,000
Sudden and severe projects	(13,000,000)
Revolving loan fund projects	(13,000,000)
Total	180,443,000

The conferees have included new language to direct the obligation of $250,000 for the Center for International Trade Development at Oklahoma State University. In addition, new language has been included to direct the release of funds previously appropriated in Public Law 99-190 for a project in Lexington County, South Carolina. New language has been included to ensure that funds are made available for projects in South Gate, California, and Jasper, Oklahoma, as intended in Public Law 99-190.

The conferees have included House language from Amendment No. 27 regarding the use of EDA funds authorized in Public Law 99-190 in New York, and House language from Amendment No. 28 regarding the authority of the SEDA-COG Joint Rail Authority in Lewisburg, Pennsylvania, to sell any portion of real property that was acquired in part with proceeds of an EDA grant.

Consistent with the action of the Congress in approving the Fiscal Year 1984 Supplemental Appropriations Act and the fiscal year 1986 appropriation for the Economic Development Administration, the managers direct that $4,000,000 of the funds recommended for public works grants be made available for a grant to the Institute for Technology Development in Mississippi.

The managers direct that any proposed graduations from the EDA university certer program should be reviewed and approved by the House and Senate Appropriations Committees pursuant to established reprogramming procedures prior to implementation.

The conferees are aware that 11 projects totalling $7,581,000 were eligible for public works grants constraints. These are high priority projects which meet EDA funding criteria, and the conferees intend that they be funded in the first quarter of fiscal year 1987.

Pursuant to House Report No. 99-669, the conferees direct EDA to provide funds for the establishment of a University Center at Michigan State University.

SALARIES AND EXPENSES

Appropriates $25,000,000 instead of $26,000,000 as proposed by the House and $22,700,000 as proposed by the Senate.

REGIONAL DEVELOPMENT PROGRAM

REGIONAL DEVELOPMENT PROGRAMS

(Rescission)

Rescinds $1,576,000 for Regional Development Programs as proposed by the Senate. The House bill contained no provision on this matter.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

Appropriates $197,500,000 instead of $188,600,000 as proposed by the House and $196,500,000 as proposed by the Senate

The conferees have included new language to provide for a grant for support costs for a new materials center at Iowa State University at Ames, Iowa.

The conferees agreement includes new language regarding participation in international exhibitions. It has come to the conferees' attention that the Department, through the U.S. Trade Center in Mexico City, is sponsoring Expo-Maquila '86 in December 1986. This Expo is designed to attract U.S. assembly plants to relocate in Mexico to save on labor and benefits costs. The conferees feel strongly that this is an incorrect course for the Department to take, and, in effect, amounts to taxpayer financing of the export of American jobs. The conferees oppose the use of government funds for such Expos, therefore, new bill language has been included to prohibit the use of funds in connection with such exhibitions and conferences. The conferees also oppose any government support of projects designed to attract U.S. companies to relocate outside the United States. The conferees are concerned that this Expo is but one example of such projects. Therefore, the Department is requested to submit a report to the Appropriations Committees by December 1, 1986, detailing this Expo and any others with a similar mission planned or carried out by the Department or with its assistance.

The conference agreement includes the Senate language earmarking $6,785,000 for the Office of the Textiles and Apparel, including $3,349,000 for a grant to the Tailored Clothing Technology Corporation.

The conference agreement includes $15,790,000 for the Trade Adjustment Assistance program, and the full budget request of $4,589,000 for enhancements to trade administration programs.

(Rescission)

Rescinds $8,100,000 as proposed by the Senate which was appropriated for FY 1985 and FY 1986 for direct loans for trade adjustment assistance. The House bill contained no provision on this matter.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

Appropriates $39,675,000 as proposed by the Senate instead of $43,400,000 as proposed by the House. In addition, the conference agreement makes $28,080,000 available until expended instead of $29,805,000 as proposed by the House and Senate. The amount in the conference agreement plus recoveries of prior year obligations of $1,000,000 and unobligated balances of $2,725,000 will provide for a program level of $43,400,000 for the Minority Business Development Agency for fiscal year 1987.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

Appropriates $11,500,000 as proposed by the Senate instead of $10,500,000 as proposed by the House. In addition, the conference agreement includes Senate language to require the appropriation to be used only to promote travel to the United States and its possessions and Senate language authorizing the hiring by contract of American citizens abroad. The House bill contained no provision on either of these matters. The conference agreement also inserts a reference to the 1981 Tourism Policy Act which was contained in neither version of the bill.

The conferees have inserted a reference to the 1981 Tourism Policy Act to assure that the ability of USTTA to conduct the policy studies authorized by that Act are directed to promoting travel to the United States and its possessions. The conferees are agreed that the funding available to USTTA is not to be used for policy studies or technical assistance to promote travel to any destination other than the United States and its possessions.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

Appropriates $1,038,588,000 instead of $1,100,000,000 as proposed by the House and $1,008,612,000 as proposed by the Senate.

The conferees have provided the budget request for the National Oceanic and Atmospheric Administration with the following additions and reductions:

	Thousands
Sea floor spreading center	$1,800
Ocean climate research	2,000
Undersea research program	10,635
GLERL	1,100
Ocean service activities	1,600
(Reprogramming from satellite contingency)	(2,600)
Ocean assessment activities	5,800
Tides and water levels program	20
Circulatory program	350
Sea Grant	39,000
Coastal Resources R&D Institute	1,250
Coastal Zone Management:	
State grants	30,373
(Carryover)	(5,310)
Interstate grants	1,000
Program management	600
Estuarine sanctuaries	1,600

	Thousands
Marine sanctuary management	600
South Carolina geodetic survey	400
Vertical network activities	500
Marine boundary program	300
Resource surveys	2,000
Protected species biology	1,275
Habitat research	5,133
Habitat research (Beauford, NC).	500
Fisheries statistics	3,100
Analysis on ecosystems	974
Aquaculture	3,097
Newport, OR	(350)
Stuttgart, AK	(425)
Chesapeake Bay studies	1,500
SEAMAP	1,000
MARFIN	3,500
Subarctic fisheries research	900
Fishing gear entanglement study	750
Salmon research	1,000
(Atlantic salmon research)	(250)
Yukon River chinook study	250
Hawaii stock management plan	275
Mahi mahi export strategy	100
Marine mammal research	1,850
Monitoring of Japanese salmon interceptions	150
Antarctic Marine Living Resources Program	2,000
Alaska salmon enhancement	4,000
West coast groundfish research	900
Lake Mead limnological research	300
Regional Fishery Management Councils	4,000
Environmental impact analysis	2,000
Columbia River hatcheries	8,254
Commercial R&D grants	4,000
Section 4(b) disaster assistance	2,000
Anadromous fisheries grants	2,500
Striped bass research	500
Fisheries market development	1,500
Product quality and safety	4,400
Fish oil research	1,000
Gulf Underutilized Species Research	1,000
Seafood Inspection program	350
Maintain staff at 8 WSFO's	836
Maintain Ft. Worth regional office	852
Maintain Pacific and Alaska region headquarters	407
Maintain data buoy system	1,174
Maintain non-Federal weather services	300
Maintain meteorological technicians	576
Emergency power for NOAA weather radio	400
Maintain agriculture weather and fruit frost	1,418
Maintain Colorado River flood warning system	650
Susquehanna River flood warning system	3,000
NWS R&D	340
IFLOWS (650 W.Va.)	1,500
Clovis, CA satellite imagery	50
PROFS	2,000
Mesoscale Convection Systems research	2,250
State weather modifications activities	2,150
GARP	1,000
Develop national marine electronics agenda	325
Western Regional Climate Center	460
High Plains Regional Climate Center	250
Midwest Regional Climate Center	250
Supercomputer (Mid America Research Institute, Norman, OK)	3,000
Marine services	10,826
NEXRAD	42,000
LANDSAT	27,500
Redirection of NASA launch costs to weather satellites	−35,000
Aircraft services (Reimbursement to Air Force)	−13,172
Satellite contingency	−6,500
Deficit Reduction Act restoration	−4,546
Net program increases (conference)	+209.282
Appropriation requested	894,579
Transfer from Saltonstall/Kennedy Fund	−51,800
Transfer from CDIF	−9,673
Transfer from Fisheries Loan Fund	−1,800
New budget authority	1,038,588

The conferees have included $27,500,000 for commercialization of the land remote sensing satellite (LANDSAT) system. However, the Committees on Appropriations have not yet received a formal proposal from the Administration to continue the commercialization effort. Therefore, the obligation of these funds is subject to the receipt, review, and approval of a proposal from the Administration detailing the use of these funds and funds from other agencies, as well as future funding requirements for LANDSAT commercialization.

Within available funds NOAA is directed to continue to provide $1,700,000 for aircraft services for high density data support for the National Hurricane Center.

The conference allowance provides funding to maintain the polar orbiting weather satellite program. The conferees expect the program will minimize the risk of a data gap, provide a backup satellite in orbit and provide future launches as required to maintain this guidance. The conferees expect quarterly reports to the Appropriations Committees on the status of the procurement of weather satellites K, L, and M.

The conference agreement includes $3,000,000 for a supercomputer to be located in Norman, Oklahoma, which will be used to process meteorological data and for other purposes. The funds are to be made available as a one-time grant to the Mid America Research Institute.

The restoration of $250,000 provided in fiscal year 1987 for right whale research will result in a total of $650,000 for the program to be conducted under cooperative agreement with the University of Rhode Island.

The conferees provide for a program level of $35,683,000 for section 306 and 306(a) grants under the Coastal Zone Management program. This level consists of $30,373,000 in new budget authority and $5,310,000 in unobligated balances previously appropriated under sections 306 and 308(b) of the Coastal Zone Management Act.

The conferees intend that $500,000 in deobligations be made available for the Albemarle-Pamlico estuarine system and $600,000 in deobligations be made available for a study of the Charleston harbor.

Of the funds provided for resource information, the conferees intend that $200,000 be made available to undertake tagging and migration studies of King Mackerel stocks in the Atlantic region.

The conferees intend that of the funds provided for resource information, $250,000 be provided in order that the National Marine Fisheries Service may cooperate with the Corps of Engineers to effectuate the memorandum of understanding to develop techniques to restore degraded coastal habitats.

The conferees intend that $500,000 be provided for research on habitat evaluation methodologies at Beaufort, North Carolina.

The conferees are aware that a review of the science program at the University of North Carolina—Wilmington is to be completed in January, 1987. Acquisition of a suitable research vessel for the program should proceed subsequent to this review, taking into consideration the recommendations of the review panel. Sufficient funds for vessel acquisition are available as a result of FY 1984 supplemental appropriations and program carryover from 1986. It is expected that, for FY 1987, program operational expenses will not need to be increased from the FY 1986 level.

The conferees are concerned that the National Weather Service has discontinued the weather reporting station at Oakland/Pontiac airport in Michigan. Funds have been included for the restoration of the reporting station and for, but not limited to, a remote reading hydrothermometer.

AVIATION WEATHER SERVICES

Appropriates $29,000,000 for aviation weather services from the Airport and Airways Trust Fund instead of $28,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

TRANSFER FROM PROMOTE AND DEVELOP FUND

Transfers $51,800,000 from the Promote and Develop Fund to the Operations, Research, and Facilities account instead of $38,000,000 as proposed by the House and $50,000,000 as proposed by the Senate.

TRANSFER FROM COASTAL ENERGY IMPACT FUND

Transfers $9,673,000 from the Coastal Energy Impact Fund to the Operations, Research, and Facilities account instead of $8,000,000 as proposed by the House and $8,300,000 as proposed by the Senate.

PROCUREMENT FUNCTIONS AT BAY ST. LOUIS, MISS.

Provides language proposed by the Senate which requires NOAA to continue certain procurement functions at Bay St. Louis, Miss. The House bill contained no provision on this matter.

PAYMENTS UNDER SEC. 4 (B) OF THE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT

Deletes language proposed by the House and stricken by the Senate which earmarked $3,000,000 for payments under Sec. 4(b) of the Commercial Fisheries Research and Development Act of 1964 for commercial fisheries failures and disruptions.

FOREIGN FISHING OBSERVER FUND

Appropriates $2,000,000 as proposed by the Senate instead of $4,500,000 as proposed by the House.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

Appropriates $98,000,000 instead of $100,000,000 as proposed by the House and Senate.

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

Appropriates $122,000,000 for the National Bureau of Standards instead of $120,000,000 as proposed by the House and $123,953,000 as proposed by the Senate. The conference agreement includes:

Center for Fire Research	$5,402,000
Center for Building Technology	3,470,000
Institute for Computer Sciences and Technology	7,500,000
Cold Neutron Research Facility	4,500,000

The conferees are agreed that an additional $2,000,000 for construction of the Cold Neutron Research Facility should be derived from other sources. Sec. 104 of the Act permits the National Bureau of Standards to accept public or private contributions toward this effort.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING, AND CONSTRUCTION

Appropriates $20,500,000 instead of $23,000,000 as proposed by the House and $18,000,000 as proposed by the Senate.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 104. Provides language proposed by the Senate which would permit the National Bureau of Standards to accept public or private contributions to construct a cold neutron research facility. The House bill contained no provision on this matter.

SEC. 105. Deletes a general provision proposed by the Senate requiring the Secretary of Commerce to submit a report on plans, options and funding requirements for commercialization of LANDSAT to the House and Senate Appropriations Committees by September 15, 1986. The House bill contained no provision on this matter.

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Appropriates $67,000,000 instead of $70,800,000 as proposed by the House and $65,725,000 as proposed by the Senate. In addition the conference agreement provides language proposed by the House and stricken by the Senate which limits the positions in the Department of Justice's leadership offices to 56.

The conference agreement provides $1,000,000 for the Financial and Administrative Management System.

The conferees are agreed that sufficient funds are inclued within the total amount provided for this account to maintain the Buffalo, New York Office of Immigration Review at the same staffing level which existed on July 1, 1986 and that this office shall not be closed nor its staffing level reduced unless the Department of Justice submits a reprogramming/reorganization request to the House and Senate Appropriations Committees in accordance with the procedures contained in Sec. 607 of this Act and the procedures contained in House Report 99-669, and receives approval of such a request from the House and Senate Appropriations Committees.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

Appropriates $10,300,000 instead of $10,600,000 as proposed by the House and $9,912,000 as proposed by the Senate.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

Appropriates $208,934,000 instead of $220,000,000 as proposed by the House and $207,897,000 as proposed by the Senate. In addition, the conference agreement provides language earmarking $1,537,000 for office automation projects instead of $5,000,000 for this purpose as proposed by the House. The Senate proposed no funding for this item. The conference agreement also provides language permitting up to $1,000,000 to be transferred from other Justice Department appropriations to this account for expenses of independent counsel subject to approval of the House and Senate Appropriations Committees under the reprogramming procedures contained in section 607 of this Act.

The conference agreement is generally in accord with the amounts proposed by the Senate for the programs funded in this account. However, the conference agreement does not include any funding for expenses of independent counsel.

SALARIES AND EXPENSES, ANTITRUST DIVISION

Appropriates $43,000,000 as proposed by the House instead of $44,420,000 as proposed by the Senate.

The conferees are concerned over the potential antitrust implications of the development of the marketing structure of the cable communications industry pursuant to the enactment of the Cable Communications Policy Act as it relates to the home satellite earth station industry. The conferees are aware of an ongoing review of the marketplace by the Antitrust Division of the Justice Department and urge the Attorney General to complete this review in a expeditious fashion and report to the appropriate Committees of Congress on the findings of such a review.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

Appropriates $320,000,000 instead of $340,000,000 as proposed by the House and $345,093,000 as proposed by the Senate. The conference agreement includes an additional $31,000,000 for the United States Attorneys in title II of this joint resolution for the enhanced Federal drug law enforcement program. The total amount thus made available for the United States Attorneys for FY 1987 is $351,000,000 and will provide funds for the activities of the United States Attorneys as proposed by the Senate plus an additional $6,000,000 for the expanded Federal drug law enforcement effort.

SALARIES AND EXPENSES, OVERSIGHT OF BANKRUPTCY CASES

Appropriates $11,500,000 instead of $13,200,000 as proposed by the House and $10,962,000 as proposed by the Senate. The conference agreement also provides language which continues the authorization for the United States Trustees Program from November 10, 1986 through September 30, 1987. This language is not intended to expand the current program but to continue the authorization until a new authorization is enacted. Both the House and Senate bills contained language continuing the authorization from October 1, 1986 through September 30, 1987.

The conference agreement includes $808,000 above the amount proposed by the Senate for additional computers and staff for field offices.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

Appropriates $564,000 as proposed by the Senate instead of $596,000 as proposed by the House.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

Appropriates $142,000,000 instead of $155,000,000 proposed by the House and $157,000,000 as proposed by the Senate. The conference agreement provides an additional $17,000,000 for the United States Marshals in title II of this joint resolution as part of the expanded Federal drug law enforcement program. Thus, the total amount available for the Marshals Service for FY 1987 is $159,000,000 and will provide funds for the activities of the Marshals Service as proposed by the Senate plus an additional $2,000,000 for the expanded drug law enforcement effort.

SUPPORT OF UNITED STATES PRISONERS

Appropriates $55,000,000 of which $5,000,000 is for the Cooperative Agreement Program instead of $58,000,000 of which $5,000,000 is for the Cooperative Agreement Program as proposed by the House and $57,000,000 of which $2,000,000 is for the Cooperative Agreement Program as proposed by the Senate. The conference agreement also provides language which was not in either the House or Senate bills which would authorize the use of unobligated balances for liquidating an estimated deficiency of $1,900,000 in this account.

In addition to the $55,000,000 provided herein, an additional $5,000,000 is provided in title II of this joint resolution for this account as part of the enhanced Federal drug law enforcement program. Thus a total of $60,000,000 is provided for the Support of United States Prisoners account for FY 1987.

FEES AND EXPENSES OF WITNESSES

Appropriates $52,187,000 as proposed by the Senate instead of $46,000,000 as proposed by the House.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

Appropriates $29,637,000 as proposed by the Senate instead of $30,000,000 as proposed by the House.

ASSETS FORFEITURE FUND

Deletes the language proposed by both the House and the Senate for the management expenses and non-reimbursable expenditures that are authorized from the Assets Forfeiture Fund. The conference agreement includes language in title II of this joint resolution which authorizes such sums as are necessary for payment of the management expenses and non-reimbursable expenditures which are authorized from the Fund.

DRUG ENFORCEMENT ADMINISTRATION

Provides language proposed by the Senate which requires that $140,000 of the appropriation for DEA be spent for eatablishment and operation of an office in Hilo, Hawaii. The House bill contained no provision on this matter.

Provides, language which authorizes DEA to fund travel, transportation and subsistence costs of State and local law enforcement officers who attend drug law enforcement training courses at the FBI Academy, Quantico, Virginia. The House and the Senate bills did not contain any provision on this matter.

CONSTRUCTION

Appropriates $7,500,000 and makes the funds available no later than July 1, 1987 upon submission of a reprogramming requests, in accordance with Sec. 607 of this Act, setting forth the specific use of such funds. The Senate proposed $15,000,000 for this item to be available upon submission of a report no later than July 1, 1987 concerning the specific use of such funds. The House bill contained no provision on this matter.

It is the intent of the conferees the funding provided in this joint resolution for an

all source intelligence center be used for relocation of the existing El Paso Intelligence Center (EPIC) to Fort Bliss, Texas in accordance with the design prepared by the Army Corps of Engineers for the Drug Enforcement Administration. Further, it is the intent of the conferees that the all source intelligence center proposed by the National Drug Enforcement Policy Board be incorporated into EPIC.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

Appropriates $593,000,000 as proposed by the Senate instead of $605,000,000 as proposed by the House; provides for a limitation of $25,000 on overtime pay for INS employees as proposed by the Senate instead of $23,000 as proposed by the House; and provides language proposed by the House and stricken by the Senate prohibiting INS from closing its Northern Regional Office at Fort Snelling, Minnesota.

The conference agreement also includes language making $3,385,000 previously appropriated for INS construction projects, available for liquidating a potential FY 1986 deficiency in this account. The House and Senate bills contained no provision on this matter.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

Appropriates $598,807,000 as proposed by the Senate instead of $602,000,000 as proposed by the House. The conference agreement also includes $28,000,000 for the Salaries and Expenses account in title II of this joint resolution as part of the enhanced Federal drug law enforcement program. Thus a total of $526,807,000 is available for this account for FY 1987.

The conference agreement includes $200,000 for Prison MATCH and similar programs which operate at the four Federal prisons that house female inmates. The conferees are agreed that none of these programs are entitled to these funds, that each program must submit an application and receive approval for such funds in accordance with Federal Prison System regulations, and that all programs should seek other sources of funding.

NATIONAL INSTITUTE OF CORRECTIONS

Appropriates $9,000,000 instead of $11,000,000 as proposed by the House and $8,527,000 as proposed by the Senate. The $473,000 included in this conference agreement above the amount proposed by the Senate is allocated for training programs which together with the carryover balances approximating $2,000,000 from prior years should be sufficient to maintain NIC-sponsored training at the full level that was provided for FY 1986.

BUILDINGS AND FACILITIES

Appropriates $122,511,000 instead of $129,000,000 as proposed by the House and Senate. The conference agreement also provides $96,500,000 in title II for this account as part of the enhanced Federal drug law enforcement program. Thus, a total of $219,011,000 is provided for this account for FY 1987 and includes funds for construction of five new Federal prisons.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

Appropriates $190,650,000 instead of $210,000,000 as proposed by the House and $148,650,000 as proposed by the Senate. In addition, the conference agreement provides for a transfer of $3,500,000 of unused discretionary Juvenile Justice funds to the State and local assistance program. The House and Senate bills contained no provision on this matter.

The following table shows the amounts in the conference agreement, including application of carryover funds, for the Justice Assistance program:

Item	*Conference agreement*
Juvenile Justice	$70,282,000
RISS	9,900,000
(Carryover)	(2,100,000)
Mariel Cubans	5,000,000
Missing Children	4,000,000
State and Local Assistance	40,000,000
(Carryover)	(4,400,000)
National Institute of Justice	18,566,000
Bureau of Justice Statistics	16,002,000
(Carryover)	(2,980,000)
Public Safety Officers Benefits	9,910,000
(Carryover)	(740,000)
Emergency Assistance (Carryover)	(1,148,000)
Administrative	16,990,000
(Carryover)	(272,000)
Total Appropriations	190,650,000
Total Program level, including carryover	202,290,000

The conference agreement also provides language proposed by the Senate which places an obligation limitation of $64,000,000 on the Crime Victims Fund for FY 1987. The House bill contained no provision on this matter. In providing this limitation on obligations from the Fund, the conferees do not intend to break faith with the Congressional commitment to fund the Crime Victims program as authorized by the Victims of Crime Act or to establish a precedent which the Administration might use to propose future limitations on obligations from the Fund. Rather the conferees intend by this limitation merely to obtain an outlay credit of $2,466,000 in the scorekeeping process for FY 1987.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 205. Provides a general provision which authorizes the Immigration and Naturalization Service to impose a $5.00 fee for immigration inspection of airline and vessel passengers. The provision exempts passengers whose journey originated in Canada, Mexico, a territory or possession of the U.S. or the Caribbean. The fees shall be placed in a special account in the general fund of the Treasury and shall be used to reimburse the INS appropriation for expenses incurred in carrying out certain inspection activities for commercial aircraft and vessels. At the end of each two-year period, beginning with the creation of this account, the Attorney General, following a public rulemaking, shall submit a report to the Congress concerning the status of the account, including any balances therein, and recommend any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two years equal, as closely as possible, the cost of providing these services. The Senate proposal was the same as the conference agreement except that the Attorney General would have been authorized to adjust the fee at the end of each two-year period. The House bill contained no provision on this matter.

The legislation requires that implementing regulations for the INS user fee be consistent with Customs Service regulations setting forth procedures for collection and remittance of the customs user fee. The Customs Service is currently reviewing comments on its interim rule which include requests by foreign carriers, especially charter airlines, for changes in the rule. It is the conferees' intent that INS rules be consistent with the final rule ultimately adopted by the Customs Service.

SEC. 206. Provides language proposed by the Senate which would release scheduled passenger airlines and vessels from the responsibility to assume custody or financial responsibility for aliens who arrive by plane or commercial vessel in the U.S. without proper documentation. The House bill contained no provision on this matter.

SEC. 207. Provides language proposed by the Senate which amends the Public Safety Officers Death Benefits Act to include coverage for members on public rescue squads or ambulance crews who were responding to a fire, rescue or police emergency. The House bill contained no provision on this matter.

SEC. 208. Provides that none of the funds appropriated or otherwise made available in this title may be available for the performance of any pre-inspection activities by the Immigration and Naturalization Service (1) at Shannon International Airport in Ireland or (2) at Gander Airport in Newfoundland. In addition, the conference agreement provides that the General Accounting Office shall conduct a comprehensive analysis of the trial pre-inspection program conducted by the Immigration and Naturalization Service at Shannon International Airport from July 1, 1986 to October 31, 1986, and shall issue a report to Congress by April 30, 1987. The report shall include an evaluation of the economic impact on American airports and of whether pre-inspection is a cost-effective means of facilitating international air travel and enhancing law enforcement. The conference agreement is similar to the Senate proposal on this matter in Amendment No. 75 except that the conference agreement excludes the Customs Service from the provision, limits the proviso to airports in Shannon, Ireland, and Gander, Newfoundland, and requires the General Accounting Office to conduct a comprehensive analysis of the INS trial pre-inspection program. The House bill contained no provision on this matter.

SEC. 209. Provides that none of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape. The conference agreement also provides, that should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void. The House had proposed language which was stricken by the Senate that would have prohibited funds in title II from being used to pay for an abortion or to provide facilities for the performance of an abortion, or for expenses of travel, staff escorts, or housing related to the procuring of an abortion.

SEC. 210. Provides language which prohibits the Director of the FBI and the Administrator of DEA from establishing and collecting fees to provide training to State and local law enforcement officers at the FBI National Academy. Any fees collected for training of State and local law enforcement officers, which occurred at the National Academy on or after October 1, 1986, shall be reimbursed to the appropriate official or agency. In addition, the Director of the Na-

tional Institute of Corrections shall not establish and collect fees to provide training to State and local officers which was not provided on a reimbursable basis prior to October 1, 1986. The House and Senate bills contained no provisions on this matter.

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

Appropriates $1,527,000,000 instead of $1,675,000,000 as proposed by the House and $1,400,000,000 as proposed by the Senate.

The conference agreement includes $127,000,000 for continuing the Diplomatic Security initiative. These funds are allocated as follows:

Program	*Amount*
Residential Security	$45,000,000
Perimeter Security	38,800,000
Replacement of FSNs	14,000,000
Technical Security Countermeasures	10,100,000
Radio Support	5,000,000
Training	4,000,000
Counterterrorism & Law Enforcement System	3,200,000
Protection of Classified Office Equipment	2,800,000
Domestic Security	2,200,000
Shielded Enclosure Acceleration	1,900,000
Total	127,000,000

The conference agreement does not provide for any of the other program increases requested for the Salaries and Expenses account.

Deletes a separate appropriation proposed by the House and stricken by the Senate for reopening and operating certain consulates. The conference agreement includes funding for these consulates in the amount provided for in the "Salaries and Expenses" account.

REPRESENTATION ALLOWANCES

Appropriates $4,460,000 as proposed by the Senate instead of $4,700,000 as proposed by the House.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

Appropriates $9,100,000 instead of $9,500,000 as proposed by the House and Senate.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

Appropriates $440,000,000 of which $15,000,000 is to be available for expenditure on October 1, 1987 instead of $500,000,000 without any deferral of expenditures as proposed by the House and $273,000,000 without any deferral of expenditures as proposed by the Senate.

The conference agreement also includes language which provides that up to $1,000,000 in this account shall be available for transfer to the National Bureau of Standards for conducting an independent analysis of the U.S. embassy office building being constructed in Moscow. In addition, NBS will submit a report including this analysis, an assessment of the current structure, and recommendations and cost estimates for correcting any defects to the House and Senate by April 15, 1987. In addition, the Secretary of State beginning on February 1, 1987 will report to the House and Senate every six months on any failures of Soviet agencies to perform obligations to United States diplomats or missions and the actions taken by the State Department to redress these failures. The conference agreement is the same as language proposed by the Senate in Amendment No. 66 but deletes the following provisions proposed in that amendment:

1. Requiring NBS to use approximately cleared personnel to conduct the analysis;

2. Prohibiting the State Department from obligating any funds for construction of the Moscow embassy building until 30 days after receipt of the NBS report, except as necessary to preserve existing structures and to conduct necessary renovation options.

3. Required that obligations of funds for further construction of the embassy office building be subject to appropriate reprogramming procedures.

4. Prohibiting disbursement of funds to the Soviet Union or Soviet contractors for construction efforts associated with the new office building, including but not limited to, work performed until the Secretary submits to the Speaker and the Senate Appropriations and Foreign Relations Committees an assessment of the adequacy of such work and the extent of damages to the U.S.

5. Requiring the Office of Foreign Missions to submit to the Speaker and the Senate Appropriations and Foreign Relations Committees by April 15, 1987 a plan to establish essential parity in the numbers and types of buildings held by the U.S. in Moscow and the Soviet Union in Washington, D.C.

6. Prohibiting the State Department from sending contractor personnel to the Soviet Union prior to receiving appropriate security clearances.

7. Requiring the Secretary of State, on February 1, 1987 and every six months thereafter, to report to the Speaker and the Senate Appropriations and Foreign Relations Committees on the progress of construction in Moscow.

The House bill contained no provision on this matter.

The conferees agree that the National Bureau of Standards shall assemble a term of appropriately cleared personnel to undertake an independent analysis of the new United States embassy office building being constructed in Moscow and report directly to the Congress on their findings. The National Bureau of Standards shall make every effort to use only the minimum funds necessary to conduct this study and shall report to the House and Senate Appropriations Committees if more than $500,000 is needed to complete this study. Obligation of remaining funds for construction of the new office building and disbursement of any additional funds to the Soviet Union or its entities for construction efforts associated with the new office building shall be subject to appropriate reprogramming procedures.

The funds in the conference agreement are allocated as follows:

Activity	
Diplomatic Security Capital Program	[1] $227,000,000
Non-security related Capital Program	30,000,000
Leasehold payments	93,000,000
Functional Programs	22,000,000
Related Activities and Administration	86,000,000
Anticipated Proceeds of Sale	−4,000,000
Construction slippage	−14,000,000
Total appropriation	$440,000,000

[1] $15,000,000 deferred for expenditure until October 1, 1987.

The conference agreement of $227,000,000 for the Diplomatic Security Capital Program includes funding for the following projects:

Project Support	$6,638,000
Istanbul, Turkey	14,782,000
Lima, Peru	68,640,000
Bogota, Columbia	57,542,000
Pretoria, South Africa	33,298,000
Cario, Egypt	46,100,000

COUNTERTERRORISM RESEARCH AND DEVELOPMENT

Deletes $10,000,000 proposed by the House and stricken by the Senate for the counterterrorism research and development program.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

Appropriates $4,000,000 as proposed by the Senate instead of $4,400,000 as proposed by the House.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

Appropriates $9,379,000 as proposed by the Senate instead of $9,800,000 as proposed by the House.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

Appropriates $385,000,000 of which $130,000,000 would be deferred for expenditure until October 1, 1987 as proposed by the Senate instead of $405,000,000 without any deferral as proposed by the House. In addition the conference agreement deletes language proposed by the Senate which would have provided that not less than $31,729,477 of the funds appropriated for this account shall be available only for payment of the U.S. contribution during FY 1987 to the Pan American Health Organization. The House bill contained no provision on this matter.

The conferees are concerned that any across-the-board reduction or deferral in U.S. payments would have three times as severe an impact on the Pan American Health Organization (PAHO) and other inter-American institutions. They are particularly concerned with respect to PAHO which has demonstrated technical excellence in health cooperation benefitting the United States and other Western Hemisphere countries and which has been responsive to U.S. financial concerns in limiting its budget and in reducing staff costs. The conferees therefore expect that the Department will take account of these factors in order to avoid a disproportionate impact on the operations of these organizations, particularly on those of PAHO, in any application of reductions and deferrals in the U.S. payment required under this legislation. The conferees expect that the Department will treat organizations, such as PAHO, which operate effectively and efficiently, in as reasonable and fair a manner as possible under current circumstances.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

Appropriates $5,460,000 as proposed by the Senate instead of $5,750,000 as proposed by the House.

INTERNATIONAL COMMISSIONS

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

SALARIES AND EXPENSES

Appropriates $10,800,000 instead of $11,000,000 as proposed by the House and $10,600,000 as proposed by the Senate.

CONSTRUCTION

Appropriates $3,900,000 instead of $4,100,000 as proposed by the House and Senate.

INTERNATIONAL FISHERIES COMMISSIONS

Appropriates $10,800,000 instead of $11,000,000 as proposed by the House and Senate.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

Appropriates $1,900,000 as proposed by the Senate instead of $2,000,000 as proposed by the House.

PAYMENT TO THE ASIA FOUNDATION

Appropriates $8,800,000 instead of $9,000,000 as proposed by the House and Senate.

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

Appropriates $4,600,000 instead of $4,800,000 as proposed by the House and $4,000,000 as proposed by the Senate.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC.

302. Provides language proposed by the Senate which would require the Secretary of State to report to appropriate Committees of Congress every 30 days from the date of enactment of this Act on the obligation of funds provided for diplomatic security and related expenses. The House bill contained no provision on this matter.

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

Appropriates $2,279,000 instead of $2,400,000 as proposed by the House and Senate.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

Appropriates $6,800,000 instead of $7,000,000 as proposed by the House and Senate.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

Appropriates $7,000,000 instead of $7,200,000 as proposed by the House and Senate.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

Appropriates a total of $929,500,000 of which $105,000,000 is for salaries of judges and $824,500,000 is for other salaries and expenses, instead of a total of $949,000,000 of which $105,000,000 is for salaries of judges and $835,000,000 is for other salaries and expenses as proposed by the House and Senate. In addition the conference agreement deletes the earmarking of $7,500,000 from the bill language for contractual services and expenses relating to the supervision of drug dependent offenders as proposed by the House and Senate. The conference agreement also provides $12,000,000 for treatment of drug and alcohol dependent offenders in title II of the joint resolution. In addition, the conference agreement includes Sec. 405 under "General Provisions—The Judiciary" which will permit fees collected for the preparation of mailing of notices in bankruptcy cases to be credited to this appropriation to be used for salaries and other expenses incurred in providing these services. The FY 1987 estimate for these fees is $3,000,000.

The conference agreement provides sufficient funds within the "Salaries and Expenses" account for resident deputy clerk services in Worchester, Massachusetts and any contractual court reporting services that may be needed at that location.

The conference agreement provides for 240 additional positions above the FY 1986 level for probation and pretrial services (160 officers and 80 clerks), which also contemplates that these offices will continue to be staffed at 94 percent of the formula allowance adopted by the Judicial Conference. Staffing for clerks' and probation and pretrial services offices is funded at 60 percent. The 160 officer positions include 90 for probation and 70 for pretrial services and the additional clerical positions include 50 for probation and 30 for pretrial services.

The number of positions provided specifically for pretrial services are exclusively for districts with pretrial services organized outside probation. This earmarking of positions is essential if the Pretrial Services Act of 1982 is to be fully implemented. Almost four years have passed since the enactment of this Act and only about half of the eligible defendants are being screened in order to advise the Judicial officer at the bail hearing, according to a recent GAO report. Experience under the Act clearly demonstrates that the most pressing need for these additional pretrial services is in the Metropolitan districts (districts with a total of six or more judges authorized). These additional positions should be established in those districts. The conferees recognize that many of the non-Metropolitan districts may have a small criminal caseload and that it may be more feasible and economical to provide pretrial services through the probation office. In such districts the allocation of new probation officer positions may take into account the assumption of these duties by the probation office.

DEFENDER SERVICES

Appropriates $68,378,000 instead of $70,000,000 as proposed by the Senate and $72,000,000 as proposed by the House. The conference agreement also provides $18,000,000 for Defender Services in title II of this joint resolution as part of the enhanced Federal drug law enforcement program.

FEES OF JURORS AND COMMISSIONERS

Appropriates $44,635,000 instead of $47,000,000 as proposed by the House and Senate. The conference agreement also provides $7,500,000 for Fees of Jurors and Commissioners in title II of this joint resolution as part of the enhanced Federal drug law enforcement program.

COURT SECURITY

Appropriates $36,000,000 instead of $36,500,000 as proposed by the House and Senate.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

Appropriates $29,500,000 instead of $30,000,000 as proposed by the House and $29,800,000 as proposed by the Senate.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

Appropriates $9,600,000 as proposed by the House instead of $9,702,000 as provided by the Senate.

BICENTENNIAL EXPENSES, THE JUDICIARY

BICENTENNIAL ACTIVITIES

Appropriates $1,000,000 as proposed by the Senate instead of $1,500,000 as proposed by the House.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

Appropriates $5,800,000 instead of $6,000,000 as proposed by the House and Senate.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 405. Provides language which authorizes fees collected for the preparation and mailing of notices in bankruptcy cases to be deposited in the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" account for use for salaries and other expenses incurred in providing these services. Neither the House nor the Senate bills contained any provision on this matter.

SEC. 406. Provides language proposed by the Senate to permit Federal judges to receive the increase in pay which will take effect under title 5 U.S.C. 5305 for Federal employees during FY 1987. The House bill contained no provision on this matter.

SEC. 407. Provides language increasing the filing fee for a civil lawsuit in U.S. district courts from $60 to $120 and the filing fee for a bankruptcy petition under chapter 7 and chapter 13 from $60 to $90 and requires funds paid to the U.S. district courts resulting from the increase in the filing fee to be available to offset funds appropriated for the operation and maintenance of United States courts as provided in annual appropriation Acts. The conference agreement is identical to the Senate proposal on this matter except that the Senate had proposed to increase the filing fee in bankruptcy cases from $60 to $80 and to require the funds paid to the U.S. bankruptcy courts resulting from the increase in the filing fee to be available to offset funds appropriated for operation and maintenance of the bankruptcy courts.

The House bill contained no provision on this matter.

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

Appropriates $64,000,000, as proposed by the House instead of $64,370,000 as proposed by the Senate. The conferees are agreed that any disruptions in staffing levels caused by the $64,000,000 funding level are to be absorbed within the Office of the Administrator of the Maritime Administration.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

Appropriates $29,000,000 instead of $30,000,000 as proposed by the House and Senate.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

Appropriates $140,000,000 of which $15,000,000 shall become available for expenditure on October 1, 1987 instead of $140,000,000 without deferral as proposed by the House and $125,000,000 without deferral as proposed by the Senate.

The conferees are agreed that the $15,000,000 deferred is for the modernization program. The remaining $125,000,000 is for the regular salaries and other expense items.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

Appropriates $13,200,000 of which $3,700,000 is to carry out the provisions of Public Law 99-194, including $2,700,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights, an education program for elementary and secondary schools administered by the Center for Civic Education and $1,000,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

The House had proposed $13,000,000 and the Senate had proposed $13,400,000, each without any earmarking of funds.

The conferees encourage the Commission to support the We The People 200 Committee's plans for commemorating the Constitution's bicentennial in Philadelphia.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

Appropriates $7,500,000 earmarks $2,000,000 for regional offices and $700,000 for civil rights monitoring and imposes certain restrictions on the activities of the Commission. The following table shows the House and Senate proposals and the conference agreement:

House	Senate	Conference
$11.8 million Language permitting the funds to be used only for costs associated with closing down the Commission by December 31, 1986 and providing certain reemployment rights for career employees.	$6 million Lanuage which (1) prohibits employment of consultants, temporary or special needs employees and more than 10 Schedule C's; (2) restricts the number of billable days for the Commissioners and their assistants' and (3) restricts contractual services.	$7.5 million Language earmarking $2 million for regional offices and $700 thousand for monitoring activities. Restrictions which provide: No more than $20,000 for consultants; No more than $185,000 for temporary or special needs appointees; No more than 4 Schedule C employees, exclusive of one Special Assistant for each Commissioner; Special Assistants for Commissioners shall not be compensated in excess of a level 11 salary nor shall such Assistants be allowed in excess of 150 billable days; No more than $40,000 for contracts for performance of mission-related research; and Commissioners shall not be compensated for more than 75 billable days with the exception of the chairman who is permitted 125 billable days.

The conferees are agreed that sufficient funds are included within the total amount provided for the Commission to meet all severance pay requirements for FY 1987.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Appropriates $165,000,000 including not to exceed $20,000,000 for payments to State and local enforcement agencies instead of $167,700,000 and not to exceed $21,150,000 for payments to such agencies as proposed by the House and $165,000,000 and not to exceed $21,150,000 for such payments as proposed by the Senate.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

Appropriates $95,000,000 and provides language which (1) permits the FCC to recover the costs of implementing fees authorized by the Consolidated Omnibus Reconciliation Act of 1985; (2) prohibits a reduction in the number of VHF channel assignments for noncommercial educational television stations; and (3) requires the FCC to consider alternative means of administering and enforcing the Fairness Doctrine and report to Congress by September 30, 1987. The House had proposed $96,300,000 without any of these language provisions. The Senate has proposed $95,000,000 with the first two language provisions contained in the conference agreement and a third provision which would have required the FCC to reconsider its inquiry into the Fairness Doctrine in order to consider alternative means of administering and encorcing this matter and to submit this inquiry as a report to the Congress by September 30, 1987.

It is the intent of the conferees that the Federal Communications Commission shall not change the regulation concerning the Fairness Doctrine without submitting the required report to Congress on this matter.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

Appropriates $11,600,000 as proposed by the Senate instead of $11,400,000 as proposed by the House.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

Appropriates $65,000,000 instead of $67,500,000 as proposed by the House and $66,500,000 as proposed by the Senate and adds a proviso requiring the FTC to submit a report to the House and Senate Appropriations Committees and the House and Senate Commerce Committees containing certain information on predatory pricing. The conference agreement on this matter is identical to the Senate language in Amendment No. 89 with the addition of the reporting requirement to the Appropriations Committees. The House bill contained no provision on this matter.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

Appropriates $33,900,000 instead of $34,100,000 as proposed by the House and $33,700,000 as proposed by the Senate. The conference agreement will provide for 20 positions and 10 staff years above the budget request to enable the ITC to handle its growing caseload.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

Appropriates $1,408,000 instead of $1,483,000 as proposed by the House and Senate.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

Deletes language proposed by the House and stricken by the Senate which would have provided that all of the limitations applicable to the Corporation in FY 1986 continue to apply until changes are approved in legislation passed by the House or are enacted in an FY 1987 authorization for the Corporation; provides all of the language proposed by the Senate restricting certain activities of the Corporation, providing a legistative funding formula, providing for reductions in the event of sequestration, and redistribution of funds; and provides language earmarking funding levels for each of the Corporation's program activities as follows:

Basic field programs	$261,293,672
Native American programs	7,022,000
Migrant programs	9,698,000
Program development, including law school clinics	1,339,800
Supplemental field programs	1,000,000
Regional training centers	623,964
Training development and technical assistance	376,036
National support	7,528,218
State support	7,842,866
Clearinghouse	865,000
CALR grants	510,444
Corporation management and administration (Carryover)	(3,300,000)
Total	305,500,000

The Senate had proposed $262,993,672 for Basic Field Programs and $5,700,000 for Corporation Management and Administration. The conferees intend that a total of $10,700,000 be available for Corporation Management and Administration of which $3,300,000 shall be derived from unobligated balances carried over from previous fiscal years.

The conferees are concerned that the Corporation has recently without any prior notice or hiring, disapproved a subgrant to the American Association of Retired Persons, who were using retired lawyers to provide legal assistance to the poor. The conferees are advised that this action was taken without the knowledge of the Chairman of the Board of the Corporation and that it would eliminate a cost-effective legal assistance program previously strongly supported by members of the Board. The conferees, therefore, direct that the Legal Services Corporation shall not disapprove a subgrant until the subrecipient has been accorded the same rights accorded to a recipient under section 1006 of the Legal Services Corporation regulation when the subrecipient has previously received funding under the Corporation-approved subgrant.

The conferees are agreed that the statutory language permitting reallocation of national support center funding in the event of Corporation action to defund or deny refunding to a center is intended to apply to funding cutoffs for cause and does not undercut the rejection of the Corporation's policy decision to defund all national support centers as a class.

The conferees direct the Corporation to submit a reprogramming for any reallocation of funds within its Management and Administration account which would reduce funding for Monitoring, Audit, and Compliance in the Office of Field Services below the FY 1986 level.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

Appropriates $900,000 instead of $860,000 as proposed by the House and $960,000 as proposed by the Senate.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

Appropriates $13,300,000 instead of $14,060,000 as proposed by the House and $112,216,000 as proposed by the Senate. The conferees are agreed that the $1,094,000 provided above the budget request will be allocated to reducing the lapse rate for permanent positions and providing for additional contract services and other support costs.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

Appropriates $110,500,000 instead of $111,100,000 as proposed by the House and $100,050,000 as proposed by the Senate; provides a limitation of $3,000 on representation expenses as proposed by the Senate instead of a limitation of $2,000 on such expenses as proposed by the House; and provides language proposed by the Senate authorizing up to $10,000 for funding a permanent secretariat for the International Association of Securities Commissioners. The House bill contained no provision on the last item.

The conferees intend that the $450,000 provided above the budget request is for reducing the lapse rate for authorized positions of the Commission.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

Appropriates $162,000,000 for the regular expenses of the Salaries and Expenses account of the Small Business Administration instead of $165,000,000 as proposed by the House and $161,500,000 as proposed by the Senate.

Appropriates $35,000,000 for Small Business Development Centers as proposed by the House instead of $33,500,000 as proposed by the Senate and provides Senate language originally proposed in Amendment No. 84 which authorizes the Small Business Administration to recognize costs incurred before December 16, 1980 by a small business development center at the University of Georgia as allowable costs chargeable to a FY 1981 cooperative agreement, provided such costs were incurred after October 1, 1979 and have not been reimbursed from non-Federal sources. The House bill contained no provision on this matter.

The following table shows the amounts in the conference agreement for the programs funded in the Salaries and Expenses appropriation:

Program	*Amount*
Procurement Assistance	$15,277,000
PASS	(1,053,000)
Management Assistance	54,285,000
SBDC	(35,000,000)
SBI	(2,871,000)
Finance and Investment	54,025,000
Innovation, Research, and Technology	1,126,000
Minority Small Business/COD	22,422,000
7(j)	(9,570,000)
Advocacy	4,743,000
Data Base and Research	(1,988,000)
International Trade	884,000
Women's Business Ownership	899,000
Private Sector Initiative	305,000
Veterans Affairs	1,233,000
VA Outreach	(700,000)
National Advisory Council	211,000
General Counsel	13,134,000
Inspector General	6,291,000
Hearings and Appeals	944,000
Comptroller	6,193,000
Equal Employment Opportunity	1,776,000
Information Resource	14,130,000
Management Services	34,984,000
Program Analysis and Review	1,145,000
Personnel	3,201,000
Public Communication	890,000
Congressional and Legislative Affairs	546,000
Executive Direction and Field Administration	30,356,000
Subtotal regular	269,000,000
Disaster Assistance	20,000,000
Total	289,000,000

The managers are recommending $15,277,000 for SBA's procurement assistance programs. This figure represents an increase of $1,989,000 over last year's level in order to provide additional funds required for the full implementation of the Breakout Procurement Center Representative (BPCR) Program, as defined in Public Law 98-577. The conferees reiterate the direction to SBA to implement a pilot Systems Procurement Center Representative (SPCR) Program, as described in Senate Report 99-150. A successful SPCR program could significantly expand subcontracting opportunities for small business concerns, especially within major systems being developed by the Department of Defense. Subcontracting opportunities hold the greatest promise for substantially expanding small business participation in the Federal procurement market. The conferees also note with approval SBA's on-going efforts to improve and broaden the Procurement Automated Source System (PASS), in conjunction with both the Federal procuring agencies (through the Procurement Automation Council sponsored by the Office of Federal Procurement Policy) to expand direct contracting opportunities and major contractors to expand subcontracting opportunities.

BUSINESS LOAN AND INVESTMENT FUND

Appropriates $164,000,000 in additional capital for the Business Loan and Investment Fund instead of $181,000,000 as proposed by the House and $176,000,000 for additional capital for new direct loan obligations to be incurred by the Business Loan and Investment Fund as proposed by the House instead of $91,000,000 as proposed by the Senate.

The following table shows the amounts in the conference agreement for the direct loan and loan guarantee programs of the Small Business Administration:

Conference Agreement

[In millions of dollars]

General business loans:	
Direct	
Guaranteed	$2,473
Handicapped loans:	
Direct	15
Guaranteed	5
Economic opportunity loans	
Direct	24
Guaranteed	56
Energy loans:	
Direct	
Guaranteed	14
Development company loans:	
Direct	
Guaranteed	373
Investment company loans:	39
Direct	233
Guaranteed	
Veterans Loans:	
Direct	19
Guaranteed	
Total business loans:	
Direct	97
Guaranteed	3,154

SURETY BOND GUARANTEES REVOLVING FUND

Appropriates $9,497,000 for additional capital for the Fund instead of $10,000,000 as proposed by the House and Senate.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

Appropriates $14,245,000 for additional capital for the Fund instead of $15,000,000 as proposed by the House and Senate.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

Appropriates $7,200,000 to remain available until expended instead of $7,600,000 of which $7,100,000 was to remain available until expended as proposed by the House and $7,000,000 was to remain available until expended as proposed by the Senate.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

Appropriates $570,000,000 instead of $594,500,000 as proposed by the House and $560,000,000 as proposed by the Senate.

Provides a limitation of not to exceed $2,750,000 for the expenses of the Office of Inspector General as proposed by the Senate. The House bill contained no provision on this matter.

The conferees are agreed that the United States Information Agency should submit a reprogramming request to the House and Senate Appropriations Committees as soon as practicable in order to distribute the reduction from the budget request contained in the conference agreement.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Appropriates $145,000,000 of which $25,000,000 will be available for expenditure on October 1, 1987 as proposed by the Senate instead of $152,000,000 without any deferral of expenditures as proposed by the House.

The following table shows the House and Senate levels and the conference agreement for the various exchange programs:

Item	House	Senate	Conference
Fulbright, Humphrey and other core exchanges	$141,754,000	$133,000,000	$132,270,000
Private Sector Exchanges	10,246,000	9,000,000	9,730,000
CAMPUS Program		3,000,000	3,000,000
Total	152,000,000	[1] 145,000,000	[2] 145,000,000

[1] $25,000,000 would be available on October 1, 1987.
[2] $24,270,000 of funds for the core exchange programs and $730,000 for Private Sector exchanges are deferred until October 1, 1987.

With respect to the CAMPUS Program, the conferees intend that the Agency may obligate funds in the Salaries and Expenses account for recruiting a second group of students for two years of study in the United States. However, the conferees are agreed that the agency must submit the final evaluation of the initial two-year pilot program and a reprogramming request in accordance with Sec. 607 of this Act and receive approval of that proposal from the House and Senate Appropriations Committees before any of the $3,000,000 provided in the conference agreement for the CAMPUS program may be obligated.

The conference agreement provides language proposed by the Senate which waives Sec. 209 of Public Law 99-93. The House bill contained no provision on this matter.

RADIO CONSTRUCTION

Appropriates $46,000,000 to be available for expenditure October 1, 1987, of which not to exceed $12,000,000 shall be available for construction of facilities for Radio in the American Sector. The House had proposed $55,000,000 of which not to exceed $12,000,000 was for construction of these facilities. The Senate had proposed no funding for this item.

The conferees continue to note the substantial magnitude of the Voice of America facilities modernization program, which is expected to exceed $1,300,000,000 over several years. Therefore, the conferees reiterate their position that the USIA and the Voice of America should pursue agressively all relevant information relating to the availability of transmitters and antennas, spare parts and other technical equipment to determine whether such items can be procured at reasonable prices and in a timely manner under all foreseeable circumstances and to purchase American-manufactured equipment and materials to the fullest extent reasonably possible under the law in carrying out the facilities modernization program. In this regard, whenever a planned acquisition for the modernization program is expected to result in a contract award in excess of $2,500,000, the conferees direct that the House and Senate Appropriations Committees be notified as far in advance as practicable and, further, they that be provided; (a) a summary of the nature of the planned acquisition, (b) the anticipated delivery or implementation schedule, (c) the projected dates for soliciting proposals and making contract awards, (d) the prospective contractors to whom the solicitation will be provided, and (e) the criteria by which offers will be evaluated and upon which contract awards will be based.

RADIO BROADCASTING TO CUBA

Appropriates $11,250,000 instead of $11,500,000 as proposed by the House and Senate.

NATIONAL ENDOWMENT FOR DEMOCRACY

Appropriates $15,000,000 as proposed by the Senate instead of $17,500,000 as proposed by the House.

The conferees have been impressed by the effectiveness of discretionary grants made of the endowment. Therefore, the conferees direct that not less than 25 percent of program funds be available for discretionary grants not related to the traditional core grantees. The conferees have not included the fiscal year 1986 restriction that no grantee receive more than 25 percent of available funds.

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

Provides language proposed by the Senate which waives certain mandated earmarkings and funding floors in sections 203, 204, 205, and 210(c) of Public Law 99-93. The House bill contained no provision on this matter.

TITLE VI—GENERAL PROVISIONS

SEC. 606. Provides language proposed by the Senate which prohibits any of the funds in the Act for the legal Services Corporation from being used for any litigation concerning abortion except to save the life of the mother if the fetus were carried to term. The House provision on this matter would have prohibited any of the funds in the Act for the Legal Services Corporation from being used for any litigation concerning abortion.

SEC. 607. General Reduction. Deletes language proposed by the House and stricken by the Senate which would have reduced each discretionary appropriation in the act by 5.03% except for the FBI and DEA.

REPROGRAMMING PROCEDURES

Provides language proposed by the Senate concerning the reprogramming of funds within the appropriations contained in the Act. This language is identical to the provisions on this matter which were contained in the Fiscal Year 1986 Appropriations Act. The House bill contained no provision on this matter.

SEC. 608. Deleted language proposed by the Senate which would have provided that Sec. 608 of H.R. 5161 as reported to the Senate shall have no force or effect, and deletes Sec. 608 from the Act. The House bill contained no provision on this matter. Sec. 608 proposed the transfer of jurisdiction over airline industry mergers from the Department of Transportation to the Department of Justice.

Provides language proposed by the Senate originally in Amendment No. 105 which amends chapter 11 of title 11 of the Bankruptcy Code to require that retired former employees under a medical or hospital insurance plan established by a debtor prior to filing a bankruptcy petition shall be paid benefits under such plan until May 15, 1987. The language also provides that this section will be effective in chapter 11 cases in which a reorganization plan has not been confirmed by a court and in which such benefits are being paid on October 2, 1986, and in cases that become subject to chapter 11 after October 2, 1986. In addition the language provides that this section shall not apply during any period in which a case is subject to chapter 7 of the Bankruptcy Code. The House bill contained no provision on this matter.

SEC. 609. Deletes language proposed by the Senate which would have provided that Sec. 609 of H.R. 5161 as reported to the Senate shall be deemed to be stricken, and deletes Sec. 609 from the Act. The House bill contained no provision on this matter. Sec. 609 would have given the consent of Congress to the California-Nevada Interstate Compact.

TITLE VII—CHILD ABUSE VICTIMS' RIGHTS ACT OF 1986

Provides language which authorizes the Child Abuse Victims' Rights Act of 1986. The conference agreement is identical to the language proposed by the Senate on this matter except that it omits the section which would have amended the RICO statute, and changes the provision authorizing treble damages to actual damages. The House bill contained no provision on this matter.

TITLE VIII—JAMES MADISON MEMORIAL FELLOWSHIP PROGRAM

Provides language which authorizes the James Madison Memorial Fellowship Program; appropriates $20,000,000 to implement the program of which $10,000,000 would be available on November 1, 1987 and $10,000,000 which would be available on November 1, 1988; provides a payback provision; and provides an authorization and appropriation for backup information for the James Madison scholars and others whose interest in and appreciation of the Constitution is important. The Senate had proposed an authorization for the James Madison Scholarship Program and an appropriation of $20,000,000 to be available on October 1, 1987. The House bill contained no provision on this matter.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

Amendment No. 3: Section 101(c) of House Joint Resolution 738 provides appropriations for programs, projects and activities provided for in the Department of Defense Appropriations Act, 1987. The House version of the joint resolution provides appropriations for programs, projects and activities at a rate of operations and to the extent and in the manner provided for in H.R. 5438, as reported to the House of Representatives on August 14, 1986. The Senate version of the joint resolution provides appropriations for these programs, projects and activities at the rate and in the manner provided for in S. 2827, as reported to the Senate on September 17, 1986, with certain additional provisions and exceptions provided for in the joint resolution.

The conference agreement on House Joint Resolution 738 incorporates some of the provisions of both the House and Senate versions of the Department of Defense Appropriations Act, 1987, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-793 and Senate Report 99-446 should be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. The Department of Defense Appropriations Act, 1987, put in place by this joint resolution, incorporates the following agreements of the managers.

TITLE I—MILITARY PERSONNEL

The conferees agree to the following amounts for the Military Personnel accounts:

[In thousands of dollars]

SUMMARY	Budget	House	Senate	Conference
Military Personnel:				
Army	22,655,000	22,270,626	22,358,742	22,353,990
Navy	17,459,500	17,056,104	17,035,461	17,104,850
Marine Corps	5,333,400	5,245,086	5,225,361	5,266,053
Air Force	19,290,500	18,810,225	18,957,861	18,940,731
Reserve Personnel:				
Army	2,432,000	2,330,830	2,322,529	2,323,210
Navy	1,527,600	1,436,680	1,470,066	1,464,453
Marine Corps	314,800	300,100	309,344	303,968
Air Force	646,000	628,977	633,715	629,200

[In thousands of dollars]

SUMMARY	Budget	House	Senate	Conference
National Guard Personnel				
Army	3,485,200	3,303,174	3,335,461	3,323,145
Air Force	1,058,900	1,022,310	1,030,258	1,027,778
Total, military personnel	74,202,900	72,404,112	72,678,798	72,737,378

The following items represent language as agreed to by the conferees:

MILITARY AND CIVILIAN PAY RAISES

The conferees agree to a general provision which provides $1,911,000,000 to fund 3 percent military and 3 percent civilian pay raises, effective January 1, 1987. These funds should be applied proportionately as required for the military and civilian pay raises within the accounts affected. To the extent that additional sums are required for these pay increases, the conferees direct that such amounts be accommodated within existing funds.

ENHANCED METHOD FOR DETERMINING TRUE COSTS OF MILITARY RETIREMENT

The conferees agree to include a general provision that will enhance the method for determining true costs of militay retirement. This provision reflects action taken by the Senate on August 9, 1986, with the passage of S. 2638, authorizing fiscal year 1987 appropriations for the Department of Defense.

The conferees agree that a change in payments to the military retirement fund based on separate retired pay accrual calculations for active and reserve personnel will result in savings of approximately $575,000,000. However, the fiscal year 1987 budget request assumed that the Military Retirement Reform Act of 1986 would be effective on October 1, 1985. Due to the fact that this Act was not effective until August 1, 1986, fewer people than budgeted will be under the new retirement system in 1987, causing savings to be approximately $225,000,000 less than budgeted. Accordingly, the conferees have agreed to a net reduction of $350,000,000 based on this enhancement to the method used in determining the true cost of military retirement in fiscal year 1987.

ACTIVE DUTY END STRENGTHS

The conferees agree to a reduction of $106,843,000 from amounts requested in fiscal year 1987 for active duty end strength increases, providing appropriations which accommodate the following active duty manning levels:

	Fiscal year 1986 enacted	Fiscal year 1987			
		Budget request	House authorization	Senate authorization	Appropriated level
Army	780,800	780,900	780,800	780,800	780,800
Navy	581,300	592,700	583,300	587,000	587,000
Marine Corps	198,800	200,300	198,800	199,600	199,600
Air Force	606,470	607,200	606,470	606,850	606,470
Total	2,167,370	2,181,100	2,169,370	2,174,250	2,173,870

ENLISTED PAY AND ALLOWANCES/WORKYEARS

The conferees agree to a reduction of $108,350,000 from fiscal year 1987 funding requested for active duty enlisted pay and allowances, providing adequate workyear flexibility to meet the end strength levels displayed above.

OFFICER PAY AND ALLOWANCES/WORKYEAR

Significant reductions in the Department of Defense officer corps are recommended in the pending fiscal year 1987 Defense authorization bill. Accordingly, although the conferees have not included legislative language mandating specific decreases in the number of officers, they agree to a reduction of $77,200,000 in fiscal year 1987 funding for officer pay and allowances. This reduction is to be applied by the services to the officer pay and allowance accounts as deemed appropriate, either through a decrease in the total number of officers or through policy or program execution revisions.

PERMANENT CHANGE OF STATION TRAVEL

The conferees agree to the following adjustments to the Department of Defense permanent change of station (PSC) travel budget request:

Cost-saving initiative	−$186,000,000
Household goods weight allowances	−97,500,000
Temporary lodging expenses in CONUS	−92,664,000
Increased dependency rates	+30,000,000
Total	−346,164,000

In accordance with the adjustments listed above, the conferees agree to total funding of $2,456,389,000 for PCS travel for fiscal year 1987. In addition, the conferees have agreed to a general provision which places a ceiling of $2,506,389,000 on funds to be obligated by the Department of Defense for permanent change of station travel in fiscal year 1987. This ceiling provides limited latitude above the appropriated level, to accommodate any inceased requirements due to foreign currency fluctuation and also provides adequate flexibility to conform with the conference agreement regarding payment of temporary lodging expenses for junior enlisted members discussed below. The conferees will consider prior approval reprogramming action within this PCS ceiling only for these purposes.

The conferees agree with the concerns of the Senate regarding the low level of execution for the temporary lodging expense (TLE) program in the continental United States, and the pending program revisions. However, the conferees are aware of the adverse financial impact that cancellation of this program could have on junior enlisted service members and their families. Accordingly, the conferees have agreed to a general provision which would limit payment of temporary lodging expenses in the continental United States to enlisted members in grades E-1 through E-4 serving in a with-dependents status. The conferees understand this limited use of the TLE will require a modest funding level, which may be accommodated within existing resources, or, if required, submitted in the form of a prior approval reprogramming within the limitations of the total PSC ceiling.

The conferees fully support efforts by the Department and the services to control PSC costs through policy changes, including increased tour lengths. The conferees are convinced that the $186,000,000 reduction associates with such policy revisions in fiscal year 1987 is achievable and directs that the Department continue to evaluate and implement additional policy related cost-saving initiatives in fiscal years 1988 and 1989.

SELECTIVE REENLISTMENT BONUSES

The conferees agree to a reduction of $238,790,000 in the fiscal year 1987 Department of Defense request for selective reenlistment bonuses.

Of this reduction, 171,600,000 is associates with the prohibition on the payment of more than 50 percent of such a bonus in a lump sum.

MILITARY PERSONNEL, ARMY

The conferees agree to provide $22,353,990,000 instead of $22,270,626,000 as recommended by the House and $22,358,742,000 as recommended by the Senate. Details of the adjustments are as follows:

[dollars in thousands]

	House	Senate	Conference
End Strength	−$1,550	−$1,500	−$1,550
Officer Pay and Allowances/ Workyears	−32,478	−16,200	−25,500
Enlisted Pay and Allowances/ Workyears	—	−65,400	−21,250
Enlistment Bonuses	−28,255	—	−10,000
Reenlistment Bonuses	−52,173	−40,400	−52,173
Variable Housing Allowance	−6,000	−12,772	−12,772
Permanent Change of Station	−217,557	−145,104	−158,104
Cost-Saving Initiatives	(−107,385	(−61,800)	(−74,800)
HHG Weight Allowances	(−45,200)	(−45,200)	(−45,200)
Temporary Lodging Expense in CONUS	(—)	(−38,104)	(−38,104)
Other Permanent Change of Station	(−64,972	(—)	(—)
Inflation	−12,861	−8,082	−12,861
Sixth Infantry Division	−33,500	—	—
Enlisted Clothing Allowances	—	−6,800	−6,800
Total Military Personnel, Army	−384,374	−296,258	−301,010

MILITARY PERSONNEL, NAVY

The conferees agree to provide $17,104,850,000 instead of $17,056,104,000 as recommended by the House and $17,035,461,000 as recommended by the Senate. Details of the adjustments are as follows:

[Dollars in thousands]

	House	Senate	Conference
End Strength	−$104,855	−$77,100	−$77,100
Officer Pay and Allowances/ Workyears	−65,401	−10,350	−20,100
Enlisted Pay and Allowances/ Workyears	−40,670	−156,100	−58,500
Enlistment Bonuses	−2,756		
Reenlistment Bonuses	−103,693	−115,500	−115,500
Variable Housing Allowance	−10,900	−21,926	−21,926
Permanent Change of Station	−69,370	−39,773	−55,773
Cost-Saving Initiatives	(−58,859)	(−9,500)	(−25,500)
HHG Weight Allowances	(−6,300)	(−6,300)	(−6,300)
Temporary Lodging Expense in CONUS		(−23,973)	(−23,973)
Other Permanent Change of Station	(4,211)	()	()
Inflation	−5,751	−3,290	−5,751
Total Military Personnel, Navy	−403,396	−424,039	−354,650

MILITARY PERSONNEL, MARINE CORPS

The conferees agree to provide $5,266,053,000 instead of $5,245,086,000 as recommended by the House and $5,225,361,000 as recommended by the Senate. Details of the adjustments are as follows:

[Dollars in thousands]

	House	Senate	Conference
End Strength	−$15,002	−$9,600	−$9,600
Officer Pay and Allowances/ Workyears	−9,440	−2,700	−4,600
Enlisted Pay and Allowances/ Workyears		−38,700	−12,600
Enlistment Bonuses	−2,573		
Reenlistment Bonuses	−35,288	−28,900	−35,288
Variable Housing Allowance	−2,800	−5,683	−5,683
Permanent Change of Station	−8,872	−20,887	+9,113
Cost-Saving Initiatives	(−18,426)	(−12,300)	(−12,300)
HHG Weight Allowances	(−2,100)	(−2,100)	(−2,100)
Temporary Lodging Expense in CONUS	(.....)	(−6,487)	(−6,487)
Other Permanent Change of Station	(−18,346)	(.....)	(.....)
Dependency Rates	(+30,000)	(.....)	(+30,000)
Inflation	−3,039	−1,569	−3,039
Average Grade Increase	−11,300		−5,650
Total Military Personnel, Marine Corps	−88,314	−108,039	−67,347

MILITARY PERSONNEL, AIR FORCE

The conferees agree to provide $18,940,731,000 instead of $18,810,225,000 as recommended by the House and $18,957,861,000 as recommended by the Senate. Details of the adjustments are as follows:

[Dollars in thousands]

	House	Senate	Conference
End Strength	−$18,593	−$4,800	−$18,593
Officer Pay and Allowances/ Workyears	−42,492	−15,750	−27,000
Enlisted Pay and Allowances/ Workyears		−48,800	−16,000
Enlistment Bonuses	−20		
Reenlistment Bonuses	−35,829	−27,600	−35,829
Variable Housing Allowance	−7,300	−14,600	−14,600
Permanent Change of Station	−267,694	−129,400	−141,400
Cost-Saving Initiatives	(−95,586)	(−61,400)	(−73,400)
HHG Weight Allowances	(−43,900)	(−43,900)	(−43,900)
Temporary Lodging Expense in CONUS	(.....)	(−24,100)	(−24,100)
Other Permanent Change of Station	(−128,208)	(.....)	(.....)
Inflation	−11,347	−6,689	−11,347
Average Grade Increase	−97,000	−85,000	−85,000
Total Military Personnel, Air Force	−480,275	−332,639	−349,769

GUARD/RESERVE FORCES

The conferees agree to a reduction of $228,058,000 from amounts requested for Guard and Reserve end strengths. Of the total reduction, $145,158,000 is to be applied to the requested increases for full-time reservists and $82,900,000 to the selected reserve. Although making a minor reduction to the nearly $5,000,000,000 requested for training of drilling reservists, the conferees anticipate the Department will be able to attain the budgeted end strength levels. The civilian technician and full-time reserve end strengths portrayed below are the basis for the technician floor and full-time reserve ceiling included in the general provisions.

The following table summarizes end strength levels agreed to by the Committee of Conference:

FISCAL YEAR 1987 GUARD/RESERVE END STRENGTHS

[Dollars in thousands]

	Budget estimate	Conference
Drilling Reserve:		
Army Reserve	$313,943	$313,943
Navy Reserve	132,503	132,503
Marine Corps Reserve	42,618	42,618
Air Force Reserve	79,824	79,824
Army National Guard	434,079	434,079
Air National Guard	106,844	106,844
Total	1,109,811	1,109,811
Full-Time Reserve:		
Army Reserve	13,657	12,407
Navy Reserve	23,197	20,897
Marine Corps Reserve	1,782	1,659
Air Force Reserve	676	657
Army National Guard	28,721	25,060
Air National Guard	8,356	7,631
Total	76,389	68,311
Total Selected Reserve	1,186,200	1,178,122
(Civilian) Military Technicians:		
Army Reserve	8,032	8,032
Air Force Reserve	9,175	9,175
Army National Guard	27,129	27,129
Air National Guard	23,082	23,221
Total	67,418	67,557

INDIVIDUAL READY RESERVE SCREENING

The conferees have included a total of $15,250,000 for the Individual Ready Reserve Mobilization Test instead of no funding as proposed by the House and $61,000,000 as proposed by the Senate. A distribution of the funds requested and recommended by account follows:

[Dollars in thousands]

Account	Budget estimate	Conference
Reserve Personnel:		
Army	$38,000	$8,000
Navy	10,000	2,375
Marine Corps	7,000	1,625
Air Force	6,000	1,250
Operation and Maintenance:		
Army Reserve		1,500
Navy Reserve		125
Marine Corps Reserve		125
Air Force Reserve		250
Total	61,000	15,250

By service, the conferees' recommendation amounts to 25 percent of the budget request. In view of the difficult budget climate, the conferees are recommending a go-slow approach to this new initiative. Rather than recommend a specific methodology for the Department to follow with the reduced funding level, the conferees have provided the program's managers the flexibility to redesign the IRR screening for fiscal year 1987. The Committees on Appropriations will carefully review the program execution decisions made by the Department for the 1987 program during hearings on the fiscal year 1988 budget submission.

The conferees note that in addition to the $15,250,000 available for IRR screening, in 1987 the Department will have more than $117,000,000 available for other mobilization training. Such training, including several categories of short duration active duty, is designed to ensure that IRR personnel have their skills developed and maintained to meet mobilization requirements. These resources should be sufficient to meet all high priority requirements.

Finally, the conferees believe that by increasing the awareness of active duty military personnel concerning the legal and other obligations of members of the Individual Ready Reserve, increased mobilization readiness could be achieved at small cost. Too many military personnel believe their obligation to the military is over when they are discharged from active duty. Such an educational campaign is especially important with the increase in the enlisted contractual period from 6 to 8 years. The conferees urge the Department to initiate appropriate changes in this regard and report to the Committees on Appropriations by March 1, 1987, on the actions taken.

INCAPACITATION PAY

Pending implementation of proposed revisions in incapacitation pay for Guard and Reserve personnel, the conferees agree to restore the Senate reduction of $10,800,000.

RESERVE PERSONNEL, ARMY

The conferees agree to provide $2,323,210,000 instead of $2,330,830,000 as proposed by the House and $2,322,529,000 as proposed by the Senate. Details of the adjustments are as follows:

[Dollars in thousands]

	House	Senate	Conference
Reserve personnel, Army			
Mobilization training	−$38,000	−$24,684	−$43,684
(Individual Ready Reserve mobilization test)	(−38,000)	(−6,000)	(−30,000)
School training		−3,331	−3,331
Special training	−5,060	−3,760	−5,060
Senior ROTC non-scholarship program	−5,000		−5,000
Full-time support (AGR end strength)	−23,510	−15,200	−19,119
Limit and individual training	−29,600	−55,800	−29,600
Variable housing allowance		−800	−800
Incapacitation pay		−3,700	
Inflation		−2,196	−2,196
Total Reserve personnel, Army	−101,170	−109,471	−108,790

RESERVE PERSONNEL, NAVY

The conferees agree to provide $1,464,453,000 instead of $1,436,680,000 as proposed by the House and $1,470,066,000 as proposed by the Senate. Details of the adjustments are as follows:

[Dollars in thousands]

	House	Senate	Conference
Reserve Personnel, Navy			
Mobilization training	−$10,000	−$2,749	−$9,874
(Individual Ready Reserve mobilization test)	(−10,000)	(−500)	(−7,625)
School training	−1,320	−1,119	−1,320
Special training	−649	−1,800	−1,800
(Exercises)	(−649)		
Full-time support (AGR end strength)			
Pay and allowances	−54,727	−38,700	−27,413
Subsistence	−3,143		−1,729
PCS moves	−4,081		−2,245
Unit and individual training	−17,000	−10,800	−17,000
Variable housing allowance		−1,000	−1,000
Incapacitation pay		−600	
Inflation		−766	−766
Total Reserve personnel, Navy	−90,920	−57,534	−63,147

RESERVE PERSONNEL, MARINE CORPS

The conferees agree to provide $303,968,000 instead of $300,100,000 as proposed by the House and $309,344,000 as proposed by the Senate. Details of the adjustments are as follows:

[Dollars in thousands]

	House	Senate	Conference
Reserve Personnel, Marine Corps			
Mobilization training	−$7,000	−$1,329	−$6,204
(Individual Ready Reserve mobilization test)	(−7,000)	(−500)	(−5,375)
School training		−246	−246
Special training		−600	−600
Full-time support (AGR end strength)	−3,919	−2,600	−1,570
PCS moves	−81		−81
Unit and individual training	−3,700		−1,850
Variable housing allowance		−70	−70
Incapacitation pay		−400	
Inflation		−211	−211
Total Reserve personnel, Marine Corps	−14,700	−5,456	−10,832

RESERVE PERSONNEL, AIR FORCE

The conferees agree to provide $629,200,000 instead of $628,977,000 as proposed by the House and $633,715,000 as proposed by the Senate. Details of the adjustments are as follows:

[Dollars in thousands]

	House	Senate	Conference
Reserve Personnel, Air Force			
Mobilization training	−$6,000	−$1,000	−$4,750
(Individual Ready Reserve mobilization test)	(−6,000)	(−1,000)	(4,750)
School training		−1,254	−1,254
Special training		−4,400	−4,400
Full-time support (AGR end strength)	−1,823	−1,000	−845
Unit and individual training	−9,200	−3,300	−5,000
Variable housing allowance		−40	−40
Incapacitation pay		−780	
Inflation		−511	−511
Total Reserve personnel, Air Force	−17,023	−12,285	−16,800

NATIONAL GUARD PERSONNEL, ARMY

The conferees agree to provide $3,323,145,000 instead of $3,303,174,000 as proposed by the House and $3,335,461,000 as proposed by the Senate. Details of the adjustments are as follows:

[Dollars in thousands]

	House	Senate	Conference
National Guard Personnel, Army			
School training	−$20,222	−$33,912	−$27,067
Special training	−14,492	−32,481	−32,481
(Competitive events)	(−2,493)		
Full-time support (AGR end strength)	−104,012	−72,900	−76,311
Unit and individual training	−43,300	−3,000	−23,150
Variable housing allowance		−1,200	−1,200
Incapacitation pay		−4,400	
Inflation		−1,846	−1,846
Total National Guard personnel, Army	−182,026	−149,739	−162,055

NATIONAL GUARD PERSONNEL, AIR FORCE

The conferees agree to provide $1,027,778,000 instead of $1,022,310,000 as proposed by the House and $1,030,258,000 as proposed by the Senate. Details of the adjustments are as follows:

[Dollars in thousands]

	House	Senate	Conference
National Guard Personnel, Air Force			
School training		−$668	−$668
Special training		−3,500	−3,500
Full-time support (AGR end strength	−$26,890	−19,900	−19,900
Unit and individual training	−9,700	−2,900	−6,300
Variable housing allowance		−500	−500
Incapacitation pay		−920	
Inflation		−254	−254
Total National Guard personnel, Air Force	−36,590	−28,642	−31,122

MILITARY PERSONNEL SUPPORT

RECRUITING AND ADVERTISING

The conferees have agreed to a total reduction of $59,400,000 in the Operation and Maintenance accounts that fund recruiting and advertising programs. The following chart displays the reductions.

ACTIVE/RESERVE COMPONENT RECRUITING RESOURCES

[Dollars in millions]

	Fiscal year 1987 request	Reductions for—		Conference recommendation
		Growth	Mix test	
Army	$531.3	−$6.1	−$18.8	$506.4
Navy	303.2	−12.5	−2.4	288.3
Marine Corps	176.9	−1.5	−2.0	173.4
Air Force	153.9	−1.6	−1.5	150.8
Army Reserve	156.3	−2.1		154.2
Naval Reserve	72.2	−4.1		68.1
Marine Corps Reserve	16.8	−.1		16.7
Air Force Reserve	20.9	−.6		20.3
Army Guard	182.6	−1.1		181.5
Air Guard	27.5	−.1		27.4
Joint Programs	113.5	−5.9	+1.0	108.6
Total	1,755.1	−35.7	−23.7	1,695.7

The conferees agree with the House position that the Department should inform the Committees when funding levels by Service or in total, change from those shown on the chart above.

While the conferees have agreed to the recommended fiscal year 1987 adjustments related to the Department of Defense (DoD) advertising mix test, they understand the Department intends to appoint a third party to conduct an independent assessment of the DoD Advertising Mix Test and plans to address the issue again after the reevaluation is concluded. Accordingly, the conferees direct DoD to keep the Committees informed of developments in this area, and report the findings of the independent assessment of DoD Advertising Mix Test, together with the Department's recommendations, as soon as they become available.

PROFESSIONAL DEVELOPMENT EDUCATION

The Senate reduced funding for Department of Defense professional development education programs by $28,454,000 from the requested level. The conferees agree to a reduction of $17,447,000, and direct that with regard to the Navy, this reduction shall not be applied to training programs in the area of operational logistics.

RELOCATION ASSISTANCE TEST

The conferees agree that within funds available, not more than $2,500,000 shall be available for the Secretary of Defense to conduct a contract relocation assistance test to support members of the armed forces and their dependents undergoing a permanent change of station.

The conferees direct the relocation assistance test be structured as defined in House Report 99-718, National Defense Authorization Act for fiscal year 1987. The conferees request they be kept informed on the formulation, contracting and implementation of the test.

The conferees further direct the Department to budget for the cost of continuing this test program in the fiscal year 1988 budget request.

TITLE II—OPERATION AND MAINTENANCE

The conferees agree to the following amounts for the Operation and Maintenance accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Operation and maintenance:				
Army	21,341,870	19,774,531	20,026,759	20,022,399
Navy	25,688,500	22,993,227	23,156,226	22,939,674
Marine Corps	1,864,100	1,793,338	1,783,360	1,793,750
Air Force	21,214,500	18,893,758	18,684,017	18,636,816
Defense Agencies	8,573,700	6,300,040	7,651,437	7,978,674

[In thousands of dollars]

	Budget	House	Senate	Conference
Army Reserve	793,100	769,298	771,385	769,966
Navy Reserve	975,900	869,847	887,400	884,097
Marine Corps Reserve	65,300	63,218	62,800	63,875
Air Force Reserve	975,600	922,100	887,100	911,200
Army National Guard	1,786,900	1,734,696	1,714,800	1,734,447
Air National Guard	1,932,700	1,790,384	1,727,900	1,755,658
National Board for the Promotion on Rifle Practices, Army	930	4,316	4,316	4,316
Military Health Care		1,679,409		
Claims, Defense	155,600	144,400	144,400	144,400
Court of Military Appeals, Defense	3,400	3,200	3,200	3,200
Tenth International Pan American Games	15,000	15,000	15,000	15,000
Environmental Restoration, Defense	385,900	346,100	385,900	375,900
Humanitarian Assistance		6,000	10,000	10,000
Humanitarian Assistance Reappropriation		7,000	7,000	7,000
Total, title II, Operations and Maintenance: New budget (obligational) authority	85,773,000	78,109,862	77,923,000	78,050,372

The following items represent agreements of the conferees:

AUTHORIZATION COMPLIANCE

The amounts recommended by the conferees for each Operation and Maintenance appropriation account are at or below the authorized level of those accounts. The conferees provide funds to several high priority readiness items at levels above the amount contained in the reports accompanying both the House and Senate passed FY 1987 Defense Authorization Acts. The conferees were able to fund these readiness initatives by offsetting them with reductions against lower priority or overbudgeted programs as by fully applying pricing adjustments, such as fuel savings or excess industrial fund profits. The conferees believes that these adjustments comply with the intent of the Authorization Act to adequately fund the higher priority readiness programs. Additionally, the conferees were able to reach total authorization levels without applying several real growth reductions to programs as recommended "without prejudice" in the House Authorization. The conferees did not fully apply to these reductions because they resulted in a double-dip of reduction made in the Appropriations Act.

STOCK FUND FUEL REFUND

The conferees agree to a total refund of $2,839,758,000 from the various Service Stock Funds to the operation and maintenance accounts to reflect the lower than budgeted cost of fuel to the Stock funds. This reduction assumes refunds from the Service Stock Funds as follows:

Defense Stock Fund	**$2,629,662,000**
24Army Stock Fund	**37,700,000**
24Navy Stock Fund	**73,300,000**
Air Force Stock Fund	**99,096,000**
Total	2,839,758,000

The Department is directed to use these amounts as a guideline for refunding Stock Funds; however, this does not preclude adjustments required during program execution as determined by the Office of the Secretary of Defense

INDUSTRIAL FUND PROFITS

The conferees agree to a total refund of $1,035,400,000 from the Service Industrial Funds as a result of excess profits and overbudgeting for inflation. The Senate had believed it was not appropriate to make inflation reductions in both the O&M accounts and the industrial funds, but was informed by the Department of Defense that such reductions are appropriate. Of these amounts, $960,400,000 is to be refunded to the various operation and maintenance customer accounts. The conferees also agree that $75,000,000 of this refund is to be passed through to the O&M, Army account for depot maintenance, as recommended by the House.

The reduction assumes refunds from the Industrial Funds as follows:

Army Industrial Fund	**$107,400,000**
Navy Industrial Fund	**844,000,000**
Air Force Industrial Fund	**64,000,000**
Defense Industrial Fund	**20,000,000**
Total	1,035,400,000

The Department is directed to use these amounts as a guideline for refunding from the Industrial Funds; however, this does not preclude adjustments required during program execution as determined by the Office of the Secretary of Defense.

Finally, the conferees consider the conversion of activities and functions from an appropriated fund status to an industrial fund status to be a matter of special interest to the Committees on Appropriations of the House and Senate. Accordingly, the Committee directs that the Department of Defense not convert appropriated fund activities or functions to industrial fund operations without the prior approval of the Committees. Except in the most unusual circumstances, the conferees do not expect that it will be essential to approve the conversion of appropriated fund activities or functions (to industrial fund operations) outside of the normal budget review process.

Thus, the conferees expect that the Department of Defense will not request that appropriated fund activities be converted to industrial operations unless such conversions have been provided for sufficiently in advance so as to permit applicable budgetary resources to be realigned in the budget review process and to provide for proper oversight by the Committees.

MILITARY AND CIVILIAN PAY RAISES

The conferees agree to a general provision which provides $1,911,000,000 to fund 3 percent military and 3 percent civilian pay raises, effective January 1, 1987. These funds should be applied proportionately as required for the military and civilian pay raises within the accounts affected. To the extent that additional sums are required for these pay increases, the conferees direct that such amounts be accommodated within existing funds.

CIVILIAN PAY/FOREIGN NATIONAL COMPENSATION

The conferees agree to a total reduction of $400,000,000 for civilian pay and foreign national compensation. The conferees agree this reduction will result, in part, from the implementation of civilian work year limitations overseas, discussed below. The remaining reduction should occur due to effeciencies experienced as the Services more effectively manage their civilian manpower programs during fiscal year 1987.

CIVILIAN PERSONNEL MANAGEMENT

The House included a general provision which does not allow the Department of Defense (DoD) to manage on the basis of end strength in 1987. The Senate proposed a general provision that placed a cap on both end strength and workyears for DoD in 1987. The provision also required contractor workyears and end strength to be included within ceilings if the work is contracted out after enactment of the 1987 appropriation. The Senate expressed concern that Defense Department civilian personnel levels have increased over 37,000 workyears since ceilings were removed by Congress in 1985 (a level exceeding the entire Department of Commerce workforce). The Senate expressed further concern that the Department annually exceeds its personnel plan. In 1986 it is estimated the Department will exceed its planned workforce by 10,000 workyears, a level that exceeds increases requested for 1987 by 7,000 workyears.

The conferees agree to exempt the Department of Defense (DoD) workforce in the United States from ceilings for another year and have accepted the House provision which does not allow the Department of Defense (DoD) to manage on the basis of end strength in fiscal year 1987, and requires the Department to submit the fiscal year 1988 budget request as though this section would be in effect for fiscal year 1988. The conferees, however, have recognized the higher rate of civilian growth overseas relative to the United States during the past few years. The conferees are concerned that this growth occurred after the Congress had imposed ceilings on military personnel abroad. Accordingly, the conferees have included a new general provision which limits the total civilian workyears in overseas areas in fiscal year 1987 to the level actually achieved in overseas areas in fiscal year 1986. Continuation of the large personnel growth over requested civilian personnel levels at continental U.S installations could motivate Congress to expand this provision in the future.

The conferees are extremely concerned about the lack of management and oversight by the Office of the Secretary of Defense (OSD) over the Department's civilian manpower levels. OSD was unable to provide an employment plan by Service for FY 1987 without requesting the information from the Services. The conferees question how OSD can be properly managing these extremely important and currently controversial civilian programs without the most basic budget information available. The conferees direct OSD to provide an exhibit in

conjunction with the fiscal year 1988 budget request, which identifies, by Service and by month, planned end strengths and workyears, broken out by CONUS/Overseas, with Overseas further broken out by U.S. direct-hire, foreign direct-hire and foreign indirect hire. Additionally, beginning March 1, 1987, OSD is directed to provide a monthly report on the executive of civilian employment levels. This monthly report should present the data as described above, comparing budgeted to actual employment levels.

APPROPRIATED FUND SUPPORT OF MWR

The conferees agree to reduce appropriated fund support of Morale, Welfare and Recreation (MWR) activities by $69,500,000. To achieve these savings, the conferees direct the Department of Defense (DoD) to reduce the appropriated fund support of revenue-generating MWR activities throughout fiscal year 1987. The conferees direct DoD to suspend the use of appropriated funds in support of certain revenue-generating activities in large metropolitan areas in the 50 United States by September 30, 1987. A general provision has been added to effect this policy change.

The conferees are concerned about the increasing amount of appropriated funds spent to support revenue-generating recreation activities and facilities, such as golf courses; bowling alleys; boating and sailing marinas; officer, NCO and enlisted clubs; and other types of activities. The conferees agree that it is important to provide the full range of MWR services and activities for military members and their dependents overseas or in remote or non-metropolitan areas of the U.S. However, the conferees believe it is unnecessary to provide appropriated fund support for recreational-type activities such as those cited above, at installations in large metropolitan areas of the United States due to the preponderance of such activities available off base.

The conferees believe that sufficient definitions exists, similar to those contained in Army Regulations 215-1, chapter 4, for the Department to identify large metopolitan areas in the United States. The conferees direct the Department to submit a list of the affected areas and a detailed explanation of the criteria used to establish their designation by April 1, 1987.

Furthermore, the conferees direct the Department to develop a clear, consistent determination of the appropriate fund and nonappropriate fund requirements for both MWR and non-appropriated fund (NAF) activities. The Department should study its NAF activities, including MWR activities, to reassess baseline program authorizations, organization and staffing, and funding policies, with particular emphasis on the relationship between revenue and nonrevenue generating activities. This should be submitted by July 1, 1987.

The conferees agree with the House language requiring DoD to submit a report on obligations of appropriated funds in support of MWR and issue new policy guidance on the use of appropriated funds for MWR.

REAL PROPERTY MAINTENANCE/MINOR CONSTRUCTION

The Senate reduced funding for real property maintenance (RPM) and minor construction by $391,000,000 and eliminated the legislative floor on RPM funding. The House provided the full requested amount and included RPM floors. The conferees agree to a reduction of $200,000,000 and retain the RPM floors.

The conferees have not lessened their commitment to properly maintain the real property facilities on military installations, with a goal of bringing the backlog of maintenance and repair (BMAR) down to a manageable level. However, the conferees are concerned about the apparent laxity on the part of the Services in developing, reviewing and establishing priorities for the RPM program and BMAR. The conferees believe the Service headquarters and the Office of the Secretary of Defense must take a more active role in this regard. The Department must take steps to ensure that only valid, properly costed maintenance and repair projects are contained within the RPM program and BMAR. The office of the Secretary of Defense should submit an annual report with the budget that summarizes significant minor construction and real property maintenance projects, and establishes categories for such projects (e.g. mission readiness projects, administration, MWR, etc.). At a time when funding is becoming more constrained it is imperative that the Department utilize its limited resources for only the higher priority maintenance and repair projects.

TRAVEL

The House reduced travel by $22,400,000 providing for a freeze at fiscal year 1986 levels. The Senate reduced travel by $238,100,000, noting the lack of standardization in service budget submissions. For example, the Marine Corps budgets $337 per capita per year and the Air Force $653 per capita per year for travel. The House expressed concern regarding the Senate position that travel costs should be standardized on a per capita basis.

The conferees agree to a reduction of $114,850,000. The conferees direct the General Accounting office to review this issue and describe how and why the Service travel budgets differ.

TRANSPORTATION FOR THE GENEVA ARMS CONTROL DELEGATION

The Senate bill directed the Department of Defense to provide military airlift for the U.S. arms control delegation to and from Geneva, Switzerland. The House did not address this issue.

The conferees agree that the Department of Defense should provide military airlift between Washington, D.C. and Geneva from within available funds for the delegation and their essential classified material, at the start and finish of each round of negotiations.

PRINTING AND DUPLICATING SERVICES

The House directed DoD to establish a Defense Printing Service, to be operated under industrial fund concepts, in order to facilitate improved cost accounting, consolidation of resources and coordination of electronic printing initiatives. The House also directed that all funding for electronic printing be halted until after establishment of the defense printing agency. The Senate directed a report on printing consolidation and recommended that electronic printing funding not be halted. The conferees believe that the printing reforms sought by the House can be achieved without establishment of a defense printing service and, instead, the Department should comply with the following direction:

(1) Each branch of the Armed Services and the Office of the Secretary of Defense (OSD) should designate senior level officials to act as an oversight body with line responsibility for examining, identifying, coordinating and controlling printing and all of the information resources necessary to deliver technical and administrative information to users. These senior officials should convene on a regular basis to analyze mutual requirements in order to promote Department-wide compatibility and cost accountability and to eliminate duplication of effort. Developments in addressing common functions need to be coordinated among the Services and the project results need to be fully and freely shared. The senior level officials in the OSD and the Services who manage information would be best situated to facilitate this coordination. Also, the Joint Committee on Printing of the U.S. Congress should continue to be a useful resource and contact point for this body of senior level officials.

(2) The Department should continue to fund its electronic printing programs, but under the overall guidance of the aforementioned oversight body. In addition, because of concerns raised over the 600-S program, the Department of the Army should report back to the Committees on Appropriations on the final plan for procurement of this system before issuing any solicitations.

(3) The Army and Air Force should institute improved methods of charging individual customers for printing and duplicating services so that users are made aware of and their organizations charged for the actual costs of these services.

(4) The Defense oversight group should examine the feasibility and cost savings associated with both interservice and intraservice consolidation of printing facilities in the following geographic areas: Philadelphia region, Central Pennsylvania, Norfolk region, San Antonio region, San Francisco Bay area, San Diego region, and the Washington, D.C. area to include all Defense Agencies.

The conferees fully expect the Defense oversight group to ensure that technology-intensive printing programs, such as 600-S, are carefully developed, fully cost justified, designed to encourage the broadest participation of the private sector, implemented in a controlled, evolutionary manner, and subject to continuing cost analyses.

The conferees expect the Defense oversight group to submit an annual report, in conjunction with the budget submission, on ongoing and planned printing programs to include costs of such programs and efforts to eliminate duplication and promote compatibility and consolidation.

Finally, the conferees direct the Department to submit a report by May 1, 1987, addressing actions taken by the Department to comply with the above direction.

INDUSTRIAL ACTIVITY PRODUCTIVITY

The Senate reduced funding by $269,500,000 to reflect increased productivity at Defense industrial activities such as Navy shipyards and Air Force logistics centers. The House did not address this issue. The Conferees agree to a reduction of $136,000,000.

The Department's industrial activity budget justifications primarily discuss resources required as inputs to operate industrial activities, such as personnel, equipment, and changes in customer rates. The Department, however, has paid less attention to output and unit cost measures of weapons systems overhauled and repaired by industrial activities. The Conferees believe that measuring output is important to understanding industrial activities. Accordingly, beginning with the fiscal year 1988 budget, the Department should provide data

by fiscal year that describes output and the unit cost of major weapons systems repaired, overhauled or modified by similar industrially funded effort. The Department also should explain any significant deviations in work packages that would affect such data.

SMALL BUSINESS MRE PROGRAM

The Senate bill directed the Department of Defense to award contracts for the Meals-Ready-To-Eat (MRE) program to those industrial prepared assemblers currently in the program and to not reduce the number of assemblers from four to three. The House did not address this issue. The Conferees believe that it is in the national interest to maximize the number of small business suppliers. The Department shall consider the impact on the existing MRE industrial prepared assemblers in its determination of future MRE acquisition plans.

ENERGY ISSUES

Domestic Use of Coal

The Conferees agree to the Senate provision which directs the Defense to continue the domestic coal conversion program implemented this year and which provides on a non-reimbursable basis the funds to do so. The House concurred in the program continuation but did so in report language.

The Conferees further agree to add a new proviso which makes such conversions or new construction projects subject to the criterion of cost effectiveness.

Overseas Fuel Procurement

The Senate added a general provision directing DoD to allow any U.S. refinery, which produces less than 75,000 barrels per day, to match the final offer of any foreign refinery on a bid to provide fuel for overseas military installations. The House did not address this issue. The conferees have agreed to amend the Senate provision to require that its implementation be limited to new solicitations only and that the provision may not supersede existing status of forces or international trade agreements.

Additionally, the conferees agree that eligible refineries must agree to the contract on the terms proposed by the foreign firm within 15 days of receiving notification by DoD that it has determined that the lowest bid would otherwise be awarded to a foreign refiner. Finally, for the purposes of this section, "crude oil refining capacity" is to be determined based upon a refinery's annual calendar day operating capacity.

Purchase of Utilities

Both the House and Senate were aware of a rule proposed by the Department of Defense and other federal agencies (51 Fed. Reg. 16988-16991) and a change to Section 8.304-91 of the Air Force Federal Acquisition Regulation Supplement which would affect the purchase of utilities by Defense installations. The conferees are concerned about the impact of these proposed rules on local electric utilities and have included a general provision which prevents the Department of Defense from implementing or enforcing these rule changes. Furthermore, the conferees direct the Department not to implement additional changes affecting the purchase of utilities until after they have been formally presented to and approved by the Committees on Appropriations of the House and Senate.

Philadelphia Land Conveyance/Steam Plant

The Senate added a general provision authorizing the Secretary of the Navy to convey land to the Philadelphia Municipal Authority (PMA) with the understanding that the PMA will build a trash-burning steam plant on the site and sell steam back to the Navy at a negotiated price. The House did not address this issue. The conferees agree to the provision with an amendment which deletes reference to resource recovery or trash as the source of energy to generate heat for the steam plant. The conferees also direct the Navy, in consonance with the PMA to intitiate a feasibility study on this proposal and provide its findings to the Committees on Appropriations of the House and Senate by May 1, 1987.

The conferees believe there is some merit in the proposal, but are concerned that the building of a steam plant powered by trash runs contrary to the conferees' direction on increased usage of coal in the United States. The conferees direct the Navy to consider to their study the advantages/disadvantages of building a steam plant on this property which is powered by either coal only or cogenerated by both coal and trash. Additionally, the study should address whether the City of Philadelphia can offset the lower utilization of coal as a result of this intitative by increasing coal utilization at its other city steam plants.

MEDICAL PROGRAMS

CHAMPUS Reform Initiative

The conferees are committed to a nationwide reform of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), with a phased-in approach. It is the intent of the conferees to ensure that the Department of Defense carry on with its plan to reform CHAMPUS, with the understanding that the reform will take place in at least three geographic regions, phased-in on the basis of these geographic regions. The regions are defined in the CHAMPUS Reform Initiative draft request for proposal.

The conferees consider these phases, especially the first phase, as tests of CHAMPUS reform. The conferees are concerned with the magnitude of the changes necessary to correct current deficiencies in the way health care is provided, and believe it is critical that the Department of Defense have sufficient time to review all proposals. As results of the first regional phase or test are analyzed, the Department should use the results to structure the subsequent phases in the remaining geographic regions.

The conferees direct that no later than June 30, 1987, the Department begin a two-year test of a reform-type CHAMPUS alternative health care project in an area of uniformed services beneficiary population in excess of 30,000 where no inpatient military treatment facility exists, where there are significant geographic barriers and where a significant portion of the uniformed services population resides and is employed outside a military treatment facility catchment area. The test project should utilize a centrally managed comprehensive health care system that can be provided at a reduced cost and that would enhance existing services for both inpatient and outpatient care. If this test project proves successful, the participants should be provided an opportunity to negotiate with the CHAMPUS reform regional contractor to continue providing their services as CHAMPUS reform is phased into that geographic region.

Additionally, the Department should initiate the first phase of CHAMPUS reform in one geographic region of the continental United States to include approximately one-third of the CHAMPUS beneficiary population as soon as practical, but not later than September 30, 1987. Following this, at no less than nine month intervals, the remaining geographic regions should be phased in with a nation-wide reform of CHAMPUS completed by mid-1989.

The conferees believe a phase-in approach to CHAMPUS reform will promote the stability of the medical care provided to beneficiaries and provide more accurate data for use in predicting workload indicators and beneficiary needs. It is the conferees' belief that one of the greatest benefits of a phase-in approach to CHAMPUS reform is that it will ensure increased competition. The conferees request that the CHAMPUS reform initiative be structured in such a way as to be equally accessible to all potential bidders, including such entities as not-for-profit providers, community hospitals and consortiums established to provide health care. Further, consideration should be given to ensure the continuation of reasonable and comprehensive mental health benefits.

Funding for this phase-in approach, the test program mentioned above, and CHAMPUS reform in general, will be provided from within appropriations for CHAMPUS. Should additional resources be needed, or if the CHAMPUS appropriation is unable to accommodate additional funding needs, the Department should submit a prior approval reprogramming request. Additionally, the conferees agree that the military health care demonstration authority contained in title 10, United States Code, provides adequate authority for implementation of the initial phase of CHAMPUS reform. Should the continued implementation of CHAMPUS reform need further legislative provisions, they should be submitted to Congress in the appropriate manner.

The conferees remain concerned over issues that have not been addressed by the Department or issues that, while addressed, may require further consideration after industry comments on the draft request for proposal are analyzed. The conferees direct the Department of Defense to resolve the following issues, given consideration to Congressional and industry comments and concerns and report to the House and Senate Committees on Appropriations and Armed Services, on the respective resolutions at least 60 days before release of the request for proposal on the initial phase of CHAMPUS reform:

Enrollment.—The procedures for enrollment need to be addressed in a more complete fashion. The conferees believe that without an adequate and properly managed enrollment mechanism, there will be little way to accurately predict the volume of services to be contracted. Enrollment is necessary to minimize the financial risk for both the government and contractors.

Utilization.—The designs of the Department in controlling utilization have not been fully developed. The conferees believe the Department should explore the mechanisms currently used by the private sector to ensure utilization remains at a reasonable and cost effective level. Furthermore, the Department should ensure that both contractors and the Medical Treatment Facility (MTF) personnel have adequate management flexibility to monitor utilization.

Current Contractor-Operated Care Facilities.—The responsibilities of the current contractor-operated primary care (PRIMUS, NAVCARE and USTF) facilities needs to be further addressed. The conferees believe the Department must determine how these facilities and the associated workload will be identified and managed.

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Care-Finder/Gatekeeper Function.—There are several issues that need further definition in the development of the functions of the gatekeeper or care-finder. For example, the draft request for proposal does not adequately address the role of the medical treatment facility (MTF) Commanding Officer in the care-finder/gatekeeper function. Additionally, the Department should explore the full potential of this care-finder's position, possibly making it the mandatory entry point for all beneficiaries seeking care. The conferees believe this function is a place where money can be saved because it will eliminate duplication of many administrative functions. However, the Department must ensure that the MTF Commanding Officer, who is ultimately responsible for all the care provided to his charges and their beneficiaries, be significantly involved with the functions of the care-finder/gatekeeper.

Data Availability.—It has been brought to our attention that making responsible proposals to the Department is extremely difficult due to the non-availability of data on workload, geographic indicators and other miscellaneous data. The conferees understand this data, if not currently available, will be before the end of the calendar year. Therefore, the conferees direct that as soon as possible, the Department provide, at a resonable cost, all requested data that is necessary for the compilation of material for a bid proposal on the CHAMPUS Reform Initiative. This data should be provided to bonafide bidders in accordance with Freedom of Information laws and regulations.

Medical Information Systems.—The requirement for complete medical information systems that can interface with the current Department of Defense system needs to be further evaluated. The conferees are uncertain which current medical information system the Department intends for interface and what its relationship is to the TRIMIS and CHCS systems. Furthermore, the conferees are concerned that the timetable for implementation of a DoD Medical Information System will not coincide with the implementation of CHAMPUS reform. The lack of a current system and the need to have a compatible system increases the risk to both potential CHAMPUS reform contractor(s) and the government.

Additionally, under CHAMPUS reform it is anticipated that the type and level of workload in the medical treatment facilities will be substantially different than currently scheduled. The conferees are uncertain how these changes under the CHAMPUS reform initiative will influence the procurement of CHCS equipment and capability. It is possible that the military medical facilities may receive more computer equipment and capability than is really necessary when CHAMPUS reform is phased-in.

With these concerns in mind, the conferees direct the Secretary of Defense to conduct a rigorous review of the automatic data processing requirements in light of CHAMPUS reform requirements. The Secretary should report back to the Committees, no later than July 1, 1987, on the impact CHAMPUS reform requirements will have on the requirements for the planned medical information systems.

Use of Diagnosis Related Groups.—The contractors' use of diagnosis related groups (DRG's) has not been adequately addressed. The Department has recently initiated the development of DRG's for CHAMPUS expenditures as well as their use in MTF resource management. The conferees believe the success of CHAMPUS reform may well be related to the way DRG's are used by both the Department and contractor(s).

Quality of Care.—The issues surrounding the quality of the care provided to military, beneficiaries and retirees are important to the conferees. The Department should continue all efforts to ensure the quality of care remains at the highest level possible under the CHAMPUS Reform Initiative.

Analysis.—The procedures for the proper analysis of each phase of CHAMPUS reform need to be addressed by the Department. It is the desire of the conferees that an analysis of each phase to show the strong and weak points of the program should be used to structure the subsequent phases. A preliminary analysis of each phase, as developed by the Department, should be provided to the appropriate committees no later than six months from the initial implementation of each phase and a complete analysis provided no later than 12 months from the implementation of the respective phase. A comprehensive overview of CHAMPUS reform should be provided to the same committees no later than October 1, 1989.

Cost Savings.—The issue of the cost of CHAMPUS reform versus the cost of the current CHAMPUS program, needs to be further addressed. Will CHAMPUS reform actually save money, or is the object of reform to control the rate of cost growth? The conferees request the Department to further define the concept of cost savings/cost avoidance, making a final policy statement on its position by February 1, 1987.

Congressional Notification.—The conference direct the Department to keep the House and Senate Committees on Appropriations and Armed Services fully informed on all aspects of the development, design and execution of the CHAMPUS reform request for proposal, contract award and the geographic region phase-in of the reform initiative.

The conferees direct the Department to submit the following:

a. A detailed report on the implementation of the two-year test of a Reform-type alternative health care project by September 1, 1987.

b. A report on the expenditures through fiscal year 1986 and fiscal years 1987 and 1988 planned expenditures, for all costs associated with developing, designing and implementing the CHAMPUS reform initiative, currently titled IMPRINT. This report should be submitted to the Committee by March 1, 1987.

CHAMPUS/Medicare Link

The conferees have reduced the CHAMPUS budget request by $100,000,000 based on the passage of legislation that allows the per diem charge currently used for collections under the Federal Medical Care Recovery Act, diagnosis related groups, fee schedules and other related charges, to be used by CHAMPUS. The Department originally stated this action would save $171,000,000. The Department has revised this estimate to a later date for implementation than originally planned. The conferees agree that the Department will be able to implement the new procedures at the beginning of fiscal year 1987, and a later implementation will reduce the projected savings.

Military Health Care Account

The conferees agree to the Senate position on the Military Health Care account and have funded expenditures for CHAMPUS within the Operation and Maintenance, Defense Agencies account. However, the conferees agree that the funding for CHAMPUS expenditures and other medical program needs to be reviewed and restructured. Therefore, the conferees direct the Department to submit appropriate legislation with the fiscal year 1988 budget request to establish a Military Health Care account as directed by the House.

Dependent Dental Care

Th conferees agree to a reduction of $60,000,000 for the Dependent Dental Care program to be funded by the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). This funding level provides approximately $18,000,000 for the program in fiscal year 1987. The reduction is based on information from the Department of Defense indicating the program could not be implemented until later in the fiscal year than originally proposed.

Chemical Aversion Therapy

The House included a general provision directing the Department of Defense (DoD) to conduct a Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) demonstration project on the use of chemical aversion therapy for treatment of alcoholism. The Senate included report language stating that it was inappropriate to provide reimbursement under CHAMPUS for these services until the U.S. Public Health Service study had been completed. The conferees agree to include a provision that directs DoD to conduct a CHAMPUS demonstration project to compare the use of chemical aversion therapy with the use of other alcoholism treatments. The provisions allows the demonstration to be conducted at one location, to be determined by the DoD, and provided to beneficiaries that have been referred by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

The conferees direct that the demonstration project begin no later than February 1, 1987 and continue to at least December 31, 1987. The DoD should submit by November 1, 1986, a report on how they plan to conduct this demonstration project. Furthermore, the DoD should periodically notify the House and Senate Committees on Appropriations and Armed Services on the progress of this project.

Deployable Medical Systems

The conferees have agreed to a total reduction of $158,474,000 for deployable medical systems (DEPMEDS). The following chart displays the reductions by Other Procurement and Operation and Maintenance accounts:

[Dollars in thousands]

	Other Proc.	O&M
Army:		
8 General Hospitals	$74,300	$32,000
1 300-bed Station Hospital	4,400	1,600
Navy: 1 500-bed Commz Hospital	30,548	3,000
Air Force: 1 500-bed Commz Hospital	23,126	2,000
Total reduction	132,374	38,600

Family Advocacy Program

The conferees concur with Senate language recommending full funding for the Department's Family Advocacy Program at the requested fiscal year 1987 level of $15,261,000. The conferees also agree that it is not appropriate to include funding for this type of activity within the budget of the Office of Economic Adjustment and

direct that it be included as a separate budget activity program package in the fiscal year 1988 submission, for Operation and Maintenance, Defense Agencies.

Uniformed Services Treatment Facilities

The conferees have reduced the fiscal year 1987 budget request of $166,800,000 for Uniformed Services Treatment Facilities (USTF's) by $51,900,000 and limited expenditures for USTF's to $114,900,000.

To achieve this reduction, the conferees instruct the USTF's to work with the Department to negotiate fixed amount payment mechanisms, similar to the flat-rate payment mechanism negotiated in 1984 with the Pacific Medical Center in Seattle, Washington. Furthermore, reductions made by this action should apply to those USTF's that have experienced the largest cost growth and have not negotiated new contracts that are more favorable to the government.

Dependent Mental Health Demonstration Project

It has come to the attention of the conferees that the Army is reviewing a demonstration project proposal for the provision of mental health care to military dependents at Ft. Bragg, North Carolina. This proposal has cost savings potential as it may reduce the requirment of CHAMPUS funding for dependent mental health care at Ft. Bragg. The Army did not include the necessary funding for this project within the 1987 budget request.

Therefore, the Army is directed to fund from available resources, the demonstration project and evaluation in fiscal year 1987. Recent cost projections on the proposal indicate that in fiscal year 1987 this demonstration projects should cost approximately $650,000. The Army should seek reimbursement from the CHAMPUS budget for the savings realized. Furthermore, the Army should include the cost of continuing this program in the fiscal year 1988 budget request.

DRUG INTERDICTION SUPPORT

The conferees have included a total of $14,000,000 to reimburse National Guard units for costs incurred in surveillance and other drug interdiction efforts. The recommended funding includes $8,000,000 for the Army National Guard and $6,000,000 for the Air National Guard.

HURRICANE RECONNAISSANCE FLIGHTS

The Senate added $8,500,000 to O&M, Air Force for support costs associated with Air Force hurricane reconnaissance flights, which formerly were reimbursed by the National Oceanic and Atmospheric Administration (NOAA). The House did not address this issue. The conferees agree to the Senate recommendation. At the Department's request, however, funding has been allocated as follows: $2,500,000 to O&M, Air Force and $6,000,000 to O&M, Air Force Reserve.

T-33 CONTRACT

The conferees agree to the House funding levels and restrictions for the Air Force's proposed T-33 replacement program. The Air Force may proceed with a contract approach provided that Guard units are funded at a rate proportionate to the number of aircraft owned and Guard units be converted ahead of or at an equal pace to active Air Force units. The Committees on Appropriations should be notified of the results of the competition for this service prior to expenditure of funds.

OPERATION AND MAINTENANCE, ARMY

The conferees agree to provide $20,022,399,000 instead of $19,774,531,000 as recommended by the House and $20,026,759,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and maintenance, Army			
Stock fund fuel (refund)	−185,700	−151,947	−318,100
Army fuel consumption		−60,930	−25,640
Industrial fund—refund	−155,100	−148,000	−167,400
Inflation reestimate	−246,000	−135,100	−135,100
DEPMEDS funding	−62,000		−33,600
ADP management	−60,500		−22,200
Civilian/foreign national pay	−439,137	−106,066	−166,000
Public affairs	−400	−1,233	−400
1984 stock fund accounting change	−90,000		
Appropriated fund support of MWR	−65,097		−32,500
Recruiting and advertising	−12,765	−24,900	−24,900
Equipment/force modernization	−15,000	−146,300	−90,000
Wartime host nation	−2,300		−2,300
Commissary transportation	−823		−823
Contractor technical support	−10,000	−25,000	−15,000
Engineer support	−2,178		−2,178
Base operations	−4,987	−43,000	−21,500
Remote education	−2,100		−2,100
National board for rifle practice transfer	−1,887	−1,887	−1,887
OB/GYN care	−1,036		
Frozen blood program	−1,226		1,226
Over 40 Reserve exams	−2,200		−1,000
Enhanced skill training	−2,424		
Specialized training	−3,000		−3,000
Reception center operational evaluation	−377		−377
Recruit training	−517		−517
OME station unit training	−1,290		
Classified programs	−7,595	−1,389	−5,350
Military personnel support	−100	−200	−200
Cap on USTF funding	−19,400		−19,400
Coordination of benefits	−5,300		
Health care enrollment	−2,700		
6th Division support	−28,600		+30,000
Flight training	−4,700		
Flying hours		−32,448	−25,000
Other authorization actions	−131,100		−30,000
Industrial fund productivity		−45,400	−23,000
ACP expenditures		−104,000	−35,000
Contracting out/A-76		−16,667	−8,333
Travel		−108,400	−50,000
RPMA/minor construction		−100,300	−50,000
Industrial preparedness		−7,055	−7,055
Commissary automation		−7,883	−3,900
Personnel administration		−2,409	−2,409
Professional development education		−6,597	−3,076
Command, control, communications		−8,000	−4,000
Supply operations		−28,000	−14,000
Administration		−2,000	−1,000
Total Army	−1,567,339	−1,315,111	−1,319,471

DEPOT MAINTENANCE

The House, in order to fully fund Army depot maintenance requirements for communications-electronics (C-E) equipment, added $100,000,000 to O&M, Army from excess industrial fund profits. In order to ensure that this work was not contracted out, the House also added a general provision which placed an employment limitation on the depots performing such work. The Senate did not address this issue.

The conferees agreed to an add-on of $75,000,000 which fully funds depot repair requirements for C-E equipment in FY 1987. The conferees also agreed to the House provision with an amendment which states that the limitations placed on C-E depot employment in the provision shall not cause undue employment reductions at other Army depots. The conferees believe that with the added $75,000,000 there is sufficient funded workload to fully employ personnel at C-E depots at the levels directed in the provision. Furthermore, since the conferees have agreed to remove civilian employment ceilings there is no reason that other depots should be impacted by this initiative.

6TH DIVISION SUPPORT

The conferees are advised that the essential infrastructure upgrade for the Sixth Infantry Division will be authorized for military construction appropriations. However, it also appears that test equipment facilities and new construction housing may be deferred. While this action will not impede the current plan for personnel deployment, the proposed deferral will strain the existing base infrastructure as personnel assignments increase. Therefore, the conferees agree to an increase of $30,000,000 for minor construction projects and accelerated real property maintenance programs to minimize disruption during the transition period and retain the planned deployment schedule for the Sixth Infantry Division. The conferees direct DoD to provide the Committees on Appropriations a report identifying projects and related costs to be funded with this $30,000,000.

ARMY ADP

The conferees agree to a reduction of $22,200,000 of which $20,000,000 from the VIABLE program is transferred to Reserve Forces automation and $2,200,000 is due to deferral of acquisition for the Corporate Data Base initiative. The Army may not reprogram resources into the VIABLE, STARNET, or ASIMS projects without approval from the Major Automated Information Systems Review Council (MAISRC).

The $4,500,000 appropriated for the Developmental Army Readiness Mobilization System (DARMs) is a special interest item requiring approval from the Committees on Appropriations prior to reprogramming increases, and should be so designated on DD Form 1414, Base for Reprogramming Actions. The Department is expected to phase out DARMS once the new Reserve Forces automation system is fielded. Proposed House reductions to the Commodity Control Standard System and Integrated Procurement System were restored with the understanding that the use of the budgeted funds will conform to MAISRC guidance on these major new acquisitions. Funds for the Theater Army Medical Management Information System (TAMMIS) are also restored, provided that the Assistant Secretary of Defense for Health Affairs submits a report to the Committees on Appropriations by March 1, 1987, demonstrating that the Defense Department has an intrgrated plan for acquiring and fielding peacetime and tactical automated medical information systems.

OB/GYN CARE

The conferees agree to provide the $1,036,000 requested by the Army to increase routine OB/GYN care at Ft. Bragg. However, the conferees direct that the Army provide this care by contract.

OVER-40 RESERVE EXAMS

The conferees agree to provide $1,000,000 of the requested $2,000,000 for over-40 Reserve personnel exams. However, the conferees direct the Army to fund these exams on a reimbursable basis from the Operation and Maintenance, Army Reserve account in fiscal year 1988.

OPERATION AND MAINTENANCE, NAVY

The conferees agree to provide $22,939,674,000 instead of $22,993,227,000 as recommended by the House and $23,156,226,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and maintenance, Navy			
Stock fund fuel—refund	−889,700	−749,685	−889,700
Navy fuel consumption		−118,474	−50,280
Industrial fund—refund	−386,900	−688,000	−685,000
Inflation reestimate	−420,000	−230,600	−230,600
Travel	−1,700		−1,700
Average flying hours	−99,800		−25,000
DEPMED funding	−9,000	−3,000	−3,000
ADP management	−14,900		
Appropriated fund support of MWR	−24,917		−12,500
Recruiting and advertising	−17,165	−14,900	−14,900
Ready Reserve fleet	−500	+3,855	+3,855
Overhaul advance planning	−56,100		
Engineering and logistics services		−56,100	−56,100
Fleet training flying hours	−45,000		−45,000
New ship deliveries	−1,500	−1,500	−1,500
Service craft maintenance	−1,234		−1,234
SEASTRAT hardware	−2,100	−2,100	−2,100
Exercise airlift support	−449		−449
Poseidon submarine overhaul	−506,000	−256,000	−256,000
Cruise missile engineering support	−5,000	−5,000	−5,000
Ship maintenance/overhaul		−225,449	−250,449
Recruit training	−394		−394
Naval Reserve Officer Training Corps	−250		−250
Officer acquisition	−4,000		−4,000
Specialized skill training	−538		−538
TACAIR flying hours	−50,000		
Training funding realignment	−16,400		−16,400
Flight training	−1,395		
Other personnel activities	−645		−645
Civilian education program	−100		−100
Off duty and voluntary education	−2,792		−2,792
Relocatable OTHR	−2,738		−100
Naval space surveillance system	−2,315		−1,150
Classified programs	−11,991	−6,662	−11,431
Civilian pay	−63,050	−9,820	−93,050
Military personnel support	−11,300	−8,000	−8,000
Cap on USTE funding	−18,500		−18,500
Coordination of benefits	−3,100		
Stock fund nonfuel pricing			
Other authorization actions	−23,800		
Industrial fund productivity		−85,600	−43,000
Contracting out/A–76		−16,667	−8,333
RPMA/minor construction		−44,600	−30,000
Coast Guard operations/TACLETS		+100,000	+75,000
School maintenance, Adak NAS		+800	+800
Professional development education		−13,722	−6,286
Contractor advisory and assistance services		−25,000	−15,000
Base operations		−43,000	−21,500
Command, control, communications		−15,000	−7,500
Supply operations		−12,000	−6,000
Administration		−6,000	−3,000
Total Navy	−2,695,273	−2,533,274	−2,748,826

POSEIDON SUBMARINE OVERHAULS

The budget request included $645,937,000 for the overhaul of 5 Poseidon submarines. Since submission of the budget the President decided to dismantle two of these submarines, the *Nathan Hale* and the *Nathaniel Green*. Both the House and Senate reduced the $256,000,000 associated with the overhaul of these two vessels. The House further reduced $250,000,000 for the overhaul of two additional Poseidons, assuming they would be dismantled. The House also included a provision that required a reprogramming from other sources to be approved by the Appropriations Committees should the Navy elect to proceed with the overhaul of these two vessels. The Senate included the funding for these overhauls and did not agree with the reprogramming provision.

The conferees agree to funding of $389,937,000 for Poseidon submarine overhauls in FY 1987, a total reduction of $256,000,000, which will allow for the overhaul of 3 Poseidon submarines. In the event the Administration elects not to overhaul any of these Poseidon submarines, the conferees assume these funds will be used to offset additional ship maintenance costs resulting from overhaul packages which have slipped from FY 1986.

OVERSEAS SHIP REPAIR

The House included a general provision which prohibited the overhaul overseas of Naval vessels normally homeported in the United States. The Senate did not address this issue. The conferees agree to the House provision with an amendment specifying that only shipyards which are foreign owned and operated are covered and that the type of repairs covered does not include voyage repairs.

BATTLESHIP "TEXAS"

The House added report language directing the Navy to provide $5,080,000 out of available funds to the State of Texas for the restoration of the battleship *Texas*. The Senate did not address this issue. The conferees agree to add a general provision to accomplish this grant, based on a Navy General Counsel determination that the grant could not be made unless it was required by law.

DESTROYER USS *"lawe"*

The conferees direct the Department of the Navy to provide assistance to the State of Michigan and specifically to the City of Muskegon, Michigan, for the delivery and berthing of the retired destroyer, USS *Lawe* from its present location in Portsmouth, Virginia, to a berthing site adjacent to the municipally owned Hartshorn Marina near downtown Muskegon, Michigan, on Muskegon Lake. The conferees understand that this will be accomplished at a cost of no more than $500,000 from any existing funds provided in this bill and that the Department of the Navy is fully agreeable on this matter. The conferees further believe that the towing of the retired destroyer USS ***LaWE*** **to Muskegon, Michigan, will be accomplished expeditiously under an agreement acceptable to the involved parties.**

READY RESERVE FLEET

The House reduced RRF funding by a net of $500,000 resulting from a decrease of $4,400,000 to RRF Breakouts and an increase of $3,900,000 for RRF Dispersals. The Senate added $3,855,000 above the request to fund dredging operations in support of the National Defense Reserve Fleet (NDRF). It is the conferees' understanding that this dredging will support not only the NDRF, but also the RRF and therefore agree to the Senate add-on and direct the Department to fund such dredging. Additionally, the conferees agree that the Department should fully fund the $7,500,000 requirement for RRF Dispersal.

COAST GUARD/TACTICAL LAW ENFORCEMENT TEAMS (TACLET)

The Senate included $100,000,000 to fund U.S. Coast Guard operational support of defense missions, of which $15,000,000 was specifically for Tactical Law Enforcement Team (TACLET) drug interdiction personnel aboard Navy vessels. The House did not address this issue.

The conferees agree to funding of $75,000,000 for Coast Guard operations with the understanding that $15,000,000 for the TACLET program will be funded in the Omnibus Drug Supplemental Appropriations Act of 1987. If the Drug Supplemental is not enacted with the $15,000,000 included for support of the TACLET program, then it is the conferees understanding they will be funded within the $75,000,000 level.

PEACESAT

The Senate added report language directing the Navy to provide a UHF frequency allocation available to the Pan Pacific Educational and Communications Experiments by Satellite (PEACESAT) program. Additionally, the Senate required the Navy to make up to $1,000,000 available from within appropriated funds to cover startup costs. The House did not address this issue. The conferees direct the Navy to provide a UHF allocation to PEACESAT. However, the Navy is not directed to provide startup and operating costs.

NAVAL SPECIAL WARFARE CENTER

The conferees direct that within funds available, a total of $3,000,000 be provided for training at the Naval Special Warfare Center for fiscal year 1987 requirements.

OPERATION AND MAINTENANCE, MARINE CORPS

The conferees agree to provide $1,743,750,000 instead of $1,793,338,000 as recommended by the House and $1,783,360,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and Maintenance, Marine Corps			
Stock fund fuel—refund	−12,600	−9,839	−14,600
Inflation reestimate	−24,000	−13,200	−13,200
Travel	−2,800		−1,400
Base operations	−2,000		−1,000
Public affairs	−200		
Appropriated fund support of MWR	−6,111		−3,000
Recruiting and advertising	−8,851	−3,500	−3,500
New construction equipment/ supply OPS	−3,400		−1,700
MPS contractor maintenance	−1,000	−1,000	−1,000
MPS BMC	−4,000	−4,000	−4,000
MPS training exercises	−4,000	−4,000	−4,000
Military personnel support	−1,800	−1,000	−1,000
RPMA/minor construction		−42,150	−20,000
Civilian pay		−2,051	−1,950
Total Marine Corps	−70,762	−80,740	−70,350

OPERATION AND MAINTENANCE, AIR FORCE

The conferees agree to provide $18,636,816,000 instead of $18,893,758,000 as recommended by the House and $18,684,017,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and maintenance, Air Force			
Stock fund fuel—refund	−1,254,300	−1,045,207	−1,258,400
Air Force fuel consumption		−159,093	−51,280
Industrial fund—refund	−189,000	+12,000	−88,000
Inflation reestimate	−280,000	−153,700	−153,700
Average flying hours	−26,800		−5,000
ADP management	−18,900		−2,500
DEPMEDS	−4,000	−2,000	−2,000
Travel		−78,800	−39,400
Civilian/foreign national pay	−64,315	−106,341	−80,000
1984 stock fund accounting change	−15,000		
Appropriated fund support of MWR	−43,106		−21,500
Recruiting and advertising	−4,006	−3,100	−3,100
Flight charges for DOD shuttle missions		−268,800	−268,800
Vandenburg/other shuttle support costs	−140,000	−170,000	−170,000
Satellite early warning system	−5,500		−5,500
AMRAAM ICS	−1,212		−1,212
Procurement operations-manpower	−3,184		
OSA flying hours	−3,000		
European distribution system		−2,100	−2,100
T–33 maintenance	−5,000		−5,000
Titan missile	−2,000	−2,000	−2,000
Historian program	−3,316	−3,316	−3,316
SAC dorm upgrade	−2,058		
Compas call	−1,867		−1,100
Minuteman engineering	−2,097		−2,097
Base operations	−10,000	−31,000	−15,500
Surveillance radars	−30,000		−5,000
Space track support	−2,000		−2,000
TR–1 program	−10,000	−10,000	−10,000
TAF management HQ	−10,000		−10,000
USAFE		−20,000	−10,000
CSOC	−3,000	−12,500	−3,000
REDCOM command post	−2,000	−2,000	−2,000
Tactical C2 systems	−3,000		−1,500
Industrial preparedness	−1,200		

[In thousands of dollars]

	House	Senate	Conference
FTS charges (recruiting)	−3,300		−1,650
TAF base and command C3	−2,898		
Command, control, communications		−27,000	−13,500
F−4/F−16 flying hours	−11,740		−11,740
KC−135 flying hours	−6,300	−6,300	−6,300
B−52 flying hours	−6,400		
Recruit and specialized training	−50,085		−10,000
Flight training	−13,500		−6,750
Education and training-health care	−550		−550
Training support activities	−1,247		−1,247
Space training	−2,000		
Air Force Institute of Technology	−1,849		−1,849
Classified programs	−10,011	−19,774	−10,075
6594th test group	−7,000	−7,000	−7,000
Air Force technical support	−3,000		−3,000
PLSS CLS	−4,301	−18,100	−18,100
Military personnel support	−900	−1,300	−1,300
CAP on USTF funding	−19,100		−14,000
Coordination of benefits	−3,900		
Modernization growth	−32,800		−16,400
ACP expenditures		−37,000	−37,000
Industrial fund productivity		−108,900	−55,000
Contracting out/A−76		−16,667	−8,333
RPMA/minor construction		−171,600	−85,000
Depot contractor support		−20,000	−10,000
Hurricane recon. flights		+8,500	+2,500
Professional development education		−4,385	−4,385
Contractor advisory and assistance services		−25,000	−15,000
C−21 lease		−16,000	−16,000
Administration		−2,000	−1,000
Total Air Force	−2,320,742	−2,530,483	−2,577,684

HISTORIANS

The conferees agree to reduce the $16,727,000 Air Force request for the historian program by $3,316,000. While the conferees do not direct the specific number of historians the Air Force may have, the $3,316,000 must be reduced from the $16,727,000 requested for this program.

The conferees further agree with the House language directing the Air Force to increase its use of contracting. The conferees direct the Air Force to report to the Committees by March 1, 1987, on the execution of this reduction.

SHUTTLE RECOVERY PROGRAM

The House included $383,500,000 in orbital flight charges for reimbursement to NASA as a partial payment from the Air Force, in accordance with the existing Memorandum of Understanding. The Senate denied funding for orbital flight charges noting that the Department of Defense already has paid for ten shuttle flights that it has not used, and provided $2,960,000,000 for procurement of a fourth shuttle orbiter to replace the *Challenger*. The conferees have agreed to delete funding for orbital flight charges. Funds have been included for the replacement orbiter in the HUD/Independent Agency appropriation for NASA and are no longer required in the Defense portion of this resolution. The conferees expect NASA and the Department of Defense to reappraise shuttle flight charge reimbursements to reflect changes in system utilization and program requirements. The revised reimbursements should also reflect flights which were previously paid for, but not flown.

FTS CHARGES

The conferees agree to a reduction of $1,650,000 to the Air Force for FTS charges. The conferees further agree with the House language that makes a reduction from the Air Force request for Leased Communications. This is not a reduction to the Air Force recruiting program.

AIR FORCE ADP

The conferees agree to a reduction of $2,500,000 related to ASAT mission control and recosting of the 1st Information Systems Group ADP acquisition program. $16,400,000 for the Military Airlift Command's Command and Control ADP system is restored provided that no funds be spent until the Major Automated Information Systems Review Council formally reviews and approves a single plan for MAC ADP upgrades.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

The conferees agree to provide $7,978,674,000 instead of $6,300,040,000 as proposed by the House and $7,652,437,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and maintenance, defense agencies			
Stock fund fuel refund	−1,523		−5,600
Industrial fund refund	−20,000		−20,000
Inflation reestimate	−86,000	−47,300	−47,300
Travel	−10,400	−32,200	−10,400
Civilian/foreign national pay	−36,150	−79,626	−59,000
USUHS	−3,176		−1,588
Defense medical support activity	−1,500		−1,500
Classified program	−112,948	+7,437	−78,376
Defense Mapping Agency general reduction	−8,380		
Defense Nuclear Agency general reduction	−10,592		
Defense Communications Agency	−37,315	−6,687	−18,000
American Forces Information Service—General Reduction	−6,918		−3,000
Department of Defense dependents education	−65,995		−25,000
Office of the Secretary of Defense—general reduction	−8,125		−8,125
Defense Information Services activity—general reduction	−513		−200
Defense Technology Security Administration—general reduction	−1,570		
Washington Headquarters Service—general reduction	−15,728		−7,864
Office of Economic Adjustment—general reduction	−3,470		
Defense Legal Services Agency—general reduction	−500		−250
Joint Chiefs of Staff—general reduction	−26,937	−26,937	−26,937
Defense Contract Audit Agency	−28,220		−28,220
DOD Inspector General	−2,132		−1,066
DLA training	−5,000		−5,000
DLA storage aids	−10,000		−10,000
DLA general reduction	−13,000		−13,000
Joint recruiting and advertising program	−13,065	−4,900	−4,900
Morale, Welfare & Recreation: Appropriation support	−2,000		−1,000
RPMA/minor construction	−2,000	−32,750	−15,000
Professional development education		−3,700	−3,700
Coordination of health benefits		−10,000	−10,000
Dental CHAMPUS	−61,094	−60,000	−60,000
Contract Advisory and Assistance Services		−25,000	−15,000
DLA—Transfer of supply operations		−400,000	
Industrial fund productivity		−29,600	−15,000
Military health care (CHAMPUS)		−171,000	−100,000
Total defense agencies	−594,251	−922,263	−595,026

DEFENSE LOGISTICS AGENCY (DLA): TRANSFER OF SUPPLY OPERATIONS

The Senate proposed "industrially funding" the Defense Stock Fund by reflecting in the price of supply items the personnel and overhead costs associated with DLA's management of the supply system. The Senate proposed financing these costs through excess fuel savings and assumed $100,000,000 in additional savings would occur. The House did not address this issue.

The conferees agree to further review "industrially funding" DLA stock fund operations and have not made the $100,000,000 reduction proposed by the Senate. The conferees agree that the costs and benefits of this proposal need to be more fully examined. Accordingly, the General Accounting Office is directed to identify potential advantages and disadvantages with this proposal and publish a final report by March 1, 1987. On the basis of these findings the Committees on Appropriations may consider whether "industrial funding" has application to all Department of Defense Stock funds.

DEFENSE COMMUNICATIONS AGENCY

The conferees agree that within the funds provided for the Defense Communications Agency are the entire budget requests for the National Communications Systems, the White House Communications Agency and the Defense Mobilization Systems Planning Activity.

PERSONNEL AND INDUSTRIAL SECURITY

The conferees agree to include a new general provision concerning personnel and industrial security which makes available $8,100,000 of existing funds in order to implement the recommendation of the Department's Security Review Commission. The Senate had proposed to make available $22,100,000 for this purpose and the House did not address the issue.

The conference agreement makes funds available for improved processing of criminal history data, safeguards for interim top secret clearances and better security training. The amount concurred in by the conferees does not, however, include the $14,000,000 proposed by the Senate for more extensive Defense Investigative Service background investigations since this amount may exceed that which is necessary to conduct such investigation.

The conferees are extremely concerned with the number and seriousness of recent security lapses. This concern was demonstrated by the addition of $25,000,000 above the fiscal year 1986 budget request to improve security procedures and the provision of additional authority above the budget again this year—at a time when funding for many DOD activities is declining to levels below those for 1986.

The Appropriations Committees will carefully review the issue of personnel and industrial security in connection with the 1988 budget estimate and will consider additional reprograming requests should the Department so require.

OPERATION AND MAINTENANCE, ARMY RESERVE

The conferees agree to provide $769,966,000 instead of $769,298,000 as proposed by the House and $771,385,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and maintenance, Army Reserve			
Stock fund fuel refund	−7,500	−6,057	−14,526
Inflation reestimate	−8,000	−5,250	−5,250
Travel	−4,700	−9,000	−6,850
Average flying hours	−1,200		−600
Training related to AGR full-time manning increase	−1,436		−1,000
Recruiting and advertising	−8,508	−2,100	−2,100
AGR force professional training	−650		−650
Continental Army Management Information System (CAMIS)	+10,000		+10,000
Realignment of IRR MOB. test		+6,000	+1,500
Military personnel support	−1,800	−5,300	−3,650
National board for rifle practice transfer	−8	−8	−8
Total Army Reserve	−23,802	−21,715	−23,134

OPERATION AND MAINTENANCE, NAVY RESERVE

The conferees agree to provide $884,097,000 instead of $869,847,000 as proposed by the House and $887,400,000 as pro-

posed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and maintenance, Navy Reserve			
Stock fund fuel refund	−63,900	−52,417	−66,500
Inflation reestimate	−12,000	−6,250	−6,250
Travel	−600	−23,000	−1,450
Average flying hours	−2,100		−1,100
Base operations—other support	−2,272		−2,272
Reserve management headquarters—other support	−456		−456
Average steaming hours	−11,900		−5,950
Military personnel support	−5,000	−2,700	−3,850
Recruiting and advertising	−7,825	−4,100	−4,100
Realignment of IRR MOB. test		+500	+125
Civilian end strength		−303	
Authorization adjustment		−230	
Total Navy Reserve	−106,053	−88,500	−91,803

Operation and Maintenance, Marine Corps Reserve

The conferees agree to provide $63,875,000 instead of $63,218,000 as proposed by the House and $62,800,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and maintenance, Marine Corps Reserve			
Stock fund fuel refund	−700	−1,809	−800
Military personnel support	−300		−150
Miscellaneous program inceases	−1,082		−500
Civilian end strength		−591	
Realignment of IRR mob. test		+500	+125
Inflation/fuel savings		−500	
Recruiting and advertising		−100	−100
Total Marine Corps Reserve	−2,082	−2,500	−1,425

Operation and Maintenance, Air Force Reserve

The conferees agree to provide $911,200,000 instead of $922,100,000 as proposed by the House and $887,100,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and maintenance, Air Force Reserve			
Stock fund fuel refund	−60,500	−77,474	−63,000
Inflation reestimate	−4,000	−6,250	−6,250
Civilian end stength		−4,376	
Travel		−800	−800
Realignment of IRR mob. test		+1,000	+250
Installation of GFE drug interdiction radar mods	+10,000		
Installation of GFE drug interdiction tanker mods	+1,000		
Recruiting and advertising		−600	−600
Hurricane reconnaissance flights			+6,000
Total Air Force Reserve	−53,500	−88,500	−64,400

Operation and Maintenance, Army National Guard

The conferees agree to provide $1,734,447,000 instead of $1,734,696,000 as proposed by the House and $1,714,800,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and maintenance, Army National Guard			
Stock fund fuel refund	−27,800	−49,568	−31,874
Inflation reestimate	−16,000	−11,500	−11,500
Travel	−2,200		−2,200
Civilian and strength		−4,632	
Training support	−1,879		−1,879
Standard Army Multicommand Management Information System (STAMMIS)	−17,500		−17,500
Continental Army Management Information System (CAMIS)	+10,000		+10,000
Military personnel support	−6,000	−3,900	−5,000
Drug interdiction support	+12,000		+8,000
Recruiting and advertising	−2,825	−1,100	−1,100
Environmental projects		+600	+600
Authorization adjustment		−2,000	
Total Army National Guard	−52,204	−72,100	−52,453

Operation and Maintenance, Air National Guard

The conferees agree to provide $1,755,658,000 instead of $1,790,384,000 as proposed by the House and $1,727,900,000 as proposed by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and maintenance, Air National Guard			
Stock fund fuel refund	−160,900	−185,659	−176,700
Inflation reestimate	−10,000	−12,500	12,500
Travel		−1,300	−650
Civilian end strength	+12,284	−2,641	+3,408
Military personnel support	−1,300	−1,700	−1,500
Drug interdiction support	+9,000		+6,000
Aircraft modifications	+3,600		
T–33 maintenance	+5,000		+5,000
Recruiting and advertising		−100	−100
Authorization adjustment		−900	
Total Air National Guard	−142,316	−204,800	−177,042

Claims, Defense

NORFOLK NAVY STEAM PLANT

The conferees have included language in the Act which authorizes and directs the Secretary of the Navy to pay losses to the business concern responsible for construction of the Norfolk Navy Steam Plant. The language, with minor modifications, was proposed by the Senate. The House did not address the issue.

The conferees emphasize that the circumstances surrounding the contract and construction of the Norfolk Navy Steam Plant constitute a very special situation. The actions of the conferees on this matter should in no way be construed as a precedent.

In determining the losses to be reimbursed, the Department should define losses as allowable cost within the meaning of the Contract Disputes Act (41 U.S.C. 601–613), and the losses should be verified by the Secretary under the truth and negotiations clause of the Contract Disputes Act.

Environmental Restoration, Defense

The conferees agree to provide $375,900,000 instead of $346,100,000 as proposed by the House and $385,900,000 as proposed by the Senate. The conferees support the Senate instruction regarding environmental policy staffing.

Humanitarian Assistance

The conferees agree to provide $10,000,000 as proposed by the Senate instead of $6,000,000 as proposed by the House. In addition, both House and Senate versions of the bill provide for a reappropriation of $7,000,000 made available in fiscal year 1986 for humanitarian assistance. Thus, the total available in fiscal year 1987 for humanitarian assistance under the terms of the conference agreement is $17,000,000.

The conferees have included language in the Act which permits the transfer of not more than $2,500,000 to the Secretary of State for necessary costs of managing the transportation of humanitarian relief supplies and for transportation costs outside the United States. It is the understanding of the conferees that out of country transportation costs may include both the acquisition and lease/rental of local transportation assets, including beasts of burden.

In addition, the conference agreement permits the use of up to $3,000,000 for the worldwide distribution of excess nonlethal supplies for humanitarian relief. The conferees understand that these funds may be used to alleviate refugee problems in the region of the Thailand-Cambodia border.

Finally, the conferees are concerned that during the operation of this program in fiscal year 1986, damaged and improperly maintained materials were provided to refugees. The program managers are directed to take action as necessary to ensure that the goods are visually inspected prior to shipment and that care be taken that all goods shipped are usuable and of good quality.

TITLE III—PROCUREMENT

The conferees agree to the following amounts for the Procurement accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
SUMMARY				
ARMY:				
AIRCRAFT	$3,264,700	$2,798,050	$2,892,150	$2,762,750
TRANSFER FROM OTHER ACCOUNTS		(19,100)		
MISSILES	2,438,200	2,003,300	2,183,300	2,206,800
TRANSFER FROM OTHER ACCOUNTS		(58,200)		
WEAPONS, TRACKED COMBAT VEHICLES	4,452,600	3,828,000	3,759,850	3,804,300
TRANSFER FROM OTHER ACCOUNTS		(8,500)		
AMMUNITION	2,254,000	2,068,988	2,229,700	2,087,150
TRANSFER FROM OTHER ACCOUNTS		(39,562)		
OTHER	6,169,000	4,641,811	5,286,825	5,118,752

[In thousands of dollars]

	Budget	House	Senate	Conference
TRANSFER FROM OTHER ACCOUNTS		(251,000)		
TOTAL, ARMY	18,578,500	15,340,149	16,351,825	15,979,752
TRANSFER FROM OTHER ACCOUNTS		(376,362)		
TOTAL FUNDING AVAILABLE	18,578,500	15,716,511	16,351,825	15,979,752
NAVY:				
AIRCRAFT	11,304,300	9,039,452	9,970,750	9,794,262
TRANSFER FROM OTHER ACCOUNTS		(155,574)		
WEAPONS	6,095,400	5,047,440	5,270,262	5,290,847
TRANSFER FROM OTHER ACCOUNTS		(160,667)		
SHIPS	11,046,200	9,259,900	9,714,539	10,210,989
TRANSFER FROM OTHER ACCOUNTS		(855,800)	(584,500)	
OTHER	6,538,800	5,492,515	5,988,429	6,033,371
TRANSFER FROM OTHER ACCOUNTS		(95,413)		
COASTAL DEFENSE AUGMENTATION			200,000	200,000
MARINE CORPS	1,565,000	1,444,896	1,451,599	1,465,215
TRANSFER FROM OTHER ACCOUNTS		(26,500)		
TOTAL, NAVY	36,549,700	30,284,203	32,395,579	32,794,684
TRANSFER FROM OTHER ACCOUNTS		(1,293,954)	(584,500)	
TOTAL FUNDING AVAILABLE	36,549,700	31,578,157	32,980,079	32,794,684
AIR FORCE:				
AIRCRAFT	19,127,400	16,202,251	16,815,050	17,131,282
TRANSFER FROM OTHER ACCOUNTS		(606,300)		
MISSILES	8,982,400	6,725,777	7,722,245	7,446,718
TRANSFER FROM OTHER ACCOUNTS		(117,900)		
OTHER	10,900,300	8,654,521	9,468,700	9,254,941
TRANSFER FROM OTHER ACCOUNTS		(78,711)		
TOTAL, AIR FORCE	39,010,100	31,582,549	34,005,995	33,832,940
TRANSFER FROM OTHER ACCOUNTS		(802,911)		
TOTAL FUNDING AVAILABLE	39,010,100	32,385,460	34,005,995	33,832,940
NATIONAL GUARD AND RESERVE EQUIPMENT		752,068	453,250	557,000
DEFENSE AGENCIES	1,488,400	1,503,361	1,485,487	1,498,256
DEFENSE PRODUCTION ACT PURCHASES	30,000	40,000	5,000	13,000
NATO COOPERATIVE DEFENSE PROGRAMS				
TOTAL NOA	95,656,700	79,502,330	84,897,136	84,875,632
TRANSFER FROM OTHER ACCOUNTS		(2,473,227)	(584,500)	

PROCUREMENT FINANCING POLICY CHANGES

The conferees agree in principle with the financing policy changes proposed by the Senate. The conferees have made a number of changes and refinements to the Senate language.

PROGRESS PAYMENTS

The conferees agree to a reduction of 5 percentage points in the progress payment rate rather than the 10 percentage point reduction proposed by the Senate. The conferees note that this adjustment is more in line with the interest rate decline down to today's rate of 7.5 percent. Further, the conferees do not view this as a precedent for continuing to legislate progress payment rates. Rather, this legislative prescription is done to ensure that outlay savings will occur and be visible. The conferees expect that setting progress payment rates will be done administratively by the Department in the future.

Authority for the Secretary of Defense to exclude shipbuilding, military construction and architect-engineering contracts from the lower progress payments has been provided. Traditionally, payment rates for these areas under the percentage of completion method have been linked to the "customary progress payment rate" used on the percentage of cost method. This authority may be used if the Secretary certifies that any of these three defense activities continue to need special consideration and treatment due to the nature of the construction industry.

Authority for the Department to grant higher progress payment rates based on demonstrated financial need for financially weak firms has also been added. This authority is currently available in the Department's acquisition policy. The potential for abuse is acknowledged and the Department is urged to continue to use this feature sparingly and judiciously.

PROFIT POLICY

The conferees agree to the policy objectives stated by the Senate which places increased emphasis on facility capital employed and contractor risk and which provide a linking of profit and working capital requirements. The effect of this is to remove specific individual elements of contract cost as a determinant of profit objectives.

The section describing the new profit policy for negotiated contracts has been clarified to reflect the consideration of working capital in profit calculations. This is the central feature in linking profit and financial risk. This also provides the Department of Defense another way in addition to changing progress payment rates for adjusting for changing financial conditions. The conferees understand that the allowance for financing (proposed as 2.5 percent of contract cost) and the interest rates used in adjusting profit objectives will be set administratively. This process merits the careful attention of the Committees and GAO as the new policy is implemented.

Through the language indicates that the policy should place increased emphasis on capital investment and risk, the conferees recognize that some types of firms, such as professional and technical services firms, doing business with DoD inherently are called upon to make less capital investment and may participate in projects with less total risk. It is the conferees' belief, that, notwithstanding this modified emphasis, any profit policy must ensure that firms performing satisfactorily for the Department of Defense earn a reasonable profit.

The conferees also note that as a result of the Defense Financial and Investment Review, the Department published a new profit policy in the September 18, 1986, Federal Register. While a detailed review of the Department's new rules has not been made, it appears that these rules are generally consistent with the conferees' policy objectives. The conferees expect that all 1987 contracts will be awarded under these new rules which are designed to decrease the negotiated profit objective by one percentage point.

In supporting this new policy, the conferees agree to the across-the-board reductions proposed by the Senate totalling $700,000,000 as a result of the lower contract prices expected. The conferees acknowledge that permitting adjustments in profit for working capital will decrease the savings slightly but feel that the $700,000,000 reduction out of an estimated $740,000,000 excess (one percent of $74 billion in negotiated contracts) is a reasonable adjustment.

TOOLING COSTS

The conferees have modified the Senate's provision to limit the amount of expected contractor exposure for special tooling and special test equipment to 50 percent of the contractor's proposed requirements. Furthermore, authority is provided for the Service Secretary to finance more than 50 percent of the special tooling and test equipment if budgeted and approved in advance. It is expected that this authority will be used when it is in the best interest of the government when contractors cannot

handle the additional financial exposure. But it is clearly expected that contractors will carry as much of the financing as possible up to 50 percent. It is not the desire of the conferees that defense contractors "bet their companies" on any particular contract. It is the desire of the conferees to continue and accelerate the use of private investment in the defense industry.

The conference agreement continues to require government funding of special tooling and special test equipment used for final government acceptance of items as proposed by the Senate.

The policy statement has been clarified to permit direct reimbursement for tooling costs when there will be only a single year production contract available for amortization purposes.

The conferees have added a final provision entitling a contractor to be paid by the United States for the unamortized balance of any tooling remaining in the event of contract termination for any reason other than failure of the contractor to perform, in which case the law would permit the government to take title to the special tooling and test equipment.

BINARY CHEMICAL WEAPONS

The conference agreement provides the following for the binary chemical weapons program:

[In thousands of dollars]

	Budget	House	Senate	Conference
GB-2 artillery projectile	60,600	32,600	60,600	60,600
Bigeye bomb (Navy)	28,533	10,000	28,533	20,000
Bigeye bomb (Air Force)	28,400		28,400	15,000
DC production facility	18,600	18,600	18,600	18,600
DC components for prove-out	2,520	2,520	2,520	2,520
GB-2 metal parts expansion	4,600	4,600	4,600	4,600
Bigeye metal parts—2nd source	15,400		15,400	
Total	158,653	68,320	158,653	121,320

INFLATION AND PROFIT POLICY REDUCTIONS

Congress reduced the fiscal year budget to reflect excess inflation amounts included in that budget. These inflation amounts were excess to the budgeted program, but the Department of Defense (DOD) in many instances applied these reductions against items of congressional interest. The conferees strongly object to this practice, and agree that the inflation and profit policy reductions reflected in the Department of Defense Appropriations Bill for Fiscal Year 1987 are necessary and appropriate to account for amounts in excess to budgeted program levels. The conferees therefore direct the DOD not to delete or defer funded procurement and research, development, testing, and evaluation programs, projects, activities, or items in excess of amounts related to inflation and profit policy reductions for those programs, projects, activities, or items. The conferees further direct the DOD to submit to the Committee on Appropriations concurrently with the submission of the Fiscal Year 1988 Budget two detailed lists identifying how the inflation reduction and the profit policy reduction are distributed by P-1 and R-1 lines.

CONTROLLABILITY OF PROCUREMENT BUDGET

The conferees agree to the report requested by the House on the controllability of the procurement budget. However, the conferees direct that the report should include a discussion of the costs and benefits of implementing such a system for controlling fixed price contracts and should include comments from the Department of Defense on such a proposed system.

SPECIAL OPERATIONS FORCES ROTARY-WING AIRLIFT

The conferees agree that the Department of Defense should proceed with modernization and expansion of its SOF rotary-wing forces. However, the conferees also agree that the rotary-wing requirement in support of Special Operations Forces is sufficiently demanding and of such national importance that significant contributions will be necessary from both the Army and the Air Force. Specifically, the conferees agree that the Department should proceed with implementation of Intiative 17 with the following stipulations:

The Air Force will continue to provide dedicated HH-53 PAVE LOW support for special operations mission, including the Joint Special Operations Command. This will entail modernization and modification of all Air Force C/H-53 helicopters to the HH-53 PAVE LOW III enhanced modification configuration by the end of fiscal year 1990.

The Army will proceed with a vigorous modernization and expansion of its rotary-wing airlift force to include fielding of MH-60X and MH-47E aircraft.

The conferees agree further that the Army and Air Force capabilities are complementary and can, as required, be available for any long or short range Special Operations missions as the National Command Authority deems appropriate.

Finally, the conferees direct that the Secretary of Defense submit a progress report and detailed program to the Congress by February 1, 1987, delineating specific missions, resource levels, and operational integration of these expanded rotary-wing airlift capabilities.

GENERAL REDUCTIONS

The conferees agree to several general reductions throughout the procurement and research and development accounts. The conferees understand that these reductions shall be applied against program levels, and direct that no P-1 or R-1 line item be reduced by more than 5 percent (exclusive of inflation and profit policy reductions) to achieve the relevant general reduction. The conferees further direct the Department of Defense to submit to the Committees on Appropriations with the Fiscal Year 1988 Budget a detailed list identifying how the general reductions are distributed by P-1 and R-1 lines.

BUDGET ACTIVITY DELINEATIONS

The Senate bill provides appropriations for most accounts at the aggregate level instead of delineating subdivisions in the bill. The House appropriates several accounts at the subdivision level. The conference agreement delineates subdivisions in three Navy accounts for weapons procurement, shipbuilding and other procurement. These accounts were selected because of concern over excessive reprogramming or because of traditional practice.

Other accounts are appropriated at the aggregate level because the conferees believe further subdivision is unnecessary. The Appropriations Committees will monitor these accounts to ascertain whether appropriating funds at the account level allows for proper congressional oversight.

INDUSTRIAL FASTENERS

The conferees are concerned about allegations that certain categories of industrial fastener products used in U.S. military equipment may be substandard or counterfeit in terms of alloy strength and durability, posing a safety risk.

Therefore the Department of Defense is directed to submit a report to the Committees on Appropriations addressing the following issues:

(a) Whether industrial fasteners (categories listed below) currently in use by DOD or its contractors may be substandard or counterfeit (not possessing qualities commensurate with their advertised grade strength);

(b) The status, of, or need for, adequate quality-control standards for these components;

(c) The availability of domestic suppliers of these components, and the advisability of greater reliance on domestic sources given possible quality problems in imported components:

(d) The Department's policy on procurement of imported fasteners.

The report will consider industrial fastener products in the following industrial fastener categories as defined by the Tariff Schedules of the United States (TSUS):

(1) 646.4920 Lag bolts or screws (of iron of steel);

(2) 646.5400 Bolts and their nuts imported in the same shipment (of iron or steel);

(3) 646.5600 Nuts (of iron of steel);

(4) 646.6320 Cap screws (of iron or steel) having shanks or threads over 0.24 inch in diameter;

(5) 646.6340 Other screws with shanks or threads over 0.24 inch in diameter (of iron or steel);

MINORITY BUSINESS PARTICIPATION

The conferees reiterate the House's concern and expectations regarding expanded opportunities for minority businesses and historically black colleges and universities. Additionally, the conferees agree with the House language requesting a detailed plan to meet the stated goal for expanded participation.

AIRCRAFT PROCUREMENT, ARMY

The conferees agree to the following amounts for the Aircraft Procurement, Army, account:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, ARMY				
FIXED WING: C-20 TRANSPORT			59,300	40,000
ROTARY:				
EH-60A HELICOPTER (QUICKFIX) (MYP)	135,000	108,700	115,000	112,600
EH-60A HELICOPTER (QUICKFIX) (MYP) (BY TRANSFER)		(3,900)		
EH-60A HELICOPTER (QUICKFIX) (MYP) (AP-CY)	16,900	16,900	16,900	16,900
AH-64 ATTACK HELICOPTER (APACHE)	1,189,300	1,032,800	1,024,200	1,028,500
AH-64 ATTACK HELICOPTER (APACHE) (AP-CY)	39,100	39,100	39,100	39,100
UH-60A (BLACK HAWK) (MYP)	155,400	149,300	155,400	152,400
UH-60A (BLACK HAWK) (MYP) (BY TRANSFER)		(3,100)		
UH-60A (BLACK HAWK) (MYP) (AP-CY)	195,000	133,900	165,100	165,100
TOTAL, AIRCRAFT	1,730,700	1,480,700	1,575,000	1,554,600
MODIFICATION OF AIRCRAFT:				
OV-1 SURVEILLANCE AIRPLANE (MOHAWK)	24,900	10,000	24,900	10,000
RV-1 RECON AIRPLANE	2,700	2,700	2,700	2,700
AH1S ATTACK HELICOPTER (COBRA-TOW)	61,000	12,400	34,000	26,000
AH-64 MODS	33,400	33,400	33,400	33,400
CH-47 CARGO HELICOPTER (MYP)	208,400	198,400	208,400	203,400
CH-47 CARGO HELICOPTER (MYP) (BY TRANSFER)		(1,500)		
CH-47 CARGO HELICOPTER (MYP) (AP-CY)	58,600	58,600	58,600	58,600
CH-54 CARGO HELICOPTER (TARHE)	1,300	1,300	1,300	1,300
UH-1 UTILITY HELICOPTER (IROQUOIS)	6,300	6,300	6,300	6,300
UH-60A (BLACK HAWK) MODS	7,700	7,700	7,700	7,700
ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP)	164,900	122,500	119,200	127,700
ARMY HELICOPTER IMPROVEMENT PROGRAM (BY TRANSFER)		(10,600)		
ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP) (AP-CY)	45,400	21,800	22,500	22,500
AIR TO AIR STRINGER ACFT MOD	28,800		28,800	
AIRBORNE AVIONICS	100	100	100	100
ASE MODIFICATIONS CLOSE COMBAT	3,500	1,500	3,500	3,500
MODIFICATIONS UNDER $2.0M (AIRCRAFT)	100	100	100	100
ACFT 9WW	12,000	12,000	12,000	12,000
SOF AIRCRAFT MODIFICATIONS	3,500			
GROUND PROXIMITY WARNING SYS		6,850		6,850
TOTAL, MODIFICATION OF AIRCRAFT	662,600	495,650	563,500	522,150
SPARES AND REPAIR PARTS	710,500	710,500	672,000	610,500
GROUND SUPPORT AVIONICS:				
AIRCRAFT SURVIVABILITY EQUIPMENT	11,600	11,600	11,600	11,600
OTHER SUPPORT:				
AVIONICS SUPPORT EQUIPMENT	57,900	47,400	38,900	38,900
COMMON GROUND EQUIPMENT	28,400	28,400	28,400	28,400
AIR TRAFFIC CONTROL	4,800	4,800	4,800	4,800
SYNTHETIC FLIGHT TRAINING SYSTEMS	37,700	34,200	37,700	36,000
INDUSTRIAL FACILITIES	16,000	16,000	16,000	16,000
WAR CONSUMABLES	4,500	4,500	4,500	4,500
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	169,900	146,900	141,900	140,200
INFLATION SAVINGS, FY87		−35,700	−48,000	−48,000
PROFIT POLICY CHANGE			−12,250	−16,700
TOTAL, AIRCRAFT PROCUREMENT, ARMY	3,264,700	2,798,050	2,892,150	2,762,750
TRANSFER FROM OTHER ACCOUNTS		(19,100)		
TOTAL FUNDING AVAILABLE	3,264,700	2,817,150	2,892,150	2,762,750

UH-60A BLACK HAWK HELICOPTER

The conference agreement for the UH-60A Black Hawk helicopter includes the necessary funding and legislative authorization to initiate a third multiyear contract using fiscal year 1987 advance procurement. However, the conferees direct that no such funds may be obligated toward a multiyear contract until the Army submits revised multiyear procurement justifications showing the approved multiyear program. Such a submittal shall also include the Army's plans for further UH-60A production, transition to an improved UH-60B, and the means of satisfying the overall long term utility helicopter requirements. The conferees expect that any proposed multiyear procurement will have savings of at least ten percent.

AH-64 APACHE ATTACK HELICOPTER

The conferees agree to provide $1,028,500,000 for procurement of 120 AH-64 Apache attack helicopters, of which 18 are specifically allocated for the Army National Guard.

The conferees agree with the concerns expressed in the House and Senate reports about the Army's current planning which would terminate production of the Apache attack helicopter at 675, some 45 percent short of filling the Army's total requirement for these aircraft, including active and National Guard/Reserve forces. Such an action also would leave the Army without a production base for attack helicopters until the LHX enters production, which would not be until the mid-1990s as the LHX program is presently structured. The Secretary of the Army is directed to submit a procurement program with the fiscal year 1988 budget that fulfills the Army's requirement for this aircraft.

OV-1 SURVEILLANCE AIRCRAFT MODS

The conference agreement provides $10,000,000 for OV-1 aircraft modifications as proposed by the House instead of $24,900,000 as proposed by the Senate. The reduction below the budget is made without prejudice and is related to a delay in the award of the production contract. The conferees strongly support this program.

ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP)

The conferees agree to an allowance of $127,700,000 for fiscal year 1987 modification of 36 helicopters and $22,500,000 for advance procurement as proposed by the Senate.

The conferees agree with the Senate that, if the Army terminates the AHIP program, the Army should report on its plans for meeting its Scout helicopter requirements before any of these fiscal year 1987 funds are obligated.

Furthermore, the conferees agree that any excess fiscal year 1987 funds should be applied to the follow-on Scout helicopter program that succeeds the AHIP program, but not the LHX program. The conferees expect this interim Scout helicopter program will be fully described and rationalized with the Army's LHX program.

AIR-TO-AIR-STINGER

The conference agreement provides no fiscal year 1987 funds for air-to-air Stinger modifications. This action is taken in recognition of the fact that $27,740,000 in reprogramming FY 86-54PA is available to initiate procurement in fiscal year 1987. The conferees hereby approve the air-to-air Stinger portion of this reprogramming.

The conferees are in agreement that air-to-air Stinger procurement funds shall not be obligated until the requirements of Section 122(d) of H.R. 4428 are complied with. The conferees are in further agreement that since the Army has selected the Stinger missile for its air-to-air combat missile, that planned testing by the Department of Defense of the Mistral missile for this mission be terminated.

MISSILE PROCUREMENT, ARMY

The conferees agree to the following amounts for Missile Procurement, Army:

[In thousands or dollars]

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, ARMY				
SURFACE-TO-AIR MISSILE SYSTEM:				
CHAPARRAL	103,700		30,000	30,000
AIR DEFENSE SYS HEAVY	9,100			
OTHER MISSILE SUPPORT	6,500	6,500	6,500	6,500
PATRIOT (MYP)	951,500	902,500	920,000	917,000
PATRIOT (MYP) (BY TRANSFER)		(14,500)		
PATRIOT (MYP) (AP-CY)	45,300	45,300	45,300	45,300
STINGER (MYP)	251,700	190,200	251,700	281,700
STINGER (MYP) (BY TRANSFER)		(18,600)		
STINGER (MYP) (AP-CY))	40,300		40,300	30,000
PERSHING II	31,800	31,800	31,800	31,800
AIR-TO-SURFACE MISSILE SYSTEM				
ANTI-TANK/ASSUALT MISSILE SYSTEM				
TOW 2	134,600	68,400	110,500	110,500
TOW 2 (BY TRANSFER)		(12,600)		
TOW 2 (AP-CY)	15,500			
MULTIPLE LAUNCH ROCKET SYSTEM (MYP)	474,200	461,700	439,800	474,200
MULTIPLE LAUNCH ROCKET SYSTEM (MYP) (BY TRANSFER)		(12,500)		
TOTAL, OTHER MISSILES	2,064,200	1,706,400	1,875,900	1,927,000
MODIFICATION OF MISSILES				
MODIFICATIONS:				
PATRIOT	38,600	21,900	38,600	21,900
CHAPARRAL	5,200	5,200	5,200	5,200
HAWK	68,200	58,800	60,500	58,800
TOW	53,000	53,000	53,000	53,000
DRAGON	4,700			
LANCE MODIFICATIONS	3,800		3,800	3,800
TOTAL, MODIFICATION OF MISSILES	173,500	138,900	161,100	142,700
SPARES AND REPAIR PARTS	150,900	150,900	145,900	145,900
AIR DEFENSE TARGETS	32,400	19,800	32,400	27,400
ITEMS LESS THAN $2.0M (MISSILES)	1,500	1,500	1,500	1,500
PRODUCTION BASE SPT	15,700	15,700	15,700	15,700
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	49,600	37,000	49,600D44,600	
INFLATION SAVINGS, FY87		−29,900	−40,100	−40,100
PROFIT POLICY CHANGE			−9,100	−13,300
TOTAL, MISSILE PROCUREMENT, ARMY	2,438,200	2,003,300	2,183,300	2,206,800
TRANSFER FROM OTHER ACCOUNTS		(58,200)		
TOTAL FUNDING AVAILABLE	2,438,200	2,061,500	2,183,300	2,206,800

STINGER

STINGER ADVANCE PROCUREMENT

The conferees agree to provide $281,700,000 for Stinger procurement, the sum proposed by the Senate plus $30,000,000. The $30,000,000 provided above the budget is to be used for the establishment of a second source as possible. The conferees expect that head-to-head competition should be possible no later than fiscal year 1990, preceded by an educational buy from the selected second source which extends over a twelve to eighteen month period.

The conferees agree to provide $30,000,000 for advance procurement. These funds are to be used for a three year multiyear procurement of Stinger RMP missiles, to provide a transition from the current sole source single-year arrangement to full competition in fiscal year 1990. The multiyear procurement may take place provided that the Army is able to demonstrate a cost saving of at least ten percent over three years, and that all other Congressional criteria are met. Language has been provided in the bill which allows multiyear procurement of Stinger.

PATRIOT GENERATOR SETS

The House and Senate took differing positions on a competition being conducted by the Army to obtain engines for Patriot generator sets. The House directed that the competition be limited to turbine engines, and the Senate directed that both turbine and diesel engines be considered. In light of the relatively small number of engines to be procured, and the fact that the bulk of Patriot units are already fielded with turbine engines, the conferees concur in the directive of the House. At the same time, the conferees recognize that significant advances have been made in diesel technology, and that Patrot is but one of many systems. Therefore, the conferees direct that diesel technology be vigorously pursued as an option in future competitions for engines for systems other than Patriot.

DRAGON INTERIM REPLACEMENT

The conferees agree that a plan is needed before procurement of an interim replacement for the Dragon anti-tank weapon occurs, if such an interim replacement is needed. The conferees direct the Department to provide a positive statement of its requirements for an interim DRAGON replacement and a plan for filling those requirements to include program schedules, milestones and funding profiles.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conferees agree to the following amounts for Procurement of Weapons and Tracked Combat Vehicles, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT OF W&TCV, ARMY				
TRACKED COMBAT VEHICLE:				
CARRIER, COMMAND POST LIGHT, FT, M577A2	64,100	64,100	64,100	64,100
BRADLEY FIGHTING VEHICLES (MYP)	1,121,800	830,000	895,800	895,800
BRADLEY FIGHTING VEHICLES (MYP) (AP-CY)	20,600	20,600	10,600	10,600
BRADLEY FVS TRAINING DEVICES	9,500	9,500	9,500	9,500
FIELD ARTILLERY AMMUNITION SUPPORT VEH	67,500	58,800	63,500	62,500
FIELD ARTILLERY AMMUNITION SUPPORT VEH (BY TRANSFER)		(3,200)		
RECOVERY VEHICLE, MED, FT, M88A1	42,800		8,800	
ABRAMS TANK SERIES ROLL (MYP)	1,643,600	1,578,600	1,527,300	1,578,600
ABRAMS TANK SERIES ROLL (MYP) (AP-CY)	351,400	321,900	204,100	234,200
M60 SERIES TANK TRAINING DEVICES	33,500	33,500	33,500	33,500
M1 SERIES TANK TRAINING DEVICES	9,500	8,500	9,500	9,000
MODIFICATION OF TRACKED COMBAT VEHICLES:				
CARRIER, MOD	48,400	41,900	41,900	41,900

[In thousands of dollars]

	Budget	House	Senate	Conference
FIRST VEHICLE (MOD)	53,800	53,800	53,800	53,800
BFVS SERIES (MOD)	35,100	35,100	35,100	35,100
HOWITZER, MED SP FT 155MM M109 SER(MOD)	20,800	3,000	5,800	3,000
TANK, COMBAT, FT, 104MM GUN, M60SER (MOD) (MYP)	48,300	48,300	48,300	48,300
TANK, M1 SERIES (MOD)	80,400	45,900	80,400	51,200
TANK, M1 SERIES (MOD) BY TRANSFER		(5,300)		
MOB TNG BASE EQUIP	17,000	15,500	7,000	7,000
HOST NATION SUPPORT	4,700	4,700	4,700	4,700
SUPPORT EQUIPMENT AND FACILITIES:				
SPARES AND REPAIR PARTS	469,800	436,300	442,400	440,000
ITEMS LESS THAN $2.0M (TCV-WTCV)	2,000	2,000	2,000	2,000
PRODUCTION BASE SUPPORT (TCV-WTCV)	57,800	57,800	57,800	57,800
TOTAL, TRACKED COMBAT VEHICLES	4,202,400	3,669,800	3,605,900	3,642,600
HOWITZER, LIGT, TOWED, 105MM, M119	26,500	26,500	26,500	26,500
MACHINE GUN, 7.62MM, M60	5,000		5,000	5,000
ARMOR MACHINE GUN, 7.62MM M240	24,200			
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM	12,900	12,900	12,900	12,900
GRENADE LAUNCHER, AUTO, 40MM, MK19-3			15,000	15,000
LAUNCHER, SMOKE GRENADE	1,800	1,800	1,800	1,800
MORTAR, 81MM, M252	10,100	10,100	10,100	10,100
MORTAR 120 MM	13,200	13,200	13,200	13,200
M16 RIFLE	36,800	36,800	36,800	36,800
PERSONAL DEFENSE WEAPON, 9MM	4,400	4,400	4,400	4,400
9MM HANDGUN COMPETITION				15,000
VEH RAPID FIRE WPN SYS-BUSHMASTER (MYP)	37,300	37,300	33,600	33,600
VEH RAPID FIRE WPN SYS-BUSHMASTER (MYP) (AP-CY)	3,200	3,200	3,200	3,200
MODIFICATION OF WEAPONS AND OTHER COMBAT VEHICLES:				
M16A1 RIFLE MODS	3,300	3,300	3,300	3,300
MODIFICATIONS UNDER $2.0M (WOCV-WTCV)	4,000	4,000	4,000	4,000
SUPPORT EQUIPMENT AND FACILITIES:				
REP SPARES AND REPAIR PARTS (WOCV-WTCV)	17,600	17,600	17,600	17,600
ITEMS LESS THAN $2.0M (WOCV-WTCV)	3,300	3,300	3,300	3,300
PRODUCTION BASE SUPPORT (WOCV-WTCV)	37,000	37,000	37,000	37,000
CANNON TUBE FORGINGS FOR SURGE	9,600			
TOTAL, WEAPONS AND OTHER COMBAT VEHICLES	250,200	211,400	227,700	242,700
INFLATION SAVINGS, FY87		−53,200	−58,000	−58,000
PROFIT POLICY CHANGE			−15,750	−23,000
TOTAL, PROCUREMENT OF W&TCV, ARMY	4,452,600	3,828,000	3,759,850	3,804,300
TRANSFER FROM OTHER ACCOUNTS		(8,500)		
TOTAL FUNDING AVAILABLE	4,452,600	3,836,500	3,759,850	3,804,300

SQUAD AUTOMATIC WEAPON (SAW)

The conference agreement includes a modification of Senate bill language which requires that the M249 Squad Automatic Weapon be procured competitively. The conferees agree that competition for the M249 is feasible, in the best interest of the Government, and will ensure that the best producer is selected for introduction into the mobilization base which the Army is attempting to preserve.

The conferees agree that the 1985 competition for multiyear procurement of the weapon was fairly held and executed and that nothing has been gained in delaying it while desired modifications to the weapon have been readied and tested. The conferees agree that the Army should resume the delayed competition in order to fully execute its desired small arms program, or if that is not possible, then a new competition should be held as soon as possible.

M-88 RECOVERY VEHICLE

The conference agreement provides no procurement funding for the M-88 recovery vehicle. This is done without prejudice in recognition that such funding for the product-improved M88A2 vehicle is premature in fiscal year 1987 and that the incremental funding proposed in the budget violated accepted practices. If the Army can justify a fully funded budget estimate in fiscal year 1987, along with program milestones and an approved procurement strategy, a reprogramming may be submitted. Otherwise procurement funding request in fiscal year 1988 or a future year will be entertained.

9MM HANDGUN

The House bill included a provision requiring a cancellation of the current contract and recompetition of performance specifications for the 9mm handgun prior to obligation of fiscal year 1987 funds. The Senate bill had no such provision. The conferees are aware of the controversy surrounding the initial 9mm handgun competition. As a result, the conference agreement includes a general provision which directs the Department of Defense to hold a competition during fiscal year 1987 for a follow-on procurement of the 9mm handgun, but without any restrictions on obligation of 1986 and 1987 funds. The conferees have provided $15,000,000 over the budget request in the Procurement of Weapons and Tracked Combat Vehicles, Army account to fund this competition and for the initial period of follow-on production beginning in fiscal year 1988.

The conferees expect the new competition will be based on the same performance specifications used for the award of the current multiyear contract. The conferees further agree that (1) the current multiyear contract shall not be terminated as a result of any questions concerning the earlier competition or as result of this new competition, and (2) that there will be no options or extensions exercised to the current multiyear contract until the Committees on Appropriations of the House and Senate have been notified of the results of the new competition.

The Department of Defense is requested to submit a report to the Committees on Appropriations of the House and Senate on the results of the competition which includes a list of alternatives for smoothly incorporating the winning bidder into the 9mm handgun acquisition plan.

PROCUREMENT OF AMMUNITION, ARMY

The conferees agree to the following amounts for Procurement of Ammunition, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, ARMY				
AMMUNITION:				
ATOMIC MATERIEL:				
NUCLEAR WEAPONS SUPPORT MATERIEL	2,600	2,600	2,600	2,600
PROJ, NUCLEAR, 155MM	11,700	11,700	11,700	11,700
CONTROLLED ITEMS:				
CTG, 5.56MM, BALL M193	15,000	15,000	15,000	15,000
CTG, 5.56MM, TRACER	5,600	5,600	5,600	5,600
CTG, 5.56MM, TRACER CLIP	4,800	4,800	4,800	4,800
CTG, 5.56MM, BLANK M200	7,000	19,500	19,500	19,500

[In thousands of dollars]

	Budget	House	Senate	Conference
CTG, 5.56MM, BLK M200, LKD F/SAW	18,400	18,400	12,200	12,200
CTG, 5.56MM, 4 BALL M855/1 TRCR M856 LKD	29,400	29,400	29,400	29,400
CTG, 5.56MM BALL M16–A2	3,400	3,400	3,400	3,400
CTG, 7.62MM, 4 BALL M80/1 TRCR M62 LKD	68,500	33,300	33,300	33,300
CTG, 7.62MM, BALL M80 LKD/M13	2,700	2,700	2,700	2,700
CTG, 7.62MM, LKD 4 BALL ITRACER OHF	500	500	500	500
CTG, 7.62MM, BLANK M82 LKD/M13	15,900	19,300	19,300	19,300
CTG, CAL .45, BALL M1911	700	700	700	700
CTG, CAL .50, PLASTIC LKD 4 BALL/1 TRACER	5,400	5,400	5,400	5,400
CTG, CAL .50, LKD 4 BALL/1 TRCR W/M15A2LK	9,600	9,600	9,600	9,600
CTG, CAL .50, APIT, M20 LKD	4,000	4,000	4,000	4,000
CTG, CAL .50, BALL LKD	2,500	2,500	2,500	2,500
CTG, CAL .50, LKD 4 BALL/1 TRACER W/M9 LK	22,900	22,900	22,900	22,900
NATIONAL BOARD FOR RIFLE PRACTICE		−1,350	−1,350	−1,350
CTG, 20MM, LKD TP–T M220 SERIES MLB M14A2	9,700	11,300	11,300	11,300
CTG, 20MM, LKD 4 TP M55A2/1TP–T M220	3,300	5,300	5,300	5,300
CTG, 25MM, HEI–T M792 W/F	48,700	24,200	24,200	24,200
CTG, 25MM, TPT LKD M793 MLB M28	25,500	25,500	24,900	24,900
CTG, 30 MM, LKD TP M788	2,400	2,400	2,400	2,400
CTG, 40MM, HEDP M430	28,700	28,700	19,500	19,500
CTG, 40MM, TP F/MK19	7,500	7,500	7,500	7,500
CTG, 40MM, PRAC M781	3,600	10,200	10,200	10,200
CTG, 40MM, RED SMOKE MARKER	1,800	1,800	1,800	1,800
CTG, 40MM, GREEN SMOKE MARKER	1,900	1,900	1,900	1,900
CTG, 40MM, YELLOW SMOKE MARKER	1,900	1,900	1,900	1,900
CTG, 81MM, ILLUM XM853	3,400	3,400	3,400	3,400
CTG, 81MM, HE, M821 W/FUZE M734 MO	91,300	30,200	30,200	30,200
CTG, 81MM, SMOKE, RP, XM819	11,000	6,000	11,000	6,000
CTG, 81MM, 1/10 RNG, PRAC, XM880	2,900	2,900	2,900	2,900
CTG, 4.2-IN HE M329A2 W/O FUZE	22,000	22,000	22,000	22,000
CTG, 120MM, HE, XM933, W/FUZE M734 MO	44,700	23,500	23,500	23,500
CTG, 120MM, ILLUM, XM930	5,500	3,600	3,600	3,600
CTG, 120MM, SMOKE, XM929	14,300	7,400	7,400	7,400
CTG, 105MM, HEAT MP T M456A2	7,700			
CTG, 105MM, HEAT MP T M456A2 (GENERAL REDUCTION)		−39,562		
CTG, 105MM, HEAT MP T M456A2 (BY TRANSFER)		(39,562)		
CTG, 105MM, TP–T, M490			32,000	18,000
CTG, 105MM, DS–TP M724	41,600	41,600	41,600	41,600
CTG, 105MM, APFSDS–T M833	20,300	20,300	20,300	20,300
CTG, 120MM APFSDS–T M829	75,900	75,900	75,900	75,900
CTG, 120MM HEAT–MP–T, M830(MYP)	27,800	27,800	27,800	27,800
CTG, 120MM TOCSD–T, M865(MYP)	104,900	92,500	92,500	92,500
PROJ, 155MM, HE, ICM M483	173,000	87,900	173,000	87,900
PROVE-OUT M483				30,000
PROJ, 155M, SMK, WP, M825	13,500	22,900	22,900	22,900
PROJ, 155MM, HE, ADAM M731	33,900	33,900	39,600	33,900
PROJ, 155MM, HE, RAAMS M718	11,900	8,800	8,800	8,800
PROJ, 155MM, HE, RAAMS M741	105,400	65,400	40,900	40,900
PROJ, 155MM, BASEBLEED, XM864	31,600	31,600	31,600	31,600
PROJ, 155M, HE, COPPERHEAD (EA)	8,200	8,200	18,200	18,200
CHARGE, PROPELLING, M15MM, GREEN BAG M3	38,000	26,300	26,300	26,300
CHARGE, PROPELLING, M155MM, RED BAG M203	20,000	6,500	20,000	15,000
CHARGE, PROPELLING, M155MM, RED BAG M119	55,600	45,100	55,600	50,000
PROJ, 8-INCH, HE, ICM (DP), M509			86,700	86,700
PROJ, 8-INCH, HE, RAP, M650	37,300	23,800	23,800	23,800
CHARGE, PROPELLING, 8-INCH WB, M188	4,000			
FUZE, PD M739/M739A1		9,700	9,700	9,700
FUZE, MTSQ M577/M577A1	11,700	15,100	15,100	15,100
FUZE, MTSQ M582/M582A1	11,200	11,200	11,200	11,200
PRIMER, PERC, M82	1,800	3,000	3,000	3,000
GROUND IMP MINE SCAT SYS AP M74(MYP)			8,600	
GROUND IMP MINE SCAT SYS AT M75(MYP)			20,600	
CANISTER MINE PRACTICE XM88 (VOLCANO)	1,900		1,900	1,900
CANISTER MINE (VOLCANO) XM87	31,600		31,600	31,600
MTR RKT 5 IN MK22 MOD4	13,300	9,100	9,100	9,100
LINE CHARGE M58A3 (MICLIC)	24,400	23,300	23,300	23,300
MODULAR PACK MINE SYSTEM	23,400	23,400	23,400	23,400
PURSUIT DETERRENT MUNITION	2,100	2,100	2,100	2,100
DEMOLITION MUNITIONS & OTHER	13,700	13,700	13,700	13,700
LIGHTWEIGHT MULTI-PURPOSE WEAPON	82,500	69,500	69,500	69,500
LIGHT WGT MULTI PURPOSE SYSTEM TRNR	2,500	2,500	7,300	7,300
HYDRA 70 RKT HE/RS (M151/M433)		7,700	7,700	7,700
HYDRA 70 RKT, MPSM PRAC M267 WHD	2,700	21,600	21,600	21,600
HYDRA 70 RKT, HE/PD (M151/M423/MK66)	44,800	44,800	44,800	44,800
HYDRA 70 RKT, ILLUM M257 WHD		19,600	19,600	19,600
HYDRA 70 SMOKE		13,700	13,700	13,700
GRENADE, HAND, ALL TYPES	27,400	27,400	27,400	27,400
GREN SMK SCREENING RP L8A1/L8A3	6,300	2,100	2,100	2,100
GRENADE, SMOKE SCREENING IR M76	9,000	9,000	9,000	9,000
SIGNAL, ALL TYPES	18,000	18,000	20,900	18,000
SIMULATORS, ALL TYPES	4,300	8,700	11,500	11,500
MISCELLANEOUS:				
AMMO COMPONENTS/SUPPORT, ALL TYPES	20,300	20,300	20,300	20,300
CAD/PAD	2,500	2,500	2,500	2,500
ITEMS LESS THAN $2.0M (MISC–AMMO)	5,200	6,700	6,700	6,700
SPARES AND REPAIR PARTS	1,200	1,200	1,200	1,200
AMMUNITION PECULIAR EQUIPMENT	7,800	6,300	7,800	6,300
NITROGUANIDINE (LB)	23,200		23,200	10,300
COMP A–5	12,200		12,200	
COMP C–4	9,500		8,000	
PBX 0280	3,800		3,800	
COMP LX–14	3,800		3,800	
HMX EXPL–805	5,700		5,700	
AMMO 9WW/ELT	1,600	1,600	1,600	1,600
CLASSIFIED PROGRAMS	99,400	71,400	99,400	99,400
GENERAL INCREASE, AMMUNITION		358,000		52,000
TOTAL, AMMUNITION	1,900,100	1,831,788	1,880,750	1,762,350
PRODUCTION BASE SUPPORT PROVISION OF INDUSTRIAL FACILITIES	159,000	113,000	159,000	113,000
COMPONENTS FOR PROVE-OUT	8,700	8,700	8,700	8,700
LAYAWAY OF INDUSTRIAL FACILITIES	22,900	22,900	22,900	22,900
JEFFERSON PROVING GROUND MODERNIZATION	2,200	2,200	2,200	2,200
PRODUCTION BASE MODERNIZATION	161,100	58,300	189,600	189,600
GENERAL INCREASE, PRODUCTION BASE		87,000		25,000

[In thousands of dollars]

	Budget	House	Senate	Conference
TOTAL, AMMUNITION PRODUCTION BASE SUPPORT	353,900	292,100	382,400	361,400
INFLATION SAVINGS, FY87		−17,700	−24,000	−24,000
PROFIT POLICY CHANGE			−9,450	12,600
GENERAL REDUCTION		−37,200		
TOTAL, PROCUREMENT OF AMMUNITION, ARMY	2,254,000	2,068,988	2,229,700	2,087,150
TRANSFER FROM OTHER ACCOUNTS		(39,562)		
TOTAL FUNDING AVAILABLE	2,254,000	2,108,550	2,229,700	2,087,150

M483 155MM IMPROVED CONVENTIONAL MUNITION

The conference agreement provides $87,900,000 for procurement of M483 projectiles as proposed by the House. This is consistent with the Army's revised program, recognizing that an additional $65,500,000 in fiscal year 1986 unobligated balances can be applied to this program. The conference agreement also includes $30,000,000 for continued prove-out of production facilities at the Mississippi Army Ammunition Plant.

ARTILLERY FUZES

The conferees agree that the Army shall use a portion of the $80,000,000 unallocated general increase in ammunition to procure M577A1 and M582A2 fuzes. Such procurement shall be sufficient to bring the total procurement to a level required to maintain production at the two mobilization base producers.

AT-4 LIGHTWEIGHT MULTIPURPOSE WEAPON

The conference agreement provides $69,500,000 for procurement of tactical AT-4 rounds and $7,300,000 for procurement of 1,410 AT-4 trainers. The conferees agree that the total includes $10,000,000 for nonrecurring costs and $15,000,000 for low rate initial onshore production. The transition to onshore shall proceed without further delay.

The fiscal year 1986 supplemental bill included a provision (Chapter IIIA, Sec. 5(d)) which required the Army to complete testing of the M72E4, type classify it, and acquire the technical data package. The M72E4 was developed as a backup to the AT-4, but testing has been terminated by the Army. The conferees continue to believe that the testing should be restarted and completed. The conferees note that the Army's recent appeal justified the earlier termination on lax internal controls and management without regard to the merits of the program. The conferees commend the Army for its efforts to discipline the system, but find no basis to alter current law. The conferees further agree that these actions in no way change the stated position in last year's conference agreement and that they are taken "without expectation of subsequent procurement by the Department of Defense."

PRODUCTION BASE MODERNIZATION

The conferees agree to provide $189,600,000 for production base modernization as proposed by the Senate. However, the conferees are concerned about the problems encountered in reaching the design production capacity at the Mississippi Army Ammunition Plant (MAAP).

The conferees in the 1986 conference report agreed that the MAAP must be brought fully on line and directed that the Army conduct a thorough investigation of the plant and report on specific problems, proposed solutions and implementation plans and schedules. This report has recently been received, and the Army proposal is reflected in the Senate position.

The conferees continue to believe that MAAP must be brought on line but desire to be fully assured that the Army's plan to reach full wartime mobilization production capability is the correct one. The conferees, therefore, direct that, of the $130,200,000 provided for MAAP in this bill, not more than $50,000,000 may be obligated for projects at MAAP until an independent panel of experts in manufacturing and production, selected by the Secretary of the Army, validates the Army's plan for establishing the full mobilization production rate at MAAP. The Army should expedite action on the panel and complete action not later than 90 days after passage of this bill. It is agreed that, if this panel of experts validates this plan, than all of the $130,200,000 may be obligated.

If the Army's plan is not validated, the conferees direct that the Army submit a revised plan to reach full production. In any event, the balance of the funds may be released only upon validation of a plan.

The panel is also directed to explore and report options for peacetime utilization of MAAP to produce other products which could be accomplished within the funds provided.

OTHER PROCUREMENT, ARMY

The conferees agree to the following amounts for Other Procurement, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER PROCUREMENT, ARMY				
TACTICAL AND SUPPORT VEHICLES:				
TACTICAL VEHICLES:				
CHASSIS TRAILER GEN 2 ½ TON 2W M200A1	4,100	4,100	4,100	4,100
CHASSIS, TRAILER, GP, 3 ½T, 2W, M353	3,700		3,700	
DOLLY SET, TRANS SHELTER, 7 ½T, M1022	6,200	6,200	6,200	6,200
MOTORCYCLE, GED, 2W, ROUGH TERRAIN	7,100		7,100	5,000
SEMITRAILER BB/CONT 34T M872 C/S	6,400	6,400	6,400	6,400
SEMITRAILER, LOW BED, 40T M870 (C/S)	1,900	1,900	1,900	1,900
SEMITRAILER, TANK, 5000G	8,800	8,800	8,800	8,800
SEMITRAILER, TANK, 7500G, BULKHAUL	7,300		7,300	7,300
SEMITRAILER VAN SUPPLY 12T, 2W, M129A2C	7,000		7,000	4,000
TRAILER, CARGO ¾T, 2W, M101A2 W/E	5,600	5,600	5,600	5,600
TRAILER, HEAVY, EXPANDED MOBILITY	7,400	5,400	7,400	5,400
TRAILER TANK WATER 400G 1 ½T 2W M149A1	5,900	5,900	5,900	5,900
HI MOB MULTI-PURP WHLD VEH (HMMMV) (MYP)	330,600	330,600	330,600	330,600
SMALL UNIT SUPPORT VEHICLE (SUSV)	26,200	13,800		
TRUCK, 5T, 6X6, ABT (MYP) (GENERAL REDUCTION)		−119,800		
TRUCK, 5T, 6X6, ABT (MYP) (BY TRANSFER)		(119,800)		
TRUCK, 10T, 8X8, ABT (MYP)	234,300	284,300	184,300	234,300
MODIFICATION OF IN-SERVICE EQUIPMENT	3,800		3,800	3,800
SHOP EQUIPMENT, AUTO MAINT & REP	2,500	2,500	2,500	2,500
ITEMS LESS THAN $2. OM (TAC VEH)	1,900	1,900	1,900	1,900
NON-TACTICAL VEHICLES:				
PASSENGER CARRYING VEHICLES	13,800		13,800	8,500
GENERAL PURPOSE VEHICLES	34,900		34,900	15,800
SPECIAL PURPOSE VEHICLES	9,700		9,700	4,800
SUPPORT EQUIPMENT AND FACILITIES: SPARES AND REPAIR PARTS	136,600	136,600	136,600	136,600
TOTAL, TACTICAL AND SUPPORT VEHICLES	865,700	694,200	789,500	799,400
COMMUNICATIONS AND ELECTRONICS EQUIPMENT:				
TELECOMM EQUIP—READ CMD COMM				
JCSE EQUIPMENT (USREDCOM)	1,800	1,200	1,800	1,200
CINCS INITIATIVE	4,100	4,100		
CLASSIFIED PROJECT 9WW	9,100	9,100	9,100	9,100
TELECOM EQUIP—JOINT TACTICAL COMM PR:				
MOD RCRD TFC TERM (MRTT)	31,900			

[In thousands of dollars]

	Budget	House	Senate	Conference
MOD RCRD TFC TERM (MRTT) (BY TRANSFER)		(18,300)		
DIG GROUP MULTIPLEXER (DGM)	10,800			
RPTR/TERM ASSMBLGS	19,900	19,900	19,900	19,00
RADIO TERMINALS AN/TRC-170	32,400	32,400	32,400	32,400
MAINTENANCE SYSTEM AN/ARM-164	3,300	3,300	3,300	3,300
UNIT LEVEL SWITCHES	12,200			
COM SYS CON EL AN/TYQ-16	23,600	23,600	23,600	23,600
DIG NSEC VTER TA-954	3,900	3,900	3,900	3,900
ANDVT-TAC TERM, CV-3591	3,900	3,900	3,900	3,900
LIGHTWEIGHT DIGITAL FACSIMILE	1,200		1,200	
MOB SUBSCRIBER EQUIP	903,700	903,700	903,700	903,700
MOD OF IN-SVC EQ (TRI-TAC)	9,900	9,900	9,900	9,900
TELECOM EQUIP—COMBAT SUPPORT COMM:				
SINCGARS	204,000		10,000	10,000
HAND CRANK GENERATOR, G-76	2,500	2,500	2,500	2,500
IMP HF RADIO FAMILY	11,100		11,100	4,000
OPTICAL LONG HAUL TRAN SYS	9,300	9,300	9,300	9,300
PWR SUPPLY PP-6148/U	4,000	4,000	4,000	4,000
SOF MOD RADIOS	4,500	4,500	4,500	4,500
ANTENNA GROUP OE-254	6,500	6,500		6,500
SMALL UNIT TRANSCEIVER	3,700	3,700	3,700	3,700
VEHICULAR INTERCOM SYSTEM	10,200			
MOD OF IN-SVC EQUIP (CSC)	26,400	19,500	26,400	19,500
RDF COMM (S.W. ASIA)	14,900	14,900	14,900	14,900
ITEMS LESS THAN $2.0M (CSC-C-E)	5,900	5,900	5,900	5,900
SPEC OPS COMM SUP ELMT	15,200	15,200	15,200	15,200
TELECOMM EQUIP—NMCS WIDE SUPPORT, ARM: SECURE CONFERENCING PROJECT	4,500	4,500	4,500	4,500
TELECOM EQUIP-STARCOM NON-DCS:				
AR TELECOM AUTO PR (ATCAP)	3,200	3,200	3,200	3,200
C-E FACILITIES/PROJECTS	4,700	4,700	4,700	4,700
SOUTHCOM C3 UPGRADE	16,000	11,600	16,000	11,600
ELECTROMAG COMP PROG(EMCP)	500	500	500	500
LONG-HAUL COM (DCS):				
TRANSMISSION MEDIA (EUCOM)	11,100	11,100	11,100	11,100
TRANSMISSION MEDIA (PACOM)	15,800	15,800	15,800	15,800
WW TECH COM IMP PR (WWTCIP)	2,700	2,700	2,700	2,700
TELECOM EQUIP—SATCOM-GRD ENVIRON:				
DIGITAL EQUIPMENT (DSCS)	29,300	29,300	29,300	29,300
INTERCONNECT FACILITY (DSCS)	2,200	2,200	2,200	2,200
JAM RESISTANT SECURE COM (JRSC)	9,300	9,300	9,300	9,300
DSCS OPERATIONS CONTROL SYS (DOCS)	80,300	41,100	72,800	72,800
MPK SAT UHF TERM, AN/PSC-3	5,000	5,000	5,000	5,000
VEH SAT UHF TERM, AN/VSC-7	1,400	1,400	1,400	1,400
MOD IN-SVC EQUIP (TAC SAT)	7,000	7,000	7,000	7,000
TELECOMM EQUIP—EUCOM C3 SYSTEM:				
EUCOM C3 (NWS)	68,400	68,400	68,400	68,400
PACOM C3 (NWS)	13,000		11,000	11,000
EUCOM ALTERNATE SPT HQ (ASH)	3,800	3,800	3,800	3,800
USAREUR C2 PROJECT	7,700	7,700	7,700	7,700
TELECOM EQUIP—COMSEC EQUIPMENT:				
AUTO KEY DC KGX-93/TSEC	4,100	4,100	4,100	4,100
SEC VO IMPRV PRG (COMSEC)	13,700	13,700	13,700	13,700
DED LOOP ENCRYP DEV KG-84	18,700	18,700	22,200	22,200
TNK ENCRP DEV TSEC/KG-93	2,100	2,100	2,100	2,100
TSEC/KG-94	12,300	12,300	12,300	12,300
KEY GENERATOR, TSEC/KG-87	1,800	1,800	1,800	1,800
COMSEC MODULE, TSEC/KGV-13	19,900	19,900	10,000	19,900
FREQ MODULE, KGV-10/TSEC	9,100			
TSEC/KYV-5 (VACTOR) SECURE EQUIP	500	500	500	500
TEMPEST (COMSEC)	700	700	700	700
KOK-13/TSEC (KDC)	1,900	1,900	1,900	1,900
TSEC/KGV-8 (THORNTON) SECURE MODULE	600	600	600	600
TSEC/KGV-11/SECURE MODULE	1,400	1,400		
ITEMS LESS THAN $2.0M (COMSEC)	11,700	8,200	9,700	8,200
TELECOM EQUIP—BASE COMM:				
BASE COMM (CONUS)	35,800	35,800	35,800	35,800
LOCAL AREA NETWORK (LAN)	1,700	1,700	1,700	1,700
BASE COMM (EUCOM)	7,900	7,900	7,900	7,900
BASE COMM (PACOM)	1,600	1,600	1,600	1,600
ARMY OPNS CTR	4,300	4,300	4,300	4,300
PENTAGON TELECOM CTR (PTC)	4,100	4,100	4,100	4,100
TMDE FOR TELECOM: TMDE MODERNIZATION	16,900	16,900	16,900	16,900
OTHER ELECT SYS/EQUIP—INTELLIGENCE SU:				
4TH PSYOP GROUP	12,500	12,500	12,500	12,500
TAC ELEC SURV SYS	4,000	4,000	4,000	4,000
MOD IN SER EQ (INT SPT) TIARA	37,300	37,300	37,300	37,300
ITEMS LESS THAN $2.0M (INT SPT-C-E)	500	500	500	500
FT DEVENS TRAINING SUPPORT	400	400	400	400
OTHER ELECT SYS/EQUIP—GEN DEF INTEL P.				
OTHER ELECT SYS/EQUIP—AUTO DATA PROCE:				
VERT INSTL AUTO BASELINE (VIABLE-BASOPS)	41,800		41,800	41,800
BATTERY COMPUTER SYSTEM	11,000	11,000	11,000	11,000
AMC FIVE YEAR ADP PROGRAM	4,000		4,000	2,000
ARMY DATA DISTRIBUTION SYSTEM-ADDS	75,500	32,652	45,500	75,500
TRADOC AUTOMATION	3,700	3,700	3,700	3,700
USAREUR TACTICAL AUTOMATION	2,000	2,000	2,000	2,000
LIFE CYCLE SOFTWARE SUP (LCSS)	9,100	9,100	9,100	9,100
ADPE FOR NON TAC MGT INFO SYS	40,400	57,900	40,400	57,900
SUPERCOMPUTERS	22,900		22,900	22,900
ARMY CORPORATE DATABASE	900		900	
PROJECT BOX PHASE II	12,900	12,900	12,900	12,900
TRANS OF PERS PROP	2,900		2,900	2,900
STD ARMY AUTO CONTRACT SY	6,800	6,800	6,800	6,800
FIRE SUPPORT TEAM DIGITAL MESSAGE	17,000		17,000	
FORWARD ENTRY DEVICE	12,000	12,000	12,000	12,000
MANUEVER CONTROL SYS	56,900		56,900	56,900
CORPS/THEATER ADP SVC CTR (CTASC)	9,700	9,700	9,700	9,700
TACT ARMY CMBT COMPT SY(TACCS)	42,900	42,900	15,900	42,900
CSS LOG APPLC AUTO MARK/READ SYMBS (LOG MARS)	11,400	9,600	11,400	11,400
WWMCCS INFORMATION SYSTEM (WIS)	36,200	36,200	36,200	36,200
AUDIO VISUAL:				
AFRTS (AUDIO VISUAL)	8,000	8,000	8,000	8,000
ITEMS LESS THAN $2,000,000(A/V-C-E)	9,100		9,100	6,800
TACJAM, AN/MLQ-34	33,000	33,000	33,000	33,000

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER ELECT SYS/EQUIP—ELECTRONIC WARF:				
MOD IN-SVC EQUIP (EW)	8,300	8,300	8,300	8,300
ITEMS LESS THAN $2.0M (EW-C-E)	8,300	8,300	8,300	8,300
OTHER ELECT SYS/EQUIP—TACTICAL ELECTR:				
BATTERY CHARGER PP-7286/U	3,000	3,000	3,000	3,000
POWER SUPPLY, PP-6224	3,200	3,200	3,200	3,200
COMPUTER/INDICATOR, CP-696/PD	3,700	3,700	3,700	3,700
METEROLOGICAL DATA SYS (FAMAS)	32,800			
HAND HELD LASER RANGEFINDER AN/GVS-5	6,800	6,800	6,800	6,800
INTRUSION DETECTION DEVICES	20,800	20,800	20,800	20,800
NAVSTAR GLOBAL POSITIONING SYSTEM	5,200	5,200	5,200	5,200
POSITION/AZIMUTH DETERMINING SYS (PADS)	35,700		35,700	13,500
NIGHT VISION GOGGLES	63,200	63,200	63,200	63,200
NIGHT VISION SIGHT INDIV WPN AN/PVS-4	10,000	10,000	10,000	10,000
POS LOCATION REPORTING SYS (PLRS) (MYP)	4,000		4,000	
RADIAC SET AN/VDR-2	4,000	4,000	4,000	4,000
RPV TA/DESIGN AERIAL RECON SYS (TADARS)	117,700	67,500	50,000	50,000
JOINT STARS (ARMY)	63,400		43,400	21,700
SHOP SHELTER MTD ASM-189	2,200	2,200	2,200	2,200
SHOP SHELTER MDT-REP AN/ASM-146	2,100	2,100	2,100	2,100
MODIFICATION OF IN-SERVICE EQ (TAC EL)	38,500	38,500	38,500	38,500
ITEMS LESS THAN $2,000,000 (TACT ELEC-C-E)	8,400	8,400	8,400	8,400
TMDE FOR TACTICAL ELECTRONICS				
TMDE FOR STE/ICE	6,500	6,500	6,500	6,500
CORE ELECTRONIC AUTO TEST (STE-X)	3,000	3,000	3,000	3,000
OTHER ELECT SYS/EQUIP—SUP EQUIP AND F:				
SPARES AND REPAIR PARTS	183,200	151,086	173,200	173,200
SPARES AND REPAIR PARTS	11,400	11,230	11,400	11,400
SPARES AND REPAIR PARTS	260,300	193,100	260,300	210,300
SPECIAL PROGRAMS	115,800	102,800	115,800	109,300
PRODUCTIVITY INVESTMENT FUNDING	31,100	31,100	31,100	31,100
PROD ENHANCING CAP INVESTMENT PROG (PECIP)	21,800	21,800	21,800	21,800
PRODUCTION BASE SUPPORT (C-E)	8,100	8,100	8,100	8,100
CLASSIFIED PROGRAMS	251,600	186,186	236,825	179,052
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	3,698,000	2,793,254	3,197,625	3,082,452
OTHER SUPPORT EQUIPMENT:				
CHEMICAL DEFENSE EQUIPMENT:				
DECONTAMINATE APP PWR DR LT WT XM17	3,900	3,900	3,900	3,900
MASK, PROTECTIVE, NBC	19,900	19,900		
SIMPL COLL PROT EQUIP XM20	4,100	4,100	4,100	4,100
AUTO CHEMICAL AGENT ALARM (ACADA), XM22	9,000	9,000	9,000	9,000
GEN SET, SMOKE, MECH: PUL JET, XM157	7,000	7,000	7,000	7,000
BRIDGING EQUIPMENT:				
RIBBON BRIDGE ERECTION BOAT	19,200	17,600	19,200	19,200
RIBBON BRIDGE ERECTION BOAT (BY TRANSFER)		(1,600)		
BRIDGE, FLOAT-RIBBON, INTERIOR BAY	7,200	7,200	7,200	7,200
BRIDGE, FLOAT-RIBBON, RAMP	3,200	3,200	3,200	3,200
BRIDGE, FLOAT-RIBBON, TRANSPORTER	18,200	18,200	18,200	18,200
ITEMS LESS THAN $2.0M(BRIDGING)	1,300	1,300	1,300	1,300
ENGINEER (NON-CONSTRUCTION) EQUIPMENT:				
GEMSS AUX MINE DISPNSR XM138 (FLIPPER)	3,900	3,900	3,900	2,900
DISPENSER MINE XM139	1,700		1,700	1,700
MARKING SYS, CLEAR LANE	3,200	3,200	3,200	3,200
DETECTING SET, MINE, AN/PSS-12	4,900	4,900	4,900	4,900
MINE PLOW	5,500	5,500	5,500	5,500
MINE CLEARING ROLLER	3,700	3,700	3,700	3,700
REMOTE CONTROL UNIT(MOPMS)	9,800	9,800	9,800	9,800
SURVEY SET DISTANCE MEASURING INFRARED	2,800	2,800	2,800	2,800
M-9 ARMORED COMBAT EARTHMOVER (ACE) (MYP)	30,400	30,400	26,200	26,200
ITEMS LESS THAN $2.0M(ENG NON-CONST)	900	900	900	900
COMBAT SERVICE SUPPORT EQUIPMENT:				
AIR CONDITIONERS VARIOUS SIZE/CAPACITIES	32,200	32,200	32,200	32,200
FIELD KITCHEN, MOBILE, TRL MTD	13,100	13,100	13,100	13,100
MODULAR FIELD KITCHEN	11,600	11,600	11,600	11,600
DIVING EQUIPMENT	1,800	1,800	1,800	1,800
FIRETRUCKS	16,000	16,000	16,000	16,000
LAUNDRY UNIT/TRL MTD	7,300	7,300	7,300	7,300
TAG PRINTING AND BINDING EQUIPMENT	4,300	4,300	4,300	4,300
ITEMS LESS THAN $2.0M (CSS-EQ)	11,300	11,300	11,300	11,300
MODIFICATIONS OF IN SERVICE EQUIP (CSE)	8,900	8,900	8,900	8,900
PETROLEUM EQUIPMENT:				
TANK ASSEMBLY FAB COLL POL 50000 G	4,600	4,600	4,600	4,600
FORWARD AREA REFUELING EQUIPMENT (FARE)	2,800	2,800	2,800	2,800
TANK ASSEMBLY FAB COLLAPSIBLE POL 10000G	6,600	6,600	6,600	6,600
TANK ASSY, FAB COLLAPS, 20,000 GAL POL	6,300	6,300	6,300	6,300
TANK/PUMP UNIT LIQ DISP F/TRK MOUNTING	1,000	1,000	1,000	1,000
LABORATORY, PETROLEUM, SEMI-TRLR MTD	3,200	3,200	3,200	3,200
PUMP ASSY LIQ GAS WHL 4 IN OUT 350 GPM	12,200	12,200	12,200	12,200
SWA PETROLEUM DISTRIBUTION SYSTEM	39,300	13,757	39,300	37,300
ITEMS LESS THAN $2.0M (POL)	6,700	6,700	6,700	6,700
WATER EQUIPMENT:				
WTR PUR UNIT REV OS 3000 GPH (ROWPU)	33,900	33,900	13,900	33,900
WATER PUR UNIT, REV OSMOSIS, 600GPH (ROWPU)	29,500	29,500	9,500	12,000
TANK, FAB COLLAPS, 3000 GAL, WATER (ONION)	2,900	2,900	2,900	2,900
SMALL MOBILE WATER CHILLER (SMWC)	1,500	1,500	1,500	1,500
PUMP CENTRIFUGAL, 65GPM	2,100	2,100	2,100	2,100
ITEMS LESS THAN $2.0M (WATER EQ)	2,500	2,500	2,500	2,500
MEDICAL EQUIPMENT:				
DEPLOYABLE MEDICAL SYSTEM (DMS)	88,800	10,000	88,800	36,600
CBT SUP EQUIP MEDICAL	48,100	20,300	48,100	21,500
MEDICAL SUPPORT EQUIPMENT	70,800	70,800	70,800	70,800
MAINTENANCE EQUIPMENT:				
WELDING SHOP, TRAILER MTD	9,700	9,700	9,700	9,700
SHOP EQ ELECTRICAL RPR SEMI-TRL MTD	14,500	14,500	14,500	14,500
STEAM CLEANER	5,000	5,000	5,000	5,000
E WELDING MACHINE ELEC ARC 350 AMP (CC-CP)	5,700	5,700	5,700	5,700
BUILDING, PRE-FAB, RELOCATABLE	1,200	1,200	1,200	1,200
CALIBRATION SET SUPPORT	12,700	11,700	12,700	11,700
ITEMS LESS THAN $2.0M (MAINT EQ)	10,300	10,300	10,300	10,300
CONSTRUCTION EQUIPMENT:				
TRACTOR FULL TRACKED LOW SPEED DD MED	73,600	45,000	23,600	45,000
SMALL EMPLACEMENT EXCAVATOR (SEE)	25,000	22,900	22,900	22,900
MODS OF IN SERVICE EQUIP (CONST EQUIP)	100	100	100	100

[In thousands of dollars]

	Budget	House	Senate	Conference
ITEMS LESS THAN $2.0M (CONST EQUIP)	700	700	700	700
RAIL FLOAT CONTAINERIZATION EQUIPMENT:				
LANDING, CRAFT, UTILITY	29,300	29,300	15,300	29,300
TUG INLAND AND COASTAL WATERWAYS	30,100	20,100	30,100	25,100
LOGISTIC SUPPORT VESSEL (LSV)	19,900			
CAUSEWAY SYSTEMS	28,200	28,200	28,200	28,200
RAILWAY CAR, TANK, POL, 20000G	9,800	5,000	9,800	9,800
MODIFICATIONS OF IN-SERV EQ (FLOAT/RAIL)	5,700	5,700	5,700	5,700
ITEMS LESS THAN $2.0M (FLOAT/RAIL)	1,000	1,000	1,000	1,000
GENERATORS: GEN AND ASSOCIATED EQUIP	115,900	115,900	105,900	105,900
MATERIEL HANDLING EQUIPMENT:				
TRUCK, FORK LIFT, CBD, PT, 4000 LB	13,300	13,300	13,300	12,500
TRUCK, FORK LIFT, CBD, PT, 6000 LB	12,300	12,300	12,300	12,300
TRUCK, FORK LIFT, DE, PT, RT, 6000 LB	21,000	21,000	21,000	21,000
TRUCK, FORK LIFT, ELEC, SRT, 4000 LB	1,700	1,700	1,700	1,700
65 TON CRANE	42,600	42,600	30,000	30,000
ITEMS LESS THAN $2.0M (MHE)	2,400	2,400	2,400	2,400
SPARES AND REPAIR PARTS	54,400	35,700	54,400	53,000
AREA ORIENTED DEPOT UPGRADE	60,500		22,000	
PRODUCTION BASE SUPPORT (OTH)	34,400	34,400	34,400	34,400
OSD PRODUCTIVITY INVESTMENT FUNDING	4,900	4,900	4,900	4,900
SPECIAL EQUIPMENT FOR USER TESTING	13,300	13,300	13,300	13,300
ITEMS LESS THAN $2.0M (OTH SPT EQ)	1,000	1,000	1,000	1,000
HOST NATION SUPPORT—EUROPE	41,900	41,900	41,900	41,900
NATIONAL TRAINING CTR SUP	10,800	10,800	10,800	10,800
TRAINING DEVICES, NONSYSTEM	186,100	186,100	186,100	186,100
BCE (NCMI)	61,600	61,600	61,600	61,600
PECIP (NCMI)	6,500	6,500	6,500	6,500
QRIP (NCMI)	9,100	9,100	9,100	9,100
TOTAL, OTHER SUPPORT EQUIPMEMT	1,605,300	1,324,257	1,394,100	1,340,000
PRIOR YEAR PROGRAM SAVINGS		−111,300		
PRIOR YEAR PROGRAM SAVINGS (BY TRANSFER)		(111,300)		
INFLATION SAVINGS, FY87		−58,600	−72,000	−72,000
PROFIT POLICY CHANGE			−22,400	−31,100
TOTAL, OTHER PROCUREMENT, ARMY	6,169,000	4,641,811	5,286,825	5,118,752
TRANSFER FROM OTHER ACCOUNTS		(251,000)		
TOTAL FUNDING AVAILABLE	6,169,000	4,892,811	5,286,825	5,118,752

HEAVY EXPANDED MOBILITY TACTICAL TRUCK

The conferees agree that the current production rate for the Heavy Expanded Mobility Tactical Truck (HEMTT) is six per day and assume that this rate will be maintained during fiscal year 1987 and the fiscal year 1987 funded delivery period. Further, it is now apparent that production at about this rate will be funded in fiscal year 1988. To maintain this rate, a fiscal year 1987 production contract must be in place by January 31, 1987. In order to avoid a production gap or decrease, the Committee directs the Army to begin immediately to negotiate a new fiscal year 1987 contract by that date. If this cannot be done, the Army is directed to take whatever interim measure is necessary to maintain the current production rate during the fiscal year 1987 funded delivery period.

MODULAR RECORD TRAFFIC TERMINAL

The conferees agree that $29,300,000 in fiscal year 1986 savings identified by the House in the Modular Record Traffic Terminal line item are available to fund the Single Subscriber Terminal and the Modular Tactical Communications Center in lieu of providing new budget authority in the bill.

UNIT LEVEL CIRCUIT SWITCH

The conferees agree that fiscal year 1986 savings identified by the House in the Unit Level Circuit Switch program are available to fund the Tactical Hybrid Switch program.

SINCGARS

The conferees agree to provide $10,000,000 as proposed by the Senate. The conferees agree that the fiscal year 1986 savings identified by the House for SINCGARS is available for the establishment of a second source of production for the current SINCGARS radio, and for no other purpose. If the Army decides not to proceed with the existing production contract, then these funds should be reprogrammed to the appropriate research and development account to support engineering development of a replacement combat net radio.

The conferees further agree that the Army should not procure an interim combat net radio. The conferees also agree that prior to a long term decision to use radios functionally equivalent to SINCGARS, the Army must resolve whether it wishes to continue with the existing contract for these radios. The existing contract already provides for a second producer who must employ a technical data package as the basis for his production. The overall requirement for combat net radios will not support three major producers. If, however, the Army decides not to proceed with the existing contract for combat net radios, then the conferees agree that the Army should consider all approaches—including radios which are "form-fit-function" equivalent radios—in its development of a long term procurement plan for replacement combat net radios.

IMPROVED HF RADIO FAMILY

The conferees agree to provide $11,100,000 for the Improved HF Radio Family program, as proposed by the Senate. The conferees understand that fiscal year 1986 funds that had been frozen by the Department of Defense (DoD) pending a program review, have not been released, and direct DoD to report to the Committees on Appropriations by December 15, 1986, on the results of that review and on its revised procurement plans for this program.

PACOM C3

The conferees agree to provide $11,000,000 as proposed by the Senate. In addition, the conferees direct the Department of Defense to complete the planned Regency Net study, "The Acquisition Plan for Regency Net-Pacific High Frequency Radio Systems," and report to the House and Senate Committees on Appropriations by June 1, 1987. The study should cover at least the following issues: compliance with the requirement to incorporate Tri-Service Waveform in all new production radios with anti-jam capabilities to ensure compatibility with other radios; modification of European Regency Net radio equipment to accommodate requirements for use in the Pacific through the use of increased power and different antennas; compatibility of encryption devices; and the feasibility of using Regency Net components as an interim measure for Naval afloat connectivity until the Navy's High Frequency Anti-Jam assets are available to provide connectivity.

VIABLE

The conferees agree to provide the full amount requested by the Army in its budget to Congress. However, at least $20,000,000 is available only for Reserve forces automation in consonance with the plan required above. This should be clearly identified on DD Form 1414, Base for Reprogramming Actions. The Secretary of Defense should disclose how these funds will be used in his plan to Congress. No funds are available to expand the VIABLE system without explicit, formal approval from the Major Automated Information Systems Review council.

SUPERCOMPUTERS

The conferees agree to provide the full amount requested by the Army in its budget to Congress. Together with the funds appropriated last year, the Army will be able to procure the two supercomputers that have been approved to date by the Major Automated Information Systems Review Council (MAISRC). The conferees, however, disapprove the Army's reprogramming request number FY 86-58PA to purchase a third supercomputer which is premature in light of the Army's inability to justify it to the MAISRC. This denial does not prejudice future requests. However, the Defense Department is reminded not to request funds

from Congress for major automated information systems which cannot pass internal Departmental oversight reviews. The funds proposed for reprogramming have been rescinded.

CORPORATE DATA BASE

The conferees agree that the Army's corporate data base concept is not sufficiently defined to allow procurement of hardware in fiscal year 1987. A March, 1986 Army audit on the data element standardization program shows that much internal planning remains to be done before acquisition of hardware and accompanying software is appropriate for the corporate data base. Further, the large acquisition has not been approved by the Major Automated Information Systems Review Council. The conferees direct the Comptroller of the Defense Department to ensure that no funds in any appropriation or in any fiscal year are expended on the corporate data base initiative in any fiscal year other than those needed to define system requirements and accomplish the necessary planning.

AUTOMATION FOR THE RESERVE FORCES

The conferees are concerned about the Defense Department's failure to field automation support for the Army Reserve forces in spite of substantial appropriations made by the Congress since 1979 for this requirement, or simply to develop a detailed, executable plan to accomplish this objective. The conferees direct the Secretary of Defense to submit a report to the Appropriations and Armed Services Committees by March 1, 1987, on his plan to provide automation support for Army Reserve Forces.

The Secretary of Defense must certify that:

The Defense Department has afforded a top priority to this requirement;

It has a detailed plan and acquisition strategy that meets fundamental automation requirements of the Army National Guard and Army Reserve, to include the functions of office automation, training (particularly at remote locations and for unit staffs), readiness and mobilization planning/execution/deployment;

The plan will result in a standard, integrated mobilization system for the active Army, Army National Guard, and Army Reserve;

Sufficient funds are budgeted in fiscal year 1988 and the five succeeding fiscal years to accomplish these objectives and are dedicated to this purpose only;

Funding for all costs to include purchase of all computer equipment, all new software development, software redesign of standard Army systems, communications, and integration is clearly visible to Congress and traceable to all appropriations and line items where budgeted;

A detailed schedule is in place to have a fully deployed system by January, 1990 and a commitment made by the Secretary of Defense that the milestones will be met with state-of-the-art technology;

The acquisition is baselined to avoid subsequent perturbations to system configuration;

There is a single certified program manager at the general officer level (civilian or military), whose appointment is no shorter than four years, whose sole mission is to field the Reserve Forces Automation System, who is fully chartered in writing by the Secretary and Chief of Staff of the Army (to answer directly to the Secretary), and who has a substantial background in acquisition of large automated information systems;

That the program manager has complete control over and accountability for all personnel and financial resources for this project including allocations of funds to other Army programs necessary to accomplish his mission;

Acquisitions to be conducted under the plan will be cost effective and fully competitive;

That the system can function on a selective, limited, or all-out basis for wartime situations and can provide all day-to-day data and management information processing needs in peacetime;

And that the capability provided by this plan will meet to a substantial degree the requirements of the original Mission Element Needs Statement and the Request for Proposal for the Continental Army Management Information System.

The conferees prefer an A-109 competitive acquisition for a total system to meet Army Reserve Forces automation requirements. Such an approach would have to include hardware, software, communications, integration, and interfaces to other Army systems. The system to be procured would have to be decentralized, self-sufficient, self-sustaining, capable of operating in both the vertical and horizontal modes, and incorporating distributed data bases and data processing capabilities as widely dispersed as the Guard and Reserve Forces themselves. A request for Proposal to industry under this approach must have no constraints other than communications interfaces with other Army systems, and must satisfy the requirements of the original CAMIS mission elements needs statement.

The conferees would consider alternate strategies that accomplish the objectives stated above and that would result in a fully deployed, integrated system by January 1990. If the Department proposes no alternatives, however, an RFP conforming to the above guidance should be prepared for issuance upon approval of the Secretary's plan by the Appropriations Committees in April, 1987.

The Department is notified that the House Appropriations Committee intends to conduct a hearing on the Secretary's plan shortly after it is submitted, at which time the Comptroller of the Defense Department will justify it to the Committee.

MANEUVER CONTROL SYSTEM

The conferees agree to $56,900,000 as proposed by the Senate. The conferees also agree that procurement of nondevelopmental equipment under the MCS program should not be initiated until the Army submits the report directed by the House to be submitted no later than February 1, 1987, and that procurement of military standard equipment proceed as provided by the House.

The conferees agree to provide $42,900,000 as proposed by the House rather than $15,900,000 as proposed by the Senate. These funds are provided with the expectation that the Department of Defense will soon approve full rate production. In the event that full rate production is not approved, the conferees direct that funds in excess of those required for 12 months of production at the approved rate may not be reprogrammed without prior Congressional approval.

GAS MASK PROGRAM

The conferees recommend no new fiscal year 1987 funding, but would consider a reprogramming request if a contract can be awarded to the second source of production during fiscal year 1987. The conferees understand that a multiyear contract will be awarded to the winner of the current competition using funds provided last year. The award to the second source is to be make after the technical design package has been validated, a process that is likely to take 12 months.

The conferees have no objection to the awarding of a multiyear contract covering the period when both producers are establishing their production lines. However, the conferees expect that annual competitive awards based on price, quality and performance will be initiated for this program at the earliest opportunity.

AIRCRAFT PROCUREMENT, NAVY

The conferees agree to the following amounts for Aircraft Procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, NAVY				
BA-1 COMBAT AIRCRAFT:				
A-6E/F (ATTACK) INTRUDER (MYP)	278,893	258,793	255,493	255,493
A-6E/F (ATTACK) INTRUDER (MYP) (AP-CY)	80,032	80,032	80,032	80,032
EA-6B (ELECTRONIC WARFARE) PROWLER	417,686	417,686	417,686	417,686
EA-6B (ELECTRONIC WARFARE) PROWLER (AP-CY)	22,008	22,008	22,008	22,008
AV-8B (V/STOL) HARRIER	623,284	590,284	623,284	590,284
AV-8B (V/STOL) HARRIER (AP-CY)	77,002	77,002	77,002	77,002
F-14A/D (FIGHTER) TOMCAT	541,063	520,363	520,363	520,363
F-14A/D (FIGHTER) TOMCAT (AP-CY)	127,724	127,724	127,724	127,724
F/A-18 (FIGHTER) HORNET (MYP)	2,896,374	2,049,174	2,347,000	2,210,000
F/A-18 (BUY TRANSFER)		(27,000)		
F/A-18 (FIGHTER) HORNET (MYP) (AP-CY)	405,900	143,900	143,900	143,900
CH/MH-53E (HELO) SUPER STALLION (MYP)	189,034	174,034	189,034	185,034
CH/MH-53E (HELO) SUPER STALLION (MYP) (AP-CY)	30,900	30,900	30,900	30,900
AH-1W (HELICOPTER) SEA COBRA	36,212	21,212	21,212	21,212
AH-1W (AP-CY)		15,000		15,000
SH-60B (ASW HELO) SEAHAWK	199,651	129,251	196,951	196,951
SH-60B (ASW HELO) SEAHAWK (AP-CY)	21,121	21,121	21,121	21,121
SH-60F (CV ASW HELO)	138,770	103,770	138,770	117,770

[In thousands of dollars]

	Budget	House	Senate	Conference
SH-60F (CV ASW HELO) (AP-CY)	29,361	29,361	29,361	29,361
P-3C (PATROL) ORION	312,388	69,420	223,100	312,388
P-3C (PATROL) ORION (AP-CY)	93,198	93,198	93,198	93,198
E-2C (EARLY WARNING) HAWKEYE	286,483	280,983	280,983	280,983
E-2C (EARLY WARNING) HAWKEYE (AP-CY)	24,120	24,120	24,120	24,120
SH-2F (ASW HELO) SEASPRITE	52,798	52,798		52,798
TOTAL, COMBAT AIRCRAFT	6,884,002	5,332,134	5,863,242	5,825,328
BA-2 AIRLIFT AIRCRAFT: C-2 (MYP)	99,718	99,718	99,718	99,718
TOTAL, AIRLIFT AIRCRAFT	99,718	99,718	99,718	99,718
BA-3 TRAINER AIRCRAFT:				
T-45TS GOSHAWK (AP-CY)	56,374		56,374	56,374
T-45TS GOSHAWK (AP-CY) (BY TRANSFER)		(56,374)		
TOTAL, TRAINER AIRCRAFT	56,274		56,374	56,374
BA-4 OTHER AIRCRAFT:				
E-6A	226,619	226,619	226,619	226,619
E-6A (AP-CY)	72,879	72,879	72,879	72,879
VH-60	24,706		24,706	24,706
TOTAL, OTHER AIRCRAFT	324,204	299,498	324,204	324,204
BA-5 MODIFICATION OF AIRCRAFT:				
A-3 SERIES	1,501	1,501	1,501	1,501
A-4 SERIES	19,675	9,675	14,875	14,875
A-6 SERIES (MYP)	379,220	375,520	375,520	375,520
EA-6 SERIES	39,387	36,387	39,387	39,387
A-7 SERIES	927	927	927	927
AV-8 SERIES	1,490	1,490	1,490	1,490
F-4 SERIES	4,879	3,279	4,879	4,879
RF-4 SERIES	1,394	1,394	1,394	1,394
F-14 SERIES	187,301	187,301	187,301	187,301
F-8 SERIES	95	95	95	95
F-5 SERIES	974	974	974	974
OV-10 SERIES	67,473	17,573	67,473	57,400
F-18 MODS	5,865	5,865	5,865	5,865
H-46 SERIES	67,919	32,219	67,919	49,000
H-53 SERIES	22,641	22,641	22,641	22,641
SH-60 SERIES	3,344	1,544	3,344	3,344
H-1 SERIES	58,415	44,915	44,915	44,915
H-2 SERIES	4,185	36,485	4,185	36,485
H-3 SERIES	38,565	27,665	38,565	38,565
EP-3 SERIES	47,529	47,529	47,529	47,529
P-3 SERIES	38,356	38,356	38,356	38,356
S-3 SERIES	215,395	204,295	215,395	204,295
E-2 SERIES	41,358	41,358	41,358	41,358
TRAINER A/C SERIES	6,745	6,745	6,745	6,745
EC-130 SERIES	16,561	13,161	13,161	13,161
C-130 SERIES	6,856	6,856	6,856	6,856
FEWSG	17,214	17,214	17,214	17,214
CARGO/TRANSPORT A/C SERIES	5,094	5,094	5,094	5,094
VARIOUS	3,786	3,786	3,786	3,786
POWER PLANT CHANGES	2,742	2,742	2,742	2,742
MISC FLIGHT SAFETY CHANGES	947	947	947	947
COMMON ECM EQUIPMENT	97,808	68,408	71,008	71,008
COMMON AVIONIC CHANGES	21,572	28,072	16,572	27,600
TOTAL, MODIFICATION OF AIRCRAFT	1,427,213	1,292,013	1,370,013	1,373,249
AIRCRAFT SPARES AND REPAIR PARTS:				
BA-6 AIRCRAFT SPARES: SPARES AND REPAIR PARTS	1,856,145	1,566,445	1,790,145	1,666,445
TOTAL, AIRCRAFT SPARES AND REPAIR PARTS	1,856,145	1,566,445	1,790,145	1,666,445
BA-7 AIRCRAFT SUPPORT EQUIPMENT AND FAC:				
COMMON GROUND EQUIPMENT	538,603	512,903	513,013	512,903
AIRCRAFT INDUSTRIAL FACILITIES	32,610	32,610	32,610	32,610
WAR CONSUMABLES	34,482	34,482	34,482	34,482
OTHER PRODUCTION CHARGES	50,949	50,949	50,949	50,949
GENERAL REDUCTION		−72,200		
GENERAL REDUCTION (BY TRANSFER)		(72,200)		
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	656,644	558,744	631,054	630,944
INFLATION SAVINGS, FY 87		−109,100	−122,000	−122,000
PROFIT POLICY CHANGE			−42,000	−60,000
TOTAL, AIRCRAFT PROCUREMENT, NAVY	11,304,300	9,039,452	9,970,750	9,794,262
TRANSFER FROM OTHER ACCOUNTS		(155,574)		
TOTAL FUNDING AVAILABLE	11,304,300	9,195,026	9,970,750	9,794,262

P-3C AIRCRAFT

The conferees agree to provide $312,388,000 to procure nine P-3C aircraft of which four are to be Naval Reserve aircraft; three are to be active forces aircraft, and the mission of the remaining two aircraft is discussed in the accompanying classified annex of the statement of managers.

ADVERSARY AIRCRAFT

In fiscal years 1985 and 1986, Congress provided funds to procure F-16N adversary aircraft. In order to provide a smooth transition into the Navy fighter weapons school program, the Committee believes that the two-seat version of the F-16N should be among the first deliveries. This will enable the school to provide improved and more complete total crew training.

MODIFICATION OF AIRCRAFT

A-4 AIRCRAFT SERIES

In an effort to decrease the current shortfall of adversary aircraft, the conferees direct the Navy to assess all stored A-4 aircraft to determine whether sufficient service life is available in order that these aircraft can be modified for use by the Navy fighter weapons school. Additionally, the conferees have been advised that the Blue Angels will be transitioning from A-4 aircraft to the F/A-18 in the near future. The Committee believes that if sufficient service life remains in these aircraft that they should be modifed to an adversary aircraft configuration and provided to the Navy fighter weapons school.

AH-1 AIRCRAFT SERIES

The conferees agree to reduce the AH-1 modification program by $13,500,000 as a direct result of the Department's revised

plan to reduce the number of AH-1 aircraft to be modified. If, however, additional funds are required to execute this modification, the Navy should reprogram funds from within the Aircraft Procurement, Navy appropriation.

OV-10 AIRCRAFT SERIES

In fiscal year 1986, the Navy was provided funds to convert OV-10A's to the "D" configuration. Funds were also provided for the OV-10 service life extension program. The Navy, however, did not execute the modification and then requested funds again in fiscal year 1987. The conferees do not support this practice, but recognize the requirement to complete this modification. Therefore, the conferees have rescinded $39,100,000, the amount less Gramm-Rudman that was appropriated in fiscal year 1986 for this modification, and approved the fiscal year 1987 budget request for this program.

SH-2F AIRCRAFT SERIES

The conferees agree to provide $36,485,000 for the SH-2F LAMPS MK-I helicopter modification and upgrade program as proposed by the House.

WEAPONS PROCUREMENT, NAVY

The conferees agree to the following amounts for Weapons Procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
WEAPONS PROCUREMENT, NAVY				
POSEIDON	3,974	3,974	3,974	3,974
TRIDENT I	4,739	4,739	4,739	4,739
TRIDENT II	1,124,439	1,124,439	1,086,639	1,086,639
TRIDENT II (AP-CY)	300,000	300,000	275,800	275,800
MODIFICATION OF MISSILES: UGM-73A (C-3) POSEIDON MODS	95	95	95	95
SUPPORT EQUIPMENT AND FACILITIES: MISSILE INDUSTRIAL FACILITIES	3,790	3,790	3,790	3,790
TOTAL, BALLISTIC MISSILES	1,437,037	1,437,037	1,437,037	1,437,037
STRATEGIC MISSILES:				
BGM-109 TOMAHAWK	721,736	581,736	666,736	655,000
BGM-109 TOMAHAWK (BY TRANSFER)		(61,800)		
BGM-109 TOMAHAWK (AP-CY)	68,800	68,800	68,800	68,800
TACTICAL MISSILES:				
AIM/RIM-7 F/M SPARROW	279,394	259,094	269,394	269,394
AIM/RIM-7 F/M SPARROW (BY TRANSFER)		(16,800)		
AIM-9L/M SIDEWINDER	46,977	46,277	30,677	35,800
AIM-9L/M SIDEWINDER (AP-CY)	17,641			
AIM 54A/C (PHOENIX)	289,272	119,522	267,272	267,272
AIM-54A/C (PHOENIX) (BY TRANSFER)		(39,750)		
AIM-54A/C (PHOENIX) (AP-CY)	28,400	18,583	23,100	20,000
AIM-54A/C (PHOENIX) (AP-CY) (BY TRANSFER)		(9,817)		
AGM-84A HARPOON	128,387	128,387	116,187	123,000
AGM-84A HARPOON (AP-CY)	11,476			
AGM-88A HARM (MYP)	256,682	256,682	204,982	256,682
SM-2 MR	513,611	513,611	478,611	478,611
SM-2 ER	217,017	217,017	217,017	217,017
RAM	63,209		40,000	40,000
STINGER	51,940	39,740	42,130	39,740
SIDEARM	22,858	22,858	22,858	22,858
LASER MAVERICK	198,791	165,691	190,791	165,691
IIR MAVERICK	52,055	24,255	37,700	35,200
AERIAL TARGETS	97,386	97,386	91,000	96,000
DRONES AND DECOYS	36,136	36,136	32,636	36,136
OTHER MISSILE SUPPORT	22,017	11,517	22,017	22,017
MODIFICATION OF MISSILES:				
TOMAHAWK MODS	7,235	7,235	7,235	7,235
AIM/RIM-7E/F SPARROW MOD	1,233	1,233	1,233	1,233
AIM-9 SIDEWINDER MOD	3,131	3,131	3,131	3,131
STANDARD MISSILES MOD	2,093	2,093	2,093	2,093
SUPPORT EQUIPMENT AND FACILITIES:				
WEAPONS INDUSTRIAL FACILITIES	7,490	7,490	12,665	12,665
FLEET SATELLITE COMMUNICATIONS	65,138	65,138	62,138	62,138
ORDANCE SUPPORT EQUIPMENT: ORDANCE SUPPORT EQUIPMENT	132,958	108,025	79,192	79,192
TOTAL, OTHER MISSILES	3,343,063	2,081,637	2,989,595	3,016,905
TORPEDO MK-48 ADCAP	508,370	214,770	254,800	254,770
ASUW TORPEDO	16,995		16,995	
TORPEDO MK-46 (MYP)	74,061	38,161	60,661	74,061
TORPEDO MK-46 (MYP) (BY TRANSFER)		(22,500)		
TORPEDO MK-46 (MYP) (AP-CY)	23,800	23,800	23,800	23,800
MK-50 ADV LIGHTWEIGHT TORPEDO	109,937	19,387	68,137	68,137
MK-60 CAPTOR		59,500		
ASROC	13,597	13,597	13,597	13,597
VERTICAL LAUNCHED ASROC	74,289	21,000	74,289	74,289
MOD OF TORPEDOES AND RELATED EQUIP:				
TORPEDO MK-46 MODS	76,975	60,475	70,475	76,975
TORPEDO MK-46 MODS (BY TRANSFER)		(10,000)		
TORPEDO MK-46 MODS (AP-CY)	5,200	5,200	5,200	5,200
CAPTOR MODS	11,619	11,619	11,619	11,619
SWIMMER WEAPON SYSTEM	3,911	3,911	3,911	3,911
SUPPORT EQUIPMENT:				
TORPEDO SUPPORT EQUIPMENT	32,496	32,496	32,496	32,496
ASW RANGE SUPPORT	20,114	20,114	20,114	20,114
TOTAL, TORPEDOES AND RELATED EQUIPMENT	971,364	524,030	656,094	658,969
OTHER WEAPONS:				
GUNS AND GUN MOUNTS:				
MK-15 CLOSE IN WEAPONS SYSTEM	105,606	105,606	105,606	105,606
MK-75 76 MM GUN MOUNT	14,875	14,875	14,875	14,875
MK-19/40MM MACHINE GUN	632	632	632	632
25MM GUN MOUNT	3,919	3,919	3,919	3,919
SMALL ARMS AND WEAPONS	10,082	10,082	10,082	10,082
MODIFICATION OF GUNS AND GUN MOUNTS:				
CIWS MODS	42,965	42,965	42,965	42,965
5/54 GUNS MOUNT MODS	6,128	6,128	6,128	6,128
3"/50 GUNS MOUNT MODS	1,637	1,637	1,637	1,637
MK 75 76MM GUNS MOUNT MODS	4,101	4,101	4,101	4,101
MODS UNDER $900,000	2,384	2,384	2,384	2,384
SUPPORT EQUIPMENT: GUN SUPPORT EQUIPMENT	873	873	873	873
TOTAL, OTHER WEAPONS	193,202	193,202	193,202	193,202
SPARES AND REPAIR PARTS	150,734	150,734	150,734	150,734

[In thousands of dollars]

	Budget	House	Senate	Conference
INFLATION SAVINGS, FY87		-59,200	-72,000	-72,000
PROFIT POLICY CHANGE			-22,400	-32,000
TOTAL, WEAPONS PROCUREMENT, NAVY	6,095,400	5,047,440	5,270,262	5,290,847
TRANSFER FROM OTHER ACCOUNTS		(160,667)		
TOTAL FUNDING AVAILABLE	6,095,400	5,208,107	5,270,262	5,290,847

HARM BLOCK IV UPGRADE AND THE HARM LOW COST SEEKER

The conferees strongly support the services' requirement to upgrade the HARM missile as soon as possible to counter the increased sophistication of new target radars and new ECCM techniques not originally specified for the HARM missile. The conferees also agree that it is in the national interest to broaden the industrial base for the production of anti-radiation missile. Consequently, the conferees have agreed to guidelines for the funding of future production of anti-radiation missiles that respond to the concerns of both the House and Senate about the incorporation of alternative seekers into the HARM missile and future anti-radiation missiles.

The conferees direct that:

1. The development and integration of a Low Cost Seeker (LCS) compatible with HARM will be completed as fast as possible, for the purpose of incorporation into production HARM missiles. This direction is consistent with the written commitment made to the Congress by the Deputy Secretary of Defense on November 8, 1983 that"immediate development and application of a lower cost seeker for HARM" was required and that DOD would "ensure a rapid and efficient technology transfer to the contractors who will compete for production."

2. Beginning with missiles funded in fiscal year 1989, the LCS shall be phased into production. Not less than 800 HARM production missiles in the first year of LCS production shall incorporate LSC, and not less than 1,200 HARM production missiles in the second and subsequent years shall incorporate LCS, procured from the present LSC contractors.

3. Program management for LCS shall be transferred immediately to the Naval Air Systems Command, and technical management of LCS will be retained by the Naval Weapons Center, China Lake, California.

4. The proposed Block IV seeker design (or any derivative thereof) may be produced beginning in fiscal year 1990, provided that the Secretary of Defense certifies not later than December 15, 1986 that implementation of a Block IV program will be done at no cost to the government, and provided that the contractor agrees to transfer design data to the government for the purpose of establishing a second production source, should such establishment be desired by the Department.

5. The Department of Defense shall include in its fiscal year 1988 budget sufficient procurement for production start-up and long-lead items necessary for initial production of LCS/HARM in fiscal year 1989. The Navy and Air Force shall identify as separate items the procurement funding for both the HARM Block IV and the LCS seekers for HARM in its budget documentation to Congress, beginnning in fiscal year 1988.

6. The Low Cost Seeker development program shall form the basis for an advanced ARM development/production program with the same contractors who are presently developing the HARM Low Cost Seeker. The advanced ARM program shall be pursued as a joint Navy and Air Force program, with the Navy as Executive Agent. The new development shall be managed and controlled by the Naval Weapons Center, China Lake, California, to include the letting of contracts for work controlled and directed by that Center, in the same manner as was the case for the LCS development program. The Secretary of Defense shall ensure that adequate funding if provided by the Navy and Air Force to support this development.

AIM-9 SIDEWINDER MISSILE

The conferees agree to provide $35,800,000 rather than the $46,277,000 proposed by the House and $30,677,000 by the Senate.

The combined Navy and Air Force allowances reduce the fiscal year 1987 program to a level that will support one rather than two contractors. The conferees note that Department's future procurement plans will support only one producer. The conferees expect that the Department will competitively award a 5 year multiyear contract starting in 1987. The purpose of this multiyear contract is to insure the existence of a warm production base until a follow-on missile, or a product improvement to the current AIM-9 missile, are ready for production.

PHOENIX

PHOENIX ADVANCE PROCUREMENT

The conferees agree to provide $267,272,000 for Phoenix procurement as proposed by the Senate and $20,000,000 for Phoenix advance procurement. Furthermore, the conferees agree to the establishment of a second competitive source of production for the Phoenix and hereby approve the Department's reprograming request fiscal year 85-65PA which will provide $85,000,000 for non-recurring costs to establish the second source. These reprogrammed funds plus the $130,000,000 provided this year provide all of the up front costs.

MK-48 ADCAP TORPEDO

The conferees agree to provide $254,770,000 for the MK-48 ADCAP torpedo program. In fiscal year 1986, Congress provided $417,437,000 to procure 123 MK-48 ADCAP torpedos. The conferees are pleased to see that the current prime contractor is continuing its efforts to reduce the MK-48 ADCAP costs which resulted in the submission of favorable not-to-exceed estimates. The conferees believe that cost reduction efforts should be continued and direct the Navy not to limit the quantity of MK-48 ADCAP torpedoes to be procured to 123 units, and purchase as many torpedoes as possible within the funds provided to date. Since only 123 torpedoes were authorized, the Navy should also seek approval for this increase from the Committees on Armed Services.

MK-50, ADVANCED LIGHTWEIGHT TORPEDO

The conferees agree to provide $68,137,000 for the MK-50 advanced lightweight torpedo as proposed by the Senate of which $19,387,000 is to be used for second source qualification as proposed by the House.

MK-46 LIGHTWEIGHT TORPEDO

The conferees agree to provide a total of $180,036,000 the fully requested amount for the MK-46 torpedo program, MK-46 modifications, and MK-46 advance procurement. This sum is over the amount recommended by either Chamber and is being provided even though the multiyear contract was recently negotiated substantially below the budget request. These savings along with the substantial savings from the first the MK-46 multiyear procurement had been proposed for transfer or recission. The conferees direct the Navy to use these funds to buy out one year early the multiyear contract in fiscal year 1987. The conferees direct that the Navy proceed expeditiously in this regard and if additional funds are required to execute the conferees direction, the Navy is encouraged to submit a reprogramming action.

VERTICAL LAUNCHED ASROC

The conferees agree to provide $74,289,000 for the Vertical Launch ASROC (VLA) program.

Because of continued technical problems and testing delays, the conferees agree that none of the funds are to be obligated for the procurement of law rate initial production of 200 rockets pending successful completion of field tests for CTV-3A, CTV-4, and FTR-1 through FTR-X. This prohibition is not intended to affect the second source funds. The conferees also direct that a report of the flight test results be provided both the House and Senate Appropriations Committees prior to contract award for procurement of 200 low rate initial production rockets. If the testing schedule continues to slip, the Navy, with the approval of both House and Senate Appropriations Committees, should proceed with procuring essential long lead material and equipment. The conferees believe that the funds should be allocated as follows: $9,000,000 for VLA advance procurement, and $9,800,000 for those items that would reduce risk and expedite procurement of VLA missiles such as rocket motor transition to industry, acceptance gauges and fleet introduction and production planning and support.

SUBMARINE LAUNCHED MOBILE MINE

Last year, the conferees stated that they would entertain a reprogramming request for the MK-67 submarine launched mobile mine to maintain program continuity. The conferees agree that the Navy should consider reprogramming funds to cover the fiscal year 1986 contract option if program continuity is desired.

SHIPBUILDING AND CONVERSION, NAVY

The conferees agree to the following amounts for Shipbuilding and Conversion, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
SHIPBUILDING AND CONVERSION, NAVY				
BA–1 FLEET BALLISTI MISSILE SHIPS:				
TRIDENT (NUCLEAR)	1,362,700	1,362,700	1,300,000	1,300,000
TRIDENT (NUCLEAR) (AP–CY)	146,400	146,400	146,400	146,400
TOTAL, FLEET BALLISTIC MISSILE SHIPS	1,509,100	1,509,100	1,446,400	1,446,400
BA–2 OTHER WARSHIPS:				
SSN–688 CLASS SUBMARINE (NUCLEAR)	2,047,800	1,785,100	1,966,700	1,966,000
SSN–688 CLASS SUBMARINE (NUCLEAR) (BY TRANSFER)	——	(181,600)	——	——
SSN–688 CLASS SUBMARINE (NUCLEAR) (AP–CY)	284,800	284,800	284,800	284,800
SSN–21	454,300	187,800	266,500	375,000
CV SLEP (AP–CY)	83,500	83,500	83,500	83,500
CG–47 AEGIS CRUISER (MYP)	1,913,800	1,876,800	2,130,500	2,715,000
CG–47 AEGIS CRUISER (MYP) (BY TRANSFER)	——	(20,000)	(584,500)	——
CG–47 AEGIS CRUISER (MYP) (AP–CY)	10,500	10,500	10,500	10,500
DDG–51 (MYP)	2,448,000	2,348,000	2,421,000	1,670,300
DDG–51 (MYP) (AP–CY)	79,800	79,800	79,800	79,800
TOTAL, OTHER WARSHIPS	7,322,500	6,656,300	7,243,300	7,184,900
BA–3 AMPHIBIOUS SHIPS:				
LHD–1 AMPHIBIOUS ASSUALT SHIP (MYP) (AP–CY)	232,000	232,000	35,000	35,000
LPD–4 SLEP	23,100	——	——	——
TOTAL, AMPHIBIOUS SHIPS	255,100	232,000	35,000	35,000
BA–4 MINE WARFARE + PATROL SHIPS:				
MSH–1 COASTAL MINE HUNTER	196,100	——	——	——
MSH–1 COASTAL MINE HUNTER (BY TRANSFER)	——	(100,000)	——	——
TOTAL, MINE WARFARE AND PATROL SHIPS	196,100	——	——	——
BA–5 AUXILIARIES, CRAFT + PY PROG COSTS:				
TAO FLEET OILER	275,500	209,600	259,000	259,000
TAO FLEET OILER (REAPPROPRIATION)	——	2,800	——	——
TAO FLEET OILER (BY TRANSFER)	——	(46,600)	——	——
AO (JUMBO)	62,300	——	62,300	40,000
TAGOS SURTASS SHIPS	148,100	148,100	130,100	228,000
AOE	612,700	181,100	——	499,000
AOE (REAPPROPRIATION)	——	3,000	——	——
AOE (BY TRANSFER)	——	(315,600)	——	——
OCEANOGRAPHIC RESEARCH SHIP	33,000	——	33,000	33,000
OCEANOGRAPHIC RESEARCH SHIP (Reappropriation)	——	25,000	——	——
OCEANOGRAPHIC RESEARCH SHIP (BY TRANSFER)	——	(8,000)	——	——
SERVIE CRAFT	39,900	——	39,900	74,900
SERVICE CRAFT (BY TRANSFER)	——	(74,900)	——	——
LANDING CRAFT	19,000	——	19,000	19,000
LANDING CRAFT (REAPPROPRIATION)	——	10,000	——	——
LANDING CRAFT (By TRANSFER)	——	(9,000)	——	——
STRATEGIC SEALIFT	27,800	——	77,800	77,800
STRATEGIC SEALIFT (REAPPROPRIATION)	——	6,000	——	——
STRAGETIC SEALIFT (BY TRANSFER)	——	(39,000)	——	——
SEALIFT ENHANCEMENT	20,700	——	20,700	——
OUTFITTING	226,100	226,100	217,589	217,589
POST DELIVERY	167,800	159,300	159,300	159,300
SHIP CONTRACT DESIGN	69,400	——	69,400	——
TACS CRANE SHIP	61,100	——	61,100	61,100
TACS CRANE SHIP (BY TRANSFER)	——	(61,100)	——	——
TOTAL, AUXILIARIES, CRAFT, AND PRIOR-YEAR PROGR	1,763,400	971,000	1,149,189	1,668,689
INFLATION SAVINGS, FY87	——	−108,500	−124,000	−124,000
PROFIT POLIY CHANGE	——	——	−35,350	——
TOTAL, SHIPBUILDING AND CONVERSION, NAVY	11,046,200	9,259,900	9,714,539	10,210,989
TRANSFER FROM OTHER ACCOUNTS	——	(855,800)	(584,500)	——
TOTAL FUNDING AVAILABLE	11,046,200	10,115,700	10,299,039	10,210,989

SHIPBUILDING COMPETITION

The conferees agree to support efforts by the Navy to compete sole source shipbuilding programs when it is clear that competition will benefit the government.

SSN–21

The conferees agree to provide $375,000,000 for the advance procurement of SSN–21 nuclear components and detail design instead of $187,800,000 as proposed by the House and $266,500,000 as proposed by the Senate.

DDG–51 DESTROYER

The conferees agree to provide $1,670,300,000 to procure two DDG–51 destroyers provided that one ship is awarded to a second source shipbuilder.

MSH MINE SWEEPER/HUNTER

The conferees agree to the Senate language which stipulates that of the funds remaining available for the MSH program, $5,000,000 shall be used to continue work studying the surface effect hull form technology including the related shock attenuation benefits in conjunction with the first MSH ship construction efforts.

MHC COASTAL MINE HUNTER

On September 29, 1986, the Department of the Navy submitted a report, to the House Appropriations Committee, on the costs and risks of alternative acquisition approaches for the MHC program. The report outlines the Navy's plans to proceed with the following approach: Complete the contract design currently ongoing with Intermarine, and the first ship is constructed by a U.S. division of Intermarine in consortium with a U.S. builder. The remaining ships would be constructed by Intermarine U.S. and one other U.S. shipbuilder.

The conferees agree that the Navy should continue pursuing this course of action with fiscal year 1986 MSH funds provided that all MHC ships are built in the United States and that the follow-on ships be awarded competitively and selected by the Navy.

T–AGOS OCEAN SURVEILLANCE SHIPS

The conferees agree to provide $228,000,000 for the T–AGOS ocean surveillance ship program instead of $148,100,000 as proposed by the House and $130,100,000 as proposed by the Senate. The conferees also agree that three monohull T–AGOS and one SWATH T–AGOS should be purchased with these funds. It should be noted that the conferees agree to rescind the fiscal year 1986 funds for the SWATH T–AGOS.

AO–CONVERSION

The conferees agree to provide $40,000,000 for the AO oiler conversion program. The conferees direct that these funds be used for both the conversion and any repair package required on this ship. The conferees also support the Senate position that the expanded vessel shall be configured to a 180,000 barrel capacity, and not as an ammunition variant transport.

LANDING CRAFT

The conferees are concerned over the continued delays with the special warfare craft-medium program which is adversely impacting the ability of the Naval Special Warfare forces to perform their mission effectively. The conferees agree to provide $19,000,000 for the special warfare craft and direct the Navy to expeditiously complete the first craft as a prototype vessel. The Navy should also consider utilizing a contractor that has Surface Effect Ship experience to complete the first craft. The conferees believe that the fiscal year 1987 craft should be used as an option to successful construction of the prototype. In order to maintain a highly competitive program, the fiscal year 1988 request should include sufficient funds to cover the start-up costs associated with the award of one craft to a second source.

SERVICE CRAFT

The conferees agree to provide $47,900,000 for Service Craft of which $35,000,000 is available to competitively procure and convert civilian fishing vessels into coastal hydrographic vessels as proposed by the House. The conferees believe that the current market provides an opportunity to obtain conversion candidate vessels at very reasonable prices particularly if the Navy does not limit the conversion candidates to solely fishing vessels.

STRATEGIC SEALIFT

The conferees agree to provide $77,800,000 for Strategic Sealift as proposed by the Senate. The conferees direct the Navy to select the ships to be purchased in accordance with the priorities established under MSC release PAO 8-1-86 and include: Clean Product-Handy Sized Tankers; Breakbulk Cargo ships; Semi-submersible Heavy Lift ships; Container ships for conversion to Auxiliary Crane ships; Roll-on Roll-off ships; or any combination thereof.

The Navy should examine the possibility of using a portion of these funds to take advantage of a unique opportunity to acquire a Roll-on Roll-off vessel built in the United States since 1975 which is a sister ship of vessels already in the reserve fleet.

The conferees are concerned that the Department of Defense may be constructing new vessels while the Maritime Administration maintains similar vessels which are the property of the government due to private default. Therefore, the conferees direct the Defense Department to review the inventory of existing government assets prior to initiation of procurement contracts for support vessels. Further, the Secretary of Defense, or his designee, must certify that comparable vessels, able to meet the established mission requirements, are not available to DoD.

SEALIFT ENHANCEMENT

The conferees agree to deny the funding request for sealift enhancement as proposed by the House. The conferees believe that the program concept as presented to the respective Defense Appropriations Subcommittees has merit, however, the current request lacks justification. The Navy is encouraged to revisit this issue in fiscal year 1988 provided that more specific detail is present with the budget request.

OTHER PROCUREMENT, NAVY

The conferees agree to the following amounts for Other Procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER PROCUREMENT, NAVY				
SHIP PROPULSION EQUIPMENT:				
LM-2500 GAS TURBINE	22,351	9,000	20,550	12,000
LM-2500 GAS TURBINE (BY TRANSFER)		(1,000)		
ALLISON 501K GAS TURBINE	14,740	14,740	14,740	14,740
LM-2500 SPECIAL SUPPORT EQUIPMENT	967	967	967	967
STEAM PROPULSION IMPROVEMENT PROGRAM	11,766	6,470	11,766	6,470
OTHER PROPULSION EQUIPMENT	27,249	26,251	26,349	26,349
OTHER PROPULSION EQUIPMENT (BY TRANSFER)		(81)		
GENERATORS: OTHER GENERATORS	14,946	14,946	14,946	14,946
PUMPS: OTHER PUMPS	18,538	18,538	18,538	18,538
AIR COMPRESSORS:				
HIGH PRESSURE AIR COMPRESSOR	7,048	7,048	7,048	7,048
OTHER AIR COMPRESSORS	1,461	1,461	1,461	1,461
PROPELLERS:				
SUBMARINE PROPELLERS	2,157	2,157	2,157	2,157
OTHER PROPELLERS AND SHAFTS	9,557	9,557	9,577	9,577
NAVIGATION EQUIPMENT:				
ELECTRICALLY SUSPENDED GYRO NAVIGATOR	34,510	34,510	34,510	34,510
CARRIER NAVIGATION SYSTEM	3,433	3,433	3,433	3,433
OTHER NAVIGATION EQUIPMENT	8,850	8,850	8,850	8,850
UNDERWAY REPLENISH EQUIP: UNDERWAY REPLENISHMENT EQUIPMENT	2,959	2,959	2,959	2,959
PERISCOPES:				
TYPE 18 PERISCOPE	21,325	21,325	21,325	21,325
TYPE 8 PERISCOPES	282	282	282	282
PERISCOPES AND ACCESSORIES	5,603	5,603	5,603	5,603
OTHER SHIPBOARD EQUIPMENT:				
FIREFIGHTING EQUIPMENT	11,848	11,848	11,848	11,848
COMMAND AND CONTROL SWITCHBOARDS	2,799	2,799	2,799	2,799
POLLUTION CONTROL EQUIPMENT	8,471	8,471	8,471	8,471
SUBMARINE SILENCING EQUIPMENT	27,084	27,084	27,084	27,084
SURFACE SHIP SILENCING EQUIPMENT	8,975	8,975	8,975	8,975
SUBMARINE BATTERIES	12,200	12,200	12,200	12,200
STRATEGIC PLATFORM SUPPORT EQUIPMENT	72,778	72,778	72,778	72,778
DSSP EQUIPMENT	9,797	9,797	9,797	9,797
SEALIFT SUPPORT EQUIPMENT	58,277	70,277	41,577	70,277
MINESWEEPING CABLE	7,350	7,350	7,350	7,350
HME ITEMS UNDER 900K	28,661	28,661	20,461	20,461
SURFACE IMA	21,877	21,877	21,877	21,877
RADIOLOGICAL CONTROLS	227	227	227	227
MINI/MICROMINI ELECTRONIC REPAIR	1,001	1,001	1,001	1,001
CHEMICAL WARFARE DETECTORS	10,940	10,940	10,940	10,940
SUBMARINE LIFE SUPPORT SYSTEM	27,892	27,892	27,892	27,892
HM&E ENGINEERED MAINTENANCE	4,067	4,067	4,067	4,067
REACTOR PLANT EQUIPMENT:				
REACTOR POWER UNIT	202,502	202,502	202,502	202,502
REACTOR COMPONENTS	227,883	227,883	227,883	227,883
OCEAN ENGINEERING:				
DIVING AND SALVAGE EQUIPMENT	11,855	11,855	11,855	11,855
NAVAL SPECIAL WARFARE EQUIPMENT	31,707	25,051	31,707	31,707
SMALL BOATS: SMALL BOATS	19,570	19,570	15,570	15,570
TRAINING EQUIPMENT:				
NEW SHIP TRAINING EQUIP	12,547	12,547	12,547	12,547
OTHER SHIPS TRAINING EQUIPMENT	6,075	6,075	6,075	6,075
PRODUCTION FACILITIES EQUIPMENT:				
CALIBRATION EQUIPMENT	1,590	1,590	1,590	1,590
PRODUCTION SUPPORT FACILITIES	13,737	13,737	13,737	13,737
OPERATING FORCES IPE	4,914	4,914	4,914	4,914
GENERAL REDUCTION		−50,000		
TOTAL, SHIPS SUPPORT EQUIPMENT	1,054,366	990,065	1,022,765	1,037,619
SHIP RADARS:				
AN/SPS-67	7,209	7,209	7,209	7,209
AN/SPS-40	17,732	17,732	17,732	17,732
AN-SPS-48	48,800	48,800	48,800	48,800
AN/SPS-49	17,012	17,012	17,012	17,012

[In thousands of dollars]

	Budget	House	Senate	Conference
AN/SYS-( )	13,725	13,594	13,725	13,725
AN/SYS-( ) (BY TRANSFER)		(60)		
AN/SYS-( ) (BY TRANSFER)		(71)		
MK 23 TARGET ACQUISITION SYSTEM	20,080	20,080	20,080	20,080
RADAR SUPPORT	13,869	13,869	13,869	13,869
SHIP SONARS:				
AN/SQS-26/53/53A	14,222	14,222	14,222	14,222
AN/SQS-53B	25,086	24,822	25,086	24,822
AN/SQS-53C	34,001	34,001	34,001	34,001
AN/BQQ-5	83,327	83,327	83,327	83,327
TB-16 TOWED ARRAY (MYP)	4,610	4,610	4,610	4,610
SURF SONAR WINDOWS AND DOMES	10,378	10,378	10,378	10,378
SONAR SUPPORT EQUIPMENT	10,430	10,430	10,430	10,430
SONAR SWITCHES AND TRANSDUCERS	36,470	25,833	35,270	35,270
SONAR SWITCHES AND TRANSDUCERS (BY TRANSFER)		(9,487)		
FBM SYSTEM SONARS	1,787	1,787	1,787	1,787
ASW ELECTRONIC EQUIPMENT:				
SUBMARINE ACOUSTIC WARFARE SYSTEMS	23,231	23,231	23,231	23,231
AN/SLQ-25 (NIXIE)	9,359		8,259	8,259
ACOUSTIC COMMUNICATIONS	655	655	655	655
SUBMARINE ADVANCED COMBAT SYSTEM	46,228	46,228	46,228	46,228
SOSUS	83,183	83,183	83,183	83,183
AN/SQR-17 ACOUSTIC PROCESSOR	7,829	16,929		
USNR ASW FRIGATE MODERNIZATION				16,929
AN/SQR-18 TOWED ARRAY SONAR	28,721	23,598	24,721	24,721
AN/SQR-18 TOWED ARRAY SONAR (BY TRANSFER)		(1,110)		
AN/SQR-15 TOWED ARRAY SONAR	1,197	1,197	1,197	1,197
AN/SQR-19 TOWED ARRAY SONAR	112,414		103,038	103,038
SURTASS	19,750	19,750	10,382	10,382
ASW OPERATIONS CENTER	12,723	12,723	12,723	12,723
CARRIER ASW MODULE	27,894	27,124	27,394	27,394
CARRIER ASW MODULE (BY TRANSFER)		(310)		
ELECTRONIC WARFARE EQUIPMENT:				
AN/SLQ-32	75,993	75,993	75,993	75,993
AN/SLQ-17	14,197	14,197	14,197	14,197
AN/WLR-1	4,269	4,269	4,269	4,269
OFFBOARD DECEPTION DEVICES	22,554	22,554	22,554	22,554
EW SUPPORT EQUIPMENT	10,240	10,240	10,240	10,240
FLEET EW SUPPORT GROUP	1,648	1,648	1,648	1,648
C3 COUNTERMEASURES	69,155	69,155	39,155	39,155
RECONNAISSANCE EQUIPMENT:				
COMBAT CRYPTOLOGIC SUPPORT CONSOLE	5,203	5,203	5,203	5,203
COMBAT DF	36,665	36,665	36,665	36,665
OUTBOARD	26,063	24,803	26,063	26,063
OUTBOARD (FY86 TRANS)		(1,260)		
NAVAL INTELLIGENCE PROCESSING SYSTEM	9,595	9,595	9,595	9,595
SUBMARINE SURVEILLANCE EQUIPMENT:				
AN/WLQ-4 DEPOT	1,170	1,170	1,170	1,170
AN/WLQ-4 IMPROVEMENTS	3,582	3,582	3,582	3,582
AN/BLD-1 (INTERFEROMETER)		16,800		16,800
SUBMARINE SUPPORT EQUIPMENT PROGRAM	4,911	4,911	4,911	4,911
OTHER SHIP ELECTRONIC EQUIPMENT:				
NAVY TACTICAL DATA SYSTEM	104,681	103,301	104,681	104,681
NAVY TACTICAL DATA SYSTEM (BY TRANSFER)		(1,380)		
TACTICAL FLAG COMMAND CENTER	17,237	17,237	17,237	17,237
COMMAND AND CONTROL PROCESSOR	3,939	3,939	3,939	3,939
MINESWEEPING SYSTEM REPLACEMENT	2,149	2,149	2,149	2,149
NAVSTAR GPS RECEIVERS	24,915	24,915	24,915	24,915
HF LINK-11 DATA TERMINALS	4,324	4,324	4,324	4,324
ARMED FORCES RADIO AND TV	5,127	5,127	5,127	5,127
STRATEGIC PLATFORM SUPPORT EQUIPMENT	161,346	161,346	161,346	161,346
TRAINING EQUIPMENT: OTHER NAVSEA TRAINING EQUIPMENT	5,035	5,035	5,035	5,035
AVIATION ELECTRONIC EQUIPMENT:				
MATCALS	29,556	29,556	29,556	29,556
SHIPBOARD AIR TRAFFIC CONTROL	12,914	12,914	12,914	12,914
AUTOMATIC CARRIER LANDING SYSTEMS	23,092		23,092	23,092
TACAN	873	873	873	873
AIR STATION SUPPORT EQUIPMENT	15,054	15,054	15,054	15,054
MICROWAVE LANDING SYSTEM	6,146		6,146	
FACSFAC	22,098	21,086	22,098	22,098
FACSFAC (BY TRANSFER)		(1,012)		
RADAR AIR TRAFFIC CONTROL	1,521	1,521	1,521	1,521
MK XII AIMS IFF	9,422	9,422	8,664	8,664
OTHER SHORE ELECTRONIC EQUIPMENT:				
NAVAL SPACE SURVEILLANCE SYSTEM	3,053		3,053	1,500
SPACE SYSTEM PROCESSING	2,166	2,166	2,166	2,166
MULTOTS	1,242	1,242	1,242	1,242
NCCS ASHORE	39,604	39,604	39,604	39,604
RADIAC	7,931	7,931	7,931	7,931
OVER THE HORIZON RADAR	2,270		2,270	2,270
GPETE	28,326	28,326	28,326	28,326
INTEG COMBAT SYS TEST FACILITY	4,806	4,806	4,806	4,806
CALIBRATION STANDARDS	8,216	8,216	8,216	8,216
EMI CONTROL INSTRUMENTATION	7,369	7,369	7,369	7,369
SHORE ELEC ITEMS UNDER $900K	8,718	8,718	8,718	8,718
SHIPBOARD COMMUNICATIONS:				
SHIPBOARD HF COMMUNICATIONS	11,737	11,737	11,737	11,737
SHIPBOARD UHF COMMUNICATIONS	9,445	9,445	8,220	8,220
FLIGHT DECK COMMUNICATIONS	1,991	1,991	1,991	1,991
PORTABLE RADIOS	8,282	8,282	8,282	8,282
SHIP COMMUNICATIONS AUTOMATION	17,950	17,950	17,487	17,487
SHIP COMM ITEMS UNDER $900K	13,486	13,486	13,486	13,486
SEALIFT SHIP COMM	4,716	4,716	4,716	4,716
SUBMARINE COMMUNICATIONS:				
ELF COMMUNICATIONS	30,836	30,836	30,836	30,836
SHORE LF/VLF COMMUNICATIONS	17,781	15,329	17,781	17,781
SHORE LF/VLF COMMUNICATIONS (BY TRANSFER)		(2,452)		
VERDIN	11,824	11,824	11,824	11,824
SSN INTEGRATED COMMUNICATIONS	2,237	2,237	2,237	2,237
SUBMARINE COMMUNICATION ANTENNAS	27,925	27,925	27,925	27,925
DATA COLLECTION AND RECORD SYS	943	943	943	943
SATELLITE COMMUNICATIONS:				
SATCOM SHIP TERMINALS	34,544	34,544	34,544	34,544
SATCOM SHORE TERMINALS	8,979	8,979	8,979	8,979

[In thousands of dollars]

	Budget	House	Senate	Conference
SHORE COMMUNICATIONS:				
JCS COMMUNICATIONS EQUIPMENT	6,739	6,739	2,439	2,439
ELECTRICAL POWER SYSTEMS	1,523	1,523	1,523	1,523
SHORE HF COMMUNICATIONS	11,334	11,334	11,034	11,034
JOINT TACTICAL COMM (TRI-TAC)	33,872	33,872	33,872	33,872
DCS TECH CONTROL IMPROVEMENTS	98	98	98	98
VOICE FREQ CARRIER TELEGRAPH	49	49	49	49
ASHORE MOBILE COMM VANS	6	6	6	6
WORLDWIDE WIDEBAND COMM	3,655	3,655	3,655	3,655
WWMCCS COMMUNICATIONS EQUIPMENT	406	406	406	406
SHORE COMMUNICATIONS AUTOMATION	9,700	9,700	9,700	9,700
SHORE COMM ITEMS UNDER $900K	2,054	2,054	2,054	2,054
CRYPTOGRAPHIC EQUIPMENT:				
SINGLE AUDIO SYSTEM	16,965	16,965	16,965	16,965
TSEC/KY-71/72 (STU-II/STU-IIM)	13,572	13,572	13,572	13,572
TSEC/KG-84	27,871	49,371	49,371	49,371
TSEC/KY-57/58 (VINSON)	20,397	20,397	20,397	20,397
TSEC/KYV-5 (ANDVT)	6,333	6,333	6,333	6,333
TSEC/KW-46	8,797	8,797	8,797	8,797
TSEC/KG-81 (WALBURN)	1,188	1,188	1,188	1,188
TSEC/KG-44 (DMSP)	5,013	5,013	5,013	5,013
TSEC/KGR-96 (ITSS)	2,518	2,518	2,518	2,518
TRITAC CRYPTO	28,414	26,414	23,837	26,414
TSEC/KGV-11	14,784	14,784	14,784	14,784
COMMON FILL DEVICES	479	479	479	479
SIGNAL SECURITY	362	362	362	362
CRYPTOGRAPHIC ITEMS UNDER $900K	12,221	12,221	12,221	12,221
CRYPTOLOGIC EQUIPMENT:				
CRYPTOLOGIC COMMUNICATIONS EQUIP	810	810	810	810
SHIPS SIGNAL EXPLOITATION SPACE	1,625	1,625	1,625	1,625
CRYPTOLOGIC ITEMS UNDER $900K	5,613	5,613	5,613	5,613
CRYPTOLOGIC RESERVES EQUIPMENT	1,171	1,172	1,172	1,172
CRYPTOLOGIC FIELD TRAINING EQUIP	768	768	768	768
SHORE CRYPTOLOGIC SUPPORT SYSTEM	2,020	2,020	2,020	2,020
OTHER ELECTRONIC SUPPORT:				
WAR RESERVE	1,013	1,013	1,013	1,013
ELEC ENGINEERED MAINT (NAVSEA)	5,153	5,153	5,153	5,153
ELECT ENGINEERED MAINT (NAVELEX)	1,933	1,933	1,933	1,933
GENERAL REDUCTION		-90,000		
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	2,031,430	1,807,467	1,977,934	2,006,277
SONOBUOYS:				
AN/SSQ-36 (BT)	4,728	4,728	4,728	4,728
AN/SSQ-53 (DIFAR)	100,583	98,483	96,383	98,483
AN/SSQ-57 (SPECIAL PURPOSE)	2,881	2,881	2,881	2,881
AN/SSQ-62 (DICASS)	35,265	35,265	26,265	35,265
AN/SSQ-77 (VLAD)	61,388	48,800	58,688	55,000
AN/SSQ-86 (DLC)	2,840	2,840	2,840	2,840
SIGNAL UNDERWATER SOUND (SUS)	1,228	1,228	1,228	1,228
LOW COST SONOBOUY	26,569			
AIR LAUNCHED ORDNANCE:				
SKIPPER	44,706	44,706	44,706	44,706
GENERAL PURPOSE BOMBS	126,929	37,129	86,929	86,900
LASER GUIDED BOMB KITS	6,344	6,344	6,344	6,344
WALLEYE	35,293		35,293	17,800
ROCKEYE	8,875		1,275	1,275
ZUNI ROCKET	26,271	8,271	8,271	8,271
2.75 INCH ROCKET	31,416	31,416	31,416	31,416
PARACHUTE FLARES	1,947	1,947	1,947	1,947
MACHINE GUN AMMUNITION	21,180	20,680	21,180	20,680
PRACTICE BOMBS	30,678	25,478	27,078	27,000
CARTRIDGES + CARTRIDGE ACTUATED DEVICES	25,253	25,253	25,253	25,253
AIRCRAFT ESCAPE ROCKETS	7,458	7,458	7,458	7,458
AIRBORNE EXPENDABLE COUNTERMEASURES	40,852	31,252	31,252	31,252
MARINE LOCATION MARKERS	8,307	8,307	8,307	8,307
DEFENSE NUCLEAR AGENCY MATERIAL	2,454	2,454	2,454	2,454
BIGEYE CHEMICAL WEAPON	28,533	10,000	28,533	20,000
JATOS	2,621	2,021	2,621	2,021
GATOR	42,585		30,985	25,000
MISC AIR LAUNCHED ORDNANCE	566	566	566	566
AIRCRAFT SUPPORT EQUIPMENT:				
WEAPONS RANGE SUPPORT EQUIPMENT	46,431	43,431	46,431	46,431
WEAPONS RANGE SUPPORT EQUIPMENT (BY TRANSFER)		(3,000)		
EXPEDITIONARY AIRFIELDS	1,292	1,292	1,292	1,292
AIRCRAFT REARMING EQUIPMENT	38,830	35,771	38,830	38,830
AIRCRAFT REARMING EQUIPMENT (BY TRANSFER)		(3,059)		
CATAPULTS AND ARRESTING GEAR	33,670	33,670	33,670	33,670
METEOROLOGICAL EQUIPMENT	19,015	19,015	19,015	19,015
OTHER PHOTOGRAPHIC EQUIPMENT	2,078	2,078	2,078	2,078
MISC SURVIVAL EQUIPMENT	17,603	17,603	17,603	17,603
AIRBORNE MINE COUNTERMEASURES	32,304	19,821	19,821	19,821
LAMPS MK III SHIPBOARD EQUIPMENT	34,993	31,003	31,003	31,003
REWSON PHOTOGRAPHIC EQUIPMENT	1,858	1,858	1,858	1,858
STOCK SURVEILLANCE EQUIPMENT	1,971	1,971	1,971	1,971
OTHER AVIAITON SUPPORT EQUIPMENT	5,719	5,719	5,719	5,719
GENERAL REDUCTION		-10,000		
TOTAL, AVIATION SUPPORT EQUIPMENT	963,514	660,739	814,172	788,366
SHIP GUN AMMUNITION:				
3 /50 GUN AMMUNITION	3,743	3,743	3,743	3,743
5 /38 GUN AMMUNITION	6,309	6,309	6,309	6,309
5 /54 GUN AMMUNITION	75,825	41,725	41,725	41,725
5 INCH GUIDED PROJECTILE	127,916	127,916	127,916	127,916
16 INCH GUN AMMUNITION	7,667	7,667	7,667	7,667
CIWS AMMUNITION	41,814	35,314	35,314	35,314
76MM GUN AMMUNITION	17,092	17,092	17,092	17,092
OTHER SHIP GUN AMMUNITION	25,990	19,090	19,090	19,090
SHIP GUN SYSTEM EQUIPMENT:				
GUN FIRE CONTROL EQUIPMENT	19,188	19,188	19,188	19,188
COAST GUARD GUN SYSTEM	20,930	20,930	20,930	20,930
SHIP MISSILE SYSTEMS EQUIPMENT:				
MK 92 FIRE CONTROL SYSTEM	3,471	3,471	3,471	3,471
MK-92 CORT		54,000		116,000

[In thousands of dollars]

	Budget	House	Senate	Conference
HARPOON SUPPORT EQUIPMENT	13,041	13,041	13,041	13,041
TERRIER SUPPORT EQUIPMENT	56,810	56,810	56,810	56,810
TARTAR SUPPORT EQUIPMENT	47,052	47,052	47,052	47,052
POINT DEFENSE SUPPORT EQUIPMENT (MYP)	42,314	42,314	6,314	15,000
AIRBORNE ECM/ECCM	1,061	1,061	1,061	1,061
AEGIS SUPPORT EQUIPMENT	60,592	60,592	60,592	60,592
SURFACE TOMAHAWK SUPPORT EQUIPMENT	109,593	109,593	100,690	100,690
SUBMARINE TOMAHAWK SUPPORT EQUIPMENT	11,916	11,916	11,916	11,916
VERTICAL LAUNCH SYSTEM	137,767	131,339	104,934	104,934
FBM SUPPORT EQUIPMENT: STRATEGIC PLATFORM SUPPORT EQUIPMENT	105,318	105,318	105,318	105,318
ASW SUPPORT EQUIPMENT:				
MK 117 FIRE CONTROL SYSTEM	54,187	54,187	54,187	54,187
SUBMARINE ASW SUPPORT EQUIPMENT	23,336	23,336	23,336	23,336
SURFACE ASW SUPPORT EQUIPMENT	24,886	24,886	24,886	24,886
MK 116 FIRE CONTROL SYSTEM	40,929	14,224	34,014	37,014
ASW RANGE SUPPORT EQUIPMENT	5,429	5,429	5,429	5,429
OTHER ORDNANCE SUPPORT EQUIPMENT:				
EXPLOLSIVE ORDNANCE DISPOSAL EQUIP	15,238	15,238	8,538	15,238
SWIMMER WEAPONS SYSTEMS	847	847	847	847
UNMANNED SEABORNE TARGET	2,872	2,872	2,872	2,872
ANTI-SHIP MISSILE DECOY SYSTEMS	6,362	6,362	6,362	6,362
CALIBRATION EQUIPMENT	6,290	6,290	6,290	6,290
STOCK SURVEILLANCE EQUIPMENT	2,096	2,096	2,096	2,096
OTHER ORDNANCE TRAINING EQUIPMENT	2,362	2,362	2,362	2,362
OTHER EXPENDABLE ORDNANCE:				
SMALL ARMS AND LANDING PARTY AMMO	31,002	31,002	31,002	31,002
PYROTECHNIC AND DEMOLITION MATERIAL	29,613	29,613	29,613	29,613
QUICKSTRIKE	29,852		29,852	19,852
QUICKSTRIKE (BY TRANSFER)		(37,735)		
FLEET MINE SUPPORT EQUIPMENT	20,692	20,692	20,692	20,692
MINE NEUTRALIZATION DEVICES	2,719	2,719	2,719	2,719
DEFENSE NUCLEAR AGENCY MATERIAL	7,435	7,435	7,435	7,435
SHIPBOARD EXPENDABLE COUNTERMEASURES	18,264	18,264	18,264	18,264
GENERAL REDUCTION		−60,000		
TOTAL, ORDNANCE SUPPORT EQUIPMENT	1,259,820	1,143,335	1,120,969	1,245,355
PASSENGER CARRYING VEHICLES	10,925		10,925	5,000
TRUCKS	38,335		38,335	19,000
TRAILERS	4,811		4,811	2,400
CRUSH, MIX, BATCH, PAVE EQUIPMENT	4,987	4,987	4,987	4,987
DRILLING AND BLASTING EQUIPMENT	3,094	3,094	3,094	3,094
EARTH MOVING EQUIPMENT	11,244	11,244	11,244	11,244
LIGHTING AND POWER GENERATING EQUIP	2,415	2,415	2,415	2,415
MISC CONSTRUCTION AND MAINTENANCE EQUIP	5,957	5,957	5,957	5,957
FIRE FIGHTING EQUIPMENT	4,680	4,680	4,680	4,680
WEIGHT HANDLING EQUIPMENT	13,210	13,210	13,210	13,210
AMPHIBIOUS EQUIPMENT	32,987	32,987	32,987	32,987
AMPHIBIOUS EQUIPMENT (BY TRANSFER)		(13,977)		
COMBAT CONSTRUCTION SUPPORT EQUIPMENT	9,296	9,296	9,296	9,296
MOBILE UTILITIES SUPPORT EQUIPMENT	2,152	2,152	2,152	2,152
COLLATERAL EQUIPMENT	2,284	2,284	2,284	2,284
OCEAN CONSTRUCTION EQUIPMENT	1,318	1,318	1,318	1,318
FLEET MOORINGS	4,460	4,460	4,460	4,460
POLLUTION CONTROL EQUIPMENT	1,932	1,932	1,932	1,932
OTHER CIVIL ENG SUPPORT EQUIPMENT	2,625	2,625	2,625	2,625
FLEET HOSPITALS	110,548	18,748	83,448	80,000
TOTAL, CIVIL ENGINEERING SUPPORT EQUIPMENT	267,260	121,389	240,160	209,041
FORKLIFT TRUCKS	9,518	9,518	9,518	9,518
OTHER MATERIALS HANDLING EQUIPMENT	3,290	3,290	3,290	3,290
AUTOMATED MATERIALS HANDLING SYSTEMS	23,783	13,383	13,383	13,383
OTHER SUPPLY SUPPORT EQUIPMENT	9,023	9,023	9,023	9,023
SPECIAL PURPOSE SUPPLY SYSTEMS	36,609	36,609	36,609	36,609
TOTAL, SUPPLY SUPPORT EQUIPMENT	82,223	71,823	71,823	71,823
PERSONNEL AND COMMAND SUPPORT EQUIPMENT:				
TRAINING DEVICES:				
SURFACE SONAR TRAINERS	33,368	33,368	33,368	33,368
SUBMARINE SONAR TRAINERS	8,546	8,546	8,546	8,546
SURFACE COMBAT SYSTEM TRAINERS	25,487	25,487	25,487	25,487
SUBMARINE COMBAT SYSTEM TRAINERS	30,319	30,319	30,319	30,319
SHIP SYSTEM TRAINERS	16,217	16,217	16,217	16,217
TRAINING SUPPORT EQUIP	12,632	7,532	12,632	10,000
TRAINING DEVICE MODIFICATIONS	3,340	3,340	3,340	3,340
COMMAND SUPPORT EQUIPMENT:				
COMMAND SUPPORT EQUIPMENT	14,540	10,640	14,540	10,640
EDUCATION SUPPORT EQUIPMENT	4,966	4,966	4,966	4,966
MEDICAL SUPPORT EQUIPMENT	25,085	25,085	25,085	25,085
INTELLIGENCE SUPPORT EQUIPMENT	52,823	50,239	50,642	47,558
ITEMS UNDER $900K	1,032	1,032	1,032	1,032
OPERATING FORCES SUPPORT EQUIPMENT	21,331	21,331	21,331	21,331
NAVAL RESERVE SUPPORT EQUIPMENT	4,992		4,992	4,992
OCEANOGRAPHIC SUPPORT EQUIPMENT	25,592	20,200	25,592	25,592
PHYSICAL SECURITY EQUIPMENT	31,087	31,087	31,087	31,087
COMPUTER ACQUISITION PROGRAM: COMPUTER ACQUISITION PROGRAM	221,279	169,079	192,279	192,279
PRODUCTIVITY PROGRAMS:				
PRODUCTIVITY INVESTMENT FUND (PIF)	20,245	20,245	7,245	7,245
PROD ENHANCING INCENTIVE FUND (PEIF)	3,414	3,414	3,414	3,414
TOTAL, PERSONNEL AND COMMAND SUPPORT EQUIPMENT	556,295	482,127	512,114	502,498
SPARES & REPAIR PARTS: SPARES AND REPAIR PARTS	323,892	294,589	293,692	293,692
UNDISTRIBUTED REDUCTION				−45,000
PRIOR YEAR PROGRAM SAVINGS		−19,419		
PRIOR YEAR PROGRAM SAVINGS (BY TRANSFER)		(14,419)		
PRIOR YEAR PROGRAM SAVINGS (BY TRANSFER)		(5,000)		
INFLATION SAVINGS, FY87		−59,600	−40,000	−40,000
PROFIT POLICY CHANGE			−25,200	−36,300
TOTAL, OTHER PROCUREMENT, NAVY	6,538,800	5,492,515	5,988,429	6,033,371

[In thousands of dollars]

	Budget	House	Senate	Conference
TRANSFER FROM OTHER ACCOUNTS		(95,413)		
TOTAL FUNDING AVAILABLE	6,538,800	5,587,928	5,988,429	6,033,371

SEALIFT SUPPORT EQUIPMENT

The conferees agree to $70,277,000 as proposed by the House, of which $45,000,000 is provided specifically for procurement of 350 Seashed Systems. The conferees further agree that the Seashed program should be funded at a level that supports cost efficient production rates supportive of two production sources.

ITEMS LESS THAN $900,000—SHIP SUPPORT EQUIPMENT

The Conferees agree to a reduction of $8,200,000 from this line without prejudice to any single item within the requested program.

NAVAL SPECIAL WARFARE EQUIPMENT

The Navy requested a total of $31,707,000 for naval special warfare equipment which included funds for Seal Delivery Vehicles (SDVs). Because of the extensive shortcomings in the MK-VIII and MK-IX SDVs currently in service and the recent slippage in the programs, the conferees direct that the Navy terminate any further procurement of the MK-VIII and MK-IX SDVs. The conferees also direct that the funds originally intended to procure SDVs ($6,656,000) should instead be available to purchase used commercial dry mini-submarines to assess their performance against the tentative operational requirements for an Advanced Seal Delivery System. The conferees expect the fiscal year 1988 budget request for an Advanced Seal Delivery System to reflect the results of the assessment of dry commercial mini-submarines directed by this report. The conferees consider this account an item of special interest.

AN/SQR-17 ACOUSTIC PROCESSOR

The conferees direct the Navy to reprogram $7,600,000 to support the Navy's plan for improving the reliability of LAMPS MK-1 data link system and ensuring LAMPS MK-1 and MK-III weapon system interoperability for both active and reserve ships.

U.S. NAVAL RESERVE ANTISUBMARINE WARFARE (ASW)

FRIGATE MODERNIZATION PROGRAM

The conferees agree to provide $16,929,000 for the Naval Reserve ASW frigate modernization program provided that these funds are to be used solely to procure 20 AN/SQR-17A acoustic processors. Any changes to the current AN/SQR-17A procurement strategy must be approved by the conferees.

AUTOMATIC CARRIER LANDING SYSTEMS

The conferees agree to $23,092,000 for Automatic Carrier Landing Systems. Recognizing the need to support the current fleet systems, $7,092,000 will be available for the SPN-42 DART Upgrade program. For the replacement SPN-46 system, $10,000,000 is for the SPN-46 Maintenance Trainer, and $6,000,000 is for one production SPN-46 unit. The funds for the one production unit will not be available until after the Navy has notified the House and Senate Committees on Appropriations on the successful completion of system testing and of the Navy production decision.

SONOBUOY PROCUREMENT

The conferees agree with House report language directing the Navy to submit a justification for its proposed sonobuoy procurement strategy before obligating any fiscal year 1987 procurement funds. The conferees recognize that initial production items from a new contractor will have higher unit costs than items procured from a qualified contractor who has been in production for several years. This can be addressed as a separate issue from the higher unit costs resulting from award of uneconomic procurement quantities to too many contractors.

SQQ-89 ON-BOARD TRAINER

The conferees agreed to provide $37,014,000 for the MK-116 Fire Control System which includes funds for 19 SQQ-89 on-board trainers. The conferees direct that one SQQ-89 on-board trainer be awarded to a second source. The conferees believe that establishing a second source will provide future cost savings for the Navy while, at the same time, provide an additional base for the planned competition of the SQQ-89 anti-submarine warfare combat system.

MK-92 CORT

The conferees agree to provide $116,000,000 for six MK-92 CORT Upgrade Modifications for fiscal year 1987. The conferees direct the Navy to report on the procurement strategy for the $116,000,000 provided for fiscal year 1987 no later than November 15, 1986.

COMPUTER ACQUISITION PROGRAM

The conferees agree to provide $192,279,000 for the Navy's computer acquisition program. A general reduction of $29,000,000 has been made without prejudice to any individual program.

AMPHIBIOUS EQUIPMENT

The conferees agree that the Navy report on the P-1 series pontoon directed by the Senate report is no longer necessary, and agree to $48,100,000 from within available funds for the Navy to maintain the industrial base for production of logistics-over-the-shore items. Procurement of these steel pontoons will follow approval of the sources of funds by the Committees on Appropriations. Due to delays in the availability of lighterage for these systems, the Navy will negotiate storage rights for these items at the manufacturers facilities at no cost to the government until the Navy can accept delivery.

OTHER PROCUREMENT, NAVY GENERAL REDUCTION

The conferees agree that the Navy has been budgeting program levels under this appropriation, which it has been unable to execute according to its own plans. The conferees further agree to a general reduction of $20,000,000 for Other Procurement, Navy for this reason, and direct the Navy to base future budget requests on more realistic projections of its ability to administer programs.

COASTAL DEFENSE AUGMENTATION

The conferees agree to provide $200,000,000 for Coastal Defense Augmentation as proposed by the Senate instead of no funding as proposed by the House. Consistent with the direction in the Senate report, the Coast Guard shall work with the Navy to determine what equipment shall be purchased with these funds. The Navy shall continue to be responsible for the contracting and execution management of these purchases. The conferees also agree that the Coast Guard should consider using a portion of these funds to procure AN/SQR-17 acoustic processors for antisubmarine warfare mission of the medium endurance cutters.

PROCUREMENT, MARINE CORPS

The conferees agree to the following amounts for Procurement, Marine Corps:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT, MARINE CORPS				
LINEAR CHARGES:				
SMALL ARMS AMMO:				
CTG 5.56MM BALL M855	14,745	14,745	14,745	14,745
CTG 9MM BALL M882	3,794	3,794	3,794	3,794
MACHINE GUN AMMO:				
CTG 5.56MM LINKED (SAW)	2,148	2,148	2,148	2,148
CTG CAL 50 LINKED	3,458	3,458	3,458	3,458
CTG 25MM APDS-T M791	1,738	1,738	1,738	1,738
CTG 25MM HEI-T M792	2,526	2,526	2,526	2,526
CTG 40MM LINKED M430	18,134	18,134	18,134	18,134
CTG 7.62MM LINKED M80	4,000	4,000	4,000	4,000
MORTAR AMMO:				
CTG 60MM HE M888	3,603	3,603	3,603	3,603
CTG 60MM SMOKE WP M302 A1	7,520	7,520	7,520	7,520
CTG 81MM HE M821	41,400	41,400	41,400	41,400
CTG 81MM HE M889	91,767	53,084	68,367	53,084

[In thousands of dollars]

	Budget	House	Senate	Conference
CTG 81MM SMK M819	15,262	15,262	15,262	15,262
CTG 81MM ILLUM M853	57,223	57,223	57,223	57,223
GRENADES:				
GRENADE SMOKE SCREEN (IR)	3,991	3,991	3,991	3,991
GRENADE SMOKE SCREEN (RP)	3,000	3,000	3,000	3,000
SIGNAL ILLUM WSP	1,320	1,320	1,320	1,320
ROCKETS:				
ROCKET 83MM (SMAW)	26,245	26,245	26,245	26,245
ROCKET 5 INCH MOTOR	3,995	3,995	3,995	3,995
LIGHT ANTI ARMOR WEAPON AT-4	11,040	11,040	11,040	11,040
TRAINING AMMO:				
CTG 40MM TP	1,611	1,611	1,611	1,611
CTG 81MM TP XM879	4,770	4,770	4,770	4,770
LINE CHARGE PRAC (TRLR)	3,184	3,184	3,184	3,184
CTG 25MM TP-T M793	3,653	3,653	3,653	3,653
ROCKET 83MM PRACTICE	11,035	11,035	11,035	11,035
CTG 5.56MM BLANK LKD (SAW)	1,078	1,078	1,078	1,078
CTG 5.56MM BLANK M200	3,427	3,427	3,427	3,427
CTG 7.62MM BLANK LINKED	2,359	2,359	2,359	2,359
155MM AMMO:				
CHG PROP RB M203A1	19,900	19,900	19,900	19,900
PROJ 155MM ADAM-L M692	38,798	38,798	38,798	38,798
PROJ 155MM ADAM-S M731	40,995	7,893	40,995	17,100
PROJ 155MM RAAMS-L M718	16,999			
PROJ 155MM RAAMS-S M741	21,997			
PROJ 155MM HE ICM (DP)M483	48,023	24,223	48,023	24,223
CHARGE PROP 155MM WHITE BAG M4A2	15,336	15,336	15,336	15,336
155MM PROJ COPPERHEAD	37,831	37,831	37,831	37,831
8 INCH AMMO, ALL TYPES			14,700	14,700
FUZES:				
FUZE MECHANICAL TIME (MT)	4,896	4,896	4,896	4,896
POINT DETONATING (PD)	7,997	7,997	7,997	7,997
AMMO MODERNIZATION	4,194	4,194	4,194	4,194
OTHER SUPPORT				
ITEMS LESS THAN $900K	3,331	3,331	3,331	3,331
GENERAL INCREASE, AMMUNITION		140,000		105,000
TOTAL AMMUNITION	608,323	581,944	563,527	580,951
TRACKED COMBAT VEHICLES:				
AAV7A1 PIP	14,268	14,268	14,268	14,268
MODIFICATION KITS (TRKD VEH)	1,005	1,005	1,005	1,005
BRIDGE, ARMORED VEH LAUNCHED	4,480	4,480	4,480	4,480
ARTILLERY AND OTHER WEAPONS:				
POS AZIMUTH DETERM SYS (PADS)	5,633		5,633	5,633
M198 155MM HOWITZER	44,954	44,954	44,954	44,954
ITEMS LESS THAN $900K (ATL-OTH)	1,295	1,295	1,295	1,295
WEAPONS:				
9MM HANDGUN	5,432	4,532	5,432	4,532
MACHINE GUN, AUTO SAW 5.56MM	3,440	2,740	3,440	2,740
M-16 5.56MM RIFLE	7,865	7,865	7,865	7,865
MK-19 40MM MACHINE GUN	1,912	1,012	1,912	1,012
MORTAR, MED. EXTENDED RANGE	7,467	5,267	7,467	7,467
TOTAL, WEAPONS AND COMBAT VEHICLES	97,751	87,418	97,751	95,251
GUIDED MISSILES:				
HAWK	115,372	115,372	111,572	111,572
HAWK MOD	24,269	24,269	24,269	24,269
STINGER	69,284	69,284	69,284	69,284
TOW	33,524	32,324	26,700	26,700
OTHER SUPPORT: MODIFICATION KITS	744	744	744	744
TOTAL, GUIDED MISSILES AND EQUIPMENT	243,193	241,993	232,569	232,569
MANPACK RADIOS: MANPACK RADIOS AND EQUIP	2,662	2,662	2,662	2,662
VEHICLE MOUNTED RADIOS AND EQUIPMENT: VEHICLE MTD RADIOS & EQUIPMENT	1,482	1,482		
TELEPHONE AND TELETYPE EQUIPMENT:				
UNIT LEVEL CIRCUIT SWITCH (ULCS)	74,199	74,199	74,199	74,199
ULCS LIFE CYCLE SUPPORT	8,035	8,035	8,035	8,035
TACT COMM CENTER EQUIP	199	199	199	199
AN-PSG () DIGITAL COMM TERMINAL	15,174	15,174	7,574	7,574
REPAIR AND TEST EQUIPMENT:				
AUTO TEST EQUIP SYS	6,145	6,145	6,145	6145
CALIBRATION FACILITY ELECTRONIC	9,830	9,830	9,830	9,830
MAINTENANCE COMPLEX, ELECTRONIC	10,599	10,599	10,599	10,599
ELECTRONIC TEST EQUIP (TEL)	2,706	2,706	2,706	2,706
OTHER COMM/ELEC EQUIPMENT: ANDVT/TACTERM	2,681	2,681	2,681	2,681
OTHER SUPPORT (TEL):				
TEST CALIB + MAINT SPT	1,638	1,638	1,638	1,638
MODIFICATION KITS (TEL)	3,690	3,690	3,690	3,690
ITEMS LESS THAN $900K (TEL)	811	811	811	811
COMMAND + CONTROL SYSTEMS (NON-(TEL):				
TACTICAL AIR OPER MODULE (TAOM)	50,458	50,458	50,458	50,458
AN/UYQ 4 SEMI AUTO, DIRECT AIR SUPPORT CENTRAL	6,310	6,310	6,310	6,310
RADAR + EQUIPMENT (NON-TEL):				
INTELL/COMM EQUIPMENT (NON-TEL): MOBILE EW SUP SYS (MEWSS)	15,367	15,367	15,367	15,367
REPAIR + TEST EQUIPMENT (NON-TEL):				
ELECTRONIC TDME REPAIR FACILITY	4,684	4,684	4,684	4,684
STE/ICE SIMPL TEST EQ	1,296	1,296	1,296	1,296
MECH TEST TMDE	2,446	2,446	2,446	2,446
ELECTRONIC TEST EQUIP (NONTEL)	3,344	3,344	3,344	3,344
OTHER COMM/ELEC EQUIPMENT (NON-TEL):				
NIGHT VISION EQUIPMENT	1,927	1,927	1,927	1,927
ADP EQUIPMENT	46,125	46,125	46,125	46,125
OTHER SUPPORT (NON-TEL):				
TEST CALIB & MAINT SPT (NON-TEL)	1,638	1,638	1,638	1,638
MODIFICATION KITS (NONTEL)	4,445	4,445	4,445	4,445
ITEMS LESS THAN $900K (NONTEL)	970	970	970	970
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	278,861	278,861	269,779	269,779
ADINISTRATIVE VEHICLES:				
COMMERCIAL PASSENGER VEHICLES	2,278		2,278	1,200
COMMERCIAL CARGO VEHICLES	3,814		3,814	1,900

[In thousands of dollars]

	Budget	House	Senate	Conference
TACTICAL VEHICLES:				
5/4T TRUCK HMMWV	18,760	18,760	18,760	18,760
5 TON RETROFIT	5,230	5,230	5,230	5,230
LOGISTICS VEHICLE SYSTEM	103,994	71,394	103,994	103,994
TRAILERS, ALL TYPES	7,656	5,356	7,656	7,656
TRAILERS, ALL TYPES (BY TRANSFER)		(2,300)		
LUBE AND SERVICE UNIT 15CFM	755	755	755	755
OTHER SUPPORT:				
MODIFICATION KITS	3,194	3,194	3,194	3,194
ITEMS LESS THAN $900K	388	388	388	388
TOTAL, SUPPORT VEHICLES	146,069	105,077	146,069	143,077
ENGINEER AND OTHER EQUIPMENT:				
ENGINEER EQUIPMENT:				
ENVIRONMENTAL CONTROL EQ ASSORT	1,445	1,445	1,445	1,445
HEAVY RT CRANE	26,027	26,027	26,027	26,027
GRADER ROAD MOTORIZED	4,407	4,407	4,407	4,407
TRACTORS, ALL TYPES	30,090	30,090	30,090	30,090
FORKLIFTS, ALL TYPES	6,879	6,879	6,879	6,879
LAUNDRY UNIT SKID MTD	2,744	2,744	2,744	2,744
FIELD BATH SHOWER UNIT	2,431	2,431	2,431	2,431
REFRIGERATION UNIT	684	684	684	684
REV OSMOSIS/WATER PUR 600 GL	4,184	4,184		4,184
FIELD WIRING HARNESS	5,375	5,375	5,375	5,375
FUEL & WATER PUMP & STORAGE MODULE	4,880	4,880	4,880	4,880
SURVEY EQUIP F/CONST USE	924	924	924	924
WET GAP BRIDGE SYSTEM	6,190	6,190	6,190	6,190
BOAT BRIDGE	1,698	1,698	1,698	1,698
POWER EQUIPMENT ASSORTED	5,999	5,999	5,999	5,999
MOB ELECT POWER DIST SYS (MEPDIS)	2,976	2,976	2,976	2,976
MATERIALS HANDLING EQUIPMENT:				
COMMAND SUPPORT EQUIPMENT	10,506	10,506	10,506	10,506
GARRISON MOBILE ENGR EQUIP	3,975	3,975	3,975	3,975
TELEPHONE SYSTEM	5,226	5,226	5,226	5,226
AUTO MAT HANDLING EQUIP	1,035	1,035	1,035	1,035
HQMC ITEMS	1,307	1,307	1,307	1,307
MATERIEL HANDLING EQUIP	2,309	2,309	2,309	2,309
GENERAL PROPERTY:				
TRN DEVICES (AUDIO VISUAL)	1,761	1,761	1,761	1,761
TRN DEVICES (SIMULATORS)	5,615	5,615	5,615	5,615
SHELTER FAMILY	7,154	7,154	7,154	7,154
CONTAINER FAMILY	15,163	15,163		
DECON APPARATUS PWR DRIVEN	321	321	321	321
SANITATION EQUIPMENT KITCHEN	1,252	1,252		
OTHER SUPPORT				
MODIFICATION KITS	354	354	354	354
ITEMS LESS THAN $900K	3,218	3,218	3,218	3,218
TOTAL, ENGINEER AND OTHER EQUIPMENT	166,129	166,129	145,530	149,714
SPARES & REPAIR PARTS:				
SPARES & REPAIR PARTS	14,151	14,151	14,151	14,151
REPLENISHMENT SPARES	10,523	10,523	10,523	10,523
TOTAL, SPARES AND REPAIR PARTS	24,674	24,674	24,674	24,674
PY PROGRAM SAVINGS		−24,200		
PY PROGRAM SAVINGS (BY TRANSFER)		(24,200)		
INFLATION SAVINGS, FY87		−17,000	−22,000	−22,000
PROFIT POLICY CHANGE			−6,300	−8,800
TOTAL, PROCUREMENT, MARINE CORPS	1,565,000	1,444,896	1,541,599	1,465,215
TRANSFER FROM OTHER ACCOUNTS		(26,500)		
TOTAL FUNDING AVAILABLE	1,565,000	1,471,396	1,451,599	1,465,215

AIRCRAFT PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Aircraft Procurement, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, AIR FORCE				
STRATEGIC OFFENSIVE:				
TACTICAL FORCES:				
AIR DEFENSE COMPETITION	296,300	296,300		296,300
AIR DEFENSE COMPETITION (AP-CY)	114,600	114,600		114,600
F-15 D/E	1,675,400	1,393,800	1,600,000	1,543,000
F-15 D/E (AP-CY)	218,900	152,200	185,550	142,000
F-16 C/D (MYP)	2,881,900	2,256,300	2,307,900	2,307,900
F-16 C/D (MYP) (AP-CY)	612,000	462,600	486,000	462,600
OTHER COMBAT AIRCRAFT:				
KC-10A (ATCA) (MYP)	104,400	89,000	89,000	89,000
AC-130H GUNSHIP (AP-CY)	18,200			
MC-130H	229,700	229,700	229,700	229,700
MC-130H (AP-CY)	15,100	15,100	15,100	15,100
TOTAL, COMBAT AIRCRAFT	6,166,500	5,009,600	4,913,250	5,200,200
STRATEGIC AIRLIFT: C-5B	1,937,378	1,919,278	1,919,278	1,919,278

[In thousands of dollars]

	Budget	House	Senate	Conference
TACTICAL AIRLIFT:				
C–17	182,300	145,300		15,000
C–17 (AP–CY)	351,000	35,000		35,000
OTHER AIRLIFT: VC–X	34,500			
TOTAL, AIRLIFT AIRCRAFT	2,189,178	2,099,578	1,919,278	1,969,278
UPT TRAINERS:				
T–46A (NGT)		124,000		124,000
T–46A (NGT) (AF–CY)		27,000		27,000
TOTAL, TRAINER AIRCRAFT		151,000		151,000
HELICOPTERS:				
MISSION SUPPORT AIRCRAFT:				
CIVIL AIR PATROL A/C	1,600	1,600	1,600	1,600
TR–1/U–2	94,549	89,549	94,549	89,549
TOTAL, OTHER AIRCRAFT	96,149	91,149	96,149	91,149
STRATEGIC AIRCRAFT:				
B–52	413,400	397,200	254,800	397,200
FB–111	3,300	3,300	3,300	3,300
B–1B	96,400	96,400	96,400	90,000
TACTICAL AIRCRAFT:				
A–7	14,100	14,100	14,100	14,100
A–10	52,600	52,600	69,600	69,600
F/RF–4	119,400	119,400	139,400	139,400
F–5	5,500	5,500	5,500	5,500
F–15	269,000	103,300	269,000	269,000
F–15 (BY TRANSFER)		(78,700		
F–16	87,700	87,700	87,700	87,700
F–111	273,200	271,900	273,200	271,900
TR–1A	9,300	9,300	9,300	9,300
AIRLIFT AIRCRAFT:				
C–5	46,800	46,800	46,800	46,800
C–9	200	200	200	200
C–137	200	200	200	200
C–141	10,900	10,900	10,900	10,900
TRAINER AIRCRAFT:				
T–38	39,500	39,500	39,500	39,500
T–43	400	400	400	400
OTHER AIRCRAFT:				
KC–10A (ATCA	6,700	6,700	6,700	6,700
C–130	212,900	186,500	212,900	186,500
C–135	1,077,400	1,048,200	990,400	990,400
E–3	33,500	33,500	33,500	33,500
E–4	16,000	16,000	5,000	5,000
H–1	11,200	11,200	11,200	11,200
H–3 AIRCRAFT SYSTEM	1,500	21,500	1,500	1,500
HH–53 AIRCRAFT	55,300	268,300	55,300	161,800
OTHER AIRCRAFT	153,300	153,300	153,300	153,300
OTHER MODIFICATIONS:				
CLASSIFIED PROJECTS	91,611	81,611	91,611	91,611
GROUND PROXIMITY WARNING SYS		7,600		7,600
CIVIL RESERVE AIRLIFT FLEET (CRAF): UNDISTRIBUTED MODS		7,300		
TOTAL, MODIFICATION OF INSERVICE AIRCRAFT	3,101,311	3,085,811	2,881,711	3,104,111
AIRCRAFT SPARES AND REPAIR PARTS: SPARES AND REPAIR PARTS	3,477,903	2,767,803	3,314,003	3,036,803
COMMON GROUND EQUIPMENT	321,370	262,670	321,370	300,000
INDUSTRIAL RESPONSIVENESS	38,400	38,400	38,400	38,400
WAR CONSUMABLES	51,100	46,100	51,100	51,100
OTHER PRODUCTION CHARGES	3,685,489	3,322,040	3,562,689	3,508,740
OTHER PRODUCTION CHARGES (BY TRANSFER)		(40,300)		
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIE	4,096,359	3,669,210	3,973,559	3,898,240
PY PROGRAM SAVINGS		487,300		
PY PROGRAM SAVINGS (BY TRANSFER)		(487,300)		
INFLATION SAVINGS, FY 87		−184,600	−212,200	−212,200
PROFIT POLICY CHANGE			−70,700	−107,300
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	19,127,400	16,202,251	16,815,050	17,131,281
TRANSFER FROM OTHER ACCOUNTS		(606,300)		
TOTAL FUNDING AVAILABLE	19,127,400	16,808,551	16,815,050	17,131,281

AIR DEFENSE COMPETITION

The conferees agree to fully fund the budget request for the Air Defense Competition. It has been authorized and funded by Congress in the face of stringent reductions required by Gramm-Rudman-Hollings and is intended to inject real and effective competition into Air Force fighter procurement. The Air Force must demonstrate that the ongoing competition between the F–16 and F–20 has been serious and fair, and considers the relative going-in positions of the two contenders. Although the flyaway cost of the aircraft should be given due Consideration, the life cycle cost to support the aircraft, including possible reduced manpower requirements, should be an important factor. The conferees expect that the Air Force will submit a full accounting to Congress upon completion of the competition providing the rationale for its aircraft selection.

T–46A AIRCRAFT

The conferees agree that the T–46A production program should continue and have provided $124,000,000 for procurement of 12 aircraft, $27,000,000 for advance procurement of 44 aircraft in fiscal year 1988, and $8,400,000 for initial spares and repair parts. Due to the unusual protracted delay in the T–46A production program, the conferees believe that it would be in the best interest of the Government to reform the existing contract. The conferees direct the Secretary of the Air Force to negotiate a reformed contract, within the current and prior year funds appropriated by Congress for T–46A production, that achieves an efficient production rate and demonstrates an acceptable program acquisition unit cost. Bill language has been included to accomplish these objectives.

In order to provide maximum flexibility to the Air Force when conducting new contract negotiations, the conferees decided against a legislative requirements to be on-contract by a certain date. However, it should be clearly understood that the Appropriations Committees expect the Air Force to conduct and conclude T–46A contract negotiations as soon as possible, but not later than June 1, 1987.

The conferees also agree to provide mandatory cost caps for the T–46A production

program. Congress expects that the Air Force and its contractors will complete the T-46A program at or below the Air Force's original program cost estimated in constant fiscal year 1986 dollars, in spite of the unfortunate program interruption that has occurred. The bill language directs the Air Force to recompete the T-46A production contracts in fiscal year 1989 if these cost objectives are not met, based on actual contractor performance under the reformed contract. The conferees further expect that the Air Force will budget for continued T-46A production in fiscal year 1988 and subsequent fiscal years as long as contractor performance is satisfactory. The Air Force should report to the Committee on Appropriations and Armed Services its revised T-46A acquisition strategy and the results of contract negotiations no later than July 1, 1987.

Finally, since the conferees have agreed to fund the T-46 program, the conferees believe it would be in the best interest of the Air Force to reprogram funding for the T-46 flight training simulator program and reinstate the original competitively awarded simulator contract.

C-5B AIRCRAFT

The conferees are aware that there may be savings in the C-5B production program due either to possible defective pricing or due to renegotiation of the final production lot. Any such savings in any fiscal year are not available for use by the Air Force unless approved in advance by the Committee on Appropriations.

C-17 AIRCRAFT

The conferees agree that C-17 tooling costs in fiscal year 1987 are more properly financed in the Research, Development, Test and Evaluation appropriation rather than in procurement. Production tooling for the C-17 in future years will follow the agreed-on tooling policy discussed elsewhere in this report. The conferees agree to provide $650,000,000 to RDT&E (including tooling), $15,000,000 in the procurement line for production planning, and $35,000,000 for advance procurement.

The conferees are pleased that the Air Force has decided to conduct a competition for the production of C-17 wings. The Air Force should report the results of the competition and the Comptroller General should provide his independent assessment of the competition to the Committees on Appropriations as required by the House report.

HH-60 HELICOPTER

The Senate includes language directing the Air Force to use $25,000,000 of funds previously provided for the HH-60 program to procure three UH-60A helicopters. The conferees note that sufficient funds to procure nine UH-60A helicopters remain in the HH-60 program. The conferees agree with the Senate that the Air Force needs to expand its combat rescue helicopter capability and therefore direct the Air Force to use the funds appropriated for the HH-60 to procure 9 UH-60A helicopters.

SPARES AND REPAIR PARTS

The Conferees agree to provide $3,036,803,000 for procurement of aircraft spares and repair parts. The following adjustments were made.

[Dollars in millions]

F-15	−$16.7
F-16	−64.0
VC-X	−39.9
T-46	+8.4
PLSS	−28.9
ASPJ	−35.8
B-1B WRSK kits	−192.7
Electronic warfare	−71.5
Total	−441.1

B-1B MODIFICATIONS

The conferees agree that the cost of B-1B retrofit modifications intended to provide a standard configuration to the 100 aircraft fleet are part of the $20,500,000,000 baseline cost of the B-1B bomber program in constant fiscal year 1981 dollars. The conferees also agree to provide $90,000,000, which is the assumed authorization level.

B-52 MODIFICATIONS

The Senate reduced funding for B-52 modifications by $158,600,000 while the House reduced this program by $16,200,000. The conferees agree with the House funding level. However, the conferees are concerned with use of prior year B-52 modification funds for other purposes and have rescinded prior year B-52 funds to demonstrate the disapproval of large scale internal reprogramming from the B-52 modifications program. Further, the conferees direct that future savings in any fiscal year in any B-52 modification are not available for any other use without prior advance approval from the Committees on Appropriations. In addition, the Air Force is advised to clearly show engineering change or allowances in all modification programs in future budgets to the Congress.

F-4D MODIFICATIONS

The conferees agree to provide $50,000,000 in aircraft procurement and research and development for F-4D modifications as recommended by the Senate.

OTHER PRODUCTION CHARGES

The conferees agree to provide $3,508,740,000 for other Production Charges. The conferees also agree to the House language requiring establishment of separate P-1 lines for common electronic warfare equipment in future budgets submitted to Congress. In addition, any savings resulting from the LANTIRN economic price adjustment contract clause in any fiscal year are not available for use by the Air Force unless approved in advance by the Committees on Appropriations. The following adjustments were made:

[Dollars in thousands]

PLSS	−$52,800
ALQ-131	−10,000
ALQ-184	−6,000
Self Protection Suite	−143,800
Airborne recorders	−600
Classified programs	+36,451
Total	−176,749

PRIOR YEAR SAVINGS

The conferees agree to the following prior year savings, which are to be rescinded:

[Dollars in millions]

	Fiscal years—	
	1985	1986
F-15	3.7	16.7
F-16	23.9	71.4
F-16 Adv. Proc.	43.1	0
C-5B	181.8	4.1
KC-10	10.0	3.0
B-52 Modifications	61.2	0
CRAF Modifications	0	7.3
C-131	0	12.0
PLSS	35.3	56.4
USM-464 test sets	32.9	0
Self Protection Suite	0	40.3
Inflation	121.4	408.3
Total	513.3	619.5

TECHNICAL DATA

The conferees chose to exclude the House bill language concerning technical data in Air Force aircraft production contracts this year. The issue will be addressed in hearings by the Appropriations Committees next year. A determination will then be made whether a legislative requirement to ensure that Air Force contracts for major aircraft systems and subsystems include adequate levels of technical data is necessary.

MISSILE PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Missile Procurement, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, AIR FORCE				
STRATEGIC: PEACEKEEPER (M-X)	1,418,131	1,114,731	1,368,131	1,114,731
MISSILE REPLACEMENT EQUIPMENT—BALLISTIC: MISSILE REPLACEMENT EQ-BALLISTIC	69,696	69,696	69,696	69,696
TOTAL, BALLISTIC MISSILES	1,487,827	1,184,427	1,437,827	1,184,427
STRATEGIC: AIR LAUNCH CRUISE MISSILE	12,407	12,407	12,407	12,407
TACTICAL:				
AIM-7F/M SPARROW	64,887	61,687	57,540	57,540
AIM-9L/M SIDEWINDER	95,636	93,836	36,436	41,200
AGM-130 POWERED GBU-15	26,577		15,477	15,477
AGM-65D MAVERICK	580,984	75,684	410,484	381,484
AGM-88A HARM	493,382	362,482	374,382	374,382
RAPIER	6,400	6,400	6,400	6,400
AMRAAM	656,628	537,328	486,028	537,328
AMRAAM (AP-CY)	89,900	44,900	73,100	59,200
GRD LAUNCH CRUISE MISSILE	128,600	115,700	115,700	115,700

	Budget	House	Senate	Conference
GRD LAUNCH CRUISE MISSILE (AP-CY)	4,600	4,600	4,600	4,600
STINGER	1,709	1,709	1,709	1,709
TARGET DRONES: TARGET DRONES	19,637	19,637	19,637	19,637
INDUSTRIES FACILITIES: INDUSTRIES FACILITIES	14,458	14,458	14,458	14,458
MISSILE REPLACEMENT EQUIPMENT—OTHER: MISSILE REPLACEMENT EQ—OTHER	17,205	15,805	17,205	16,500
CLASSIFIED PROGRAMS	841,573	279,773	821,573	724,900
TOTAL, OTHER MISSILES	3,054,583	1,646,406	2,467,136	2,382,922
MODIFICATION OF INSERVICE MISSILES:				
CLASS IV:				
CLASS IV	4,367	4,367	4,367	4,367
LGM-30F/G MINUTEMAN II/III	105,589	100,389	93,189	100,389
AGM-88A HARM	2,859	2,859	2,859	2,859
AIR LAUNCH CRUISE MISSILE	16,560	16,560	16,560	16,560
GRD LAUNCH CRUISE MISSILE	15,294	15,294	15,294	15,294
MODIFICATIONS UNDER $2.0M	1,858	1,858	1,858	1,858
TOTAL, MODIFICATION OF INSERVICE MISSILES	146,527	141,327	134,127	141,327
MISSILES SPARES + REPAIR PARTS: SPARES AND REPAIR PARTS	334,166	266,066	324,166	300,000
SPACE PROGRAMS:				
SPACEBORNE EQUIP (COMSEC)	61,899	61,899	61,899	56,899
GLOBAL POSITIONING (MYP)	129,655	126,000	125,100	125,100
SPACE SHUTTLE OPERATIONS	59,062	59,062	29,100	29,100
DEF METEOROLOGICAL SAT PROG (MYP)	19,427	8,227	19,427	19,427
DMSP (MYP) (BY TRANSFER)		(11,200)		
DEFENSE SUPPORT PROGRAM (MYP)	108,515	108,515	36,315	63,615
DEFENSE SUPPORT PROGRAM (MYP) (AP-CY)	250,000	134,400	250,000	222,700
DEFENSE SATELLITE COMM SYSTEM (MYP)	117,131	109,931	107,131	107,131
DEFENSE SATELLITE COMM SYSTEM (MYP) (AP-CY)	5,540	5,540	5,540	5,540
SPACE BOOSTERS	52,747	52,747	52,747	27,700
SPACE BOOSTERS (AP-CY)	230,000	230,000	155,000	180,000
SPACE DEFENSE SYSTEM (AP-CY)	28,481		19,400	
SPECIAL PROGRAMS:				
OTHER PROGRAMS	45,311	45,311	45,311	45,311
FOREST GREEN	2,061	2,061	2,061	2,061
IONDS (MYP)	24,854	24,854	24,854	24,854
SPECIAL PROGRAMS	1,851,958	1,748,258	1,606,658	1,767,258
SPECIAL UPDATE PROGRAMS	972,646	917,346	972,646	928,346
SPECIAL UPDATE PROGRAMS (BY TRANSFER)		(44,900)		
TOTAL, OTHER SUPPORT	3,959,297	3,634,151	3,513,189	3,605,042
PY PROGRAM SAVINGS		−61,800		
PY PROGRAM SAVINGS (BY TRANSFER)		(61,800)		
INFLATION SAVINGS, FY87		−84,800	−122,000	−122,000
PROFIT POLICY CHANGE			−32,200	−45,000
TOTAL, MISSILE PROCUREMENT, AIR FORCE	8,982,400	6,725,777	7,722,245	7,446,718
TRANSFER FROM OTHER ACCOUNTS		(117,900)		
TOTAL FUNDING AVAILABLE	8,982,400	6,843,677	7,722,245	7,446,718

AIM-9 SIDEWINDER MISSILE

The conferees agree to provide $41,200,000 rather than the $93,836,000 proposed by the House and $36,436,000 by the Senate.

The combined Navy and Air Force allowances reduce the fiscal year 1987 program to a level that will support one rather than two contractors. The conferees note that **the Department's future procurement plans will support only one producer. The conferees expect that the Department will competitively award a 5 year multiyear contract starting in 1987. The purpose of this multiyear contract is to insure the existence of a warm production base until a follow-on missile, or a product improvement to the current AIM-9 missle, are ready for production.**

HARM BLOCK IV UPGRADE AND THE HARM LOW COST SEEKER

The conferees agreed to directives concerning future production of HARM which are applicable to both the Air Force and the Navy. Those directives are stated in the Weapons Procurement, Navy section of this report.

AMRAAM

AMRAAM ADVANCE PROCUREMENT

The conferees agree to provide $537,328,000 for procurement of 180 AMRAAMs, and $59,200,000 for advance procurement to support a fiscal year 1988 buy of not more than 630 missiles.

The House bill contained language which restricted obligation and expenditure of AMRAAM procurement funds. The conferees agree to modify that restriction, as follows: No funds may be obligated or expended for Lot I low-rate production of the AMRAAM until the missile has demonstrated, in flight test, the capability to successfully engage a minimum of two targets with two missiles on the same intercept in an electronic countermeasure environment after the missiles have been launched. This restriction does not apply to long-lead procurement. For purposes of this provision, a successful engagement requires the missile to resolve and establish independent terminal tracking against at least two targets on the same intercept under ECM conditions. Language has been included in the bill which embodies this restriction.

NAVSTAR GPS

The conferees agree with the Senate's direction that the Air Force should report to the Committees on Appropriations of the Senate and House on options for and the Department's plan for realigning the current GPS multiyear production contract to minimize storage costs due to delays in scheduled launches. The conferees agree that no more than $61 million may be obligated before receipt of this report. These funds are needed in early October for continuation of the multiyear contract. In addition, any savings resulting under the economic price adjustment contract clause in any fiscal year are not available for use by the Air Force unless approved in advance by the Committees on Appropriations.

DEFENSE METEOROLOGICAL SATELLITE PROGRAM

The conferees understand that the Air Force has identified a need for prior year funds to convert DMSP satellites from Atlas E to Titan II launch vehicles. The conferees direct the Secretary of the Air Force to submit a reprogramming request to the Committees on Appropriations to accomplish this objective by February 1, 1987.

DEFENSE SUPPORT PROGRAM (DSP)

The conferees agree to provide $63,615,000 to continue the Defense Support Program in 1987 rather than the $108,515,000 proposed by the House or the $36,315,000 proposed by the Senate.

The conferees agree to provide $222,700,000 in advance procurement for a 4 or 5 year multiyear procurement of 5 satellites rather than the $250,000,000 proposed by the Senate or $134,400,000 proposed by the House. The Committees will consider a reprogramming request if necessary. The conferees direct the Air Force to enter into no more than a 5 year multiyear contract which aligns production with projected launch dates as much as possible within the advance procurement funds provided. The conferees request the Air Force to report to the Committees on Appropriations of the Senate and House the specific production and launch profiles along with negotiated savings over annual production.

The conferees agree to the inclusion of enabling multiyear procurement bill language as proposed by the Senate.

SPACE BOOSTERS

The conferees agree of provide $27,700,000 for space booster procurement and $180,000,000 for advance procurement for the Titan IV multiyear contract. The conferees direct the Air Force to budget for the costs of the new medium expendable launch

vehicles in separate P-1 line items in future budget requests to Congress. In addition, the conferees expect that the Air Force will notify the Committees on Appropriations using a reprogramming request prior to obligating prior year funds provided by the fiscal year 1986 supplemental appropriation Act for the Space Recovery Program. The Air Force should allocate such prior year funds between the space boosters and medium expandable launch vehicles procurement and advance procurement line items, as needed. The conferees also agree to the House requirement that the CELV contract include a priced option to hold at least 4 vehicles in reserve.

Other Procurment, Air Force

The conferees agree to the following amounts for Other Procurment, Air Force:

[In thousand of dollars]

	Budget	House	Senate	Conference
OTHER PROCUREMENT, AIR FORCE:				
MUNITIONS AND ASSOCIATED EQUIPMENT:				
ROCKETS + LAUNCHERS:				
2.75 INCH ROCKET MOTOR	23,684	21,884	23,684	23,684
2.75" ROCKET HEAD, W.P.	8,314	1,014	8,314	8,314
ITEMS LESS THAN $2,000,000	5,704	4,404	5,704	4,404
CARTRIDGES (THOUSANDS):				
9MM PARABELLUM	1,650	1,650	1,650	1,650
7.62 MM BLANK LINKED	420	420	420	420
5.56 MM	8,264	4,364	8,264	6,000
20 MM COMBAT	11,898	8,198	11,898	8,198
20MM TRAINING	22,291	21,291	22,291	21,291
30 MM TRAINING	59,086	41,786	59,086	54,186
30 MM API	40,000	31,700	40,000	31,700
81 MM	209,031	1,031	1,031	1,031
40MM TP GRENADES	713	713	713	713
CART CHAFF RR-170	19,627	19,627	19,627	19,627
SIGNAL MK-4 MOD 3	1,454	1,454	1,454	1,454
MXU-4A/A ENGINE STARTER	8,341	2,541	8,341	5,000
CART IMP 3000 FR/LBS	3,743	3,743	3,743	3,743
ITEMS LESS THAN $2,000,000	12,428	8,528	12,428	8,528
BOMBS:				
MK-82 INERT/BDU-50	8,093		8,093	8,093
DURANDAL	88,131	68,931	56,480	62,700
TIMER ACTUATOR FIN FUZE	4,870	1,970	4,870	1,970
BSU-49 INFLATABLE RETARDER	27,375	22,600	27,375	22,600
BSU-50 INFLATABLE RETARDER	7,574	7,574	7,574	7,574
BOMB 2000 LB HIGH EXPLOSIVE	25,294	25,294	25,294	25,294
BOMB HARD TARGET 2000LB	37,818	13,318	17,818	17,800
GBU-15	138,905		138,905	110,000
BOMB PRACTICE 25 POUND	18,083	10,383	10,383	10,383
MK-84 BOMB-EMPTY	1,770	1,770	1,770	1,770
CBU-89 (TMD/GATOR)	194,197	113,297	113,297	113,297
CBU-87 (COMBINED EFFECTS MUNITION)	556,748	386,648	340,000	366,000
BIGEYE	28,400		28,400	15,000
ITEMS LESS THAN $2,000,000	2,516	1,516	2,516	1,516
TARGETS				
AERIAL TOW TARGET	12,961	6,761	12,961	9,800
ITEMS LESS THAN $2,000,000	127	127	127	127
OTHER ITEMS:				
FLARE, IR MJU-7B	11,909	11,909	11,909	11,909
FLARE, IR MJU-2	2,823	2,823	2,823	2,823
MJU-10B	29,833	18,133	29,833	10,000
CHAFF PACKAGE RR-141A/L	4,850	4,850	4,850	4,850
SPARES AND REPAIR PARTS	4,191	4,191	4,191	4,191
MODIFICATIONS	200	200	200	200
ITEMS LESS THAN $2,000,000	31,448	18,748	29,448	25,000
FUZES:				
FMU-112/FMU-139	36,824	32,524	32,524	32,524
ITEMS LESS THAN $2,000,000	35	35	35	35
OTHER WEAPONS:				
M-203 GRENADE LAUCHER	558	558	558	558
MACHINE GUN, 7.62MM, M-60	372	372	372	372
81MM MORTAR	392		392	
9MM HANDGUN	8,656	5,056	8,656	8,656
SHOTGUN-12 GAGE	278	278	278	278
NATIONAL RIFLE-M14	101	101	101	101
HOST NATION SUPPORT WEAPONS	3,201	3,201	3,201	3,201
TOTAL MUNITIONS AND ASSOCIATED EQUIPMENT	1,546,181	937,516	1,153,882	1,078,565
VEHICULAR EQUIPMENT:				
PASSENGER CARRYING VEHICLES:				
SEDAN, 4 DR 4x2	3,085	3,085	3,085	3,085
Station wagon, 4x2	3,236	3,236	3,236	3,236
BUS, 28 PASSENGER	4,000	4,000	4,000	4,000
BUS INTERCITY	1,307	1,307	1,307	1,307
BUS, 44 PASSENGER	1,782	1,782	1,782	1,782
AMBULANCE BUS	2,681	2,681	2,681	2,681
MODULAR AMBULANCE	5,902	5,902	5,902	5,902
14-20 PASSENGER BUS	272	272	272	272
LAW ENFORCEMENT VEHICLE	2,955	2,955	2,955	2,955
CARGO + UTILITY VEHICLES:				
TRUCK, STAKE/PLATEFORM	8,016	8,016	8,016	8,016
TRUCK, CARGO-UTILITY, ¾T, 4x4	3,039	3,039	3,039	3,039
TRUCK, CARGO-UTILITY, ½T, 4x2	2,918	2,918	2,918	2,918
TRUCK, PICKUP, ½T 4x2	4,698	4,698	4,698	4,698
TRUCK, PICKUP, COMPACT	4,748	4,748	4,748	4,748
TRUCK MULTI-STOP 1 TON 4x2	9,360	9,360	9,360	9,360
TRUCK, PANEL 4x2	2,798	2,798	2,798	2,789
TRUCK CARRYALL	7,876	7,876	7,876	7,876
TRUCK, CARGO, 2½T, 6X6, M-35	18,247	18,247	18,247	18,247
TRUCK, CARGO, 5T M-923.M-925	6,664	6,664	6,664	6,664
TRUCK, CARGO, 2½T	1,639	1,639	1,639	1,639
HIGH MOBILITY VEHICLE (MYP)	10,713	10,713	10,713	10,713
TRUCK, TRACTOR, 5T	1,553	1,553	1,553	1,553
TRUCK, TRACTOR, 5T M-932 (MYP)	412	412	412	412
TRUCK, TRACTOR, OVER 5T	5,484	5,484	5,484	5,484
TRUCK WRECKER 5T M936 (MYP)	2,423	2,423	2,423	2,423
TRUCK, DUMP 5 TON	10,930	10,930	10,930	10,930
ITEMS LESS THAN $2,000,000	20,565	20,565	20,565	20,565
SPECIAL PURPOSE VEHICLES:				
TRUCK MAINT 4X2	3,073	3,073	3,073	3,073
TRUCK, MAINT, HI-REACH	1,888	1,888	1,888	1,888

[In thousand of dollars]

	Budget	House	Senate	Conference
TRUCK, TELEPHONE MAINTENANCE	2,685	2,685	2,685	2,685
TRUCK, TANK, 1200 GAL	2,135	2,135	2,135	2,135
TRUCK, TANK, FUEL, M-49	2,487	2,487	2,487	2,487
TRACTOR, A/C TOW, MB-4	4,135	4,135	4,135	4,135
TRACTOR, TOW, FLIGHTLINE	5,487	5,487	5,487	5,487
TRACTOR, DOZER	5,538	5,538	5,538	5,538
TRUCK, DEMINERAL WATER, 2600 GAL	2,473	2,473	2,473	2,473
SEMI TRAILER COMPRESSED GAS	2,731	2,731	2,731	2,731
ITEMS LESS THAN $2,000,000	15,369	15,369	15,369	15,369
FIRE FIGHTING EQUIPMENT:				
TRUCK, CRASH P-15	2,248	2,248	2,248	2,248
TRUCK, WATER P-18	6,088	6,088	6,088	6,088
TRUCK, PUMPER, P-8	3,242	3,242	3,242	3,242
TRUCK, PUMPER, P-12	1,700	1,700	1,700	1,700
ITEMS LESS THAN $2,000,000	4,015	4,015	4,015	4,015
MATERIALS HANDLING EQUIPMENT:				
TRUCK, F/L 4,000 LB GED/DED 144"	3,295	3,295	3,295	3,295
TRUCK, F/L 6000 LB	6,529	6,529	6,529	6,529
TRUCK, F/L 10,000 LB	9,413	9,413	9,413	9,413
LARGE CAPACITY LOADER	4,328	4,328	4,328	4,328
25K A/C LOADER	4,224	4,224	4,224	4,224
CONTAINER, LIFT, TRUCK	9,833	9,833	9,833	9,833
ITEMS LESS THAN $2,000,000	10,532	10,532	10,532	10,532
BASE MAINTENANCE SUPPORT:				
LOADER, SCOOP	7,042	7,042	7,042	7,042
DISTRIBUTOR, WATER 1500 GALLON	2,855	2,855	2,855	2,855
CLEANER, RUNWAY/STREET	18,038	18,038	18,038	18,038
GRADER, ROAD, MOTORIZED	2,154	2,154	2,154	2,154
CRANE, 7-50 TON	12,072	12,072	12,072	12,072
EXCAVATOR, DED, PT	5,045	5,045	5,045	5,045
WATERCRAFT	4,055	4,055	4,055	4,055
SPARES AND REPAIR PARTS	6,492	6,492	6,492	6,492
MODIFICATIONS	295	295	295	295
ITEMS LESS THAN $2,000,000	12,997	12,997	12,997	12,997
GENERAL REDUCTION		−31,600		−13,600
TOTAL, VEHICULAR EQUIPMENT	331,796	300,196	331,796	318,196
ELECTRONICS AND TELECOMMUNICATIONS EQUIP:				
COMM SECURITY EQUIPMENT (COMSEC):				
SPACE SYSTEMS (COMSEC)	10,002	10,002	10,002	10,002
TEMPEST EQUIPMENT	612	612	612	612
TAC SECURE VOICE	10,802	10,802	10,802	10,802
DCS SECURE VOICE (COMSEC)	13,338	13,338	13,338	13,338
SECURE DATA	35,141	35,141	35,141	35,141
TRIT AC (COMSEC)	46,082	43,082	46,082	43,082
SPARES AND REPAIR PARTS	11,876	11,876	11,876	11,876
MODIFICATIONS (COMSEC)	330	330	330	330
INTELLIGENCE PROGRAMS:				
INTELLIGENCE DATA HANDLING SYS	31,817	31,817	29,577	31,553
INTELLIGENCE TRAINING EQUIPMENT	12,641	12,641	12,641	12,641
INTELLIGENCE COMM EQUIP	11,000	11,000	11,000	11,000
COBRA JUDY	248	248	248	248
COBRA SHOE	3,048	3,048	3,048	3,048
ITEMS LESS THAN $2,000,000	17,545	17,045	17,545	17,545
ELECTRONICS PROGRAMS:				
TRAFFIC CONTROL/LANDING	11,899	4,899	11,899	7,800
TACTICAL AIR CONTROL SYS IMPROVE	64,316	32,016	1,500	51,500
TACAN		8,900		8,900
WEATHER OBSERV/FORCAST	61,494	51,494	61,494	55,000
DEFENSE SUPPORT PROGRAM	100,093	81,783	86,283	86,293
DEFENSE SUPPORT PROGRAM (BY TRANSFER)		(4,510)		
OTH-B RADAR	188,157	110,000	110,287	110,000
SAC COMMAND AND CONTROL	11,265	11,265	11,265	11,265
LAUNCH CONTROL CENTER COMMUNICATIONS	9,415		9,415	
CHEYENNE MOUNTAIN COMPLEX	10,770	8,770	10,770	8,770
PAVE PAWS/SLBM WARNING SYSTEMS	120,206	45,951	99,406	99,406
BMEWS MODERNIZATION	41,032		41,032	41,032
SPACETRACK	4,888	4,888	4,888	4,888
NAVSTAR GPS	12,356	11,756	12,356	11,756
USAFE COMMAND/CONTROL SYSTEM	12,144	12,144	12,144	12,144
PACAF COMMAND/CONTROL	1,153	1,153	1,153	1,153
DEFENSE METEOROLOGICAL SAT PROG	3,442	3,442	3,442	3,442
CARIBBEAN BASIN RADAR NETWORK	11,272	6,972	11,272	10,000
MARS/USAF-FAA RADAR UPGRADE	16,194			
TAC SIGINT SUPPORT	15,755	15,755	15,755	15,755
DIST ERLY WARNING RDR/NORTH WARNING	4,318	4,318	4,318	4,318
TACTICAL GROUND INTERCEPT FACILITY	5,155	5,155	5,155	5,155
AIR BASE SURVIVABILITY	3,885		3,885	2,000
CMDR;s TACTICAL TEMINALS(CTT)/TEREC	2,805	2,805	2,805	2,805
IMAGERY TRANS	12,349	12,349	12,349	12,349
TACTICAL WARNING SYSTEMS SUPPORT	3,435	435	3,435	1,145
NORTH ATLANTIC DEFENSE C3	26,643	22,243	26,643	22,243
SPECIAL COMM-ELECTRONICS PROJECTS:				
AUTOMATIC DATA PROCESSING EQUIP	135,569	131,469	135,569	131,469
WWMCCS/WIS ADPE	40,092	35,792	20,092	20,092
MAC COMMAND AND CONTROL SUPPORT	53,197	13,097	53,197	43,000
GLCM COMMUNICATIONS	5,983	5,983	5,983	5,983
AIR FORCE PHYSICAL SECURITY SYSTEM	7,154	7,154	7,154	7,154
WEAPONS STORAGE/SECURITY	20,535	20,535	20,535	20,535
RANGE IMPROVEMENTS	143,878	88,878	108,538	108,538
RADAR BOMB SCORER	12,837	9,137	12,837	12,837
PLSS	27,231			
C3 COUNTERMEASURES	8,146	8,146	8,146	8,146
JOINT SURVEILLANCE SYSTEM	9,410	9,109	9,410	9,410
JOINT SURVEILLANCE SYSTEM (BY TRANSFER)		(301)		
SPACE SHUTTLE	7,756	4,856	7,756	4,856
BASE LEVEL DATA AND AUTO PROGRAM	99,221	47,221	49,221	49,221
SATELLITE CONTROL FACIIITY	126,614	65,214	126,614	100,000
CONSTANT WATCH	4,286	4,286	4,286	4,286
CONSOLIDATED SPACE OPS CENTER	75,988	75,988	53,000	69,600
CMD CENTER PROCESSING/DISPLAY SYS	2,110	2,110	2,110	2,110
HAMMER ACE	1,703	1,703	1,703	1,703
SAMTO TEST RANGES I&M	66,928	21,828	46,728	45,728
EMP HARDENING	15,786	12,486	15,786	12,486

[In thousand of dollars]

	Budget	House	Senate	Conference
AIR FORCE COMMUNICATIONS:				
PROGRAM 698AJ	1,927	1,927	1,927	1,927
INFORMATION TRANSMISSION SYSTEMS	8,038	5,738	8,038	7,000
TELEPHONE EXCHANGE	76,590	52,190	52,190	52,190
JOINT TACTICAL COMM PROGRAM	234,093	154,593	155,693	155,693
JOINT TACTICAL COMM PROGRAM (BY TRANSFER)		(3,000)		
USREDCOM	13,417	5,917	13,417	5,917
USCENTCOM	26,427	26,427	26,427	26,427
AUTOMATED TELECOMMUNICATIONS PRG	23,792	18,792	23,792	18,792
CINC MOBILE COMMAND CENTER	30,260			
MILSTAR	50,614			
SATELLITE TERMINALS	10,977	10,977	10,977	10,977
DCA PROGRAMS:				
WIDENBAND SYSTEMS UPGRADE	68,740	45,240	68,740	56,700
MINIMUM ESSENTIAL EMER COMM NET	97,187	51,187	20,000	33,000
DCS SECURE VOICE EQUIPMENT	37,762	20,682	18,062	18,062
ORGANIZATION AND BASE:				
TACTICAL C–E EQUIPMENT	66,376	26,276	66,376	50,000
PRODUCTIVITY INV TELECOM	3,939	3,939	3,939	3,939
RADIO EQUIPMENT	58,307	38,007	58,307	43,300
PRODUCTIVITY ENH TELECOMM	4,572	4,572	4,572	4,572
FIBER OPTICS	3,318	1,418	3,318	2,000
TV EQUIPMENT (AFRTV)	4,920	4,920	4,920	4,920
CCTV/AUDIOVISUAL EQUIPMENT	7,556	4,556	7,556	5,000
E+I REQUIREMENTS	1,822	1,822	1,822	1,822
SPARES AND REPAIR PARTS	423,269	334,169	363,769	363,769
ITEMS LESS THAN $2,000,000	20,690	15,190	16,290	15,190
MODIFICATIONS:				
COMM-ELECTRONICS CLASS IV	39,990	36,790	39,990	36,790
TACTICAL EQUIPMENT	21,398	21,398	21,398	21,398
ANTIJAM VOICE	23,758	12,015	23,758	12,015
TOTAL, ELECTRONICS AND TELECOMMUNICATIONS EQUIP	3,183,122	2,123,425	2,468,182	2,398,927
OTHER BASE MAINTENANCE AND SUPPORT EQUIP:				
TEST EQUIPMENT:				
BASE/ALC CALIBRATION PACKAGE	54,464	44,264	54,464	54,464
NEWARK AFS CALIBRATION PACKAGE	2,851	2,851	2,851	2,851
TEST EQUIPMENT-GEN PURP	12,456	12,456	12,456	12,456
ITEMS LESS THAN $2,000,000	49,841	34,441	49,841	49,841
PERSONAL SAFETY AND RESCUE EQUIP:				
AUTOMATIC LIFE PRESERVER	5,396	5,396	5,396	5,396
NIGHT VISION GOGGLES	8,763	8,763	8,763	8,763
CHEMICAL/BIOLOGICAL DEF PROG	11,4,599	114,599	83,799	83,799
ITEMS LESS THAN $2,000,000	9,824	6,824	9,824	8,500
DEPOT PLANT + MATERIALS HANDLING EQ:				
BASE MECHANIZATION EQUIPMENT	34,731	34,731	34,731	34,731
AIR TERMINAL MECHANIZATION EQUIP	3,153	1,153	3,153	2,000
ITEMS LESS THAN $2,000,000	16,085	13,185	16,085	13,185
ELECTRICAL EQUIPMENT:				
GENERATORS-MOBILE ELECTRIC	26,709	26,709	26,709	26,709
FLOOD LIGHTS	11,282	7,682	2,382	5,000
ITEMS LESS THAN $2,000,000	4,155	4,155	4,1,55	4,155
BASE SUPPORT EQUIPMENT:				
BASE PROCURED EQUIPMENT	59,793	43,493	59,793	55,000
MEDICAL/DENTAL EQUIPMENT	143,916	114,616	131,416	120,790
AIR BASE SURVIVABILITY	22,855		22,855	10,000
COB ESSENTIAL FACILITIES	4,060		4,060	
PALLET, AIR CARGO, 108"X88"	2,089	2,089	2,089	2,089
NET ASSEMBLY, 108"X88"	4,501	3,201	4,501	3,201
BLADDERS FUEL	2,498	2,498	2,498	2,498
TACTICAL SHELTER	25,879	16,579	23,161	17,000
PHOTOGRAPHIC EQUIPMENT	6,526	6,526	6,526	6,526
PRODUCTIVITY ENHANCEMENT	10,390	10,390	9,390	9,390
PRODUCTIVITY INVESTMENTS	2,126	926	2,126	926
MOBILITY EQUIPMENT	60,977	42,377	60,977	42,377
WARTIME HOST NATION SUPPORT	8,197	8,197	8,197	8,197
SPARES AND REPAIR PARTS	13,915	13,015	11,915	11,915
ITEMS LESS THAN $2,000,000	16,246	14,846	16,246	14,846
SPECIAL SUPPORT PROJECTS:				
INTELLIGENCE PRODUCTION ACTIVITY	22,739	22,739	22,439	22,439
SCIENTIFIC /TECHNICAL INTELLIGENCE	10,130	10,130	10,130	9,130
TECH SURV COUNTERMEASURES EQ	7,757	7,757	7,757	7,757
DEFENSE DISSEMINATION SYSTEM	8,335	8,335	8,335	8,335
AF TECHNICAL APPLICATION CENTER	13,634	13,634	12,791	12,791
PHOTO PROC/INTERPRET SYS	1,470	1,470	1,470	1,470
SELECTED ACTIVITIES	4,115,736	3,911,434	4,005,036	4,040,919
SPECIAL UPDATE PROGRAM	871,847	871,847	871,847	871,847
INDUSTRIAL SURGE	19,200			
INDUSTRIAL PREPAREDNESS	2,071	2,071	2,071	2,071
MISC EQUIPMENT	19,589	6,389	18,589	6,389
MODIFICATIONS	8,416	5,016	7,416	7,000
NON-CENTRALLY MANAGED ITEMS:				
TOTAL, OTHER BASE MAINTENANCE AND SUPPORT EQUIP	5,839,201	5,456,784	5,647,240	5,606,753
PRIOR YEAR PROGRAM SAVINGS		−70,900		
PRIOR YEAR PROGRAM SAVINGS (BY TRANSFER)		(19,400)		
PRIOR YEAR PROGRAM SAVINGS (BY TRANSFER)		(51,500)		
INFLATION SAVINGS, FY87		−92,500	−92,500	−92,500
PROFIT POLICY CHANGE			−39,900	−55,000
TOTAL, OTHER PROCUREMENT, AIR FORCE	10,900,300	8,654,521	9,468,7900	9,254,941
TRANSFER FROM OTHER ACCOUNTS		(78,711)		
TOTAL FUNDING AVAILABLE	10,900,300	8,733,232	9,468,700	9,254,941

TACTICAL AIR CONTROL SYSTEM IMPROVEMENTS

The conferees recommend $51,500,000 for the Modular Control Element, and reduce the request by $12,816,000. This reduction is made without prejudice and does not preclude reprogramming by the Air Force for the Anti-Radiation Missile (ARM) Alarm Sensor or the Automated Force and Mission Planning system for NATO.

TACAN

The conferees agree to provide $8,900,000 for TACAN as proposed by the House, and to identify this item as a matter of special interest; no reprogrammings or distributions

of general reductions shall be applied to this item without prior approval of the Committees on Appropriations. The conferees direct that any acquisition of FAA VORTAC-TACAN antennas shall be acquired through a competitive procurement of any low power consumption, low maintenance TACAN antenna, either electronically or mechanically scanned.

The conferees recommend $55,000,000 for the Weather Observation and Forecast Program, which is intended to fully fund the $25,195,000 budget request for the Next Generation Weather Radar (NEXRAD), and the $7,943,000 budget request for the Improved Weather Reconnaissance (IWR) program along with $1,700,000 for IWR sets to support the NOAA segment of this program from within this line.

RANGE IMPROVEMENTS

The conferees recommend $108,538,000 for the Range Improvements program, which is intended to fully fund the $35,332,000 budget request for the Homestead Air Combat Maneuvering Instrumentation System and the Strategic Training Route Complex, (STRC) request consisting of various items totalling $66,050,000.

JOINT TACTICAL COMMUNICATIONS PROGRAM

The conferees recommend $155,693,000 without prejudice. The Air Force should seek reprogramming funding if necessary to meet budgeted requirements.

WEAPONS STORAGE SECURITY

The Conferees concur with the Senate language directing the Air Force to report back to the House and Senate Committees on Appropriations by February 1, 1987, on options to streamline management of this program, particularly to consider selection of one prime contractor to coordinate both vault production and facility construction, so as to expedite the availability of these vital new facilities. The conferees also direct the Air Force to reflect existing NATO accords and cost efficiency considerations in the conduct of this study.

BASE LEVEL DATA AUTOMATION

The conferees agree to provide $49,221,000 for the Air Force base level data automation program. A general reduction of $50,000,000 has been made without prejudice to any individual program. The Committees on Appropriations would consider a reprogramming request in this line if warranted.

CHEMICAL BIOLOGICAL DEFENSE PROGRAM

The conferees agree to the DoD plan to procure 104,000 MCU-2/P gas masks to fulfill critical Air Force and Navy requirements for chemical protection. Due to delays in the availability of the technical data package, the conferees agree to defer funding of the improved MCU-2/P mask.

The conferees generally concur with the House initiative on procurement of major components and direct the Air Force to procure components for the Collective Protection System from domestic sources to the greatest extent possible. The Air Force will report to the House and Senate Committees on Appropriations by March 1, 1987, on the percentage of domestically produced components used in the Collective Protection Systems and options to increase domestic content.

The conferees further agree that future budget requests for survivable semihardened collective protective systems should be funded as a procurement, rather than as a military construction item.

BASE PROCURED EQUIPMENT

The conferees recommended $55,000,000 for Base Procured Equipment, which includes $8,000,000 to fully fund the budget request to buy out uneconomical leases.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to the following amounts for Reserve and National Guard:

[In thousands of dollars]

	Budget	House	Senate	Conference
NATIONAL GUARD AND RESERVE EQUIPMENT, DEFENSE				
RESERVE, ARMY: MISCELLANEOUS EQUIPMENT		100,000	90,000	90,000
TOTAL, RESERVE ARMY		100,000	90,000	90,000
RESERVE NAVY:				
P-3C PATROL (ORION)		242,968		
CSAR HELICOPTERS		38,000		38,000
AIRCRAFT SUPPORT EQUIPMENT		20,000		
AIRBORNE MINE COUNTERMEASURES		8,000		8,000
HCS (HH-60) HELICOPTERS			30,000	
SEABEES			15,000	15,000
TOTAL, RESERVE NAVY		308,968	45,000	61,000
RESERVE, MARINE CORPS:				
MISCELLANEOUS EQUIPMENT			20,000	20,000
MISC COMM/ELECTRONICS EQUIPMENT		3,600		
MISCELLANEOUS ENGINEERING EQUIPMENT		29,300		
ANALYZER SET ENGINE (STE/ICE)		1,100		
KC-130 T AIRCRAFT		40,000		40,000
TOTAL, RESERVE MARINE CORPS		74,000	20,000	60,000
RESERVE, AF: C-130H AIRCRAFT		150,000	150,000	150,000
TOTAL, RESERVE AIR FORCE		150,000	150,000	150,000
GUARD, ARMY:				
MISCELLANEOUS EQUIPMENT			44,000	44,000
NON-SYSTEM TRAINING DEVICES		25,000		50,000
COMMUNICATIONS EQUIPMENT		23,500		
5-TON TRUCKS		20,600	22,500	20,000
UH-60 BLACKHAWK			30,000	8,500
M-113			20,000	
AN/PRC—104A			10,200	10,200
AN/GRC—193A			9,900	9,900
AN/CRC—213			3,400	3,400
TOTAL, ARMY NATIONAL GUARD		69,100	140,000	146,000
GUARD, AF: MISCELLANEOUS EQUIPMENT		50,000	20,000	50,000
TOTAL, AIR NATIONAL GUARD		50,000	20,000	50,000
INFLATION/FUEL SAVINGS			−10,700	
PROFIT POLICY CHANGE			−1,050	
TOTAL, NATIONAL GUARD AND RESERVE EQUIPMENT, DEFENSE		752,068	453,250	557,000

NAVY RESERVE COMBAT SEARCH AND RESCUE HELICOPTERS

The conferees agree to provide $38,000,000 as proposed by the House and not to provide $30,000,000 for HCS (HH-60) helicopters as proposed by the Senate. The conferees agree with the Senate's concerns over unit costs of the Navy's program. The conference allowance is for at least 4 combat search and rescue helicopters. No funds are provided for non-recurring costs which the conferees believe are adequately provided for through other programs.

KC-130T TANKER AIRCRAFT

The Senate recedes to the House position to appropriate $40,000,000 for two KC-130T Marine Corps Reserve aircraft that will be based at Stewart Air Base in New York. In addition, to clarify the congressional intent with respect to the FY 1986 program, the

$40,000,000 appropriated is for two KC-130T aircraft.

ACMI

The conferees agree with the ACMI requirements of both the House and Senate. Specifically, $15,200,000 of the $50,000,000 appropriated to the Air National Guard for miscellaneous equipment are only for increased TACTS/ACMI time sharing facilities at Savannah and Jacksonville ANG bases. An additional $15,200,000 is available only for construction of ACMI systems in Wisconsin and Michigan in consonance with the Senate report. These earmarked funds should be clearly designated on DD Form 1414, Base for Reprogramming Actions.

PROCUREMENT, DEFENSE AGENCIES

The conferees agree to the following amounts for Procurement, Defense Agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT, DEFENSE AGENCIES				
MAJOR EQUIPMENT, OSD: MAJOR EQUIPMENT, OSD/WHS	111,289	111,289	101,289	101,289
MAJOR EQUIPMENT, DNA:				
VEHICLES	232	232	232	232
OTHER CAPITAL EQUIPMENT	4,298	4,298	4,298	4,298
MAJOR EQUIPMENT, DCA:				
WWMCCS ADP SYSTEMS	14,887	14,887	14,887	14,887
ITEMS LESS THAN $900,000 EACH	40,169	40,169	40,169	40,169
MAJOR EQUIPMENT, DLA:				
MATERIALS HANDLING EQUIPMENT	8,642	8,642	8,642	8,642
VEHICLES	1,387	1,387	1,387	1,387
MECHANIZED MATERIALS HANDLING SYS	24,723	24,723	24,723	24,723
ADP EQUIPMENT	60,026	54,026	40,026	40,026
TELECOMMUNICATIONS EQUIPMENT	17,289	17,289	17,289	17,289
OTHER MAJOR EQUIPMENT	10,023	10,023	10,023	10,023
ITEMS LESS THAN $900,000 EACH	2,900	2,900	2,900	2,900
AUTOMATED MARKING/READING SYSTEM (LOGMARS)	500	500	500	500
MAJOR EQUIPMENT, DMA:				
VEHICLES	368	368	368	368
OTHER CAPITAL EQUIPMENT	30,120	30,120	30,120	30,120
RASTER SCAN EDIT STATION	1,746	1,746	1,746	1,746
MAJOR EQUIPMENT, DIS:				
VEHICLES	1,789	1,789	1,789	1,789
OTHER CAPITAL EQUIPMENT	1,849	1,849	1,849	1,849
MAJOR EQUIPMENT, USUHS: ITEMS LESS THAN $900,000 EACH	1,295	1,295	1,295	1,295
MAJOR EQUIPMENT, DCAA: ITEMS LESS THAN $900,000 EACH	8,064	8,064	8,064	8,064
MAJOR EQUIPMENT, DAVA:				
MAJOR EQUIPMENT DRSP: ITEMS LESS THAN $900,000 EACH	402,845	257,545	402,845	316,845
MAJOR EQUIPMENT, DIG: ITEMS LESS THAN $900,000 EACH	1,700	1,700	1,700	1,700
CLASSIFIED PROGRAMS	742,259	922,320	790,296	892,115
INFLATION SAVINGS, FY87		−13,800	−15,000	−15,000
PROFIT POLICY CHANGE			−5,950	−9,000
TOTAL, PROCUREMENT, DEFENSE AGENCIES	1,488,400	1,503,361	1,485,487	1,498,256

DEFENSE PRODUCTION ACT PURCHASES

The conferees recommend $13,000,000 for Defense Production Act Purchases, of which $5,000,000 is for the discontinuous-silicon carbide reinforced aluminum project, and of which $8,000,000 is to be merged with $4,000,000 previously appropriated for phase I of the Reclamation of Superalloy Scrap project to permit initiation of an enhanced phase I project.

On September 30, 1986, the President submitted a budget amendment requesting appropriation language in the Fiscal Year 1987 Defense Appropriations Bill, earmarking $3,000,000 for one Defense Production Act project. This project was previously requested by the President and funded in the Fiscal Year 1985 Defense Appropriations Act.

The conferees affirm the strong statements of the House and Senate reports pertaining to the administration of funds appropriated for the Defense Production Act. The conferees consider the budget amendment forwarded to the Congress to be inappropriate, unnecessary, and cumbersome.

The President requested money for this purpose in his Fiscal Year 1985 Budget. Congress provided and the President approved the amount requested for this purpose in the Department of Defense Appropriations Act for Fiscal Year 1985. All that is lacking is expeditious administration of this program. The situation is so bad that the conferees have agreed to reductions in the Fiscal Year 1987 Budget because it included requests for the second phase of projects for which the first phase—although appropriated in prior years—has yet to be initiated.

The conferees urge the Department of Defense and the Office of Management and Budget to establish a more timely and efficient process to expedite release of the remaining funds appropriated for this purpose in prior years and for fiscal year 1987. The conferees consider this an item of special congressional intent and endorse the General Accounting Office review directed by the Senate report.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conferees agree to the following amounts for the Research, Development, Test and Evaluation accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
RECAPITULATION				
TOTAL, RDTE, ARMY	5,550,300	4,426,660	4,840,463	4,556,076
TRANSER, FROM OTHER ACCOUNTS		(22,823)		
TOTAL, RDTE, NAVY	10,586,800	8,640,727	9,572,674	9,326,416
TRANSER, FROM OTHER ACCOUNTS		(29,050)		
TOTAL, RDTE, AIR FORCE	17,275,400	14,190,262	14,702,976	15,062,783
TRANSER, FROM OTHER ACCOUNTS		(66,200)		
TOTAL, RDTE, DEFENSE AGENCIES	8,364,300	6,577,588	7,132,903	6,742,091
TRANSER, FROM OTHER ACCOUNTS		(26,500)		
TOTAL, RDTE, DIRECTOR OF TEST AND EVALUATION	141,800	109,537	130,809	105,546
TOTAL OPERATIONAL TEST AND EVALUATION	11,300	11,300	11,300	11,300
TOTAL, TDTE	41,929,900	33,956,074	36,391,125	35,804,214
TRANSFER FROM OTHER ACCOUNTS		(144,573)		
TOTAL FUNDING AVAILABLE	41,929,900	24,100,647	36,391,125	35,804,214

The conferees agree to the following language:

UNIVERSITY RESEARCH

With the establishment of the University Research Initiative in fiscal year 1986 and rising funds for the Strategic Defense Initiative, the Department of Defense's investment in university-based research is increas-

ing. Consequently, the Appropriations Committees need to ensure that the peer review process for the allocation of university funding is working effectively, and that mechanisms are in place to broaden the base of DoD university research commensurate with these increasing resources.

Therefore, the conferees direct the Department of Defense to submit a report to the Appropriations Committees by March 1, 1987, which: (1) explains in detail the current peer review process in a step-by-step fashion; (2) explains current participants in this process, including peer review panels, boards, or conferences, and how such peer reviewers are evaluated and chosen; and (3) an analysis of the potential for expanding the research base into geographic areas which at the present time receive little defense-related university funding.

INDEPENDENT RESEARCH AND DEVELOPMENT BID AND PROPOSAL

The conferees agree with the House proposal that the ceiling for fiscal year 1987 for IR&D and B&P be set at $5,331,200,000, and concur in the directive of the House that this and future ceilings be fully allocated by the Department.

UNIVERSITY PROGRAMS

The managers wish to stress the importance to our long-term national security of the Department's university technology base programs. The new Unversity Research Initiative and the closely related defense research sciences programs of the services offer substantial potential to assist in meeting our future security needs. Greater investments will be required to sustain and develop both the new University Initiative and the research programs of the services. The Committee therefore requests the Department to develop a plan for the next five years that will provide for the sustained real growth of both the University Research Initiative and the university research programs of the services, and to present the plan to the Committees by March 15, 1987.

AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAMS

The conferees agree to provide $45,300,000 for the Navy aircraft engine component improvement program, and $114,376,000 for the Air Force aircraft engine component improvement program. The conferees share the reservations expressed by the Senate that the aircraft engine CIP programs of the military services are non-competitive, and have become entrenched to such an extent that they are not sufficiently reviewed in-house by the military services or the Department of Defense for cost savings through competitive bidding. The conferees direct the Office of the Under Secretary of Defense to examine the feasibility of gradually transitioning the financial support for these programs to the private sector and report its findings back to the Committees on Appropriations of the House and Senate no later than April 1, 1987. The conferees agree that the military services should exert every effort to adhere to the spirit of the language in the Senate report, encouraging the award of future aircraft engine CIP contracts on the basis of competitive bids. Both the Navy and Air Force are to provide the Committees on Appropriations with a quarterly status report on aircraft engine CIP contract awards during fiscal year 1987, and clearly identify to what extent competition was involved the the contracting process.

The conferees understand that the budget reductions imposed against aircraft engine CIP programs in fiscal year 1987 may pose hardships in the event that certain engines encounter serious engineering support difficulties during the course of the fiscal year. The conferees would be willing to entertain reprograming actions, but only for those specific engines that have clearly identified support problems.

ELECTRONIC WARFARE PROGRAMS

The conferees agree to fund electronic warfare (EW) programs in their individual program elements under service control as proposed by the Senate instead of consolidated funding under the Office of the Secretary of Defense, as proposed by the House, since such consolidation might disrupt ongoing programs to an unacceptable level.

However, the conferees do share the longstanding concern of the House Armed Services Committee and others that there is unacceptable duplication and poor coordination among service EW activities. For this reason, the conferees strongly support the continued submission of an annual EW Master Plan which reflects the programmatic priorities and funding justification upon which the fiscal year 1988 budget is based. The EW Master Plan should be submitted to both Appropriations Committee by April 1, 1987.

AVIONICS FOR THE NAVY ATA, AIR FORCE ATF AND ARMY LHX

The conferees are concerned that the Services are not adequately addressing provision and funding for modern digital integrated electronics, avionics and embedded communications security for new aircraft under development. These include such important and costly programs as the Navy Advanced Tactical Aircraft (ATA), the Air Force Advanced Tactical Fighter (ATF) and the Army Light Helicopter Family (LHX) developments. The Integrated Communications, Navigation, Identification and Avionics (ICNIA) and Integrated Electronic Warfare Systems (INEWS) programs are not on track to marry up with the anticipated production schedules for these new aircraft. Without such modern electronics, these costly new aircraft will be initially unable to realize their full potential. Later modification will undoubtedly be much more costly than inclusion at production.

The conferees agreed to direct the Services to include fully integrated, digital avionics, communications, sensors, embedded communications security and other electronics on all aircraft under development. These should include the results of the ICNIA/INEWS program and such others as may be appropriate to met this intent. They further agreed that no funds appropriated by this or any other act may be committed, obligated, or expended for any new design aircraft, including the ATA, ATF, LHX, unless that design includes such fully integrated electronics. The Service Secretaries are directed to prepare a joint plan to meet the intent of this direction and to provide it through the Secretary of Defense to the Congress within 180 days.

JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS)

JTIDS is intended to fulfill a long-standing, urgent requirement for a highly jam-resistant, secure, digital information distribution system for use in a tactical combat environment. Within NATO, its counterpart is the Multifunctional Information Distribution System (MIDS). The MIDS design standard is substantially the JTIDS Class 2 terminal standard. Both are intended to be fully interoperable.

The conferees believe that such cooperative efforts are crucial to improved interoperability within NATO and fully support such efforts. The Department of Defense and the Services are expected to provide their full support to such cooperative programs, including the fullest possible openness in sharing design and production information and technology required to ensure their success.

In this regard, it has come to the attention of the conferees that the Air Force is considering delay of installation of the JTIDS Class 2 terminals in F-15 aircraft. Such a step would seriously limit Air Force air combat capability and readiness to face a massive, sophisticated air threat backed by extensive jamming. Worse still, it would eliminate an essential common means for language-independent interoperability with our NATO allies and sharing of the air picture so essential for successful prosecution of air combat.

To ensure continuing progress toward full and early fielding of JTIDS, the conferees agreed to direct the Air Force to report on implementing a accelerated program to install the JTIDS Class 2 terminal in all F-15D&E aircraft and, as soon as available, the Low Volume Class 2 terminal in all F-16C&D aircraft. In addition, the Secretary of the Air Force is directed to examine and report back through the Secretary of Defense to the Congress within 180 days on the feasibility and, if feasible, a pan for accelerated installation of the JTIDS Class 2 terminal in the F-15C and the Low Volume Class 2 terminal in the F-16A&B.

The conferees further agreed to direct the Navy to report on implementing an accelerated program to install, as soon as possible, the Low Volume Class 2 terminal in F/A-18 aircraft. The Secretary of the Army is directed to examine and report back through the Secretary of Defense to the Congress within 180 days on the feasibility and, if feasible, a plan for phasing in the Low Volume Class 2 terminal for Army applications in lieu of the JTIDS Class 2M Army terminal. The Army plan should include a report on production and installation plans of the JTIDS Class 2M terminal until the Low Volume Class 2 terminal is available.

The reports specified above are to be submitted to the Committees on Appropriations of the House and Senate not later than June 30, 1987.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST + EVAL, ARMY				
TECHNOLOGY BASE:				
IN-HOUSE LAB INDEPENDENT RESEARCH	19,020	17,153	19,020	17,500
DEFENSE RESEARCH SCIENCES	212,594	193,682	210,000	200,000
UNIVERSITY RESEARCH INITIATIVES	12,380	12,380	6,052	8,750
MATERIALS	16,346	14,215	16,346	15,000
ATMOSPHERIC INVESTIGATIONS	11,563	9,243	6,563	9,243
NUCLEAR WEAPONS EFFECTS/FLUIDICS	47,797	37,678	37,797	37,797
AIRCRAFT WEAPONS TECHNOLOGY	1,416	1,416	1,416	1,416
AIRCRAFT AVIONICS TECHNOLOGY	11,102	10,812	11,102	10,812
AERONAUTICAL TECHNOLOGY	34,814	34,814	32,814	33,814
AIRDROP TECHNOLOGY	2,900	1,720	2,900	2,000
MISSILE TECHNOLOGY	24,587	21,208	24,587	23,000
LASER WEAPON TECHNOLOGY	11,228	8,311	11,228	9,000
TANK AND AUTOMOTIVE TECHNOLOGY	25,711	21,591	25,711	22,500
BALLISTICS TECHNOLOGY	46,155	46,155	46,155	46,155
CHEMICAL AND SMOKE MUNITIONS	23,228	20,004	22,062	21,000
JOINT SERVICE SMALL ARMS PROGRAM	11,119	10,617	11,119	10,800
WEAPONS & MUNITIONS TECHNOLOGY	28,663	23,663	18,663	21,000
TACTICAL TELEPROCESSING TECHNOLOGY	26,894	24,275	26,894	25,000
COMBAT SURVEILL TARGET ACQUIS & IDENT	7,766	7,766	7,766	7,766
MIL ENVIRONMENTAL CRITERIA DEV	3,413	3,139	3,413	3,139
ELECTRONICS AND ELECTRONIC DEVICES	24,039	21,035	22,539	21,500
CHEM BIOLOGICAL DEF / GEN INVEST	39,656	39,656	39,656	39,656
MAPPING—GEODESY	9,678	7,575	9,678	8,500
NIGHT VISION INVESTIGATIONS	28,056	28,056	26,427	26,427
HUMAN FACTORS ENG SYS DEV	17,811	17,811	17,811	17,811
HUMAN PERFORMANCE EFFECT/SIMULATION	13,113	13,113	11,000	12,000
MOBILITY AND WEAPONS EFFECTS TECH	14,879	13,324	14,879	14,000
ENVIRONMENTAL QUALITY TECH	8,760	8,760	8,760	8,760
MANPOWER/PERSONNEL/TRAINING	4,730	3,520	4,730	3,520
CLOTHING EQUIP AND SHELTER TECH	18,012	15,012	11,012	13,012
JT SVC FOOD SYS TECH	5,162	3,662	5,162	4,000
COMPUTER AND INFORMATION SCIENCE	2,574	2,144	2,574	2,300
NON-SYSTEM TRAINING DEVICES	4,397	4,397	4,397	4,397
COLD REGIONS ENGINEERING TECHNOLOGY	4,308	3,227	4,308	3,500
MILITARY FACILITIES ENGINEERING TECHNOLOGY	5,674	5,215	5,764	5,500
MOBILITY EQUIPMENT TECHNOLOGY	15,914	15,506	15,000	15,000
MED DEFENSE AGAINST CHEM AGENTS	34,613	34,613	34,613	34,613
TACTICAL SOFTWARE TECHNOLOGY	10,794	8,392	8,794	8,392
MILITARY DISEASE HAZARDS TECH	48,677	45,507	32,677	44,000
COMBAT CASUALTY CARE TECH	10,376	10,376	10,376	10,376
COMBAT MAXILLOFACIAL INJURY	2,813	2,813	2,813	2,813
SYSTEMS HEALTH HAZARD PREVENT TECH	22,223	22,223	22,223	22,223
ENERGY TECH APPL FOR MILITARY FACIL	2,035	2,035	2,035	2,035
CLASSIFIED PROGRAMS	18,837	18,837	18,837	18,837
TOTAL, TECHNOLOGY BASE	945,917	866,651	877,673	868,864
ADVANCE TECHNOLOGY DEVELOPMENT:				
MATERIELS AND STRUCTURES	20,154	18,054	15,154	15,154
FUELS AND LUBRICANTS	3,527	3,527	3,527	3,527
ACQUIRED IMMUNE DEFICIENCY SYNDROME RESEARCH			21,885	21,885
AIRCRAFT POWER PLANTS AND PROPULSION	20,365	15,365	19,365	17,365
AIRCRAFT WEAPONS	10,349	6,549	10,349	8,000
AIRCRAFT AVIONICS EQUIPMENT	4,408	4,408	4,408	4,408
ROTARY WING CONTROLS/ROTORS/STRUCTURES	23,560	16,960	23,560	19,000
SYNTHETIC FLIGHT SIMULATOR DEVELOPMENT	11,126	11,126	11,126	11,126
AIRDROP ADVANCEMENT	4,547	3,726	4,000	3,726
NOE AVIATION AND NAVIGATION EQUIPMENT	2,370	2,370	2,370	2,370
OPERATIONAL ENHANCEMENTS	2,637			
TERMINALLY GUIDED PROJECTILES	27,939		17,939	15,000
MSL/ROCKET COMPONENTS	37,881	26,206	35,881	29,000
BATTLEFIELD ENVIRONMENT SIMULATION	7,083	4,083	4,083	4,083
ARMY DEVELOPMENT AND EMPLOYMENT ACTIVITY	11,411	9,772	11,411	10,000
ADVANCED LAND MOB SYSTEMS CONCEPTS	10,890	10,890	10,890	10,890
LANDMINE WARFARE/BARRIER DEV	11,344	21,344	11,344	21,344
JOINT SERVICE SMALL ARMS PROGRAM	9,480	7,480	6,880	6,880
COMBAT VEHICLE PROPULSION SYS	9,766	9,766	9,766	9,766
CMBT VEH TURRET AND CHASSIS SUBSYS	18,895	14,205	18,895	15,000
COMBAT VEHICLE ARMOR/ANTI-ARMOR	9,411	6,000	9,411	7,000
ADV PROPULSION/LAUNCH SYS FOR MUN	5,887	5,887	5,887	5,887
NUCLEAR VULNERABILITY ADV TECHNOLOGY	6,614			
AMMUNITION LOGISTICS	2,170	1,500	2,170	1,500
NIGHT VISION ADVANCED DEVELOPMENT	29,080	26,692	29,080	27,000
SPECIAL PURPOSE DETECTORS	2,961			
TACTICAL C4 TECHNOLOGY INTEGRATION	13,335	13,335	13,335	13,335
SPACE TECHNOLOGY INTEGRATION	987			
MANPOWER AND PERSONNEL	14,204	6,696	13,320	8,000
ENGINEERING SYSTEMS	5,393	5,393	4,000	4,000
HUMAN FACTORS ENGINEERING APPLICATIONS	2,458			
HUMAN FACTORS IN TNG/OPER EFFECT	9,191	7,097	9,191	8,000
ADV ELECTRONIC DEVICES DEV	5,537		5,537	2,500
EDUCATION AND TRAINING	7,033	7,033	7,033	7,033
TRAINING SIMULATION	6,618	4,620	6,618	5,200
TEST MEASUREMENT & DIAGNOSTIC EQUIPMENT DEVEL	7,174	7,174	7,174	7,174
TECHNOLOGY VULNERABILITY REDUCTION	3,300	3,300	3,300	3,300
ARMY BATTLEFIELD TECHNOLOGY INTEGRATION	12,385	11,510	12,385	11,800
CB DEF/SMK ADV TECHNOLOGY DEMONSTRATIONS	7,484	2,984	4,427	3,500
NONSYSTEMS MEDICAL MATERIAL DEVELOPMENT	19,492	14,074	19,492	16,000
MEDICAL CHEMICAL DEFENSE LIFE SUPPORT	17,390	17,390	17,390	17,390
ADVANCED TACTICAL COMMUNICATIONS TECHNOLOGY	1,461			
ADV TACTICAL COMPUTER SCIENCE & TECHNOLOGY	13,674	10,674		5,000
BATTLEFIELD SUSTAINMENT	3,342			
CLASSIFIED PROGRAMS	33,721	15,803	33,721	30,103
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	488,034	352,993	446,304	412,246
STRATEGIC PROGRAMS:				
WORLDWIDE MILITARY CMD&CNT SYS INF SYS	29,557	29,557	29,557	29,557
CLASSIFIED PROGRAMS	249,430	194,610	219,430	191,610
TOTAL, STRATEGIC PROGRAMS	278,987	224,167	248,987	221,167

[In thousands of dollars]

	Budget	House	Senate	Conference
TACTICAL PROGRAMS:				
AIR MOBILITY SUPPORT	10,848	7,848	10,848	7,848
JOINT SURVIVABILITY INVESTIGATIONS	735	735	735	735
ADVANCED ROTOCRAFT TECHNOLOGY INTEGRATION/LHX	44,420	40,000	44,420	44,420
AIRDROP EQUIPMENT SYSTEMS	1,256	1,000	1,256	1,000
ANTI-TACTICAL MISSILE SYSTEM	38,635		38,635	30,000
SURF-TO-SURF MSL ROCKET SYS	42,681		42,681	42,681
LIGHT WEIGHT AIR DEFENSE SYSTEM	21,717		14,717	10,000
WEAPONS AND AMMUNITION	173	20,173	173	12,000
ADVANCED ANTI-TANK WEAPON SYSTEM (MEDIUM)	48,735	48,735	48,735	48,735
LETHAL CHEMICAL MUNITIONS CONCEPTS	25,307		25,307	25,307
LANDMINE/BARRIER SYS	10,477	6,358	10,477	6,358
SMOKE MUNTIONS AND MATERIEL CONCEPTS	3,189	2,589	3,189	2,589
ARTILLERY/MORTAR AMMO DEVELOPMENT	17,210	9,807	14,807	9,807
ELECTRIC POWER SOURCES	8,017	5,017	8,017	6,500
PHYSICAL SECURITY	2,339	2,339	2,339	2,339
IDENTIFICATION-FRIEND OR FOE DEVELOPMENTS	20,373	20,373	20,373	20,373
COMMUNICATIONS DEVELOPMENT	2,673	2,673	2,673	2,673
AIRCRAFT SURVIVABILITY EQUIPMENT	4,588		4,588	3,700
ARMY DATA DISTRIBUTION SYSTEM	42,122	37,122	37,122	37,122
ELECT WRFR VULNERABILITY/SUCEPTIBILITY	16,912		16,912	13,500
CML BIO PROTECTIVE MATERIAL CONCEPTS	8,045	8,045	8,045	8,045
REMOTELY PILOTED VEHICLES/DRONES	4,917	4,917	4,917	4,917
COMBAT SUPPORT EQUIPMENT	24,285	22,285	24,285	23,285
COMBAT MEDICAL MATERIAL	8,189	8,189	8,189	8,189
SHORT RANGE AIR DEFENSE COMMAND AND CONTROL	16,189		10,189	5,000
SOLDIER SUPPORT/SURVIVABILITY	4,722	4,392	4,722	4,392
DRUG AND VACCINE DEVELOPMENT	17,077	17,077	16,077	16,577
MEDICAL DEFENSE AGAINST CHEM WARFARE	26,499	26,499	26,499	26,499
AIR DEFENSE ALTERNATIVES	103,944		63,944	83,944
COMBAT SERVICE SUPPORT CONTROL SYS	4,608	1,000	3,608	2,000
NIGHT VISION SYSTEMS ADVANCED DEVELOPMENT	3,307	3,307	3,307	3,307
AIR MOBILITY SUPPORT EQUIPMENT	4,418	2,506	3,418	2,506
ADVANCED ATTACK HELICOPTER	12,931		12,931	
AIRCRAFT PROPULSION SYSTEMS	111,301	106,301	91,301	98,500
SYNTHETIC FLIGHT TRAINING SYSTEMS	10,680	10,680	9,680	9,680
AIRDROP EQUIP DEVELOPMENT	3,281	3,281	3,281	3,281
STINGER	6,252	6,252	6,252	6,252
GRASS BLADE	6,698		6,698	3,000
JOINT TACTICAL MISSILE SYSTEM-ARMY (JTACMS–A)	88,197	88,197	88,197	88,197
INFANTRY SUPPORT WEAPONS	26,044	21,044	26,044	23,544
MOBILITY	47,828		27,828	
SMOKE MUNITIONS & MATERIEL	7,892	7,892	7,892	7,892
COUNTERMINE AND BARRIERS	9,728	4,905	7,728	7,728
COUNTERMINE AND BARRIERS (BY TRANSFER)		(4,823)		
LANDMINE WARFARE	16,755	9,876	13,549	9,876
M1A1 DEVELOPMENT PROGRAM	3,798	3,798	3,798	3,798
FIELD ARTILLERY AMMUNITION	107,275	89,275	67,275	89,275
FIELD ARTILLERY AMMUNITION (BY TRANSFER)		(18,000)		
COMM ENGINEERING DEV	6,473	5,473	6,473	5,973
MODULAR INTEGRATED COMM AND NAVIGATION SYS	8,224		5,716	4,224
IDENTIFICATION FRIEND OR FOE EQUIPMENT DEV	9,871		9,871	9,871
NIGHT VISION DEVICES	21,944	10,944	16,305	10,944
AIRCRAFT SURVIVABILITY EQUIPMENT	19,934	19,934	19,934	19,934
ARMY COMMAND AND CONTROL SYSTEMS ENGINEERING	6,113	6,113	6,113	6,113
COMBAT FEEDING, CLOTHING AND EQUIPMENT	4,363	3,423	4,363	3,600
TACTICAL ELECTRICAL POWER SOURCES	6,449	6,449	6,449	6,449
GENERAL COMBAT SUPPORT	11,538	11,538	11,538	11,538
PHYSICAL SECURITY	1,216	7,216	1,216	7,216
EDUCATION AND TRAINING	4,378	4,378	4,378	4,378
SPECIAL PURPOSE DETECTORS	1,181	1,181	1,181	1,181
CML-BIO DETECTION WARNING & TRAINING MATERIEL	31,427	31,427	28,427	29,927
CHEM BIO PROTECTIVE MATERIEL	10,550	3,000	10,550	8,000
COMMAND AND CONTROL	548	548	548	548
REMOTELY PILOTED VEHICLES	91,880	60,000	60,000	60,000
INFRARED TERMINALLY GUIDED SUBMUNITION	27,114		27,114	
DIVISION AIR DEFENSE COMMAND AND CONTROL	82,065	30,000	52,065	43,000
AUTOMATIC TEST EQUIPMENT DEVELOPMENT	12,325	12,325	12,325	12,325
SINGLE CHAN GND & ABN RADIO SYS (SINCGARS) ED	13,922	13,922	13,922	13,922
MEDICAL CHEMICAL DEFENSE LIFE SPT MAT	9,204	9,204	9,204	9,204
DRUG AND VACCINE DEVELOPMENT	10,563	10,563	10,563	10,563
JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM	27,882	27,882	27,882	27,882
JT INTEROP OF TAC CMD & CONT SYS (JINTACCS)	7,719	7,719	7,719	7,719
JT CB POINT OF CONTACT, TEST AND ASSESSMENT	6,249	6,249	6,249	6,249
HV ANTI-TANK ASSAULT WPN SYS (TOW)	12,468	5,000	5,000	5,000
ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	40,444		30,000	10,700
CHAPARRAL	5,627	5,627	5,627	5,627
SAM HAWK/HAWK IMP PROG	10,633	10,633	10,633	10,633
COMBAT VEHICLE IMPROVEMENT PROGRAM	79,203	50,000	65,996	58,000
AN/TSQ–73 MODIFICATIONS	9,671	9,671	9,671	9,671
MANEUVER CONTROL SYSTEM	9,401	9,401	9,401	9,401
155MM	35,726	35,726	35,726	35,726
EQUIPMENT UPGRADE	23,343	43,343	23,343	43,343
PATRIOT PRODUCT IMPROVEMENT PROGRAM	40,221		40,221	25,000
HELLFIRE PRODUCT IMPROVEMENT PROGRAM	11,947	5,000	9,947	7,500
SPECIAL OPERATIONS FORCES (SOF) EQUIPMENT	31,242	31,242	21,124	21,124
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	14,592	13,592	11,592	11,592
JOINT TACTICAL COMMO PROGRAM (TRITAC)	17,401	15,401	17,401	16,401
EUCOM C3 SYSTEMS	1,078	1,078	1,078	1,078
CLASSIFIED PROGRAMS	616,824	481,607	595,953	528,707
TOTAL, TACTICAL PROGRAMS	2,440,170	1,661,246	2,150,426	1,987,584
INTELLIGENCE & COMMUNICATIONS:				
LONG-HAUL COMMUNICATIONS (DCS)	2,684	2,684	2,684	2,684
SATCOM GROUND ENVIRONMENT	94,478	79,478	84,478	79,478
COMMUNICATIONS SECURITY (COMSEC)	7,280	7,280	7,280	7,280
AIRCRAFT AVIONICS	2,493	2,493	2,493	2,493
MAPPING AND GEODESY	11,473	9,473	275	275
NAVSTAR GLOBAL POS SYS (USER EQ)	4,719	4,719	4,719	4,719
CLASSIFIED PROGRAMS	7,293	7,293	5,876	11,293
TOTAL, INTELLIGENCE & COMMUNICATIONS	130,420	113,420	107,805	108,222

[In thousands of dollars]

	Budget	House	Senate	Conference
DEFENSEWIDE MISSION SUPPORT:				
TARGET MISSILES	9,731	7,731	9,731	8,731
NONSYSTEMS TRAINING DEVICES (NSTD) DEV	3,869	3,869	3,869	3,869
NATO RESEARCH AND DEVELOPMENT	49,356		40,000	40,000
NON-SYSTEM TNG DEVICES ENGR	46,260	43,260	36,260	39,760
METEOROLOGICAL EQUIPMENT AND SYSTEMS	1,207	1,207	1,207	1,207
AVIATION ENGINEERING FLIGHT ACTIVITY	13,217	12,217	11,217	11,717
KWAJALEIN MISSILE RANGE	163,470	148,605	155,000	151,000
SUPPORT OF DEVELOPMENT TESTING	50,444	47,194	50,444	48,000
MATERIEL SYSTEMS ANALYSIS	16,966	15,966	16,966	15,966
EXPLOITATION OF FOREIGN ITEMS	3,984	3,984	3,984	3,984
SUPPORT OF OPERATIONAL TESTING	55,745	55,745	52,745	54,000
THREAT SIMULATORS FOR TESTING	34,279	34,279	34,279	34,279
NUCLEAR SURVIVABILITY TESTING & ANALYSIS	3,950			
PROGRAM-WIDE ACTIVITIES	85,484	68,732	81,485	68,732
INTL COOPERATIVE RESEARCH AND DEV	977		977	977
TECHNICAL INFO ACTIVITIES	6,771	6,772	5,175	5,175
AMC MAJOR RANGES AND TEST FACILITIES	207,799	167,771	203,800	180,000
MUNITIONS STANDARDIZATION EFFECTIVENESS & SAFETY	11,610	10,610	11,610	11,110
DOD HIGH ENERGY LASER SYSTEMS TEST FAC	20,729	20,729	20,729	20,729
RDTE SUPPORT FOR NON-DEVELOPMENTAL ITEMS	9,194	9,194	6,513	7,800
PRODUCTIVITY INVESTMENTS	53,893	43,893	28,893	28,893
REAL PROPERTY MAINTENANCE (RDT&E)	174,536	140,711	140,711	140,711
BASE OPERATIONS (RDT&E)	202,951	163,982	163,982	163,982
MGT HQ (RESEARCH-DEVELOPMENT)	11,244	11,244	11,244	11,244
INDUSTRIAL PREPAREDNESS	29,105	29,105	29,105	29,105
TOTAL, DEFENSEWIDE MISSION SUPPORT	1,266,772	1,046,800	1,119,926	1,080,971
CONVENTIONAL DEFENSE INITIATIVES:				
COMBAT VEHICLE DIESEL ENGINE		9,000		
GUARD-RESERVE UNIQUE R&D		5,000		5,000
LIGHT ARMORED VEHICLE/WEASEL EVALUATION		10,000		10,000
MINE FLAIL WHEELED VEHICLE		10,000		4,000
GROUND LAUNCHED HELLFIRE		2,000		2,000
STINGER SYSTEM SAFEGUARD		1,000		1,000
NATO COOPERATIVE R&D		31,000		
TACTICAL RPV EVALUATION		10,000		5,000
FIBER OPTICS GUIDED MISSILES		83,313		
QUIET GENERATORS		5,000		2,500
HELICOPTER AIR TO AIR MISSILE		5,000		2,500
CLOSE IN AIR DEFENSE		10,000		5,000
MILAN II EVALUATION		20,000		10,000
TOTAL, CONVENTIONAL DEFENSE INITIATIVES		201,313		47,000
COOPERATIVE DOD/VA MEDICAL RESEARCH		10,000		
CONSULTANTS, STUDIES & ANALYSIS			−6,048	−6,048
GENERAL REDUCTION		−40,000		−40,000
PRIOR YEAR FUEL SAVINGS		−830		−830
FY 87 FUEL SAVINGS		−9,100		−9,100
RDT&E PROFIT POLICY ADJUSTMENT			−22,610	−32,000
FY 87 INFLATION REPRICING			−82,000	−82,000
TOTAL, RESEARCH DEVELOPMENT TEST + EVAL, ARMY	5,550,300	4,426,660	4,840,463	4,556,076
TRANSFER FROM OTHER ACCOUNTS		(22,823)		
TOTAL FUNDING AVAILABLE	5,550,300	4,449,483	4,840,463	4,556,076

ADVANCED ROTORCRAFT TECHNOLOGY INTEGRATION/LHX

The conferees agree to provide $44,420,000 for Advanced Rotorcraft Technology Integration/LHX as proposed by the Senate, instead of $40,000,000 as proposed by the House. The conferees concur in the directives of the Senate concerning the LHX program, and direct that the analysis of the LHX helicopter procurement and operating costs made by the Cost Analysis Improvement Group be forwarded to the Committees on Appropriations of the House and Senate.

SURFACE-TO-SURFACE MISSILE ROCKET SYSTEM

The conferees agree to provide $42,681,000 for Surface-to-Surface Missile Rocket System as proposed by the Senate, instead of no funds as proposed by the House. The entire sum is budgeted for development of the Terminal Guidance Warhead (TGW) to be carried by MLRS rockets. The conferees note the concerns expressed by the House, and direct the Army to submit not later than April 1, 1987, a report which explains and justifies in detail the requirement for TGW, including a comparison with all other guided submunition and warhead programs being funded by DoD, and which provides a complete funding profile for development and procurement, a program schedule, and an explanation of acquisition strategy.

WEAPONS AND AMMUNITION

The conferees agree to provide $12,000,000 for Weapons and Ammunition, the authorized amount. Of this sum, $11,827,000 are provided only for development and test of a lightweight anti-armor munition launched from a unmodified M-16 rifle.

ARTILLERY/MORTAR AMMUNITION DEVELOPMENT

The conferees agree to provide $9,807,000 for Artillery/Mortar Ammunition Development as proposed by the House, instead of $14,807,000 as proposed by the Senate. The conferees endorse the position of the House that an additional new start to produce yet another smart 155-millimeter projectile is not justified as this time. Should the Army identify a firm requirement for such a program as part of the Anti-Armor Master Plan, the conferees would be willing to reconsider such a program in future years.

AIR DEFENSE ALTERNATIVES

The conferees agree to provide $83,944,000 for Air Defense Alternatives, instead of no funds as proposed by the House or $63,944,000 as proposed by the Senate.

Of the sum provided, $63,313,000 are for the Fiber Optics Guided Missile (FOG-M). The conferees concur in the concerns expressed by the Senate over the schedule and structure of the FOG-M program, as well as those expressed by the House over the adequacy of justification for pursuing FOG technology. It must be noted that last year FOG-M was being put forward as an anti-armor weapon. The House requested additional justification, including "a business plan which details the competitive development, under Army laboratory supervision, and the competitive procurement of this technology." Subsequently, the Army decided to develop FOG-M as an element of the newly announced Forward Area Air Defense System (FAADS). On September 30, 1986, the Army forwarded a highly abbreviated business plan which the conferees regard as an interim response. The Army is directed to forward a more thorough version at the time it submits the program restructuring report required by the Senate.

Of the sum provided, $20,631,000 are for Line of Sight-Heavy, the project to find a replacement for DIVAD. The conferees concur in the concerns expressed recently by the House over the pace of this project. In a letter to the Secretary of Defense on September 26, 1986, the House directed that fiscal year 1986 funds provided for the project be used to acquire, test and evaluate solely air defense systems which are currently in production and are currently in operational use. In order to allow for evaluation of systems which may be on the verge of production, the conferees agree the fiscal years 1986 and 1987 funds may be used to acquire, test and evaluate systems

which either are currently in production or are ready for production. The conferees direct that all test and evaluation be completed and the Department announce a selection not later than November 26, 1987.

CONFERENCE REPORT (H. REPT. 99-1005)

(Continued)

FIELD ARTILLERY AMMUNITION

The conferees agree to provide $89,275,000 as proposed by the House, instead of $67,275,000 as proposed by the Senate, and to decline to transfer $18,000,000 of prior year funds as proposed by the House. The conferees note that the application of prior year funds to fiscal year 1987 tasks will bring the program to the full budgeted amount of $107,275,000.

The conferees specifically endorse the directives of the House and the Senate concerning the SADARM program. In addition, the concerns stated by the House over the realism of a 48 month total development schedule, and by the Senate over the proposal to down-select to one contractor after 30 months, are well founded. The conferees direct that the SADARM program be restructured to provide for a total schedule of 60 months, thereby ensuring that technical and financial decisions will not be driven by artificially short deadlines. The efforts now in progress should continue without interruption, and the necessary restructuring accomplished at a convenient point in the future.

PHYSICAL SECURITY

The conferees agree to provide $7,216,000 for Physical Security as proposed by the House, instead of $1,216,000 as proposed by the Senate.

The development of better equipment to protect installations and rear areas from terrorists and special forces is of high priority. The conferees are advised that the budget request is inadequate to fund the design of the Advanced Facility Intrusion Detection System (AFIDS), as had formerly been planned. Accordingly the conferees have provided $6,000,000 above the budget to continue system integration and development of AFIDS components.

ADVANCED FIELD ARTILLERY TACTICAL DATA SYSTEMS (AFATDS)

The conferees agree to provide $10,700,000 for the AFATDS program. These funds are for program office support costs only. A contract ceiling was established for the Concept Evaluation Phase (CEP) by the Army and the Committees on Appropriations of the House and Senate last year. Since the contract ceiling has been reached, no additional funds are required until such time as the ASRAC/JRMB reports verify that the CEP has been successfully completed and the program is ready for Full Scale Development (FSD).

The conferees are still concerned about the high risks and costs of the AFATDS program, and the schedule slips that are becoming increasingly evident. Continued support of this program beyond the CEP will hinge upon whether the performance of the system justifies the cost and if it is delivered in a timely manner. In light of these above concerns the conferees would be willing to entertain a reprogramming request for AFATDS only following submission by the Army of an updated program status report and certification by the Secretary of the Army that AFATDS can achieve all objective system requirements.

As reported by the Army, the initial test of the LFATDS system disclosed a significant improvement in mobility, deployability and distributed capabilities. The GAO also reported that LFATDS is not only the most suitable system for the Light Divisions, but has an excellent potential for cost-savings. The conferees therefore agree that the Army is to subject the LFATDS system to a full-scale operational test under the auspices of an independent DOD testing agency. Test results are to be provided to the Senate and House Appropriations Committee by July 1, 1987.

SPECIAL OPERATIONS FORCES EQUIPMENT

The conferees agree to provide $21,124,000 for Special Operations Forces Equipment as proposed by the Senate, instead of $31,242,000 as proposed by the House.

Within the amount provided, $14,678,000 are to develop an avionics package for installation in modified UH-60 and CH-47 helicopters to be used for the special operations mission. The Army is directed to use these funds to proceed with a competitive evaluation and integration of a low-cost, in-production avionics system. The conferees are advised that there exists an abundance of advanced avionics technology that could justify this requirement, and are therefore of the opinion that future requirements for research and development funds for this purpose cannot be justified.

BASE OPERATIONS

REAL PROPERTY MAINTENANCE

The conferees are aware that reductions in Base Operations and Real Property Maintenance Accounts for Army RDT&E may cause difficulty at a number of Army research and test installations. This matter came to the attention of the conferees after the funding levels had been determined. While the conferees are interested in obtaining more visibility into the cost of the support activities at the Army's test and research installations and in providing only those resources that are necessary, it is not the intent of the conferees to initiate major reductions in force at these facilities as a result of the funding provided in this bill. The conferees instruct the Army to conduct a quick, but thorough review of the support activities, at these installations and to implement cost savings proposals where feasible, but otherwise, to maintain the planned employment levels. Any funding shortfall that may result should be met through reprogramming. The conferees reiterate their position that funding for these activities be merged into the Operations and Maintenance account in the future.

GROUND LAUNCHED HELLFIRE

The conferees agree to provide $2,000,000 for Ground Lauched Hellfire as proposed by the House, instead of no funds as proposed by the Senate. The conferees acknowledge the potential that the Ground Lauched Hellfire System provides as an effective anti-armor weapon for the Army's light infantry divisions. The conferees agree to provide $2,000,000 to purchase components for a prototype unit, fund up-front design work and cover in-house expenses. The conferees will be willing to consider future funding for the Ground Launched Hellfire System once the Army has identified a firm operational requirement, established organizational and operational concepts for its employment and has made it an integral part of the Anti-Armor Master Plan.

MILAN II

The conferees agree to provide $10,000,000 for Milan II, instead of $20,000,00 as proposed by the House and no funds as proposed by the Senate. The conferees agree that the funds provided for the Milan II program are solely to be used for the test and evaluation of the Milan II as a potential alternative medium-range anti-tank weapons system. None of the funds provided are to be used for the establishment of a production source or to transition the program to production.

The Army is encouraged to give full and fair evaluation of the Milan II as an interim medium-range anti-tank weapons system. Should Army analyses conclude that the acquisition of the Milan II is required and is reported as requested in the Army missile procurement account to meet a near-term threat and that satisfactory organizational and operational concepts for Milan II can be developed, the conferees would be willing to consider production of the system in the future. However, the conferees express their strong support for the Advanced Anti-Tank Weapon System-Medium as the Army's approach to finding a Dragon replacement. Acquisition of any interim system for special mission infantry battalions should not slow the development of a medium-range anti-tank weapon for Army infantry units to replace the Dragon.

PROTECTIVE MASKS

The Army intends to award competitively a production contract for protective masks in the near future. The conferees emphasize that such an award must be made strictly on the merits of the competition, and that all candidates must be given full and fair consideration.

EXPENDABLE JAMMERS

The conferees agree that, within the Army's Tactical Electronic Countermeasures Systems program (P.E. 6.47.50A), development of expendable jammers is of high priority. The conferees direct that project DL14, Expendable Jammers, be fully funded at the fiscal year 1987 budget request.

ACQUIRED IMMUNE DEFICIENCY SYNDROME

The conferees agree with the Senate recommendation to include $21,885,000 in fiscal year 1987 to continue the Army's vital research effort on the acquired immune deficiency syndrome (AIDS). Further, the conferees concur in the direction that the Army should continue to be allowed maximum flexibility in managing both the financial and personnel resources for this research program and that the Department of Defense work closely with the Army to include an appropriate budget request in the fiscal year 1988 submission.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL, NAVY				
TECHNOLOGY BASE:				
UNIVERSITY RESEARCH	12,068	12,068	6,245	8,750
INHOUSE IND LAB RSRCH	26,918	26,918	26,918	26,918
DEF RESRCH SCIENCES	349,853	340,241	330,000	330,000
AAW/ASUW TECHNOLOGY	75,244	60,000	65,000	62,919
ELECTRONIC WARFARE TECHNOLOGY	13,946	.....	13,946	13,946
SURFACE SHIP TECHNOLOGY	13,515	.....	13,515	12,515
AIRCRAFT TECHNOLOGY	21,111	20,000	21,111	20,000
MARINE CORPS AIR-GROUND TECHNOLOGY	17,628	15,081	15,628	15,081
COMMAND, CONTROL & COMMUNICATIONS TECHNOLOGY	20,242	20,242	19,242	19,242
MISSION SUPPORT TECHNOLOGY	34,238	34,238	34,238	34,238
SYSTEM SUPPORT TECHNOLOGY	65,799	61,799	65,799	61,799
ASW TECHNOLOGY	90,060	80,000	90,060	85,000
MINE & SPECIAL WARFARE	14,038	14,038	14,038	14,038
SUBMARINE TECHNOLOGY	12,441	12,441	12,441	12,441
NUCLEAR PROPULSION	43,876	33,000	43,876	38,438
OCEAN & ATMOSPHERIC SUPPORT TECHNOLOGY	25,354	25,354	25,354	25,354
INDEPENDENT EXPLORATORY DEVELOPMENT	14,717	14,717	14,717	14,717
TOTAL, TECHNOLOGY BASE	851,048	770,137	812,128	795,396
ADVANCE TECHNOLOGY DEVELOPMENT:				
ADVANCE TECHNOLOGY DEVELOPMENT:				
AVIONICS	3,858	3,858	3,858	3,858
ADV AIRCRAFT PROPULSION SYS	6,638	6,638	4,052	4,052
ADV A/C SUB SYSTEMS	7,944	5,978	6,248	5,900
NATIONAL AEROSPACE PLANE	25,527	.....	.....	.....
ERAS SYS TECH	6,486	8,986	6,486	8,000
SHIP PROPULSION SYSTEM	22,474	.....	15,000	10,000
SUBMARINE HULL ARRAY DEV (ADV)	8,891	8,891	8,891	8,891
ELECTRIC DRIVE	9,816	9,816	9,816	9,816
HUMAN FACTORS ENG (HFE)	3,964	2,000	2,964	2,500
MEDICAL DEVELOPMENT	16,700	10,535	16,700	12,000
MNPWR & PERSONNEL SYS	6,658	2,600	3,599	3,000
GENERIC LOGISTICS R&D TECH DEMO	21,236	10,000	20,000	18,000
EDUCATION AND TRAINING	6,536	6,536	4,536	5,000
ADV MANPWR TRING SYS	1,837	1,837	1,837	1,837
SIMU & TRAINING DEVICES	8,218	8,218	8,218	8,218
NAVY & LOGISTICS PRODUCTIVITY	934	.....	934	.....
ADV ASW TECH	25,063	25,063	20,000	20,000
ADV TECH TRANSITION	13,492	13,492	4,943	11,000
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	196,272	124,448	138,082	132,072
STRATEGIC PROGRAMS:				
TACT SPACE OPERATIONS	22,506	16,000	20,000	17,500
SSBN SURVIVABILITY	2,703	2,703	.....	1,000
SATELLITE LASER COMM	5,875	35,875	5,875	20,875
TRIDENT II	1,632,866	1,500,000	1,595,000	1,595,000
STRAT TECH SUPPORT	3,914	3,914	3,914	3,914
FLT BALLSTC MIS SYS	40,222	25,000	40,222	20,000
SSBN SEC TECH PROG	54,739	50,000	54,739	50,000
TRIDENT	51,783	41,000	51,783	36,000
EXTRME LOW FREQ COMM	18,296	8,000	18,296	11,500
NAVY STRATEGIC COMM	143,282	84,654	135,116	93,266
NAVY STRATGIC COMM (BY TRANSFER)	.....	(13,778)	.....	.....
NAV SPASUR	1,563	900	1,563	1,232
MEECN	1,687	1,687	1,687	1,687
WIS MODERNIZATION	21,610	7,177	21,610	14,000
TOTAL, STRATEGIC PROGRAMS	2,001,046	1,776,910	1,949,805	1,865,974
TACTICAL PROGRAMS:				
INTEGRATED A/C AVIONICS	22,484	22,484	22,484	22,484
ELECT W/F ADV. DEV	39,294	.....	39,294	31,435
AIR/OCEAN TACT. APPLIC	7,522	6,550	7,522	6,550
T-45/TS	134,163	115,163	134,163	125,263
AIRBRNE LIFE SUPT SYS	4,377	4,100	3,377	3,377
CV ASW MODULE	4,255	4,255	4,255	4,255
AIRCRAFT SYSTEMS	5,547	.....	5,547	.....
AIR ASW	9,131	5,631	7,131	5,631
A-6F	143,256	130,000	143,256	137,000
ABN MINE CNTRMEASURES	11,565	11,565	11,565	11,565
TAC AIR RECONN	18,042	14,042	18,042	14,042
ACT SURVI/VULNERABLTY	19,054	15,000	16,054	14,100
NAVAL AIRSHIP	9,834	.....	5,000	3,000
ADV. AIR-TO-SURF MSL	42,409	11,700	31,700	30,000
GENERAL REDUCTION	.....	11,700	.....	.....
IRR MAVERICK	245	.....	245	.....
ADV AIR-AIR SURF-AIR MSL	79,728	.....	70,000	35,000
LOW COST ANTI-RADIATION SEEKER	14,704	39,704	9,704	39,704
BGAAWC	13,746	7,000	13,746	7,000
SURFACE MCM	22,678	17,678	14,678	16,178
SUB SONAR DEV	11,109	11,109	11,109	11,109
SURF-SHIP TORPEDO DEFNS	36,908	19,808	13,708	19,808
SHIPBRD SYS COMPNT DEV	14,917	14,917	14,917	14,917
SHIPBRD DAMAGE CONTROL	41,861	26,626	31,861	29,244
SUB ARCTIC WF/SPT EQUIP PROG	2,946	2,946	2,946	2,946
PILOT FISH	75,248	75,248	75,248	75,248
NONACOUSTIC ASW	26,139	23,139	26,139	24,639
ADV ASW TARGET	10,282	10,282	10,282	10,282
RETRACT JUNIPER	28,935	27,455	28,935	28,195
RADIOLOGICAL CONTROL	2,592	.....	2,592	1,300
LINK DOGWOOD	3,931	1,000	3,931	2,000
SURFACE ASW	23,168	11,584	23,168	20,168
SUB TAC WARFARE SYS	10,689	10,689	10,689	10,689
SHIP DEVELOPMENT	21,606	14,000	18,687	11,306
SURFACE SHIP NAVSYS	6,675	.....	5,000	2,000
ATTACK SUBMARINE DEV	3,931	.....	3,931	.....
ADV NUC REACTOR COMP SYS DEV	96,037	96,037	96,037	96,037
PHYSICAL SECURITY	7,686	6,386	5,722	5,722
CHALK EAGLE	79,351	79,351	79,351	79,351
A4W/AIG NUC PROP PLANT	3,410	3,410	3,410	3,410
COMBAT SYS INTEGRATION	24,051	.....	24,051	15,000

[In thousands of dollars]

	Budget	House	Senate	Conference
JOINT ADVANCED SYSTEMS	78,680		132,446	132,446
MINE DEVELOPMENT	14,836	14,836	14,836	14,836
CHALK PINE	43,711	43,711		43,711
CONVENTIONAL MUNITIONS	40,882	35,000	30,882	30,882
ALWT	(ADV)	7,434		
MC ASSULT VEHICLES	11,005	11,005	11,005	11,005
TAC NUCLEAR WEAPON DEV	15,151	7,651	8,000	8,000
MC GRD COMBAT/SPT SYS	18,249	15,249	15,570	15,249
JT SERV EXPL ORDN DEV	14,791	14,791	14,291	14,291
OCEAN ENG SYS DEV	1,417	1,417	1,417	1,417
ASW OCEANOGRAPHY	7,065	7,065	7,065	7,065
NAVAL OCEANGRAPHY			3,000	3,000
ASW SIGNAL PROCESSING	17,988	17,988	17,988	17,988
ADV MARINE BIO SYSTEM	5,385	5,385	5,385	5,385
FLEET TAC D&E PROGRAM	4,649	4,649	4,149	4,149
OCEAN ENG TECH DEV	16,373	14,224	16,373	14,224
COMMAND AND CONTROL SYS	36,525	31,525	35,525	31,525
CONTAINER OFFLD/TRNSFR SYS	5,602		5,602	2,927
NAVY SPECIAL WARFARE	15,637	15,637	13,321	15,637
NAVY ENERGY PROGRAM	16,833	16,053	16,833	16,400
FACILITIES IMPROVEMENT	9,476	9,476	8,476	8,476
MERSHIP NAV AUX PROG	6,014	3,014		
COMBAT SERVICES SUP (ADV)	15,857	15,857	13,857	13,857
CHALK CORAL	14,694	14,694	14,694	14,694
LINK HAZEL	37,566	37,566	17,566	17,566
LINK LAUREL	47,088	5,488	42,088	28,000
ARIADNE	11,240	8,240	9,240	9,240
LINK SPRUCE	94,272		70,000	70,000
RETRACT MAPLE	20,782	20,782	20,782	20,782
NCCS SE&I	12,599	6,300	10,599	8,000
ASW SURVEILLANCE	25,982	25,982	22,982	24,482
ASW ENVIRONMENTAL ACOUSTIC SPT	12,764	12,764	12,764	12,764
SPECIAL PROCESSES	41,466	41,466	41,466	41,466
STANDARD AVIONICS DEVELOPMENT	19,432	2,740	19,432	14,000
IFF SYS DEV	23,449	23,449	23,449	23,449
LAMPS	19,712	19,712	3,994	19,712
HELO DEV	11,084	11,084	6,465	6,465
AV-8B AIRCRAFT (ENG)	48,639	64,639	48,639	48,639
SUPPORT EQUIP	32,492	32,492	22,492	25,000
S-3 WEAPONS SYS IMPRVMNT	15,644	15,644		10,200
AIR OCEAN EQUIP ENG	3,294	3,294	3,294	3,294
AIRBORNE ASW DEV	2,266	2,266	2,266	2,266
P-3 MODERNIZATION PROG	96,877	77,210	77,200	77,200
ABN EW ENG	55,973		55,973	36,000
ASPJ	19,947		19,947	10,000
CV IZ ASW HELO	8,062	2,800	8,062	4,160
A/C PROPULSION (ENG)	27,500	27,500	25,143	25,143
EW SIMULATOR DEVELOPMENT	51,896		41,896	41,896
C/MH-53E	3,464	1,611	3,464	1,611
ACOUSTIC SRCH SENSORS (ENG)	56,761	36,819	36,819	36,819
V-22	386,871	340,000	430,871	422,671
AVIATION LIFE SPT SYS	29,705	29,705	29,705	29,705
ACFT ENGINE COMPNT IMP	65,183	60,000	48,887	45,300
MK-92 FCS UPGRADE	7,808	7,808		4,000
GENERAL REDUCTION		-7,808		
AEGIS AREA AIR DEF	4,312	4,312	4,312	4,312
AEGIS WPN SYS IMP	134,939	110,000	129,939	120,000
LINK ASH	8,846	8,846	8,846	8,846
SEA LANCE	118,416	115,000	118,416	115,000
AMRAAM	19,022	19,022	10,000	5,500
VERTICAL LAUNCHING SYS	20,388	20,388	20,388	20,388
AIR/AIR MSL SYS ENGR	27,906	24,760	27,906	27,906
VLS ASROC	41,669	41,669	41,669	41,669
CLOSE-IN WPN (PHALANX)	7,493	7,493	6,000	5,500
NATO SEA SPARROW	7,745		5,745	5,745
SM-2 (N)	9,229			
STNDRD MISSILE IMPRVMNTS	45,988	45,988	45,988	45,988
TOMAHAWK	68,368	68,368	66,368	66,368
5 IN. ROLLING AIR FRM MSLE	24,210		24,210	24,210
SSN-688 CLASS VLS	18,344	5,894	18,344	12,119
NEW THREAT UPGRADE	50,899	50,899	50,899	50,899
SUBMARINE COMMUNICATIONS	25,979	7,377	20,979	7,377
SUBMARINE SONAR DEV	52,716	52,716	52,716	52,716
AIR CONTROL ENG	9,207	9,207	9,207	9,207
CW COUNTERMEASURES	7,799	7,799	7,799	7,799
EMSP	100,345	96,345	95,345	96,345
RADAR SURVEILLANCE EQUIP	9,321	9,321	7,821	7,821
SUB SPT EQUIP PROG	32,265	17,265	24,265	17,265
SHIP SURVIVABILITY	9,194	9,194	7,194	7,194
CMBT INFO CNTR CONVERSN	36,727	36,727	36,727	36,727
SUB COMBAT SYSTEMS	316,649	284,949	266,649	284,949
SSN-21 DEVELOPMENT	256,668	240,000	256,668	248,000
SUB TACT WARFARE SYS	47,101	31,101	42,101	40,000
SUB TACT WARFARE SYS (BY TRANSFER)		(700)		
PHYSICAL SECURITY (ENG)	9,015	9,015	5,271	5,271
SHIP SUBSYS DEV-LBTS	18,822	84,242	18,822	84,242
SHIPBD ELEC WARFR IMPRV	51,932		51,932	47,000
STD EMBEDDED COMPUTER RSRCS	32,469		28,469	18,000
SQS-53C	26,514	26,514	26,514	26,514
LINK BIRCH	3,927	3,927	3,927	3,927
MINE DEVELOPMENT	13,740	13,740	13,740	13,740
NAVAL GUNNERY IMPROVEMENT	17,428	12,000	9,710	9,710
UNGUID CONVL AIRLNCH WEP	5,626	4,011	4,011	4,011
CHEM WARFARE WEAPONS	4,000	4,000	4,000	4,000
SAL GP/EO SENS DEV	21,156		16,323	16,232
BOMB-FUZE IMPR	14,711	14,711	9,834	9,834
MK-50 TORP (ALWT)	148,825	188,825	148,825	173,525
JT SERV EOD DEV (ENG)	5,420	5,420	5,420	5,420
MC GRND CMBT/SPT ARMS	12,541	2,034	3,746	2,034
MC GRND CMBT/SPT ARMS (BY Transfer)		(2,700)		
MK 48 ADCAP (ENG)	37,895	37,895	37,895	37,895
ASW OCEANOGRAPHIC EQUIP	1,162	1,162	1,162	1,162
CHALK BANYAN	16,600	21,600	16,600	21,600
THREATER MISSION PLAN CTR	22,275	22,275	22,275	22,275
INITIAL TRAINERS ACQUISITION	84,621		70,000	70,000

[In thousands of dollars]

	Budget	House	Senate	Conference
NAVY ENERGY PROGRAM	9,044	8,794	9,044	8,794
NCCS ASHORE NODES	53,029	53,029	43,029	43,029
SURF ASW SYS IMP	36,860	18,430	.....	18,430
AIR W/F TRNG DEV	1,964	1,964	.....	.....
SURFACE W-F TRNG DEV	28,631	28,631	25,631	25,631
COMBAT SERVICES SPT	5,465	5,465	5,965	4,965
MC INTEL/ELEC WAR SYS	9,546	7,837	9,546	7,837
MC CMD/CNTRL/COMM SYS	16,005	4,137	16,005	4,137
REGIONAL TAC SURV	40,971	.....	40,971	31,000
INTELLIGENCE (ENG)	6,460	6,460	6,460	6,460
MEDICAL DEV (ENG)	2,997	2,997	2,497	2,497
JT INTEROP TAC CMD/CNTRL	3,586	3,586	3,586	3,586
JT INTEROP TAC CMD/CNTRL MC	3,471	3,471	2,971	2,971
FLEET TAC DEV/EVAL	16,590	16,590	16,590	16,590
ELECTROMAGN SPECTRUM MGT	5,873	2,937	5,873	3,900
MNGMNT AND TECH SPT	14,296	8,400	13,296	10,000
C2 SURV RECON SUP	5,342	5,058	5,342	5,058
MC TAC EXPLOIT NAT CAP	849	849	849	849
A-6 SQUADRONS	13,820	4,077	10,077	7,820
F/A-18 SQUADRONS	59,093	35,000	59,093	35,000
ERLY WRNG ACFT SQDRNS	34,454	34,454	34,454	34,454
AVIATION SPT CVW	2,221	2,221	1,000	1,000
FLEET TCC (TAC)	63,733	44,898	60,000	44,898
UNDERSEA SURVEIL SYS	34,198	34,198	34,198	34,198
SURTASS	5,833	5,833	5,833	5,833
SPECIAL PROJECTS	10,500	10,500	8,684	8,684
COVER AND DECEPTION PROG	15,066	15,066	15,066	15,066
EW READINESS SUPPORT	4,421	.....	4,421	2,112
COUNTER C3 DEV	23,952	.....	22,952	17,278
HARM IMPROVEMENTS	3,931	.....	3,931	2,500
TACTICAL INFO SYS	48,071	15,000	48,071	43,100
ASW CMBT SYS INTEGRATION	17,409	10,000	17,409	16,400
ACFT EQ RELIABLTY/MAINT PROG	8,846	2,057	8,846	2,057
LAB FLEET SUPPORT	6,056	6,056	6,056	6,056
F-14 UPGRADE	268,421	240,000	260,421	260,000
TAC INTELL PROCESSING	2,160	2,160	2,160	2,160
EW COUNTER RESPONSE	69,708	.....	50,293	50,293
OPERATIONAL REACTOR DEV	18,872	18,872	18,872	18,872
MAR CORPS TELECOM	11,644	7,000	9,000	8,000
MC GRD COMBAT/SUP ARMS SYS	67,934	60,865	63,458	60,865
MC COMBAT SEVICES SPT	2,548	2,548	2,548	2,548
MC INTEL/ELEC WAR SYS	24,822	18,822	24,822	22,700
MC CMD/CNTL/COMM SYS	39,925	26,169	32,188	26,169
MC TECH SUPP C/C SYS	7,471	7,471	4,406	6,500
TRI TAC MC	6,959	6,959	5,959	5,959
GENERAL REDUCTION	.....	-170,000	.....	48,015
TOTAL, TACTICAL PROGRAMS	6,035,049	4,430,811	5,521,436	5,351,432
INTELLIGENCE & COMMUNICATIONS:				
NAVIGATION SYSTEMS	641	641	641	641
EHF SATCOM	53,141	53,141	43,141	43,141
NAVSTAR GPS	76,513	76,513	76,513	76,513
SATELLITE COMM	11,753	11,753	8,753	8,753
MILSTAR JOINT PROJ OFC TERMINAL	4,198	4,198	4,198	4,198
CLASSIFIED PROGRAMS	548,784	544,234	505,534	494,234
TOTAL, INTELLIGENCE & COMMUNICATIONS	695,030	700,480	638,780	627,480
DEFENSEWIDE MISSION SUPPORT:				
ENVIRONMENTAL PROTECT	8,720	7,720	8,720	8,220
NATO COOPERATIVE	49,091	.....	25,000	.....
RANGE INSTRMNTATN SYS DEV	11,347	11,347	11,347	11,347
TARGET SYS DEV	111,690	90,000	100,000	95,000
PER TRNG, SIMULATION & HUMAN FACTORS	6,823	3,575	5,823	3,575
STUDIES ANALYSIS SPT—MC	1,811	1,811	1,811	1,811
STUDIES ANALYS SPT—NAVY	8,031	3,785	7,531	3,785
MC OPS ANALYS GP-CNA	4,068	4,068	4,068	4,068
CNTR FOR NAV ANALYSIS	18,603	18,603	18,603	18,603
MC OPERATNL TEST/EVAL	1,751	1,751	1,751	1,751
TECH INFO SERVICES	2,543	2,543	2,543	2,543
DEVEL CENTER SUPPORT	5,300	5,300	5,300	5,300
INTERNATIONAL RDT/E	3,687	1,000	.....	1,000
RDTE LAB/FAC MGT SPT	54,974	50,000	54,974	50,000
RDTE INSTRUMNTN-MAT SPT	19,789	19,789	19,789	19,789
RDTE SHIP/AIRCFT SPT	81,335	76,088	77,335	77,335
TEST/EVAL SPT	330,580	305,000	317,580	312,000
OPER TEST/EVAL CAPABLTY	6,853	6,853	6,853	6,853
WEATHER SERVICE	1,000	1,000	1,000	1,000
DEF METEOR SATEL PROG	49,040	39,030	49,040	45,000
MANUFACTURING TECHNOLOGY	31,319	31,319	31,319	31,319
TOTAL, DEFENSEWIDE MISSION SUPPORT	808,355	680,592	750,387	700,299
CONVENTIONAL DEFENSE INITIATIVES:				
NATO COOPERATIVE	.....	30,000	.....	30,000
SMALL ROTARY ENGINE, RPV	.....	1,000	.....	.....
TOTAL, CONVENTIONAL DEFENSE INITIATIVES	.....	31,000	.....	30,000
GENERAL REDUCTION	.....	-10,000	.....	.....
GENERAL REDUCTION CONSULTANTS-STUDIES ANALYSIS	.....	.....	-10,504	-6,758
INTEGRATED PLATFORM COMM DEVEL	.....	69,021	.....	69,021
PRIOR YEAR FUEL SAVINGS	.....	-72	.....	-72
PRIOR YEAR FUEL SAVINGS (BY TRANSFER)	.....	(72)	.....	.....
FY 87 FUEL SAVIMGS	.....	-800	.....	.....
COOPERATIVE DOD/VA MEDICAL RESEARCH	.....	10,000	.....	.....
FLOATING BEAM AVIONICS RACK	.....	10,000	.....	.....
V-22 ENGINE TECH	.....	40,000	.....	.....
RACER	.....	8,200	.....	7,474
RACER (PRIOR YEAR TRANSFER)	.....	(11,800)	.....	.....
RDT&E PROFIT POLICY ADJUSTMENT	.....	.....	-44,540	-63,000
FY 87 INFLATION REPRICING	.....	.....	-182,900	-182,900
TOTAL, RESEARCH DEVELOPMENT TEST & EVAL, NAVY	10,586,800	8,640,727	9,572,674	9,326,418

[In thousands of dollars]

	Budget	House	Senate	Conference
TRANSFER FROM OTHER ACCOUNTS		(29,050)		
TOTAL FUNDING AVAILABLE	10,586,800	8,669,777	9,572,674	9,326,418

UNDEFINITIZED CONTRACTS

The conferees agree with House language directing the expeditious definitization of RDT&E unpriced contracts and submission of a Plan of Action and Milestones by April 1, 1987.

FIXED PRICE CONTRACTS

In a small number of cases, the conferees were unable to totally exempt fixed price contracts from reductions, some service this would have required unacceptable reductions in other programs of high priority such as the Trident II/D-5 Weapon System and Submarine Combat Systems. However, the conferees agree to consider a reprogramming which would restore fixed price contract funding, either individually or en bloc, provided that the contracts in question have been definitized.

NAVAL OCEANOGRAPHIC INSTITUTE

The conferees agree that the Naval Oceanographic Institute be funded at the budget request level, as proposed by the Senate.

AAW/ASUW TECHNOLOGY

SYSTEM SUPPORT TECHNOLOGY

The conferees agree to the reductions as proposed by the House totalling $16,325,000 for the Hypersonic Wide Area Defense Missile (HYWADM). None of the reductions should be applied against other activities in these program elements.

SUBMARINE HULL ARRAY DEVELOPMENT

The conferees agree that $5,000,000 of funds provided for Submarine Hull Array Development (Advanced) must be allocated to the ACSAS sonar project, as proposed by the House.

MEDICAL DEVELOPMENT (ADVANCED)

The conferees agree to provide $12,000,000 for Medical Development (Advanced), instead of $10,535,000 as proposed by the House or $16,700,000 as proposed by the Senate. The conferees direct that none of the reduction to this program be applied against the national bone marrow registry and transplantation projects.

ADVANCED TECHNOLOGY TRANSITION

The conferees agree to provide $11,000,000 for Advanced Technology Transition instead of $13,492,000 as proposed by the House or $4,943,000 as proposed by the Senate. The Advanced Fiber Optics Technology and Quiet ADCAP projects must be funded at the budget request level.

NAVY STRATEGIC COMMUNICATIONS

The conferees agree to provide $93,266,000 for Navy Strategic Communications instead of $84,654,000 as proposed by the House or $135,116,000 as proposed by the Senate. These funds must be allocated as follows: E-6A, $76,609,000; Ship to Shore Communications, $13,657,000; and STRATSEC, $3,000,000. The TACAMO Advanced Communication Suite has been funded at the budget request, under the Integrated Platform Communications Development program. Furthermore, the conferees censure the Navy for reprogramming fiscal year 1986 STRATSEC funds in clear violation of Congressional direction. Should this problem recur in the future, the Appropriations Committees will take strong measures to ensure enforcement.

T-45 TRAINING SYSTEM

The conferees agree to provide $125,263,000 for the T-45 Training System instead of $115,163,000 as proposed by the House or $134,163,000 as proposed by the Senate. The reduction of $8,900,000 is intended to delete low-priority items which were added to the FSD contract at the end of negotiations since contract savings were available to finance them. Given budget constraints, these savings should instead be used to offset the fiscal year 1987 request. Should the Navy reaffirm the absolute necessity of these items after further review, the Appropriations Committees interpose no objection to below threshold reprogrammings up to the budget request level.

AIRBORNE LIFE SUPPORT SYSTEMS

The conferees agree to provide $3,377,000 for Airborne Life Support Systems as proposed by the Senate instead of $4,100,000 as proposed by the House. The conferees further agree to the House's direction that $3,000,000 of this amount be allocated to the Aircrew Impact Injury Prevention Project, an important activity which has been underfunded in recent years. Language is included in the bill to ensure that this conference direction is carried out.

ADVANCED AIR-TO-SURFACE MISSILES

The conferees agree to provide $30,000,000 for Advanced Air-to-Surface Missiles instead of $11,700,000 as proposed by the House or $31,700,000 as proposed by the Senate. Of the recommended amount, $20,000,000 is provided to initiate development of the Standoff Land Attack Missile (SLAM) and $10,000,000 is to continue Skipper upgrades, as stated on page 298 of Senate report 99-446. The $10,000,000 provided for Skipper RDT&E is only for the activities stated in the Senate report, and may not be diverted to SLAM, AIWS, Skipper follow-on, or other activities. Furthermore, the conferees deny Reprogramming 86-23PA, which proposed to initiate SLAM development in fiscal year 1986. The conferees will reconsider the Advanced Interdiction Weapon System next year pending strong justification for the project.

ADVANCED AIR-TO-AIR MISSILE/

ADVANCED SURFACE-TO-AIR MISSILE

The conferees agree to provide $35,000,000 for Advanced Air-to-Air Missile/Advanced Surface-to-Air Missile (AAAM/ASAM) instead of no funds as proposed by the House of $70,000,000 as proposed by the Senate. Of this amount, $30,000,000 is provided to initiate full-scale development of the AEGIS ER area defense missile. The proposed Outer Air Battle Missile (OABM) is not sufficiently justified to enter the Demonstration and Validation phase in fiscal year 1987. The conferees agree to reconsider the OABM in fiscal year 1988 pending stronger programmatic justification, which is to include an analysis of the potential for a joint Navy/Air Force development effort.

LOW COST ANTI-RADIATION SEEKER

The conferees agree to provide $39,704,000 for Low Cost Anti-Radiation Seeker as proposed by the House instead of $9,704,000 as proposed by the Senate. Language has been provided in the bill which specifies that these funds are available only for the Low Cost Anti-Radiation Seeker.

The directives of the conference concerning development and production of the Low Cost Seeker, as well as advanced ARM development, are contained in the Weapons Procurement, Navy section of this report.

EMPRESS II

The conferees agree with House direction that EMPRESS II be budgeted as a separate program element beginning in fiscal year 1988.

SQQ-89 UPGRADE

The conferees agree to provide $20,168,000 for Surface ASW instead of $11,584,000 as proposed by the House or $23,168,000 as proposed by the Senate, and in addition $18,430,000 for Surface ASW Systems Improvements as proposed by the House instead of no funds as proposed by the Senate. These programs provide advanced and engineering development for an upgrade to the SQQ-89 Surface ASW System.

Navy documents indicate that major elements of the advanced development program may be delayed at least one year due to high technical risk. It therefore seems imprudent to finance a large degree of concurrency until advanced development risks are reduced to an acceptable level. For this reason, the authorized level for advanced development is provided, and full-scale development is reduced. Furthermore, bill language is included which forbids obligation of any of the $18,430,000 for Surface ASW Systems Improvements until the Secretary of Defense certifies that the program has been approved to enter full-scale development by the Joint Resources Management Board, and that a Secretary of Defense Decision Memorandum has been signed to that effect. The Navy has the flexibility to provide two certifications, for Milestones IIA and IIB, which would allow a corresponding two-phased release of fiscal year 1987 funds.

STANDARD AVIONICS DEVELOPMENT

The conferees agree to provide $14,000,000 for Standard Avionics Development instead of $2,740,000 as proposed by the House or $19,432,000 as proposed by the Senate. Of this amount, $7,000,000 is to be used only for development of a second source for the CAINS II gyro project. These funds were deleted during Navy's internal budget review for fiscal year 1987, and the conferees, in their general support for increased competition, believe the funds should be restored.

S-3 WEAPONS SYSTEM IMPROVEMENT

The conferees agree to provide $10,200,000 for the S-3 Weapons System Improvement Program, instead of $15,644,000 as proposed by the House or no funds as proposed by the Senate. The conferees agree to provide funding for the S-3 WSIP effort on the understanding that this is the final year that RDT&E funding will be required for the program. The Navy should complete all S-3 WSIP operational testing is fiscal year 1987. The conferees would not object to the Navy

reprogramming funds below threshold up to the fiscal year 1987 budget level.

EW SIMULATOR DEVELOPMENT

The conferees agree to provide $41,896,000 for EW Simulatory Development as proposed by the Senate, instead of no funds as proposed by the House. Because of the conferees strong support for the use of EW simulation in maintaining Navy readiness and training capabilities, they would interpose no objection to the Navy reprogramming funds below threshold up to the budget request level during fiscal year 1987.

ACOUSTIC SEARCH SENSORS

The House and Senate deleted all funds for continued development of the Expendable Reliable Acoustic Path Sonobuoy (ERAPS) due to technical and cost problems, and directed that the project be terminated. The conferees agree to provide no funds for this project; however, the conferees will allow the Navy the flexibility to reprogram funds to restructure ERAPS, *if* Navy believes the program to be of sufficient priority. Further development is allowed *only* if the restructured program is to be accomplished by manufacturers currently producing sonobuoys for the U.S. Navy. Furthermore, the Navy may not execute a contract for the restructured development effort until an updated ERAPS acquisition plan is submitted for approval by the Appropriations Committees. This plan must be accompanied by a certification that RDT&E cost to complete (fiscal year 1987 and out) will not exceed $30,000,000, and that unit costs will not exceed $23,000 in low-rate production or $6,000 for the ten thousandth buoy (in fiscal 1985 dollars). If such certification cannot be granted, ERAPS must be promptly terminated.

Furthermore, the conferees agree with House direction that $5,700,000 of the $36,819,000 provided for Acoustic Search Sensors is only for the Doppler Enhancement Program.

MK-92 FIRE CONTROL SYSTEM

The conferees agree to provide $4,000,000 for the MK-92 Fire Control System instead of $7,808,000 as proposed by the House or no funds as proposed by the Senate. Should additional funding be required during fiscal year 1987, the Appropriations Committees will entertain a reprogramming to address the shortfall.

SEA LANCE

The conferees agree with the House position directing the Navy to accelerate development of the conventional variant of the Sea Lance ASW Standoff Weapon by one year.

SUBMARINE COMBAT SYSTEMS

The conferees agree to provide $284,949,000 for Submarine Combat Systems as proposed by the House instead of $266,649,000 as proposed by the Senate. The conferees do not agree to House language stipulating that the AN/BSY-1 Submarine Advanced Combat System (SUBACS) be funded at the budget request; instead, the Navy is given the flexibility to allocate the reduction as it sees fit. However, the Navy is to provide adequate funding for BSY-1 development to ensure that ship deliveries for the SSN-751 and follow-on ship are not delayed.

The Navy has claimed that budget reductions to the SSN-21 Combat System would result in deletion of the Wide Aperture Array (WAA) from the led ship design; however, the Navy has provided no documentation to support that claim. The conferees note that recent at-sea tests of the WAS have been highly impressive, and that WAA performance goals are integral to SSN-21 requirements. Considering this, the Navy is directed to retain WAA in the lead ship design.

SSN-21 DEVELOPMENT

The conferees agree to provide $248,000,000 for SSN-21 Development, instead of $240,000,000 as proposed by the House or $256,668,000 as proposed by the Senate. The recommendation provides 97 percent of the funds requested for the program, despite severe budget constraints facing the Congress. The conferees believe the program to be fully executable at the recommended level since management savings were achieved in fiscal year 1985, and reductions absorbed in fiscal year 1986, which were greater on an annual basis than the proposed reduction of $8,000,000 for fiscal year 1987.

Furthermore, the conferees agree to the establishment of a cost cap for the SSN-21, as stated by the House, and forbid the obligation of more than $157,000,000 in fiscal year 1987 RDT&E funding until the Appropriations Committees are notified of, and respond to, the establishment of this cap.

SUBMARINE TACTICAL WARFARE SYSTEMS

ANTI-SURFACE TORPEDO

The conferees agree to provide $40,000,000 for Submarine Tactical Warfare Systems instead of $31,101,000 as proposed by the House or $42,101,000 as proposed by the Senate. Of the recommended amount, necessary funding up to $7,000,000 is made available only for the evaluation and testing of Anti-Surface Torpedoes from two sources. Furthermore, following such testing, the Navy is to submit to the Appropriations Committees a report which includes the detailed results and Navy's evaluation of those tests as well as a discussion of operational requirements, inventory requirements, loadout plans, and acquisition strategy. If the Navy requests procurement funding for the ASUW Torpedo for fiscal year 1988, the report should also clearly demonstrate the torpedo's readiness for production. In any event, this report should be submitted no later than May 1, 1987. The test results may be submitted later if not ready at that time.

MARINE CORPS GROUND COMBAT/SUPPORT ARMS

The conferees agree to provide $2,034,000 for Marine Corps Ground Combat/Support Arms as proposed by the House, instead of $3,746,000 as proposed by the Senate. Because of the delay in transitioning the VEMASID program to full scale engineering development, fiscal year 1986 funding is available to apply against fiscal year 1987 program requirements. The Marine Corps should not reprogram fiscal year 1986 VEMASID funds into other program requirements.

INITIAL TRAINERS ACQUISITION

The conferees agree to provide $70,000,000 for Initial Trainers Acquisition as proposed by the Senate instead of no funds as proposed by the House. The reduction of $14,621,000 is of a general nature, and may be allocated as the Navy sees fit.

MARINE CORPS C^3 SYSTEMS

The conferees agree to provide $26,169,000 for Marine Corps C^3 Systems as proposed by the House instead of $32,188,000 as proposed by the Senate. Of this amount, the budgeted amount of $7,737,000 is provided only for MIFASS development and testing.

V-22 OSPREY

MK-50 ADVANCED LIGHTWEIGHT TORPEDO

The conferees agree to add funds above the budget to address shortfalls in two high priority full-scale development (FSD) programs. The conferees intend that these additional funds only be used for the purposes described below, and that they not be diverted to any other use.

$422,671,000 is provided for the V-22 Osprey, an addition of $35,800,000 which is required to fully fund the fixed-price FSD contract. The Navy failed to exempt the V-22 from Gramm-Rudman-Hollings reductions in fiscal year 1986, as it did other fixed-price programs. As a result, a serious funding shortfall exists which would significantly delay the program if not addressed immediately. An offsetting general reduction has been made in order to finance the add-on without affecting account outlay levels.

The conferees agree to provide $173,525,000 for the MK-50 Advanced Lightweight Torpedo instead of $188,825,000 as proposed by the House or $148,825,000 as proposed by the Senate. The addition of $24,700,000 is required to increase in-water testing during fiscal year 1987. The conferees are advised that the Navy supports this additional funding. To ensure a smooth production transition, bill language is included to prevent the diversion of funds.

LIBYAN LESSONS LEARNED

The Libyan conflict occurred after the Administration's budget request, and therefore, does not reflect potential changes due to the Libyan lessons learned. These changes, which could include improvements in night attack capability, weapons, RPV's, communications, and inventory replacements, would not normally be addressed during this budget cycle but as part of the President's fiscal year 1988 budget submission.

The conferees believe that the Navy needs to take timely advantage of the Libyan lessons learned. The conferees therefore direct the Navy to identify potential RDT&E activities directly attributable to the Libyan conflict, and to identify available fiscal year 1986 and fiscal year 1987 funds, not to exceed $50,000,000, to finance the activity. The Navy is to submit a report outlining these activities and funding sources prior to obligation, as well as a certification that the expenditure is both directly related to the Libyan lessons learned and will have a significant impact on our warfighting capability. If transfer authority becomes necessary, the Appropriations Committees will entertain a reprogramming action.

COMPOSITE HELICOPTER ROTOR SYSTEMS

The conferees agree with Senate direction that $10,000,000 in available funds be used to initiate a competitive program leading to the acquisition of composite rotor systems for the U/EH-60, SH-60B/F, CH-53E, and AH-64 helicopters.

H-60 HELICOPTER ENGINE COMPETITION

The Senate expressed support for a joint Army/Navy program intended to obtain engines for H-60 helicopters competitively. The conferees concur, and wish to emphasize their commitment to full and fair competition, and to continued NATO cooperation. In that regard, in order to clarify a reference in the Senate report to domestic manufacture of a European-developed engine, the conferees agree that if such an engine is selected, it is to be manufactured under license in the United States in order

to ensure a domestic source in an emergency. Further, the conferees direct that the acquisition program be so structured that the aggregate cost of items manufactured in the United States shall represent not less than 50 percent of the aggregate cost of the engines procured over the life of the program. The Department is directed to submit the plan which will implement this program structure prior to signing a production contract, and to submit quarterly progress reports on its execution. Finally, in order to protect defense preparedness, every part in the selected engine must be capable of being manufactured in the United States.

INFRARED SEARCH AND TRACK SYSTEMS

The conferees are concerned that the Navy and Air Force do not have a coordinated and aggressive plan for the development and introduction of both Mid-Wave and Long-Wave Infrared Search and Track Systems (IRSTs). The Department of Defense is therefore directed to submit a report by March 1, 1987, explaining in detail the Navy and Air Force requirements for IRSTs, the five year RDT&E and procurement plan to address those requirements, and the feasibility of establishing a joint IRST program for F-14D, F-15C, and F-16C aircraft.

SYNTHETIC APERTURE RADAR

The conferees express their interest in the work now being conducted by the Navy in the field of synthetic aperture radar displaced phase center antennaes. The Navy has already allocated some funding to this concept in an effort to upgrade the Navy Remote Ocean Surveillance System (N-ROSS) satellite. This technology has potential application for improvement of U.S. air defense capabilities through improved detection of low-level, low-observable aircraft and cruise missiles. The conferees would be willing to entertain a reprogramming request to accelerate the Navy research effort in this technical field.

INTEGRATED PLATFORM COMMUNICATIONS DEVELOPMENT

The conferees agree to provide $69,021,000 to initiate the Integrated Platform Communications Development program in fiscal year 1987, as proposed by the House. These funds are derived from three separate projects which were budgeted individually; therefore, full funding is provided, but for a restructured and consolidated program. The conferees agree that ICS/SCAN should serve as the baseline architecture for each of the three platforms, as proposed by the House and supported by Navy analyses. The Navy is directed to submit the Plan of Action and Milestones as requested by the House by March 31, 1987.

RELOCATABLE OVER THE HORIZON RADAR (ROTHR)

The conferees agree to provide a total of $46,070,000 for the ROTHR program. This includes $31,000,000 in RDT&E, $10,073,000 in Procurement, $2,638,000 in Operation and Maintenance, and $2,359,000 in Military Personnel. The recommended amount for RDT&E involved a reduction of $10,071,000 from the budget request. The conferees also agree that the first operational site should proceed. Necessary military construction funds are provided elsewhere in this bill. However, the conferees are concerned that the developmental effort is behind schedule and further expense may well be incurred. The conferees expect a full accounting of the prototype ROTHR cost prior to proceeding with the first production unit deployment plan.

ORGANOTIN

The conferees agree that $4,000,000 is provided only for research into ship anti-fouling research, and that at least $2,350,000 of this amount is to be applied to organotin paint research, as proposed by the House. In concert with this effort, the conferees agree with the Senate's bill language to allow the painting of aluminum-hulled craft and up to 15 steel-hauled vessels with organotin, in order to collect research data. The Navy is directed to submit semiannual reports on the status and findings of this research program to the Appropriations Committees, and to make available copies of these reports to other interested parties on request.

TEST AND EVALUATION SUPPORT

The conferees agree to provide $312,000,000 for Test and Evaluation Support instead of $305,000,000 as proposed by the House or $317,580,000 as proposed by the Senate. The Navy is given the flexibility to allocate the reduction as it sees fit, instead of directed allocation as proposed by the Senate; however, the conferees agree with the House position that Improvements and Modernization (I&M) for the Atlantic Underwater Test and Evaluation Center (AUTEC) be funded at the budget request level.

MANUFACTURING TECHNOLOGY

The conferees agree that, of the funds provided for Navy Manufacturing Technology, $5,000,000 is for Modern Casting Technology and $3,000,000 is for the Laser Articulating Robotic System, as proposed by the House.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST + EVAL, AF				
TECHNOLOGY BASE:				
IN-HOUSE LAB INDEPENDENT RESEARCH	17,465	15,491	15,491	15,491
DEFENSE RESEARCH SCIENCES	212,587	199,584	199,584	199,584
UNIVERSITY RESEARCH INITIATIVES	12,530	12,530	6,250	8,750
GEOPHYSICS	40,625	38,174	38,174	38,174
MATERIALS	57,478	51,541	51,541	51,541
AEROSPACE FLIGHT DYNAMICS	70,281	66,562	65,790	65,790
AEROSPACE BIOTECHNOLOGY	53,371	46,604	46,604	46,604
AEROSPACE PROPULSION	65,552	61,283	61,283	61,283
AEROSPACE AVIONICS	67,826	60,000	60,000	60,000
TRAINING/SIMULATION TECH	26,802	24,626	24,626	24,626
CIVIL ENGINEERING & ENVIRONMENTAL QA	5,425	5,425	5,425	5,425
ROCKET PROPULSION	41,890	38,791	38,791	38,791
ADVANCED WEAPONS	37,070	35,050	35,050	35,050
CONVENTIONAL MUNITIONS	49,884	39,919	39,919	39,919
COMMAND/CONTROL/COMMUNICATION	79,678	75,838	75,678	75,678
PERS UTILIZATION TECH	9,806	8,284	8,284	8,284
TOTAL, TECHNOLOGY BASE	848,270	779,702	772,490	774,990
ADVANCE TECHNOLOGY DEVELOPMENT:				
LOGISTICS RESEARCH & DEV RQMTS	19,061	11,000	14,061	11,000
INTEGRATED EW SYSTEM ADV DEVELOPMENT	60,107	.....	60,107	75,000
ACFT PROPULSION SUBSYS INTEGRATION	30,180	25,840	30,180	27,000
ADV AVIONICS FOR ACFT	49,835	22,000	47,835	36,000
FLT VEHICLE TECHNOLOGY	27,557	19,789	25,557	19,789
RECON SENSORS/PROCESSING TECHNOLOGY	6,064	6,064	6,064	6,064
AEROSPACE STRUCTURES/MATERIALS	31,512	27,000	30,000	28,000
AVIATION TURBINE FUEL TECHNOLOGY	10,432	3,462	6,675	3,462
ADV TURBINE ENGINE GAS GENERATOR	27,838	25,838	278,838	26,838
WEAPON SYSTEM POWER	3,544	1,198	2,544	1,500
DOD COMMON PROG LANGUAGE (ADA) ADV DEV	6,890	6,890	6,890	6,890
ADVANCED SIMULATOR TECHNOLOGY	5,054	4,374	5,054	4,374
CREW SYSTEMS TECHNOLOGY	15,905	15,905	14,699	15,905
ACFT NON-NULCEAR SURVIVABILITY	2,470	2,470	2,470	2,470
ADV FIGHTER TECH INTEGRATION	30,679	25,000	26,679	25,800
LINCOLN LABORATORY	26,524	22,268	25,524	23,000
ADVANCED SYSTEM INTEGRATION DEMO	9,369	.....	9,369	4,000
CARTOG APPLICATIONS-TAC & STRAT SYS	1,706	1,706	1,706	1,706
NATIONAL AEROSPACE PLANE TECHNOLOGY	33,490	.....	.....	.....
SPACE & MSL ROCKET PROPULSION	12,911	3,354	10,455	6,000
HYPERVELOCITY MISSILE	9,609	9,609	9,609	9,609
ADVANCED SPACECRAFT TECH	14,373	7,000	12,373	9,000
SPACE SYS ENVIRON INTERACTIONS TECH	8,529	3,529	8,529	3,529

[In thousands of dollars]

	Budget	House	Senate	Conference
CRUISE MISSILE SURVEILLANCE TECH	16,850	13,850	16,850	15,350
VERY HIGH SPEED INTERGRATED CIRCUITS	132,897	132,897	127,897	130,397
CONVENTIONAL WEAPONS	30,903	24,124	27,903	25,000
ADVANCED RADIATION TECH	23,641	23,641	23,641	23,641
MANPOWER & PERSONNEL SYS TECH	2,370		2,078	1,500
WEATHER SYSTEMS	3,697	3,275	3,697	3,275
CIVIL/ENVIRONMENTAL ENGR TECH	13,703	11,393	13,703	13,703
FIBER OPTICS DEVELOPMENT	2,841	2,841	2,841	2,841
ADVANCED COMMUNICATIONS TECHNOLOGY	1,926		1,926	1,000
ADVANCED COMPUTER TECHNOLOGY	10,491		9,491	9,491
ELECTRO-OPTICAL WARFARE	53,363		48,363	38,700
CHEMICAL WARFARE DEFENSE	5,149	4,949	5,149	5,149
COUNTER/COUNTERMEASURES-ADV DEV	7,612	6,159	7,612	6,159
TRAINING SYSTEMS TECHNOLOGY	2,411	1,411	2,411	1,911
DOD SOFTWARE ENGINEERING INSTITUTE	9,541	12,041	14,541	14,541
COMD/CNTRL/COM ADV DEV	22,963	6,916	21,963	14,000
FORECAST II PROGRAMS			−8,000	−8,000
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	783,997	487,793	706,284	645,594
STRATEGIC PROGRAMS:				
ADVANCED STRATEGIC MISSILE SYSTEMS	176,915	125,000	171,915	150,000
SHORT RANGE ATTACK MISSILLE II	164,702		119,702	70,000
STRATEGIC RELOCATABLE TARGET CAPABIL	985		985	500
AIR DEFENSE BATTLE MGT TECH	2,500		1,250	625
CRUISE MISSILE ENGAG SYS TECH	2,100		1,050	525
ATMOSPHERIC SURVEILANCE TECH	32,024	4,000	25,000	15,000
WWMCCS ARCHITECTURE	2,224	2,224	2,224	2,224
B-1B	118,652	50,000	118,652	118,652
COMMON STRATEGIC ROTARY LAUNCHER	14,591	13,591	14,591	13,591
ICBW MODERNIZATION	2,116,798	1,575,498	1,116,798	1,610,000
STRAT CONV STANDOFF CAPA (SCSC)	7,464	7,464	78,464	7,464
AIR LAUNCHED CRUISE MISSILE	6,065	4,065	6,065	5,065
SPACE DEFENSE SYS	277,957	140,000	202,957	199,957
SYSTEMS SURVIVABILITY (NUC AFFECTS)	13,515	13,515	13,515	13,515
KC-135 SQUADRONS	3,941		3,941	3,900
MINUTEMAN SQUADRONS	67,526	47,526	54,226	50,000
PACCS/WWABNCP SYS EC-135 CL V MODS	14,798	9,798	14,798	9,798
SAC COMMUNICATIONS	610	610	610	610
NCMC-TW/AA SYSTEMS	32,935	32,935	32,935	32,935
NCMC-SPACE DEFENSE SYSTEMS	41,284	26,284	41,284	26,284
BALLISTIC MSL TAC WG/ATK ASSES SYS	3,084	3,084	3,084	3,084
JOINT SURVEILLANCE SYSTEM	3,509	3,509	3,509	3,509
SURVEILL RADAR STATIONS/SITES	25,004	25,004	25,004	22,004
DEW RADAR STATIONS	14,430	14,430	14,430	14,430
OVER-THE-HORIZON RADAR	33,877	33,877	33,877	33,877
BALLISTIC MSL EARLY WNG SYSTEM	16,225	16,255	16,255	16,255
SPACETRACK	16,461	16,461	16,461	16,461
DEFENSE SUPPORT PROGRAM	138,178	118,178	125,000	118,178
SLBM RADAR WARNING SYSTEMS	19,752	17,752	19,752	18,752
INTEGRATED OPER NUDETS DETECT SYS	31,346	26,346	31,346	26,346
COMD CTR PROCESS/DISPLAY SYS	27,027	27,027	27,027	27,027
MINIMUM ESSENTIAL EMER COMM NETWORK	92,527	57,527	72,527	65,027
WWMCCS INFORMATION SYSTEM	8,510	8,510	8,510	8,510
WWMCCS INFORMATION SYSTEM-JPMO	111,374	111,374	100,000	100,000
MILSTAR SAT COMM SYS (AF TERMINALS)	298,527	278,000	290,000	284,000
MILSTAR COMM SAT SYSTEM	493,357	493,357	468,357	468,357
CLASSIFIED PROGRAMS	2,636,868	2,486,997	2,627,368	2,627,368
MILITARY AIRLIFT GROUP (IF)	8,963		8,963	8,963
ADVANCED STRATEGIC WEAPON		100,000		
TOTAL, STRATEGIC PROGRAMS	7,076,605	5,890,168	5,841,402	6,192,763
TACTICAL PROGRAMS:				
ADVANCED TACTICAL FIGHTER	294,099		275,000	260,000
UNMANNED AIR RECONNAISSANCE VEHICLE	3,940	3,940	3,940	3,940
CV-22A	4,920		4,920	2,000
AIR BASE SURVIVABILITY & RECOVERY	7,078	7,078	6,000	6,000
LOW COST SEEKER	14,775	17,375		17,375
MILLIMETER WAVE SEEKERS	14,179		14,179	5,000
DOD PHYSICAL SECURITY EQ-EXTERIOR	984	984	984	984
TECHICAL ON-SITE INSPECTION (TOSI)	9,850	6,850	9,850	6,850
COMBAT IDENTIFICATION TECHNOLOGY	6,314	6,314	6,314	6,314
C3CM ADVANCED SYSTEMS	4,512		4,512	2,000
ACFT AVOINICS EQUIPMENT DEVELOPMENT	25,092	21,092	25,092	23,092
AIRCRAFT EQUIPMENT DEV	4,862	4,862	4,862	4,862
ENGINE MODEL DERIVATIVE PROG	68,132	62,132	68,132	65,132
INTEGRATED DIGITAL AVIONICS	13,394		7,294	7,294
EW COUNTER RESPONSE	34,068		34,068	27,000
NUCLEAR WEAPONS SUPPORT	4,341	4,341	2,341	2,341
ALTERNATE FIGHTER ENGINE	109,376	100,000	109,376	109,376
C-17 PROGRAM	612,262	547,262	362,623	650,000
INFRARED SEARCH & TRACK SYS	34,846	30,846	34,846	32,846
MODLUAR AUTOMATIC TEST EQUIPMENT	23,682	23,682	15,000	20,000
NIGHT PRECISION ATTACK	40,103	10,000	40,103	40,103
ACFT ENGINE COMPONENT IMPROVE PROG	141,776	114,486	114,486	114,376
T-46A	10,756	10,756	10,756	10,756
ADV MED RANGE AIR-TO-AIR MSL	39,080	39,080	38,080	39,080
ADV SHORT RANGE AIR-TO-AIR MISSILE	386			
JOINT TACTICAL FUSION PROGRAM	24,661	24,661	24,661	24,661
HARDENED TARGET MUNITIONS	15,115			
GRD LAUNCHED CRUISE MSL	78,377		377	
C/B DEFENSE EQUIPMENT	27,187	23,342	24,187	23,342
ARMAMENT ORDANCE DEVELOPMENT	29,773	14,338	29,773	20,000
SUBMUNITIONS	4,921	4,921	4,921	4,921
WIDE-AREA ANTI-ARMOR MUNITION	15,102	39,102	15,102	25,102
AIR BASE SURVIVABILITY & RECOVERY	21,330	20,330	21,330	20,330
AEROMEDICAL SYSTEMS DEVELOPMENT	9,341	9,341	8,341	8,341
LIFE SUPPORT SYSTEM	12,396	15,396	12,396	15,396
OTHER OPERATIONAL EQUIPEMENT	14,469	10,569	14,469	14,469
RECONNAISSANCE EQUIPMENT	9,540	9,540	9,540	9,540
DOD PHYSICAL SECURITY EQ-EXTERIOR	18,511	18,511	16,511	17,511
TAC C3 COUNTER-MEASURES	24,636		24,636	19,700
COMBAT IDENTIFICATION SYSTEMS	12,012		12,012	9,600
SURFACE DEF SUPRESSION	44,119		44,119	28,500

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRBORNE SELF-PROTECTION JAMMER	10,071		10,071	8,000
PROTECTIVE SYSTEMS	92,705		82,705	66,000
TACTICAL PROTECTIVE SYSTEMS	94,910		53,234	42,500
COMPUTER RESOURCES MGT TECH	12,957	9,957	12,457	11,000
PRECISION LOCATION STRIKE SYSTEM	26,601	20,000		20,000
INTELLIGENCE EQUPMENT	10,417	10,417	10,417	10,417
SIDE LOOKING AIRBORNE RADAR (SLAR)	19,691	19,691	19,691	19,691
JSTARS	355,692		300,000	300,000
JT INTEROPERABILITY TAC COMD/CNTRL	9,866	9,866	9,866	9,866
F-111 SQUADRONS	35,236		35,236	17,600
F-15 SQUADRONS	208,988		178,988	164,600
F-16 SQUADRONS	81,323		65,423	57,700
F-4G WILD WEASEL SQUADRONS	38,698		68,698	68,698
TACTICAL AGM MISSILES	2,377		2,377	1,000
TR-1 SQUADRONS	23,509	21,509	23,509	21,509
FOLLOW-ON TAC RECCE SYS	30,583	18,583	20,583	18,583
AIR FORCE TENCAP	105	105	105	105
OVERSEAS AIR WEAPON CONT SYS	8,534	4,534	8,534	6,534
TACTICAL AIR CONTROL SYSTEM	19,261	19,261	19,261	19,261
AIR BORNE WARNING & CONTROL SYS	137,190	77,190	127,190	102,190
ADV COMM SYS	33,335		33,335	33,000
ADV COMM SYS, GENERAL REDUCTION		−32,865		
ADV COMM SYS, GENERAL REDUCTION (BY TRANSFER)		(66,200)		
TAC AIR INTELL SYS ACTYS	492	492	492	492
TACTICAL RECON IMAGERY EXPLOITATION	831	831	831	831
BASE COMM-TACTICAL AIR FORCES	3,207	1,207	3,207	2,207
JT TACTICAL COMM PROG (TRI-TAC)	11,425	8,425	6,245	7,335
SATELLITE COMMUNICATIONS TERMINALS	4,615	4,615	4,615	4,615
ELECTRONIC COMBAT INTEL SPT	1,784	1,784	1,784	1,784
MAC COMMAND/CONTROL SYS	22,712	10,712	12,712	11,712
SPECIAL OPERATIONS FORCES	66,539	66,539	19,789	66,539
A-7 SQUADRONS (ANG)	4,531		4,531	3,000
CLASSIFIED PROGRAMS	723,023	825,649	714,023	766,869
TACTICAL AIRCRAFT		450,000		
A-7 STRIKEFIGHT		35,000		35,000
TOTAL, TACTICAL PROGRAMS	3,904,505	2,784,633	3,306,042	3,596,772
INTELLIGENCE & COMMUNICATIONS:				
INTELLIGENCE ADVANCED DEVELOPMENT	6,081	6,081	4,000	5,081
SPACE COMMUNICATIONS	35,805	33,805	25,805	29,805
NMCS-WIDE SUPPORT-COMMUNICATIONS	1,970	1,970		1,000
DEF SATELLITE COMM SYS	14,001	8,001	14,001	11,000
LONG-HAUL COMMUNICATIONS (DCS)	5,630	5,630	5,630	5,630
I-S/A AMPE SYSTEM	54,567	54,567	54,567	54,567
ELECTROMAG COMPATIBILITY ANAL CTR	7,670	7,670	7,670	7,670
TRAFFIC CNTRL/APPROACH/LANDING SYS	18,575	6,039	18,575	18,575
NAVSTAR GLOBAL POS SYS (USER EQ)	45,024	23,000	40,024	30,000
NAVSTAR GPS (SPACE/GRD SEGMENTS)	44,362	24,362	44,362	34,362
GEN INTELLIGENCE SKILL TNG	4,788	4,788	4,788	4,788
CLASSIFIED PROGRAMS	2,302,268	2,325,728	2,328,133	2,297,106
TOTAL, INTELLIGENCE & COMMUNICATIONS	2,540,741	2,501,641	2,547,555	2,499,584
DEFENSEWIDE MISSION SUPPORT:				
CONCEPT DEVELOPMENT	3,214		3,214	1,000
SPACE TEST PROGRAM	73,692	17,192	43,692	20,000
SATELLITE SYS SURVIVABILITY	5,405		5,405	2,000
NATO COOPERATIVE R&D	49,249		40,000	35,000
ADV AERIAL TARGETS DEV	11,149	11,149	11,149	11,149
FLIGHT SIMULATOR DEVELOPMENT	102,736	74,599	99,736	99,736
VARIABLE IN-FLT TEST ACFT (VISTA)	8,680	8,680	7,500	8,000
R&M MATURATION/TECH INSERTION	18,031	13,031	15,031	14,031
WEATHER SYSTEMS	8,444	8,444	8,444	8,444
RANGE IMPROVEMENT	64,616	61,616	61,616	61,616
ELECTROMAG RADIATION TEST FACIL	5,686	5,686	5,686	5,686
IMPROVED CAPABILITY FOR RDT+E	89,518	69,581	80,000	75,000
PROJECT AIR FORCE	18,295	17,795	21,000	21,000
ACQ/COMD SP-TELECOM	10,987	10,987	10,987	10,987
RANCH HAND II EPIDEMIOLOGY STUDY	7,384	3,384	7,384	7,384
NAV/RADAR/SLED TRACK TEST SPT	25,889	20,889	24,889	20,889
ACQUISITION AND COMMAND SUPPORT	285,063	269,940	280,063	272,000
TEST AND AND EVALUATION SPT	304,151	288,015	300,000	291,000
ADV SYS ENGINEERING/PLAN	23,144	10,000	19,144	13,144
RDTE AIRCRAFT SUPPORT	62,404	57,404	62,404	60,000
PRODUCTIVITY INVESTMENTS	5,106	3,000	4,106	3,000
PRODUCT PERFORMANCE AGMT CNTR (PPAC)	1,157		1,157	500
REAL PROPERTY MAINT-RDT+E	140,310	132,866	119,264	119,264
BASE OPERATIONS (RDT+E)	110,268	104,418	93,728	93,728
SATELLITE CONTROL FACILITY	91,714	76,714	91,714	84,124
SPACE BOOSTERS	138,690	138,690	138,690	138,690
CONSOLIDATED SPACE OPERATIONS CENTER	93,664	83,664	74,664	74,664
DEF METEOROLOGICAL SATELLITE PROG	63,772	63,772	63,772	63,772
SPACE SHUTTLE OPERATIONS	175,867	107,967	107,967	107,967
INVENTORY CONTROL POINT OPERATIONS	4,788	4,788	4,788	4,788
DEPOT MAINTENANCE (NON/IF)	487		487	
INDUSTRIAL PREPAREDNESS	83,573	63,573	78,573	63,573
PRODUCT/RELIABLE/AVAIL/MAINTAIN PROG	31,405	15,000	31,405	15,000
INTERNATIONAL ACTIVITIES	2,744	2,744	2,744	2,744
TOTAL, DEFENSEWIDE MISSION SUPPORT	2,121,282	1,745,525	1,920,403	1,809,970
CONVENTIONAL DEFENSE INITIATIVE: NATO COOPERATIVE R&D		30,000		
TOTAL, CONVENTIONAL DEFENSE INITIATIVE		30,000		
CONSULTANTS, STUDIES & ANALYSES			−34,090	−34,909
GENERAL REDUCTION		−15,000		
PRIOR YEAR FUEL SAVINGS		−2,400		−2,400
FY 87 FUEL SAVINGS		−26,800		−26,800
COOPERATIVE DOD/VA MEDICAL RESEARCH		15,000		
FY 86/87 INFLIATION REPRICING			−288,600	−288,600
RDT&E PROFIT POLICY ADJUSTMENT		−68,510		−105,000
TOTAL RESEARCH DEVELOPMENT TEST + EVAL, AF	17,275,400	14,190,262	14,702,976	15,062,783

[In thousands of dollars]

	Budget	House	Senate	Conference
TRANSFER FROM OTHER ACCOUNTS		(66,200)		
TOTAL FUNDING AVAILABLE	17,275,400	14,256,462	14,702,976	15,062,783

ICBM MODERNIZATION

The conferees agree to provide $1,610,000,000 for ICBM Modernization, distributed as follows:

MX	$290,000,000
Small ICBM	1,200,000,000
Alternate basing	120,000,000

ANEUTRONIC POWER SOURCE

The conferees are advised that Phase I efforts on feasibility studies of an aneutronic power source have been completed, and that the Air Force is ready to enter Phase II. Because the potential payoff is very great, a modest investment to explore further the basic physics of the aneutronic concept is justified. The conferees direct that $1,500,000 for theoretical and conceptual studies of the aneutronic concept be provided from funds available to the Air Force in the Defense Research Sciences program, P.E. 61102F.

CREW SYSTEMS TECHNOLOGY

The conferees agree to provide $15,905,000 for Crew Systems Technology as proposed by the House instead of $14,699,000 as proposed by the Senate.

A problem of particular concern is providing aircrew members with adequate ocular protection. The conferees are advised that acceleration of the Ocular Integration Subsystem within project 2830 appears feasible, leading to the possibility of early production in fiscal year 1989. Accordingly, the conferees direct that within the Crew Systems Technology program, project 2830 be funded at $2,764,000, with the increase of $860,000 to be added to the budgeted amount for the Ocular Integration Subsystem.

LOW COST SEEKER

The conferees agree to provide $17,375,000 for Low Cost Seeker as proposed by the House instead of no funds as proposed by the Senate. Language has been provided in the bill which specifies that these funds are available only for the Low Cost Seeker.

The directives of the conference concerning development and production of the Low Cost Seeker are contained in the Weapons Procurement, Navy section of this report.

ARMAMENT ORDNANCE DEVELOPMENT

The conferees agree to provide $20,000,000 for Armament Ordnance Development, instead of $14,338,000 as proposed by the House or $29,773,000 as proposed by the Senate.

The conferees are aware that prototype testing has recently demonstrated that a 2,000 pound hard target bomb body can be produced at significantly lower cost using modern casting technology. Therefore, the conferees direct that within the $20,000,000 provided for Armament Ordnance Development, $4,000,000 shall be used only for a preplanned product improvement effort to fully qualify a cast version of the bomb body. The results of this work are to be reported to the Committees on Appropriations when they are completed.

WIDE AREA ANTI-ARMOR MUNITIONS

The conferees agree to provide $25,102,000 for Wide Area Anti-armor Munitions, instead of $39,102,000 as proposed by the House or $15,102,000 as proposed by the Senate. The $10,000,000 thus provided above the budget are to be used to accelerate development of the Sensor Fused Weapon project.

LIFE SUPPORT SYSTEMS

The conferees agree to provide $15,396,000 for Life Support Systems as proposed by the House, instead of $12,396,000 as proposed by the Senate.

Loss of consciousness by pilots operating in high-G environments continues to be a serious problem. The Tactical Life Support System (TLSS) being developed in project 412A seeks to solve this problem for the F-16 and other high performance tactical aircraft. The conferees are aware that the budget request is insufficient to support engineering definition and production preparation on a schedule commensurate with planned test and evaluation activities. Accordingly, the conferees have provided $3,000,000 above the budget to be used for TLSS, for engineering definition, tooling and fabrication of hardware needed for test and evaluation.

F-4 SQUADRONS

The conferees agree to provide $68,698,000 for F-4 Squadrons. Of that amount, $38,698,000 are for F-4G Wild Weasel Squadrons, the budgeted amount. The additional $30,000,000 are for F-4D modifications, as described in Senate Report 99-446, page 220.

ADVANCED COMMUNICATIONS SYSTEMS

The conferees agree to provide $33,000,000 for Advanced Communications Systems, the authorized amount.

The conferees direct that project 2614, SINCGARS-V, be funded at the budget request of $5,600,000. These funds are to be used to continue development of SINCGARS-V, including full embedded COMSEC capability and interoperability capabilities.

REAL PROPERTY MAINTENANCE

BASE OPERATIONS SUPPORT

The conferees agree to provide $119,264,000 for Real Property Maintenance as proposed by the Senate instead of $132,866,000 as proposed by the House. The conferees also agree to provide $93,728,000 for Base Operations Support as proposed by the Senate instead of $104,418,000 as proposed by the House.

The conferees note that the Air Force has recommended that Base Operations and Real Property Maintenance funding for RDT&E facilities not be transferred to the Operations and Maintenance account until fiscal year 1988, in order to permit an orderly transitioin to occur. Accordingly, the conferees recommend that the transfer of BOS/RPMA for RDT&E facilities to O&M be accomplished in fiscal year 1988.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Defense Agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL, DEF AGENCIES				
TECHNOLOGY BASE:				
DEFENSE RESEARCH SCIENCES	95,900	92,000	95,900	94,000
IN-HOUSE LAB INDEPENDENT RESEARCH	2,021	2,021	2,021	2,021
UNIVERSITY RESEARCH	12,500	12,500	5,980	8,750
STRATEGIC TECHNOLOGY	240,620	230,620	240,620	238,620
TACTICAL TECHNOLOGY	114,000	94,000	114,000	100,000
PARTICLE BEAM TECHNOLOGY	15,500	15,500	15,500	15,500
INTEGRATED COMD/CONTROL TECH	56,500	49,000	56,500	56,500
MATERIALS PROCESSING TECH	34,660	34,660	34,660	34,660
NUCLEAR MONITORING	19,400	17,900	19,400	19,400
NUCLEAR MONITORING (BY TRANSFER)		(1,500)		
DEFENSE NUCLEAR AGENCY	347,013	262,113	347,013	327,013
TECHNOLOGY BASE	1,930	1,030	1,930	1,030
TOTAL, TECHNOLOGY BASE	940,044	811,344	933,524	897,494
ADVANCE TECHNOLOGY DEVELOPMENT:				
SURVEILLANCE, ACQSN, TRACK & KILL ASSESSMENT	1,262,413	844,413	1,262,413	1,262,413
DIRECTED ENERGY WEAPONS	1,614,955	1,056,955	1,614,955	1,614,955
KINETIC ENERGY WEAPONS	991,214	620,214	991,214	991,214
SYSTEMS CONCEPTS AND BATTLE MANAGEMENT	462,206	268,206	462,206	462,206
SURVIVABILITY, LETHALITY & KEY SPT TECHNOLOGY	454,367	295,367	454,367	454,367
SDI—GENERAL REDUCTION		−254,155	−1,388,155	−1,572,155
JOINT DOD-DOE MUNITIONS TECH DEV	8,803	7,803	8,803	7,803

[In thousands of dollars]

	Budget	House	Senate	Conference
EXP EVAL OF MAJOR INNOVATIVE TECH	172,600	143,980	172,600	161,875
EXP EVAL OF MAJOR INNOVATIVE TECH (BY TRANSFER)		(25,000)		
NATIONAL AERO SPACE PLANE TECHNOLOGY PROGRAM	60,000	30,000	100,000	100,000
SPECIAL OPERATIONS SPECIAL TECHNOLOGY OFFICE	4,365	4,365	4,365	4,365
COUNTER INSURGENCY & SPECIAL TECHNOLOGY	12,180	12,180	12,180	12,180
MICROWAVE/MILLIMETER WAVE MONOLITHIC INT CIR	11,172	11,172	11,172	11,172
COMPUTER AIDED LOGISTICS SUPPORT	14,831	14,831	14,831	14,831
DOD SOFTWARE INITIATIVES (STARS)	35,220	35,220	30,000	30,000
COMMAND AND CONTROL RESEARCH	2,062	1,813	2,062	1,813
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	5,106,388	3,092,364	3,751,013	3,557,039
STRATEGIC PROGRAMS:				
ISLAND SUN	31,853	31,853	31,853	31,853
NMCS-WIDE SUPPORT	10,485	10,485	10,485	10,485
WWMCCS SYSTEM ENGINEER	19,279	19,279	19,279	19,279
MINIMUM ESSENTIAL EMER COMM NETWORK	11,301	11,301	11,301	11,301
TOTAL, STRATEGIC PROGRAMS	72,918	72,918	72,918	72,918
TACTICAL PROGRAMS:				
COMMON JT TACTICAL INFO DISTRIBUTION SYSTEM	211,930	211,930	211,930	211,930
CINC C2 INITIATIVES	2,158		2,158	1,000
C3 INTEROPERABILITY (JOINT TACTICAL C3 AGCY)	68,835	61,835	68,835	65,335
MANAGEMENT HEADQUARTERS (JTC3A)	8,816	8,000	8,000	8,000
CONVENTIONAL DEFENSE INITIATIVE			400,000	200,000
TOTAL, TACTICAL PROGRAMS	291,739	281,765	690,923	486,265
INTELLIGENCE & COMMUNICATIONS:				
MAP/CHART/GEODESY INV/PROTOTYPE DEV	15,584	15,584	15,584	15,584
MAP/CHART/GEODESY ENGR DEV/TEST	2,337	2,337	2,337	2,337
LONG-HAUL COMMUNICATIONS (DCS)	39,113	23,613	31,113	31,113
SUPPORT OF THE NCS	3,041	3,041	3,041	3,041
CLASSIFIED PROGRAMS	1,676,626	1,622,940	1,650,387	1,709,382
ASDC3I		488,857		
TOTAL, INTELLIGENCE & COMMUNICATIONS	1,736,701	2,156,372	1,702,462	1,761,457
DEFENSEWIDE MISSION SUPPORT:				
NATO RESEARCH AND DEVELOPMENT	49,436	44,436	40,000	40,000
TECHNICAL SUPPORT TO USDR/E	20,617	16,600	20,617	18,000
GENERAL SUPPORT FOR PA/E	3,912	2,412	2,500	2,412
SUPPORT TO POLICY	6,931	5,556	6,931	5,556
GENERAL SUPPORT FOR NET ASSESSMENT	4,415	3,815	4,000	3,815
GENERAL SUPPORT FOR FM&P	2,049	1,749	2,049	1,749
CRITICAL TECHNOLOGY	3,474	2,874	3,474	3,474
RAND RESEARCH CENTER FOR OSD & OJCS	16,717	14,117	16,717	16,717
TAPESTRY	2,801		2,801	
BLACKLITE	4,000	4,000	4,000	4,000
CINC CONTRACT STUDIES SUPPORT	5,000			
GENERAL SUPPORT TO C3I	3,164	2,164	3,164	2,600
FOREIGN MATERIALS ACQUISITION & EXPLOITATION	14,831		14,831	10,000
GENERAL SUPPORT FOR A&L	3,263	2,363	3,263	2,700
CRITICAL TECHNOLOGY ANALYSIS	3,000	2,300	3,000	2,300
DEFENSE TECHNICAL INFOR CENTER	22,500	20,500	22,000	21,000
INFORMATION ANALYSIS CENTERS	7,550	5,000	7,550	5,000
MANAGEMENT HEADQUARTERS SDI	17,411	15,000	17,411	16,000
MGT HQ (RESEARCH/DEVELOPMENT)	12,200	12,200	12,200	12,200
INDUSTRIAL PREPAREDNESS	11,500	6,000	6,500	6,000
TECHNOLOGY TRANSFER FUNCTIONS	1,739	1,739	1,739	1,739
TOTAL, DEFENSEWIDE MISSION SUPPORT	216,510	162,825	194,747	175,262
CONSULTANTS, ENGINEERING & TECHNICAL SERVICES OSD			−32,844	−32,844
INFLATION/FUEL SAVINGS			−145,500	−145,500
COOPERATIVE DOD/VA MEDICAL RESEARCH				20,000
RDT&E PROFIT POLICY ADJUSTMENT			−34,340	−50,000
TOTAL, RESEARCH DEVELOPMENT TEST & EVAL, DEF AGENCIES	8,364,300	6,577,588	7,132,903	6,742,091
TRANSFER FROM OTHER ACCOUNTS		(26,500)		
TOTAL FUNDING AVAILABLE	8,364,300	6,604,088	7,132,903	6,742,091

STRATEGIC TECHNOLOGY

LONG RANGE INTERCEPTOR EXPERIMENT

The conferees agree that $20,000,000 of the amount recommended for Strategic Technology be allocated to the Long Range Interceptor Experiment (LORAINE), and that future budgets be in accord with fiscal year 1987 testimony before the House Appropriations Committee, as proposed by the House.

MATERIALS PROCESSING TECHNOLOGY

TUNGSTEN HEAVY ALLOY

The conferees agree that development of tungsten heavy alloy be funded at the budget request, and that no prior year funds be reprogrammed out of the project, as proposed by the House.

DEFENSE NUCLEAR AGENCY

The conferees agree to provide $327,103,000 for the Defense Nuclear Agency instead of $347,103,000 as proposed by the Senate or $262,113,000 as proposed by the House. The conferees do not agree to House direction concerning DNA's underground testing, physical security, and intelligence studies projects. The reduction of $20,000,000 is of a general nature; DNA is allowed the flexibility to allocate the reduction. The conferees agree that the Office of the Secretary of Defense should provide to both Appropriations Committees the report requested by the Senate.

The conferees also believe that the DNA should expand its radiation simulator program in fiscal year 1987. The radiation simulator program is an important complement to underground testing of the survivability of strategic and theater nuclear weapons. DNA should develop this complementary method more fully in the event that future arms control agreements should restrict underground nuclear testing.

STRATEGIC DEFENSE INITIATIVE (SDI)

The conferees agree to provide a total of $3,213,000,000 for the Strategic Defense Initiative instead of $2,846,000,000 as proposed by the House or $3,400,000,000 as proposed by the Senate. Furthermore, the conferees agree that the reduction of $1,572,155,000 is to be of a general nature, and not program specific as proposed by the House. The funding level and general reduction are identical to those provided in authorizing legislation.

SDI 1987 ANNUAL REPORT

The conferees agree that no more than $8,000,000 provided for Management headquarters, SDI may be obligated or expended until the classified version of the SDI 1987 Annual Report to the Congress is received by the Appropriations Committees.

SDIO PUBLIC AFFAIRS OFFICE

The conferees agree with the House's position concerning the SDIO Public Affairs Office. These activities are to be conducted by other public affairs offices in the Department of Defense.

FREE ELECTRON LASER RESEARCH

The conferees agree that $15,000,000 of funds provided for the Strategic Defense Initiative is available only for continued research into the medical and material science applications of the free electron laser, as proposed by the Senate.

NATIONAL AEROSPACE PLANE

The conferees agree to provide a total of $110,000,000 for the National Aerospace Plane (NASP) program, instead of $60,000,000 as proposed by the House or $130,000,000 as proposed by the Senate. This allows an increase of 144 percent over the amount provided for fiscal year 1986. The conferees direct that $100,000,000 of the recommended amount be funded by the Defense Advanced Research Projects Agency (DARPA) and $10,000,000 be provided from funds recommended for the Strategic Defense Initiative. The conferees received a late request from the Department of Defense to consolidate all NASP funding in the Air Force. The conferees did not have adequate time to evaluate the merits of this proposal, but agree to reconsider such a change during the next budget cycle, if necessary.

Furthermore, the conferees agree with the Senate that larger investment in NASP RDT&E is required both from NASA and private industry. Consequently, bill language is included which restricts the obligation of half of the recommended amount until the Secretary of Defense certifies that NASA has agreed to assume a significantly larger portion of NASP RDT&E costs than the current 20 percent, and that industry investment out of private capital has been incorporated into the acquistion plan. The Senate's proposed restriction on IR&D funding is not agreed to. The revised funding profile directed by the Senate should be submitted to both Appropriations Committees not later than August 1, 1987.

DCA LONG HAUL COMMUNICATIONS

The conferees agree to $8,000,000 for the universal modem program, as proposed by the Senate. The reduction from the budget is made without prejudice and the Department of Defense may meet additional requirements through reprogramming actions if necessary.

The conferees also agree with the House requirement for a report on the universal modem program. This report must be made to the House and Senate Committees on Appropriations prior to obligation of the funds recommended, but no later than Feburary 27, 1987. It should describe in detail the international aspects of this program, especially as it affects interoperability, and in addition it should cover how the Department plans to meet performance, survivability, and interoperability requirements with the systems being fielded, with the new system, and during the transition between the two systems if there is to be one; and it should cover plans for procurement, modification and fielding of the current and proposed systems with particular attention to cost effectiveness.

DMA EXPLOITATION MODERNIZATION PROGRAM

The conferees agree to provide $239,629,000 for the Defense Mapping Agency's Exploitation Modernization program, instead of $203,629,000 as proposed by the House and $243,629,000 as proposed by the Senate. The conferees do not agree with House direction requiring the conversion to fixed-price contracts; however, in lieu of fixed price contracts, a more rigorous technical risk management program should be established to ensure prompt identification and resolution of technical issues in this ambitious program. Therefore, DMA is directed to establish a risk management program encompassing the entire EMP effort, and which is based upon the critical path templates described in DoD Instruction 4245.7-M, "Transition from Development to Production." As part of this effort, DMA is to develop top-level risk assessment summaries for future Congressional oversight and monitoring. Of the amount recommended, $1,500,000 is available only for prompt development of this risk management program.

CONVENTIONAL DEFENSE INITIATIVES (CDI)

The conferees agree to provide $200,000,000 for Conventional Defense Initiatives, instead of no funds as proposed by the House or $400,000,000 as proposed by the Senate. Language is included in the bill similar to that proposed by the Senate, and provides that no more than half of these funds may be obligated or expended until SDI spinoff technologies and their applications have been defined and reported to the Congress, but in any event not prior to July 1, 1987. The bill further states that none of the funds may be used to support SDI. The House recedes from its report language concerning the SDI Civil Applications Initiative since CDI funds may be used for the same purpose.

The conferees also agree that $16,000,000 of the recommended amount is to be allocated to the Surface Ship Defense System (SSDS), as proposed by the Senate, *provided that*, pror to the obligation of such funds, the Secretary of the Navy certifies the following to the House and Senate Committees on Appropriations: (1) that SSDS will meet documented and urgent requirements not addressed by other systems currently in development or production; (2) that follow-on RDT&E funding for SSDS has been included in the January 1987 Five Year Defense Plan which is sufficient to allow approval for limited production in fiscal year 1989; and (3) that Navy inventory requirements for antiship missile (ASM) assets are sufficient to procure SSDS, as well as other ASM procurement programs planned by the Navy, in economic order quantities.

INDUSTRIAL PREPAREDNESS

The conferees agree that, of the $6,000,000 recommended for Industrial Preparedness, $2,000,000 is for the Military Sewn Products Automation (MILSPA) project and $3,000,000 is for the Microelectronics Emulation project, as proposed by the House.

COOPERATIVE DOD/VA MEDICAL RESEARCH

The conferees agree to provide $20,000,000 for Cooperative DoD/VA Medical Research. Pursuant to authorization, these funds are provided for a single program line within RDT&E, Defense Agencies.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

The conferees agree to the following amounts for Developmental Test and Evaluation, Defense:

[In thousands of dollars]

	Budget	House	Senate	Conference
Developmental Test and Evaluation, Defense				
NATO Research and Development	47,991	42,991	40,000	40,000
Foreign Weapons Evaluation	18,010	18,010	18,010	18,010
Development Test and Evaluation Defense	75,799	48,536	73,799	48,536
Inflation/Fuel Savings			−1,000	−1,000
Total, Developmental Test + Evaluation, Defense	141,800	109,537	130,809	105,546

TEST AND EVALUATION

The conferees agree to provide $48,536,000 for Test and Evaluation as proposed by the House instead of $73,799,000 as proposed by the Senate. The reduction of $27,263,000 is specifically to terminate further development of the IFFN/JFAAD test beds. The conferees agree that there is inadequate service commitment to use these systems, and that the planned capabilities are not sufficient to justify further investment.

OPERATIONAL TEST AND EVALUATION, DEFENSE

The conferees agree to provide $11,300,000 for Operational Test and Evaluation, Defense, as proposed by both the House and Senate.

TITLE V—SPECIAL FOREIGN CURRENCY PROGRAM

The conferees agree to provide $3,500,000 for the Special Foreign Currency Program, as proposed by both the House and Senate.

TITLE VI—REVOLVING AND MANAGEMENT FUNDS

The conferees agree to the following amounts for the revolving and management fund accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Revolving and management funds summary:				
Army stock fund	296,700,000	230,138,000		110,100,000
Navy stock fund	478,500,000	379,570,000		352,570,000
Marine Corps stock fund	45,900,000	31,233,000		822,000
Air Force stock fund	239,400,000	200,410,000		139,980,000
Defense stock fund	136,800,000	66,949,000		47,200,000
Total revolving and management funds	1,197,300,000	908,300,000		650,672,000

The following items represent language as agreed to by the conferees:

STOCK FUND INVENTORY BUILDS

The House reduced a total of $289,000,000 from the Stock Funds, which held peacetime inventory builds to FY 1986 level plus inflation and reduced war readiness material (WRM) inventory builds by $227,870,000. The Senate eliminated the total request of $1,197,300,000. The conferees agree to the House reduction to peacetime inventories and the Senate reduction to WRM inventories for a total reduction of $546,628,000.

TITLE VII—CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

The conferees agree to the following amounts for Chemical Agents and Munitions Destruction, Defense:

[In thousands of dollars]

	Budget	House	Senate	Conference
Operations and maintenance	60,500	60,500	59,900	59,900
Procurement	49,800	49,800	49,200	49,200
Research, development, test and evaluation	9,800	9,800	9,600	9,600
Total, Chemical Agents and Munitions Destruction, Defense	120,100	120,100	118,700	118,700

The conferees recommend $118,700,000 for chemical munitions destruction as proposed by the Senate.

The conferees agree with the direction of the Senate that the Department establish an independent group to evaluate and advise on the Department's plans for destruction of current chemical agents. However, the conferees do not agree with the Senate's direction that the American Society of Mechanical Engineers must be the agent to perform that service.

The Department is directed to select and enter into appropriate arrangements with an independent advisory group and report to the Committee on Appropriations of the Senate and House no later than January 1, 1987, on its selection and arrangement.

TITLE VIII—RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

The conferees agree to provide $21,738,000 for the intelligence Community Staff instead of $21,538,000 as provided by the House and $22,338,000 as provided by the Senate.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FUND

The conferees agree to the Senate position and appropriate $40,000,000 to the Barry Goldwater Scholarship and Excellence in Education Fund in recognition of Senator Goldwater's outstanding service to the Nation as both a soldier and a statesman. The House did not address this issue.

HENRY M. JACKSON FOUNDATION

The Senate directed that $10,000,000 be made available from within existing funds for the Henry M. Jackson Foundation. The House did not address this issue.

In recognition of the late Senator Jackson's forty-three years of service to the United States as a senior statesman, Congressman and Senator, the conferees agree to appropriate $10,000,000 to support the Henry M. Jackson Foundation's ongoing educational and public service programs.

TITLE IX—GENERAL PROVISIONS

NOTIFICATION REPROGRAMMING

The Senate included language requiring a notification reprogramming action for any program reduced by the Appropriations Act which the Defense Department would subsequently restore a portion of the reduction.

The conferees agree with the intent of the Senate that the Defense Department shall consider reductions to be items of special interest. However, the conferees further believe the requirement for notification action **reprogramming for each such change would create a documentation burden on the Defense Department and the Congress. Therefore, the conferees have not included the Senate language, but will require quarterly reports delineating any increases in all programs which were reduced by the Appropriations Act.**

It should be clear that the conferees believe increases in items reduced by the Appropriations Act should be minimized. Abuse of this flexibility could lead to enactment of language similar to that recommended by the Senate this year.

PUBLIC AFFAIRS LIMITATION

As a result of increasing funding in the O&M, Marine Corps account for public affairs by $200,000, the conferees agree to increase the limitations on public affairs funding (Section 9020) by a like amount.

SENIOR EXECUTIVE SERVICE

The conferees agree to provide a total of 39 senior executive schedule positions for the Department of Defense. This is an increase of two positions over the fiscal year 1986 level to accommodate the new positions identified for the Under Secretary of Defense for Acquisition and the Assistant Secretary for Defense for Special Operations Forces and Low Intensity Conflict (SOFLIC).

TRANSFERS/RESCISSIONS

The House bill included $2,617,800,000 in transfers from prior year accounts, but did not extend the availability beyond the time period they were originally available. The Senate, instead, rescinded $4,615,874,000 of funds available from prior years.

The conferees agreed to rescind the funds specified in the following table and have included bill language rescinding $5,323,877,000.

TRANSFERS/RESCISSIONS

	House transfers	Senate rescissions	Conference rescissions
Aircraft procurement, Army, 1985/1987:			
UH–60	3,100,000	3,100,000	3,100,000
CH–47	500,000		500,000
Prior-year inflation		12,000,000	12,000,000
Total	3,600,000	15,100,000	15,600,000
Aircraft procurement, Army, 1986/1988:			
EH–60	3,900,000	3,900,000	3,900,000
AHIP	10,600,000	10,600,000	10,600,000
CH–47	1,000,000		1,000,000
Prior-year inflation		63,300,000	63,300,000

TRANSFERS/RESCISSIONS—Continued

	House transfers	Senate rescissions	Conference rescissions
Total	15,500,000	77,800,000	78,800,000
Missile procurement, Army, 1985/1987:			
TOW-2		2,000,000	2,000,000
Stinger	5,900,000	5,900,000	5,900,000
Patriot	11,000,000	12,700,000	12,700,000
Prior-year inflation		12,200,000	12,200,000
Total	16,900,000	32,800,000	32,800,000
Missile procurement, Army, 1986/1988:			
Patriot	3,500,000	1,800,000	1,800,000
Stinger	12,700,000		
TOW II	12,600,000		
MLRS	12,500,000		12,500,000
Prior-year inflation		52,500,000	52,500,000
Total	41,300,000	54,300,000	66,800,000
W&TCV procurement, Army, 1985/1987: Prior-year inflation		25,100,000	25,100,000
Total		25,100,000	25,100,000
W&TCV procurement, Army, 1986/1988:			
M-2/3 Bradley		38,800,000	38,800,000
M–1 tank		9,900,000	9,900,000
M–1 Mods	5,300,000		5,300,000
FAASV	3,200,000		3,200,000
Prior-year inflation		131,000,000	131,000,000
Total	8,500,000	179,700,000	188,200,000
Procurement of Ammunition, Army, 1985/1987: Explosives (Reprogramming 85–78PA)			33,000,000
Total			33,000,000
Procurement of Ammunition, Army, 1986/1988: 105mm HEAT	39,562,000		39,562,000
Total	39,562,000		39,562,000
Other procurement, Army, 1985/1987:			
5-ton truck	72,700,000	72,700,000	36,500,000
MRTT	18,300,000		
Prior-year inflation		8,900,000	8,900,000
Total	91,000,000	81,600,000	45,400,000
Other procurement, Army, 1986/1988:			
5-ton trucks	47,100,000		36,200,000
Ribbon Bridge	1,600,000		1,600,000
Sincgars			0
RDF Comm (S.W.ASIA)			5,675,000
AR Telecom Auto Pr. (ATCAP)			2,000,000
C-E Facilities and Projects			12,000,000
DA Como & Con Sys (DACCS)			2,000,000
Manpack Radio Direction Finding System (MRDFS)			2,811,000
TACJAM, AN/MLQ–34			414,000
Prior-year savings	111,300,000		
Prior-year inflation		70,600,000	70,600,000
Total	160,000,000	70,600,000	133,300,000
Aircraft Procurement, Navy, 1985/1987:			
SH–60B		6,400,000	6,400,000
AV–8B	6,800,000	10,900,000	10,900,000
EA–6B		2,600,000	2,600,000
F–14	2,100,000	2,400,000	2,400,000
AH–1T		7,800,000	7,800,000
SH–2F		300,000	300,000
UC–12B	2,600,000	2,600,000	2,600,000
TH–57	1,500,000	4,100,000	4,100,000
F–18	4,300,000		
E–2C	1,000,000		
P–3 advance procurement		300,000	300,000
Spares and repair parts	2,974,000	32,800,000	32,800,000
Aircraft support equipment		4,000,000	4,000,000
Modifications		6,600,000	6,600,000
Undistributed		40,600,000	40,600,000
Prior-year inflation		49,300,000	49,300,000
Total	21,274,000	170,700,000	170,700,000
Aircraft procurement, Navy, 1986/1988:			
CH–53B		2,100,000	2,100,000
AV–8B	1,200,000	1,200,000	1,200,000
F–14		6,400,000	6,400,000
F/A–18	29,300,000	2,500,000	29,300,000
AH–1T		500,000	500,000
SH–60B		2,100,000	2,100,000
SH–2F		100,000	100,000
E–2C	7,000,000	1,100,000	1,100,000
UC–12B	1,300,000	1,300,000	1,300,000
OV–10 Modifications	23,300,000	16,000,000	39,100,000
Spares and repair parts	72,200,000	2,800,000	2,800,000
Support equipment and facilities		67,300,000	67,300,000
Prior-year inflation		254,900,000	254,900,000
Total	134,300,000	358,300,000	408,200,000
Weapons procurement, Navy, 1985/1987:			
MK 46	16,400,000	16,400,000	
Phoenix	26,500,000	15,000,000	15,000,000
Standard		16,600,000	16,600,000

TRANSFERS/RESCISSIONS—Continued

	House transfers	Senate rescissions	Conference rescissions
Prior-year inflation		27,900,000	27,900,000
Total	42,900,000	75,900,000	59,500,000
Weapons procurement, Navy, 1986/1988:			
Tomahawk missile	61,800,000	30,800,000	30,800,000
Sparrow	16,800,000		
SM–2			31,100,000
Phoenix	13,250,000		
Phoenix, Adv. Proc	9,817,000		
MK–45	6,100,000		
MK–46 Mods	10,000,000		
Prior-year inflation		123,200,000	123,200,000
Total	117,767,000	154,000,000	185,100,000
Shipbuilding and conversion, Navy, 1983/1987:			
Trident		35,900,000	35,900,000
SSN–688 advance procurement	9,000,000	9,000,000	9,000,000
CVN aircraft carrier	158,600,000	158,600,000	158,600,000
Battleship	6,800,000	9,800,000	6,800,000
CG–47	49,000,000	76,800,000	76,800,000
LSD–41	44,000,000	18,300,000	18,300,000
TAH	9,000,000		
TACS	6,400,000		
TAO	2,800,000	2,600,000	2,600,000
ARS	3,000,000	2,100,000	2,100,000
TAKR advance procurement	9,000,000	500,000	500,000
Service craft		1,500,000	1,500,000
Landing craft		300,000	300,000
Outfitting		1,000,000	1,000,000
Cost growth	8,000,000	2,400,000	2,400,000
Escalation	19,000,000	18,800,000	18,800,000
Post delivery	4,000,000	3,900,000	3,900,000
Prior-year inflation		22,000,000	
Total	328,600,000	363,500,000	338,500,000
Shipbuilding and conversion, Navy, 1984/1988:			
Trident		19,400,000	19,400,000
SSN–688	6,000,000	5,900,000	5,900,000
LSD–41	9,000,000	9,100,000	9,100,000
TAO	7,100,000	5,900,000	5,900,000
TAFS		400,000	400,000
TAKR		8,800,000	
Outfitting	8,900,000		
Cost growth	23,000,000	12,300,000	12,300,000
TAH	4,900,000		
TACS	9,000,000		
Prior-year inflation		20,000,000	
Total	67,900,000	81,800,000	53,000,000
Shipbuilding and conversion, Navy, 1985/1989:			
SSN–688		3,900,000	3,900,000
LSD–41	8,000,000	8,200,000	8,200,000
TAO	11,000,000	19,200,000	19,200,000
Outfitting		400,000	400,000
TAGS		5,000,000	5,000,000
TAGOS		8,000,000	8,000,000
Prior-year inflation		96,400,000	96,400,000
Total	19,000,000	141,100,000	141,100,000
Shipbuilding and conversion, Navy, 1986/1990:			
SSN–688	181,600,000	12,900,000	81,100,000
TAO	25,700,000	6,500,000	6,500,000
TACS	7,500,000	7,500,000	7,500,000
LCAC advance procurement	29,300,000	29,300,000	29,300,000
YTT service craft	3,000,000	1,200,000	1,200,000
Outfitting	8,000,000	8,200,000	8,200,000
Post delivery		5,500,000	5,500,000
MSH	152,200,000		55,400,000
TAGOS		68,000,000	68,000,000
LSD–41	13,000,000		
CG–47	20,000,000		
LHD–1			337,900,000
Prior-year inflation		210,000,000	137,300,000
Total	440,300,000	349,100,000	737,900,000
Other procurement, Navy, 1985/1987:			
Integ Auto Det (AN/SYS-( )	60,000		60,000
Sonar switches & transducers	34,000		34,000
AN/SLQ–25		224,000	224,000
AN/SQR–19		1,974,000	1,974,000
MK. 116 fire control system		1,942,000	1,942,000
ICAO	5,000,000		5,000,000
Prior-year savings		954,000	
Prior-year inflation		9,200,000	9,200,000
Total	5,094,000	14,294,000	18,434,000
Other procurement, Navy 1986/1988:			
LM–2500 gas turbine	1,000,000	3,079,000	3,079,000
501–K gas turbine		11,805,000	11,805,000
Other generators		4,469,000	4,469,000
Other pumps		1,604,000	1,604,000
Strategic platform support		1,756,000	1,756,000
Sealift support		1,663,000	
Diving and salvage equipment		680,000	680,000
Production support facilities		2,100,000	2,100,000
Sonar switches and transducers	9,453,000	9,453,000	9,453,000
AN/SLQ–25		1,250,000	1,250,000
AN/SQR–17		6,800,000	

TRANSFERS/RESCISSIONS—Continued

	House transfers	Senate rescissions	Conference rescissions
AN-SQR-18	1,110,000	1,100,000	1,100,000
AN/SQR-19		17,200,000	17,200,000
SURTASS		6,703,000	6,703,000
Carrier ASW module	310,000	310,000	310,000
OUTBOARD	1,260,000	1,260,000	1,260,000
AN/BRD 7/8/9		12,148,000	12,148,000
NTDS	1,380,000	6,380,000	6,380,000
Shipboard ATC		1,234,000	1,234,000
FACSFAC	1,012,000	1,012,000	1,012,000
Shipboard communications automation		1,900,000	1,900,000
Shore LF/VLF communications	2,452,000	2,452,000	2,452,000
Shore HF communications		5,216,000	5,216,000
Ashore mobile communications		1,679,000	1,679,000
PLRS KG-58/KGV-6		592,000	592,000
AN/SSQ-77		4,902,000	4,902,000
Weapons range support	3,000,000	11,200,000	11,200,000
Aircraft rearming equipment	3,059,000	3,059,000	3,059,000
LAMPS Md. III equipment		1,500,000	1,500,000
AEGIS support equipment		9,729,000	9,729,000
Surface Tomahawk support		4,784,000	4,784,000
MK. 116 fire control system		1,955,000	1,955,000
Submarine silencing equipment		9,004,000	9,004,000
TRI-TAC crypto		6,202,000	6,202,000
Amphibious equipment	13,977,000		
Quickstrike	37,735,000		
Other propulsion equipment	81,000		81,000
Integ Auto Det, AN/SYS-( )	71,000		71,000
Prior-year savings	14,419,000		
Prior-year inflation		66,900,000	66,900,000
Total	90,319,000	223,080,000	214,769,000
Procurement, Marine Corps, 1985/1987:			
HAWK	2,600,000		2,600,000
MULE	2,500,000		2,500,000
Mobile Fuel Pump	2,000,000		2,000,000
Total	7,100,000		7,100,000
Procurement, Marine Corps, 1986/1988:			
Trailers	2,300,000		2,300,000
Meteorological Data System	2,700,000		2,700,000
Five Ton Trucks	11,000,000		11,000,000
Battery Computer System (BCS)	3,400,000		3,400,000
Total	19,400,000		19,400,000
Aircraft procurement, Air Force, 1985/1987:			
F-15 engine	3,700,000		3,700,000
F-16 fighter		23,900,000	23,900,000
F-16 advance procurement		43,100,000	43,100,000
C-5 airlift aircraft	181,800,000	181,800,000	181,800,000
C-130H		14,000,000	
KC-10	10,000,000	29,700,000	10,000,000
B-52 modifications	5,100,000	61,200,000	61,200,000
PLSS	55,200,000	35,300,000	35,300,000
Countermeasure test sets	93,500,000		32,900,000
USM-464 test sets			
Prior-year inflation		121,400,000	121,400,000
Total	349,300,000	510,400,000	513,300,000
Aircraft procurement, Air Force, 1986/1988:			
F-15 aircraft	11,600,000	16,700,000	16,700,000
F-15 modifications	73,600,000		
F-16 fighter	71,400,000	71,400,000	71,400,000
C-5 airlift aircraft	4,100,000	6,300,000	4,100,000
KC-10	3,000,000		3,000,000
C-131 modifications	12,000,000		12,000,000
CRAF modifications			7,300,000
PLSS	41,000,000	56,400,000	56,400,000
Self protection suite	40,300,000		40,300,000
Prior-year inflation		408,300,000	408,300,000
Total	257,000,000	559,100,000	619,500,000
Missile procurement, Air Force, 1985/1987:			
ASAT	61,800,000		
Special update	8,400,000		
DMSP	11,200,000		11,200,000
Prior-year inflation		30,400,000	30,400,000
Total	81,400,000	30,400,000	41,600,000
Missile procurement, Air Force, 1986/1988:			
Peacekeeper ICBM		443,200,000	[1] 443,200,000
Special update	36,500,000		
Prior-year inflation		186,500,000	186,500,000
Total	36,500,000	629,700,000	629,700,000
Other procurement, Air Force, 1985/1987:			
Defense Support Prog	4,510,000		4,510,000
Joint Surveillance Prog	301,000		301,000
PLSS	51,500,000	52,900,000	52,900,000
Prior-year inflation		10,900,000	10,900,000
Total	56,311,000	63,800,000	68,611,000
Other procurement, Air Force, 1986/1988:			
Joint tactical comm. prog	3,000,000		
PLSS	19,400,000	19,000,000	19,400,000
Prior-year inflation		103,500,000	103,500,000

TRANSFERS/RESCISSIONS—Continued

	House transfers	Senate rescissions	Conference rescissions
Total	22,400,000	122,500,000	122,900,000
Research, development, test, and evaluation, Army, 1986/1987:			
Countermines & barriers	4,823,000		4,823,000
Field Artillery Ammo	18,000,000		
Prior-year inflation		40,700,000	40,700,000
Total	22,823,000	40,700,000	45,523,000
Research, development, test and evaluation, Navy, 1986/1987:			
Prior-year inflation		41,100,000	41,100,000
Navy strategic communications	13,778,000		13,778,000
Sub tactical warfare systems	700,000		
MC ground combat/support arms	2,700,000		
Prior-year fuel savings	72,000		
RACER	11,800,000		
Total	29,050,000	41,100,000	54,878,000
Research, development, test and evaluation, Air Force, 1986/1987:			
Prior-year inflation		100,800,000	100,800,000
Advanced communications system	66,200,000		66,200,000
Total	66,200,000	100,800,000	167,000,000
Research, development, test and evaluation, Defense Agencies, 1986/1987:			
Nuclear monitoring	1,500,000		
Experimental evaluation of major innovative technologies	25,000,000		
Prior-year inflation		48,400,000	48,400,000
Total	26,500,000	48,400,000	48,400,000
Director of Developmental Test and Evaluation, Defense, 1986/1987: Prior-year inflation		200,000	200,000
Grand total	2,617,800,000	4,615,874,000	−5,323,877,000

[1] Bill language permitting application of FY 85 funds for FY 86 program provided in the Missile Procurement, Air Force account.

Working Capital Fund Transfer

The conferees agree to new amounts to be transferred from Defense working capital funds into the operations and maintenance accounts. The revised amounts reflect the conference agreements on fuel refunds, industrial fund refunds, ACP expenditures, Industrial Fund productivity, as well as amounts programmed to be refunded by the Department in the budget request.

Foreign Selling Costs

The conferees agree that the language prohibiting the use of funds to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984, does not include costs incurred in marketing U.S. systems at domestic exhibits and international exhibits. The foreign selling provision was never intended, nor is it now intended, to apply to costs incurred in promoting American aerospace exports at domestic and international exhibits. The Department of Defense is requested to identify to the House and Senate Appropriations Committees any other provision of law or Federal regulation that would impede American industry's participation at such domestic and international exhibitions.

Local Hire

The conferees agree to the Senate general provision on local hire. The conferees further agree that on union contract jobs a worker released by the union should be considered a resident of Alaska.

Flat Rate Per Diem

The Senate included a general provision which provides for the extension of a flat rate per diem system for DOD military personnel, as established for all Federal civilian employees in July 1986, after certification by the Department of Defense that costs under the new method of calculation will not exceed those which the Government would incur under the current system.

The conferees agree to inclusion of this provision, with a modification which allows for continuation of the current flat rate per diem test in the Air Force and Defense Logistics Agency until such time as the new system becomes effective.

Depleted Uranium Penetrators

The House bill included a provision requiring that depleted uranium penetrators in ammunition be procured on a Government-furnished equipment basis from at least two sources in the production base. The Senate bill required that such penetrators be procured competitively from at least two sources. The conference agreement is the Senate version, which deletes the requirement for a Government-furnished material approach.

The conferees are in agreement with the current plan of the Army and Air Force to competitively procure depleted uranium penetrators for GAU-8 armor piercing ammunition on a component breakout basis under a combined fiscal year 1986/1987 contract. The conferees direct that this approach be implemented without delay.6

Sale of Alcoholic Beverages

The Senate included a provision requiring the Department of Defense to procure alcoholic beverages in the state in which a military installation is located. The House did not address this issue.

The conferees agree to a new provision that: (1) requires that the Department of Defense procure wine and malt beverages in the state in which a military installation is located, and (2) allows the Department of Defense to procure other alcoholic beverages from the most competitive source, regardless of location. Local procurement for all alcoholic beverages is continued for the states of Hawaii and Alaska since Department of Defense policy stipulates that nonappropriated fund activities not be charged for transportation of alcoholic beverages to these states.

Contractor Salaries

The Senate included a provision restricting the level of personnel salaries and bonuses allowable on all contracts with the Defense Department. The conferees are concerned that in many cases allowable costs for contractor salary for exceed the maximum compensation level permitted in the public sector. This issue will be examined in greater detail, but adoption of the provision is premature without further study.

The House conferees agree that hearings on this subject would be appropriate, and the Senate conferees intend to commission an investigation by the General Accounting Office.

Automatic Data Processing

The conferees are pleased with recent initiatives by the Comptroller of the Defense Department to improve the management of DOD major automated information systems. The Department is urged to sustain its emphasis on improved management of these acquisitions which are critical to the warfighting capability of our Armed Forces. The conferees agree with the House legislative requirement requiring oversight of DOD major automated information systems. The conferees did not agree to the House bill language on Navy computer aided design/computer aided manufacturing (CAD/CAM), but expect that all Navy organization will be required to use the standard contracts when they are in-place, and that the acquisition of this equipment will be reviewed by and conform to guidance from the Major Automated Information Systems Review Council prior to significant expenditure of funds. The conferees also agree to the House report language concerning central design activities, requirements contracts, DOD medical systems, automated logistics systems, and OSD oversight of certain Army ADP systems.

The conferees recognize the concerns expressed in the Senate report pertaining to the Composite Health Care System. The conferees understand that the current test program will include extended benchmark testing of each potential system along with on-site testing of one system for each vendor at DOD medical facilities. The conferees believe this plan conforms with the intended guidance of the Armed Services

Committee and will ensure an unbiased selection process. The conferees agree that no funds for world-wide deployment of CHCS shall be obligated until a complete report that details the life-cycle costs of the selected system and the roster of facilities to have on-line access to the system is provided to both the House and Senate Committees on Appropriations and Armed Services. The conferees also agree to legislatively cap the life cycle cost of the Composite Health Care System at $1,100,000,000 in constant fiscal year 1986 dollars.

AIR FORCE LANDS CONVEYANCE

The conferees have agreed to language with a minor amendment that conveys real property to Onondage County, New York.

COPPERHEAD

The House bill included a general provision which was intended to allow continued production or modification of the Copperhead projectile with or without a second source. The conference agreement supports the intention of the House language but includes alternative language which more clearly states the intent of Congress.

The conference report on the fiscal year 1986 appropriations Act requested a report on the cost-effectiveness of establishing a second source of the Copperhead round prior to entering such a contract. The report has not yet been submitted. The Committee is aware of the extensive efforts made by the Department to achieve widespread commonality of components between the Copperhead projectile, the Hellfire missile and the Navy (Deadeye) five-inch guided projectile to support expansion of the production base.

The Committee still believes that a second source of production should be established if it is likely to be cost effective. However, the Committee remains concerned that the amount of program remaining may not be sufficient to justify such an action in light of the trend to fire-and-forget technologies.

The Department of Defense is encouraged to aggressively pursue a second sourcing program which maximizes component commonality without requiring major redesign, development and testing effort.

AMMUNITION PLANT CONSTRUCTION AND OPERATION

The conferees agree to include a general provision which permits the use of funds for the construction and operation of an Army ammunition plant without seeking third party contracts prior to the use of such funds. The Senate included similar language and the House did not address the issue.

The conferees have modified the Senate proposal to delete the reference that such energy production facilities may utilize oil or gas as a fuel source since the conferees are committed to using the most cost effective fuel available.

CARGO PREFERENCE REGULATIONS

The Senate included a general provision denying funds to implement a change to the Federal Acquisition Regulation (FAR) concerning cargo shipments between Iceland and the U.S. In addition, the provision directed DOD to implement the unratified treaty on this issue signed by the U.S. and Iceland. The conferees agree to the Senate provision, except the treaty section of the provision, which is no longer required because the Senate recently ratified the treaty. The Department is directed to expeditiously implement regulations conforming to the agreements made in the treaty.

SMALL BUSINESS SETASIDES

The conferees agreed to include a new general provision which clarifies the standards to be applied when agency errors have been made in evaluating applications for extensions covered in the cited section of the Code of Federal Regulations. This section makes clear the duty of the agency if an evaluation error is found and a request for reconsideration has been made.

OBLIGATION LIMITATIONS

The conferees recommend a general provision to waive certain obligation limitations contained in any Act authorizing appropriations for the Department of Defense for fiscal year 1987. Although the authorization act has not been enacted at the time of consideration of the appropriations bill, the conferees are advised that the authorization conferees have considered obligation limitations on appropriations accounts, budget activities and appropriation subdivisions which could impede the orderly execution of the defense budget for fiscal year 1987. The recommended general provision is born of the uncertainty surrounding enactment of these respective bills and assures that Congress avoids enactment of conflicting measures restricting obligations for the balance of the fiscal year due to accounting differences. While an exhaustive examination of the respective conference positions has not been possible, it would appear that the preponderance of these accounting differences are due to treatment of prior year transfers in the authorization conference, as opposed to rescission of these prior year excess funds as recommended in this bill. This accounting anomaly artifically overstates the level of appropriation accounts compared to authorization. This is not intended to be an annual provision, rather the provision specifically addresses a unique situation existent this fiscal year.

FORT DERUSSY

The House continued language prohibiting the sale, lease, rental, or excessing of land at Fort DeRussy, Hawaii. The Senate added new language which permits the sale, lease, or rental of land at Fort DeRussy to the State of Hawaii or City of Honolulu. This land is referred to the subsection (b) of the provision.

The conferees agree to a provision in which subsection (a) prohibits sale, lease, or transfer of the twenty-six acres which contain the Hale Koa Hotel, the Armed forces Recreation Center, and beach front area.

The conferees further agree to subsection (b), which prohibits the sale, lease, or transfer of the remaining property at Fort DeRussy prior to August 1, 1987. This prohibition provides the Armed Services Committees sufficient time to hold hearings on this issue and to include any legislation in the FY 1988 Defense Authorization, if necessary.

The conferees also agree in subsection (b) that after August 1, 1987, the Secretary of the Army may make a proposal to sell, lease or rent this land at Fort DeRussy, but may not finalize this action until 60 legislative days after notification to the Armed Services and Appropriations Committees of the House and Senate. The conferees believe that resolution of this issue must take into account the impact of any sale or lease of this property on: the active duty military personnel, retirees and dependents who utilize beach front facilities; the Reserve Centers located on the property to include relocation cost; and the State of Hawaii, City of Honolulu in general, and specifically the Waikiki Beach area.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1987

Amendment No. 4: Section 101(d) of House Joint Resolution 738 provides appropriations for programs, projects, and activities provided for in the District of Columbia Appropriations Act, 1987. The House version of the joint resolution provides appropriations for programs, projects, and activities at a rate of operations and to the extent and in the manner provided for in H.R. 5175 as passed the House of Representatives on July 24, 1986. The Senate version of the joint resolution provides appropriations for these programs, projects, and activities at the rate and in the manner provided for in H.R. 5175 as passed the Senate on September 16, 1986.

The conference agreement in House Joint Resolution 738 incorporates some of the provisions of both the House and Senate versions of the District of Columbia Appropriations Act, 1987, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-675 and Senate Report 99-367 shall be complied with unless specifically addressed to the contrary in this joint resolution and accompanying statement of the managers. The District of Columbia Appropriations Act, 1987, put in place by this joint resolution, incorporates the following agreements of the managers:

TITLE I—FISCAL YEAR 1987 APPROPRIATIONS

The conference action inserts title and fiscal year heading to separate fiscal year 1987 appropriations from supplemental appropriations for fiscal year 1986.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

Appropriates $444,500,000 as proposed by the Senate instead of $414,147,000 as proposed by the House.

The conferees are pleased to note that the District has recently enacted emergency legislation raising its minimum drinking age for all alcoholic beverages to 21 years. The conferees understand that the National Highway Traffic Safety Administration has given provisional approval to the substance of this emergency measure pending enactment of permanent legislation raising the minimum drinking age to 21. This means that the District will avoid losing highway funds pursuant to the Uniform Minimum Drinking Age Act of 1984. More importantly, conforming the District's law to national drinking age policy will undoubtedly save lives. The Consumer and Regulatory Affairs Committee of the Council of the District of Columbia is scheduled to take up permanent drinking age legislation in the near future. The conferees urge the Council and the Mayor to act as soon as possible to bring the District into full compliance with the Uniform Minimum Drinking Age Act and assure continued eligibility for its full allotment of Federal highway funds.

CRIMINAL JUSTICE INITIATIVE

The conference action appropriates $20,000,000 for fiscal year 1988 as proposed by the Senate and inserts language stating that if the District government does not sign a design and construction contract on or before October 15, 1986, the $50,000,000 appropriated for the project will lapse in which case the cost of the prison will be sole responsibility of the District government. The bill language also approves a plan that

includes construction of a facility of not less than 700 beds and specifies that the prison will be a medium security facility on a 14-acre site in the southeastern most portion of the D.C. General Hospital grounds near the current D.C. jail.

The bill language agreed to by the conferees requires that the $50,000,000 for construction remain in the United States Treasury and be transferred to the District government only to the extent that outstanding obligations are due and payable to entities other than agencies of the District government. Payments may be made to District agencies only in reimbursement for amounts expended to construct the prison.

Since Federal funds are being used to finance the new prison, the conferees direct that District officials make every effort and take every precaution to ensure that proper and adequate contract award procedures are followed with regard to the design, construction and management of this new facility. The conferees further direct that payment vouchers be audited by competent District personnel *prior to payment* to ensure that services as contracted for have been provided and supplies and materials which meet pre-set standards have been delivered. The conferees plan to request the General Accounting Office to perform a comprehensive audit of the project and the Treasury drawdown procedures.

The conferees also direct District officials to submit quarterly reports prepared by the construction managers and the contractors on the status of prison construction progress compared to the plan. In addition, the report should detail any problems encountered during the quarter as well as any potential problems envisioned and the proposed solutions. The conferees expect that potential delays in completion, cost overruns and the like be disclosed and fully explained in the report.

The conferees cannot overemphasize the importance of selecting competent, highly qualified construction managers and contractors. It is imperative for District officials to ensure that personnel assigned to this project by the construction management firm and the contractors reflect the competence and qualifications of the firms who receive the contracts. The conferees direct that District personnel assigned to this project have the highest level of competence and qualifications in order to deal effectively with the contractors. The conferees intend that District officials meet regularly with area residents to discuss current and future plans concerning this facility.

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

Appropriates $108,407,000 as proposed by the House instead of $108,353,000 as proposed by the Senate.

D.C. Retirement Board.—The conference action provides $754,000 from the general fund and $3,018,000 from the Board's investment earnings as proposed by the House instead of $700,000 from the general fund and $3,072,000 from the Board's investment earnings as proposed by the Senate. The action by the conferees provides for a 20/80 percent split of the Board's total expenses between the District's general fund revenue and the Board's investment income. The conference action also provides 10 positions for the Board as proposed by the Senate instead of 7 positions as proposed by the House.

ECONOMIC DEVELOPMENT AND REGULATION

Appropriates $128,960,000 instead of $129,460,000 as proposed by the House and Senate.

Department of Employment Services.—Provides $34,512,000 instead of $35,012,000 as proposed by the House and the Senate. The reduction of $500,000 reflects a transfer to the Board of Education for the Cooperative Employer Education Program. This program was administered by the Department of Employment Services in cooperation with the public school system in fiscal year 1986.

PUBLIC SAFETY AND JUSTICE

Appropriates $600,165,000 as proposed by the Senate instead of $580,765,000 as proposed by the House.

Metropolitan Police Department.—The conference action provides $160,066,000 instead of $157,813,000 as proposed by the House and Senate. The increase of $2,253,000 above the House and Senate allowances is to help defray the costs of pay increases for the department.

Fire Department.—The conference action provides $69,131,000 and 1,871 positions instead of $68,284,000 and 1,849 positions as proposed by the House and $70,784,000 as proposed by the Senate. The increase of $847,000 and 22 additional positions above the House allowance will permit the department to staff the new Engine Company No. 33 located at First and Atlantic Streets, Southeast. In addition, $1,309,000 is provided under the "capital outlay" heading for two new pumper trucks for Engine Company No. 33 ($337,000), and for major rehabilitation work for Engine Company No. 3 ($972,000). The conference action also includes bill language proposed by the Senate prohibiting the use of funds in this Act to implement any plan to close Engine Company No. 3 at its present location at 439 New Jersey Avenue, Northwest.

The conferees strongly urge District officials to fund the Fire Department's hazardous materials unit for the full year from funds otherwise available rather than for six months as proposed by the District so that it can respond to hazardous materials incidents on a full-time basis.

The conference action includes bill language requiring the D.C. Retirement Board to pay a one-time lump sum bonus of 3 percent by October 15, 1986 to 23 firefighters who retired between November 24, 1984 and April 13, 1985 instead of those who retired between November 24, 1984 and March 28, 1985, as proposed by the House and the Senate. The April 13, 1985 date reflects an adjustment based on a subsequent review of the retirement records.

The conferees are concerned about the state of the city's emergency ambulance service. The Advisory Committee on Emergency Medical Services has presented a report with 140 recommendations for improving the service. Many of these recommendations directly affect the emergency medical care provided by city ambulance personnel. These recommendations must be considered the most urgent priority of the Ambulance Division. The conferees direct that the Fire Department present to the Mayor, the Council, and the appropriate committees of Congress an evaluation of each recommendation, an implementation plan and cost estimate not later than November 15, 1986.

The conferees also request that the Department undertake an analysis of the adequacy, number, and location of basic life support and advanced life support ambulances in the District. Comparisons with other similar cities and changes in city population patterns should be considered in this analysis.

Superior Court.—The conference agreement provides $44,506,000 and 1,057 positions as proposed by the Senate instead of $43,706,000 and 1,036 positions as proposed by the House. The allowance recommended by the conferees includes increases of $153,000 for communications as proposed by the Senate instead of $53,000 as proposed by the House; $109,000 and eight additional positions in the Civil Division instead of $83,000 and six additional positions as proposed by the House and $113,000 and eight additional positions as proposed by the Senate; and $67,000 and two additional positions for the Clerk of the Superior Court instead of $70,000 and two additional positions as proposed by the Senate. The conferees intend that these positions and funds be used to speed-up processing and reduce delays in handling court cases. The conferees request a report by January 5, 1987, on how these funds will assist in reducing delays and expediting court cases.

The conference action also provides a total of $607,000 and 17 positions to fund the Intensive Probation Supervision Program instead of $600,000 and 17 positions as proposed by the Senate. This funding will support intensive probation supervision for 200 high risk probationers in fiscal year 1987. This sum includes $531,000 for salaries, $8,000 for supplies, $8,000 for communications, $48,000 for other services and charges and $12,000 for necessary equipment.

The conferees are pleased that the courts are taking an innovative approach to probation supervision. They are encouraged to continue this effort and to look for less labor intensive techniques and technologies.

Department of Corrections.—The conference action provides $163,230,000 and 3,005 positions instead of $147,730,000 and 2,857 positions as proposed by the House and $163,930,000 and 3,005 positions as proposed by the Senate. The increase of $15,500,000 and 148 positions above the House allowance includes $6,300,000 and 148 positions for the annual cost of the vocational education program instead of $7,000,000 and 148 positions as proposed by the Senate. The reduction of $700,000 below the Senate allowance is based on revised cost estimates for the program. The conference action also provides $5,500,000 as proposed by the Senate to permit the District to renovate facilities within the District to house prisoners on an emergency basis. The conferees direct that the Mayor report to the House and Senate Committees on Appropriations within 45 days after this Act is approved on the anticipated uses of these funds. The conference action also provides $27,766,000 as proposed by the Senate for payment to the Federal Bureau of Prisons to cover the cost of D.C. Code violators in the Federal Prison System instead of $24,066,000 as proposed by the House.

Reimbursement to Fairfax and Prince William Counties.—The House bill included language initially approved in fiscal year 1986 earmarking not to exceed $50,000 to reimburse Fairfax County, Virginia, for the costs of police, fire and other emergency services at the District's Lorton prison complex. The Senate bill increases the earmarking to $100,000 and provides for reimbursement to Prince William County, Virginia, as well as Fairfax County. The conferees agree with the bill language proposed by the Senate.

Lorton Telephone Information Service.—The conference action includes bill language proposed by the Senate which requires the District government to establish a free, 24-hour telephone information service so that residents of the area surrounding Lorton prison in Fairfax County, Virginia, can obtain information promptly from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents. Bill language also requires the District government to publicize the availability of this free information service.

Lorton Prison.—The conference action includes bill language proposed by the Senate prohibiting the District from renovating or constructing prison bed space at the Occoquan facilities of Lorton prison beyond the number of prison bed spaces which were damaged or destroyed there by the July 25, 1986 fire.

The conference action deletes bill language proposed by the Senate expressing the sense of Congress on the District's prison situation.

Board of Parole.—The conference action includes bill language proposed by the Senate prohibiting the use of funds in this Act to implement the D.C. Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986.

Current regulations require the issuance of a parole violator arrest warrant and revocation of parole for a positive test for phencyclidine (PCP). These regulations also state the general policy of the Board to issue a violator warrant for use of any controlled substance. The stated purpose of the proposed changes filed with the D.C. Register is to give the Board wide authority to consider other factors in determining whether to issue an arrest warrant or to revoke parole.

The conferees believe that if a parolee tests positive for PCP that he should be taken into custody for further determination and investigation as to what further action is required. The fact that a parolee is using drugs indicates a serious risk to the community and should not be tolerated.

National Guard.—The conference action provides $863,000 as proposed by the House instead of $763,000 as proposed by the Senate. The increase of $100,000 above the Senate allowance is a one-time nonrecurring allowance which will be used along with Federal matching funds to provide needed maintenance and upgrades in both troop and administrative areas at the D.C. Armory.

PUBLIC EDUCATION SYSTEM

Appropriates $541,318,000 instead of $540,718,000 as proposed by the House and $540,872,000 as proposed by the Senate.

Board of Education.—The conference action allocates $394,406,000 instead of $393,806,000 as proposed by the House and the Senate. The increase of $600,000 includes $500,000 transferred from the Department of Employment Services under the Economic Development and Regulation appropriations account and will allow the Board to operate a Cooperative Employer Education Program in fiscal year 1987. During fiscal year 1986 this program was administered by the Department of Employment Services in cooperation with the public school system. The target populations for this program are out-of-school youth, public housing residents, ex-offenders and career education students interested in careers in the building industry. The program provides remedial education and job training through the rehabilitation of vacant and abandoned District-owned housing units. During fiscal year 1986 sixty-one individuals completed the training and 92 percent were placed in jobs. The plan for fiscal year 1987 is to enroll 86 persons.

The conferees fully support the Board's Career Enrichment Program which was initially funded last year as the Student Dropout Prevention Initiative with a special Federal payment of $150,000. The conferees encourage the Board of Education and the Superintendent to continue their efforts to reduce the student dropout rate and look forward to receiving a report prior to next year's hearings. The conferees urge the Board to identify funds for this program within the school's total fiscal year 1987 operating budget of $386,406,000. The conferees are confident that this will be done based on the Superintendent's testimony during House hearings that program personnel were being trained and student involvement in the project began in June of 1986 and would extend through the summer months until June of 1987. The conferees feel that follow-up and monitoring of the students involved are essential in order to determine the success of the program, and commend the Board and Superintendent for their leadership in searching for ways to motivate young people to stay in school.

The conference action includes bill language in section 134 which amends the Leadership in Educational Administration Development Act of 1984 (Public Law 98-558, approved October 30, 1984) to include the District of Columbia in the definition of the term "State". The conferees were advised that both the Senate and House sponsors of this legislation intended to include the District of Columbia in the program, and the Congressional Record of September 25, 1986, includes a statement by the author of the original bill that he "never intended to make the District of Columbia ineligible".

The conferees note that the Board's project at the Center for Immigration Policy and Refugee Assistance at Georgetown University has developed a pool of approximately 200 volunteers who help non-English speaking students enrolled in the District's public schools to learn English and adjust to North American life. The volunteers work as tutors in several local public schools, on Georgetown's campus on Saturdays, and in the homes of recently arrived families. The project recently initiated an additional activity, the Peer Tutoring Program, in which students who have benefited from the program are now tutoring non-English speaking students of elementary school age.

The project continues to serve as an adjunct to the Division of Bilingual Education of the District's public school system whose responsibility it is to test and place all non-English proficient students and to provide bilingual counselors, education specialists and other personnel to ensure the proper education of these students. Because of the project's rapid development and effectiveness, the Board has recognized the project as an official program of the school system.

The project's initiation in January 1984 was funded by a private benefactor. Since that time, the project has received $50,000 from the Board to supplement the project's operation. According to testimony, the cost of the program in fiscal year 1987 will be $80,000. The conferees urge the Board to give every consideration to funding this request.

University of the District of Columbia.—The conference action allocates $68,861,000 as proposed by the House instead of $69,015,000 as proposed by the Senate. The conference action provides a total of $1,146,000 for acquisition of the Antioch School of Law as proposed by the House instead of $1,300,000 as proposed by the Senate. Bill language proposed by both the House and Senate is included making this appropriation of $1,146,000 contingent on approval by both the University's Board of Trustees and the City Council. The language further provides that if such approval is not granted, the $1,146,000 is to be used to reduce the District's accumlated general fund deficit.

REPAYMENT OF GENERAL FUND DEFICIT

Appropriates $20,000,000 as proposed by the House instead of $8,675,000 as proposed by the Senate and restores language proposed by the House and stricken by the Senate requiring that not less than $11,325,000 of the $20,000,000 appropriation is to be funded and apportioned by the Mayor from appropriations or revenues otherwise available to the District government.

CAPITAL OUTLAY

Appropriates $361,860,000 instead of $310,551,000 as proposed by the House and the Senate. The increase of $51,309,000 consists of $50,000,000 to construct a new prison facility in the District of Columbia, $972,000 for major renovations to Engine Company No. 3 located at 439 New Jersey Avenue, Northwest, and $337,000 for two pumper trucks for new Engine Company No. 33 located at First and Atlantic Streets, Southeast. Language concerning the new prison facility is included under "Criminal Justice Initiative" earlier in this statement.

GENERAL PROVISIONS

Provides an employment ceiling of 33,549 as proposed by the Senate instead of 33,355 as proposed by the House. The increase of 194 positions above the House allowance consists of three positions for the Retirement Board, 22 positions for the Fire Department, 21 positions for the Superior Court, and 148 positions for the Department of Corrections.

The conference action includes bill language proposed by the Senate in section 117 prohibiting the use of Federal funds for abortions except to save the life of the mother or such medical procedures necessary for the victims of rape or incest which has been reported promptly to a law enforcement agency or public health service. The Senate amendment agreed to by the conferees also allows use of Federal funds for drugs and devices necessary to prevent implantation of the fertilized ovum and medical procedures necessary for the termination of an ectopic pregnancy. The House language prohibited the use of both local and Federal funds for abortions except to save the life of the mother. The Senate amendment is identical to language that has been carried in District of Columbia Appropriations Acts annually since fiscal year 1980.

The conference action includes language proposed by the Senate in Section 132 which requires the District government to construct appropriate signs identifying "Andrei Sakharov Plaza". The language agreed to by the conferees also provides that the proper address of the Soviet Embassy in Washington shall be No. 1 Andrei Sakharov Plaza. The conferees intend that

all Federal government departments and agencies use the proper mailing address.

The conference action includes statutory language under section 133 reaffirming the authority of the District's legislative body to adopt legislation closing a portion of 8th Street, N.W.

TITLE II—FISCAL YEAR 1986 SUPPLEMENTAL APPROPRIATIONS

DISTRICT OF COLUMBIA FUNDS

The conference action inserts a new "Title II" and heading for fiscal year 1986 supplemental appropriations as proposed by the Senate. There are no Federal funds involved in this supplemental; it is funded entirely with increases in local revenue collections above the level projected at the time the District's regular appropriations bill for fiscal year 1986 was considered and approved by the Congress. The conferees note that this supplemental was not submitted to the Congress in time to be considered in the House version of H.R. 5175.

Governmental Direction and Support.—The conference action appropriates an additional $1,738,000 and 36 positions for fiscal year 1986 for various departments and offices as proposed by the the Senate.

Economic Development and Regulation.—The conference action appropriates an additional $5,658,000 and 18 positions for fiscal year 1986 for various departments and offices as proposed by the Senate.

Public Safety and Justice.—The conference action appropriates an additional $47,093,000 and 122 positions for fiscal year 1986 for various departments and offices and rescinds $12,735,000 in budget authority for the Police and Fire Retirement System as proposed by the Senate. This rescission is due to an actuarial recertification of annuity requirements approved by the D.C. Retirement Board.

Public Education System.—The conference action appropriates an additional $92,000 for fiscal year 1986 for the Commission on the Arts and Humanities and provides that $3,423,000 of the funds available to the District of Columbia Teachers' Retirement Fund for fiscal 1986 shall be used to reduce the fund's unfunded liabilities as proposed by the Senate.

Human Support Services.—The conference action appropriates an additional $3,545,000 and four positions for fiscal year 1986 for various agencies and programs and rescinds $1,982,000 in budget authority for the Unemployment Compensation Fund as proposed by the Senate. The conference action also rescinds $2,463,000 in revenue sharing funds as proposed by the Senate.

Public Works.—The conference action appropriates an additional $4,216,000 for fiscal year 1986 for the Department of Public Works as proposed by the Senate. The conference action also provides for 41 positions instead of 18 positions as proposed by the Senate. The increase of 23 positions above the Senate allowance is for the vacant lot cleanup program.

Washington Convention Center Fund.—The conference action appropriates an additional $150,000 for fiscal year 1986 as proposed by the Senate.

Repayment of Loans and Interest.—The conference action rescinds $16,316,000 in fiscal year 1986 budget authority as proposed by the Senate.

Personal Services.—The conference action appropriates an additional $1,000,000 for fiscal year 1986 and rescinds $3,423,000 in budget authority as proposed by the Senate.

Adjustments.—The conference actions rescinds $1,000,000 in fiscal year 1986 budget authority within object class 30A (energy) as proposed by the Senate.

Repayment of General Fund Deficit.—The conference action deletes language proposed by the Senate which would limit the reduction in the District's accumulated general fund deficit to $5,000,000. Language in the District's regular fiscal year 1986 appropriations act requires the District to reduce its deficit by $20,000,000 in fiscal year 1986.

Capital Outlay.—The conference action appropriates an additional $126,791,000 for 41 projects for fiscal year 1986 as proposed by the Senate.

Water and Sewer Enterprise Fund.—The conference action appropriates an additional $300,000 for fiscal year 1986 as proposed by the Senate.

General Provisions.—The conference action deletes language proposed by the Senate as section 201 which would have prohibited the Mayor from paying overtime expenses for U.S. Marshals to make evictions from housing units owned by the District government until certain steps are taken by the Mayor. The conference action renumbers section 202 and 201 and includes language which deems the appropriations made in title II to be available for the fiscal year ending September 30, 1986. This language in effect ratifies all obligations and expenditures made in anticipation of the enactment of the District's fiscal year 1986 supplemental request as approved in title II of this Act.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

Amendment No. 5: Section 101(e) of House Joint Resolution 738 provides appropriations for programs, projects and activities provided for in the Energy and Water Development Appropriations Act, 1987. The House version of the joint resolution provides appropriations for programs, projects and activities at a rate of operations and to the extent and in the manner provided for in H.R. 5162 as passed by the House of Representatives on July 23, 1986. The Senate version of the joint resolution provides appropriations for programs, projects and activities at the rate and in the manner provided for in H.R. 5162 as reported to the Senate on September 15, 1986, with certain additional provisions and exceptions provided for in the joint resolution.

The conference agreement on House Joint Resolution 738 incorporates some of the provisions of both the House and Senate versions of the Energy and Water Development Appropriations Act, 1987, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-670 and Senate Report 99-441 shall be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. The Energy and Water Development Appropriations Act, 1987, put in place by this joint resolution incorporates the following agreements of the managers.

TITLE I—DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The summary tables at the end of this section set forth the conference agreement with respect to the individual appropriations, programs and activities of the Corps of Engineers. Additional items of conference agreement are discussed below.

GENERAL INVESTIGATIONS

Appropriates $136,287,000 for general investigations instead of $149,441,000 as proposed by the House and $124,240,000 as proposed by the Senate.

Restores language proposed by the House and stricken by the Senate appropriating $250,000 for the Bolsa Chica/Sunset Harbor, California, study.

Appropriates $520,000 for the Red River Waterway, Shreveport, Louisiana, to Index, Arkansas, project as proposed by the House instead of $300,000 as proposed by the Senate.

Provides a limitation of $18,000,000 for research and development activities as proposed by the Senate.

The conference agreement provides $600,000 for the Navajo Indian Reservation, Arizona, New Mexico and Utah investigation, including a study of the Ganado Dam in Arizona.

The conference agreement for coordination studies with other agencies includes $200,000 for Section 22 studies in the States of Oklahoma, New Jersey, and North Dakota. Public Law 93-251 limits the amount allocated to any State to no more than $200,000.

The conferees direct the Secretary of the Army and the Chief of Engineers to use the $480,000 provided for continuation of planning and engineering on the Roanoke River Upper Basin project, including the design of floodproofing for the Roanoke Memorial Hospital and city sewage treatment plant as recommended in the Chief of Engineers report dated August 5, 1985.

The conferees have learned that the Federal Emergency Management Agency has recently found that a substantial portion of the City of Loma Linda lies within the flood plain of the San Timeteo Creek, a tributary of the Santa Ana River in California. The Committee feels that this information would alter the Corps estimates of the cost benefits of a San Timeteo adjunct to the Santa Ana project. Therefore, the conferees direct that within the funds provided for the Santa Ana project, the Corps reevaluate the cost benefits of a San Timeteo Creek project element taking the new FEMA information into account in its calculation of the potential benefits.

The House and Senate report language regarding the Arkansas River Basin, Arkansas and Oklahoma, study is deleted.

Within the amount provided to Flood Plain Management Services, the conferees expect the Corps of Engineers to provide funding for the continuation of the South East Louisiana Hurricane Preparedness Study.

The conferees agree with the House Report language earmarking $300,000 for a water resources-based economic development computer model and $400,000 for the Technology Transfer Demonstration Program.

The conferees have provided funding for the continued analysis of erosion problems which might be caused in the Capay Valley,

California, by the Cache Creek Project. They continue to believe that both the upstream and downstream elements of the project as defined in the pending authorization bill address themselves to important problems. However, the conferees also believe that it would be counterproductive to solve problems in one place only to cause them in Capay Valley. Therefore, the conferees anticipate the need for finding that any such transfer of problems can be prevented before the project or portions of it would proceed to construction.

The conference recommendation includes $500,000 to implement the acequias rehabilitation program that is included in H.R. 6, the Omnibus Water Resources Development authorization legislation, now in conference. The State of New Mexico and other interested parties are urged to take early steps to identify those acequias, including, but not limited to those previously enumerated, that would be considered for rehabilitation upon the enactment of H.R. 6.

CONSTRUCTION, GENERAL

Appropriates $1,152,150,000 for construction, general instead of $1,187,734,000 as proposed by the House and $1,061,260,000 as proposed by the Senate.

Inserts language proposed by the Senate providing for the construction of a storage facility at Dam Site 18 of the Papillion Creek and Tributaries, Nebraska, project.

Inserts language proposed by the Senate authorizing the construction of flood control structures at the Papillion Creek and Tributaries Lakes, Nebraska, project.

Restores language proposed by the House and stricken by the Senate appropriating $2,300,000 for the Sandy Hook to Barnegat Inlet, New Jersey, project; $6,800,000 for the Yatesville Lake, Kentucky, project; $1,600,000 for the Sturgeon Point Marina, New York, project; and $1,600,000 for the New Melones Lake, California, project.

Deletes language proposed by the House and stricken by the Senate appropriating $1,300,000 for the Clarence Cannon Dam, Missouri, project.

Appropriates $1,100,000 for the Barbourville, Kentucky, project as proposed by the House instead of $300,000 as proposed by the Senate.

Appropriates $68,000,000 for the Red River Waterway, Mississippi River to Shreveport, Louisiana, project as proposed by the Senate instead of $30,000,000 as proposed by the House.

Earmarks $38,000,000 for Locks & Dams 1 and 2 and $30,000,000 for continuing contracts on the Red River Waterway, Mississippi River to Shreveport, Louisiana, project as proposed by the Senate.

Deletes language proposed by the House and stricken by the Senate regarding the initiation of water resource projects.

Inserts language proposed by the Senate amended to read as follows:

Section 123 of Public Law 99-190 is amended by striking out "at an estimated cost of $1,000,000" and inserting in lieu thereof "a cost of $2,300,000"

The conferees reiterate their continuing strong support for the Elk Creek Lake project in Oregon. It should be pointed out that, in response to the fiscal 1986 budget request, Congress appropriated $18,000,000 to initiate an ongoing contract for main dam construction. On January 24, 1986, the Corps of Engineers awarded the contract for construction on the main dam and work is proceeding on schedule. Further, the Corps has testified that currently available funds are sufficient to meet projected needs through 1987 and, therefore, no funding request was included in the 1987 budget.

In light of the Corps' action to award an ongoing contract for main dam construction (and congressional action to appropriate nearly half of the amount required to complete project construction), the conferees expect that sufficient funds be requested to cover anticipated contract earnings in fiscal year 1988.

The conference agreement includes funding for the following projects in the Continuing Authorities Program:

Section 107—Small Navigation Projects.—Kahului Harbor, Hawaii, $75,000; Laupahoehoe Point, Hawaii, $937,000; Shell Point, Florida, $75,000; Sturgeon Point, New York, $1,600,000; Sheffield Lake, Ohio, $200,000; Dillingham, Alaska, $150,000; and North Shore Channel, Illinois, $63,000.

Section 103—Small Beach Erosion Control Projects.—Sand Island, Hawaii, $600,000; Orchard Beach, New York, $500,000; Indian River Inlet (North), Delaware, $550,000; Indian River Inlet (South), Delaware, $550,000; Century Park, Ohio, $100,000; and Homer, Alaska, $600,000. The Committee has no objection to the Corps of Engineers allocating $456,000 to the Lincoln Park, Washington, project.

Section 205—Small Flood Control Projects.—Morrison Creek, California, $1,000,000; East Fork 102 River at Bedford, Iowa, $100,000; Salyersville, Kentucky, $300,000; and Noyes, Minnesota, $400,000.

Section 14—Emergency Streambank and Shoreline Protection.—Black River-Clover Bend, Arkansas, $150,000; Red Lake River (Gentilly), Minnesota, $150,000; and $50,000 for the Cox Run area of the Wellsburg, West Virginia, project; $50,000 for the Middle School area of the Wellsburg project; $200,000 to protect the water works along the Ohio River in the vicinity of 10th Street in Wellsburg; and $100,000 to protect Main Street from 2nd to 5th Streets in Wellsburg. The conference agreement also includes $50,000 for Sistersville, West Virginia, and $250,000 for Glen Dale, West Virginia. The conference agreement includes $125,000, within available funds, for the Lake Erie, Deist Road, Middle Bass Island, Ohio, project.

Section 117 of P.L. 99-190, the Continuing Resolution for Fiscal Year 1986, directed that the Secretary of the Army credit the non-Federal interests in the Fairfield Vicinity Streams Project for the costs of works compatible with the project carried out by the local sponsor between December 31, 1973, and December 19, 1985, against any further non-Federal contribution requirement. This provision had the effect of applying some $4 million in local sponsor ezpenditures on elements of the project prior to 1986 to satisfy the five percent up front cash cost-sharing requirement made by the Corps for the Fairfield Project. The Congress does not intend that any general five percent up front cash requirement enacted in the Omnibus Water Resources Development Act subsequent to December 1985, shall supercede this specific provision with respect to the Fairfield Vicinity Streams Project.

The conferees intend that the cost-sharing conditions spelled out when Congress passed the Supplemental Appropriations Act, 1985, apply to the new construction starts included in the "Construction, general" appropriation.

FLOOD CONTROL AND COASTAL EMERGENCIES

Appropriates $10,000,000 for flood control and coastal emergencies as proposed by the Senate instead of $25,000,000 as proposed by the House.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

Appropriates $310,797,000 for flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee instead of $319,460,000 as proposed by the House and $300,369,000 as proposed by the Senate.

Restores language proposed by the House and stricken by the Senate regarding the Pumping Station and Gravity Outlets at the City of DeValls Bluff, Arkansas.

The conferees concur in and strongly support the House report language relating to the Yazoo Basin, Mississippi, Demonstration Erosion Control, a joint program of the Corps of Engineers and the Soil Conservation Service.

The conferees note that the House version of H.R. 6, which authorizes new projects and programs for the Corps of Engineers, also provides that new project features funded under the Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee appropriation, involving seven states, be considered as part of the overall project for purposes of cost sharing.

On November 6, 1985, the House of Representatives confirmed the action of the legislative committee when it defeated 296 to 124 an amendment providing that each element of the Mississippi River and Tributaries project be considered as a separate project for cost sharing purposes.

As part of the ongoing flood control efforts in the Lower Mississippi Basin, the Corps and the Soil Conservation Service are developing joint projects to keep the flood waters in the foothill areas in order to prevent tributary flooding throughout the area.

The floods currently being experienced from Oklahoma to Illinois and throughout the Midwest area are graphic examples of the need to accelerate our flood control efforts in all areas of our country.

Following is a brief history of the origin and purpose of the Mississippi River and Tributaries appropriation:

The Mississippi River drains more than 1,245,000 square miles in 31 states, or 41 percent of the land area in the 48 contiguous states. It has the third largest drainage basin in the world.

The potential power in the Mississippi River during flood stage from Cairo to the Gulf is about 60 million horsepower. Impossible to harness, this force is dissipated by eroding streambanks, transporting silt, and moving water. In flood stage, uncontrolled Mississippi River water could cover up to 30,000 square miles.

In response to these threats of floods and erosion, the people of the basin started building protection levees in the mid-Nineteenth Century. Over $125 million was spent by basin residents before the first Federal assistance was received in 1882.

The Federal Government organized the Mississippi River Commission in 1879, signaling the start of Federal participation in the cost of flood control levees along the Mississippi River. The Commission supervised expenditure of about $90 million from 1882 through 1926, $15 million of which was

contributed by Delta residents. In addition, state and local organizations spent another $152 million on flood control during this period.

A total of nearly $300 million was spent by basin residents through 1926 on flood control alone, not counting flood damages and expenses by individuals. Flood damages from just the 1927 flood were estimated to exceed $236 million. That year a brown tide of Mississippi River water breached levees and spread out nearly 100 miles at times, inundating towns and farms. A single levee break on the east bank flooded 2.3 million acres in the Mississippi Delta, affecting nearly 173,000 people. In total, 16.6 million acres were flooded in seven states, 162,000 homes were inundated, $102.6 million in crop losses occurred, 425,000 people were displaced, and as many as 500 people were killed. Following that devastating 1927 flood, the Mississippi River and Tributaries (MR&T) project was authorized in 1928.

Although still not complete, the MR&T project has already resulted in flood control benefits to the Nation far in excess of cumulative construction investments of approximately $3.7 billion made from 1928 through 1984. Of that amount, total expenditures for levees by state and local organizations exceeded $922 million. The project prevented potential damages estimated to be $31 billion during the 1983 and 1984 floods. Thus, in just two years, the flood control benefits were nearly nine times the cumulative investment in the project over the last half century. Total benefits over the life of the MR&T project have been approximately $100 billion.

Unless all parts of the flood control plan for the Mississippi River and tributaries is continued on a timely basis, it could well be disastrous for the lower Valley where, in a number of places, the riverbed is now above the surrounding land.

OPERATION AND MAINTENANCE, GENERAL

Appropriates $1,389,846,000 for operation and maintenance, general instead of $1,417,447,000 as proposed by the House and $1,369,418,000 as proposed by the Senate.

Restores language proposed by the House and stricken by the Senate earmarking $7,400,000 for the Sepulveda Dam, California, project.

Inserts a limitation of $8,000,000 for mobilization planning activities instead of a limitation of $10,000,000 as proposed by the Senate.

The conferees recognize the increased demand on local law enforcement officers in Columbia County, Georgia, associated with the public use of Clarks Hill Lake. The conferees have been advised that there is a 100% increase in reported crimes, and that the demands far exceed local resources. Accordingly, the Corps is directed to provide within existing funds for such purposes those additional sums that, in the judgment of the Secretary, are necessary to provide reasonable law protection.

GENERAL PROVISIONS

Deletes language proposed by the House and stricken by the Senate regarding the buildings and facilities for the Corps of Engineers District in Walla Walla, Washington.

Deletes language proposed by the House and stricken by the Senate regarding the Papillion Creek and tributaries Lakes, Nebraska, project.

Restores language proposed by the House and stricken by the Senate regarding the Des Moines Recreational River and Greenbelt, Iowa, project.

Inserts language proposed by the Senate regarding the construction of new Department of the Army water resources projects funded in Public Law 99-88.

Restores language proposed by the House and stricken by the Senate regarding Greers Ferry Lake and Little Red River, Arkansas.

Restores language proposed by the House and stricken by the Senate amended to read as follows:

SEC. 126. None of the funds made available by this Act or any other Act for any fiscal year may be used hereafter to study, to plan, to implement, to construct, or to issue any permit for the Northfield Mountain Water Supply Project, Massachusetts or the Millers and Tully Rivers Water Supply Project, Massachusetts: Provided, That this section shall not apply to environmental studies undertaken by the United States Fish and Wildlife Service: Provided further, That this shall not be construed as a precedent for any other Corps permit in any other state or region.

Restores language proposed by the House and stricken by the Senate regarding channel modifications at Jackson, Alabama.

Deletes language proposed by the Senate providing for the reconstruction of Deist Road on Middle Bass Island, Ohio, because funds are provided elsewhere.

TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	ALABAMA				
(N)	BAYOU LA BATRE	60,000	---	60,000	---
(FC)	FT. TOULOUSE	---	---	---	750,000
(FC)	MOUNDVILLE	---	---	---	300,000
(FDP)	VALLEY CREEK, WARRIOR RIVER AND TRIBUTARIES	148,000	---	148,000	---
	ALASKA				
(FDP)	HOMER SPIT EROSION	297,000	---	297,000	---
(FDP)	RIVERS AND HARBORS	946,000	---	946,000	---
(N)	SOUTHCENTRAL DEEP-DRAFT NAVIGATION	163,000	---	163,000	---
(N)	ST PAUL HARBOR (CP&E)	400,000	---	400,000	---
	ARIZONA				
(FDP)	GILA RIVER AND TRIBUTARIES, AZ & NM	276,000	---	276,000	---
(FDP)	GILA RIVER AND TRIBUTARIES, NOGALES WASH	85,000	---	85,000	---
(FC)	GILA RIVER AND TRIBS, RILLITO INTERIM (CP&E)	---	---	150,000	---
(FDP)	NAVAJO INDIAN RESERVATION INCL GANADO DAM, AZ,NM&UTAH	---	---	600,000	---
(FDP)	PHOENIX METRO AREA (OLD CROSS CUT CANAL)	38,000	---	38,000	---
	ARKANSAS				
(FDP)	ARKANSAS RIVER BASIN, AR & AK	550,000	---	550,000	---
(FDP)	CLARKSVILLE	175,000	---	175,000	---
(FC)	NORTH LITTLE ROCK (DARK HOLLOW) (CP&E)	75,000	---	75,000	---
(FDP)	OUACHITA RIVER BASIN, AR & LA	400,000	---	400,000	---
(COMP)	WHITE RIVER BASIN AUTHORIZATION REPORT, AR & MO	400,000	---	400,000	---
	CALIFORNIA				
(N)	BOLSA CHICA/SUNSET HARBOR STUDY	---	---	250,000	---
(FC)	CACHE CREEK BASIN (CP&E)	500,000	---	500,000	---
(SPEC)	COAST OF CALIFORNIA, STORM AND TIDAL WAVES	1,000,000	---	1,000,000	---
(FC)	GUADALUPE RIVER (CP&E)	750,000	---	750,000	---
(FDP)	LOS ANGELES COUNTY DRAINAGE AREA REVIEW	1,150,000	---	1,150,000	---
(FDP)	MARIN COUNTY SHORELINE, SAN RAFAEL CANAL	260,000	---	260,000	---
(N)	MORRO BAY HARBOR	---	---	140,000	---
(FDP)	NORTHERN CALIFORNIA STREAMS, DRY CREEK	100,000	---	150,000	---
(FDP)	NORTHERN CALIFORNIA STREAMS, BLUE RIDGE	---	---	200,000	---
(FDP)	NORTHERN CALIFORNIA STREAMS, AMERICAN RIVER WATERSHED	---	---	500,000	---
(N)	OAKLAND INNER HARBOR (CP&E)	415,000	---	415,000	---
(N)	OCEANSIDE HARBOR	---	---	110,000	---
(N)	REDONDO BEACH (KING HARBOR)	---	---	200,000	---
(FDP)	SACRAMENTO-SAN JOAQUIN DELTA	250,000	---	250,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, CALIENTE CREEK STREAM GROUP	120,000	---	200,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, KAWEAH RIVER INTERIM	100,000	---	100,000	---
(FDP)	SAN FRANCISCO BAY SHORELINE	840,000	---	840,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, TULE RIVER INTERIM	100,000	---	100,000	---
(FDP)	SANTA ANA RIVER BASIN & ORANGE COUNTY	600,000	---	600,000	---
(FC)	SANTA ANA RIVER (PHASE 1) (CP&E)	3,500,000	---	6,000,000	---
(RDP)	SANTA BARBARA HARBOR	---	---	200,000	---
(N)	VENTURA MARINA (REVIEW)	175,000	---	175,000	---
	COLORADO				
(FDP)	ARKANSAS RIVER & TRIBS ABOVE JOHN MARTIN DAM (PHASE I)	735,000	---	735,000	---
(FDP)	FOUNTAIN CREEK AND TRIBS - NORTH OF PUEBLO	210,000	---	210,000	---
(FC)	WESTERLY CREEK (CP&E)	240,000	---	240,000	---
	COMM N. MARIANAS				
(N)	NORTHERN MARIANAS ISLANDS (COMPREHENSIVE)	50 000	---	50,000	---
	CONNECTICUT				
(COMP)	CONN RVR BSN, AUTH REPORTS, CT, MA, NH, VT	190,000	---	190,000	---
(COMP)	LONG ISLAND SOUND-AUTHORIZATION REPORTS, CT & RI	50,000	---	50,000	---
(N)	NEW HAVEN HARBOR (CP&E)	450,000	---	450,000	---
(COMP)	WEST CENTRAL CONNECTICUT COASTAL FLOODING	250,000	---	250,000	---
	DIST OF COLUMBIA				
(FC)	WASHINGTON, DC & VICINITY (1946 MOD)	---	485,000	---	485,000
	FLORIDA				
(N)	BISCAYNE BAY	---	---	350,000	---
(N)	CANAVERAL HARBOR	---	---	50,000	---
(N)	CLEARWATER SPOIL DISPOSAL	---	---	77,000	---
(FDP)	COAST OF FLORIDA EROSION AND STORM EFFECTS STUDY	750,000		750,000	---

TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
(SP)	FLAGLER COUNTY (CP&E)	---	---	115.000	---
(N)	FORT PIERCE HARBOR (CP&E)	90.000	---	90.000	---
(RDP)	HUDSON RIVER	50.000	---	50.000	---
(N)	JACKSONVILLE HARBOR, ST JOHN'S RIVER & IWW	---	---	200.000	---
(N)	MEXICO BEACH INLET (CP&E)	---	---	50.000	---
(N)	MIAMI HARBOR CHANNEL (CP&E)	---	---	250.000	---
(BE)	MONROE COUNTY (CP&E)	---	---	93.000	---
(SPEC)	NORTHWEST FL WATER SUPPLY STUDY	---	---	350.000	---
(N)	PORT EVERGLADES	50.000	---	50.000	---
(BE)	ST. JOHNS COUNTY (CP&E)	---	---	180.000	---
(FDP)	ST. JOHNS RIVER	---	---	100.000	---
(FDP)	ST. MARYS RIVER BASIN, FL & GA	250.000	---	250.000	---
(RDP)	ST. PETERSBURG (ECONOMIC RESTUDY)	---	---	75.000	---
(FDP)	SUWANNEE RIVER	---	---	300.000	---
(FDP)	TAMPA BAY, HURRICANE EVACUATION	---	---	100.000	---
	GEORGIA				
(N)	APALACHICOLA, CHATTAHOOCHEE, FLINT RIVERS, GA, AL & FL	300.000	---	300.000	---
(N)	BRUNSWICK HARBOR	500.000	---	500.000	---
(FDP)	NORTHEAST GEORGIA REGION	259.000	---	259.000	---
(FDP)	SAVANNAH RIVER BASIN, GA, SC & NC	210.000	---	210.000	---
(FDP)	TURKEY CREEK	100.000	---	100.000	---
(FDP)	SOUTH METROPOLITAN ATLANTA REGION	---	---	300.000	---
	GUAM				
(N)	HARBORS & RIVERS IN TERRITORY OF GUAM	270.000	---	270.000	---
	HAWAII				
(FDP)	HARBORS & RIVERS IN HAWAII	100.000	---	100.000	---
(FDP)	HARBORS & RIVERS IN HAWAII - SO. KOHALA WATER SUPPLY	117.000	---	117.000	---
(FDP)	HARBORS & RIVERS IN HAWAII, KEOPU-HIENALOLI STREAM	130.000	---	130.000	---
	IDAHO				
(FDP)	COLUMBIA RIVER AND TRIBUTARIES, ID, MT, OR, & WA	1,809.000	---	1,809.000	---
(FDP)	UPPER SNAKE RIVER AND TRIBUTARIES, ID & WY	836.000	---	836.000	---
	ILLINOIS				
(FDP)	ALEXANDER AND PULASKI COUNTIES	400.000	---	400.000	---
(FDP)	CHICAGO - SOUTH END OF LAKE MICHIGAN, IL & IN	300.000	---	300.000	---
(FDP)	CHICAGOLAND UNDERFLOW PLAN, PHASE 1 GDM	---	---	150.000	---
(SPEC)	DIVERSION OF LAKE MICHIGAN WATER AT CHICAGO	230.000	---	230.000	---
(FDP)	ILLINOIS RIVER BETWEEN HENRY AND NAPLES	330.000	---	330.000	---
(SP)	ILLINOIS SHORELINE EROSION	415.000	---	415.000	---
(N)	LOCKS AND DAMS 52 & 53, IL & KY	1,500.000	---	2,500.000	---
(FC)	LOVES PARK (CP&E)	490.000	---	490.000	---
(FC)	NORTH BRANCH CHICAGO RIVER, PHASE I (CP&E)	---	---	230.000	---
	INDIANA				
(FDP)	FORT WAYNE METROPOLIAN AREA	121.000	---	121.000	---
(BE)	INDIANA SHORELINE EROSION (CP&E)	---	---	108.000	---
(FC)	LITTLE CALUMET RIVER, PHASE I (CP&E)	273.000	---	273.000	---
(COMP)	WABASH RIVER COMP STY, IN & IL - WABASH RIVER NAVIGABILITY	200.000	---	350.000	---
	IOWA				
(FC)	MUSCATINE ISLAND LEVEE AND DRAINAGE DISTRICT (CP&E)	---	---	100.000	---
	KANSAS				
(FDP)	ARK R & TRIBS, GREAT BEND, KS TO TULSA, OK (REMAINING)	600.000	---	600.000	---
(FDP)	BLUE RIVER BASIN, KS AND MO	200.000	---	200.000	---
(FC)	DOUGLASS LAKE	---	265.000	---	265.000
(FDP)	GRAND NEOSHO RIVER, KS AND OK	600.000	---	600.000	---
(FDP)	TURKEY CREEK BASIN, KS & MO	310.000	---	310.000	---
(RDP)	WINFIELD	50.000	---	50.000	---
	KENTUCKY				
(N)	BIG SANDY RIVER, KY, WV & VA	165.000	---	165.000	---
(N)	CUMBERLAND-TENNESSEE RIVERS, KY,GA,AL,MS,NC,TN & VA	1,450.000	---	1,450.000	---
(FDP)	KENTUCKY RIVER & TRIBS, STATION CAMP CREEK	400.000	---	400.000	---
(FDP)	KENTUCKY RIVER AND TRIBUTARIES	430.000	---	430.000	---
(FDP)	OHIO RIVER MAIN STEM KY, IL, IN, OH, PA & WV	2,560.000	---	2,560.000	---
(FDP)	TRADEWATER RIVER BASIN	200.000	---	200.000	---
	LOUISIANA				
(FDP)	AMITE RIVER AND TRIBUTARIES	400.000	---	400.000	---
(N)	BAYOU LAFOURCHE AND LAFOURCHE - JUMP WATERWAY	50.000	---	50.000	---
(N)	GULF INTRACOASTAL WATERWAY, LA & TX SECTION	625.000	---	625.000	---
(FDP)	LOUISIANA COASTAL AREA - LAND LOSS AND MARSH CREATION	220.000	---	220.000	---
(SPEC)	LOUISIANA COASTAL AREA - WATER SUPPLY	430.000	---	430.000	---
(FDP)	LOUISIANA COASTAL AREA - HURRICANE PROTECTION	500.000	---	500.000	---

TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
(SP)	LOUISIANA COASTAL AREA - SHORE & BARRIER ISLAND EROSION	240.000	---	240.000	---
(FDP)	MERMENTAU, VERMILION & CALCASIEU RIVERS & BAYOU TECHE	460.000	---	460.000	---
	MISS RV GULF OUTLET BANK EROSION (ST. BERNARD)	---	---	160.000	---
(FC)	RED RIVER WATERWAY, SHREVEPORT,LA TO VICINITY INDEX,AR	---	---	---	520.000
(FDP)	UPPER BAYOU TECHE	140.000	---	220.000	---
(FDP)	WEST BANK OF THE MISSISSIPPI RIVER IN THE VICINITY OF NEW ORLEANS	---	---	250.000	---
	MAINE				
(FDP)	SAINT JOHN RIVER	400.000	---	400.000	---
	MARYLAND				
(BE)	ATLANTIC COAST OF MD (CP&E)	500.000	---	500.000	---
(SP)	CHESAPEAKE BAY (SHORELINE EROSION), MD & VA	450.000	---	450.000	---
(FDP)	MONONGAHELA YOUGHIOGHENY RIVER BASIN, MD, PA & WV	700.000	---	700.000	---
	MASSACHUSETTS				
(N)	BOSTON HARBOR	80.000	---	80.000	---
(FC)	MASSACHUSETTS COASTAL, ROUGHANS POINT, REVERE (CP&E)	300.000	---	300.000	---
(COMP)	SOUTHEASTERN NEW ENG AUTH, REPORTS, MA, RI & CT	223.000	---	223.000	---
	MICHIGAN				
(FDP)	GREAT LAKES PARTICULARLY LAKE ONTARIO & LAKE ERIE - OVERALL	130.000	---	130.000	---
(FDP)	SAGINAW RIVER	900.000	---	900.000	---
	MINNESOTA				
(N)	DULUTH - SUPERIOR HARBOR, MN & WI (CP&E)	180.000	---	180.000	---
(FC)	EAST GRAND FORKS	---	512.000	---	512.000
(FDP)	MINNESOTA RIVER VALLEY	350.000	---	350.000	---
(FDP)	RED RIVER OF THE NORTH, MN AND ND	470.000	---	670.000	---
(FC)	ROOT RIVER AT HOUSTON (CP&E)	250.000	---	250.000	---
(FC)	TWIN VALLEY LAKE, WILD RICE RIVER	---	138.000	---	138.000
	MISSISSIPPI				
(FDP)	MISSISSIPPI GULF COASTAL AREAS	215.000	---	215.000	---
(N)	PASCAGOULA HARBOR (CP&E)	---	---	900.000	---
(FDP)	PEARL RIVER BASIN, MS & LA	590.000	---	590.000	---
(FC)	PEARL RIVER, SHOCCOE DAM (CP&E)	1.000.000	---	1.000.000	---
(FDP)	TOMBIGBEE RIVER AND TRIBUTARIES, MS & AL	990.000	---	990.000	---
	MISSOURI				
(FC)	BRUSH CREEK, KANSAS CITY (CP&E)	425.000	---	425.000	---
(FC)	CAPE GIRARDEAU - JACKSON METRO AREA (CP&E)	500.000	---	500.000	---
(FDP)	CREVE COEUR CREEK	50.000	---	50.000	---
(FC)	HANNIBAL	---	124.000	---	124.000
(FC)	MALINE CREEK (CP&E)	465.000	---	465.000	---
(SPEC)	MERAMEC RIVER BASIN	480.000	---	480.000	---
(FDP)	OSAGE RIVER BASIN, MO, ABOVE HARRY S. TRUMAN DAM	275.000	---	275.000	---
(FDP)	ST. JOSEPH, MO AND VICINITY	210.000	---	210.000	---
(FDP)	ST. LOUIS METROPOLITAN AREA, MO & IL	1.054.000	---	1.054.000	---
	NEBRASKA				
(FDP)	PLATTE RIVER BASIN, NE, WY AND CO	140.000	---	140.000	---
(FDP)	REPUBLICAN RIVER, HARLAN COUNTY DAM TO MILFORD LAKE, NE & KS	135.000	---	135.000	---
(RCP)	SALT CREEK AND TRIBUTARIES	145.000	---	145.000	---
	NEVADA				
(FDP)	LAS VEGAS WASH & TRIBUTARIES	320.000	---	320.000	---
	NEW JERSEY				
(N)	DELAWARE RIVER COMPREHENSIVE NAVIGATION STUDY, NJ, PA & DE	850.000	---	850.000	---
(FDP)	ELIZABETH RIVER AND TRIBUTARIES	195.000	---	195.000	---
(BE)	GREAT EGG HARBOR INLET & PECK BEACH, SEC 201, 70	---	---	---	132.000
(N)	INTRACOASTAL WATERWAY	---	---	50.000	---
(N)	NY HARBOR AND ADJACENT CHANNELS NJ & NY	200.000	---	200.000	---
(FDP)	PASSAIC RIVER BASIN STUDY, NJ & NY (PHASE 1)	2,200.000	---	2,200.000	---
(FC)	RAHWAY RIVER BASIN, ROBINSON'S BRANCH, AT RAHWAY (CP&E)	35.000	---	35.000	---
(FC)	RAMAPO & MAHWAH RVRS AT MAHWAH, NJ & SUFFERN, NY (PH-1) (CP&E)	170.000	---	170.000	---
(FC)	RARITAN RIVER BASIN, GREEN BROOK SUB-BASIN (CP&E)	1.370.000	---	1.370.000	---

TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	NEW MEXICO				
(FDP)	ACEQUIAS REHABILITATION	---	---	500.000	---
(FC)	ALAMOGORDO	---	330.000	---	330.000
(RCP)	LAS CRUCES	50.000	---	50.000	---
(FC)	MID RIO GRANDE BERNALILLO TO BELEN (CP&E)	475.000	---	475.000	---
(FDP)	PECOS RIVER AND TRIBS - ROSWELL	95.000	---	95.000	---
(FDP)	PECOS RIVER AND TRIBS - CARLSBAD	300.000	---	300.000	---
(FDP)	RIO GRANDE AND TRIBUTARIES, NM & CO	500.000	---	500.000	---
(FC)	RIO GRANDE FLOODWAY - TRUTH OR CONSEQUENCES UNIT	---	200.000	---	200.000
(FC)	RIO GRANDE FLOODWAY,SAN ACACIA TO BOSQUE DEL APACHE	---	500.000	---	500.000
	NEW YORK				
(N)	ARTHUR KILL CHANNEL TO FRESH KILL, NJ-EXTENSION	---	---	250.000	---
(N)	ARTHUR KILL CHANNEL-HOWLAND HOOK MARINE TERMINAL (CP&E)	500.000	---	500.000	---
(FDP)	BUFFALO METRO AREA (BUFFALO RV & TONAWANDA CREEK)	300.000	---	300.000	---
(FDP)	CATTARAUGUS CREEK	100.000	---	100.000	---
(BE)	ERIE CO ALONG LAKE ERIE & NIAGARA RIVER	---	---	100.000	---
(COMP)	GENESEE RIVER BASIN AUTH REPORT	250.000	---	250.000	---
(SP)	LAKE ONTARIO - ST. LAWRENCE RIVER SHORELINE PROTECTION STUDY	600.000	---	600.000	---
(FDP)	MOOSE & BLACK RIVERS	340.000	---	340.000	---
(FC)	SAW MILL RIVER AT ELMSFORD AND GREENBURGH	---	50.000	---	50.000
(N)	SHINNECOCK INLET	---	200.000	---	200.000
(N)	ST. LAWRENCE SEAWAY ADDDITIONAL LOCKS	200.000	---	200.000	---
(FC)	WESTCHESTER CO. STREAMS - MAMARONECK & SHELDRAKE RIVERS (CP&E)	350.000	---	350.000	---
	NORTH CAROLINA				
(FDP)	EASTERN NORTH CAROLINA ABOVE CAPE LOOKOUT	460.000	---	560.000	---
(FDP)	LITTLE PEE DEE & PEE DEE RIVERS, NC & SC	450.000	---	450.000	---
(N)	MOREHEAD CITY HARBOR	125.000	---	125.000	---
(FDP)	NEUSE RIVER	465.000	---	465.000	---
(N)	WILMINGTON HARBOR-NORTHEAST CAPE FEAR RIVER (CP&E)	250.000	---	250.000	---
	NORTH DAKOTA				
(RDP)	CANNONBALL RIVER AT MOTT	145.000	---	145.000	---
(FC)	SHEYENNE RIVER FLOOD CONTROL PROJECT	---	695.000	---	695.000
(FDP)	SOURIS RIVER BASIN	600.000	---	600.000	---
	OHIO				
(FDP)	CENTRAL OHIO SURVEY	435.000	---	435.000	---
(FDP)	CENTRAL OHIO SURVEY, GRANDVIEW HEIGHTS INTERIM	100.000	---	100.000	---
(FC)	HOLES CREEK AT WEST CARROLLTON AND MORAINE (CP&E)	250.000	---	250.000	---
(N)	LORAIN HARBOR (CP&E)	200.000	---	200.000	---
(BE)	MAUMEE BAY STATE PARK (CP&E)	---	---	250.000	---
(FDP)	MIAMI RIVER, LITTLE MIAMI R & MILL CR BASINS	50.000	---	50.000	---
(FDP)	MUSKINGUM RIVER (WOLF CR & TUSCARAWAS RV INTERIM STUDY)	100.000	---	100.000	---
(FC)	NORTH CHILLICOTHE (CP&E)	250.000	---	250.000	---
(SPEC)	OHIO RIVER BETWEEN RIVERMILE 40-491 (WATERFRONT DEVELOPMENT)	---	---	200.000	---
(FC)	OTTAWA	---	150.000	---	150.000
(FDP)	SANDUSKY RIVER	125.000	---	125.000	---
(FDP)	VERMILION RIVER	190.000	---	190.000	---
	OKLAHOMA				
(COMP)	ARK RIV & TRIBS SC&SE OF OK (COMP. STUDY)	600.000	---	750.000	---
(FDP)	CANADIAN RIVER AND TRIBS, OK, TX, AND NM (REMAINING)	155.000	---	155.000	---
(N)	CENTRAL OKLAHOMA PROJECT	150.000	---	---	---
(RCP)	HUGO LAKE (HYDROPOWER STUDY)	229.000	---	229.000	---
(SPEC)	LUKFATA LAKE (HYDROPOWER STUDY)	---	---	25.000	---
(FC)	MINGO CREEK (CP&E)	423.000	---	423.000	---
(RCP)	PINE CREEK LAKE (HYDROPOWER STUDY)	---	---	30.000	---
(COMP)	RED RIVER BASIN, OK, AR, LA & TX (COMPREHENSIVE STUDY)	800.000	---	1.125.000	---
	OREGON				
(N)	COOS BAY, OREG	---	---	250.000	---
(FDP)	UMPQUA RIVER & TRIBS	565.000	---	565.000	---
(COMP)	WILLAMETTE RIV BASIN	378.000	---	378.000	---
	PENNSYLVANIA				
	CHESAPEAKE BAY - SUSQUEHANNA RIVER DROUGHT MANAGEMENT, PA & MD	---	---	150.000	---
(FDP)	LACKAWANNA RIVER	---	---	300.000	---
(FDP)	LEHIGH RIVER BASIN	150.000	---	150.000	---
(FC)	LOCK HAVEN (CP&E)	200.000	---	682.000	---
(FC)	PROMPTON LAKE (MOD)	---	1.000.000	---	1.000.000
(N)	SCHUYLKILL RIVER (MOUTH TO PENROSE AVE.)(CP&E)	---	---	50.000	---
(FC)	SUSQUEHANNA BASIN AT HARRISBURG (CP&E)	540.000	---	540.000	---
(FC)	WYOMING VALLEY (LEVEE RAISING) (PH-1) (CP&E)	1.600.000	---	1.600.000	---

TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	PUERTO RICO				
(FDP)	ARECIBO RIVER	100,000	---	100,000	---
(FDP)	GUANAJIBO RIVER	255,000	---	255,000	---
(FC)	PUERTO NUEVO RIVER (CP&E)	---	---	800,000	---
(FDP)	RIO GRANDE DE LOIZA	208,000	---	208,000	---
	RHODE ISLAND				
(N)	BRISTOL HARBOR	---	40,000	---	40,000
	SOUTH CAROLINA				
(FDP)	GILLS CREEK	116,000	---	116,000	---
(SP)	MYRTLE BEACH	---	---	200,000	---
	SOUTH DAKOTA				
(FDP)	MISSOURI RIVER, SD, NE, ND, MT	618,000	---	618,000	---
	TENNESSEE				
(FDP)	METROPOLITAN REGION OF NASHVILLE	300,000	---	300,000	---
	TEXAS				
(N)	BRAZOS ISLAND HARBOR (42-FOOT PROJECT) (CP&E)	300,000	---	300,000	---
(FDP)	BRAZOS RIV & TRIBS, TX & NM	200,000	---	200,000	---
(FDP)	BUFFALO BAYOU & TRIBUTARIES	302,000	---	302,000	---
(FDP)	CAMERON COUNTY	75,000	---	75,000	---
(FDP)	COLORADO RIVER AND TRIBUTARIES	300,000	---	300,000	---
(FDP)	DICKINSON BAYOU	255,000	---	255,000	---
(FDP)	HILLEBRANDT BAYOU & TRIBUTARIES	50,000	---	50,000	---
(FDP)	LITTLE CYPRESS CREEK, TX & LA	150,000	---	150,000	---
(FDP)	LITTLE FOSSIL CREEK, VICINITY OF HALTOM CITY	225,000	---	225,000	---
(FDP)	RED RIVER AND TRIBS ABOVE DENISON DAM, TX, OK & NM (REMAINING)	---	---	100,000	---
(MP)	ROCKLAND LAKE	---	450,000	---	---
(FDP)	SAN JACINTO RIVER & TRIBUTARIES	250,000	---	250,000	---
(FC)	SIMS BAYOU AT HOUSTON (CP&E)	745,000	---	745,000	---
(N)	TEXAS CITY CHANNEL (50-FOOT PROJECT) (CP&E)	800,000	---	800,000	---
(MP)	TRINITY RIVER, CHANNEL TO LIBERTY	---	200,000	---	200,000
(FC)	UPPER WHITE OAK BAYOU & TRIBS, VICINITY OF HOUSTON (CP&E)	745,000	---	745,000	---
	UTAH				
(FDP)	GREAT SALT LAKE	150,000	---	150,000	---
(FDP)	JORDAN RIVER BASIN	200,000	---	200,000	---
	VIRGINIA				
(FC)	ROANOKE RIVER UPPER BASIN, HEADWATERS AREA (CP&E)	480,000	---	480,000	---
(FDP)	ROANOKE RIVER, UPPER BASIN	500,000	---	500,000	---
(BE)	VIRGINIA BEACH (HURRICANE PROTECTION) (CP&E)	900,000	---	900,000	---
	WASHINGTON				
(N)	BELLINGHAM HARBOR	150,000	---	150,000	---
(N)	BLAIR AND SITCUM WATERWAYS (CP&E)	---	---	450,000	---
(FC)	CHEHALIS RIVER AT SOUTH ABERDEEN AND COSMOPOLIS (CP&E)	147,000	---	147,000	---
(FDP)	CHEHALIS RIVER AND TRIBUTARIES	94,000	---	94,000	---
(N)	EAST WEST & DUWAMISH WW SEATTLE HARBOR (CP&E)	750,000	---	---	---
(N)	GRAYS HARBOR CHEHALIS AND HOQUIAM RIVERS (CP&E)	770,000	---	770,000	---
(FDP)	MILL CREEK BASIN STUDY	260,000	---	260,000	---
(N)	OLYMPIA HARBOR	150,000	---	150,000	---
(COMP)	PUGET SOUND AND ADJACENT WATERS	351,000	---	351,000	---
	WEST VIRGINIA				
(COMP)	KANAWHA BASIN COMPREHENSIVE (AUTHORIZATION REPORTS), WV,VA & NC	175,000	---	250,000	---
(N)	KANAWHA RIVER	650,000	---	650,000	---
(FDP)	UPPER POTOMAC RIVER BASIN	---	---	500,000	---

TYPE OF PROJECT	GENERAL INVESTIGATIONS - STATE AND PROJECT	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	REVIEW OF AUTHORIZED PROJECTS				
	REVIEW OF COMPLETED PROJECTS (SEC. 216)	---	---	550,000	---
	ALAMO DAM, ARIZ	---	---	(200,000)	---
	GALVESTON HARBOR AND CHANNEL, TX	---	---	(350,000)	---
	REVIEW FOR DEAUTHORIZATION	200,000	---	---	---
	COORDINATION STUDIES WITH OTHER AGENCIES	6,750,000	---	6,800,000	---
	COLLECTION AND STUDY OF BASIC DATA				
	STREAM GAGING (U.S. GEOLOGICAL SURVEY)	535,000	---	535,000	---
	PRECIPITATION STUDIES (NATIONAL WEATHER SERVICE)	380,000	---	380,000	---
	INTERNATIONAL WATER STUDIES	100,000	---	100,000	---
	FLOOD PLAIN MANAGEMENT SERVICES	8,800,000	---	6,300,000	---
	HYDROLOGIC STUDIES	260,000	---	260,000	---
	SCIENTIFIC AND TECHNICAL INFORMATION CENTERS	130,000	---	130,000	---
	COASTAL DATA COLLECTION	1,800,000	---	1,800,000	---
	TRANSPORTATION SYSTEMS	600,000	---	400,000	---
	ENVIRONMENTAL DATA STUDIES	235,000	---	235,000	---
	TOTAL	12,840,000	---	10,140,000	---
	RESEARCH AND DEVELOPMENT	23,000,000	---	18,000,000	---
	SUBTOTAL, GENERAL INVESTIGATIONS	121,661,000	5,339,000	129,696,000	6,591,000
	TOTAL, GENERAL INVESTIGATIONS	127,000,000		136,287,000	

TYPE OF PROJECT:

(N)	NAVIGATION
(FC)	FLOOD CONTROL
(BE)	BEACH EROSION CONTROL
(MP)	MULTIPLE-PURPOSE, INCLUDING POWER
(FDP)	FLOOD DAMAGE PREVENTION
(SP)	SHORELINE PROTECTION
(SPEC)	SPECIAL
(COMP)	COMPREHENSIVE
(RDP)	REVIEW OF DEFERRED PROJECT
(RCP)	REVIEW OF COMPLETED PROJECT
(PHASE I)	AUTHORIZD FOR PHASE I STAGE OF ADVANCE ENGINEERING AND DESIGN IN THE WATER RESOURCES DEVELOPMENT ACT OF 1974 OR 1976

Type of Project	Construction, General - State and project	Budget estimate	Conference allowance
	ALABAMA		
(N)	MOBILE HARBOR	15,000,000	15,000,000
(FC)	THREEMILE CREEK, MOBILE	2,300,000	2,300,000
(FC)	VILLAGE CREEK	---	2,000,000
(N)	WILLIAM BACON OLIVER LOCK & DAM REPLACEMENT	10,500,000	10,500,000
	ALASKA		
(FC)	CHENA RIVER LAKES	7,000,000	7,000,000
(MP)	SNETTISHAM	10,800,000	10,800,000
	ARIZONA		
(FC)	PHOENIX ARIZONA AND VICINITY (STAGE 2)	32,000,000	32,000,000
	ARKANSAS		
(FC)	FOURCHE BAYOU IN THE VICINITY OF LITTLE ROCK	760,000	500,000
(N)	MCCLELLAN-KERR ARK RIVER NAV SYSTEM LOCKS AND DAMS, AR & OK	2,000,000	2,000,000
(N)	OUACHITA AND BLACK RIVERS, AR & LA	7,880,000	9,080,000
	CALIFORNIA		
(FC)	CORTE MADERA CREEK	2,000,000	2,000,000
(FC)	DRY CREEK (WARM SPRINGS) LAKE	11,000,000	11,000,000
(FC)	FAIRFIELD VICINITY STREAMS	3,000,000	3,000,000
(N)	FISHERMAN'S WHARF AREA	550,000	550,000
(FC)	LOS ANGELES DRAINAGE AREA (MAJOR REHAB)	8,900,000	8,900,000
(FC)	LOWER SAN JOAQUIN RIVER	1,500,000	1,500,000
(FC)	MERCED COUNTY STREAMS	3,000,000	3,000,000
(MP)	NEW MELONES LAKE	1,900,000	2,500,000
(N)	OAKLAND OUTER HARBOR	2,500,000	1,500,000
(FC)	PAJARO RIVER	500,000	500,000
(N)	PORT HUENEME HARBOR (UNSTARTED SEPARABLE ELEMENT)	1,020,000	1,020,000
(FC)	REDBANK AND FANCHER CREEKS	2,000,000	1,000,000
(N)	RICHMOND HARBOR	8,000,000	1,000,000
(FC)	SACREMENTO RIVER FLOOD CONTROL PROJECT	300,000	300,000
(FC)	SACRAMENTO RIVER BANK PROTECTION PROJECT	7,000,000	7,000,000
(FC)	SACRAMENTO RIVER, CHICO LANDING TO RED BLUFF	600,000	600,000
(N)	SACRAMENTO RIVER DEEPWATER SHIP CHANNEL	3,600,000	3,600,000
(FC)	SACRAMENTO RIVER AND MAJOR AND MINOR TRIBUTARIES	200,000	200,000
(N)	SAN FRANCISCO BAY TO STOCKTON	3,900,000	3,900,000
(FC)	SAN LUIS REY RIVER	---	1,000,000
(FC)	SWEETWATER RIVER	7,200,000	7,200,000
(FC)	WALNUT CREEK	11,100,000	11,100,000
(FC)	WILDCAT AND SAN PABLO CREEKS	4,000,000	4,000,000
	COLORADO		
(FC)	CHATFIELD LAKE	1,400,000	1,400,000
(FC)	FOUNTAIN CREEK AT PUEBLO, COLORADO	---	700,000
	DELAWARE		
(FC)	DELAWARE COAST PROTECTION,DE,1968 ACT	---	575,000
	FLORIDA		
(BE)	BROWARD COUNTY (REIMBURSEMENT)	4,000,000	4,000,000
(N)	CANAVERAL HARBOR	3,100,000	3,100,000
(FC)	CENTRAL & SOUTHERN FLORIDA	15,000,000	15,000,000
	CROSS FLORIDA BARGE CANAL (LAND ACQUISITION)	---	5,000,000
(FC)	DADE COUNTY	2,000,000	2,000,000
(FC)	DADE COUNTY, NORTH OF HAULOVER BEACH PARK	6,000,000	6,000,000
(BE)	DUVAL COUNTY	3,200,000	3,200,000
(FC)	FOUR RIVER BASINS	1,200,000	1,200,000
(N)	JACKSONVILLE HARBOR, MILL COVE	2,000,000	1,000,000
(N)	MIAMI HARBOR (CLEANUP)	---	200,000
(BE)	PALM BEACH COUNTY (REIMBURSEMENT)	1,700,000	1,700,000
(BE)	PINELLAS COUNTY	1,600,000	3,000,000
(N)	TAMPA HARBOR BRANCH CHANNELS	7,400,000	7,400,000
	GEORGIA		
(MP)	RICHARD B. RUSSELL DAM AND LAKE, GA & SC	25,000,000	25,000,000
(N)	SAVANNAH HARBOR	3,200,000	3,200,000
(BE)	TYBEE ISLAND	2,005,000	2,005,000

Type of Project	Construction, General - State and project	Budget estimate	Conference allowance
	GUAM		
(FC)	AGANA RIVER, GUAM	700,000	700,000
	HAWAII		
(FC)	KAHOMA STREAM, MAUI	6,500,000	6,500,000
	ILLINOIS		
(N)	BRANDON ROAD LOCK AND DAM, ILLINOIS RIVER (REHAB)	5,470,000	5,470,000
(FC)	KASKASKIA ISLAND DRAINAGE AND LEVEE DISTRICT	2,300,000	2,300,000
(N)	LOCK & DAM 26, MISSISSIPPI RIVER, ALTON, IL & MO	85,000,000	85,000,000
(N)	LOCK & DAM 26, SECOND LOCK, IL & MO	2,000,000	2,000,000
(N)	LOCKS AND DAM 53, IL & KY (REHAB)	1,700,000	1,700,000
(FC)	MAUVAISE TERRE DRAINAGE & LEVEE DISTRICT	500,000	500,000
(FC)	ROCKFORD	950,000	950,000
(N)	SMITHLAND LOCKS AND DAM, OHIO RIVER, IL, IN & KY	486,000	486,000
(FC)	SOUTH QUINCY LEVEE AND DRAINAGE DISTRICT	1,000,000	500,000
(N)	UPPER MISS RVR SYSTEM ENVIR MANGMENT PLAN, IL, IA, MO, MN, & WI	1,000,000	2,000,000
	INDIANA		
(FC)	EVANSVILLE	4,500,000	4,500,000
(N)	FALLS OF OHIO NATL WILDLIFE CONSER AREA, IN & KY	---	900,000
	IOWA		
(FC)	AMES LAKE	250,000	250,000
(FC)	BETTENDORF	1,618,000	1,618,000
(FC)	DES MOINES RECREATION RIVER AND GREENBELT (DRAG)	350,000	350,000
(FC)	MISSOURI RIVER LEVEE SYSTEM, IA, NE, KS & MO	800,000	800,000
(FC)	RED ROCK DAM - LAKE RED ROCK	---	500,000
(FC)	SAYLORVILLE LAKE	---	1,000,000
	KANSAS		
(FC)	GREAT BEND	2,600,000	1,500,000
(FC)	HALSTEAD	1,100,000	1,100,000
	KENTUCKY		
(MP)	BARKLEY DAM & LAKE BARKLEY, KY & TN (DAM SAFETY ASSURANCE)	3,000,000	3,000,000
(FC)	BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA, KY & TN	9,000,000	9,000,000
(FC)	SOUTHWESTERN JEFFERSON COUNTY	7,500,000	7,500,000
(FC)	TAYLORSVILLE LAKE	---	1,300,000
(FC)	YATESVILLE LAKE	---	6,800,000
	LOUISIANA		
(FC)	GRAND ISLE & VIC,LA SEC 201, 1976 ACT	1,000,000	1,000,000
(FC)	LAKE PONTCHARTRAIN AND VICINITY (HURRICANE PROTECTION)	16,000,000	16,000,000
(FC)	LAROSE TO GOLDEN MEADOW (HURRICANE PROTECTION)	3,500,000	3,500,000
(N)	MISS RIVER, BATON ROUGE TO THE GULF OF MEXICO	19,400,000	21,400,000
(N)	MISS RIVER-GULF OUTLET	2,000,000	2,000,000
(N)	MISSISSIPPI RIVER SHIP CHANNEL, GULF TO BATON ROUGE	9,000,000	9,000,000
(FC)	NEW ORLEANS TO VENICE (HURRICANE PROTECTION)	3,000,000	3,000,000
(FC)	PEARL RIVER, SLIDELL, ST. TAMMANY PARISH	750,000	750,000
(N)	RED RIVER WATERWAY, EMERGENCY BANK PROTECTION, LA, AR, OK, & TX	---	4,500,000
(N)	RED RIVER WATERWAY, MISSISSIPPI RIVER TO SHREVEPORT	38,000,000	68,000,000
	MAINE		
(N)	JONESPORT HARBOR	4,700,000	4,700,000
	MARYLAND		
(N)	BALTIMORE HARBOR AND CHANNELS, MD & VA (50 FT DEEPENING)	54,000,000	54,000,000
(N)	BALTIMORE HARBOR & CHANNELS (BREWERTON CHANNEL)	5,000,000	3,600,000
	MASSACHUSETTS		
(BE)	REVERE BEACH	700,000	700,000
(FC)	TOWN BROOK, QUINCY, AND BRAINTREE	---	1,500,000

Type of Project	Construction, General - State and project	Budget estimate	Conference allowance
	MINNESOTA		
(FC)	BASSETT CREEK	6,000,000	6,000,000
(FC)	MANKATO AND NORTH MANKATO	8,800,000	8,800,000
	SILVER BAY HARBOR OF REFUGE	---	675,000
(FC)	SOUTH FORK ZUMBRO RIVER AT ROCHESTER	1,400,000	700,000
	MISSISSIPPI		
(N)	GULFPORT HARBOR	800,000	800,000
(FC)	SOWASHEE CREEK, MERIDIAN	900,000	900,000
(FC)	TOMBIGBEE RIVER AND TRIBUTARIES, MS & AL	4,900,000	4,900,000
	MISSOURI		
(FC)	BLUE RIVER CHANNEL, KANSAS CITY, MO	6,000,000	6,000,000
(MP)	CLARENCE CANNON DAM & MARK TWAIN LAKE	---	700,000
(MP)	HARRY S. TRUMAN DAM AND RESERVOIR	2,500,000	2,500,000
(FC)	LITTLE BLUE RIVER LAKES	3,800,000	3,800,000
(FC)	LONG BRANCH LAKE	500,000	500,000
	MERAMEC RIVER BASIN - FLOOD FORECASTING/ FLOOD WARNING SYSTEM	---	330,000
(N)	MISS RIVER BTWN THE OHIO AND MO RIVERS (REG WORKS), MO & IL	4,000,000	4,000,000
	NEBRASKA		
(FC)	MISSOURI NATIONAL RECREATIONAL RIVER, NE AND SD	1,000,000	1,000,000
(FC)	PAPILLION CREEK AND TRIBUTARIES LAKES	2,000,000	2,000,000
	NEW HAMPSHIRE		
(N)	PORTSMOUTH HARBOR AND PISCATAQUA RIVER, NH & ME	3,000,000	3,000,000
	NEW JERSEY		
(N)	BARNEGAT INLET	6,000,000	6,000,000
(N)	CAPE MAY INLET TO LOWER TOWNSHIP	---	500,000
(N)	DELAWARE RIVER IN THE VICINITY OF CAMDEN	2,650,000	1,500,000
(FC)	LIBERTY STATE PARK LEVEE AND SEAWALL	5,000,000	5,000,000
	SANDY HOOK TO BARNEGAT INLET	---	2,300,000
	NEW MEXICO		
(FDP)	ALBUQUERQUE DIVERSION CHANNELS (DESIGN DEFIC)	---	350,000
(FC)	JEMEZ CANYON DAM (DAM SAFETY ASSURANCE)	2,060,000	2,060,000
	NEW YORK		
(FC)	ARDSLEY	2,000,000	2,000,000
(FC)	ELLICOTT CREEK	3,000,000	3,000,000
(N)	KILL VAN KULL & NEWARK BAY CHANNEL, NY & NJ	12,000,000	12,000,000
(N)	MORICHES INLET	2,500,000	2,500,000
(N)	NY HARBOR COLLECTION AND REMOVAL OF DRIFT, NY & NJ	4,600,000	4,600,000
(N)	PORT ONTARIO	800,000	800,000
	NORTH CAROLINA		
(FC)	B. EVERETT JORDAN DAM AND LAKE	8,700,000	8,700,000
(FC)	FALLS LAKE	6,500,000	6,500,000
(FC)	RANDLEMAN LAKE	---	2,000,000
	NORTH DAKOTA		
(FC)	LAKE DARLING, SOURIS RIVER	2,000,000	2,000,000
	OHIO		
(N)	CLEVELAND HARBOR	2,700,000	2,000,000
(N)	GENEVA-ON-THE-LAKE	1,500,000	1,500,000
(FC)	MILL CREEK	15,000,000	15,000,000
(FC)	MUSKINGUM RIVER LAKES (REHAB)	2,500,000	2,500,000
(FC)	NEWARK	2,500,000	2,500,000
	OKLAHOMA		
(FC)	ARCADIA LAKE	5,900,000	5,900,000
	EUFAULA LAKE (BRIDGE REPLACEMENT)	---	200,000
(FC)	PARKER LAKE	---	1,000,000
(FC)	SARDIS LAKE	---	300,000

Type of Project	Construction, General - State and project	Budget estimate	Conference allowance
	OREGON		
(N)	BONNEVILLE NAVIGATION LOCK, OR & WA	10,000,000	10,000,000
(MP)	BONNEVILLE SECOND POWERHOUSE, OR & WA	7,500,000	7,500,000
(FC)	LOWER COLUMBIA RIVER BASIN BANK PROTECTION, OR & WA	1,500,000	1,500,000
(FC)	WILLAMETTE RIVER BASIN BANK PROTECTION	1,500,000	1,500,000
	PENNSYLVANIA		
(FC)	COWANESQUE LAKE (MODIFICATION)	470,000	470,000
(FC)	FRANCIS E. WALTER DAM MODIFICATION	3,000,000	1,500,000
(N)	GRAYS LANDING, LOCK & DAM 7, MONONGAHELA RIVER	670,000	3,000,000
(N)	MONTGOMERY LOCKS AND DAMS, OHIO RIVER (REHAB)	8,300,000	8,300,000
(N)	POINT MARION, LOCK & DAM 8, MONONGAHELA RIVER, PA & WV	730,000	730,000
(BE)	PRESQUE ISLE PENINSULA	1,210,000	1,210,000
(FC)	TAMAQUA	---	700,000
(FC)	TURTLE CREEK	300,000	300,000
	PUERTO RICO		
(N)	PONCE HARBOR	2,000,000	1,000,000
(FC)	PORTUGUES AND BUCANA RIVERS	31,000,000	31,000,000
	TEXAS		
(FC)	BUFFALO BAYOU AND TRIBS-ADDICKS & BARKER DAMS (DAM SAFETY ASSURANCE)	4,900,000	4,900,000
(FC)	CLEAR CREEK	8,200,000	8,200,000
(FC)	COLORADO RIVER AND TRIBUTARIES, BOGGY CREEK AT AUSTIN	900,000	900,000
(FC)	COOPER LAKE AND CHANNELS	3,700,000	3,700,000
(N)	CORPUS CHRISTI SHIP CHANNEL (1968 ACT)	7,000,000	7,000,000
(FC)	EL PASO	500,000	500,000
(N)	FREEPORT HARBOR	9,900,000	9,900,000
(FC)	JOE POOL LAKE	9,700,000	9,700,000
(FC)	LAKE WICHITA, HOLLIDAY CREEK AT WICHITA FALLS	700,000	700,000
(N)	MOUTH OF COLORADO RIVER	4,700,000	4,700,000
(FC)	RAY ROBERTS LAKE	34,000,000	34,000,000
(FC)	SAN ANTONIO CHANNEL IMPROVEMENT	11,600,000	11,600,000
(FC)	SAN GABRIEL RIVER	600,000	600,000
(FC)	TAYLORS BAYOU	8,600,000	8,600,000
(FC)	VINCE AND LITTLE VINCE BAYOUS	2,800,000	2,800,000
(N)	WALLISVILLE LAKE TRINITY RIV 1962 ACT NAV	---	100,000
	UTAH		
(FC)	LITTLE DELL LAKE	2,900,000	2,900,000
	VIRGINIA		
(FC)	HAYSI LAKE	---	500,000
(N)	NORFOLK HARBOR AND CHANNELS (DEEPENING)	10,000,000	10,000,000
(FC)	RICHMOND	1,200,000	1,200,000
(FC)	VIRGINIA BEACH STREAMS, CANAL NO. TWO	2,200,000	2,200,000
(BE)	VIRGINIA BEACH (REIMB)	530,000	530,000
	WASHINGTON		
(MP)	CHIEF JOSEPH ADDITIONAL UNITS	6,000,000	6,000,000
(MP)	LOWER SNAKE RIVER FISH AND WILDLIFE COMPENSATION, WA, OR & ID	14,000,000	14,000,000
(FC)	MT ST HELENS & VICINITY (INTERIM MEASURES)	10,000,000	10,000,000
(FC)	MT ST HELENS SEDIMENT CONTROL	17,000,000	17,000,000
(FC)	MUD MOUNTAIN DAM (DAM SAFETY ASSURANCE)	4,000,000	4,000,000
	WEST VIRGINIA		
(N)	GALLIPOLIS LOCKS & DAM, WV & OH	3,500,000	3,500,000
(FC)	LEVISA/TUG FORKS OF BIG SANDY & UPPER CUMBERLAND RVRS, WV, VA, & KY	22,500,000	27,600,000
(FC)	R D BAILEY LAKE	33,000,000	33,000,000
(FC)	STONEWALL JACKSON LAKE	26,000,000	26,000,000
(N)	WINFIELD LOCK AND DAM	1,750,000	1,750,000

Type of Project	Construction, General - State and project	Budget estimate	Conference allowance
	MISCELLANEOUS		
	SMALL NAVIGATION PROJECTS (SECTION 107)	6,900,000	10,000,000
	MITIGATION OF SHORE DAMAGES ATTRIBUTABLE TO NAVIGATION PROJECTS	300,000	300,000
	SMALL BEACH EROSION CONTROL PROJECTS (SECTION 103)	2,100,000	5,000,000
	SMALL PROJECTS FOR FLOOD CONTROL & RELATED PURPOSES (SECTION 205)	30,000,000	31,800,000
	EMERGENCY STREAMBANK & SHORELINE PROTECTION (SECTION 14)	7,500,000	8,500,000
	SMALL SNAGGING & CLEARING PROJECTS (SECTION 208)	1,200,000	1,200,000
	AQUATIC PLANT CONTROL (1965 ACT)	8,000,000	8,000,000
	EMPLOYEES COMPENSATION	10,973,000	10,973,000
	DAM SAFETY ASSURANCE PROGRAM	21,000,000	21,000,000
	FUNDS DERIVED FROM INLAND WATERWAYS TRUST FUND	26,000,000	26,000,000
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-51,732,000	-41,832,000
	TOTAL CONSTRUCTION, GENERAL	1,072,500,000	1,152,150,000

TYPE OF PROJECT:

(N)	NAVIGATION
(FC)	FLOOD CONTROL
(BE)	BEACH EROSION CONTROL
(MP)	MULTIPLE-PURPOSE, INCLUDING POWER
(FDP)	FLOOD DAMAGE PREVENTION
(SP)	SHORELINE PROTECTION
(SPEC)	SPECIAL
(COMP)	COMPREHENSIVE
(PHASE I)	AUTHORIZD FOR PHASE I STAGE OF ADVANCE ENGINEERING AND DESIGN IN THE WATER RESOURCES DEVELOPMENT ACT OF 1974 OR 1976

TYPE OF PROJECT	FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	GENERAL INVESTIGATIONS		
	SURVEYS:		
	GENERAL STUDIES:		
(FDP)	BOEUF-TENSAS BASIN, AR & LA	950,000	950,000
(FC)	BUSHLEY BAYOU AREA LA (CP&E)	150,000	150,000
(FDP)	BAYOU DU CHIEN, KY	243,000	243,000
(FDP)	LARTO LAKE-SALINE LAKE AREA, LA	116,000	216,000
(FDP)	ATCHAFALAYA BASIN (WATER & LAND RESOURCES), LA	170,000	170,000
(FC)	MISSISSIPPI & LOUISIANA ESTUARINE AREAS, LA & MS (CP&E)	780,000	1,100,000
(FC)	HORN LAKE CREEK & TRIBS INCLUDING COWPEN CREEK, MS & TN (CP&E)	---	250,000
(FDP)	TUSCUMBIA RIVER BASIN, MS	---	250,000
(FDP)	YAZOO RIVER BASIN, MS	500,000	500,000
(FDP)	EASTERN ARKANSAS REGION COMPREHENSIVE STUDY, AR	700,000	700,000
(FC)	ST JOHNS BAYOU AND NEW MADRID FLOODWAY, MO (CP&E)	428,000	428,000
(FC)	NONCONNAH CR, TN & MS (CP&E)	800,000	800,000
(FDP)	REELFOOT LAKE, TN	260,000	260,000
(FDP)	TIPTONVILLE, TN	105,000	105,000
(FDP)	COLLECTION AND STUDY OF BASIC DATA	270,000	270,000
	ADVANCE ENGINEERING AND DESIGN:		
(FC)	EASTERN RAPIDES & SOUTH CENTRAL AVOYELLES, LA	935,000	1,250,000
(FC)	L'ANGUILLE RIVER BASIN, AR	655,000	655,000
	SUBTOTAL, GENERAL INVESTIGATIONS	7,062,000	8,297,000
	CONSTRUCTION		
(FC)	CHANNEL IMPROVEMENT, AR, IL, KY, LA, MS, MO & TN	75,100,000	75,100,000
(FC)	EIGHT MILE CREEK, AR	350,000	350,000
(FC)	MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO & TN	21,700,000	21,700,000
	MISSISSIPPI DELTA REGION SALINITY CONTROL STRUCTURE	---	500,000
(FC)	ST. FRANCIS BASIN, AR & MO	9,200,000	9,200,000
(FC)	WEST KENTUCKY TRIBS, KY	100,000	100,000
(FC)	TENSAS BASIN, AR & LA:	(5,600,000)	(5,600,000)
	PUMPING PLANT	560,000	560,000
	BOEUF AND TENSAS RIVERS, LAKE CHICOT PUMPING PLANT	815,000	815,000
	PUMPING PLANT	2,725,000	2,725,000
	RED RIVER BACKWATER AREA, TENSAS COCODRIE PUMPING PLANT	1,500,000	1,500,000
(FC)	ATCHAFALAYA BASIN, LA	35,600,000	35,600,000
(FC)	ATCHAFALAYA BASIN, FLOODWAY SYSTEM, LA	970,000	970,000
(FC)	BAYOU COCODRIE AND TRIBUTARIES, LA	75,000	75,000
(FC)	OLD RIVER, LA	14,829,000	14,829,000
(FC)	SARDIS LAKE, MS (DAM SAFETY ASSURANCE)	3,500,000	3,500,000
(FC)	YAZOO BASIN, MS:	(24,000,000)	(33,200,000)
	BIG SUNFLOWER RIVER	2,800,000	2,800,000
	MAIN STEM	2,100,000	2,100,000
	TRIBUTARIES	3,800,000	3,800,000
	UPPER YAZOO PROJECTS (FORMERLY AUXILIARY CHANNEL)	14,200,000	14,200,000
	YAZOO BACKWATER	1,100,000	3,100,000
	DEMONSTRATION EROSION CONTROL	---	7,200,000
	WEST TENNESSEE TRIBUTARIES, TN	5,500,000	5,500,000
	SUBTOTAL, CONSTRUCTION	196,524,000	206,224,000
	MAINTENANCE		
(FC)	BOEUF-TENSAS BASIN, AR AND LA	1,784,000	1,784,000
(N)	BATON ROUGE HARBOR (DEVIL'S SWAMP), LA	285,000	285,000
(FC)	DEVALLS BLUFF PUMPING STATION, AR	---	250,000
(FC)	WHITE RIVER BACKWATER, AR	677,000	677,000
(N)	MEMPHIS HARBOR (MCKELLAR LAKE), TN	1,080,000	1,080,000
(FC)	MAPPING, AR, IL, KY, LA, MS, MO & TN	662,000	662,000
(FC)	MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO & TN	7,395,000	7,395,000
(FC)	NORTH BANK, ARKANSAS RIVER, AR	15,000	15,000
(FC)	SOUTH BANK, ARKANSAS RIVER, AR	42,000	42,000
(FC)	ST. FRANCIS RIVER AND TRIBUTARIES, AR & MO	3,719,000	3,719,000
(FC)	ATCHAFALAYA BASIN, LA	7,797,000	7,797,000
(FC)	BAYOU COCODRIE & TRIBUTARIES, LA	115,000	115,000
(FC)	BONNET CARRE SPILLWAY, LA	436,000	436,000
(FC)	LOWER RED RIVER, SOUTH BANK LEVEES, LA	62,000	62,000
(FC)	OLD RIVER, LA	5,814,000	5,814,000
(FC)	RED RIVER BACKWATER AREA, LA	1,327,000	1,327,000
(FC)	ARKABUTLA LAKE, MS	2,031,000	2,500,000
(FC)	BIG SUNFLOWER RIVER, MS	94,000	94,000

TYPE OF PROJECT	FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
(FC)	ENID LAKE, MS	2,300,000	3,000,000
(FC)	GREENWOOD, MS	475,000	475,000
(FC)	GREENVILLE HARBOR, MS	424,000	424,000
(FC)	GRENADA LAKE, MS	3,292,000	4,000,000
(FC)	YAZOO BASIN, MAIN STEM, MS	1,502,000	1,502,000
(FC)	SARDIS LAKE, MS	3,065,000	6,000,000
(FC)	VICKSBURG HARBOR, MS	319,000	319,000
(FC)	YAZOO BASIN, TRIBUTARIES, MS	1,143,000	1,143,000
(FC)	WHITTINGTON AUXILIARY CHANNEL, MS	57,000	57,000
(FC)	YAZOO BACKWATER, MS	287,000	287,000
(FC)	YAZOO CITY, MS	330,000	330,000
(FC)	WAPPAPELLO LAKE, MO	2,771,000	2,771,000
(FC)	REVETMENT AND DIKES	35,138,000	35,138,000
(FC)	DREDGING	19,343,000	19,343,000
(FC)	INSPECTION OF COMPLETED WORKS	1,060,000	1,060,000
	SUBTOTAL, MAINTENANCE	104,841,000	109,903,000
	REDUCTION FOR ANTICIPATED SAVINGS, SLIPPAGE, AND PRIOR YEAR UNOBLIGATED BALANCES	-10,427,000	-13,627,000
	TOTAL, FLOOD CONTROL, MISSISSIPPI RIVER & TRIBUTARIES	298,000,000	310,797,000

TYPE OF STUDY OR PROJECT:
(FC) FLOOD CONTROL
(FDP) FLOOD DAMAGE PREVENTION

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	ALABAMA		
(N)	ALABAMA-COOSA RIVERS	4,924,000	7,500,000
(N)	BLACK WARRIOR & TOMBIGBEE RIVERS	11,948,000	12,178,000
(N)	DAUPHIN ISLAND BAY	560,000	560,000
(N)	DOG AND FOWL RIVERS	134,000	134,000
(N)	GULF INTRACOASTAL WATERWAY (MOBILE DISTRICT)	4,567,000	4,567,000
(MP)	MILLERS FERRY LOCK & DAM - WILLIAM "BILL" DANNELLY RESERVOIR	3,496,000	3,496,000
(N)	MOBILE HARBOR	7,112,000	9,167,000
(N)	PERDIDO PASS CHANNEL	562,000	562,000
(MP)	ROBERT F. HENRY LOCK & DAM	3,220,000	3,220,000
(N)	TENNESSEE TOMBIGBEE WATERWAY, AL & MS	14,323,000	14,323,000
(MP)	WALTER F. GEORGE LOCK AND DAM, AL & GA	5,252,000	5,252,000
	ALASKA		
(N)	ANCHORAGE HARBOR	1,920,000	1,920,000
(FC)	CHENA RIVER LAKES	797,000	797,000
(N)	DILLINGHAM SMALL BOAT HARBOR	423,000	423,000
(N)	HOMER HARBOR	306,000	306,000
(N)	NINILCHIK SMALL BOAT HARBOR	243,000	243,000
(N)	NOME HARBOR	1,029,000	1,029,000
(N)	STIKINE RIVER SNAGGING	13,000	13,000
	ARIZONA		
(FC)	ALAMO LAKE	927,000	927,000
(FC)	PAINTED ROCK DAM	676,000	676,000
(FC)	WHITLOW RANCH DAM	86,000	86,000
	ARKANSAS		
(MP)	BEAVER LAKE	3,520,000	3,520,000
(MP)	BLAKELY MOUNTAIN DAM, LAKE OUACHITA	3,219,000	3,219,000
(FC)	BLUE MOUNTAIN LAKE	714,000	714,000
(MP)	BULL SHOALS LAKE	5,431,000	5,431,000
(MP)	DARDANELLE LOCK & DAM	4,849,000	4,849,000
(MP)	DEGRAY LAKE	2,757,000	2,757,000
(FC)	DEQUEEN LAKE	600,000	600,000
(FC)	DIERKS LAKE	704,000	704,000
(FC)	GILLHAM LAKE	602,000	602,000
(MP)	GREERS FERRY LAKE	3,765,000	3,765,000
(N)	HELENA HARBOR	410,000	410,000
(N)	MCCLELLAN-KERR ARK RIVER NAV SYSTEM LOCKS AND DAMS, AR & OK	20,433,000	20,433,000
(FC)	MILLWOOD LAKE	1,520,000	1,520,000
(MP)	NARROWS DAM - LAKE GREESON	2,418,000	2,418,000
(FC)	NIMROD LAKE	954,000	954,000
(MP)	NORFORK LAKE	2,932,000	2,932,000
(N)	OSCEOLA HARBOR	533,000	533,000
(N)	OUACHITA AND BLACK RIVERS, AR & LA	5,310,000	5,310,000
(MP)	OZARK-JETA TAYLOR LOCK & DAM	3,069,000	3,069,000
(N)	WHITE RIVER	1,850,000	1,850,000
	CALIFORNIA		
(FC)	BLACK BUTTE LAKE	1,158,000	1,158,000
(FC)	BUCHANAN DAM - H. V. EASTMAN LAKE	1,350,000	1,350,000
(FC)	COYOTE VALLEY DAM (LAKE MENDOCINO)	1,567,000	1,567,000
(N)	CRESCENT CITY HARBOR	455,000	455,000
(N)	DANA POINT HARBOR	355,000	355,000
(N)	DRIFT REMOVAL (SF HARBOR & BAY)	1,380,000	1,380,000
(FC)	DRY CREEK (WARM SPRINGS) LAKE & CHANNEL	1,772,000	1,772,000
(FC)	FARMINGTON DAM	117,000	117,000
(FC)	HIDDEN DAM - HENSLEY LAKE	1,368,000	1,368,000
(N)	HUMBOLDT HARBOR & BAY	2,318,000	2,318,000
(FC)	ISABELLA LAKE	1,880,000	1,880,000
(N)	LOS ANGELES - LONG BEACH HARBOR MODEL	140,000	1,300,000
(N)	LOS ANGELES - LONG BEACH HARBORS	1,457,000	1,457,000
(FC)	LOS ANGELES COUNTY DRAINAGE AREA	2,240,000	2,240,000
(N)	MARINA DEL REY	1,175,000	1,175,000
(FC)	MERCED COUNTY STREAMS	143,000	143,000
(FC)	MOJAVE RIVER DAM	172,000	172,000
(N)	MOSS LANDING HARBOR	740,000	740,000
(FC)	NEW HOGAN LAKE	1,145,000	1,145,000
(MP)	NEW MELONES LAKE	593,000	593,000
(N)	NOYO RIVER AND HARBOR	380,000	380,000
(N)	OAKLAND HARBOR	1,624,000	1,624,000
(N)	OCEANSIDE EXPERIMENTAL SAND BYPASS	1,918,000	1,918,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
(N)	OCEANSIDE HARBOR	480,000	480,000
(N)	PETALUMA RIVER	3,225,000	3,225,000
(FC)	PINE FLAT LAKE	1,795,000	1,795,000
(N)	RICHMOND HARBOR	1,745,000	1,745,000
(N)	SACRAMENTO RIVER SHALLOW DRAFT CHANNEL	63,000	63,000
(N)	SACRAMENTO RIVER & TRIBS (DEBRIS CONTROL)	675,000	675,000
(N)	SACRAMENTO RIVER & TRIBS (30 FOOT PROJECT)	545,000	545,000
(N)	SAN FRANCISCO BAY-DELTA MODEL STRUCTURE	1,029,000	1,029,000
(N)	SAN FRANCISCO HARBOR	1,370,000	1,370,000
(N)	SAN JOAQUIN RIVER	2,013,000	2,013,000
(N)	SAN PABLO BAY & MARE ISLAND STRAIT	4,640,000	4,640,000
	SAN RAFAEL CREEK	---	850,000
(FC)	SANTA ANA RIVER BASIN	1,608,000	1,608,000
(N)	SANTA BARBARA HARBOR	800,000	800,000
	SEPULVEDA DAM LACDA	---	7,400,000
(FC)	SUCCESS LAKE	1,086,000	1,086,000
(N)	SUISUN BAY CHANNEL	760,000	760,000
(FC)	TERMINUS DAM (LAKE KAWEAH)	1,188,000	1,188,000
(N)	VENTURA MARINA	1,690,000	1,690,000
(N)	YUBA RIVER	10,000	10,000
	COLORADO		
(FC)	BEAR CREEK LAKE	319,000	319,000
(FC)	CHATFIELD LAKE	1,077,000	1,077,000
(FC)	CHERRY CREEK LAKE	733,000	733,000
(FC)	JOHN MARTIN RESERVOIR	1,060,000	1,060,000
(FC)	TRINIDAD LAKE	519,000	519,000
	CONNECTICUT		
(FC)	BLACK ROCK LAKE	159,000	159,000
(FC)	COLEBROOK RIVER LAKE	197,000	197,000
(N)	CONNECTICUT RIVER BELOW HARTFORD	1,668,000	1,668,000
(FC)	HANCOCK BROOK LAKE	79,000	79,000
(FC)	HOP BROOK LAKE	421,000	421,000
(FC)	MANSFIELD HOLLOW LAKE	300,000	300,000
(FC)	NORTHFIELD BROOK LAKE	113,000	113,000
(FC)	STAMFORD HURRICANE BARRIER	118,000	118,000
(FC)	THOMASTON DAM	204,000	204,000
(FC)	WEST THOMPSON LAKE	348,000	348,000
	DELAWARE		
(N)	INTRACOASTAL WATERWAY, DELAWARE RIVER TO CHESAPEAKE BAY, DE & MD	21,096,000	21,096,000
(N)	IWW REHOBOTH BAY TO DELAWARE BAY	30,000	30,000
(N)	MISPILLION RIVER	325,000	325,000
(N)	MURDERKILL RIVER	335,000	335,000
(N)	WILMINGTON HARBOR	9,794,000	9,794,000
	DIST OF COLUMBIA		
(N)	POTOMAC & ANACOSTIA RIVERS (DRIFT REMOVAL)	470,000	470,000
(N)	WASHINGTON HARBOR	32,000	32,000
	FLORIDA		
(N)	APALACHICOLA BAY	714,000	714,000
(N)	BLACKWATER RIVER	504,000	504,000
(N)	CANAVERAL HARBOR	6,391,000	6,391,000
(FC)	CENTRAL & SOUTHERN FLORIDA	5,588,000	5,588,000
(N)	CHARLOTTE HARBOR	3,145,000	3,145,000
(N)	CROSS-FLORIDA BARGE CANAL	1,439,000	1,768,000
(N)	EAST PASS CHANNEL	444,000	444,000
(N)	ESCAMBIA-CONECUH RIVERS	625,000	625,000
(N)	FERNANDINA HARBOR	2,125,000	2,125,000
(N)	FORT PIERCE HARBOR	1,055,000	1,055,000
(N)	INTRACOASTAL WATERWAY, CALOOSAHATCHEE RIVER TO ANCLOTE RIVER	2,182,000	2,182,000
(N)	INTRACOASTAL WATERWAY, JACKSONVILLE TO MIAMI	3,778,000	3,778,000
(N)	JACKSONVILLE HARBOR	3,772,000	3,872,000
(MP)	JIM WOODRUFF LOCK AND DAM, LAKE SEMINOLE, FL, AL & GA	4,818,000	4,818,000
(N)	OKEECHOBEE WATERWAY	1,960,000	1,960,000
(N)	OKLAWAHA RIVER	40,000	40,000
(N)	PALM BEACH HARBOR	1,360,000	1,360,000
(N)	PANAMA CITY HARBOR	1,105,000	1,105,000
(N)	PENSACOLA HARBOR	667,000	667,000
(N)	PONCE DE LEON INLET	2,474,000	2,474,000
(N)	REMOVAL OF AQUATIC GROWTH	2,738,000	2,738,000
(N)	ST LUCIE INLET	1,115,000	1,115,000
(N)	TAMPA HARBOR	3,425,000	3,425,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	GEORGIA		
(MP)	ALLATOONA LAKE	4,561,000	4,561,000
(N)	APALACHICOLA, CHATTAHOOCHEE, FLINT RIVERS, GA, FL & AL	4,522,000	5,200,000
(N)	ATLANTIC INTRACOASTAL WATERWAY (SAVANNAH DISTRICT)	600,000	600,000
(N)	BRUNSWICK HARBOR	4,253,000	4,253,000
(MP)	BUFORD DAM, LAKE SIDNEY LANIER	5,959,000	5,959,000
(MP)	CARTERS LAKE	2,780,000	2,780,000
(MP)	CLARKS HILL LAKE, GA & SC	5,680,000	5,680,000
(MP)	HARTWELL LAKE, GA & SC	5,757,000	5,757,000
(MP)	RICHARD B. RUSSELL DAM & LAKE, GA & SC	3,375,000	3,375,000
(N)	SAVANNAH HARBOR	7,574,000	7,574,000
(N)	SAVANNAH RIVER BELOW AUGUSTA	367,000	367,000
(MP)	WEST POINT LAKE, GA & AL	3,598,000	3,598,000
	HAWAII		
(N)	BARBERS POINT HARBOR, OAHU	61,000	61,000
(N)	NAWILIWILI HARBOR	1,725,000	1,725,000
	IDAHO		
(MP)	ALBENI FALLS DAM	2,026,000	2,026,000
(MP)	DWORSHAK DAM & RESERVOIR	7,005,000	7,005,000
(FC)	LUCKY PEAK LAKE	918,000	918,000
	ILLINOIS		
(N)	CALUMET HARBOR & RIVER, IL & IN	467,000	467,000
(FC)	CARLYLE LAKE	2,746,000	2,746,000
(N)	CHICAGO HARBOR	3,505,000	3,505,000
(N)	CHICAGO RIVER	3,113,000	3,113,000
(FC)	FARM CREEK RESERVOIRS	119,000	119,000
(N)	ILLINOIS WATERWAY	29,428,000	29,428,000
(N)	ILLINOIS WATERWAY (LMVD PORTION)	1,265,000	1,265,000
(N)	KASKASKIA RIVER NAVIGATION	1,314,000	1,314,000
(FC)	LAKE SHELBYVILLE	3,856,000	3,856,000
(N)	MISS RIV BTWN MISSOURI RIV & MINNEAPOLIS, IL, MN, WI, & IA (NCD)	56,243,000	56,243,000
(N)	MISS RIV BTWN MO RIVER & MINNEAPOLIS (LMVD)	8,978,000	8,978,000
(FC)	NORTH BRANCH CHICAGO RIVER	---	150,000
(FC)	REND LAKE	2,690,000	2,690,000
(N)	WAUKEGAN HARBOR	1,195,000	1,195,000
	INDIANA		
(FC)	BROOKVILLE LAKE	366,000	366,000
(N)	BURNS WATERWAY HARBOR	1,108,000	1,108,000
(N)	BURNS WATERWAY SMALL BOAT HARBOR	55,000	55,000
(FC)	CAGLES MILL LAKE	321,000	321,000
(FC)	CECIL M. HARDEN LAKE	365,000	365,000
(FC)	HUNTINGTON LAKE	398,000	398,000
(N)	INDIANA HARBOR	10,070,000	10,070,000
(FC)	MISSISSINEWA LAKE	377,000	377,000
(FC)	MONROE LAKE	346,000	346,000
(FC)	PATOKA LAKE	372,000	372,000
(FC)	SALAMONIE LAKE	346,000	346,000
	IOWA		
(FC)	CORALVILLE LAKE	3,110,000	3,110,000
(N)	MISSOURI RIVER - SIOUX CITY TO MOUTH, IA & NE	2,722,000	2,722,000
(N)	MISSOURI RIVER - SIOUX CITY TO MOUTH, IA & NE	6,206,000	6,206,000
(FC)	RATHBUN LAKE	1,212,000	1,212,000
(FC)	RED ROCK DAM - LAKE RED ROCK	3,317,000	3,317,000
(FC)	SAYLORVILLE LAKE	3,585,000	3,585,000
	KANSAS		
(FC)	CLINTON LAKE	1,198,000	1,198,000
(FC)	COUNCIL GROVE LAKE	702,000	702,000
(FC)	EL DORADO LAKE	415,000	415,000
(FC)	ELK CITY LAKE	560,000	560,000
(FC)	FALL RIVER LAKE	645,000	645,000
(FC)	HILLSDALE LAKE	581,000	581,000
(FC)	JOHN REDMOND DAM & RESERVOIR	875,000	875,000
(FC)	KANOPOLIS LAKE	1,670,000	1,670,000
(FC)	MARION LAKE	691,000	691,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
(FC)	MELVERN LAKE	1,187,000	1,187,000
(FC)	MILFORD LAKE	1,784,000	1,784,000
(FC)	PEARSON - SKUBITZ BIG HILL LAKE	713,000	713,000
(FC)	PERRY LAKE	1,284,000	1,284,000
(FC)	POMONA LAKE	1,088,000	1,088,000
(FC)	TORONTO LAKE	238,000	238,000
(FC)	TUTTLE CREEK LAKE	2,990,000	2,990,000
(FC)	WILSON LAKE	1,707,000	1,707,000
	KENTUCKY		
(MP)	BARKLEY DAM - LAKE BARKLEY, KY & TN	3,725,000	3,725,000
(FC)	BARREN RIVER LAKE	1,140,000	1,140,000
(N)	BIG SANDY HARBOR	1,000,000	1,000,000
(FC)	BUCKHORN LAKE	660,000	660,000
(FC)	CARR FORK LAKE	786,000	786,000
(FC)	CAVE RUN LAKE	517,000	517,000
(FC)	DEWEY LAKE	737,000	737,000
(FC)	FISHTRAP LAKE	703,000	703,000
(FC)	GRAYSON LAKE	535,000	535,000
(N)	GREEN & BARREN RIVERS, KY & TN	1,015,000	1,015,000
(FC)	GREEN RIVER LAKE	893,000	893,000
(N)	HICKMAN HARBOR	445,000	445,000
(N)	KENTUCKY RIVER	843,000	843,000
(MP)	LAUREL RIVER LAKE	900,000	900,000
(N)	LICKING RIVER OPEN CHANNEL WORK	11,000	11,000
(FC)	MARTINS FORK LAKE	486,000	486,000
(FC)	MIDDLESBORO	212,000	212,000
(FC)	NOLIN LAKE	2,322,000	2,322,000
(N)	OHIO RIVER LOCKS AND DAMS, KY, PA, WV, OH, IN & IL	35,103,000	35,103,000
(N)	OHIO RIVER OPEN CHANNEL WORK, KY, PA, WV, OH, IN, & IL	4,657,000	4,657,000
(FC)	PAINTSVILLE LAKE	456,000	456,000
(FC)	ROUGH RIVER LAKE	1,098,000	1,098,000
(FC)	TAYLORSVILLE LAKE	477,000	477,000
(MP)	WOLF CREEK DAM - LAKE CUMBERLAND	3,132,000	3,132,000
	LOUISIANA		
(N)	ATCH RIVER & BAYOUS CHENE, BOEUF & BLACK	11,940,000	11,940,000
(N)	BARATARIA BAY WATERWAY	722,000	722,000
(FC)	BAYOU BODCAU RESERVOIR	302,000	302,000
(FC)	BAYOU PIERRE	10,000	10,000
(N)	BAYOU TECHE	640,000	640,000
(FC)	CADDO LAKE	86,000	86,000
(N)	CALCASIEU RIVER & PASS	8,395,000	8,395,000
(N)	FRESHWATER BAYOU	1,425,000	1,425,000
(N)	GULF INTRACOASTAL WATERWAY, LA & TX SECTION	11,664,000	11,664,000
(N)	HOUMA NAVIGATION CANAL	1,620,000	1,620,000
(N)	LAKE PROVIDENCE HARBOR	356,000	356,000
(N)	MADISON PARISH PORT	227,000	227,000
(N)	MERMENTAU RIVER	420,000	420,000
(N)	MISS RIVER OUTLETS AT VENICE	2,252,000	2,252,000
(N)	MISS RIVER, BATON ROUGE TO THE GULF OF MEXICO	33,225,000	36,190,000
(N)	MISS RIVER-GULF OUTLET	6,140,000	6,140,000
(N)	RED RIVER WATERWAY MISSISSIPPI RIVER TO SHREVEPORT	2,262,000	2,262,000
(N)	REMOVAL OF AQUATIC GROWTH	1,388,000	1,388,000
(FC)	WALLACE LAKE	136,000	136,000
	MARYLAND		
(N)	BALTIMORE HARBOR AND CHANNELS	12,511,000	12,511,000
(N)	BALTIMORE HARBOR (PREVENTION OF OBSTRUCTIVE DEPOSITS)	85,000	85,000
(N)	BALTIMORE HARBOR (DRIFT REMOVAL)	225,000	225,000
(FC)	BLOOMINGTON LAKE, MD & WV	1,022,000	1,022,000
(N)	CHESTER RIVER	467,000	467,000
(N)	CLAIBORNE HARBOR	463,000	463,000
(FC)	CUMBERLAND, MD AND RIDGELEY, WV, MD & WV	64,000	64,000
(N)	FISHING CREEK	423,000	423,000
(N)	NANTICOKE RIVER NORTHWEST FORK	733,000	733,000
(N)	OCEAN CITY HARBOR & INLET AND SINEPUXENT BAY	494,000	494,000
(N)	TRED AVON RIVER	1,165,000	1,165,000
(N)	WICOMICO RIVER	941,000	941,000
	MASSACHUSETTS		
(FC)	BARRE FALLS DAM	305,000	305,000
(FC)	BIRCH HILL DAM	309,000	309,000
(FC)	BUFFUMVILLE LAKE	308,000	308,000
(N)	CAPE COD CANAL	8,570,000	8,570,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
(FC)	CHARLES RIVER NATURAL VALLEY STORAGE AREAS	166,000	166,000
(FC)	CONANT BROOK LAKE	142,000	142,000
(FC)	EAST BRIMFIELD LAKE	302,000	302,000
(N)	GREEN HARBOR	191,000	191,000
(FC)	HODGES VILLAGE DAM	316,000	316,000
(FC)	KNIGHTVILLE DAM	356,000	356,000
(FC)	LITTLEVILLE LAKE	267,000	267,000
(FC)	NEW BEDFORD, FAIRHAVEN & ACUSHNET HURRICANE BARRIER	132,000	132,000
(FC)	TULLY LAKE	308,000	308,000
(FC)	WEST HILL DAM	225,000	225,000
(FC)	WESTVILLE LAKE	345,000	345,000
	MICHIGAN		
(N)	ARCADIA HARBOR	171,000	171,000
(N)	BOLLES HARBOR	55,000	55,000
(N)	CASEVILLE HARBOR	167,000	167,000
(N)	CHANNELS IN LAKE ST. CLAIR	157,000	157,000
(N)	CHARLEVOIX HARBOR	622,000	622,000
(N)	CLINTON RIVER (DIKED DISPOSAL)	800,000	800,000
(N)	DETROIT RIVER	7,397,000	7,397,000
(N)	GRAND HAVEN HARBOR & GRAND RIVER	684,000	684,000
(N)	HARBOR BEACH HARBOR	179,000	179,000
(N)	HARRISVILLE HARBOR	261,000	261,000
(N)	HOLLAND HARBOR	811,000	811,000
(N)	INLAND ROUTE	21,000	21,000
(N)	KEWEENAW WATERWAY	897,000	897,000
(N)	KEWEENAW WATERWAY (DIKED DISPOSAL)	3,100,000	3,100,000
(N)	LELAND HARBOR	90,000	90,000
(N)	LEXINGTON HARBOR	347,000	347,000
(N)	LITTLE LAKE HARBOR	234,000	234,000
(N)	LUDINGTON HARBOR	1,360,000	1,360,000
(N)	MENOMINEE HARBOR, MI & WI (DIKED DISPOSAL)	110,000	110,000
(N)	MONROE HARBOR	1,878,000	1,878,000
(N)	MUSKEGON HARBOR	463,000	463,000
(N)	ONTONAGON HARBOR	253,000	253,000
(N)	PENTWATER HARBOR	212,000	212,000
(N)	PORT SANILAC	155,000	155,000
(N)	ROUGE RIVER	1,115,000	1,115,000
(N)	SAGINAW RIVER (DIKED DISPOSAL)	6,840,000	6,840,000
(N)	SAGINAW RIVER	4,211,000	4,211,000
(FC)	SEBEWAING RIVER	25,000	25,000
(N)	ST. CLAIR RIVER	847,000	847,000
(N)	ST. JOSEPH HARBOR	899,000	899,000
(MP)	ST. MARYS RIVER	10,070,000	10,070,000
(N)	WHITE LAKE HARBOR	225,000	225,000
	MINNESOTA		
(FC)	BIG STONE LAKE AND WHETSTONE RIVER, MN & SD	316,000	316,000
(N)	DULUTH-SUPERIOR HARBOR, MN & WI	5,471,000	5,471,000
(FC)	LAC QUI PARLE LAKE	483,000	483,000
(FC)	LAKE TRAVERSE AND BOIS DE SIOUX RIVER, MN & SD	241,000	241,000
(N)	MINNESOTA RIVER	444,000	444,000
(FC)	ORWELL LAKE	209,000	209,000
(FC)	RED LAKE RIVER	61,000	61,000
(N)	RESERVOIRS AT HEADWATERS OF MISSISSIPPI RIVER	1,824,000	1,824,000
(N)	ST CROIX RIVER MINNESOTA & WISCONSIN	154,000	154,000
(N)	WINONA COMMERCIAL HARBOR	20,000	20,000
	MISSISSIPPI		
(FC)	ARKABUTLA LAKE	100,000	100,000
(N)	BILOXI HARBOR	1,352,000	1,352,000
(N)	CLAIBORNE COUNTY PORT	272,000	272,000
(N)	GULFPORT HARBOR	3,193,000	3,193,000
(N)	MOUTH OF YAZOO RIVER	106,000	106,000
(FC)	OKATIBBEE LAKE	1,056,000	1,056,000
(N)	PASCAGOULA HARBOR	3,631,000	3,631,000
(FC)	PEARL RIVER BASIN, MS & LA	116,000	116,000
(N)	ROSEDALE HARBOR	311,000	311,000
(FC)	SARDIS LAKE	111,000	111,000
(FC)	TOMBIGBEE RIVER & TRIBUTARIES, EAST FORK	340,000	340,000
(N)	WOLF AND JORDAN RIVERS	500,000	500,000
(N)	YAZOO RIVER	3,000	3,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	MISSOURI		
(N)	CARUTHERSVILLE HARBOR	410,000	410,000
(MP)	CLARENCE CANNON DAM & RESERVOIR	3,648,000	3,648,000
(FC)	CLEARWATER LAKE	3,074,000	3,074,000
(MP)	HARRY S. TRUMAN DAM AND RESERVOIR	5,646,000	5,646,000
(FC)	LITTLE BLUE RIVER LAKES	254,000	254,000
(FC)	LONG BRANCH LAKE	718,000	718,000
(FC)	MERAMEC PARK LAKE	599,000	599,000
(N)	MISS RIVER BTWN THE OHIO AND MO RIVERS (REG WORKS), MO & IL	10,594,000	10,594,000
(FC)	POMME DE TERRE LAKE	1,400,000	1,400,000
(FC)	SMITHVILLE LAKE	726,000	726,000
(MP)	STOCKTON LAKE	2,121,000	2,121,000
(MP)	TABLE ROCK LAKE	4,017,000	4,017,000
(FC)	WAPPAPELLO LAKE	169,000	169,000
	MONTANA		
(MP)	FORT PECK LAKE	1,817,000	1,817,000
(MP)	LIBBY DAM (LAKE KOOCANUSA)	3,856,000	3,856,000
	NEBRASKA		
(MP)	GAVINS POINT DAM LEWIS & CLARK LAKE, NE & SD	6,106,000	6,106,000
(FC)	HARLAN COUNTY LAKE	1,053,000	1,053,000
	MISSOURI RIVER, KENSLERS BEND, NE TO SIOUX CITY IA&NE.	50,000	50,000
(FC)	PAPILLION CREEK & TRIBUTARIES LAKES	421,000	421,000
(FC)	SALT CREEK AND TRIBUTARIES LAKES	526,000	526,000
	NEVADA		
(FC)	MARTIS CREEK LAKE, NV & CA	292,000	292,000
(FC)	PINE & MATHEWS CANYONS LAKES	100,000	100,000
	NEW HAMPSHIRE		
(FC)	BLACKWATER DAM	299,000	299,000
(FC)	EDWARD MACDOWELL LAKE	342,000	342,000
(FC)	FRANKLIN FALLS DAM	564,000	564,000
(FC)	HOPKINTON-EVERETT LAKES	731,000	731,000
(FC)	OTTER BROOK LAKE	391,000	391,000
(N)	RYE HARBOR	240,000	240,000
(FC)	SURRY MOUNTAIN LAKE	408,000	408,000
	NEW JERSEY		
(N)	BARNEGAT INLET	487,000	487,000
(N)	COLD SPRING INLET	122,000	122,000
(N)	DELAWARE RIVER BETWEEN PHILADELPHIA AND TRENTON, NJ & PA	4,660,000	4,660,000
(N)	NEW JERSEY INTRACOASTAL WATERWAY	3,290,000	3,290,000
(N)	NEWARK BAY, HACKENSACK & PASSAIC RIVERS	2,021,000	2,021,000
(N)	SALEM RIVER	718,000	718,000
	NEW MEXICO		
(FC)	ABIQUIU DAM	1,063,000	1,063,000
(FC)	COCHITI LAKE	1,273,000	1,273,000
(FC)	CONCHAS LAKE	1,201,000	1,201,000
(FC)	GALISTEO DAM	141,000	141,000
(FC)	JEMEZ CANYON DAM	233,000	233,000
(FC)	SANTA ROSA DAM & LAKE	516,000	516,000
(FC)	TWO RIVERS DAM	242,000	242,000
	NEW YORK		
(FC)	ALMOND LAKE	268,000	268,000
(FC)	ARKPORT DAM	157,000	157,000
(N)	BAY RIDGE & RED HOOK CHANNELS	1,935,000	1,935,000
(N)	BLACK ROCK CHANNEL & TONAWANDA HARBOR	2,257,000	2,257,000
(N)	BUFFALO HARBOR	1,638,000	1,638,000
(FC)	EAST SIDNEY LAKE	277,000	277,000
(N)	FIRE ISLAND TO JONES INLET	1,650,000	3,825,000
(N)	HUDSON RIVER	5,282,000	5,282,000
(N)	JONES INLET	2,142,000	2,142,000
(N)	LONG ISLAND INTRACOASTAL WATERWAY	1,290,000	1,290,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
(FC)	MT. MORRIS LAKE	956,000	956,000
(N)	NARROWS OF LAKE CHAMPLAIN, NY & VT	36,000	36,000
(N)	NEW YORK AND NEW JERSEY CHANNELS, NY & NJ	2,732,000	2,732,000
(N)	NEW YORK HARBOR (DRIFT REMOVAL)	2,845,000	2,845,000
(N)	NEW YORK HARBOR	6,161,000	6,161,000
(N)	NEW YORK HARBOR, (PREVENTION OF OBSTRUCTIVE DEPOSITS)	569,000	569,000
(N)	OSWEGO HARBOR	817,000	817,000
(N)	ROCHESTER HARBOR	827,000	827,000
(N)	RONDOUT HARBOR	1,500,000	1,500,000
(FC)	SOUTHERN NEW YORK FLOOD CONTROL PROJECTS	440,000	440,000
(FC)	WHITNEY POINT LAKE	232,000	232,000
	NORTH CAROLINA		
(N)	ATLANTIC INTRACOASTAL WATERWAY (WILMINGTON DISTRICT)	4,029,000	4,029,000
(FC)	B. EVERETT JORDAN DAM & LAKE	771,000	771,000
(N)	BEAUFORT HARBOR	355,000	355,000
(N)	BOGUE INLET AND CHANNEL	250,000	250,000
(N)	CAPE FEAR RIVER ABOVE WILMINGTON	476,000	476,000
(N)	CAROLINA BEACH INLET	527,000	527,000
(N)	CHANNEL FROM BACK SOUND TO LOOKOUT BIGHT	224,000	224,000
(FC)	FALLS LAKE	1,046,000	1,046,000
(N)	LOCKWOODS FOLLY RIVER	485,000	485,000
(N)	MANTEO (SHALLOWBAG) BAY	5,688,000	5,688,000
(N)	MASONBORO INLET AND CONNECTING CHANNELS	19,000	19,000
(N)	MOREHEAD CITY HARBOR	4,260,000	4,260,000
(N)	NEW RIVER INLET	337,000	337,000
(N)	NEW TOPSAIL INLET AND CONNECTING CHANNELS	337,000	337,000
(N)	SILVER LAKE HARBOR	519,000	519,000
(FC)	W. KERR SCOTT DAM & RESERVOIR	1,212,000	1,212,000
(N)	WILMINGTON HARBOR	4,815,000	4,815,000
	NORTH DAKOTA		
(FC)	BOWMAN - HALEY LAKE	406,000	406,000
(MP)	GARRISON DAM, LAKE SAKAKAWEA	9,451,000	9,451,000
(FC)	HOMME LAKE AND DAM	79,000	79,000
(FC)	LAKE ASHTABULA & BALDHILL DAM	490,000	490,000
(FC)	PIPESTEM LAKE	326,000	326,000
	OHIO		
(FC)	ALUM CREEK LAKE	511,000	511,000
(N)	ASHTABULA HARBOR	562,000	562,000
(FC)	BERLIN LAKE	864,000	864,000
(FC)	CAESAR CREEK LAKE	556,000	556,000
(FC)	CLARENCE J. BROWN DAM	369,000	369,000
(N)	CLEVELAND HARBOR	5,359,000	5,359,000
(N)	CONNEAUT HARBOR	777,000	777,000
(FC)	DEER CREEK LAKE	382,000	382,000
(FC)	DELAWARE LAKE	337,000	337,000
(FC)	DILLON LAKE	262,000	262,000
(N)	FAIRPORT HARBOR	872,000	872,000
(N)	HURON HARBOR	862,000	862,000
(N)	LORAIN HARBOR	1,377,000	1,377,000
(FC)	MASSILLON	15,000	15,000
(FC)	MICHAEL J. KIRWAN DAM & RESERVOIR	491,000	491,000
(FC)	MOSQUITO CREEK LAKE	723,000	723,000
(FC)	MUSKINGUM RIVER LAKES	4,313,000	4,313,000
(FC)	NEWARK	15,000	15,000
(FC)	NORTH BRANCH OF KOKOSING RIVER LAKE	153,000	153,000
(FC)	PAINT CREEK LAKE	758,000	758,000
(FC)	ROSEVILLE	15,000	15,000
(N)	SANDUSKY HARBOR	1,279,000	1,279,000
(N)	TOLEDO HARBOR	4,599,000	4,599,000
(FC)	TOM JENKINS DAM	242,000	242,000
(FC)	WEST FORK MILL CREEK LAKE	258,000	258,000
(FC)	WILLIAM H. HARSHA LAKE	448,000	448,000
	OKLAHOMA		
(FC)	ARCADIA LAKE	79,000	79,000
(FC)	BIRCH LAKE	593,000	593,000
(MP)	BROKEN BOW LAKE	1,558,000	1,558,000
(FC)	CANTON LAKE	1,133,000	1,133,000
(FC)	COPAN LAKE	449,000	449,000
(MP)	EUFAULA LAKE	3,087,000	3,087,000
(MP)	FORT GIBSON LAKE	2,461,000	2,461,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
(FC)	FORT SUPPLY LAKE	616,000	616,000
(FC)	GREAT SALT PLAINS LAKE	340,000	340,000
(FC)	HEYBURN LAKE	486,000	486,000
(FC)	HUGO LAKE	1,095,000	1,095,000
(FC)	HULAH LAKE	543,000	543,000
(FC)	KAW LAKE	1,332,000	1,332,000
(MP)	KEYSTONE LAKE	2,362,000	2,362,000
(FC)	OOLOGAH LAKE	1,240,000	1,240,000
(FC)	OPTIMA LAKE	496,000	496,000
(FC)	PENSACOLA RESERVOIR - LAKE OF THE CHEROKEES	7,000	7,000
(FC)	PINE CREEK LAKE	679,000	679,000
(MP)	ROBERT S. KERR LOCK, DAM & RESERVOIR	3,257,000	3,257,000
(FC)	SARDIS LAKE	548,000	548,000
(FC)	SKIATOOK LAKE	762,000	762,000
(MP)	TENKILLER FERRY LAKE	2,571,000	2,571,000
(FC)	WAURIKA LAKE	927,000	927,000
(MP)	WEBBERS FALLS LOCK & DAM	2,622,000	2,622,000
(FC)	WISTER LAKE	486,000	486,000
	OREGON		
(FC)	APPLEGATE LAKE	679,000	679,000
(FC)	BLUE RIVER LAKE	616,000	616,000
(MP)	BONNEVILLE LOCK & DAM	13,128,000	13,128,000
(N)	CHETCO RIVER	502,000	502,000
(N)	COLUMBIA AND LWR WILLAMETTE RIVS BELOW VANCVR & PORT, OR & WA	10,351,000	10,351,000
(N)	COLUMBIA RIVER AT THE MOUTH, OR & WA	7,816,000	7,816,000
(N)	COLUMBIA RIVER BETWEEN VANCOUVER AND THE DALLES, OR & WA	321,000	321,000
(N)	COOS & MILLICOMA RIVERS	131,000	131,000
(N)	COOS BAY	2,351,000	2,351,000
(N)	COQUILLE RIVER	279,000	279,000
(FC)	COTTAGE GROVE LAKE	937,000	937,000
(MP)	COUGAR LAKE	870,000	870,000
(MP)	DETROIT LAKE	1,543,000	1,543,000
(FC)	DORENA LAKE	618,000	618,000
(FC)	FALL CREEK LAKE	387,000	387,000
(FC)	FERN RIDGE DAM & LAKE	1,271,000	1,271,000
(MP)	GREEN PETER-FOSTER LAKES	2,001,000	2,001,000
(MP)	HILLS CREEK LAKE	567,000	567,000
(MP)	JOHN DAY LOCK & DAM, OR & WA	11,858,000	11,858,000
(MP)	LOOKOUT POINT LAKE	2,475,000	2,475,000
(MP)	LOST CREEK LAKE	2,326,000	2,326,000
(MP)	MCNARY LOCK & DAM, LAKE WALLULA, OR & WA	11,349,000	11,549,000
(N)	PORT ORFORD	359,000	359,000
(N)	ROGUE RIVER HARBOR AT GOLD BEACH	429,000	429,000
(N)	SIUSLAW RIVER	399,000	399,000
(N)	SKIPANON CHANNEL	229,000	229,000
(N)	UMPQUA RIVER	826,000	826,000
(FC)	WILLAMETTE RIVER BASIN BANK PROTECTION	70,000	70,000
(N)	WILLAMETTE RIVER AND WILLAMETTE FALLS	512,000	512,000
(FC)	WILLOW CREEK LAKE	341,000	341,000
(N)	YAQUINA BAY AND HARBOR	1,326,000	1,326,000
	PENNSYLVANIA		
(N)	ALLEGHENY RIVER	5,252,000	5,252,000
(FC)	ALVIN R. BUSH DAM	305,000	305,000
(FC)	AYLESWORTH CREEK LAKE	125,000	125,000
(FC)	BELTZVILLE LAKE	639,000	639,000
(FC)	BLUE MARSH LAKE	1,211,000	1,211,000
(FC)	CONEMAUGH RIVER LAKE	513,000	513,000
(FC)	COWANESQUE LAKE	828,000	828,000
(FC)	CROOKED CREEK LAKE	1,175,000	1,175,000
(FC)	CURWENSVILLE LAKE	335,000	335,000
(N)	DELAWARE RIVER, PHILADELPHIA TO THE SEA, PA, NJ & DE	20,146,000	20,146,000
(FC)	EAST BRANCH, CLARION RIVER LAKE	560,000	560,000
(FC)	FOSTER JOSEPH SAYERS DAM	384,000	384,000
(FC)	FRANCIS E. WALTER DAM	508,000	508,000
(FC)	GENERAL EDGAR JADWIN DAM & RESERVOIR	159,000	159,000
(FC)	JOHNSTOWN	7,000	7,000
(FC)	KINZUA DAM & ALLEGHENY RESERVOIR, PA & NY	763,000	763,000
(FC)	LOYALHANNA LAKE	729,000	729,000
(FC)	MAHONING CREEK LAKE	545,000	545,000
(FC)	PROMPTON LAKE	259,000	259,000
(FC)	PUNXSUTAWNEY	7,000	7,000
(FC)	RAYSTOWN LAKE	1,954,000	1,954,000
(N)	SCHUYLKILL RIVER	3,227,000	3,227,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
(FC)	SHENANGO RIVER LAKE, PA & OH	1,370,000	1,370,000
(FC)	STILLWATER LAKE	202,000	202,000
(FC)	TIOGA-HAMMOND LAKES	1,351,000	1,351,000
(FC)	TIONESTA LAKE	1,048,000	1,048,000
(FC)	UNION CITY LAKE	514,000	514,000
(FC)	WOODCOCK CREEK LAKE	553,000	553,000
(FC)	YORK, INDIAN ROCK DAM	310,000	310,000
(FC)	YOUGHIOGHENY RIVER LAKE, PA & MD	1,132,000	1,132,000
	SOUTH CAROLINA		
(N)	ATLANTIC INTRACOASTAL WATERWAY (CHARLESTON DISTRICT)	3,372,000	3,372,000
(N)	CHARLESTON HARBOR	5,745,000	5,745,000
(N)	COOPER RIVER, CHARLESTON HARBOR	4,125,000	4,125,000
(N)	FOLLY RIVER	320,000	320,000
(N)	GEORGETOWN HARBOR	2,314,000	2,314,000
(N)	LITTLE RIVER INLET, SC & NC	228,000	228,000
(N)	MURRELLS INLET	725,000	725,000
(N)	SHIPYARD RIVER	482,000	482,000
(N)	TOWN CREEK	340,000	340,000
(MP)	BIG BEND DAM - LAKE SHARPE	3,892,000	3,892,000
(FC)	COLD BROOK LAKE	140,000	140,000
(FC)	COTTONWOOD SPRINGS LAKE	119,000	119,000
(MP)	FORT RANDALL DAM, LAKE FRANCIS CASE	6,346,000	6,346,000
(MP)	OAHE DAM, LAKE OAHE, SD & ND	7,547,000	7,547,000
	TENNESSEE		
(MP)	CENTER HILL LAKE	2,304,000	2,304,000
(MP)	CHEATHAM LOCK & DAM	2,922,000	2,922,000
(MP)	CORDELL HULL DAM & RESERVOIR	2,564,000	2,564,000
(MP)	DALE HOLLOW LAKE, TN & KY	2,359,000	2,359,000
(MP)	J. PERCY PRIEST DAM & RESERVOIR	1,845,000	1,845,000
(MP)	OLD HICKORY LOCK & DAM	3,804,000	3,804,000
(N)	TENNESSEE RIVER, TN, AL, & KY	8,416,000	8,416,000
(N)	WOLF RIVER HARBOR	603,000	603,000
	TEXAS		
(FC)	AQUILLA LAKE	441,000	441,000
(FC)	ARKANSAS-RED RIVER BASINS CHLORIDE CONTROL (AREA 8)	461,000	461,000
(FC)	BARDWELL LAKE	743,000	743,000
(FC)	BELTON LAKE	2,476,000	2,476,000
(FC)	BENBROOK LAKE	1,080,000	1,080,000
(N)	BRAZOS ISLAND HARBOR	2,920,000	2,920,000
(FC)	BUFFALO BAYOU & TRIBUTARIES	650,000	650,000
(FC)	CANYON LAKE	1,155,000	1,155,000
(N)	CHANNEL TO ARANSAS PASS - GIWW	800,000	800,000
(N)	CHANNEL TO VICTORIA - GIWW	190,000	190,000
(N)	CORPUS CHRISTI SHIP CHANNEL (1968 ACT)	2,730,000	2,730,000
(MP)	DENISON DAM - LAKE TEXOMA, TX & OK	4,304,000	4,404,000
(N)	DOUBLE BAYOU	600,000	600,000
(FC)	FERRELLS BRIDGE DAM - LAKE O' THE PINES	1,606,000	1,606,000
(N)	FREEPORT HARBOR	4,480,000	4,480,000
(N)	GALVESTON HARBOR & CHANNEL	1,640,000	1,640,000
(FC)	GRANGER LAKE	1,174,000	1,174,000
(FC)	GRAPEVINE LAKE	1,523,000	1,523,000
(N)	GULF INTRACOASTAL WATERWAY	13,127,000	13,127,000
(FC)	HORDS CREEK LAKE	762,000	762,000
(N)	HOUSTON SHIP CHANNEL	11,790,000	11,790,000
(FC)	JOE POOL LAKE	351,000	351,000
(FC)	LAKE KEMP	135,000	135,000
(FC)	LAVON LAKE	1,895,000	1,895,000
(FC)	LEWISVILLE DAM	1,893,000	1,893,000
(N)	MATAGORDA SHIP CHANNEL	830,000	830,000
(FC)	NAVARRO MILLS LAKE	855,000	855,000
(FC)	NORTH SAN GABRIEL DAM AND LAKE GEORGETOWN	919,000	919,000
(FC)	O. C. FISHER DAM & LAKE	948,000	948,000
(FC)	PAT MAYSE LAKE	801,000	801,000
(FC)	PROCTOR LAKE	942,000	942,000
(FC)	RAY ROBERTS LAKE	136,000	136,000
(N)	SABINE-NECHES WATERWAY	14,310,000	14,310,000
(MP)	SAM RAYBURN DAM & RESERVOIR	2,872,000	2,872,000
(FC)	SOMERVILLE LAKE	1,985,000	1,985,000
(FC)	STILLHOUSE HOLLOW DAM	1,035,000	1,035,000
(N)	TEXAS CITY CHANNEL	2,160,000	2,160,000
(MP)	TOWN BLUFF DAM & B.A. STEINHAGEN LAKE	716,000	716,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
(FC)	WACO LAKE	1,431,000	1,431,000
(FC)	WALLISVILLE LAKE	205,000	205,000
(MP)	WHITNEY LAKE	1,850,000	1,850,000
(FC)	WRIGHT PATMAN DAM & LAKE	1,563,000	1,563,000
	VERMONT		
(FC)	BALL MOUNTAIN LAKE	341,000	341,000
(FC)	NORTH HARTLAND LAKE	248,000	248,000
(FC)	NORTH SPRINGFIELD LAKE	439,000	439,000
(FC)	TOWNSHEND LAKE	337,000	337,000
(FC)	UNION VILLAGE DAM	309,000	309,000
	VIRGINIA		
(N)	ATLANTIC INTRACOASTAL WATERWAY	1,972,000	2,242,000
(N)	CAPE CHARLES CITY HARBOR	1,392,000	1,392,000
(N)	CHINCOTEAGUE INLET	836,000	836,000
(FC)	GATHRIGHT DAM AND LAKE MOOMAW	846,000	846,000
(N)	HAMPTON ROADS, NORFOLK & NEWPORT NEWS HARBOR (DRIFT REMOVAL)	190,000	190,000
(N)	JAMES RIVER	1,198,000	1,198,000
(MP)	JOHN H. KERR DAM & RESERVOIR, VA & NC	4,691,000	4,691,000
(FC)	JOHN W. FLANNAGAN DAM & RESERVOIR	562,000	562,000
(N)	LYNNHAVEN INLET,VA	614,000	614,000
(N)	NORFOLK HARBOR	5,886,000	5,886,000
(N)	NORFOLK HARBOR, (PREVENTION OF OBSTRUCTIVE DEPOSITS)	294,000	294,000
(FC)	NORTH FORK OF POUND LAKE	467,000	467,000
(MP)	PHILPOTT LAKE	1,420,000	1,420,000
(N)	TANGIER CHANNEL	375,000	375,000
(N)	THIMBLE SHOAL CHANNEL,VA	1,021,000	1,021,000
(N)	WATERWAY ON THE COAST OF VIRGINIA	1,659,000	1,659,000
(N)	YORK RIVER	720,000	720,000
	WASHINGTON		
(N)	ANACORTES HARBOR	103,000	103,000
(N)	BELLINGHAM HARBOR	411,000	411,000
(MP)	CHIEF JOSEPH DAM	6,480,000	6,480,000
(N)	COLUMBIA RIVER AT BAKER BAY, WA & OR	666,000	666,000
(N)	COLUMBIA RIVER BETWEEN CHINOOK & SAND ISLAND	444,000	444,000
(N)	EVERETT HARBOR AND SNOHOMISH RIVER	607,000	607,000
(N)	GRAYS HARBOR & CHEHALIS RIVER	4,537,000	4,537,000
(FC)	HOWARD A. HANSON RESERVOIR	734,000	734,000
(MP)	ICE HARBOR LOCK & DAM	5,822,000	5,822,000
(N)	LAKE CROCKETT (KEYSTONE HARBOR)	299,000	299,000
(N)	LAKE WASHINGTON SHIP CANAL	3,278,000	3,278,000
(MP)	LITTLE GOOSE LOCK & DAM, LAKE BRYAN	4,707,000	5,297,000
(MP)	LOWER GRANITE LOCK AND DAM, WA & ID	6,906,000	6,906,000
(MP)	LOWER MONUMENTAL LOCK & DAM	4,507,000	4,507,000
(FC)	MILL CREEK LAKE	340,000	340,000
(FC)	MUD MOUNTAIN DAM	1,081,000	1,081,000
(N)	OLYMPIA HARBOR	114,000	114,000
(N)	PORT TOWNSEND	52,000	52,000
(N)	PUGET SOUND & ITS TRIBUTARY WATERS	627,000	627,000
(N)	QUILLAYUTE RIVER	694,000	694,000
(N)	SEATTLE HARBOR	466,000	466,000
(FC)	STILLAGUAMISH RIVER	100,000	100,000
(N)	SWINOMISH CHANNEL	206,000	206,000
(FC)	TACOMA - PUYALLUP RIVER	35,000	35,000
(N)	TACOMA HARBOR	26,000	26,000
(MP)	THE DALLES LOCK & DAM, LAKE CELILO, WA & OR	7,099,000	7,099,000
(N)	WW CON PT TOWNSEND & OAK BAY	52,000	52,000
(FC)	WYNOOCHEE LAKE	1,405,000	1,405,000
	WEST VIRGINIA		
(FC)	BEECH FORK LAKE	558,000	558,000
(FC)	BLUESTONE LAKE	677,000	677,000
(FC)	BURNSVILLE LAKE	722,000	722,000
(FC)	EAST LYNN LAKE	709,000	709,000
(N)	ELK RIVER HARBOR	250,000	250,000
(FC)	ELKINS	21,000	21,000
(N)	KANAWHA RIVER	6,735,000	6,735,000
(N)	MONONGAHELA RIVER, WV, MD & PA	13,353,000	13,353,000
(FC)	R. D. BAILEY LAKE	884,000	884,000
(FC)	SUMMERSVILLE LAKE	905,000	905,000
(FC)	SUTTON LAKE	1,093,000	1,093,000
(N)	TYGART RIVER LAKE	855,000	855,000

TYPE OF PROJECT	OPERATION AND MAINTENANCE - STATE AND PROJECT	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	WISCONSIN		
(FC)	EAU GALLE RIVER	477,000	477,000
(N)	FOX RIVER	930,000	930,000
(N)	GREEN BAY HARBOR (DIKED DISPOSAL)	9,030,000	9,030,000
(N)	GREEN BAY HARBOR	757,000	757,000
(N)	KEWAUNEE HARBOR	848,000	848,000
(FC)	LAFARGE LAKE	46,000	46,000
(N)	MANITOWOC HARBOR	1,505,000	1,505,000
(N)	MILWAUKEE HARBOR	4,786,000	4,786,000
(N)	RACINE HARBOR	40,000	40,000
(N)	SHEBOYGAN HARBOR	307,000	307,000
(N)	STURGEON BAY & LAKE MICHIGAN SHIP CANAL	1,109,000	1,109,000
	MISCELLANEOUS		
	INSPECTION OF COMPLETED WORKS	4,170,000	4,770,000
	INSPECTION OF NON-FEDERAL LEVEES	1,219,000	1,219,000
	SCHEDULING FLOOD CONTROL RESERVOIR OPERATIONS	1,950,000	1,950,000
	MONITOR COMPLETED COASTAL PROJECTS	1,200,000	1,000,000
	RIVER ICE MANAGEMENT	2,205,000	2,205,000
	REPAIR, EVALUATION, MAINTENANCE AND REHABILITATION RESEARCH (REMR)	7,780,000	7,780,000
	PROTECTION OF NAVIGATION		
	REMOVAL OF SUNKEN VESSELS AND OBSTRUCTIONS	1,000,000	1,000,000
	PROTECTION, CLEARING AND STRAIGHTENING CHANNELS (SECTION 3)	50,000	50,000
	GENERAL REGULATORY FUNCTIONS	52,937,000	50,000,000
	PROJECT CONDITION SURVEYS	7,128,000	7,128,000
	SURVEILLANCE OF NORTHERN BOUNDARY WATERS	2,204,000	2,000,000
	COMMERCIAL STATISTICS	3,022,000	2,500,000
	MOBILIZATION PLANNING	13,500,000	8,000,000
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-9,621,000	-52,840,000
	TOTAL, OPERATION AND MAINTENANCE	1,420,000,000	1,389,846,000

TYPE OF PROJECT:

(N)	NAVIGATION
(FC)	FLOOD CONTROL
(BE)	BEACH EROSION CONTROL
(MP)	MULTIPLE-PURPOSE, INCLUDING POWER
(FDP)	FLOOD DAMAGE PREVENTION
(SP)	SHORELINE PROTECTION
(SPEC)	SPECIAL
(COMP)	COMPREHENSIVE
(PHASE I)	AUTHORIZD FOR PHASE I STAGE OF ADVANCE ENGINEERING AND DESIGN IN THE WATER RESOURCES DEVELOPMENT ACT OF 1974 OR 1976

TITLE II—DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

The summary tables at the end of this section set forth the conference agreement with respect to the individual appropriations, programs and activities of the Bureau of Reclamation. Additional items of conference agreement are discussed below.

GENERAL INVESTIGATIONS

Appropriates $29,409,000 for general investigations instead of $32,320,000 as proposed by the House and $26,929,000 as proposed by the Senate.

The conference agreement includes $300,000 each for the following items under the Atmospheric Water Resources Management Program: (1) Southwest Cooperative Operational Demonstration Program-Southwest Drought Rain Augmentation Research; (2) Sierra cooperative pilot studies of the effects of cloud seeding; and (3) High Plains cooperative program to continue research grant work related to cloud seeding and pilot training.

CONSTRUCTION PROGRAM

Appropriates $602,158,000 for the construction program instead of $592,359,000 as proposed by the House and $577,059,000 as proposed by the Senate.

Deletes language proposed by the House and stricken by the Senate regarding the North Loup Division, Nebraska, project.

Deletes language proposed by the House and stricken by the Senate regarding the San Joaquin Valley Drainage Program.

Deletes language proposed by the House and stricken by the Senate regarding the rehabilitation of acequias in New Mexico, because funds are provided elsewhere.

Inserts language proposed by the Senate amending section 507 of Public Law 92-514 regarding the North Loup, Nebraska, project.

Inserts language proposed by the Senate amended to read as follows:

:Provided further, That of the total herein appropriated in this account, the Secretary of the Interior is authorized to obligate no more than $8,800,000 by August 1, 1987, for the San Joaquin Valley Drainage Program.

The conferees have provided no more than $8,800,000 to continue the San Joaquin Valley Drainage Program, and have included bill language to require that all of these funds must be obligated prior to August 1, 1987. None of these funds or any other funds may be obligated for this program after August 1, 1987. It is also the conferees' understanding that none of the funds requested for the study of the Kesterson Reservoir cleanup would be used for the actual implementation of the chosen clean-up method.

Restores language proposed by the House and stricken by the Senate relating to recovery of costs in connection with the Central Valley Project.

The conferees intend that the cost-sharing conditions spelled out when Congress passed the Supplemental Appropriations Act, 1985, apply to the new construction start included in the "construction program" appropriation.

OPERATION AND MAINTENANCE

Appropriates $140,000,000 for operation and maintenance as proposed by the House instead of $150,000,000 as proposed by the Senate.

LOAN PROGRAM

Appropriates $37,480,000 for the loan program as proposed by the Senate instead of $40,651,000 as proposed by the House.

LOAN PROGRAM

(LIMITATION ON DIRECT LOANS)

Provides a limitation of $43,806,000 on direct loans as proposed by the Senate instead of $42,000,000 as proposed by the House.

GENERAL PROVISIONS

Inserts language proposed by the Senate regarding the Central Project.

Inserts clarifying language proposed by the Senate regarding the Central Utah Project.

The Resolution includes language which provides that not more than 20 percent of total annual appropriations for the Central Utah Project may be expended by the Secretary of the Interior for all administrative expenses and requires that the inspector general of the Department of the Interior annually audit expenditures by the Bureau of Reclamation to determine compliance with this limitation.

The intent of this section is to limit annual administrative costs as a proportion of total project appropriations. Administrative costs are all costs which are not directly identified to the construction of specific project facilities. These costs are incurred centrally and charged to the project on the basis of the utilization of Bureau labor services. This limitation shall not apply to costs directly identified to the construction of project facilities such as right-of-way appraisals, land acquisition, designs, and payments to contractors.

The conferees are aware of reductions in the amount of annual appropriations that have been allocated for project construction purposes. The objective of the conference agreement is to maximize to the greatest extent possible that percentage of each annual appropriation which is expended on project construction, particularly for those project features which are designed to provide water deliveries to the Wasatch Front such as the Jordanelle Reservoir. The conferees intend that all funds appropriated for the Bonneville Unit shall be expended by the Bureau for project purposes. Further, the Bureau of Reclamation is directed to keep congressional interests and the local project sponsor informed as to changes in underfinancing. The conferees realize that it may be necessary for the Bureau to contract out for engineering and design services in order to meet the limitation imposed by this amendment and encourages the Bureau to do so.

The conferees have also included a provision which eliminates a possible 10-year interest-free repayment deferral period for the portion of the Bonneville Unit of the Central Utah Project for which the Water Supply Act of 1958 was invoked in 1981. The Bureau of Reclamation and the project sponsor, Central Utah Water Conservancy District, in 1981 invoked section 301(b) of the Water Supply Act of 1958 which altered several repayment terms for water delivery of 60,000 acre-feet to be developed by certain features of the Strawberry Collection System. The purpose of this section is to nullify application of the 10-year interest-free period provided by section 301(b)(2) which may have been utilized to defer repayment on those portions of the Strawberry Collection System which were the subject of the 1981 Water Supply Act invocation. It is the conferees' intent that repayment of these Strawberry Collection System features should commence in accordance with the terms provided for repayment by the Several repayment agreements entered into between project sponsors and the Bureau of Reclamation which require repayment of principal and interest to commence upon the issuance of block notices by the Bureau. The conferees are aware that the first block notice for delivery of water from the lower portion of the Strawberry Collection System has been duly issued and that water exchange agreements have been executed to initiate repayment of principal and interest for those features subject to that block notice consistent with this section.

This section also provides that in the event that the Bonneville Unit is not substantially complete, as determined by the Secretary, at the end of fiscal year 1995, the Central Utah Water Conservancy District will have credited to its reimbursement obligation the sum of $2,000,000 each year thereafter for a period not to exceed 10 years or until the Secretary determines the unit to be substantially complete, whichever occurs first.

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
GENERAL INVESTIGATIONS		
ARIZONA		
SPRING CANYON PUMPED STORAGE PROJECT	270,000	800,000
PIMA COUNTY/SANTA CRUZ RIVER GROUNDWATER	100,000	100,000
CALIFORNIA		
ALL AMERICAN CANAL RELOCATION	630,000	630,000
CENTRAL VALLEY PROJECT:		
DELTA DIVISION, KELLOGG UNIT REFORMULATION	---	200,000
DELTA SUPPORT STUDIES	283,000	283,000
DELTA WATER MANAGEMENT PROGRAM	---	400,000
IMPERIAL IRRIGATION DISTRICT CANAL LINING AND SYSTEM IMPROVEMENT	72,000	72,000
OFFSTREAM STORAGE	350,000	350,000
REFUGE WATER SUPPLY	170,000	170,000
SAN BERNARDINO VALLEY GROUNDWATER	150,000	150,000
SAN JOAQUIN VALLEY CONVEYANCE STUDY, CVP	---	250,000
COLORADO		
CRWQIP, LOWER GUNNISON BASIN UNIT	100,000	100,000
HIGH MOUNTAIN AQUIFER STUDY	230,000	230,000
MESA-DELTA M&I GROUNDWATER STUDY	180,000	180,000
SOUTH PLATTE RIVER OPERATIONS STUDY	115,000	115,000
IDAHO		
OAKLEY FAN GROUNDWATER & RECHARGE INVESTIGATION	150,000	150,000
MINIDOKA PROJECT,NORTH SIDE PUMPING DIVISION EXTEN	160,000	160,000
KANSAS		
KANSAS RIVER BASIN WATER OPERATIONS STUDY	180,000	180,000
MONTANA		
MILK RIVER WATER SUPPLY UNIT (P-SMBP) (FORMERLY MARIAS-MILK UNIT (P-SMBP)	140,000	140,000
NEBRASKA		
LOUP BASIN STUDY	---	100,000
PRAIRIE BEND UNIT (P-SMBP)	401,000	701,000
SOUTH PLATTE-FRENCHMAN PROJECT	---	100,000
NEVADA		
DEEP-CARBONATE AQUIFER	764,000	764,000
NEW MEXICO		
ALAMOGORDO M&I WATER SUPPLY STUDY	150,000	150,000
OKLAHOMA		
EAST CENTRAL OKLAHOMA WATER SUPPLY STUDY	---	250,000
KIAMICHI HYDROPOWER STUDY	---	100,000
NORTHWEST OKLAHOMA WATER SUPPLY STUDY	170,000	170,000
SOUTHEAST OKLAHOMA WATER SUPPLY STUDY	230,000	230,000
OREGON		
DESCHUTES RIVER BASIN WATER SALVAGE PROJECT	50,000	50,000
UMATILLA BASIN PROJECT	134,000	234,000
NO. DOUGLAS CO. COOP. WTR RES STUDY (FORMERLY UMPQUA RIVER BASIN WATER RESOURCES MANAGEMENT INVEST.)	215,000	215,000
SOUTH DAKOTA		
CENTRAL SOUTH DAKOTA WATER SUPPLY SYSTEM (CENDAK)	200,000	750,000
TEXAS		
TEXAS BASIN, BEDIAS PROJECT	1,600,000	1,600,000
TEXAS BASIN, SAN JACINTO PROJECT	120,000	120,000

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
UTAH		
CRSP POWER PEAKING CAPACITY	300,000	300,000
CRWQIP, DIRTY DEVIL RIVER UNIT	165,000	165,000
WASATCH FRONT TOTAL WATER MANAGEMENT	90,000	90,000
WASHINGTON		
YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT	100,000	100,000
WYOMING		
SEMINOE DAM MODIFICATION	70,000	70,000
VARIOUS		
UPPER SNAKE RIVER WATER MANAGEMENT	200,000	200,000
COLORADO RIVER WATER QUALITY IMPROVEMENT PROGRAM	3,620,000	3,620,000
GENERAL ENGINEERING AND RESEARCH:		
ATMOSPHERIC WATER RESOURCES MANAGEMENT PROGRAM	4,800,000	5,700,000
PROGRAM RELATED ENGINEERING AND SCIENTIFIC STUDIES	4,870,000	3,900,000
SPECIAL INVESTIGATIONS:		
ENVIRONMENTAL AND INTERAGENCY COORD. ACTIVITIES	4,330,000	4,330,000
GENERAL PLANNING STUDIES	400,000	400,000
INVESTIGATIONS OF EXISTING PROJECTS	555,000	255,000
MINOR WORK IN CONNECTION WITH COMPLETED PROJ. INVEST.	620,000	520,000
TECHNICAL ASSISTANCE TO STATES	1,565,000	1,565,000
UNDISTRIBUTED REDUCTION BASED ON ANTICIPATED DELAYS	-1,179,000	-2,000,000
TOTAL, GENERAL INVESTIGATIONS	27,820,000	29,409,000
CONSTRUCTION PROGRAM		
CONSTRUCTION AND REHABILITATION AND COLORADO RIVER BASIN SALINITY CONTROL PROJECTS		
ARIZONA		
HEADGATE ROCK HYDROELECTRIC PROJECT (BIA)	6,800,000	6,800,000
CALIFORNIA		
CENTRAL VALLEY PROJECT:		
SACRAMENTO RIVER DIVISION	1,060,000	1,060,000
SAN LUIS UNIT	12,172,000	12,172,000
AUBURN-FOLSOM SOUTH UNIT	1,000,000	1,000,000
MISCELLANEOUS PROJECT PROGRAMS	372,000	372,000
TRINITY RIVER RESTORATION PROGRAM	4,650,000	4,650,000
SAN FELIPE DIVISION	10,642,000	10,642,000
SPRING CREEK TOXICITY PROGRAM, CVP	350,000	350,000
LOWER COLORADO RIVER WATER SUPPLY	---	100,000
COLORADO		
GRAND VALLEY UNIT, TITLE II,CRBSCP	12,055,000	12,055,000
PARADOX VALLEY UNIT, TITLE II, CRBSCP	12,282,000	12,282,000
SAN LUIS VALLEY PROJECT, CLOSED BASIN DIVISION	12,594,000	12,594,000
NEBRASKA		
NORTH LOUP DIVISION, P-SMBP	14,035,000	13,834,000
O'NEILL UNIT, P-SMBP	1,381,000	1,381,000
NEVADA		
LAS VEGAS WASH UNIT, TITLE II, CRBSCP	75,000	75,000
NEW MEXICO		
BRANTLEY PROJECT	23,650,000	23,650,000
NORTH DAKOTA		
GARRISON DIVERSION UNIT, P-SMBP	18,000,000	33,000,000

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
OKLAHOMA		
MCGEE CREEK PROJECT	7,755,000	7,755,000
SOUTH DAKOTA		
BELLE FOURCHE UNIT, P-SMBP	3,900,000	3,900,000
WEB RURAL WATER DEVELOPMENT PROJECT	21,480,000	21,480,000
WASHINGTON		
CHIEF JOSEPH DAM PROJECT, OROVILLE-TONASKET UNIT	1,725,000	1,725,000
COLUMBIA BASIN PROJECT:		
IRRIGATION FACILITIES	7,110,000	7,110,000
THIRD POWERPLANT	23,890,000	23,890,000
YAKIMA FISH PASSAGE & PROTECTIVE FACILITIES	12,050,000	12,050,000
WYOMING		
BUFFALO BILL DAM MODIFICATION, P-SMBP	13,400,000	13,400,000
VARIOUS		
BOULDER CANYON PROJECT	5,760,000	5,760,000
COLORADO RIVER BRIDGE CROSSING	500,000	500,000
MEASURES BELOW IMPERIAL DAM, TITLE I, CRBSCP	26,427,000	26,427,000
DRAINAGE AND MINOR CONSTRUCTION:		
ARBUCKLE PROJECT, OKLAHOMA	310,000	310,000
BOISE PROJECT, ARROWROCK DIVISION, IDAHO	1,490,000	1,490,000
BOISE PROJECT, PAYETTE DIVISION, IDAHO	1,289,000	1,289,000
COLORADO RIVER FRONT WORK&LEVEE SYSTEM,AR..CO..NV	15,885,000	15,885,000
CULTURAL RESOURCES ACTIVITIES	507,000	507,000
FRYINGPAN ARKANSAS PROJECT, COLORADO	5,513,000	5,513,000
GILA PROJECT, ARIZONA-CALIFORNIA	845,000	845,000
KLAMATH PROJECT, OREGON-CALIFORNIA	1,889,000	1,889,000
LEADVILLE MINE DRAINAGE TUNNEL, COLORADO	375,000	375,000
MISCELLANEOUS ENGINEERING SERVICES, COLORADO	10,000	10,000
MOUNTAIN PARK PROJECT, OKLAHOMA	150,000	150,000
NEWLANDS PROJECT, NEVADA	1,134,000	1,134,000
NUECES RIVER PROJECT, TEXAS	1,420,000	1,420,000
PALMETTO BEND PROJECT, TEXAS	150,000	150,000
UNITS OR DIVISIONS, PICK-SLOAN MISSOURI BASIN PROGRAM:		
AINSWORTH UNIT, NEBRASKA	600,000	600,000
CANYON FERRY UNIT, MONTANA	522,000	522,000
EAST BENCH UNIT, MONTANA	50,000	50,000
FARWELL UNIT, NEBRASKA	180,000	180,000
OAHE UNIT, SOUTH DAKOTA	65,000	65,000
OWL CREEK UNIT, WYOMING	5,000	5,000
VELARDE COMMUNITY DITCH PROJECT, NEW MEXICO	2,280,000	2,280,000
WASHOE PROJECT, CALIFORNIA-NEVADA	205,000	205,000
WEBER BASIN PROJECT, UTAH	385,000	385,000
SUBTOTAL, DRAINAGE AND MINOR CONSTRUCTION	35,259,000	35,259,000
SAFETY OF DAMS PROGRAMS:		
COOLIDGE DAM, ARIZONA	---	500,000
CACHUMA PROJECT, BRADBURY DAM, CALIFORNIA	90,000	90,000
FRUITGROWERS DAM PROJECT, COLORADO	207,000	207,000
HEART BUTTE UNIT, HEART BUTTE DAM,N.DAKOTA(P-SMBP)	2,540,000	2,540,000
LEWISTON ORCHARDS, SOLDIERS MEADOW, IDAHO	335,000	335,000
MINIDOKA PROJECT, JACKSON LAKE DAM, IDAHO-WYOMING	14,770,000	14,770,000
NEWLANDS PROJECT, LAKE TAHOE DAM, CALIFORNIA-NEVADA	180,000	180,000
NEWTON PROJECT, NEWTON DAM, UTAH	2,543,000	2,543,000
RAPID VALLEY UNIT,PACTOLA DAM,SOUTH DAKOTA(P-SMBP)	1,463,000	1,463,000
SALT RIVER PROJECT, STEWART MTN. DAM, ARIZONA	2,291,000	2,291,000
SAN LUIS UNIT, LITTLE PANOCHE DAM, CALIFORNIA (CVP)	40,000	40,000
SAN LUIS UNIT, LOS BANOS DAM, CALIFORNIA (CVP)	40,000	40,000
SAN LUIS UNIT, O'NEILL DAM, CALIFORNIA (CVP)	60,000	60,000
SEEDSKADEE, FONTENELLE DAM, CRSP, WYOMING	6,100,000	6,100,000
VENTURA RIVER PROJECT, CASITAS DAM, CALIFORNIA	90,000	90,000
W.C. AUSTIN PROJECT, ALTUS DAM, OKLAHOMA	1,400,000	1,400,000
DEPARTMENT DAM SAFETY PROGRAM	450,000	450,000
MODIFICATION REPORTS AND PRECONSTRUCTION ACTIVITY	5,859,000	5,859,000
SUBTOTAL, SAFETY OF DAMS PROGRAMS	38,458,000	38,958,000

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
REHABILITATION AND BETTERMENT:		
OKANOGAN PROJECT, OKANOGAN IRRIGATION DISTRICT, WA..	1,000,000	1,000,000
SHOSHONE PROJECT, HEART MOUNTAIN DIVISION, WYOMING..	750,000	750,000
STRAWBERRY VALLEY PROJECT, UTAH.....	853,000	853,000
SUN RIVER PROJECT, FT. SHAW DIVISION, MONTANA.....	380,000	380,000
UNCOMPAHGRE PROJECT, COLORADO.....	664,000	664,000
SUBTOTAL, REHABILITATION AND BETTERMENT.....	3,647,000	3,647,000
TOTAL, CONSTRUCTION AND REHABILITATION AND COLORADO RIVER BASIN SALINITY CONTROL PROJECTS	332,479,000	347,878,000
COLORADO RIVER STORAGE PROJECT		
UPPER COLORADO RIVER BASIN FUND		
PARTICIPATING PROJECTS		
COLORADO		
ANIMAS-LA PLATA PROJECT.....	1,000,000	1,000,000
DALLAS CREEK PROJECT.....	4,286,000	4,286,000
DOLORES PROJECT.....	20,375,000	20,375,000
UTAH		
CENTRAL UTAH PROJECT, BONNEVILLE UNIT.....	83,793,000	83,793,000
CENTRAL UTAH PROJECT, UINTAH UNIT.....	100,000	100,000
CENTRAL UTAH PROJECT, UPALCO UNIT.....	50,000	50,000
VARIOUS		
DRAINAGE AND MINOR CONSTRUCTION:		
PARTICIPATING PROJECTS:		
CENTRAL UTAH PROJECT, JENSEN UNIT.....	303,000	303,000
UNITS:		
MODIFICATIONS & ADDITIONS TO COMPLETED FACILITIES.	1,022,000	1,022,000
RECREATIONAL AND FISH AND WILDLIFE FACILITIES:		
RECREATIONAL FACILITIES.....	8,747,000	8,747,000
FISH AND WILDLIFE FACILITIES.....	4,018,000	4,018,000
TOTAL, COLORADO RIVER STORAGE PROJECT.....	123,694,000	123,694,000
COLORADO RIVER BASIN PROJECT		
CENTRAL ARIZONA PROJECT		
ARIZONA		
CENTRAL ARIZONA PROJECT, NON-INDIAN DISTR. SYSTEMS....	57,174,000	57,174,000
CENTRAL ARIZONA-WATER DEVELOPMENT (LCRBDF).....	145,596,000	145,596,000
CENTRAL ARIZONA - SAFETY OF DAMS.....	1,147,000	1,147,000
VARIOUS		
UNDISTRIBUTED REDUCTION BASED ON ANTICIPATED DELAYS...	-83,331,000	-73,331,000
TOTAL, CONSTRUCTION PROGRAM.....	576,759,000	602,158,000
LOAN PROGRAM		
ARIZONA		
AK-CHIN FARMS EAST (ESCALATION).....	---	2,000,000
AK-CHIN FARMS PROJECT-PHASE 2.....	5,188,000	5,188,000
GILA RIVER FARMS SUPPLEMENTAL.....	1,537,000	1,537,000
CALIFORNIA		
EASTERN MUNICIPAL WATER DISTRICT.....	1,070,000	1,070,000
ELSINORE VALLEY IRRIGATION DISTRICT.....	1,000,000	1,000,000
OAKDALE IRRIGATION DISTRICT.....	4,100,000	4,100,000
RAINBOW MUNICIPAL WATER DISTRICT (ESCALATION).....	3,400,000	3,400,000
RANCHO CALIFORNIA WATER DISTRICT.....	100,000	100,000
SAN BENITO COUNTY WATER CONS. & FLOOD DISTRICT.....	365,000	365,000
SANTA ANA WATERSHED PROJECT AUTHORITY.....	8,714,000	8,714,000

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
COLORADO		
AMITY MUTUAL IRRIGATION COMPANY	2,541,000	---
MONTANA		
EAST BENCH GRAVITY COMPANY	1,175,000	1,175,000
TEXAS		
HIDALGO COUNTY IRRIGATION DISTRICT NO.1, SUPPL	3,800,000	3,800,000
HIDALGO COUNTY IRRIGATION DISTICT NO.2 (SAN JUAN)	2,500,000	2,500,000
DELTA LAKE IRRIGATION DISTRICT	1,000,000	1,000,000
WASHINGTON		
GREATER WENATCHEE IRRIGATION DISTRICT	2,500,000	2,500,000
VARIOUS		
CONSTRUCTION COST INCREASES	1,000,000	1,000,000
ADMINISTRATION OF LOAN PROGRAM	840,000	840,000
UNDISTRIBUTED REDUCTION BASED ON ANTICIPATED DELAYS	-2,809,000	-2,809,000
TOTAL, LOAN PROGRAM	38,021,000	37,480,000

TITLE III—DEPARTMENT OF ENERGY

The summary tables at the end of this section set forth the conference agreement with respect to the individual appropriations, programs and activities of the Department of Energy. Additional items of conference agreement are discussed below.

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

Appropriates $1,347,048,000 for Energy Supply, Research and Development Activities instead of $1,316,326,000 as proposed by the House and $1,318,798,000 as proposed by the Senate. In addition, $684,158,000 of prior year unobligated balances is transferred from Uranium Supply and Enrichment Activities. Conference actions are discussed below.

The conference agreement includes $500,000 to continue the Hawaii Biofuels Program at the Hawaii Natural Energy Institute as provided by the House.

The conferees agree with the Senate provisions relating to the complex carbohydrate program at the University of Georgia, under biological research.

GEOTHERMAL

The conferees agree with the Senate direction on geothermal research.

NUCLEAR ENERGY PROGRAMS

Light Water Reactor Technology.—The conference agreement provides $34,000,000 for light water reactor technology, allocated as follows: $17,500,000 for the advanced light water technology program; $12,500,000 for TMI; and $4,000,000 for licensing and safety activities.

Advanced Reactor Research and Development.—The conference agreement provides $73,000,000 for advanced reactor R&D operating expenses, allocated as follows: HTGR-$20,000,000; IFR-$20,000,000; LMR-$15,000,000; Other activities-$18,000,000.

Space and Defense Power Systems.—The conference agreement provides $48,280,000 for all space and defense power systems activities. $9,700,000 is for the DOE portion of the multimegawatt systems, of which $3,000,000 shall be for terrestial program activities and of which $5,000,000 shall be for the thermionic fuel element verification program and of that $1,200,000 shall be for the thermionic technology program.

Facilities.—The conferees agree that funds are to be used to maintain at close to current levels operations at both HEDL and ANL-West.

The conferees agree that the study of a cogeneration facility at FFTF may be made with available funds and may include services as non-DOE participants' contributions.

Remedial Actions.—For the Uranium Mill Tailings Program, the conference provides $116,000,000. This amount of funding will allow the Department to remain on schedule for all sites and vicinity properties, particularly those with completed remedial action plans.

Byproducts Program.—The fiscal year 1984 budget initiated funding for a number of food irradiator projects. Funding continued in the FY 1986 budget and five specific irradiator projects were begun. The FY 1987 recommendation provides an additional $5,000,000 for continuation of these projects and one additional project in Alaska, and specifies in the language of the bill that all funds for irradiator projects shall be available only for the six projects: Oklahoma, Red-Ark Development Authority; Florida, Department of Agriculture and Consumer Affairs; Iowa, Iowa State University; Hawaii, Department of Planning and Economic Development; Washington, Port of Pasco; and State of Alaska. These are all public agencies that have an ability to manage these projects and provide continuity for their future operation. All funds appropriated to date for these irradiator demonstration projects are to be applied only to these projects and the Department is to proceed directly to design and initiate construction and undertake simultaneously all other related activities necessary to bring all irradiators on line at the earliest possible date and lowest cost.

SUPPORTING RESEARCH AND TECHNICAL ANALYSIS

Cooperative Programs.—The Department is to provide $1,500,000 to enhance and support the relationship among the Lawrence Berkeley Laboratory, the Ana G. Mendez Foundation, and Jackson State University.

Geosciences.—The conferees agree with the House direction in regard to the geosciences research report requirement.

Biological Research.—The conference agreement provides $1,200,000 to continue and enhance fundamental research at the OGC in the biological and biochemical sciences, as directed by the Senate.

Chemical Sciences.—$600,000 of GPP funds shall be made available to Ames Laboratory.

University Research Support.—The conferees agree with the Senate direction to provide $2,900,000 for LEU support.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

Privatization.—The conferees agree that not more than $250,000 may be spent in FY 1987 to conclude studies and report to the Congress with the results of privatization reviews. Such report shall include, but not be limited to, a determination as to how the public interest will be served by privatization, a review of options considered by the Administration and available to the Congress; a legislative proposal to authorize any additional privatization activities; an estimate of the value of the enrichment enterprise which shall be based primarily on fair market value and replacement value of assets and facilities; a determination based on review by the Nuclear Regulatory Commission of licensing requirements for a private enrichment enterprise; an estimate of all environmental cleanup and management requirements and their costs. Proposals to privatize the enrichment enterprise shall consider the viability of the entire enrichment and domestic uranium supply requirements as a single enterprise and not propose dissolution of various components individually; shall include specific protections to assure supply of enriched materials for national defense requirements of the Federal Government; and shall assure that advanced technology development (AVLIS in particular) continue through deployment. House direction in regard to technology transfer and analysis activities shall apply.

ENRICHMENT CRITERIA

The conferees agree that maintaining the long-term viability of the uranium enrichment and producing industry is essential to the economic and national security needs of this country. The conferees also agree, however, that the revised uranium enrichment criteria submitted to the Congress on July 24, 1986 require some adjustment in order to protect these interests and also to assure fairness to all the parties in certain pending litigation now before the United States Court of Appeals for the Tenth Circuit.

Specifically, the conference substitute recognizes that the revised criteria have come into effect, but modifies certain provisions of the new criteria. First, the conference substitute permits DOE to continue to carry out its enrichment business by enriching foreign source material for domestic use, but limits the continued effectiveness of DOE's current import restriction policy to the outcome of the pending Tenth Circuit litigation on the issue whether current law requires imposition of restrictions on enrichment of foreign source material for domestic use. If DOE's legal position prevails, it may continue to conduct its enrichment business without further changing the criteria to impose limits on enrichment of foreign source material for domestic use unless it chooses to do so, or the Congress directs it to do so by new legislation, but if the Court of Appeals (or the Supreme Court, should *certiorari* be granted) decides that section 161(v) of the Atomic Energy Act requires DOE to impose such limits, then under the conference substitute when that decision becomes final DOE will be required to amend the criteria and impose such limits in accordance with the final court decision.

Second, the conference substitute requires DOE to offer all customers, irrespective of the percentage of their enrichment requirements contracted from DOE, free variable tails assays in the current range of 0.2% to 0.3% U-235.

Third, the conference substitute limits the contract validation provision of the new criteria to conform to the decisions regarding uranium import restrictions and free variable tails assay options described above.

Fourth, the conference substitute specifies that no funds are available to carry out any provision of the new criteria, or any contract, that permits or results in reducing enrichment customer feed delivery requirements to DOE, thus "backing out" demand for uranium ore, as a result of DOE "overfeeding" its enrichment plants from the government-owned uranium stockpile. While DOE may use the stockpile to increase its operating efficiency or reduce its other production costs (such as electricity), such steps cannot result in reducing the amount of uranium DOE's customers must provide to DOE compared to the amount of uranium those customers would be required to provide without "overfeeding" from the stockpile.

The conferees emphasize that they have not taken a position on the legal merits of the question now before the Tenth Circuit Court of Appeals whether section 161(v) of the Atomic Energy Act requires DOE to limit or restrict enrichment of foreign source uranium that is used by the domestic utility industry. That question is now before the court, and the conferees expect it to be decided on the merits of the case that was submitted to the court. Thus, the conferees intend that neither the effectiveness of the enrichment criteria that were submitted to the Congress on July 24, 1986, nor the conditional authority for continued enrichment of foreign source material that is provided by the conference substitute, should be regarded as an indication that by those actions the Congress has expressed any view on the legal question of import restrictions now before the Tenth Circuit Court of Appeals. Similarly Congress has not expressed any view on the legal question, as it was presented in the same case before the United States District Court for the District of Colorado, of the particular use of government stockpile uranium that was presented in that case. For these reasons, the conference substitute also specifies that no provision of this joint resolution shall affect the merits of the legal position of any of the parties in the pending litigation concerning the questions whether section 161(v) of the Atomic Energy Act of 1954 requires restriction of enrichment of foreign source material destined for use in domestic utilization facilities, and whether distribution may be made of source material or special nuclear material from the government stockpile for commercial customers.

Finally, the conference substitute modifies the provision of the new criteria dealing with recovery of prior unrecouped government costs in the enrichment program. In particular, the conference substitute modifies that provision of the criteria by specifying that no funds may be expended implementing that provision insofar as it may require a determination by DOE of the amount of unrecouped costs that must be returned to the Treasury. These costs are an outgrowth of initial calculations in the enrichment program, primarily valuation of plants originally constructed for defense purposes, together with cumulatively imputed interest on that amount. Calculation of an appropriate amount reflecting that initial calculation together with imputed interest which should be returned to the Treasury from revenues paid by enrichment customers has been controversial, both because differing methodologies yield different results and because such repayment to the Treasury is perceived by some as a major new departure in the approach by which appropriations and customer revenues have funded uranium enrichment activities. Because of the controversial nature of this issue, as well as the fact that estimates of an appropriate repayment obligation have ranged as low as $350 million and as high as the $7.5 billion, this is a matter that the conferees believe should be determined by the Congress after full opportunity to inquire into the matter, rather than be determined unilaterally by DOE. The conferees emphasize also, however, that independently of the decision of this major issue by te Congress, the DOE will be required to exercise its existing responsibility to determine costs that are appropriate for recovery in the course of establishing prices for separative work to be charged to DOE's enrichment customers.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

Appropriates $708,400,000 for General Science and Research Activities instead of $738,400,000 as proposed by the House and $677,400,000 as proposed by the Senate.

Prior to proceeding with the continued research and design of the Superconducting Super Collider, the Department will submit a plan for approval by the House and Senate Appropriation Committees showing the work to be done and the source of funding.

NUCLEAR WASTE DISPOSAL FUND

The conferees agree to provide $499,000,000 for the Nuclear Waste Disposal Fund, of which $420,000,000 is available immediately and $79,000,000 is available only subject to prior approval of the Subcommittees on Energy and Water Development Appropriations of the House of Representatives and the United States Senate and subject to certification by the Secretary of Energy that he has made a good faith effort to comply with the requirements of Section 10137(c) of Title 42 of the United States Code, relative to consultation with the states selected for site characterization for a repository under the Nuclear Waste Policy Act. The Secretary shall provide a detailed explanation of his efforts. This funding level is compared to $677,748,000 as proposed by the House and $380,000,000 as proposed by the Senate.

No funds are provided for drilling of any exploratory shaft at and site in FY 1987. The funding reduction is to be applied against the entire program effort including site-specific activities for the first and second waste repositories and site-specific work at a monitored retrievable storage facility which is neither authorized nor funded.

The conferees believe that the surest course for the Department lies in the careful implementation of the Nuclear Waste Policy Act in close consultation with the affected parties, in particular, the affected states. The conferees urge the Department to continue such consultation in hopes that pending litigation may be resolved in a timely manner. It seems obvious that a restoration of consensus is required before significant progress can be made and that many of the original deadlines of the act will not be met. The important task is the resolution of the numerous issues in which the program is now embroiled and the restoration of confidence in the program.

ATOMIC ENERGY DEFENSE ACTIVITIES

Appropriates $7,477,750,000 for Atomic Energy Defense Activities instead of $7,693,900,000 as proposed by the House and $7,261,600,000 as proposed by the Senate.

Inertial Confinement Fusion in funded as a separate subcategory within the category "Weapons Activities".

The conferess agree that due to budget constraints, no funds are provided for the Plasma Separation Program.

The conferees agree that funds for the Strategic Defense Initiative program in this Joint Resolution are limited to $341,000,000. In addition, if the Department of Defense Authorization Act, 1987, is enacted into law by December 31, 1986, the funds provided in this paragraph for the Strategic Defense Initiative shall be limited to the amount and in the manner provided for in that legislation.

The conferees agree with the language contained in the Senate Report 9[illegible]-141 concerning the N Reactor at Richland, Washington. No funding is provided for the Production Assurance Program or any other activities which are designed to extend the operation of the N Reactor beyond 1995. Based on the high costs of the N Reactor, the Department should carefully review plans to continue its operation.

The conferees agree that at least $174,000,000 is to be allocated to defense waste management activities at Hanford, Washington.

The conferees agree with the language contained in the Senate Report 99-441 concerning the Special Isotope Separation program.

The conferees' agreement includes $15,000,000 for design and related activities to expedite the schedule for development of the Hanford Waste Vitrification Plant (HWVP).

The conferees agree to the Senate proposal to return control of U.S. Forest Service lands to the Department of Energy (DOE) which will greatly improve the security posture at the Savannah River Plant (SRP) at Aiken, South Carolina.

DEPARTMENT ADMINISTRATION

Appropriates $143,611,000 for Departmental Administration instead of $145,663,000 as proposed by the House and $144,611,000 as proposed by the Senate.

With the exception of those items changed by congressional actions, the conferees interpose no objection to the use of prior year unobligated balances to offset funding requirements within the Departmental Administration account.

POWER MARKETING ADMINISTRATIONS

Appropriates $284,711,000 for the Power Marketing Administrations, the same as proposed by the House and Senate.

The conferees agree with the Senate report language concerning borrowing authority for the Bonneville Power Administration.

The conferees agree to defer without prejudice the consideration of a Tracey-Livermore intertie proposed by the House for the Western Area Power Administration. The conferees continue to feel, however, that the potential benefits of such a line to the Federal Government could be very substantial.

FEDERAL ENERGY REGULATORY COMMISSION

The conference agreement includes essentially traditional appropriation language which has been carried for many years in appropriations bills, as proposed by the Senate. House Document 99-257 contains a budget amendment requested by the Administration and which is similar in intent to the Senate language.

The conferees also agree to the natural gas reporting requirement included in the House version of the continuing resolution.

The conferees are concerned by the continuing delay in Docket No. RP82-105-000 and urge that a decision be rendered expeditiously.

	Budget estimate	Conference allowance
ENERGY SUPPLY RESEARCH AND DEVELOPMENT		
SOLAR ENERGY		
I. Solar applications		
A. Solar building energy systems		
Operating expenses	4,700,000	5,950,000
B. Photovoltaic energy systems		
Operating expenses	19,600,000	39,600,000
Capital equipment	1,000,000	1,000,000
Subtotal, Photovoltaic energy systems	20,600,000	40,600,000
C. Solar thermal energy systems		
Operating expenses	15,300,000	23,000,000
D. Biofuels energy systems		
Operating expenses	11,600,000	23,600,000
Capital equipment	600,000	600,000
Subtotal, Biofuels energy systems	12,200,000	24,200,000
E. Wind energy systems		
Operating expenses	8,080,000	12,080,000
Mod 5-B	---	4,500,000
Capital equipment	170,000	170,000
Subtotal, Wind energy systems	8,250,000	16,750,000
F. Ocean energy systems		
Operating expenses	2,500,000	4,500,000
Subtotal, Solar applications	63,550,000	115,000,000
II. Other solar energy		
A. International solar energy program - OE	500,000	750,000
B. Solar technology transfer		
Operating expenses	1,950,000	2,450,000
Capital equipment	50,000	50,000
Subtotal, Solar technology transfer	2,000,000	2,500,000
D. Solar Energy Research Institute		
Capital equipment	315,000	315,000
Construction:		
General plant projects	230,000	230,000
Subtotal, Solar Energy Research Institute	545,000	545,000
F. Resource assessment		
Operating expenses	700,000	600,000
G. Program support - OE	897,000	698,500
H. Program direction - OE	4,100,000	4,100,000
Subtotal, Other solar energy	8,742,000	9,193,500
TOTAL, SOLAR ENERGY	72,292,000	124,193,500
(Operating expenses)	(69,927,000)	(121,828,500)
(Plant and Capital)	(2,365,000)	(2,365,000)
GEOTHERMAL		
I. Hydrothermal industrialization		
Operating expenses	---	2,000,000

	Budget estimate	Conference allowance
II. Geopressured resources		
Operating expenses	17,150,000	4,000,000
III. Geothermal technology development		
Operating expenses	---	14,150,000
V. Program direction - OE	780,000	780,000
TOTAL, GEOTHERMAL	17,930,000	20,930,000
(Operating expenses)	(17,930,000)	(20,930,000)
HYDROPOWER		
I. Small scale hydropower development - OE	---	405,000
III. Program direction - OE	---	45,000
TOTAL, HYDROPOWER	---	450,000
ELECTRIC ENERGY SYSTEMS AND STORAGE		
I. Electric energy systems		
A. Electric field effects research		
Operating expenses	7,269,000	5,269,000
B. Reliability research		
Operating expenses	---	2,000,000
C. System technology		
Operating expenses	---	3,700,000
D. Program direction - OE	350,000	350,000
Subtotal, Electric energy systems	7,619,000	11,319,000
II. Energy Storage Systems		
A. Battery storage		
Operating expenses	8,600,000	12,300,000
B. Thermal and mechanical storage		
Operating expenses	---	4,000,000
C. Program direction - OE	---	400,000
Subtotal, Energy storage systems	8,600,000	16,700,000
TOTAL, ELECTRIC ENERGY SYSTEMS AND STORAGE	16,219,000	28,019,000
(Operating expenses)	(16,219,000)	(28,019,000)
I. NUCLEAR ENERGY R&D		
A. Light water reactor		
Operating expense	41,000,000	34,000,000
B. Advanced reactor R & D		
Operating expense	47,000,000	73,000,000
Capital equipment	2,500,000	2,500,000
Subtotal, Advanced reactor R & D	49,500,000	75,500,000

	Budget estimate	Conference allowance
C. Space & defense power systems		
Operating expense	60,370,000	38,000,000
Capital equipment	6,280,000	5,280,000
Construction:		
86-N-105 SP-100 fac. mods - HEDL	5,000,000	5,000,000
Subtotal, Space & defense power systems	71,650,000	48,280,000
D. Advanced nuclear systems		
Operating expense	20,600,000	17,600,000
Capital equipment	3,000,000	3,000,000
Subtotal, Advanced nuclear systems	23,600,000	20,600,000
E. Facilities		
Operating expense	115,200,000	121,200,000
Capital equipment	2,800,000	2,800,000
Construction:		
87-N-101 Mods to reactors	2,200,000	2,200,000
87-N-102 GPP	1,000,000	1,000,000
85-N-602 ANAL, INEL, ID. security upgrades	600,000	600,000
Subtotal, construction	3,800,000	3,800,000
Subtotal, Facilities	121,800,000	127,800,000
F. Water cooled breeder		
Operating expense	13,800,000	13,800,000
G. Program direction - OE	9,550,000	7,550,000
Subtotal, NUCLEAR ENERGY R & D	330,900,000	327,530,000
(Operating expense)	(307,520,000)	(305,150,000)
(Plant and Capital)	(23,380,000)	(22,380,000)
II. Remedial actions & Waste technology		
1. Formerly utilized sites remedial action program		
Operating expenses	25,400,000	25,400,000
Capital equipment	200,000	200,000
Subtotal, Formerly utilized sites remedial action program	25,600,000	25,600,000
2. Grand Junction remedial action OE	800,000	800,000
3. Uranium program mill tailings remedial action program		
Operating expenses	123,700,000	113,700,000
Capital equipment	2,300,000	2,300,000
Subtotal, Uranium program mill tailings remedial action program	126,000,000	116,000,000
4. Surplus facilities		
Operating expenses	56,000,000	44,000,000
Capital equipment	400,000	400,000
Subtotal, Management, of surplus radioactivity contaminated DOE facilities	56,400,000	44,400,000
5. West Valley		
Operating expenses	79,000,000	79,000,000

	Budget estimate	Conference allowance
6. Low level waste		
Operating expenses	4,000,000	4,000,000
7. Waste technology & By-products		
Operating expenses	---	5,000,000
8. Program direction - OE	2,300,000	2,100,000
Subtotal, Remedial actions & Waste technology	294,100,000	276,900,000
(Operating expenses)	(291,200,000)	(274,000,000)
(Plant and Capital)	(2,900,000)	(2,900,000)
OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT		
IX. Civilian waste R&D		
A. Spent Fuel Storage R & D		
Operating expenses	6,300,000	6,300,000
C. Generic methods & supporting studies		
E. Program direction	200,000	200,000
Subtotal, Civilian waste R&D	6,500,000	6,500,000
TOTAL, NUCLEAR	631,500,000	610,930,000
(Operating expenses)	(605,220,000)	(585,650,000)
(Plant and Capital)	(26,280,000)	(25,280,000)
ENVIRONMENT, SAFETY AND HEALTH		
I. Environment, safety and health		
Operating expenses	73,998,000	59,916,500
Capital equipment	2,100,000	2,100,000
Total, Environment safety and health	76,098,000	62,016,500
LIQUIFIED GASEOUS SPILL TEST FACILITY		
I. Spill test facility		
Operating expenses	1,200,000	2,000,000
ENVIRONMENT R & D		
I. Biological and Environmental Research		
Operating expenses	180,965,000	175,965,000
Capital equipment	8,500,000	8,500,000
Construction:		
87-R-120 General plant projects, various locations	3,500,000	3,000,000
87-R-130 Institute of Nuclear Medicine, New Jersey	---	3,000,000
Subtotal, Biological and environ. research	192,965,000	190,465,000
II. Program direction - OE		
A. Bio and env. research - PD	3,600,000	3,600,000
Total, Environment R & D	196,565,000	194,065,000
(Operating expenses)	(184,565,000)	(179,565,000)
(Plant and Capital)	(12,000,000)	(14,500,000)
FUSION		
I. Magnetic fusion		
A. Confinement systems		
Operating expenses	177,500,000	190,000,000

	Budget estimate	Conference allowance
Capital equipment	7,100,000	7,100,000
Subtotal, Confinement systems	184,600,000	197,100,000
B. Development and technology		
Operating expenses	50,510,000	50,510,000
Capital equipment	1,890,000	1,890,000
Subtotal, Development and technology	52,400,000	52,400,000
C. Applied plasma physics		
Operating expenses	70,700,000	70,700,000
Capital equipment	4,500,000	4,500,000
Subtotal, Applied plasma physics	75,200,000	75,200,000
D. Planning and projects		
Operating expenses	4,780,000	4,780,000
Capital equipment	3,820,000	3,820,000
Construction:		
87-R-901 General plant projects, various locations	8,200,000	8,200,000
Subtotal, Planning and projects	16,800,000	16,800,000
F. Program direction - OE	4,000,000	4,000,000
Total, Fusion	333,000,000	345,500,000
(Operating expenses)	(307,490,000)	(319,990,000)
(Plant and Capital)	(25,510,000)	(25,510,000)
SUPPORTING RESEARCH AND TECHNICAL ANALYSIS		
I. Basic energy sciences		
A. Nuclear sciences		
Operating expenses	46,913,000	46,913,000
Capital equipment	2,930,000	2,930,000
Construction:		
87-R-400 General plant projects, various locations	150,000	150,000
Subtotal, Nuclear sciences	49,993,000	49,993,000
B. Materials sciences		
Operating expenses	156,931,000	155,031,000
Capital equipment	15,500,000	15,500,000
Construction:		
87-R-401 Accelerator and reactor improvements and modifications, various locations	2,583,000	2,583,000
87-R-403 Neutron Scattering experimental halls, Los Alamos, New Mexico	5,000,000	5,000,000
87-R-406 1-2 GeV stnch rod SC,LBL	1,500,000	1,500,000
87-R- Center for New Industrial Materials, Iowa State University	---	6,000,000
85-ER-133 Advanced Science Center, Univ of Oregon	---	22,900,000
86-R-300 Center for Technology, Atlanta Univ	---	7,500,000
84-ER-111 NSLS	2,600,000	2,600,000
84-ER-112 Center for advanced material	10,560,000	10,560,000
84-ER-113 SSRL enhancement	1,717,000	1,717,000

	Budget estimate	Conference allowance
84-ER-115 Nat'l center for chemical research	---	4,000,000
Subtotal, Construction	23,960,000	64,360,000
Subtotal, Materials sciences	196,391,000	234,891,000
C. Chemical sciences		
Operating expenses	86,419,000	83,919,000
Capital equipment	9,555,000	9,555,000
Construction:		
87-R-400 General plant projects, various locations	3,630,000	3,000,000
87-R-401 Accelerator and reactor improvements and modifications, various locations	300,000	300,000
87-R-405 Combustion research facility, Phase II, Sandia National Laboratories, Livermore, California	300,000	300,000
85-ER-403 Kansas State University	1,200,000	1,200,000
Subtotal, Construction	5,430,000	4,800,000
Subtotal, Chemical sciences	101,404,000	98,274,000
E. Applied mathematical sciences		
Operating expenses	32,785,000	38,785,000
Capital equipment	1,100,000	1,100,000
Construction: Demo ctr for info tech, Brown	---	5,000,000
Subtotal, Applied mathematical sciences	33,885,000	44,885,000
F. Engineering and geosciences		
Operating expenses	29,412,000	29,412,000
Capital equipment	1,750,000	1,750,000
Construction:		
87-R- Energy Research Complex, Univ. of South Carolina	---	16,300,000
87-R-410 Arizona State Univ	---	5,000,000
Subtotal, Engineering and geosciences	31,162,000	52,462,000
G. Advanced energy projects		
Operating expenses	8,932,000	7,500,000
Capital equipment	330,000	330,000
Subtotal, Advanced energy projects	9,262,000	7,830,000
H. Biological energy research		
Operating expenses	14,538,000	16,500,000
Capital equipment	610,000	610,000
Construction:		
Center for Nuclear Imaging Research	---	12,300,000
St. Christopher's Hospital for Children energy demonstration project	---	14,800,000
Subtotal, Biological energy research	15,148,000	44,210,000
I. Program direction - OE	4,125,000	4,125,000
Subtotal, Basic energy sciences	441,370,000	536,670,000
(Operating expenses)	(380,055,000)	(382,185,000)
(Plant and Capital)	(61,315,000)	(154,485,000)

	Budget estimate	Conference allowance
II. Energy oversight, research analy. & Univ support		
A. Energy research analysis - OE		
1. Assessment projects	3,550,000	2,000,000
B. University research support - OE		
Operating expenses:		
2. University reactor fuel assistance	1,900,000	3,900,000
3. University laboratory coop. program	7,075,000	6,075,000
5. Energy manpower assessment program	500,000	500,000
6. Education and training	800,000	800,000
7. Visiting scientist program	700,000	700,000
8. Center for Excellence in Education	---	3,800,000
Subtotal, University research support - OE	10,975,000	15,775,000
C. Advisory and oversight - OE	2,900,000	2,500,000
D. University research instrumentation	5,000,000	5,000,000
Subtotal, Energy oversight, res analy. & Univ sup	22,425,000	25,275,000
III. Multiprogram Energy Laboratories - Fac. Sup.		
A. Multiprogram general purpose facilities		
Construction:		
87-R-751 Lab res. 1 at PNL	2,100,000	2,100,000
87-R-752 Piping sys. res. at ORNL	725,000	725,000
87-R-753 Rehab. lab space at ANL	1,235,000	1,235,000
87-R-755 Mech. sys. rehab. at ANL	1,100,000	1,100,000
87-R-756 Water line rep. at ANL	1,000,000	1,000,000
87-R-757 Elec. sys. rehab. at LBL	300,000	300,000
87-R-758 Rehab. mech. util. at LBL	1,050,000	1,050,000
87-R-759 Upgrade steam dist. sys. at ORNL	2,000,000	2,000,000
86-R-726 Fire protection improvements (BNL)	2,500,000	2,500,000
85-R-701 Central chilled water facility (BNL)	5,700,000	5,700,000
85-R-702 Replace laboratory roofs (ANL)	2,392,000	2,392,000
85-R-703 Electrical dist. system restoration	1,400,000	1,400,000
85-R-706 Medical facility (LLNL)	4,000,000	4,000,000
85-R-707 Hanford site fire alarm system upgra	1,225,000	1,225,000
85-R-709 Central chilled water plant (ANL)	3,600,000	3,600,000
85-R-712 Central chilled water system restor	2,600,000	2,600,000
84-ER-103 Road repair (various locations)	2,008,000	2,008,000
Anticipated project slippage	---	-3,495,000
Subtotal, Multi-program facilities	34,935,000	31,440,000
B. Environmental compliance		
Operating expenses	14,255,000	14,255,000
Capital Equipment	1,000,000	1,000,000
Construction:		
87-R-770 General Plant Projects (ORNL)	3,000,000	3,000,000
86-R-801 Nonradiological process waste treat	7,000,000	7,000,000
Subtotal, Construction	10,000,000	10,000,000
Subtotal, Environmental Compliance Program	25,255,000	25,255,000

	Budget estimate	Conference allowance
Total, Multiprogram Laboratories Facilities Suppo	60,190,000	56,695,000
Total, Supporting research and tech. analysis....	523,985,000	618,640,000
(Operating expenses).....	(416,735,000)	(421,715,000)
(Plant and Capital).....	(107,250,000)	(196,925,000)
POLICY AND MANAGEMENT		
I. Policy and Management		
A. Policy and management - OE - ER.....	550,000	550,000
B. Policy and management - OE - NE.....	1,810,000	1,810,000
C. Policy and management - CE.....	1,527,000	1,527,000
Subtotal, Policy and management.....	3,887,000	3,887,000
ENERGY APPLICATIONS		
Technical Information & Management Program		
Operating expenses.....	13,848,000	12,848,000
Capital equipment.....	850,000	850,000
Support from other programs.....	-3,923,000	-3,923,000
Subtotal, Technical Information & Management Prog	10,775,000	9,775,000
II. In-house energy management		
Operating expenses.....	1,500,000	1,500,000
Construction:		
87-A-601 Modification for energy mgmt., vario	9,003,000	9,003,000
86-A-602 Solid waste fired boiler (LANCL)....	5,868,000	5,868,000
85-A-602 Fuel storage facility, BNL.....	57,000	57,000
85-A-604 Combustion air preheaters, energy te	72,000	72,000
Subtotal, Construction.....	15,000,000	15,000,000
Subtotal, In-house energy management.....	16,500,000	16,500,000
Subtotal, Energy applications.....	27,275,000	26,275,000
SUBTOTAL, ENERGY SUPPLY RESEARCH AND DEVELOPMENT.....	1,899,951,000	2,036,906,000
Adjustments:		
Use of prior year balances - (NE) ESRD.....	---	-5,700,000
Use of FY86 Deferral - (CE)ESRD.....	-23,351,000	---
Use of FY86 Deferral - (ER)ESRD.....	-38,280,000	---
Use of PY balances (from UE).....	-584,158,000	-684,158,000
TOTAL, ENERGY SUPPLY RESEARCH AND DEVELOPMENT.....	1,254,162,000	1,347,048,000
(Operating expenses).....	(1,062,807,000)	(1,064,518,000)
(Plant and Capital).....	(191,355,000)	(282,530,000)
URANIUM ENRICHMENT		
I. Uranium enrichment activities		
A. Gaseous diffusion and operations support		
Operating expenses.....	977,300,000	1,002,300,000
Capital equipment.....	1,000,000	1,000,000
Construction:		
87-N-501 General plant projects.....	1,200,000	1,200,000
87-N-502 Cooling tower upgrading Paducah, KY.	6,300,000	6,300,000

	Budget estimate	Conference allowance
84-N-405 Utilities upgrading, Phase III	6,800,000	6,800,000
Subtotal, Construction	14,300,000	14,300,000
Subtotal, Gaseous diffusion operations and suppo	992,600,000	1,017,600,000
B. Atomic vapor laser isotope separation		
Operating expenses	50,000,000	72,500,000
Construction:		
81-T-502 demonstration facilites	---	7,500,000
Subtotal, Atomic vapor laser isotope separation	50,000,000	80,000,000
C. Gas centrifuge program closeout activities		
1. Gas centrifuge process development & demo		
Operating expenses	4,000,000	4,000,000
D. Program direction - OE	4,800,000	4,800,000
Subtotal, Uranium enrichment activities	1,051,400,000	1,106,400,000
Reserve	235,000,000	104,000,000
TOTAL URANIUM ENRICHMENT ACTIVITIES	1,286,400,000	1,210,400,000
(Operating expenses)	(1,271,100,000)	(1,187,600,000)
(Plant and Capital)	(15,300,000)	(22,800,000)
III. Offsetting revenues		
Operating expenses	-1,286,400,000	-1,286,400,000
TOTAL, URANIUM ENRICHMENT	---	-76,000,000
(Operating expenses)	(1,271,100,000)	(1,187,600,000)
(Plant and Capital)	(15,300,000)	(22,800,000)
(Offsetting revenues)	(-1,286,400,000)	(-1,286,400,000)
GENERAL SCIENCE AND RESEARCH		
I. High energy physics		
A. Physics research		
Operating expenses	118,600,000	111,600,000
B. Facility operations		
Operating expenses	213,400,000	213,400,000
Capital equipment	73,300,000	73,300,000
Construction:		
87-R-101 Accelerator improvements and modifications, various locations	11,500,000	11,500,000
87-R-102 General plant projects, various locations	11,200,000	11,200,000
86-R-104 Central Computer Fac. (FERMILAB)	14,157,000	14,157,000
86-R-100 AGS Accum/Booster	3,500,000	3,500,000
84-ER-133 SLAC linear collider (SLC)	976,000	976,000
81-E-218 Tevatron I	367,000	367,000
Subtotal, Construction	41,700,000	41,700,000
Subtotal, Facility operations	328,400,000	328,400,000

	Budget estimate	Conference allowance
C. High energy technology		
Operating expenses	95,500,000	80,500,000
D. Other capital equipment - CE	4,200,000	4,200,000
Subtotal, High energy physics	546,700,000	524,700,000
II. Nuclear physics		
A. Medium energy physics		
Operating expenses	85,000,000	85,000,000
B. Heavy ion physics		
Operating expenses	63,700,000	63,700,000
C. Low energy nuclear physics		
Operating expenses	15,700,000	15,700,000
D. Nuclear theory		
Operating expenses	10,500,000	10,500,000
E. Capital equipment	14,770,000	14,770,000
F. Construction:		
87-R-201 Accelerator Improvements and modifications, various locations	4,300,000	4,300,000
87-R-202 General plant projects, various locations	4,000,000	4,000,000
87-R-403 Continuous Electron Beam Accelerator Facility, Newport News, Virginia	25,000,000	17,000,000
Subtotal Construction	33,300,000	25,300,000
G. Other capital equipment - CE	1,230,000	1,230,000
Subtotal, Nuclear physics	224,200,000	216,200,000
(Operating expenses)	(174,900,000)	(174,900,000)
(Plant and Capital)	(49,300,000)	(41,300,000)
III. General Science program direction - OE	2,500,000	2,500,000
SUBTOTAL, GENERAL SCIENCE AND RESEARCH	773,400,000	743,400,000
(Operating expenses)	(604,900,000)	(582,900,000)
(Plant and Capital)	(168,500,000)	(160,500,000)
Adjustments:		
Undistributed reduction	---	-35,000,000
TOTAL, GENERAL SCIENCE AND RESEARCH	773,400,000	708,400,000
ATOMIC ENERGY DEFENSE ACTIVITIES		
I. Weapons activities		
A. Research and development		
Operating expenses	980,700,000	889,000,000
Capital equipment	109,370,000	94,000,000
Construction:		
87-D-101 General plant projects, various locations	21,300,000	21,300,000
87-D-102 Environmental compliance and cleanup LLNL	7,000,000	---
87-D-104 Safeguards and security enhancement, phase II, LLNL	4,300,000	2,000,000

	Budget estimate	Conference allowance
86-D-103 Decontamination and waste treatment facility, LLNL	5,400,000	5,400,000
86-D-104 Strategic defenses facility, SNLA	15,000,000	15,000,000
86-D-105 Instrumentation system laboratory, SNL	8,900,000	7,450,000
86-D-106 Data communications center, LANL	14,000,000	12,000,000
85-D-102 Nuclear weapons research, development, and testing facs revitalization, Phase I, various locations	57,600,000	40,600,000
85-D-103 Safeguards and security enhancements, LLNL and SNLL	6,900,000	6,900,000
85-D-106 Hardened engineering test bldg, LLNL	430,000	430,000
84-D-102 Radiation-hardened integrated circuit lab, SNLA	3,000,000	3,000,000
82-D-144 Simulation technology laboratory, SNLA	6,000,000	6,000,000
Subtotal, Construction	149,830,000	120,080,000
Subtotal, Research and development	1,239,900,000	1,103,080,000
B. Testing		
Operating expenses	633,800,000	541,400,000
Capital equipment	72,000,000	60,500,000
Construction:		
87-D-101 General plant projects, NTS	7,700,000	7,700,000
85-D-105 Combined device assembly fac, NTS, NV	14,000,000	10,000,000
84-D-107 Nuclear testing facilities revitalization, various locations	15,300,000	10,000,000
Subtotal Construction	37,000,000	27,700,000
Subtotal, Testing	742,800,000	629,600,000
Subtotal, Research, development and testing	1,982,700,000	1,732,680,000
C. Production and surveillance		
Operating expenses	1,968,504,000	1,843,004,000
Capital equipment	132,000,000	129,000,000
Construction:		
87-D-121 General plant projects, various locations	32,000,000	30,000,000
87-D-122 SRAM II warhead production facility, various locations	5,000,000	1,000,000
87-D-123 Protective clothing decon facility, Rocky Flats, Golden, CO	500,000	500,000
87-D-127 ES&H Upgrade, Mound Facility, Miamisburg, OH	2,400,000	2,400,000
87-D-130 Receiving and shipping facility, Pinellas Plant, St. Petersburg, FL	300,000	300,000
86-D-122 Structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, CO	2,600,000	2,600,000
86-D-123 Environmental hazards elimination, various locations	18,300,000	18,300,000

	Budget estimate	Conference allowance
86-D-124 Safeguards and site security upgrading, Phase II, Mound Facility, Miamisburg, OH	3,000,000	3,000,000
86-D-125 Safeguards and site security upgrade Phase II, Pantex Plant, Amarillo, TX	8,500,000	6,500,000
86-D-130 Tritium loading facility replacement Savannah River, Aiken, SC	30,000,000	30,000,000
85-D-112 Enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, TN	21,800,000	21,800,000
85-D-113 Plant power and steam dist system, Pantex Plant, Amarillo, TX	7,600,000	5,600,000
85-D-115 Renovate plutonium building utility systems, Rocky Flats, CO	14,500,000	14,500,000
85-D-121 Air and water pollution control facs, Y-12 Plant, Oak Ridge, TN	10,000,000	10,000,000
85-D-123 Safeguards and site security upgrade, Pantex Plant, Amarillo, TX	1,000,000	1,000,000
85-D-125 Tactical bomb production facilities, various locations	14,800,000	13,300,000
84-D-112 TRIDENT II warhead production facilities, various locations	14,500,000	12,250,000
84-D-113 Antisubmarine warfare/standoff weapon warhead prod facs, var locations	47,000,000	---
84-D-124 Environmental improvements, Y-12 Plant, Oak Ridge, TN	10,000,000	10,000,000
84-D-211 Safeguards and site security upgrading, Y-12 Plant, Oak Ridge, TN	30,000,000	30,000,000
84-D-212 Safeguards and site security upgrade, Pinellas Plant, FL	1,000,000	1,000,000
82-D-107 Utilities & equip restoration, replace & upgrade, Phase III, var locations	116,900,000	101,900,000
82-D-109 155mm artillery fired atomic projectile (AFAP) prod facs, var locations	10,000,000	10,000,000
Subtotal, Construction	401,700,000	325,950,000
Subtotal, Production and surveillance	2,502,204,000	2,297,954,000
D. Inertial confinement fusion		
Operating expenses	109,000,000	145,000,000
Capital equipment	9,500,000	9,000,000
Subtotal, Inertial confinement fusion	118,500,000	154,000,000
E. Program direction		
Operating expenses		
1. Weapons program	52,450,000	52,450,000
3. Community assistance	8,100,000	8,100,000
Subtotal, Program direction	60,550,000	60,550,000
Total, Weapons activities	4,663,954,000	4,245,184,000
(Operating expenses)	(3,752,554,000)	(3,478,954,000)
(Plant and Capital)	(911,400,000)	(766,230,000)

	Budget estimate	Conference allowance
II. Materials production		
A. Reactor operations		
Operating expenses	616,660,000	586,000,000
Construction:		
87-D-156 Reactor effluent cooling water thermal mitigation, Savannah River, SC	5,000,000	---
86-D-150 In-core neutron monitoring system N-Reactor, Richland, WA	2,090,000	2,090,000
86-D-152 Reactor electrical distribution system, Savannah River, SC	7,700,000	4,700,000
85-D-145 Fuel production facility, Savannah River, SC	35,500,000	30,500,000
84-D-136 Enriched uranium conversion facility modifications, Y-12 Plant, Oak Ridge, TN	3,000,000	3,000,000
Subtotal, Construction	53,290,000	40,290,000
Subtotal, Reactor operations	669,950,000	626,290,000
B. Processing of nuclear materials		
Operating expenses	499,830,000	485,330,000
Construction:		
86-D-151 PUREX electrical system upgrade, Richland, WA	3,900,000	3,900,000
86-D-153 Additional line III tritium furnace, Savannah River, SC	7,300,000	7,300,000
86-D-154 Effluent treatment facility, Savannah River, SC	15,650,000	13,650,000
86-D-157 Hydrofluorination system, FB-Line, Savannah River, SC	2,510,000	2,510,000
84-D-135 Process facility modifications, Richland, WA	35,000,000	30,000,000
Subtotal, Construction	64,360,000	57,360,000
Subtotal, Processing of nuclear materials	564,190,000	542,690,000
C. Supporting services		
Operating expenses	252,500,000	234,000,000
Construction:		
87-D-146 General plant projects, various locations	35,980,000	31,980,000
87-D-149 Reduced chemical discharges to process sewers, Richland, WA	3,150,000	3,150,000
87-D-150 Radioactive liquid effluent treatment facility, partial design only, Richland, WA	4,000,000	4,000,000
87-D-152 Environmental protection plantwide, Savannah River, SC	1,500,000	1,500,000
87-D-159 FMPC Environmental upgrade, Oak Ridge, TN	10,000,000	10,000,000
86-D-149 Productivity retention program, Phase I, various locations	76,225,000	45,225,000
86-D-156 Plantwide safeguards systems, Savannah River, SC	13,900,000	8,950,000
85-D-139 Fuel processing restoration, IFPF, INEL, ID	35,000,000	31,000,000

	Budget estimate	Conference allowance
85-D-140 Productivity and radiological improvements, FMPC, Fernald, OH	23,500,000	21,000,000
84-D-134 Safeguards and security improvements Plant-wide, Savannah River, SC	14,650,000	11,650,000
84-D-137 Facility security systems upgrade, IFPF, INEL, ID	300,000	300,000
82-D-124 Restoration of production capabilities, Phase II, III, IV, & V, var locs.	7,811,000	4,000,000
Subtotal, Construction	226,016,000	172,755,000
Subtotal, Supporting services	478,516,000	406,755,000
D. Enriched material	204,500,000	179,500,000
E. Capital equipment	126,090,000	114,090,000
F. Program direction	22,900,000	22,900,000
Subtotal, Materials production	2,066,146,000	1,892,225,000
(Operating expenses)	(1,596,390,000)	(1,507,730,000)
(Plant and Capital)	(469,756,000)	(384,495,000)
III. Defense waste and byproducts management		
A. Interim waste management		
Operating expenses	324,730,000	310,000,000
Construction:		
87-D-171 General plant projects, various locations	26,535,000	25,535,000
87-D-172 WESF K-3 Filter upgrade, Richland, WA	500,000	500,000
87-D-173 242-A Evaporator/crystallizer upgrade, Richland, WA	2,800,000	2,800,000
87-D-174 241-AQ Tank farm, Richland, WA	2,100,000	2,100,000
87-D-175 Steam Transfer Line, RL	900,000	900,000
87-D-177 TRA Liquid radioactive waste clean-up, phase III, INEL, Idaho	700,000	700,000
87-D-180 Burial ground expansion, Savannah River, SC	6,300,000	4,300,000
87-D-181 Tank farm containment buildings, Savannah River, SC	1,360,000	1,360,000
86-D-172 B-Plant F-Filter, Richland, WA	3,000,000	3,000,000
86-D-174 Low-level waste processing and shipping system, FMPC, Fernald, OH	10,000,000	10,000,000
86-D-175 Security upgrade, ID	7,300,000	5,300,000
85-D-157 Seventh calcined solids storage facility, INEL, ID	800,000	800,000
85-D-158 Central warehouse upgrade, Richland, WA	1,300,000	1,300,000
85-D-159 New waste transfer facilities H-Area, Savannah River, SC	8,200,000	8,200,000
85-D-160 TRA security system upgrade, INEL, ID	2,750,000	2,750,000
82-N-103 Waste handling & isolation facs, Richland, WA	2,000,000	2,000,000

	Budget estimate	Conference allowance
Subtotal, Construction	76,545,000	71,545,000
Subtotal, Interim waste management	401,275,000	381,545,000
B. Long-term waste management technology		
Operating expenses	88,820,000	88,820,000
Construction:		
81-T-105 Defense waste processing facility, Savannah River, SC	135,000,000	135,000,000
Subtotal, Long-term waste management technology	223,820,000	223,820,000
C. Terminal storage		
Operating expenses	39,100,000	39,100,000
D. Capital equipment	37,805,000	36,805,000
E. Program direction	2,400,000	2,400,000
Subtotal, Defense waste & by-products management	704,400,000	683,670,000
(Operating expenses)	(455,050,000)	(440,320,000)
(Plant and Capital)	(249,350,000)	(243,350,000)
IV. All Other		
A. Verification and control technology		
Operating expenses	95,500,000	91,000,000
Capital equipment	4,200,000	2,200,000
Construction:		
85-D-171 Space science laboratory, LANL, NM	2,000,000	2,000,000
Subtotal, Verification and control technology	101,700,000	95,200,000
B. Nuclear safeguards and security		
Operating expenses	61,100,000	57,600,000
Capital equipment	4,800,000	4,800,000
Construction:		
86-D-186 Nuclear safeguards technology lab, LANL, NM	1,000,000	1,000,000
Subtotal Nuclear safeguards and security	66,900,000	63,400,000
V. Security investigations - OE	33,300,000	33,300,000
Subtotal, All Other	201,900,000	191,900,000
(Operating expenses)	(189,900,000)	(181,900,000)
(Plant and Capital)	(12,000,000)	(10,000,000)
VI. Naval reactors development		
A. Plant development		
Operating expenses	71,000,000	71,000,000
B. Reactor development		
Operating expenses	274,000,000	269,000,000
Construction:		
87-N-101 General plant projects, various locations	4,800,000	4,800,000
87-N-102 Kesselring site facilities upgrade, KAPL, Schnectady, NY	5,000,000	5,000,000
87-N-103 Computation laboratory addition, Bettis, Pittsburg, PA	2,300,000	2,300,000
Subtotal, Construction	12,100,000	12,100,000
Subtotal, Reactor development	286,100,000	281,100,000

	Budget estimate	Conference allowance
C. Reactor operation and evaluation		
Operating expenses	173,000,000	169,000,000
E. Capital equipment	51,700,000	51,700,000
F. Program direction	11,800,000	11,800,000
Subtotal, Naval reactors development	593,600,000	584,600,000
(Operating expenses)	(529,800,000)	(520,800,000)
(Plant and Capital)	(63,800,000)	(63,800,000)
Adjustments:		
Undistributed reduction	---	-119,829,000
TOTAL, ATOMIC ENERGY DEFENSE ACTIVITIES	8,230,000,000	7,477,750,000
(Operating expenses)	(6,523,694,000)	(6,009,875,000)
(Plant and Capital)	(1,706,306,000)	(1,467,875,000)
DEPARTMENTAL ADMINISTRATION		
I. Office of the Secretary - Salaries and expenses		
A. Office of the Secretary	1,353,000	1,353,000
B. Other expenses	507,000	455,000
Subtotal, Office of the Secretary	1,860,000	1,808,000
II. General management - salaries		
A. Board of Contract Appeals	269,000	269,000
B. General Counsel	7,413,000	7,413,000
C. Inspector General	7,720,000	7,720,000
D. A/S Management & Administration	39,845,000	39,845,000
E. A/S Cong., Intergov. & Public Affairs	3,689,000	3,689,000
F. Operations Offices	57,323,000	57,323,000
G. Policy, Planning & Analysis	2,763,000	2,763,000
H. A/S International Affairs	2,832,000	2,832,000
I. Office of Minority Economic Impact	406,000	406,000
Subtotal, Salaries	122,260,000	122,260,000
III. General management - other expenses		
A. Other salary expenses	6,369,000	6,369,000
B. Benefits	18,842,000	18,842,000
C. Travel	5,775,000	5,775,000
D. Services	117,054,000	117,054,000
F. Capital equipment	7,913,000	7,913,000
Subtotal, Other expenses	155,953,000	155,953,000
IV. Program Support		
A. Policy analysis and system studies	4,500,000	2,500,000
B. Indian Affairs	200,000	200,000
C. Consumer Affairs	50,000	50,000
D. Public Affairs	206,000	206,000
E. Competition	50,000	50,000
F. International Policy Studies	1,700,000	700,000
G. Office of Minority Economic Impact	1,200,000	2,781,000
H. Cost of work for others	115,050,000	115,050,000
Subtotal, Program support	122,956,000	121,537,000
V. Miscellaneous revenues	-251,947,000	-251,947,000
Foreign travel reduction	---	-1,000,000
Public and Legislative Affairs	---	-5,000,000
TOTAL, DEPARTMENTAL ADMINISTRATION	151,082,000	143,611,000
(Operating expenses)	(395,116,000)	(387,645,000)
(Plant and Capital)	(7,913,000)	(7,913,000)
(Miscellaneous revenues)	(-251,947,000)	(-251,947,000)

	Budget estimate	Conference allowance
ALASKA POWER ADMINISTRATION - OPERATION AND MAINTENANCE		
Power marketing - Alaska Power Administration		
Operating expenses	3,281,000	3,281,000
Use of prior year balances	-400,000	-400,000
TOTAL ALASKA POWER ADMINISTRATION	2,881,000	2,881,000
BONNEVILLE POWER ADMINISTRATION		
(Limitation on direct loans)	(20,000,000)	(10,000,000)
SOUTHEASTERN POWER ADMINISTRATION - OPERATION AND MAINTENANCE		
Power marketing - Southeastern power administration		
A. Operating and maintenance	2,031,000	2,031,000
B. Purchase power and wheeling	19,705,000	19,705,000
Use of prior year balances	-2,089,000	-2,089,000
TOTAL SOUTHEASTERN POWER ADMINISTRATION	19,647,000	19,647,000
SOUTHWESTERN POWER ADMINISTRATION - OPERATION AND MAINTENANCE		
Power marketing - Southwestern Power Administration		
A. Operation and maintenance	11,802,000	11,802,000
B. Purchase power and wheeling	20,959,000	20,959,000
C. Construction	5,819,000	5,819,000
Use of prior year balances	-13,243,000	-13,243,000
TOTAL SOUTHWESTERN POWER ADMINISTRATION	25,337,000	25,337,000
WESTERN AREA POWER ADMINISTRATION - CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE		
Power marketing - Western Area Power Administration		
A. Construction and rehabilitation	83,275,000	83,275,000
B. System operation and maintenance	86,100,000	86,100,000
C. Purchase power and wheeling	114,400,000	114,400,000
Unobligated balances	-43,466,000	-43,466,000
Less amount by transfer, permanent authority	-3,463,000	-3,463,000
TOTAL WESTERN AREA POWER ADMINISTRATION	236,846,000	236,846,000
FEDERAL ENERGY REGULATORY COMMISSION		
Federal Energy Regulatory Commission	99,079,000	99,079,000
Offsetting Revenues	-78,754,000	-78,754,000
TOTAL, FERC AFTER REVENUES	20,325,000	20,325,000
NUCLEAR WASTE DISPOSAL FUND		
Nuclear waste disposal fund	769,349,000	499,000,000
GEOTHERMAL RESOURCES DEVELOPMENT FUND		
Program direction	72,000	72,000

TITLE IV—INDEPENDENT AGENCIES

DELAWARE RIVER BASIN COMMISSION

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

Appropriates $200,000 for the contribution to the Delaware River Basin Commission as proposed by the Senate instead of $289,000 as proposed by the House.

NATIONAL COUNCIL ON PUBLIC WORKS IMPROVEMENT

SALARIES AND EXPENSES

Appropriates $1,750,000 for the National Council on Public Works Improvement instead of $2,500,000 as proposed by the Senate.

NUCLEAR REGULATORY COMMISSION

Appropriates $401,000,000 for the Nuclear Regulatory Commission instead of $405,000,000 as proposed by the House and $391,000,000 as proposed by the Senate.

The conferees have agreed to include language in the Joint Resolution that would allow the NRC to use the money currently collected under 10 CFR Part 25, to pay the Office of Personnel Management for conducting background investigations used as a basis for NRC security clearances to allow designated licensee representatives access to classified information.

TITLE—GENERAL PROVISIONS

The conferees have recommended bill language to prohibit the construction of any additional hydropower units at Denison Dam-Lake Texoma in fiscal 1987. It is the conferees' intention that the two currently operating hydropower units at Denison Dam continue to operate, negotiations and discussions may occur, but that construction be initiated nor any agreements to construct be finalized for additional hydropower units at Denison Dam-Lake Texoma.

The conferees believe it is inappropriate to construct any additional hydropower units at Denison Dam until the ongoing Red River Basin, Oklahoma, Arkansas, Louisiana and Texas, Comprehensive Study and the Denison Dam Restudy are completed. The conferees strongly support the earliest possible completion of these studies, and has provided funds to move up the scheduled completion date of the Red River Basin comprehensive study to September 1988.

The conferees do not intend this limitation to interfere with either the current operation of the existing two hydropower units at Denison Dam, nor with their ongoing studies involving Denison Dam, including the Red River Basin comprehensive study and the Denison Dam Restudy.

The conferees agree to the House language relating to section 503.

FOREIGN ASSISTANCE AND RELATED PROGRAMS

Amendment No. 6: Provides for funding for foreign assistance programs for fiscal year 1987. The amendment inserts the conference agreement for Foreign Assistance and Related Programs for fiscal year 1987.

A summary of the title totals of the bill follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	FY 1986 adjusted	FY 1987 estimates	House	Senate	Conference
Total, contribution for Multilateral Economic Assistance, title I	(4,267,463,045)	(5,397,094,601)	(3,364,106,869)	(1,295,024,896)	(3,279,762,922)
Budget authority	1,408,483,715	1,578,002,125	1,260,444,000	1,043,657,676	1,186,591,927
Limitation on callable capital	(2,858,979,330)	(3,819,092,476)	(2,103,662,869)	(251,367,220)	(2,093,170,995)
Total, title II, Economic assistance - bilateral:					
New budget (obligational) authority	6,124,850,000	6,852,252,000	5,820,873,000	6,560,783,000	6,269,212,500
(Limitation on direct loans)	(31,637,000)	(30,000,000)	(23,000,000)	(15,000,000)	(23,000,000)
(Limitation on guaranteed loans)	(281,836,000)	(150,000,000)	(345,464,000)	(295,464,000)	(345,464,000)
Total, military assistance programs	5,767,350,500	6,726,280,000	4,987,523,284	4,987,523,284	4,996,441,284
(Limitation on obligations)	(311,025,000)	(350,000,000)	(280,820,000)	(350,000,000)	(315,820,000)
Total, Export-Import Bank, new budget (obligational) authority	1,062,270,000		900,000,000	900,000,000	900,000,000
Total, title IV, export assistance	18,087,000	318,000,000	16,331,000	20,000,000	20,000,000
Total NBOA (including Ex-Im)	14,381,041,215	15,474,534,125	12,985,171,284	[1]13,511,963,960	13,372,245,711

[1]Includes $462,000,000 in budget authority related to the Export-Import Bank which has been scored against the House bill but not against the Senate bill.

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

The following table shows the conference agreement for Title I, Multilateral Economic Assistance:

	FY 1986 adjusted	FY 1987 estimated	House	Senate	Conference
TITLE I—MULTILATERAL ECONOMIC ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
International Financial Institutions					
World Bank Group					
Contribution to the International Bank for Reconstruction and Development:					
Paid-in capital	105,002,549	182,845,991	94,805,000		55,805,000
Limitation on callable capital subscriptions	(1,353,220,096)	(2,105,188,054)	(1,169,261,667)		(688,261,667)
Total, contribution to the International Bank for Reconstruction and Development	(1,458,222,645)	(2,288,034,045)	(1,264,066,667)		(744,066,667)
Budget authority	105,002,549	182,845,991	94,805,000		55,805,000
Limitation on callable capital	(1,353,220,096)	(2,105,188,054)	(1,169,261,667)		(688,261,667)
Contribution to the International Development Association (IDA VI)	669,900,000	750,000,000	604,844,000	622,623,251	622,623,261
Contribution to the International Finance Corporation	27,827,390	35,033	25,125,000		
Contribution to the Special Facility for Sub Saharan Africa	71,775,000		64,805,000		64,805,000
Contribution to Multilateral Investment Guarantee Agency:					
Paid-in capital		44,403,116			
Limitation on callable capital		(177,612,464)			
Total, contribution to World Bank Group	(2,227,725,035)	(3,295,082,625)	(1,958,840,667)	(622,623,251)	(1,431,918)
Budget authority	874,504,939	1,012,282,107	789,579,000	622,623,251	743,233,251
Limitation on callable capital	(1,353,220,096)	(2,282,800,518)	(1,169,261,667)		(688,261,667)
Fund for special operations	38,280,000	72,500,000	34,562,000		17,263,000
Inter-regional paid-in capital	36,355,983	58,000,983	32,835,000		16,417,000
Inter-American Investment Corporation	11,197,000	13,000,000			
Limitation on callable capital subscriptions	(1,230,964,704)	(1,230,964,704)	(696,868,299)		(1,111,561,128)
Total, contribution to the Inter-American Development Bank	(1,316,808,687)	(1,374,465,687)	(764,265,299)		(1,145,241,128)
Budget authority	85,843,983	143,500,983	67,397,000		33,680,000
Limitation on callable capital	(1,230,964,704)	(1,230,964,704)	(696,868,299)		(1,111,561,128)
Contribution to the Asian Development Bank					
Paid-in capital	11,397,408	13,232,676	10,291,000	13,232,676	13,232,676

	FY 1986 adjusted	FY 1987 estimated	House	Senate	Conference
Development fund	95,700,000	130,000,000	86,406,000	108,900,524	91,406,000
Limitation on callable capital	(226,230,498)	(251,367,220)	(195,551,923)	(251,367,220)	(251,367,220)
Total, contribution to the Asian Development Bank	(333,327,906)	(394,599,896)	(292,248,923)	(373,500,420)	(356,005,896)
Budget authority	107,097,408	143,232,676	96,697,000	122,133,200	104,638,676
Limitation on callable capital	(226,230,498)	(251,367,220)	(195,551,923)	(251,367,220)	(251,367,220)
Contribution to the African Development Fund	59,573,000	75,000,000	53,788,000	62,827,225	53,788,000
Contribution to the African Development Bank:					
Paid-in capital	15,492,910	17,986,359	13,988,000	.....	13,988,000
Limitation on callable capital	(48,564,032)	(53,960,034)	(41,980,980)	.....	(41,980,980)
Total, contributions to the African Development Bank	(64,056,942)	(71,946,393)	(55,968,980)	.....	(55,968,980)
Budget authority	15,492,910	17,986,359	13,988,000	.....	13,988,000
Callable capital	(48,564,032)	(53,960,034)	(41,980,980)	.....	(41,980,980)
Total, contribution to International Financial Institutions	(4,001,491,570)	(5,211,094,601)	(3,125,111,869)	(1,058,950,896)	(3,042,498,922)
Budget authority	1,142,512,240	1,392,002,125	1,021,449,000	807,583,676	949,327,927
Limitation on callable capital	(2,858,979,330)	(3,819,092,476)	(2,103,662,869)	(251, 367,220)	(2,093,170,995)
Department of State					
International organizations and programs	265,971,475	186,000,000	238,995,000	236,074,000	237,264,000
Total, contribution for Multilateral Economic Assistance, title I	(4,267,463,045)	(5,397,094,601)	(3,364,106,869)	(1,295,024,896)	(3,279,762,922)
Budget authority	1,408,483,715	1,578,002,125	1,260,444,000	1,043,657,676	1,186,591,927
Limitation on callable capital	(2,858,979,330)	(3,819,092,476)	(2,103,662,869)	(251,367,220)	(2,093,170,995)

INTERNATIONAL ORGANIZATIONS AND PROGRAMS (IOPs)

The following table shows the conference agreement for the International Organizations and Programs account:

Organization	*Conference Agreement*
UNDP	$107,500,000
UNICEF	51,080,000
World Food Program	1,818,000
U.N. Capital Development Fund	861,000
U.N. Decade for Women	219,000
International Convention & Scientific Organization Contributions	2,000,000
World Meteorological Organization Voluntary Cooperation	2,000,000
International Atomic Energy Agency	20,500,000
U.N. Environment Program	6,800,000
U.N. Educational & Training Program for Southern Africa	789,000
UNDP Trust Fund to Combat Poverty and Hunger in Africa	0
U.N. Institute for Namibia.	110,000
U.N. Trust Fund for South Africa	250,000
Convention on International Trade in Endangered Species	172,000
UNIDO Investment Promotion Service	150,000
U.N. Fellowship Program	100,000
World Heritage Fund	219,000
U.N. Voluntary Fund for Victims of Torture	86,000
Center on Human Settlements	400,000
International Fund for Agricultural Development	28,710,000
IFAD Specialty Facility for Africa	(10,000,000)
Organization of American States	13,500,000
Total	237,264,000

IOP ACCOUNT OBLIGATION CEILING

The conferees agree to delete the Senate provision which limited obligations during FY 1987 for the IOP account, excluding IFAD, to $90,000,000.

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

The conference agreement provides $28,710,000 for the International Fund for Agricultural Development, of which $10,000,000 shall be for the Special Program for Sub-Saharan African Countries Affected by Drought and Desertification. The decision to fund a contribution to the Special Program will put the United States behind in meeting its commitment to IFAD's second replenishment. While the conferees regret this fact, it is one that has been taken with the knowledge and support of IFAD's management given the priority of the Special Program.

The conferees note that IFAD is entering its 10th year of operations. As a consequence, IFAD's project portfolio has grown and many projects have reached completion. This will require IFAD to pay greater attention to monitoring and evaluation. Therefore, the conferees instruct the U.S. Representative to IFAD to recommend the establishment of an independent program Evaluation Division, which shall serve as a central evaluation unit with a direct line of reporting to the Board of Directors, and that the Evaluation Division make a report available to the donor representatives by February 1 of each year detailing the extent to which (a) IFAD staff are simultaneously involved in project lending and evaluation operations, and (b) evaluation report recommendations are actually taken up in the field. The conferees request IFAD to prepare a study for the U.S. representative analyzing the impact of the implementation of this recommendation.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

The following table shows the conference agreement for Title II, Bilateral Economic Assistance:

	FY 1986 adjusted	FY 1987 estimate	House	Senate	Conference
TITLE II—BILATERAL ECONOMIC ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
Agency for International Development					
Agriculture, rural development, and nutrition Development Assistance	669,895,000	709,900,000	619,839,000	649,500,000	639,613,000
Population Development Assistance	239,250,000	250,000,000	239,250,000	230,000,000	234,625,000
Health Development Assistance	192,189,000	150,843,000	173,525,000	160,000,000	166,762,000
Child Survival Fund	23,925,000	25,000,000	50,000,000	75,000,000	75,000,000
Education and human resources development, Development Assistance	162,642,000	179,789,000	146,847,000	155,000,000	155,000,000
Energy and selected development activities, Development Assistance	166,862,000	217,210,000	135,657,000	145,000,000	140,328,500
Science and technology, Development Assistance	10,326,000	14,258,000	9,323,000	10,000,000	9,661,500
Private sector revolving fund (by transfer)	(17,226,000)	(13,500,000)	(15,553,000)	(13,500,000)	(15,553,000)
(Limitation on direct loans)	(18,000,000)	(15,000,000)	.....	.....	.....
Total: development assistance	1,465,089,000	1,547,000,000	1,374,441,000	1,424,500,000	1,420,990,500
American schools and hospitals abroad	33,495,000	10,000,000	33,495,000	35,000,000	35,000,000
International diaster assistance	21,532,000	25,000,000	19,441,000	20,000,000	70,000,000

	FY 1986 adjusted	FY 1987 estimate	House	Senate	Conference
Sahel development program	77,038,000	80,000,000	69,557,000	70,000,000	70,000,000
Payment to the Foreign Service Retirement and Disability Fund	43,122,000	45,492,000	45,492,000	45,492,000	45,492,000
AID deobligate/reobligate reappropriation	5,000,000		100,000,000	100,000,000	100,000,000
Operating expenses of the Agency for International Development	360,167,000	388,900,000	340,600,000	340,600,000	340,600,000
Operating expenses of the Office of the Inspector General	20,145,000	21,750,000	18,189,000	21,750,000	21,000,000
Housing and other credit guaranty programs:					
Loan reserve		10,000,000			
(Limitation on guaranteed loans)	(145,464,000		(145,464,000)	(145,464,000)	(145,464,000)
Subtotal: Agency for International Development	2,025,588,000	2,128,142,000	2,001,215,000	2,057,342,000	2,103,082,500
Economic support fund	3,540,642,000	4,093,800,000	3,196,798,000	3,900,000,000	3,550,000,000
Total: Agency for International Development	5,566,230,000	6,221,942,000	5,198,013,000	5,957,342,000	5,653,082,500
African Development Foundation					
Appropriations	3,706,000	6,500,000	3,872,000	6,500,000	6,500,000
Inter-American Foundation					
Appropriations	11,454,000	10,800,000	11,800,000	10,800,000	11,800,000
Overseas Private Investment Corporation					
(Limitation on direct loans)	(13,637,000)	(15,000,000)	(23,000,000)	(15,000,000)	(23,000,000)
(Limitation on guaranteed loans)	(136,372,000)	(150,000,000)	(200,000,000)	(150,000,000)	(200,000,000)
Total: Funds Appropriated to the President	5,581,390,000	6,239,242,000	5,213,685,000	5,974,642,000	5,671,382,500
Independent Agency					
Peace Corps	124,410,000	126,200,000	130,000,000	130,000,000	130,000,000
Department of State					
International narcotics control	55,055,000	65,445,000	65,445,000	65,445,000	65,445,000
Migration and refugee assistance	324,356,000	347,525,000	347,525,000	346,856,000	346,856,000
United States Emergency Refugee and Migration Assistance Fund		25,000,000	25,000,000		14,000,000
Anti-terrorism assistance	7,101,000	9,840,000	9,840,000	9,840,000	9,840,000
Peacekeeping operations	32,538,000	39,000,000	29,378,000	34,000,000	31,689,000
Total: Department of State	419,050,000	486,810,000	477,188,000	456,141,000	467,830,000Total titl
Total title II, Economic assistance—bilateral:					
New budget (obligational) authority	6,124,850,000	6,852,252,000	5,820,873,000	6,560,783,000	6,269,212,500
(Limitation on direct loans)	(31,637,000)	(30,000,000)	(23,000,000)	(15,000,000)	(23,000,000)
(Limitation on guaranteed loans)	(281,836,000)	(150,000,000)	(345,464,000)	(295,464,000)	(345,464,000)

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

AGRICULTURE ACTIVITIES IN POLAND

The conferees agree to the Senate provision providing up to $10,000,000 in assistance under the Agriculture account for agriculture activities in Poland. The activities funded through this program are to be managed by the Polish Catholic Church or other non-governmental organizations.

HEALTH, DEVELOPMENT ASSISTANCE

IMMUNIZATION ACTIVITIES

The conferees have provided that up to $4,150,000 may be made available from the Child Survival Fund or Health, Development Assistance account in order to place 25 Public Health Service physicians in A.I.D. assisted countries to begin implementing the Congressional goal of immunizing 80 percent of the children in 63 A.I.D. assisted countries by 1990. In addition, funds are available for up to five technical core staff at the Centers for Disease Control or A.I.D. The conferees note that additional physicians and logistical support will be required in future years to attain this ambitious but extremely worthwhile goal.

CHILD SURVIVAL FUND

AID ADMINISTRATION OF CHILD SURVIVAL FUND

The conferees strongly support the goal of child survival in AID's development program, and commends the agency for its commitment to making child survival the focus of its health program.

The conferees have heard from a number of PVOs and international organizations, including CARE, Inter-Action and Save the Children, about their concerns over the short time they were given to prepare program proposals and their concerns over the administration of the program.

They were concerned that an emphasis on a few selected interventions may not adequately address priority child survival needs in all countries served. Furthermore, AID's strategy to target resources to selected countries, which will assist in maximizing impact on those countries, will at the same time not allow for expansion of child survival efforts in other countries with severe infant and child survival problems. It is the intent of the conferees to make child survival funds available in areas of high infant mortality and for activities of those private voluntary organizations and international organizations with an already established record in international health.

These groups were concerned that the administration of the Child Survival Fund may be unnecessarily restricting activities. Two leading activities, oral rehydration therapy and immunizations, should be supported and coordinated with other important child survival interventions appropriate to the community served. Programs, such as breast feeding promotion, should emphasize the role of mothers, who have the greatest impact on children's health.

Increased time for project planning should be incorporated in the administrative procedures governing use of the Child Survival Fund to ensure appropriate project design and delivery. Implementing agencies should have information on the use and availability of Child Survival Funds on a timely basis.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

INTERNATIONAL STUDENT EXCHANGE PROGRAM

The conferees agree to the Senate provision providing not less than $6,000,000 for the International Student Exchange Program.

ENERGY AND SELECTED DEVELOPMENT ACTIVITIES, DEVELOPMENT ASSISTANCE

CENTRAL AMERICAN RURAL ELECTRIFICATION SUPPORT

The conferees agree to the Senate provision providing not less than $5,000,000 for the Central American Rural Electrification Support Project.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

ASHA PROGRAMS IN CHINA

The conferees agree to the House report language encouraging the establishment of ASHA-sponsored educational and other programs in China which could help set a firm foundation for improved political, economic and cultural relations between the United States and China.

INTERNATIONAL DISASTER ASSISTANCE

EL SALVADOR

The conferees agree to provide $50,000,000 in emergency disaster assistance for El Salvador, to respond swiftly to needs arising from the recent earthquake.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

ACCOUNT CHANGES

The conferees agree that for the purpose of funds made available by this act for FY 1987, the Agency for International Development may change program related overseas in-country travel to the relevant program account. Similarly, for FY 1987, the cost of foreign service nationals who carry out program related functions may also be charged against the relevant program account.

The conferees expect that these costs will be derived proportionately from the various accounts administered by AID overseas. It is also agreed that the total of funds provided for operating expenses together with these

program related transfers shall not exceed $380,00,000 for FY 1987.

It is also the sense of the conferees that this "account changes" provision should not be continued in future years unless there are extraordinary requirements for doing so.

AID INSPECTOR GENERAL

The conferees agree with Senate provisions which provide for a personnel floor for the Inspector General's Office, allowing up to 3% of the funds under AID Operating Expenses to be transferred to the Inspector General if additional funds are required, and prohibit the transfer of any of the Regional Overseas Inspector General Offices.

FOREIGN AFFAIRS ADMINISTRATIVE SUPPORT

The conferees agree to the Senate provision limiting funding for Foreign Affairs Administrative Support to not more than $15,000,000.

INTERNATIONAL DEVELOPMENT INTERN (IDI) PROGRAM

The conferees agree to the Senate report language expressing strong support for the AID IDI Program, but are not recommending an earmark for the program because of AID assurances that the program for FY 1987 will be as large as that for the current year.

AID DEPENDENT SCHOOLS

The conferees agree with Senate report language which clarifies that an earmark for education for AID dependents overseas is not being recommended due to assurances from AID management that support for dependent schools will be continued this year.

INDIA FOOD AID

The conferees are well aware of continuing record domestic food surpluses which are causing serious disruption to American agriculture and rural economies. The conferees also understand that AID exports of P.L. 480 Title II commodities to India are on a "phase down" or "phase out" schedule, despite the fact that recent nutrition studies point out the continued importance of, and need for, the school feeding program there. In light of the opportunities for continued utilization of the India food aid program, and the fact that it benefits U.S. farmers, the conferees recommend that AID reconsider its current "phase down" of the India food aid program.

ROCAP

The conferees have reviewed the AID Regional Inspector General's recent report of its audit entitled "Regional Office for Central American and Panama (ROCAP) Institutional Grantees' Economy, Efficiency and Compliance." The report identifies a number of serious problems and deficiencies with respect to administrative procedures, fiscal proceedures and systems, internal control systems, organization, and compliance with applicable laws and regulations of ROCAP's grantees. These problems have resulted in $454,197 in questioned costs, and raise doubts about the long-term viability of certain regional institutions which are major recipients of ROCAP funds. It is the conferees' recommendation that no additional funds be obligated to ROCAP until the AID Administrator certifies that recommendations of the Inspector General contained in the audit report are fully complied with.

The conferees have also reviewed the GAO's report entitled "Questions on the Central American Regional Program Need To Be Resolved." This report, dated September 1986, cites the ineffectiveness of some prior regional programs and raises profound questions about the role of regionalism in Central America and the need for ROCAP. While the conferees believe the United States should encourage regional economic cooperation in Central America, the GAO report reveals that half of AID regional programs are administered by AID/Washington. Accordingly, the conferees recommend that AID submit to the Congress within 90 days a report analyzing the prospects and utility of regional programs, and the management and control of these programs within AID.

ECONOMIC SUPPORT FUND

OBLIGATION CEILING

The conferees agree to delete the obligation ceiling proposed by the Senate. Funds provided under the ESF account may be obligated in either fiscal year 1987 or 1988.

CENTRAL AMERICA FUNDING

The conferees agree to include language proposed by the House that requires that ESF for Central America, provided under authority included in the FY 1987 Military Construction bill, be included within the FY 1987 funding leval.

PAKISTAN

The conferees agree to earmark ESF funds for Pakistan at $250,000,000.

PHILIPPINES

The conferees agree to earmark an additional $200,000,0000 in ESF for the Philippines in recognition of the assistance requirements of the Aquino government.

IRELAND

The conferees agree to earmark $35,000,000 for the United States contribution to the International Fund for Northern Ireland and Ireland. The $35,000,000 is the authorized level for fiscal year 1987.

ASSISTANCE FOR NARCOTICS CONTROL RESPONSIVENESS

The conference agreement provides up to $20,000,000 for countries notably responsive to U.S. narcotics control concerns. The provision allows the Administration to provide additional ESF support to countries that are receiving International Narcotics Control assistance and which have made substantial progress in efforts to control illicit drugs. Funding for this program is to be provided through the regular notification process.

SOUTH AFRICA NOTIFICATION

The conferees agree to the House provision requiring that funding for South African programs, projects and activities be provided through the regular notification process.

TIED AID

The conference agreement provides a $5,000,000 limit on the use of ESF funds for tied aid. However, additional tied aid may be provided through a determination and notification by the President.

The conference agreement provides for $100 million in funds available under the Export-Import Bank appropriations to be used for tied aid.

SEPARATE ACCOUNTS

The conferees have included the House provision that requires that after February 1, 1987 any country which receives in excess of $5,000,000 as cash transfer assistance must maintain separate accounts for the funds.

DEVELOPMENT ASSISTANCE PROVISION

The conferees agree to delete the Senate provision that would have permitted development assistance funds to be used as a cash grant.

CYPRUS

The conference agreement provides for a $15 million earmark for Cyprus.

MOZAMBIQUE

The conferees have deleted a Senate provision on assistance to Mozambique. Restrictions on assistance to Mozambique are included in the authorization bill.

CIP FOR EGYPT

The conferees agree to earmark $200 million for a Commodity Import Program in Egypt. However, if the FY 1987 cash payment to Egypt exceeds $115 million, as permitted by this legislation, then the increase in the cash payment shall be derived from proportionate reductions in both project assistance and the Commodsity Import Program.

HIJACKING IN PAKISTAN

The conferees recognize that the Pakistani authorities are responsible for conducting a thorough investigation of the tragic hijacking of Pan Am Flight 73 and preparing for a trial in accordance with Pakistani law. It is the expectation of the conferees that the investigation will be vigorous, expeditious, and that the terrorists associated with the hijacking will be prosecuted to the fullest extent of the law.

INTER-AMERICAN FOUNDATION (IAF)

The conferees agree to the House level of $11,800,000 for the Inter-American Foundation. The conferees encourage the Foundation to continue to work actively in Haiti with an expanded program, and have provided sufficient funding for this purpose.

MIGRATION AND REFUGEE ASSISTANCE

The conferees agree to the Senate provision that not more than $8,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the U.S. State Department.

PEACEKEEPING OPERATIONS

The conferees agree to accept the House provision that not more than half of the funds appropriated under this account which are allocated for the U.N. Force in Cyprus may be obligated for the U.S. contribution to that force until the Secretary of State submits a report to the Congress detailing how the U.S. and other contributing countries plan to eliminate the force's financial deficit.

TITLE III—MILITARY ASSISTANCE

The conferees agree to the following amounts under Title III:

	FY 1986 adjusted	FY 1987 estimated	House	Senate	Conference
TITLE III—MILITARY ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
Military Assistance	748,374,000	1,046,450,000	675,697,000	.....	900,000,000
International Military Education and Training	52,146,500	68,830,000	47,082,000	65,000,000	56,000,000
Foreign Military Credit Sales Direct credits and forgiven loans	4,966,830,000	5,611,000,000	4,264,744,284	4,922,523,284	4,040,441,284
Special Defense Acquisition Fund (limitation on obligations)	(311,025,000)	(350,000,000)	(280,820,000)	(350,000,000)	(315,820,000)
Total military assistance programs	5,767,350,500	6,726,280,000	4,987,523,284	4,987,523,284	4,996,441,284
(Limition on obligations)	(311,025,000)	(350,000,000)	(280,820,000)	(350,000,000)	(315,820,000)

MILITARY ASSISTANCE

ACQUISITION OF AIRCRAFT FOR NARCOTICS CONTROL

Under the conference agreement, funding for additional aircraft for narcotics control is to be provided under the increased funding for International Narcotics Control under Title II of the continuing resolution.

NOTICE ON LAW ENFORCEMENT FUNDING IN EL SALVADOR

The conferees agree to the House proposal to restrict the obligation of funds for law enforcement until the Committees on Appropriations have received the same notice as provided to the authorizing committees.

OVERSEAS MILITARY PROGRAM MANAGEMENT

The conferees agree to provide $37,000,000 for Overseas Military Program Managment. The House had proposed $34,400,000 and the Senate $39,100,000.

REPORTS ON EL SALVADOR

The conferees agree to the House language that requires that reports on el Salvador that are submitted to the authorization committees also be submitted to the Appropriations Committees.

HAITI

The conferees agree to delete House language that required that military assistance for Haiti be provided through the notification process. The requirements for military assistance to Haiti are included in S. 1917.

FOREIGN MILITARY CREDIT SALES

PAKISTAN

The conferees agree to earmark $312,500,000 in FMS for Pakistan.

LAVI

The conferees agree to the Senate provision that requires that funds for the Lavi program be expended upon the Department of Defense's determination that proposed contracts meet applicable technical standards.

FMS REFORMS AND DEBT RELIEF

The conferees agree to delete Senate provisions which would have given the administration the authority to provide a fiscal year 1987 grant financed FMS program and permissive authority to provide forgiven terms on obligated but undisbursed FMS loans from prior year appropriations. The conferees agree that the Senate proposals have merit, particularly in the context of a global debt crisis which threatens default. Therefore, the conferees believe that the administration should study these proposals, and, in preparation for the Congressional review of the fiscal year 1988 budget submissions, present to the Congress a comprehensive plan for addressing requirements for FMS reform and debt relief for selected recipients of U.S. economic and security assistance.

MILITARY ACCOUNT EXPENDITURES

The conferees agree to provide language proposed by the Senate that requires that funds in the FMS account be expended at the minimum rate necessary to make timely payment for defense articles and services.

TURKEY AND GREECE

The conferees agree to earmark military assistance amounting to $490,000,000 for Turkey and $343,000,000 for Greece.

GUATEMALA

The conferees have deleted House language certifications related to Guatemala. The same certifications are included in the authorization bill.

CONCESSIONAL LOANS

The conference agreement deletes the House ceiling of $498,510,000 on FY 1987 concessional loans.

TITLE IV—EXPORT ASSISTANCE

The following table shows the conference agreement for Title IV, Export Assistance:

	FY 1986 adjusted	FY 1987 estimates	Source	Senate	Conference
TITLE IV—EXPORT ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
Agency for International Development					
Trade credit insurance program	(250,000,000)	(300,000,000)	(250,000,000	(300,000,000)	(275,000,000)
Trade and development	18,087,000	18,000,000	16,331,000	20,000,000	20,000,000
Total. Agency for International Development	18,087,000	18,000,000	16,331,000	20,000,000	20,000,000
Department of the Treasury					
Fair Export Financing Program	.....	300,000,000	.....	.....	.....
Total. Funds Appropriated to the President	18,087,000	318,000,000	16,331,000	20,000,000	20,000,000
EXPORT-IMPORT BANK OF THE UNITED STATES					
Limitation of Program Activity					
(Limitation on direct loans)	(1,062,270,000)	.....	(900,000,000	[1] (900,000,000	(900,000,000)
(Limitation on guaranteed loans)	(11,484,000,000)	(12,000,000,000)	(11,350,000,000)	(12,000,000,000)	(11,355,000,000)
(Limitation on administrative expenses)	(17,568,000)	(19,175,000)	(17,568,000)	(19,175,000)	(18,371,500)
Total. Export-Import Bank of the United States. (Limitations on use of corporate funds)	(12,563,838,000)	(12,019,175,000)	(12,267,568,000)	(12,919,175,000)	(12,273,371,500)
Total. Title IV. Export assistance	18,087,000	318,000,000	16,331,000	20,000,000	20,000,000

[1] Includes $462,000,000 in budget authority related to the Export-Import Bank which has been scored against the House bill but not against the Senate bill.

EXPORT-IMPORT BANK

The conferees agree to delete the House provision withholding administrative expenses after January 1, 1986 until the Bank adjusted its financial accounting and reporting practices to reflect generally accepted accounting and reporting practices.

The conferees are deeply concerned that the Bank continues to inadequately report on its increasing level of problem debt and that the Bank continues to refuse to create a loan loss reserve for its problem debt. The Comptroller General has for several years reported that the Bank's financial statements do not accurately portray the true financial condition of the Bank due to this problem.

The Comptroller has further reported that if a loan loss reserve was created and funded at a reasonable level then the Banks assets as of September 30, 1984 would have been reduced to between $400 million and negative $100 million. The FY 1987 Reconciliation Bill proposes to sell portions of the Export-Import Bank loan portfolio. This action would further reduce assests by approximately $500 to $600 million.

The conferees believe that both the asset position of the Bank and the failure of the Bank to accurately report its financial condition are major problems which must be addressed by the Executive Branch or, if necessary, in future legislation. The conferees request that the Secretary of the Treasury and the President of the Export-Import Bank report to the Committees on Appropriations concerning solutions to these issues before March 1, 1987. The conferees also suggest that the relevant legislative committees consider this problem.

GENERAL PROVISIONS

OBLIGATION RATE (SEC. 502)

The conferees agree to require that not more than 15 percent of the funds provided

for each account, with certain exceptions, may be obligated during the last month of the availability of the funds.

DEOBLIGATION/REOBLIGATION AUTHORITY (SEC. 515)

The conferees agree to modify the current deobligation/reobligation authority to permit the reobligation of funds within regions. Under existing authorities funds may be deobligated and, with prior written approval by the Committees on Appropriations, may be reobligated under a different account.

AVAILABILITY OF FUNDS (SEC. 517)

The conference agreement provides that Economic Support Funds are available on a two year basis.

UN REPORTING REQUIREMENTS (SEC. 528)

The conferees agree to the modification of the provision on UN reporting requirements, to include the Senate subsection (c) stipulating that the Administration's annual report on the degree of support by other countries for U.S.-held positions at the UN, required by subsection (a) of this provision, shall be in the identical format as the "Report to Congress on Voting Nations" which was submitted on June 6, 1986 pursuant to P.L. 99-190 and P.L. 98-164.

ENVIRONMENTAL PRIORITIES AND REVIEW

Practices of the Multilateral Development Banks (Sec. 539).

The conferees include compromise language on the Environmental priorities and review practices of the MDBs.

AFGHANISTAN (SEC. 541)

The conferees agree that the Administration should determine the mix between development assistance and economic support funds for the $30,000,000 in humanitarian assistance provided for the Afghan people.

CAMBODIAN RESISTANCE (SEC. 543)

The conferees agree to the House provision that not less than $1,500,000 nor more than $5,000,000 in Military Assistance and Economic Support Funds shall be made available to the Cambodian non-communist resistance forces.

ETHIOPIAN RELOCATION (SEC. 548)

The conferees agree to the Senate prohibition on providing funds for any of the costs associated with Ethiopian villagization programs.

SUDAN AND LIBERIA (SEC. 549)

The conferees agree to the House provision that none of the funds appropriated shall be obligated or expended for Sudan or Liberia except as provided through the regular notification procedures of the Committees on Appropriations.

COOPERATION IN NARCOTICS CONTROL (SEC. 553)

The conferees agree to accept the House provision allowing for the reprogramming of funds to provide additional assistance to countries which have met illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking.

AID AND IDB COORDINATION IN HAITI (SEC. 554)

The conferees agree to the House provision calling for better coordination in Haiti of development activities implemented by the Agency for International Development and the Department of State, with those of the Inter-American Development Bank.

MULTILATERAL TRADE PROVISION (SEC. 555)

The conferees agree to the House provision amending Section 49 of the Bretton Woods Agreements Act.

REPEAL OF LIMITATIONS ON ASSISTANCE TO PHILIPPINES (SEC. 556)

The conferees agree to the Senate provision repealing Section 901(d) of the 1985 International Security and Development Cooperation Act. This section provided ceilings on assistance to the Philippines during the Marcos regime. With the change of government in the Philippines this ceiling was no longer needed.

LIMITATION ON ASSISTANCE TO CHILE (SEC. 557)

The conferees agree to amend the House and Senate provisions limiting assistance to Chile, forbidding provision of Title III and Economic Support Funds to that country and opposing all loans through multilateral development institutions, except for basic human needs purposes, until the Government of Chile makes significant progress in the area of human rights and toward establishment of a democratic government.

AGRICULTURAL COMMODITIES (SEC. 558)

The conferees agree to the Senate provision limiting availability of funds for activities which could result in increased competition abroad for U.S. agricultural commodities.

IMPORT-SENSITIVE ARTICLES (SEC. 559)

The conferees agree to the Senate provision limiting availability of funding for development of manufactured goods which would compete with import-sensitive U.S. manufactured articles.

PRESIDENTIAL CERTIFICATION ON WITHHOLDING FUNDS (SEC. 560)

The conferees agree to insert language withholding indirect assistance from selected countries unless the President certifies that such action is contrary to the national interest.

REPORTS TO CONGRESS

The conferees agree to delete the Senate provision that would have required that Foreign Assistance funds not be obligated if reports to the Appropriations Committees were not received on time. The conferees deleted this provision after receiving assurances from the Administration that future responses to Congress would be made on a timely basis. The conferees agree that if the Administration does not fulfill its reporting obligation the proposed Senate provision should be reconsidered.

HUD-INDEPENDENT AGENCIES APPROPRIATIONS ACT

Amendment No. 7: Provides that appropriations for programs, projects, or activities provided for in the Department of Housing and Urban Development-Independent Agencies Appropriations Act for 1987 (H.R. 5313) shall be available to the extent and in the manner provided for in the conferees report and joint explanatory statement of the managers (H. Rept. 99-977), filed in the House of Representatives on October 7, 1986, as if such Act had been enacted into law. The House version of the joint resolution provided for a rate of operations based on the House passed bill and the Senate amendment provided for a rate of operations based on the Senate reported bill. Deletes language proposed by the Senate concerning salary funds for commissioners of the Consumer Product Safety Commission and providing that administrative fees paid to public housing authorities shall be those in effect on September 30, 1986; and inserts language appropriating an additional $36,000,000 to the National Aeronautics and Space Administration, "Research and development" and an additional $2,398,000,000 to the National Aeronautics and Space Administration, "Space flight, control and data communications" accounts.

The conference agreement on the fiscal year 1987 HUD-Independent Agencies Appropriations Bill provided no funding for production of a new orbiter to replace *Challenger.* It also assumed that the Department of Defense and HUD-Independent Agencies appropriations bills would share the costs of the fiscal year 1987 Air Force payment to NASA for launch services. The conferees have further agreed that funding for a replacement orbiter will be carried in the HUD Appropriations Bill rather than the Department of Defense Appropriations Bill and that the balance of monies necessary in lieu of the Air Force payment are also included under this subsection. In addition the conferees have included funds to replace both the inertial upper stage (IUS) cradle ($36,000,000), and the Tracking and Data Relay Satellite (TDRSS) ($33,000,000). In summary the changes from the amounts made available in H.R. 5313 for the National Aeronautics and Space Administration are as follows:

	H.R. 5313	Change
Research and development: IUS airborne support equipment replacement		+$36,000,000
Space flight, control, and data communications:		
Orbiter	$211,000,000	+2,100,000,000
Space shuttle operations	1,602,700,000	+265,000,000
Space network (replacement TDRSS)	374,300,000	+33,000,000

The conferees have included language specifying that the funds provided for the orbiter replacement are not available for obligation before August 1, 1987. Also, the full $531,000,000 included in lieu of the Air Force payment is not available for obligation before January 15, 1987.

APPROPRIATIONS FOR THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

Amendment No. 8: Section 101(h) of House Joint Resolution 738 provides appropriations for programs, projects and activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1987. The House version of the joint resolution provides appropriations for programs, projects, or activities at a rate for operations and to the extent and in the manner provided for in H.R. 5234 as passed the House of Representatives on July 31, 1986. The Senate version of the joint resolution provides appropriations for these programs, projects, and activities at a rate for operations and to the extent and in the manner provided for in H.R. 5234 as passed the Senate on September 10, 1986.

The conference agreement on House Joint Resolution 738 incorporates some of the provisions of both the House and Senate versions of the Department of the Interior and Related Agencies Appropriations Act, 1987, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-714 and Senate Report 99-397 shall be complied with unless specifically addressed to the contrary in this joint resolution and accompanying statement of the managers. The Department of the Interior and Related Agencies Appropriations Act, 1987, put in place by this joint

resolution, incorporates the following agreements of the managers:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

Appropriates $483,610,000 instead of $380,370,000 as proposed by the House and $474,029,000 as proposed by the Senate. The increase above the amount proposed by the House consists of increases of $200,000 for Alaska programs in mining law administration; $3,250,000 for the Alaska lands program and the Alaska automated land records system in lands and realty management; $1,000,000 for commercial forest management in Colorado, Montana, Wyoming, and Idaho; $5,000,000 for wild horse and burro management; $500,000 for noxious weed control in Idaho, Montana, Oregon, Utah, Washington, and Wyoming; $5,000,000 for grasshopper control projects in range management; $450,000 for the Challenge Grant Program for fish and wildlife activities in wildlife management; $600,000 for the Hagerman Fauna Site National Natural Landmark in cultural resources management; $650,000 for Alaska maintenance, including Tangle Lakes campgrounds, and $400,000 for the San Pedro Riparian Area, both in recreation resources management; $3,990,000 for Alaska cadastral survey; and $83,000,000 for firefighting; and decreases of $500,000 in oil and gas leasing for Alaska programs; and $300,000 for plans in wildlife habitat management.

The managers expect the Bureau to report to the Appropriations Committees by May 1, 1987 on the rate of adoption of excess wild horses and burros in fiscal year 1987 in relation to planned rates.

In soil, water, and air management the managers agree the amount for hazardous waste management is $1,782,000.

The managers expect the Bureau to give proper consideration to the surveying of Alaska Native allotments in the Alaska cadastral survey program and to work with BIA in assuring that the highest Native priorities are met.

For forest management on public domain lands, the managers expect the Bureau to provide a report to the Appropriations Committees by May 1, 1987 of the components of the costs and revenues by State of providing proper management of timber lands both in the case where no "commercials" sales are offered and in the case where such sales would be offered.

The managers agree that, within funds for wildlife habitat management, $200,000 is available for increased management of the desert tortoise as described in the Senate report.

Within funds for recreation management, the managers agree that there is $188,000 for Soda Springs, $42,000 for Calico-Early Man, and $70,000 for the Barstow Way Station in the Mojave Desert.

Of the additional $500,000 provided for noxious weed control, $100,000 shall be available for Idaho.

With regard to Western Oregon management plans, the managers agree that existing management plans may be modified only to the extent that existing allowable cut in any master unit is affected by less than one million board feet, in order to provide for orderly management.

Bill language is included making funds for firefighting and grasshopper control available until expended.

Bill language is also included providing for new procedures for bonding hardrock mining operations. Bonds would be required of all operators with a record of non-compliance involving surface disturbances. Bonds would continue to be discretionary for operators with a proven record of compliance with BLM regulations and stipulations. The managers have also included a broader concept of bonding to include acceptance of equivalent State bonds, third party surety bonds or irrevocable letters of credit as recommended by the Department of the Interior bonding task force.

The managers understand that the Bureau of Land Management is establishing a task force to examine activities conducted under the Mining Law of 1872 on public lands with specific emphasis directed toward adequacy and necessity of reclamation bonding for operations involving less than five acres. The managers expect that upon completion of the task force examination, the Bureau of Land Management will inform the appropriate committees in the House and Senate of its findings, and expect a progress report no later than May 1, 1987.

CONSTRUCTION AND ACCESS

Appropriates $2,800,000 for construction and access as proposed by the Senate instead of $1,200,000 as proposed by the House.

LAND ACQUISITION

(INCLUDING RESCISSION)

Appropriates $6,220,000 for land acquisition instead of $850,000 as proposed by the House and $800,000 as proposed by the Senate. The managers agree to the following distribution, including allocation by reprogramming of $305,000 in unobligated balances from the Rogue Wild and Scenic River:

Acquisition management	$300,000
El Malpais Natural Area, NM	250,000
Gila Lower Box Area of Critical Concern, NM	250,000
King Range Conservation Area, CA	1,000,000
Owyhee National Wild River, OR	700,000
Red Rock Recreation Area, NV	3,000,000
Steens Mountain Recreation Area, OR	225,000
Upper Missouri Wild and Scenic River, MT	500,000
Inholdings, including designated wilderness areas	300,000
Total	$6,525,000

The managers have also agreed to rescind $3,200,000 appropriated in fiscal year 1984 for cash equalization of Navajo-Hopi land exchanges.

OREGON AND CALIFORNIA GRANT LANDS

Appropriates $54,524,000 instead of $54,260,000 as proposed by the House and $55,642,000 as proposed by the Senate. The $264,000 increase above the House amount is for Forestry Intensive Research (FIR) and the Coastal Oregon Productivity Enhancement program (COPE). The managers agree that the $1,100,000 unobligated balance adjustment proposed by the House will be applied for timber development, management, and reforestation in renewable resources management. An additional $1,350,000 for mapping assistance for decadal planning for the O&C lands is included in the "Surveys, investigations, and research" account of the Geological Survey.

RANGE IMPROVEMENTS

Appropriates $9,253,000 instead of $8,506,000 as proposed by the House and $10,000,000 as proposed by the Senate.

The managers agree to delete House language on the assignment of grazing permits, but expect the Bureau to prosecute illegal subgrazing vigorously.

U.S. FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

Appropriates $314,692,000 for resource management instead of $313,352,000 as proposed by the Senate and $306,500,000 as proposed by the House.

The net increase above the amount provided by the Senate includes increases of $300,000 to continue the Des Plaines wetlands study, $1,000,000 for waterfowl mortality factors, $250,000 for non-game research, $115,000 for initial operating expenses of the Northeast Anadromous Fish Research Laboratory, $150,000 for the Gainesville National Fishery Research Laboratory, $135,000 for red wolf recovery, $250,000 for endangered species listing, $260,000 for the Senecaville NFH, OH, $100,000 for fishery mitigation, $300,000 for endangered species law enforcement and $300,000 for consultation; and decreases to the Senate position of $702,000 for refuge maintenance, $340,000 for Alaska refuges operations and maintenance, $250,000 for prelisting, and $125,000 for research on Chinook and Chum Salmon on the Yukon River. There is also a decrease of $153,000 to the amount provided by the Senate for fixed costs and to replace unrealized administrative savings and a reduction of $250,000 in the amount provided the Fish and Wildlife Foundation for matching grants.

The $300,000 provided to continue the Des Plaines wetlands study is with the understanding that there is no commitment to involve the Fish and Wildlife Service beyond the research stage. The additional $1,000,000 for waterfowl mortality factors includes $500,000 for research and $500,000 for waterfowl habitat production.

The managers have agreed to drop language included in the bill by the Senate directing the Southeastern Fish Culture Laboratory to coordinate its research with the Alabama Cooperative Fishery Research Unit, but affirm their support of the intent of the language.

The managers agree to designate the Washington cooperative research unit as a combined fish and wildlife cooperative research unit and establish a unit at the University of Minnesota.

The report requested by the Senate on FTE levels at refuges is expended to include staffing levels at research units and for law enforcement. The report should be provided to the Committees by March 1, 1987.

The managers reiterate the House report language directing the Service to provide management and technical support to North Carolina and the Environmental Protection Agency in designing a comprehensive research plan for the Albemarle/Pamlico estuary.

The managers have reviewed the issuance of special use permits at the Tennessee National Wildlife Refuge. The managers direct the Service to negotiate and reoffer special use permits at the Tennessee National Wildlife Refuge to landowners on the north shore of Swamp Creek that held such permits in 1984. The reissued permits shall provide for land use activities that are consistent with the National Wildlife Refuge System Administration Act. The Service shall enforce the terms and conditions of all special use permits in an evenhanded manner. The managers have agreed to review the progress made by the Service

during the fiscal year 1988 appropriations hearings.

The managers have provided a total of $4,500,000 above the budget for the Service's contaminant program. For refuge lands, the managers have recommended an increase of $2,000,000. Of this amount, the managers recommend that $1,500,000 be used to move aggressively to initiate necessary studies, to accelerate the analysis of refuge samples, and to continue to develop and implement strategies to clean up affected refuges and initiate clean-up actions where appropriate. Further, the Service is urged to develop and implement a plan for long term contaminant monitoring of refuge habitats and wildlife. This activity should be designated to detect the presence of contaminants throughout the National Wildlife Refuge System through repetitive sampling, resulting in early detection and correction of identified problems in the future. The managers have provided $500,000 within the allowance for this activity and the funding may also be used for developing sampling and analytical protocols and to train refuge employees to participate in the collection of samples. The Service is to enter into an agreement providing one-half of the funding to the Idaho National Engineering Lab (INEL) for design of the long term monitoring system, development of sampling and analytical protocols, and employee training.

In research and development, the managers recommend five initiatives totaling $2,500,000: (1) $500,000, to be used to assess the effects of new contaminants; (2) $550,000, to begin a long term study on the upper Mississippi River; (3) $450,000 for a long term study of contaminants and diving ducks on the Gulf Coast; (4) $600,000 to be spent pursuant to an agreement between the Service and INEL, for developing a scientifically sound national strategy and plan that reviews and integrates activities and responsibilities of all Federal agencies relative to contaminant monitoring in aquatic and terrestrial ecosystems including surface and groundwater, and for training the non-Federal sector in appropriate quality assurance/quality control procedures for contaminant analysis, to enable them to meet Service analytical lab needs; and (5) $400,000 for a long term study in the San Francisco Bay.

The managers have agreed to drop House bill language placing restrictions on Office of Legislative Services staffing.

The managers direct the Secretary to enter into a long term Memorandum of Understanding (MOU) with the State of Ohio for the State to operate the Senecaville National Fish Hatchery. Such long term MOU is contingent upon the State of Ohio agreeing to rear or allow the rearing of striped bass for the Department of the Interior's Chesapeake Bay restoration program as needed by the Fish and Wildlife Service, through 1990. Any costs at Senecaville associated with the striped bass program incurred by the State of Ohio shall be reimbursed by the Service to the State. The managers have included a total of $416,000 in fiscal year 1987. Of that amount $166,000 is provided for necessary maintenance and repairs at the facility. The remainder of the funds may be used to reimburse the State of Ohio for rearing the required fish, to contract with private producers for the production of fish, for continued (through 1990) limited operations at Senecaville associated with the striped bass program, to cover the costs of added production at other Federal hatcheries, or in any combination of the above.

Within available funds there is $1,000,000 for Youth Conservation Corps as proposed by the House.

The managers generally endorse the Service's statement of fishery roles and responsibilities and the current production and distribution priorities.

The $300,000 provided for Leetown National Fishery Center is for striped bass.

CONSTRUCTION AND ANADROMOUS FISH

Appropriates $26,513,000 instead of $21,113,000 as proposed by the House and $23,603,000 as proposed by the Senate. The net increase above the House includes increases of $1,500,000 for Kenai NWR, AK rehabilitation, $1,200,000 for a Bogue Chitto NWR, LA visitor center, $2,000,000 for Leetown National Fishery Center raceway and pond rehabilitation and $900,000 for a Kilauea Point, HI visitor facility; and a decrease of $200,000 for the National Fishery R&D Laboratory, PA.

Language is included to earmark $2,000,000 for Anadromous Fish grants, including $500,000 to continue striped bass studies.

The managers encourage efforts to reduce overall costs at the Minnesota Valley NWR visitor center and to raise private contributions to help reduce the cost to complete this facility.

MIGRATORY BIRD CONSERVATION ACCOUNT

Appropriates $7,000,000 as an advance to this account instead of $3,000,000 as proposed by the House and $10,561,000 as proposed by the Senate.

The managers encourage the use of these funds for acquiring part of the Little River Wildlife Refuge at a level of $1,100,000 if the study presently being conducted by the U.S. Fish and Wildlife Service and the Corps of Engineers proves the wildlife refuge to be compatible.

The managers also urge the Migratory Bird Conservation Commission to consider additional acquisition activity in the Chickasaw NWR, Tennessee and Arkansas, and additional land acquisition at Cache NWR, LA with willing sellers only.

LAND ACQUISITION

Appropriates $42,425,000 instead of $33,225,000 as proposed by the House and $41,775,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers:

Inholdings	$1,000,000
Acquisition management	1,750,000
Alligator River NWR, NC	650,000
Aransas NWR, TX	3,000,000
Ash Meadows NWR, NV	500,000
Bayou Sauvage NWR, LA (subject to authorization)	3,000,000
Bogue Chitto NWR, LA	1,000,000
Bon Secour NWR, AL	500,000
Connecticut Coastal NWR, CN	600,000
Eastern Shore NWR, VA	375,000
Finnegan Cut, CA	1,100,000
Florida Panther NWR, FL	3,000,000
Great Dismal Swamp NWR, NC	750,000
Hakalau Forest, HI	3,000,000
Kirtlands Warbler, MI	300,000
Lower Rio Grande NWR, TX	6,000,000
Lower Suwanee NWR, FL	1,500,000
Minnesota Valley NWR, MN	1,500,000
National Key Deer NWR, FL	2,000,000
Rachel Carson NWR, ME	900,000
Red Rocks Lake Refuge, MT	$2,000,000
Sacramento NWR, CA	2,200,000
San Francisco Bay NWR, CA	1,500,000
Tensas River NWR, LA	1,000,000
Willapa NWR, WA	3,300,000
Total	$42,425,000

Within the $1,750,000 for acquisition management the managers have provided $150,000 for the Sacramento River National Wildlife Refuge study with the understanding that the Fish and Wildlife Service will coordinate any plans for a refuge with other Federal, State, and local agencies and landowner groups along the river. The managers anticipate that taking into account multiple views will lead to an overall plan using a variety of tools and policies to achieve multiple objectives. The managers recognize that proper coordination with the State may require the Fish and Wildlife Service to take more time in the preparation of the study than set forth by the House.

The managers have not provided land acquisition funds for the Carrizo Plain NWR, CA in this bill. The Fish and Wildlife Service and the Bureau of Land Management are to continue to work together to plan for the refuge.

ADMINISTRATIVE PROVISIONS

The managers have agreed to language proposed by the Senate providing the Fish and Wildlife Service authority to construct buildings necessary for a forensics laboratory on a site leased by the Service.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Appropriates $649,613,000 for Operation of the National Park System instead of $628,875,000 as proposed by the House and $579,055,000 as proposed by the Senate.

Increases above the House include $470,000 for Glen Canyon NRA, $421,000 for New River Gorge NR, WV, including $330,000 for operations and $91,000 for development of concept plans, $150,000 for Saguaro NM, AZ, $250,000 for Jean Lafitte NHP, LA, $60,000 for the National Capital Region's July 4 mall celebration, $80,000 for new exhibits and $85,000 for police support at Harpers Ferry NHP, WV, $170,000 for maritime preservation activities, $247,000 for resource evaluation of sensitive habitat at Organ Pipe NM, AZ, $53,000 for the Alaska Land Use Council, $75,000 for Congressional Affairs, $15,000,000 for enclosed park operations as related to the entrance fee proposal, $3,500,000 for additional costs of fee collection, and $991,000 for fixed costs. There are decreases to the House position of $64,000 for Ford's Theater support, $100,000 for Ellis Island NHS, NY interpretation and visitor services, and $150,000 for Delaware Water Gap NRA, PA and $500,000 for the Volunteers-in-Parks program.

The managers are concerned about Park Service employee housing conditions. To address this concern, the Park Service should complete a housing study and make recommendations to the Committees about methods to improve housing conditions for employees. Innovative leasing and ownership arrangements should be considered.

The managers direct that the $398,000 made available for a cooperative agreement with the Johnstown Flood Museum Association shall be obligated by the National Park Service as soon after November 30, 1986 as possible, by which time the cooperative agreement, required pursuant to Section 2

of Public Law 99-388 (100 Stat. 826), shall have been executed. A match, as required in Public Law 99-388 remains in effect.

The managers agree that hereafter the Service should use its internal reprogramming authority so that there will be no diminution of the amount provided for the Roosevelt Campobello International Park Commission, unless reduced by the House or Senate in a report accompanying the appropriations bill.

The additional amount provided for park operations at Santa Monica may be used to handle land acquisition activities at the park.

The managers have agreed to retain language proposed by the House restricting employment levels in the Office of Legislative and Congressional Affairs.

Bill language is included establishing the Steamtown National Historic Site in Scranton, PA. An authorization of $20,000,000 is provided and $8,000,000 is appropriated so that necessary facility maintenance and rolling stock protection may begin immediately.

The appropriation provides $790,000 for a new Park Police rookie class. The managers agree to continue the practice of staffing the law enforcement needs at Golden Gate NRA and Gateway NRA with Park Police. The Service is directed to meet seasonal fluctuations in law enforcement needs with temporary staff and to discontinue the past practice of detailing Park Police from the National Capital Region to the other units as a method of meeting seasonal workload.

New bill language has also been included refining the procedure to be used in making additional money available for emergency law enforcement activities.

The managers note that the Inspector General of the United States Department of the Interior recently concluded an investigation of allegations of mismanagement, falsification of records, and obstruction of a GAO inquiry at Gateway NRA, NY. The managers are pleased to note that the investigation disclosed no evidence to support the allegations. The managers encourage the Secretary to follow through on this finding, if appropriate.

The managers agree that within available funds, $1,000,000 shall be available for the operation of the Youth Conservation Corps.

Bill language has been included providing for a one-year National Park System entrance fee to further park purposes. The provisions included in the bill will be superseded by the provisions of permanent statutory language if such language is enacted during fiscal year 1987.

The language provides for a top fee of $5.00 per vehicle and exempts children 12 and under from entrance fees where the fee is collected on a per person basis. The language amends the Senate proposal to provide that existing entrance fees, new entrance fees, user fees and the additional entrance fees shall go toward park purposes. The managers have provided a direct appropriation of $15,000,000 as the amount available for enhanced park operations due to this park fee provision. A specific list of appropriate uses for this money is included in the bill. This money shall be distributed as follows: 50 percent to all park units based on total operating budgets and 50 percent to collecting parks based on the estimated share of entrance fee revenue collected. The managers have provided an additional $3,500,000 to cover the increased costs of fee collection. The managers encourage the Director to consider allocating the additional fee collection funding and staffing through the regional offices, in an effort to prevent park managers from having to choose between fee collection staffing and staffing for other park management activities.

To simplify the collecting, accounting, and utilization of fee receipts, the language provides that the fee receipts shall be deposited directly into the General Fund. As a result of the direct appropriation of additional funding for enhanced park operations, the Service shall have the estimated fee receipts available at the beginning of the year, while fees shall be returned to the Treasury as they are collected throughout the year.

There is considerable concern about which park units will actually have an entrance fee program during fiscal year 1987. Bill language has been included establishing an exemption for any unit which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations. An additional exemption has been provided for any unit which has a current, specific statutory exemption. The managers direct the Secretary to consider existing statutory fee criteria stated in the Land and Water Conservation Fund Act, as amended, when determining which park units will have new fees. Further, the Secretary is encouraged to charge fees only at units where receipts will exceed collection costs and to consider other appropriate factors, including the current charging of user fees.

The managers direct the Secretary to send a list of park units and the existing and new entrance fees proposed, and the existing user fees for all units, to the appropriate Congressional committees by December 15, 1986.

NATIONAL RECREATION AND PRESERVATION

Appropriates $10,628,000 for National Recreation and Preservation instead of $10,904,000 as proposed by the House and $10,277,000 as proposed by the Senate.

The net decrease below the House includes reductions of $294,000 for national register programs and $17,000 for environmental compliance review and an increase of $35,000 for maritime activities to be done by the Historic American Engineering Record.

HISTORIC PRESERVATION FUND

Appropriates $24,250,000 for the Historic Preservation Fund instead of $24,200,000 as proposed by the House and $24,300,000 as proposed by the Senate. This includes $20,000,000 for grants to the States and $4,250,000 for the National Trust for Historic Preservation.

The allowance for the Trust includes an additional $50,000 to continue maritime preservation efforts.

CONSTRUCTION

Appropriates $88,095,000 instead of $75,989,000 as proposed by the House and $76,518,000 as proposed by the Senate.

The managers have agreed to the following changes to the House bill:

Cape Hatteras NS, NC	+$4,070,000
C&O Canal Flood Repair, MD	+2,000,000
Cuyahoga Valley NRA, OH	−245,000
Delaware Water Gap NRA, PA	−800,000
Denali NP, AK	+3,550,000
Eugene O'Neill NHS, CA	−724,000
Fort Union NHS, ND	+700,000
Glen Canyon NRA, UT	+30,000
Grand Canyon NP, AZ	+435,000
Guadalupe Mtns. NP, TX	−$250,000
Haleakala NP, HI	+500,000
Harpers Ferry NP, WV (completion of water system)	+140,000
Jean Lafitte NHP, LA	+1,080,000
Katmai NPP, AK	+320,000
New River Gorge NR, WV	+2,600,000
Sitka NHP, AK	+700,000
Springfield Armory NHS, MA	−1,000,000
Yellowstone NP, WY	−1,000,000

Within the amount provided for planning, the managers agree to the following projects:

Canyonlands NP, UT—visitor facility	$495,000
Knife River NHS, ND—visitor facility	435,000
Harpers Ferry NHP, WV—bldg. rehabilitation	80,000
Glen Canyon NRA, UT—State line project	400,000
Little Kinnakeet Lifesaving Station, Cape Hatteras NS, NC	55,000
Guadalupe Mtns, NP, TX—visitor facility	250,000
Wolf Trap Farm Park, VA—traffic study and improvements	100,000
Glen Echo Park, MD—rehabilitation	50,000
Johnstown Flood NM, PA	150,000

In addition there is $2,000,000 within available funds for the Buffalo NR, AR, Tyler Bend Facility.

Of the funds provided for Denali NP, AK, the Service is to provide $620,000 for rehabilitation at the Wonder Lake campground, $349,000 for the Polychrome Pass comfort station, and the remainder of $2,581,000 to initiate construction of a visitor facility.

The managers understand that future construction needs at the Glen Canyon NRA (State line project) will be met by the concessioner, without establishing a possessory interest.

The managers have agreed to the inclusion of $2,500,000 to be derived from the Highway Trust Fund for the construction of an additional inbound lane on the George Washington Memorial Parkway as proposed by the House.

LAND ACQUISITION AND STATE ASSISTANCE

Appropriates $87,220,000 instead of $101,100,000 as proposed by the House and $73,400,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers:

Assistance to States:	
Matching grants	$32,700,000
Administrative expenses	2,270,000
Total, Assistance to States	34,970,000
National Park Service:	
Acquisition management	5,000,000
Hardships, inholdings and emergencies	5,000,000
Acadia NP, ME	3,500,000
Apostle Islands NL, WI	300,000
Appalachian Trail	7,000,000
Big Cypress NP, FL	2,000,000
Big Thicket NP, TX	4,000,000
Cuyahoga Valley NRA, OH	4,500,000
Delaware Water Gap NRA, PA	2,000,000
Gates of the Arctic NP, AK (Walker Property)	175,000
Golden Gate NRA, CA	2,000,000

Haleakala NP, HI	$1,000,000
Indiana Dunes NL, IN	1,000,000
Lake Clark NPP, AK (including $175,000 for Twin Lakes)	1,675,000
Lowell NHP, MA	800,000
Mound City Group, OH	1,000,000
New River Gorge NR, WV	1,000,000
North Cascades NP, WA	500,000
Olympic NP, WA	2,000,000
San Antonio Mission NHP, TX	500,000
Santa Monica Mountains NRA, CA	6,000,000
Sequioa-Kings Canyon NP, CA	1,100,000
Wind Cave NP, SD	200,000
Subtotal, NPS	52,250,000
Total, National Park Service	$87,220,000

The managers have agreed to drop House language making Apostle Islands NL, WI subject to authorization.

The highest priority for Santa Monica Mountains NRA, CA acquisition is hardship cases. The funds provided are not to be used to reimburse California for land purchases.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

Appropriates $250,000 for the Illinois and Michigan Canal National Heritage Corridor Commission as proposed by the House instead of nothing as proposed by the Senate. The managers will carefully review funding for the Commission in fiscal year 1988.

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

Appropriates $75,000 for the Jefferson National Expansion Memorial Commission as proposed by the House instead of nothing as proposed by the Senate. The managers will carefully review funding for the Commission in fiscal year 1988.

ADMINISTRATIVE PROVISIONS

Provides that funds received by the National Park Service as reimbursement for the cost of providing security, law enforcement, interpretive, and other services with respect to the operation of facilities at the Jefferson National Expansion Memorial National Historic Site shall be credited to the appropriation bearing the cost of providing such services.

The managers have agreed to continue bill language which allows the Park Service to transfer no year funds to cover costs of emergency search and rescues, law and order emergencies and unforeseen law enforcement situations. The managers are concerned about abuses of this authority as reported by GAO and request monthly reports on its use. Bill language has also been included to make any transfers subject to Committee reprogramming guidelines.

The managers agree to strike House language prohibiting issuance of a request for proposals to lease any or all of Glen Echo Park. The Park Service is encouraged to continue to work out a mutually satisfactory arrangement with the newly formed Glen Echo Park Foundation. The Foundation is willing to raise private funds for the rehabilitation of the existing Glen Echo Park in order to maintain the current character of the park. The managers have provided $50,000 in planning funds to help start the process.

The managers have modified the bill language regarding outstanding claims related to the American Revolution Bicentennial Administration to state that the process used in settling the test case should be applied to the remaining cases.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

Appropriates $418,665,000 for surveys, investigations and research instead of $423,220,000 as proposed by the House and $402,933,000 as proposed by the Senate. The decrease below the amount proposed by the House consists of increases of $1,500,000 for continuation of Louisiana coastal erosion studies; $700,000 for administration of water resources research institutes; $370,000 for national water resources research and technical development competitive grant programs; and $524,000 for grants to water resources research institutes on a per capita basis; and decreases of $249,000 for cartographic and geologic information; $500,000 for equipment for Parkfield, CA, in earthquake hazards reduction; $900,000 in landslide hazards reduction; $1,000,000 in energy geologic surveys for coal investigations; $2,000,000 in National water data collection and analysis; and $3,000,000 for the National water quality assessment.

The managers agree that grant funds made available to State water resources research institutes which are not matched by States on the statutory basis of one and a half State dollar for each Federal dollar shall be available for the competitive grant programs.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

Appropriates $160,697,000 instead of $162,893,000 as proposed by the House and $155,187,000 as proposed by the Senate.

In outer continental shelf lands, the difference over the amount proposed by the Senate is a result of increases of $1,087,000 in leasing and environmental programs and $1,000,000 in the regulatory program. These increases are offset by a reduction of $436,000 in resource evaluation which includes a restoration of a general reduction of $764,000 which is offset by a reduction of $1,200,000 for geological and geophysical data acquisition. In addition, bill language included by the Senate on geological and geophysical data has been deleted, and language proposed by the House to deduct the costs of collecting mineral receipts before distributing the revenues to the States and the Treasury has also been deleted.

In mineral revenue collections the difference over the amount proposed by the Senate is a reduction of $105,000 for two attorneys with the Solicitor's Office which is offset by an increase of $523,000 which the Senate had proposed as a general reduction. The managers agree that costs associated with the Solicitor's Office should be in the solicitor's budget. No funds have been included in mineral revenue collections for late interest payments as proposed by the Senate. In mineral revenue compliance the difference over the amount proposed by the Senate is an increase of $2,500,000 for 50 additional auditors and support staff as well as an increase of $369,000 which the Senate had proposed as a general reduction. The managers agree that MMS is to report quarterly to the Committees on the number of FTE's involved in conducting audits, the cost of this effort and any return realized as well as a projection of the assignment of the auditors for the balance of the fiscal year. Bill language is included which specifies that not less than $11,059,000 shall be spent for the mineral revenue compliance audit program.

In general administration the difference over the amount proposed by the Senate is an increase of $624,000 in general support services which is offset by a reduction of $52,000 for office consolidation since shuttle service will not be needed for the entire fiscal year.

The managers agree that the Department is to report back to the Committees by December 31, 1986, on how best to structure cooperative agreements with States for the auditing of revenues from section 8(g) Outer Continental Shelf lands. In addition, the Department must implement, by no later than the end of the fiscal year, an accurate and regular reporting system for payments from the 8(g) settlement in accordance with 30 U.S.C. 1715(a). In every month prior to the implementation of that reporting system, the Department is directed to provide the States with information on description of payment, the period covered, the payor and source of payment, including amount, quality and unit value of production by lease and royalty rates as well as unit resources, and the basis for valuation to the extent that information is available.

The managers are concerned that adjustments are being made in the Auditing and Financial System with no restrictions. These adjustments create an increased workload on a monthly basis and a disruption of audit trails. As a result, the government cannot be assured that there is an accurate accounting of the royalties due. Therefore, the Secretary is to request that a study be conducted by the Royalty Management Advisory Committee on the current adjustment procedures with an emphasis on developing ways to simplify this process while maximizing revenues. This study is to be submitted with the fiscal year 1988 budget request for the Minerals Management Service.

The managers agree that product value guidelines need to be determined expeditiously so that auditors will have sound criteria within which to work. Therefore, proposed product value guidelines for coal and oil are to be published in the Federal Register within 90 days of enactment and gas guidelines within 120 days of enactment of this Act.

The Minerals Management Service is to continue to notify the Committee by quarterly reports on progress in meeting its system integration plan for the new royalty management computer system as well as the status of the operation of the system, including any anticipated enhancements and their cost once the reimplementation of the Auditing and Financial System is completed and placed in operation. Any difficulties in reaching these deadlines are to be included in the quarterly report along with the reasons for not achieving them.

BUREAU OF MINES

MINES AND MINERALS

Appropriates $138,162,000 instead of $126,429,000 as proposed by the House and $130,965,000 as proposed by the Senate.

In health and safety technology the difference over the amount proposed by the Senate is a result of increases of $1,000,000 for robotics; $250,000 for fires and explosions; $250,000 for post disaster research; $2,500,000 for respirable dust research to be conducted by Pennsylvania State University, West Virginia University, the University of Minnesota and the Massachusetts Institute of Technology; $1,000,000 for ground control to continue mountain bump research on in-mine evaluation of geological

conditions; and $800,000 for methane research. These increases are offset by a decrease of $500,000 for rock burst research.

In advanced mining technology the difference over the amount proposed by the Senate is a result of an increase of $1,500,000 for proof-of-concept validation to complete surface and underground evaluations of previously developed prototype mining equipment. This increase is offset by decreases of $500,000 for predictive research and $500,000 for the in-situ copper mining demonstration at Casa Grande, Arizona. In resource conservation technology the difference from the amount proposed by the Senate is due to increase of $500,000 for acid mine drainage research; $500,000 for subsidence research; $1,900,000 for the transfer of title IV research from the Office of Surface Mining to the Bureau of Mines; and an offsetting decrease of $500,000 for water contamination research. In transferring the title IV research from the Office of Surface Mining, the managers expect that the Bureau will focus on research which can be completed in a short timeframe. If the research originally conducted by the Office of Surface Mining cannot be conducted by the Bureau in-house, it should be competitively bid. The Bureau is to coordinate its activities with the Office of Surface Mining and other Federal agencies to assure a coordinated approach to maximize the benefit derived from these expenditures and avoid duplication. Specifially, the Bureau is to consult with the OSM Assistant Directors for Field Operations to assure the research conducted meets the needs of those in the field.

In minerals and materials the difference over the amount proposed by the Senate is a result of increases of $750,000 to restore research in this area; $100,000 to continue research initiated in fiscal year 1986 on a flame reactor which will recover strategic materials from a wide variety of sources; and an offsetting decrease of $1,000,000 for research to be conducted at the Idaho National Engineering Laboratory.

In mineral institutes the difference over the amount proposed by the Senate is due to increases of $550,000 for allotment grants and $333,000 for the administration of the program. These increases are offset by a decrease of $3,271,000 for research grants. In respect to the competitive research program, it is the manager's expectation that there will be open competition among the mineral institutes for these funds within the generic areas of research with the focus being on the highest priority research problems.

In general administration there is an increase of $1,535,000 over the amount proposed by the Senate.

With the increases provided, the Bureau is directed to hold their FTE level at the fiscal year 1986 post-sequestration level.

Bill language provided by the Senate giving the Bureau authority to use funds from the sale of any excess property or land for the purchase of other land and property has been deleted.

The managers understand that the Bureau of Mines has a carryover balance from fiscal year 1986 of approximately $4,000,000 which will serve to complete many of the Bureau's research projects. The managers direct the Bureau to use up to $500,000 for not less than seven months of full operation to continue to fruition the controlled burnout program in Albright, West Virginia.

In addition, the managers agree that within available funds the Bureau is to conduct a study on the status of the chromium industry including an analysis of the chromite extracting and ferrochromium processing technologies in commercial use in the United States in relation to the technologies used by United States competitors.

Office of Surface Mining Reclamation and Enforcement

REGULATION AND TECHNOLOGY

Appropriates $100,003,000 instead of $99,078,000 as proposed by the House and $96,130,000 as proposed by the Senate.

The difference over the amount proposed by the Senate includes an increase of $3,000,000 in State regulatory program operations. These additional funds have been provided to allow States to administer the inspectable units program. States are to establish an inventory of all sites subject to the Act since 1977, determine a priority system of their inspection, take photographs of site conditions and take enforcement action where necessary. The State files are to be open to OSM inspection at any time.

In regulatory program operations the difference over the amount proposed by the Senate includes an increase of $843,000 for 10 additional two-acre and bond forfeiture inspectors and the use of a helicopter; $700,000 for 10 troubleshooters to be divided equally between the Eastern and Western technical centers with one specifically assigned to Ohio; and $100,000 for 2 additional inspectors for the inspection of both production and non-production sites.

In technical services, training and research the difference from the level of funding proposed by the Senate is a result of a reduction of $500,000 for training.

In general administration the difference from the amount proposed by the Senate consists of reductions of $70,000 for executive direction and $200,000 for general services for decentralization costs.

ABANDONED MINE RECLAMATION FUND

Appropriates $203,720,000 instead of $232,720,000 as proposed by the House and $187,020,000 as proposed by the Senate.

In State reclamation program grants the difference from the amount proposed by the Senate is a result of an increase of $10,000,000.

In reclamation program operations the difference from the amount proposed by the Senate is a reduction of $1,900,000 for title IV research which is being funded in the Bureau of Mines.

In the rural lands reclamation program there is an increase of $8,600,000 over the amount proposed by the Senate.

The managers continue to be concerned about the high unobligated balances from prior year State reclamation grants. OSM is to keep updated obligation records for each State and report quarterly to the Committees on the progress made by the States in obligating prior year unobligated balances as well as the issuance of any administrative and construction grants to the States.

Bill language has been included allowing the Secretary to deny up to 50 percent of a State reclamation grant, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines a State is inadequately enforcing its State program.

The managers are concerned about the problems with the State of Ohio's surface mining regulatory program. Periodic evaluations by the Office of Surface Mining have highlighted a number of recurring problems in Ohio's implementation and enforcement of the Federal Surface Mining Control and Reclamation Act. The Office of Surface Mining is directed to work with the Ohio Division of Reclamation to address these problems through a public forum. This directive should not be construed as a precursor to Federal takeover of the Ohio program. OSM and the State should work together to develop an explicit plan of action to correct the enforcement deficiencies. The managers strongly support the concept of State primacy and it is their hope that problems will be resolved that will maintain Ohio State primacy.

Bill language has been added under General Provisions, Department of the Interior, which amends the Surface Mining Control and Reclamation Act of 1977 to allow qualified registered professional land surveyors to prepare and certify maps and plans where they are so authorized.

Language has been included which states that none of the funds may be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide Applicant Violator System. The Office of Surface Mining is presently studying a range of options with respect to the design of the Applicant Violator System (AVS). Definitions under examination for "ownership" and "control" vary from ten percent to fifty percent. At this time the managers take no position with respect to the final design of the AVS but have included bill language to permit the Office of Surface Mining to delay the pending rulemaking until March 31, 1987. This three month extension will permit the Committees on Appropriations to review this matter during the fiscal year 1988 hearings.

Bill language has not been included prohibiting the Office of Surface Mining from implementing a cost-sharing matching fund or directing that the Secretary's discretionary fund be apportioned on the basis of the Abandoned Mine Lands Inventory. However, the managers are concerned over internal discussions involving an AML costsharing initiative and understand the Department will take no action in fiscal year 1987. Additionally, the managers expect the Office of Surface Mining to discuss any future initiatives affecting the AML State Grant Program with the appropriate legislative and appropriations Committees.

Bureau of Indian Affairs

OPERATION OF INDIAN PROGRAMS

Appropriates $911,182,000 for the operation of Indian programs instead of $892,328,000 as proposed by the House and $887,708,000 as proposed by the Senate. The net increase over the amount proposed by the Senate consists of increases of $1,200,000 for Indian school equalization formula, $1,428,000 for the institutionalized handicapped program, $200,000 for declining enrollment adjustments, $1,000,000 for education contract support, $750,000 for Johnson-O'Malley educational assistance, $250,000 for special higher education grants, $750,000 for tribally-controlled community colleges, $2,000,000 for residential care for handicapped children, $200,000 for the Winnebago tribe retrocession costs, $550,000 for retrocession costs of the Colville tribe, $556,000 for self-determination grants and training and technical assistance for Alaska, $4,182,000 for contract support, $208,000 for the Inchelium ferry, $750,000 for reforestation, $9,000,000 for water resources, $980,000 for the United States-Canada Pacific Salmon Treaty, $120,000 for grizzly bear surveys, $166,000 for the Klamath conserva-

tion program, $347,000 for fish hatchery operations, $200,000 for fire suppression equipment, $5,000,000 for fire suppression costs, $800,000 for mineral inventories, $800,000 for litigation support, and $200,000 for program management; and decreases of $18,000 for school operations, $50,000 for central office operations for tribal government services, $100,000 for the social services quality control program, $85,000 for the special investigative unit, $100,000 for tribal accounting services, $50,000 for wildlife and parks central office operations, $7,500,000 for water resources under Indian rights protection, $160,000 for the consolidated training program, and $100,000 for ADP services.

The managers direct that $900,000 of the funds received from the Department of Education for education of handicapped children be directed toward the institutionalized handicapped program. The Bureau is requested to seek outside evaluation of their educational program for exceptional children. A Bureau-wide policy for determining which handicapped children are supported by the Bureau and which by the public schools shall be developed and provided to the Committees on Appropriations. The Bureau shall also ensure that all schools use the same criteria in classifying exceptional children.

The managers have included bill language placing a one year moratorium on any payments that would otherwise be required under section 1128(b) of Public Law 95-561. The Bureau shall provide a report on this matter as outlined in the Senate report. Bill language is also included relating to the Phoenix Indian School and maintaining the current formula for payments under the Johnson-O'Malley Educational Assistance Act (JOM). If the JOM formula is to be changed, the managers direct that votes occur on a regular schedule and that provisions be made to phase in new formulas. The managers agree to review this matter for fiscal year 1988.

Bill language has been included to allow the use of funds provided for the Institute of American Indian Arts to be used to implement Part A of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act. The language also gives the Secretary continued authority to operate the Institute until the governing body of the Institute is appointed.

Of the amounts provided for the Indian Child Welfare Act (ICWA), $1,200,000 shall be used to provide fourth quarter funding to extend through the fiscal year those grants approved late in fiscal year 1986. The remainder of the funds are available for the regular competitive grant program. For fiscal year 1988 it is the intent of the managers to put the entire program back on the full fiscal year schedule. As in the past, the managers intend the ICWA grants to be made available for the highest priority projects, whether on or off reservation. Alaskan tribes and organizations are eligible to apply for ICWA grants and small tribe core management grants on the same basis as every other tribe. General assistance grants have been reduced $3,000,000 below the budget estimate. Should there be a shortfall, the Bureau should notify the Committees on Appropriations in a timely manner.

The $818,000 reduction in contract support is the amount requested for pre-1985 contracts. The Bureau is directed to correct any errors and omissions in these contracts from within the amounts that were transferred to the programs in fiscal year 1985. The managers expect the Bureau to improve contract management and contract support payments by ensuring that fringe benefits are controlled and that direct program costs are not charged to indirect costs. Contract support should not be "grandfathered" on an individual contract basis and only additional costs which can be shown to be a direct result of contracting should be allowed.

The managers note that as part of the effort to control contract support costs, the Bureau has decided that only one-third of the support costs for pre-1985 contracts will be released at the beginning of fiscal year 1987. In order to provide for a transition period in the payment rates for contract support, the released funds should be budgeted for only one-third of the fiscal year. If current regulations are amended, changes in contract support payments should be phased in over the remainder of the fiscal year with full implementation delayed until the beginning of fiscal year 1988. If the regulations are not amended, the Bureau should release the full year's funding as early in the year as possible.

The managers agree that no Bureau funds shall be used to meet the matching requirement for the economic development grant program. The allowance for employment development includes $1,633,000 for the United Tribes Educational Technical Center.

Within the amount provided for wildlife and parks, $80,000 is available for the Creston, MT fisheries program. A total of $433,000 is provided for operation of the Inchelium ferry $225,000 of which is derived by transfer from road maintenance.

The allowance for the United States-Canada Pacific Salmon Treaty is the total amount available for all direct and indirect costs of the program. The managers agree that funds provided for water investigations are available for tribal contracting and that within the allowance for water investigations are funds to continue the work at Flathead ($390,000), Zuni, and Yakima ($545,000). The managers intend that the funds provided for minerals investigations not be limited solely to efforts oriented toward precious metals exploration or to programs with expected immediate financial returns. Mining and minerals funds shall be available for tribal contracting.

The managers agree that attorney fees for the Navajo and Hopi tribes shall be reviewed on the same basis as all other requests and that such costs shall not be subject to any arbitrary ceiling.

Within the allowance for facilities management, an additional $189,000 is provided for the Hopi High School. The Bureau shall begin implementation of the program recommended by the Office of Construction Management to provide operation and maintenance funding to schools based on enrollment. The Department should continue to monitor the facilities program and report quarterly to the Committees on Appropriations. The Department and the Bureau are reminded that the Committees will decide when the facilities program is ready to be returned to Bureau control from the Office of Construction Management, based on consideration of the progress or accomplishment of the following:

A significant improvement in the rate of FI&R obligations and procurements, indicating improved management capabilities and procedures;

Acceleration of the reduction of total plant size;

Completion of the comprehensive education plan, to be submitted to and approved by the Appropriations Committees;

A final plan for reorganization of facilities management, approved by the Appropriations Committees and under active implementation; and

A plan for an O&M allocation formula based on BIA student space planning requirements, approved by the Committees and implemented.

The additional reduction below the Senate allowance for the consolidated management training program represents the amount requested for salary costs for Bureau participants in the Departmental manager development program. The managers agree that $113,000 shall be used to train contracting officers and that the program should be managed by the Central office.

The managers have deferred action on requests to establish additional offices in Lafayette, LA and San Juan, NM. The Bureau is requested to submit to the Committees on Appropriations a detailed report of the costs of operating agency and field offices along with recommendations for consolidating existing operations and/or adding additional offices.

Bill language proposed by the House regarding the relocation of the Northern California Agency has been deleted.

CONSTRUCTION

Appropriates $76,101,000 for construction instead of $86,066,000 as proposed by the House and $67,951,000 as proposed by the Senate. The net increase over the amount proposed by the Senate consists of increases of $4,150,000 for facility improvement and repair and $5,000,000 for the Navajo Indian Irrigation Project; and a decrease of $1,000,000 for the Flathead irrigation project. No additional funds are provided for the Fort Belknap irrigation project pending further review.

The managers agree that of the unobligated balances from irrigation funds made available in Public Law 98-8, $900,000 shall be reprogrammed to complete the Fort McDowell rehabilitation project and $390,000 shall be reprogrammed for the Papago, AZ high school. Together with the amount reprogrammed, unobligated balances from the Papago project may be used to construct six units of quarters and to improve the playing fields to the extent funds are available.

Within the allowance for buildings and utilities, $90,000 shall be available for planning the Taholah, WA high school. As the work at the Marty school is not of the highest priority, no additional funds are provided. The managers agree that there is no requirement for new construction at the Oglala Sioux school as the needs of the facility can be met through the facility improvement and repair program. Improvements to the Santa Rosa dormitory which are required to make space available for students from the Papago high school shall be met within available funds for facility improvement and repair. The Bureau shall review the need for emergency repairs at the Standing Rock, ND high school and make any required life/safety repairs.

The managers agree that the Bureau should ensure that tribal personnel costs are brought in line with the amount of funds available for housing construction and repairs. Of available prior year balances, $1,500,000 shall be reprogrammed to meet the Bureau's share of the Alaska 500

housing settlement. No fiscal year 1987 funds are made available for this purpose.

Bill language has been included by the managers which revises language in the fiscal year 1986 continuing resolution to permit funds for Navajo and Hopi relocations to be used for counseling ($500,000); water production ($600,000); and administration ($125,000).

Under existing law, the Commission is authorized to call upon any department or agency of the United States to assist in implementing the relocation plan. The managers have approved the involvement of the Bureau of Indian Affairs and the Indian Health Service. Although the managers are aware of and have not changed 25 USC 640d-11(i), authority has been given to the Bureau of Indian Affairs to utilize their funds to provide social service counseling and water production. The determination of eligibility for relocation benefits and the execution of contracts for relocation still remain the responsibility of the Commission. In addition, the Commission will continue with other aspects of new land development such as range improvements and electricity. The managers will hold each party accountable for their respective tasks and will expect each to report on the progress of their actions during their testimony on their fiscal year 1988 budget requests before the Committees. In addition, the managers expect quarterly reports on the meetings held between the Commission, Bureau of Indian Affairs and Indian Health Service which are to include the timelines in which they expect to achieve their objectives.

ROAD CONSTRUCTION

Appropriates no funds for road construction instead of $2,500,000 as proposed by the House. Bill language has been included to earmark $10,000,000 of Federal Highway Trust Funds available to the State of Oklahoma for the construction of the Honobia Indian Road, and waiving the requirement for a 25% match with local funds.

WHITE EARTH TRUST FUND

Appropriates $6,600,000 for the White Earth Trust Fund, as proposed by the Senate.

INDIAN LOAN GUARANTY AND INSURANCE FUND

Appropriates $2,452,000 instead of $2,652,000 as proposed by the House and $2,485,000 as proposed by the Senate. This amount reflects an increase of $167,000 over the budget level of $2,485,000, to allow an additional amount of $10,000,000 in loans to be guaranteed; and an offsetting decrease of $200,000 for management and technical assistance, leaving a balance of $500,000. The managers do not intend for any additional funds to be obligated for contracts for model business development centers.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

Appropriates $78,224,000 instead of $78,874,000 as proposed by the House and $76,016,000 as proposed by the Senate. Included is $75,501,000 for grants and technical assistance and $2,723,000 for the Office of Territorial and International Affairs. The net decrease below the House consists of a decrease of $900,000 for the Guam mental health facility, and an increase of $250,000 for four FTE's in the Office of Territorial and International Affairs, for supervision of Compact programs in the Freely Associated States, one each in Palau, the Marshall Islands, the Federated States of Micronesia, and in Washington. The managers intend to add four additional FTE's in the future, for a total of eight.

The $2,000,000 provided for construction of the Guam mental health facility is the total of Federal funding that will be provided.

Bill language is included which amends the language proposed by the Senate, to clarify that covenant grant funding to the Northern Mariana Islands shall be subject to nthe terms of the Agreement of the Special Representatives on Future United States Financial Assistance, but only as approved by and provided in Public Law 99-396.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Appropriates $67,387,000 instead of $14,340,000 as proposed by the House and $66,987,000 as proposed by the Senate. The net decrease from the amount proposed by the Senate consists of increases of $900,000 for the Enewetak support program, $500,000 for the Bikini food program, and $1,000,000 for the Bikini Atoll Rehabilitation Committee program; and a decrease of $2,000,000 for construction of the Palau hospital. The managers agree that Palau should complete plans and initiate construction of the hospital with the funds provided in fiscal year 1986, and that the balance of the $10,000,000 total cost will be provided in a future appropriations act.

The managers have agreed to provide the regular grant funding to the Trust Territory governments, until the Compacts of Free Association become effective.

In accordance with the provisions of Public Law 99-239, the Compact of Free Association Act, Federal programs in the Federated States of Micronesia and the Republic of the Marshall Islands shall continue to be provided until the effective date of the Compact, which has not yet been determined. Even after the effective date, Federal funds will continue to be provided for those Federal programs and activities to be continued under the Compact, pursuant to Public Law 99-239.

The managers direct the Department of the Interior and the Department of Energy to develop a plan for providing Federal funding for the necessary continuing activities related to the activities of the Lawrence Livermore Laboratory and the Bikini Atoll Rehabilitation Committee on Bikini Atoll after fiscal year 1987, in order that those activities may be completed as required, and a final report and recommendation as to the preferred method for rehabilitation of the atoll be provided to the Congress. A report on the DOI-DOE plan for funding and completing these activities shall be submitted to the Committees on Appropriations by February 1, 1987. In addition, the Departments of Energy and the Interior are directed to provide the Committees with a report by December 1 of each year detailing how funds were spent during the previous fiscal year for the radiological health care program, and the agricultural and food programs for Enewetak and Bikini, as referenced in section 103(h) of Public Law 99-239. The report shall also specify the anticipated needs during the current fiscal year and the following fiscal year in order to provide for the radiological health care, and the planting, agricultural maintenance, and food programs for Enewetak and Bikini at a level not less than that which existed prior to the implementation of Public Law 99-239, and as anticipated in section 103(h) of Public Law 99-239. The managers believe that the United States has a moral obligation to fund these programs and intend to do so in the absence of compelling considerations to the contrary.

Bill language proposed by the House, allowing funds from the Bikini Trust Fund to be used for settlement outside of the Marshall Islands, has been included. The managers expect the expenditure of any funds from the Trust Fund to continue to be subject to the same controls as now exist. The managers also intend that the costs of future relocations outside the Marshall Islands, or back to the Marshall Islands, chosen by the Bikinians will be paid from funds available in the Trust Fund.

COMPACT OF FREE ASSOCIATION

Appropriates $2,250,000 instead of $36,170,000 as proposed by the House and $27,920,000 as proposed by the Senate. The amount provided is for the second installment of the Enjebi Community Trust Fund, making a total of $5,000,000. The managers remain committed to providing the balance of funding necessary to provide the full $10,000,000 authorized for the Fund in future appropriations acts.

Bill language has been included changing the effective date of the Compact of Free Association for the Federated States of Micronesia and the Republic of the Marshall Island to October 1, 1986, and establishing that date as the effective date for the Compact for the Republic of Palau. This change does not affect the Kwajalein use and impact payments, for which the effective date remains October 1, 1985. The managers have very reluctantly agreed to this change, given the current uncertainty as to when the Compacts will become effective, and when the Compact funding will be released. The managers are committed to providing the second year of funding for the Compacts at the earliest possible opportunity once this uncertainty has been resolved.

Bill language has also been included providing that both the funds made available for the Compacts, and the funds to be offset against them, as provided in Public Law 99-349, shall remain available until expended. Language is also included that will offset $60,719,000 of the Trust Territory funds provided in this Act against the Compact funds in fiscal year 1987 when the Compacts become effective.

With regard to the funding for Federal education programs included in section 105(i)(2) of the Compact, the managers believe this language is sufficient to allow the freely associated states to continue to apply to the Department of Education, and to continue to be funded, up to the levels specified in section 105(i)(2), without any further action by the Congress.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

Appropriates $42,816,000 instead of $42,482,000 as proposed by the House and $42,822,000 as proposed by the Senate.

The managers have agreed to the following distribution of funds:

Secretary's Office	$1,586,000
Executive Secretary	374,000
Congressional and Legislative Affairs	1,046,000
Equal Opportunity	1,274,000
Public Affairs	784,000
Small and Disadvantaged Business Utilization	381,000
A/S Water and Science	625,000
A/S Lands and Minerals	840,000
A/S Fish and Wildlife and Parks	600,000
A/S Indian Affairs	600,000

A/S Territorial and International Affairs	$508,000
A/S Policy, Budget and Administration	825,000
Environmental Project Review	1,404,000
Acquisition and property management	1,264,000
Office of Personnel	1,617,000
Administrative Services	1,032,000
Information resources management	4,450,000
Policy analysis	1,950,000
Office of Budget	1,404,000
Financial Management	954,000
Hearings and Appeals	5,200,000
Aircraft Services	1,658,000
Central Services	12,440,000
Total	$42,816,000

Bill language is included earmarking $1,586,000 for the Immediate Office of the Secretary.

No funds are recommended for a cooperative agreement with the Benjamin Franklin Institute.

OFFICE OF THE SOLICITOR

Appropriates $20,880,000 for the Solicitor instead of $21,255,000 as proposed by the House and $19,385,000 as proposed by the Senate. The net decrease below the House position includes reductions of $225,000 for travel, $50,000 for subscription and legal books, $100,000 for overtime/promotions; $50,000 as a general reduction and an increase of $50,000 for Statue of Liberty support.

The managers are in agreement that work associated with the Office of Surface Mining is of highest priority.

OFFICE OF INSPECTOR GENERAL

Appropriates $16,300,000 as proposed by the House instead of $15,424,000 as proposed by the Senate.

DEPARTMENT WIDE PROVISIONS

The managers agree to designate the Laurel Highlands National Recreational Trail as part of the Potomac Heritage Trail.

The managers have included language designating the Visitor Center associated with the headquarters of the Illinois and Michigan Canal National Heritage Coridor as the "George M. O'Brien Visitor Center".

The managers agree to an exchange of Land and Water Conservation Fund assisted land in Berkeley, Illinois.

Language proposed by the Senate amending the Act of August 9, 1955, to allow the Tulalip Tribe to enter into long-term leases if the lease is executed under tribal regulations approved by the Secretary, is included.

Language proposed by the Senate applying the exception in Public Law 87-279 to the Flathead Indian Irrigation Project has been stricken.

Language is included, as proposed by the Senate which prevents final regulations concerning paleontological research on Federal lands until the Secretary has received a report from the National Academy of Sciences on such regulations and forwarded to Congress a comparison of that report and the Department's proposed regulations.

Language is included to prohibit the use of funds for portions of steps leading up to the lease sale in the Georges Bank-North Atlantic planning area.

Language is also included, as proposed by the House, which provides the Secretary of the Interior the authority to adopt recommendations proposed by the negotiating team on California offshore leasing as authorized in section 111 of Public Law 99-190.

The language also delays the publication of a call for information and nomination for Sale 95 until March 1, 1987 and delays the final notice of sale for Sale 91 until January 1, 1989.

The managers agree to delete the language propsed by the House restricting implementation of a settlement of a case regarding the Westlands Water District.

Language is included as proposed by the Senate to allow land surveyors to prepare and certify maps for surface mining permit applications.

Language is included as proposed by the Senate requiring funds transferred pursuant to Section 101 to be rplenished by a supplemental appropriation which must be requested as promptly as possible.

Language proposed by the Senate delaying implementation of a settlement on oil shale claims in Colorado for 180 days, provided the Courts and the parties to the agreement concur, is included.

The House bill contained a provision for purchasing oil rigs for the Outer Continental Shelf containing specific percentages of American material and labor. The Senate passed bill contained no such provision. This provision is not included.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

Appropriates $128,882,000 for forest research instead of $129,183,000 as proposed by the House and $123,282,000 as proposed by the Senate. The managers agree that the changes from the budget request, $111,481,000, by program are as follows:

Fire and atmospheric sciences:	
Atmospheric deposition research at Fort Collins, CO	+$200,000
Fire research at Riverside, CA and Missoula, MT	+300,000
Forest insect and disease research:	
Eastern hardwoods research cooperative at Broomall, PA	+325,000
Western conifers research cooperative at Corvallis, OR (to be managed by the Environmental Protection Agency)	+300,000
To be distributed to the highest priority insect and disease research projects	+697,000
Forest inventory and analysis:	
Atmospheric deposition research at Research Triangle Park, NC	+1,200,000
Restore forest inventory cycle to previous level	+900,000
Western ecosystems acid rain monitoring pursuant to an agreement with the Idaho National Engineering Laboratory	+1,000,000
Renewable resources economics research: Maintain at 1986 level	−86,000
Trees and timber management:	
Eastern hardwoods research cooperative at Broomall, PA	+325,000
Western conifers research cooperative at Corvallis, OR	+300,000
Fairbanks, AK	+500,000
Genetic engineering research at Berkeley, CA	+300,000
Parsons, WV: $188,000 for rehabilitation and $100,000 for research. Additionally, the $196,000 proposed for transfer to Morgantown shall be returned to Parsons	+288,000
Boise, ID	+200,000
Honolulu, HI	+50,000
Watershed and minerals management research:	
Atmospheric deposition research at Oxford, MS, Grand Rapids, MN, Riverside, CA, and Fort Collins, CO	+600,000
University Park, PA	+152,000
Soil stabilization research at Corvallis, OR	+125,000
Watershed research at Arcata, CA, Durham, NH, and Parsons, WV. Additionally, the $349,000 proposed for transfer to Morgantown shall be returned to Parsons	+375,000
Wildlife, range and fish habitat research:	
Spotted owl research at Fresno and Arcata, CA and Olympia, WA, to be matched by $500,000 in private funds	+1,500,000
Endangered species research at Missoula, MT	+200,000
Trout stream productivity research at Blacksburg, VA	+200,000
Semiarid habitat research at Albuquerque, NM	+100,000
Moose habitat research at Fairbanks, AK	+100,000
Tropical wildlife research at Rio Piedras, PR	+100,000
Forest recreation research:	
Wilderness management research at Missoula, MT	+150,000
Urban/wildland research at Riverside, CA	+150,000
Forest products and harvesting research:	
Forest Products Laboratory, Madison, WI	+450,000
For whitewood shake and shingle preservative treatment research and market development, to be conducted on a fifty-fifty match basis with funds to be provided by private industry	+100,000
Research on products from low quality logs at Blacksburg, VA	+300,000

Competitive grants: To be divided equally between basic improved harvesting, processing and utilization research; and basic forest biology, including biotechnology.....	+6,000,000

The managers note that within the fire and atmospheric sciences program, $206,000 of research that was formerly conducted at Fairbanks, AK will be conducted at Anchorage, AK in fiscal year 1987. The Forest Service is directed to maintain the fire research work unit in East Lansing in fiscal year 1987.

Included in the appropriation is $1,000,000 to be provided for the Idaho National Engineering Laboratory's intermountain ecological and environmental study, pursuant to an agreement to be developed between INEL and the Forest Service. This agreement will provide that all activities will be compatible with the existing National Acid Precipitation Assessment Program (NAPAP) and the Mountain Cloud Chemistry Program (MCCP), including measurement and monitoring protocols. The increase will enable the Forest Service to accelerate research on effects of atmospheric deposition on alpine/sub-alpine ecosystems.

STATE AND PRIVATE FORESTRY

Appropriates $58,946,000 instead of $57,671,000 as proposed by the House and $61,771,000 as proposed by the Senate. The net increase over the amount proposed by the House consists of: an increase of $1,600,000 for cooperative lands pest suppression; and decreases of $200,000 for the Boundary Waters Canoe Area grant, $50,000 to pest management special projects, Federal lands, and $75,000 to urban forestry.

The managers agree that within the amount provided for cooperative lands pest suppression, the Forest Service is to provide $1,500,000 for spruce budworms in Yakima, WA and $211,000 for budworm control in New Mexico, if these projects are of high enough priority.

Within the funds provided for wood utilization, $100,000 is to be used for a study on the proposed marketing initiative, for which no funds are provided. The study, which should be submitted to the Appropriations Committees by March 1, 1987, should include at a minimum the following:

A list of projects suggested by the Forest Service;

The criteria to be considered in selecting projects;

The amounts to be provided for technical assistance and financial assistance through the States, and how these amounts are to be determined;

The rationale for providing Federal funding for these activities;

The role of private industry, the States and other non-Federal entities in such a program.

A proposal on cost-share rates, and the basis therefor.

The managers agree that there is no commitment to Federal funding for this program, but it will be reviewed in conjunction with the 1988 hearings.

Bill language has been included earmarking $2,800,000 for the Boundary Waters Canoe Area grant, as proposed by the Senate.

NATIONAL FOREST SYSTEM

Appropriates $1,158,294,000 for the National forest system instead of $996,687,000 as proposed by the House and $1,137,894,000 as proposed by the Senate. The change from the amount proposed by the Senate includes: increases of $1,700,000 for land line location, $24,000,000 for fighting forest fires, $2,635,000 for trail maintenance, $7,152,000 for recreation management, $2,000,000 for wilderness management, $1,000,000 for spotted owl management, $500,000 for threatened and endangered species, $1,900,000 for soil and water improvements and $1,300,000 for soil and water inventories; and decreases of $2,266,000 to fire protection, $340,000 to cooperative law enforcement, $2,500,000 to road maintenance, $8,392,000 to timber sales preparation, $4,050,000 to reforestation, $2,202,000 to timber stand improvement, $900,000 to habitat improvement, and $1,137,000 to grazing.

The managers agree the additional funds for land line location are to be used for multiple resource management purposes.

The mangers are concerned about the costs per acre of reforestation and timber stand improvement, and request the Forest Service to provide a report by March 1, 1987, as to specific steps to be taken to better control costs, and a methodology to be used to determine the economic feasibility of reforestation and TSI projects before they are undertaken.

Within the increase provided for noxious weed control, $80,000 is for the Boise National Forest.

Within the funds provided for soil and water improvements, $250,000 is for a 50 percent cost shared acid neutralization research and demonstration project in the Cranberry River area of the Monongahela NF, WV. An additional $250,000 is for a project in the Blackwood Creek watershed of the Lake Tahoe Basin Management Unit.

In the wildlife and fish habitat management program, there is included an increase of $425,000 for anadromous fish habitat improvements in the Northeast. Included in the soil, water and air program is $280,000 for Bull Run watershed monitoring.

The managers agree that the funds available for spotted owl inventory activities shall be used in various types of habitat, including old growth and non-old growth areas, and in various land use classification areas, including wild and scenic areas, research natural areas, and designated wilderness areas. The managers are concerned that if the Forest Service focuses its inventory on old growth areas and commercial timber lands only, it might miss spotted owl populations in other land use areas, including those already protected by statute or regulation.

The managers are concerned that the Service has developed plans for reorganizing the national forests in Arizona that will result in disruption and economic hardship in small communities. Therefore, the managers direct the Service not to implement the plans without first satisfying Congressional concerns.

The allowance provides for a 1987 timber sales program of 11.2 billion board feet (BBF). This approximates historic levels and is recommended on the basis of continuing high harvest levels and softwood timber demand. The allowance also includes funds to maintain timber support activities and to begin the advanced sales preparation work necessary to maintain the option of continuing historic sales levels after the supply of reoffer volume has been exhausted. The managers agree that the costs of maintaining this option will need to be examined in detail as part of the consideration of the FY 1988 budget for the Forest Service, and expect the Forest Service to have detailed, supportable bases for their estimates available for review at that time. The managers also expect the Forest Service to be prepared to discuss in detail how future years' timber sales levels will be impacted by the land management plans which are now in the final stages of review. The Forest Service is encouraged to offer up to 7.0 BBF of new green sales in fiscal year 1987, and to maintain the sales level in Region 6 at 5.2 BBF gross, 4.5 BBF net merchantable sawtimber, and in Regions 1 and 4 at about 1.0 BBF and 0.4 BBF, respectively. The sales program is intended to be a balanced one across the country.

The managers have agreed to provide $1,000,000 for 1987 costs related to the Helistat. Additional costs required in the future should be submitted as a budget request.

The managers understand that the current land management planning process is proceeding on a forest-by-forest basis. The managers have agreed to include bill language intended to prevent the existing land and resource management plans from being enjoined in their entirety, solely on the basis that they are outdated, pending the completion of the new plans, and have also agreed to restate the direction provided in Section 6(c) of the NFMA that the Forest Service may continue the management of units of the National Forest System under existing plans pending the completion of new plans.

Under the provisions of Section 6(c), the Forest Service is encouraged to begin to incorporate new standards and guidelines into existing plans as soon as practicable. The managers are concerned, however, that in carrying out this direction, the Forest Service must not contravene the public participation requirements of NFMA. Section 6(d) required full public participation in the development, review, and revision of existing land management plans. The managers therefore direct the Forest Service to provide for public review of new suitability standards, yield tables, minimum management requirements and other standards and guidelines prior to their incorporation into existing plans, in accordance with the provisions of Section 6(d) of NFMA.

CONSTRUCTION

Appropriates $261,436,000 for construction instead of $192,409,000 as proposed by the House and $268,130,000 as proposed by the Senate. The changes from the amounts proposed by the Senate consist of: increases of $9,856,000 for facilities and $570,000 for trail construction; and a decrease of $17,120,000 to road construction.

Within the amount provided for recreation facilities is $587,000 for Clear Creek, AL, $568,000 for Mount St. Helens NM, WA, and $150,000 for Mount Rogers NRA, VA. A slippage adjustment of $300,000 is made against budgeted facility construction projects. The managers have provided $10,000,000 for high priority recreation facility rehabilitation projects, with the first emphasis to be on health and safety-related projects.

The managers agree that a total of $1,617,000 is provided for flood repair in the Monongahel NF, WV, consisting of $1,021,000 for facilities, $431,000 for roads, and $165,000 for trails.

The allowance for road construction also includes $8,473,000 for Mount St. Helens, WA, $5,114,000 for Clear Creek, AL, and

$100,000 for design and survey in the Hells Canyon NRA.

The managers agree that within available administrative facilities funds, $100,000 is provided for design of the Big Sur multi-agency work center. There is also $1,570,000 for Mount St. Helens administrative facilities. There is no objection to shifting $538,000 budgeted for the Vernon work center on the Kisatchie NF to other high priority projects on the Desoto NF, MS; the Francis Marion and Sumter NF, SC; the Chattahoochee and Oconee NF, GA; the Holly Springs NF, MS; and the Homochitto NF, MS.

Bill language has been included appropriating $300,000 for the construction of administrative improvements at the Mount Elden Work Center in Flagstaff, AZ. This is in addition to other projects identified in the statement of the managers and is in addition to the $261,436,000 also appropriated for construction.

The allowance provides $165,000,000 for engineering, design and construction costs for forest roads needed to support the fiscal year 1987 sales program of 11.2 BBF, and $15,000,000 for advanced engineering and design activities required to enable the Forest Service to be able to maintain the option of continuing historic sales levels and related road construction programs. The managers will review the Forest Service road construction program again next year and determine the progress the Forest Service has made in regaining the option of maintaining sales levels, especially in Region 6, after the supply of reoffer volume has been exhausted, and what impact other factors may have on the sales levels, and resulting need for road construction. It is the intent of the managers that the projects funded be undertaken pursuant to all applicable forest management laws and regulations, and that the Forest Service should not unduly accelerate its access into released roadless areas.

The managers continue to be concerned about allegations that the Forest Service is building roads to a standard greater than is necessary for timber use or multiple use management. Therefore, bill language is included, as proposed by the Senate, requiring further reductions in the unit costs of timber roads. The managers expect a complete report at the end of the fiscal year on how these reductions were achieved, and also expect the Forest Service to notify the Committees immediately during the year if this effort to reduce costs will result in potential environmental damage. The managers are concerned about allegations that the Forest Service cannot specify where specific road segments will be constructed. The managers are also concerned that funds provided for Forest Service roads be used in a manner consistent with multiple use resource guidelines. Therefore, the managers direct that each Forest Supervisor make available for public review the anticipated location, mileage, cost and use for all local, arterial and collector roads required in an annual timber sales program as determined by a forest management plan. While such forest road data may vary with the dynamics of the timber sales program, such information shall be published annually and be updated every six months.

The managers expect the Forest Service to maintain the funding breakdown of the road construction budget submitted in the budget request, as modified by congressional action. If funds are to be shifted between categories within the road construction line item, the Forest Service should notify the Appropriations Committees in advance of the proposed changes, and the reasons for them.

Bill language is included correcting language carried in the fiscal year 1986 Continuing Resolution regarding Highway Trust Fund money for Mount St. Helens road construction. The language providing additional purchaser construction ceiling of $154,321,000, as proposed by the Senate, has not been included. There is sufficient unobligated funds available from prior years' programs for the 1987 program.

Language proposed by the Senate earmarking certain projects in the construction account has also been deleted.

LAND ACQUISITION

Appropriates $52,236,000 instead of $42,936,000 as proposed by the House and $39,906,000 as proposed by the Senate. The following table shows the allocation agreed to by their managers:

Acquisition management	$3,206,000
Appalachian Trail	1,500,000
AuSable-Manistee Rivers, MI	6,000,000
Columbia River Gorge, OR and WA	4,650,000
Jefferson NF, VA	280,000
Lake Tahoe, CA and NV	7,000,000
Mono Lake-Inyo NF, CA (wilderness)	400,000
Monongahela NF/Shavers Fork, WV	12,800,000
Mount Rogers NRA, VA	1,000,000
Ottawa NF, MI	3,000,000
Pisgah NF, NC	900,000
Wasatch NF/Little Cottonwood Canyon, UT	2,500,000
Wayne NF, OH	2,000,000
Endangered Species Habitat	2,000,000
Inholdings and recreation composites	5,000,000
Total	$52,236,000

Included in the inholding and recreation composite allowance are funds to acquire the Reed Ranch in the Payette NF.

ADMINISTRATIVE PROVISIONS

Bill language regarding compliance with the Federal Water Pollution Control Act has been included, as proposed by the House.

Language proposed by the Senate, allowing use of Forest Service funds to reimburse employees for the cost of State licenses and fees, and providing that purchaser elect funding will be available for actual rather than estimated road construction costs, has also been included. This does not change the criteria for award of a contract to the lowest acceptable bidder.

The managers have agreed to provide $26,000,000 for the Salvage Sale fund, as proposed by the Senate.

The managers have included language providing for a $1,000,000 Youth Conservation Corps program from within available funds, as proposed by the House.

Bill language has been included directing the Forest Service to negotiate claims resulting from the Black Hills National Forest forest fire, and providing that the negotiated amounts shall be paid from the Claims, Judgments and Relief Act Fund (P.L. 95-26) in the Department of the Treasury.

The managers have agreed to include language proposed by the Senate, which modifies the boundaries of the Gifford Pinchot National Forest.

Bill language has been included limiting costs for the Resources Planning Act Washington staff to $500,000 for the costs of developing the 1990 RPA Program called for by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

The Congress has only recently received the 1985 Program and the managers are concerned about its timeliness and its content. In addition, the relationship between the range of outputs called for in the recommended program and the current generation of land management plans is not clear.

Therefore, the Committee directs that the Forest Service provide the following information to the appropriate Congressional Committees by March 1, 1987: (1) a detailed breakdown of Forest Service Washington office and field office funding and staffing that are to be spent annually in preparing the 1990 assessment and the 1990 program; (2) a detailed breakdown of Forest Service Washington office and field office funding and staffing that are to be spent annually in preparing the land management plans; (3) a detailed analysis of the factors that have resulted in the national forest plans differing from the RPA goals.

In doing the analysis, the Service is directed to address: (1) the role that the RPA targets played, and should play in the future, in the decisionmaking process in the development of specific national forest management plans; (2) the role that each RPA alternative program had in the selection of the final RPA recommended program and in the selection of preferred forest plan alternatives; and (3) the actions the Service will take if the national forest planning process is not in agreement with the RPA goals for any resource, and how these relate to the legal and regulatory requirements under which the land management plans were developed.

In developing the 1990 RPA Program, the Congress directs the Forest Service to identify and recommend a single, strategic proposal within the range of alternatives developed, to guide the management, research, protection, and other activities of the Forest Service for the succeeding five years. The plan should respond to the short term and long term National and natural resource needs of the Nation as identified by the Resource Assessment. The Congress fully exists the 1990 RPA Program to be transmitted to the Congress on time, in conjunction with the provisions of the Forest and Rangeland Renewable Resources Act, as amended.

The managers want to stress that the allowance is not intended to slow in any way the development of new forest plans or to reduce funding availability for development of revisions and updates to the assessment.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Bill language is included providing for submission of statements of interest and informational proposal within 60 days after a Federal Register notice soliciting such statements and proposals, as proposed by the House; and providing for a summary report on March 6, 1987 as proposed by the Senate, and a detailed report within 120 days of receipt of such statements and proposals as proposed by the House.

The managers agree that the solicitation provided for in this Act shall specify, but not be limited to, the following generic emission reduction technologies and processes:

1. Coal cleaning;
2. Dry sorbent injection;
3. (a) partial stack gas scrubbing or (b) advanced scrubbing techniques;
4. NO_x controls; and
5. Repowering of existing equipment.

It is not the managers' intent to consider projects which duplicate previous demonstrations.

The managers agree that proposals are not limited to those connected with electric power generating technologies.

Bill language is also included providing that notwithstanding guidance provided by the Department in the February 17, 1986 Clean Coal Technology Program Opportunity Notice, funds expended by a private sector participant during the period of Congressional approval or review of projects for which agreement has been reached may be eligible for cost-sharing, as appropriate, commencing immediately after the required report on the project in question is submitted to the Congress for a 30-day review pursuant to the Administrative Provisions of the Department of Energy in this Act. Such cost-sharing may only be reimbursed after the Congress has approved the project or the 30-day review period has elapsed and the agreement is executed by the Department. In no case shall funds expended by the private sector during the review period be eligible for cost-sharing reimbursement of any project disapproved by the Congress.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

Appropriates $295,866,000 instead of $314,512,000 as proposed by the House and $242,947,000 as proposed by the Senate. The decrease below the amount proposed by the House consists of increases of $71,000 for advanced separation technology and $1,000,000 for acid rain control technologies in flue gas cleanup; $4,931,000 for the Calderon hot gas process and $768,000 for direct coal fired turbines in gas stream cleanup; $500,000 for university coal research and $1,000,000 for biological processing of coal in advanced research and technology development; $1,000,000 for close-coupled catalytic concepts in direct liquefaction; $1,600,000 for advanced pressurized fluidized bed (PFB) systems in combustion; $300,000 for technology base research in molten carbonate fuel cells; $500,000 for high Btu defense fuels in advanced process development and $1,300,000 for high temperature in-situ sulfur capture in systems engineering concepts, both in gasification; and decreases of $500,000 for joint EPRI/DOE advanced physical coal cleaning and $250,000 for chemical and electrochemical coal cleaning in coal preparation and analysis; $500,000 for advanced NO_x control and $100,000 for enhanced mass transfer in flue gas cleanup; $1,400,000 for on-line zinc ferrite regeneration in gas stream cleanup; $342,000 for field monitoring of wastes and energy recovery in waste management technology; $547,000 for materials and components, $194,000 for instrumentation, and $452,000 for direct utilization in advanced research and technology development; $525,000 for advanced research in liquefaction; $2,000,000 for co-processing research and $1,000,000 for pyrolysis research in direct liquefaction; $1,800,000 for the La-Porte, TX, pilot plant in indirect liquefaction; $700,000 for atmospheric fluidized beds (AFB) in combustion; $200,000 for component evaluation at NYU, $325,000 for Grimethorpe, $400,000 for corrosion/erosion testing, and $414,000 for basic research in pressurized fluidized beds (PFB) in combustion; $177,000 in advanced combustion technology; $711,000 for work using highly beneficiated coals in alternate fuel utilization; $1,000,000 for the 7.5 MW system, $1,000,000 for the 11 MW system, $1,000,000 for the 40 KW on-site system, and $500,000 for the 25 KW organic fueled technology in phosphoric acid fuel cells; $300,000 for the competitive stack development procurement in molten carbonate fuel cells; $800,000 for solid oxide modules and $200,000 for advanced research in advanced concepts in fuel cells; $1,600,000 in heat engines; $1,300,000 for support of the Wyoming field test and $400,000 for modeling and data support in underground coal gasification; $3,500,000 in magnetohydrodynamics; $214,000 for advanced research in gasification; $270,000 for hot gas cleanup testing in gasification systems engineering; $119,000 for extraction and process research and $425,000 for environmental mitigation in advanced exploratory research in advanced process technology; $450,000 for heavy oil; $1,000,000 in oil shale; $400,000 for western tight sands; $440,000 for advanced research in unconventional gas recovery; $1,500,000 for equipment not related to construction; $1,750,000 for general plant projects; and $500,000 for use of prior year balances.

In addition $411,000 in unobligated, deferred balances available to the Office of the Federal Inspector are transferred in the bill to offset new budget authority requirements.

The managers agree that:

(1) Funding for the Calderon hot gas regenerative system ($4,931,000) is conditioned on (a) access to an existing test site; (b) non-Federal cost-sharing of at least 20 percent; (c) a maximum Federal share of $8 million; and (d) a commitment to commercialize the project with no further Federal funding after completion of this feasibility demonstration.

(2) Funds added in advanced combustion technology ($1,000,000) are not limited to slagging combustors.

(3) Funding for the water-cooled on-site phosphoric acid program ($2,000,000) is conditioned on an equivalent amount being provided by non-Federal sources.

(4) In molten carbonate fuel cells, there is a total of $1,000,000 for contaminant resistant cell research.

(5) Work in fuel cell advanced concepts shall include solid polymer electrolyte technology.

(6) The $2,000,000 for pollutant recycle and hot particulate removal in sytems engineering concepts in gasification is for the existing facility at Schenectady, NY.

(7) The $7,000,000 for the Wilsonville liquefaction pilot plant is to continue work with the existing owners and operating contractors.

(8) $75,000 in heat engines is for work at UNDERC.

(9) $621,000 for tar sands work in enhanced oil recovery is for WRI, not for UNDERC as stated in the House report.

(10) The additional $1,000,000 for extraction and processing research in advanced exploratory research is for work in oil and oil shale with national laboratories and universities.

(11) The $11,000,000 for oil shale consists of $3,471,000 for WRI, $4,000,000 for direct eastern shales work as detailed in the House report, $1,000,000 for work at INEL, and $2,529,000 for research allocated in a manner similar to the Department's budget submission to OMB.

(12) The amounts provided for WRI and UNDERC may be transferred to activities within programs without prior reprogramming notification to Congress.

(13) Support for Argonne National Laboratory for fossil energy and conservation research in total shall be at levels equivalent to fiscal year 1986.

(14) The Department shall transfer $1,613,000 from various direct program activities to program direction in order to provide a uniform method of accounting for costs at Energy Technology Centers (ETC's).

The managers agree that additional funds will be required for continued support for configuration "B" of the 11 megawatt technology, and for extended operation and testing of the IFC phosphoric acid, water cooled, on-site fuel cell verification test article in fiscal year 1988, and intend to provide funds at that time. For the 11 megawatt project, the managers recognize that IFC's private sector cost-sharing investment will exceed $30,000,000 by the end of the calendar year 1986 and recommend that the Department of Energy also recognize this as a cost-sharing effort. For the on-site project, the funding provided includes endurance testing of a full area short stack of configuration "B" cells, incorporating results of the on-going technology program. This funding does not constitute a new start, but rather a continuation of the ongoing program.

The Department projects a $2,724,000 ETC program direction shortfall, even with sums added by Congress. The shortfall is $1,498,000 at METC and $1,226,000 at PETC, and shall be absorbed in those amounts by each ETC. The managers agree that such shortfalls may be absorbed either by reducing allocations to the direct research program, as long as congressionally added programs are not affected, or by reducing overhead contracting support or other overhead expenses. In either case, government personnel levels shall not be affected.

NAVAL PETROLEUM RESERVES

The managers agree to delete the Senate provisions for the sale of the reserves and the House provision prohibiting study of the sale of the reserves. The managers agree that only $500,000 may be used for such studies, if undertaken by the Administration, and include a general provision in title III of the bill limiting the funds to be expended for such studies and requiring a report based on such studies to the Speaker of the House and the President of the Senate by June 30, 1987.

ENERGY CONSERVATION

Appropriates $280,129,000 for energy conservation instead of $285,825,000 as proposed by the House and $246,413,000 as proposed by the Senate. The decrease below the amount proposed by the House consists of increases of $1,175,000 for dynomometer testing and analysis of battery and powertrain technologies in electric vehicles; $1,000,000 for capital equipment for advanced materials in transportation; and $2,800,000 for grant monitoring in State and local program direction; and decreases of $100,000 for windows and daylighting and $300,000 for retrofit of multi and single family residences in building systems; $500,000 for advanced refrigeration systems and $250,000 for non-oil based combustion systems in technology and consumer products; $500,000 for research utilization in analysis and technology transfer; $100,000 for the Federal Energy Management Program; $750,000 for capital equipment in the buildings program; $200,000 for industrial

wastes and $200,000 for improved combustion efficiency in waste energy reduction; $500,000 for sensors, $679,000 for thin-strip casting steel research and $500,000 for the Steel Technology initiative in industrial process efficiency; $500,000 for adiabatic diesels in vehicle propulsion; $490,000 for methanol work in alternative fuels utilization; $250,000 for the ETX-II propulsion system in electric vehicles; $140,000 for the transportation energy data book in transportation systems utilization; $3,000,000 for grants monitoring as a separate line item; $250,000 for materials and $200,000 for combustion in ECUT; $300,000 for innovation grants in the inventors progam; and $962,000 for the use of prior year balances.

The managers agree that:

(1) $250,000 added for lighting in technology and consumer products may be used for any lighting research.

(2) Battery research in electric vehicles shall include research on lithium-metal sulfide batteries.

(3) Funding beyond Phase I of the program for fuel cell/battery hybrid buses will not be considered without assured private sector cost-sharing in future phases.

(4) The total amount of schools and hospitals administrative expense funds shall be allocated to States based on the provisions of part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371 et seq.), shall not exceed the statutory limit of 5 percent of grant funds, shall be subject to the matching provisions of 10 CFR 455.83(a) and (c), and shall remain available to each State for administering Exxon funds in a subsequent year if not fully utilized in fiscal year 1987.

(5) $1,200,000 of weatherization funds shall be provided to Indian tribes. The remaining $109,000,000 is available for grants to States. In combination with other funds, such as funds from the Exxon settlement, no more than 10 percent may be used for administrative expenses, as provided by law.

(6) Support for Argonne National Laboratory for fossil energy and conservation research in total shall be at levels equivalent to fiscal year 1986.

Bill language is included making funding for an energy demonstration and research facility at Tufts University contingent on authorization legislation and upon approval of an appropriate technical review panel convened by the Department. Language is also included in the bill continuing cost-sharing provisions for the steel research and development program established in fiscal year 1986.

Bill language is included making appropriations of $112,450,000 for weatherization and schools and hospitals contingent on a determination by the Secretary of Energy that "excess" funds derived from oil product escrow funds are less than $200,000,000. The conference agreement on the Budget Reconciliation Act of 1986 provides that up to $200,000,000 from product escrow amounts held by the department of Energy under procedures established by budget reconciliation legislation shall be made available for State energy conservation programs, including weatherization and schools and hospitals, as long as enough funds remain in escrow for restitution to injured parties. Only amounts that equal the difference between $200,000,000 and the "excess" amount would be appropriated, provided the excess is less than $200,000,000. If "excess" funds are more than $200,000,000, the appropriation does not take effect.

Tha bill language also states that if such legislation does not pass by March 1, 1987, the full amount of $112,450,000 shall become available from amounts held administratively in escrow by the Secretary of Energy.

The managers agree to delete House language repealing industrial reporting requirements of the Energy Policy and Conservation Act because the repeal is included in budget reconciliation legislation.

The managers agree that transfers of personnel and funds among conservation research and development program direction amounts for buildings and community systems, industrial conservation, transportation, and multi-sector are not considered reprogramming actions. Changes to these activities should appear, however, in the periodic update of the Department's "Base Table" submitted to the Committees.

The managers agree that the annual Federal commitment of about $7,500,000 for the steel initiative is a reasonable target but, because of the availability of funds previously deferred, only $2,000,000 is required in fiscal year 1987 to meet that commitment.

SPR PETROLEUM ACCOUNT

Appropriates no funds for purchase of petroleum for the Strategic Petroleum Reserve instead of $220,000,000 as proposed by the House. Approximately $550,000,000 available from unobligated balances for oil purchases would allow for filling the Reserve in fiscal year 1987 at up to 90,000 barrels a day at prices of $16.45 a barrel, including transportation.

The managers have agreed to delete bill language on minimum rates of fill for the Reserve because minimum rates are included in budget reconciliation legislation.

ENERGY INFORMATION ADMINISTRATION

Appropriates $60,301,000 for the Energy Information Administration instead of $60,361,000 as proposed by the House and $59,651,000 as proposed by the Senate. The reduction of $60,000 below the House amount is for the Foreign Energy Supply Assessment.

The managers agree that annual reports of the financial performance of major energy producing companies should be based on available publicly reported information, instead of information independently gathered for that purpose, such as on form EIA-28.

The managers agree to delete House language mandating a manufacturing energy survey because it s included in budget reconciliation legislation.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

Appropriates $841,809,000 for Indian health services instead of $836,336,000 as proposed by the House and $833,106,000 as proposed by the Senate. The net increase over the amount proposed by the Senate consists of decreases of $305,000 for direct operations and $147,000 for two urban health demonstration projects; and increases of $407,000 for mandatory costs in hospitals and health clinics, $1,000,000 to expand the model diabetes program, $2,500,000 for tribal contracting costs, $93,000 for dental health, $55,000 for mental health, $1,300,000 for alcoholism prevention programs, $2,000,000 for community health representatives, $200,000 for urban health programs, and $1,600,000 for health manpower.

Bill language is included to establish a catastrophic health care fund as proposed by the Senate.

In addition to the alcoholism prevention and fatal alcohol syndrome (FAS) programs proposed by the House, the Indian Health Service should use base resources in the alcoholism program to implement the recommendations contained in the recent review of the alcohol and substance abuse programs. In the FAS program, $100,000 is provided for the University of Washington research program.

Of the amount provided for direct operations, $600,000 is to provide salary costs for personnel tansferred to the Indian Health Service and $500,000 is for the management fellowship program.

Prior to implementation of any changes in eligibility, the managers direct that a summary of the major issues raised during the comment period and how IHS has responded to them be provided to the Committees on Appropriations for review.

The Indian Health Service should continue to advise the Committee of any shortfalls in tribal contracting and what steps are being taken to meet these costs.

The new policy covering contract care payments should be implemented on an area-by-area basis and IHS should continue working with the tribes to ensure that needed health services are provided. A report on the costs of the new system, as well as cost savings realized by the program should be presented to the Committees on Appropriations once sufficient data is compiled.

The managers agree that the staffing levels provided for the Kanakanak, AK hospital shall be sufficient to ensure a deficiency rate no greater than 11 percent.

The health manpower program incldues $240,000 for the MPH program and $323,000 for INMED.

INDIAN HEALTH FACILITIES

Appropriates $65,555,000 instead of $54,921,000 as proposed by the House and $60,920,000 as proposed by the Senate. The net increase over the amount recommended by the Senate includes increases of $807,000 for planning and design of the Harlem, MT health center; $428,000 for planning and design of the Fort Hall, ID health clinic, and $5,000,000 for sanitation facilities; and decreases of $100,000 to new and replacement hospitals, and $1,500,000 for the ventilation project at the Mount Edgecumbe, AK hospital. The managers direct that the Mount Edgecumbe project is to be accomplished with $1,500,000 of available unobligated balances in this account.

With regard to the Parker, AZ outpatient health clinic, the IHS is directed to perform an engineering analysis, within available funds, to determine the condition of the existing Parker health center, including structural, mechanical and electrical systems, and report to the Committees prior to the fiscal year 1988 hearings.

Within funds appropriated for the Rosebud hospital, the IHS is directed to enclose totally the third floor of the facility.

The managers agree that the IHS should provide a new temporary facility of 2,600 square feet at Sisseton, SD, within available funds.

ADMINISTRATIVE PROVISIONS

Bill language allowing for exchange of land in Anchorage and Kotzebue, AK, as proposed by the Senate, has been included.

Although bill language regarding changes in allocation methodology, as proposed by the House, has not been included, the managers agree that any allocation using the new Area Resource Allocation Methodology

(ARAM) shall follow the general outline of the report, dated August 11, 1986, as submitted to the House and Senate Appropriations Committees. In no case should the allocation affect more than three percent of the base resources of the IHS for fiscal year 1987, unless the IHS submits a report to the Committees sixty days in advance on the proposed changes in excess of three percent, including the reason for the proposed changes and the likely effects. The report should also include a statement certifying that the IHS has held consultations regarding the proposed allocation of base resources with all Indian tribes or tribal organizations affected by the proposed allocation. The managers recognize the importance of continued tribal participation in development of the new ARAM methodology, both on policy matters and on technical issues, and direct IHS to continue to provide tribes with the most current information on ARAM, consult with tribes, and consider their views carefully. As major developments in ARAM occur, IHS should continue its practice of holding national and area workshops that will both inform tribes and provide a vehicle for consultation.

The managers agree that the provisions set forth in Public Law 96-126 restricting authority for initial leasing of permanent structures by the Indian Health Service shall not apply whenever such arrangements are completed in accordance with established General Services Administration procedures (for space to be occupied by Federal employees).

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

Appropriates $64,036,000 instead of $67,236,000 as proposed by the House and $62,000,000 as proposed by the Senate. The change over the amount proposed by the Senate includes increases of $368,000 for Part A for Indian controlled schools; $261,000 for Part B fellowships; $1,845,000 for Part B projects for Indian children; and $62,000 for Part B educational personnel development. The offsetting decrease is $500,000 from Part B planning, pilot and demonstration.

Bill language has been included which prohibits the Department of Education from implementing eligibility requirements for the Part A Indian Education program in fiscal year 1987. This language ensures that school districts have adequate time to review any new eligibility requirements before they are forced to include them in their grant requests to the Department of Education.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

Appropriates $22,335,000 as proposed by the Senate instead of $22,289,000 as proposed by the House.

The managers agree that district six evictees are eligible to relocate tc the new lands.

Language is also included which requires the Commission to review the eligibility of all households certified as eligible and decertify those who have been certified contrary to law or regulation. Those decertified are to be given the opportunity to appeal this decertification before an administrative law judge.

The managers have also included language stating that the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or on the new lands or selected a replacement residence off the Navajo reservation.

Language has also been included which states that for those certified eligible households for whom a benefit level has not been determined such level shall hereafter be determined consistent with the interpretation of 25 USC 640d-14 issued by the Solicitor of the Department of the Interior on August 25, 1986.

The managers have not included bill language limiting the amount which may be spent for contracted attorney's fees. Nonetheless, it is the understanding of the managers that these expenditures will be reduced due to the approval of an on-staff legal position and by the Commission's compliance with the recommendations contained in the Inspector General's report.

The managers agree that the Commission has not implemented relocation as efficiently as Congress expected. Therefore, relocation has taken longer than envisioned. While the managers remain committed to full implementation of the relocation program and to the return of the Hopi Partitioned Lands to the Hopi tribe, the managers feel that the Congress must deal with the entire problem rather than attacking it in a piecemeal fashion.

Bill language has been included which states that there will be no eviction of those on the Hopi Partitioned Land who have not been provided a new or replacement home. In addition, language has been included which states that only one new or replacement home will be provided to relocatees. It is not the intent of the managers to allow migration back to the Hopi Partitioned Land. Funds have been provided to the Commission and the Bureau of Indian Affairs to move forward with the development of the new lands so that relocation may proceed. Therefore, if the managers learn of a problem of resettlement back to the Hopi Partitioned Land by those who have already relocated, this problem will be addressed in the supplemental appropriations bill.

Bill language earmarking funds for post-move counseling and the Office of Policy and Direction has not been included. Sufficient funds for counseling have been provided to the Bureau of Indian Affairs for this purpose.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Appropriates $183,920,000 for salaries and expenses instead of $189,318,000 as proposed by the House and $180,550,000 as proposed by the Senate.

The net decrease below the amount proposed by the House consists of increases of $200,000 for equipment for the hospital at the National Zoological Park, $75,000 for the Sackler Gallery, $6,000 for the Museum of African Art, $10,000 for Public Service, $15,000 for the Office of Exhibits Central, $300,000 for the Conservation Analytical Laboratory, $100,000 for International activities, and $500,000 for acquisition and conservation of the Duke Ellington Collection; and decreases of $150,000 for computer equipment for the Smithsonian Astrophysical Observatory, $60,000 for research at the Museum of Natural History, $137,000 for research at the Smithsonian Tropical Research Institute, $1,012,000 related to the closure of the Environmental Research Center's Rockville facility, $25,000 for research at the Cooper-Hewitt Museum, $60,000 for the inventory of sculpture, $772,000 for the National Museum act, $300,000 for collection management and inventory, $431,000 for moving costs of the Museum Support Center (MSC), $1,500,000 for MSC equipment, $115,000 for postage, $216,000 for telephone services, $116,000 for rent, $710,000 for inflation, and $1,000,000 for Quadrangle support.

The decrease to the Environmental Research Center includes a transfer of $862,000 to the renovation account for the Edgewater, MD facility.

In agreeing to terminate funding for the National Museum Act, the managers have provided an increase of $300,000 to the Conservation Analytical Laboratory to provide increased training in the field of conservation.

The managers agree that future support for moving costs related to the Museum Support Center should come from base resources of the Smithsonian.

The remainder of the $500,000 not required for acquisition of the Duke Ellington collection shall be applied to conservation of the collection.

A reduction of $1,000,000 and 25 positions has been applied to the request for activities associated with the Quadrangle. The Smithsonian may allocate the reduction to lower priority activities.

The managers request reports from the Smithsonian examining ways to increase curatorial and exhibition functions of the Museum of Natural History and on all public programs and outreach activities. These reports should be available prior to hearings on the fiscal year 1988 budget.

The managers agree that within existing resources the Smithsonian should support activities associated with the International Space Year.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

Appropriates $2,500,000 as proposed by the Senate.

RESTORATION AND RENOVATIN OF BUILDINGS

Appropriates $12,975,000 instead of $12,113,000 as proposed by the House and $12,028,000 as proposed by the Senate.

The increase of $862,000 over the amount proposed by the House is for construction at Edgewater, MD. The managers direct the Smithsonian to redirect $1,325,000 from other restoration and renovation projects of lower priority, and not related to health and safety, in order to accomplish the PCB removal project over a two year period. Together with the $475,000 included in the budget request, this will provide a total of $1,800,000 for this project in fiscal year 1987.

The managers agree that major renovation projects, such as that proposed for the Arts and Industries building, estimated to cost $24,000,000, and for the Museum of Natural History, estimated at $55,000,000, should be presented to the authorizing committees for review prior to requests for appropriations.

The funds for the dormitory project at Naos in Panama have been deferred, pending review of the report requested by the Hosue.

CONSTRUCTION

Appropriates $6,095,000, as proposed by the House. Bill language describing the Tropical Research Institute, as proposed by the House, has been included.

The managers agree that the Smithsonian is to maintain the fifty-fifty match of Fed-

eral/non-Federal funding in completing construction of the Quadrangle.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

Appropriates $3,322,000 for salaries and expenses instead of $3,383,000 as proposed by the House and $3,138,000 as proposed by the Senate. The increase of $184,000 over the amount as proposed by the Senate is a result of an increase of $200,000 for conference planning and offsetting decreases of $8,000 for scholar support and $8,000 for general administration.

ENDOWMENT CHALLENGE FUND

No funds are appropriated for the Endowment Challenge Fund as proposed by the House instead of $300,000 as proposed by the Senate.

The purpose of the endowment was to raise general funds for the Center rather than specific funds for planned conferences and events. Therefore, funds raised for individual regional programs do not constitute a match for the Endowment Challenge Fund. Funds raised after October 1, 1985 can be considered as matching funds for the Federal appropriation provided for this purpose in fiscal year 1986.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

Appropriates $136,661,000 as proposed by the House instead of $132,950,000 as proposed by the Senate. This includes $15,900,000 for administrative programs as proposed by the House instead of $16,000,000 as proposed by the Senate.

The managers agree on the following allocation of funds:

Program grants:	
Artists-in-Schools	$5,300,000
Dance	8,847,000
Design Arts	4,276,000
Expansion Arts	6,655,000
Folk Arts	2,982,000
Inter Arts	3,885,000
Literature	5,100,000
Media Arts	12,000,000
Museums	11,400,000
Music	12,236,000
Opera/Musical Theatre	4,200,000
Locals Test	2,180,000
Theatre	10,800,000
Visual Arts	6,200,000
Advancement	200,000
Subtotal, program grants	96,261,000
State Programs	24,500,000
Subtotal, grants	120,761,000
Administration area:	
Policy Planning and Research	1,000,000
Administration	14,900,000
Subtotal, administrative area	15,900,000
Total, grants and administration	136,661,000

The $12,000,000 for the media program continues the 1986 initiative to increase resources for television and radio programming in the arts.

The managers have agreed to delete House bill language restricting reprogrammings.

MATCHING GRANTS

Appropriates $28,420,000 instead of $29,000,000 as proposed by the House and $27,000,000 as proposed by the Senate. This includes $20,000,000 for challenge grants and $8,420,000 for Treasury funds.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

Appropriates $109,990,000 instead of $110,141,000 as proposed by the House and $107,700,000 as proposed by the Senate. This include $95,790,000 for program and state grants as proposed by the House instead of $93,500,000 as proposed by the Senate; and $14,200,000 for administrative areas as proposed by the Senate.

The managers agree on the following allocation of funds:

Program grants:	
Media Grants	$8,900,000
Museums and Historical Organizations	8,780,000
Humanities programs for adults	2,000,000
Humanities projects in libraries	2,900,000
Education program	16,350,000
Fellowships and seminars	15,460,000
Research grants	16,400,000
Subtotal, program grants	70,790,000
State programs	21,000,000
Office of Preservation	4,000,000
Subtotal, grants	95,790,000
Administrative area: Administration	14,200,000
Total, grants and administration	109,990,000

The managers have agreed to delete House bill language restricting reprogramming.

MATCHING GRANTS

Appropriates $28,500,000 as proposed by the House instead of $29,000,000 as proposed by the Senate. This includes $12,000,000 for Treasury funds and $16,500,000 for challenge grants.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

Appropriates $4,000,000 as proposed by the Senate instead of 3,500,000 as proposed by the House. The managers have deleted language proposed by the House limiting grants to certain organizations. New language has been included to clarify the original authorization by setting total non-Federal income of at least $1,000,000 annually for a period of three years as a condition of eligibility.

The managers have deleted language proposed by the House making inoperative several provisions of the authorization for the program.

INSTITUTE OF MUSEUM SERVICES

Appropriates $21,250,000 instead of $21,394,000 as proposed by the House and $18,888,000 as proposed by the Senate. The managers agree on the following distribution of the funds:

Operating support grants	$16,962,000
Conservation grants	3,400,000
Museum Services Board	58,000
Program administration	830,000
Total	21,250,000

The managers agree to the Museum Services Board to no more than three meetings during fiscal year 1987 as proposed by the Senate.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

Appropriates $450,000 for salaries and expenses instead of $420,000 as proposed by the House.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

Appropriates $2,397,000 for salaries and expenses instead of $2,342,000 as proposed by the House and $2,437,000 as proposed by the Senate.

PUBLIC DEVELOPMENT

Appropriates $3,924,000 for public development as proposed by the Senate instead of $3,869,000 as proposed by the House.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

Appropriates $2,040,000 as proposed by the House instead of $2,057,000 as proposed by the Senate.

The difference from the amount proposed by the Senate consists of reductions of $35,000 for museum development and $1,000 for travel which are offset by increases of $70,000 for the archive project with the National Archives. The managers agree to restore $65,000 of the funds reduced by the House for staff positions which is a reduction of $51,000 from the Senate level. These funds are to be used by the Council to hire a chief financial officer who is to implement the recommendations outlined in the August 25, 1986 Touche Ross report.

Bill language has been included which gives the Chairman of the Council authority to waive any bylaw when the Chairman determines it to be in the best interest of the Council. This waiver may take effect, if after 30 days written notice, a majority of council members do not object to the action of the Chairman.

Bill language has not been included which required the Chairman of the Council to approve all travel before reimbursement.

TITLE III—GENERAL PROVISIONS

Language providing a one-year extension for negotiating biomass energy loan guarantees with projects previously submitted to the Department of Energy as proposed by the Senate is included.

Language proposed by the House amending the log export provision has been deleted.

Language, as proposed by the Senate, is retained stating that funds shall be available to the Trust Territory of the Pacific Islands on the same basis as in fiscal year 1986 until alternative funding is available under the terms of the Compact of Free Association.

Language as proposed by the Senate is included stating that any lease within the Gallatin and Flathead National Forests affected by Case CV-82-42-BU in the U.S. District Court for Montana is expected from the limits on aggregate acreage set out in previous law.

Language is included which prevents enforcement of regulations requiring steel shot unless appropriate State regulatory authority approves such implementation.

Language is included which adds a provision to amend Public Law 94-204 regarding Cook Inlet Region, Incorporated which reduces from 10 to 7 the number of townships required to establish eligibility.

The House provision regarding policy deferrals has been stricken.

The managers have agreed to include modified Senate language which limits administrative appeals to one level of appeal on all returned or defaulted timber sales within the Forest Service and Bureau of Land Management. The modified language retains opportunities for judicial review. The agencies should complete action on such appeals within 90 days whenever possible, but may, at their discretion, extend the deadline for completion of such action. The managers make no attempt to prejudge the nature, cause, basis or standing of an administrative appeal brought before the agencies on returned or defaulted timber sales; however, because of the heavy reliance on such sales in this year's timber sales program, and because of the importance of a timely and stable sales program, administrative appeals shall be limited to one level of appeal within the respective agencies.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT

Amendment No. 9: Deletes language proposed by the House and Senate and inserts new language relating to the rate for operations for programs, projects, or acitivities provided for in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987.

The House version of H.J. Res. 738 provides appropriations for activities of the Departments of Labor, Health and Human Services, and Education, and Related Agencies at the rate for operations and to the extent and in the manner provided for in H.R. 5233 as passed by the House of Representatives on July 31, 1986. The Senate version of the joint resolution provides appropriations for these activities at the rate for operations and to the extent and in the manner provided for in H.R. 5233 as passed by the Senate on September 10, 1986. The conference agreement provides for amounts necessary for programs, projects, or activities provided for in H.R. 5233 to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-960) as filed in the House of Representatives on October 2, 1986, as if enacted into law.

The conference agreement also inserts language proposed by the Senate which authorizes the use of Employment Service funds under the Wagner-Peyser Act to administer the Targeted Jobs Tax Credit. This credit was recently extended in the Tax Reform Act of 1986. These funds are administered by State employment security agencies. The House Resolution contained no similar provision.

MILITARY CONSTRUCTION APPROPRIATIONS ACT

Amendment No. 10: Section 101(k) of House Joint Resolution 738 provides appropriations for programs, projects and activities provided for the Military Construction Appropriations Act, 1987. The House version of the joint resolution provides appropriations for programs, projects and activities at a rate and to the extent and in the manner provided for in H.R. 5052 as passed the House of Representatives on June 25, 1986. The House version also includes Title II which provides funding for the so-called "Contra Aid" and Central American democracies, The Senate version of the joint resolution provides appropriations for these programs, projects and activities at the rate and in the manner provided for in H.R. 5002 as passed the Senate on August 13, 1986. The Senate version includes indentical language for Title II as proposed by the House, but also includes Title III which appropriates $300,000,000 for the purpose of transfer to the Central American democracies under Title II.

The conference agreement on House Joint Resolution 738 incorporates some of the provisions of both House and Senate versions of the Military Construction Appropriations Act, 1987, and has the effect of enacting the Act into law. Allocations set forth in House Report 99-648 and Senate Report 99,368 should be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. The Military Construction Appropriations Act, 1987, put in place by this joint resolution incorporates the following agreements of the managers.

TITLE I—ITEMS OF GENERAL INTEREST

Degree of U.S. Commitment Overseas.—The conferees are agreed that our NATO allies need to assume a greater role in the defense of Europe. In addition the conferees question whether current U.S. deployment levels to NATO countries fit strategic as well as political realities. The conferees therefore direct the Department to present a plan which explores the potential realignment of U.S. force structure in Europe. The increasing mobility of U.S. forces worldwide presents a real opportunity to lessen the number of U.S. forces and assets permanently stationed in NATO countries without lessening the U.S. commitment to the alliance or the defense of Europe. The goal of this study should be to explore specific ways to reduce current manning levels while maintaining our commitments to the NATO alliance. The study should also address the feasibility of closing low priority installations in Europe. This report is to be submitted by February 28, 1987.

NATO Infrastructure Program.—The conferees have agreed to an appropriation of $232,000,000 for this program. The conferees are aware that the expanded six year program may require expenditures greater than the amount provided. The Department should seek necessary additional funds through a supplemental budget request.

It is hoped that the increased size of this program will result in the expansion of NATO eligibility criteria, and thereby reduce the amount of U.S. unilaterally funded construction and eliminate the $200,000,000 in outstanding recoupments owed the U.S. At a minimum the $150,000,000 owed the U.S. for prefinanced aircraft shelters should be programmed for recoupment in the current six year program.

No additional prefinancing should be sought until the Department programs all outstanding prefinancing for recoupment. The conferees expect a report on efforts to expand eligibility criteria and the status of recoupments by February 15, 1987. The conferees also expect that the directives in the House report (House Report 99-648) regarding increased participation of U.S. contractors be followed.

Korea-Accompanied Tours.—The conferees direct the Department to submit a report outlining the current and future plan for accompanied tours in Korea by February 15, 1987. This report should address the costs of increasing accompanied tours.

Packaging of Contracts—Overseas.—The conferees direct that the Army and Air Force package all construction projects in fiscal year 1987 at one installation overseas into one contract. The installations for this packaging are to be chosen from the list in the House report. The conferees will consider alternate locations for this initiative. The Department is to report on all aspects of the implementation of this initiative by February 15, 1987.

Financial Management.—The conferees direct that all the financial management policies adopted last year are to continue in effect in fiscal year 1987. These include:

1. Limitations on cross year split funding authority;

2. Clarifying use of expired funds:

3. Maintaining a threshold of 20 percent or $1,000,000, whichever is less, for purposes of reprogramming on all military construction and family housing construction projects.

The conferees also endorse the clarification on the use of planning and design funds and Supervision, Inspection and Overhead (SIOH) funds as outlined in the House report.

The conferees do not endorse the lumping of all projects less than $2,000,000 into one line item for purposes of execution. The conferees also do not endorse the lumping of all projects at a given installation into one line item for purposes of execution. The conferees direct that the line item integrity as shown in the State list of the fiscal year 1987 program be maintained for purposes of execution in accordance with the established policies on financial management outlined above.

The Department currently has unlimited authority to reprogram funds for projects whose price has grown as a result of foreign currency fluctuation. The conferees are concerned that the current situation with the weakened dollar will cause unacceptable cost growth in the overseas program. There is also some question on the Department's attribution of cost growth in specific projects exclusively to foreign currency fluctuation. A foreign currency fluctuation account has been established this year to enable necessary adjustments in prices due to both gains and losses in foreign currency fluctuation. It is the intent of the conferees that the use of the authority granted by Public Law 96-130, 10 U.S.C. 2779 be minimized. The conferees direct that the Department notify Congress on a bi-annual basis of the use of this authority. These reports should also specify the source of funds used to pay for cost increases. The establishment of a specific account for currency fluctuations should facilitate execution of approved projects. The conferees direct that a bi-annual report on the use of the foreign currency fluctuation account established by Section 121 of the Act be submitted in accordance with the stipulations in the House report.

Medical Program.—The conferees have denied funding for all requested mobilization hospitals overseas. The conferees expect that the plan for these facilities in the European theater be submitted in accordance with the guidelines specified in the House report. Funds approved in fiscal year 1986 for medical mobilization facilities in

Europe are also not to be obligated until this report is submitted. The conferees also expect that the Department will not proceed with design of new hospitals in the U.S. until all the possibilities of shared use with the Veterans Administration are fully explored.

Alternate Construction.—The conferees direct the Department to comply with the directives in the House report regarding use of turnkey contracting procedures and packaging of contracts at Shemya AFB, Alaska, and Thule AB, Greenland.

The conferees direct the services to contract exclusively for manufactured/factory built housing on the fiscal year 1987 housing projects at Aberdeen Proving Ground, Maryland, NS Long Beach, California and La Junta AFS, Colorado. The conferees direct the use of modular construction on the fiscal year 1987 barracks projects at MCB Twentynine Palms, California and NS San Diego, California.

Minor Construction.—The conferees direct that the existing notification procedures on minor construction projects are to remain in effect. The conferees oppose the request to increase the limitation on minor construction projects from $1,000,000 to $2,000,000. The conferees also direct that the line item integrity of projects costing less than $1,000,000 in fiscal year 1987 be maintained.

The conferees direct that $5,000,000 of the $20,000,000 in the Army's unspecified minor construction account be set aside for legitimate exercise-related construction outside CONUS. The conferees expect that these funds will be used to pay for all exercise related construction in fiscal year 1987 including those projects costing less than $200,000. This aspect of this initiative will eliminate all questions and concerns about the costing and grouping of projects and ultimately increase the flexibility of the Department. The Committees are to be notified of the use of this fund 21 days prior to obligation of funds. For the purposes of determining the costs of projects constructed in support of military training exercises, the following shall not be included:

(1) Transportation costs of materials, supplies and Government furnished equipment;

(2) Travel and per diem costs applicable to troop labor; costs of material, supplies, services and fuel furnished by sources outside of the Department of Defense on a non-reimbursable basis. These costs shall be reported to the extent that such costs exceed $50,000 per project. The costs of supplies or services furnished on a non-reimbursable basis should be estimated on a fair market value basis.

For the purposes of determining costs attributable to construction projects from this fund the following costs shall be included:

(1) Costs of all materials, supplies and services applicable to the project, including those furnished on a non-reimbursable basis by other military departments and Defense agencies;

(2) Labor costs, except for U.S. military labor;

(3) Overhead or support costs, which can be identified as representing additional costs which would not have been incurred were it not for the project, except for planning and design costs;

(4) DOD funded costs applicable to the operation of Government-furnished equipment, including fuel and direct maintenance costs.

Costs estimates of non-DOD funded items should be included in the estimate of the project costs, but are not to be derived from the fund.

Child Care Centers.—The conferees concur with the House report which directs the Department to submit a report by January 31, 1987, comparing the operating costs of child care centers with the associated user fees.

Energy.—The conferees agree with House report language that directs the Air Force to fund various energy conservation projects from existing energy conservation program savings. The conferees also endorse the House report which required the Department to report to the Committee by January 30, 1987 on the status of the geothermal project at Naval Air Station, Fallon, Nevada. The conferees also agree with the House report which directed the Department to report, by January 30, 1987, on progress regarding the shared savings contract concept.

Washington Navy Yard.—The conferees agree with the House report which requires the Navy to submit a report by January 30, 1987 on the efficacy of continued conversion at the Washington Navy Yard as an alternative to leased space in the National Capital region.

Strategic Defense Initiative Construction.—The conferees direct the Department to submit a report by January 31, 1987, which details all construction projects funded to date, together with the sources of funding that support the Strategic Defense Initiative (SDI). The report should also include a five year plan for all future SDI related construction. The conferees also direct the Department to notify the Committees on Appropriations 30 days prior to the execution of any construction contract for SDIO regardless of the source of funding.

Program, Project and Activity.—For purposes of section 252(a)(b)(D)(i)(II) of Public Law 99-177, the conferees agree to define the term "project, program and activity" as the appropriation accounts in the bill. However, the conferees direct that the Committees be notified 21 days prior to the proposed deferral of any project resulting from a sequestration order. In addition, the Department is to submit a report within three months of a sequestration order showing how the reductions have been applied to affected line items and projects. Reductions to projects will not affect the reprogramming base.

Clarification of Reductions.—The conferees agree with the Senate report which clarifies and establishes the basis for reprogramming requests in connection with projects that are affected by programming reductions.

Third Party Contracting.—The conferees are concerned that new authority has been granted for third party contracting for construction, management and operations of supply, troop housing, transient quarters, logistic and administrative services facilities. The use of this authority with unlimited flexibility has not been justified, nor is it warranted. The conferees direct that the use of this authority in the categories mentioned above be limited to one project per category per Service in fiscal year 1987. The conferees further direct that the Committees be notified 21 days prior to entering into such contracts.

Requests for concurrence on the use of this authority should include an economic analysis from the Secretary of Defense certifying that the use of a third party contract is less expensive than the military construction alternative. These analyses should also incorporate management and operations costs, if applicable.

Renovation of Facilities.—The conferees agreed to the language in the Senate report regarding the renovation of facilities.

Family Housing-New Construction.—The conferees have agreed to fund new family housing projects at the amounts approved by the House. The Services are to strive to maintain the full scope of these projects; however, they may, with prior approval of the Appropriations Committees, reduce the number of units in new housing projects if the bids received on a given project preclude accomplishment of its full scope.

Family Housing Improvements.—The conferees concur with the report and limitation policies specified in the House report. The conferees direct that funds for minor improvements be specifically requested within this account, if necessary.

Family Housing Operations and Maintenance.—The conferees direct that the existing policies on reprogramming thresholds, major repairs, and general and flag officer housing as specified in the House report be in effect for fiscal year 1987. The conferees are agreed that the limitation of $15,000 per unit on certain flag quarters at Norfolk, Virginia is no longer in effect. Expenditures for these units will be in accordance with existing procedures on general and flag officer housing.

Family Housing—Leasing.—The conferees have agreed to allow the Section 801 and 802 leasing programs to continue in fiscal year 1987. However, approval of the new leases under this authority and approval of new foreign leases will not be granted until the Department submits a multi-year plan which addresses how the housing needs of the Services are to be met.

The conferees believe that new housing requirements should be met through a combination of construction and leasing, and that the current plan for meeting housing deficits places too much reliance upon the leasing alternative. With this in mind the multi-year plan should:

(1) Identify the overall requirement for new family housing worldwide;

(2) Specify the amount of new construction and leasing authority to be requested in the next five years both domestically and overseas;

(3) Present uniform criteria establishing when the leasing or construction alternative will be used;

(4) Present alternate methods of meeting housing requirements such as installment purchase, private sector financing or a "Capehart-type" program, and identify the potential extent of use of such authority;

(5) Address the feasibility of a U.S. manufactured/factory built requirement on all new foreign leases.

Approval of new leasing projects in fiscal year 1987 is dependent upon the quality and thoroughness of this plan. This plan is to be submitted by February 15, 1987.

Prior to advertising for any proposals under the Section 801 programs, economic analyses establishing the cost of the military construction alternative and corresponding Section 801 alternative lease ceilings are to be submitted. These analyses are to be compiled using the latest OMB/GAO guidelines, except that lease ceilings for the first and last year of the lease term are to be shown. Anticipated utility costs are also to be shown.

The conferees expect that lease proposals will not be submitted unless savings of at least five percent under the military construction alternative can be shown. The Department will continue to submit final pro-

posals with corresponding economic analyses 21 days prior to the anticipated award date.

The Services are directed to test the Section 802 housing program on government owned land. The conferees recognize the difficulty in financing new construction utilizing the current rules and testing these projects on government owned land would reduce land and development costs substantially and will allow higher quality structures to be built.

The conferees are concerned with the huge growth in the foreign leasing program and with the current methodology used in preparing the economic analyses used to justify the cost effectiveness of new leases. The conferees therefore direct that the economic analyses on all new foreign leases be reviewed and submitted to Congress by the Office of the Secretry of Defense. It is anticipated that all such analyses will not contain the flaws identified in the recent GAO report on this subject.

Rescissions of Prior Year Appropriations.—The conferees have agreed to rescind $86,900,000 in fiscal year 1986 budget authority in conformance with the limitation on prior year authorization contained in the pending fiscal year 1987 Defense Authorization bill. The amounts rescinded are as follows: $36,400,000 from Army, $25,800,000 from Navy and $24,700,000 from Air Force.

Matters Addressed by Only One Committee.—The reports of both House and Senate contain items addressed by only one Committee. Unless otherwise indicated in this conference report, those items are approved by the Conferees.

MILITARY CONSTRUCTION, ARMY

Appropriates $1,260,110,000 for Military Construction, Army instead of $1,200,070,000 as proposed by the House and $1,262,570,000 as proposed by the Senate. In addition, $36,400,000 of fiscal year 1986 budget authority is rescinded. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Fort J.M. Wainwright:	
Barracks modernization..	+$19,000,000
Child development center	+5,500,000
Dining facilities	+10,000,000
Tactical equipment shop	+9,900,000
Utilities expansion	+27,900,000
Community planning assistance	+200,000
Georgia—Fort Benning:	
Chapel	+1,700,000
Vehicle wash facility	−4,000,000
Kansas—Fort Riley: Child development center	−4,250,000
Kentucky—Fort Campbell: Fuel pumping station	+240,000
Kentucky—Fort Knox: Applied instruction facility	−3,200,000
Missouri—Fort Leonard Wood: Applied instruction facility	−1,000,000
New York—U.S. Military Academy: Academic facility modernization	+14,500,000
North Carolina-Fort Bragg: Aerial gunnery range	−2,350,000
Texas—Fort Sam Houston: Child development center	−2,900,000
Virginia—Fort Eustis: Applied instruction facility	−2,050,000
Washington—Fort Lewis: Tactical equipment shop	−4,400,000
CONUS Classified-Classified Location: Classified project	+4,700,000
Germany—Bad Kreuznach: Facility modernization	−10,200,000
Germany—Bamberg: Facility modernization	−18,000,000
Germany—Giessen General Depot: Fuel station	+3,500,000
Germany—Rheinberg:	
Automated data processing facility	+150,000
Barracks with dining	+10,500,000
Communications center conversion	+300,000
Germany—Various Sites: Site security enhancements	−10,000,000
Greece—Operations Building:	−560,000
Honduras—Contingency Facility	+4,300,000
Kwajalein—Unaccompanied officers housing	+1,000,000
Worldwide Unspecified: Planning and design	−440,000
Germany—General reduction	+10,000,000
Rescission	−36,400,000
Total	+23,640,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alabama—Anniston Army Depot: Security upgrade	0
Alabama—Redstone Arsenal: Microwave/millimeter wave simulator	0
Alaska—Fort Richardson: Barracks modernization	0
Alaska—Fort J.M. Wainwright: Tactical equipment shop	0
Arizona—Fort Huachuca: General instruction building	$8,200,000
Arizona—Navajo Army Depot: Security upgrade	0
California—Sierra Army Depot: Security upgrade	0
Colorado—Pueblo Depot Activity: Security upgrade	0
Hawaii—Hawaii Various: Operation support facility	0
Kentucky—Fort Campbell: Aircraft maintenance hangar	0
Kentucky—Lexington-Bluegrass Dep Act: Security upgrade	0
Maryland—Aberdeen Proving Ground: Applied instruction building	22,000,000
Massachusetts—Fort Devens:	
Academic instruction facility	9,500,000
Academic instruction facility	6,800,000
New Mexico—Fort Wingate: Security upgrade	0
New York—Fort Drum: 10th Mountain division facilities—Phase I	175,000,000
Advance appropriation 1988	(221,000,000)
Advance appropriation 1988	(214,000,000)
Community planning assistance	200,000
New York—Seneca Army Depot: Security lighting	0
North Carolina—Fort Bragg:	
Special forces mission support facility	6,500,000
Tactical equipment shop	8,200,000
Oregon—Umatilla Army Depot: Security upgrade	0
Pennsylvania—LetterKenny Army Depot: Security upgrade	0
Pennsylvania—New Cumberland AD: Eastern distribution center—phase II	41,000,000
South Carolina—Fort Jackson:	
Applied instruction facility	1,300,000
Soldier service center	0
Texas—Corpus Christi Army Depot:	
Aircraft maintenance shop addition	0
Power train facility	2,250,000
Texas—Fort Hood: Academic instruction facility	2,750,000
Texas—Red River Army Depot: Security upgrade	0
Utah—Dugway Proving Ground: Community center	0
Utah—Tooele Army Depot: Security upgrade	0
Virginia—Fort Lee: General instruction building addition	7,600,000
Germany—Aschaffenburg: Tactical equipment shop	3,350,000
Germany—Baumholder: Facility modernization phase IV	0
Germany—Einsiedlerhof: Training exercise facility	0
Germany—Frankfurt: Crime laboratory modernization/addition	0
Germany—Giessen General Depot: Facility Modification	0
Germany—Hanau: Aircraft maintenance hangar	7,100,000
Facility modernization	11,000,000
Germany—Hohenfels Training Area: Combat maneuver training complex	8,800,000
Germany—Karlsruhe: Facility modernization	10,000,000
Germany—Rheinberg:	
Administrative space alteration	0
Child development center	0
Logistical supply facility.	0
Physical fitness training center	0
Germany—Schweinfurt: Tactical equipment shop	13,600,000
Germany—Various Sites: Wartime host nation support	0
Germany—Vilseck: Chapel/religious education facility	0

Post office	0
Germany—Wildflecken: Vehicle wash facility	0
Korea—Camp Casey: Tactical equipment shop modernization/addition	0
Korea—Camp Libby: Tactical equipment shop	0
Korea—Second Infantry: Organization maintenance shop	0
Korea—Yongson: Upgrade tactical equipment shop	0
Overseas Various: Pre-positioned war material facilities	0
Worldside Unspecified: Unspecified minor construction	20,000,000
General Reduction	0

Georgia-Fort Benning School of the Americas: Planing and Design.—The conferees agreed with earmarking of $1,000,000 in planning and design funds for design of facilities in connection with the establishment of the United States Army School of the Americas at Fort Benning. The Department, together with the Department of State, is directerd to submit a report by January 30, 1987 outlining plans, schedules and construction costs for the school together with proposed sources of funding for construction and operation of the school.

Kentucky—Fort Campbell: Aircraft Hangar.—The conferees disagree with the authorizing Committees' failure to authorize this project for $16,500,000 and, therefore, direct the Department to submit a reprogramming request immediately for consideration by the Committees.

New York—Fort Drum: 10th Mountain Division Facilities-Phase I.,—The conferees have agreed to funding of $610 million for facilities at Fort Drum, New York which includes an appropriation of $175,000,000 for fiscal year 1987 and advance appropriations in the amount of $221,000,000 and $214,000,000 for fiscal years 1988 and 1989 respectively. The conferees support the concept of constructing the base under a single contract because of the anticipated savings that are expected to occur. The Department is directed to report to the Committees on Appropriations the results of the competitively negotiated bidding process prior to award of the contract. The report should include the results of scope reductions along with the latest current working estimate.

Texas—Fort Bliss: Alter Applied Instruction Buildings.—The conferees agree with the House report language which directs the Army to construct the project for alteration of applied instruction buildings at Fort Bliss using unspecified minor construction funds.

Texas—Fort Bliss: El Paso Intelligence Center.—It is the intent of the conferees that the El Paso Intelligence Center (EPIC) should be relocated at Fort Bliss, Texas in accordance with design prepared by the Army Corps of Engineers for the Drug Enforcement Administration. Further, it is the understanding of the conferees that this include the all-source intelligence center proposed by the National Drug Enforcement Policy Board.

Germany—General Reduction.—The conferees have agreed not to apply a general reduction of $10,000,000 against projects in Germany as recommended in both House and Senate reports. This action is taken because of the dollar devaluation combined with many other project denials that have been made due to lack of authorization. The conferees, however, continue to be concerned with the problem of executing planned and budgeted projects that result in delays or cancellation because of local opposition.

Germany—Wartime Host Nation Support.—The conferees have agreed to defer this item without prejudice. If the Department wishes to continue this initiative, it should obtain an agreement on German prefinancing prior to submitting a budget request.

MILITARY CONSTRUCTION, NAVY

Appropriates $1,376,715,000 for Military Construction, Navy instead of $1,224,290,000 as proposed by the House and $1,282,985,000 as proposed by the Senate. In addition, $25,800,000 of fiscal year 1986 budget authority is rescinded. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Naval Air Station Adak: Construction management facility improvements	+$500,000
Radar support facilities	+24,400,000
Alaska—Naval Security Group Activity Adak: Ocean surveillance building	+13,400,000
California—Fleet Training Center San Diego: Weapons training building	−3,930,000
California—Marine Corps Air Station Camp Pendleton: Aircraft maintenance training buildings	+1,080,000
California—Marine Corps Base Camp Pendleton: Training support center	−5,500,000
Battalion operations center	+1,080,000
California—Marine Corps Recruit Depot San Diego: Supply complex	−8,440,000
California—Naval Construction Battalion Center Port Hueneme: Bachelor officer quarters	+3,040,000
California—Naval Construction Training Center Port Hueneme: Seabee fleet support training facilities	−3,240,000
California—Naval Submarine Base San Diego: Bachelor enlisted quarters	+2,900,000
California—Naval Supply Center San Diego: Personal property office	+1,360,000
California—Naval Technical Training Center San Francisco: Fire fighting trainer facility	−9,820,000
Florida—Naval Air Station Key West: Hydrofoil berthing wharf	−8,490,000
Florida—Naval Training Center Orlando: Advanced underwater weapons training facility	−2,950,000
Georgia—Naval Submarine Base Kings Bay: Bachelor officer quarters	+3,440,000
Commander submarine group office	+1,550,000
Diesel fuel facilities	+1,960,000
Dredging	+4,540,000
Drydock	+4,545,000
Off-crew operations building	+7,400,000
Provision warehouse	+2,160,000
Ready stores facility	+1,270,000
Refit Wharf	+2,350,000
Strategic weapons magazines	+1,670,000
Utilities and site improvements	+4,900,000
General reduction	−1,000,000
Hawaii—Camp H.M. Smith—Oahu: Security headquarters	+500,000
Hawaii—Marine Corps Air Station Kaneohe Bay: Combat vehicle maintenance shop	−6,480,000
Hawaii—Naval Supply Center Pearl Harbor: Cold storage facility	−320,000
Hawaii—Navy Public Works Center Pearl Harbor: Water distribution system improvements	−3,300,000
Maine—Naval Shipyard Portsmouth Kittery: Engineering management building	+10,900,000
Hazardous material storage and handling facility	+5,100,000
Refueling crane	−90,000
Maryland—Naval Air Test Patuxent River: Steam and condensate systems	−2,450,000
Mississippi—Naval Construction Battalion Center Gulfport: Data processing center	+690,000
Seabee battalion operations facility	+1,670,000
Mississippi—Naval Construction Training Center Gulfport: Seabees instruction building	+1,180,000
New York—Naval Station New York—Battleship support complex: Shore intermediate maintenance activity	+22,400,000
Bachelor enlisted quarters and mess hall	+8,150,000
Utilities and site improvement	+22,400,000
Pennsylvania—Navy Ships Parts Control Center Mechanicsburg: Facility energy improvements	+1,670,000
Rhode Island—Naval Education and Training Center Newport: Bachelor officer quarters	−8,800,000
Rhode Island—Surface Warfare Officers School Cmd Newport: Surface warfare officer training facility	+8,800,000
South Carolina—Marine Corps Air Station Beaufort: Aircraft rinse facility	+740,000
Automotive vehicle maintenance shop	+640,000
South Carolina—Naval Weapons Station Charleston: Pier improvements	+6,130,000
Tennessee—Naval Air Station Memphis: Aviation ordnanceman training buildings	+12,800,000

Texas—Naval Air Station Kingsville: Jet engine test cell facility	+3,140,000
Virginia—Naval Amphibious Base Little Creek: Steam and condensate systems	−1,080,000
Virginia—Naval Guided Missiles School Dam Neck: Submarine training building addition	+3,140,000
Virginia—Naval Legal Service Office Det Oceana: Legal services office	−540,000
Virginia—Naval Surface Weapons Center Dahlgren: AEGIS education center addition	+2,950,000
Virginia—Navy Regional Data Automation Center Norfolk: Data processing center	−9,330,000
Washington—Naval Station Everett-Carrier Support Complex:	
Shoreline improvement and seawall	+15,700,000
Utilities and site improvement	+19,070,000
Land acquisition	+8,810,000
Washington—Naval Submarine Base Bangor: Hazardous waste facility	+1,280,000
Washington—Naval Undersea Warfare Engr Sta Keyport: Missile magazines	−5,890,000
Australia—Naval Communication Station Harold E. Holt: Public works shop	+1,870,000
Guantanamo Bay, Cuba—Naval Station Guantanamo Bay: Standby electric power generators	−2,600,000
Iceland—Naval Facility Keflavik: Standby generator plant	−1,570,000
Japan—Marine Corps Air Station Futenma Okinawa: Engine maintenance shop	+3,440,000
Philippines—Navy Public Works Center Subic Bay: Facility energy improvements	−2,100,000
United Kingdom—Naval Activities London: Consolidated personnel support facilities	+1,180,000
Worldwide Unspecified:	
Access roads	+1,450,000
Gulf Coast Impact Assistance	+200,000
Planning and design	−200,000
Recission	−25,800,000
Total	+126,625,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Arizona—Marine Corps Air Station Yuma: Marine air control squadron facility	$2,950,000
California—Fleet Intelligence Training Center Pacific San Diego: Intelligence training building	4,220,000
California—Marcorp Air-Grnd Comb Ctr Twentynine Palms: Bachelor enlisted quarters	17,600,000
California—Marine Corps Air Station El Toro: Runway extension	0
California—Naval Air Station Miramar:	
Avionics shop addition	3,240,000
Consolidated brig	22,500,000
Maintenance hangar addition	5,110,000
California—Naval Construction Training Center Port Hueneme: Automotive vehicle maintenance facility	0
California—Naval Station San Diego: Bachelor enlisted quarters	18,200,000
California—Naval Supply Center Oakland: General warehouse addition and modernization	2,950,000
California—Naval Training Center San Diego:	
Electrical distribution system improvements	8,250,000
Machinery repairman training building	5,700,000
District of Columbia-Naval Research Laboratory Washington: Physics laboratory improvements	0
Florida—Naval Air Station Cecil Field: Aircraft acoustical enclosure	4,910,000
Florida—Naval Technical Training Center Pensacola: Instrumentation training facility	1,310,000
Hawaii—Marine Corps Air Station Kaneohe Bay:	
Aircraft rinse facility	0
Corrosion control hangar	0
Hawaii—Naval Com Area Master Sta Eastpac Honolulu:	
Antenna safety improvements	0
Hawaii—Navy Public Works Center Pearl Harbor:	
Electrical distr sys improvements (Phase 1)	0
Illinois—Naval Training Center Great Lakes:	
Fire fighting trainer	5,300,000
Maryland—Naval Air Test Center Patuxent River:	
Landing system test facility	4,030,000
New York—Naval Station New York-Battleship Support Complex:	
Supply warehouses	0
Bachelor officer quarters	0
General reduction	0
North Carolina—Marine Corps Air Station Cherry Point:	
Troop and cargo staging facility	6,870,000
North Carolina—Marine Corps Base Camp Lejeune:	
Bachelor enlisted quarters	14,700,000
Field maintenance complex	5,900,000
North Carolina—Naval Air Rework Facility Cherry Point:	
Aircraft engine blade rework facility	15,600,000
Aircraft rework facility	21,600,000
South Carolina—Marine Corps Recruit Depot Parris Island:	
Recruit battalion operations facility	0
Clothing issue	0
Backelor officer quarters	0
South Carolina—Naval Weapons Station Charleston:	
Consolidated brig	16,500,000
Tennessee—Naval Air Station Memphis: Entrance roads improvements	0
Virginia—Fleet Intelligence Center Europe and Atlantic Norfolk: Intelligence building addition	0
Virginia—Navy Public Works Center Norfolk:	
Steam plant improvements	0
Washington—Naval Station Everett-Carrier Support Complex:	
Carrier pier	0
Dredging and breakwater	0
Washington—Naval Submarine Base Bangor:	
Bachelor enlisted quarters	0
Electrical distribution system improvements	5,600,000
Sewerage system	0
Guam—Mobile Constr Battalion Camp Covington:	
Bachelor housing	11,400,000
Guam—Naval Security Group Detachment Guam: Ocean surveillance building addition	2,150,000
Worldwide Unspecified:	
Unspecified minor construction	15,000,000
General Reduction	0

Alaska—Naval Air Station, Adak: Radar support facilities.—The conferees agree to funding of $24,400,000 for support facilities at Amchitka, Alaska provided that sufficient funding from Research and Development, and Procurement accounts is appropriated for fiscal year 1987 to permit the prototype to be relocated from Virginia to Amchitka, Alaska, as planned. The Department is to certify to the Committees on Appropriations that adequate funding is provided for development and testing of the prototype prior to obligation of funds for military construction.

California—Mare Island Naval Shipyard: Electrical distribution system.—The conferees are aware that the Navy has been directed in the past to fund the third and final increment of the waterfront electrical system at Mare Island Naval Shipyard. Further, the conferees are aware that the Navy has failed to comply with this Congressional directive. Therefore, the conferees reiterate their support for this much needed project and direct the Navy to proceed with this project immediately.

California—Marine Corps Air Station, El Toro: Runway extension.—The conferees have denied funding of $14,400,000 for the runway extension at El Toro, but direct the Department to include this project in the fiscal year 1988 budget submission.

California—Naval Ocean Systems Center, San Diego: Systems Improvements to Phys-

ics Laboratory.—The conferees agree with House report language which directs the Navy to initiate design and include construction funding in the fiscal year 1988 budget request for safety improvements to the physics laboratory at Naval Ocean Systems Center, San Diego.

Florida—Naval Technical Training Center Pensacola: Instrumentation Training Facility.—The conferees agree to funding of $1,310,000 for this project and direct the Department to request a reprogramming so that this project can be constructed to full scope as originally proposed.

Georgia—Naval Submarine Base Kings Bay: General Reduction.—The conferees have agreed to a general reduction of $10,000,000 which is to be applied against the fiscal year 1987 budgeted projects at Kings Bay. However, the general reduction shall not be applied against Community Impact Assistance funds.

Gulf Coast Homeporting.—The conferees agree to provide $200,000 from Navy planning and design funds for the purpose of providing community impact assistance funds necessary to support the Gulf Coast Strategic Homeporting Initiative.

Hawaii—Navy Public Works Center, Pearl Harbor: Electrical Distribution System Improvements (Phase I).—The conferees disagree with the authorizing Committees failure to approve $18,200,000 for this important and high priority project at Pearl Harbor, Hawaii. The conferees, therefore, direct the Department to submit to the Committees as soon as practicable, a reprogramming request for the Electrical Distribution System Improvements project.

Hawaii—Pearl Harbor Naval Shipyard: Engineering Facilities.—The conferees agree to direct the Navy to immediately initiate design of the Pearl Harbor Naval Shipyard engineering facilities (P-215 and P-237) and that these projects be included in the fiscal year 1988 budget request. The conferees are concerned about the current overcrowded and dilapidated facilities which present a severe safety hazard.

Tennessee—Naval Air Station, Memphis: Entrance roads improvements.—The conferees disagree with the authorizing Committees' failure to approve $1,570,000 for this important project at Naval Air Station, Memphis. Therefore, the conferees direct the Department to submit to the Committees, as soon as practicable, a reprogramming request for the Entrance Roads Improvement project.

MILITARY CONSTRUCTION, AIR FORCE

Appropriates $1,242,530,000 for Military Construction, Air Force instead of $1,220,130,000 as proposed by the House and $1,250,620,000 as proposed by the Senate. In addition, $24,700,000 of fiscal year 1986 budget authority is rescinded. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Eialson AFB: Loop access road	+$1,000,000
Alaska—Elmendorf AFB: Security police facility	−4,000,000
Alaska—Galena AFB: Unaccompanied personnel housing	+2,000,000
Alaska—King Salmon AFB: Unaccompanied officer personnel housing	+1,250,000
Alaska-Shemya AFB: Add-alter water system—phase I	+500,000
Diesel storage tanks	+100,000
Solid state uninterrupt power supply spt	+100,000
Arizona—Davis-Monthan AFB: Aircraft processing apron (MASDC)	+3,400,000
Base civil engineer administration facility	−2,600,000
Unaccompanied enlisted personnel housing	+5,300,000
California—Edwards AFB: Alter avionics shop	+2,300,000
California—George AFB: Resource management facility	−7,650,000
California—March AFB: Air division headquarters	−2,200,000
Colorado—U.S. Air Force Academy: Add-alter cadet gymnasium	+7,000,000
Florida—MacDill AFB: Alter USREDCOM command center	+1,600,000
Base contracting facility	−1,350,000
Florida—Tyndall AFB: Consolidated training facility	−1,500,000
Illinois—Chanute AFB: Weather training facility	+8,700,000
Louisiana—England AFB: Base civil engineer administrative facility	−2,300,000
Maryland—Andrews AFB: AF One maintenance and support complex	+25,000,000
Nebraska—Offutt AFB: Add to combat arms training/maintenance facilities	−520,000
New Hampshire—Pease AFB: Add-alter avionics maintenance shop	+1,150,000
New Jersey—McGuire AFB: Add-alter base civil engineering complex	−5,700,000
New Mexico—Kirtland AFB: Optics and beam control lab	+8,700,000
New York—Plattsburgh AFB: Alter unaccompanied enlisted personnel housing	−3,000,000
North Carolina—Seymour Johnson AFB: Aircraft maintenance supply warehouse	−2,100,000
Ohio—Wright-Patterson AFB: Aircraft support equipment facility	−3,300,000
South Carolina—Myrtle Beach AFB: Aircraft corrosion control facility	+3,000,000
South Carolina—Shaw AFB: Add-alter 9th Air Force headquarters	+3,700,000
South Dakota—Ellsworth AFB: Life support facility	+950,000
Texas—Kelly AFB: Fuel systems accessories test facility	−9,400,000
Texas—Goodfellow AFB: Unaccompanied officer personnel housing	+10,000,000
Texas—Sheppard AFB: Medical training facility	−12,000,000
Utah—Hill AFB: Logistics systems operations center	+11,500,000
Virginia—Langley AFB: Add-alter data processing facility	−3,550,000
Germany—Ramstein AB: F16 warehouse	−2,200,000
Germany—Sembach AB: C130—add/alter fire station	+770,000
C130—central security control	+2,200,000
C130—sensitive compartmented info facility	+1,500,000
Germany—Spangdahlem AB: Field training facility	−1,600,000
Guam—Anderson AFB: Alter jet fuel storage facilities	−7,600,000
Morocco—Various Locations: Petroleum resupply system	+25,400,000
Philippines—Clark AFB: Parallel runway	+32,500,000
Turkey—Ankara AB: Consolidated support center	−3,050,000
Turkey—Incirlik AB: Base supply administration facility	−1,200,000
United Kingdom—RAF Alconbury: GLCM-consolidated support center	−8,800,000
United Kingdom—RAF Lakenheath: Base supply storage shed	−500,000
Worldwide Unspecified—Planning and design	−10,000,000
General Reduction	−41,100,000
Rescission	−24,700,000
Total	−2,300,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alabama—Maxwell AFB: Chapel annex	0
Vehicle maintenance complex	$3,100,000
Arizona—Luke AFB: F-16 wing headquarters facility	1,350,000
Arkansas—Blytheville AFB: Alter taxiways	2,000,000
Gymnasium	2,750,000
Arkansas—Little Rock AFB: Add/alter fuel systems maintenance docks	2,750,000
California—Edwards AFB: Add to propellant laboratory complex	0
California—Mather AFB: Accounting and finance facility	1,500,000
California—McClellan AFB: Add to-alter depot warehouse	9,400,000
California—Travis AFB: Weapons systems maintenance management support facility	6,500,000
California—Vandenburg AFB: Add/alter Oak Mountain power plant	0
Colorado—Falcon AFS: Land acquisition (easement)	5,400,000
Florida—Avon Park: Extended runway	4,100,000
Florida—Eglin AFB: Fuel systems maintenance facility	1,650,000
Hawaii—Hickam AFB: Add-alter command center	4,700,000
Vehicle operation—maintenance facility	0

Illinois—Chanute AFB: Liquid fuels training facility	2,600,000
Maine—Loring AFB: Aircraft apron-refueling system—phase I	0
Michigan—KI Sawyer AFB: Add-alter combat arms training/maintenance facilities	740,000
Montana—Malmstrom AFB: KC135R—alter headquarters operations fac	7,700,000
New Mexico—Cannon AFB:	
Small aircraft maintenance dock	0
Aircraft fuel system maintenance dock	0
Ohio—Wright-Patterson AFB: Add-alter biocommunications laboratory	7,400,000
Oklahoma—Tinker AFB: Warehouse	10,800,000
South Carolina—Charleston AFB: Squadron operations building	0
Texas—Bergstrom AFB: Tactical air control center facility	0
Virginia—Langley AFB:	
ASAT—administrative building	0
ASAT—control center	0
ASAT—hazardous materials storage	0
ASAT—integrated maintenance facilities	0
ASAT—missile and motor storage	0
ASAT—security control	0
ASAT—utilities and site work	0
Washington—Fairchild AFB: Alter consolidated base personnel office	1,950,000
Germany—Lindsey AS: Digital European backbone facility	0
Germany—Ramstein AB: Protected combat targeting center	0
Germany—Sembach AB: Vehicle maintenance facility	0
Germany—Zweibrucken AB: EDS—forward storage warehouse	0
Greece—Iraklion AS: 2nd echelon medical logistics storage facility	0
Iceland—Keflavik: Accounting and finance facility	1,200,000
Italy—Aviano AB: Unaccompanied enlisted personnel housing	0
Italy—Decimomannu AB: Visiting officer quarters	900,000
Italy—San Vito AS: 2nd echelon medical logistics storage fac	0
Korea—Kunsan AB:	
Add to aircraft apron	0
Aircraft maintenance management facility	2,050,000
Aircraft maintenance unit facility	0
Base civil engineer facility	840,000
Consolidated support facility	2,250,000
Korea—Osan AB:	
Aircraft maintenance facilities	0
Alter airmen dining hall	0
Oman—Masirah AB: SW Asia—caretaker contractor spt facs	0
Oman—Thumrait AB: SW Asia—caretaker contractor spt facs	0
Portugal—Lajes Field: Hydrant refueling system	0
Spain—Torrejon AB: Satellite communications ground terminal	0
Spain—Zaragoza AB: 2nd echelon medical logistics storage fac	0
Turkey—Incirlik AB:	
Medical contingency facility	0
Warehouse	1,650,000
United Kingdom—RAF Alconbury: TR1—visiting airmen quarters	0
United Kingdom—RAF Bentwaters:	
2nd echelon medical logistics storage facility	0
Alter unaccompanied enlisted personnel housing	0
United Kingdom—RAF Upper Heyford:	
Add-alter vehicle maintenance shop	0
Unaccompanied enlisted personnel housing	0
United Kingdom—RAF Wethersfield: 2nd echelon medical logistics storage facility	0
Unspecified Minor Construction	16,000,000

Arkansas—Blytheville AFB: Gymnasium.—The conferees agree to fund the gymnasium project at this location subject to authorization. The Department is urged to submit a reprogramming request to obtain authorization for this project as soon as possible.

Colorado—Falcon AFS: Land acquisition.—The conferees agree to provide $5,400,000 for the land acquisition and easement. The Air Force is directed to vigorously pursue consummation of this acquisition despite the fact that the full request was not provided. A report on the status of execution of this acquisition should be submitted by February 28, 1987.

Maryland-Andrews AFB: Air Force One maintenance and support complex.—The conferees agree to provide the authorized amount of $25,000,000 for this project despite the fact that it may not be sufficient to provide a complete and useable facility. The Air Force is to strive to obtain a complete and useable facility within the amount provided.

New Mexico—Holloman AFB: Restriction on Funds.—The conferees agree that the restriction on obligation of construction funds for Holloman Air Force Base is removed in conjunction with the agreement reached on July 25, 1986, whereby the Air Force agrees to the following with respect to the Valentine, Texas Military Operations area.

No supersonic activity may be scheduled for the Valentine MOA unless the full capacity of the White Sands Missile Range (WSMR) is utilized. The Air Force will continue the research and development program to provide additional scientific data on the effect of sonic booms on people, domestic animals, and wildlife. The Air Force will meet with State and County officials of the Valentine, Texas MOA to determine the need and scope of on-site monitoring of supersonic flight operations and to gather data on the harmful effects of such activity.

In the event research and monitoring activities produce evidence of any definitive harmful effects on the health of people, the Air Force will immediately reevaluate the conditions of the waiver allowing supersonic flight operations and report to the Committees on any decision. Furthermore, the Air Force should also take into consideration and study any adverse effects such supersonic flight operations have on private property and the environment and report to the Committees whether or not damage results from such activity.

South Dakota—Ellsworth AFB: Impact Assistance.—The conferees have agreed to delete language allowing a transfer of military construction funds to the Douglas School District near Ellsworth AFB, South Dakota. The Air Force may submit a reprogramming request for this purpose, if necessary.

Texas—Goodfellow AFB: Unaccompanied officers housing.—The conferees recognize the importance to Air Force intelligence training of constructing sufficient housing for unaccompanied officers at Goodfellow AFB. This project has been deferred for one year, and Goodfellow AFB already suffers a severe shortage of housing for unaccompanied officers being trained at the base. The conferees believe that further delaying construction of this housing would seriously disrupt the intelligence training mission at Goodfellow AFB.

The absence of an authorization notwithstanding, the conferees recognize the critical need to begin construction of 200 housing spaces for unaccompanied officers at Goodfellow AFB during fiscal year 1987 and have provided the $10,000,000 requested. The Department is urged to submit a reprogramming request to obtain authorization for this project as soon as possible.

Survival Training School.—The conferees agree to delete any reference to the proposed move of the Survival Training School from Fairchild AFB, Washington to Keesler AFB, Mississippi in this report. The bill language earmarking design funds for Keesler AFB and the language in the House report on this issue have been deferred.

Wyoming—F.E. Warren AFB: Access Roads.—The conferees expect the Air Force and the Military Traffic Management command to work with the Wyoming Highway Administration to determine the amount of damage to roads in the State resulting from Peacekeeper related construction. If funds for repair and resurfacing are determined to be necessary, they should be requested through the Defense Access Road program.

Germany—Sembach AB: C-130 facilities.—The conferees agree to provide $4,470,000 for facilities relating to the C-130 beddown at Sembach AB. The conferees also agree that previously appropriated funds for this beddown are released for obligation.

Japan—Yokota AB: Jet fuel storage.—The conferees direct the Air Force to seek funding for the jet fuel storage project through the Japanese facilities improvement program.

Korea—Various locations.—The conferees direct the Air Force to seek Korean funding for the fiscal year 1987 projects at Camp Humphreys and Suwon AB, Korea through the CDIP program.

Korea—Kimhae AB.—The conferees direct the Air Force to submit a long term plan for

this base spelling out future missions, manning levels and construction requirements. This plan is to be submitted by February 15, 1987.

Morocco—Petroleum resupply system.—The conferees agree to provide the $25,400,000 requested on the condition that the U.S. not commit itself to funding a railway system between the location of the petroleum storage facilities and the port facilities. It is the conferees view that this railway is not necessary to meet the U.S. operational requirements. The conferees also direct that the contract for this project be let under the terms and conditions spelled out in the American Preference program for the Persian Gulf, and that it be paid in U.S. dollars. The Secretary is to notify the conferees of the meeting of these requirements prior to obligation of these funds.

Philippines-Clark AFB: Various Projects.—The conferees agree to fund a number of requested projects for Clark AFB in the Philippines, subject to authorization. The Department is urged to take the necessary actions to obtain authorization for these projects as soon as possible.

General Reduction.—The conferees approve a general reduction of $41,100,000 to this account. The Air Force is directed to execute this reduction in accordance with the guidelines earlier in this report on preserving the line item integrity of the program.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

Appropriates $534,170,000 for Military Construction, Defense Agencies, instead of $541,563,000 as proposed by the House and $505,110,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alabama—Fort McClellan: Elementary school addition	−$2,830,000
California—Edwards AFB: Rocket propulsion brilion facility	+4,140,000
Georgia—Fort Benning: White elementary school modernization/addition	−1,080,000
Georgia—Fort Stewart: Conforming storage facilities	−730,000
Georgia—Robins AFB: Robins and Linwood elementary school additions	−2,440,000
Hawaii—Pacific Missile Range: Intermediate ballistic missile launch complex	+2,890,000
Kentucky—Fort Campbell: Middle school addition	−1,340,000
Kentucky—Fort Knox: Elementary school gymnasiums-six	−4,350,000
Maine—Naval Air Station New Brunswick: Conforming storage facilities	−510,000
Maryland—Fort Meade: Road improvements	+4,370,000
Missouri—DMA Aerospace Center: Digital production facilities	+1,000,000
New Mexico—Kirtland AFB: Add/alter composite medical facility	+16,000,000
Conforming storage facilities	−620,000
New Mexico—White Sands Missile Range: High endo defense interceptor launch complex	+1,930,000
New York—Governors Island: Elementary/Junior high school addition/roof repair	−2,600,000
North Carolina—Camp Lejeune: Tarawa terr/stone st/delalip elementary addition	−1,190,000
North Carolina—Fort Bragg: Conforming storage facilities	−825,000
Pennsylvania—Naval Ships Parts Control Center, Mechanicsburg: Conforming storage facilities	−318,000
Texas—Brooks AFB: Add/alter drug abuse detection lab	+1,850,000
Texas—Fort Sam Houston: Brooke Army Hospital Phase I	+10,000,000
Virginia—Dahlgren: Elementary/junior high school addition	−1,130,000
Virginia—Quantico: High school addition	−420,000
Wisconsin—Fort McCoy: Conforming storage facilities	−260,000
Bermuda-Naval Air Station: Elementary school	−3,280,000
Germany-Aschaffenburg: Elementary and junior high school addition	−6,600,000
Germany—Bad Kissingen: Elementary school addition	−1,330,000
Germany—Baumholder: Smith elementary school addition	−1,600,000
Germany—Erlangen: Elementary school addition	−3,220,000
Germany—Gelnhausen: Elementary School addition	−1,130,000
Germany—Grafenwoehr: Elementary school addition	−2,500,000
Germany—Heidelberg: Elementary and high school	−3,190,000
Germany—Hohenfels: Elementary school addition	−1,190,000
Germany—Kaiserlautern AB: Elementary and high school addition	−7,880,000
Germany—Schwaebisch Gmuend: Elementary school addition	−1,640,000
Korea—Seoul: High school upgrading	−510,000
Kwajalein—Missile Range: Target launch complex	+1,340,000
Worldwide—unspecified: Planning and design	+4,800,000
Worldwide Various:	
Conforming storage facilities	+10,000,000
General Reduction	−11,000,000
Total	−7,393,000

The conferees agree to fund all other items in conference at the level proposed by the House as shown below:

California—Fort Ord: Hospital addition	$530,000
California—Travis AFB: Composite medical facility phase IV	87,500,000
California—Vandenberg AFB: Add/alter medical center clinic annex	1,900,000
District of Columbia—Naval Research Lab: Pulse power research facility	0
Pennsylvania—DRMO Mechanicsburg: Scrapeyard improvements	0
South Carolina—DFSP NSC Charleston: Fuel tankage	0
Utah—Defense Depot Ogden: Administrative facilities	0
Transient and Visitor Housing	0
Washington—Def Fuel Support Point Mukilteo: Fuel pier	0
Conus Classified—Classified Project	0
Belgium—Shape HQ-Casteau: Elementary and high school addition	1,260,000
Germany—Def Reutilization & Marketing Ofc Bitburg: Covered storage	0
Germany—Dexheim: Elementary school addition	2,430,000
Germany—Hahn AB: High school addition	3,470,000
Germany—Hessisch-Oldendorf: Elementary school	2,310,000
Germany—Nuernberg: Elenentary school	8,580,000
Germany—Stuttgart: Elementary and junior high school addition	4,530,000
Germany—Wuerzburg: Middle school	7,760,000
Netherlands—Woendrecht: Elementary and high school addition	7,420,000
Worldwide Unspecified—Unspecified minor construction	4,000,000

Mississippi-Keesler AFB: Radiology liner accelerator.—The conferees approve the $3,100,000 requested for this project contingent upon the submission of a plan addressing additional proposed locations for this equipment and facilities.

Texas-Brooke Army Medical Center.—The conferees agree to provide $10,000,000 for site preparation for the new hospital at this location in fiscal year 1987. It is the understanding of the conferees that a 450 bed hospital will be designed with initial construction of a 200 bed facility. The 200 bed hospital shall be designed and sited for efficient expansion to its full 450 bed capacity, in the event expansion is required in the future.

Strategic Defense Initiative Construction.—The conferees agree to provide the $10,300,000 requested for SDI related construction on the condition that the reporting requirements outlined earlier in the report are met. The amount requested for planning and design for SDI related facilities has been reduced to $15,000,000 due to the lack of justification.

Planning and Design.—The conferees provide $83,000,000 for this account. Of the funds requested $22,500,000 requested for the design of the Pentagon Annex has been denied, and $5,000,000 of the $20,000,000 requested for SDI related facility design has been denied. The conferees direct the Department to prepare and submit a plan which specifies how long term savings in lease costs would be achieved through the construction of the Pentagon Annex. The plan should also address how changes to traffic flow patterns and parking requirements would be addressed, if this building were constructed.

Conforming Storage Facilities.—The conferees agree to provide $10,000,000 of the $21,000,000 requested for conforming storage facilities. This amount represents the best estimate of projects that will receive the appropriate permits and be ready for award in fiscal year 1987. The conferees agree not to provide funds for this program on a line item basis, and expect that the projects first to receive permits will be the first to be funded. The conferees direct that a report on the use of the funds approved be provided by April 1, 1987. In addition, the conferees direct that the analysis called for in the House report be submitted within four months of enactment of this Act or by April 1, 1987, whichever is earlier.

General Reduction.—The conferees agree to a general reduction of $11,000,000 for this account. Of this amount, $10,000,000 is to be derived from funds provided for Army medical facilities.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Appropriates $232,000,000 for the North Atlantic Treaty Organization Infrastructure as proposed by the Senate instead of $247,000,000 as proposed by the House. The Department should seek additional funds for this program, if necessary, as outlined earlier in this report.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

Appropriates $140,879,000 for Military Construction, Army National Guard instead of $115,724,000 as proposed by the House and $133,271,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Arizona—Chandler: Armory	+810,000
Arizona—Tucson: Armory	+1,576,000
Michigan—Bay City: Armory sewerage connection	0
Mississippi—Camp Shelby: Training Facility, Phase 2	+4,451,000
Tennessee—Dyersburg: Armory	+984,000
Utah—Draper: Military Complex Acquisition	+5,376,000
Wisconsin—Platteville: Armory renovation	+570,000
General Reduction	−8,000,000
Total	+5,767,000

The conferees agree to fund the following line items which were recommended by the House to be funded from existing funds:

Alabama:	
Daleville: Armory	$965,000
Fayette: Armory	470,000
Millport: Armory	708,000
Pelham: Armory	686,000
California—Fairfield: Armory	1,784,000
Mississippi—Camp McCain:	
Combined support maintenance shop	1,493,000
Armory	1,607,000
Barracks and dining hall	722,000
New Mexico—Santa Fe: Armory	3,410,000
North Carolina—Wadesboro: Armory	681,000
Ohio—Greensburg: Armory	3,254,000
Washington—Camp Murray: Land acquisition	2,170,000
Wisconsin—Chippewa Falls: Armory addition	1,438,000

General Reduction.—The conferees agree to a general reduction of $8,000,000 which is to apply against Armory unit storage buildings. The conferees believe that the additional funds provided in fiscal year 1986 for unit storage buildings were more than adequate.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

Appropriates $148,925,000 for Military Construction, Air National Guard as proposed by the Senate instead of $140,000,000 as provided by the House. The conferees agree to the following additions to the amounts and line items as proposed by the House:

Pennsylvania—Harrisburg IAP: Operations, training, dining and medical facilities	+$3,600,000
West Virginia:	
E WV Regional Apt (Martinsburg): Phase I ramp addition	+2,500,000
Kanawha County Airport (Charleston): Multiple facility additions	+625,000
Wisconsin—Mitchell Field: Composite facility	+2,200,000
Total	+8,925,000

Pennsylvania—Greater Pittsburgh IAP.—The conferees recommend construction of a new off-station main entrance for the Air National Guard activities at Greater Pittsburgh Airport. The project should be accomplished in conjunction with the major Allegheny county public road project to construct a four lane airport access road/highway required to accommodate increased airport vehicular traffic. Portions of the existing Air National Guard access road and connecting intersection will be bypassed to make way for the new airport access road/highway. A new main entrance is essential to insure the safe and efficient continued mission of the Pennsylvania Air National Guard. The conferees recommend funds in the amount of $5,000,000 per year for four years beginning in fiscal year 1988 to be provided and transferred to the Federal Highway Administration of the Department of Transportation, which is responsible for assuring proper execution of the work under Title 23, United States Code, Section 210. The conferees have included language permitting the Secretary of the Air Force to assure that the remaining three increments will be available. This will allow DOT to assure Allegheny County of full funding before the project begins.

Tennessee—Memphis, 164th Airlift Group.—The conferees agree with Senate report language concerning the potential for the Air National Guard component to assume additional strategic airlift missions. The conferees believe a transfer of some strategic airlift assets from the active Air Force to the Guard and Reserve would be a cost-effective and efficient step. The conferees also note the unique capability of the 164th Airlift Group in Memphis, Tennessee, to assume the strategic airlift function. The conferees direct the Air National Guard to program sufficient funds to initiate design of facilities to accommodate at least eight C-5's in Memphis. The conferees have also agreed to lift the hold on the hangar project at Andrews AFB, Maryland requested through reprogramming.

MILITARY CONSTRUCTION, ARMY RESERVE

Appropriates $86,700,000 for Military Construction Army Reserve as proposed by the Senate instead of $76,417,000 as proposed by the House. The conferees agree to the following additions to the amounts and line items as proposed by the House:

South Carolina—Florence: Land acquisition	+$200,000
Virginia—Fort Lee: Add/alter Army Reserve center	+2,299,000
Puerto Rico—Fort Allen: Army Reserve center maintenance/storage	+7,784,000
Total	+10,283,000

FAMILY HOUSING, ARMY

Appropriates $1,597,657,000 for Family Housing, Army instead of $1,573,991,000 as proposed by the House and $1,667,977,000 as proposed by the Senate. The conferees are agreed that $379,680,000 is appropriated for construction, $1,209,914,000 is appropriated for operations and maintenance, and $8,063,000 is appropriated for debt payment. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Construction Improvements	+$10,000,000
Planning	+2,000,000
Operating Expenses: Furnishings account	−1,185,000
Leasing	+13,851,000
Maintenance of real property	−1,000,000
Total	+23,666,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alaska—Fort Wainwright	0
California—Fort Ord	$30,500,000
Louisiana—Fort Polk	33,900,000
Maryland—Aberdeen Proving Ground	9,100,000
New York:	
Fort Drum	86,500,000
Seneca Army Depot	2,650,000
Germany:	
Crailshein	3,200,000
Darmstadt	2,500,000
Erlanger	7,750,000
Herzo Base	2,600,000
Schweinfurt	6,800,000
Vilseck	17,800,000
Wildflecken	1,550,000
Kwajalein: Kwajalein	16,000,000
General Reduction: Construction Account	0
Operating Expenses: Management Account	69,000,000
Utilities Account	259,330,000

Improvements.—The conferees agree to a level of $135,000,000 for this account. The conferees are agreed that the improvement project of the General officer quarters at Walter Reed Army Medical Center is to be limited to $75,000.

Leasing.—The conferees agree to a level of $158,400,000 for this account. The reductions include $10,938,000 from funds requested for annualization of existing leases which are no longer necessary. The amount of $4,907,000 has been reduced from funds requested for annualization of existing leases which are no longer necessary. The amount of $4,907,000 has been reduced from funds requested for new leases in accordance with the policies outlined earlier in this report.

Maintenance.—The conferees have agreed to a level of $569,000,000 for this account to conform to the authorization.

FAMILY HOUSING, NAVY AND MARINE CORPS

Appropriates $708,693,000 for Family Housing, Navy and Marine Corps instead of $712,494,000 as proposed by the House and $713,366,000 as proposed by the Senate. The conferees are agreed that $171,392,000 is appropriated for construction, $528,230,000 is appropriated for operations and maintnance, and $9,071,000 is appropriated for debt payment. The conferees agree to the following deletions to the amounts and line items as proposed by the House:

Operating Expenses:	
Management Account	−$2,730,000
Utilities Account	−1,071,000
Total	−3,801,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

California:	
Marcor Air-Grnd Comb Ctr Twentynine Palms.	$31,400,000
NAS Moffet Field	10,400,000
Naval Station, Long Beach	21,000,000
Public Works Center, San Francisco	24,450,000
Construction Improvements	48,580,000

General Reduction	0
Operating Accounts: Services account	29,847,000
Maintenance of real property	260,000,000

Improvements.—The conferees agree to a level of $48,580,000 for this account. Of this amount the conferees direct that $2,300,000 is to be used to construct replacement housing at MCAS El Toro, California necessary because of the recently approved land exchange.

Maintenance.—The conferees agree to a level of $260,000,000 for this account. The conferees direct that none of the funds requested for Quarters AA, NETC Newport, Rhode Island, and Quarters 6, MCB, Washington, D.C. be obligated until a long term plan for their upgrade has been submitted and approved by the Committees on agree with Appropriations.

FAMILY HOUSING, AIR FORCE

Appropriates $815,420,000 for Family Housing, Air Force Family Housing instead of $807,420,000 as propsoed by the House and $832,935,000 as proposed by the Senate. The conferees are agreed that $104,840,000 is appropriated for construction. $703,215,000 is appropriated for operations and maintenance, and $703,215,000 is appropriated for debt payment. The conferees agree to the following addition to the amounts and line items as proposed by the House:

Construction Improvements	+$8,000,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Germany:	
Bitburg AB	$24,015,000
Hahn AB	10,300,000
General Reduction-Construction Account	0
Operating Expenses:	
Management Account	27,969,000
Furnishings Account	41,872,000
Utilities Account	235,320,000
Leasing	70,000,000
Maintenance of Real Property	300,000,000

Fort MacArthur, California.—The conferees agree with the Air Force to notify the Committees on Appropriations prior to the obligation of funds appropriated in fiscal year 1985 for new family housing sited at White Point Park. This notification should contain a certification that the City of Los Angeles and the Air Force have come to a final agreement on the use of the site.

Maintenance.—The conferees agree to a level of $300,000,000 for this account. The conferees direct that the Quarters 6776, USAF Academy, Colorado and the Quaraters 418, Langley AFB, Virginia projects be limited to $90,000 each. This limitation applies to funds from both the maintenance and improvement accounts.

FAMILY HOUSING, DEFENSE AGENCIES

Appropriates $16,643,000 for Family Housing, Defense Agencies instead of $16,470,000 as proposed by the House and $17,290,000 as proposed by the Senate. The conferees are agreed that $240,000 is appropriated for construction and $16,403,000 is appropriated for operations and maintenance. The conferees agree to the following addition to the amounts and line items as proposed by the House:

Operating Expenses-Leasing	+$173,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

NSA Classified Project	$240,000
Operating Expenses: Furnishings Account	1,413,000

HOMEOWNERS ASSISTANCE FUND

Approriates $2,000,000 for the Homeowners Assistance Fund instead of $3,000,000 as proposed by the Senate. The Department is to submit a detailed justification on the use of these funds and the future use of this authority.

GENERAL PROVISIONS

Section 110.—The conferees agree to retain the House provison restricting the U.S. from paying real property taxes to any foreign nation.

Section 113.—The conferees agree to retain the House provision restricting the use of funds for the sale, lease, or rental of Fort DeRussy, Hawaii.

Section 115.—The conferees agree to delete the provision in the House bill numbered Section 115 requiring funds appropriated for the F-16 beddown in Misawa, Japan to be additive over the level of funding provided in fiscal year 1986 for the Japanese facilities improvement program.

Section 116.—The conferees agree to the House provision restricting the award of architect and engineer contracts over $500,000 in Japan or any NATO country to U.S. firms or U.S. firms in joint venture with host nation firms, but with a new section number 115.

Section 117.—The conferees agree to retain the House provision providing a 20% premium to U.S. firms in the U.S. territories of the Pacific and on Kwajalein Island on all construction projects over $1,000,000, but with a new section number 116.

Section 118.—Renumbered to Section 117.

Section 119.—Renumbered to Section 118.

Section 120.—Renumbered to Section 119.

Section 121.—Renumbered to Section 120

Section 122.—The conferees agree to retain the provision in both the House and Senate bills establishing an account to eliminate substantial gains and losses caused by fluctuations in foreign currency exchange rates, but with a new section number 121. The conferees agree to amend the language of the provision to allow use of some unexpended funds from prior years.

Senate new section 123.—The conferees agree to retain the House provision requiring the Secretary of the Navy to enter into negotiations with certain shipyards to determine if any liability exists for possible damages resulting from facility improvements, but with a new section number 122.

Section 124.—Renumbered to Section 123.

Section 125.—The conferees agree to delete the House provision relating to use of funds for a replacement hospital at Brooke Army Medical Center, Texas.

Senate new section 123.—The conferees agree to language proposed by the Senate reducing the amounts available for consultants and consultant services, but with a new section number 124.

Senate new section 124.—The conferees agree to language proposed by the Senate restricting obligation of funds in any country that the President determines has failed to take adequate measures to prevent the sale of narcotics in the U.S., but with a new section number 125.

Senate new section 125.—The conferees agree to language proposed by the Senate allowing up to $5,000,000 from available DOD funds to be paid for claims arising from property losses by the explosion of Army munitions near Checotah, Oklahoma, but with new section number 126.

Senate new section 126.—The conferees agree to language proposed by the Senate requiring the Secretary of Defense to submit a report detailing specific actions to be taken in fiscal year 1987 to encourage NATO members and Japan to assume a greater share of the common defense burden, but with a new section number 127. The language has been amended to strike the restrictions on obligation of funds.

TITLE III—EMERGENCY RESERVE FOR AFRICAN FAMINE RELIEF

The conferees agree with the Senate language which amends Title II of Public Law 99-10. The amendment appropriates $300,000,000 to the "Emergency Reserve for African Famine Relief."

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATONS ACT

Amendment No. 11: Deletes language proposed by the House and Senate and inserts new language relating to the rate for operations of programs, projects, or activities provided for in the Department of Transportation and Related Agencies Appropriations Act, 1987.

The House version of H.J. Res. 738 provides appropriations for activities of the Department of Transportation and related agencies at the rate for operations and to the extent and in the manner provided for in H.R. 5205 as passed by the House of Representatives on July 30, 1986. The Senate version of the joint resolution provides appropriations for these activities at the rate for operations and to the extent and in the manner provided for H.R. 5205 as passed by the Senate on September 17, 1986. The conference agreement provides for amounts necessary for programs, projects, or activities provided for in H.R. 5205 to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-976) as filed in the House of Representatives on October 7, 1986, as if enacted into law except as it relates to amendment number 126 (section 331).

In lieu of amendment number 126, the conference agreement includes a statutory requirement that the Federal Aviation Administration satisfy the following criteria by September 30, 1987:

(a) Total air traffic controller workforce level of not less than 15,000;

(b) With respect to the air traffic controller work force, of those individuals eligible to be full performance level controllers, 70 percent shall have achieved full performance level status; and

(c) With respect to staffing at particular air traffic control facilities, of those individuals eligible to be full performance level controllers, at least 60 percent at each en route air traffic control center and each "level 3" or above terminal shall have achieved full performance level status.

Although the conference agreement deletes the language removing the prohibition against rehiring those air traffic controllers who engaged in the 1981 strike, the conferees remain concerned about air traffic controller workforce staffing. According to a recent General Accounting Office report, the Federal Aviation Administration has not met its goals for full performance level controllers at many major facilities and the growth in air traffic activity has so increased workload that controllers are

stretched too thin. Therefore, the conference agreement has included three statutory controller workforce requirements. As previously stated, these minimum requirements deal with total controller staffing, system-wide full performance level controllers, and minimum full performance level controller staffing at each center and each major terminal facility.

DEPARTMENT OF TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT

Amendment No. 12: Section 101(m) of House Joint Resolution 738 provides appropriaions for programs, projects, and activities provided for in the Treasury, Postal Service, and General Government Appropriations Act, 1987. The House version of the joint resolution provides appropriations for programs, projects, and activities at a rate of operations and to the extent and in the manner provided for in H.R. 5294 as passed the House of Representatives on August 6, 1986. The Senate version of the joint resolution provides appropriations for these programs, projects, and activities at the rate and in the manner provided for in H.R. 5294 as reported to the Senate on August 14, 1986, with certain additional provisions and exceptions provided for in the joint resolution.

The conference agreement on House Joint Resolution 738 incorporates some of the provisions of both the House and Senate versions of the Treasury, Postal Service, and General Government Appropriations Act, 1987, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-723 and Senate Report 99-406 should be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. The Treasury, Postal Service, and General Government Appropriations Act, 1987, put in place by this joint resolution, incorporates the following agreements of the managers.

TITLE I—DEPARTMENT OF THE TREASURY

Continues the salaries and expenses account of the Office of the Secretary and the International Affairs account as separate appropriation accounts as proposed by the House.

Appropriates $52,642,000 for salaries and expenses of the Office of the Secretary as proposed by the House instead of $76,000,000 as proposed by the Senate.

Appropriates $22,442,000 for International Affairs as proposed by the House.

Appropriates $29,499,000 for the Federal Law Enforcement Training Center as proposed by the House instead of $23,000,000 as proposed by the Senate. The Federal Law Enforcement Training Center is directed to provide such training as may be required to support the Federal drug initiative funded in this continuing resolution.

Appropriates $240,117,000 for the Financial Management Service as proposed by the Senate instead of $251,117,000 as proposed by the House.

Appropriates $193,463,000 for the Bureau of Alcohol, Tobacco and Firearms as proposed by the Senate instead of $190,463,000 as proposed by the House. The conferees also agree to a Senate provision regarding explosives tagging and for research and development of an explosives identification and detection device.

Appropriates $786,000,000 for salaries and expenses of the U.S. Customs Service instead of $796,000,000 as proposed by the House and $760,000,000 as proposed by the Senate. The conferees also agree to several legislative provisions proposed by the House. Of the additional Customs personnel provided for in this joint resolution, the conferees are agreed that the allocation of such personnel should be in accordance with both House and Senate reports on H.R. 5294, including twenty-five additional personnel for the Dallas/Fort Worth International Airport.

Dallas/Fort Worth continues to be an area where growth has outpaced available personnel. Since 1981, DFW passenger clearance has increased approximately 90% without any significant increase in Customs personnel. The rapid rate of growth is expected to continue in both the cargo and passenger areas. Pronounced growth in cargo clearance appears likely to continue with textile and high technology shipments, both of which create labor intensive entries. In the passenger area, continued significant increases in international air routes are expected to occur. In addition, because of facility configurations as they relate to international traffic, a FIS at DFW International Airport Terminal 4E will require Customs staffing beginning in fiscal year 1987, and Customs is directed to staff that facility as soon as practicable. Similarly, the increase in traffic has placed an increased burden on Customs for drug interdiction and other enforcement activities.

The conferees direct the Customs Service to assign four special agents to the 1987 Interagency Drug Task Force Demonstration Program in Philadelphia, PA, to combat drug-related crimes.

The conferees have deleted bill language proposed by the House which would set-aside $300,000 for additional part-time and temporary positions in the Honolulu Customs District. This language is no longer necessary because of an August 11, 1986 letter from the Commissioner of the Customs Service in which he agreed to allocate $300,000 from FY 1987 funds to hire additional part-time employees to help alleviate processing delays during peak periods of activity at Honolulu International Airport. The managers have provided $300,000 to carry out this activity. These funds are meant to enhance and not supplant the current staff levels in the Honolulu Customs District.

The conferees have approved significant increases in the level of personnel available to the Customs Service and have established a hiring floor which is 850 positions over the FY 1986 level of 14,041 positions. It is the intention of the conferees and the Congress that much of these new resources shall go toward the Southwest Border Drug Interdiction Initiative. However, the conferees also intend that the commercial duties of the Customs Service will not be reduced in FY 1987 and furthermore that the commercial duties of the Customs Service shall receive a substantial amount of the new resources. To that end, the conferees direct the Customs Service to report to the Committees on Appropriations within three months of enactment how the new resources have been distributed by position, duty, and location.

Appropriates $77,819,000 for the Operation and Maintenance of the Air Interdiction Program of the U.S. Customs Service instead of $87,819,000 as proposed by the Senate and $67,200,000 as proposed by the House.

The conferees direct the Customs Service to allocate $2,500,000 within available funds, for planning, design, and construction of an operations and control facility and hangar at North Island, NAS, California.

Appropriates $42,508,000 for the United States Mint as proposed by the Senate instead of $43,508,000 as proposed by the House.

Deletes a provision providing for the acquisition and renovation of surplus properties related to expansion and improvement of the United States Mint that was proposed by the Senate.

Appropriates $198,564,000 for the Bureau of the Public Debt proposed by the House instead of $218,564,000 as proposed by the House.

INTERNAL REVENUE SERVICE

Appropriates $95,147,000 for salaries and expenses as proposed by the House instead of $92,000,000 as proposed by the Senate.

Appropriates $1,332,902,000 for processing tax returns as proposed by the House instead of $1,215,000,000 as proposed by the Senate.

Appropriates $1,623,162,000 for examinations and appeals as proposed by the House instead of $1,530,000,000 as proposed by the Senate.

Appropriates $1,196,581,000 for investigation, collection and taxpayer service as proposed by the House instead of $1,098,000,000 as proposed by the Senate.

Deletes a Senate provision mandating a favorable I.R.S. determination for a certain organization.

The conferees note that the IRS recently published Revenue Ruling 86-20 and Revenue Procedure 86-9 which attempts to bring direct import automobiles under the provisions of the Energy Tax Act. The conferees do not dispute the applicability of the Act to such automobiles. However, the conferees are concerned that the retroactive application of the tax may be unreasonable in view of the failure of IRS and EPA to develop procedures to apply the law to direct import automobiles.

Title 26 U.S.C. 4064(c)(1) states that fuel economy shall be measured in accordance with procedures established by the EPA Administrator, and that the EPA Administrator shall report fuel economy measurements to the IRS. Such procedures were never established by the EPA with respect to direct import automobiles. The conferees therefore believe that it is appropriate for the IRS to reconsider the retroactive application of the Energy Tax Act under Revenue Ruling 86-20 and Revenue Procedure 86-9. The conferees also believe that the IRS should examine the cost-effectiveness of any efforts to collect taxes retroactively in its reconsideration of this matter.

UNITED STATES SECRET SERVICE

Appropriates $318,000,000 for salaries and expenses, United States Secret Service, as proposed by the House instead of $316,800,000 as proposed by the Senate; makes available $6,000,000 for continued construction at the James J. Rowley Training Center and $500,000 for research, as proposed by the House.

TITLE II—U.S. POSTAL SERVICE

Appropriates $650,000,000 for payment to the Postal Service Fund as proposed by the Senate instead of $690,049,000 as proposed by the House.

The conferees are agreed that the $40,049,000 appropriation requested in the President's Budget for meeting certain liabilities of the former Post Office Department should be deferred until a future year.

The conferees request the Postmaster General to review the requirements for postal services in the area of Pocola, Oklahoma, and report to the Congress concerning the possibility of providing an adequate postal facility for that rapidly growing area.

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT

Appropriates $15,700,000 for The Office of Administration as proposed by the Senate instead of $16,238,000 as proposed by the House.

Appropriates $24,450,000 for the White House Office as proposed by the Senate instead of $25,179,000 as proposed by the House.

Appropriates $4,700,000 for the Executive Residence at the White House as proposed by the Senate instead of $4,942,000 as proposed by the House.

Appropriates $1,790,000 for Special Assistance to the President as proposed by the Senate instead of $1,849,000 as proposed by the House.

Appropriates $2,275,000 for the Council of Economic Advisors as proposed by the Senate instead of $2,346,000 as proposed by the House.

Appropriates $2,600,000 for the Office of Policy Development as proposed by the Senate instead of $2,665,000 as proposed by the House.

Appropriates $175,000 for the National Critical Materials Council instead of $250,000 as proposed by the House and $100,000 as proposed by the Senate.

Appropriates $4,550,000 for the National Security Council as proposed by the Senate instead of $4,627,000 as proposed by the House.

Appropriates $37,000,000 for the Office of Management and Budget as proposed by the Senate instead of $34,274,000 as proposed by the House, and continues a provision prohibiting the Office of Management and Budget from reviewing certain transcripts. The conferees agree to delete a prohibition against the use of funds appropriated in this Act to fund activities of the Office of Information and Regulatory Affairs. (See Title VIII of this amendment.)

Appropriates $1,600,000 for the Office of Federal Procurement Policy as proposed by the Senate instead of $1,660,000 as proposed by the House.

Appropriates $1,000,000 for unanticipated needs as proposed by the House instead of $500,000 as proposed by the Senate.

TITLE IV—INDEPENDENT AGENCIES

Appropriates $1,469,000 for the Administrative Conference of the United States, instead of $1,559,000 as proposed by the House, and $1,369,000 as proposed by the Senate.

Appropriates $1,750,000 for the Advisory Commission on Intergovernmental Relations instead of $1,045,000 as proposed by the House and $1,953,000 as proposed by the Senate.

The conferees concur with the directive outlined in House Report 99-223 which mandates increased state contributions for the operation of the Advisory Commission in Intergovernmental Relations. However, the conferees agree with the Senate position that such a cost sharing program should be implemented over some reasonable period of time. Therefore, to insure the implementation of a federal-state cost sharing plan, the conference agreement provides $1,750,000 in federal funds for the operation of ACIR in fiscal year 1987. This amount is $750,000 above the House passed level and $203,000 less than the amount proposed by the Senate. For the outyears, the conferees direct the ACIR to request not more than $1,390,000 in federal funds for fiscal year 1988 and not to exceed $1,040,000 in federal funds for fiscal year 1989. After this implementation period is completed, the ACIR should request no more than $1,040,000 in federal funds for the operation of the Commission. No funds are provided to the ACIR for preparing or submitting budget requests which exceed the specified amounts for the fiscal years mentioned in this conference report. To augment federal appropriations, the ACIR should aggressively pursue contributions from the several states and increase receipts generated from the sale of Commission publications.

Appropriates $201,000 for the Advisory Committee on Federal Pay as proposed by the Senate instead of $229,000 as proposed by the House.

Appropriates $778,000 for the Committee for Purchase from the Blind and Other Severely Handicapped as proposed by the House instead of $699,000 as proposed by the Senate, and deletes a provision relating to central non-profit agencies proposed by the House and deleted by the Senate. The conferees direct the Committee to study the feasibility of an affirmative action program for the hiring, placement, and advancement of handicapped individuals, and report the results to the Committee on Appropriations.

Appropriates $12,800,000 for the Federal Election Commission as proposed by the Senate instead of $12,000,000 as proposed by the House.

GENERAL SERVICES ADMINISTRATION

Appropriates $160,944,000 for the Federal Supply Service as proposed by the Senate instead of $170,839,000 as proposed by the House, and inserts a provision increasing the limitation for expenses of transportation audits and contract administration as proposed by the Senate.

Appropriates $39,108,000 for the Federal Property Resource Service as proposed by the Senate instead of $40,975,000 as proposed by the House and makes available $11,000,000 to be derived by transfer of excess of real property as proposed by the Senate instead of $11,563,000 as proposed by the House and makes available $28,108,000 for transportation, processing, refining, storage, security maintenance, rotation and disposal of certain materials as proposed by the Senate instead of $29,412,000 as proposed by the House.0

Appropriates $5,000,000 for a grant for construction at the University of Massachusetts, at Amherst, as proposed by the House and $5,000,000 for a grant for construction at the University of Nevada at Reno, as proposed by the Senate.

Modifies a provision proposed by the House but deleted by the Senate which makes funds available for evaluating, testing, relocating and upgrading stockpile materials.

The conferees are particularly concerned about the cobalt in the Stockpile. Cobalt is essential to both our defense and civilian economy. The principal alternative supplier is the Soviet Union, which is an obvious concern.

Cobalt is used as a metal primarily because of three unique properties: (1) its ability to impart strength to structural materials at high temperatures (aircraft engines), (2) its magnetic properties (electrical communication equipment), and (3) its ability to act as a binder in cemented carbides (cutting tools, mining drill bits). All of these uses are critically important to national security, especially super alloys for gas turbines and carbides for a wide range of cutting and wear-resistant applications.

The condition of the cobalt in the National Strategic Stockpile has been assessed for use for those requirements essential to the military and key industrial needs of the nation. A major portion of the cobalt in the stockpile is technologically obsolete. In a national emergency, the need for a high-quality cobalt is a necessity. Therefore, GSA is so directed, before any additional materials are purchased for the National Defense Stockpile, to commence upgrading the obsolete cobalt.

Appropriates $120,289,000 for General Management and Administration as proposed by the Senate instead of $125,374,000 as proposed by the House, and earmarks $800,000 for certain costs in support of Congressional Offices as proposed by the Senate instead of $900,000 for that support as proposed by the House. The conferees are agreed that the purpose of this earmarking and language is to preclude the necessity for voluminous record-keeping, auditing, and other unnecessary administrative activities. Deletes a provision which would have made available $2,500 for reception and representation expenses which was proposed by the Senate.

The GSA is directed to study the need and availability of existing buildings meeting Federal office building requirements in San Francisco and report with specific recommendations on alternatives as to cost, space, and locations prior to the FY 1988 appropriations hearings.

The conferees are aware that the Immigration and Naturalization Service's Eastern Remote Adjudication Center (RAC) located in St. Albans, Vermont will be expanded this spring. The INS has directed the General Services Administration to locate either new or existing space for expansion in Franklin County, Vermont, GSA began the search this summer and is now looking beyond Franklin County. The conferees are aware that existing space is available in Franklin County. Given that fact and that the county workers at the RAC have proven to be both highly skilled and dedicated employees, the conferees direct GSA to find either new or existing space in Franklin County at the soonest possible date.

Appropriates $29,000,000 for the Information Resources Management Service as proposed by the Senate instead of $30,653,000 as proposed by the House.

Appropriates $21,108,000 for the Office of the Inspector General as proposed by the House instead of $20,000,000 as proposed by the Senate.

Appropriates $1,171,800 for Allowances and Office Staff for former Presidents as proposed by the Senate instead of $1,176,000 as proposed by the House.

Appropriates $100,321,000 for the National Archives and Records Administration as proposed by the Senate instead of $105,321,000 as proposed by the House. The conferees direct the National Archives and Records Administration to consider providing sufficient funds for restoration, preservation, and maintenance of documents and memorabilia relating to President Calvin Coolidge located in the Calvin Coolidge Memorial Room Forbes Library, Northampton, Massachusetts.

Appropriates $99,000,000 for the Office of Personnel Management instead of $96,000,000 as proposed by the Senate and $99,846,000 as proposed by the House. The

conferees have also inserted a provision which allows the transfer of $60,900,000 for administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management.

Appropriates $1,459,000,000 for the Government Payment for Annuities, Employees Health Benefits as proposed by the Senate instead of $1,469,357,000 as proposed by the House. The conferees ageee that the amount of funds appropriated for the government's contribution for annuitants in the federal employees health benefits system is sufficient to maintain current service levels. It is the conferees' intent in approving the appropriation of $1,459,000,000 to provide sufficient funds to maintain federal employed health benefits at no less than current levels.

Appropriates $4,557,000,000 for payment to the Civil Service Disability and Retirement Fund as proposed by the Senate instead of $4,619,365,000 as proposed by the House. The conferees are very concerned about any unfunded liabilities that might result from this reduction. The conferees are agreed that all payments to the Civil Service Retirement and Disability Fund That are mandated by law should be included in the budget request and appropriated by the Congress.

Appropriates $5,250,000 for the Federal Retirement Thrift Investment Board instead of $250,000 as proposed by the Senate.

Inserts a provision regarding the Thrift Board. Except for fiscal year 1987, the expenses of the Thrift Board are to be paid for out of earnings by the Thrift Fund. Pub. L. 99-335 authorized appropriations for fiscal year 1987 to enable the Board to start up the agency. The authorizing legislation limits Board expenses in fiscal year 1987 to appropriated funds. The provision permits the Board to utilize Fund earnings in fiscal year 1987 for fiscal year 1987 administrative expenses.

Appropriates $19,140,000 for the Merit Systems Protection Board as proposed by the Senate instead of $20,251,000 as proposed by the House.

Appropriates $4,396,000 for the Office of Special Counsel as proposed by the Senate instead of $4,640,000 as proposed by the House.

Appropriates $16,330,000 for the Federal Labor Relations Authority as proposed by the Senate instead of $17,064,000 as proposed by the House. The conferees direct that of the amount appropriated for the FLRA, $8,572,000 and 145 positions shall be made available for the Office of the General Counsel. Funds for the Office of the General Counsel include its share of GSA space rental, communications and penalty mail costs.

Appropriates $25,538,000 for the United States Tax Court as proposed by the House instead of $25,000,000 as proposed by the Senate.

TITLE V—GENERAL PROVISIONS—THIS ACT

Amends a provision proposed by the House and amended by the Senate directing the Secretary of the Army to sell and convey to the state of Hawaii, or the city and county of Honolulu parts or Ft. DeRussy.

Section 509 of the Senate Bill provides permanent authority to the Secretary of the Army to convey and sell, through the General Services Administration, a portion of the lands at Fort DeRussy, Hawaii, subject to certain enumerated conditions. The Conferees have agreed to the Senate version of section 509, with an amendment. This amendment provides that the authority in section 509 shall be available to the Administrator of the General Services Administration and the Secretary of the Army notwithstanding any limitation on the obligation or expenditure of funds for the sale, lease, rental, or excessing of Fort DeRussy, Honolulu, Hawaii. Thus, in addition to providing a general waiver of law as recommended by the Senate, the conference agreement further waiver any limitation contained in any individual fiscal year 1987 appropriations bill, whether incorporated in the continuing resolution for fiscal year 1987 or in a bill making general appropriations for an agency of government.

This additional waiver is designed to ensure that the authority provided in section 509 is not impaired by any limitation on the availability of funds contained in bills making appropriations for the Department of Defense or for Military Construction. The waiver is specifically designed to address limitations on the obligation or expenditure of funds appropriated for the sale, lease, rental, or excessing of Fort DeRussy in a form similar to section 113, of Pub. L. 99-173 and section 101(b) of P.L. 99-190 (Section 8055 of the Department of Defense Appropriations Act, 1986).

The conferees direct the General Services Administration to insure that the land is not sold to commercial interests but is sold to the local government to insure that any development of the property will be by that government.

The authority to conduct a sale pursuant to subsection (b) shall be contingent upon the failure to approve an ordinance by initiative for the City and County of Honolulu relating to the primary urban center development plan special provisions, the subject matter of which is an express prohibition on the building of a convention center or hotel on Fort DeRussy, provided such an ordinance by initiative appears on the ballot for voters of the City and County of Honolulu, Hawaii in November, 1986.

Restores a provision proposed by the House and stricken by the Senate which prohibits the closing of a General Services Administration office in Sacramento, California.

Amends a provision inserted by the House and stricken by the Senate. The conferees agreed to accept modified language proposed by the House. Effective September 30, 1987, the amount of silver deposited in the National Defense Stockpile shall not exceed 128,000,000 troy ounces. This amount includes any silver on loan to the Department of Defense. The conferees understand that Section 203 of the Liberty Coin Act authorizes the use of silver in the stockpile for the minting of bullion coins. In accordance with the procedures established by the Strategic and Critical Materials Stock Piling Act, the Administrator of General Services is directed to sell on the open market the remaining silver not used for the coinage program.

Amends a provision inserted by the House and stricken by the Senate, the conferees agreed to accept modified language proposed by the House. The modified provision mandates the use of all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile goals and specifications. These funds must be expended no later than October 1, 1988.

The modified language does specify the goals in effect on October 1, 1984. However, the General Services Administration has the flexibility to make minor adjustments in the stockpile goals to reflect changing circumstances. The conferees note that one such adjustment includes the purchase of germanium for the stockpile. Aside from these adjustments, the General Services Administration is directed to use the goals in effect on October 1, 1984 to the maximum extent practicable. The provision was also modified to allow for the use of funds to meet current stockpile specifications.

Inserts a provision proposed by the Senate which prohibits, under certain conditions, the procurement of stainless steel flatware not produced in the United States.

Inserts a provision proposed by the Senate regarding property on which the Phoenix Indian School is located at Phoenix, Arizona.

Inserts a provision proposed by the Senate regarding lands in the vicinity of Bull Shoals Lake, Arkansas.

Inserts a provision proposed by the Senate which directs the Administrator of the General Services Administration to negotiate a lease of up to 30 years duration with the City of Tacoma, Washington for the purpose of leasing space for the U.S. Courts at the Union Station, in Tacoma, Washington.

Inserts a provision proposed by the Senate which provides that the United States Courthouse located at 223 Park Avenue Southwest in Aiken, South Carolina, shall be known and designated as the "Charles E. Simons, Jr., Federal Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such courthouse is deemed to be a reference to the "Charles E. Simons, Jr., Federal Courthouse".

Inserts a provision proposed by the Senate which mandates that the Office of Management and Budget include Harvey County, Kansas in the area designated as the Wichita Metropolitan Statistical Area.

Inserts a provision proposed by the Senate which provides for an annuity of $1,500 per month to Gladys Pile, who served as a Senator from South Dakota from November, 1938 to January, 1939. Ms. Pile is not otherwise eligible to receive an annuity on the basis of her service as Senator.

Inserts a provision proposed by the Senate which provides that Erna Avari Patrick of Columbia, South Carolina, shall be considered to have satisfied the requirement of clause (3) of Section 603 of this Act.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES AND CORPORATIONS

Inserts a provision proposed by the Senate that provides that when the Administrator of General Services delegates responsibility to protect property to another Federal agency, that the delegated agency may employ guards who shall have the same powers as G.S.A. guards.

Inserts a provision proposed by the Senate which provides that certain limitations in that section may not apply to any increases in a wage schedule or rate that is required by the terms of a contract entered into before the date of enactment of this Act.

Restores a provision inserted by the House but stricken by the Senate regarding the closing of certain Customs officers.

Restores a provision inserted by the House but stricken by the Senate regarding the eligibility of a certain organization to participate in the 1986 Combined Federal Campaign.

Inserts a provision proposed by the Senate regarding regulations dealing with participation in the Combined Federal Campaign.

Deletes a provision proposed by the House regarding 48 CFR Subpart 19.5 which relates to small business set asides.

Modifies an amendment inserted by the Senate regarding small business set-asides.

Deletes a provision proposed by the House prohibiting the implementation of changes to OMB Circular A21 prior to April 1, 1987.

Deletes a provision proposed by the House imposing a 9.75% across the board reduction to certain appropriations.

Inserts a general provision proposed by the Senate which amends section 202 of Title 3 of the United States Code. The provision deals with security of the Treasury Building and grounds.

Inserts a general provision which establishes a privitization demonstration program to allow electric and telephone borrowers under the Rural Electrification Act to prepay with private capital all their loans guaranteed or otherwise made by and through the Rural Electrification Administration (REA), so long as the borrower agrees to forego any future loan or other financial assistance under the Act. Borrowers electing to participate in the privitization demonstration program will not be assessed any premium as a result of prepaying of their guaranteed loans, and will be allowed to prepay their direct or insured loans at the lesser of the outstanding principal balance or at a discounted rate to be set by the REA Administrator. In selecting a discount rate the Administrator shall use the cost of money to a double a rated utility or a similar financial benchmark, rather than the Federal Treasury rate.

If a borrower elects the prepayment option under Section 311, that borrower must prepay all of their outstanding REA loans within one year after the first loan is prepaid. With respect to prepayment of guaranteed loans, the guarantee shall be 90 percent of the outstanding balance plus accrued interest, but shall not otherwise be limited in its transferability or assignability. There will be no guarantee or other financial assistance associated with prepayment of direct or insured loans. Nothing in Section 311 shall prohibit borrowers who elect to prepay their loans and borrower who remain eligible for and utilize REA financing from participating together in generation and transmission projects or in power purchase or exchange agreements or other arrangements as are traditional in the electric utility industry to promote greater system efficiencies and consumer benefits, so long as the borrowers which has prepaid utilizes private capital. Where a borrower prepaying under Section 311 uses a majority of its generating capacity to serve its retail consumers, other borrowers who purchase power as of September 30, 1986 from the prepaying borrowers shall continue to be eligible under the Act for their service and needs.

"Private Capital" as used in this section includes any form of private financing otherwise available including financing through the Banks for Cooperatives, tax exempt bonds or other sources of capital, but does not include Federal Financing Bank loans. Nothing in Section 311 shall prevent a prepaying borrower from selling power to any party, including REA borrowers, or from purchasing REA-financed facilities with private capital. Short-term power purchases as used in Section 311 mean arrangements of no more than ten years.

TITLE VII—TRANSFER OF ANNUAL LEAVE AND SICK LEAVE

The conferees agree that the Office of Personnel Management is to make a study of the desirability, feasibility, and costs, if any, of permitting employees to donate annual and sick leave for the use of other employees who need such leave for medical, or family emergency or other hardship situations. The Office shall submit a report to Congress, including any legislative recommendations, no later than one year after date of enactment of this Act.

This Title authorizes not to exceed three such demonstration projects which can be conducted throughout the country to test the feasibility of this leave bank concept.

TITLE VIII—THE PAPERWORK REDUCTION REAUTHORIZATION ACT OF 1986

The Congress enacted the Paperwork Reduction Act of 1980, Public Law 96-511, on December 11, 1986. The Act establishes an information management framework for the Government with primary responsibilities centered in the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget. The objectives of the Paperwork Act are to (1) reduce the information burden imposed on the public by requiring the development and implementation of uniform and consistent information policies and practices, (2) increase the availability and accuracy of agency data and information, (3) expand and strengthen Federal information management activities, and (4) decrease the paperwork burden on individuals, businesses, State and local governments, and others.

OIRA's initial authorization expired in October 1983. While the House passed a reauthorization bill, the Paperwork Reduction Act Amendments of 1983 (H.R. 2718, House Report 98-147), the full Senate, despite committee passage, failed to act on its companion piece, S. 2433 (Senate Report 98-576). Since that time, OIRA has been operating without an authorization; it has been funded from OMB's general appropriations on a year-to-year basis. The Paperwork Reduction Reauthorization Act of 1986 provides funding for three additional years (fiscal years 1987-1989) at $5.5 million per year. This year the Senate committee reported S. 2230 containing title 6 with provisions similar to S. 2433 (Senate Report 99-347).

To help ensure that the functions assigned to the Office are carried out, the Reauthorization Act would establish a separate line item account for only those functions contained in the Paperwork Act and assigned to OIRA. The Office may perform other functions provided it obtains separate funding for these activities. The bill requires that all future Administrators be appointed by the President and confirmed by the Senate. It also combines the existing Federal Telecommunications Fund and the Automatic Data Processing Fund into a new Information Technology Fund managed by the General Services Administration (GSA) for the purposes of financing the acquisition of technology for use by Federal agencies.

Further, the bill establishes new goals for paperwork reduction and requires OMB to appoint a qualified chief statistician to develop and oversee statistical policies and programs. A new definition of automatic data processing equipment (ADPE) is provided under Public Law 89-306 (Brooks Act), which recognizes the merging of ADP, telecommunications, and other technical resources used in the management of information. The bill also clarifies the roles and authorities of the OMB Director, the GSA Administrator, and the GSA Board of Contract Appeals. Additionally, it resolves the confusion that has resulted from recent court decisions regarding the application of the Brooks Act.

INFORMATION TECHNOLOGY FUND

The Paperwork Reduction Act of 1980 recognized the convergence of ADP and telecommunications technologies and the importance of these technologies to the management of information. In keeping with the committee's interest in the efficient and effective acquisition, management, and utilization of information technology and information technology resources, the Reauthorization Act combines the existing Automatic Data Processing Fund and the Telecommunications Fund into a new Information Technology Fund. The establishment of a single fund will accomplish several objectives. It will (1) alleviate what has become an artificial distinction between two merging technologies; (2) create a practical approach to funding communications linked computer systems; (3) provide a more businesslike approach to obligating available resources; (4) provide greater management opportunities and flexibility to take advantage of the most cost effective procurement opportunities; and (5) provide for more streamlined financial management of information technology programs.

The Reauthorization Act also provides authority to ensure that reimbursements to the fund are adequate to provide for the capital requirements of the fund. This is in keeping with the desires of the House Committee on Appropriations, as noted in its Report No. 96-1090 accompanying H.R. 7583 for the fiscal year 1981 budget.

The bill also provides GSA authority to contract for information technology resources for periods not in excess of 5 years, providing that funds are available and adequate for payment of the cost of such contracts for the first fiscal year and any termination costs. This will allow GSA to consider, in addition to lease and purchase, a third procurement alternative, that of multiyear leasing.

The consolidation of the two existing funds and the ability to enter into multiyear leasing contracts will provide substantial benefits to the Government. Rather than having to bear the administrative burden of managing two separate funds with rapidly converging technologies and uses, GSA will now be able to concentrate its efforts on the administration of the Technology Fund. Further, substantial cost savings and other benefits will accrue from a central agency being able to take advantage of quantity purchases and other discounts.

ROLES OF GSA AND OMB UNDER THE BROOKS ACT

Several disputes have recently arisen as to the application of the Brooks Act to specific procurements and the role OMB is to play in the process. While certain forum and agencies have fairly consistently interpreted the Brooks Act in accordance with its intended meaning, others have advanced contrary interpretations that have prevailed in other areas. In order to alleviate the discrepancies and disputes that exist, legislation is necessary.

The present statutory amendments are necessary to clarify the roles placed upon the Administrator of General Services and OMB. Such authority directly impacts on the ability of the Government to be assured that it is awarding contracts involving ADP

in the most economically efficient manner, and in its best interests.

The General Services Administration is vested with centralized authority for the Federal Government's use of automatic data processing resources. Through regulations and otherwise, the Administrator is to ensure that all agencies, with few exceptions, procure, lease, and maintain automatic data processing resources in the manner which is in the best interests of the Government.

OMB continues to have a role under the amended statute, although the role is now more circumscribed than previously. OMB may exercise "fiscal and policy control" over the Administrator and the Secretary of Commerce. In conjunction with this authority, agencies may appeal a denial by the Administrator for an agency procurement request (APR) to the Director of OMB.

In exercising its fiscal control. OMB is to formulate approaches for the economic expenditure of funds for ADP equipment, so as to assure that policy principles are realized. OMB is to exercise its policy control by establishing broad principles and approaches that secure an economic and efficient procurement system. Thus, for example, under its "fiscal and policy" authority, OMB may prohibit the procurement of a small number of microcomputers, because it has determined that such small procurements are not economical. It may insist that agencies bundle their similar requirements into a single procurement. OMB should not make determinations as to whether or not a given procurement falls within the scope of the Brooks Act. This is particularly true since the passage of the Competition in Contracting Act (CICA), Public Law 98-369, which placed protest authority in both the General Accounting Office and the General Services Administration Board of Contract Appeals. Each of these forums, which are to resolve protests under strict statutory time frames, have the expertise and ability to make such determinations based on the record presented before them.

The ability of OMB to play a role in the procurement process when automatic data processing equipment is involved is specifically limited by this statute. While OMB retains its "fiscal and policy" controls, which apply as noted above, the authority of OMB in its determination of April 9, 1986, and the decision of the United States Court of Appeals for the Federal Circuit in *Electronic Data Systems Federal Corp.* v. *General Services Administration Board of Contract Appeals*, 792 F.2d 1569 (Fed. Cir. 1986), is expressly limited, and—in the case of the Federal Circuit's decision—overruled, by the revision of the statute. The Administrator of General Services "shall provide adequate notice to all agencies and other users concerned with respect to each proposed determination whether or not the automatic data processing equipment will be provided by the Administrator or whether or not the authority to lease, purchase, or maintain the equipment will be delegated." 40 U.S.C. 759(e), as amended. OMB's determination authority is limited to the review of each such proposed decision, at the initial stage of the delegation process when an agency submits a written appeal to OMB to overturn the Administrator's denial of an agency procurement request (APR), unless the President otherwise directs. Thus, the authority of OMB is limited to reviewing a decision by the Administrator of General Services regarding whether or not he will provide the automatic data processing at issue, or whether or not he will delegate the authority to lease, purchase, or maintain the automatic data processing equipment. Now it clearly is not, although in fact it never was, within OMB's province to determine whether or not a given procurement is or is not one for automatic data processing equipment. The provisions of section 759, title 40, United States Code, apply of their own accord, so that when the question of the applicability of those provisions is before the General Services Board of Contract Appeals, it is to decide the question.

THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS

The General Services Administration Board of Contract Appeals (Board) has had jurisdiction over protests for nearly 21 months. The Board has been well tested in this interval, with nearly 300 protest actions filed. To date it has lived up to, and surpassed, the expectations expressed when the determination was made to grant it protest jurisdiction:

The conferees recognize that these provisions provide a unique and innovative method of handling protests of a highly technical and complex nature. The conferees believe that the Board is well equipped to provide timely resolution of conflicts between the procuring agencies and the suppliers of computer products and services. To avoid disrupting legitimate procurements, and especially to prevent protest actions taken in bad faith from interrupting contract performance, the Board is authorized to dismiss at any point in the process any protest action that it determines to be frivolous or which, on its face, does not state a valid basis for the protest. (H.R. Conf. Rept. No. 861, 98th Cong., 2d Sess. 1431 (1984).)

The "unique and innovative method of handling protests" involves the Board's de novo standard of review of contracting officer decisions questioned by interested parties alleging a violation of statute, regulation, or delegation of procurement authority. Further, the Board has permitted discovery to the extent necessary to assure that the record before it contains the relevant and pertinent facts necessary to properly decide the issues raised, all while rendering final decisions on initial protest actions on an average of approximately 20 working days, well below the statutory 45-working-day period. With the Board, vendors are far better assured that the Federal procurement system has treated them fairly and honestly, without the agency running slipshod over statutes and regulations, while agencies are better able to reap the benefits of competition.

Despite the soundness of the Board, and the benefits that have resulted from its involvement, additional safeguards are necessary to prevent the undermining of the Board's authority and jurisdiction.

The jurisdiction of the Board has been sharply contested because of determinations made by OMB that support service procurements were not covered by the Brooks Act. The Federal Circuit stated that under the language enacted in CICA, the Board has jurisdiction only over procurements actually conducted under the Brooks Act, not those that should have been, but were not.

In essence, the Federal Circuit has removed from the Board's jurisdiction in those instances where an agency ignores, or fails to act in accordance with, the tenets of the statute. A procurement is conducted under the authority of the Brooks Act by application of the Act, not by actions or inactions of an agency, particularly one which is a party to a protest. The statute has been amended to clarify this point. If a procurement is subject to the Brooks Act, then a bid protest concerning that procurement may be decided by the Board. Further, for purposes of resolving bid protests, the Board is expressly granted the authority to determine whether or not the Brooks Act is applicable to the given procurement. Hence, the Board has the most fundamental of powers, that to determine its own jurisdiction over a protest before it.

The amendments to the statute are also aimed at protecting the timeliness of the Board's protest decisions, while deterring dissatisfied agencies and interested parties from filing interlocutory appeals or actions for review. To this end, proceedings, decisions, and orders of the Board relating to protests are not subject to interlocutory appeal or review.

The importance of the Board's responsibilities continues to grow as the Federal Government enters into more contracts subject to the Board's protest authority. In conjunction with this, it is the intent of Congress that the refinements in the statute reveal that expanded authority has been placed in the Board, whose jurisdiction and functions shall be broadly construed so as to effectuate the purposes underlying the original grant of protest jurisdiction to it. Thus, the Board may issue orders and grant other relief in its decisions as may be necessary to ensure compliance with statutes and regulations that foster and require economy and efficiency, and full and open competition. This encompasses the Board's ability to revise procurement authority to order a contract, in whole or in part, terminated for the convenience of the Government, when the Board determines that such an action is in the best interests of the Government following a violation of statute, regulation, or delegation of procurement authority.

It is the continued intent of Congress that the Board be provided adequate resources to fulfill its important responsibilities.

SECTION BY SECTION ANALYSIS

Section 820 amends section 3520 of title 44 to authorize appropriations for OIRA for fiscal years 1987, 1988, and 1989 at a funding level of $5.5 million per year. The funds appropriated under this section must be used to carry out the provisions of the Paperwork Reduction Act, as amended, and for no other purpose. It also requires funds to be appropriated under a separate line item account expressly for the Office. Finally, it restricts the use of the funds appropriated under this section to functions that are specifically authorized or required by the Paperwork Reduction Act, as amended. For the purposes of this Act, the review of a rule or regulation by the Office is specifically authorized or required by the Act only to the extent that such review is for the sole purpose of reviewing an information collection request contained in or derived from such rule or regulation.

Section 821(a) amends section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) to combine the existing Automatic Data Processing and Federal Telecommunications Funds into a consolidated Information Technology Fund to be administered by the Administrator of General Services. This section also authorizes the Administrator to enter into multiyear contracts for periods of up to 5 years, provided such procurements are fully competitive and that funds are available and

adequate for the payments of the costs of such contracts for the first fiscal year. Section 821(b) amends statutes to conform with the consolidated information technology fund.

Section 822 is intended to clarify application of Section 111 of the Federal Property and Administrative Services Act of 1949. It adds a definition of automatic data processing equipment which provides an operationally effective way of evaluating when such equipment is to be acquired, used, or managed in accordance with the Federal Property and Administrative Services Act. As technology has evolved, the lines between automatic data processing equipment, communications, software, firmware, and other equipment related to the operation of automated systems and subsystems have become blurred. This definition is intended to clarify management and operational responsibilities over the full range of resources used in the creation and operations of automated systems and subsystems. It is important to note that this statutory definition reflects the merging of ADP and communications technologies. Inasmuch as technology continues to evolve rapidly, the statutory definition is intended to establish the automatic data processing resources which are included within the meaning of the section, while preserving for the Administrator of General Services the authority to modify the definition by the issuance of appropriate regulations as technologies further develop. ADP resources of a contractor or vendor of goods and services, including the acquisition, use, or management of such resources, is not covered by this section. Therefore, contractors and vendors are not required under this section to seek authority from GSA before they acquire ADPE goods and services.

Subsection 822(a)(2)(A) defines "automatic data processing equipment" (ADPE) to mean any equipment or interconnected system or subsystems of equipment that are used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including communications. Except as otherwise provided by statute, all procurements of ADPE by Federal agencies are subject to section 111 of the Federal Property Act. Similarly, procurements of ADPE under contract with a Federal agency are also subject to the Act if the contract either requires the use of such equipment or requires the performance of a service or the furnishing of a product that is performed or produced making significant use of ADPE.

Subsection 822(a)(2)(B) specifically includes within the definition of automatic data processing equipment computers; ancillary equipment; software, firmware, and similar procedures; and services (including support services). In modern systems, commercially available software and/or firmware are often alternatives to hardware components. The term "services" includes services that provide support to the operation of such systems, including maintenance services, supplies, and services that create or maintain software or other similar procedures. Also included within the definition of automatic data processing equipment are related resources as defined in regulations to be issued by the Administrator of General Services. The intent of including these elements within the definition of automatic data processing equipment is to encourage Federal agencies to plan for and manage their information systems as entities, rather than separately managing elements of such systems.

Subsection 822(a)(3) specifically excludes from the definition of automatic data processing equipment acquired under a Federal contract that is incidental to the performance of a Federal contract; certain equipment not normally associated with automatic data processing (radar, sonar, radio, or television); certain automatic data processing equipment and services of the Department of Defense as described in 10 U.S.C. 2315; and automatic data processing equipment and services of the Central Intelligence Agency. Under section 111, the Administrator is authorized to issue regulations to establish circumstances where the authority to procure ADPE under this section is delegated automatically to the Departments and agencies. The Administrator has issued such regulations in the past, called the Federal Information Resource Management Regulations. It is intended that these regulations establish such thresholds and circumstances where automatic delegations will be made so as to focus GSA review only on the most important uses of ADPE.

Subsection 822(b) amends Section 111(b) of the Federal Property and Administrative Services Act to make clear that the Administrator of General Services has the authority to delegate the lease, purchase, or maintenance of automatic data processing equipment to agency senior officials who are designated pursuant to the Paperwork Reduction Act and to encourage him to make such delegations when a Federal agency meets certain requirements. Such delegations may be made where an agency senior official is determined by the Administrator to be sufficiently independent of program responsibility and to have sufficient experience, resources, and ability to carry out procurements in accordance with Section 111 of the Federal Property and Administrative Services Act. This will enable the Administrator to grant such authority for all procurements for a period of time rather than on a case-by-case basis. For example, delegation of such authority could be made on an annual basis for a designated organization under an approved acquisition plan. Such delegations would be limited to agencies that demonstrate viable planning and management of their use of automatic data processing equipment. These delegations should be limited principally to fully competitive procurements. Agencies that receive these delegations must remain in full compliance with the rules and regulations promulgated by the Administrator. Furthermore, any delegation would not preclude the Administrator from reviewing individual procurement requests or revoking a delegation entirely or with regard to a specific matter.

Section 825 clarifies the protest jurisdiction, authority, and status of the General Services Administration Board of Contract Appeals (Board). It is the intent of this section to eliminate the misunderstandings created by *Electronic Data Systems Federal Corp.* v. *General Services Administration Board of Contract Appeals*, 792 F.2d 1569 (Fed. Cir. 1986). Thus, with the amended language (1) the Board's protest jurisdiction extends to any procurement which is subject to the Brooks Act (40 U.S.C. 759), which includes those procurements subject to a delegation of procurement authority, (2) the Board expressly receives the authority to determine whether or not a procurement is subject to the Brooks Act (40 U.S.C. 759), and (3) proceedings, decisions, and orders of the Board issued pursuant to this subsection (40 U.S.C. 759(f)) are not subject to interlocutory appeal or review. Additionally, the Board's authority to review regulations to determine their consistency with applicable statutes is clarified. Further, when determining whether or not a protested procurement is subject to the Brooks Act (40 U.S.C. 759), while the Board may seek the comments of OMB or other agencies, including the General Services Administration and its Administrator, such comments are not binding upon the Board.

CURRENT RATE ACTIVITIES—LABOR/HHS/EDUCATION

Amendment No. 13: Deletes House language continuing funding at the current rate for the National Health Service Corps, Family Planning, and Adolescent Family Life programs, as proposed by the Senate. Funding for these programs was included in the conference report on H.R. 5233 (H. Rept. 99-960).

Amendment No. 14: Modifies language proposed by the House but deleted by the Senate relating to the level of funding for refugee programs provided by the resolution. This language clarifies that new funding is available for social services and education assistance in FY 1987 but that targeted assistance programs will be funded through carryover funds from FY 1986.

While new legislation for refugee and entrant assistance activities passed the House in May of 1985 and was reported to the Senate in June of 1985, the programs administered by the Office of Refugee Resettlement (ORR) have been unauthorized since September 30, 1983. The conferees note with great distress that this is the fourth continuing resolution in which ORR has been funded. It is imperative that these programs be reauthorized in the next session of Congress. The conferees wish to make clear, however, that the continuing resolution provides sufficient funds to maintain all activities through September 30, 1987, including special assistance to Dade County schools and Jackson Memorial Hospital.

Previous funding for targeted assistance, including the fiscal year 1986 appropriation, will continue assistance through March, 1988. In view of the large carryover balance and the fiscal year 1987 budget constraints, the conferees have not appropriated any new monies for this activity. The conferees have added bill language which requires that funding available at the current rate for all activities other than education assistance for children and social services be reduced by the amounts of unexpended balances remaining from past appropriations.

The conferees want to make clear that the absence of fiscal year 1987 funding for this program shall not be interpreted as a lack of support or an absence of need for this program. Rather, it is an acknowledgement of the unique situation that exists this year. It is the intent of the conferees to revisit the funding of this activity during consideration of the fiscal year 1988 appropriations bill.

The bill also includes clarifying language to allow for the normal forward funding of the education assistance for children and social services programs.

The conferees continue to support the voluntary agency matching grant program. In view of the success of the matching grant program, it is the intent of the conferees that the size of the caseload participation in the program not be reduced and that the Federal match remain at its existing level of

a $1,000 maximum per refugee matched on an equal basis by the private sector.

The conferees believe there is an urgent need to continue to address the problems confronted at the State and community level in carrying out cost-effective refugee resettlement programs. Therefore, of the funds made available to the Office of Refugee Resettlement the conferees urge the ORR to support a follow-on program to the earlier National Training Program for State coordinators in which elected and appointed State and community officials will be brought together at regional seminars to map out in a cooperative and coordinated way their plans for action.

Amendment No. 15: Deletes House language continuing funding at the current rate for Head Start, Dependent Care Block Grant, Native Americans Programs, Community Services Block Grant, Rehabilitation Services, Higher Education Activities, and Educational Research, as proposed by the Senate. Funding for these programs was included in the conference report on H.R. 5233 (H. Rept. 99-960).

The amendment restores House language with regard to activities authorized by the Follow Through Act.

Amendment No. 16: Restores language proposed by the House and stricken by the Senate amended to appropriate $9,500,000 to the Economic Development Administration and authorize the construction of a flood control project.

Amendment No. 17: Deletes House language continuing funding at the current rate for the Action agency and the United States Institute of Peace, as proposed by the Senate. Funding for these programs was included in the conference report on H.R. 5233 (H. Rept. 99-960).

Amendment No. 18: Deletes House language concerning the use of funds available to the Department of Defense for further development of planning and research for physical acoustics and related matter. A similar provision is included in the Department of Defense Appropriations Act, 1987, as set forth in amendment number 3.

LABOR/HHS/EDUCATION ACTIVITIES

Amendment No. 19: Reported in disagreement.

Amendment No. 20: Deletes House language prohibiting the implementation of a new formula for the feeding program for women, infants, and children (WIC) before October 1, 1987. A similar provision is agreed to and included in amendment number 1.

Amendment No. 21: Deletes House language providing for a one-year moratorium on prepayment of section 515 Farmers Home Administration housing loans unless such loan was made at least 20 years prior to the date of prepayment. A similar provision as agreed to and included as section 634 of amendment number 1. The provision as agreed to limits the moratorium until June 30, 1987, unless such loan was made at least 20 years prior to the date of prepayment or, for loans made before December 21, 1979, the Secretary makes a determination that a supply of adequate, comparable housing is available in the community, or that prepayment of such loans will not result in a substantial increase in rents to tenants in residence upon date of prepayment or displacement of such tenants.

Amendment No. 22: Deletes House language providing up to $600,000 of USDA commodities from inventory to complement Department of Defense support to the 10th International Pan American Games in Indianapolis, Indiana. A similar provision is agreed to and included as section 635 of amendment 1. The amendment was amended to delete the $600,000 limitation. The conferees expect the Department to provide an amount of surplus argriculture commodities as necessary to complement the support provided by the Department of Defense for this international event.

Amendment No. 23: Reported in true disagreement.

Amendment No. 24: Deletes House language providing that for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person solely on the grounds that a family member cosigns for, or makes a loan to, such person and leases, loans, or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985. A similar provision is agreed to and included as section 636 of amendment number 1.

Amendment No. 25: Deletes House language providing for a Rural Electrification Administration loan to the Choctaw Electric Cooperative. The conference agreement includes report language addressing the issue as part of amendment number 1.

Amendment No. 26: Deletes House language eliminating a $1,500 per child yearly tuition cap as an eligibility requirement for participation in the child nutrition school lunch program. The same language was agreed to and included in amendment number 120.

Amendment No. 27: Deletes language proposed by the House and stricken by the Senate which would have extended the availability of certain EDA Local Public Works funds for New York City until March 31, 1988 if the total amount of such funds is not determined by October 15, 1986. The availability of these funds expires on September 30, 1987. This matter is included in Amendment No. 2.

Amendment No. 28: Deletes language proposed by the House and stricken by the Senate which would have permitted the SEDA-COG Joint Rail Authority, Lewisburg, Pennsylvania to sell portions of real property acquired in part with an EDA grant, and retain the proceeds so long as the proceeds are used in accordance with EDA criteria and such use is approved by EDA. This matter is included in Amendment No. 2.

Amendment No. 29: Deletes House language concerning the establishment of the position of Under Secretary of Defense for Acquisition and the delineation of the duties of the Under Secretary. This issue is addressed in connection with the Department of Defense Appropriations Act, 1987 as set forth in amendment number 3.

Amendment No. 30: Deletes House language concerning safeguarding of military whistleblowers. This issue is addressed in connection with amendment number 3.

Amendment No. 31: Deletes House language concerning the protection of contractor employees from reprisal for disclosure of certain information. This issue is addressed in connection with amendment number 3.

Amendment No. 32: Deletes House language concerning conflict of interest in defense procurement. This issue is addressed in connection with amendment number 3.

Amendment No. 33: Deletes House language concerning limitations on the use of Department of Defense funds for undefinitized contractual actions. This issue is addressed in connection with amendment number 3.

Amendment No. 34: Deletes House language concerning the establishment of a Defense Acquisition Corps. This issue is addressed in connection with amendment number 3.

Amendment No. 35: Deletes House language concerning a limitation on the use of Department of Defense funds for the overhaul of two nuclear submarines. This issue is addressed in connection with amendment number 3.

Amendment No. 36: Deletes House language concerning the transfer of $1,500,000 from operation and maintenance, defense agencies to the Department of Commerce for export administration activities. This issue is addressed in connection with amendment number 3.

Amendment No. 37: Deletes House language concerning the implementation of a demonstration project for the treatment of alcoholism comparing chemical aversion therapy with other treatments. This issue is addressed in connection with amendment number 3.

Amendment No. 38: Deletes House language appropriating $47,200,000 for the binary chemical program. This issue is addressed in connection with amendment number 3.

Amendment No. 39: Deletes House language preventing the Governors from withholding their consent allowing National Guard members to serve on active duty. This issue is addressed in connection with amendment number 3.

Amendment No. 40: Deletes language proposed by the House and stricken by the Senate relating to leasing facilities at Greers Ferry Lake of Little Red River, Arkansas. Action on this amendment has been incorporated into amendment number 5.

Amendment No. 41: Deletes language proposed by the House and stricken by the Senate relation to the Northfield Mountain Water Supply Project, Massachusetts and the Millers and Tully Rivers Water Supply Project, Massachusetts. Action on this amendment has been incorporated into amendment number 5.

Amendment No. 42: Deletes language proposed by the House and stricken by the Senate authorizing channel improvements at Jackson, Alabama. Action on this amendment has been incorporated into amendment number 5.

Amendment No. 43: Deletes language proposed by the House and stricken by the Senate relating to the recovery of costs of drainage facilities or irrigation water distribution works in the Central Valley Project area. Action on this amendment has been incorporated into amendment number 5.

Amendment No. 44: Deletes language proposed by the House and stricken by the Senate providing not less than $664,000,000 for defense waste and byproducts management. Action on this amendment has been incorporated into amendment number 5.

INTER-AMERICAN DEVELOPMENT BANK

Amendment No. 45: The conferees agree to delete the House provision. Funding for Callable Capital for the Bank is included in Amendment 6.

Amendment No. 46: Deletes language proposed by the House and stricken by the Senate which earmarks $225,000 for, and requires the reopening and operation of, the HUD field office in Springfield, Illinois. Language prohibiting the closing of any HUD field office in 1987 and requiring the reopening and operation of any HUD field office closed in the past twelve months has

been included in the conference agreement on H.R. 5313, the 1987 HUD-Independent Agencies Appropriations Act.

Amendment No. 47: Restores language proposed by the House and stricken by the Senate extending the cigarette fire safety study by six months, amended to change the section number.

Amendment No. 48: Appropriates no funds for restoration of the Roundhouse at Steamtown as proposed by the Senate instead of $5,000,000 as proposed by the House. Within Amendment No. 8 there is included $8,000,000 for this project.

Amendment No. 49: Deletes bill language proposed by the House which would prohibit changes in eligibility requirements for Part A grants during fiscal year 1987. This language is included in Amendment No. 8.

Amendment No. 50: Appropriates no funds for acquisition and curation of the Duke Ellington Collection as proposed by the Senate instead of $1,000,000 as proposed by the House. Within Amendment No. 8 there is included $500,000 for this purpose.

FEDERAL RETIREMENT SYSTEM COVERAGE FOR CERTAIN FOOD SERVICE WORKERS

Amendment No. 51: Provides retirement system protection for certain House restaurant system food service workers in the event such system is contracted out, as proposed by the House. The amendment to the Senate amendment changes the section number.

ELLSWORTH AFB, SOUTH DAKOTA

Amendment No. 52: Deletes language proposed by the House allowing for transfer of military construction funds to the Douglas School District near Ellsworth AFB, South Dakota. The Air Force may submit a reprogramming for this purpose, if necessary.

NAVIGATION SEASON EXTENSION

Amendment No. 53: Restores the House language amended by inserting a permanent provision requiring the Coast Guard to obtain prior approval of the House and Senate Committees on Appropriations before participating in any demonstration of or other implementation of Great Lakes navigation season extension. For purposes of this section, the current Great Lakes navigation season ends January 8 of any year, plus or minus seven days. This prohibition does not preclude a short-term extension of the navigation season to accommodate emergency navigational problems or other emergency circumstances, such as search and rescue operations. This section also does not preclude necessary navigation assistance provided by the Coast Guard to commercial vessels and ferries in the interlake trade that do not transit the locks at Sault Ste. Marie.

The House-passed provision arose, in part, out of concern that the Corps of Engineers was proceeding administratively to implement a proposal that had not been approved by Congress. The decision of the conferees to require the Coast Guard to secure approval of both the House and Senate Committees on Appropriations before it may proceed is designed to assert Congressional control over the implementation of this proposal. It does not represent a conclusion of the Conference Committee that the Corps of Engineers presently has authority to proceed with this project.

AUTOMATIC ALTITUDE REPORTING TRANSPONDERS

Amendment No. 54: Restores language proposed by the House requiring that, within 30 days of enactment, the Federal Aviation Administration shall initiate a rulemaking proceeding to consider the question of requiring the installation and carriage of automatic altitude reporting (Mode C) transponders in all aircraft.

INTESTATE HIGHWAY H-3

Amendment No. 55: Deletes language proposed by the House that allows construction to proceed on interstate highway H-3 in Hawaii.

Amendment No. 56: Inserts language proposed by the Senate that establishes as permanent law a provision allowing construction to proceed on interstate highway H-3 in Hawaii. The amendment to the Senate amendment changes the section number.

The conferees have adopted as a provision of permanent law a section directing construction to proceed to completion on a needed Interstate Highway in Hawaii which is included in the interstate cost estimate. There are no additional funds associated with this provision.

A recent decision of the Ninth Circuit Court of Appeals makes approval of this project impossible before the 1986 and 1990 deadlines for interstate construction. In reaching its decision, the court relied on a highly technical reading of Section 4(f) of the Department of Transportation Act, designed to protect publicly owned parkland. In reality, no land from the park involved (Ho'omaluhia Park) has been, nor will be, taken or used by the highway. Indeed, the highway was planned and designed in conjunction with the park, and the park boundary was expanded to make use of the highway as a buffer zone that would forestall urban development around the park. Were it not for the extensive efforts of the State of Hawaii's highway planners, the park would not even exist. Section 4(f) as never intended to block the construction of a highway the design of which was specifically tailored to afford such special protection for parklands.

Additional studies and modifications that have been proposed would not result in any additional protection for the park and may, indeed, prove harmful. Other alternatives available for the highway are not prudent and/or feasible because they are either one or more of the following: (1) unsafe, (2) environmentally damaging, (3) much more expensive, or (4) unduly disruptive and costly to the local communities. Accordingly, the conferees find that there is no feasible and prudent alternative to the Common Boundary alignment for Interstate H-3 identified in the EIS/Section 4(f) statements previously approved by the Secretary of Transportation. In making this finding, the conferees have taken into account, among other factors, the extensive congressional hearings held in late 1985 and early 1986, in which the comprehensive studies and environmental planning conducted by the State of Hawaii were thoroughly considered and made a part of the record. The conferees have also taken into account, and concur with, the Ninth Circuit's findings that the planning for H-3 has complied with the National Environmental Policy Act, the Endangered Species Act, and all provisions of the Department of Transportation Act other than Section 4(f).

The conferees also take note of the fact that H-3 has been the subject of litigation for more than 14 years. During that time, construction costs have escalated substantially, and the people of Hawaii have been deprived of a much needed highway. It is the sense of the conferees that it is now time for litigation to be brought to a close and the highway to be built.

The conferees have also considered the fact that the Secretary of Transportation has required the State to adopt extensive project modifications and other environmental mitigation measures designed specifically to protect Section 4(f) properties. In that connection, the conferees have concluded that further administrative or judicial proceedings under Section 4(f) with respect to the Pali Golf Course would only result in even more unnecessary delay in the completion of this important highway project. The conferees are satisfied that the project modifications and mitigation measures already incorporated by the State of Hawaii into the design of the H-3 project fully comport with Congress' intent in enacting Section 4(f). Similarly, archeological sites, including but not limited to the Luluku Archeological Sites, will be reviewed under Section 106 of the National Historic Preservation Act, where applicable, and the conferees intend that they not be subjected to review under Section 4(f).

This section therefore directs the Secretary of Transportation to approve the construction of the remaining 10.7 mile segment of H-3 in the location currently planned without administrative review pursuant to Section 4(f) of the Department of Transportation Act and further directs that such construction shall proceed to completion.

HIGH OCCUPANCY VEHICLE RESTRICTIONS

The conferees are concerned about the current applications of High Occupancy Vehicles (HOV) restrictions in northern Virginia. For example, the HOV restrictions on Interstate Highway 66 were extended before the impact of Metro service along that corridor could be assessed. Further, the HOV lanes often appear to be underutilized at the beginning or end of the morning and evening rush hours. Therefore, the Secretary of Transportation is directed to study and report to the House and Senate Committees on Appropriations by March 1, 1987, on the effect of the current HOV restrictions including the hours of operation and the number of passengers required for each vehicle. The study is to include both Interstate Highway 66 and Interstate Highway 395, the "Shirley Highway".

INTERSTATE COMMERCE COMMISSION

Amendment No. 57: Deletes language proposed by the House removing the absolute prohibition against a rail carrier acquiring an interest in a water carrier that operates through the Panama Canal.

Amendment No. 58: Deletes a provision proposed by the House regarding Tacoma, Washington. This provision is included as Section 524 of Amendment No. 12.

Amendment No. 59: Reported in disagreement.

Amendment No. 60: Reported in disagreement.

FEDERAL PAY RAISE AUTHORITY

Amendment No. 61: Restores language stricken by the Senate that provides authority for increasing civilian and military pay by three percent in lieu of the President's proposed increase of four percent for military personnel and two percent for civilian workers. This action is consistent with assumptions included in the fiscal year 1987 Congressional Budget Resolution.

Amendment No. 62: Deletes a provision proposed by the Senate regarding naming a building in Aiken, South Carolina. This pro-

vision is included as Section 525 of Amendment No. 12.

Amendment No. 63: Deletes language proposed by the Senate which would provide for the acquisition of lands and development of a mainland tour boat facility for Fort Sumter National Monument, SC. This authorization is contained within Amendment No. 8.

Amendment No. 64: Deletes Senate language prohibiting the Secretary of Defense from contracting with contractor personnel of any functions performed by government personnel at McAlester Army Ammunition Plant and Crane Army Ammunition Activity. This issue is addressed in connection with amendment number 3.

Amendment No. 65: Deletes language proposed by the Senate regarding the Central Utah Project. Action on this amendment has been incorporated into amendment number 5.

Amendment No. 66: Deletes Senate language which would have made available up to $1,000,000 of the funds appropriated for the State Department's Foreign Buildings program for transfer to the National Bureau of Standards to conduct an analysis of the Moscow embassy office building. In addition the provision would have established certain reporting requirements for the National Bureau of Standards and the State Department and certain restrictions on the use of State Department funds. The House bill contained no provision on this item. This matter is addressed in Amendment No. 2.

Amendment No. 67: Deletes Senate language directing the Secretary of the Navy to reimburse Valerie S. Ford for travel and shipping expenses. This issue is addressed in connection with amendment number 3.

CONGRESSIONAL DIRECTION CONCERNING ROMANIA

Amendment No. 68: Provides language proposed by the Senate that expresses opposition by the United States to the continued repression of religious, political and cultural freedom by the Government of Romania. The Senate amendment is amended to provide a new section number.

Amendment No. 69: Deletes Senate language requiring the payment by the Defense Department of a $200,000 claim to the City of Frederick, Maryland.

Amendment No. 70: Deletes language proposed by the Senate directing the Secretary of the Army to provide funds for the construction of a storage facility at Dam Site 18 of the Papillion Creek and Tributaries Lakes, Nebraska, project. Action on this amendment has been incorporated into amendment number 5.

Amendment No. 71: Deletes language proposed by the Senate authorizing the construction of flood control structures at the Papillion Creek and Tributaries Lakes, Nebraska, project. Action on this amendment has been incorporated into amendment number 5.

Amendment No. 72: Deletes Senate language concerning the use of funds available to the Department of Defense for further development of planning and research for physical acoustic and related matters and for advanced microelectronics design research. A similar provision is included in the Department of Defense Appropriations Act, 1987, as set forth in amendment number 3.

MEDICARE REGIONAL REFERRAL CENTERS—WAIVERS

Amendment No. 73: Deletes language proposed by the Senate which would have modified section 1886 of the Society Security Act with respect to qualification of regional referral centers under the Medicare program. The House bill contained no similar provision.

The conferees have deleted Senate language relating to a specific group of hospitals making applications under section 1886(d)(5)(C)(i) of the Social Security Act. These hospitals, located in States whose waivers under section 1886(c) of the Social Security Act or section 402 of the Social Security Amendments of 1967 and terminated on September 30, 1985 or December 31, 1985, are unduly prejudiced by existing regulations from making applications for regional referral centers under the Medicare Prospective Payment System. The conferees believe these hospitals should have every right to a determination with respect to reclassification as regional referral centers. Therefore, the conferees direct the Secretary to immediately make determinations with respect to reclassification as regional referral centers based on available data for the period ending September 30, 1986 for the cost reporting period for fiscal year 1987.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) DEMONSTRATIONS

Amendment No. 74: Deletes language proposed by the Senate which would have directed the Secretary of the Department of Health and Human Services to approve a demonstration project for Fresno County, California to promote employment of wage earners in families receiving assistance under the AFDC cash assistance program. The House bill contained no similar provision.

The conferees have deleted Senate language directing the Secretary of Health and Human Services to approve a demonstration project in Fresno County, California. However, the conferees believe the project has merit as a testing ground for a new approach to the welfare problem and urge the Secretary to give Fresno County's application favorable consideration.

Amendment No. 75: Deletes a provision proposed by the Senate regarding certain pre-inspection activities. The INS portion of this amendment is addressed in Amendment No. 2.

Amendment No. 76: Deletes a provision proposed by the Senate regarding the Tax Reform Act.

AIRPORT DEVELOPMENT REIMBURSEMENTS

Amendment No. 77: Deletes language proposed by the Senate permitting airports to expend private funds for development and to receive later reimbursement under certain conditions.

Amendment No. 78: Deletes Senate language which would have amended the Public Safety Officers Death Benefits Act to include coverage for members of public rescue squads or ambulance crews who were responding to a fire, rescue or police emergency. The House bill contained no provision on this item. This matter is addressed in Amendment No. 2.

Amendment No. 79: Deletes Senate language providing an increase of $500,000 in the amount for orphan drug product grants and contracts for the Food and Drug Administration and reducing by $500,000 the amount provided for the Commodity Futures Trading Commission. A similar increase for orphan drug products is agreed to and is included in Amendment No. 1.

Amendment No. 80: Deletes Senate language allowing the Department of Defense to make payments to a hospital that obtains 12 percent or more of its operating funds from contributions and limits its care to the treatment of heart and lung conditins. This issue is addressed in connection with Amendment No. 3.

Amendment No. 81: Deletes a provision proposed by the Senate regarding designated statistical areas. This provision is included as Section 526 of Amendment No. 12.

USE OF SURPLUS CURRENCIES IN POLAND

Amendment No. 82: Provides language proposed by the Senate that stipulates that currencies held by the United States that have been generated by the sale to Poland of U.S. surplus dairy products, may be used for the construction and renovation of projects for the benefit of handicapped and orphaned children. The projects are to be undertaken under the auspices of the Charitable Commission to the Polish Catholic Episcopate.

The amendment to the Senate amendment provides for a change in section number.

Amendment No. 83: Includes a modification to language proposed by the Senate concerning reciprocal use of defense articles. The modified language requires that the reciprocal use of defense articles be for one year, for one country and subject to regular notification procedures.

The amendment also includes a new section number.

Amendment No. 84: Deletes a Senate provision which would have authorized the Small Business Administration to recognize costs incurred before December 16, 1980 by a small business development center at the University of Georgia as allowable costs chargeable to a FY 1981 cooperative agreement, provided such costs were incurred after October 1, 1979 and have not been reimbursed from non-Federal sources. The House bill contained no provision on this item. This matter is included in Amendment No. 2.

Amendment No 85: Deletes a provision proposed by the Senate regarding an annuity for a former Senator. This provision is included as Section 527 of Amendment No. 12.

Amendment No 86: Deletes the Senate language expressing a sense of Congress that the President at the Iceland summit should seek a resolution with the USSR regarding the USSR's obligation to purchase wheat under the 1983 Long Term Grain Agreement. The conferees support the intention of the amendment, but the Iceland summit has been completed.

Amendment No 87: Deletes Senate language amending the Food Stamp Act to provide that the dependent care deduction used in computing income eligibility for food stamps for households containing an elderly or disabled member be the same as deductions for other households, which is $160 per month. The same provision is agreed to and included as section 638 in amendment number 1.

TOLL DEMONSTRATION PROJECTS

Amendment No 88: Deletes language proposed by the Senate authorizing four projects in the States of Florida and Georgia to demonstrate the feasibility and practicality of construction of toll highways to meet capacity needs in high growth areas.

Amendment No 89: Deletes a Senate provision which would have required the Federal Trade Commission to submit a report to the House and Senate Commerce Committees every six months during FY 1987 con-

taining certain information on predatory pricing. The House bill contained no provision on this item. This matter is addressed in Amendment No. 2.

Amendment No 90: Deletes language proposed by the Senate providing for a transition from control by the Bureau of Indian Affairs to control by a Board of Regents of the Institute of American Indian Arts. This provision is included in Amendment No. 8.

Amendment No. 91: Deletes language proposed by the Senate rescinding and appropriating funds for the Hazardous Substance Response Trust Fund. Language rescinding and appropriating funds for the Superfund program has been included in the conference agreement on H.R. 5313, the 1987 HUD-Independent Agencies Appropriations Act.

Amendment No. 92: Deletes Senate language relieving members of marketing pools for Valencia peanuts from the requirement to contribute any of their pool's profits to the Commodity Credit Corporation to cover any losses on quota peanuts in other pools in other regions of the country. The same provision is agreed to and included as section 639 of amendment number 1.

Amendment No. 93: Deletes a provision proposed by the Senate regarding an amendment of the Internal Revenue Code.

UNMANNED RADAR UNITS

Amendment No. 94: Inserts language proposed by the Senate authorizing the Secretary of Transportation to examine the feasibility of unmanned radar units for safety purposes on the I-75 corridor in Kenton County, Kentucky. The amendment to the Senate amendment changes the section number.

Amendment No. 95: Deletes Senate language amending the Community Economic Development Act of 1981 to allow the transfer of loans made from the Rural Development Loan Fund to a non-profit corporation. The same provision was agreed to and included as section 640 of amendment number 1.

CONDITIONS ON ASSISTANCE TO BOLIVIA

Amendment No. 96: Provides for language proposed by the Senate which provides that conditions on assistance to Bolivia be based on provisions included in the Omnibus Drug Enforcement, Education and Control Act of 1986.

The amendment to the Senate amendment provides for a new section number.

CONNECTICUT HOSPICE WAIVER

Amendment No. 97: Deletes language proposed by the Senate which would have granted a waiver of certain requirements of the Social Security Act for the Connecticut Hospice. The House bill contained no similar provision.

The conferees have deleted without prejudice Senate language which would have amended the Tax Equity and Fiscal Responsibility Act of 1982 to permanently waive the 80/20 home care to inpatient days ratio and impose a new 50/50 ratio for the Connecticut Hospice. This issue is currently being considered by the authorizing committees. Specifically, this provision is included in H.R. 1868, the Medicare Fraud and Abuse Bill, as reported to the Senate by the Finance Committee. It also is currently an issue in conference on H.R. 5300, the Reconciliation Bill.

The conferees agree that this facility is in a unique situation. It is the oldest hospice in the nation and was in existence before the hospice-related Medicare law was enacted. Moreover, it is the only hospice in the country to provide inpatient services for an entire State. The conferees urge the authorizing committees to carefully consider the exceptional status of this facility in the long term resolution of this issue.

Amendment No. 98: Deletes language proposed by the Senate proposing to return control of U.S. Forest Service lands to the Department of Energy. The proposed amendment has been incorporated into amendment number 5.

Amendment No. 99: Deletes Senate language amending the Food Security Act of 1985 to extend authorization for the nonprofit national rural development and finance corporation for fiscal year 1987 and providing that $20,000,000 in guaranteed loans for the national rural development and finance program remain available until expended. The same provision was agreed to and included as section 641 of amendment number 1.

Amendment No. 100: Deletes a Senate provision which would have expressed the sense of the Senate concerning unauthorized retransmissions of U.S. TV programming signals in Canada. The House bill contained no provision on this matter.

WORK INCENTIVES DEMONSTRATIONS

Amendment No. 101: Inserts language proposed by the Senate with respect to Work Incentives (WIN) demonstration projects and changes section number. This amendment amends the Social Security Act to establish a State application deadline for WIN demonstration projects of June 30, 1987 and to extend the duration of all projects to June 30, 1988. Under current law the projects would cease on June 30, 1987. The House bill contained no similar provision.

Amendment No. 102: Deletes a Senate provision which would have amended 18 U.S.C. 2516(2) to permit wiretapping by state law enforcement officials in certain hostage taking situations. The House bill contained no provision on this matter.

Amendment No. 103: Deletes language proposed by the Senate that disapproves uranium enrichment criteria. Action on this amendment has been incorporated into amendment number 5.

Amendment No. 104: Delete language proposed by the Senate extending the period for the commenement of construction under the housing development program. That language has been included in the conference agreement on H.R. 5313, the 1987 HUD-Independent Agencies Appropriations Act.

Amendment No. 105: Deletes a Senate provision which would have amended chapter 11 of title 11 of the Bankruptcy Code to require that retired former employees under a medical or hospital insurance plan established by a debtor prior to filing a bankruptcy petition shall be paid benefits under such plan until May 15, 1987. The provision would have established certain other requirements and would have provided that this section shall not apply during any period in which a case is subject to chapter 7 of the Bankruptcy Code. The House bill contained no provision on this item. This matter is included in Amendment No. 2.

MEDICAID WAIVER—MEDICAL UNIVERSITY OF SOUTH CAROLINA

Amendment No. 106: Deletes language proposed by the Senate which would have amended title XIX of the Social Security Act to require payment of a disputed Medicaid claim related to the Medical University of South Carolina. The House bill contained no similar provision.

While the conference has not adopted statutory language proposed by the Senate, the conferees direct the Administrator of the Health Care Financing Administration to carefully review the University's appeal of this matter in light of the unique nature of this claim. This dispute relates solely to a nine month period of FY 1985 during which all parties appear to have acted in good faith. The conferees believe that this fact should be taken into consideration when the Administrator makes his final decision.

Amendment No. 107: Deletes a Senate provision which would have required all telephones sold, rented or distributed by any other means in the U.S. after July 1, 1987 to be hearing-aid compatible as defined in FCC regulations. The language provided that this requirement would not apply to any telephone manufactured before July 1, 1987 or which is not required to be registered under 47 C.F.R. 68. The House bill contained no provision on this matter.

CONGRESSIONAL OFFICE EQUIPMENT

Amendment No. 108: Inserts language proposed by the Senate regarding reimbursement by the Senate to the General Supply Fund for the cost of equipment (including furniture, furnishings, and office equipment) purchased for the Senate, amended to include provision for the House of Representatives, and to change a section number.

Amendment No. 109: Includes Senate language amending the Agricultural Act of 1949 regarding the basis for computation of emergency compensation under the 1986 crop wheat program. No similar provision was contained in the House bill.

Deletes Senate language amending the Conservation Reserve progarm to allow alfalfa and other multi-year grasses and legumes in rotation, as approved by the Secretary, to be considered agricultural commodities. This same amendment is agreed to and included as section 643 in amendment number 1.

Deletes Senate language amending the Soil Conservation and Domestic Allotment Act with respect to local administrative areas for ASCS county committees. This same provision is agreed to and included as section 645 in amendment no. 1.

PHILIPPINES

Amendment No. 110: The conferees agree to delete the Senate provision. Funding for the Philippines has been included in Amendment No. 6. The conferees agree in Amendment No. 6 to an earmark of not less than $200 million additional for the Philippines in Economic Support Funds.

Amendment No. 111: Deletes Senate language providing for the disposal of surplus agricultural commodities to the Philippines, certain African countries, India and Bangladesh. An amended version of this provision is included as section 646 of amendment number 1.

Amendment No. 112: Deletes language proposed by the Senate extending the term of certain geothermal leases and providing a protection plan for thermal resources in certain National Parks. The provisions of this amendment are included within Amendment No. 8.

REVIEW OF FOREIGN ASSISTANCE ACT

Amendment No. 113: Includes a modification to language proposed by the Senate concerning the review of the Foreign Assistance Act. The modified language provides that the President's recommendation concerning the Foreign Assistance Act of 1961 is to be forwarded to the Committees on Ap-

propriations, the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

The amendment also includes a new section number.

Amendment No. 114: Inserts language proposed by the Senate which amends D.C. Code, section 21-502, by requiring that eight of the nine members of the District of Columbia Commission on Mental Health be health care professionals who are psychiatrists or doctoral level psychologists. Existing law requires that eight members be physicians. The amendment to the Senate amendment changes the section number.

Amendment No. 115: Deletes language proposed by the Senate mandating an agreement between EPA and the State of Arkansas to provide an on-site state inspector at the Ensco Incinerator in El Dorado, Arkansas, to ensure compliance with PCB regulations.

Amendment No. 116: Deletes language proposed by the Senate authorizing land acquisition and increased funding for the New River Gorge National River; providing for certain desert land entries; authorizing a memorial to Women in Military Service; and authorizing the establishment of a memorial to Black Revolutionary War Patriots. All of the authorizations except that for desert land entry are included within Amendment No. 8.

Amendment No. 117: Reported in disagreement.

TITLE II—OMNIBUS DRUG SUPPLEMENTAL APPROPRIATIONS ACT OF 1987

Amendment No. 118: House recedes. Deletes proposed supplemental appropriations for drug enforcement. Funds for this are provided by amendment number 119.

Amendment No. 119: The conferees have agreed to provide $1,666,251,000 in new budget authority in lieu of $2,099,741,000 as proposed by the House and $1,549,215,000 as proposed by the Senate. These funds are in addition to the ongoing levels of funding provided in the regular appropriations bills to combat the national crisis of drug abuse.

The widespread use of illegal drugs and the detrimental effect this is having on society was amply documented during the debates on the "Omnibus Drug Enforcement, Education, and Control Act of 1986" (H.R. 5484) in both the House and the Senate.

It is the conferees' firm belief that increased awareness and dollars alone will not be enough to fight the drug battle—we must have a coordinated effort and overall plan within the government.

The conferees call attention to section 107 of Public Law 99-464:

DRUG COORDINATION PLAN

□ SEC. 107. Pending the enactment of the Omnibus Drug Supplemental Appropriations Act of 1987, contained as Title II of the fiscal year 1987 Continuing Appropriations Act of 1987 (H.J. Res. 738), the President or his designee shall, out of the $1,200,000,000 made available for drug abuse prevention programs by House Joint Resolution 738 and continued by this resolution and in the regular appropriations bills for the fiscal year 1987, with the cooperation of those presently engaged in this effort in the executive departments, Members of Congress and others experienced in the field of law enforcement, use $100,000 to develop an overall drug abuse prevention plan that coordinates the government's efforts in combating the widespread use of illegal drugs: *Provided*, That this plan shall be presented to the Congress no later than January 1, 1987.

The following table shows the amounts that are provided in the conference agreement:

Conference Agreement

Department/Agency	*Budget Authority*
CHAPTER I:	
Department of Justice:	
Salaries and expenses, U.S. Attorneys	$31,000,000
Salaries and expenses, U.S. Marshals Service	17,000,000
Support of U.S. Prisoners	5,000,000
Assets Forfeiture Fund	(1)
Federal Bureau of Investigation: Salaries and Expenses	2,000,000
Drug Enforcement Administration: Salaries and Expenses	60,000,000
Federal Prison System: Salaries and Expenses	28,000,000
Buildings and facilities	96,500,000
Office of Justice Programs: Justice assistance (block grants)	225,000,000
Judiciary: Courts of Appeals, District Courts, and other Judicial Services:	
Salaries and expenses	12,000,000
Defender Services	18,000,000
Fees of Jurors and Commissioners	7,500,000
U.S. Information Agency: Salaries and expenses	2,000,000
Total, Chapter I	$504,000,000
CHAPTER II:	
Agency for International Development: Education and human resource develoment	3,000,000
Department of State: International Narcotics Control	53,000,000
Total, Chapter II	$56,000,000
CHAPTER III:	
Department of the Interior: National Park Service, operations	1,000,000
Bureau of Indian Programs:	
Operation of Indian Programs	10,000,000
Construction	12,500,000
Department of Health and Human Resources:	
Indian Health Service	16,200,000
Indian health facilities	5,500,000
Total, Chapter III	$45,200,000
CHAPTER IV:	
Department of Labor: Department of Management—S&E	3,000,000
Department of Health and Human Services: Alcohol, drug abuse, and mental health	262,000,000
Department of Education: Special programs	$200,000,000
ACTION: Operating Expenses	3,000,000
Total, Chapter IV	468,000,000
CHAPTER V:	
Department of Transportation:	
Coast Guard:	
Operating expenses	39,000,000
Acquisition, construction, and improvements	89,000,000
Total, Chapter V	$128,000,000
CHAPTER VI:	
U.S. Customs Service:	
Salaries and expenses	44,120,000
Air Interdiction	93,131,000
Customs Forfeiture Fund	10,000,000
U.S. Secret Service: Salaries and expenses	5,000,000
White House Conference on Drug Abuse and Control: Salaries and expenses	5,000,000
Department of the Treasury: Payment to the Government of Puerto Rico	7,800,000
Total, Chapter VI	$165,051,000
CHAPTER VII:	
Department of Defense:	
Operation and Maintenance:	
Operation and Maintenance, Navy	15,000,000
Operation and Maintenance, Air Force	12,615,000
Procurement:	
Aircraft Procurement, Army	18,000,000
Aircraft Procurement, Navy	183,000,000
Other Procurement, Air Force	71,385,000
Total, Chapter VII	300,000,000
Total, Title II	$1,666,251,000

(1) Such sums.

CHAPTER I—DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

UNITED STATES ATTORNEYS

SALARIES AND EXPENSES

The conference agreement provides $31,000,000 for the United States Attorneys. These resources will provide for additional Assistant United States Attorneys and supporting staff to prosecute the drug law enforcement cases that will be generated as a result of the additional Federal investigative resources provided in this title.

UNITED STATES MARSHALS

SALARIES AND EXPENSES

The conference agreement provides $17,000,000 for the United States Marshals. These resources will provide for Deputy United States Marshals and support costs to handle the additional United States prisoners anticipated as a result of the additional Federal investigative and prosecutive resources provided in this title.

SUPPORT OF UNITED STATES PRISONERS

The conference agreement provides $5,000,000 for the support of prisoners in non-Federal institutions to meet the substantial increase in Federal prisoners and detainees anticipated due to the additional Federal investigative and prosecutive resources provided in this title.

ASSETS FORFEITURE FUND

The conference agreement provides such sums as are necessary from the Department of Justice Assets Forfeiture Fund for expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forfeiture Act of 1984 and the Anti-Drug Abuse Act of 1986 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

The conference agreement provides $2,000,000 to continue the fieldwide installation of digital voice privacy radios.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement provides $60,000,000 for Salaries and Expenses for the Drug Enforcement Administration. These funds are allocated as follows:

$8,000,000 and 218 positions for domestic field staff to combat increased cocaine trafficking;

$9,000,000 and 65 positions for expanding DEA Foreign Cooperative Investigations and enhancing DEA's intelligence gathering capabilities;

$20,000,000 and 241 positions for expanding the Diversion Control Program;

$10,000,000 and 94 positions for expanding DEA State and local task forces; and

$13,000,000 for DEA air operations including $6,400,000 for purchasing two turbo prop aircraft, $2,000,000 for purchasing one helicopter for drug eradication efforts in Hawaii and $4,600,000 and 11 positions for support of the DEA airwing.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

The conference agreement provides $28,000,000 for Salaries and Expenses. Of this amount $21,000,000 is for the care and custody costs associated with the increase in the number of inmates in Federal penal institutions and $7,000,000 is for 400 additional correctional officer positions to handle the substantial increase in the number of inmates in Federal prisons expected as a result of the additional investigative and prosecutive resources provided in this title.

BUILDINGS AND FACILITIES

The conference agreement provides $96,500,000 for the Buildings and Facilities account including $90,000,000 for design and construction of two new Federal prisons to relieve the severe overcrowding that exists in the Federal Prison System.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

The conference agreement provides $225,000,000 for grants for State and local drug law enforcement programs as authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by H.R. 5484 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law. Of this amount $2,000,000 is available to carry out a pilot prison capacity program.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

The conference agreement provides $12,000,000 for contractual services and expenses relating to the supervision of Federal drug and alcohol dependent offenders, as authorized by the Drug and Alcohol Dependent Offenders Treatment Act of 1986 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law. This amount includes the necessary resources to provide treatment for the expected increase in the number of offenders resulting from additional Federal drug law prosecutions.

DEFENDER SERVICES

The conference agreement provides $18,000,000 for the operation of the Federal public defender and community defender organizations and the compensation, reimbursement and expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended. These resources are provided in anticipation of increased demands which will be placed upon this appropriation as a result of expanded Federal investigative and prosecutive efforts during fiscal year 1987.

FEES OF JURORS AND COMMISSIONERS

The conference agreement provides $7,500,000 for fiscal year 1987 for the compensation of jury commissioners and for the fees and allowances of grand and petit jurors anticipated to be required as a result of the additional Federal investigative and prosecutive resources that are provided in this title.

RELATED AGENCY

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

The conference agreement provides $2,000,000 for the United States Information Agency for drug education programs abroad.

CHAPTER II—FOREIGN ASSISTANCE

BILATERAL ECONOMIC ASSISTANCE

AGENCY FOR INTERNATIONAL DEVELOPMENT

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

The conferees agree to provide $3,000,000 for the Education account to be used for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

The conferees agree to provide an additional $53,000,000 for International Narcotics Control, as proposed by the Senate. The House has proposed an additional $35,000,000.

CHAPTER III—DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Appropriates $1,000,000 to supplement ongoing efforts to eradicate drug cultivation, sale, distribution, and use within the Park system. The funds will support surveillance, undercover operations, and increased patrols.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Appropriates an additional $10,000,000 for substance abuse and alcoholism prevention activities. The managers are in agreement on the following allocation of funds:

Education:	
Curriculum development and materials	$3,000,000
Additional school counselors	2,400,000
Tribal government services: Judicial training	1,000,000
Law enforcement:	
Training	3,000,000
Model Juvenile Code	100,000
Grant to Papago tribe	500,000
Total:	$10,000,000

CONSTRUCTION

Appropriates an additional $12,500,000 for construction. Included is $5,000,000 for planning and design, construction and renovation of emergency shelters of halfway houses to provide emergency care for Indian youth. There is also $7,500,000 for construction or renovation of juvenile detention centers, consistent with the Juvenile Justice and Delinquency Prevention Act of 1974.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

Funding of $3,000,000 is provided for staffing of regional youth detoxification facilities; $9,000,000 for rehabilitation and follow-up services to Indian youth; $4,000,000 for community education and training; and $200,000 for an alcoholism program for adult Navajo Indians in Gallup, NM.

INDIAN HEALTH FACILITIES

For Indian health facilities, $5,500,000 is provided for the construction of detoxification facilities for Indian youth.

CHAPTER IV—DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

The conference agreement includes $3,000,000 for the collection of information and the conduct of research on drugs in the workplace. This shall include information on the incidence of drug abuse and efforts to assist workers, including counseling, rehabilitation and employee assistance programs. The Secretary shall conduct such additional research as is necessary to assess the impact and extent of drug abuse and remediation efforts. The findings of such collection and research are to be submitted to the appropriate committees of Congress no later than September 30, 1988.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

The conference agreement includes $262,000,000 for substance abuse prevention and treatment programs administered by the Alcohol, Drug Abuse and Mental Health Administration. The House resolution included $281,000,000 for activities administered by this agency and the Senate resolution contained $269,000,000. The conference agreement includes the following amounts:

Grants to States and local governments	$200,000,000
Federal project grants and demonstrations	28,000,000
Drug abuse research	27,000,000
Alcohol research	3,000,000

Information clearinghouse and evaluation studies.....	3,000,000
Insurance coverage study...	1,000,000

The $200,000,000 agreed to for grants to States and local governments will support the development of new or expanded efforts to prevent substance abuse as well as an increased capacity to treat substance abusers. While the agreement appropriates these funds under various existing authorities of the Public Health Service Act, the conferees are aware that authorizing legislation is currently pending before the Congress which would significantly alter these titles. Should these changes become law, the conferees direct that funds be allocated among the States based on the new provisions. In the absence of such statutory authority, however, the conferees direct that the Administrator distribute funds to States and local authorities on a formula basis taking into account the size of the at-risk population, the current need for treatment capacity and relative per capita income.

The conferees have agreed to an additional $27,000,000 for drug abuse research and $3,000,000 for alcohol research. These amounts are in addition to the $80,000,000 for drug research and $66,075,000 for alcohol research included in the regular fiscal year 1987 appropriations bill. Together these programs have been increased by more than $56 million over last year's funding levels. While fully supportive of this increase, the conferees want to stress the importance of maintaining quality standards in these programs. In order to facilitate a more orderly and productive expansion, the conference agreement provides that these funds, as well as other new monies provided in this account, remain available until September 30, 1988.

DEPARTMENT OF EDUCATION

SPECIAL PROGRAMS

The conference agreement includes $200,000,000 to provide Federal assistance to States for programs of drug abuse education and prevention at the State level, in elementary and secondary schools, through community-based organizations, and at institutions of higher education.

States apply to the Secretary of Education for funds. Funds may be used for development, acquisition, dissemination, and implementation of model curricula, for demonstration projects, for training and for technical assistance. States must assure that funds will only be given to local educational agencies that have mandatory drug abuse education and prevention programs.

Funds are made available to local or intermediate educational agencies or consortia. Allowable activities include development and acquisition of curricula, counseling, referral, training, prevention, early intervention programs, and education programs including programs for parents. Children and teachers from non-profit private schools may also participate.

Grants and contracts would be awarded to institutions of higher education (including community and junior colleges) on a competitive basis. The Secretary would be required to give appropriate consideration to colleges and universities which have limited enrollment. Funds would be available to institutions for the purposes of training, summer institutes and workshops, research and development and exemplary programs, and programs for law enforcement officials, community leaders, parents, and government officials.

RELATED AGENCY

ACTIONS

OPERATING EXPENSES

The conference agreement includes $3,000,000 for public awareness and education activities with respect to drug abuse. The Action agency will work with religious, business, service and civic groups to increase public awareness about the health consequences of illegal drugs and expand drug prevention activities through the use of volunteers, private sector initiatives, and public/private partnerships. With the Federal sector acting as a catalyst, private sector support for drug use prevention will be strengthened.

Of the $3,000,000 provided, the conferees are agreed that $200,000 may be used for administrative expenses related to drug abuse activities.

CHAPTER V—DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

Appropriates $39,000,000 as proposed by the Senate instead of $59,000,000 as proposed by the House.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Appropriates $89,000,000 instead of $59,000,000 as proposed by the House and $119,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Bahamian docking facility	$5,000,000
Two C-130's.....	38,000,000
Cutters.....	35,000,000
Secure communications.....	11,000,000

RESERVE TRAINING

Deletes appropriation of $9,000,000 proposed by the House. The Seante resolution contained no funds for this program.

FEDERAL HIGWAY ADMINISTRATION

MOTOR CARRIER SAFETY GRANTS

(HIGHWAY TRUST FUND)

Deletes appropriation of $30,000,000 proposed by the Senate. The House resolution contained no funds for this program.

CHAPTER VI—DEPARTMENT OF TREASURY

U.S. CUSTOMS SERVICE

SALARIES AND EXPENSES

The conferees have provided an additional $44,120,000 for salaries and expenses. The conferees direct the Customs Service to us these additional personnel in the manner which most effectively combats the smuggling of illegal drugs into this country.

The conferees believe that the high level of drug abuse and related crime in this country requires a strong law enforcement effort to stem the tide of illicit drugs coming into the United States. The conferees expect this appropriation to have a significant and positive impact on the government's ability to interdict the flow of illegal drugs and other contraband into the country.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

The conferees have provided an additional $93,131,000 for the operation and maintenance of the air interdiction program.

The conferees believe strongly that the Customs Service should retain control of the command, control, communications, and intelligence (C-31) centers as discussed in Senate Report 99-406 and have provided sufficient funds to initiate the establishment of at least four such centers in fiscal year 1987. The conferees also believe that the Customs Service needs to enhance the capabilities of its fleet of P-3 aircraft by retrofitting up to two such aircraft with 360-degree radar in fiscal year 1987, especially in view of the serious shortage of surveillance assets on the southwest border. Therefore, the conferees have recommended funding sufficient to accomplish both of these important elements of the Customs drug interdiction program and expect full reports to the Committees on Appropriations regarding the agency's progress in carrying out these directives.

The conferees believe it is absolutely essential to increase and improve the ability of the U.S. Customs Service to conduct comprehensive drug interdiction surveillance along the drug-prone southwest border. To achieve this end, the conferees direct the Navy to transfer to the U.S. Customs Service, the four refurbished E-2C Hawkeye surveillance aircraft, authorized in accordance with the terms and conditions contained in H.R. 5484, as amended by the Senate and passed by the Senate on September 30, 1986.

CUSTOMS FORFEITURE FUND

The conferees have provided an additional $10,000,000 for the Customs Forfeiture Fund.

Public Law 98-473 and Public Law 98-573 authorized Customs to establish a Customs Forfeiture Fund. Seized and forfeited currency and any proceeds beyond the expenses of seizure and forfeiture of merchandise are deposited into this account. Use of these funds is limited to the following: (1) expenses related to seizure; (2) awards to informants; (3) payments of liens related to seizures; (4) equipping forfeited vessels, vehicles, and aircraft; (5) payment of claims of parties of interest to property disposed; (6) purchase of evidence; and (7) destruction of drugs.

U.S. SECRET SERVICE

SALARIES AND EXPENSES

The conferees have provided $5,000,000 for the Secret Service. These funds will be used for more rapid implementation of the voice privacy program. This program insures that the latest technology is used in the Secret Service communications network to prevent the monitoring of Secret Service communications. The House passed bill provided no funds for this program.

PAYMENT TO THE GOVERNMENT OF PUERTO RICO

The conferees have provided $7,800,000 for grants to the Government of Puerto Rico to assist in the interdiction of illegal narcotics into the Commonwealth of Puerto Rico.

The conferees have provided $3,300,000 for the purchase of two helicopters; $3,500,000 for the purchase of an aircraft and $1,000,000 for the purchase and maintenance of five high speed vessels.

EXECUTIVE OFFICE OF THE PRESIDENT

WHITE HOUSE CONFERENCE ON DRUG ABUSE AND CONTROL

SALARIES AND EXPENSES

The conferees have provided $5,000,000 for the Conference. The purposes of this Conference are (1) to increase public awareness of, and to focus attention on, various aspects of the problems of drug abuse and control (including issues of enforcement of controlled substances laws and of prevention, treatment, and rehabilitation of drug abusers); (2) to pool information and experi-

ences in order vigorously and directly to attack drug abuse at all levels—local, State, Federal, and international; and (3) to assist in formulating a national strategy (encompassing international, Federal, State, and local activities) to control trafficking in controlled substances and to prevent and treat drug abuse.

CHAPTER VII—DEPARTMENT OF DEFENSE

For the Defense Department portion of the Omnibus Drug Supplemental Appropriations Act of 1987, the conferees agree to provide an appropriation of $300,000,000.

The conferees agree to provide $300,000,000 to support drug interdiction efforts by the Department of Defense in conjunction with other federal government agencies. The agreement funds procurement and modification of long-range surveillance aircraft equipped with 360 degree radar, and procurement of helicopters and aerostat radar. In addition, funds are available to transfer Air Force helicopters to meet southwestern U.S. drug concerns and to support the Coast Guard Tactical Law Enforcement Teams Program.

All of the equipment funded shall be provided to other federal agencies as determined by the President or his designee in association with the Administration's drug awareness and interdiction program. Equipment provided to civilian agencies shall revert to the Department of Defense in the event of war.

Funding is as follows:

Program	*Millions*
Procurement and Modification of aircraft	$183.0
Aerostat Radar	71.385
Helicopters	18.0
Helicopter Transfer	12.615
TACLETS	15.0

CIVIL AIR PATROL

The conferees note that the Senate-passed Anti-Drug Abuse Act of 1986 included a provision directing the use of $7,000,000 of prior year defense funds to acquire major items of equipment needed by the Civil Air Patrol for drug interdiction surveillance and reporting missions. The conferees support this provision and direct the Air Force to make $7,000,000 available for such purposes.

TITLE III

Amendment No. 120: The conference agreement includes the Senate amendments to the school lunch and child nutrition programs and further amends the language to include the provisions of amendment number 26 which removes the cap on yearly tuition for participation by private schools.

TITLE IV

Amendment No. 121: Deletes a Senate provision which would have authorized the James Madison Fellowship Program and appropriated $20,000,000, to be available on October 1, 1987, to implement it. The House bill contained no provision on this item. This matter is addressed in Amendment No. 2.

TITLE V—AVIATION SAFETY COMMISSION

Amendment No. 122: Appropriates $2,000,000 as proposed by the Senate to establish an Aviation Safety Commission. The conference agreement modifies the Senate language by requiring the Aviation Safety Commission to perform an additional 18-month investigation of Federal Aviation Administration employee and management relationships.

TITLE VI—NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

Amendment No. 123: Deletes title VI proposed by the Senate which would have established a National Commission to Prevent Infant Mortality and authorized an appropriation of $1,000,000. The House bill contained no similar provision.

METROPOLITAN WASHINGTON AIRPORTS

Amendment No. 124: Reported in disagreement.

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

Amendment No. 125: Deletes language proposed by the Senate which would have added a new title VIII to the resolution authorizing the Acquired Immune Deficiency Syndrome Service Coordination Act of 1986. The proposed title also would have included a section regarding the District of Columbia which would have voided D.C. Law 6-170 which prohibits health and life insurance companies from denying coverage to persons who test positive for exposure to the AIDS virus. The House bill contained no similar provision.

ACROSS-THE-BOARD-CUT

Amendment No. 126: The conference agreement deletes language proposed by the House that would have offset the FY 1987 cost of the Omnibus Drug Supplemental Appropriations Act of 1987 by an across-the-board cut applied to all new discretionary accounts.

For the entire resolution and Senate amendments:

JAMIE L. WHITTEN,
(Except for amendment No. 19)
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVE OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
BILL CHAPPELL,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W.G. HEFNER,
SILVIO O. CONTE,
JOSEPH M. McDADE,
JOHN T. MYERS,
CLARENCE E. MILLER,
LARRY COUGHLIN,
C.W. BILL YOUNG,
(Except for secs. 1101-1109 of Defense title)
JACK KEMP,
(Except for amendment Nos. 3 and 6)
RALPH REGULA,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on Agriculture, Rural Development, and Related Agencies, and modifications committed to conference:

BOB TRAXLER,
MATTHEW F. McHUGH,
DANIEL K. AKAKA,
WESLEY W. WATKINS,
RICHARD J. DURBIN,
VIRGINIA SMITH,
HAROLD ROGERS,
JOE SKEEN,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, and modifications committed to conference:

BILL ALEXANDER,
JOSEPH D. EARLY,
BERNARD J. DWYER,
BOB CARR,
ALAN B. MOLLOHAN,
HAROLD ROGERS,
ROBERT H. MICHEL,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on the Department of Defense, and modifications committed to conference:

JOHN P. MURTHA,
NORMAN D. DICKS,
CHARLES WILSON,
LES AUCOIN,
MARTIN O. SABO,
CLARENCE E. MILLER,
ROBERT L. LIVINGSTON,

Solely for consideration for Senate amendments within the jurisdiction of the Subcommittee on the District of Columbia, and modifications committed to conference:

LOUIS STOKES,
CHARLES WILSON,
MARTIN O. SABO,
STENY H. HOYER,
BILL GREEN,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on Energy and Water Development, and modifications committed to conference:

LINDY (Mrs. HALE) BOGGS,
WESLEY W. WATKINS,
BILL BONER,
VIRGINIA SMITH,
ELDON RUDD,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on Foreign Operations, and modifications committed to conference:

MATTHEW F. McHUGH,
CHARLES WILSON,
WILLIAM H. GRAY III,
ROBERT J. MRAZEK,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on the Department of Housing and Urban Development-Independent Agencies, and modifications committed to conference:

BOB TRAXLER,
LOUIS STOKES,
LINDY (Mrs. HALE) BOGGS,
BILL BONER,
ALAN B. MOLLOHAN,
BILL GREEN,
JERRY LEWIS,

Solely for consideration of Senate amendments within the jurisdiction of the Subcommittee on the Department of the Interior and Related Agencies, and modifications committed to conference:

JOHN P. MURTHA,
NORMAN D. DICKS,
LES AUCOIN,

Solely for consideration of Senate amendments under the jurisdiction of the Subcommittee on Military Construction, and modifications committed to conference:

BILL ALEXANDER,
RONALD COLEMAN,
JOSEPH D. EARLY,
NORMAN D. DICKS,
MICKEY EDWARDS,
TOM LOEFFLER,
ELDON RUDD,
BILL LOWERY,

Solely for consideration of Senate amendments under the jurisdiction of the Subcommittee on the Department of Transporta-

tion and Related Agencies, and modifications committed to conference:

WILLIAM H. GRAY III,
BOB CARR,
RICHARD J. DURBIN,
ROBERT J. MRAZEK,
MARTIN O. SABO,
CARL D. PURSELL,
FRANK R. WOLF

Solely for consideration of Senate amendments under the jurisdiction of the Subcommittee on Treasury, Posatal Service, and General Government, and modifications committed to conference:

DANIEL K . AKAKA,
STENY H. HOYER,
RONALD COLEMAN,
JOE SKEEN,
BILL LOWERY,
FRANK R. WOLF,

Managers on the Part of the House.

MARK O. HATFIELD,
LOWELL P. WEICKER,
JAMES A. MCCLURE,
PAUL LAXALT,
JAKE GARN,
THAD COCHRAN,
MARK ANDREWS,
JAMES ABDNOR,
BOB KASTEN,
ALFONSE D'AMATO,
MACK MATTINGLY,
WARREN RUDMAN,
JOHN C. STENNIS,
ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
LAWTON CHILES,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
JIM SASSER,
DENNIS DECONCINI,
FRANK R. LAUTENBERG,
TOM HARKIN,

Managers on the Part of the Senate.

SSI IMPROVEMENT AMENDMENTS OF 1986

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5595) to make permanent and improve the provisions of section 1619 of the Social Security Act, which authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment; to amend such act to require concurrent notification of eligibility for SSI and Medicaid benefits and notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619; to provide for a GAO study of the effects of such section's work incentive provisions; and for other purposes with Senate amendments thereto and concur in the Senate amendments with an amendment.

The Clerk read the Senate amendments and the House amendment to the Senate amendments, as follows:

Senate amendments: strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employment Opportunities for Disabled Americans Act".

SEC. 2. PERMANENT AUTHORIZATION OF PROGRAM OF BENEFITS UNDER SECTION 1619.

Section 201(d) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1382h note) is amended by striking out ", but shall remain in effect only through June 30, 1987".

SEC. 3. ELIGIBILITY OF CERTAIN DISABLED OR BLIND INDIVIDUALS FOR BENEFITS DURING INITIAL TWO MONTHS IN CERTAIN INSTITUTIONS.

(a) IN GENERAL.—Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)) is amended—

(1) in subparagraph (A) by striking out "and (D)" and inserting in lieu thereof "(D), and (E)"; and

(2) in subparagraph (B) by inserting "(subject to subparagraph (E))" after "shall be payable"; and

(3) by adding at the end thereof the following new subparagraphs:

"(E) Notwithstanding subparagraphs (A) and (B), any individual who—

"(i)(I) is an inmate of a public institution, the primary purpose of which is the provision of medical or psychiatric care, throughout any month as described in subparagraph (A), or

"(II) is in a hospital, extended care facility, nursing home, or intermediate care facility throughout any month as described in subparagraph (B),

"(ii) was eligible under section 1619 (a) or (b) for the month preceding such month, and

"(iii) under an agreement of the public institution or the hospital, extended care facility, nursing home, or intermediate care facility is permitted to retain any benefit payable by reason of this subparagraph,

may be an eligible individual or eligible spouse for purposes of this title (and entitled to a benefit determined on the basis of the rate applicable under subsection (b)) for the month referred to in subclause (I) or (II) of clause (i) and, if such subclause still applies, for the succeeding month.

"(F) An individual who is an eligible individual or an eligible spouse for a month by reason of subparagraph (E) shall not be treated as being eligible under section 1619 (a) or (b) for such month for purposes of clause (ii) of such subparagraph.".

(b) MEDICAID STATE PLAN REQUIREMENT.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(l) Notwithstanding any provision of subsection (a) to the contrary, a State plan under this title shall provide that any supplemental security income benefits paid by reason of section 1611(e)(1)(E) to an individual who—

"(1) is eligible for medical assistance under the plan, and

"(2) is in a hospital, skilled nursing facility, or intermediate care facility at the time such benefits are paid,

will be disregarded for purposes of determining the amount of any post-eligibility contribution by the individual to the cost of the care and services provided by the hospital, skilled nursing facility, or intermediate care facility.".

SEC. 4. IMPROVEMENTS TO SECTION 1619 PROGRAM.

(a) CASH BENEFITS.—Section 1619(a) of the Social Security Act (42 U.S.C. 1382h(a)) is amended to read as follows:

"(a)(1) Any individual who was determined to be an eligible individual (or eligible spouse) by reason of being under a disability and was eligible to receive benefits under section 1611 (or a federally administered State supplementary payment) for a month and whose earnings in a subsequent month exceed the amount designated by the Secretary ordinarily to represent substantial gainful activity shall qualify for a monthly benefit under this subsection for such subsequent month (which shall be in lieu of any benefit under section 1611) equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of title XIX shall be considered to be receiving supplemental security income benefits under this title, for so long as—

"(A) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability; and

"(B) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611 and such individual meets all other non-disability-related requirements for eligibility for benefits under this title.

"(2) The Secretary shall make a determination under paragraph (1)(A) with respect to an individual not later than 12 months after the first month for which the individual qualifies for a benefit under this subsection.".

(b) CONTINUING BENEFITS UNDER TITLE XIX.—Section 1619(b) of such Act is amended—

(1) in paragraph (1) by striking out "continues to meet" and inserting in lieu thereof "meets",

(2) in paragraph (4) by striking out "benefits under this title and title XIX" and inserting in lieu thereof "benefits under this title (including any federally administered State supplementary payments), benefits under title XIX, and publicly funded attendant care services (including personal care assistance),".

(3) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively,

(4) by striking out the matter preceding subparagraph (A) (as redesignated by paragraph (3)) and inserting in lieu thereof the following:

"(b)(1) For purposes of title XIX, any individual under age 65 who was determined to be a blind or disabled individual eligible to receive a benefit under section 1611 or any federally administered State supplementary payment for a month and who in a subsequent month is ineligible for benefits under this title (and for any federally administered State supplementary payments) because of his or her income shall, nevertheless, be considered to be receiving supplemental security income benefits for such subsequent month provided that the Secretary determines under regulations that—", and

(5) by adding at the end thereof (after and below subparagraph (D), as so redesignated) the following new paragraphs:

"(2)(A) Determinations made under paragraph (1)(D) shall be based on information and data updated no less frequently than annually.".

"(B) In determining an individual's earnings for purposes of paragraph (1)(D), there shall be excluded from such earnings an amount equal to the sum of any amounts which are or would be excluded under clauses (ii) and (iv) of section 1612(b)(4)(B) (or under clauses (ii) and (iii) of section 1612(b)(4)(A)) in determining his or her income.".

(c) REVIEW PROCESS FOR CERTAIN INDIVIDUALS.—

(1) Section 1631 of such Act (42 U.S.C. 1383) is amended—

(A) in subsection (e)(1)(A) by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (B) and subsection (j)", and

(B) by adding at the end thereof the following new subsection:

"Application and Review Requirements for Certain Individuals

"(j)(1) Notwithstanding any provision of section 1611 or 1619, any individual who—

"(A) was an eligible individual (or eligible spouse) under section 1611 or was eligible for benefits under or pursuant to section 1619, and

"(B) who, after such eligibility, is ineligible for benefits under or pursuant to both such sections for a period of 12 consecutive months,

may not thereafter become eligible for benefits under or pursuant to either such section until the individual has reapplied for benefits under section 1611 and been determined to be eligible for benefits under such section.

"(2)(A) Notwithstanding any provision of section 1611 or section 1619, any individual who was eligible for benefits pursuant to section 1619(b), and who—

"(i)(I) on the basis of the same impairment on which his or her eligibility under such section 1619(b) was based becomes eligible for benefits under section 1611 or 1619(a) for a month that follows a period during which the individual was ineligible for benefits under sections 1611 and 1619(a), and

"(II) has earned income (other than income excluded pursuant to section 1612(b)) for any month in the 12-month period preceding such month that is equal to or in excess of the amount that would cause him or her to be ineligible for payments under section 1611(b) for that month (if he or she were otherwise eligible for such payments); or

"(ii)(I) on the basis of the same impairment on which his or her eligibility under such section 1619(b) was based becomes eligible under section 1619(b) for a month that follows a period during which the individual was ineligible under section 1611 and section 1619, and

"(II) has earned income (other than income excluded pursuant to section 1612(b)) for such month or for any month in the 12-month period preceding such month that is equal to or in excess of the amount that would cause him or her to be ineligible for payments under section 1611(b) for that month (if he or she were otherwise eligible for such payments);

shall, upon becoming eligible (as described in clause (i)(I) or (ii)(I)), be subject to a prompt review of the type described in section 1614(a)(5).

"(B) If the Secretary determines pursuant to a review required by subparagraph (A) that the impairment upon which the eligibility of an individual is based has ceased, does not exist, or is not disabling, such individual may not thereafter become eligible for a benefit under or pursuant to section 1611 or section 1619 until the individual has reapplied for benefits under section 1611 and been determined to be eligible for benefits under such section.".

(2) Section 1619 of such Act (as amended by subsections (a) and (b) of this section) is further amended—

(A) in subsection (a) by striking out "Any individual" and inserting in lieu thereof "Except as provided in section 1631(j), any individual", and

(B) in subsection (b) by striking out "For purposes of" and inserting in lieu thereof "Except as provided in section 1631(j), for purposes of".

(3) Section 1611 of such Act (42 U.S.C. 1382) is amended by adding at the end thereof the following new subsection:

"Application and Review Requirements for Certain Individuals

"(i) For application and review requirements affecting the eligibility of certain individuals, see section 1631(j).".

(d) CONFORMING AMENDMENTS.—

(1) Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended by striking out paragraph (4).

(2) Section 1614(a)(3) of such Act (42 U.S.C. 1382c(a)(3)) is amended—

(A) in subparagraph (D) by striking out ", except for purposes of subparagraph (F) or paragraph (4),", and

(B) by striking out subparagraph (F), and by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(3)(A) Section 1614(a) of such Act (as amended by paragraph (2)) is further amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(B) Section 1631(j)(2)(A) of such Act (as added by subsection (c)) is amended by striking out "section 1614(a)(5)" and inserting in lieu thereof "section 1614(a)(4)".

SEC. 5. NOTIFICATIONS TO APPLICANTS AND RECIPIENTS.

Section 1631 of the Social Security Act (42 U.S.C. 1383) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"Notifications to Applicants and Recipients

"(k) The Secretary shall notify an individual receiving benefits under section 1611 on the basis of disability or blindness of his or her potential eligibility for benefits under or pursuant to section 1619—

"(1) at the time of the initial award of benefits to the individual under section 1611 (if the individual has attained the age of 18 at the time of such initial award), and

"(2) at the earliest time after an initial award of benefits to an individual under section 1611 that the individual's earned income for a month (other than income excluded pursuant to section 1612(b)) is $200 or more, and periodically thereafter so long as such individual has earned income (other than income so excluded) of $200 or more per month.".

SEC. 6. LOSS OF SSI BENEFITS UPON ENTITLEMENT TO CHILD'S INSURANCE BENEFITS BASED ON DISABILITY.

(a) IN GENERAL.—Section 1634 of the Social Security Act (42 U.S.C. 1383c) is amended by adding at the end thereof the following new subsection:

"(c) If any individual who has attained the age of 18 and is receiving benefits under this title on the basis of blindness or a disability which began before he or she attained the age of 22—

"(1) becomes entitled, on or after the effective date of this subsection, to child's insurance benefits which are payable under section 202(d) on the basis of such disability or to an increase in the amount of the child's insurance benefits which are so payable, and

"(2) ceases to be eligible for benefits under this title because of such child's insurance benefits or because of the increase in such child's insurance benefits,

such individual shall be treated for purposes of title XIX as receiving benefits under this title so long as he or she would be eligible for benefits under this title in the absence of such child's insurance benefits or such increase.".

(b) STATE DETERMINATIONS.—Any determination required under section 1634(c) of the Social Security Act with respect to whether an individual would be eligible for benefits under title XVI of such Act in the absence of children's benefits (or an increase thereof) shall be made by the appropriate State agency.

(c) CONFORMING CHANGE.—Section 1920(a)(2) of such Act (42 U.S.C. 1396s(a)(2)) is amended—

(1) by inserting "(A)" before "Section", and

(2) by adding after and below subparagraph (A) the following new subparagraph:

"(B) Section 1634 of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to child's insurance benefits under section 202(d) of this Act).".

SEC. 7. MEDICAID ELIGIBILITY FOR CERTAIN RECIPIENTS OF CASH BENEFITS UNDER SECTION 1619.

(a) IN GENERAL.—Section 1619(b) of the Social Security Act (42 U.S.C. 1382h(b)) (as amended by section 4) is further amended by adding at the end thereof the following new paragraph:

"(3) In the case of a State that exercises the option under section 1902(f), any individual who—

"(A)(i) qualifies for a benefit under subsection (a), or

"(ii) meets the requirements of paragraph (1); and

"(B) was eligible for medical assistance under the State plan approved under title XIX in the month immediately preceding the first month in which the individual qualified for a benefit under such subsection or met such requirements,

shall remain eligible for medical assistance under such plan for so long as the individual qualifies for a benefit under such subsection or meets such requirements.".

(b) CONFORMING AMENDMENT.—Section 1902(f) of such Act (42 U.S.C. 1396a(f)) is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (e) and section 1619(b)(3)".

SEC. 8. EFFECTIVE DATES.

(a) PERMANENT AUTHORIZATION.—The amendment made by section 2 shall become effective on the date of the enactment of this Act.

(b) PROGRAM MODIFICATIONS.—

(1) Except as provided in paragraph (2), the amendments made by sections 3, 4, 5, 6, and 7 shall become effective on July 1, 1987.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the requirements imposed by the amendments made by section 3(b) and section 7 of this Act, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such additional requirements until 60 days after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

Amend the title so as to read: "An Act to make permanent and improve the provisions of section 1619 of the Social Security Act, and for other purposes.".

House amendment to Senate amendment: Redesignate section 8 as section 9; and after section 7 insert the following new section:

SEC. 8. PAYMENT OF BENEFITS DUE DECEASED RECIPIENTS.

(a) IN GENERAL.—Section 1631(b)(1) of the Social Security Act is amended—

(1) by inserting "(A)" after "(1)";

(2) by striking out "by recovery from" where it first appears in the first sentence and all that follows down through "The Secretary (A) shall make" and inserting in lieu thereof the following:

"by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse, or, if such individual is deceased, by payment—

"(i) to any surviving spouse of such individual, whether or not the individual's eligible spouse, if (within the meaning of the first sentence of section 202(i)) such surviving husband or wife was living in the same household with the individual at the time of his death or within the 6 months immediately preceding the month of such death, or

"(ii) if such individual was a disabled or blind child who was living with his parent or parents at the time of his death or within the 6 months immediately preceding the month of such death, to such parent or parents.

"(B) The Secretary (i) shall make";

(3) by striking out "and (B) shall in any event" and inserting in lieu thereof "and (ii) shall in any event";

(4) by striking out "(i) the amount" and "(ii) an amount" and inserting in lieu thereof "(I) the amount" and "(II) an amount", respectively; and

(5) by striking out "clause (B)" and "clause (A)" in the last sentence and inserting in lieu thereof "clause (ii)" and "clause (i)", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits payable for months after May 1986.

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Illinois?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the gentleman from Illinois [Mr. ROSTENKOWSKI] for an explanation.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Speaker, H.R. 5595 passed the House by voice vote on September 30, 1986. Title I of the bill contained 13 separate amendments to the Supplemental Security Income Program [SSI]. Title II of the bill amended and made permanent section 1619 of the Social Security Act, which allows disabled individuals who are able to work to do so without fear of losing SSI and/or Medicaid. Title II of the House bill was identical to a proposal reported to the other body by the Senate Finance Committee.

The Senate has stripped all of the amendments contained in title I of the bill and sent to the House just title II. I am asking to add back one of the House amendments contained in title I. This is the provision that will allow the payment of retroactive SSI benefits to the spouse or parents of a deceased individual who was eligible for SSI. I understand that this one amendment along with title II of the bill will be acceptable to the other body.

I also would point out that the bill as so amended will increase the savings that the bill achieves. As passed by the House the bill would have saved $4 million over 3 years but cost $10 million over 5 years. With this amendment, it will save $6 million over the next 5 years.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I yield to the distinguished chairman of the subcommittee, the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. I thank the gentleman for yielding.

Mr. Speaker, I want to thank Chairman ROSTENKOWSKI, Mr. STARK, Mr. ANTHONY, and Mr. BARTLETT for working so hard on this bill.

I did not think the bill was at all controversial when we first passed it. Whatever reservations the other body had will be removed with this amendment and we will be able to go forward with the 1619 Program and the provision championed by Mr. ANTHONY.

This is sound legislation. Mr. Speaker. It will be of great benefit to the working disabled and the families of disabled individuals. I would urge my colleagues to support this legislation

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I yield to one of the original sponsors of title II, the gentlemen from Texas [Mr. BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, I support the unanimous-consent request. It represents the elimination of a very significant disincentive to employment for disabled persons which has taken about 2 years to get to this point in order to get it passed. I am supportive also of title I and that portion of title I that was included.

I think we owe a great debt of gratitude to Mr. FORD, Mr. ROSTENKOWSKI, Mr. DUNCAN, Mr. GRADISON, Mr. STARK, Mr. PEASE, and the other Members who worked so hard on this legislation.

I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, the bill was not controversial when it passed the House; it is still not controversial.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

CORRECTING THE ENROLLMENT OF S. 1200, IMMIGRATION REFORM AND CONTROL ACT OF 1985

Mr. RODINO. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 412) to make a correction in the enrollment of the bill S. 1200 and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 412

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 1200) to amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes, the Secretary of the Senate shall insert, at the end of title I, the text of part C of title I contained in the House amendment.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL APPLIANCE ENERGY CONSERVATION ACT OF 1986

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5465), to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 40, line 11, after "regulation" insert: "effective on or after January 1, 1992".

Page 60, strike out all after line 22 over to and including line 2 on page 61.

Page 61, after line 2, insert:

SEC. 12. FERC REQUIREMENT.—

(a) Notwithstanding any other applicable provision of law, on November 17, 1986, or within 10 working days thereafter, the Federal Energy Regulatory Commission shall, in the case of ANR Pipeline Company, FERC Docket No. RP82-80, filed April 30, 1982, publish a schedule for issuing a final order in such case, which schedule shall provide for such order to be issued not later than February 28, 1987. Such schedule shall include an opportunity for an oral argument prior to issuance of such final order, as requested by one or more of the parties, unless the Commission determines that such argument would not assist the Commission in deciding such case.

(b) Except as expressly provided in subsection (a), nothing in this section shall affect—

(1) any Stipulation and Agreement reached by the parties in such case or any applicable provision to law with respect thereto;

(2) the right of any party to such case to appeal the final order issued in such case in accordance with applicable provisions of law; or

(3) any other applicable provisions of law with regard to any such ruling or order.

(4) Page 61, after line 2, insert:

SEC. 13.—MISCELLANEOUS.

(a) FERC ORDER.—Notwithstanding any petition filed by the Idaho Power Company on November 26, 1984 with the Federal Energy Regulatory Commission for a declaratory order concerning an Agreement dated October 25, 1984 (Exhibit A, Petition of Idaho Power Company for Declaratory Order, Docket No. EL–85–38–000) relative to the projects of such company specifically referenced in the petition, the Federal Energy Regulatory Commission is only authorized and directed, in lieu of the petition request, to issue an order within 90 days after enactment of this Act under the Federal Power Act that such Agreement shall not be considered by the Commission in any subsequent proceeding before the Commission during the remaining term of the licenses applicable to such projects, to be (1) inconsistent with the terms and conditions of such licenses concerning project property or the utilization thereof; or (2) imprudent for purposes of section 205 of the Federal Power Act.

(b) SAVINGS PROVISION.—Nothing in this section or in any order issued by the Commission pursuant to this section, shall be construed as affecting any stipulation or other agreement entered into with the State of Idaho or the Idaho Power Company prior to enactment of this section relating to any fish and wildlife matters affected by any such project. Except as expressly provided in subsection (a), nothing in such subsection shall affect the application or requirements of section 10 of the Federal Power Act or any other provision of such Act to any person or project.

Mr. MARKEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I do not intend to object, but instead I wish to state my strong support for H.R. 5465, the National Appliance Energy Conservation Act of 1986.

Mr. Speaker, the National Appliance Energy Conservation Act of 1986 is a bill which is cosponsored by every member of the Subcommittee on Energy Conservation and Power of the Committee on Energy and Commerce. H.R. 5465 addresses a significant problem which has been developing in the area of appliance energy efficiency. The Department of Energy is under a statutory duty to develop appliance energy efficiency standards. The D.C. circuit has ordered DOE to develop these standards by 1988. At the same time, many States, including my own State of California, have adopted their own appliance standards. Many other States are moving to adopt similar standards. Thus, multiple differing State appliance standards are developing at the same time DOE is working on Federal standards.

The establishment of a variety of differing appliance standards is in no one's interest. Multiple differing appliance standards pose significant problems for appliance manufacturers who generally sell their products on a nationwide basis. Such manufacturers cannot target their research so that their product is constantly improved. Instead, their research money must be applied to modifying products so that they meet different standards in different States. Similarly, appliance manufacturers cannot market or distribute their products on a streamlined national basis.

Additionally, multiple State standards will have an adverse effect on consumers as it will increase the cost of appliances and will reduce the number of products available to them. Multiple standards could even lead to manufacturers, especially small and medium-sized companies, ceasing to make particular appliances, thus lessening competition.

Despite this phenomenon of an increasing number of appliance standards, it is clear that the marketplace has worked well with regard to appliance energy efficiency. Consumers have bought and are continuing to buy products with higher and higher efficiencies. In light of these efficiency gains, I applaud the decision of the appliance manufacturers and the Natural Resources Defense Council to sit down and negotiate consensus standards. This decision was a courageous one on the part of the participants in the process and has achieved standards which are not only strong but technically feasible. It is not often that such a result is accomplished by the more commonplace process of an agency rulemaking.

H.R. 5465 is comprised of the consensus standards developed by the appliance manufacturers and the Natural Resources Defense Council. It contains appliance standards for 11 major appliances. When these Federal standards go into effect, then State appliance standards applicable to appliances covered by these Federal standards are preempted. It is important to note that the Federal standards contained in H.R. 5465 are more stringent than any existing State standards, thus achieving the energy conservation goals of those States that have adopted appliance standards.

H.R. 5465 also directs the Department of Energy to engage in a rulemaking to determine the appropriate efficiency standard for gas furnaces with an input of less than 45,000 Btu. The amendment restricts DOE's determination to a range of efficiencies between 71 and 78 AFUE. The rulemaking is to commence in 1989 with the standard to take effect in 1992 and should not result in a preference for one fuel over another.

As introduced, H.R. 5465 did not contain an efficiency standard for the heating side of a heat pump, although it did contain one for the cooling side. This omission has been corrected by imposing a heating season performance factor of 6.8 on split systems and 6.6 on single systems for heat pumps. This standard is comparable to the 78 AFUE standard for large gas furnaces and was selected with reference to the applicable California standard.

As this session of Congress comes to a close, I would like to thank the efforts of my colleague, Mr. MARKEY, and of his staff, particularly Richard Lehfeldt, in moving this important legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. MOORHEAD, Mr. Speaker, further reserving the right to object, I yield to the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the distinguished gentleman from California for his valuable work on this matter and also the distinguished chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY].

Mr. Speaker, the House has before it the major piece of eneregy conservation legislation that it will consider this Congress. If we pass this bill, the energy saved as a result of increases in the energy efficiency of appliances will obviate the need for over 20 new electric powerplants by the end of this century. Given spiraling construction costs and inflation, this will save consumers in this country between $50 and $100 billion in powerplant construction costs alone—and even more savings will occur in monthly electric bills.

Chairman MARKEY of the Subcommittee on Energy Conservation and Power, and Congressman MOORHEAD, the ranking minority member of that subcommittee, are to be commended for their work in achieving a consensus on this important legislation. Indeed, the passage of this legislation will cap an extremely productive Congress for this subcommittee. Legislation will have been passed on a wide range of issues vital to the energy future of this country. I would like to take this occasion to congratulate both of these gentlemen, and the subcommittee as a whole, for these accomplishments.

I would also like to comment on an important provision in the bill requiring the Federal Energy Regulatory Commission to make a final decision in a case that has been pending for almost 4½ years. Section 12 is intended to require the FERC to issue a final Commission order in Docket No. RP82-80 by February 28, 1987. This would bring this lengthy administrative proceeding to a close. Thus, by February 28, 1987, the FERC shall have completed all of its actions, including issuance of any orders on rehearing, so that the case will be ripe for appellate review by the court of appeals, if necessary.

Section 12 recognizes and preserves the FERC as the proper forum for a decision on the merits of this case. The case, which was filed on April 30, 1982, was the subject of administrative hearings from February 21 through April 20, 1984. Besides the weeks of hearings, during the last 4½ years, the FERC provided four rounds of extensive legal briefs and had an initial decision by an administrative law judge. The lack of a decision makes it virtually impossible for parties to know their long-term rights and responsibilities. This uncertainty inhibits the parties in making adjustments and commitments that are necessary to move successfully into the new era of more competitive markets. The provision is intended to remove that uncertainty by requiring the FERC to complete all action in Docket No. RP-82 by February 28, 1987.

This is, I would note, a more than adequate period of time to protect the rights of all the parties to the litigation. Indeed, the provision, as modified by the other body, specifies that the FERC shall conduct an oral argument within the specified time period for decision, unless the Commission determines that such argument would not assist the Commission in deciding such case. I understand there is currently pending at the Commission a motion for such an oral argument in this matter—a motion which, I understand, would be highly unusual for the Commission to grant in a rate case such as this. The amendment assures nonetheless that the possibilities of an oral argument are fairly considered within the specified timeframe, leaving to the Commission full discretion to decide not to conduct an oral argument if no new issues or evidence is likely to be presented and it would be helpful to the Commission to conduct such a hearing.

I would also note that this section has been amended, again as a result of consultations between the two bodies, to clarify in paragraph 12(b) that nothing in this new provision affects first, any stipulation and agreement reached by the parties in this case or any applicable provisions of law with respect thereto, second, any right of any party to appeal the final order in accordance with applicable law, or third, any other applicable provision of law with regard to such ruling or order. Of course, all of this would apply only to the extent any such provision is not affected by the timetable established in paragraph 12(a). It is this timetable for issuing a final order by February 28, 1987, that takes precedence, and the language specifically so states. Thus, if there were a timetable of procedures established in the stipulation and agreement which is inconsistent with the express provisions of the timetable in paragraph 12(a) that requires the Commission to take final and complete action by February 28, 1987, the Commission should use its authority with respect to that stipulation and agreement to modify these provisions and develop a schedule for action which provides for a final order to be issued by that date. Indeed, the provision in paragraph 12(b) which states that this section does not affect the stipulation and agreement of the parties also expressly preserves the Commission's authority with respect to that stipulation and agreement.

Needless to say, this entire provision has been included so as to provide for an expeditious, but fair, resolution of this case. The deadline is intended to be met.

Mr. Speaker, included in the Senate-passed version of H.R. 5465 is a provision relating to a matter pending at FERC since 1984 relating to an agreement that requires FERC's blessing. The matter is unique because there is no controversy over it, except the controversy existing as a result of FERC's failure to act on a petition concerning the agreement.

In a sense, I do not fault FERC because I believe the request filed by the petitioner is far too broad. A much narrower action is all that is necessary or appropriate. That is what this bill provides for this Idaho Power Co. agreement. It provides authority for FERC to approve the agreement consistent with the Federal Power Act. At the same time it preserves the applicability of the act, particularly section 10, it limits the approval to the remaining term of the existing licenses, and most importantly, it preserves all fish and wildlife requirements and agreements. Finally, it is not a precedent for future agreements with other licensees in other States as indicated in the following letters between Chairman McCLURE and myself:

U.S. SENATE,
COMMITTEE ON ENERGY, AND
NATURAL RESOURCES,
Washington, DC, October 9, 1986.

Hon. JOHN D. DINGELL,
Chairman, House of Representatives, Committee on Energy and Commerce, Washington, DC.

DEAR JOHN: Thank you for your letter regarding the agreement we have reached regarding projects in Idaho. I, too, enjoyed working with you on the hydroelectric relicensing bill and believe we crafted a very reasonable product.

With respect to the current agreement on the Idaho projects, I agree that the circumstances are so unique that they cannot be considered a precedent for future Congressional action. I would also note, that the agreement which we have reached regarding the ANR Pipeline Company matter is equally unique and not a precedent.

I look forward to working with you in this same spirit of cooperation and friendship.

Sincerely,

JAMES A. McCLURE,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 9, 1986.

Hon. JAMES A. McCLURE,
Chairman, Senate Committee on Energy and Natural Resources, Washington, DC.

DEAR JIM: It was a great privilege to work with you in conference on the hydro relicensing bill and the reconciliation legislation. You are an excellent conference Chairman and a good friend.

I understand that in connection with H.R. 5465, the House-passed appliance legislation, Congressman Stallings and you have suggested a germane Senate amendment seeking to settle, on a one-time basis, a petition pending at the Federal Energy Regulatory Commission (FERC) since 1984 concerning several licensed projects in Idaho. As I understand the proposal, it is unique and not precedent-setting. It relates to an agreement that enjoys broad support in the state and will not affect any existing or future actions relative to fish and wildlife resources of the area. Most importantly, it does not affect the application or requirements of section 10 of the Federal Power Act, including existing section 10(a) and the new section 10(j).

The proposal, as worked out with participation of our Committee staff, appears workable, limited, and acceptable. Most importantly, it is not a precedent for similar amendments in the future which is clearly a concern we both share. For these reasons, I can accept it and support it when the bill is returned to the House. I know that Subcommittee Chairman Markey, who also participated in the development of the proposal, shares my view.

I commend you and Congressman Stallings for your joint efforts in working it out and helping to gain passage of the House bill.

With best wishes.

Sincerely,

JOHN D. DINGELL,
Chairman.

Mr. Speaker, in conclusion, this is important legislation and I urge my colleagues to adopt it.

Mr. MOORHEAD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Speaker, I would like to again compliment the gentleman from California [Mr. MOORHEAD] for his work on this major piece of consumer legislation, and I would like to compliment the chairman of our full committee,

the gentleman from Michigan [Mr. DINGELL] who along with his staff has worked long and hard over the past 3 weeks to help us to resolve the differences that existed with the other body and other concerns that Members had with this piece of legislation.

Mr. Speaker, I rise to voice the very strongest support for H.R. 5465, the National Appliance Energy Conservation Act of 1986. This important piece of consumer legislation has enjoyed a swift and miraculous passage through the legislative process since its simultaneous introduction in the House and Senate on August 15. Since then, it has garnered the support of almost 100 Members of the House, more than a third of the Senate, and an extraordinary coalition of industrialists, environmentalists, and consumer groups. We complete today the last leg of an expedited but lengthy journey, with the hope and trust that the administration will see fit to sign this great bill into law.

The appliance standards bill is the product of a protracted negotiation between the appliance manufacturing industry and key environmental groups, notably the Natural Resources Defense Council. The result of that negotiation is a comprehensive and unprecedented Federal code of home appliance energy conservation standards.

The bill which this coalition has helped to craft restores appliance standards to their rightful place in the energy code. To give a sense of the magnitude of this bill, I want to share with you some of the projected savings. H.R. 5465 will provide consumers with projected net savings of $28 billion, or nearly $300 per household. In addition, this bill will lower residential energy consumption in the United States by 1 quad, or about 6 percent. The energy savings expected over the lifetime of products sold through the year 2000—17 quads—is equivalent to over 2 years of energy imports at America's current import rate. Finally, the standards will lower peak electricity demand in the year 2000 by 22,000 megawatts—equivalent to about 10 percent of the growth in peak power demand during 1986–2000 as forecast by the utility industry, or 22 large central powerplants.

I would like to thank a number of Members for their invaluable input into the appliance standards bill. First and foremost, I would like to give major credit again to the gentleman from Michigan [Mr. DINGELL] the chairman of the Energy and Commerce Committee, an early and active consponsor of the bill who vigorously championed its objectives and helped to negotiate it through the perilous channels of the past few weeks.

I would also like to thank the gentleman from California, the ranking minority on the Energy Subcommittee Mr. MOORHEAD, who has graciously accepted both the considerable responsibility of leading the minority fight to pass this bill, and the equally great responsibility of his new nickname, "the Refrigerator." Joined at all times by the gentleman from New York, the ranking minority member of the full committee Mr. LENT, the minority has played a key and essential role in shepherding this bill through the process.

I would like to thank the gentleman from Idaho [Mr. STALLINGS] for his able and effective leadership in the resolution of the issues related to the Swan Falls project. This persistence, and that of Governor Evans of Idaho, have made possible the inclusion of the Swan Falls amendment in the bill.

Finally, I want to pay tribute to my colleagues in the Senate, Mr. EVANS, the chief sponsor of the Senate bill, Mr. MCCLURE, the chairman of the Senate Energy and Natural Resources Committee, Mr. JOHNSTON, the ranking minority of that committee, Mr. FORD and Mr. CRANSTON for their vigorous effects on behalf of the bill. The coalition which laid the foundation for this bill has engendered an analogous coalition in the Congress, a coalition which spans both Houses and both parties. I hope that the congressional coalition which has spoken today on the subject of appliance standards will sponsor subsequent initiatives in the 100th Congress and beyond in the area of energy conservation and energy policy in general.

Energy conservation is alive and well in the 99th Congress, and this bill is proof that the lessons of 1975 and 1978 have not been lost amid the din of voices claiming that the energy crisis is over. I am proud to have been the chief sponsor of this bill, and I applaud my colleagues for all their efforts on its behalf.

H.R. 5465 includes a provision directing the Federal Energy Regulatory Commission to issue an order in the case of the petition filed by the Idaho Power Co. seeking approval of the agreement entered into between the Idaho Power Co. and the State of Idaho. I would like to make clear that this provision does not establish any precedent concerning FERC review of such agreements. There are strong arguments on both sides of the issue of whether FERC has jurisdiction to review such agreements. The provision included in the bill does not resolve this controversy and is not intended as an expression of congressional intent concerning this debate.

H.R. 5465 also contains a definition of "AFUE" which makes certain assumptions about the locations where furnaces and boilers are installed and about the source of the air used by nonweatherized furnaces for combustion and ventilation. These assumptions were made so that the meaning of initial standards for furnaces and boilers prescribed in section 325(f) is clear to manufacturers who must design products to meet the standards. Nothing in the act is intended to limit how furnaces or boilers are vented, or to limit the source of air used for combustion or ventilation.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMITTING REGISTERED PUBLIC UTILITY HOLDING COMPANIES TO OWN CERTAIN INTERESTS IN QUALIFYING COGENERATION FACILITIES

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5056) to permit registered public utility holding companies to own certain interests in qualifying cogeneration facilities, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, strike out lines 10 to 13.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, the minority has reviewed this legislation and we find it acceptable. I supported this legislation when it came before the House in September. It will relieve electric utility holding companies from unnecessary restrictions limiting their participation in cogeneration projects. Eliminating these restrictions will promote competition, will reduce our Nation's reliance on imported energy, and will make greater amounts of electricity available at lower cost.

Nonetheless, I would be remiss if I failed to point out that this is the third time this year, and the fourth time this Congress that we have been asked to consider legislation to relieve certain business from the burdensome restrictions of the Public Utility Hold-

ing Company Act. I think, by now, it should be clear to everyone that the Public Utility Holding Company Act, or PUHCA as it is known, no longer serves the public interest and should be repealed.

PUHCA inhibits registered electric utility holding companies, especially those which operate interstate, from conducting their business efficiently and competing on an equal basis with other nonregistered utilities. Further, intrastate electric utility holding companies, which are now exempt from Securities and Exchange Commission [SEC] regulation, and therefore, do not face the same restrictions facing registered interstate electric utility holding companies, face the possibility that their exemption might be removed in the future.

Three types of PUHCA restrictions unnecessarily restrict the actitives of registered holding companies. First, management of these companies' financial affairs requires the permission of SEC regulators. All issuances of securities, which are defined so broadly as to include such arrangements as guarantees on leases, require SEC approval. Second, electric utility holding companies' activities are restricted to those that are functionally related to the utility business and thus limits their flexibility to pursue attractive business ventures. Third, PUHCA includes a grab bag of several other restrictions, such as those governing membership on the boards of directors of holding companies.

These restrictions can harm the economically efficient operation of registered electric holding companies and, therefore, harm electricity consumers. For instance, if a company cannot issue a certain type of security, or cannot issue it on a timely basis because of SEC review, it may have to pay more money than it otherwise would in arranging financing. Also, the costs of simply complying with SEC regulation are not inconsiderable.

PUHCA's major economic inefficiencies, however, are due to its inhibitions on mergers. Utilities that might want to merge with other utilities will not do so if they will thereby subject their financial management to SEC oversight and approval and inhibit their ability to pursue attractive business ventures not functionally related to providing their customers with electric power.

This inhibition frustrates mergers of smaller electric utilities into larger interstate units that in many cases may make sound economic sense. Such mergers could lower customer costs in several ways.

First, large utilities reduce their operating and maintenance costs by operating as a large intracompany power pool. Groups of small utilities often do not operate as a power pool. Mergers of small companies into large ones could bring about operating efficiencies and save customers money.

Second, larger utilities take advantage of economies of scale in the construction and operation of plants and in the procurement of goods and services. Larger utilities also tend to build facilities more cheaply than smaller ones, and are able to add capacity in large increments which cost less per unit of capacity. The recent intrastate merger of Toledo Edison and Cleveland Electric Illuminating occurred in large part to give the new company greater ability to manage its existing facilities. Yet interstate mergers that could accomplish the same purpose will in all likelihood not take place because such a merger would subject the new company to registered status under PUHCA.

Third, a large utility formed as the result of a merger of several small ones would have less overhead costs per customer. For example, there would be only one headquarters staff and one strategic planning staff rather than several. As a result, per customer costs would be less and the new utility would be more efficient.

Furthermore, economic efficiency may also suffer because nonutilities are inhibited from taking part in ownership of electric generating facilities. If a nonutility owns more than 5 percent of an electric generator—except those built under the Public Utility Regulatory Policies Act of 1978—it would likely become subject to SEC regulation. And, if it owns more than 10 percent of an electric plant, it becomes in most cases a registered holding company and must divest itself of its nonfunctionally related business. As a result, nonutilities, such as architect/engineers, component manufacturers, and major contractors, are inhibited from taking large equity stakes in new plants.

Mr. Speaker, we need to create incentives for taking risks and building electric generating capacity to meet an uncertain future. We may be entering a new phase in the electric utility industry, one in which the marketplace will determine whether a new plant is built and whether it will make a profit or a loss. If so, efficient construction and operation may become even more important than it is today.

Further, provided it is consistent with reliability in electric supply, and the interests of residential and industrial customers, perhaps such incentives should be extended to private, nonutility investors. Contractors today sign contracts to build new plants. Maybe plants would be built and operated more efficiently if builders could take an equity stake in the plant, with the incentive that the cheaper the plant is built and operated, the greater their profitability. Yet PUHCA strongly inhibits putting such incentives in place.

The Securities and Exchange Commission has supported repeal of PUHCA under several administrations for many years now. The SEC believes that PUHCA's cost upon society are burdensome and unnecessary. State regulation is much stronger now than when PUHCA was passed in the 1930's. If PUHCA was repealed, customers would be adequately protected by State regulation and by the disclosure and reporting requirements of the Securities Act of 1933 and the Securities Exchange Act of 1934. Surely, we should carefully review the value of PUHCA and its repeal next Congress.

Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. MARKEY].

□ 1730

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding. Again, I would like to compliment the gentleman and his staff for the work that he has done on this piece of legislation.

This bill clarifies the Public Utility Holding Company Act so as to allow the nine remaining registered electric holding companies to invest in qualified cogeneration facilities outside their service area.

The bill will have no impact on either the regulatory objectives of PUHCA or the qualifying facility ownership restrictions of the Public Utility Regulatory Policies Act of 1978.

I commend to my colleagues the work of Mr. BRYANT of our subcommittee, the gentleman from Texas, and the gentleman from California [Mr. MOORHEAD] for the leadership that they have given, along with the chairman of our full committee [Mr. DINGELL].

It has been a long process and I think we have come to a point where all parties are satisfied.

Again, the gentleman from Texas [Mr. BRYANT] initiated this piece of legislation. The gentleman is to be complimented and congratulated.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

VACATING PROCEEDINGS OF TUESDAY, OCTOBER 14, 1986, WHEREBY SENATE AMENDMENT TO H.R. 3004 CRIMINAL JUSTICE ACT REVISION OF 1985, WAS CONCURRED IN WITH AN AMENDMENT; THEN CONCURRING IN THE SENATE AMENDMENT WITH A DIFFERENT AMENDMENT

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to vacate the proceeding of yesterday whereby the House concurred in the Senate amendment to the bill (H.R. 3004) to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes, with an amendment, and that the House concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendment and the proposed House amendment.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment: strike out all after the enacting clause and insert:

That this Act may be cited as the "Criminal Justice Act Revision of 1986".

SEC. 2. (a) Section 3006A of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out "(1) who is" and all that follows through "subsection (h)." and inserting in lieu thereof the following: "in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation. Each plan shall provide the following:

"(1) Representation shall be provided for any financially eligible person who—

"(A) is charged with a felony or a misdemeanor (other than a petty offense as defined in section 1 of this title);

"(B) is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of this title;

"(C) is charged with a violation of probation;

"(D) is under arrest, when such representation is required by law;

"(E) is entitled to appointment of counsel in parole proceedings under chapter 311 of this title;

"(F) is subject to a mental condition hearing under chapter 313 of this title;

"(G) is in custody as a material witness;

"(H) is entitled to appointment of counsel under the sixth amendment to the Constitution; or

"(I) faces loss of liberty in a case, and Federal law requires the appointment of counsel.

"(2) Whenever the United States magistrate or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who—

"(A) is charged with a petty offense for which a sentence to confinement is authorized; or

"(B) is seeking relief under section 2241, 2254, or 2255 of title 28.

"(3) Private attorneys shall be appointed in a substantial proportion of the cases. Each plan may include, in addition to the provisions for private attorneys, either of the following or both:

"(A) Attorneys furnished by a bar association or a legal aid agency.

"(B) Attorneys furnished by a defender organization established in accordance with the provisions of subsection (g).".

(2) Subsection (b) is amended—

(A) in the second sentence—

(i) by striking out "In every criminal case" and all that follows through "violation of probation and" and inserting in lieu thereof "In every case in which a person entitled to representation under a plan approved under subsection (a)"; and

(ii) by striking out "defendant" and inserting in lieu thereof "person";

(B) in the third sentence by striking out "defendant" each place it appears and inserting in lieu thereof "person"; and

(C) in the fifth sentence by striking out "defendants" and inserting in lieu thereof "persons".

(3)(A) Subsection (d)(1) is amended by striking "court. Such attorney" and inserting in lieu thereof "court, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a United States magistrate and for time expended out of court. The Judicial Conference shall develop guidelines for determining the maximum hourly rates for each circuit in accordance with the preceding sentence, with variations by district, where appropriate, taking into account such factors as the minimum range of the prevailing hourly rates for qualified attorneys in the district in which the representation is provided and the recommendations of the judicial councils of the circuits. Not less than 3 years after the effective date of the Criminal Justice Act Revision of 1986, the Judicial Conference is authorized to raise the maximum hourly rates specified in this paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay under the General Schedule made pursuant to section 5305 of title 5, on or after such effective date. After the rates are raised under the preceding sentence, such maximum hourly rates may be raised at intervals of not less than 1 year each, up to the aggregate of the overall average percentages of such adjustments made since the last raise was made under this paragraph. Attorneys".

(B) Subsection (d)(2) is amended—

(i) in the first sentence—

(I) by striking out "$2,000" and inserting in lieu thereof "$3,500"; and

(II) by striking out "$800" and inserting in lieu thereof "$1,000";

(ii) in the second sentence by striking out "$2,000" and inserting in lieu thereof "$2,500", and

(iii) by striking out the third sentence and inserting in lieu thereof the following: "For any other representation required or authorized by this section, the compensation shall not exceed $750 for each attorney in each proceeding.".

(C) Subsection (d)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(D) Subsection (d)(4) is amended in the first sentence by striking out "represented the defendant" and inserting in lieu thereof "provided representation to the person involved".

(4)(A) Subsection (e)(1) is amended in the first sentence by striking out "an adequate defense" and inserting in lieu thereof "adequate representation".

(B) Subsection (e)(2) is amended to read as follows:

"(2) WITHOUT PRIOR REQUEST.—(A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed $300 and expenses reasonably incurred.

"(B) The court, or the United States magistrate, if the services were rendered in a case disposed of entirely before the United States magistrate, may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds $300.".

(C)(i) Subsection (e)(3) is amended by striking out "$300" and inserting in lieu thereof "$1,000".

(ii) Subsection (e)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(5)(A)(i) Subsection (h)(2)(A) is amended by striking out "similarly as under title 28, United States Code, section 605, and subject to the conditions of that section" and inserting in lieu thereof "in accordance with section 605 of title 28".

(ii) Subsection (h)(2)(A) is amended by inserting after the fourth sentence the following: "Upon the expiration of his term, a Federal Public Defender may, by a majority vote of the judges of the court of appeals, continue to perform the duties of his office until his successor is appointed, or until one year after the expiration of such Defender's term, whichever is earlier.".

(B) Subsection (h)(2)(B) is amended in the third sentence by striking out "coming" and inserting in lieu thereof "next fiscal".

(C) Subsection (h) is further amended by adding at the end thereof the following:

"(3) MALPRACTICE AND NEGLIGENCE SUITS.—The Director of the Administrative Office of the United States Courts shall, to the extent the Director considers appropriate, provide representation for and hold harmless, or provide liability insurance for, any person who is an officer or employee of a Federal Public Defender Organization established under this subsection, or a Community Defender Organization established under this subsection which is receiving periodic sustaining grants, for money damages for injury, loss of liberty, loss of property, or personal injury or death arising from malpractice or negligence of any such officer or employee in furnishing representational services under this section while acting within the scope of that person's office or employment.".

(6) Subsection (j) is amended by inserting immediately before the period at the end of the first sentence the following: ", including funds for the continuing education and

training of persons providing representational services under this section".

(7) Subsection (l) is amended—

(A) by striking out ", other than subsection (h) of section 1,"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "section".

(b)(1) Section 3006A of title 18, United States Code, is further amended by striking out subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively.

(2) Subsection (j), as redesignated by paragraph (1), is amended to read as follows:

"(j) DISTRICTS INCLUDED.—As used in this section, the term 'district court' means each district court of the United States created by chapter 5 of title 28, the District Court of the Virgin Islands, the District Court for the Northern Mariana Islands, and the District Court of Guam.".

SEC. 3. Section 223(e) of the Comprehensive Crime Control Act of 1984, title II, Public Law 98-473, 98 Stat. 1837, October 12, 1984, is amended to read as follows:

"(e) Section 3006A(a) is amended—

"(1) in paragraph (1)(A) by deleting 'misdemeanor (other than a petty offense as defined in section 1 of this title)' and inserting in lieu thereof 'Class A misdemeanor';

"(2) in paragraph (1) by deleting subparagraph (E) and redesignating subparagraphs (F) through (I) as subparagraphs (E) through (H), respectively; and

"(3) in paragraph (2)(A) by deleting 'petty offense' and substituting 'Class B or C misdemeanor, or an infraction'.".

SEC. 4. Section 1825 of title 28, United States Code, is amended to read as follows:

"§ 1825. Payment of fees

"(a) In any case in which the United States or an officer or agency of the United States is a party, the United States marshal for the district shall pay all fees of witnesses on the certificate of the United States attorney or assistant United States attorney, and in the proceedings before a United States magistrate, on the certificate of such magistrate, except that any fees of defense witnesses, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in a criminal case in which the defendant is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in a criminal case in which a defendant is represented by such other counsel.

"(b) In proceedings in forma pauperis for a writ of habeas corpus, and in proceedings in forma pauperis under section 2255 of this title, the United States marshal for the district shall pay, on the certificate of the district judge, all fees of witnesses for the party authorized to proceed in forma pauperis, except that any fees of witnesses for such party, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in any such proceedings in which a party is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in any such proceedings in which a party is represented by such other counsel.

"(c) Fees and mileage need not be tendered to a witness upon service of a subpoena issued on behalf of the United States or an officer or agency of the United States, upon service of a subpoena issued on behalf of a defendant represented by a Federal public defender, assistant Federal public defender, or other attorney appointed pursuant to section 3006A of title 18, or upon service of a subpoena issued on behalf of a party authorized to proceed in forma pauperis, where the payment of such fees and mileage is to be made by the United States marshal under this section.".

SEC. 5. This Act and the amendments made by sections 2, 3, and 4 of this Act shall take effect 120 days after the date of enactment. The maximum hourly rates provided in section 3006A(d)(1) of title 18, United States Code, as amended by section 2(a)(3)(A) of this Act, shall apply only to services performed on or after the effective date of this Act. The maximum allowed for compensation for a case, as provided in section 3006A(d)(2) of title 18, United States Code, as amended by section 2(a)(3)(B) of this Act, shall apply only to compensation claims in which some portion of the claim is for services performed on or after the effective date of this Act. The maximum compensation allowed pursuant to section 3006A(e) of title 18, United States Code, as amended by subparagraphs (B) and (C) of section 2(a)(4) of this Act, shall apply only to services obtained on or after the effective date of this Act.

SEC. 6. Section 631(d) of title 28, United States Code, is amended by—

(1) striking out "No" and inserting in lieu thereof "Except as otherwise provided in sections 375 and 636(h) of this title (allowing retired magistrates to be recalled to serve), no";

(2) striking out "unanimous" and inserting in lieu thereof "majority"; and

(3) inserting after "courts," the following: "taken upon the magistrate's attaining age seventy and upon each subsequent anniversary thereof,".

SEC. 7. Section 636 of title 28, United States Code, is amended by adding at the end thereof the following:

"(h) A United States magistrate who has retired may, upon consent of the chief judge of the district involved, be recalled to serve as a magistrate in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a magistrate may receive a salary for such service in accordance with regulations promulgated by the conference, subject to the restrictions on the payment of an annuity in subchapter III of chapter 83 or chapter 84 of title 5. The qualification requirements of subsections (a), (b), and (d) of section 631 shall not apply to the recall of a retired magistrate.".

SEC. 8. Section 633(b) of title 28, United States Code, is amended by striking out "643" and inserting in lieu thereof "634".

SEC. 9. Section 8331 of title 5, United States Code is amended by—

(1) redesignating subparagraphs (A) and (B) of paragraph 22 thereof as items (i) and (ii);

(2) adding immediately after the word "individual" in paragraph 22 the following: "(A) who is";

(3) adding at the end of item (i), as so redesignated, the following: "or";

(4) redesignating subparagraph (C) of paragraph 22 as subparagraph (B);

(5) striking out "and" at the end of paragraph (23);

(6) striking out the period at the end of paragraph (24) and inserting in lieu thereof a semicolon; and

(7) adding at the end thereof the following new paragraphs:

"(25) 'magistrate' or 'United States magistrate' means an individual appointed under section 631 of title 28; and

"(26) 'Claims Court judge' or 'judge of the United States Claims Court' means an individual appointed under section 171 of title 28 or serving under section 167 of Public Law 97-164, 96 Stat. 50.".

SEC. 10. (a) Section 8334(a)(1) of title 5, United States Code, is amended by inserting after "Member", the following: ", a United States magistrate, a judge of the United States Claims Court,".

(b) Section 8334(c) of title 5, United States Code, is amended by inserting at the end of the table thereof the following:

"United States magistrate or judge of the United States Claims Court.	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6½	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1986.
	8	After December 31, 1986.".

SEC. 11. Section 8336(k) of title 5, United States Code, is amended to read as follows:

"(k) A bankruptcy judge, magistrate, or judge of the United States Claims Court who is separated from the service, except by removal, after becoming sixty-two years of age and completing five years of civilian service or after becoming sixty years of age and completing ten years of service as a bankruptcy judge, magistrate, or judge of the United States Claims Court is entitled to an annuity.".

SEC. 12. Section 8339(n) of title 5, United States Code, is amended to read as follows:

"(n) The annuity of an employee who is a United States bankruptcy judge, a United States magistrate, or a judge of the United States Claims Court is computed with respect to service as a referee in bankruptcy, as a bankruptcy judge, as a United States magistrate, as a United States commissioner, as a judge of the United States Claims Court, and as a commissioner of the Court of Claims and military service (not exceeding five years) creditable under section 8332 of this title by multiplying 2½ percent of his average annual pay by the years of that service.".

SEC. 13. Chapter 84 of title 5, United States Code, as added by section 101 of the Federal Employees' Retirement System Act of 1986 (Public Law No. 99-335; 100 Stat. 514) is amended—

(1) in section 8401, by—

(A) striking out "and" at the end of paragraph (30);

(B) striking out the period at the end of paragraph 31 and inserting a semicolon in lieu thereof; and

(C) adding at the end thereof the following new paragraphs:

"(32) the terms 'bankruptcy judge' and 'United States bankruptcy judge' mean an individual appointed under section 152 of title 28;

"(33) the terms 'magistrate' and 'United States magistrate' mean an individual appointed under section 631 of title 28; and

"(34) the terms 'Claims Court judge' and 'judge of the United States Claims Court' mean an individual appointed under section 171 of title 28.";

(2) in section 8412(f), by adding immediately after the word "Member" the following: ", magistrate, bankruptcy judge, or judge of the United States Claims Court";

(3) in section 8415(b), by—

(A) designating the existing text thereof as paragraph (1); and

(B) adding at the end thereof the following new paragraph:

"(2) The annuity of a United States magistrate, a United States bankruptcy judge, or a judge of the United States Claims Court retiring under this subchapter is computed under subsection (a), except that if the individual has had at least 5 years of service as a magistrate, bankruptcy judge, or judge of the United States Claims Court, or any combination thereof, so much of the annuity as is computed with respect to such type of service (or a combination thereof), not exceeding a total of 20 years, shall be computed by multiplying 1½₀ percent of the individual's average pay by the years of such service."; and

(4) in section 8422(a)(2), by adding immediately after "air traffic controller," each time it appears the following: "United States magistrate, United States bankruptcy judge, judge of the United States Claims Court,".

SEC. 14. (a) Chapter 17 of title 28, United States Code, is amended by adding, immediately after section 374 thereof the following new section:

"§ 375. Recall of certain judges and magistrates

"(a)(1) A United States bankruptcy judge appointed under chapter 6 of this title, a judge of the United States Claims Court appointed under chapter 7 of this title or a United States magistrate appointed under chapter 43 of this title who has retired under the applicable provisions of title 5 upon attaining the age and years of service requirements established in section 371(c) of this title may agree to be recalled to serve under this section during the next five years, upon certification that substantial service is expected to be performed during such five-year period. With the agreement of the judge or magistrate involved, a certification under this subsection may be renewed for successive five-year periods.

"(2) For purposes of paragraph (1) of this subsection, a certification may be made by—

"(A) The judicial council of the circuit in which the judge's or magistrate's official duty station at the time of retirement was located, in the case of a United States bankruptcy judge or a United States magistrate; and

"(B) The Chief Judge of the United States Claims Court, in the case of a judge of that court.

"(b) A judge or magistrate recalled under this section may exercise all the powers and duties of the office held at the time of retirement, including the ability to serve in any other judicial district to the extent applicable, but may not engage in the practice of law or engage in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of duties as a judicial officer.

"(c) During the time that a certification under subsection (a) of this section is in effect, the judge or magistrate involved shall receive, in addition to the annuity provided under the applicable provisions of title 5, an amount equal to the difference between that annuity and the current salary of the office to which recalled.

"(d) Nothing in this section shall affect the right of judges and magistrates to whom it applies and who retire under the provisions of chapter 83 or chapter 84 of title 5 to serve as re-employed annuitants in accordance with the provisions of title 5 or any other provision of law.

"(e) For purposes of determining the eligibility for recall under this section, any service as a United States bankruptcy judge, a judge of the United States Claims Court or a United States magistrate, and any prior service as a referee in bankruptcy, a commissioner of the Court of Claims, or a United States commissioner may be credited.

"(f) Except as otherwise specifically provided in this section, a judge or magistrate recalled under this section shall be deemed a reemployed annuitant under chapter 83 or chapter 84 of title 5.

"(g) The Judicial Conference of the United States may promulgate rules and regulations to implement this section.".

(b) The item relating to section 375 in the sectional analysis of chapter 17 of title 28, United States Code, is amended to read as follows:

"375. Recall of certain judges and magistrates.".

SEC. 15. Section 374 of title 28, United States Code, is amended by adding, immediately after the words "a retired judge", the following: "or a judge or magistrate recalled under section 155, 375, 636, or 797 of this title".

SEC. 16. (a) Section 155(b) of title 28, United States Code is amended by inserting immediately after the words "chapter 83" the words "or chapter 84".

(b) Section 797(a) of title 28, United States Code, is amended by inserting immediately after the words "chapter 83" the words "or chapter 84".

SEC. 17. Section 6 to 16 and the amendments made by section 6 to 16 of this Act shall take effect on the date of enactment.

House amendment to Senate amendment: Strike the matter proposed to be inserted by the Senate amendment and insert the following:

TITLE I—CRIMINAL JUSTICE ACT REVISION

SEC. 101. SHORT TITLE.

This title may be referred to as the "Criminal Justice Act Revision of 1986".

SEC. 102. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out "(1) who is" and all that follows through "subsection (h)." and inserting in lieu thereof the following: "in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation. Each plan shall provide the following:

"(1) Representation shall be provided for any financially eligible person who—

"(A) is charged with a felony or a misdemeanor (other than a petty offense as defined in section 1 of this title);

"(B) is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of this title;

"(C) is charged with a violation of probation;

"(D) is under arrest, when such representation is required by law;

"(E) is entitled to appointment of counsel in parole proceedings under chapter 311 of this title;

"(F) is subject to a mental condition hearing under chapter 313 of this title;

"(G) is in custody as a material witness;

"(H) is entitled to appointment of counsel under the sixth amendment to the Constitution; or

"(I) faces loss of liberty in a case, and Federal law requires the appointment of counsel.

"(2) Whenever the United States magistrate or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who—

"(A) is charged with a petty offense for which a sentence to confinement is authorized; or

"(B) is seeking relief under section 2241, 2254, or 2255 of title 28.

"(3) Private attorneys shall be appointed in a substantial proportion of the cases. Each plan may include, in addition to the provisions for private attorneys, either of the following or both:

"(A) Attorneys furnished by a bar association or a legal aid agency.

"(B) Attorneys furnished by a defender organization established in accordance with the provisions of subsection (g)."

(2) Subsection (b) is amended—

(A) in the second sentence—

(i) by striking out "In every criminal case" and all that follows through "violation of probation and" and inserting in lieu thereof "In every case in which a person entitled to representation under a plan approved under subsection (a)"; and

(ii) by striking out "defendant" and inserting in lieu thereof "person";

(B) in the third sentence by striking out "defendant" each place it appears and inserting in lieu thereof "person"; and

(C) in the fifth sentence by striking out "defendants" and inserting in lieu thereof "person".

(3)(A) Subsection (d)(1) is amended by striking out "court. Such attorney" and inserting in lieu thereof "court, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a United States magistrate and for time expended out of court. The Judicial Conference *shall* develop guidelines for determining the maximum hourly rates for each circuit in accordance with the preceding sentence, with variations by district, where appropriate, taking into account such factors as the minimum range of the prevailing hourly rates for qualified attorneys in the district in which the representation is provided and the recommendations of the judicial councils of the circuits. Not less than 3 years after the effective date of the Criminal Justice Act Revision of 1986, the Judicial Conference is authorized to raise the maximum hourly rates specified in this paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay under the General Schedule made pursuant to section 5305 of title 5 on or after such effective date. After the rates are raised under the preceding

sentence, such maximum hourly rates may be raised at intervals of not less than 1 year each, up to the aggregate of the overall average percentage of such adjustments made since the last raise was made under this paragraph Attorneys".

(B) Subsection (d)(2) is amended—

(1) in the first sentence—

(I) by striking out "$2,000" and inserting in lieu thereof "$3,500"; and

(II) by striking out "$800" and inserting in lieu thereof "$1,000";

(ii) in the second sentence by striking out "$2,000" and inserting in lieu thereof "$2,500", and

(iii) by striking out the third sentence and inserting in lieu thereof the following. "For any other representation required or authorized by this section, the compensation shall not exceed $750 for each attorney in each proceeding.".

(C) Subsection (d)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(D) Subsection (d)(4) is amended in the first sentence by striking out "reporesented the defendant" and inserting in lieu thereof "provided representation to the person involved".

(4)(A) Subsection (e)(1) is amended in the first sentence by striking out "an adequate defense" and inserting in lieu thereof "adequate representation".

(B) Subsection (e)(2) is amended to read as follows:

"(2) WITHOUT PRIOR REQUEST.—(A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed $300 and expenses reasonably incurred.

"(B) The court, or the United States magistrate (is the services were rendered in a case disposed of entirely before the United States magistrate), may, in the interest of justice, and upon the finding that timely procurement of necessary services could not wait prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds $300.".

(C)(i) Subsection (e)(3) is amended by striking out "$300" and inserting in lieu thereof "$1,000".

(ii) Subsection (e)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(5)(A)(i) Subsection (h)(2)(A) is amended by striking out "similarly as under title 28, United States Code, section 605, and subject to the conditions of that section" and inserting in lieu thereof "in accordance with section 605 of title 28".

(ii) Subsection (h)(2)(A) is amended by inserting after the fourth sentence the following: "Upon the expiration of his term, a Federal Public Defender may, by a majority note of the judges of the court of appeals, continue to perform the duties of his office until his successor is appointed, or until one year after the expiration of such Defender's term, whichever is earlier.".

(B) Subsection (h)(2)(B) is amended in the third sentence by striking out "coming" and inserting in lieu thereof "next fiscal".

(C) Subsection (h) is further amended by adding at the end thereof the following:

"(3) MALPRACTICE AND NEGLIGENCE SUITS.—The Director of the Administrative Office of the United States Courts shall, to the extent the Director considers approrpiate, provide representation for and hold harmless, or provide liability insurance for, any person who is an officer or employee of a Federal Public Defender Organization established under this subsection, or a Community Defender Organization established under this subsection which is receiving periodic sustaining grants, for money damages for injury, loss of liberty, loss of property, or personal injury or death arising from malpractice or negligence of any such officer or employee in furnishing representational services under this section while acting within the scope of that person's office or employemmt".

(6) Subsection (i) is amended by inserting immediately before the period at the end of the first sentence the following ", including funds for the continuing education and training of persons providing representational services under this section".

(7) Subsection (l) is amended—

(A) by striking out ", other then subsection (h) of section 1,"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "section".

(b) ADDITIONAL AMENDMENTS.—

(1) Section 3006A of the title of 18, United States Code, is further amended by striking out subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively.

(2) Subsection (j), as redesignated by paragraph (1), is amended to read as follows:

"(j) DISTRICTS INCLUDED.—As used in this section, the term 'district court' means each district court of the United States created by chapter 5 of title 28, the District Court of the Virgin Islands, the District Court for the Northern Mariana Islands, and the District Court of Guam.".

SEC.103. TECHNICAL AMENDMENTS.

Section 223(e) of the Comprehensive Crime Control Act of 1984 (Public Law 98-473; 98 Stat. 2028) is amended to read as follows:

"(e) Section 3006A(a) is amended—

"(1) in paragraph (1)(A) by striking out 'misdemeanor (other than a petty offense as defined in section 1 of this title)' and inserting in lieu thereof 'Class A misdemeanor';

"(2) in paragraph (1) by striking out subparagraph (E) and redesignating subparagraphs (F) through (I) as subparagraphs (E) through (H), respectively; and

"(3) in paragraph (2)(A) by striking out 'petty offense' and inserting in lieu thereof 'Class B or C misdemeanor, or an infraction'."

SEC. 104. WITNESS FEES.

Section 1825 of title 28, United States Code is amended to read as follows:

"§ 1825. Payment of fees

"(a) In any case in which the United States or an officer or agency of the United States is a party, the United States marshal for the district shall pay all fees of witnesses on the certificate of the United States Attorney or assistant United States attorney, and in the proceedings before a United States magistrate, on the certificate of such magistrate, except that any fees of defense witnesses, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in a criminal case in which the defendant is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in a criminal case in which a defendant is represented by such other counsel.

"(b) In proceedings in forma pauperis for a writ of habeas corpus, and in proceedings in forma pauperis under section 2255 of this title, the United States marshal for the district shall pay, on the certificate of the district judge, all fees of witnesses for the party authorized to proceed in forma pauperis, except that any fees of witnesses for such party, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in any such proceedings in which a party is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in any such proceedings in which a party is represented by such other counsel.

"(c) Fees and mileage need not be tendered to a witness upon service of a subpoena issued on behalf of the United States or an officer or agency of the United States, upon service of a subpoena issued on behalf of a defendant represented by a Federal public defender, assistant Federal public defender, or other attorney appointed pursuant to section 3006A of title 18, or upon service of a subpoena issued on behalf of a party authorized to proceed in forma pauperis, if the payment of such fees and mileage is to be made by the United States marshal under this section.".

SEC. 105. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 120 days after the date of enactment of this Act. The maximum hourly rates provided in section 3006A(d)(1) of title 18, United States Code, as amended by section 102(a)(3)(A) of this Act, shall apply only to services performed on or after the effective date of this title. The maximum allowed for compensation for a case, as provided in section 3006A(d)(2) of title 118, United States Code, as amended by section 102(a)(3)(B) of this Act, shall apply only to compensation claims in which some portion of the claim is for services performed on or after the effective date of this title. The maximum compensation allowed pursuant to section 3006A(e) of title 18, United States Code, as amended by subparagraphs (B) and (C) of section 102(a)(4) of this Act, shall apply only to services obtained on or after the effective date of this title.

TITLE II—RECALL OF CERTAIN JUDICIAL OFFICERS

SEC. 201. RECALL OF CERTAIN RETIRED JUDICIAL OFFICERS.

(a) MAGISTRATES.—(1) Section 631(d) of title 28, United States Code, is amended—

(A) by striking out "No" and inserting in lieu thereof "Except as otherwise provided in sections 375 and 636(h) of this title, no";

(B) by striking out "the unanimous" and inserting in lieu thereof "a majority"; and

(C) by inserting after "courts," the following: "which is taken upon the magistrate's

attaining age seventy and upon each subsequent anniversary thereof,".

(2) Section 636 of title 28, United States Code, is amended by adding at the end the following:

"(h) A United States magistrate who has retired may, upon the consent of the chief judge of the district involved, be recalled to serve as a magistrate in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a magistrate may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference, subject to the restrictions on the payment of an annuity set forth in subchapter III of chapter 83, and chapter 84, of title 5. The requirements set forth in subsections (a), (b)(3), and (d) of section 631, and paragraph (1) of subsection (b) of such section to the extent such paragraph requires membership of the bar of the location in which an individual is to serve as a magistrate, shall not apply to the recall of a retired magistrate under this subsection or section 375 of this title. Any other requirement set forth in section 631(b) shall apply to the recall of a retired magistrate under this subsection or section 375 of this title unless such retired magistrate met such requirement upon appointment or reappointment as a magistrate under section 631.".

(b) ALTERNATIVE RECALL OF CERTAIN JUDGES AND MAGISTRATES.—(1) Chapter 17 of title 28, United States Code, is amended by inserting after section 374 the following new section:

"§ 375. Recall of certain judges and magistrates

"(a)(1) A bankruptcy judge, a judge of the Claims Court, or a United States magistrate appointed under chapter 43 of this title, who has retired under the applicable provisions of title 5 upon attaining the age and years of service requirements established in section 371(c) of this title, may agree to be recalled to serve under this section for a period of five years as a bankruptcy judge, judge of the Claims Court, or magistrate, as the case may be, upon certification that substantial service is expected to be performed by such retired judge or magistrate during such 5-year period. With the agreement of the judge or magistrate involved, a certification under this subsection may be renewed for successive 5-year periods.

"(2) For purposes of paragraph (1) of this subsection, a certification may be made—

"(A) in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located; and

"(B) in the case of a judge of the Claims Court, by the chief judge of the United States Claims Court.

"(3) For purposes of this section—

"(A) the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984; and

"(B) the term 'judge of the Claims Court' means a judge of the United States Claims Court who is appointed under chapter 7 of this title or who has served under section 167 of the Federal Courts Improvement Act of 1982.

"(b) A judge or magistrate recalled under this section may exercise all of the powers and duties of the office of judge or magistrate held at the time of retirement, including the ability to serve in any other judicial district to the extent applicable, but may not engage in the practice of law or engage in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of duties as a judicial officer.

"(c) During the 5-year period in which a certification under subsection (a) is in effect, the judge or magistrate involved shall receive, in addition to the annuity provided under the applicable provisions of title 5, an amount equal to the difference between that annuity and the current salary of the office to which the judge or magistrate is recalled.

"(d) A certification under subsection (a) may be terminated in accordance with section 372(c) of this title, and such a certification shall be terminated upon the death of the recalled judge or magistrate involved.

"(e) Except as provided in subsection (b), nothing in this section shall affect the right of judges and magistrates who retire under the provisions of chapter 83 or chapter 84 of title 5 to serve as reemployed annuitants in accordance with the provisions of title 5. A judge or magistrate to whom this section applies may be recalled under section 155, 636(h), or 797 of this title, as the case may be, other than during a 5-year period in which a certification under subsection (a) is in effect with respect to that judge or magistrate.

"(f) For purposes of determining the years of service requirements in order to be eligible for recall under this section, any service as a bankruptcy judge, a judge of the Claims Court, or a United States magistrate, and any prior service as a referee in bankruptcy, a commissioner of the Court of Claims, or a United States commissioner, may be credited.

"(g) Except as provided in subsection (c), a judge or magistrate recalled under this section shall be considered to be a reemployed annuitant under chapter 83 or chapter 84, as the case may be, of title 5.

"(h) The Judicial Conference of the United States may promulgate regulations to implement this section.".

(2) The item relating to section 375 in the table of sections for chapter 17 of title 28, United States Code, is amended to read as follows:

"375. Recall of certain judges and magistrates.".

SEC. 202. TECHNICAL AMENDMENTS.

(a) RECALL OF BANKRUPTCY JUDGES.—Section 155(b) of title 28, United States Code, is amended by inserting ", and chapter 84," after "chapter 83".

(b) OFFICIAL DUTY STATION.—Section 374 of title 28, United States Code, is amended by adding at the end the following: "The place where a judge or magistrate recalled under section 155, 375, 636, or 797 of this title maintains the actual abode in which the judge or magistrate customarily lives shall be deemed to be the official station of such judge or magistrate for purposes of section 604(a)(7) of this title.".

(c) RECALL OF CLAIMS COURT JUDGES.—Section 797(a) of title 28, United States Code, is amended by inserting ", or chapter 84," after "chapter 83".

(d) CLERICAL AMENDMENT.—Section 633(b) of title 28, United States Code, is amended by striking out "643" and inserting in lieu thereof "634".

SEC. 203. EFFECTIVE DATE.

This title and the amendments made by this title take effect on January 1, 1987.

Mr. KASTENMEIER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Wisconsin that the proceeding be vacated?

Mr. WALKER. Mr. Speaker, reserving the right to object, I was trying to determine just what bill it is that we have under consideration.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, this is the Criminal Justice Act amendments. It does not deal with patents or any other subject. This had passed the House and had passed the Senate. The Senate sent it back to us with a series of amendments, one of which we stripped from the bill. Unfortunately, due to inadvertence, the wrong amendment was at the Speaker's table at the time this was concurred in yesterday, as the gentleman from California [Mr. MOORHEAD], a member of the committee well knows.

Mr. WALKER. Mr. Speaker, further reserving the right to object, we do have a pattern around here of having the minority leadership sign off on the bill. This is a bill that as of yesterday was signed off by the minority leader and we simply have a mistake in basically enrolling? Is that the problem?

Mr. KASTENMEIER. That is correct. The wrong amendment was certified by the bill clerk.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, there was a simple error made yesterday with the documents that were at the desk.

This is a good piece of legislation which I support.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The proceedings of yesterday by which the House concurred in the Senate amendment to H.R. 3004 with an amendment are vacated, and the House concurs in the Senate amendment with an amendment.

A motion to reconsider was laid on the table.

AUTHORIZING CERTAIN TRANSFERS AFFECTING THE PUEBLO OF SANTA ANA, NM

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4873) to authorize certain transfers affecting the Pueblo of Santa Ana in New Mexico, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title to the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 4, strike out before the date of enactment of this Act

Page 3, line 23, strike out Northeast quarter, and insert: Northeast quarter

Page 9, after line 10, insert:

SEC. 6. (a) Except as otherwise provided in this section, the provisions of this Act, and the amendments made by this Act, shall take effect on the date of enactment of this Act.

(b)(1) the provisions of subsections (a) and (b) of section 1 shall take effect on the day on which the Secretary of the Interior publishes in the Federal Register notice of a determination made by the Secretary of the Interior that the Pueblo of Santa Ana has consented to private easements of access over lands held by, or on behalf of, the Pueblo of Santa Ana, as recommended by the Secretary of the Interior, in accordance with the provisions of part 169 of title 25, Code of Federal Regulations, to each person—

(A) who without such an easement has no practical surface ingress or egress to property owned in fee simple by such person, and

(B) who has submitted to the Pueblo of Santa Ana and to the Secretary of the Interior an application for such an easement, in accordance with part 169 of such title, before the date that is 90 days after the date of enactment of this Act.

(2) The Secretary of the Interior may make a determination under paragraph (1) at any time after the date of enactment of this Act, but the Secretary of the Interior shall make a determination of whether the Pueblo of Santa Ana has consented to easements of access to each person described in paragraph (1) by no later than the date that is 30 days after the date on which the Pueblo of Santa Ana requests the Secretary of the Interior to make such a determination.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. STRANG. Mr. Speaker, reserving the right to object, I do not necessarily object, but I yield to the gentleman from Minnesota [Mr. VENTO] for an explanation of this measure.

Mr. VENTO. Mr. Speaker, H.R. 4873 is a bill providing that all interests of the United States in the mineral estate of some 494 acres of land in Sandoval County, NM shall be held in trust by the United States for the Pueblo of Santa Ana. The pueblo already owns the surface estate to these 494 acres.

This bill also implements an out-of-court settlement reached between the pueblo and the University of New Mexico. The agreement calls for a land exchange between the university and the pueblo which cannot be accomplished without the consent of the United States.

This bill already passed the House by voice vote and was sent to the other body where a noncontroversial amendment concerning certain non-Indian easements over Indian land was added.

This bill does not authorize any additional appropriations of Federal funds and enjoys bipartisan support, I urge my colleagues to support the bill and concur in the Senate amendment.

Mr. STRANG. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REVISION OF BOUNDARIES OF OLYMPIC NATIONAL PARK AND OLYMPIC NATIONAL FOREST IN THE STATE OF WASHINGTON

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2351) to revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota so that he might explain the bill.

Mr. VENTO. Mr. Speaker, S. 2351 was passed by the other body on October 10, 1986 and would alter the boundaries of the Olympic National Park and the Olympic National Forest so as to provide for improved management of both the park and the forest. Olympic National Park and Olympic National Forest share many common boundaries. Some of the existing boundaries that separate the park and the forest are so drawn as to impair the efficient operations of both agencies. Established earlier in the century, many of the boundaries are drawn on township and section lines which do not always meet logical resource management needs or serve the best interests of the public. The upper portions of some park watersheds lie outside park boundaries thus allowing land uses that could affect recreation and scenic resources downstream. In one area, the existing park boundary effectively blocks access to portions of the forest since logging roads cannot be built through the park.

In addition to boundary changes the bill would make conforming changes in three wilderness areas established on national forest lands pursuant to the Washington Wilderness Act. Those lands transferred from forest wilderness to the park would not be designated wilderness at this time. The modification of the forest wilderness boundaries does not affect timber management in the Northwest since the changes are between wilderness and park management, both of which prohibit timber management.

Subsequent to the other body acting on this bill, some concerns have been raised about the effect it might have on Indian treaty rights. It should be clear that S. 2351 does not affect Indian treaty rights in any way. Section 5 of the Olympic Park organic statute states that nothing therein "shall affect . . . the rights reserved by treaty to the Indians of any tribes." This section fully applies to the areas incorporated into the park boundaries by this bill.

Is should also be understood that the proviso in section 1(A)(3) of the bill, that provides that the lands in the intertidal zone "shall continue to be open to fishing and to the taking of shellfish in conformity with the laws and regulations of the State of Washington," does not enhance the authority of the State of Washington. The key word is continue. The authority of the State of Washington shall continue to be what would be in the absence of legislation.

Mr. Speaker, I understand this bill is supported by the administration as well as by all of the affected groups.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, today the House will vote on S. 2351, a bill that will modify the boundary between Olympic National Park and Olympic National Forest to be more along hydrographic

lines. S. 2351 was first introduced by Senators GORTON and EVANS 6 months ago, and was identical to H.R. 4704 which I introduced in the House. The bill that we are voting on today has been amended in the other body, and I believe is an overall improvement on the original legislation.

When the park and the forest were first established, early in this century, many of the boundaries were based on township lines. This makes it difficult in many areas for both the park and the forest to manage their lands. S. 2351, which has the support of both Olympic Park and Olympic Forest, will greatly improve the ability of the land managers to fulfill their missions.

The amended bill includes two features that require some elaboration. These new provisions were not in H.R. 4704, but I have worked with Senator GORTON and EVANS to make sure that they have been developed in a balanced fashion.

First, S. 2351 changes the boundary of Olympic National Park along 57 miles of coastline from the mean high tide to the lowest low tide. The title to this intertidal zone is held by the State of Washington, and would remain with the State. The purpose of this boundary adjustment is to enable the Park Service to be more active in protecting the fragile ecosystem of the intertidal zone, particularly the tidal pools that are close to roads and trails located in the park. S. 2351 does not affect the title to the intertidal zone, which remains with the State. Nor does it allow the Park Service to replace the State agencies that have management authority in the area; it simply enables the Park Service to complement the work of those State agencies.

Second, S. 2351 includes the submerged lands of Lake Ozette and Ozette River within Olympic National Park. The park already includes all of the land surrounding the lake and river, but does not currently include the submerged lands. This legislation does not affect title to the submerged lands, nor does it affect the management authority of the State department of natural resources over those lands. Like the inclusion of the intertidal zone, it only makes it possible for the park to complement the Department of Natural Resource's work.

With these understandings of the amended version of S. 2351, I can support the legislation since I believe that it will be in the best interest of all agencies involved. More importantly, I believe that it protects the interests of my constituents who live and work on the Olympic Peninsular. I ask my colleagues to vote for this legislation.

Mr. Speaker, further reserving the right to object, I rise in support of S. 2351. As the subcommittee chairman has explained, this legislation provides for a transfer of approximately 12,000 acres between the Olympic National Park and the Olympic National Forest in the State of Washington to order to conform the boundaries to the topographic features and hydrographic divides within the areas. The bill also adds several additional parcels to the boundary of the national park.

Although the Subcommittee on National Parks and Recreation did not specifically review this legislation, the other body did hold committee hearing on S. 2351 and recently approved the bill in full Senate.

I believe this bill improves the the boundaries of both Olympic National Park and Olympic National Forest. In addition, I know of no opposition to this legislation. Therefore, I urge all of my colleagues to support S. 2351.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2351

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The boundary of Olympic National Park, Washington, is hereby revised to include within the park—

(1) all submerged lands and waters of Lake Ozette, Washington, and the Ozette River, Washington;

(2) all surveyed and unsurveyed islands lying off the coast of the State of Washington in the Pacific Ocean between latitudes 48 degrees 23 minutes north and 47 degrees 38 minutes north;

(3) those lands between mean high tide and the lowest low tide beginning in section 22, township 24 north, range 13 west Willamette meridian, at the common boundary between the Olympic National Park and the Quinault Indian Reservation, to section 18, township 32 north, range 15 west Willamette meridian, at the common boundary between the Olympic National Park and the Makah Indian Reservation, except those lands directly adjacent to and west of the Hoh, Ozette, and Quillayute Indian Reservations: Provided, That such lands as are identified in this paragraph shall continue to be open to fishing and to the taking of shellfish in conformity with the laws and regulations of the State of Washington; and

(4) approximately nine thousand six hundred and thirty-eight acres, and to exclude from the park approximately three thousand three hundred and fifty-two acres, as generally depicted on the maps entitled "Boundary Modifications, Olympic National Forest and Olympic National Park", numbered 149/60,030A, sheets 1 through 9, and dated September 1986, which shall be on file and available for public inspection in the office of the National Park Service, United States Department of the Interior.

(b) The boundary of Olympic National Forest, Washington, is hereby revised to include in the national forest approximately three thousand three hundred and fifty-two acres and to exclude from the national forest approximately nine thousand three hundred and twenty-four acres, as generally depicted on the maps entitled "Boundary Modifications, Olympic National Forest and Olympic National Park", numbered 149/60,030A, sheet 1 through 10, and dated September 1986, which shall be on file and available for public inspection in the office of the Forest Service, United States Department of Agriculture.

(c) Section 3 of the Washington State Wilderness Act of 1984 (Public Law 98-339, Act of July 3, 1984, 98 Stat. 301) is amended—

(1) by striking subsection (2) and inserting in lieu thereof the following new subsection:

"(2) certain lands in the Olympic National Forest, Washington, which comprise approximately forty-four thousand four hundred and seventy-four acres, as generally depicted on a map entitled 'Buckhorn Wilderness—Revised', numbered 98-339-3(2), sheets 1 and 2, and dated September 1986, and which shall be known as the Buckhorn Wilderness;";

(2) by striking subsection (13) and inserting in lieu thereof the following new subsection:

"(13) certain lands in the Olympic National Forest, Washington, which comprise approximately thirteen thousand and fifteen acres, as generally depicted on a map entitled 'Mount Skokomish Wilderness—Revised', numbered 98-339-3(13) and dated September 1986, and which shall be known as the 'Mount Skokomish Wilderness—Revised', dated September 1986, and which shall be known as the Mount Skokomish Wilderness;"; and

(3) by striking subsection (19) and inserting in lieu thereof the following new subsection:

(19) certain lands in the Olympic National Forest, Washington, which comprise approximately sixteen thousand six hundred and eighty-two acres, as generally dipicted on a map entitled 'The Brothers Wilderness—Revised', numbered 98-339-3(19) and dated September 1986, and which shall be known as 'The Brothers Wilderness;'.".

SEC. 2. (a) Federal lands, waters, and interests therein formerly within the boundary of Olympic National Forest which are included within the boundary of Olympic National Park pursuant to section 1 of this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of the Interior for administration as part of the park, and shall be subject to all the laws and regulations applicable to the park: Provided further, That within section 15, township 15 north, range 9 west Willamette meridian, and within an area extending not more than one mile north of such section, nothing herein shall be construed to limit or otherwise modify the authority of the Secretary of Agriculture to design and construct a forest logging road east of the park boundary: Provided, however, That the Secretary of Agriculture shall not construct the road as close as practically possible to the park boundary but not more than five hundred feet east of the divide. Following construction, the Secretary of the Interior is hereby authorized and directed to redescribe and relocate the boundary of the park along the eastern clearing limits of the road.

(b) Federal lands, water, and interests therein formerly within the boundary of Olympic National Park which are excluded therefrom pursuant to section 1 of this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of Agriculture for administration as part of Olympic National Forest, and shall be subject to all the laws and regulations applicable to the National

Forest System: Provided, That any lands deleted from the park and included within the Buckhorn Wilderness, Mount Skokomish Wilderness, or The Brothers Wilderness pursuant to this Act shall be managed in accordance with the provisions of the Washington State Wilderness Act of 1984 (Public Law 98-339, Act of July 3, 1984, 98 Stat. 301).

SEC. 3. (a) The Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, bequest or otherwise any non-Federal lands, waters, and interests therein included within the boundary of Olympic National Park pursuant to section 1 of this Act: Provided: That any lands, waters, or interests therein owned by the State of Washington or any political subdivision thereof may be acquired only by donation or exchange.

(b) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 4601-9), the boundary of the Olympic National Forest, as modified pursuant to section 1 of this Act, shall be treated as if it was the boundary of that national forest on January 1, 1965.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, except that the total amounts authorized to be appropriated for the purpose of acquisition of lands, waters, and interests therein pursuant to this Act shall not exceed $1,000,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered and adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AUTHORIZING ACQUISITION AND DEVELOPMENT OF MAINLAND TOUR BOAT FACILITY FOR FORT SUMTER NATIONAL MONUMENT, SC

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2534) to authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument, SC, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota [Mr. VENTO] to explain what is involved here.

Mr. VENTO. Mr. Speaker, S. 2534 would authorize a new location for visitor facilities at Fort Sumter National Monument.

Fort Sumter is located on an island off Charleston, SC. Since the monument was established in 1948, visitors have been ferried to the fort by a concessioner operated tour boat.

For the past decade, the National Park Service has attempted to locate a docking facility in Charleston for a tour boat which transports more than 150,000 people to Fort Sumter each year. The present tour boat facility at the Charleston City Marina on the Ashley River does not offer adequate parking and provides no rest rooms or services. The Park Service has studied several potential boat docking sites in the past 10 years. In 1978, Congress appropriated $5,581,000 for construction of a tour boat facility adjacent to Charleston's Broad Street. However, the city of Charleston persuaded the Park Service that the fleet landing site would be more appropriate-based on a Charleston tourism study. In 1980, Congress authorized the acquisition of the fleet landing site and $368,000 was appropriated in 1982, for this purpose. However, concerns over parking, vehicle access, and the need for dredging at that site caused the Park Service to halt land acquisition negotiations in 1982.

In May 1985, the tour boat concessioner requested National Park Service consideration of a 9-acre site immediately north of dockside condominiums, known as "Dockside II." In June, the city of Charleston requested the Park Service to consider this site as a location for tour boats as well as a marine science museum. In January 1986, the concessioner purchased the site consisting of approximately 9 acres of high and submerged lands.

S. 2534 authorizes the Secretary of the Interior to acquire up to 8.91 acres at the Dockside II site to provide tour boat facilities for visitors to Fort Sumter National Monument. The bill also authorizes the Secretary to convey a leasehold interest in not to exceed 1½ acres to the State of South Carolina or the city of Charleston for development of a marine museum and associated facilities. The legislation also provides authority for the sale of the property to be used for the marine museum to the State or city.

The bill authorizes the Secretary to grant convenants or easements for ingress and egress. Further, it provides that the Secretary may enter into cooperative agreements for the sharing of construction, maintenance, and use of buildings and facilities among the parties to the agreements.

S. 2534 repeals section 117 of Public Law 96-199 which authorized acquisition of the fleet landing site, and makes funds previously appropriated available for the Dockside II project.

Mr. Speaker, a new section 6 will be added to this bill which would require the Secretary of the Interior to consider and act upon an application for a patent on 160 acres of land in the State of Mississippi.

Mr. Speaker, I urge adoption of S. 2534, as amended.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I want to thank the distinguished chairman of the subcommittee for making this additional unanimous consent. It is noncontroversial, one that we worked on a long time ago, but one that is very deserving, and I just wanted to express my appreciation for the gentleman doing it in this instance.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I rise in support of S. 2534, to authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument in South Carolina.

As the subcommittee chairman has explained, a permanent dock is needed in Charleston from which boats can be launched to take visitors to and from the island where the national monument is located. The current launch site will not be available in the very near future due to the proposed construction of an expressway in that area. Congress appropriated the necessary funds for a dock site in 1978, but the site selected was later deemed inappropriate due to projected maintenance costs for dredging the dock area and the creation of congestion in the nearby historic district in Charleston.

A new site was recently selected by the National Park Service in cooperation with the city of Charleston and the Fort Sumter Tours concessionaire, Mr. George Campsen. There is no known opposition to the new boat dock site which appears will be an appropriate welcome center and tour boat facility for the Fort Sumter National Monument. In addition, S. 2534 does not authorize new Federal appropriations, but simply allows for the reprogramming of funds previously appropriated for this purpose. It also authorizes cooperative agreements between the National Park Service and the State of South Carolina, city of Charleston, or other parties for the construction, maintenance, and use of buildings, utilities, and parking facilities for the new boat launch site.

Although the Subcommittee on National Parks and Recreation did not review this measure, the other body held hearings and recently passed the bill. In addition our colleague from South Carolina, Mr. Hartnett, has in-

troduced companion legislation in the House.

Mr. Speaker, I believe this is a good, sound proposal which will solve a major problem at the Fort Sumter National Monument. Furthermore, I know of no opposition to the measure. Therefore, I urge all of my colleagues to support S. 2534.

I also support an amendment which I understand will be attached to the bill.

The amendment is the text of H.R. 5151, a bill by the gentleman from Mississippi [Mr. LOTT], a simple private relief bill for a Mr. and Mrs. J.W. Wells. The legislation allows them to apply for a patent under the Color of Title Act despite some minor technicalities which would otherwise prevent them from receiving a patent.

The gentleman from Mississippi [Mr. LOTT] should be commended for his determination to assist his constituents. Despite some procedural obstacles, he has not let the press of business deter him. I am hopeful he will be successful and I urge my colleagues to support this highly meritorious legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to provide for needed facilities for visitors to Fort Sumter National Monument, including a tour boat dock and associated facilities, and an interpretive and museum facility in cooperation with the State of South Carolina and the city of Charleston, the Secretary of the Interior (in this Act referred to as the "Secretary"), is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange, not to exceed 8.91 acres of lands, including submerged lands, and interests in lands, within the area generally depicted on the map entitled "Dockside II, Proposed Site, Tourboat Facility," which map shall be on file and available for public inspection in the office of the National Park Service. When acquired, lands, including submerged lands and interests in lands, depicted on such map shall be administered by the Secretary as a part of Fort Sumter National Monument, subject to the laws and regulations applicable to such monument, and subject to the provisions of this Act.

SEC. 2. (a) With respect to the lands, including submerged lands, and interests in lands acquired pursuant to the first section of this Act, the Secretary is authorized—

(1) to convey, notwithstanding the provisions of section 5 of Public Law 90-400 (82 Stat. 356) and subject to the provisions of subsection (b), a leasehold interest in not to exceed one and a half acres to the State of South Carolina or the city of Charleston or either of them for development by either of them or their agents or lessees of a marine museum and associated administrative facilities;

(2) to grant convenants or easements for ingress, and egress to the State of South Carolina, the city of Charleston, and to other parties as the Secretary may deem necessary to facilitate public use; and

(3) to enter into cooperative agreements with the State of South Carolina, the city of Charleston, and other parties as the Secretary may deem necessary, pursuant to which construction, maintenance, and use of buildings, utilities, parking facilities, and other improvements may be shared among the parties to the agreement.

(b) Any conveyance made pursuant to subsection (a)(1) and any renewal thereof may be for a period of up to 50 years, and may include the option to purchase the property in fee by the lessee within the first 10 years, upon payment by the lessee of the cost of the property to the United States plus interest based on the average yield of United States Treasury notes with maturities of one year. The Secretary may convey title to the property in fee in the event such option to purchase is exercised, subject to the condition that the property is used for a public marine museum and associated administrative facilities. Notwithstanding any other provision of law, any leasehold interest conveyed pursuant to subsection (a)(1) shall be conveyed without monetary consideration. The proceeds from any conveyance of property in fee pursuant to subsection (a)(1) shall be deposited in the Land and Water Conservation Fund in the Treasury of the United States.

SEC. 3. Section 117 of Public Law 96-199 (94 Stat. 71) is hereby repealed.

SEC. 4. (a) Notwithstanding any other provision of law, sums heretofore appropriated but not, on the date of enactment of this Act, obligated for construction of a tourboat facility at the Broad Street site, and for the acquisition and construction of the Fleet landing site for Fort Sumter National Monument, which was authorized by section 117 of Public Law 96-199 (94 Stat. 71) are hereby made available for obligation for the acquisition of the lands including submerged lands, and interests in lands identified in the first section of this Act and for construction of necessary facilities thereon, and to the extent that sums heretofore appropriated for land acquisition of the Fleet landing site are not sufficient to cover the cost of acquisition of the properties identified in the first section of this Act, sums heretofore appropriated for construction of facilities at the Broad Street site and the Fleet landing site may be obligated for the purposes of acquisition as authorized in the first section of this Act.

(b) In addition to the sums made available under subsection (a), there is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 5. The Secretary of the Interior shall transfer administrative jurisdiction over the Federal property, consisting of approximately 1 acre, known as the Broad Street site, to the Secretary of the Department in which the Coast Guard is operating, who shall transfer to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes, administrative jurisdiction over the Federal property, consisting of approximately 1 acre located near Fort Moultrie on Sullivan's Island for purposes of maintenance workshop, storage, and seasonal housing in connection with the administration and protection of the Fort Sumter National Monument.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Add a new section 6 as follows:

SEC. 6. (a) Not later than 45 days after the date of enactment of this Act, the Secretary of the Interior shall receive, consider, and act on the application of Mr. and Mrs. J. W. Wells of Waynesboro, Mississippi, for a patent for the land described in subsection (c) of this section under the Act entitled "An Act to authorize the Secretary of the Interior to issue patents for lands held under color of title" approved December 22, 1928 (43 U.S.C. 1068 et seq.) notwithstanding the requirement of that Act that a tract of public land be held in good faith and in peaceful, adverse, possession by a claimant, his ancestors or grantors, under claim or color of title for the period commencing not later than January 1, 1901, to the date of application during which time they have paid taxes levied on the land by State and local governmental units.

(b) Any patent issued pursuant to subsection (a) shall be without any mineral reservation to the United States, and all mineral interests of the United States in and to the land described in subsection (c) shall be transferred to Mr. and Mrs. J. W. Wells without consideration.

(c) The land referred to in this section, comprising approximately 160 acres, is the NW¼ of Section 21, T. 10 N., R. 8 W., St. Stephens Meridian.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFIRMING A CONVEYANCE OF CERTAIN REAL PROPERTY BY SOUTHERN PACIFIC TRANSPORTATION CO. TO ERNEST PRITCHETT AND DIANNA PRITCHETT

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 386) to confirm a conveyance of certain real property by the Southern Pacific Transportation Co. to Ernest Pritchett and his wife, Dianna Pritchett, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I do not object, I merely wish to rise in support of S. 386, a bill to validate a conveyance made by the Southern Pacific Railroad to Ernest and Dianna Pritchett. The bill also contains an amendment which I understand has been added to validate another similar conveyance, the test of which we have already passed as H.R. 3266.

Both provisions are meritorious and will assist individual homeowners who have been unable to clear title to their property and, as a result, have had difficulties getting home improvement loans or have been unable to sell their property.

It is my understanding that the Bureau of Land Management is not opposed to the legislation and there is no cost involved.

I urge my colleagues to support the bill.

Under my reservation, I yield to the gentleman from Ohio [Mr. SEIBERLING] to explain the bill.

Mr. SEIBERLING. Mr. Speaker, the Senate-passed bill is a noncontroversial measure which would take care of a title-clearing situation in Oregon. It would validate a past conveyance of lands granted to the record owner's predecessor in title for purposes of a railroad right-of-way. It is similar to several other bills that our committee has dealt with in legislation that has now gone to the President for his signature.

It is my intention to offer an amendment. The amendment would add to the Senate-passed bill the text of a similar House-passed bill dealing with a similar situation in California.

I am unaware of any controversy about the House-passed bill, just as I am unaware of any with regard to the Senate-passed measure. By combining them, it is my hope that all these can be expeditiously passed into law.

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Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection

The clerk read the Senate bill, as follows:

S. 386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to section 3, the conveyance described in section 2(a) of this Act involving certain real property in Jackson County, Oregon, forming a part of the right-of-way granted by the United States to the California and Oregon Railroad Company under the Act entitled "An Act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon", approved July 25, 1866 (14 Stat. 239), is confirmed in Ernest Pritchett and his wife, Dianna Pritchett, the grantees in such conveyance, and their successors in interest, with respect to all interests of the United States in the rights to the real property described in section 2(b) of this Act.

SEC. 2. (a) The conveyance confirmed by this Act was made by a deed dated July 23, 1982, by the Southern Pacific Transportation Company to Ernest Pritchett and his wife, Dianna Pritchett, and recorded on October 20, 1982, in the official records of Jackson County, Document Numbered 82-15174.

(b) The real property referred to in the first section of this Act is a parcel of land in the northwest quarter of section 26, township 36 south, range 4 west, Willamette meridian, county of Jackson, State of Oregon, more particularly described as follows:

Commencing at the west quarter corner of such section 26;

thence south 89 degrees 46 minutes 45 seconds east along the southerly line of such northwest quarter of section 26 a distance of 1082.50 feet to a point in a line parallel with and distant 100 feet northeasterly, measured at right angles, from the original located center line of Southern Pacific Transportation Company's main track (Siskiyou branch), and also the true point of beginning of the parcel to be described;

thence north 65 degrees 2 minutes 35 seconds west along such parallel line 1191.92 feet to the westerly line of such section 26;

thence south zero degrees 12 minutes 52 seconds west along such westerly line 55.05 feet to a point in a line parallel with and distant 50 feet northeasterly, measured at right angles, from such center line;

thence south 65 degrees 2 minutes 35 seconds east along last such parallel line, as last such parallel line being also the northeasterly line of that certain parcel of land described in deed dated June 23, 1883, from Frederick G. Birdsey to Oregon and California Railroad Company, recorded July 28, 1883, in deed book 10, page 463, records of such county, a distance of 1060.35 feet to such southerly line;

thence south 89 degrees 46 minutes 45 seconds east along such southerly line 119.49 feet to the true point of beginning, containing an area of 1.293 acres, more or less.

SEC. 3. (a) Nothing in this Act shall—

(1) diminish the right-of-way referred to in the first section of this Act to a width of less than 50 feet on each side of the center of the main track or tracks established and maintained by the Southern Pacific Transportation Company on the date of enactment of this Act; or

(2) validate or confirm any right or title to, or interest in, the land referred to in the first section of this Act arising out of adverse possession, prescription, or abandonment, and not confirmed by conveyance by the Southern Pacific Transportation Company before the date of enactment of this Act.

(b) There is reserved to the United States all oil, coal, or other minerals in the land referred to in the first section of this Act, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: At the end of the bill, add the following new sections:

SEC. 4. FINDINGS.

The Congress finds that—

(1) the Southern Pacific Transportation Company is the successor grantee of the real property described in section 6;

(2) pursuant to a petition of the Southern Pacific Transportation Company, the Interstate Commerce Commission has exempted the abandonment of the real property described in section 6 from the provisions of 49 U.S.C. 10903 (relating to abandonment and discontinuance of railroad lines and rail transportation);

(3) the Southern Pacific Transportation Company has abandoned all right, title, and interest in and to the real property described in section 6.

SEC. 5. DECLARATION OF ABANDONMENT.

For the purposes of the Act entitled "An Act to provide for the disposition of abandoned portions of rights of way granted to railroad companies", approved March 8, 1922 (43 U.S.C. 912), the Congress hereby declares that the Southern Pacific Transportation Company has abandoned the real property described in section 6.

SEC. 6. LAND DESCRIPTION.

The real property referred to in sections 4 and 5 is certain real property situated in the City of Coalinga, California, which forms part of the right-of-way granted by the United States to the Atlantic and Pacific Railroad Company by the Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the States of Missouri and Arkansas to the Pacific Coast", approved July 27, 1866 (16 Stat. 292), and more particularly described as that portion of the right-of-way extending from the section line of Sections 33 and 34 of Township 20 South, Range 15 East, Mount Diablo Base & Meridian to the south city limits of the City of Coalinga.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER. The question is on the amendment offered by the gentleman from Ohio [Mr. SEIBERLING].

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SEIBERLING: Amend the title so as to read: "To confirm a conveyance of certain real property by the Southern Pacific Transportation Company to Ernest Pritchett and his wife, Diana Pritchett, and for other purposes."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON S. 1128, CLEAN WATER ACT AMENDMENTS OF 1985

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 588 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 588

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1128) to amend the Clean Water Act, all points of order against the conference report and against its consideration are hereby waived, and the conference report shall be considered as having been read when called up for consideration.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 588 is the rule providing for the consideration of the conference report on S. 1128, the Clean Water Act Amendments of 1985.

Mr. Speaker, under the rules of the House, conference reports are considered privileged and are considered in the House under the 1-hour rule, and no amendments will be in order. All points of order against the conference report and against its consideration in the House are waived. In addition, the conference report is to be considered as having been read when called up for consideration.

Mr. Speaker, this conference agreement approves $19 billion in loans and grants from the Federal Government to State and local governments to be used for cleaning the Nation's lakes, rivers, and estuaries. The major provision of the bill would authorize $18 billion for the construction of public sewage treatment plants over the next 8 years.

Ultimately, these plants would treat all domestic waste before it would be allowed to be discharged into the Nation's waterways. The bill also establishes a March 31, 1989, deadline for industries to comply with Federal standards for waste treatment facilities.

Also, Mr. Speaker, there is a provision for $400 million that establishes a national program to control urban and agricultural runoff, more commonly known as nonprofit pollution, this nonprofit pollution accounts for close to one-half of the wastes that are spoiling the Nation's waters.

Mr. Speaker, this bill paves the way for a solution to one of the top environmental issues that this Congress has addressed, by passing this conference report, Congress is in a position to show the American people that we are fully committed to cleaning and perserving our Nation's waterways. I urge adoption of the rule and the passage of the conference report.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 588 waives points of order against the conference report on S. 1128, and against the consideration of the report. The report, which was filed today, revitalizes and strengthens the Nation's primary water pollution control law.

The rule makes the conference report on S. 1128, the Clean Water Act Amendments of 1986 in order, and waives all points of order that would otherwise lie against the report and against its consideration.

In addition the rule provides that the conference report shall be considered as having been read when called up for consideration.

Mr. Speaker, the conference report made in order by this rule is a 5-year reauthorization of the Water Pollution Control Act of 1972, which is often referred to as the Clean Water Act.

The committee of conference agreed to extend the sewer construction program for a total of 8 years by authorizing a total of $18 billion for sewage treatment facilities.

The conference agreement replaces our current Federal grant program for construction of treatment plants at the end 4 years with a loan program. Repayment of the loans would be used to create a permanent revolving fund for making construction loans.

Mr. Speaker, the House passed H.R. 8 in July 1985, and the Members have been waiting for this conference report for over a year. Adoption of this rule will move the House one step closer to a resolution of these longstanding issues, and I urge adoption of the rule.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding me this time.

Mr. Speaker, we have heard today a couple of times that the Rules Committee is very reluctant about bringing rules to the floor where they have not had the conference report before them at the time that they wrote the rule. But once again, the third time today, we have got a rule before us that was written before the conference report was available to the Rules Committee.

That reluctance on the part of the Rules Committee is becoming somewhat of a farce when you consider the situation we find ourselves in out here today. Here is a bill once again that when the issue was before the Rules Committee last week, the Rules Committee had not yet seen the conference report and yet they write a rule waiving all points of order against it.

As it turns out, as I understand it, the only point of order that is waived against the bill regards the 3-day rule and we are about 3 days past it anyhow so it does not make very much difference. So it is merely technical.

I would suggest that the pattern that we are seeing here on the floor today is thoroughly unacceptable. We cannot have a Rules Committee considering rules that waive all points of order on measures that they have not even seen. That is just plain wrong. We cannot allow that to go forward day after day and hour after hour on this House floor without paying some terrible consequences. I think the American people deserve to know that when we take up bills waiving the points of order, we at least know what is in the bill. That is precisely what we are violating out here and it seems to me that this rule probably makes in order a pretty good conference report, that because of the 3-day layover thing there is nothing particularly wrong with the rule but the process is just plain wrong.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. HOWARD. Mr. Speaker, pursuant to House Resolution 588, I call up the conference report on the Senate bill (S. 1128) to amend the Clean Water Act.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to House Resolution 588, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 14, 1986.)

The SPEAKER. The gentleman from New Jersey [Mr. HOWARD] will be recognized for 30 minutes, and the gentleman from Minnesota [Mr. STANGELAND] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of passage of the conference report on S. 1128, the Water Quality Act of 1986, which will extend the Nation's battle against water pollution well into the 1990's.

This bill represents the third major reauthorization of the Federal Water Pollution Control Act of 1972 or Clean Water Act. It is a significant legislative achievement that has taken 4 years of hard effort.

I would like to compliment my colleague from New Jersey, Mr. ROE, the chairman of the Subcommittee on Water Resources, for his extraordinary work on this bill. I also want to thank the gentleman from Minnesota, Mr. STANGELAND, the subcommittee's ranking minority member, for his work. The subcommittee staff also deserves praise for the long hours they put in on this bill.

This has been a 4-year effort that started in early 1983 to reauthorize the Clean Water Act, to revise several of the central provisions that needed reworking and to develop some new programs to meet the needs of the 1980's and 1990's. The conference report that we have before us today accomplishes all of these goals in a way that will maintain a strong clean water program for the years to come.

The bill authorizes the continued use of Federal resources to support the local construction of sewage treatment plants. The construction program was one of the significant accomplishments of the 1972 act which this bill continues. The bill authorizes $18 billion for the Federal share of treatment plant construction from fiscal year 1986 through fiscal year 1994.

The importance of this program to our clean water effort cannot be overestimated. Sewage is one of the prime sources of pollution that the Clean Water Act is intended to stop. As of 1982, a decade after the passage of the Clean Water Act, 142 million people in this Nation were served by at least secondary treatment, an increase of 57 million people in 10 years. During that period, the number of people being served by lines carrying raw sewage into navigable waters dropped from 5 to 1 million and the number of people requiring but not receiving sewage treatment dropped from 21 to 14 million.

At the same time, however, there are still 23 million people who receive less than secondary treatment. The States estimate that a failure to build sewage treatment plants at the pace that took place during that decade would have resulted in increased discharges of 191 percent of organic pollution.

The deadlines have been set for municipal compliance with the secondary treatment requirements. Unless there are specific waivers issued, compliance is by 1988. If we are going to set those deadlines for local officials, we must also provide them with a reasonable opportunity to obtain the resources to comply. Under previous administrations, the Federal Government supplied a high amount of funding for sewage treatment plants at a 75-percent Federal share. Since 1981, the authorization and subsequent appropriation was reduced by half while the Federal share was reduced to 55 percent.

To meet the sewage treatment needs that we face, this bill not only authorizes construction grants through fiscal year 1990 but it includes $8.4 billion that may be used as loans to local governments beginning in fiscal year 1989.

The loan program is in direct accordance with my belief that all levels of government must develop new and innovative methods of financing to meet our massive infrastructure needs. It is clear that the traditional grant programs will no longer meet multibillion-dollar needs that are evident. The loan funding will be distributed to the States using the same allotment formula as the grant program. To qualify, States must create revolving loan funds and deposit a 20-percent matching share.

A second leg of our pollution battle concerns control of industrial discharges. The conference report requires that for priority toxics, toxics, conventional pollutants, nonconventional pollutants that industry install the best available technology as expeditiously as possible but no later than 3 years after the promulgation of effluent guidelines by the Environmental Protection Agency and in no event later than March 31, 1989. The bill includes specific dates for EPA to promulgate those guidelines.

The conference report also authorizes $85 million for the Clean Lakes Program, including $15 million for acidified lakes.

This conference report will prohibit any waivers of secondary treatment requirements under section 301(h) of the act in the New Jersey-New York area. It contains stringent new requirements for obtaining such waivers from EPA in other areas but it specifically prohibits any waivers in the New York Bight. The section 301(h) waivers are not designed for that area and should not be permitted. Secondary treatment must be the standard in that area.

The third part of the conference report involves the creation of new programs to meet the realities that exist a decade and a half after the passage of the Clean Water Act. The conference report includes several new programs that will meet specific needs.

First, the bill authorizes $450 million over 5 years for the development and implementation of plans by the States for the management of nonpoint pollution. There has been progress made in controlling pollution from point sources since 1972 but it is now time to turn our attention to runoff from urban areas, farm land, and construction sites. It is estimated that 30,000 miles of rivers and streams and 880,000 acres of lakes are severely impacted by this runoff. This first Federal effort at controlling nonpoint pollution is a necessary part of our pollution battle.

The conference report authorizes $48 million over 4 years for the development of plans for the cleanup of the Nation's estuaries. These plans are to be developed through interstate management conferences. These conferences are to develop conservation and management plans recommending priority corrective actions and compliance schedules addressing point and nonpoint pollution. A separate program for cleanup of Chesapeake Bay is authorized.

Another major new program creates procedures for controlling pollution in those water that will not comply with the requirements of the act even after implementation of all the basic controls in the legislation. The program requires that States propose individual control strategies for each of these sites for submission to EPA.

This conference report also contains a provision that is a major victory for the New Jersey shore. After a struggle lasting for years, there is agreement on legislation that will close the site located 12 miles from Sandy Hook to all disposal of sewage sludge. Instead, the nine entities that use the 12-mile site will be required to haul their sludge by the end of 1987 to a site 106 miles offshore. The outer continental shelf site is designated for 5 years only.

The conference report also closes that 106-mile site, to all but the nine entities now using the 12-mile site. That means that the Massachusetts Water Resources Authority, which had planned on using the 106-mile site, and any other authority on the east coast that had been hoping to follow the lead of the Massachusetts authority, will be unable to use that site.

I consider this provision to be a major step in our battle to protect the environment. This sludge dumping just a few miles from our beaches has been taking place for more than half a century. The Council on Environmental Quality reports that the 12-mile site "shows extensive signs of environmental degradation including high levels of bacteria that caused the site to be closed for shell fishing, decreased diversity of benthic marine life over a broad area, and high levels of potentially toxic metals and organic compounds, including PCBs, in the sediments." It is estimated that the sludge, along with the dredged materi-

al dumped at the 6-mile site, contributes 63 percent of suspended solids found in the waters of the New York Bight.

It is long past time that this operation 12 miles from Sandy Hook was halted. There is no other area, especially one that depends on clean water for its recreation and economy as does the New Jersey Shore, that must face this continual massive pollution of its most valuable resource. It should have been stopped long ago. This conference report will ensure that it is stopped by the end of 1987.

We did not win the battle against the 12-mile site only to find that our beaches were going to be threatened by even more pollutants from outside the New Jersey-New York area. That is what approval of the application filed by the Massachusetts Water Resources Authority would have meant. That application must not be approved nor must there be opportunity for any other similar applications. Our policy should be to bring about an end to all ocean disposal of sludge, not to allow new dumping. This conference report will prohibit new dumping.

Passage of this bill will be a major advance for the Nation's clean water effort. It has as its goal the continued cleanup of the environment and the control of all forms of pollution.

I strongly urge approval of the conference report.

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Mr. STANGELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am exceedingly peased to rise in support of the conference report on S. 1128, the Water Quality Act of 1986. This legislation is the result of conference discussions spanning half a year and work by House and Senate committees spanning the past 4 years. Weeks of hearings, thousands of pages of testimony, and countless hours of analysis, discussion and debate have led to development of this vitally important environmental legislation.

The chairman of our Public Works Committee, the gentleman from New Jersey [Mr. HOWARD] and the gentlemen from Kentucky, the full committee's ranking Republican member [Mr. SNYDER], are to be complimented on the encouragement and leadership they have shown during this conference. Special recognition is due the chairman of our Subcommittee on Water Resources, who presided over the conference, the gentleman from New Jersey [Mr. ROE]. Chairman ROE has worked tirelessly for the past two Congresses holding hearings, researching the issues, and perfecting the bill's language. He has devoted entire weekends and worked around the clock on more than one occasion in order to bring this conference report to us today. The legislation is a true credit to him and to his counterpart conference chairman in the other body, Senator JOHN CHAFEE.

I also want to congratulate the Senate conferees, particularly Senators CHAFEE, STAFFORD, BENTSEN, MITCHELL, and MOYNIHAN. They deserve our thanks, not only for their incredibly hard work and dedication, but also their patience and willingness to find balanced and acceptable solutions to the water quality problems which we worked with them to resolve.

Mr. Speaker, a week ago very few in this Chamber, or in Washington for that matter, would have been willing to predict that the House and Senate would reach agreement in the Clean Water Act conference. The issues were seen as being too complex, time was too short, and the attentions of the conferees was distracted by the myriad of issues confronting the Congress at the end of the session. Most people felt that the clean water bill would simply be lost in the rush to adjourn. Yet, here we stand with a carefully crafted, well reasoned, bill that has the unanimous support of the conferees. The fact that we have been able to achieve such a level of success is due not only to the dedication of all involved in the conference, but, more importantly, to the commitment of the Congress and the American people to the goals of the Clean Water Act.

Since the major rewrite of the current program in 1972, the Clean Water Act has been extremely effective in cleaning up our most precious natural resources—our lakes, rivers, and streams. In the early seventies, the country's attention was focused on the deplorable condition of our water resources. Fish could not survive in the rivers that ran along our cities. Lake Erie was being destroyed through sewage, industrial contamination, and trash. A waterway in Texas, polluted with chemical and industrial waste, actually caught fire.

The American people knew something had to be done and done soon. If we failed to act, our children would not be able to enjoy the pleasure of boating on our bays and estuaries, the solitude and serenity of fishing on a secluded trout stream, or the pure fun of swimming in an old fashioned swimming hole.

In response, the Congress undertook a major effort to reclaim our water resources. By an overwhelming margin, the Congress passed the Federal Water Pollution Control Act of 1972. The goal of the Act was to reduce and ultimately eliminate, if at all reasonably achievable, all discharges of pollutants from municipal sewage systems, industrial plants, and other sources. To achieve that end, the 1972 act called for a major national commitment to clean water on two fronts. First, the Congress authorized a regulatory program to ensure that discharges into navigable waters employ sophisticated technologies to remove harmful pollutants. Second, the Federal Government promised to assist State and local governments with a greatly expanded grant program to allow construction of primary and secondary treatment of sewage.

While we have not been able to achieve our ultimate goal, we have made considerable progress. We have halted the rapid deterioration of water quality, and in some places, actually restored once fouled water to relative purity. However, in a number of areas water quality is still in decline. The Chesapeake Bay, for example, is losing ground against toxic chemicals and non-point source pollution. Our lakes continue to die from a variety of sources, most prominent of which are high acidity and phosphorus.

Despite the "mid-course corrections" by Congress in 1977 and 1981, the regulatory and grant programs of the Clean Water Act still require some fine tuning and improvement to allow us to better respond to continuing problems.

Mr. Speaker, the conference report accompanying S. 1128 represents a united effort to further refine the underlying act and fashion a stronger, more efficient, more effective approach to ensuring cleaner water for all Americans. The legislation we are recommending continues a number of existing programs of the Federal Water Pollution Control Act and also establishes new important authorities which will help meet the goals of the act in a rational, feasible way.

Under the Federal Water Pollution Control Act, the U.S. Environmental Protection Agency [EPA] is required to establish water quality criteria, technology-based effluent limitation guidelines, pretreatment standards, new source performance standards and a national permit program to regulate the discharge of pollutants. A grant program for construction of publicly owned treatment works provides the "carrot" for communities to reach the levels of treatment mandated in the law. States are given the responsibility for developing water quality management programs and for setting water quality standards. The act's technology-based limitations prescribe minimum standards of performance for municipal and industrial dischargers without regard to the quality of receiving waters. Water quality standards, by contrast, identify intended uses of particular water bodies and, on the basis of water quality criteria developed by EPA, set forth the biological and chemical conditions necessary to sustain those uses.

Under the act, direct dischargers of pollutants are classified as either point or non-point sources. To deal with

point sources, the Clean Water Act provides for the National Pollutant Discharge Elimination System [NPDES] which incorporates and applies effluent limitations in individual permits to both municipal and direct industrial dischargers. Under these permits, dischargers are subject to both technology-based treatment requirements and, where necessary to protect a designated use, additional controls based on water quality standards.

Technology-based standards also deal, in part, with pretreatment of industrial wastes from facilities that discharge into municipal sewer systems instead of directly into a particular water body. These facilities are refered to as "indirect dischargers." To prevent insufficiently treated toxic pollutants from passing through a municipal treatment works or from interfering with the operation of the treatment works, technology-based effluent "pretreatment" limitations are applied. Delays in getting this program in place and the potential negative impact on already well-performing local pretreatment programs have been continuing problems.

Technology-based does not mean that the Agency prescribes the technology that must be used. Rather, EPA reviews the various treatment techniques presently in use or available in each industrial sector to determine what limitations are achievable using available methods. Once EPA adopts effluent guidelines for a particular industry, each company or plant can use any method it chooses to achieve the effluent limitations required under the guidelines. In practice, however, this range of choice is limited by the availability of technology and its effectiveness in removing pollutants.

The 1972 amendments to the act directed EPA to establish a minimum level of technology-based standards for publicly owned treatment works [POTWS] based on secondary treatment as defined by the Agency, and to establish best practicable technology currently available [BPT] standards for industrial categories. Both are uniform national standards and had a compliance date of July 1, 1977. Under the 1972 amendments, EPA was also directed to establish a second level of control standards for industrial categories, based on best available technology economically achievable [BAT], to be complied with by July 1, 1983.

The 1972 amendments' control strategy for toxic pollutants required EPA to develop pollutant-specific effluent standards to be applied to all industrial categories regardless of technological or economic achievability. These effluent standards for toxic pollutants were to be based on the nature of the pollutant rather than on the technologies available to treat those pollutants. The 1972 act instructed EPA to, first, identify toxic pollutants, and then to issue effluent standards for those pollutants.

These initial provisions for the development of toxic pollutant standards proved to be cumbersome and time consuming. During the 5-year period immediately following passage of the 1972 amendments, EPA only managed to produce effluent standards for six toxic pollutant standards. The Agency was sued by several citizen groups and, as a result of the suit, a consent decree, commonly referred to as the NRDC consent decree, was entered into in June 1976.

In 1977, Congress passed amendments to Public Law 92-500 in the form of the Clean Water Act Amendments of 1977. The new act codified many of the provisions of the 1976 decree. It classified types of pollutants into conventional pollutants, toxic pollutants, and nonconventional polluants. Conventional pollutants include those traditionally controlled by wastewater treatment systems, including biochemical oxygen demand [BOD], oil and grease, suspended solids, pH and fecal coliform. For industrial control of these traditional pollutants, Congress established separate technology-based control standards referred to as best conventional technology [BCT]. Toxic pollutants include the 65 pollutants and categories of pollutants identified in the NRDC consent decree and section 307(a) of the act. Further subcategories of this number have brought the total to over 120 pollutants. Nonconventional pollutants include pollutants not otherwise designated, such as phosphorus, nitrogen, and ammonia.

New compliance deadlines were also established under the 1977 amendments. BAT for toxic pollutants and BCT for conventional pollutants were required to be achieved by all industrial direct dischargers by July 1, 1984. BAT for nonconventional pollutants was to be acheived no later than July 1, 1987, with the possibility of environmental waivers under certain circumstances.

The Construction Grants Amendments of 1981 significantly modified the program for Federal funding of sewage treatment plants that had been in the act since 1972. In 1981, the annual authorized funding level for the program was reduced from $5 billion per year to $2.4 billion per year. Under the 1981 amendments, what had been 75 percent Federal funding was reduced to 55 percent in October 1984, and certain categories previously eligible for funding, such as collector sewers, became grant eligible only where a State's Governor chose to fund them under a 20-percent discretionary authority.

During this 99th Congress, the bill passed by the House, H.R. 8, built on this background, making changes where needed and reinforcing existing parts of the act in order to more efficiently achieve our real goal; maintenance of the highest practicable instream water quality throughout the Nation to support the many uses of that water by the American people.

Generally, H.R. 8 continued the $2.4 billion annual authorization for construction grants through fiscal year 1990 and authorized a new separate $9 billion Capitalization Grant Program to enable States to create revolving funds to help their communities construct needed sewage treatment plants; $3 billion of the new State revolving fund authorization was provided for fiscal years 1986 through and including 1990. The House bill also extended the complance dates for achieving the best available technology [BAT] and best conventional technology [BCT] requirements to 3½ years after effluent guidelines are promulgated by EPA. These extensions reflect the delays which have occurred in the required promulgation of the effluent guidelines.

In addition to these provisions, the House bill, H.R. 8, provided for, among other things:

A 5-year reauthorization of a number of existing programs; a new non-point source control program; expanded authority for the Governor to elect to use the existing 20-percent discretionary funding under the States' construction grant allotment for nonpoint source projects; new authority for administrative civil penalties; authorization for 10 year National Pollutant Discharge Elimination System [NPDES] permits in narrowly proscribed and appropriate circumstances; partial program delegation to the States; continued eligibility for Combined Sewer Overflows [CSO's] and collector systems; a provision exempting agricultural stormwater discharges from the definition of a point source; specific authorization to issue effluent limitation modifications based on Fundamentally Different Factors [FDF's]; required pass through of section 205(j) grants to substate planning organizations; a study of the effectiveness of the section 307 pretreatment program for industries discharging into publicly owned treatment works; provisions to study and address certain specified ground water problems; and new authority to treat qualifying Indian tribes as States under certain provisions of the Clean Water Act.

The Senate-passed version of this legislation has many similarities to the House-passed bill. It also contains a number of significant differences.

The Senate bill, S. 1128, as originally passed by the Senate, also continued funding of the Construction Grants Program through fiscal year 1990. Authorized funding for the program in

fiscal years 1989 and 1990 under the Senate bill, however, dropped from the current level of $2.4 billion to $1.2 billion per year. The Senate also provided authorization for funding State revolving loan fund programs, although at a level that is $600 million less than the level provided for under the House-passed bill. The Senate also extended the compliance dates for BAT and BCT but with an outside date of July 1, 1988. Other key provisions of the Senate bill are:

A 5-year reauthorization of only those programs which have received funding in the past few years; a new nonpoint source program similar to the House bill's program; authority for a State to shift all of its construction grant funds to the new State revolving loan fund program; new authority for administrative civil penalties, similar to that authorized in the House bill; severe limits on EPA's authority to issue fundamentally different factor modifications; more narrowly drawn provisions relating to the treatment of Indian tribes; no provisions authorizing 10-year permits; no new initiatives in the area of ground water contamination; and no exemption for agricultural stormwater discharges.

The conference report we bring to the House today represents a balance of the interests of the House and Senate and, to be perfectly honest, I believe is a better product than either of its two predecessor bills. The result is legislation that ensures full protection of the environment in a way that adequately protects those who bear the cost of the required protective measures.

Under the conference substitute, the Construction Grants Program would continue at the current annual authorization level of $2.4 billion through fiscal year 1988. Thereafter, the program authorization level is reduced to $1.2 billion per year until the program is eliminated, beginning in fiscal year 1991. This adopts the funding level in the Senate bill and represents a responsible approach to a total phaseout of the Construction Grant Program.

Mr. Speaker, we cannot just walk away from communities that have not received grant funding because, quite frankly, they have polluted less. If we did nothing more than discontinue the Construction Grants Program sometime in the future, this improper result would occur. The conferees' solution to this problem was to provide the same type of transition financing mechanism contained in both House and Senate bills. That mechanism, now commonly referred to as State revolving fund capitalization grants, originated in the 98th Congress in the House-passed version of this legislation. After a year-long study by EPA, the counterparts in the Senate included authorization for State revolving fund grants in their bill, improving on some of the original House concepts. The conference report provisions are the end product of this evolutionary process, and the new State revolving fund authorities we bring to you today will hopefully put the States in a position a few years hence to adequately fill the financial assistance void that would otherwise be created by phasing out the Construction Grants Program.

To assist in the phaseout of the Construction Grants Program, we are calling for funding for a new revolving loan program. Revolving loan funds have been tried in a number of States, including my State of Minnesota, and found to be an extremely effective way to spend scarce resources in a way that broadens our ability to achieve the act's purposes. Under this program, the Federal Government will help provide seed money to establish State revolving funds which will be used to help local communities finance needed wastewater treatment facilities. Federal moneys made available for these funds would be subject to certain restrictions on their use, as are moneys provided through the Construction Grant Program. As these moneys are repaid into the fund, the restriction on how the funds can be used would be eliminated, thereby allowing the States greater flexibility and freedom in financing municipal wastewater treatment programs.

Mr. Speaker, one of the other central issues in the conference had less to do with the level of funding for the Construction Grant Program than it did with how the money is to be distributed to individual States—the allotment formula. The House bill continued the existing formula for distributing grant funds. The Senate bill, however, contained a new formula that was totally unacceptable to the House and that would have had States represented by a majority of the Members of the House receiving reduced shares of Construction Grant Program appropriations. My State of Minnesota stood to lose 15 percent of its annual allotment in the first 3 years and 20 percent in the last 2 years of the program under the Senate formula.

I was extremely pleased that the conferees agreed to adopt an allotment formula substantially different from that in the Senate bill, one much closer to the House formula, which is fair to all sides and more reflective of need. Funding for the overwhelming majority of States stays at or near the level of funding under the current law. Where there are changes up or down, they are generally slight. For example, my State of Minnesota will get a slightly lower allotment than under current law, but by only $350,000—a change of less than 1 percent of the State's annual allotment of almost $45 million. I view this as a major victory not only for my home State, which would have lost $9 million per year under the Senate formula, assuming an appropriation of $2.4 billion, but also as a major victory for the position of the House on this issue.

Mr. Speaker, the conference report also calls for a major new program to address the serious problems posed by nonpoint source pollution. This initiative is in recognition of the fact that pollution from nonpoint sources contributes as much as one-half of all pollution affecting our waters. Under the program, States will be called upon to establish nonpoint source programs which identify waters contaminated in whole or in part by nonpoint sources and to develop management plans to deal with such pollution.

Under these management plans, the States would develop best management practices [BMP's] which are intended to be the primary water quality improvement and water quality compliance mechanism. Water quality standards established under section 303 of the act would be used to determine where nonpoint source management programs are necessary and assess the overall effectiveness of the nonpoint source management program, including BMP's, in achieving the goals of the act. Where water quality standards are not achieved, the BMP's may need to be reviewed and updated in the State Water Quality Management Program.

The bill authorizes a total of $400 million to assist States in setting up their nonpoint programs. In addition, 1 percent of a State's allotment under the Construction Grant Program or $100,000, whichever is more, would be set aside to be used for nonpoint source pollution management. Furthermore, States with greater needs in the area of controlling this kind of pollution could use up to 20 percent of the State's construction grant funds for nonpoint source problems. This increased flexibility will allow States to better target Federal funding to where it will do the most good.

Mr. Speaker, under the provisions of the conference report, a strengthened and improved Clean Lakes Program under section 314 is reauthorized at an annual funding level of $30 million. In addition, $15 million is authorized for cleanup of acidified lakes and a $40 million special demonstration program is established for cleanup of seven specified lakes. One of the lakes named in the bill is Sauk Lake at Sauk Centre, MN. Funding under this demonstration program will allow EPA to implement measures to restore this important water body to its once pristine condition, and I am particularly pleased that the conferees were able to agree with me as to the pressing need for this new lake cleanup program.

Another provision which has been of particular interest to me has been the study of pretreatment standards applicable to industries discharging into publicly owned treatment works. I, for one, have had reservations concerning the implementation of mandatory uniform categorical pretreatment requirements under section 307(b) of the act. In my view, communities need the flexibility to develop pretreatment requirements which are tailored to the particular treatment processes employed in their communities and the character of waste discharge into their sewage treatment plants. I believe that, rather than attempting to solve a problem which has countless variations and nuances at the national level, it may be possible to do a better job—both with respect to protecting the environment as well as with respect to avoiding treatment for treatment sake—by allowing the problem to be dealt with through locally developed equivalent alternative pretreatment programs.

Accordingly, I fought for an amendment on the House floor authorizing a demonstration program pertaining to a limited number of locally developed pretreatment systems. Under my amendment, communities which achieve pretreatment at least equivalent to that required under national standards but which employ a method of pretreatment different from the standards mandated under section 307(b) would be exempt from the national standards. The amendment was not approved by the House. However, the House did approve authorizing EPA to conduct a study of this idea and the conference substitute retains this study requirement. The study will examine the adequacy of information on industrial toxic discharges into POTW's, POTW removal efficiency, alternatives to categorical pretreatment, and the adequacy of Federal, State, and local authorities to establish, implement, and enforce alternative approaches. I believe that the results of this study, due in 2 years, will demonstrate that a more flexible approach can be implemented without adverse environmental effects. If not, at least we will have the reasoned information we need to validate our current practices.

Mr. Speaker, another significant issue addressed in the conference report relates to exemptions contained in the House and Senate bills for stormwater discharges. Under current judicial and administrative interpretations of the law, businesses and municipalities that channel ordinary stormwater and discharge it into a navigable water would be required to obtain an NPDES permit for those discharges.

The House and Senate crafted differing exemptions from this requirement to allow EPA and the States to focus their attention on the most serious problems. The conference substitute adopts a new approach, incorporating and building upon the elements of both bills. With respect to municipal separate storm sewers, the bill provides that large systems—those serving populations of over 100,000—would be subject to a permit requirement, phased in over the next few years. The conference report streamlines and phases in the permit requirements in a way that ensures that the largest systems are dealt with first and at a realistic pace. The compromise reflected in the conference-adopted language represents a balanced and targeted approach to dealing with municipal stormwater discharge problems, while at the same time establishing mechanisms that will be useful for purposes of addressing less serious stormwater discharge pollution situations after the highest priority environmental problems are solved. The provision is meant to provide relief where it is appropriate, to cities without serious stormwater pollution problems, while providing EPA and the States with the time and knowledge they need to properly address this major national water quality need.

The conference report does not provide a specific permit exemption for stormwater discharges associated with industrial activity. A discharge is associated with industrial activity if it is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. Discharges which do not meet this definition include those discharges associated with parking lots and administrative and employee buildings.

Mr. Speaker, the conference report also contains a number of other significant improvements in the Clean Water Act. There are initiatives for addressing toxic hot-spot problems and the increasing problem of groundwater contamination. In addition, the existing exemption for return flows from irrigated agriculture is expanded to include agricultural stormwater discharges.

One of the most significant provisions of the conference report combines concepts in both the House and Senate bills limiting the authority of the Administrator to issue fundamentally different factor modifications. The conferees agreed to place certain limitations on EPA's FDF authority in an effort to encourage dischargers to be forthcoming with necessary information when EPA is in the process of establishing applicable effluent guideline regulations. The conferees also devised the restrictions contained in the conference report on this issue in order to expedite decisionmaking with respect to FDF applications that are filed. We took these actions in an effort to narrow the FDF modification opportunity in such a way as to avoid rewarding recalcitrant or otherwise uncooperative FDF applicants.

A few additional points of clarification are necessary on this matter. First, the fear of recalcitrant or uncooperative FDF applicants was more a theoretical than an actual one. No specific example was presented that I can recall of an FDF modification application being used for the sole purpose of avoiding or postponing compliance with properly established effluent guidelines. Second, the conferees recognized the extremely important role over the past 15 years of Clean Water Act regulations that the availability of receiving an FDF modification has played in various courts, including the U.S. Supreme Court's, decisions to uphold effluent guidelines being challenged for constitutional or other reasons. We expect EPA to continue to utilize FDF modifications, where appropriate, to protect the rights of unique or improperly considered dischargers, while not delaying promulgation of needed effluent guidelines. Third, we expect to continue to allow applicants who have not had a reasonable opportunity to submit necessary information to receive FDF modifications. This concept, added to the conference report from the House-passed bill, is meant to protect the rights of responsible applicants to be considered for FDF modifications. Examples might include a discharger who, while knowing of an applicable relevant rulemaking, had no reason to know until the final rule was issued that certain data would be relevant to the specific nature of the final regulations. It might also include a discharger who knew of a pending rulemaking but could not submit needed data showing a fundamental difference because that data could not be generated until after the final rules were promulgated.

Mr. Speaker, as with fundamentally different factor modifications, the conferees agreed to placing new limits on EPA's authority to issue section 301(g) nonconventional pollutant variances. As you know, in addition to conventional and toxic pollutants there exists a large number of pollutants about which there may not be sufficient data to determine their effect on human health and the environment. The 1977 amendments to the Clean Water Act recognized this and established a third category known as nonconventionals—section 301(g) in order to deal with those unknown pollutants. Such substances are to be treated at the BAT level of treatment. However, the provision acts as a safety valve and if, after further investigation it is determined that a lesser level of treatment will not cause the substance to interfere with the water quality the Administrator is authorized to consider such a substance for a waiver from the BAT requirements.

Under the new conference report provision relating to 301(g) variances, when the Administrator is satisified as to the availability of data and test methods regarding such a substance, he should be able to determine if such a substance is toxic, in which case he is required to add it to the 307(a) list, or he may determine that, in certain circumstances or in certain trace amounts, the substance could qualify for consideration for a waiver from the BAT level of treatment as a nonconventional pollutant. In order to grant a section 301(g) variance, however, the Administrator must always follow the new procedural rules set forth in the conference substitute.

Finally, Mr. Speaker, I would be remiss if I didn't take a moment to thank the dedicated and capable staff that have been instrumental in crafting this legislation. On our side of the aisle, I want to thank John Doyle, Gabe Rozsa, Ben Grumbles, and Kathy Guilfoy for all of their hard work and assistance. I also want to express my appreciation to Errol Tyler, Dave Smallen, Ken Kopocis, Randy Deitz, and Charlotte Miles, staff on the majority side of the aisle. Particular thanks should be given to Dave Mendolsohn and Bob Bergman with the Office of Legislative Counsel. And I also want to take a moment to thank the Senate staff who have helped develop this excellent bill. I want to mention, in particular, Bob Hurley, Ron Outen, Phil Cummings, Jeff Peterson, Jimmy Powell, and Steve Schimberg for their long hours and patient cooperation as we worked together to craft legislation in which we could all take pride. And last, but hardly least, I want to thank all of the people at EPA who were so responsive to our requests for information and so dedicated to helping us work out strong and fair compromises in this conference report.

One other person, Mr. Speaker, deserves special recognition on this special day. A person who, because of his untimely death earlier this year, is not physically with us today but whose presence is, and will continue to be, reflected in all of the better provisions of this conference report. I am referring to Peter Perez to whom this conference report is dedicated by the conferees, for his incredible knowledge of the Nation's Clean Water Program and his tireless commitment to its improvement. Peter was a tremendously valuable asset to those of us in Congress who have responsibility for writing our Nation's water quality laws. Whether Democrat or Republican, liberal or conservative, we felt totally able to seek information and analytical work from Peter. We did this knowing that regardless of what Peter may personally have felt about the specifics of any given issue, he would respond in a way that was as reliable, accurate, thorough, and objective as he was personally capable of responding. The level of trust was such that Peter was often asked to leave his home phone number in case problems requiring his assistance arose after normal working hours at night or over the weekend. Very few public servants earn that kind of professional reputation in the course of their careers. Only the best do, and Peter was one of the very best. There could be no more appropriate tribute to Peter and the work he did so well and cared so much about than for us today to unanimously endorse the legislation which so unmistakably bears his mark.

Mr. Speaker, this is an excellent bill. It is one that continues the commitment made by this country to clean water. It is balanced and fair, responsible and sensitive. It allows us to phase-out the Construction Grants Program in a way that will still allow us to finish the job we began in 1972. It deserves the united and overwhelming support of this body on both sides of the aisle and it deserves the signature of the President of the United States.

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I'm pleased to bring to the floor the conference report on S. 1128, the Water Quality Act of 1986. This legislation is the culmination of years of effort, including an extensive and detailed examination of the Water Pollution Control Program and of measures to make the program more effective and responsible to budgetary considerations.

This legislation contains many provisions which will greatly improve the Federal Water Pollution Control Program. It continues through fiscal year 1990 authorizations for a number of programs in the Water Pollution Control Act, including research activities, training of personnel, forecasting the supply of and demand for occupational categories needed in the water pollution control field, grants to State and interstate agencies to assist in administering programs for water pollution control, grants to educational institutions for programs to train personnel in the operation of water pollution control facilities, grants under section 208 for developing and operating areawide waste treatment management planning processes, grants for the Rural Clean Water Program and the Clean Lakes Program, and the general administration of the Federal Water Pollution Control Act by the Environmental Protection Agency.

The Construction Grants Program, which provides a 55-percent Federal grant for the construction of sewage treatment facilities, is continued at its present level of $2.4 billion per year through fiscal year 1988, and at $1.2 billion per year for fiscal year 1989 and fiscal year 1990. In addition, a new loan program is authorized which provides funds to the States to establish water pollution control revolving funds. These revolving funds are to be used by the States to make low interest loans, subsidize bonds, and take other similar measures in order to assist communities in the construction of sewage treatment works. The States must contribute 20 percent of their own money to these revolving funds.

The authorized amounts for grants for these revolving funds are $1.2 billion per year for fiscal years 1989 and 1990, $2.4 billion for fiscal year 1991, $1.8 billion for fiscal year 1992, $1.2 billion for fiscal year 1993, and $600 million for fiscal year 1994.

The authorizations for construction grants and revolving fund grants are designed to enable the States to capitalize revolving funds during fiscal years 1989 and 1990 when construction grants are still being made. In 1991, the grants for revolving funds are increased to the prior years' total construction and loan grants level, then gradually decreased over a 3-year period. This is intended to provide a transition period during the funding of sewage treatment plants will move from a Federal Grant Program to a State Revolving Loan Fund Program.

The Environmental Protection Agency estimated, in its 1984 needs survey, that the Federal share, under existing law, for eligible treatment plants through the year 2000 is approximately $35.8 billion. This is twice the amount authorized by S. 1128 for construction grants and revolving fund grants. We are optimistic that the combined Construction Grant and Revolving Fund Grant Programs will enable communities to meet the requirements of the act. This is because the revolving funds will provide a continuing supply of funds for assistance. The committee will, however, monitor very carefully the success of this approach, so that it can determine whether the Nation's needs for publicly owned sewage treatment plants will be met on a timely basis.

The legislation also contains a number of other provisions to improve our efforts to restore and maintain the quality of our Nation's waters.

A program to encourage and assist States in the control of nonpoint sources of water pollution is established. Approximately 50 percent of the pollution entering our Nation's waters comes from nonpoint sources. In order to achieve adequate water quality it is absolutely essential that we begin to address the very serious problem of nonpoint sources of pollution.

A national policy is established that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of the act to be met through the control

of both point and nonpoint sources of pollution.

Federal grants of up to 60 percent are authorized over a period of 4 years in a total amount of $400 million. States are required to identify waters which cannot reasonably be expected to attain water quality standards without additional controls of nonpoint source pollution, and to identify management practices for categories, and subcategories of nonpoint sources and particular nonpoint sources which add significant pollution to waters. The States also are required to submit management programs to EPA for approval. Implementation grants are available to States with approved programs. Interstate management conferences are provided for where pollutants in one State are preventing water quality standards from being attained in another State.

The clean lakes provision of the Federal Water Pollution Control Act, which establishes a Grant Assistance Program to improve the water quality of lakes, is extended. In addition, new provisions are added to increase the effectiveness of the program. Included is a demonstration program to develop technologies for the control of pollutants to enhance lake water quality, to control nonpoint sources of lake pollution, to demonstrate environmentally preferred technologies for removal and disposal of contaminated lake sediments, to mitigate the adverse effects of acidification of lakes, and construction and evaluation of techniques to prevent the deposit of sediment in lakes.

There is a provision for the development and implementation of individual control strategies to achieve compliance with applicable water quality standards where it is determined that such compliance will not result from the application of best available technology and best conventional technology.

Penalties for violation of the act are increased, and a provision authorizing the assessment of administrative penalties is included. These are designed to substantially increase EPA's enforcement capabilities to ensure compliance with the act.

Another important provision concerns management and control of municipal and industrial storm water discharges. Section 405 of the conference agreement establishes a mechanism to address the major problems associated with discharges from storm sewers through a permitting procedure and the development and implementation of management practices, control technologies, and design and engineering methods.

For industrial and large municipal discharges—storm sewer systems serving a population of 250,000 or more—not later than 2 years after the date of enactment the Administrator must establish regulations setting forth permit application requirements. Applications for permits must be filed within 3 years after the date of enactment and the Administrator or the State, as the case may be, must issue or deny such permits within 4 years of the date of enactment. These permits must provide for compliance as expeditiously as practicable but in no event later than 3 years after the date of issuance of the permit. For discharges from storm sewers serving a population of 100,000 or more, the Administrator must establish permit application requirements within 4 years of the date of enactment. Applications for permits must be filed no later than 5 years after date of enactment, and the Administrator or the State, as the case may be, must issue or deny the permits within 6 years after the date of enactment. The permits must provide for compliance as expeditiously as practicable but in no event later than 3 years after the date the permit is issued.

Permits for other discharges are not required prior to October 1, 1992, except for those which the Administrator or the State determines contribute to a violation of a water quality standard or are a significant contributor of pollutants to waters of the United States.

Permits for discharges from municipal storm sewers may be issued on a system or jurisdictionwide basis and must include the requirement to effectively prohibit non-storm-water discharges into storm sewers. In addition, they must require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control technologies and systems, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of pollutants.

Section 405 also directs the Administrator, in consultation with the States, to conduct a study to identify storm water discharges for which permits are not required prior to October 1992 to determine the nature and extent of pollutants in the discharges, and to establish procedures and methods to the extent necessary to mitigate impacts on water quality. This study, identifying discharges and determining the nature and extent of pollutants, is to be submitted to Congress by October 1, 1988, and the study and report establishing procedures to control discharges must be submitted to Congress by October 1, 1989.

Finally, not later than October 1, 1992, the Administrator, in consultation with States and local officials, is to issue regulations which designate additional storm water discharges based on the study to be regulated to protect water quality and is to establish a comprehensive program to regulate these additional discharges.

The control of storm water discharges to protect the quality of the Nation's waters is a vast undertaking which, under existing law, would require an estimated 1 million permits. The provision in the conference agreement establishes an orderly procedure which will enable the major contributors of pollutants to be addressed first, and all discharges to be ultimately addressed in a manner which will not completely overwhelm EPA's capabilities.

Section 301(g) of the act allows EPA to grant modifications to effluent limitations for nonconventional pollutants if certain conditions are met. The bill limits the availability of such modifications to five pollutants: Ammonia, chlorine, color, iron, and total phenols. These are substances for which EPA has sufficient data to properly assess a request for a modification of applicable effluent limitation. The provision in the bill provides for additions to the list of these five pollutants, but only if EPA first determines that a pollutant proposed to be added does not meet the criteria for listing as a toxic, and then determines that adequate test methods or sufficient data are available to make the determination required for the granting of a modification. In addition, strict deadlines are placed on the filing of petitions to add a pollutant to the section 301(g) list, applications for a modification, and EPA's approval or denial of these requests.

A strong "antibacksliding" provision is included, which strictly limits the situations in which effluent limitations in BPJ [best professional judgment] permits and water quality based permits may be made less stringent. As a general rule, effluent limitations established in a BPJ permit may not be modified to reflect less stringent requirements in subsequently issued effluent limitations. Exceptions are provided to this general rule, which permits less stringent effluent limitations if material and substantial alterations or additions to the permitted facilities occurred after permit issuance, information is available which was not available at the time of permit issuance, technical mistakes or mistaken interpretation of law were made, there are events over which the permittee has no control, or a permit modification has been granted. The exception for new information or technical mistakes or mistaken interpretations of law do not apply to any revised waste load allocations except where the cumulative effect of these revised allocations results in a decrease in the amount of pollutants discharged and the revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of

pollutants in order to comply with the requirements of the act or for reasons unrelated to water quality.

For waters where the water quality standard has not been attained, any effluent limitation based on a total maximun daily load may be revised only if the cumulative effect of all of the revised effluent limitations will assure the attainment of the water quality standard. Where the quality of these waters exceeds or equals levels necessary to protect the designated use, any effluent based on a total maximum daily load or water quality or other standard may be revised only if the revision is subject to and consistent with the antibacksliding policy established under section 303.

Another provision of this legislation concerns the granting of a variance from the requirements of an effluent limitation if the owner or operator of a facility demonstrates that the facility is fundamentally different with respect to the factors considered by EPA in establishing the effluent limitation. The bill narrows and strictly defines the circumstances under which a fundamentally different factors [FDF] variance may be granted. The application for a variance must be based solely on information and supporting data submitted to EPA during the rulemaking or establishment of the effluent limitation, or based on information the applicant did not have a reasonable opportunity to submit during the rulemaking. An application for a variance must be submitted within 180 days after establishment of the effluent limitation, and EPA must approve or deny the application within 180 days after the application is filed.

Another significant provision of the conference agreement is that establishing a National Estuary Program. This provision provides for management conferences to develop comprehensive management plans for estuaries where EPA determines, on its own initiative or upon nomination by a State, that the attainment or maintenance of water quality in the estuary requires the control of point and nonpoint sources of pollution to supplement existing controls of pollution in more than one State. The purposes of such a management conference are to assess trends in water quality and uses of the estuary, collect and assess data on toxics, nutrients, and natural resources in estuarine zones to identify causes of environmental problems, develop a comprehensive conservation and management plan to restore and maintain the chemical, physical, and biological integrity of the estuary, develop implementation plans to be carried out by the States, and monitor the effectiveness of actions taken pursuant to the plan.

The conference agreement on S. 1128, the Water Quality Act of 1986, represents a major step forward in our efforts to improve and preserve the quality of our Nation's waters. In the area of municipal treatment of wastes, the phasing out of the Construction Grants Program, together with the capitalization grants for State revolving loan funds will provide a foundation for the continuation of efforts at the State level to achieve compliance with the requirements of the act with respect to municipal treatment. The program for the regulation and control of storm water discharges will provide an orderly means of bringing these sources of pollution under control. Necessary flexibility will be provided in the establishment and implementation of effluent limitations to address unique situations without sacrificing improvements in water quality. This legislation is a sound and reasonable approach to the Nation's need to improve and maintain that water quality which is essential to fish and wildlife resources and the public health and well-being of that Nation. I urge my colleagues to approve this conference agreement.

Mr. STANGELAND. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. Speaker, I rise in strong support of S. 1128, the Water Quality Act of 1986.

We have before us a compromise bill which, in reality, reflects the years of hard work on not only H.R. 8 and S. 1128, but those clean water reauthorization measures drafted in the past.

Today's agreement is due in no small measure to the tireless efforts and strong leadership provided by our Public Works and Transportation Committee Chairman JIM HOWARD; our ranking Republican of the full committee GENE SNYDER; BOB ROE, chairman of the Water Resources Subcommittee; and ARLAN STANGELAND, the subcommittee's ranking minority member. This is truly a landmark bill and one that is both environmentally strong and fiscally responsible. This bill is a strong, efficient and balanced approach to our goal of ensuring cleaner water for all Americans.

The bill provides 5-year extensions for a number of important existing programs and includes several new initiatives to address those funding needs for State and local governments as they seek to reduce or eliminate the discharge of pollutants into our Nation's waters. I would like to bring a couple of those initiatives to the attention of our colleagues.

The grant program for sewage treatment plant construction will be continued and gradually phased out. Through fiscal year 1988 that program's funding would continue at $2.4 billion annually. After that, the program would be reduced to $1.2 billion annually until the program is eliminated, starting in fiscal year 1991.

Although the construction grant program is being phased out, the bill authorizes a new grant program to help States set up revolving funds to assist local communities in financing needed wastewater treatment facilities. The funds can be used for loans, guarantees, interest subsidies, and other nongrant purposes.

Under the new program, States will be granted greater flexibility in financing needed municipal wastewater treatment programs. This new program insures that those communities heretofore too far down on a State's priority list will still be able to get help in meeting their requirements under the act.

In another important new initiative, the bill creates a major new grant assistance program to help States control nonpoint source pollution.

This is an extremely important new initiative, given current information that nonpoint sources are contributing up to 50 percent of the water pollution in some States.

For a very modest amount—$400 million over 4 years—this new program will give States an added incentive to develop and implement nonpoint source management programs to reduce the several billion dollar cost we now pay after the damage has been done.

A study by the conservation foundation several years ago indicated that the total economic costs of sediment and pollutants associated with erosion are over $3 billion per year. Some of these costs, according to the foundation, include $100 million for increased water treatment, $70 million for damages to inland commercial fisheries, and $120 million in damage to recreational opportunities.

But the costs are spread farther than this. The Corps of Engineers spends over $300 million each year to dredge harbors and shipping channels, removing sediment that might never have entered the water if nonpoint source controls had been in place. Sediment also fills in our reservoirs, robbing us of drinking water supply and flood control capacity.

Granted, with $400 million we aren't going to control all erosion. We are going to give the States the incentive to begin to manage nonpoint source pollution from all sources, including eroding streambanks and sheet runoff from fields.

Another new initiative actually builds upon an existing program in the act. Section 314 of the act authorizes assistance to States in restoring water quality in the Nation's lakes. The conference report includes a new demonstration program to expand on the existing clean lakes effort by demonstrating techniques to achieve lake water quality improvement. One of the lakes identified is Beaver Lake in

Arkansas. The approaches that will be used at Beaver Lake will be able to be used elsewhere, thereby benefiting the country as a whole.

The bill will also remove current obstacles to the use of funding provided by Farmers Home Administration for Clean Water Act construction grant projects. Many rural communities would not be able to finance the substantial cost of meeting the act's requirements without use of FmHA funds.

Another important issue which the bill addresses is the problem of insuring that our ground-water resources are adequately protected. Communities around the country face problems caused by pollution of the Nation's aquifers. Accordingly, the bill before us today calls upon EPA to undertake a study of the measures needed to adequately protect water resources at seven specified aquifers, including the sparta aquifer in Arkansas. Because of the growing threat to ground water posed by point sources and nonpoint sources, it is appropriate that we dedicate our efforts to examining how we can best protect this important supply of water for millions of Americans.

Another provision of this bill with which I am particularly pleased is an increase in the rural set-aside program. Under the current law a Governor may set aside 4 percent of the State's construction grant funds to address water pollution problems in rural areas. This is an important provision which insures that our rural communities are not forgotten under the clean water program. The conference report expands the rural set-aside program by requiring that at least 4 percent and not less than 7½ percent of a State's allotment shall be made available for rural problems.

The conference report also contains a number of other important improvements in the Clean Water Act, including initiatives to address the problem of toxic hot spots and the ever-growing problem of contaminated ground water. The bill also revises some of the act's technology compliance deadlines and provides authority for administrative penalties.

Mr. Speaker, this is a strong bill that insures a continued commitment by this Congress and the Federal Government to clean water. I urge my colleagues to give this strong effort by our House and Senate conferees overwhelming support so that the legislation can be enacted at the earliest possible date.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in strong support of this conference report on the Clean Water Act.

There are several items in this conference report that I want to briefly mention, but I must begin by expressing my enormous gratitude and admiration to the two gentlemen from New Jersey, Mr. HOWARD and Mr. ROE.

Their leadership and guidance in bringing this bill to the floor stands as a great accomplishment. Countless obstacles stood in their way, yet they kept at it. To them, the ranking minority members, Mr. SNYDER and Mr. STANGELAND, and their hardworking staffs, I say thank you.

Several aspects of this bill deserve at least a brief mention.

The formula for apportioning the sewage construction grant and loan program funds was a major item in this conference, and I am pleased to say that I think we achieved a compromise that is fair and reasonable to all States.

The question of municipal storm runoff also confronted the conference, but here again I believe the compromise was reasonable and equitable.

And, Mr. Speaker, as the author of the provision to include San Francisco Bay in the National Estuary Program. I am truly delighted to note that this important and fragile national natural resource has been designated a priority item for the estuary program.

Mr. Speaker, this is a fine bill. I will not take the time now to discuss its many other provisions. Let me again congratulate our committee's leadership, and urge my colleagues to support this bill.

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Mr. STANGELAND. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. SNYDER], the ranking member of the full committee.

Mr. SNYDER. Mr. Speaker, it is with great pleasure that I rise in support of S. 1128, the Water Quality Act of 1986.

This legislation is the product of many years of effort by the House and Senate Public Works Committees. Over the years we have reviewed every aspect of the Clean Water Act's provisions, regulatory programs, and administration at Federal, State and local levels. Both the House and the Senate have passed strong reauthorization bills in the past. The conference report before you today is a worthy synthesis of not only H.R. 8 and S. 1128, but also H.R. 3282 and other previous clean water reauthorization bills. It represents a truly workable compromise that will add needed reforms to our Nation's Clean Water Program.

Let me first congratulate the many people who made such valuable contributions throughout this lengthy and arduous process. I want to thank the gentleman from New Jersey, Mr. HOWARD, who serves so ably as the chairman of the Committee on Public Works and Transportation, for his leadership and good judgment on this bill. I also want to congratulate the chairman and ranking minority member of the Water Resources Subcommittee from New Jersey, Mr. ROE, and the gentleman from Minnesota, Mr. STANGELAND, for their tireless efforts, their spirit of cooperation and especially for their comprehensive understanding of the issues. And of course, I would be remiss if I did not thank the able leadership of the Environment and Public Works Committee in the other body for its guidance and cooperation.

By working together, we have forged a truly landmark piece of legislation that deserves the support of Congress and the administration. S. 1128 makes far-reaching changes to the Clean Water Act's Regulatory Program. It also makes some "fine-tuning" adjustments to reflect years of testimony from the administrative agencies, the regulated community, and citizens groups. Perhaps most importantly, the bill addresses essential funding needs of State and local governments, but does so in a fiscally responsible manner. In short, Mr. Speaker, S. 1128 greatly increases the protection of the environment and public health, while balancing the need to recognize other important goals.

Last Congress' Clean Water Reauthorization Bill, H.R. 3282, and this year's bill, H.R. 8, passed overwhelmingly. S. 1128, as amended in conference, incorporates much of H.R. 8 and H.R. 3282. I believe the resulting compromise is the strongest, most workable clean water legislation yet. The conference report's authorization levels are significantly lower than those provided for in previous House bills. Despite these reductions, S. 1128 will not result in any significant cutbacks for communities. The conference report will continue funding of Clean Water Act programs which are not less than the current funding.

S. 1128 will also establish new initiatives in a number of areas to assist the Nation in achieving the act's goals of reducing or eliminating the discharge of pollutants into our Nation's rivers, lakes and streams. Specifically, the bill establishes a new, expanded program for control of nonpoint source pollution and a new grant program to assist States in setting up revolving funds to finance future capital improvements by municipalities. This latter initiative will provide a more flexible system of funding and will ultimately replace the Construction Grant Program. State revolving funds will be available for use by localities to help pay for improvements needed to achieve water quality objectives without the myriad of Federal procedures and requirements applicable under the Construction Grant Program.

Mr. Speaker, allow me to highlight some of the regulatory amendments

and construction grant amendments of the bill.

REGULATORY AMENDMENTS

One of S. 1128's most valuable contributions is its new and comprehensive nonpoint source pollution control program. The Clean Water Act, as written in 1972 and amended in 1977 and 1981, focused on point source discharges of pollution. Over the years, however, new information has indicated that nonpoint sources contribute up to 50 percent of the water pollution in some States. Thus, the conferees establish a new national policy to develop and implement programs for controlling nonpoint sources or pollution. New section 319 of the Clean Water Act will provide for State assessment reports, management programs, optional interstate management conferences, and needed Federal funding. With this new emphasis on nonpoint sources of pollution, we should be able to wage a more comprehensive and complete assault on water pollution throughout the Nation.

A related issue involves stormwater discharge permits. The conference report retains important provisions of the House bill on agricultural discharges and expands upon municipal stormwater provisions addressed inadequately by the House- and Senate-passed bills. The conferees retained section 37 of the House bill, specifically excluding agricultural stormwater discharges from the definition of point source. In addition, the conferees have extensively revised the stormwater permit provisions for municipalities, recognizing the disasterous consequences that could result if provisions in the House- and Senate-passed bills remained unchanged. The new language will properly reduce the universe of permits required for stormwater from millions to thousands without reducing the protection of the environment. We have established a mechanism that will require permits only where necessary—rather than in every instance. Without these changes, local, State, and Federal officials would be inundated with an enormous permitting workload even though most of the discharges would not have significant environmental impacts.

In the same section of the bill, the conferees have addressed the permitting requirements for industrial stormwater runoff. It is important, however, to clarify that a discharge is "associated with industrial activity" if it is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. Discharge which do not meet this definition include those discharges associated with parking lots and administrative and employee buildings.

The conference report also contains an important provision clarifying the regulatory treatment of stormwater runoff from oil, gas, and mining operations. Section 402 of the Clean Water Act is amended to prohibit the administrator from requiring permits for stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment opertions or transmission facilities except when the runoff is contaminated by contact with the overburden, raw material, or various waste products. With this limitation on the permitting requirements for such stormwater runoff, important oil, gas, and mining operations will be able to continue without unnecessary paperwork restrictions, while protection of the environment remains at a premium.

S. 1128 also addresses criminal, civil, and administrative penalties for violations under the act. EPA may pursue a violation of the specified statutory provisions by assessing a class I penalty, assessing a class II penalty, or filing an action in court and requesting that the court assess a penalty under section 309(d). In class I actions, EPA may assess a penalty of no more than $10,000 per violation, up to a maximum penalty of $25,000. An informal hearing must be provided upon request of the discharger. In class II actions, EPA may assess a penalty of no more than $10,000 per day for each day during which the violation continues, up to a maximum penalty of $125,000. The discharger has the right to a formal, Administrative Procedure Act hearing.

Under these penalty provisions, multiple violations which stem from a single cause should be considered as one violation for penalty assessment purposes.

The conference report includes important provisions on clean lakes, research and management of pollution in the Great Lakes, and estuary management conferences. In amending the act's section 314 clean lakes authority, S. 1128 provides for increased environmental protection with the addition of a new demonstration program. I am particularly pleased to see that, through ARLAN STANGELAND'S able leadership, Sauk Lake in Minnesota is included as one of the projects in this important $40 million demonstration program. The bill also authorizes EPA to conduct demonstration projects related to restoring the biological integrity of acidified lakes and watersheds through liming. In addition, S. 1128 establishes a Great Lakes program office in EPA and a Great Lakes research office in NOAA to develop and implement environmental programs with special emphasis on the control of toxic pollutants. The bill also authorizes EPA to convene estuary management conferences to solve water pollution problems in estuaries throughout the country.

S. 1128 makes numerous changes to improve dramatically the removal and control of toxic pollutants. Toxics present one of the greatest dangers to this Nation's health and welfare. The conference report addresses this increasing concern in numerous areas. For example, EPA is directed to identify toxic pollutants which may be present in sewage sludge and to promulgate regulations and impose conditions in section 402 permits to protect public health and the environment. S. 1128 also contains important provisions relating to water pollution control levels to be achieved after the act's technology-based BPT/BCT/BAT standards have been met. States must submit to EPA lists of navigable waters for which applicable water quality standards are not expected to be achieved after implementation of the best available technology and after pretreatment requirements and new source performance standards are met. States must also propose individual control strategies to reduce the discharge of toxic pollutants. In addition, EPA must develop methods for establishing and measuring water quality criteria for toxic pollutants.

The conference report allows case-by-case modifications of BAT limits for preexisting discharge from coal remining areas. This is consistent with the concern of the administration and the needs of the coal mining industries. In addition, the amendment ensures careful analysis of environmental concerns by requiring an applicant to demonstrate that the coal remining operation would result in the potential for improved water quality. The conferees specifically agreed to retain the phase "potential for" so that applicants would not face the unreasonable burden of showing actual improvement in every instance.

Another important regulatory issue involves EPA's variance for fundamentally different factors [FDF's]. Under current law, a discharger can apply for and receive modifications from otherwise applicable effluent guidelines upon demonstrating that his plant is fundamentally different from the plants upon which EPA based its effluent guidelines. The Supreme Court recently ratified the FDF variance process in Chemical Manufacturers Association versus National Resources Defense Council, Inc., — U.S. — (1985). Today, Congress gives its full support for this administrative created FDF mechanism and provides further direction to EPA.

While it limits the availability of the FDF modification in some instances, the conference report also recognizes the tremendous importance of the variance process to the Clean Water Act's Regulatory Program. For years, Federal courts have articulated many reasons for retaining FDF variances. By establishing variance from nationally applicable effluent limitations

guidelines and standards, the FDF modification provides necessary flexibility to nationwide standards and allows necessary challenges to regulations in a nonrulemaking forum. Courts around the country upheld nationally applicable effluent limits specifically because of EPA's FDF variance, which provided a needed "safety valve." See for example *American Frozen Food Institute* v. *Train* (539 F. 2d 107 (D.C. Cir., 976)) and *Natural Resources Defense Council, Inc.* v. *EPA* (537 F. 2d 642 (2d Cir., 1976)).

In NRDC against EPA, the Court held that the establishment of an FDF variance was a valid exercise of EPA's rulemaking authority pursuant to section 501(A) of the act. The court stated that, in the context of the Clean Water Act, the variance was particularly appropriate:

The sheer number of point soures potentially subject to regulation and the rapidly approaching statutory deadlines required the EPA to restrict itself in the regulation promulgation process to a representative sampling of plants. It is entirely possible that the resulting regulations will prove ill-suited to some of the unsampled individual plants to which they will be applied in the permit process. Unless the variance clause is established, there is no guarantee that such a defect could be effectively remedied if it occurred. Review of the regulations pursuant to section 509 of the act is not an acceptable substitute. Since the act authorizes informal rulemaking, review of the regulations will tend to be narrowly confined. The petitioner's recommendation that the rulemaking procedure be re-opened at the permit-granting stage is unnecessarily cumbersome. (537 F. 2d at 647.)

Finally, the court warned:

[N]ot all of the thousands of plants in operation could be expected to fit into prefabricated molds or templates. By specifying a permit procedure, Congress implicitly conferred on the permit-grantor the privilege of continuing the broader regulations in light of the specific type of plant applying for the permit. Without variance flexibility, the program might well founder on the rocks of illegality. (357 F. 2d at 647.)

Recognizing the importance of an FDF variance, the conferees are refusing to limit severely its usefulness or applicability. Thus, the conferees have agreed to many of the provisions in the House bill rather than those in the Senate bill. Under new section 301(n), EPA may issue fundamentally different factors (FDF) variances from national effluent limitations guidelines or categorical pretreatment standards. The FDF application must be based on information which the applicant submitted, or did not have a reasonable opportunity to submit, during the relevant rulemaking. An applicant could satisfy the "did not have a reasonable opportunity to submit" test in the following situations:

First. The discharger knew of the rulemaking, but had no reason to know until the final rule was issued that certain data would be relevant to the specific nature of the final rules as they apply to his facility.

Second. The discharger knew of the rulemaking, but could not submit certain data showing fundmental differences because those data could not be generated until the final rules were issued and tests could be run to assess the expected performance of the facility in complying with the final numerical limits.

Third. The discharger did not know of the rulemaking, due to lack of actual or constructive notice.

I do have some concerns about other regulatory provisions in title I. In certain respects, S. 1128 fails to impose realistic deadlines and requirements or to provide the necessary amount of discretion and flexibility to EPA. As legislators, we must always strive to write laws that are workable and achievable. I am afraid that we have not done this consistently throughout S. 1128.

My greatest concern is over the bill's compliance dates. The Senate-passed bill extended compliance deadlines for priority, conventional, and nonconventional pollutants to "as expeditiously as practicable" but not more than 3 years after the promulgation of effluent guidelines, with an outside date of July 1, 1988. The conference report adopted the Senate provisions, but modified the outside compliance date to March 31, 1989.

This is not a satisfactory—or sensible—resolution. Subsequent information and comments from EPA indicate that the deadline is unrealistic. It does not allow enough time to achieve compliance. Industrial direct dischargers find themselves in an uncompromising situation, since EPA has not yet promulgated final effluent guidelines for various pollutants. Industrial facilities still waiting for guidance from EPA will have very little time to install necessary water treatment facilities. By retaining the March 31, 1989, deadline, I am afraid we are legislating fiction and defying common sense.

I am concerned that the bill's legally enforceable requirements, coupled with the act's citizen suit provisions may ultimately harm the program. The cumulative load of deadlines throughout the bill may set up EPA, States, municipalities, and industries for failure which will, in turn, breed endless litigation and disrespect for the law. We must avoid imposing unrealistic requirements that result in courts—rather than expert agencies—running the Clean Water Act Program. I hope, Mr. Speaker, this new bill will not establish an unhealthy spiral of missed deadlines, lawsuits, congressional distrust, more deadlines, more missed deadlines, more lawsuits to infinity. If it does, then Congress should expect to revisit the whole issue again soon.

The conferees agreed on a new compliance date for achievement of effluent limitations guidelines: As expeditiously as practicable, but no later than 3 years after promulgation of the guidelines, but in no event later than March 31, 1989. During the discussion of this issue in the conference, it was noted that this deadline could pose a significant problem for some plants in the organic chemicals, plastics and synthetic fibers [OCPSF] industry. Our hearings clearly demonstrate that at least 3 years from promulgation is needed for most plants to comply. The guidelines for the OCPSF industry are currently required, by court order, to be issued by December 1986. If the guidelines are issued in December, OCPSF plants would have only 2 years and 3 months to obtain permits and design, construct, install, and operate the equipment necessary to meet the applicable limitations. It therefore appears that some OCPSF plants may fail to comply with their guidelines by the time required, not through any fault of their own, but simply because their guidelines were not issued early enough. Congress and EPA are both aware of their problem. Delay in promulgation of guidelines may make it impossible for some plants and industries to comply with the March 31, 1989, deadline. We agreed to address this problem in the conference report.

EPA told us that if presented with a compliance problem due to delay in guidelines promulgation, they would issue an administrative order to establish a reasonable compliance date for the discharger beyond March 31, 1989. The order would not assess a penalty for the discharger's failure to meet the statutory compliance date. EPA stated that it currently issues such orders to dischargers who are unable, because of delays in guidelines promulgation or permit issuance, to meet the July 1, 1984, deadline in existing law. EPA's statement that it would continue to issue these orders was the major reason for our not seeking to reopen and extend the March 31, 1989, outside compliance date. Issuance of such orders by EPA provides a useful method for remedying inequities suffered by specific plants as a result of the delay in guidelines promulgation. When a plant is issued this type of order, the plant should not thereafter be subject to suit—by EPA, a State, or a citizen—on the basis of its failure to adhere to the statutory compliance date. It is our intent that noncompliance which is not the fault of the plant should not be penalized in any way, whether administratively, legally, or in the eyes of the public.

On another issue, the antibacksliding provision included in the conference report, while designed to ensure that reasonable further progress is made in meeting the goals of the act,

is not designed to prohibit industrial growth, nor to penalize those who have production-based permits.

Technology-based limits are often based on the level of production at a facility—pounds per ton. Permittees will continue to be able to increase their production or add to or change their manufacturing processes. They would, of course, still be required to maintain the effluent limitation guidelines—pounds per ton—issued by EPA for the appropriate industrial categories or subcategories as well as meet all applicable water quality standards.

CONSTRUCTION GRANT AMENDMENTS

The funding levels in S. 1128 are both environmentally responsive and fiscally responsible. There is no unwarranted drain on the Federal Treasury in this bill. The level of $18 billion over 9 years for the current Sewer Grant Program and the new State revolving loan fund represents a reasonable compromise and a worthy investment. The wastewater treatment needs of this Nation are steadily increasing. The creative financing in S. 1128 will address these needs, but at the same time initiate the final phase of the transition to State and local self-sufficiency as soon as reasonably possible. Mr. Speaker, this bill signals a movement from the current level of Federal financial involvement to a program focused on increased State and local self-sufficiency; it does not, however, abandon the crucial Federal-State-local partnership that has developed over the years.

One of S. 1128's most innovative proposals is its Revolving Fund Program through which a State will be able to provide financing assistance to its political subdivisions and, upon repayment, be able to use that money again to construct needed pollution control facilities. These funds can be used for loans, guarantees, interest subsidies, and other nongrant purposes. Under this new authority, many more communities will receive funding for construction of needed wastewater treatment facilities. Countless communities have waited in vain for Federal funding, because they were too low on State priority lists. This new Revolving Fund Program will help those communities meet their requirements under the act.

The conference report also authorizes critically needed projects for improving publicly owned treatment facilities throughout the Nation. For example, the Administrator is directed to grant $250,000 from funds allotted under the act to Taylor Mill, KY, for the repair and reconstruction of its publicly owned treatment works. This is an extremely important project, so I am particularly delighted to see it receive proper attention from Congress. S. 1128 similarly provides necessary funding for water quality improvement projects at other municipalities. In addition, the conference report increases the mandatory set-aside for rural States by establishing a floor of 4 percent—with a ceiling of 7½ percent. With all of these provisions, the entire Nation will stand to benefit.

Mr. Speaker, S. 1128 provides vital funding to States and municipalities and makes farsighted changes to the Clean Water Act's regulatory program. It coordinates governmental and private actions in pursuit of one common goal: making our waters fishable and swimmable. The conference report addresses the needs of municipalities and State governments, but at the same time recognizes the importance of increasing non-Federal self-sufficiency and decreasing Federal expenditures. In spite of today's budgetary constraints, S. 1128 represents a worthy investment in our Nation's water quality. This bill embodies an approach to environmental protection which is both sensible and environmentally sensitive. S. 1128 is one of the most important environmental laws of the 99th Congress and perhaps of this decade. I urge my colleagues and the administration to support it fully.

Finally, Mr. Speaker, I would be remiss if I did not take this opportunity to thank all of the staff who worked so tirelessly over the years toward passage of clean water legislation. In particular, I would like to thank—and congratulate—John Doyle, Gabe Rozsa, Ben Grumbles, Kathy Guilfoy, Errol Tyler, Ken Kopocis, Randy Deitz, and Charlotte Miles of the Water Resources Subcommittee and Dave Mendelsohn and Bob Bergman of legislative counsel. I would also like to thank the Senate staff, including Bob Hurley, Phil Cummings, Jeff Peterson, Jimmy Powell, Ron Outen, and Steve Shimberg. All of these people worked practically nonstop for months, dedicating countless nights and weekends to make this moment happen. Some individuals endured this lengthy process for over 4 years. Because of their efforts, we have a bill that everyone can be proud of.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I join in the overwhelming support for this bill, the Clean Water Act, and urge my colleagues to accept this conference report. I begin by joining in the commendation for the distinguished chairman of the full committee, my committee chairman, the gentleman from New Jersey [Mr. HOWARD], the ranking minority member, the gentleman from Kentucky [Mr. SNYDER], my subcommittee chairman, whose tenacity has made it possible for this legislation to come to the floor today, and the gentleman from New Jersey [Mr. ROE], and to the ranking minority member of the subcommittee, the gentleman from Minnesota [Mr. STANGELAND], I commend for his diligent efforts on this legislation.

Mr. Speaker, after several years of intensive effort, it gives me great pleasure to rise in support of the conference report on S. 1128, legislation to reauthorize the Clean Water Act. Among the many provisons of this bill is one which seeks to provide an incentive to the coal industry to remine abandoned coal mine lands.

It is rare we are able to enact legislation such as this provision which so clearly dovetails efforts to develop our coal resources with those aimed at mitigating environmental damage. Throughout the Appalachian Region abandoned coal mine lands exist which, due to erosion and acidic discharges, pose a serious threat to water quality.

While the 1977 surface mining law created an abandoned mine reclamation program to address this situation, the funds raised from industry to implement reclamation projects will never be sufficient to address more than 10 to 20 percent of the Nation's abandoned coal mine sites. Because many of these abandoned coal lands till contain valuable coal deposits, industry has made an effort to remine them, and as such, reclaim the sites.

However, in many instances, coal remining is not economically and technically feasible because industry becomes liable for treating the preexisting water discharges under stringent national effluent guidelines. This coal remining provision will enable industry to enter abandoned coal mine sites and engage in mining under modified water quality standards established on a case-by-case basis. The end result of this effort will be the reclamation of the site and as such, an improvement in water quality over that which existed at the site prior to remining.

As the author of this coal remining provision, I would note that a rather detailed legislative history has been established to assist in its implementation. In this regard, interested parties should refer to the CONGRESSIONAL RECORD of July 23, 1985, at which time I provided a full explanation of the provision during the debate on H.R. 8, the House-passed version of S. 1128, as well as to the colloquy between the chairman of the committee with jurisdiction over the Surface Mining Control and Reclamation Act of 1977, MORRIS UDALL, and myself conducted during the last Congress, which can be found in the RECORD of June 26, 1984, when a similar version of this provision passed the House as part of H.R. 3282.

This coal remining provision is the product of lengthy negotiations between members of the environmental community and the coal industry and serves to show that agreements on matters pertaining to surface coal

mining can be reached when all parties approach the issue in good faith. In this regard, I would like to extend my appreciation to Hope Babcock of the Audubon Society and Tom Galloway of Galloway & Greenberg for this work on this provison on behalf of the environmentalists, and to Al Whitehouse of Buffalo Coal Co. and Tom Altmeyer of the Mining and Reclamation Council of America who provided the coal industry's input into the formulation of this language.

The support I received for this provision from my chairman on the subcommittee on Water Resources, BOB ROE, and his tenacity in gaining its acceptance by the other body is also deeply appreciated as well as that of MO UDALL, the distinguished chairman of the Committee on Interior and Insular Affairs, who provided the insights into the relationship between this provision and the Federal surface mining law that were crucial to our negotiations. The gentleman from Pennsylvania and a member of the Committee on Public Works and Transportation, BILL CLINGER, was also very supportive of this effort.

Mr. STANGELAND. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker—I wish to commend my colleagues on the conference committee, and especially Chairman BOB ROE of the House Public Works Subcommittee, for their work on this important legislation and specifically on behalf of the people of Wanaque, N.J.

Especially important for my constituents is a provision of this bill which provides $2.1 million in funding for the Wanaque Valley Regional Sewerage Authority in Wanaque, NJ. This funding will help to rectify an inequitable situation arising from the construction of a water treatment facility in northern New Jersey. Residents of Wanaque have been facing astronomical increases in their sewerage fees because two of the three towns comprising the Wanaque Valley Sewerage Authority have withdrawn from agreements that would have spread the cost of this facility more equitably, This, coupled with decreases in Federal cost-sharing levels since the original planning of the project, would have increased Wanaque residents' sewerage fees by $160 to $200 per household annually—to between $500 and $1,000 per household. Without this legislation the people of Wanaque would suffer financial penalties through no fault of their own.

The provision included in today's bill, the Water Quality Renewal Act, boosts the Federal funding level for construction of the new Wanaque plant to 75 percent. In addition, new Federal funds will be made available for expansion of the facility, at a 75-percent Federal funding level. These combined actions will add $2.1 million to the total Federal funds available for the Wanaque project.

I wish to thank Chairman ROE for his efforts on behalf of my constituents. Since I first approached him on this matter many months ago, he has taken an active interest in rectifying this inequitable situation.

I urge, once again, that my colleagues support this important legislation.

Mr. STANGELAND. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER], a member of the Subcommittee on Water Resources.

Mr. CLINGER. Mr. Speaker, I rise in strong support of the conference report accompanying S. 1128 and I urge all Members to vote for this legislation.

Chairman JIM HOWARD, subcommittee chairman BOB ROE, and ranking Republicans GENE SNYDER and ARLAN STANGELAND have done an outstanding job balancing the complex and sensitive issues incorporated in this bill, and representing the interests of this body with their counterparts from the other Chamber. I commend them and their staffs for the long hours of negotiation that makes it possible for us to consider the conference agreement we have before us today.

S. 1128 amends the Federal Water Pollution Control Act of 1972 and authorizes funding for a number of programs devoted to cleaning our rivers, lakes, and streams.

As Members may recall, the goal of the act is to clean our waters so they are swimmable and fishable. This bill helps take us toward that objective.

Mr. Speaker, I would just comment also on the matter referred to by the gentleman from West Virginia [Mr. RAHALL]. I think this is a very important provision in this conference report. There are literally hundreds of thousands of abandoned mines around this country, 40 to 45 percent of which have coal reserves which can be extracted, but nobody is willing to extract them because of the liabilities they will assume under present law if they go in and attempt to remove that coal. They would become responsible for cleaning up the entire pollution problem. The amendment that the gentleman from West Virginia has worked so diligently on and which I was pleased to work with him on will remove that impediment. It will allow a producer to go into an abandoned mine site to re-mine that coal and not assume the crushing liability for cleaning up the whole site. It will not result in any degradation of water quality, however, and it will have to provide for the potential for improving the water quality of that site. I think it is a very, very helpful development for the coal industry and it is going to result not only in our ability to re-mine areas that presently are not being touched, but also will result I think in substantial improvement of water quality in a vast number of these abandoned sites.

It wasn't too long ago we were reading press accounts about filthy, toxic conditions prevalent in many of our major rivers and lakes. Think back for a moment when the Hudson, Monongahela, and Ohio Rivers were void of native wildlife. Lake Erie was considered practically dead. And then look at them today. All are enjoying a renaissance; fish are returning in larger numbers; certain species are beginning to reestablish spawning grounds in areas once considered chemical cesspools; and many related forms of native wildlife are beginning to flourish again.

We were able to achieve these gains through aggressive Federal funding for constructing wastewater treatment plants, and through the aggressive regulation of toxic discharges. The bill before us today seeks to improve upon these achievements by imposing more stringent standards on the amounts and types of pollutants discharged into our waters.

At the same time, this legislation recognizes the budgetary realities now facing the Federal Government. It does not attempt to increase funding for the Wastewater Treatment Construction Grants Program; rather, it phases out the grant program and instead establishes a modest revolving loan fund to be administered by the States.

Some administration officials have already gone on record in sharp disagreement with this legislation, arguing that the construction grants funding is too high. In the bill, we've authorized $18 billion through 1990. I'd like to remind Members that a needs assessment survey undertaken in 1984 by the EPA estimated a total investment of $101.7 billion was required of Federal, State and local governments, and private investment, through the year 2000 to meet current and projected demands. In light of this assessment, I don't believe you can characterize S. 1128 as a budget-buster.

You must pay a price to clean up discharges, and I believe the bill before us meets this test responsibly.

Mr. Speaker, this bill tightens a number of regulatory guidelines; it authorizes a Federal grant program to clean up lakes; it establishes a stormwater discharge program designed to address a major source of pollution; and it stiffens fines and penalties for polluters.

We need this legislation. It is necessary as well as responsible and I urge all Members to support it.

Mr. ROE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND of Georgia. Mr. Speaker, I rise in strong support of the conference agreement on clean water and also to pay tribute to the leadership of the gentleman from New Jersey [Mr. ROE], chairman of the Water Resources Subcommittee.

I have served on the Subcommittee on Water Resources since joining the Congress in 1983 and witnessed the delicate balance the chairman has struck with its members over the years. I was keenly aware of his leadership ability, and especially the gentleman is truly to be commended for his fight to retain much of the House language during negotiations, particularly the House allocation formula for distribution of construction grants funds.

I also want to commend the chairman of the full committee, the gentleman from New Jersey [Mr. ROE], and the ranking minority member of the full committee, the gentleman from Kentucky [Mr. SNYDER], and especially the ranking minority member of the subcommittee, the gentleman from Minnesota [Mr. STANGELAND], for the hard work that they did, and also to commend the staff on both sides.

The conference agreement, which includes a provision exempting certain storm water runoff from the NPDES permitting process takes a giant step toward reducing the immense regulatory burden being proposed by the EPA. As a result, the cost to local governments for complying with the act will be restrained. Under current law, municipalities would be required to obtain permits for each of the millions of storm water discharge points across the country at a cost which would be almost impossible to meet per permit application. It does not take a whiz at math to realize that our cities and towns were facing massive capital outlays; the cost could have easily exceeded $8.5 billion in expenditures for compliance with the proposed EPA regulations from storm water discharge.

Other storm water discharges are exempted from permits unless they fall into one of five categories. One of the discharge categories is "a discharge associated with an industrial activity." A discharge is not considered to be associated with industrial activity unless it is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. Such discharges include those from parking lots and administrative areas and employee buildings.

At the same time, the agreement will strengthen the act through tighter controls and enforcement mechanisms, thus insuring that all of our national waters will ultimately be free of pollution and remain that way for future generations.

Mr. Speaker, I hope our colleagues will support the conference agreement which is a well-thought-out and hard-fought agreement that does justice to the environment and reaffirm the Congress' ability to accomplish the objectives for which it exists; to serve those who have the confidence to trust us with their welfare.

Mr. Speaker, I want to engage the chairman of the subcommittee, the gentleman from New Jersey [Mr. ROE] in a short colloquy at this point concerning the provisions for a study in the storm water runoff section.

May I ask the chairman, as I understand it, this study would only require the EPA to carry it out in areas that are not permitted. I would like for it to be understood that this will not preclude the EPA and the States and it does not preclude them in the law from carrying out the studies in other areas if they so desire.

Mr. Speaker, I yield to the gentleman from New Jersey.

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Mr. ROE. As the gentleman knows from his extraordinary work on this legislation, which I applaud and appreciate, the intent of the conferees and the intent of the committee is that they would have wider latitude to do their studying, as the gentleman has suggested.

Mr. ROWLAND of Georgia. I certainly appreciate that, and again I appreciate the hard work that the gentleman has done on this legislation.

Mr. STANGELAND. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I rise in support of S. 1128, the Clean Water Reauthorization Act. I would like to commend the gentleman from New Jersey [Mr. ROE], and the gentleman from Minnesota [Mr. STANGELAND], the ranking minority member, as well as the gentleman from New Jersey [Mr. HOWARD], and the gentleman from Kentucky [Mr. SNYDER] for their leadership on this legislation. They and the committee staff have worked long and hard to bring this legislation to a successful conclusion. All should be commended for their diligence and perseverance.

This bill is of great importance to the citizens of San Diego County, CA. In particular, it addresses a longstanding problem involving Tijuana sewage. For some time, the city and county of San Diego have been plagued with raw sewage emanating from Tijuana, Mexico. This bill authorizes defensive treatment works to address this problem.

In addition, this legislation authorizes additional treatment works to take care of this problem if they are needed, particularly if the Mexican's construct their stage II Alamar Plant. If the stage II Alamar Plant is built by the Mexican's, this bill provides authority to build additional treatment works on the United States side of the border. A number of alternatives have been suggested such as an inland plant land outfall or a deep ocean outfall. One or both if these alternatives may be constructed if the Administrator determines they are necessary to take care of this difficult problem.

Furthermore, it is my understanding that a Federal agency or commission, or such other Federal entity designated by the President will be responsible for the operation and maintenance of any treatment works constructed under the provisions of this bill. This is not just a San Diego issue, or just a California Issue, but rather it is a Federal issue as well.

I urge my colleagues to vote for this conference report and I urge the President to sign this legislation into law as rapidly as possible so that we can begin to address the many problems this bill is designed to correct.

Mr. Speaker, there is a point involving the provisions of this bill regarding Tijuana sewage which I would appreciate a clarification on. Specifically, it is my understanding that any treatment works built to take care of the Tijuana sewage problem will be operated and maintained by a Federal agency, commission, or entity as designed by the President. Is this the understanding of the conferees?

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from New Jersey.

Mr. ROE. The gentleman from California is correct. His understanding regarding operation and maintenance of these treatment works by a Federal entity is the same understanding shared by the conferees.

Mr. PACKARD. I thank the gentleman for his clarification.

Mr. ROE. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. DYSON].

Mr. DYSON. Mr. Speaker, I think that everyone in this House knows that the Chesapeake Bay is in trouble. It is one of the largest estuaries in the world, and it has been suffering from pollution ever since the first Marylanders came about 350 years ago.

We have in conference report, which I would urge all the Members of the House to support, a section that the subcommittee has agreed to that will help us in our efforts in Maryland, Virginia, and Pennsylvania to clean up the Chesapeake Bay.

Mr. Speaker, the revitalization of this historic bay will benefit not only those States I just mentioned, but the entire eastern seaboard. With a clean bay we may restock the dwindling striped bass population which is so important to the economy of these States. The upper bay is the major

spawning ground for this important, and endangered fish. A clean bay will almost assuredly add to the survival of the striped bass for future generations of Americans.

Much time, money, and energy has already been spent on restoring the bay. This noble effort has been conducted by the Federal and State governments, environmental and private citizen groups, and by those individuals who use the bay for recreation and to earn their livelihood. It is our duty to see that these efforts continue, for they are already providing that we can reverse the generations of abuse and neglect that has damaged the bay's water. By passing this important legislation, we will accomplish this goal.

So today I would like to thank the gentleman from New Jersey [Mr. HOWARD], the gentleman from New Jersey [Mr. ROE], the gentleman from Kentucky [Mr. SNYDER], and the gentleman from Minnesota [Mr. STANGELAND] for their efforts in bringing this important bill to its conclusion.

I urge my colleagues to support the reauthorization of the Clean Water Act. I think that someday we can count on seeing a cleaner Chesapeake Bay, and all Maryland is indebted to them for their efforts.

Mr. STANGELAND. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY], a member of the full Committee on Public Works and Transportation.

Mrs. BENTLEY. Mr. Speaker, as a result of the hard work of the House/Senate conferees on the Clean Water Act Amendments of 1986, we have before us today the conference report for consideration. I commend all those responsible for bringing us this agreement on the clean water legislation.

Our House conferees are to be commended. Mr. HOWARD, Mr. ROE, Mr. ANDERSON, Mr. MINETA, Mr. OBERSTAR, Mr. EDGAR, Mr. TOWNS, Mr. SNYDER, Mr. HAMMERSCHMIDT, Mr. STANGELAND, Mr. CLINGER, and Mr. SHUSTER represented the will of the House as House conferees on the clean water bill.

As a member of the Committee on Public Works and Transportation, I had the privilege to participate in preparation of the clean water legislation. Many of my colleagues have joined me in working to ensure passage and enactment of the Clean Water Act Amendments of 1986.

This legislation will reauthorize Federal funding for construction of local sewage treatment systems. These funds are necessary if we are to continue the important work of cleaning up the environment.

Included in the conference report to the clean water bill are measures requiring States to develop plans for combating nonpoint source pollution, such as polluted runoff from city streets and farmland. These measures are of major importance to the Midatlantic States of the Chesapeake Bay region. Maryland, Virginia, the District of Columbia, and Pennsylvania have been working for the last decade to implement effective legislation needed to restore the Chesapeake Bay.

In my home State of Maryland, some 50 percent of the pollution entering the upper Chesapeake Bay is a result of nonpoint source pollution. Enforcement of this clear water bill will play a vital role in significantly reducing half of the pollution entering our Nation's largest natural estuary.

The restoration of the water quality of our Nation's water supplies is of importance to all. This conference report takes into account efforts made by State and local governments. Cost sharing provisions between Federal and State governments are included to help implement water pollution programs.

Federal construction grant assistance is the cornerstone of each State achieving an effective environmental initiative needed to reduce water pollution. In Annapolis, MD, the Chesapeake Bay Program Office has contributed to much of the success of controlling water pollution. This program, under the direction of the EPA, has worked to coordinate Federal and State efforts in restoration of the Chesapeake Bay.

Regional planning councils and local and State governments will play a more active role in development and implementation of water quality maintenance. Federal funds, distributed to States, will be passed on to local governments and those directly involved in water quality planning. Because of this provision, the Baltimore Regional Planning Council anticipates greater success in their work to reduce water pollution.

Within my home district, the Second Congressional District of Maryland, industries have been working to end pollutants entering our water supply. A new program will be established under this bill for cleaning up toxic "hot spots"—waters that will not meet water quality goals even after industrial dischargers have installed the best available cleanup technologies. Private industry working with government will succeed in eliminating pollutants which impose a threat to the environment.

Studies have been conducted by the Chesapeake Bay Office to determine the impact natural and man-induced environmental changes have on the living resources of the bay. Such studies are essential to cleaning up pollutants which are a result of nutrients, chlorine, acid rain, toxic waste, and heavy metals present in our water supply. A continuation of EPA programs such as this one will help us to achieve a cleaner environment. We need a dependable water supply to meet our water needs.

Mr. Speaker, I urge my colleagues to join me in working to meet our water needs by voting for passage of this conference report agreement accompanying the Clean Water Act Amendments of 1986.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Speaker, I would like to engage in a colloquy with the gentleman from New Jersey to clarify the funding provisions of the Great Lakes amendment, that have been incorporated into the conference report.

First, I would like to thank the gentleman for his support of the amendment, which for the first time establishes a coordinated cleanup program for Great Lakes. This is a small part of the bill, but a big step forward for the Great Lakes, and I think the gentleman can be proud of his role in helping to make it happen.

The amendment provides $11 million per year from fiscal 1987 through fiscal 1991 to be subdivided as follows: $4.4 million for demonstration cleanups of toxic-contaminated sediments; $3.3 million for a NOAA research program; and $770,000 for nutrient monitoring. I just want to clarify that these funds are to be provided in addition to the existing appropriation for the Great Lakes National Program Office.

Mr. ROE. If the gentleman will yield, the gentleman's understanding is correct. The purpose of the amendment is to build on the agency's existing resources, not to displace them.

Mr. NOWAK. If we viewed the amendment any other way, the result would be absurd. The Great Lakes National Program Office currently has an operating budget of $5 million per year. That money is used to support vital projects such as studies of atmospheric deposition in the lakes, and toxic contamination in nearshore areas. These ongoing activities are required by the United States-Canada Water Quality Agreement. If this amendment were to be seen as displacing the existing GLNPO appropriation we would actually be reducing funding for these activities to $2.5 million per year. I just want to make clear that the committee does not intend such an absurd result.

Mr. ROE. That is right. The point of this amendment is to reverse a decade of neglect of the lakes, not to add chaos to EPA's existing programs. A recent National Academy of Sciences report found that the population of the Great Lakes is exposed to appreciable more toxic substances than those in other parts of the United States. This amendment will provide the EPA with the resources to help reverse that trend.

Mr. STANGELAND. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. GALLO], a valued member of the Water Resources Subcommittee.

Mr. GALLO. Mr. Speaker, I rise to strongly support this bill, which reauthorizes the Clean Water Act. A great many Members of this body have spent a great deal of time to develop this bill. It meets the very real needs of the people of New Jersey and across the country.

In July 1985, when I rose in support of this bill when it first came before us, I said that it provides the tools to help us with a number of serious environmental problems. In the last 15 months, those problems have not gone away. In the State of New Jersey, there are currently more than 200 communities on building bans as they work hard to meet our Federal standards with regard to sewage treatment.

These communities need our assistance in these efforts to reverse the effects of our past actions.

We are answering this call for help today, with $18 billion nationally to continue our commitment to clean water.

The State of New Jersey will receive $99 million in our continuing efforts in this area.

In addition to reauthorization of our current grant program through 1990, we are creating an innovative program to create revolving funds in each State for the purpose of meeting the future needs of our communities in the year 1991 and beyond.

This program is very close in concept to the Infrastructure Bank legislation which I sponsored as the Republican leader in the State assembly 4 years ago.

I believe in this program, because it will provide a greater degree of support to local governments than can be provided under the current grant program.

I am very proud of the part I was able to play in the Public Works and Transportation Committee during the development stage of this bill. I urge my colleagues to support this important legislation.

□ 1825

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. WISE.]

Mr. WISE. Mr. Speaker, I thank the gentleman from New Jersey [Mr. ROE], and I greatly appreciate the opportunity to speak on all that he has done in this bill.

This bill is very important for a rural State such as West Virginia because the construction grants program that is so essential as we build these sewer systems that are necessary for economic development, for providing a decent way of life, for making sure that our rivers are truly fishable and swimmable. I am pleased to say that in this bill the share that West Virginia will receive under the construction grants program will remain almost the same as it has been receiving, $38 million a year. This is a great deal of help and it will continue through 1990. Of course then this bill will create a revolving loan fund that the State will be eligible to participate in.

The good news about the revolving loan fund is that as moneys are paid back into the revolving loan fund, they are then made available again for other projects in the State of West Virginia. So this is an important element that will permit us to carry on the necessary sewer construction that must place now, estimated within my State to be approximately 2.5 billion dollars' worth of necessary sewage construction.

There were those who would urge a much lesser share for construction grants. Happily they were not successful, and indeed the program will continue essentially as we have known it for the next 6 years.

I appreciate the chairman and all that he has done to bring this bill to the floor, and I heartily endorse it.

Mr. STANGELAND. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. FIEDLER].

Ms. FIEDLER. Mr. Speaker, I would like to ask the gentleman from Minnesota a question regarding the amended section 203(a) of this conference report on S. 1128, the Clean Water Act Amendments of 1985. In my district, the Los Virgenes Municipal Water District received a construction grant after its plans, specifications, and estimates were approved on several occasions by EPA and the State of California. Several years later and after final completion of the construction project, a review of the project has resulted in a recommendation to disallow some of the project's cost because the total amount of expected sludge generation has not been realized. By EPA's own program staff admission there is no evidence of waste, fraud, or abuse. Nonetheless, the Los Virgenes District has been forced to enter into the expensive process of refuting this disallowal.

Has the committee run into problems similar to this in any other areas of the country with respect to EPA Construction Grants Program decisions?

Mr. STANGELAND. If the gentlewoman will yield, yes we have and that is why the committee included in our House-passed version of this legislation and why we have also included in the conference report before us today the language of section 203(a). This section provides that, before taking final action on certain plans and specifications, the Administrator shall enter into a written agreement establishing which items of a proposed wastewater treatment project are eligible for Federal grant assistance. The section also provides that the Administrator may not later modify his eligibility determinations unless they are found to have been made in violation of Federal law.

Ms. FIEDLER. Would the distinguished gentleman from Minnesota [Mr. STANGELAND] agree to work with me, or whoever represents my district, and with the Chairman of the Water Resources Subcommittee next year to conduct oversight on the extent to which problems such as those experienced in my district concerning the Los Virgenes Municipal Water District may need to be addressed further by congressional action?

Mr. STANGELAND. Yes; I would certainly be pleased to lend my support to the request of my esteemed California colleague.

Ms. FIEDLER. I thank the gentleman for this clarification and also his willing assistance.

Mr. ROE. Mr. Speaker, I yield one-half minute to the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of the conference report to accompany the Water Quality Renewal Act of 1986, and commend the gentleman from New Jersey [Mr. HOWARD], chairman of the Public Works and Transportation Committee, for his very early leadership on this bill way back in 1983 when he introduced the first version of the Water Quality Renewal Act. But a very special tribute is due to the gentleman from New Jersey [Mr. ROE], the chairman of the Water Resources Subcommittee, who has labored virtually day and night since 1983 over every comma, semicolon, and period, every clause, every phrase, every sentence of this bill to bring it and other needed environmental legislation to final congressional action, and hopefully through to enactment.

I am particularly appreciative of the gentleman's sensitivity to three provisions of this bill that are of particular concern to me: The Nonpoint Sources Control Act, the provisions on antibacksliding, and the amendment in section 205(j), which are my amendments to the 1981 Clean Water Act.

The gentleman from New Jersey has been most cooperative and supportive and understanding and a splendid legislator. I commend also the ranking member of the full committee, the gentleman from Kentucky [Mr. SNYDER], who has watched over this legislation and given of his wisdom and his support every step of the way, as well as the gentleman from Minnesota [Mr. STANGELAND], the ranking minority member of the subcommittee, who has devoted countless hours and a great deal of thought and con-

tributed significantly to the shaping of the final version that comes before us today.

We have a truly outstanding piece of legislation that will keep the Nation on its commitment toward fishable, swimmable waters, and a commitment to clean water in America. I urge passage of the legislation.

Nonpoint sources: The conference agreement on management of nonpoint sources of water pollution will close the one remaining large gap in the Clean Water Act, runoff from farms and forests, urban streets and lawns, construction sites and mines. In many areas of the country, on many water bodies, these pollutants now cause more water quality degradation than do point sources. It is thus crucial that this section, which creates a new section 319 in the Clean Water Act, be enacted now.

The agreement emphasizes the need to improve water quality as well as to reduce nonpoint sources of pollution. State management programs must not only control nonpoint source pollution but also improve water quality. The agreement further provides that the administration shall disapprove a State program or portion of a program, if it is not adequate to reduce nonpoint sources and improve water quality.

The House version of the nonpoint source program incorporated very early a firm insistence on water quality improvement, reflecting the main thrust of the Federal Water Pollution Control Act. Water quality improvement was not intended to be a precise measurement but a broad overall requirement that the Administrator, in his judgment, determine that the State is addressing the major sources of pollution on each particular stream segment. For instance, a program which reduced sediment from a construction site, on a segment where the main pollutants were from agriculture or acid mine drainage, would reduce pollution but not add to the overall goal of upgrading the stream. The House bill also sought to avoid instituting best management practices [BMP's] on a scatter approach, one here, one there. Given the scarcity of resources, it required States to select priority watersheds on which to focus their resources, with the anticipated result that cleaner streams would result.

The conference agreement adopted a broader approach, requiring State management programs to address all waters which, without additional action to control nonpoint sources, cannot reasonably be expected to attain or maintain water quality standards or the goals and requirements of the act. However, it retains the requirement for water quality improvement and, in the conference report, states that it would be appropriate for States to focus on specific categories and subcategories or watersheds where nonpoint pollution is a significant problem and to set priorities among categories, subcategories, and watersheds. It also provides that States are, to the maximum extent practicable, to develop and implement their programs on a watershed-by-watershed basis. At the same time, it is very clear that management programs may not exclude watersheds not meeting water quality standards or categories or subcategories contributing significant nonpoint pollution.

I believe the conference agreement is a happy combination of both House and Senate approaches, assuring that no nonpoint source-polluted waters or significant sources will be neglected, while at the same time allowing States to focus on priority watersheds and sources.

The agreement also mandates that BMP's be undertaken as part of the State management programs. The other parts of the program, such as technical assistance and education, are important, but actual BMP's are required under the nonpoint section.

The conference agreement contains several sections relating to local organizations such as conservation districts and other regional substate entities. Programs are to be developed and implemented, to the maximum extent practicable, with the involvement of local, substate regional, and interstate entities with expertise and experience in control of nonpoint sources. Further, to assure the maximum implementation possible, the agreement provides that, if a State fails to submit a management program, or if it is not approved, a local public agency or organization with expertise in and authority to control nonpoint sources may, with the approval of the State, develop and implement a program for its area.

The agreement establishes a mechanism for reconciling pollution of one State's waters by another State. At the request of a downstream State with an approved plan, or at the initiation of EPA, an interstate management conference of all States contributing significant nonpoint pollution to the water body shall be convened to develop an agreement between the States. To the extent that States reach agreement through the conference, their management programs will be revised to reflect agreements reached at an interstate management conference. It is intended that the agreements will be incorporated in revised State programs and will be carried out. Management programs are to be consistent with Federal and State law.

Antibacksliding: During Water Resources Subcommittee hearings on proposed legislation, several examples were cited of companies seeking, and in some cases States trying to provide, relaxation of permit limits which were based on water quality standards, or on what is called best professional judgment [BPJ]. I was particularly concerned at two instances, one where a company argued that its new permit should allow increased discharges because the water quality had improved since its last permit was issued. In the second instance, a State proposed to reapportion wasteload allocations among four plants, after a fifth plant on the stream segment had closed, thereby freeing up some stream assimilative capacity. In both cases the argument was that a stream could be polluted back down to the water quality standard. The effect of such procedures would be to freeze water quality at the standard, the lowest quality allowed by law, and would run counter to the thrust of the Clean Water Act, which is the continued improvement of water quality.

There are some valid reasons for relaxing a permit's requirements, which the antibacksliding provision carefully defines. However, the provision is intended to prohibit renewal, reissuance, or modification of permits to include less stringent effluent limitations except under certain carefully controlled circumstances.

I urge the Administrator, the regions, and the States to be particularly vigilant against backsliding, and announce my intent to keep very close scrutiny over its implementation.

Regional wastewater management agencies: Finally, I am pleased at the conference agreement amendments to section 205(j), which I added to the 1981 Clean Water Act Amendments. That provision clearly required the States to share the funds set aside under this subsection, and the planning responsibilities, with local agencies. In the intervening years, however, we have had many complaints from agencies across the country that the States were not passing these funds through. For example, in 1982, only $4.9 million of the $24 million available under the subsection was passed through to areawide and local water quality management agencies. Accordingly, I introduced, and the House adopted, my provision mandating that 50 percent of the funds be passed through to local agencies. As amended in the Public Works and Transportation Committee and in conference, the provision requires that at least 40 percent of a State's funding go to regional public comprehensive planning organizations and appropriate interstate organizations for the development or implementation of water quality management plans, unless the Governor, in consultation with such organizations and with the approval of EPA, determines that this allocation would not result in significant participation by these organizations. The test, or the burden of proof against the passthrough, is necessarily high and difficult to make, because EPA and the States have, in the past, resisted the intent of Congress. I hope that this will be the last time that Congress will have to clarify an intent which was already quite clear in both the 1981 amendments and the legislative history.

Mr. Speaker, again I commend all my colleagues who participated in bringing this conference agreement to the House floor. As one who participated at the staff level in writing the landmark Federal Water Pollution Control Act Amendments of 1972, I can attest that this bill keeps faith with that act, and will enhance its objective of restoring and maintaining the chemical, physical, and biological integrity of the Nation's waters.

I urge all my colleagues to support it, and the President to sign it into law.

Mr. STANGELAND. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker I rise in strong support of this legislation.

Mr. Speaker, I want to use the occasion of the conference report on the Clean Water Act to emphasize a point relative to the enforcement of the act by the Environmental Protection Agency.

We are all aware of the fact that a major issue with this bill is the level of funding authorized for the Construction Grants Program. Even at the amount authorized in the conference report, which the administration threatens to veto because it is too high, funds for this program will be more limited than ever.

There is no question that this will put many local communities in a very difficult position, as they attempt to meet Federal deadlines for compliance without Federal assistance, or with a much lower level of Federal assistance.

In many cases, these communities are at the final stage of compliance with Federal regulation, the construction phase. The step 1 and step 2 studies and plans, however, were done in a different "era"—an era of plenteous Federal funding and "imprecise" Federal deadlines. As a result, the studies and the construction plans may not have been done with the same eye toward construction costs and cost effectiveness as would be the case when 75 percent Federal funding is not available.

Much has changed. The 1981 changed in the law and the resulting EPA regulations have brought some flexibility to municipal requirements. There are new technologies available which can achieve the level of secondary treatment required which were not available 5–8 years ago. And overriding everything is the reduction in Federal funds, which has brought a new, and proper, realization of the costs of these projects and consideration of the cost effectiveness of various approaches to meeting the discharge requirements.

These changes make it incumbent on EPA to adopt an equitable and reasonable approach to achieving compliance by local communities, particularly smaller communities which not only lack the resources to construct these plants on their own, but, as EPA has noted, in most cases represent the least threat to the quality of our rivers and lakes.

Unfortunately, it is not being done that way. I have one of those communities in my own district. The step 1 and step 2 stages were completed in the days when Federal funds were plentiful. With the blessing of the enforcement agencies, the city delayed construction until it could move up the State priority list and be eligible for 75 percent Federal funding. Then suddenly last year, the enforcement agency demanded that the city sign a consent agreement setting forth a construction schedule, without any guarantee of Federal funds.

When they refused because the cost of the plant, under the plans which had been completed years earlier, would more than double the local tax burden, if the city was required to finance the entire plant itself, the EPA "lowered the boom"—filing suit against the city in Federal district court. In subsequent discussions, the EPA has insisted that the only issue is over penalties for noncompliance, which it is insisting upon, despite the fact that penalties would obviously only make it more difficult for the city to achieve compliance.

I say to the EPA and to my colleagues here—this is not the way to get things done. It will do no good, and it will not get the water any cleaner to do business in this way. EPA should focus on the goal, which is to protect the quality of our water, and to lend its considerable expertise to achieving this goal by working with, not against, communities in this position. It has taken the intervention of the court to permit the city, at its own expense, to redo the studies and possibly come up with alternative plans.

These are things EPA should be assisting in, because we are no longer in that era when the Federal Government will pick up the tab for 75 percent of the costs. So I urge the EPA to spend its efforts at helping these communities find solutions to these problems. It is quite obvious that if EPA does not take this approach, but insists on arbitrary deadlines and seeks penalties rather than affordable solutions, then we in this body will be under increasing pressure to once again delay the statutory deadlines for compliance.

Mr. STANGELAND. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I thank the gentleman for yielding me this time and want to congratulate the conferees on the successful conclusion of the conference on this most important piece of legislation. I think you have done extremely well, and I urge the Members to support you and pass the bill

As the ranking minority member on the Appropriations Subcommittee for EPA, I know many of the problems you faced in crafting this legislation, and I think you have done an excellent job. I know that the administration would have liked to have a lot sooner the start of a revolving fund with the loan mechanism replacing the grant mechanism. But, frankly, I think you did a wise thing in taking your time in putting that into effect, because I think there are some real problems as to whether some of the communities involved, particularly some of the smaller communities, are going to be able to use that mechanism effectively. I think that we have to recognize that during the course of time that this legislation was under consideration that tax law changed very considerably, and the possibility of using private operators who could benefit from the investment tax credit and the accelerated costs recovery system is now gone. I think we are going to have to take a good hard look during the time that you have given us in the bill that you have brought before us before we begin this revolving fund and the replacement of the grants with loans kicked in. I think we are going to have to use that time to see if everyone who needs to help that this bill offers will be able to use that substitute mechanism.

So I congratulate the conferees on their product, and I urge all the Members of the House to support the conference report.

□ 1835

Mr. ROE. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. BEVILL]

Mr. BEVILL. Mr. Speaker, I thank the chairman for yielding to me so that we may enter into a colloquy here regarding H.R. 6.

I want to commend Chairman HOWARD and ranking minority member, Mr. SNYDER, and Chairman ROE here as well as ranking minority member, Mr. STANGELAND regarding H.R. 6, the public works authorization bill.

As everyone knows, we have been waiting now for 16 years for an authorization bill, and I want to commend the committee and the subcommittee for what they have done, because they passed legislation through this body for at least four times in the last 8 years; but for the last 16 years we have not had a bill, and we are right on the verge, I know, of having one now, and I commend all the Members for the tremendous work they have done.

Mr. Speaker, I do not know of any committee or subcommittee in this Capitol that has worked longer and harder hours in putting this piece of legislation together, and I do not know one that is more needed in this country than that piece of legislation.

So this is why I am asking you if you would give us a status report of where we are. I know the other body has passed it; we passed it first and they passed it this time for the first time—the other body has been unable to get the bill through. This is a matter most urgent to our Nation, and I would appreciate it if the gentleman could give us a report.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I appreciate the kind words the gentleman from Alabama [Mr. BEVILL] expressed on behalf of our committee, Mr. HOWARD and myself, Mr. STANGELAND, Mr. SNYDER, and the other members of our committee. We have worked assiduously hard, as you know, for 3 years on this legislation, and we have concluded our work.

This body, our House, and the other body have passed the bill overwhelmingly. We have completed our work in conference with the exception of just one item, which has to do with the vessel tax issue, which is the 0.04-percent ad valorem tax in the added diesel fuel tax on the inland waterway transportation operations.

It would not take more than 15 minutes to pass that, because that program was agreed to by everybody, both in the House and the Senate. We are waiting for the Committee on Ways and Means to make that move.

As the gentleman knows, we have been waiting for a week now, and our problem is that if we cannot get that done we are going to lose out simply because we cannot file the report until Ways and Means acts.

But we are confident; I have talked to the chairman of that committee. Chairman HOWARD has talked to the chairman of that committee, and we are confident that it will be moving soon.

Mr. BEVILL. I thank the gentleman.

Mr. STANGELAND. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON. Mr. Speaker, I rise in strong support of the Clean Water Act and want to commend the gentleman from New Jersey [Mr. ROE], the gentleman from Minnesota [Mr. STANGELAND], the chairman of the committee, the gentleman from New Jersey [Mr. HOWARD], and the gentleman who serves admirably as our ranking member, Mr. SNYDER of Kentucky, on their leadership over so many years in bringing this bill to final passage.

Under Mr. ROE's and Mr. STANGELAND's leadership, we did not just recycle the last Congress' proposal this year, but went through every section and reviewed every "t" and every "i," as Mr. ROE likes to say, and reevaluated the merits of each section. That painstaking approach improved the bill considerably and so we have before us a fine piece of legislation that will assure continued progress toward cleaning up the waterways of our Nation.

I rise in very strong support of the Construction Grant Program. It is extraordinarily important because it will move along projects that will have an impact on the quality of water for decades ahead and make some of the communities I represent to expand industrial parks and attract new jobs. The provisions that streamline the program to deal with those situations in which storm-water systems are not separate from sewers will have enormous impact on the older urban areas of the Nation, where storm-water overflow is in many instances the leading cause of major pollution in our rivers.

The new nonpoint source pollution program is also an important step forward.

In all, Mr. Speaker, this is an excellent bill, carefully thought out, and I commend the leadership for their staying power as well as their very strong commitment to the quality of our environment.

In closing, let me say that the staff on both sides have done an outstanding job. They have put in many overnight stands on this bill, and I commend our staff members as well as the leadership of the committee and urge the support of my colleagues of this Clean Water Act.

Mr. ROE. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I rise in strong support of the bill. I would start by thanking Mr. STANGELAND and Mr. ROE. They have been excellent to deal with; they have been meticulous in their preparation, and they have prepared a bill that is fiscally sound and environmentally responsible.

Particularly, I want to address a question of the cleanup of the tributaries and harbors in the Great Lakes. I think that this is a meaningful inclusion in this bill. We have a serious problem in northwest Indiana.

I would urge all Members to strongly support this bill and again conclude by thanking Mr. ROE and Mr. STANGELAND for their outstanding leadership on this issue.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Speaker, I rise in support of the conference report on the Clean Water Act amendments of 1986. I would like to express my pleasure in being able to join my colleagues in considering this vital legislation to restore our Nation's water resources and ensure the protection of the quality of our rivers, our streams, and our lakes.

I am pleased that the conference agreement contains a key provision, I initiated which was approved by the House last year, that will have important implications for the residents of Pitman, NJ. This important clean lakes section authorizes funds for improving the water quality of our Nation's lakes by funding demonstration programs at a number of contaminated lakes across the Nation and providing grants to the States for controlling nonpoint sources of pollution which are contributing to the degradation of water quality in lakes.

The clean lakes section authorized $3.5 million to clean up Alcyon Lake which adjoins Lipari Landfill in Pitman, NJ. Lipari has the dubious distinction of being the No. 1 site on the Superfund national priority list.

In January 1980, Pitman residents were officially told what they had suspected for a long time—that the lake where their children swam and played was contaminated with cancer causing chemicals. Alcyon Lake was closed at the time because a known carcinogen, BCEE [Bis-2-dichlorethyl ether], was found in the water. Analyses confirmed the worst fears of Pitman residents: toxic contaminants had indeed leached from Lipari landfill.

Currently, EPA is in the process of implementing their plan to clean up Lipari landfill by flushing water through the landfill for a number of years in order to remove the chemicals. I have, on many occasions, expressed my concern about this chosen process because of the uncertainty of its effectiveness, and because of the doubts that this process will truly clean Lipari and conform to the strict cleanup standards contained in the Superfund reauthorization.

To this point, however, EPA has still not released a plan to deal with the off-site contamination which includes Alcyon Lake. This $3.5 million will speed the recovery of Alcyon Lake by funding the removal and disposal of contaminated sediments in the lake. Once the project is completed, a report must be submitted to Congress recommending further cleanup measures. With this funding, there can be no further excuse to delaying the cleanup of Alcyon Lake.

Once again, the citizens of Pitman should be able to fish and swim safely in this body of water. This is a strong effort to restore Alcyon Lake as an environmentally sound natural resource, and a source of recreation, pride and beauty to the residents of Pitman and Gloucester county.

I commend the conferees, and especially my colleagues from New Jersey, Mr. HOWARD and Mr. ROE, for including this vital section in the conference agreement and for their perseverance over these many months to bring this agreement up for consideration. I urge my colleagues to join in supporting these efforts.

Mr. STANGELAND. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, let me say this: I want to again commend my chairman, Mr. ROE, with whom I have worked so closely on this legislation; and just salute him for the outstanding job he has done; the tenacity he has shown; and then commend the full water resources staff.

I will not name them all, but particularly Errol Tyler from the majority side, and John Doyle from the minority side, who have worked side-by-side with Mr. ROE as this bill has gone through the process. It would not be here if it was not for the further tenacity of the gentlemen from New Jersey and the fact that our Senate colleagues worked together in conference to bring this to us.

This bill passed the House 340 to 83, the clean water bill, H.R. 8, and I would urge all of my colleagues to vote as the gentleman from New Jersey [Mr. FLORIO] said, unanimously for this. It is one of the soundest pieces of environmental legislation that this Congress will have a right to pass.

Mr. Speaker, I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I yield myself the balance of my time. I want to conclude for our side and thank the staff particularly, who have done an outstanding job. There has been a great group of people who have worked over the years, particularly again, Mr. Errol Tyler and Mr. John Doyle, who are two leading staff members.

I certainly want to thank Mr. STANGELAND and Mr. SNYDER, and our full committee chairman, Mr. HOWARD, for all their work, and Dick Sullivan, our chief counsel, and all those that did so much on the bill. The conferees, and all the members of the committee.

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I think that the House should review this bill as being critical to the future of this country, the water supply of this Nation, which is first and foremost for the health of the people of our country, and I would urge a unanimous vote by the House on this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. TOWNS. Mr. Speaker, as a conferee on H.R. 8, I want to ensure my colleagues that we worked long and hard, in a bipartisan fashion to develop a good bill. I believe the conference report on the Clean Water Reauthorization Act reflects the conferees effort to develop a balanced allocation formula for all States, a progressive change in the law on stormwater discharges along with a number of specific projects which are needed in various communities throughout this country to preserve a high standard of water quality. I am particularly pleased that the conference report retained House language to reimburse Brooklyn Union Gas for utility relocation costs in Brooklyn and Queens. Because of this provision, utility costs will be reduced to consumers in these areas. Finally, I would add that I hope that our work has not been in vain. I hope that the President will sign this bill; that he will not deprive communities around this Nation from the construction funds they need to improve or maintain good water quality. This is legislation that cities and counties have clamored for for the last 2 years. I hope that they will not be disappointed.

Mr. MOLINARI. Mr. Speaker, I would like to commend the conferees for completing work on the reauthorization of the Clean Water Act. This is an important step forward in our effort to safeguard our Nation's rivers, lakes, and estuaries. I am, however, very disappointed that my amendment to channel additional funds to the Interstate Sanitation Commission [ISC] was deleted from the final conference agreement.

During committee consideration of H.R. 8, the clean water reauthorization bill, I succeeded in attaching an amendment to the bill to earmark an additional $2 million for the ISC. These funds would come from New York, New Jersey, and Connecticut, the three States that the ISC serves. The ISC amendment had the solid backing of the House conferees, but was adamantly resisted by the other body's conferees. Finally, after it became evident that the other body would not even consider a compromise on this matter, the House conferees were forced to drop the ISC amendment from the conference report.

Mr. Speaker, let me stress that the additional funding called for under my amendment is crucial for the ISC. By way of background, the ISC is an environmental agency established by an interstate compact among New York, New Jersey, and Connecticut. The ISC has regulatory jurisdiction over water quality in the tidal waters of northeastern New Jersey, southeastern New York and southwestern Connecticut. ISC monitors water quality in the tristate area and has certain enforcement authority. In addition, ISC conducts an air quality monitoring program, although it has no enforcement authority in this regard.

Although ISC's responsibilities are extensive, its budget has traditionally been inadequate. Despite, these budget constraints, ISC has been able to perform a number of valuable tasks. Allow me to list some of these: First, ISC samples discharges from sewage treatment plants and industries in the tristate area more than the State agencies. In fact, New Jersey has left sampling almost exclusively to ISC; second, ISC performs routine sampling within the Interstate Sanitation district almost exclusively on an on-going basis; third, The ISC has reviewed approximately 301(h) waivers and denied concurrence in all instances. ISC's position on these waivers prevailed and none were issued; fourth, The commission is the coordinator of the regional high air pollution warning system for the tristate air quality control region; and, fifth, ISC is the only agency that logs and investigates air pollution complaints of an interstate nature.

Mr. Speaker, with adequate funding, ISC could do much more to protect the environment of the tristate region. In the area of air pollution, which is a serious problem in my district, ISC officials estimate that in 6 to 8 months the agency could develop its own air enforcement regulations and get an enforcement program underway. ISC believes that the first enforcement action could be undertaken at the end of the first year or the beginning of the second year of the program. However, without the additional moneys called for under my amendment, it will be extremely difficult for the ISC to establish such an air enforcement program. Indeed, many other valuable ISC environmental programs will probably have to be foregone because of insufficient funding.

Mr. Speaker, although I am disappointed that my ISC amendment was not included in the conference report, I would like to express my gratitude to Chairman ROE and the other House conferees for their strong and persistent support for the amendment. Their dedication to this worthy cause is most appreciated.

Mr. McCAIN. Mr. Speaker, I rise in strong support of the reauthorization of the Clean Water Act. The lack of reauthorization has resulted in delays and postponements in cleaning up our Nation's lakes, rivers and streams.

The enactment of this legislation will enable our communities to plan and to construct sewage treatment plants which are so essential to my own State of Arizona where the protection of our precious ground water supplies is so very critical.

This legislation represents Congress' commitment to our environment and to our future water supplies. The funding provided for in this legislation in loans and grants for new, publicly owned treatment plants over the next 8 years is the cornerstone of this measure and I feel will enable us to achieve the goal of having all domestic waste treated before being discharged into the Nation's waterways.

Mr. Speaker, this is a strong but a balanced bill. It deserves all of our support, not only for those we represent today, but more importantly for those who will inherit our Nation's resources. I urge my colleagues support for this urgently needed, and long overdue legislation.

Mr. HOWARD. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOWARD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 24, as follows:

[Roll No. 470]

YEAS—408

Abercrombie	Coble	Ford (TN)
Ackerman	Coelho	Frank
Akaka	Coleman (MO)	Franklin
Alexander	Coleman (TX)	Frenzel
Anderson	Collins	Frost
Andrews	Combest	Fuqua
Annunzio	Conte	Gallo
Anthony	Cooper	Garcia
Applegate	Coughlin	Gaydos
Archer	Courter	Gejdenson
Armey	Coyne	Gekas
Aspin	Craig	Gephardt
Atkins	Crane	Gibbons
AuCoin	Crockett	Gilman
Barnard	Daniel	Gingrich
Barnes	Dannemeyer	Glickman
Bartlett	Darden	Gonzalez
Barton	Daschle	Goodling
Bateman	Daub	Gordon
Bates	Davis	Gradison
Bedell	de la Garza	Gray (IL)
Beilenson	DeLay	Gray (PA)
Bennett	Dellums	Green
Bentley	Derrick	Gregg
Bereuter	DeWine	Guarini
Berman	Dickinson	Gunderson
Bevill	Dicks	Hall (OH)
Biaggi	Dingell	Hall, Ralph
Bilirakis	DioGuardi	Hamilton
Bliley	Dixon	Hammerschmidt
Boehlert	Donnelly	Hatcher
Boggs	Dorgan (ND)	Hawkins
Boland	Dornan (CA)	Hayes
Boner (TN)	Dowdy	Hefner
Bonior (MI)	Downey	Hendon
Bonker	Dreier	Henry
Borski	Duncan	Hertel
Bosco	Durbin	Hiler
Boucher	Dwyer	Hillis
Boulter	Dymally	Holt
Boxer	Dyson	Hopkins
Broomfield	Early	Horton
Brown (CA)	Eckart (OH)	Howard
Brown (CO)	Edgar	Hoyer
Bruce	Edwards (CA)	Hubbard
Bryant	Edwards (OK)	Huckaby
Burton (CA)	Emerson	Hughes
Burton (IN)	English	Hunter
Bustamante	Erdreich	Hutto
Byron	Evans (IA)	Hyde
Callahan	Evans (IL)	Ireland
Carney	Fascell	Jacobs
Carper	Fawell	Jeffords
Carr	Fazio	Jenkins
Chandler	Feighan	Johnson
Chapman	Fiedler	Jones (NC)
Chappell	Fields	Jones (TN)
Chappie	Fish	Kanjorski
Cheney	Flippo	Kaptur
Clay	Florio	Kasich
Clinger	Foglietta	Kastenmeier
Coats	Foley	Kemp
Cobey	Ford (MI)	Kennelly

Kildee	Neal	Smith (NJ)
Kleczka	Nelson	Smith, Denny (OR)
Kolbe	Nielson	Smith, Robert (NH)
Kolter	Nowak	Smith, Robert (OR)
Kostmayer	Oakar	Snowe
LaFalce	Oberstar	Snyder
Lagomarsino	Obey	Solarz
Lantos	Olin	Solomon
Leach (IA)	Ortiz	Spence
Leath (TX)	Owens	Spratt
Lehman (CA)	Packard	Staggers
Lehman (FL)	Panetta	Stallings
Leland	Parris	Stangeland
Lent	Pashayan	Stark
Levin (MI)	Pease	Stenholm
Levine (CA)	Penny	Stokes
Lewis (CA)	Pepper	Strang
Lewis (FL)	Perkins	Stratton
Lightfoot	Petri	Studds
Lipinski	Pickle	Stump
Livingston	Porter	Sundquist
Lloyd	Price	Sweeney
Loeffler	Pursell	Swift
Lott	Quillen	Swindall
Lowery (CA)	Rahall	Synar
Lowry (WA)	Rangel	Tallon
Lujan	Ray	Tauke
Luken	Regula	Tauzin
Lungren	Reid	Taylor
Mack	Richardson	Thomas (CA)
MacKay	Ridge	Thomas (GA)
Madigan	Rinaldo	Torres
Manton	Ritter	Torricelli
Markey	Roberts	Towns
Marlenee	Robinson	Traficant
Martin (IL)	Rodino	Traxler
Martin (NY)	Roe	Udall
Martinez	Roemer	Valentine
Matsui	Rogers	Vander Jagt
Mavroules	Rose	Vento
Mazzoli	Rostenkowski	Visclosky
McCandless	Roth	Volkmer
McCloskey	Roukema	Vucanovich
McCollum	Rowland (CT)	Waldon
McCurdy	Rowland (GA)	Walgren
McDade	Roybal	Walker
McGrath	Russo	Watkins
McHugh	Sabo	Waxman
McKernan	Savage	Weaver
McKinney	Saxton	Weber
McMillan	Schaefer	Wheat
Meyers	Scheuer	Whitehurst
Mica	Schneider	Whitley
Michel	Schroeder	Whittaker
Mikulski	Schuette	Whitten
Miller (CA)	Schulze	Williams
Miller (OH)	Schumer	Wilson
Miller (WA)	Seiberling	Wirth
Mineta	Sensenbrenner	Wise
Mitchell	Sharp	Wolf
Moakley	Shaw	Wolpe
Molinari	Shelby	Wortley
Mollohan	Shumway	Wright
Monson	Shuster	Wyden
Montgomery	Sikorski	Wylie
Moody	Siljander	Yates
Moorhead	Sisisky	Yatron
Morrison (CT)	Skeen	Young (AK)
Morrison (WA)	Skelton	Young (FL)
Mrazek	Slattery	Young (MO)
Murphy	Slaughter	Zschau
Murtha	Smith (FL)	
Myers	Smith (IA)	
Natcher	Smith (NE)	

NAYS—0

NOT VOTING—24

Badham	Hansen	McCain
Breaux	Hartnett	McEwen
Brooks	Jones (OK)	Moore
Campbell	Kindness	Nichols
Conyers	Kramer	Oxley
Eckert (NY)	Latta	Rudd
Fowler	Long	St Germain
Grotberg	Lundine	Weiss

□ 1900

Messrs. FAWELL, ARMEY, and CRANE changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. ROE

Mr. ROE. Mr Speaker, I move that the House insist on its amendment to the title of S. 1128.

The motion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on the conference report just agreed to.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ESTABLISHING THE BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR IN MASSACHUSETTS AND RHODE ISLAND

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate bill (S. 1374) to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota [Mr. VENTO] to explain the legislation.

Mr. VENTO. Mr. Speaker, I intend to offer a House amendment in the nature of a substitute to S. 1374 as a refinement of the Senate measure. Language has been included to further delineate the appropriate Federal-State-local partnership role in the planning and preservation efforts needed to retain and enhance the important resources of the 46-mile Blackstone River Valley in Massachusetts and Rhode Island. The amendment further reflects a substantial decrease in Federal costs, by limiting the amount of funds authorized to $250,000 annually for the next 5 fiscal years, with the stipulation that the Federal contribution to this undertaking cannot exceed 50 percent of the operating costs of the Commission established by this legislation.

The Blackstone River Valley was the subject of a joint study undertaken in 1984 by the National Park Service and the States of Massachusetts and Rhode Island. That study found important cultural, historical and natural resources of the valley that were in need of preservation and enhancement efforts. S. 1374, as amended, can provide the stimulus to achieve these results in a cooperative effort involving the public and all levels of government.

Mr. Speaker, I would like to take this opportunity to commend Mr. EARLY and Mr. ST GERMAIN, as well as the other members of the Massachusetts and Rhode Island delegations, for their willingness to work with the committee to address several concerns that had been raised with this legislation.

I believe S. 1374, with the House amendment, is a substantial improvement from the original proposals that were put forward, and I support adoption of the measure.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I rise in support of the amended version of S. 1374 before us today. As the subcommittee chairman has explained, this bill seeks to preserve the cultural, historical, recreational, and economic resources of the Blackstone River Valley corridor by establishing the Blackstone River Valley National Heritage Corridor and Commission in the States of Rhode Island and Massachusetts.

I want to commend the chairman of the subcommittee for his amendments to the Senate-passed bill. I believe they substantially improve this legislation by placing the responsibility for protection and management of the resources in the corridor upon the States, rather than the Federal Government. The Secretary of the Interior will provide technical and financial assistance, but the corridor commission must also obtain State and private assistance. I believe it is important that for resources, such as those in the Blackstone River Valley corridor, which lack the integrity necessary for inclusion in our National Park System, the Federal Government not take the primary role in their preservation and management. This is much more appropriately a State and local role, and I am pleased that we are establishing this fact in S. 1374. I certainly hope this will be the case for future legislation of a similar nature.

With these amendments, I believe this is a good proposal and I urge my colleagues to support it.

Mr. EARLY. Mr. Speaker, I rise in strong support of the pending legislation to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island. This bill will provide national recognition to the Blackstone River Valley, the "cradle of the American industrial revolution."

I would like to thank the distinguished chairman of the subcommittee, Mr. VENTO, and the ranking minority member, Mr. LAGOMARSINO, for their efforts in bringing this legislation to the House floor. I would also like to say that it was, once again, a pleasure working with my

good friend from Rhode Island, Mr. ST GERMAIN, to bring a Blackstone River Valley National Heritage Corridor another step closer to fruition.

The purpose of this measure is to preserve the historical and cultural resources of the Blackstone River Valley Corridor for the benefit of present and future generations and to share with them its significant contributions to our national heritage.

This legislation is an outgrowth of a study conducted by the National Park Service to assist Massachusetts and Rhode Island with their effort to develop a linear park system along the Blackstone River from Worcester,, MA to Providence, RI.

The Blackstone River Valley is rich in history, natural beauty and cultural traditions. Indeed, English settlements in the area began in 1635.

The National Park Service has determined that the Blackstone Valley Corridor is of national significance to American industrial history. Three factors distinguish the valley from other industrial regions. It was the first such region in the United States; the first widespread use of water power for industry occurred on the Blackstone and Branch Rivers; and it was where the Rhode Island system of manufacturing was developed.

The technology and organization of manufacturing pioneered in the Blackstone Valley influenced industrial development in the rest of our young country. As home of the Rhode Island system, a distinct tradition in manufacturing, the valley is unique. The textile manufacturing centers which developed in Worcester, Hopedale, Northbridge, and Millbury, MA, and in Pawtucket and Providence, RI, constituted one of the most important machine-making districts in the Nation.

The Blackstone Canal, built in the 1820's, was an important canal in its own right in early America, contributing to the growth and commercial prominence of Worcester and Providence, now the second and third largest cities in New England.

The mills, villages, transportation networks, and social history of the early settlers of this area tell the story of the industrialization of 18th and 19th century America. The valley offers an invaluable resource for the study and appreciation of the community life and work place in industrial America.

Over the decades, economic decline has taken its toll and much of the industry has vanished, but its cultural heritage has not. Massachusetts and Rhode Island have already begun a cooperative effort to revitalize the corridor and preserve and interpret the unique and significant contributions of the Blackstone Valley to our heritage—marshaling their own energies and resources.

This legislation would provide a framework to assist Massachusetts and Rhode Island in the development and integration of cultural, historical, and land resource management programs in the corridor. It will facilitate protection and enhancement of the corridor's historical, cultural, and natural resources, as well as opportunities for recreational activities. It will provide a stimulus for needed economic revitalization.

National designation will provide an important impetus in achieving these goals. A partnership among the National Park Service, the Commonwealth of Massachusetts, and the State of Rhode Island will assist the Blackstone River Valley Corridor in realizing its potential—not only for the benefit of residents of Massachusetts and Rhode Island, but it will also help to preserve an important part of our heritage for all Americans.

I urge your support for this worthwhile legislation.

Mr. VENTO. Mr. Speaker, S. 1374 would authorize the creation of a Blackstone River Valley National Heritage Corridor in the States of Massachusetts and Rhode Island. At the appropriate point, I intend to offer an amendment in the nature of a substitute to S. 1374 that is a refinement of the Senate measure. The amendment involves a substantial rewrite of portions of S. 1374, and for that reason I would like to explain in detail for the Members the substance of the amendment.

Language has been included in the amendment to further delineate the appropriate Federal-State-local partnership role in the planning and preservation efforts needed to retain and enhance the important resources of the 46-mile Blackstone River Valley in Massachusetts and Rhode Island. This was accomplished by including a provision for the Governors of the two States, as well as the Secretary, to approve the more comprehensive Cultural Heritage and Land Management Plan to be developed by the Blackstone River Valley National Heritage Corridor Commission established by the legislation. In addition, the amendment adds provisions to spell out the plan approval process for the Secretary.

As passed by the other body, S. 1374 would have permitted the Commission to set the corridor's boundaries. Rather than permit an unspecified boundary, the substitute includes a map reference specifying the corridor's boundaries. This was done with the understanding that the National Heritage Corridor would encompass those lands identified in the park plans developed by the Massachusetts and Rhode Island Departments of Environmental Management.

The role of the Secretary of the Interior is refined by the amendment. S. 1374 required the Secretary, in addition to approving the plan, to detail two employees to the Commission and carry out certain direct duties in the Corridor. The amendment, instead, specifies that the role of the Secretary is one of providing technical assistance to the Commission and State and local governments in developing and implementing plans for the preservation and enhancement of the corridor's resources.

The amendment further reflects a substantial decrease in Federal costs, by limiting the amount of funds authorized to $250,000 annually for the next 5 fiscal years, with the stipulation that the Federal contribution to this undertaking cannot exceed 50 percent of the operating costs of the Commission established by this legislation. If non-Federal interests match the Federal contribution to the Commission, the available pool of money would be equal to the $500,000 that was originally provided for in S. 1374. Additionally, in keeping with the Secretary's technical assistance role, the $75,000 in annual funding for the Secretary is eliminated, since the Secretary can provide these services under existing authorities.

I would note that the $250,000 authorized under the amendment is intended for the Commission's operating costs in preparing and implementing the plan called for by this legislation. In deleting funds for acquiring lands and renovating structures, it is understood that the acquisition of State and local park lands in the area are eligible for funding under the State Grant Program of the Land and Water Conservation Fund Act. Likewise, programs for the restoration of historic structures are eligible for funding under the National Historic Preservation Act, as well as the more direct incentives provided by the historic preservation tax credits.

The Blackstone River Valley was the subject of a joint study undertaken in 1984 by the National Park Service and the States of Massachusetts and Rhode Island. That study found important cultural, historical, and natural resources of the Valley that were in need of preservation and enhancement efforts. S. 1374, as amended, can provide the stimulus to achieve these results in a cooperative effort involving the public and all levels of government.

Mr. Speaker, I would like to take this opportunity to once more commend Mr. EARLY and Mr. ST GERMAIN, as well as the other Members of the Massachusetts and Rhode Island delegations, for their willingness to work with the committee to address several concerns that had been raised with this legislation.

I believe S. 1374, with the House amendment, is a substantial improvement from the original proposals that were put forward, and I support adoption of the measure.

Mr. Speaker, I withdraw my reservation objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Blackstone River Valley National Heritage Corridor Act of 1985".

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress makes the following findings:

(1) The Blackstone River Valley has significance as the cradle of the American Industrial Revolution. The valley was the first to experience widespread use of waterpower for industry. Independent entrepreneurs developed the Rhode Island system of manufacturing, employing families in the making of textiles, and other industrial goods.

(2) Because of the influence of Roger Williams and, later, the growth of transportation networks and the textile industry, the Blackstone Valley developed great ethnic and religious diversity. The cultural heritage of these groups is still preserved in the villages and cities of the Blackstone Valley.

(3) There are many historic buildings, structures, and districts remaining in the Blackstone Valley which represent the his-

tory of the birth and growth of the textile industry and the transportation revolution from land to water to railroad. In Rhode Island, there are 26 National Register Districts, including the Blackstone Canal and 13 mill villages, and 89 structures listed in the National Register. Massachusetts has 7 National Register Districts and 57 structures listed in the National Register.

(4) The corridor was once one of the most heavily industrialized regions of the Nation and has potential for further economic expansion and modernization. The area in which the corridor is located is currently experiencing high rates of unemployment and industrial migration. Establishment of the corridor as provided in this Act may provide the stimulus required to retain existing industry and to provide further industrial growth and commercial revitalization.

(5) Despite efforts by the State, political subdivisions of the State volunteer associations and private business, the cultural, historical, natural, and recreational resources of the corridor have not realized full potential. Their value will be enhanced with assistance from the Federal Government.

(b) PURPOSE.—The purpose of this Act is to retain, enhance, and interpret, for the benefit and inspiration of present and future generations, the cultural, historical, recreational, and economic resources of the corridor, where feasible, consistent with industrial and economic growth.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "Commission" means the Blackstone River Valley National Heritage Corridor Commission established in section 5;

(2) the term "corridor" means the Blackstone River Valley National Heritage Corridor established in section 4(a);

(3) the term "plan" means the Cultural Heritage Plan submitted to the Secretary by the Commission pursuant to section 9; and

(4) the term "Secretary" means the Secretary of the Interior.

ESTABLISHMENT OF NATIONAL HERITAGE CORRIDOR

SEC. 4. (a) ESTABLISHMENT.—To carry out the purposes of this Act, there is established the Blackstone River Valley National Heritage Corridor.

(b) BOUNDARIES.—The boundaries of the corridor shall be determined by the Commission, in consultation with the Governor of Massachusetts and the Governor of Rhode Island.

(c) ADMINISTRATION.—The corridor shall be administered in accordance with the provisions of this Act.

ESTABLISHMENT OF BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

SEC. 5. There is established a commission to be known as the Blackstone River Valley National Heritage Corridor Commission which shall carry out the duties specified in section 9.

ORGANIZATION OF COMMISSION

SEC. 6. (a) MEMBERSHIP.—The Commission shall be composed of nineteen members appointed by the Secretary as follows:

(1) The Director of the National Park Service, ex officio, or a delegate;

(2) six individuals nominated by the Governors of Rhode Island and Massachusetts and appointed by the Secretary, who shall be: the Department of Environmental Management Directors from Rhode Island and Massachusetts, the State Historic Preservation Officers from Massachusetts and Rhode Island, and the Department of Economic Development Directors from Massachusetts and Rhode Island;

(3) four representatives of local government from Massachusetts and four from Rhode Island nominated by the Governor of their State and appointed by the Secretary, to represent the interests of local government;

(4) two individuals, nominated by the Governor of Massachusetts and two individuals nominated by the Governor of Rhode Island appointed by the Secretary, to represent other interests each Governor deems appropriate.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) TERMS.—Members of the Commission shall be appointed for terms of three years.

(c) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission.

(e) QUORUM.—(1) Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

(3) The affirmative vote of not less than ten members of the Commission shall be required to approve the budget of the Commission.

(f) MEETINGS.—The Commission shall meet at least quarterly at the call of the chairperson or ten of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

STAFF OF COMMISSION

SEC. 7. (a) DIRECTOR AND STAFF.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the minimum rate of basic pay payable for level GS-13 of the General Schedule.

(2) The Commission may appoint up to two additional staff personnel and may pay such staff at rates not to exceed the minimum rate of basic pay payable for level GS-13 of the General Schedule. Such staff may include specialists in areas such as interpretation, historic preservation, recreation, conservation, commercial and industrial development and revitalization, financing, and fundraising.

(3) Except as otherwise provided in this subsection, such Director and staff—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties under section 9.

(2) The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or such political subdivision for such services.

POWERS OF COMMISSION

SEC. 8. (a) HEARINGS.—(1) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpenas or exercise any subpena authority.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) GIFTS.—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1954, any gift to the Commission shall be deemed to be a gift to the United States.

(g) ACQUISITION OF REAL PROPERTY.—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in the corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land managing agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the State of Massachusetts and the State of Rhode Island, with any political subdivision of each State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State of Massachusetts and the State of Rhode Island, such political subdivision, or such person which may affect the implementation of the plan.

(i) ADVISORY GROUPS.—The Commission may establish such advisory groups as the Commission deems necessary to ensure open communication with, and assistance from, the State of Massachusetts and the State of Rhode Island, political subdivisions of the State of Massachusetts and the State of Rhode Island, and interested persons.

DUTIES OF COMMISSION

SEC. 9. (a) PREPARATION OF PLAN.—Within one year after the Commission conducts its first meeting, it shall submit a Cultural Heritage Plan to the Secretary for review and approval for 90 days. The plan shall be based on existing State plans, but shall coordinate those plans and present a unified historic preservation and interpretation plan for the corridor. The plan shall—

(1) define the boundaries of the National Heritage Corridor;

(2) provide an inventory which includes any property in the corridor which should be preserved, restored, managed, developed, maintained, or acquired because of its national historic or cultural significance;

(3) establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of all properties within the corridor; and

(4) develop an historic interpretation plan to interpret the history of the valley.

(b) IMPLEMENTATION OF PLAN.—(1) After review and approval of the plan by the Secretary as provided in subsection (a), the Commission shall implement the plan. In implementing the plan, the Commissions shall give priority to actions which assist in—

(A) preserving and interpreting the historic resources of the valley;

(B) completing State and local parks in the corridor; and

(C) supporting public and private efforts in economic revitalization consistent with the goals of the Cultural Heritage Plan.

(2) Priority actions to be carried out under paragraph (1) shall include—

(A) assisting the States in appropriate preservation treatment of the Blackstone Canal;

(B) assisting the States in designing, establishing, and maintaining visitor centers and other interpretive exhibits in the corridor;

(C) encouraging private landowners adjacent to the canal or river to retain or reestablish, where possible, vegetative, or other buffers as specified in the State park plans;

(D) assisting in the enhancement of public awareness of an appreciation for the historical and architectural and geological resources and sites in the corridor;

(E) assisting the State or any local government or any nonprofit organization in the restoration of any historic building in the corridor;

(F) encouraging, by appropriate means, enhanced economic and industrial development in the corridor consistent with the goals of the plan;

(G) encouraging local governments to adopt land use policies consistent with the goals of the State park and the plan and to take actions to implement those policies; and

(H) ensuring that clear, consistent signs identifying access points and sites of interest are put in place.

TERMINATION OF COMMISSION

SEC. 10. (a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the day occurring five years after the date of the enactment of this Act.

(b) EXTENSION.—The Commission may be extended for a period of not more than five years beginning on the day referred to in subsection (a) if, not later than one hundred and eighty days before such day—

(1) the Commission determines such extension is necessary in order to carry out the purpose of this Act;

(2) the Commission submits such proposed extension to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate; and

(3) the Governor of Massachusetts, the Governor of Rhode Island, and the Secretary each approve such extension.

DUTIES OF THE SECRETARY

SEC. 11. (a) PURPOSE.—To carry out the purpose of this Act, the Secretary shall—

(1) assist the Commission in preparing the Cultural Heritage Plan; and

(2) design and fabricate interpretive materials based on the Cultural Heritage Plan including—

(A) guide brochures for exploring the heritage story of the valley by automobile, train, bicycle, boat, or foot;

(B) visitor displays (including video presentations) at several locations well distributed along the corridor, including both indoor and outdoor displays; and

(C) a mobile display depicting the heritage story to be used in the park, public buildings, libraries, and schools.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon request of the Commission, provide technical assistance to the Commission in carrying out its duties described in section 9, including recommendations concerning appropriate preservation treatment, adaptive re-use, potential strategies for funding, private investors, and tax advantages of rehabilitation of historic structures.

(c) DETAILS FROM INTERIOR.—For each fiscal year of the life of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis up to two employees of the Department of the Interior to enable the Commission to carry out its duties under section 9.

DUTIES OF OTHER FEDERAL ENTITIES

SEC. 12. Any Federal entity conducting or supporting activities directly affecting the corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the corridor.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) There is authorized to be appropriated annually for the next five fiscal years—

(1) to the Commission a sum not to exceed $500,000 to carry out the Commission's duties under this Act; and to be used by the Commission for—

(A) leasing buildings and land;

(B) renovating or restoring structures to serve as visitors centers or interpretive facilities for the heritage corridor; and

(C) preserving the Blackstone Canal and its associated structures; and

(2) to the Secretary a sum not to exceed $75,000 to carry out the Secretary's duties described in Sec. 11(c) and to carry out the Secretary's other duties under this Act.

(b) Any sums appropriated under this section shall remain available until expended.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. VENTO

Mr. VENTO. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by

Mr. VENTO: Page 1, line 3 strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. ESTABLISHMENT OF NATIONAL HERITAGE CORRIDOR.

That for the purpose of preserving and interpreting for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways and structures within the Blackstone River Valley in the States of Massachusetts and Rhode Island there is hereby established the Blackstone River Valley National Heritage Corridor (hereafter in this Act referred to as the "Corridor"). It is the purpose of this Act to provide a management framework to assist the States of Massachusetts and Rhode Island and their units of local government in the development and implementation of integrated cultural, historical and land resource management programs in order to retain, enhance and interpret the significant values of the lands, waters and structures of the Corridor.

SEC. 2. BOUNDARIES AND ADMINISTRATION.

(a) BOUNDARIES.—The boundaries shall include those lands generally depicted on a map entitled Blackstone River Valley National Heritage Corridor, numbered BRV-80,000 and dated October 1986. The map shall be on file and available for public inspection in the office of the Department of the Interior in Washington, D.C. and the Massachusetts and Rhode Island Departments of Environmental Management. The Secretary of the Interior (hereafter referred to as the "Secretary") shall publish in the Federal Register, as soon as practical after the date of enactment of this Act a detailed description and map of the boundaries established under this subsection.

(b) ADMINISTRATION.—The corridor shall be administered in accordance with the provisions of this Act.

SEC. 3. BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the Blackstone River Valley National Heritage

Corridor Commission (hereafter known as the Commission) whose purpose shall be to assist Federal, State and local authorities in the development and implementation of an integrated resource management plan for those lands and waters as specified in section 2.

(b) MEMBERSHIP.—The Commission shall be composed of nineteen members appointed by the Secretary as follows:

(1) the Director of the National Park Service, ex officio, or a delegate;

(2) six individuals nominated by the Governors of Rhode Island and Massachusetts and appointed by the Secretary, who shall be the Department of Environmental Management Directors from Rhode Island and Massachusetts, the State Historic Preservation Officers from Massachusetts and Rhode Island, and the Department of Economic Development Directors from Massachusetts and Rhode Island;

(3) four representatives of local government from Massachusetts and four from Rhode Island nominated by the Governor of their State and appointed by the Secretary, to represent the interests of local government; and

(4) two individuals, nominated by the Governor of Massachusetts and two individuals nominated by the Governor of Rhode Island appointed by the Secretary, to represent other interests each Governor deems appropriate.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) TERMS.—Members of the Commission shall be appointed for terms of three years.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission.

(f) QUORUM.—(1) Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

(3) The affirmative vote of not less than ten members of the Commission shall be required to approve the budget of the Commission.

(g) MEETINGS.—The Commission shall meet at least quarterly at the call the chairperson or ten of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

SEC. 4. STAFF OF THE COMMISSION.

(a) STAFF.—(1) The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) STAFF APPOINTED BY THE COMMISSION—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the services of personnel detailed from the States of Massachusetts and Rhode Island (and any political subdivision thereof) and may reimburse that State or political subdivision for those services.

SEC. 5 POWERS OF COMMISSION.

(a) HEARINGS.—(1) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpoenas or exercise any subpoena authority.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) GIFTS.—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1954, any gift to the Commission shall be deemed to be a gift to the United States.

(g) ACQUISITION OF REAL PROPERTY.—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in the corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land managing agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the State of Massachusetts and the State of Rhode Island, with any political subdivision of each State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State of Massachusetts and the State of Rhode Island, such political subdivision, or such person which may affect the implementaion of the plan.

(i) ADVISORY GROUPS.—The Commission may establish such advisory groups as the Commission deems necessary to ensure open communication with, and assistance from, the State of Massachusetts and the State of Rhode Island, political subdivisions of the State of Massachusetts and the State of Rhode Island, and interested persons.

SEC. 6. DUTIES OF THE COMMISSION.

(a) PREPARATION OF PLAN.—Within one year after the Commission conducts its first meeting, it shall submit a Cultural Heritage and Land Management Plan to the Secretary and the Governors of Massachusetts and Rhode Island for review and approval for 90 days. The plan shall be based on existing State plans, but shall coordinate those plans and present a unified historic preservation and interpretation plan for the corridor. The plan shall—

(1) provide an inventory which includes any property in the corridor which should be preserved, restored, managed, developed, maintained, or acquired because of its national historic or cultural significance;

(2) establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of all properties within the corridor;

(3) develop an historic interpretation plan to interpret the history of the valley;

(4) contain policies for land use management which consider and detail the application of appropriate land and water management techniques, including but not limited to local zoning, use of easements and development of intergovernmental cooperative agreements, so as to protect the Corridor's historical, cultural, scenic and natural resources and enhance water quality of the Blackstone River in a manner consistent with supporting economic revitalization efforts;

(5) contain a coordination and consistency component which details the ways in which local, State and Federal programs may best be coordinated to promote the purposes of this Act; and

(6) contain a program for state and local government implementation of the plan.

(b) APPROVAL OF THE PLAN.—(1) No plan submitted to the Secretary under this section shall be approved unless the Secretary finds that the plan, if implemented, would adequately protect the significant historical and cultural resources of the corridor and consistent with such protection provide adequate and appropriate outdoor recreational opportunities and economic activities within the corridor.

(2) In determining whether or not to approve the Plan, the Secretary shall consider whether:

(A) the Commission has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the plan;

(B) he has received adequate assurances from appropriate State officials that the recommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the plan and such program will ensure effective implementation of the State and local aspects of the plan.

(3) If the Secretary disapproves the plan, he shall advise the Commission in writing of the reasons therefore and shall indicate any recommendations for revisions. Following completion of any necessary revisions to the plan, the Secretary shall have 45 days to either approve or disapprove the plan.

(c) Implementation of the Plan.—(1) After review and approval of the plan by the Secretary and the Governors of Massachusetts and Rhode Island as provided in subsections (a) and (b) the Commission shall give priority to actions which assist in—

(A) preserving and interpreting the historic resources of the valley;

(B) completing State and local parks in the corridor; and

(C) supporting public and private efforts in economic revitalization consistent with the goals of the Cultural Heritage Plan.

(2) Priority actions to be carried out under paragraph (1) shall include—

(A) assisting the States in appropriate preservation treatment of the Blackstone Canal;

(B) assisting the States in designing, establishing, and maintaining visitor centers and other interpretive exhibits in the corridor;

(C) encouraging private landowners adjacent to the canal or river to retain or reestablish, where possible, vegetative, or other buffers as specified in the State park plans;

(D) assisting in the enhancement of public awareness of an appreciation for the historical and architectural and geological resources and sites in the corridor;

(E) assisting the State or any local government or any nonprofit organization in the restoration of any historic building in the corridor;

(F) encouraging, by appropriate means, enhanced economic and industrial development in the corridor consistent with the goals of the plan;

(G) encouraging local governments to adopt land use policies consistent with the goals of the State park and the plan and to take actions to implement those policies; and

(H) ensuring that clear, consistent signs identifying access points and sites of interest is put in place.

SEC 7. TERMINATION OF COMMISSION.

(a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the day occurring five years after the date of the enactment of this Act.

(b) EXTENSION.—The Commission may be extended for a period of not more than five years beginning on the day referred to in subsection (a) if, not later than one hundred and eighty days before such day—

(1) the Commission determines such extension is necessary in order to carry out the purpose of this Act;

(2) The Commission submits such proposed extension to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate; and

(3) the Governor of Massachusetts, the Governor of Rhode Island, and the Secretary each approve such extension.

SEC. 8. DUTIES OF THE SECRETARY.

(a) PURPOSE.—To carry out the purposes of this Act, the Secretary shall assist the Commission in preparing the Cultural Heritage and Land Management Plan. Following approval of the plan as provided under Section 6 (a) and (b) the Secretary shall assist the Commission to design and fabricate interpretive materials based on the plan including—

(A) guide brochures for exploring the heritage story of the valley by automobile, train, bicycle, boat, or foot;

(B) visitor displays (including video presentations) at several locations well distributed along the corridor, including both indoor and outdoor displays; and

(C) a mobile display depiciting the heritage story to be used in the park, public buildings, libraries, and schools.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon request of the Commission, provide technical assistance to the Commission in the preparation of the plan and for implementing the plan as set out in Section 6(c).

SEC. 9. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the corridor.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated annually to the Commission $250,000 for the next five fiscal years to carry out the purposes of this Act; except that the Federal contribution to the Commission shall not exceed 50 percent of the annual operating costs of the Commission.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Minnesota [Mr. VENTO].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

LOWER COLORADO WATER SUPPLY ACT

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5028) entitled the "Lower Colorado Water Supply Act," with Senate amendments thereto, concur in Senate amendments numbered 1, 2, 3, 4, 6, 7, 8, 9, 10, and 11, and disagree to the Senate amendment numbered 5.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 8, strike out [only] and insert: "only: *Provided*, That, the Secretary is hereby authorized, in his discretion, to contract with non-Federal interests for the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as he may prescribe".

Page 1, line 8, after "constructed" "in stages as increases in demand warrant and".

Page 3, line 7, strike out [interest] and insert: "interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eight of 1 per centum,".

Page 3, line 8, strike out [municipal and industrial] and insert: "domestic, municipal, industrial, and recreational".

Page 3, line 11, after "by" insert: "section 9(c) of the Recreational Project Act of 1939 (Act of August 4, 1939, ch. 418, 53 Stat. 1187) and by".

Page 3, line 18, after "project" insert: "on a current basis".

Page 3, after line 18, insert:

"(4) The Secretary has transmitted to Congress the final planning report/environmental assessment on the Lower Colorado Water Supply Project.".

Page 4, line 8, after "construction" insert: "through September 30, 1993".

Page 4, strike out all after line 8 down to and including "supply" in line 14, and insert: "the sum of $1,800,000 plus or minus such amounts, if any, as may be justified by reason of ordinary cost indices applicable to the types of construction involved therein and in addition thereto such sums as may be required for operation, maintenance and replacement of that portion of the project used to supply domestic,".

Page 4, after line 19, insert:

SEC. 4. CONTRIBUTION OF CONSTRUCTION COSTS.

The Secretary is authorized to accept monetary contributions from the City of Needles and other incorporated cities for the construction of project features of the Lower Colorado Water Supply Project allocated to the provision of water supplies to the City of Needles and other incorporated

cities; Provided, that, such contributions shall be credited towards the reimbursible costs to be repaid by the City of Needles and other incorporated cities pursuant to the contracts entered into pursuant to Sec. 2 of this Act. Such contribution by the City of Needles and other incorporated cities shall be contributed during the construction of the appropriate project features and shall constitute twenty percent of the costs of such project features allocated to the City of Needles and other incorporated cities for repayment.

Page 4, after line 19, insert:

SEC. 5. SAVINGS PROVISION.

Nothing contained in this Act shall be construed to alter, repeal, modify, interpret, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Water Treaty of 1944 with the United Mexican States (Treaty Series 994, 59 Stat. 1219), the decree entered by the Supreme Court of the United States in Arizona against California, and other (376 U.S. 340), the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774; 43 U.S.C. 618a), or the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501). Nor shall any provision of this Act—

(a) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or streams or over any ground water resources, or

(b) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

Mr. MILLER of California (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

Mr. CHENEY. Mr. Speaker, reserving the right to object, I do not plan to object, but I reserve the right to object to allow the gentleman from California [Mr. MILLER] to explain the bill and the proposed amendments.

Mr. MILLER of California. Mr. Speaker, if the gentleman will yield, the other body added a series of amendments making technical and clarifying changes in H.R. 5028 as passed by the House. I see no reason to object to these proposed amendments.

However, the other body has proposed an amendment authorizing the Interior Secretary to write contracts under authority of section 9(c) of the Reclamation Projects Act of 1939. This is an unnecessary provision since the Secretary already has the authority he needs under the Water Supply Act of 1958.

Mr. Speaker, I urge adoption of the motion to agree with the Senate amendments.

Mr. CHENEY. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. I thank the gentleman for yielding to me.

Mr. Speaker, in the grand scheme of worldly matters this bill is such a small speck on the globe that it almost is nonexistent—but, the solution it provides for a few of the worlds little people is a matter of life and death. Water lawsuits have flowed for 30 years leaving little people in and around Needles and Winterhaven without water rights or an adequate supply of water. Let me explain, my community is out in the middle of nowhere, 4 hours from the nearest city. The majority of these well owners are living off their Social Security and have been using Colorado River water for 20 years. For them, there is no other source of water. Without an assured supply of water, what choice would these citizens have except to be forced out of their homes?

There are individuals, communities, and recreational interests located along the Colorado River that do not have sufficient water rights to meet their present or future needs. These noncontract water users will shortly be required to close their wells and terminate their use of the Colorado River unless another supply can be provided for them. About half of these noncontract users include recreational lands leased by the Bureau of Land Management, the others are individuals from the town of Winterhaven, and citizens living in and around the City of Needles.

Concern about an adequate water supply for noncontract users led the Colorado River board to work with the Secretary of the Interior on a Federal-State task force in 1975 that investigated the problem and recommended a course of action. Following this, Congress, in 1980, authorized the Secretary of Interior to conduct feasibility studies of possible alternative supplies that could provide up to a maximum of 10,000 acre-feet of water per year. My bill simply authorizes the Bureau of Reclamation's recommended project as presented in their December 1985 draft report.

This authorization in not premature. The draft recommendation was submitted for comment in December 1985. With the comment period long since closed the Bureau will be presenting their final recommendation within the next 45 days. Every indication we have had shows that the final report recommends this project. With the few legislative days that remain in this session it would be a shame if this legislation was not passed.

The Bureau's water supply plan calls for two to five wells along and south of the All-American Canal. The wells would pump ground water that has seeped from the canal back into the canal. In return, a like amount of Colorado River water would be made available for use by the noncontract users along the river in California. The exchange agreements among the various water users would be executed by the Secretary of the Interior to allow this swapping of water supplies.

The Bureau of Reclamation's peferred plan has been more than 10 years in the making and would supply the people in Duncan Hunter's, Al McCandless', and my district with a firm and affordable water supply to meet their present and future water needs.

The costs of the project and the operation and maintenance costs will be repaid in full with interest specified by current market rates. The city of Needles will participate with up front financing.

Mr. CHENEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 738, CONTINUING APPROPRIATIONS, 1987, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 593 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 593

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report and amendments reported from conference in disagreement on the joint resolution (House Joint Resolution 738) making continuing appropriations for the fiscal year 1987, and for other purposes, if the conference report and amendments reported from conference in disagreement have been available to Members for at least one hour, the conference report and amendments reported from conference in disagreement shall be considered as having been read when called up for consideration, all points of order against the conference report and against its consideration are

hereby waived, and all points of order, except under clause 7 of rule XVI, are hereby waived against motions in the House of dispose of the amendments reported from conference in disagreement. All points of order are hereby waived against a motion offered by the chairman of the Committee on Appropriations or his designee to recede from disagreement to Senate amendment number 59, reported from conference in disagreement and to concur therein with an amendment. All points of order are hereby waived against a motion offered by Representive Regula of Ohio or his designee to recede from disagreement to Senate amendment number 117, reported from conference in disagreement and to concur therein with an amendment.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

□ 1910

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. LOTT], for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 593 is a rule providing for the consideration of the conference report on House Joint Resolution 738, making continuing appropriations for fiscal year 1987. The rule makes in order consideration of the conference report and any amendments reported from the conference in disagreement if they are available to Members 1 hour prior to consideration. The rule also provides that the conference report and the amendments reported from conference in disagreement shall be considered as having been read when called up for consideration.

Mr. Speaker, this rule waives all points of order against the conference report and against its consideration. The rule also waives all points of order, except under clause 7 of rule XVI, against motions in the House to dispose of the amendments reported from conference in disagreement.

Clause 7 of rule XVI is the rule of germaneness. At the time the Rules Committee acted on this measure, Mr. Speaker, the conference had not been completed. Therefore, although we were apprised generally as to those matters likely to be reported back to the House in disagreement, nothing was certain pending conclusion of the conference. Therefore, by requiring that the amendments in disagreement comply with the House requirement of germaneness, Mr. Speaker, this rule protects the perogatives of the Members of the House by ensuring that Members will be able to pursue separate votes on nongermane amendments reported from conference in disagreement, or nongermane portions thereof, if they choose to do so.

Mr. Speaker, this rule also waives all points of order against a motion to be offered by the Chairman of the Committee on Appropriations or his designee to recede from disagreement to Senate amendment 59, reported from conference in disagreement, and to concur therein with an amendment.

Senate amendment No. 59 requires the Administrator of the General Services Administration to acquire space for the U.S. courts in the State of Washington. The amendment to be offered to this amendment by the Chairman of the Committee on Appropriations, or his designee, provides appropriations for construction, purchase, repairs, and alterations to various Federal buildings around the country.

Finally, Mr. Speaker, this rule waives all points of order against a motion offered by Representative REGULA of Ohio or his designee to recede from disagreement to Senate amendment No. 117, reported from conference in disagreement, and concur therein with an amendment. The Regula amendment, Mr. Speaker, will contain a revised version of the so-called buy American provision for producers of oil and gas in the Outer Continental Shelf. Specifically, the amendment requires that domestic producers of oil and gas must purchase drilling structures constructed with no less than 50 percent of domestic materials.

Mr. Speaker, this rule will allow the House to work its will on one of the three remaining budget-related bills which must be finalized before this Congress can adjourn. The temporary short-term continuing resolution will expire tonight. The continuing resolution which this rule will make in order provides funding for all of fiscal year 1987.

I believe it important to note, Mr. Speaker, that prior to consideration of this continuing resolution, the House had completed action on 11 of 13 regular appropriations bills for the fiscal year which began on the first of this month, fiscal 1987. The two which the House did not consider—Defense and Foreign Operations—were, nonetheless, reported from the Committee on Appropriations prior to being incorporated into this continuing resolution.

Mr. Speaker, while I have never believed that continuing resolutions are the best way to fund Federal activities, I must note that the House had made very considerable progress toward adopting all the regular appropriations bills, as separate bills, before the late date and nonaction on these matters in the other Chamber made this procedure necessary.

The House adopted House Joint Resolution 758 on September 25, 1986. The other body passed the resolution, with amendments, on October 3, 1986. The conference on the legislation was concluded last evening. And as I've already noted, the temporary short-term continuing resolution under which we are presently operating will run out tonight. It is, therefore, imperative that we move this legislation forward.

Mr. Speaker, I am advised by the Appropriations Committee that they are within their budget allocation in regard to the 13 regular appropriations bills carried in this continuing resolution. The provisions in the resolution providing funding for the Omnibus Drug Supplemental Appropriations Act of 1987 will, however, cause the budget ceilings to be exceeded. Moreover, these provisions provide funding for activities which were not anticipated in the first budget resolution and which have been identified as a very high priority by an overwhelming majority of our colleagues in both Chambers of Congress.

Mr. Speaker, I urge colleagues support of this rule so we can expedite further legislative action on the continuing resolution.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I begin my own remarks, I yield 2 minutes to the gentleman from Indiana [Mr. HILER] to proceed out of order for an announcement that the body will be interested in.

IN TRIBUTE TO THE HONORABLE SHEP CRUMPACKER

Mr. HILER. I thank the gentleman for yielding me this time.

Mr. Speaker, I take the floor to announce to my colleagues that Shepard J. Crumpacker, a former Republican Member of Congress from Indiana's Third Congressional District, died early this morning, October 15, 1986, in South Bend, IN.

Shep Crumpacker was first elected to the Congress in 1950, and was reelected in 1952 and 1954. He chose not to seek reelection in 1956, and was succeeded by a Republican, F. Jay Nimtz.

Mr. Crumpacker was born February 13, 1917, in South Bend and was a graduate of Central High School. He earned an engineering degree from Northwestern University in 1938 and received his law degree from the University of Michigan. He was admitted to the bar in 1941.

After serving 4½ years in the Army during World War II as an aircraft maintenance officer, Mr. Crumpacker joined his father's law firm until he ran for Congress in 1950.

Following his decision not to seek reelection to the House in 1956, Mr. Crumpacker returned to his South Bend law firm and worked 20 years. In 1977 he was appointed St. Joseph County Superior Court judge by then Governor, of the State of Indiana and now Secretary at the Department of Health and Human Services, Dr. Otis R. Bowen. He retired from the bench in August 1985.

At the time of his retirement, Mr. Crumpacker said that becoming a judge was the fulfillment of a lifelong

ambition. "Being a judge was something I always wanted to do," he said.

One of the things that Mr. Crumpacker said he enjoyed most about serving as judge was trying cases. As a former trial lawyer, he felt he understood the pressures that attorneys feel during trials.

"I liked being able to hear cases tension free as an impartial observer," he said. "Someone else was in the hot-seat."

Mr. Crumpacker's associates and colleagues considered him a diligent worker who was concerned both about people and the integrity of the legal system.

Mr. Crumpacker also served as city attorney during the administration of South Bend Mayor Lloyd M. Allen. He was appointed to the job in 1968.

Mr. Crumpacker was active in various civic affairs and organizations including the South Bend Rotary Club, of which he was a former president.

He was also a member of the local, State and national bar associations and other legal organizations.

I know my colleagues join me in expressing our condolences to Shep's wife of 36 years, and their son, Richard; four grandchildren; and a brother Harold.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, finally we have a conference report on the continuing resolution, I think. I hurriedly say I think because during the Rules Committee meeting yesterday we had not seen the report. A report had not been filed at that time. But the distinguished chairman of the committee, Mr. WHITTEN, promised us that the report would be ready and would be filed today and that it would be available to the Members for at least 1 hour before it was called up for consideration. I understand that that time has been met and that it is now, in very lengthy form, available to the Members for review.

The rule that brings up the continuing resolution for appropriations has been very ably described by the gentleman from South Carolina [Mr. DERRICK] so I will not go into the details of what is waived, although I will point out there are some very important waivers here.

I do want to note that there are some specific amendments in disagreement that will come up. As I understand it, the way this will proceed when we complete the rule, if the rule is adopted, we will then go to an hour of debate on the continuing resolution itself at which point we would vote, and if the continuing resolution is adopted, we will then go to six amendments in disagreement that would be brought up, each with an hour of debate and then the possibility of a vote at that point.

The six amendments that are involved are as follows:

Agriculture, amendment #23, Farm payment cap;

Interior, amendment #117, OSC drilling equipment "Buy America" provision;

Labor—HHS—Education, amendment #19, "Double breasting";

Transportation, amendment #124, Transfer of National and Dulles airports;

Treasury-Postal Service, amendment #59, Federal building fund; and amendment #60, Imported distilled spirits (Gray Market).

□ 1920

So those are the amendments in disagreement that would be brought up separately and we would consider those, one after the other, and then, when we complete that, that will finish the continuing appropriations resolution, which would take us, I might say, it looks like probably close to midnight. So the Members should be prepared for that.

This is no way to do business. The process stinks. The procedure stinks and the result probably stinks, in more ways than I would care to enumerate.

But we need a continuing resolution to keep the Government in operation and so that we can hopefully, mercifully bring this session of Congress to a conclusion.

So with no great glee, but with an admission of reality, we have no option and I would urge the adoption of the rule.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, for the Members who may not have seen it, this is the bill which the rule takes under consideration. Many of you may not have had a chance to see it yet because it has only been out here for about an hour. It is about a $500 to $600 billion bill, just a minor little item that we bring to the floor here fairly hastily.

I will tell the membership, however, that that hour that you had to consider this particular measure is an hour more than the Committee on Rules took before they wrote this rule. The Committee on Rules did not even have this bill before it when they wrote the rule, and yet they managed to waive all points of order against this particular piece of legislation.

It seems to me that that is very interesting. The Committee on Rules has told us now on a couple of occasions coming to the floor today that they are very reluctant to bring bills out here waiving all points of order that they did not have a chance to see.

Here is a pretty big one that they did not have a chance to see, and yet they waived all points of order against consideration of the bill.

The question becomes, what kind of process is this? Is this the kind of process that we should have in the House of Representatives for the process of bringing legislation to this floor?

One of the amendments that is in this particular bill, we also waived points of order against. The Members ought to be very interested in this particular amendment. It is called the Federal building fund, and the reason why we are waiving the points of order against it is because there are buildings that were put into the bill that had not passed either the House or the other body. They managed to just divvy up some goodies in the conference committee, and then they come to the floor and they waive all points of order against it. It is several million dollars. We have got about $32 million for a project in Chicago. There are a couple of million dollars in there for a project in Miami, and heaven knows what else.

But we waived the points of order against them and so on, and we are going to be told that this is the responsible approach to governing.

I would suggest that anybody who votes for this rule and votes for this bill and then tells us about how responsible the House of Representatives is on spending just cannot be very realistic.

This is a totally irresponsible approach to spending. It is a totally irresponsible approach to our own rules.

This is a slightly smaller document than what we are considering. It is called the House Rules Book. We might as well rip it up. The Committee on Rules keeps coming out here; there is no sense putting the money out next year for printing it because the House just waives the rules that are in this rule book every time we want to.

We get to the end of the session; we come up with a $600 billion bill and we decide that the rules do not make any difference anymore. I do not know why we have the Committee on Rules around here having this function. We could spend this irresponsibly without doing it under a rules process.

I suggest to the membership that a no vote on this rule would be the most responsible vote you would cast in this Congress.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, I would like to engage in a colloquy, if I may, with the distinguished chairman of the full committee and the chairman of the Subcommittee on Agriculture, Rural Development and Related Agencies of the Committee on Appropriations to ask some questions in connection with the agriculture disaster aid portions of the conference report.

Mr. Speaker, I want to clarify the conferees' intent regarding the amount of production losses a farmer need have in order to qualify for disaster assistance payments.

Is it the committee's intent that if a farmer who produces several crops loses more than half of any one of those crops he is eligible for disaster payment assistance on the individual crop that he lost?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, it is my understanding that if a farmer produces several crops on the same farm, and loses more than half of any one of those crops, he is eligible for disaster payment assistance on the individual crop.

Mr. TRAXLER. Mr. Speaker, furthermore, with respect to the modifications being made in the farmers home loan programs, is it the committee's intent that the Farmers Home Administration be as lenient as current law allows with respect to eligibility for refinancing and new loan assistance of all FmHA programs for those producers located in disaster areas?

Mr. WHITTEN. Mr. Speaker, the resolution directs the Administrator of the Farmers Home Administration to do that. As the gentleman knows, most of our farm troubles come now because the head of the Farmers Home Administration demanded cash flow. The cash-flow requirement is not in the law. In other words, instead of helping a fellow stay in business, they make him show, in order to be eligible, that he not only has enough money to pay all his debts, plus a year's work and pay everything off at the end of the year, which most farmers cannot do. We have attempted to obviate that by directing them to use all the authority in law to help keep the farmer on the farm.

Mr. TRAXLER. Mr. Speaker, I thank the gentleman for those answers.

Mr. Speaker, I rise in support of the conference report to accompany the continuing resolution, House Joint Resolution 738. A very long process has brought us here, and I want to tell you that as a member of the conference committee, I truly appreciate the leadership and determination exercised by our chairman, Mr. WHITTEN.

Further, without the Senate amendment offered by Senators RIEGLE and LEVIN, the matter of disaster assistance payments to Michigan's farmers would not have even been brought before the conference.

I want you to know that the provisions in this conference report regarding the agricultural disaster payment program represent an untiring effort of the entire Michigan congressional delegation to secure vital assistance for our farmers at their time of need. A particular compliment and thanks must be paid to the many agricultural leaders from our State who over the past few weeks came to Washington and diligently visited with our colleagues in both the House and the Senate to let them know of our legitimate need for assistance. I am particularly grateful to our colleague, HOWARD WOLPE, for his concern and great help in getting this disaster package passed.

I want to describe what happened in our efforts to secure disaster payment assistance for farmers in Michigan and other parts of the country who have been hit with literally the worst weather in centuries. It is one of those good news-bad news situations. The good news is that we have before us the most generous disaster assistance programs to come before us for a final vote in many years. The bad news is that we were faced with the administration's opposition every step of the way. First the Secretary of Agriculture told us that he would not use the discretion he has under law to provide disaster assistance to many farmers. Then yesterday the Director of OMB advised us that unless changes were made in the program he would recommend a veto of the entire resolution. In fact, he wrote to Mr. WHITTEN: "The original provision has been modified in a manner to make it wholly unacceptable".

Taken on balance, given the administration's distaste for disaster payments and a workable disaster loan program, I consider what we accomplished a significant victory.

Mr. Speaker, the disaster payment program before us is a good one. It is not the best that I could have designed. It is also the only one we could get. I personally wanted to see it improved to provide meaningful assistance to producers who are faced with very difficult financial situations. It will provide such assistance to many farmers, just not to as many I would prefer.

In negotiations with the Senate during conference, I argued that we needed to increase the percentage of loss coverage for farmers. The Senate wouldn't go along. I argued that we needed to increase the dollar payment limitations. The Senate wouldn't go along. The Senate wouldn't go along because they had been told that any modification of the program beyond the Senate's original design of disaster payments for losses in excess of 50 percent for production would result in a veto. In fact, the OMB letter to Chairman WHITTEN stated: "We would be willing to accept a disaster payment program as long as it is workable and no larger than that contained in the original Senate bill."

Current law provides for a discretionary disaster payment program in which any farmer who lost more than 50 percent of his production would receive disaster payment assistance on the amount of loss over 50 percent. Secretary Lyng in a meeting with myself, some of my Michigan colleagues, and a number of farm leaders from our State told us 2 weeks ago that he would not use this discretion. He would not exercise any discretion to assist and help the disaster-stricken Michigan farmers.

The provisions of the Riegle-Levin-Mattingly amendment passed by the Senate virtually within days of that meeting with Secretary Lyng took those discretionary provisions of current law and made them mandatory. They also expanded the program to cover crops like dry beans, potatoes, and vegetables which are not covered by current law. These two changes are major accomplishments. They just don't help as many farmers as I and the Senators would prefer.

The conference agreement also calls upon the Secretary of Agriculture to open up the farmers home loan programs to the fullest extent possible under current law to help as many farmers as it can. Again, this provision has been scaled back from a more generous provision than we had originally designed. This reduction is specifically to respond to the veto threats we received from OMB.

The agreement also provides additonal resources for the Soil Conservation Service and the Agricultural Stabilization and Conservation Service for emergency conservation work to begin the restoration of land and drainage structures.

Mr. Speaker, I want to provide assistance that our farmers need. I do not want to invite a veto on this resolution which could result in no disaster payment assistance being provided to anyone. But Mr. Speaker, I want everyone to understand that the reason this program is not as generous as we had hoped for is not because Congress hasn't tried. In fact, I find almost total willingness on the part of Congress—urban and rural members alike—to help the Michigan farmer in this time of need. To the extent that we haven't succeeded, the administration's opposition must bear the blame.

At this point, I am submitting a letter from OMB Director James C. Miller to Appropriations Committee Chairman WHITTEN, detailing his opposition to the disaster program to be printed in the RECORD so that all can see exactly the problems we had to face.

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 14, 1986.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to outline our remaining concerns with the agriculture provisions of the 1987 Continuing Resolution.

First, as you know, the Administration has consistently opposed the disaster payment program which was adopted by the Senate. Despite our opposition to the Senate provision which would have cost up to $332 million, we did not indicate that this provision alone would warrant a recommendation to the President to disapprove of the legislation containing it.

Now, however, the original Senate provision has been modified in a manner to make it wholly unacceptable. The amendment, as tentatively agreed to by the conferees, would require the Secretary of Agriculture to refinance existing FmHA debt at the "lowest allowable interest rate" for borrowers affected by the drought or flood and to provide new production loans to such borrowers. Although some technical revisions have been made which improve this provision, it is still potentially open-ended and could lead to billions of dollars in FmHA losses in future years. Accordingly, in order to make the Continuing Resolution acceptable to the Administration, this provision must be modified to make it discretionary with the Secretary of Agriculture.

Second, although the Senate provision went into conference at $332 million (the House had no similar disaster payment provision), the tentative agreement reached by the conferees is now at $500 million—a substantial increase in a program that we deemed to be too generous at the $332 million level. The amount of assistance provided under the disaster payment provisions must be reduced from the amount contained in the tentative agreement.

Third, the conferees proposd to partially pay for the disaster payment program by mandating additional Rural Electrification Administration (REA) guaranteed Federal Financing Bank (FFB) loan refinancing. As you know, the Administration steadfastly has opposed allowing existing REA guaranteed FFB borrowers to prepay their outstanding loans without the penalty provision provided for in their existing contracts, except in the case of financial distress or other need. To require additional loan refinancing above the $2 billion mandated in the Reconciliation Bill as a method of paying for a brand new program is something we cannot support. This provision must be eliminated as a funding offset. Furthermore, I would like to reiterate that the current subsidized Federal Crop Insurance Program is intended to address these kinds of disasters. This provision runs contrary to the intent of the crop insurance program by rewarding those who elected to not purchase insurance thereby creating a disincentive for future participation in the Federal Crop Insurance Program.

The Administration has been very flexible in trying to work with the Congress to meet the legitimate needs of America's farmers. Again, let me emphasize that we would be willing to accept a disaster payment program as long as it is workable and as long as it is no larger than that contained in the original Senate bill. However, we cannot accept a program that is substantially larger than that in the Senate bill, nor can we accept a potentially open-ended FmHA provision or additional mandatory REA prepayments as a way of paying for new programs.

As we move toward the conclusion of the conference on the 1987 Continuing Resolution, I would hope that these issues will not stand in the way of a speedy resolution of the many important matters which the Congress must deal with before it adjourns.

Sincerely yours,

JAMES C. MILLER III,
Director.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, I thank the gentleman from Mississippi [Mr. LOTT], the gentleman from South Carolina [Mr. DERRICK], and certainly the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN] and the gentleman from Massachusetts [Mr. CONTE].

I rise in strong support of the rule and the continuing resolution upon which we will vote this evening. Within the continuing resolution, there are measures for disaster payments for farmers.

In the State of Michigan, for 3 weeks, almost 27 inches of rain fell, destroying more than a quarter of a billion dollars' worth of crops, $250 million, minimum, of crop loss. From shore to shore, from Huron to Michigan, we have seen a devastation of the magnitude never witnessed before in Michigan's history—sugarbeets, dry beans, corn, vegetables, soybeans. We need help at this point in time.

As difficult as it is to fully compensate or make people whole after a disaster of this proportion, the time is now when Government ought to help. There is no more appropriate time than now for Government to help producers, given this devastation.

This does not just help Michigan; rather, it helps farmers in the drought-stricken Southeast and other flood-drenched States in the Nation's breadbasket. This effort has been achieved through the hard work of producers, farmers from Michigan who came and sent a message, and a bipartisan effort by the Michigan delegation and other Members of Congress and Members of the other body.

I personally want to thank my friend and colleague, the gentleman from Michigan [Mr. TRAXLER], for his efforts, in our joint efforts together in making this a reality.

So, in conclusion, I urge my colleagues to lend a hand to help those farmers, through no fault of their own, disaster of drought or a flood that has rained out the incomes and the livelihoods of these people. Now is the time the Government must act.

That is why you must vote yes on the rule and yes on the continuing resolution.

Mr. Speaker, Thomas Jefferson wrote that the essence of representative government is to do that which the people cannot do for themselves.

Today, we have the opportunity to do just that; to approve legislation that goes to the very heart of what compassionate representation is all about.

As most of us know, Michigan has recently suffered the worst natural disaster in its history. Normal September rainfall is 3.2 inches. This September, we received from 18 to 27 inches. The result has been flood-drenched homes and businesses; roads, bridges, and dams demolished; and crops destroyed.

Mr. Speaker, the bill before us today attempts to give back a portion of hope to a group of people who have lost so very, very much. Our farmers have seen their very livelihood quite literally washed away. From shore to shore—from Lake Michigan to Lake Huron—Michigan communities have been devastated. Michigan's pride, our edible bean crop, has been severely damaged. The floodwaters know no favorites: both program crops, such as corn and soybeans, have been lost, as well as the other commodities Michigan is justifiably famous for, sugar beets, fruit, potatoes, carrots, onions, celery, pickles, mint, and other crops.

Mr. Speaker, numerous counties in Michigan have been declared Federal disaster areas. Thousands of acres have simply disappeared under the tide. Michigan State University estimates that, without relief, almost 25 percent of the farms in the disaster area will be, quite simply, out of business next year.

Many of these farmers were the most efficient ones in our State. They have survived the financial crisis gripping agriculture. But now, for many of these farmers, there is no hope of salvaging their fall harvest—a harvest which was expected to yield bumper crops. It could be years before these men and women are able to return their operations to normal production levels.

There is no question that these floods will have a profound impact upon the future of Michigan agriculture, the second most productive sector of our State's economy. In Michigan, as in many other States across the country, the farm economy is the lifeblood of most of our rural communities. By failing to provide the necessary assistance to keep these farmers in business, we would, in turn, be threatening the very future of most of the towns and villages throughout our State.

Of course, this unprecedented disaster is not confined to Michigan. Flooding has claimed major portions of our Nation's breadbasket. In addition, the scourge of drought has ravaged our neighbors in Southeastern States, and this bill extends a much-needed hand of friendship to them as well.

Mr. Speaker, as you know, crafting assistance for our farm families was not an easy task. It required a unique coalition of agricultural producers, farm leaders, and a bipartisan group of legislators. Quite frankly, this measure is a result of an all-too-rare occurrence in our Nation's Capital. It is literally the result of people traveling to Washington to press for relief that, despite their best efforts, they could not provide on their own. And, within a

very few days, they stoked the fire and produced the results you see before you today.

If ever we were offered the opportunity to cast a vote that Mr. Jeffersons would applaud, Mr. Speaker, today is that day. To do for our people what they cannot do for themselves is, by God's grace, the noblest calling of the civil government He has ordained.

I urge my colleagues to vote for this resolution.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER]

Mr. PORTER. Mr. Speaker, the conference report is upon us. It is big, it is ugly, it is irresponsible, and it is probably over budget. It's hard to tell how badly over budget it may be—it's hard to even know what's in it because it was just reported this morning. Many of the subcommittee conference reports aren't even available. We're voting on almost $600 billion in spending and the ink isn't even dry on the bill.

Total appropriations, commendably, are down a little from the budget ceiling. Total outlays, however, are probably over budget. At first, estimating outlays under Gramm-Rudman was a problem, but we found ways to get around that problem. This Congress has not met a number it cannot fudge, it has not met a procedural obstacle it cannot dodge, and it has not met a budget deficit that it cannot exceed.

I commend my appropriation chairman for not allowing the other body to take the farm price support program off budget. The conference agreement, as I understand it, puts $17 billion into CCC payments and holds another $3 billion in a contingency fund. You may rest assured—given the continued deterioration of our farm economy—that that $3 billion will become real outlays in fiscal year 1987.

Then there is the NASA portion of the bill which has received a nice gift from the Defense Subcommittee—$2.4 billion in appropriations for the questionable purpose of building a new space shuttle.

This gift is made possible by the 3-year spendout rate for building a new shuttle—it only costs $100 million in fiscal year 1987, which means there will be $2.3 billion in outyear budget busting. I wish the Budget Committee luck, next spring, when they attempt to fudge their way to a $108 billion deficit ceiling and are confronted with large, built-in outlays of this type.

With regard to foreign aid, we got rid of most of the gimmicks that were contemplated earlier. Those gimmicks were motivated, I would point out, by an attempt to avoid an unconscionable slashing of economic assistance to our allies in Africa and Asia. But huge spending bills allow us to obscure this sort of irresponsibility. We kept one gimmick, however: The foreign aid section contains a magic downward reestimate of the obligation rate for the military assistance account. That magic reestimate came just in time to foster a compromise on foreign operations funding.

Even the little legislative branch bill, unfortunately, contain some manipulating of the numbers to squeeze in under its outlay allocation. New spending estimates for the Member's mail account have been reestimated slightly downward to pay for a few million in Capitol spending.

Finally, there is the defense section of this bill. The chairman of the Defense Authorization Committee has been kind enough to issue a press release outlining the phony numbers in his section and I respect his candor. We'll have put up on the scoreboard still another $200 billion deficit.

We are taking money out of operations and maintenance—the bread and butter account for our men in uniform—and we are putting it into procurement. Why? Because procurement spends out slower. So again, we create headaches for ourselves next year by building in large future outlays. Moreover, we slap today's soldier in the face while guaranteeing that tomorrow's children will pay the bill for the weapons we want. Are we going to slide payday for our men in uniform over to the first day of fiscal year 1988? That's a cute accounting trick, but we all know that next year—when the focus is on fiscal year 1988—the budget committee will shift that payment back to fiscal year 1987 where it belongs. That sort of gamesmanship is part of the reason that this year's deficit is $230 billion.

Beyond the gimmickry, beyond the overspending, there is substantive legislation in this bill. Trade provisions relating to imported alcohol and steel for oil rigs. Labor provisions incorporating the undeveloped and hopelessly confused construction industry amendments. Last time I checked, there was an amendment to the tax reform bill.

So this continuing resolution is part of the process, an irresponsible process that includes phony budget resolutions and phony deficit reduction bills. This omnibus spending bill is just too big and it is part of the reason when all the actual numbers are toted up a year from now, the American people will find out the truth—that we will have missed the Gramm-Rudman deficit target of $144 billion for fiscal year 1987 by $50 billion.

□ 1930

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I think it is that time in the session when people throw around terms like "big" and "bloated" and "ugly" and imply that perhaps we have not done our job here. I think the evidence is absolutely to the contrary. We ought to clear the record, because there are people who do pay attention to what we say here occasionally, not as many as many of us would like to think, but still sufficient to make the effort.

The first thing I would like to point out is that we are $15 billion below what the President asked for in the same spending categories that we are involved with in this bill.

In other words, if this is big and bloated and ugly, it is less big, less bloated and less ugly than the President's budget submission.

I would argue that we have been very responsible in bringing to the floor something that really puts the President's budget to shame. You know, that is the budget that was not brought to the Senate floor in order to save the President embarrassment and the one that got one vote here on the floor of the House of Representatives.

We also have been focusing a great deal of our time and effort this year on the question of outlays. You know, that is the new jargon because that is what relates to Gramm-Rudman, not budget authority, but outlays.

Members should know that, this is under the budget resolution on outlays by almost $2 billion and that is after adding on the drug program, coming late in the session with a special spending program because of a perceived national problem.

So let me make very clear to all those who really are interested in the facts and are concerned about what we are enacting here tonight that we can do so with our heads held high. We can do so knowing that we have passed a prudent document, a fiscally sound one, one that puts the budget of the President in some perspective, I would say to shame.

Perhaps that is why we are in receipt of a letter from James Miller indicating that he—the Office of Management and Budget—urges adoption of the conference report. He has a couple caveats, a few items in true disagreement that he would like us not to accept, but in general he says that the administration thinks this is a prudent document and they can live with it.

I hope the Members on both sides of the aisle will stop the game playing and let us get on to the election.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, we are now 15 days into the fiscal year 1987 and we are now contemplating a rule that will allow us to vote on all the appropriations for 1987. Let us review the process.

Have we done our job? No, we have not done our job. In the legislative calendar we would have throughout 1986 prior to this time, before October 1, have passed 13 separate appropria-

tions bills. They would have gone through both bodies and to the President where he would have had the opportunity to veto them or to sign them. Had he vetoed them, he could have identified in each of the separate bills those particular items that he disapproved and we would then have had time to reconsider them and decide whether we want to override his veto or not.

Now, I understand there are a great many people who are not enamored of the President's veto power. There was a time when he had in addition to that, rescission authority and impoundment authority. That was taken away.

There have been efforts in this body to amend those appropriation bills that we did get before us and to try to reduce spending by making judicious cut decisions. Most of them failed, but that is now no longer relevant.

There have been efforts to get something like a renewed rescission authority to the President so that he could go into a bill and find those items that he disapproved and deal with them individually.

Now, 43 States in this Nation have line-item vetoes for their Governors and it works well. Yet, repeated efforts in this party to obtain even limited line-item veto authority for the President have never gotten past the Rules Committee here.

If we pass this continuing resolution tonight and pass over $500 billion in the largest single expenditure in the history of the human race, at one fell swoop we will have then taken the President's veto power away from him, unless he is willing to veto the entire budget 2 weeks into the fiscal year and shut down the Government because we are late and we have not done our work.

Now, I first began to study the budgetary spending patterns of this House back in the early 1970's. In 1972 I had a chance to discuss them with a famous internationally renowned economist named Paul N. Rosenstein-Rodan, and as he discussed it he said, "Considering each separate appropriations bill on its separate merits is a perfect formula for not thinking."

Well, we have come a long way since then, Mr. Speaker. We now consider all of them en bloc and we have a perfect formula for bad thinking and late thinking. We have not done our job. I think we ought to admit that we are responsible for putting the President in an impossible position. Vote no on the rule and on the continuing resolution.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

Mr. Speaker, I rise for the purpose of explaining the status of the various 13 appropriation bills and their progress through the House over the last several months. For whatever reasons, it is important to note that 11 of the 13 appropriation bills for fiscal year 1987 have passed the House in reasonable, responsible time, to be acted upon by the other body, to have a conference and to have the separate 13 bills go to the President. There was plenty of time.

Let me tell you, Agriculture passed this House on July 24; Commerce, July 17; the District of Columbia bill, July 24; Energy and Water, July 23; HUD Independent Agencies, September 12; Interior, July 31; Labor-HHS, July 31; Legislative, July 29; Military Construction, June 25; Transportation, July 30; and Treasury, Postal Service, August 6.

DOD was outstanding because of the clear and apparent situation where we knew that the Senate would not do a DOD bill and the same was true in our foreign aid situation.

The House has performed its task admirably. To those who want to criticize the process, I suggest they go to the other side of the dome and down to the end of the street that leads to the White House. For whatever reasons, those people are not prepared to move individual appropriation bills on to the President and the shoe fits them and it is darn tight.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume, only to say that the recitation we just had here on the floor has very strong arguments on the other side of it, but I am not going to give them now for the sake of trying to save this continuing resolution rule. Let us spare ourselves this type of jousting, or else we will lose the whole thing that we are trying to get through the House right now, the continuing resolution.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I was interested to hear the gentleman from Mississippi decry jousting. When some of his knights came galloping down, we did not hear him say that; but that is not unusual, that kind of select application of principle.

We are told this rule was a problem because it did not follow the proper procedure. I still remember the Gramm-Rudman bill which was an amendment to the Deficit Reduction Act. There was a time when some of us were talking about that going back to committee to be examined and we could not think of what committee to send it back to, because it had never been to a committee in either House.

Gramm-Rudman, a major piece, a flawed major piece of legislation, came out of here and there was no concern about procedural regularity; so procedural regularity is kind of like a faucet that people turn on and off. The number of people who are always for doing it exactly in that way seem to be quite slender, the people criticizing this rule now who have when they like the substantive product voted for a similar kind of a rule.

I am going to vote for the rule. I hope we get the bill before us so we can have a clean cut vote on the continuing resolution, which ought to be defeated.

The gentleman from Michigan is entirely right. We passed all the appropriation bills. Some anonymous people elsewhere in this building refused to pass any appropriation bills, but we have passed them.

So now the question is, What do we do about the continuing resolution? Well, the continuing resolution, we have done a lot of good stuff on arms control and then we held off because the President had to negotiate. Well, now we know the model that guides the President when he negotiates, a bird in the hand is worth pie in the sky, so we now have a continuing resolution that has no serious arms control advances.

We have money for the Contras, which is in the continuing resolution, although apparently the administration has decided they can finance the war without that, but they will take the money in addition because that will give them a few extra things. That is before us. I hope we can defeat it.

I think the amount of money that we are talking about is a reasonable one, but it ought to be reallocated. We hear from the Office of Management and Budget that they have no objection to the overall dollar amount. The gentleman from California read that, so we have a dollar amount that is apparently acceptable to the other side and it is acceptable to the President and that means that the issues that are at least between us and the other body have to do with aid to the Contras and arms reduction.

We now have the President telling us that he is not interested essentially in arms reduction. He says that he is not going to give up at all on his strategic defense initiative. The Russians tell us that we are not going to get any arms reduciton if he does not.

I support my President on most issues when he is negotiating with the other side. I am disappointed that his approach has been so productive of so little.

I was interested in his speech the other night. He listed all these issues, Cambodia, Angola, Nicaragua, and human rights and arms reduction. The problem is that Ronald Reagan has

not been productive of any success in any of them. I wish he had been. I wish he had been able better to control the aggressive and oppressive behavior of the Soviets.

□ 1945

So far we have gotten very little to show for it, so what we are being asked in effect is, let us continue to vote large amounts of money, virtually unrestricted, to the President; let us give him money for the Contras; let us not have a test ban; let us let him break out of SALT II; and let us let him go full speed ahead on chemical weapons—all in contradiction to how the House voted, and that is what is in the continuing resolution.

I hope that we defeat it.

Mr. LOTT. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 122, not voting 29, as follows:

[Roll No. 471]

YEAS—281

Abercrombie	Boulter	Dorgan (ND)
Ackerman	Boxer	Dowdy
Akaka	Brown (CA)	Downey
Alexander	Bruce	Duncan
Anderson	Bryant	Durbin
Andrews	Bustamante	Dwyer
Annunzio	Byron	Dymally
Anthony	Carper	Dyson
Applegate	Carr	Early
Aspin	Chapman	Edwards (CA)
Atkins	Chappell	English
AuCoin	Cheney	Evans (IL)
Barnard	Clay	Fascell
Barnes	Coats	Fazio
Bartlett	Coble	Feighan
Bateman	Coelho	Fish
Bates	Coleman (TX)	Flippo
Bedell	Collins	Florio
Beilenson	Conte	Foley
Bennett	Cooper	Ford (TN)
Bentley	Coughlin	Frank
Berman	Coyne	Franklin
Bevill	Daniel	Frost
Biaggi	Darden	Fuqua
Bliley	Daschle	Garcia
Boehlert	Davis	Gaydos
Boggs	de la Garza	Gejdenson
Boland	Dellums	Gephardt
Boner (TN)	Derrick	Gibbons
Bonker	Dicks	Gilman
Borski	Dingell	Glickman
Bosco	Dixon	Goodling
Boucher	Donnelly	Gordon
Gray (IL)	McMillan	Schumer
Green	Meyers	Seiberling
Guarini	Mica	Sharp
Hall (OH)	Michel	Sikorski
Hamilton	Mikulski	Sisisky
Hatcher	Miller (CA)	Skelton
Hawkins	Miller (OH)	Slattery
Hayes	Mineta	Slaughter
Hefner	Mitchell	Smith (FL)
Hendon	Mollohan	Smith (IA)
Hillis	Montgomery	Smith (NE)
Holt	Morrison (CT)	Smith (NJ)
Horton	Morrison (WA)	Snowe
Howard	Mrazek	Snyder
Hoyer	Murphy	Solarz
Huckaby	Murtha	Spratt
Hughes	Myers	Staggers
Hutto	Natcher	Stallings
Hyde	Neal	Stenholm
Jeffords	Nelson	Stokes
Jenkins	Nowak	Stratton
Jones (NC)	Oakar	Studds
Jones (TN)	Oberstar	Sundquist
Kanjorski	Obey	Sweeney
Kaptur	Olin	Swift
Kastenmeier	Ortiz	Synar
Kemp	Owens	Tallon
Kennelly	Panetta	Tauzin
Kildee	Parris	Taylor
Kleczka	Pashayan	Thomas (GA)
Kolter	Pease	Torres
Kostmayer	Penny	Torricelli
Lantos	Pepper	Towns
Leath (TX)	Perkins	Traxler
Lehman (CA)	Pickle	Udall
Lehman (FL)	Price	Valentine
Leland	Pursell	Vento
Lent	Quillen	Visclosky
Levin (MI)	Rahall	Volkmer
Levine (CA)	Rangel	Waldon
Lipinski	Ray	Walgren
Livingston	Regula	Watkins
Loeffler	Reid	Weaver
Lott	Richardson	Wheat
Lowery (CA)	Rinaldo	Whitehurst
Lowry (WA)	Rodino	Whitley
Luken	Roe	Whitten
MacKay	Roemer	Williams
Manton	Rogers	Wilson
Markey	Rose	Wirth
Martin (NY)	Rostenkowski	Wise
Martinez	Roukema	Wolf
Matsui	Rowland (CT)	Wolpe
Mavroules	Rowland (GA)	Wortley
Mazzoli	Roybal	Wright
McCloskey	Russo	Wyden
McCurdy	Sabo	Wylie
McDade	Savage	Yates
McHugh	Scheuer	Yatron
McKernan	Schroeder	Young (MO)
McKinney	Schuette	

NAYS—122

Archer	Erdreich	Lewis (FL)
Armey	Evans (IA)	Lightfoot
Badham	Fawell	Lloyd
Barton	Fiedler	Lujan
Bereuter	Fields	Lungren
Bilirakis	Ford (MI)	Mack
Broomfield	Frenzel	Madigan
Brown (CO)	Gallo	Marlenee
Burton (IN)	Gekas	Martin (IL)
Callahan	Gingrich	McCandless
Chandler	Gonzalez	McCollum
Chappie	Gradison	McGrath
Clinger	Gregg	Miller (WA)
Cobey	Gunderson	Moakley
Coleman (MO)	Hall, Ralph	Molinari
Combest	Hammerschmidt	Monson
Courter	Henry	Moody
Craig	Hertel	Moorhead
Crane	Hiler	Nielson
Crockett	Hopkins	Packard
Dannemeyer	Hubbard	Petri
Daub	Hunter	Porter
DeLay	Ireland	Ridge
DeWine	Jacobs	Ritter
Dickinson	Johnson	Roberts
DioGuardi	Kasich	Robinson
Dornan (CA)	Kolbe	Roth
Dreier	Kramer	Saxton
Eckart (OH)	LaFalce	Schaefer
Eckert (NY)	Lagomarsino	Schneider
Edwards (OK)	Leach (IA)	Schulze
Emerson	Lewis (CA)	Sensenbrenner
Shaw	Smith, Robert (OR)	Traficant
Shelby	Solomon	Vander Jagt
Shumway	Spence	Vucanovich
Shuster	Stangeland	Walker
Siljander	Strang	Weber
Skeen	Stump	Whittaker
Smith, Denny (OR)	Swindall	Young (AK)
Smith, Robert (NH)	Tauke	Young (FL)
	Thomas (CA)	Zschau

NOT VOTING—29

Bonior (MI)	Gray (PA)	McEwen
Breaux	Grotberg	Moore
Brooks	Hansen	Nichols
Burton (CA)	Hartnett	Oxley
Campbell	Jones (OK)	Rudd
Carney	Kindness	St Germain
Conyers	Latta	Stark
Edgar	Long	Waxman
Foglietta	Lundine	Weiss
Fowler	McCain	

□ 1955

Messrs. COLEMAN of Missouri, CROCKETT, and ECKART of Ohio changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONGRATULATIONS TO 1986 NATIONAL LEAGUE CHAMPIONS, NEW YORK METS

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute.)

Mr. ACKERMAN. Mr. Speaker, I rise on this momentous occasion to lead the House in congratulating the 1986 National League Champs, the Queens New York Mets.

From owners Nelson Doubleday and Fred Wilpon, to General Manager Frank Cashen, to Manager Davey Johnson, to all 24 heroic and amazing players, the Mets have had a season that has been truly astronomical.

Sparked today by Roger McDowell's gutty five innings of relief pitching and a compelling performance by Jessie Orosco, the Mets have fully earned their glory.

Whether they play the Speaker's beloved Red Sox or the Disneyland Angels, there can be no doubt today who the world champions will be at the end of the month—from Queens, the New York Mets.

Mr. LELAND. Mr. Speaker, will the gentleman yield?

Mr. ACKERMAN. I yield to the gentleman from Texas.

Mr. LELAND. Mr. Speaker, I am not sure whether I should praise the gentleman or ask that his words be taken down. But, Mr. Speaker, let me congratulate not only the gentleman in the well right now but also all of the delegation from New York who have so graciously been nice to those of us from Houston who feel very, very proud of the fact that the Astros did do as well as any team could do against a tremendous baseball team.

We are proud of the fact that the Mets will do well in the World Series, and we know that you will be victorious.

I do not know what the Massachusetts delegation is going to say, but I want to thank the gentleman for being so gracious.

Mr. ACKERMAN. I thank the gentleman for being gracious as well, and I accept your kind offer for dinner for nine. Tex-Mex food will be fine.

□ 2005

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and amendments in disagreement to House Joint Resolution 738, and to include tables and other extraneous matter.

The SPEAKER pro tempore. Is there objection to request of the gentleman from Mississippi?

There was no objection.

CONTINUING APPROPRIATIONS, 1987

Mr. WHITTEN. Mr. Speaker, pursuant to the provisions of House Resolution 593, I call up the conference report on the joint resolution (H.J. Res. 738) making continuing appropriations for the fiscal year 1987, and for other purposes.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 593, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of earlier today.)

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

Mrs. SCHROEDER. Mr. Speaker, it is my understanding that both the gentleman from Mississippi [Mr. WHITTEN] and the gentleman from Massachusetts [Mr. CONTE] are in favor of the bill; and in that case, I would ask recognition for 20 minutes under the rule as being opposed to the bill.

The SPEAKER pro tempore. Is the gentleman from Massachusetts [Mr. CONTE] opposed to the conference report?

Mr. CONTE. Well, I have not made up my mind, Mr. Speaker, but I guess not.

The SPEAKER pro tempore. Is the gentleman from Mississippi [Mr. WHITTEN] opposed to the conference report?

Mr. WHITTEN. No, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER], then, qualifies for one-third of the time.

Therefore, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 20 minutes, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 20 minutes, and the gentlewoman from Colorado [Mrs. SCHROEDER] will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring to you the conference report on the continuing resolution, which the press and many Members describe as a poor way to operate. I agree with them for many reasons. However, they are wrong in saying that the contents of this resolution were thrown together.

The facts are that the contents of this resolution were evolved by the regular 13 subcommittees after months of hearings, and the members of the subcommittee were the conferees on the area for which it had jurisdiction. Eleven of the thirteen bills passed the House of Representatives in the normal manner. The exceptions were defense and foreign aid, where the authorization and other factors held up action by the subcommittee.

Mr. Speaker, I hope my colleagues will listen to this, because this bill was as carefully prepared as any that we have. It just happens to come up at the same time.

After months of hearing witnesses, those 11 bills, the record shows, passed the House of Representatives by an overwhelming vote as follows:

The Agriculture appropriation bill passed July 24 by a vote of 329 to 49;

Commerce, Justice passed July 17, by 269 to 66;

District of Columbia passed July 24, 296 to 117;

Energy and water passed July 23, 329 to 82;

HUD-Independent Agencies passed on September 12, 295 to 46;

Interior passed July 31, 359 to 51;

Labor-HHS passed July 31, 328 to 86;

Legislative passed July 29, 266 to 146;

Military construction passed June 25 by a vote of 249 to 174;

Transportation passed July 30 by a vote of 329 to 87; and

Treasury-Post Office passed by 302 to 118 on August 6.

The point I make is, contrary to what we read, and some of our colleagues say, this bill is a reproduction of and actually a repassing of the bills that the Congress passed some time ago.

On those bills, the regular appropriations subcommittees spent months in hearings; all the work that normally goes into them. We sent them to the Senate, after being held up, and they did not come back in a timely fashion.

So while we are handling all these bills together here, and it is a poor way to run a railroad. We are the last train; and we have been drafted to take this work.

I do want to tell you that we brought to you that which has been carefully prepared.

I know you want to know some of the items that are in this bill.

BELOW PRESIDENT'S BUDGET

First, let us compare this with the President's recommendation. Compared to the President's budget requests, this resolution is $2.4 billion below in budget authority, and $14.9 billion below in outlays; so we have held the line.

TOTALS BELOW BUDGET RESOLUTION

The conference agreement totals $575.9 billion in overall fiscal year 1987 budget authority and $560 billion in overall 1987 outlays. In comparison with the fiscal year 1987 Congressional Budget Resolution and the 302 allocations provided to the Committee on Appropriations, we are well below. We are $1.628 billion below in total budget authority and $2.452 billion below in total outlays.

These comparisons do not include funds for the Omnibus Drug Program. The Drug program was not passed in time to be included in the Congressional Budget Resolution totals. The Omnibus Drug Program totals $1.666 billion in budget authority and $700 million in outlays.

I would like to point out some of the things here that are of special interest.

DEFENSE ITEMS

We hear so much about the Defense Department. In this bill we provide $1.2 billion for Midgetmen research and development;

We provide for no ASAT tests unless the President certifies to Congress that the Soviets have conducted such a test;

We provide $120 million for MX research and development for follow-on basing operations;

We provide $290 million for MX research and development;

We provide $1.1 billion for procurement of 12 MX missiles;

We provide $3.500 billion for SDI research and development, test and evaluation;

The resolution states sense of Congress that it is in the national security interests of the United States to continue voluntary compliance with the central numbered sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimit; and

We provide $35 million for procurement of the Bigeye binary chemical

bomb, but prohibit obligation until after October 1, 1987.

DRUG INITIATIVE

Of great public interest is the drug initiative. The resolution includes $1,666,251,000 in new budget authority for funding the omnibus drug initiative. These funds are provided in some 37 separate accounts as title II of the continuing resolution.

LIMITATIONS

Since this resolution includes all 13 regular appropriation bills at specified levels of funding and under the terms and conditions of each individual bill, the resolution embraces those limitations on funding carried in the regular bills such as those regarding abortion funding.

We have also restored the major domestic programs, as well as many other things.

So may I tell you that we have brought you all the bills together, but they have had the same careful attention that they had before you voted for them overwhelmingly.

So this is not pulled out of the sky; it is a sound bill, and I think the administration can accept it. In fact, I have a letter from the Director of the Bureau of the Budget a while ago, that it is his recommendation that it be approved by the President. He did have two amendments that he mentioned.

I mention this so you may know that while we consider this bill, it is the same bill that we have voted for overwhelmingly. We had to put together the 13 bills because the other body did not act on the bills that we sent to them in time to do otherwise.

I ask your support for this. If we do not pass this, as we know, our time limit expires at 12 o'clock tonight. If we do not adopt this resolution it is our responsibility that the Government has to close its doors.

Mr. Speaker, I reserve the balance of my time.

□ 2015

Mr. CONTE. Mr. Speaker, I understand the opposition has time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from Massachusetts [Mr. CONTE] has 20 minutes, and then we will go to the opposition.

However, if the gentleman would prefer, the chair would recognize the gentlewoman from Colorado first.

Mr. CONTE. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I imagine many people wonder why we are trying to oppose this conference report, because there are many good things in here. I am the one who is the author of the amendment showing it costs up to $55 million a day to close down the Government, and we do not want to do that.

But the reason we feel so strongly about this is there were some very important provisions in this continuing resolution that have been removed. I think it saddens me. The problem is if we did not take these up, those provisions now, they are really lost forever.

Let me talk about what those provisons are. Number one is the whole issue of SALT II. We understand that the President intends to violate SALT II limits between now and when this Congress will reconvene as the 100th Congress. Once the limits have been broken, there is not any way that you can put it all back together.

Second, we had a very strong test ban vote in this Congress that would have allowed the United States and the Soviet Union both to stop testing as long as there was on-site inspection and verification. That was historic.

However, because it has been removed, we really fear there will be no chance to, once again, get the testing language back in because the Soviets have announced that they probably will resume testing in very short order. And once they start again, it is very hard to get it all stopped.

Third, we had the chemical weapons issue; I think that is very important because we know once we start building up the production facilities which this allows, we will never get chemical weapons stopped.

Last, there is Contra aid in here, Mr. Speaker, and that, to me, is a very painful beginning of something I do not think we really should begin as we get ready to adjourn.

No one really knows what is going on down there. We have seen all these incredible allegations in the last few weeks about what the CIA is doing, what General Singlaub is doing, what is really happening, who is doing what.

This is a very, very dangerous precedent, and I think all of us want peace in Central America but we think there is a lot better way to do it. This only spreads war.

So, Mr. Speaker, I will be yielding time later on to others who agree with me and feel that these issues are of such magnitude that it is very important to vote against this conference report because we will not have a chance to take them up later, they will be gone later. That is what is so important. It is not like a usual issue where there is always another year. This was a historic moment in arms control when the window was open. Even the President said it was one of the most historic arms control offers ever made since the first nuclear weapon went off. It now looks like we are about to lose it all.

I urge Members to vote against the conference report.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER] has consumed 3 minutes.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report.

I might tell the body here that I have letters from both the President and OMB that though they do not like certain parts of this conference report, the President will sign the conference report.

With regard to what the gentlewoman from Colorado just said, I agree with her wholeheartedly, but we have a very difficult situation here tonight.

Mr. Speaker, we went to conference with 126 Senate amendments. Six remain in disagreement. The remaining 120 amendments cover all 13 appropriations bills, and all programs and projects that are funded through annual appropriations.

Those 120 amendments are before the House in a single package. I do not agree with all of the recommendations of the conferees, but my specific disagreements are not sufficient for me to vote against all of the programs that I support.

I know that many of my colleagues do not look at the continuing resolution in terms of the individual programs that are funded, but rather as a symbol of a system that has failed.

I agree that the system has failed.

It is an outrage that we must vote on appropriations of $576 billion with only an hour's debate, and with no opportunity to offer amendments.

It is an outrage that this conference agreement contains numerous legislative provisions, including several complete authorization bills.

It is an outrage that 2 weeks after the beginning of the fiscal year we have not enacted a single appropriations bill.

At the most fundamental level the system has failed, because it denies us the opportunity to debate and vote on many individual legislative issues.

I share the frustration of my colleagues—particularly the more junior Members of this House.

Although I have now served for 28 years, and am privileged to be the ranking minority member of the Committee on Appropriations, I have very vivid memories of my early years as a junior Member of this House. There was frustration, but the legislative process worked, and even the most junior Member could share in a sense of accomplishment and pride in the institution.

Today the legislative process does not work; and this continuing resolution is the most dramatic illustration that I can imagine of terminal paralysis.

But it is only a symbol. These problems are not caused by the Appropriations Committee, or by this continuing resolution.

They are caused by procedural gimmicks such as the Congressional Budget Act and Gramm-Rudman-Hollings that we have used to avoid difficult political choices.

Last December we brought a conference report to this House and it was voted down, in large part as a protest against the system. That protest accomplished absolutely nothing. Voting against this continuing resolution will accomplish absolutely nothing, because you will be aiming at the wrong target.

Appropriation bills and legislative provisions are in this continuing resolution because they could not be enacted within a legislative process that has been virtually paralyzed for the first 10 months of this year.

If you want to protest, change that process.

Repeal the Budget Act. Repeal Gramm-Rudman-Hollings.

Liberate the 100th Congress from budget resolutions, 302 allocations, sequestrations, and all of the political fictions that we have constructed to shelter ourselves from individual political decisions.

Let the legislative committees legislate. Let the appropriation committees appropriate. The 100th Congress would go down in history as the Congress that restored the legislative power to its elected representatives.

If you disagree with the program levels in this continuing resolution, then by all means vote against it.

If you disagree with the system, then join me in cosponsoring a bill in the 100th Congress to repeal the Budget Act and Gramm-Rudman-Hollings.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

For the Department of Agriculture, rural development, and related agencies, the conference agreement contains $44.88 billion in new budget authority. This is an increase of $2.94 billion over levels approved by the House on July 24, 1986. The vast majority of the increase occurs in the CCC reimbursement account, where we have agreed to make $3 billion in addition to the $16.8 already included available upon submission of a budget request. We have also agreed to smaller increases for farm operating loans, CSRS research projects, and conservation operations.

The agreement also totals $1.04 billion over levels contained in the Senate committee-reported version of H.R. 5177, with increases for the ARS, farm ownership loans, the SCS, Public Law 480 programs and the definite level approved for the CCC.

The $44.88 billion agreement comes in $2.86 billion over the administration's requests for 1987. The total increase is spread across programs of the ARS, CSRS, Extension Service, APHIS, rural housing, farm operating loans, rural development loans and grants, REA, conservation, and food and nutrition.

The conference agreement does, however, reflect an $8.42 billion reduction from 1986 levels, a decrease that is almost entirely due to the CCC reimbursement account. For fiscal year 1986, we provided $25 billion for net realized losses of the Corporation. For fiscal year 1987, we have agreed on only a $19.8 billion level.

Amendment No. 1: The conference agreement on amendment 1 includes the agreements reached on all 99 Senate amendments to the regular 1987 appropriations bill and most of the agreements on 16 Senate amendments to the continuing resolution itself.

Of the agreements that have been reached of the regular bill, I am particularly pleased by the $1 million increase over 1986 included for the Human Nutrition Research Center on Aging to enable Federal and university nutrition scientists to expand their critical research on the dietary needs of older Americans.

I am also pleased to report that the agreement includes $95,000 for cranberry and blueberry disease and breeding research, and $60,000 for a new research project to be jointly undertaken by the Cooperative State Research Service and the University of Massachusetts at Amherst on the methods for successful introduction of the Belgian endive crop to the Northeastern United States.

The successful introduction of a new crop to a region is dependent upon research encompassing all stages of production ranging from crop establishment to marketing. Field studies are currently under way in Massachusetts to determine the influence of several cultural and management practices on the yield, sizes, and quality of Belgian endive roots. During the course of this research to date, a number of additional research problems have been identified. These problems must be addressed in order to achieve the goal of successful commercial production of endive in the Northeast region.

CSRS research funds provided in this agreement are to be directed toward the areas of crop establishment, root development, morphology, and quality and pest control.

In Europe, there is currently an arsenal of pesticides which are registered for use in controlling pests on endive. However, problems in the United States, particularly weeds, are expected to be quite different from those encountered in Europe due to differences in pest populations. Therefore, it is necessary to acquire data on efficacy of control of endive pests using both chemical and nonchemical methods. Registration of specific pesticides for both local and national use in endive production will require replicated field trials followed by analysis of pesticide residues in the roots. In addition to addressing the very short-term needs of providing information on the appropriate chemicals and rates needed to control pests, nonchemical approaches will be taken. Research will be conducted to explore the use of culture practices that will reduce the need for control of weeds using herbicides.

The conference agreement also includes a total of $332.2 million for the extension service. We have agreed to provide $60.35 million for the expanded food and nutrition education program, $7.164 million for the pesticide impact assessment program; $500,000 for the new Appropriate Technology Transfer for Rural Areas [ATTRA] Program; and $24,000 for the continuation and expansion of the rural product design, development and marketing assistance project at the Hilltown Community Development Corp. begun with the cooperation of the Farmers Home Administration in August 1986.

For the animal and plant health inspection service, I am pleased to report that the agreement includes $5.878 million for enforcement and other activities authorized under the Animal Welfare Act. We have also added $45,000 to maintain the Minnesota livestock guarding dog project research conducted through the New England Farm Center, and encourage expansion of the center's guarding dog research into Washington, Idaho and Wyoming within the $303.2 million made available to APHIS for fiscal year 1987 and with the cooperation and support of the extension service.

The conference agreement maintains Federal-State Marketing Improvement Program matching grants at the 1986 level of $942,000. This program has been of critical importance to local farmers' markets, small agricultural cooperatives and associations, and small innovative producers in the Commonwealth of Massachusetts over the years. I am very pleased that the 1987 bill includes funds to continue this small, but significant assistance.

For subsidized interest Farmers Home rural housing loans to low-income borrowers, the conference agreement provides $2.03 billion. We have agreed to provide $8 million for mutual and self-help housing, $19.14 million for rural housing preservation grants, and $95.7 million for community facility loans.

For conservation programs of the SCS and ASCS, the conference agreement provides $800.1 million, including $25.02 million for resource conservation development and $177 million for the Agricultural Conservation Pro-

gram. I am particularly pleased that the conferees retained the language enabling ACP participants to exceed the $3,500 payment limitation in any given year so long as the average cost-sharing payment does not exceed that level over the life of the contract.

For food and nutrition assistance, the conference agreement includes $4.23 billion for child nutrition programs, including $775.3 million subject to the receipt of an official budget request; $12.68 billion for the Food Stamp Program; $137.1 million for the Elderly Feeding Program and $50 million for the Temporary Emergency Food Assistance Program (TEFAP). We have also provided $1.663 billion for WIC, an $83 million increase over the 1986 program level and a $46 million increase over the administration's request. With respect to the proposed allocation of 1987 funds, the conferees have included language prohibiting the issuance of any new formula regulations prior to May 1, 1987 and directing the Department to work with State WIC directors as well as the Congress in developing a formula more equitable than the one proposed last month.

For the Food and Drug Administration, the agreement includes $411.8 million, including $14.4 million for the agency's AIDS-connected work and $5.25 million for orphan product-related activities.

The conferees have resolved all but one of the differences in the general provisions and amendments to the continuing resolution. Many of these provisions are controversial and are considered by the administration to be possible veto bait.

We have included in section 632 language proposed by the Senate prohibiting the use of private debt collection agencies. Section 633 contains an amended Senate disaster payment provision affecting producers of program and nonprogram crops. We have included a new section, section 643, to expand the list of crops eligible for subsidies through the Conservation Reserve Program to include alfalfa, multiyear grasses and other legumes.

We have also included language on surplus commodity donations, special provisions for compensation to producers of wheat and a handful of special exemptions for producers of ELS cotton, Valencia peanuts and rice.

The one provision remaining in true disagreement is the $250,000 cap on farm payments, language unanimously approved by the House late last month. It is my hope that the House will further insist on its position and start the ball rolling in true programmatic reform before the 100th Congress convenes next year.

COMMERCE, JUSTICE, STATE, JUDICIARY AND RELATED AGENCIES

The conference agreement provides $12,329,785,000 for the Departments of Commerce, Justice, and State, the Judiciary and related agencies. This is $18,165,000 over House-passed amounts and $373,931,000 over the Senate amounts.

Of the total provided, $2.1 billion is for the Department of Commerce, about half of which is for the grants and programs administerd by the National Oceanic and Atmospheric Administration. Economic Development Administration programs account for $180.4 million of the Commerce total, $197.5 million is for the International Trade Administration, $11.5 million is for the U.S. Travel and Tourism Administration, $122 million is for the National Bureau of Standards, and $20.5 million is for public telecommunications facilities.

Funding of items of particular interest to a number of Members includes sea grants, coastal zone management State grants, maintaining existing weather services, the Susquehanna River flood warning system, the privatization of Landsat, the next generation radar for windshear warnings, trade adjustment assistance for firms, the Centers for Fire Research and Building Technlogy, and public and private funding for a cold neutron research facility.

For the various law enforcement activities of the Department of Justice $4.1 billion is provided, including $1.3 billion for the FBI, $420 million for the Drug Enforcement Administration, $593 million for the Immigration and Naturalization Service, $730 million for the Federal Prison System, $191 million for Justice Assistance programs, and $863 million for the legal activities of the Department.

Justice Department programs of some interest to Members which are funded in the resolution include juvenile justice, the regional information sharing system [RISS], missing children, and State and local assistance.

In addition to these funds, the continuing resolution carries $464 million in title II for Department of Justice drug control programs.

For the Department of State the resolution includes $2.6 billion, of which $354 million is for the Diplomatic Security Program, $1.4 billion is for salaries and expenses of the Department, and $385 million is for contributions to international organizations, $130 million of which is deferred for obligation until fiscal year 1988.

The conference agreement provides $1.2 billion for the judiciary.

The 19 related agencies funded in this section of the resolution receive a total of $2.4 billion. The largest amounts go to the U.S. Information Agency, $807 million, the Small Business Administration, $482 million, the Legal Services Corporation, $306 million, the Equal Employment Opportunity Commission, $165 million, the Board for International Broadcasting (Radio Free Europe/Radio Liberty), $140 million, and the Securities and Exchange Commission, $111 million.

The conferees have approved $7.5 million for the Commission on Civil Rights along with restrictions on the Commission's continued operation. The House had provided funds only for the closing of the Commission.

The Legal Services Corporation would operate in essentially the same manner as in the current year at the presequestration level of $305.5 million.

USIA'S educational and cultural exchange programs would be funded at $145 million, and funds are provided for the construction of facilities for Radio in the American Sector [RIAS] in West Berlin.

The resolution provides $15 million for the National Endowment for Democracy, and report language reserves 25 percent of the program funds for discretionary grants not related to the traditional CORE grantees.

Antiabortion language is included covering the activities of both the Department of Justice, including the Bureau of Prisons, and the litigation activities of the Legal Services Corporation.

In addition to CORE support for the Commission on the Bicentennial of the U.S. Constitution in the amount of $13.2 million, the conference agreement provides $20 million for a new James Madison Memorial Fellowship Program and $3.2 million to endow four constitutional law chairs at identified universities for the purpose of encouraging the study of the Constitution.

DISTRICT OF COLUMBIA

Section 101(d) of House Joint Resolution 738, amendment 4, contains the rate of operations and terms and conditions for H.R. 5175, the District of Columbia Appropriations Act, 1987. In amendment 4, the Senate replaced the House-passed version of H.R. 5175 with the District bill that passed the Senate on September 16, 1986.

The conference agreement for this bill provides $560,380,000 in Federal funds and approves approximately $3 billion in District of Columbia funds. The Federal funds contained in this conference report appropriates $30.4 million more than the fiscal year 1986 adjusted amount and the House-passed bill. However, the $560.4 million level is the same as the amount requested in the President's budget.

The administration has no particular concern with the Federal funds provided by this ageement in fiscal year 1987. However, OMB does object to a provision added by the Senate authorizing additional Federal funds for the construction of a new jail. In fiscal year 1986, the Congress appropriated $30 million for a new jail. This agreement provides an advance appropria-

tion of $20 million for fiscal year 1988 to augment the previously appropriated funds. The District must use these funds to construct a 700-bed, medium-security facility.

Although not on the "A" list of objectionable items, the $20 million advance appropriation was included on OMB's "B" list.

The conferees also agreed to carry the standard abortion prohibition for Federal funds, and a general provision was included to specify the placing of signs which designate "Andrei Sakharov Plaza." This designation, the street address of the Soviet Embassy in Washington, was made last year in the District of Columbia Appropriations Act.

ENERGY AND WATER DEVELOPMENT

For programs under the jurisdiction of the Subcommittee on Energy and Water Development, the conferees have provided slightly over $15 billion.

For the Corps of Engineers, the conferees have provided $3.1 billion, for projects in every State of the Union.

For the Bureau of Reclamation, the conference agreement provides $867.6 million.

For the Department of Energy, in which we had a number of very controversial issues, we have provided $10.4 billion. Of that amount, nearly $7.5 billion is for atomic energy defense activities, including $341 million for the strategic defense initiative [SDI], or such lesser amount as may be subsequently authorized.

For the nuclear waste disposal fund, the conferees have recommended $499 million, of which $420 million is available immediately and $79 million is available subject to prior approval of the Subcommittees on Energy and Water Development Appropriations of the House and the Senate. No funds are provided for drilling of any exploratory shaft at any site in fiscal year 1987, and no funds are expected to be spent for a second repository. It is clear that the task for the coming year will be to restore a consensus within the Congress and the administration regarding future progress on this program.

With regard to the uranium enrichment criteria, which were of concern to a number of Members, I believe that the chairman has provided an outline of those provisions, and that the statement of managers adequately sets out the compromise reached by the conferees. I would simply say that the compromise language would not impair existing enrichment contracts, and would not interfere with pending litigation involving this issue.

Under the general provisions for the Department of Energy there is language included that I authored, providing for an increase in the "Buy American" differential to 30 percent, for purchases of extra-high voltage [EHV] electrical equipment by Federal power agencies. This language would apply to purchases from countries that do not offer fair trading opportunities to U.S. manufacturers of such equipment, and it is my hope that this provision will encourage our trading partners to bring their trading practices into line with ours, and agree to include this type of equipment in the GATT procurement code. In making determinations regarding exemptions from this language, it would be my intention, as the author of this language, that consideration would be given to a country's provision of fair trading opportunities to manufacturers of all types of EHV electrical equipment, taken as a whole, rather than by a narrow review of a specific product line—such as capacitors or resistors, for example. As indicated in the House report language on this provision, it is expected that a country will receive a generic exemption from the application of this increased differential, upon meeting the specified criteria, rather than being required to be reviewed extensively for each procurement. This would, by necessity, require a review of the accessibility of the relevant foreign market to the full range of EHV electrical equipment manufactured in the United States.

Within the conference agreement, language has been included prohibiting the expenditure of any Federal funds for the planning, implementation, construction, or granting of any permit for the Northfield Mountain water supply project or the Millers and Tully Rivers water supply project in Massachusetts. These projects, which would involve diversions from the Connecticut River, are strongly opposed as environmentally unsound. This language would have the effect of killing these projects once and for all.

Finally, I would note that the conferees have agreed to language contained in the House-passed report, earmarking $800,000 for the Renewable Energy Program at the University of Massachusetts at Amherst. These funds, which will support a project involving wind energy research and engineering, will help make an outstanding institution even stronger.

HUD-INDEPENDENT AGENCIES

Amendment No. 7: The conference agreement for the Department of Housing and Urban Development and the Independent Agencies incorporates the conference report (H. Rept. 99-977) filed in the House on October 7, 1986 into amendment No. 7, with an additional provision of $2.434 billion for a NASA replacement orbiter previously included in the Senate amendments to the defense section.

Our recommendations for HUD and the Independent Agencies total $56.012 billion, in new budget authority. This is an increase of $2 billion over the level contained in H.R. 5313 as passed the House on September 24, 1986. We have agreed to increases of $50 million for public housing operating subsidies, $15 million for new homeless housing programs, $50 million for EPA abatement control and compliance activities, $550 million for Superfund, $2.78 billion for NASA, $72 million for the NSF, and increases in the limitations on guaranteed loans of $20 billion for the FHA and $17.5 billion for GNMA.

Among the reductions from House-passed levels are: $289.3 million from assisted housing, $50 million from the UDAG Program, $55 million from FEMA disaster relief, and $76.9 million from VA medical care.

The conference agreement represents a $2.33 billion increase over the Senate-passed version of H.R. 5313, and a $9.52 billion increase over the administration's revised requests. The majority of the increase over the President's budget comes in the area of housing programs, where we have restored $5.03 billion in proposed cuts; NASA accounts which we have increased by $2.5 billion; and Veteran's Administration, where we have increased funding by $403 million.

I would like to point out to my colleagues, that the fiscal year 1987 levels recommended for HUD and the Independent Agencies represent a $2.14 billion reduction from 1986-enacted levels. This decrease is in large part due to the fact that we were unable to include funds for the unauthorized revenue sharing program.

Mr. Speaker, most of the fiscal year 1987 agreements reached on accounts in this section are good ones. For the most part, we have maintained our commitments to the priorities that have survived the Gramm-Rudman-Hollings budget process.

We have provided for 12,000 units of section 202 housing for the elderly and handicapped. We have maintained funding for community development block grants at $3 billion and included $99 million for housing development grants. We have made over $1.4 billion available to the Superfund and $2.4 billion for EPA construction grants. We have agreed to $9.4 billion for veterans' medical care, $1.6 billion for scientific research and education, and over $10.4 billion for strengthened aeronautics and space programs at NASA.

I am also pleased to report that we have provided $576 million for FEMA, a $106.8 million increase over the request, to maintain the Emergency Food and Shelter Program at $70 million, and to restore proposed reductions in the National Fire Academy, and the U.S. Fire Administration, including adequate funds for the continuation of the Community-Based Anti-Arson Grant Program.

I am, however, disappointed, Mr. Speaker, that the conferees were

unable to address the issue of general revenue sharing at all, and that we were forced to take a $91 million reduction in the Urban Development Action Grant Program, one of the most worthwhile housing and community development assistance programs on the books. I will be back next year to fight for this program again, Mr. Speaker, as I have for the past 7 fiscal years over the administration's objections. Redeveloping communities in western Massachusetts and throughout the country depend upon these small but vital Federal investments to make housing and commercial revitalization projects possible.

Amendment No. 46: The agreement deletes language proposed by the House earmarking funds for the reopening and reoperation of a HUD field office. Language prohibiting HUD field office closures in 1987, and requiring the reopening of any field office closed in the past 12 months, has been included in Amendment No. 7.

Amendment No. 47: The agreement restores House language extending the cigarette fire safety study by 6 months.

Amendment No. 91: The agreement deletes language proposed by the Senate rescinding and appropriating funds for the hazardous response trust fund. Similar language has been included in the conference agreement on Amendment No. 7.

Amendment No. 104: Deletes Senate language extending the period for the commencement of construction under the HoDAG Program. This language has been included in the agreement on Amendment No. 7.

Amendment No. 115: Deletes Senate language mandating a specific agreement between EPA and the State of Arkansas.

INTERIOR AND RELATED AGENCIES

Section 101(H) of House Joint Resolution 738—amendment 8—contains the rate of operations and terms and conditions for H.R. 5234, the Department of the Interior and Related Agencies Appropriations Act, 1987. In Amendment 8, the Senate replaced the House-passed version of H.R. 5234 with the Interior appropriations bill that passed the Senate on September 16, 1986.

The conference agreement for this bill provides $8,333,076,000 in new budget authority for fiscal year 1987. This amount is $181.3 million over the House passed bill and $477.4 million more than H.R. 5234 as passed the Senate. Compared to the President's budget, this agreement exceeds the request by $1.7 billion.

Let me point out to my colleagues that the agreement is higher than the House-passed bill because the managers decided to include anticipated supplemental fire costs for three agencies; $233 million over the House-passed bill is included for fire costs, $125 million for the Forest Service, $25 million for Bureau of Indian Affairs, and $83 million for the Bureau of Land Management.

The administration's objections to the Interior bill were not confined to the funding levels for the various agencies and programs funded in this bill.

The so-called A list prepared by OMB included three items within the jurisdiction of the Interior Subcommittee. First, the House prohibition on the President's policy deferral authority was deleted from the bill. This language was similar to a provision that was proposed but not included in the fiscal year 1986 Supplemental Appropriations Act. Second, the administration objected to amendment 86 which requires structures on the Outer Continental Shelf to contain at least 50 percent U.S. materials. OMB has made its intentions clear regarding this provision. In a letter to the conferees, OMB Director Miller warned that "the buy American requirement for oil drilling rigs is one of those items in the continuing resolution which, if not deleted, would cause the President's senior advisers to recommend a veto". No agreement between the House and Senate managers could be reached in conference, and therefore this amendment (86) is reported to the House in true disagreement.

Third, the administration objected to the House language mandating a minimum fill rate of 75,000 barrels per day for the strategic petroleum reserve. The language was not included in the conference agreement, and the $220 million provided in the House bill for oil acquisition was dropped in conference. Approximately $550 million available from unobligated balances for oil purchases would allow for filling the reserve in fiscal year 1987 at a rate up to 90,000 barrels per day.

The administration cited the two provisions in the House bill as B list items. The compromise moratorium language on OCS leasing offshore California was retained intact by this conference agreement. The administration opposed this provision. The managers did agree to drop a House provision which would have prohibited any studies on the sale of the Naval Petroleum Reserve. The conference agreement limits the amount to be spent on such studies to $500,000 and requires the administration to issue a report to the Congress by June 30, 1987.

Over the course of last week, meeting every day for countless hours, the conferees hammered out compromises on many other issues in disagreement.

The conference agreement includes an innovative plan to raise additional funds for the National Park Service by increasing fees on an incremental schedule. The maximum fee is set at $5.00, and the charge is gradually reduced depending on the particular park unit. Urban parks with multipoint access are exempt from the fee program. Overall, $50 to $60 million in additional resources will be pumped back into the National Park System, particularly to the units which collect the most in fees. This change is long overdue and should improve the quality of the national park experience.

The conference agreement also includes $10 million for an energy demonstration and research facility at Tufts University in Massachusetts. Using these Federal funds and private resources, an Energy Conservation Research Center will be established at Tufts. This center will be a model facility where innovative energy conservation technologies will be studied and tested for their effectiveness for use in commercial building construction. Building on a proven record of academic excellence and expertise in the area of energy conservation, the Tufts Center will use already existing extensive utility and industry contacts to conduct a research program with widespread applications.

In an effort to expedite the awarding of this grant, the managers modified language proposed by the House and struck by the Senate in amendment numbered 127. The modifications were made to bring this project in line with the construction authorization contained in section 202 of the Conservation Service Reform Act of 1986 (Public Law 99-412). The language defining the grant was expanded to include "an energy demonstration and research facility" which clearly is covered by the authorization in section 202. In addition, the reference to "specific" authorization was deleted from the House language. As a conferee for this provision and as manager of this resolution, it was my understanding that the section 202 of the Conservation Service Reform Act of 1986 satisfies the authorization conditions contained in the revised version of this language. The conference agreement includes a provision which releases the $10 million grant "when authorized by an act of Congress". The authorization contained in Public Law 99-412 was discussed by the conferees, and the Department of Energy should consider the authorization condition met by the provisions of the Conservation Service Reform Act of 1986.

Another modification to the Tufts language was made by the conferees. The requirement for a special peer review of this project was dropped and replaced by a "technical review panel." This review should be limited to the university construction grant award implementation program, as administered by the Department's Chicago Operations Office.

At this point in the RECORD, I will include correspondence between myself and Congressman ED MARKEY, the chairman of the subcommittee with jurisdiction over the authorizing legislation for this project.

The conferees for the Interior section also disposed of several Senate amendments added to the body of this continuing resolution.

On amendment 49, the conference agreement included language added by the House which required that part A of title IV of the Indian Education Act be distributed under the same eligibility requirements as applied in fiscal year 1986.

On amendment 50, the conferees included $500,000, instead of $1 million as proposed by the House, for the acquisition and curation of the Duke Ellington collection. The funds were provided to the Smithsonian Institution.

On amendment 63, the managers accepted the Senate provision which authorizes the acquisition and development of a mainland tour boat facility for Fort Sumter National Monument in South Carolina.

On amendment 90, the managers agreed to accept language proposed by the Senate concerning the use of Bureau of Indian Affairs funds for Institute of American Indians Act.

On amendment 112, the managers accepted a provision proposed by the Senate which would permit the extension of any geothermal lease in effect as of July 27, 1984 to December 31, 1988 and provides protection for thermal features within certain units of the National Park System.

On amendment 116, the managers agreed to three of four separate pieces of authorizing legislation. The provision reinstating desert land entry rights for certain claimants in Idaho was not included in this resolution.

On amendment 117, the managers accepted language proposed by the Senate concerning the Office of Surface Mining applicant violator system.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 14, 1986.

Hon. EDWARD J. MARKEY,
Chairman, Subcommittee on Energy Conservation and Power Committee on Energy and Commerce, Washington, DC

DEAR ED: I am writing to you with regard to the energy demonstration research facility for which funding has been included in the Interior Appropriations section of the Continuing Resolution (H.J. Res. 738). It is my understanding that this project was authorized in the Conservation Service Reform Act of 1986.

I would very much appreciate it is you could confirm my understanding that the above mentioned energy demonstration research facility has been authorized by law.

Thank you in advance for your assistance in this matter.

With best wishes, I am
Cordially yours,

SILVIO O. CONTE,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 15, 1986.

Hon. SILVIO O. CONTE,
U.S. House of Representatives, Washington, DC.

DEAR SIL: Thank you for your letter of October 15, 1986 requesting confirmation of the authorization of the energy demonstration research facility that has been included in the Interior section of the Continuing Resolution. I share your interest.

The project you mention in your letter was authorized in the Conservation Service Reform Act, Public Law No. 99-412, enacted earlier this year.

Should you have any further questions regarding this matter, please let me know.

Sincerely,

EDWARD J. MARKEY,
Member of Congress.

LABOR, HHS, AND EDUCATION—FISCAL YEAR 1987

For the Departments of Labor, Health and Human Services, and Education, and Related Agencies, this continuing resolution provides funding at the level of the conference report on H.R. 5233, the fiscal year 1987 Labor/HHS/Education bill, filed on October 2, 1986.

Once again—for the fourth year in a row—we crafted a Labor/HHS/Education bill that meets both our commitment to those Americans who need help from their Government and our obligations to the budget crisis that faces this Government. If we had been able to get this bill to the President, I am convinced that he would have signed it, just as he has done with every Labor/HHS/Education bill we've sent him the last 3 years.

This conference report provides $113.1 billion in new budget authority for fiscal year 1987, including nearly $78 billion in mandatory spending and $35.2 billion in discretionary spending. That total is $7 billion more than last year and $8.4 billion over what the President requested. For discretionary spending, the only part of the bill over which the appropriations process has any control, we added just under $3.4 billion to last year's funding for these programs which reach into virtually every school, hospital, nursing home, unemployment office, college, and biomedical research laboratory in the Nation.

And even with those added amounts, let me tell my colleagues that the Labor, HHS, and Education portion of the continuing resolution adds nothing to the budget deficit because it's within our fiscal year 1987 budget ceiling!

The total amount is $684 million under the budget authority amount allocated to the subcommittee by the budget process, and $682 million under the House outlay ceiling imposed by that process. In terms of discretionary spending, the measure by which an appropriations bill is judged against the budget allocation, the total is $333 million under in budget authority, and $3 million below the House outlay ceiling.

This measure contains $10.2 billion more than we had when H.R. 5233 was adopted by the House on July 31 by a vote of 328 to 86. That increase reflects funding for programs that were unauthorized when we brought the bill to the floor in July. But, in case anyone starts to get the impression that we added too much to the House bill in conference, let me remind Members that we held aside more than that amount when this bill was considered 2½ months ago.

In July, when the House considered H.R. 5233, amendments were offered to apply across-the-board cuts to every program in the bill. Each of those amendments was based on the belief that we were spending too much on these programs and that we would not meet our budget ceiling after we added in the unauthorized programs. I fought those amendments and told their proponents that we would work with our counterparts in conference to keep the bill under its allocation ceiling, and that we would do it without resorting to indiscriminate and unfair across-the-board cuts. I kept my word, and I repeat—the Labor, HHS, Education portion of this resolution is under the House 302(b) discretionary budget authority and outlay ceilings.

In most areas, the conference report restores programs to the fiscal year 1986 level, which was essentially a freeze at fiscal year 1985 levels. It also contains major funding increases for several programs, including AIDS research, summer youth employment programs, biomedical research at the National Institutes of Health, compensatory education, education for the handicapped, and student financial aid for college students.

For AIDS, we provide an 84-percent funding increase—from $224 million last year to $396 million for fiscal year 1987—for research and prevention activities on this dreadful disease at the Center for Disease Control, the NIH, the Alcohol, Drug Abuse, and Mental Health Administration, and other agencies of the Department of Health and Human Services.

Summer youth employment programs will receive an increase of $114 million, to a total for fiscal year 1987 of $750 million. That represents a clear recognition of the Federal responsibility in dealing with youth unemployment, particularly during the summer months.

An additional $796.5 million is provided over the fiscal year 1986 level for other biomedical research at NIH, bringing fiscal year 1987 total to $6.18 billion for the institutes of cancer; child health and human development;

allergy and infectious diseases; heart, lung and blood; general medical sciences, neurological and communicative disorders and stroke; diabetes, digestive, and kidney diseases; and all the others. In this centennial year of NIH, we provide an increase of $1.1 billion over the amount requested by the President.

Compensatory education for disadvantaged children, chapter I, will receive an increase of $414 million, to an historic total of $3.944 billion. The conferees recognized that this is the major Federal program for ensuring equal educational opportunity to low-income, disadvantaged children, and chose to provide funding that is $256 million more than the administration requested.

Head Start, our major program to assist preschool children from low income families through a comprehensive program of education, health, nutrition, and related social services, also will receive a major increase. Fiscal year 1987 funding will be at $1.13 billion, more than $90 million more than was provided last year.

For education of the handicapped, the agreement provides a $392 million increase over last year's level, to a total of $1.741 billion. Rehabilitation services, the other major program of assistance to handicapped persons, will be funded at $1.484 billion in fiscal year 1987, an increase of $175 million over last year.

Student financial assistance programs will receive an increase of $374 million in fiscal year 1987. Most of this increase is in the Pell Grant Program and even with the ever-increasing number of program participants, this increase will maintain the award at a steady level. Other student aid programs are also restored to their pre-Gramm-Rudman-Hollings fiscal year 1986 levels. With the recent reauthorization of the Higher Education Act, I hope to take a close look at these programs next year to see whether we can increase actual benefits to students faced with rising education costs.

It is my hope that we also take a look early next year at some of the programs that we could not restore in conference with the Senate. Included among those programs are the Work Incentives Program and Low Income Home Energy Assistance—two areas where I strongly disagree with the conference.

For the second straight year, WIN loses. Last year, it was cut $46 million; this year it's another $110 million cut from that already reduced fiscal year 1986 amount. This is the one program that provides training and employment opportunities to persons on welfare. It works in my home State and in many other States. To keep the program running as close to last year as possible the conferees also directed the Department to spend the full $110 million over the first three quarters of the fiscal year. If the downward trend in funding cannot be turned around, the conferees also express their hope that a replacement AFDC employment program will be put in place in the first session of the 100th Congress.

Another major decrease which I strongly opposed came in the Low Income Home Energy Assistance Program. LIHEAP is funded at $1.825 billion in the conference agreement, $184 million less than last year. I think that's a big mistake, but given the decrease in home energy prices and the influx of funds to the States from the Exxon overcharge case, I could not influence my fellow conferees otherwise. The conferees did express their intention to closely monitor this program in fiscal year 1987, and to ensure that the amount provided does not fall short of the amount actually needed.

The conferees restored funding for several programs proposed for elimination in the President's budget. Among those, the resolution restores $205.7 million for most of the health professions programs, including $53.3 million for nurse training programs; $7.4 million for organ transplants; $4 million for the vaccine stockpile, $15 million for mental health clinical training, $10.5 million for mental health protection and advocacy, $130 million for impact aid "B" payments, $30 million for emergency immigrant education, $31.6 million for consumer and homemaker education, $60 million in new loan commitments for college housing loans, and others.

The conference report also provides increases for several programs proposed for major reductions by the administration, including $750 million for summer youth employment, $656.3 million for the Job Corps (together with a prohibition on center closings until January 1, 1988), $290 million for HEAL loans, $1.1 billion for medicare contractors, $1.7 billion for education of the handicapped, and nearly $875 million for vocational education.

Finally, I would like to call attention to several provisions of the report.

The first directs the Secretary of HHS to operate the family planning program in the same manner and under the same allocation formula as he did for fiscal year 1986. This language arose out of concerns by the conferees about reports that HHS might change the allocation formula and guidelines for the program in fiscal year 1987. Aside from arguments on the merits of the possible changes, conferees were concerned about the fact that HHS first notified members of the House and Senate committees late last month about the possibility of the changes, despite the fact that departmental witnesses had told the House committee in March that no changes were contemplated. The conferees do not intend to tie the Secretary's hands in administering the program, but believe the Secretary should make a stronger effort to comply with the statutory requirement that he report to Congress on any such changes within the first 7 months, not the last 7 days, of the fiscal year.

Another area where the House and Senate reached agreement was in the formula for payments to local education agencies under the so-called Impact Aid Program. The original House-passed bill included a new sliding scale formula proposed in the President's budget. Instead of having only two categories of LEA's, "Super A's," and "non-Super A's," this new structure would have created six categories, each receiving an appropriate percentage of entitlement based on the number of "A" children enrolled. The Senate-passed bill essentially maintained last year's formula.

Mr. Chairman, in conference we struck a compromise between the two payment structures. Under the agreement in this conference report, payments for "A" children will be made at different levels for three categories of LEA's. For LEA's with 20 to 100 percent "A" children, most payments will be made at 100 percent of entitlement. For LEA's within 15 to 20 percent "A" children, most payments will be made at 75 percent of entitlement. For LEA's with less than 15 percent "A" children, most payments will be ratably reduced from 100 percent of entitlement. For all LEA's, payments for children residing in low-rent housing will be made at lower levels. For LEA's with 20 to 100 percent "A's", these payments will be at 15 percent of entitlement; for LEA's with 15 to 20 percent "A's", these payments will be at 11.25 percent of entitlement; for LEA's with less than 15 percent "A's", these payments will be ratably reduced from 15 percent of entitlement.

Increases in 1987 local contribution rates for LEA's with 15 to 100 percent "A's" will be limited to 5 percent over their 1986 local contribution rates. This limit will not apply to the additional funds provided to LEA's eligible under sections 3(d)(2)(B) or 3(D)(d)(3)(B)(ii).

Finally, the conferees urged the Secretary of Education to continue to use loan repayments to the College Housing Loan Fund to make new loan commitments. This loan portfolio is slated for sale, with the proceeds from such sale to be used to retire the outstanding debt to the Treasury. But conferees believe that new requirements of the Academic Facilities Program will require new outlays of capital in future years from the College Housing Loan Fund, and believe such new loan capital should come from repayments on that portion of the portfolio not yet sold.

Mr. Chairman, the Labor, Health and Human Services, Education, and Related Agencies portion of House Joint Resolution 738 is something we should all be proud of. I only wish we had not been precluded by all the delays in this year's budget process from letting this bill stand on its own.

TRANSPORTATION AND RELATED AGENCIES

For programs under the jurisdiction of the Subcommittee on Transportation, the conferees have recommended a total of $10.2 billion in new budget authority.

For the Essential Air Service Program, which has been of such interest to so many Members, the conferees have recommended $30 million. This amount will be more than sufficient to fund all anticipated needs for payments to air carriers under this program.

For the operations of the Federal Aviation Administration, including air traffic control, we have provided $2.78 billion. In addition, we have dropped the language involving the rehiring of striking air traffic controllers, the so-called "PATCO" language, which resulted in a veto of the interim continuing resolution last Wednesday. In its place, we have provided a statutory requirement that the FAA satisfy certain staffing criteria by the end of fiscal year 1987, including a total air traffic controller work force level of not less than 15,000; a requirement that 70 percent of those eligibile to be full performance level controllers have achieved FPL status; and a requirement that at least 60 percent of those at each en route air traffic control center and each "level 3" or above terminal shall have achieved full performance level status. The administration does not object to this provision.

For FAA facilities and equipment, we have included $804.6 million, to provide for the continuation of the airspace modernization plan. And for grants in aid to airports, we have recommended a limitation on obligations of $1 billion.

For the Coast Guard, $1.755 billion is included in this section for operating expenses, and another $75 million may be made available through the Department of Defense.

For the Coast Guard's acquisition, construction, and improvements account, the conferees have included $209 million. In addition, $200 million in coastal defense augmentation funds will be made available through the defense section of this resolution.

For Reserve training, we have provided $64.4 million, which will further improve the Coast Guard's ability to fulfull its defense-related missions.

And for boating safety, we have provided the fully authorized level of $30 million.

Programs within the Federal Railroad Administration have been funded at a level of $683.3 million. Of this amount, $602 million has been provided for Amtrak, an amount which will permit the continued operation of a national passenger rail system, but only a modest capital program. I would register my concern for the dangerous impact of continued deferred maintenance for Amtrak. At some point, we are going to need to look at increasing Amtrak's capital expenditures.

For the Northeast Corridor Improvement project, we have provided $16.9 million, of which $5.5 million is for phase I of the Boston North Station project. This will be the final installment of phase I funding for this project. Any additional funding requirements for this phase still have to be provided from non-FRA sources.

For local rail service assistance, we have provided continued support for essential local rail projects. This includes $1 million for the rehabilitation of lines in western Massachusetts, between North Adams and Pittsfield and between Pittsfield and Canaan, CT.

For UMTA, we have provided $3.45 billion, including $2 billion in formula grants and $1 billion for the Section 3 Discretionary Program. Although we have provided a 2.5-percent reduction in operating assistance, that cut will only apply to systems serving a population of 1 million or more.

For Washington Metro, we have provided $201.1 million, and amount which will permit work to continue on existing projects and the recently initiated Green Line, pursuant to the recently negotiated regional funding agreement.

Language has been included in the conference agreement that would permanently prohibit any planning or implementation of any change in the current Federal status of the Transportation Systems Center in Cambridge, MA.

And finally, we have one item in disagreement, involving the transfer of National and Dulles Airports through a long-term lease arrangement. It is my hope that we will, with some modification, ultimately agree to the Senate provision on that item.

TREASURY-POSTAL SERVICE-GENERAL GOVERNMENT

Section 101(m) of H.J. Res. 738 (Senate amendment 12) contains the rate of operations and terms and conditions for H.R. 5294, the Treasury, Postal Service, and General Government Appropriations Act, 1987. The House version of the continuing resolution contained the text of H.R. 5294, as passed the House on August 6, 1986. As amended by the Senate, section 101(m) contained H.R. 5294, as reported to the Senate on August 14, 1986, except for section 621. This provision contains the so-called beer bill which provides certain antitrust exemptions for the wholesale distributors this provision was removed from the concurrent resolution after extensive debate on the Senate floor.

The conference agreement for the Treasury bill provides $13,637,434,800 in new budget authority for fiscal year 1987. This amount is $22.7 million less than the House-passed level and $344.2 million more than the amoung recommended by the Senate-reported bill. Compared to the President's budget, this agreement exceeds the request by $772.8 million. The total amount for budget authority exceeds the fiscal year 1986 post-Gramm/Rudman level by $596.1 million.

Although the total amount is more than the President's budget request, this agreement is within the target levels for both outlays and budget authority. As calculated by CBO, the outlay level in this agreement is $6 million below the target for this bill, and for budget authority, the total amount is about $4 million below the target level of $13.640 billion.

For the Treasury bill, most increases over the President's budget can be attributed to three agencies. For the U.S. Customs Service, this agreement provides $786 million for salaries and expenses. This amount is $69 million over the fiscal year 1986 adjusted level, $93 million over the President's request, and $10 million less than the House-passed level; $77.8 million was provided for the Customs Air Interdiction Program. This amount is $10.6 million more than the House-passed level and $23.1 million more than the President's request. These funds are essential to our effort to wage a multifront war on drugs. The Customs Service is the front line agency for stopping the illegal flow of narcotics into this country, and we must provide the resources required to do the job.

The operation of the Internal Revenue Service will cost at least $4.3 billion in fiscal year 1987. The conference agreement provides the House-passed funding levels for the IRS which is $150 million more than the President's request. Considering the processing disaster of last year, the appropriation of these funds is a prudent course for us to take.

Finally, the agreement provides $650 million for the revenue forgone postal subsidy. The conferees agreed to postpone the $40 million payment for unfunded liabilities of the former Post Office Department. This deferral of payment does not affect the postal rates of nonprofit mailers or rural publications. The $650 million provided in this agreement is sufficient to maintain the current rates for all users of the revenue forgone subsidy.

The conference agreement also provides additional funds for two very important law enforcement agencies. The conferees agreed to the Senate level for the Bureau of Alcohol, Tobacco and Firearms: $193.5 million.

This amount is $15 million over the President's request and $3 million more than the House-passed level. The agreement also includes the Senate-recommended funding level for the U.S. Secret Service: $318 million. This amount is $10.8 million more than the President's budget and $1.2 million more than the House-passed level.

Together with the increases for the two enforcement agencies and the training academy, the add ons for Customs Service, the IRS and the postal subsidy account for practically the entire increase above the President's budget, some $950 million. In fact, the conferees made significant cuts to reduce the overall total even further, to a level $773 million above the budget request.

The administration's objections to the treasury bill were not confined to the money issues.

The so-called "A" list included one item within the jurisdiction of the Treasury-Postal Service Subcommittee: The funding restriction on OMB's Office of Information and Regulatory Affairs [OIRA]. The House-passed bill cut $5.4 million from the OMB account and included a restriction on the use of funds for OIRA-related activities. The Senate bill had no such provisions. The conference agreement satisfactorily answers the concerns expressed by the administration. The language was dropped, and the Senate funding level of $37 million was adopted. In addition, a new title VIII was added to the bill. This title is essentially the text of the "Paperwork Reduction Reauthorization Act of 1986" which authorizes $5.5 million for OIRA through fiscal year 1989. The reauthorization act also includes several pages of unrelated legislation.

The "B" list includes objections to several provisions which were included in both House and Senate versions of H.R. 5294, and as such they were not a matter of conference. The conferees did agree to drop three provisions listed as objectional: The circular A-21 language, the funding prohibition on the Assistant Secretary of the Treasury pending revision of REA repayment rules, and the so-called "beer" bill. The conference agreement did not drop the provision establishing an employment floor for the Customs Service.

The Treasury-Postal Service section of this resolution contains several language provisions worked out by the conferees.

Section 519 limits the amount of silver deposited in the National Defense Stockpile to 128 million troy ounces. The total amount in the stockpile includes any silver on loan to the Department of Defense. As of September 30, 1986, there should be no more than 128 million troy ounces of silver in the National Defense Stockpile.

To implement the directives in this provision, the Administrator of General Services should closely monitor the disposal of silver as provided by section 203 of the Liberty Coin Act. If it is estimated that the coinage program will not bring the level of silver in the stockpile to the specified amount, then the Administrator of General services should plan a sale of silver on the open market so that the the statutory stockpile ceiling for silver will not be exceeded. The sale of silver should begin well before September 30, 1987 to insure minimal market disruption.

Section 520 mandates the use of all funds previously authorized and appropriated before January 1, 1985 from the National defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984. These funds must be expended no later than October 1, 1988, and as indicated by the language in this provision, these funds do not include grants for construction provided in fiscal year 1986 and in this continuing resolution. Both the University of Massachusetts and the University of Nevada received construction grants through the transaction fund in the amounts of $10 million for each fiscal year 1986 and $5 million each for fiscal year 1987. These funds are dedicated for this purpose and shall not be used for any other program.

In addition to the regular appropriations bill, the continuing resolution contains several amendments within the jurisdiction of the Treasury-Postal Service-General Government Subcommittee.

On amendments 58 and 59, the conferees agreed to accept language which requires the GSA to negotiate a 30-year lease with the city of Tacoma, WA for space in the Union Station for the U.S. courts.

On amendment 60, the conferees could not agree on a provision further regulating the importation of alcoholic beverages. The amendment will be reported to the House in true disagreement.

On amendment 62, the managers accepted Senate language naming a U.S. courthouse in Aiken, SC.

On amendment 75, the conferees deleted language regarding INS and Customs Service activities at Bangor International Airport in Maine. As similar provision is included in the Commerce/State/Justice section of this resolution.

On amendments 76 and 93, the conferees dropped two provisions which affect tax policy. Both amendments were subject to a point of order in the House.

On amendment 81, the conference agreement accepted this provision which mandates OMB to include Harvey County, KS in the area designated as the Witchita Metropolitan Statistical area.

On amendment 85, the conferees accepted language included by the Senate to provide an annuity to former Senator Gladys Pile of South Dakota.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Speaker, the resolution before us today contains the conference agreement on the 1987 HUD-Independent Agencies Appropriations bill. It has been a long and arduous year—but I am pleased to report that the HUD conferees resolved all issues in disagreement.

For housing, we agreed to a level of $7,805,668,000. That is about $300 million below the House-passed level and represents what I believe should be the minimum—the absolute minimum—to support housing for the poor. And I hope everyone here will agree that the recommendations for subsidized housing are both constructive and attuned to the realities of the budget crisis.

When H.R. 5313 left this House, we placed a strong emphasis on public housing modernization. We did that by providing more than $1,430 million of direct capital grants for that activity. The conference agreement reaffirms that commitment and adds $244,712,000 for public housing project reconstruction or public housing new construction.

The fact is that there are a number of public housing developments in need of repair that the normal comprehensive modernization program cannot address. These projects must be totally gutted and rebuilt. Last year we made available 20 percent of public housing new construction funds for that purpose. This year we are affording the public housing authorities the option of requesting funds either for public housing reconstruction or for new units.

So, Mr. Speaker, I believe that for housing we have, on balance, come up with a reasonable—a fair—and a responsible program.

We were also remarkably successful in putting NASA on the road to recovery. The conference agreement on the HUD bill and this resolution includes a total of $10,434,000,000 for the National Aeronautics and Space Administration.

Within that level we are providing $2.1 billion for construction of a new orbiter.

We are funding the full Air Force payment to NASA of $531 million.

We are covering the cost of replacing the inertial upper stage cradle that was lost in the *Challenger* accident.

And we are initiating construction of a new tracking and data relay satellite also lost on *Challenger*.

I want to pay special tribute to Mr. CHAPPELL and other members of the Defense Appropriations Subcommittee in agreeing to reallocate $2.4 billion of budget authority and $100 million of outlays from that subcommittee's 302(b) allocation to the HUD Subcommittee.

That reallocation was invaluable and I believe that most Members would agree it is probably better to fund a new orbiter under NASA—rather than under the Air Force.

In other areas of the bill, we have included $1,622,850,000 for the National Science Foundation. That roughly splits the difference between the House and the Senate and provides for—get this—an 11-percent increase above fiscal year 1986. When you separate out the budgetary impact of the *Challenger* accident—no other agency in the bill is treated as generously as the NSF.

For the Federal Emergency Management Agency, we are making available a total of $576 million—including $70 million for the Food and Shelter Program. And, in connection with the Food and Shelter Program, we are also providing $15 million for new shelter programs under the Aegis of the Department of Housing and Urban Development.

For EPA, we are providing a total of $1,493,792,000 for that Agency's operating programs. This represents a small increase above fiscal year 1986—and includes $50 million for continuation of the School Asbestos Removal Program.

Also under EPA, we made available $1,411,300,000 for the Superfund—and it is our earnest hope that the President will sign the basic Superfund legislation so that those funds can be expended. And, Mr. Speaker, we are providing $1,800,000,000 of new budget authority for construction grants and releasing the remaining $600 million of the 1986 appropriation. This will provide a program level in 1987 of $2,400,000,000.

Finally, Mr. Speaker, the conferees on the part of the House made a supreme effort to protect the funding for veterans medical care. And I believe, for the most part, we were very successful. The other body reduced the House passed funding level for medical care by $250 million. This conference agreement reduces it by only $77 million below the House mark. That will provide a total of $9,411,817,000 to care for our veterans in 172 hospitals and nursing homes. And, Mr. Speaker, it will assure that the current staffing level of 193.941 will be maintained in fiscal year 1987. Frankly, I believe that is one of the major achievements of this conference agreement.

So, Mr. Speaker, those are the highlights of the fiscal year 1987 HUD appropriations bill.

Now let me conclude with the bottom line. The total budget authority for the agencies funded under this bill is $56,011,802,700. That is about $280 million below the section 302(b) allocation to the HUD Subcommittee.

And what about outlays. I am happy to report that this bill also meets the outlay test. The total outlays as scored by the Congressional Budget Office for the HUD bill is $56,508,409,000. That level is within $8 million of the informal ceiling allocated to that subcommittee.

Mr. Speaker, I would like to mention several technical errors in the printing of the conference report and joint explanatory statement of the managers (H. Rept. 99-977) on the 1987 Department of Housing and Urban Development-Independent Agencies Appropriations Act (H.R. 5313) as that document appears in the CONGRESSIONAL RECORD of October 7, 1986, on pages 29375 through 29385 and in the slip copy. The significant differences from the official copy of the conference report and joint explanatory statement of the managers are as follows:

In the bill language in amendment numbered one on H.R. 5313, the next to the last paragraph concerning rent control, the reference is to county, not country.

In amendment numbered 12, the conference agreement provides that the 1987 research and technology appropriation remains available until September 30, 1988. This matter is not clear when looking at the copy of H.R. 5313 dated October 3, 1986, the bill with the amendments of the Senate numbered, but becomes clear when looking at the official amendments.

In amendment numbered 16, the official version of the joint explanatory statement of the managers included an increase above the budget estimate for the Consumer Product Safety Commission. Salaries and expenses, of $100,000 for additional rent expenses in the Logan Building. That line was not printed in either version of the joint statement.

So, Mr. Speaker, I believe that the HUD bill is the product of a great deal of work and effort. And I believe it is a bill that should receive the support of this House—of the other body—and of the President.

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference	Conference compared with Adjusted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
TITLE I									
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
HOUSING PROGRAMS									
Annual contributions for assisted housing:									
(Increased limitation for annual contract authority)	(838,803,547)	(382,570,377)	(630,280,885)	(618,816,778)	(601,259,278)	(-237,544,269)	(+218,688,901)	(-37,021,607)	(-17,557,500)
Budget authority	9,537,086,647	7,529,144,000	8,095,000,000	7,295,855,500	7,805,668,000	-1,731,418,647	+5,276,904,000	-289,332,000	+509,812,500
Rescission of assisted housing deobligations (budget authority, indefinite)	-537,525,000	264,362,000	-264,362,000	---	-199,100,000	+338,425,000	+65,262,000	+65,262,000	-199,100,000
(Rescission of assisted housing deobligations annual contract authority, indefinite)	(-23,490,000)	(-14,400,400)	(-14,400,400)	---	(-12,225,000)	(+11,265,000)	(+2,175,400)	(+2,175,400)	(-12,225,000)
Total, annual contributions for assisted housing: (Increased limitation for annual contract authority (net))	(815,313,547)	(368,169,977)	(623,880,485)	(618,816,778)	(589,034,278)	(-226,279,269)	(+220,864,301)	(-34,846,207)	(-29,782,500)
Budget authority (net)	8,999,561,647	7,264,802,000	7,830,638,000	7,295,855,500	7,606,568,000	-1,392,993,647	+5,341,766,000	-224,070,000	+310,712,500
Rent supplement (rescission of budget authority, indefinite)	-1,158,920,000	---	---	---	---	+1,158,920,000	---	---	---
(Limitation on annual contract authority, indefinite)	(-41,390,000)	(-2,900,000)	(-2,900,000)	(-2,900,000)	(-2,900,000)	(+38,490,000)	---	---	---
Rental housing assistance (rescission of budget authority, indefinite)	-339,584,000	-54,000,000	-54,000,000	-54,000,000	-54,000,000	+285,584,000	---	---	---
(Limitation on annual contract authority, indefinite)	(-12,128,000)	(-3,500,000)	(-3,500,000)	(-3,500,000)	(-3,500,000)	(+8,628,000)	---	---	---
Housing for the elderly or handicapped fund (authority to borrow, indefinite)	503,517,000	---	507,689,000	507,689,000	507,689,000	+6,172,000	+507,689,000	---	---
(Limitation on direct loans)	(603,899,000)	(30,262,000)	(592,661,000)	(592,661,000)	(592,661,000)	(-11,238,000)	(+562,399,000)	---	---
Congregate services	2,555,300	---	3,400,000	3,000,000	3,400,000	+844,700	+3,400,000	---	+400,000
Payments for operation of low-income housing projects	1,158,544,000	1,171,543,000	1,300,000,000	1,400,000,000	1,350,000,000	+191,456,000	+178,457,000	+50,000,000	-50,000,000
Housing counseling assistance	3,312,500	---	4,000,000	3,500,000	3,500,000	+187,500	+3,500,000	-500,000	---
Federal Housing Administration Fund	239,762,000	272,955,000	272,955,000	272,955,000	272,955,000	+33,193,000	---	---	---
Portion applied to debt reduction	-165,375,000	-245,915,000	-245,915,000	-245,915,000	-245,915,000	-80,540,000	---	---	---
(Limitation on guaranteed loans)	(141,500,000,000)	(90,000,000,000)	(80,000,000,000)	(120,000,000,000)	(100,000,000,000)	(-41,500,000,000)	(+10,000,000,000)	(+20,000,000,000)	(-20,000,000,000)
Temporary mortgage assistance payments (limitation on direct loans)	(84,446,558)	(73,800,000)	(73,800,000)	(73,800,000)	(73,800,000)	(-10,646,558)	---	---	---
Total, Federal Housing Administration Fund	74,387,000	27,040,000	27,040,000	27,040,000	27,040,000	-47,347,000	---	---	---
Nonprofit sponsor assistance (limitation on direct loans)	(957,000)	---	(1,000,000)	(1,000,000)	(1,000,000)	(+43,000)	(+1,000,000)	---	---
Government National Mortgage Association									
Payment of Participation Sales insufficiencies	---	1,079,000	1,079,000	1,079,000	1,079,000	+1,079,000	---	---	---
Guarantees of mortgage-backed securities (limitation on guaranteed loans)	(175,000,000,000)	(125,000,000,000)	(132,500,000,000)	(150,000,000,000)	(150,000,000,000)	(-25,000,000,000)	(+25,000,000,000)	(+17,500,000,000)	(-10,000,000,000)
Total, Housing Programs	9,243,373,647	8,410,464,000	9,819,846,000	9,184,163,500	9,465,278,000	+201,902,353	+6,034,812,000	-174,570,000	+281,112,500
COMMUNITY PLANNING AND DEVELOPMENT									
Community development grants	2,990,434,000	2,624,800,000	3,000,000,000	3,000,000,000	3,000,000,000	+9,566,000	+375,200,000	---	---
(Limitation on guaranteed loans)	(212,956,000)	---	(150,000,000)	(150,000,000)	(150,000,000)	(-62,956,000)	(+150,000,000)	---	---
Urban development action grants	315,810,000	---	275,000,000	225,000,000	225,000,000	-90,810,000	+225,000,000	-50,000,000	---
Urban homesteading	11,358,000	12,000,000	12,000,000	12,000,000	12,000,000	+642,000	---	---	---
Emergency Food and Shelter Program	---	---	---	70,000,000	---	---	---	---	-70,000,000
Homeless Housing Programs	---	---	---	30,000,000	15,000,000	+15,000,000	+15,000,000	+15,000,000	-15,000,000
Total, Community Planning and Development	3,317,602,000	2,636,800,000	3,287,000,000	3,337,000,000	3,252,000,000	-65,602,000	+615,200,000	-35,000,000	-85,000,000
POLICY DEVELOPMENT AND RESEARCH									
Research and technology	18,173,000	18,900,000	18,173,000	18,000,000	17,000,000	-827,000	-1,900,000	-827,000	-1,000,000
FAIR HOUSING AND EQUAL OPPORTUNITY									
Fair Housing assistance	6,341,300	5,000,000	6,341,300	6,341,300	6,341,300	---	+1,341,300	---	---
Fair housing initiatives	---	(7,000,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
MANAGEMENT AND ADMINISTRATION									
Salaries and expenses	321,961,000	314,056,000	342,123,000	327,069,000	340,423,000	+18,462,000	+26,367,000	-1,700,000	+13,374,000
(By transfer, limitation on FHA corporate funds)	(261,959,000)	(291,224,000)	(306,962,000)	(306,962,000)	(306,962,000)	(+45,003,000)	(+15,738,000)	---	---
Total, title I, Department of Housing and Urban Development:									
New budget (obligational) authority (net)	12,909,490,747	8,385,220,000	13,271,483,300	12,872,553,800	13,061,040,300	+151,549,553	+6,675,820,300	-210,443,000	+188,486,500
Appropriations	(13,446,417,747)	(8,949,497,000)	(13,320,071,300)	(12,664,779,800)	(13,053,366,300)	(-393,051,447)	(+6,103,869,300)	(-275,705,000)	(+307,586,500)
Portion applied to debt reduction	(-165,375,000)	(-245,915,000)	(-245,915,000)	(-245,915,000)	(-245,915,000)	(-80,540,000)	---	---	---
Rescission of budget authority, indefinite	(-377,109,000)	(-318,363,000)	(-318,362,000)	(-54,000,000)	(-253,100,000)	(+124,009,000)	(+65,262,000)	(+65,262,000)	(-199,100,000)
Authority to borrow	(503,517,000)	---	(507,689,000)	(507,689,000)	(507,689,000)	(+4,172,000)	(+507,689,000)	---	---
(Increased limitation for annual contract authority (net))	(815,313,547)	(368,169,977)	(623,880,485)	(618,816,778)	(589,034,278)	(-226,279,269)	(+220,864,301)	(-34,846,207)	(-29,782,500)
(Limitation on annual contract authority, indefinite)	(-53,518,000)	(-6,400,000)	(-8,400,000)	(-8,400,000)	(-6,400,000)	(+47,118,000)	---	---	---
(Limitation on direct loans)	(689,302,558)	(104,062,000)	(667,461,000)	(667,461,000)	(667,461,000)	(-21,841,558)	(+563,399,000)	---	---
(Limitation on corporate funds to be expended)	(261,959,000)	(291,224,000)	(306,962,000)	(306,962,000)	(306,962,000)	(+45,003,000)	(+15,738,000)	---	---
TITLE II									
INDEPENDENT AGENCIES									
AMERICAN BATTLE MONUMENTS COMMISSION									
Salaries and expenses	11,920,506	11,673,000	11,673,000	11,673,000	11,673,000	-247,506	---	---	---
CONSUMER PRODUCT SAFETY COMMISSION									
Salaries and expenses	34,452,000	33,000,000	34,452,000	33,000,000	34,100,000	-352,000	+1,100,000	-352,000	+1,100,000

	FY 1986 Adjusted	FY 1987 Estimate	House	Senate	Conference	Conference compared with Adjusted	Conference compared with Estimate	Conference compared with House	Conference compared with Senate
DEPARTMENT OF DEFENSE - CIVIL									
Cemetorial Expenses, Army									
Salaries and expenses	13,987,462	15,783,000	6,701,000	15,783,000	15,783,000	+1,795,538	---	+9,082,000	---
ENVIRONMENTAL PROTECTION AGENCY									
Salaries and expenses	654,756,000	687,947,000	696,047,000	701,107,000	701,107,000	+46,351,000	+13,160,000	+5,060,000	---
Research and development	213,793,000	192,734,000	202,500,000	200,434,000	202,500,000	-11,293,000	+9,766,000	---	+2,066,000
Abatement, control and compliance	552,763,000	490,785,000	532,550,000	585,985,000	582,685,000	+29,922,000	+91,900,000	+50,135,000	-3,300,000
Buildings and facilities	4,785,000	5,000,000	9,000,000	9,500,000	7,500,000	+2,715,000	+2,500,000	+2,500,000	-2,000,000
Subtotal, operating programs	1,426,097,000	1,176,466,000	1,436,097,000	1,497,026,000	1,493,792,000	+67,695,000	+317,326,000	+57,695,000	-3,234,000
Payment to the hazardous substance response trust fund	---	(33,000,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
Hazardous substance response trust fund	861,300,000	1,050,000,000	861,300,000	1,650,000,000	1,411,300,000	+550,000,000	+361,300,000	+550,000,000	-238,700,000
Rescission	---	---	---	-600,000,000	-600,000,000	-600,000,000	-600,000,000	-600,000,000	---
(Limitation on administrative expenses)	(90,000,000)	---	(135,000,000)	---	(135,000,000)	(+45,000,000)	(+135,000,000)	---	(+135,000,000)
Leaking underground storage tank trust fund	---	---	---	---	50,000,000	+50,000,000	+50,000,000	+50,000,000	+50,000,000
(Limitation on administrative expenses)	---	---	---	---	(7,000,000)	(+7,000,000)	(+7,000,000)	(+7,000,000)	(+7,000,000)
Construction grants	2,374,200,000	1,800,000,000	2,400,000,000	1,800,000,000	1,800,000,000	-574,200,000	---	-600,000,000	---
(Release of prior year authority)	---	---	---	(600,000,000)	(600,000,000)	(+600,000,000)	(+600,000,000)	(+600,000,000)	---
Total, Construction grants	(2,374,200,000)	(1,800,000,000)	(2,400,000,000)	(2,400,000,000)	(2,400,000,000)	(+25,800,000)	(+600,000,000)	---	---
Total, Environmental Protection Agency	4,661,597,000	4,226,466,000	4,697,397,000	4,347,026,000	4,155,092,000	-506,505,000	-71,374,000	-542,305,000	-191,934,000
EXECUTIVE OFFICE OF THE PRESIDENT									
Council on Environmental Quality and Office of Environmental Quality	670,000	820,000	670,000	800,000	800,000	+130,000	-20,000	+130,000	---
Office of Science and Technology Policy	2,217,227	1,671,000	1,671,000	2,217,000	1,900,000	-317,227	+229,000	+229,000	-317,000
Total, Executive Office of the President	2,887,227	2,491,000	2,341,000	3,017,000	2,700,000	-187,227	+209,000	+359,000	-317,000
FEDERAL EMERGENCY MANAGEMENT AGENCY									
Disaster relief	345,700,000	100,000,000	175,000,000	120,000,000	120,000,000	-225,700,000	+20,000,000	-55,000,000	---
Salaries and expenses	109,440,000	118,507,000	118,507,000	124,000,000	124,000,000	+14,560,000	+5,493,000	+5,493,000	---
Emergency management planning and assistance	236,261,000	250,743,000	250,743,000	273,800,000	262,000,000	+25,739,000	+11,257,000	+11,257,000	-11,800,000
National flood insurance fund	91,830,628	---	---	---	---	-91,830,628	---	---	---
Portion applied to debt reduction	-37,920,000	---	---	---	---	+37,920,000	---	---	---
National insurance development fund	9,570,000	---	---	---	---	-9,570,000	---	---	---
Emergency food and shelter program	70,000,000	---	70,000,000	---	70,000,000	---	+70,000,000	---	+70,000,000
Total, Federal Emergency Management Agency	826,881,628	469,250,000	614,250,000	517,800,000	576,000,000	-248,881,628	+106,750,000	-38,250,000	+58,200,000
GENERAL SERVICES ADMINISTRATION									
Consumer Information Center	1,182,261	1,272,000	1,272,000	1,272,000	1,272,000	+89,739	---	---	---
(Limitation on administrative expenses)	(1,543,000)	(1,654,000)	(1,664,000)	(1,664,000)	(1,664,000)	(+121,000)	(+10,000)	---	---
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Consumer Affairs	1,903,000	400,000	1,000,000	1,750,000	1,750,000	-153,000	+1,350,000	+750,000	---
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION									
Research and development 1/	2,638,257,000	3,032,100,000	3,020,700,000	3,122,100,000	3,127,700,000	+489,443,000	+95,600,000	+107,000,000	+5,600,000
Space flight, control and data communications 2/	3,689,239,000	3,343,000,000	3,038,000,000	3,824,000,000	5,715,000,000	+2,025,761,000	+2,372,000,000	+2,677,000,000	+2,091,000,000
Construction of facilities	133,310,000	166,300,000	166,300,000	174,300,000	166,300,000	+32,990,000	---	---	-8,000,000
Research and program management	1,303,434,000	1,425,000,000	1,425,000,000	1,425,000,000	1,425,000,000	+121,566,000	---	---	---
Total, National Aeronautics and Space Administration	7,764,240,000	7,966,400,000	7,650,000,000	8,345,400,000	10,434,000,000	+2,669,760,000	+2,467,600,000	+2,784,000,000	+2,088,600,000
NATIONAL CREDIT UNION ADMINISTRATION									
Central liquidity facility:									
(Limitation on direct loans)	(593,400,000)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(+6,600,000)	---	---	--
(Limitation on administrative expenses, corporate funds)	(804,650)	(850,000)	(850,000)	(850,000)	(850,000)	(+45,350)	---	---	---
(Limitation on administrative expenses, insurance program - operating fund)	---	(10,352,000)	---	---	---	---	(-10,352,000)	---	---

1/ Includes $36,000,000 provided separately in section 101(g) of the Continuing Resolution (H.J. Res. 738).

2/ Includes $2,598,000,000 provided separately in section 101(g) of the Continuing Resolution (H.J. Res. 738).

NATIONAL SCIENCE FOUNDATION									
Research and related activities	1,296,060,000	1,479,000,000	1,333,300,000	1,479,000,000	1,406,150,000	+113,090,000	-72,850,000	+72,850,000	-72,850,000
Program development and management (limitation on administrative expenses)	(72,500,000)	(78,000,000)	(75,000,000)	(78,000,000)	(76,500,000)	(+4,000,000)	(-1,500,000)	(+1,500,000)	(-1,500,000)
United States Antarctic Program activities	110,151,000	117,000,000	117,000,000	117,000,000	117,000,000	+6,849,000	---	---	---
Science education activities	53,161,000	89,000,000	99,000,000	99,000,000	99,000,000	+45,839,000	+10,000,000	---	---
Scientific activities overseas (special foreign currency program)	957,000	700,000	700,000	700,000	700,000	-257,000	---	---	---
Total, National Science Foundation	1,456,329,000	1,685,700,000	1,550,000,000	1,695,700,000	1,622,850,000	+166,521,000	-62,850,000	+72,850,000	-72,850,000
NEIGHBORHOOD REINVESTMENT CORPORATION									
Payment to the Neighborhood Reinvestment Corporation	17,669,000	15,269,000	18,669,000	19,000,000	19,000,000	+1,331,000	+3,719,000	+331,000	---
SELECTIVE SERVICE SYSTEM									
Salaries and expenses	26,128,420	27,474,000	26,128,400	27,000,000	26,128,400	-20	-1,345,600	---	-871,600
DEPARTMENT OF THE TREASURY									
Payments to Local Government Fiscal Assistance Trust Fund 1/	4,195,000,000	---	---	---	---	-4,195,000,000	---	---	---
Office of Revenue Sharing, salaries and expenses	7,302,200	5,560,000	5,560,000	5,560,000	5,560,000	-1,822,200	---	---	---
Total, Department of the Treasury	4,192,302,200	5,560,000	5,560,000	5,560,000	5,560,000	-4,186,822,200	---	---	---

1/ Does not include $179,955,000 sequestered from the Trust Fund which reduces general revenue sharing to $4,005,045,000

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference	Conference compared with: Adjusted	Estimates	House	Senate
VETERANS ADMINISTRATION									
Compensation and pensions	14,426,999,000	14,364,400,000	14,364,400,000	14,364,400,000	14,364,400,000	-62,599,000	---	---	---
Readjustment benefits	877,569,000	741,150,000	741,150,000	741,150,000	741,150,000	-136,419,000	---	---	---
Veterans insurance and indemnities	9,745,000	4,770,000	4,770,000	4,770,000	4,770,000	-4,975,000	---	---	---
Medical care	9,138,137,000	9,085,543,000	9,488,612,000	9,240,176,000	9,411,817,000	+273,680,000	+326,274,000	-76,795,000	+171,641,000
Medical and prosthetic research	181,126,930	188,915,000	193,915,000	189,915,000	189,915,000	+8,788,070	+1,000,000	-4,000,000	---
Medical administration and miscellaneous operating expenses	51,221,691	42,694,000	41,694,000	41,194,000	41,194,000	-10,027,691	-1,500,000	-500,000	---
General operating expenses	704,835,340	763,531,000	763,531,000	760,000,000	760,000,000	+55,164,660	-3,531,000	-3,531,000	---
(By transfer)	(8,000,000)	---	---	---	---	(-8,000,000)	---	---	---
Construction, major projects	485,544,000	301,208,000	382,708,000	291,000,000	382,708,000	-102,836,000	+81,500,000	---	+91,708,000
Construction, minor projects	131,061,092	106,962,000	65,562,000	80,000,000	90,000,000	-51,061,092	-26,962,000	+14,438,000	---
(Limitation on administrative expenses)	(34,369,274)	(38,885,000)	(37,885,000)	(38,000,000)	(38,000,000)	(+3,630,726)	(-885,000)	(+115,000)	---
Parking garage revolving fund	---	---	26,000,000	26,000,000	26,000,000	+26,000,000	+26,000,000	---	---
Grants for construction of State extended care facilities	30,822,000	42,400,000	42,400,000	42,400,000	42,400,000	+21,578,000	---	---	---
Grants for construction of State veterans cemeteries	2,839,000	---	---	---	---	-2,839,000	---	---	---
Grants to the Republic of the Philippines	473,500	500,000	500,000	500,000	500,000	+26,500	---	---	---
Direct loan revolving fund (limitation on direct loans)	(946,000)	---	(1,000,000)	(1,000,000)	(1,000,000)	(+54,000)	(+1,000,000)	---	---
Loan guaranty revolving fund	200,000,000	---	---	---	---	-200,000,000	---	---	---
Total, Veterans Administration	26,230,373,553	25,642,073,000	26,115,242,000	25,781,505,000	26,044,854,000	-185,519,553	+402,781,000	-70,388,000	+263,349,000
Total, title II, Independent Agencies:									
New budget (obligational) authority	45,241,933,237	40,102,827,000	40,734,685,400	40,905,486,000	42,950,762,400	-2,291,170,837	+2,847,935,400	+2,216,077,000	+2,145,276,400
Appropriations	(45,279,853,237)	(40,102,827,000)	(40,734,685,400)	(41,405,486,000)	(43,550,762,400)	(-1,729,090,837)	(+3,447,935,400)	(+2,816,077,000)	(+2,145,276,400)
Portion applied to debt reduction	(-37,920,000)	---	---	---	---	(+37,920,000)	---	---	---
(By transfer)	(8,000,000)	---	---	---	---	(-8,000,000)	---	---	---
(Limitation on administrative expenses)	(198,412,274)	(128,891,000)	(249,549,000)	(117,664,000)	(258,164,000)	(+59,751,726)	(+129,273,000)	(+8,615,000)	(+140,500,000)
(Limitation on direct loans)	(594,346,000)	(600,000,000)	(601,000,000)	(601,000,000)	(601,000,000)	(+6,654,000)	(+1,000,000)	---	---
(Limitation on corporate funds to be expended)	(804,650)	(850,000)	(850,000)	(850,000)	(850,000)	(+45,350)	---	---	---
TITLE III									
CORPORATIONS									
Federal Home Loan Bank Board:									
(Limitation on administrative expenses, corporate funds)	(29,150,000)	(32,193,000)	(27,693,000)	(27,693,000)	(27,693,000)	(-1,457,000)	(-4,500,000)	---	---
Federal Savings and Loan Insurance Corporation, (limitation on administrative expenses, corporate funds)	(1,370,000)	(1,466,000)	(1,466,000)	(1,466,000)	(1,466,000)	(+89,000)	---	---	---
Total, title III, Corporations	(30,520,000)	(33,659,000)	(29,159,000)	(29,159,000)	(29,159,000)	(-1,369,000)	(-4,500,000)	---	---
RECAPITULATION									
Grand total:									
New budget (obligational) authority (net)	58,147,383,984	46,488,047,000	54,006,168,700	53,878,039,800	56,011,802,700	-2,135,581,284	+9,523,755,700	+2,005,634,000	+2,133,762,900
Appropriations	(58,726,270,984)	(47,052,324,000)	(54,062,756,700)	(54,070,264,800)	(56,603,120,700)	(-2,123,142,284)	(+9,550,804,700)	(+2,540,372,000)	(+2,532,862,900)
Portion applied to debt reduction	(-203,295,000)	(-245,915,000)	(-245,915,000)	(-245,915,000)	(-245,915,000)	(-42,620,000)	---	---	---
Rescission of budget authority, indefinite	(-877,109,000)	(-318,362,000)	(-318,362,000)	(-684,000,000)	(-853,100,000)	(+24,009,000)	(-534,738,000)	(-534,738,000)	(-199,100,000)
Authority to borrow	(503,517,000)	---	(507,689,000)	(507,689,000)	(507,689,000)	(+4,172,000)	(+507,689,000)	---	---
(By transfer)	(8,000,000)	---	---	---	---	(-8,000,000)	---	---	---
(Increased limitation for annual contract authority (net))	(815,313,547)	(368,169,977)	(633,890,485)	(618,816,778)	(585,034,278)	(-226,279,269)	(+220,864,301)	(-34,846,207)	(-39,782,500)
(Limitation on administrative expenses)	(198,412,274)	(128,891,000)	(249,549,000)	(117,664,000)	(258,164,000)	(+59,751,726)	(+129,273,000)	(+8,615,000)	(+140,500,000)
(Limitation on annual contract authority, indefinite)	(-53,518,000)	(-6,400,000)	(-6,400,000)	(-6,400,000)	(-6,400,000)	(+47,118,000)	---	---	---
(Limitation on direct loans)	(1,203,640,558)	(704,062,000)	(1,268,461,000)	(1,268,461,000)	(1,268,461,000)	(+15,187,558)	(+564,399,000)	---	---
(Limitation on guaranteed loans)	(316,713,956,000)	(315,000,000,000)	(212,650,000,000)	(280,150,000,000)	(250,150,000,000)	(-66,562,956,000)	(+35,150,000,000)	(+37,500,000,000)	(-30,000,000,000)
(Limitation on corporate funds to be expended)	(293,291,650)	(325,733,000)	(336,971,000)	(336,971,000)	(336,971,000)	(+43,679,350)	(+11,238,000)	---	---

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I rise in opposition to the continuing resolution.

I am voting against this bill for many of the same reasons I voted against the Defense authorization conference report earlier today.

First, I feel very strongly that negotiators for the other body did not act in good faith in carrying out the compromises reached during the conference, and as a result, the arms control provisions incorporated into this bill do not merit our support.

When we finally reached a compromise on Friday, it was far less than what many of us had hoped for—particularly on the SALT and nuclear testing issues. But the other side was not satisfied with their victories. They wanted more.

As soon as we reached agreement on these issues with the other body—on terms less than favorable to the House position—the other side began to redefine what the agreement was.

We agreed to drop binding SALT restrictions, but won agreement that we would be able to draft strong nonbinding language. The other side suddenly decided that it wanted to write the SALT language, incorporating into it provisions that we could not accept. They did not drop this insistence until the last minute.

On chemical weapons production, we reluctantly agreed last Friday to allow the artillery shell to go forward but ban Bigeye production. The other side suddenly decided that it wanted to approve release of $90 million in fiscal year 1986 moneys for Bigeye production. This was inconsistent with the agreement we reached last Friday. Nevertheless, it was part of the final bill.

Second, and more fundamentally, I believe that in the aftermath of the summit, this body has a responsibility to see that our country does not compound its failure to reach a new arms control agreement with the Soviets by shredding the SALT II Treaty—the only existing restrictions on Soviet nuclear forces.

We struck a less-than-desirable bargain last Friday in the expectation that the President would use this opportunity to reach an agreement with the Soviets.

Instead, the President squandered a chance to dramatically reduce nuclear weapons and limit nuclear testing.

The failure of Reykjavik demonstrated the President's dream of strategic defense is a nightmare for arms control.

I agree with the distinguished gentleman from Wisconsin that those of us who were frustrated with the final outcome of the authorization conference will have an opportunity to revisit the nuclear testing and star wars funding issues early in the next Congress. But if SALT II falls to pieces, I doubt that we will have an easy time putting it back together again. That's why we must act now.

In the aftermath of the failure at Reykjavik, let's not make things worse by tearing up the existing fabric of arms control. Let's defeat this resolution and pass a continuing resolution that prohibits abrogation of the SALT numerical limits.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of House Joint Resolution 738 making continuing appropriations for the fiscal year 1987.

Let me commend my good friend and colleague, the chairman of the full Appropriations Committee and chairman of the Appropriations Mr. WHITTEN, and our distinguished ranking member, SILVIO CONTE for their leadership and expertise in crafting a bill that significantly addresses the needs of America which serves an extremely broad spectrum of constituencies. I also commend the other members of the committee for their efforts to work in a bipartisan manner on behalf of agriculture and other sectors of the economy. They truly realize the importance of agriculture in the economy and other areas that affect the well being of all Americans. Thanks are extended to the staff for their outstanding assistance.

Although this bill contains funding for all sectors of the economy, I specifically want to address those portions of the bill concerned with agriculture. This bill provides funds for nutrition of those in need by the Women, Infants, and Children Nutrition Program and related programs, helps disseminate information vital to our citizens health through the Human Nutrition Information Service, sends food for peace to Africa and other regions of the world that may be experiencing shortages of food and famine, and helps our youth understand the importance of agriculture from education programs provided through the Extension Service such as the 4-H program.

Although many important issues are addressed in this bill, none is more vital than providing assistance to our agricultural producers, the farmers and ranchers of this great Nation. However, before going into greater detail concerning the major appropriations of this bill I would like to comment on the historical importance of Agriculture.

The proportion of farm workers in the civilian labor force is 2.8 percent, just over 3 million workers. When you add to this the 21 plus million workers who support the production and delivery of food and fiber to our citizens, you have the largest single industry in the United States. Thus agriculture employs as many workers as the transportation, steel, and automobile industries combined.

The farmers, ranchers and those in the work force supporting the food and fiber industry are able to provide their products to the U.S. citizens with less than 15 percent of citizens' income. This is less than any other country on the Earth.

Although we recently had a negative agricultural trade balance this summer for the first time in 27 years, without the benefit of agricultural exports our trade balance would show even more red. This bill funds important programs included in the 1985 Farm bill. Exports sales as of mid-September are beginning to improve with wheat sales up about a fifth over a year ago, soybeans and rice up over 40 percent, and cotton sales are nearly 3.5 times the level of a year ago. Our agriculture trade balance should start to improve as the remainder of our commodities become priced closer to world prices.

One method to ensure that exports continue to increase is through the Export Credit Guarantee Program slated to provide $5 billion annually with nearly $4 billion made available through June 1986.

A Barter Program with other countries has been authorized by making $300 million in CCC commodities available to acquire oil to replenish the Strategic Petroleum Reserve. This is a small step in better utilizing our abundant resources for those goods we use to fuel our economy.

With this in mind our historical export surplus of agricultural products almost certainly will continue to help offset our overall huge trade deficit. This year even though the agricultural trade surplus will be the lowest in years, it will still be about $6 or $6.5 billion.

I would like to point out that this bill contains funding for a program that has been working wonderfully in Nebraska. The Agriculture-In-Transition Program will continue its pilot project of counseling and retaining farmers and ranchers in Nebraska for different careers. The $500,000 will ensure that this program is able to continue its important work for at least another year.

This program is administered by the Greater Nebraska Job Training Program in 88 of the 93 counties in Nebraska. During the past year it has provided job training services to over 600 individuals and reports a job placement rate of 73 percent.

Our agricultural economy continues to face unprecedented stress and problems, requiring continued support for those that have no choice but to leave farming. It is absolutely essential that those who can no longer farm or ranch have an opportunity to learn new skills. I, for one, am determined to provide them that opportunity now and in the future.

The funding levels of this bill are within the proposed levels in the budget. Let me comment on the major features of this bill as they relate to the Members of this body as follows.

As a result of budget-cutting determination, many programs were slated for reduction, termination, or the application of user fees to cover the cost of operation. However, most programs were returned to previous levels with only minor budget reductions.

Some of the more significant include the agricultural conservation program and flood prevention operations, loans for rural electric and telephone projects, rural housing loans, emergency loans to farmers, research and extension grants, animal and plant health programs, agricultural marketing programs and finally nu-

trition programs. Here it is more than apparent that this bill encompasses much more than just agricultural producers without mentioning the other subcommittees fine work in their portions of the continuing resolution.

Conservation to our Nation has no limit in value. It covers flood prevention which saves our productive land, our homes, and even the lives of our friends, neighbors, and relatives. Nationally more than 175 million acres of private land is subject to flooding with an estimated $2 to $3 billion worth of damage per year. The conservation of our land preserves for future generations the food and fiber which has made and allows our nation to be a world leader not only in food production but in other industries, humanitarian aid and as a force production but in other industries, humanitarian aid and as a force for preserving peace on this troubled planet. We must not let our past mistakes be repeated as in the 1930's when devastating wind storms swept the western plains almost irreversibly damaging our most precious of possessions, our fertile land.

In providing funds for our farmers, ranchers and other rural residents the Farmers Home Administration is very important. This agency helps keep youth in our rural areas by providing low cost funds enabling young men and women the opportunity to own their own farm or home. Not only are rural residents helped in starting their productive lives but the FmHA many times keeps farmers in business when nothing else stood between them and the doorway to foreclosure and bankruptcy. The benefits can be made even more realistic when one considers that more than 9.6 million loans and grants have been made since the program began in 1935 until the end of fiscal year 1985.

The comforts enjoyed and taken for granted by most of us today, were brought to the rural residents of our country by an agency started in 1936 under its own authorization. Of course, I am referring to the Rural Electrification Administration which has brought electricity and telephones to virtually every corner of our great land. With electricity came the modern appliances and machinery which have greatly increased the comfort and output of agriculture. Electricity provides light and safety to millions of Americans not to mention the availability of information that urban residents have. Telephones help span the great distances of our rural regions allowing Americans the convenience of always being only a phone call away from virtually anyone else in the country.

The REA has an outstanding reputation for payments received and losses sustained. With over $12.5 billion collected only $44,478 worth of losses have been incurred. Few if any other lending institutions could boast of such an impressive record.

Extension work in the United States has no equal in providing information to families in all 50 States plus territories under the protection of the United States. This program has helped to improve the nutrition and understanding of food for approximately 2.5 million homemakers and over 6 million of our country's youth. This bill would fund this very important program at close to the 1986 appropriation level, thus continuing a quality service at $289,317,000.

The number of farm bankruptcies and bank failures continue at an unprecedented rate. Currently up to one-third of all family-size commercial farmers are facing severe financial difficulty. Surveys by the American Bankers Association indicate that an increase in farm failures from slightly more than 2 percent in 1982 to around 4.8 percent in 1985. It is expected that in 1986 the rate of farm failures will continue to be near or above those experienced in 1985.

The financial conditions leading to the aforementioned problems can be summarized by returns paid to farmers and the prices paid by farmers. Historically the ratio of net income to farmers' equity has been less than 3 percent and recently less than 2 percent. Along with this decrease in returns, the farmers share of the food dollar has decreased from 51 percent around World War II to a recent level of 25 percent. This is compared to the 1985 labors share of the food dollar of 34 percent. In order to meet the continued decline in farm income many farmers have turned to off-farm income which now represents nearly 60 percent of the total farm income.

From 1977 to 1980 food prices rose approximately in line with other consumer prices, since then food prices have increased by only half the percentage as all other consumer goods according to the Consumer Price Index. Spending on domestic foods at $346 billion has increased 3.5 percent over the 1984 level.

Nearly 45 percent of the country's farms had negative cash flows even considering all sources of family income and cash obligations, including interest, principal payments, and minimal family living expenses. A further problem is the debt-to-asset ratio has increased from 19 percent of American farms owing 62 percent of the farm debt to 22 percent of our farms owing 66 percent of all farm debt.

Lenders are still facing considerable risk of loss because over two-thirds of operator debt is owed by highly leveraged farmers. Highly leveraged farmers with negative cash flows owe nearly 37 percent of this two-thirds.

This is further exacerbated by having this concentrated in farms with annual sales $40,000 and greater, among grain and general livestock farms, and among younger and middle-aged farmers. These are the typical farms in my district in Nebraska. Hardly a week goes by when one or more of these farmers calls me to tell me of the dire circumstances facing him. He may tell me that his place is up for sale, his food stamps are inadequate to pay for the meals that he, his wife and his children need for proper nutrition, he has no other opportunities available because he has never done anything but till the land that his family has farmed for three or more generations.

This bill provides hope for our farms and ranches today and into the future by funding research which could discover new crops and uses for old crops. Fifty years ago soybeans were known mainly to the Asian nations. Now soybeans are the foundation of our livestock and poultry industries, our major oilseed and our 3d largest crop. Other as yet unknown crops to our world but previously known to the Indians are oca, a hardy root plant, arracacha a relative of the carrots and celery which has a flavor combining celery, cabbage, and roasted chestnuts. Altogether man has used about 3,000 plant species for food. We now need to begin research on the more than 20,000 edible plants, instead of concentrating on the 30 or so plants that have received the most research and development and make up the majority of today's annual world crop production.

Farm programs are very expensive to taxpayers with program expenditures probably exceeding $24 billion of which approximately $10 billion will go to corn producers. Yet, this cost occurs as a result of consumers desire for cheap, abundant food often resulting in below cost of production prices. However, this is a transition period in agriculture and one that requires compassion for our farmers.

However, one must put this in perspective with other expenses that taxpayers have. Nationally, our utility companies have an excess capacity for producing electricity of $75 billion, with the assumption that a 20-percent carrying charge would pay for this excess, consumers are paying $15 billion per year for surplus electric production capacity. The 1985 farm bill, according to the best Government estimates, will cost about $10 billion per year for the next 5 years. This is just one indication where one industry is able to pay for its surplus capacity and keep a low profile, while America's farmers are often viewed as a bunch of ingrates looking for a handout.

Farmers have been devastated by the cruel turbulent trends of inflation, rates and export embargos that have occurred since the middle 1970's. However, we, the Members of Congress, must continue to support our farmers until a more competitive economy rewards our farmers for the outstanding and unequaled job of producing food.

The other side of Agricultural Appropriation is in nutrition programs aimed at reducing hunger in our country. The three major programs are Food Stamps, WIC, and School Lunch. The Food Stamp Program from 1970 until 1984 saw a growth in participation from 4.3 million to 20.9 million people at an increase in expenditures from $0.6 to $11.6 billion. That's over a 380-percent increase in the number of individuals participating in the Food Stamp Program while our population has only increased by 25 percent and with an increased cost of over 1,800 percent.

In the last few years, from 1980 to 1985 the Food Stamp Program had a 41-percent increase in cost from $8.3 to $11.7 billion with 19.2 million participants to 19.9 million participants. Also, the maximum benefit per month for a family of four increase from $209 to $264, a 26-percent cost increase.

The Woman, Infants, and Children Program has seen a similar increase with nearly 3 million participants in 1984. One of our best programs is the School Lunch Program with nearly 11.8 million free and reduced cost lunches served in 1984 up from 4.6 million in 1970. In 1970 only 20.7 percent of all school lunches were served as free and reduced while in 1984 over 50 percent of all lunches served were through the School Lunch Program. This generosity has been extended in those in need and can only benefit America with healthier and stronger U.S. citizens.

As the previous numbers indicate the Agricultural Appropriations portion of this bill provides funding, more than half of which goes to nonfarm residents and programs, which serves all our citizens. The animal and plant health inspection services provided in this bill maintains our country's health by protecting us from consuming diseased and contaminated food. No other country goes so far in its efforts to protect its citizens health, happiness, and security than the United States.

Mr. BEDELL. Mr. Speaker, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, is the gentlewoman aware of the fact that apparently in this bill that it says that if REA's refinance their loans then they will not be eligible for loans from their financing bank?

Mrs. SMITH of Nebraska. I am not up on how that point is in this material tonight.

Mr. BEDELL. Mr. Speaker, I just wanted to be sure that the House was aware of that situation, that that is a part of the continuing resolution as it is now, as I understand it.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. CHAPPELL].

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, it is my understanding that the continuing resolution provides funding for the T-46A trainer aircraft. Is that correct?

Mr. CHAPPELL. The gentleman is correct.

Mr. ASPIN. Is the gentleman aware that on Tuesday, September 30, in the defense authorization conference, agreement was reached to establish a competition for the Air Force trainer aircraft program, including the T-46A?

Mr. CHAPPELL. Yes, I am aware of the conference action.

I would note, however, that the House Appropriations Committee, with full understanding of the agreement, proceeded to recommend funding for the T-46A. Our decision was based on the committee's best judgment that the Air Force needs a new trainer aircraft now. A new competition is not required and the T-46A trainer aircraft meets the established requirement.

Mr. ASPIN. I appreciate the gentleman's explanation. Would the gentleman explain the effect of the Appropriations conference action on the Department of the Air Force?

Mr. CHAPPELL. In our view, the continuing resolution represents the last word of the Congress on this particular issue. Therefore, notwithstanding the action taken in the defense authorization conference, it is the judgment that the Air Force should follow the guidance and actions taken in the continuing resolution.

Mr. ASPIN. I agree completely with the gentleman's position.

Mr. CHAPPELL. Mr. Speaker, the Department of Defense Appropriations Act for fiscal year 1987 as contained in this joint resolution provides net obligational authority of $268.8 billion which compares to $265.2 billion provided by the House bill and $272.5 billion as provided by the Senate bill. Mr. Chairman, that is just about an even split between the House and Senate bills. The conference agreement is $3.6 billion above the House bill and $3.7 billion below the Senate bill.

The conference agreement is $5.7 billion below the latest House 302 allocation in budget authority and is about $1 billion below the latest House 302 allocation for outlays when the pay raise reserve is distributed in those allocations.

Mr. Speaker, we have also included in the conference agreement the entire procurement reform package as agreed to in the defense authorization conference.

The defense appropriation bill as presented to you today also includes the defense authorization conference package relating to arms control.

READINESS CUTS IN THE CONTINUING RESOLUTION

Some concerns have been raised about the possible harm to readiness as a result of the level of reductions to the operation and maintenance accounts in fiscal year 1987.

How can we cut $7.7 billion from operation and maintenance with minimal readiness impacts?

First, we reduced $4.5 billion as a result of lower fuel prices, prior year inflation gains in the Defense industrial funds and overestimates in budgeted inflation rates.

Second, we reduced $750 million by cutting out funds for programs that were either excess to requirements or no longer required, such as the funds budgeted to overhaul the two Poseidon submarines the President ordered dismantled.

Third, we reduced $300 million as a result of legislative changes in the Defense Authorization, such as CHAMPUS reform.

Fourth, we reduced $700 million in programs as a result of management and productivity improvements directed by the conferees, such as elimination of appropriated fund support for golf courses and other recreation facilities.

Finally, the remaining $1.45 billion, which equates to less than 2 percent of the Department's request, is made up of numerous adjustments to hundreds of programs identified by the conferees as being unnecessary, duplicative, or improperly unfunded.

In summary, while the conferees are not happy with the magnitude of the fiscal year 1987 reductions to operations and maintenance we believe that the Department will not experience any significant problems in operating and maintaining their forces at levels comparable to fiscal year 1986.

I urge the adoption of the joint resolution.

The Defense chapter of the continuing resolution, as scored by the Congressional Budget Office, provides a net total of $268.8 billion in new budget authority.

This consists of $274 billion in new budget authority and a rescission of slightly over $5 billion of old budget authority.

In other words, the conferees are saying that, for a wide variety of reasons, such as, contract savings; program delays; premature commitments to procurement; and contract cancellations; we are rescinding over $5 billion of existing budget authority that is no longer needed for the purposes for which it was originally appropriated.

We are also providing $274 billion in new budget authority.

In summary:

We have provided sufficient funds for all of the weapons systems needed to maintain a strong national security.

We have also reduced the unobligated balances of the Pentagon by over $5 billion.

Mrs. SCHROEDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, as chairman of the subcommittee with jurisdiction over the Department of Energy Uranium Enrichment Program, I would like to add a few words about the provision in this resolution relating to uranium enrichment criteria. These criteria were considered by my subcommittee and acted upon by both the legislative committees to which the criteria were referred. Because this provision disapproves significant elements of the criteria, it is consistent with the actions of the two legislative committees.

As chairman of the subcommittee of jurisdiction, let me briefly provide a backdrop for this discussion. Our Government enriches uranium for utilities and by law must recover its costs through its charges. Unfortunately, the program is $7.5 billion in debt, according to both the GAO and OMB.

In July, the Department transmitted to Congress criteria that, among other things, proposed to writeoff $4 billion of this debt—in other words, saddle the taxpayers, not utility customers, with this cost. Subsequently, both the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs disapproved the criteria by passing House Joint Resolution 699.

Now the continuing resolution comes along, and ratifies the disapproval action of the committees of jurisdiction.

As chairman of the subcommittee of jurisdiction over the DOE Enrichment Program, I

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want to make clear to all who read this continuing resolution, whether it is DOE or utilities, that the law is still the law, and the requirement of full cost recovery in the Atomic Energy Act has not been amended. This language does not change the size of the debt—simply because no one can legally change the books which reveal it to add up to $7.5 billion—and does not alter the requirement of full cost recovery. It does, however, recognize that Congress may change the amount to be recovered if it so chooses. However, if Congress fails to amend the law, then the requirement of full cost recovery explicit in the Atomic Energy Act still stands. For my part, I will seek to ensure that every nickel of this program's cost—the entire $7.5 billion—is paid for by the program's customers, and not the taxpayer. The nuclear industry does not need a $7.5 billion subsidy, at a time when we are cutting valuable social programs.

As for fiscal year 1987, it is clear that the requirements of section 7502 of the consolidated Omnibus Reconciliation Act of 1985 still apply. That law sets a $150,000,000 repayment goal for fiscal year 1987. It must be repaid.

Finally, Mr. Speaker, I feel constrained to observe that the actions by the conferees on this matter, in circumventing the jurisdictional committees, suggests that in the future, it will be necessary to give greater consideration to the appointment of conferees from legislative committees to handle matters of legislation on a continuing resolution.

STOPPING THE $4 BILLION TAXPAYER RIP-OFF

The Subcommittee on Energy Conservation and Power has closely monitored the management of the Department of Energy's Uranium Enrichment Program for several years. This $1.3 billion per year program represents the largest energy budget item within the committee's jurisdiction, and has been filled with controversy since the late 1970's. The hearing and correspondence record over the past 5 years, coupled with regular reports by the General Accounting Office, reveals intense oversight of the program raising substantial questions about the financial management of this billion dollar program. Some of these questions have been laid bare by the proposed criteria. Consequently, I find it incumbent to make substantive comments on the proposed criteria and their implication for the Uranium Enrichment Program.

The area which I find most significant is the question of how much enrichment customers should have to repay the Treasury, and how much taxpayers should have to bear. During this era of budget constraint, I find it unconscionable that this administration, and some of its supporters in Congress, propose to write off $4 billion in debt. This money is owed to the Treasury and the taxpayer by the Enrichment Program customers. They have enjoyed low prices for years and have failed to pay the full cost of the Uranium Enrichment Program, in direct violation of the Atomic Energy Act. It is for this reason that I feel so strongly that these criteria are illegal and must be rejected. In support of this conclusion, I point to a February 19, 1986 letter from the General Accounting Office which states unequivocally, "Energy's proposed uranium enrichment services criteria are contrary to some basic and significant elements of the letter and legislative history of the statute governing the substantive requirements of their Uranium Enrichment Program. Therefore, * * * [the criteria] cannot legally be accomplished through rulemaking."

The criteria suffer other flaws, including a failure to include the basic terms and conditions required by law, an excessive grant of flexibility to the program that would frustrate congressional oversight, and a failure to comply with the full cost recovery requirement in the Atomic Energy Act. Each of these concerns is laid out in more detail below.

ILLEGAL "WRITE OFF" OF $4 BILLION

The Department's authority to propose criteria changes for the uranium enrichment program lies in section 161 (v) of the Atomic Energy Act. The act directs the Department to "establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available * * * ." Of course, the criteria must be in accord with the statutory requirements of the program as well as be consistent with other requirements of the act. A primary requirement of that same section of the act is that there must be "recovery of the Government's costs over a reasonable period of time." Yet the criteria propose that this statutory requirement of full cost recovery not be met. Consequently, the criteria violate the statutory requirements and therefore must be rejected.

Section 762.6 of the proposed criteria states that DOE will seek to repay to the Government costs "attributable to plant capacity used to provide enrichment services for civilian customers, but will not necessarily include costs attributable to plant capacity or other investments not properly allocable to the Government's costs associated with providing enrichment services to civilian customers." This interpretation contradicts the language of the act, which unequivocally states, "any prices established under this subsection shall be on a basis of recovery of the Government's costs over a reasonable period of time." The act makes no allowance for the Department to "write off" a portion of the Government's investment in order to improve the competitive position of DOE. Thus, the proposed write-off of $4 billion in Government investment, so as to obviate the need for customer payments of these assets as part of the uranium enrichment fee, violates the statutory mandate of full cost recovery enunciated in section 161(v) of the Atomic Energy Act, as amended. This same position was also taken by the GAO, which stated, "These so-called write-offs result in a shifting of more than $4 billion of program costs from enrichment customers to the Government. This in effect constitutes a subsidization of the Enrichment Program in contravention of the Atomic Energy Act of 1954, as amended, and its legislative history."

FLEXIBILITY IN COST RECOVERY REQUIREMENT

The Department of Energy maintains that it enjoys "considerable flexibility" to determine the most effective means to recover the Government's costs, and furthermore that it has the authority to determine what portion of the $7.5 billion in total Government investment is "appropriate" for recovery. In making this determination, DOE relies heavily on the 1954 act and the amendments made in 1964 and the legislative history of those acts which allows that the requirement of " 'reasonable compensation to the Government' is flexible * * * [and] the Commission will have to consider not only the Government's costs in providing enrichment services but also the national interest in the development and utilization of nuclear power." (House Report No. 1702, 88th Cong., 2d Sess. 17 and 18 (1964); Senate Report No. 1325, 88th Cong., 2d Sess. 17 and 18 (1964)).

However, what DOE ignores, and it does so at the peril of misrepresenting the intent of Congress, is section 8 of Public Law 91–560, approved December 19, 1970, which altered the basis of pricing from "reasonable compensation to the Government" to the much narrower and clearer defined requirement, "recovery of the Government's costs over a reasonable period of time."

This 1970 amendment had the effect of narrowing the meaning of the criteria language and ruled out, except in the special case where the "Conway Formula" would apply, nonrecovery of the full Government's costs in the enrichment program. Whatever flexibility may have been associated with the phrases of "appropriate Government costs" and "appropriate depreciation of said plants", that flexibility was trimmed by the scope of the 1970 amendment. Although these phrases using "appropriate" have not changed since 1966, the underlying statutory language on which they are based has been altered. Consequently, full cost recovery was required by statute after 1970, and the criteria emanating from the statute must reflect this requirement. These criteria fail to incorporate this requirement, and therefore must be rejected.

The limited application of the flexibility inherent in the phrases "appropriate Government costs" and "appropriate depreciation of said plants" was made explicit by the legislative history of the 1970 amendment. In a January 26, 1971 letter to the joint committee, the AEC stated, "The significance of the inclusion of the word 'appropriate' in the first sentence of Subparagraph (2) [of subsection 4 (c) of the criteria] is to preserve the Conway formula * * *." Uranium Enrichment Pricing 92d Cong., 1st Sess., 6 (February 25, 1971). Clearly, the use of "appropriate" as a rationale for "writing off" $4 billion in Government investment undermines the letter and spirit of the statute.

FULL COST RECOVERY REQUIREMENT

The Government is required to recover its costs for the uranium enrichment program over a reasonable period of time. It is self-evident that in order to accomplish this goal, the price for enrichment services must be calculated to meet the cost recovery requirement. However, DOE abandons this principle in the proposed criteria. The "Supplementary Information" indicates that "DOE does not believe the reference to 'recovery of the Government's costs over a reasonable period of time' mandates a pricing mechanism which explicitly calculates the price in each contract solely on the basis of certain specified costs. The accounting principle of allocating specific costs to particular prices is not synonymous with the statutory concept of recovery of costs over a reasonable period of time."

While DOE's failure to fully recover the Government's costs under the existing pricing regime supports the conclusion that allocating costs to prices is not synonymous with cost recovery, the obverse is not necessarily true. If there is no relationship between costs and prices, then Congress and DOE will have no indication of whether the cost recovery requirement is being met. Although DOE argues the "Compliance * * * can be judged only by looking at the overall performance * * * over a period of time," that is a recipe for disaster. Congress must know whether the program is making progress toward the cost recovery requirement. If no judgment can be made until some unknown period of time has elapsed, then Congress may suddenly find a program hopelessly in debt. An allocation of costs to prices at minimum gives Congress the information it needs to assess whether the program is making progress toward meeting the cost recovery requirement, or whether congressional intervention is necessary.

EXECESSIVE FLEXIBILITY AND IMPACT ON CONGRESSIONAL OVERSIGHT

The goal of flexibility overreaches the proposed criteria and merits special attention for it captures in one word all of the flaws which permeate the proposed criteria. It is axiomatic that Government officials managing a program want flexibility. These criteria are infected with flexibility. Flexibility gives a program a comfortable buffer which shields it from annoying congressional scrutiny and enables it to meet almost any performance standard with a statement that "Flexibility permitted the program to focus on a number of different goals," but whether any of those goals were achieved is deliberately left ambiguous. Flexibility serves well private sector enterprises which only have to answer to shareholders, but it ill serves the Government process since it holds no one accountable for the expenditure of taxpayer money.

This is not the first time the management of the Uranium Enrichment Program have proposed new criteria replete with flexibility. In 1973, the Atomic Energy Commission, the predecessor to the DOE, proposed criteria which contained more general and generic terms and conditions than had been present in earlier criteria. Testimony received by the Joint Committee of Atomic Energy highlighted the objective of the AEC: "The proposed revisions to the uranium enrichment services criteria include changes necessary * * * to afford appropriate flexibility to incorporate changes in the contracting details as may be warranted by experience." Proposed Changes in AEC Contract Arrangements for Uranium Enrichment Services, hearings before the Subcommittee on Energy, Joint Committee on Atomic Energy, 93d Congress, 1st session (March 7, 8, 26; and April 18, 1973), Mr. George F. Quinn, Assistant General Manager for Production and Management of Nuclear Materials, testifying. Moreover, the vague language of the AEC's proposal is strikingly similar to the imprecise proposed criteria being discussed today: "The quantitative terms and conditions for termination by the customer of an enrichment services contract are, therefore, not specified in the criteria and will not be set forth in individual contracts." Id., at 22.

This AEC proposal for greater flexibility met strong opposition from the Joint Committee, statements which speak directly to today's proposed criteria. Senator Jackson observed: "[T]he revised criteria omit any reference to the types and significant details of the contracts under which enrichment services will be provided." Id., at 2. Representative Holifield concluded: "It is very clear on the face of it that this is a move, justified on the basis of a new arrangement, to evade or to nullify congressional control * * * It seems to me that this is a very convenient way to say that it is too complicated and, therefore, we want to change the law, or evade it, in order to keep control from taking place." Id., at 33. The result was that the AEC's criteria modifications were not adopted as proposed.

The same concerns which fueled the opposition of the Joint Committee in 1973 apply to the present criteria modifications. Congressional oversight would be blocked by the flexibility contained in the proposed criteria. Furthermore, the flexibility endemic in the proposed criteria not only obstructs the oversight role of Congress but it also stands in contradiction to the requirements of the statute that significant details of the contracts nder which enrichment services shall be provided.

CRITERIA FAIL TO INCLUDE CONTRACT TERMS

The Atomic Energy Act requires DOE to "establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available." The committee report accompanying the 1964 act elaborated on this requirement: "Included among these 'terms and conditions' would be such matters as the charges for enrichment services, the conditions under which such services would be offered, and the general features of standard contracts for uranium enrichment services." House Report No. 1702, 88th Congress, 2d session 16 (1964); Senate Report No. 1325, 88th Congress, 2d session 16 (1964). Accordingly, the criteria must contain the general features of standard contracts for uranium enrichment services.

The proposed criteria fall woefully short of this standard and are remarkable in the lack of detail they contain. As the "Supplementary Information" to the criteria states, "Under the proposed criteria, there is no fixed price or pricing mechanism in each and every contract * * *. Therefore, the proposed criteria make clear DOE's flexibility to respond to changing market conditions by negotiating the price in each contract." Certainly, the criteria make abundantly clear DOE's thrist for flexibility, but the proposed criteria ignore the statutory requirement that "such matters as the charges for enrichment services" be set forth in writing.

Finally, the proposed criteria close with a broad waiver of the requirement that the "general features of standard contracts" be included. The "Supplementary Information" states, "a contract can contain terms and conditions not specified in the criteria.

No prohibition against a term or condition is intended by its noninclusion in the proposed criteria." This indicates that the DOE can change the "general features" of contracts so long as they are not "inconsistent with the criteria." This contradicts the clear intent of Congress that the "general features" of contracts be set forth in writing. Consequently, the proposed criteria are seriously flawed because they fail to outline all of the "general features of standard contracts for uranium enrichment services."

NONDISCRIMINATION IN PRICING OF ENRICHMENT SERVICES

Section 161(v) states that prices for enrichment services "shall be established on a nondiscriminatory basis * * *." However, the proposed criteria appear to be the antithesis of "nondiscriminatory" since it calls for DOE to "negotiate price in individual enrichment services contracts in accordance with an overall approach intended to maintain the long-term competitive position of DOE while obtaining the recovery of the Government's cost over a reasonable period of time." Without further guidelines, this broad discretion could mask discriminatory pricing practices. On its own, the criteria allow, if not invite, discriminatory pricing and therefore contravene the Atomic Energy Act.

IMPORT RESTRICTIONS

The proposed criteria continue the current policy of not imposing restrictions on the importation of uranium destined for domestic use. While the DOE has found the uranium industry to be "nonviable," the Department maintains that import restrictions on foreign uranium would not assure the viability of the domestic mining and milling industry. The Department contends that the current difficulties facing the domestic uranium industry stem from excess uranium inventories, excess production capacity, the cost advantage of foreign source uranium, shrinkage in the demand for nuclear power, and cancellation of powerplants due to cost overruns and licensing delays. The Department concludes, "Import restrictions would have no long term positive effect on the consumption of domestic uranium."

I agree with this conclusion. Import restrictions would not serve the long-term interest of the DOE Enrichment Program, electric utilities, consumers, or the domestic mining and milling industry. The problems facing the uranium industry are many, but they cannot be solved by import restrictions. High inventories and a decrease in demand for nuclear power contribute substantially to the depressed state of the uranium industry. In addition, some foreign production of uranium enjoys a significant cost advantage to domestic sources. While an import restriction may lead to short-term gain for the domestic mining industry, the fundamental causes would not be addressed. Consequently, as the DOE has stated, "Import restrictions would have undesirable effects on both the U.S. uranium industry and the DOE enrichment business."

In addition, I object to import restrictions on uranium because consumers would have to pay higher prices in order to subsidize domestic production. The limited short-term gain the domestic uranium industry would come at the expense of electric utilities and consumers. Import restrictions would mean higher fuel prices for utilities, and these costs would be passed on to consumers. One witness at the subcommittee's February 19, 1986, hearing estimated that import restrictions would double domestic uranium prices and raise the

cost of electricity by nearly $800 million over 5 years. I find this unacceptable.

Import restrictions are not the solution to the problems confronting the domestic uranium industry. While I oppose the proposed criteria in general, I support the conclusion reached by the Department of Energy with respect to import restrictions on uranium. Moreover, I agree with the Department that the Secretary is not obligated to impose import restrictions even if there is a finding of "nonviability." The Secretary has announced appropriate steps to ameliorate the domestic mining industry. Import restrictions do not provide the relief the uranium industry seeks. In conclusion, I believe that the proposed criteria should be rejected, but nothing in this action should be interpreted or construed as approval for import restrictions.

CONCLUSION

The primary reason why I oppose these criteria is because they represent a raid on the Treasury which cannot be tolerated during this era of budget crisis. The Department of Energy is seeking to transfer $4 billion from commercial customers of the Uranium Enrichment Program to the taxpayer. In addition, the Department seeks to undertake this taxpayer ripoff under the cloak of a criteria change. The action by the Department is illegal and represents a gross subsidy to the utility industry. For this reason, I believe these criteria should be rejected.

COMPTROLLER GENERAL OF
THE UNITED STATES,
Washington, DC, February 19, 1986.

Hon. EDWARD J. MARKEY,
Chairman, Subcommittee on Energy Conservation and Power, Committee on Energy and Commerce, House of Representatives.

DEAR MR. CHAIRMAN: By letter of February 6, 1986, you requested that GAO provide a legal opinion on the consistency of the Department of Energy's (Energy) proposed revised uranium enrichment services criteria with the requirements of law. These proposed criteria are set forth at 51 Federal Register 3624 (January 29, 1986). You also requested that we provide this opinion in time for your hearings scheduled for February 19, 1986. We have here set forth the major issues of legal concern, but in light of the time constraint, we did not solicit Energy's views.

In summary, we have concluded that Energy's proposed revised uranium enrichment services criteria are contrary to some basic and significant elements of the letter and legislative history of the statute governing the substantive requirements of the uranium enrichment program. Therefore, despite recognizing that economic circumstances of the enrichment market have changed and whatever the policy merits of Energy's proposal, it cannot legally be accomplished through rulemaking. We recommend that the policy changes reflected in Energy's proposed revised criteria be introduced in the form of a bill in the Congress and formally enacted before any further attempt is made to implement them.

More specifically, the primary substantive requirements of Energy's uranium enrichment program are set forth in subsection 161(v) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(v). That provision prescribes, in relevant part, that:

1. "any prices established under this subsection shall be on a basis of recovery of the Government's costs over a reasonable period of time";

2. prices for services provided "shall be established on a nondiscriminatory basis";

3. Energy, "to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United State";

4. Energy "shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available"; and

5. Before Energy establishes such criteria, the proposed criteria shall be submitted to the appropriate authorizing committees of the Congress, and a period of 45 days shall elapse while Congress is in session.

In addition, the reports of the Joint Committee on Atomic Energy accompanying the enacted subsection 161(v) set forth the Joint Committee's view on the terms and conditions that should be included in the criteria: "Included among these 'terms and conditions' would be such matters as the charges for enrichment services, the conditions under which such services would be offered, and the general features of standard contracts for uranium enrichment services." H.R. Rep. No. 1702, 88th Cong., 2d sess. 16 (1964); S. Rep. No. 1325, 88th Cong., 2d sess. 16 (1964).

The proposed revised uranium enrichment services criteria and acccompanying Supplementary Information are not consistent with the statute or the Joint Committee's advice in the following major respects:

1. The criteria provide that henceforth Energy's primary pricing objective of the enrichment program is maintenance of Energy's long-term competitive position,

a. relegating to a secondary objective the statutory requirement that the Government's costs be recovered over a reasonable period of time;

b. rejecting the concept of full cost recovery of the Government's investment, which had been implemented in practice for more than 15 years and had been endorsed by the Congress, Energy and its predecessor agencies, the GAO;

c. explicitly stating that Energy will not recover from customers in excess of $4 billion of prior Government investments in the program; and

d. asserting that the new standard for cost recovery is only "appropriate" Government costs, which Energy states will only be those actually incurred in providing enrichment services to current civilian customers.

2. The criteria provide that prices will be individually negotiated, and they fail to set forth any fixed price or pricing mechanism, contrary to the Joint Committee's directive that "the charges for enrichment services" are to be set forth in the criteria.

3. The criteria fail to make provision for any standard contracts or to set forth the material general features to be contained in contracts, contrary to the Joint Committee's directive that the "general features of standard contracts for uranium enrichment services" are to be set forth in the criteria.

In addition, we have reservations about (1) whether the statutory requirement for assurance of nondiscrimination can be satisfied in practice if the proposed criteria are implemented as reflected in the Supplementary Information accompanying them, and (2) whether Energy has satisfied the statutory requirement regarding enrichment of uranium of foreign origin. This latter issue is currently being litigated before the U.S. District Court in Colorado.

COSTING

The proposed revised uranium enrichment services criteria are premised on the basis that the recovery of the Government's full costs of providing enrichment services is not required, and that "Congress granted [Energy] considerable discretion to determine, in the first instance, the best pricing approach and which costs are appropriate for recovery in an ever changing environment." 51 Fed. Reg. 3226 (January 29, 1986). We believe Energy is in legal error on this matter.

As you know, at the request of your subcommittee, we rendered a legal opinion (B-207463, December 27, 1984) in which we concluded that full cost recovery, including depreciation, was statutorily required after the 1970 amendment to subsection 161(v) of the Atomic Energy Act of 1954, 42 U.S.C. § 2201(v).[1] A copy of this opinion is enclosed for your convenience.

Footnote 5 to the Supplementary Information accompanying Energy's proposed criteria revisions specifically rejects this full cost recovery standard. In so doing, Energy relies extensively on the flexibility referred to in the 1964 legislative history when the Private Ownership of Special Nuclear Materials Act[2] was passed, adding subsection 161(v) to the Atomic Energy Act. The pricing standard provided in that act was admittedly the flexible one of "reasonable compensation to the Government." However, subsection 161(v) was amended in 1970[3] specifically to change the pricing standard to one of "recovery of the Government's costs over a reasonable period of time." It is the legislative history associated with the 1970 amendment that is now relevant and not that of the predecessor version of the statute.

As pages 6 and 7 of Appendix III to our December 27, 1984 legal opinion more fully explain, in the reports[4] of the Joint Committee on Atomic Energy associated with the 1970 amendment, the Joint Committee explicitly affirmed a GAO legal interpretation[5] of the meaning of subsection 161(v) as the Committee's intended meaning of the new statutory language requiring "recovery of the Government's costs over a reasonable period of time." GAO's opinion required the recovery of costs in every instance except one, namely, the situation for which the Conway Formula had been devised to deal with the reduction or possible elimination of the military need for enriched uranium. Flexibility and consideration of the national interest were directed specifically and solely to this particular problem. As is explained in footnote 1 to this opinion, the interim

[1] As is more fully explained in that opinion, there was one exception specifically provided for in the legislative history of the 1970 amendment; namely, where the Conway Excess Capacity Formula was applicable. However, this exception is no longer relevant, because the interim period in which the Conway Formula applied expired in 1976 when Energy exceeded 75 percent of production capacity from its gaseous diffusion plants.

[2] Public Law No. 88-489, approved August 26, 1964, 78 Stat. 603.

[3] Section 8 of Public Law No. 91-560, approved December 19, 1970, 84 Stat. 1472, 1474.

[4] H.R. Rep. No. 1470, 91st Cong., 2d sess., 2 (1970); S. Rep. No. 1247, 91st Cong., 2d sess. 2 (1970).

[5] B-159687, July 17, 1970 entitled "Review of Proposed Revisions to the Price and Criteria for Uranium Enrichment Services," at 9, reprinted in "Uranium Enrichment Pricing Criteria," 91st Cong., 2d sess. 161-238 (June 16 and 17, 1970).

period for which the Conway Formula applied expired in 1976 and is no longer relevant. Consequently, under the 1970 amendment to subsection 161(v) and its legislative history, full cost recovery is required.

GAO continues to believe that under existing statutory constraints, Energy does not have the legal flexibility to exclude unilaterally any government costs from its prices given the full cost recovery pricing requirement. The general tenor and a number of specific provisions of the proposed criteria contravene this legal requirement. For example, proposed 10 C.F.R. § 762.5 provides for recovery of only "appropriate" Government costs, with an implicit right reserved to Energy to determine what costs are appropriate. In this connection, Energy states in the Supplementary Information accompanying the proposed criteria revisions that: "The costs of items which are not, and most likely will not, be used in providing enrichment services to current civilian customers are not appropriate for consideration in determining the extent to which Government's costs are recovered over a reasonable period of time. [Energy] has determined that none of the costs of the Gas Centrifuge Plants and only forty percent of the costs of the Gaseous Diffusion Plants are used to provide enrichment services to civilian customers. Accordingly, only these latter costs are appropriate for determining the extent to which the Government's costs are recovered over a reasonable period of time." 51 Fed. Reg. 3628 and 3629 (January 29, 1986).

Our December 27, 1984, opinion addressed the legality of the exclusion from cost recovery and prices of the $1.2 billion of undepreciated value attributable to unused capacity of the gaseous diffusion plants. We held that this write-off for pricing purposes of undepreciated plant and capital equipment, so as to obviate the need for customer payments of related depreciation and imputed interest as part of the fee for enriching services, violates the cost recovery requirement of subsection 161(v) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2201(v). We have an open request from this subcommittee for a legal opinion on Energy's exclusion from current and future prices of its investment in the Gas Centrifuge Enrichment Plant (GCEP). We have formally requested of Energy any basis for its actions which would differentiate GCEP from our conclusions regarding the unused plant capacity of the gaseous diffusion plants. We have received no response from Energy, and we are aware of no distinguishing factors which would justify a different GAO result on the exclusion of GCEP costs from Energy's pricing formula.

These so-called write-offs result in a shifting of more than $4 billion of program costs from enrichment customers to the Government. This in effect constitutes a subsidization of the enrichment program in contravention of the Atomic Energy Act of 1954, as amended, and its legislative history. See Uranium Enrichment Service Criteria and Related Matters, Hearings Before the Joint Committee on Atomic Energy, 89th Congress, 2d session 29, 33, 121, 319, 517 and 518 (August 2, 3, 4, 16 and 17, 1966).

We held in our December 27, 1984 legal opinion and still find that in order for enrichment program assets to be legally written-off and not recovered in the service price from customers, Congress must amend the Atomic Energy Act to authorize it. A criteria change will not suffice, since the criteria must be in accord with the statute.

PRICING

Proposed 10 C.F.R. § 762.4 provides:

"[Energy] shall negotiate prices in individual enrichment service contracts in accordance with an overall approach intended to maintain the long-term competitive position of [Energy] while obtaining the recovery of the Government's costs over a reasonable period of time."

51 Fed. Reg. 3631 (January 29, 1986). In addition, in the Supplementary Information accompanying the proposed revised criteria, Energy states that this "approach will permit [Energy] to pursue a vigorous program to regain market share." 51 Fed. Reg. 3628 (January 29, 1986). Elsewhere in that statement, Energy asserts that the Atomic Energy Act "does not mandate any particular form of pricing. Rather, it grants [Energy] considerable flexibility to determine what prices best achieve the objectives of [Atomic Energy Act], including recovery of the Government's costs over a reasonable period of time." Id.

Whatever the policy merits of this proposed pricing approach of Energy, it is inconsistent with the Atomic Energy Act and its legislative history governing the substantive requirements of the uranium enrichment program.

Subsection 161(v) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2201(v), provides that "any prices established under this subsection shall be on a basis of recovery of the Government's costs over a reasonable period of time." Moreover, the reports of the Joint Committee on Atomic Energy accompanying enactment of subsection 161(v) directed that "the charges for enrichment services" be set forth in the criteria. H.R. Rep. No. 1702, 88th Congress, 2d session 16 (1964); S. Rep. No. 1325, 88th Congress, 2d session 16 (1964)

Energy's proposed pricing approach chooses as primary pricing objectives of the program principles which are not referred to in the Atomic Energy Act or its legislative history—namely, the maintenance of Energy's long-term competitive position and pursuing a vigorous program to regain market share. On the other hand, it relegates to a secondary objective the primary statutory pricing requirement of obtaining the recovery of the Government's costs over a reasonable period of time. Moreover, the charges for enrichment services are not set forth in the proposed criteria as directed by the Joint Committee.[6] Rather, there is to be no fixed price or pricing mechanism. 51 Fed. Reg. 3628 (January 29, 1986). Energy plans to negotiate prices in individual enrichment services contracts.

Energy's new pricing approach has no particular sanction in present law nor was it contemplated by the committees considering the legislation. Accordingly, whatever its policy merits, in our view, it should not be accomplished through rulemaking. This major reorientation of pricing policy and practice should only be legally accomplished by amendment of the Atomic Energy Act's pricing provisions.

[6] We recognize that current enrichment service criteria also do not specify a particular price for enrichment services. *See* 44 Fed. Reg. 28875, 28876 (May 17, 1979). However, they provide for a pricing mechanism. They specify the costing elements to be included in the price, and were based on full recovery of the Government's costs and the prohibition on the making of a profit. Accordingly, the service charge or price was whatever was required to recover the listed costs over a reasonable period of time.

OTHER TERMS

Subsection 161(v) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2201(v), provides that Energy "should establish criteria in writing setting forth the terms and conditions under which [uranium enrichment] services provided under this subsection shall be made available." In addition, the reports of the Joint Committee on Atomic Energy accompanying the enacted subsection 161(v) state: "Included among these 'terms and conditions' would be such matters as the charges for enrichment services would be offered, and *the general features of standard contracts for uranium enrichment services*." (Emphasis added.)

H.R. Rep. No. 1702, 88th Congress, 2d session 16 (1964); S. Rep. No. 1325, 88th Congress, 2d session 16 (1964)

In implementation of these requirements, the 1966 criteria specified two standard types of contracts—Firm Quantities Contracts and Requirements Contracts. The basic principles of each type were set forth along with the more significant provisions of the contracts. See 31 Fed. Reg. 16479 (December 23, 1966). Similarly, the criteria adopted in 1973 and, in large part, still effective today identified the Fixed Commitment Contract as its primary contracting vehicle and specifically set forth some new basic principles and concepts to be employed in the contracts. 38 Fed. Reg. 12180, 12181 (May 9, 1973) and 44 Fed. Reg. 28875 (May 17, 1979)—

Moreover, current criteria include many guidelines on contract features in general terms, which must or may be included in Energy's uranium enrichment contracts in detail. Examples are provisions concerning advance contracting, fixed commitments, advance payments, delivery schedules, chemical form and specifications of feed material, the basis on which charges for enriching services will be calculated, the basis on which charges for termination by the customer will be calculated, delivery, transfer of title, and others.

Under Energy's proposed revised criteria, this practice will no longer be continued. Energy will have no standard contracts. Moreover, the proposed criteria contain virtually no significant general features to be contained in contracts. Prices are to be individually negotiated, as are termination charges and other contractual provisions. In addition, Energy explicitly states that "a contract can contain terms and conditions not specified in the criteria. No prohibition against a term or condition is intended by its non-inclusion in the proposed criteria." 51 Fed. Reg. 3629 (January 29, 1986). The only restriction is that "the terms and conditions in a contract cannot be inconsistent with the criteria." *See* proposed 10 C.F.R. § 762.14.

The purpose of the statutory requirement that the terms and conditions under which enrichment services will be provided be established in published criteria and the directive of the Joint Committee on Atomic Energy that the charges for services and general features of standard contracts be set forth in the criteria was to enable the exercise of some congressional control over the content of uranium enrichment contracts and enrichment prices prior to their becoming effective, as well as facilitating congressional oversight. Energy's proposed revised criteria severely limit all of these objectives. When Energy's predecessor (the Atomic Energy Commission) proposed very general criteria in 1973 excluding some of these ele-

ments, they were rejected by the Joint Committee on Atomic Energy. Several examples of statements made by committee members at that time are illustrate of their reaction:

1. "Senator Jackson. * * * the revised criteria omit any reference to the types and significant details of the contracts under which enrichment services will be provided." Proposed Changes in AEC Contract Arrangements for Uranium Enriching Services, Hearings Before the Subcommittee on Energy, Joint Committee on Atomic Energy, 93rd Cong., 1st Sess. 2 (March 7, 8, 26; and April 18, 1973).

2. "Representative Price. Since the significant features of the new types of contracts are not described in the criteria there appears to be nothing that would require the Commission to return to the Joint Committee should it decide to vary the terms and conditions under which it would provide the uranium enrichment services. This seems to be a substantial departure from the intent of section 161(v) * * *." Id., at 32.

3. "Representative Holifield. * * * What control do you feel the Joint Committtee will have over the essential terms and conditions of this or any other contract for enriching services under the new criteria?

"Mr. Allen [President, Yankee Atomic Electric Co., and Vice President, New England Electric System]. None.

"Representative Holifield. Thank you. I came to the same conclusion. * * * The new criteria would eliminate any supervision of this committee over these things." *Id.*, at 83.

We believe that the failure of Energy's proposed revised criteria to provide for standard contracts and to set forth their material general features is contrary to the intended structure and operation of the uranium enrichment program as reflected in the Atomic Energy Act and its legislative history.

NONDISCRIMINATION

Subsection 161(v) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2201(v), requires that prices for enrichment services "shall be established on a nondiscriminatory basis." Proposed 10 C.F.R. § 762.7 provides:

"The same prices, as well as other terms and conditions, shall be available to all similarly-situated customers on a nondiscriminatory basis, reflecting the cost of the enrichment services supplied to those customers."

Although the language of this proposed nondiscrimination criterion refers to the statutory language, we have reservations whether the statutory standard can be satisfied in practice if the proposed criterion is implemented as reflected in Energy's Supplentary Information and the other proposed criteria.

Energy's proposed revised criteria provide that it will negotiate price, as well as other terms and conditions of a contract. Not only will there be no fixed price, but no fixed price mechanisms. There will be no standard contracts. Similarly, there need not be standardized terms and conditions for other aspects of a contract. Despite these circumstances, Energy states in the Supplementary Information accompanying the proposed criteria provisions that the statutory nondiscrimination provision means that "all customers * * * be afforded an opportunity to strike a bargain equal in attractiveness to those available to other customers." 51 Fed. Reg. 3629 (January 29, 1986). However, no provision is made in the criteria for disclosure of pricing and other contracting information to other customers when a particular contract is entered into.

In these circumstances, we have reservations whether the proposed criterion provision will assure in implementation the nondiscriminatory treatment required by the statute. This is a very different factual situation from that existing previously, when there were standard contracts, general features contained in these contracts, and a published price for services available to all customers.

CONCLUSION

For the above reasons, we have concluded that Energy's proposed revised uranium enrichment services criteria are contrary to the letter and legislative history of the statute governing the substantive requirements of the uranium enrichment program. Consequently, they cannot be legally accomplished through rulemaking, whatever their policy merits. We recommend that, if Energy wishes to continue to pursue the policy initiatives reflected in these proposed criteria revisions, these policy changes be introduced in the form of a bill in Congress and formally enacted before any further attempt is made to implement them.

Notwithstanding these conclusions, it must be recognized that the current market situation with regard to the sale of uranium enrichment services is far different from conditions which prevailed at the time the full cost recovery requirement was enacted. As we have stated on a number of occasions in the past, there is a compelling need, because of the market changes and constraints imposed by full recovery pricing in the current market environment, for the executive branch and the Congress together to reexamine the fundamental purpose and structure of the uranium enrichment program.

Sincerely yours,

MILTON J. SOCOLAR,
Acting Comptroller General of the United States.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

Mr. Speaker and Members, I reluctantly rise in opposition to this conference report. As a member of the Appropriations Committee it is not something that one enjoys doing.

I must say that it was my intention to come to the floor and support the conference report until just recently.

I would like to raise a couple of questions and would hope that the Members would focus on these questions.

First, it seems to me that we ought to take a close look at an item called the Budget and Impoundment Act. Not so long ago, the House, in its effort to improve communications between the committees around here, to make some sense out of the amount of money we are spending every year and relate that reasonably to our revenue, passed a Budget Act with the hopes that that communication would take place.

Instead it has become the excuse each year for delaying our work. We find ourselves under the Budget Act, not only delaying the work of the authorizing committees, but in turn putting pressure on our committee, the Appropriations Committee, so that we end up passing only about half of our appropriations bills on the floor, and in turn the Senate is held up. So at the end of the session, we find ourselves in a continuing resolution process where the entire business of Government is in one package, in this case $576 billion in one package.

That is not good enough, ladies and gentlemen. Next year—early I hope—we should revisit that Budget and Impoundment Act and consider, if not eliminating it entirely, at least revising what we have done.

Second, ladies and gentlemen, I find myself in the uncomfortable position today having to make the decision not to sign the subcommittee report of one of the subcommittees on which I serve. That is the Subcommittee on Foreign Operations. I want to extend my appreciation to the gentleman from Massachusetts [Mr. BOLAND], where I work with him on his subcommittee, for his spirit of bipartisan effort; and the same to my colleague from California [Mr. FAZIO], where we work on some of the toughest business around here in a bipartisan fashion.

Because of the pressure of time, we found ourselves unfortunately in the Foreign Operations Subcommittee unable to deal in that fashion. Today in that subcommittee I had no chance to look at the numbers in my subcommittee report and therefore was not able to sign the report.

I urge the Members to seriously consider this vote and vote "no" on the continuing resolution.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I shall not take much time to discuss the defense portion of this continuing resolution.

Our chairman has explained the details contained in our bill. We have complied with our obligations under the Budget Act. Our overall dollar figures, in terms of both budget authority and outlays meet the requirements of Gramm-Rudman.

Our bill tracks the agreements reached in the defense authorization conference. I would remind my colleagues on this side of the aisle that items of great significance to the administration—the funding level for SDI, treatment of chemical weapons, SALT II, antisatellite weapons, nuclear testing—all the agreements reached late last week have been incorporated into this bill.

In addition, we have included the arrangements agreed to in the Authorization Committee with respect to special operations forces, and also, an area of particular interest to the House, procurement reform.

Finally, I would call to your attention an important feature of this bill, namely, the mechanism for funding a

new space shuttle, the fourth orbiter needed to replace the *Challenger*.

I could go on with particulars, but at this point I would like to step back and say just how proud I am of the works of my colleagues on the Conference Committee who produced this legislation.

I have been in this House for 24 years. In that time, I have never seen a more complicated, more stressful, more confused situation than what our committee faced this year in putting together the defense bill.

You all know the problems we faced: Severe dollar restraints because of Gramm-Rudman, serious policy disputes over arms control, and until late last night, no solid agreement on an authorization to give us the parameters within which we would work.

Despite these problems our defense subcommittee—and our counterparts in the other body—rolled up our sleeves and turned out the best possible product under the circumstances. This bill takes care of our people in uniform; it increases funds for readiness; it contains the modernization of our forces, conventional and nuclear.

This bill certainly isn't perfect, and I'm not here to tell you that it is. But I can tell you that you will not see a better bill if the continuing resolution fails.

We are under the fiscal 1986 levels. We are under the authorizing conference, we are under the House allocation numbers. And we are far under what the President says he needs.

Going back to it again won't make anyone any happier. We were in conference 7 days and 7 nights looking at more than 3,000 individual line items.

Mr. Speaker, as nearly as I can tell, no one is satisfied with the defense bill. It is either too high or too low. It is either too restrictive or too permissive. It does too much or it does too little.

I suggest therefore, that our work product is about the best we can do.

Mr. Speaker, I do not want to prolong this debate. But I must recognize the magnificent work of our chairman, the gentleman from Florida, and the work of each and every one of the conferees.

Our job was most difficult and we would not have finished our work had not the House conferees been together in our determination to work our way through the issues.

Some of my colleagues who were conferees have trouble with this bill and I appreciate their difficulties. But I think I am safe in telling this body that any noises of dissent from the conferees should not be taken as disarray within our committee.

Our committee is together in our desire for the best defense for the least cost and to that end, we worked for the budget levels achieved in this bill.

I hope that votes cast against this conference report are not directed against the defense portion of it.

We are below every dollar target we or others set for us, and we have provided a level of defense I believe to be adequate for our needs.

□ 2040

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. YATES].

Mr. YATES. I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to bring the Interior bill to the floor as a part of the continuing resolution. I agree with the gentleman from California [Mr. LEWIS]. I think it is unfortunate that our bills are not passed as individual bills.

The Interior bill was brought to the House floor and passed in July. It went over to the Senate and we waited and we waited for the other body to act. It is now a part of the continuing resolution. It should have been a single bill that had been sent to the Senate by itself.

Mr. Speaker, this bill includes $4,125,802,000 for programs of the Department of the Interior; $1,665,845,000 for the Forest Service; $935,350,000 for programs of the Department of Energy; and $1,581,408,000 for Indian health, Indian education, the Smithsonian Institution, the National Endowments for the Arts and the Humanities and the other related agencies of the bill, all of which are described in detail in the statement of the managers accompanying House Joint Resolution 738. Included in these amounts is $188,101,000 for land acquisition which will help fill out our national parks and forests and acquire critical wildlife habitat.

A significant change to H.R. 5234 which passed the House on July 31, 1986 is a provision for a 1-year increase in National Park System entrance fees to further park purposes. The House bill continued the parks fee schedule as it exists today. We were opposed to the Senate schedule of increased fees. The Senate had proposed a top fee of $7.50 per vehicle which we refused to accept. Fees at other parks would be less, based on the quality of the facilities available. Recreation parks in urban settings and parks with multiple access points where fee collection would be cumbersome are exempt. We finally agreed to a top fee of $5 for major parks and much lower fees for other units of the Park System.

In order to assure that increased fees go to park purposes rather than serving as a tax, the managers agreed to a $15 million fund for enhancements to parks. Half of this amount is to be distributed to all parks, in proportion to the park's operating budget and half is to be distributed to the fee collecting parks based on their share of fees collected.

Mr. Speaker, I personally was strongly opposed to the Senate provisions greatly expanding the roads program of the Forest Service. I supported the House provisions. I was in the minority and I opposed the amended Senate provisions which were approved by the conferees.

Another significant provision is striking new budget authority for continuing to fill the strategic petroleum reserve since there is approximately $550 million available from unobligated balances for oil purchases to allow filling the reserve in fiscal year 1987 at up to 90,000 barrels a day.

With respect to the Outer Continental Shelf, the conference agreement contains the compromise agreement proposed by the House for leasing areas off California. This agreement provides review by the Secretary of the Interior of the two proposals developed by the congressional negotiating group as well as the proposal developed by the Governor in accordance with section 18 of the OCS Lands Act amendments. The Secretary is also instructed to provide the congressional group a 30-day period to review and comment on a draft copy of his final program for offshore California prior to its submission to the President and the Congress. In this submission the Secretary is required to indicate, in detail, why any specific recommendation contained in these proposals has not been incorporated. The agreement provides for continuing prelease activity in the three California planning areas and delays sales 95 and 91 in southern and northern California, respectively. A great deal of time and effort went into forging this agreement and the managers are pleased to include this proposal. The conference agreement also maintains the moratorium on leasing in the Georges Bank-North Atlantic planning area.

One area of true disagreement is the buy American provision which was contained in the House passed version of the Interior appropriations bill. The managers could not come to any agreement or compromise on this language which contained specific minimum percentages on American labor and materials which apply to oil rigs being purchased for offshore leasing activity.

Language has also been included by the managers which delays the implementation of a settlement on oil shale claims in Colorado for 180 days, provided the Courts and the parties to the agreement concur. I sought to amend the Senate amendment to strike the right of parties to the agreement to agree to the 180-day time period and to extend the time to September 30, 1987, to provide adequate time to Con-

gress to review the problem. The Senate refused.

The bill contains funding for the Navajo and Hopi Indian Relocation Commission. There is no forced eviction in this relocation program and priority for moves is given to those who have been certified eligible and who have selected a new or replacement home. With the adoption of the House language by the managers, those that have complied with the law are not penalized. The funding in this bill enables the Commission and the Bureau of Indian Affairs to go forward with housing people who have been uprooted and may be living in adverse conditions.

Recognizing the importance of the quality of the Nation's water, the managers have included $7 million to continue a pilot scale national water quality assessment to be coordinated by the U.S. Geological Survey. The managers continue to be concerned with the Nation's water quality in light of recent problems with agricultural drainage, such as at the Kesterson Wildlife Refuge in California, and toxic waste burial and contamination which led to the inception of this program in fiscal year 1986.

In clean coal technology, the managers have included language which provides for submission of statements of interest and information proposals on retrofit within 60 days after a Federal Register notice soliciting such statements and proposals is published. In addition, a summary report is required on March 6, 1987, and a detailed report is required within 120 days of receipt of such statements and proposals.

In energy conservation, $112,450,000 has been provided on a contingent basis for low-income weatherization and schools and hospitals. The conference agreement on the Budget Reconciliation Act of 1986 provides that up to $200 million from product escrow amounts held by the Department of Energy shall be made available for State energy conservation programs, including weatherization and schools and hospitals, as long as enough funds remain in escrow for restitution of injured parties. If funds are less than $200 million or if the legislation does not pass, funds will be appropriated directly from escrow accounts.

Under the Bureau of Indian Affairs, the conferees have agreed to fund several projects, including the Fort McDowell irrigation project, from unobligated jobs bill funds, which are no longer needed. The reprogrammed funds are to come from the Colorado River power project and the Uintah and Ouray irrigation project.

In conclusion, Mr. Speaker, I am pleased to bring the chapter containing the Interior and related agencies appropriation bill for fiscal year 1987 to the floor. The total for the chapter as recommended by the managers is $8,308,405,000. The conference agreement on House Joint Resolution 738 incorporates some of the provisions of both House and Senate versions of the Department of the Interior and Related Agencies Appropriations Act, 1987, and is a reasonable compromise.

The bill reflects our continuing investment in America and the American people. It provides the amounts necessary to maintain and protect our national parks, wildlife refuges, public lands, and national forests.

President Kennedy once said, "To further the appreciation of culture among all people, to increase respect for the creative individual, to widen participation by all the processes and fulfillment of art—this is one of the fascinating challenges of these days." Mr. Speaker, it is even more challenging in a time when limited funds are available, yet, this bill provides funding for the arts and the humanities at a level which will allow our Nation to continue to advance and promote a heritage which we can pass along to our children, our grandchildren, and generations to come.

Mr. Speaker, this is a good chapter. It could have been better had we received Senate concurrence, but it is the product of bargaining. It continues important programs necessary for the protection and enhancement of our unsurpassed natural resources, while maintaining fiscal responsibility. I want to commend the conferees for their efforts and contributions throughout this conference. In particular, I want to note the contributions of the ranking minority member of our subcommittee, RALPH REGULA.

Mr. Speaker, I would like to clarify that statements which appear in either House Report 99-714 or Senate Report 99-397 and are not contradicted in the statement of the managers contained in the conference report accompanying House Joint Resolution 738 would stand.

Mr. Speaker, I recommend that House Joint Resolution 738 be adopted.

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
TITLE I - DEPARTMENT OF THE INTERIOR					
Bureau of Land Management					
Management of lands and resources	379,139,000	379,085,000	380,370,000	474,029,000	483,610,000
Construction and access	1,335,000	1,200,000	1,200,000	2,800,000	2,800,000
Payments in lieu of taxes	99,882,000	105,000,000	105,000,000	105,000,000	105,000,000
Land acquisition	2,188,000	---	850,000	800,000	6,220,000
(Rescission)	---	---	---	---	-3,200,000
Oregon and California grant lands	53,379,000	51,160,000	54,260,000	55,642,000	54,524,000
Range improvements	9,570,000	8,506,000	8,506,000	10,000,000	9,253,000
Service charges, deposits, and forfeitures (indefinite)	4,247,000	5,195,000	5,195,000	5,195,000	5,195,000
Miscellaneous trust funds	100,000	100,000	100,000	100,000	100,000
Total, Bureau of Land Management	549,840,000	550,246,000	555,481,000	653,566,000	663,502,000
United States Fish and Wildlife Service					
Resource management	286,529,000	285,127,000	306,500,000	313,352,000	314,692,000
Construction and anadromous fish	20,258,000	3,113,000	21,113,000	23,603,000	26,513,000
Migratory bird conservation account	14,323,000	---	3,000,000	10,561,000	7,000,000
Land acquisition	41,061,000	1,500,000	33,225,000	41,775,000	42,425,000
National Wildlife Refuge Fund	5,370,000	5,645,000	5,645,000	5,645,000	5,645,000
Total, United States Fish and Wildlife Service	367,541,000	295,385,000	369,483,000	394,936,000	396,275,000
National Park Service					
Operation of the national park system	610,634,000	655,482,000	628,875,000	579,055,000	603,613,000
National recreation and preservation	10,555,000	9,547,000	10,904,000	10,277,000	10,628,000
Historic preservation fund	23,729,000	---	24,200,000	24,300,000	24,250,000
Construction	112,408,000	29,114,000	75,989,000	76,518,000	88,095,000
(Liquidation of contract authority)	(10,300,000)	---	(12,500,000)	(10,000,000)	(12,500,000)
Land acquisition and state assistance	93,604,000	15,270,000	101,100,000	73,400,000	87,220,000
Land and water conservation fund (rescission of contract authority)	-28,710,000	---	---	---	---
John F. Kennedy Center for the Performing Arts	4,566,000	4,771,000	4,771,000	4,771,000	4,771,000
Illinois and Michigan Canal National Heritage Corridor Commission	237,000	---	250,000	---	250,000
Jefferson National Expansion Memorial Commission	72,000	---	75,000	---	75,000
Total, National Park Service	827,095,000	714,184,000	846,164,000	768,321,000	818,902,000
Geological Survey					
Surveys, investigations, and research	412,306,000	395,500,000	423,220,000	402,933,000	418,665,000
Minerals Management Service					
Leasing and royalty management	160,029,000	160,300,000	162,893,000	155,187,000	160,697,000
Payments to States from receipts under Mineral Leasing	---	800,000	---	---	---
Total, Minerals Management Service	160,029,000	161,100,000	162,893,000	155,187,000	160,697,000
Bureau of Mines					
Mines and minerals	127,711,000	107,100,000	126,429,000	130,965,000	138,162,000
Office of Surface Mining Reclamation and Enforcement					
Regulation and technology	81,502,000	100,880,000	99,078,000	96,130,000	100,003,000
(Rescission)	-210,000	---	---	---	---
Abandoned mine reclamation fund (definite, trust fund)	197,277,000	190,520,000	232,720,000	187,020,000	203,720,000
Total, Office of Surface Mining Reclamation and Enforcement	278,569,000	291,400,000	331,798,000	283,150,000	303,723,000
Bureau of Indian Affairs					
Operation of Indian Programs	882,779,000	862,060,000	892,328,000	887,708,000	911,182,000
Construction	98,418,000	59,155,000	86,066,000	67,951,000	76,101,000
Road construction	---	---	2,500,000	---	---
Payment to the Alaska Native Escrow account	7,493,000	---	---	---	---
White Earth Trust Fund	---	---	---	6,600,000	6,600,000
Tribal trust funds: Definite amount	4,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Revolving fund for loans (limitation on direct loans)	(15,599,000)	(16,320,000)	(16,320,000)	(16,320,000)	(16,320,000)
Indian loan guaranty and insurance fund	2,103,000	2,485,000	2,652,000	2,485,000	2,452,000
Indian loan guaranty and insurance fund (limitation on guaranteed loans)	---	(30,000,000)	---	---	---
Total, Bureau of Indian Affairs	994,793,000	924,700,000	984,546,000	965,744,000	997,335,000
Territorial and International Affairs					
Administration of territories	76,459,000	71,529,000	78,874,000	76,016,000	78,224,000
Trust Territory of the Pacific Islands	76,455,000	13,050,000	14,340,000	66,987,000	67,387,000
Compact of Free Association	210,840,000	27,920,000	36,170,000	27,920,000	2,250,000
Total, Territorial Affairs	363,754,000	112,499,000	129,384,000	170,923,000	147,861,000

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
Departmental Offices					
Office of the Secretary	41,296,000	42,816,000	42,482,000	42,822,000	42,816,000
Office of the Solicitor	19,385,000	20,800,000	21,255,000	19,385,000	20,880,000
Office of Inspector General	15,424,000	16,300,000	16,300,000	15,424,000	16,300,000
Construction Management	742,000	684,000	684,000	684,000	684,000
Office of the Secretary (special foreign currency program)	951,000	---	---	---	---
Total, Departmental Offices	77,798,000	80,600,000	80,721,000	78,315,000	80,680,000
Total, title I, Department of the Interior:					
New budget (obligational) authority	4,159,436,000	3,632,714,000	4,010,119,000	4,004,040,000	4,125,802,000
(Liquidation of contract authority)	(10,300,000)	---	(12,500,000)	(10,000,000)	(12,500,000)
TITLE II - RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service					
Forest research	120,127,000	111,481,000	129,183,000	123,282,000	128,882,000
State and private forestry	55,321,000	24,871,000	57,671,000	61,771,000	58,946,000
National forest system	1,168,924,000	894,488,000	996,687,000	1,137,894,000	1,158,294,000
Construction	214,654,000	195,197,000	192,409,000	268,130,000	261,736,000
Timber receipts transfer to General Fund	(-102,765,000)	(-86,815,000)	(-86,815,000)	(-86,815,000)	(-86,815,000)
Timber purchaser credits	---	(154,321,000)	---	(154,321,000)	---
Land acquisition	31,356,000	3,206,000	42,936,000	39,906,000	52,236,000
Operation and maintenance of recreation facilities	---	52,000,000	---	---	---
Acquisition of lands for national forests, special acts	744,000	966,000	966,000	966,000	966,000
Acquisition of lands to complete land exchanges	20,000	895,000	895,000	895,000	895,000
Range betterment fund (indefinite)	3,798,000	3,800,000	3,800,000	3,800,000	3,800,000
Miscellaneous trust funds	85,000	90,000	90,000	90,000	90,000
Total, Department of Agriculture	1,595,029,000	1,286,994,000	1,424,637,000	1,636,734,000	1,665,845,000
DEPARTMENT OF THE TREASURY					
Energy Security Reserve (rescission) 1/	(-6,900,000,000)	---	---	---	---
1/ Rescission not included for comparison purposes.					
DEPARTMENT OF ENERGY					
Clean Coal Technology (by transfer):					
Fiscal year 1986	(99,400,000)	---	---	---	---
Fiscal year 1987	(149,100,000)	---	---	---	---
Fiscal year 1988	(149,100,000)	---	---	---	---
Subtotal, Clean Coal Technology Reserve	(397,600,000)	---	---	---	---
Fossil energy research and development	296,954,000	82,767,000	314,512,000	242,947,000	295,866,000
(By transfer)	(13,015,000)	(2,511,000)	(2,511,000)	(2,511,000)	(2,922,000)
Naval petroleum and oil shale reserves	13,002,000	127,108,000	122,177,000	122,177,000	122,177,000
Energy conservation	427,512,000	39,433,000	285,825,000	246,413,000	280,129,000
Economic regulation	23,423,000	21,850,000	23,400,000	23,400,000	23,400,000
Emergency preparedness	5,750,000	6,044,000	6,044,000	6,044,000	6,044,000
Strategic Petroleum Reserve	107,533,000	---	147,433,000	147,433,000	147,433,000
SPR petroleum account	---	---	220,000,000	---	---
Energy Information Administration	57,724,000	59,651,000	60,361,000	59,651,000	60,301,000
Alternative fuels production	1,020,360,322	---	---	---	---
Appropriation for debt reduction	-1,020,360,322	---	---	---	---
Total, Department of Energy	931,898,000	336,853,000	1,179,752,000	848,065,000	935,350,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Health Resources and Services Administration					
Indian health services	821,265,000	722,378,000	836,336,000	833,106,000	841,809,000
Indian health facilities	46,198,000	---	54,921,000	60,920,000	65,555,000
Total, Department of Health and Human Services	867,463,000	722,378,000	891,257,000	894,026,000	907,364,000
DEPARTMENT OF EDUCATION					
Office of Elementary and Secondary Education					
Indian education	64,187,000	75,729,000	67,236,000	62,000,000	64,036,000
OTHER RELATED AGENCIES					
Navajo and Hopi Indian Relocation Commission					
Salaries and expenses	21,395,000	22,335,000	22,289,000	22,335,000	22,335,000
Smithsonian Institution					
Salaries and expenses	169,384,000	190,061,000	189,318,000	180,550,000	183,920,000
Museum programs and related research (special foreign currency program)	2,376,000	---	---	---	---
Construction and improvements, National Zoological Park	5,281,000	4,851,000	4,851,000	2,500,000	2,500,000
Restoration and renovation of buildings	10,536,000	12,828,000	12,113,000	12,028,000	12,975,000
Construction	3,805,000	7,500,000	6,095,000	6,130,000	6,095,000
Subtotal	191,384,000	215,240,000	212,377,000	201,208,000	205,490,000

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
National Gallery of Art					
Salaries and expenses	32,108,000	34,607,000	34,607,000	34,607,000	34,607,000
Repair, Restoration and Renovation of Buildings	3,139,000	2,400,000	2,400,000	2,400,000	2,400,000
Subtotal, National Gallery of Art	35,247,000	37,007,000	37,007,000	37,007,000	37,007,000
Woodrow Wilson International Center for Scholars					
Salaries and expenses	3,227,000	3,266,000	3,383,000	3,138,000	3,322,000
Payment to the endowment challenge fund	994,000	---	---	300,000	---
Subtotal, Woodrow Wilson Center	4,221,000	3,266,000	3,383,000	3,438,000	3,322,000
Total, Smithsonian Institution	230,852,000	255,513,000	252,767,000	241,653,000	245,819,000
National Foundation on the Arts and the Humanities					
National Endowment for the Arts					
Grants and administration	115,148,000	102,000,000	120,761,000	116,950,000	120,761,000
Administrative expenses	15,423,000	15,900,000	15,900,000	16,000,000	15,900,000
Subtotal	130,571,000	117,900,000	136,661,000	132,950,000	136,661,000
Matching grants	27,967,000	27,000,000	29,000,000	27,000,000	28,420,000
Total, National Endowment for the Arts	158,538,000	144,900,000	165,661,000	159,950,000	165,081,000
Arts and Artifacts Indemnity Fund					
Salaries and expenses	285,000	---	---	---	---
National Endowment for the Humanities					
Grants and administration	91,823,000	83,140,000	95,840,000	93,500,000	95,790,000
Administrative expenses	13,508,000	14,300,000	14,301,000	14,200,000	14,200,000
Subtotal	105,331,000	97,440,000	110,141,000	107,700,000	109,990,000
Matching grants	27,263,000	29,000,000	28,500,000	29,000,000	28,500,000
Total, National Endowment for the Humanities	132,594,000	126,440,000	138,641,000	136,700,000	138,490,000
National Capital Arts and Cultural Affairs					
Grants	1,988,000	---	3,500,000	4,000,000	4,000,000
Institute of Museum Services					
Grants and administration	20,474,000	330,000	21,394,000	18,888,000	21,250,000
Total, National Foundation of the Arts and the Humanities	313,879,000	271,670,000	329,196,000	319,538,000	328,821,000
Commission of Fine Arts					
Salaries and expenses	364,000	420,000	420,000	450,000	450,000
Advisory Council on Historic Preservation					
Salaries and expenses	1,507,000	1,417,000	1,533,000	1,533,000	1,533,000
National Capital Planning Commission					
Salaries and expenses	2,580,000	2,684,000	2,684,000	2,684,000	2,684,000
Franklin Delano Roosevelt Memorial Commission					
Salaries and expenses	20,000	---	5,000	5,000	5,000
Pennsylvania Avenue Development Corporation					
Salaries and expenses	2,215,000	2,437,000	2,342,000	2,437,000	2,397,000
Public development	3,091,000	3,774,000	3,869,000	3,924,000	3,924,000
Total, Pennsylvania Avenue Development Corporation	5,306,000	6,211,000	6,211,000	6,361,000	6,321,000
United States Holocaust Memorial Council					
Holocaust Memorial Council	2,021,000	2,057,000	2,040,000	2,057,000	2,040,000
Total, title II, Related Agencies: New budget (obligational) authority	4,036,501,000	2,984,261,000	4,180,027,000	4,037,441,000	4,182,603,000
RECAPITULATION					
Total, Department of the Interior and Related Agencies Appropriations:					
New budget (obligational) authority	8,195,937,000	6,616,975,000	8,190,146,000	8,041,481,000	8,308,405,000
Rescission	(-28,920,000)	---	---	---	(-3,200,000)
(Liquidation of contract authority)	(10,300,000)	---	(12,500,000)	(10,000,000)	(12,500,000)
(Limitation on direct loans)	(15,599,000)	(16,320,000)	(16,320,000)	(16,320,000)	(16,320,000)
(Timber receipt transfer to general fund)	(-102,765,000)	(-86,815,000)	(-86,815,000)	(-86,815,000)	(-86,815,000)
(Limitation on guaranteed loans)	---	(30,000,000)	---	---	---
(By transfer)	(13,015,000)	(2,511,000)	(2,511,000)	(2,511,000)	(2,922,000)

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
TITLE I -DEPARTMENT OF THE INTERIOR					
Bureau of Land Management	549,840,000	550,246,000	555,481,000	653,566,000	663,502,000
United States Fish and Wildlife Service	367,541,000	295,385,000	369,483,000	394,936,000	396,275,000
National Park Service	827,095,000	714,184,000	846,164,000	768,321,000	818,902,000
Geological Survey	412,306,000	395,500,000	423,220,000	402,933,000	418,665,000
Minerals Management Serivce	160,029,000	161,100,000	162,893,000	155,187,000	160,697,000
Bureau of Mines	127,711,000	107,100,000	126,429,000	130,965,000	138,162,000
Office of Surface Mining Reclamation and Enforcement	278,569,000	291,400,000	331,798,000	283,150,000	303,723,000
Bureau of Indian Affairs	994,793,000	924,700,000	984,546,000	965,744,000	997,335,000
Territorial and International Affairs	363,754,000	112,499,000	129,384,000	170,923,000	147,861,000
Secretarial Offices	77,798,000	80,600,000	80,721,000	78,315,000	80,680,000
Total, Title I - Department of the Interior	4,159,436,000	3,632,714,000	4,010,119,000	4,004,040,000	4,125,802,000
TITLE II - RELATED AGENCIES					
Forest Service	1,595,029,000	1,286,994,000	1,424,637,000	1,636,734,000	1,665,845,000
Department of the Treasury	(-6,900,000,000)	---	---	---	---
Department of Energy	931,898,000	336,853,000	1,179,752,000	848,065,000	935,350,000
Indian Health	867,463,000	722,378,000	891,257,000	894,026,000	907,364,000
Indian Education	64,187,000	75,729,000	67,236,000	62,000,000	64,036,000
Navajo and Hopi Indian Relocation Commission	21,395,000	22,335,000	22,289,000	22,335,000	22,335,000
Smithsonian	191,384,000	215,240,000	212,377,000	201,208,000	205,490,000
National Gallery of Art	35,247,000	37,007,000	37,007,000	37,007,000	37,007,000
Woodrow Wilson International Center for Scholars	4,221,000	3,266,000	3,383,000	3,438,000	3,322,000
National Endowment for the Arts	158,538,000	144,900,000	165,661,000	159,950,000	165,081,000
Arts and Artifacts Indemnity Fund	285,000	---	---	---	---
National Endowment for the Humanities	132,594,000	126,440,000	138,641,000	136,700,000	138,490,000
National Capital Arts and Cultural Affairs	1,988,000	---	3,500,000	4,000,000	4,000,000
Institute of Museum Services	20,474,000	330,000	21,394,000	18,888,000	21,250,000
Commission of Fine Arts	364,000	420,000	420,000	450,000	450,000
Advisory Council on Historic Preservation	1,507,000	1,417,000	1,533,000	1,533,000	1,533,000
National Capital Planning Commission	2,580,000	2,684,000	2,684,000	2,684,000	2,684,000
Franklin Delano Roosevelt Memorial Commission	20,000	---	5,000	5,000	5,000
Pennsylvania Avenue Development Corporation	5,306,000	6,211,000	6,211,000	6,361,000	6,321,000
Holocaust Memorial Council	2,021,000	2,057,000	2,040,000	2,057,000	2,040,000
Total, Title II - Related Agencies	4,036,501,000	2,984,261,000	4,180,027,000	4,037,441,000	4,182,603,000
Grand total	8,195,937,000	6,616,975,000	8,190,146,000	8,041,481,000	8,308,405,000

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. YATES. Mr. Speaker, I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I rise in strong support of this conference report, not because it is perfect but because it strikes difficult balances between literally thousands of competing issues in the fairest way available to us.

As a matter of procedure, of course, enacting the entire Federal discretionary budget in one sweeping measure is undesirable. Too many of the issues resolved in this bill will go unremarked upon. No doubt there are many which could be improved upon were we to enjoy the time to focus on them.

Nonetheless, since we have no choice but to fund the Government in an omnibus bill, and since in the main this bill represents the whole to which the 13 separate bills would add up, I can support this measure with enthusiasm.

I do think several improvements could be made to the resolution on the floor, by resolving two items being reported in true disagreement in such a way as to include them in the final measure sent to the White House. One is the greatly modified "Buy-America" provision affecting the composition of materials in offshore oil rigs constructed in U.S. territorial waters. The other is a requirement that all wine and liquors imported into the United States have their ingredients reported to and certified by the Bureau of Alcohol, Tobacco and Firearms.

In both these instances we would only be applying standards to our foreign competition which we apply to ourselves. American consumers and workers will be better off.

I am particularly happy about one provision in this bill which prevents the transfer of distribution system and drain costs from water users in the San Luis unit of the California Central Valley project to the power users of that project. This provision reasserts the policy in the Central Valley project of having local water beneficiaries be responsible for their own drain and distribution systems.

The amendment was made necessary by a new opinion by the Solicitor for the Department of the Interior which contends that drains and distribution systems in the San Luis unit can be repaid through the unit's water service contract with the CVP, leaving open the possibility that any drain and distribution costs in excess of a standard called the San Luis unit's "ability to pay" could be transferable to the power users of the CVP.

As I assured members of the House Appropriations Committee when they first agreed to amend this provision into the continuing resolution, the amendment does not pass costs for these systems on to the taxpayers by virtue of preventing the ability-to-pay mechanism from transferring the costs to the power users. It deals merely and exclusively with costs transfers within the Central Valley project. It does not affect the relationship between the CVP and the Treasury.

It may be that there are legitimate arguments for the absorption by the taxpayer of part of the drainage costs associated with the selenium problem in the San Luis unit lands, though both the San Luis unit and the Bureau of Reclamation itself have repeatedly assured Congress: one, that the costs of the problem will remain within the unit's ability to pay; and two, that existing CVP repayment policy requires that the San Luis unit costs not be transferred outward to any other entity, within or without the CVP. These questions deserve full consideration and will have to be settled later.

Meanwhile, however, as I assured the committee and the Congress in previous statements, nothing in this provision affects requirements in existing law that the Bureau of Reclamation obtain full repayment from project beneficiaries for project features and operations. Therefore, the way things stand now, if anyone is to pay for San Luis unit drainage and distribution system costs the San Luis unit itself will.

The continuing resolution also contains at the request of myself, Mr. MCHUGH, and ultimately of the House Banking Subcommittee on Housing, a provision preventing the prepayment of section 515 rural housing loans through June 30, 1986, unless the landlord can certify that the prepayment will not drive rent increases which force out existing low-income tenants.

This provision has been compromised somewhat from the original House provision, which established an absolute moratorium on section 515 prepayments for a year, to give the authorizing committees in the Congress a chance to deal with what appears to be a crescendo of loan prepayments induced by the uncertainties in the new tax bill and lower interest rates now prevailing in the marketplace.

The compromise amendment in my view preserves the original purpose of our moratorium, while hopefully making it less onerous to our friends in the housing industry who maintain a legal right to prepay loans granted prior to 1980. Subsequent to that time, legislation enacted by Congress requires any recipient of a section 515 loan to maintain his units in low-income status for 20 years. Before that point, however, no such requirement was in effect, and the housing industry maintains existing law not only encourages them to seek to repay, but grants them an absolute right to have the Farmers Home Administration accept their application for prepayment.

Whether the FmHA must accept prepayment applications is legally disputable, but the law does consider pre- and post-1980 prepayments differently and there is reason to ease the impact of the original House moratorium to the extent consistent with what must remain the overriding public purpose: preserving the homes of low-income people and preserving our low-income housing stock while we determine what next best to do.

For these reasons, I welcome the Senate-agreed-to revisions of our original provisions, but most of all welcome the preservation of the provision itself.

LEGISLATIVE BRANCH FUNDING

Mr. Speaker, the continuing resolution funds the legislative branch for fiscal year 1987. The conferees on H.R. 5203, the Legislative Branch Appropriations Act, 1987, reached an agreement on August 15, 1986, and filed Conference Report No. 99–805. That agreement provides appropriations totaling $1,635,190,214—$1.6 billion—for fiscal year 1987. This amount is $78.9 million over the level enacted to date for fiscal year 1986 and $187,026,586—$187 million—below the budget estimates.

When the bill went to the Senate, the other body added $342.9 million for their own operations and for several other items. If the Senate items are excluded, the conference agreement is $3 million below the amount in the bill as it passed the House.

If we compare this bill to the pre-Gramm-Rudman level enacted for fiscal year 1986, including subsequent supplementals, the fiscal yeart 1987 appropriation for the legislative branch is only $12 million—less than 1 percent above that level.

Going back to fiscal year 1985, this bill is just $35 million—about 2 percent above that year. In other words, the legislative branch budget has been constrained to about 1 percent growth each year for the past 2 years.

Mr. Speaker, I will include a comparative tabulation of the conference action at this point in the RECORD.

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
TITLE I - CONGRESSIONAL OPERATIONS					
SENATE					
Payments of Widows and Heirs of Deceased Members of Congress					
Gratuities, deceased Members	---	---	---	75,100	75,100
Mileage of the Vice President and Senators and Expense Allowances of the Vice President, the President Pro Tempore, Majority and Minority Leaders, Majority and Minority Whips, and Chairmen of the Majority and Minority Conference Committees					
Mileage of the Vice President and Senators	57,000	60,000	---	60,000	60,000
Expense allowances of the Vice President, the President Pro Tempore, Majority and Minority Leaders Majority and Minority Whips, and Chairmen of the Majority and Minority Conference Committees:					
Vice President	10,000	10,000	---	10,000	10,000
President Pro Tempore of the Senate	10,000	10,000	---	10,000	10,000
Majority Leader of the Senate	10,000	10,000	---	10,000	10,000
Minority Leader of the Senate	10,000	10,000	---	10,000	10,000
Majority Whip of the Senate	5,000	5,000	---	5,000	5,000
Minority Whip of the Senate	5,000	5,000	---	5,000	5,000
Chairmen of the Majority and Minority Conference Committees	6,000	6,000	---	6,000	6,000
Representation allowances for the Majority and Minority Leaders	20,000	20,000	---	20,000	20,000
FY 1986 Sequestered Amount	-2,000	---	---	---	---
Total, expense allowances	74,000	76,000	---	76,000	76,000
Total, Vice President and Senators	131,000	136,000	---	136,000	136,000
Salaries, Officers and Employees					
Office of the Vice President	1,112,000	1,112,000	---	1,112,000	1,112,000
Office of the President pro tempore	149,000	149,000	---	149,000	149,000
Offices of the Majority and Minority Leaders	1,090,000	1,090,000	---	1,190,000	1,190,000
Offices of the Majority and Minority Whips	418,000	418,000	---	418,000	418,000
Conference committees	1,081,000	1,081,000	---	1,081,000	1,081,000
Offices of the secretaries of the conference of the Majority and the conference of the Minority	182,000	262,000	---	262,000	262,000
Office of the Chaplain	90,000	90,000	---	90,000	90,000
Office of the Secretary	6,953,000	7,301,000	---	6,986,714	6,986,714
Administrative, clerical, and legislative assistance to Senators	102,549,000	104,030,000	---	104,030,000	104,030,000
Office of Sergeant at Arms and Doorkeeper	36,858,000	43,602,000	---	41,172,000	41,172,000
Offices of the secretaries for the Majority and Minority	879,000	879,000	---	879,000	879,000
Agency contributions	19,612,000	20,166,000	---	20,166,000	20,166,000
FY 1986 Sequestered Amount	-7,330,000	---	---	---	---
Total, salaries, officers and employees	163,643,000	180,180,000	---	177,535,714	177,535,714
Office of the Legislative Counsel of the Senate					
Salaries and expenses	1,375,000	1,622,000	---	1,460,900	1,460,900
Office of Senate Legal Counsel					
Salaries and expenses	541,000	575,000	---	575,000	575,000
Expense allowances for the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and for the Minority of the Senate	11,000	12,000	---	12,000	12,000
Contingent Expenses of the Senate					
Senate policy committees	1,864,000	1,948,000	---	1,948,000	1,948,000
Inquiries and investigations	48,855,000	52,177,000	---	52,177,000	52,177,000
International Narcotics Control Commission	311,000	325,000	---	325,000	325,000
Secretary of the Senate	654,800	698,800	---	666,300	666,300
Sergeant at Arms and Doorkeeper of the Senate	51,824,000	64,620,000	---	62,420,000	62,420,000
Miscellaneous items	9,244,000	10,317,000	---	10,314,000	10,314,000
Stationery (revolving fund)	11,000	13,000	---	13,000	13,000
Total, contingent expenses of the Senate	112,763,800	130,098,800	---	127,863,300	127,863,300
Senate Official Mail					
Official Mail Costs	---	---	---	47,409,000	---
Total, Senate	278,464,800	312,623,800	---	355,067,014	307,658,014

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
HOUSE OF REPRESENTATIVES					
Payments of Widows and Heirs of Deceased Members of Congress					
Gratuities, deceased Members	---	---	75,100	150,200	150,200
Mileage of Members					
Mileage of Members	144,000	210,000	210,000	210,000	210,000
House Leadership Offices					
Office of the Speaker	742,026	775,000	775,000	775,000	775,000
Office of the Majority Floor Leader	658,416	688,000	688,000	688,000	688,000
Office of the Minority Floor Leader	734,019	767,000	767,000	767,000	767,000
Office of the Majority Whip	577,071	603,000	603,000	603,000	603,000
Office of the Minority Whip	501,468	524,000	524,000	524,000	524,000
Total, House leadership offices	3,213,000	3,357,000	3,357,000	3,357,000	3,357,000
Members' Clerk Hire					
Clerk hire	159,591,000	173,659,000	170,186,000	170,186,000	170,186,000
Committee Employees					
Professional and clerical employees (standing committees)	42,419,000	51,135,000	48,000,000	48,000,000	48,000,000
Committee on the Budget (Studies)					
Salaries and expenses	283,000	329,000	329,000	329,000	329,000
Contingent Expenses of the House					
Standing Committees, Special and Select					
Salaries and expenses	45,291,000	50,211,000	48,311,000	48,311,000	48,311,000
Allowances and Expenses					
Official Expenses of Members	77,517,000	85,000,000	79,300,000	79,300,000	79,300,000
Supplies, materials, administrative costs and Federal tort claims	12,426,540	21,381,000	14,536,000	14,536,000	14,536,000
Furniture and furnishings	957,000	1,475,000	1,475,000	1,475,000	1,475,000
Stenographic reporting of committee hearings	478,500	650,000	550,000	550,000	550,000
Reemployed annuitants reimbursement	1,148,400	750,000	750,000	750,000	750,000
Government contributions	34,566,306	40,695,000	40,695,000	40,695,000	40,695,000
Miscellaneous items	595,254	622,000	622,000	622,000	622,000
Total, allowances and expenses	127,689,000	150,573,000	137,928,000	137,928,000	137,928,000
Total, contingent expenses of the House	172,980,000	200,784,000	186,239,000	186,239,000	186,239,000
Committee on Appropriations (Studies and Investigations)					
Salaries and expenses	4,091,000	4,300,000	4,300,000	4,300,000	4,300,000
Salaries, Officers and Employees					
Office of the Clerk	13,068,792	14,260,000	13,825,000	13,825,000	13,825,000
Office of the Sergeant at Arms	17,983,433	21,255,000	20,595,000	20,595,000	20,595,000
Office of the Doorkeeper	6,390,846	7,064,000	6,992,000	6,992,000	6,992,000
Office of the Postmaster	1,985,775	2,349,000	2,278,000	2,278,000	2,278,000
Office of the Chaplain	73,000	73,000	73,000	73,000	73,000
Office of the Parliamentarian	596,211	634,000	634,000	634,000	634,000
Office of the Parliamentarian	(396,198)	(425,000)	(425,000)	(425,000)	(425,000)
Compilation of precedents of the House of Representatives	(200,013)	(209,000)	(209,000)	(209,000)	(209,000)
Office for the Bicentennial	209,583	237,000	226,000	226,000	226,000
Office of the Law Revision Counsel	822,063	884,000	844,000	844,000	844,000
Office of the Legislative Counsel	2,679,600	2,800,000	2,700,000	2,700,000	2,700,000
Six minority employees	415,338	434,000	434,000	434,000	434,000
House Democratic Steering Committee and Caucus	590,469	700,000	700,000	700,000	700,000
House Democratic Steering Committee	(458,499)	(562,000)	(562,000)	(562,000)	(562,000)
House Democratic Caucus	(131,970)	(138,000)	(138,000)	(138,000)	(138,000)
House Republican Conference	590,469	700,000	700,000	700,000	700,000
Other Authorized Employees	948,421	1,135,000	1,135,000	1,135,000	1,135,000
Technical assistant, Office of the Attending Physician	(47,000)	(47,000)	(47,000)	(47,000)	(47,000)
L.B.J. Interns and Former Speakers' staff	(804,421)	(981,000)	(981,000)	(981,000)	(981,000)
Miscellaneous items	(97,000)	(107,000)	(107,000)	(107,000)	(107,000)
Total, salaries, officers and employees	46,354,000	52,525,000	51,136,000	51,136,000	51,136,000
House Official Mail					
Official Mail Costs	---	---	---	47,409,000	---
Total, House of Representatives	429,075,000	486,299,000	463,832,100	511,316,200	463,907,200

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
JOINT ITEMS					
Contingent Expenses of the Senate					
Joint Economic Committee	2,530,000	2,836,000	2,736,000	2,736,000	2,736,000
Joint Committee on Printing	879,000	930,000	919,000	919,000	919,000
Total, contingent expenses of the Senate	3,409,000	3,766,000	3,655,000	3,655,000	3,655,000
Contingent Expenses of the House					
Joint Committee on Taxation	4,458,000	4,357,000	4,159,000	4,159,000	4,159,000
Office of the Attending Physician					
Medical supplies, equipment, expenses, and allowances	1,011,000	1,098,000	1,098,000	1,298,000	1,298,000
Capitol Police					
General expenses	1,279,000	2,068,000	1,701,000	1,701,000	1,701,000
Capitol Police Board	13,104,000	---	---	---	---
Total, Capitol Police	14,383,000	2,068,000	1,701,000	1,701,000	1,701,000
Official Mail Costs					
Expenses	95,700,000	143,118,000	94,818,000	---	91,423,000
Capitol Guide Service					
Salaries and expenses	830,000	934,000	880,000	880,000	880,000
Statements of Appropriations					
Preparation	13,000	13,000	13,000	20,000	20,000
Total, joint items	119,804,000	155,354,000	106,324,000	11,713,000	103,136,000
OFFICE OF TECHNOLOGY ASSESSMENT					
Salaries and expenses	14,642,000	17,700,000	15,532,000	15,532,000	15,532,000
BIOMEDICAL ETHICS BOARD					
Salaries and expenses	144,000	---	---	2,500,000	150,000
CONGRESSIONAL BUDGET OFFICE					
Salaries and expenses	16,160,000	19,060,000	17,251,000	17,251,000	17,251,000
ARCHITECT OF THE CAPITOL					
Office of the Architect of the Capitol					
Salaries	5,434,000	5,606,000	5,262,000	5,262,000	5,262,000
Contingent expenses	96,000	235,000	100,000	50,000	50,000
Total, Office of the Architect of the Capitol	5,530,000	5,841,000	5,362,000	5,312,000	5,312,000
Capitol Buildings and Grounds					
Capitol buildings	18,516,000	14,085,000	11,959,000	12,068,000	12,068,000
Capitol grounds	3,359,000	3,317,000	3,182,000	3,249,000	3,182,000
Senate Office Buildings	18,876,000	25,373,000	---	25,197,000	25,197,000
House Office Buildings	21,138,000	27,336,000	25,227,000	25,227,000	25,227,000
Capitol Power Plant	26,218,000	28,364,000	26,517,000	26,517,000	26,517,000
Offsetting collections	-2,150,000	-1,950,000	-1,950,000	-1,950,000	-1,950,000
Net, Capitol Power Plant	24,068,000	26,414,000	24,567,000	24,567,000	24,567,000
Total, Capitol buildings and grounds	85,957,000	96,525,000	64,935,000	90,308,000	90,241,000
Total, Architect of the Capitol (except items in Title II)	91,487,000	102,366,000	70,297,000	95,620,000	95,553,000
LIBRARY OF CONGRESS					
Congressional Research Service					
Salaries and expenses	37,288,000	44,010,000	39,602,000	39,602,000	39,602,000
GOVERNMENT PRINTING OFFICE					
Congressional printing and binding	66,421,000	71,500,000	62,000,000	64,200,000	62,000,000
Total, title I - Congressional Operations	1,053,485,800	1,208,912,800	774,838,100	1,112,801,214	1,104,789,214
TITLE II - OTHER AGENCIES					
BOTANIC GARDEN					
Salaries and expenses	2,094,000	2,291,000	2,062,000	2,062,000	2,062,000
LIBRARY OF CONGRESS					
Salaries and expenses	132,985,000	148,539,000	136,339,000	137,939,000	137,039,000
Authority to spend receipts	-4,122,000	-4,700,000	-4,700,000	-4,700,000	-4,700,000
Net, Salaries and expenses	128,863,000	143,839,000	131,639,000	133,239,000	132,339,000

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
Copyright Office, salaries and expenses	16,905,000	18,428,000	17,302,000	17,302,000	17,302,000
Authority to spend receipts	-6,492,000	-7,450,000	-7,427,000	-7,427,000	-7,427,000
Net, Copyright Office, salaries and expenses	10,413,000	10,978,000	9,875,000	9,875,000	9,875,000
Books for the blind and physically handicapped, salaries and expenses	32,309,000	38,847,000	35,996,000	35,996,000	35,996,000
Collection and distribution of library materials (special foreign currency program):					
Payments in Treasury-owned foreign currencies	675,000	293,000	293,000	293,000	293,000
U.S. dollars	121,000	97,000	97,000	97,000	97,000
Total, collection and distribution of library materials	796,000	390,000	390,000	390,000	390,000
Furniture and furnishings	853,000	15,983,000	5,070,000	5,070,000	5,070,000
Total, Library of Congress (except Congressional Research Service)	173,234,000	210,037,000	182,970,000	184,570,000	183,670,000
ARCHITECT OF THE CAPITOL					
Library Buildings and Grounds					
Structural and mechanical care	5,536,000	7,188,000	6,080,000	6,080,000	6,080,000
COPYRIGHT ROYALTY TRIBUNAL					
Salaries and expenses	512,000	833,000	617,000	617,000	617,000
Authority to spend receipts	-363,000	-583,000	-494,000	-494,000	-494,000
Net, Salaries and expenses	149,000	250,000	123,000	123,000	123,000
GOVERNMENT PRINTING OFFICE					
Printing and binding	11,058,000	15,400,000	10,700,000	12,800,000	10,700,000
Office of Superintendent of Documents, salaries and expenses	21,993,000	27,835,000	22,981,000	22,256,000	22,256,000
(By transfer)	(3,000,000)	---	(1,378,000)	(1,378,000)	(1,378,000)
Total, Government Printing Office (except Congressional printing and binding)	33,051,000	43,235,000	33,681,000	35,056,000	32,956,000
GENERAL ACCOUNTING OFFICE					
Salaries and expenses	288,051,000	349,552,000	304,910,000	306,910,000	304,910,000
RAILROAD ACCOUNTING PRINCIPLES BOARD					
Salaries and expenses	718,000	750,000	600,000	600,000	600,000
Total, title II - other agencies	502,833,000	613,303,000	530,426,000	535,401,000	530,401,000
Grand total, New budget (obligational) authority	1,556,318,800	1,822,215,800	1,305,264,100	1,648,202,214	1,635,190,214
RECAPITULATION					
TITLE I - CONGRESSIONAL OPERATIONS	1,053,485,800	1,208,912,800	774,838,100	1,112,801,214	1,104,789,214
TITLE II - OTHER AGENCIES	502,833,000	613,303,000	530,426,000	535,401,000	530,401,000
TITLE I - CONGRESSIONAL OPERATIONS					
Senate	278,464,800	312,623,800	---	355,067,014	307,658,014
House of Representatives	429,075,000	486,299,000	463,832,100	511,316,200	463,907,200
Joint Items	119,804,000	155,354,000	106,324,000	11,713,000	103,136,000
Office of Technology Assessment	14,642,000	17,700,000	15,532,000	15,532,000	15,532,000
Biomedical Ethics Board	144,000	---	---	2,500,000	150,000
Congressional Budget Office	16,160,000	19,060,000	17,251,000	17,251,000	17,251,000
Architect of the Capitol (except Library buildings and grounds)	91,487,000	102,366,000	70,297,000	95,620,000	95,553,000
Congressional Research Service, Library of Congress	37,288,000	44,010,000	39,602,000	39,602,000	39,602,000
Congressional printing and binding, Government Printing Office	66,421,000	71,500,000	62,000,000	64,200,000	62,000,000
Total, title I - congressional operations	1,053,485,800	1,208,912,800	774,838,100	1,112,801,214	1,104,789,214
TITLE II - OTHER AGENCIES					
Botanic Garden	2,094,000	2,291,000	2,062,000	2,062,000	2,062,000
Library of Congress (except Congressional Research Service)	173,234,000	210,037,000	182,970,000	184,570,000	183,670,000
Architect of the Capitol (Library buildings and grounds)	5,536,000	7,188,000	6,080,000	6,080,000	6,080,000
Copyright Royalty Tribunal	149,000	250,000	123,000	123,000	123,000
Government Printing Office (except congressional printing and binding)	33,051,000	43,235,000	33,681,000	35,056,000	32,956,000
General Accounting Office	288,051,000	349,552,000	304,910,000	306,910,000	304,910,000
Railroad Accounting Principles Board	718,000	750,000	600,000	600,000	600,000
Total, title II - other agencies	502,833,000	613,303,000	530,426,000	535,401,000	530,401,000
Grand total, new budget (obligational) authority	1,556,318,800	1,822,215,800	1,305,264,100	1,648,202,214	1,635,190,214

I will not attempt to speak to each of the items we considered in conference. There were a total of 25 amendments, of which 4 related solely to Senate housekeeping items. The remainder are explained fully in the statement accompanying the conference report.

With respect to the conference agreement on the legislative branch appropriations, I want to point out that this is another example of the willingness on the part of the legislative branch to control its own spending. We are approving a very tight budget; one that has grown only 2 percent in 2 years.

We are under the section 302(b) budget resolution targets for budget authority and outlay totals. So we have met the Gramm-Rudman test as well.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I very rarely get upset when I come to the floor but I have got to tell you that I have seen something happen today that has upset me very much.

Earlier today we voted on a defense authorization conference report to zero out a trainer called the T-46 to provide it no money for 1987. We also provided that we would have a competitive fly off in future years.

Now, in the appropriations bill that is tucked into this conference report, we would appropriate $3.1 billion to a program that has not been authorized. In fact, we voted earlier today not to authorize the program. I have a parochial interest in this particular issue because a company in my district might participate in that competitive fly off, but I want to be honest with my colleagues.

The fact of the matter is that I just heard a colloquy between the chairman of the Armed Services Committee and the distinguished gentleman from Florida, the chairman of the Subcommittee on Defense Appropriations in which they both agreed that the bill that passed earlier today would have no force and effect.

Now, I admit to you, I am not as powerful as those two gentlemen but I am constitutionally given the same authority as they are. I want to make my own legislative history today. My history today to the Air Force is that bill we passed today is just as big as this bill and they ought to listen to it.

Let me tell you two other things. The Air Force does not even want this particular project and we hope that the Air Force prevails to not spend any money on it. I understand that this whole thing may be determined on which bill is signed first and which bill is signed last. So I am going to recommend to my senior Senator from Kansas who is the leader of the body that he make sure that the President of the United States signs the defense authorization conference report last and signs this bill first. I will do everything in my power to ensure that the feelings of this Congress in which we passed zero funding for this in a conference report, are adhered to.

I am going to vote against the conference report because of this. I grant you it is a small reason to vote against it although a thousand jobs in my district is no small reason for people at home.

It is very disconcerting to see that we zero out a program at 4 o'clock and then we add $3 billion to the program that we have not authorized at a quarter of nine.

Mr. COUGHLIN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the train is leaving the station. Not one Member may agree with every provision that is in this bill. It is a half-a-trillion-dollar bill. Mr. Speaker, this does meet national needs. It does restore unfair budget cuts. It does meet the deficit reduction targets of Gramm-Rudman. It is a fair and a wise bill.

It provides, my colleagues, for a major drug initiative. It provides a 5-fold increase in Superfund budgets. It continues the Brown-Coughlin provisions for arms control and satellite weapons. It restores funding for urban mass transit and for Amtrak. It provides funds for renewal and redevelopment of our cities. It is a major bill.

It is the culmination of the work of many hours by many people in this body. It is the culmination of the process of compromise. It is the culmination of the process of legislation that is indeed the hallmark of this body.

To those who are listening and watching, let us say that as the train leaves the station that it may be the last train for you to catch. If we do not pass this bill that train may be gone.

I urge support of the legislation.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. I thank the gentleman for yielding me this time.

Mr. Speaker, I urge an "aye" vote on this conference report. It does not please anybody in all of its particulars. However, it is the best compromise that the best minds in this Congress have been able to achieve with respect to funding levels.

Having been involved in a working of a compromise on military spending levels last week between Members of the House and the Senate and the White House, I want to include at this point in the RECORD a copy of a letter received today by the Speaker from President Reagan, in which President Reagan says:

THE WHITE HOUSE,
Washington, October 15, 1986.

DEAR MR. SPEAKER: I am pleased to learn that the House and Senate will soon act on legislation to appropriate funds for the executive departments and agencies for fiscal year 1987. I urge that Members support the product of the Conference Committee on the basis of essential and time sensitive national security concerns and other necessary programs of the Federal Government.

While I recognize that certain provisions of this omnibus appropriations bill are of concern to some Members, on balance, it is a measure that will provide funds at acceptable levels for the next fiscal year. As you know, my Administration has registered its specific objections to some aspects of the bill—not all of which have been resolved by the Conference Committee recommendations. Nonetheless, it is my hope that the House of Representatives will speedily adopt the Conference Report and act subsequently to eliminate those policy provisions that remain of major concern to me so that I can sign the bill.

I solicit your support and that of your colleagues to send this measure to my desk in acceptable form at the earliest opportunity.

Sincerely,

RONALD REAGAN

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. BEDELL].

Mr. BEDELL. I thank the gentlewoman for yielding me this time.

Mr. Speaker, first of all let me say that there is great confusion in regard to what this bill says for REA borrowers. At least as I read the bill, it does not say that this is only for Alaska, and I hope this will be cleared up before we vote on the bill.

Second, let me acknowledge how difficult it is to get everybody together on a bill such as this. Let me say that in my opinion the problem I have with this bill does not come from the Appropriations Committee, the problem I have with this bill is that many of us who felt quite strongly about some of the arms control issues that were in what was in the House bill agreed to compromise a long, long way in order to help the President as he went to Iceland for his summit meeting.

□ 2050

As we did so, there was an agreement, we understood, by the other body, as to what would be included in the compromise agreement. We understood quite clearly that that compromise in regard to chemical weapons was that we would give up on the artillery shell and they would give up on the Bigeye bomb. That was our understanding. That was what was given to us.

As we get to the conference on the military authorization bill, we find that is not it at all. We find that what they say is we need to give up on the artillery shell, but that they will spend $90 million going ahead to build the

facilities to produce the Bigeye bomb. That takes 2 years. We have not held anything back at all because, obviously, they could not go ahead and build a bomb until they had the facilities.

So we are going to spend $90 million for facilities for a bomb where, as the General Accounting Office has said, "the flaws are so unrelenting that it is not even ready for development testing, let alone production."

I believe that a deal is a deal, Mr. Speaker. I believe that since that is what they told us it was going to be, that is what it should be. It is difficult for me to vote against this bill, but if we are going to stand and say that we expect the other body to stand up for the agreements they have, then I think we have to stand up for what we have been told to be the deal.

Under those circumstances, it is difficult for me to do so, but I am going to have to oppose this bill.

Mr. McDADE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, this is not a perfect bill, obviously, but it was a very difficult challenge to take the multitude of responsibilities of the Federal Government and achieve an agreement that could receive the support of the President and the Members of this body.

I want to emphasize that this resolution is below the President's request. It is $2.4 billion below the President's request in budget authority; it is $14.9 billion below the President's request in outlays.

I think it is a major achievement to get an appropriations conference agreement that is below the budget request of the President. I might also point out that it is $1.628 billion below the budget authority and $2.452 below the outlay numbers that were set forth in the budget resolution that passed both Houses and was adopted as the budget for the United States for this fiscal year.

I think those are major accomplishments and I would urge my colleagues, even though they may have differences with some points in the bill, and I do myself, to recognize that in the total package it is a responsible approach to the funding for the fiscal year ahead.

As pointed out by my colleague, the gentleman from Pennsylvania [Mr. COUGHLIN], it is the train at the station, and I think that, while we may not be pleased with every dimension of the bill, I do know from serving on two of the conference committees that the members worked hard and gave up on a lot of good projects in both Interior and State-Justice to meet the targets set forth in the President's budget, as well as in the budget resolution we adopted.

For those reasons, I urge my colleagues to support this measure tonight.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The Chair announces that the gentleman from Mississippi [Mr. WHITTEN] has 8 minutes remaining; the gentlewoman from Colorado [Mrs. SCHROEDER] has 7 minutes remaining; and the gentleman from Pennsylvania [Mr. McDADE] has 6 minutes remaining.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the point has been made here about a provision that applies to a rural electric cooperative in Alaska. It is a demonstration project that does not apply anywhere else in the United States, as so represented to me.

This was done without my knowledge or notice, and I just wanted to disabuse the membership of any feeling that this applies on a general basis to other electric or telephone cooperatives. To make this clear, we will take care of it next time. It was represented to me and I believe it applies only as a demonstration project and does not apply in the rest of the United States.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished new Member, the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, one of my first votes as the last Member of the 99th Congress to be sworn in was on the passage of the continuing resolution. As you know, it passed by a single vote. My vote in favor of the continuing resolution was predicated in great measure on the results of literally years of effort on the part of a broad range of Members—bipartisan and crossing ideological lines—resulting in a comprehensive series of arms control measures.

These provisions were so far reaching in impact that those who had serious reservations, and even antipathy, toward such items as aid to the Contras were willing, and yes eager, to support the continuing resolution in the name of the safety of humanity and an unprecedented chance for advancing the cause of peace.

We have heard much tonight about no legislative action ever being agreeable on all points. But what is the value of citing various elements which make up the continuing resolution if all of the activities toward which the language is directed are destroyed in a nuclear holocaust?

We are blundering toward disaster of incalculable proportion. A great opportunity to take a giant stride toward peace has been lost at the Iceland summit.

The provisions in the original House-passed continuing resolution were essentially set aside at the request of the President to allow him a free hand at the summit meeting. That act of faith by this body has been shunted aside by the failure of the President to seize the moment of possibility.

We must try to restore the integrity of what was at the heart of the original continuing resolution. This vote is the only opening available to send a clear message that our support for arms control was not casual rhetoric or supported merely for the sake of form.

Tonight, I am wearing the blue armband of support given to me by the four veterans who are at this moment fasting on the steps of the Capitol in their quest to have us take some positive action to end aid to the Contras. Many of us cited the House position on arms control in the continuing resolution as a reason for them to look to the wider issues that would help bring their particular concerns into sharper focus.

They are bearing witness with their lives for the sake of peace. We must do the same with our votes. Our vote is not a negative force, but one which affirms life. It is not to deny, but to free ourselves from the bondage of fear, hatred, and purposeless rage.

This evening the President sent a message to the House asking us to pass this bill just as he did when he asked us to trust his judgment in Iceland. He asked for our support "on the basis of essential and time sensitive national security concerns * * *" What is more "essential" than ending the arms race to oblivion? No act can be more sensitive and timely in respect of national security than ending our lock step, blind expenditures on the forces of destruction.

It is precisely for these reasons that we need to reject the President's call this time and send forth one of our own—a call not to arms but to reason and hard bargaining on behalf of the peace of the world.

Mr. McDADE. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Speaker, I rise in support of the conference report.

For those programs funded under the Department of Transportation and Related Agencies Appropriations Act, the conference report would provide a total spending level of $25.5 billion for transportation programs for fiscal year 1987. This is comprised of $10.253 billion in new budget authority and $15.259 billion in contract authority obligation limitations. The new budget authority included for these programs is $31.5 million less than the House-passed resolution and $55.6 million more than the Senate-passed resolution.

The conference agreement also includes an additional $128 million for the Coast Guard in Title II, an additional $2 million for the newly established Aviation Safety Commission, and three statutory air traffic controller workforce requirements. These minimum requirements deal with total controller staffing, systemwide full performance level controllers, and minimum full performance level controller staffing at each center and each major terminal facility.

Mr. Speaker, the transportation section of the conference report is within the committee's section 302(b) allocation made pursuant to the budget resolution. We have gone the extra mile to continue our vital transportation programs and still contribute toward overall fiscal restraint. It deserves your support.

I insert at this point in the record a table giving the conference figures on H.R. 5205, the Department of Transportation and Related Agencies Appropriations Act, 1987, in detail.

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
TITLE I - DEPARTMENT OF TRANSPORTATION					
Office of the Secretary					
Salaries and expenses	49,094,000	56,540,000	49,094,000	51,000,000	51,000,000
Transportation planning, research, and development	3,349,000	---	3,349,000	3,349,000	3,349,000
(By transfer)	---	---	---	(1,300,000)	(650,000)
(Limitation on working capital fund)	(64,500,000)	(69,640,000)	(64,500,000)	(66,500,000)	(65,500,000)
Payments to air carriers	26,796,000	---	21,000,000	30,000,000	30,000,000
Total, Office of the Secretary	79,239,000	56,540,000	73,443,000	84,349,000	84,349,000
Coast Guard					
Operating expenses	1,606,894,000	1,862,800,000	1,849,800,000	1,830,000,000	1,755,000,000
(By transfer)	(20,400,000)	---	---	---	---
Acquisition, construction, and improvements	207,956,000	77,100,000	101,850,000	251,700,000	209,000,000
(By transfer)	(21,250,000)	---	---	---	---
Rescission	---	---	---	-32,500,000	---
Alteration of bridges	4,976,000	---	---	---	---
Retired pay	341,489,000	364,000,000	364,000,000	364,000,000	364,000,000
Reserve training	58,857,000	65,200,000	58,857,000	65,000,000	64,400,000
(By transfer)	---	---	(5,000,000)	---	---
Research, development, test, and evaluation	20,097,000	20,500,000	20,100,000	20,000,000	20,000,000
Offshore oil pollution compensation fund	957,000	1,000,000	1,000,000	1,000,000	1,000,000
(Limitation on obligations)	(57,420,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)
Deepwater port liability fund	957,000	1,000,000	1,000,000	1,000,000	1,000,000
(Limitation on obligations)	(47,850,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)
Boat safety:					
(Liquidation of contract authorization)	(30,000,000)	(15,000,000)	(15,000,000)	(30,000,000)	(30,000,000)
(Limitation on obligations)	(28,710,000)	(15,000,000)	(15,000,000)	(30,000,000)	(30,000,000)
Total, Coast Guard	2,242,183,000	2,391,600,000	2,396,607,000	2,500,200,000	2,414,400,000
Federal Aviation Administration					
Headquarters administration	61,631,000	34,913,000	34,500,000	34,500,000	34,500,000
Operations	2,658,732,000	2,764,867,000	2,797,447,000	2,769,300,000	2,783,000,000
(By transfer)	(4,250,000)	---	---	---	---
Subtotal, Operations and headquarters administration	2,720,363,000	2,799,780,000	2,831,947,000	2,803,800,000	2,817,500,000
Facilities and equipment (Airport and Airway Trust Fund)	950,301,000	825,000,000	828,000,000	772,684,000	804,584,000
(By transfer)	---	---	(1,914,000)	(1,914,000)	(1,914,000)
Research, engineering and development (Airport and Airway Trust Fund)	181,830,000	134,500,000	141,700,000	142,000,000	141,700,000
(By transfer)	(87,220,000)	---	---	---	---
Grants-in-aid for airports:					
(Liquidation of contract authorization) (Airport and Airway Trust Fund)	(693,000,000)	(800,000,000)	(800,000,000)	(860,000,000)	(860,000,000)
(Limitation on obligations)	(885,225,000)	(712,500,000)	(1,017,200,000)	(1,000,000,000)	(1,000,000,000)
(Rescission)	---	---	-50,000,000	---	---
Operation and maintenance, Metropolitan Washington Airports	32,634,000	34,600,000	35,000,000	35,000,000	35,000,000
Construction, Metropolitan Washington Airports	6,699,000	7,000,000	50,000,000	7,000,000	7,000,000
Aircraft purchase loan guarantee program (borrowing authority)	(75,000,000)	(125,000,000)	(75,000,000)	(75,000,000)	(75,000,000)
Aircraft purchase loan guarantee program	---	---	---	14,816,000	14,816,000
Portion applied to debt reduction	---	---	---	-13,516,000	-13,516,000
Total, Federal Aviation Administration	3,891,827,000	3,800,880,000	3,836,647,000	3,761,784,000	3,807,084,000
Federal Highway Administration					
(Limitation on general operating expenses)	(194,999,000)	(206,191,000)	(202,750,000)	(204,660,000)	(202,750,000)
Highway safety research and development	8,134,000	7,000,000	7,000,000	7,000,000	7,000,000
Highway-related safety grants:					
(Liquidation of contract authorization) (Highway Trust Fund)	(9,000,000)	(12,000,000)	(12,000,000)	(12,000,000)	(12,000,000)
(Limitation on obligations)	(9,570,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
Railroad-highway crossings demonstration projects	15,312,000	---	23,500,000	---	11,750,000
Federal-aid highways:					
(Limitation on obligations)	(13,125,000,000)	(12,420,000,000)	(13,125,000,000)	(13,000,000,000)	(13,000,000,000)
(Liquidation of contract authorization) (Highway Trust Fund)	(13,836,000,000)	(13,036,000,000)	(13,036,000,000)	(13,130,000,000)	(13,130,000,000)
Right-of-way Revolving Fund (limitation on direct loans) (Highway Trust Fund)	(47,850,000)	(50,000,000)	(47,850,000)	(47,850,000)	(47,850,000)
Motor carrier safety	13,302,000	19,515,000	20,447,000	19,515,000	19,515,000
Motor carrier safety grants	16,269,000	---	---	20,000,000	16,269,000
(Limitation on obligations)	---	---	(50,000,000)	---	---
(Liquidation of contract authorization) (Highway Trust Fund)	---	---	(18,000,000)	---	---
Access highways to public recreation areas on certain lakes	4,785,000	---	---	10,000,000	5,000,000
(By transfer)	(5,000,000)	---	---	---	---
Baltimore-Washington Parkway (Highway Trust Fund)	2,871,000	---	9,000,000	---	8,000,000
Waste isolation pilot project roads	6,699,000	---	---	10,000,000	10,000,000
Rail Line Consolidation project (by transfer)	(4,000,000)	---	---	---	---
Airport-Highway Demonstration Project	---	---	1,887,000	---	1,887,000
(By transfer)	(1,350,000)	---	---	---	---
Expressway gap closing project	8,613,000	---	13,900,000	---	6,200,000
Intermodal Urban Demonstration Project (Highway Trust Fund)	---	---	11,000,000	---	10,000,000
Highway Safety and Economic Development Demonstration projects (Highway Trust Fund)	---	---	10,000,000	---	10,000,000
Airport Access Demonstration Project (Highway Trust Fund)	---	---	4,000,000	---	4,000,000
Highway Safety Improvement Demonstration Project (Highway Trust Fund)	---	---	7,000,000	---	4,800,000

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
Highway-Railroad Grade Crossing Safety Demonstration Project (Highway Trust Fund)	---	---	3,000,000	---	2,000,000
Nuclear Waste Transportation Safety Demonstration Project (Highway Trust Fund)	---	---	4,000,000	---	2,000,000
Theodore Roosevelt Bridge Capacity Improvements (Highway Trust Fund)	---	---	1,500,000	---	1,500,000
Airport Access Highway Demonstration Project (Highway Trust Fund)	---	---	5,000,000	---	2,500,000
Total, Federal Highway Administration	75,985,000	26,515,000	121,234,000	66,515,000	122,421,000
National Highway Traffic Safety Administration					
Operations and research	80,246,000	83,930,000	93,600,000	81,448,000	89,222,000
(By transfer)	(5,500,000)	---	(2,000,000)	(5,000,000)	(5,000,000)
Highway traffic safety grants:					
(Liquidation of contract authorization) (Trust Fund)	(149,000,000)	(118,000,000)	(122,000,000)	(127,000,000)	(127,000,000)
State and community highway safety (limitation on obligations)	(121,060,000)	(110,000,000)	(121,060,000)	(121,060,000)	(121,060,000)
Alcohol safety incentive grants (limitation on obligations)	(27,562,000)	(17,900,000)	(14,400,000)	(17,900,000)	(16,150,000)
(Rescission)	---	---	-5,000,000	---	-5,000,000
Total, National Highway Traffic Safety Administration	80,246,000	83,930,000	88,600,000	81,448,000	84,222,000
Federal Railroad Administration					
Office of the Administrator	9,685,000	10,958,000	23,250,000	18,935,000	23,375,000
(By transfer)	---	(5,875,000)	(3,500,000)	(8,065,000)	(3,500,000)
Railroad safety	26,570,000	35,819,000	25,700,000	28,424,000	27,050,000
Railroad research and development	10,144,000	---	9,800,000	9,581,000	9,581,000
Rail service assistance	19,331,000	---	---	---	---
Northeast corridor improvement program	11,962,000	---	16,962,000	11,962,000	16,962,000
Grants to the National Railroad Passenger Corporation	562,237,000	---	602,000,000	591,000,000	594,791,000
(By transfer)	(28,500,000)	---	(11,000,000)	---	(7,209,000)
Railroad Rehabilitation and Improvement Financing Funds (limitation on new loan guarantees)	(3,828,000)	---	---	---	---
Redeemable preference shares	32,059,000	---	9,000,000	4,000,000	6,500,000
Conrail commuter transition assistance	---	---	5,000,000	---	5,000,000
(By transfer)	(5,000,000)	---	---	---	---
Total, Federal Railroad Administration	671,988,000	46,777,000	691,712,000	663,902,000	683,259,000
Urban Mass Transportation Administration					
Administrative expenses	28,710,000	---	31,000,000	31,000,000	31,000,000
Research, training, and human resources	16,652,000	---	17,600,000	17,400,000	17,400,000
Formula grants	2,057,550,000	---	2,000,000,000	2,000,000,000	2,000,000,000
Transportation block grants - transit:					
(Limitation of obligations)	---	(1,220,000,000)	---	---	---
(Liquidation of contract authorization)	---	(264,625,000)	---	---	---
Discretionary grants:					
(Limitation on obligations)	(1,000,543,000)	---	(1,015,000,000)	(990,000,000)	(1,002,500,000)
(Liquidation of contract authorization)	(775,000,000)	(950,000,000)	(950,000,000)	(1,100,000,000)	(1,100,000,000)
Interstate transfer grants-transit	191,400,000	---	200,000,000	200,000,000	200,000,000
(By transfer)	(18,750,000)	---	---	---	---
Washington Metro	217,239,000	---	217,239,000	185,000,000	201,119,500
Total, Urban Mass Transportation Administration	2,511,551,000	---	2,465,839,000	2,433,400,000	2,449,519,500
Saint Lawrence Seaway Development Corporation					
(Limitation on administrative expenses)	(1,834,000)	(1,990,000)	(1,925,000)	(1,990,000)	(1,925,000)
Eisenhower Lock Repair	---	---	2,000,000	---	2,000,000
Research and Special Programs Administration					
Research and special programs	18,470,000	20,024,000	20,800,000	19,950,000	19,950,000
Office of the Inspector General					
Salaries and expenses	26,413,000	27,630,000	27,770,000	27,000,000	27,200,000
Total, title I, Department of Transportation:					
New budget (obligational) authority (net)	9,597,902,000	6,453,896,000	9,724,652,000	9,638,548,000	9,694,404,500
Appropriations	(9,597,902,000)	(6,453,896,000)	(9,779,652,000)	(9,684,564,000)	(9,712,920,500)
Appropriations for debt reduction	---	---	---	(-13,516,000)	(-13,516,000)
(Recission)	---	---	(-55,000,000)	(-32,500,000)	(-5,000,000)
(By transfer)	(201,220,000)	(5,875,000)	(23,414,000)	(16,279,000)	(18,273,000)
(Limitations on general operating and administrative expenses)	(196,833,000)	(208,181,000)	(204,675,000)	(206,650,000)	(204,675,000)
(Limitations on obligations)	(15,302,940,000)	(14,615,400,000)	(15,477,660,000)	(15,278,960,000)	(15,289,710,000)
(Limitations on direct loans)	(47,850,000)	(50,000,000)	(47,850,000)	(47,850,000)	(47,850,000)
(Limitations on new loan guarantees)	(3,828,000)	---	---	---	---
(Limitation on working capital fund)	(64,500,000)	(69,640,000)	(64,500,000)	(66,500,000)	(65,500,000)
(Liquidation of contract authorization)	(15,492,000,000)	(15,195,625,000)	(14,953,000,000)	(15,259,000,000)	(15,259,000,000)
(Borrowing authority)	(75,000,000)	(125,000,000)	(75,000,000)	(75,000,000)	(75,000,000)
TITLE II - RELATED AGENCIES					
Architectural and Transportation Barriers Compliance Board					
Salaries and expenses	1,890,000	1,975,000	1,975,000	1,890,000	1,890,000
National Transportation Safety Board					
Salaries and expenses	21,341,000	21,430,000	22,240,000	22,240,000	22,240,000

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
Interstate Commerce Commission					
Salaries and expenses	46,108,000	48,300,000	47,900,000	46,802,000	46,802,000
(By transfer)	(2,300,000)	---	(53,000)	(53,000)	(53,000)
Payments for directed rail service (limitation on obligations)	(1,000,000)	---	(1,000,000)	(1,000,000)	(1,000,000)
Panama Canal Commission					
Operating expenses	401,372,000	409,770,000	409,770,000	410,000,000	409,770,000
Capital outlay	24,403,000	27,480,000	24,403,000	24,403,000	24,403,000
Total, Panama Canal Commission	425,775,000	437,250,000	434,173,000	434,403,000	434,173,000
United States Railway Association					
Administrative expenses	2,297,000	---	2,297,000	2,200,000	2,200,000
Washington Metropolitan Area Transit Authority					
Interest payments	51,663,569	51,663,569	51,663,569	51,663,569	51,663,569
Total, title II, related agencies:					
New budget (obligational) authority	549,074,569	560,618,569	560,248,569	559,198,569	558,968,569
(Limitation on obligations)	(1,000,000)	---	(1,000,000)	(1,000,000)	(1,000,000)
RECAPITULATION					
Grand total:					
New budget (obligational) authority (net)	10,146,976,569	7,014,514,569	10,284,900,569	10,197,746,569	10,253,373,069
Appropriations	(10,146,976,569)	(7,014,514,569)	(10,339,900,569)	(10,243,762,569)	(10,271,889,069)
Appropriations for debt reduction	---	---	---	(-13,516,000)	(-13,516,000)
(Rescission)	---	---	(-55,000,000)	(-32,500,000)	(-5,000,000)
(By transfer)	(203,520,000)	(5,875,000)	(23,467,000)	(16,332,000)	(18,326,000)
(Limitations on general operating and administrative expenses)	(196,833,000)	(208,181,000)	(204,675,000)	(206,650,000)	(204,675,000)
(Limitations on obligations)	(15,303,940,000)	(14,615,400,000)	(15,478,660,000)	(15,279,960,000)	(15,290,710,000)
(Limitations on direct loans)	(47,850,000)	(50,000,000)	(47,850,000)	(47,850,000)	(47,850,000)
(Limitations on new loan guarantees)	(3,828,000)	---	---	---	---
(Limitation on working capital fund)	(64,500,000)	(69,640,000)	(64,500,000)	(66,500,000)	(65,500,000)
Memoranda:					
(Appropriations to liquidate contract authorizations)	(15,492,000,000)	(15,195,625,000)	(14,953,000,000)	(15,259,000,000)	(15,259,000,000)
Total, appropriations including appropriations to liquidate contract authorization	(25,638,976,569)	(22,210,139,569)	(25,237,900,569)	(25,456,746,569)	(25,512,373,069)
Total, New budget (obligational) authority and limitation on obligations	25,450,916,569	21,629,914,569	25,763,560,569	25,477,706,569	25,544,083,069

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Speaker, I ask for this time for the purpose of inquiring in the process of a colloquy about a particular provision in the bill.

In the 1985 farm bill, Congress set minimum quantities for section 416 donations, at least 500,000 tons of grains and oilseeds and at least 10 percent of total dairy stocks.

Isn't it true, Mr. Chairman, that the section 416 quantities in the conference report do not count against these mimimums and are in addition to the quantities set forth under the 1985 farm bill?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, that is correct.

Mr. McHUGH. Mr. Speaker, I thank the gentleman.

Mrs. SCHROEDER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I hope we defeat this conference report.

The President of the United States says it is an OK spending level. You may remember, some of you, a few weeks ago, when we heard ringing denunciations of the fact that this was the largest spending in history.

Of course, it is, to a certain extent. The country gets bigger and we grow every year. That is a profundity on the order of saying that a child gets bigger every year of his or her life. The question is the rate of growth.

But this Chamber was ringing with Republican denunciations of this big spending. We have had about 50-some-odd minutes of debate. During that 50 minutes on that continuing resolution, we have had one 2-minute speech by a Republican against it. The tigers have been caged, apparently. The President has spoken.

What has happened is a game that is coming somewhat to an end. It is a game of Members on the other side voting "no" and praying "yes" on appropriations bills.

Members have wanted the bills to pass and have wanted to vote "no" so they can then denounce people for big spending when they knew it was an appropriate level.

The level of spending in this continuing resolution, is approximately the level that called forth the most stunning denunciations. One Member said, "This costs more than the Hanging Gardens of Nebuchadnezzar." He did not pronounce it as well as I.

□ 2100

Well, yes, star wars does. Star wars does cost more than the hanging gardens. A hanging nuclear system costs a lot more than hanging gardens.

There is a lot of spending in this bill. The gentlewoman from Colorado took the time, she did not have any competition on the other side for 20 minutes, but one Republican came over and asked if he could speak against it.

So what has happened is this. This long-time game of people on the other side saying, "Let's vote no and let the dummies on the other side pass it so we can have our cake and eat it, too. We get all our defense spending, we get all our agriculture spending, but they will have to vote for it and then we will go and denounce them for being big spenders and we will go home and take credit for the big spending that we denounced them for." That is over, because the minority whip spoke for the bill.

Ronald Reagan says he is for this bill. I would not want to give him a quiz on what is in it, but he says he is for it and he can live with the spending level.

The Director of the OMB, Mr. Miller, from the office of mirrors and blue smoke, he says it is OK, too. He does not like a couple of the added provisions.

So what is at issue in this bill? What is at issue in this bill is aid to the Contras. The spending level is apparently not an issue. Ronald Reagan says it is fine. Jim Miller says that Ronald Reagan is OK, so the spending level is OK.

The tigers of fiscal responsibility seem to have gone away. Maybe they are all watching the ball game or maybe they are in a ball game, but they certainly are not denouncing the level of spending.

What are we talking about here? We are talking about arms control measures that we voted for and we said we cannot tie Ronald Reagan's hands. I said last week and I am going to repeat it. Being accused of keeping Ronald Reagan from reaching an arms control agreement is like being accused of keeping Ghandi from eating a steak dinner. He was not going to do it anyway.

But in deference to that, we said no arms control, so we have a continuing resolution and that is why the Republicans are so happy with it. It does not do very much about arms control, except the Asat ban which we continue. If the President wants to break out of SALT, he can do it.

We got an offer from the other body, and I say this with no disrespect. I just repeat the words. We were told in the negotiations, "Be of good cheer. The other body is prepared to really be decisive. They will toughen the nonbinding language." Well, we got really tough nonbinding language, but the President can break out of it.

So that is what has happened. All this talk about spending has not subsided. The Republicans are not making any fight. They are going to be voting for this in substantial numbers.

Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. FRANK. Mr. Speaker, I will yield to the gentleman from Illinois, if the gentleman has finally been moved.

Mr. PORTER. Mr. Speaker, I assume the gentleman was in watching the ball game when the rule was under consideration and I made 5 minutes of remarks against the continuing resolution and other Members on this side of the aisle did, too.

Mr. FRANK. No. I heard the gentleman very carefully when the rule was up speak against it. The gentleman spoke against the continuing resolution during the rule, but I have not heard, and I will repeat what I said, when the continuing resolution itself was up, Members on the other side, with one or two exceptions, have not spoken against it, because there are some Members who sincerely want this defeated. There are other Members who want to be able to vote "no"; but what happened was, people should understand it, last year the continuing resolution came up and it was defeated. Some of us who thought it had too much for the military and some people on the other side and the result was less money for the military, so some of the Members on the other side now realize that the old game of voting no and praying yes—not praying yes, but hoping yes, let us keep the separation of church and state—has ended; so we now have all of these great speechmakers, and they were not here.

Yes, we did get a 5-minute speech against the bill on the rule and maybe we will get a speech against the rule on the bill, but we did not get many speeches against the bill on the bill, because people want this. They want the money for the Contras and they do not want any arms control.

I am going to vote against this and I hope other Members will, too. Vote against this on behalf of truth in advertising.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I am pleased that this continuing resolution will enact my August 6, 1986 amendment to the Treasury/Postal appropriations bill. This amendment gives the U.S. Postal Service civil forfeiture authority it needs to enforce existing laws against child pornography.

When the 98th Congress enacted the Child Protection Act, the Postal Service—the lead agency in investigating violations of the statutes amended by the act—inadvertently was not included among those enforcement agencies having civil administrative authority to seize property used to violate the

statute and to confiscate all profits from violations. Nor was the Postal Service given clear authority to request the Justice Department to initiate civil judicial proceedings against such seized property. The authority to conduct seizures and forfeitures, and thereby take the profits out of the slimy hands of child pornographers, is a major feature of the act. Additionally, because the Postal Service bears the costs of enforcing the statute rather than relying upon appropriations, this amendment allows the Postal Service to retain the proceeds of civil administrative forefeitures. Existing statutes requiring that proceeds of judicial forfeitures be deposited in the Treasury are not effected.

By passing this amendment into law, we are giving the Postal Service the weapon it needs to fulfill its enforcement responsibility under the Child Protection Act.

Mr. CONTE. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, again I plead with my colleagues, as late as we are, 2 weeks into the fiscal year, do not take it out on the Appropriations Committee. We did our level best. We have worked hard. We pushed these bills through the House a long time ago. The whole trouble is that the system has failed. I said it time and time again. I said it when we passed Gramm-Rudman.

Now, I know that there are certain Members in this House, including myself, who did not like the agreements on the defense part of the bill, but we had our chance here today. We had our chance. I voted against the conference report on the armed services authorization. That is where the deal was made. The deal was not made in the appropriations process. The deal was made in the armed services authorization.

Now, if these people did not have a part in making that deal, I feel sorry for them, but do not take it out on the continuing resolution.

This is the only train left, and I plead with my people on my side, I have a responsibility here tonight to ask a majority of the Republicans to vote for the continuing resolution.

Knock down the continuing resolution, and what have you got? The Government closes down.

You talk about money in this bill, there is $9.1 billion in this bill over the President's budget for the programs that you people and I fought for. There is $396 million in here to try to find the answer for AIDS.

There is more than a billion dollars in here for the National Institutes of Health over what the President asked.

Every item, higher education, elementary education, the job training program, you name it. Do you want to kill those programs? Medicare, Medicaid, that is what you are voting against. If you kill the continuing resolution, you have not accomplished anything. At midnight tonight, another 3 hours, the Government stops.

Now, I think I would like to go home and see my people.

I have been with you now for 3 weeks in conference. I am tired. I want to go home and see my people. I think a lot of you here want to go home and see your people.

If we defeat the continuing resolution, we will come back again with another continuing resolution and it will start all over again. We can go on and on endlessly.

Maybe we ought to pass a short continuing resolution and all come back here in a lameduck session. Maybe that is the way to do it. Look at the money the Government is going to save on those junkets. We will all meet here in November and December. It might be a good idea.

I plead with you, I plead with the Members on my side, if you are watching television, vote for the continuing resolution. Let us get this over to the Senate and then we can get on with the other problems we have, the debt limit and a few others, and get out of here and close up this Congress.

It is nothing to be proud of to stand on this floor 2 weeks into the fiscal year and not have passed one appropriation bill. We do not like it, but it is because the system has failed. When the debt limit comes in here I am going to have an amendment, if they give me that kind of a rule, to repeal Gramm-Rudman-Hollings, and to repeal the Budget Act of 1974, creating another layer of Government which has almost paralyzed this Congress and certainly has paralyzed the Appropriations Committee.

I plead with you, I am on the same side as you are on some of these issues, but I plead with you to vote for the continuing resolution and I hope there is a good majority on this side that will do so.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I thank the gentleman for yielding this time.

Mr. Speaker, I rise in support of the continuing resolution.

I want to particularly commend the committee for the provision of vitally needed emergency assistance for farmers that have been impacted so tremendously in a number of our States.

Much has been written about the economic costs of the rains and the floods that have hit my State of Michigan, the hail in Nebraska and the drought in Georgia. It is hard to capture the human costs that lie behind these economic statistics.

The pain and desperation of many farm families in many of our States in this country of ours is very real and a response is required.

I thank the committee for providing that response and urge support for the continuing resolution.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I support this conference resolution.

I want to point out that the parameters of this resolution were set in the joint resolution on the budget. We had to revise our 302(b) allocation after that joint resolution was agreed to and it really ill-behooves those who complain about this but supported that joint resolution, but nevertheless, after the joint budget resolution passed, we did revise our 302(b) allocations and the part which funds the Commerce Department, Justice Department, State Department, Judiciary, and related agencies, is under the 302(b) allocations.

This bill is over $14 billion under the outlay request of the President of the United States. This is as responsible a bill as we could agree upon under that joint resolution.

Mr. Speaker, I include the following summary:

Highlights of Conference Agreement on Commerce, Justice, and State, the Judiciary, and Related Agencies fiscal year 1987—H.R. 5161

Total budget authority..... $12,152,785,000
Total outlays..... 12,439,359,000

These figures are substantially within the range of the 302(b) allocations for this Appropriations Act, which are listed below:

	House	Senate
Budget authority	[1] $13,299,000,000	$12,100,000,000
Outlays	12,386,000,000	12,386,000,000

[1] Includes allowance for the Omnibus Drug bill.

Department of Commerce

Budget authority..... $2,099,160,000
Outlays..... 1,371,140,000

The conference agreement includes $205,443,000 for EDA, $197,500,000 for ITA and a total of $1,072,138,000 for NOAA including $27,500,000 for LANDSAT. In addition the amount for NOAA restores most of the programs the administration proposed to eliminate to last year's level. The conference agreement also includes $20,500,000 for public telecommunications facilities grants.

Department of Justice

Budget authority..... [1] $4,133,590,000
Outlays..... 3,410,973,000

[1] The conference agreement on title II of H.J. Res. 738 includes an additional $464 million for the Justice Department for the enhanced Federal drug law enforcement effort.

The conference agreement provides the following amounts for the following Justice Department programs:

Program	H.R. 5161	H.J. Res. 738 title II	Total
U.S. attorneys	$419,500,000	$31,000,000	$351,000,000
U.S. marshals	142,000,000	17,000,000	159,000,000
Support of prisoners	55,000,000	5,000,000	60,000,000
Assets forfeiture fund		([2])	([2])
FBI	1,260,000,000	2,000,000	1,262,000,000
DEA (includes construction)	419,500,000	60,000,000	479,500,000

Program	H.R. 5161	H.J. Res. 738 title II	Total
Federal prison system:			
Salaries and expenses	$598,807,000	$28,000,000	$626,807,000
Buildings and facilities	122,511,000	96,500,000	219,011,000
Office of justice programs	[1] 190,650,000	[2] 225,000,000	415,650,000

[1] Includes $70.3 million for juvenile justice, $44.4 million for State and local assistance grants including carryover funds; and $12 million for RISS including carryover funds.
[2] This is a new program of grants for State and local drug law enforcement.
[3] Such sums as are necessary.

In addition, the Justice Department portion of the Act includes language to permit a $5 user fee on airline and passenger ship tickets to fund immigration inspection activities for commercial aircraft and vessels. This provision is expected to generate $150 million in fees in fiscal year 1987.

Department of State

Budget authority	$2,585,697,000
Outlays	1,826,458,000

The conference agreement provides a total of $354,000,000 for the State Department's Diplomatic Security Initiative of which $127,000,000 is in salaries and expenses and $227,000,000 is in the Foreign Buildings Program of which $15,000,000 is deferred for expenditure until October 1, 1987.

The conference agreement also provides $385,000,000 for U.S. assessed contributions to international organizations of which $130,000,000 is deferred for expenditure until October 1, 1987.

The judiciary

Budget authority	$1,155,092,000
Outlays	1,039,972,000

The conference agreement on title II of House Joint Resolution 738 includes an additional $37.5 million for the Judiciary as follows:

Courts of Appeals, District Courts and Other Judicial Services

Salaries and expenses (drug offenders)	$12,000,000
Defender Services	18,000,000
Fees of Jurors and Commissioners	7,500,000

The conference agreement retains the house report language on the Pretrial Services Program. This language says that U.S. District Courts with six or more judges, that is, metropolitan courts, must establish separate pretrial services agencies in order to receive the additional positions provided in the Act for the Pretrial Services Program.

Related Agencies

Budget authority	$2,356,246,000
Outlays	2,264,177,000

BOARD FOR INTERNATIONAL BROADCASTING

The conference agreement includes $140,000,000 for grants to Radio Free Europe and Radio Liberty and the expenses of the Board for International Broadcasting. Of this amount, $15,000,000 is deferred for expenditure until October 1, 1987.

FCC—FAIRNESS DOCTRINE

The conference agreement provides language requiring the FCC to consider alternative means of administering and enforcing the Fairness Doctrine and report to Congress by September 30, 1987.

CIVIL RIGHTS COMMISSION

The conference agreement provides $7,500,000 of which $2,000,000 is earmarked for regional offices and $700,000 for civil rights monitoring activities. The conference agreement also provides for certain restrictions on the use of the appropriation. The conferees are agreed that sufficient funds are included within the total amount provided for the Commission to meet all severance pay requirements for fiscal year 1987.

LEGAL SERVICES CORPORATION

The conference agreement includes $305,500,000 for LSC, the restrictions on LSC activities that were in the fiscal year 1986 Appropriations Act, an earmarking of funds for specific LSC programs, and a funding formula that was carried in prior years. The conference agreement also provides a total of $10,700,000 for administration and management of the Corporation including $3,300,000 in carryover funds.

SMALL BUSINESS ADMINISTRATION

The conference agreement provides $197,000,000 for salaries and expenses including $35,000,000 for Small Business Development Centers. The agreement also includes $261,000,000 for additional capital for the Business Loan and Investment Fund which will support a loan guarantee program of $3,154,000,000 and a direct loan program of $97,000,000.

U.S. INFORMATION AGENCY

The conference agreement includes a total of $807,250,000 for USIA as follows:

Salaries and expenses	$570,000,000
Educational and cultural exchange	[1] 145,000,000
Radio construction	[2] 46,000,000
Radio broadcasting to Cuba	11,250,000
East West Center	20,000,000
NED	15,000,000

[1] Of which $25,000,000 is deferred for expenditure until Oct. 1, 1987.
[2] Deferred for expenditure until Oct. 1, 1987.

GENERAL PROVISIONS

The conference agreement retains the language in the fiscal year 1986 Appropriations Act with respect to Legal Services Corporation funding litigation on abortion.

The conference agreement does not include the 5.03 percent general reduction that was in the House bill.

The conference agreement includes the Senate provision concerning certain insurance benefits for former employees of a debtor who files for bankruptcy. The LTV case.

CHILD ABUSE VICTIMS' RIGHTS ACT OF 1986

The conference agreement is identical to the Senate language which authorized the Child Abuse Victims' Rights Act of 1986 except for the provision that would have expanded the RICO statute and for the provision that would have authorized treble damages. The conference agreement provides for actual damages.

JAMES MADISON MEMORIAL FELLOWSHIP PROGRAM

The conference agreement authorized this program which provides scholarships to secondary school teachers for a masters program with emphasis on the Constitution and appropriated $20,000,000 to carry out the program, of which $10,000,000 would be available in fiscal year 1988 and $10,000,000 would be available in fiscal year 1989. The conference agreement also provides for a payback provision for those scholarship recipients who do not return to teaching.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Speaker, I want to associate myself with the remarks and sentiments of my colleague, the gentleman from Michigan [Mr. WOLPE] about the fine work this committee did with respect to the various natural disasters around the country which has affected our food supply and the health of our farmers.

I would love to stand here and talk about arms control, Contra aid and Gramm-Rudman and all these other things, but there is an issue aborning that is going to hit every American consumer, that is, automotive consumer, in the pocketbook. We tried to deal with it in the committee report, and unfortunately the time that is available to me from the chairman does not allow a full discussion of the issue.

Mr. CONTE. Mr. Speaker, how much time do I have?

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The gentleman from Massachusetts has 1 minute remaining.

Mr. CONTE. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Michigan.

Mr. CARR. Mr. Speaker, I thank the gentleman from Massachusetts for yielding this time.

Mr. Speaker, I am concerned about the agreement the conference committee reached on the issue of controls for gasoline vapors released during motor vehicle refueling. The conference committee report urges that EPA propose rulemaking to recover refueling vapors "as soon as possible", and to concurrently provide Congress with the background information called for in the House report. However, the language in the House report required EPA to provide Congress with relevant data, analyses, reports and supporting material prior to proposing regulations. The House report also directed EPA to review the effectiveness, need and validity of a nationwide program and to evaluate all costs and benefit data on control alternatives to assure a cost-effective strategy. In addition, the House report directed EPA to assure Congress that any safety or defects problems resulting from onboard controls be resolved. This information is required before rulemaking is proposed because of the time required to address the issues raised by the proposed rule, particularly the safety and cost-effectiveness of the possible control options.

Mr. Speaker, EPA has actively considered how to control gasoline vapors because scientific evidence indicates that the vapors contribute to the formation of ozone (though scientists disagree on how much). Because several areas of the Nation are going to have trouble meeting the Clean Air Act requirements for ozone, EPA is looking at vapor controls as a partial solution to the problem.

EPA has considered two options for attempting to control refueling vapors. One system would require hardware installed on gasoline pumps at filling stations—known as stage II controls—or the other requires installation of recovery canisters on the vehicles themselves—known as on-board controls.

Stage II controls have known costs and proven effectiveness. They are available in an advanced stage of design, and development, and are in-use. Stage II responds quickly to what is known today as only a regional problem. Stage II controls have been working well in the State of California for over a decade, and today are of the advanced generation of such systems. For the last few years an earlier, less convenient pump system, has been in operation in the District of Columbia. Recently, the State of Missouri also adopted a program for stage II controls, and at a Senate hearing earlier this month New Jersey Governor Kean indicated that New Jersey is also moving toward requiring pump controls.

On the other hand, on-board car and truck controls are still in the early stages of design development with significant problems remaining as to the design of the systems and compliance with various vehicle safety requirements. In addition, auto manufacturers estimate that the costs of nationwide on-board controls for this regional problem could easily exceed half a billion dollars annually, in addition to millions of dollars that would have to be spent on additional research and design, testing and retooling. These costs would be several times higher than the costs associated with stage II controls in areas that have ozone compliance problems. Because of the slow phase-in of new cars on the road, it would take 10 to 15 years for the on-board alternative to have complete effect.

Yet for reasons unknown to this member indications are that EPA is leaning heavily toward requiring on-board controls. In light of this, I am concerned that EPA may not have developed sufficient data upon which to base a nationwide program further regulating motor vehicles. Given the high costs of vapor recovery controls, both stage II and on-board, I believe it is important that the appropriate committees of jurisdiction have an adequate opportunity to review all the cost-benefit and safety related data before any rule is proposed, as was explicitly called for in the House report language.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I rise in favor of the resolution.

Mr. HEFNER. Mr. Speaker, the military construction portion of the continuing resolution appropriates $8,156 million for military construction and family housing projects. The military construction portion is $1.9 billion below the President's request and $161 million below last year's appropriated level. The bill is also within the subcommittee's section 302(b) allocation for both budget authority and outlays.

The military construction portion includes funding for 2,000 projects. I will briefly describe some of the major items. In the bill, we have included $72.3 million for the Alaska Light Infantry Division which constitutes a reduction of about $100 million from the President's request.

We have included advance appropriations for construction at Fort Drum, NY, in order to permit construction under one contract which is estimated to save over $100 million.

With regard to the strategic homeporting initiative, we provided $54.4 million for the project in New York which is $9 million below the requested level. For Everett, the conferees agreed to $43.6 million which is $51.8 million below the requested level. Retained in the bill is language which limits the overall obligational amount to $799 million for all homeporting construction through fiscal year 1991. We believe this limitation to be necessary in order to hold the Navy's feet to the fire in order to prevent massive overruns.

Included is $10.3 million for SDI related construction. Not included is $10 million requested for Asat facilities at Langley Air Force Base.

Following is a State listing of the conference agreement for each project in the military construction bill.

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ALABAMA				
ARMY				
ANNISTON ARMY DEPOT				
SECURITY UPGRADE	1,950	---	1,950	---
FORT MCCLELLAN				
CHILD DEVELOPMENT CENTER	540	540	540	540
FORT RUCKER				
AERIAL GUNNERY RANGE	17,500	17,500	17,500	17,500
STAGEFIELDS	27,000	26,000	26,000	26,000
REDSTONE ARSENAL				
MICROWAVE/MILLIMETER WAVE SIMULATOR	19,500	---	19,500	---
AIR FORCE				
GUNTER AFB				
ALTER ELECTRICAL DISTRIBUTION SYSTEM	2,900	2,900	2,900	2,900
MAXWELL AFB				
ADD-ALTER ACADEMIC FACILITY (ACSC)	1,700	---	---	---
CHAPEL ANNEX	510	---	510	---
SQ OFFICERS SCHOOL-LEADERSHIP DEV COMPLEX	1,800	1,800	1,800	1,800
VEHICLE MAINTENANCE COMPLEX	3,100	3,100	---	3,100
DEFENSE AGENCIES				
FORT MCCLELLAN				
ELEMENTARY SCHOOL ADDITION	2,830	2,830	---	---
ARMY NATIONAL GUARD				
DALEVILLE				
ARMORY	---	(965)	---	965
FAYETTE				
ARMORY	---	(470)	---	470
FORT MC CLELLAN				
STATE MILITARY ACADEMY/GENERAL INSTR BLDG	825	825	825	825
MILLPORT				
ARMORY	---	(708)	---	708
MONTGOMERY				
U.S. PROPERTY & FISCAL OFFICE ADDITION	360	360	360	360
PELHAM				
ARMORY	---	(686)	---	686
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	375	375	375	375
NAVY RESERVE				
NMCRC MOBILE				
VEHICLE MAINT FACILITY	250	250	250	250
RNMCB-24 REDSTONE ARSENAL				
OPERATIONAL STORAGE FACILITY RNMCB-24	175	175	175	175
TOTAL, ALABAMA	81,315	56,655	72,685	56,654
ALASKA				
ARMY				
FORT RICHARDSON				
BARRACKS MODERNIZATION	11,200	---	11,200	---
FT J M WAINWRIGHT				
BARRACKS MODERNIZATION	21,000	---	21,000	19,000
CHILD DEVELOPMENT CENTER	11,000	---	11,000	5,500
DINING FACILITIES	16,500	---	16,500	10,000
TACTICAL EQUIPMENT SHOP	30,000	---	---	---
TACTICAL EQUIPMENT SHOP	9,900	---	9,900	9,900
TACTICAL EQUIPMENT SHOP	7,300	---	7,300	---
UTILITIES EXPANSION	31,000	---	31,000	27,900
COMMUNITY PLANNING ASSISTANCE	---	---	200	200
NAVY				
NAVAL AIR STATION ADAK				
CONSTRUCTION MANAGEMENT FACILITY IMPROVES	500	---	500	500
RADAR SUPPORT FACILITIES	24,400	---	24,400	24,400
NAVAL FACILITY ADAK				
TERMINAL BUILDING ADDITION	5,700	5,700	5,700	5,700
NAVAL SECURITY GROUP ACTIVITY ADAK				
OCEAN SURVEILLANCE BUILDING	13,400	---	13,400	13,400
WATER DISTRIBUTION SYSTEM IMPROVEMENTS	1,200	1,200	1,200	1,200
AIR FORCE				
EIELSON AFB				
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,800	2,800	2,800	2,800
DINING HALL	5,700	---	---	---
FIRE PROTECTION-FLIGHTLINE	2,150	2,150	2,150	2,150
HAZARDOUS MATERIALS STORAGE	3,450	3,450	3,450	3,450
LIBRARY	2,500	---	---	---
LOOP ACCESS ROAD	3,200	2,200	3,200	3,200
SECURITY FENCE	990	990	990	990
ELMENDORF AFB				
BATTERY SHOP	1,500	1,500	1,500	1,500
ELECTRICAL DISTRIBUTION SYSTEM ALTERATION	1,670	1,670	1,670	1,670
SECURITY POLICE FACILITY	5,000	4,000	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
GALENA AIRPORT				
ADD TO-ALTER POWER PLANT	4,000	4,000	4,000	4,000
UNACCOMPANIED PERSONNEL HOUSING	7,600	5,600	7,600	7,600
KING SALMON AFB				
UNACCOMP OFFICER PERSONNEL HOUSING	4,050	2,800	4,050	4,050
SHEMYA AFB				
ADD-ALTER WATER SYSTEM-PHASE I	4,200	3,200	4,200	3,700
DIESEL STORAGE TANKS	15,500	12,900	15,500	13,000
SOLID STATE UNINTERRUPT POWER SUPPLY SPT	2,600	2,200	2,600	2,300
DEFENSE AGENCIES				
FORT WAINWRIGHT				
TROOP MEDICAL AND DENTAL CLINIC	8,800	---	---	---
ARMY NATIONAL GUARD				
ANCHORAGE				
CSMS SEWER LINE EXTENSION	204	204	204	204
U.S. PROPERTY & FISCAL OFFICE IMPROVEMENTS	144	144	144	144
ANGOON				
SCOUT ARMORY	184	184	184	184
SAVOOGNA				
SCOUT ARMORY EXPANSION	193	193	193	193
TOTAL, ALASKA	259,535	57,085	207,735	168,835
ARIZONA				
ARMY				
FORT HUACHUCA				
COMMUNICATION TEST FACILITY	5,600	5,600	5,600	5,600
ELECTRONIC TEST AND EVALUATION CENTER	3,400	3,400	3,400	3,400
GENERAL INSTRUCTION BUILDING	8,200	8,200	---	8,200
NAVAJO ARMY DEPOT				
SECURITY UPGRADE	3,900	---	3,900	---
YUMA PROVING GROUND				
CHILD DEVELOPMENT/RELIGIOUS ED FACILITY	820	820	820	820
NAVY				
MARINE CORPS AIR STATION YUMA				
ARMORY	640	640	640	640
BATTALION HEADQUARTERS	2,050	2,050	2,050	2,050
CONSTRUCTION MANAGEMENT FACILITY	450	450	450	450
ENGINE MAINTENANCE FACILITY MODIFICATIONS	300	300	300	300
MAINTENANCE HANGARS ADDITIONS	2,650	2,650	2,650	2,650
MARINE AIR CONTROL SQUADRON FACILITY	2,950	2,950	---	2,950
TACTICAL SUPPORT VAN PADS	1,870	1,870	1,870	1,870
AIR FORCE				
DAVIS-MONTHAN AFB				
AIRCRAFT PROCESSING APRON (MASDC)	3,400	---	3,400	3,400
BASE CIVIL ENGINEER ADMINISTRATION FAC	2,600	2,600	---	---
CONTROL TOWER	2,400	2,400	2,400	2,400
ECIP-ALTER HEAT/VENTILATION/AIR COND	230	---	---	---
GLCM-CONSOLIDATED STORAGE	1,900	1,900	1,900	1,900
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	5,300	---	5,300	5,300
HOLBROOK				
STR-PURCHASE UEPH/LAND ACQUISITION	630	630	630	630
LUKE AFB				
F15E-ADD/ALTER FLIGHT SIMULATOR FACILITY	7,200	7,200	7,200	7,200
F15E-ALTER FAC FOR F-15 FLIGHT ACADEMY FAC	1,200	1,200	1,200	1,200
F15E-FIELD TRAINING DETACHMENT FACILITY	2,800	2,800	2,800	2,800
F15E-FUEL TANK STORAGE FACILITY	650	650	650	650
F15E-SQUADRON OPERATIONS FACILITY	3,100	3,100	3,100	3,100
F-16 WING HEADQUARTERS FACILITY	1,350	1,350	---	1,350
JP-4 VAPOR INCINERATION SYSTEM	1,350	1,350	1,350	1,350
MEDICAL WAR RESERVE MATERIAL FACILITY	720	720	720	720
NONDESTRUCT INSPECTION FACILITY	740	740	740	740
SMALL AIRCRAFT MAINTENANCE DOCKS	6,380	6,380	6,380	6,380
WILLIAMS AFB				
CONSOLIDATED SUPPORT FACILITY	3,800	---	---	---
FLIGHT SIMULATOR RESEARCH FACILITY	4,900	4,900	4,900	4,900
DEFENSE AGENCIES				
FORT HUACHUCA				
COMMUNICATIONS TEST FACILITY	9,890	9,890	9,890	9,890
ARMY NATIONAL GUARD				
CHANDLER				
ARMORY	---	---	810	810
PHOENIX				
RANGES, RIFLE BAFFLED	210	210	210	210
TUCSON				
ARMORY	---	(1,576)	1,576	1,576
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	390	390	390	390

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR NATIONAL GUARD				
TUCSON IAP				
COMPOSITE ACFT MAINT FACS/PARKING APRON	12,440	12,440	12,440	12,440
AIR FORCE RESERVE				
LUKE AFB				
FUEL SYSTEM MAINTENANCE HANGAR	2,100	2,100	2,100	2,100
TOTAL, ARIZONA	108,510	91,880	91,766	100,366
ARKANSAS				
AIR FORCE				
BLYTHEVILLE AFB				
ADD-ALTER TARGET INTELLIGENCE FACILITY	820	820	820	820
ALTER TAXIWAYS	2,000	2,000	---	2,000
GYMNASIUM	---	2,750	---	2,750
PETROLEUM OPERATIONS FACILITY	540	---	---	---
SECURITY IMPROVEMENTS	1,050	1,050	1,050	1,050
LITTLE ROCK AFB				
ADD/ALTER FUEL SYSTEMS MAINT DOCKS	2,750	2,750	---	2,750
ARMY NATIONAL GUARD				
ARKADELPHIA				
ARMORY ADD/ALT	584	584	584	584
CAMP ROBINSON				
DINING FACILITY, MILITARY ACADEMY	221	221	221	221
GENERAL INSTRUCTION BUILDING	297	297	297	297
RANGE, 25M BASIC/NIGHT FIRE	166	166	166	166
RANGE, 50 CALIBER SCALED	107	107	107	107
RANGE, RECORD FIRE	305	305	305	305
WASTEWATER SYSTEM IMPROVEMENT	711	711	711	711
WATER SYSTEM IMPROVEMENT	454	454	454	454
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	250	250	250	250
AIR NATIONAL GUARD				
FT SMITH MAP				
ADD-ALTER JET FUEL STORAGE COMPLEX	570	570	570	570
ARMY RESERVE				
CAMP ROBINSON				
WATER SYSTEM IMPROVEMENT	150	150	150	150
FORT CHAFFEE				
ARMY RESERVE CENTER	2,600	2,600	2,600	2,600
NORTH LITTLE ROCK				
ARMED FORCES RESERVE CENTER/MAINT FAC	7,486	7,486	7,486	7,486
TOTAL, ARKANSAS	21,061	23,271	15,771	23,271
CALIFORNIA				
ARMY				
FORT ORD				
FLIGHT SIMULATOR BUILDING	2,100	2,100	2,100	2,100
PHYSICAL FITNESS TRAINING CENTER	4,450	4,450	4,450	4,450
FT IRWIN				
GENERAL PURPOSE WAREHOUSE	2,050	---	---	---
TROOP STAGING AREA	820	820	820	820
PRESIDIO OF SAN FRANCISCO				
BARRACKS	5,100	---	---	---
SIERRA ARMY DEPOT				
SECURITY UPGRADE	2,450	---	2,450	---
NAVY				
COMBAT SYS TECH SCHOOLS CMD MARE ISLAND				
COMBAT SYSTEMS MAINTENANCE TRAINING FAC	5,200	5,200	5,200	5,200
FLEET INTELLIGENCE TRNG CTR PAC SAN DIEGO				
INTELLIGENCE TRAINING BUILDING	4,220	4,220	---	4,220
FLEET TRAINING CENTER SAN DIEGO				
WEAPONS TRAINING BUILDING	3,930	3,930	---	---
MARCORP AIR-GRND COMB CTR TWENTYNINE PALMS				
BACHELOR ENLISTED QUARTERS	22,600	17,600	22,600	17,600
COMBINED ARMS TRAINER FACILITY	1,280	1,280	1,280	1,280
ORGANIZATIONAL AUTOMOTIVE MAINT SHOP	9,820	9,820	9,820	9,820
REGIMENTAL BATTALION OPERATIONS CENTER	3,930	3,930	3,930	3,930
MARINE CORPS AIR STATION CAMP PENDLETON				
AIRCRAFT MAINTENANCE TRAINING BUILDINGS	1,080	---	1,080	1,080
AIRCRAFT OPERATIONS BLDG AND CONTROL TOWER	2,160	2,160	2,160	2,160
ELECTRONICS & COMMUNICATIONS MAINT SHOP	350	350	350	350
ENGINE TEST CELL	3,240	3,240	3,240	3,240
OIL SPILL PREVENTION	540	540	540	540
ORDNANCE HANDLING PAD	3,040	3,040	3,040	3,040
MARINE CORPS AIR STATION EL TORO				
ENGINE MAINTENANCE SHOP ADDITION	1,570	1,570	1,570	1,570
MAINTENANCE HANGAR MODERNIZATION	11,880	11,880	11,880	11,880
RUNWAY EXTENSION	---	---	14,400	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
MARINE CORPS AIR STATION TUSTIN				
AIR TRAFFIC CONTROL SQUADRON FACILITY	2,450	2,450	2,450	2,450
AIRCRAFT RINSE FACILITY	870	870	870	870
ARMORY	790	790	790	790
BACHELOR ENLISTED QUARTERS	10,800	10,800	10,800	10,800
MARINE CORPS BASE CAMP PENDLETON				
BACHELOR ENLISTED QUARTERS	12,300	12,300	12,300	12,300
BATTALION OPERATIONS CENTER	1,080	---	1,080	1,080
COMBAT VEHICLE MAINTENANCE SHOP	4,320	4,320	4,320	4,320
COMMUNICATIONS SUPPORT STOREHOUSE	2,650	---	---	---
MESS HALL ADDITIONS AND MODERNIZATIONS	5,100	5,100	5,100	5,100
OIL SPILL PREVENTION	1,180	1,180	1,180	1,180
PARACHUTE AND SURVIVAL EQUIPMENT SHOP	2,160	2,160	2,160	2,160
PHYSICAL FITNESS CENTER	2,850	2,850	2,850	2,850
TRAINING SUPPORT CENTER	5,500	5,500	---	---
MARINE CORPS RECRUIT DEPOT SAN DIEGO				
SUPPLY COMPLEX	8,440	8,440	---	---
NAVAL AIR STATION ALAMEDA				
BERTHING PIER AND UTILITIES IMPROVEMENTS	17,675	17,675	17,675	17,675
WATERFRONT SUPPORT FACILITY	950	950	950	950
NAVAL AIR STATION LEMOORE				
INDUSTRIAL WASTE TREATMENT FACILITY	980	---	---	---
NAVAL AIR STATION MIRAMAR				
AVIONICS SHOP ADDITION	3,240	3,240	---	3,240
BACHELOR ENLISTED QUARTERS	13,200	9,200	9,200	9,200
CONSOLIDATED BRIG	22,500	22,500	---	22,500
HANGER UTILITIES IMPROVEMENTS	350	350	350	350
MAINTENANCE HANGAR ADDITION	5,110	5,110	---	5,110
NAVAL AMPHIBIOUS BASE CORONADO				
BACHELOR OFFICER QUARTERS	9,800	9,800	9,800	9,800
ELECTRICAL DISTRIBUTION SYSTEM IMPROVES	5,100	5,100	5,100	5,100
OPERATIONAL STORAGE WAREHOUSE	3,720	---	---	---
SEALIFT SUPPORT PIER	2,550	2,550	2,550	2,550
NAVAL COMMUNICATION STATION STOCKTON				
FIRE PROTECTION PIPELINE	2,750	---	---	---
NAVAL CONSTRUCT BATTALION CTR PORT HUENEME				
ABRASIVE BLAST FACILITY	300	300	300	300
BACHELOR OFFICER QUARTERS	3,040	---	3,040	3,040
CHAPEL	2,040	2,040	2,040	2,040
ENGINEERING SUPPORT FACILITY	3,140	---	---	---
HAZARDOUS WASTE FACILITY	640	640	640	640
NAVAL CONSTRUCTION TRNG CTR PORT HUENEME				
AUTOMOTIVE VEHICLE MAINTENANCE FACILITY	1,470	---	1,470	---
SEABEE FLEET SUPPORT TRAINING FACILITIES	3,240	3,240	---	---
NAVAL FACILITY CENTERVILLE BEACH				
SECURITY IMPROVEMENTS	1,370	1,370	1,370	1,370
NAVAL SECURITY GROUP DETACHMENT SAN DIEGO				
CLASSIFIED MATERIALS ISSUE OFFICE ADDITION	1,570	---	---	---
NAVAL SHIPYARD LONG BEACH				
ELECTRONIC SYSTEMS EVALUATION FACILITY	1,180	1,180	1,180	1,180
HAZARDOUS WASTE FACILITY	2,450	2,450	2,450	2,450
NAVAL STATION LONG BEACH				
BACHELOR ENLISTED QUARTERS	7,050	7,050	7,050	7,050
BACHELOR OFFICER QUARTERS	3,730	---	---	---
LIGHTING SYSTEMS	210	210	210	210
NAVAL STATION MARE ISLAND				
RELIGIOUS EDUCATION BUILDING ALTERATION	470	---	---	---
NAVAL STATION SAN DIEGO				
BACHELOR ENLISTED QUARTERS	18,200	18,200	---	18,200
DREDGING	1,260	1,260	1,260	1,260
NAVAL SUBMARINE BASE SAN DIEGO				
BACHELOR ENLISTED QUARTERS	9,100	6,200	9,100	9,100
NAVAL SUPPLY CENTER OAKLAND				
FIRE PROTECTION SYSTEM	540	540	540	540
GENERAL WAREHOUSE ADDITION & MODERNIZATION	2,950	2,950	---	2,950
NAVAL SUPPLY CENTER SAN DIEGO				
PERSONAL PROPERTY OFFICE	1,370	---	1,360	1,360
RAILROAD TRACK RELOCATION	2,450	---	---	---
NAVAL TECHNICAL TRNG CTR SAN FRANCISCO				
FIRE FIGHTING TRAINER FACILITY	9,820	9,820	---	---
NAVAL TRAINING CENTER SAN DIEGO				
BARRACKS	4,220	4,220	4,220	4,220
BRIDGE	2,950	---	---	---
ELECTRICAL DISTRIBUTION SYSTEM IMPROVES	8,250	8,250	---	8,250
MACHINERY REPAIRMAN TRAINING BUILDING	5,700	5,700	---	5,700
NAVAL WEAPONS CENTER CHINA LAKE				
EXPLOSIVE ORDNANCE BREAKDOWN FACILITY	1,370	1,370	1,370	1,370
GUIDED MISSILE LABORATORY	10,300	---	---	---
MESS HALL	2,450	---	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVAL WEAPONS STATION CONCORD				
MISSILE TEST CELLS	790	790	790	790
NAVAL WEAPONS STATION SEAL BEACH				
QUALITY EVALUATION LABORATORY	6,100	---	---	---
NAVY PUBLIC WORKS CENTER SAN FRANCISCO				
NOISE ATTENUATION	450	450	450	450
NAVY SUBMARINE SUPPORT FACILITY SAN DIEGO				
SEWERAGE SYSTEM IMPROVEMENTS	300	300	300	300
NAVY TACT INTEROP SUPPORT ACT LONG BEACH				
TACTICAL DATA SYSTEM SUPPORT FACILITY	510	510	510	510
PACIFIC MISSILE TEST CENTER POINT MAGU				
TELEMETRY FACILITIES	590	590	590	590
AIR FORCE				
BEALE AFB				
KC135-COCKPIT PROCEDURES TRAINER SIM FAC	890	890	890	890
SECURITY IMPROVEMENTS	400	400	400	400
T9-NOISE SUPPRESSOR SUPPORT FACILITY	710	710	710	710
TR1-AIRCRAFT SHELTER/APRON	4,000	4,000	4,000	4,000
U2R-APRON AND SHELTERS	2,549	2,549	2,549	2,549
U2R-SHELTERS AND APRON	967	967	967	967
CASTLE AFB				
SURVIVAL EQUIPMENT SHOP	1,800	1,800	1,800	1,800
T9-NOISE SUPPRESSOR SUPPORT FACILITY	830	830	830	830
EDWARDS AFB				
ADD TO PROPELLANT LABORATORY COMPLEX	5,500	---	5,500	---
ADD-ALTER AVIONICS RESEARCH LAB	7,200	7,200	7,200	7,200
ADD-ALTER TEST MANAGEMENT AND SECURITY FAC	1,400	1,400	1,400	1,400
ALTER AVIONICS SHOP	2,300	---	2,300	2,300
FT MACARTHUR				
ALTER PERSONNEL SUPPORT FACILITY	3,000	---	---	---
GEORGE AFB				
ADD-ALTER VEHICLE MAINTENANCE SHOP	1,900	1,900	1,900	1,900
RESOURCE MANAGEMENT FACILITY	7,650	7,650	---	---
VISITING PERSONNEL QUARTERS	5,000	---	---	---
MARCH AFB				
AIR DIVISION HEADQUARTERS	2,200	2,200	---	---
KC10-HYDRANT FUELING-CENTRAL ACFT SPT SYS	13,600	13,600	13,600	13,600
T9-NOISE SUPPRESSOR SUPPORT FACILITY	840	840	840	840
MATHER AFB				
ACCOUNTING AND FINANCE FACILITY	1,500	1,500	---	1,500
T9-NOISE SUPPRESSOR SUPPORT FACILITY	740	740	740	740
MCCLELLAN AFB				
ADD TO-ALTER DEPOT WAREHOUSE	9,400	9,400	---	9,400
AMMUNITION STORAGE COMPLEX/LAND ACQ	4,300	4,300	4,300	4,300
DEPOT FLIGHT INSTRUMENT OVERHAUL FACILITY	9,400	9,400	9,400	9,400
REGIONAL WASTEWATER CONNECTION	5,800	5,800	5,800	5,800
NORTON AFB				
ADD-ALTER APPROACH LIGHTS	1,450	1,450	1,450	1,450
SUNNYVALE AFS				
ALTER AUTOMATED REMOTE TRACKING STATION	600	600	600	600
ALTER MISSION CONTROL CENTERS	2,000	2,000	2,000	2,000
TRAVIS AFB				
ALTER AIRCRAFT MAINTENANCE HANGAR	1,600	1,600	1,600	1,600
PHYSICAL FITNESS CENTER	4,700	4,700	4,700	4,700
SATELLITE COMMUNICATIONS GROUND TERMINAL	1,900	1,900	1,900	1,900
WEAPONS SYS MAINT MGT SUPPORT FACILITY	6,500	6,500	---	6,500
VANDENBURG AFB				
ADD/ALTER OAK MOUNTAIN POWER PLANT	2,700	---	2,700	---
DEFENSE AGENCIES				
DEF FUEL SUPPORT POINT ESTERO BAY				
FIRE PROTECTION	680	680	680	680
DEFENSE LANGUAGE INSTITUTE - MONTEREY				
BARRACKS	5,400	4,400	4,400	4,400
EDWARDS AFB				
DENTAL CLINIC	3,950	3,000	3,000	3,000
ROCKET PROPULSION BRILION FACILITY	4,140	---	4,140	4,140
FORT ORD				
HOSPITAL ADDITION	530	530	---	530
MARCH AFB				
ADD/ALTER MEDICAL LOGISTIC FACILITY	2,350	---	---	---
TRAVIS AFB				
COMPOSITE MEDICAL FACILITY PHASE IV	87,500	87,500	60,000	87,500
VANDENBERG AFB				
ADD/ALTER MEDICAL CENTER CLINIC ANNEX	1,900	1,900	---	1,900
ARMY NATIONAL GUARD				
CAMP SAN LUIS OBISPO				
CLOSE COMBAT COURSE	184	184	184	184
FAIRFIELD				
ARMORY	---	(1,784)	---	1,784
LONG BEACH				
ORGANIZATIONAL MAINTENANCE SHOP MODIFICAT	191	191	191	191
SANTA BARBARA				
ORGANIZATIONAL MAINTENANCE SHOP MODIFICAT	125	125	125	125

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	500	500	500	500
AIR NATIONAL GUARD				
MOFFETT NAS				
AIRCRAFT PARKING APRON SHOULDER	160	160	160	160
POINT MUGU NAS				
ANG OPERATIONS AND TRAINING COMPLEX-PH I	19,700	19,700	19,700	19,700
ARMY RESERVE				
OAKLAND				
ADD/ALTER RESERVE CENTER/MAINT FACILITY	2,986	2,986	2,986	2,986
SANTA ANA				
ADD/ALTER ARMED FORCES RESERVE CENTER	1,158	1,158	1,158	1,158
VAN NUYS				
MAINTENANCE SHOP/KITCHEN	300	300	300	300
WEST LOS ANGELES				
ADD/ALTER RESERVE CENTER	3,648	3,648	3,648	3,648
NAVY RESERVE				
NMCRC LONG BEACH				
PARACHUTE LOFT	190	190	190	190
AIR FORCE RESERVE				
MARCH AFB				
AERIAL PORT TRAINING FACILITY	1,980	1,980	1,980	1,980
COMPOSITE MAINTENANCE FACILITY	2,300	2,300	2,300	2,300
NORTON AFB				
ALTER 445 MAW HEADQUARTERS	180	180	180	180
TOTAL, CALIFORNIA	617,173	517,433	406,573	494,337
COLORADO				
ARMY				
FORT CARSON				
RANGE ROADS -PHASE III	3,500	3,500	3,500	3,500
VEHICLE WASHRACK	7,800	7,800	7,800	7,800
PUEBLO DEPOT ACTIVITY				
SECURITY UPGRADE	600	---	600	---
AIR FORCE				
FALCON AFS				
LAND ACQUISITION (EASEMENT)	6,400	5,400	---	5,400
LA JUNTA				
STR-COMPOSITE SUPPORT FACILITIES	2,150	2,150	2,150	2,150
STR-LAND ACQUISITION	260	260	260	260
STR-TECHNICAL OPERATIONS FACILITY	1,300	1,300	1,300	1,300
STR-UNACCOMP ENLISTED PERSONNEL HOUSING	1,750	1,750	1,750	1,750
PETERSON AFB				
ADD-ALTER SECURITY POLICE FACILITY	590	---	---	---
BASE SUPPLY WAREHOUSE-PHASE I	4,000	---	---	---
TROOP SUBSISTENCE STORAGE FACILITY	990	---	---	---
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	3,050	3,050	3,050	3,050
US AIR FORCE ACADEMY				
ADD-ALTER BASE CIVIL ENGINEERING FACS	990	---	---	---
ADD-ALTER CADET GYMNASIUM	7,400	---	7,000	7,000
ADD-ALTER SECURITY POLICE FACILITY	600	---	---	---
ALTER ELECTRICAL DISTRIBUTION SYSTEM	4,000	4,000	4,000	4,000
LAND ACQUISITION	230	230	230	230
NAVY RESERVE				
NRC FORT CARSON				
PERMANENT DRILL SITE RNCFSU-2	390	390	390	390
AIR FORCE RESERVE				
PETERSON AFB				
ADD-ALTER SECURITY POLICE FACILITY	200	200	200	200
COMPOSITE TRAINING FACILITY	1,060	1,060	1,060	1,060
TOTAL, COLORADO	47,260	31,090	33,290	38,090
CONNECTICUT				
NAVY				
NAVAL SUBMARINE BASE NEW LONDON				
BACHELOR OFFICER QUARTERS	9,300	---	---	---
FUEL STORAGE TANKS	1,470	1,470	1,470	1,470
QUAYWALL	3,160	3,160	3,160	3,160
WEAPONS STORAGE IMPROVEMENTS	2,950	---	---	---
NAVAL SUBMARINE SCHOOL NEW LONDON				
ADVANCED ENGINEERING TRAINING FACILITY	6,200	6,200	6,200	6,200
SUBMARINE FIRE FIGHTING TRAINER FACILITY	3,340	3,340	3,340	3,340
TOTAL, CONNECTICUT	26,420	14,170	14,170	14,170

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
DELAWARE				
ARMY NATIONAL GUARD				
DAGSBORO				
ORGANIZATIONAL MAINTENANCE SHOP	396	396	396	396
TOTAL, DELAWARE	396	396	396	396
DISTRICT OF COLUMBIA				
NAVY				
COMMANDANT NAVAL DISTRICT WASHINGTON				
BACHELOR ENLISTED QUARTERS MODERNIZATION	2,000	2,000	2,000	2,000
WHITE HOUSE SUPPORT COMPLEX	24,000	---	---	---
NAVAL OBSERVATORY WASHINGTON				
EMERGENCY POWER BUILDING	980	980	980	980
NAVAL RESEARCH LABORATORY WASHINGTON				
PHYSICS LABORATORY IMPROVEMENTS	8,730	---	8,730	---
DEFENSE AGENCIES				
NAVAL REARSCH LAB				
PULSE POWER RESEARCH FACILITY	3,200	---	3,200	---
TOTAL, DISTRICT OF COLUMBIA	38,910	2,980	14,910	2,980
FLORIDA				
NAVY				
NAVAL AIR REWORK FACILITY PENSACOLA				
AIRCRAFT STRUCTURES REPAIR FACILITY	8,050	8,050	8,050	8,050
NAVAL AIR STATION CECIL FIELD				
AIRCRAFT ACOUSTICAL ENCLOSURE	4,910	4,910	---	4,910
BACHELOR ENLISTED QUARTERS	3,730	3,730	3,730	3,730
NAVAL AIR STATION JACKSONVILLE				
AIRCRAFT PARKING APRON	2,160	2,160	2,160	2,160
BRIG	2,650	2,650	2,650	2,650
HELICOPTER TRAINING FACILITY	4,220	---	---	---
NAVAL AIR STATION KEY WEST				
AIR COMBAT TRAINING DEBRIEFING FACILITY	930	930	930	930
HYDROFOIL BERTHING WHARF	8,490	8,490	---	---
MUNICIPAL SEWER CONNECTION IMPROVEMENTS	720	720	720	720
NAVAL AIR STATION WHITING FIELD				
RUNWAY IMPROVEMENT	2,120	---	---	---
NAVAL COASTAL SYSTEMS CENTER PANAMA CITY				
UNDERWATER EQUIPMENT LABORATORY	880	880	880	880
NAVAL DIV & SALVAGE TRNG CTR PANAMA CITY				
DIVER TRAINING BUILDING ADDITION	2,850	2,850	2,850	2,850
NAVAL HOSPITAL PENSACOLA				
FIRE PROTECTION SYSTEM IMPROVEMENTS	690	690	690	690
NAVAL STATION MAYPORT				
PHYSICAL FITNESS CENTER ADDITION	880	880	880	880
NAVAL SUPPLY CENTER DETACHMENT MAYPORT				
FLEET SUPPORT WAREHOUSE ADDITION	3,730	3,730	3,730	3,730
NAVAL SUPPLY CENTER JACKSONVILLE				
OIL SPILL PREVENTION	830	830	830	830
NAVAL TECHNICAL TRAINING CENTER PENSACOLA				
BOILER PLANT MODIFICATIONS	1,180	1,180	1,180	1,180
CONTROLLED HUMIDITY STORAGE FACILITY	1,570	1,570	1,570	1,570
INSTRUMENTATION TRAINING FACILITY	4,610	1,310	---	1,310
NAVAL TRAINING CENTER ORLANDO				
ADVANCED UNDERWATER WEAPONS TRAINING FAC	2,950	2,950	---	---
BARRACKS	8,440	8,440	8,440	8,440
FIRE STATION	1,230	1,230	1,230	1,230
PUBLIC WORKS SHOP	2,550	---	---	---
NAVY PUBLIC WORKS CENTER PENSACOLA				
ELECTRICAL SYSTEM IMPROVEMENTS	1,470	1,470	1,470	1,470
HAZARDOUS MATERIALS STORAGE & HANDLING FAC	400	400	400	400
OIL SPILL PREVENTION	250	250	250	250
AIR FORCE				
AVON PARK				
EXTEND RUNWAY	4,100	4,100	---	4,100
EGLIN AFB				
FUEL SYSTEMS MAINTENANCE FACILITY	1,650	1,650	---	1,650
NON-DESTRUCT INSPECTION FACILITY	720	720	720	720
HOMESTEAD AFB				
DINING HALL AND TROOP ISSUE FACILITY	3,400	3,400	3,400	3,400
F16-ECM POD SHOP AND STORAGE	1,650	1,650	1,650	1,650
MEDICAL WAR RESERVE MATERIAL FACILITY	770	770	770	770
SOUND SUPPRESSOR SUPPORT	730	730	730	730
MACDILL AFB				
ALTER USREDCOM COMMAND CENTER	1,600	---	1,600	1,600
BASE CONTRACTING FACILITY	1,350	1,350	---	---
MEDICAL WAR RESERVE MATERIAL FACILITY	780	780	780	780

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
PATRICK AFB				
AIRCRAFT CORROSION CONTROL FACILITIES	2,600	2,600	2,600	2,600
TYNDALL AFB				
CONSOLIDATED TRAINING FACILITY	1,500	1,500	---	---
ECIP-FACILITY ENERGY IMPROVEMENTS	600	---	---	---
F15-ADD/ALTER SQUADRON OPERATIONS FAC	760	760	760	760
F15-ADDITION TO AIRCRAFT APRON	9,300	9,300	9,300	9,300
F15-UNACCOMP ENLISTED PERSONNEL HOUSING	4,650	4,650	4,650	4,650
ARMY NATIONAL GUARD				
AVON PARK				
RANGE, 25 METER ZERO	109	109	109	109
RANGE, COMBAT PISTOL	165	165	165	165
CAMP BLANDING				
MOBILIZATION & TRAINING EQUIP SITE ADD/ALT	1,043	1,043	1,043	1,043
CRYSTAL RIVER				
200 PERSON ARMORY	1,017	1,017	1,017	1,017
DAYTONA BEACH				
ARMORY MODIFICATION	389	389	389	389
LAKELAND				
TRAINING SET FIRE OBSERVATION BUILDING	116	116	116	116
PANAMA CITY				
ARMORY ADD/ALT	809	809	809	809
PENSACOLA				
ORGANIZATIONAL MAINTENANCE SHOP	307	307	307	307
SARASOTA				
ARMORY ADD/ALT	617	617	617	617
TAVARES				
ORGANIZATIONAL MAINTENANCE SHOP	487	487	487	487
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	315	315	315	315
AIR NATIONAL GUARD				
JACKSONVILLE IAP				
ADD-ALTER AIRCRAFT ENGINE SHOP	360	360	360	360
FIRE SUPPRESSION SYSTEM	750	750	750	750
SPECIAL FUELS FACILITY	240	240	240	240
MACDILL AFB				
COMMUNICATIONS-ELECTRONICS TRNG COMPLEX	4,700	4,700	4,700	4,700
ARMY RESERVE				
PERRINE				
ARMY RESERVE CENTER/MEDICAL WING/MAINT	6,700	6,700	6,700	6,700
TOTAL, FLORIDA	126,774	112,384	87,724	99,694
GEORGIA				
ARMY				
FORT BENNING				
CHAPEL	1,700	---	1,700	1,700
CHILD DEVELOPMENT CENTER ADDITION	280	280	280	280
FIRE STATION	1,100	1,100	1,100	1,100
VEHICLE WASH FACILITY	4,000	4,000	---	---
VEHICLE WASH FACILITY	9,100	9,100	9,100	9,100
FORT MCPHERSON				
OPERATIONS FACILITY	2,900	2,900	2,900	2,900
FT STEWART/HUNTER AAF				
FLIGHT SIMULATOR BUILDING	1,550	1,550	1,550	1,550
NAVY				
NAVAL SUBMARINE BASE KINGS BAY				
BACHELOR OFFICER QUARTERS	3,440	---	3,440	3,440
COMMANDER SUBMARINE GROUP OFFICE	1,550	---	1,550	1,550
COMMUNITY IMPACT ASSISTANCE	5,100	5,100	5,100	5,100
DEFENSIVE ORDNANCE SUPPORT FACILITIES	3,440	3,440	3,440	3,440
DIESEL FUEL FACILITIES	1,960	---	1,960	1,960
DOCKSIDE HANDLING BUILDING	3,340	3,340	3,340	3,340
DREDGING	50,400	45,860	50,400	50,400
DRYDOCK	45,450	40,905	45,450	45,450
FIRE STATION	350	350	350	350
OFF-CREW OPERATIONS BUILDING	7,400	---	7,400	7,400
PROVISION WAREHOUSE	2,160	---	2,160	2,160
READY STORES FACILITY	1,270	---	1,270	1,270
REFIT SUPPORT FACILITY	2,950	2,950	2,950	2,950
REFIT WHARF	23,500	21,150	23,500	23,500
STRATEGIC WEAPONS MAGAZINES	16,700	15,030	16,700	16,700
STRATEGIC WPNS SYS SECOND LEVEL MAIN SHOPS	3,930	3,930	3,930	3,930
UTILITIES AND SITE IMPROVEMENTS	4,900	---	4,900	4,900
GENERAL REDUCTION	---	---	-10,000	-10,000
AIR FORCE				
MOODY AFB				
AIR FORCE COMM COMMAND MAINT FAC	900	900	900	900
ROBINS AFB				
ADD TO-ALTER AVIONICS REPAIR FACILITY	6,455	6,455	6,455	6,455
AIRCRAFT UTILITY OUTLETS	1,700	1,700	1,700	1,700
DANGEROUS CARGO PAD	2,700	2,700	2,700	2,700
HIGH DENSITY STORAGE FACILITIES	3,800	3,800	3,800	3,800
KC135-COCKPIT PROCEDURES TRAINER SIM FAC	660	660	660	660
SOUND SUPPRESSOR SUPPORT	740	740	740	740

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
DEFENSE AGENCIES				
FORT BENNING				
WHITE ELEM SCHOOL MODERNIZATION/ADDITION	1,080	1,080	---	---
ROBINS AIR FORCE BASE				
ROBINS AND LINWOOD ELEM SCHOOL ADDITIONS	2,440	2,440	---	---
ARMY NATIONAL GUARD				
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	486	486	486	486
AIR NATIONAL GUARD				
DOBBINS AFB				
ADD-ALTER AIRCRAFT MAINTENANCE BLDGS-PH I	6,000	6,000	6,000	6,000
ST SIMONS ISLAND				
COMMUNICATIONS/ELECTRONICS TRAINING FAC	5,000	5,000	5,000	5,000
TOTAL, GEORGIA	230,431	192,946	212,911	212,911
HAWAII				
ARMY				
HAWAII VARIOUS				
OPERATIONS SUPPORT FACILITY	12,000	---	12,000	---
WHEELER ARMY AIR FIELD				
FLIGHT SIMULATOR BUILDING	2,900	2,900	2,900	2,900
NAVY				
CAMP H M SMITH - OAHU				
LAND ACQUISITION	1,570	1,570	1,570	1,570
SECURITY HEADQUARTERS	500	---	500	500
MARINE CORPS AIR STATION KANEOHE BAY				
AIRCRAFT RINSE FACILITY	1,280	---	1,280	---
BACHELOR ENLISTED QUARTERS MODERNIZATION	8,800	8,800	8,800	8,800
COMBAT VEHICLE MAINTENANCE SHOP	6,480	6,480	---	---
COMPANY AND BATTERY OPERATIONS CENTER	9,130	9,130	9,130	9,130
CORROSION CONTROL HANGAR	2,260	---	2,260	---
FLIGHT LINE SECURITY IMPROVEMENTS	2,550	2,550	2,550	2,550
OPERATIONAL TRAINER FACILITY	880	880	880	880
POWER CHECK PAD	500	500	500	500
TACTICAL SUPPORT VAN PADS	8,840	8,840	8,840	8,840
NAVAL AIR STATION BARBERS POINT				
TACAMO SUPPORT COMPLEX	25,300	---	---	---
NAVAL COM AREA MASTER STA EASTPAC HONOLULU				
ANTENNA SAFETY IMPROVEMENTS	1,080	---	1,080	---
NAVAL MAGAZINE LUALUALEI				
MINE MAINTENANCE FACILITY MODIFICATIONS	860	860	860	860
MISSILE MAINTENANCE FACILITY	2,850	2,850	2,850	2,850
SECURITY IMPROVEMENTS	640	640	640	640
NAVAL STATION PEARL HARBOR				
SEAL TEAM TRAINING AND SUPPORT BUILDING	3,240	3,240	3,240	3,240
NAVAL SUBMARINE BASE PEARL HARBOR				
DREDGING	690	690	690	690
NAVAL SUPPLY CENTER PEARL HARBOR				
COLD STORAGE FACILITY	11,820	11,820	11,500	11,500
NAVY PUBLIC WORKS CENTER PEARL HARBOR				
ELECTRICAL DISTR SYS IMPROVEMENTS (PH 1)	18,200	---	18,200	---
MUNICIPAL SEWER CONNECTION	790	790	790	790
WATER DISTRIBUTION SYSTEM IMPROVEMENTS	6,700	6,700	3,400	3,400
PACIFIC MISSILE RANGE FAC BARKING SANDS				
AIRCRAFT MAINTENANCE HANGAR & SUPPORT FACS	5,900	5,900	5,900	5,900
RANGE OPERATIONS CENTER ADDITION	2,360	2,360	2,360	2,360
AIR FORCE				
HICKAM AFB				
ADD-ALTER COMMAND CENTER	4,700	4,700	---	4,700
VEHICLE OPERATIONS-MAINTENANCE FACILITY	1,150	---	1,150	---
DEFENSE AGENCIES				
PACIFIC MISSILE RANGE				
INTERMEDIATE BALLISTIC MISSILE LAUNCH CPLX	2,890	---	2,890	2,890
PEARL HARBOR				
OCCUPATIONAL HEALTH CLINIC	9,700	9,700	9,700	9,700
AIR NATIONAL GUARD				
BARKING SANDS				
ADD-ALTER COMMUNICATIONS-ELEC TRNG COMPLEX	2,000	2,000	2,000	2,000
KEAUKAHA MILITARY RESERVATION				
MOBILITY STORAGE WAREHOUSE	180	180	180	180
TOTAL, HAWAII	158,740	94,080	118,640	87,370
IDAHO				
AIR FORCE				
MOUNTAIN HOME AFB				
ADD-ALTER VEHICLE MAINTENANCE SHOP	520	520	520	520
COMBAT SUPPORT CENTER	8,700	8,700	8,700	8,700
NAVIGATION AIDS COMMUNICATION MAINT SHOP	840	840	840	840
SOUND SUPPRESSOR SUPPORT	700	700	700	700
UNACCOMP ENLISTED PERSONNEL HOUSING(OTH B)	4,000	4,000	4,000	4,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
DEFENSE AGENCIES				
MOUNTAIN HOME AFB				
COMPOSITE MEDICAL FACILITY	30,500	28,000	28,000	28,000
ARMY NATIONAL GUARD				
GOWEN FIELD				
TANK COMMANDERS ACADEMY COMPLEX	2,935	2,935	2,935	2,935
AIR NATIONAL GUARD				
BOISE AIRPORT				
AIRMAN DORMITORY	320	320	320	320
BASE SUPPLY/EQUIPMENT WAREHOUSE	2,600	2,600	2,600	2,600
DINING HALL	150	150	150	150
TOTAL, IDAHO	51,265	48,765	48,765	48,765
ILLINOIS				
ARMY				
FORT SHERIDAN				
BARRACKS	2,050	2,050	2,050	2,050
SAVANNA ARMY DEPOT				
SECURITY UPGRADE	320	320	320	320
NAVY				
NAVAL TRAINING CENTER GREAT LAKES				
FIRE FIGHTING TRAINER	5,300	5,300	---	5,300
AIR FORCE				
CHANUTE AFB				
LIQUID FUELS TRAINING FACILITY	2,600	2,600	---	2,600
WEATHER TRAINING FACILITY	8,700	---	8,700	8,700
SCOTT AFB				
ADD-ALTER CONSOLIDATED COMPUTER FACILITY	8,900	---	---	---
DEFENSE AGENCIES				
SCOTT AFB				
DECCO COMPUTER CENTER/ADMIN FACILITY	7,600	6,600	6,600	6,600
ARMY NATIONAL GUARD				
CHICAGO				
ARMORY ALTERATION	1,573	1,573	1,573	1,573
OMS MODIFICATIONS	346	346	346	346
MARSEILLES				
FACILITY ENGR. SHOP & STORAGE BUILDING	208	208	208	208
AIR NATIONAL GUARD				
CAPITAL MAP				
AIRCRAFT APRON SECURITY LIGHTING	120	120	120	120
CHICAGO-OHARE IAP				
ANG/AFRES MEDICAL TRAINING FACILITY	800	800	800	800
GREATER PEORIA AIRPORT				
SITE PREPARATION-PHASE I	4,000	4,000	4,000	4,000
ARMY RESERVE				
JOLIET				
WEEKEND TRAINING SITE/RANGES	4,765	4,765	4,765	4,765
NAVY RESERVE				
NAS GLENVIEW				
AVIATION TECHNICAL TRAINING BUILDING	2,200	2,200	2,200	2,200
KC-130 PARKING APRON	1,900	1,900	1,900	1,900
OPERATIONAL STORAGE FACILITY RNMCB-25	175	175	175	175
NRF GREAT LAKES				
ASSAULT CRAFT UNIT MAINT. FACILITY	700	700	700	700
AIR FORCE RESERVE				
CHICAGO-OHARE IAP				
TACTICAL CLINIC (JOINT USE)	750	750	750	750
TOTAL, ILLINOIS	53,007	34,407	35,207	43,107
INDIANA				
NAVY				
NAVAL WEAPONS SUPPORT CENTER CRANE				
FLEET MICROWAVE SUPPORT CENTER	6,880	6,880	6,880	6,880
AIR FORCE				
GRISSOM AFB				
COMBAT ARMS TRAINING/MAINT FACS	850	850	850	850
MISSION OPERATIONS FACILITY	3,000	3,000	3,000	3,000
ARMY NATIONAL GUARD				
CAMP ATTERBURY				
RANGE, RECORD FIRE M-16	334	334	334	334
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	318	318	318	318
ARMY RESERVE				
SOUTH BEND				
ADD/ALTER RESERVE CENTER/MAINT FACILITIES	3,511	3,511	3,511	3,511
AIR FORCE RESERVE				
GRISSOM AFB				
AVIONICS/DCM FACILITY (A-10)	1,800	1,800	1,800	1,800
TOTAL, INDIANA	16,693	16,693	16,693	16,693

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
IOWA				
ARMY NATIONAL GUARD				
CAMP DODGE				
RANGE, FIELD FIRE	257	257	257	257
REGIONAL MAINTENANCE TNG SITE	839	839	839	839
SEWAGE SYSTEM MODIFICATION	806	806	806	806
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	280	280	280	280
AIR NATIONAL GUARD				
DES MOINES MAP				
LANA POD MAINTENANCE SHOP	360	360	360	360
ARMY RESERVE				
OTTUMWA				
LAND ACQUISITION	60	60	60	60
TOTAL, IOWA	2,602	2,602	2,602	2,602
KANSAS				
ARMY				
FORT LEAVENWORTH				
WATER STORAGE TANK	1,100	1,100	1,100	1,100
FORT RILEY				
BARRACKS MODERNIZATION	6,100	6,100	6,100	6,100
CHILD DEVELOPMENT CENTER	4,250	4,250	---	---
PRIMARY WATER SUPPLY CONNECTION	2,150	2,150	2,150	2,150
AIR FORCE				
MCCONNELL AFB				
B1B-ADD/ALTER ACFT MAINTENANCE MGMT FAC	1,900	1,900	1,900	1,900
B1B-ADD/ALTER ACFT MAINTENANCE SHOPS	2,740	2,740	2,740	2,740
B1B-ADD/ALTER OPERATIONS MAINTENANCE FACS	2,000	2,000	2,000	2,000
B1B-ADD/ALTER PRECISION MEASUREMENT EQ LAB	500	500	500	500
B1B-ADD/ALTER SUPPORT EQUIP/STORAGE FAC	1,250	1,250	1,250	1,250
B1B-AIRFIELD PAVEMENT	2,740	2,740	2,740	2,740
B1B-ALTER AIRCRAFT MAINT HANGARS	11,970	11,970	11,970	11,970
B1B-BASE ENGINEER MAINT MANAGEMENT FAC	240	240	240	240
B1B-BLAST DEFLECTORS	960	960	960	960
B1B-CASS EQUIPMENT AND INSTALLATION	1,200	1,200	1,200	1,200
B1B-FLIGHT SIMULATOR TRNG FACILITY	3,660	3,660	3,660	3,660
B1B-HEAVY EQUIPMENT MAINTENANCE FACILITY	1,050	1,050	1,050	1,050
B1B-MOBILITY CENTER	1,950	1,950	1,950	1,950
KC135-HYDRANT FUELING SYSTEM	2,600	2,600	2,600	2,600
SECURITY IMPROVEMENTS	980	980	980	980
ARMY NATIONAL GUARD				
JUNCTION CITY				
ARMORY MODIFICATION	353	353	353	353
NICKELL BARRACKS				
RANGE, RECORD FIRE M-16	291	291	291	291
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	335	335	335	335
AIR NATIONAL GUARD				
FORBES FIELD				
ALTER OPERATIONS AND TRAINING FACILITY	172	172	172	172
MCCONNELL AFB				
ADD-ALTER BASE SUPPLY COMPLEX	1,500	1,500	1,500	1,500
ADDITION TO ENGINE SHOP	500	500	500	500
ARMY RESERVE				
KANSAS CITY				
ADD/ALTER ARMY RESERVE CENTER	1,548	1,548	1,548	1,548
MANHATTAN				
ADD/ALTER RESERVE CENTER/MAINT FACILITY	1,522	1,522	1,522	1,522
PARSONS				
ADD/ALTER RESERVE CENTER/MAINT FACILITY	1,534	1,534	1,534	1,534
TOTAL, KANSAS	57,095	57,095	52,845	52,845
KENTUCKY				
ARMY				
FORT CAMPBELL				
AIRCRAFT MAINTENANCE HANGAR	16,500	---	16,500	---
FUEL PUMPING STATION	240	---	240	240
VEHICLE WASH FACILITY	4,500	4,500	4,500	4,500
FORT KNOX				
APPLIED INSTRUCTION FACILITY	3,200	3,200	---	---
LEXINGTON-BLUEGRASS DEP ACT				
SECURITY UPGRADE	540	---	540	---
DEFENSE AGENCIES				
FORT CAMPBELL				
MIDDLE SCHOOL ADDITION	1,340	1,340	---	---
FORT KNOX				
ELEMENTARY SCHOOL GYMNASIUMS-SIX	4,350	4,350	---	---
TOTAL, KENTUCKY	30,670	13,390	21,780	4,740

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
LOUISIANA				
ARMY				
FORT POLK				
MULTI-PURPOSE TRAINING RANGE	27,000	26,000	26,000	26,000
AIR FORCE				
ENGLAND AFB				
BASE CIVIL ENGINEER ADMINISTRATIVE FAC	2,300	2,300	---	---
DEFENSE AGENCIES				
FORT POLK				
TROOP MEDICAL CLINIC	2,650	2,650	2,650	2,650
ARMY NATIONAL GUARD				
DELHI				
60 PERSON ARMORY	859	859	859	859
FARMERVILLE				
60 PERSON ARMORY	835	835	835	835
MONROE				
ORGANIZATIONAL MAINTENANCE SHOP MODIFICAT	268	268	268	268
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	300	300	300	300
VILLE PLATTE				
60 PERSON ARMORY	690	690	690	690
NAVY RESERVE				
NAVAL AIR STATION NEW ORLEANS				
APPROACH LIGHTING SYSTEM RUNWAYS 4 AND 22	2,200	2,200	2,200	2,200
NAVAL SUPPORT ACTIVITY NEW ORLEANS				
ADMIN SPACE, BLDG 603-2-C	260	260	260	260
ISMO/AUDIO VISION	275	275	275	275
NMCRC NEW ORLEANS				
RESERVE TRAINING BUILDING ALTERATION	700	700	700	700
RNMCB-28 BARKSDALE AFB				
OPERATIONAL STORAGE FACILITY RNMCB-28	175	175	175	175
AIR FORCE RESERVE				
BARKSDALE AFB				
ALTER AVIONICS/SQUADRON OPERATIONS	1,000	1,000	1,000	1,000
TOTAL, LOUISIANA	39,512	38,512	36,212	36,212
MAINE				
NAVY				
NAVAL AIR STATION BRUNSWICK				
GROUND SUPPORT EQUIPMENT FACILITY	2,160	---	---	---
OIL SPILL PREVENTION	450	450	450	450
OPERATIONAL TRAINER FACILITY ADDITION	710	710	710	710
NAVAL SHIPYARD PORTSMOUTH KITTERY				
ENGINEERING MANAGEMENT BUILDING	10,900	---	10,900	10,900
HAZARDOUS MATERIAL STORAGE & HANDLING FAC	5,100	---	5,100	5,100
LOGISTICS SUPPORT FACILITY ALTERATIONS	980	980	980	980
REFUELING CRANE	6,190	6,190	6,100	6,100
AIR FORCE				
BANGOR				
PHYSICAL FITNESS FACILITY	1,250	---	---	---
LORING AFB				
AIRCRAFT APRON-REFUELING SYSTEM-PH I	12,200	---	12,200	---
ALTER WEAPONS STORAGE AREA	1,300	1,300	1,300	1,300
ARMY NATIONAL GUARD				
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	503	503	503	503
ARMY RESERVE				
SACO				
ADD/ALTER RESERVE CENTER/MAINT FACILITY	1,129	1,129	1,129	1,129
NAVY RESERVE				
RNMCB-27 NAVAL AIR STATION BRUNSWICK				
OPERATIONAL STORAGE FACILITY RNMCB-27	175	175	175	175
TOTAL, MAINE	43,047	11,437	39,547	27,347
MARYLAND				
ARMY				
ABERDEEN PROVING GROUND				
APPLIED INSTRUCTION BUILDING	23,000	22,000	---	22,000
BARRACKS COMPLEX	19,000	18,000	18,000	18,000
CONDENSATE RETURN	750	750	750	750
HARRY DIAMOND LAB				
COMPUTER LABORATORY ADDITION	680	680	680	680
NAVY				
NAVAL ACADEMY ANNAPOLIS				
EDUCATIONAL COMPUTER CENTER	2,260	2,260	2,260	2,260
FIRE STATION	400	400	400	400
NAVAL AIR TEST CENTER PATUXENT RIVER				
AIRCRAFT TEST AND EVALUATION FACILITY	13,300	13,300	13,300	13,300
LANDING SYSTEM TEST FACILITY	4,030	4,030	---	4,030
MUNICIPAL SEWER CONNECTION	1,360	1,360	1,360	1,360
STEAM AND CONDENSATE SYSTEMS	2,450	2,450	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVAL ORDNANCE STATION INDIAN HEAD				
OIL SPILL PREVENTION	500	500	500	500
PROPELLANT FACILITIES UPGRADE	3,680	---	---	---
AIR FORCE				
ANDREWS AFB				
AF ONE MAINT AND SUPPORT COMPLEX	45,000	---	25,000	25,000
ECIP-ALTER LIGHTING SYSTEMS	430	---	---	---
DEFENSE AGENCIES				
ANDREWS AFB				
ALTER MEDICAL CENTER CLINIC ANNEX	2,000	---	---	---
BETHESDA NAVAL HOSPITAL				
RESEARCH SUPPORT BUILDING	790	---	---	---
FORT MEADE				
CONNECTOR ROAD	5,200	5,200	5,200	5,200
R&D FACILITY	53,700	38,000	38,000	38,000
ROAD IMPROVEMENTS	4,370	---	4,370	4,370
USUHS BETHESDA				
MEDICAL STORAGE FACILITY	900	900	900	900
ARMY NATIONAL GUARD				
EDGEWOOD				
400 PERSON ARMORY	5,723	5,723	5,723	5,723
AIR NATIONAL GUARD				
ANDREWS AFB				
ALTER AIRCRAFT MAINTENANCE SHOP	300	300	300	300
AIR FORCE RESERVE				
ANDREWS AFB				
ALTER BLDG FOR MOBILE AERIAL PORT SQUADRON	110	110	110	110
ALTER FIRE PROTECTION SYSTEM HANGAR TEN	300	300	300	300
ALTER FUEL SYSTEM DOCK	160	160	160	160
TOTAL, MARYLAND	190,393	116,423	117,313	143,343
MASSACHUSETTS				
ARMY				
FORT DEVENS				
ACADEMIC INSTRUCTION FACILITY	6,800	6,800	---	6,800
ACADEMIC INSTRUCTION FACILITY	9,500	9,500	---	9,500
BARRACKS MODERNIZATION	4,500	4,500	4,500	4,500
AIR FORCE				
CAPE COD				
ALTER POWER PLANT	4,300	4,300	4,300	4,300
HANSCOM AFB				
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,700	2,700	2,700	2,700
ALTER UNACCOMP OFFICER PERSONNEL HOUSING	1,300	1,000	1,000	1,000
ARMY NATIONAL GUARD				
CAMP CURTIS GUILD (READING)				
ORGANIZATIONAL MAINTENANCE SHOP	543	543	543	543
AIR NATIONAL GUARD				
OTIS ANGB				
ALTER AIRCRAFT ENGINE SHOP	210	210	210	210
ALTER AVIONICS/PMEL FACILITY	3,000	3,000	3,000	3,000
ARMY RESERVE				
DEVENS				
EQUIPMENT CONCENTRATION SITE	360	360	360	360
AIR FORCE RESERVE				
WESTOVER AFB				
ALTER SQUADRON OPERATIONS	1,250	1,250	1,250	1,250
APRON, TAXIWAY/HYDRANT FUELING SYSTEM	13,730	13,730	13,730	13,730
CONSTRUCT FIRE STATION	1,800	1,800	1,800	1,800
UPGRADE HANGAR	6,505	6,505	6,505	6,505
UPGRADE HYDRANT REFUELING SYSTEM	1,000	1,000	1,000	1,000
TOTAL, MASSACHUSETTS	57,498	57,198	40,898	57,198
MICHIGAN				
ARMY				
DETROIT ARSENAL				
CHILD DEVELOPMENT CENTER	1,350	1,350	1,350	1,350
AIR FORCE				
KI SAWYER AFB				
ADD-ALTER COMBAT ARMS TRNG/MAINT FACS	740	740	---	740
SECURITY IMPROVEMENTS	990	990	990	990
WURTSMITH AFB				
B52-ADD TO AIRCRAFT PARKING APRON	4,450	4,450	4,450	4,450
B52-ADD TO HYDRANT REFUELING WITH CASS	1,500	1,500	1,500	1,500
B52-ADD/ALTER ALERT ACFT PARKING AREA	2,700	2,700	2,700	2,700
B52-ADD/ALTER ALERT CREW FACILITY	1,900	1,900	1,900	1,900
ECIP-BOILER IMPROVEMENTS	320	---	---	---
SECURITY IMPROVEMENTS	870	870	870	870
ARMY NATIONAL GUARD				
AUGUSTA				
RANGE, M60 TRANSITION	180	180	180	180

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
BAY CITY				
CAMP GRAYLING				
AUTOMATED FIELD FIRE RANGE	553	553	553	553
AUTOMATED RECORD FIRE RANGE	665	665	665	665
DEARBORN				
ORGANIZATIONAL MAINTENANCE SHOP	297	297	297	297
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	245	245	245	245
ARMY RESERVE				
KALAMAZOO				
LAND ACQUISITION	110	110	110	110
SAGINAW				
ARMED FORCES RESERVE CENTER	3,070	3,070	3,070	3,070
NAVY RESERVE				
AFRC SAGINAW				
RESERVE TRAINING BUILDING	3,600	3,600	3,600	3,600
RNMCB-26 DETROIT				
OPERATIONAL STORAGE FACILITY RNMCB-26	175	175	175	175
AIR FORCE RESERVE				
SELFRIDGE ANGB				
SURVIVAL EQUIPMENT SHOP	800	800	800	800
TOTAL, MICHIGAN	24,515	24,195	23,455	24,195
MINNESOTA				
ARMY NATIONAL GUARD				
ALBERT LEA				
100 PERSON ARMORY	843	843	843	843
CAMP RIPLEY				
TNG FACIL - A/A TRACKING & LIVE FIRE RANGE	592	592	592	592
TROOP ISSUE SUBSISTANCE ACTIVITY	3,031	3,031	3,031	3,031
DETROIT LAKES				
ORGANIZATIONAL MAINTENANCE SHOP ADD/ALT	374	374	374	374
MOOREHEAD				
200 PERSON ARMORY	1,331	1,331	1,331	1,331
WILLMAR				
ORGANIZATIONAL MAINTENANCE SHOP MODIFICAT	226	226	226	226
ARMY RESERVE				
ST CLOUD				
LAND ACQUISITION	255	255	255	255
NAVY RESERVE				
RNCFSU-4 ST PAUL INTERNATIONAL AIRPORT				
PERMANENT DRILL SITE RNCFSU-4	390	390	390	390
TOTAL, MINNESOTA	7,042	7,042	7,042	7,042
MISSISSIPPI				
NAVY				
NAVAL AIR STATION MERIDIAN				
AIRFIELD PAVEMENTS	3,170	3,170	3,170	3,170
FACILITY ENERGY IMPROVEMENTS	650	650	650	650
GAS GENERATING PLANT	590	590	590	590
PHYSICAL SECURITY IMPROVEMENTS	250	---	---	---
NAVAL CONSTRUCTION BATTALION CTR GULFPORT				
CONTROLLED HUMIDITY STORAGE FACILITIES	14,200	14,200	14,200	14,200
DATA PROCESSING CENTER	690	---	690	690
FACILITY ENERGY IMPROVEMENTS	400	400	400	400
SEABEE BATTALION OPERATIONS FACILITY	1,670	---	1,670	1,670
SECURITY BUILDING	690	690	690	690
NAVAL CONSTRUCTION TRAINING CTR GULFPORT				
SEABEES INSTRUCTION BUILDING	1,180	---	1,180	1,180
SUPERVISOR OF SHIP BUILDING PASCAGOULA				
LAND ACQUISITION & BUILDING MODERNIZATION	4,120	4,120	4,120	4,120
AIR FORCE				
KEESLER AFB				
DEFENSE ACCESS ROAD	3,200	3,200	3,200	3,200
ECIP-FACILITY ENERGY IMPROVEMENTS	1,970	---	---	---
DEFENSE AGENCIES				
KEESLER AFB				
ADD/ALTER RADIOLOGY LINER ACCELERATOR	3,100	3,100	3,100	3,100
ARMY NATIONAL GUARD				
CAMP MCCAIN				
COMBINED SUPPORT MAINTENANCE SHOP	---	(1,493)	1,745	1,493
ARMORY	---	(1,607)	1,410	1,607
BARRACKS AND DINING HALL	---	(722)	625	722
CAMP SHELBY				
REGIONAL MAINTENANCE TNG SITE	1,214	1,214	1,214	1,214
TRANING FACILITY, PH 2	---	---	4,451	4,451
AIR NATIONAL GUARD				
ALLEN C THOMPSON FIELD				
ADD-ALTER ENGINE/AVIONICS SHOPS	1,300	1,300	1,300	1,300
GULFPORT				
JET FUEL STORAGE COMPLEX	4,250	4,250	4,250	4,250
TOTAL, MISSISSIPPI	42,644	36,884	48,655	48,697

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
MISSOURI				
ARMY				
FORT LEONARD WOOD				
APPLIED INSTRUCTION FACILITY	16,000	16,000	---	15,000
ENGINEER SCHOOL/POST HEADQUARTERS BUILDING	14,000	13,000	13,000	13,000
UNACCOMPANIED OFFICERS HOUSING	13,200	13,200	13,200	13,200
AIR FORCE				
WHITEMAN AFB				
ALTER ELECTRICAL DISTRIBUTION SYSTEM	9,500	9,500	9,500	9,500
COLD STORAGE FACILITY	1,200	1,200	1,200	1,200
DEFENSE AGENCIES				
DMA AEROSPACE CENTER				
DIGITAL PRODUCTION FACILITIES	16,700	14,700	16,700	15,700
ARMY NATIONAL GUARD				
CAMP CLARK				
RANGE, COMBAT PISTOL	105	105	105	105
FORT CROWDER				
CLASSROOMS, MILITARY	123	123	123	123
RANGE COMBAT PISTOL	105	105	105	105
RANGE, RECORD FIRE	231	231	231	231
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	343	343	343	343
AIR NATIONAL GUARD				
ROSECRANS MEMORIAL AIRPORT				
ADD TO SUPPORT EQUIPMENT SHOP	180	180	180	180
ADDITION TO SQUADRON OPERATIONS	1,200	1,200	1,200	1,200
ST LOUIS-LAMBERT FIELD				
MOBILITY STORAGE WAREHOUSE	350	350	350	350
NAVY RESERVE				
RNMCB-15 RICHARDS GEBAUR AFB				
OPERATIONAL STORAGE FACILITY RNMCB-15	175	175	175	175
TOTAL, MISSOURI	73,412	70,412	56,412	70,412
MONTANA				
AIR FORCE				
MALMSTROM AFB				
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	3,800	3,800	3,800	3,800
KC135R-ADD TO AND ALTER FIRE STATION	570	570	570	570
KC135R-ADD/ALTER VEHICLE MAINTENANCE SHOP	800	800	800	800
KC135R-ALTER AIRFIELD PAVEMENTS	6,600	6,600	6,600	6,600
KC135R-ALTER AVIONICS MAINTENANCE SHOP	210	210	210	210
KC135R-ALTER FUEL CELL MAINTENANCE DOCK	1,400	1,400	1,400	1,400
KC135R-ALTER HEADQUARTERS OPERATIONS FAC	7,700	7,700	---	7,700
KC135R-ALTER HYDRANT REFUELING SYSTEM	8,500	8,500	8,500	8,500
KC135R-ALTER SUPPORT EQUIP/STORAGE FAC	280	280	280	280
KC135R-APRON LIGHTING	390	390	390	390
KC135R-CASS PROVISIONS-PHASE I	1,800	1,800	1,800	1,800
KC135R-INSTRUMENT LANDING SYSTEM	920	920	920	920
KC135R-RUNWAY APPROACH LIGHTING	800	800	800	800
ARMY NATIONAL GUARD				
BILLINGS				
ORGANIZATIONAL MAINTENANCE SHOP	410	410	410	410
RANGE, MULTI-PURPOSE INDOOR	315	315	315	315
GLENDIVE				
RANGE, MULTI-PURPOSE INDOOR	315	315	315	315
LIMESTONE HILLS				
RANGE SUPPORT FACILITY	192	192	192	192
AIR NATIONAL GUARD				
GREAT FALLS IAP				
SPECIAL FUELS FACILITY	190	190	190	190
TOTAL, MONTANA	35,192	35,192	27,492	35,192
NEBRASKA				
AIR FORCE				
OFFUTT AFB				
ADD TO COMBAT ARMS TRAINING/MAINT FACS	520	520	---	---
ADD-ALTER STRATEGIC COMM DIVISION HQ FAC	2,470	---	---	---
ECIP-FACILITY ENERGY IMPROVEMENTS	2,680	---	---	---
ELECTRICAL SUBSTATION	4,450	4,450	4,450	4,450
SECURITY IMPROVEMENTS	2,500	2,500	2,500	2,500
STRATEGIC ANALYSIS AND APPLICATIONS CTR	12,350	10,850	10,850	10,850
ARMY NATIONAL GUARD				
GERING				
ORGANIZATIONAL MAINTENANCE SHOP	135	135	135	135
HASTINGS				
RANGE, FIELD FIRE	127	127	127	127
RANGE, TANK TABLE VIIC	129	129	129	129
UNIT TRAINING EQUIPMENT SITE	581	581	581	581
LINCOLN				
U.S. PROPERTY & FISCAL OFFICE ADDITION	242	242	242	242
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	283	283	283	283

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVY RESERVE				
AFRC LAS VEGAS				
RESERVE CENTER ADDITION	1,000	1,000	1,000	1,000
AIR NATIONAL GUARD				
LINCOLN MAP				
ADD-ALTER FLIGHTLINE MAINTENANCE SHOP	160	160	160	160
TOTAL, NEBRASKA	26,627	19,977	19,457	19,457
NEVADA				
ARMY				
HAWTHORNE AAP				
AMMUNITION SURVEILLANCE FACILITY	7,000	---	---	---
NAVY				
NAVAL AIR STATION FALLON				
ELECTRONIC WARFARE RANGE IMPROVEMENTS	11,800	7,800	7,800	7,800
LAND ACQUISITION	6,400	6,400	6,400	6,400
PARALLEL RUNWAY	17,000	17,000	17,000	17,000
AIR FORCE				
INDIAN SPRINGS				
CONTROL TOWER	1,700	1,700	1,700	1,700
NELLIS AFB				
BASE CIVIL ENGINEERING COMPLEX-PHASE I	7,700	---	---	---
COMBAT SUPPORT CENTER	6,200	6,200	6,200	6,200
DINING HALL	2,600	2,600	2,600	2,600
PARALLEL TAXIWAY/LAND ACQUISITION	7,300	7,300	7,300	7,300
TOTAL, NEVADA	68,700	50,000	50,000	50,000
NEW HAMPSHIRE				
AIR FORCE				
PEASE AFB				
ADD-ALTER AVIONICS MAINTENANCE SHOP	1,150	---	1,150	1,150
ADD-ALTER COMBAT ARMS TRAINING/MAINT FAC	1,050	---	---	---
ARMY NATIONAL GUARD				
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	460	460	460	460
TOTAL, NEW HAMPSHIRE	2,660	460	1,610	1,610
NEW JERSEY				
ARMY				
FORT MONMOUTH				
BARRACKS MODERNIZATION	4,900	4,900	4,900	4,900
NAVY				
NAVAL WEAPONS STATION EARLE				
AMMUNITION PIER AND TRESTLE	52,500	25,000	25,000	25,000
FLEET SUPPORT FACILITIES	1,960	1,960	1,960	1,960
SECURITY TOWER	300	300	300	300
AIR FORCE				
MCGUIRE AFB				
ADD-ALTER BASE CIVIL ENGINEERING COMPLEX	5,700	5,700	---	---
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	7,000	7,000	7,000	7,000
SATELLITE COMMUNICATIONS GROUND TERMINAL	895	895	895	895
DEFENSE AGENCIES				
MCGUIRE AFB				
DENTAL CLINIC	3,800	3,800	3,800	3,800
ARMY NATIONAL GUARD				
RED BANK				
ORGANIZATIONAL MAINTENANCE SHOP MODIFICAT	211	211	211	211
SEA GIRT				
BAFFLED RANGES	567	567	567	567
VINELAND				
ORGANIZATIONAL MAINTENANCE SHOP MODIFICAT	183	183	183	183
AIR NATIONAL GUARD				
ATLANTIC CITY				
ADD-ALTER FUEL CELL MAINTENANCE HANGAR	350	350	350	350
AVIONICS SHOP	2,060	2,060	2,060	2,060
COMPOSITE AIRCRAFT MAINTENANCE COMPLEX	3,600	3,600	3,600	3,600
MCGUIRE AFB				
BASE SUPPLY WAREHOUSE	3,000	3,000	3,000	3,000
MUNITIONS MAINTENANCE AND STORAGE FAC	1,200	1,200	1,200	1,200
NAVY RESERVE				
RNMCB-21 LAKEHURST				
OPERATIONAL STORAGE FACILITY RNMCB-21	175	175	175	175
TOTAL, NEW JERSEY	88,401	60,901	55,201	55,201

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NEW MEXICO				
ARMY				
FORT WINGATE				
SECURITY UPGRADE	350	---	350	---
AIR FORCE				
CANNON AFB				
SMALL AIRCRAFT MAINTENANCE DOCK	---	---	4,700	---
AIRCRAFT FUEL SYSTEM MAINTENANCE DOCK	---	---	2,550	---
HOLLOMAN AFB				
LAND ACQUISITION	2,150	2,150	2,150	2,150
RATSCAT MODERNIZATION-PHASE II	4,160	4,160	4,160	4,160
SATELLITE COMMUNICATIONS SYSTEMS SECURITY	600	600	600	600
TACTICAL OPERATIONS CENTER	3,350	3,350	3,350	3,350
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	4,500	4,500	4,500	4,500
KIRTLAND AFB				
ALTER MAINTENANCE HANGAR	1,300	1,300	1,300	1,300
COMMUNICATIONS DUCT SYSTEM	1,800	1,800	1,800	1,800
OPTICS AND BEAM CONTROL LABORATORY	8,700	---	8,700	8,700
DEFENSE AGENCIES				
KIRKLAND AFB				
POWER UPGRADE BUILDING NBR 20676	900	900	900	900
KIRTLAND AFB				
ADD/ALTER COMPOSITE MEDICAL FACILITY	25,550	---	16,000	16,000
WHITE SANDS MISSILE RANGE				
HIGH ENDO DEFENSE INTERCEPTOR LAUNCH CMPLX	1,930	---	1,930	1,930
ARMY NATIONAL GUARD				
SANTA FE				
ARMORY	---	(3,410)	---	3,410
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	209	209	209	209
AIR NATIONAL GUARD				
KIRTLAND AFB				
LANA POD MAINTENANCE SHOP	360	360	360	360
TOTAL, NEW MEXICO	55,859	19,329	53,559	49,369
NEW YORK				
ARMY				
FORT DRUM				
10TH MOUNTAIN DIVISION FACILITIES - PH I	232,000	175,000	180,000	175,000
ADVANCE APPROPRIATION 1988	221,000	221,000	---	221,000
ADVANCE APPROPRIATION 1989	162,000	214,000	---	214,000
COMMUNITY PLANNING ASSISTANCE	---	200	---	200
SENECA ARMY DEPOT				
SECURITY LIGHTING	1,100	---	1,100	---
U S MILITARY ACADEMY				
ACADEMIC FACILITY MODERNIZATION	15,500	---	14,500	14,500
ACADEMIC FACILITY MODERNIZATION PHASE II	13,000	10,000	10,000	10,000
GENERAL INSTRUCTION BUILDING	7,400	7,300	7,300	7,300
NAVY				
NAVAL STATION NEW YORK - BATTLESHIP SUPPORT COMPLEX				
SHORE INTERMEDIATE MAINTENANCE ACTIVITY	22,400	---	22,400	22,400
SUPPLY WAREHOUSES	6,800	---	6,800	---
BACHELOR ENLISTED QUARTERS AND MESS HALL	8,150	---	8,150	8,150
BACHELOR OFFICER QUARTERS	2,450	---	2,450	---
UTILITIES AND SITE IMPROVEMENT	22,400	---	22,400	22,400
GENERAL REDUCTION	---	---	-6,000	---
AIR FORCE				
GRIFFISS AFB				
SECURITY IMPROVEMENTS	1,150	1,150	1,150	1,150
T9-NOISE SUPPRESSOR SUPPORT FACILITY	440	440	440	440
PLATTSBURGH AFB				
ADD-ALTER VEHICLE MAINTENANCE SHOP	3,200	---	---	---
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	3,000	3,000	---	---
COMBAT ARMS TRAINING/MAINT FACS	1,250	1,250	1,250	1,250
KC135-COCKPIT PROCEDURES TRAINER SIM FAC	760	760	760	760
SECURITY IMPROVEMENTS	1,400	1,400	1,400	1,400
DEFENSE AGENCIES				
GOVERNORS ISLAND				
ELEM/JR HIGH SCHOOL ADDITION/ROOF REPAIR	2,600	2,600	---	---
ARMY NATIONAL GUARD				
DRYDEN				
200 PERSON ARMORY	1,670	1,670	1,670	1,670
GUILDERLAND				
TRAINING FACILITIES, PHASE II	305	305	305	305
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	775	775	775	775
AIR NATIONAL GUARD				
HANCOCK FIELD				
MOBILITY STORAGE WAREHOUSE	170	170	170	170
STEWART AIRPORT				
COMPOSITE MAINT FAC/SUPPLY COMPLEX	10,150	10,150	10,150	10,150

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY RESERVE				
NEWBURGH				
ARMY RESERVE CENTER/MAINT FACILITIES	5,485	5,485	5,485	5,485
SCHENECTADY				
MAINT ACTIVITY/KITCHEN ADDITION	165	165	165	165
NAVY RESERVE				
RNCFSU-1 SYRACUSE				
PERMANENT DRILL SITE RNCFSU-1	390	390	390	390
RNMCB-13 PEEKSKILL				
OPERATIONAL STORAGE FACILITY RNMCB-13	175	175	175	175
STEWART AIR FORCE BASE				
TOTAL, NEW YORK	364,285	222,385	293,385	284,235
NORTH CAROLINA				
ARMY				
FORT BRAGG				
AERIAL GUNNERY RANGE	2,350	2,350	---	---
FLIGHT SIMULATOR BUILDING	1,300	1,300	1,300	1,300
OPERATIONS COMPLEX PHASE II	5,200	5,200	5,200	5,200
RANGE COMPLEX	1,050	1,050	1,050	1,050
SPECIAL FORCES MISSION SUPPORT FACILITY	6,500	6,500	---	6,500
TACTICAL EQUIPMENT SHOP	8,200	8,200	---	8,200
SUNNY POINT ARMY TERM				
PROVOST MARSHAL FACILITY	650	650	650	650
NAVY				
MARINE CORPS AIR STATION CHERRY POINT				
AIRCRAFT RINSE FACILITY	500	500	500	500
LAND ACQUISITION	1,370	1,370	1,370	1,370
OPERATIONAL TRAINER FACILITY ADDITION	980	980	980	980
REFUELING VEHICLE MAINTENANCE SHOPS	2,060	---	---	---
TACTICAL AIR COMBAT TRAINING FACILITY	3,730	3,730	3,730	3,730
TROOP AND CARGO STAGING FACILITY	6,870	6,870	---	6,870
MARINE CORPS AIR STATION NEW RIVER				
BACHELOR ENLISTED QUARTERS	4,900	4,900	4,900	4,900
GROUP OPERATIONS FACILITY	980	980	980	980
MAINTENANCE HANGAR MODERNIZATIONS	15,120	15,120	15,120	15,120
ROAD IMPROVEMENTS	710	710	710	710
MARINE CORPS BASE CAMP LEJUENE				
BACHELOR ENLISTED QUARTERS	17,700	14,700	17,700	14,700
BATTALION OPERATIONS FACILITY	3,250	3,250	3,250	3,250
COMBAT VEHICLE MAINTENANCE SHOP	2,850	2,850	2,850	2,850
ELECTRONICS & COMMUNICATIONS MAINT SHOP	4,610	4,610	4,610	4,610
FIELD MAINTENANCE COMPLEX	5,900	5,900	---	5,900
MESS HALL	4,810	---	---	---
NAVAL AIR REWORK FACILITY CHERRY POINT				
AIRCRAFT ENGINE BLADE REWORK FACILITY	15,600	15,600	---	15,600
AIRCRAFT REWORK FACILITY	21,600	21,600	---	21,600
NAVAL HOSPITAL CAMP LEJUENE				
BACHELOR ENLISTED QUARTERS	1,670	1,670	1,670	1,670
AIR FORCE				
POPE AFB				
MUNITIONS STORAGE COMPLEX	1,100	1,100	1,100	1,100
UPGRADE CENTRAL HEATING PLANTS	2,300	2,300	2,300	2,300
SEYMOUR JOHNSON AFB				
AIRCRAFT MAINTENANCE SUPPLY WAREHOUSE	2,100	2,100	---	---
SOUND SUPPRESSOR SUPPORT	660	660	660	660
DEFENSE AGENCIES				
CAMP LEJEUNE				
MEDICAL AND DENTAL CLINIC	3,900	3,900	3,900	3,900
TARAWA TERR/STONE ST/DELALIP ELEM ADDITION	1,190	1,190	---	---
ARMY NATIONAL GUARD				
FORT BRAGG				
REGIONAL MAINTENANCE TNG SITE	1,211	1,211	1,211	1,211
MORRISVILLE				
400 PERSON ARMORY	2,061	2,061	2,061	2,061
ARMY AVIATION SUPPORT FACILITY	3,698	3,698	3,698	3,698
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	475	475	475	475
WADESBORO				
ARMORY	---	(681)	---	681
ARMY RESERVE				
DURHAM				
LAND ACQUISITION	90	90	90	90
FORT BRAGG				
EQUIPMENT CONCENTRATION SITE/MAINT FAC	2,946	2,946	2,946	2,946
STATESVILLE				
LAND ACQUISITION	35	35	35	35
TOTAL, NORTH CAROLINA	162,226	152,366	85,046	147,397

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NORTH DAKOTA				
AIR FORCE				
CAVALIER				
ADD-ALTER COOLING SYSTEM	1,120	1,120	1,120	1,120
ALTER SATCOM GROUND TERMINAL	1,700	1,700	1,700	1,700
GRAND FORKS AFB				
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	4,100	4,100	4,100	4,100
B1B-ADD/ALTER VARIOUS MAINTENANCE FACS	1,700	1,700	1,700	1,700
B1B-ALTER FLIGHT SIMULATOR TRAINING FAC	1,100	1,100	1,100	1,100
B1B-ALTER INTEGRATED MAINTENANCE FACILITY	550	550	550	550
B1B-BLAST DEFLECTORS	1,750	1,750	1,750	1,750
B1B-CASS EQUIPMENT AND INSTALLATION	3,000	3,000	3,000	3,000
B1B-CROSSOVER TAXIWAY	2,400	2,400	2,400	2,400
B1B-JET ENGINE STORAGE FACILITY	430	430	430	430
B1B-SECONDARY FIRE STATION	330	330	330	330
B1B-SUPPORT EQUIP AND STORAGE FACILITY	3,150	3,150	3,150	3,150
B1B-TRACTOR/TRAILER STORAGE FACILITIES	930	930	930	930
COMBAT ARMS TRAINING/MAINT FACS	1,500	1,500	1,500	1,500
ELEVATED WATER STORAGE TANK	680	680	680	680
KC135-COCKPIT PROCEDURES TRAINER SIM FAC	780	780	780	780
SECURITY IMPROVEMENTS	730	730	730	730
MINOT AFB				
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	4,650	4,650	4,650	4,650
CM-ADD/ALTER MUNITIONS MAINTENANCE SHOP	1,700	1,700	1,700	1,700
CM-MUNITIONS UPLOAD TRAINING FACILITY	8,300	8,300	8,300	8,300
CM-UNARMED WEAPONS STORAGE FACILITY	1,100	1,100	1,100	1,100
CM-UPGRADE WEAPONS STORAGE AREA	2,100	2,100	2,100	2,100
CM-WEAPONS CONVOY ROADS	710	710	710	710
CM-WEAPONS STORAGE IGLOOS	11,100	11,100	11,100	11,100
COMBAT ARMS TRAINING/MAINT FACS	1,250	1,250	1,250	1,250
ECIP-ALTER HEATING SYSTEMS	250	---	---	---
KC135-COCKPIT PROCEDURES TRAINER SIM FAC	890	890	890	890
SECURITY IMPROVEMENTS	1,050	1,050	1,050	1,050
ARMY NATIONAL GUARD				
BISMARCK				
400 PERSON ARMORY	5,295	5,295	5,295	5,295
TOTAL, NORTH DAKOTA	64,345	64,095	64,095	64,095
OHIO				
AIR FORCE				
NEWARK AFS				
RADIAC LABORATORY	3,000	3,000	3,000	3,000
WRIGHT-PATTERSON AFB				
ACCESS ROAD	15,000	15,000	15,000	15,000
ADD-ALTER ACFT FIRE PROT/EXPL RESEARCH LAB	2,850	2,850	2,850	2,850
ADD-ALTER BIOCOMMUNICATIONS LABORATORY	7,400	7,400	---	7,400
AIRCRAFT SUPPORT EQUIPMENT FACILITY	3,300	3,300	---	---
HANGAR FIRE PROTECTION SYSTEM	2,350	2,350	2,350	2,350
ROAD	3,600	3,600	3,600	3,600
DEFENSE AGENCIES				
DEFENSE CONSTRUCTION SUPPLY CENTER				
IMPROVE LIGHTING	580	580	580	580
IMPROVE WAREHOUSE FACILITIES	280	280	280	280
ARMY NATIONAL GUARD				
GREENSBURG				
ARMORY	---	(3,254)	---	3,254
LIMA				
ORGANIZATIONAL MAINTENANCE SHOP	324	324	324	324
PIQUA				
ORGANIZATIONAL MAINTENANCE SHOP	312	312	312	312
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	500	500	500	500
AIR NATIONAL GUARD				
RICKENBACKER ANGB				
ALTER AGE MAINTENANCE SHOP	160	160	160	160
SPRINGFIELD MAP				
WATER AND SEWER LINES	1,100	1,100	1,100	1,100
TOLEDO EXPRESS AIRPORT				
ADD TO FIRE STATION	250	250	250	250
NAVY RESERVE				
NMCRC YOUNGSTOWN				
RESERVE TRAINING BUILDING	3,600	3,600	3,600	3,600
RNMCB-20 COLUMBUS				
OPERATIONAL STORAGE FACILITY RNMCB-20	175	175	175	175
AIR FORCE RESERVE				
WRIGHT-PATTERSON AFB				
ALTER 401ST CLSS FACILITY	200	200	200	200
YOUNGSTOWN MAP				
ADD-ALTER SQUADRON OPERATIONS	340	340	340	340
TOTAL, OHIO	45,321	45,321	34,621	45,275

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
OKLAHOMA				
ARMY				
FORT SILL				
VEHICLE WASH FACILITY	3,050	---	---	---
AIR FORCE				
ALTUS AFB				
LAND ACQUISITION	310	310	310	310
TINKER AFB				
ADD-ALTER ENGINE TUBING/ACCESSORY SHOP	1,650	1,650	1,650	1,650
ADD-ALTER HAZARDOUS STORAGE FACILITY	1,800	1,800	1,800	1,800
ADD-ALTER HEAT TREATMENT FACILITY	2,300	2,300	2,300	2,300
AIRCRAFT MAINTENANCE HANGAR	15,000	15,000	15,000	15,000
ALTER F-107 ENGINE FACILITY	1,350	1,350	1,350	1,350
WAREHOUSE	10,800	10,800	---	10,800
ARMY NATIONAL GUARD				
CAMP GRUBER				
RANGE, LT ANTI-ARMOR WEAPONS	147	147	147	147
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	410	410	410	410
AIR NATIONAL GUARD				
TULSA IAP				
ADDITION FOR ECM POD MAINTENANCE SHOP	220	220	220	220
AIR FORCE RESERVE				
TINKER AFB				
ADD TO TERMINAL FOR AERIAL PORT	830	830	830	830
TOTAL, OKLAHOMA	37,867	34,817	24,017	34,817
OREGON				
ARMY				
UMATILLA ARMY DEPOT				
SECURITY UPGRADE	1,050	---	1,050	---
ARMY NATIONAL GUARD				
ASHLAND				
100 PERSON ARMORY	1,048	1,048	1,048	1,048
CAMP ADAIR				
TARGET STORAGE/LATRINE/SAFETY BERM/ROAD	304	304	304	304
CAMP WITHYCOMBE				
COMM-ELEC, CANVAS & CARPENTRY SHOP	663	663	663	663
EUGENE				
ARMORORY ADD/ALT	503	503	503	503
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	277	277	277	277
AIR NATIONAL GUARD				
KINGSLEY FIELD				
ALTER PARACHUTE AND DINGHY SHOP	250	250	250	250
PORTLAND IAP				
BASE SUPPLY WAREHOUSE	4,600	4,600	4,600	4,600
AIR FORCE RESERVE				
PORTLAND IAP				
ADD TO BASE WAREHOUSE	400	400	400	400
ADD-ALTER MEDICAL TRAINING FACILITY	380	380	380	380
MAINTENANCE HANGAR	3,900	3,900	3,900	3,900
TOTAL, OREGON	13,375	12,325	13,375	12,325
PENNSYLVANIA				
ARMY				
CARLISLE BARRACKS				
TACTICAL EQUIPMENT SHOP	800	800	800	800
LETTERKENNY ARMY DEPOT				
SECURITY UPGRADE	1,900	---	1,900	---
NEW CUMBERLAND AD				
EASTERN DISTRIBUTION CENTER-PHASE II	51,000	41,000	43,000	41,000
NAVY				
NAVAL SHIP SYSTEM ENGR STA PHILADELPHIA				
ELECTRICAL DISTRIBUTION SYSTEM IMPROVES	400	400	400	400
NAVY SHIPS PARTS CONTROL CTR MECHANICSBURG				
FACILITY ENERGY IMPROVEMENTS	1,670	---	1,670	1,670
DEFENSE AGENCIES				
DEF REUTILIZATION & MARKETING OFC MECHANBG				
SCRAPYARD IMPROVEMENTS	1,290	---	1,290	---
ARMY NATIONAL GUARD				
INDIANA				
RANGE, 25 METER BAFFLED	125	125	125	125
RIDGEWAY				
RANGE, 25 METER BAFFLED	125	125	125	125
WILLIAMSTOWN				
ARMORY ADD/ALT	533	533	533	533
AIR NATIONAL GUARD				
HARRISBURG IAP				
OPERATIONS, TRAINING, DINING & MEDICAL FACILITIES	---	---	3,600	3,600

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY RESERVE				
CLINTON				
LOCAL TRAINING AREA	476	476	476	476
LEWISBURG				
ARMY RESERVE CENTER MAINT FACILITY	1,296	1,296	1,296	1,296
SCHUYLKILL HAVEN				
ADD/ALTER RESERVE CENTER/MAINT FACILITY	2,089	2,089	2,089	2,089
NAVY RESERVE				
MCRC WYOMING				
COMBAT VEHICLE MAINT FACILITY	190	190	190	190
NAS WILLOW GROVE				
AIRCRAFT MAINTENANCE HANGAR	8,000	8,000	8,000	8,000
AIRCRAFT RINSE FACILITY	150	150	150	150
RNCFSU-1 BEAVER COUNTY				
PERMANENT DRILL SITE RNCFSU-1	390	390	390	390
AIR FORCE RESERVE				
GREATER PITTSBURGH IAP				
ADD-ALTER AERIAL PORT TRAINING FACILITY	620	620	620	620
TOTAL, PENNSYLVANIA	71,054	56,194	66,654	61,464
RHODE ISLAND				
NAVY				
NAVAL EDUCATION & TRAINING CENTER NEWPORT				
BACHELOR OFFICER QUARTERS	8,800	8,800	---	---
UTILITY SYSTEMS IMPROVEMENTS	2,900	2,900	2,900	2,900
SURFACE WARFARE OFFICERS SCH CMD NEWPORT				
SURFACE WARFARE OFFICER TRAINING FACILITY	8,840	---	8,800	8,800
ARMY NATIONAL GUARD				
CAMP FOGARTY				
RANGE, RIFLE 175 METER BAFFLED	288	288	288	288
WARWICK				
ARMORY ADD/ALT	2,880	2,880	2,880	2,880
AIR NATIONAL GUARD				
NORTH SMITHFIELD ANGS				
COMMUNICATIONS/ELECTRONICS TRNG FAC-PH I	2,400	2,400	2,400	2,400
TOTAL, RHODE ISLAND	26,108	17,268	17,268	17,268
SOUTH CAROLINA				
ARMY				
FORT JACKSON				
APPLIED INSTRUCTION FACILITY	1,300	1,300	---	1,300
SOLDIER SERVICE CENTER	---	---	9,100	---
NAVY				
MARINE CORPS AIR STATION BEAUFORT				
AIRCRAFT RINSE FACILITY	740	---	740	740
AUTOMOTIVE VEHICLE MAINTENANCE SHOP	640	---	640	640
FLIGHT LINE SECURITY IMPROVEMENTS	1,280	1,280	1,280	1,280
FUEL SYSTEM MAINTENANCE FACILITIES	1,370	1,370	1,370	1,370
RUNWAY APPROACH LIGHTING	960	960	960	960
MARINE CORPS RECRUIT DEPOT PARRIS ISLAND				
RECRUIT BATTALION OPERATIONS FACILITY	1,870	---	1,870	---
CLOTHING ISSUE	---	---	2,630	---
BACHELOR OFFICER QUARTERS	---	---	4,620	---
NAVAL SHIPYARD CHARLESTON				
DRYDOCK PUMPHOUSE ALTERATIONS	7,860	7,860	7,860	7,860
HAZARDOUS & FLAMMABLE MATERIALS STOREHOUSE	2,950	2,950	2,950	2,950
NAVAL STATION CHARLESTON				
MOBILE MINE ASSEMBLY GROUP OPERATIONS FAC	1,400	1,400	1,400	1,400
NAVAL WEAPONS STATION CHARLESTON				
CONSOLIDATED BRIG	16,500	16,500	---	16,500
PIER IMPROVEMENTS	6,130	---	6,130	6,130
AIR FORCE				
CHARLESTON AFB				
ADD-ALTER RECREATION CENTER	560	---	---	---
AERIAL REFUELING PART TASK TRAINER	1,200	1,200	1,200	1,200
CORROSION CONTROL COVERED WASHRACK	5,000	5,000	5,000	5,000
MATERIAL HANDLING EQUIP MAINT SHOP	730	730	730	730
SQUADRON OPERATIONS BUILDING	---	---	1,200	---
MYRTLE BEACH AFB				
AIRCRAFT CORROSION CONTROL FACILITY	3,000	---	3,000	3,000
SHAW AFB				
ADD-ALTER 9TH AIR FORCE HEADQUARTERS	3,700	---	3,700	3,700
ADD-ALTER WEAPONS SYSTEM MAINT MGMT FAC	1,150	---	---	---
DEFENSE AGENCIES				
DEF FUEL SUPPORT CHARLESTON				
FIRE PROTECTION	460	460	460	460
DEF FUEL SUPPORT POINT NSC CHARLESTON				
FUEL TANKAGE	5,130	---	5,130	---
ARMY NATIONAL GUARD				
HAMPTON				
LOGISTICAL FACILITY DAS3 CLIX	128	128	128	128

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	315	315	315	315
AIR NATIONAL GUARD				
MCENTIRE				
MUNITIONS MAINTENANCE/STORAGE FACILITY	1,600	1,600	1,600	1,600
ARMY RESERVE				
FLORENCE				
LAND ACQUISITION	200	---	200	200
ORANGEBURG				
LAND ACQUISITION	75	75	75	75
ROCK HILL				
LAND ACQUISITION	20	20	20	20
TOTAL, SOUTH CAROLINA	66,268	43,148	64,308	57,558
SOUTH DAKOTA				
AIR FORCE				
ELLSWORTH AFB				
B1B-ADD/ALTER WRSK STORAGE FACILITY	860	860	860	860
COMBAT ARMS TRAINING/MAINT FACS	1,000	1,000	1,000	1,000
CONTROL TOWER	2,150	2,150	2,150	2,150
LIFE SUPPORT FACILITY	950	---	950	950
SECURITY IMPROVEMENTS	450	450	450	450
STC-CONTROL AND OPERATIONS FACILITY	5,500	5,500	5,500	5,500
ARMY NATIONAL GUARD				
MITCHELL				
RANGE, PISTOL BAFFLED	221	221	221	221
SIOUX FALLS				
RANGE, PISTOL BAFFLED	221	221	221	221
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	400	400	400	400
AIR NATIONAL GUARD				
JOE FOSS FIELD				
JET FUEL STORAGE COMPLEX	2,500	2,500	2,500	2,500
TOTAL, SOUTH DAKOTA	14,252	13,302	14,252	14,252
TENNESSEE				
NAVY				
NAVAL AIR STATION MEMPHIS				
AVIATION ORDNANCEMAN TRAINING BUILDING	12,800	---	12,800	12,800
BRIG	2,750	2,750	2,750	2,750
ENTRANCE ROADS IMPROVEMENT	1,570	---	1,570	---
WATER TREAMENT FACILITY	260	260	260	260
AIR FORCE				
ARNOLD ENGINEERING DEV CENTER				
ADD-ALTER CHEMICAL LABORATORY	730	730	730	730
FIRE DEFICIENCY CORRECTIONS	2,800	2,800	2,800	2,800
DEFENSE AGENCIES				
DEFENSE DEPOT MEMPHIS				
DINING FACILITY	1,160	1,160	1,160	1,160
ARMY NATIONAL GUARD				
CATOOSA				
RANGE, MACHINE GUN/DEMOLITION	138	138	138	138
DYERSBURG				
ARMORY	---	(984)	984	984
HOHENWALD				
60 PERSON ARMORY	656	656	656	656
MILAN				
TRAINING FAC. PHASE III	2,697	2,697	2,697	2,697
MILLINGTON				
60 PERSON ARMORY	1,013	1,013	1,013	1,013
NASHVILLE				
USPFO ADDITION	644	644	644	644
PULASKI				
100 PERSON ARMORY	650	650	650	650
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	335	335	335	335
TOTAL, TENNESSEE	28,203	13,833	29,187	27,617
TEXAS				
ARMY				
CORPUS CHRISTI ARMY DEPOT				
AIRCRAFT MAINTENANCE SHOP	7,200	7,200	7,200	7,200
AIRCRAFT MAINTENANCE SHOP ADDITION	2,150	---	2,150	---
COMPOSITE PANEL PREPARATION FACILITY	1,200	1,200	1,200	1,200
POWER TRAIN FACILITY	---	2,250	---	2,250
FORT HOOD				
ACADEMIC INSTRUCTION FACILITY	2,750	2,750	---	2,750
RANGE MODERNIZATIONS	4,500	4,500	4,500	4,500
VEHICLE WASH FACILITY	10,600	10,600	10,600	10,600

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
FORT SAM HOUSTON				
CHILD DEVELOPMENT CENTER	2,900	2,900	---	---
WATER STORAGE TANK	800	800	800	800
RED RIVER ARMY DEPOT				
SECURITY UPGRADE	1,350	---	1,350	---
NAVY				
NAVAL AIR STATION CORPUS CHRISTI				
FACILITY ENERGY IMPROVEMENTS	690	690	690	690
NAVAL AIR STATION KINGSVILLE				
FIRE ALARM SYSTEM	640	640	640	640
JET ENGINE TEST CELL FACILITY	3,140	---	3,140	3,140
AIR FORCE				
BERGSTROM AFB				
ADD-ALTER TACTICAL INTELL SQ FACILITY	1,260	1,260	1,260	1,260
SOUND SUPPRESSOR SUPPORT	600	600	600	600
TACTICAL AIR CONTROL CENTER FACILITY	3,390	---	3,390	---
CARSWELL AFB				
VEHICLE FUELING STATION	490	490	490	490
DYESS AFB				
B1B-JET ENGINE STORAGE FACILITY	590	590	590	590
B1B-MUNITIONS EQUIPMENT STORAGE FACILITIES	1,050	1,050	1,050	1,050
COMBAT ARMS TRAINING/MAINT FACS	960	960	960	960
SECURITY IMPROVEMENTS	750	750	750	750
T9-NOISE SUPPRESSOR SUPPORT FACILITY	780	780	780	780
GOODFELLOW AFB				
UNACCOMPANIED OFFICER PERSONNEL HOUSING	10,000	---	10,000	10,000
KELLY AFB				
FUEL SYSTEMS ACCESSORIES TEST FACILITY	10,900	9,400	---	---
WEAPONS SYSTEMS SUPPORT CENTER	39,000	---	---	---
LACKLAND AFB				
ACADEMIC FACILITY-SECURITY POLICE	5,500	---	---	---
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	16,000	16,000	16,000	16,000
LAUGHLIN AFB				
LAND ACQUISITION-AUXILIARY FIELD	3,700	3,700	3,700	3,700
RANDOLPH AFB				
AF MGMT ENGINEERING AGENCY ADMIN FAC	2,250	---	---	---
SHEPPARD AFB				
MEDICAL TRAINING FACILITY	14,200	12,000	---	---
DEFENSE AGENCIES				
BROOKS AFB				
ADD/ALTER DRUG ABUSE DETECTION LAB	1,850	---	1,850	1,850
FORT HOOD				
TROOP MEDICAL CLINIC	3,450	3,450	3,450	3,450
FORT SAM HOUSTON				
BROOKE ARMY HOSPITAL PHASE I	---	---	10,000	10,000
RANDOLPH AFB				
CLINIC/DENTAL CLINIC	13,700	12,200	12,200	12,200
ARMY NATIONAL GUARD				
ABILENE				
ARMORY ADD/ALT	924	924	924	924
AUSTIN				
ARMORY MODIFICATION	400	400	400	400
U.S. PROPERTY & FISCAL OFFICE ADDITION	400	400	400	400
CAMP MAXEY				
RANGE, COMBAT PISTOL	126	126	126	126
CAMP SWIFT				
RANGE, M-16 RECORD FIRE	271	271	271	271
RANGE, M60/M2 TRANSITION	312	312	312	312
DECATUR				
ARMORY ADD/ALT	801	801	801	801
WAXAHACHIE				
ARMORY ADD/ALT	774	774	774	774
AIR NATIONAL GUARD				
ELLINGTON ANGB				
ALTER WEAPONS AND RELEASE SHOP	224	224	224	224
KELLY AFB				
JET BLAST DEFLECTOR	125	125	125	125
ARMY RESERVE				
CAMP BULLIS				
MILITARY INTELLIGENCE TRAINING FACILITY	1,918	1,918	1,918	1,918
FT SAM HOUSTON				
RESERVE CENTER ALTERATION	145	145	145	145
SINTON				
RESERVE CENTER ADDITION	190	190	190	190
NAVY RESERVE				
NAVAL AIR STATION DALLAS				
AIRCRAFT COOLING	250	250	250	250
AIRFIELD APPROACH LIGHTING	2,400	2,400	2,400	2,400
OPERATIONAL STORAGE FACILITY RNMCB-22	175	175	175	175
NAVAL RESERVE CENTER CORPUS CHRISTI				
VEHICLE MAINT FACILITY	250	250	250	250

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR FORCE RESERVE				
CARSWELL AFB				
COMPOSITE TRAINING FACILITY	1,500	1,500	1,500	1,500
TOTAL, TEXAS	179,525	107,945	110,525	108,635
UTAH				
ARMY				
DUGWAY PROVING GROUND				
COMMUNITY CENTER	3,200	---	3,200	---
MATERIAL TEST FACILITY	9,700	9,700	9,700	9,700
TOOELE ARMY DEPOT				
SECURITY UPGRADE	1,850	---	1,850	---
AIR FORCE				
HILL AFB				
ADD TO WATER SUPPLY AND DIST SYSTEM	1,200	1,200	1,200	1,200
DEPOT INSTRUMENT OVERHAUL SHOP	1,550	1,550	1,550	1,550
GAPFILLER RADAR FACILITY	1,300	1,300	1,300	1,300
LOGISTICS SYSTEMS OPERATIONS CENTER	11,500	---	11,500	11,500
PEACEKEEPER-ADD/ALTER STAGE I STORAGE	1,000	1,000	1,000	1,000
PEACEKEEPER-SYSTEM ENGINEERING TEST SILO	4,000	4,000	4,000	4,000
DEFENSE AGENCIES				
DEFENSE DEPOT OGDEN				
ADMINISTRATIVE FACILITIES	9,780	---	9,780	---
TRANSIENT AND VISITOR HOUSING	620	---	620	---
ARMY NATIONAL GUARD				
CAMP WILLIAMS				
BOQ/BEQ RENOVATION	139	139	139	139
RANGE, FIELD FIRE	179	179	179	179
RANGE, KNOWN DISTANCE	135	135	135	135
DRAPER				
MILITARY COMPLEX ACQUISITION	5,376	---	5,376	5,376
ARMY RESERVE				
PROVO				
STORAGE BUILDING	110	110	110	110
AIR FORCE RESERVE				
HILL AFB				
POWER CHECK PAD WITH SUPPRESSOR	750	750	750	750
TOTAL, UTAH	52,389	20,063	52,389	36,939
VERMONT				
ARMY NATIONAL GUARD				
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	350	350	350	350
TOTAL, VERMONT	350	350	350	350
VIRGINIA				
ARMY				
FORT BELVOIR				
CHILD DEVELOPMENT/RELIGIOUS ED FACILITY	5,600	---	---	---
FORT EUSTIS				
APPLIED INSTRUCTION FACILITY	2,050	2,050	---	---
FORT LEE				
BARRACKS	10,000	10,000	10,000	10,000
GENERAL INSTRUCTION BUILDING ADDITION	7,600	7,600	---	7,600
FORT MYER				
PHYSICAL FITNESS TRAINING CENTER	3,800	---	---	---
FORT STORY				
ELECTRICAL DISTRIBUTION SYSTEM UPGRADE	1,700	1,700	1,700	1,700
STORAGE/MAINTENANCE FACILITY	1,000	1,000	1,000	1,000
NAVY				
FLEET COMBAT TRAIN CTR ATLANTIC DAM NECK				
CHAPEL	1,570	1,570	1,570	1,570
ELECTRICAL DISTRIBUTION SYSTEM	820	---	---	---
FLEET INTEL CTR EUROPE & ATLANTIC NORFOLK				
INTELLIGENCE BUILDING ADDITION	1,880	---	1,880	---
FLEET TRAINING CENTER NORFOLK				
ELECTRICAL TRADES TRAINING BLDG ADDITION	5,400	---	---	---
HEADQUARTERS MARINE CORPS ARLINGTON				
PHYSICAL FITNESS CENTER	3,020	3,020	3,020	3,020
NAVAL AIR STATION NORFOLK				
HELICOPTER TRAINING FACILITIES	1,570	1,570	1,570	1,570
NAVAL AMPHIBIOUS BASE LITTLE CREEK				
BEACH GROUP OPERATIONS FACILITIES	5,890	5,890	5,890	5,890
COMBAT SWIMMER TRAINING FACILITY	3,730	3,730	3,730	3,730
STEAM AND CONDENSATE SYSTEMS	1,080	1,080	---	---
NAVAL ELECTRONIC SYS ENGR CTR PORTSMOUTH				
ELECTRONIC SYSTEMS INTEGRATION & SPT FAC	1,870	1,870	1,870	1,870
NAVAL GUIDED MISSILES SCHOOL DAM NECK				
SUBMARINE TRAINING BUILDING ADDITION	3,140	---	3,140	3,140

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVAL LEGAL SERVICE OFFICE DET OCEANA				
LEGAL SERVICES OFFICE	540	540	---	---
NAVAL LEGAL SERVICE OFFICE NORFOLK				
NAVAL LEGAL SERVICE BUILDING ADDITION	1,080	---	---	---
NAVAL OCEAN PROCESSING FACILITY DAM NECK				
SECURITY IMPROVEMENTS	540	540	540	540
NAVAL RESEARCH LABORATORY ANNEX QUANTICO				
MIDWAY RESEARCH CENTER	1,500	1,500	1,500	1,500
NAVAL SEA COMBAT SYSTEMS ENGR STA NORFOLK				
SHIPBOARD ELECTRONICS SYSTEMS EVAL FAC	980	980	980	980
NAVAL SHIPYARD NORFOLK				
BACHELOR ENLISTED QUARTERS	5,900	5,900	5,900	5,900
NAVAL SUPPLY CENTER NORFOLK				
HAZARDOUS MTRLS STRG & HANDLING FAC ADDN	3,140	3,140	3,140	3,140
NAVAL SURFACE WEAPONS CENTER DAHLGREN				
AEGIS COMPUTER CENTER ADDITION	3,830	3,830	3,830	3,830
AEGIS EDUCATION CENTER ADDITION	2,950	---	2,950	2,950
PERSONNEL SUPPORT FACILITIES	5,450	5,450	5,450	5,450
WEAPONS SYSTEM DEVELOPMENT LABORATORY ADDN	3,730	3,730	3,730	3,730
NAVAL WEAPONS STATION YORKTOWN				
MISSILE STORAGE FACILITIES	4,220	4,220	4,220	4,220
NAVY PUBLIC WORKS CENTER NORFOLK				
MAINTENANCE STORAGE FACILITY	2,450	2,450	2,450	2,450
OIL SPILL PREVENTION	690	690	690	690
STEAM PLANT IMPROVEMENTS	5,600	---	5,600	---
NAVY REGIONAL DATA AUTOMATION CTR NORFOLK				
DATA PROCESSING CENTER	9,330	9,330	---	---
AIR FORCE				
LANGLEY AFB				
ADD-ALTER DATA PROCESSING FACILITY	3,550	3,550	---	---
ASAT-ADMINISTRATIVE BUILDING	500	---	500	---
ASAT-CONTROL CENTER	420	---	420	---
ASAT-HAZARDOUS MATERIALS STORAGE	300	---	300	---
ASAT-INTEGRATED MAINTENANCE FACILITIES	9,300	---	9,300	---
ASAT-MISSILE AND MOTOR STORAGE	1,900	---	1,900	---
ASAT-SECURITY CONTROL	280	---	280	---
ASAT-UTILITIES AND SITE WORK	2,900	---	2,900	---
BASE SUPPLY COMPLEX-PHASE III	4,450	4,450	4,450	4,450
ECIP-UPGRADE HEATING SYSTEM	1,640	---	---	---
DEFENSE AGENCIES				
DAHLGREN				
ELEMENTARY/JR HIGH SCHOOL ADDITION	1,130	1,130	---	---
PENTAGON				
GENERAL REDUCTION	---	---	-11,000	-11,000
DEMOLITION OF PARKING LOT	2,500	---	---	---
JDSSC PENTAGON ALTERATION/EXPANSION	2,300	---	---	---
QUANTICO				
HIGH SCHOOL ADDITION	420	420	---	---
ARMY NATIONAL GUARD				
CHARLOTTESVILLE				
ARMORY ADD/ALT	910	910	910	910
FREDERICKSBURG				
ARMORY ADD/ALT	1,239	1,239	1,239	1,239
ORGANIZATIONAL MAINTENANCE SHOP MODIFICAT	191	191	191	191
LEESBURG				
100 PERSON ARMORY	1,024	1,024	1,024	1,024
LEXINGTON				
60 PERSON ARMORY	897	897	897	897
MANASSAS				
ARMORY ADD/ALT	903	903	903	903
STAUNTON				
ARMORY ADD/ALT	1,302	1,302	1,302	1,302
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	460	460	460	460
ARMY RESERVE				
FORT LEE				
ADD/ALTER ARMY RESERVE CENTER	2,299	---	2,299	2,299
NAVY RESERVE				
RNMCB-23 FT BELVOIR				
OPERATIONAL STORAGE FACILITY RNMCB-23	175	175	175	175
TOTAL, VIRGINIA	154,640	100,031	94,800	79,320
WASHINGTON				
ARMY				
FORT LEWIS				
COMSEC MAINTENANCE FACILITY	600	600	600	600
FIRE PROTECTION SYSTEM	480	480	480	480
LANDFILL UPGRADE	7,500	7,500	7,500	7,500
REFUSE INCINERATOR PLANT	13,000	13,000	13,000	13,000
TACTICAL EQUIPMENT SHOP	4,400	4,400	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVY				
NAVAL AIR STATION WHIDBEY ISLAND				
AIRCRAFT PARKING APRON	3,510	3,510	3,510	3,510
FLIGHT SIMULATOR BUILDING ADDITION	980	980	980	980
WATER TREATMENT FACILITY	690	690	690	690
NAVAL STATION EVERETT - CARRIER SUPPORT COMPLEX				
CARRIER PIER	38,000	---	38,000	---
DREDGING AND BREAKWATER	13,820	---	13,820	---
SHORELINE IMPROVEMENT AND SEAWALL	15,700	---	15,700	15,700
UTILITIES AND SITE IMPROVEMENT	19,070	---	19,070	19,070
LAND ACQUISITION	8,810	---	8,810	8,810
GENERAL REDUCTION	---	---	-10,000	---
NAVAL STATION SEATTLE				
BRIG	2,950	2,950	2,950	2,950
NAVAL SUBMARINE BASE BANGOR				
BACHELOR ENLISTED QUARTERS	4,900	---	4,900	---
ELECTRICAL DISTRIBUTION SYSTEM IMPROVES	5,600	5,600	---	5,600
HAZARDOUS WASTE FACILITY	1,280	---	1,280	1,280
SECURITY BUILDING	2,750	---	---	---
SEWERAGE SYSTEM	300	300	300	300
SEWERAGE SYSTEM	400	---	400	---
NAVAL SUPPLY CENTER BREMERTON				
OIL SPILL PREVENTION	500	500	500	500
NAVAL UNDERSEA WARFARE ENGR STA KEYPORT				
MISSILE MAGAZINES	5,890	5,890	---	---
TRIDENT REFIT FACILITY BANGOR				
ELECTRICAL DISTRIBUTION SYSTEM	980	980	980	980
WATER TREATMENT PLANT IMPROVEMENTS	590	590	590	590
AIR FORCE				
FAIRCHILD AFB				
ALTER CONSOLIDATED BASE PERSONNEL OFFICE	1,950	1,950	---	1,950
ECIP-WEATHERIZATION	1,350	---	---	---
SECURITY IMPROVEMENTS	570	570	570	570
SECURITY POLICE OPERATIONS FACILITY	2,900	2,900	2,900	2,900
T9-NOISE SUPPRESSOR SUPPORT FACILITY	750	750	750	750
MCCHORD AFB				
ADD TO-ALTER AIR FREIGHT TERMINAL	6,400	6,400	6,400	6,400
SQUADRONS OPERATIONS FACILITY	4,900	---	---	---
DEFENSE AGENCIES				
DEF FUEL SUPPORT POINT MUKILTEO				
FUEL PIER	6,360	---	6,360	---
FORT LEWIS				
MADIGAN ARMY MEDICAL CENTER PHASE II	72,100	72,100	72,100	72,100
ARMY NATIONAL GUARD				
CAMP MURRAY				
LAND ACQUISITION	---	(2,170)	---	2,170
U.S. PROPERTY & FISCAL OFFICE ADDITION	302	302	302	302
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	332	332	332	332
ARMY RESERVE				
BOTHELL				
ARMY RESERVE CENTER	3,400	3,400	3,400	3,400
NAVY RESERVE				
NAF WHIDBEY ISLAND				
AIRCRAFT MAINTENANCE HANGAR	6,100	6,100	6,100	6,100
TOTAL, WASHINGTON	260,114	142,774	223,274	179,514
WEST VIRGINIA				
ARMY				
FORT DAWSON				
STUDENT TRAINING FACILITY	8,700	8,700	8,700	8,700
AIR NATIONAL GUARD				
E WV REGIONAL APT (MARTINSBURG)				
SHORTFIELD RUNWAY	2,500	2,500	2,500	2,500
PHASE I RAMP ADDITION	---	---	2,500	2,500
KANAWHA COUNTY AIRPORT (CHARLESTON)				
MULTIPLE FACILITY ADDITIONS	---	---	625	625
TOTAL, WEST VIRGINIA	11,200	11,200	14,325	14,325
WISCONSIN				
ARMY				
BADGER AAP				
OPEN/CLOSE LANDFILL	980	980	980	980
ARMY NATIONAL GUARD				
CAMP WILLIAMS				
LOGISTICAL FACILITY DAS3 CLIX	110	110	110	110
CHIPPEWA FALLS				
ARMORY ADDITION	---	(1,438)	---	1,438
PLATTEVILLE				
ARMORY RENOVATION	---	---	570	570
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDINGS	290	290	290	290

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR NATIONAL GUARD				
MITCHELL FIELD				
COMPOSITE FACILITY	---	---	2,200	2,200
TRUAX FIELD				
ADD TO AIRCRAFT ENGINE SHOP	900	900	900	900
ALTER BASE ENGINEER MAINTENANCE SHOP	386	386	386	386
COMPOSITE SQUADRON OPERATIONS	2,200	2,200	2,200	2,200
ARMY RESERVE				
FOND DU LAC				
ARMY RESERVE CENTER TANK TRAINING FACILITY	1,562	1,562	1,562	1,562
RACINE				
LAND ACQUISITION	235	235	235	235
AIR FORCE RESERVE				
BILLY MITCHELL FIELD				
CONSTRUCT SQUADRON OPERATIONS FACILITY	1,565	1,565	1,565	1,565
TOTAL, WISCONSIN	8,228	8,228	10,998	12,436
WYOMING				
AIR FORCE				
FE WARREN AFB				
ADD/ALTER ENERGY MONITORING/CONTROL SYS	2,600	2,600	2,600	2,600
COMBAT ARMS TRAINING/MAINT FACS	550	550	550	550
PEACEKEEPER-ACCESS ROADS	14,500	14,500	14,500	14,500
PEACEKEEPER-LAUNCH FACILITIES SITE WORK	5,000	3,400	3,400	3,400
PEACEKEEPER-REAL ESTATE	400	400	400	400
ARMY NATIONAL GUARD				
CAMP GUERNSEY				
MESS HALL REHAB	641	641	641	641
RANGE, FIELD FIRE	175	175	175	175
TOTAL, WYOMING	23,866	22,266	22,266	22,266
CONUS CLASSIFIED				
ARMY				
CLASSIFIED LOCATION				
CLASSIFIED PROJECT	7,400	2,400	7,100	7,100
DEFENSE AGENCIES				
CLASSIFIED LOCATION				
CLASSIFIED PROJECT	3,000	---	3,000	---
CLASSIFIED PROJECT	4,000	4,000	4,000	4,000
CLASSIFIED PROJECT	3,000	3,000	3,000	3,000
CLASSIFIED PROJECT	1,000	1,000	1,000	1,000
AIR FORCE RESERVE				
AIR FORCE RESERVE				
H-70 SERVICE AND STORAGE FACILITY	250	250	250	250
TOTAL, CONUS CLASSIFIED	18,650	10,650	18,350	15,350
CONUS UNSPECIFIED				
AIR FORCE				
CONUS UNSPECIFIED				
SPECIAL TACTICAL DETACHMENT	37,056	37,056	37,056	37,056
AIR FORCE RESERVE				
AIR FORCE RESERVE				
ADD-ALTER MISCELLANEOUS SHOPS	1,350	1,350	1,350	1,350
ALTER AVIONICS SHOP	650	650	650	650
TOTAL, CONUS UNSPECIFIED	39,056	39,056	39,056	39,056
CONUS VARIOUS				
AIR FORCE				
BASE THIRTY NINE				
F15E-ADD/ALTER FLIGHT SIMULATOR FAC	2,300	2,300	2,300	2,300
WEST CONUS				
OTH-B RADAR TRANS STANDBY POWER LINE	18,000	7,500	7,500	7,500
OTH-B TRANSMITTER/RCVR SUPPORT FACS	2,800	2,800	2,800	2,800
AIR NATIONAL GUARD				
CONUS VARIOUS				
AIRCRAFT ARRESTING SYSTEMS	1,700	1,700	1,700	1,700
FLIGHT SIMULATOR FACILITIES	2,683	2,683	2,683	2,683
POWER CHECK PADS WITH SUPPRESSOR	4,000	4,000	4,000	4,000
TOTAL, CONUS VARIOUS	31,483	20,983	20,983	20,983
AUSTRALIA				
NAVY				
NAVAL COMMUNICATION STATION HAROLD E HOLT				
EMERGENCY COOLING SYSTEM	310	310	310	310
PUBLIC WORKS SHOP	1,870	---	1,870	1,870

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR FORCE				
WOOMERA AS				
SOLID STATE UNINTERRUPT POWER SUPPLY SPT	2,300	2,300	2,300	2,300
TOTAL, AUSTRALIA	4,480	2,610	4,480	4,480
BAHAMAS				
NAVY				
NAVAL UNDERWATER SYSTEMS CTR ANDROS ISLAND				
CIVILIAN QUARTERS	3,730	3,730	3,730	3,730
TOTAL, BAHAMAS	3,730	3,730	3,730	3,730
BAHRAIN ISLAND				
NAVY				
ADMINISTRATIVE SUPPORT UNIT				
INDOOR RECREATION FACILITY	2,550	2,550	2,550	2,550
TOTAL, BAHRAIN ISLAND	2,550	2,550	2,550	2,550
BELGIUM				
AIR FORCE				
FLORENNES				
GLCM-AUTOMOTIVE HOBBY SHOP	520	---	---	---
GLCM-COMMISSARY	3,500	---	---	---
GLCM-DATA PROCESSING FACILITY	1,200	1,200	1,200	1,200
GLCM-EXCHANGE COMPLEX	2,850	---	---	---
GLCM-RECREATION LIBRARY	460	---	---	---
GLCM-YOUTH CENTER	750	---	---	---
DEFENSE AGENCIES				
SHAPE HQ - CASTEAU				
ELEMENTARY AND HIGH SCHOOL ADDITION	1,260	1,260	---	1,260
TOTAL, BELGIUM	10,540	2,460	1,200	2,460
BERMUDA				
DEFENSE AGENCIES				
NAVAL AIR STATION				
ELEMENTARY SCHOOL	4,280	3,280	---	---
TOTAL, BERMUDA	4,280	3,280	---	---
DIEGO GARCIA				
AIR FORCE				
DIEGO GARCIA				
GLOBAL POSITIONING SYS INTERNET FACILITIES	3,900	---	---	---
VEHICLE MAINTENANCE/STORAGE FACILITY	800	---	---	---
TOTAL, DIEGO GARCIA	4,700	---	---	---
GERMANY				
ARMY				
ANSBACH				
AMMUNITION STORAGE	860	860	860	860
CHILD DEVELOPMENT CENTER	930	930	930	930
ASCHAFFENBURG				
HARDSTAND	3,650	3,650	3,650	3,650
TACTICAL EQUIPMENT SHOP	3,350	3,350	---	3,350
BAD KREUZNACH				
CHILD DEVELOPMENT CENTER	900	900	900	900
FACILITY MODERNIZATION	10,200	10,200	---	---
BAMBERG				
FACILITY MODERNIZATION	18,000	18,000	---	---
BAUMHOLDER				
AMMUNITION STORAGE	4,400	4,400	4,400	4,400
CHILD DEVELOPMENT CENTER	2,000	2,000	2,000	2,000
COMMAND AND CONTROL BUILDING	10,000	10,000	10,000	10,000
FACILITY MODERNIZATION PHASE IV	12,400	---	12,400	---
SEWER/POL SEPARATOR	2,050	2,050	2,050	2,050
BITBURG TRAINING AREA				
AMMUNITION STORAGE	520	520	520	520
BARRACKS	13,800	13,800	13,800	13,800
DINING FACILITY	1,850	1,850	1,850	1,850
HEATING PLANT	2,550	2,550	2,550	2,550
TACTICAL EQUIPMENT SHOP	1,200	1,200	1,200	1,200
EINSIEDLERHOF				
TRAINING EXERCISE FACILITY	4,750	---	4,750	---
FRANKFURT				
CRIME LABORATORY MODERNIZATION/ADDITION	3,500	---	3,500	---
FULDA				
CHILD DEVELOPMENT CENTER	1,000	1,000	1,000	1,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
GIESSEN GENERAL DEPOT				
DINING FACILITY	2,100	2,100	2,100	2,100
FACILITY MODERNIZATION	16,000	---	---	---
FACILITY MODERNIZATION PHASE III	970	970	---	970
FUEL STATION	3,500	---	3,500	3,500
GOEPPINGEN				
SITE SUPPORT UPGRADE	1,850	1,850	1,850	1,850
HANAU				
AIRCRAFT MAINTENANCE HANGAR	7,100	7,100	---	7,100
CHILD DEVELOPMENT CENTER	1,850	1,850	1,850	1,850
FACILITY MODERNIZATION	11,000	11,000	---	11,000
FLIGHT SIMULATOR BUILDING	3,700	3,700	3,700	3,700
HARDSTAND	2,500	2,500	2,500	2,500
TACTICAL EQUIPMENT SHOP	3,700	3,700	3,700	3,700
HEIDELBERG				
CHILD DEVELOPMENT CENTER	1,600	1,600	1,600	1,600
OPERATIONS BUILDING	1,800	1,800	1,800	1,800
HEILBRONN				
BARRACKS	2,100	2,100	2,100	2,100
HOHENFELS TNG AREA				
COMBAT MANEUVER TRAINING COMPLEX	8,800	8,800	---	8,800
MILITARY OPERATIONS ON URBANIZED TERRAIN	2,800	2,800	2,800	2,800
KAISERSLAUTERN				
PETROLEUM LABORATORY	1,400	1,400	1,400	1,400
KARLSRUHE				
FACILITY MODERNIZATION	10,000	10,000	---	10,000
TACTICAL EQUIPMENT SHOP	1,800	1,800	1,800	1,800
LOCATION 280				
AIR CONDITIONING UPGRADE	2,100	2,100	2,100	2,100
MANNHEIM				
RANGE COMPLEX	2,450	2,450	2,450	2,450
NEU ULM				
SITE SUPPORT UPGRADE	2,850	2,850	2,850	2,850
SITE SUPPORT UPGRADE	19,000	19,000	19,000	19,000
TACTICAL EQUIPMENT SHOP	4,200	4,200	4,200	4,200
NUERNBERG				
FERRIS BARRACKS	5,500	5,500	5,500	5,500
RHEINBERG				
ADMINISTRATIVE SPACE ALTERATION	7,200	---	6,350	---
AUTOMATED DATA PROCESSING FACILITY	680	---	150	150
BARRACKS WITH DINING	14,800	---	10,500	10,500
CHILD DEVELOPMENT CENTER	930	---	930	---
COMMUNICATIONS CENTER CONVERSION	400	---	300	300
LOGISTICAL SUPPLY FACILITY	6,700	---	6,200	---
PHYSICAL FITNESS TRAINING CENTER	4,900	---	4,720	---
SCHWEINFURT				
CHILD DEVELOPMENT CENTER	900	900	900	900
FACILITY MODERNIZATION	16,000	---	---	---
FACILITY MODERNIZATION PHASE IV	8,500	8,500	8,500	8,500
TACTICAL EQUIPMENT SHOP	13,600	13,600	---	13,600
STUTTGART				
SEWER SYSTEM UPGRADE	820	820	820	820
VARIOUS SITES				
MAINTENANCE TRAINING FACILITY	1,850	1,850	1,850	1,850
SITE SECURITY ENHANCEMENTS	17,000	17,000	7,000	7,000
WARTIME HOST NATION SUPPORT	17,500	---	4,500	---
VILSECK				
BARRACKS	6,800	6,800	6,800	6,800
CHAPEL/RELIGIOUS EDUCATION FACILITY	3,450	---	3,450	---
COMMISSARY SALES	7,300	---	---	---
EXCHANGE MAIN RETAIL STORE	8,000	---	---	---
POST OFFICE	1,300	---	1,300	---
PROVOST MARSHAL FACILITY	1,800	1,800	1,800	1,800
RELOCATE AMMUNITION AREA	920	920	920	920
UNACCOMPANIED OFFICERS HOUSING	4,050	4,050	4,050	4,050
UTILITIES	36,000	36,000	36,000	36,000
WILDFLECKEN				
VEHICLE WASH FACILITY	3,800	---	3,800	---
WUERZBURG				
CHILD DEVELOPMENT CENTER	1,000	1,000	1,000	1,000
AIR FORCE				
BITBURG AB				
ADD-ALTER SEWAGE TREATMENT PLANT	1,500	1,500	1,500	1,500
ALTER BASE MAIN ENTRANCE	440	440	440	440
DIGITAL EUROPEAN BACKBONE FACILITY	1,200	1,200	1,200	1,200
PASSIVE DEFENSE EQUIP STORAGE FACILITY	770	770	770	770
RAPID RUNWAY REPAIR EQUIP STORAGE FAC	960	960	960	960
WATER STORAGE TANK	480	480	480	480
EINSIEDLERHOF				
VISITING OFFICERS QUARTERS	2,600	---	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
HAHN AB				
ADD TO VEHICLE MAINTENANCE FACILITY	1,900	---	---	---
ADD-ALTER FIRE STATION	1,100	1,100	1,100	1,100
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,300	2,300	2,300	2,300
ALTERNATE LAUNCH/RECOVERY SURFACE (ALRS)	2,100	---	---	---
POST OFFICE	980	---	---	---
RAPID RUNWAY REPAIR EQUIP STORAGE BLDG	840	840	840	840
SECURITY POLICE OPERATIONS FACILITY	1,100	1,100	1,100	1,100
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	1,400	1,400	1,400	1,400
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	4,000	4,000	4,000	4,000
HESSISCH				
ADD-ALTER COMPOSITE RECREATION CENTER	2,000	---	---	---
LINDSEY AS				
DIGITAL EUROPEAN BACKBONE FACILITY	1,200	---	1,200	---
PRUEM AS				
COMPOSITE RECREATION CENTER	1,150	---	---	---
RAMSTEIN AB				
ADD TO NONCOMMISSIONED OFFICER ACADEMY	1,850	---	---	---
ADD-ALTER VEHICLE MAINTENANCE SHOPS	6,000	---	---	---
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,900	---	---	---
F16-ADD/ALTER AEROSPACE SUPPORT EQUIP COMP	1,600	1,600	1,600	1,600
F16-AIRCRAFT MAINTENANCE FACILITY	1,200	1,200	1,200	1,200
F16-CENTRAL SECURITY CONTROL FACILITY	2,050	2,050	2,050	2,050
F16-MUNITIONS LOAD CREW TRAINING FACILITY	2,350	2,350	2,350	2,350
F16-WAREHOUSE	2,200	2,200	---	---
OUTDOOR PROCESSING-PALLET STORAGE AREA	1,350	750	750	750
PROTECTED COMBAT TARGETING CENTER	36,000	---	13,000	---
SECURITY LIGHTING	420	420	420	420
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	3,000	3,000	3,000	3,000
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	6,300	6,300	6,300	6,300
VISITING OFFICER QUARTERS	3,000	---	---	---
WATER STORAGE TANK	2,600	2,600	2,600	2,600
WEAPONS STORAGE AND SECURITY SYSTEM	800	---	---	---
RHEIN-MAIN AB				
FIRE PROTECTION SYSTEM	1,300	1,300	1,300	1,300
SEMBACH AB				
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	4,900	4,900	4,900	4,900
C130-ADD/ALTER FIRE STATION	770	---	770	770
C130-CENTRAL SECURITY CONTROL	2,200	---	2,200	2,200
C130-SENSITIVE COMPARTMENTED INFO FAC	1,500	---	1,500	1,500
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	1,450	1,450	1,450	1,450
VEHICLE MAINTENANCE FACILITY	1,050	---	1,050	---
SPANGDAHLEM AB				
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	3,700	3,700	3,700	3,700
CHEM WARFARE-SQUADRON OPERATIONS FACILITY	1,700	1,700	1,700	1,700
FIELD TRAINING FACILITY	1,600	1,600	---	---
GROUND DEFENSE MUNITION STORAGE IGLOOS	560	560	560	560
POST OFFICE	1,050	---	---	---
VEHICLE MAINTENANCE FACILITY	2,350	2,350	2,350	2,350
WUSCHHEIM				
GLCM-BASE CIVIL ENG PAVEMENTS/GROUND SHOP	310	310	310	310
ZWEIBRUCKEN AB				
ALTERNATE LAUNCH/RECOVERY SURFACE (ALRS)	3,550	---	---	---
CHEM WARFARE-AIR PHOTO INTERP FACILITY	950	950	950	950
CHEM WARFARE-SQUADRON OPERATIONS FACILITY	1,940	1,940	1,940	1,940
EDS-FORWARD STORAGE WAREHOUSE	1,100	---	1,100	---
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	2,750	2,750	2,750	2,750
DEFENSE AGENCIES				
ASCHAFFENBURG				
ELEMENTARY AND JUNIOR HIGH SCHOOL ADDITION	6,600	6,600	---	---
BAD KISSINGEN				
ELEMENTARY SCHOOL ADDITION	1,330	1,330	---	---
BAUMHOLDER				
SMITH ELEMENTARY SCHOOL ADDITION	1,600	1,600	---	---
BOEBLINGEN				
DISPENSARY AND DENTAL CLINIC	3,650	3,650	3,650	3,650
DEF REUTILIZATION & MARKETING OFC BITBURG				
COVERED STORAGE	650	---	650	---
DEXHEIM				
ELEMENTARY SCHOOL ADDITION	2,430	2,430	---	2,430
ERLANGEN				
ELEMENTARY SCHOOL ADDITION	3,220	3,220	---	---
GELNHAUSEN				
ELEMENTARY SCHOOL ADDITION	1,130	1,130	---	---
GRAFENWOEHR				
DISPENSARY AND DENTAL CLINIC	3,950	3,950	3,950	3,950
ELEMENTARY SCHOOL ADDITION	2,500	2,500	---	---
HAHN AIR BASE				
HIGH SCHOOL ADDITION	3,470	3,470	---	3,470
HEIDELBERG				
ELEMENTARY AND HIGH SCHOOL	3,190	3,190	---	---
HESSISCH-OLDENDORF				
ELEMENTARY SCHOOL	2,310	2,310	---	2,310

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
HOHENFELS				
ELEMENTARY SCHOOL ADDITION	1,190	1,190	---	---
KAISERLAUTERN AIR BASE				
ELEMENTARY AND HIGH SCHOOL ADDITION	7,880	7,880	---	---
KARLSRUHE				
DISPENSARY AND DENTAL CLINIC	6,800	6,800	6,800	6,800
NUERNBERG				
ELEMENTARY SCHOOL	8,580	8,580	---	8,580
SCHWAEBISCH GMUEND				
ELEMENTARY SCHOOL ADDITION	1,640	1,640	---	---
STUTTGART				
ELEMENTARY AND JUNIOR HIGH SCHOOL ADDITION	4,530	4,530	---	4,530
VILSECK				
DISPENSARY AND DENTAL CLINIC	5,600	5,600	5,600	5,600
WUERZBURG				
MIDDLE SCHOOL	7,760	7,760	---	7,760
TOTAL, GERMANY	621,160	413,100	344,740	359,740
GREECE				
ARMY				
GREECE				
OPERATIONS BUILDING	560	560	---	---
OPERATIONS BUILDING MODERNIZATION	730	---	---	---
AIR FORCE				
IRAKLION AS				
2ND ECHELON MEDICAL LOGISTICS STORAGE FAC	320	---	320	---
TOTAL, GREECE	1,610	560	320	---
GREENLAND				
AIR FORCE				
SONDRESTROM AB				
UNACCOMPANIED PERSONNEL HOUSING	5,860	5,860	5,860	5,860
THULE AB				
ALTER SATCOM GROUND TERMINAL	1,540	1,340	1,340	1,340
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,200	2,000	2,000	2,000
FIRE STATION	3,900	3,500	3,500	3,500
SOLID STATE UNINTERRUPT POWER SUPPLY SPT	2,150	1,950	1,950	1,950
TOTAL, GREENLAND	15,650	14,650	14,650	14,650
GUAM				
NAVY				
MOBILE CONSTR BATTALION CAMP COVINGTON				
BACHELOR HOUSING	15,500	11,400	15,500	11,400
NAVAL COMM AREA MASTER STA WESTPAC GUAM				
FIRE PROTECTION SYSTEM	480	480	480	480
NAVAL FACILITY				
SECURITY IMPROVEMENTS	820	820	820	820
NAVAL SECURITY GROUP DETACHMENT GUAM				
OCEAN SURVEILLANCE BUILDING ADDITION	2,150	2,150	---	2,150
NAVAL SUPPLY DEPOT GUAM				
FLEET SUPPORT WAREHOUSE MODIFICATIONS	400	400	400	400
NAVY PUBLIC WORKS CENTER GUAM				
POWER PLANT MODIFICATIONS	1,080	---	---	---
VEHICLE SERVICE CENTER	490	490	490	490
AIR FORCE				
ANDERSON AFB				
ALTER JET FUEL STORAGE FACILITIES	7,600	7,600	---	---
ARMY RESERVE				
APRA HEIGHTS				
EQUIPMENT CONCENTRATION SITE/MAINT FAC	888	888	888	888
TOTAL, GUAM	29,408	24,228	18,578	16,628
GUANTANAMO BAY, CU				
NAVY				
NAVAL STATION GUANTANAMO BAY				
STANDBY ELECTRIC POWER GENERATORS	2,600	2,600	---	---
TOTAL, GUANTANAMO BAY, CU	2,600	2,600	---	---
HONDURAS				
ARMY				
HONDURAS				
CONTINGENCY FACILITY	4,900	---	4,900	4,300
TOTAL, HONDURAS	4,900	---	4,900	4,300

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ICELAND				
NAVY				
NAVAL AIR SATATION KEFLAVIK				
AIRFIELD PAVEMENTS	13,490	13,490	13,490	13,490
FUEL FACILITIES	13,300	---	---	---
MAINTENANCE HANGAR ALTERATIONS	350	350	350	350
NAVAL FACILITY KEFLAVIK				
STANDBY GENERATOR PLANT	1,570	1,570	---	---
AIR FORCE				
KEFLAVIK				
ACCOUNTING AND FINANCE FACILITY	1,600	1,200	---	1,200
TOTAL, ICELAND	30,310	16,610	13,840	15,040
ITALY				
ARMY				
CP DARBY				
BARRACKS	610	610	610	610
NAVY				
NAV COM AREA MASTER STATION MED NAPLES				
SIGONELLA TRANSMITTER FACILITY	8,250	8,250	8,250	8,250
NAVAL AIR STATION SIGONELLA				
CHAPEL FACILITIES	1,370	---	---	---
NAVAL SUPPORT ACTIVITY NAPLES				
AIR CARGO TERMINAL	5,500	---	---	---
CMD CONTROL COMMS & INTELLIGENCE COMPLEX	18,000	---	---	---
SUBMARINE MOORING FACILITY	1,570	1,570	1,570	1,570
AIR FORCE				
AVIANO AB				
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	4,200	---	4,200	---
VISITING OFFICERS QUARTERS	3,000	---	---	---
CAMP DARBY				
SEGREGATED MAGAZINE	270	270	270	270
COMISO AB				
CHEM WARFARE-CENTRAL SECURITY CONTROL FAC	1,500	1,500	1,500	1,500
CHEM WARFARE-WING COMMAND POST FACILITY	1,500	1,500	1,500	1,500
GLCM-ARTS AND CRAFTS SHOP	370	---	---	---
GLCM-AUTOMOTIVE HOBBY SHOP	410	---	---	---
GLCM-MILITARY CLOTHING SALES	300	---	---	---
GLCM-RECREATION LIBRARY	230	---	---	---
DECIMOMANNU AB				
VISITING OFFICERS QUARTERS	900	900	---	900
SAN VITO AS				
2ND ECHELON MEDICAL LOGISTICS STORAGE FAC	490	---	490	---
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	3,300	3,300	3,300	3,300
VISITING OFFICER QUARTERS	2,450	---	---	---
DEFENSE AGENCIES				
NAPLES				
ELEMENTARY AND HIGH SCHOOL	19,590	---	---	---
REPLACEMENT HOSPITAL	29,300	---	---	---
TOTAL, ITALY	103,110	17,900	21,690	17,900
JAPAN				
ARMY				
KAWAKAMI				
MEDICAL SUPPLY WAREHOUSE	1,200	1,200	1,200	1,200
NAVY				
MARINE CORPS AIR STATION FUTENMA OKINAWA				
ENGINE MAINTENANCE SHOP	3,440	---	3,440	3,440
PASSENGER TERMINAL	830	830	830	830
MARINE CORPS BASE CAMP BUTLER OKINAWA				
BUILDING ENVIRONMENTAL IMPROVEMENTS	6,200	6,200	6,200	6,200
ELECTRONICS & COMMUNICATIONS MAINT SHOP	2,750	---	---	---
AIR FORCE				
KADENA AB				
ADD-ALTER HYDRANT REFUELING SYS-PHASE II	7,100	7,100	7,100	7,100
VEHICLE CORROSION CONTROL SUPPORT FACILITY	265	265	265	265
MISAWA AB				
COMMANDO PORT-IV-CONCRETE ARCH IGLOO MAG	3,050	3,050	3,050	3,050
COMMANDO PORT-IV-MUNITIONS PRELOAD COMP	7,250	7,250	7,250	7,250
TOTSUKA				
ADD TO TELECOMMUNICATIONS FACILITY	700	700	700	700
YOKOSUKA				
ADD TO TELECOMMUNICATIONS FACILITY	600	600	600	600
YOKOTA AB				
JET FUEL STORAGE	4,900	---	---	---
DEFENSE AGENCIES				
DEF FUEL SUPPORT POINT CHIMU WAN OKINAWA				
FUEL TANKAGE	6,640	6,640	6,640	6,640
DEF FUEL SUPPORT POINT TSURUMI				
FUEL TANKAGE	3,520	---	---	---
TOTAL, JAPAN	48,445	33,835	37,275	37,275

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
KOREA				
ARMY				
CAMP CARROLL				
MEDICAL SUPPLY WAREHOUSE	4,350	4,350	4,350	4,350
STORAGE WAREHOUSE	920	920	920	920
TACTICAL EQUIPMENT SHOP	820	820	820	820
CAMP CASEY				
AUTOMATED FIELD FIRE RANGE	3,600	3,600	3,600	3,600
BARRACKS	15,500	15,500	15,500	15,500
COMMUNICATION/ELECTRONICS MAINTENANCE FACS	490	490	490	490
TACTICAL EQUIPMENT SHOP MOD/ADDN	3,400	---	3,400	---
TANK RANGE	1,950	1,950	1,950	1,950
CAMP CASTLE				
BARRACKS	1,950	1,950	1,950	1,950
FLAMMABLE MATERIAL STORAGE	2,850	2,850	2,850	2,850
CAMP ESSAYONS				
BARRACKS	1,850	1,850	1,850	1,850
PHYSICAL FITNESS TRAINING CENTER	1,150	1,150	1,150	1,150
CAMP GREAVES				
BARRACKS	2,350	2,350	2,350	2,350
PHYSICAL FITNESS TRAINING CENTER	1,300	1,300	1,300	1,300
TACTICAL EQUIPMENT SHOP	340	---	---	---
CAMP HOVEY				
BARRACKS	4,650	4,650	4,650	4,650
DINING FACILITY	4,350	4,350	4,350	4,350
CAMP HOWZE				
BARRACKS	4,050	4,050	4,050	4,050
TACTICAL EQUIPMENT SHOP	1,800	1,800	1,800	1,800
CAMP HUMPHREYS				
AIRCRAFT MAINTENANCE HANGAR	1,500	1,500	1,500	1,500
BARRACKS	5,700	5,700	5,700	5,700
TACTICAL EQUIPMENT SHOP	5,900	5,200	5,200	5,200
UNIT MAINTENANCE HANGAR	3,700	3,700	3,700	3,700
CAMP JACKSON				
BARRACKS	1,800	1,800	1,800	1,800
CAMP LAGUARDIA				
AIRFIELD FIRE STATION	320	320	320	320
BARRACKS	2,650	2,650	2,650	2,650
CAMP LIBBY				
TACTICAL EQUIPMENT SHOP	1,100	---	1,100	---
CAMP LIBERTY BELL				
BARRACKS	780	780	780	780
CAMP LONG				
BARRACKS MODERNIZATION	5,600	5,600	5,600	5,600
CAMP MARKET				
UNACCOMPANIED OFFICERS HOUSING	540	540	540	540
CAMP NIMBLE				
BARRACKS	1,950	1,950	1,950	1,950
CAMP PAGE				
UNACCOMPANIED OFFICER HOUSING	1,400	1,400	1,400	1,400
CAMP PELHAM				
BARRACKS	980	980	980	980
TACTICAL EQUIPMENT SHOP	1,300	1,300	1,300	1,300
CAMP RED CLOUD				
DINING FACILITY	2,250	2,250	2,250	2,250
TACTICAL EQUIPMENT SHOP	2,300	2,300	2,300	2,300
CAMP STANLEY				
BARRACKS	2,450	2,450	2,450	2,450
DINING FACILITY	2,250	2,250	2,250	2,250
H220				
BARRACKS	2,750	2,750	2,750	2,750
K-16 ARMY AIRFIELD				
FLIGHT SIMULATOR BUILDING	1,600	1,600	1,600	1,600
TACTICAL EQUIPMENT SHOP	920	920	920	920
LOC 177				
POWER UPGRADE	1,950	1,950	1,950	1,950
PUSAN				
BARRACKS	1,500	1,500	1,500	1,500
BARRACKS	5,900	5,900	5,900	5,900
FIRE STATION	340	340	340	340
GENERAL PURPOSE WAREHOUSE	3,800	3,800	3,800	3,800
PHYSICAL FITNESS TRAINING CENTER	1,400	1,400	1,400	1,400
SECOND INFANTRY				
BARRACKS	2,800	2,800	2,800	2,800
ORGANIZATIONAL MAINTENANCE SHOP	2,350	---	2,350	---
TAEGU				
UNDERGROUND COMMAND AND CONTROL FACILITY	4,900	4,900	4,900	4,900
YONGSON				
BARRACKS	2,500	2,500	2,500	2,500
BATTALION HEADQUARTERS	760	760	760	760
TACTICAL EQUIPMENT SHOP	2,500	2,500	2,500	2,500
TACTICAL EQUIPMENT SHOP	1,000	1,000	1,000	1,000
UPGRADE TACTICAL EQUIPMENT SHOP	1,000	---	1,000	---
WIDEN ROAD	1,000	1,000	1,000	1,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR FORCE				
CAMP HUMPHREYS				
OPERATIONS/MAINT/STORAGE FACILITIES	8,300	---	---	---
CAMP RED CLOUD				
MAINTENANCE-STORAGE-VEHICLE/EQ PARKING	1,450	1,450	1,450	1,450
KIMHAE AB				
PORTOMOD WAREHOUSE	570	---	---	---
UNACCOMPANIED PERSONNEL HOUSING	3,050	---	---	---
KUNSAN AB				
ADD TO AIRCRAFT APRON	1,050	---	1,050	---
AIRCRAFT MAINTENANCE MANAGEMENT FACILITY	2,050	2,050	---	2,050
AIRCRAFT MAINTENANCE UNIT FACILITY	1,800	---	1,800	---
ALTER ELECTRICAL DISTRIBUTION SYS-PH II	2,600	2,600	2,600	2,600
BASE CIVIL ENGINEER FACILITY	840	840	---	840
CONSOLIDATED SUPPORT FACILITY	2,250	2,250	---	2,250
PORTOMOD WAREHOUSE	600	600	600	600
SECURITY LIGHTING SYSTEM	1,650	1,650	1,650	1,650
UPGRADE WATER DISTRIBUTION	430	430	430	430
KWANG-JU AB				
PORTOMOD WAREHOUSE	600	600	600	600
UNACCOMPANIED OFFICER PERSONNEL HOUSING	650	550	550	550
OSAN AB				
ADD-ALTER PRIMARY ELECTRICAL DIST SYSTEM	5,400	5,400	5,400	5,400
AIRCRAFT MAINTENANCE FACILITIES	3,000	---	3,000	---
ALTER AIRMEN DINING HALL	1,150	---	1,150	---
CHAPEL CENTER	2,300	---	---	---
MUNITIONS MAINT-STORAGE FACS-PHASE II	5,950	5,000	5,000	5,000
SUWON				
MUNITIONS MAINTENANCE AND STORAGE FACS	3,250	---	---	---
PORTOMOD WAREHOUSE	600	---	---	---
TAEGU AB				
AIRMEN DINING HALL	2,350	2,350	2,350	2,350
PORTOMOD WAREHOUSE	1,070	1,070	1,070	1,070
UNACCOMPANIED OFFICER PERSONNEL HOUSING	1,750	1,300	1,300	1,300
DEFENSE AGENCIES				
CAMP EDWARDS				
HEALTH/DENTAL CLINIC	1,800	1,800	1,800	1,800
CAMP LONG				
DISPENSARY/DENTAL CLINIC	1,850	1,850	1,850	1,850
CAMP PELHAM				
TROOP AID STATION	720	720	720	720
DEF FUEL SUPPORT POINT TOEGYEWON				
FUEL TANKAGE	1,010	1,010	1,010	1,010
DEF REUTILIZATION & MARKETING OFC BUPYONG				
COVERED STORAGE	1,290	1,290	1,290	1,290
SEOUL				
HIGH SCHOOL UPGRADING	510	510	---	---
TOTAL, KOREA	203,000	167,540	176,740	167,030
KWAJALEIN				
ARMY				
KWAJALEIN				
HARBOR/CHANNEL DREDGING	2,100	2,100	2,100	2,100
MISSION CONTROL CENTER MODIFICATION	5,100	5,100	5,100	5,100
MULTIPLE OBJECT TRACKING FACILITY	2,400	2,400	2,400	2,400
UNACCOMPANIED OFFICERS HOUSING	11,000	9,000	11,000	10,000
DEFENSE AGENCIES				
MISSILE RANGE				
TARGET LAUNCH COMPLEX	1,340	---	1,340	1,340
TOTAL, KWAJALEIN	21,940	18,600	21,940	20,940
MARIANA ISLANDS				
AIR FORCE				
SAIPAN				
PACBAR RADAR BARRIER III	5,200	5,200	5,200	5,200
TOTAL, MARIANA ISLANDS	5,200	5,200	5,200	5,200
MOROCCO				
AIR FORCE				
VARIOUS LOCATIONS-MOROCCO				
PETROLEUM RESUPPLY SYSTEM	25,400	---	25,400	25,400
TOTAL, MOROCCO	25,400	---	25,400	25,400
OMAN				
AIR FORCE				
MASIRAH AB				
SW ASIA-CARETAKER CONTRACTOR SPT FACS	3,500	---	3,500	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
THUMRAIT AB				
SW ASIA-CARETAKER CONTRACTOR SPT FACS	3,400	---	3,400	---
TOTAL, OMAN	6,900	---	6,900	---
NETHERLANDS				
AIR FORCE				
CAMP NEW AMSTERDAM				
ADD TO BASE SUPPLY COMPLEX	2,450	---	---	---
ADD-ALTER CHAPEL	1,300	---	---	---
CHEM WARFARE-SQUADRON OPERATIONS FACILITY	930	930	930	930
COMMUNICATIONS MAINTENANCE FACILITY	570	570	570	570
WOENSDRECHT AB				
GLCM-BASE CIVIL ENGINEER COMPLEX	3,500	3,500	3,500	3,500
GLCM-BASE SUPPLY COMPLEX	2,350	2,350	2,350	2,350
GLCM-DINING HALL	1,600	---	---	---
GLCM-FIRE STATION	1,000	1,000	1,000	1,000
GLCM-HIGH FREQUENCY FACILITY	1,600	1,600	1,600	1,600
GLCM-OPERATIONS/MAINTENANCE TRAINING FACS	1,700	1,700	1,700	1,700
GLCM-SUBSISTENCE STORAGE FACILITY	1,050	1,050	1,050	1,050
GLCM-TELECOMMUNICATIONS CENTER	1,000	1,000	1,000	1,000
GLCM-TOWER SUPPORT	350	350	350	350
GLCM-UNACCOMP ENLISTED PERSONNEL HOUSING	7,300	5,380	5,380	5,380
GLCM-UNACCOMP OFFICERS PERSONNEL HOUSING	3,000	3,000	3,000	3,000
GLCM-UTILITIES, PAVEMENTS AND ROADS	8,600	8,600	8,600	8,600
GLCM-VEHICLE CORROSION CONTROL FACILITY	700	700	700	700
GLCM-VEHICLE OPERATIONS COMPLEX	550	550	550	550
DEFENSE AGENCIES				
CAMP NEW AMSTERDAM				
CLINIC/DENTAL CLINIC	6,000	5,000	5,000	5,000
WOENDRECHT				
ELEMENTARY AND HIGH SCHOOL ADDITION	7,420	7,420	---	7,420
TOTAL, NETHERLANDS	52,970	44,700	37,280	44,700
PANAMA				
ARMY				
FORT KOBBE				
AIRCRAFT PARKING APRON EXTENSION	420	---	---	---
TOTAL, PANAMA	420	---	---	---
PHILIPPINES				
NAVY				
NAVAL AIR STATION CUBI POINT				
BACHELOR OFFICER QUARTERS	5,300	5,300	5,300	5,300
NAVAL COMMUNICATION STATION SAN MIGUEL				
FIRE PROTECTION SYSTEM	470	470	470	470
NAVAL SHIP REPAIR FACILITY SUBIC BAY				
ABRASIVE BLAST FACILITY	1,770	1,770	1,770	1,770
NAVAL STATION SUBIC BAY				
CONSTRUCTION BATTALION CAMP	1,710	1,710	1,710	1,710
NAVAL SUPPLY DEPOT SUBIC BAY				
DATA PROCESSING CENTER ADDITION	290		290	290
NAVY PUBLIC WORKS CENTER SUBIC BAY				
FACILITY ENERGY IMPROVEMENTS	2,100	2,	---	---
AIR FORCE				
CLARK AFB				
AEROSPACE SYS BRANCH/ENGINE DISPATCH FAC	1,050	1,050	1,050	1,050
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	1,850	1,850	1,850	1,850
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	3,150	3,150	3,150	3,150
CHILD CARE CENTER	2,000	2,000	2,000	2,000
COPE THUNDER OPERATIONS FACILITY	4,650	4,650	4,650	4,650
ESSENTIAL MAINTENANCE FACILITIES-PHASE II	4,600	4,600	4,600	4,600
FIRE STATION	760	760	760	760
PARALLEL RUNWAY	32,500	---	32,500	32,500
PETROLEUM OPERATIONS FACILITY	1,650	1,650	1,650	1,650
PORTOMOD WAREHOUSE	460	460	460	460
UPGRADE POWER PLANT-PHASE IV	8,600	8,600	8,600	8,600
TOTAL, PHILIPPINES	72,910	40,410	70,810	70,810
PORTUGAL				
AIR FORCE				
LAJES FIELD				
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	4,750	4,750	4,750	4,750
HYDRANT REFUELING SYSTEM	8,300	---	8,300	---
UNACCOMPANIED OFFICER PERSONNEL HOUSING	2,700	2,000	2,000	2,000
TOTAL, PORTUGAL	15,750	6,750	15,050	6,750

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
PUERTO RICO				
NAVY				
LANT FLT WPNS TRAINING FAC ROOSEVELT ROADS				
LAND ACQUISITION	195	---	---	---
RANGE OPERATIONS CENTER ADDITION	4,220	4,220	4,220	4,220
NAVAL SECURITY GROUP ACTIVITY SABANA SECA				
BACHELOR ENLISTED QUARTERS IMPROVEMENTS	790	790	790	790
NAVAL STATION ROOSEVELT ROADS				
CONSTRUCTION BATTALION EQUIPMENT MAIN FAC	3,930	3,930	3,930	3,930
SECURITY FACILITIES	2,360	2,360	2,360	2,360
UNDERWATER DEMOLITION TEAM FACILITIES	790	790	790	790
ARMY NATIONAL GUARD				
CAMP SANTIAGO (SALINAS)				
BRIDGE, HIGHWAY	148	148	148	148
RANGE, COMBAT PISTOL	156	156	156	156
RANGE, TANK TABLE VI	190	190	190	190
ARMY RESERVE				
FORT ALLEN				
ARMY RESERVE CENTER MAINT/STORAGE	7,784	---	7,784	7,784
TOTAL, PUERTO RICO	20,563	12,584	20,368	20,368
SCOTLAND				
NAVY				
NAVAL SECURITY GROUP ACTIVITY EDZELL				
OCEAN SURVEILLANCE BUILDING ADDITIONS	2,250	2,250	2,250	2,250
TOTAL, SCOTLAND	2,250	2,250	2,250	2,250
SPAIN				
NAVY				
NAVAL STATION ROTA				
POL PIPELINE IMPROVEMENTS	4,600	4,600	4,600	4,600
AIR FORCE				
TORREJON AB				
SATELLITE COMMUNICATIONS GROUND TERMINAL	1,450	---	1,450	---
ZARAGOZA AB				
2ND ECHELON MEDICAL LOGISTICS STORAGE FAC	540	---	540	---
TOTAL, SPAIN	6,590	4,600	6,590	4,600
TURKEY				
ARMY				
LOCATION 276				
BARRACKS MODERNIZATION	3,700	3,700	3,700	3,700
AIR FORCE				
ANKARA				
CHAPEL CENTER	1,550	---	---	---
CONSOLIDATED SUPPORT CENTER	3,050	3,050	---	---
DINING HALL	1,250	1,250	1,250	1,250
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	930	930	930	930
INCIRLIK AB				
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,250	2,250	2,250	2,250
BASE SUPPLY ADMINISTRATION FACILITY	1,200	1,200	---	---
DINING HALL	2,350	2,350	2,350	2,350
MEDICAL CONTINGENCY FACILITY	820	---	820	---
POST OFFICE	510	---	---	---
VEHICLE MAINTENANCE COMPLEX	4,800	4,800	4,800	4,800
VISITING OFFICER QUARTERS	3,400	---	---	---
WAREHOUSE	1,650	1,650	---	1,650
PIRINCLIK				
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	3,000	2,000	2,000	2,000
TOTAL, TURKEY	30,460	23,180	18,100	18,930
UNITED KINGDOM				
NAVY				
NAVAL ACTIVITIES LONDON				
CONSOLIDATED PERSONNEL SUPPORT FACILITIES	1,180	---	1,180	1,180
NAVAL COMMUNICATION STATION THURSO				
PERIMETER SECURITY FENCE	350	350	350	350
AIR FORCE				
MOLESWORTH				
CHEM WARFARE-CENTRAL SECURITY CONTROL FAC	1,050	1,050	1,050	1,050
CHEM WARFARE-WING COMMAND POST FACILITY	1,050	1,050	1,050	1,050
GLCM-BASE CIVIL ENGINEER COMPLEX	330	330	330	330
RAF ALCONBURY				
AIRCRAFT MAINTENANCE FACILITY	640	640	640	640
ALTER UNACCOMP ENLISTED PERSONNEL HOUSING	2,450	2,450	2,450	2,450
BASE OPERATIONS FACILITY	900	900	900	900
DIGITAL EUROPEAN BACKBONE FACILITY	1,200	1,200	1,200	1,200
GLCM-ADD/ALTER PHYSICAL TRAINING FACILITY	2,100	---	---	---
GLCM-BASE THEATER	1,300	---	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
GLCM-CONSOLIDATED SUPPORT CENTER	8,800	8,800	---	---
TR1-AIRCRAFT MAINTENANCE FACILITY	680	680	680	680
TR1-LIBRARY	1,050	---	---	---
TR1-VISITING AIRMEN QUARTERS	1,300	---	1,300	---
RAF BENTWATERS				
2ND ECHELON MEDICAL LOGISTICS STORAGE FAC	1,250	---	1,250	---
ALTER UNACCOMP ENLISTED PERS HOUSING	3,700	---	3,700	---
CENTRAL POST OFFICE	650	---	---	---
DIGITAL EUROPEAN BACKBONE FACILITY	1,200	1,200	1,200	1,200
RECREATION CENTER	2,250	---	---	---
WATER STORAGE AND DISTRIBUTION SYSTEM	1,400	1,400	1,400	1,400
RAF CHICKSANDS				
ADD-ALTER WATER DISTRIBUTION SYSTEM	950	950	950	950
RAF CROUGHTON				
TELECOMMUNICATIONS FACILITY	630	630	630	630
RAF FAIRFORD				
ADD-ALTER VEHICLE MAINTENANCE FACILITY	1,700	---	---	---
ORG MAINT AND SUPPORT EQUIP COMPLEX	2,750	---	---	---
RAF GREENHAM COMMON				
GLCM-TEMPORARY LIVING FACILITY	2,100	---	---	---
RAF LAKENHEATH				
BASE SUPPLY STORAGE SHED	500	500	---	---
GYMNASIUM	2,500	2,500	2,500	2,500
POST OFFICE	1,200	---	---	---
RAF MARTLESHAM				
DIGITAL EUROPEAN BACKBONE FACILITY	1,650	1,650	1,650	1,650
RAF MILDENHALL				
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	4,700	4,700	4,700	4,700
RAF UPPER HEYFORD				
ADD-ALTER VEHICLE MAINTENANCE SHOP	2,300	---	2,300	---
DIGITAL EUROPEAN BACKBONE FACILITY	1,200	1,200	1,200	1,200
UNACCOMP ENLISTED PERS HSG ALTERATION	4,500	4,500	4,500	4,500
UNACCOMPANIED ENLISTED PERSONNEL HOUSING	6,000	---	6,000	---
RAF WELFORD				
GROUND DEFENSE MUNITIONS STORAGE IGLOOS	830	830	830	830
MUNITION SURVEILLANCE AND INSPECTION SHOP	760	760	760	760
RAF WETHERSFIELD				
2ND ECHELON MEDICAL LOGISTICS STORAGE FAC	650	---	650	---
RAF WOODBRIDGE				
CORROSION CONTROL FACILITY	3,400	---	---	---
SUPPLY WAREHOUSE	1,650	---	---	---
TOTAL, UNITED KINGDOM	74,800	38,270	45,350	30,150
OVERSEAS CLASSIFIED				
ARMY				
CLASSIFIED PROJECT	4,000	4,000	4,000	4,000
NAVY				
MAGAZINES	15,700	15,700	15,700	15,700
AIR FORCE				
BASE THIRTY				
TR1-UNACCOMP ENLISTED PERSONNEL HOUSING	2,950	2,950	2,950	2,950
US AIR FORCES IN EUROPE				
CLASSIFIED PROJECT	11,500	11,500	11,500	11,500
TOTAL, OVERSEAS CLASSIFIED	34,150	34,150	34,150	34,150
OVERSEAS VARIOUS				
ARMY				
VARIOUS LOCATIONS				
PRE-POSITIONED WAR MATERIAL FACILITIES	4,900	---	4,900	---
NAVY				
VARIOUS LOCATIONS				
HOST NATION INFRASTRUCTURE SUPPORT	300	---	---	---
AIR FORCE				
US AIR FORCES IN EUROPE				
AUXILIARY SEISMIC NETWORK	3,953	3,953	3,953	3,953
DEFENSE AGENCIES				
VARIOUS LOCATIONS				
CONFORMING STORAGE FACILITIES	21,400	3,263	16,400	10,000
TOTAL, OVERSEAS VARIOUS	30,553	7,216	25,253	13,953
NATO				
NATO INFRASTRUCTURE	247,000	247,000	232,000	232,000
WORLDWIDE UNSPECIFIED				
ARMY				
PLANNING AND DESIGN	131,640	131,440	129,240	131,000
UNSPECIFIED MINOR CONSTRUCTION	20,000	20,000	---	20,000
GENERAL REDUCTION - PROJECTS IN GERMANY	---	-10,000	-10,000	---
GENERAL REDUCTION	---	---	-8,000	---
RESCISSION	---	---	---	-36,400

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVY				
ACCESS ROADS	5,400	3,950	5,400	5,400
PLANNING AND DESIGN	143,770	143,770	143,570	143,570
GULF COAST COMMUNITY IMPACT ASSISTANCE	---	---	200	200
UNSPECIFIED MINOR CONSTRUCTION	15,000	15,000	---	15,000
GENERAL REDUCTION	---	---	-43,900	---
RESCISSION	---	---	---	-25,800
AIR FORCE				
PLANNING AND DESIGN	127,260	127,260	117,260	117,260
UNSPECIFIED MINOR CONSTRUCTION	16,000	16,000	---	16,000
GENERAL REDUCTION	---	---	-41,100	-41,100
RESCISSION	---	---	---	-24,700
DEFENSE AGENCIES				
CONTINGENCY CONSTRUCTION	5,000	5,000	5,000	5,000
PLANNING AND DESIGN	110,700	78,200	88,200	83,000
UNSPECIFIED MINOR CONSTRUCTION	4,000	4,000	---	4,000
ARMY NATIONAL GUARD				
PLANNING AND DESIGN	19,000	19,000	19,000	19,000
UNSPECIFIED MINOR CONSTRUCTION	4,647	4,647	4,647	4,647
GENERAL REDUCTION	---	---	---	-8,000
AIR NATIONAL GUARD				
PLANNING AND DESIGN	15,420	15,420	15,420	15,420
UNSPECIFIED MINOR CONSTRUCTION	2,130	2,130	2,130	2,130
ARMY RESERVE				
PLANNING AND DESIGN	11,300	11,300	11,300	11,300
UNSPECIFIED MINOR CONSTRUCTION	1,100	1,100	1,100	1,100
NAVY RESERVE				
PLANNING AND DESIGN	5,300	5,300	5,300	5,300
UNSPECIFIED MINOR CONSTRUCTION	1,500	1,500	1,500	1,500
AIR FORCE RESERVE				
PLANNING AND DESIGN	6,560	6,560	6,560	6,560
UNSPECIFIED MINOR CONSTRUCTION	2,580	2,580	2,580	2,580
TOTAL, WORLDWIDE VARIOUS	648,307	604,157	455,407	473,967

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
FAMILY HOUSING, ARMY				
ALASKA				
FORT WAINWRIGHT	33,000	---	33,000	---
CALIFORNIA				
FORT IRWIN	730	730	730	730
FORT ORD	34,000	30,500	34,000	30,500
LOUISIANA				
FORT POLK	37,000	33,900	37,000	33,900
MARYLAND				
ABERDEEN PROVING GROUND	9,700	9,100	9,700	9,100
ABERDEEN PROVING GROUND	1,100	1,100	1,100	1,100
NEW YORK				
FORT DRUM	91,000	86,500	91,000	86,500
SENECA ARMY DEPOT	2,900	2,650	2,900	2,650
GERMANY				
CRAILSHEIN	4,100	3,200	4,100	3,200
DARMSTADT	3,150	2,500	3,150	2,500
ERLANGEN	9,400	7,750	9,400	7,750
HERZO BASE	3,300	2,600	3,300	2,600
MAINZ	1,850	---	---	---
SCHWEINFURT	8,400	6,800	8,400	6,800
VILSECK	21,000	17,800	21,000	17,800
WILDFLECKEN	2,050	1,550	2,050	1,550
ITALY				
LIVORNO	7,700	---	---	---
KWAJALEIN				
KWAJALEIN	23,000	16,000	23,000	16,000
CONSTRUCTION IMPROVEMENTS	146,000	125,000	146,000	135,000
PLANNING	24,000	20,000	24,000	22,000
GENERAL REDUCTION - CONSTRUCTION ACCOUNT	---	---	-30,000	---
OPERATING EXPENSES				
MANAGEMENT ACCOUNT	72,686	69,000	70,000	69,000
SERVICES ACCOUNT	44,719	44,719	44,719	44,719
FURNISHINGS ACCOUNT	120,815	110,000	108,815	108,815
MISCELLANEOUS ACCOUNT	650	650	650	650
SUBTOTAL	238,870	224,369	224,184	223,184
UTILITIES ACCOUNT	268,596	259,330	262,000	259,330
LEASING	173,885	144,549	169,900	158,400
MAINTENANCE OF REAL PROPERTY	587,852	570,000	580,000	569,000
INTEREST PAYMENTS	347	347	347	347
MORTGAGE INSURANCE PREMIUMS	70	70	70	70
SUBTOTAL, NET BUDGET AUTHORITY	1,269,620	1,198,665	1,236,501	1,210,331
PLUS APPROPRIATION FOR DEBT REDUCTION	7,646	7,646	7,646	7,646
TOTAL, FAMILY HOUSING, ARMY	1,740,646	1,573,991	1,667,977	1,597,657

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
FAMILY HOUSING, NAVY				
CALIFORNIA				
MARCOR AIR-GRND COMB CTR TWENTYNINE PALMS	33,900	31,400	33,900	31,400
MARCOR AIR-GRND COMB CTR TWENTYNINE PALMS	1,400	1,400	1,400	1,400
MARINE CORPS BASE CAMP PENDLETON	1,800	1,800	1,800	1,800
NAS MOFFETT FIELD	11,600	10,400	11,600	10,400
NAVAL STATION LONG BEACH	22,900	21,000	22,900	21,000
PUBLIC WORKS CENTER SAN FRANCISCO	26,450	24,450	26,450	24,450
NEW YORK				
NAVAL STATION NEW YORK	28,330	---	---	---
NORTH CAROLINA				
MARINE CORPS BASE CAMP LEJEUNE	930	930	930	930
VIRGINIA				
MARCOR DEV EDUC COM QUANTICO	790	790	790	790
ICELAND				
NAVAL STATION KEFLAVIK	48,642	28,642	28,642	28,642
CONSTRUCTION IMPROVEMENTS	51,580	48,580	46,000	48,580
PLANNING	2,000	2,000	2,000	2,000
GENERAL REDUCTION - CONSTRUCTION ACCOUNT	---	---	-6,500	---
OPERATING EXPENSES				
MANAGEMENT ACCOUNT	44,730	42,730	40,000	40,000
SERVICES ACCOUNT	31,553	29,847	31,000	29,847
FURNISHINGS ACCOUNT	14,124	12,124	12,124	12,124
MISCELLANEOUS ACCOUNT	437	400	400	400
SUBTOTAL	90,844	85,101	83,524	82,371
UTILITIES ACCOUNT	172,071	168,071	167,000	167,000
LEASING	22,459	18,859	18,859	18,859
MAINTENANCE OF REAL PROPERTY	268,146	260,000	265,000	260,000
INTEREST PAYMENTS	268	268	268	268
MORTGAGE INSURANCE PREMIUMS	190	190	190	190
SUBTOTAL, NET BUDGET AUTHORITY	553,978	532,489	534,841	528,688
PLUS APPROPRIATION FOR DEBT REDUCTION	8,613	8,613	8,613	8,613
TOTAL, FAMILY HOUSING, NAVY	792,913	712,494	713,366	708,693

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
FAMILY HOUSING, AIR FORCE				
ARIZONA				
DAVIS-MONTHAN AFB	300	300	300	300
CALIFORNIA				
BEALE AFB	180	180	180	180
EDWARDS AFB	376	376	376	376
COLORADO				
LA JUNTA	4,000	3,400	3,400	3,400
NEW JERSEY				
MCGUIRE AFB	325	325	325	325
NORTH CAROLINA				
POPE AFB	300	300	300	300
GERMANY				
BITBURG AB	26,415	24,015	26,415	24,015
HAHN AB	11,300	10,300	11,300	10,300
KOREA				
OSAN AB	160	---	---	---
CONSTRUCTION IMPROVEMENTS	58,644	50,644	58,644	58,644
PLANNING	7,000	7,000	7,000	7,000
GENERAL REDUCTION - CONSTRUCTION ACCOUNT	---	---	-7,000	---
OPERATING EXPENSES				
MANAGEMENT ACCOUNT	29,969	27,969	28,500	27,969
SERVICES ACCOUNT	23,992	23,592	23,592	23,592
FURNISHINGS ACCOUNT	48,872	41,872	45,000	41,872
MISCELLANEOUS ACCOUNT	6,462	4,462	4,462	4,462
SUBTOTAL	109,295	97,895	101,554	97,895
UTILITIES ACCOUNT	247,289	235,320	238,000	235,320
LEASING	79,776	70,000	79,776	70,000
MAINTENANCE OF REAL PROPERTY	307,684	300,000	305,000	300,000
INTEREST PAYMENTS	206	206	206	206
MORTGAGE INSURANCE PREMIUMS	250	250	250	250
SUBTOTAL, NET BUDGET AUTHORITY	853,500	800,511	826,026	808,511
PLUS APPROPRIATION FOR DEBT REDUCTION	6,909	6,909	6,909	6,909
TOTAL, FAMILY HOUSING, AIR FORCE	860,409	807,420	832,935	815,420
FAMILY HOUSING, DEFENSE AGENCIES				
NSA CLASSIFIED PROJECT	270	240	250	240
OPERATING EXPENSES				
SERVICES ACCOUNT	6	6	6	6
UTILITIES ACCOUNT	197	197	197	197
FURNISHINGS ACCOUNT	2,013	1,413	1,750	1,413
MISCELLANEOUS ACCOUNT	578	578	578	578
LEASING	14,027	13,527	14,000	13,700
MAINTENANCE OF REAL PROPERTY	509	509	509	509
TOTAL, FAMILY HOUSING, DEFENSE AGENCIES	17,600	16,470	17,290	16,643
HOMEOWNERS ASSISTANCE FUND				
OPERATING EXPENSES				
ACQUISITION OF REAL PROPERTY	2,300	---	1,150	650
MORTGAGES ASSUMED	2,000	---	1,000	500
OTHER OPERATING COSTS	1,550	---	700	700
PAYMENT TO HOMEOWNERS	150	---	150	150
TOTAL, HOMEOWNERS ASSISTANCE FUND	6,000	---	3,000	2,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1986 Adjusted	FY 1987 Estimates	House	Senate	Conference
Military construction, Army (net)	1,524,436,000	1,695,200,000	1,200,070,000	1,262,570,000	1,223,710,000
Appropriation, 1987	(1,524,436,000)	(1,695,200,000)	(1,200,070,000)	(1,262,570,000)	(1,260,110,000)
Rescission	---	---	---	---	(-36,400,000)
Advance appropriation, 1988	---	221,000,000	221,000,000	---	221,000,000
Advance appropriation, 1989	---	162,000,000	214,000,000	---	214,000,000
Military construction, Navy (net)	1,621,807,000	1,814,100,000	1,224,290,000	1,282,985,000	1,350,915,000
Appropriation, 1987	(1,621,807,000)	(1,814,100,000)	(1,224,290,000)	(1,282,985,000)	(1,376,715,000)
Rescission	---	---	---	---	(-25,800,000)
Military construction, Air Force (net)	1,581,727,000	1,773,200,000	1,220,130,000	1,250,620,000	1,217,830,000
Appropriation, 1987	(1,581,727,000)	(1,773,200,000)	(1,220,130,000)	(1,250,620,000)	(1,242,530,000)
Rescission	---	---	---	---	(-24,700,000)
Military construction, Defense agencies	172,488,000	762,100,000	541,563,000	505,110,000	534,170,000
North Atlantic Treaty Organization Infrastructure	9,510,000	247,000,000	247,000,000	232,000,000	232,000,000
Military construction, Army National Guard	97,197,000	121,100,000	115,724,000	133,271,000	140,879,000
Military construction, Air National Guard	115,309,000	140,000,000	140,000,000	148,925,000	148,925,000
Military construction, Army Reserve	58,340,000	86,700,000	76,417,000	86,700,000	86,700,000
Military construction, Naval Reserve	39,752,000	44,500,000	44,500,000	44,500,000	44,500,000
Military construction, Air Force Reserve	59,942,000	58,900,000	58,900,000	58,900,000	58,900,000
Total, military construction, 1987 (net)	5,280,508,000	6,742,800,000	4,868,594,000	5,005,581,000	5,038,529,000
Appropriations, 1987	(5,280,508,000)	(6,742,800,000)	(4,868,594,000)	(5,005,581,000)	(5,125,429,000)
Rescission	---	---	---	---	(-86,900,000)
Advance appropriation, 1988	---	221,000,000	221,000,000	---	221,000,000
Advance appropriation, 1989	---	162,000,000	214,000,000	---	214,000,000
Family housing, Army	1,375,089,000	1,740,646,000	1,573,991,000	1,667,977,000	1,597,657,000
Portion applied to debt reduction	-15,064,000	-7,646,000	-7,646,000	-7,646,000	-7,646,000
Subtotal, family housing, Army	1,360,025,000	1,733,000,000	1,566,345,000	1,660,331,000	1,590,011,000
Family housing, Navy	648,788,000	792,913,000	712,494,000	713,366,000	708,693,000
Portion applied to debt reduction	-16,239,000	-8,613,000	-8,613,000	-8,613,000	-8,613,000
Subtotal, family housing, Navy	632,549,000	784,300,000	703,881,000	704,753,000	700,080,000
Family housing, Air Force	806,926,000	860,409,000	807,420,000	832,935,000	815,420,000
Portion applied to debt reduction	-14,298,000	-6,909,000	-6,909,000	-6,909,000	-6,909,000
Subtotal, family housing, Air Force	792,628,000	853,500,000	800,511,000	826,026,000	808,511,000
Family housing, Defense agencies	15,755,000	17,600,000	16,470,000	17,290,000	16,643,000
Homeowners Assistance Fund, Defense	---	6,000,000	---	3,000,000	2,000,000
Total family housing (budget authority)	2,846,558,000	3,417,568,000	3,110,375,000	3,234,568,000	3,140,413,000
Total portion applied to debt reduction	-45,601,000	-23,168,000	-23,168,000	-23,168,000	-23,168,000
Total, family housing	2,800,957,000	3,394,400,000	3,087,207,000	3,211,400,000	3,117,245,000
RECAPITULATION					
Total, FY 1987 (net)	8,081,465,000	10,137,200,000	7,955,801,000	8,216,981,000	8,155,774,000
Appropriations, 1987	(8,081,465,000)	(10,137,200,000)	(7,955,801,000)	(8,216,981,000)	(8,242,674,000)
Rescissions	---	---	---	---	(-86,900,000)
Advance appropriations:					
FY 1988	---	221,000,000	221,000,000	---	221,000,000
FY 1989	---	162,000,000	214,000,000	---	214,000,000
Grand total, NBOA, FY 1987, 1988, 1989	8,081,465,000	10,520,200,000	8,390,801,000	8,216,981,000	8,590,774,000

Mr. MOLINARI. Mr. Speaker, I rise to note that the conference report for the continuing resolution eliminates the House-passed provision removing the ban on the rehiring of the dismissed air traffic controllers. As you will recall, when the House considered this provision last July, I offered an amendment mandating that at least 1,000 fired controllers be rehired over the next 2 years. My amendment was defeated by a rather close vote. Opponents said that my amendment went too far and that the mild language in the House bill will force the Department of Transportation to rehire without specifically mandating numbers.

Well obviously DOT has no intention of rehiring one single fired controller and could not even agree to the Transportation Subcommittee's limited provision.

Since we last spoke about rehiring, the air traffic control system has deteriorated further. Let me relate to you just two incidences where the system has deteriorated. I need not remind my colleagues, especially those from southern California, of the midair crash over Cerritos. The controller in that case was "oneholing," that is controlling two or more positions at the same time. Although this might not have been a cause for the crash, it usually indicates low staffing.

In July, the FAA transferred air space from New York Center to Boston Center. The transfer was intended to alleviate the staffing problem at New York Center. What it actually did was send New York's problems northward. When New York held these 7 sectors, 52 controllers worked the air space. Now that Boston controls the air space only 32 controllers are working the same area. Furthermore, the Boston controllers are now required to work 6-day work weeks and overtime, and many report working for over 4 hours without a break. In essence the FAA has tried to solve a legitimate problem in New York and seems to be creating a bigger one in Boston.

Mr. Speaker, when we debated my amendment on this issue the FAA provided a Member of this House with a statement refuting a story in the Washington Post that there were only 52 fully qualified controllers at Chicago O'Hare Airport. The FAA statement said that there were 80. Well, I did not know it at the time, but I did some investigation and found out that the Washington Post was right. FAA offered no apology for misleading Congress. In fact, if I had not showed the FAA, from its own documents, that the true number was 52 they would still not admit to their "error."

I, therefore, must insist that the only way we can get the FAA to increase the number of experienced controllers is by mandating the rehiring of the fired controllers. The safety of the American public must transcend above the politics of rehiring. We have an air traffic control system that is dangerously stressed due to the lack of experienced controllers. There is no other place that the FAA can buy the experience needed other than from the fired controllers. Simply inserting staffing requirements in the continuing resolution will not add experience. We must rehire today for the safety of all of the American people.

Mr. DAUB. Mr. Speaker, I appreciate this opportunity to comment on the fiscal year 1987 continuing appropriations (H.J. Res. 738) conference agreement that the House is considering today. This measure contains important language that will address the flood control problems in the Papillion basin, which is located in and around Omaha, NE.

The continuing resolution contains language I authored directing the Corps of Engineers to proceed in accordance with the plan contained in the Corps of Engineers' reevaluation report—50-year channel proposal—for Papillion Creek and Tributaries Lakes, NE. The bill authorizes construction as contemplated in the reevaluation report and deauthorizes features eliminated from the original authorization adopted in 1968.

Furthermore, the appropriations measure we are considering today will resolve a water quality problem that afflicts dam site 18, which is a part of the Papillion Creek and Tributaries Lakes project. To remedy the problem, the continuing resolution includes language directing the corps to provide funds for design and construction of a storage facility to keep effluent from two upstream sanitary improvement districts (SID's) from flowing into Boxelder Creek, which feeds the reservoir at site 18.

Mr. Chairman, on April 16, 1986, I appeared at a hearing before the House Appropriations Subcommittee on Energy and Water Development along with representatives from the city of Omaha; the Papio Natural Resources District; and The Papio Valley Preservation Association. The purpose of this testimony involved the request of authorizing the 50-year channel proposal adopted by the Papio Watershed Coordinating Committee (PWCC) and providing $300,000 for engineering and design work for this plan in fiscal year 1987; moreover, a request was made for $2 million in fiscal year 1987 funds for continued work on dams 18 and 20, and $421,000 for operations and maintenance of the Papio watershed.

These requests were ultimately included in the Energy and Water Development Appropriations Act of 1987 (H.R. 5162) as passed by the House on July 23, 1986. However, since the full Senate did not complete action on H.R. 5162, it has been necessary to include the respective House and Senate versions of H.R. 5162 in the continuing resolution.

While the House passed versions of H.R. 5162 and the continuing resolution contained $300,000 for engineering and design work on the reevaluation report, I regret that the conference agreement on the continuing resolution that we are considering today does not contain this $300,000 for fiscal year 1987 work (the $2 million for work on Dams 18 and 20, and the $421,000 for operations and maintenance are maintained in the conference agreement). Authorizing the 50-year channel proposal is certainly an important step to resolve the flood problems in the Papio basin, but it is also my position that the project merits funding in fiscal year 1987. I will continue to work for funding on the project through any means available this year.

The history of flooding in the Papillion Creek Basin reflects the severity of the problem and the need to expeditiously proceed with the modified project. Floods or threats of floods in the area occur almost every year during the summer thunderstorm season. Within the last 27 years, floods occurred in 1959, 1960, 1964, and 1965. The 1964 flood, which was the basin's most damaging flood, caused the loss of seven lives and an estimated $5 million in damage. Moreover, the increasing urbanization of the Omaha area in recent years has increased the potential for damage.

As a result of the severity of the flooding in 1964 and 1965, the Omaha District Corps of Engineers, in conjunction with other Federal and local agencies, conducted studies to determine methods to control flooding in the Papio Basin. These studies resulted in a plan—authorized by the Flood Control Act of 1968—consisting of 21 earthen dams for flood control, recreation, fish and wildlife enhancement, and water quality control.

Since the original authorization in 1968, the Papio project has experienced considerable delays and size reduction because of significant changes in cost, regulations, and new legislation, as well as local oppposition. As a result, only four of the authorized dams—dams 11, 16, 18, 20—have been or are being constructed by the Corps of Engineers. The remaining 17 dams—excepting dam site 17, which was completed by the private developer—have been deemed over the years as uneconomic or are highly controversial. Thus, the 17 dams are not classified in an inactive status.

Recognizing the continuing flood control problems in the Papio basin and the need to resolve the controversy resulting over the identified solutions, I brought together opponents and supporters of certain aspects of the 1968 plan and formed the Papio Watershed Coordinating Committee (PWCC) in March 1981.

The PWCC consisted of 11 members respresenting the cities of Omaha, Papillion, and Ralston; the villages of Bennington and Washington; the Washington County Board Supervisors; the Douglas and Sarpy County Boards of Commissioners; the Papio Natural Resource District; the Papio Valley Preservation Association; and the Papio Flood Protection Association. This committee concept proved to be an outstanding forum for the exchange of ideas and grievances in the effort to gain a consensus and thus resolve the longstanding local controversy.

Together, the PWCC drew up a compromise resolution seeking development of a comprehensive plan for flood damage prevention in the Papio basin that was presented in Washington before Congress. This resolution ultimately resulted in the 1982 Energy and Water Development Appropriations Act mandating funding for the continued construction of dams 18 and 20 and the initiation of a 3-year study of possible modifications to the 1968 authorized plan.

After several meetings and a lot hard work, the PWCC was presented in 1984 with five differing plans that the Corps of Engineers developed. The plan that was unanimously adopted by the PWCC on April 26, 1985, was the 50-year channel proposal (which is authorized in the fiscal year 1987 continuing resolution). The authorization consists of the following:

First, a 50-year channel improvement along the Big Papillion Creek generally extending

from West Center Road to L Street in Omaha, NE.

Second, improvement of the Union Pacific Railroad bridge crossing Big Papillion Creek located upstream of F Street, including a connecting street from F Street north to the C-D Street frontage road to access the recreation facilities along the channel.

Third, a 2 mile recreation trail extending the length of the recommendation channel improvement.

Fourth, an electronic flood warning system for the entire Papillion Creek Basin System.

Mr. Chairman, the modified Papio plan contemplated in the continuing resolution will save the Federal Government a substantial financial commitment in that the reevaluation is estimated to cost $7 million, while the original solution authorized in 1968 would have cost $120 million in terms of current prices. This authorization is truly an essential effort and duly rewards the hard work of the members of the PWCC and the Omaha Corps of Engineers.

I want to take this time to express my appreciation to members of the PWCC, the Corps of Engineers, and the countless others who participated in the efforts to come to a consensus on this flood control issue. The contributions of local interests have been essential to resolving the problem, and I am very pleased that we can finally go forth with the reevaluation plan and provide flood protection to my constituents in the Omaha area.

Mr. Chairman, with respect to the provisions of the continuing resolution that pertain to dam site 18, I also want to commend the local interests who came to a consensus to resolve the water quality problem at the site. Even though the reservoir has been built at site 18, the water quality problem originating from the effluent from the two upstream SID's has precluded final action to fill the new lake.

After a local solution to the problem was recently reached, I presented the House Energy and Water Appropriations Subcommittee with language directing the Corps of Engineers to build a containment structure to keep the effluent from flowing into Boxelder Creek, which feeds the reservoir created by dam 18. To justify to the subcommittee the local concerns on the issue, I also presented letters of support addressed to me from the following entities:

Nebraska Department of Environmental Control; Douglas County Health Department; city of Elkhorn; SID's 57 and 303; Papio Natural Resource District; Nebraska Department of Health; and the city of Omaha;

The Energy and Water Appropriations Subcommittee included my language in H.R. 5162 and the House version of the continuing resolution. And the conference agreement we are considering today directs the corps to use already appropriated funds to proceed with the necessary design and construction work to implement the agreed to solution. The proposal consists of creating a storage facility—pond—in the vicinity of the Skyline Woods Golf Course. Treated effluent from SID 57 would flow by gravity to the pond and SID 303 treated effluent would be pumped up to the pond level. The pond would thus keep the effluent from reaching Boxelder Creek.

Again, I want to commend all those individuals who contributed to the resolutions of the omnibus flood control problem in the Papio basin and the water quality problem at dam site 18. Your hard work has resulted in today's legislation, and I look forward to working with all of you in the future to implement the solutions.

Mr. UDALL. Mr. Speaker, the conference report on the fiscal year 1987 continuing appropriations bill makes an important clarification regarding the assistance provided the newest member of the American political family, the Commonwealth of the Northern Mariana Islands. It provides that the terms of the assistance are those included in the Omnibus Insular Areas Act of 1986, which authorized and requires the assistance.

I appreciate the cooperation of the very able chairman of the Appropriations Subcommittee on Interior, SID YATES, and the ranking minority member, RALPH REGULA, in working out the clarification. It indicates their continuing sensitivity to the unique situations of the U.S. insular areas.

The need for the clarification was created by an amendment by the other body to the Interior and related agencies appropriations bill. A proviso in the administration of territories section could have been misinterpreted to apply terms to the assistance which were proposed by the administration but which were not approved in Public Law 99-396.

If such a misinterpretation were implemented, it would not only have contradicted the authorization, it could have also conflicted with the covenant which established the Federal relationship with the Commonwealth. The committee report and subsequent statements of sponsors of the proviso made clear that such a misinterpretation would be contrary to intent; but there were indications that it may have been implemented anyway.

The Congress did not approve all of the terms proposed by the administration because they were technically faulty; conferred new and objectionable authority on the Secretary of the Interior to defer guaranteed appropriated spending; permitted any of the enacted terms to be changed without congressional approval; and included overly broad requirements and disputed understandings. Public Law 99-396 corrected these deficiencies.

The conference report modified the language of the proviso to make it consistent with Public Law 99-396 and apply only the terms of the assistance set forth in that law. Of the terms proposed by the administration, the law approved the schedule and purposes of the payments which will be provided on a guaranteed basis through fiscal year 1992.

It did not approve the so-called performance standards recommended by the administration or authority for the administration to withhold any of the assistance. However, performance standards which were proposed but not specifically approved may be followed to the extent indicated in my statement on that act and as mutually agreed by the administration and the Commonwealth.

If the administration believes the performance standards are not being met, however, it can request approval from Congress to withhold payments of assistance under Public Law 99-396. Such approval can only be obtained by enactment of an authorization bill.

The consideration of such a bill would enable the Congress to specifically consider the proposed performance standard at issue in the context of the disputed positions of the administration and the Commonwealth on it. This process will preserve the self-government the Commonwealth is guaranteed in the covenant and will prevent Department of the Interior from compromising it.

This process will also preserve the fiscal responsibility intent of the performance standards, which the Commonwealth has committed to meeting to the greatest extent possible, reasonable, and intended by Congress. We appreciate the efforts of the officials who developed the proposed terms but are resolute that they should be implemented only as Congress intends.

Mr. FRENZEL. Mr. Speaker, I oppose the conference report.

Once again, we are being asked to accept a comprehensive spending bill because we have failed to follow our own budget and spending process. This year's performance has been the worst ever, with not one appropriations bill being passed separately. This bill is the largest single appropriation ever, but no one here knows, or can know, what is in it.

We do not know exactly how much this bill will cost. The committee has provided us with a figure for total Budget Authority and an outlay estimate. However, to my knowledge the outlay figure is nothing more than a rough guess. I have been unable to obtain a CBO-prepared cost estimate.

We have voted for plenty of irresponsible bills, under plenty of irresponsible procedures, but this one is about as bad as any I have seen. The bill is a foot thick, and no one knows what is in it. About the only fact of which I am sure is that it spends too much money.

I do know that the bill's cost is too great. I am concerned that the HUD and Commerce/Justice/State portions of the bill will prove too costly, though no breakdown is available. The bill also fails to hold the line on defense, both across the board and in specific items. The strategic defense initiative (SDI), for example, is funded at $3.5 billion, well above the House's freeze-plus-inflation figure of $3.1 billion. On most other programs, I have been unable to obtain specific figures, but I am sure many have been granted similar increases.

Mr. Speaker, my fundamental objection is that this continuing resolution is too big and too hasty, and much too unknown. It is sure to contain pork. We just don't kow how much. It is sure to fail to hold the line on spending overall. I oppose the shoddy procedures and this bad bill. And I urge all Members to vote no.

Mr. YOUNG of Alaska. Mr. Speaker, I want to clarify a certain provision of the continuing resolution which relates to the Department of Energy's newly proposed uranium enrichment services criteria.

Mr. Speaker, although we are allowing the DOE to operate the Enrichment Program under certain provisions of the newly proposed criteria for the next several months, I wish to stress that the Congress is in no way, and I repeat in no way, approving the new criteria, nor DOE's new enrichment contract, or

DOE's failure to live up to the mandate of section 161v which requires DOE to restrict enrichment of foreign uranium for domestic use to maintain the viability of the domestic uranium industry.

I think it is an act of bad faith for DOE to wait until the waning moments of this 99th Congress to submit new criteria which represent a major change in the direction the Enrichment Program operates.

Mr. Speaker, the Enrichment Program $7.5 billion in debt and the new criteria write-off $4.1 billion of this debt without the approval of Congress. Both the Interior and Insular Affairs Committee of which I am the ranking minority member, and the Energy and Commerce Committee voted to disapprove the new criteria without dissent. The Senate without dissent also passed a resolution rejecting the criteria.

The new criteria attempt to amend the Atomic Energy Act with a simple administrative rulemaking. This the department is statutorily barred from doing. Section 161v of the Atomic Energy Act states that the prices DOE charges for its enrichment services "* * * shall be on a basis of recovery of the Government's costs over a reasonable period of time * * *" The criteria also state that DOE may, when it so desires, recover what future costs it feels may be reasonable.

Mr. Speaker, such discretion in the newly proposed criteria mask our attempts to balance the Federal budget. The write-off of $4.1 billion without congressional approval is bad enough, but for DOE to give itself future authority to write off billions more cannot be tolerated.

We cannot allow such fiscal irresponsibility to continue. DOE has no flexibility in section 161v of the Atomic Energy Act as it relates to the viability of the domestic uranium industry, the write-off of billions of dollars of debt, nor price discrimination. I would also like to know why the DOE is keeping multiple sets of books in order to justify whatever actions it so desires.

In closing, Mr. Speaker, I would like to make it perfectly clear that although we are allowing the Enrichment Program to continue to operate until the next Congress can get around to addressing DOE's conduct, I want it perfectly understood that we are in no way condoning DOE's present actions as they relate to pending litigation against the department in the U.S. Court of Appeals for the 10th Circuit. DOE has flim-flammed the Congress enough on many of these issues and I feel this is just another act on the part of DOE to attempt to intimidate the Federal court system. Our action here today should in no way impact the 10th Circuit Court of Appeals from rendering a decision against the Department for its past actions against the domestic uranium industry.

Mr. COMBEST. Mr. Speaker, today the House is considering a massive spending package which encompasses 13 fiscal year 1987 individual appropriations, and I intend to vote against this measure. I am compelled, however, to express my disappointment in having to oppose some worthy legislative measures which are trapped in the folds of the largest single spending bill in history.

The practice of carrying out the congressional appropriation process through passage of a bulky, omnibus measure is irresponsible and completely contrary to our democratic process. True democratic representation is impossible when the Nation's Federal spending allocations are carried on in this manner.

It is unfortunate that good legislation is inextricable from this burdensome measure. For instance, the energy and water development section of the continuing resolution contains a reduction in funding for the Nuclear Waste Disposal Program and includes language that would prohibit exploratory shaft drilling in fiscal year 1987. I would certainly like to support passage of a measure that would reduce funding for the program that threatens to establish a nuclear waste repository site in the heart of my agriculturally oriented congressional district.

Another section of the continuing resolution provides $100 million for aid to the Nicaraguan Contras. I have consistently championed the Contra efforts to establish democracy and preserve freedom in Central America, and yet I am forced to vote against a $100 million allocation to assist in their noble cause.

It is my view that representative democracy is denied in this distortion of our appropriations process called a continuing resolution. Because I am opposed to tremendous spending increases which expand the burden of our Federal deficit, I am forced to oppose responsible and sound legislative measures. Clearly, Mr. Speaker, the continuing resolution evidences the worst of Congress' fiscal irresponsibility.

Mr. GLICKMAN. Mr. Speaker, buried in House Joint Resolution 738, the giant funding bill we have before us today, is $625,000 for the U.S. Institute of Peace for fiscal year 1987. While this is substantially lower than the Institute's current authorization of $6 million, I understand that it represents no prejudice against the Institute. Rather, under the threat of a veto for abridgement of the budget ceiling, conferees on the Education-Labor-HHS appropriations bill decided to hold the line on new funding for the Institute, given the presence of $3.5 million in the Institute's endowment. Under its charter, funding in the endowment can be rolled over to the current fiscal year. The funds in the endowment combined with the proposed appropriation of $625,000 will bring the Institute's funding level to approximately $4 million, the sum which the Institute had available during the just-ended fiscal year. I would point out, however, that when that $4 million was appropriated, it was intended as a partial year appropriation. Therefore, since this will be the Institute's first full year of operation, I would hope that the Appropriations Committee would be willing to consider a request for supplemental funding later in this fiscal year.

It is also my understanding that the $625,000 appropriation is not to be interpreted as the base from which next year's appropriation for the Institute of Peace will be determined. In previous situations where an entity's organization has been delayed, this leaving carry-over funds which have reduced a subsequent year's appropriation, the basis for succeeding funding decisions has been determined to be the reduce appropriation plus the carryover. I trust that this will be the case for the Institute of Peace when it seeks funding for fiscal year 1988.

In conclusion, I would like to share with my colleagues some of the actions taken by the Peace Institute since its inaugural Board meeting in late February. The Institute's Board has organized its work through six committees and, to date, has met six times. The Institute currently has seven full-time staff members. On the program side, the Institute has initiated its grants program, expects to begin the Jennings Randolph Program for International Peace before the end of the calendar year, is developing a professional-level internship program, and has identified seven projects for the Institute itself to carry out during the coming year. One project is already underway: preparing an intellectual and programmatic map of the peace field.

The U.S. Institute of Peace is in the critical first years of its operation. I hope that in the months ahead the Institute will receive the congressional support so essential to its establishment as an integral component in this Nation's arsenal of peace.

Mr. DASCHLE. Mr. Speaker, I rise to offer my strong support to Chairman WHITTEN's clarifying language regarding the amendment to the Rural Electrification Act contained in the conference report on the continuing resolution. The language submitted by Senate conferees, had it become law, would have caused serious and permanent damage to the rural electric program and harm to rural electric consumers in South Dakota and across the Nation.

Mr. NATCHER. Mr. Speaker, I am inserting for the Member's benefit a table showing the amounts provided in the joint resolution for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year 1987, along with appropriate comparisons.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
SUMMARY 1/									
Title I - Department of Labor:									
Federal Funds	6,303,652,000	4,872,614,000	5,524,294,000	5,758,198,000	5,665,002,000	-638,650,000	+792,388,000	+140,708,000	-93,196,000
Trust Funds	(2,588,411,000)	(2,747,345,000)	(2,751,696,000)	(2,612,928,000)	(2,607,664,000)	(+19,253,000)	(-139,681,000)	(-144,032,000)	(-5,264,000)
Title II - Department of Health and Human Services:									
Federal Funds (all years)	77,550,058,000	79,336,916,000	84,001,567,000	84,145,034,000	84,327,284,000	+6,777,226,000	+4,990,368,000	+325,717,000	+182,250,000
Current year	(66,076,304,000)	(66,738,851,000)	(71,403,502,000)	(71,546,969,000)	(71,729,219,000)	(+5,652,915,000)	(+4,990,368,000)	(+325,717,000)	(+182,250,000)
1988 advance	(11,473,754,000)	(12,598,065,000)	(12,598,065,000)	(12,598,065,000)	(12,598,065,000)	(+1,124,311,000)	---	---	---
(Unauthorized)	(3,770,944,000)	(3,534,212,000)	DEFER	(3,768,345,000)	(3,732,757,000)	(-38,187,000)	(+198,545,000)	(+3,732,757,000)	(-35,588,000)
Total, authorized and unauthorized	(81,321,002,000)	(82,871,128,000)	(84,001,567,000)	(87,913,379,000)	(88,060,041,000)	(+6,739,039,000)	(+5,188,913,000)	(+4,058,474,000)	(+146,662,000)
Trust Funds	(5,029,303,000)	(5,297,867,000)	(5,289,417,000)	(5,305,093,000)	(5,131,070,000)	(+101,767,000)	(-166,797,000)	(-158,347,000)	(-174,023,000)
Title III - Department of Education:									
Federal Funds	12,377,434,000	11,986,099,000	13,380,231,000	13,104,805,000	13,304,819,000	+927,385,000	+1,318,720,000	-75,412,000	+200,014,000
(Unauthorized)	(5,481,846,000)	(4,279,782,000)	DEFER	(5,913,622,000)	(5,930,822,000)	(+448,976,000)	(+1,651,040,000)	(+5,930,822,000)	(+17,200,000)
Total, authorized and unauthorized	(17,859,280,000)	(16,265,881,000)	(13,380,231,000)	(19,018,427,000)	(19,235,641,000)	(+1,376,361,000)	(+2,969,760,000)	(+5,855,410,000)	(+217,214,000)
Title IV - Related Agencies:									
Federal Funds (all years)	806,054,000	599,321,000	814,924,000	845,367,000	833,042,000	+26,988,000	+233,721,000	+18,118,000	-12,325,000
Current year	(592,054,000)	(469,321,000)	(600,924,000)	(607,367,000)	(605,042,000)	(+12,988,000)	(+135,721,000)	(+4,118,000)	(-2,325,000)
1989 advance	(214,000,000)	(130,000,000)	(214,000,000)	(238,000,000)	(228,000,000)	(+14,000,000)	(+98,000,000)	(+14,000,000)	(-10,000,000)
(Unauthorized)	(144,781,000)	(151,115,000)	DEFER	(154,537,000)	(153,912,000)	(+9,131,000)	(+2,797,000)	(+153,912,000)	(-625,000)
Total, authorized and unauthorized	(950,835,000)	(750,436,000)	(814,924,000)	(999,904,000)	(986,954,000)	(+36,119,000)	(+236,518,000)	(+172,030,000)	(-12,950,000)
Trust Funds	(71,586,000)	(74,121,000)	(76,916,000)	(79,855,000)	(78,386,000)	(+6,800,000)	(+4,265,000)	(+1,470,000)	(-1,469,000)
Sec. 515 reserves (P.L. 99-190):									
Federal Funds	11,702,000	---	---	---	---	-11,702,000	---	---	---
Trust Funds	(919,000)	---	---	---	---	(-919,000)	---	---	---
Total, all titles:									
Federal Funds (all years)	97,048,900,000	96,794,950,000	103,721,016,000	103,853,404,000	104,130,147,000	+7,081,247,000	+7,335,197,000	+409,131,000	+276,743,000
Current year	(85,361,146,000)	(84,066,885,000)	(90,908,951,000)	(91,017,339,000)	(91,304,082,000)	(+5,942,936,000)	(+7,237,197,000)	(+395,131,000)	(+286,743,000)
1988 advance	(11,473,754,000)	(12,598,065,000)	(12,598,065,000)	(12,598,065,000)	(12,598,065,000)	(+1,124,311,000)	---	---	---
1989 advance	(214,000,000)	(130,000,000)	(214,000,000)	(238,000,000)	(228,000,000)	(+14,000,000)	(+98,000,000)	(+14,000,000)	(-10,000,000)
(Unauthorized)	(9,397,571,000)	(7,965,109,000)	DEFER	(9,836,504,000)	(9,817,491,000)	(+419,920,000)	(+1,852,382,000)	(+9,817,491,000)	(-19,013,000)
Total, authorized and unauthorized	(106,446,471,000)	(104,760,059,000)	(103,721,016,000)	(113,689,908,000)	(113,947,638,000)	(+7,501,167,000)	(+9,187,579,000)	(+10,226,622,000)	(+257,730,000)
Trust Funds	7,690,219,000	8,119,333,000	8,118,029,000	7,997,876,000	7,817,120,000	+126,901,000	-302,213,000	-300,909,000	-180,756,000

1/ Excludes funding for Refugee and Entrant Assistance (Title II) and Follow through (Title III). See continuing resolution H.J. Res 738.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
TITLE I, DEPARTMENT OF LABOR									
EMPLOYMENT AND TRAINING ADMINISTRATION									
PROGRAM ADMINISTRATION									
Job training programs	7,528,000	7,871,000	7,871,000	7,926,000	7,871,000	+343,000	---	---	-55,000
Employment security	1,306,000	686,000	2,585,000	466,000	2,585,000	+1,279,000	+1,899,000	---	+2,119,000
Trust funds	(14,780,000)	(23,944,000)	(18,944,000)	(26,063,000)	(18,944,000)	(+4,164,000)	(-5,000,000)	---	(-7,119,000)
Financial control and management systems	16,026,000	14,577,000	14,932,000	14,932,000	14,932,000	-1,094,000	+355,000	---	---
Trust funds	(8,497,000)	(8,063,000)	(8,063,000)	(8,063,000)	(8,063,000)	(-434,000)	---	---	---
Executive direction and administration	3,045,000	3,188,000	3,188,000	3,188,000	3,188,000	+143,000	---	---	---
Trust funds	(2,359,000)	(2,475,000)	(2,475,000)	(2,475,000)	(2,475,000)	(+116,000)	---	---	---
Regional operations	27,885,000	23,608,000	25,758,000	26,476,000	25,758,000	-2,127,000	+2,150,000	---	-718,000
Trust funds	(15,081,000)	(15,281,000)	(15,281,000)	(15,281,000)	(15,281,000)	(+200,000)	---	---	---
Apprenticeship services	12,260,000	13,029,000	13,029,000	13,029,000	13,029,000	+769,000	---	---	---
Less work incentives 1/	-3,427,000	---	---	---	---	+3,427,000	---	---	---
Total, Program Administration	105,340,000	112,722,000	112,126,000	117,899,000	112,126,000	+6,786,000	-596,000	---	-5,773,000
Federal funds	64,623,000	62,959,000	67,363,000	66,017,000	67,363,000	+2,740,000	+4,404,000	---	+1,346,000
Trust funds	(40,717,000)	(49,763,000)	(44,763,000)	(51,882,000)	(44,763,000)	(+4,046,000)	(-5,000,000)	---	(-7,119,000)
TRAINING AND EMPLOYMENT SERVICES									
Grants to States:									
Block grant	1,783,085,000	1,820,000,000	1,820,000,000	1,863,151,000	1,840,000,000	+56,915,000	+20,000,000	+20,000,000	-23,151,000
Summer youth employment and training program:									
(Summer, 1987 and 1988)	635,976,000	428,000,000	664,549,000	811,000,000	750,000,000	+114,024,000	+322,000,000	+85,451,000	-61,000,000
Dislocated worker assistance	95,702,000	100,000,000	150,000,000	223,000,000	200,000,000	+104,298,000	+100,000,000	+50,000,000	-23,000,000
Federally administered programs:									
Native Americans	59,567,000	60,060,000	60,060,000	61,484,000	61,484,000	+1,917,000	+1,424,000	+1,424,000	---
Migrants and seasonal farmworkers	57,762,000	58,240,000	58,240,000	59,621,000	59,621,000	+1,859,000	+1,381,000	+1,381,000	---
Job Corps	612,480,000	351,736,000	662,700,000	650,000,000	656,350,000	+43,870,000	+304,614,000	-6,350,000	+6,350,000
Veterans' employment	9,251,000	10,494,000	10,494,000	10,058,000	10,058,000	+807,000	-436,000	-436,000	---
National activities:									
Pilots and demonstrations	19,808,000	40,698,000	40,698,000	31,620,000	31,620,000	+11,812,000	-9,078,000	-9,078,000	---
Research, demonstration and evaluation	13,743,000	25,190,000	25,190,000	20,190,000	20,190,000	+6,447,000	-5,000,000	-5,000,000	---
Other	24,107,000	15,190,000	25,190,000	18,190,000	26,690,000	+2,583,000	+11,500,000	+1,500,000	+8,500,000
Subtotal, National activities	57,658,000	81,078,000	91,078,000	70,000,000	78,500,000	+20,842,000	-2,578,000	-12,578,000	+8,500,000
Subtotal, Federal activities	796,718,000	561,608,000	882,572,000	851,163,000	866,013,000	+69,295,000	+304,405,000	-16,559,000	+14,850,000
Total, Job Training Partnership Act	3,311,481,000	2,909,608,000	3,517,121,000	3,748,314,000	3,656,013,000	+344,532,000	+746,405,000	+138,892,000	-92,301,000
Trade adjustment program activities	24,882,000	---	26,000,000	29,900,000	29,900,000	+5,018,000	+29,900,000	+3,900,000	---
Total, Training and Employment Services	3,336,363,000	2,909,608,000	3,543,121,000	3,778,214,000	3,685,913,000	+349,550,000	+776,305,000	+142,792,000	-92,301,000
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS	312,002,000	326,000,000	326,000,000	326,000,000	326,000,000	+13,998,000	---	---	---

1/ FY 1986 WIN funds considered under Dept. of Health and Human Services.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES									
Trade adjustment assistance 1/	5,000,000	114,000,000	114,000,000	114,000,000	114,000,000	+109,000,000	---	---	---
Unemployment assistance and payments under other Federal unemployment programs	5,000,000	4,000,000	4,000,000	4,000,000	4,000,000	-1,000,000	---	---	---
Total, FUBA	10,000,000	118,000,000	118,000,000	118,000,000	118,000,000	+108,000,000	---	---	---
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS									
Unemployment Compensation (Trust Funds):									
State Operations	(1,100,512,000)	(1,221,865,000)	(1,221,865,000)	(1,221,865,000)	(1,221,865,000)	(+121,353,000)	---	---	---
State integrity activities	(212,933,000)	(245,754,000)	(245,754,000)	(212,754,000)	(212,754,000)	(-179,000)	(-33,000,000)	(-33,000,000)	---
National Activities	(2,783,000)	(2,039,000)	(2,039,000)	(2,039,000)	(2,039,000)	(-744,000)	---	---	---
Contingency	(271,340,000)	(261,942,000)	(261,942,000)	(150,910,000)	(150,910,000)	(-120,430,000)	(-111,032,000)	(-111,032,000)	---
Subtotal, Unemployment Compensation(trust funds)	(1,587,568,000)	(1,731,600,000)	(1,731,600,000)	(1,587,568,000)	(1,587,568,000)	---	(-144,032,000)	(-144,032,000)	---
Employment Service:									
Allotments to States:									
Federal funds	21,724,000	22,700,000	22,700,000	22,700,000	22,700,000	+976,000	---	---	---
Trust funds	(736,411,000)	(732,500,000)	(732,500,000)	(732,500,000)	(732,500,000)	(-3,911,000)	---	---	---
Subtotal	758,135,000	755,200,000	755,200,000	755,200,000	755,200,000	-2,935,000	---	---	---
National Activities:									
Federal funds	861,000	700,000	4,600,000	700,000	700,000	-161,000	---	-3,900,000	---
Trust funds	(26,643,000)	(21,833,000)	(21,833,000)	(21,833,000)	(21,833,000)	(-4,810,000)	---	---	---
Subtotal, Employment Service	785,639,000	777,733,000	781,633,000	777,733,000	777,733,000	-7,906,000	---	-3,900,000	---
Federal funds	22,585,000	23,400,000	27,300,000	23,400,000	23,400,000	+815,000	---	-3,900,000	---
Trust funds	(763,054,000)	(754,333,000)	(754,333,000)	(754,333,000)	(754,333,000)	(-8,721,000)	---	---	---
Total, State Unempl. Ins. and Empl. Ser. Opers.	2,373,207,000	2,509,333,000	2,513,233,000	2,365,301,000	2,365,301,000	-7,906,000	-144,032,000	-147,932,000	---
Federal Funds	22,585,000	23,400,000	27,300,000	23,400,000	23,400,000	+815,000	---	-3,900,000	---
Trust Funds	(2,350,622,000)	(2,485,933,000)	(2,485,933,000)	(2,341,901,000)	(2,341,901,000)	(-8,721,000)	(-144,032,000)	(-144,032,000)	---
ADVANCES TO UNEMPLOYMENT TRUST FUND AND OTHER FUNDS	464,785,000	---	---	---	---	-464,785,000	---	---	---
Total, Employment & Training Administration	6,601,697,000	5,975,663,000	6,612,480,000	6,705,414,000	6,607,340,000	+5,643,000	+631,677,000	-5,140,000	-98,074,000
Federal funds	4,210,358,000	3,439,967,000	4,081,784,000	4,311,631,000	4,220,676,000	+10,318,000	+780,709,000	+138,892,000	-90,955,000
Trust funds	(2,391,339,000)	(2,535,696,000)	(2,530,696,000)	(2,393,783,000)	(2,386,664,000)	(-4,675,000)	(-149,032,000)	(-144,032,000)	(-7,119,000)
LABOR - MANAGEMENT SERVICES									
SALARIES AND EXPENSES									
Labor-management relations service	4,551,000	4,904,000	4,904,000	4,904,000	4,904,000	+353,000	---	---	---
Labor-management standards enforcement	22,652,000	23,735,000	23,735,000	23,735,000	23,735,000	+1,083,000	---	---	---
Pension and welfare benefit programs	27,628,000	33,636,000	33,636,000	33,636,000	33,636,000	+6,008,000	---	---	---
Total, LMS	54,831,000	62,275,000	62,275,000	62,275,000	62,275,000	+7,444,000	---	---	---

1/ Actual FY 86 level $125,000,000 through borrowing from advances account.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
PENSION BENEFIT GUARANTY CORPORATION									
Program Administration (Trust Funds)	(31,345,000)	(36,874,000)	(36,874,000)	(36,874,000)	(36,874,000)	(+5,529,000)	---	---	---
EMPLOYMENT STANDARDS ADMINISTRATION									
SALARIES AND EXPENSES									
Enforcement of wage and hour standards	71,590,000	76,058,000	76,058,000	76,058,000	76,058,000	+4,468,000	---	---	---
Federal contractor EEO standards enforcement	43,993,000	45,935,000	46,935,000	45,935,000	45,935,000	+1,942,000	---	-1,000,000	---
Federal programs for workers' compensation	54,085,000	58,105,000	58,105,000	58,105,000	58,105,000	+4,020,000	---	---	---
Trust funds	(389,000)	(441,000)	(441,000)	(441,000)	(441,000)	(+52,000)	---	---	---
Executive direction and support services	11,492,000	12,611,000	12,611,000	12,611,000	12,611,000	+1,119,000	---	---	---
Black lung administrative law judges	---	---	---	1,500,000	1,500,000	+1,500,000	+1,500,000	+1,500,000	---
Total, salaries and expenses	181,549,000	193,150,000	194,150,000	194,650,000	194,650,000	+13,101,000	+1,500,000	+500,000	---
Federal funds	181,160,000	192,709,000	193,709,000	194,209,000	194,209,000	+13,049,000	+1,500,000	+500,000	---
Trust funds	(389,000)	(441,000)	(441,000)	(441,000)	(441,000)	(+52,000)	---	---	---
SPECIAL BENEFITS									
Federal employees compensation act benefits	232,057,000	259,000,000	259,000,000	259,000,000	259,000,000	+26,943,000	---	---	---
Longshore and harbor workers' benefits	4,600,000	4,600,000	4,600,000	4,600,000	4,600,000	---	---	---	---
Total, Special Benefits	236,657,000	263,600,000	263,600,000	263,600,000	263,600,000	+26,943,000	---	---	---
BLACK LUNG DISABILILTY TRUST FUND									
Benefit payments and interest on advances	938,209,000	183,687,000	186,687,000	186,687,000	186,687,000	-751,522,000	+3,000,000	---	---
Employment Standards Admin., salaries & expenses	24,284,000	25,826,000	25,826,000	25,826,000	25,826,000	+1,542,000	---	---	---
Departmental Management, salaries and expenses	18,850,000	21,413,000	21,413,000	21,413,000	21,413,000	+2,563,000	---	---	---
Departmental Management, inspector general	360,000	612,000	612,000	612,000	612,000	+252,000	---	---	---
Subtotal, Black Lung Disablty. Trust Fund, apprn	981,703,000	231,538,000	234,538,000	234,538,000	234,538,000	-747,165,000	+3,000,000	---	---
Treasury administrative costs (indefinite)	756,000	756,000	756,000	756,000	756,000	---	---	---	---
Total, Employment Standards Administration	1,400,665,000	689,044,000	693,044,000	693,544,000	693,544,000	-707,121,000	+4,500,000	+500,000	---
Federal funds	1,400,276,000	688,603,000	692,603,000	693,103,000	693,103,000	-707,173,000	+4,500,000	+500,000	---
Trust funds	(389,000)	(441,000)	(441,000)	(441,000)	(441,000)	(+52,000)	---	---	---
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION									
SALARIES AND EXPENSES									
Safety and health standards	5,576,000	6,011,000	6,011,000	6,011,000	6,011,000	+435,000	---	---	---
Enforcement:									
Federal Enforcement	85,634,000	90,198,000	90,198,000	90,198,000	90,198,000	+4,564,000	---	---	---
State programs	50,741,000	54,921,000	54,921,000	54,921,000	54,921,000	+4,180,000	---	---	---
Technical Support	12,547,000	14,658,000	14,658,000	14,658,000	14,658,000	+2,111,000	---	---	---
Compliance Assistance	31,063,000	36,040,000	36,040,000	36,040,000	36,040,000	+4,977,000	---	---	---
Safety and health statistics	17,200,000	18,609,000	18,609,000	18,609,000	18,609,000	+1,409,000	---	---	---
Executive direction and administration	4,993,000	5,374,000	5,374,000	5,374,000	5,374,000	+381,000	---	---	---
Total, OSHA	207,754,000	225,811,000	225,811,000	225,811,000	225,811,000	+18,057,000	---	---	---

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
MINE SAFETY AND HEALTH ADMINISTRATION									
SALARIES AND EXPENSES									
Enforcement:									
Coal	72,301,000	78,528,000	78,528,000	80,128,000	78,528,000	+6,227,000	---	---	-1,600,000
Metal/nonmetal	29,266,000	30,698,000	30,698,000	31,298,000	30,698,000	+1,432,000	---	---	-600,000
Standards development	858,000	1,104,000	1,104,000	1,104,000	1,104,000	+246,000	---	---	---
Assessments	1,680,000	1,835,000	1,835,000	1,835,000	1,835,000	+155,000	---	---	---
Educational policy and development	11,129,000	11,686,000	11,686,000	11,686,000	11,686,000	+557,000	---	---	---
Technical support	17,611,000	20,173,000	20,173,000	20,173,000	20,173,000	+2,562,000	---	---	---
Program administration	11,879,000	12,456,000	12,456,000	12,456,000	12,456,000	+577,000	---	---	---
Total, Mine Safety and Health Administration	144,724,000	156,480,000	156,480,000	158,680,000	156,480,000	+11,756,000	---	---	-2,200,000
BUREAU OF LABOR STATISTICS									
SALARIES AND EXPENSES									
Employment and Unemployment Statistics	53,034,000	53,639,000	58,433,000	59,924,000	59,769,000	+6,735,000	+6,130,000	+1,336,000	-155,000
Labor Market Information (Trust Funds)	(34,748,000)	(36,506,000)	(37,872,000)	(37,872,000)	(37,872,000)	(+3,124,000)	(+1,366,000)	---	---
Prices and cost of living	48,467,000	52,997,000	53,358,000	53,358,000	53,358,000	+4,891,000	+361,000	---	---
Wages and industrial relations	17,091,000	20,499,000	20,729,000	20,729,000	20,729,000	+3,638,000	+230,000	---	---
Productivity and technology	4,699,000	5,038,000	5,104,000	5,104,000	5,104,000	+405,000	+66,000	---	---
Economic growth and employment projections	3,059,000	3,035,000	3,067,000	3,317,000	3,067,000	+8,000	+32,000	---	-250,000
Executive direction and staff services	12,851,000	14,463,000	14,463,000	14,463,000	14,463,000	+1,612,000	---	---	---
Consumer Price Index Revision	12,616,000	11,055,000	11,435,000	11,435,000	11,435,000	-1,181,000	+380,000	---	---
Total, Bureau of Labor Statistics	186,565,000	197,232,000	204,461,000	206,202,000	205,797,000	+19,232,000	+8,565,000	+1,336,000	-405,000
Federal Funds	151,817,000	160,726,000	166,589,000	168,330,000	167,925,000	+16,108,000	+7,199,000	+1,336,000	-405,000
Trust Funds	(34,748,000)	(36,506,000)	(37,872,000)	(37,872,000)	(37,872,000)	(+3,124,000)	(+1,366,000)	---	---
DEPARTMENTAL MANAGEMENT									
SALARIES AND EXPENSES									
Executive direction	12,843,000	12,195,000	12,195,000	12,195,000	12,195,000	-648,000	---	---	---
Legal services	38,163,000	41,003,000	41,003,000	41,003,000	41,003,000	+2,840,000	---	---	---
Trust funds	(241,000)	(263,000)	(263,000)	(263,000)	(263,000)	(+22,000)	---	---	---
International labor affairs	4,039,000	4,388,000	4,388,000	4,388,000	4,388,000	+349,000	---	---	---
Administration and management	20,858,000	24,038,000	24,038,000	24,038,000	24,038,000	+3,180,000	---	---	---
Adjudication	10,646,000	10,843,000	10,843,000	10,843,000	10,843,000	+197,000	---	---	---
Promoting employment of the handicapped	2,044,000	2,408,000	2,408,000	2,044,000	2,408,000	+364,000	---	---	+364,000
Women's Bureau	5,207,000	5,785,000	5,785,000	5,785,000	5,785,000	+578,000	---	---	---
Civil Rights Activities	3,237,000	3,192,000	3,192,000	3,192,000	3,192,000	-45,000	---	---	---
Total, Salaries and expenses	97,278,000	104,115,000	104,115,000	103,751,000	104,115,000	+6,837,000	---	---	+364,000
Federal funds	97,037,000	103,852,000	103,852,000	103,488,000	103,852,000	+6,815,000	---	---	+364,000
Trust funds	(241,000)	(263,000)	(263,000)	(263,000)	(263,000)	(+22,000)	---	---	---
VETERANS EMPLOYMENT AND TRAINING									
State Administration:									
Disabled Veterans Outreach Program	(62,112,000)	(69,450,000)	(69,450,000)	(69,450,000)	(69,450,000)	(+7,338,000)	---	---	---
Local Veterans Employment Program	(52,705,000)	(48,947,000)	(56,932,000)	(55,077,000)	(56,932,000)	(+4,227,000)	(+7,985,000)	---	(+1,855,000)
Subtotal, State Administration	(114,817,000)	(118,397,000)	(126,382,000)	(124,527,000)	(126,382,000)	(+11,565,000)	(+7,985,000)	---	(+1,855,000)
Federal Administration	(12,440,000)	(13,128,000)	(13,128,000)	(13,128,000)	(13,128,000)	(+688,000)	---	---	---
Total, Trust Funds	(127,257,000)	(131,525,000)	(139,510,000)	(137,655,000)	(139,510,000)	(+12,253,000)	(+7,985,000)	---	(+1,855,000)

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
OFFICE OF THE INSPECTOR GENERAL									
Audit:									
Federal funds	19,471,000	19,233,000	19,233,000	19,233,000	19,233,000	-238,000	---	---	---
Trust funds	(2,590,000)	(4,792,000)	(4,792,000)	(4,792,000)	(4,792,000)	(+2,202,000)	---	---	---
Investigation:									
Federal funds	6,102,000	5,566,000	5,566,000	5,566,000	5,566,000	-536,000	---	---	---
Trust funds	(502,000)	(1,248,000)	(1,248,000)	(1,248,000)	(1,248,000)	(+746,000)	---	---	---
Office of Labor									
Racketeering	6,403,000	6,323,000	6,323,000	6,323,000	6,323,000	-80,000	---	---	---
Executive Direction and Administration	4,834,000	3,711,000	3,711,000	3,711,000	3,711,000	-1,123,000	---	---	---
Total, Office of the Inspector General	39,902,000	40,873,000	40,873,000	40,873,000	40,873,000	+971,000	---	---	---
Federal funds	36,810,000	34,833,000	34,833,000	34,833,000	34,833,000	-1,977,000	---	---	---
Trust funds	(3,092,000)	(6,040,000)	(6,040,000)	(6,040,000)	(6,040,000)	(+2,948,000)	---	---	---
SPECIAL FOREIGN CURRENCY PROGRAM	45,000	67,000	67,000	47,000	47,000	+2,000	-20,000	-20,000	---
Total, Departmental Management	264,482,000	276,580,000	284,565,000	282,326,000	284,545,000	+20,063,000	+7,965,000	-20,000	+2,219,000
Federal funds	133,892,000	138,752,000	138,752,000	138,368,000	138,732,000	+4,840,000	-20,000	-20,000	+364,000
Trust funds	(130,590,000)	(137,828,000)	(145,813,000)	(143,958,000)	(145,813,000)	(+15,223,000)	(+7,985,000)	---	(+1,855,000)
Total, Labor Department	8,892,063,000	7,619,959,000	8,275,990,000	8,371,126,000	8,272,666,000	-619,397,000	+652,707,000	-3,324,000	-98,460,000
Federal funds	6,303,652,000	4,872,614,000	5,524,294,000	5,758,198,000	5,665,002,000	-638,650,000	+792,388,000	+140,708,000	-93,196,000
Trust funds	(2,588,411,000)	(2,747,345,000)	(2,751,696,000)	(2,612,928,000)	(2,607,664,000)	(+19,253,000)	(-139,681,000)	(-144,032,000)	(-5,264,000)
TITLE II--DEPARTMENT OF HEALTH AND HUMAN SERVICES									
PUBLIC HEALTH SERVICE									
HEALTH RESOURCES AND SERVICES ADMINISTRATION									
HEALTH RESOURCES AND SERVICES									
Health Care Delivery and Assistance:									
Maternal and Child Health Block Grant	457,446,000	478,000,000	478,000,000	478,000,000	478,000,000	+20,554,000	---	---	---
Native Hawaiian child health (sec. 301)	---	---	---	5,000,000	1,000,000	+1,000,000	+1,000,000	+1,000,000	-4,000,000
Community health centers	396,000,000	375,000,000	400,000,000	400,000,000	400,000,000	+4,000,000	+25,000,000	---	---
Migrant health	44,946,000	44,300,000	45,400,000	45,400,000	45,400,000	+454,000	+1,100,000	---	---
Black lung clinics	3,254,000	3,300,000	3,400,000	3,400,000	3,400,000	+146,000	+100,000	---	---
Family planning (unauthorized)	(136,372,000)	(142,500,000)	DEFER	(145,000,000)	(142,500,000)	(+6,128,000)	---	(+142,500,000)	(-2,500,000)
National Health Service Corps (unauthorized)	(55,797,000)	(46,996,000)	DEFER	(65,000,000)	(60,000,000)	(+4,203,000)	(+13,004,000)	(+60,000,000)	(-5,000,000)
Direct loans (non-add) (unauthorized)	(957,000)	(1,000,000)	DEFER	(1,000,000)	(1,000,000)	(+43,000)	---	(+1,000,000)	---
Home health demonstrations and training	1,435,000	---	---	1,500,000	---	-1,435,000	---	---	-1,500,000
Hansen's disease services (Carville)	18,282,000	19,103,000	19,103,000	19,103,000	19,103,000	+821,000	---	---	---
Payment to Hawaii for treatment of Hansen's Dis...	3,158,000	2,500,000	3,300,000	3,300,000	3,300,000	+142,000	+800,000	---	---
Total, Health Care Delivery & Assistance	924,521,000	922,203,000	949,203,000	955,703,000	950,203,000	+25,682,000	+28,000,000	+1,000,000	-5,500,000
Health Professions:									
Health professions student assistance:									
National Health Service Scholarships (unauth).	(2,201,000)	---	DEFER	(2,300,000)	(2,300,000)	(+99,000)	(+2,300,000)	(+2,300,000)	---
Exceptional need scholarships	6,699,000	---	7,000,000	7,000,000	7,000,000	+301,000	+7,000,000	---	---
Health professions institutional assistance:									
Financial distress	3,924,000	---	3,800,000	3,800,000	3,800,000	-124,000	+3,800,000	---	---

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
Public health/health administration:									
Public Health capitation	4,785,000	---	5,000,000	5,000,000	5,000,000	+215,000	+5,000,000	---	---
Health Administration grants	1,436,000	---	1,500,000	1,500,000	1,500,000	+64,000	+1,500,000	---	---
Public Health traineeships	2,871,000	---	3,000,000	3,000,000	3,000,000	+129,000	+3,000,000	---	---
Health Administration traineeships	479,000	---	500,000	500,000	500,000	+21,000	+500,000	---	---
Preventive medicine residencies	1,531,000	---	1,600,000	1,600,000	1,600,000	+69,000	+1,600,000	---	---
Subtotal, PH/HA	11,102,000	---	11,600,000	11,600,000	11,600,000	+498,000	+11,600,000	---	---
Family Med/Gen Dentistry res. & trns	34,412,000	---	35,960,000	37,000,000	35,960,000	+1,548,000	+35,960,000	---	-1,040,000
General Internal Medicine and Pediatrics	17,704,000	---	18,500,000	19,500,000	18,500,000	+796,000	+18,500,000	---	-1,000,000
Family medicine departments	6,699,000	---	7,000,000	7,000,000	7,000,000	+301,000	+7,000,000	---	---
Physician assistants	4,594,000	---	4,800,000	4,800,000	4,800,000	+206,000	+4,800,000	---	---
Area health education centers	17,181,000	---	17,955,000	18,000,000	18,000,000	+819,000	+18,000,000	+45,000	---
Health professions data analysis	1,914,000	---	2,000,000	2,000,000	2,000,000	+86,000	+2,000,000	---	---
Disadvantaged Assistance	24,403,000	---	26,500,000	28,000,000	27,250,000	+2,847,000	+27,250,000	+750,000	-750,000
Health professions spec ed initiatives	2,871,000	---	2,500,000	3,000,000	2,500,000	-371,000	+2,500,000	---	-500,000
Geriatric training initiative	4,785,000	---	5,000,000	10,000,000	10,000,000	+5,215,000	+10,000,000	+5,000,000	---
Two year medical schools	479,000	---	500,000	500,000	500,000	+21,000	+500,000	---	---
Pediatric emergency care	2,000,000	---	---	2,000,000	2,000,000	---	+2,000,000	+2,000,000	---
Pacific Basin Report Implementation (sec. 301)	---	---	---	2,500,000	1,500,000	+1,500,000	+1,500,000	+1,500,000	-1,000,000
Nurse training:									
Advanced nurse training	15,790,000	---	16,500,000	17,000,000	16,750,000	+960,000	+16,750,000	+250,000	-250,000
Nurse practitioner	11,484,000	---	12,000,000	12,000,000	12,000,000	+516,000	+12,000,000	---	---
Special projects	9,092,000	---	9,500,000	9,500,000	9,500,000	+408,000	+9,500,000	---	---
Traineeships	11,005,000	---	11,500,000	12,000,000	11,750,000	+745,000	+11,750,000	+250,000	-250,000
Nurse Anesthetists	766,000	---	800,000	800,000	800,000	+34,000	+800,000	---	---
Special projects for new purposes	1,292,000	---	1,350,000	2,000,000	1,675,000	+383,000	+1,675,000	+325,000	-325,000
Faculty fellowships	526,000	---	550,000	1,100,000	825,000	+299,000	+825,000	+275,000	-275,000
Natl Center for Nursing Research (non add) 2/.	---	---	(16,700,000)	---	---	---	---	(-16,700,000)	---
Subtotal, Nurse training	49,955,000	---	52,200,000	54,400,000	53,300,000	+3,345,000	+53,300,000	+1,100,000	-1,100,000
Total, Health professions	188,722,000	---	195,315,000	211,100,000	205,710,000	+16,988,000	+205,710,000	+10,395,000	-5,390,000
Resources Development:									
Health Planning	26,897,000	---	---	---	---	-26,897,000	---	---	---
Organ transplants	2,871,000	---	6,800,000	8,000,000	7,400,000	+4,529,000	+7,400,000	+600,000	-600,000
Resource Development grants (unauthorized)	(750,000)	---	---	(15,000,000)	(5,000,000)	(+4,250,000)	(+5,000,000)	(+5,000,000)	(-10,000,000)
Health teaching facilities	1,148,000	---	---	---	---	-1,148,000	---	---	---
Total, Resources Development	30,916,000	---	6,800,000	8,000,000	7,400,000	-23,516,000	+7,400,000	+600,000	-600,000
Acquired Immune Deficiency Syndrome (AIDS)	---	---	1,900,000	1,900,000	1,900,000	+1,900,000	+1,900,000	---	---
Buildings and facilities	718,000	750,000	750,000	750,000	750,000	+32,000	---	---	---
Program management / Program support, HRSA	94,707,000	60,221,000	96,400,000	95,000,000	95,000,000	+293,000	+34,779,000	-1,400,000	---
User fees	---	-10,000,000	---	---	---	---	+10,000,000	---	---
Total, Health Resources and Services	1,239,584,000	973,174,000	1,250,368,000	1,272,453,000	1,260,963,000	+21,379,000	+287,789,000	+10,595,000	-11,490,000
(Unauthorized)	(195,120,000)	(189,496,000)	DEFER	(227,300,000)	(209,800,000)	(+14,680,000)	(+20,304,000)	(+209,800,000)	(-17,500,000)
Total, authorized and unauthorized	(1,434,704,000)	(1,162,670,000)	(1,250,368,000)	(1,499,753,000)	(1,470,763,000)	(+36,059,000)	(+308,093,000)	(+220,395,000)	(-28,990,000)
MEDICAL FACILITIES GUARANTEE AND LOAN FUND	25,000,000	20,000,000	20,000,000	20,000,000	20,000,000	-5,000,000	---	---	---
HMO LOAN AND LOAN GUARANTEE FUND:									
Loan disbursements (non-add)	(700,000)	---	---	---	---	(-700,000)	---	---	---
HEAL loan guarantees (non-add) 1/	(275,000,000)	(100,000,000)	(290,000,000)	(275,000,000)	(290,000,000)	(+15,000,000)	(+190,000,000)	---	(+15,000,000)

1/ Authorization ceiling. 2/ Considered under National Institutes of Health.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
CENTERS FOR DISEASE CONTROL									
DISEASE CONTROL									
Preventive Health Services Block Grant	87,549,000	89,525,000	89,525,000	92,500,000	89,525,000	+1,976,000	---	---	-2,975,000
Prevention centers	1,436,000	---	1,500,000	1,500,000	1,500,000	+64,000	+1,500,000	---	---
Sexually transmitted diseases:									
Grants	44,511,000	45,510,000	56,511,000	47,510,000	50,000,000	+5,489,000	+4,490,000	-6,511,000	+2,490,000
Direct operations	9,354,000	9,943,000	9,943,000	9,943,000	9,943,000	+589,000	---	---	---
Subtotal	53,865,000	55,453,000	66,454,000	57,453,000	59,943,000	+6,078,000	+4,490,000	-6,511,000	+2,490,000
Immunization:									
Grants	45,323,000	47,666,000	57,666,000	76,400,000	75,000,000	+29,677,000	+27,334,000	+17,334,000	-1,400,000
Direct operations	7,739,000	8,346,000	8,346,000	8,346,000	8,346,000	+607,000	---	---	---
Vaccine stockpile	3,828,000	---	4,000,000	4,000,000	4,000,000	+172,000	+4,000,000	---	---
Subtotal	56,890,000	56,012,000	70,012,000	88,746,000	87,346,000	+30,456,000	+31,334,000	+17,334,000	-1,400,000
Infectious disease (including AIDS)	97,292,000	81,767,000	123,365,000	125,365,000	125,365,000	+28,073,000	+43,598,000	+2,000,000	---
Tuberculosis grants	4,785,000	---	7,000,000	5,000,000	7,000,000	+2,215,000	+7,000,000	---	+2,000,000
Chronic & environmental disease prevention	29,065,000	24,425,000	30,425,000	34,475,000	30,425,000	+1,360,000	+6,000,000	---	-4,050,000
Occupational Safety and Health (NIOSH):									
Research	56,168,000	60,036,000	60,036,000	60,036,000	60,036,000	+3,868,000	---	---	---
Training	8,383,000	---	9,900,000	8,760,000	9,900,000	+1,517,000	+9,900,000	---	+1,140,000
Subtotal, NIOSH	64,551,000	60,036,000	69,936,000	68,796,000	69,936,000	+5,385,000	+9,900,000	---	+1,140,000
Epidemic services	49,074,000	53,131,000	53,131,000	53,131,000	53,131,000	+4,057,000	---	---	---
Buildings and facilities	3,634,000	1,810,000	3,810,000	11,800,000	11,800,000	+8,166,000	+9,990,000	+7,990,000	---
Program management	2,959,000	3,096,000	3,096,000	3,096,000	3,096,000	+137,000	---	---	---
Less prior year budget authority	-10,000,000	---	---	---	---	+10,000,000	---	---	---
Total, Disease Control	441,100,000	425,255,000	518,254,000	541,862,000	539,067,000	+97,967,000	+113,812,000	+20,813,000	-2,795,000
NATIONAL INSTITUTES OF HEALTH									
National Cancer Institute	1,176,561,000	1,158,089,000	1,346,751,000	1,397,250,000	1,402,837,000	+226,276,000	+244,748,000	+56,086,000	+5,587,000
National Heart, Lung, and Blood Institute	810,905,000	785,697,000	921,410,000	921,502,000	930,001,000	+119,096,000	+144,304,000	+8,591,000	+8,499,000
National Institute of Dental Research	98,111,000	96,482,000	116,275,000	116,553,000	117,945,000	+19,834,000	+21,463,000	+1,670,000	+1,392,000
National Institute of Diabetes, Digestive, and Kidney Diseases	433,519,000	418,971,000	515,455,000	502,628,000	511,124,000	+77,605,000	+92,153,000	-4,331,000	+8,496,000
National Institute of Neurological and Communicative Disorders and Stroke	413,024,000	399,351,000	491,085,000	487,218,000	490,233,000	+77,209,000	+90,882,000	-852,000	+3,015,000
National Institute of Allergy and Infectious Diseases	340,840,000	330,551,000	403,853,000	541,343,000	545,523,000	+204,683,000	+214,972,000	+141,670,000	+4,180,000
National Institute of General Medical Sciences	492,393,000	471,533,000	576,562,000	565,271,000	570,916,000	+78,523,000	+99,383,000	-5,646,000	+5,645,000
National Institute of Child Health and Human Development	307,743,000	309,119,000	368,509,000	362,866,000	366,780,000	+59,037,000	+57,661,000	-1,729,000	+3,914,000
National Eye Institute	186,508,000	179,201,000	219,091,000	214,080,000	216,637,000	+30,129,000	+37,436,000	-2,454,000	+2,557,000
National Institute of Environmental Health Sciences	188,887,000	187,995,000	209,872,000	208,067,000	209,294,000	+20,407,000	+21,299,000	-578,000	+1,227,000
National Institute on Aging	149,623,000	145,829,000	174,279,000	179,582,000	176,931,000	+27,308,000	+31,102,000	+2,652,000	-2,651,000
National Institute of Arthritis and Musculosketal and Skin Diseases	110,723,000	106,733,000	140,225,000	129,475,000	138,713,000	+27,990,000	+31,980,000	-1,512,000	+9,238,000
Research Resources	290,752,000	234,192,000	317,826,000	319,924,000	322,860,000	+32,108,000	+88,668,000	+5,034,000	+2,936,000

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
National Center for Nursing Research 1/	11,197,000	---	16,700,000	20,000,000	19,000,000	+7,803,000	+19,000,000	+2,300,000	-1,000,000
John E. Fogarty International Center	10,893,000	11,305,000	11,443,000	11,420,000	11,420,000	+527,000	+115,000	-23,000	---
National Library of Medicine	55,273,000	56,408,000	61,588,000	62,088,000	61,838,000	+6,565,000	+5,430,000	+250,000	-250,000
Office of the Director (including AIDS in House Bill)	179,643,000	179,691,000	246,651,000	56,708,000	56,708,000	-122,935,000	-122,983,000	-189,943,000	---
Buildings and facilities	14,257,000	8,000,000	31,900,000	31,900,000	31,900,000	+17,643,000	+23,900,000	---	---
Undistributed reduction	---	---	---	-11,000,000	---	---	---	---	+11,000,000
AIDS (non-add) 2/	(134,672,000)	(142,990,000)	(198,943,000)	(247,943,000)	(247,943,000)	(+113,271,000)	(+104,953,000)	(+49,000,000)	---
Total, National Institutes of Health	5,270,852,000	5,079,147,000	6,169,475,000	6,116,875,000	6,180,660,000	+909,808,000	+1,101,513,000	+11,185,000	+63,785,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION									
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH									
Alcohol, Drug Abuse and Mental Health Block Grant	468,930,000	490,000,000	490,000,000	500,000,000	495,000,000	+26,070,000	+5,000,000	+5,000,000	-5,000,000
Mental Health:									
Mental Health Services Demonstrations, (CSP)	11,962,000	---	15,000,000	15,000,000	15,000,000	+3,038,000	+15,000,000	---	---
Research	200,444,000	194,890,000	229,000,000	241,813,000	235,406,000	+34,962,000	+40,516,000	+6,406,000	-6,407,000
Research training	17,225,000	15,847,000	18,000,000	20,000,000	19,000,000	+1,775,000	+3,153,000	+1,000,000	-1,000,000
Clinical training	19,140,000	---	10,000,000	20,000,000	15,000,000	-4,140,000	+15,000,000	+5,000,000	-5,000,000
Direct operations	31,836,000	31,749,000	33,266,000	36,434,000	33,266,000	+1,430,000	+1,517,000	---	-3,168,000
Protection and advocacy	9,570,000	---	10,300,000	10,500,000	10,500,000	+930,000	+10,500,000	+200,000	---
Acquired Immune Deficiency Syndrome (AIDS)	5,051,000	6,169,000	13,859,000	13,859,000	13,859,000	+8,808,000	+7,690,000	---	---
Subtotal, mental health	295,228,000	248,655,000	329,425,000	357,606,000	342,031,000	+46,803,000	+93,376,000	+12,606,000	-15,575,000
Drug Abuse:									
Research	(65,238,000)	(67,405,000)	DEFER	(88,429,000)	(80,000,000)	(+14,762,000)	(+12,595,000)	(+80,000,000)	(-8,429,000)
Research training	1,436,000	1,355,000	1,500,000	3,000,000	2,250,000	+814,000	+895,000	+750,000	-750,000
Direct operations	13,816,000	14,183,000	14,437,000	16,283,000	14,437,000	+621,000	+254,000	---	-1,846,000
Prevention demonstrations	---	---	3,000,000	10,000,000	6,500,000	+6,500,000	+6,500,000	+3,500,000	-3,500,000
Acquired Immune Deficiency Syndrome (AIDS)	7,107,000	7,564,000	31,324,000	31,324,000	31,324,000	+24,217,000	+23,760,000	---	---
Subtotal, drug abuse	22,359,000	23,102,000	50,261,000	60,607,000	54,511,000	+32,152,000	+31,409,000	+4,250,000	-6,096,000
Alcoholism:									
Research	(54,371,000)	(56,618,000)	DEFER	(66,075,000)	(66,075,000)	(+11,704,000)	(+9,457,000)	(+66,075,000)	---
Research training	1,436,000	1,327,000	1,500,000	3,000,000	2,500,000	+1,064,000	+1,173,000	+1,000,000	-500,000
Direct operations	11,157,000	10,876,000	11,658,000	12,494,000	11,658,000	+501,000	+782,000	---	-836,000
Acquired Immune Deficiency Syndrome (AIDS)	---	---	2,370,000	2,370,000	2,370,000	+2,370,000	+2,370,000	---	---
Subtotal, alcoholism	12,593,000	12,203,000	15,528,000	17,864,000	16,528,000	+3,935,000	+4,325,000	+1,000,000	-1,336,000
Buildings and facilities	96,000	600,000	600,000	600,000	600,000	+504,000	---	---	---
Program management, ADAMHA	7,292,000	7,390,000	7,620,000	7,932,000	7,620,000	+328,000	+230,000	---	-312,000
Total, Alcohol, Drug Abuse and Mental Health	806,498,000	781,950,000	893,434,000	944,609,000	916,290,000	+109,792,000	+134,340,000	+22,856,000	-28,319,000
(Unauthorized)	(119,609,000)	(124,023,000)	DEFER	(154,504,000)	(146,075,000)	(+26,466,000)	(+22,052,000)	(+146,075,000)	(-8,429,000)
Total, authorized and unauthorized	(926,107,000)	(905,973,000)	(893,434,000)	(1,099,113,000)	(1,062,365,000)	(+136,258,000)	(+156,392,000)	(+168,931,000)	(-36,748,000)
ST. ELIZABETH'S HOSPITAL:									
Total obligations	128,049,000	136,754,000	136,754,000	136,754,000	136,754,000	+8,705,000	---	---	---
Less reimbursements	-86,310,000	-100,401,000	-100,401,000	-100,401,000	-100,401,000	-14,091,000	---	---	---
Subtotal, St. Elizabeth's Hospital	41,739,000	36,353,000	36,353,000	36,353,000	36,353,000	-5,386,000	---	---	---
Total, ADAMHA	848,237,000	818,303,000	929,787,000	980,962,000	952,643,000	+104,406,000	+134,340,000	+22,856,000	-28,319,000

1/ $5 million initial appropriation provided in FY 1985 to remain available through FY 1986. House amount appropriated under Health Resources and Services.

2/ House amount under Office of the Director. Senate amount distributed among the Institutes.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH									
PUBLIC HEALTH SERVICE MANAGEMENT									
Health Services Research and Technology Assessment:									
Research	14,120,000	17,116,000	17,116,000	17,266,000	17,266,000	+3,146,000	+150,000	+150,000	---
Trust funds	(1,050,000)	(1,050,000)	(1,050,000)	(1,050,000)	(1,050,000)	---	---	---	---
Program support	1,568,000	1,663,000	1,568,000	1,663,000	1,568,000	---	-95,000	---	-95,000
Subtotal	16,738,000	19,829,000	19,734,000	19,979,000	19,884,000	+3,146,000	+55,000	+150,000	-95,000
Health Statistics:									
Program operations	41,508,000	46,825,000	50,094,000	49,025,000	49,025,000	+7,517,000	+2,200,000	-1,069,000	---
Program support	3,056,000	3,193,000	3,056,000	3,193,000	3,056,000	---	-137,000	---	-137,000
Subtotal	44,564,000	50,018,000	53,150,000	52,218,000	52,081,000	+7,517,000	+2,063,000	-1,069,000	-137,000
Adolescent family life (unauthorized)	(13,978,000)	(14,722,000)	DEFER	(14,610,000)	(14,000,000)	(+22,000)	(-722,000)	(+14,000,000)	(-610,000)
Smoking and health	3,201,000	3,471,000	3,471,000	3,400,000	3,471,000	+270,000	---	---	+71,000
Health promotion	2,771,000	2,973,000	3,541,000	8,100,000	8,541,000	+5,770,000	+5,568,000	+5,000,000	+441,000
President's Council on Health Promotion and Disease Prevention	---	---	---	100,000	100,000	+100,000	+100,000	+100,000	---
Physical fitness and sports	1,304,000	1,361,000	1,361,000	1,363,000	1,363,000	+59,000	+2,000	+2,000	---
Health Service Management	17,714,000	18,736,000	17,714,000	18,736,000	18,736,000	+1,022,000	---	+1,022,000	---
AIDS coordinator	---	1,350,000	1,350,000	---	---	---	-1,350,000	-1,350,000	---
Total, PHS management	85,242,000	96,688,000	99,271,000	102,846,000	103,126,000	+17,884,000	+6,438,000	+3,855,000	+280,000
(Unauthorized)	(13,978,000)	(14,722,000)	DEFER	(14,610,000)	(14,000,000)	(+22,000)	(-722,000)	(+14,000,000)	(-610,000)
Total, authorized and unauthorized	(99,220,000)	(111,410,000)	(99,271,000)	(117,456,000)	(117,126,000)	(+17,906,000)	(+5,716,000)	(+17,855,000)	(-330,000)
PRIORITY DISEASE CONTROL AND RESEARCH PROJECTS (AIDS) (NON-ADD) 1/									
Health Resources and Services Administration	---	---	(1,900,000)	(1,900,000)	(1,900,000)	(+1,900,000)	(+1,900,000)	---	---
Centers for Disease Control	(62,133,000)	(45,409,000)	(87,007,000)	(89,007,000)	(89,007,000)	(+26,874,000)	(+43,598,000)	(+2,000,000)	---
National Institutes of Health	(134,672,000)	(142,990,000)	(198,943,000)	(247,943,000)	(247,943,000)	(+113,271,000)	(+104,953,000)	(+49,000,000)	---
National Institute of Mental Health	(5,051,000)	(6,169,000)	(13,859,000)	(13,859,000)	(13,859,000)	(+8,808,000)	(+7,690,000)	---	---
National Institute on Drug Abuse	(7,107,000)	(7,564,000)	(31,324,000)	(31,324,000)	(31,324,000)	(+24,217,000)	(+23,760,000)	---	---
National Institute of Alcohol & Alcohol Abuse	---	---	(2,370,000)	(2,370,000)	(2,370,000)	(+2,370,000)	(+2,370,000)	---	---
Office of Assistant Secretary for Health	---	(1,350,000)	(1,350,000)	---	---	---	(-1,350,000)	(-1,350,000)	---
General Departmental Management	(15,312,000)	---	---	(16,000,000)	(10,000,000)	(-5,312,000)	(+10,000,000)	(+10,000,000)	(-6,000,000)
Total, Priority disease control & res. proj	(224,275,000)	(203,482,000)	(336,753,000)	(402,403,000)	(396,403,000)	(+172,128,000)	(+192,921,000)	(+59,650,000)	(-6,000,000)
RETIREMENT PAY AND MED. BENEFITS FOR COMM. OFFICERS									
Retirement payments	67,996,000	70,060,000	70,060,000	70,060,000	70,060,000	+2,064,000	---	---	---
COLA	---	2,222,000	2,222,000	2,222,000	2,222,000	+2,222,000	---	---	---
Survivors benefits	3,450,000	3,671,000	3,671,000	3,671,000	3,671,000	+221,000	---	---	---
Dependent's medical care	9,360,000	10,329,000	10,329,000	10,329,000	10,329,000	+969,000	---	---	---
Reserve Fund	---	5,000,000	---	---	---	---	-5,000,000	---	---
Total, Retirement pay and medical benefits	80,806,000	91,282,000	86,282,000	86,282,000	86,282,000	+5,476,000	-5,000,000	---	---
Total, Public Health Service	7,990,821,000	7,503,849,000	9,073,437,000	9,121,280,000	9,142,741,000	+1,151,920,000	+1,638,892,000	+69,304,000	+21,461,000
(Unauthorized)	(328,707,000)	(328,241,000)	DEFER	(396,414,000)	(369,875,000)	(+41,168,000)	(+41,634,000)	(+369,875,000)	(-26,539,000)
Total, authorized and unauthorized	(8,319,528,000)	(7,832,090,000)	(9,073,437,000)	(9,517,694,000)	(9,512,616,000)	(+1,193,088,000)	(+1,680,526,000)	(+439,179,000)	(-5,078,000)

1/ Requested in consolidated account not approved by the Committee.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
HEALTH CARE FINANCING ADMINISTRATION									
GRANTS TO STATES FOR MEDICAID									
Medicaid current law benefits	22,650,284,000	24,532,467,000	24,532,467,000	24,897,000,000	24,897,000,000	+2,246,716,000	+364,533,000	+364,533,000	---
State and local administration	1,247,716,000	1,347,892,000	1,347,892,000	1,373,000,000	1,373,000,000	+125,284,000	+25,108,000	+25,108,000	---
Subtotal, current law	23,898,000,000	25,880,359,000	25,880,359,000	26,270,000,000	26,270,000,000	+2,372,000,000	+389,641,000	+389,641,000	---
Legislative proposals	---	-1,172,237,000	---	---	---	---	+1,172,237,000	---	---
Total, MEDICAID current year program level	23,898,000,000	24,708,122,000	25,880,359,000	26,270,000,000	26,270,000,000	+2,372,000,000	+1,561,878,000	+389,641,000	---
Less funds advanced in prior year	-5,980,000,000	-6,500,000,000	-6,500,000,000	-6,500,000,000	-6,500,000,000	-520,000,000	---	---	---
Indefinite such sums	542,484,000	---	---	---	---	-542,484,000	---	---	---
Total appropriation, current request	18,460,484,000	18,208,122,000	19,380,359,000	19,770,000,000	19,770,000,000	+1,309,516,000	+1,561,878,000	+389,641,000	---
Subsequent year advance appropriation	6,500,000,000	7,100,000,000	7,100,000,000	7,100,000,000	7,100,000,000	+600,000,000	---	---	---
PAYMENTS TO HEALTH CARE TRUST FUNDS									
Supplemental medical insurance	18,197,000,000	19,816,000,000	20,285,000,000	20,285,000,000	20,285,000,000	+2,088,000,000	+469,000,000	---	---
Military Service Credits	91,000,000	94,000,000	94,000,000	94,000,000	94,000,000	+3,000,000	---	---	---
Hospital insurance for uninsured	554,000,000	435,000,000	435,000,000	435,000,000	435,000,000	-119,000,000	---	---	---
Federal uninsured payment	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	---	---	---	---
Total, Payment to Trust Funds	18,854,000,000	20,357,000,000	20,826,000,000	20,826,000,000	20,826,000,000	+1,972,000,000	+469,000,000	---	---
PROGRAM MANAGEMENT									
Research, demonstration, and evaluation:									
Federal funds	15,212,000	10,000,000	10,000,000	10,000,000	10,000,000	-5,212,000	---	---	---
Trust funds	(14,120,000)	(8,500,000)	(18,000,000)	(20,650,000)	(18,000,000)	(+3,880,000)	(+9,500,000)	---	(-2,650,000)
Subtotal, Research and evaluation	29,332,000	18,500,000	28,000,000	30,650,000	28,000,000	-1,332,000	+9,500,000	---	-2,650,000
Medicare Contractors (Trust Funds):									
Operating funds	(1,000,069,000)	(956,800,000)	(1,087,000,000)	(1,052,000,000)	(1,052,000,000)	(+51,931,000)	(+95,200,000)	(-35,000,000)	---
Contingency fund	(14,355,000)	(50,000,000)	(15,000,000)	(50,000,000)	(50,000,000)	(+35,645,000)	---	(+35,000,000)	---
Subtotal, Contractors	(1,014,424,000)	(1,006,800,000)	(1,102,000,000)	(1,102,000,000)	(1,102,000,000)	(+87,576,000)	(+95,200,000)	---	---
Less P.L. 99-272 funds (COBRA)	(-78,000,000)	---	(-105,000,000)	(-105,000,000)	(-105,000,000)	(-27,000,000)	(-105,000,000)	---	---
State Certification:									
Medicare certification, trust funds	(46,353,000)	(53,475,000)	(53,475,000)	(54,200,000)	(54,200,000)	(+7,847,000)	(+725,000)	(+725,000)	---
General program support, federal funds	3,108,000	3,525,000	3,525,000	3,525,000	3,525,000	+417,000	---	---	---
End Stage Renal Disease (ESRD) Networks (trust funds)	(4,629,000)	(1,000,000)	(3,850,000)	(3,400,000)	(3,400,000)	(-1,229,000)	(+2,400,000)	(-450,000)	---

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
Federal Administration:									
Federal funds	67,150,000	71,008,000	71,008,000	71,871,000	71,871,000	+4,721,000	+863,000	+863,000	---
Trust funds	(138,670,000)	(144,169,000)	(144,169,000)	(145,920,000)	(145,920,000)	(+7,250,000)	(+1,751,000)	(+1,751,000)	---
Subtotal, Federal Administration	205,820,000	215,177,000	215,177,000	217,791,000	217,791,000	+11,971,000	+2,614,000	+2,614,000	---
Total, Program management	1,225,666,000	1,298,477,000	1,301,027,000	1,306,566,000	1,303,916,000	+78,250,000	+5,439,000	+2,889,000	-2,650,000
Federal funds	85,470,000	84,533,000	84,533,000	85,396,000	85,396,000	-74,000	+863,000	+863,000	---
Trust funds	(1,140,196,000)	(1,213,944,000)	(1,216,494,000)	(1,221,170,000)	(1,218,520,000)	(+78,324,000)	(+4,576,000)	(+2,026,000)	(-2,650,000)
Total, Health Care Financing Administration:									
Federal funds:									
Current year	37,399,954,000	38,649,655,000	40,290,892,000	40,681,396,000	40,681,396,000	+3,281,442,000	+2,031,741,000	+390,504,000	---
Subsequent year advance	6,500,000,000	7,100,000,000	7,100,000,000	7,100,000,000	7,100,000,000	+600,000,000	---	---	---
Trust funds	(1,140,196,000)	(1,213,944,000)	(1,216,494,000)	(1,221,170,000)	(1,218,520,000)	(+78,324,000)	(+4,576,000)	(+2,026,000)	(-2,650,000)
SOCIAL SECURITY ADMINISTRATION									
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	497,008,000	500,555,000	500,555,000	500,555,000	500,555,000	+3,547,000	---	---	---
SPECIAL BENEFITS FOR DISABLED COAL MINERS									
Benefit payments	991,389,000	957,000,000	957,000,000	957,000,000	957,000,000	-34,389,000	---	---	---
Administration	6,239,000	6,437,000	6,437,000	6,437,000	6,437,000	+198,000	---	---	---
Subtotal, Black Lung, program level	997,628,000	963,437,000	963,437,000	963,437,000	963,437,000	-34,191,000	---	---	---
Less funds advanced in prior year	-270,000,000	-270,000,000	-270,000,000	-270,000,000	-270,000,000	---	---	---	---
Indefinite such sums	12,341,000	---	---	---	---	-12,341,000	---	---	---
Apprn. available in prior year	-11,730,000	---	---	---	---	+11,730,000	---	---	---
Total, Black Lung, current request	728,239,000	693,437,000	693,437,000	693,437,000	693,437,000	-34,802,000	---	---	---
Subsequent year advance appropriation	270,000,000	252,450,000	252,450,000	252,450,000	252,450,000	-17,550,000	---	---	---
SUPPLEMENTAL SECURITY INCOME									
Federal benefit payments	9,040,551,000	9,589,000,000	9,589,000,000	9,589,000,000	9,589,000,000	+548,449,000	---	---	---
Beneficiary services	6,800,000	8,200,000	8,200,000	8,200,000	8,200,000	+1,400,000	---	---	---
Administration	977,838,000	972,118,000	972,118,000	972,118,000	972,118,000	-5,720,000	---	---	---
Subtotal, Supplemental Security Income, program	10,025,189,000	10,569,318,000	10,569,318,000	10,569,318,000	10,569,318,000	+544,129,000	---	---	---
Less funds advanced in prior year	-2,345,769,000	-2,339,250,000	-2,339,250,000	-2,339,250,000	-2,339,250,000	+6,519,000	---	---	---
Indefinite such sums	253,545,000	---	---	---	---	-253,545,000	---	---	---
Apprn. available in prior year	-409,194,000	---	---	---	---	+409,194,000	---	---	---
Total, SSI, current request	7,523,771,000	8,230,068,000	8,230,068,000	8,230,068,000	8,230,068,000	+706,297,000	---	---	---
Subsequent year advance appropriation	2,339,250,000	2,765,000,000	2,765,000,000	2,765,000,000	2,765,000,000	+425,750,000	---	---	---

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
ASSISTANCE PAYMENTS									
Current Law									
Maintenance assistance:									
AFDC:									
Benefit payments	8,204,153,000	8,441,805,000	8,441,805,000	8,441,805,000	8,441,805,000	+237,652,000	---	---	---
Error rate sanctions	---	-777,200,000	---	---	---	---	+777,200,000	---	---
Child support enforcement collections	-386,000,000	-417,000,000	-417,000,000	-417,000,000	-417,000,000	-31,000,000	---	---	---
Subtotal, AFDC	7,818,153,000	7,247,605,000	8,024,805,000	8,024,805,000	8,024,805,000	+206,652,000	+777,200,000	---	---
Adult categories	13,368,000	13,368,000	13,368,000	13,368,000	13,368,000	---	---	---	---
Emergency assistance	80,500,000	81,900,000	81,900,000	81,900,000	81,900,000	+1,400,000	---	---	---
State and local administration and training	998,084,000	1,054,584,000	1,054,584,000	1,054,584,000	1,054,584,000	+56,500,000	---	---	---
Administration and training-jurisdictions	6,616,000	6,616,000	6,616,000	6,616,000	6,616,000	---	---	---	---
Repatriation	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	---	---	---	---
Subtotal, maintenance assistance	8,917,721,000	8,405,073,000	9,182,273,000	9,182,273,000	9,182,273,000	+264,552,000	+777,200,000	---	---
Research & evaluation	2,799,000	2,925,000	2,925,000	2,925,000	2,925,000	+126,000	---	---	---
Federal administration	32,278,000	31,976,000	31,976,000	33,932,000	32,954,000	+676,000	+978,000	+978,000	-978,000
Subtotal, current law	8,952,798,000	8,439,974,000	9,217,174,000	9,219,130,000	9,218,152,000	+265,354,000	+778,178,000	+978,000	-978,000
Legislative proposals									
Reform welfare administration	---	-15,000,000	---	---	---	---	+15,000,000	---	---
Workfare benefits	---	-252,000,000	---	---	---	---	+252,000,000	---	---
Workfare administration	---	200,000,000	---	---	---	---	-200,000,000	---	---
End parents' benefit/Essential person limit	---	-101,000,000	---	---	---	---	+101,000,000	---	---
Limit assist to minor mothers not living w/parents	---	-20,000,000	---	---	---	---	+20,000,000	---	---
18 mo. all RCA/RMA refugee program	---	-48,742,000	---	---	---	---	+48,742,000	---	---
Subtotal, Legislative proposals	---	-236,742,000	---	---	---	---	+236,742,000	---	---
Total, net of legislative proposals	8,952,798,000	8,203,232,000	9,217,174,000	9,219,130,000	9,218,152,000	+265,354,000	+1,014,920,000	+978,000	-978,000
Less funds advanced in previous years	-2,095,000,000	-2,193,754,000	-2,193,754,000	-2,193,754,000	-2,193,754,000	-98,754,000	---	---	---
Indefinite such sums	950,486,000	---	---	---	---	-950,486,000	---	---	---
Appropriation available in prior year	-908,910,000	---	---	---	---	+908,910,000	---	---	---
Total, Assistance payments, current request	6,899,374,000	6,009,478,000	7,023,420,000	7,025,376,000	7,024,398,000	+125,024,000	+1,014,920,000	+978,000	-978,000
Subsequent year advance appropriation	2,193,754,000	2,293,615,000	2,293,615,000	2,293,615,000	2,293,615,000	+99,861,000	---	---	---
LOW INCOME HOME ENERGY ASSISTANCE (Unauthorized)									
Energy Assistance Block Grant	(2,007,561,000)	(2,097,642,000)	DEFER	(1,822,765,000)	(1,822,765,000)	(-184,796,000)	(-274,877,000)	(+1,822,765,000)	---
Federal Administration	(2,139,000)	(2,358,000)	DEFER	(2,235,000)	(2,235,000)	(+96,000)	(-123,000)	(+2,235,000)	---
Subtotal, Energy assistance	(2,009,700,000)	(2,100,000,000)	DEFER	(1,825,000,000)	(1,825,000,000)	(-184,700,000)	(-275,000,000)	(+1,825,000,000)	---

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
REFUGEE AND ENTRANT ASSISTANCE (Unauthorized, not considered) 1/									
Cash and medical assistance	(225,316,000)	(195,409,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
State administration	(33,797,000)	(35,369,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
Social services	(68,617,000)	(46,803,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
Voluntary agency program	(3,828,000)	(1,000,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
Education assistance for children	(15,886,000)	---	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
Preventive health	(8,039,000)	(10,355,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
Targeted assistance	(47,850,000)	---	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
Federal Administration	(6,030,000)	(6,083,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
Legislative proposals	---	(78,979,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
Total, Refugee Resettlement	(409,363,000)	(373,998,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
LIMITATION ON ADMINISTRATIVE EXPENSES (Trust Funds)	(3,847,863,000)	(4,011,373,000)	(4,000,373,000)	(4,011,373,000)	(3,840,000,000)	(-7,863,000)	(-171,373,000)	(-160,373,000)	(-171,373,000)
Total, Social Security Administration:									
Federal funds:									
Current year	15,648,392,000	15,433,538,000	16,447,480,000	16,449,436,000	16,448,458,000	+800,066,000	+1,014,920,000	+978,000	-978,000
Subsequent year advance appropriations	4,803,004,000	5,311,065,000	5,311,065,000	5,311,065,000	5,311,065,000	+508,061,000	---	---	---
Trust funds	(3,847,863,000)	(4,011,373,000)	(4,000,373,000)	(4,011,373,000)	(3,840,000,000)	(-7,863,000)	(-171,373,000)	(-160,373,000)	(-171,373,000)
CHILD SUPPORT ENFORCEMENT									
Program level, current law	559,356,000	770,383,000	770,383,000	770,383,000	770,383,000	+211,027,000	---	---	---
Less funds advanced in previous years	-160,000,000	-170,750,000	-170,750,000	-170,750,000	-170,750,000	-10,750,000	---	---	---
Indefinite such sums	26,729,000	---	---	---	---	-26,729,000	---	---	---
Current request, Child Support Enfocemnet 2/	426,085,000	599,633,000	599,633,000	599,633,000	599,633,000	+173,548,000	---	---	---
Subsequent year advance appropriation	170,750,000	187,000,000	187,000,000	187,000,000	187,000,000	+16,250,000	---	---	---
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES									
SOCIAL SERVICES BLOCK GRANT (TITLE XX)	2,583,900,000	2,700,000,000	2,700,000,000	2,700,000,000	2,700,000,000	+116,100,000	---	---	---
HUMAN DEVELOPMENT SERVICES									
Programs for Children, Youth, and Families:									
Head start (unauthorized)	(1,040,098,000)	(1,075,059,000)	DEFER	(1,130,542,000)	(1,130,542,000)	(+90,444,000)	(+55,483,000)	(+1,130,542,000)	---
Child abuse:									
State grants	11,441,000	---	12,000,000	12,000,000	12,000,000	+559,000	+12,000,000	---	---
Discretionary activities	13,339,000	---	13,898,000	13,898,000	13,898,000	+559,000	+13,898,000	---	---
Challenge grants 3/	---	---	5,000,000	5,000,000	5,000,000	+5,000,000	+5,000,000	---	---
Child development associate scholarships (unauthorized)	---	---	---	(1,000,000)	(1,000,000)	(+1,000,000)	(+1,000,000)	(+1,000,000)	---
Runaway youth	22,231,000	23,250,000	23,250,000	23,250,000	23,250,000	+1,019,000	---	---	---
Dependent Care Planning and Development (unauth)	(4,785,000)	---	DEFER	(5,000,000)	(5,000,000)	(+215,000)	(+5,000,000)	(+5,000,000)	---
Family violence 4/	2,393,000	---	2,500,000	8,500,000	8,500,000	+6,107,000	+8,500,000	+6,000,000	---
Family crisis and protective service grants	---	30,500,000	---	---	---	---	-30,500,000	---	---
Subtotal, CY & Families	49,404,000	53,750,000	56,648,000	62,648,000	62,648,000	+13,244,000	+8,898,000	+6,000,000	---

1/ Not considered in H.R. 5233. See continuing resolution H.J. Res. 738.

2/ President's budget proposes savings of $41 million for later transmittal.

3/ $5,000,000 available in FY 86 from prior year appropriations.

4/ $8,393,000 available in FY 86 due to carryover of $6,000,000 from FY 85.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
Programs for the Aging:									
Grants to States:									
Supportive Services and Centers	253,605,000	265,000,000	275,000,000	265,000,000	270,000,000	+16,395,000	+5,000,000	-5,000,000	+5,000,000
Nutrition:									
Congregate meals	321,522,000	336,000,000	350,000,000	345,970,000	348,000,000	+26,478,000	+12,000,000	-2,000,000	+2,030,000
Home-delivered meals	64,980,000	67,900,000	75,000,000	72,900,000	74,000,000	+9,020,000	+6,100,000	-1,000,000	+1,100,000
Grants to Indians	7,178,000	7,500,000	7,500,000	7,500,000	7,500,000	+322,000	---	---	---
Research, training, and special projects	23,925,000	12,500,000	25,000,000	25,000,000	25,000,000	+1,075,000	+12,500,000	---	---
Federal Council on Aging	191,000	200,000	200,000	200,000	200,000	+9,000	---	---	---
Subtotal, Aging programs	671,401,000	689,100,000	732,700,000	716,570,000	724,700,000	+53,299,000	+35,600,000	-8,000,000	+8,130,000
Developmental disabilities program:									
State grants	51,104,000	50,250,000	50,250,000	56,500,000	56,500,000	+5,396,000	+6,250,000	+6,250,000	---
Protection and advocacy	13,972,000	13,750,000	13,750,000	15,500,000	15,500,000	+1,528,000	+1,750,000	+1,750,000	---
Special projects	2,680,000	---	2,500,000	3,100,000	2,500,000	-180,000	+2,500,000	---	-600,000
University affiliated facilities	9,187,000	9,000,000	9,000,000	10,100,000	9,187,000	---	+187,000	+187,000	-913,000
Subtotal, Developmental disabilities	76,943,000	73,000,000	75,500,000	85,200,000	83,687,000	+6,744,000	+10,687,000	+8,187,000	-1,513,000
Native American Programs (unauthorized)	(27,742,000)	(27,300,000)	DEFER	(28,989,000)	(28,989,000)	(+1,247,000)	(+1,689,000)	(+28,989,000)	---
Program direction	58,441,000	60,169,000	60,169,000	61,069,000	61,069,000	+2,628,000	+900,000	+900,000	---
Total, Human Development Services	856,189,000	876,019,000	925,017,000	925,487,000	932,104,000	+75,915,000	+56,085,000	+7,087,000	+6,617,000
(Unauthorized)	(1,072,625,000)	(1,102,359,000)	DEFER	(1,165,531,000)	(1,165,531,000)	(+92,906,000)	(+63,172,000)	(+1,165,531,000)	---
Total, authorized and unauthorized	(1,928,814,000)	(1,978,378,000)	(925,017,000)	(2,091,018,000)	(2,097,635,000)	(+168,821,000)	(+119,257,000)	(+1,172,618,000)	(+6,617,000)
FAMILY SOCIAL SERVICES 1/									
Discretionary activities:									
Child welfare assistance	198,099,000	200,000,000	225,000,000	220,000,000	222,500,000	+24,401,000	+22,500,000	-2,500,000	+2,500,000
Child welfare training	3,658,000	3,823,000	3,823,000	3,823,000	3,823,000	+165,000	---	---	---
Adoption opportunities	4,785,000	1,400,000	5,000,000	5,000,000	5,000,000	+215,000	+3,600,000	---	---
Social services research	---	2,400,000	2,400,000	---	---	---	-2,400,000	-2,400,000	---
Child welfare research	11,172,000	6,000,000	11,000,000	11,680,000	11,340,000	+168,000	+5,340,000	+340,000	-340,000
Subtotal	217,714,000	213,623,000	247,223,000	240,503,000	242,663,000	+24,949,000	+29,040,000	-4,560,000	+2,160,000
Entitlement activities:									
Foster care 2/	501,580,000	544,310,000	698,096,000	589,310,000	637,000,000	+135,420,000	+92,690,000	-61,096,000	+47,690,000
Adoption assistance	41,391,000	59,904,000	59,904,000	59,904,000	59,904,000	+18,513,000	---	---	---
Subtotal	542,971,000	604,214,000	758,000,000	649,214,000	696,904,000	+153,933,000	+92,690,000	-61,096,000	+47,690,000
Total, Family Social Services	760,685,000	817,837,000	1,005,223,000	889,717,000	939,567,000	+178,882,000	+121,730,000	-65,656,000	+49,850,000
WORK INCENTIVES									
Grants to States	202,884,000	---	193,000,000	---	103,000,000	-99,884,000	+103,000,000	-90,000,000	+103,000,000
Program direction and evaluation	7,656,000	---	7,000,000	---	7,000,000	-656,000	+7,000,000	---	+7,000,000
Total, Work incentives	210,540,000	---	200,000,000	---	110,000,000	-100,540,000	+110,000,000	-90,000,000	+110,000,000
Total, Asst. Sec. for Human Development	4,411,314,000	4,393,856,000	4,830,240,000	4,515,204,000	4,681,671,000	+270,357,000	+287,815,000	-148,569,000	+166,467,000

1/ President's budget requests $100,228,000 FY86 supplemental.

2/ Bills include $45,000,000 for Older Youth Independent Living Program, mandated by recently enacted Reconciliation Legislation.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
COMMUNITY SERVICES BLOCK GRANT (Unauthorized)									
Grants to States	(320,595,000)	---	DEFER	(346,100,000)	(335,000,000)	(+14,405,000)	(+335,000,000)	(+335,000,000)	(-11,100,000)
Discretionary funds	(29,667,000)	---	DEFER	(28,500,000)	(30,736,000)	(+1,069,000)	(+30,736,000)	(+30,736,000)	(+2,236,000)
Program support	(4,115,000)	(3,612,000)	DEFER	(4,300,000)	(4,115,000)	---	(+503,000)	(+4,115,000)	(-185,000)
Homeless Shelter	(5,535,000)	---	---	---	DEFER	DEFER	DEFER	DEFER	DEFER
Total, Community Services appropriation	(359,912,000)	(3,612,000)	DEFER	(378,900,000)	(369,851,000)	(+9,939,000)	(+366,239,000)	(+369,851,000)	(-9,049,000)
COMMUNITY FOOD AND NUTRITION (unauthorized)	---	---	---	(2,500,000)	(2,500,000)	(+2,500,000)	(+2,500,000)	(+2,500,000)	---
DEPARTMENTAL MANAGEMENT									
GENERAL DEPARTMENTAL MANAGEMENT:									
Federal funds:									
General	118,459,000	108,319,000	108,319,000	107,319,000	107,319,000	-11,140,000	-1,000,000	-1,000,000	---
Cancer construction transfer	4,307,000	---	---	4,500,000	4,500,000	+193,000	+4,500,000	+4,500,000	---
Acquired Immune Deficiency Syndrome (AIDS)	15,312,000	---	---	16,000,000	10,000,000	-5,312,000	+10,000,000	+10,000,000	-6,000,000
Subtotal, federal funds	138,078,000	108,319,000	108,319,000	127,819,000	121,819,000	-16,259,000	+13,500,000	+13,500,000	-6,000,000
Trust funds	(7,656,000)	(27,500,000)	(27,500,000)	(27,500,000)	(27,500,000)	(+19,844,000)	---	---	---
Total, Departmental management	145,734,000	135,819,000	135,819,000	155,319,000	149,319,000	+3,585,000	+13,500,000	+13,500,000	-6,000,000
OFFICE OF THE INSPECTOR GENERAL:									
Federal activities:									
Federal funds	40,128,000	29,716,000	30,016,000	29,716,000	30,016,000	-10,112,000	+300,000	---	+300,000
Trust funds	(28,710,000)	(40,000,000)	(40,000,000)	(40,000,000)	(40,000,000)	(+11,290,000)	---	---	---
Total, Inspector General	68,838,000	69,716,000	70,016,000	69,716,000	70,016,000	+1,178,000	+300,000	---	+300,000
OFFICE FOR CIVIL RIGHTS:									
Federal funds	15,312,000	15,285,000	15,285,000	15,285,000	15,285,000	-27,000	---	---	---
Trust funds	(3,828,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(+172,000)	---	---	---
Total, Civil Rights	19,140,000	19,285,000	19,285,000	19,285,000	19,285,000	+145,000	---	---	---
POLICY RESEARCH	6,220,000	5,000,000	8,200,000	7,200,000	8,200,000	+1,980,000	+3,200,000	---	+1,000,000
Total, Departmental management:									
Federal funds	199,738,000	158,320,000	161,820,000	180,020,000	175,320,000	-24,418,000	+17,000,000	+13,500,000	-4,700,000
Trust funds	(40,194,000)	(71,500,000)	(71,500,000)	(71,500,000)	(71,500,000)	(+31,306,000)	---	---	---
Total, Department of Health and Human Services:									
Federal Funds (all years)	77,550,058,000	79,336,916,000	84,001,567,000	84,145,034,000	84,327,284,000	+6,777,226,000	+4,990,368,000	+325,717,000	+182,250,000
Current year	(66,076,304,000)	(66,738,851,000)	(71,403,502,000)	(71,546,969,000)	(71,729,219,000)	(+5,652,915,000)	(+4,990,368,000)	(+325,717,000)	(+182,250,000)
Subsequent year advances	(11,473,754,000)	(12,598,065,000)	(12,598,065,000)	(12,598,065,000)	(12,598,065,000)	(+1,124,311,000)	---	---	---
(Unauthorized)	(3,770,944,000)	(3,534,212,000)	DEFER	(3,768,345,000)	(3,732,757,000)	(-38,187,000)	(+198,545,000)	(+3,732,757,000)	(-35,588,000)
Trust funds	(5,029,303,000)	(5,297,867,000)	(5,289,417,000)	(5,305,093,000)	(5,131,070,000)	(+101,767,000)	(-166,797,000)	(-158,347,000)	(-174,023,000)

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
TITLE III--DEPARTMENT OF EDUCATION									
COMPENSATORY EDUCATION FOR THE DISADVANTAGED									
Grants for the Disadvantaged (Chapter 1):									
Grants to local educational agencies	3,062,400,000	3,261,005,000	3,507,000,000	3,400,000,000	3,453,500,000	+391,100,000	+192,495,000	-53,500,000	+53,500,000
State agency programs:									
Migrants	253,149,000	202,519,000	264,524,000	264,524,000	264,524,000	+11,375,000	+62,005,000	---	---
Handicapped	143,713,000	150,170,000	150,170,000	150,170,000	150,170,000	+6,457,000	---	---	---
Neglected and delinquent	31,214,000	32,616,000	32,616,000	32,616,000	32,616,000	+1,402,000	---	---	---
State administration	34,076,000	35,607,000	38,607,000	35,607,000	37,107,000	+3,031,000	+1,500,000	-1,500,000	+1,500,000
Evaluation and technical assistance	5,020,000	6,246,000	6,246,000	6,246,000	6,246,000	+1,226,000	---	---	---
Total, Chapter 1	3,529,572,000	3,688,163,000	3,999,163,000	3,889,163,000	3,944,163,000	+414,591,000	+256,000,000	-55,000,000	+55,000,000
Migrant education: (unauthorized)									
High school equivalency program	(6,029,000)	---	DEFER	(6,300,000)	(6,300,000)	(+271,000)	(+6,300,000)	(+6,300,000)	---
College assistance migrant program	(1,148,000)	---	DEFER	(1,200,000)	(1,200,000)	(+52,000)	(+1,200,000)	(+1,200,000)	---
Total, Compensatory Education programs	3,529,572,000	3,688,163,000	3,999,163,000	3,889,163,000	3,944,163,000	+414,591,000	+256,000,000	-55,000,000	+55,000,000
(Unauthorized)	(7,177,000)	---	DEFER	(7,500,000)	(7,500,000)	(+323,000)	(+7,500,000)	(+7,500,000)	---
Total, authorized and unauthorized	(3,536,749,000)	(3,688,163,000)	(3,999,163,000)	(3,896,663,000)	(3,951,663,000)	(+414,914,000)	(+263,500,000)	(-47,500,000)	(+55,000,000)
IMPACT AID									
Maintenance and operations:									
Payments for "a" children	490,941,000	513,000,000	513,000,000	533,000,000	533,000,000	+42,059,000	+20,000,000	+20,000,000	---
Payments for "b" children	124,410,000	---	130,000,000	65,000,000	130,000,000	+5,590,000	+130,000,000	---	+65,000,000
Special provisions (Section 2)	21,054,000	20,000,000	22,000,000	22,000,000	22,000,000	+946,000	+2,000,000	---	---
Subtotal	636,405,000	533,000,000	665,000,000	620,000,000	685,000,000	+48,595,000	+152,000,000	+20,000,000	+65,000,000
Disaster assistance	29,570,000	10,000,000	10,000,000	10,000,000	10,000,000	-19,570,000	---	---	---
Construction	16,747,000	5,000,000	25,000,000	20,000,000	22,500,000	+5,753,000	+17,500,000	-2,500,000	+2,500,000
Total	682,722,000	548,000,000	700,000,000	650,000,000	717,500,000	+34,778,000	+169,500,000	+17,500,000	+67,500,000
SPECIAL PROGRAMS									
Improving School Programs (Chapter 2):									
State block grants	478,500,000	500,000,000	500,000,000	499,000,000	500,000,000	+21,500,000	---	---	+1,000,000
Secretary's discretionary fund:									
Inexpensive book distribution (including RIF)	6,699,000	7,000,000	7,000,000	7,800,000	7,800,000	+1,101,000	+800,000	+800,000	---
Arts in education	3,021,000	3,157,000	3,157,000	3,337,000	3,337,000	+316,000	+180,000	+180,000	---
Alcohol and drug abuse education	2,871,000	3,000,000	14,000,000	3,000,000	3,000,000	+129,000	---	-11,000,000	---
Law related education	1,914,000	2,000,000	3,000,000	3,000,000	3,000,000	+1,086,000	+1,000,000	---	---
National Diffusion Network	10,240,000	10,700,000	10,700,000	10,700,000	10,700,000	+460,000	---	---	---
Rural education	---	---	4,000,000	---	---	---	---	-4,000,000	---
Discretionary projects	2,921,000	3,052,000	3,052,000	---	1,500,000	-1,421,000	-1,552,000	-1,552,000	+1,500,000
Subtotal, Secretary's discretionary fund	27,666,000	28,909,000	44,909,000	27,837,000	29,337,000	+1,671,000	+428,000	-15,572,000	+1,500,000
Total, Chapter 2	506,166,000	528,909,000	544,909,000	526,837,000	529,337,000	+23,171,000	+428,000	-15,572,000	+2,500,000

H.R. 5233

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
Other Special Programs:									
Teacher training and improvement: (unauthorized)1/									
State grants	---	60,000,000	---	---	---	---	-60,000,000	---	---
Secretary's discretionary fund	---	15,000,000	---	---	---	---	-15,000,000	---	---
Science and mathematics education	43,066,000	---	43,066,000	100,000,000	80,000,000	+36,934,000	+80,000,000	+36,934,000	-20,000,000
Training and advisory services (Civil Rights IVA)	22,968,000	---	24,000,000	25,000,000	24,000,000	+1,032,000	+24,000,000	---	-1,000,000
Follow through (unauthorized) 2/	(7,177,000)	---	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
Territorial teacher training assistance	1,914,000	---	1,914,000	2,000,000	2,000,000	+86,000	+2,000,000	+86,000	---
General assistance for the Virgin Islands	4,785,000	---	4,785,000	5,000,000	5,000,000	+215,000	+5,000,000	+215,000	---
Ellender fellowships	1,627,000	---	1,700,000	1,700,000	1,700,000	+73,000	+1,700,000	---	---
Women's educational equity	5,742,000	---	6,000,000	1,000,000	3,500,000	-2,242,000	+3,500,000	-2,500,000	+2,500,000
Magnet schools	71,775,000	75,000,000	75,000,000	75,000,000	75,000,000	+3,225,000	---	---	---
Excellence in education	2,392,000	---	2,392,000	---	---	-2,392,000	---	-2,392,000	---
LEAD	7,177,000	---	7,177,000	---	7,177,000	---	+7,177,000	---	+7,177,000
Subtotal, Other special programs	161,446,000	150,000,000	166,034,000	209,700,000	198,377,000	+36,931,000	+48,377,000	+32,343,000	-11,323,000
Total, Special programs	667,612,000	678,909,000	710,943,000	736,537,000	727,714,000	+60,102,000	+48,805,000	+16,771,000	-8,823,000
BILINGUAL EDUCATION									
Bilingual programs	90,862,000	99,285,000	99,161,000	94,951,000	99,161,000	+8,299,000	-124,000	---	+4,210,000
Training grants	32,121,000	33,566,000	36,490,000	33,564,000	33,564,000	+1,443,000	-2,000	-2,926,000	---
Support services	9,991,000	10,100,000	10,300,000	10,440,000	10,370,000	+379,000	+270,000	+70,000	-70,000
Vocational training	3,527,000	---	3,686,000	---	---	-3,527,000	---	-3,686,000	---
Emergency immigrant education	28,710,000	---	30,000,000	---	30,000,000	+1,290,000	+30,000,000	---	+30,000,000
Total	165,211,000	142,951,000	179,637,000	138,955,000	173,095,000	+7,884,000	+30,144,000	-6,542,000	+34,140,000
EDUCATION FOR THE HANDICAPPED									
Education for the handicapped:									
State assistance:									
State grant program	1,163,282,000	1,135,145,000	1,300,000,000	1,408,000,000	1,338,000,000	+174,718,000	+202,855,000	+38,000,000	-70,000,000
Preschool incentive grants	28,710,000	31,000,000	31,000,000	60,000,000	180,000,000	+151,290,000	+149,000,000	+149,000,000	+120,000,000
Early intervention initiative	---	---	---	100,000,000	50,000,000	+50,000,000	+50,000,000	+50,000,000	-50,000,000
Special purpose funds:									
Deaf-blind centers	14,119,000	9,000,000	14,764,000	15,000,000	15,000,000	+881,000	+6,000,000	+236,000	---
Severely handicapped projects	4,785,000	4,300,000	5,000,000	5,300,000	5,300,000	+515,000	+1,000,000	+300,000	---
Early childhood education	22,968,000	22,500,000	24,000,000	17,600,000	24,470,000	+1,502,000	+1,970,000	+470,000	+6,870,000
Educational technology and materials	---	---	---	6,870,000	3,500,000	+3,500,000	+3,500,000	+3,500,000	-3,370,000
Secondary and transitional services	6,316,000	6,330,000	6,600,000	7,300,000	7,300,000	+984,000	+970,000	+700,000	---
Postsecondary programs	5,264,000	5,300,000	5,500,000	5,900,000	5,900,000	+636,000	+600,000	+400,000	---
Innovation and development	16,080,000	16,000,000	16,811,000	18,000,000	18,000,000	+1,920,000	+2,000,000	+1,189,000	---
Media services and captioned films	16,676,000	16,500,000	17,429,000	18,500,000	15,000,000	-1,676,000	-1,500,000	-2,429,000	-3,500,000
Regional resource centers	6,029,000	6,000,000	6,300,000	6,730,000	6,700,000	+671,000	+700,000	+400,000	-30,000
Recruitment and information	1,062,000	1,025,000	1,110,000	1,200,000	1,200,000	+138,000	+175,000	+90,000	---
Special education personnel development	61,154,000	48,000,000	63,906,000	67,700,000	67,730,000	+6,576,000	+19,730,000	+3,824,000	+30,000
Special studies	3,089,000	2,000,000	2,000,000	3,800,000	3,800,000	+711,000	+1,800,000	+1,800,000	---
Total, Education for the handicapped	1,349,534,000	1,303,100,000	1,494,420,000	1,741,900,000	1,741,900,000	+392,366,000	+438,800,000	+247,480,000	---

1/ Unauthorized. Proposed for later transmittal.

2/ Not considered in H.R. 5233. See continuing resolution H.J. Res. 738.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
REHABILITATION SERVICES AND HANDICAPPED RESEARCH									
Rehabilitation services:									
Basic State grants	1,145,148,000	1,100,000,000	1,148,356,000	1,281,000,000	1,281,000,000	+135,852,000	+181,000,000	+132,644,000	---
Unauthorized:									
Supported Employment	---	---	DEFER	(25,000,000)	(22,100,000)	(+22,100,000)	(+22,100,000)	(+22,100,000)	(-2,900,000)
Service projects:									
Special demonstration programs	(19,332,000)	(14,635,000)	DEFER	(15,500,000)	(18,400,000)	(-932,000)	(+3,765,000)	(+18,400,000)	(+2,900,000)
Recreational programs	(2,105,000)	---	DEFER	(2,330,000)	(2,330,000)	(+225,000)	(+2,330,000)	(+2,330,000)	---
Migratory workers	(957,000)	(950,000)	DEFER	(1,058,000)	(1,058,000)	(+101,000)	(+108,000)	(+1,058,000)	---
American Indians	(1,340,000)	(715,000)	DEFER	(1,500,000)	(1,500,000)	(+160,000)	(+785,000)	(+1,500,000)	---
Projects with industry	(14,547,000)	(13,000,000)	DEFER	(16,070,000)	(16,070,000)	(+1,523,000)	(+3,070,000)	(+16,070,000)	---
Subtotal, Service projects	(38,281,000)	(29,300,000)	DEFER	(36,458,000)	(39,358,000)	(+1,077,000)	(+10,058,000)	(+39,358,000)	(+2,900,000)
Helen Keller Center	4,115,000	4,200,000	4,300,000	4,600,000	4,600,000	+485,000	+400,000	+300,000	---
Client assistance	(6,412,000)	(6,300,000)	DEFER	(7,100,000)	(7,100,000)	(+688,000)	(+800,000)	(+7,100,000)	---
Independent living:									
Comprehensive services	(10,527,000)	---	DEFER	(11,830,000)	(11,830,000)	(+1,303,000)	(+11,830,000)	(+11,830,000)	---
Centers	(22,011,000)	(22,000,000)	DEFER	(24,320,000)	(24,320,000)	(+2,309,000)	(+2,320,000)	(+24,320,000)	---
Services for older blind	(4,785,000)	---	DEFER	(5,290,000)	(5,290,000)	(+505,000)	(+5,290,000)	(+5,290,000)	---
Subtotal, Independent living	(37,323,000)	(22,000,000)	DEFER	(41,440,000)	(41,440,000)	(+4,117,000)	(+19,440,000)	(+41,440,000)	---
Training	(25,838,000)	(15,000,000)	DEFER	(29,550,000)	(29,550,000)	(+3,712,000)	(+14,550,000)	(+29,550,000)	---
Innovation and expansion	(8,613,000)	(9,000,000)	DEFER	(9,000,000)	(9,000,000)	(+387,000)	---	(+9,000,000)	---
Subtotal	(116,467,000)	(81,600,000)	DEFER	(148,548,000)	(148,548,000)	(+32,081,000)	(+66,948,000)	(+148,548,000)	---
National Institute of Handicapped Research	(41,983,000)	(39,000,000)	DEFER	(48,500,000)	(48,500,000)	(+6,517,000)	(+9,500,000)	(+48,500,000)	---
Evaluation	(1,723,000)	(600,000)	DEFER	(2,110,000)	(2,110,000)	(+387,000)	(+1,510,000)	(+2,110,000)	---
Total	1,149,263,000	1,104,200,000	1,152,656,000	1,285,600,000	1,285,600,000	+136,337,000	+181,400,000	+132,944,000	---
(Unauthorized)	(160,173,000)	(121,200,000)	DEFER	(199,158,000)	(199,158,000)	(+38,985,000)	(+77,958,000)	(+199,158,000)	---
Total, authorized and unauthorized	(1,309,436,000)	(1,225,400,000)	(1,152,656,000)	(1,484,758,000)	(1,484,758,000)	(+175,322,000)	(+259,358,000)	(+332,102,000)	---
VOCATIONAL AND ADULT EDUCATION									
Vocational education:									
Basic grants	748,738,000	387,156,000	848,000,000	782,381,000	815,000,000	+66,262,000	+427,844,000	-33,000,000	+32,619,000
National research & data programs	9,570,000	6,818,000	12,000,000	10,000,000	11,000,000	+1,430,000	+4,182,000	-1,000,000	+1,000,000
Consumer and homemaker education	30,273,000	---	31,633,000	31,633,000	31,633,000	+1,360,000	+31,633,000	---	---
State advisory councils	6,986,000	7,000,000	7,300,000	7,500,000	7,500,000	+514,000	+500,000	+200,000	---
Community based organizations	7,178,000	---	7,500,000	6,000,000	6,000,000	-1,178,000	+6,000,000	-1,500,000	---
Bilingual Vocational training	---	---	---	3,686,000	3,686,000	+3,686,000	+3,686,000	+3,686,000	---
Subtotal, Vocational education	802,745,000	400,974,000	906,433,000	841,200,000	874,819,000	+72,074,000	+473,845,000	-31,614,000	+33,619,000
Adult education	97,579,000	104,000,000	110,000,000	101,963,000	105,981,000	+8,402,000	+1,981,000	-4,019,000	+4,018,000
Total	900,324,000	504,974,000	1,016,433,000	943,163,000	980,800,000	+80,476,000	+475,826,000	-35,633,000	+37,637,000

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
STUDENT FINANCIAL ASSISTANCE 1/									
Pell Grants:									
Current year	(3,432,262,000)	(3,000,000,000)	DEFER	(3,800,000,000)	(3,800,000,000)	(+367,738,000)	(+800,000,000)	(+3,800,000,000)	---
Fiscal year 1986 shortfall	(146,000,000)	(250,000,000)	DEFER	(100,000,000)	(100,000,000)	(-46,000,000)	(-150,000,000)	(+100,000,000)	---
Supplemental grants	(394,762,000)	---	DEFER	(412,500,000)	(412,500,000)	(+17,738,000)	(+412,500,000)	(+412,500,000)	---
Campus-based aid (proposed legislation)	---	(400,000,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
Work-study	(567,023,000)	---	DEFER	(592,500,000)	(592,500,000)	(+25,477,000)	(+592,500,000)	(+592,500,000)	---
Direct loans:									
Capital	(181,830,000)	---	DEFER	(188,000,000)	(188,000,000)	(+6,170,000)	(+188,000,000)	(+188,000,000)	---
Cancellations	(26,796,000)	(25,000,000)	DEFER	(22,000,000)	(22,000,000)	(-4,796,000)	(-3,000,000)	(+22,000,000)	---
Income contingent loans (proposed legislation)	---	(137,568,000)	DEFER	(5,000,000)	(5,000,000)	(+5,000,000)	(-132,568,000)	(+5,000,000)	---
State student incentive grants	(72,732,000)	---	DEFER	(76,000,000)	(76,000,000)	(+3,268,000)	(+76,000,000)	(+76,000,000)	---
Total, Student Financial Assistance	(4,821,405,000)	(3,812,568,000)	DEFER	(5,196,000,000)	(5,196,000,000)	(+374,595,000)	(+1,383,432,000)	(+5,196,000,000)	---
GUARANTEED STUDENT LOANS									
Guaranteed student loan program 2/	3,259,975,000	3,460,250,000	3,394,000,000	3,004,000,000	3,004,000,000	-255,975,000	-456,250,000	-390,000,000	---
HIGHER EDUCATION									
Program development:									
Aid for developing institutions	(135,136,000)	(141,208,000)	DEFER	(141,208,000)	(146,208,000)	(+11,072,000)	(+5,000,000)	(+146,208,000)	(+5,000,000)
Minority institutions science improvement	4,785,000	5,000,000	5,000,000	5,000,000	5,000,000	+215,000	---	---	---
International education and foreign language studies:									
Domestic programs	(25,408,000)	---	DEFER	(25,550,000)	(25,550,000)	(+142,000)	(+25,550,000)	(+25,550,000)	---
Special projects	---	---	---	(1,000,000)	(1,000,000)	(+1,000,000)	(+1,000,000)	(+1,000,000)	---
Overseas programs	(5,263,000)	---	DEFER	(5,500,000)	(5,500,000)	(+237,000)	(+5,500,000)	(+5,500,000)	---
Fund for the Improvement of Postsec. Education	(12,163,000)	(10,000,000)	DEFER	(15,400,000)	(13,700,000)	(+1,537,000)	(+3,700,000)	(+13,700,000)	(-1,700,000)
Cooperative education	(13,781,000)	---	DEFER	(14,400,000)	(14,400,000)	(+619,000)	(+14,400,000)	(+14,400,000)	---
Subtotal, Program development	4,785,000	5,000,000	5,000,000	5,000,000	5,000,000	+215,000	---	---	---
(Unauthorized)	(191,751,000)	(151,208,000)	DEFER	(203,058,000)	(206,358,000)	(+14,607,000)	(+55,150,000)	(+206,358,000)	(+3,300,000)
Student support services:									
Special programs for the disadvantaged	(168,786,000)	(82,370,000)	DEFER	(176,370,000)	(176,370,000)	(+7,584,000)	(+94,000,000)	(+176,370,000)	---
Veterans' cost of instruction	(2,871,000)	---	DEFER	(3,000,000)	(3,000,000)	(+129,000)	(+3,000,000)	(+3,000,000)	---
Academic facilities and projects:									
Interest subsidy grants	(22,490,000)	(23,000,000)	DEFER	(23,000,000)	(23,000,000)	(+510,000)	---	(+23,000,000)	---
Academic facilities construction grants(Title VII)	(9,570,000)	---	DEFER	---	DEFER	DEFER	DEFER	DEFER	DEFER
Special higher education projects	(5,742,000)	---	DEFER	(5,000,000)	(18,000,000)	(+12,258,000)	(+18,000,000)	(+18,000,000)	(+13,000,000)
Subtotal, Academic facilities and projects	(37,802,000)	(23,000,000)	DEFER	(28,000,000)	(41,000,000)	(+3,198,000)	(+18,000,000)	(+41,000,000)	(+13,000,000)

1/ $3,787,568,000 proposed for later transmittal.

2/ FY86 supplemental of $65,044,000 proposed for later transmittal. FY87 budget proposes legislative savings of $1,115,241,000 and sequestering of $15,423,000 for later transmittal.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
Graduate programs:									
Graduate/professional opportunity fellowships	(11,245,000)	---	DEFER	(11,750,000)	(11,750,000)	(+505,000)	(+11,750,000)	(+11,750,000)	---
Public service fellowships	(2,393,000)	---	DEFER	(2,500,000)	(2,500,000)	(+107,000)	(+2,500,000)	(+2,500,000)	---
National Graduate Fellowships	(2,393,000)	---	DEFER	(2,500,000)	(3,400,000)	(+1,007,000)	(+3,400,000)	(+3,400,000)	(+900,000)
Legal training for disadvantaged	(1,435,000)	---	DEFER	(1,500,000)	(1,500,000)	(+65,000)	(+1,500,000)	(+1,500,000)	---
Law school clinical experience	1,435,000	---	1,500,000	1,500,000	1,500,000	+65,000	+1,500,000	---	---
Subtotal, Graduate programs	1,435,000	---	1,500,000	1,500,000	1,500,000	+65,000	+1,500,000	---	---
(Unauthorized)	(17,466,000)	---	DEFER	(18,250,000)	(19,150,000)	(+1,684,000)	(+19,150,000)	(+19,150,000)	(+900,000)
Special grants:									
Robert C Byrd merit scholarship program	---	---	---	8,000,000	8,000,000	+8,000,000	+8,000,000	+8,000,000	---
Assistance to Guam	(479,000)	---	DEFER	(500,000)	(500,000)	(+21,000)	(+500,000)	(+500,000)	---
Robert A. Taft Institute of Government	(718,000)	---	DEFER	(750,000)	(750,000)	(+32,000)	(+750,000)	(+750,000)	---
Carl Perkins Scholarships	9,570,000	---	21,000,000	10,000,000	15,500,000	+5,930,000	+15,500,000	-5,500,000	+5,500,000
Talented teachers	---	---	2,000,000	---	2,000,000	+2,000,000	+2,000,000	---	+2,000,000
Subtotal, Special grants	9,570,000	---	23,000,000	18,000,000	25,500,000	+15,930,000	+25,500,000	+2,500,000	+7,500,000
(Unauthorized)	(1,197,000)	---	DEFER	(1,250,000)	(1,250,000)	(+53,000)	(+1,250,000)	(+1,250,000)	---
Total, Higher education 1/	15,790,000	5,000,000	29,500,000	24,500,000	32,000,000	+16,210,000	+27,000,000	+2,500,000	+7,500,000
(Unauthorized)	(419,873,000)	(256,578,000)	DEFER	(429,928,000)	(447,128,000)	(+27,255,000)	(+190,550,000)	(+447,128,000)	(+17,200,000)
Total, authorized and unauthorized	(435,663,000)	(261,578,000)	(29,500,000)	(454,428,000)	(479,128,000)	(+43,465,000)	(+217,550,000)	(+449,628,000)	(+24,700,000)
HIGHER EDUCATION FACILITIES LOANS AND INSURANCE	(17,891,000)	(19,205,000)	DEFER	(19,205,000)	(19,205,000)	(+1,314,000)	---	(+19,205,000)	---
COLLEGE HOUSING LOANS, LOAN LIMITATION (non-add)	(57,420,000)	---	(60,000,000)	(40,000,000)	(60,000,000)	(+2,580,000)	(+60,000,000)	---	(+20,000,000)
EDUCATIONAL RESEARCH AND STATISTICS									
National Institute of Education (unauthorized)	(48,628,000)	(70,231,000)	DEFER	(54,831,000)	(54,831,000)	(+6,203,000)	(-15,400,000)	(+54,831,000)	---
National Center for Education Statistics	8,371,000	---	8,747,000	8,747,000	8,747,000	+376,000	+8,747,000	---	---
Total	8,371,000	---	8,747,000	8,747,000	8,747,000	+376,000	+8,747,000	---	---
(Unauthorized)	(48,628,000)	(70,231,000)	DEFER	(54,831,000)	(54,831,000)	(+6,203,000)	(-15,400,000)	(+54,831,000)	---
Total, authorized and unauthorized	(56,999,000)	(70,231,000)	(8,747,000)	(63,578,000)	(63,578,000)	(+6,579,000)	(-6,653,000)	(+54,831,000)	---
LIBRARIES									
Public libraries:									
Services	71,774,000	---	80,000,000	80,000,000	80,000,000	+8,226,000	+80,000,000	---	---
Interlibrary cooperation	17,226,000	---	20,000,000	18,000,000	18,000,000	+774,000	+18,000,000	-2,000,000	---
Training and demonstrations (unauthorized)	(957,000)	---	DEFER	(1,000,000)	(1,000,000)	(+43,000)	(+1,000,000)	(+1,000,000)	---
Research libraries (unauthorized)	(5,742,000)	---	DEFER	(6,000,000)	(6,000,000)	(+258,000)	(+6,000,000)	(+6,000,000)	---
Construction	21,533,000	---	25,000,000	22,500,000	22,500,000	+967,000	+22,500,000	-2,500,000	---
Literacy Initiative	4,785,000	---	5,000,000	5,000,000	5,000,000	+215,000	+5,000,000	---	---
Total	115,318,000	---	130,000,000	125,500,000	125,500,000	+10,182,000	+125,500,000	-4,500,000	---
(Unauthorized)	(6,699,000)	---	DEFER	(7,000,000)	(7,000,000)	(+301,000)	(+7,000,000)	(+7,000,000)	---
Total, authorized and unauthorized	(122,017,000)	---	(130,000,000)	(132,500,000)	(132,500,000)	(+10,483,000)	(+132,500,000)	(+2,500,000)	---

1/ FY87 request includes $238,578,000 proposed for later transmittal.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
PAYMENTS TO SPECIAL INSTITUTIONS									
AMERICAN PRINTING HOUSE FOR THE BLIND	5,263,000	5,510,000	5,510,000	5,500,000	5,500,000	+237,000	-10,000	-10,000	---
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF	30,624,000	31,380,000	32,000,000	32,000,000	32,000,000	+1,376,000	+620,000	---	---
GALLAUDET COLLEGE 1/	59,335,000	60,737,000	60,737,000	62,000,000	62,000,000	+2,665,000	+1,263,000	+1,263,000	---
HOWARD UNIVERSITY	157,168,000	157,170,000	170,230,000	162,170,000	170,230,000	+13,062,000	+13,060,000	---	+8,060,000
Total, Payments to Special Institutions	252,390,000	254,797,000	268,477,000	261,670,000	269,730,000	+17,340,000	+14,933,000	+1,253,000	+8,060,000
DEPARTMENTAL MANAGEMENT									
SALARIES AND EXPENSES	224,939,000	241,192,000	241,692,000	234,692,000	234,692,000	+9,753,000	-6,500,000	-7,000,000	---
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES	14,654,000	16,378,000	16,378,000	16,378,000	16,378,000	+1,724,000	---	---	---
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES	41,759,000	38,185,000	38,185,000	44,000,000	43,000,000	+1,241,000	+4,815,000	+4,815,000	-1,000,000
Total, Departmental management	281,352,000	295,755,000	296,255,000	295,070,000	294,070,000	+12,718,000	-1,685,000	-2,185,000	-1,000,000
Total, Department of Education:									
Federal funds	12,377,434,000	11,986,099,000	13,380,231,000	13,104,805,000	13,304,819,000	+927,385,000	+1,318,720,000	-75,412,000	+200,014,000
(Unauthorized)	(5,481,846,000)	(4,279,782,000)	DEFER	(5,913,622,000)	(5,930,822,000)	(+448,976,000)	(+1,651,040,000)	(+5,930,822,000)	(+17,200,000)
Total, authorized and unauthorized	(17,859,280,000)	(16,265,881,000)	(13,380,231,000)	(19,018,427,000)	(19,235,641,000)	(+1,376,361,000)	(+2,969,760,000)	(+5,855,410,000)	(+217,214,000)
TITLE IV - RELATED AGENCIES									
Action (Domestic Programs): (Unauthorized)									
Volunteers in Service to America:									
VISTA operations	(18,183,000)	(17,890,000)	DEFER	(19,000,000)	(19,000,000)	(+817,000)	(+1,110,000)	(+19,000,000)	---
VISTA Literacy Corps	---	---	DEFER	(2,000,000)	(2,000,000)	(+2,000,000)	(+2,000,000)	(+2,000,000)	---
Service learning	(1,308,000)	(1,368,000)	DEFER	(1,368,000)	(1,368,000)	(+60,000)	---	(+1,368,000)	---
Subtotal	(19,491,000)	(19,258,000)	DEFER	(22,368,000)	(22,368,000)	(+2,877,000)	(+3,110,000)	(+22,368,000)	---
Citizen Participation and Volunteer Demonstration Programs	(1,724,000)	(1,801,000)	DEFER	(1,801,000)	(1,801,000)	(+77,000)	---	(+1,801,000)	---
Older Americans Volunteer Programs:									
Foster Grandparents Program	(53,688,000)	(56,100,000)	DEFER	(56,100,000)	(56,100,000)	(+2,412,000)	---	(+56,100,000)	---
Senior Companion Program	(17,308,000)	(18,086,000)	DEFER	(18,086,000)	(18,086,000)	(+778,000)	---	(+18,086,000)	---
Retired Senior Volunteer Program	(28,346,000)	(29,620,000)	DEFER	(29,620,000)	(29,620,000)	(+1,274,000)	---	(+29,620,000)	---
Subtotal, Older Volunteers	(99,342,000)	(103,806,000)	DEFER	(103,806,000)	(103,806,000)	(+4,464,000)	---	(+103,806,000)	---
Program Support	(24,224,000)	(25,000,000)	DEFER	(25,312,000)	(25,312,000)	(+1,088,000)	(+312,000)	(+25,312,000)	---
Total, Action, unauthorized	(144,781,000)	(149,865,000)	DEFER	(153,287,000)	(153,287,000)	(+8,506,000)	(+3,422,000)	(+153,287,000)	---
Commission on Education of the Deaf	---	---	---	1,000,000	750,000	+750,000	+750,000	+750,000	-250,000
Corporation for Public Broadcasting: 2/									
FY 1988 advance (advanced in FY86)	214,000,000	---	---	---	---	-214,000,000	---	---	---
FY 1989 (current request)	---	130,000,000	214,000,000	238,000,000	228,000,000	+228,000,000	+98,000,000	+14,000,000	-10,000,000

1/ $2,000,000 of 1987 request proposed for later transmittal.

2/ FY 1986 approp. adv. in FY84 is $159.5 million.
FY 1987 approp. adv. in FY85 is $200 million.
FY 1988 approp. adv. in FY86 is $214 million.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
Federal Mediation and Conciliation Service 1/.....	22,388,000	23,220,000	22,656,000	24,390,000	23,523,000	+1,135,000	+303,000	+867,000	-867,000
Federal Mine Safety and Health Review Commission.....	3,651,000	3,919,000	3,651,000	3,919,000	3,785,000	+134,000	-134,000	+134,000	-134,000
National Center for the Study of Afro-American History and Culture.....	191,000	---	---	---	---	-191,000	---	---	---
National Commission on Libraries and Information Science.....	660,000	690,000	660,000	690,000	660,000	---	-30,000	---	-30,000
National Council on the Handicapped.....	732,000	850,000	732,000	850,000	850,000	+118,000	---	+118,000	---
National Labor Relations Board.....	129,055,000	130,865,000	129,055,000	130,865,000	129,960,000	+905,000	-905,000	+905,000	-905,000
National Mediation Board.....	6,085,000	6,540,000	6,401,000	6,540,000	6,401,000	+316,000	-139,000	---	-139,000
Occupational Safety and Health Review Commission.....	5,647,000	5,750,000	5,647,000	5,750,000	5,750,000	+103,000	---	+103,000	---
Prospective Payment Assessment Commission(trust funds)	(2,769,000)	(3,421,000)	(3,421,000)	(3,421,000)	(3,421,000)	(+652,000)	---	---	---
Physician Payment Review Commission (trust funds).....	---	---	(1,000,000)	(1,000,000)	(1,000,000)	(+1,000,000)	(+1,000,000)	---	---
Railroad Retirement Board:									
Dual benefits payments account.....	375,135,000	255,880,000	380,000,000	380,000,000	380,000,000	+4,865,000	+124,120,000	---	---
Federal payment to the Railroad Retirement Account	2,200,000	3,100,000	3,100,000	3,100,000	3,100,000	+900,000	---	---	---
(Limitation on administration, retirement).....	(53,039,000)	(55,614,000)	(56,634,000)	(58,877,000)	(57,756,000)	(+4,717,000)	(+2,142,000)	(+1,122,000)	(-1,121,000)
(Limitation on administration, unemployment).....	(15,778,000)	(13,919,000)	(14,694,000)	(15,190,000)	(14,942,000)	(-836,000)	(+1,023,000)	(+248,000)	(-248,000)
(Inspector General).....	---	(1,167,000)	(1,167,000)	(1,367,000)	(1,267,000)	(+1,267,000)	(+100,000)	(+100,000)	(-100,000)
Soldiers' and Airmen's Home (trust fund limitation):									
Operation and maintenance.....	33,196,000	34,022,000	34,022,000	34,022,000	34,022,000	+826,000	---	---	---
Capital outlay.....	13,114,000	4,485,000	15,000,000	16,241,000	16,241,000	+3,127,000	+11,756,000	+1,241,000	---
United States Institute of Peace (unauthorized).....	---	(1,250,000)	DEFER	(1,250,000)	(625,000)	(+625,000)	(-625,000)	(+625,000)	(-625,000)
Total, Related Agencies:									
Federal funds (all years).....	806,054,000	599,321,000	814,924,000	845,367,000	833,042,000	+26,988,000	+233,721,000	+18,118,000	-12,325,000
Current year.....	(592,054,000)	(469,321,000)	(600,924,000)	(607,367,000)	(605,042,000)	(+12,988,000)	(+135,721,000)	(+4,118,000)	(-2,325,000)
1989 advance.....	(214,000,000)	(130,000,000)	(214,000,000)	(238,000,000)	(228,000,000)	(+14,000,000)	(+98,000,000)	(+14,000,000)	(-10,000,000)
(Unauthorized).....	(144,781,000)	(151,115,000)	DEFER	(154,537,000)	(153,912,000)	(+9,131,000)	(+2,797,000)	(+153,912,000)	(-625,000)
Trust funds.....	(71,586,000)	(74,121,000)	(76,916,000)	(79,855,000)	(78,386,000)	(+6,800,000)	(+4,265,000)	(+1,470,000)	(-1,469,000)

1/ President's budget requests $268,000 FY86 supplemental.

H.R. 5233 - FY 1987 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1986 Post Seq.	FY 1987 Budget Request	House Bill	Senate Bill	Conference	Conference compared with FY86 Post Seq.	Conference compared with FY87 Budget	Conference compared with House Bill	Conference compared with Senate Bill
SUMMARY 1/									
Title I - Department of Labor:									
Federal Funds	6,303,652,000	4,872,614,000	5,524,294,000	5,758,198,000	5,665,002,000	-638,650,000	+792,388,000	+140,708,000	-93,196,000
Trust Funds	(2,588,411,000)	(2,747,345,000)	(2,751,696,000)	(2,612,928,000)	(2,607,664,000)	(+19,253,000)	(-139,681,000)	(-144,032,000)	(-5,264,000)
Title II - Department of Health and Human Services:									
Federal Funds (all years)	77,550,058,000	79,336,916,000	84,001,567,000	84,145,034,000	84,327,284,000	+6,777,226,000	+4,990,368,000	+325,717,000	+182,250,000
Current year	(66,076,304,000)	(66,738,851,000)	(71,403,502,000)	(71,546,969,000)	(71,729,219,000)	(+5,652,915,000)	(+4,990,368,000)	(+325,717,000)	(+182,250,000)
1988 advance	(11,473,754,000)	(12,598,065,000)	(12,598,065,000)	(12,598,065,000)	(12,598,065,000)	(+1,124,311,000)	---	---	---
(Unauthorized)	(3,770,944,000)	(3,534,212,000)	DEFER	(3,768,345,000)	(3,732,757,000)	(-38,187,000)	(+198,545,000)	(+3,732,757,000)	(-35,588,000)
Total, authorized and unauthorized	(81,321,002,000)	(82,871,128,000)	(84,001,567,000)	(87,913,379,000)	(88,060,041,000)	(+6,739,039,000)	(+5,188,913,000)	(+4,058,474,000)	(+146,662,000)
Trust Funds	(5,029,303,000)	(5,297,867,000)	(5,289,417,000)	(5,305,093,000)	(5,131,070,000)	(+101,767,000)	(-166,797,000)	(-158,347,000)	(-174,023,000)
Title III - Department of Education:									
Federal Funds	12,377,434,000	11,986,099,000	13,380,231,000	13,104,805,000	13,304,819,000	+927,385,000	+1,318,720,000	-75,412,000	+200,014,000
(Unauthorized)	(5,481,846,000)	(4,279,782,000)	DEFER	(5,913,622,000)	(5,930,822,000)	(+448,976,000)	(+1,651,040,000)	(+5,930,822,000)	(+17,200,000)
Total, authorized and unauthorized	(17,859,280,000)	(16,265,881,000)	(13,380,231,000)	(19,018,427,000)	(19,235,641,000)	(+1,376,361,000)	(+2,969,760,000)	(+5,855,410,000)	(+217,214,000)
Title IV - Related Agencies:									
Federal Funds (all years)	806,054,000	599,321,000	814,924,000	845,367,000	833,042,000	+26,988,000	+233,721,000	+18,118,000	-12,325,000
Current year	(592,054,000)	(469,321,000)	(600,924,000)	(607,367,000)	(605,042,000)	(+12,988,000)	(+135,721,000)	(+4,118,000)	(-2,325,000)
1989 advance	(214,000,000)	(130,000,000)	(214,000,000)	(238,000,000)	(228,000,000)	(+14,000,000)	(+98,000,000)	(+14,000,000)	(-10,000,000)
(Unauthorized)	(144,781,000)	(151,115,000)	DEFER	(154,537,000)	(153,912,000)	(+9,131,000)	(+2,797,000)	(+153,912,000)	(-625,000)
Total, authorized and unauthorized	(950,835,000)	(750,436,000)	(814,924,000)	(999,904,000)	(986,954,000)	(+36,119,000)	(+236,518,000)	(+172,030,000)	(-12,950,000)
Trust Funds	(71,586,000)	(74,121,000)	(76,916,000)	(79,855,000)	(78,386,000)	(+6,800,000)	(+4,265,000)	(+1,470,000)	(-1,469,000)
Sec. 515 reserves (P.L. 99-190):									
Federal Funds	11,702,000	---	---	---	---	-11,702,000	---	---	---
Trust Funds	(919,000)	---	---	---	---	(-919,000)	---	---	---
Total, all titles:									
Federal Funds (all years)	97,048,900,000	96,794,950,000	103,721,016,000	103,853,404,000	104,130,147,000	+7,081,247,000	+7,335,197,000	+409,131,000	+276,743,000
Current year	(85,361,146,000)	(84,066,885,000)	(90,908,951,000)	(91,017,339,000)	(91,304,082,000)	(+5,942,936,000)	(+7,237,197,000)	(+395,131,000)	(+286,743,000)
1988 advance	(11,473,754,000)	(12,598,065,000)	(12,598,065,000)	(12,598,065,000)	(12,598,065,000)	(+1,124,311,000)	---	---	---
1989 advance	(214,000,000)	(130,000,000)	(214,000,000)	(238,000,000)	(228,000,000)	(+14,000,000)	(+98,000,000)	(+14,000,000)	(-10,000,000)
(Unauthorized)	(9,397,571,000)	(7,965,109,000)	DEFER	(9,836,504,000)	(9,817,491,000)	(+419,920,000)	(+1,852,382,000)	(+9,817,491,000)	(-19,013,000)
Total, authorized and unauthorized	(106,446,471,000)	(104,760,059,000)	(103,721,016,000)	(113,689,908,000)	(113,947,638,000)	(+7,501,167,000)	(+9,187,579,000)	(+10,226,622,000)	(+257,730,000)
Trust Funds	7,690,219,000	8,119,333,000	8,118,029,000	7,997,876,000	7,817,120,000	+126,901,000	-302,213,000	-300,909,000	-180,756,000

1/ Excludes funding for Refugee and Entrant Assistance (Title II) and Follow through (Title III). See continuing resolution H.J. Res 738.

Mr. WHITTEN. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, my attention has been called to the REA situation in Alaska. In reading the language, it seems to go much further than was represented to me. When we get to the provision on the Federal buildings in this section, I expect to offer an amendment saying that this applies only to Alaska as a demonstration project and shall not be used in the remainder of the United States.

□ 2115

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is the gentleman opposed to the conference report?

Mr. LEWIS of California. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LEWIS of California moves to recommit the conference report on House Joint Resolution 738 to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

Mr. MILLER of California. Mr. Speaker, the conferees on House Joint Resolution 738 have accepted language passed by the Senate which authorizes an increase in the cost ceiling for the North Loup Division, a Bureau of Reclamation project currently under construction in Nebraska. This cost ceiling increase would allow construction of this project to be completed as presently designed—a situation which severely limits the ability of the authorizing committees in the House or Senate to modify the project in the future.

There is no question that jurisdiction for raising the cost ceiling for this project properly rests with the Committee on Interior and Insular Affairs and its Subcommittee on Water and Power Resources. In response to concerns I raised with Chairman BEVILL last June, the House-passed version of the Energy and Water Development appropriations bill included language which would have restricted further expenditures on this project until a proposal to increase the cost ceiling could be properly considered by the authorizing committees. I ask unanimous consent that a copy of my June 17, 1986, letter to Chairman BEVILL be included in the RECORD at this point.

The North Loup language included in the House version of the Energy and Water Development appropriations bill was not slipped into the bill under the cover of darkness. It was readily agreed to by the gentlewoman from Nebraska [Mrs. SMITH], who provided her personal assurances to me of her continued cooperation in this matter. I was further advised by the gentlewoman that she believed the agreed-upon report language was "appropriate."

Unfortunately, these assurances were apparently forgotten during the conference on House Joint Resolution 738, as that bill and its report provide no restrictions on expenditures for this project. The bill also authorizes the ceiling increase needed to assure its completion, a legislative matter clearly within the jurisdiction of the Committee on Interior and Insular Affairs.

I consider it to be most unfortunate that the conferees have agreed to sidetrack the normal authorization process and provide special treatment for the North Loup project. I feel certain that the House bill language would have survived the conference had it been supported by the House conferees.

Despite the unfortunate action taken by the conferees, I wish to assure my colleagues that this project will receive the closest scrutiny of the Subcommittee on Water and Power Resources next year. My colleagues should be aware that this project would stand virtually no chance of surviving the congressional authorization process if it were proposed as a new project for construction today. The North Loup project has nearly doubled in cost since 1972, even after allowing for cost increases due to inflation. If completed, the Nation will be lucky to receive a return of 60 cents for every dollar of taxpayers' money invested for construction.

Other deficiencies of the North Loup project are well-known, and include: No cost sharing by local beneficiaries; only infinitesimal repayment of construction costs by irrigators, who will use a $350 million Federal investment to grow corn, already in surplus supply; and benefits—irrigation water highly subsidized by power consumers—which will flow to only a handful of farmers in central Nebraska. The purposes, costs, and final designs for this project deserve a thorough reexamination.

It is inappropriate to rush through a quick fix for a project that can only compound the problems of farmers elsewhere and taxpayers everywhere. I intend to evaluate carefully any further requests for appropriations for construction of the North Loup project until the project has received the proper oversight and approval of the Subcommittee on Water and Power Resources.

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, DC, June 17, 1986.

Hon. TOM BEVILL,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: It has come to my attention that the Subcommittee may be considering language in the fiscal year 1987 Energy and Water Development Appropriations bill which would authorize an increase in the cost ceiling for the North Loup Division, Pick-Sloan Missouri Basin Program, Nebraska.

I must respectfully advise you that I would have no choice but to raise the most serious procedural and substantive objectives to such a provision should it be included in the bill.

The Committee on Interior and Insular Affairs is well aware of the cost ceiling problem facing the North Loup project (and other Reclamation projects), and is considering legislation (H.R. 2503) to increase the ceiling. In addition, the Committee has specifically referred to this situation for the past two years in its Views and Estimates reports to the Committee on the Budget. Legislation to increase the ceiling for North Loup is without question a responsibility of the Committee on Interior and Insular Affairs. Any attempt to authorize a ceiling increase by including language in the Energy and Water Development Appropriations bill would clearly be out of order and would represent a direct intrusion on the jurisdiction of the Interior Committee.

I respectfully urge your attention to this matter.

Sincerely yours,

GEORGE MILLER,
Chairman, Subcommittee on Water and Power Resources.

Mr. FORD of Michigan. Mr. Speaker, I want to make it very clear that I oppose the provisions added by the other body to the continuing resolution, which would transfer ownership of Dulles and National Airports to a regional authority.

I am especially concerned about the possibility that Federal workers would lose rights and benefits as the result of any such transfer.

I am aware of the arguments made by local Members of Congress, and at first glance they seem appealing. I do not feel, however, that they can withstand close scrutiny. Proponents talk a good game about protecting Federal workers, but they are strangely silent on specifics.

When it's a choice between the rights of Federal workers and local Virginia politics, Federal workers end up losing.

The primary purpose of the provision of House Joint Resolution 738, the conference report on the continuing appropriations for fiscal year 1987, is to transfer Washington Dulles International Airport and Washington National Airport from the Federal Government to an independent regional authority. Both airports are now operated by the Federal Aviation Administration and employ numerous Federal employees whose conditions of employment, pay, and benefits are governed by laws relating to civil service employees. These laws are within the jurisdiction of the Committee on Post Office and Civil Service.

The provision would dramatically affect the employment status of FAA employees at these airports. One provision relates to collective-barganining rights. Another affects the pay, health insurance, life insurance, and annual and sick leave benefits of these employees. Yet another continues these employees under the Civil Service Retirement System, or the Federal Employees' Retirement System, as appropriate, after they have ceased to be Federal employees as a result of the implementation of the bill.

This provision has bypassed all the normal procedures set forth in Congress for the consideration of legislation. This specific proposal has never been considered, much less voted, on, by any of the committees of jurisdiction in either body of Congress.

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In this House, a number of committees, including Public Works, Post Office and Civil Service, and Government Operations, have a jurisdictional interest in the content of this proposal and should have had an opportunity to review it. This short-circuited process of coupling a major substantive proposal to the last legislative train leaving the station has denied the committees of this House the chance to look at this proposal and, applying their expertise, to offer suggestions on ways it might be approved.

I am convinced that any possible advantages from this proposal are more than offset by the potential for injury both to Federal employees and those who use the facilities in question.

Mr. PURSELL. Mr. Speaker, I take exception to the conference committee report language on the issue of gasoline refueling vapor controls included in the HUD chapter. In doing so, I concur with the comments of Mr. CARR—and other colleagues—that the conference report clearly changes the intent of the language the House Appropriations Committee approved earlier.

The House report required that before the Environmental Protection Agency issued a Notice of Proposed Rulemaking regarding vapor controls. EPA would provide Congress with all data, analyses, reports and other relevant material to adequately assure that such a nationwide regulatory program is necessary, appropriate and cost-beneficial. We were concerned that EPA has not developed sufficient data upon which to base a judgment for a nationwide program regulating motor vehicles or service stations or both.

What has emerged from the conference committee, however, not only fails to recognize the concerns of the House Appropriations Committee, but also could be counterproductive to our intentions. Instead of EPA being required to provide Congress all the relevant documents before issuing any proposed refueling control regulation, the conference report "urges" that EPA propose rulemaking "as soon as possible." How can the EPA give thoughtful consideration to all the factors we have identified if they are instructed to do a hurry-up job with issuing the regulation?

The reason I supported the House language requiring EPA to give Congress an opportunity to review the facts is that the consequences of whatever the control strategy adopted are certain to be enormous.

Mr. Speaker, environmental health and safety issues are important to all of us here and it is because of this deep concern that the House language required EPA to report on their finding and to openly discuss the assumptions and risks associated with the control options before acting.

The language in the conference report is worse than no guidance by the Congress on this issue. It tells EPA to act speedily on a decision that should be made only after careful consideration of the safety issue and a careful assessment of need and realistic benefits—and could effectively preclude a review by the Congress. It is for these reasons that I object to the language in the conference report.

Mr. UDALL. Mr. Speaker, the conference report on the fiscal year 1987 continuing appropriations bill makes an important clarification regarding the assistance provided the newest member of the American political family, the Commonwealth of the Northern Mariana Islands. It provides that the terms of the assistance are those included in the Omnibus Insular Areas Act of 1986, which authorized and requires the assistance.

I appreciate the cooperation of the very able chairman of the Appropriations Subcommittee on Interior, SID YATES, and the ranking minority member, RALPH REGULA, in working out the clarification. It indicates their continuing sensitivity to the unique situations of the U.S. insular areas.

The need for the clarification was created by an amendment by the other body to the Interior and related agencies appropriations bill. A proviso in the Administration of Territories section could have been misinterpreted to apply terms to the assistance which were proposed by the administration but which were not approved in Public Law 99-396.

If such a misinterpretation were implemented, it would not only have contradicted the authorization, it could have also conflicted with the covenant which established the Federal relationship with the commonwealth. The committee report and subsequent statements of sponsors of the proviso made clear that such a misinterpretation would be contrary to intent; but there were indications that it may have been implemented anyway.

The Congress did not approve all of the terms proposed by the administration because they were technically faulty; conferred new and objectionable authority on the Secretary of the Interior to defer guaranteed appropriated spending; permitted any of the enacted terms to be changed without congressional approval; and included overly broad requirements and disputed understandings. Public Law 99-396 corrected these deficiencies.

The conference report modified the language of the proviso to make it consistent with Public Law 99-396 and apply only the terms of the assistance set forth in that law. Among the terms proposed by the administration, the law approved the schedule and purposes of the payments which will be provided on a guaranteed basis through fiscal year 1992.

It did not approve the so-called performance standards recommended by the administration or authority for the administration to withhold any of the assistance. However, performance standards which were proposed but not specifically approved may be followed to the extent indicated in my statement on that act and as have been or may be mutually agreed by the administration and the Commonwealth, such as, for example, the performance standard regarding the development of the necessary capital development plan.

Further, if the administration believes the performance standards are not being met, it can request approval from Congress to withhold payments of assistance under Public Law 99-396. Withholding can only take place upon enactment of a bill authorizing withholding.

The consideration of such a bill would enable the Congress to specifically consider the proposed performance standard at issue in the context of the disputed positions of the administration and the Commonwealth on it. This process will preserve the self-government the Commonwealth is guaranteed in the covenant and will prevent the Department of the Interior from compromising it.

This process will also preserve the fiscal responsibility intent of the performance standards, which the Commonwealth has committed to meeting to the greatest extent possible, reasonable, and intended by Congress. We appreciate the efforts of the officials who developed the proposed terms but are resolute that they should be implemented only as Congress intends.

I am confident that the capable officials of the Interior Department will understand the need for this and that it does not detract from their responsibility to oversee lawful expenditure of the assistance. We feel as strongly that the Commonwealth government should expend the assistance as the law requires as we do that the ways for the Federal Government to ensure this are only those provided in the law, with disputes resolved by law—action we intend to take if necessary.

Mr. ROE. Mr. Speaker, I know that the conferees have worked long and hard on House Joint Resolution 738 and I want to commend them for their efforts.

This bill contains strong support in the area of science and technology particularly in our Nation's space program. It offers some creative and helpful solutions to the pressing problems which have beset the space agency since the loss of the space shuttle *Challenger* early this year.

As my colleagues are well aware, the Committee on Science and Technology has thoroughly investigated the *Challenger* accident and all of the impacts it has had on our access to space. There is no question that this Nation needs a replacement orbiter. At this time, we are ready to move forward to procure this orbiter and reconstitute our space program.

House Joint Resolution 738 contains the funding that is required to accomplish these objectives. Furthermore, this funding will not decimate our other space programs as so many had feared. This bill contains a very clear signal that bears repeating. That is, the space shuttle is a national asset and its replacement is a national priority. If this Congress is to be judged by its accomplishments, this message is of the utmost importance.

There are many other provisions in this bill worthy of mention but suffice to say that, as far as the space program is concerned, this is a piece of legislation for which we should all have unreserved support. It represents what can be done in an area where there is widespread bipartisan agreement and a mutual sense that this is a time requiring the leadership of the Congress.

In this year of great budgetary uncertainty I believe our conferees have acted with great vision for the future of our space program.

Mr. FUQUA. Mr. Speaker, I express my strong support of House Joint Resolution 738 and I call on my colleagues to join me.

In this year when deficit reduction and other budgetary pressures have dominated the national agenda I am greatly pleased that this Congress has taken the time to recognize the problems which need to be addressed in our Nation's Space Program. House Joint Resolu-

tion 738 provides funding for a replacement for the space shuttle *Challenger* which was lost January 28. It also provides the necessary funding to modify the existing shuttle fleet and return it to flight status.

Mr. Speaker, the backup in scientific, commercial, and defense payloads that has occurred as a result of the accident provides strong testimony for the dependence we have developed on our access to space. I commend my colleagues on the Appropriations Committee for sharing in this recognition and for working out in conference the funding necessary to restore this access to space. This bill provides the entire funding for the replacement orbiter and will allow us to build this orbiter in a cost-effective manner without impacting future NASA budgets.

In other areas of research and development this bill provides funding for the major initiatives that Congress has strongly supported. The Space Station Program contains the funding necessary to commence the development phase leading to a deployment date of 1994. The Advanced Communications Technology Satellite Program has been funded at a level that will allow a launch readiness date of 1990. All of the many other science and applications initiatives have been accommodated with no serious impacts.

Mr. Speaker, this legislation is significant and has great merits for our Nation's Space Program. I commend the conferees on developing a bill that addresses these needs so well. I ask all my colleagues to join me in passing House Joint Resolution 738.

Mr. PORTER. Mr. Speaker, I would like to address a critical issue which has arisen regarding the Title X Family Planning Program. There are several points which I feel it is essential to clarify.

As you may know, the Office of Population Affairs of the Department of Health and Human Services [DHHS] has, for the past few weeks, been threatening to publish new guidelines for the implementation of title X services. These new guidelines would, in reality, represent a significant change in the family planning services provided to those whom Title X is designed to serve.

My first problem with the proposed guidelines is one of timing. As we are all too well aware, Congress has been struggling for weeks to reach agreement on the essential legislation necessary to keep this country going. The proposed changes were announced by HHS only a short time before we originally were scheduled to adjourn. These changes are not merely administrative alterations, they are mutations of policy that should, by their very nature, reflect congressional intent and be subject to thorough discussion and debate. I certainly have no objections to any worthwhile issue being debated, but I would also submit that such a substantive change as this be one that Congress have the opportunity to fully discuss.

Mr. Speaker, in addressing the merits of this issue, I would like to remind my colleagues of the purpose of the Title X Program, which has been providing contraceptive services and information to nearly 5 million women per year in order to lower the incidence of unintended pregnancy, to improve maternal health by doing so, and to prevent recourse to abortion. That was its original purpose and has held true for nearly 17 years. The current guidelines, which translate congressional intent into implementation by Title X clinics of their services, have been in place for over 5 years. In accordance with the medical ethical standards promulgated by the American College of Obstetricians and Gynecologists, the guidelines require that women seeking information about the management of an unintended pregnancy be given nondirective counseling and referrals when requested on all of their legal medical options, including prenatal care, adoption, and abortion. This mandate constitutes the essence of informed choice—to require less would contravene a woman's right or ability to make a fully informed decision about her reproductive health care.

The proposed guidelines would do just that. They would, by allowing providers to pick and choose among the options upon which they counsel women, condone the withholding of basic factual information from these women. This is unconscionable. As you can see, Mr. Speaker, at the very least this issue deserves far more debate.

The DHHS is also proposing to change the Title X funding allocation formula which could wreak havoc with some of the projects currently receiving funds. I would again submit that more time is necessary for discussion before such a decision is made which could have far-reaching effects at the local level.

The language adopted by the Labor-HHS-Education conferees, and published in that conference report, clearly addresses the issue of timing on both of these proposed changes. As an active participant in the conference, I joined by colleagues in directly the Secretary of HHS to maintain the status quo by administering the Title X Program for fiscal year 1987 in the same manner, and under the same allocation formula, which governed its operations for fiscal year 1986. In fact, I even offered more specific language, but was assured by my colleagues that the directive, "in the same manner," explicitly retained by the committee, would cover both the guidelines and allocation formula contigencies.

I would welcome further debate on these issues, Mr. Speaker, at a more appropriate time and proper legislative forum, preferably during discussion of the reauthorization bill. Until that time, however, it would be ill-advised to make any such changes.

Mr. NELSON of Florida. Mr. Speaker, I rise in strong support of House Joint Resolution 738 and I urge my colleagues to do the same.

I want to recognize, in particular, the major benefits this bill has for our Nation's Space Program. As my colleagues are well aware, the *Challenger* accident of January 28 has had a profound impact on our world leadership position in space. This setback has been made all the worse by our inability to resolve the situation in a timely manner. We have agonized over the questions of whether a replacement orbiter was needed, where the money was to come from, and what the future role of man in space would be. Meanwhile, foreign competition has made major gains in scientific, commercial, and other uses of space.

This bill provides the guidance that has been lacking over the past 9 months and makes clear in no uncertain terms that the Congress is willing to assume the leadership role that is needed at this critical juncture. First, this bill recognizes that the Nation needs a replacement orbiter. Furthermore, this is a national need, not just a NASA need. This bill provides for a replacement orbiter without harming the other space programs that are needed to regain our national preeminence in space.

Second, this bill provides funding for the other cr· al activities needed to complete the modification to the existing shuttle fleet which have been identified as a result of the *Challenger* accident.

Third, this bill eases a major budgetary problem that has arisen with respect to the payment to NASA for services that were planned to be provided to DOD. The interruption in the flight rate that has been introduced by the accident has temporarily impacted the scheduled reimbursable payments that are essential to the stability and continuity in our space transportation system, and this bill would provide the missing resources for NASA.

Finally, this bill reflects the priorities in space research and development that are contained in the House-passed authorization bill. The bill sends a strong signal that we should move ahead with such initiatives as the space station and other space science and applications programs that have contributed so greatly to our national heritage.

Mr. Speaker, I am proud to voice my support for House Joint Resolution 738. It provides budgetary solution to some of the gravest problems we have faced in the past 25 years of pioneering in space. This is a bill we can all support and I am confident that with this legislation, together with the authorization bill passed on the House floor on October 15, we can get our Space Program back on track.

Mr. PETRI. Mr. Speaker, among the billions of dollars appropriated by this legislation is a relatively small amount, $7.1 million, for continuing the Leadership in Educational Administration Development Act or [LEAD] for a second year. This represents a wise investment in our Nation's schools. I want to thank especially the gentlemen from Kentucky [Mr. NATCHER], Massachusetts [Mr. CONTE], and Illinois [Mr. PORTER], as well as the Senator from Florida [Mr. CHILES], for preserving funding for this program, which is only now getting underway.

The LEAD Program begins at a timely moment. Funding of LEAD training and technical assistance centers in each State coincides with a growing public appreciation of the important contributions school administrators can make to educational excellence.

In recent years, the role of the administrator as educational leader has been overshadowed by other issues. Events outside the schools have challenged or undercut the administrator. Even the recent educational reform movement has seemed to focus on things other than school administration, such as State curriculum mandates or teacher quality. Only recently has the role of the school administrator returned to the spotlight of public interest.

An increasing number of recent studies

identify the principal as the single figure most responsible for school quality. Accumulating experience with educational reform and school improvement programs confirms that the key to a good school is a good school administrator. This research and experience has also added to our knowledge about the skills and behavior that characterize effective principals.

Although there is no unique core of knowledge in educational administration, there is reason to believe that the sorts of basic skills known to be required of mid-to upper-level managers in businesses and other private organizations are similar to those that school administrators need in order to be effective. These include the basics of supervision, performance assessment, staffing and selection approaches, how to delegate, goal setting, planning, budgeting, and policy development. Yet most school administrators lead public organizations. As such they are responsible, in ways private sector managers are not, for the management of change and the realization of public values. This gives principals added responsibilities.

The current research on effective businesses, schools, and other organizations centers on the long-argued distinction between management and leadership. The ground-breaking work of James MacGregor Burns first clarified the distinction between the role of manager, whose responsibilities focus on negotiating fair "exchanges" or transactions with employees, and the role of leader, whose efforts are centered on transforming the organization.

The value or importance of transactional leaders, who keep things moving on a day-to-day or moment-to-moment basis is not to be denied. But major organizational changes, and especially those that make mediocre organizations excellent, are said to be created not by such transactional managers but by transformational leaders. These leaders have a vision of where the organization should be headed and possess the knowledge and skills to lead the organization in the direction of that vision.

The role of an effective school administrator is far more complex than that of the passive manager. Principals in effective schools understand that they must be not only active transactional managers but transformational leaders as well. To carry out these roles effectively, principals must possess appropriate motivation and cognitive abilities. They must be able to understand the key situational factors that help determine the kinds of actions that are appropriate and guilde strategic culture-shaping activities. And they must have the behavioral skills to apply their abilities and take directed action.

In each of these areas, the administrator's competence is subject to improvement through leadership training. Effective training and technical assistance centers can provide administrators with the knowledge and skills necessary for them to be both good managers and leaders capable of transforming schools into models of excellence. That is my goal for every LEAD academy.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PORTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 235, nays 172, not voting 25, as follows:

[Roll No. 472]

YEAS—235

Ackerman	Gallo	Morrison (WA)
Akaka	Gaydos	Mrazek
Alexander	Gejdenson	Murtha
Anderson	Gephardt	Myers
Andrews	Gibbons	Natcher
Annunzio	Gilman	Nelson
Anthony	Gordon	Nowak
Aspin	Gray (IL)	Oakar
AuCoin	Green	Oberstar
Barnard	Guarini	Obey
Bartlett	Hall (OH)	Olin
Bateman	Hall, Ralph	Ortiz
Beilenson	Hammerschmidt	Parris
Bennett	Hatcher	Pashayan
Bentley	Hawkins	Pease
Berman	Hefner	Pepper
Bevill	Hillis	Perkins
Biaggi	Holt	Pickle
Bilirakis	Horton	Price
Bliley	Howard	Pursell
Boehlert	Hoyer	Quillen
Boggs	Huckaby	Rahall
Boland	Hutto	Regula
Boner (TN)	Hyde	Richardson
Bonker	Ireland	Rinaldo
Borski	Jeffords	Ritter
Bosco	Jenkins	Roe
Boucher	Johnson	Roemer
Boulter	Jones (NC)	Rogers
Brown (CA)	Jones (TN)	Rose
Bryant	Kanjorski	Rostenkowski
Bustamante	Kaptur	Roukema
Carper	Kemp	Rowland (CT)
Carr	Kennelly	Rowland (GA)
Chandler	Kildee	Roybal
Chapman	LaFalce	Sabo
Chappell	Lantos	Scheuer
Chappie	Leath (TX)	Schuette
Cheney	Lehman (CA)	Schumer
Coble	Lehman (FL)	Sisisky
Coelho	Lent	Skeen
Coleman (MO)	Levin (MI)	Skelton
Coleman (TX)	Levine (CA)	Slaughter
Conte	Lipinski	Smith (FL)
Cooper	Livingston	Smith (IA)
Coughlin	Loeffler	Smith (NE)
Courter	Lott	Smith (NJ)
Daniel	Lowery (CA)	Snowe
Darden	Luken	Snyder
Daub	MacKay	Solarz
Davis	Madigan	Spratt
Derrick	Manton	Staggers
Dicks	Martin (NY)	Stangeland
Dingell	Martinez	Stenholm
DioGuardi	Mazzoli	Stokes
Dixon	McCloskey	Stratton
Donnelly	McCurdy	Sundquist
Dowdy	McDade	Sweeney
Downey	McGrath	Swift
Duncan	McHugh	Tauzin
Durbin	McKernan	Taylor
Dwyer	McKinney	Thomas (GA)
Early	McMillan	Torricelli
Edwards (OK)	Mica	Traxler
Emerson	Michel	Udall
Fascell	Mikulski	Valentine
Fazio	Miller (OH)	Vander Jagt
Fish	Mitchell	Volkmer
Foley	Moakley	Waldon
Ford (MI)	Molinari	Walgren
Ford (TN)	Mollohan	Watkins
Frost	Montgomery	Waxman
Fuqua	Morrison (CT)	Whitehurst
Whitley	Wolf	Yates
Whitten	Wolpe	Young (AK)
Williams	Wortley	Young (FL)
Wilson	Wright	Young (MO)
Wirth	Wyden	
Wise	Wylie	

NAYS—172

Abercrombie	Gekas	Porter
Applegate	Gingrich	Rangel
Archer	Glickman	Ray
Armey	Gonzalez	Reid
Atkins	Goodling	Ridge
Badham	Gradison	Roberts
Barnes	Gregg	Robinson
Barton	Gunderson	Rodino
Bates	Hamilton	Roth
Bedell	Hayes	Russo
Bereuter	Hendon	Savage
Bonior (MI)	Henry	Saxton
Boxer	Hertel	Schaefer
Broomfield	Hiler	Schneider
Brown (CO)	Hopkins	Schroeder
Bruce	Hubbard	Schulze
Burton (IN)	Hughes	Seiberling
Byron	Hunter	Sensenbrenner
Callahan	Jacobs	Sharp
Carney	Kasich	Shaw
Clay	Kastenmeier	Shelby
Clinger	Kleczka	Shumway
Coats	Kolbe	Shuster
Cobey	Kolter	Sikorski
Collins	Kostmayer	Siljander
Combest	Kramer	Slattery
Coyne	Lagomarsino	Smith, Denny (OR)
Craig	Leach (IA)	Smith, Robert (NH)
Crane	Leland	Smith, Robert (OR)
Crockett	Lewis (CA)	Solomon
Dannemeyer	Lewis (FL)	Spence
Daschle	Lightfoot	Stallings
DeLay	Lloyd	Stark
Dellums	Lowry (WA)	Strang
DeWine	Lujan	Studds
Dickinson	Lungren	Stump
Dorgan (ND)	Mack	Swindall
Dornan (CA)	Markey	Synar
Dreier	Marlenee	Tallon
Dymally	Martin (IL)	Tauke
Dyson	Matsui	Thomas (CA)
Eckart (OH)	Mavroules	Torres
Eckert (NY)	McCandless	Towns
Edwards (CA)	McCollum	Traficant
English	Meyers	Vento
Erdreich	Miller (CA)	Visclosky
Evans (IA)	Miller (WA)	Vucanovich
Evans (IL)	Mineta	Walker
Fawell	Monson	Weaver
Feighan	Moody	Weber
Fiedler	Moorhead	Wheat
Fields	Murphy	Whittaker
Flippo	Neal	Yatron
Florio	Nielson	Zschau
Foglietta	Owens	
Frank	Packard	
Franklin	Panetta	
Frenzel	Penny	
Garcia	Petri	

NOT VOTING—25

Breaux	Grotberg	McEwen
Brooks	Hansen	Moore
Burton (CA)	Hartnett	Nichols
Campbell	Jones (OK)	Oxley
Conyers	Kindness	Rudd
de la Garza	Latta	St Germain
Edgar	Long	Weiss
Fowler	Lundine	
Gray (PA)	McCain	

□ 2135

The Clerk announced the following pairs:

On this vote:

Mr. Gray of Pennsylvania for, with Mr. St Germain against.

Mr. Nichols for, with Mr. Hansen against.

Mr. Campbell for, with Mr. Oxley against.

Mrs. MARTIN of Illinois, Messrs. FOGLIETTA, TAUKE, ROBINSON, BARTON of Texas, APPLEGATE, COYNE, HENDON, and BADHAM,

and Mrs. MEYERS of Kansas changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 7, line 13, strike the following language:

For carrying out the Low Income Home Energy Assistance Program as authorized by title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended, $1,986,000,000; and

Activities authorized by "Construction Industry Labor Law Amendments of 1985" as passed by the House of Representatives on April 17, 1986.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:
and

Activities authorized by the "Construction Industry Labor Law Amendments of 1985" as passed by the House of Representatives on April 17, 1986.

Mr. CLAY. Mr. Speaker, I rise in support of the motion to insist on the House's position on H.R. 281. This provision enacts the construction industry labor law amendments as previously passed by this body by a vote of 229 to 173. As the debate on this bill reaches its conclusion, I want to reiterate the importance of this legislation. H.R. 281 is narrowly drawn and focused so as to ensure that prehire contracts, like all other contracts, are binding upon both parties who enter into such agreements. Despite the inflated rhetoric and distorted interpretations we have heard concerning H.R. 281, the sole effect of this legislation is to require employers to live up to contractual agreements they have voluntarily entered into. The amendment does not permit common situs picketing or secondary boycotts. Nor does it impose compulsory union membership on any employee or affect any Federal or State law regarding the payment of union dues. But as the House recognized when we overwhelmingly passed H.R. 281, if workers are to have a meaningful right to bargain collectively, employers as well as workers must be bound by their contractual promises.

Presently, workers in the construction industry are being subjected to harsh and unfair treatment as the result of a recent turn of events in labor-management relations. Twenty-five years ago, Congress enacted legislation promising construction workers a fair opportunity to engage in collective bargaining. But Congress' promise of a fair chance at organizing for the purpose of protecting their job interests, no longer exists. Recent NLRB rulings and court decisions have nullified congressional intent.

Specifically, H.R. 281 will restrict "double breasting" which is a legal loophole that has substantially undermined the right of construction workers to organize and bargain collectively. Contractors who have signed a union agreement are permitted to establish a second operation that differs from the original only in that it is not covered by a union contract. The employer then transfers work from its union company to its nonunion company.

The sanctity of the bargaining agreement has been eroded in other ways as well. Section 8(f) authorizes a contractor and union to enter into a prehire agreement. A prehire agreement is one voluntarily reached by an employer and a union prior to the hiring of a full complement of employees. Such a provision is needed because employment in the construction industry is necessarily short term and transitory. In return for access to a pool of skilled employees, a contractor agrees that the work will be performed in accordance with a union contract. Today an employer can literally walk away from an otherwise legally binding contract unless the union can meet the impossible burden of proving majority support at all worksites, regardless of the duration of the projects. The very nature of construction work is one of brief, limited time spans; 3 to 6 months is the average for work on a project. It is insane to require union members to vote every 3 months in order to prove they constitute a majority, as the Congress recognized in 1959.

H.R. 281 corrects these abuses by providing that prehire agreements are binding unless there is a vote by workers to decertify the union. It eliminates the use of double breasting as a means of avoiding the requirements of collective bargaining agreements by making such agreements applicable to all businesses operated by a single employer within a specific geographical area. H.R. 281 seeks only to restore to construction workers the rights which Congress recognized and guaranteed in 1959.

The unique problems of the construction industry have not changed, neither should our commitment to the collective bargaining rights of construction workers. H.R. 281 was passed by the House of Representatives by more than 50 votes on April 17. Similar legislation has been pending in the Senate since March. Nevertheless a few Members of the other body have effectively prevented that body from even considering it. By reaffirming the position we have taken on the continuing resolution regarding this issue and thereby enacting H.R. 281, we have the opportunity to ensure a meaningful right to engage in collective bargaining for workers in the construction industry. I urge you to support this motion.

Mrs. ROUKEMA. Mr. Speaker, I rise in opposition to the amendment in disagreement.

I have stated here before that I consider it highly objectionable that the issues raised by H.R. 281, the Construction Industry Labor Law Amendments of 1985, were included in the context of a continuing resolution. I consider it totally inexcusable that this continuing resolution is being delayed or put at risk because of the insertion of this amendment. This is major and controversial legislation.

Such controversial, nongermane amendments have no place in an appropriations bill. The use of such a tactic is even more outrageous when the Senate has never considered the amendments. The Senate has long had a counterpart bill to H.R. 281 and has had many opportunities to bring it up for a vote. However, the proponents of the bill have declined to bring it up for a vote on the floor, apparently because they feel that they would have been unsuccessful.

Such circumstances make the use of these tactics even more inexcusable. Regardless of how you feel about the merits of H.R. 281, I hope you will agree with me that the House should not be monkeying around with this continuing resolution as a back door way to get through legislation which it knows the Senate has never considered and probably wouldn't have passed. Let there be no mistake about it, the legislative language of H.R. 281 would be making major revisions to the National Labor Relations Act and should be carefully considered by both Houses of Congress through the normal deliberative process.

Mr. Speaker, this alone would be reason enough to vote against this amendment. However, what's more, I do not believe that the way in which this section was included in the continuing resolution carries any legal weight. We do not add the language of H.R. 281, that would be legislating in an appropriations bill. What we did was to add money to enforce the provisions of H.R. 281, even though that bill has not been signed into law. For detailed reasons which I have clearly outlined in earlier floor statements, I strongly believe, and have been advised by my committee legal counsel, this will not have the force of law even if we wanted it to.

Now, I know that my colleagues across the aisle will argue that it does. But, that just shows up my point exactly. The legislative history of this section is entirely unclear, thereby leaving it up to the courts to decide what we mean by this backdoor reference to H.R. 281. I can just see the lawyers lining up to get into court saying that if Congress really meant to pass H.R. 281 it could have done so outright. Mr. Speaker, this is no way to legislate.

Mr. HAWKINS. Mr. Speaker, I rise in support of the motion. The continuing resolution as passed by the House contained language which would effectively express the will of the House regarding the status of the provisions of H.R. 281, the Construction Industry Labor Law Amendments of 1985. As my colleagues will recall the House first passed the original version of H.R. 281 on April 17, 1986 by a vote of 229 to 173. Since the will of the House has been so clearly expressed on each of two occasions we should tonight do no less than to continue to insist on House position.

My colleagues I know the hour is late and that all of us wish to move on to other efforts but I believe that we would regret our haste if we failed to support the positions which we as an institution have so clearly defined. H.R. 281, the so-called antidouble breasting bill desperately needs to be passed and while the language as contained in the continuing resolution is conformed to the strictures and constrains inherent in any appropriations measure, the intent of this provision to insure clear

compliance with the requirement in the underlying measure (H.R. 281) is clear.

In 1959, Congress granted construction industry unions and employers special rights. They were intended to stablize labor relations within the industry and protect the ability of workers to enjoy the benefits of collective bargaining. By permitting employers to avoid bargaining agreements on which they have voluntarily agreed, through the practice of double breasting, would destablize labor relations in the construction industry and would deny to workers the rights Congress has guaranteed.

Mr. Speaker, this is an important piece of legislation we are enacting and I urge my colleagues to support the motion and to restate in no uncertain terms the clear intent of the House on the enactment of H.R. 281.

Mr. MURTHA. Mr. Speaker, I rise in support of the motion to insist on the House position on H.R. 281 as contained in the House-passed version of the continuing resolution. This provision enacts the construction industry labor law amendments as passed by the House of Representatives on April 17, 1986.

The House has expressed its intent on this measure on two occasions and there should no doubt that by this action the Congress clearly intends the permanent enactment of this important improvement in labor law.

Mr. RINALDO. Mr. Speaker, I rise in strong support of H.R. 281. The continuing appropriations bill enacts H.R. 281 as passed by the House.

This measure is absolutely necessary in order to close loopholes in Federal labor laws which have permitted some unscrupulous employers to avoid their legal obligations under union contracts. In 1959, Congress recognized the need for legislation to modify industrial union representation procedures to fit the construction industry. This legislation, the Landrum-Griffin Act, included section 8(f), which allowed for prehire agreements in the construction industry. Due to misinterpretations by the National Labor Relations Board and the courts, employers now may repudiate these contracts once a full complement of workers has been hired for a project. H.R. 281 would simply force employers who sign a prehire agreement to live up to its terms once workers have been hired.

H.R. 281 is needed to restore the true intent of Congress to protect construction workers' right to union representation. Some opponents to H.R. 281 erroneously assert that it would violate workers' right to choose whether or not to join a labor union. In fact, the bill would not in any way change current Federal law. Under the National Labor Relations Act, no employee can be forced to join a union as a condition of employment, even if he works under a union contract. This protection of an employee's right to choose whether or not to join a union would be preserved under H.R. 281.

Another loophole that would be closed by this bill is the practice of double breasting, which enables a contractor who has signed a collective-bargaining agreement with a union to establish a second, parallel company that is nonunion. The employer can then transfer work from the union operation to the nonunion shop, reducing this obligation to comply with union contract provisions. H.R. 281 would eliminate this practice by making union contracts applicable to all businesses operated by a single employer within the geographic area covered by the agreement.

This bill does not expand the rights of organized labor under the Federal labor laws, nor does it impose any unfair burden on construction contractors. It simply eliminates unfair labor practices that have been allowed to develop outside the scope of our existing laws. By eliminating double breasting and the abrogation of prehire agreements, this legislation will ensure fair dealing between employers and workers in the construction industry. I, therefore, urge that the provisions of H.R. 281 be preserved in the continuing appropriations bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 23, page 9, line 9: Strike the following language:

SEC. 108. (a) AMENDMENTS TO FOOD SECURITY ACT OF 1985.—Effective with respect to each of the 1987 through 1990 crops, section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by—

(1) striking out paragraph (1), (2), and (3), and inserting in lieu thereof the following:

"(1) For each of the 1987 through 1990 crops, the total amount of deficiency payments (excluding any deficiency payments described in paragraph (2)(B)(iv) of this section) and land diversion payments that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 4121 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, and rice may not exceed $50,000.

"(2)(A) For each of the 1987 through 1990 crops, the total amount of payments set forth in subparagraph (B) that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 for wheat, feed grains, upland cotton, extra long staple cotton, rice, honey, and (with respect to clause (iii)(II) of subparagraph (B)) other commodities, when combined with payments for such crop described in paragraph (1), shall not exceed $250,000.

"(B) As used in paragraph (A), the term 'payments' means—

"(i) any part of any payment that is determined by the Secretary of Agriculture to represent compensation for resource adjustment (excluding land diversion payments) or public access for recreation;

"(ii) any disaster payment under one or more of the annual programs for a commodity established under the Agricultural Act of 1949;

"(iii)(I) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, upland cotton, rice, or honey at the rate permitted under section 107D(a)(5), 105C(a)(4), 103A(a)(5), 101A(a)(5), or 201(b)(2), respectively, of the Agricultural Act of 1949, or (II) any gain realized by a producer from repaying a loan for a crop of any other commodity at a lower level than the original loan level established under the Agricultural Act of 1949;

"(iv) any deficiency payment received for a crop of wheat or feed grains under section 107D(c)(1) or 105C(c)(1), respectively, of the Agricultural Act of 1949 as the result of a reduction of the loan level for such crop under section 107D(a)(4) or 105C(a)(3) of such Act;

"(v) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(b), 105C(b), 103A(b), or 101A(b), respectively, of the Agricultural Act of 1949; and

"(vi) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(g), 105C(g), 103A(g), or 101A(g), respectively, of the Agricultural Act of 1949.

Such term shall not include loans or purchases, except as specifically provided for in this paragraph.

"(C) The total amount of loans on a crop of honey that a person may have outstanding at any one time under the annual program established for such crop under the Agricultural Act of 1949 may not exceed $250,000 less the amount of payments, as described in paragraph (1) and subparagraphs (A) and (B) of this paragraph, received by such person for the crop year involved.

"(3) Notwithstanding the foregoing provisions of this section, if the Secretary of Agriculture determines that any of the limitations provided for in paragraph (2) will result in a substantial increase in the number or dollar amount of loan forfeitures for a crop of a commodity, will substantially reduce the acreage taken out of production under an acreage reduction program for a crop of a commodity, or will cause the market prices for a crop of a commodity to fall substantially below the effective loan rate for the crop, the Secretary shall adjust upward such limitation, under such terms and conditions as the Secretary determines appropriate, as necessary to eliminate such adverse effect on the program involved.";

(2) adding at the end of subparagraph (A) of paragraph (5) the following: "Such regulations shall provide that the term 'person' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers."; and

(3) in paragraph (6), striking out "lands owned" and inserting in lieu thereof "lands or animals owned", and inserting after "lands are farmed" the following: "or animals are husbanded".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall not apply with respect to any payment or loan received under any agreement or contract made before the date of enactment of this Act.

(c) REVISION OF REGULATIONS.—(1)(A) The Secretary of Agriculture shall review the regulations in effect on the date of enactment of this Act that define "person" under section 1001 of the Food Security Act of 1985 and related regulations in effect on such date otherwise affecting the payment limitations under such section, to determine ways in which such regulations can be revised to better ensure the fair and reasonable application of limitations and eliminate fraud and abuse in the application of such payment limitations.

(B) The Secretary also shall review the amendments to section 1001 of the Food Security Act of 1985 made by this section.

(2) Based on the reviews conducted under paragraph (1), the Secretary of Agriculture

shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, not later than March 1, 1987, a report on such reviews and—

(A) with respect to the matters reviewed under paragraph (1)(A), proposed regulations or amendments to regulations, to take effect not earlier than October 1, 1987, that will meet the objectives with respect to limitations specified in paragraph (1)(A); and

(B) with respect to the matters reviewed under paragraph (1)(B), recommendations on legislative changes to section 1001 of the Food Security Act of 1985 that the Secretary determines are necessary or appropriate.

MOTION OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONTE moves that the House insist on its disagreement to the amendment of the Senate numbered 23.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONTE. Mr. Speaker, I am frankly amazed that this payment limitation provision still remains in disagreement.

I'm more than amazed. I'm flabbergasted.

This provision is so watered down now, I can't even call it the tip of an iceberg. It's just an ice cube. But it will help us to put the freeze on these multimillion-dollar boondoggles we call "farm support payments."

I want to thank my chairman, and all of my fellow House conferees for their unyielding support for the House-passed payment limitation language. We all have our problems with it. I, for one, would like to see it tightened up a lot more. But at a time when 40 percent of the payments we're making exceed the current $50,000 limitation, and at a time when we're headed back home to tell our small, family farmers what we're doing to help them out, I don't know how you can face them without having this language enacted.

We've got new, special legislative relief in this continuing resolution for certain cotton, rice, wheat, and peanut growers. Who knows what new loopholes we just opened in that CFTC reauthorization?

We've got a new, six-page, expensive agricultural disaster relief provision in this agriculture chapter, but the biggest "disaster" has yet to be addressed.

You all know the issues. We have all the figures and facts we need to make a decision here. But, in case any Members have been stranded on some desert island for the last 10 months, let me just review a few of the most noteworthy items that are so common nowadays, they don't even make the front pages anymore.

July 22—The New York Times—COST OF FARM LAW MIGHT BE DOUBLE ORIGINAL ESTIMATE—The vast majority of income and price support payments are going to the largest and wealthiest farmers, who are not suffering from the farm depression.

July 25—The Baltimore Sun—FARMERS TO GET $30 BILLION; CALIFORNIA GROWER REAPS MILLIONS—A single California farming operation will harvest $20 million in Federal subsidies this year, part of a bumper crop of multimillion-dollar payments that the Government is laying out.

September 2—The Los Angeles Times—BILLIONS IN WRONG TROUGHS—Federal aid is not reaching the ones in trouble. It is instead lining the pockets of a rich minority who are making it harder for others to make it.

About one-third of last year's Federal aid went to farmers with annual incomes of more than $250,000 and net worths exceeding $900,000.

Fully two-thirds of deficiency payments, meant to prop up farm income, went to farmers who were wealthier than the average U.S. taxpayer.

July 5—The Kansas City Times (It's not just the eastern press that's eating this stuff up!)—FARMERS SIDESTEPPING FARM BILL PAYMENT LIMIT.—Some farmers have split corporate farm operations into 15 or 20 new operations qualifying for hundreds of thousands in Government payments.

August 3—Des Moines Register—MORE FARMERS BEATING $50,000 SUBSIDY CUTOFF . . . $100,000 REORGANIZATIONS REPORTED LAST YEAR—The Des Moines Register also printed a virtual how-to-do-it manual entitled "How Farmer Investors Triple Their Government Payments."

August 1—The Lubbock (TX) Avalanche Journal—CERTIFICATES WORTH MILLIONS READIED—Hundreds of cotton merchants, textile mills, and cooperatives today become eligible for certificates that will reach millions of dollars redeemable for stored cotton.

August 15—The Christian Science Monitor—FARMERS CARVE UP FARMS TO REAP FEDERAL MONEY—If the United States wants more farms, they're easy to create. One farm in Kings County, CA, turned into 31 farms this year. One scheme involves turning four farms into a dozen.

"They call that a Mississippi Christmas Tree", says the executive director of the Kings County ASCS Office.

I could go on all day with these. I've been getting letters from all across the country, filled with examples of how neighboring farms, here and abroad, are getting millions of dollars in subsidies.

There's one about the rice farm in Glenn and Butte Counties, CA. Five Pakistanis are partners. Only one lives in the United States, so USDA just mails checks totaling over $100,000 to the others in Pakistan.

These guys are farming the U.S. Government today. Who knows how many more there will be before we return for the 100th session?

We all know there are 100 loopholes in that 1985 farm bill for every person in this room.

Most of us are crazy to be running for re-election. We ought to retire or take up part-time investing in some of these cotton and rice farms. Under current law, I bet I could make my two huntin' dogs partners.

I bet I could count in all my distant relatives in Italy. I bet, if I sent a telegram to Secretary Gorbachev and the Soviet Central Committee, they'd want to be cut in, too. They don't want our wheat, but I bet they'd be willing to take the CCC.

We could all promise Uncle Sam that we won't grow anything, and see how much that would get us.

We could trade certificates like baseball cards. We could probably take out loans to grow jelly beans. Anything we couldn't sell, we'd forfeit or export, depending on where we'd get the largest subsidies.

All I'm talking about here is a $250,000 limitation on payments. This C.R. is replete with caps, fences, floors, and ceilings on everything from Superfund to VA doctors to NASA's space station.

We can go ahead and vote on this. But let the record show who votes to keep the gravy train running on its $30 billion track.

Let the record show who would rather be cutting biomedical research and housing for the elderly across the board to make sure Boswell gets his $20 million.

This vote will serve as the perfect test of the spending priorities of this Congress as reflected in this continuing resolution.

Let's send this language back to the other body tonight. They've had weeks to come up with further improvements or restrictions but not one amendment was offered, Mr. Speaker. They wouldn't budge in that conference, and neither should we.

I urge my colleagues' support for my motion to insist on the House position. Let's start putting the yoke on this subsidy madness today.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. CONTE].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 59, page 61, line 18: Insert the following language:

SEC. 106. The Administrator of the General Services Administration, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the U.S. courts in Tacoma, Washington at the site of Union Station, Tacoma, Washington.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 115. GENERAL SERVICES ADMINISTRATION.

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,385,856,000 of which (1) not to exceed $125,548,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Alabama: Jasper, Federal Building, $3,376,000.

New Jersey: Paterson, Federal Building (site and design), $1,500,000.

New Mexico: Columbus, Border Station, $2,680,000.

Pennsylvania: Wilkes-Barre, Federal Building (Social Security Administration), $20,672,000.

South Carolina: Columbia, Federal Building, Courthouse, Claim, $1,057,000.

Construction Projects, less than $500,000, $1,000,000:

Purchase: New York: Wellesley Island, Border Station, $1,925,000.

Other Selected Purchases, including options to purchase, $93,338,000: *Provided*, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $270,222,000, which shall remain available until expended, for repairs and alterations: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:

Arizona: Phoenix, Federal Building, $762,000.

California: San Diego, Old Federal Building, $1,576,000; San Diego, Federal Building, Courthouse, $1,178,000; San Francisco, Post Office, Courthouse, $1,683,000; San Francisco, Burton Federal Building, $20,000,000.

Colorado: Denver, Federal Building, Courthouse, $8,540,000.

District of Columbia: Federal Building, New Post Office, $1,700,000; Federal Building #6, $1,213,000; Federal Building #8, $1,886,500; Federal Building #9, $1,712,500; Federal Building #10A, $1,121,000; General Accounting Office, $3,552,000; Justice, $599,000; State, $2,765,000; Steam Distribution System, $8,796,000.

Hawaii: Honolulu, Kalanianaole Federal Building, Courthouse, $1,850,000.

Illinois: Chicago, Railroad Retirement Board, $5,200,000.

Kentucky: Louisville, Post Office, Courthouse, $1,500,000.

Missouri: Kansas City, Federal Building, $4,408,000; St. Louis, Federal Building (Mart), Phase I, $20,000,000; Kansas City, 601 E. 12th, $997,000; Kansas City, 1500 Bannister, $2,560,000; St. Louis, 4300 Goodfellow, $2,176,000.

Nevada: Las Vegas, Federal Building, Courthouse, $2,197,000.

Oregon: Portland, Federal Building, $12,069,000.

Texas: Dallas, Federal Building, $1,600,000; Dallas, Terminal Annex, $4,600,000.

Utah: Salt Lake City, Post Office, Courthouse, $675,000.

Virginia: Arlington, Pentagon, $7,000,000.

Wisconsin: Milwaukee, Federal Building, Courthouse, $2,799,000.

Wyoming: Casper, Federal Building, Courthouse, $1,923,000.

Minor Repairs and Alterations, $141,584,000: *Provided further*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $131,442,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $985,000,000 for rental of space; (5) not to exceed $753,219,000 for real property operations; (6) not to exceed $57,090,000 for program direction and centralized services; and (7) not to exceed $63,335,000 for design and construction services which shall remain available until expended: *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S. C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That none of the funds available to the General Services Administration shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard, booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056 as amended, shall be available from such revenues and collections: *Provided further*, That the Administrator of General Services is authorized under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire a building not to exceed 250,000 sq. ft., constructed or acquired by or on behalf of the State of Florida or a political subdivision thereof, by lease not to exceed 30 years, in Miami, Florida, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further*, That the Administrator of General Services is authorized, under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire a building not to exceed 600,000 sq. ft., constructed or acquired by or on behalf of the State of Illinois or a political subdivision thereof, by lease not to exceed 30 years, in Chicago, Illinois, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further*, That revenues and collections and any other sums accruing to this fund during fiscal year 1987 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $2,385,856,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts: *Provided further*, That notwithstanding this or any other provision of this Act, Section 623 of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Act shall apply only to the rural electrification program in the State of Alaska.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Mr. Speaker, reserving the right to object, I am trying to figure out just where we are. Do I understand that we are on Senate amendment 59?

Mr. WHITTEN. That is correct.

Mr. WALKER. Is it the intention of the gentleman from Mississippi to take the time so that we have a chance to discuss this amendment a little bit so that we can get a vote on it? I do not want it run through here by unanimous consent.

Mr. WHITTEN. Certainly we are going to have a chance, and I shall discuss it myself.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the first part of this having to do with public buildings reflects the viewpoint of the House on this matter. It is in true disagreement with the Senate.

I offer that because it does represent the House position, and at the time of the conference there is no way, apparently, for the conferees to get together.

FEDERAL BUILDINGS FUND

The amendment which I offered makes funds available for the annual operation of the Federal buildings fund, under the General Services Administration. Both the House and Senate resolution had made funds available for construction and repair and alteration projects as well as paying the rent and providing cleaning services.

This amendment provides for funding of all new construction projects which were included in the House passed bill (H.R. 5294), and further provides for the lease construction of the Miami, FL., and the Chicago, IL, projects. This amendment mandates that the Administrator of GSA take immediate action on the buildings in Chicago and Florida so that the new buildings can be acquired as soon as practicable.

This amendment also provides for the high priority repair and alteration projects which have been identified as having serious deficiencies such as asbestos, PCB's, and fire safety.

Those projects which GSA informed the conferees could not be accomplished in fiscal year 1987 were deleted by the conferees. This action reduces the outlays below the Senate outlay ceiling.

The second part I mentioned earlier, and that has to do with the REA. May I say that in connection with the desire of REA associations to pay off their present debt and refinance at a lower rate, I had a discussion with the Secretary of the Treasury, Mr. Baker.

We reached an agreement that $2 billion of the outstanding debt could be refinanced. I find, without knowledge to me or other members of the committee, that in this bill a provision was added, that so far as I have been able to find out was represented by some people as being only a demonstration project in Alaska and would not apply to the rest of the country.

Looking at the statement from the budget director, and looking at explanations of it, it is evident that the provision goes much further than that.

Mr. Speaker, may I say to my colleague from Pennsylvania that I have added this revision: That notwithstanding this or any other provision of this act, section 623 of the Treasury, Postal Service, and General Government Appropriations Act as contained in this act shall apply only to the rural electrification program in the State of Alaska.

So I am clarifying the provision in line with what it should be and what I thought it was.

May I say again, until tonight, I was unaware that this provision was in the Treasury-Post Office section.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. WALKER. Mr. Speaker, the statement that the gentleman just read, where does that come from?

Mr. WHITTEN. The language is in the amendment that I sent to the desk. The language I read to you I prepared myself, with the help of the staff.

Mr. WALKER. Well, do I understand that the amendment No. 59 from the Senate is being modified by the language the gentleman has now sent to the desk?

Mr. WHITTEN. Not modified, but added to.

Mr. WALKER. Well, that is a modification, I would say to the gentleman. That is a totally different position from what the House was brought a few minutes ago.

The gentleman seems to be amending the conference report with this amendment on the floor. That is a very unusual procedure, I would say to the gentleman.

Mr. WHITTEN. Mr. Speaker, may I say in this particular instance, a nongermane amendment is made in order by the rule. So my amendment is in order and this is the only place I could offer it. It is to correct a situation that happened without our knowledge or consent.

Mr. WALKER. If the gentleman would yield, so in other words, by waiving all points of order out here earlier, we have allowed the gentleman now to come in with a nongermane amendment, added after the conference report has been adopted, and totally modify the language that came to us from the Senate.

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I would say to the gentleman that that is just a totally unacceptable position.

Mr. WHITTEN. May I say I do not know how the gentleman feels about the REA association, but I believe three-fourths of the House here does not want it to be saddled with restrictions with the position that was taken in the Alaska case. My amendment would limit the Alaska case to that case only and only to a demonstration project and the provisions could not be applied to the rest of the country, which apparently the budget office is expected to do if we do not step in.

Mr. WALKER. Well, if the gentleman would yield, it is my understanding that the original language would have allowed some of the rural co-ops that are in good shape to opt out of the system and pay off their debt, opt out of the system and go out and become a part of the private sector. What the gentleman is attempting to do is end the provision that was in the bill that would have allowed them to do that. In other words, keep them under the wing of the Federal Government.

I understand why the gentleman might want to do that. It is not exactly the kind of reform we are attempting to achieve in the House.

Mr. WHITTEN. May I say that my agreement with the Secretary of the Treasury over the telephone had to do with paying this off without precluding them from ever borrowing again. The Alaska situation says that if you ever pay off, you are out of luck, you have lost your source of financing.

That is what we wish to correct here and let the provision be limited to this one cooperative in Alaska and not apply to the rest of the country.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I take the time because the REA situation disturbs me because that is a very unusual process to use. But the other thing that I have is a question about this particular amendment.

Can someone from the committee tell me what the cost of this particular amendment is in terms of the number of buildings that are going to be built by the GSA across the country? Can the chairman tell us what this particular amendment costs us?

Mr. Speaker, I would be glad to yield to the gentleman from Massachusetts or anyone who can tell me the cost of this amendment, that would be welcome at this point.

Mr. CONTE. The gentleman from Pennsylvania is referring to the original House position. As passed the House, the Federal Buildings Fund included $3.4 million for a Jasper, Alabama building, $2.5 million for Miami, FL, for design of a new Federal building, and $32 million for design and site acquisition for a new building in Chicago, IL, and $1.5 million for Paterson, NJ, for site and design.

Mr. WALKER. So if I understood correctly, the cost of this particular amendment to the taxpayers is $40 million in new buildings approximately?

Mr. CONTE. At this point.

Mr. WALKER. Yes, at this point. And as I understand it, the $32 million in Chicago is only for the site, that we may well have in fact about maybe a-couple-of-hundred-million-dollar building that we are dealing with there that we are putting in place with this amendment.

Mr. CONTE. As I understand, if you read the text of the pending motion, you will find that the Chicago building is authorized to be constructed through lease opportunity purchase program.

Mr. WALKER. No; and/or construction. I saw some language in it that indicated that we may have to construct that building as well.

Mr. CONTE. No.

Mr. WALKER. This is the GSA Administrator.

Mr. CONTE. It includes discretionary language in the bill which allows the lease opportunity purchase of the Chicago and Miami buildings.

Mr. WALKER. The gentleman did not mention the Miami building when he read off his list.

Mr. CONTE. Yes, I did.

Mr. WALKER. The gentleman did mention that? And that is $2.5 million.

Mr. Speaker, I am just trying to ascertain just how much pork we have down in this particular amendment. It seems from what I am led to understand we dump quite a bit of pork into this particular amendment. The only chance that the House is going to have to vote on some of these pork barrel projects is to vote against receding and concurring with the Senate. I am trying to establish just how much it is.

I understood there was also a good deal of money in there for repairing buildings and some things beyond that as well.

Mr. CONTE. If the gentleman will yield.

Mr. WALKER. I will be glad to yield.

Mr. CONTE. The repairs and alterations contained in this motion were requested by the administration. I am trying to be very fair with the gentleman and forthright in answering his questions. The $2.5 million for design of the Miami, FL, and the $32 million for design and site acquisition of the Chicago building were taken out of the bill. Direct Federal funding was replaced by a lease purchase program.

Mr. WALKER. Well, I am a little confused. If it is for design, why is it going over to a lease account?

Mr. CONTE. It was dropped. I had that in the forward part of my statement. Direct Federal funding for the Chicago building has been dropped now. It is authorized through a lease program.

Mr. WALKER. It is $32 million for a lease in Chicago now.

Mr. CONTE. No, there are no direct Federal moneys for the design or construction of this project.

Mr. WALKER. If so, it is an expensive lease.

Mr. CONTE. Now, in Chicago and in Miami, a non-Federal entity will construct a building, and the Federal Government will lease the property for 30 years with an option to purchase for a nominal price at the termination of the lease.

Mr. WALKER. Then why are we putting $32 million in this bill for that particular lease?

Mr. CONTE. That is gone. The $32 million for Chicago and the $2.5 million for Miami are not in this motion.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Speaker, I do not think that the money is actually here in the bill.

Mr. CONTE. How many times can I say it? It is gone.

Mr. SHAW. I would like to read from the language itself. It says,

> The Administrator of the General Services Administration is authorized under section 210(h) of the Federal Property Administration Service Act of 1949 to acquire a building not to exceed 250,000 square feet constructed or acquired by or on behalf of the State of Florida or a political subdivision thereof by lease not to exceed 30 years in Miami, Florida, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government if the Administrator deems that it is necessary in the best interests of the Federal Government to execute a succeeding lease.

What this does, this simply sets up the authorization. There is no money.

The SPEAKER pro tempore (Mr. Russo). The time of the gentleman from Pennsylvania has expired.

Mr. CONTE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania.

Mr. SHAW. Mr. Speaker, will the gentleman continue to yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

I would like to speak for just 1 minute on the project in Miami, FL, and the only project that I am here to speak on this evening.

We have a situation down there that is extraordinarily dangerous. This project is to acquire space in which to house the U.S. Attorneys Office, which is located a number of blocks, almost a quarter of a mile away from the Miami courthouse. With the tremendous number of drug cases and the dangerous conditions that exist down there, it is very vital that the U.S. attorneys office, together with some of the DEA officers and others, be right next to the existing court facilities.

They presently occupy a leased building, in which I would say the security in the building is minimal. There are other offices in the building. It is not a safe condition.

I think that makes the Miami project extremely important, and I certainly support it.

Plus I think from the dollars-and-cents standpoint it makes a lot of sense.

Mr. WALKER. I would simply make the point that what we have now understood is that we now have another authorization for spending buried down in an appropriations bill.

One of the problems that many of us have around here who serve on authorizing committees is we are wondering why the Appropriations Committee goes to conference or by themselves decides to do the authorizing for us. Why could not these kinds of leases and so on go through the appropriate committees? Why do we have to have them brought to us as part of an appropriation bill? Once again those of us who do not happen to serve on the Appropriations Committee are left to try to figure these things out on the House floor, and it is very, very difficult for us to even find them, let alone to understand them in this kind of an atmosphere. I would simply suggest to the Members that we have as much as a $40 million item here, and we ought to vote "no" on receding and concurring to the Senate. The Senate did not do the country any particular favor in this particular amendment.

Mr. WHITTEN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to say two or three things. First, these buildings have been authorized by the legislative committee. Second, and I repeat it again, a continuing resolution is both

a legislative bill as well as an appropriations bill. It has authority to legislate and to appropriate. I wish we did not have to handle these matters, but we do have that authority.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. I thank the gentleman for yielding.

Mr. Speaker, I'll try to explain the situation that actually exists. The amendment as offered by Chairman WHITTEN makes funds available for the annual operation of Federal buildings, funds now under the General Services Administration. Both the House and the other body's resolutions have made funds available for construction, repair, and maintenance of various projects.

The conferees, however, could not agree on which projects should be included in the bill. This amendment provides for funding for all new construction projects which were included in the House-passed bill except two. Those two, Mr. Speaker, include Miami, FL, and Chicago.

The conferees on the part of the Senate refused to accept those two buildings. We accepted, both the House and the Senate's recommendation for the construction of all buildings, alteration of other buildings, and all repairs that could be done next year. We set aside both the Miami building and the Chicago building to be built under a lease-purchase agreement which means that when and if they are built, the Federal Government will lease them and will eventually own the buildings.

Those two buildings are not included in buildings funded under amendment No. 59, which also provides for the high priority repair and alteration of projects which have been identified as having serious deficiencies such as asbestos, PCB's, and fire safety. Those projects which GSA informed the conferees could not be accomplished in fiscal year 1987 were deleted by the conferees. In other words, we kept only those buildings that could be started and perhaps even finished in this coming year.

This action reduced outlays below the Senate outlay ceiling, which was the purpose of this deletion.

That was accomplished in the conference, and the amendment proposed by Chairman WHITTEN fully supports the House position. I strongly urge the support of the amendment.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska, [Mr. YOUNG].

Mr. YOUNG of Alaska. I thank the gentleman for yielding time to me.

Mr. Speaker, I support the motion of the committee chairman.

Mr. Speaker, a section of the Treasury-Postal Service-General Government appropriation title of the continuing resolution establishes a new and completely optional program under which individual Rural Electrification Act [REA] borrowers may elect to prepay their REA-guaranteed Federal financing bank loans. Any REA borrower which so elects will not be eligible in the future for any loan under the REA program. Future system needs will have to be financed by private capital for borrowers who choose to refinance under this section.

Chugach Electric Association, an REA cooperative, serves approximately 50 percent of the consumers in my State. Chugach would like to refinance their outstanding federal loans under this provision and is willing to withdraw from the REA loan programs in return. In view of the questions which have been raised concerning this provision, I support Chairman WHITTEN's amendment which will limit this section's operation to REA borrowers in the State of Alsaka.

Under the Whitten amendment, Alaskan co-ops would be eligible under the Privitization Demonstration Program provided in this section. After Congress has reviewed the operation of this provision and Chugach's refinancing experience, Congress may choose to broaden the class of those eligible under this section in the next session.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will insert at this point in the RECORD a letter from Jim Miller to Senator TED STEVENS in support of the original conference agreement.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 14, 1986.

Hon. TED STEVENS,
Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR TED: The Administration supports the amendment you sponsored to the Continuing Resolution which would establish a privatization demonstration program for electric and telephone Rural Electrification Administration (REA) borrowers with outstanding REA guaranteed Federal financing Bank (FFB) loans. This program will provide an option to such borrowers to repay all outstanding REA-guaranteed FFB loans, without a prepayment premium, providing certain conditions are met.

Borrowers electing this option would be required to repay all outstanding REA insured and guaranteed FFB loans and to forego future REA program eligibility. Under the demonstration program, any outlay savings would be in addition to the $2 billion estimate for FFB refinancing by REA borrowers under the Reconciliation Bill.

We believe that your amendment provides an important opportunity for REA borrowers to make the voluntary transition from reliance on REA lending assistance to private capital markets. Under current law, this opportunity is virtually nonexistent. We therefore urge adoption of your amendment.

Sincerely yours,
JAMES C. MILLER III,
Director.

□ 2200

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I rise to engage my colleague, Mr. SMITH of Iowa, in a colloquy regarding the section of the continuing resolution relating to the fairness doctrine.

Am I correct that this provision would require the FCC to consider alternative means of administering and enforcing the fairness doctrine and to report to Congress by September 30, 1987?

Mr. SMITH of Iowa. If the gentleman will yield, Mr. Speaker, the gentleman is correct.

Mr. DINGELL. Am I further correct that the conferees do not intend this provision or any provision in the statement of the managers to authorize or permit the FCC to repeal or materially revise the obligation contained in section 315 of the Communications Act requiring broadcasters to provide reasonable opportunity for discussion of conflicting views on issues of public importance?

Mr. SMITH of Iowa. I believe the provision in the bill merely directs the FCC to study alternative ways of administering and enforcing the doctrine, and to forward to Congress for its consideration any recommendations it may have for improving the manner in which the doctrine is administered and enforced. It was my personal understanding and intent that the FCC should do nothing to usurp the Congress' role in any reexamination of this doctrine.

Mr. DINGELL. Mr. Speaker, I thank my dear friend, the gentleman from Iowa [Mr. SMITH].

Mr. Speaker, I take this opportunity to reiterate my strong support for the fairness doctrine. I applaud the conferees in their efforts to prevent the FCC from repealing or materially revising this doctrine by sending the agency back to the drawing board to study alternative ways to administer and to enforce this vital democratic protection.

I also commend the distinguished gentleman from Michigan [Mr. CARR], who was very instrumental in protecting the public's interest in this matter.

Mr. Speaker, I rise in support of this legislation.

Under the Communications Act, broadcasters receive licenses that permit them to utilize a valuable public resource. As a consequence, they are required to act as public trustees and to abide by the requirements of the Fairness Doctrine. This Doctrine furthers the substantial government interest embodied in the first amendment—that the public re-

ceive contrasting viewpoints on issues of public importance. As the Supreme Court noted in upholding the constitutionality of the Fairness Doctrine in the Red Lion case:

It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount * * *. It is the purpose of the first amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, wheter it be by the Government itself or a private licensee * * *. It is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial here. That right may not constitutionally be abridged either by Congress or by the FCC.

In the Red Lion case, the highest court also responded to the argument that the Fairness Doctrine violates the broadcasters' allegedly unabridgeable first amendment right to put on the air anything they see fit, holding that:

Where there are substantially more individuals who want to broadcast than there are frequencies to allocate, it is idle to posit an unabridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write, or publish.

The broadcast industry characterized by scarcity, by a vast excess of demand over the available supply of spectrum. The increase in the number of broadcast stations has done nothing to alleviate this condition of scarcity, as indicated by the still increasing price of broadcast properties, and the number of comparative renewal cases pending at the FCC. In the face of this scarcity, Government must license broadcasters if any are to be heard at all.

Scarcity exists in all markets, but the broadcast market can function only if the Government grants licenses for the exclusive use of particular portions of the spectrum. Fairness Doctrine obligations, and the general obligation to act as a public trustee of the Nation's airwaves, are a reasonable quid pro quo for this service.

The following remarks provide a fuller justification of the constitutionality of the Fairness Doctrine:

IMPOSING A FAIRNESS DOCTRINE ON BROADCASTERS IS CONSTITUTIONAL

Since the advent of broadcasting, the Fairness Doctrine has been an essential element of a regulatory scheme designed to ensure that broadcasters operate in the public interest. We are making that obligation unambiguously part of the Communications Act. Our action is fully consistent with the First Amendment.

Sixteen years ago, the Supreme Court unanimously upheld the Fairness Doctrine against First Amendment challenge in *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969). The Court held that in the context of broadcasting, the rights of the viewing public to hear contrasting viewpoints on issues of public importance, not the rights of broadcasters, were paramount, and that the Fairness Doctrine was both a permissible and effective means of vindicating those rights. The fact that far more people were willing and able to engage in broadcasting than could possibly be accommodated by the limited spectrum available justified the regulatory scheme Congress requiring that those granted licenses to serve as fiduciaries or trustees obligated to present the views of those who are excluded from the airways. The factual predicate of scarcity—a greater number of individuals wishing to broadcast than available frequencies—remains present today, and *Red Lion's* conclusion that the Fairness Doctrine is constitutional thus remains valid. This conclusion is reinforced by an examination of the Fairness Doctrine in practice, which reveals that the Doctrine serves to increase speech on issues of public importance.

I. CONGRESS HAS MANDATED THAT BROADCASTERS ACT AS PUBLIC TRUSTEES AND OPERATE TO PROVIDE BALANCED PRESENTATION OF PUBLIC ISSUES

Red Lion was not the beginning of the principle that broadcasters, who receive a valuable public resource for free, are required as a consequence to act as public trustees and thereby mandated to present diverse viewpoints on important issues. The concept was and is at the core of the public interest standard of the Communications Act.

The early experience with radio showed that with unfettered competition for use of the airwaves, no one could effectively broadcast. Instead, all were drowned out.[1] As a result, the broadcasting industry demanded government allocation of the spectrum.[2] In response to this request, Congress provided for federal regulation of broadcasting and required that licenses be granted on the basis of the "public interest". In one of the first actions under the public interest standard, the Federal Radio Commission, predecessor of the Federal Communications Commission, found that it was in the public interest for broadcasters to present opposing views on controversial issues.[3]

The Supreme Court's acceptance of public interest regulation of broadcasters dates back nearly as far.[4] In *National Broadcasting Co. v. United States*,[5] the Court first rejected an argument that public interest regulation of broadcasting violated the First Amendment. The Court concluded that since government must choose among licensees, denial of a license on a basis "comprehended within the statutory criterion of 'public interest' " was not a denial of free speech.[6]

That the "scarcity" of broadcast frequencies allows imposition of public interest obligations upon broadcasters was also first recognized in *National Broadcasting Co.* This scarcity is not based simply on the number of electronic outlets, but on the number of those who seek broadcast frequencies compared to the number of frequencies available. Thus, in *NBC*, Justice Frankfurter observed that

"freedom of utterance is abridged to many who wish to use the limited facilities of radio. Unlike other modes of expression, radio inherently is not available to all. That is its unique characteristic, and that is why, unlike other modes of expression, it is subject to governmental regulation." [7]

An obvious implication of the *NBC* court's holding that licenses may be denied on the basis of public interest criteria is the recognition that broadcast licensees may, under the First Amendment, be affirmatively required to serve the public interest generally rather than simply seeking private gain.[8] Perhaps the clearest judicial articulation of that principle occurred twenty years ago in *Office of Communication of United Church of Christ* v. *FCC*, 359 F.2d 994 (D.C. Cir. 1966). In the course of ordering the FCC to conduct a hearing sought by representatives of the listening public to examine charges of racial and religious discrimination and fairness doctrine violations by a licensee, the court, speaking through then Judge Burger, said:

"A broadcaster has much in common with a newspaper publisher, but he is not in the same category in terms of public obligations imposed by law. A broadcaster seeks and is granted the free and exclusive use of a limited and valuable part of the public domain; when he accepts that franchise it is burdened by enforceable public obligations. A newspaper can be operated at the whim or caprice of its owners; a broadcast station cannot. After nearly five decades of operation the broadcast industry does not seem to have grasped the simple fact that a broadcast license is a public trust subject to termination for breach of duty." [9]

Three years later, when the case was again before the Court of Appeals, Judge Burger again recognized the role of broadcasters as fiduciaries:

"[B]y whatever name of classification, broadcasters are temporary permittees—fiduciaries—of a great public resource and they must meet the highest standards which are embraced in the public interest concept. The Fairness Doctrine plays a very large role in assuring the public resource granted to licensees at no cost will be used in the public interest."[10]

In its most recent pronouncement on the issue, the Supreme Court, in *FCC* v. *League of Women Voters of California*,[11] again endorsed the regulatory scheme selected by Congress and recognized the "substantial governmental interest []" in "insuring adequate and balanced coverage of public issues" served by the Fairness Doctrine. *Id.* at 3118.

II. THE CONSTITUTIONAL RATIONALE OF RED LION APPROVING THE CONGRESSIONAL SCHEME REMAINS VALID

In *Red Lion Broadcasting Co. v. FCC*, the Court surveyed fifty years of broadcasting history, including twenty years of experience with the Fairness Doctrine, and found the Doctrine constitutional. The court observed that:

"[o]nly a tiny fraction of those with resources and intelligence can hope to communicate by radio at the same time if intelligible communication is to be had." [12]

Thus, "where there are substantially more individuals who want to broadcast than there are frequencies to allocate, it is idle to posit an unabridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write or publish." [13] Instead, the public interest standard applicable to broadcasters makes paramount the rights of viewers:

"[B]ecause of the scarcity of radio frequencies, the Government is permitted to put restraints on licensees in favor of others whose views should be expressed on this unique medium. But the people as a whole retain their interest in free speech by radio, and their collective right to have the medium function consistently with the ends and purposes of the First Amendment. It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount." [12]

This paramount interest of the public, as well as the interest of those speakers denied broadcast frequencies, rendered constitutional a decision to treat broadcasters as "prox[ies] of fiduciar[ies]" [15] for the community at large as well as for who "would

Footnotes at end of article.

otherwise, by necessity, be barred from the airwaves".[16]

It is noteworthy that in *Red Lion* broadcasters argued, much as critics of the Fairness Doctrine argue today, that technological developments since the *National Broadcasting Co.* decision had reduced the scarcity of broadcast facilities to the point where the challenged rules were no longer a permissible attempt to further other First Amendment values and increase opportunities for speech. In responding to these contentions, the Court did not emphasize, and indeed barely even discussed, the absolute number of broadcast facilities in particular markets. Instead, it observed that "comparative hearings between competing applicants for broadcast spectrum space are by no means a thing of the past."[17] The Court thus indicated that it was mainly concerned with scarcity relative to demand, not some shortage of outlets. The Court made this clear by noting that "nothing in this record or in our own researches convinces us that the resource is no longer one for which there are more immediate and potential uses than can be accommodated . . .".[18]

Demand for broadcast frequencies still exceeds supply and governmental licensing and regulation is necessary to resolve competing claims to these frequencies.[19] There remains a dearth of open spectrum,[20] and the most obvious measure of relative demand for broadcast frequencies, the economic value of the valuable license conveyed by the government, is such that millions to hundreds of millions of dollars are paid for television stations.[21] The basic premises of *Red Lion*'s First Amendment analysis thus remain intact. It is as true today as in 1969 that "comparative hearings between competing applicants for broadcast spectrum are by no means a thing of the past."[22]

Subsequent cases have consistently reaffirmed the scarcity and public trustee rationales while upholding regulation of broadcasters against First Amendment attack. Four years after *Red Lion*, in *Columbia Broadcasting System, Inc. v. DNC*,[23] the Court reiterated the scarcity rationale for broadcast regulation:

"The broadcast media pose unique and special problems not present in the traditional free speech case. Unlike other media, broadcast is subject to an inherent physical limitation. Broadcasting frequencies are a scarce resource; they must be portioned out among applicants."[24]

Recognizing that the Fairness Doctrine was sufficient to ensure that journalistic discretion by a licensee was exercised in the public interest,[25] the Court agreed with the broadcasters that they had the right to refuse advocacy advertising on public issues.

In FCC v. National Citizens Committee for Broadcasting,[26] the Court upheld Commission regulations prohibiting cross-ownership of newspapers and broadcast stations against First Amendment challenge. While conceding that the regulations were "designed to further the First Amendment goal of achieving diversity of information," both broadcasters and newspapers argued that the rules violated the First Amendment rights of newspaper owners. In response, the Court observed that:

"The physical limitations of the broadcast spectrum are well known. Because of problems of interference between broadcast signals, a finite number of frequencies can be used productively; this number is far exceeded by the number of persons wishing to broadcast to the public. In light of this physical scarcity, government allocation and regulation of broadcast frequencies are essential as we have often recognized. . . . We see nothing in the First Amendment to prevent the Commission from allocating licenses so as to promote the 'public interest' in diversification of the mass communications media."[27]

That this still represents the view of the Supreme Court is confirmed by its 1981 opinion in *CBS, Inc. v. FCC*.[28] While *NCCB* emphasized the scarcity rationale in upholding broadcast regulation, *CBS, Inc. v. FCC* unequivocally reaffirmed that broadcasters must still be considered public trustees whose licenses are conditioned upon continued service in the public interest. In *CBS*, the Court upheld a limited right of access of federal candidates to broadcasting facilities established in 47 U.S.C. § 312(a)(7). In rejecting the broadcasters' First Amendment challenge, the Court cited *United Church of Christ* and again reaffirmed that "a licensee is 'granted the free and exclusive use of a limited and valuable part of the public domain; when he accepts that franchise, it is burdened by enforceable public obligations.' " 453 U.S. at 395, *quoting United Church of Christ*, 359 F.2d at 1003.[29] The Court recognized that the federal candidate access section of the Communications Act "represents an effort by Congress to ensure an important resource—the airwaves—will be used in the public interest." *Id.* at 397.

Thus, arguments by opponents of the Fairness Doctrine that the Supreme Court has undermined the constitutional underpinnings for the Doctrine are misplaced. The Supreme Court has consistently reaffirmed that the scarcity of broadcast frequencies—the scarcity relative to demand for frequencies which necessitates governmental licensing—allows such reasonable regulations.[30] The notion that a broadcaster is a public trustee has similarly been reaffirmed.

III. THE FAIRNESS DOCTRINE IS CONSTITUTIONAL BECAUSE IT INCREASES SPEECH ON IMPORTANT ISSUES

The conclusion that *Red Lion* is still valid is reinforced by an examination of the day-to-day workings of the Fairness Doctrine. In fact, rather than operating to restrict speech, the Fairness Doctrine increases speech on issues of public importance. The Fairness Doctrine has effectively served the substantial government interest recognized in *League of Women Voters* in guaranteeing that the public receives contrasting viewpoints on controversial issues of public importance, and has also vindicated the interests of non-media speakers in airing their viewpoints. The Supreme Court, based upon twenty years of experience with the Doctrine, found this to be the case in *Red Lion*, as did the Federal Communications Commission in 1974.[31]

No changes in circumstances have undermined these conclusions. The Fairness Doctrine has created substantial opportunities for expression by those "who wish to exercise their freedom of speech even though they are not members of the press."[32] While the Fairness Doctrine does not confer upon any particular group or individual a right to air their views,[33] both the courts[34] and the Commission have recognized that broadcasters should, as one means of complying with fairness obligations, allow speakers to present their own views directly to the public.[35]

The Fairness Doctrine has thus provided significant opportunities for individual and group expression both formally and by providing individuals and community groups with leverage in informal negotiations with broadcasters for coverage of opposing views on critical issues.[36] Through such negotiations, groups and individuals have obtained free and paid advertising time as well as opportunities to appear on news programs and talk shows.[37] Indeed, in its recent *Report*, the Commission points to cases in which groups have used the Fairness Doctrine in order to obtain advertising time which would otherwise have been denied.[38] Without the Fairness Doctrine, it is doubtful that many broadcasters would even discuss reasonable requests from individuals or groups seeking to present their views. In recent Congressional hearings, several groups testified that, if not for the Fairness Doctrine, they would not have been granted access to broadcasting facilities.[39]

Opponents of the Doctrine have seized upon the "findings" in the Commission's recent Fairness Doctrine *Report* that the Doctrine inhibits speech. But the Commission ignored the well-documented use of the Fairness Doctrine by countless individuals and groups seeking to air their views. The failure of the Commission to appreciate that formal and informal use of the Fairness Doctrine has created countless opportunities for expression, as well as its failure to take into account the speech added by uncontested compliance with the Doctrine, totally undermines the Commission's conclusion that the Fairness Doctrine "overall lessens the flow of diverse viewpoints."[40]

The Commission's attempt to establish a "chilling effect" is also flawed. The Supreme Court in *Red Lion* found that the risk of chill was speculative.[41] Eleven years ago, in an inquiry very similar to that recently undertaken by the Commission, the Commission examined the issue of whether or not the Fairness Doctrine reduced the amount and quality of coverage of controversial issues of public importance. After two years of study consuming thousands of staff hours, *in which the Commission reviewed claims very similar to those offered in the FCC's recent proceeding, the Commission found "no credible evidence of a chilling effect."*[42]

Despite these prior findings, the FCC in its recent Fairness Doctrine *Report* purported to find evidence that the Fairness Doctrine chilled broadcast speech. The FCC's evidence, however, consists solely of broadcasters' accounts of the effects of the Fairness Doctrine. As indicated, the Commission failed to realistically discuss, much less weigh, evidence in the record demonstrating that various individuals and groups had used the Fairness Doctrine in order to obtain broadcast time. Perhaps most importantly, however, the Commission failed to discuss why the allegations of broadcasters were any more persuasive in this proceeding than they were when they were presented to the Supreme Court in *Red Lion* and to the FCC in the early seventies. Further, as the Court recognized in *Red Lion*, but the Commission ignored, "if licensees should suddenly prove timorous, the Commission is not powerless to insist that they give adequate and fair attention to public issues."[43]

The credibility of claims that the Fairness Doctrine reduces speech is further undermined by examination of the day-to-day operation of the Doctrine. In fact, vindication of competing First Amendement interests in the broadcasting realm by the Fairness Doctrine is achieved with minimal intrusion into the editorial discretion of broadcasters, since the Commission and the courts have

carefully circumscribed the scope of the Doctrine in order to minimize any intrusion. Before the FCC will even ask a broadcaster to comment upon a Fairness Doctrine complaint, the complainant must present "detailed and specific evidence"[44] on a variety of issues[45] sufficient to establish a *prima facie* violation. This *prima facie* evidence requirement is carefully designed to "weed out those complaints that would burden broadcasters without sufficient likelihood that a countervailing benefit will be gained."[46] A broadcasters' judgment must simply be in good faith and reasonable in order to be upheld. As one journalist put it, the FCC will question a broadcaster only when the "station's position is so 'off the wall' that no reasonable person could accept it."[47]

Only a tiny portion of complaints result in any FCC action whatsoever. For example, in 1980, the FCC requested only 28 broadcasters to respond to Fairness Doctrine and political broadcasting complaints even though the Commission received an estimated 20,000 complaints in all, while six cases were decided against the station involved.[48] In such cases, broadcasters were simply advised to meet their Fairness Doctrine obligations through additional programming.[49] The Commission's deference to broadcasters has been reinforced by the courts, which have carefully protected the rights of broadcasters and have scrutinized the FCC's decisions more closely than those of other regulatory agencies.[50]

Finally, arguments as to the "chilling effect", such as those found in the Commission's Fairness *Report*, erroneously assume that this type of "finding" would suffice to establish a First Amendment violation. However, a "chill" can only arise from an unwillingness on the part of broadcasters to air both sides of an issue, an unwillingness to act as a public trustee to vindicate the substantial government interest in the balance of information reaching the public. In fact, broadcasters need only fear the consequences of decisions to present only one side of an issue in their overall programming. A broadcaster who acts according to the standards of his or her profession, on the other hand, has nothing to fear from the Fairness Doctrine, since it is only applied in the most egregious cases of imbalance.[51]

The chill argument is thus an attempt to clothe the First Amendment language a refusal on the part of broadcasters to fulfill the commitments they gave in return for the free grant of a valuable public privilege. As a matter of First Amendment jurisprudence, however, government may legitimately seek such a *quid pro quo* for grant of public privileges. This recognition is not limited to the context of broadcasting, [52] but extends to other activities protected by the First Amendment. In *Buckley v. Valeo*, 424 U.S. 1 (1976), the Supreme Court first struck down as violative of the First Amendment limitations on campaign expenditures in the Federal Election Commission Act. However, it then upheld those same limitations on expenditures of candidates who accepted public financing of their campaigns.[53]

FOOTNOTES

[1] The Navy reported to the United States Senate that:

[C]alls of distress from vessels imperiled on the sea go unheeded or are drowned out in the etheric bedlam produced by numerous stations all trying to compete at once. . . . It is not putting the case too strongly to state that the situation is intolerable, and is continually growing worse.

S. Rep. No. 659, 61st Cong. 2d Sess. 4 (1910). *See also* E. Krasnow, L. Longley, and O. Terry, The Politics of Broadcast Regulation 10-16 (3d. Ed. 1982).

[2] Herbert Hoover commented in 1924 that he thought broadcasting was "probably the only industry of the United States that is unanimously in favor of having itself regulated." *Quoted in* G. Head, Broadcasting in America: a Survey of Television and Radio 126 (3d. Ed. 1976).

[3] In *Great Lakes Broadcasting Co.*, the FRC observed that the "public interest requires ample play for the free and fair competition of opposing views . . . . ". 3 F.R.C. Ann. Rep. 32 (1929), *rev'd on other grounds*, 37 F.2d 993 (D.C. Cir.), *cert. dismissed*, 281 U.S. 706 (1930).

[4] In *FRC v. Nelson Bros. Bond & Mortgage Co.*, 289 U.S. 266 (1933), the Court upheld the authority of the Federal Radio Commission to reallocate frequencies among communities, even where this involved taking a license away from a party already broadcasting. In *FCC v. Pottsville Broadcasting Co.*, 309 U.S. 134 (1940), the Court noted that the public interest standard effected Congressional desires to "maintain a grip on the dynamic aspects of radio transmission" and to reduce fears that in the "absence of governmental control, the public interest might be subordinated to monopolistic domination of the broadcast field." *Id.* at 137-138.

[5] 319 U.S. 190 (1943).

[6] *Id.* at 226-27.

[7] *Id.* at 226.

[8] This concept actually predates the Communications Act of 1934. The requirement that broadcasters be regulated in the "public interest, convenience and necessity" was included in the original statute affecting broadcasting, the Radio Act of 1927. Herbert Hoover, in 1924, argued that broadcasters should be public trustees:

"Radio Communications is not to be considered as merely a business carried on for private gain, for private advertisement, or for entertainment of the curious. It is a public concern impressed with the public trust and is to be considered primarily from the standpoint of public interest to the same extent and upon the basis of the same general principles as our other public utilities."

Hearings on H.R. 7357 Before the House Comm. on Merchant Marine & Fisheries, 68th Cong. 1st Sess. 10 (1924). In 1930, the Federal Radio Commission stated that: "[although] [t]he conscience and judgment of a station's management are necessarily personal, . . . the station itself must be operated as if owned by the public. . . . It is as if people of a community should own a station and turn it over to the best man in sight with this injunction: 'Manage this station in our interest.' . . . The standing of every station is determined by that conception."

In re Schaeffer Radio Co., (1930), *reprinted in part* in The Federal Radio Commission and the Public Service Responsibility of Broadcast Licensees, 11 Fed. Comm. B.J. 5, 14 (1950).

[9] 359 F.2d at 1003.

[10] *Office of Communication of United Church of Christ v. FCC*, 425 F.2d 543, 548 (D.C. Cir. 1969).

[11] 104 S.Ct. 3106 (1984).

[12] 395 U.S. at 388.

[13] *Id.* at 388.

[14] *Id.* at 390.

[15] *Id.* at 389.

[16] *Id.*

[17] *Id.* at 398.

[18] *Id.* at 399.

[19] The initial involvement of government in the selection of broadcast licensees limits the relevance of one of the overriding concerns of First Amendment jurisprudence: the necessity of preserving the full independence of the press and individual speakers for government oversight. For example, in *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974), the Supreme Court held that statute which provided for a right to respond to newspaper attacks upon candidates for public office was unconstitutional. In striking down the statute, the Court emphasized the "governmental coercion" involved in enforcing such a right of reply, 418 U.S. 255, as well as the level of governmental interference in the operation of the press that such a right would entail. In his concurring opinion, Justice White adverted to the "virtually insurmountable barrier between government and the print media insofar as government tampering in advance of publication with news and editorial content is concerned", 418 U.S. at 259. Such concerns are obviously of limited relevance in the context of broadcasting. The rigid wall separating government and the printed press does not exist, since the Federal Communications Commission must, of necessity, select among competing applicants for available broadcast frequencies and licenses must be renewed every three years. More positively, the government's involvement in broadcasting presents the opportunity for government to creatively fashion regulatory regimes in order to vindicate a range of First Amendment interests left unprotected by a strict separation between government and the system of freedom of expression.

[20] In other contexts, the FCC itself has acknowledged that there is a "scarcity of spectrum." *See, e.g., FM Subsidiary Communications Authorizations*, 55 RR 2d (P&F) 1607, 1613 n.19 (1984), *rev'd on other grounds, People of the State of California v. FCC*, No. 85-1112 (D.C. Cir., August 22, 1986). *See also* "FCC Discovers That Carving Up the Spectrum Isn't What It Used To Be," National Journal, May 19, 1984, at 983. The Commission recently spent almost two years to resolve competing claims for the same spectrum lodged by the cellular radio industry, providers of land mobile service, public safety officials, and proponents of a mobile satellite service. *See Report and Order in Gen. Docket Nos. 84-1231, 84-1233, and 84-1234*, FCC 86-333 (released September 26, 1986).

[21] Independent VHF stations have recently sold for as much as $450 million in Boston, $510 million in Los Angeles, and more than $700 million in New York. *See* "Changing Hands 1985," *Broadcasting*, January 27, 1986, at 91-110, for a review of the record $5,668,261,073 worth of broadcast station sales during 1985.

[22] *Red Lion*, 395 U.S. at 396. Approximately 150 comparative hearing cases involving radio and television authorizations are now pending before the FCC. *Broadcasting*, June 16, 1986 at 49. In the 1985 *Fairness Report*, the FCC argued that the amount and type of information sources in what it calls the "information services marketplace" are significant, diverse, and expanding. General Fairness Obligations of Broadcast Licensees, 102 FCC 2d 193, 197-221 (1985) (*"Report"*). None of that discussion, however, has anything to do with, or undercuts the fundamental facts that a broadcaster receives a license or that there is a greater demand to broadcast than there are frequencies available.

[23] 412 U.S. 94 (1973).

[24] *Id.* at 101.

[25] The Court observed that:

"It was reasonable for Congress to conclude that the public interest in being informed required periodic accountability on the part of those who are entrusted with the use of broadcast frequencies, scarce as they are. In the delicate balancing historically followed in the regulation of broadcasting Congress and the Commission could appropriately conclude that the allocation of journalistic priority should be concentrated in the licensee rather than diffused among many. This policy gives the public some assurance that the broadcaster will be answerable if he fails to meet its legitimate needs. *Id.* at 125."

[26] 436 U.S. 775 (1978).

[27] *Id.* at 799.

[28] 453 U.S. 367 (1981).

[29] The Court's language in *CBS, Inc. v. FCC*, as well the inescapable fact of governmental licensing of broadcasting indicate that the argument that the Fairness Doctrine imposes an unconstitutional condition on the grant of broadcast licenses and upon the exercise of First Amendment rights is without merit. As *CBS, Inc. v. FCC* indicates, such an argument is simply inapplicable in the context of broadcasting. In fact, the Court has found that imposing conditions such as those embodied in the Fairness Doctrine advances, rather than inhibits First Amendment values. The Court observed in *Red Lion* that:

"To condition the granting or renewal of licenses on a willingness to present representative community views on controversial issues is consistent with the ends and purposes of those constitutional provisions forbidding the abridgment of freedom of speech and freedom of the press. 395 U.S. at 394."

Similarly, in *FCC v. NCCB*, the Court rejected an argument that the Commission's cross-ownership restrictions "unconstitutionally condition[ed] receipt of a broadcast license upon forfeiture of the right to publish a newspaper," noting, *inter alia*, that the purpose and effect of the regulations was "to promote free speech, not to restrict it." 436 U.S. at 800-801. The import of these cases is that the government may properly impose conditions on a broadcast license, such as the condition embodied

in the Fairness Doctrine, where these restrictions further First Amendment values.

[30] Most recently, in *FCC v. League of Women Voters of California*, the Court reiterated that: "[t]he fundamental distinguishing characteristic of the new medium of broadcasting that, in our view, has required some adjustment in First Amendment analysis is that '[b]roadcasting frequencies are a scarce resource [that] must be portioned out among applicants.' 104 S.Ct. at 3116, *quoting Columbia Broadcasting System, Inc. v. Democratic National Committee, 412 U.S. at 101.*"

[31] *Fairness Report*, 48 FCC 2d 1 (1974).

[32] *New York Times Co. v. Sullivan*, 376 U.S. 254, 266 (1964).

[33] *As noted infra*, under the Fairness Doctrine the FCC accords broadcasters substantial discretion in determining how to meet their Fairness Doctrine obligation in any particular case.

[34] *See Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. at 111-112, 131; *Cf. Red Lion*, 395 U.S. at 392 n. 18 (noting importance of expression of opposing views by persons who actually believe them).

[35] For example, the Commission has stated that: "As a public trustee [the broadcaster] must present representative community views and voices on controversial issues which are of importance to his listeners . . . and this means also that some of the voices must be partisan. A licensee policy of excluding partisan voices and always itself presenting views in a bland inoffensive manner would run counter to the 'profound national commitment that debate on public interest issues should be uninhibited, robust, and wide open.' "

Democratic National Committee, 25 FCC 2d 216, 222-23 (1970). *See also Cullman Broadcasting Co.*, 40 FCC 576, 577 (1963) (where licensee permits use of its facilities for expression of one viewpoint on a controversial issue, reasonable opportunities must be afforded for "presentation of contrasting views by spokesman by other responsible groups).

[36] *See generally* F. Rowan, *Broadcast Fairness: Doctrine, Practice Prospects*, 71-88 (1984).

[37] Andrew Schwartzman, executive director of the Media Access Project, has stated that "most of the dealings with the Fairness Doctrine are informal, the more informal the better so that local groups get to establish an ongoing relationship with the news people of the local station." F. Rowan, *Broadcast Fairness*, at 72.

[38] *Report*, 102 FCC 2d at 162-63, n. 73.

[39] Freedom of Expression Act of 1983: Hearings on S. 1917 before the Senate Committee on Commerce, Science, and Transportation, 98th Cong., 2nd Sess., 101-04, 131-42 (1984).

[40] *Report*, 102 FCC 2d at 171.

[41] *Red Lion*, 395 U.S. at 367.

[42] *Fairness Report*, 48 FCC 2d at 8.

[43] 395 U.S. at 393.

[44] *Alan C. Phelps*, 21 FCC 2nd 12, 13 (1969).

[45] As the FCC stated in its Fairness Primer, the complainant must present specific facts to show: "(1) the particular station involved; (2) the particular issue of a controversial nature discussed over the air; (3) the date and time when the program was carried; (4) the basis for the claim that the station has presented only one side of the question; and (5) whether the station had afforded or has plans to afford, an opportunity for the presentation of contrasting viewpoints." *Fairness Primer*, 40 FCC at 600.

[46] *American Security Council v. FCC*, 607 F.2d 438, 452 (D.C. Cir. 1979) (en banc).

[47] Ford Rowen, *Broadcast Fairness* at 65.

[48] *Id.* at 51.

[49] *See American Security Council Education Foundation v. FCC*, 607 F.2d at 447; *In Re Applicability of Fairness Doctrine in Handling of Controversial Issues of Public Importance*, 40 FCC 598, 599 (1964).

[50] *See, e.g., Strauss Communications, Inc. v. FCC*, 530 F.2d 1001, 1011 (D.C. Cir. 1976); Polsby, *Candidate Access To The Air: The Uncertain Future of Broadcaster Discretion*, 1981 Sup. Ct. Rev. 223, 1984 (1981).

[51] In the only recent Commission decision to arrive at a tentative finding of a Fairness Doctrine violation, the Commission found that the licensee had broadcasted a total of 187 minutes on a controversial issue of public importance while airing opposing viewpoints only 22 minutes. *See* Syracuse Peace Council, 99 FCC 2d 1389, 1400 (1984), *on recon.*, 59 RR 2d (P&F) 179 (1985).

[52] See n.26, *supra*, and accompanying text.

[53] *See* 424 U.S. at 85-104; *see also Regan v. Taxation With Representation of Washington*, 461 U.S. 540 (1983) (holding that government may condition tax-exempt status on absence of lobbying activities).

Mr. CONTE. Mr. Speaker, I yield 30 seconds to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Speaker, I think it should be understood very clearly that when we vote on this amendment No. 59, it will include Mr. WHITTEN's amendment clarifying the intent of section 311 regarding REA. For many of us this is extremely important. This project was designed only for Alaska, and it is very important that we clarify the fact that it does not apply to the rest of the country.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. YOUNG].

Mr. YOUNG of Missouri. Mr. Speaker, I rise in strong support of the gentleman from Mississippi, the Honorable JAMIE WHITTEN, chairman of the House Appropriations Committee, in insisting that the House recede and concur with the Senate amendment No. 59 with an amendment.

Mr. Speaker, briefly, the language contained in the House version of the appropriations bill making appropriations for the General Services Administration deals rationally with the budget of the General Services Administration Federal buildings fund. The House version, as opposed to the Senate version, attempts to strengthen the Government's position with respect to ownership of Federal buildings as opposed to the continued leasing of space to house Federal departments and agencies across the country. Mr. Speaker, a key concern to the House Committee on Public Works and Transportation has been the considerable expansion in the leasing program of the General Services Administration. Expenditures for leased space have increased from $364 million in 1975 to the current level of approximately $1 billion in fiscal year 1986. However, the $1 billion requested in fiscal year 1986 for the leasing of space by the Government represents only a partial payment since the gross commitment of all General Services outstanding leases currently total approximately $2.9 billion. The omission of lease commitments for all future years from the executive branch grossly understates leasing costs.

Mr. Speaker, the House version of the legislation dealing with the General Services Administration provides for: The construction of a new Federal building in Jasper, AL, at a cost of $3.3 million which was approved by the House Committee on Public Works and Transportation on December 16, 1985; construction of a building in Patterson, NJ, at a cost of $7.6 million which was approved by the House Committee on Public Works and Transportation on December 16, 1985; construction of a Federal building in Wilkes Barre, PA, at a cost of $20.6 million which was approved by the House Committee on Public Works and Transportation on December 11, 1985; construction of a border station in Columbus, NM, at a cost of $2.6 million which was approved by the committee on June 25, 1985; construction of a Federal building in Miami, FL, at a cost of $42 million on June 25, 1986; and lastly, construction of a Federal building in Chicago, IL, at a cost of $209 million on December 11, 1985. Mr. Speaker, the House Committee on Public Works and Transportation carefully scrutinized the General Services Administration budget and readjusted some of their priorities. We authorized only repair and alteration projects in their budget which we felt were critical and related to health and safety for our Federal workers and those projects which were gravely needed projects around the country.

Mr. Speaker, the Senate to the contrary basically accepted the administration's budget which only continues to escalate our leasing bill annually. We must correct this situation and the House bill attempts to assist in this endeavor. Further, the Senate bill contains 17 repair and alteration projects which have not been authorized by the House Committee on Public Works and Transportation and are not considered high priority projects in terms of the General Services Administration.

Mr. Speaker, the conferees of the House recognized the financial impact the construction of the Federal building in Chicago, IL, and the Federal building in Miami, FL, could have on the financial capability of the Federal buildings fund of the General Services Administration; therefore, the House conferees determined the appropriate manner to provide for the construction of these badly needed Federal buildings was to authorize the administration of the General Services Administration to acquire a building not to exceed 250,000 square feet in Miami, FL, by lease for a term not to exceed 30 years on such terms and conditions as he deems appropriate. The same authorization is contained in this legislation by authorizing the acquisition of a 600,000-square-foot building in Chicago, IL, by lease not to exceed 30 years. At this time, I feel it is important to point out that it is the intent of the House Committee on Public Works and Transportation that such leases should contain purchase options so that title to the property can be obtained at the most early timeframe.

Mr. Speaker, to conclude, the House version of the Treasury, Postal Service appropriations bill previously approved by the House is far superior to the similar bill passed by the Senate

with respect to the General Services Administration and I strongly urge my colleagues to support the chairman of the House Committee on Appropriations, the Honorable JAMIE WHITTEN, in rejecting the Senate position and supporting the House position.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I simply want to congratulate the chairman for taking the action that he has taken on this amendment to clarify the situation that existed with respect to REA's.

The SPEAKER pro tempore (Mr. RUSSO). The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 301, nays 106, not voting 25, as follows:

[Roll No. 473]

YEAS—301

Abercrombie	Coleman (TX)	Fuqua
Ackerman	Collins	Garcia
Akaka	Combest	Gaydos
Alexander	Conte	Gejdenson
Anderson	Cooper	Gephardt
Andrews	Coyne	Gibbons
Annunzio	Crockett	Glickman
Anthony	Daniel	Gonzalez
Applegate	Darden	Goodling
Archer	Daub	Gordon
Aspin	de la Garza	Gray (IL)
Atkins	Dellums	Gray (PA)
AuCoin	Derrick	Green
Barnard	Dicks	Guarini
Barnes	Dingell	Gunderson
Bedell	Dixon	Hall (OH)
Beilenson	Donnelly	Hall, Ralph
Bennett	Dorgan (ND)	Hamilton
Bereuter	Dowdy	Hammerschmidt
Berman	Downey	Hatcher
Bevill	Duncan	Hawkins
Biaggi	Durbin	Hayes
Boggs	Dwyer	Hefner
Boland	Dymally	Hendon
Boner (TN)	Dyson	Hertel
Bonior (MI)	Early	Holt
Bonker	Eckart (OH)	Hopkins
Borski	Edgar	Horton
Bosco	Edwards (CA)	Howard
Boucher	Edwards (OK)	Hoyer
Boulter	Emerson	Hubbard
Boxer	English	Huckaby
Brown (CA)	Erdreich	Hughes
Bruce	Evans (IA)	Hunter
Bryant	Evans (IL)	Hutto
Bustamante	Fascell	Jacobs
Byron	Fazio	Jeffords
Carper	Feighan	Jenkins
Carr	Fiedler	Johnson
Chandler	Flippo	Jones (NC)
Chapman	Florio	Jones (TN)
Chappell	Foley	Kanjorski
Clay	Ford (MI)	Kaptur
Clinger	Ford (TN)	Kasich
Coelho	Frank	Kastenmeier
Coleman (MO)	Frost	Kennelly
Kildee	Myers	Smith (NE)
Kleczka	Natcher	Snyder
Kolter	Neal	Solarz
Kostmayer	Nelson	Spence
Lantos	Nowak	Spratt
Leath (TX)	Oakar	Staggers
Lehman (CA)	Oberstar	Stallings
Lehman (FL)	Obey	Stangeland
Leland	Olin	Stark
Levin (MI)	Ortiz	Stenholm
Levine (CA)	Owens	Stokes
Lewis (CA)	Panetta	Strang
Lightfoot	Parris	Stratton
Lipinski	Pashayan	Studds
Livingston	Pease	Sundquist
Lloyd	Penny	Synar
Loeffler	Pepper	Tallon
Lowery (CA)	Perkins	Tauzin
Lowry (WA)	Pickle	Taylor
Lujan	Price	Thomas (GA)
Luken	Quillen	Torres
Mack	Rahall	Torricelli
MacKay	Rangel	Towns
Madigan	Regula	Traficant
Manton	Reid	Traxler
Markey	Richardson	Udall
Martin (IL)	Roberts	Valentine
Martinez	Rodino	Vento
Matsui	Roe	Visclosky
Mavroules	Roemer	Volkmer
Mazzoli	Rogers	Waldon
McCloskey	Rose	Walgren
McCurdy	Rostenkowski	Watkins
McDade	Rowland (CT)	Waxman
McEwen	Rowland (GA)	Weaver
McGrath	Roybal	Weber
McHugh	Russo	Wheat
McKinney	Sabo	Whitehurst
Meyers	Savage	Whitley
Mica	Scheuer	Whitten
Michel	Schuette	Williams
Mikulski	Schumer	Wilson
Miller (CA)	Seiberling	Wirth
Miller (OH)	Sharp	Wise
Mineta	Shaw	Wolpe
Mitchell	Shelby	Wortley
Moakley	Shuster	Wright
Mollohan	Sikorski	Wyden
Montgomery	Sisisky	Wylie
Moody	Skeen	Yates
Morrison (CT)	Skelton	Yatron
Morrison (WA)	Slattery	Young (AK)
Mrazek	Slaughter	Young (MO)
Murphy	Smith (FL)	
Murtha	Smith (IA)	

NAYS—106

Armey	Gallo	Ridge
Badham	Gekas	Rinaldo
Bartlett	Gilman	Ritter
Barton	Gingrich	Robinson
Bateman	Gradison	Roth
Bentley	Gregg	Roukema
Bilirakis	Henry	Saxton
Bliley	Hiler	Schaefer
Boehlert	Hillis	Schneider
Broomfield	Hyde	Schroeder
Brown (CO)	Ireland	Schulze
Burton (IN)	Kemp	Sensenbrenner
Callahan	Kolbe	Shumway
Carney	Kramer	Siljander
Chappie	LaFalce	Smith (NJ)
Cheney	Lagomarsino	Smith, Denny (OR)
Coats	Latta	
Cobey	Leach (IA)	Smith, Robert (NH)
Coble	Lent	
Coughlin	Lewis (FL)	Smith, Robert (OR)
Courter	Lott	
Craig	Lungren	Snowe
Crane	Marlenee	Solomon
Dannemeyer	McCandless	Stump
Davis	McCollum	Sweeney
DeLay	McKernan	Swindall
DeWine	McMillan	Tauke
Dickinson	Miller (WA)	Thomas (CA)
DioGuardi	Molinari	Vander Jagt
Dornan (CA)	Monson	Vucanovich
Dreier	Moorhead	Walker
Eckert (NY)	Nielson	Whittaker
Fawell	Packard	Wolf
Fields	Petri	Young (FL)
Fish	Porter	Zschau
Franklin	Pursell	
Frenzel	Ray	

NOT VOTING—25

Bates	Grotberg	Moore
Breaux	Hansen	Nichols
Brooks	Hartnett	Oxley
Burton (CA)	Jones (OK)	Rudd
Campbell	Kindness	St Germain
Conyers	Long	Swift
Daschle	Lundine	Weiss
Foglietta	Martin (NY)	
Fowler	McCain	

□ 2220

Mr. DAVIS changed his vote from "yea" to "nay."

Mr. WEBER and Mr. HERTEL of Michigan changed their votes from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. RUSSO). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 60: Page 61, line 19, strike the following language:

SEC. 143. None of the funds appropriated by this Act or any other Act shall be used for the processing of any application for a certificate of label approval for imported distilled spirits, malt beverages, or wine under section 205(e) of the Federal Alcohol Administration Act, unless each application is accompanied by appropriate documentation.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate numbered 60.

PREFERENTIAL MOTION OFFERED BY MR. LOWRY OF WASHINGTON

Mr. LOWRY of Washington. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. LOWRY of Washington moves that the House recede from its disagreement to Senate amendment No. 60 and concur therein.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes.

PARLIAMENTARY INQUIRIES

Mr. LOWRY of Washington. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LOWRY of Washington. Mr. Speaker, my point of parliamentary inquiry would be on the division of time, on which point I would request the customary one-third if both managers of the bill are of the opposite position from mine.

The SPEAKER pro tempore. Is the gentleman from Ohio [Mr. REGULA] in favor of the motion?

Mr. REGULA. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Washington [Mr. LOWRY] qualifies and is entitled to 20 minutes.

The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 20 minutes; the gentleman from Ohio [Mr. REGULA] will be recognized for 20 minutes; and the gentleman from Washington [Mr. LOWRY] will be recognized for 20 minutes.

Mr. GEKAS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GEKAS. Mr. Speaker, did I understand, when the Clerk read the motion that was submitted to the desk, that it was a motion to concur in the Senate amendment or to recede? I did not understand exactly what the motion was.

The SPEAKER pro tempore. The preferential motion was a motion to recede from disagreement and to concur in the Senate amendment.

Mr. GEKAS. I thank the Chair.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MRAZEK].

Mr. MRAZEK. Mr. Speaker, we face a serious health risk in the United States of America that results from the fact that there are thousands of different exporters of wine, beer and distilled spirits. There are 900 different exporters of wine in Austria. There are more than 16,000 different exporters of wine in Italy.

Unfortunately, we learned last year, with the deaths of over 30 Italian consumers of Italian wine, that was contaminated with enough antifreeze that their body temperature would have been kept at about 120 degrees at 75 degrees below zero Fahrenheit.

The problem relates to the fact that different additives and ingredients are used to sweeten some of these beverages that are exported to the United States and, thankfully, no American has as yet died, but earlier this year, in hearings chaired by my good friend and colleague, the gentleman from New York [Mr. HORTON] of the Committee on Government Operations, we learned that BATF does not have the resources or the tools to monitor or test for thousands of different exporters, particularly of small vineyards and products that may, in fact, be contaminated. There may, in fact, be wines contaminated right now on the shelves of stores across this Nation.

The first resource and the first step that we think is required from a health and safety standpoint is simply to stipulate that the country of origin that produces these wines certify compliance for any wine exported from that nation to the United States. They certify compliance that it meets the United States' standards.

I must point out to you that every single one of the nations in the European Economic Community already requires that the U.S. Government certify compliance for any beverage, distilled from alcohol or any wine or any beer produced in this country; they require that we, in fact, already comply with their domestic standards.

All we are talking about is parity. All we are talking about is reciprocity.

There are a couple of States in the United States, such as Washington and Pennsylvania, that have what are called gray market industries in dealing with wine, beer and distilled spirits. They are concerned about the fact that this amendment might impede their ability to buy products overseas, bring them to their States and sell them.

□ 2230

The bottom line is our amendment takes into account their concerns. All we are asking for is that the government of origin where these wines, beers and other distilled spirits are produced certify compliance with U.S. standards and provide a list of ingredients of what is in those beverages.

It is a simple health and safety issue. We have attempted to deal with the gray market States and that is the bottom line here.

Chairman ROYBAL has handled this issue through the Appropriations Subcommittee of Treasury and Postal Service very ably. All we ask of you is to support the House position that we carried to the conference with the U.S. Senate.

Mr. McGRATH. Mr. Speaker, will the gentleman yield?

Mr. MRAZEK. I yield to my friend, the gentleman from New York.

Mr. McGRATH. Mr. Speaker, I thank the gentleman for yielding.

I want to associate myself with the statement of my colleague, the gentleman from New York and Long Island.

Mr. LOWRY of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us what is meant to be a well-intended health issue, which frankly is not a health issue at all. As a matter of fact, the only effect it would have on health would be an antihealth issue.

The unintended effect of the Mrazek language that is in the CR that we are asking that we recede to the Senate who has refused to go along with, is that it will require our States to choose to do different, to go through monopolistic liquor distributors. It will require that our States that choose to go to a competitive market and buy on competition at a savings of $20 million to the State of Pennsylvania, at a savings in 9 months of $4.9 million to the State of Washington, meeting totally the BATF requirements of an independent laboratory study, or you cannot get a label, meaning that totally it will say that you cannot do that. You have to go through the monopolistic distributor that is named by the producer.

Now, that is the end result of this.

The difference, for instance, in the price that would have to be paid by the Washington State Liquor Control Board would have to pay if the Mrazek language prevails is $62.90 more per case for Grand Marnier; $19 more per case for Johnny Walker Black; $15.40 more per case for Cutty Sark. And where does that money go? That money goes to the monopoly distributor that the end result of this language would require to do.

Again I want to state that the Bureau of Alcohol, Tobacco and Firearms, requires that every alcoholic beverage sold in this country has a label and the only way you can get that is to meet their requirements, which in our case means an independent laboratory study which this would knock out. That is the unintended end result of this, and I know the gentleman did not intend that.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to say to my friend from Washington that I am pleased that he offered this amendment, and just to make it very clear, this amendment was adopted on a voice vote without very much debate in the Appropriations Committee. I do not believe members of the Appropriations Committee were well informed about the substance of this amendment.

Now, just to make sure everybody understands what we are asking you to do here, a motion to recede and concur means that we would strike out the Mrazek amendment and concur in the Senate position, which was that this was a bad idea and a bad amendment.

My friend from Washington has made the point here, and this is a most important point, that if you adopt the Mrazek amendment, what you are doing is creating a monopoly for the importers of these various brands. You are creating a monopoly.

Now with the parallel market in Europe, the States that have controlled liquor can buy on the parallel market for a vastly reduced cost to the consumers of the various States.

This amendment, I can understand the gentleman from New York, if I represented——

Mr. MRAZEK. This is to protect consumers from adulterated beverages.

Mr. DICKS. Mr. Speaker, the gentleman from New York is out of order.

The SPEAKER pro tempore. (Mr. RUSSO). The gentleman from Washington has the time. The Chair will inform the Members that the gentleman from New York has time remaining on his own time. The gentleman from Washington has time remaining and the gentleman from Ohio has 20 minutes remaining.

Right now the gentleman from Washington in the well controls the time and he has yielded to the gentleman from Washington.

The Chair would ask Members to kindly respect the courtesies of other Members who are speaking.

Mr. DICKS. Mr. Speaker, I want to answer the charge, the charge of the gentleman from New York on safety. The Bureau of Alcohol, Tobacco, and Firearms has set up a procedure whereby this liquor was brought in from the parallel market and tested independently. The cost of the test was paid for by the importer. We had an acceptable safety procedure, but under the Mrazek amendment that safety procedure is no longer allowed; I think that is a serious mistake. The Mrazek amendment should be defeated because it is anticompetitive.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Speaker, I rise in opposition to the motion to recede and concur with the Senate and I rise in support of the House position. I do this for a number of reasons. This provision is very important to the health and safety of American citizens and to the ability of our Government to insure that alcoholic beverages shipped to the United States comply with U.S. ingredient laws.

Mr. Speaker, everybody is throwing facts around. I want to tell you something. No one every asked the General Accounting Office to check on wines coming into this country until I did this year. The GAO made a report which was very condemning of the BATF and also the FDA and said that they did not have the proper procedures. The Government Operations Committee, based on that report, had a hearing shared by the gentleman from Georgia [Mr. BARNARD]. It was a good hearing. I testifed, as others did.

Just recently, that committee and the Government Operations Committee has issued a report condemning both those agencies because we do not have the proper procedures, we do not have a way to check and test on the wines that are coming here.

Now, let me tell you what happened. Last year we found that wine from Australia has diethylene glycol, which is DEG. It is similar to the primary additive in automobile antifreeze. When it is added to wines, this toxic substance can affect the taste, making it sweeter and thereby dramatically reducing the more costly natural fermentation time that might otherwise be required. Diethylene glycol is not permissible in the U.S. wines or in wines sold in the United States at any level whatsoever; yet almost 100 foreign wines sold in the United States have thus far been found to contain varying levels of this substance. Not one American wine of the literally hundreds tested has been found to contain even a trace of DEG.

Our committee's hearings proved an important point; namely, that our Government lacks sufficient information to adequately test and monitor imported wine and alcoholic beverage products. We further discovered that we are the only nation that lacks such information and does not now require the documentation specified in the continuing resolution. All of our trading partners require ingredient documentation of American alcoholic beverage producers when these producers ship and sell their wines overseas.

I believe the American public is entitled to the same health and safety protection that the filing of ingredient information with our Bureau of Alcohol, Tobacco and Firearms can help facilitate.

Mr. Speaker, this is an important measure and I urge my colleagues to send our conferees back to the Senate with a strong signal that Americans deserve the same information on foreign alcoholic beverages sold in this country that are required of American producers when they sell abroad.

Mr. LOWRY of Washington. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I am glad to yield to the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Speaker, is it not true that the wine the gentleman was talking about came in through the authorized distributors that are the monopolies that the Mrazek amendment would protect? That is how the wine got in here.

Mr. HORTON. Mr. Speaker, I take back my time. The wine did not come in that way. As a matter of fact, the way we found out about it was that Canada tipped our people off. We did not have the documentation which we should have had. We do not have it to this day and we do need it.

I think this is a very important amendment. I think we should support the House position and do not support the Senate position.

Mr. LOWRY of Washington. Mr. Speaker, if the gentleman will yield further, how could it get into this country if it is not through those monopolized authorized distributors? It is the only way it can get in.

Mr. MRAZEK. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from New York.

Mr. MRAZEK. Mr. Speaker, I think it is important for everyone to understand that we are not talking about manufacturer or distributor compliance. We are talking about compliance by the country of origin.

Every single one of the nations in Europe that export wines to the United States of America require that we, the U.S. Government, certify compliance with their standards domestically before we can market any of our products there. All we are suggesting is parity and reciprocity.

The system has broken down here in this country. For thousands upon thousands of small exporters of products here to this country and States like Washington want to buy cheap and sell high and they make revenue in their States that way.

I am not trying to suggest that should be curtailed, but this is a health and safety issue.

Mr. HORTON. Mr. Speaker, the problem is that we do not have the information available to support and back up our agencies, the BATF and the FDA.

Now, the FDA has said to the BATF that you can have the authority and they have given them the authority to do it.

Mr. Speaker, I urge a no vote on the amendment.

Mr. REGULA. Mr. Speaker, I yield 7 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I am strongly opposed to the amendment offered by the gentleman from New York [Mr. MRAZEK] and I therefore urge all Members to vote in favor of the preferential motion proposed by the gentleman from Washington [Mr. LOWRY].

In my judgment, the amendment purports to address potential health hazards of certain wine, beer, and spirit imports; nevertheless, its real purpose is to preclude the importation of parallel or gray market imports of these products.

I am not sure how the amendment works. The amendment in itself is a fairly harmless one sentence amendment which was the reason it was slipped through without notice until it got into conference. It is clearly not a matter of the jurisdiction of the Appropriations Committee; nevertheless, we find it in an appropriations bill, so I am not sure how it works; but I understand that the importer would have to get a certificate either from the country of origin or the producer itself. That means that the only importers who could obtain that documentation without great difficulty would be the so-called authorized distributors around whose operations the amendment of the gentleman from New York attempts to build a fence.

□ 2245

In other words, those importers who purchase wine, beer, and spirits from independent sellers abroad will be prohibited from such imports in the future, or they will have to pay much higher prices for them, and whatever price the authorized importers will be able to charge will be raised up to slightly under what that newer, higher price for the independent sellers will be set at.

There are parallel importers who are now offering a better price alternative to consumers of imported beverages. There are State-owned liquor stores who are seeking to save State funds by purchasing parallel imports. It gives them a better markup. These people are providing some competition to those authorized dealers who would otherwise have a monopoly, and would under the Mrazek amendment have a monopoly of sales of these items in the United States.

The gray market issue is being disguised as an issue designed to protect the consumer from liquor imports containing harmful substances. Yet I am informed that none of the contaminated wine that has entered this country was a gray market purchase. If there is a way to protect consumers from harmful substances in liquor imports that would protect the rights of parallel importers as well, I for one would be all for it.

I do not want to make liquor purchases more attractive, but I would like to see that the consumers are protected, and particularly the State agencies who tend to be the largest consumers or largest single purchasing consumers of these particular products. I believe that in prohibiting parallel imports we would create a precedent that would aid those who are attempting to eliminate all parallel imports in the future. I am sure that that is a precedent that most of us do not want. Gray market purchases have not caused substantial business losses for authorized dealers. They have given many consumers an opportunity to purchase goods that they would not otherwise be able to purchase.

I believe that this amendment is a simple exercise in fence-building. It builds fences around authorized importers, it builds walls around certain enterprises, and fences out other enterprises. I think that had it been handled in the regular order that there would have been time for the committees of this House of normal jurisdiction to do their usual good work on it. Stuffed as it is into a continuing resolution as a part of an appropriations bill, I think that the Mrazek amendment should be defeated, and the Lowry amendment should be supported.

Mr. MRAZEK. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. MRAZEK. I thank the gentleman for yielding.

Mr. Speaker, we all benefit from the prepared statement that the gentleman read to us, which I would only submit that he might not have read to us if he had a chance to attend the hearings chaired by my colleague, the gentleman from Georgia [Mr. BARNARD], and where my colleague, the gentleman from New York [Mr. HORTON] testified, and where clearly, if he was one of the people who drank the adulterated wine, that may be on shelves now in the United States, wherever it came from, whether it came from gray market——

Mr. FRENZEL. Mr. Speaker, reclaiming my time, first of all, as I understand it, there has not been a showing that this was gray market wine, or that it was parallel imported wine. Therefore, what the gentleman is doing is throwing up economic barriers so that some citizens, some enterprises, will have privilege in our economy, and others will not.

As pointed out by the two gentlemen from Washington, it may in fact be that we have reduced the safety testing on these imported spirits. I think that until the proper committees of jurisdiction can present a bill that is not a midnight rider on a continuing resolution, we would do far better to approve the amendment of the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Speaker, I yield 8 minutes to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY of Pennsylvania. Mr. Speaker and colleagues, I rise in support of the motion made by our colleague, the gentleman from Washington [Mr. LOWRY], to recede to the Senate with respect to the Mrazek amendment.

Briefly, I would like to point out to my colleagues that this provision would not provide an added safeguard to protect the health and safety of our citizenry as claimed. If in fact we could be assured that by this provision no contaminated or otherwise bad wine or liquor would come into the United States, I would be fully supportive of it. Unfortunately, the health and safety of our citizenry is not—and I repeat, not—at issue here tonight.

The sum effect of this provision is to create a very exclusive club of distilled-spirit importers, a club which I might add would become impenetrable should this particular provision be adopted tonight.

The fact is, Mr. Speaker, that this is a provision to establish a monopoly, plain and simple. It has absolutely no impact on health or safety. It would effectively prohibit any importer other than the manufacturer's exclusive representative from selling distilled spirits in the United States.

How does it do this, you might ask. Well, the Mrazek language requires that the manufacturer's ingredients list accompany any imported alcoholic beverage coming into the United States. Unfortunately, only—only—the manufacturer's designated importer would be privy to such information. This is primarily because the ingredient list is essential to the trade secret.

Now, many Members might ask, "Why is BILL GRAY opposing this provision?" Well, let me tell them why. The Commonwealth of Pennsylvania by State law has a monopoly statewide on the acquisition of all distilled spirits consumed within the State. As such, the State liquor board spent more than $750 million on distilled spirits last year, more than any other single entity in the Nation.

Simply stated, my State's ability, as in the case of Washington, Alaska, and some other jurisdictions, to secure the best possible price for consumers would be jeopardized by the approval of this amendment. That, Mr. Speaker, is what the provision is all about, the elimination of competition, not the health, not the safety, of Americans.

In fact, and please listen to this, the irony of this entire matter is that the very people who are protected by this provision, the manufacturers and their importers, are the very same people who brought in the contaminated alcoholic beverages that are used to justify the need for the provision.

There is not a single parallel market importer responsible for bringing a contaminated bottle of liquor or wine into the United States—not one. So therefore the provision is going to create a monopoly on the basis of health and safety, and where did any contaminated wine come from? From the very same people who are going to be protected by the amendment.

This amendment also has the potential of setting a very dangerous precedent by protecting a certain class of manufacturers and importers, where in fact we do not treat others, most notably in the area of sporting goods, electronic items, and literally millions of dollars in other imported items.

□ 2255

Mr. Speaker, this has nothing to do with health, it has nothing to do with safety because the very illustration used to justify this was brought in by the same people who would be protected. It has to do with giving a monopoly to one group.

So I would urge you to support the Lowry motion. This is bad public policy.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. GRAY of Pennsylvania. I yield to my friend, the gentleman from New York.

Mr. HORTON. Mr. Speaker, the only point I would make is that this does affect the safety and health of American citizens and we are not dealing with sporting goods, we are dealing with food products.

Mr. GRAY of Pennsylvania. I would like to respond.

Let me just tell you why, folks, this has nothing to do with health or safety, because if it did then what we would do in this amendment is require independent testing of everybody, including the distributors, the ones who put the ingredients in it. We would test them. But it does not, so therefore it is really not a health and safety issue.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. GRAY of Pennsylvania. I yield to my colleague, the distinguished gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Speaker, I thank my colleague for yielding. Let me emphasize to my colleagues that $20 million, and I repeat $20 million is a substantial amount to throw indiscriminately against the consumers in Pennsylvania.

We have talked about this as if it is so important, that health and safety is an authentic issue. If that is true, we in Pennsylvania in particular, and I am sure in Washington and other controlled States would like to have an opportunity to testify in detail before the committee. I understand the committee hearings were very limited. I understand that the participation was limited in those hearings. I am personally very familiar with health and safety serving on the Health and Safety Subcommittee in another aspect on the Education and Labor Committee. That does not seem to be the issue here.

We are talking about an exclusive distributor, one that is going to make a profit, and that profit is going to be made at the expense of Pennsylvania, and Pennsylvania, as we all know, has contributed her share to this economy in this Nation under very great duress and difficult circumstances, and $20 million is a lot of money to the taxpayers of Pennsylvania.

Mr. GRAY of Pennsylvania. Mr. Speaker, again I would say to the gentleman and to this body, if public health were the real issue, the amendment would require independent testing, not simply a label by the monopoly that makes it all right.

Why does it not have independent testing of everything brought in? Because it has nothing to do with health and safety and it has to do with protecting one class, and that is the distributors, by saying you can put a label up, and put the ingredients on.

If we are serious about health, if we are serious about safety, then let us require testing of all of it.

Mr. MRAZEK. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I have been fascinated to listen to the discussion by the gentlemen who seem to represent primarily two States, the State of Washington and the State of Pennsylvania.

The marketing of alcoholic beverages in those two States is a monopoly. Who do you think serves on the State liquor control board in the State of Washington? Do you think it is Mother Teresa? Do you think Eleanor Roosevelt once served on that board?

Think about the State liquor control authorities in your States. It is incredible, I know, but true, that Ralph Nader never served on a State liquor control board in any State in the United States of America.

The bottom line is there is a monopoly in these two States, and they seem to view this issue strictly in terms of financial resources for those particular States, and I can understand why they do.

But again, anyone who attended the hearings of the Government Operations Committee and listened to the stories of the people who died from drinking adulterated wine, and regardless of how it gets into the United States of America, is not as important as the fact that it may already be here. I think we have to at least, I think it is fair to at least require the government of origin, not the manufacturer, and we have heard some specious arguments here tonight about the manufacturer or the distributor requiring documentation. We are not asking for documentation by the distributor or the manufacturer. We are simply asking for the same documentation that the U.S. Government is required to supply to every single nation in the European Economic Community when we wish to export any of our alcoholic products to those nations.

Mr. Speaker, I yield whatever time is required to the gentleman from California [Mr. ROYBAL], chairman of the Subcommittee on Treasury and Postal Service of the Committee on Appropriations.

Mr. ROYBAL. Mr. Speaker, I want to let it be known that I like the State of Pennsylvania and the State of Washington. But I also want to point out that the language that is being proposed strikes out the language that was passed by the full Committee on Appropriations and also the language approved by the House. That is the exact language that went to conference and the language that we finally brought back again in disagreement to the House today.

We made every effort to reach a compromise. In fact, at one particular point we offered compromise language that was worked out by all of the principals that are involved. But the other body had their own compromise language. They proposed theirs to us and we ours to them, and each in individual votes turned the languages down.

So the only thing we had left is the language that we now have before us which actually says that none of the funds appropriated by this act or any other act shall be used for the processing of any application for a certificate of label approval for imported distilled spirits, malts, beverages or wine under section 205, unless each application is accompanied by appropriate documentation. The language is clear and simple.

Then in discussions and in debate in the conference committee we spent a great deal of time trying to reach an agreement. We were told that a committee of the House did, in fact, have hearings, and that those hearings definitely indicated that there was a serious problem with regard to the importation of alcoholic beverages to the United States. We concluded, based on that testimony, that it was necessary to protect the health and safety of the American consumers, and that it was imperative to ensure that all imported distilled spirits, wine and malt beverages should comply with the U.S. standard of purity and identity.

When that was done by the full committee it was done in good faith, recommending something that we actually believed would require those individuals or firms that imported these spirits into the United States, to comply with the U.S. standards of purity and identity. We had no idea that we were going to get into this controversy.

But the truth of the matter is that there is a great difference of opinion, but if this amendment is adopted there will be no language at all. The problem then will persist, and if it is true that the problem with regard to adulterated liquor is present in this country, then I think we have a responsibility to do something about it.

□ 2305

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman.

Mr. GAYDOS. Let me ask one very simple question: The very essence, and I repeat, the very essence of a controlled State is that a State takes upon itself the responsibility to test its product, to keep liquor out of the way from minors, to make sure it is sold in proper places, proper containers.

Health and safety, as far as the State of Pennsylvania is concerend, if those that held the hearings would have asked us, we would have testified, in no uncertain terms. We do practice it. That is one of the basic essences of a State having control.

So I suggest to my friend in the well that that aspect of it is not proper to elongate on, and I am going to suggest this to my good friend: The fact is we are talking about money, we are talking about revenue. It is unfair to force Pennsylvania and Washington to utilize some exclusive importer and pay him that profit; that is not fair.

Mr. ROYBAL. Well, I am not talking about money and profit when I am talking about making it necessary for those who import liquors into the United States to comply with the U.S. standards of purity. I do not think that that is asking too much.

Mr. GAYDOS. Mr. Speaker, if my friend would yield, may I ask one practical question. If this amendment were in today and if we had passed it, we successfully as a group adopted it, is it a fact yes or no, whether or not the Italian situation where we had some detrimental wine, poison wine, would that have been corrected and would that have been prevented from being part of that consumed in this country, under this amendment?

The answer has to be no, I believe.

Mr. ROYBAL. That is exactly where the controversy lies.

Mr. Speaker, I yield to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I have a question. The discussion has centered mostly on the question of the importation of wine; but what about beer?

My district has the only two main producing breweries in the Southwest. Now, we have competition from foreigners; Mexico and Milwaukee.

The only thing I know is that sometimes it is charged that the Mexican beer has a little bit of tequila in it. Now, what effect will this amendment or this legislation, if approved, have on the beer, on the breweries, the Lone Star of Texas and the Pearl Brewery of San Antonio? And the Shiner Brewery of Shiner, TX.

Mr. ROYBAL. Mr. Speaker, I do not think that the Lone Star State will be affected by any language in this bill.

Mr. GONZALEZ. It would not affect it; OK.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman.

Mr. HORTON. Mr. Speaker, we are making light of a very serious matter. Now I asked the General Accounting Office to study this problem as to whether or not, first, did we have the facilities, and second, did we have the agencies that would check and make certain that we did not have consumed in this country Austrian wine, which had DEG; or Italian wine, which had methanol; both of which can kill.

We were told in the GAO report, and it is available; it was made public and it was before the subcommittee; we were told that they did not have the ability to make those kind of decisions.

We may not think that this is perfect language, and we may be concerned about our States, and I can understand that; but I think there is a very serious health and safety problem.

Whether Members were at the hearings or not, the GAO report did condemn these two agencies. The Government Operations Committee has issued a report concerned about the safety and health of Americans consuming foreign products.

I think that this documentation that is required in the House language would be very helpful to make certain that we do not have the types of wines coming in that are contaminated. It would give our agencies a better handle to make certain that those wines did meet our standards.

Mr. ROYBAL. Mr. Speaker, I feel that the controversy, regardless of facts or points made in debate, will just continue to exist.

The truth of the matter is that this was done through the regular process; passed by the subcommittee, passed by this House, and we in conference held to the position of the House. Now it is back before the House again. The House can do its will, and whatever it does, the chairman of the subcommittee and the full committee will then act accordingly.

I firmly believe that since our exporters must comply with the requirements of the importing country, and in an effort to protect the health and safety of American consumers, I feel that we are asking them to do the very same thing that we have to do when we export our liquor into their countries.

There is nothing unusual about that; I think that what they ask us to do protects their people, and we want Americans protected likewise.

I yield back the balance of my time.

Mr. REGULA. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, we have heard a lot of conversation about State monopolies and monopolies of the distributors coming into this country; but I think that the position was well set forward by the gentleman from Minnesota.

What we are really talking about doing is creating a separate monopoly that is going to run the price of liquor up of distilled beverages and wines and malt liquors. That is exactly what we are talking about.

If we want to start creating monopolies on appropriation bills, I think we are in an area where we really should not be. I think this has a whole other arena.

What we are talking about is running the price up for the consumer. That is exactly what we are talking about; there has not been one shred of evidence that has been presented on this floor tonight, or as far as I know, at any hearings that say that the problems and possible contaminations are going to be solved by the Mrazek situation.

I support the gentleman from Washington [Mr. LOWRY] and I would certainly hope that we would vote yes on the Lowry amendment.

Mr. LOWRY of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I think we ought to stop and figure out where we are. It is 11:15 on Wednesday evening, and this is an appropriations bill—is that right? You would not know it.

This is a whiskey and wine price fixing bill, and I do not know where it came from. If this bill had followed the normal pattern of practice, of bills for the last 200 years, it would have ended up in the Ways and Means Committee, and in my Trade Subcommittee, and you would have been spared this long thing. We would have had a hearing and we would have worked it all out, and we would probably have seen exactly where we are.

I am afraid my friend from New York is about to have the paternity of a little offspring that he would not want to admit he had here inadvertently. This is a whiskey/wine price fixing bill, through the guise of labeling. That is all it is.

Now, if the gentleman from New York will withdraw his amendment here and bring it into our committee next year, we will give him a full and fair hearing on the thing; bring in all the witnesses; Seagram's and everybody else who are involved in this, and we will get right down to the business of the situation.

At 11:15 in the evening, on an appropriations bill, that has never had a proper hearing in a proper committee, and there is no bill in the Congress—I have never seen a bill in the Congress on this subject—I think we ought to adopt the Lowry amendment and put it into this.

The SPEAKER pro tempore. (Mr. RUSSO). The Chair would inform the Members that the gentleman from New York [Mr. MRAZEK] has 2 minutes remaining, the gentleman from Washington [Mr. LOWRY] has 6 minutes remaining, and the gentleman from Ohio [Mr. REGULA] has 8 minutes remaining.

Mr. REGULA. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. FAZIO]

Mr. FAZIO. Mr. Speaker, this is, as the gentleman from New York [Mr. HORTON] says, a very important issue; certainly health and safety is involved.

Obviously, there are some other issues involved, and it does relate to

trade. When the Italian wine adulteration occurred, a number of people died in Italy; California wine producers, United States wine producers with Italian surnames lost market share, lost business because people could not tell the difference between California and Italian wine.

This is not an effort to be anticompetitive; this is an effort to be competitive.

We are asking for reciprocity. We are asking for equity.

□ 2315

We are asking for the same standards that apply to California and New York and, indeed, U.S. beer, wines, and liquor to be applied to those we import. What is good for the importers should be good for the exporters. We are not asking for anything special. In fact, we have gone as far as we can, as the gentleman from California [Mr. ROYBAL] said, to accommodate our critics from the true monopolies, those States that do run their own businesses and do not permit private competition. They do have true monopolies, and they keep the prices up for the benefit of revenue and they are putting aside public health, I think. In order to be fair, we said let the manufacturer, let the country of origin, somebody give us a certificate that requires they meet the same standards we have to meet, and that compromise was rejected in the Senate and therefore does not appear beside this bill as report language, as it should.

So at this late hour I would simply urge to stick with the committee. I would appreciate that. I think the California and other U.S. vintners and distillers would as well.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I would be happy to yield to my friend.

Mr. LEWIS of California. I thank the gentleman for yielding.

As my colleagues know, VIC FAZIO and I seldom agree in the House. Clearly he needs some credibility when we are talking about competition. But having said that, in this case the gentleman is exactly right. I want to associate myself with his remarks. It is very apparent that there are those overseas who tried to shut our markets, tried to create unfair competition overseas. It should be a two-way street.

Clearly, in this case, clearly the gentleman from Washington has some special interests and California has none. We do appreciate the comments of the gentleman from California [Mr. FAZIO] and I am glad to rise in support of his position.

Mr. FAZIO. I appreciate the gentleman from California in more ways than I can say.

Mr. LOWRY of Washington. Will my friend from California in the well yield?

Mr. FAZIO. I would be happy to yield to my friend from Washington.

Mr. LOWRY of Washington. I thank the gentleman for yielding.

Now I always agree with the previous two statements of the gentleman from California, both of them. California obviously has no special interests, and that is why so many people from California speak on this.

Mr. FAZIO. How many people from California have spoken on this? Just two.

Mr. LOWRY of Washington. More than that. Is it not true that the adulteration of the wine, the illegal products put into the wine was done by the manufacturers that the Mrazek language would have given the documentation? The bank robbers watching the bank? Is that what it does?

Mr. FAZIO. If I could respond, I think the intent of this language is to prevent any adulterated products from any source, whether it comes through a gray market to a State or directly through an importer.

Mr. REGULA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MRAZEK. Mr. Speaker, I yield back the balance of my time.

Mr. LOWRY of Washington. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Washington [Mr. LOWRY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HORTON. Mr. Speaker, I object to the vote on the ground that a quroum is not present and make the point or order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were— yeas 297, nays 113, not voting 22, as follows

[Roll No. 474]

YEAS—297

Abercrombie	Bilirakis	Chappell
Alexander	Bliley	Chappie
Annunzio	Boggs	Cheney
Anthony	Boland	Clay
Applegate	Boner (TN)	Clinger
Archer	Bonker	Coats
Armey	Borski	Cobey
Atkins	Bosco	Coble
AuCoin	Boucher	Coleman (MO)
Barnes	Boulter	Collins
Barton	Broomfield	Combest
Bates	Brown (CO)	Cooper
Bedell	Burton (IN)	Coughlin
Beilenson	Bustamante	Courter
Bennett	Byron	Coyne
Bereuter	Callahan	Craig
Berman	Carper	Crane
Bevill	Chandler	Daniel
Biaggi	Chapman	Dannemeyer
Daub	Kolbe	Roth
Davis	Kolter	Roukema
de la Garza	Kostmayer	Rowland (CT)
Derrick	Kramer	Russo
DeWine	Leach (IA)	Sabo
Dicks	Leath (TX)	Saxton
Donnelly	Leland	Schaefer
Dorgan (ND)	Levin (MI)	Schneider
Dornan (CA)	Lewis (FL)	Schroeder
Dowdy	Lightfoot	Schulze
Dreier	Lipinski	Seiberling
Duncan	Lloyd	Sharp
Dymally	Lowry (WA)	Shaw
Dyson	Luken	Shelby
Early	Lungren	Shumway
Eckart (OH)	Mack	Shuster
Edgar	MacKay	Sikorski
Edwards (OK)	Madigan	Siljander
Emerson	Manton	Sisisky
English	Marlenee	Skeen
Erdreich	Martin (IL)	Skelton
Evans (IA)	Matsui	Slattery
Fawell	Mavroules	Smith (IA)
Fiedler	Mazzoli	Smith (NE)
Fields	McCandless	Smith (NJ)
Flippo	McCollum	Smith, Denny (OR)
Florio	McCurdy	Smith, Robert (NH)
Foglietta	McDade	Smith, Robert (OR)
Foley	McEwen	Snowe
Ford (TN)	McKernan	Snyder
Frank	McKinney	Spence
Franklin	McMillan	Spratt
Frenzel	Meyers	Staggers
Frost	Mica	Stallings
Fuqua	Mikulski	Stangeland
Gallo	Miller (WA)	Stenholm
Garcia	Mitchell	Stokes
Gaydos	Moakley	Strang
Gejdenson	Molinari	Studds
Gekas	Mollohan	Stump
Gephardt	Montgomery	Sundquist
Gibbons	Moody	Sweeney
Gingrich	Morrison (CT)	Swift
Glickman	Morrison (WA)	Swindall
Gonzalez	Murphy	Synar
Goodling	Murtha	Tallon
Gordon	Myers	Tauke
Gradison	Natcher	Tauzin
Gray (PA)	Neal	Torres
Green	Nelson	Towns
Gregg	Nielson	Traficant
Guarini	Oakar	Udall
Gunderson	Oberstar	Valentine
Hall (OH)	Olin	Vander Jagt
Hall, Ralph	Ortiz	Vento
Hatcher	Oxley	Visclosky
Hayes	Packard	Volkmer
Hefner	Parris	Vucanovich
Hendon	Pease	Walgren
Henry	Penny	Walker
Hertel	Pepper	Watkins
Hiler	Perkins	Waxman
Hillis	Petri	Weaver
Holt	Pickle	Weber
Hopkins	Porter	Wheat
Howard	Price	Whitehurst
Hubbard	Rahall	Whittaker
Huckaby	Rangel	Whitten
Hughes	Ray	Williams
Hyde	Regula	Wirth
Ireland	Reid	Wise
Jacobs	Richardson	Wolf
Jeffords	Ridge	Wyden
Johnson	Rinaldo	Wylie
Jones (NC)	Ritter	Yates
Jones (TN)	Roberts	Yatron
Kanjorski	Robinson	Young (AK)
Kaptur	Rodino	Young (FL)
Kasich	Roemer	
Kastenmeier	Rogers	
Kennelly	Rostenkowski	

NAYS—113

Ackerman	Brown (CA)	Dickinson
Akaka	Bruce	Dingell
Anderson	Bryant	DioGuardi
Andrews	Carney	Dixon
Badham	Carr	Downey
Barnard	Coelho	Durbin
Bartlett	Coleman (TX)	Dwyer
Bateman	Conte	Eckert (NY)
Bentley	Darden	Edwards (CA)
Boehlert	Daschle	Evans (IL)
Bonior (MI)	DeLay	Fascell
Boxer	Dellums	Fazio

Feighan	Loeffler	Rowland (GA)
Fish	Lott	Roybal
Ford (MI)	Lowery (CA)	Savage
Gilman	Lujan	Scheuer
Gray (IL)	Markey	Schuette
Hamilton	Martin (NY)	Schumer
Hammerschmidt	Martinez	Sensenbrenner
Hawkins	McCloskey	Slaughter
Horton	McGrath	Smith (FL)
Hoyer	McHugh	Solarz
Hunter	Michel	Solomon
Hutto	Miller (CA)	Stratton
Jenkins	Miller (OH)	Taylor
Kemp	Mineta	Thomas (CA)
Kildee	Monson	Thomas (GA)
Kleczka	Moorhead	Torricelli
LaFalce	Mrazek	Traxler
Lagomarsino	Nowak	Waldon
Lantos	Obey	Whitley
Latta	Owens	Wilson
Lehman (CA)	Panetta	Wolpe
Lehman (FL)	Pashayan	Wortley
Lent	Pursell	Wright
Levine (CA)	Quillen	Young (MO)
Lewis (CA)	Roe	Zschau
Livingston	Rose	

NOT VOTING—22

Aspin	Grotberg	Moore
Breaux	Hansen	Nichols
Brooks	Hartnett	Rudd
Burton (CA)	Jones (OK)	St Germain
Campbell	Kindness	Stark
Conyers	Long	Weiss
Crockett	Lundine	
Fowler	McCain	

□ 2330

Messrs. MARTINEZ, SMITH of Florida, KILDEE, WOLPE, TRAXLER, SOLARZ, BOEHLERT, SAVAGE, and AKAKA changed their votes from "yea" to "nay."

Messrs. MURPHY, ALEXANDER, CALLAHAN, BEILENSON, MARLENEE, MOLINARI, FRANKLIN, DUNCAN, LUNGREN, and GLICKMAN changed their votes from "nay" to "yea."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 117; Page 63, line 18, insert the following language:

SEC. 163. Notwithstanding any legislative or judicial requirement, the Office of Surface Mining Reclamation and Enforcement may delay the finalization of the proposed rulemaking amending Parts 773 and 778 of the Code of Federal Regulations as published in the Federal Register on April 5, 1985 (50 FR 13724) until March 31, 1987.

□ 2340

MOTION OFFERED BY MR. REGULA

Mr. REGULA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. REGULA:

Mr. REGULA moves that the House recede from its disagreement to the amendment of the Senate numbered 117 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 155. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended (without regard to the limitation contained in section 102) by adding at the end the following new subsection:

"(j)(1) Any rig, platform, or other structure used for the purpose of exploration or production of oil and gas on the Outer Continental Shelf south of 49 degrees North latitude shall be built—

"(A) in the United States either by a United States chartered corporation or by a joint venture between a United States chartered corporation and a foreign corporation, with at least 50 percent of total man hours expended in the United States; and

"(B) from articles, materials, or supplies at least 50 percent of which by cost, shall have been mined, produced, or manufactured, as the case may be, in the United States.

"(2) The requirements of paragraph (1) shall not apply to any rig, platform, or other structure which was built, which is being built, or for which a building contract has been executed, on or before October 1, 1986, and shall expire with respect to any rig, platform, or other structure for which either the bidding or award process has commenced on or after September 30, 1991.

"(3) The Secretary may waive—

"(A) the requirement in paragraph (1)(B) whenever the Secretary determines that 50 percent of the articles, materials, or supplies for a rig, platform, or other structure cannot be mined, produced, or manufactured, as the case may be, in the United States; and

"(B) the requirement in paragraph (1)(A) upon application, with respect to any classification of rigs, platforms, or other structures on a specific lease, when the Secretary determines that at least 50 percent of such classification, as calculated by number and by weight, which are to be built for exploration or production activities under such lease will be built in the United States in compliance with the requirements of paragraph (1)(A).".

Mr. REGULA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Ohio?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. FRENZEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRENZEL. Mr. Speaker, I am opposed to the bill. If no more important Member claims that title, am I allowed 20 minutes of debate?

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. FRENZEL] is entitled to 20 minutes.

The gentleman from Ohio [Mr. REGULA] will be recognized for 20 minutes, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 20 minutes, and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. I thank the gentleman for yielding time to me.

Mr. Speaker, I ask unanimous consent to offer an amendment that is at the desk to the motion offered by the gentleman from Ohio [Mr. REGULA].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. WALKER. Mr. Speaker, reserving the right to object, I will yield to the gentleman from Minnesota under my reservation in order to explain his amendment.

Mr. OBERSTAR. I thank the gentleman.

Mr. Speaker, the amendment deals with language that is already in the continuing resolution which provides for health coverage of retirees affected by the LTV bankruptcy.

The language that is in the CR affects only those workers in steel. My proposed amendment would affect retirees who are laid off by the same bankruptcy but who worked for Iron Ore Mining Co., in northern Minnesota and who are not covered by the language in the CR.

About 1,000 employees who, if the amendment were adopted, would, and it would apply to no other company in bankruptcy, 1,000 employees who would be allowed to be considered by the referee in bankruptcy to have their health premiums included in the proceedings in bankruptcy. It is simply an equalizing amendment.

If the gentleman will yield further, this is not the ideal circumstance or vehicle in which to make this amendment, this offering. It is under unusual circumstances, but these are unfortunate people. There are many of my constituents who were caught in that bankruptcy who were in the waiting room in health clinics and a few who were in the operating rooms who were told their health benefits were cut off.

This will not restore health benefits automatically but will allow them the opportunity to have their say in court along with those retirees in the steel industry.

Mr. WALKER. I thank the gentleman for his explanation.

Mr. Speaker, further reserving the right to object, I would say to the gentleman that I have a great deal of sympathy for what he is attempting to do and I congratulate him for trying to help these people in his district. However, we are developing a pattern here of adding extraneous amendments onto amendments in disagreement. I think it is a bad pattern for this House to undertake.

Therefore, Mr. Speaker, I am constrained to object.

The SPEAKER pro tempore. Objection is heard.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will not take a lot of time. This is billed as "Buy America," but what it really should be called is "Joint Venture America."

This is an amendment that I am proposing that would allow Americans to participate in the construction of the drilling rigs that will be used on the Outer Continental Shelf of the United States. It does not include Alaska. But it does include other areas.

What the amendment would propose to say is that any of the drilling rigs that are used on this land that is owned by all of the people of these United States, that beyond the 3-mile limit, it is a source of a very important resource to us; namely, petroleum products, that these rigs would contain 50 percent of the materials bought in the United States, 50 percent of the labor would come from the United States.

We recognize in the interest of competition that there should be a period of time certain so that Congress can readdress the problem. It is a policy issue. Therefore, the amendment includes a 5-year sunset provision. That would be well if we had that in a lot of the legislation we pass.

In addition, it allows the Secretary of the Interior to waive these requirements in the event the materials required are not available in the United States for any reason, or in the event that two rigs are on the same lease, the Secretary could allow one rig to be totally built overseas provided the other rig was built entirely in the United States.

I think it is a very reasonable approach. It is not 100 percent; it is saying 50 percent that should be constructed here. It does not apply to any ships or vessels so it has no impact on the Jones act.

The net result of this is that a company could have the jacket, the part that goes down under the water constructed overseas and have the platform, which is the high technology part of it, constructed in the United States so long as 50 percent of the materials and labor were United States.

Now, you might say is there any precedent for this. Well, the precedent is that the oil companies got put in the Outer Continental Shelf regulations, a provision that only 100 percent of U.S. companies can drill on the OCS. Not 50 percent; 100 percent of any drilling on the Outer Continental Shelf as to be U.S. companies.

They also provide that only American labor, 100 percent of American labor has to be on these drilling rigs. Only American ships can haul the oil that is produced on the Outer Continental Shelf by the American companies. Even the oil has to be taken into the ports in the United States has to be sold in the United States unless the President waives that requirement. Except in the case of Alaska, there is no requirement for our waiver.

I would point out that even now the oil companies are lobbying with the support of the administration to require that 50 percent of the oil that goes into SPRO be produced in the United States. The same thing we are asking for on drilling rigs. Also the oil companies are lobbying to require an oil import fee to encourage the consumption of U.S. petroleum.

What I am saying is that fair is fair. What we are saying, in effect, with this amendment is that if you are going to use a drilling rig on the United States' own land, owned by all the people, at least 50 percent of that rig ought to be produced in the United States.

The important issue is that we maintain the capability technologically to produce these rigs. It means in terms of national security that we will be able, prospectively, to produce that are needed in a period of crisis. Oil is, obviously, absolutely essential to the United States' national security. It means that we maintain some jobs in this country and it means that we maintain competition of our overseas competitors.

It is important in terms of balance of payments. I would point out to the Members that Korea is one of the major exporters of drilling rigs to the United States. That Korea, in 1981, had a $300-million balance of payments in favor of Korea versus the United States. Five years later in 1986 it is $7 billion and it is going up. I think if we are concerned about the balance of payments, if we are concerned about jobs, if we are concerned about national security, if we are concerned about maintaining technological capability in the United States, that this is a very modest amendment.

It is simply saying that we should have joint ventures. In fact, the language includes a provision for joint ventures and it is saying that at least let us give the United States a shot at half the cost of producing these in terms of labor, in terms of materials, and in doing so, we maintain our technological capability. You might say, "Are there facilities?" The answer is, yes, there are at least six locations on the west coast that could be available in a short time. In the most recent bid, three American companies bid so the capability is there.

□ 2350

I think what we are proposing in this amendment is very reasonable. It is not 100 percent. It is 50 percent joint venture America. I hope that my colleagues will support this approach.

Certainly if we are going to have drilling done 100 percent by American companies with 100 percent American labor, hauled on 100 percent American ships, sold in America, the least we can do is provide that those big rigs are 50 percent United States.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time.

Mr. FRENZEL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong opposition to the amendment offered by the gentleman from Ohio to the conference report on House Joint Resolution 738 which was reported in true disagreement by the appropriations conference.

The amendment would require that rigs, platforms, or other structures used in oil and gas operations be built in the United States of at least 50-percent U.S. labor and 50-percent domestic material.

This is the same Buy America amendment which has come up repeatedly and was last rejected on the reconciliation package. In the name of "preserving competitiveness" of U.S. steel fabricators, the amendment would severely damage the economic viability of offshore oil and gas operators and threaten the markets of other U.S. companies bidding in foreign procurement markets. Finally, broader overall U.S. trade policy objectives would be threatened, if this amendment were enacted.

At the recently concluded meeting of the GATT, we, along with our trading partners, agreed to eliminate new protectionist measures (the standstill agreement). If we violate this ministerial commitment by adopting new trade restrictions, we will be inviting other countries to yield to protectionist pressures or to seek retaliation through measures aimed at restricting our exports. It will risk all of our efforts to negotiate a satisfactory agreement at the Uruguay round.

This amendment will also hamper U.S. efforts to open foreign government procurement markets to U.S. exports. We are currently involved in negotiations aimed at expanding coverage of the Government Procurement Code. However, our credibility with our trading partners will be compromised if we enact new "buy national" restrictions at the same time we are trying to negotiate limitations on such practices.

Mr. Speaker, this provision has never been considered by the Committee on Ways and Means which has jurisdiction over import restrictions. If we were not circumventing the formal appropriations process, I suspect a point of order would lie against this amendment.

I oppose thwarting normal legislative procedures to enact additional special interest provisions. The administration is already engaged in numerous efforts to ensure that trade in fab-

ricated steel products is fair and equitable. We have voluntary restraint agreements with the major steel exporting countries and action has been taken by the Commerce Department against dumping and subsidy practices with respect to these products. Commerce has determined dumping duties of 8 percent against Japan and 17 percent against Korea on drill jackets and piles. A 4-percent countervailing duty was found against Korea on same.

It is patently unfair to restrict purchases of the oil and gas industry, already under considerable economic stress because of oil prices, in order to address unrelated problems in the steel industry. I urge my colleague to defeat the amendment offered by the gentleman from Ohio to the continuing resolution.

I submit for the record letters from three Cabinet members, each expressing the objections of the administration to the Regula amendment. Each also cites good economic arguments against the amendment:

THE U.S. TRADE REPRESENTATIVE,
Washington, July 15, 1986.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in regard to the Outer Continental Shelf "Buy America" amendment which may be offered in the Subcommittee on Interior to the Department of Interior appropriation bill for fiscal year 1987. This amendment would require that 50 percent of the materials and supplies on vessels and structures used for exploration and production activities on the Outer Continental Shelf be of domestic origin and these structures be built in the United States. I expressed opposition to this provision last year when it was offered as part of the fiscal year 1986 Interior Department Appropriations bill and the Omnibus Budget Reconciliation bill. My position has not changed.

First, it will result in significantly increased costs for exploration and development of offshore oil and gas resources. Drilling activity has already fallen to historic lows in the United States. This further negative factor will exacerbate the problem with implications for our energy supply security in the future.

Second, it is possible that the amendment, if adopted, could lead to foreign retaliation which could affect other sectors of the U.S. economy. U.S. oil producers already face potential "buy national" laws which are under consideration in the United Kingdom, Norway, the Netherlands and Denmark. If the United States were to adopt a "Buy America" provision, foreign governments would be less willing to resist similar provisions, and would be likely to retaliate against U.S. products. Such retaliation would hurt other sectors of the U.S. economy, since any retaliation would not be confined to the oil equipment sector.

Third, this kind of "Buy America" legislation is contrary to United States obligations under the General Agreement on Tariffs and Trade (GATT). Under Article III.4, the United States is committed to maintaining national treatment for products covered by the agreement. Eliminating foreign access to the U.S. market for any product used by domestic oil companies in connection with exploration activities on the Outer Continental Shelf would violate this agreement and could ultimately require the United States to compensate injured parties in sectors not related to drilling. We cannot expect our trading partners to uphold their obligations in the face of blatant violations such as those represented by this amendment.

Finally, I am concerned that enactment of such legislation will undermine the U.S. position of leadership in expanding and strengthening the international trading system. We are currently engaged in an effort to renegotiate the Government Procurement Code, with the goal of improving the competitive process by which governments procure goods and expanding the coverage of the Code. If successful, these efforts will provide even greater access for American goods, and the jobs which support them, to foreign markets. However, our credibility would be sorely tested if we are put in the position of calling for greater access to foreign markets while, at the same time, placing new restrictions on access to our own markets.

In summary, the Administration believes the potential negative economic and employment consequences of this amendment are overwhelming and far outweigh the intended benefits of the amendment. For these reasons, the Administration is strongly opposed to this amendment. I appreciate your taking the time to consider these concerns and urge that the amendment be rejected.

The Office of Management and Budget advises that, from the standpoint of the President's program, there is no objection to the submission of this report to the Congress.

Sincerely,

CLAYTON YEUTTER.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 15, 1986.

Hon. SILVIO O. CONTE,
Ranking Minority Member, Committee on Appropriations, U.S House of Representatives, Washington, DC.

DEAR MR. CONTE: Based on our preliminary analysis and representations made by the conferees, we urge adoption of the Conference Report.

During the course of negotiations, the conferees made substantial progress toward meeting the objections raised by the Administration. In particular, the Conference Report reasonably holds the line on most spending; provides funding for defense and foreign assistance that has been agreed on with representatives of the Administration; provides essential aid for Contras and for Central America; and includes the carefully negotiated agreement on arms control.

However, to make the resolution acceptable to the President, I also urge Congress to delete two provisions that are in true disagreement. Both of these provisions—the so-called "Buy American-Outer Continental Shelf" and "Double Breasting" provisions—have been opposed consistently and most strongly by the Administration.

Sincerely yours,

JAMES C. MILLER III,
Director.

THE SECRETARY OF COMMERCE,
Washington, DC, October 2, 1986.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I wish to convey in the strongest terms my opposition to section 114 of H.R. 5234, the fiscal-year 1987 Interior and Related Agencies Appropriations bill. H.R. 5234 was adopted on September 25, 1986 by the House as part of H.J. Res. 738, the fiscal-year 1987 continuing appropriations resolution.

Section 114 would require that oil exploration and production vessels and platforms for use on the Outer Continental Shelf of the United States be constructed in the United States and comprise materials and supplies at least fifty-percent of U.S. origin.

"Buy America" legislation of this sort is contrary to our obligations under the GATT, which requires that the United States provide national treatment for covered products of other signatories. If this provision were enacted, our trading partners would certainly demand compensation, or retaliate against an equivalent amount of trade.

More likely, and more critical, is the prospect of reciprocal legislation by our trading partners. U.S. oil producers already are facing "buy national" problems in the United Kingdom, Norway, the Netherlands and Denmark. If the United States were to enact this provision, these and other governments would find it difficult to resist pressure to reciprocate with exclusion or severe limitation of U.S. exploration and production equipment in foreign countries. Why should they uphold their obligations to us if we violate our obligations to them in this blatant fashion?

I urge your help in striking this provision from any continuing appropriations bill enacted by the Congress.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, I cannot add anything more to the brilliant speech of the gentleman from Ohio [Mr. REGULA], and I just hope that the Members will vote for Buy America.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, in 3 minutes, the Government will be entirely out of money. There will be no appropriations for anything to happen from now on.

That is a disgrace. But this would further add to the disgrace. What are we talking about? We are talking about an appropriations bill. I do not blame my fine friends on the Committee on Appropriations if they cannot get their legislation enacted anywhere. They bring it in a crisis time here and say, take it or leave it, fellows. We

have got the power; hold your nose and swallow it.

That is what they are saying to us. That is exactly what they are saying to us. There is not a bill introduced in this Congress dealing with this subject. Why? Because they know they cannot get it passed through regular process unless they logroll it on something like this.

If it comes to the Committee on Ways and Means, as it would come in its normal, natural process, we will give it a fair, full hearing before we hang it. But they do not choose to come that way. They come through the back door, as the Government collapses.

There is no free lunch in this world. There is no free lunch in trade. If we take this kind of unilateral action after we have pledged not to do this, our trading partners can take the same kind of action against us, not against something like this, but against our farm products and against our other products.

You are not getting anything for this. You are getting it through the back door. It should not be enacted and may I remind my colleagues, as the Government collapses here without any money, that the President has threatened to veto this continuing resolution if this particular matter is in it.

Now, you may want to call his bluff. A lot of times I get a couple of snorts in me and I want to call his bluff, too.

□ 2400

But that is not the thing to do. We ought to be here appropriating. We should not be legislating in a substantive manner. If the people who support this kind of legislation have not got enough guts to bring it to the floor in the form of a bill, in the form of an amendment, then it ought to be rejected here at 12 o'clock midnight on the night the Government ran out of money.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Speaker, I know the hour is late and I am only going to speak for less than a minute, but in all due respect to the preceding speaker, I might say that the Trade Subcommittee is not the only committee in this Congress that deals with these matters. In fact, the Outer Continental Shelf Act was authorized by the Merchant Marine and Fisheries Committee. That committee has held hearings on this matter. There is a bill before the Congress. I introduced it myself and that committee on two occasions voted out language very similar to the measure that we have before us.

I might say relative to this issue of free trade, I have voted partially upon the advice of the preceding speaker against every protectionist piece of legislation that we have had here in the Congress; but free trade has to also be fair trade.

This summer the International Trade Commission found by unanimous vote of the International Trade Commission that both Korea and Japan have unfairly traded in this very area of offshore oil rigs.

The Interstate Commerce Commission imposed penalties in the form of tariffs on both Korea and Japan for injuring United States workers and businesses by their actions.

Mr. Speaker, this is a limited measure. I think it will help remedy a trade problem that we now have. I certainly support the amendment offered by the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I will not take a lot of time. I would just like to say, where is the trade bill that this House passed? Now we are at the last minute and we still have not seen a trade bill.

To the previous speaker who said that we have to have access to our foreign partners, count the number of American cars in Japan, folks.

We are asking for a very, very meager amendment here, 50 percent labor, 50 percent material. You find a pipe mill or a tube mill still operating in this country. We have opened the gates and we will have no domestic oil industry, let alone the infrastructure to produce it.

I say, stand on this thing. It is not a bluff to the President. We should have had a trade bill out of here. This Congress should be ashamed of itself for not having it. We should pass this amendment.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I do not need 2 minutes. All I want to tell you is that the gentleman from Florida is absolutely right. He is a great American. I agree with every word the gentleman said, and I ask for everybody to vote this motion down.

Mr. REGULA. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. STRANG].

Mr. STRANG. Mr. Speaker, I know it is late, but let me tell you what is happening in the drilling world, in the oil drilling world. We are having the stuffing kicked out of us and Lone Star Steel in the State of Texas is in bankruptcy; Colorado Fuel and Iron had the worst quarter they ever had. Why? Because our trading partners are violating the voluntary restraint agreements. They are violating them by a factor of 100 percent.

Why do we owe them the courtesy of our infatuation with free trade when we can have a "Buy American" which is 50–50 and give American steelmakers an opportunity to recover, rather than to go completely down the tube.

Mr. WHITTEN. Mr. Speaker, I am in support of this provision.

Mr. Speaker, I have no further requests for time.

Mr. REGULA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Ohio [Mr. REGULA].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 264, noes 133, not voting 35, as follows:

[Roll No. 475]

AYES—264

Abercrombie	Dicks	Hunter
Ackerman	Dingell	Jacobs
Akaka	Dixon	Jeffords
Alexander	Donnelly	Jenkins
Anderson	Dorgan (ND)	Johnson
Andrews	Dowdy	Jones (NC)
Annunzio	Downey	Jones (TN)
Applegate	Duncan	Kanjorski
Barnard	Durbin	Kasich
Barnes	Dwyer	Kastenmeier
Bateman	Dymally	Kennelly
Bennett	Dyson	Kildee
Bentley	Eckart (OH)	Kleczka
Bevill	Edgar	Kolter
Biaggi	Edwards (CA)	Kostmayer
Boehlert	Emerson	Kramer
Boggs	Erdreich	Lantos
Boland	Evans (IL)	Lehman (CA)
Boner (TN)	Fazio	Leland
Bonior (MI)	Feighan	Levin (MI)
Borski	Flippo	Levine (CA)
Bosco	Foglietta	Lipinski
Boucher	Ford (MI)	Livingston
Boxer	Ford (TN)	Lloyd
Broomfield	Franklin	Lott
Brown (CA)	Frost	Lowery (CA)
Bruce	Fuqua	Lujan
Bryant	Gallo	Luken
Bustamante	Garcia	Madigan
Byron	Gaydos	Manton
Callahan	Gejdenson	Martin (IL)
Carney	Gekas	Martin (NY)
Carper	Gephardt	Martinez
Carr	Gilman	Mavroules
Chapman	Gingrich	McCloskey
Chappell	Glickman	McDade
Chappie	Gonzalez	McEwen
Cheney	Goodling	McKernan
Clay	Gordon	McKinney
Clinger	Gray (IL)	McMillan
Cobey	Gray (PA)	Mikulski
Coble	Gunderson	Miller (CA)
Coelho	Hall, Ralph	Miller (OH)
Coleman (MO)	Hamilton	Mitchell
Coleman (TX)	Hammerschmidt	Moakley
Collins	Hatcher	Mollohan
Conte	Hawkins	Montgomery
Coughlin	Hayes	Morrison (CT)
Coyne	Hefner	Mrazek
Daniel	Hendon	Murphy
Darden	Henry	Murtha
Daschle	Hertel	Myers
Daub	Horton	Natcher
Davis	Howard	Nelson
de la Garza	Hubbard	Nowak
Dellums	Huckaby	Oakar
Derrick	Hughes	Oberstar

Obey	Savage	Taylor
Olin	Schaefer	Thomas (GA)
Owens	Schneider	Torres
Panetta	Schuette	Torricelli
Parris	Schulze	Towns
Pashayan	Schumer	Traficant
Pease	Seiberling	Valentine
Pepper	Sharp	Vento
Perkins	Shelby	Visclosky
Price	Sikorski	Volkmer
Quillen	Sisisky	Waldon
Rahall	Skeen	Walgren
Rangel	Skelton	Walker
Ray	Slattery	Weaver
Regula	Smith (FL)	Wheat
Reid	Smith (NJ)	Whitehurst
Richardson	Smith, Robert (NH)	Whitley
Ridge	Snowe	Whitten
Rinaldo	Snyder	Wilson
Ritter	Solomon	Wirth
Robinson	Spence	Wise
Roemer	Spratt	Wolpe
Rogers	Staggers	Wortley
Rose	Stark	Wright
Rostenkowski	Stokes	Wylie
Roth	Strang	Yates
Roukema	Stratton	Yatron
Rowland (CT)	Studds	Young (AK)
Rowland (GA)	Sundquist	Young (FL)
Roybal	Swift	Young (MO)
Russo	Tauzin	
Sabo		

NOES—133

Anthony	Gradison	Nielson
Archer	Green	Ortiz
Armey	Gregg	Oxley
Atkins	Guarini	Packard
AuCoin	Hiler	Penny
Badham	Hillis	Petri
Bartlett	Holt	Pickle
Barton	Hoyer	Porter
Bates	Hutto	Pursell
Bedell	Hyde	Roberts
Beilenson	Ireland	Rodino
Bereuter	Kemp	Saxton
Berman	Kolbe	Scheuer
Bilirakis	LaFalce	Schroeder
Bliley	Lagomarsino	Sensenbrenner
Bonker	Latta	Shaw
Boulter	Leach (IA)	Shumway
Brown (CO)	Lehman (FL)	Siljander
Burton (IN)	Lent	Slaughter
Chandler	Lewis (CA)	Smith (IA)
Coats	Lewis (FL)	Smith (NE)
Combest	Lightfoot	Smith, Denny (OR)
Cooper	Loeffler	Smith, Robert (OR)
Courter	Lowry (WA)	Solarz
Craig	Lungren	Stallings
Crane	Mack	Stangeland
Dannemeyer	MacKay	Stenholm
DeLay	Markey	Stump
DeWine	Marlenee	Sweeney
Dickinson	Matsui	Swindall
DioGuardi	Mazzoli	Synar
Dornan (CA)	McCandless	Tallon
Dreier	McCollum	Tauke
Early	McCurdy	Thomas (CA)
Eckert (NY)	McHugh	Udall
Edwards (OK)	Meyers	Vander Jagt
English	Mica	Vucanovich
Evans (IA)	Michel	Watkins
Fascell	Miller (WA)	Weber
Fawell	Mineta	Whittaker
Fields	Molinari	Wolf
Foley	Monson	Wyden
Frank	Moody	Zschau
Frenzel	Moorhead	
Gibbons	Morrison (WA)	

NOT VOTING—35

Aspin	Hall (OH)	Moore
Breaux	Hansen	Neal
Brooks	Hartnett	Nichols
Burton (CA)	Hopkins	Roe
Campbell	Jones (OK)	Rudd
Conyers	Kaptur	Shuster
Crockett	Kindness	St Germain
Fiedler	Leath (TX)	Traxler
Fish	Long	Waxman
Florio	Lundine	Weiss
Fowler	McCain	Williams
Grotberg	McGrath	

□ 0015

Mr. WATKINS and Mr. TALLON changed their votes from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The Clerk will designate the final amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 124, page 71, line 13: insert the following language:

TITLE VII

METROPOLITAN WASHINGTON AIRPORTS

SEC. 701. SHORT TITLE AND TABLE OF CONTENTS.

This title may be cited as the "Metropolitan Washington Airports Act of 1986".

TABLE OF CONTENTS

Sec. 701. Short title.
Sec. 702. Findings.
Sec. 703. Purpose.
Sec. 704. Definitions.
Sec. 705. Lease of Metropolitan Washington airports.
Sec. 706. Capital improvements, construction, and rehabilitation.
Sec. 707. Airports authority.
Sec. 708. Federal employees at the Metropolitan Washington airports.
Sec. 709. Relationship to and effect of other laws.
Sec. 710. Authority to negotiate extension of lease.
Sec. 711. Separability.
Sec. 712. Nonstop flights.

SEC. 702. FINDINGS.

The Congress finds that—

(1) the two federally owned airports in the metropolitan area of Washington, District of Columbia, constitute an important and growing part of the commerce, transportation, and economic patterns of the Commonwealth of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by the State of Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the two federally owned airports, and timely Federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet the growing air traffic needs and to compete with other airports on a fair basis;

(3) the Federal Government has a continuing but limited interest in the operation of the two federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local agency will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95-504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the two airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the Federal Government and State governments involved;

(7) in recognition of the limited need for a Federal role in the management of these airports and the growing local interest, the Secretary has recommended a transfer of authority from the Federal to the local/State level that is consistent with the management of major airports elsewhere in the Nation;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by the Commonwealth of Virginia and the District of Columbia; and

(10) the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

SEC. 703. PURPOSE.

(a) IN GENERAL.—It is therefore declared to be the purpose of the Congress in this title to authorize the transfer of operating responsibility under long-term lease of the two Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by the Commonwealth of Virginia and the District of Columbia, in order to achieve local control management, operation, and development of these important transportation assets.

(b) INCLUSION OF BWI NOT PRECLUDED.—Nothing in this title shall be construed to prohibit the Airports Authority and the State of Maryland from entering into an agreement whereby Baltimore/Washington International Airport may be made part of a regional airports authority, subject to terms and conditions agreed to by the Airports Authority, the Secretary, the Commonwealth of Virginia, the District of Columbia, and the State of Maryland.

SEC. 704. DEFINITIONS.

In this title—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIRPORTS AUTHORITY.—The term "Airports Authority" means the Metropolitan Washington Airports Authority, a public body to be created by the Commonwealth of Virginia and the District of Columbia consistent with the requirements of section 707.

(3) EMPLOYEES.—The term "employees" means all permanent Federal Aviation Administration personnel employed on the date the lease under section 705 takes effect by the Metropolitan Washington Airports, an organization within the Federal Aviation Administration.

(4) METROPOLITAN WASHINGTON AIRPORTS.—The term "Metropolitan Washington Airports" means Washington National Airport and Washington Dulles International Airport.

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(6) WASHINGTON DULLES INTERNATIONAL AIRPORT.—The term "Washington Dulles Inter-

national Airport" means the airport constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between the Interstate Routes I-495 and I-66.

(7) WASHINGTON NATIONAL AIRPORT.—The term "Washington National Airport" means the airport described in the Act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686).

SEC. 705. LEASE OF METROPOLITAN WASHINGTON AIRPORTS.

(a) AUTHORITY TO ENTER INTO LEASE.—The Secretary is authorized to enter into a lease of the Metropolitan Washington Airports with the Airport Authority for a 50-year term and to enter into any related agreement necessary for the transfer of authority and property to the Airports Authority. Authority to enter into a lease and agreement under this section shall lapse two years after the date of the enactment of this title.

(b) PAYMENTS.—

(1) LEASE PAYMENTS.—The lease shall provide for the Airports Authority to pay to the general fund of the Treasury $150,000,000 over the term of the lease, in equal annual installments.

(2) RETIREMENT OBLIGATIONS.—

(A) DISCONTINUED SERVICE.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the actual added costs incurred by the Fund due to discontinued service retirement under section 8336(d)(1) of title 5, United States Code, of employees who elect not to transfer to the Airports Authority.

(B) UNFUNDED LIABILITY.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the present value of the differences between (i) the future cost of benefits payable from the Fund and due the employees covered under section 708(e) of this title that are attributable to the period of employment following the date the lease takes effect, and (ii) the contributions made by the employees and the Airports Authority under section 708(e). In determining the amount due, the Office of Personnel Management shall take into consideration the actual interest such amount can be expected to earn when invested in the Treasury of the United States.

(c) MINIMUM TERMS AND CONDITIONS.—The Airports Authority shall agree, at a minimum, to the following conditions and requirements in the lease:

(1) OPERATION OF AIRPORTS AS A UNIT.—The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2) AIRPORT PURPOSES.—The real property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. For the purposes of this paragraph, the term "airport purposes" means a use of property interests (other than a sale) for aviation business or activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities. If the Secretary determines that any portion of the real property leased to the Airports Authority pursuant to this Act is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of real property in conformity with airport purposes, and (B) retake possession of such portion of real property if the Airports Authority fails to bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

(3) AIP REQUIREMENTS.—The Airports Authority shall be subject to the requirements of section 511(a) of the Airport and Airway Improvement Act of 1982 and the assurances and conditions required of grant recipients under such Act as of the date the lease takes effect. Notwithstanding section 511(a)(12) of such Act, all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of such airports.

(4) CONTRACTS.—In acquiring by contract supplies or services for an amount estimated to be in excess of $200,000, or awarding concession contracts, the Airports Authority shall obtain, to the maximum extent practicable, full and open competition through the use of published competitive procedures. By a vote of seven members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5) CONTINUATION OF REGULATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all regulations of the Metropolitan Washington Airports (14 C.F.R. part 159) shall become regulations of the Airports Authority on the date the lease takes effect and shall remain in effect until modified or revoked by the Airports Authority in accordance with procedures of the Airports Authority.

(B) EXCEPTIONS.—The following regulations shall cease to be in effect on the date the lease takes effect:

(i) section 159.59(a) of title 14, Code of Federal Regulations (relating to new-technology aircraft); and

(ii) section 159.191 of title 14, Code of Federal Regulations (relating to violations of Federal Aviation Administration regulations as Federal misdemeanors).

(C) OPERATIONS.—The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this Act and may not impose a limitation after the date the lease takes effect on the number of passengers taking off or landing at Washington National Airport.

(6) TRANSFER OF RIGHTS, LIABILITIES, AND OBLIGATIONS.—

(A) IN GENERAL.—Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations (tangible and incorporeal, present and executory) of the Metropolitan Washington Airports on the date the lease takes effect, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation relating to such rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of functions related to the period before the effectiveness of the lease. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) EXCEPTIONS.—The procedure for disputes resolution contained in any contract entered into on behalf of the United States before the date the lease takes effect shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the United States as the owner and operator of the Metropolitan Washington Airports, arising before the date the lease takes effect shall be adjudicated as if the lease had not been entered into.

(C) PAYMENTS INTO EMPLOYEES' COMPENSATION FUND.—The Federal Aviation Administration shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United States Code, for compensation paid or payable after the date the lease takes effect in accordance with chapter 81 of title 5; United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(D) COLLECTIVE BARGAINING RIGHTS.—The Airports Authority shall continue all collective bargaining rights enjoyed before the date the lease takes effect by employees of the Metropolitan Washington Airports.

(7) AUDITS.—The Comptroller General of the United States may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General may deem appropriate. All books, accounts, records, reports, files, papers, and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) CODE OF ETHICS.—The Airports Authority shall develop a code of ethics and financial disclosure in order to assure the integrity of all decisions made by the board and its employees.

(9) RESTRICTION ON USE OF CERTAIN REVENUES.—Notwithstanding any other provision of law, no landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington National Airport; or

(B) at Washington National Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) GENERAL AVIATION FEES.—The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee not in excess of the landing fee for aircraft weighing 12,500 pounds.

(11) OTHER TERMS.—The Secretary shall include such other terms and conditions applicable to the parties to the lease as are consistent with and carry out the provisions of this title.

(d) SUBMISSION TO CONGRESS.—The Secretary shall submit the lease entered into under this section to Congress. The lease may not take effect before the passage of (1) 30 days, or (2) 10 days in which either House of Congress is in session, whichever occurs later.

(e) ENFORCEMENT OF LEASE PROVISIONS.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.

SEC. 706. CAPITAL IMPROVEMENTS, CONSTRUCTION, AND REHABILITATION.

(a) IMPROVEMENTS.—It is the sense of the Congress that the Airports Authority should—

(1) pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) to the extent practicable, cause the improvement, construction, and rehabilitation proposed by the Secretary to be completed at both of such Airports within 5 years after the earliest date on which the Airports Authority issues bonds under the authority required by section 707 of this title for any such improvement, construction, or rehabilitation.

(b) SECRETARY'S ASSISTANCE.—The Secretary shall assist the three airports serving the Washington, D.C. metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for Federal financial assistance by whichever of the three airports is most in need of increasing airside capacity.

SEC. 707. AIRPORTS AUTHORITY.

(a) Powers Conferred by Virginia and the District of Columbia.—The Airports Authority shall be a public body corporate and politic, having the powers and jurisdiction as are conferred upon it jointly by the legislative authority of the Commonwealth of Virginia and the District of Columbia or by either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction, but at a minimum meeting the requirements of this section.

(b) PURPOSE.—The Airports Authority shall be—

(1) independent of the Commonwealth of Virginia and its local governments, the District of Columbia, and the Federal Government; and

(2) a political subdivision constituted solely to operate and improve both Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(c) GENERAL AUTHORITIES.—The Airports Authority shall be authorized—

(1) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(2) to issue bonds from time to time in its discretion for public purposes, including the purposes of paying all or any part of the cost of airport improvements, construction, and rehabilitation, and the acquisition of real and personal property, including operating equipment for the airports, which bonds—

(A) shall not constitute a debt of either jurisdiction or a political subdivision thereof; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or part from the proceeds of such bonds;

(3) to acquire real and personal property by purchase, lease, transfer, or exchange, and to exercise such powers of eminent domain within the Commonwealth of Virginia as are conferred upon it by the Commonwealth of Virginia;

(4) to levy fees or other charges; and

(5) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration is so authorized on the date of enactment of this title.

(d) CONFLICT-OF-INTEREST PROVISIONS.—The Airports Authority shall be subject to a conflict-of-interest provision providing that members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airports services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions to requirements of the preceding sentence may be made by the official appointing a member at the time the member is appointed if the financial interest is fully disclosed and so long as the member does not participate in board decisions that directly affect such interest. The Airports Authority shall include in its code developed under section 705(c)(8) of this title the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted.

(d) BOARD OF DIRECTORS.—

(1) APPOINTMENT.—The Airports Authority shall be governed by a board of directors of 11 members, as follows:

(A) 5 members shall be appointed by the Governor of Virginia;

(B) three members shall be appointed by the Mayor of the District of Columbia;

(C) two members shall be appointed by the Governor of Maryland; and

(D) one member shall be appointed by the President with the advice and consent of the Senate.

The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) RESTRICTIONS.—Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Area, except that the member appointed by the President shall not be required to reside in that area.

(3) TERMS.—Members shall be appointed to the board for a term of 6 years, except that of members first appointed—

(A) by the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) by the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; and

(C) by the Governor of Maryland, 1 shall be appointed for 4 years.

(4) REMOVAL OF PRESIDENTIAL APPOINTEES.—A member of the board appointed by the President shall be subject to removal by the President for cause.

(5) REQUIRED NUMBER OF VOTES.—Seven votes shall be required to approve bond issues and the annual budget.

(f) BOARD OF REVIEW.—

(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review, of the Airports Authority, established by the board of directors. The Board of Review shall consist of the following, in their individual capacities, as representatives of users of the Metropolitan Washington Airports:

(A) 4 members of the House of Representatives from a list provided by the Speaker of the House;

(B) 4 members of the Senate from a list provided by the President pro tempore of the Senate; and

(C) one member chosen alternately from members of the House of Representatives and members of the Senate, from a list provided by the Speaker of the House or the President pro tempore of the Senate, respectively.

Two members of the Board of Review shall elect a chairman. A member of the House of Representatives or the Senate from Maryland or Virginia and the Delegate from the District of Columbia may not serve on the Board of Review.

(2) TERMS.—Members of the Board of Review appointed under subparagraphs (A) and (B) of paragraph (1) shall be appointed for terms of 6 years, except that of the members first appointed one member under each of subparagraphs (A) and (B) shall be appointed for a term of two years and one member under each of subparagraphs (A) and (B) shall be appointed for a term of four years. Members of the Board of Review appointed under subparagraph (C) shall be appointed for terms of 2 years. A vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(3) PROCEDURES.—The Board of Review shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting. The Board shall meet at least once each year and shall meet at the call of the chairman or 3 members of the Board. Any decision of the Board of Review under paragraph (4) or (5) shall be by a vote of 5 members of the Board.

(4) DISAPPROVAL PROCEDURE.—

(A) SUBMISSION REQUIRED.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Board of Review at least 30 days (or at least 60 days in the case of the annual budget) before it is to become effective.

(B) ACTIONS AFFECTED.—The following are the actions referred to in subparagraph (A):

(i) the adoption of an annual budget;

(ii) the authorization for the issuance of bonds;

(iii) the adoption, amendment, or repeal of a regulation;

(iv) the adoption or revision of a master plan, including any proposal for land acquisition; and

(v) the appointment of the chief executive officer.

(C) 30-DAY DISAPPROVAL PERIOD.—If the Board of Review does not disapprove an

action within 30 days of its submission under this paragraph, the action may take effect. If the Board of Review disapproves any such action, it shall notify the Airports Authority and shall give reasons for the disapproval.

(D) EFFECT OF DISAPPROVAL.—An action disapproved under this paragraph shall not take effect. Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

(5) REQUEST FOR CONSIDERATION OF OTHER MATTERS.—The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

(6) PARTICIPATION IN MEETING OF AIRPORTS AUTHORITY.—Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.

(7) STAFF.—The Board of Review may hire one staff person, to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the Board may require.

(8) LIABILITY.—A member of the Board of Review shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the Board.

(g) CERTAIN ACTIONS TO BE TAKEN BY REGULATION.—Any action of the Airports Authority changing, or having the effect of changing, the hours of operation of or the type of aircraft serving either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(h) LIMITATION ON AUTHORITY.—If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority shall have no authority to perform any of the actions that are required by subsection (f)(4) to be submitted to the Board of Review.

SEC. 708. FEDERAL EMPLOYEES AT THE METROPOLITAN WASHINGTON AIRPORTS.

(a) EMPLOYEE PROTECTION.—Not later than the date the lease under section 705 takes effect, the Secretary shall ensure that the Airports Authority has established arrangements to protect the employment interests of employees during the 5-year period beginning on such date. These arrangements shall include provisions—

(1) which ensure that the Airports Authority will adopt labor agreements in accordance with the provisions of subsection (b) of this section;

(2) for the transfer and retention of all employees who agree to transfer to the Airports Authority in their same positions for the 5-year period commencing on the date the lease under section 5 takes effect except in cases of reassignment, separation for cause, resignation, or retirement;

(3) for the payment by the Airports Authority of basic and premium pay to transferred employees, except in cases of separation for cause, resignation, or retirement, for 5 years commencing on the date the lease takes effect at or above the rates of pay in effect for such employees on such date;

(4) for credit during the 5-year period commencing on the date the lease takes effect for accrued annual and sick leave and seniority rights which have been accrued during the period of Federal employment by transferred employees retained by the Airports Authority; and

(5) for an offering of not less than one life insurance and three health insurance programs for transferred employees retained by the Airports Authority during the 5-year period beginning on the date the lease takes effect which are reasonably comparable with respect to employee premium cost and coverage to the Federal health and life insurance programs available to employees on the day before such date.

(b) LABOR AGREEMENTS.—

(1) ADOPTION.—The Airports Authority shall adopt all labor agreements which are in effect on the date the lease under section 705 takes effect. Such agreements shall continue in effect for the 5-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree to the contrary before the expiration of that 5-year period. Such agreements shall be renegotiated during the 5-year period, unless the parties agree otherwise. Any labor-management negotiation impasse declared before the date the lease takes effect shall be settled in accordance with chapter 71 of title 5, United States Code.

(2) CONTINUATION.—The arrangements made pursuant to this section shall assure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(c) RIGHTS OF TERMINATED EMPLOYEES.—Any transferred employee whose employment with the Airports Authority is terminated during the 5-year period beginning on the date the lease under section 705 takes effect shall be entitled, as a condition of any lease entered into in accordance with section 705 of this title, to rights and benefits to be provided by the Airports Authority that are similar to those such employee would have had under Federal law if termination had occurred immediately before such date.

(d) ANNUAL AND SICK LEAVE.—Any employee who transfers to the Airports Authority under this section shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Airports Authority with the unused annual leave balance on the date the lease under section 705 takes effect, along with any unused sick leave balance on such date. During the 5-year period beginning on such date, annual and sick leave shall be earned at the same rates permitted on the day before such date, and observed official holidays shall be the same as those specified in section 6103 of title 5, United States Code.

(e) CIVIL SERVICE RETIREMENT.—Any Federal employee who transfers to the Airports Authority and who on the day before the date the lease under section 705 takes effect is subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Airports Authority without a break in service, continue to be subject to such subchapter or chapter, as the case may be. Employment by the Airports Authority without a break in continuity of service shall be considered to be employment by the United States Government for purposes of such subchapter and chapter. The Airports Authority shall be the employing agency for purposes of such subchapter and chapter and shall contribute to the Civil Service Retirement and Disability Fund such sums as are required by such subchapter and chapter.

(f) SEPARATED EMPLOYEES.—An employee who does not transfer to the Airports Authority and who does not otherwise remain a Federal employee shall be entitled to all of the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Airports Authority of work substantially similar to that performed for the Federal Government.

(g) ACCESS TO RECORDS.—The Airports Authority shall allow representatives of the Secretary adequate access to employees and employee records of the Airports Authority when needed for the performance of functions related to the period before the date the lease under section 705 takes effect. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

SEC. 709. RELATIONSHIP TO AND EFFECT OF OTHER LAWS.

(a) OTHER LAWS.—In order to assure that the Airports Authority has the same proprietary powers and is subject to the same restrictions with respect to Federal law as any other airport except as otherwise provided in this title, during the period that the lease authorized by section 705 of this title is in effect—

(1) the Metropolitan Washington Airports shall be considered public airports for purposes of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2201 et seq.); and

(2) the Acts entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686), "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and "An Act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes", approved October 9, 1940 (54 Stat. 1030), shall not apply to the operation of the Metropolitan Washington Airports, and the Secretary shall be relieved of all responsibility under those Acts.

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of fee simple title to such airports or by reason of the authority of the Board of Review under section 707(f).

(c) POLICE POWER.—The Commonwealth of Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of the Commonwealth of Virginia may exercise jurisdiction over Washington National Airport.

(d) PLANNING.—

(1) IN GENERAL.—The authority of the National Capital Planning Commission under section 5 of the Act of June 6, 1924 (40 U.S.C. 71d) shall not apply to the Airports Authority.

(2) CONSULTATION.—The Airports Authority shall consult—

(A) with the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport, and

(B) with the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(e) OPERATION LIMITATIONS.—

(1) HIGH DENSITY RULE.—The Administrator may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this title and may not decrease the number of such takeoffs and landings except for reasons of safety.

(2) ANNUAL PASSENGER LIMITATIONS.—The Federal Aviation Administration air traffic regulation entitled "Modification of Allocation: Washington National Airport" (14 C.F.R. 93.124) shall cease to be in effect on the date of the enactment of this title.

SEC. 710. AUTHORITY TO NEGOTIATE EXTENSION OF LEASE.

The Secretary and the Airports Authority may at any time negotiate an extension of the lease entered into under section 705(a).

SEC. 711. SEPARABILITY.

Except as provided in section 707(h), if any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 712. NONSTOP FLIGHTS.

A person may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,000 statute miles away from Washington National Airport.

MOTION OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEHMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 124 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

TITLE VI—METROPOLITAN WASHINGTON AIRPORTS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act of 1986".

SEC. 6002. FINDINGS.

The Congress finds that—

(1) the two federally owned airports in the metropolitan area of Washington, District of Columbia, constitute an important and growing part of the commerce, transportation, and economic patterns of the Commonwealth of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by the State of Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the two federally owned airports, and timely Federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet the growing air traffic needs and to compete with other airports on a fair basis;

(3) the Federal Government has a continuing but limited interest in the operation of the two federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local agency will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95-504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the two airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the Federal Government and State governments involved;

(7) in recognition of a perceived limited need for a Federal role in the management of these airports and the growing local interest, the Secretary has recommended a transfer of authority from the Federal to the local/State level that is consistent with the management of major airports elsewhere in the Nation;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by the Commonwealth of Virginia and the District of Columbia; and

(10) the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

SEC. 6003. PURPOSE.

(a) IN GENERAL.—It is therefore declared to be the purpose of the Congress in this title to authorize the transfer of operating responsibility under long-term lease of the two Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by the Commonwealth of Virginia and the District of Columbia, in order to achieve local control, management, operation, and development of these important transportation assets.

(b) INCLUSION OF BWI NOT PRECLUDED.—Nothing in this title shall be construed to prohibit the Airports Authority and the State of Maryland from entering into an agreement whereby Baltimore/Washington International Airport may be made part of a regional airports authority, subject to terms and conditions agreed to by the Airports Authority, the Secretary, the Commonwealth of Virginia, the District of Columbia, and the State of Maryland.

SEC. 6004. DEFINITIONS.

In this title—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIRPORTS AUTHORITY.—The term "Airports Authority" means the Metropolitan Washington Airports Authority, a public body to be created by the Commonwealth of Virginia and the District of Columbia consistent with the requirements of section 6007.

(3) EMPLOYEES.—The term "employees" means all permanent Federal Aviation Administration personnel employed on the date the lease under section 6005 takes effect by the Metropolitan Washington Airports, an organization within the Federal Aviation Administration.

(4) METROPOLITAN WASHINGTON AIRPORTS.—The term "Metropolitan Washington Airports" means Washington National Airport and Washington Dulles International Airport.

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(6) WASHINGTON DULLES INTERNATIONAL AIRPORT.—The term "Washington Dulles International Airport" means the airport constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between the Interstate Routes I-495 and I-66.

(7) WASHINGTON NATIONAL AIRPORT.—The term "Washington National Airport" means the airport described in the Act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686).

SEC. 6005. LEASE OF METROPOLITAN WASHINGTON AIRPORTS.

(a) AUTHORITY TO ENTER INTO LEASE.—The Secretary is authorized to enter into a lease of the Metropolitan Washington Airports with the Airports Authority for a 50-year term and to enter into any related agreement necessary for the transfer of authority and property to the Airports Authority. Authority to enter into a lease and agreement under this section shall lapse two years after the date of the enactment of this title.

(b) PAYMENTS.—

(1) LEASE PAYMENTS.—The lease shall provide for the Airports Authority to pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator, to equal $3,000,000 in 1987 dollars. The Secretary and the Airports Authority may renegotiate the level of lease payments attributable to inflation costs every ten years.

(2) RETIREMENT OBLIGATIONS.—

(A) DISCONTINUED SERVICE.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the actual added costs incurred by the Fund due to discontinued service retirement under section 8336(d)(1) of title 5, United States Code, of employees who elect not to transfer to the Airports Authority.

(B) UNFUNDED LIABILITY.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the present value of the difference between (i) the future cost of benefits payable from the Fund and due the employees covered under section 6008(e) of this title that are attributable to the period of employment following the date the lease takes effect, and (ii) the contributions made by the employees and the Airports Authority under section 6008(e). In determining the amount due, the Office of Personnel Management shall take into consideration

the actual interest such amount can be expected to earn when invested in the Treasury of the United States.

(c) MINIMUM TERMS AND CONDITIONS.—The Airports Authority shall agree, at a minimum, to the following conditions and requirements in the lease:

(1) OPERATION OF AIRPORTS AS A UNIT.—The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2) AIRPORT PURPOSES.—The real property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. For the purposes of this paragraph, the term "airport purposes" means a use of property interests (other than a sale) for aviation business or activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities. If the Secretary determines that any portion of the real property leased to the Airports Authority pursuant to this Act is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of real property in conformity with airport purposes, and (B) retake possession of such portion of real property if the Airports Authority fails to bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

(3) AIP REQUIREMENTS.—The Airports Authority shall be subject to the requirements of section 511(a) of the Airport and Airway Improvement Act of 1982 and the assurances and conditions required of grant recipients under such Act as of the date the lease takes effect. Notwithstanding section 511(a)(12) of such Act, all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of such airports.

(4) CONTRACTS.—In acquiring by contract supplies or services for an amount estimated to be in excess of $200,000, or awarding concession contracts, the Airports Authority shall obtain, to the maximum extent practicable, full and open competition through the use of published competitive procedures. By a vote of seven members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5) CONTINUATION OF REGULATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all regulations of the Metropolitan Washington Airports (14 C.F.R. part 159) shall become regulations of the Airports Authority on the date the lease takes effect and shall remain in effect until modified or revoked by the Airports Authority in accordance with procedures of the Airports Authority.

(B) EXCEPTIONS.—The following regulations shall cease to be in effect on the date the lease takes effect:

(i) section 159.59(a) of title 14, Code of Federal Regulations (relating to new-technology aircraft); and

(ii) section 159.191 of title 14, Code of Federal Regulations (relating to violations of Federal Aviation Administration regulations as Federal misdemeanors).

(C) OPERATIONS.—The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this Act and may not impose a limitation after the date the lease takes effect on the number of passengers taking off or landing at Washington National Airport.

(6) TRANSFER OF RIGHTS, LIABILITIES, AND OBLIGATIONS.—

(A) IN GENERAL.—Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations (tangible and incorporeal, present and executory) of the Metropolitan Washington Airports on the date the lease takes effect, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation relating to such rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of functions related to the period before the effectiveness of the lease. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) EXCEPTIONS.—The procedure for disputes resolution contained in any contract entered into on behalf of the United States before the date the lease takes effect shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the United States as the owner and operator of the Metropolitan Washington Airports, arising before the date the lease takes effect shall be adjudicated as if the lease had not been entered into.

(C) PAYMENTS INTO EMPLOYEES' COMPENSATION FUND.—The Federal Aviation Administration shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United States Code, for compensation paid or payable after the date the lease takes effect in accordance with chapter 81 of title 5, United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(D) COLLECTIVE BARGAINING RIGHTS.—The Airports Authority shall continue all collective bargaining rights enjoyed before the date the lease takes effect by employees of the Metropolitan Washington Airports.

(7) AUDITS.—The Comptroller General of the United States may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General may deem appropriate. All books, accounts, records, reports, files, papers, and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) CODE OF ETHICS.—The Airports Authority shall develop a code of ethics and financial disclosure in order to assure the integrity of all decisions made by its board of directors and employees.

(9) RESTRICTION ON USE OF CERTAIN REVENUES.—Notwithstanding any other provision of law, no landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington National Airport; or

(B) at Washington National Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) GENERAL AVIATION FEES.—The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee not in excess of the landing fee for aircraft weighing 12,500 pounds.

(11) OTHER TERMS.—The Secretary shall include such other terms and conditions applicable to the parties to the lease as are consistent with and carry out the provisions of this title.

(d) SUBMISSION TO CONGRESS.—The Secretary shall submit the lease entered into under this section to Congress. The lease may not take effect before the passage of (1) 30 days, or (2) 10 days in which either House of Congress is in session, whichever occurs later.

(e) ENFORCEMENT OF LEASE PROVISIONS.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.

SEC. 6006. CAPITAL IMPROVEMENTS, CONSTRUCTION, AND REHABILITATION.

(a) IMPROVEMENTS.—It is the sense of the Congress that the Airports Authority should—

(1) pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) to the extent practicable, cause the improvement, construction, and rehabilitation proposed by the Secretary to be completed at both of such Airports within 5 years after the earliest date on which the Airports Authority issues bonds under the authority required by section 6007 of this title for any such improvement, construction, or rehabilitation.

(b) SECRETARY'S ASSISTANCE.—The Secretary shall assist the three airports serving the Washington, D.C. metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for Federal financial assistance by whichever of the three airports is most in need of increasing airside capacity.

SEC. 6007. AIRPORTS AUTHORITY.

(a) POWERS CONFERRED BY VIRGINIA AND THE DISTRICT OF COLUMBIA.—The Airports Authority shall be a public body corporate and politic, having the powers and jurisdiction as are conferred upon it jointly by the legislative authority of the Commonwealth of Virginia and the District of Columbia or by either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction, but at a minimum meeting the requirements of this section.

(b) PURPOSE.—The Airports Authority shall be—

(1) independent of the Commonwealth of Virginia and its local governments, the Dis-

trict of Columbia, and the Federal Government; and

(2) a political subdivision constituted solely to operate and improve both Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(c) GENERAL AUTHORITIES.—The Airports Authority shall be authorized—

(1) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(2) to issue bonds from time to time in its discretion for public purposes, including the purposes of paying all or any part of the cost of airport improvements, construction, and rehabilitation, and the acquisition of real and personal property, including operating equipment for the airports, which bonds—

(A) shall not constitute a debt of either jurisdiction or a political subdivision thereof; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or part from the proceeds of such bonds;

(3) to acquire real and personal property by purchase, lease, transfer, or exchange, and to exercise such powers of eminent domain within the Commonwealth of Virginia as are conferred upon it by the Commonwealth of Virginia;

(4) to levy fees or other charges; and

(5) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration is so authorized on the date of enactment of this title.

(d) CONFLICT-OF-INTEREST PROVISIONS.—The Airports Authority shall be subject to a conflict-of-interest provision providing that members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions to requirements of the preceding sentence may be made by the official appointing a member at the time the member is appointed, if the financial interest is fully disclosed and so long as the member does not participate in board decisions that directly affect such interest. The Airports Authority shall include in its code developed under section 6005(c)(8) of this title the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted.

(e) BOARD OF DIRECTORS.—

(1) APPOINTMENT.—The Airports Authority shall be governed by a board of directors of 11 members, as follows:

(A) five members shall be appointed by the Governor of Virginia;

(B) three members shall be appointed by the Mayor of the District of Columbia;

(C) two members shall be appointed by the Governor of Maryland; and

(D) one member shall be appointed by the President with the advice and consent of the Senate.

The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) RESTRICTIONS.—Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Area, except that the member appointed by the President shall not be required to reside in that area.

(3) TERMS.—Members shall be appointed to the board for a term of 6 years, except that of members first appointed—

(A) by the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) by the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; and

(C) by the Governor of Maryland, 1 shall be appointed for 4 years.

(4) REMOVAL OF PRESIDENTIAL APPOINTEES.—A member of the board appointed by the President shall be subject to removal by the President for cause.

(5) REQUIRED NUMBER OF VOTES.—Seven votes shall be required to approve bond issues and the annual budget.

(f) BOARD OF REVIEW.—

(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. Such Board of Review shall be established by the board of directors and shall consist of the following, in their individual capacities, as representatives of users of the Metropolitan Washington Airports:

(A) two members of the Public Works and Transportation Committee and two members of the Appropriations Committee of the House of Representatives from a list provided by the Speaker of the House;

(B) two members of the Commerce, Science, and Transportation Committee and two members of the Appropriations Committee of the Senate from a list provided by the President pro tempore of the Senate; and

(C) one member chosen alternately from members of the House of Representatives and members of the Senate, from a list provided by the Speaker of the House or the President pro tempore of the Senate, respectively.

The members of the Board of Review shall elect a chairman. A member of the House of Representatives or the Senate from Maryland or Virginia and the Delegate from the District of Columbia may not serve on the Board of Review.

(2) TERMS.—Members of the Board of Review appointed under subparagraphs (A) and (B) of paragraph (1) shall be appointed for terms of six years, except that of the members first appointed, one member under each of subparagraphs (A) and (B) shall be appointed for a term of two years and one member under each of subparagraphs (A) and (B) shall be appointed for a term of four years. Members of the Board of Review appointed under subparagraph (C) shall be appointed for terms of two years. A vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(3) PROCEDURES.—The Board of Review shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting. The Board shall meet at least once each year and shall meet at the call of the chairman or 3 members of the Board. Any decision of the Board of Review under paragraph (4) or (5) shall be by a vote of 5 members of the Board.

(4) DISAPPROVAL PROCEDURE.—

(A) SUBMISSION REQUIRED.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Board of Review at least 30 days (or at least 60 days in the case of the annual budget) before it is to become effective.

(B) ACTIONS AFFECTED.—The following are the actions referred to in subparagraph (A):

(i) the adoption of an annual budget;

(ii) the authorization for the issuance of bonds;

(iii) the adoption, amendment, or repeal of a regulation;

(iv) the adoption or revision of a master plan, including any proposal for land acquisition; and

(v) the appointment of the chief executive officer.

(C) 30-DAY DISAPPROVAL PERIOD.—If the Board of Review does not disapprove an action within 30 days of its submission under this paragraph, the action may take effect. If the Board of Review disapproves any such action, it shall notify the Airports Authority and shall give reasons for the disapproval.

(D) EFFECT OF DISAPPROVAL.—An action disapproved under this paragraph shall not take effect. Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

(5) REQUEST FOR CONSIDERATION OF OTHER MATTERS.—The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

(6) PARTICIPATION IN MEETINGS OF AIRPORTS AUTHORITY.—Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.

(7) STAFF.—The Board of Review may hire two staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the Board may require.

(8) LIABILITY.—A member of the Board of Review shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the Board.

(g) CERTAIN ACTIONS TO BE TAKEN BY REGULATION.—Any action of the Airports Authority changing, or having the effect of changing, the hours of operation of or the type of aircraft serving either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(h) LIMITATION ON AUTHORITY.—If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (f)(4) to be submitted to the Board of Review.

SEC. 6008. FEDERAL EMPLOYEES AT THE METROPOLITAN WASHINGTON AIRPORTS.

(a) EMPLOYEE PROTECTION.—Not later than the date the lease under section 6005 takes effect, the Secretary shall ensure that the Airports Authority has established arrangements to protect the employment interests of employees during the 5-year period beginning on such date. These arrangements shall include provisions—

(1) which ensure that the Airports Authority will adopt labor agreements in accordance with the provisions of subsection (b) of this section;

(2) for the transfer and retention of all employees who agree to transfer to the Airports Authority in their same positions for the 5-year period commencing on the date the lease under section 6005 takes effect except in cases of reassignment, separation for cause, resignation, or retirement;

(3) for the payment by the Airports Authority of basic and premium pay to transferred employees, except in cases of separation for cause, resignation, or retirement, for 5 years commencing on the date the lease takes effect at or above the rates of pay in effect for such employees on such date;

(4) for credit during the 5-year period commencing on the date the lease takes effect for accrued annual and sick leave and seniority rights which have been accrued during the period of Federal employment by transferred employees retained by the Airports Authority; and

(5) for an offering of not less than one life insurance and three health insurance programs for transferred employees retained by the Airports Authority during the 5-year period beginning on the date the lease takes effect which are reasonably comparable with respect to employee premium cost and coverage to the Federal health and life insurance programs available to employees on the day before such date.

(b) LABOR AGREEMENTS.—

(1) ADOPTION.—The Airports Authority shall adopt all labor agreements which are in effect on the date the lease under section 6005 takes effect. Such agreements shall continue in effect for the 5-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree to the contrary before the expiration of that 5-year period. Such agreements shall be renegotiated during the 5-year period, unless the parties agree otherwise. Any labor-management negotiation impasse declared before the date the lease takes effect shall be settled in accordance with chapter 71 of title 5, United States Code.

(2) CONTINUATION.—The arrangements made pursuant to this section shall assure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(c) RIGHTS OF TERMINATED EMPLOYEES.—Any transferred employee whose employment with the Airports Authority is terminated during the 5-year period beginning on the date the lease under section 6005 takes effect shall be entitled, as a condition of any lease entered into in accordance with section 6005 of this title, to rights and benefits to be provided by the Airports Authority that are similar to those such employee would have had under Federal law if termination had occurred immediately before such date.

(d) ANNUAL AND SICK LEAVE.—Any employee who transfers to the Airports Authority under this section shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Airports Authority with the unused annual leave balance on the date the lease under section 6005 takes effect, along with any unused sick leave balance on such date. During the 5-year period beginning on such date, annual and sick leave shall be earned at the same rates permitted on the day before such date, and observed official holidays shall be the same as those specified in section 6103 of title 5, United States Code.

(e) CIVIL SERVICE RETIREMENT.—Any Federal employee who transfers to the Airports Authority and who on the day before the date the lease under section 6005 takes effect is subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Airports Authority without a break in service, continue to be subject to such subchapter or chapter, as the case may be. Employment by the Airports Authority without a break in continuity of service shall be considered to be employment by the United States Government for purposes of such subchapter and chapter. The Airports Authority shall be the employing agency for purposes of such subchapter and chapter and shall contribute to the Civil Service Retirement and Disability Fund such sums as are required by such subchapter and chapter.

(f) SEPARATED EMPLOYEES.—An employee who does not transfer to the Airports Authority and who does not otherwise remain a Federal employee shall be entitled to all of the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Airports Authority of work substantially similar to that performed for the Federal Government.

(g) ACCESS TO RECORDS.—The Airports Authority shall allow representatives of the Secretary adequate access to employees and employee records of the Airports Authority when needed for the performance of functions related to the period before the date the lease under section 6005 takes effect. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

SEC. 6009. RELATIONSHIP TO AND EFFECT OF OTHER LAWS.

(a) OTHER LAWS.—In order to assure that the Airports Authority has the same proprietary powers and is subject to the same restrictions with respect to Federal law as any other airport except as otherwise provided in this title, during the period that the lease authorized by section 6005 of this title is in effect—

(1) the Metropolitan Washington Airports shall be considered public airports for purposes of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2201 et seq.); and

(2) the Acts entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686), "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and "An act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes", approved October 9, 1940 (54 Stat. 1030), shall not apply to the operation of the Metropolitan Washington Airports, and the Secretary shall be relieved of all responsibility under those Acts.

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of the fee simple title to such airports or by reason of the authority of the Board of Review under subsection 6007(f).

(c) POLICE POWER.—The Commonwealth of Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of the Commonwealth of Virginia may exercise jurisdiction over Washington National Airport.

(d) PLANNING.—

(1) IN GENERAL.—The authority of the National Capital Planning Commission under section 5 of the Act of June 6, 1924 (40 U.S.C. 71d) shall not apply to the Airports Authority.

(2) CONSULTATION.—The Airports Authority shall consult—

(A) with the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport, and

(B) with the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(e) OPERATION LIMITATIONS.—

(1) HIGH DENSITY RULE.—The Administrator may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this title and may not decrease the number of such takeoffs and landings except for reasons of safety.

(2) ANNUAL PASSENGER LIMITATIONS.—The Federal Aviation Administration air traffic regulation entitled "Modification of Allocation: Washington National Airport" (14 C.F.R. 93.124) shall cease to be in effect on the date of the enactment of this title.

SEC. 6010. AUTHORITY TO NEGOTIATE EXTENSION OF LEASE.

The Secretary and the Airports Authority may at any time negotiate an extension of the lease entered into under section 6005(a).

SEC. 6011. SEPARABILITY.

Except as provided in section 6007(h), if any provision of this title or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 6012. NONSTOP FLIGHTS.

PERIMETER RULE.—An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 statute miles away from Washington, National Airport.

Mr. LEHMAN of Florida (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. SNYDER. Mr. Speaker, reserving the right to object, I would like to

ask the gentleman from Florida, since he wants to dispense with reading the amendment, what changes he had made in the proposal as passed by the Senate.

Mr. LEHMAN of Florida. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Speaker, I have made three, two main proposals. One is to index the lease agreement according to the Consumer Price Index, so that instead of paying $3 million a year for 50 years, you will pay additional money according to the increase in the Consumer Price Index, which I estimate will now run, instead of $150 million, over $400 million for the cost of the airport.

Mr. SNYDER. That is one. What are the other two?

Mr. LEHMAN of Florida. The other amendment is the new perimeter rule. An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 statute miles away from Washington National. This increases it from 1,000 miles.

□ 0025

Mr. SNYDER. What is the third one?

Mr. LEHMAN of Florida. The third one is that the members of the oversight committee are now divided equally between the Appropriations Committee and the authorizing committee members, two and two on each body instead of four in each body without designation.

Mr. SNYDER. Mr. Speaker, I would like to ask the gentleman, further reserving the right to object, on the last item are you familiar with the opinion of the Justice Department that this would render the oversight body unconstitutional and wipe it out?

Mr. LEHMAN of Florida. I am not aware of that being unconstitutional, and I am willing to leave it as it is in our changes.

Mr. SNYDER. But you have not left it the way it is.

Mr. Speaker, I will withdraw my reservation of objection, but I would like to be recognized at the proper time to get 20 minutes in opposition to the motion.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, did I understand correctly that one of the changes made is to increase the radius from the airport? Is the gentleman familiar with any kind of hearings that were held on that particular proposal?

Mr. SNYDER. Of course, a lot of hearings were held in the Subcommittee on Aviation of the Committee on Public Works and Transportation and that was dealt with some. But there are 33 States who tend to lose service out of National if that proposal is agreed to, and we will address that in the opposition time.

Mr. WALKER. I thank the gentleman. I was having trouble hearing. Did the gentleman hear there are no changes in the labor provisions as they relate to this particular bill?

Mr. SNYDER. That is my understanding.

Mr. LEHMAN of Florida. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I will be glad to yield to the gentleman from Florida to address that question.

Mr. LEHMAN of Florida. Mr. Speaker, the gentleman is correct, there are no changes in the labor provisions.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Florida?

PARLIAMENTARY INQUIRY

Mr. CONTE. Mr. Speaker, reserving the right to object, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. CONTE. Mr. Speaker, is it permissible to separate or divide the question on the perimeter rule?

The SPEAKER pro tempore. The answer is in the negative. In the form submitted the proposed House amendment is not divisible.

Mr. CONTE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. SNYDER. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Maryland [Mrs. BYRON].

PARLIAMENTARY INQUIRY

Mrs. BYRON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Mrs. BYRON. Mr. Speaker, I am opposed to the gentleman's motion, and under the rules is the gentleman from Kentucky [Mr. SNYDER] allocated time?

The SPEAKER pro tempore. We have not come to that point as yet. We now have a unanimous-consent request propounded by the gentleman from Florida to dispense with further reading of the motion. We must clear that matter first.

Mr. SNYDER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The Chair would now ask the gentleman from Florida [Mr. LEHMAN] and the gentleman from Massachusetts [Mr. CONTE] if they are both in support of the motion, and if they are, then a third Member would be entitled to 20 minutes in opposition.

Is the gentleman from Florida in favor of the motion?

Mr. LEHMAN of Florida. I am, Mr. Speaker, and I have no objection.

Mr. SNYDER. Mr. Speaker, I request 20 minutes in opposition.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. SNYDER] will be recognized for 20 minutes; the gentleman from Florida [Mr. LEHMAN] will be recognized for 20 minutes; and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my motion to amendment No. 124 would insert the "Metropolitan Washington Airports Act of 1986" into the resolution.

This amendment would authorize an independent public authority to operate National and Dulles Airports, and would give this new airport authority the ability to privately finance badly needed improvements at both airports.

This amendment is essentially the same as was reported out of the House Aviation Subcommittee of the Public Works and Transportation Committee; and is essentially the same as has been passed by the other body.

It provides for a 50-year lease, not a transfer or giveaway.

It also provides for continuing congressional review over the major decisions of the new airport authority. A Congressional Board will still have veto power over the new airport authority's: annual budget; issuance of bonds; regulations; master plan; and the naming of the Chief Executive Officer.

The one significant change that I have made to the Senate bill language would be that the lease payments to the Federal Government would be indexed to cover inflation. This is a significant money issue. It means that, assuming inflation runs at 4 percent a year over the period of the lease—50 years—the total lease payments to the Federal Government will total about $460 million instead of the $150 million required in the Senate bill.

I think making these payments inflation proof is fair to the Federal taxpayers, and I have been told the administration has no object to this.

Mr. Speaker, we all know that National and Dulles Airports need major capital improvements. We are running out of terminal and parking space at Dulles and National has been a longtime nightmare. A price tag of $700 million has been set to bring these facilities up to first-class standards.

We must undertake these capital improvements and, in my view, the fastest and most fair way—without giving up congressional control—is to pass this legislation. I urge its adoption.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, I rise in strong support of the motion authorizing the lease of Washington National and Dulles International Airports to an independent airport authority. I urge a "yea" vote.

Let me begin by reiterating a point often made by Transportation Secretary Elizabeth Hanford Dole, and one voiced by several former administrations as well—that the U.S. Government should not be in the business of operating an airport. The proposal we are considering, today, provides the Government with a prime opportunity to pass this burdensome responsibility to capable hands—hands which would be freed of financial restraints and, therefore, able to perform the repair and expansion work so badly needed.

Much of the discussion surrounding the proposal to lease National and Dulles has centered on the notion that Congress is giving up something we own. This proposal maintains our ownership through a long-term lease. This is not a giveaway; the Federal Government will receive an estimated $460 million from the airport authority in payments over the term of the lease.

In addition, the motion provides continued congressional control over both airports. Congress would retain oversight through a Board of Review made up of nine Members of Congress. This Board would have the right to overturn major decisions of the airport authority such as: the annual budget, insuance of bonds, regulations, master plan, and appointment of the Chief Executive Officer.

National and Dulles Airports need about $700 million in capital improvements. Leasing the two airports would shift this financial responsibility from the already overburdened shoulders of the Federal Government to the private sector.

The newly created airport authority would have the ability to float bonds, a right granted to all other independently operated airports, and would also be eligible to receive grant money from the AIP [Airport Improvement Program] fund, another luxury currently available to all other airports. Long-term financial planning would replace temporary fixes. It is time to get the Government out of the airport business and to lease the airports to an authority explicitly created to finance the almost $1 billion of needed improvements.

National and Dulles are the only two air carrier airports operated by the Federal Government. This unique situation has yielded two of the most outdated and inadequate commercial airports in the Nation as they have continually been placed at the bottom of the list when it comes to funding. Given the need for a change and the current financial constraints, the solution is a lease. The lease of National and Dulles Airports is endorsed by State and local officials, airlines, business organizations, business aircraft associations, and airport employees. The lease was passed by a sizable margin in the other body. Employees of the airports would be protected, the present number of flights would be fixed, and the airport authority would be required to perform simultaneous improvements at both airports. With so little time left in the 99th Congress, adoption of this motion is the only hope of obtaining the improvements so greatly needed at National and Dulles.

I urge a "yea" vote.

□ 2435

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am sorry that I have to rise in opposition to this motion.

I am concerned that the motion to recede and concur with an amendment now before us has the potential of adversely affecting the air service of many States. Thirty-three to be exact.

A number of years ago a decision was made by the Federal Aviation Administration that air carriers should only provide nonstop air service between National Airport and airports within a 1,000-mile perimeter. The rationale for this regulation was that National should be a medium- to short-haul airport to be supplemented with long-haul flights from Dulles International.

The other body attached an amendment to the continuing resolution which would establish the 1,000-mile perimeter in law rather than by regulation. The conferees were unable to agree on this provision and therefore it has been reported back to the House in disagreement along with other provisions dealing with the lease of National and Dulles Airports to an independent airport authority.

The gentleman's motion to reduce and concur with an amendment would change the Senate provision to allow additional flights beyond the 1,000-mile perimeter from National. The effect of this amendment is to place in jeopardy the service that we now have within the 1,000-mile perimeter.

As my colleagues know, National Airport has capacity constraints which limit the number of aircraft operations that can be accommodated. Right now the airport is filled up. If we adopt the gentleman's amendment, and additional flights are allowed beyond 1,000 miles, we must logically expect that additional airports beyond the perimeter will gain service.

Since there is no forseeable capacity expansion at National, the slots necessary to serve those airports outside the 1,000-mile perimeter will have to come out of the hide of airports and cities within the perimeter. Some medium-size communities that are east of the Mississippi can expect to lose air service under this provision.

Under the amendment, 33 States would become candidates to lose air service to Washington in order to accommodate nonstop flights between National and points outside the existing 1,000-mile perimeter. Furthermore, if the perimeter is changed, we can expect pressure to increase aircraft operations which certainly would not only affect safety at National but also affect noise levels.

The airport transfer proposal in the Senate-reported resolution recognizes that these airports are to be operated as a unit and should complement one another. By setting a perimeter at 1,000 miles, Dulles will accommodate the long-haul market and National will serve medium- and short-haul city pairs. This is current policy, it is good policy, and we should not place National in a position of competing with Dulles. I would also point out to my colleagues from the State of Maryland that if the perimeter rule is expanded, National would also be competing with Baltimore-Washington International Airport for long-haul traffic.

In addition, Mr. Speaker, the motion to recede and concur with an amendment would specify that two Public Works members and two Appropriations Committee members serve on the Board of Review, and like Members from the other body.

This whole scheme is shaky to begin with, based on constitutionality.

We have a letter from the Department of Justice dated August 6, 1986, to Chairman MINETA, which is some six pages long, which says that when you do this that you will not withstand the constitutionality scrutiny, because it is the Board of Review would be in effect a legislative branch arm exercising jurisdiction over independent airports authority in direct violation of INS versus Chadha, the recent Supreme Court case.

Now if in effect the Justice Department is right, and this change that they have made in this amendment is ruled unconstitutional for the Board of Review, this Congressional Board of Review, which was going to be a user's, to be appointed by the Speaker and by the President of the Senate will no longer exist, and the airport authority will do what it wants to do because that will no longer be in existence.

In addition, let me suggest to you, and I do not want to use all the time because others want to speak against

it; we have a very interesting letter from the Arlington County, Virginia Board, and they tell us what they want to do if that oversight committee is put out of business: They want to lower the slot number from 37 an hour; they want to stop night flights entirely; they want to discontinue anything that makes any noise over their area.

I just want to say to you, my friends, those of you who fly out of National, prepare to go to Dulles; they will shut the place down. Mr. Speaker, I reserve the balance of my time.

Mr. LEHMAN of Florida. Mr Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Speaker, I thank the gentleman for recognizing me and first of all, I would like to thank the gentleman from Kentucky [Mr. SNYDER] and also the gentleman from California [Mr. MINETA] for the great hearings they had on this bill.

Now things have changed tonight; there is no question about it, but I have got to tell you something that I think you should know. All of us in this House, all of us, ought to be ashamed of ourselves. We ought to be ashamed of ourselves.

This Nation's Capital, this beautiful Capital, served by the airports that we have today—I would defy anyone that leaves from the commuter terminal at Washington National to look at any bus station in the smallest community in the United States, and try to compare that—we ought to be ashamed of ourselves.

The growth at Dulles Airport. I realize that the amendments that went on here tonight certainly chain some of this to you. I have been working on the floor all day, talking to Members, and I know that I will be criticized for saying this out in public. Shame.

You know what the worry is? Are we going to have our parking. Parking! I can tell you, you are going to have your parking. You are going to have your parking.

Now you talk about 33 States that may decline in air service. You do not know that. I am not in favor of the amendments. I am in favor of the bill that the subcommittee reported out. This late hour, this is all we have. Please, I beg of you, let this go through; let us see what the other body does.

This is our last chance, in my opinion. Everybody says next year is another year. It took almost 9 days for the other body to pass this piece of legislation. I beg of you, do not let this opportunity pass by you.

Will it help Virginia? That is another argument. Certainly it will help Virginia, but those of you who live in northern Virginia know full well that they will grow with or without the modernization of this airport. Do not let your constituents, or visitors to this country, come into airports such as this.

I ask you to pass the motion the chairman has presented tonight.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. DENNY SMITH. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Oregon.

Mr. DENNY SMITH. Mr. Speaker, I rise in strong support of the motion to recede and concur with the Senate in the leasing of National and Dulles Airports to an independent regional authority.

I initially thought the transfer a bad idea. I worried that too much authority would be granted to a regional body whose ties to local politics would cause it to neglect the special transportation needs of the Nation's Capital.

This is not the case. Nothing in the present lease proposal supports my initial concerns. The airport authority is to be entirely independent of State and local government and is to be overseen by a congressional review board. The Federal Government will retain oversight and ownership of the land and facilities. The only change will be that the private sector will foot the bill for all of the improvements.

The bottom line on this measure is $700 million. It will take at least that much to bring National and Dulles into the 1980's. By leasing the airports to an independent authority, improvements will be done quickly since they will be financed by raising capital from private sources through revenue bonds.

Congress isn't going to appropriate that kind of money for airport improvements, and shouldn't. Besides, $700 million represents only the tip of the iceberg in spending over the life of each airport.

Future long-term development of the Washington area is going to require things like conveniently located reliever airports to handle business and general aviation traffic. The new airport authority is the type of organization we need to study and carry out such plans.

Under this plan, Congress retains enough control of the airports to deal with any unseen pitfalls resulting from this transfer of authority, and we are relieving the Federal Government of over $700 million of future cost.

We are getting our cake and eating it too. I can't think of much better circumstances under which to get the Federal Government out of a business in which it doesn't belong.

I strongly urge my colleagues to support the move to lease National and Dulles Airports to an independent authority. It represents a sound financial solution to a continuing drain on Federal dollars. The beauty of the deal is that Congress retains its control without spending a dime.

Mr. WOLF. Mr. Speaker, obviously this is a difficult issue, and it is late at night. Let me make a couple points.

All of you in this Chamber, your husbands and your wives and your sons and your daughters fly into this airport. This is the mess that we have; only 680 acres. The facilities are a mess.

Not many people in this Chamber know, but Jim Wilding, who operates these airports, and FRANK WOLF fought hard to extend the runway. There was a 500-foot overrun. The FAA requirements call for at least 1,000 feet, and there was 500 feet, and your families were coming in at this airport.

I fought to have this runway extended. I saw nobody in the Congress acting on this; I saw no oversight hearings saying, "Let's do something about this airport." You just kept flying in and flying out, and your families were in danger.

We fought and we extended the runway; but it is only 750 feet. It ought to be 1,000 feet. I see no action being taken in this body, and today we can do it by transferring these airports.

As NORM said just a minute ago, the parking. The parking is protected. Secretary Dole made that point very clear.

□ 0045

Third, I saw the first. This is a scarce list. This House cannot be demagoged and frightened and scared away. This is a scare list. Do not buy it. There is nothing that says that these flights will be canceled. There is nothing that says these flights will be canceled, and I ask you do not believe it.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Speaker, safety is really the issue here. This airport operates at a marginal level of safety, everybody in this room knows it. You talk to the pilots who fly you in from all over the country, and they will tell you that as well. The fact of the matter is the current system does not allow that airport to be improved. Safety is in question. One of these days there is going to be another major crash at that airport, and we ought to at least transfer the authority to a group who has the ability, the wherewithal and the money to improve it.

So therefore, I support the gentleman's position.

Mr. WOLF. I thank the gentleman.

I do not want it on my conscience that something like this could happen. I ask you to help us make a change.

Second, the terminal will be moved out to connect with the Metro stop. Whoever designed the Metro stop to come a couple of hundred yards from the terminal did not make any sense.

They will bring the Metro stop and the terminal together. There will be underground parking, it will be covered, it makes sense.

Last, with regard to Dulles Airport, in 1981 Dulles had 2.1 million passengers. As a result of the efforts that have been made, Dulles has now reached 5.5 million passengers, and next year it will be 8.5 million passengers.

I spoke to a Member the other day, and he told me he parked at the airport and had to park on the grass. There is no parking.

What this airport authority will do will build a new midfield terminal, with 48 gates at Dulles Airport to make it a first-class airport.

The last question is this: for those of you in this body who voted for Gramm-Rudman-Hollings-Mack, and others, let me tell you you are not prepared to put up $750 million to make the improvements. The citizens of the regional airport authority are prepared to do that. We are giving you the best deal possible. We are going to improve those airports, make them first-class airports and make them safe, and we are going to pay them our of regional airport authority bonding.

I have great respect for the gentleman from Kentucky. I am sorry that Mr. SNYDER is retiring. It pains me to be against him.

But I ask all the Members of this body to do the right thing, to rise and support this airport transfer bill so that we can improve National Airport, make it a first-class airport, improve the parking, move the terminal over whereby you can reach the Metro, make it an airport that is safe for everyone to fly into and make the necessary improvements at Dulles Airport.

I ask for a "yes" vote.

Mr. PARRIS. Mr. Speaker, will the gentleman yield to me?

Mr. WOLF. I yield to the gentleman from Virginia.

Mr. PARRIS. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of this measure. I thank my colleague from Virginia for the enormous time and energy that he has put into this measure.

Mr. WOLF. I thank my colleague for his comments.

Ladies and gentlemen, I would appreciate your help and support.

Mr. SNYDER. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. DYSON].

Mr. DYSON. Mr. Speaker the gentleman from Virginia just indicated that we have to live with Gramm-Rudman. I do not think there is anybody more aware of that than I am.

The Grace Commission estimated conservatively that these airports were worth well over $300 million. Yet the Secretary of Transportation has endorsed this amendment which would approve the transfer of both Dulles and National Airports for $150 million. It is unconscionable that Congress would approve such a giveaway in a time of $200 billion deficits.

Mr. Speaker, this is not a lease, it is a giveaway. I think it is wrong in this day and age. We do not have that kind of money to give away. We do have to live with Gramm-Rudman.

Mr. Speaker, those of us from Maryland or at least those of us who have constituents who live along the Potomac have a very real problem with allowing the flights to come in and out with no guarantee under this proposal that the present noise restrictions will be maintained, none whatsoever.

So our constituents would have to put up with this noise from 6:30 in the morning until 10:30 every night and have no guarantees that they will not be drowned out by the noise coming from about 1,000 aircraft which take off and land at National every day.

Mr. Speaker, I urge my colleagues to vote "no" on the motion to recede.

I thank the gentleman from Kentucky.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. MITCHELL].

Mr. MITCHELL. Mr. Speaker, I urge support of the motion. Every time I fly into National or fly out, I say three Hail Marys because it is just that dangerous. I was vehemently opposed to this legislation in the beginning. It was a ripoff. It was a giveaway.

However, it has now been perfected so that we have a lease arrangement and there will be sufficient incomes coming in to take care of business.

Insofar as the noise is concerned. I do not think this legislation will increase the noise.

My God, we have been battling with FAA for years over noise and nothing has happened. Maybe we will get a shot for our Marylanders under this new arrangement.

It just makes sense, it makes sense.

Someone raised the question about the airport in Baltimore. We will handle our own. Baltimore-Washington International, we will handle our own no matter what arrangement takes place here.

It makes sense.

We had no business trying to run it. We have done a bad job in running it. Change it around, vote for the motion and make some sense out of this legislation.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. I thank the gentleman for yielding.

Mr. Speaker, this is a very important vote on a very important idea. The amendment as designed is cluttered and imperfect. It includes a perimeter rule which should not be written into law. Frankly, I wish that language were not in the amendment.

However, despite its imperfections this proposal is historic. Tonight we have a chance to get the Federal Government out of a business it has no business being in. The very scale and complexity of this continuing resolution should remind all of us that managing legitimately Federal activities is a big enough job. It is time to allow a regional authority to do a regional job, that of managing airports.

Furthermore, the fact is very simple: We do not have the money, we are not going to have the money for the Federal Government to be directly involved in modernizing those airports.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

Mr. Speaker, there are $3.5 million unobligated in the trust fund.

Mr. GINGRICH. I understand the gentleman's point, but I think all of us understand the reality, as does the gentleman, that that trust fund is not going to be tapped during the period of Gramm-Rudman, trying to get to a balanced budget.

So the question is simple: Do we allow the regional authority to both run the airport, getting it away from our attention and not cluttering us, and do we allow the regional authority to borrow the money, thus not having ourselves burdened?

Finally, I would say to all of you we are far better off, as the gentleman from Virginia, Mr. WOLF, said, to make sure that we allow someone to do the necessary job of being safe. We have not done the job we should have at National. We are not going to do the job we should at National. I think the regional authority will.

This is a historic vote. I would strongly urge you with all of its imperfections to nonetheless vote for this amendment and send it back to the Senate and let us get on with the business of a historic transfer.

Mr. SNYDER. Mr. Speaker, how much time does each Member have?

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from Kentucky [Mr. SNYDER] has 13 minutes remaining, the gentleman from Massachusetts [Mr. CONTE] has 10 minutes remaining, and the gentleman from Florida [Mr. LEHMAN] has 12 minutes remaining.

Mr. SNYDER. Mr. Speaker, I yield 4 minutes to the gentlewoman from Maryland, Mrs. BYRON.

Mrs. BYRON. Mr. Speaker, I rise in opposition to the Warner-Trible amendment to transfer Washington National and Dulles Airports to a regional authority. There is no one in the Virginia delegation I respect more than FRANK WOLF but I cannot agree with him on this.

The measure would establish an airport authority that is no more than in-

different to the environmental impacts of National Airport's Potomac River flight path on local communities. Intended to liberate the airports from unnecessary Federal controls, the legislation swiftly eliminates even the existing local noise limitations; noise restrictions which are critical when you have jet aircraft as a neighbor. I have no pretty picture as those who are for this giveaway do. How can you have a picture of noise pollution? During a normal north operations day, approximately 600,000 people are subjected to as many as three overflights a minute, or between 800 and 1,000 flights daily. Acoustical studies show that the jet noise constantly exceeds EPA livable noise standards. If adopted, this legislation would only make a bad situation worse.

Maryland residents have been calmly assured that the regional authority will benefit them, giving them more control over airport policies such as noise. This is simply not realistic. Since 1967, aircraft have been instructed to use the Potomac River corridor as the flight path at National. That does not go over Virginia but over Maryland. Despite increased population changes to that path, no alternative route has been implemented to reflect the change. In fact, skyscrapers have been built on the Virginia side of the path to make what appears to be an even more intentional effort to shift the environmental burden over Maryland. It is naive, at best, to assume that a regional authority, dominated by Virginia interest, will be willing to equitably address this problem.

Furthermore, and perhaps even more serious, is the weak language in the bill allowing the authority to modify or revoke existing nighttime noise limitations. Again, I cite the majority interest on the authority. I am concerned that the airport authority, trying to make improvements to National, will find it necessary to suspend the nighttime noise restriction, creating a 24-hour noise problem in the Washington metropolitan area. And increase the number of flights. I have asked again and again just to keep the noise at existing levels. To keep the slots at 37 per hour. Regardless of the good intentions to create an equitable airports transfer bill, the measure fails to acknowledge the serious impact of constant jet aircraft noise. For this reason, I urge you to oppose the passage of this transfer.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I share some of the apprehensions that have been expressed here but without trying to take an issue on whether the airport should ultimately turn over to regional authority or not, I want to tell you this is the wrong way to do it.

The best example of why this is a wrong way of doing it is that there are about 800 people that nobody yet has said anything about. That is the Federal employees at these two airports who, at some magic date in 1987 if the steamroller kept going, will suddenly not be Federal employees anymore but they will be employed by some new agency as a subdivision of the government of Virginia in conjunction with an agreement with the District of Columbia.

Now, I would give the writers of this bill over at the Department of Transportation an "A" for effort in trying to make it appear, and indeed convincing a number of the employees, that they have taken care of their problems. It took my civil service lawyers only 5 minutes to look at their efforts and discover that they get an "E" for the results.

Now, what would have happened if this bill had not been tacked on in the middle of the night to this measure over in the other body is that, when the Transportation Committee finished with the bill, it would have come for a short term to my committee where we could have dealt with the transition of these people from their status as Federal employees to becoming some form of hybrid State employee.

To suggest, for example, that you can have that transit authority out there in Virginia change the pension laws of the Federal Government so that a Federal employee at the airport who now has 10 or 15 years can retire when they would have and collect their retirement from the Federal system is poppycock. We will have to, if it is the will of the Congress, to strain and do that, we will have to for the first time make it possible to tack employment with something other than the Federal Government to Federal Government employment for retirement purposes.

□ 0100

I am sure that you have been told by the proponents of this bill that it is not necessary to go through the committee system, but that is why we have a committee system.

And then after we had worked on it, I am told that the bill would have gone to Mr. BROOKS' Government Operations Committee, because of disposing of Federal buildings over there or some other reason.

I know of no one on my committee who would have tried to delay. We could not under this kind of referral anyhow. But I also know that my subcommittees get involved, because of the number of problems you have when you change the status of these people and it is not handled in just one place. They range from health benefits to leave benefits to retirements to pay benefits to promotional benefits, retention benefits, and it goes on and on and on. We would have given it consideration and we could have written some sensible way to handle this matter.

I suspect that if the House accepts the Senate package in this bill tonight and this goes into effect, in a short time we will have to run through some legislation very quickly when the employees begin to ask the questions that we are raising now.

I urge you to vote it down and take it up in its regular order, in the regular way it should be considered, by the committees of jurisdiction.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the Metropolitan Washington Airports Act represents a great leap forward for the concept of privatization. And that's good news not only to the area's residents and air travelers, but to the country as a whole. That's because National and Dulles airports share the distinction of being the Nation's only federally owned civilian airports.

Hopefully, 50 years from now—when Congress will be faced with extending the lease on National and Dulles—Members will ask themselves why it was ever necessary for the Federal Government to own and control civilian airports in the first place. The simple fact is that our Federal Government was not designed nor is it suited to the task of running the day to day operations of civilian airports.

Transferring control of the airports to an independent authority will put these airports on the same footing as all others in the country. It gets the Federal Government out of the day-to-day operation and management of civilian airports, and puts this control into the hands of those who are more interested in seeing these airports run in the safest and most efficient manner possible.

As we are all aware, National and Dulles are in need of significant capital improvements. Rather than throw limited Federal funds at the airports and tell them to do what they can, this legislation will allow the type of coordinated long-range planning necessary to keep the airports safe and efficient into the future. It also allows the airports to float the bonds to pay for the necessary improvements, as opposed to saddling taxpayers at large or raiding the airport trust fund for the money.

Mr. Speaker, the benefits we'll see as a result of this transfer will serve as an indication that the concept of privatization is one which should be pursued in a host of other areas as well. For just as our Federal Government is not suited to run a civilian airport, it is involved in areas that can be much more efficiently and productively carried out by the private sector or, as in this case, by local authorities.

Mr. Speaker, I rise in strong support of this historic amendment.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I think for just a mo-

ment it is necessary for us to look at exactly what we have. At National we have a beautiful example of art decor with art decor technology. That airport has not expanded or done anything significant since the fifties. It is still there. The gentleman from Virginia spoke a minute ago about it being an embarrassment. It is an embarrassment as a front door to the Nation's Capital.

You look out at Dulles, and it is a miscarriage of technology. The airport drastically needs to be upgraded. We need better than what we have here in the Nation's Capital, and we are not going to get it under Gramm-Rudman. I think the gentleman from Georgia [Mr. GINGRICH] pointed that out beautifully. We are not going to get it without the transfer.

Now the question that has been raised on a number of occasions is: Is this a give-away? Obviously, it is not a give-away. The Federal Government is going to be compensated, and it is a lease agreement. But even if it was a give-away, for one moment just think what is public property supposed to be. Public property is what it does for the public, and it is not adequately serving the public.

By this transfer we can bring it into a situation where it will adequately satisfy the public needs.

The last question, and perhaps the most important question, particularly with regard to National is the question of safety. National Airport is certainly not an airport that you would design or even open under today's safety requirements. It needs to be upgraded.

My brother, who is a pilot for one of the largest airlines in the country, once stated to me that it was exciting flying into National Airport. Well, I do not want to come into an airport that is exciting to fly into. I want to come into one that is safe.

The last point that I would like to cover is the question of whether or not a regional authority is going to be sensitive to regional needs and regional concern and the regional environment. Of course, it will even be more sensitive to that.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. FLIPPO. Mr. Speaker, will the gentleman from Kentucky yield?

Mr. SNYDER. I yield to the gentleman from Alabama.

Mr. FLIPPO. Mr. Speaker, we heard a lot of discussion tonight about the lack of a safe airport there and whether or not there is any way to improve it other than to transfer it to a regional authority.

I would like to ask the gentleman from Kentucky if there has been anyone considering perhaps the sale of the landing rights out there that seems to be divided up among the airlines. They seem to control who and how many landings we have out there. Has anyone, in the gentleman's opinion, considered the sale of those landing rights to get the money to make this airport a safer operation?

Mr. SNYDER. As far as I know, there has been no consideration to the sale of landing rights with the money to go to the Federal Government.

They are out there peddling slots between different airlines, and the airlines are picking up several millions of dollars on the sale to others for which they never paid.

I understand Mr. CARR will address that issue of how we are going to pay for improving it just a little bit later. There is about $3 or $4 billion in the trust fund.

Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. HOWARD].

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, tomorrow we will not come in at 10 a.m.; we will come in at noon.

Mr. HOWARD. Mr. Speaker, I thank the majority leader.

Mr. Speaker and my colleagues, I would like to say I had not intended to speak on this issue, but I was watching it from my office, and I heard some statements that were made to which I thought I ought to respond, statements regarding the terrible condition of these airports that we have.

We heard the word "shame." We have had some responsibility in this area and it is our shame that these airports are in this poor condition; and it is a shame that the authorizing committees that had the responsibility have not done something to make these airports more modern and more safe; and the only thing we can do is give it up to some other authority and they then will be able to put in these improvements. We cannot do it in the Congress because we need about $700 million to do this job and have fine airports here.

Well, every time you or your constituents buy an airline ticket, 8 percent of the cost of that goes into the Airport Development Trust Fund, a trust fund to improve airports all across this country. They paid that money. That money has gone into the trust fund, but a lot of it is just sitting there unable to be used because of the smoke and mirrors that we have been doing around here about the budget and the Budget Act and meeting Gramm-Rudman. That money has been paid by the people to improve the airport.

How much? Is there $700 million in that fund? No. There is $4.3 billion sitting there. The money has already been paid. If we free up that money, we can fix these airports. The authorizing committees are ready to deal with it, and that is the way to go, not with this amendment here tonight.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, has the gentleman's committee ever authorized the expenditure of funds from the trust fund for National Airport?

Mr. HOWARD. No. We have not given much money there because we have not been able to use the money that we have, because the Budget Committee, playing as I said in the smoke and mirrors game, has put that on budget and then used it to presume that we have a 4.3 percent lower deficit than what we really have. The money has been paid for that purpose. I think we ought to face up to it and use the money for that purpose.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to congratulate my good friend and colleague on the subcommittee [Mr. WOLF]. He has pressed this issue diligently and relentlessly. I happen to think the gentleman is wrong, but he has done a good job as a legislator.

But the fact of the matter is we all know that the airports need some help. But this is not the method of doing it.

I want to associate myself with the remarks of the gentleman from New Jersey, the chairman of the Public Works Committee [Mr. HOWARD]. The gentleman is absolutely right. The money is available to fix these airports.

Ladies and gentlemen, I included in our subcommittee and you voted for on this House floor earlier this year a provision which would release $50 million, just $50 million, of the $4.3 billion surplus in the Airport Trust Fund to help these two airports out.

Why? Because when you buy a ticket at National or when you buy a ticket at Dulles, you pay into the trust fund. But you know there is a provision in the law that says these two airports shall not receive from the trust fund.

□ 0110

So the bill you passed, the Transportation Appropriations bill you passed earlier this year released a small $50 million to pick it up; to help fix them up. You know the administration downtown choked on it. The Senate choked on it and they took it out of the bill. They are not really interested in fixing up these airports. The money is there, the means are there, the will

is there from this body. They do not have the will.

This administration has never sent up a request to this House or this body for us to appropriate the money they say is needed to fix up these airports.

The SPEAKER pro tempore. The time of the gentleman from Michigan [Mr. CARR] has expired.

Mr. SNYDER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CARR].

Mr. CARR. I thank the gentleman.

The point of the matter is that this administration is not interested so much in fixing up the airports as they are in a philosophy. A philosophy that says a local, regional authority ought to control the access to our Nation's Capital by air.

I know that the people in Virginia and the people on the authority would be good people and they would administer it well, but you and I both know, over time, the local politics of northern Virginia would assert itself on that airport.

Members of the House, we have the money, it has been paid for. Let us release the money, let us fix those airports up for all of our constituents.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding me this time.

Mr. Speaker, Maryland has been ambivalent about this bill as you well know. Ambivalent because there are those of us who represent the Washington metropolitan area who want to see the best possible airports in our region just as you want to see the best possible airports in your region.

In Maryland we were concerned about the competition with the Baltimore-Washington International Airport. We believe we have spent, we know we have spent approximately $200 million to fix up that airport in State funds. We want to make sure that we were treated fairly in this entire process.

I will tell you the Governor of our State, our secretary of transportation, and the next Governor of our State is in favor of this bill because they believe that we have, in the process of the consideration of this bill, been treated fairly.

Now what does this bill do? The FAA owns two airports in the United States of America and only two. These two. The FAA is in the regulatory business, not in the operating of airports business. Again, I was ambivalent as a member of the commission that proposed this legislation, and was an opponent and had a different structure, but this is the structure that has been proposed. I believe that my local constituents will be better off under this legislation.

There is, however, a congressional board which is established by this. There is some question, I understand that, but that board has been established to make sure that the Nation's interest, the congressional interest was attended to in the consideration of how these two airports are operated.

In addition, I share Mr. FORD's concern about our Federal employees and have followed this issue carefully. I have here a letter from the American Federation of Government Employees which supports this legislation, believing that the protections written into this legislation do in fact help them, support them, and protect them.

But I am also convinced that if there is any problem, WILLIAM FORD of the State of Michigan will make sure those employees are protected in follow-on legislation next year.

Mr. Speaker, this legislation is clearly not perfect; it is controversial. But as the gentleman from Virginia, Mr. SISISKY, indicated, we have been a long time trying to get to the end of getting the FAA, a regulatory body, out of the business of operating two airports. This is our opportunity, let us seize it.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BADHAM].

Mr. BADHAM. Mr. Speaker, I rise in strong support of this legislation.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of this provision, which would lease National and Dulles Airports to an independent airport authority.

I think it's high time that the Federal Government got out of the Washington-area airport business.

And I have the sneaking suspicion that a majority of our constituents feel the same way. Perhaps this is why the Congress hasn't been willing to pump any money into keeping the airports in good shape.

Both airports need new terminals, new parking facilities, and various other improvements. To get National and Dulles in good working order will cost the taxpayers at least $700 million over the next 5 years.

Well, we obviously don't have $700 million to spend.

Should we, then, continue on our present path, and just let these airports deteriorate until they are completely unusable?

I think what we have before us today is a fair- and well-reasoned solution.

The airports would be leased to an independent airport authority for 50 years, with an option to renew. The airport authority would be governed by an independent board appointed by the Governors of Virginia and Maryland, the Mayor of the District of Columbia, and the President.

For those who are concerned that local authorities won't be able to efficiently run the airports, the Congress would retain some oversight responsibilities through a board of review.

Lease payments would total $150 million, which is more than the Federal Government's unrecovered investment in the property.

The badly needed renovations at the airports would be financed through private bond issue or through airport and airway improvement grants, just as they are at other airports across the country.

Mr. Speaker, there is no reason for the American taxpayers to foot the bill for $700 million in renovations for these two airports.

There is no practical reason why the Federal Government should be involved in the day-to-day operations of these airports at all.

Let's be sensible. Let's be economical.

Let's turn these airports over to local control—where they belong.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I rise in strong support of the bill.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. I thank the gentleman for yielding to me this time.

Mr. Speaker, I rise in support of the proposed legislation. I have been flying in and out of this airport for 22 years waiting for them to do something to improve it. There might be money in the trust fund but they have not come forward to develop the airport.

This looks like a pretty free deal to me; it looks like a fair deal. They are going to sell bonds, the authority will, and the areas of interest that we are concerned with, whether it be the employees, whether it be the parking for the Members, whether it be the safety features, whether it be congressional control, these have been addressed in the proposed legislation.

I think it is a good deal, and I urge all of my colleagues to support it.

Mr. SNYDER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. I thank the gentleman for yielding to me.

Mr. Speaker, if the question is money, I think it is a bogus issue. It has been answered by saying there is $4.3 billion in a trust fund and if you have the guts to do it, pay for it and we can do it; it will not cost anybody any money.

If you are worrying about costing the Federal Government any money

you think that the tax-exempt bonds are not being picked up by the taxpayers of this country, whether it is an expenditure in the appropriation process or the tax expenditure process? It costs the Federal Government money. So do not use that argument; it is a bogus argument. You know it, I know it, and maybe the people out there do not understand it, but you are not fooling anybody.

It is important that the job get done and we can pay for it. If we want to create a bonding authority within the Government, we have the authority to do it. We can issue our own bonds or we can leave certain parts of the airport to some city and give them the bonding authority. So that can be handled.

The question is, and if there is a question of safety, then we have a responsibility to fix up that airport and make it safe; not tomorrow but today.

The bottom line question is: Do you trust the District of Columbia and the State government of Virginia over the Congress of the United States? If you do, it may be a little joke to some of you, but if you do, then you vote for this motion. But if you are concerned about vigorous oversight and making sure that there is responsibility in running these airports, then you keep that authority with the Congress of the United States and fund the dollars necessary to make it a safe airport.

It is the Nation's airport, not a regional authority's airport. It is our airport in this country and every taxpayer has an interest in it and we ought to make sure it gets picked up and done well.

□ 1068

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this motion to concur in the amendment of the Senate, with some modifications, relating to the transfer of National and Dulles Airports. This transfer would take the form of a long-term lease to a new airport authority, and would represent a major improvement in the way these airports are currently financed.

Mr. Speaker, my colleagues on the Transportation Appropriations Subcommittee will attest to the fact that I have long complained about the conditions at National Airport. When you look back at the hearing record, you see me using words like "disgrace," "embarrassment," and "sinkhole" in connection with that facility. And those are the words left after the bad ones were edited out.

It is clear that National Airport has long exceeded its capacity to safely and efficiently accommodate the passengers and aircraft who use it. Transportation access ranges from inconvenient to nonexistent, baggage and gate facilities are seriously overtaxed, and the physical structure itself has long outlived its usefulness.

For years, I have been saying that we need to construct a two-level access terminal, with one level for arrivals and the other for departures, as is common at most large-city terminals. And I have consistently voiced my complaints against the genius who put the National Airport metro stop so far away from the terminal, with no means of access except across multiple lanes of traffic.

Mr. Speaker, we are all familiar with these problems. And we all know what it will take to solve them. The solution is simple—more money.

It will take approximately $280 million to make the improvements needed at National Airport—to build a two level terminal, to connect the Metro to the terminal with an underground walkway and moving sidewalk, to expand the terminal facilities. Does the Federal Government have that kind of money? Of course not.

Does the Federal Government have the $480 million it will take to build the midfield terminal at Dulles, build another runway, and expand parking and other supporting facilities? Of course not.

Mr. Speaker, this provision is very simple. It is, in its essence, a financing mechanism. It does not give up ownership of these airports—that remains, ultimately, in the Federal Government. It does not give up congressional control and oversight—that remains in a Congressional Board of Review.

Instead, this provision will enable a new airport authority to issue bonds to finance the $700 million worth of improvements that need to be made at these two airports.

Mr. Speaker, what we will be doing is receiving $460 million in rent payments, while it is the airport authority's responsibility to come up with $700 million in improvements. That seems like a fair exchange to me, and I urge the adoption of this motion.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, I would just like to ask the gentleman a few questions.

Does the gentleman say that we do not have enough money in the trust fund to pay for it?

Mr. CONTE. We have enough money in the trust fund, if the other airports in the country and the NAS plan needs don't get it first.

Mr. RUSSO. Will the gentleman answer this question: Have we been paying 8 percent on airline ticket fees in order to pay for the money in the trust fund?

Mr. CONTE. Yes; we have.

Mr. RUSSO. So the question is not money.

Mr. CONTE. I supported the gentleman from Michigan [Mr. CARR], when he tried to take $50 million from the trust fund to improve National Airport.

That proposal got whacked in the other body and was dropped in conference. But I go back to the authorizing committee, the Committee on Public Works. Not once, not once has that committee ever authorized any money from the trust fund for National Airport.

Mr. RUSSO. Mr. Speaker, is it not a fact that we can create a bonding authority and do the same thing ourselves, issue the same bonds in the same kind of dollars and the same money we are talking about? We do not have to turn it over to another regional area? We can do everything you want to do in this amendment ourselves. What is the answer to that?

Mr. CONTE. Mr. Speaker, I love my good friend, but for 28 years, I have been going into and out of National Airport and no one has done anything to improve it. It is a disgrace to the Nation.

Mr. SNYDER. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. SNYDER] has 2 minutes remaining; the gentleman from Florida [Mr. LEHMAN] has 5 minutes remaining; and the gentleman from Massachusetts [Mr. CONTE] has 1 minute remaining.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I recognize the lateness of the hour. I just want to say this: If there is any Member here who thinks that there will be a congressional board of review after it has been doctored up in this amendment, come look here at the 9-page letter from the Department of Justice. It will not exist.

If there is any Member here who wants to know what the plans are for the Washington National Airport, come look at this page-and-a-half letter from the Arlington County, VA, Office of the County Board.

I am here to tell you that I am not going to be here next year. I am trying to take care of you. It is just that simple.

So I suggest that you look after your own best interests. You are not going to have a congressional board of review. The way it came out of the subcommittee chaired by the gentleman from California [Mr. PANETTA], you would have. They passed on that. When you go naming these particular committee members, you lose it under Chadha. That is what they say in these 9 pages.

I am just here to suggest to you that you are going to lose it all because you are anxious to get out tonight and are anxious to go home. I do not blame

you; I am anxious to go home, too, and I do not relish what you have to go home to in your campaigns, but on the other hand, you had best not take this on faith. There is only one book that I take on faith, and they did not write it here tonight.

Mr. LEHMAN of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. WHITTEN], the distinguished chairman of the full committee.

Mr. WHITTEN. Mr. Speaker, I have prepared a continuing resolution for 24 hours and conferred with the majority leader in the other body. They agree that they will call this resolution up tomorrow morning early and go through the night if necessary to get us through tomorrow.

I mention this because there may be a vote on this, but I will bring it up as soon as the vote on this matter is over.

Ms. MIKULSKI. Mr. Speaker, I rise to raise serious concerns about the failure of the conference committee to include a provision to deal with the noise problem in Montgomery and Prince Georges Counties in the legislation authorizing the transfer of National and Dulles Airports.

Many concerns which the State of Maryland originally had with the proposed transfer have been resolved to the State's satisfaction. The noise isue, unfortunately, has not.

During a normal day, flights along the north path out of National Airport reach a level of three flights a minute over Montgomery County. That means that there are as many as 300 flights a day over this particular path. The decibel level from these flights in turn often exceeds the livable noise standards set by the Environmental Protection Agency.

This situation has affected the quality of life for suburban Washington residents who live in Maryland. In many cases, it prevents them from having neighborhoods where they can get any peace and quiet, and in still others it has hurt property values because of the constant roar of flights from National.

Currently, a nightime noise limitation regulation prevents any aircraft operations for major aircraft out of National between 10 p.m. and 7 a.m. Regrettably, this carefully crafted noise compromise is significantly weakened by the legislation in the airport transfer legislation.

Under the terms of the conference report, the airports' regional authority would have the power to modify or revoke this protective measure. While no one can be certain that the new authority would suspend this rule, I am concerned that it will want to do so in order to increase the airports' revenues through increased flights.

In addition, by taking control of the airports away from the Federal Government, I am troubled that the regional authority could be subject to some kind of court challenge on a nightime noise provision which the San Francisco Airport authority faces as a non-Federal entity.

If the Metropolitan Washington Airports' Regional Authority faces similar litigation, it could have a far less chance of defending itself in court than if the noise restriction were directly enforced by the Federal Aviation Administration.

Finally, many Montgomery County residents rightfully complain that the Federal Aviation Administration often is failing to enforce the high-density rule at National Airport. This regulation limits the number of noncommuter air flights out of National to 37 flights an hour.

The Maryland congressional delegation shares the concerns of our Montgomery citizens on this very serious issue. Earlier this year, we wrote to Representative NORMAN MINETA, chairman of the House Aviation Subcommittee, earlier this year, asking him to begin an investigation on this issue. While his subcommittee has yet to complete this study, it is my strong hope that they do so in the near future so we can take action to remedy this situation.

Mr. Speaker, while we have been unable to resolve this issue during the 99th Congress, I am sure it will be a high priority for our delegation and myself in the next Congress.

The people of Montgomery and Prince Georges Counties deserve a healthy quality of life, free from unreasonable aircraft noise and excessive flights which could pose a safety risk to their neighborhoods.

And while this bill does not deal with this issue properly, my colleagues should know that it will be a very high priority for me in the future. The State of Maryland has negotiated in good faith on this transfer legislation and the citizens of Maryland deserve relief from the burden they bear from National's aircraft noise.

Mr. HAMMERSCHMIDT. Mr. Speaker, it is clear that National and Dulles Airports need improvements. Anyone who has used these two airports can plainly see that they have problems. The terminals at National are old, temporary facilities that need renovation. Dulles needs a modern midfield terminal to accommodate a dramatic increase in airlines and passengers using that facility. Both airports could use more parking spaces. And National Airport could benefit from a total revamping in order to ease access for both automobile and Metro passengers.

Some might prefer to keep the airports under Federal control and finance the improvements out of the Aviation Trust Fund. But unfortunately, that is not likely to happen in the near future. Given the current budget deficit, the funds needed for airport improvements are just not made available.

That is why I support an amendment to the continuing resolution. This amendment would transfer operating control over National and Dulles Airports to a local authority. This amendment is substantially the same as the airport transfer bill (H.R. 5398) which was marked up and approved by the Aviation Subcommittee on August 11.

Although I initially had problems with the airport transfer bill, I believe it has been improved significantly and now deserves your support.

I understand that one concern of Members is that by leasing these airports to a local authority, we would be losing control over them. But, in fact, under this bill exactly the opposite is true. We will have more control than before. For example, under this bill:

The number of flights at National cannot be cut back by the local authority at all. Flights can be reduced by the Federal Aviation Administration [FAA] only for reasons of safety. This contrasts with the present system where the FAA can reduce National flights, by regulation, for any reason.

A passenger cap cannot be used as a way to cut back on the number of flights at National. Right now, if annual passenger levels top 16 million, the FAA would have to start limiting flights.

A board of review composed of Congressmen is created to protect the interests of all users of the two airports. This board would have veto power over the local authority's annual budget and master plan. It could veto any regulation of the local authority such as rules on service levels, noise, or parking. At present, pressure on FAA seems to be our only way to influence events at the two airports.

It has been estimated that $700 million will be needed to make all necessary improvements. Obviously, the Federal Government cannot foot that bill. The airport transfer amendment will allow the local authority to issue tax-free bonds to finance these improvements. A Federal corporation, which we had considered, can only issue taxable bonds. Taxable bonds would substantially increase the ultimate cost of the financing and place many necessary improvements out of reach.

In short, the airport transfer amendment is good for the airports, good for the Congress, and good for the country. The administration, the airlines, and local community officials all support it. I urge my colleagues to support it as well.

Mr. LEHMAN of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SNYDER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 250, and nays 135, not voting 47, as follows:

[Roll No. 476]

YEAS—250

Akaka	Boggs	Cooper
Alexander	Bonker	Coughlin
Andrews	Boucher	Courter
Anthony	Boulter	Coyne
Applegate	Brown (CA)	Craig
Archer	Brown (CO)	Crane
Armey	Bryant	Daniel
AuCoin	Burton (IN)	Dannemeyer
Badham	Bustamante	Darden
Barnard	Callahan	Daub
Barnes	Carper	Davis
Bartlett	Chandler	de la Garza
Barton	Chapman	DeLay
Bateman	Chappie	DeWine
Bates	Cheney	Dickinson
Beilenson	Clinger	Dicks
Bentley	Coats	DioGuardi
Bereuter	Cobey	Dixon
Berman	Coble	Donnelly
Bilirakis	Coleman (TX)	Dornan (CA)
Billey	Combest	Dreier
Boehlert	Conte	Durbin

Dwyer	Lewis (CA)	Saxton
Dymally	Lewis (FL)	Schaefer
Eckart (OH)	Lightfoot	Schneider
Eckert (NY)	Livingston	Schuette
Edgar	Loeffler	Seiberling
Edwards (OK)	Lott	Sensenbrenner
Erdreich	Lowery (CA)	Sharp
Evans (IA)	Lungren	Shaw
Fascell	Mack	Shumway
Fawell	Madigan	Sikorski
Fazio	Manton	Sisisky
Fields	Martin (IL)	Skeen
Foglietta	Martin (NY)	Slattery
Foley	Matsui	Slaughter
Franklin	McCandless	Smith (FL)
Frenzel	McCloskey	Smith (NE)
Frost	McCollum	Smith (NJ)
Fuqua	McCurdy	Smith, Denny (OR)
Gallo	McDade	Smith, Robert (NH)
Gaydos	McKinney	Smith, Robert (OR)
Gekas	McMillan	Stallings
Gilman	Meyers	Stenholm
Gingrich	Michel	Strang
Glickman	Mikulski	Studds
Gonzalez	Miller (WA)	Stump
Goodling	Mineta	Sweeney
Gradison	Mitchell	Swift
Gray (IL)	Molinari	Swindall
Gray (PA)	Mollohan	Synar
Green	Monson	Tallon
Gregg	Montgomery	Tauke
Gunderson	Moorhead	Tauzin
Hall, Ralph	Morrison (CT)	Thomas (CA)
Hamilton	Morrison (WA)	Thomas (GA)
Hammerschmidt	Mrazek	Torres
Hatcher	Nelson	Traficant
Henry	Nielson	Valentine
Hiler	Nowak	Vander Jagt
Hillis	Olin	Vucanovich
Holt	Ortiz	Waldon
Hopkins	Oxley	Walgren
Hoyer	Packard	Walker
Huckaby	Panetta	Weber
Hunter	Parris	Wheat
Hutto	Pease	Whitehurst
Hyde	Penny	Whittaker
Ireland	Petri	Wilson
Jacobs	Pickle	Wirth
Jeffords	Porter	Wolf
Johnson	Ray	Wortley
Jones (NC)	Regula	Wright
Kennelly	Richardson	Wyden
Kildee	Ridge	Wylie
Kolbe	Ritter	Yatron
Kostmayer	Roberts	Young (AK)
Kramer	Rodino	Young (FL)
LaFalce	Roemer	Young (MO)
Lagomarsino	Rostenkowski	Zschau
Lantos	Roth	
Latta	Roukema	
Leach (IA)	Rowland (CT)	
Lehman (FL)	Rowland (GA)	
Leland	Roybal	

NAYS—135

Abercrombie	Dyson	Kolter
Ackerman	Early	Lehman (CA)
Anderson	Edwards (CA)	Lent
Annunzio	Emerson	Levin (MI)
Atkins	English	Lipinski
Bedell	Evans (IL)	Lloyd
Bennett	Feighan	Lowry (WA)
Bevill	Flippo	Lujan
Biaggi	Ford (MI)	Luken
Boland	Ford (TN)	MacKay
Boner (TN)	Frank	Markey
Bonior (MI)	Garcia	Marlenee
Borski	Gejdenson	Martinez
Bosco	Gibbons	Mavroules
Boxer	Gordon	Mazzoli
Bruce	Guarini	McHugh
Byron	Hayes	McKernan
Carney	Hefner	Mica
Carr	Hendon	Miller (OH)
Chappell	Hertel	Moakley
Clay	Horton	Moody
Coelho	Howard	Murphy
Coleman (MO)	Hubbard	Myers
Collins	Hughes	Natcher
Daschle	Jenkins	Neal
Derrick	Jones (TN)	Oakar
Dorgan (ND)	Kanjorski	Oberstar
Dowdy	Kasich	Obey
Downey	Kastenmeier	Owens
Duncan	Kleczka	Pashayan
Pepper	Schroeder	Stratton
Perkins	Schulze	Sundquist
Price	Schumer	Taylor
Quillen	Shelby	Torricelli
Rahall	Smith (IA)	Towns
Rangel	Snowe	Udall
Reid	Snyder	Vento
Rinaldo	Solarz	Visclosky
Robinson	Solomon	Volkmer
Rogers	Spence	Watkins
Rose	Spratt	Whitley
Russo	Staggers	Whitten
Sabo	Stangeland	Wise
Savage	Stark	Wolpe
Scheuer	Stokes	Yates

NOT VOTING—47

Aspin	Hall (OH)	Moore
Breaux	Hansen	Murtha
Brooks	Hartnett	Nichols
Broomfield	Hawkins	Pursell
Burton (CA)	Jones (OK)	Roe
Campbell	Kaptur	Rudd
Conyers	Kemp	Shuster
Crockett	Kindness	Siljander
Dellums	Leath (TX)	Skelton
Dingell	Levine (CA)	St Germain
Fiedler	Long	Traxler
Fish	Lundine	Waxman
Florio	McCain	Weaver
Fowler	McEwen	Weiss
Gephardt	McGrath	Williams
Grotberg	Miller (CA)	

□ 0145

Mr. RICHARDSON and Mr. GONZALEZ changed their votes from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 5484) "An Act to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes," with an amendment.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2127, ESTABLISHMENT OF U.S. BOXING COMMISSION

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-1006) on the resolution (H. Res. 595) providing for the consideration of the bill (H.R. 2127) to establish a U.S. Boxing Commission, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5705, PROTECTING AND PROVIDING FOR ENHANCEMENT OF THE RESOURCES OF THE COLUMBIA RIVER GORGE

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-1007) on the resolution (H. Res. 596) providing for the consideration of the bill (H.R. 5705) to protect and provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes, which was referred to the House Calendar and ordered to be printed.

DEMOCRATIC WHIP MEETING

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, with apologies to the minority, and by popular request, I would like to make the announcement out of order that the Democratic whip meeting will be at 10:30 rather than at 9 o'clock.

FURTHER CONTINUING APPROPRIATIONS, 1987

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 753) making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Mississippi?

Mr. DANNEMEYER. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman from Mississippi [Mr. WHITTEN] a question. Is there anything in this continuing resolution that is not in the previous continuing resolutions that have been passed?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, this does nothing except extend the present continuing resolution 24 hours, nothing else.

Mr. DANNEMEYER. I am sorry, Mr. Speaker. I could not hear the gentleman's response.

Mr. WHITTEN. Mr. Speaker, this is an extension of the present continuing resolution for 24 hours, not the one that we just voted on.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 753

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of October 11, 1986 (Public Law 99-465) is hereby amended by striking out "October 15, 1986" and inserting in lieu thereof "October 16, 1986".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. DANNEMEYER. Reserving the right to object, Mr. Speaker, the gentleman made a unanimous-consent request to bring up this continuing resolution for 24 hours.

The SPEAKER pro tempore. That is correct, and the Chair put the question, "Is there objection?" No one objected, and the joint resolution was passed.

Mr. DANNEMEYER. Reserving the right to object, Mr. Speaker, I want the question put with respect to whether or not the House is going to pass this continuing resolution for 24 hours.

The SPEAKER pro tempore. Does the gentleman have a parliamentary inquiry which he wants to state?

Mr. DANNEMEYER. I reserve the right to object, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman request that the question be put on passage?

Mr. DANNEMEYER. That is correct, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the Chair can vacate the previous action, but the joint resolution had been read a third time and passed, and a motion to reconsider had been laid on the table.

The Chair wants to be fair with everyone. It is late, and the gentleman's request really comes too late.

Mr. DANNEMEYER. I was on my feet, Mr. Speaker, looking for an opportunity.

VACATING THE VOTE BY WHICH HOUSE JOINT RESOLUTION 753, FURTHER CONTINUING APPROPRIATIONS, 1987, WAS PASSED

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the vote be vacated.

The SPEAKER pro tempore. Without objection, the vote will be vacated.

There was no objection.

The SPEAKER pro tempore. The question in on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 97, not voting 75, as follows:

[Roll No. 477]

AYES—260

Abercrombie	Gallo	Oakar
Ackerman	Gaydos	Oberstar
Akaka	Gejdenson	Obey
Alexander	Gibbons	Ortiz
Anderson	Gilman	Owens
Andrews	Glickman	Panetta
Annunzio	Gonzalez	Parris
Anthony	Goodling	Pashayan
Applegate	Gordon	Pease
Atkins	Gray (IL)	Pepper
AuCoin	Gray (PA)	Perkins
Barnard	Green	Price
Barnes	Guarini	Quillen
Bateman	Hall, Ralph	Rahall
Bedell	Hamilton	Rangel
Beilenson	Hammerschmidt	Regula
Bennett	Hatcher	Reid
Bentley	Hayes	Richardson
Berman	Hefner	Rinaldo
Biaggi	Hendon	Ritter
Bliley	Holt	Rogers
Boehlert	Horton	Rose
Boggs	Howard	Rostenkowski
Boland	Hoyer	Roukema
Boner (TN)	Huckaby	Rowland (GA)
Bonker	Hughes	Roybal
Borski	Hutto	Sabo
Boucher	Ireland	Savage
Boulter	Jacobs	Saxton
Boxer	Jenkins	Scheuer
Bryant	Johnson	Schneider
Bustamante	Jones (NC)	Schroeder
Carper	Jones (TN)	Schuette
Carr	Kanjorski	Schumer
Chandler	Kastenmeier	Seiberling
Chapman	Kennelly	Sharp
Chappell	Kildee	Shaw
Cheney	Kleczka	Sikorski
Clay	Kolter	Sisisky
Coble	Kostmayer	Skeen
Coelho	LaFalce	Slaughter
Coleman (MO)	Lantos	Smith (FL)
Coleman (TX)	Lehman (CA)	Smith (IA)
Collins	Lehman (FL)	Smith (NE)
Conte	Leland	Smith (NJ)
Cooper	Lent	Snowe
Coughlin	Levin (MI)	Snyder
Coyne	Lipinski	Spence
Daniel	Livingston	Spratt
Darden	Lloyd	Staggers
Daschle	Loeffler	Stangeland
Daub	Lowery (CA)	Stark
Davis	Lowry (WA)	Stratton
de la Garza	MacKay	Swift
Dellums	Madigan	Synar
Derrick	Manton	Tallon
Dickinson	Markey	Tauzin
Dicks	Martin (IL)	Thomas (GA)
DioGuardi	Martin (NY)	Torres
Donnelly	Martinez	Torricelli
Dorgan (ND)	Matsui	Towns
Dowdy	Mavroules	Traficant
Downey	Mazzoli	Udall
Duncan	McCloskey	Valentine
Durbin	McCollum	Vento
Dwyer	McCurdy	Visclosky
Dymally	McHugh	Volkmer
Dyson	McKernan	Vucanovich
Early	McKinney	Waldon
Eckert (NY)	McMillan	Walgren
Edgar	Mica	Watkins
Edwards (CA)	Michel	Wheat
Edwards (OK)	Miller (OH)	Whitley
Emerson	Mineta	Whitten
English	Moakley	Wilson
Erdreich	Molinari	Wise
Evans (IL)	Mollohan	Wolf
Fascell	Moody	Wolpe
Fazio	Morrison (CT)	Wortley
Feighan	Morrison (WA)	Wright
Flippo	Mrazek	Wyden
Foglietta	Murphy	Wylie
Foley	Myers	Yatron
Ford (MI)	Natcher	Young (AK)
Ford (TN)	Neal	Young (FL)
Frank	Nelson	Young (MO)
Frost	Nowak	

NOES—97

Archer	Gregg	Porter
Armey	Gunderson	Ray
Badham	Henry	Ridge
Bartlett	Hertel	Roberts
Barton	Hiler	Robinson
Bates	Hopkins	Roemer
Bereuter	Hubbard	Roth
Bilirakis	Hunter	Rowland (CT)
Brown (CO)	Kasich	Russo
Bruce	Kolbe	Schaefer
Burton (IN)	Kramer	Sensenbrenner
Byron	Lagomarsino	Shelby
Callahan	Latta	Shumway
Carney	Leach (IA)	Slattery
Chappie	Lewis (CA)	Smith, Denny (OR)
Coats	Lewis (FL)	Smith, Robert (NH)
Cobey	Lightfoot	Solomon
Combest	Lott	Stallings
Courter	Lujan	Stenholm
Craig	Lungren	Strang
Crane	Mack	Stump
Dannemeyer	Marlenee	Sundquist
DeLay	McCandless	Sweeney
DeWine	McEwen	Swindall
Dornan (CA)	Meyers	Tauke
Dreier	Miller (WA)	Taylor
Eckart (OH)	Monson	Thomas (CA)
Evans (IA)	Moorhead	Walker
Fawell	Nielson	Weber
Fields	Oxley	Whittaker
Franklin	Packard	Zschau
Frenzel	Penny	
Gekas	Petri	

NOT VOTING—75

Aspin	Hansen	Pickle
Bevill	Hartnett	Pursell
Bonior (MI)	Hawkins	Rodino
Bosco	Hillis	Roe
Breaux	Hyde	Rudd
Brooks	Jeffords	Schulze
Broomfield	Jones (OK)	Shuster
Brown (CA)	Kaptur	Siljander
Burton (CA)	Kemp	Skelton
Campbell	Kindness	Smith, Robert (OR)
Clinger	Leath (TX)	Solarz
Conyers	Levine (CA)	St Germain
Crockett	Long	Stokes
Dingell	Luken	Studds
Dixon	Lundine	Traxler
Fiedler	McCain	Vander Jagt
Fish	McDade	Waxman
Florio	McGrath	Weaver
Fowler	Mikulski	Weiss
Fuqua	Miller (CA)	Whitehurst
Garcia	Mitchell	Williams
Gephardt	Montgomery	Wirth
Gingrich	Moore	Yates
Gradison	Murtha	
Grotberg	Nichols	
Hall (OH)	Olin	

□ 0205

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TODAY

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 noon today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ORDER OF BUSINESS

Mr. RIDGE. Mr. Speaker, I ask unanimous consent that the 30-minute special order of the gentleman from Utah [Mr. NIELSON] earlier entered

into be vacated, and that he be granted a 5-minute special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMUNICATION FROM HON. JIM KOLBE, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. JIM KOLBE:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 14, 1986.

Hon. THOMAS P. O'NEILL,
Office of the Speaker,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that a member of my staff has been served with a deposition subpoena issued by the Superior Court of Arizona in Tucson.

After consultation with the General Counsel to the Clerk, I will notify you of my determination as required by the House Rule.

Sincerely,

JIM KOLBE,
Member of Congress.

TRIBUTE TO MICHAEL I. FUTERMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HORTON] is recognized for 5 minutes.

Mr. HORTON. Mr. Speaker, I rise today to pay tribute to Michael I. Futerman of Rochester, NY, who will soon be awarded the Mickey Marcus Award for outstanding service to his community.

From his childhood escape from the nightmare of the Holocaust, through his 6 active and bloody years fighting for freedom and the birth of the great nation of Israel, and through his early years in America building both a business of size and integrity and a family of honor and love, one word personifies the character of Michael I. Futerman: Dedication.

Mike went to Palestine with his family from Poland in 1935. The oldest at age 7, he was joined by his brothers, Eliezer and Naphtali, who were 5 and 2, respectively. At 15, he joined the Haganah, which later became part of the Israeli Army.

For 6 long years he bore arms and fought for the establishment of the Jewish state. He served actively as a member of the Chativat Carmeli—the Carmel Brigade—and participated in the battles for Acre and the Northern Lebanese border. In 1948, his brother Eliezer, having distinguished himself in school by matriculating early, joined the Palmach, the commando arm of the new Israeli Army. Tragically, at the age of 17, he fell in battle against Syrian-backed Palestinian forces on a remote hillside fortress called Nebi Yusha.

In April 1952, Mike was finally released from the army. Distressed by the loss of his brother, he decided to visit America. From his earliest days, he had been fascinated by all aspects of the motor vehicle. He eventually got into automotive work in Erie, PA.

Two years later, Michael Futerman moved to Rochester. In the 30-year period since arriving in Rochester, he has built Hahn Automotive Warehouses into a huge multimillion dollar business serving the entire eastern seaboard.

Mike has had good fortune in his private life as well. He met a lovely Polish Jewish girl, Sara, and was married shortly thereafter. They have three beautiful children—Daphne, a social worker in New York City and a graduate of Case Western University; Eli, who has joined his father in the family business; and Rina, who, this summer, married Daniel Chessin of Rochester. Eli's wife, Peggy, who is from Annapolis, recently blessed Mike and his wife with their first grandchild.

For his entire life, Michael has been devoted to Israel and to the survival of Judaism. Both he and his wife Sara—herself a victim of the Holocaust and an inmate of Auschwitz—have dedicated their lives to Zionism and community service.

Mike has served on the Board of Synagogue Beth El for more than 15 years. He chaired the scholarship fund and the rituals committee. He has also been on the board of the J.C.C., the Jewish day school, and the Jewish home, as well as the board of governors. He has served for nearly 4 years as treasurer of the federation, and was elected vice president of the organization earlier this summer.

Mike is a well-known, dedicated, and cherished member in Rochester and Rochester's Jewish Community. His devotion and spirit are above reproach. His selection as the recipient of the Mickey Marcus Award is well deserved and is to be congratulated.

WHAT PATRIOTISM MEANS TO ME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, patriotism frequently is a difficult word to define. The Noncommissioned Officers Associations sponsored an essay competition on the topic "What Patriotism Means to Me." That competition was won by TSgt. George A. Moore, a recent graduate of the Tactical Air Command Noncommissioned Officers Academy at Tyndall Air Force Base in my hometown of Panama City, FL.

Maj. Gen. Ted Rees, who is a good friend of most of us in the Congress, is now serving as commander of the air defense weapons center at Tyndall, Ted felt that Sergeant Moore's essay deserves to be read by as many people as possible. I agree.

Sergeant Moore's essay is a thoughtful and touching composition that reaches the very heart of patriotism in America and is an excellent example of how the people who serve in America's Armed Forces feel about our country. For the men and women in uniform, patriotism is a very real concept. Actually, it is more than a concept—it's a way of life.

Mr. Speaker, I am submitting Sergeant Moore's essay for reprinting in the CONGRESSIONAL RECORD, and commend it to my colleagues as a source of inspiration during the times in this body when the hour is late and energy is at a low ebb. It will help us to remember that, with all our problems, we still live in and serve the greatest of all nations on Earth.

WHAT PATRIOTISM MEANS TO ME

How can I tell you in words just what Patriotism means to me? I can't, really, because mere words could never express my feelings. If I were an artist, I'd have no trouble. I'd paint a portrait of Patriotism that would reveal my innermost emotions.

I'd start with a canvas as large as the imagination so that I'd have room to include all the things that come to mind, and indeed, there are many. In some parts, my canvas would be coarse in texture, as was our country in its beginning; in other parts, it would be closely woven, maybe as fine as the silks and satins used in the making of our national flag today.

For my colors, I'd choose pure whites, blood reds, and royal blues: all symbols of our freedom. But my palette would need a thousand hues to accurately portray the sights and sounds of Americans and our way of life. My brushes? Some thick and strong, to paint the determination, fighting spirit, and raw courage that plain, simple people found within themselves when they built America. Of course, I'd need a few very fine brushes to color in the fragile elements: independence, democracy, and honor.

My subject would certainly be people, for that is what it's all about. In one corner, an American farmer, working this great land as did his father before him. He doesn't know much about the world situation, but he's a believer in his fellow man. Not far away there's a young serviceman, away from home for the first time. He's reading a letter from his folks and feels proud to be able to help defend and protect them. Just above, you'll find a kitchen table with Mom, Dad, Grandparents, and all the kids, their heads bowed in prayer as they pray to God for that young man's safe return.

Across the top is a parade, maybe it's the Fourth of July or Memorial Day. Flags are everywhere, and on the other side of the street is an old man wearing a faded and outdated uniform. He beams with pride and renders a hearty salute as the colors pass, and if you look close, you'll see tears welling up from inside. His left hand firmly grasps the hand of a small child, full of wonder at the procession.

Scattered about are hundreds of other people: factory workers, old couples, children. They're holding hands across our nation, keeping it strong and safe, and ready to fight for their beliefs. Don't worry. You're right there with those people, eager and enthusiastic.

That's what Patriotism would look like if I could only show it to you. Oh yes, somewhere around the middle of my portrait, you'll find me standing tall and proud. I'm only a small part of Patriotism, but Patriotism is a big part of me.

GEORGE A. MOORE,
TSgt, USAF, 4th Combat Support Group,
Seymour Johnson AFB, NC.

A TRIBUTE TO THE HONORABLE DAVID S. MONSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. NIELSON] is recognized for 5 minutes.

GENERAL LEAVE

Mr. NIELSON of Utah. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their re-

marks on the subject of my special order this evening.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. NIELSON of Utah. Mr. Speaker, I would like to take a few minutes of time to address the subject of my good friend, DAVID MONSON, who is retiring from Congress this year.

Mr. Speaker, at this time I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I would like to, at 11 minutes after 2 o'clock in the morning here on the east coast, to compliment my distinguished colleague for taking out this special order concerning a very special person, DAVE MONSON.

I first became aware of DAVE MONSON's candidacy because a close relative of his happens to be a constituent of mine. I was very pleased that in a close election, he joined us here as a Member of the 99th Congress, and he has done a spectacular job.

In his first term, DAVE has served as a member of the Committee on Science and Technology, the Committee on Government Operations, and most recently as a member of the Committee on Public Works and Transportation.

He has a very distinguished 14-year career of public service. He was elected as a young man and is retiring at this point from public office still as a young man; and there is no doubt in my mind that with his credentials as a certified public accountant that he will go on to a very bright career.

He was very good to come to this Congress with that unique perspective; that of being a CPA, because as we all know, one of the reasons that many of us came to the Congress is to address the fiscal crisis that the United States of America is facing.

DAVE MONSON consistently utilized his background in addressing every single fiscal issue that we faced, and it was a real honor for me as a Member of the 99th Congress to serve with him, and I wish him all the best, and would like to compliment again my colleague from Utah for taking out this special order.

Mr. NIELSON of Utah. Mr. Speaker, I'd just like to take a minute to pay tribute to a dear friend and colleague who will soon be leaving the House. Although DAVE MONSON has been here a short time he has made a significant impact on this body and served the State of Utah well.

DAVE's public service career began at an early age when he was first elected to statewide office at the age of 28. DAVE ran for Utah State auditor and won against the well known Salt Lake County auditor. After serving successfully for 4 years in that capacity, DAVE was twice elected as Utah's Lieutenant Governor. Again DAVE faced tough races against candidates that were more well known and again DAVE MONSON prevailed serving 8 years as Lieutenant Governor. When Dan Marriott decided to retire from Congress 2 years ago, DAVE took up the challenge, ran for the seat, and again defeated a candidate that was well known and well financed. I think DAVE has proved that he is a tough campaigner and a dedicated public servant.

Now after 14 years of distinguished service to the State of Utah, DAVE has decided to leave public life for the private sector. He will be missed by me and his other colleagues. I have enjoyed working with him and feel that he has quickly adapted to the responsibilities and the rigorous schedule of congressional life. I have found him always to be eager and cooperative. DAVE has the ability to articulate his knowledge of the issues. He has been an able spokesman for Utah while serving in Congress.

His committee assignments have served the State of Utah well. There have been a number of important issues affecting Utah for which legislation has been channeled through DAVE's committees. His committees have included Public Works and Transportation, Government Operations and Science and Technology. DAVE has made his presence felt on all three committees.

We in the Utah delegation will miss DAVE as he has become an integral member of our team. DAVE has worked well with JIM HANSEN and me as well as our two distinguished Senators. We have appreciated DAVE's enthusiasm and hard work in assuring the people of Utah have been well represented during his sojourn in the U.S. House of Representatives.

I would like to wish DAVE, his lovely wife Julie and their five children best wishes in their future endeavors. I hope that we will see DAVE back in public life again. He will be greatly missed by his friends on both sides of the aisle.

Mr. MILLER of Ohio. Mr. Speaker, in the course of our everyday legislative business we often do not get the opportunity to recognize the efforts of our own colleagues. Today, I would like to recognize my Republican colleague, DAVE MONSON, as he plans to retire from his political career in Congress at the close of this 99th session.

Although he has served in this legislative body for only 2 years representing Utah's Second District, he has done an outstanding job for his constituents and the Nation. At the ripe young age of 41, DAVE has a wealth of political experience behind him serving 4 years as Utah State auditor, 8 years as State Lieutenant Governor, and now 2 years as a U.S. Congressman. With such a remarkable record, I am certain DAVE will continue to meet with much success in the years ahead.

I am thankful for having the pleasure of working with DAVE, and I welcome the chance to wish him the very best in his future endeavors.

Mr. FUQUA. Mr. Speaker, I appreciate this opportunity to say a few words in tribute to our colleague, DAVE MONSON, who is retiring. DAVE has served admirably and well as a member of the Committee on Science and Technology, which I have the honor to chair.

DAVE has established a distinguished career in State and Federal Government service and has well served the people of Utah. He brought to the Science and Technology Committee the same dedication and quickly learned the intricacies of the myriad of issues facing the committee each year.

He is a fine public servant and I wish him the best of luck in the years to come.

Mr. RUDD. Mr. Speaker, I rise to pay tribute to Congressman DAVID S. MONSON, who is retiring from Congress. He came to Congress after strenuous effort, to represent the people of Utah in a highly energetic and ethical manner.

During his term he saw an opportunity to better serve his State and Nation by shifting to the Public Works and Transportation Committee. In that committee's highway reauthorization bill, DAVE worked to ensure small States got their fair share of funding to maintain their highways. He was also able to obtain help for flood repair resulting from the overflow of the great Salt Lake in Utah.

I became better acquainted with Congressman MONSON from my position on the Energy and Water Subcommittee of Appropriations. That subcommittee has jurisdiction over funding for the Central Utah project. There have been efforts in the past 2 years to reduce funding for the central Utah project. DAVE, along with his colleagues from Utah, was able to maintain funding for the Central Utah project in order to keep that project on track and on schedule.

I know that DAVE has also been very active in his position on the Science and Technology Committee. I thank him for his efforts toward an honest and complete investigation of the shuttle accident. I also appreciate his desire to keep our vital Space Program going.

Congressman DAVID MONSON displays great ability and I know that he will continue to rise in stature in his future endeavors. It has been a pleasure knowing DAVE, and I wish him all the best.

Mr. HORTON. Mr. Speaker, as we approach the final hours of the 99th Congress, it is our unfortunate duty to say goodbye to a number of well-qualified Members of the House. One such Member is DAVID MONSON, who, after only 2 years, has decided to move on to greener pastures off Capitol Hill.

I had the opportunity to work closely with DAVE on the Government Operations Committee, on which I serve as the ranking minority member. His participation in both the full committee and on the Legislation and National Security Subcommittee were invaluable during the 99th Congress. His background in accounting and his experience as Utah's State auditor were especially helpful in fulfilling the Government Operations Committee's responsibilities.

Mr. Speaker, it is always a disappointment to lose qualified Members. It is especially

tragic when that Member has the youth and energy as well as the political acumen to make such a tremendous contribution like DAVE.

I am sure that DAVE will be a huge success in whatever he elects to do following his short but notable stint as the Congressman for Utah's Second Congressional District. My wife Nancy and I wish DAVE and his wife Julianne and children the very best in all their future endeavors.

Mr. FAUNTROY. Mr. Speaker, I am pleased to participate in this special order honoring Congressman DAVID S. MONSON for his distinguished record of service in this body.

As chairman of the Congressional Task Force on Haiti, it has been a distinct pleasure to have worked with Congressman MONSON, a valued member of the task force. Congressman MONSON has made vital contributions to the creation and work of this bipartisan task force on Haiti.

In April of this year, Congressman MONSON joined with me on a fact finding mission to Haiti. During that mission, Congressman MONSON demonstrated strong compassion and determination to assist the Haitian nation in what we all hope will be a transition to democracy and economic recovery.

As a result of that visit, a bipartisan consensus was developed to formulate a package of aid and trade that could mutually benefit Haiti and the United States of America. Legislation was drafted and has been passed by this Congress to accomplish these objectives. Without DAVID MONSON's sensitivity, commitment, and tenacity, passage of these measures would not have been possible. Not only am I grateful but I am sure that I am expressing the sentiments of millions of Haitian citizens.

Congressman MONSON's role was crucial in the work of the Congressional Task Force on Haiti and his has been an historic contribution. I am very proud to have served with the distinguished gentleman from Utah and wish him all the best.

Mr. HANSEN. Mr. Speaker, I am pleased to be able to pay tribute to our esteemed colleague, the Congressman from Salt Lake City, UT, DAVID MONSON. While his departure will be a loss to us all, I am sure that my colleagues share my sentiment that DAVE'S return to private life will be very rewarding.

There is a lot I could say about Congressman MONSON. His dedication to this country and his leadership on the Science and Technology Committee and the Public Works and Transportation Committee is considerable. DAVE's ability to work with Republicans and Democrats alike have earned him the respect and esteem of all of his colleagues in Washington.

I am grateful to have had the opportunity to work with such a competent and intelligent legislator. Although DAVE still has a full life ahead of him, he has demonstrated the wisdom and consideration of a seasoned statesman. I know that although DAVID MONSON is leaving this body, we will hear from DAVID MONSON again, carrying on the great tradition that he has already started in his life.

URGENT RELIEF FOR THE HOMELESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. LOWRY] is recognized for 5 minutes.

Mr. LOWRY of Washington. Mr. Speaker, many hundreds of thousands of individuals and families in every community throughout our Nation are struggling to survive because their basic human needs for shelter, food, and health care are not being met. In the coming winter months, their very lives will be in jeopardy; some lives will be needlessly lost while others will continue to suffer. We have the moral obligation and the existing capacity to act immediately—the time is long overdue. For that reason, I have introduced urgent legislation to provide immediate relief to the homeless.

The Federal Government has utterly failed to respond to the unprecedented increase in homelessness. New York City, for example, spent more on meeting the needs of the homeless in 1 year than the Federal Government has spent over 3 years. Despite the efforts of local communities and voluntary organizations, the problem is growing worse and outstripping local resources. Less than 20 percent of emergency needs are currently being met and the record numbers of homeless, including children, are increasing.

I am aware that the root causes of homelessness go very deep and that this problem will not go away until we address those problems. In fact, I have introduced H.R. 1669, legislation intended to solve these more fundamental problems by establishing a National Endowment for the Homeless. I have also cosponsored many other proposals, including H.R. 5140, the Homeless Persons' Survival Act. I continue to support these efforts.

At this time, however, we must set the more fundamental issues aside, if only briefly, and take immediate action to avoid untold tragedies as the winter months set in. The legislation I have introduced is intentionally simple and straightforward. This bill would accomplish the following:

Establish within the U.S. Department of Health and Human Services an Interagency Office on Homelessness to coordinate and improve Federal efforts to assist the homeless.

Identify and make available underutilized Federal property and buildings for use as emergency shelters, and authorize $100 million in grants to shelter providers to use these existing underutilized resources; and

Make an emergency appropriation of an additional $250 million for the emergency food distribution and shelter program operated by private voluntary and charitable organizations under the auspices of the Federal Emergency Management Agency.

Our Nation has many priorities and problems to address. Many of us, including myself, would point to deficit reduction as a continuing priority—one which conflicts with many other priorities that require money and Federal resources. Most recently, a majority in this Congress determined that the drug problem is an overriding priority and decided to spend an increased amount of money to solve that problem despite the need for deficit reduction. The Reagan administration has determined that Pentagon spending is a priority that overrides the need for deficit reduction.

Meeting basic human needs should be at the top of our list of priorities. I am willing to spend money to save the lives of homeless people. Our Nation was founded on the basic value that we all have an obligation toward our communities and other people in our world. It is past time for us to once again uphold this fundamental value.

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DESPITE THE CHEERING, OUR TRADE DEFICIT PROBLEMS PERSIST

The SPEAKER pro tempore (Mr. GRAY of Illinois). Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, last week, with a great deal of cheering, the Commerce Department released figures for the merchandise trade deficit for the month of August which showed a significant decline from July's level.

I guess it's important to be able to cheer a merchandise trade deficit of a mere $13.3 billion when it follows a record-setting $18 billion from the previous month, but I personally don't see anything to cheer about.

I expect it's all relative. When you are grasping at straws to show that the trade picture is getting brighter, apparently a 1-month drop in the merchandise trade deficit is far more important than the fact that the annualized merchandise trade deficit is rapidly approaching the $175 billion level.

That figure, if it holds, would surpass the record merchandise trade deficit set in 1985 by no less than $30 billion. So it's easy to see that, to this administration, a 1-month drop must stand out as a vindication of its free trade-open door policy, no matter the impact on American manufacturers and American workers.

If you look at the long term, however, it is easy to see that the administration is jumping for joy a little too soon. The best way to describe the merchandise trade deficit pattern during the 12-month period between August 1985 and August 1986 is to say there was no pattern.

For example, in August 1985, the merchandise trade deficit was roughly $11 billion, a fairly favorable comparison to the $13.3 billion merchandise trade deficit for August 1986 that the administration is crowing about.

But, during that 1-year period, the monthly deficits were below the $13.3 billion level in only three other months—October 1985, $12 billion; February 1986, just over $12 billion; and April 1986, at $12 billion again.

In every other month, the merchandise trade deficit exceeded the $13.3 billion level by at least $1 billion. After the low in August 1985, there was a high of $16 billion in September. After the October low, the deficit increased gradually in November—just under $14 billion—and December—$15 billion—before hitting a new record in January 1986, $16-plus billion.

There was a downturn in February—as I mentioned—an increase in March, another

downturn in April, and a slight rise in May that remained constant in June before the huge surge in July.

Thus, a very erratic picture of the merchandise trade deficit over a month-by-month basis. If there has been any pattern at all in the yearly pattern from August 1985 to August 1986, then we should anticipate another surge of between $3 and $5 billion in the September 1986 merchandise trade deficit, not the rosy optimism projected by this administration.

But the fault doesn't lie only with this administration. Too many newspapers also have forced themselves into an editorial corner trying to justify the free trade proposition.

Just yesterday, a week after the Commerce Department made its jubilant announcement, the New York Times concurred that the huge decline in the merchandise trade deficit is a sure sign that we have turned the corner; that the 20-month decline in the value of the dollar is beginning to work its magic; and, according to itself, "There are scattered but unmistakable signs that America's trade picture is beginning to improve."

Of course, the New York Times, like this administration, feels compelled to say that America's trade picture is improving, even if it isn't. The Times editorial board has fought every initiative to preserve American industry for as long as I have been a Member of Congress.

It has taken a determined stand that America's ports must be open to all manner of foreign goods regardless of the impact of the unimpeded flow of foreign autos, radios, steel, microchips, and a host of other products on American jobs and American industry.

The New York Times editorial board seems to ignore the barriers, both tariff and nontariff, that are erected by these exporting nations so that we can't ship our goods to them.

They point to IBM, Xerox, and a handful of other companies that have established sales and manufacturing facilities in Japan and have acquired a share of the Japanese market.

Not every company has the resources of the time necessary to wait for the opening.

Well, despite the optimism of the New York Times and this administration, all is not well. American businesses are having difficulty competing against imported goods that are dumped and otherwise unfairly traded.

Thousands of American workers are still unemployed and are unable to get any kind of job that will enable them to support their families. Many of those unemployed are steelworkers who have taken jobs in the service sector of our economy.

Yes, they are earning some money, but they are not happy with the work.

And many are still unemployed although they have been idle for so long and have exhausted all of their benefits so that they are no longer even counted on the unemployment rolls.

This administration, as I have said time and time again, has been no help for those who need it, whether businessman or worker.

During the course of this administration and its lack of sensitivity to the American working men and women, unemployment has been higher on average than in previous years.

The national average jobless rate between 1981 and 1985 was 8.3 percent. That rate is substantially higher than the jobless rates in the 1970's, 6.2 percent, and the 1960's, 4.8 percent.

Between 1980 and 1985, 7.8 million jobs were created and the President and his advisers cheered. However, during the 5-year period from 1975 to 1980, 13.5 million jobs were created, nearly 6 million more.

But, in going back to my original theme, it is in the area of trade that this Nation has suffered most severely under the leadership—or lack of it—of this present administration.

The U.S. merchandise trade deficit last year, 1985, was 3½ times greater than it was in 1980. And, as I mentioned earlier, the projected merchandise trade deficit for 1986 is $175 billion or more, another record setter.

In terms of manufactured goods, we have come full circle. In 1980, the United States had a $12 billion surplus. Imagine, just 6 years ago, we were ahead of the game with regard to manufactured goods. Last year, we recorded a deficit in this category of $113 billion.

One of our strongest export items in recent years has been agricultural goods, but there, too, we have lost ground. In 1981, the peak year for the United States, we exported a record 43.8 billion dollars' worth of agricultural goods. In 1986, U.S. farm exports are expected to drop to $27.5 billion, a loss of $16.3 billion and the lowest level of farm exports since 1978.

Thus, with imports remaining relatively steady or rising slightly, the declines in agricultural exports have significantly cut into what has been a healthy agricultural trade surplus—exports exceeding imports annually by more than $10 billion between 1974 and 1985, and, in some years, more than double that amount.

But that is changing. The agricultural trade surplus for fiscal year 1986 is forecast at $7.5 billion, the lowest level since 1973.

And even more startling, the Commerce Department recently reported that farm imports exceeded farm exports by $348.7 million in May of this year, the first monthly agricultural trade deficit since August 1971.

Now, though, let's go back to the problems in the manufacturing sector. In the 5-year period between 1980 and 1985, exports of manufactured goods fell by 2.5 percent, while imports of those goods rose by an astounding and unaccountable 96 percent.

Last year, in fact, the import share of the U.S. market for some manufactured items was outrageous.

Imported apparel took 50 percent of the American apparel market;

Foreign-made autos took 23 percent of the American car market;

Imported machine tools captured 36 percent of the American market for machine tools and forced a major producer, Houdaille Industries, to quit that part of its business;

Foreign steel, shipped both directly to the United States and through other countries, is taking better than 23 percent of the American market in spite of the voluntary restraint agreements ordered by this administration—and I'll have more to say on steel in a few moments; and

Foreign-made shoes have taken more than 75 percent of the American shoe market.

And these numbers don't take into account those American industries that no longer exist in the United States because they have been squeezed out by foreign manufacturers who won a 100-percent share of the American market by dumping products in our markets without concern for profits or overhead costs.

For years, those of us in Congress who sought to help those beleaguered industries, such as steel, autos, textiles, and shoes, have been ignored by those Members representing the high-technology industries.

Well, today the problem is also theirs. Even in advanced technology products like semiconductors and telecommunications equipment, we are experiencing trade deficits.

The bottom line, insofar as manufactured goods is concerned, is that of the projected $175 billion merchandise trade deficit for 1986, manufactured goods will account for $146 billion, nearly 84 percent.

But that's only part of it. According to the Department of Commerce, the same people who are cheering the 1-month drop in the merchandise trade deficit, 2.3 million jobs in the manufacturing sector were displaced for trade-related reasons in 1984 alone, with a net loss of 1.1 million jobs for the economy as a whole.

Further, a recent Department of Labor study of displaced workers showed that between 1979 and 1984, 11.5 million workers lost their jobs to plant closures, slack work periods, or layoffs. It should be noted that during that particular 5-year period, America's trade deficit was growing by leaps and bounds.

One additional sidelight to that Labor Department study was that displaced steelworkers were among the hardest unemployed to retrain and place in new jobs.

Which leads me to my next point. In no industry is the loss of jobs directly related to imported goods more dramatic than in the American steel industry.

Some 10 or 12 years ago, nearly a half-million Americans were actively working in the American steel industry. And several hundred thousand others were working in industries that used our steel.

As of this past July, employment in the steel industry in the United States, including hourly wage and salaried employees, was 184,000, just over 35 percent of the number 10 years ago.

My own congressional district is reflective of that shrinkage. Six or seven years ago, there were more than 30,000 steelworkers working in active steel mills in my district. Imagine, 30,000 people actually earning their livelihood from steel.

Today, there are fewer than 5,000 steelworkers in my district. Actually the number is probably less than that. But, regardless, it represents a loss of more than 80 percent of the work force in a single industry.

And that does not include those people who benefited from an active steel industry, such as the people mining coal and iron ore, the people bringing those raw materials up the rivers by barge, and the people who fabricated the steel after it came out of the mills.

After all of the years that I have stood before this body to bring the fate of the steel industry to your attention, I feel like a punching bag.

For nearly all of my years in Congress, I have tried to get you, my colleagues, to un-

derstand the threat to our economy in general and our defense posture in particular, if we don't have an active and sustaining steel industry.

But, like the proverbial wall, I haven't gotten through to enough of you to make a difference.

In 1984, I thought we had a chance. The steel quota bill had 220 cosponsors, enough for sure passage in the House of Representatives, but we couldn't get the bill to the floor.

Instead, we settled for a program of voluntary restraint agreements on steel that was requested by the President and supported by a handful of people here in the Congress who believe that any trade is good, even if it hurts us.

So here we are some 2 years later. The President's program called for a steel import level of 18.5 percent, not including semifinished steel.

Well, I want to report to you that we are nowhere close to that number. In 1985, the first full year of the program, imported steel represented a quarter of the American market, 25.3 percent.

The administration was clapping its hands because there was a downward trend for the year as compared to 1984, when the import level was 26.4 percent of the U.S. market.

Terrific. Imports from 1984 to 1985 dropped a whole percentage point. But let's compare previous years. The 1985 level still topped the import level for the prior 10 years. In fact, it was the second highest level of penetration by foreign steel in the past decade.

The picture for 1986 doesn't look a whole lot better. Yes, it's true that import levels are below the 1984 and 1985 levels, but that doesn't mean we are in better shape.

The administration says not to worry. The voluntary restraint agreements cover a 5-year period and each permits a certain amount of front loading.

That means that steel-exporting nations can ship big now, but will have to restrict shipments in the future. But, what happens if the President decides that the program is working and decides that it isn't necessary to keep the VRA's in force for the full 5 years?

And don't believe it hasn't happened before. It has. I have been here in Congress long enough to see us complete a number of circles.

In 1969, we had a system of VRA's to control the flow of imported steel into the United States. It worked for as long as the administration truly supported and believed in the program.

Former President Nixon, who probably was more sensitive to the problems of the steel and auto industries, slapped a 10-percent surcharge on imported cars that worked for a while.

Former President Ford imposed quotas on specialty steel, but ignored the problems of the carbon steel industry. The end result, as I noted in 1976, was that Japan and others hurt by the specialty steel quota shifted to exporting carbon steel products.

Former President Carter extended the specialty steel quotas and devised the trigger-price mechanism in an attempt to control the surge in carbon steel products, but, as on August 30, 1978, I said:

We have been patient. We realized the TPM (Trigger Price Mechanism) was a new idea and would require time to become a tool, but, while imports are pouring in (imports then were running 30 percent higher in 1976 than in 1975), time is running out and our patience is wearing thin. If the TPM is a good tool, let's use it. If it isn't, throw it out and we'll get something else.

Well, we threw it out, but what we have in its place, the VRA's, aren't a whole lot better. And, as I said, only when an administration and a President stand firmly behind the program is there even a glimmer of a chance of success.

But, when the President sees it as a Band-Aid approach, then there is no way it will work as effectively as it could or should.

Nearly a decade ago, in the summer of 1977, I noted that:

For nearly 20 years, the United States has been at war. A silent war. A war fought not with weapons, but with wares. The struggle is economic, not military. It is a trade war. And we are losing it.

Several key U.S. industries have been pushed to the edge of extinction by foreign competitors taking advantage of predatory trade practices endorsed by their governments . . . and in the process hundreds of thousands of American workers have lost their jobs.

Why? Because the U.S. insisted on playing the game of international trade under different rules than our trading partners.

This is not the first time I have spoken on this issue. On July 8, 1971, I told the Congress then that our Nation was in a trade war and would be the loser if we continued our antiquated policies toward international trade. The jobs and futures of American workers were at stake, I said in 1971, and we would lose both if we continued to permit foreign manufacturers to glut the American market without regard to the ultimate consequences.

Those are the words I used in 1971 and in 1977. The tragic thing is that I am saying them today and they have just as much, and perhaps more, meaning as they did the first time I used them.

In the intervening years, we have lost more than a million jobs, as even the Commerce Department noted. In the intervening years, American industries have continued to lose shares of its own market to the point where several industries no longer exist and others are on the verge of elimination.

On December 10, 1981, speaking on the floor of the House as I am today, I said:

The penetration . . . of foreign steel . . . in the U.S. has averaged 22.3 per cent for the last three months and the administration is now attempting to negotiate a cease fire in the wholesale offensive against international trade agreements.

Meanwhile the crisis continues. When the congressional steel caucus first spoke on this steel war about three weeks ago, we had 52,000 steelworkers laid off. Today, we have an estimated 60,000.

When the caucus first spoke, we had 17,000 on short work weeks. Today, we have an estimated 20,000 . . . one tax-paying steelworkers is put out of work every 8 minutes and 15 seconds of every day this year because of apparently subsidized imports.

I know that figure isn't true today. I am sure that fewer steelworkers are put of work by imports today than in 1981 for one simple reason—there are many fewer steelworkers.

We have let opportunity after opportunity pass us by without taking action.

The naysayers cry: "Don't limit imports from foreign countries because then they will retaliate. They will close their markets to American goods."

That, my friends, is nonsense. Those foreign markets are already closed to many American products. The countries that export to the United States are not interested in buying American steel, or American autos, or American machine tools.

Why should they? They already buy from their own industries and still have enough extra production to ship the excess to the United States—good old Uncle Sugar, or Uncle Sucker, if you prefer.

We stand here giving aid to help those countries develop their industries which then compete with our industries. And because their governments too often support the industry, or own it in many cases, they don't have to worry about minor little items like profits or overhead costs.

We talk about American industry not being competitive. What rot. How can we be competitive if stockholders want a return on their investment or if a manager has to show an immediate and satisfactory profit?

The rules are different for American companies and it is time we recognized that fact and designed our trade requirements to provide for it.

Now, let me close with a story concerning the attitudes and approaches of other governments when their industries or people face difficult times.

Rice is a commodity we all associate with Japan. It is a basic part of the Asian diet and nearly two-thirds of Japanese farmers grow rice on small plots of land on a part-time basis.

Because rice is so important to Japan, the Japanese Food Agency buys rice from Japanese growers for more than $2,000 a metric ton, some 10 times the world price.

So far, nothing too surprising; right?

Well, believe it or not, the United States sells 1.7 billion dollars' worth of rice to Japan annually, a sizable portion of America's agricultural trade that I mentioned earlier in this speech.

Now the point of this story: This past August, according to a report in the Christian Science Monitor, the Japanese Government bowed to pressure from Japanese rice growers and shut the Japanese market to American rice.

To those who argue against trade limitations because of the threat of retaliation, what do you do in this case? This is a very simple example of a foreign nation closing its market to American goods in order to protect a heavily subsidized local industry.

Should we retaliate? Should we close our market to some Japanese product or all Japanese products until they reopen their rice market?

We must consider our interests, our industries. We cannot allow other nations to dictate the terms. That is a more deadly form of surrender than we can permit.

I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Speaker, it is late. The staff has always been so great and accommodating to us, but I wanted to take 30 seconds to commend the gentleman in the well, Mr. GAYDOS, he, and men like Mr. MURTHA, and other people concerned about the trade issue in this country and the job wars which we think are much more important than the star wars. We had hoped that we would be able to bring out a trade bill; we were not able to.

I think it is men like Mr. GAYDOS and Mr. MURTHA, and others who have been fighting so hard for so many years that maybe in the future this type of legislation will come forward.

Mr. GAYDOS. Let me just conclude my remarks by stating as a matter of record that all these years in talking about deficits, international deficits as far as trade, I remember in the House when they talked about a balance of trade deficit and we always answered by saying that "your trade deficit might be off, however, your balance of payments is right." Now, that is not the case. The philosophy prevails, the explanations, the conclusions, the international jargon that "you don't have to worry about whether it is trade balance of payments or what have you. The fact remains that now you can accept almost a $200 million trade deficit and the balance of payments," if you want to go that route, which is in the neighborhood of over $100 billion.

So, with these very "scary facts," for want of a better descriptive term, I conclude these remarks because of the late hour. I just want to remind my colleagues when they read the RECORD in the morning that it is a very serious problem; they should stop, pause, go back and reanalyze all of those arguments over the last 15 years regarding the balance of trade, balance of payments, and reappraise in their own minds as to what our position is in international world trade. I think maybe next year we will be able to get into an item and hopefully pass some legislation whereby we are going to address that fact once and for all.

I conclude finally by giving my personal commendation and respect to the majority leader, Mr. WRIGHT, who did manufacture and did put together in place a committee that ended up with a good trade bill, one that had, I think, a lot of teeth in it, one that was practically sound, and one that responded to the problem. That trade bill did not move. It moved out of the House, but it is not law today for many reasons, the other body did not take it up, and so forth, and probably it would have been vetoed.

So I hope next year we can do better.

TRIBUTE TO HON. STAN LUNDINE

The SPEAKER pro tempore (Mr. TRAFICANT). Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 60 minutes.

Mr. STRATTON. Mr. Speaker, I took this special order on behalf of the New York State delegation to pay tribute to our colleague, Mr. LUNDINE. STAN LUNDINE has served in this body for some 10 years and was selected by the Governor of New York, Governor Cuomo, to be his running mate as Lieutenant Governor in this election in the State of New York.

Mr. LUNDINE has served for some 10 years, as I have indicated, in this body. Prior to that time, he was the mayor of Jamestown, NY. He became a Member of Congress, having completed some 6 years as major in Jamestown, and ran in the congressional district that was encompassed by Jamestown. He had obviously remarkable political skills because his area was very heavily Republican, and yet he succeeded to become the first Democratic Congressman from that area in over 100 years.

I know the hour is late.

I just wanted to make one specific observation in connection with the gentleman from New York, Mr. LUNDINE. He put in the CONGRESSIONAL RECORD on October 9 a very detailed account of his service in this body, not to try to build up his status but to express some of the tasks and some of the concerns that he has pursued during his 10 years here in the House of Representatives. It is a very inspiring document, and one is impressed indeed to see the number of concerns. He was concerned about economic stabilization, he was concerned about the international debt and Trade and Financial Stabilization Act which Mr. GAYDOS and others have referred to earlier. He had recognized some of the need for changes in banking legislation. He has also pointed out that he felt that there were many lessons that he had learned here in the House which would be helpful to him when he hopefully becomes the Lieutenant Governor in the State of New York.

Mr. Speaker, I yield to my colleague from New York [Mr. MCHUGH].

Mr. MCHUGH. I thank the gentleman for yielding.

Mr. Speaker, I thank the dean of our New York delegation for yielding, and particularly for taking this time to honor our dear friend and colleague, STAN LUNDINE.

I am sure that we all have mixed emotions about STAN's departure from this House. He is leaving for the best of reasons, having been selected by Governor Cuomo as his candidate for Lieutenant Governor of New York. That decision was a tribute to both Mario Cuomo's judgment and STAN LUNDINE's talent. A better selection for Lieutenant Governor could not have been made. STAN will bring to that office a degree of competence and dedication that will be of enormous benefit to the people of New York and to the Governor himself. No doubt he will get a great deal of satisfaction from his new responsibilities and the increasing contributions he will make to our State. For all of those reasons we join with STAN and his wonderful wife, Sarah, in celebrating this new phase in their political and personal lives.

At the same time, we will also miss them very much. For more than 10 years STAN has been a valued Member of this institution, an intelligent, effective representative for both his New York constituents and our Nation. Members on both sides of the aisle respect STAN because he is a decent man and a serious legislator, one who is always thoughtful and workmanlike, a pragmatic politician who is nonetheless prepared to take unpopular positions if he believes them to be right. His low key, but determined leadership has been an example for us all.

To me, STAN has also been a close personal friend, an adviser and a confidant. We have had much in common politically, representing neighboring districts in upstate New York. In Washington, we have often worked together on such common interests as rural housing, economic development, and international institutions. We have had not only shared experiences, but also shared values and goals. This is one of the reasons I will so miss STAN's presence in the House, but it is also grounds for satisfaction in seeing him ascend to a high leadership position in Albany.

We are proud of STAN, grateful for the time he has spent with us, and we look forward to working with him in his new job. My wife Alanna joins me in extending to STAN and Sarah a fond farewell and in wishing them success and happiness in the challenging years that lie ahead.

Let me also extend my thanks to the staff for their patience and their professional service tonight and at all other times at hours like this.

I thank the gentleman for yielding.

Mr. STRATTON. I thank the gentleman for his comments.

The previous Lieutenant Governor in New York resigned the job because he felt that there was nothing to be done, no comments that he could make. But I think it is quite clear that the valedictory address that our colleague, Mr. LUNDINE, put into the RECORD would demonstrate that he is so much interested and concerned with many programs and many problems that he will find the job of Lieutenant Governor is not a dead end but

is going to be I feel very sure, a step to higher office in the years to come.

On behalf of my wife, Joan, we also extend to Sarah and STAN best wishes as they take on the new responsibilities in New York.

Mr. GREEN. Mr. Speaker, first let me thank the dean of our New York delegation, Mr. STRATTON, for arranging the time for this special order.

I rise tonight to pay tribute to my distinguished colleague from New York [Mr. LUNDINE], who will be moving on to other endeavors at the end of this Congress.

I first got to know the gentleman from New York [Mr. LUNDINE] when he was the mayor of Jamestown, NY, and I was the regional administrator of the U.S. Department of Housing and Urban Development in New York. I commend him for his years of outstanding service, not only to his district, but also to the State of New York, and the Nation.

His excellent work in education, economic development, particularly in the area of productivity, and the environment is especially noteworthy. Though we are from different parties, Mr. LUNDINE and I have often worked on the same side of these issues.

The gentleman from New York has been a thoughtful and innovative Member of this body. I know that he will make even greater contributions in the public sphere in the future, and I wish him the best of luck. He will be missed.

Mr. SEIBERLING. Mr. Speaker, I am pleased to join with my colleagues in this salute to STAN LUNDINE.

STAN will be leaving us at the end of the 99th Congress, but I have every confidence that he will not be leaving public service. Instead, he will become Lieutenant Governor of the State of New York, and may very well, I suspect, eventually move on to even higher office.

Gov. Mario Cuomo's confidence in STAN LUNDINE's capabilities is more than justified, Mr. Speaker, because STAN is one of the very best and the brightest that we have in the House of Representatives. After serving as mayor of Jamestown, NY since 1970, STAN was elected to represent the southern tier of New York State in the House in a special election in 1976. In his landslide victory, STAN became the first Democrat to represent his district since the days of the Reconstruction.

STAN is a forward-looking pragmatist who has focused his energies and expertise firmly on his efforts to promote a renewed competitiveness in American industry. As a Representative of one of the Midwest's older industrial areas, I know firsthand just how crucial the issues of competitiveness and productivity are to the Nation's industrial and economic future, and to the millions of Americans who rely on heavy industry for their jobs.

STAN is the author of legislation to promote labor-management councils to foster better cooperation between workers and manager. He is the preeminent expert in the Congress on productivity and its role in fostering greater American competitiveness in the global trade markets. Recognizing the crucial need for a business-labor-government partnership in fostering industrial growth, STAN has been a leader in congressional efforts to implement a national industrial policy.

STAN's legislative work has not concentrated solely on domestic issues. I think the Congress is slowly coming to recognize that this country does not exist in economic isolation from the rest of the world. In fact, the crushing debt burden borne by much of the Third World is a major threat to the political and economic stability of the world, and particularly to our own economic health. As chairman of the House Banking Subcommittee on International Development Institutions and Finance, STAN prodded his committee colleagues and the House to acknowledge the importance of this issue and to include provisions in the House-passed trade bill which seek to address the exchange rate and international debt problems facing the United States and the Third World.

Although always an advocate of a strong national defense, STAN recognizes what all-too-few of our colleagues do: That this Nation cannot stimulate productivity growth and preserve our industry if we continue to pour billions of dollars into the fiscal black hole of the Pentagon, consign the vast majority of our Federal R&D funds to projects of such dubious merit as the President's star wars fantasy, and send our best young scientists and engineers to work in an area which produces little of value to the domestic economy.

Mr. Speaker, it has been a pleasure and an education to work with STAN on the Northeast-Midwest Industrial Coalition, on the Environmental and Energy Study Caucus, and on the Democratic Study Group. It has also been a pleasure to work with STAN's wife, Sara Sibley, who is the director of the Ohio Governor's office here in Washington. I will always look back with pleasure at my association and friendship with STAN and Sara, and I wish them both the very best.

Mr. NOWAK. Mr. Speaker, I am pleased to join my colleagues in this tribute to Congressman STAN LUNDINE, who is completing more than a decade of service here in the House of Representatives.

Having worked side by side with him on a variety of issues during this period, I know our delegation will miss his soft-spoken, but informed, input and leadership here in Washington.

However, since STAN is seeking State office, both the citizens of New York and we in the congressional delegation may look forward to his insights and participation in the governmental process from another vantage point.

STAN LUNDINE's congressional record of service places him in the forefront of those who have sought persistently to achieve meaningful, workable solutions to the economic problems confronting industrialized States like ours. The western New York community, which STAN and I have the privilege to represent, has been hit hard particularly by a mix of Federal trade, monetary and fiscal policies that have adversely impacted on our heavy manufacturing job base.

STAN has been a leader in the effort to forge national industrial and trade policies that would improve our productivity and our competitiveness and has supported a continued role for targeted Federal economic development dollars to assist such hard-hit communities through this difficult economic transition period.

Hard-working, creative, and cooperative are only some of the adjectives describing the attributes that made STAN LUNDINE a successful mayor and later a Congressman. I am sure those talents will serve him well in his future endeavors. Tinged with the sadness that this great body will miss him, I happily wish him well as he seeks the challenge of yet another dimension of public service.

Mr. LAFALCE. Mr. Speaker, I would like to take this opportunity to commend my colleague from the New York State delegation, STAN LUNDINE, for his service to this Nation and wish him well in what I am sure will be a continuing record of distinguished public service in New York State.

My friendship with and regard for Mr. LUNDINE go back a long way. While we began our discussions of public policy issues as opponents on high school debate teams, in the Congress we have worked together for more than a decade to serve our constituents in New York and our country. Mr. LUNDINE has worked with enthusiasm and dedication for a goal which I share; reestablishing the Nation's industrial foundation and revitalizing America's industrial competitiveness. Together we have sought answers to the problems caused by the increased globalization of the economy and have attempted to confront the threats to American industry that are typified by our staggering trade deficit.

At this juncture, Mr. LUNDINE plans to pursue new opportunities in his public service career. With the competence and determination that he has demonstrated here, I am sure he will be able to play an effective role in any public office. In his last major address to Congress, Mr. LUNDINE provided the House with an articulate and comprehensive review of many policy issues confronting this institution. His remarks are the observations and insights of an experienced and thoughtful legislator. They call on us, the Members of Congress, to push ahead and build upon what he has accomplished. I plan to answer that call.

As I respectfully bid my friend farewell, I look forward to continuing the effort to revive the competitiveness of our industry in which he and I have engaged. In particular, I plan to continue to work for the eventual creation of the Council on Industrial Competitiveness for which we have so long advocated and which, with the help of Mr. LUNDINE, became part of the trade bill that passed the House this year. I also look toward advancing measures, of priority to Mr. LUNDINE and myself, that would promote entrepreneurship, encourage the practical application of technology and assist in the reestablishment of a strong economic foundation in this country.

Mr. LUNDINE well deserves the respect that he has attained as a Member of this institution. He has demonstrated the ability to identify the nature of complex problems and the courage to advance solutions. His attributes as a representative and a legislator are clearly recognized and highly appreciated by his colleagues and his constituents. His reelection record from a district comprised of voters pri-

marily registered with the other party, attests to the confidence he has been able to elicit.

As the chairman of the Subcommittee on Economic Stabilization, as a resident of New York, and as a Member of Congress, I would like to thank STAN LUNDINE for his great contributions. As a colleague and a friend, I would like to wish him success in the future.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in paying tribute to the Honorable STANLEY N. LUNDINE, who is leaving the House of Representatives at the end of the 99th Congress, to run for Lieutenant Governor for the State of New York.

I have enjoyed working with STAN on the House Banking, Finance and Urban Affairs Committee, and I have come to know and respect him for his fairness, his knowledge, and his expertise in banking matters. He will be missed by all of us who have come to know him and have had an opportunity to work with him.

Before coming to Congress, Congressman LUNDINE received his law degree from New York University School of Law, served as the Chautauqua Public Defender from 1967 to 1969, and also served as mayor of Jamestown, NY, from 1969 to 1976.

Elected to Congress in 1976 in a special election, Congressman STAN LUNDINE has ably represented his constituents in the 34th Congressional District of the State of New York, and his many accomplishments as a Member of the House of Representatives are most worthy of recognition. He has served with distinction as the chairman of the Subcommittee on International Development Institutions and Finance of the House Banking, Finance and Urban Affairs Committee, and as a member of the Subcommittee on Economic Stability and the Subcommittee on Housing and Community Development. Congressman LUNDINE also has compiled an outstanding record of achievement as a member of the House Science and Technology Committee, and its Subcommittee on Energy Research and Production and its Subcommittee on Science, Research and Technology, and as a member of the Subcommittee on Human Services of the House Select Committee on Aging.

STAN LUNDINE is a fine legislator, who has provided exemplary service to his constituents and to the people of this Nation, and I extend to him my best wishes for continued success as he continues in his service to the people of the State of New York in devotion to the highest principles.

Mr. BOLAND. Mr. Speaker, I am pleased to join my colleagues in paying tribute to a valued Member of this House, Congressman STAN LUNDINE.

As this session draws to a close, we become more directly aware of the fact that many of our colleagues will not be returning to the next Congress, and I am glad we have this opportunity to honor STAN. STAN LUNDINE has chosen to step down as a Representative from New York to run for the office of Lieutenant Governor of the Empire State. STAN will leave Washington after a decade of diligent and productive service on behalf of his constitutents. Before winning a landslide victory in 1976, STAN had been a Jamestown City Public Defender and later the city's mayor. Since the late 1960's STAN has been known for his outstanding service to his upstate New York constituents.

In the House, STAN has a well-deserved reputation on both sides of the aisle as a highly effective leader who came to Washington with definite ideas he wanted to pursue and who leaves here with an impressive list of accomplishments. As chairman of the Banking Subcommittee on International Development Institutions and Finance and cochairman of the Democratic Caucus Trade Task Force, STAN has taken the lead on major issues affecting our international competitiveness and the International Monetary System which binds all nations. He has also made a number of important contributions in the fields of housing, trade, and the environment.

Mr. Speaker, the House of Representatives will miss the service and skills of STAN LUNDINE. I would like to wish STAN the best of luck when he takes office as the next Lieutenant Governor of the State of New York.

Mr. GEPHARDT. Mr. Speaker, I rise today to pay honor to a colleague, STAN LUNDINE, who ends his congressional career this week and seeks a new career with the New York State government.

I have had the distinct pleasure of working with STAN and am proud to call him more than a colleague, but my friend. Through the years, I have been impressed with his knowledge on a wide variety of issues and his extreme dedication.

STAN has been a staunch advocate of innovative, future oriented public policy. He has directed the Nation's attention to the need for strong economic growth. STAN has been ahead of his time because he understood that the future of our country lies in our economic stability. STAN chose some of the toughest areas—trade and banking—to become an expert in. He should be commended for taking a leading role in our effort to increase our country's productivity and enhance our competitiveness.

STAN is a tribute to the people he represents in the 34th District of New York, for these people closed their eyes to party identification and chose the most qualified person to represent them. It is no easy task for a Democrat to represent a Republican district. But STAN triumphed. He served his district and country well.

There is no greater challenge or gratification than serving in public office. I wish STAN all the best as he begins the next chapter in his life.

Mr. RUDD. Mr. Speaker, New York Congressman STAN LUDINE will be leaving this body at the end of this session. I personally want to extend my best wishes to him and also wish him well in his future endeavors.

STAN LUNDINE has a reputation in the House for being a soft-spoken, but dedicated, and persistent Member of Congress. He labors long and hard for the causes he believes in. Never a media hound nor in the glare of the spotlights, he has none-the-less proven to be a formidable foe on points of disagreement, while also being adept at the consensus politics that so often make legislative victories possible.

Mr. Speaker, STAN LUNDINE and I began our service in the House at almost the same point, 10 years ago. I value his friendship, respect his record, and believe he will continue to serve his country well in the years to come. Thank you.

Mr. BENNETT. Mr. Speaker, we will all miss STAN LUNDINE as he leaves the House for service in public office in the State of New York. We will miss him because of his able leadership here in securing better housing for the aged, in his achievements for small business and in other fields. Mostly, we will miss him as a friend because he has a great capacity for giving friendship, sincerely and helpfully, to all those about him.

Mr. FUQUA. Mr. Speaker, I appreciate this opportunity to say a few words about our retiring colleague, SAN LUNDINE. STAN has been a highly valued member of the House Committee on Science and Technology, which I have the honor to chair.

STAN always participated in the full range of issues considered by the committee but his work with innovation problems and solutions stands out in my mind. STAN has a keen mind and worked diligently to ensure that we addressed innovation issues of tremendous importance to our Nation's future.

He has served the people of New York well for the last 10 years and I wish him the very best of luck in November and in the years to come.

Mr. MANTON. Mr. Speaker, I want to join my colleagues in paying tribute to my good friend and colleague from New York, STAN LUNDINE, who is retiring from the House to run for Lieutenant Governor of New York. I also want to thank the dean of the New York delegation, SAM STRATTON, for organizing this special order for STAN LUNDINE.

Over the past 10 years, STAN LUNDINE has been a leader in the Congress on key issues of importance to the State of New York, including international trade, economic development, and housing. As chairman of the Banking Subcommittee on International Development Institutions and Finance, STAN has been effective in bringing these issues to the forefront debate in the Congress. As a member of the Banking Committee, I have had the privilege of working with STAN on many of these issues.

STAN has been a firm believer that the best solution to many of our economic problems is to improve productivity. In that regard, STAN has pushed hard for the creation of an industrial strategy that brings Government, management and labor together to map out a plan to improve our economic performance at home and our competitiveness abroad. The Omnibus Trade Reform bill approved by the House in May included a provision authored by STAN LUNDINE to establish an industrial competitiveness council to develop policies to increase productivity and the international competitiveness of U.S. industries. The council would be comprised of representatives from Government, business and labor.

STAN LUNDINE also took the lead on another extremely important international trade issue: Monetary reform. During the 99th Congress, STAN developed a brilliant legislative proposal, which I was proud to cosponsor, to stabilize and modernize our International Monetary system. This landmark legislation would

direct the President to convene an international conference on exchange rate reform and would create a strategic currency reserve that would be used to keep the dollar at a competitive exchange rate. STAN's initiative on monetary reform was also made part of the Ominibus Trade measure.

The House passed trade bill also included new policy initiatives to deal with the Third World debt crisis, and promote trade liberalization among the developing countries which were crafted by STAN LUNDINE.

As a member of the Housing Subcommittee, STAN has been extremely effective in improving rural housing programs. In 1984, STAN won approval of a landmark $15 million home repair program for rural homeowners.

Mr. Speaker, STAN LUNDINE should be proud of his distinguished career in Congress, and I am fortunate to have had the opportunity to serve with him. When the 99th Congress adjourns sine die, the House of Representatives will be losing an outstanding Member. However, the State of New York will gain an experienced and effective lawmaker. I want to extend my best wishes to STAN LUNDINE for what I know will be a successful future as New York's Lieutenant Governor.

SENATE BILL REFERRED

[Inadvertently Omitted from the CONGRESSIONAL RECORD of Friday, October 10, 1986]

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1209. An act to establish the National Commission to Prevent Infant Mortality; to the Committee on Energy and Commerce.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIDGE) to revise and extend their remarks and include extraneous material:)

Mr. HUNTER, for 60 minutes, today and October 16.

Mr. COURTER, for 60 minutes, October 16.

Mr. SILJANDER, for 60 minutes, on October 16, 17, and 18.

Mr. HORTON, for 5 minutes, today.

Mr. MCDADE, for 5 minutes, today.

The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HUTTO, for 5 minutes, today.

Mr. LOWRY of Washington, for 5 minutes, today.

Mrs. COLLINS, for 60 minutes, on October 16.

Mr. STRATTON, for 60 minutes, on October 16.

Mr. OBERSTAR, for 5 minutes, on October 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BADHAM, after rollcall 467 and 469.

Mr. HEFNER, on House Joint Resolution 738, in the House, today.

(The following Members (at the request of Mr. RIDGE) and to include extraneous matter:)

Mr. OXLEY.
Mr. GREEN.
Mr. MCKINNEY.
Mr. MCGRATH.
Mr. CONTE.
Mr. COURTER.
Mr. LIVINGSTON.
Mr. HILER in two instances.
Mr. BARTON of Texas.
Mr. COATS.
Mr. SMITH of New Jersey.
Mr. BATEMAN.
Mr. KEMP.
Mr. BROOMFIELD.
Mr. HANSEN.
Mr. BLAZ.
Mr. MCDADE.
Mr. MARLENEE.
Mr. LEACH of Iowa in two instances.

(The following Members (at the request of Mr. GONZALEZ] and to include extraneous matter:)

Mr. STALLINGS.
Mr. DYMALLY.
Mr. FLORIO.
Mr. MONTGOMERY.
Mr. STARK in two instances.
Mr. KILDEE.
Mr. LEHMAN of Florida.
Mr. FAUNTROY.
Mr. LAFALCE.
Mr. LEHMAN of California.
Mr. ROSTENKOWSKI.
Mr. MANTON.
Mr. LELAND.
Mr. KOLTER.
Mr. BARNES.
Mr. STRATTON.
Mr. BRYANT in two instances.
Mr. DINGELL.
Mr. ACKERMAN in two instances.
Mr. WYDEN.
Mr. KOLTER.
Mr. HAYES.
Mr. HAMILTON.
Mr. DERRICK.
Mr. DONNELLY.
Mr. RANGEL.
Mr. COLEMAN of Texas.
Mr. MILLER of California.
Mr. HAWKINS.
Mr. SKELTON.
Mr. ROYBAL.
Mr. SCHUMER.
Mr. ABERCROMBIE.
Mr. DOWNEY of New York.
Mr. GLICKMAN in two instances.
Mr. CHAPPELL in two instances.
Mr. MORRISON of Connecticut.
Mr. MAVROULES.
Mr. MACKAY.
Mr. GARCIA.
Mr. TORRICELLI in two instances.
Mr. GUARINI.

SENATE JOINT RESOLUTIONS

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 408. Joint resolution designating "American Physiologists Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 426. Joint resolution to designate the week of October 19 through 25, 1986, as "National CPR Awareness Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2032. An act entitled the Government Securities Act of 1986;

H.R. 2205. An act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war;

H.R. 2722. An act to amend title 13, United States Code, to eliminate the requirement relating to decennial censuses of drainage;

H.R. 2921. An act to authorize the Secretary of Agriculture to issue permanent easements for water conveyance systems in order to resolve title claims arising under acts repealed by the Federal Land Policy and Management Act of 1976, and for other purposes;

H.R. 3559. An act to amend the act establishing a Commission on the Bicentennial of the Constitution of the United States to clarify the status of employees of the Commission, to raise the limits of private contributions, and for other purposes;

H.R. 4116. An act to extend and improve the Domestic Volunteer Service Act of 1978;

H.R. 4354. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1987, and for other purposes;

H.R. 5299. An act to amend title 38, United States Code, to increase the rates of compensation and dependency and indemnity compensation for veterans and survivors, and to improve veterans' health-care, education, employment, housing, and national cemetery programs, and for other purposes; and

H.R. 5626. An act to make technical corrections in the Federal Employees Retirement System Act of 1986, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following title:

S. 209. An act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States;

S. 1895. An act for the relief of Marlboro County General Hospital Charity, of Bennetsville, SC;

S. 2266. An act to establish a ski area permit system on national forest lands, and for other purposes;

S. 2506. An act to establish a Great Basin National Park in the State of Nevada, and for other purposes;

S. 2750. An act to establish a property tax fund for the Houlton Band of Maliseet Indians in furtherance of the Maine Indian Claims Settlement Act of 1980, and for other purposes.

S.J. Res. 169. Joint resolution to commemorate the bicentennial anniversary of the first patent and the first copyright laws;

S.J. Res. 232. Joint resolution to designate October 6, 1986, through October 10, 1986, as "National Social Studies Week";

S.J. Res. 299. Joint resolution to designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week";

S.J. Res. 304. Joint resolution to designate the week of November 16, 1986, through November 22, 1986, as "National Arts Week";

S.J. Res. 306. Joint resolution to designate the week beginning November 23, 1986, as "National Adoption Week";

S.J. Res. 308. Joint resolution to designate March 25, 1987, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy";

S.J. Res. 311. Joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week";

S.J. Res. 322. Joint resolution to designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor;

S.J. Res. 392. Joint resolution to designate the month of December 1986 as "Made in America Month";

S.J. Res. 396. Joint resolution to designate the week of October 26, 1986, through November 1, 1986, as "National Adult Immunization Awareness Week";

S.J. Res. 410. Joint resolution to designate the period commencing February 9, 1987, and ending February 15, 1987, as "National Burn Awareness Week";

S.J. Res. 414. Joint resolution to designate March 16, 1987, as "Freedom of Information Day"; and

S.J. Res. 418. Joint resolution to designate February 4, 1987, as "National Women in Sports Day."

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following title:

H.J. Res. 17. Joint resolution to consent to an amendment enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920;

H.J. Res. 438. Joint resolution to designate October 31, 1986, as "National Child Identification and Safety Information Day";

H.R. Res. 735. Joint resolution to designate December 11, 1986, as "National SEEK and Challenge Discovery Day";

H.R. 1593. An act to direct the Secretary of the Interior to release on behalf of the United States certain restrictions in a previous conveyance of land to the town of Jerome, AZ;

H.R. 2092. An act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal year 1987, and for other purposes;

H.R. 2182. An act to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore;

H.R. 3005. An act to direct the Secretary of the Interior to convey certain lands, withdrawn by the Bureau of Reclamation for townsite purposes, to the Huntley Project Irrigation District, Ballentine, MT;

H.R. 3168. An act to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes;

H.R. 4212. An act to provide for the reauthorization of the Deep Seabed Hard Mineral Resources Act, and for other purposes;

H.R. 4492. An act to permit the transfer of certain airport property in Algona, IA;

H.R. 4712. An act to provide for the restoration of the fishery resources in the Klamath River Basin, and for other purposes;

H.R. 4759. An act to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 5073. An act to amend the Toxic Substances Control Act to require the Environmental Protection Agency to promulgate regulations requiring inspection for asbestos-containing material in the Nation's schools, development of asbestos management plans for such schools, response actions with respect to friable asbestos-containing material in such schools, and for other purposes; and

H.R. 5316. An act to amend title 28 of the United States Code to provide for the appointment of additional bankruptcy judges, to provide for the appointment of United States trustees to serve in bankruptcy cases in judicial districts throughout the United States, to make certain changes with respect to the role of United States trustees in such cases, and for other purposes.

ADJOURNMENT

Mr. STRATTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 27 minutes a.m.), under its previous order, the House adjourned until Thursday, October 16, 1986, at 12 noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YATES: Committee of Conference. Conference report on H.R. 5234 (Rept. 99-1002). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5232. A bill relating to the guarantee of obligations under title XI of the Merchant Marine Act of 1936 for fishing vessels or fishery facilities; with amendments (Report. 99-1003). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee of Conference. Conference report on S. 1128 (Rept. 99-1004). Ordered to be printed.

Mr. WHITTEN: Committee of Conference. Conference report on House Joint Resolution 738 (Rept. 99-1005). Ordered to be printed.

[Pursuant to an order of the House on October 16, 1986, the following reports were filed on October 15, 1986]

Mr. BONIOR: Committee on Rules. House Resolution 595. A Resolution providing for the consideration of H.R. 2127, a bill to establish a United States Boxing Commission, and for other purposes (Rept. 99-1006). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 596. A Resolution providing for the consideration of H.R. 5705, a bill to protect and provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes (Rept. 99-1007). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follow:

By Mr. DUNCAN:

H.R. 5704. A bill to repeal section 134 of the Tax Reform Act of 1986, eliminating the deduction for State and local sales taxes; to the Committee on Ways and Means.

By Mr. WEAVER:

H.R. 5705. A bill to protect and provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes; jointly to the Committees on Interior and Insular Affairs, and Agriculture.

By Mr. BIAGGI:

H.R. 5706. A bill to amend the Merchant Marine Act, 1920, to require vessels used to transport sewage sludge to be built in the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. DIOGUARDI:

H.R. 5707. A bill to amend title 49 of the United States Code to prevent predatory pricing by motor common carrier; to the Committee on Public Works and Transportation.

By Mr. FUSTER (for himself, Mr. SEIBERLING, and Mr. UDALL):

H.R. 5708. A bill to entitle: "Caribbean National Forest Protection Act of 1986"; to the Committee on Interior and Insular Affairs.

By Mr. HOPKINS:

H.R. 5709. A bill to amend title 28, United States Code, to require the Attorney General to exchange information relating to crimes with the National Association of State Racing Commissioners and with State agencies authorized to regulate horse racing; to the Committee on the Judiciary.

By Mr. LOWRY of Washington:

H.R. 5710. A bill to establish an Interagency Office on Homelessness in the Department of Health and Human Services, to provide for the use of underutilized Federal buildings and property for emergency shelters, and to authorize the emergency appropriation of funds for the emergency food and shelter program administered by the Federal Emergency Management Agency;

jointly, to the Committees on Banking, Finance and Urban Affairs, and Public Works and Transportation.

By Mr. ST GERMAIN:

H.R. 5711. A bill to extend until June 30, 1987, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STARK (for himself and Mr. WAXMAN):

H.R. 5712. A bill to amend title XVIII of the Social Security Act to change the Medicare requirements for skilled nursing facilities based on recommendations of the Institute of Medicine; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. LaFALCE:

H.R. 5713. A bill to amend the Federal Trade Commission Act to remove the restriction on the authority of the Federal Trade Commission over the business of insurance; to the Committees on Energy and Commerce.

By Mr. WATKINS:

H.R. 5714. A bill to provide for the economic protection of the infrastructure of basic American domestic industries deemed vital to American security interests at home and abroad; jointly, to the Committees on Armed Services, and Government Operations.

By Mr. WILLIAMS:

H.R. 5715. A bill for the purpose of efficient oversight of professional boxing and the establishment of minimum health and safety standards for boxing, and for other purposes; jointly, to the Committees on Energy and Commerce, and Education and Labor.

By Mr. WHITTEN:

H.J. Res. 752. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes; to the Committee on Appropriations.

H.J. Res. 753. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes; to the Committee on Appropriations.

By Mr. DINGELL:

H. Con. Res. 411. Concurrent resolution to correct a technical error in the enrollment of the bill S. 475; considered and agreed to.

By Mr. RODINO:

H. Con Res. 412. Concurrent resolution to make a correction in the enrollment of the bill S. 1200; considered and agreed to.

By Mr. SOLARZ (for himself, Mr. SOLOMON, and Mr. GILMAN):

H. Con. Res. 413. Concurrent resolution to provide for the display of the National League of Families POW/MIA flag in the Capitol rotunda; to the Committee on House Administration.

By Mr. ATKINS (for himself, Mr. SOLARZ, and Mr. LEACH of Iowa):

H. Res. 594. Resolution commending the Royal Thai Government for its extraordinary humanitarian contribution to the large, diverse refugee community in Thailand and for its continued willingness to remain a country of first asylum open to those fleeing repressive regimes in Indochina; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. RALPH M. HALL introduced a bill (H.R. 5716) for the relief of Henry Cousins; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 382: Mr. WIRTH and Mr. CHANDLER.
H.R. 870: Mr. LEACH of Iowa.
H.R. 1367: Mrs. MARTIN of Illinois.
H.R. 1875: Mr. BROWN of California, Mr. MOORHEAD, Mr. SKEEN, and Mr. FORD of Michigan.
H.R. 2280: Mr. VANDER JAGT.
H.R. 2297: Mr. COBEY.
H.R. 3099: Mr. COLEMAN of Texas and Mr. HAWKINS.
H.R. 3305: Mr. BONIOR of Michigan.
H.R. 3746: Mr. DENNY SMITH.
H.R. 4330: Mr. GILMAN.
H.R. 4401: Mr. CRANE.
H.R. 4439: Mr. TALLON.
H.R. 4620: Mr. HOWARD, Mr. PASHAYAN, and Mr. GILMAN.
H.R. 4723: Mr. RALPH M. HALL.
H.R. 4762: Mr. ROE, Mr. ANDERSON, and Mr. FEIGHAN.
H.R. 4787: Mr. KOLBE.
H.R. 4888: Mr. BARNARD, Mr. STAGGERS, and Mr. HOYER.
H.R. 4908: Mr. AUCOIN.
H.R. 5027: Mr. SHELBY.
H.R. 5070: Mr. DE LUGO, Mr. SOLARZ, Mr. ABERCROMBIE, Mr. WALDON, Mr. HOWARD, and Mrs. BENTLEY.
H.R. 5104: Mr. SAXTON, Mr. SPENCE, Mrs. BENTLEY, Mr. SMITH of Florida, Mr. WORTLEY, Mr. HOPKINS, Mr. HANSEN, Mr. REID, Mr. BATEMAN, and Mr. SWINDALL.
H.R. 5189: Mr. MADIGAN, Mr. STRANG, Mr. STALLINGS, and Mr. EDWARDS of Oklahoma.
H.R. 5208: Mr. JEFFORDS and Mr. MACKAY.
H.R. 5291: Mr. FEIGHAN.
H.R. 5402: Mr. RAHALL.
H.R. 5476: Mr. SPRATT and Mr. YOUNG of Missouri.
H.R. 5486: Ms. MIKULSKI, Mr. DYSON, Mr. KOSTMAYER, Mr. GILMAN, and Mr. MAVROULES.
H.R. 5575: Mr. KOLTER, Mr. GARCIA, Ms. MIKULSKI, Mr. CONYERS, and Ms. KAPTUR.
H.R. 5587: Mr. LELAND.
H.R. 5588: Mr. EDGAR.
H.R. 5591: Mrs. MARTIN of Illinois, Ms. KAPTUR, Ms. OAKAR, Mr. TOWNS, Mr. FORD of Michigan, Mr. GEKAS, Mr. COYNE, and Mr. LEVIN of Michigan.
H.R. 5599: Mr. CONYERS.
H.R. 5600: Mr. DWYER of New Jersey, Mr. MARTIN of New York, Mr. MILLER of Ohio, Mr. FIELDS, Mr. FISH, Mr. SWINDALL, Mr. HORTON, Mr. JONES of North Carolina, Mr. MORRISON of Connecticut, Mr. CHAPPELL, Mr. MAVROULES, Mr. LANTOS, Mr. BARNES, Miss SCHNEIDER, Mr. DAVIS, Mr. LEWIS of Florida, Mr. GIBBONS, Mr. BOSCO, Mr. CONYERS, Mr. RIDGE, Mr. WOLPE, Mr. TOWNS, Mr. LENT, Mr. SLATTERY, Mr. SCHEUER, Mr. CHANDLER, Mr. DOWNEY of New York, Mr. GONZALEZ, Mr. MCCURDY, and Mr. BONER of Tennessee.
H.R. 5604: Mr. VENTO.
H.R. 5680: Mr. CONYERS, Mr. YATES, Mr. MORRISON of Connecticut, Mr. BENNETT, and Mr. ROE.
H.J. Res. 49: Mr. BATEMAN.
H.J. Res. 244: Mr. ABERCROMBIE, Mr. CAMPBELL, and Mr. BROWN of Colorado.
H.J. Res. 649: Mr. MADIGAN, Mr. TAUKE, Mr. FIELDS, Mr. WALKER, Mr. BEDELL, and Mr. CARPER.
H.J. Res. 659: Mr. SAVAGE, Mr. TOWNS, Mr. BEVILL, Mr. HORTON, Mr. FROST, Mr. WHEAT, Mr. RAHALL, Mr. OWENS, Mr. HOWARD, and Mr. WEISS.
H.J. Res. 707: Mr. BUSTAMANTE, Mr. MATSUI, Mr. BONER of Tennessee, Mr. PASHAYAN, Mr. LAGOMARSINO, Mr. HORTON, Mr. NELSON of Florida, Mr. MCDADE, Mr. RITTER, Mr. LEVIN of Michigan, Mr. HOYER, Mr. LEWIS of Florida, Mr. WILSON, Mr. BRYANT, Mr. SMITH of Florida, Mr. DIXON, Mr. RAHALL, Mr. HENRY, Mr. AKAKA, Mr. LIPINSKI, Mr. OLIN, Mr. TALLON, Mr. HOWARD, Mr. ROSE, Mr. GUARINI, Mr. ROE, Mr. DWYER of New Jersey, Mr. DE LA GARZA, Mr. FAZIO, Mr. SCHEUER, Ms. MIKULSKI, Mrs. BOXER, Mr. VOLKMER, Mr. YOUNG of Alaska, Mr. MAVROULES, Mr. MCGRATH, Mr. MARTINEZ, Mr. WEISS, Mr. CONTE, Mr. RANGEL, Mr. FISH, and Mr. PACKARD.
H.J. Res. 720: Mr. LIPINSKI, Mr. LEVIN of Michigan, Mr. MARTINEZ, Mrs. BOXER, Mr. SHUMWAY, Mr. MCCOLLUM, Mr. ABERCROMBIE, Mr. WYLIE, Mr. BONER of Tennessee, and Mr. MOAKLEY.
H. Con. Res. 219: Mr. SILJANDER.
H. Con. Res. 403: Mr. VENTO and Mr. LEVIN of Michigan.
H. Res. 469: Mr. BOEHLERT, Mr. SCHEUER, and Mr. YOUNG of Missouri.
H. Res. 529: Mr. PACKARD.
H. Res. 573: Miss SCHNEIDER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4469: Mr. Neal

EXTENSIONS OF REMARKS

HIGHWAY BEAUTIFICATION ACT

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. McEWEN. Mr. Speaker, the debate concerning implementation of the 1965 Highway Beautification Act in today's world continues to go on and on and on. I commend the following editorial by Mr. Vernon A. Clark, president of the Outdoor Advertising Association of America, to the attention of my colleagues and all those interested in this important issue. Mr. Clark's comments are in response to a Washington Post editorial entitled "Down With Billboards" September 27, 1986.

[From the Washington Post, Oct. 4, 1986]

BUT THE PUBLIC LIKES BILLBOARDS

(By Vernon A. Clark)

Your editorial "Down With Billboards" [Sept. 27] displayed a surprising lack of factual information about billboards.

The original Highway Beautification Act was designed to control billboards along rural and scenic highways, not ban them, as your editorial incorrectly states. The act also provided compensation for sign owners whose signs did not meet the new standards and thus had to be removed.

Today, along the roads controlled by the act, there are fewer signs than there were in 1965—680,120 fewer to be exact, according to the Federal Highway Administration. The number of signs along the controlled roads is down from nearly seven per two miles to only one per two miles. The sign-removal program is three-fourths complete, an excellent record for a taxpayer investment of only $200 million.

Under the 1965 law, states could pass a law banning billboards, and four have done so: Maine, Vermont, Alaska and Hawaii. Some residents of those states might argue that the states went too far. For example, in Vermont, the Steamtown Railroad Museum, one of the state's major tourist attractions, recently announced it was moving to a neighboring state because the billboard ban made it impossible to attract enough tourists to stay in business. And Maine, which banned them, recently bought a series of billboards in Massachusetts in an effort to lure tourists into Maine to see the fall foliage.

The Post has been listening to a small but vocal minority that doesn't want simply to control billboards, but to ban them. That would be contrary to the wishes of the American people. In a recent nationwide survey, nine of 10 Americans said they find billboards useful and informative. Even 57 percent of the environmentalists surveyed said billboards are not a very serious environmental concern. More important, however, 72 percent of Americans want to keep the present law or modify it to establish a freeze on the number of billboards and permit replacement when necessary.

The House version of the Surface Transportation Act now in conference contains some tough new controls. Far from voting to "keep the law as is," as you state, the representatives voted to freeze the number of billboards in commercial and industrial areas at their present level. The House bill also contains stiff penalties for violators. If a billboard owner illegally cuts a tree or trims vegetation in front of his sign, he will lose the sign. And the House bill does not prevent states or local communities from adopting even stricter sign ordinances. These are tough, but fair, provisions.

The Senate bill would ban all new billboards and would not even permit replacement. That means you can forget opening a new business along a federal highway if your business would depend on the motoring public.

The Post is not alone in sweeping aside the Fifth Amendment when discussing this issue. "Retreating environmentalists," as you describe them, have been advancing the idea in newspapers around the country that Congress should ignore the consitutional provision that requires the government to pay "just compensation" when it takes private property for public use. That is the ultimate question. Eventually, the Supreme Court will have to decide the issue. Until the court rules that the Fifth Amendment does not apply to the private property of billboard owners, "just compensation" should be paid whenever a sign that does not conform to the original act is taken down.

The Post would like a "tolerable compromise." We agree and believe the House bill already contains the necessary elements for that compromise.

WORLD FOOD DAY, 1986

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. GILMAN. Mr. Speaker, I am pleased to rise to focus the attention of this body on Thursday's observance of World Food Day.

Since 1979, the National Committee for World Food Day, under the leadership of its distinguished chairwoman, Patricia Young, and the auspices of the World Food and Agriculture Organization [FAO] has undertaken hundreds of projects and programs related to the world's hunger problem. Without World Food Day and the organization involved with its celebration, the groundswell needed that made America's response to the African famine possible never would have existed.

Yet, despite the impressive outpouring of support, the problem of world hunger persists. According to recent reports some 3 million people are at risk of starving in the southern region of the Sudan by the end of the year. UNICEF informs us that every 24 hours, 42,000 children under the age of 5 die as a result of hunger and related diseases.

These grim statistics underscore the critical need for a continued commitment of private and Government funds to ending hunger. But emergency relief aid is not enough. A concerted effort must be made to improve the deteriorating conditions that result in tragedy after tragedy—the same conditions that allow famine and starvation to persist and remain a reality in a world with more than enough resources to feed its population. It is time for us, for our Nation and the world of nations, to work to prevent disasters from occuring—to solve the problems which face Africa now.

Mr. Speaker, we have the ability, the technology and the wherewithall to end world hunger. All we need is the commitment. Accordingly, I urge my colleagues to help rally that kind of commitment.

A JEFFERSON MEETING ON VIRGINIA'S EASTERN SHORE

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. BATEMAN. Mr. Speaker, in 1816 Thomas Jefferson wrote in a letter that the Constitution must be subject to examination and amendment from time to time, because "laws and institutions must go hand in hand with the progress of the human mind."

In that spirit, a Jefferson Meeting was organized and conducted at Northampton High School in Eastville, on the Eastern Shore of Virginia, on October 7 and 8, 1986. The enterprise was under the guidance of Mr. Douglas Coburn, social studies chairperson, and Mrs. Christine M. Black, assistant principal for instruction at Northampton High. Students from five secondary schools took part in the project.

The Jefferson Meeting consisted of a series of four debates on constitutional issues:

First. Should we have a national convention to propose amendments to the Constitution?

Second. Should the President have a single, 6-year term of office?

Third. Should the tenures of Federal judges and Supreme Court justices be limited?

Fourth. Should the President have line-item veto power?

The 38 students taking part in the debates went through extensive preparation and discussed these vital issues with a depth of understanding that was a credit to themselves and to their instructors.

I salute the organizers of the Jefferson Meeting and the students who took part in it. Theirs was an effort which in years ahead will pay rich dividends for our democracy. I hope that similar programs will be organized throughout the country, for I can think of no better way to foster an appreciation of our democratic institutions than to stimulate active debate of constitutional issues.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The student participants in the Eastern Shore Jefferson Meeting were:

Northampton High School: Severn Rayfield, Lou Taylor, Perdita Savage, Aretha Press, Beth Connette, Schawa'ia Ames, Lisa Foeman, Alex Wilhelm, Bobbie Jo Sherwood, Tyeast Pettit, William Boatwright, Chip Little, Mychelle Brady, John Wescoat, Molly Gee, Leonard Spady, Sarah Kelly.

Nandua High School: Worth Saunders, Brandy Burton, Lenona Vinnie, P.G. Ross, Trip Basiden, Elizabeth Pruitt, Tom Hollandsworth, Mike Scott.

Arcadia High School: Tara Minke, Keith Ferry, Ryan Turner.

Broadwater Academy: Keith Ellis, Beth Watson, Van Tinkard, Chris Nicholson, John Abbot, Pete Boyer, Jennifer Scott, Bryan Englehart.

Cape Charles High School: Daren Mitchell and Paige Nuckols.

TRIBUTE TO ELIE WIESEL, NOBEL LAUREATE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. KEMP. Mr. Speaker, peace, if it ever exists, will not be based on the fear of war, but on the love of peace. It will not be abstaining from an act, but the coming of a state of mind.

These words of a French Jew who lived through the Nazi era were quoted by Herman Wouk in "The Winds of War" and perfectly states the principles for which stands Elie Wiesel, the great Holocaust historian. In his own words, Elie points out that "indifference to evil is evil" and that the cause of human rights and justice requires our active opposition to injustice wherever it occurs.

Elie Wiesel has singlehandedly done more for the cause of human rights and true peace than any other individual we know. He is a survivor of the Holocaust who has made it his life's work "to bear witness, to testify" to ensure that the lessons of the Holocaust are not forgotten and is recognized by survivors as their symbol and their spokesman.

Elie has traveled the world to further the crusade for human rights and peace. He has written 25 books chronicling his observations of human rights violations which have garnered him more than 40 international awards and reached millions of readers around the world. Elie and his dedication to ending human suffering are the subject of more than 11 books.

Elie has dedicated his life to the betterment of humanity. He has accurately been described as "man of vision, author, poet, speaker, all for the love of mankind, the brotherhood of man, and the peace of the world." No one has done more to raise the awareness of the human rights situations of all citizens of the world. Once one has heard him speak, one comes away a person changed for the better.

I can think of no one more deserving than Elie Wiesel for the Nobel Peace Prize. Elie will use this award to continue his good work, his campaign against evil.

His campaign is mine. I am proud to call Elie and Marion Wiesel my friends, proud of the Nobel Committee for recognizing the importance of Elie's contribution to the cause of world peace and the lessons to be learned from history. I am delighted that the hard work that Elie's good friend and admirer, Sigmund Strochlitz, has put into the effort to nominate Elie for the prize each year has finally come to fruition and I am proud to have been the Congressman Sigmund approached to help him with his efforts in Congress.

This is a great day for humanity. Congratulations to Elie Wiesel, who will use this award in his continuing efforts to alleviate human suffering. The Nobel Prize is a long overdue recognition of his work and the importance of the message of peace he bears. The award will amplify his voice as the voice of remembrance and the conscience of humankind. The fact that this award comes at the close of the High Holy Days ushering in the new year of 5747 makes the award even more significant.

ANOTHER PLO LINK TO NICARAGUA?

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. COURTER. Mr. Speaker, in 1980 Nicaraguan Interior Minister Thomas Borge declared "We say to our brother Arafat that Nicaragua is his land and the PLO cause is the cause of the Sandinistas." The following day Arafat answered: "The triumph of the Nicaraguans is the PLO's triumph." Certain Sandinistas carried out operations with guerrillas in the Middle East even before coming to power in 1979, and reportedly granted the PLO training bases in Nicaragua after that year. The Swiss Review of World Affairs subsequently called Nicaragua the PLO's "most important base on the Latin American mainland."

I was therefore very interested in Marvin Smith's report of September 18 on the "Independent News" television network on what seems to be still another PLO link to the Sandinista government—investment in Aeronica, the national Nicaraguan airline.

Since the PLO's financing is a veiled but important matter in our understanding of international relations, I would like to place the Scott report before my colleagues for consideration.

File Arafat: Militarily and financially, Yasser Arafat's PLO is deeply involved in Nicaragua . . . and has a financial stake in that country's national airline . . .

Graphic/PLO assets $5 billion: Only one of the PLO's secret network of multi-billion dollar investments.

Map Maldive Islands: Following a 1984 visit by Arafat to the impoverished Maldive Islands, off the coast of India, the PLO helped get Maldive Airways off the ground.

Scott on CAM in newsroom: The PLO enlisted a Palestinian with a checkered past, including a conviction in Saudi Arabia for airline ticket fraud, to purchase aircraft for the fledgling airline in Australia and New Zealand. Other purchases were attempted in Greece and Tanzania.

Gazette Banner and Chyron: In 1984, the PLO middleman placed an ad in the Montreal Gazette, recruiting pilots and other personnel to relocate in the Maldives.

Banner Wall Street Journal and highlight quote: Two months ago, the Wall Street Journal quoted Khalil Wazir, identified as Arafat's top military commander, as saying the Maldive Airways venture was an effort to cooperate with the government of the Maldives.

File Daniel Ortega: But the Independent News has learned that it is also an effort to help the Nicaraguan Government of President Daniel Ortega . . . using Maldive Airways as a conduit to purchase aircraft for Aeronica—Nicaragua's national airline.

Which such purchases do not appear to be illegal, they would suggest a deeper PLO involvement in Nicaragua than previously believed.

Reportedly the PLO has a 25 percent interest in Aeronica . . . And one source believes some of the planes being bought by the PLO are being used in the Sandinistas battle against the Contra rebels.

File Francisco Campbell: Nicaragua's counselor for political affairs in Washington—Francisco Campbell—maintains "that's categorically false," and asserts "the PLO is not involved in Nicaraguas military in any capacity whatsoever". . . contrary to what that country's former deputy defense minister now a rebel Contra leader told a Costa Rican newspaper in 1983. Eden Pastora claimed PLO pilots are flying for the Nicaraguan Air Force and others operate radar installations.

File Arafat: PLO Chairman Arafat, who acknowledged loaning Nicaragua 10 million dollars in 1981, also confirmed PLO involved in that country.

Tilt of AP dispatch and highlight: This 1982 Associated Press dispatch quoted Arafat from a Beirut newspaper as saying the PLO has sent pilots to Nicaragua.

More of AP dispatch: While he did not explain their functions, he implied—said the report—that the pilots were reinforcing Nicaragua's Air Force, and, according to the account, Arafat had previously boasted that the PLO had scores of jet pilots, trained mostly by Lybia.

Map of Greenland and Dubner crash: Last year, in southeastern Greenland, a Fokker 27 plane being ferried from Europe, crashed accidentally and seemed to provide further evidence of the PLO's aircraft purchasing efforts for Nicaragua.

Shot of microwave dish: In a broadcast monitored by the American intelligence community, the voice of the PLO reported that Palestinian Air Force Pilot, Capt. Khalid Ahmad Atallah Samir was "martyred"—killed while carrying out his duty.

Shot of transcript: A transcript of the PLO report, found by INN in the Library of Congress, states that Khalid Samir's plane crashed while he was heading for Nicaragua. Another, unidentified crewmember was also killed, the PLO report said among the injured was Palestinian Air Force Lt. Sa'id Mansur.

Scott on CAM, in newsroom: The PLO, which routinely keeps its investment portfolio secret . . . and deals through dummy corporations and numbered bank accounts, denied having any interest in Aeronica . . . or buying any aircraft for that country.

But a recently declassified foreign intelligence report says emphatically, the PLO is purchasing aircraft for Nicaragua.

For the Independent News, this is Marvin Scott in NY.

ARISTIDES DE SOUSA MENDES: A HERO FOR ALL TIME

HON. HENRY A. WAXMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. WAXMAN. Mr. Speaker, 2 months ago I was joined by 70 of my colleagues in sending a letter to the President of Portugal. We were writing about a man who has been dead for 32 years, who was a constituent of none of us, and was not even an American citizen. But he was a man who, by his actions, is a hero to all of us.

This man was Aristides de Sousa Mendes, a Portuguese diplomat who was presented with the chance to save the lives of tens of thousands of strangers. Despite the certain punishment he knew this would elicit, he did what he believed was right. Though he lost the favor of his government, lost his property, his family, and his ability to make a living, Dr. de Sousa Mendes gained the love and admiration of generations to come.

Mr. Speaker, for those who do not know this story, let me briefly sketch it. Dr. Aristides de Sousa Memdes do Amaral e Abranches belonged to an old and distinguished Portuguese family. A veteran diplomat who had served in Spain, Brazil, and the United States, he occupied the post of consul general in Bordeaux, France when war broke out between Germany and France.

As German tanks swept across France in the spring of 1940, Jews and others fleeing Nazism poured into Bordeaux, where the French Government had set up behind French lines. With German troops approaching the city, tens of thousands of refugees gathered at the consulate, seeking Portuguese visas for the only open escape route out of France—a trek over the Pyrenees to Spain and into neutral Portugal. They knew, correctly, that failure to get out of France would likely mean death.

The military government of Antonio de Oliveira Salazar had issued strict orders against giving visas to those fleeing Nazism, especially Jews. But after searching his conscience, de Sousa Mendes decided that he must break orders. He announced to the waiting refugees that all who wanted visas would get them, free of charge. He then worked around the clock for 3 days, stopping only to eat, producing 30,000 visas that carried their bearers to freedom.

When news of his actions reached Lisbon, de Sousa Mendes was dismissed from the diplomatic corps. Two diplomats were dispatched to Bordeaux to bring him home. Returning to Portugal by automobile, the party drove through the French border town of Bayonne. There they saw another large group of refugees at the Portuguese consulate, waiting in the desperate hope of being issued visas to cross the border. Over the objections of the officers accompanying him, de Sousa Mendes insisted on stopping and issuing visas to every refugee. Only then did he continue back to Portugal.

Once home, de Sousa Mendes discovered how dearly he would pay for his actions. Disgraced and forbidden to practice law, he was unable to make a living. Gradually, he was forced to sell off all his property. Most of his 14 children, also unable to make a living in Portugal, emigrated. Dr. de Sousa Mendes died penniless in 1954, unacknowledged by his government and almost unknown to the world.

For decades now, de Sousa Mendes' children have worked to clear their father's name. They have been aided only by some scholars of the Holocaust, the few journalists they have been able to interest in the case, and those people rescued by de Sousa Mendes whose whereabouts are known.

The first country to honor de Sousa Mendes was Israel. In 1967, Yad Vashem, the Martyrs and Heroes Remembrance Authority in Jerusalem, awarded him a gold medal inscribed with the Talmudic dictum: "One who saves a human life saves, as it were, a whole world."

But the primary goal of de Sousa Mendes' children—to have the Government of Portugal to honor him as a hero—remained unmet. Then early this year, my colleague TONY COELHO of California and I became aware of the case through publicity generated by Dr. de Sousa Mendes' youngest son John Abranches. Working with our colleagues GEORGE MILLER and PETE STARK of California, and with the help of Mr. Robert Jacobvidz at the East Bay Jewish Community Relations Council, we sponsored a letter to President of Portugal and a congressional resolution of praise for de Sousa Mendes.

The texts of the letter and resolution follow:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 1, 1986.

DEAR PRESIDENT SOARES: You may be aware of the case of Dr. Aristides de Sousa Mendes do Amaral e Abranches, a Portuguese consular official in Bordeaux, France, who saved 30,000 Jews and others in 1940 by issuing them Portuguese visas so they could flee the oncoming Nazi invasion. Students of the Holocaust regard him as one of the greatest humanitarians of that dark period in history.

Sadly, when the govenment of Portugal at the time learned of de Sousa Mendes' actions, it recalled him to Lisbon and removed him from the diplomatic corps. Disgraced and forbidden to practice law, he was unable to make a living and died penniless in 1954. Most of his fourteen children, also unable to earn a living in Portugal, emigrated.

It is our understanding that despite the dramatic change in your country since 1974, the heroism of Dr. de Sousa Mendes and the injustice subsequently done to him have never been publicly acknowledged. Knowing how you yourself suffered because of your deeply held beliefs, we feel sure you want to redress this situation, and in so doing call attention to a truly great figure in Portuguese history.

We urge you and your good offices to recognize the accomplishments of Dr. de Sousa Mendes and to seek ways to honor him appropriately.

Thank you for your attention to this matter. We look forward to your response.

Sincerely,

Henry A. Waxman, M.C., Charles Pashayan, Jr., M.C., Barney Frank, M.C., Tony Coelho, M.C., Claudine Schneider, M.C., Fernand J. St Germain, M.C., Pete Stark, M.C., Gerry E. Studds, M.C., Gary L. Ackerman, M.C., Les AuCoin, M.C., Helen Delich Bentley, M.C.

Edward P. Boland, M.C., Barbara Boxer, M.C., John Bryant, M.C., Albert G. Bustamante, M.C., Jim Courter, M.C., Ronald V. Dellums, M.C., Don Edwards, M.C., Joe Moakley, M.C., George Miller, M.C., Glenn M. Anderson, M.C., Anthony C. Beilenson, M.C., Thomas J. Bliley, Jr., M.C.

David E. Bonior, M.C., Terry L. Bruce, M.C., Sala Burton, M.C., Rod Chandler, M.C., William J. Coyne, M.C., Thomas J. Downey, M.C., Vic Fazio, M.C., Edward F. Feighan, M.C., Thomas M. Foglietta, M.C., Robert Garcia, M.C., Bill Green, M.C., Peter H. Kostmayer, M.C.

Tom Lantos, M.C., William Lehman, M.C., Stan Lundine, M.C., Thomas J. Manton, M.C., Norman Y. Mineta, M.C., Robert J. Mrazek, M.C., Major R. Owens, M.C., Hamilton Fish, Jr., M.C., Bill Frenzel, M.C., Benjamin Gilman, M.C., Frank Horton, M.C.

Robert J. Lagomarsino, M.C., Richard H. Lehman, M.C., Mel Levine, M.C., Joseph M. McDade, M.C., Robert T. Matsui, M.C., Bruce A. Morrison, M.C., James L. Oberstar, M.C., Leon E. Panetta, M.C., Claude Pepper, M.C., Tommy F. Robinson, M.C., Robert A Roe, M.C., Gus Savage, M.C.

Lawrence J. Smith, M.C., Edolphus Towns, M.C., Ted Weiss, M.C., Matthew G. Martinez, M.C., Charles B. Rangel, M.C., Peter W. Rodino, Jr., M.C., Edward R. Roybal, M.C., Ike Skelton, M.C., Edward Torres, M.C., Morris K. Udall, M.C., Douglas H. Bosco, M.C., Dennis E. Eckart, M.C.

H.RES. 469

RESOLUTION PAYING SPECIAL TRIBUTE TO PORTUGUESE DIPLOMAT DR. DE SOUSA MENDES FOR HIS EXTRAORDINARY ACTS OF MERCY AND JUSTICE DURING WORLD WAR II

Whereas during the early days of World War II, France became the home of European refugees from Nazi persecution;

Whereas following the collapse of the French Republic in June 1940, thousands of refugees fled south to Bordeaux, away from invading armies;

Whereas the only escape route from France was over the Pyrenees Mountains through Spain to neutral Portugal;

Whereas Portuguese diplomats were under specific orders by the government of Antonio de Oliveira Salazar not to issue visas to Jews;

Whereas the Portuguese Consul to Bordeaux, Aristides de Sousa Mendes do Amaral e Abranches, remaining faithful to the dictates of his conscience, defied government orders and issued more than 30,000 Portuguese visas to stranded refugees, at least 10,000 of them Jews, saving them from almost certain death;

Whereas Portugal received international acclaim for its humanitarian treatment of Jews and other refugees during World War II:

Whereas Dr. de Sousa Mendes, the man responsible for saving more than 30,000 lives, was recalled to Lisbon, was dismissed from the Foreign Service, and, unable to practice law, died in poverty in 1954;

Whereas in 1967, Yad Vashem, the Martyrs and Heroes Remembrance Authority in Israel, posthumously awarded Dr. de Sousa Mendes a gold medal inscribed with the Talmudic dictum: "One who saves a human life saves, as it were, a whole world";

Whereas Israel's gratitude to Dr. de Sousa Mendes was again proclaimed in 1985 with

the planting of a tree in his name in the Garden of the Righteous at Yad Vashem in Jerusalem; and

Whereas Dr. de Sousa Mendes served as Portuguese Consul to San Francisco in the 1920's two of his children were born in California, and four of them are now residents and citizens of the United States: Now, therefore, be it

Resolved, That, as the United States pauses to celebrate the 100th birthday of the Statute of Liberty, a symbol of liberty and freedom to immigrants and refugees from around the world, the House of Representatives pays special tribute to Portuguese diplomat Dr. Aristides de Sousa Mendes do Amaral e Abranches for his extraordinary acts of mercy and justice during World War II.

SEC. 2. The Clerk of the House of Representatives shall transmit copies of this resolution to the President. The President is requested to transmit a copy of this resolution to the President of the Republic of Portugal and the President of the Assembly of the Republic of Portgual.

Several weeks after sending this letter, we received the following reply from President Soares of Portugal:

PRESIDÊNCIA DA REPÚBLICA,
September 9, 1986.

GENTLEMEN: The lifelong drama of Dr. Aristides de Sousa Mendes do Amaral e Abranches and the need to do him public justice has been for a long time in my mind. Your letter of August 1, for which I would like to thank you much, fully meets my feelings on this case.

I am, so, most pleased to inform you that, in recognition of Dr. de Sousa Mendes heroic behavior, which, I think, should be considered by all as a model of integrity and sacrifice in defence of the highest moral values, I intend to award him soon a high ranking Portuguese decoration.

Yours sincerely,

MARIO SOARES.

Although it is not yet certain exactly what kind of decoration this will be, or what if anything will be done to honor Dr. de Sousa Mendes in a more permanent manner, this is indeed a great step forward. For the de Sousa Mendes family, it means that after 46 years of waiting, their father will finally be a hero in his own land. For the rest of us, it means that a great humanitarian—an example to guide us in times of moral crisis—will be recognized.

Mr. Speaker, Congressman Coelho and I will continue to work with the de Sousa Mendes family and the government of Portugal to insure that Dr. de Sousa Mendes takes the place in history he deserves, and that his story serves as a model and inspiration for many generations to come.

IN MEMORY OF SENATOR CECILIA C. BAMBA OF GUAM

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. BLAZ. Mr. Speaker, it is with great sadness that I share with my colleagues the passing of a remarkable lady, a most distinguished public servant, a close personal friend, and a native daughter of my district—Senator Cecilia C. Bamba of the Territory of Guam. Her public service to the people of my Territory, and the respect with which they in turn held her, was without bounds.

I believe the eulogy of Senator George Bamba, her son, best shows the affection we felt for Chilang Bamba and I submit it for the RECORD at this point.

A TRIBUTE TO CECILIA C. BAMBA—DELIVERED BY SENATOR GEORGE BAMBA, OCTOBER 10, 1986

Before I begin, I would just like to say, welcome home, Mom; you are back with us, the people whom you've loved so much.

As we sit here today thinking thoughts of Mom, of the sadness we feel over her death, of the many happy and sad times we've shared with her throughout the years, we cannot help but feel a sense of emptiness in our lives. Indeed, while writing this eulogy, this tribute, I sat for many moments, my mind racing with thoughts of what I should say. Thoughts of how I could possibly portray what Chilang Bamba was like. Of what motivated her to accomplish all the good which she did for her people and for her island.

Let me begin with what I feel is the foundation of what her life symbolizes. To me, Mom's life is like a tapestry. A beautiful picture of how one individual who cares enough for her people, for her island to try to the best of her ability to make life a little easier, a little better. An individual who had the courage to try to right the injustices which she saw, to show compassion and kindness, not only by words but by deeds, to those who were less fortunate than she. And, to fiercely believe in God and the fact that it is through Him by which all good comes. Even if misfortune or tragedy should befall a person she always saw all the good which could come about. Someone once wrote that some people are devastated by misfortune, others grow because of their misfortune. They become better persons. No one can deny that Mom was this type of individual. As I take you through her tapestry, you will know and understand what I mean.

This tragedy, this misfortune, came very early in life for her. And I believe that this is the very fabric which molded her character. It is what laid the foundation for her to accomplish all which she did during her short time with us. Mom was born in 1934. While at a young age, her mother died along with her baby while giving birth. And then at the age of seven, her father was beheaded for trying to save an American pilot. A person who was a stranger to her and her family. All around her she saw the pain and suffering which so many families went through in those days. And I really feel that it is these events which shaped her values. For in the many years in which we spoke, she never once uttered a word of cruelty, of animosity, of jealously, of hatred toward anyone. Instead she spoke of a people who would help those who were suffereing, those who felt pain. I suppose to Mom all the good which she did was her way of repaying people for their kindness, their compassion, in her time of tragedy, during the days of her pain and suffering.

And so she began weaving her tapestry of life. First, in taking care of her brother Johnny, and in always looking after the well being of her youngest brother David. Even after she married my father and was raising her own children she always made sure that Johnny and David were taken care of. She sacrificed to give her brothers and her own children what we needed. She considered them an inseparable part of her and my father's own family. As long as I can remember she always worked hard helping my Dad trying to make a better life for us and for their own brothers and sisters.

I would be remiss if I did not say that she was just as equally responsible for all the good which Dad accomplished. For they saw their life's work as one. Whether it was in their civic or government duties, their work in our community, they always had a single purpose in mind. And that is to improve the quality of our lives. Between the two of them they showed a compassion which perhaps is unequalled to this day. Yes, we are proud of both of them. And we feel the warmth and the joy from people when they speak of the good which both of them did. We will always be proud of them. For in showing compassion and kindness to their fellow people, their motives were one and the same.

In reviewing her profile, I frankly did not know where to begin to list Mom's accomplishments. Her life is full of firsts. She was the first woman to be elected chairperson to a government board—The Guam Memorial Hospital Authority. Working with the afflicted and improving the quality of health care was something very dear to her heart. Maybe it was because she foresaw her own pain and suffering. For she believed that she had a duty to bring a little joy and compassion for those who were in need in their most tragic hour.

She was the first Chamorro woman to testify before the U.S. Senate. This was on the land claims bill. The paper wrote that she would most be remembered for this. But to Mom, it was just another cause for her to undertake, another injustice which had to be righted. We are glad that she was able to feel the joy of accomplishing what she fought long and hard for. She never once wavered in her belief that justice would prevail. This period was a difficult one for her. For it was during this time when she suffered another tragedy, the death of our Dad, her husband. But did that devastate Mom? Yes, she felt the pain and sorrow just as all of us did, but she doubled her effort and focused all her energy to completing her task. It was her way of expressing her thanks to the many people who showed compassion and kindness in her time of tragedy, in her time of pain.

No sooner than when her work was completed, she embarked on another task and that was to seek war reparations for her people. It is unfortunate that she will not be here to share in the ultimate success of her work. But she can basked in the joy that now there are many others who are carrying on the crusade to correct this injustice, this inequity. I know she was very grateful for this.

She was also the first spouse of a Senator to be elected to the Guam Legislature.

In addition to all her firsts, she founded or co-founded several organizations. Organizations such as the Guam Memorial Hospital Volunteers, the Guam Beauty Association and the Guam Landowners Association. She also held the presidencies or other leadership positions of practically all the civic organization on Guam. The last one was the Guam Rehabilitation & Workshop Center. This organization, as you know, helps the handicapped. It helps to provide employment opportunities for them. To make them feel that they are part of this great island. Yes, she had a special fondness for her work with them. For she always spoke of the ex-

pressions of pride and joy on their faces in the work which they had accomplished.

You ask perhaps what were her motives behind all her work. Well let me tell you that, there was only one motive for her—it was simply serving her people. She was not looking for personal gain. She only looked to do what was right for her people. It did not matter to her whether her efforts were noticed or whether she received awards or accolades, although there were many given. Her satisfaction came from seeing on the faces of people joy when before she saw sadness, and hope when before there was despair.

You are probably wondering with all her activities, with all her work, how did she have time for her family. Well, she did. She was always there for us. She was always there to counsel and to guide us in how we should live our daily lives. Always advising but never forcing us to set our goals, and on how to achieve them. She was always our source of strength when we were weak. It is this source of strength that today compels us to accept her death. To be thankful that we shared as a family the values which she cherished so much. I believe that it was her hope that the life she lived, the examples she set by her deeds, would somehow manifest itself upon us. As her children we have grown to realize these values which guided her life. The need for strength in the family in a time of crises, to flex but never to break, and to never utter an unkind word about anyone.

Mom was a deeply religious woman. She shared, just as all mothers do, a special and unique relationship with the Blessed Mother. Her profile lists all which she did for the Church. But there was one special act which she never failed to perform up until the day she could no longer physically do so and that, was to make the Cathedral a beautiful home for the Blessed Mother. It was her own little way of showing her appreciation for all the goodness she received throughout her life for her own home, for her own family. Even to the day she died she never wavered in her love for the Blessed Virgin Mary. Even as she lay weakened by the ravages of the cancer which afflicted her, she would struggle to say a prayer to her. It was in the Blessed Mother where Mom found her solace and peace. It was in her where she found the strength to accept life's uncertainties. Yes even to accept the inevitability of her own death.

From her friends and peers we sense an admiration in the goodness of her character; her warmth, trust and compassion for all. We sense their admiration for her courage and commitment to undertake and assist in the many civic and social duties and responsibilities with other Chamorro women like herself. She was always encouraging individual involvement, selflessness for the good of our people.

She believed that by taking an active interest, by caring, we will pass along to our children those inherent values that make up Guam's customs, traditions and culture. She was truly a manifestation of the spirit of the Chamorro. An indomitable spirit of love.

There is one special friend who came to see her at her hospital bed and who also came to see her when we had her viewing in California. Dr. Katherine Aguon asked if I would read a tribute from her to Mom. I told her that I'm sure Mom would not mind and that she probably would have liked it. I'd like to share her tribute with you now:

"A TRIBUTE TO CHILANG"

(By Dr. Katherine B. Aguon)

"Much in my heart will remain unsaid about Chilang because I could not expose all that I want over the waves of the ocean that separates us. I saw Chilang in her final days before death and it is my desire to express a few words about her.

"I truly feel that if there was, in this world, one person whom I can speak to unabashedly, it was Chilang. In our years at the Legislature, I discovered in her qualities of generosity, concern and love to her fellow-beings. She seeks to find what's in a person's heart, and then opened hers to pour out warmth and understanding. Always, she was able to see the sadness and joy in you and then provide that warmth we all longed for in our aloneness.

"Long were the hours we spent talking together about many problems—our work, our goals, our people, and our island. She was forever willing to lend a hand and always with a song of praise to someone who had hurt her.

"The years Chilang has spent in our midst had become a memory of nobility and distinction. We all have heard and know of her generosity and virtues of patience and compassion.

"There are those of us who gave little of the much which we have and give it for recognition and our hidden desires. Chilang had little and gave it all.

"Her record as a public and community servant is documented. She was the epitome of self-made person, someone who made it through the ranks, not merely in the professional sense but in the world of politics and business. From a housewife, and humble and unknown beginning, she soared and became a focus of encouragement to women and a much respected politician and businesswoman. To all of us, this feat bespeaks of a well-rounded, capable person. Indeed, Chilang, in her own way, was able to see the hidden purposes in all things and then built on these goals to achieve those things that are needed by our community. She was a great and talented person who deserved a place, a place in our hearts and in our minds.

"If you had seen Chilang in the final days before her death, you would have seen the joyful contentment beneath her trembling body. I knew in my heart she was ready to leave.

"Farewell, my friend. If in the twilight of memory we shall meet, we shall speak again together about our children, our island and people, our work, and, we shall build again, another world."

To us, her children, Mom has always had a special place in our hearts. It was easy for us to overlook her faults. Because in her we saw a good mother and a good wife. A person with courage, compassion, and love. We understand the suffering she went through. And it pains us so. We have lost the one person who has been our source of strength and inspiration for our family. We shall sorely miss all the happy times we shared. But we cherish the fact that she leaves behind a legacy and heritage, rich in a wealth of defined values and of belonging. She leaves for us that special kinship with people whom she has touched. This truly fills our hearts with joy and pride knowing that she was able to accomplish much during her short life. I hope and pray that we, all of us here, can continue her life's work. That we can emulate the goodness of her life. So that we too may be truly blessed.

There is one final weave in her tapestry which I would like to make. Reflecting on her life and in trying to capsulize all that she was, all which she stood for, I remember a little poem which was written many years ago which she felt symbolized the work my father did in his life. I guess it shows the oneness of their lives, the singleness of their purpose in life. It simply states: "I shall not pass this way again, any good I can do or any kindness that I can show, let me not defer or neglect it. For I shall not pass this way again."

Goodbye, Mom—esta que man alii hit yan hagu yan si Dad gi rainon mi you.

LEILA FOLLIES: 20TH ANNIVERSARY

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. WOLPE. Mr. Speaker, I want to pay special tribute to the Leila Hospital Women's Auxiliary in Battle Creek, MI, on the occasion of their 20th annual "Leila Follies."

Since 1967, when the first Leila Follies raised $1,300, the annual fundraising event has raised over $400,000. The women's auxiliary has used this money to purchase lifesaving equipment, x-ray and laboratory equipment, cardiac monitors, and other medical equipment for the benefit of patients of Leila Hospital. Twenty years ago a local artist, Maida Schwarzkopf, designed the Leila Follies logo with the inspirational inscription, "Love Life—Save Life." This theme has so obviously been in the hearts of all those who have given so selflessly of themselves and their time to make this annual fundraising event the success that it has become.

This year the Leila Hospital Women's Auxiliary will express its caring by purchasing a "Wellness" van in order to make diagnostic testing available throughout the entire greater Battle Creek area.

Mr. Speaker, my colleagues would be impressed not only by the commitment and dedication of the auxiliary members who organize the follies, but also by the participants who voluntarily share their talents to raise funds for hospital equipment. I am privileged to represent these constituents: Their caring is expressive of the best of America. I know my colleagues join me in wishing them all possible success.

THE 125TH ANNIVERSARY OF ST. PAUL'S ROMAN CATHOLIC CHURCH, GREENVILLE, JERSEY CITY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. GUARINI. Mr. Speaker, I would like to share with the Members of this body the cele-

bration of the 125th year of the establishment of St. Paul's Roman Catholic Church, Greenville, in Jersey City, in the Hudson County area.

This parish has had special significance in my lifetime as I attended St. Paul's Grammar School for the first 6 years of my early education. I recall most vividly the dedication of Sister Veritas and Sister Ursula Marie, of the Sisters of Charity, who were my early teachers in the first and second grades, who gave me my earliest training in the basics and religion, and helped build the foundation of my life.

I recall vividly walking from my parent's home at 200 Neptune Avenue, Jersey City, in the parish, to early morning masses which I served as an altar boy for Father Thomas Monaghan.

St. Paul's parish with its religious leadership and wonderful parishioners indeed taught me to see the needs of others, to study hard, and to have the courage to work and fight for what good people believe in.

The good Sisters of St. Paul's Grammar School built an excellent foundation for the quality of education I was fortunate enough to receive. Indeed, St. Paul's School and Church taught their young people to think and communicate effectively, to teach the students about themselves, their heritage, and the problems of other cultures and other nations, preparing the students for work and further education and to help students meet their social and civic obligations.

On November 2, 1986, there will be a mass at St. Paul's Church at 12:30 p.m. with Most Rev. Jerome A. Pechillo, auxiliary bishop of Newark, and vicar of Hudson County, and priests who grew up in St. Paul's parish and are coming home to celebrate.

It will be my pleasure to join with them on this occasion. I have asked Father Joseph T. Slinger, pastor of St. Paul's Church, to assist me in preparing this brief history of this church and parish. He has provided the following information for which I am grateful:

In 1861, 25 years before the Statue of Liberty came to New York Harbor to serve as a beacon of freedom to immigrants, the Roman Catholic Parish of St. Paul was established on a hill overlooking that harbor. Founded initially by Passionist Fathers from St. Michael's Monastery, West Hoboken (now Union City), under the famed bishop of Newark, James Roosevelt Bayley, uncle of St. Elizabeth Seton, St. Paul's from the outset dedicated itself to its growing flock of Catholic families settling the celery farms in the small community of Greenville, which had not yet been incorporated into Jersey City, NJ.

There were 11 baptisms and 3 marriages in the first church, a 30-by-20-foot frame building, in the year 1862.

Four years later, the priests of the Diocese of Newark assumed responsibility for the parish and its growing congregation, and the first St. Paul's grammar school building was erected in 1871. Cornerstone for the existing church structure was laid in May 1887, during the Presidency of Grover Cleveland, and the completed edifice was dedicated in July 1888.

From those early beginnings, St. Paul's grew rapidly under a series of devoted pastors until, in 1915, the legendary Father (later Monsignor) Thomas Monaghan, who was to lead the parish for the next 43 years, became its spiritual head. Under his direction, a new, 1,500-pupil school and convent were built, and the complex of church, school, rectory, and convent became what it is at the present time.

In the first hundred years of its existence, St. Paul's contributed over 50 vocations to the priesthood and more than 150 sisters to the religious life.

As if to emphasize its youth and vitality in spite of the forthcoming 100th birthday of the parish, Monsignor Leo Mahoney completely renovated St. Paul's School in 1960, equipping it with the most modern educational and audiovisual devices at a cost of $70,000. The convent as well was modernized and redecorated.

The centennial year of the founding of the parish—1961—was a cause for great celebration and rejoicing. In the opening months of the year, a statue of St. Paul was unveiled in memory of Monsignor Monaghan. On November 19th, there was a solemn Mass of Thanksgiving attended by parishioners old and new and by dignitaries of church and government. The following day, November 20th, there was a centennial banquet and parish reunion attended by over 1,200 persons.

St. Paul's was both a pioneer and a model for the archdiocese of Newark in implementing the changes effected by the Second Vatican Council, and in recent years it had led the way in welcoming to its liturgical staff deacons, extraordinary eucharistic ministers, and lectors, both male and female.

It was almost at the conclusion of this metamorphosis, on October 24, 1974, that Monsignor Mahoney died after a recurring illness. Additional evidence of the influence of Vatican II was to be discerned in the manner of selection of his successor.

Input from St. Paul's Parish Council as to the requirements seen and the qualifications desired in a new pastor were given great weight by the Archdiocesan Personnel Board, and the man identified as meeting these criteria in fullest measure was Father Thomas E. Davis. A former Catholic campus minister at Montclair State College, where he had led a vigorous, inspiring, and successful revivification of religious commitment on that college campus in the wake of the Ecumenical Council, Father Davis assumed his new post in Greenville on January 25, 1975.

Today, as it has for the past century and a quarter, St. Paul's, now headed by the Reverend Joseph Slinger, following the Reverend Joseph A. Murray, successor to Father Davis, continues serving the spiritual and temporal needs of an ever-changing Catholic population. Its ethnic mix had altered; now many of its members are of Hispanic origin or from the Near and Far East. Still, its growth has been so great that in the 1960's the parish had to be split geographically with the founding of the Church of Our Lady of Mercy.

Despite that division, however, some 3,500 Catholic families—a far cry from the fewer-than-50 families in the area 125 years ago—are listed on the rolls of St. Paul's, and the strength and vigor of the parish remain undiminished. The people of St. Paul's in Greenville, with unabated enthusiasm, face a future of service "for God and Country," the motto etched on the facade of St. Paul's School.

In St. Paul's parish, which stands like the Rock of Gibraltar, in Jersey City, in the shadow of the Statue of Liberty, people of every heritage have been interwoven with our community's social fabric in social, economic, and cultural directions.

The sons and daughters of St. Paul's parish have made their mark in the professions—doctors, lawyers, teachers, scientists, engineers, members of the clergy—they have led exemplary lives as heads of families; they have fought in America's wars; World War I, World War II, Korea, and Vietnam.

St. Paul's parish has been an oasis of family-centered concern. Although located in a large city, it has been closely knit with community involvement, developing a human dimension as a place and a symbol of prayer and fellowship where people know each other personally, sharing each others' problems, as echoed by Pope Paul VI in his apostolic exhortation "Evangelii Nuntiandi" at the 1974 Synod of Bishops in Rome.

I am certain that my colleagues wish to join me today in this tribute to St. Paul's parish and pay tribute to its glorious 125 years of service to God and man. I am sure they share my pride and join me in extending best wishes to all the parishioners, nuns, and priests of this great parish.

TRIBUTE TO THE HONORABLE G. WILLIAM WHITEHURST

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. GOODLING. Mr. Speaker, I would like to join my colleagues today in bidding farewell to a vital and much respected Member of this Chamber who will be retiring at the close of this session—the Honorable G. WILLIAM WHITEHURST of Virginia's Second District.

Mr. WHITEHURST has distinguished himself both during his tenure in Congress and previously. He served his country in another capacity earlier in his distinguished career as a member of the U.S. Navy from 1943–46. After World War II, he received his bachelor's and master's degrees and began an 18-year career as a professor of history at Old Dominion University. From 1963–68 he held the re-

vered position of dean of students, evidence of his leadership and unique advisory capabilities.

His years spent in Washington also exemplify the strong character of this man. His prominent role as a member of the Armed Services Committee has significantly contributed to a sound policy for our national security. Membership in the North Atlantic Assembly allowed this gentleman the opportunity to help foster international understanding and communication.

Mr. WHITEHURST must also be commended for his position as chairman of the Education Task Force. In this capacity he has expressed his confirmed commitment to students and education. He also worked closely with the pages and supported programs to improve their learning experience here in Washington. He has instituted the American Studies Program in their curriculum.

When Mr. WHITEHURST leaves Congress he will take with him the many years of experience and memories he has gained here as well as wishes for success and happiness from his fellow colleagues. We hope his position as professor of history and political science at Old Dominion will once again be as enriching to him as it undoubtedly will be to his students. As this distinguished gentleman retires he leaves behind more than he takes with him. His pursuit of improved educational programs, increased international understanding, and record of service to his country act as an inspiration to us all.

THE BRONX IS BACK

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. GARCIA. Mr. Speaker, as time goes on, I find myself encouraged and heartened to know that many investors are still socially conscious and remain committed to the revitalization of so-called undesirable neighborhoods throughout the country.

I often tell people, the Bronx in back! And my boasts are often confirmed by the steady influx of investor dollars to restore many old neighborhood landmarks such as the Puerto Rico Theater, where I spent a great deal of time during my youth. The purchase of the Puerto Rico Theater of the Bronx and other landmark properties in East Harlem, are yet another shining example of restored faith and confidence in areas that many had written off in recent years past.

The following article from the October 15, 1986, New York Times, outlines aspects of the purchase and restoration of these landmark properties in East Harlem and the South Bronx.

REAL ESTATE—EL BARRIO MARKET'S RENEWAL

(By Shawn G. Kennedy)

Fifty years ago Mayor La Guardia put a marketplace underneath the Park Avenue elevated train tracks between 111th and 116th streets. The purpose was to clear congested streets of pushcart vendors and to provide clean spaces for small neighborhood businesses.

For decades the city-owned marketplace thrived, especially during the 40's and 50's as the largely Italian East Harlem neighborhood evolved into a Hispanic community known as El Barrio. But in the last 20 years, La Marqueta, as the market is known, lost vendors as the neighborhood declined. Today fewer than 50 merchants operate in a third of the enclosed market's space.

Now a development team is planning to put $7.5 million into a rehabilitation and expansion of the market. Last month the city designated San James Realty, an 11-year-old real estate management and development company, and the General Atlantic Realty Corporation as the developers.

The plan calls for the renovation of the five one-story structures and the construction of three buildings. The construction will extend the market's boundaries to 119th Street, in space now used as parking lots.

The developer is to pay the city about $1.5 million in rent and profit sharing over a 10-year lease. SanJames Realty will be responsible for developing, marketing and managing the complex.

"There have been other plans to restore the market but they never got off the ground," said Marcia Reiss, a spokesman for the city's Department of Ports, International Trade and Terminals, which has jurisdiction over the market.

Ms. Reiss said that for the last several years the beleaguered market was operated by a merchants' association. But as vacancies increased the group had an increasingly difficult time keeping up with maintenance and rent collections.

James Sanchez, the principal of SanJames Realty, feels that signs of rejuvenation throughout East Harlem spurred the city to revive La Marqueta. Among those signs, he said, is the strengthening market for higher-priced housing north of 96th Street and a commercial revivial along East 116th Street.

"Development uptown is not the risk it once was," said Mr. Sanchez, whose company has concentrated its efforts in East Harlem and the South Bronx. "There is a lot going on up here and everyone wants to be a part of it."

Mr. Sanchez said that in the last two years his company has invested $25 million in commercial and residential properties in East Harlem and the South Bronx. Among the projects is the restoration of the Puerto Rico Theater on 138th Street in the South Bronx. Mr. Sanchez converted the dilapidated 2,700-square-foot theater into three auditoriums, one for Spanish-language films another for first-run American movies and the third for stage performances.

His company also owns and manages 27 retail properties on 138th Street as well as 2,000 residential units, many in East Harlem. But Mr. Sanchez's link with the neighborhood goes beyond the financial investments he has made there.

"Like the Puerto Rico Theater, La Marqueta was a part of my childhood," he said in an interview in his office at 250 West 57th Street. "It used to be a Saturday ritual for me and my mother and father to go to La Marqueta to shop and then to the Puerto Rico theater for a show."

Michael Huerta, the Commissioner of Ports, International Trade and Commerce, said that one reason Mr. Sanchez's team had been selected was because it was willing to develop the property without city funds. Mr. Sanchez rejected the city's offer of a $5 million grant because the public financing process would slow the project.

The plan calls for the market's existing 50,000 square feet to be expanded to 80,000 square feet. There will be spaces for about 200 vendors of foods, spices, flowers and dry goods. The developers will put at least one restaurant in the market and a day care center.

The developers say that although the space will be improved, the market's Hispanic commercial focus and atmosphere will be maintained.

"We want it to be like a bazaar," Mr. Sanchez said. "I want it to be like I remember it as a kid, only more modern and cleaner."

Mr. Sanchez does not believe he will have trouble filling the new space, even though the market is more than half empty now.

"The market is not living up to its potential," he said. "The reason why vendors do not want to be there is not because the market is not in a good location. They have left because the buildings are rundown." He said that just a year or so ago La Marqueta had more than 100 merchants.

The current tenants, many of whom have leases that run until 2013, will remain at existing rents. Some pay less than $10 a square foot. New tenants will pay $30 to $40 a square foot.

Construction will start in the spring and will be done in phases so the market can remain open. It is expected that between 200 and 300 permanent jobs will be created by the redevelopment project.

DON'T UNDERVALUE FLIGHT ATTENDANTS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. SWIFT. Mr. Speaker, in view of the ever-increasing hazards of air travel today, we

cannot overemphasize the important role flight attendants play in safeguarding the lives of the flying public. The flight attendants, too often taken for granted as only a provider of creature comforts, must in fact act as a buffer between terrorists and their victims, putting their lives at risk on behalf of those in their charge. They must also monitor aircraft safety, handle medical emergencies, and execute evacuations within seconds.

Recent events, however, indicate that the airline industry and our Government have underestimated the invaluable part these women and men play in protecting our lives and our investments. Nowhere is this more clearly demonstrated than at Trans World Airlines. For example, TWA flight attendants on hijacked Flight 847 in June, 1985 were honored for their capable handling of an extremely dangerous situation. Yet today, nearly 5,000 of these trained professionals at TWA, who are predominately mature women, are still prevented from returning to their jobs by TWA Chairman Carl Icahn because of their experience.

It is time for the people of the United States to recognize these individuals and the important contributions they have made to airline safety. It is time for action to be taken to stop the blatant discrimination they have endured. It is time for this body to take steps to ensure that this ongoing dispute be resolved, not only for the sake of fairness, but also so that the confidence of the flying public can once again be restored in our air transport system.

Mr. Speaker, it is time for the Department of Transportation to exercise its lawful authority and intervene in this protracted dispute. Our Federal courts have already determined that the flight attendants' offer to return to work without a contract last May was an unconditional one. Yet TWA obstinately refuses to allow them to return to their positions, in which they have invested an average of 15 years. These valiant professionals have suffered long enough. It is now time that we act.

FLORIO URGES OWENS-CORNING TO KEEP BARRINGTON PLANT OPEN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. FLORIO. Mr. Speaker, yesterday I rose to express my shock and dismay at the decision by Owens-Corning Fiberglas Corp. to stop production at its Barrington, NJ plant. I rise again today to urge Owens-Corning to reconsider its decision and keep the profitmaking plant open or, at a minimum, look for a buyer of the plant who will keep the plant open.

The decision to stop plant operations means that 800 hardworking, dedicated taxpayers in my district will lose their jobs and become unemployed at a time when the national unemployment rate is already high and finding a job is more and more difficult. I would like to share with my colleagues a copy of an editorial published this morning in the Courier-Post which makes a number of outstanding points. The editorial follows:

JOBS FALL VICTIM TO MERGER MANIA

Merger mania appears to have dealt workers at the Owens-Corning plant in Barrington a cruel blow, or so the company suggested in announcing that its plant in the borough will be closing. Nearly 800 jobs will be lost, 500 of them by the end of the year. A not so merry Christmas for these workers.

The company does not want to play the Grinch, its statement last week suggested. The plant, which manufactures fiberglass insulation, is still profitable. The management was forced to make the move, it said, because of a hostile takeover bid and the debt incurred in fending it off. In order to outbid the corporate raider, the company borrowed about $2.6 billion, leaving it with no choice but to cut costs dramatically and divest itself of facilities that do not generate high profits in a short time.

Owens-Corning shareholders watched the value of their stock rise dramatically during the battle between the company's existing and would be managers. Owens-Corning workers, some of whom have worked at the Barrington plant since it opened more than 30 years ago, are watching their jobs and their careers go down the corporate drain.

Justice is not an integral component of the free enterprise system, which is based on competition, not fairness. Loyalty to employees often plays a role in a corporation's management policies, however, but it seems to be sorely lacking here. The company has apparently made little provision to try to relocate workers to other plants, or, better yet, to sell a facility that by its own account is still profitable. It plans to turn the plant into a warehouse, which would employ only a fraction of the manufacturing workforce.

The market for insulation boomed in the '70s, with its energy "crises" and consequent emphasis on conservation. The demand for insulation, however, goes on, particularly in a time of economic growth with a high level of new construction.

Not everyone in the Barrington area would be sorry to see the plant closed. The plant has made its share of enemies over the years because of the foul odors occasionally emitted and the threat of more serious pollution from its piles of hazardous waste materials. Local fire companies have worried at times about the use of propane at the plant and the possibility of explosions.

In general, however, the company, at least when it was still interested in doing business here, responded to such complaints with measures effective in addressing them.

The jobs that will be lost will be difficult to replace in an economy that is not producing much in the way of new manufacturing jobs. Government officials, from the borough hall to the State House, should join with the workers to try to keep the plant open, if not under Owens-Corning management, then in the hands of another company or an employees' cooperative.

PENSION LOSERS BILL REINTRODUCED

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. WOLPE. Mr. Speaker, last week I joined with Congressman CLAY and 20 other colleagues to introduce the Pension Restoration Act of 1986, also known as the pension losers bill.

In 1974, Congress passed the Employee Retirement Income Security Act [ERISA]. ERISA was motivated by a nationwide grassroots effort consisting of hundreds of thousands of workers who had earned pension benefits from their companies' pension plans, yet suddenly found themselves with no benefits. Pension plans were collapsing; companies were closing in bankruptcy or relocating to other areas and pension protection—for which people had worked and which they had every reason to anticipate—was suddenly being denied. The Congress responded to remedy what was understood to be a truly desperate situation.

Tragically, however, the very individuals who were responsible for bringing this crisis to Congress' attention were left out because of the arbitrary enactment date of ERISA's Pension Insurance Program. Nationwide, there are approximately 80,000 employees who to this day are not receiving their full pension benefits. Many of these people have yet to draw one dime from their plans.

ERISA's arbitrary enactment date affected thousands of American workers around the Nation. Georgia Pacific decided to close its Portage plant in the summer of 1974 denying several hundred of my constituents their rightful pension benefits. For the great majority of workers, the company terminated their pension plan and closed down on June 30, 1974, Just 1 day before the Federal pension insurance program went into effect. The company did leave a handful of employees on the books for several more weeks, but the Pension Benefit Guarantee Corporation ruled that

the maintenance of a few employees on the payroll was not sufficient for the purpose of ERISA's determination that the company was still operative at the time of the insurance program's initiation. The legislation we have introduced appears to be the only effective means of correcting the tragic injustice they have experienced.

The Pension Restoration Act is for the pension losers who met all the requirements of their pension plans. All are hard-working Americans who were loyal to their companies, many giving 20, 30, and 40 years of service. All participated in their pension plans in good faith and had every reason to expect their employers would fully meet the contractual obligations into which they had entered.

This legislation is a modest attempt to provide partial compensation for the injustice that has been done to the Nation's pension losers. By all rights, they should have received the same protection as those who have been covered by ERISA. However, this bill recognizes the budgetary constraints within which we must operate and proposes, therefore, to simply provide $75 per year for each year a pension loser with vested rights worked under his or her pension plan. This is far from what many workers would have been entitled to under ERISA. Yet it is much more than most are presently receiving. This bill could make a great difference in the quality of life for pension losers now in their retirement years; for some, it can literally mean the difference between a life of desperate subsistence and a life that will permit some dignity and security.

FERMI ACHIEVEMENT AWARD

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. SMITH of New Jersey. Mr. Speaker, on Saturday, October 18, 1986, Guido Luccarelli will be presented with the "Fermi Achievement Award" by the Fermi Federation for his numerous contributions to the Italian community in the greater Trenton area. The award will be presented to Mr. Luccarelli at Angeloni's Restaurant in Hamilton Township.

As an 18 year-old student in Naples, Italy, Guido Luccarelli interrupted his studies in 1946 to join his family in the Trenton area. He worked in his father's pizzeria-restaurant and attended evening classes at Trenton High School. Later, he took special courses at the University of Pennsylvania. In 1950 Guido Luccarelli was drafted and served during the Korean War. He received an honorable discharge with the rank of sergeant.

For many years, Guido Luccarelli was known as the Italian voice of Trenton. He earned this distinction by setting up a radio program that proved to be enormously beneficial to Italian immigrants in the vicinity of Trenton. His community oriented broadcasts have also been instrumental in enhancing the Italian culture and image in the local community.

On one occasion after another, Guido Luccarelli could be counted on to help those in need. In 1977, he served as chairman for the Italian Earthquake Relief Fund and conducted a 12 hour live radiothon to raise funds for this important cause. He also served with distinction on the Florentine Flood Relief Fund and responded with great compassion to the Sicilian Earthquake.

In April 1978 Guido Luccarelli was appointed by the Government of Italy, by a Ministerial decree, to serve as the Vice Consul of Italy for Central and Southern New Jersey. In November of the same year, the Italian Government also conferred on him the title of "Cavaliere" in the Order of the Italian Star of Solidarity.

As Italian Vice Consul, Guido Luccarelli looks after the affairs of approximately 300,000 to 400,000 Italian residents in the 13 central and southern counties of New Jersey. He has a variety of duties, including keeping vital statistical records, renewing passports and visas, administering pensions and Social Security benefits for the retired and those Italian workers and widows who are entitled to them, developing cultural relations, stimulating beneficial economic activities, and promoting educational and social activities.

Mr. Speaker, for the past 40 years Guido Luccarelli's dedicated efforts have helped to secure jobs for many immigrants and have provided guidance to many new citizens of the Italian community in central and southern New Jersey. His numerous contributions to the Italian community have been commended on several occasions and it is entirely appropriate that the Fermi Federation will honor him on Saturday, October 18.

Guido Luccarelli's wife Josephine and his four children: Robert, Ronald, Anita and Maria have every reason to be proud on this memorable occasion. Mr. Luccarelli's many friends and admirers can also look with pride at an individual who has set such a fine example for others to emulate.

THE FREEING OF MR. PJETER IVEZAJ: PROGRESS IN YUGOSLAVIA, BUT MORE REMAINS TO BE DONE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. BROOMFIELD. Mr. Speaker, I am delighted to tell you that Mr. Ivezaj is back in the United States. He has finally been reunited with his loved ones. Two other Americans are also out of Yugoslav jails. I appreciate the assistance of Yugoslav officials in freeing those United States citizens. I am grateful for their help.

Although progess has been made in winning the freedom of Mr. Ivezaj and two other United States citizens, Mr. Vjeroljub Radivojevic and Mr. Gradimir Hadzic, both of California, who had also been illegally imprisoned in that country, more must be done. How many more Americans of Yugoslav origin will be snatched from the streets of Belgrade? How many more innocent United States travelers of Yugoslav origin will be detained and denied consular access? How many more Americans will be questioned by police and harassed for no reason? Will there be other cases like that of Mr. Ivezaj in the future?

I look forward to working with the Department of State and the Yugoslav Government to ensure that illegal arrests of this kind never happen again.

I want to ensure that Yugoslavia is honoring its international commitments to human rights. In addition to respecting the rights of all the various ethnic groups in that country, the Yugoslav Government must also honor the human rights of former Yugoslav nationals who are now American citizens. Should they be denied the right to return to their birthplace because of their ethnic ties? Why deny them the right to visit their families and friends? In addition, that Government must learn to respect the privileges enjoyed by an individual traveling as an American citizen.

Under the Vienna Convention, Consular access is guaranteed to an individual detained or imprisoned by a foreign government. By denying that basic privilege of consular access, the Yugoslav Government is blatantly violating its commitment to that vital international accord.

I believe that the freeing of those three men is a step in the right direction. More, however, remains to be done. I am ready to do all that I can to resolve the problems associated with American travelers of Yugoslav origin in that country. I promise all of my colleagues who share my interest in human rights, and the rights of traveling Americans, that I will be watching Yugoslavia.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when sched-

uled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 16, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

No meetings scheduled.

HOUSE OF REPRESENTATIVES—*Thursday, October 16, 1986*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, our lives are filled with words—words of understanding, words of praise, words of hope. Help us, gracious God, to translate our words into deeds, our hopes into reality. Enable us to witness to our trust in You by demonstrating that the faith we profess may be active in deeds of love and concern in our lives. May Your blessing and benediction be with each of us this day and always. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PORTER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PORTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 237, nays 120, answered "present" 1, not voting 74, as follows:

[Roll No. 478]

YEAS—237

Abercrombie	Bonker	Daniel
Ackerman	Borski	Darden
Akaka	Bosco	Daschle
Alexander	Boucher	Derrick
Anderson	Boulter	DioGuardi
Andrews	Boxer	Dixon
Annunzio	Broomfield	Donnelly
Anthony	Brown (CA)	Dorgan (ND)
Applegate	Bruce	Dornan (CA)
Aspin	Bryant	Dowdy
AuCoin	Burton (CA)	Downey
Barnard	Bustamante	Duncan
Barnes	Carper	Durbin
Bateman	Carr	Dwyer
Bates	Chapman	Dymally
Beilenson	Chappell	Dyson
Bennett	Cheney	Early
Berman	Clinger	Eckart (OH)
Biaggi	Coelho	Eckert (NY)
Boggs	Coleman (TX)	Edwards (CA)
Boland	Collins	English
Boner (TN)	Cooper	Erdreich
Bonior (MI)	Coyne	Evans (IL)
Fascell	Lipinski	Rowland (GA)
Fazio	Livingston	Roybal
Feighan	Lowry (WA)	Russo
Fish	Lujan	Sabo
Flippo	Luken	Savage
Foglietta	Lungren	Scheuer
Foley	MacKay	Schulze
Ford (TN)	Manton	Schumer
Fowler	Martinez	Seiberling
Frank	Matsui	Sharp
Frost	Mavroules	Shelby
Fuqua	Mazzoli	Shumway
Gaydos	McCloskey	Sisisky
Gejdenson	McCurdy	Skelton
Gibbons	McDade	Slattery
Gilman	McEwen	Smith (FL)
Glickman	McHugh	Smith (IA)
Gonzalez	Mica	Smith (NE)
Gordon	Michel	Snyder
Gradison	Miller (CA)	Solarz
Gray (IL)	Miller (WA)	Spence
Gray (PA)	Mineta	Spratt
Green	Moakley	St Germain
Guarini	Mollohan	Staggers
Hall (OH)	Montgomery	Stallings
Hall, Ralph	Moody	Stark
Hamilton	Morrison (CT)	Stratton
Hammerschmidt	Morrison (WA)	Studds
Hatcher	Murphy	Swift
Hawkins	Myers	Synar
Hayes	Natcher	Tallon
Hertel	Nelson	Tauzin
Hillis	Nowak	Thomas (GA)
Holt	Oberstar	Torres
Horton	Obey	Traficant
Howard	Olin	Traxler
Hoyer	Ortiz	Udall
Hubbard	Owens	Valentine
Hutto	Panetta	Vento
Hyde	Parris	Visclosky
Jeffords	Pease	Volkmer
Jenkins	Pepper	Watkins
Johnson	Perkins	Weaver
Jones (NC)	Price	Wheat
Kasich	Quillen	Whitley
Kastenmeier	Rahall	Wilson
Kennelly	Rangel	Wirth
Kildee	Ray	Wise
Kolter	Regula	Wolpe
LaFalce	Reid	Wortley
Lantos	Richardson	Wright
Leath (TX)	Ritter	Wyden
Lehman (CA)	Robinson	Wylie
Lehman (FL)	Roe	Yates
Levin (MI)	Rose	Yatron
Levine (CA)	Rostenkowski	Young (MO)

NAYS—120

Armey	DeWine	Lewis (FL)
Badham	Dickinson	Lightfoot
Bartlett	Dreier	Loeffler
Barton	Emerson	Lowery (CA)
Bentley	Fawell	Mack
Bereuter	Fields	Madigan
Bilirakis	Franklin	Martin (IL)
Bliley	Frenzel	Martin (NY)
Boehlert	Gallo	McCandless
Brown (CO)	Gekas	McCollum
Burton (IN)	Goodling	McGrath
Callahan	Gregg	McKernan
Chandler	Gunderson	McMillan
Chappie	Hendon	Meyers
Clay	Henry	Miller (OH)
Coats	Hiler	Mitchell
Cobey	Hopkins	Molinari
Coble	Hunter	Monson
Coleman (MO)	Ireland	Moorhead
Combest	Jacobs	Nielson
Conte	Kolbe	Oxley
Coughlin	Kramer	Packard
Courter	Lagomarsino	Pashayan
Craig	Latta	Penny
Crane	Leach (IA)	Petri
Dannemeyer	Lent	Porter
Daub	Lewis (CA)	Pursell
Ridge	Sikorski	Stump
Roberts	Siljander	Sundquist
Roemer	Skeen	Swindall
Rogers	Slaughter	Tauke
Roth	Smith, Denny (OR)	Taylor
Roukema		Thomas (CA)
Saxton	Smith, Robert (NH)	Vander Jagt
Schaefer		Walker
Schneider	Smith, Robert (OR)	Weber
Schroeder		Whitehurst
Schuette	Snowe	Whittaker
Sensenbrenner	Solomon	Wolf
Shaw	Stangeland	Young (AK)
Shuster	Stenholm	Young (FL)

ANSWERED "PRESENT"—1

Crockett

NOT VOTING—74

Archer	Grotberg	Mrazek
Atkins	Hansen	Murtha
Bedell	Hartnett	Neal
Bevill	Hefner	Nichols
Breaux	Huckaby	Oakar
Brooks	Hughes	Pickle
Byron	Jones (OK)	Rinaldo
Campbell	Jones (TN)	Rodino
Carney	Kanjorski	Rowland (CT)
Conyers	Kaptur	Rudd
Davis	Kemp	Smith (NJ)
de la Garza	Kindness	Stokes
DeLay	Kleczka	Strang
Dellums	Kostmayer	Sweeney
Dicks	Leland	Torricelli
Dingell	Lloyd	Towns
Edgar	Long	Vucanovich
Edwards (OK)	Lott	Waldon
Evans (IA)	Lundine	Walgren
Fiedler	Markey	Waxman
Fiorio	Marlenee	Weiss
Ford (MI)	McCain	Whitten
Garcia	McKinney	Williams
Gephardt	Mikulski	Zschau
Gingrich	Moore	

□ 1220

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 753. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2638) "An act to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987,

to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes".

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill and concurrent resolution of the House of the following titles:

H.R. 3415. An act to authorize the minting of coins in commemoration of the Bicentennial of the U.S. Constitution; and

H.Con. Res. 395. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 3838.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 427. Joint resolution reaffirming our friendship and sympathy with the people of El Salvador following the devastating earthquake of October 10, 1986.

The message also announced that pursuant to Public Law 99-205, the Chair on behalf of the President pro tempore appoints Mr. Don C. Steffes, of Kansas, from private life, and Mr. Maxie D. Love, Jr., of South Carolina, from private life, to the National Commission on Agricultural Finance.

AUTHORIZING FUNDS TO PRESERVE OFFICIAL PAPERS OF JOSEPH W. MARTIN, JR.

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4244) to authorize funds to preserve the official papers of Joseph W. Martin, Jr., with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Page 3, after line 2, insert:

SEC. 5. AUTHORIZATION OF KANSAS EDUCATIONAL SATELLITE VIDEO COMMUNICATIONS CENTER.

(a) The Secretary is authorized to provide financial assistance, in accordance with the provisions of this section, to pay the Federal share of the cost of construction, and related expenses, for the Kansas Educational Satellite Video Communications Center at the Kansas State University located in Manhattan, Kansas, to enable the Kansas State University to establish the Kansas Educational Satellite Video Communications Center in order to produce and disseminate television programming in subject areas of local, regional, national, and international importance.

(b) No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, I do not intend to object, but I do so for the purpose of asking the gentleman from California [Mr. HAWKINS] to explain this bill.

As I understand it, this is the bill which has passed this body with respect to the library for Joseph Martin. As I understand it, the other body attached the amendment thereto relative to a video center at Kansas State University to do some work in the utilization of satellites to enhance education.

Is that correct?

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Speaker, that is the correct explanation. It was passed in this House without any opposition. It refers to the establishment of an institute to preserve the papers of the late Joseph Martin, Speaker of the House.

It was a bill authored by our distinguished colleague, the gentleman from Massachusetts [Mr. CONTE]. When the bill reached the other body, it was amended with an amendment offered by Senator DOLE pertaining to a video communications center. There was no opposition to the center in the other body or to the Conte bill as passed by the House.

We are, therefore, asking that the House concur in the Senate amendment and that, as amended, the bill be passed.

Mr. JEFFORDS. Mr. Speaker, further reserving the right to object, I am happy to yield to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I want to thank my good friend, the distinguished gentleman from California [Mr. HAWKINS] for getting this bill completed so quickly.

I also want to thank my friend from Michigan [Mr. FORD], the gentleman from Vermont [Mr. JEFFORDS], and my colleague from Missouri [Mr. COLEMAN]. Their help has really been invaluable on this bill.

Mr. Speaker, the House passed H.R. 4244 unanimously 1 month ago to preserve the official papers of our former Speaker Joseph W. Martin.

It comes back to us today with only one additional provision, added by the majority leader in the other body, to authorize the establishment of a satellite communications center at Kansas State University.

The bill is acceptable to the OMB and the White House.

In February, I introduced H.R. 4244 to authorize this fitting memorial to Joe Martin at the Stonehill College in North Eaton, MA, where all his official papers are stored.

The House considered and passed that bill on September 16. The Senate took it up and passed it on September 30 with the one addition I described earlier.

Mr. Speaker, the Martin Institute for Law and Society will be a regional and national center for scholarship and applied research on the development of domestic and foreign policy during Speaker Martin's career.

And what a career that was. For 42 years, from 1925 to 1967, Uncle Joe Martin represented my home State in this distinguished body.

His career spanned four decades of our Nation's history, and his personal papers dramatically reflect the struggles and rapid change America experienced during those years: The Great Depression, World War II, the Korean war, the cold war, the fresh and enthusiastic spirit of John Kennedy's Presidency, and the tragedy of the Vietnam war.

As I said when this bill passed last month, Joe Martin was a dear and valued friend. It is because of him that I serve on the Appropriations Committee.

In honoring Speaker Martin today we are following a tradition similar to the one that established the Carl Albert Congressional Research and Studies Center at the University of Oklahoma, and the John W. McCormack Institute of Public Affairs at the University of Massachusetts in Boston.

The only difference between this academic center and those others is that this time we are honoring a Republican. In fact, we are honoring the only Republican Speaker since Nicholas Longworth.

Mr. Speaker, I know of no opposition to this bill to honor a distinguished former Speaker of the House of Representatives, and I urge adoption of the bill.

Mr. MOAKLEY. Mr. Speaker, I rise in support of the motion offered by the distinguished chairman of the Committee on Education and Labor, to agree to the Senate amendment to the bill (H.R. 4244) to provide Federal assistance in connection with the establishment of the Joseph W. Martin Institute for Law and Society at Stonehill College.

This request clears this important measure for the President's signature. I commend the committee for acting promptly on the bill which was introduced by my friend from Massachusetts [Mr. CONTE] and myself.

Joe Martin was one of the ablest and most honorable men our State has ever produced. The Republican Party was quick to recognize his character and wisdom. Most of his 42 year career in the House was spent as his party's leader both as minority leader and as Speaker during the 80th and 83rd Congresses.

He served as National Chairman of the Republican Party in the early

1940's and was permanent presiding officer of the party's national conventions from 1940 to 1956.

The records of House committees are preserved by the National Archives. But the papers of our Speakers are customarily donated to colleges. Speaker Martin deposited his papers at Stonehill College in North Easton. The college is establishing an institute that will serve as an academic center for scholarship and research on the development of domestic and foreign policy during the important years that Joe Martin was a national leader.

Mr. Martin's official papers span more than a generation and are an important historical resource and Federal assistance to the college in carrying out its archival responsibilities with respect to these records is highly appropriate.

I commend the committee for presenting this matter to the House today.

Mr. JEFFORDS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

□ 1230

DRAWING A LINE IN THE DUST AND THROWING DOWN THE GAUNTLET

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, in your 34 years of service here you must have met very few Members who are more devoted to the principles of our party and more devoted to you as an individual, but there comes a time when a man of principle must stand his ground, draw a line in the dust and throw down the gauntlet.

Mr. Speaker, as the Representative of New York's Eighth Congressional District, the home of the soon-to-be world champions, the New York Mets, I want the world to know that I have made a bet with you, 20 pounds of Flushing, Queens' finest lox and bagels and cream cheese on the Mets against five succulent Massachusetts lobsters on the Red Sox.

Mr. Speaker, all I can say is, may the best team win in this exciting World Series.

The SPEAKER. The Chair would comment on the fact that he has five boxes of oranges coming from California and he would be happy to accept the bagels and cheese after the World Series.

EATING HUMBLE PIE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute.

Mr. DORNAN of California. Mr. Speaker, I come to the well with a heavy heart to eat a generous portion of humble pie. Never again will I refer to that great Boston team as anything but the Red Sox.

I will throw in for good measure with the crates of oranges, because of the incredible grace under pressure of young Steve Crawford, a crate of avocados. Now, I know you are not too familiar with them in Boston.

The SPEAKER. Can the gentleman make it asparagus instead?

Mr. DORNAN of California. Well, Mr. Speaker, I know that in your neck of the woods that it is usually Brie and Perrier and quiche; but let me throw in a few avocados, Calavo avocados, with the asparagus.

Now I retreat to the island of my birth, Manhattan, and join the prior speaker and tell you, good luck, you will enjoy never those lox with the avocados and the oranges.

WATER RESOURCES BILL OFFERS RELIEF TO MINNESOTA FLOOD VICTIMS

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, on September 21, 1986, the citizens of Rochester, MN, were hit by a weekend storm that dumped up to 7 inches of rain, causing substantial flooding and damage in this city of 60,000. Rochester residents remember all too well a similar storm in July 1978, which took the lives of five people and caused millions of dollars of catastrophic damage. These tragic events demonstrate the necessity of completing the Rochester flood control project, which, along with other important water projects, is authorized by H.R. 6.

The citizens of Rochester have been waiting for relief from the threat of flooding by the south fork of the Zumbro River for well over 20 years. During the 4 years I have served in Congress, providing this relief has been among my highest priorities. The residents of Rochester have acted responsibly to meet the local financial demands of the flood control effort by accepting a sales tax—the proceeds of which have been earmarked for the city's share of the project. Able leadership by the mayor, city council, and other local officials has well prepared Rochester to move forward with this project. I am proud that Congress is ready to accept the conference report on H.R. 6. For cities like Rochester, H.R. 6 is the culmination of years of effort to meet a pressing local need.

JIM BALUKEVICH CHOSEN FOR INDUCTION INTO WASHINGTON, DC, BOXING HALL OF FAME

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROBERTS. Mr. Speaker, it is an honor and a privilege for me to inform my colleagues that a good friend of us all, Jim Balukevich, the gentleman who is responsible for getting Members of this body from here to there within the Longworth Building, has received a much deserved and respected honor.

Jim has received notice from Julian Whitestone, president of Washington, DC, Boxing Hall of Fame that he has been chosen for induction into the hall of fame. That induction will be at their annual banquet November 14 at the Touchdown Club.

Mr. Speaker, Jim truly reflects all of the attributes of a great champion, not only in the ring but in his personal life as well. He was an Army boxer and coach in Hawaii, is currently senior Olympic middleweight boxing champion of America, a vice president of the New Jersey Boxing Hall of Fame, founder of Washington, DC, Boxing Hall of Fame, and an active member of Washington's boxing commission.

I might add a parochial note, Mr. Speaker. He is also an honorary marshal of Dodge City, KS, and is the Marshal Dillon of the Longworth elevators. But, more than that, he has been a good friend to all of us and he is the kind of person that personifies the very best that the manly sport of boxing embodies. Jim, you are a true champion and we are all proud of your achievement.

Mr. Whitestone's letter follows:

THE WASHINGTON, DC,
BOXING HALL OF FAME, INC.,
Locust Grove, VA, September 26, 1986.

Mr. JIM BALUKEVICH,
Box 172, Ben Franklin Station, Washington, DC.

DEAR FELLOW MEMBER: It is with great pleasure and privilege that I officially advise you that you have been selected for induction into the Washington, D.C. Boxing Hall of Fame.

You have been chosen for this great honor by vote of the membership and have every reason to be extremely proud of such recognition by your friends and peers.

The award for your induction into the Boxing Hall of Fame will be presented at our annual banquet, November 14, 1986. You and your wife will be our guests for the evening at the Touchdown Club. Please accept my heartiest congratulations.

Most cordially,

JULIAN WHITESTONE,
President.

FOR THE HONOR OF HOLLYWOOD . . . FLORIDA

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SMITH of Florida. Madam Speaker, there must be a better way to promote, preserve, protect, and defend the honor of Tinseltown than by attempting a land grab under the guise of trademarking the name of Hollywood—a baldfaced try to expropriate a city of 150,000 people in my district, my hometown. Yet, this is exactly what that California locality wants to do.

If this effort were to be successful, where would it end?

My colleagues, heed my words. If Hollywood, Florida, falls, one of your cities may be next.

Beware, those of you who represent Springfield, or Charleston, or Columbia, lest your city lose its name.

Woe to you Hoosiers if your entire State is required to pay royalties to Indiana, Pennsylvania

Will Juneau, Wisconsin, become subservient to Juneau, Alaska?

If necessary, I will introduce legislation to protect the name of the city of Hollywood, Florida. Heed my warning Tinseltown. Cease and desist forthwith.

They who live by the trademark may die by the dissolution. All's fair in love and war, even by Hollywood standards.

Madam Speaker, I include the following letter from the city of Hollywood, FL:

CITY OF HOLLYWOOD, FLORIDA,
October 6, 1986.

Congressman LAWRENCE J. SMITH,
113 Cannon House Office Building, Washington, DC

DEAR CONGRESSMAN SMITH: The City Commission of Hollywood, Florida, requests that you register our firm opposition to any attempt by the Chamber of Commerce of Hollywood, California, to trademark the name "Hollywood" through the U.S. Patent Office.

The 60-year-old City of Hollywood, located in the 16th congressional district, is a legally incorporated city which prides itself on its beautiful beaches and facilities. Our merchants generally identify their products with "Florida" appearing somewhere on the product to advertise our location. However, there are many circumstances in which this is neither necessary nor appropriate. For example, our annual "Hollywood Jazz Festival" posters need no other descriptive words in our region.

We hope you will keep us informed regarding this situation and will help us in our efforts to ensure that the free use of our name is not denied us or our merchants' businesses.

Very truly yours,

MARA GIULIANTI,
Mayor,
SUZANNE GUNZBURGER,
Vice Mayor,
CATHLEEN ANDERSON,
GUY ROPER,
JOHN T. WILLIAMS,
Commissioners.

A HAPPY CHRISTMAS GIFT TO THE SPEAKER

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Madam Speaker, for the fourth consecutive year, I come before you and my other colleagues at the end of a hectic session with some nice news.

This year from our friends at the T&M Ranch in Indiantown, FL, I am the happy deliverer of their 1986 Christmas gift to you—Antonio of Spain.

Over the next few weeks each of you, our colleagues in the Senate, The President and Mrs. Reagan, and Vice President and Mrs. Bush, will receive this Angel of the World Christmas ornament.

The fourth edition of this beautiful ceramic ornament was again sculpted by Laszlo Ispanky and bears the remarkable likeness of Troy Vasquez of Miami.

The angels of the world program has grown tremendously since I brought you Kathleen—the first ornament—4 years ago.

Branches of the Association for Retarded Citizens all over the country—in New York, Connecticut, Boston, Atlanta, Ohio, and throughout Florida—raise funds to help thousands of mentally and physically handicapped people.

It all starts at the T&M Ranch in Indiantown, where just 21 mildly handicapped adults conduct an annual labor of love, preparing and packaging the angle ornaments for the enjoyment of thousands.

Have a happy and prosperous holiday season.

WELCOME BACK, SENATOR GARN

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Madam Speaker, Father's Day won't occur until next June, but in my view the real Father's Day took place this week when Senator JAKE GARN of Utah returned to the U.S Senate.

On September 10, Senator GARN donated one of his kidneys to his daughter Susan who suffers from diabetes and without the kidney transplant would have died. In this era of modern medicine we perhaps take too much for granted when we read of transplants. But, there was a great risk to Senator GARN and that risk will remain because of problems of people functioning with only one kidney. Yet, despite the risks, Senator GARN thought only of saving the life of his daugther.

I am certain that any father would have made the same decision and many parents have donated kidneys to their sick children. But Senator GARN not only gave part of himself to save his daughter but he is now encouraging everyone to consider organ donor programs so that when they die, their organs can be used to give life to others.

Madam Speaker, it is good to see Senator GARN back in the Senate and I salute him for his courage and for making certain that his daughter will be alive to celebrate many more Father's Days with her father.

PLO TERRORISM

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Madam Speaker, terror has struck once again in the Middle East. Near the Western Wall of the temple in Jerusalem, as a swearing-in ceremony for young Israeli recruits ended, vicious cowards hurled grenades at the young soldiers and their families.

The soldier's parent who was killed and the scores who were wounded were not the only victims of this assault. Among the victims are peace and reconciliation in the Middle East.

The so-called moderate, mainstream PLO, which has now claimed credit for this attack, is out to kill the peace process and along with it the prospects for accommodation and reconciliation. The Israeli Government, in an effort to create an expanded voice for the Palestinian people in the management of their own affairs, has appointed new, local mayors in several West Bank towns. Yet, their public service is perceived as traitorous by the PLO, which prefers the maximum possible tension in that region.

Madam Speaker, terror needs to be recognized for what it truly is—the forcible, violent imposition of one's will on the innocent—leaving victims throughout the world. Civilized nations of the world need to maintain a constant vigil against terror. The world needs to wake up to this threat, and act in unison against those who use it against us all and one good way to begin to act together, Madam Speaker, would be for the leaders of the world to convene a summit against terrorism, as the House called for when it passed the resolution I introduced, House Resolution 547, asking the President to convene such a summit.

HUMAN RIGHTS AND TERRORISM

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Madam Speaker, I want to join the previous speaker, the distinguished gentleman from New York [Mr. GILMAN] in his remarks. I fully support the call that he has made, which has also been fully supported in a bipartisan sense by the Foreign Affairs Committee. It is absolutely essential, in my judgment, and I agree with the gentleman from New York [Mr. GILMAN], that if we are going to deal with the problem of terrorism, regardless of where it is, the western world, the civilized world, has to stand together; otherwise, we will be forever hostages to any maniac who wants to kill people in order to make some kind of political point.

Madam Speaker, I would like to draw our colleagues' attention to the tragic events occurring daily in Chile.

President Augusto Pinochet reimposed a state of siege last month, beginning another chapter in the 13-year old saga of brutal government repression. Using the recent assassination attempt as justification, Pinochet declared "war" on the Chilean people, increasing the already oppressive restrictions on freedom in that country. Within hours of the siege declaration, tanks rolled into residential areas, several leaders of the sizable opposition were jailed and six publications, including conservative ones, were shut down. An opposition magazine editor and Pinochet foe was dragged from his home at dawn and shot, reportedly by members of Chilean security forces.

Pinochet is closing ranks within his government, increasingly demonstrating his unwillingness to facilitate a peaceful transition to civilian rule. Just last week, Pinochet removed a member of Chile's four-man ruling junta and ordered nine generals into retirement in an apparent move against potential opposition. The junta post was given to a Pinochet loyalist, the head of Chile's notorious secret police. Two of the generals who were retired had urged talks with civilians on a return to democracy.

Unfortunately, these latest developments should come as no surprise from a regime that has established a record of gross and flagrant human rights violations. Last month, Amnesty International, an organization recognized and respected worldwide for its dedication to human rights, issued a comprehensive account of the continuing and systematic violence of the Pinochet regime. It reported that the threat of arrest, abduction, torture, and even death is ever-present for thousands of Chileans, from church workers, human rights activists, and the urban poor to members of opposition organizations.

Today in Chile, journalists, trade unionists, and political leaders are imprisoned. Their only crime was publicly criticizing the government. Highly organized clandestine forces terrorize those persons involved in political, religious or human rights work, hoping to paralyze their activities. Police and security personnel have been implicated in these groups.

I am particularly concerned that the government is attempting to use the attack against President Pinochet and his entourage to justify repression of legitimate human rights activity. On September 8, President Pinochet announced that all persons involved in human rights work "should be expelled or locked up". Individuals associated with the Chilean Commission on Human Rights, the National Commission Against Torture and other human rights monitors have been arrested or threatened.

Amnesty International also documented that many people have been hurt and killed by the indiscriminate shooting by police, a practice prevalent in Chile. In one incident, two young girls, ages 5 and 7, were seriously injured when police opened fire in an alley where several children were playing. Mass raids, carried out like battle campaigns, often occur in the poor districts of Chile. Military and police surround an area, supported by armoured vehicles and tanks. Heavily armed soldiers, their faces blackened, enter the targeted areas after water, gas, and electricity are cut off. Homes are searched, often violently ransacked, and the residents are treated like cattle. The Chilean bar association has termed these raids illegal under Chilean law.

Another deplorable and continuing practice is torture. In Chile the use of torture is a deliberate and carefully devised craft, designed to extract information, to intimidate and create a climate of fear. According to Amnesty International, medical doctors are often present at torture sessions to revive detainees and advise whether they are strong enough to withstand further abuse. Specially-designed torture equipment techniques suggest a sophistication achieved only through training.

The victims of these abuses receive little protection from the Chilean judiciary. Habeas corpus does not apply to arrests under provisions of the state of siege. Courts, particularly military courts, appear to impede rather than pursue investigations of human rights violations. Due process is routinely denied. Hundreds of complaints by victims of human rights abuses have been submitted to the courts. With rare exception, these cases have made little progress.

There can be no other characterization of the behavior of the Pinochet government than warfare against its own people. Through these actions, he is causing great suffering and feeding the political extremes, thereby jeopardizing any transition to democracy—a sad counterpoint to the democracies that have flowered in recent years in neighboring Argentina and Peru and elsewhere in the region. Dictatorships have been the rule in Latin America, but the more recent and welcome trend is toward democratically elected governments. Chile remains an embarrassing exception, a fact made all the more disappointing when one considers Chile's rich democratic tradition. Since independence in 1810, democracy and respect for human rights had been the norm in Chile. Prior to the 1973 coup, Chile had enjoyed 42 years of uninterrupted democratic government. In this context, the Pinochet regime must be considered an aberration.

The majority of Chileans desire a speedy end to human rights abuses and transition to democratic civilian government. The current state of siege and the additional repressive measures can only serve to create further dissatisfaction and polarization among the Chilean public and set the stage for dangerous confrontation. Pinochet must not be allowed to delay the restoration of democracy nor to further repress the aspirations of the Chilean people for full freedom.

ELIE WIESEL—NOBEL LAUREATE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Madam Speaker, this year's Nobel Peace Prize recipient is Elie Wiesel, the voice of those who survived the Nazi death camps and the first to use the word "holocaust" to describe those atrocities.

There are few survivors of the concentration camps, even fewer that speak out with such force about their experience. Nobody has matched his ability to communicate the scope and depth of the Holocaust as thoroughly as Elie Wiesel. He has tirelessly spoken around the world, sending the message, "never again".

Once we admit that unthinkable crimes have been committed, it becomes our duty to stand watch for such atrocities and to speak out whenever we see them.

There can be no silence surrounding the murder of millions in Kampuchea, the systematic starvation in Ethiopia or the persecution of the Baha'i in Iran.

Madame Speaker, as we congratulate Mr. Wiesel for this honor awarded to him by the Nobel Committee, let us honor him through working to make sure that man's inhumanity to man never goes unnoticed again.

THE STEELE DECISION

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Madam Speaker, yesterday, the U.S. Court of Appeals for the District of Columbia Circuit took a dramatic step backwards in the effort to promote greater minority and women's participation in the broadcasting industry.

The court remanded the Steele versus Federal Communications Commission case to the FCC without comment or instruction. The Steele case represents the most significant challenge to the Commission's longstanding policy of granting minorities and women a preferene in the issuance of a radio or television license.

I am deeply disturbed by the court's action. The FCC's preference policy was adopted in 1973 following a Federal appeals court decision. Since that time, Congress on several occasions has reaffirmed its support for this policy

The FCC's preference policy has enabled minorities and women to gain a minuscle toehold in the broadcasting industry. Blacks, for example, hold 14 television stations today, when they held none 13 years ago. Blacks operate 150 radio stations; a little more than a decade ago, they controled 30 stations. This is an important step in the right direction.

Greater progress remains however, to be made. Nationally, minorities hold only 2 percent of broadcast licenses, while women hold 9 percent. The issue today should not be a reexamination of the preference policy; rather, the question should be how can we better use the FCC's current programs, including the tax certificate and distress sales policies, to promote greater minority and women's participation in the broadcasting industry.

SOVIET GENOCIDE IN AFGHANISTAN

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Madam Speaker, in an effort to demonstrate goodwill while obliterating its defenseless neighbor, the Soviets this week reannounced their intention to withdraw a few troops from Afghanistan. This announcement represented the latest Soviet attempt to capitalize on humanitarian gestures. Namely, the Soviets originally received front page coverage for this announcement nearly 3 months ago.

Whether or not the Soviets will follow through by removing troops is still undetermined. Also undetermined is the question of whether this will be a withdrawal or merely a rotation of troops. Whatever the answer, I think we can all agree that these Soviet troops need a rest. It has got to be tiring killing unarmed civilians while coming up with new and different ways of disguising toy explosives to maim children.

If there is a genuine withdrawal, we can only guess at what effect the elimination of three antiaircraft regiments will have on the effectiveness of the invasion. After all, what sorts of aircraft are the Soviets shooting at, flying carpets?

Madam Speaker, I hope we all will see through the transparency of the Soviet's latest propaganda announcement. We must continue to condemn the genocide being conducted aginst the peaceful nation of Afghanistan.

□ 1245

TRADE BILL IS MOST IMPORTANT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, day after day, American plants are closing or moving overseas. In the last 10 years my area lost 55,000 jobs and $1 billion in annual payroll. But what really bothers me about the 99th Congress and our great sin is that we keep seeing all this big legislation, but never the trade bill.

It is not just my district, it is many Members'. For example, last year in Shreveport, LA, AT&T closed a plant down that had 1,200 people and made residential telephones. They cannot sell those telephones anywhere else in the world. They moved over to Singapore and invested $30 million to make the same telephones and ship them back to us.

Here is our trade and tax laws: If they take the profits from the sales of those telephones and reinvest them back over in Singapore, they will not even pay taxes to Uncle Sam.

This Congress has failed in its most important mission, and that is the trade bill. No one is talking about it. We keep diverting it with all these sensational issues, but the meat, bread, butter, and potatoes of this Congress has not been addressed, and that is our trade legislation.

McNAMARA'S RIDE

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Madam Speaker, if 1967 was the impossible dream, then 1986 must be chapter 2. After a historic championship series with the California Angels, it's on to New York for the brass ring. My good friend, the Senator from New York, has issued a challenge—one Long Island duck for a Boston lobster on the outcome. I was only too happy to accept, and at 2 o'clock on the Capitol steps this afternoon, we'll officially confirm the wager. But the good Senator from New York would have done well to first read the famous poem, "McNamara's Ride," before foolishly gambling away a dinner. Permit me, Mr. Speaker.

Listen New Yorkers and you shall hear,
of McNamara's Ride in this glorious year.
It was Eighteen October on NBC live,
hardly a fan is now alive
who suspected the Mets would take such a dive.
But the problems he faced were known well to Davey,
to whip the Sox he'd need help from the navy.
Ojeda and Gooden were healthy enough,
but Clemens and Boyd would have better stuff,
and Schiraldi would be there when the goin' got tough.
McNamara yelled, "The Mets march tonight,
so Gedman give your signs as a signal light;
One if by fast ball and two if by curve,
our Hurst will frazzle and fray the Mets' nerve
and take away all of their vigor and verve."
The Red Sox will hit and spread the alarm throughout the barnyard known as Shea's farm.
Then on to old Fenway, a friendlier clime',
where Rice, Boggs and Barrett will hit on the dime,
Just check with those Angels 'bout their visit last time.
You'll know the rest, in the books you will read
how the Red Sox regulars played with gusto and speed.
How the Mets tried to match them ball for ball
but could not hit over that Green Monster Wall;
how the Mets simply did not answer the call.
And so my dear Senator, Alphonse D'Amato,
I'm gonna tell you somethin', I think that you ought ta'
start cooking that duck, not too tough on the hide,
and I'll throw this lobster back into the tide,
for this is the message of McNamara's Ride.

FLORIO DENOUNCES OWENS-CORNING LAYOFFS OF 14,000 WORKERS

(Mr. FLORIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLORIO. Madam Speaker, less than 2 hours ago, I met with an official of Owens-Corning Corp. who gave me some shocking news. He told me that over the next year, Owens-Corning will be laying off one-half of its work force—14,000 workers from all around the country will be losing their jobs and become unemployed. Most of these workers have not received any notification from Owens-Corning and thus probably do not even know their tragic fate. In my own district, almost 800 workers have already received the shocking news that they will be joining the ranks of the unemployed.

These layoffs are all the result of Owens-Corning's "successful" effort to thwart a hostile corporate take over attempt which has put the company into a debt totaling $2.5 billion. I am outraged and shocked by this game of corporate monopoly being played at the expense of 14,000 hard-working, dedicated Americans who are losing their jobs. The economic, human, and psycological costs which these employees, their families, and our entire Nation must bear because of these layoffs is vast and incalculable. And who has benefited by this, by this game? A handful of Wall Street corporate raiders, arbitragers and investment bankers who have pocketed a quick $30 million.

At the same time, Owens-Corning is shutting its plants in the United States, the company plans on continuing to operate its facilities in Mexico.

One would think that the Reagan administration is working to make America more competitive and prevent the export of jobs to foreign nations such as Mexico. However, this week, I was shocked when I learned that the Commerce Department is sponsoring a program whose effect is to export jobs to Mexico. I urge the Commerce Department to stop funding this program immediately for I believe it is nothing less than a fundamental betrayal of the public trust.

I call upon Owens-Corning to reconsider its decision and stop or at least sharply reduce the number of layoffs. For those workers the company is laying off, I urge Owens-Corning to begin negotiations immediately concerning termination benefits, job retraining, and termination benefits which it will provide. Finally, I call upon the Congress to reexamine current laws which permit corporate chiefs and financial barons to play games in which they pocket millions of dollars while many thousands of American workers lose their jobs.

LEGISLATION REQUIRING SECURITY BOND FOR FOREIGN PRODUCTS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Madam Speaker, last week I introduced a bill, H.R. 5688, which has the potential for giving our manufacturers a more level playing field in competing with foreign products inside our own markets.

For months our industries have been torn apart by the controversy coming out of product liability insurance. Some of my producers are having to turn away from new product lines because they cannot afford the costs of insuring against the liability of introducing new, unproven products.

Yet, over 50 percent of our consumer markets are supplied by foreign producers who do not have to carry one penny of liability insurance. Right now, when buying a product from a foreign producer it is truly "buyer beware."

There is no legal recourse if a foreign product proves to be fraudulent or dangerous. My bill requires the posting of a security bond for 20 percent of the value of a shipment. This sum will stand behind the performance of the foreign product as surely as American insurers stand behind the performance of American products, or the manufacturer bears the responsibility.

We hope this will help our onshore producers. They need it.

DEFENDING AMERICA IS NOT SO UNPOPULAR

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Madam Speaker, we have not had very many Members come to the floor this morning and criticize President Reagan for Reykjavik or criticize the strategic defense initiative. Maybe they are beginning to hear the American people. Between 60 and 80 percent of the American people have indicated that they think that the Reagan approach of getting tough with the Soviets at Reykjavik was exactly what they wanted. Seventy-five percent of the American people have now said that they approve of SDI.

The President's popularity rating personally is near an all-time high at 73 percent. Defending America is not so unpopular after all.

DEPARTMENT OF LABOR EXECUTIVE LEVEL CONFORMING AMENDMENTS OF 1986

Mr. HAWKINS. Madam Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2864) to provide for a Deputy Secretary of Labor, an Assistant Secretary of Labor for Administration and Management, three additional Assistant Secretaries of Labor, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mrs. KENNELLY). Is there objection to the request of the gentleman from California?

Mr. JEFFORDS. Reserving the right to object, Madam Speaker, I do so for the purpose of ascertaining the content of this bill.

It is my understanding that this is the legislation which was requested by the Secretary of Labor to do some minor adjustments within the structure of the Department of Labor. Essentially there is no significant cost whatsoever, but it is just for the purposes of being able to do some of the reorganization that he desires to do to improve efficiency.

Mr. HAWKINS. Madam Speaker, will the gentleman yield?

Mr. JEFFORDS. I am happy to yield to the gentleman from California.

□ 1255

Mr. HAWKINS. Madam Speaker, the ranking Republican member of the committee is correct. The other body has passed this bill, S. 2864.

The bill creates four additional Assistant Secretaries of Labor at the request of the Department of Labor. One of these Assistant Secretaries, the Assistant Secretary for Administration, already exists. This bill codifies that position and makes the position a Presidentially appointed position.

In addition, the bill upgrades the position of Under Secretary to Deputy Secretary.

The bill was considered in the House Education and Labor Committee. There was no opposition to this.

There was some discussion of the creation of some additional Secretaries which we have postponed at this time, and it is the recommendation of the chairman of the committee that we agree to the bill as passed by the Senate, and in that sense allow the Secretary of Labor to proceed with his reorganization.

Mr. JEFFORDS. Madam Speaker, further reserving the right to object, I want to thank the chairman of the committee for his consideration of the Secretary. I think his rather persuasive recommendations that the Secretary review the problems in OFCCP, will receive appropriate action. I deeply appreciate the cooperation of the chairman, as the Secretary does, for his open help on this piece of legislation.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mrs. KENNELLY). Is there objection to the request of the gentleman from California?

There was no objection.

The clerk read the Senate bill, as follows:

S. 2864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Department of Labor Executive Level Conforming Amendments of 1986".

SEC. 2. (a)(1) Section 1 of the Act of April 17, 1946 (60 Stat. 91; 29 U.S.C. 552), as amended, is amended by striking out "Under" wherever it appears in such section and inserting in lieu thereof "Deputy".

(2) Section 5313 of title 5, United States Code, is amended by inserting at the end thereof:

"Deputy Secretary of Labor.".

(3) Section 5314 of title 5, United States Code, is amended by striking:

"Under Secretary of Labor.".

(4) Any reference to the Under Secretary of Labor in any law, rule, regulation, certificate, directive, or other document in force on the date of enactment of this Act shall be deemed to refer and apply to the Deputy Secretary of Labor.

(b)(1) Section 2 of the Act of April 17, 1946 (60 Stat. 91; 29 U.S.C. 553), as amended, is amended by striking out "five" in the first sentence of such section and inserting in lieu thereof "nine".

(2) Section 5315 of title 5, United States Code, is amended by striking:

"Assistant Secretaries of Labor (5)."

and substituting therefor:

"Assistant Secretaries of Labor (10), one of whom shall be the Assistant Secretary of Labor for Veterans' Employment and Training.".

(3) Any reference in any law, regulation, certificate, directive, or other document to

the Assistant Secretary of Labor for Veterans' Employment in force on the date of enactment of this Act shall be deemed to be a reference to the Assistant Secretary of Labor for Veterans' Employment and Training.

(c)(1) Section 3 of Reorganization Plan No. 6 of 1950 is repealed.

(2) Section 5316 of title 5, United States Code, is amended by striking:

"Assistant Secretary of Labor for Administration.".

(d) Section 5316 of title 5, United States Code, is amended by striking:

"Assistant Secretary of Labor for Veterans' Employment.".

(e) Subsection (c) of this section shall become effective on the day upon which the individual who is the incumbent of the position abolished by such subsection, as of the date of enactment, ceases to hold the position.

(f)(1) The incumbent in the position of Under Secretary of Labor on the date of enactment of this Act may serve as Deputy Secretary of Labor at the pleasure of the President after such date and the amendments made by subsection (a)(2) shall apply to such incumbent.

(2) The incumbent in the position of Assistant Secretary of Labor for Veterans' Employment on the date of enactment of this Act may serve as Assistant Secretary of Labor for Veterans' Employment and Training at the pleasure of the President after such date and the amendments made by subsection (b)(2) shall apply to such incumbent.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2864, the Senate bill just passed, as well as on H.R. 4244, the bill on which a Senate amendment was previously concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WILD AND SCENIC RIVERS ACT AMENDMENTS

Mr. VENTO. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4350) to amend the Wild and Scenic Rivers Act, and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendments, as follows:

At the end of the bill, insert:

TITLE VII—TO PROVIDE RELIEF FOR CERTAIN DESERT LAND ENTRYMEN IN IDAHO

SEC. 701. The Congress finds that—

(1) certain developed and productive desert land entries in Idaho, identified in section 702 of this title, made pursuant to the Act entitled "An Act to provide for the sale of desert lands in certain States and Territories", approved March 3, 1877 (43 U.S.C. 321, et seq.), commonly known and hereinafter referred to as the "Desert Land Act", have been canceled by the Secretary of the Interior pursuant to holding limitation regulations promulgated pursuant to section 7 of the Act (43 U.S.C. 329);

(2) such regulations were retroactively applied to such desert land entries several years after the entries were allowed and more than two years after final development, proof and final payment for such entries were made, without giving the entrymen any opportunity to comply with the new interpretation of such regulations;

(3) cancellation of such desert land entries was harsh and unfair, and resulted in forfeiture to the Government of the developed entries and the monies paid for the land;

(4) such entrymen have fulfilled the requirements of the Desert Land Act in all respects other than such holding limitation regulations; and

(5) such entrymen, or their heirs or devisees, should have the entries reinstated and qualify for issuance of patents to carry out the objectives of the Desert Land Act.

SEC. 702. The names of the entrymen, and the serial numbers of the desert land entries generally known as the "Sailor Creek Project", to which this title applies, are as follows:

Bureau of Land Management

Entryman:	*Serial Number*
G. Patrick Morris	Idaho 013820
John E. Roth	Idaho 013905
Elise L. Neeley	Idaho 013906
Lyle D. Roth	Idaho 013907
Vera M. Noble (Now Baltzor)	Idaho 014126
Charlene S. Baltzor	Idaho 014128
George R. Baltzor	Idaho 014129
John E. Morris (deceased)	Idaho 014130
Juanita M. Morris	Idaho 014249
Nellie Mae Morris (deceased)	Idaho 014250
Milo Axelsen	Idaho 014251
Peggy Axelsen	Idaho 014252

SEC. 703. (a) The desert land entries identified in section 702 of this title are hereby reinstated. The entrymen, or the heirs or devisees of any deceased entryman, may—

(1) rescind any agreement which is prohibited by the Secretary of the Interior pursuant to regulations under section 7 of the Act (43 U.S.C. 329) within six months after the date of enactment of this title; and

(2) resubmit final proof of reclamation and cultivation of the land in accordance with the provisions of section 7 of the Act (43 U.S.C. 329) before December 31, 1988.

(b) The Secretary of the Interior shall issue patents to the entryman named in section 702, or their heirs or devisees upon compliance with the provisions of subsection (a) and the submission of satisfactory final proof.

SEC. 704. Notwithstanding any other provision of law, the property right prior to issuance of a patent to the land of any entryman identified in section 702 of this title, or the heirs, or devisees of any such entryman whose entry is reinstated in accordance with section 703 of this title, shall be a personal right, inheritable but not assignable. Any such entry may be mortgaged in the manner permitted by regulations promulgated by the Secretary of the Interior for the purpose of securing repayment of monies borrowed for development of the entry or for farm operating or crop production expenses.

TITLE VIII—BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL

AUTHORIZATION OF MEMORIAL

SEC. 801. The Black Revolutionary War Patriots Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

FUNDING

SEC. 802. The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

TITLE IX—WOMEN IN THE ARMED FORCES MEMORIAL

SEC. 901. AUTHORIZATION OF MEMORIAL

The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

SEC. 902. FUNDING

The Women in Military Service for America Memorial Foundation shall establish the memorial with non-Federal funds.

TITLE X—NEW RIVER GORGE ADMINISTRATIVE SITE

SEC. 1001. Section 1102(a) of the National Parks and Recreation Act of 1978 (Public Law 95-625) is amended by inserting the following after the second sentence: "In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site.".

SEC. 1002. Section 1112 of the same Act is amended by striking "$500,000" and inserting "$3,000,000".

Mr. VENTO (during the reading). Madam Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Madam Speaker, reserving the right to object, I will not object, but yield to the gentleman from Minnesota [Mr. VENTO] to explain the Senate amendment.

Mr. VENTO. Madam Speaker, the House acted to return H.R. 4350 to the other body on October 8, 1986.

Unfortunately, the bill has been returned with several amendments. Since all of the Members have heard the description of the main body of the bill dealing with wild and scenic rivers, I will not repeat that discussion.

The amendments made by the other body would do four things.

First, the bill would provide authority for the Secretary of the Interior to acquire up to 10 acres for an administrative headquarters at New River Gorge National River.

Second, the Secretary would be required to issue patents for 3,790 acres in the State of Idaho to 12 named individuals under authority of the Desert Land Act.

Third, titles VIII and IX contain language similar to bills previously reported by the Committee on House Administration and passed by the House. Title VIII authorizes the Black Revolutionary War Patriots Foundation to establish a memorial on Federal land in the District of Columbia and its environs in recognition of those blacks—slave and free—who fought for the American Revolution. This memorial will help us all recognize and remember their contributions. The language specifies that the memorial shall be established in accordance with the provisions of H.R. 4378 as approved by the House of Representatives on September 29, 1986, and that the memorial shall be established with non-Federal funds.

Title IX authorizes the women in Military Service for America Memorial Foundation to establish a memorial to honor women who have served in the armed forces of the United States. As we know, the contributions of women have been insufficiently recognized in our history. Yet women have long fought in our Nation's wars and served in our armed forces. This memorial will improve our understanding of, and appreciation for, their contributions. Again, the language specifies that the memorial shall be established in accordance with the provisions of H.R. 4378 as approved by the House of Representatives on September 29, 1986, and that the memorial shall be established with non-Federal funds.

Madam Speaker, I urge approval of this legislation.

Mr. FRENZEL. Madam Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Further reserving the right to object, I yield to the other gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Madam Speaker, the two memorial bills that are attached to this bill are the ones that the distinguished gentlewoman from Ohio [Ms. OAKAR] and I discussed on the floor several times this week. They provide for a memorial for Black Patriots of the Revolutionary War and for Women Heroes in our military history. These are essential first-priority bills for the House Administration Committee, and we are grateful to the gentlemen who are managing this bill for the vehicle for our two worthy hitchhikers.

I congratulate the gentlewoman from Ohio, all the authors of the bills, and all Members responsible for the passage of the Black Patriots bill and the Women Military Heroes bill.

Mr. LAGOMARSINO. Madam Speaker, further reserving the right to object. I rise in strong support of the amended version of H.R. 4350 which we are considering today. As you know, this bill would provide wild and scenic designation for segments of several rivers in the United States. It would also provide studies for several other river segments for potential inclusion in the National Wild and Scenic Rivers System.

The House has considered and approved this measure on two previous occasions. It was recently amended and approved by the Senate. We are concurring with the Senate amendments. These include provisions to provide relief for certain desert land entrymen in Utah, to authorize the Black Revolutionary War Patriots and Women in the Armed Forces Memorials, to authorize the Secretary of the Interior to acquire lands for an administrative site for the New River Gorge National River in West Virginia and to increase the authorization of appropriations for land acquisition for New River Gorge National River.

I am not opposed to these amendments. I urge passage of this legislation in an effort to provide appropriate protection for several of our Nation's most scenic and recreational rivers.

Mr. BROWN of Colorado. Mr. Speaker, I rise in support of the bill and would like to take this opportunity to thank the gentleman from Minnesota, Chairman VENTO, and the gentleman from California [Mr. LAGOMARSINO] for their leadership in putting together this package of wild and scenic river bills. Because of their dedication, and the dedication of the Members who sponsored the individual river bills, we have before us a measure which I am convinced will benefit our Nation for generations to come.

The hard work demonstrated in the other body has enabled us to work out this important compromise. I would like to thank the gentleman from Colorado, Senator ARMSTRONG, who sponsored and worked diligently on the Senate Cache la Poudre bill, and Senators WALLOP and MCCLURE for their leadership on the Senate committee.

The bill includes language which will designate segments of the Cache la Poudre River as the first wild and scenic river in Colorado. Colorado and the entire Nation will enjoy the beautiful amenities that this river offers for many years.

The Cache la Poudre is one of Colorado's finest rivers. Beginning at the Continental Divide, the Poudre River flows east, through the Roosevelt National Forest, across the Colorado plains to join the South Platte River. The mainstem of the Poudre flows down from an alpine lake, through a high mountain valley, on through steep-walled canyons, into the cities of La Porte, Fort Collins, and Greeley, before draining into the South Platte River.

Named by early French fur trappers who buried a cache of gunpowder along its bank, the Cache la Poudre Canyon is the longest scenic river canyon on the entire eastern slope of the Rocky Mountains.

The river and its corridor support a broad range of outdoor recreation activities. It is an excellent cold-water fishery, designated by the State as wild trout water, and features excellent hiking, picnicking and camping. These activities are easily accessible to the nearly 2 million people living along Colorado's Front Range.

Since the 19th century, the Poudre River has been intensively managed for importation, storage, and conveyance of water. The earliest transmountain diversion structure in Colorado carries water from the headwaters of the Colorado River into the headwaters of the Poudre River. Numerous small reservoirs exist on tributaries to the Poudre River in these upper reaches.

The Poudre River language is a very important compromise. Leaders in the community, including members of environmental groups and representatives from water users associations, worked together to develop this proposal. Included in the group which drafted this compromise was Maggie Fox, of the Sierra Club, Barney White, of the Friends of the Earth, Chuck Wanner, from Preserve Our Poudre, Fort Collins Councilman Jerry Horak, Larimer County Commissioner Court Hotchkiss, Larry Simpson, secretary-manager of the Northern Colorado Water Conservancy District, and Gregory Hobbs, counsel representing the Northern Colorado Water Conservancy District.

Through months of tough negotiations, the panel worked until all of the issues were resolved. These community leaders have dedicated a great deal of their time and effort to prepare a balanced and thoughtful proposal for our consideration. The bill would enhance the long-term water and recreational needs of the entire region. The measure preserves existing water rights, while preserving the beauty of the river. The language in the bill makes clear that water development outside of the areas designated will be possible. It is a situation where a compromise helped all sides win.

The Poudre language has the support of the local and national environmental groups, the Northern Colorado Water Conservancy District, the city of Fort Collins, the city of Greeley, the county commissioners of Weld and Larimer Counties, and the entire Colorado delegation. I believe leaders in northern Colorado have worked hard and in good faith to bring us a balanced proposal.

Mr. Chairman, the portion of the river that is designated as "wild" is named after the Honorable Peter H. Dominick. Senator Dominick served a term in this House of Representa-

tives and went on to serve two terms in the Senate. There is not a more fitting tribute to Pete Dominick than to name a "wild," untamed river in the mountains of Colorado in his honor. He loved the Colorado mountains and the untamed beauty of the State. Senator Dominick played the key vote in the original legislation that called for a wild and scenic study of the Cache la Poudre River. I think our actions here today would have meant a great deal to him.

Ms. OAKAR. Madam Speaker, included as amendments to H.R. 4350 are two resolutions that are very important to me, House Joint Resolution 142 and House Joint Resolution 36. I have anxiously awaited the passage of both these bills.

House Joint Resolution 36, originally passed unanimously (405–0) in the House of Representatives on November 6, 1985. The resolution was referred to the other body and was reported favorably, as amended, on September 19, 1986. On October 14, 1986, House Joint Resolution 36 passed as an amendment to H.R. 4350.

Since the American revolution, women have served with distinction and honor. The official history of women in the U.S. Armed Forces began with the formation of the Army Nurse Corps in 1901. Currently there are approximately 1.4 million women veterans—these women fulfill many responsibilities with the same competence displayed by military men. This resolution would provide for a memorial to honor these women.

Establishment of this memorial has been favorably recommended by the National Capital Memorial Advisory Committee and shall be established with non-Federal funds. This memorial shall also be established in accordance with the standards set forth in H.R. 4378, as passed by the House on September 29, 1986.

I urge adoption of this resolution, as an amendment to H.R. 4350.

House Joint Resolution 142, was also added as an amendment to H.R. 4350, and is a resolution to authorize a memorial to honor the black revolutionary war patriots. This legislation originally passed unanimously (408–0) in the House and was referred to the other body. It was reported favorably, as amended, on September 19, 1986 and was passed by the other body as an amendment to H.R. 4350 on October 14, 1986.

As early as 1652, blacks were fighting as members of the militia in colonial America; thus beginning their history of achievement and heroism. Yet history books in American schools have for the most part omitted the contributions of black soldiers. This memorial to these black patriots is but a small tribute to their bravery and valor.

Establishment of this memorial has been favorably recommended by the National Capital Memorial Advisory Committee and shall be established with non-Federal funds. This memorial shall also be established in accordance with the standards set forth in H.R. 4378, as passed by the House on September 29, 1986.

I ask that my complete statement be inserted in the RECORD and I urge adoption of this resolution, as an amendment to H.R. 4350.

I would like to commend the distinguished gentleman from Minnesota, Congressman BRUCE VENTO, for the splendid work he has done on legislation relating to future commemorative works. The assistance and cooperation of Mr. VENTO and his committee is always appreciated and warrants high praise from myself and my fellow colleagues on House Administration.

As the distinguished Chairman of the Committee on Interior and Insular Affairs, Mr. UDALL, is aware, the Committee on House Administration through its task force on libraries and memorials has jurisdiction over authorization of commemorative works.

The Committee on House Administration supports passage of these memorial bills, as amendments to H.R. 4350. It should not, however, be construed as precedent for relinguishing jurisdiction of the Committee on House Administration over this and any future related matters. Once again, I urge support of this bill, as amended, and thank the distinguished Chairman, Mr. VENTO, for managing this bill on the floor.

Madam Speaker, I am honored to be one of the many bipartisan co-sponsors and would like to commend my colleagues, Representative NANCY JOHNSON and Senator ALBERT GORE for introducing this historic legislation that will authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor the estimated 5,000 courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom.

House Joint Resolution 142 passed the House, as amended, by Yea-Nay vote: 408–0 and was referred to the other body. On September 19, 1986 the House version of this bill was amended and reported favorably. On Friday, October 3, 1986, the other body passed House Joint Resolution 142 as amended.

History has robbed all Americans of the chance to learn about the contributions of black men and women during this important period. Most history books, in American schools, have omitted the contributions of black soldiers, from the Revolutionary War to the conflict in Vietnam. Only since the establishment of black studies departments in universities and secondary schools have we begun to learn of the important contributions that black people have made throughout our country's history. I look forward to the day that black history is taught in the classroom as part of the regular or mainstream American history curriculum.

Approximately 20 percent of the colonial population of 2.5 million were black, yet many of the white colonists were against arming and recruiting them. In fact, the official policy of the Continental Army under Washington, was to refuse the enlistment of any "stroller, negro or vagabond." The British, quick to take advantage of the divisive nature of racism and slavery, sought to enlist blacks in exchange for their freedom. As a result of this, and because there was a manpower shortage and a newly imposed draft, General Washington authorized the recruitment of "free negroes" desirous of enlisting in the Army. These enlisted black soldiers served in integrated units. Later in the war "black units" were formed. Slaves, although officially barred, were frequently used as substitutes in place of their masters to fulfill their service requirement.

By contrast, Continental Navy enlisted blacks. No State passed legislation barring blacks for naval service. Several States, in fact, paid bonuses to black crew members or granted freedom to known slaves.

Service in the colonial military units brought the rewards of freedom and land grants to some slaves but their contributions were soon forgotten after the war. None received formal recognition nor were any decalted national heroes. Fear of slave revolts remained a primary concern in the minds of many white colonists. The revolutionary fervor felt so strongly amongst the white members of the colonies did not transcend to the rights of their colonial born black brothers and sisters.

As early as 1652, blacks were fighting as members of the militia in colonial America, beginning their history of achievements and heroism throughout our country's history.

A memorial is but a small tribute too long in coming, to those black Americans who played an important but forgotten part in the founding of this country.

Madam Speaker, House Joint Resolution 36, which I introduced, will authorize the establishment of a memorial to honor the thousands of women who have served in our Armed Forces. On November 6, 1985, the House passed this bill, as amended, in a historic vote of 405 to 0. The other companion measure, Senate Joint Resolution 156 was introduced on July 10, 1985 by the distinguished chairman of the Veterans' Affairs Committee, Senator FRANK MURKOWSKI. House Joint Resolution 36, as amended by the other body, was reported out of the Energy and Natural Resources Committee on September 19, 1986, and passed October 3, 1986.

The Federal Government would provide the land in the District of Columbia or its environs for this memorial while the funding would come from private sources raised by the Women in Military Service for America Memorial Foundation.

Women have served in a variety of military occupations in the Armed Forces since the American Revolutionary War—where more than 20,000 women served.

Women also experienced combat action in the Civil War. The most famous female soldier of that time was Sarah Edwards who disregarded the customary social mores of the 19th century and performed the functions of spy, courier, nurse, and soldier for the Union Army. Other women such a Clara Barton also made their mark in history tending to the sick and wounded. Barton went on to establish both the Arlington National Cemetery and the Red Cross.

Women have not been considered official participants of the military services since the formation of the Army Nurse Corps in 1901 and the Navy Nurse Corps in 1908. Even in World War II, the urgency of defending our country gave reason to the male dominated military for womens' broader participation within the armed services. Performing a myriad of duties, women like pilot Cornelia

Fort (WASPS), provided their bravery and dedication to our country, some losing their lives in the process.

Contrary to popular belief, in all wars women have been killed, maimed, disabled, and injured psychologically. There are names of eight nurses listed on the Vietnam Veterans Memorial. However, that small number of dead does not represent the daily fear of death or injury.

The World War II mobilization brought 350,000 women into the service as well as many others who served in quasi-military support units. For example, the Womens Airforce Service Pilots (WASPS) engaged 800 female pilots, from applications of over 25,000, to ferry war planes around the world. Women also performed traditionally male tasks such as changing tires, repairing planes, and rigging parachutes. Women served as gunnery instructors, test pilots, air traffic controllers, naval air navigators, and air transport servers.

Many do not know that the first Womens' Army Corps [WACS] unit landed in Normandy 38 days after D-day. Furthermore, 65 women were taken captive as POW's from December 1941 to February 1945 on Corregidor. Nurses were also on the beachhead at Anzio.

In light of their distinguished service, women veterans have throughout history been largely overlooked by their male counterparts in the military and in the Government. With the passage of this legislation, their achievements will indeed be recognized by both esteemed bodies.

Even today there is very little research information available on female veterans. Today there are over 1.4 million female veterans. In the United States alone they account for over 4.1 percent of all living American veterans.

The story of women veterans in American history is one in which all women can take pride. They have indeed performed with valor and courage in the defense of their country. They have suffered the dangers and agonies of war in combat, combat support and combat service support in many regions of the world. In spite of this, womens' roles in the area of national defense in peacetime situations have remained limited.

We know that the issue of peace in the world is of particular importance to women as mothers, wives, sisters, and daughters. They have sacrificed their lives, the lives of their sons, husbands, brothers, fathers, and loved ones.

In this era of multibillion dollar defense systems and the constant threat of nuclear annihilation, all women, particularly women in the military, must pursue their interests in the areas of military strategy, policy, security, and strategic defense matters.

Men have historically made the political decisions that have led our country into wars. Women, in turn, have performed the support functions for the military—directly in the field performing duties such as medical and technological, et cetera, or indirectly by working in heavy industry, et cetera.

With the increasing number of women in the military, they must be ensured equality with their male counterparts especially in the areas of rank benefits, rights, and opportunities.

I believe that we are about 200 years late in honoring the participation of women in the military. Their efforts have for too long gone unnoticed. I hope that this memorial will help create a greater sense of national public awareness of their contributions. Women in the military have served as role models for all women in their struggle to attain equality.

I would also like to mention that this memorial is supported by the Department of Defense, the Army Nurse Corps, the Air Force, the U.S. Coast Guard, and the Marines. It is also supported by the National Capital Memorial Advisory Committee, the American Veterans Committee, the Vietnam Veterans of America, Veterans of Foreign Wars, the Defense Advisory Committee on Women and the Services, the American Nurses Association, and many other organizations.

Mr. LAGOMARSINO. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AUTHORIZING ERECTION OF A MEMORIAL TO THE "AMERICAN ARMORED FORCE"

Ms. OAKAR. Madam Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate joint resolution (S.J. Res. 43) to authorize the Armored Force Monument Committee, the United States Armor Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, the 11th Armored Cavalry Regiment Association, the Tank Destroyer Association, the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, and 16th Armored Divison Associations, and the Council of Armored Division Associations jointly to erect a memorial to the "American Armored Force" on United States Government property in Arlington, Virginia, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. FRENZEL. Madam Speaker, reserving the right to object, I yield to the distinguished gentlewoman from Ohio [Ms. OAKAR], chairman of the Library and Memorials Subcommittee, to explain the legislation.

Following Ms. OAKAR I wish to associate myself with the remarks of the gentlelady from Ohio. I also want to salute the gentleman from South Carolina [Mr. SPENCE] and the gentleman from Mississippi [Mr. MONTGOMERY] for their leadership in managing this bill through to passage.

Ms. OAKAR. Madam Speaker, I thank the minority leader of our committee for yielding.

Madam Speaker, this resolution would authorize the establishment of a memorial to honor the American Armored Force. The Armored Force Memorial will give credit to 3 million American soldiers and marines who have served in hundreds of units for the past 70 years. The Armored Force embodies a unique concept of cohesion and teamwork. The combat capabilities of these men contributed greatly to the success of the American Armed Services—in the wars of this century and continuing today to deter aggression around the world. To neglect such memorialization would be to deny recognition to those millions who served our Nation loyally and willingly—sacrificing themselves in the name of freedom for all.

Madam Speaker, I would like to thank my distinguished colleague from South Carolina, Mr. SPENCE, and especially the distinguished Senator from South Carolina, Mr. STROM THURMOND, for introducing this joint legislation. I would also like to thank the 229 cosponsors of House Joint Resolution 167, the House version of this bill.

Madam Speaker, this memorial will be established with non-Federal funds and in accordance with the standards of H.R. 4378, as passed in the House on September 29, 1986, except as amended.

Madam Speaker, I also want to say that we have also passed today or actually yesterday memorials honoring the women who served in the armed services really since the Revolutionary War days and the black patriots who served in the Revolutionary War. We did not have an opportunity to discuss these memorials, but the fact is that we are, with our great work of the committee members, in particular my distinguished minority leader, the gentleman from Minnesota [Mr. FRENZEL] and others, able to complete this series of worthy memorials that I think really deserve creation, such as the Korean War Veterans Memorial, the women who served in the armed services, the black patriots who served in the military, and now this very important armored division.

Madam Speaker, House Joint Resolution 43 would authorize the establishment of a memorial on Federal land in the District of Columbia or its environs to honor the American Armored

Force. This bill would recognize all American soldiers and marines who have served in armored and mechanized units organized for armored ground combat. This concept was pioneered in World War I and kept alive by dedicated leaders of the U.S. Army whose vision led to the creation of the original Armored Force in 1940. This force was a major and significant contributor to victory in World War I, World War II, the Korean conflict, and the Vietnam conflict.

This bill was introduced by the distinguished Senator from South Carolina, STROM THURMOND. Senate Joint Resolution 43 passed in the other body on September 20, 1985. The House version of this bill, House Joint Resolution 167, introduced by Representative FLOYD SPENCE of South Carolina has 228 cosponsors in the House of Representatives thus showing strong bipartisan support for this measure.

The Armored Force Memorial will give credit to 3 million American soldiers and marines who have served in hundreds of units for the past 70 years. The Armored Force embodies a unique concept of cohesion and teamwork. The combat capabilities of these men contributed greatly to the success of the American Armed Services—continuing today to deter aggression around the world.

From its establishment in 1940, the Armored Force became a cornerstone of our Army's organization and its unique concept of fighting. The Army's Chief of Staff at that time, Gen. George C. Marshall, saw the need to expand the Army's readiness to face the impending war. He selected Brig. Gen. Adna R. Chaffee as the Armored Forces' first commander and challenged him to prepare the U.S. Army for armored warfare.

The Armored Force concept unique and proven successful in World War II has been ingrained in the Army and Marines in the four decades following the great victories of North Africa, Sicily, Italy, in France on the shores of Normandy, at the Battle of the Bulge, on into Germany and in the Pacific in the Phillipines and Okinawa. Combined arms teamwork in mobile warfare was an active element of warfare in Korea and Southeast Asia in the 1950's, 1960's, and 1970's as armored units of various branches contributed victory after victory of American and Allied forces engaged in ground warfare in Asia.

To neglect such memorialization would be to deny recognition to those millions who have served our Nation loyally and willingly.

Mr. FRENZEL. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 43

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Armored Force Monument Committee, the United States Armor Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, the 11th Armored Cavalry Regiment Association, the Tank Destroyer Association, the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, and 16th Armored Division Associations, and the Council of Armored Division Associations are authorized jointly to erect a memorial on United States Government property in Arlington, Virginia. The memorial shall be erected for the purpose of honoring and commemorating the "American Armored Force," including the members of such organizations and others who have served in armored units of the Armed Forces of the United States during World War I or World War II or in and near Korea or Vietnam, and the members of the Armed Forces who continue to serve with exceptional professionalism to maintain peace worldwide.

SEC. 2. (a)(1) The Secretary of the Interior shall select, with the approval of the national Commission of Fine Arts and the National Capital Planning Commission, a suitable site on United States Government property in Arlington, Virginia, upon which may be erected the memorial authorized in the first section. The Secretary of the Interior shall, if practicable and appropriate, select a site between the Arlington Memorial Bridge and the entrance to the Arlington National Cemetery and beside Memorial Drive.

(2) If the site selected is within the boundaries of the Arlington National Cemetery, the approval of the Secretary of the Army shall be attained.

(b) The design and plans for the memorial shall be subject to the approval of the Secretary of the Interior, the national Commission of Fine Arts, and the National Capital Planning Commission.

(c) The United States Government shall not incur any expense in connection with designing, planning, or erecting the memorial except expenses required to carry out the responsibilities set out in this section and sections 3 and 4.

SEC. 3. The authority conferred pursuant to this joint resolution shall lapse unless (1) the erection of the memorial is commenced within five years after the date of enactment of this joint resolution, and (2) prior to its commencement, the Secretary of the Interior has received an appropriate certification that funds are available in an amount sufficient, in the judgment of the Secretary, to insure completion of the memorial.

SEC. 4. The maintenance and care of any memorial erected under the provisions of this joint resolution shall be the responsibility of the Secretary of the Interior.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FRENZEL

Mr. FRENZEL. Madam Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FRENZEL. Strike out all after the resolving clause and insert in lieu thereof the following:

SECTION 1. ESTABLISHMENT OF MEMORIAL.

(a) IN GENERAL.—Subject to subsection (c), the organizations specified in subsection (b) are authorized jointly to establish a memorial on Federal land in the District of Columbia or its environs to honor members of the American Armored Force who have served in armored units. The memorial shall commemorate the exceptional professionalism of the members of the American Armored Force and their efforts to maintain peace worldwide.

(b) ORGANIZATIONS.—The organizations referred to in subsection (a) are: the Armored Force Monument Committee, the United States Armor Association, the United States Field Artillery Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, the 11th Armored Cavalry Regiment Association, the Tank Destroyer Association, the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, and 16th Armored Division Associations, the Council of Armored Division Associations, and the National Association of Uniformed Services.

(c) STANDARDS.—The memorial shall be established in accordance with the standards set forth in H.R. 4378, as passed by the Senate with amendments on September 10, 1986, and further amended by the House of Representatives on September 29, 1986, except that section 6(b)(1) of H.R. 4378 shall not apply to the memorial.

SEC. 2. PAYMENT OF EXPENSES.

The United States shall not pay any expense of establishment of the memorial.

Ms. OAKAR (during the reading). Madam Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Minnesota [Mr. FRENZEL].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. OAKAR] is recognized for 1 hour.

Ms. OAKAR. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to also thank the distinguished chairman of the House Administration Committee, the gentleman from Illinois [Mr. ANNUNZIO] for the leadership he has provided. This completes the work hopefully of our Task Force on Memorials and Libraries for this Congress. It was a newly created task force based on a subcommittee that was phased out some years back.

I really want to thank my distinguished chairman, the gentleman from Illinois [Mr. ANNUNZIO] and the others for the confidence they placed in us. I think we had a very, very hard working group. I want to just compliment all of the people who served on the task force with me and also compliment my staff who really put up with an awful lot from the other body and other places so that we could bring these memorials to the floor, and I thank them for all the great work they have done.

□ 1305

Mr. MONTGOMERY. Madam Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman.

Mr. MONTGOMERY. Madam Speaker, I want to briefly say I sup-

port this amendment and this legislation.

Madam Speaker, I rise to thank the gentleman from Minnesota [Mr. FRENZEL] for working with us on the different memorials. I know you have disagreed on one but you did it with style; and I want to thank the gentlewoman from Ohio [Ms. OAKAR] for her patience and for bringing these bills forward. It meant a lot to a number of Americans; well over 3 or 4 million Americans are affected by these memorials that have passed the last 2 days. I commend the gentlewoman for pushing ahead on this historical legislation.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Madam Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. FRENZEL: Amend the title so as to read: "Joint resolution authorizing establishment of a memorial to honor the American Armored Force.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 43, the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

INDEPENDENT SAFETY BOARD ACT AMENDMENTS OF 1986

Mr. MINETA. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4961) "to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal year 1987, 1988, 1989, and for other purposes", with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 4, after line 16, insert:

SEC. 7. AVIATION LIABILITY INSURANCE.

(a) The Secretary of Transportation and the Administrator of the Federal Aviation Administration shall—

(1) not later than March 1, 1987, submit an interim report, and

(2) not later than March 1, 1988, submit a comprehensive final report,

concerning the extent of and causes for the rapidly increasing costs to United States public use airport sponsors for general liability insurance coverage. Such reports shall consider the probable implications of such increasing costs on the future capacity of the airport runway and taxiway system of the United States, particularly at smaller airports, and shall include any recommendations of the Secretary and the Administrator for actions which the Federal Government might undertake to assist in ameliorating the liability insurance difficulties of such public use airport sponsors.

(b)(1) The Administrator shall, within sixty days after the date of enactment of this Act, contract with a nonprofit foundation to establish an information clearinghouse concerning general liability insurance coverage at such public use airports.

(2) The clearinghouse shall gather and distribute without charge to such airports information on premiums, coverage limits and insurance availability. All information generated by such clearinghouse shall be made available promptly to the Secretary and the Administrator for use as appropriate in the reports required under subsection (a) of this section.

(3) There shall be available for the purposes of this subsection $250,000 of funds appropriated for the Federal Aviation Administration for each of the fiscal years 1987 and 1988.

Mr. MINETA (during the reading). Madam Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Madam Speaker, reserving the right to object, under my reservation, I yield to the distinguished chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation to explain to the House the reason for his unanimous-consent request.

Madam Speaker, I yield to the gentleman from California [Mr. MINETA].

Mr. MINETA. Madam Speaker, on September 30, the House passed by voice vote a bill to reauthorize the National Transportation Safety Board for fiscal years 1987 to 1989. The Senate has now sent the bill back with one amendment. The amendment required the Department of Transportation to make a study of recent increases in the cost of liability insurance for airports. The amendment further directs the Department to establish a clearinghouse to gather information on the availability of liability insurance. The clearinghouse is to be established by contract with a nonprofit organization at a cost of $250,000 from funds otherwise appropriated to FAA.

This amendment is acceptable. We have learned of a number of instances in which small airports have been severely impacted by recent increases in liability insurance. The amendment added by the Senate will furnish some assistance to small airports in meeting liability insurance problems.

Otherwise the Senate has passed our legislation which provides the authorizations needed by NTSB to fulfill its responsibilities to investigate transportation accidents, determine their probable cause and make recommendations to prevent the tragedies from reoccurring. I urge my colleagues to support this important legislation.

Mr. HAMMERSCHMIDT. Madam Speaker, further reserving the right to object, as the chairman has indicated, this is virtually the same bill that this body passed on September 30. The only difference is that the other body added one provision dealing with the airport liability insurance problem.

As we all know, the liability insurance crisis has hurt many sectors of our economy. Some small airports have been particularly hard hit by the problem.

The additional provision added by the other body would simply authorize a study of the problem and would permit the establishment of a clearinghouse to help small airports deal with the problem.

In all other respects, the bill remains the same as the one we passed 2 weeks ago. It reauthorizes the National Transportation Safety Board [NTSB] and makes minor changes in its governing statute. The NTSB plays an important role in transportation safety by investigating accidents and making safety recommendations. This bill would help it continue this work.

Therefore, I urge the immediate adoption of this bill.

Mr. HOWARD. Mr. Speaker, I rise in support of this bill that authorizes the National Transportation Safety Board for fiscal years 1987, 1988, and 1989. This Senate amended legislation is very similar to the bill passed by the House 2 weeks ago.

Aside from an amendment pertaining to a study and establishment of an information clearinghouse on airport liability insurance, the original House bill and the Senate amended bill are identical. The Aviation Subcommittee chairman, Mr. MINETA, has described the basis of the Senate amendment and why the House should accept it, so I will not go over that ground again.

I would like to reiterate the need for this legislation. The NTSB needs the level of funding in this authorization in order to adequately carry out its important safety responsibilities of investigating and determining the cause of transportation accidents.

I urge my colleagues to vote "aye" on this important legislation.

Mr. HAMMERSCHMIDT. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4961, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MODIFYING PREVIOUS ACTION OF THE HOUSE IN AMENDING SENATE AMENDMENT TO H.R. 5595, SSI IMPROVEMENT AMENDMENTS OF 1986, BY ACCEPTING THE SENATE AMENDMENT TO THE TITLE OF THE BILL AND INCLUDING AN ADDITIONAL AMENDMENT TO THE SENATE AMENDMENT

Mr. ROSTENKOWSKI. Madam Speaker, I ask unanimous consent that the previous action of the House in amending the Senate amendment to H.R. 5595 be modified by accepting the Senate amendment to the title of the bill and by including an additional amendment to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the title of the bill and the House amendment to the Senate amendment, as follows:

Amendment to the title: Amend the title so as to read: "An Act to make permanent and improve the provisions of section 1619 of the Social Security Act, and for other purposes.".

House amendment to the Senate amendment: Redesignate section 8 as section 9; and after 7 insert the following new section:

SEC. 8. PAYMENT OF BENEFITS DUE DECEASED RECIPIENTS.

(a) IN GENERAL.—Section 1631(b)(1) of the Social Security Act is amended—

(1) by inserting "(A)" after "(1)";

(2) by striking out "by recovery from" where it first appears in the first sentence and all that follows down through "The Secretary (A) shall make" and inserting in lieu thereof the following:

"by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse, or, if such individual is deceased, by payment—

"(i) to any surviving spouse of such individual, whether or not the individual's eligible spouse, if (within the meaning of the first sentence of section 202(i)) such surviving husband or wife was living in the same household with the individual at the time of his death or within the 6 months immediately preceding the month of such death, or

"(ii) if such individual was a disabled or blind child who was living with his parent or parents at the time of his death or within the 6 months immediately preceding the month of such death, to such parent or parents.

"(B) The Secretary (i) shall make";

(3) by striking out "and (B) shall in any event" and inserting in lieu thereof "and (ii) shall in any event";

(4) by striking out "(i) the amount" and "(ii) an amount" and inserting in lieu thereof "(I) the amount" and "(II) an amount", respectively; and

(5) by striking out "clause (B)" and "clause (A)" in the last sentence and inserting in lieu thereof "clause (ii)" and "clause (i)", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits payable for months after May 1986.

Redesignate section 9 as section 10; and after section 8 insert the following new section:

SEC. 9. TREATMENT OF CERTAIN COUPLES IN MEDICAL INSTITUTIONS.

(a) IN GENERAL.—Section 1611(e) of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(5) Notwithstanding anything to the contrary in the criteria being used by the Secretary in determining when a husband and wife are to be considered two eligible individuals for purposes of this title and when they are to be considered an eligible individual with an eligible spouse, the State agency administering or supervising the administration of a State plan under any other program under this Act may (in the administration of such plan) treat a husband and wife sharing a room or comparable accommodation in a hospital, home, or facility described in paragraph (1)(B) as though they were an eligible individual with his or her eligible spouse for purposes of this title (rather than two eligible individuals), after they have continuously shared such a room or accommodation for 6 months, if treating such husband and wife as two eligible individuals would prevent either of them from receiving benefits or assistance under such plan or reduce the amount thereof.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Mr. FRENZEL (during the reading). Madam Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. FRENZEL. Reserving the right to object, Madam Speaker, I yield to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Madam Speaker, yesterday the House agreed to take from the Speaker's table the bill H.R. 5595, the SSI Improvement Amendments of 1986, and agree to the Senate amendment thereto with an amendment. The earlier action of the House was flawed in that we did not act on the Senate amendment to the title of the bill. As a technical matter, we have to dispose of that amendment or we cannot return the bill to the Senate. My request is to accept the Senate amendment to the title of the bill.

In addition, I would further amend the Senate amendment by adding another provision to the bill that should have been included in the earlier unanimous-consent request. This is the provision that continues Medicaid coverage for married couples who live in a Medicaid institution and who lose such coverage because SSI regulations require that they be treated as separate individuals. This provision was in the original House bill, has a negligible cost, and like the earlier House amendment, it is acceptable to the other body.

Mr. BARTLETT. Madam Speaker, I support this bill and urge its passage.

Title II of the bill does provide, as we passed yesterday, the enactment of legislation that was introduced right at 2 years ago, and with the help of a lot of people on the Committees on Ways and Means and Education and Labor, and in the other body, it will pass.

The provision that we are adding is a good provision out of title I, and it should be added, and I congratulate the gentlemen from Texas [Mr. ARMEY] and [Mr. PICKLE] for their addition to this.

I am assured by the other body and by the administration that this has the support of both.

Mr. FRENZEL. Madam Speaker, under my reservation I yield to the other distinguished gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Madam Speaker, I would like to concur in the explanation. It is absolutely accurate. I think this is the kind of happy thing we can do in this body to reunite older Americans so that they can live out their years together by correcting a technical interpretation of law.

I want to compliment everybody who worked so hard in this body and the other.

Mr. FRENZEL. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

ARTHUR R. MARSHALL LOXAHATCHEE NATIONAL WILDLIFE REFUGE

Mr. JONES of North Carolina. Madam Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 511) to change the name of the Loxahatchee National Wildlife Refuge, FL, to the Arthur R. Marshall Loxahatchee National Wildlife Refuge, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. YOUNG of Alaska. Reserving the right to object, Madam Speaker,

and I shall not object, I yield to the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Madam Speaker, S. 511 would rename a national wildlife refuge in Florida after the late Arthur R. Marshall, a noted conservationist from Florida who devoted decades of his life to the preservation of the Florida Everglades. This bill is virtually identical to H.R. 1438, as introduced—a bill cosponsored by the entire House delegation from Florida. Arthur Marshall received numerous conservation awards during his lifetime, including "Conservationist of the Decade" from the Florida Wildlife Federation. This bill is noncontroversial and has broad bipartisan support. I, therefore, urge my colleagues to unanimously support its passage.

Mr. YOUNG of Alaska. Under my reservation, Madam Speaker, I yield to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Madam Speaker, the Arthur R. Marshall Loxahatchee National Wildlife Refuge is certainly a very precious jewel that we should preserve and be adequately named.

As distinguished members of the Committee on Merchant Marine and Fisheries stated earlier this year, this bill changes the name of the Loxahatchee National Wildlife Refuge in Palm Beach County, FL, to the Arthur R. Marshall Loxahatchee National Wildlife Refuge.

This legislation honors the memory of an individual who contributed to the enhancement and protection of one of our greatest national treasures, Florida's natural environment.

The Loxahatchee National Wildlife Refuge was established in 1951 for the purpose of managing and protecting a portion of the Florida Everglades and its native species of wildlife. This area, which encompasses 220 square miles, is one of the largest freshwater marshes in North America.

Arthur R. Marshall was a pioneer in environmental conservation and served as an adviser to three Florida Governors, and worked for the U.S. Fish and Wildlife Service for 15 years.

Art Marshall waged one conservation battle after another in the interests of what was good for Florida and for the country. Many of his ideas and initiatives have today been put into constructive action.

With Art Marshall's death early last year, it is highly appropriate that an example of the habitat and natural systems that he diligently worked to preserve should be his name.

I and my Florida colleagues urge passage of this very important measure.

Mr. YOUNG of Alaska. Madam Speaker, I rise in support of S. 511, a bill that would add the name of Arthur R. Marshall to the Loxahatchee National Wildlife Refuge.

I understand that Mr. Marshall throughout his life was an avid conservationist, respected by his peers, and active in the fight to conserve Florida's valuable fish and wildlife resources and their environment.

The addition of Mr. Marshall's name to this refuge is a justifiable tribute to his dedication to the conservation of our natural resources.

I want to commend Congressman LEWIS and the other members of the Florida delegation for their work with similar legislation in the House earlier this session. Mr. Speaker, I urge the adoption of S. 511.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Loxahatchee National Wildlife Refuge, in the State of Florida, shall hereafter be known and designated as the "Arthur R. Marshall Loxahatchee National Wildlife Refuge". Any reference in any law, regulation, map, document, record, or other paper of the United States to such wildlife refuge, shall be held and considered to be a reference to the "Arthur R. Marshall Loxahatchee National Wildlife Refuge."

□ 1315

Mr. YOUNG of Alaska. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mrs. KENNELLY). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION MARINE FISHERIES PROGRAM AUTHORIZATION ACT OF 1985

Mr. JONES of North Carolina. Madam Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 991) to provide authorization of appropriations for certain fisheries activities, with a Senate amendment to the House amendment and concur in the Senate amendment to the House amendment with amendments.

The Clerk read the title of the bill.

(For Senate amendment to the House amendment, see proceedings of the Senate of yesterday, October 15, 1986.)

The Clerk read the House amendments to the Senate amendment to the House amendment as follows:

In the first sentence of section 303(d) of the Magnuson Fishery Conservation and Management Act (as proposed to be amended by section 105(b) of the Senate amendment), strike out "National Marine Fisheries Service personnel" in paragraph (1) and insert "Federal employees".

Section 205(d) of the Senate amendment is amended by striking out subparagraphs (E) and (F) and inserting the following:

(E) two members-at-large with demonstrated expertise in fresh-water and inland commercial fisheries and who are not residents of the states of the Alaska, Pacific, Southeast, or Northeast regions; and

(F) one member-at-large who is either a person professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products or a person who is a member of an organized labor union and has expertise in the United States fisheries.

Insert the following new sentence at the end of section 206(c) of the Senate amendment: "In addition, the National Council may not promote the consumption or purchase of a single or group of similar fish species (such as members of the same genera); except that the Council may use illustrations of a single or group of similar fish species in the course of promoting the generic consumption of fish and fish products."

In the second sentence of section 209(a) of the Senate amendment, after "available" insert ", to the extent provided for in appropriation Acts,".

Strike out paragraph (1) of section 209(b) of the Senate amendment and insert the following:

(1) the moneys transferred to the Fund under section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713c-3(b));

Strike out subsection (e) of section 209 of the Senate amendment and insert the following:

(e) AMENDMENTS TO THE SALTONSTALL-KENNEDY ACT.—Subsection (b) of section 2 of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)), is amended—

(1) by inserting "(1)" before "The Secretary of Agriculture";

(2) by striking out "separate fund" and all that follows thereafter and inserting in lieu thereof the following: "separate fund only for—

"(A) use by the Secretary—

"(i) to provide financial assistance for the purpose of carrying out fisheries research and development projects approved under subsection (c), and

"(ii) to implement the national fisheries research and development program provided for under subsection (d); and

"(B) the provision of moneys, subject to paragraph (2), to carry out the purposes of the Fisheries Promotion Fund established under section 208(a) of the Fish and Seafood Promotion Act of 1986."; and

(3) by adding at the end thereof the following new paragraph:

"(2) There are transferred from the fund established under paragraph (1) to the Fisheries Promotion Fund referred to in paragraph (1)(B) $750,000 in fiscal year 1987, $3,000,000 in each of fiscal years 1988 and 1989, and $2,000,000 in fiscal year 1990.".

Paragraph (4) of section 304(c) of the Senate amendment is redesignated as paragraph (5).

The second paragraph (3) of section 304(c) of the Senate amendment is redesignated as paragraph (4).

Strike out subparagraph (D) of section 304(c)(3) of the Senate amendment and insert the following:

(D) has entered into an interstate cooperative fishery management agreement and has in effect an interstate fisheries management or interstate fisheries research program.

Strike out section 413 of the Senate amendment.

Strike out section 414 of the Senate amendment.

Strike out section 412 of the Senate amendment.

At the end of section 302 amend the next section heading to read as follows:

"SEC. 303. DEFINITIONS."

At the end of section 410 amend the next section heading to read as follows:

"SEC. 411. INCIDENTAL TAKING OF DEPLETED MARINE MAMMALS."

Mr. JONES of North Carolina (during the reading). Madam Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. YOUNG of Alaska. Reserving the right to object, Madam Speaker, I would like to notify the House that the minority has no objection to this request, nor to the request that the bill be considered at this time.

Madam Speaker, I rise in support of the bill and the committee amendment before us and urge their adoption.

This bill is a comprehensive collection of fisheries legislation that has been passed by the House during this Congress. We are passing this bill with a committee amendment to resolve some technical difficulties that have been identified, and the intent is that the bill with the amendment will be accepted by the other body so that it can be forwarded to the President.

The bill consists of four titles. Title I includes a reauthorization of the Fishery Conservation and Management Act and numerous amendments to that act. These amendments were reported by the Committee on Merchant Marine and Fisheries on June 10, 1985, in H.R. 1533, and a discussion of these amendments can be found in House Report 99-165. That bill subsequently passed the House as part of S. 991 in August 1986. The bill that we are passing today deletes certain of those amendments as part of an agreement with the other body.

Title II of the bill establishes a new National Fish and Seafood Promotional Council and gives the fishing industry the authority to establish voluntary self-funded local marketing councils. The provision providing for industry-established councils was passed by the House as H.R. 2935. The national council was included by the other body. The purpose of these marketing entities is to promote the generic consumption of fish and seafood. As mentioned, the local councils will be self-funded by the commercial fishing industry. The national council will be funded through receipts under the Saltonstall-Kennedy program which consists of a portion of the duties imposed on foreign fish products being imported into the United States. As a result, this bill calls for no new Federal expenditures.

Title III of the bill establishes the Interjurisdictional Fisheries Act and repeals the existing Commercial Fisheries Research and Development Act. The language in this title has been considered by the House on previous occasions. Certain changes were made in the title to recognize that various States may engage in a variety of cooperative efforts with the Federal Government. However, the intent of the title—that Federal grants for fisheries be endowed only where there is a clear Federal role—has not been changed by the language in this title.

The final title of the bill consists of numerous minor authorizations that have been passed by the House on previous occasions, including two provisions that are strongly supported by the administration. One of these, which involves transfer of Fishermen's Protective Act functions from the Department of Commerce to the Department of State, requires further clarification. The language included in S. 991 was submitted by the administration to effect the transfer. We also intend that the transfer encompass all assets, liabilities, contracts, and funds—both obligated and unobligated—that previously were under the authority of the Secretary of Commerce. Unexpended funds should be used only for the purposes authorized, although we expect that these funds may be used to accomplish the transfer. In sum, both the administrative functions under the act and the funds associated with those functions and any accounts established under the provisions of the act are to be transferred to the Department of State.

Madam Speaker, the purpose of section 410 of this bill is to clarify certain ambiguous terms and conditions in a 1977 agreement with the Coast Guard to transfer certain tracts of Coast Guard property to Koniag, Inc., pursuant to Public Law 92-203. First, it clarifies that welding activities at a proposed ship repair facility that do not produce harmful electromagnetic interference with Coast Guard communications facilities are permitted. Second, it confirms title in Koniag for the wharf known as the "old shipyard" on Women's Bay near Kodiak, AK. Third, it confirms an easement over certain Coast Guard property to guarantee access to certain landlocked tracts of land conveyed to Koniag under the agreement. Finally, it guarantees the Coast Guard review of the construction of, and access to, a barge-landing facility to ensure it is available for Coast Guard use.

This section is merely intended to carry out the purpose of the 1977 agreement and the intention of the parties to the agreement. If not clarified, the issues addressed in this amendment would be left to the courts to decide. That legal process would take years and Koniag, Inc., the regional Native corporation taking title to these lands under the agreement, may be denied the full use and benefit of those lands as intended by Public Law 92-203.

It does not add any cost and will not convey additional lands to the corporation unintended by the original agreement. The Coast Guard contracted out a study in 1983 when the repair facility project was proposed to determine welding interference with their communications. The study concluded that, if properly installed, this equipment would not produce harmful interference.

Madam Speaker, while I believe that this is an excellent bill that deserves approval by the House, I note with some sadness that one item is not included. This is language that would establish a program for assessing, monitoring, and controlling the use of driftnets by foreign fishermen on the high seas. The provisions of this element of the package were those found in S. 2611 in the Senate and H.R. 5208 in the House. They were dropped by the other body as a result of objections received from fishermen in New England and from the Administration.

The fact that these provisions were dropped to me represents a case of being penny-wise and pound-foolish. This body has on numerous occasions addressed the problem of the taking of salmon and marine mammals on the high seas by foreign fishing vessels. The language that we hoped would be included would have provided basic data needed to assess the magnitude of these interceptions and would have established a zone to protect seabirds off the coast of Alaska. We made every effort in developing language to ensure that the concerns of fishermen in other parts of the United States were taken care of. As a result of this

language not being included in the bill, we will go for at least another year with no opportunity to discover how many of our resources are being taken by foreign fishermen. I hope that the Members of this body agree with me that something must be done to correct this situation and that we will have your support next year when legislation of this nature is again introduced.

Madam Speaker, as I said earlier, this is a worthwhile bill that was developed through the cooperative efforts of a number of Members of the House. I want to commend the gentleman from North Carolina [Mr. JONES] who is chairman of the Merchant Marine and Fisheries Committee, the gentleman from Louisiana, [Mr. BREAUX], the gentleman from Massachusetts [Mr. STUDDS], and the staff of the committee and subcommittees for the work they have done in bringing this bill before us today. Madam Speaker, I urge adoption of the bill with the amendment.

Mr. JONES of North Carolina. Madam Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. Further reserving the right to object, I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. I thank the gentleman for yielding.

Madam Speaker, the bill now before us, S. 991, as amended, represents much of the fisheries legislation undertaken by the Committee on Merchant Marine and Fisheries during this Congress. Many of its provisions have been previously approved by the House as separate bills. In addition, nearly every item in this measure was passed by the House under suspension of the rules on August 12, 1986.

Title I of the Senate amendment amends and reauthorizes the Fisheries Conservation and Management Act of 1976. The 1976 act is the most important piece of Federal fisheries legislation and asserts U.S. authority to manage fisheries resources out to 200 miles at sea. Title I is nearly identical to S. 991, as passed by the House in August, with few exceptions.

Specifically, Senate amendment to the House amendment to S. 991:

Reauthorizes the Fisheries Conservation and Management Act at existing levels adjusted for inflation through fiscal year 1989;

Requires members appointed to the regional fishery management councils to be knowledgeable and experienced with regard to fishery conservation and management;

Requires the Secretary to cooperate with the fishery management councils in carrying out fishery research activities;

Clarifies that persons against whom a civil penalty has been assessed under the act may obtain review of that assessment by filing a notice of appeal within 30 days to the Secretary, Attorney General, and the appropriate U.S. attorney;

Allows maritime liens to be imposed on vessels which are assessed final civil penalties for violations of the act;

Requires administrative reports to be submitted to the Congress prior to the chartering of fishery research vessels in the Atlantic during fiscal years 1986 and 1987.

In addition to the above, the Senate amendment would: First, require that a foreign fishing nation, as a condition of receiving a foreign fishing permit, provide certification that its vessels have met the foreign nation's fishing vessel safety standards; second, require the Secretary of Commerce to establish health and safety standards for the quartering of U.S. fishery observers; third, delete existing provisions which waive the fishery observer requirement if health and safety conditions aboard foreign fishing vessels are inadequate; and fifth, modify the time period required for Federal review of fishery management plans.

For a legislative history of this title, the committee report on H.R. 1533 (House Report 99-165) should be consulted. In view of the fact that the provisions regarding observer safety in section 103 of the bill were not included in H.R. 1533, I would like to clarify the committee's understanding regarding this provision. First, the amendment would require that as a condition of receiving a foreign fishing permit, a nation would first have to provide certification that its vessels meet all applicable safety standards of that country. If the vessel did not meet such standards, the permit for that particular vessel would be denied. The provision also directs the Secretary of Commerce to develop and promulgate health and safety standards for the carrying out of observer functions on board foreign vessels. It is the committee's intent that if the observer finds that foreign vessels do not meet that nations own domestic safety standards or the standards promulgated by the Secretary that the observer would notify the U.S. Coast Guard.

In turn, the Coast Guard would inspect the vessel to ensure that it meets such requirements. If, in the view of the Coast Guard or the National Marine Fisheries Service, the vessel is found not to meet such requirements, the vessel's permit would then be suspended, the observer removed, and fishing operations by that foreign vessel would cease until such time as remedial actions have been taken. When such actions have been taken, the permit could be reissued and an observer again placed on the vessel prior to the beginning of fishing operations.

Title II of the amended bill is the Seafood Marketing Councils Act. This act would allow the seafood and fishing industry to design, approve, fund and implement seafood marketing councils. This title is nearly identical to H.R. 2935 as passed by the House in December 1985. The Senate amendment would, however, add a new provision to title II which would create a National Seafood Marketing Council. This Council would consist of a 15-member board and would operate on Federal funds. It is the committee's firm belief that the National Council should not engage in species-specific or like species-specific promotion activities. Rather, it is the intent of Congress that this Council use its resources to promote the consumption of fish, fish products, and seafood in the generic sense only. The House amendment retains the same level of funding that was provided for in the Senate amendment—$750,000 in fiscal year 1987, $3 million in fiscal years 1988 and 1989, and $2 million in fiscal year 1990. However, the House amendment provides that the funding source should be the existing moneys that accrue to the Saltonstall-Kennedy [S-K] Fund.

It is the committee's intention that these moneys shall be transferred to the seafood marketing fund and that the ultimate expenditure from the fund is subject to the normal appropriations process. It is also the committee's intent and understanding that this transfer will not effect the current programs carried out under the S-K Program including the projects carried out by the National Marine Fisheries Service and the industry grant program. It is also the committee's belief that a representative of a consumer group should be placed on the National Council and hence the amendment addresses the composition of the Council. With respect to the regional marketing councils, more information can be found in House Report 99-420.

Title III of this act would establish the Interjurisdictional Fisheries Act of 1986. This title repeals the Commercial Fisheries Research and Development Act—instead, it authorizes a program whereby the States are able to use matching Federal funds for fisheries programs where direct and legitimate Federal and State interests exist. This act would also prohibit the use of Federal funds for fish and fish product promotion. This legislation is nearly identical to H.R. 1028 which passed the House under suspension of the rules on July 29, 1985. More information on this measure can be found in House Report 99-20.

The Senate amendment to this measure relaxed the conditions that a State must meet in order to qualify for funding under this act. The House amendment makes these requirements more stringent by requiring that certain States, in addition to simply

having an interstate fishery management agreement, also have in place suitable interstate fishery management plans or interstate fishery research plans. It was and remains the committee's intent to encourage interstate and State-Federal cooperation as it relates to fishery research, management, and enforcement.

It is the committee's intent that the Secretary, before approving funding for certain States not qualifying for the normal apportionment of funds to ensure that effective and legitimate cooperative fishery arrangements are in place. It is the committee's intent that States without such agreements should not qualify for or receive funds under subsection 304(c)(3) of this act.

Section 401 of title IV of the Senate amendment includes a general authorization of appropriations for marine fisheries programs within the National Oceanic and Atmospheric Administration. This language is identical to authorizing legislation passed by the House as a part of S. 991.

Section 402 of this title would reauthorize section 4 of the Anadromous Fish Conservation Act. Section 4 authorizes a Federal-State cost-sharing program for research, development, and management necessary to support anadromous fish, that is, those fish that migrate from the ocean to freshwater to spawn. Because of their highly migratory nature, these fishes—such as shad, striped bass, Pacific and Atlantic salmon—pass through the jurisdiction of many States, U.S. Federal waters, the waters of other nations, and international waters.

If such resources are to be managed throughout their range, a coordinated approach to research and management must be taken. By coordinating State efforts, section 4 of the Anadromous Fish Conservation Act insures that redundancy is minimized and that the maximum use of data and the resource—the fish—can be achieved.

Under the Anadromous Fish Act, the Federal share for approved projects is 50 percent, except in cases where a multi-state project is approved by the Secretary, in which case it is 66⅔ percent. In the event that a project supports an interstate fishery management plan, pursuant to an interstate compact, the Federal share may be up to 90 percent. In any case, the State matching grant means that Federal dollars can double their impact compared to those invested in strictly Federal programs.

This program is administered jointly by the U.S. Fish and Wildlife Service with jurisdiction over sport fishery projects and by the National Marine Fisheries Service with jurisdiction over commercial fishery project. The National Marine Fisheries Service has noted that over 90 percent of the funds expended under this program support fisheries under Federal management, or fisheries that are subject to international treaties, such as the recently concluded Pacific Salmon Treaty.

The Anadromous Fish Conservation Act should be reauthorized. The States are essentially performing work that the Federal Government would ordinarily be required to perform—and they are doing it at less cost. We should certainly not terminate a program as effective as this one.

Moreover, this measure is nearly identical to H.R. 1025 which passed the House under suspension of the rules on March 19, 1985. The measure before us will reauthorize the act for 1 additional year and at levels that are indexed for inflation. More information on this measure can be found in House Report 99-19.

Section 403 of title IV would reauthorize the Central, Western, and South Pacific Fisheries Development Act during fiscal years 1986, 1987, 1988, and 1989 at existing levels of $5 million in each fiscal year. Although no moneys have ever been appropriated pursuant to this act, there is support for this measure within the Department of State and within the administration.

Section 404 of title IV authorizes appropriations to carry out the Atlantic Tunas Convention Act of 1975 for fiscal years 1987, 1988, and 1989. The Atlantic Tunas Convention Act authorized U.S. participation in the International Convention for the Conservation of Atlantic Tunas. The convention was negotiated in response to the decline of Atlantic tuna stocks caused by overfishing by various nations. In 1981, scientists reported that bluefin tuna stocks were only 15 percent of their 1960 levels. In an effort to correct this situation, the convention recommended severe reductions in the take of bluefin tuna. Recently acquired data now indicates that bluefin tuna stocks in the western Atlantic are beginning to show an increase. This increase has been largely due to the conservation restrictions recommended by the convention and adopted by its member nations.

Although the management of bluefin tuna stocks is showing success, other tuna stocks are still depleted. Therefore, the convention should continue its research and conservation efforts with strong U.S. support. Except for a technical change requested in draft legislation submitted by the administration, section 404 is identical to H.R. 3133, which was approved by the House under suspension of the rules on April 26, 1986. More information on this measure can be obtained in House Report 99-33.

Section 405 would amend the Great Lakes Fishery Act of 1956 by authorizing four U.S. representatives to sit on the Great Lakes Fishery Commission. Current law authorizes only three commissioners; however, the treaty was renegotiated long ago to provide for another commissioner. This legislation brings the authorizing legislation into conformance with the text of the Great Lakes Fishery Treaty and current practice. In addition, this section would terminate the terms of all non-Federal commissioners, create finite terms of office for non-Federal commissioners and would provide for the appointment of new commissioners or the reappointment of the current commissioners.

This section would also require the appointment of an alternate commissioner. These improvements to the implementing legislation are supported by a recent GAO study on the Great Lakes Fishery Commission. The committee notes that the appointment of an alternate commissioner is consistent with implementing legislation for the recently concluded Pacific Salmon Treaty.

Legislation calling for an alternate commissioner for the Pacific Salmon Commission was part of the implementing legislation submitted to the Congress by the administration, passed by the Congress and signed into law by the President. The GAO study also recommended that the Great Lakes Fishery Commission utilize a request for proposal process when issuing research grants greater than $15,000. The committee concurs with this recommendation and expects that the commission will establish procedures to implement the recommendation.

Section 406 provides for the establishment of an estuarine programs office [EPO] within NOAA. This office will be responsible for developing an agencywide strategy for the coordination of estuarine management activities. This strategy is to incorporate the research, regulatory, management, and trusteeship responsibilities with which the Congress has charged the agency. NOAA must be an active partner, with other Federal, State, and local agencies, in a focused nationwide effort to address the degradation of our Nation's estuaries.

Establishment of a NOAA Estuarine Programs Office [EPO] will provide for more effective conduct of NOAA responsibilities in estuarine research and management. The office should serve as the focal point for direct agency participation in specific estuarine research and management projects. In concert with the agency's broad planning and coordinating responsibilities under the National Ocean Pollution Planning Act—as amended by Public Law 99-272—the specific activity coordination provided by the EPO will ensure a central and active role for NOAA in the nation-

wide effort to improve management of estuaries.

Section 406(c) authorizes $500,000 for fiscal year 1987, $530,000 for fiscal year 1988, $560,000 for fiscal year 1989, and $600,000 for fiscal year 1990 for EPO administration.

Section 407(a) establishes an Under Secretary of Commerce for Oceans and Atmosphere, who shall also serve as the NOAA Administrator. Section 407(b) establishes an Assistant Secretary of Commerce for Oceans and Atmosphere, who shall serve as the NOAA Deputy Administrator. The Under Secretary and Assistant Secretary shall be appointed by the President, confirmed by the Senate, and compensated, respectively, at the rates provided for levels III and IV of the executive schedule pay rates.

These changes in title are necessary to help fit NOAA more closely into the fabric and structure of the Commerce Department. Since NOAA was established in 1970, three Under Secretary positions—level III—have been created: one for the International Trade Administration (1978); one for economic affairs (1981); and one for the travel and tourism administration (1981). This change in title will not result in a higher rate of compensation for the current NOAA Administrator and Deputy Administrator, but it is hoped that the change will provide better recognition and representation for the agency within the Commerce Department. Since NOAA represents over 60 percent of the Department's annual budget and houses 40 percent of its employees, this recognition is long overdue.

Finally, this change of job titles is intended to provide for better agency administration within the Commerce Department, but should not be misconstrued as rationale to inhibit any future consideration of independent agency status for NOAA.

Section 407(c) establishes the position of NOAA Chief Scientist to replace the current position of NOAA Associate Administrator. The Chief Scientist shall be appointed by the President, with the consent of the Senate, and compensated at the rate provided for level V of the executive schedule pay rates. It is intended that the Chief Scientists shall have strong backgrounds in appropriate scientific disciplines and shall serve as the focal point for the direction and coordination of agency research programs.

Section 408 would transfer authority to administer certain programs now carried out by the Secretary of Commerce to the Secretary of State. This change was requested by the administration and is identical to legislation submitted to the Congress by the administration.

Section 409 would clarify that moneys accruing to the fisheries loan fund after fiscal year 1987 shall accrue to the general fund of the U.S. Treasury.

Section 410 would amend and clarify a covenant accompanying the conveyance of lands owned by the Kontag Native Corp. at Kodiak, AK.

Section 411 makes conforming amendments to the ESA to reflect the changes to the MMPA and to clarify the relationship between the two statutes. It is intended that the decision processes under the involved statutes be coordinated and integrated to the maximum extent practicable. For example, section 411 would add a new requirement to section 7(b)(4) of the ESA that, in order to authorize the incidental take of an endangered or threatened marine mammal, the Secretary must confirm that the taking has been authorized under amended section 101(a)(5) of the MMPA and specify those measures that are necessary to comply with the MMPA authorization. The Secretary and affected Federal agencies, including permit and license applicants, are expected to take appropriate steps to coordinate these two procedures.

A potential problem for coordinating the ESA consultation and the MMPA section 101(a)(5) exemption processes in section 101(a)(5) arises from the fact that section 7(b)(1)(A) of the ESA generally requires the consultation process to be completed within 90 days. This timeframe is likely to be too short to complete a section 101(a)(5) review if it is initiated at the same time as section 7 consultation. Should this discrepancy occur, the Secretary is expected to proceed with issuance of the biological opinion and section 7(b)(4) incidental take statement in a timely manner as required by section 7(b)(1) of the ESA. With respect to the incidental take statement, however, the Secretary should indicate that the findings and conditions applicable to affected marine mammals are subject to final completion of the MMPA section 101(a)(5) process and that the statement would subsequently be revised to reflect the outcome of that review.

In this situation, incidental take of listed marine mammals would not be authorized under the ESA until the section 101(a)(5) process has been completed under the MMPA and the section 7(b)(4) incidental take statement has been revised. Thus, despite the issuance of a biological opinion, section 9 of the ESA would remain an impediment to agency or private action until such time as the MMPA section 101(a)(5) process has been completed and the findings of that process have been incorporated into the previously issued biological opinion.

Several options are available to reduce the likelihood of a timing discrepancy between the two procedures. First, in appropriate circumstances and when adequate information is available, the section 101(a)(5) procedure could be started before section 7 consultation is initiated. In this case, the burden would be on the applicant for the section 101(a)(5) exemption to submit a timely and complete request.

As a second option, section 7(b)(1)(A) of the ESA provides that the Secretary and the action agency may agree to complete consultation in more than 90 days. When an incidental take of a listed marine mammal is involved, it may be appropriate for the consulting Federal wildlife agency and the action agency to agree to a timeframe that would accommodate completion of the section 101(a)(5) procedure.

If a permit or license applicant is involved, however, section 7(b)(1)(B) requires that certain steps be taken to extend the consultation period, including obtaining the consent of the applicant if more than 60 additional days would be required. If the consent and cooperation of the applicant is obtained, it should be possible to coordinate the two decisionmaking procedures through appropriate extension of the consultation period.

Finally, in certain circumstances it may be appropriate to pursue early consultation under section 7(a)(3) of the ESA. Under this approach, a preliminary biological opinion could be issued on the prospective agency action. At such time as the section 101(a)(5) procedure has been completed and the agency action is about to proceed, the biological opinion shall be reviewed and amended as appropriate. At this point, the required findings and conditions based on the completed section 101(a)(5) review would be incorporated into the section 7(b)(4) incidental take statement.

Ultimately, the successful coordination of the ESA and MMPA procedures will depend upon the effective cooperation among the action and consulting agencies and affected private applicants. Hopefully, this cooperation will be forthcoming.

Mr. Speaker, let me emphasize that this legislation is to my knowledge noncontroversial and represents the product of a great deal of work by the Committee on Merchant Marine and Fisheries, especially by the chairman of the Subcommittee on Fisheries and Wildlife, Mr. BREAUX and the ranking minority member, Mr. YOUNG. I believe this legislative package is much needed to keep our fisheries strong and I urge the Members to support its passage.

Mr. YOUNG of Alaska. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

Without objection the Senate amendment to the House amendment to the title of the bill S. 991 is agreed to.

GENERAL LEAVE

Mr. JONES of North Carolina. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend the remarks on the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AUTHORIZING A TECHNICAL CORRECTION IN ENROLLMENT OF S. 2250, ANTI-KICKBACK ENFORCEMENT ACT OF 1986

Mr. FUQUA. Madam Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 168) authorizing a technical correction to be made in the enrollment of the bill, S. 2250, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 168

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 2250) to prohibit kickbacks relating to subcontracts under Federal Government contracts, the Clerk of the Senate shall make the following correction:

In the first sentence of section 5(a)(2) of the Anti-Kickback Act of 1986 (as it appears in section 2(a) of the bill), insert "employee," between "whose" and "subcontractor".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Reserving the right to object, I shall not object, I yield to the gentleman from Florida for an explanation of the resolution we have before us.

Mr. FUQUA. I appreciate the gentleman yielding

Madam Speaker, this measure would direct the enrollment clerk to make one technical correction to S. 2250—the Anti-Kickback Act of 1986—which was passed by the House last week and in the Senate on Tuesday. This change does not alter the substance of the bill in any way but merely clarifies its application by the insertion of the word "employee" to make certain that the affected provision in the bill covers kickbacks to employees of prime contractors as well as to employees of subcontractors.

Mr. WALKER. Further reserving the right to object, Madam Speaker, I appreciate the gentleman's explanation. The minority has no problem with this.

The Justice Department has indicated they believe the change would be helpful. We understand the Judiciary Committee has no objection.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

BICENTENNIAL OF CONSTITUTION COINS AND MEDALS ACT

Mr. ANNUNZIO. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill [H.R. 3415] to authorize the minting of coins in commemoration of the bicentennial of the U.S. Constitution, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 4, line 33, strike out "December 30, 19087" and insert: "June 30, 19088."

Page 5, after line 19, insert: "procurement of goods and service".

SEC. 108. No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

Mr. HILER (during the reading). Madam Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Illinois?

Mr. HILER. Madam Speaker, reserving the right to object, and I do not intend to object, but I would ask the chairman of the committee to explain the bill for the body and the amendments that were offered.

Mr. ANNUNZIO. Madam Speaker, will the gentleman yield?

Mr. HILER. I yield to the chairman of the committee.

Mr. ANNUNZIO. I thank the gentleman for yielding.

Madam Speaker, I appreciate the hard work that the gentleman from Indiana has put into this legislation.

This is a bicentennial celebration commemorating the anniversary of the U.S. Constitution. It provides for the minting of two coins, a $5 gold piece and a silver coin. All the money that will be realized from these coins will be used to retire the national debt.

The Senate amendments are merely technical amendments, provide for no substantive change in the legislation.

Mr. HILER. Further reserving the right to object, I would like to take this opportunity to compliment the chairman for responding to the plea, really, from several Members of this body as well as from the Bicentennial Commission to move this legislation. It is somewhat unusual in that this legislation did not have the customary 218 cosigners that we quite often require in our committee. But the chairman felt, and I agree with the chairman, that this particular coin program to commemorate the bicentennial of the Constitution is extremely important to the country, and it will be a money-raiser for the Government as well.

The gentleman from Illinois' highly successful George Washington 1976 coin program returned tens of millions of dollars to the Treasury. We are sure this coin program, with the support of the American people and the wholehearted support of the Congress and the Bicentennial Commission, will do as well.

Mr. ANNUNZIO. Madam Speaker, will the gentleman yield further?

Mr. HILER. I yield to the chairman.

Mr. ANNUNZIO. I thank the gentleman for yielding.

Madam Speaker, I appreciate the remarks from the ranking Republican on my committee. Through his hard work and perseverance, we have been able to accomplish and have established a genuine coin program in America where the profits are being realized by the American people.

I want to compliment the gentleman from Indiana and thank him for his assistance which I have received.

Mr. HILER. I thank the chairman for those kind comments.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just concluded concerning H.R. 3415.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PATENT EQUITY ACT

Mr. KASTENMEIER. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4899) to amend title 35, United States Code, with respect to patented processes and the patent cooperation treaty, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment as follows:

Senate amendment: Page 2, strike out all including line 1 over to and including line 25 on page 4 and insert:

TITLE I—PATENTED PROCESSES

SEC. 101. This title may be cited as the "Process Patent Amendments Act of 1986".

SEC. 102. (a) Section 154 of title 35, United States Code, is amended by inserting after "United States," the following: "and, if the invention is a process, of the right to exclude others, to the extent provided in section 271(a)(2), from using or selling products produced thereby throughout the United States, or importing products produced thereby into the United States,".

(b) Section 271 of title 35, United States Code, is amended by—

(1) inserting "(1)" after "(a)";

(2) adding at the end of subsection (a), the following:

"(2) If the patented invention is a process, whoever without authority uses or sells within, or imports into, the United States during the term of the patent therefor a product produced by such process, infringes the patent. A product will no longer be considered to have been produced by a patented process once it has been materially changed by subsequent steps or processes.".

(c) Section 287 of title 35, United States Code, is amended by—

(1) striking out "Limitation on damages" in the section heading and inserting in lieu thereof "Limitation on damages and other remedies";

(2) inserting "(a)" before "Patentees,"; and

(3) adding at the end thereof the following new subsection:

"(b)(1) An infringer under section 271(a)(2) shall be subject to all of the provisions relating to damages and injunctions set forth in this title except to the extent that those remedies are limited by this subsection or section 3. The limitations on remedies set forth in this subsection shall not be available to any party who—

"(A) engaged in the actual practice of the patented process;

"(B) is owned or controlled by the party who engaged in the actual practice of the patented process;

"(C) owns or controls the party who engaged in the actual practice of the patented process;

"(D) having made a request for disclosure as provided in subsection (b)(5), fails to notify its supplier of patents identified in response to the request and to instruct its supplier to refrain from infringement of such patents; or

"(E) had knowledge prior to the infringement that a patented process was used to produce the product whose importation, use, or sale constituted the infringement.

"(2) No damages shall be recovered by the patentee unless the infringer had notice of the infringement and continued to infringe thereafter. Damages may be recovered only for infringement that occurred after notice of infringement.

"(3) No remedy may be obtained during the eighteen months after the date of notice for retail sales of a normal volume of products in inventory or on order at the time of notice, obtained from a party in the United States who did not use the patented process, provided the retailer discloses to the patentee, within 30 days from notice, the identity and location of the party from whom the products were purchased. Normal quantity of products in inventory and on order shall be determined by previous business practices, and could include units of a product ordered prior to notice and received within a period not to extend eighteen months after notice.

"(4) The remedy for the importation, use, or sale of units of the infringing product ordered prior to notice and imported, used, or sold in a manner consistent with the normal business practices of the infringer during the six months after the date of notice shall be limited to a reasonable royalty. The limitation in this subparagraph shall not be available to any party who failed to make a request for disclosure, as defined in subparagraph (5), of the party asserting infringement or its licensee.

"(5)(A) For purposes of this paragraph, a 'request for disclosure' means a written request made to a party then engaged in the manufacture of a product to identify all process patents owned by or licensed to that party as of the time of the request that could reasonably be asserted tc be infringed under section 271(a)(2) if that product were imported into, or sold or used in, the United States by an unauthorized party. A request for disclosure is further limited to a request—

"(i) made by a party regularly engaged in the sale of the same type of products as the party to whom the request is directed, or a request which includes facts showing that the requester plans to engage in the sale of such products; and

"(ii) made prior to such party's first importation, use or sale of units of the product produced by an infringing process and prior to notice of infringement.

"(B) In any action where the infringer made a request for disclosure from the party asserting infringement and the infringed patent was not identified within 60 days, the remedy for the importation, use, or sale of units of the infringing product which are imported, used, or sold by the infringer in a manner consistent with the normal business practices of the infringer during the eighteen months after the data of notice shall be limited to a reasonable royalty.

"(C) For the purposes of the limitations on remedies in this subsection—

"(i) no party may make more than one request for disclosure of the same party for the identification of process patents for producing a particular product; and

"(ii) no party who has received the benefit of the limitations of this paragraph or paragraph (4) with respect to the infringement of one process patent shall be entitled to that benefit in the event of a subsequent infringement of any process patent for producing the same product owned by the same patentholder at the time of the first infringement.

"(6) For the purposes of the remedy limitations in subsection (b), notice of infringement means actual knowledge, or receipt of notification, that a product was produced by a patented process without authorization of the patentee. A notification shall constitute notice of infringement only if it is in writing and sets forth facts which are sufficient to establish that there is a substantial likelihood that the product was made by the infringing process. Filing an action for infringement shall constitute notice of infringement only if the pleadings or other papers filed in the action meet the requirements of a notification.".

(d) The table of sections for chapter 29 of title 35, United States Code, is amended by amending the item relating to section 287 to read as follows:

"287. Limitations on damages and other remedies; marking and notice.".

SEC. 103. (a) This title and the amendments made by this title shall apply only to products produced or imported after the date of enactment, and shall not abridge or affect the right of any persons or their successors in business to continue to use, sell or import any specific product already in substantial and continuous sale or use in the United States on July 1, 1986, or for which substantial preparation for such sale or use was made before such date, to the extent equitable for the protection of commercial investments made or business commenced in the United States before such date.

(b) This title and the amendments made by this title shall not deprive a patent owner of any other remedies available under section 271 of title 35, United States Code, section 337 of the Tariff Act of 1930, or any other provision of law.

SEC. 104. Beginning on the date one year after the date of enactment of this title and each year for 4 additional years thereafter, the Department of Commerce shall submit an annual report to the Congress on the effect of this title and the amendments made by this title, on the importation of ingredients to be used for manufacturing products in the United States in those domestic industries that submit formal complaints to the Department alleging that their legitimate sources of supply have been adversely affected.

SEC. 105. (a) Chapter 29 of title 35, United States Code, is amended by adding at the end thereof the following:

"§ 295. Presumption: product produced by patented process

"In actions alleging infringement of process patent based on use, sale, or importation of a product produced by the patented process, if the court finds (1) that a substantial likelihood exists that the product was produced by the patented process and (2) that the claimant has made a reasonable effort to determine the process actually used in the production of the product and was unable so to determine, the product shall be presumed to have been so produced, and the burden of establishing that the product was not produced by the process shall be on the party asserting that it was not so produced.".

(b) The table of sections for chapter 29 of title 35, United States Code, is amended by adding after the item relating to section 294 the following:

"295. Presumption: product produced by patented process.".

House Amendment to the Senate Amendment: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—PATENTED PROCESSES

SEC. 101. SHORT TITLE.

This title may be referred to as the "Process Patent Amendments Act of 1986".

SEC. 102. RIGHTS OF OWNERS OF PATENTED PROCESSES.

Section 154 is amended by inserting after "United States," the following: "and, if the invention is a process, of the right to exclude others from using or selling throughout the United States, or importing into the United States, products made by that process,".

SEC. 103. INFRINGEMENT FOR IMPORTATION, SALE, OR USE.

Section 271 is amended by adding at the end the following new subsection:

"(g) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by a process patented in the United States shall be liable as an infringer, if the importation, sale, or use of the product occurs during the term of such process patent. In an action for infringement of a process patent, no remedy may be granted for infringement on account of the use or retail sale of a product unless there is no adequate remedy under this title for infringement on account of the importation or other sale of that product. A product which is made by a patented process will, for purposes of this title, not be considered to be so made after—

"(1) it is materially changed by subsequent processes; or

"(2) it becomes a minor or nonessential component of another product.".

SEC. 104. DAMAGES FOR INFRINGEMENT.

(a) LIMITATIONS AND OTHER REMEDIES.—Section 287 is amended—

(1) in the section heading by striking "Limitation on damages" and inserting "Limitation on damages and other remedies";

(2) by inserting "(a)" before "Patentees"; and

(3) by adding at the end the following:

"(b)(1) An infringer under section 271(g) shall be subject to all the provisions of this title relating to damages and injunctions except to the extent those remedies are modified by this subsection or section 106 of the Process Patent Amendments Act of 1986. The modifications of remedies provided in this subsection shall not be available to any person who—

"(A) practiced the patented process;

"(B) owns or controls, or is owned or controlled by, the person who practiced the patented process; or

"(C) had knowledge before the infringement that a patented process was used to make the product the importation, use, or sale of which constitutes the infringement.

"(2) No remedies for infringement under section 271(g) of this title shall be available with respect to any product in the possession of, or in transit to, the infringer before the infringer had notice that the product was made by a process patented in the United States.

"(3) In an action brought for infringement under section 271(g), the court shall take into consideration the good faith and reasonable business practices demonstrated by the infringer and the need to restore the exclusive rights of the patentee.

"(4) For the purposes of this subsection, notice of infringement means actual knowledge, or receipt of notification, that a product was made by a patented process without authorization of the patentee. A notification shall constitute notice of infringement only if it is in writing and sets forth facts which are sufficient to establish that there is a substantial likelihood that the product was made by the infringing process. Filing an action for infringement shall constitute notice of infringement only if the pleadings or other papers filed in the action meet the requirements of a notification set forth in the preceding sentence. For the purposes of this subsection, a person who obtains a product made by a process patented in the United States in a quantity which is abnormally large in relation to the volume of business of such person or an efficient inventory level shall be rebuttably presumed to have actual knowledge that the product was made by such patented process.".

(b) TECHNICAL AMENDMENT.—The item relating to section 287 in the table of sections for chapter 29 is amended to read as follows:

"287. Limitations on damages and other remedies; marking and notice.".

SEC. 105. PRESUMPTION IN INFRINGEMENT ACTIONS.

(a) IN GENERAL.—Chapter 29 is amended by adding at the end the following:

"§ 295. Presumption: Product made by patented process

"In actions alleging infringement of a process patent based on the importation, sale, or use of a product which is made from a process patented in the United States, if the court finds—

"(1) that a substantial likelihood exists that the product was made by the patented process, and

"(2) that the claimant has made a reasonable effort to determine the process actually used in the production of the product and was unable so to determine,

the product shall be presumed to have been so made, and the burden of establishing that the product was not made by the process shall be on the party asserting that it was not so made.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 29 is amended by adding after the item relating to section 294 the following:

"295. Presumption: Product made by patented process.".

SEC. 106. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall apply only to products made or imported after the date of the enactment of this Act, but shall not abridge or affect the right of any person or any successor in business of such person to continue to use, sell, or import any specific product already in substantial and continuous sale or use by such person in the United States on July 1, 1986, or for which substantial preparation by such person for such sale or use was made before such date, to the extent equitable for the protection of commercial investments made or business commenced in the United States before such date.

(b) RETENTION OF OTHER REMEDIES.—The amendments made by this title shall not deprive a patent owner of any remedies available under subsections (a) through (f) of section 271 of title 35, United States Code, under section 337 of the Tariff Act of 1930, or under any other provision of law.

SEC. 107. REPORTS TO CONGRESS.

(a) CONTENTS.—The Secretary of Commerce shall, not later than the end of each 1-year period described in subsection (b), report to the Congress on the effect of the amendments made by this title on the importation of ingredients to be used for manufacturing products in the United States in those domestic industries that submit complaints to the Department of Commerce, during that 1-year period, alleging that their legitimate sources of supply have been adversely affected by the amendments made by this title.

(b) WHEN SUBMITTED.—A report described in subsection (a) shall be submitted with respect to each of the five 1-year periods which occur successively beginning on the date of the enactment of this Act and ending five years after that date.

Mr. KASTENMEIER (during the reading). Madam Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Wisconsin?

Mr. MOORHEAD. Madam Speaker, reserving the right to object, I do so, so that I may yield to the gentleman from Wisconsin for an explanation as to the purpose of his unanimous consent request.

Mr. KASTENMEIER. Madam Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

Madam Speaker, I will be pleased to explain.

Madam Speaker, this afternoon the House has before it the Patent Equity Act of 1986. This bill is a product of more than 4 years of work by the Committee on the Judiciary.

The bill contains two titles; title I relates to process patents and title II implements the Patent Cooperation Treaty.

In general terms, title I of the bill provides that it is an act of patent infringement, for a person to import, use or sell a product which has been made in violation of a U.S. process patent.[1]

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[1] A product will be considered made by the patented process regardless of any subsequent changes if it would not be possible or commercially viable to make that product but for the use of the patented process. In judging the commercial viability, the courts shall use a flexible standard which is appropriate to the competitive circumstances. For example, where the patented process is to produce chemical X, and chemical X is an intermediate or precursor in the manufacture of imported product chemical Y, and it would not be possible or commercially viable to make imported product chemical Y but for the use of the patented process for the intermediate or precursor chemical X, the connection between the patented process for chemical X and the imported product chemical Y is not broken and the imported product Y is not materially changed for purposes of this section.

In the biotechnology field it is well known that naturally occurring organisms contain within them particular genetic sequences composed of unique structural characteristics. The patented process may be for the process of preparing a DNA molecule comprising a specific genetic sequence. A for-

Under current patent law, the manufacture and subsequent importation of the product of an item in violation of a process patent does not constitute an infringement of a U.S. patent. This bill remedies that omission.

Now, I want to particularly congratulate my colleague, Mr. MOORHEAD; it is his persistence and his interest in this legislation that has, I think, largely been responsible for getting this bill to the floor.

Two years ago a similar bill was passed by the House but was not enacted because of last minute opposition in the other body. Hopefully H.R. 4899 will meet a better fate this Congress.

American patent law has long recognized the validity of securing for inventors the right to exclude others from practicing an invention that consists of a method of making a product. Process patent protection has been a part of U.S. law since at least the 19th century. Process patents extend intellectual property protection for new and useful processes, art or methods of creating an object. Since 1952 there has been an explicit statutory acknowledgment of the availability of process patent protection. Process patents, however, have been granted only partial protection against acts of infringement. This is so because, unlike product patents, the use of a patented process outside the United States and a subsequent importation of the foreign product is not an act of patent infringement. The failure to fully protect American process patents harms American businesses, results in a loss of domestic jobs and is contrary to the public interest. Therefore, one of the positive factors about title I of H.R. 4899 is that it creates a level international playing field for American inventors contrary to the public interest. Many foreign countries adequately protect process patents, thus leaving American patent holders in a position to become the victims of unfair competition.

Process patent protection today is of central importance in the pharmaceutical industry, to the development of solid state electronics, for the manufacture of certain amorphous metals and, perhaps most significantly, for the biotechnology industry. For most biotech companies the best—and sometimes only—available protection of their intellectual property is a process patent. Such a patent is effective in securing for the inventor the right to prevent others from practicing that invention in the United States. Under current law a process patent is limited to the territory of the United States; it therefore is possible—if not likely—for a process patent holder to face domestic competition from persons who have used the patented process to create a product overseas and then ship it into the United States. In this situation the patent owner cannot sue for patent infringement; rather, the owner is relegated to the U.S. International Trade Commission (ITC) to seek limited nonmonetary relief.

There is no logical reason to exclude from the ambit of patent infringement acts associated with the abuse of a U.S. process patent as long as they occur within the reach of U.S. domestic law. Moreover, as the President's Commission on Industrial Competitiveness has found, the failure to extend such protection diminishes the economic value of U.S. process patents. Without domestic legal protection, competitors using the protected process may accept the limited risks of foreign production costs. There is no policy justification for encouraging such overseas production and concurrent violation of U.S. intellectual property rights.

The compelling nature of this deficiency in U.S. patent laws has been evident both in the Congress and to the executive branch. Reform in this area is a centerpiece in trade law reform.

The bill before us contains provisions which attempt to meet some other objections to the bill which have been heard from a variety of quarters.

The amendment at the desk—unlike the Senate amendment we called up on Tuesday—has the strong support of the administration. The amendment differs from both the House passed bill H.R. 4899 and the Senate amendment is that it defines the act of patent infringement to occur with respect to a product made in violation of a process patent only with respect to goods acquired after the alleged infringer knew or was on notice that the goods had been so produced. The amendment at the desk does not include any compulsory licenses. The bill protects against unscrupulous stockpiling of goods before notice to protect patent holders while also requiring that such intellectual property owners to exhaust their remedies against importers and others before obtaining relief against retailers. It is our hope that this limited bill will meet with favor in the other body.

In sum, these amendments go part of the way toward meeting the objections of the bill's opponents.

Title I will help address the U.S. trade deficit and inability to protect American intellectual property overseas. It is supported by much of American industry and by the administration.

Title II of H.R. 4899 amends our patent laws to authorize the U.S. Patent and Trademark Office to undertake the responsibilities outlined in chapter II of the Patent Cooperation Treaty. Basically, the PTO is granted statutory to serve as an international examining office with respect to international patent applications. This new responsibility is in addition to those under chapter I, which the PTO has already undertaken in accordance that it was enacted into law during the 98th Congress.

The Patent Cooperation Treaty is administered effectively and fairly by the World Intellectual Property Organization, located in Geneva, Switzerland. The significance of the treaty is underscored by an observation made by the WIPO Director General, Dr. Arpad Bogsch: "The PCT system has been revised over the years as is now an even more important instrument for filing patent application abroad."

Enactment of title II is supported by the administration and by numerous patent law associations and individuals, including most recent the American Bar Association.

By facilitating the obtaining of patent protection abroad, the legislation will promote exports from the United States. It further will simplify and render more economical the filing of patent applications on the same inventions in different countries and the receiving of patent coverage in those countries.

In conclusion, H.R. 4899 will improve patent protection not only in this country but also internationally. I urge your support for this important legislation.

THE DEPUTY SECRETARY OF COMMERCE,
Washington, DC, October 16, 1986.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Secretary and I were pleased to learn that you have developed a new proposal to stop the unauthorized importation, use or sale in this country of products made by a U.S. process patent. The bill you have crafted contains a fair approach for dealing with innocent infringers of U.S. process patents, while avoiding the compulsory licensing provisions that the Senate included in H.R. 4899. As I understand it, your new proposal achieves this goal by providing liability for products ordered after notice, while at the same time providing safeguards against stockpiling of infringing products.

If enacted, your approach would improve our patent laws. It would also enable our Government to continue its quest for improved intellectual property protection abroad without being undermined by the

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eign manufacturer uses the patented process to prepare the DNA molecule which is the product of the patented process. The foreign manufacturer inserts the DNA molecule into a plasmid or other vector and the plasmid or other vector containing the DNA molecule is, in turn, inserted into a host organism; for example, a bacterium. The plasmid-containing host organism still containing the specific genetic sequence undergoes expression to produce the desire polypeptide. Even though a different organism was created by this biotech procedure, if it would not have been possible or commercially viable to make the different organism and product expressed therefrom but for the patented process, the product will be considered to have been made by the patented process.

unfortunate provisions added to H.R. 4899 by the Senate. By extending protection to products of patented processes with the safeguards in your bill, Congress will strengthen the hand of the United States both in bilateral discussions with pirating nations as well as in its efforts to obtain strong intellectual property protection in the new round of multilateral trade negotiations.

On behalf of the Administration, I thank you for your tireless efforts to find acceptable process patent legislation which fairly protects innocent infringers. I also congratulate you on the balanced solution you have developed. I will actively support enactment of your compromise in these waning days of the 99th Congress with the hope that the owners of U.S. process patents will finally obtain the kind of protection to which they are entitled.

Sincerely,

CLARENCE J. BROWN.

Mr. MOORHEAD. Further reserving the right to object, I think this is an excellent piece of legislation, very much needed by our country.

Madam Speaker, most 17-year patents are obtained on products invented and if that patent is infringed by the manufacture, use, or sale either in this country or infringed abroad and brought back to this country, it can be stopped and damages awarded to the patent owner.

Now process patents are different; the patent is only on the method of making a certain product. For example, a new method of making gasoline or interferon, is patentable, the products themselves are not patentable. Now the present loophole in the law exists where products are made abroad using a U.S. patented process and the goods made by that process are then shipped into this country and compete with the local U.S. product; that is legal in this country. It's not legal in Japan, England, West Germany, France, Switzerland, and numerous other countries. That's the problem we are trying to correct with this legislation.

Commerce Department objection: Presently there is no protection for U.S. process patents which are infringed abroad. This legislation provides 17 years of protection, however, the Senate compromise has an 18-month exception in certain cases to allow retailers who did not have notice of any infringement to sale off their inventory. So in that case, a patent owner would only have 15½ rather than 17 years of protection, that is, if the retailer took the full 18 months to dispose of the violating inventory. The U.S. patent owner today gets nothing. I would rather have my bill which doesn't have this 18-month exception in it, but it's a compromise which has the support of the Pharmaceutical Manufacturers Association, the retailers, the generics, the unions, but not the Department of Commerce. Their complaint is that this 18-month grace period is like a compulsory license; that is, a patent is being used without permission or consent for 18 months. Present law is, it can be used in the United States forever without the patent owner's permission or consent. And under the compromise, at least the U.S. patent owner will get 15½ years where now he gets nothing.

The Department of Commerce says that this is a compulsory license and will undermine their efforts to persuade Third World countries not to draft compulsory licenses in their law. This may be a valid concern but I believe our overriding public policy mandates that we try and help our local U.S. industries, and we can make clear to the Third World countries that this is not a compulsory license.

I would like to be very clear about this point and that is, this legislation contains no compulsory licensing scheme, nor was such ever intended, and if there was such, I would strongly oppose it. It merely sets up a mechanism to provide protection for U.S. process patents which they presently do not now have. There are circumstances, however, wherein for a limited period of time a patent holder does not have exclusive rights, but that is because we are trying to balance the interest of people who purchased a lot of goods without knowledge and without an intention to infringe someone's patent and for those who suggest this is a compulsory license. I want to make clear that it is not, and I believe our U.S. Trade Office will eventually agree with my position. However, this new compromise I understand has the strong support of the Department of Commerce and I hope the other parties will accept it when it goes back to the other body.

This sort of evasion of our patent law is costly, not only in actual revenue lost but also to the number of U.S. jobs that are actually lost to foreign manufacturers. For example, we have a letter in our file from the Glass Workers Union, which states that they believe this present practice has cost their industry alone upward of 50,000 jobs.

I urge support for this issue.

Mr. MOORHEAD. Madam Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Madam Speaker, as the one who objected the other day on behalf of the administration, I want to congratulate both the majority and the minority for working out the problem that was in the bill at that point from the administration's veiwpoint and bringing to us today a bill that could be unanimously approved.

I thank the gentleman for yielding.

Mr. MOORHEAD. Madam Speaker, further reserving my right to object, I wish to congratulate and thank the gentleman from Wisconsin for his tireless efforts in getting this legislation through the Congress. I introduced legislation on this subject earlier in the Congress. He has carefully moved it through our subcommittee, to the committee, and to this point.

There are issues that needed to be worked out. I believe they have been worked out. I wish to thank the gentleman for his efforts.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

A motion to reconsider was laid on the table.

□ 1330

GENERAL LEAVE

Mr. KASTENMEIER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore (Mrs. KENNELLY). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5705, COLUMBIA RIVER GORGE ENHANCEMENT OF RESOURCES

Mr. BONIOR of Michigan. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 596 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 596

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5705) to protect and provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, with thirty minutes to be equally divided and controlled by the chairman and ranking minority members of each of the Committees on Agriculture and Interior and Insular Affairs, the bill shall be considered as having been read for amendmemt under the five-minute rule. No amendment to the bill shall be in order except three amendments if offered by Representative Robert F. Smith of Oregon, said amendments shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and each of said amendments shall be debatable for not to exceed twenty minutes, to be equally divided and controlled by Representative Smith

and a Member opposed thereto. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Madam Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Madam Speaker, House Resolution 596 is a modified closed rule providing for the consideration of H.R. 5705, a bill to protect and provide for the enhancement of the resources of the Columbia River Gorge.

The rule provides for 1 hour of general debate. Thirty minutes is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, and 30 minutes is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

The rule provides that only three amendments to be offered by Representative ROBERT SMITH of Oregon are in order. The amendments are not subject to amendment or to a demand for a division of the question. Each amendment may be debated for 20 minutes.

Finally, the rule provides one motion to recommit. Madam Speaker, this legislation is the result of 6 years of legislative efforts to protect the Columbia River Gorge, one of our Nation's great scenic resources. The legislation has broad support from the Members of Congress in the region, from both sides of the aisle and in both the House and Senate.

At the same time, the rule offers the gentleman from Oregon an opportunity to perfect this legislation.

Madam Speaker, this rule will allow us to move ahead to enactment of this long-awaited legislation.

I urge adoption of this rule.

Madam Speaker, let me just finally add that this is something that we can be very proud of if we pass this legislation in the waning hours of this 99th Congress. It is a nice and beautiful and wonderful thing we will be doing.

Thomas Jefferson sent Lewis and Clark west, and when they saw this magnificent gorge they were with awe and wonder.

I commend to my colleagues the recommendations not only of myself but, I should say, the entire Washington delegation, including both Republican Senators, and at least half of the Oregon delegation which includes both Senators from the other body, of this highly important piece of legislation.

Madam Speaker, I urge the adoption of this rule.

Madam Speaker, I yield to the gentleman from Tennessee [Mr. QUILLEN] for purposes of debate only.

Mr. QUILLEN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I ask for a "no" vote on this rule.

This is a controversial bill. Tennessee is a long way from the Columbia River Gorge of Washington and Oregon. Yet, I have received almost 100 telegrams opposed to this bill from people who live in the gorge area. I have received no telegrams in support of this bill.

The Rules Committee met yesterday afternoon on this matter. The bill's supporters asked for a closed rule and we turned them down. I thought the matter was closed. It should have been, but it wasn't. At midnight, the Rules Committee met again and reported out this rule permitting only three amendments to be offered to the bill by the gentleman from Oregon, Mr. BOB SMITH.

Mr. SMITH represents many of the people living in the Columbia River Gorge and he made it clear to the Rules Committee that he has 10 amendments he wishes to offer to this bill. He stated very forthrightly to the Rules Committee that he must be permitted to offer these 10 amendments if he is to represent adequately his constituents.

When the Rules Committee prevents a member from offering amendments to a bill affecting directly that Members' constituents, it is time for the Members to say "no" to the Rules Committee. We must not support a rule which precludes a Member representing the area affected directly by the bill from offering amendments important to his constituents. This is a most serious matter which should concern every Member of the House.

In addition, the gentleman from Oregon, Mr. DENNY SMITH, testified that he had a number of amendments he wished to offer to this bill. Under this gag rule, he will not be permitted to do so.

Madam Speaker, when in the dying days of this Congress, we bring up a Federal land zoning and Federal land use planning bill such as this, and then give it a gag rule so that a fine and courteous Member representing the part of the country affected directly cannot offer his amendments, I say it is time to say "no."

Madam Speaker, I ask for a "no" vote on this rule. I say stand up for the right of a Member to represent the people who elected him. This is an important issue.

Madam Speaker, this issue has been around for years and, here in the closing days of the 99th Congress, the Rules Committee reported out a very controversial measure for us to try to pass in just a few hours, when it has been around for so long.

Madam Speaker, I urge a "no" vote on the rule. Let us defeat it, send it back to committee, and let them hammer out a compromise that is agreeable to the Members who live in the area and represent the people of the gorge. I would say that we would be doing this House a great service if we accomplish that goal.

Madam Speaker, I yield 10 minutes to the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Madam Speaker, I thank my friend and colleague, the gentleman from Tennessee [Mr. QUILLEN] for yielding this time to me.

Madam Speaker, ladies and gentlemen, this is the issue of the protection of the Columbia River Gorge. I do not believe that there is anyone in Oregon or in Washington, or likely this Nation, who does not believe that protection of the gorge is a good idea.

□ 1340

This has been discussed for 35 years in our State. It has been discussed here in the Congress for at least 6 years. I think it points out the fact that there is controversy involved in this issue or it would have been settled years and years ago.

Over those last 35 years the blight in the Columbia River Gorge has been created by the Federal Government. If you wanted to foul up the gorge, what would you do? I would suggest that the first thing you would do would be to build dams in it. You know, those ugly gray things that go across the river and dam up the water.

Then I would recommend that you build railroads up each side and clear the rights-of-way so that the trains could go up and down the gorge. Then I would build a highway on each side, which has been done. Then I would string wires across the gorge from time to time that have great red balls on them so that if you are flying and you are a pilot, as I am, you do not run into the lines across the Columbia River Gorge.

The passage of this rule and this bill will ask the Federal Government to protect the gorge in that manner. I suggest that is very possible. So how do we protect the gorge and who should do it? Really, that is where the controversy lies and that is what we will be discussing today at some length.

I must tell you that on the Oregon side of the river we have the most

stringent, comprehensive land use laws in America. Every acre of land in Oregon is zoned. Every house, every garage, every business is controlled by a State commission, unelected, but a statewide commission. The opportunity to provide any blight or scars on the Oregon side is nonexistent without LCDC, our land use planning authority, giving permission to do so.

The Washington side is not that way and I admit that. There are not the stringent land use laws on the Washington side, and there may be a need to provide some sort of authority that will combine the two sides of the river. But it is not an Oregon problem; I want to make that point to you.

I want to talk for just a minute about this rule. I rise in opposition to this rule, and I want to tell you why. The movement of this bill has been bizarre at the least; I think that is very kind. The bill came from the Senate as has been identified. It was jointly sent to the Committee on Interior and the Committee on Agriculture. The Committee on Interior, after having considered the bill, finally moved the title of the bill out of committee. Only the title; the committee left the rest of the bill there.

The Committee on Agriculture and the Subcommittee on Forestry, which I serve on, had the bill under consideration, and yet we did not have the opportunity for a quorum to complete the activity of the Agriculture Committee. I suggest to you it was not the fault of dilatory tactics on anybody's part; it was the fault of late session problems and activities of all Members. There was always a majority of Republicans in that meeting. You cannot call this dilatory tactics at all. If the other side had had an opportunity to present their people there for one reason or another, we would have gone on procedurally, as we should have, to follow the final event of this bill and carry it through the committee as it should have been.

That did not occur. Now we have a situation in which this very day, yes, this morning, after midnight, the Rules Committee decided to send a bill to you that has never been to committee. It has never been heard and it is restricted for me to present three amendments. I asked for 10. I represent 20,000 people on the gorge; they are my constituents. I am their only voice here to deal with this issue, and we are dealing, my friends, with their future, with their land, with their children and with their dreams.

I suggest we ought to give them an opportunity to at least have their voice heard on amendments so important to their livelihoods. I have 3 chances. For just a moment I want to go through some of the issues to prove to those who are listening that these amendments that I cannot present to this House, because of the restriction of three, are not dilatory. They contribute to a better bill. I want to prove that to you because I have been denied this opportunity to present them, but you are going to hear about them anyway. I cannot present them, but you are going to hear about them.

An amendment that provides that the countries' appointments to the commission be residents of the scenic area. Hardly too great an amendment, yet important for local control which is the issue that you will hear about today.

Another amendment that provides that these commission members who are appointed be volunteers. We have told the Oregon Legislature and the Washington Legislature in this bill, "You must fund the commission and pay their expenses." I suggest that if the Federal Government wants to fund a commission, it ought to pay for it. Since commission members are to serve on a voluntary basis, this amendment provides that the legislatures are only liable for commission member expenses.

Another very important amendment which provides that Thunder Island and Wells Island be a part of the urban area rather than the special management area or the scenic area. There are three distinctions in this bill, simply because Wells Island is owned by the Port of Hood River. It is owned by the Port of Hood River and it is a part of the city limits of Hood River. Thunder Island is owned by the Port of Cascade Locks and within the city limits. But when you take designations out of the urban area into the scenic area, you place much greater restrictions on them. These are little ports on the Columbia River that are barely thriving but need to use the ownership of their own land for the future of their ports. It's not a degrading amendment; it certainly could not kill the legislation.

Next, an amendment that would allow fill and removal permit applications to be exempted from the definition of major development action, asked for by the Port of Cascade Locks, the Hood River Port, the Oregon Ports Association. Obviously an essential kind of activity of ports in the gorge itself. Not a destructive amendment.

I have asked that the office of the commission be located within the scenic area. If we are going to have a commission, we do not want to meet in Olympia and in Portland or Salem; we want it in the scenic area, of course.

An amendment that would delete the Hood River from the restrictions of hydroelectric development provided in the wild and scenic Rivers Act. This river has never been through the Wild and Scenic River Act operation. There are a number of people who live along the Hood River. Agriculture is a principal activity and certainly it ought not be tied up by an act of Congress that has nothing to do with the Wild and Scenic issue.

Another amendment which would, and this is very important, would allow the commission to establish its own guidelines for private lands within the special management area. If this amendment is not adopted, the Secretary of Agriculture, the Federal Government will direct control over private lands. Federal land use planning, Federal zoning; the first time, new granting of authority. Precedent that will follow through this Congress and those that follow, and you may be learning about this later as it presents itself in your State.

Finally, an opportunity for check and balance. An opportunity for a supermajority of the commission to override what the Federal Government does by going one step further and says, "If the commission is not already established, then the Governors of each of the respective States may veto Federal condemnation in the Gorge." What is wrong with that? That is local control; that is check and balance. I thought that is what we were all about.

These issues, my friends, are some that I cannot propose to you because of the restriction of this rule. Now let me say to you in closing that I have been through 13 sine dies in my experience in Government; over 26 years. I have never found one that reached this stage that did not pass bad legislation. Never found one; 13 sine dies in all; I have had a little experience here.

This is bad legislation. This rule gags my opportunity to speak for my people and I ask the Members to defeat it.

Mr. BONIOR of Michigan. Madam Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. WEAVER].

Mr. WEAVER. I thank the gentleman for yielding me this time.

Madam Speaker, I want to thank my distinguished colleague from the State of Michigan for his good words. I want to say if I characterize this legislation in any way and that is it is in openness. It has been before the House and the other body for 6 years. There have been four perhaps five or six different bills introduced by various Members of the House and the other body.

□ 1350

We have continually worked together, opening our negotiations to everyone throughout this 6 years. We had countless thousands of hours with the other body's members and staff, with the Forest Service and land agencies involved, with all the various Members of the House, my good colleagues from Washington and Oregon. We have kept the negotiating process wide open to everyone at all times. The welcome mat has been before the door; the wel-

come sign has been on the door to come on in and talk.

As an example of one of the things we did, my good and dear friend, the gentleman from Oregon [Mr. ROBERT F. SMITH], preceding me, spoke of a very great concern to him, the fact that there is condemnation, extremely limited condemnation in this. You cannot condemn single-family residences, farms, ranches, educational facilities, or anything like that.

But we put in, because the gentleman wanted it, the amendment he was discussing. It is in there. The local governments can override any condemnation authority, the Governor or the local government. That is in this bill.

This bill has been open to everyone, to come in and say what they need. It has been refined so many times to meet the needs of the local citizens, to meet the needs of the gorge, the lovely gorge itself, and that is why we felt that this rule was perfectly proper.

I will be frank with you that, as a member of both the Committee on Interior and Insular Affairs and the Committee on Agriculture, we wanted to open up those committees, but when we began marking up in the committee amendments that were agreed on, approved, what I would vote for and everyone would vote for, they would then ask for quorum calls and record votes after the amendment was agreed on.

Finally, after hours and hours of marking up and coming to 6, I believe, of the 84 amendments they had with each amendment even agreed to, having quorum calls and record votes, we felt that we would try to proceed through just negotiation.

The other body's four members from Washington and Oregon all support this bill and have passed it in the other body. The entire delegations of Washington and Oregon, both Republicans and Democrats, support this bill with two exceptions. So we believe that the process has been open, Madam Speaker. We believe everyone has been welcome and we feel there has been a fair and equitable process to get a refined bill. Hearings have been held in the gorge, among the counties there. People have had their say. We have had hearings in the Committees on Interior and Insular Affairs and Agriculture on this bill over the years, an open and complete process with other people's concerns always in mind.

But all we want to ask the House is to finally enact a bill, and not have it killed by quorum calls and amendments that are already agreed on.

With that, I ask the House to support the rule. I think it is a fair rule to all parties.

Mr. QUILLEN. Madam Speaker, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Madam Speaker, this is one of the worst examples of legislating that I have seen in my 14 years. Both committees of jurisdiction failed to report this bill. They failed to report the bill because they refused to consider Republican amendments.

It is a sad day when the will of two committees are thwarted and the whole House is asked to cover these failures for proper consideration by accepting a midnight rule on one of the last days of the session.

Other Members on this side of the aisle have stayed with this bill which is so strongly opposed by local residents.

Madam Speaker, I have over 200 telegrams in my office; people that settled the gorge said, "Don't take our land. Don't take away the future for our children. Don't deprive us of our dreams. We have taken care of the gorge, at least on the Oregon side."

Where do we come off as the Congress of the people taking lands by an act of Congress, without considering the Congressman who represents those people and their beliefs and their thoughts?

Maybe we ought to design a red flag and put a hammer and sickle over it, because that is what we are doing here. We are using the Government to take private land and lives away from people that belong to them, not through the due process of legislation, but because of a midnight rule that was denied at 4 o'clock, a midnight rule to appease certain people, and for what reason I do not know.

I have watched this Congress in 14 years prostitute itself and not use the committee system, come to the floor and propose amendments without due consideration and public input.

That is wrong. The subject does not bother me as much as the method that is being used here today.

I say, shame on this House, shame, because we are using Big Brother government. Do you know who owns all of the land in Russia today? The Federal Government. Do you know who owns most of the land in the United States today? The Federal Government.

We continue to take it away from the people. Let the States work out their problems. Oregon has done it; let Washington do it. Let us not be a part of this travesty in justice. Let us go back to this system that I am very proud of and have been proud of. Let us regain our strength of being a committee system. Let us not come to this floor in this late hour.

Mr. BONIOR of Michigan. Madam Speaker, I yield 5½ minutes to my colleague, the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Madam Speaker, I appreciate the gentleman from Michigan yielding this time to me.

I would just like to set on the table for the consideration of our colleagues today, all of our colleagues on both sides of the aisle, what this issue is.

This is a rule that makes it possible to consider and finally reach a conclusion on an issue of great importance to the people of the Pacific Northwest, both in the State of Washington and the State of Oregon. It is a debate that has gone on a long time, but the time for decision has come.

The bill is made in order by the rule that has the support of the two Republican Senators from the State of Washington. The bill we will consider, with the passage of this rule, has the support of the two Republican Senators from the State of Oregon. This bill has the support of Republicans and Democrats alike, unanimously, in the Washington State delegation. This bill has the support of three of the five Members in the House from the Oregon delegation.

There are only two Members of the entire Pacific Northwest delegation who oppose this bill.

The people of the region are calling for a resolution: Those who have resisted gorge legislation, but who have compromised; those who are intractable and will not compromise; and those who support vigorous legislation.

All are saying, except for the hardcore on some fringes, that a resolution is needed. We need to know what the rules are from this point forward. We need to get this issue behind us.

Mention has been made today of hundreds of telegrams that have come in from people who live in the gorge who oppose this legislation, and I do not doubt that there have been telegrams. But what has not been stated today is the fact that the Republican Member of the House of Representatives who is most directly affected by the legislation this rule makes in order supports this rule, supports this legislation, and he has the most at stake. I am referring, of course, to our colleague, and a man I feel is a great statesman in this House, the gentleman from Washington [Mr. MORRISON].

I want Members to know that this is not a gag rule. The gentleman from Oregon [Mr. ROBERT F. SMITH], a gentleman I have served with in the Oregon Legislature and now have served with in the Congress, is able, under this rule, to offer three amendments.

□ 1400

I listened very carefully to the objections the gentleman has, which he said are items he is prevented from offering in the form of amendments on the floor.

The SPEAKER pro tempore (Mrs. KENNELLY). The time of the gentleman from Oregon has expired.

Mr. BONIOR of Michigan. Madam Speaker, for purposes of debate only, I yield an additional 2½ minutes to the gentleman from Oregon.

Mr. AuCOIN. Madam Speaker, I appreciate the gentleman yielding this additional time.

I listened with great interest to my friend, the gentleman from Oregon [Mr. ROBERT F. SMITH] when he delineated the items he felt he was precluded from offering as amendments to this bill under this rule.

The truth is that the gentleman from Oregon has the ability to offer three amendments. Among those can be a substitute for the entire bill, so that within that substitute, if he so chooses, he can offer any amendment that covers any of his concerns.

Mr. ROBERT F. SMITH. Madam Speaker, will the gentleman yield?

Mr. AuCOIN. Of course, I yield to the gentleman from Oregon.

Mr. ROBERT F. SMITH. Madam Speaker, I just want to point out to my friend that the gentleman will be witnessing the offering of a substitute.

Mr. AuCOIN. Well, then, I would say to my friend, if that is the case, he should not object to the rule which permits him to offer the amendments that cover all his concerns. That amendment can embrace all his concerns. Those concerns can be heard by the whole House. He is in no way gagged. As a result, this is not a gag rule, but one that simply permits all concerns to be freely aired and debated and voted upon, so the House can act its will on an important piece of legislation that the gentleman's two Republican colleagues support, that his Republican Governor from the State of Oregon supports, and the gentleman is in no way bound or inhibited or prevented from representing his conscience, his views or his constituents.

Mr. ROBERT F. SMITH. Madam Speaker, will the gentleman yield?

Mr. AuCOIN. Of course, I yield to the gentleman from Oregon.

Mr. ROBERT F. SMITH. Madam Speaker, the point the gentleman fails to realize is simply that this bill came to us today. My opportunity to print, to put forward a substitute, was so limited that I had no chance to get my amendments in. I was prohibited by the Rules Committee from offering only 10.

Mr. AuCOIN. I would like to reclaim my time, Madam Speaker, and simply say that the gentleman's amendments were in legislative form, easy to cut and paste and put into the form of a substitute and offer on the floor. I think Members who have served here have been in a position where events here do move quickly and have been in a position to do that and have effectively done precisely that kind of thing, so that their legislation previously drafted can be repackaged in a form that can be offered in swiftly changing circumstances; so the gentleman is not precluded.

Let us vote for this rule. It is a fair rule that leads to a very important piece of legislation.

Mr. QUILLEN. Madam Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Madam Speaker, I think all of us in this House and every Member of the body should be ashamed and embarrassed by what has happened here today. In the last few days we have gone through a number of subversions of the process. Regardless of how they want to gloss over what has happened, let us go through a short history of what has happened here.

This bill has been around for 6 years. This is not a new idea, the taking of private property and trying to protect something that is really unprotectable by the human. I think we have done about as much damage as we can do to the gorge. The mountain to the north of it, Mount St. Helens blew up about 6½ years ago. It made a nasty gash in the countryside; but if you fly over this country as I do on a regular basis, we as human beings have made very little dent on this countryside. Sure, there are trees that come down and trees that grow, but I think as we start looking at what we are trying to do here, we are taking private property and we are trying a land use plan for the Federal Government.

This is highly controversial. We have about 97 percent of the people, some 48,000 people who live in the gorge, who are opposed to this legislation.

This is Big Brother looking over the fence and saying to somebody else, "That looks green and I would like to have it." That is what we are doing here.

This bill is really very poorly crafted. Sure, we have lots of amendments. We had 84 and in the subcommittee, the subcommittee of the gentleman from Minnesota [Mr. VENTO], and I would have to say to the gentleman from Minnesota that he was very fair in the way that he tried to offer us the time to consider those amendments; but if you are going to have 5 minutes for each Member talking about it, one of the amendments which was accepted after we voted on it was one that would allow an individual to build a garage next to a house they already own in the gorge without going to the Secretary of Agriculture to get a building permit. That is the kind of problem we have in this bill. We are talking about specifics here. We are not talking about dilatory.

So after about 15 different bills being put into the hopper this year, with the rewrites considered, we now have a real bill here that we are looking at.

Now, we have not seen this bill before. The bill that we were working on in the subcommittee and the Interior Committee, which was pulled from the subcommittee after about 3½ hours and six amendments, was a different bill. We have had the full committee pull the bill out of the subcommittee because of the so-called dilatory tactics.

What happened then, the gentleman from Oregon [Mr. WEAVER], offered a three-line bill which struck everything but the enacting clause, so that effectively the Interior Committee has not considered this bill or any other bill.

We recessed for a lack of quorum in trying to vote out this three-line bill. We recessed until 4 o'clock in the afternoon. At approximately 4 o'clock we had a vote on the House floor and we were precluded from being there.

The gentleman from Idaho [Mr. CRAIG] and I were walking back to the committee when out of the committee room came the committee members, of which I was told there were about 10 or 11.

Now, remember, we recessed the full committee for lack of quorum trying to vote it out. When we got to that point, we were told that the committee had just by unanimous consent sent the bill to the House floor. This is a three-line bill. We are not talking about where we might have voted equally. The majority clearly controls the numbers on this committee. We would have lost.

Why did they subvert the process? In the Interior Committee, we did not get the chance to do anything that we should have done, which was to offer these amendments. They can say otherwise. The gentleman from Minnesota [Mr. VENTO] started to do that, but it did not really work out that way.

I might say that Chairman UDALL, upon my talking to him about it, said, "Well, SMITTY, this isn't our finest hour." I think he is very correct on that.

The Agriculture Committee dealt with it a little more straightforward. They just refused to consider it after a number of amendments were offered and went on down the road.

Yesterday at 4 o'clock we had an emergency meeting of the Rules Committee to consider this bill. After approximately 45 minutes, the chairman of the Rules Committee, the gentleman from Florida [Mr. PEPPER] decided that we were not going to take this bill up.

Then we had pressure and so forth, so that we had an emergency meeting of the Rules Committee at 12:30 at night to consider a bill that has been around here for 6 years and in the final hours of the session is to be considered. It does not really look like it is

a good deal for anyone, let alone the people that I represent in Oregon or that any of you represent anywhere in this country.

This rule does allow three amendments. We had 84.

We could come up with many problems in this bill, things that need to be addressed. Nobody else on the subcommittee, Congressmen CHENEY, DON YOUNG, BOB LAGOMARSINO, LUJAN, we all had amendments to this.

The SPEAKER pro tempore (Mr. NATCHER). The time of the gentleman from Oregon [Mr. DENNY SMITH] has expired.

Mr. DENNY SMITH. Mr. Speaker, could the gentleman yield 1 additional minute to me?

Mr. QUILLEN. I am sorry, I have no additional time.

Mr. DENNY SMITH. Mr. Speaker, I request a "no" vote on this bill.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I thank the gentleman for yielding these few minutes.

I want to say from the outset that I have no better friend and I have no higher respect for any Member of this House of Representatives than I do for my colleague, the gentleman from Oregon, Mr. BOB SMITH, who in fact represents the area where I grew up as a child, so I feel some compelling reasons to stand before you today and take what is a difficult position, and that is to oppose a very dear friend.

I think the question on this rule is should we consider the bill? That is clearly what we are debating. My answer is "yes", we should.

Is this, as I think it has been characterized, an unreasonable measure, is it radical? No, I believe not.

It has been pointed out that the Governor of Oregon, a Republican, both Republican Senators from Oregon and the Republican Senators from Washington have approved this bill.

The time is the problem. The process has come about because of the time. There were options discussed even of bringing this bill to the floor on the suspension calendar. Well, that would not even have allowed any amendments whatsoever. We simply would have had a true jamming of the bill through.

This is not a perfect bill. It is not a perfect opportunity for my good friend. It is not exactly the right way to do it, but those opportunities are rarely afforded to us in a legislative body. We have to go with what we have.

This bill ought to be considered today. We ought to reject the notion that simply because it is late, which we all know, that we ought not to consider it. Too much has gone into it. Too much is at stake. Too little time is left for us to simply say let us vote against the rule and not consider the bill.

Mr. Speaker, I urge my colleagues to approve the rule and consider the bill under the provisions of the rule.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, I do not think that anything will exhibit a clear-cut picture better of the ramrodding, bulldozing and railroading of this bill than to review the schedule of events that occurred with regard to this legislation.

I would like to ask the gentleman from Oregon [Mr. DENNY SMITH], what was the committee of primary jurisdiction that this bill was first referred to?

I yield to the gentleman from Oregon.

Mr. DENNY SMITH. It was jointly referred to both the Interior and Agriculture Committees, I understand.

Mr. MARLENEE. But what committee has primary jurisdiction?

Mr. DENNY SMITH. Interior.

Mr. MARLENEE. The Interior Committee has primary jurisdiction?

Mr. DENNY SMITH. Yes.

Mr. MARLENEE. When this bill was first introduced to the Interior Committee this year and when we first considered it in the Interior Committee, when had it been introduced?

Mr. DENNY SMITH. I understand that the bill we considered in the Interior Committee had been introduced on October 1.

Mr. MARLENEE. October 1, and if my memory serves me correctly, October 3 was the date that they passed the bill out of the committee.

Mr. DENNY SMITH. I think that is correct—well, no, it was passed out on the 5th, I think.

Mr. MARLENEE. If we can call it passed out.

Mr. DENNY SMITH. They tried to pass it out on the 3d, but there was a lack of a quorum.

Mr. MARLENEE. So, No. 1, the committee of primary jurisdiction was the Interior Committee?

Mr. DENNY SMITH. Yes.

Mr. MARLENEE. No. 2, the bill that we were considering was introduced on October 1 and October 3 or October 5, somewhere thereabouts; we passed that bill out of the committee. Was there a quorum present when this bill was passed out of the committee?

Mr. DENNY SMITH. If the gentleman will yield further, there was not a quorum present when the bill was passed out.

Mr. MARLENEE. Was the bill passed out on a voice vote?

Mr. DENNY SMITH. It was passed out on a unanimous-consent request with the gentleman from Ohio [Mr. SEIBERLING] in the chair.

Mr. MARLENEE. Was there a quorum call for passage pending on the bill when it was passed by unanimous consent?

Mr. DENNY SMITH. When we recessed in the morning hours about 11 o'clock, I believe, there was a quorum call with a vote pending to vote the bill out to the floor.

Mr. MARLENEE. Obviously, a quorum call that they could not fill, so they vacated that quorum call, passing out a piece of legislation on a voice vote, a major piece of legislation. And what piece of legislation did they pass out? Is this the particular piece of legislation they passed out?

Mr. DENNY SMITH. It is the bill that had everything but the enacting clause struck from it, so that the Interior Committee has never dealt with the bill that we have today.

Mr. MARLENEE. And the bill that we had today, if the gentleman would answer this question, the bill that we are considering today, what date was that introduced into the House of Representatives?

Mr. DENNY SMITH. I believe it was yesterday when the gentleman from Oregon [Mr. WEAVER] worked it up and handed it to the Rules Committee. It was not in a printed form.

Mr. MARLENEE. So neither committee, the Agriculture Committee to which it was referred, nor the Interior Committee, the committee of prime jurisdiction, had an opportunity to look at this bill or pass it out of that appropriate committee; is that correct?

□ 1415

Mr. DENNY SMITH. The gentleman is absolutely correct. Neither committee has considered this bill.

Mr. MARLENEE. Much has been made of the due parliamentary process which has been followed here, but it seems to me that it has been completely abdicated and this House of Representatives is willing to consider on this floor in the House of Representatives a bill that impacts 41,000 people, takes away their rights, and subjects them to condemnation, subjects them to Federal control by a commission on which they may not even have representation.

Mr. Speaker, in the subcommittee of the Committee on Agriculture, was this bill that we are now talking about right here considered?

Mr. ROBERT F. SMITH. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Oregon.

Mr. ROBERT F. SMITH. It was not.

Mr. MARLENEE. On the bill that we did consider, did the gentleman have opportunities to offer amendments?

Mr. ROBERT F. SMITH. I did.

Mr. MARLENEE. And when those amendments were passed out of the subcommittee, were they not taken out when they got to the full committee?

Mr. ROBERT F. SMITH. There was one taken out, but we did not have a chance because of the quorum problems to continue on with the discussion in the full Committee on Agriculture. Therefore, a final decision was not reached.

Mr. MARLENEE. Is the gentleman telling me that no bill was passed out of the Committee on Agriculture?

Mr. ROBERT F. SMITH. That is correct; no bill came forward.

Mr. MARLENEE. So we had no bill passed out of the Agriculture Committee, we had essentially no bill passed out of the Interior Committee, we take up a bill today—today—that was introduced yesterday, and when was the rule granted?

Mr. ROBERT F. SMITH. I am sorry—correction—the bill was introduced today, after midnight. We are still in the same day.

Mr. MARLENEE. Well, events have been compressed and bulldozed together.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I rise in support of this rule.

Mr. Speaker, I am proud to say that literally thousands of acres in my district are part of the Columbia River Gorge. The Columbia River Gorge is truly a national nugget, and in my district we boast Multnomah Falls, perhaps the highest in the country outside of Yosemite. We also have the western part of the historic Columbia River Scenic Highway, and this bill will help restore that.

Mr. Speaker, we have already made mention of the fact that this is an important preservation bill, but for many of my constituents who do live in the gorge, this is also going to be a critical jobs bill. The reason that it is a jobs bill, Mr. Speaker, is that it is going to promote tourism in Oregon and throughout the Pacific Northwest. The fact of the matter is that tourism is our third largest employer at this point. In fact, it is the fastest-growing sector of the Oregon economy. We are now seeing more than $2 billion in tourism throughout our State, and there is no question in my mind that that figure is going to rise as a result of the shot in the arm that this bill is going to give our economy.

Mr. Speaker, the only other point that I would want to mention is that there is a bipartisan coalition of Members who represent many citizens in many communities that are part of the gorge behind this bill: the gentleman from Washington [Mr. BONKER], the gentleman from Washington [Mr. MORRISON], and myself all literally have tens of thousands of acres of gorge lands that are going to be part of this legislation.

Mr. Speaker, I want all of my colleagues to understand that there is a bipartisan coalition in this House that favors this rule at this time that represents communities and citizens that live in the gorge.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I rise to urge the House to adopt the rule which will allow us to consider H.R. 5705, a bill to establish a Columbia River Gorge National Scenic Area.

For almost a decade, people concerned about preserving this natural wonder that stretches along the Columbia River between Washington and Oregon have sought congressional assistance in coming up with a joint management and conservation plan. For years, Congress has wrestled with this issue. In the last 2 years, I have seen the Washington State congressional delegations wrestle with this issue, and we now have a bill that a majority of Members on both sides of the aisle from Washington and Oregon support.

Mr. Speaker, this rule is fair to those who oppose the bill. It will allow consideration of three amendments. I do not support these amendments, but I do believe that the gentleman from Oregon [Mr. ROBERT F. SMITH] is entitled to offer them.

I ask the House to approve this rule, to defeat the amendments of the gentleman from Oregon [Mr. ROBERT F. SMITH], and to pass H.R. 5705. This is a good bill, it is a fair bill, it is a sensible approach to preserving this national and natural scenic wonder, and it should be passed by Congress and signed into law.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, I would like to comment on some of the remarks that have been made concerning the pending rule. Those remarks remind me of the old verse about "ghoulies and ghosties and long-legged beasties, and things that go bump in the night." And despite the closeness of Halloween, there are no ghoulies and ghosties and long-legged beasties in this rule.

It is a fair and just rule, and provides the gentleman from Oregon, who does have a stake in this legislation, to offer his amendments. He stated at the outset that he had 10 amendments, and of course, if we had allowed all of the amendments to be offered today, we would make it a long afternoon. He was asked to be able to package his amendments in any way he desired, so that he could present them and his case on behalf of his constituents. This is certainly not a gag rule, as he claims.

The Rules Committee did convene at midnight, in order to make available a rule for consideration today. As we all know, once the Rules Committee has offered a rule for a bill, there is a 1 day layover. We are winding down this 99th Congress, and had we convened the Rules Committee this morning, as was previously agreed to, then we would have to take up the gorge legislation tomorrow at a time when we may be finishing up our legislative business and Members would be anxious to leave town.

In other words, the Rules Committee convened last evening for the purpose of granting a rule, which they were going to do anyway, so that we could take up the gorge bill today when we have empty time, instead of tomorrow, when we are all pressed to get back to our districts. So I think that the Rules Committee has acted properly.

The other point that I would like to make concerns the obvious fact that this is a regional issue. It involves two States—Oregon and Washington. What Members should know is that the impact of this legislation will be upon the private lands, and 90 percent of the private lands are on the Washington side, 10 percent on the Oregon side. Ninety percent are on the Washington side, and its entire congressional delegation supports the bill. Five Republicans and five Democrats in this congressional delegation all support the bill and the rule.

So I think that we have approached this in a bipartisan way and in a deliberative way. I think that the Rules Committee has been fair and just. Mr. SMITH will have his opportunity to propose his amendments. We will debate them and vote them up and down.

Mr. Speaker, I would like to say that Members can oppose the bill on its merits, but I think that they ought to support the rule because of its fairness.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I hardly ever speak on rules, but I rise in very strong opposition to this rule on H.R. 5705, to establish the Columbia River Gorge National Scenic Area. It is just too late in the session to be considering such a complex and controversial piece of legislation. I believe an acceptable bill could be worked out. However, the consideration of the Columbia Gorge issue in the House has been a complete perversion of the legislative process.

During debate on the issue in the Interior Committee, of which I am a member, the bill was not reported from the subcommittee due to strong opposition to the bill. The bill was then brought before the full committee which discharged the subcommittee from further action and proceeded to approve a two-line shell bill, introduced by the gentleman from Oregon [Mr. WEAVER], without a quorum present. The Republicans had prepared approximately 80 good, solid amendments to this legislation, but were never presented the opportunity to offer even one of the amendments during full committee action.

I am told that when the Agriculture Committee considered the bill, the gentleman from Oregon, Mr. BOB SMITH, was unable to offer all of his amendments for consideration since the chairman of the committee adjourned the session for lack of a quorum.

Therefore, those who had prepared amendments were never allowed the opportunity to offer them. They never had the chance to improve what they believed was a seriously flawed bill. Furthermore, none of the House or Senate committees which considered this bill prepared or filed a committee report. I doubt that many Members of this body even know what is included in this bill.

I believe the rules action on this bill was also a perversion of the process. The committee deferred further action on a rule yesterday afternoon due to the controversy surrounding the bill. They then proceeded to grant a rule for the bill after midnight. The rule is for a bill which was only introduced in the House yesterday and which had not even been printed. It has never been considered by any House committees. The only bill concerning the Columbia River Gorge which was reported to the House, without a quorum I might add, was the two-line shell bill. Furthermore, the rule only provides for consideration of three amendments even though several Members had indicated to the rules committee that they had prepared numerous amendments which they wanted to offer to the bill.

Mr. Speaker, if this rule is approved, it will be a sad commentary on the democratic process. All of the rules have been stretched—if not broken—on this issue; the process has been thwarted. I urge all of my colleagues to oppose this rule and send this bill back to the committees where it can be appropriately considered next year.

□ 1425

Mr. BONIOR of Michigan. Mr. Speaker, may I inquire as to the time remaining?

The SPEAKER pro tempore (Mr. NATCHER). The gentleman from Michigan [Mr. BONIOR] has 6½ minutes remaining, and the gentleman from Tennessee [Mr. QUILLEN] has 1 minute remaining.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, my friend and colleague from Oregon, BOB SMITH, has accurately described the differences between the two States, and obviously those differences exist or we probably would not have this legislation in front of us today.

I want to point out that the gentleman from Oregon [Mr. SMITH] has been very constructive trying to represent his constituents, just as I have. My druthers are not really represented in this bill today. I would start with strictly local counties working out their own problems on land use. My second choice would be coordinated efforts through State agreements between the two States. But these just have not worked in the past, as evidenced by the frustrations of the last 40 years.

There is a need for some modest role of the Federal Government, and that is because there is so much Federal land already involved in this Columbia Gorge area. Through the years this Congress has done some interesting things with land. This bill does establish some new precedents.

Heretofore, for 14 areas around the Nation that the Forest Service already handles, the boundaries of the Federal forests have been modified to take in outside areas. That is not the goal in this case. The goal is to protect scenic values. We are establishing a national scenic area. The boundaries of the national forest are not extended. The hope is to keep these lands in private hands and to coordinate, with the help of a bistate commission, locally appointed, to determine what sort of scenic values protecting are to be established. The goal is to keep it private, protect the scenic values and not extend the boundaries of the national forest.

As far as the rule is concerned, which is the current debate, I would prefer no limitation on amendments. I have additional changes in this bill that I would like to make, but I will vote for the rule. Under the circumstances, it is the best that we can do.

The next bill that we would see in this same subject area next year will be worse. I feel badly about the Interior Committee procedure that makes some of my colleagues very unhappy, but let me defend the Agriculture Committee. The proceedings there were totally fair. The Forestry Subcommittee held a field hearing in the Columbia River Gorge, listened to over 80 witnesses, held a thorough markup, every amendment was considered. In the Agricultural Committee it was only because of a series of quorum calls that there was no opportunity to fully process the bill. I wish we could have completed consideration, because we would have a better bill here in front of us now.

We currently have the only package that seems to be available to us. So in spite of the fact that there has been some unhappiness over process, I prefer to look at the issue that is before us right now, and I do ask my colleagues to support the rule.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. MORRISON of Washington. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Speaker, was a bill passed out of the Agriculture Committee?

Mr. MORRISON of Washington. No, unfortunately, for lack of a quorum after several quorum calls, the gentleman from Oregon, Mr. SMITH's amendments were not further considered, and so that version of the bill remains in the hands of the Agriculture Committee.

Mr. MARLENEE. I thank the gentleman for yielding.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I stand in opposition to the rule today for all of the reasons that have been spoken here this afternoon by those who do oppose it, and they are numerous.

But there is another reason that I think is so fundamental in this issue, and that is, How do we deal with our constituents at home when in fact they stand so loudly and clearly and say they do not want Federal control over their lives? But in our wisdom, in our righteous wisdom we say we know better.

The legislation you will be dealing with this afternoon is a demonstration of this body saying to the citizens of the State of Washington we know better, we are brighter, we are more intelligent and, therefore, we will determine your destiny and how you will control your land and how you will live your lives. That is what this legislation is saying. It is so fundamentally clear and it has been said before.

THE WASHINGTON LEGISLATURE'S MEMORIAL, APRIL 28, 1983

To the Honorable Ronald Reagan, President of the United States, and to the President of the Senate and the Speaker of the House of Representatives, and to the Senate and House of Representatives of the United States, in Congress assembled:

We, your Memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

Whereas, The Columbia River Gorge is the home of forty-one thousand residents of the states of Washington and Oregon who

live in the location by choice, and as free and responsible citizens have managed their area in a prudent, conservation-minded manner; and

Whereas, The Columbia River Gorge is a vital transportation corridor and economic link between the Northwest and the products and markets of the nation and the world; and

Whereas, Congressional proposals have been made to place the Columbia River Gorge under centralized federal control, which proposals conflict with the sentiments expressed by the people in votes and polls in overwhelming opposition to the federal control; and

Whereas, The Senate and House of Representatives of the State of Washington oppose imposition of any further federal control over nonfederal land in the Columbia River Gorge;

Now, therefore, Your Memorialists respectfully pray that Congress refrain from considering legislation imposing further federal control over nonfederal land in the Columbia River Gorge.

Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable Ronald Reagan, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, through their elected Representatives in the State of Washington and Oregon the vast majority of people in the Northwest have spoken clearly and eloquently of the need to preserve this national treasure, the Columbia River Gorge. I think we give a wonderful gift to the American people, and in particular to the people of that part of the country with the passage of this bill which has been so long before this Congress.

I urge my colleagues to vote in a bipartisan way as we have had bipartisan leadership on this issue for this rule and for the bill.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Ohio, for purposes of debate only.

Mr. SEIBERLING. Mr. Speaker, I rise in support of the rule. It is a simple issue. All we are trying to do is give the House an opportunity to disgorge this little bill.

Mr. BONIOR of Michigan. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 138, not voting 42, as follows:

[Roll No. 479]

YEAS—252

Abercrombie	Fowler	Nowak
Ackerman	Frank	Oakar
Akaka	Frost	Oberstar
Alexander	Fuqua	Obey
Anderson	Gallo	Ortiz
Andrews	Garcia	Owens
Annunzio	Gaydos	Panetta
Anthony	Gejdenson	Pease
Applegate	Gibbons	Penny
Aspin	Gilman	Pepper
Atkins	Gingrich	Perkins
AuCoin	Glickman	Price
Barnard	Gonzalez	Pursell
Barnes	Gordon	Rahall
Bates	Gray (IL)	Rangel
Bedell	Gray (PA)	Reid
Beilenson	Green	Richardson
Bennett	Guarini	Rinaldo
Berman	Hall (OH)	Ritter
Bevill	Hall, Ralph	Rodino
Biaggi	Hamilton	Roe
Boggs	Hatcher	Roemer
Boland	Hawkins	Rose
Boner (TN)	Henry	Rostenkowski
Bonior (MI)	Hertel	Roth
Borski	Horton	Rowland (CT)
Bosco	Howard	Rowland (GA)
Boucher	Hoyer	Roybal
Boxer	Hubbard	Russo
Brown (CA)	Huckaby	Sabo
Bruce	Hughes	Savage
Bryant	Hutto	Saxton
Burton (CA)	Jenkins	Scheuer
Bustamante	Johnson	Schroeder
Byron	Jones (NC)	Schumer
Carney	Kanjorski	Seiberling
Carper	Kastenmeier	Sharp
Carr	Kennelly	Shelby
Chandler	Kildee	Sikorski
Chapman	Kleczka	Sisisky
Chappell	Kolter	Skelton
Clay	LaFalce	Slattery
Clinger	Lantos	Smith (FL)
Coble	Leach (IA)	Smith (IA)
Coelho	Lehman (CA)	Smith (NJ)
Coleman (TX)	Lehman (FL)	Solarz
Collins	Leland	Spratt
Conte	Levin (MI)	St Germain
Coyne	Levine (CA)	Staggers
Crockett	Lipinski	Stallings
Daniel	Lloyd	Stark
Darden	Long	Stenholm
Daschle	Lowry (WA)	Stokes
de la Garza	Luken	Stratton
Dellums	MacKay	Studds
Dicks	Madigan	Swift
Dingell	Manton	Synar
Dixon	Markey	Tauzin
Donnelly	Martinez	Thomas (GA)
Dorgan (ND)	Matsui	Torres
Dowdy	Mavroules	Torricelli
Downey	Mazzoli	Traficant
Durbin	McCloskey	Traxler
Dwyer	McCurdy	Udall
Dymally	McDade	Valentine
Dyson	McHugh	Vento
Early	McMillan	Visclosky
Eckart (OH)	Meyers	Volkmer
Edgar	Mica	Waldon
Edwards (CA)	Mikulski	Walgren
English	Miller (CA)	Watkins
Erdreich	Miller (WA)	Waxman
Evans (IL)	Mineta	Weaver
Fascell	Moakley	Wheat
Fawell	Mollohan	Whitley
Fazio	Montgomery	Wilson
Feighan	Morrison (CT)	Wirth
Fish	Morrison (WA)	Wise
Flippo	Mrazek	Wolpe
Florio	Murphy	Wortley
Foglietta	Myers	Wyden
Foley	Natcher	Yates
Ford (MI)	Neal	Yatron
Ford (TN)	Nelson	Young (MO)

NAYS—138

Armey	Hillis	Roberts
Badham	Holt	Robinson
Bateman	Hopkins	Rogers
Bentley	Hunter	Roukema
Bereuter	Hyde	Schaefer
Bilirakis	Ireland	Schneider
Billey	Jacobs	Schuette
Boehlert	Jeffords	Schulze
Boulter	Kasich	Sensenbrenner
Broomfield	Kolbe	Shaw
Brown (CO)	Kramer	Shumway
Burton (IN)	Lagomarsino	Shuster
Callahan	Latta	Siljander
Chappie	Lent	Skeen
Cheney	Lewis (CA)	Slaughter
Coats	Lewis (FL)	Smith (NE)
Cobey	Lightfoot	Smith, Denny (OR)
Coleman (MO)	Livingston	
Combest	Loeffler	Smith, Robert (NH)
Coughlin	Lott	
Courter	Lowery (CA)	Smith, Robert (OR)
Craig	Lujan	
Crane	Lungren	Snowe
Dannemeyer	Mack	Snyder
Daub	Marlenee	Solomon
DeLay	Martin (IL)	Spence
DeWine	McCandless	Stangeland
Dickinson	McCollum	Strang
DioGuardi	McEwen	Stump
Dornan (CA)	McKernan	Sundquist
Dreier	Michel	Swindall
Duncan	Miller (OH)	Tallon
Eckert (NY)	Molinari	Tauke
Edwards (OK)	Monson	Taylor
Emerson	Moorhead	Thomas (CA)
Evans (IA)	Nielson	Vander Jagt
Fields	Olin	Vucanovich
Franklin	Oxley	Walker
Frenzel	Packard	Weber
Gekas	Parris	Whitehurst
Goodling	Pashayan	Whittaker
Gradison	Petri	Williams
Gregg	Porter	Wolf
Gunderson	Quillen	Wylie
Hammerschmidt	Ray	Young (AK)
Hendon	Regula	Young (FL)
Hiler	Ridge	Zschau

NOT VOTING—42

Archer	Hansen	McGrath
Bartlett	Hartnett	McKinney
Barton	Hayes	Mitchell
Bonker	Hefner	Moody
Breaux	Jones (OK)	Moore
Brooks	Jones (TN)	Murtha
Campbell	Kaptur	Nichols
Conyers	Kemp	Pickle
Cooper	Kindness	Rudd
Davis	Kostmayer	Sweeney
Derrick	Leath (TX)	Towns
Fiedler	Lundine	Weiss
Gephardt	Martin (NY)	Whitten
Grotberg	McCain	Wright

□ 1445

The Clerk announced the following pair:

On this vote:

Mr. Hayes for, with Mr. Hansen against.

Mr. RAY changed his vote from "yea" to "nay."

Mr. COBLE and Mrs. BOXER changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the con-

currence of the House is requested, bills of the House of the following titles:

H.R. 2776. An act to amend the District of Columbia Stadium Act of 1957 to direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium to the District of Columbia;

H.R. 4208. An act to authorize appropriations for the Coast Guard for fiscal year 1987, and for other purposes; and

H.R. 5167. An act to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia.

The message also announced that the Senate had passed bills, joint resolution, and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 485. An act to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the treatment of submerged lands and ownership by the Alaskan Native Corporation;

S. 2243. An act to improve the health status of Native Hawaiians, and for other purposes;

S.J. Res. 428. Joint resolution granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact;

S. Con. Res. 171. Concurrent resolution to correct the enrollment of House Joint Resolution 626; and

S. Con. Res. 172. Concurrent resolution to convene the Congress in Philadelphia, Pennsylvania, on July 16, 1987, in order to commemorate the 200th anniversary of the Great Compromise creating the basis of representation between the Senate and the House of Representatives.

AUTHORIZING CORRECTIONS IN ENROLLMENT OF H.J. RES. 626, PALAU COMPACT OF FREE ASSOCIATION ACT

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all committees be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 171) to correct the enrollment of House Joint Resolution 626.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. (Mr. NATCHER). Is there objection to the request of the gentleman from Ohio?

Mr. ROBERT F. SMITH. Reserving the right to object, Mr. Speaker, I do so in order to yield to the distinguished gentleman from Ohio for an explanation of his unanimous consent request.

Mr. SEIBERLING. Mr. Speaker, I would be glad to respond to the gentleman, and let me say, if the gentleman will yield, that this concurrent resolution has been passed by the Senate to make certain changes in the enrollment of the Senate's amendment to the House's resolution ratifying the Compact of Free Association with Palau.

The changes that will be made by this concurrent resolution have been discussed between House Members and Members of the other body and have been agreed to. They are essentially technical changes, except for one which addresses the moral commitment of the United States with respect to certain important programs that are now in place for people in the Marshall Islands affected by American nuclear testing after World War II.

The Senate resolution now before us would not amend existing law dealing with those programs, but would be a separate expression of congressional intent.

In my opinion, the changes improve the Palau compact legislation sufficiently that if the House adopts this concurrent resolution, the way will be clear for us to immediately proceed to bring up the Palau compact legislation and to clear the way for its passage.

Two of the programs originally part of the provision about which the House wanted reassurance regarding future funding were removed in the course of negotiations with the Senate, by mutual agreement.

Provisions dealing with the Prior Service Benefits Program were deleted for two reasons: First, because the Urgent Supplemental Appropriations Act of 1986 (P.L. 99-349) contained $8 million for "initial capitalization" of the fund. Second, because the Appropriations Committees of the U.S. Congress have agreed to look at the need for any additional funding once the appropriate officials have presented to them facts and information regarding the total cost of completing this program for the designated beneficiaries.

The provisions addressing the Enjebi Community Trust Fund were also removed. This trust fund was initially funded by the U.S. Congress with $2.75 million in the Urgent Supplemental Appropriations Act of 1986 referred to above. We were then informed that there is yet another $2.25 million in the continuing resolution for fiscal year 1987, along with conference report language committing the Appropriations Committees to completing the funding of the trust fund up to the $10 million level that was originally recommended by the Interior and Insular Affairs Committee. Because we believe that the Appropriations Committees have shown determination to meet this commitment, and that they will persevere until the commitment has been fully met, provisions regarding this trust are not included in the expression of congressional intent.

The remaining programs, all part of the 103(h) of Public Law 99-239, which provide for the Special Medical Program with its logistical support for the nuclear victims from Rongelap and Utrik, which provide a support program of agricultural maintenance, food, and boat transportation for the Enewetak people, and which provide a food supplemental program for Bikinians, are addressed in a provision in this concurrent resolution, which amends House Joint Resolution 626. The provision stipulates that it is the sense of Congress that these three programs "represent special and continuing moral commitments of the United States which will be annually funded to the extent of the need of the populations of such atolls for such assistance." We are hopeful that this will ensure that there be no disruptions in the annual funding of these critically needed programs so long as they are needed by these people. Further, we do not view this in any way as undermining the House's position regarding the legal status of these programs but rather as bolstering it.

Mr. ROBERT F. SMITH. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I shall not object. The gentleman from Ohio has already explained the resolution.

I am in strong support of the resolution. It is something that we have worked out. I think it is in the best interests not only of the island community but of the United States itself.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman and all the other gentlemen on the minority side and the gentlemen in the other body, particularly our colleague Senator MCCLURE, for the cooperative way in which this has been worked out. I join with the gentleman in urging of this resolution.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 171

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the joint resolution (H.J. Res. 626) to approve the "Compact of Free Association" between the United States and the Government of Palau, the following corrections shall be made:

(1) In section 101(d)(1)(B), insert "the Committees on Interior and Insular Affairs and Foreign Affairs and other" before "appropriate Committees of the House of Representatives".

(2) In section 101(d)(2) strike "(B)" and insert "(C)".

(3) In section 102(b), add "as amended," after "Public Law 99-239,".

(4) In section 104(c), strike "fiscal year 1985" each time such words occur and in each instance insert in lieu thereof "fiscal year 1986".

(5) In section 104(f), strike "Public Law 99-396" and in lieu thereof insert "Public Law 99-366".

(6) In section 104(g), strike "preclude" and in lieu thereof insert "exclude, limit".

(7) In section 242(c)(4) of Title II, strike "chapter V" and insert "title V".

(8) Following Section 104(j) insert new subsection (k) as follows:

"(k) The Departments of Energy and Interior are directed to provide the Committees on Appropriations of the House and Senate with a report by December 1 of each fiscal year detailing how funds were spent during the previous fiscal year for the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Enewetak and Bikini as referenced in Section 103(h) of Public Law 99-239. The report shall also specify the anticipated needs during the current and following fiscal years in order to meet the radiological health care and logistical support program for Rongelap and Utrik and the planting, agricultural maintenance, and food programs for Enewetak and Bikini. It is the sense of the Congress that the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Enewetak and Bikini described in section 103(h) of Public Law 99-239 represent special and continuing moral commitments of the United States which will be annually funded to the extent of the need of the populations of such atolls for such assistance."

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PALAU COMPACT OF FREE ASSOCIATION ACT

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 626) to approve the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment as follows:

Strike out all after the resolving clause and insert:

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND UNITED STATES POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

APPROVAL OF COMPACT OF FREE ASSOCIATION

SEC. 101. (a) APPROVAL.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of Palau is hereby approved, and Congress hereby consents to the agreements as set forth on pages 154 through 405 of House Document 99-193 of April 9, 1986 (hereafter in this joint resolution referred to as subsidiary or related agreements), as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(b) REFERENCE TO THE COMPACT.—Any reference in this joint resolution to the "Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of this joint resolution.

(c) AMENDMENT, CHANGE, OR TERMINATION OF THE COMPACT AND CERTAIN AGREEMENTS.—(1) Mutual agreement by the Government of the United States as provided in the Compact which results in amendment, change, or termination of all or any part thereof shall be affected only by act of Congress and no unilateral action by the Government of the United States provided for in the Compact, and having such result may be effected other than by Act of Congress.

(2) The provisions of paragraph (1) shall apply—

(A) to all actions of the Government of the United States under the Compact including, but not limited to, actions taken pursuant to sections 431, 432, 441, or 442;

(B) to any amendment, change, or termination in any agreement that may be concluded at any time between the Government of the United States and the Government of Palau regarding friendship, cooperation and mutual security concluded pursuant to sections 321 and 323 of the Compact referred to in section 462(h);

(C) to any amendment change, or termination of the agreements concluded pursuant to Compact sections 175 and 221(a)(4), the terms of which are incorporated by reference into the Compact; and

(D) to the following subsidiary agreements, or portions thereof:

(i) Article II of the agreement referred to in section 462(a) of the Compact;

(ii) Article II of the agreement referred to in section 462(b) of the Compact;

(iii) Article II and Section 7 of Article X of the agreement referred to in section 462(f) of the Compact;

(iv) the agreement referred to in section 462(g) of the Compact;

(v) Articles II, III, IV, V, VI, and VII of the agreement referred to in section 462(h) of the Compact; and

(vi) Articles VI, XV, and XVII of the agreement referred to in section 462(i) of the Compact.

(d) EFFECTIVE DATE.—(1) The authority of the President to agree to an effective date for the Compact of Free Association between the United States and Palau concurrently with termination of the Trusteeship shall be carried out in accordance with this section, and the Compact shall not take effect until after—

(A) The President has certified to the Congress that the Compact has been approved in accordance with Section 411 (a) and (b) of the Compact, and that there exists no legal impediment to the ability of the United States to carry out fully its responsibilities and to exercise its rights under Title Three of the Compact, as set forth in this Act, and

(B) enactment of a joint resolution which has been reported by the Committee on Energy and Natural Resources of the Senate and the appropriate Committees of the House of Representatives authorizing entry into force of the Compact, and

(C) agreements have been concluded with Palau which satisfy the requirements of Section 102 of Public Law 99-239. For the purpose of this subsection the word "Palau" shall be substituted for "Federated States of Micronesia" whenever it appears in Section 102 of Public Law 99-239.

(2) Any agreement concluded with Palau pursuant to subparagraph 101(d)(1)(B) of this title and any agreement which would amend, change, or terminate any subsidiary agreement or related agreement, or portion thereof, as set forth in paragraph (4) of this subsection shall be submitted to the Congress. No such agreement shall take effect until after the expiration of 30 days after the date such agreement is so submitted (excluding days on which either House of Congress is not in session.)

(3) No agreement described in paragraph (2) shall take effect if a joint resolution of disapproval is enacted during the period specified in paragraph (2). For the purpose of expediting the consideration of such a joint resolution, a motion to proceed to the consideration of any such joint resolution after it has been reported by an appropriate committee shall be treated as highly privileged in the House of Representatives. Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of Public Law 94-329.

(4) The subsidiary agreement or portions thereof referred to in paragraph (2) are as follows:

(A) Articles III and IV of the agreement referred to in section 462(b) of the Compact.

(B) Articles III, IV, V, VI, VII, VIII, IX, and X (except for section 7 thereof) of the agreement referred to in section 462(f) of the Compact.

(C) Articles IV, V, X, XIV, XVI, and XVII of the agreement referred to in section 462(i) of the Compact.

(D) Articles II, V, VI, VII, and VIII of the agreement referred to in section 462(h) of the Compact.

(E) The agreement referred to in section 462(j) of the Compact.

(5) No agreement between the United States and the Government of Palau which would amend, change, or terminate any subsidiary or related agreement, or portion thereof, other than those set forth in subsection (d) of this section or paragraph (4) of this subsection, shall take effect until the President has transmitted such an agreement to the President of the Senate and the Speaker of the House of Representatives, together with an explanation of the agreement and the reasons therefor.

EXTENSION OF COMPACT OF FREE ASSOCIATION TO PALAU

SEC. 102. (a) The interpretation of and United States Policy Regarding the Compact of Free Association set forth in section 104 of Public Law 99-239 shall apply to the Compact of Free Association with Palau.

(b) The provisions of section 105, except for subsection (i), section 106, section 110, and section 111 (a) and (b) of Public Law 99-239, shall apply to Palau in the same manner and to the same extent as such sections apply to the Marshall Islands.

REPEAL OF TITLE V OF THE COMPACT OF FREE ASSOCIATION ACT (PUBLIC LAW 99-239)

SEC. 103. Title V of the Public Law 99-239 is repealed.

SUPPLEMENTAL PROVISIONS

SEC. 104. (a) CIVIC ACTION TEAMS.—In recognition of the special development needs of Palau and the Marshall Islands, the United

States shall make available United States military Civic Action Teams for use in Palau or the Marshall Islands under terms and conditions mutually agreed upon by the Government of the United States and the Governments of Palau or the Marshall Islands, as appropriate. The Government of Palau may use the amount of $250,000 annually from current account funds provided pursuant to section 211 of the Compact to defray expenditures attendant to the operation of the Civic Action Teams made available pursuant to this subsection. The Government of the Marshall Islands may use the amount of $250,000 annually from current account funds provided under section 211 of Title Two of the Compact of Free Association with the Marshall Islands to defray expenditures attendant to the operation of the Civic Action Teams made available pursuant to this subsection.

(b) INVENTORY AND STUDY OF NATURAL, HISTORIC AND OTHER RESOURCES.—The Secretary of the Interior shall conduct, upon request of Palau, the Federated States of Micronesia or the Marshall Islands, and through the Director of the National Park Service, a comprehensive inventory and study of the most unique and significant natural, historical, cultural, and recreational resources of Palau, the Federated States of Micronesia or the Marshall Islands. Areas or sites exhibiting such qualities shall be described and evaluated with the objective of the preservation of their values and their careful use and appreciation by the public, along with a determination of their potential for attracting tourism. Alternative methodologies for such preservation and use shall be developed for each area or site (including continued assistance from the National Park Service); current or impending damage or threats to the resources of such areas or sites shall be identified and evaluated; and authorities needed to properly protect and allow for public care and appreciation shall be identified and discussed. Such inventory and study shall be conducted in full cooperation and consultation with affected governmental officials and the interested public. A full report on such inventory and study shall be transmitted to Palau or the Federated States of Micronesia or the Marshall Islands, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than two complete calendar years after the date of enactment of this joint resolution. The inventory and study shall also identify areas or sites which, if they were located in the United States, would qualify to be listed on the Registry of Natural Landmarks and the National Register of Historic Places.

(c) AUTHORIZATION FOR TRANSITION PURPOSES.—Section 105(c)(2) of Public Law 99-239 is amended by deleting "infrastructure." and inserting in lieu thereof "infrastructure, except that, for purposes of an orderly reduction of United States programs and services in the Federated States of Micronesia, the Marshall Islands, and Palau, United States programs or services not specifically authorized by the Compact of Free Association or by other provisions of law may continue but, unless reimbursed by the respective freely associated state, not in excess of the following amounts:

"(1) For fiscal year 1987, an amount not to exceed 75 per centum of the total amount appropriated for such programs for fiscal year 1985;

"(2) For fiscal year 1988, an amount not to exceed 50 per centum of the total amount appropriated for such programs for fiscal year 1985;

"(3) For fiscal year 1989, an amount not to exceed 25 per centum of the total amount appropriated for such programs for fiscal year 1985.".

(d) PELELIU AND ANGAUR.—Not later than one year after the date of enactment of this joint resolution, the Secretary of Agriculture, after appropriate studies conducted in consultation with the Government of Palau, shall report to the President and the Congress concerning the feasibility and cost of rehabilitating and restoring the fertility of the topsoil of the islands of Peleliu and Angaur. Upon the request of the Government of Palau, the President shall make the report of the Secretary of Agriculture available to the Government of Palau. Technical assistance to accomplish such rehabilitation and restoration, if feasible, may be provided to the Government of Palau on a nonreimbursable basis, subject to the availability of appropriated funds.

(e) Neither the Secretary of the Treasury nor any other officer or agent of the United States shall pay or transfer any portion of the sums and amounts payable to the Government of Palau pursuant to this joint resolution to any party other than the Government of Palau. The provisions of section 174(a) of the Compact shall apply with respect to any action based on a contract or debt related to any electrical generating plant or related facilities entered into or incurred by Palau prior to the date of enactment of this joint resolution.

(f) Amounts appropriated to be paid pursuant to section 177 of Article I of Title One or Articles I and III of Title Two of the Compact of Free Association with the Federated States of Micronesia and the Marshall Islands, as set forth in Title II of the Compact of Free Association Act of 1985, or pursuant to section 103(h), 103(k), or 105(m) of such Act (Public Law 99-239), or pursuant to Article I of Title Two of the Compact with Palau, as set forth in Title II of this joint resolution, or section 104(*l*) of this joint resolution shall not be reduced, notwithstanding Public Law 99-177, Public Law 99-396, and other law enacted to implement Public Law 99-177, or any other provision of law.

(g) The Congress reaffirms all of the understandings, interpretations, and policy statements contained in Public Law 99-239 (99 Stat. 1770). Congressional Resolution 4-60 adopted by the 4th Congress of the Federated States of Micronesia on March 26, 1986 and Resolution No. 62 adopted by the Nitijela of the Marshall Islands on February 18, 1986 do not preclude or modify any provision of the Compact of Free Association as approved by the United States. To the extent that any understandings, interpretations, and policy statements contained in such Resolutions are inconsistent with the provisions of Public Law 99-239, the United States does not concur therein. The President shall take such steps, including but not limited to, communicating with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands, as may be necessary to preserve all rights of the United States in connection with interpretation and implementation of such Public Law.

(h) ADDITIONAL PROVISIONS RELATING TO TITLE THREE OF THE COMPACT.—

(1) The Government of the United States recognizes and respects the scarcity and special importance of land in Palau. In making any designation of land pursuant to section 322 of the Compact, the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy the requirement through public real property, where available, rather than through private real property.

(2) The Armed Forces of other nations invited to use military areas and facilities in Palau pursuant to section 312 of the Compact shall be permitted only as it is incident to the authority and under the control of the United States. The activities of such third country forces shall be subject to the same limitations and restrictions applicable to the authority of the United States under the terms of the Compact.

(3) The Government of the United States considers "Exclusive use" areas established for the United States pursuant to Title Three of the Compact to be "within the jurisdiction of Palau," as that term is used in section 324 of the Compact.

(i) Notwithstanding any other provision of law, funds appropriated for the Compact of Free Association, Public Law 99-239, or this joint resolution, in the act making supplemental appropriations for fiscal year 1986, shall remain available until expended.

(j)(1) section 4(c) of the Act of December 27, 1974 (88 Stat. 1784; 16 U.S.C. 460ff-3(c)) is amended by inserting "(1)" after "(c)" and by adding the following at the end thereof:

"(2) The Secretary is authorized and directed, in cooperation with the Secretary of Agriculture, the State of Ohio, and affected local governments, to undertake a program of and treatment for the purpose of restoring suitable vegetative cover to substantially eliminate erosion from all lands, public and private, within the authorized boundaries of the recreation area. In the case of any private lands, within such authorized boundaries such treatment may be undertaken only with the consent of the owner thereof and shall be contingent upon assurances that such land treatment will be maintained by the owner for a period of not less than ten years. The Secretary shall, in conjunction with such program, take such actions as may be required to correct areas of ecological degradation which create hazards to health and safety.".

(2) Section 6 of such Act (16 U.S.C. 460ff-5) is amended by adding the following at the end thereof:

"(c) There are hereby authorized to be appropriated not more than $500,000 for fiscal year 1986, $1,000,000 for fiscal year 1987, $1,500,000 for fiscal year 1988, and $1,750,000 for fiscal year 1989, to carry out the provisions of section 4(c)(2) of this Act. Any amounts authorized to be appropriated for any fiscal year under this subsection which are not appropriated for that fiscal year shall remain available for appropriation in succeeding fiscal years.".

(3) No authority under this subsection to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this subsection which authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1985.

TITLE II—COMPACT OF FREE ASSOCIATION

COMPACT OF FREE ASSOCIATION

SEC. 201. The Compact of Free Association is as follows:

COMPACT OF FREE ASSOCIATION

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF PALAU

Affirming that their Governments and the relationship between their Governments are founded upon respect for human rights and fundamental freedoms for all, and

Affirming the common interests of the United States of America and the people of Palau in creating close and mutually beneficial relationships through a free and voluntary association of their Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and self-sufficiency of the people of Palau; and

Recognizing that their previous relationship has been based upon the International Trusteeship System of the United Nations Charter; and that pursuant to Article 76 of the Charter, the peoples of the Trust Territory have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they have, through their freely-expressed wishes, adopted a Constitution appropriate to their particular circumstances; and

Recognizing their common desire to terminate the Trusteeship and establish a new government-to-government relationship in accordance with a new political status based on the freely-expressed wishes of the people of Palau and appropriate to their particular circumstances; and

Recognizing that the people of Palau have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitution and form of government and that the approval of the entry of their Government into this Compact of Free Association by the people of Palau constitutes an exercise of their sovereign right to self-determination;

Now, therefore, agree to enter into relationship of free association which provides a full measure of self-government for the people of Palau; and

Further agree that the relationships of free association derives from and is as set forth in this Compact; and that, during such relationships of free association, the respective rights and responsibilities of the Government of the United States and the Government of the freely associated state of Palau in regard to this relationship of free association derives from and is set forth in this Compact.

TITLE ONE

GOVERNMENT RELATIONS

ARTICLE I

Self-government

Section 111

The people of Palau, acting through their duly elected government established under their constitution, are self-governing.

ARTICLE II

Foreign affairs

Section 121

(a) The Republic of Palau has the capacity to conduct foreign affairs in its own name and right, except as otherwise provided in this Compact and the Government of the United States recognizes that the Government of Palau, in the exercise of this capacity, may enter into, in its own name and right, treaties and other international agreements with governments and regional and international organizations.

(b) In the conduct of its foreign affairs the Government of Palau confirms that it shall act in accordance with principles of international law and shall settle its international disputes by peaceful means.

Section 122

The Government of the United States shall support application by the Government of Palau for membership or other participation in regional or international organizations as may be mutually agreed. The Government of the United States agrees to accept citizens of Palau for training and instruction at the United States Foreign Service Institute, established under 22 U.S.C. 4021, or similar training under terms and conditions to be mutually agreed.

Section 123

In recognition of the authority and responsibility of the Government of the United States under Title Three, the Government of Palau shall consult with the Government of the United States. The Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of Palau on matters which the Government of the United States regards as relating to or affecting the Government of Palau, and shall provide, on a regular basis, information on regional foreign policy matters.

Section 124

(a) The Government of Palau has authority to conduct its foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and nonliving resources from the sea, seabed or subsoil to the full extent recognized under international law.

(b) The Government of Palau has jurisdiction and sovereignty over its territory, including its land and internal waters, territorial seas, the airspace superjacent thereto only to the extent recognized under international law.

Section 125

Except as otherwise provided in this Compact or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as administering authority which have resulted from the application pursuant to the Trusteeship Agreement of any treaty or other international agreement to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact are no longer assumed and enjoyed by the Government of the United States.

Section 126

The Government of the United States shall accept responsibility for those actions taken by the Government of Palau in the area of foreign affairs, only as may from time to time be expressly and mutually agreed.

Section 127

The Government of the United States may assist or act on behalf of the Government of Palau in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be responsible to third parties for the actions of the Government of Palau undertaken with the assistance or through the agency of the Government of the United States pursuant to this Section unless expressly agreed.

Section 128

At the request of the Government of Palau and subject to the consent of the receiving state, the Government of the United States shall extend consular assistance on the same basis as for citizens of the United States to citizens of Palau for travel outside of Palau, the Marshall Islands, the Federated States of Micronesia, the United States and its territories and possessions.

ARTICLE III

Communications

Section 131

(a) The Government of Palau has full authority and responsibility to regulate its domestic and foreign communications, and the Government of the United States shall provide communication assistance in accordance with the terms of a related agreement which shall come into effect simultaneously with this Compact, and such agreement shall remain in effect until such time as any election is made pursuant to Section 131(b) and which shall provide for the following:

(1) the Government of the United States remains the sole administration entitled to make notification to the International Frequency Registration Board of the International Telecommunications Union of frequency assignments to radio communications stations in Palau; and to submit to the International Frequency Registration Board seasonal schedules for the broadcasting stations in Palau in the bands allocated exclusively to the broadcasting service between 5,950 and 26,100 kHz and in any other additional frequency bands that may be allocated to use by high frequency broadcasting stations; and

(2) the United States Federal Communications Commission has jurisdiction pursuant to the Communications Act of 1934, 47 U.S.C. 151 et seq., and the Communications Satellite Act of 1962, 47 U.S.C. 721 et seq., over all domestic and foreign communications services furnished by means of satellite earth terminal stations where such stations are owned or operated by United States common carriers and are located in Palau.

(b) The Government of Palau may elect at any time to undertake the functions enumerated in Section 131(a) and previously performed by the Government of the United States. Upon such election, the Government of the United States shall so notify the International Frequency Registration Board and shall take such other actions as may be necessary to tranfer to the Government of Palau the notification authority referred to in Section 131(a) and all rights deriving from the previous exercise of any such notification authority by the Government of the United States.

Section 132

The Government of Palau shall permit the Government of the United States to operate telecommunications services in Palau to the extent necessary to fulfull the obligations of the Government of the United States under this Compact in accordance with the terms of related agreements which shall come into effect simultaneously with this Compact.

ARTICLE IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact, is a citizen of Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become a citizen of Palau;

(2) a person who acquires the citizenship of Palau, at birth, on or after the effective date of the Constitution of Palau; or

(3) a naturalized citizens of Palau, who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to nondiscriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citzens of Palau, the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of Palau from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in Palau, subject to the right of that Government to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in Palau only in accordance with the laws of Palau. This subsection is without prejudice to the right of the Government of Palau to regulate occupations in Palau in a nondiscriminatory manner.

(b) With respect to the subject matter of this Section, the Government of Palau shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; and denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Section 141 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of Palau.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of Palau or the United States ceases to have these privileges two years after the effective date of this Compact, within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of Palau, commences employment with that Government shall not be deprived of his United States nationality pursuant to Section 349(a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481(a)(2) and (a)(4).

(b) Upon such notification by the Government of Palau, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of Palau on the effective date of this Compact with respect to the positions held by them at that time.

ARTICLE V

Representation

Section 151

The Government of the United States and the Government of Palau may establish and maintain representative offices in the capitals of the other.

Section 152

(a) The premises of such representative offices, and their archives wherever located, shall be inviolable. The property and assets of such representative offices shall be immune from search, requisition, attachment and any form of seizure unless such immunity is expressly waived. Official communications in transit shall be inviolable and accorded the freedom and protections accorded by recognized principles of international law to official communications of a diplomatic mission.

(b) Persons designated by the sending Government may serve in the capacity of its resident representatives with the consent of the receiving Government. Such designated persons shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions as such representatives, except insofar as such immunity may be expressly waived by the sending Government. While serving in a resident representative capacity, such designated persons shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration fingerprinting, and the registration of foreign agents.

(c) The sending Governments and their respective assets, income and other property shall be exempt from all direct taxes, except those direct taxes representing payment for specific goods and services, and shall be exempt from all customs duties and restrictions on the import or export of articles required for the official functions and personal use of their representatives and representative offices.

(d) Persons designated by the sending Government to serve in the capacity of its resident representatives shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations.

(e) The privileges, exemptions and immunities accorded under this Section are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities; it is the duty of all such persons to respect the laws and regulations of the Government to which they are assigned.

ARTICLE IV

Environmental protection

Section 161

The Government of the United States and the Government of Palau declare that it is their policy to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of the Palau.

Section 162

(a) The Government of the United States and the Government of Palau agree that with respect to the activities of the Government of the United States in Palau, and with respect to substantively equivalent activities of the Government of Palau, each of the Governments shall be bound by such environmental protection standards as may be mutually agreed for the purpose of carrying out the policy set forth in the Compact.

Section 163

In order to carry out the policy set forth in this Article, the Government of the United States and the Government of Palau agree to the following undertakings.

(a) The Government of the United States:

(1) shall apply environmental standards substantively similar to those in effect on the day preceding the effective date of this Compact to any activity requiring the preparation of an Environmental Impact Statement under the provisions of the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. 4321 et seq.

(2) shall develop, prior to conducting any activity included within the category described in this Section, appropriate mechanisms, including regulations or other standards and procedures, to regulate such activity in Palau in a manner appropriate to the special governmental relationship set forth in this Compact. The Government of the United States shall provide the Government of Palau with the opportunity to comment formally during the development of such mechanisms.

(b) The Government of Palau shall develop standards and procedures to protect the environment of Palau. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Government of Palau, taking into account the particular environment of Palau, shall develop standards for environmental protection substantively similar to those required of the Government of the United States by Section 163(a)(1) prior to conducting activities in Palau substantively equivalent to activities conducted there by the Government of the United States and, as a further reciprocal obligation, shall enforce those standards.

(c) Section 163(a), including any standard or procedure applicable thereunder, and Section 163(b) may be modified or superseded in whole or in part by agreement of the Government of the United States and the Government of Palau.

(d) Disputes arising under this Article, except for Section 163(e), shall be resolved exclusively in accordance with Article II of Title Four.

(e) The President of the United States may exempt any of the activities of the Government of the United States under this Compact and its related agreements from any environmental standard or procedure which may be applicable under this Article if the President determines it to be in the paramount interest of the Government of the United States to do so, consistent with Title Three of this Compact and the obligations of the Government of the United States under international law. Prior to any decision pursuant to this subsection, the views of the Government of Palau shall be sought and considered to the extent practicable. If the President grants such an exemption, to the extent practicable, a report with his reasons for granting such exemption shall be given promptly to the Government of Palau.

ARTICLE VII

General legal provisions

Section 171

Except as provided in this Compact or its related agreements, the application of the laws of the United States to the Trust Territory of the Pacific Islands by virtue of the Trusteeship Agreement ceases with respect to Palau as of the effective date of this Compact.

Section 172

(a) Every citizen of Palau who is not a resident of the United States shall enjoy the rights and remedies under the laws of the United States enjoyed by any nonresident alien.

(b) The Government and every citizen of Palau shall be considered a "person" within the meaning of the Freedom of Information Act, 5 U.S.C. 552, and of the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701-706.

Section 173

The Government of the United States and the Government of Palau, agree to adopt and enforce such measures, consistent with this Compact and its related agreements, as may be necessary to protect the personnel, property, installations, services, programs and official archives and documents maintained by the Government of the United States in Palau pursuant to this Compact and its related agreements and by that Government in the United States pursuant to this Compact and its related agreements.

Section 174

Except as otherwise provided in this Compact and its related agreements:

(a) The Government of Palau shall be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall be immune from the jurisdiction of the courts of Palau.

(b) The Government of the United States accepts responsibility for and shall pay:

(1) any unpaid money judgment rendered by the High Court of the Trust Territory of the Pacific Islands against the Government of the Trust Territory of the Pacific Islands or the Government of the United States with regard to any cause of action arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of the effective date of this Compact; and

(3) settlement of any administrative claim or of any action before a court of the Trust Territory of the Pacific Islands, pending as of the effective date of this Compact, against the Government of the Trust Territory of the Pacific Islands or the Government of the United States, arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States.

(c) Any claim not referred to in Section 174(b) and arising from an act or omission of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact shall be adjudicated in the same manner as a claim adjudicated according to Section 174(d). In any claim against the Government of the Trust Territory of the Pacific Islands, the Government of the United States shall stand in the place of the Government of the Trust Territory of the Pacific Islands. A judgment on any claim referred to in Section 174(b) or this subsection, not otherwise satisfied by the Government of the United States, may be presented for certification to the United States Court of Appeals for the Federal Circuit shall certify such judgment, and order payment thereof, unless it finds, after a hearing, that such judgment is manifestly erroneous as to law or fact, or manifestly excessive. In either of such cases the United States Court of Appeals for the Federal Circuit shall have jurisdiction to modify such judgment.

(d) The Government of Palau, shall not be immune from the jurisdiction of the courts of United States, and the Government of the United States shall not be immune from the jurisdiction of the courts of Palau in any case in which the action is based on a commercial activity of the defendant Government carried out where the action is brought, or in a case in which damages are sought for personal injury or death or damage to or loss of property occurring where the action is brought. This subsection shall apply only to actions based on commercial activities entered into or injuries or losses suffered on or after the effective date of this Compact.

Section 175

A separate agreement, which shall come into effect simultaneously with this Compact, shall be concluded between the Government of the United States and the Government of Palau regarding mutual assistance and cooperation in law enforcement matters including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners. The separate agreement shall have the force of law. In the United States, the laws of the United States governing international extradition, including 18 U.S.C. 3184, 3186 and 3188-3195, shall be applicable to the extradition of fugitives under the separate agreement, and the laws of the United States governing the transfer of prisoners, including 18 U.S.C. 4100-4115, shall be applicable to the transfer of prisoners under the separate agreement.

Section 176

The Government of Palau confirms that final judgments in civil cases rendered by any court of the Trust Territory of the Pacific Islands shall continue in full force and effect, subject to the constitutional power of the courts of Palau to grant relief from judgments in appropriate cases.

Section 177

(a) Federal agencies of the Government of the United States which provide services and related programs in Palau are authorized to settle and pay tort claims arising in Palau from the activities of such agencies or from the acts or omissions of the employees of such agencies. Except as provided in Section 177(b), the provisions of 28 U.S.C. 2672 and 31 U.S.C. 1304 shall apply exclusively to such administrative settlements and payments.

(b) Claims under Section 177(a) which cannot be settled under Section 177(a) shall be disposed of exclusively in accordance with Article II of Title Four Arbitration awards rendered pursuant to this subsection shall be paid out of funds under 31 U.S.C. 1304.

(c) The Government of the United States and the Government of Palau shall provide for:

(1) the administrative settlement of claims referred to in Section 177(a), including designation of local agents in Palau, such agents to be empowered to accept, investigate and settle such claims, in a timely manner, as provided in such related agreements; and

(2) arbitration, referred to in Section 177(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to Section 177(a).

(d) The provisions of Section 174(d) shall not apply to claims covered by this Section.

TITLE TWO

ECONOMIC RELATIONS

ARTICLE I

Grant assistance

Section 211

In order to assist the Government of Palau in its efforts to advance the well-being of the people of Palau and in recognition of the special relationship that exists between the United States and Palau, the Government of the United States shall provide to the Government of Palau on a grant basis the following amounts:

(a) $12 million annually for ten years commencing on the effective date of this Compact, and $11 million annually for five years commencing on the tenth anniversary of the effective date of this Compact, for current account operations and maintenance purposes, which amounts commencing on the fourth anniversary of the effective date of this Compact shall include a minimum annual distribution of $5 million from the fund specified in Section 211(f).

(b) $2 million annually for fourteen years commencing on the first anniversary of the effective date of this Compact as a contribution to efforts aimed at achieving increased self-sufficiency in energy production, of which annual amounts not less than $500,000 shall be devoted to the energy needs of those parts of Palau not served by its central power-generating facility.

(c) $150,000 annually for fifteen years commencing on the effective date of of this Compact as a contribution to current account operations and maintenance communications systems, and the sum of $1.5 million, to be made available concurrently with the grant assistance provided during the first year after the effective date of this Compact, for the purpose of acquiring such communications hardware as may be located within Palau or for such other current or capital account activity as the Government of Palau may select.

(d) $631,000 annually on a current account basis for fifteen years commencing on the effective date of this Compact for the purposes set forth below:

(1) for the surveillance and enforcement by Government of Palau of its maritime zone;

(2) for health and medical programs, including referrals to hospital and treatment centers; and

(3) for a scholarship fund to support the post-secondary education of citizens of Palau attending United States accredited, post-secondary institutions in Palau, the United States, its territories and possessions, and states in free association with the United States. The curricular criteria for the award of scholarships shall be designed to advances the purposes of the plan referred to in Section 231.

(e) The sum of $666,800 as a contribution to the commencement of activities pursuant to Section 211(d)(1).

(f) The sum of $66 million on the effective date of this Compact, and the sum of $4 million concurrently with the grant assistance to be made available during the third year after the effective date of this Compact, to create a fund to be invested by the Government of Palau in issues of bonds, notes or other redeemable instruments of the Government of the United States or other qualified instruments which may be identified by mutual agreement of the Government of the United States and the Government of Palau. Investment of the fund in qualified instruments of United States nationality, and the distribution of sums derived from such investment to the Government of Palau, shall not be subject to any form of taxation by the United States or its political subdivisions. The Government of the United States and the Government of Palau shall set forth in a separate agreement, which shall come into effect simultaneously with this Compact, provisions for the investment, management and review of the fund so as to allow for an agreed minimum annual distribution from its accrued principal and interest commencing upon the effective date of this Compact for fifty years. The objective of this sum is to produce an average annual distribution of $15 million commencing on the fifteenth anniversary of this Compact for thirty-five years. Any excess or variance from the agreed minimum annual distributions which may be produced from these sums shall accrue to or be absorbed by the Government of Palau unless otherwise mutually agreed in accordance with the provisions of the separate agreement referred to in this paragraph. The annual distributions produced from these sums are not subject to Sections 215 and 236.

Section 212

In order to assist the Government of Palau in its efforts to advance the economic development and self-sufficiency of the people of Palau and in recognition of the special relationship that exists between the United States and Palau, the Government of the United States shall provide:

(a) To the people of Palau, a road system in accordance with mutually agreed specifications, the construction of which shall be completed prior to the sixth anniversary of the effective date of this Compact; and

(b) To the Government of Palau, the sum of $36 million, during the first year after the effective date of this Compact, for capital account purposes.

Section 213

The Government of the United States shall provide on a grant basis to the Government of Palau the sum of $5.5 million in conjunction with Article II of Title Three. This sum shall be made available concurrently with the greater assistance provided pursuant to this Article during the first year after the date of this Compact. The Government of Palau, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in Palau.

Section 214

All funds previously appropriated to the Trust Territory of the Pacific Islands for the Government of Palau which are unobligated by the Government of the Trust Territory as of the effective date of this Compact shall accrue to the Government of Palau for the purposes for whch such funds were originally appropriated as determined by the Government of the United States.

Section 215

Except as otherwise provided, the amounts stated in Sections 211(a), 211(b), 211(c) and 212(b) shall be adjusted for each fiscal year by the percent which equals two-thirds of the percentage change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less in any one year, using the beginning of Fiscal Year 1981 as the base.

ARTICLE II

Program assistance

Section 221

(a) The Government of the United States shall make available to Palau, in accordance with and to the extent provided in the separate agreement referred to in Section 232, without compensation and at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Compact, the services and related programs:

(1) of the United States Weather Service;

(2) provided pursuant to the Postal Reorganization Act, 39 U.S.C. 101 et seq.;

(3) of the United States Federal Aviation Administration; and

(4) of the United States Civil Aeronautics Board or its successor agencies which has the authority to implement the provisions of paragraph 5 of Article IX of such separate agreements, the language of which is incorporated into this Compact.

(b) The Government of the United States, recognizing the special needs of the Palau particularly in the fields of education and health care, shall make available, as provided by the laws of the United States:

(1) the annual amount of $2 million which shall be allocated in accordance with the provisions of the separate agreement referred to in Section 232; and

(2) the sums of $4.3 million, $2.9 million and $1.5 million, respectively, during the first, second and third years after the effective date of this Compact, which sums shall be used by the Government of Palau as current account funds to finance programs similar to those programs of the United States that applied to Palau prior to the effective date of this Compact and that provided financial assistance for education to any institution, agency, organization or permanent resident of Palau or to the College of Micronesia.

(c) The Government of the United States shall make available to Palau such alternate energy development projects, studies and conservation measures as are applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact, for the purposes and duration provided in the laws of the United States.

(d) The Government of the United States shall have and exercise such authority as is necessary for the purposes of this Article and as is set forth in the related agreements referred to in Section 232, which shall also set forth the extent to which services and programs shall be provided to Palau.

Section 222

The Government of Palau may request, from time to time, technical assistance from the Federal agencies and institutions of the Government of the United States, which are authorized to grant such technical assistance in accordance with its law and which shall grant such technical assistance in a manner which gives priority consideration to Palau over other recipients not a part of the United States, its territories or possessions and equivalent consideration to Palau with respect to other states in Free Association with the United States.

Section 223

The citizens of Palau who are receiving post-secondary education assistance from the Government of the United States on the day preceding the effective date of this Compact shall continue to be eligible, if otherwise qualified, to receive such assistance to complete their academic programs for a maximum of four years after the effective date of this Compact.

Section 224

The Government of the United States and the Government of Palau may agree from time to time to the extension to Palau of additional United States grant assistance and of United States services and programs as provided by the laws of the United States.

ARTICLE III

Administrative provisions

Section 231

(a) The annual expenditure by the Government of Palau of the grant amounts specified in Article I of this Title shall be in accordance with an official national development plan promulgated by the Government of Palau and concurred in by the Government of the United States prior to the effective date of this Compact. This plan may be amended from time to time by the Government of Palau.

(b) The Government of the United States and the Government of Palau recognize that the achievement of the goals of the plan referred to in this Section depends upon the availability of adequate internal revenue as well as economic assistance from sources outside of Palau, including the Government of the United States, and may, in addition, be affected by the impact of exceptional, economically adverse circumstances. The Government of Palau shall therefore report annually to the President of the United States and to the Congress of the United States on the implementation of this plan and on its use of the funds specified in this Article. This report shall outline the achievements of the plan to date and the need, if any, for an additional authorization and appropriation of economic assistance for that year to account for any exceptional, economically adverse circumstances. The availability of such additional economic assistance from the Government of the United States shall be subject to the authorization and appropriation of funds by the Government of the United States.

Section 232

The specific nature, extent and contractual arrangements of the services and programs provided for in Section 221 as well as

the legal status of agencies of the Government of the United States, their civilian employees and contractors, and the dependents of such personnel while present in Palau, and other arrangements in connection with a service or program furnished by the Government of the United States, are set forth in related agreements which shall come into effect simultaneously with this Compact.

Section 233

The Government of the United States, in consultation with the Government of Palau, shall determine and implement procedures for the periodic audit of all grants and other assistance made under this Title. Such audits shall be conducted at no cost to the Government of Palau.

Section 234

Title to the property of the Government of the United States situated in the Trust Territory of the Pacific Islands and in Palau or acquired for or used by the Government of the Trust Territory of the Pacific Islands on or before the day preceding the effective date of this Compact shall, without reimbursement or transfer of funds, vest in the Government of Palau as set forth in a separate agreement which shall come into effect simultaneously with this Compact. The provisions of this Section shall not apply to the personal property of the Government of the United States for which the Government of the United States determines a continuing requirement.

Section 235

(a) Funds held in trust by the High Commissioner of the Trust Territory of the Pacific Islands, in his official capacity, as of the effective date of this Compact shall remain available as trust funds to their designated beneficiaries. The Government of the United States, in consultation with the Government of Palau, shall appoint a new trustee who shall exercise the functions formerly exercised by the High Commissioner of the Trust Territory of the Pacific Islands.

(b) To provide for the continuity of administration, and to assure the Governments of Palau that the purposes of the laws of the United States are carried out and that the funds of any other trust fund in which the High Commissioner of the Trust Territory of the Pacific Islands has authority of a statutory or customary nature shall remain available as trust funds to their designated beneficiaries, the Government of the United States agrees to assume the authority formerly vested in the High Commissioner of the Trust Territory of the Pacific Islands.

Section 236

Except as otherwise provided, approval of this Compact by the Government of the United States shall constitute a pledge of the full faith and credit of the United States for the full payment of the sums and amounts specified in Article I of this Title. The obligation of the Government of the United States under Article I of this Title shall be enforceable in the United States Claims Court, or its successor court, which shall have jurisdiction in cases arising under this Section, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States.

ARTICLE IV

Trade

Section 241

Palau is not included in the customs territory of the United States.

Section 242

The President of the United States shall proclaim the following tariff treatment for articles imported from Palau which shall apply during the period of effectiveness of this Title:

(a) Unless otherwise excluded, articles imported from Palau, subject to the limitations imposed under sections 503(b) and 504(c) of title 5 of the Trade Act of 1974 (19 USC 2463(b): 2464(c)), shall be exempt from duty.

(b) Only canned tuna provided for in item 112.30 of the Tariff Schedules of the United States that is imported from the Federated States of Micronesia, the Marshall islands and Palau during any calendar year not to exceed 10 percent of the United States consumption of canned tuna during the immediately preceding calendar year, as reported by the National Marine Fisheries Service, shall be exempt from duty; but the quantity of tuna given duty free treatment under this paragraph for any calendar year shall be counted against the aggregate quantity of canned tuna that is dutiable under rate column numbered 1 of such item 112.30 for that calendar year.

(c) The duty-free treatment provided under paragraph (1) shall not apply to:

(1) watches, clocks and timing apparatus provided for in sub-part E of part 2 of schedule 7 of the Tariff Schedules of the United States;

(2) buttons (whether finished or not finished) provided for in item 745.32 of such Schedules;

(3) textile and apparel articles which are subject to textile agreements; and

(4) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of chapter V of the Trade Act of 1974 (19 USC 2461 et seq.) on April 1, 1984.

(d) If the cost of value of materials produced in the customs territory of the United States is included with respect to an eligible article which is a product of Palau, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied for duty assessment purposes toward determining the percentage referred to in section 503(b)(2) of title V of the Trade Act of 1974.

Section 243

Articles imported from Palau which are not exempt from any duty under paragraphs (a), (b), (c) and (d) of Section 242 shall be subject to the rates of duty set forth in column numbered 1 of the Tariff Schedules of the United States and all products of the United States imported into Palau shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage, or use.

ARTICLE V

Finance and taxation

Section 251

The currency of the United States is the official circulating legal tender of Palau. Should the Government of Palau act to institute another currency, the terms of an appropriate currency transitional period shall be as agreed with the Government of the United States.

Section 252

The Government of Palau may, with respect to United States persons, tax income derived from sources within its respective jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein, in such manner as such Government deems appropriate. The determination of the source of any income, or the situs of any property, shall, for purposes of this Compact, be made according to the United States Internal Revenue Code.

Section 253

A citizen of Palau, domiciled therein and who is a nonresident and not a citizen of the United States, shall be exempt from estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States.

Section 254

(a) In determining any income tax imposed by the Government of Palau, the Government of Palau shall have authority to impose tax upon income derived by a resident of Palau from sources without Palau in the same manner and to the same extent as the Government of Palau imposes tax upon income derived from within its jurisdiction. If the Government of Palau exercises such authority as provided in this subsection, any individual resident of Palau who is subject to tax by the Government of the United States on income which is also taxed by the Government of Palau shall be relieved of liability to the Government of the United States for the tax which, but for this subsection, would otherwise be imposed by the Government of the United States on such income. For purposes of this Section, the term "resident of Palau" shall be deemed to include any person who was physically present in Palau for a period of 183 or more days during any taxable year. The relief from liability referred to in this subsection means only:

(1) relief in the form of the foreign tax credit (or deduction in lieu thereof) available with respect to the income taxes of a possession of the United States, and

(2) relief in the form of the exclusion under section 911 of the United States Internal Revenue Code of 1954.

(b) If the Government of Palau subjects income to taxation substantially similar to that imposed by the Trust Territory Code in effect on January 1, 1980, such Government shall be deemed to have exercised the authority described in Section 254(a).

Section 255

(a) For purposes of section 936 of the Internal Revenue Code of 1954 Palau shall be treated as if it was a possession of the United States.

(b) Subsection (a) of this Section shall not apply to Palau for any period after December 31, 1986, during which there is not in effect between Palau and the United States an exchange of information agreement of the kind described in section 274(h)(6)(C) (other than clause (ii) thereof) of the Internal Revenue Code of 1954.

(c) If the tax incentives extended to Palau under subsection (a) of this Section are, at any time during which the Compact is in effect, reduced, the United States Secretary of the Treasury shall negotiate an agreement with the Government of Palau under which, when such agreement is approved by law, Palau will be provided with benefits substantially equivalent to such reduction in benefits. If within the 1-year period after the date of the enactment of the Act making the reduction in benefits, an agreement negotiated under the preceding sen-

tence is not approved by law, the matter shall be submitted to the arbitration Board established pursuant to Section 424. For purposes of Article V of this Title, the Secretary of the Treasury or his delegate shall be the member of such Board representing the Government of the United States. Any decision of such Board in the matter when approved by law shall be binding on the United States, except that such decision rendered is binding only as to whether the United States has provided the substantially equivalent benefits referred to in this subsection.

(d) For purposes of section 274(h)(3)(A) of the Internal Revenue Code of 1954, the term "North American area" shall include Palau.

Section 256

This Article shall apply to income earned, and transactions occurring, after September 30, 1985, in taxable years ending after such date.

TITLE THREE

SECURITY AND DEFENSE RELATIONS

ARTICLE I

Authority and responsibility

Section 311

The territorial jurisdiction of the Republic of Palau shall be completely foreclosed to the military forces and personnel or for the military purposes of any nation except the United States of American, and as provided for in Section 312.

Section 312

The Government of the United States has full authority and responsibility for security and defense matters in or relating to Palau. Subject to the terms of any agreements negotiated pursuant to Article II of this Title, the Government of the United States may conduct within the lands, water and airspace of Palau the activities and operations necessary for the exercise of its authority and responsibility under this Title. The Government of the United States may invite the armed forces of other nations to use military areas and facilities in Palau in conjunction with and under the control of United States Armed Forces.

Section 313

The Government of Palau shall refrain from actions which the Government of the United States determines, after consultation with that Government, to be incompatible with its authority and responsibility for security and defense matters in or relating to Palau.

ARTICLE II

Defense sites and operating rights

Section 321

The Government of the United States may establish and use defense sites in Palau, and may designate for this purpose land and water areas and improvements in accordance with the provisions of a separate agreement which shall come into force simultaneously with this Compact.

Section 322

(a) When the Government of the United States desires to establish or use such a defense site specifically identified in the separate agreement referred to in Section 321, it shall so inform the Government of Palau which shall make the designated site available to the Government of the United States for the duration and level of use specified.

(b) With respect to any site not specifically in the separate agreement referred to in Section 321, the Government of the United States shall inform the Government of Palau, which shall make the designated site available to the Government of the United States for the duration and level of use specified, or shall make available one alternative site acceptable to the Government of the United States. If such alternative site is unacceptable to the Government of the United States, the site first designated shall be made available after such determination.

(c) Compensation in full for designation, establishment or use of defense sites is provided in Title Two of this Compact.

Section 323

The military operating rights of the Government of the United States and the legal status and contractual arrangements of the United States Armed Forces, their members, and associated civilians, while present in Palau, are set forth in related agreements which shall come into effect simultaneously with this Compact.

Section 324

In the exercise in Palau of its authority and responsibility under this Title, the Government of the United States shall not use, test, store or dispose of nuclear, toxic chemical, gas or biological weapons intended for use in warfare and the Government of Palau assures the Government of the United States that in carrying out its security and defense responsibilities under this Title, the Government of the United States has the right to operate nuclear capable or nuclear propelled vessels and aircraft within the jurisdiction of Palau without either confirming or denying the presence or absence of such weapons within the jurisdiction of Palau.

ARTICLE III

Defense treaties and international security agreements

Section 331

Subject to the terms of this Compact and its related agreements, the Government of the United States, exclusively, shall assume and enjoy, as to Palau, all obligations, responsibilites, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as administering authority of the Trust Territory of the Pacific Islands as of the day preceding the effective date of this Compact; and

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in Palau. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of Palau.

ARTICLE IV

Service in the Armed Forces of the United States

Section 341

Any citizen of Palau entitled to the privileges of Section 141 of this Compact shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service of the United States, its territories or possessions.

Section 342

The Government of the United States shall have enrolled, at any one time, at least one qualified student from Palau as may be nominated by the Government of Palau, in each of:

(a) The United States Coast Guard Academy pursuant to 14 U.S.C. 195; and

(b) The United States Merchant Marine Academy pursuant to 46 U.S.C. 1295b(b)(6), provided that the provisions of 46 U.S.C. 1295(b)(6)(C) shall not apply to the enrollment of students pursuant to Section 342(b) of this Compact.

ARTICLE V

General provisions

Section 351

(a) The Government of the United States and the Government of Palau shall establish a joint committee empowered to consider disputes which may arise under the implementation of this Title and its related agreements.

(b) The membership of the joint committee shall comprise selected senior officials of each of the participating Governments. The senior United States military commander in the Pacific area shall be the senior United States member of the joint committee. For the meetings of the joint committee, each of the Governments may designate additional or alternate representatives as appropriate for the subject matter under consideration.

(c) Unless otherwise mutually agreed, the joint committee shall meet semi-annually at a time and place to be designated, after appropriate consultation, by the Government of the United States. The joint committee also shall meet promptly upon request of either of its members. Upon notification by the Government of the United States, the joint committee shall meet promptly in combined session with other such joint committees so notified. The joint committee shall follow such procedures, including the establishment of functional subcommittees, as the members may from time to time agree.

(d) Unresolved issues in the joint committee shall be referred to the Government of the United States and the Government of Palau for resolution, and the Government of Palau shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of Defense personally regarding any unresolved issue which threatens its continued association with the Government of the United States.

Section 352

In the exercise of its authority and responsibility under this Compact, the Government of the United States shall accord due respect to the authority and responsibility of the Government of Palau to assure the well-being of Palau and its people. The Government of the United States and the Government of Palau agree that the authority and responsibility of the United States set forth in this Title are exercised for the mutual security and benefit of Palau and the United States, and that any attack on Palau would constitute a threat to the peace and security of the entire region and a danger to the United States. In the event of such an attack, or threat thereof, the Government of the United States would take action to meet the danger to the United States and Palau in accordance with its constitutional processes.

Section 353

(a) The Government of the United States shall not include the Government of Palau as a named party to a formal declaration of war, without the consent of the Government of Palau.

(b) Absent such consent, this Compact is without prejudice, on the ground of belliger-

ence or the existence of a state of war, to any claims for damages which are advanced by the citizens, national or Government of Palau which arise out of armed conflict subsequent ot the effective date of this Compact and which are:

(1) petitions to the Government of the United States for redress; or

(2) claims in any manner against the government, citizens, nationals or entities of any third country.

(c) Petitions under Section 353(b)(1) shall be treated as if they were made by citizens of the United States.

TITLE FOUR

GENERAL PROVISIONS

ARTICLE I

Approval and effective date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilites as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of Palau, subsequent to completion of the following:

(a) Approval by the Government of Palau in accordance with its constitutional processes;

(b) Approval by the people of Palau in a referendum called on this Compact; and

(c) Approval by the Government of the United States in accordance with its constitutional processes.

ARTICLE II

Conference and dispute resolution

Section 421

The Government of the United States and the Government of Palau shall confer promptly at the request of the other on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States and the Government of Palau, after conferring pursuant to Section 421, determines that there is a dispute and gives written notice thereof, the Governments shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of Palau cannot be resolved within 90 days of written notification in the manner provided in Section 422, either party to the dispute may refer it to arbitration in accordance with Section 424.

Section 424

Should a dispute be referred to arbitration as provided for in Section 423, an arbitration board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An arbitration board shall consist of a chairman and two other members, each of whom shall be a citizen of a party to the dispute and each of the two parties to the dispute shall appoint one member to the arbitration board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the arbitration board shall be selected from its own standing list by the other party to the dispute. Each government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a chairman within 15 days after selection of the other members of the arbitration board. Failing agreement on a chairman, the chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The arbitration board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles, I, II, III, IV, and VI of Title One, Title Two, Title Four and their related agreements.

(c) Each member of the arbitration board shall have one vote. Each decision of the arbitration board shall be reached by majority vote.

(d) In determining any legal issue, the arbitration board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The arbitration board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the arbitration board shall endeavor to render its decision within 30 days after the conclusion of arguments. The arbitration board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the arbitration board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the Government of Palau.

ARTICLE III

Amendment and review

Section 431

The provisions of this Compact may be amended at any time by mutual agreement of the Government of the United States and the Government of Palau in accordance with their respective constitutional processes.

Section 432

Upon the fifteenth and thirtieth and fortieth anniversaries of the effective date of this Compact, the Government of the United States and the Government of Palau shall formally review the terms of this Compact and its related agreements and shall consider the overall nature and development of their relationship. In these formal reviews, the governments shall consider the operating requirements of the Government of Palau and its progress in meeting the development objectives set forth in the plan referred to in Section 231(a). The governments commit themselves to take specific measures in relation to the findings of conclusions resulting from the review. Any alteration to the terms of this Compact or its related agreements shall be made by mutual agreement and the terms of this Compact and its related agreements shall remain in force until otherwise amended or terminated pursuant to Title Four of this Compact.

ARTICLE IV

Termination

Section 441

This Compact may be terminated by mutual agreement and subject to Section 451.

Section 442

This Compact may be terminated by the Government of the United States subject to Section 452, such termination to be effective on the date specified in the notice of termination by the Government of the United States but not earlier than six months following delivery of such notice. The time specified in the notice of termination may be extended.

Section 443

This Compact shall be terminated, pursuant to its constitutional processes, by the Government of Palau subject to Section 452 if the people of Palau vote in a plebiscite to terminate. The Government of Palau shall notify the Government of the United States of its intention to call such a plebiscite which shall take place not earlier than three months after delivery of such notice. The plebiscite shall be administered by such government in accordance with its constitutional and legislative processes, but the Government of the United States may send its own observers and invite observers from a mutually agreed party. If a majority of the valid ballots cast in the plebiscite favors termination, such government shall, upon certification of the results of the plebiscite, give notice of termination to the Government of the United States, such termination to be effective on the date specified in such notice but not earlier than three months following the date of delivery of such notice. The time specified in the notice of termination may be extended.

ARTICLE V

Survivability

Section 451

Should termination occur pursuant to Section 441, economic assistance by the Government of the United States shall continue on mutually agreed terms.

Section 452

Should termination occur pursuant to Section 442 or 443, the following provisions of this Compact shall remain in full force and effect until the fiftieth anniversary of the effective date of this Compact and thereafter as mutually agreed:

(a) Article I and Section 233 of Title Two;

(b) Title Three; and

(c) Articles II, III, V and VI of Title Four.

Section 453

Notwithstanding any other provision of this Compact:

(a) The provisions of Section 311, even if Title Three should terminate, are binding and shall remain in effect for a period of 50 years and thereafter until terminated or otherwise amended by mutual consent;

(b) The related agreements referred to in Article II of Title Three shall remain in effect in accordance with their terms; and

(c) The Government of the United States reaffirms its continuing interest in promoting the long-term economic advancement and self-sufficiency of the people of Palau.

Section 454

Any provision of this Compact which remains in effect by operation of Section 452 shall be construed and implemented in the same manner as prior to any termination of this Compact pursuant to Section 442 or 443.

ARTICLE VI

Definition of terms

Section 461

For the purpose of this Compact the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Palau, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "Palau" is used in a geographic sense and includes the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States consistent with the Compact and its related agreements.

(d) "Government of Palau" means the Government established and organized by the Constitution of Palau including all the political subdivisions and entities comprising that Government.

(e) "Habitual Residence" means a place of general abode or principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of full time studies as long as such person maintains that status, or who has been physically present in the United States or Palau for less than one year, or who is a dependent of a resident representative, as described in Section 152.

(f) For the purposes of Article IV of Title One of this Compact:

(1) "Actual Residence" means physical presence in Palau during eighty-five percent of the period of residency required by Section 141(a)(3); and

(2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating that the citizen has complied with the actual residence requirement of Section 141(a)(3).

(g) "Defense Sites" means those land and water areas and improvements thereon in Palau reserved or acquired by the Government of Palau for use by the Government of the United States, as set forth in the related agreements referred to in Section 321.

(h) "Capital Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, which are to be obligated for:

(1) the construction or major repair of capital infrastructure; or

(2) public and private sector projects identified in the official overall economic development plan.

(i) "Current Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, which are to be obligated for recurring operational activities including infrastructure maintenance as identified in the annual budget justifications submitted yearly to the Government of the United States.

(j) "Official National Development Plan" means the documented program of annual development which identifies the specific policy and project activities necessary to achieve a specified set of economic goals and objectives during the period of free association, consistent with the economic assistance authority in Title Two. Such a document should include an analysis of population trends, manpower requirements, social needs, gross national product estimates, resource utilization, infrastructure needs and expenditures, and the specific private sector projects required to develop the local economy of Palau. Project identification should include initial cost estimates, with project purposes related to specific development goals and objectives.

(k) "Tariff Schedules of the United States" means the Tariff Schedules of the United States as amended from time to time and as promulgated pursuant to United States law and includes the Tariff Schedules of the United States Annotated (TSUSA), as amended.

(l) "Vienna Convention on Diplomatic Relations" means the Vienna Convention on Diplomatic Relations, done April 18, 1961, 23 U.S.T. 3227, T.I.A.S. 7502, 500 U.N.T.S. 95.

Section 462

The Government of the United States and the Government of Palau shall conclude related agreements which shall come into effect and shall survive in accordance with their terms, and which shall be construed and implemented in a manner consistent with this Compact, as follows:

(a) Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to Palau Concluded Pursuant to Section 131 of the Compact of Free Association;

(b) Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in Palau, Concluded Pursuant to Section 132 of the Compact of Free Association;

(c) Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of the Compact of Free Association;

(d) Agreement Regarding United States Economic Assistance to the Government of Palau Concluded Pursuant to Section 211(f) of the Compact of Free Association;

(e) Agreement Regarding Construction Projects in Palau Concluded Pursuant to Section 212(a) of the Compact of Free Association;

(f) Agreement Regarding Federal Programs and Services, Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association;

(g) Agreement Regarding Property Turnover, Concluded Pursuant to Section 234 of the Compact of Free Association;

(h) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in Palau Concluded Pursuant to Sections 321 and 322 of the Compact of Free Association; and

(i) Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association.

(j) Agreement regarding the Jurisdiction and Sovereignty of the Republic of Palau over its Territory and the Living and Non-Living Resources of the Sea.

ARTICLE VII

Concluding provisions

Section 471

(a) The Government of the United States and the Government of Palau agree that they have full authority under their respective constitutions to enter into this Compact and its related agreements and to fulfill all of their respective responsibilities in accordance with the terms of this Compact and its related agreements. The Governments pledge that they are so committed.

(b) The Government of the United States and the Government of Palau shall take all necessary steps, of a general or particular character, to ensure, not later than the effective date of this Compact, that their laws, regulations and administrative procedures are such as to effect the commitments referred to in Section 471(a).

(c) Without prejudice to effects of this Compact under international law, this compact has the force and effect of a statute under the laws of the United States.

Section 472

This Compact may be accepted, by signature or otherwise, by the Government of the United States and the Government of Palau. Each government shall possess an original English language version.

In witness thereof, the undersigned, duly authorized, have signed this Compact of Free Association which shall come into effect in accordance with the terms between the Government of the United States and the Government of Palau.

DONE AT , THIS DAY OF , ONE THOUSAND NINE HUNDRED EIGHTY-FIVE

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT , THIS DAY OF , ONE THOUSAND NINE HUNDRED EIGHTY-FIVE

FOR THE GOVERNMENT OF THE REPUBLIC OF PALAU

JURISDICTION

SEC. 202. (a) MARITIME AND TERRITORIAL JURISDICTION.—With respect to section 321 of the Compact of Free Association and its related agreements, the jurisdictional provisions set forth in subsection (b) of this section shall apply only to the citizens and nationals of the United States and aliens lawfully admitted to the United States for permanent residence who are in Palau.

(b) DEFENSE SITES.—The defense sites of the United States established in Palau in accordance with the Compact of Free Association and its related agreements are within the special maritime and territorial jurisdiction of the United States as set forth in section 7, title 18, United States Code.

(c) OFFENSES.—(1) Any person referred to in subsection (a) of this section who within or upon such defense sites is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the territory of Guam by the laws thereof, in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(2) The District Court of Guam shall have jurisdiction to try all criminal offenses against the United States, including the laws of Guam made applicable to the defense sites in Palau by virtue of subsection (c)(1) of this section, committed by any person referred to in subsection (a) of this section.

(3) The District Court of Guam may appoint one or more magistrates for the defense sites in Palau. Such Magistrates shall have the power and the status of Magistrates appointed pursuant to chapter 43, title 28, United States Code: Provided however, That such Magistrates shall have the power to try persons accused of, and sentence persons convicted of, petty offenses, as defined in section 1(3), title 18, United States Code, including violations of regulations for the maintenance of peace, order, and health issued by the Commanding Officer on such defense sites, without being subject to the restrictions provided for in section 3401(b), title 18, United States Code.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I yield to the gentleman from Ohio to explain the resolution before us.

Mr. SEIBERLING. Mr. Speaker, this is the Compact of Free Association with Palau, as amended by the concurrent resolution which we just adopted. It is very, very important to the people of Palau as well as the United States to move this along to final ratification. It has the support of the administration, it has the support of both sides of the aisle, and I urge its adoption.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I rise in strong support of this measure. As the gentleman said, it has the strong support of the administration, both parties and is very similar to what we passed here, in fact I think it is an improved version together with the resolution which we just passed.

I rise in support of House Joint Resolution 626, the Palau Compact of Free Association Act.

The 99th Congress has been engaged in issues affecting the Pacific, including aid to the Philippines, legislation affecting United States flag areas in the Pacific, and the Compact of Free Association Act of 1985, which detailed the new relationship of the United States and the Marshall Islands and the Federated States of Micronesia, and now the Palau Compact of Free Association. I commend all those Members who have taken an active interest in issues affecting the Pacific.

The Secretary General of the Soviet Union has also taken an active interest in the Pacific. In July of this year, he traveled to Vladivostok, on the shores of the Pacific, where he announced that the Soviet Union is an Asia-Pacific nation. It was also in Vladivostok that he indicated that there has been a shift from a European era to a Pacific era. It is apparent from the military, diplomatic, and trade initiatives of the Soviets that the General Secretary's statement is reflective of an expanded effort in the Pacific.

The advent of a Pacific era is not a new idea, as it was predicted in the United States years before Government officials, scholars and the media declared its arrival. The Palau Compact of Free Association is a crucial part of the evolution of the Pacific era. The three new freely associated states of Palau, the Marshall Islands and the Federated States of Micronesia will bring to 14 the number of sovereign Pacific Island nations established since 1961.

The United States needs to focus on other pressing issues in the Pacific. These include the implementation of a negotiated regional fisheries agreement, consideration of signing the protocols of the Treaty of Rarotonga, increased bilateral aid, expanded diplomatic presence and the political status issues raised among U.S. flag areas, and foreign dependencies and territories. Our first order of business has been the fulfillment of our responsibilities under the Trust Territory of the Pacific Islands.

This legislation represents one of the last steps in completing the trusteeship obligation. It has taken 16 years of hard negotiations to develop mutually acceptable compacts of free association. The Palau compact development and approval process has been complex due to the particular requirement of the Palau constitution, which deserves clarification.

There has been a great deal of confusion about the status of the Palau compact in light of the fact that Palau's internal approval process is not yet completed. For example, even today there are those who assert the Palau supreme court has ruled the compact to be inconsistent with the constitution of Palau. To the contrary, the court ruled only that the compact has not yet been approved because it received 72 percent rather than 75 percent of the vote. Obviously, there is a significant difference between an international agreement which has not been approved, and one that is unconstitutional under the legal system of one of the parties.

Of course, both section 411 of the Palau compact and section 101(d) of House Joint Resolution 626 require that the compact not take effect until Palau's approval process is completed in accordance with the requirements of the constitution—as interpreted in light of the court's decision. Thus, it is accurate to say that the compact is not yet in effect as an international agreement in Palau or the United States. Nevertheless, it is an agreement signed by the duly authorized representatives of the foreign policy organs of the two governments, and it has been approved by two-thirds of both houses of the Palau National Congress and 72 percent of the people. The compact has the status of an international agreement awaiting ratification.

Still, there are those who insist that the compact is somehow unconstitutional because the court ruled that it cannot enter into force until it receives 75 percent approval. It is also asserted that the compact clearly required 75 percent and that the United States and Palau should never have taken the position that 50 percent approval was sufficient. However, the position of both governments on this point was based upon an interpretation of the nuclear provisions of the constitution which was translated into section 324 of the compact. Under that interpretation the United States accepted restrictions upon its defense operating rights intended to meet the requirements of the Palau constitution, so that 50 percent rather than 75 percent approval would suffice. The court chose to accept the interpretation of those who advocate a much more extreme interpretation of the Palau constitution which precludes any accommodation of United States defense rights absent a 75 percent approval.

Let the record show that the elected leaders of Palau who negotiated the compact on behalf of Palau, and whose interpretation of the constitution was the basis for section 324 and our position that 50 percent approval was sufficient, were the authors of the final version of the nuclear provisions of Palau's constitution. The records of the constitutional convention in Palau establish this fact. While the court interpreted the constitution in a more extreme way than the authors of the applicable provisions of the constitution, this obviously does not alter the effect of the court's decision. The court's interpretation is now the law of the land in Palau, and we all must accept the consequences of that decision. However, it would be a distortion to suggest, as some have, that the court decisions in Palau are an unequivocal vindication for the extremist interpretation of the Palau constitution's nuclear provisions.

For example, in announcing the original decision in the compact approval case, a decision which was upheld by the appellate division of Palau's supreme court, the Palau supreme court justice who heard the case made the following statements:

> The fact that this decision may have a devastating effect on Palau is not a govering standard. * * * I find small consolation in the fact that it is * * * not this court who bequeathed this legacy of trouble to Palau and its leaders * * * it is hoped that those who found it incumbent upon them to initiate this lawsuit to protect the rights of the 198 citizens who did not vote in favor of the compact, as against the 5,079 who did, do not find in the long run that the service they have done to the few is far outweighted by the disservice they may have done to the many.

That rather harsh view of the court expresses the frustration Palau's constitutional dilemma is causing in Palau, particulary since 72 percent of the voters approved the compact in a referendum in which 71 percent of the registered voters participated. I personally think there is cause for optimism. President Salii was one of the convention delegates who drafted the final version of the nuclear provisions in the constitution; he and the members of the National Congress understand the balance which must be struck between Palau's strong policy to limit the impact of military activities upon Palau's environment and the need for Palau to have an effective mutual security relationship with the United States. The Palauans have a history of being

intruded upon by foreign powers, and they are not naive about what the Soviets are doing in the Pacific.

Thus, I am very hopeful that the Palau compact, which will put the Palauans at long last in control of their own destiny, will be approved soon in a manner consistent with the court's decision. Under the compact, Palau will decide for itself how to chart its economic course, and will have the resources to engage in long term development strategies. It is a fair and very generous package, and obviously the vast majority of Palauans want to terminate the trusteeship in favor of the compact. Completion of the United States process for approval of the agreement is the best way for us to ensure that this goal will be achieved just as soon as Palau's approval process is complete.

As I did when the Palau compact first came before the House, I want to again commend the many Members of Congress who have worked so hard to make this legislation a reality. A successful resolution of the last remaining issues between the House and the Senate were resolved through the intense efforts of MORRIS UDALL, JOHN SEIBERLING, STEVE SOLARZ, JIM LEACH, SIDNEY YATES, and Senators JIM MCCLURE and BENNETT JOHNSTON. An incredible amount of time and effort was expended by the staffs of the Foreign Affairs and the Interior Committees, and they are again wholeheartedly commended. I do want to acknowledge the considerable contributions and cooperation of the Senate staff of the Energy and Natural Resources Committee, and particularly Jim Bernie and Lallen Stayman who worked steadily through to the resolution of the compact issues.

I cannot let this historic opportunity pass without once again acknowledging the tireless efforts of the Office of Micronesian Status Negotiations, headed by the President's personal representative for Micronesian Status Negotiations, Ambassador Fred M. Zeder II, and ably staffed by his assistants Jim Berg and Howard Hills. In fact the Ambassador has been in Micronesia this past week continuing to carry out his mandate for the future termination of the Trust Territory of the Pacific Islands.

It is only proper to thank the people of Palau for the patience they have shown throughout the years in their quest for a freely associated state status with the United States. I want to acknowledge President Lazarus Salii for his tenacious efforts to develop a compact of free association that reflects the wishes of the people of Palau. President Salii's executive task force on the compact, headed by Senator Laki Marisok in Washington to personally deliver the message that the people of Palau want the Palau compact. The task force has been a vital resource to the Congress during the past few weeks and I thank President Salii and the task force for their assistance.

Mr. SEIBERLING. I thank the gentleman, and I concur in his statement.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON SMALL BUSINESS TO HAVE UNTIL 5 P.M. DECEMBER 31, 1986, TO FILE TWO REPORTS

Mr. MAVROULES. Mr. Speaker, I ask unanimous consent that the Committee on Small Business may have until 5 p.m. on December 31, 1986, to file two reports: The first is a report entitled "The Regulatory Flexibility Act: A Five-Year Report," and the second is a report entitled "International Tourism and Small Business."

These reports are not legislative, they are investigative, and the results of the committee's study and investigation of problems of small business pursuant to House Rule X.3(g).

The reports originated due to the work of our Subcommittee on Export Opportunities and Special Small Business Problems, of which Representative SKELTON is the chairman and Representative IRELAND is the ranking minority member. This request has the approval of the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. IRELAND. Mr. Speaker, reserving the right to object, and I will not object, I want to take a moment to say that both of these reports are on subjects that were high in the ranking of interest at the recent White House Conference on Small Business. Our subcommittee chairman, Mr. SKELTON, has done an excellent job of bringing this material to the attention of the full committee and to our colleagues, and I want to compliment him for that.

□ 1500

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, I wish to say that I appreciate the gentleman's efforts as the ranking minority member on the subcommittee. Both of these reports, as the gentleman has already stated, are investigative, that is oversight in nature. They are very substantive, and we would appreciate being able to file them before the end of the calendar year, because they will be of interest to all the Members of this body.

Mr. Speaker, I also thank the gentleman from Massachusetts for making this unanimous-consent request.

Mr. IRELAND. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CERTAIN PUBLIC DOMAIN LANDS HELD IN TRUST FOR THE PUEBLO OF ZIA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5167) to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 2, strike out all after "land" down to and including "Interior," in line 5, and insert: "under the jurisdiction of the Bureau of Land Management of the Department of the Interior situated within Sandoval County, New Mexico.".

Page 4, strike out lines 10 to 18, and insert:

(2) Plains Electric Generation and Transmission Cooperative, Inc. and its successors and assigns, shall be permitted to renew the right-of-way described in paragraph (1) under rules and regulations of the Secretary to the same extent and in the same manner that such permit could have been renewed if this Act had not been enacted.

Page 5, line 8, strike out "subsisting" and insert: "existing".

Page 5, strike out all after line 19, over to and including line 2 on page 6, and insert:

(2) Subject to valid existing rights, the leases described in subsection 4(d)(1) shall be administered under rules and regulations of the Secretary to the same extent and in the same manner that such leases would be administered if this Act had not been enacted.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REAFFIRMING OUR FRIENDSHIP AND SYMPATHY WITH THE PEOPLE OF EL SALVADOR FOLLOWING EARTHQUAKE OF OCTOBER 10, 1986

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 427) reaffirming our friendship and sympathy with the people of El Salvador following the devastating earthquake of October 10, 1986, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I reserve the right to object to that I might ask the gentleman from Florida, the chairman of the committee, to explain the measure.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I will say that this is a simple resolution expressing on behalf of the citizens of the United States our sympathy, and extending that to the people of El Salvador at the time of this great crisis, and expressing the sense of the House that the President should, as he has been doing, provide all the appropriate relief and rehabilitation which, as you know, has already been supplied. We have several teams down there right now evaluating and determining what should be done. And finally, it urges that we work together in order to help these folks who have had enough trouble already with their rehabilitation and reconstruction on the President's request to the Congress.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I rise in strong support of this resolution.

As the gentleman, the chairman of the committee, has pointed out, we are already assisting and lending support to those efforts. As concrete evidence of our Government's interest in and sympathy for the people of El Salvador, the Secretary of State is there today visiting the area.

I certainly join in sympathizing with what has happened, this terrible tragedy in El Salvador, and urge my colleagues to support the measure.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of Senate Joint Resolution 427 reaffirming our friendship and sympathy with the people of El Salvador following the devastating earthquake of October 10, 1986. This resolution underscores our strong commitment to the welfare of the Salvadoran nation which has suffered so much in recent years.

In response to an urgent request from President Duarte, the Agency for International Development [AID] has already provided $1.5 million in emergency relief. Another $50 million will be on the way soon as the result of Congress' decision to appropriate such additional assistance in the continuing resolution.

Mr. Speaker, in short, this measure demonstrates our solidarity and enduring friendship with the people of El Salvador and I urge its swift adoption. In order for Members to have a greater understanding of the extent of this tragedy, I insert at this point in the RECORD some information I have just received from AID:

AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, DC, October 14, 1986.

Dear MEMBER: On October 10, two strong earthquakes struck El Salvador, effecting heavy damage to a twenty-square block area in downtown San Salvador and to the southeast of the capital. There have been numerous aftershocks since that time. The present estimated count is 900 (unconfirmed) dead, 9,000–10,000 injured, and 150,000 homeless.

In response to a request for international assistance by El Salvador President Duarte, the Agency for International Development has provided $1.5 million in emergency relief supplies and equipment, personnel, and transportation costs from its International Disaster Assistance account since last Friday. Additional assistance will be provided as needs are identified and as available funding permits.

The Office of U.S. Foreign Disaster Assistance has convened an emergency working group to monitor the situation and to coordinate the U.S. Government response from Washington. We will be producing periodic situation reports during the emergency phase of the disaster. Enclosed is a copy of the most recent report which provides detailed information on the general situation in El Salvador and the response to date by the El Salvadoran government, nongovernmental organizations, and the international community.

We urge those who wish to contribute to any relief effort to make cash donations to relief agencies with programs in El Salvador. We hope you will join us in this effort by encouraging your constituents who inquire to send their cash contributions to a charity of their choice. Enclosed is a listing of voluntary agencies which are known to be participating in the El Salvador emergency relief effort.

If you would like additional information, please call this office at 647–8441.

Sincerely,

KELLY C. KAMMERER,
Director, Office of Legislative Affairs.

Enclosures: as stated.

EL SALVADOR—EARTHQUAKE

Date: October 10, 1986—11:49 a.m. local time.

Areas affected: Mainly a 20-square block area in downtown San Salvador; major structural damage also reported to the southeast of the capital including the residential neighborhoods of San Jacinto, San Marcos, and Modelo.

Dead: Estimated 900 (unconfirmed).

Injured: Estimated 9,000–10,000, many with minor wounds.

Homeless: Estimated 150,000.

Damage: Heavy damage was reported in the center of San Salvador; eight major buildings, a GOES ministry building and the U.S. Embassy, suffered severe damage; two of seven San Salvador hospitals reported destroyed, one evacuated, and the remaining four damaged to varying degrees (10%–40%).

Preliminary damage assessment: Virtually every sector suffered major damage, and reconstruction costs are expected to top $600 million. Many structures are beyond repair and will have to be demolished and built.

Government buildings: The Ministry of Public Works reported 40 government buildings with major structural damage; the Ministry of Planning collapsed; the Ministry of Finance and the Central Reserve Bank also suffered extensive structural damage; Ministry of Agriculture's main facility is badly damaged; about 30% of the Presidential Palace collapsed.

Hospitals—Three of the city's major hospitals require extensive or complete reconstruction: one wing of the Bloom Hospital collapsed completely and the main tower structure may be beyond restoration; the Social Security and Military hospitals also suffered extensive structural damage and equipment loss.

Schools: Of 62 schools visited, 30 suffered damage requiring reconstruction or repair: 13 will require complete reconstruction; 17 will require extensive repair.

Houses: Damage to houses, particularly those occupied by relatively poor people, was extensive.

Public Service Infrastructure: Streets and some bridge structures have suffered damage from heaving and settling. Streets are being evacuated in hundreds of sites to repair water and sewer lines and will have to be patched.

GENERAL SITUATION

Two strong earthquakes struck El Salvador the morning of Friday, October 10. The first tremor registered 5.4 on the Richter scale at 11:49 a.m. local time and was centered about 10 miles northwest of the capital; the second tremor registered 4.5 at 12:04 p.m., centered near the same site. The quakes were felt in neighboring Honduras and Guatemala.

Aftershocks have continued through October 13.

Search and rescue operations are in progress. These efforts are being carried out by the Salvadoran Red Cross and U.S., Mexican, Guatemalan, Italian, and Swiss rescue workers, among others.

The Ruben Dario Building in downtown San Salvador and the Ministry of Planning in the city's southern outskirts collapsed, burying many who are still trapped and feared dead in the ruins; rescue workers, including search and rescue dog teams, are locating survivors. Swiss teams are concentrating their efforts at the Ministry of Planning, and U.S. teams are working at the Ruben Dario site.

In addition to buildings in central San Salvador, including most government buildings, shanty-towns around the capital suffered the most damage.

Electricity was disrupted but should be back in service in a few days; phone communications were intermittently interrupted, with only ham radio communication functioning; water distribution was also interrupted. Commercial telex is expected to be inoperable for four to five days.

Many of the injured and those evacuated from damaged hospitals have been sent to hospitals in Santa Ana, a large city in western El Salvador, which was undamaged.

Electrical service has been restored 85%; water service has been restored; and public transportation services are operating.

There are no major problems with streets and bridges; landslides covered the two outer lanes of the airport highway, but two lanes remain open.

Comalapa Airport is overloaded with unnecessary items as a result of an influx of unsolicited donations; these in-kind donations are not needed and interfere with the relief effort.

Sufficient emergency medical and rescue personnel are on site. The situation does not warrant additional personnel.

A donor coordination meeting among government representatives from the U.S., Switzerland, Italy, West Germany, and Japan was held Monday, October 13.

Search and rescue efforts have been coordinated and responsibilities divided among international teams; at least 70 survivors were reported rescued by Sunday, October 12.

ACTION TAKEN BY THE GOVERNMENT OF EL SALVADOR (GOES) AND LOCAL GROUPS

President Duarte declared a state of emergency and requested international assistance.

The GOES convened the National Emergency Committee which met at 10:00 a.m. local time October 11. The Crisis Commission comprises members of the Cabinet, the armed forces, and representatives from the private sector. Several subcommittees were established to investigate emergency and rehabilitation needs.

The El Salvador Red Cross, along with many private Salvadoran volunteers, is providing first aid and rescue services. More than 400 Red Cross volunteers are engaged in relief endeavors.

ASSISTANCE PROVIDED BY THE UNITED STATES GOVERNMENT

The U.S. Ambassador, Edwin Corr, declared a disaster on October 10. His $25,000 Disaster Assistance Authority was applied toward the local purchase of several thousand water jugs and unspecified medical supplies.

On October 10, AID's Office of U.S. Foreign Disaster Assistance (OFDA) convened a 24-hour El Salvador Earthquake Working Group to coordinate USG assistance to host country disaster victims. Simultaneously, the State Department established a Task Force to respond to the needs of U.S. Embassy and AID personnel in El Salvador as well as respond to inquiries about U.S. citizens from concerned relatives.

OFDA dispatched a five-member assessment team from Costa Rica to the disaster site via a DOD C-130 from Panama. The team arrived October 11 with 10 cases of radio equipment and a portable generator. Cost of team: approximately $20,000.

A 15-member Emergency Medical Response Team with a truck and supplies, donated by DOD, and 360 blankets from OFDA's stockpile were sent October 11 via the same flight from Panama, the team to be on hand in case of need. Cost of transport: $11,000; cost of blankets: $1,458.

A second relief flight from Panama also arrived October 11 carrying 740 blankets, 50 tents, and 100 folding litters. Cost of blankets: $2,997; tents: $20,400; litters: $1,500.

OFDA provided a search and rescue team of four dogs and four handlers plus two coordinators. They arrived October 11 via a DOD C-141 from Andrews AFB paid for by DOD. Five survivors and 11 bodies have been identified by the team.

A five-member fire rescue team from Dade County, Miami, was flown in on October 11 with five sets of "jaws of life" rescue equipment, total cost $20,000. On October 11, the team pulled at least five survivors from rubble of one building where smoke from fires complicated rescue efforts. The number of people rescued by Dade County so far is 32.

OFDA provided 12 water tanks (3,000-gallon capacity), 309 rolls of plastic sheeting, and 1,500 wool blankets, arriving from Panama aboard two DOD C-130s, Saturday evening (October 11). The 3,000-gallon water tanks were immediately delivered to the hospitals. Cost of supplies: $157,850; cost of transport: $21,000. (The cost for the shipment of all replacement stocks is estimated at $40,000.)

20 general purpose medium tents (on loan from DOD) were flown in from Honduras to the disaster site.

USG relief personnel are working with Salvadoran Red Cross volunteers to distribute OFDA plastic sheeting to be used for temporary shelter. The sheeting was trucked to a soccer field from the airport and is being divided and distributed to victims.

OFDA notified U.S. media to discourage in-kind donations, due to the overload of unnecessary commodities being donated.

OFDA sent an additional 210 rolls of plastic sheeting and 200 body bags on a DOD C-130 from Panama on October 12. Cost of plastic: $32,368; body bags: $4,000; transport $11,000.

Two AID employees from the U.S. Mission in Costa Rica arrived in San Salvador October 14 to help monitor and distribute supplies. Cost of team: $2,020 for ten days.

OFDA is sending a U.S. Geological Survey seismologist, Dr. David Harlow, to accompany a team from the Earthquake Engineering Research Institute. These scientists plan to arrive at the end of the week (October 16 or 17).

OFDA sent an additional 236 rolls of plastic sheeting from its Panama stockpiles on Monday October 13, via a DOD C-130. Cost of transport: $11,000; plastic sheeting: $64,192.

OFDA is funding the transport of 29,500 lbs of medical supplies provided by MAP International, a U.S. voluntary organization. Cost of transport: $19,000

Two rolls of plastic sheeting were transported to San Salvador on space available on military transport. Cost of plastic: $544

OFDA is supplying 960 rolls of plastic sheeting and 200 tents from its new Windsor stocks; and tent kits, including 350 tents, flys, and repair tools; and 24 3,000-gallon water tanks from its Panama stocks. Cost of plastic: $261,120; tents and kits: $652,386; water tanks: $57,600; C5A transport: $100,000; inland (U.S.) truck transport: $10,000

OFDA is also sending USAID/Lima housing expert Kraig Baier to assess reconstruction needs.

Total USG assistance to date—$1,546,435.

ASSISTANCE PROVIDED BY U.S. VOLUNTARY AGENCIES AND OTHER PRIVATE GROUPS

Cross Connection, Inc.—General relief items, including medical supplies.

Earthquake Engineering Research Institute—Team of scientists to collect seismological data on the earthquakes.

MAP International—Assessment team and 29,500 lbs medical supplies.

Save the Children Federation—$10,000 for local procurement of relief items; on-going program in country has staff of 35 which will be supplemented by staff from Guatemala.

ASSISTANCE PROVIDED BY THE INTERNATIONAL COMMUNITY GOVERNMENTS

Canada—Cash grant of $109,000 through PAHO and LRCS.

Costa Rica—Search and medical team, five-member assessment team headed by Vice President Dengo.

France—Satellite communications equipment, 1.8 MT of relief goods and medical equipment, and a nine-member medical team.

Guatemala—80-person medical/rescue team and medical supplies.

Italy—One C-130 carrying medicines, medical supplies, food, tents, three electric generators, plastic storage tanks, family kits, and blankets; second relief flight carried medical/rescue team.

Japan—Three-person medical team.

Mexico—Relief flight carrying medical/technical team, food, medicines, and equipment.

Netherlands—Cash grant of $450,000 for rehabilitation and reconstruction.

Nicaragua—Blood supplies for transfusion.

Spain—Relief flight carrying medical supplies and rescue and other relief equipment.

Switzerland—One DC-10 Swissair charter flight carrying relief personnel and supplies arrived Sunday, October 12, carrying 52 specialists from the Swiss Disaster Unit, one delegate each from UNDRO and the Swiss Red Cross, and a French medical team. The Swiss rescue team comprises 21 search and rescue experts with 15 dogs, 18 relief experts with heavy equipment, four water treatment specialists with technical equipment, and a nine-member relief coordination team including radio operators, a medical doctor, and support personnel; 8.7 MT of relief supplies donated by the Swiss Red Cross were also on board.

Venezuela—Relief flight with medicines, medical suplies, and an assessment team including doctors and firefighters.

INTERNATIONAL ORGANIZATIONS AND PRIVATE VOLUNTARY ORGANIZATIONS

Action D'Urgence Internationale—Four rescue experts, one electronic sonde, and two rescue dogs.

Caritas/FRG—Emergency first-aid supplies, valued at $100,000.

Caritas/Italy—Emergency first-aid supplies, valued at $70,000.

EEC—Joint operation with United Kingdom and the British Red Cross: relief flight with 500 family tents and other emergency supplies, valued at $290,000.

ICRC—In-country team of 21 members assisted in relief operations.

International Rescue Corps (U.K.)—14-member search and rescue team with two dogs and technical equipment.

League of Red Cross Societies—Two delegates, 13 MT of relief supplies: 3,000 blankets, 457 tents, and 200 first-aid kits.

Medecins du Monde/France—Two doctors to reinforce a medical team of 13 providing regular assistance.

Medecins sans Frontieres/France—Three medical teams with a total of 15 doctors, nurses, and logisticians.

Netherlands Red Cross—5,000 blankets, 100 tents, and medical supplies.

Switzerland Red Cross—Nine MT of relief goods, including 4,500 blankets, 100 sets of household equipment, five special tents to be used as emergency health posts, and 50 family shelter tents.

UNDRO—Delegate arrived early October 12 with Swiss relief flight to assist UNDRO/UNDP resident representative in coordinating international relief.

UNICEF—2,000 blankets, 1,500 yards of dressing material, 100 5-gallon plastic water jugs, and 50 Coleman lamps.

JULIA V. TAFT,
Director, OFDA.

PRIVATE VOLUNTARY ORGANIZATIONS PARTICIPATING IN EL SALVADOR RELIEF RESPONSE

A number of American voluntary agencies are currently reviewing appropriate relief measures in order to respond to the needs of the earthquake victims. Persons wishing to make cash contributions may make tax deductible donations to the following organizations which have assistance programs in the areas:

Adventist Development and Relief Agency International
6840 Eastern Avenue, N.W.
Washington, DC 20012
(202) 722-6428

American National Red Cross
17th and D Streets, N.W.
Washington, DC 20006
(202) 639-3315

AMERICARES FOUNDATION
51 Locust Avenue
New Canaan, CT 06840
(203) 966-5195

The Brother's Brother Foundation
824 Grandview Avenue
Pittsburgh, PA 15211
(412) 431-1600

Catholic Relief Services—U.S.C.C.
1011 First Avenue
New York, NY 10022
(212) 838-4700

Christian Reformed World Relief Committee
2850 Kalamazoo Avenue, S.E.
Grand Rapids, MI 49560
(616) 241-1691

Direct Relief International
2801-B De La Vina Street
Santa Barbara, CA 93105
(805) 687-3694

Foster Parents Plan International
155 Plan Way
P.O. Box 400
Warwick, RI 02887
(401) 738-5600

InterChurch Medical Assistance, Inc.
P.O. Box 429
New Windsor, MD 21776
(301) 635-6474

International Rescue Committee
386 Park Avenue South
New York, NY 10016
(212) 679-0010

MAP International
2200 Glynco Parkway
Brunswick, GA 31520
(912) 265-6010

Mennonite Central Committee
21 South 12th Street
Akron, PA 17501
(717) 859-1151

OXFAM, America
115 Broadway
Boston, MA 02116
(617) 482-1211

Pan American Development Foundation
1889 F Street, N.W.
Washington, DC 20006
(202) 789-3969

Partners of the Americas
1424 K Street, N.W.
Washington, DC 20005
(202) 628-3300

Save the Children Federation
54 Wilton Road
Westport, CT 06880
(203) 226-7271

Sister Cities International
Technical Assistance Program
1625 Eye Street, N.W.
Washington, DC 20006
(202) 293-5504

World Relief Corporation
Washington Liaison Office
515 Second Street, N.E.
Washington, DC 20002
(202) 544-4447

World Vision Relief Organization
919 East Huntington Drive
Monrovia, CA 91016
(818) 357-7979

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida.

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 427

Whereas on October 10, 1986, El Salvador suffered a devastating earthquake resulting in heavy loss of life and injuries to many of its citizens;

Whereas the prolonged and extreme hardship of the people of El Salvador as a result of civil conflict has been deepened by this natural disaster;

Whereas the assistance of many governments, as well as international and nongovernmental organizations, for the people of El Salvador has been prompt and generous;

Whereas Secretary of State George Shultz will visit El Salvador during this emergency in order to convey the solidarity and friendship which link the peoples of our two nations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That government of the United States, on behalf of the citizens of the United States, extends to the people and government of El Salvador our most profound sympathies in this time of tragedy.

SEC. 2. The President should provide all appropriate relief and rehabilitation assistance to help prevent further loss of life, alleviate suffering, and safeguard the public health in El Salvador.

SEC. 3. The United States, in consultation with the government of El Salvador, is prepared to cooperate with El Salvador in long-term efforts to recover from the effects of the earthquake.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COLUMBIA RIVER GORGE ENHANCEMENT OF RESOURCES

The SPEAKER pro tempore. Pursuant to House Resolution 596 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5705.

□ 1504

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5705) to protect and provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes, with Mr. MONTGOMERY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina [Mr. WHITLEY] will be recognized for 15 minutes, the gentleman from Oregon [Mr. ROBERT F. SMITH] will be recognized for 15 minutes, the gentleman from Oregon [Mr. WEAVER] will be recognized for 15 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Oregon [Mr. WEAVER].

Mr. WEAVER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 5705, the Columbia River Gorge National Scenic Area Act. The Columbia River provides the only sea level passage through the great Cascade mountain range between Canada and California. This grand old river's importance to the economy of the Northwest can hardly be overemphasized: Not only is it a vital component of the region's transportation network, but it also provides clean, abundant hydroelectric energy to the people who live and work there.

In addition, the towering waterfalls, spectacular vistas, and unsurpassed recreational opportunities of the gorge

bring millions of visitors to the area every year.

As the region's population has grown, however, the gorge has come under increasing pressure for residential, commercial, and industrial development. H.R. 5705 will channel those developments into areas that will protect and preserve the scenic, cultural, recreation, and natural resources that have made the Columbia River Gorge the great national treasure that it is today.

H.R. 5705 establishes a 12-member bistate commission to oversee management and development of a 245,000 acre national scenic area. The commission is made up of six members appointed—one each—by the county commissions of the six affected counties in the scenic area. The Governors of the respective States will appoint three members each to the commission.

The scenic area consists of 13 urban areas, totaling some 19,000 acres, which are exempted from the provisions of the act. It also includes four special management areas, totaling approximately 112,000 acres, which contain the regions most precious scenic and recreational resources. Finally, there is an additional 113,000 acres of land in the scenic area which is outside the urban and special management areas.

The commission, in consultation with the counties and with the Forest Service, will develop a management plan for the scenic area. Public hearings and an opportunity for public comment are required prior to adoption of the management plan.

I want to stress that H.R. 5705 keeps control of private lands in the hands of the counties. The commission's management plan will contain guidelines for the development of land use ordinances for private lands in the scenic area. Those counties that already have land-use ordinances in effect can submit those to the counties for approval. If the commission agrees that the ordinances are consistent with the act, the counties need do nothing more.

With regard to private lands in the special management areas, the Secretary must concur with the commission's decision that the land use ordinances are consistent with the act. If the Secretary does not concur, however, the commission can override that decision by a majority vote of the members from each State.

Mr. Chairman, I want to assure you and other House Members that this bill will not disrupt the lives and activities of the area's residents. The act does authorize condemnation of lands if they are going to be put to a use that threatens the resources of the scenic area. However, this authority is extremely limited: Single-family residences, farms, ranches, educational facilities can never be condemned. Prior to the adoption of local zoning ordinances, condemnation is not allowed of any existing uses outside the special management areas, and any proposed condemnation in these areas by the Secretary can be overriden by a two-thirds, dual majority vote of the commission. Finally, after the local zoning ordinances have been approved under this act, condemnation can occur only in special management areas and then only if they are being used inconsistently with those ordinances.

Mr. Chairman, this bill will not bring an overbearing and onerous Federal presence to the area. On the contrary, this bill will remove the cloud of uncertainty that currently hangs over the gorge. For the better part of a decade gorge residents have watched—and weathered—a multitude of State and Federal proposals to protect the Columbia Gorge. At last a concensus has been reached among the entire Washington and Oregon Senate delegations, and all but two Members of the House delegations, and that cloud of uncertainty can be removed.

H.R. 5705 is the product of countless thousands of hours of work by House and Senate Members, their staffs, and the committee staffs of the respective bodies. In essence, it is the Senate-passed bill with several amendments that were in the House bill that was considered by the Interior and Agriculture Committees last week.

This bill is a compromise in the truest sense of the word. It will not make everyone happy and there will be those who disagree with some of its provisions. But every conceivable effort has been made through meetings with Members, Senators, staff, and the administration to draft a bill that provides the strongest protection with the least impact on residents of the area. I believe this bill will accomplish that goal for several reasons.

First, the bill passed by the other body a week ago included interim management authority that was not provided in the original bill. It also added a requirement that State and Federal activities in the scenic area must be consistent with the act, and it limited the availability of funds that would otherwise be provided under the act for counties that do not comply with its provisions. These changes were intended to ensure that the interstate compact is adopted by the States, that the commission is established, that a sound management plant is developed, and that county zoning ordinances are implemented.

Second, both H.R. 5705 and the bill passed by the other body contains a revised mechanism for developing county land use ordinances in the special management areas which resolves the concerns of those who suggested that the original formula was tantamount to Federal zoning.

Finally, H.R. 5705 was further strengthened by adding several provisions important to the House Interior Committee. These include limiting the directed land exchange program to private forest landowners, extending the limitation on Federal underwriting of inconsistent activities to the issuance of new permits and licenses as well as to new expenditure or financial assistance, and providing the commission with the authority to disapprove the Secretary's proposed condemnation of private lands during the interim period.

Mr. Chairman, I believe these changes make a good bill even better and we have assurances from the other body that they are acceptable. I urge my colleagues to support H.R. 5705.

□ 1510

Mr. ROBERT F. SMITH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when I first began discussing this issue with Members of Congress, we found that we had broad areas of agreement. We wanted and made a pact, Democrats and Republicans, that in the Columbia River Gorge the first thing that would be clear is local control over whatever may occur within the gorge. We made a pact.

I cosponsored a bill demonstrating my sincerity in that pact. The other part of that pact was that we would reduce condemnation to its very narrowest point of view and that we would not have Federal intervention in the decisionmaking in the gorge. We also provided, and I cosponsored a bill, which said that if you have local land use laws, which the State of Oregon does in abundance, then those land use laws would not be impacted nor superseded by any Federal authority.

My friends, none of those issues, nor none of those agreements, nor none of that pact has held up since the time I cosponsored the bill. None are in this bill and we should oppose the bill for this reason.

We may discuss the protection of the Columbia River Gorge and we should. But at what cost? Are we going to take away the rights and privileges of the people on my side of the river and the Washington side of the river and for what? Are we going to allow the Secretary of Agriculture and the Federal Government broad, new condemnation powers which they have under this bill and for what?

Are we going to ignore local land use laws that are already established in the State of Oregon and serving us well and for what? There has been some discussion about the economic opportunity that may surround itself in this bill. There has even been dis-

cussion that there would be an increase in tourism. Let me give you the hard, cold facts of the day. Not my numbers; numbers from the U.S. Forest Service as we heard this bill in the Agriculture Committee.

The loss in the allowable cut in the timber resource after the passage of this bill is 17 million board feet. By Forest Service numbers, that means direct and indirect job loss of 357 people. That means that considering an annual income average of $30,000 more than $10 million in direct economic loss would occur every year, this bill is in effect. By the way, the plum on the other side of the issue, the plum is this: We, the Congress, are supposed to appropriate under this bill after it is authorized, this is the authorization, $5 million to go to the State of Washington and $5 million to go to the State of Oregon for economic development. We took the jobs away, 357, plus $10 million annually, and we given them back $5 million one time. Not very good arithmetic for jobs. I support expansion of jobs, not reducing them. I know that every Member here wants to support the expansion of jobs not reducing them.

This 12-man commission is not local control at all. If you want local control, you do what we did in the original bill I cosponsored and every Member on the Democratic side cosponsored, may I say. That is to provide for a majority of commission members live within the Gorge. In other words, there should be 8 members of this 12-member commission who live in the scenic area of the gorge. That is local control.

The issue about overriding, what may be the greatest detriment to the people that I represent, brandnew condemnation powers. It is the idea that you can override by the commission. I merely wanted in one of my amendments, to allow, in the interim before the commission was established, the Governors of the respective States the authority to override any condemnation powers by the Federal Government. That is not in this bill.

May I suggest to you that I am not alone in my concern about this legislation. Just let me give you an example or two.

I did not solicit the Department of Justice on this issue. They sent a letter to the chairman of the Interior Committee and the chairman of the Agriculture Committee and in it they said these things, and I quote directly. I want to submit the Department of Justice letter which I will do under general leave.

Here is what Justice said and I will submit their letter for the RECORD.

Injunctive relief—temporary taking of private lands. We are talking about private lands. There is no time limit in this bill. This is a restraint of local property use by actions of Federal officials.

This provides broad, new powers to the Secretary of Agriculture for interim guidelines condemnation. There is no sunset in this bill.

This failure to include a sunset provision may lead to a bill which originally contemplated the voluntary actions of the States becoming an indefinite regulatory land use program by the Federal Government. An indefinite regulatory land use program by the Federal Government. The Department of Justice went on to say, if I may paraphrase, We have such reservations about this bill, we very well may recommend a veto. Unheralded condemnation powers. Unhearlded powers given to the bureaucrats in Washington, DC.

The Justice Department letter follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, October 14, 1986.

Hon. MORRIS K. UDALL,
Chairman, House Committee on Interior and Insular Affairs, Washington, DC.

DEAR CONGRESSMAN UDALL: This is in response to your request for this Department's comments on the amendment in the nature of a substitute to H.R. 3625. The bill would establish a national scenic area and provide a scheme for its management. The bill is designed to facilitate management through a Commission created out of a compact between Oregon and Washington. We take the opportunity to identify certain concerns raised by the language of the bill. We will reference where warranted, S. 2055, recently passed by the Senate.

1. Interim Injunctive Relief/Temporary Taking Concern.

Section 10(c)(1) purports to authorize federally requested temporary restraining orders or preliminary injunctions (upon exercising the authority to acquire land) to protect against interim uses which are likely to cause impacts adverse to the purposes for which the bill establishes the scenic area. The time limit on the interim restraint is ninety days. The Senate bill has a similar provision but has no time limit.

As a technical matter, the bases upon which the relief can be sought are broad. An injunction can be sought against actions "significantly affecting" scenic, cultural, recreation, and natural resources of the scenic area or otherwise inconsistent with the purposes for which the scenic area is established. Turning to those "purposes", Section 3 refers to the protection of scenic, cultural, recreation, and natural resources. It also refers to support of the "economy" of the Columbia River Gorge Area. These provisions offer any little limit to the grounds for which relief may be sought.

In effect, the interim injunctive relief of this section will restrict local property use by actions of federal officials. This gives rise to serious concerns of federal temporary taking liability where, for some reason, a complaint in condemnation is filed but the suit later withdrawn. Accordingly, we strongly urge the deletion of the provision. In addition, Section 10(c)(2) seems to provide an effective mechanism for the balancing of local interests and federal interests under the bill. For that reason as well, Section 10(c)(1) may be unnecessary. As a much less desirable alternative, retention of the provision should at least be coupled with a time limitation, as in the House bill. In that respect, however, we would urge a much shorter period, such as 14 days, as ample "cooling off" time.

2. Citizen Suit Provisions and the Enforcement Scheme.

Generally, we oppose the inclusion of citizen suit provisions, such as those in Section 14(d) in legislation. This is particularly appropriate where, as here, alternative enforcement mechanisms are provided. See Section 14(c). The Attorney General may initiate civil action for an injunction or other appropriate order as may the Attorneys General of Washington and Oregon. We would recommend deleting the citizen suit provision.

Even where citizen suit provisions have been enacted, those provisions typically include "notice of intent to sue" terms. In this bill, the citizen suit provisions provide for no notice where the basis of the suit is that "a legal interest" of the plaintiff is immediately affected. The United States normally takes the position that "a legal interest" is required to have standing to litigate in the first instance; thus, if standing exists, there is in essence no notice requirement in this language. Thus, we would recommend deleting this notice exception if the citizen suit provision is not deleted.

3. Enforcement and Responsibilities.

As a preface, but one which leads to numerous other ambiguities in the bill, we note that the legislation appears to grant prior Congressional approval to a possible undefined future agreement by the states. The bill is so detailed in its requirements for that agreement that the roles of federal and local authority become confused. Thus, although Section 5(a)(1)(b) speaks of the Commission as exercising state authority, the bill leaves the lines of federal and state enforcement authority unclear.

Specifically, in Section 14(c) no distinction is made between the enforcement responsibilities of the Attorney General of the United States and those of the State Attorneys General. The actions taken by the Commission, a non-federal entity under the Act, seem to be enforcible by the federal government's attorney. Similarly, actions of the Secretary of Agriculture could be enforced by the State Attorneys General. Of course, federal responsibility should extend only to federal interests. The Senate bill provides a separation between the enforcement responsibilities that should be included in Section 14.

4. Penalty Provisions.

There is no provision for the use or fiscal status of collected penalties for violation of the Commission orders. Viewed on the basis of Section 5, the bill seems to contemplate that the power to collect the penalties is derived from state law. Otherwise, the penalty provision would be an impermissible delegation of the federal legislative contempt power or federal judicial sanction power to a non-federal entity.

5. Indeterminate Period of Secretarial "Interim" Responsibility.

As we now understand the bill, it does not specifically address the continued efficacy of the Secretarial "interim" responsibilities (Section 10) in the event the compact is not approved within one year. This failure to include a sunset provision may lead to a bill which originally contemplated the voluntary actions of the States becoming an indefinite regulatory land use program by the federal government.

6. Generally.

It is not unreasonable to view the Secretary's interim guidelines and his guidelines for "land use ordinances" (the latter developed in consultation with the Commission) Section 8(f), as substantially controlling the standards adopted by the Commission and eventually the local land use bodies. Thus, even apart from "taking" implications, fair argument exists that, under this legislation, the federal government is itself regulating both local bodies and local land use.

In sum, the bill raises serious risks of taking liability, although its injunctive provisions are more restrained than those of the Senate version. The bill also leaves troublesome ambiguity over the allocation of federal and state power in such areas as enforcement authority, an ambiguity which could, conceivably, reach as far as the Constitutional efficacy of the compact itself. We would be glad to discuss the bill further but are constrained to say that our concerns, which stem in large part from the bill's ambiguity over allocation of authority, are fundamental and serious enough to warrant consideration of a veto recommendation from this Department should the Congress pass the legislation.

The Office of Management and Budget has advised that there is no objection to submission of this report from the standpoint of the Administration's program.

Sincerely,

KEN BERGQUIST,
Acting Assistant Attorney General.

The Department of Agriculture is most concerned about this bill. You read the letter, many of us did in Agriculture, from Secretary Lyng, saying, we do not like our role in this thing. We do not want to be directing what happens on private lands. We already direct what happens on 90 percent of the lands on the Oregon side; there are only 10 percent left. That is what we pay taxes with. That is the way we educate our children and that is the way we build roads. We have only got 10 percent left, now you want to take the rest.

How are we going to educate our children and how are we going to build our roads? I suggest to you that the Forest Service is saying, We do not want this program; we do not like what you are telling us to do in this bill, and if you do not change it, we are going to recommend a veto.

A later letter came, I admit, and said the Senate has made some adjustments, but we still do not like our role. It is a dictatorial, Federal role we have never had before. It allows us condemnation, direction, and power over private lands. That is the reason this is a bad bill and I will provide you with a better one in a few minutes.

□ 1520

Mr. Chairman, I yield 5 minutes to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman, Oregonians have a proud history of sensible land management. We were historic in being the first State to have the bottle bill, where we have to clean up our bottles and cans. We have cleaned up our polluted rivers. We have tough laws on public beaches and we have very strong land-use planning laws in effect in the State of Oregon.

That is why the bill before us is wrong. It is unnecessary. And frankly, it is an insult to thousands of Oregonians in the gorge that have and will continue to manage their own lands in a responsible manner without the Federal Government looking over their shoulder.

The bill reflects a complete lack of confidence in the people of Oregon to manage their own lands.

Let me talk a little bit about economics now, because I think that is really where we are talking about the gut issues, as far as this Member is concerned.

The proponents of the bill will not allow an economic impact study to be conducted. In addition, it is going to cost a lot of jobs for Oregonians.

My colleagues said 350; I would say it is 350, maybe 2 or 3 times over. Those jobs are in Oregon and they are going right out the window. The unemployment rates in the gorge are high enough as it is. This will increase those rates by another 1 percent.

But let me give you, in 1986 figures, what the unemployment is county-by-county: Hood River County, 16.2 percent; Wasco County, 16.5 percent; on the Washington side, Klickitat County, 16 percent; and Skamania County, 20.6 percent.

And no economic impact study? What kind of signal is this to send to Oregonians concerned about their livelihoods? I have said in the past that I thought taking jobs away from Oregonians in this manner is criminal. We are truly sentencing our children to go someplace else to find a job and to be able to make a living.

Some people are here today to represent special interest groups. I came here representing constituents who are unhappy about Federal controls.

Most are here today to vote for a bill they have never even seen.

I am here to represent Oregonians who have proven they can manage their lives and their lands quite well, thank you, without the Federal Government telling them how to do so.

If Congress continues to pass bills like this, if we continue to display a lack of confidence in the people we represent, we might as well consider giving up our own statehood. At this rate, Oregon is going to end up as a wholly owned piece of Federal property—a giant Federal land preserve.

Congress might as well consider moving the U.S. Capitol to the gorge * * * with passage of this bill we'll have two Districts of Columbia. Oregonians think one D.C. is more than enough.

What's more, Oregonians don't want this legislation. A survey conducted in my district this week revealed that by nearly two to one they oppose Federal oversight in the gorge. And I know that surveys in the gorge itself show even stronger opposition—by as much as 90 percent.

The people don't want Federal intervention. The country can't afford the price tag. And we shouldn't be taking away people's homes, jobs and futures * * * especially with this legislation which virtually no one in the House has had on opportunity to consider.

I urge you to oppose this effort.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. DENNY SMITH. I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, I listened to the gentleman say this legislation would destroy jobs in Oregon, and I assume he also meant in Washington. The gentleman knows that this bill is essentially and practically 99 percent the other body-passed bill.

So my question to the gentleman would be: Since Senator GORTON of Washington sponsored and supports this bill and since Senator PACKWOOD of Oregon supports this bill, is he saying to this body that those two Senators are endorsing a piece of legislation that destroys jobs in the region?

Mr. DENNY SMITH. Mr. Chairman, I would say to the gentleman that just because you serve in the other body does not make your instincts or your intellects or your knowledge any greater than any Member of the body here.

Mr. AUCOIN. I agree with the gentleman.

Mr. DENNY SMITH. I think that they have made a drastic error.

Mr. AUCOIN. So the gentleman is saying to his colleagues here that Senator GORTON and Senator PACKWOOD are, by their support of this legislation——

Mr. DENNY SMITH. I think the gentleman heard what I said. I said that I did not feel that they were necessarily right and that I was necessarily wrong.

I think what we are talking about here is that the more control we give to the Federal Government, no matter where it is, when we take lands, we are taking jobs.

I would point out to the gentleman that in his congressional district, where the timber swaps are going to take place, he is going to run out of cutting-circle timber, and I think it will cost jobs in his district, also.

Mr. WHITLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 5705 was jointly referred to the Committee on Agriculture and the Committee on Interior and Insular Affairs.

This bill is the culmination of many years of work and has had consider-

able deliberation during this term of the Congress.

H.R. 5705 is a hybrid of a bill that was recently passed by the other body and one that was considered in the Subcommittee on Forests, Family Farms and Energy, the full Committee on Agriculture and the Committee on Interior and Insular Affairs.

The House bill, H.R. 5625, was reported by the Subcommittee on Forests, Family Farms and Energy on October 8. I might say, Mr. Chairman, that our subcommittee made a trip out to the gorge. We held a lengthy hearing out there and heard from some 80 public and private witnesses. We conducted a full markup of the bill in subcommittee and reported it to the full Committee on Agriculture.

We began a markup session in the full Committee on Agriculture, which was eventually interrupted as a result of repeated requests for quorum calls at a time when the House was busy.

That is the only reason, Mr. Chairman, that there was not complete consideration of this bill in the Committee on Agriculture. My own position is that I am like the politician who, asked where he stood on an issue, said, "Some of my friends are for it and some are against it, and I am for my friends."

Having been to the gorge, having heard the testimony, having discussed it with many Members, I have certainly come to the conclusion that this gorge is an extremely beautiful region of the Pacific Northwest, running between the States of Oregon and Washington.

I know this because we visited it and we heard from 80 witnesses. I am sure that the Members have already come to understand that this is a matter of considerable controversy. We are hearing and we will continue to hear from Members on both sides of the gorge.

My own opinion is that this is a very beautiful area; its scenic beauty ought to be maintained by the best means possible. There seems to be a consensus that this bill is probably the best management tool. I do not personally disagree with that consensus, although I defend strongly the right of all Members to be heard on this issue.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from North Carolina [Mr. WHITLEY] has consumed 3 minutes.

Mr. WEAVER. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the Subcommittee on National Parks and Recreation, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, the Columbia River flows through the Cascade Mountains east of Portland, OR, forming the boundary between the States of Oregon and Washington. The Columbia River cut its way through the Cascade Range by eroding a 60 to 70 mile long, almost straight, gorge with sharply rising escarpments of up to 3,000 feet above a river that ranges from one-quarter mile to 1½ miles in width.

I've seen the gorge and I share the rapture that is expressed by those who are so fortunate as to live near such beauty. The Columbia River Gorge should be protected for its visual quality alone but it has many other values.

The gorge, in itself, is an extremely important geological feature. The nearly sea level course it has cut through the Cascade Range is the only major break in the Cascades between the Fraser River in British Columbia and the Klamath River in California.

The Cascade Range affects climate, flora and fauna in the region. The climate varies considerably from one end of the gorge to the other. The western end of the gorge has a mild, moist climate, while the eastern end has wide temperature ranges and approaches a semiarid condition. Rainfall at the western end of the gorge is about 75 inches diminishing to about 10 to 14 inches at the eastern end.

The complex geology and climatic conditions within the gorge has produced an equally complex plant community that differs significantly from the north wall—the Washington side—to the south wall—the Oregon side—as well as differing from one end of the gorge to the other and within the many small microclimes throughout the gorge. Eight hundred plant species are found in the gorge of which 58 are considered rare or endangered. There are nine species which are found only within the gorge. Thirty-one plant species that usually occur at elevations above 4,000 feet are found in the gorge almost always below 1,600 feet. These plants, which are limited to the steep bluffs and cool canyons characteristic of the south wall, are isolated from the main portion of their populations.

H.R. 5705, introduced by our colleague on the Interior and Insular Affairs Committee, JIM WEAVER, is the seventh and latest bill introduced in the House by Members of the Oregon or Washington delegations in an effort to find a compromise solution to the complex issues of protecting the Columbia River Gorge. Additional measures were introduced in the other body and S. 2055 passed October 7, 1986.

H.R. 5705 would establish the Columbia River Gorge National Scenic Area.

The bill would provide for complicated interagency, multilevel, governmental procedures to achieve the purposes of the bill. The bill states the purpose as preserving the scenic, recreational, historical, cultural, natural resources of the gorge; and to protect the economy and encourage future economic development. The scenic area is established generally between Washougal—Sandy River on the west to Wisham—Deschutes River on the east. The scenic area generally would have three classifications of land within its boundaries; special management areas, urban areas, and general scenic area lands.

The bill calls for a land use study to be completed and implemented by the local governing bodies with the proviso that any failure to act according to the plan would result in some form of enforcement action by the commission.

The commission would be established by the action of both States when they enact a bistate agreement which would incorporate this act into such agreement.

The agreement must be reached within 15 months of enactment. If this agreement is not reached the Secretary of Agriculture would have authority to review any direct or indirect Federal programs or actions, with certain exceptions, to assure that all Federal programs are consistent with the purposes of this act.

Mr. Chairman, other aspects of the bill will be discussed in some detail as we proceed today.

I wish to reiterate my support for protection for the Columbia River Gorge. However, I have very serious reservations about some of the provisions in this bill. Especially some language incorporated from the other body.

I have worked out some changes in language with the author of H.R. 5705 Mr. WEAVER, but even so, there are many provisions that I believe are real breaches to the long history of establishment of conservation units in the United States. As the chairman of the Subcommittee on National Parks and Recreation, my view is that this is a special bill—a hybrid measure to meet the very special needs—but mostly it is a bill of bits and pieces of compromise reflecting a concept to a greater degree than pragmatic problem solving in designation of a national conservation unit. As such, I wish all of my colleagues to understand that I do not consider this bill or any of its provisions to be a precedent for any future action to establish any similar national conservation unit.

Mr. Chairman, with these reservations, I support enactment of H.R. 5705.

□ 1530

Mr. MARLENEE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LAGOMARSINO]..

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong opposition to the Columbia Gorge legislation, H.R. 5705, which we are considering today. This bill is severely flawed in many respects and this is too complex and too impor-

tant of an issue to be rushing through Congress at the last minute.

I can certainly appreciate the efforts of those who seek to protect the unique and beautiful resources of the gorge. But passage of this bill at this time in this form will not serve anyone's interests well but will, rather, result in an atmosphere of chaos and resentment toward the Federal Government, in addition to extensive litigation. Rather, this legislation should be considered in an orderly process next year in the park subcommittee which is chaired by the gentleman from Minnesota [Mr. VENTO]. He has shown he and his committee can carefully, fairly, and productively consider important and complex legislation.

In my view, there are many problems with this bill, both major and minor. In the first place, this bill was only introduced in the House yesterday. It is unlikely that many Members even know what is in it. It has consistently been rushed through the committees and now the full House without adequate opportunity for debate or amendments, even though the bill is 46 pages long.

Let me start by saying that I'm not convinced that a bill of this scope is necessary to protect the resources of the gorge. According to the testimony which we heard at the subcommittee hearings, only a few development projects had been proposed for this area over the last several years and almost all of them had been rejected.

Second, the severe restrictions on development embodied in this bill will most likely result in additional economic hardship for an area which already suffers from double-digit unemployment. There has never been the opportunity for an economic impact statement to determine exactly what the effects of this bill will be. However, it appears that the restrictions will result in the closure of logging operations and numerous local businesses.

The bill also provides for condemnation of the private lands in this area—some 130,000 acres. Many local residents who have lived there for generations will be forced off their land. In addition, thousands of acres of land will be removed from the local tax rolls creating financial hardships for the local governments. It is no wonder that over 90 percent of the local residents and nearly all of the local governments are opposed to this bill, along with over 90 local, regional, State and national agricultural, forestry, and civic associations, including the National Farm Bureau, The National Grange, and the National Association of Counties.

There are also numerous constitutional problems with this legislation which have not been resolved, particularly the requirement that the Secretary of Agriculture regulate private lands within the special management areas. This is clearly unconstitutional. The regulation of private lands is strictly a State and local responsibility and well it should be. However, should this bill pass, we are taking this right away from those who actually live on the land. This is a grave injustice. In addition, the U.S. Department of Justice has expressed serious reservations about several other provisions in this bill which will result in years of litigation and countless expense for the Federal Government. I would like to submit the Justice Department's views on this bill for the record.

The U.S. Department of Agriculture has also expressed grave concerns about this bill. I share their concerns, particularly regarding interim acquisition authority provided to the Secretary until the bi-State commission is formed. This could result in the Federal Government acquiring vast acreages of land if the States fail to act. There should definitely be a sunset provision in this bill, since the States have been reluctant to act on Columbia Gorge legislation in the past. To put the burden of protecting and managing the resources of this area on the Federal Government possibly forever is clearly inappropriate.

This bill is also very vague in many respects. For instance, many terms, such as "substantially changed" or "significantly affect" are not defined. Therefore, landowners and industries are unclear as to what they can and cannot do and how the bill will affect them. It seems only reasonable that they should be informed of this prior to passage of the bill.

Furthermore, passage of this bill would establish several serious precedents, including payments to local governments in addition to pilt and placing the Secretary of Agriculture in the business of constructing and operating conference centers.

Which brings me to my final point—expense. H.R. 5705 authorizes over $75 million in appropriations. We all know that this amount, which doesn't even consider the enormous cost of administering the area, would be increased in future years as more land acquisition, or other expenditures, are determined to be necessary. In these times of multibillion-dollar budget deficits, I strongly feel we should not be rushing such an expensive measure through Congress. I say this also because of the enormous backlog of authorized, but unfunded, land acquisitions which must seriously compete with each other for limited Federal dollars. Many of these projects have been authorized for several years, but the money has never been provided due to the intense competition with other projects. We cannot continue to authorize new Federal spending for areas such as this until we have taken care of the backlog for other projects.

Although this legislation is not beyond hope, particularly since it contains some good provisions including the ability for oil and gas companies to explore and develop the vast mineral resources in this area, this bill should not go forward at this time. It should be sent back to the committees where the problems can be worked out next year and a clean compromise bill passed. To approve this measure at this time would thwart the legislative process and result in years of litigation over the unconstitutional provisions in this bill.

Therefore, I ask my colleagues to let justice and fairness prevail. Please join with me in opposing H.R. 5705.

Mr. Chairman, I include the following correspondence:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND
INTERGOVERNMENTAL AFFAIRS,
Washington, DC, October 14, 1986.

Hon. MORRIS K. UDALL,
Chairman, House Committee on Interior and Insular Affairs, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN UDALL: This is in response to your request for this Department's comments on the amendment in the nature of a substitute to H.R. 3625. The bill would establish a national scenic area and provide a scheme for its management. The bill is designed to facilitate management through a Commission created out of a compact between Oregon and Washington. We take the opportunity to identify certain concerns raised by the language of the bill. We will reference where warranted, S. 2055, recently passed by the Senate.

1. Interim Injunctive Relief/Temporary Taking Concern.—Section 10(c)(1) purports to authorize federally requested temporary restraining orders or preliminary injunctions (upon exercising the authority to acquire land) to protect against interim uses which are likely to cause impacts adverse to the purposes for which the bill establishes the scenic area. The time limit on the interim restraint is ninety days. The Senate bill has a similar provision but has no time limit.

As a technical matter, the bases upon which the relief can be sought are broad. An injunction can be sought against actions "significantly affecting" scenic, cultural, recreation, and natural resources of the scenic area or otherwise inconsistent with the purposes for which the scenic area is established. Turning to those "purposes", Section 3 refers to the protection of scenic, cultural, recreation, and natural resources. It also refers to support of the "economy" of the Columbia River Gorge Area. These provisions offer any little limit to the grounds for which relief may be sought.

In effect, the interim injunctive relief of this section will restrict local property use by actions of federal officials. This gives rise to serious concerns of federal temporary taking liability where, for some reason, a complaint in condemnation is filed but the suit later withdrawn. Accordingly, we strongly urge the deletion of the provision. In addition, Section 10(c)(2) seems to provide an effective mechanism for the balancing of local interests and federal interests under the bill. For that reason as well, Section 10(c)(1) may be unnecessary. As a much less desirable alternative, retention of the

provision should at least be coupled with a time limitation, as in the House bill. In that respect, however, we would urge a much shorter period, such as 14 days, as ample "cooling off" time.

2. Citizen Suit Provisions and the Enforcement Scheme.—Generally, we oppose the inclusion of citizen suit provisions, such as those in Section 14(d) in legislation. This is particularly appropriate where, as here, alternative enforcement mechanisms are provided. See Section 14(c). The Attorney General may initiate civil action for an injunction or other appropriate order as may the Attorneys General of Washington and Oregon. We would recommend deleting the citizen suit provision.

Even where citizen suit provisions have been enacted, those provisions typically include "notice of intent to sue" terms. In this bill, the citizen suit provisions provide for no notice where the basis of the suit is that "a legal interest" of the plaintiff is immediately affected. The United States normally takes the position that "a legal interest" is required to have standing to litigate in the first instance; thus, if standing exists, there is in essence no notice requirement in this language. Thus, we would recommend deleting this notice exception if the citizen suit provision is not deleted.

3. Enforcement and Responsibilities.—As a preface, but one which leads to numerous other ambiguities in the bill, we note that the legislation appears to grant prior Congressional approval to a possible undefined future agreement by the states. The bill is so detailed in its requirements for that agreement that the roles of federal and local authority become confused. Thus, although Section 5(a)(1)(b) speaks of the Commission as exercising state authority, the bill leaves the lines of federal and state enforcement authority unclear.

Specifically, in Section 14(c) no distinction is made between the enforcement responsibilities of the Attorney General of the United States and those of the State Attorneys General. The actions taken by the Commission, a non-federal entity under the Act, seem to be enforcible by the federal government's attorney. Similarly, actions of the Secretary of Agriculture could be enforced by the State Attorneys General. Of course, federal responsibility should extend only to federal interests. The Senate bill provides a separation between the enforcement responsibilities that should be included in Section 14.

4. Penalty Provisions.—There is no provision for the use or fiscal status of collected penalties for violation of the Commission orders. Viewed on the basis of Section 5, the bill seems to contemplate that the power to collect the penalties is derived from state law. Otherwise, the penalty provision would be an impermissible delegation of the federal legislative contempt power or federal judicial sanction power to a non-federal entity.

5. Indeterminate Period of Secretarial "Interim" Responsibility.—As we now understand the bill, it does not specifically address the continued efficacy of the Secretarial "interim" responsibilities (Section 10) in the event the compact is not approved within one year. This failure to include a sunset provision may lead to a bill which originally contemplated the voluntary actions of the States becoming an indefinite regulatory land use program by the federal government.

6. Generally.—It is not unreasonable to view the Secretary's interim guidelines and his guidelines for "land use ordinances" (the latter developed in consultation with the Commission), Section 8(f), as substantially controlling the standards adopted by the Commission and eventually the local land use bodies. Thus, even apart from "taking" implications, fair argument exists that, under this legislation, the federal government is itself regulating both local bodies and local land use.

In sum, the bill raises serious risks of taking liability, although its injunctive provisions are more restrained than those of the Senate version. The bill also leaves troublesome ambiguity over the allocation of federal and state power in such areas as enforcement authority, an ambiguity which could, conceivably, reach as far as the Constitutional efficacy of the compact itself. We would be glad to discuss the bill further but are constrained to say that our concerns, which stem in large part from the bill's ambiguity over allocation of authority, are fundamental and serious enough to warrant consideration of a veto recommendation from this Department should the Congress pass the legislation.

The Office of Management and Budget has advised that there is no objection to submission of this report from the standpoint of the Administration's program.

Sincerely,

KEN BERGQUIST,
Acting Assistant Attorney General.

Mr. WHITLEY. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman yielding this time to me.

I would tell my colleagues that this is landmark legislation. It is also compromise legislation. It deserves the active support of this body, whether Members be from the West, the Midwest, or from the East. It deserves support on both sides of the aisle.

H.R. 5705 comes as close as is possible to reaching a consensus among a wide range of interests. An overwhelming majority of us from the Northwest brings it to you today. It is the product of 6 years of negotiation.

In the debate in the rule it was stated, and I state it again, that this bill, this approach is supported by the four Senators from the two States that are directly affected and who represent the people there. It is supported unanimously by the Washington State House delegation, the people who are responsible for representing the people of that State. It is supported by three of the five members of the Oregon delegation who represent the people in the State of Oregon. It is supported by a Democratic Governor in Washington State and a Republican Governor in the State of Oregon. It is a bipartisan piece of legislation. There are only two dissenters in the entire Northwest delegation.

Mr. Chairman, this is an excellent piece of legislation. I urge the Members to support it. I also urge the Members in considering it to reflect on the fact that it was 181 years ago next week, that Lewis and Clark, in a mission conceived by President Thomas Jefferson, floated past the mouth of the Deschutes River and entered into what we now consider the Columbia River Gorge.

There those two explorers found, and Merriwether Lewis recorded in his journal, both the natural beauty, on the one hand, and the abundance of resources on the other that we seek to protect and to enhance today through this legislation.

It is not an easy task to reconcile those competing interests of resources and natural beauty. Sometimes I think that we have been debating how to best do it in the gorge ever since Lewis and Clark made their famous trip down the Columbia River.

But the compromise legislation that we now bring before you provides—and an overwhelming majority of the Representatives who have the duty to represent the people of these two States agree—provides a successful resolution of those issues.

The is not a wilderness bill. Nor does it create a national park. Rather it provides a means of protecting those most sensitive and important areas in the gorge and then it provides a means of encouraging appropriate economic activity to sustain opportunities for the residents of the area. The bill delineates where those economic opportunities should best take place and what places ought to be reserved for different uses, the protection of natural resources.

The bill creates three tiers of management to achieve those purposes, special management areas, urban areas—and in discussing urban areas, it exempts 13 population centers where more than half the area's residents currently reside. Finally, it calls for the creation of a bi-State commission.

You have got to have a bi-State commission because both States, Oregon and Washington, abut this magnificent river. Without a bi-State commission with a Federal role involved, all the interests involved are not going to be fully represented.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. WHITLEY. Mr. Chairman, I yield 30 additional seconds to the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman yielding this additional time.

I would conclude by saying that this three-tier management system has a very limited Federal role. It puts most of the decisionmaking at the local level. It encourages a sense of responsibility on all parties in striking that incredibly important balance between the husbanding of resources and the encouragement of economic growth. Nowhere in the country is it more important than in this area that Lewis

and Clark discovered 181 years ago next week.

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

Mr. WEAVER. Mr. Chairman, I yield 30 additional seconds to the gentleman.

Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I am delighted to yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I want to say that the key role of moderation and consensus building was played by the gentleman in the well, my distinguished colleague from Oregon, Mr. AUCOIN. He took the middle approach, brought all the disparate elements together and eventually we coalesced around the approach that he and the gentleman from Washington [Mr. BONKER] sponsored.

I think we owe a great deal of thanks to the gentleman from Oregon [Mr. AUCOIN] for the bill we have here today.

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman's remarks. The gentleman is more than generous with his words. It is the handiwork of a good number of Members.

Mr. WEAVER. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon [Mr. WYDEN].

I would like to say, about my distinguished colleague, that he also played an extremely critical role in bringing this bill here, in moderating and bringing it to a consensus, because he represents citizens who are in this scenic area.

Mr. WYDEN. Mr. Chairman, I thank the gentleman very much for his kind words.

Mr. Chairman, earlier I talked about how I believe this legislation is going to make the gorge a magnet for additional tourism in the Northwest, something we need very, very badly, at a time when we have had a lagging economy; but there is something I want to touch on now very briefly and that is that this bill contains a whole host of protective measures that respect the rights of the people who have chosen to make their homes in the gorge. It was the feeling of those of us who represent these gorge communities that in no way should there be an effort to turn the gorge into a museum piece. This area is a living piece and for many it is a place to live. The people of the gorge want a say in how their communities develop and grow. This legislation insures that they will have it.

The people who live and reside in the gorge do not want to see the gorge filled with horrors like purple condominiums or fluorescent fast food stands. This bill does not do that. What it does is preserve a balance. It preserves the gorge without suffocating it. It allows the gorge to be used for power and timber and jobs, but not to be abused in the process.

I think that this legislation insures that the communities all up and down the gorge are going to be the critical players in all land use decisions to be made in this scenic area.

As my colleagues have said, this bill really has been a 6-year study in the effort to negotiate and reconcile various kinds of approaches.

□ 1545

I am thankful to my colleagues for all their good work, and I will wrap up if I could, Mr. Chairman, with just a very brief colloquy with the floor manager for Oregon.

Mr. Chairman, it is my understanding that where possible the Columbia River Gorge Commission will consider all the existing land use plans as far as the local communities are concerned when developing land use designations. Is that the understanding of the floor manager?

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from Oregon.

Mr. WEAVER. Yes, it is my understanding that the Commission should take existing land use designations into account as part of its consultations under section 6(e) of the act. The Commission should make every effort to coordinate its land use designations with existing local and State designations unless those designations conflict with the purposes and standards of the act.

Mr. WYDEN. And if it appears to a county that an existing land-use ordinance or plan is consistent with the management plan the Commission ultimately develops, may the county submit such an ordinance to the Commission under section 7 or 8 of the act?

Mr. WEAVER. Nothing would prevent a county from submitting an existing ordinance or plan. No good would be served by requiring the county to go through the formality of re-enacting an existing piece of law.

Mr. WYDEN. I note that the maps accompanying the bill include a tiny scale of the city of Troutdale, OR within the scenic area. Is it the gentleman's understanding that the commission should give due deference to the land use plans of the city of Troutdale?

Mr. WEAVER. So long as those plans remain consistent with the standards and purposes of this act, nothing should require the commission to put undue restraints on land use in that section of Troutdale. Where possible, the Commission should coordinate its land use designations with existing local plans.

Mr. WYDEN. I thank the gentleman. This issue is of great importance to a growing city in my area, Troutdale, and I thank the gentleman for his fine work.

Mr. MARLENEE. Mr. Chairman, I yield 3 minutes to my esteemed colleague, the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. I thank the gentleman from Montana for yielding time to me.

Mr. Chairman, the Columbia River Gorge, as you have heard it described, is truly a scenic wonderland. In fact, I have opined that if it had been in the Eastern United States, we would have turned it into a national park many many years ago.

The unique part of this particular legislation in front of us is that unlike many of the designated areas through the years where Forest Service boundaries have been modified to absorb the areas that there was a desire to protect, or national park boundaries have been expanded to do the same sort of thing, that is not the goal in this particular area. The goal is to work together between a variety of jurisdictions—State, local, and Federal—and preserve the scenic value of this particular area. I think that is a highly desirable goal.

I certainly have a number of constituents who are unhappy with the position that I am taking in supporting this measure, but I have reached the conclusion, after many years of very deliberative thought, that under the uncertainty created by the prospect of legislation, which has been introduced year in and year out, that the economy particularly on the Washington side of the Columbia River Gorge, is slowly dying.

That does not mean that you cave in to the pressure for a heavy Federal role; that is not true at all. It does mean that you do the best that you can under the circumstances, and prepare a bill with local control, as much local involvement as possible, and protect private property rights. This measure in front of us does both. As I have indicated earlier, I believe that a bill coming back to us early in this next session would in fact probably be under the jurisdiction of the National Park Service, and be much more restrictive than the measure in front of us.

I believe that there comes a time in the dance of legislation when you either sit on the sidelines or fill in your program, and I have sensed the growing consensus on the longstanding gorge issue. It comes primarily from the Senate, the other side of this Congress, with all of our Senators from the Northwest aggressively involved. My decisions have been under the circumstances to craft the best bill possible, to be part of the team, and I thank all those who have let me inside this measure address many of the concerns of my constituents.

I have also tried to help my good friend, the gentleman from Oregon [Mr. ROBERT F. SMITH] by supporting some of his amendments designed to enhance local control and protect private property rights, and I will do so when we get into the amendatory section of this bill.

We have together, between our two States, included an economic opportunity study and economic development funding, which it certainly is my intent should be broad and unrestricted as to its application as long as its use is consistent with the scenic protections necessary under this act. That is, it could be for commercial and industrial development as well as things related to attracting the tourist industry.

We also have included a State and local override of condemnation decisions by the Secretary of Agriculture, and I look forward to the final decision on this bill, because I think that Congress is going to approve it overwhelmingly.

I would like to mention some highlights of the legislation before us, with emphasis on the features related to local control.

Thirteen urban areas are excluded from scenic area management and all other provisions of the act, except for economic development grants under section 11.

Six members of the twelve-member Commission will be appointed by the governing bodies of the counties within the scenic area.

Citizen advisory committees must be established to provide maximum citizen participation in the development of the management plan.

The Commission can override the Secretary of Agriculture's determination that the management plan is inconsistent with the purposes of the act.

If a county fails to enact land ordinances required by the management plan, the Commission may adopt such ordinances. Should the county subsequently enact an ordinance, it will preempt the Commission ordinance, provided it is in compliance with the act.

A $5 million in economic development money is granted to each State for use in expanding the economic base of communities within the gorge.

Condemnation cannot be used to acquire single family residential homes, farmland, or grazing lands, or lands used for education, religious, or charitable purposes, so long as the existing character is not substantially changed. In all cases, condemnation is to be used only as a last resort.

A two-thirds majority of the bi-State Commission, or the Governor involved can override a condemnation decision in the scenic area.

Judicial review is provided for any final action or order of a county, the Commission or the Secretary for adversely affected parties.

Provides counties within the gorge that have implemented approved land use ordinances with greater flexibility in the use of payments received under the timber receipt program.

Requires Forest Service to make payments to counties with approved land use ordinances of 1 percent of fair market value of acquired lands for a period of 5 years from the date of acquisition.

TIMBER HARVEST IS ALLOWED

There are also several points I would like to clarify regarding this bill. The legislation is specifically designed to not only protect the unique beauty of the Columbia River Gorge, but also the interests of the more than 41,000 people who will be directly impacted by the Commission's management plan. Section 5 of the bill requires the Commission to form citizen advisory committees to ensure that residents have the opportunity to help shape the management plan to reflect their specific needs and minimize conflicts in the implementation of the plan.

I am also aware that the U.S. Department of Agriculture has issued regulations under the Uniform Relocation Assistance and Real Property Acquisition Policies Act that provide individuals whose lands are acquired by the Department with full reimbursement for the costs incurred in preparing their property for sale to the Government. I applaud the Department's effort in this area and fully expect that it will conduct any acquisition activities in the Gorge in compliance with those regulations and in a prompt and equitable manner.

There are many religious, cultural, archeological and burial sites, as well as fishing areas in the Columbia River Gorge that are important to the Indian people. Because the location of these sites is not generally known to the public, there is the potential that they may inadvertently be damaged or destroyed by development actions in the scenic area. This problem can most easily be avoided by providing actual notice to the Indian tribes of any proposed development actions in the scenic area. Section 5(e) of the bill provides for such notice not only to Indian tribes, but to the Secretary, the states, and local governments as well.

Finally, I would point out that the Department of the Army and the Department of the Interior have a long standing agreement with the Indian tribes to obtain "in lieu" fishing sites along the Columbia River to replace fishing sites that were flooded by construction of the Bonneville Dam. Many potential "in lieu" sites may also prove to be prime locations for recreation sites in the Columbia River Gorge. The cooperative recreation plan should acknowledge this potential conflict and an effort made to provide for them in the planning process.

The issue of how best to protect and preserve the Columbia River Gorge has been one that has remained unresolved for close to half a century. Today, we have the opportunity to enact legislation that will provide a fair and balanced resolution that will not only protect the character and beauty of the Gorge, but also the interests of those who have chosen to make the Gorge their home.

Mr. MARLENEE. Mr. Chairman, may I inquire how much time remains on each side?

The CHAIRMAN. The gentleman from Montana [Mr. MARLENEE] has 8 minutes remaining; the gentleman from North Carolina [Mr. WHITLEY] has 7½ minutes remaining; the gentleman from Oregon [Mr. ROBERT F. SMITH] has 3 minutes remaining; and the gentleman from Oregon [Mr. WEAVER] has no time remaining.

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what kind of craziness are we considering here at the last hours of the 99th Congress? You might ask yourself, "Is this legislation pork barrel, pork barrel, pork barrel? Is it special interest?" Yesterday this Congress passed a continuing resolution that spent an unprecedented $576 billion. At that, we cut $110 million in training for unwed mothers; $150 million was cut from low-income energy assistance; $50 million for education of disadvantaged was cut; $130 million for vocational education was cut out of that continuing resolution, because we did not have the money; $440 million from the disadvantaged.

Now we are considering spending almost $100 million on a bill that is unneeded? And that is just for starters. What about the land acquisition costs? You cannot condemn land and take it away from people without reimbursement. One-third of the privately owned land is to be purchased or condemned—the Wall Street Journal estimates about 48,000 acres—and at what cost? $1,000 an acre? $2,000 an acre? $3,000 an acre? Estimates have been put easily in the $100 to $400 million cost range. The Justice Department estimates enormous costs on their part in litigation.

Shame, shame, shame. Every single congressman goes back to his constituency and says, "I'm going to cut spending. I'm cutting back." You are exhorted by your constituents to cut back on spending.

Yet every one of the Members who votes for this bill is in essence going to receive in my estimation a failing grade: a failure to cut spending, a failure to protect property rights, a failure to stop new programs, a failure to stop new spending.

Let us review: First, we have a bill before us that has not technically passed either committee of jurisdiction, a bill that was introduced at a midnight hour. The bill that we have right before us was introduced at a midnight hour this morning and given a rule this morning—a bill that encompasses, according to the Wall Street Journal, 510 square miles, only 20 percent of which is currently in Federal ownership.

Second, a bill opposed by over 90 regional, State, and national associations. Let me read to you what they are: the National Grange, the National Forestry and Civic Associations, the National Association of Counties, and

nearly every one of the gorge's 24 local government jurisdictions.

□ 1555

This is a bill that the Justice Department declares:

In sum, the bill raises serious risks of taking liability, although its injunctive provisions are more restrained than those of the Senate version. The bill also leaves troublesome ambiguity over the allocation of federal and state power in such areas as enforcement authority, an ambiguity which could, conceivably, reach as far as the Constitutional efficacy . . .

In other words, they are saying this bill probably is unconstitutional and that they will recommend a veto.

This is a bill that strips local people, 41,000 of them, of assured representation in zoning and control.

This is a bill that hurts agriculture, a bill that hurts jobs, and for what reason, when all of this could be done at the State level without Federal and taxpayer costs.

Vote against this pork-barrel legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. WHITLEY. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Chairman, a great deal of credit is in order because so many have been involved in this lengthy process which has brought the bill to us today. I would like to especially commend the subcommittee chairmen involved for their patience and diligence; they gave their undivided attention to seeing that everyone had their say. But I would also like to commend the gentleman from Oregon [Mr. WEAVER] who is the principal on this legislation. This is his last term in Congress, and he has committed himself fully to working with the various committees, since he serves on both, in order to shape a consensus that is acceptable to the body today.

Mr. Chairman, in 1915 the Secretary of the Interior identified the Columbia Gorge as the Nation's greatest water gap and an area of undeniable national significance. In the 70 years since then, the quickening pace of development has changed the face of the gorge and threatens to mar its breathtaking beauty forever. Today we have a historic opportunity to preserve the magnificent scenery of the Columbia River Gorge; an opportunity that may not present itself again for years to come.

As was noted in the debate on the rule, this legislation is the result of years of work and regional consensus. There is nothing new in this legislation. There are no new precedents, nothing unusual. This has been the result of diligent committee work to shape a bill that is consistent with national scenic area policy.

The Oregon and Washington congressional delegations and Governors of both States support the bill that is before us. A number of legislative drafts have developed over the years. Senator PACKWOOD was the first sponsor and then Senator HATFIELD, and Congressman AUCOIN and myself authored a proposal, as well as Congressman WEAVER. Congressman MORRISON has been intimately involved in all aspects of this legislation. It is remarkable that we have achieved the consensus, given the often conflicting concerns on both sides of the river, and yet what we have before us today is a proposal that enjoys that consensus. It is bipartisan, it is regional, and it is the sort of legislation we can proudly bring to the House floor.

The bill is a balance between national interests and preserving the spectacular scenery of the gorge, and the interests of local government and property owners.

Mr. Chairman, the legislation is supported by a number of prominent national environmental organizations. I will list just a few in a letter they signed to Members of Congress: The National Wildlife Federation, the Sierra Club, the National Audubon Society, the American Rivers Conservation Council, the National Parks and Conservation Association, and the Wilderness Society all strongly back the bill that is before us.

The other body has already passed a similar bill. I would like to commend the Northwest Senators' delegation for their efforts to develop Gorge legislation that is probably supportable.

The bill provides a 2-tiered management structure which puts the most critical lands in the Gorge under the direct authority of the Forest Service and establishes a 12-member bistate commission to manage most of the remaining lands in the proposed national scenic area. Even the Forest Service administered areas have checks and balances and a high degree of local participation in land management. The commission will develop the plan and the commission is composed of local residents in the counties involved. Indeed, the commission members, at least half of them, will be appointed by local county commissioners.

I think we owe a great debt to the gentleman from Washington [Mr. MORRISON] whose area is directly impacted by the bill. He diligently worked to make sure that the Federal involvement is minimal and that local participation is stronger, so that whatever plan emerges from the commission will be truly a product of local participation. I think that is a great credit to the gentleman from Washington [Mr. MORRISON].

In conclusion, Mr. Chairman, I would like to stress that this bill is necessary if we are to preserve the unique scenery of the Columbia Gorge. The States have called on Congress for this legislation. The area needs Federal protection.

As the session comes to a close this week, the Columbia River Gorge National Scenic Act will be the most significant environmental achievement in the 99th Congress. We have the opportunity this afternoon to preserve a magnificent river and its tributaries. Future generations will be grateful that we took this historic action today, and I urge my colleagues to support the bill.

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. STRANG].

Mr. STRANG. Mr. Chairman, I thank my colleague for yielding me this time.

Mr. Chairman, we are spending 3 hours on this issue which has slithered through the process here during the dark of night, a slimy travesty, a ripoff of the American taxpayer.

Where are the budget busters, $100 million on a bill that has not even had a fair hearing in Congress, where are the budget busters? This is the time to put up or shut up.

This is a local land use problem between the State of Washington and the State of Oregon, and the American taxpayer has no business being pulled in here to solve a local land use problem, particularly when it means stealing land from residents who do not want it stolen.

This is a slimy raid on the American taxpayer. I hope that my colleagues will have the guts to say what are we doing here, 3 hours on a bill that is ripping off the American taxpayers, the taxpayers in Minnesota, New York, Florida.

Let us get on with it, Mr. Speaker.

Mr. MARLENEE. Mr. Chairman, I reserve the balance of my time.

□ 1605

Mr. ROBERT F. SMITH. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, we have heard the exposure of the taxpayers of more than $100 million in this bill. We have heard that this is a compromise bill, but the problem is that the people who live in Hood River and Wasco Counties, the two counties that I represent that are impacted by this bill, are having difficulty finding where that compromise is, because they are taking the brunt of this legislation.

I suppose this is historic legislation. I think the last time in my memory this happened was at a time when the British Empire expanded their control over a colony, and we were so incensed by a government 3,000 miles away in England, taking our land, abusing the ability of those people who lived in this country of freedom and opportunity, that we became so incensed we

fought a war of independence over that.

I see very little difference for a government 3,000 miles away from the Columbia River Gorge taking Federal authority, taking over land by condemnation and using it for a Federal purpose.

It seems to me those follow carefully. I do not blame people for being upset with this kind of legislation in the area that I live. We have heard all the concerns and we have explained them to you; of justice, of agriculture.

Again let me say to those of you who are not familiar with Oregon we have a State land use program. We have a nonelected commission in Oregon; we are now asked to take a Federal nonelected commission, and implant it over the top of a State nonelected commission. That makes two commissions that are not elected and have really little to do with their recognition of individual and land rights.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. SMITH. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I would like to make the gentleman aware of a letter from the Office of the Assistant Attorney General, which I will include for the RECORD.

The complete text of the letter follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, October 14, 1986.

Hon. MORRIS K. UDALL,
Chairman, House Committee on Interior and Insular Affairs, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN UDALL: This is in response to your request for this Department's comments on the amendment in the nature of a substitute to H.R. 3625. The bill would establish a national scenic area and provide a scheme for its management. The bill is designed to facilitate management through a Commission created out of a compact between Oregon and Washington. We take the opportunity to identify certain concerns raised by the language of the bill. We will reference where warranted, S. 2055, recently passed by the Senate.

1. INTERIM INJUNCTIVE RELIEF/TEMPORARY TAKING CONCERN

Section 10(c)(1) purports to authorize federally requested temporary restraining orders or preliminary injunctions (upon exercising the authority to acquire land) to protect against interim uses which are likely to cause impacts adverse to the purposes for which the bill establishes the scenic area. The time limit on the interim restraint is ninety days. The Senate bill has a similar provision but has no time limit.

As a technical matter, the bases upon which the relief can be sought are broad. An injunction can be sought against actions "significantly affecting" scenic, cultural, recreation, and natural resources of the scenic area or otherwise inconsistent with the purposes for which the scenic area is established. Turning to those "purposes", Section 3 refers to the protection of scenic, cultural, recreation, and natural resources. It also refers to support of the "economy" of the Columbia River Gorge Area. These provisions offer any little limit to the grounds for which relief may be sought.

In effect, the interim injunctive relief of this section will restrict local property use by actions of federal officials. This gives rise to serious concerns of federal temporary taking liability where, for some reason, a complaint in condemnation is filed but the suit later withdrawn. Accordingly, we strongly urge the deletion of the provision. In addition, Section 10(c)(2) seems to provide an effective mechanism for the balancing of local interests and federal interests under the bill. For that reason as well, Section 10(c)(1) may be unnecessary. As a much less desirable alternative, retention of the provision should at least be coupled with a time limitation, as in the House bill. In that respect, however, we would urge a much shorter period, such as 14 days, as ample "cooling off" time.

2. CITIZEN SUIT PROVISIONS AND THE ENFORCEMENT SCHEME

Generally, we oppose the inclusion of citizen suit provisions, such as those in Section 14(d) in legislation. This is particularly appropriate where, as here, alternative enforcement mechanisms are provided. See Section 14(c). The Attorney General may initiate civil action for an injunction or other appropriate order as may the Attorneys General of Washington and Oregon. We would recommend deleting the citizen suit provision.

Even where citizen suit provisions have been enacted, those provisions typically include "notice of intent to sue" terms. In this bill, the citizen suit provisions provide for no notice where the basis of the suit is that "a legal interest" of the plaintiff is immediately affected. The United States normally takes the position that "a legal interest" is required to have standing to litigate in the first instance; thus, if standing exists, there is in essence no notice requirement in this language. Thus, we would recommend deleting this notice exception if the citizen suit provision is not deleted.

3. ENFORCEMENT AND RESPONSIBILITIES

As a preface, but one which leads to numerous other ambiguities in the bill, we note that the legislation appears to grant prior Congressional approval to a possible undefined future agreement by the states. The bill is so detailed in its requirements for that agreement that the roles of federal and local authority become confused. Thus, although Section 5(a)(1)(b) speaks of the Commission as exercising state authority, the bill leaves the lines of federal and state enforcement authority unclear.

Specifically, in Section 14(c) no distinction is made between the enforcement responsibilities of the Attorney General of the United States and those of the State Attorneys General. The actions taken by the Commission, a non-federal entity under the Act, seem to be enforcable by the federal government's attorney.

Similarly, actions of the Secretary of Agriculture could be enforced by the State Attorneys General. Of course, federal responsibility should extend only to federal interests. The Senate bill provides a separation between the enforcement responsibilities that should be included in Section 14.

4. PENALTY PROVISIONS

There is no provision for the use or fiscal status of collected penalties for violation of the Commission orders. Viewed on the basis of Section 5, the bill seems to contemplate that the power to collect the penalties is derived from state law. Otherwise, the penalty provision would be an impermissible delegation of the federal legislative contempt power or federal judicial sanction power to a non-federal entity.

5. INDETERMINATE PERIOD OF SECRETARIAL "INTERIM" RESPONSIBILITY

As we now understand the bill, it does not specifically address the continued efficacy of the Secretarial "interim" responsibilities (Section 10) in the event the compact is not approved within one year. This failure to include a sunset provision may lead to a bill which originally contemplated the voluntary actions of the States becoming an indefinite regulatory land use program by the federal government.

6. GENERALLY

It is not unreasonable to view the Secretary's interim guidelines and his guidelines for "land use ordinances" (the latter developed in consultation with the Commission), Section 8(f), as substantially controlling the standards adopted by the Commission and eventually the local land use bodies. Thus, even apart from "taking" implications, fair argument exists that, under this legislation, the federal government is itself regulating both local bodies and local land use.

In sum, the bill raises serious risks of taking liability, although its injunctive provisions are more restrained than those of the Senate version. The bill also leaves troublesome ambiguity over the allocation of federal and state power in such areas as enforcement authority, an ambiguity which could, conceivably, reach as far as the Constitutional efficacy of the compact itself. We would be glad to discuss the bill further but are constrained to say that our concerns, which stem in large part from the bill's ambiguity over allocation of authority, are fundamental and serious enough to warrant consideration of a veto recommendation from this Department should the Congress pass the legislation.

The Office of Management and Budget has advised that there is no objection to submission of this report from the standpoint of the Administration's program.

Sincerely,

KEN BERGQUIST,
Acting Assistant Attorney General.

Mr. ROBERT F. SMITH. Mr. Chairman, let me conclude by saying this is Federal land-use control. I believe in local control.

Mr. MARLENEE. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. WHITLEY. Mr. Chairman, just in closing, briefly I would say that I think this matter has been thoroughly debated, as a general proposition both in the debate on the rule and in the general debate on the rule itself. It is very apparent that there is considerable consensus although there is some disagreement.

The rule permits the gentleman from Oregon [Mr. SMITH] to offer three amendments. I urge all my colleagues to give careful consideration to those amendments; vote as you see fit, and then vote for the bill on final passage.

Mr. DICKS. Mr. Chairman, I would like to join my colleagues in support of this important

legislation, and would like to congratulate those who have worked so hard to see its final enactment.

This legislation has taken 6 long years to germinate, and the final product, I believe, will stand as a monument to our democratic process at work. This bill is the result of several official House and Senate hearings and extensive public workshops and meetings with interested parties. It has been carefully crafted to protect the scenic and natural values of the gorge, while preserving the rights of the thousands of people who live in the area.

The Columbia Gorge is located between the States of Oregon and Washington. It was formed over many thousands of years as the Columbia River cut through the Cascade Mountain Range. The beauty of this spectacular canyon is breathtaking, as the Columbia River moves silently toward the Pacific Ocean, guarded by the looming sentinel peaks of Mount St. Helens, Mount Adams, and Mount Hood.

Millions visit the gorge each year, drawn by its many scenic vistas, and the local highways and trails are heavily used by visitor and local resident alike. For centuries, the Columbia River has been a major center of commerce and trade, and thousands call the gorge area home and are dependent on the river for the continuation of their commercial activities.

This concurrence of natural beauty and commercial enterprise created many of the difficulties that have slowed passage of the legislation, as we attempted to strike a balance between local needs and Federal intervention. I believe this bill resolves these conflicts in a way that will stand as an example for other projects throughout the Nation. As economic and developmental pressures continue to threaten our important natural areas from coast to coast, it no doubt will become necessary for the Congress to devise and implement such new methods of providing strong and effective safeguards which will accommodate the many competing forces which are inherent in a modern society.

This legislation may mark the beginning of this new concept in natural resource protection because it represents a careful balance between little or no Federal protection for a scenically important area on the one hand, and wilderness or national park designation on the other. It serves as proof that, simply because a beautiful area such as the Columbia River Gorge is inhabited and its residents are involved in economic pursuits, that should not automatically exclude it from being considered worthy of strong resource protection. And, Mr. Chairman, I believe that the bill will show that both economic activity and natural resource protection can coexist harmoniously, with mutual benefits shared by both.

Every day we delay further, critical natural areas in the gorge face development and extinction, and the potential for protecting this national resource dims. For this reason, I strongly urge my colleagues to support the bill without amendment, and allow the process of protecting the Columbia River Gorge to begin at last.

Mr. WHITLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to House Resolution 596, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 5705 is as follows:

H.R. 5705

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be referred to as the "Columbia River Gorge National Scenic Area Act."

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.
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Sec. 15. Enforcement.
Sec. 16. Authorization of Appropriations.
Sec. 17. Savings Provisions.
Sec. 18. Severability.

SEC. 2. DEFINITIONS.

As used in this Act, the term—

(a) "adversely affect" or "adversely affecting" means, except as used in section 15, a reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the Scenic Area, the determination of which is based on—

(1) the context of a proposed action;

(2) the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;

(3) the relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and

(4) proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant affects to an insignificant level.

(b) "agricultural lands" means lands designated as agricultural lands pursuant to section 6 of this Act.

(c) "Commission" means the Columbia River Gorge Commission established pursuant to section 5 of this Act.

(d) "Counties" means Hood River, Multnomah, and Wasco Counties, Oregon; and Clark, Klickitat, and Skamania Counties, Washington.

(e) "Dodson/Warrendale Special Purchase Unit" means the Dodson/Warrendale Special Purchase Unit established pursuant to section 4 of this Act.

(f) "forest lands" means lands designated as forest lands pursuant to section 6 of this Act.

(g) "Indian tribes" means the Nez Perce Tribe, the Confederated Tribes and Bands of the Yakima Indian Nation, the Confederated Tribes of the Warm Springs of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

(h) "interim guidelines" means any interim guidelines developed by the Secretary pursuant to section 10 of this Act, and any amendment, revision, or variance.

(i) "land use ordinance" or "ordinance" means any ordinance adopted by a county or by the Commission pursuant to this Act, and includes any amendment to, revision of, or variance from such ordinance.

(j) "major development actions" means any of the following:

(1) subdivisions, partitions and short plat proposals;

(2) Any permits for siting or construction outside urban areas of multifamily residential, industrial or commercial facilities, except such facilities as are included in the recreation assessment;

(3) the exploration, development and production of mineral resources unless such exploration, development or production can be conducted without disturbing the surface of any land within the boundaries of a special management area or is for sand, gravel and crushed rock used for the construction, maintenance or reconstruction of roads within the special management areas used for the production of forest products; and

(4) permits for siting or construction within a special management area of any residence or other related major structure on any parcel of land less than forty acres in size.

(k) "Management Plan" means the Scenic Area Management Plan adopted pursuant to section 6 of this Act.

(l) "Open Spaces" means unimproved lands not designated as agricultural lands or forest lands pursuant to section 6 of this Act and designated as open space pursuant to section 6 of this Act. Open spaces include—

(1) scenic, cultural, and historic areas;

(2) fish and wildlife habitat;

(3) lands which support plant species that are endemic to the Scenic Area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;

(4) ecologically and scientifically significant natural areas;

(5) outstanding scenic views and sites;

(6) water areas and wetlands;

(7) archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;

(8) potential and existing recreation resources; and

(9) Federal and State wild, scenic, and recreation waterways.

(m) "recreation assessment" means the recreation assessment adopted pursuant to section 6 of this Act.

(n) "residential development" means the permitting for siting or construction of any residence or other related major structure.

(o) "Scenic Area" means the Columbia River Gorge National Scenic Area established pursuant to section 4 of this Act.

(p) "Secretary" means the Secretary of Agriculture.

(q) "Special Management Areas" means areas within the Scenic Area established pursuant to section 4 of this Act.

(r) "States" means the States of Oregon and Washington.

(s) "Urban Areas" means those areas within the Scenic Area identified as urban areas on the map referred to in section 4(e) of this Act or within the boundaries of an Urban Area as revised pursuant to section 4(f).

SEC. 3. PURPOSES.

The purposes of this Act are—

(A) to establish a national scenic area to protect and enhance the scenic, cultural, recreational and natural resources of the Columbia River Gorge; and

(B) to protect and enhance the economy of the Columbia River Gorge by recognizing compatible historic economic pursuits such as agriculture and forestry and by encouraging future economic development to occur in existing urban areas.

SEC. 4. ESTABLISHMENT OF THE SCENIC AREA.

(a) NATIONAL SCENIC AREA.—(1) There is hereby established the Columbia River Gorge National Scenic Area.

(2) The boundaries of the Scenic Area shall be generally depicted on the map entitled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 sheets 1 and 2, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

(b) SPECIAL MANAGEMENT AREAS.—(1) The following areas within the boundaries of the Scenic Area are hereby designated "Special Management Areas"; Gates of the Columbia River Gorge; Wind Mountain; Burdoin Mountain; and Rowena.

(2) The boundaries of the Special Management Areas designated in this section—

(A) shall be generally depicted on the map entitled "Special Management Areas, Columbia River Gorge National Scenic Area", numbered SMA-002 sheets 1 through 17, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service; and

(B) shall include all islands within the boundaries of the Scenic Area.

(c) REVISION OF SPECIAL MANAGEMENT AREA BOUNDARIES.—The Secretary, in consultation with the Commission, may make minor revisions in the boundaries of Special Management Areas after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and Interior and Insular Affairs of the United States House of Representatives. Such notice shall be published and submitted at least sixty days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

(d) DODSON/WARRENDALE SPECIAL PURCHASE UNIT.—(1) There is hereby established the Dodson/Warrendale Special Purchase Unit.

(2) The boundaries of the Dodson/Warrendale Special Purchase Unit shall be generally depicted on the map entitled "Dodson/Warrendale Special Purchase Unit, Columbia River Gorge National Scenic Area", numbered SPU-003 sheet 1, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

(e) URBAN AREAS.—(1) The following cities and towns are hereby designated as "Urban Areas": Cascade Locks, Hood River, Mosier, and The Dalles, Oregon; and Bingen, Carson, Dallesport, Home Valley, Lyle, North Bonneville, Stevenson, White Salmon, and Wishram, Washington.

(2) The boundaries of Urban Areas shall be generally depicted on the map entitled, "Urban Areas, Columbia River Gorge National Scenic Area", numbered UA-004 sheets 1 through 11, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service. The boundaries of Urban Areas designated in this subsection may be revised pursuant to the provisions of this section.

(f) REVISION OF URBAN AREA BOUNDARIES.—(1) Upon application of a county and in consultation with the Secretary, the Commission may make minor revisions to the boundaries of any Urban Area identified in subsection 4(e) of this section. A majority vote of two-thirds of the members of the Commission, including a majority of the members appointed from each State, shall be required to approve any revision of Urban Area boundaries.

(2) The Commission may revise the boundaries of an Urban Area only if it finds that—

(A) a demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the management plan;

(B) revision of Urban Area boundaries would be consistent with the standards established in section 6 and the purposes of this Act;

(C) revision of Urban Area boundaries would result in maximum efficiency of land uses within and on the fringe of existing Urban Areas; and

(D) revision of Urban Area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

SEC. 5. THE COLUMBIA RIVER GORGE COMMISSION

(a) ESTABLISHMENT AND MEMBERSHIP OF THE COMMISSION.—(1) To achieve the purposes of this Act and to facilitate cooperation among the States of Oregon and Washington, and with the United States of America, the consent of Congress is given for an agreement described in this Act pursuant to which, within one year after the date of enactment of this Act—

(A) The States of Oregon and Washington shall establish by way of an interstate agreement a regional agency known as the Columbia River Gorge Commission, and shall incorporate this Act by specific reference in such agreement. The Commission shall carry out its functions and responsibilities in accordance with the provisions of the interstate agreement and of this Act and shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law;

(B) The States of Oregon and Washington shall provide to the Commission and the counties under State law the authority to carry out their respective functions and responsibilities in accordance with the provisions of paragraph (1) (A) of this subsection.

(C) The States of Oregon and Washington shall appoint members of the Commission as provided in clauses (i) through (iii), subject to applicable State law: *Provided*, That the Governor of either State may extend the time for appointment of Commission members ninety days to provide more time for the States and counties to make such appointments. Membership of the Commission shall be as follows:

(i) Six members, comprised of one resident from each of the following counties: Hood River, Multnomah, and Wasco Counties, Oregon, and Clark, Klickitat, and Skamania Counties, Washington, to be appointed by the governing body of each of the respective counties: *Provided*, That in the event the governing body of a county fails to make such appointment, the Governor of the State in which the county is located shall appoint such member;

(ii) Three members who reside in the State of Oregon, to be appointed by the Governor of Oregon;

(iii) Three members who reside in the State of Washington, to be appointed by the Governor of Washington; and

(iv) One ex officio, nonvoting member who shall be an employee of the Forest Service, to be appointed by the Secretary.

(2) The agreement shall take effect and the Commission may exercise its authorities pursuant to the agreement upon the appointment of four initial members from each State, subject to applicable State law, and the date of such an agreement shall be the date of establishment of the Commission. Such agreement is hereby consented to by the Congress.

(3) Either State or any county may fill any vacancy occurring prior to the expiration of the term of any member originally appointed by that State or county. Each member appointed to the Commission shall serve a term of four years, except that, with respect to members initially appointed pursuant to paragraph (1)(C)(i), each Governor shall designate one member to serve for a term of five years and one to serve for a term of six years, and one member from each State initially appointed pursuant to paragraph (1)(C) (ii) and (iii) shall be designated by the Governor to serve a term of five years, and one to serve a term of six years. Neither the Governors nor the governing bodies of any of the counties may appoint Federal, State, or local elected or appointed officials to the Commission.

(4) A majority of the members of the Commission shall constitute a quorum. The members of the Commission shall select from among themselves a Chairman by majority vote of the members appointed from each State.

(5) Except for the ex-officio member appointed pursuant to paragraph (1)(C)(iv), the members and officers and employees of the Commission shall not be officers or employees of the United States for any purpose. The Commission shall appoint, fix compensation for, and assign and delegate duties to such officers and employees as the Commission deems necessary to fulfill its functions under this Act. The compensation of Commission members shall be fixed by State law. The compensation of Commission members, officers, and employees and the expenses of the Commission shall be paid from funds provided to the Commission by the States.

(b) APPLICABLE LAW.—For the purposes of providing a uniform system of laws, which, in addition to this Act, are applicable to the Commission, the Commission shall adopt regulations relating to administrative procedure, the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Commission, advisory committees, and disclosure of information consistent with the more restrictive statutory provisions of either State. Regulations applicable to financial disclosure under this subsection shall be applied to members of the Commission without regard to the duration of their service on the Commission or the amount of compensation received for such service. No contract, obligation, or other action of the Commission shall be an obligation of the United States or an obligation secured by the full faith and credit of the United States.

(c) ASSISTANCE TO THE COMMISSION.—Upon the request of the Commission, the Secretary and other Federal agencies are authorized to provide information, personnel,

property, and services on a reimbursable basis, and the Secretary is authorized to provide technical assistance on a nonreimbursable basis, to the Commission to assist it in carrying out its functions and responsibilities pursuant to this Act.

(d) ADVISORY COMMITTEES.—The Commission shall establish voluntary technical and citizen advisory committees to assist the Commission in carrying out its functions and responsibilities pursuant to this Act.

SEC. 6. THE SCENIC AREA MANAGEMENT PLAN.

(a) STUDIES.—Within one year after the date the Commission is established, it shall, in cooperation with the Secretary, complete the following studies for use in preparing the management plan:

(1) RESOURCE INVENTORY.—The Commission shall complete a resource inventory. The resource inventory shall—

(A) document all existing land uses, natural features and limitations, scenic, natural, cultural, archaeological and recreation and economic resources and activities: *Provided*, That the location of any Indian burial grounds, village sites, and other areas of archaeological or religious significance shall not be made public information and such information shall be used for administrative purposes only; and

(B) incorporate without change the resource inventory developed by the Secretary pursuant to section 8 of this Act for the Special Management Areas.

(2) ECONOMIC OPPORTUNITY STUDY.—The Commission shall complete a study to identify opportunities to enhance the economies of communities in the Scenic Area in a manner consistent with the purposes of this Act.

(3) RECREATION ASSESSMENT.—The Commission shall complete an assessment of recreation resources and opportunities for enhancement of these resources. The recreation assessment shall—

(A) designate the location and specify the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(B) identify areas within the scenic area that are suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities and river access areas; and

(C) subject to the treaty and other rights of Indian tribes, designate areas to provide increased access for recreation purposes to the Columbia River and its tributaries; and

(D) incorporate without change the recreation assessment developed by the Secretary pursuant to section 8 of this Act for the Special Management Areas;

(b) LAND USE DESIGNATIONS.—Within two years after the Commission is established, it shall develop land use designations for the use of non-Federal lands within the Scenic Area. The land use designations shall—

(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section, and consistent with the standards established in subsection (d) of this section;

(2) designate those lands used or suitable for the production of crops, fruits or other agricultural products or the sustenance of livestock as agricultural lands;

(3) designate lands used or suitable for the production of forest products as forest lands;

(4) designate lands suitable for the protection and enhancement of open spaces;

(5) designate areas in the Scenic Area outside Special Management Areas used or suitable for commercial development: *Provided*, That such designation shall encourage, but not require, commercial development to take place in Urban Areas and shall take into account the physical characteristics of the areas in question and their geographic proximity to transportation, commercial, and industrial facilities and other amenities;

(6) designate areas used or suitable for residential development, taking into account the physical characteristics of the areas in question and their geographic proximity to transportation and commercial facilities and other amenities; and

(7) incorporate without change the designation of Urban Areas established in section 4(e) of this Act.

(c) ADOPTION OF THE MANAGEMENT PLAN.—Within three years after the date the Commission is established, it shall adopt a management plan for the Scenic Area. The Commission shall adopt the management plan by a majority vote of the members appointed, including at least three members from each State. The management plan shall—

(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section;

(2) include land use designations developed pursuant to subsection (b) of this section;

(3) be consistent with the standards established in subsection (d) of this section;

(4) incorporate without change the management direction for the use of Federal lands within and the land use designations for the special management areas adopted by the Secretary pursuant to section 8 of this Act; and

(5) include guidelines for the adoption of land use ordinances for lands within the Scenic Area. The guidelines—

(A) shall incorporate without change the guidelines for the development of Special Management Area land use ordinances developed by the Secretary pursuant to section 8 of this Act; and

(B) shall not apply to Urban Areas designated in section 4(e) of this Act.

(d) STANDARDS FOR THE MANAGEMENT PLAN.—The management plan and all land use ordinances and interim guidelines adopted pursuant to this Act shall include provisions to—

(1) protect and enhance agricultural lands for agricultural uses and to allow, but not require, conversion of agricultural lands to open space, recreation development or forest lands;

(2) protect and enhance forest lands for forest uses and to allow, but not require, conversion of forest lands to agricultural lands, recreation development or open spaces;

(3) protect and enhance open spaces;

(4) protect and enhance public and private recreation resources and educational and interpretive facilities and opportunities, in accordance with the recreation assessment adopted pursuant to subsection (a) of this section;

(5) prohibit major development actions in Special Management Areas, except for partitions or short plats which the Secretary determines are desirable to facilitate land acquisitions pursuant to this Act;

(6) prohibit industrial development in the Scenic Area outside Urban Areas;

(7) require that commercial development outside Urban Areas take place without adversely affecting the scenic, cultural, recreation, or natural resources of the Scenic Area;

(8) require that residential development outside Urban Areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the Scenic Area; and

(9) require that the exploration, development and production of mineral resources, and the reclamation of lands thereafter, take place without adversely affecting the scenic, cultural, recreation and natural resources of the Scenic Area.

(e) AGENCY CONSULTATION AND PUBLIC INVOLVEMENT.—The Secretary and the Commission shall exercise their responsibilities pursuant to this Act in consultation with Federal, State, and local governments having jurisdiction within the Scenic Area or expertise pertaining to its administration and with Indian tribes. The Secretary and the Commission shall conduct public hearings and solicit public comment prior to final adoption of the management plan and the Commission shall conduct public hearings and solicit public comment prior to final adoption of land use ordinances. The Commission and the appropriate county shall promptly notify the Secretary, the States, local governments and Indian tribes of all proposed major development actions and residential development in the Scenic Area.

(f) CONCURRENCE OF THE MANAGEMENT PLAN.—

(1) REVIEW BY THE SECRETARY.—Upon adoption of the management plan, the Commission shall promptly submit the plan to the Secretary for review. If the Secretary agrees with the Commission that the management plan is consistent with the standards established in this section and the purposes of this Act, the Secretary shall concur to that effect. Should the Secretary fail to act on the proposed plan within ninety days, the Secretary shall be deemed to have concurred on the management plan.

(2) DENIAL OF CONCURRENCE.—If concurrence is denied, the Secretary shall state the reasons for finding the plan is inconsistent with the standards established in this section or the purposes of this Act, and shall submit to the Commission suggested modifications to the management plan to make it consistent with such standards and the purposes of this Act.

(3) COMMISSION RECONSIDERATION.—Within one hundred and twenty days after receipt of notification of non-concurrence, The Commission shall—

(A) revise and resubmit the plan to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a management plan consistent with the provisions of this section and the purposes of this Act.

(g) REVISION OF THE PLAN.—No sooner than five years after adoption of the management plan, but at least every ten years, the Commission shall review the management plan to determine whether it should be revised. The Commission shall submit any revised management plan to the Secretary for review and concurrence, in accordance with the provisions of this section for adoption of the management plan.

(h) AMENDMENT OF THE PLAN.—If the Commission determines at any time that conditions within the Scenic Area have significantly changed, it may amend the management plan. The Commission shall submit

amendments to the management plan to the Secretary for review, in accordance with the provisions of this section for adoption of the management plan.

SEC. 7. ADMINISTRATION OF THE SCENIC AREA.

(a) MANAGEMENT OF THE SCENIC AREA.—The non-Federal lands within the Scenic Area shall be administered by the Commission in accordance with the management plan and this Act.

(b) ADOPTION OF SCENIC AREA LAND USE ORDINANCES.—

(1) Within sixty days of initial receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit such letter or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (c) of this section.

(2) Within two hundred and seventy days of receipt of the management plan, each county shall adopt a land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a land use ordinance shall promptly submit the ordinance to the Commission.

(3) APPROVAL BY COMMISSION.—(A) Within ninety days after receipt of a land use ordinance, the Commission, by majority vote including at least three members from each State, shall approve the ordinance unless it determines the ordinance is inconsistent with the management plan. Should the Commission fail to act within ninety days, the ordinance shall be deemed to be approved.

(B) If approval is denied, the Commission shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the county suggested modifications to the ordinance to make it consistent with the management plan.

(C) Each county shall have ninety days after it receives recommendations from the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for approval. The Commission shall have sixty days to approve or disapprove the resubmitted ordinance. Any resubmitted ordinance shall become effective upon approval. Should the Commission disapprove the resubmitted ordinance, it shall promptly resubmit the ordinance for reconsideration. Should the Commission fail to act within sixty days, the ordinance shall be deemed to be approved.

(c) COMMISSION LAND USE ORDINANCES.—(1) Within ninety days after making a determination that a county has failed to comply with the provisions of this section, the Commission shall make and publish a land use ordinance setting standards for the use of non-Federal lands in such county within the boundaries of the National Scenic Area, excluding Urban Areas identified in section 4(e) of this Act. The ordinance shall have the object of assuring that the use of such non-Federal lands is consistent with the management plan. The ordinance may differ amongst the several parcels of land within the boundaries of the Scenic Area. The ordinance may from time to time be amended by the Commission.

(2) SUBSEQUENT COMPLIANCE.—In the event the Commission has promulgated regulations pursuant to this section, a county may thereafter upon written notice to the Commission elect to adopt a land use ordinance, in which event it shall comply with the provisions of this section for adoption of a land use ordinance. Upon approval of a land use ordinance by the Commission it shall supersede any regulations for the county developed by the Commission, subject to valid existing rights.

(d) CONSTRUCTION OF FACILITIES.—The Secretary is hereby authorized to design, construct, operate and maintain such facilities as are included in the recreation assessment.

SEC. 8. ADMINISTRATION OF THE SPECIAL MANAGEMENT AREAS.

(a) ADMINISTRATION OF FEDERAL LANDS.—(1) The Secretary shall administer Federal lands within the Special Management Areas in accordance with this Act and other laws, rules and regulations applicable to the national forest system. In addition, the construction of roads and the management, utilization and harvest of timber on Federal lands within the Special Management Areas also shall be subject to Forest Service visual resource management guidelines. The Secretary shall utilize lands acquired through exchange in calculating the allowable sales quantity on the Gifford Pinchot and Mount Hood National Forests.

(b) WITHDRAWAL OF FEDERAL LANDS.—Subject to valid existing rights, all Federal lands located in the Special Management Areas are hereby withdrawn from all forms of entry appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral and geothermal leasing: *Provided,* That the Secretary may allow the exploration, development, or production of sand, gravel, and crushed rock as necessary to construct, maintain, or reconstruct roads in the Special Management Areas.

(c) RESOURCE INVENTORY.—The Secretary shall complete a resource inventory for the special management areas consistent with the process and substance of the inventory prescribed by section 6(a)(1) of this Act.

(d) RECREATION ASSESSMENT.—Within two years after the date of enactment of this Act, the Secretary shall complete an assessment of recreation resources in the Special Management Areas and opportunities for enhancement of these resources. The recreation assessment shall—

(1) identify areas within the Special Management Areas suitable for designation by the Commission pursuant to section 6 of this Act for the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(2) identify areas within the Special Management Areas suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities and river access areas; and

(3) subject to the treaty or other rights of Indian tribes, identify areas with the Special Management Areas suitable for use to increase access for recreation purposes to the Columbia River and its tributaries.

(e) LAND USE DESIGNATIONS.—Within three years after the date of enactment of this Act, the Secretary shall develop land use designations for the Special Management Areas. The land use designations shall be—

(1) based on the resource inventory prepared by the Secretary pursuant to this section; and

(2) consistent with the standards established in section 6 of this Act.

(f) *Guidelines for Land Use Ordinances.*—(1) Within three years after the date of enactment of this Act, the Secretary shall, in consultation with the Commission, develop guidelines to assure that non-Federal lands within the Special Management Areas are managed consistent with the standards in section 6 and the purposes of this Act. The Secretary shall promptly transmit the guidelines to the Commission for inclusion in the management plan. The guidelines shall require that management, utilization, and disposal of timber, and exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest forest products on non-Federal lands within the special management areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the Scenic Area.

(h) *Adoption of Special Management Area Land Use Ordinances.*—(1) Within sixty days of receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit a letter as provided in this subsection, or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (l) of this section.

(2) Within two hundred seventy days of receipt of the management plan, each county shall adopt a special management area land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a special management area land use ordinance shall promptly submit the adopted ordinance to the Commission.

(i) *Review by the Commission.*—(1) The Commission shall review the Special Management Area land use ordinance received from each county, and within ninety days after receipt shall make a tentative determination as to whether the ordinance is consistent with the management plan. If the Commission makes a tentative determination that the land use ordinance is consistent with the management plan, the Commission shall send the ordinance to the Secretary for concurrence.

(2) If the Commission makes a tentative determination that the land use ordinance is inconsistent with the management plan, the Commission shall state the reasons for the determination and shall return the ordinance to the appropriate county with suggested modifications required for consistency with the management plan.

(3) Each county shall have ninety days after it is notified by the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for tentative determination of consistency. The Commission shall have sixty days to make a tentative consistency determination on the resubmitted ordinance. If found consistent, the land use ordinance shall be transmitted by the Commission to the Secretary for concurrence that the ordinance is consistent with the management plan. If the Commission finds the resubmitted ordinance inconsist-

ent, the Commission shall adopt an ordinance pursuant to subsection (l) of this section.

(j) CONCURRENCE BY THE SECRETARY.—(1) Upon receipt of a Special Management Area land use ordinance from the Commission, the Secretary shall notify the public of such receipt and shall, within ninety days thereafter, concur with the Commission's tentative determination of consistency with the management plan unless the Secretary determines the ordinance is inconsistent. Any ordinance submitted to the Secretary shall become effective upon notification of concurrence. Should the Secretary fail to act within ninety days, the Secretary shall be deemed to have concurred with the Commission's tentative consistency determination.

(2) DENIAL OF CONCURRENCE.—If concurrence is denied, the Secretary shall state the reasons therefor and shall submit to the Commission suggested modifications to the land use ordinances to make them consistent with the management plan and the purposes of this Act.

(k) COMMISSION RECONSIDERATION.—Upon receipt of notification of nonconcurrence by the Secretary, the Commission shall resubmit the land use ordinances to the appropriate county. Such county shall, within ninety days, reconsider and revise the ordinance and resubmit the ordinance to the Commission for reconsideration in accordance with the provisions of this section. Should the Secretary again deny concurrence, the Commission shall either prepare a land use ordinance for such county pursuant to subsection (l) of this section or, by a two-thirds vote of the membership of the Commission including a majority of the members appointed from each State, determine that the ordinance is consistent with the management plan.

(l) COMMISSION ORDINANCES.—(1) Within ninety days after making a determination that a county has failed to comply with the provisions of subsection (h) of this section, the Commission shall make and publish an ordinance setting standards for the use of non-Federal lands of such county within the boundaries of the Special Management Areas. The ordinances shall have the object of assuring that the use of such lands is consistent with the management plan. The ordinances may differ amongst the several parcels of land within the boundaries of the Special Management Areas. The ordinances may from time to time be amended by the Commission.

(2) The Commission shall promptly submit the ordinance to the Secretary. The Secretary shall, within ninety days after receipt of the ordinance from the Commission, concur with the tentative determination that the land use ordinance is consistent with the management plan unless a determination of inconsistency is made. Any ordinance submitted to the Secretary shall become effective upon concurrence. Should the Secretary fail to concur within ninety days, the land use ordinance shall be effective.

(3) If concurrence is denied, the Secretary shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the Commission suggested modifications to the ordinance to make it consistent with the plan.

(4) The Commission shall have ninety days after it receives recommendations from the Secretary to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Secretary for concurrence. The Secretary shall have sixty days to concur with the resubmitted ordinance. Any resubmitted ordinance shall become effective upon concurrence by the Secretary. Should the Secretary deny concurrence for the resubmitted ordinance, the Secretary shall state the reasons therefor and shall promptly resubmit the ordinance for reconsideration. Should the Secretary fail to concur within sixty days, the ordinance shall be deemed effective.

(5) Within one hundred and twenty days after receipt of notification of nonconcurrence, the Commission shall—

(A) revise and resubmit the land use ordinance to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a land use ordinance consistent with the provisions of this section and the purposes of this Act.

(m) SUBSEQUENT COMPLIANCE.—In the event the Commission has adopted an ordinance pursuant to this section, the affected county may thereafter, upon written notice to the Commission and to the Secretary, elect to adopt a Special Management Area land use ordinance, in which event it shall comply with the provisions of this section for adoption of special management area land use ordinances. Upon concurrence of such land use ordinances by the Secretary they shall supersede any special management area land use ordinances for the county development by the Commission, subject to valid existing rights.

(n) EFFECT OF SECRETARY'S NON-CONCURRENCE.—If the Secretary does not concur in any land use ordinance approved or adopted by the Commission pursuant to this section, the availability of certain funds to the relevant county shall be governed by section 16(c) of this Act.

(o) SPECIAL RULES.—Any ordinance adopted pursuant to this section shall not apply to any parcel or parcels of land within a Special Management Area if, after the date such ordinance has been adopted, three years have elapsed after a landowner has made a bona fide offer to sell at fair market value or otherwise convey such parcel or parcels to the Secretary, unless the affected landowner agrees to an extension of the three year period: *Provided*, an offer shall not be considered bona fide if the landowner refuses consideration equal to the fair market value as appraised in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions (Interagency Land Acquisition Conference, 1973). Lands for which an ordinance is suspended pursuant to this subsection shall be subject to the relevant Scenic Area land use ordinance adopted pursuant to section 7 of this Act.

SEC. 9. LAND ACQUISITION

(a) ACQUISITION AUTHORIZED.—(1) The Secretary is authorized to acquire any lands or interests therein within the Special Management Areas and the Dodson/Warrendale Special Purchase Unit which the Secretary determines are needed to achieve the purposes of this Act: *Provided*, That any lands, waters, or interests therein owned by either State or any political subdivision thereof may be acquired only by donation or exchange.

(2) Lands within the State of Oregon acquired by the Secretary pursuant to this Act shall become part of the Mount Hood National Forest. Lands within the State of Washington acquired by the Secretary pursuant to this section shall become part of the Gifford Pinchot National Forest. All lands acquired by the Secretary pursuant to this Act shall be subject to the laws and regulations pertaining to the National Forest System and this Act.

(b) LIMITATIONS ON EMINENT DOMAIN.—

(1) Where authorized in subsection (a) of this section to acquire land or interests therein without the consent of the owner, the Secretary shall—

(A) acquire only such land or interests therein as is reasonably necessary to accomplish the purposes of this Act; and

(B) do so only in cases where all reasonable efforts to acquire with the consent of the owner such lands, or interests therein, have failed.

(2) Notwithstanding the provisions of subsection (a) of this section, the Secretary may not acquire without the consent of the owner lands or interests therein which—

(A) on the date of enactment of this Act, were used primarily for educational, religious, or charitable purposes, single-family residential purposes, farming, or grazing so long as the existing character of that use is not substantially changed or permitted for change;

(B) are located in counties with land use ordinances in which the Secretary has concurred pursuant to section 8 of this Act, unless such lands are being used, or are in imminent danger of being used, in a manner incompatible with such ordinances;

(C) are within the boundaries of the Dodson/Warrendale Special Purchase Unit; or

(D) are owned by an Indian tribe, held in trust by the United States for an Indian tribe or member of an Indian tribe, or otherwise administered by the United States for the benefit of an Indian tribe or member of an Indian tribe.

(c) HARDSHIP CASES.—In exercising authority to acquire lands pursuant to this section the Secretary shall give prompt and careful consideration to any offer made by any person or entity owning any land, or interest in land, within the boundaries of a Special Management Area. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

"(d) LAND EXCHANGES.—(1) The Secretary is authorized and directed, in conformance with the provisions of this subsection, to acquire by exchange any parcel of unimproved forest land at least forty acres in size within the boundaries of the special management areas which is owned by any private forest land owner if, after enactment of this Act but within 180 days after final adoption of the management plan, such private forest land owner offers to the United States such parcel of forest land."

(2) In exercising this authority to acquire forest lands pursuant to this subsection, the Secretary may accept title to such lands and convey to the owner federally owned lands deemed appropriate by the Secretary within the States of Oregon and Washington, regardless of the State in which the transferred lands are located. Forest lands exchanged pursuant to this subsection shall be of approximately equal value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged: *Provided further*, That the Secretary may reserve in any conveyance pursuant to this subsection such easements, subsurface rights, and any other interests in land deemed neces-

sary or desirable: *Provided further,* That the valuation of lands exchanged shall be determined in terms of forest uses for timber.

(3) It is the intention of Congress that land exchanges pursuant to this subsection shall be completed no later than five years after the date of enactment of this Act. No later than sixty days after the enactment of this Act, and every one hundred eighty days thereafter, the Secretary shall report in writing to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and Interior and Insular Affairs of the United States House of Representatives, on the status of negotiations with owners of non-Federal lands to effect the exchanges authorized by this subsection.

"(4) In the event that exchanges authorized by this section leave any private forest land owner with ownership of an uneconomic remnant of forest land contiguous to a special management area, the Secretary is authorized to acquire such forest lands as if they were within the boundaries of a special management area."

(5) The following-described Federal lands and interests therein are hereby identified as candidate lands for exchanges conducted pursuant to this section: *Provided,* That the determination of which candidate lands will be exchanged, and in what sequence, shall be at the discretion of the Secretary. Subject to valid existing rights, such lands are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, and from location, entry and patent under the United States mining law, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto until the Secretary determines such lands are no longer needed to complete exchanges authorized by this section: *Provided,* That such period shall not extend beyond five years:

GIFFORD PINCHOT NATIONAL FOREST

Wind River-Panther Creek Area

Section	Township	Range
35	4N	7E
36	4N	7E

Approx. 430 acres.

South Swift Area

Section	Township	Range
13	6N	5E
23	6N	5E
17	6N	6E
18	6N	6E

Approx. 1,920 acres.

National Area

Section	Township	Range
6	14N	7E
7	14N	7E
18	14N	7E
30	14N	7E

Approx. 2,560 acres.

Buck Creek-Willard Area

Section	Township	Range
16	3N	9E
1	4N	9E
2	4N	9E
3	4N	9E
10	4N	9E

Buck Creek-Willard Area—Continued

Section	Township	Range
11	4N	9E
12	4N	9E
15	4N	9E
21	4N	9E
22	4N	9E
26	4N	9E
27	4N	9E
28	4N	9E
29	4N	9E
30	4N	9E
31	4N	9E
32	4N	9E
33	4N	9E
34	4N	9E
35	4N	9E
6	4N	10E
7	4N	10E
5	5N	10E
6	5N	10E
7	5N	10E
8	5N	10E
9	5N	10E
30	5N	10E
31	5N	10E
32	5N	10E

Approx. 14,460 acres.

SIUSLAW NATIONAL FOREST

East Beaver Area

Section	Township	Range
33	2S	9W
34	2S	9W
2	3S	9W
3	3S	9W
4	3S	9W
8	3S	9W
9	3S	9W
17	3S	9W

Approx. 3,053 acres.

WILLAMETTE NATIONAL FOREST

Ida-McCoy Area

Section	Township	Range
21	10S	6E
28	10S	6E

Approx. 680 acres.

MOUNT HOOD NATIONAL FOREST

Estacada Area

Section	Township	Range
15	4S	5E

Approx. 560 acres.

Hood River Area

Section	Township	Range
4	1N	9E
36	1N	10E
31	1N	11E
2	1S	9E
3	1S	9E
4	1S	9E
5	1S	9E
6	1S	9E

Approx. 5,800 acres.

Zig-Zag Area

Section	Township	Range
22	2S	7E
29	2S	7E

Approx. 280 acres.
Total acreage: 29,743.

(e) BOUNDARIES.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Scenic Area, including Special Management Areas and the Dodson/Warrendale Special Purchase Unit shall be treated as if they were within the boundaries of the Mt. Hood or Gifford Pinchot National Forests as of January 1, 1965.

SEC. 10. INTERIM MANAGEMENT.

(a) INTERIM GUIDELINES.—(1) Within one hundred and eighty days after the date of enactment of this Act, the Secretary shall develop interim guidelines for the Scenic Area outside Urban Areas to identify land use activities which are inconsistent with this Act and to govern the authority to acquire land without the consent of the owner provided by subsection (b) of this section. The Secretary shall promptly notify the public of adoption of the interim guidelines and transmit the guidelines to each county. Guidelines adopted by the Secretary pursuant to this subsection shall remain in effect for each county until the Secretary has developed guidelines for the Special Management Areas pursuant to section 8 of this Act and the land use ordinances prescribed by section 7 are in effect.

(b) INTERIM ACQUISITION AUTHORITY AND INJUNCTIVE RELIEF.—Prior to the concurrence by the Secretary of land use ordinances prescribed by section 8 of this Act and the approval by the Commission of land use ordinances prescribed by section 7 of this Act, the following authorities are granted:

(1) The Secretary may acquire by condemnation any land or interest which is being used or threatened to be used in a manner inconsistent with the purposes for which the Scenic Area was established and which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation, and natural resources of the Scenic Area: *Provided,* That no lands or interests therein can be acquired by condemnation pursuant to this section if used in the same manner and for the same purposes as used on the effective date of this Act, unless such land is used for or interest is in the development and production of sand, gravel, or crushed rock, or disposal of refuse; *Provided further,* that within 30 days of the filing by the Secretary of a complaint for condemnation of any land or interest in the Scenic Area, outside of the special management areas and urban areas, the Commission, by a vote of two-thirds of its membership including a majority of the members appointed from each State, or if the Commission is not in existence the Governor of the State in which the land or interest is located, may disapprove such proposed complaint.

(2) Upon or after the commencement of any action for condemnation pursuant to this subsection, the Secretary, acting through the Attorney General of the United States, may apply to the appropriate United States District Court for a temporary restraining order or injunction to prohibit the use of any property within the scenic area, but outside of urban areas, which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation and natural resources of the scenic area or is otherwise inconsistent with the purposes for which the Scenic Area was established. During the period of such order or injunction, the Secretary shall diligently and in good faith negotiate with the owner of the property to assure that, following termination of the order or injunction, the inconsistent use is abated or the adverse effect is mitigated.

(c) *Review of Development Action.*—Prior to the effective date of a land use ordinance for each county pursuant to section 7 of this

Act, and concurrence of the Secretary on a land use ordinance for each county pursuant to section 8 of this Act, the Commission shall review all proposals for major development actions and new residential development in such county in the Scenic Area, except Urban Areas. The Commission shall allow major development actions and new residential development only if it determines that such development is consistent with the standards contained in section 6 and the purposes of this Act.

SEC. 11. ECONOMIC DEVELOPMENT.

(a) *Economic Development Plan.*—Based on the Economic Opportunity Study and other appropriate information, each State, in consultation with the counties and the Commission, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with this Act.

(b) *Funds Provided to States for Grants.*—Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall provide $5,000,000 to each State which each State shall use to make grants and loans for economic development projects that further the purposes of this Act.

(c) *Conditions of Grants.*—Each State making grants under this section shall require as a condition of a grant that—

(1) all activities undertaken under the grant are certified by the Commission as being consistent with the purposes of the Act, the management plan, and land use ordinances adopted pursuant to this Act;

(2) grants and loans are not used to relocate a business from one community to another;

(3) grants and loans are not used for program administration; and

(4) grants and loans are used only in counties which have in effect land use ordinances found consistent by the Commission and concurred on by the Secretary pursuant to section 8 of this Act.

(c) REPORT.—Each State shall—

(1) prepare and provide the Secretary with an annual report to the Secretary on the use of the funds made available under this section;

(2) make available to the Secretary and to the Commission, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and

(3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

SEC. 12. OLD COLUMBIA RIVER HIGHWAY.

The Oregon Department of Transportation shall, in consultation with the Secretary and the Commission, the State of Oregon and the counties and cities in which the Old Columbia River Highway is located, prepare a program and undertake efforts to preserve and restore the continuity and historic integrity of the remaining segments of the Old Columbia River Highway for public use as a Historic Road, including recreation trails to connect intact and usable segments.

SEC. 13. TRIBUTARY RIVERS AND STREAMS.

(a) WATER RESOURCES PROJECTS.—The following rivers and streams shall be subject to the same restrictions on the licensing, permitting, and exempting from licensing and the construction of water resource projects as provided for components of the National Wild and Scenic Rivers System pursuant to section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)):

(1) any tributary river or stream to the Columbia River not designated in subsections (c) or (d) of this section or otherwise specified in this subsection which flows in whole or in part through a Special Management Area, unless the construction of a water resources project would not have a direct and adverse effect on the scenic, cultural, recreation, and natural resources of the Scenic Area;

(2) any river or river segment which flows in whole or in part through the Scenic Area and which is established pursuant to State law as a wild, scenic, or recreation river or which is under study pursuant to State law for the potential inclusion in any such State protected river system, unless such project or projects meet terms and conditions set by State agencies exercising administration over such river or river segment;

(3) the Wind River, Washington, for a period not less than three years following the later of—

(A) final approval of the Gifford Pinchot National Forest Plan, adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94-588, as amended) (16 U.S.C. 1600 et seq.); or

(B) submittal by the Secretary of a report to the President on the suitability or nonsuitability for addition to the national wild and scenic rivers system and a report by the President to the Congress of recommendations and proposals with respect to the designation of such river under the Wild and Scenic Rivers Act;

(4) the Hood River, Oregon, for a period not to exceed twenty years from the date of enactment of this Act, if such facility impounds or diverts water other than by means of a dam or diversion existing as of date of enactment of this Act; and

(5) the segment of the Little White Salmon, Washington, from the Willard National Fish Hatchery to its confluence with the Columbia River if such facility impounds or diverts water other than by means of a dam or diversion existing as of date of enactment of this Act.

(b) The provisions of subsection (a) shall not apply to those portions of tributary rivers or streams to the Columbia River which flow through or border on Indian Reservations. Nothing in this section shall apply to or affect any segment of any river designated as a wild and scenic river under section 3 of the Wild and Scenic Rivers Act (16 U.S.C. 1274) or any river designated for study under section 5 of such Act (16 U.S.C. 1276):

(c) WILD AND SCENIC RIVER DESIGNATIONS.—Section 3(a) of the Wild and Scenic Rivers Act (Public Law 90-542, Act of October 2, 1968, 82 Stat. 910, as amended) is further amended by adding the following new subsections:

"( ) Klickitat, Washington: The segment from its confluence with Wheeler Creek, Washington, near the town of Pitt, Washington, to its confluence with the Columbia River; to be classified as a recreation river and to be administered by the Secretary of Agriculture.

"( ) White Salmon, Washington: The segment from its confluence with Gilmer Creek, Washington, near the town of B Z Corner, Washington to its confluence with Buck Creek, Washington; to be classified as a scenic River and to be administered by the Secretary of Agriculture.".

(d) WILD AND SCENIC RIVER STUDIES.—Section 5(a) of the Wild and Scenic Rivers Act (Public Law 90-542, Act of October 2, 1968, 82 Stat. 910, as amended) is further amended by adding the following new subsections:

"( ) Klickitat, Washington: The segment from the southern boundary of the Yakima Indian Reservation, Washington, as described in the Treaty with the Yakimas of 1855 (12 Stat. 951), and as acknowledged by the Indian Claims Commission in Yakima Tribe of Indians v. U.S., 16 Ind. Cl. Comm. 536 (1966), to its confluence with the Little Klickitat River, Washington: *Provided*, That said study shall be carried on in consultation with the Yakima Indian Nation and shall include a determination of the degree to which the Yakima Indian Nation should participate in the preservation and administration of the river segment should it be proposed for inclusion in the Wild and Scenic Rivers system.

"( ) White Salmon, Washington: The segment from its confluence with Trout Lake Creek, Washington, to its confluence with Gilmer Creek, Washington, near the town of B Z Corner, Washington.".

SEC. 14. IMPLEMENTATION MEASURES

(a) ASSISTANCE TO COUNTIES.—The Secretary shall provide technical assistance on a nonreimbursable basis to counties for the development of land use ordinances prescribed by sections 7 and 8 of this Act: *Provided*, That in the event a county fails to obtain approval by the Commission for a land use ordinance within three years after the date technical assistance is first provided under this subsection for the development of a land use ordinance, the Secretary shall terminate all technical assistance for any participation in the development of such ordinance.

(b) PAYMENT OF TIMBER RECEIPTS.—(1) Notwithstanding the provisions of the last paragraph under the heading "Forest Service" of the Act of May 23, 1908 (c. 192, 35 Stat. 251, as amended; 16 U.S.C. 500), and of section 13 of the Act of March 1, 1911 (c. 186, 36 Stat. 961, as amended; 16 U.S.C. 500), that portion of which is paid under such provisions to the State of Oregon with respect to the special management areas within the Mt. Hood National Forest, the Gates of the Columbia Gorge Special Management Area, Mount Hood National Forest, and to the State of Washington with respect to the Special Management Areas within the Gifford Pinchot National Forest—

(A) not less than 50 percent shall be expended for the benefit of the public schools of the county which has adopted implementation measures pursuant to this Act; and

(B) the remainder shall be expended for the benefit of public roads or any public purposes of any county which has adopted implementation measures pursuant to this Act.

(2) Paragraph (1) of this subsection shall not apply—

(A) to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (b)(1) at the end of any fiscal year ending before the date of enactment of this Act; or

(B) for a particular county, if the county does not have in effect a land use ordinance which has been found consistent by the Commission and concurred in by the Secretary pursuant to section 8 of this Act.

(c) PAYMENTS TO LOCAL GOVERNMENTS.—(1) Subject to section 16(b) of this Act, in the case of any land or interest therein acquired by the Secretary pursuant to section 9, which was subject to local real property taxes within the five years preceding such acquisition and which is located in a county which has in effect a land use ordinance

which has been found consistent by the Commission and concurred in by the Secretary pursuant to section 8, the Secretary is authorized and directed to make annual payments to the county in which such lands are located in an amount equal to one per centum of the fair market value of such land or interest therein on the date of acquisition by the Secretary.

(2) Notwithstanding paragraph (1) of this subsection, any payment made for any fiscal year to a county pursuant to this subsection shall not exceed the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such land or interest therein was acquired by the Secretary.

(3) No payment shall be made under this subsection with respect to any land or interest therein after the fifth full fiscal year beginning after the first fiscal year in which such a payment was made with respect to such land or interest therein.

(d) FEDERAL CONSISTENCY.—Except as otherwise provided in subsection (e) or in section 17 of this Act, Federal agencies having responsibilities within the scenic area shall excercise such responsibilities consistent with the provisions of this Act as determined by the Secretary.

(e) LIMITATIONS ON FEDERAL EXPENDITURES AFFECTING THE SCENIC AREA.—(1) Except as provided in paragraph (3), if the Commission has not been established pursuant to Section 5 within 15 months after the date of enactment of this Act, or is otherwise disestablished for any reason, no new expenditures or new financial assistance may be made available, and no new license or new permit, or exemption from a license or permit requirement, shall be issued, under authority of any Federal law for any activity within the Scenic Area, excluding urban areas, which the Secretary, determines is inconsistent with any implementation measure pursuant to, the standards established in section 6(b) of, or the purposes of this Act.

(2)(A)(i) An expenditure or financial assistance made available under authority of Federal law shall be treated, for purposes of this subsection, as a new expenditure or new financial assistance if—

(I) in any case with respect to which specific appropriations are required, no money for construction or purchase was appropriated before October 1, 1986; or

(II) no legally binding commitment for the expenditure or financial assistance was made before October 1, 1986.

(ii) Payments made to the State pursuant to the following Acts shall not be treated as an expenditure or financial assistance for purposes of this subsection: the Act of May 23, 1908 (c. 192, 35 Stat. 251; 16 U.S.C. 500); Section 13 of the Act of March 1, 1911 (c. 186, 36 Stat. 961; 16 U.S.C. 500); the Mineral Lands Leading Act of 1920; chapter 69 of title 31 (relating to payments in lieu of taxes for entitlement land); the Act of June 9, 1916 (39 Stat 218), and the Act of Feb. 26, 1919 (40 Stat. 1179).

(B) A license or permit, or exemption from a license or permit requirement, shall be treated, for purposes of this subsection, as a new license or new permit, or exemption from a license or permit requirement, if such license or permit, or exemption from a license or permit requirement, was issued on or after October 1, 1986. A renewal under similar terms and conditions of a license or permit, or exemption from a license or permit requirement, issued before October 1, 1986, shall not be treated as a new license or new permit, or exemption from a license or permit requirement.

(3) Notwithstanding paragraph (1), the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the area for any of the following:

(A) The maintenance of existing channel improvements and related structures, and including the disposal of dredge materials related to such improvements.

(B) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly-owned or publicly-operated roads, structures, or facilities that are essential links in a larger network or system.

(C) Military activities essential to national security.

(D) Any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the standards in section 6(b) and the purposes of this Act:

(i) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(ii) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(iii) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(iv) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.

(v) Assistance for emergency actions essential to the savings of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.

(vi) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities. This clause shall not apply to roads, structures, or facilities referred to in paragraph (3)(B).

(vii) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(4) The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this subsection during each fiscal year beginning after September 30, 1987. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

(5) Nothing contained in this subsection shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person of any obligation imposed by any law of any State, or political subdivision of a State. No provision of this subsection shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This subsection shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

(f) *Transfer of Public Lands.*—Subject to valid existing rights, all public lands within the Scenic Area administered by the Secretary of the Interior through the Bureau of Land Management are hereby transferred without consideration to the jurisdiction of the Secretary to be managed as National Forest lands in accordance with the provisions of this Act.

SEC. 15. ENFORCEMENT.

(a) *Administrative Remedies.*—

(1) *Commission orders.*—The Commission shall monitor activities of counties pursuant to this Act and shall take such actions as it determines are necessary to ensure compliance.

(2) *Appeal to the commission.*—Any person or entity adversely affected by any final action or order of a county relating to the implementation of this Act may appeal such action or order to the Commission by filing with the Commission within thirty days of such action or order, a written petition requesting that such action or order be modified, terminated, or set aside.

(3) CIVIL PENALTIES.—Any person or entity who willfully violates the management plan or any land use ordinance, any implementation measure or any order issued by the Commission pursuant to this Act may be assessed a civil penalty by the Commission not to exceed $10,000 for each violation. No penalty may be assessed under this subsection unless such person or entity is given notice and opportunity for a public hearing with respect to such violation. The Commission may compromise, modify, or remit, with or without conditions, any penalty imposed under this subsection, taking into consideration the nature and seriousness of the violation and the efforts of the violator to remedy the violation in a timely manner.

(b) JUDICIAL REMEDIES.—

(1) CIVIL ACTIONS TO ENFORCE ACT.—(A) Except as otherwise limited by this Act, the Attorney General of the United States may, at the request of the Secretary, institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the special management areas in violation of the provisions of this Act, interim guideline adopted or other action taken by the Secretary pursuant to this Act.

(B) The Commission, or, at the request of the Commission, or the Attorney General of Oregon or Washington, may institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the Scenic Area outside Urban Areas in violation of the provisions of this Act, the management plan, or any land use ordinance or interim guideline adopted or other action taken by the Commission or any county pursuant to this Act.

(2) CITIZENS SUITS.—Any person or entity adversely affected may commence a civil action to compel compliance with this Act—

(A) against the Secretary, the Commission or any county where there is alleged a violation of the provisions of this Act, the management plan or any land use ordinance or

interim guideline adopted or other action taken by the Secretary, the Commission, or any county pursuant to or Commission under this Act; or

(B) against the Secretary, the Commission, or any county where there is alleged a failure of the Secretary, the Commission or any county to perform any act or duty under this Act which is not discretionary with the Secretary, the Commission or any county.

(3) LIMITATION ON BRINGING OF CITIZENS SUITS.—No action may be commenced—

(A) under paragraph (2)(A) of this subsection—

(i) prior to sixty days after the plaintiff has given notice in writing of the alleged violation to the Secretary, to the Commission, and to the county in which the violation is alleged to have occurred; or

(ii) if the Attorney General of the United States, or the Attorney General of Oregon or Washington, has commenced and is diligently prosecuting a civil action on the same matter pursuant to paragraph (1) of this subsection to require compliance with the management plan or any regulations, guidelines, or standards issued or other actions taken by the Secretary, the Commission, or any county pursuant to this Act: *Provided*, That in any such action any person or entity otherwise entitled to bring an action pursuant to paragraph (2) of this subsection may intervene as a matter of right; or

(iii) which challenges the consistency of the draft management plan with the purposes and standards of this Act or with other applicable law prior to the certification or adoption of the Management Plan pursuant to section 6 of this Act; or

(B) under paragraph (2)(B) of this subsection prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary, the Commission, and to the county in which the failure to perform any act or duty pursuant to this Act is alleged: *Provided*, That such action may be brought immediately after such notification where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(4) JUDICIAL REVIEW.—Any person or entity adversely affected by—

(A) any final action or order of a county, the Commission, or the Secretary relating to the implementation of this Act;

(B) any land use ordinance or interim guideline adopted pursuant to this Act; or

(C) any appeal to the Commission pursuant to this section; or

(D) any civil penalty assessed by the Commission pursuant to paragraph (a)(3) of this subsection may appeal such action or order by filing in any of the courts specified in paragraph (5) of this subsection, within sixty days after the date of service of such order or within sixty days after such action is taken, a written petition requesting such action, order, land use ordinance, interim guideline, or appeal taken to the Commission be modified, terminated, or set aside.

(5) FEDERAL COURT JURISDICTION.—The United States district courts located in the States of Oregon and Washington shall have jurisdiction over—

(A) any criminal penalty imposed pursuant to 16 U.S.C. 551 or any other applicable law for violation of any order, regulation or other action taken by the Secretary pursuant to this Act;

(B) any civil action brought against the Secretary pursuant to this section; or

(C) any appeal of any order, regulation, or other action of the Secretary taken pursuant to paragraph (4) of this subsection.

(6) STATE COURT JURISDICTION.—The State courts of States of Oregon and Washington shall have jurisdiction—

(A) to review any appeals taken to the Commission pursuant to subsection (a)(2) of this section;

(B) over any civil action brought by the Commission pursuant to subsection (b)(1) of this section or against the Commission, a State, or a county pursuant to subsection (b)(2) of this section;

(C) over any appeal of any order, regulation, or other action of the Commission or a county taken pursuant to paragraph 4 of this subsection; or

(D) any civil penalties assessed by the Commission pursuant to subsection (a)(3) of this section.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated for fiscal years after the fiscal year 1986 such sums as are described below:

(1) for the purpose of acquisition of lands, water, and interests therein pursuant to this Act: $40,000,000: *Provided*, That of this amount no more than $10,000,000 shall be available to acquire lands, water, and interests therein pursuant to section 10. Such amounts are authorized to be appropriated from amounts covered into the Land and Water Conservation Fund notwithstanding any allocation, apportionment, or limitation contained in the Land and Water Conservation Fund (16 U.S.C. 4601-4 and following).

(2) For the purpose of providing payments to local governments pursuant to section 14(c): $2,000,000. (b) There are authorized to be appropriated for fiscal years after the fiscal year 1986, effective upon concurrence on the management plan pursuant to section 6 of this Act:

(1) For the purpose of construction of an interpretive center to be located in the State of Oregon, and a conference center to be located in the State of Washington: $10,000,000.

(2) For the purpose of construction of recreation facilities pursuant to section 7(d): $10,000,000.

(3) For the purpose of preparing a program and restoring and reconstructing the Old Columbia River Scenic Highway, Oregon pursuant to section 12 of this Act: $2,800,000.

(4) For the purpose of providing economic development grants pursuant to section 11: $5,000,000 for each State: *Provided*, That funds authorized to be appropriated pursuant to this paragraph shall be available for the acquisition of lands and interests therein pursuant to section 10 if, at the expiration of three years, the States have failed to carry out their respective function pursuant to section 5 of this Act.

(c) *Availability of Funds.*—Funds appropriated under subsections (a)(2) and (b) shall not be made available for any county which does not have in effect a land use ordinance which has been found to be consistent by the Commission, and concurred on by the Secretary as consistent with the management plan pursuant to section 8 of this Act.

SEC. 17. SAVINGS PROVISIONS

(a) Nothing in this Act shall—

(1) affect or modify any treaty or other rights of any Indian tribe;

(2) except as provided in section 13(c), authorize the appropriation or use of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual;

(3) except as provided in section 13(c), affect the rights or jurisdictions of the United States, the States, Indian tribes or other entities over waters of any river or stream or over any ground water resource or affect or interfere with transportation activities on any such river or stream;

(4) except as provided in section 13(c), alter, establish, or affect the respective rights of United States, the States, Indian tribes, or any person with respect to any water or water-related right;

(5) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States before the enactment of this Act;

(6) affect or modify the ability of the Bonneville Power Administration to operate, maintain, and modify existing transmission facilities;

(7) affect lands held in trust by the Secretary of the Interior for Indian tribes or individual members of Indian tribes or other lands acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes and individual members of Indian tribes;

(8) affect the laws, rules and regulations pertaining to hunting and fishing under existing State and Federal laws and Indian treaties;

(9) require any revision or amendment of any forest plan adopted pursuant to the National Forest Management Act of 1976 ((Act of October 22, 1976, P.L. 94-588, as amended) (16 U.S.C. 1600 et seq.)); or

(10) establish protective perimeters or buffer zones around the Scenic Area or each Special Management Area. The fact that activities or uses inconsistent with the management directives for the Scenic Area or Special Management Areas can be seen or heard from these areas shall not, of itself, preclude such activities or uses up to the boundaries of the Scenic Area or Special Management Areas.

(b) Except for the offsite disposal of excavation material, nothing in this Act shall be construed to affect or modify the responsibility of the U.S. Army Corps of Engineers to improve navigation facilities at Bonneville Dam pursuant to Federal law.

(c) Except for the management, utilization, or disposal of timber resources of non-Federal lands within the Special Management Areas, nothing in this Act shall affect the rights and responsibilities of non-Federal timber land owners under the Oregon and Washington Forest Practices Acts or any county regulations which under applicable State law supercede such Acts.

(d) Mandatory language in this Act respecting the powers and responsibilities of the Commission shall be interpreted as conditions precedent to Congressional consent to the interstate compact described in section 5 of this Act.

(e) In the event that the States of Washington and Oregon fail to comply with the provisions of section 5 of this Act, the Secretary shall not be obligated to take actions which are predicated upon the establishment of the Commission.

(f)(1) Actions by the Secretary pursuant to subsections (f), (g), and (h) of section 6; subsections (f), (j), (k) and (l) of section 8; section 9; and subsections (a) and (b)(2) of section 10 shall neither be considered major Federal actions significantly affecting the quality of the environment under section 102 of the National Environmental Policy Act (42 U.S.C. 4332) nor require the prepa-

ration of an environmental assessment in accordance with that Act.

(2) Except as provided in paragraph (1) of this subsection, nothing in this Act shall expand, restrict, or otherwise alter the duties of the Secretary under the National Environmental Policy Act.

SEC. 18. SEVERABILITY.

(a) If any provision of this Act or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of this Act, nor the application of any provisions herein to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.".

The CHAIRMAN. No amendments are in order except three amendments by and, if offered by Representative ROBERT F. SMITH of Oregon, which shall not be subject to amendment or to a demand for a division of the question, but each amendment shall be debatable for 20 minutes, to be equally divided and controlled by Representative SMITH and a Member opposed thereto.

The Chair recognizes the gentleman from Oregon [Mr. ROBERT F. SMITH].

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROBERT F. SMITH

Mr. ROBERT F. SMITH. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ROBERT F. SMITH: Strike all after the enacting clause and insert in lieu of the following new language:

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Sec. 7. Timetable.
Sec. 8. Interim procedures.
Sec. 9. Management Plan for the area.
Sec. 10. Certification of Implementation Plans.
Sec. 11. Acquisition.
Sec. 12. Federal lands within the Area.
Sec. 13. Intergovernmental cooperation.
Sec. 14. Indian rights not impaired.
Sec. 15. Exemptions from the Act.
Sec. 16. Enforcement.
Sec. 17. Jurisdiction of the Federal courts.
Sec. 18. Appeals.
Sec. 19. Mitigation of local revenue losses.
Sec. 20. Authorization of applications.
Sec. 21. Acquisition fund.
Sec. 22. Compliance with Budget Act.
Sec. 23. Severability.

SHORT TITLE

SECTION 1. This Act may be cited as the "Columbia River Gorge Act of 1983".

FINDINGS AND PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) the Columbia River Gorge is a unique national and regional asset containing historic, cultural, community, biological, scientific, economic, geologic, and transportation resources which must be maintained for the benefit of all citizens;

(2) the Columbia River Gorge is an indivisible natural entity which should be viewed as one unit since management or development actions of one agency may have serious impacts on resources such as air and water quality, water flow, soil stability, fish and wildlife habitat and scenic beauty of areas of the Gorge within the jurisdiction of other agencies;

(3) there are more than fifty local, State, and Federal agencies presently exercising governmental authority in the Gorge which have widely divergent regulations and policies governing development, management, and protection of the Gorge, and the existence of so many different and divergent governmental agencies functioning in two States within the Gorge has made unified management of the Gorge difficult;

(4) in order to protect natural, scientific, economic, cultural and other values of Federal, State, and local government lands and facilities located within the Gorge, there must be a real partnership between all jurisdictions within the Gorge through a management entity having the authority and financial resources to protect and enhance the Gorge's resources;

(5) the Gorge area contains over forty thousand residents in cities, towns, and rural communities whose right to continued enjoyment of their homes and their economic well-being must be assured.

(6) the scenic, historic, recreational, archeological, and scientific qualities of the Gorge, particularly those located in the most sensitive and critical lands within the Gorge, deserve identification and protection;

(7) the Gorge is an historic gateway between the Pacific Ocean and the interior of North America traveled by native Americans, explorers, traders, and pioneers; evidencing human habitation for over eleven thousand years, the Gorge area contains a major navigable waterway used in interstate commerce and is today of commercial and economic importance to the Pacific Northwest and the Nation in terms of transportation, energy production, fishing, agriculture, and recreation;

(8) the Gorge is a spectacular canyon of compelling and majestic beauty formed by the Columbia River, cutting through the Cascade Range which contains magnificent scenic, natural, and recreational resources of regional, national, and international significance;

(9) the botanical diversity of the Gorge, ranging from sagebrush and grasslands in the eastern portion to lush rain forests in the west, includes many threatened and endangered species and is unique in the Nation and the world;

(10) because of its unique resources, the Gorge is a natural area for tourism and recreation, and the highways, trails and scenic viewpoints in the Gorge area are heavily used by residents of the nearby Portland-Vancouver metropolitan area and by visitors from throughout the Pacific Northwest, the Nation, and the world;

(11) competing uses of and human impacts on the Gorge include Federal hydroelectric power development, State and interstate highway construction and intense development of port and navigation facilities, farms, orchards, forest production, cities, and towns;

(12) the possibility of urban and suburban development and the lack of coordinated planning and authority within the Gorge have given rise to the fear of a threat to the preservation of this unique natural resource;

(13) State and Federal agencies and private parties undertake land management and development activities such as timber harvesting, development of energy and transmission facilities and highway construction which impact the physical appearance of the Gorge area and have a substantial effect on interstate commerce;

(14) Federal and State government agencies and local governments currently lack the financial and technical resources and areawide planning authority necessary to protect and enhance the unique resources of the Gorge and to resolve existing and potential differences between and inconsistent actions taken by those government agencies and citizens involved in developing, planning for, protecting and enhancing the Gorge; and

(15) numerous comprehensive studies of the Gorge have been done by Federal and State agencies and commissions detailing the resources of and threats to the Gorge area which have concluded that unified management of the Area is essential to its continued viability.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect and enhance the scenic, cultural, and natural resources of the Columbia River Gorge, including sensitive habitats of threatened and endangered species of flora and fauna and critical and sensitive lands, while providing for public enjoyment, enhancement of local communities, and continued commerce;

(2) to protect, conserve, and enhance the scenic, natural, cultural, and other values of existing Federal, State, and local government property located in the Gorge, including lands owned or controlled by the numerous departments of the United States Government and the States of Oregon and Washington;

(3) to enhance the well-being of residents and encourage continued growth and vitality of existing municipalities, homes and businesses in the Gorge area;

(4) to establish a single management entity charged with providing for and managing the public use and enjoyment of the Columbia River Gorge in a manner consistent with natural resource protection and maintenance of the existing landscape, including establishment, acquisition, maintenance, and operation of public recreation, natural areas, and tourist and interpretive facilities to meet the needs of the growing population and increased travel in the region;

(5) to establish a mechanism for effective cooperation in the Gorge by local, State and national interests through creation of a commission with authority and resources to develop, monitor, and enforce a unified management plan for the Gorge which is binding on all governmental entities having authority over land and resources in the Gorge that will protect, preserve, and enhance its unique resources;

(6) to establish a process by which critical and sensitive lands within the Gorge will be identified and a program to assure their protection and preservation will be established and maintained;

(7) to protect and preserve the historic and archeological resources of the Columbia River Gorge and, where appropriate, to make these resources more available to the public for educational and scientific purposes;

(8) to encourage and strengthen tourism and economic development efforts in the Gorge which rely on the natural resources and are compatible with the unique natural setting of the Area;

(9) to foster and enhance the historical uses of the Gorge as a vital transportation corridor in interstate commerce and as an important source of regional power generation in the Pacific Northwest;

(10) to utilize to the fullest extent possible the land use planning and other resources and powers of local and State governments and existing Federal agencies to develop and implement the management plan for the Gorge;

(11) to provide resources and assistance to State and local governments to foster the policies and realize the purposes of this Act;

(12) to provide for extensive public review and comment on Gorge management plans; and

(13) to provide funds to assist in the administration of this Act and for the purchase of critical and sensitive lands in the Gorge.

DEFINITIONS

SEC. 3. As used in this Act the term—

(1) "Agency" or "Agencies" refers to all State and Federal agencies, departments, commissions, boards, instrumentalities and quasi-governmental entities which have any authority to undertake, assist, regulate or grant any permit, license or other form of approval for any land management or development within the Gorge Area.

(2) "Assist" refers to any grant, loan, loan guarantee, sale of flood insurance or any other form of direct or indirect financial or technical assistance to any other agency, person, corporation or private entity.

(3) "Columbia River Gorge", "Gorge", or "Area" refers to the combined geographical area respectively defined on the effective date of this Act as the Columbia River Gorge by the Washington State Legislature in chapter 48, Laws of 1975, First Extraordinary Session, now codified as RCW 43,97.090 and by the Oregon State Legislature in chapter 482, Laws of 1977, now codified as ORS 390.460 and as depicted generally on the map entitled "Columbia River Gorge Vicinity, October, 1979," filed with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(4) "Commission" refers to the Columbia River Gorge Commission established by section 5(a) of this Act.

(5) "Critical and sensitive lands" refers to lands or shorelines having any of the characteristics described in section 9(b)(2) of this Act.

(6) "Implementation Plans" refer to the plans developed by Federal and State agencies and local governments pursuant to section 10 of this Act which shall govern and regulate land management and development within the Gorge Area.

(7) "Land Management or Development" or "Development" refers to projects and activities, or permits and approvals which allow projects and activities, which may impact, alter or modify the physical appearance, form or character of land or shorelines and the structures thereon within the Gorge Area, including but not limited to:

(A) construction, expansion, modification or location of buildings, mobile homes, energy facilities, transmission and receiving facilities or other structures;

(B) agency or local government approvals of plans, zoning and other land use ordinances, subdivisions or other land use or building approvals or permits;

(C) sales or conveyances by agencies of timber or timber lands, timber harvesting and application of forest practices regulations;

(D) land clearing, grading and filling, except land cultivation for agricultural activities;

(E) road or highway construction or expansion; and

(F) sand, gravel or mineral extraction.

(8) "Land" shall include "shorelines", which shall refer to (A) all lands extending landward of the low water mark of, (B) all wetlands, bogs, marshes and deltas associated with, and (C) all lands which are subject to intermittent or periodic inundation with water from any river, stream or lake situated within the Gorge Area. If any part of a development is located within a shoreline, the entire development shall be subject to this Act.

(9) "Local government", refers to any county, city, town, port, or other municipal corporation or other governmental entity created by or pursuant to State law and located, in whole or in part, within the geographical area defined in section 3(b) of this Act.

(10) "Management Plan" refers to the management plan developed pursuant to section 9(a) and 9(b) of this Act.

ESTABLISHMENT OF AREA

SEC. 4. The Columbia River Gorge Area is hereby established, consisting of all lands located within the geographical area described in section 3(b) of this Act.

ESTABLISHMENT OF THE COMMISSION

SEC. 5. (a) ESTABLISHMENT.—There is hereby established the Columbia River Gorge Commission which shall administer this Act, and which shall consist of fourteen members, to be appointed as follows:

(1) one elected official or other county resident each from Clark, Skamania, and Klickitat Counties in the State of Washington, or a local government within said counties;

(2) one elected official or other county resident each from Wasco, Hood River, and Multnomah Counties in the State of Oregon, or a local government within said counties;

(3) four members-at-large who shall be residents of the State of Washington, at least two of whom shall be residents of the Gorge Area; and

(4) four members-at-large who shall be residents of the State of Oregon, at least two of whom shall be residents of the Gorge Area.

(b) NOMINATION AND APPOINTMENT.—Not more than thirty days after the effective date of this Act, and thereafter within forty-five days if a vacancy occurs, the Governors of the States of Washington and Oregon each may provide to the President of the United States a list of nominations from such State for each of the State's positions and shall include such information about the nominees as the President may request. Within thirty days of receipt of the nominations, the President shall appoint the Commission members from each Governor's list of nominations for each State's positions, except that the President may decline to appoint for any reason any of a Governor's nominees for a position and shall so notify the Governor. The Governor may thereafter make successive nominations within thirty days of receipt of the notice until nominees acceptable to the President are appointed for each position. In the event the required nominations for any State position on the Commission are not received from the Governor of either State within the time specified for such nominations, the President shall appoint the Commission member or members for the positions specified in subsection (a) of this section.

(c) CHAIR AND VICE-CHAIR.—Each Governor may include in the lists of nominees submitted to the President pursuant to subsection (b) of this section one nominee each for the chair and vice-chair of the Commission. Such nominees shall be chosen from among the nominees for the member-at-large positions on the Commission. The President shall appoint the chair and vice-chair from among the nominees designated by the Governors, except that the President may decline to appoint for any reason any of a Governor's nominees for chair or vice-chair of the Commission and shall so notify the Governors. The Governors may thereafter make successive nominations for chair and vice-chair of the Commission within thirty days of receipt of such notice until nominees acceptable to the President are appointed for each position. The President shall decide whether the first chair will be from Oregon or Washington and the positions of chair and vice-chair shall alternate thereafter between the States every two years. The chair and vice-chair may not be residents of the same State. The vice-chair shall serve as the chair-elect.

(d) TERMS.—Members of the Commission shall be appointed for a term of four years, except that the initial appointment of the eight members-at-large shall be as follows: one from each State shall be appointed for a term of four years, and one from each State shall be appointed for a term of three years, and one from each State shall be appointed for a term of two years, and one from each State shall be appointed for a term of one year. Thereafter, all citizen members of the Commission shall be appointed for terms of four years. No member shall serve more than two full four-year terms, which shall not include partial terms served as a result of initial appointments or appointments to fill vacancies.

(e) NONVOTING EX OFFICIO MEMBERS.—The President shall appoint as nonvoting ex officio members of the Commission a representative of the United States Forest Service, the Bonneville Power Administration, the United States Corps of Engineers, the United States Fish and Wildlife Service, and such other Federal or State agencies as he deems appropriate.

(f) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(g) HOLDOVER TERMS.—Any member may serve after the formal expiration of his or her term until a successor is appointed.

(h) QUORUM AND VOTING.—A quorum shall consist of eleven members. The Commission shall act only on an affirmative vote of a majority of those members present, except that a lesser number may, pursuant to rules established by the Commission, be authorized to hold hearings.

(i) COMPENSATION.—Commission members shall be allowed per diem compensation and travel expenses in the same manner as prescribed by sections 5702-5707 of title 5, United States Code.

(j) MEETINGS.—(1) The Commission shall meet at least once every three months and meetings of the Commission shall be held within the Columbia River Gorge Area. The Commission shall give notice of all regular meetings and hearings by publishing notice fourteen days in advance thereof in two or more newspapers of general circulation in the Gorge Area, one of which shall be pub-

lished in Washington and one in Oregon. The notice shall state the date, time, place and agenda of the meeting. The Commission shall not be limited to considering items of business included on the published agenda. The Commission may call such emergency or special meetings as the chair or a majority of the members of the Commission deem necessary without having first complied with the notice provisions of this section, provided that the Commission shall make a reasonable attempt to notify the news media in the Gorge Area of such special or emergency meetings.

(2) All actions of the Commission shall be taken at open public meetings except, the Commission may hold executive sessions during a regular or special meeting; to consider matters affecting national security; to consider the selection of a site or the acquisition of real estate by lease or purchase, when publicity regarding such consideration would cause a likelihood of increased price; to consider the disposition of real estate by lease or sale, when publicity regarding such consideration would cause a likelihood of decreased price; to discuss pending or ongoing litigation; to consider the appointment, employment, or dismissal of a public officer or employee; or to hear complaints or charges brought against such officer or employee by another public officer, person, or employee unless such officer or employee requests a public hearing. The Commission also may exclude from any public meeting, hearing or executive session, during the examination of a witness on any matter, any or all other witnesses in the matter being reviewed or investigated by the Commission.

(k) COMMISSION OFFICE.—The Commission shall designate a principal office to be located within the Gorge Area and may designate other offices within or outside of the Gorge Area.

POWERS OF THE COMMISSION

SEC. 6. (a) AUTHORITY AND RESPONSIBILITY.—The Commission shall have the following powers and duties—

(1) it shall prepare, adopt, implement and enforce a unified Management Plan for the Gorge;

(2) it shall identify critical and sensitive lands in the Gorge and develop, implement, and enforce a program to protect those lands;

(3) it shall review Federal, State, and local Implementation Plans for compliance with the Management Plan and certify such plans as are found to be in compliance;

(4) it shall prepare a biennial report to the President, the Congress, and the Governors and State legislatures of the States of Washington and Oregon advising them of the status of the Management Plan and its implementation;

(5) it is authorized to acquire any fee or less-than-fee interest in property pursuant to section 11 of this Act;

(6) it is authorized to exercise the power of eminent domain but only to acquire critical and sensitive lands and further subject to the provisions of section 11(b) of this Act;

(7) it is authorized to make gifts or exchanges of land or interests therein or enter into contracts with other agencies, local governments or not-for-profit organizations for purposes of conveying or accepting fee or less-than-fee interests in land or providing for management of lands or interests in lands held by the Commission when the Commission determines that such gifts, exchanges or contracts will further the purposes of this Act;

(8) it is authorized to acquire real and personal property or services in furtherance of the purposes of this Act;

(9) it is authorized to make grants to agencies, local governments and not-for-profit organizations for purposes of purchasing fee or less-than-fee interests in land as set forth in section 11;

(10) it is authorized to review and recommend to Congress any alterations of the boundaries of the Gorge Area as may become necessary to achieve the purposes of this Act;

(11) it is authorized to provide technical and financial assistance to Federal agencies as well as to State agencies and local governments to carry out the purposes of this Act;

(12) it is authorized to adopt such rules and regulations as it may deem necessary pursuant to the procedures established in section 553 of title 5, United States Code: *Provided*, That adoption of the Management Plan and certification of Implementation Plans shall not constitute adoption of rules or regulations within the meaning of section 553;

(13) it is authorized to establish an executive committee and appoint subcommittees and advisory committees as needed;

(14) it is authorized to hear appeals pursuant to the procedures established in sections 554–557 of title 5, United States Code, and this Act;

(15) it is authorized to employ such staff as may be needed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Employees of the Commission may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay for grade GS–15 of the General Schedule as it is established from time-to-time;

(16) it is authorized to procure professional, technical and other services, including legal counsel, to the extent deemed necessary and at rates determined by the Commission to be reasonable compensation for such services;

(17) it is authorized to nominate sites and objects of historic or archeological significance for inclusion on the National Register of Historic Places;

(18) it is authorized to sue and be sued;

(19) it is authorized to initiate and approve such amendments to the Management Plan or Implementation Plans as the Commission deems necessary to implement the purposes and policies of this Act; and

(20) it is authorized to take such other actions as may be necessary to carry out the purposes and policies of this Act.

TIMETABLE FOR ADOPTION OF PLANS

SEC. 7. (a) APPOINTMENT OF COMMISSION.—Within thirty days after the date of enactment of this Act, the Governors of the States of Washington and Oregon may submit nominations to the President for appointment to the Commission and within sixty days after the effective date of this Act the President shall appoint the members of the Commission pursuant to the provisions of section 5 (a) and (b) of this Act.

(b) MANAGEMENT PLAN.—Within eighteen months after appointment of its members, the Commission shall adopt the Management Plan pursuant to section 9 of this Act.

(c) IMPLEMENTATION PLANS.—Within twelve months after the Commission's adoption of the Management Plan, all agencies and local governments covered by this Act shall submit implementation plans to the Commission pursuant to section 10 of this Act.

INTERIM PROCEDURES

SEC. 8. (a) ACTIVITIES REQUIRING COMMISSION REVIEW.—Those land management or development activities in the Gorge which consist of sand, gravel or mineral extraction, subdivisions and short platting, and construction of commercial and industrial facilities may not be undertaken, assisted, regulated, or approved by any Federal or State agency or local government, or any official or employee thereof, between the date the Commission members are appointed (but in any event no later than sixty days after the date of enactment of this Act) and the date the Commission certifies an Implementation Plan for the agency or local government pursuant to section 10(b), until sixty days have expired after the Commission receives notice of any proposal or application for such land management or development activities pursuant to section 8(b).

(b) PROCEDURE FOR COMMISSION REVIEW.—(1) Prior to certification of its Implementation Plan, every agency or local government which proposes to undertake, assist, regulate, or which receives an application for those land management or development activities defined in subsection (a) in the Gorge shall give notice of the proposal or application to the Commission at the earliest possible time. The notice shall include a copy of the application and all plans, profiles, studies, and other documents related to the proposal or application available to the agency or local government. In the case of an application received by an agency or local government, notice of the application shall be given to the Commission no later than seven days after the agency or government receives such application.

(2) Within sixty days after receipt by the Commission of the notice required in subsection (b)(1), the Commission shall have the authority to review such proposal or application to determine whether it is consistent with the purposes of this Act, the Commission's interim guidelines when adopted, and the Management Plan when adopted. If the Commission determines that the proposal or application is inconsistent with such purposes, guidelines or Management Plan, it shall so notify the agency or local government submitting the proposal or application, setting forth the reasons for its decision in writing.

(3) In the event the Commission has made a written determination of inconsistency, said land management or development activity shall not proceed unless, upon resubmission of the proposal or application to the Commission, a determination of consistency is made. No proposal or application shall be resubmitted to the Commission unless it has been modified to eliminate the inconsistencies found by the Commission. In the event the Commission makes no written finding of inconsistency as provided herein within sixty days of receipt by it of the notice required in subsection (b)(1), the proposal or application shall be deemed approved. In the event the documents constituting notice described in subsection (b)(1) are not all received by the Commission on the same date, the sixty-day review period will commence on the latest of the submission dates.

(4) Upon certification by the Commission of an Implementation Plan pursuant to section 10 of this Act, the requirements of this section shall cease to apply to the agency or local government for which an Implementation Plan has been certified; except that

nothing in this section shall be construed to prohibit the Commission from receiving and investigating complaints of noncompliance with such certified Implementation Plans or taking such actions as it deems necessary to enforce the provisions of this Act, the Management Plan or any certified Implementation Plan.

(c) COMMISSION REVIEW OF ADDITIONAL ACTIVITIES.—In addition to reviewing the activities specified in subsection (a), the Commission is authorized to initiate review of any other land management or development activity in the Gorge, as defined in section 3, (1) on lands which meet the criteria for critical and sensitive lands or (2) which the Commission determines may cause an irreparable change inconsistent with the purposes of the Act or which may have a significant adverse impact upon effectiveness of the Management Plan to be adopted. The Commission may initiate such review by written notice from the chair to the Federal or State agency or local government proposing or which has received an application for such land management or development activity. After receipt of said notice from the Commission, the agency or local government shall provide the Commission with the applications, plans, profiles, studies, and other documents relating to such activity and no such land management or development shall be undertaken, assisted or approved by any Federal or State agency or local government until the Commission makes a written determination of consistency or inconsistency. The Commission shall make a determination within sixty days after it receives the application and related documents and the Commission shall follow the procedures of subsection (b) (2) and (3) to the extent not inconsistent with this subsection.

(d) INFORMATION TO AGENCIES AND LOCAL GOVERNMENTS.—From time-to-time the Commission in its discretion may provide information or notice to agencies and local governments regarding the application of this Act to land management or development undertaken, regulated or approved by said agencies or local governments, the requirements and procedures for interim review or any other matters relating to compliance with the Act and the rules, regulations or guidelines of the Commission except that no information or notice given shall affect the required submission of proposals or applications to the Commission under subsections (a) and (b) of this section or under section 10.

MANAGEMENT PLAN FOR THE AREA

SEC. 9. (a) PREPARATION.—The Commission shall prepare a Management Plan for conservation, use, and development of the Area. In preparing the Management Plan, the Commission shall use, among other data and documents, the information and data developed in previous studies of the Gorge conducted by Federal and State agencies and local governments. During the preparation of the Management Plan, the Commission shall hold public meetings and hearings to receive testimony from residents of the Area, representatives of governments and agencies potentially affected by the Management Plan, and citizens and representatives of groups interested in the development and preservation of the Gorge. The Commission shall give notice of the dates, times, and locations of such public meetings and hearings as provided in section 5(h) of this Act. Participation in meetings and hearings concerning the Management Plan shall be provided for and the Commission shall insure that the objectives of the Management Plan, the actions to be undertaken in the preparation of the Management Plan and the times when such actions are proposed to be taken are well publicized and openly discussed.

(b) CONTENT.—The Management Plan shall—

(1) be based upon such inventories, studies, and analyses of the Gorge's resources, including but not limited to the archeological, social, economic, forest, historical, natural, geological, botanical, recreational, and scenic characteristics of the Area as the Commission deems appropriate;

(2) designate critical and sensitive lands within the Gorge Area which are essential to its protection, development, and interpretive value including—

(A) lands which have unique or distinctive scenic features in the Gorge;

(B) lands containing rare or endangered wildlife or plants eligible for designation under Federal or State authorities;

(C) lands which are or may qualify for designation as landmarks or natural heritage, historic places, or archeological sites of State or national significance;

(D) lands needed to provide critical recreation and interpretative facilities and access to public lands for visitors to the Gorge including lands identified for park, recreation, open space, trails, or natural areas pursuant to Federal, State, or local plans;

(3) contain a program for protection of the critical and sensitive lands identified by the Commission. This can be through land use controls, incentives and subsidies, land trades, less-than-fee acquisition, including scenic easements and development rights, fee title acquisition or other means pursuant to the provisions of section 11 of this Act;

(4) contain goals and guidelines which establish objectives for the treatment of resources in the Gorge, including urban, rural, and natural resource lands, that set forth appropriate residential, commercial, industrial, timber, agricultural, mining and recreational uses, practices and design standards;

(5) establish procedures for review of Federal, State, and local Implementation Plans, and amendments thereto, for conformance with the goals, guidelines, and standards of the Management Plan;

(6) contain goals and guidelines to promote the economic viability of the communities within the Gorge Area in a manner consistent with the purposes of this Act;

(7) establish procedures for periodic amendments to the Management Plan and Implementation Plans.

CERTIFICATION OF IMPLEMENTATION PLANS

SEC. 10. (a) NOTICE AND LETTERS OF INTENT.—(1) Upon adoption of the Management Plan, the Commission shall transmit a copy of the Management Plan to and notify each Federal and State agency and local government which engages in, assists, regulates, or issues permits or approvals for land management or development in the Gorge that an Implementation Plan shall be submitted within twelve months of the notice. Within sixty days after receipt of such notice, each agency and local government shall submit to the Commission a letter stating that it proposes to develop an Implementation Plan for land management and development with the Area in which it operates or has authority and any agency or local government may request assistance from the Commission in developing an Implementation Plan.

(2) If any agency or local government fails to submit a letter as provided in this section, or fails to submit an Implementation Plan in accordance with the time provided in this section, the Commission may issue to such agency or local government a notice and order pursuant to section 17 of this Act and may adopt an Implementation Plan for that agency or local government.

(b) SUBMISSION OF IMPLEMENTATION PLANS.—Within twelve months after adoption of the Management Plan, all Federal and State agencies and local governments required to submit letters of intent shall submit Implementation Plans to the Commission for review and certification. All such Plans shall provide for regulation of all land management and development within the Gorge Area which the agency or local government may engage in, assist, regulate, or for which it issues permits or approval. The Implementation Plans shall recognize it is the responsibility of the agencies and local governments to enforce the Implementation Plan and utilize the full authority of the agencies and local governments to carry out the purposes of the Act. The Implementation Plan shall be consistent with the Management Plan. The Commission may specify the format and types of provisions to be included within the Implementation Plans.

(c) COMMISSION REVIEW OF IMPLEMENTATION PLANS.—Implementation Plans shall become effective upon review and approval by the Commission. The Commission shall make a good faith effort to complete its review within six months of submission to it of an Implemenation Plan. If the Plan is consistent with the Management Plan and the purposes of this Act, the Commission shall so certify to the agency or local government submitting the Plan.

(d) EFFECT OF SUBMISSION OF INCONSISTENT IMPLEMENTATION PLAN.—If the Commission finds that an Implementation Plan is not consistent with the Management Plan or the purposes of this Act, the Commission shall make a good faith effort to so notify the agency or local government submitting the Plan within six months of submission. The Commission shall state in detail the basis for that decision and shall submit to the agency or local government suggested modifications to the Plan to make it consistent with the Management Plan and the purposes of this Act. The agency or local government shall have ninety days after it receives recommendations from the Commission to make modifications eliminating the inconsistencies and to resubmit the Plan to the Commission for approval. Any resubmitted Implementation Plan shall take effect when and in such form and content as is approved and certified to the local government or agency by the Commission. In the event that the Commission determines that a resubmitted Plan is not consistent with the Management Plan or the purposes of this Act, the provisions of section 10(a)(2) shall apply and the Commission may adopt an Implementation Plan for the agency or local government.

(e) LATER SUBMISSION BY FEDERAL, STATE, OR LOCAL AGENCY OR GOVERNMENT.—(1) In the event that an agency or local government has not complied with the requirements of this section, it may thereafter on written notice to the Commission elect to develop an Implementation Plan, in which event it shall comply with the requirements of this section. Upon certification of such Implementation Plan by the Commission, it shall supersede any Plan that may have

been adopted by the Commission for that local government or agency.

(2) Federal and State agencies and local governments not initially required to submit letters of intent and Implementation Plans to the Commission pursuant to subsections (a) and (b) of this section shall submit letters of intent within sixty days, and Implementation Plans within twelve months, of the occurrence of one or more of the following events:

(A) creation after the effective date of this Act of an agency or local government which is authorized to undertake, assist, regulate or approve activities which constitute land management or development as defined in this Act;

(B) additions to or changes in the functions or authority of an existing agency or local government which authorizes it to undertake, assist, regulate or approve activities which constitute land management or development as defined in this Act; or

(C) a determination by an agency or local government which does not normally undertake, assist, regulate, or approve activities which constitute land management or development as defined in this Act to do so.

(f) EFFECT OF CERTIFIED IMPLEMENTATION PLAN.—Upon certification by the Commission of an Implementation Plan, that Plan shall become the basis for all subsequent decisions by the agency or local government concerning all land management and development and shall overlay and supersede all conflicting or inconsistent statutes, laws, ordinances, plans, rules, and regulations.

(g) AMENDMENTS OF IMPLEMENTATION PLANS.—Either the Commission or an agency or local government having a certified Implementation Plan may propose such amendments as it deems necessary from time-to-time. Proposed amendments shall be reviewed and approved or disapproved in conformance with the requirements of this section.

ACQUISITION

SEC. 11. (a) AUTHORIZATION.—The Commission is authorized to identify fee and less-than-fee interests in lands within the Gorge which shall be acquired and held in public ownership. In the event such lands are not acquired or held by existing Federal or State agencies or local governments, then the Commission is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, bequest, lease, gift or to otherwise acquire fee or less-than-fee interests in any lands, including but not limited to air rights, water rights, mineral rights, development rights, and scenic and conservation easements, which the Commission determines are necessary or appropriate to achieve the purposes of this Act. The Commission may hold and manage such property or may convey or lease such property under such covenants or other contractual arrangements as provided in section 6 as will limit the future use of the property in accordance with the purposes of this Act.

(b) EMINENT DOMAIN.—The Commission may only exercise the power of eminent domain where such power is—

(1) limited to acquisition of critical and sensitive lands,

(2) exercised to acquire full fee title not a less-than-fee interest,

(3) exercised only upon a written determination that all other methods for protecting such lands, including but not limited to land use controls, incentives, and subsidies, willing seller less-than-fee or fee title acquisition are unsuccessful, and

(4) not exercised to acquire buildings or structures which are in existence on the date of enactment of this Act.

The Commission shall separately approve by a two-thirds majority each exercise of the power of eminent domain by official action at a public meetings. Eminent domain proceedings initiated by the Commission shall be governed by the provisions of the Act of August 1, 1888 (23 Stat. 357; 40 U.S.C. 257), except to the extent inconsistent with the provisions of this Act.

(c) CONSIDERATION OF AREA LANDOWNER OFFERS.—The Commission shall give prompt and careful consideration to all offers of sale or transfer made by persons owning real property or any interest therein within the Area, weighing any hardship to the owner which may result from delay in acquisition.

(d) ACQUISITION BY AGENCIES AND LOCAL GOVERNMENTS.—The Commission may recommend to any agency or local government the acquisition of particular lands and the fee or less-than-fee interest therein as appropriate to carry out the purposes of this Act. Notwithstanding any other provision of law to the contrary, any agency or local government is hereby authorized to acquire by donation, purchase with donated or appropriated funds, exchange, bequest or otherwise any fee or less-than-fee interests in any lands in the Gorge identified by the Commission. The Secretary of Agriculture, acting through the United States Forest Service, may acquire through purchase, exchange or otherwise any land within the Gorge notwithstanding the proximity of such lands to be acquired to lands then owned or controlled by the Forest Service. The commission may direct the United States Forest Service to make such exchanges of land as the Commission deems necessary to acquire critical and sensitive lands within the Gorge.

FEDERAL LANDS WITHIN AREA

SEC. 12. Lands owned or managed by any agency of the United States shall remain subject to management and control by the appropriate Federal agency and otherwise subject to the provisions of law applicable to management of such lands. In the case of conflict between any provision of this Act and any other provision of law applicable to Federal management of lands within the Gorge Area, the provisions of this Act shall govern.

INTERGOVERNMENTAL COOPERATION

SEC. 13. (a) RETENTION OF STATE AND LOCAL JURISDICTION.—Nothing in this Act shall diminish, enlarge, or modify any right of the State of Oregon, the State of Washington or any local government of either State to exercise civil and criminal jurisdiction within the Area or to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters therein.

(b) STATE AND LOCAL LAND USE POWERS FULLY EXERCISABLE.—Nothing in this Act shall be construed to prevent the enactment, adoption or implementation by any State or local government of any law, ordinance, rule or regulation, plan, land use control or other provision of law which is consistent with the applicable State law and with the provisions of this Act. In the case of conflict between any provision of this Act and any other provision of State or local law applicable to lands within the Area, the provisions of this Act shall govern.

INDIAN TRIBAL RIGHTS NOT IMPAIRED

SEC. 14. Nothing in this Act shall be construed to alter, amend, repeal, impair, modify or otherwise affect any treaty or other right of an Indian tribe.

EXEMPTIONS FROM THE ACT

SEC. 15. The provisions of this Act shall not apply to—

(1) the ongoing development of new locks at the Bonneville Dam;

(2) any emergency land management or development by an agency or local government which is essential to the protection of public health or safety or necessary for national security or defense;

(3) any land management or development which has commenced prior to the date of enactment of this Act; or

(4) agricultural activity on lands used principally for agriculture purposes, and commercial forest activities conducted on forest lands as those lands are now or hereafter defined in the respective Forest Practice Acts of Oregon and Washington; excepting only where, upon completion of the agricultural or commercial forest activity, the lands will be converted to a different use.

For purposes of paragraph (3), in the case of land management or development undertaken by or receiving assistance from agencies or local governments, "commencement" shall occur at such time as binding agreements or contractual obligations for the land management or development activity have been entered into and such agreements or obligations cannot be cancelled or modified without substantial monetary loss or penalty, or if no contract or binding agreement is used or required, at such time as actual physical modification of the land or shoreline has occurred. For land management or development consisting of agency or local government approvals or permits for land management or development, "commencement" shall occur at such time as the agency or local government has issued all required permits and approvals for the land management or development activity.

ENFORCEMENT

SEC. 16. (a) INITIATION OF ENFORCEMENT PROCEEDINGS.—(1) The Commission shall have authority to enforce this Act through an administrative notice and order proceeding to be established pursuant to the standards set forth in paragraph (2). Whenever the Executive Committee has reason to believe a use or condition exists in violation of the Act, the Management Plan, an Implementation Plan, interim guidelines or a determination of the Commission pursuant to sections 8 and 10 of this Act, the Executive Committee may direct the issuance of a notice and order to stop work, to assess a civil penalty in an amount not to exceed $500 per day, or to abate the violation and restore the land or shoreline, or any combination thereof. The effect of a notice and order to stop work shall be to require the immediate cessation of such work or activitiy until authorized by the Commission to proceed.

(2) Prior to issuing a notice and order under this subsection, the Commission shall have adopted rules and regulations to implement this section which shall—

(A) establish standards and procedures for the issuance, contents, and service of a notice and order to stop work and for civil penalties and abatement and restoration;

(B) provide that a notice and order to stop work shall be issued only when agencies or local governments have not commenced an enforcement action and where the Commission's Executive Committee determines—

(i) that a volation exists and the violation is causing or can reasonably be expected to cause significant, imminent environmental harm or an imminent danger to the health or safety of the public; or

(ii) that more than thirty days have expired since the issuance of a notice and order to abate and restore and the abatement and restoration ordered therein have not been undertaken or completed;

(C) provide that where a notice and order has been issued pursuant to subparagraph (B), the owner, operator, person, or agency upon whom the notice and order is served may, within thirty days of service thereof, apply to the chair or vice-chair for temporary relief from the notice and order to stop work and that within five days of receipt of such request for temporary relief, the chair or vice-chair shall issue a written decision granting or denying the requested relief or modifying the notice and order to stop work and stating the reasons for decision; and

(D) provide for an administrative appeal of a notice and order pursuant to section 19 of this Act.

(3) Any person adversely affected by a decision of the Commission rendered after an administrative appeal of an enforcement order may, within thirty days of the decision of the Commission, bring an action for review of such order as provided in section 19(e) of this Act.

(b) JUDICIAL RELIEF.—Notwithstanding any other procedure or remedy provided for in this section, the Commission may bring an action for damages, punitive damages, injunctive, declaratory or other relief, including suspension or revocation of a permit or approval, in the United States District Courts of Oregon or Washington to prevent or correct any violation of this Act, the interim guidelines, the Management Plan, an Implementation Plan, or a decision or an order of the Commission.

(c) CRIMINAL PENALTIES.—Any person who knowingly and willfully violates any order of the Commission which is lawfully issued pursuant to subsection (a) above shall be fined no more than $10,000 or imprisoned no more than twelve months, or both.

(d) WITHHOLDING OF FEDERAL FUNDS.—In addition to the remedies provided for in subsections (a) through (c) of this section, no Federal funds shall be granted, loaned, contracted for or in any manner committed or disbursed for, or with regard to any land management or development as defined in this Act which does not comply with the Act, interim guidelines, the Management Plan, an Implementation Plan, or a decision or an order of the Commission.

JURISDICTION OF FEDERAL COURTS

SEC. 17. The courts of the United States shall have exclusive jurisdiction of actions arising under this Act, and venue shall be in the United States District Courts for Washington or Oregon.

APPEALS

SEC. 18. (a) DECISIONS APPEALABLE.—Any agency, local government, or person aggrieved by a decision or order of the Commission made pursuant to sections 8 (including failure of the Commission to find inconsistency thereunder), 10, 11, and 17 of this Act shall be deemed final unless a written appeal stating the basis and arguments therefor is filed in the principal office of the Commission no later than thirty days after entry by the Commission of the decision or order being appealed. Rules and regulations adopted by the Commission shall not be construed as decisions or orders under this section.

(b) ADMINISTRATIVE LAW JUDGES.—Appeal hearings for the Commission shall be conducted by an independent administrative law judge who shall make findings and recommend actions to the Commission.

(c) HEARING PROCEDURE.—All appeal hearings shall be conducted pursuant to sections 554 through 557 of title 5, United States Code.

(d) DECISIONS FINAL.—All decisions of the Commission shall be final unless within thirty days of the decision an action is brought in the United States District Courts for Washington or Oregon challenging the decision.

MITIGATION OF LOCAL REVENUE LOSSES

SEC. 19. Any private lands acquired by the Commission under this Act, whether retained by the Commission or transferred to the administrative jurisdiction of any other department, agency, or instrumentality of the United States, shall be treated as entitlement land within the meaning of sections 1601 et seq. of title 31, United States Code.

AUTHORIZATION OF APPROPRIATIONS

SEC. 20. (a) IN GENERAL.—Effective for fiscal years commencing after September 30, 1984, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

(b) LAND AND WATER FUND.—Effective for fiscal years commencing after September 30, 1984, amounts in the Land and Water Conservation Fund are authorized to be appropriated for the acquisition, in accordance with this Act and other applicable law of lands, waters, and interests therein within the Area.

(c) Effective for the first fiscal year that commences after September 30, 1984, there is authorized to be appropriated such sums as may be necessary for the operation of the Commission and the initial implementation of this Act.

ACQUISITION FUND

SEC. 21. (a) ESTABLISHMENT.—There is established an acquisition fund for the acquisition of lands and interests therein within the Area. This fund shall be available without fiscal year limitation for expenses necessary for acquiring land and interests therein under section 11 hereof.

(b) INITIAL CAPITAL.—The initial capital of the fund shall consist of appropriations made for that purpose. The Commission is authorized to make such subsequent transfers to the fund as it deems appropriate in connection with activities to be carried on through the fund.

(c) APPROPRIATION.—There is hereby authorized to be appropriated a sum not to exceed $ as initial capital of the acquisition fund.

(d) DONATIONS.—The Commission may accept contributions or donations of money, services, and property, real, personal or mixed, for the management, protection, development, acquisition, and conveying of the lands within the Area. Moneys received hereunder shall be credited to the acquisition fund.

COMPLIANCE WITH BUDGET ACT

SEC. 22. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriation Acts. Any provision of this Act which, directly or indirectly, authorized the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1984.

SEVERABILITY

SEC. 23. Should any section, subsection, paragraph, sentence, clause, or phrase of this Act be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Act.

Mr. ROBERT F. SMITH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. VENTO. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. VENTO. Mr. Chairman, are there copies of this amendment available for the committee? We have seen no copy of this particular amendment.

The CHAIRMAN. The copies are in control of the Clerk. A copy is being sent to the gentleman from Minnesota [Mr. VENTO].

The CHAIRMAN. The gentleman from Oregon [Mr. ROBERT F. SMITH] will be recognized for 10 minutes, and the gentleman from Oregon [Mr. WEAVER] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, ladies and gentleman of the Committee, I am introducing this substitute as a total substitute bill, and I think now the gentleman from Oregon [Mr. WEAVER] will recognize the reason that I could not offer the other amendments; because this is a bill that was introduced initially by Mr. WYDEN.

I cosponsored this bill. This is a bill to control the Columbia River Gorge. This is a bill that has been cosponsored by every member of the Washington delegation, by every member of the Oregon delegation, save one; by the Senators of Washington and of Oregon; by the Governors of Oregon and Washington.

In 1983 I was a cosponsor of this legislation and this is the kind of Columbia River Gorge control we need in the Pacific Northwest.

My substitute provides that we truly have local control. You will recall when I told you about the important fundamentals of legislation that should be drafted, the first is local control.

In this substitute, the commission, which is a bi-state commission, has 8 members who live inside the impacted areas of the Gorge out of 14 members on the commission. That is a majority of the commission.

That means local control to the people affected; and why not? Does it not follow that if you are going to make long term land use decisions—and remember, when you control land use, you control the value of property. That is like controlling how much money you have in your pocket. If you make those long-term kinds of decisions, should it not and would it not be better to have the people who are affected make those decisions who live in the area and whose neighbors they know will be impacted with their decision.

It seems to me fundamentally reasonable, and ought to be done, and I support that part of this bill.

The second fundamental part is the question of condemnation. Now, while there is strict condemnation in this bill that I am supporting along with my colleagues from Washington and Oregon, this does not have the Federal intrusion that the bill we are now discussing has.

We do not have the players of the Department of Agriculture and the Secretary of Agriculture in this bill. We have a commission formed between two States, logically which should take care of the problems between the two States.

Now, there is Federal opportunity here for assistance; surely, there is, but there is not the condemnation rights of the Federal Government in this bill. That is another reason I support it.

Also in this bill, the other fundamental principle that I believe in is the fact that in this bill, that everybody signed, is the opportunity for those States that have land use laws already on the books to make that the majority position. In other words, any more land use may not exceed the authority of the existing land use laws in that particular or respective State. That is a fundamental issue in this bill.

□ 1615

So, Mr. Chairman, while this bill does a good deal to protect the gorge, which I agree with, by the same token the bill we are considering provides just the opposite, no local control in the gorge, Federal condemnation of land and the elimination of recognition of land use laws in the State.

I suggest this is a reasonable alternative. I want to know why the bill, this bill is not acceptable today. It was acceptable in 1983 and those who want control in the gorge ought to give it to the people locally to control it. They ought to do that, they deserve that. They have not ruined the gorge, else we would not be here. If the gorge was ruined, there would be nothing lovely and beautiful to protect.

The people on the Oregon side have done an outstanding job of protecting our State. We are proud of it. There is lots to protect.

I want you to know that I support this legislation, I want you to know that here is a way that we can protect the lovely gorge that we all love and respect but we can do it with local people making local decisions for local futures.

Mr. Chairman, I reserve the balance of my time.

Mr. WEAVER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wonder if my good friend from Oregon [Mr. SMITH], would respond to a question.

Mr. ROBERT F. SMITH. Yes.

Mr. WEAVER. The gentleman mentioned that a number of years ago this was endorsed by a large number of Members from Washington and Oregon, including myself.

Mr. ROBERT F. SMITH. I thank the gentleman. I meant to point that out.

Mr. WEAVER. I wonder if the four Senators now support at this time this substitute that he is offering.

Mr. ROBERT F. SMITH. I cannot answer for the four Senators. I can answer for myself as you have answered for yourself.

Mr. WEAVER. Does the gentleman know if the Governors support this substitute?

Mr. ROBERT F. SMITH. Well, I assume the Oregon Governor supports it, since he was enthusiastic in writing it. I have no idea, however.

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I would be happy to yield to my friend from Oregon.

Mr. WYDEN. I thank the gentleman for yielding.

Mr. Chairman, I want to make this very clear. In 1983—and the gentleman and I have been working on this for years and years—we did in fact introduce that bill in 1983. The Governors supported that legislation in 1983. But today is 1986 and today the Governors of Oregon and Washington support this legislation, the legislation that was introduced by the gentleman from Oregon [Mr. WEAVER].

I think it is important to understand that today, 1986, we have the Governors supporting this bill and not the bill that they were for in 1983.

I thank the gentleman for yielding.

Mr. WEAVER. The gentleman summed it up very accurately.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Oregon.

Mr. AUCOIN. I thank the gentleman for yielding.

My colleague from Portland [Mr. WYDEN], I think makes the point, this is a bill that is 3 years behind the curve. Negotiations have taken place with the Governor's staffs, with the Senatorial staffs, with office and staff of every Member who has been interested in the negotiations. The door, the welcome mat has been opened to the gentleman from Oregon [Mr. ROBERT F. SMITH], and others, over the course of those 3 years. Now what we have before us now is a bill that is endorsed by our Governor, Governor Atiyeh, and I have in hand a letter from him to the Republican senior Senator from Oregon [Mr. HATFIELD], who supports the committee bill, the bill on our side.

In that letter the Governor, who is a Republican and who served in the legislature with my friend, Mr. SMITH, says:

OFFICE OF THE GOVERNOR,
Salem, OR, October 13, 1986.

Hon. MARK HATFIELD,
U.S. Senate,
Hart Senate Office Building,
Washington, DC.

DEAR MARK: I noted with sheer excitement the passage of the Columbia River Gorge Bill through the Senate. As you know, this has been a personal goal of mine since I took office in 1979 and had desperately hoped for this certainty that would benefit generations to come. Now we are on the verge of success.

It came as no easy solution I know. Much conversation and compromise had to take place. However, the goal was never lost and personal differences were set aside.

I also noted the staying power of support among my fellow Republicans, and applaud their vision.

My fingers are crossed awaiting that last wonderful shoe to drop.

Sincerely,

VICTOR ATIYEH,
Governor.

What the gentleman is referring to is, of course, not the gentleman's 3-year-old amendment but this bill facing us now, the 1986 bill, which represents all important players on both sides of the political fence, the political aisle, in the House and in the Senate, and in the State capitals of our two respective States.

Mr. WEAVER. I thank my friend for his very cogent remarks, and I conclude simply by saying that the substitute offered by our good friend from Oregon [Mr. ROBERT F. SMITH] was part of a negotiating process. There were three bills at the time. I was a sponsor actually with Senator PACKWOOD of the strongest protection bill. And the other gentlemen involved were sponsors of a third bill.

In that 3 years, we have negotiated among all the parties a consensus bill that is represented here before the House as H.R. 5705 and passed the Senate as S. 2225. So that is the difference.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I am glad to yield to my friend from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to this. This would deny the evolution in the compromises that have gone on and go back to a bill 3 years in the past. I think the point has to be made here that there has been a great deal of compromise on my part. I have indicated my displeasure with some of the provisions of this. I think others could say that as well. We are trying to work the will of the body, let the majority work its will. There have been numerous hearings, both field investigations and hearings on the part of Agriculture and Interior and Insular Affairs Committees on many of these bills. What we are trying to do today is bring some conclusion to this. Nothing undermines the process than the continual rehashing of the same issues over and over again, never coming to any conclusion. While I do not like some elements here is this conclusion, I am here to tell you today that this substitute is far worse and I think this body should reject it out of hand.

Mr. WEAVER. I appreciate those kind remarks.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

I would simply note as I did earlier in the debate that a number of proposals have been advanced in the course of our deliberations on the Columbia Gorge scenic area. Mr. AuCoin and I sponsored a bill at one point; the Governors had a bill; it goes on and on.

But the legislation before us now represents a consensus of almost all the participants who have worked on this legislation. It is put together very, very delicately. No one should be mistaken that the substitute offered by the gentleman from Oregon is not the legislation that the consensus backers want. Indeed the Governor of the State of Washington absolutely would oppose the amendment. Indeed he wanted tougher language in the Gorge bill, not weaker language.

So I think that, as Mr. AuCoin and others have noted, the substitute is not acceptable to the people who support the legislation that is before us sponsored by Mr. Weaver.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield further to me?

Mr. WEAVER. I yield to the gentleman.

Mr. AuCOIN. I thank the gentleman for yielding.

The other problem I have on a substantive basis with the gentleman's substitute, which is a bill 3 years out of date in terms of the negotiations that have commenced and gone on since then, is that the appointment of the members of the commission under the gentleman's substitute would be Presidential appointments. If we are interested in bringing decision making and representation on policy matters closer to the people, we should want the counties to make the appointments, we should want the Governors to make the appointments. But the gentleman's substitute, which is one of the defects in the 1983 bill, calls for Presidential appointments. I do not think that is a vote for local control.

Mr. WEAVER. Would the gentleman say that our friend, our dearest colleague from Oregon has offered a substitute that would make a stronger Federal presence and less local control?

Mr. AuCOIN. Unfortunately, people would have to come back to Washington, DC, to the White House or hope that the President comes to them, if they wanted to speak to the President and have personal input on his appointments for the commission which would set these guidelines.

Mr. WEAVER. Under our consensus bill that we have brought before the House, do not the local county commissioners make the appointments?

Mr. AuCOIN. We bring that appointment process to the people, you see, we bring it to the county commissioners to let them name some of the members of the commission, and then we let the Governors make the other appointments. That is a lot closer to the people, and for that reason I think our bill is infinitely better.

Mr. WEAVER. We are indebted to the gentleman from Oregon for bringing this information to us.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Oregon [Mr. Weaver] has consumed 8 minutes and has 2 minutes remaining; the gentleman from Oregon [Mr. Robert F. Smith] has 5 minutes remaining.

Mr. ROBERT F. SMITH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I had imagined the scurrying about that would occur after the offer of this substitute. I did so to make the point, Mr. Chairman, that we are considering a bill here drafted, in effect, by the Senate. Even the spokesmen from that side have said this is a Senate bill we are considering.

The House has had really no opportunity, none, in fact, to craft a bill of its own for various reasons that you have heard about all day long.

The bill, this substitute is a matter which all Members can support, and I can support what we now are calling control of the gorge.

May I point out that this is local control and the Presidential appointments are only those recommended by the Governors, and the counties to make their appointments. In fact, it is stronger local control because there must be a locally elected official from each of the counties, and that is six, on the commission itself. So at least we have the influence of someone who has been elected to something who is responsible for their duties and may be recalled. That is local control.

There have been allegations that those who oppose the Senate bill will be held in such a position as being antienvironmentalist somehow. I think this substitute gives everybody the point and the idea that it is not the question of whether or not we try to formulate a protection for the Columbia River Gorge, it is how we go about it. And that is exactly what I have portrayed here.

This is totally rejected, they say the issue is 3 years old. Now, we did introduce it 3 years ago, that is for sure, but it certainly achieves the very important goals I mentioned for the people on the Oregon side, local control of their own lives.

So I offer it in good faith to those who believe that some of us are intransigent on this point. I offer it in good faith, that an answer in the gorge is within reach, but I also offer it in the same instance that I was offered the Senate bill, in the middle of the night. We have not heard this bill and that is too bad. That is a flaw. We have not heard the other bill either, and that is a flaw.

Rather than rushing off and crafting legislation at the ninth hour, I guess my final point is simply that when you are dealing with people's lives and their futures, you must go slow. The all-powerful Federal Government ought to be very careful how it extends its tentacles into the lives of local people. And before we run away in the euphoria of protecting the gorge, let us look again at how we are doing and who we are impacting and how their lives will be affected.

Mr. Chairman, I have no more speakers on my side, and I reserve the remainder of my time.

The CHAIRMAN. The gentleman from Oregon representing the committee has the right to close debate. The gentleman from Oregon [Mr. Weaver] has 2 minutes remaining, and the gentleman from Oregon [Mr. Robert F. Smith] has 1 minute remaining.

Mr. WEAVER. Mr. Chairman, I yield myself such time as I may consume.

I just simply say to my good friend from Oregon that the substitute he has offered was part of the building block process that finally emerged with a consensus bill that is now supported by both Governors, all four Senators and almost every House Member from Washington and Oregon.

□ 1630

And this consensus bill had the work of at least a dozen House Members all this year giving their fine suggestions and negotiations. It is a highly tuned House product that I think we can be proud of.

I urge a "no" vote on the amendment.

Mr. ROBERT F. SMITH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would only say that it is interesting that the three issues I mentioned, local control, restricting condemnation and recognition of local land use laws, suddenly got lost in the so-called compromise. It was there all the time, and that is where I was.

I just want to make the point that I have not left those ideals, but I have been left.

So I recommend we support the substitute.

Mr. Chairman, I yield back the balance of my time.

Mr. WEAVER. Mr. Chairman, I yield the remainder of my time to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I just want to say that, in my view, a lot of those issues have not been lost in the efforts to forge the compromise. Particularly on the condemnation question, the legislation that we are considering today does provide the commission with the authority to disapprove the Secretary's proposed condemnation of private lands during the interim period. I think that is a significant effort, Mr. Chairman, to deal with the condemnation issue.

Mr. WEAVER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Oregon [Mr. ROBERT F. SMITH].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROBERT F. SMITH. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members answered to their names:

[Roll No. 480]

Abercrombie	Akaka	Anderson
Ackerman	Alexander	Andrews
Annunzio	Emerson	Lujan
Anthony	English	Luken
Applegate	Erdreich	Mack
Armey	Evans (IA)	MacKay
Aspin	Evans (IL)	Madigan
Atkins	Fascell	Markey
AuCoin	Fawell	Marlenee
Badham	Fazio	Martin (IL)
Barnard	Feighan	Martinez
Barnes	Fields	Matsui
Bartlett	Flippo	Mavroules
Bateman	Florio	Mazzoli
Bates	Foglietta	McCandless
Bedell	Foley	McCloskey
Beilenson	Ford (MI)	McCurdy
Bennett	Ford (TN)	McDade
Bentley	Fowler	McEwen
Bereuter	Franklin	McHugh
Berman	Frenzel	McKernan
Bevill	Frost	McKinney
Biaggi	Fuqua	McMillan
Bilirakis	Gallo	Mica
Bliley	Garcia	Michel
Boehlert	Gaydos	Mikulski
Boggs	Gejdenson	Miller (CA)
Boland	Gekas	Miller (OH)
Bonior (MI)	Gephardt	Miller (WA)
Bonker	Gibbons	Mineta
Borski	Gilman	Molinari
Bosco	Gingrich	Mollohan
Boucher	Glickman	Monson
Boulter	Gonzalez	Montgomery
Boxer	Goodling	Moorhead
Brown (CO)	Gordon	Morrison (CT)
Bruce	Gradison	Morrison (WA)
Bryant	Gray (IL)	Mrazek
Burton (CA)	Green	Murphy
Burton (IN)	Gregg	Myers
Bustamante	Guarini	Natcher
Byron	Gunderson	Neal
Callahan	Hall (OH)	Nelson
Carper	Hall, Ralph	Nielson
Carr	Hamilton	Nowak
Chandler	Hammerschmidt	Oakar
Chapman	Hatcher	Oberstar
Chappell	Hawkins	Obey
Chappie	Hendon	Olin
Cheney	Henry	Ortiz
Clay	Hertel	Owens
Clinger	Hiler	Oxley
Coats	Hillis	Packard
Cobey	Holt	Panetta
Coble	Horton	Parris
Coelho	Hoyer	Pashayan
Coleman (MO)	Hubbard	Pease
Coleman (TX)	Huckaby	Penny
Collins	Hunter	Pepper
Combest	Hutto	Perkins
Conte	Ireland	Petri
Conyers	Jacobs	Porter
Coughlin	Jeffords	Price
Courter	Jenkins	Pursell
Coyne	Johnson	Quillen
Craig	Jones (NC)	Rahall
Crane	Kanjorski	Rangel
Crockett	Kasich	Ray
Daniel	Kastenmeier	Regula
Dannemeyer	Kennelly	Reid
Darden	Kildee	Richardson
Daschle	Kleczka	Ridge
Daub	Kolbe	Rinaldo
DeLay	Kolter	Ritter
Dellums	Kramer	Roberts
DeWine	LaFalce	Robinson
Dickinson	Lagomarsino	Rodino
Dicks	Lantos	Roe
Dingell	Latta	Roemer
DioGuardi	Leach (IA)	Rogers
Dixon	Leath (TX)	Rose
Donnelly	Lehman (CA)	Rostenkowski
Dorgan (ND)	Lehman (FL)	Roth
Dornan (CA)	Leland	Roukema
Dowdy	Lent	Rowland (CT)
Downey	Levin (MI)	Rowland (GA)
Dreier	Levine (CA)	Roybal
Duncan	Lewis (CA)	Russo
Durbin	Lewis (FL)	Sabo
Dwyer	Lightfoot	Savage
Dymally	Lipinski	Saxton
Dyson	Livingston	Schaefer
Early	Lloyd	Scheuer
Eckart (OH)	Loeffler	Schneider
Eckert (NY)	Long	Schroeder
Edgar	Lott	Schuette
Edwards (CA)	Lowery (CA)	Schulze
Edwards (OK)	Lowry (WA)	Schumer
Seiberling	Spratt	Vucanovich
Sensenbrenner	St Germain	Waldon
Sharp	Staggers	Walgren
Shaw	Stallings	Walker
Shelby	Stangeland	Watkins
Shumway	Stenholm	Waxman
Shuster	Stokes	Weaver
Sikorski	Strang	Weber
Siljander	Stratton	Wheat
Sisisky	Studds	Whitehurst
Skeen	Stump	Whitley
Skelton	Sundquist	Whittaker
Slattery	Swift	Williams
Slaughter	Swindall	Wilson
Smith (FL)	Synar	Wirth
Smith (IA)	Tauke	Wise
Smith (NE)	Tauzin	Wolf
Smith (NJ)	Taylor	Wolpe
Smith, Denny (OR)	Thomas (CA)	Wortley
	Thomas (GA)	Wyden
Smith, Robert (NH)	Torricelli	Wylie
	Traficant	Yates
Smith, Robert (OR)	Traxler	Yatron
	Udall	Young (AK)
Snowe	Valentine	Young (FL)
Snyder	Vander Jagt	Young (MO)
Solarz	Vento	Zschau
Solomon	Visclosky	
Spence	Volkmer	

□ 1650

The CHAIRMAN. Three hundred seventy-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Oregon [ROBERT F. SMITH] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair would remind Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 111, noes 272, not voting 49, as follows:

[Roll No. 481]

AYES—111

Applegate	Hammerschmidt	Parris
Armey	Hatcher	Pashayan
Badham	Hendon	Petri
Bartlett	Hiler	Quillen
Bateman	Hillis	Ray
Bentley	Holt	Roberts
Bilirakis	Huckaby	Rogers
Bliley	Hunter	Schuette
Boulter	Kasich	Schulze
Brown (CO)	Kolbe	Sensenbrenner
Burton (IN)	Kramer	Shaw
Callahan	Lagomarsino	Shumway
Chappie	Latta	Shuster
Cheney	Lent	Siljander
Cobey	Lewis (CA)	Skeen
Coble	Lewis (FL)	Slaughter
Coleman (MO)	Lightfoot	Smith (NE)
Combest	Livingston	Smith, Robert (NH)
Craig	Loeffler	
Daniel	Lowery (CA)	Smith, Robert (OR)
Dannemeyer	Lujan	
Daub	Lungren	Snyder
DeLay	Mack	Stangeland
DeWine	Madigan	Stenholm
Dickinson	Marlenee	Strang
Dornan (CA)	Martin (IL)	Stratton
Dreier	Mazzoli	Stump
Duncan	McCandless	Sundquist
Eckert (NY)	Michel	Swindall
Edwards (OK)	Miller (OH)	Taylor
Emerson	Molinari	Thomas (CA)
Evans (IA)	Monson	Traficant
Fields	Moorhead	Walker
Franklin	Nielson	Whitehurst
Gekas	Olin	Whittaker
Goodling	Oxley	Wolf
Gradison	Packard	Young (AK)
Gregg	Panetta	

NOES—272

Abercrombie	Gaydos	Porter
Ackerman	Gejdenson	Price
Akaka	Gephardt	Pursell
Alexander	Gibbons	Rahall
Andrews	Gilman	Rangel
Annunzio	Gingrich	Regula
Anthony	Glickman	Reid
Aspin	Gonzalez	Richardson
Atkins	Gordon	Ridge
AuCoin	Gray (IL)	Rinaldo
Barnard	Green	Ritter
Barnes	Guarini	Robinson
Bates	Gunderson	Rodino
Bedell	Hall (OH)	Roe
Beilenson	Hall, Ralph	Roemer
Bennett	Hamilton	Rose
Bereuter	Hawkins	Rostenkowski
Berman	Henry	Roth
Bevill	Hertel	Roukema
Biaggi	Horton	Rowland (CT)
Boehlert	Howard	Rowland (GA)
Boggs	Hoyer	Roybal
Boland	Hubbard	Russo
Bonior (MI)	Hughes	Sabo
Bonker	Hutto	Savage
Borski	Ireland	Saxton
Bosco	Jacobs	Schaefer
Boucher	Jeffords	Scheuer
Boxer	Jenkins	Schneider
Brown (CA)	Johnson	Schroeder
Bruce	Jones (NC)	Schumer
Bryant	Kanjorski	Seiberling
Burton (CA)	Kastenmeier	Sharp
Bustamante	Kennelly	Shelby
Byron	Kildee	Sikorski
Carper	Kleczka	Sisisky
Carr	Kolter	Skelton
Chandler	LaFalce	Slattery
Chapman	Lantos	Smith (FL)
Chappell	Leach (IA)	Smith (IA)
Clay	Leath (TX)	Smith (NJ)
Clinger	Lehman (CA)	Smith, Denny (OR)
Coelho	Lehman (FL)	
Coleman (TX)	Leland	Snowe
Collins	Levin (MI)	Solarz
Conte	Levine (CA)	Solomon
Conyers	Lipinski	Spence
Coughlin	Lloyd	Spratt
Courter	Long	St Germain
Coyne	Lowry (WA)	Staggers
Crane	Luken	Stallings
Crockett	MacKay	Stark
Darden	Markey	Stokes
Daschle	Martinez	Studds
Dellums	Matsui	Swift
Dicks	Mavroules	Synar
Dingell	McCloskey	Tauke
DioGuardi	McCurdy	Tauzin
Dixon	McDade	Thomas (GA)
Donnelly	McEwen	Torricelli
Dorgan (ND)	McHugh	Towns
Dowdy	McKernan	Traxler
Downey	McKinney	Udall
Durbin	McMillan	Valentine
Dwyer	Meyers	Vander Jagt
Dymally	Mica	Vento
Dyson	Mikulski	Visclosky
Early	Miller (CA)	Volkmer
Eckart (OH)	Miller (WA)	Vucanovich
Edgar	Mineta	Waldon
Edwards (CA)	Moakley	Walgren
English	Mollohan	Watkins
Erdreich	Montgomery	Waxman
Evans (IL)	Morrison (CT)	Weaver
Fascell	Morrison (WA)	Weber
Fawell	Mrazek	Wheat
Fazio	Murphy	Whitley
Feighan	Myers	Williams
Fish	Natcher	Wilson
Flippo	Neal	Wirth
Florio	Nelson	Wise
Foglietta	Nowak	Wolpe
Foley	Oakar	Wortley
Ford (MI)	Oberstar	Wright
Ford (TN)	Obey	Wyden
Fowler	Ortiz	Wylie
Frank	Owens	Yates
Frenzel	Pease	Yatron
Frost	Penny	Young (FL)
Fuqua	Pepper	Young (MO)
Garcia	Perkins	Zschau

NOT VOTING—49

Anderson	Grotberg	McCain
Archer	Hansen	McCollum
Barton	Hartnett	McGrath
Boner (TN)	Hayes	Mitchell
Breaux	Hefner	Moody
Brooks	Hopkins	Moore
Broomfield	Hyde	Murtha
Campbell	Jones (OK)	Nichols
Carney	Jones (TN)	Pickle
Coats	Kaptur	Rudd
Cooper	Kemp	Sweeney
Davis	Kindness	Tallon
de la Garza	Kostmayer	Torres
Derrick	Lott	Weiss
Fiedler	Lundine	Whitten
Gallo	Manton	
Gray (PA)	Martin (NY)	

The Clerk announced the following pair:

On this vote:

Mr. Hansen for, with Mr. Hayes against.

Mr. ROE changed his vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

□ 1700

The CHAIRMAN. Under the rule, the gentleman from Oregon [Mr. ROBERT F. SMITH] may offer another amendment.

AMENDMENT OFFERED BY MR. ROBERT F. SMITH

Mr. ROBERT F. SMITH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by ROBERT F. SMITH: Page 8, line 4, after the comma, insert "at least one of whom shall be a resident of the Scenic Area,".

Page 8, line 6, after the comma, insert "at least one of whom shall be a resident of the scenic area,".

Mr. ROBERT F. SMITH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Oregon [Mr. ROBERT F. SMITH] will be recognized for 10 minutes, and the gentleman from Oregon [Mr. WEAVER] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment that I have before the House at the present time goes to the very heart of the issue of establishing a commission that is now going to control what occurs in the scenic area of the areas of Oregon and Washington. The commission as proposed in the bill is comprised of 12 members, 6 to be appointed by the 6 counties facing each other across the river and 6 to be appointed by the Governors of the various States. In an effort to retain local control in this situation, this amendment provides that the Governors of Oregon and Washington must appoint one of their three appointees from the areas inside the scenic area of the gorge on the Washington and Oregon sides respectively. That expands the local control of the commission to 8 members out of 12 who will live and reside in the gorge within the 6 counties and within the gorge area.

It is a very important amendment, Mr. Chairman, since we have been talking about who is going to control the lives of the people who live in and around the Columbia River. It is especially important since we have brandnew Federal condemnation procedures in this bill and we have brandnew eminent domain features within the Department of Agriculture.

There is a provision in this bill that will allow an override of any condemnation by the Federal Government by the commission, a super majority, but only in the scenic area and not in the special management area and the urban area.

This an essential amendment if we are going to carry out the question of local control. It does no harm to the bill. It seems reasonable. It ought to be adopted by both sides. I ask you to support this rather harmless looking amendment, but so essential to local control within the gorge itself.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. SMITH. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. Mr. Chairman, I thank the gentleman for yielding.

This is one of the amendments that we did adopt within the Forestry Subcommittee of the Agriculture Committee. I think it is a logical addition to insure local control as far as this commission is concerned.

Mr. Chairman, I will support the gentleman's amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. SMITH. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

It seems to me this is an eminently fair amendment. I do not see how anyone could oppose it and I urge my colleagues to support it.

Mr. ROBERT F. SMITH. Mr. Chairman, I reserve the remainder of my time.

The CHAIRMAN. The gentleman from Oregon [Mr. WEAVER] is recognized in opposition to the amendment.

Mr. WEAVER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the commission that is established under this bill does much of the work in carrying out the provisions of this bill. It has been very carefully designated a local government commission. Six of the members are appointed by the county commissioners of the affected counties. Six of the members are appointed by the Governors.

What my friend from Oregon [Mr. ROBERT F. SMITH] would do is take one of the three appointees of the Governor and require that they be from the scenic area.

The gentleman's amendment would say that one of the appointees of each Governor would be from the scenic area.

Now, this amendment was adopted in the subcommittee, but it was taken out in the full committee. We had a vote on this amendment in the full Agriculture Committee and it was defeated.

Mr. Chairman, I would be in a spirit of cooperation with my friend from Oregon if he would change "scenic area" to "affected counties."

I would ask my friend from Oregon if he would be willing to change "scenic area" to "affected counties"; in other words, each Governor would have to appoint one of his appointments to this commission from an affected county. I think we could expedite the work of this bill in this House. I would agree to such an amendment as a good compromise. It was, as I say, passed in the subcommittee, but defeated in the full Agriculture Committee, and we could split the difference.

Mr. ROBERT F. SMITH. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I am delighted to yield to the gentleman from Oregon.

Mr. ROBERT F. SMITH. Mr. Chairman, I thank the gentleman for yielding.

I believe my recollection is correct that this is not an amendment that was defeated in the full committee. The amendment defeated in the full committee was the gentleman's question about whether or not counties are to appoint people within the scenic area.

Mr. WEAVER. The gentleman is correct.

Mr. ROBERT F. SMITH. Mr. Chairman, I thank the gentleman.

I suggest, the gentleman has made an offer here and I wanted to correct the record. The whole purpose, and as the gentleman knows, we debated this issue of whether or not the county appointees ought to be within the scenic area. It is very important to me that the Governors be allowed to appoint somebody on each side of the river living in the scenic area.

Mr. WEAVER. Mr. Chairman, reclaiming my time, I will tell my dear friend that the Governor can appoint all three members from the scenic area if the Governor wishes. The Governor has under this bill full authority and ability to appoint all three members from the scenic area. They can do that now.

But if my friend wishes to restrict the Governor on one of his appointments to the affected counties, I will accept his amendment.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to my friend, the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman yielding.

I would like to pose a question to my friend from Oregon [Mr. ROBERT F. SMITH]. As I read the gentleman's amendment, I believe that persons who reside in the urban areas of the gorge, and that is where most of the population does in fact reside in the urban areas, they would be ineligible for appointment to the commission, unless I misunderstand the gentleman's amendment. If that is true, I would just ask the gentleman, and this is not meant to be a hostile question at all, would it not be better to allow a little broader area for these gubernatorial appointments so that the areas of population concentration where most of the people live can be eligible for these appointments?

If the gentleman does not do that, the way I understand his amendment, he is going to exclude about 23,000 of the 40,000 people who live within the gorge from being eligible for appointment. I may be wrong, but that is the way I read the gentleman's amendment.

Now, the gentleman from Oregon [Mr. WEAVER] has the time, so he would have to yield to the gentleman.

Mr. ROBERT F. SMITH. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I am delighted to yield to the gentleman from Oregon.

Mr. ROBERT F. SMITH. Mr. Chairman, I thank the gentleman for yielding.

This amendment states that the Governors shall appoint one resident of the scenic area. The scenic area is the designation on the map in Oregon and Washington, as the gentleman well knows, inside of which are the special management areas, inside of that are the urban areas. The scenic area is the line surrounding that to be protected. There are more than 41,000 people who live in the scenic area, 20,000 of whom live on the Oregon side.

No one is suggesting that a Governor appoint a developer or an environmentalist.

I am very interested in the point that if the Governors appoint somebody within the scenic area, that will mean there will be 8 members of the 12-member commission who live within the scenic area and the affected counties.

Mr. WEAVER. Mr. Chairman, may I ask the gentleman from Oregon a question. Can the Governor now appoint one, two, or all three members in the scenic area under the bill?

Mr. ROBERT F. SMITH. Oh, absolutely correct.

Mr. WEAVER. They can already do that.

Mr. ROBERT F. SMITH. If I may answer the gentleman's question, however, the point remains——

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Minnesota.

Mr. ROBERT F. SMITH. Mr. Chairman, will the gentleman let me answer his question?

The CHAIRMAN. The Chair would like to point out that the gentleman from Oregon [Mr. WEAVER] has the time.

Mr. WEAVER. Mr. Chairman, I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, before the time runs out on our side, I appreciate the discussion that is going on here, but the fact is that I think it is important, and it is obvious that the type of compromise the gentleman from Oregon is going to offer here is not being accepted, but I thought probably we ought to look at this in a somewhat different light.

We have given extraordinary powers to the commission that is created by a compact in this bill. The fact is that if the Governor—if, for instance, the counties select all residents from the scenic area, and they can do that, the six counties, then the Governor would have the opportunity to provide some balance in terms of the commission.

If, for instance, the counties appointed no one from the scenic area, then the Governor would have the opportunity to provide balance by appointing members from the scenic area; but to tie the hands of the Governor in this particular way by saying that he must appoint one, when indeed we know the counties, the active interests in those counties would be for members who live in that scenic area to be the representatives from the county, I think that is logical, would eliminate some flexibility.

The fact of the matter is that I do not think it is an accident that the operative vote here for dealing with some of the plans that are developed provides for a two-thirds vote.

□ 1715

So if you effectively provide that, then they could block just about any type of plan that would represent a broader interest in this issue.

So I think that the argument here that I would portray on this point—it is a small point, perhaps, but I think an important one—is that we ought to

not accept the Smith amendment, and I would urge my colleagues to not accept the amendment.

Mr. WEAVER. Mr. Chairman, I will make my offer one more time and conclude. Would the gentleman accept "affected counties"?

Mr. ROBERT F. SMITH. Will the gentleman yield?

Mr. WEAVER. Will the gentleman say "yes" or "no," and then he can have his own time? I will accept "affected counties."

The CHAIRMAN. The Chair will inform the gentleman from Oregon [Mr. WEAVER] that he has 2 minutes remaining, and the gentleman from Oregon [Mr. ROBERT F. SMITH] has 5½ minutes remaining.

Mr. WEAVER. Mr. Chairman, I reserve the balance of my time.

Mr. ROBERT F. SMITH. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the gentleman has made an offer which I cannot accept. The reason that I cannot accept it is because the rule was so proscribed that there be no amendments to my amendments. I did not write the rule. I was there at 1:30 this morning when it happened.

Mr. WEAVER. If the gentleman will yield, I have asked the Parliamentarian. He may do this. He may do it by unanimous consent.

PARLIAMENTARY INQUIRY

Mr. AUCOIN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. AUCOIN. Mr. Chairman, my question is this. Would it not be possible under the rule for the gentleman from Oregon [Mr. ROBERT F. SMITH] by unanimous consent to modify his amendment in the manner suggested?

The CHAIRMAN. Only by unanimous consent.

Mr. AUCOIN. So the gentleman is permitted to do that if he wishes to make a unanimous-consent request under the rule.

Mr. ROBERT F. SMITH. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. WHITLEY].

Mr. WHITLEY. Mr. Chairman, I want to be sure that I understand the gentleman's position. The gentleman's amendment, which as I recall passed in the Subcommittee on Forests and Family Farms of the Committee on Agriculture, would require that one of the Governor's three appointees come from the scenic area. Is that correct?

Mr. ROBERT F. SMITH. If the gentleman will yield, that is correct.

Mr. WHITLEY. Mr. Chairman, as I understood the gentleman's description just a moment ago of the scenic area, he seemed to be talking about the outer boundaries of the entire area.

Mr. ROBERT F. SMITH. That is correct.

Mr. WHITLEY. Which would include both the urban areas and the nonurban areas that are within the outer limits of the scenic area.

Mr. ROBERT F. SMITH. That is correct.

Mr. WHITLEY. So it seems to me that the offer that was just made by the gentleman from Oregon [Mr. WEAVER] is essentially to accept the amendment that the gentleman has offered. Is that correct?

We have no objection, so far as the Committee on Agriculture is concerned, to accepting the amendment with the understanding that we are talking about the outer boundaries of the scenic area, the entire scenic area.

Mr. ROBERT F. SMITH. Mr. Chairman, I think that the point is that the scenic area runs down through six counties on each side of the river. It does include most of the urban areas, and not some of the rural areas; 41,000 of the people living in the six counties live within the scenic area. So there is plenty of opportunity to find anybody whom a Governor would want to serve in that capacity. I only make that point to the gentleman. I am considering the issue.

Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Oregon [Mr. ROBERT F. SMITH] has 2½ minutes remaining.

Mr. ROBERT F. SMITH. Mr. Chairman, I yield myself such time as I may consume.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. SMITH. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I will accept the amendment, and I yield back the balance of my time.

Mr. ROBERT F. SMITH. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. ROBERT F. SMITH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROBERT F. SMITH

Mr. ROBERT F. SMITH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERT F. SMITH: On page 46, after line 16, add the following new subsection:

"(g)(1) Nothing in this Act shall affect any land management or development which has commenced before the date of enactment of this Act.

(2) For the purpose of paragraph (1), the term "land management of development" refers to projects and activities, or permits and approvals which allow projects and activities, which may impact, alter, or modify the physical appearance, form, or character of land or shorelines, and the structures thereon, within the Scenic Area, including—

(A) construction, expansion, modification, or location of buildings, mobile homes, energy facilities, transmission and receiving facilities, or other structures;

(B) agency or local government approvals of plans, zoning and other land use ordinances, subdivisions, or other land use or building approvals or permits;

(C) sales or conveyances by agencies of timber of timber lands, timber harvesting, and application of forest practices regulations;

(D) land clearing, grading, and filling, except land cultivation for agricultural activities;

(E) road or highway construction or expansion;

(F) sand, gravel, or mineral extraction; and

(G) a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands including, but not limited to, sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs.

Mr. ROBERT F. SMITH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. The gentleman from Oregon [Mr. ROBERT F. SMITH] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Is the gentleman from Oregon [Mr. WEAVER] opposed to this amendment?

Mr. WEAVER. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Oregon [Mr. WEAVER] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is again a very important amendment to the construction of this bill. Currently the bill, and even by the colloquy that the gentleman had, does recognize that, at least in the colloquy, that there is some sense that local land use plans indeed be considered by the commission before the adoption of another Federal overlay of land use plans on top of the situation which we have today.

This amendment would provide relatively the same language that we had all agreed upon initially in these bills that we cosponsored earlier, and that is simply that if the State has land use laws, then the Commission cannot overlay superior land use laws over those existing in that particular State.

Let me just clear this out for the Members so that we know what we are talking about. I mentioned earlier in this discussion that Oregon has the most restrictive, comprehensive land use laws in America. We zone every acre. We control every building site. We control every expansion. A State

commission is appointed, not elected, to control land in Oregon.

Then does it not stand to reason that while we are compiling new kinds of Federal intervention through the Department of Agriculture, we are providing for new kinds of Government condemnation of private land in this situation, that if you have land use plans already in effect, you ought not to have to be overrun by another Federal land use commission layered on top of your existing nonelected State commission?

If this bill passes the way in which it is formulated, without this amendment, the State of Oregon, which has the most progressive land use laws in America, will be subject to an additional Federal overlay—two nonelected commissions running land use planning in our State.

I suggest that that is too high a price to pay to control the gorge. We can control the gorge without that. The gorge on the Oregon side is controlled already. Ninety percent of the gorge is now owned by the Federal Government on the Oregon side. Ten percent is still left in private hands—10 percent.

It has been testified to by the Forest Service that they will take about 100,000 acres of private land if this bill passes, leaving 25,000 acres in the scenic area in private hands.

We are going to lose much more private land to the Federal Government if this bill passes, but in the meantime are we going to be subject to an additional Federal land use nonelected Commission determining what happens in the gorge? I suggest that this amendment is necessary to protect what we have already—land use planning in the gorge.

Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MORRISON].

□ 1725

Mr. MORRISON of Washington. Mr. Chairman, I thank the gentleman for yielding me this time and wish that I could rise in support of his amendment. But let me point out to you the difficulty we have with this.

We concede the fact that the State of Oregon has the most restrictive land use laws within the Nation, and I commend them for this. Under these circumstances, you would say that is more than adequate, and it probably will turn out to be more than adequate.

I have predicted that as the bi-state commission prepares its guidelines to apply in this area that with the exception of perhaps a few items related directly to scenic values, that Oregon constituents of Mr. SMITH and Mr. WYDEN will, in fact, not be impacted by the changes that are proposed, but they will have access, of course, to the economic development funds and other opportunities.

However, the amendment proposed by the gentleman from Oregon [Mr. SMITH], now would apply the Oregon land use plan as the only plan within the State of Oregon, and we are going through this procedure then of appointing a bi-state commission to have essentially authority only over decisions to be made on the Washington side of the Columbia River. I personally feel that it is not appropriate nor fair, and so I must oppose the gentleman on this particular amendment and thank him for yielding.

Mr. WEAVER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose the amendment as well for the exact reasons that our friend from Washington State [Mr. MORRISON], opposes the amendment. It is not fair.

I suppose being from Oregon I can say, gee, we have got a great land use law in Oregon and all, but we have got to treat Oregon and Washington the same. That is fair. Our friend from Washington State [Mr. MORRISON], opposes the amendment because the bill should apply equally to Washington and Oregon, and this amendment would, of course, put an onus on the State of Washington that makes an imbalance between the two States.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman yielding.

The problem I have with the gentleman's amendment is that in addition to the disparity of treatment between the two States, as the gentleman from Washington [Mr. MORRISON] pointed out, is that it does one thing that I do not think is very useful or proper, in fact, and that is that it puts Congress in the position of making a determination for the locally appointed commissioners as to what should be the substance and the detail of the management decisions. We are sitting here in Washington by this amendment saying that the LCDC regulations in Oregon are, in our judgment, those that should be followed for the purposes of managing the Gorge on the Oregon side. I think we ought to leave it to the locally appointed commissioners to decide based on the framework that LCDC regulation gives Oregonians, to decide how they can apply, how they arrive at their management decisions.

But for us to just mandate what those are supersedes the determination of the commissioners who are appointed locally and I think is wrong.

Mr. WEAVER. Mr. Chairman, the gentleman from Oregon makes an excellent point.

I reserve the balance of my time.

Mr. ROBERT F. SMITH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is no language in this bill that says this is a mandated land use law. The language does say that if the commission determines that there be land use laws, they cannot be more stringent that the LCDC laws in the State of Oregon. They can certainly be less stringent and they can be anything on the Washington side up to and at the level of land use laws.

Very frankly, this language again was in the original bill that we all agreed to initially and we all cosponsored. So suddenly it is wrong to say that Oregon has outstanding land use laws and that we ought not to have another Federal bureaucracy running over us.

Now I see nothing wrong with the application of this amendment. I suggest that if Washington had this land use law regulation there would be no reason to protect the gorge. We would not be here in this situation fighting about Federal domination, Federal eminent domain and Federal taking of private property.

I reserve the balance of my time.

Mr. WEAVER. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, this completely pulls the rug out from under the proposals of this bill, carefully structured provisions of this bill. This just says that we are going to continue on with the status quo, we are not going to have a national designation, but there is going to be no degree of uniformity on what goes on on one side of the river and what goes on on the other.

If a particular county adopts the plan before the enactment of this measure, that would be the plan that would dictate what goes on. I concede that the State of Oregon, based on my colleague's comments, has a rather good land use plan. But the fact of the matter is this could be interpreted as being static. It would never be changed, there could never be any modifications, so it would fit within the purpose for which we are creating this particular designation. I think the colloquy between the gentleman from Oregon [Mr. WEAVER] and the gentleman from Oregon [Mr. WYDEN] pointed out the way that this will coordinate. Certainly it is the anticipation and the hope and I think realistically it will be the reality that, in fact, the plans that have been developed will be built upon by the commission and by the others that are devising plans in coordination with the counties in terms of what the land use will be.

So I do not think there is a necessity for this. I think it makes it static. I

think that it really undermines the entire purpose and the carefully structured provisions of this bill, Mr. Chairman, and I would hope we would defeat this amendment for that reason.

Mr. WEAVER. Mr. Chairman, I will only take 10 seconds to conclude after the gentleman from Oregon has yielded back the balance of his time.

Mr. ROBERT F. SMITH. Mr. Chairman, I believe I have the right to close debate.

The CHAIRMAN. The gentleman from Oregon [Mr. WEAVER] has the right to close debate representing the committee.

Mr. ROBERT F. SMITH. I thank the Chair.

The CHAIRMAN. The gentleman from Oregon [Mr. ROBERT F. SMITH] has 3 minutes remaining.

Mr. ROBERT F. SMITH. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman, I just want to again refute the charge that all we are demanding is the status quo and a static situation.

My goodness, land use laws in Oregon are not status quo by any means. So I suggest the adoption of this amendment to provide fairness to Oregonians while we are correcting the problem on the other side of the river in the State of Washington.

Mr. Chairman, I yield back the balance of my time.

Mr. WEAVER. Mr. Chairman, I yield myself such time as I may consume and rise in strong opposition to this amendment. It is unfair to the State of Washington. The gentleman from Washington [Mr. MORRISON] opposes this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. ROBERT F. SMITH].

The amendment was rejected.

□ 1735

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GRAY of Illinois) having assumed the chair, Mr. MONTGOMERY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5705) to protect and provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes, pursuant to House Resolution 596, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ROBERT F. SMITH

Mr. ROBERT F. SMITH. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ROBERT F. SMITH. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ROBERT F. SMITH of Oregon moves to recommit the bill, H.R. 5705, to the Committee on Agriculture.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROBERT F. SMITH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 290, nays 91, not voting 51, as follows:

[Roll No. 482]

YEAS—290

Abercrombie	Bryant	Donnelly
Ackerman	Burton (CA)	Dorgan (ND)
Akaka	Bustamante	Dowdy
Alexander	Byron	Downey
Anderson	Carper	Duncan
Andrews	Carr	Durbin
Annunzio	Chandler	Dwyer
Anthony	Chapman	Dymally
Aspin	Chappell	Dyson
Atkins	Clay	Early
AuCoin	Clinger	Eckart (OH)
Barnard	Coats	Edgar
Barnes	Coble	Edwards (CA)
Bateman	Coelho	English
Bates	Coleman (MO)	Erdreich
Bedell	Coleman (TX)	Evans (IL)
Beilenson	Collins	Fazio
Bennett	Conte	Feighan
Bereuter	Conyers	Fish
Bevill	Coughlin	Flippo
Bliley	Courter	Florio
Boehlert	Coyne	Foglietta
Boggs	Crockett	Foley
Boland	Darden	Ford (MI)
Bonior (MI)	Daschle	Ford (TN)
Bonker	Dellums	Frank
Borski	DeWine	Frenzel
Bosco	Dickinson	Frost
Boucher	Dicks	Fuqua
Boxer	Dingell	Gallo
Brown (CA)	DioGuardi	Garcia
Bruce	Dixon	Gaydos
Gejdenson	McCloskey	Schulze
Gibbons	McCollum	Schumer
Gilman	McCurdy	Seiberling
Gingrich	McDade	Sensenbrenner
Glickman	McEwen	Sharp
Gonzalez	McHugh	Shelby
Goodling	McKernan	Sikorski
Gordon	McKinney	Sisisky
Gray (IL)	McMillan	Skelton
Green	Meyers	Slattery
Gregg	Mica	Smith (FL)
Guarini	Mikulski	Smith (IA)
Gunderson	Miller (CA)	Smith (NJ)
Hall (OH)	Miller (WA)	Smith, Robert (NH)
Hall, Ralph	Mineta	Snowe
Hamilton	Moakley	Solarz
Hatcher	Molinari	Solomon
Hawkins	Mollohan	Spence
Hendon	Montgomery	Spratt
Henry	Morrison (CT)	St Germain
Hertel	Morrison (WA)	Staggers
Hiler	Mrazek	Stallings
Hillis	Murphy	Stark
Horton	Myers	Stokes
Howard	Natcher	Stratton
Hoyer	Neal	Studds
Hubbard	Nelson	Swift
Huckaby	Nowak	Synar
Hughes	Oakar	Tauke
Hutto	Oberstar	Tauzin
Ireland	Obey	Thomas (GA)
Jeffords	Ortiz	Torres
Jenkins	Owens	Torricelli
Johnson	Panetta	Towns
Jones (NC)	Pease	Traficant
Kanjorski	Penny	Traxler
Kastenmeier	Pepper	Udall
Kennelly	Perkins	Valentine
Kildee	Petri	Vento
Kleczka	Porter	Visclosky
Kolter	Price	Volkmer
LaFalce	Pursell	Waldon
Lantos	Rahall	Walgren
Leach (IA)	Rangel	Watkins
Leath (TX)	Regula	Waxman
Lehman (CA)	Reid	Weaver
Lehman (FL)	Richardson	Weber
Leland	Rinaldo	Wheat
Lent	Ritter	Whitehurst
Levin (MI)	Rodino	Whitley
Levine (CA)	Roe	Williams
Lewis (FL)	Roemer	Wilson
Lipinski	Rostenkowski	Wirth
Lloyd	Roth	Wise
Long	Roukema	Wolf
Lowery (CA)	Rowland (CT)	Wolpe
Lowry (WA)	Rowland (GA)	Wortley
Luken	Roybal	Wright
MacKay	Russo	Wyden
Madigan	Sabo	Wylie
Markey	Savage	Yatron
Martinez	Saxton	Young (FL)
Matsui	Scheuer	Young (MO)
Mavroules	Schneider	Zschau
Mazzoli	Schroeder	

NAYS—91

Applegate	Franklin	Olin
Armey	Gekas	Oxley
Badham	Gradison	Packard
Bartlett	Hammerschmidt	Parris
Bentley	Hopkins	Pashayan
Bilirakis	Hunter	Quillen
Boulter	Jacobs	Ray
Brown (CO)	Kasich	Roberts
Burton (IN)	Kolbe	Robinson
Callahan	Kramer	Rogers
Chappie	Lagomarsino	Schaefer
Cheney	Latta	Schuette
Cobey	Lewis (CA)	Shaw
Combest	Lightfoot	Shumway
Craig	Livingston	Shuster
Crane	Loeffler	Siljander
Daniel	Lott	Skeen
Dannemeyer	Lujan	Slaughter
Daub	Lungren	Smith (NE)
DeLay	Mack	Smith, Denny (OR)
Dornan (CA)	Marlenee	Smith, Robert (OR)
Dreier	Martin (IL)	Snyder
Eckert (NY)	McCandless	Stangeland
Edwards (OK)	Michel	Stenholm
Emerson	Miller (OH)	Strang
Evans (IA)	Monson	Stump
Fawell	Moorhead	
Fields	Nielson	

Sundquist	Thomas (CA)	Walker
Swindall	Vander Jagt	Whittaker
Taylor	Vucanovich	Young (AK)

NOT VOTING—51

Archer	Gephardt	Martin (NY)
Barton	Gray (PA)	McCain
Berman	Grotberg	McGrath
Biaggi	Hansen	Mitchell
Boner (TN)	Hartnett	Moody
Breaux	Hayes	Moore
Brooks	Hefner	Murtha
Broomfield	Holt	Nichols
Campbell	Hyde	Pickle
Carney	Jones (OK)	Ridge
Cooper	Jones (TN)	Rose
Davis	Kaptur	Rudd
de la Garza	Kemp	Sweeney
Derrick	Kindness	Tallon
Fascell	Kostmayer	Weiss
Fiedler	Lundine	Whitten
Fowler	Manton	Yates

□ 1745

The Clerk announced the following pairs:

On this vote:

Mr. Hayes for, with Mr. Hansen against.
Mr. Moody for, with Mr. Barton against.

Mr. BROWN of Colorado and Mrs. MARTIN of Illinois changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Oregon?

There was no objection.

CORRECTING ENROLLMENT OF S. 1200, IMMIGRATION REFORM AND CONTROL ACT OF 1985

Mr. RODINO. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 414) to correct the enrollment of the bill S. 1200, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 414

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (S. 1200) to amend the Immigration laws, and for other purposes, the Secretary of the Senate shall make the following corrections: In subsection (k) of section 274B of the Immigration and Nationality Act (inserted by section 102(a) of the bill)—

(1) in paragraph (1), strike "or referring and insert "referring, or discharging", and

(2) in paragraph (2), strike the closing quotation marks and succeeding period at the end of subparagraph (B) and insert below such subparagraph the following: The provisions of subsections (m) and (n) of section 274A shall apply to any joint resolution under subparagraph (B) in the same manner as they apply to a joint resolution under subsection (1) of such section.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. LUNGREN. Mr. Speaker, reserving the right to object, and I shall not object, I just want to say that this is something worked out with the minority to take care of a truly technical problem. We have been working on it all day. We have no objection to it.

Mr. RODINO. Mr. Speaker, this is correct.

Mr. LUNGREN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the antidiscrimination provisions contained in this bill are designed to protect individual legal aliens who intend to become citizens from possible, though unlikely, discrimination resulting from the presence of employer sanctions.

In our statement of managers, therefore, we have indicated that the antidiscrimination provisions in the conference report are intended to act as a complement to the sanction provisions, and must be considered only in this context. I would like to read some of our statement of managers language to emphasize this point.

The antidiscrimination provisions of this bill are a complement to the sanctions provisions, and must be considered in this context. The bill broadens the title VII protections against national origin discrimination, while not broadening the other title VII protections, because of the concern of some Members that people of "foreign" appearance might be made more vulnerable by the imposition of sanctions. While the bill is not discriminatory, there is some concern that some employers may decide not to hire "foreign" appearing individuals to avoid sanctions.

The antidiscrimination provisions of the bill will only provide this broadened protection while the sanctions are in effect; if the sanctions are repealed by joint resolution, the antidiscrimination provisions will also expire, the justification for them having been removed.

The antidiscrimination provisions would also be repealed in the event of a joint resolution approving a GAO finding that the sanctions had resulted in no significant discrimination, or that the administration of the antidiscrimination provisions had resulted in an unreasonable burden on employers.

In this regard, the conferees also expect that GAO would specifically look into the issue of whether the antidiscrimination mechanism and remedies are being utilized in a manner that is inconsistent with their original purpose (i.e. to guard against employment discrimination based on national origins or citizenship status). Conferees wish to emphasize that the antidiscrimination provision has been included in order to respond to the fears and concerns expressed by many that sanctions will result in employment discrimination based on national origins or citizenship status. Thus, the antidiscrimination provision does not in itself in any way set a precedent for the expansion of other title VII protections. Furthermore, nothing in this bill shall prevent the use of language as a Bona Fide Occupational Qualification.

All conferees clearly agreed that we do not intend this provision to act as a precedent for future efforts to broaden civil rights coverage generally for classes now protected under title VII, nor is it the intent of this Congress that this language be abused by some who would hope to establish, through its administrative procedures, a particularized agenda. In fact, in the statute, we have specifically said that such exploits might jeopardize the entire Frank mechanism.

We clearly do not expect to see harassment suits initiated under this language, nor efforts to extort jobs from small employers through the threat of administrative action. In this regard, we incorporated into the attorneys' fees provisions of the Frank amendment limitations on recovery. We agreed that attorneys' fees should not be awarded unless the losing party's argument "is without reasonable foundation in fact or law." This language is intended to frustrate frivolous suits by taking away the incentive to bring them.

Further, it should be clear that the possible sunset of Frank is tied to the absence of "significant discrimination" resulting from sanctions. Such a sunset is intended to parallel the expedited sunset contained in the original Kennedy language in the Senate bill. We failed to include this language in our haste to draft the finished product, and that is the reason for this amendment. With the adoption of this amendment, then, both Frank and sanctions will be eligible for sunset by an expedited process which guarantees floor consideration following an appropriate finding by the Comptroller General.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRESIDENT'S COUNCIL ON HEALTH PROMOTION AND DISEASE PREVENTION ACT OF 1986

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 2057) to establish the President's Council on Health Promotion and Disease Prevention, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. RITTER. Mr. Speaker, reserving the right to object, does the gentleman from California intend to offer his amendment?

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. RITTER. I yield to the gentleman under my reservation.

Mr. WAXMAN. I thank the gentleman for yielding.

Yes. We do intend to offer an amendment in the nature of a substitute that would embody the agreement that we worked out with the minority and which we feel would make this a more perfect piece of legislation.

Mr. Speaker, S. 2057 provides for the establishment of a President's Council on Health Promotion and Disease Prevention. The legislation was reported unanimously by the other body. The amendment I have offered will clarify the responsibilities of the Council and the composition of Council membership. The amendment has been reviewed by our colleagues on the other side of the aisle and I know of no objection to its consideration.

The purpose of this Presidential Council is to evaluate the effectiveness of Federal, State, and local health promotion and disease prevention programs. An objective study of this kind has never before been commissioned and will provide useful information on the characteristics of successful and unsuccessful health promotion programs.

The Council is charged with responsibility for identifying steps individuals can take to promote health and reduce their risk of disease in four areas.

First, reducing the risk of cancer and heart disease. These are the Nation's leading causes of death.

Second, the proper use and benefits to health of exercise;

Third, obtaining adequate nutrition in the diet and understanding the relationship between proper nutrition and the prevention of disease;

Fourth, promoting proper dental hygiene and reducing the incidence of oral disease.

The Council will be composed of 15 members appointed by the President; 18 months after the Council is established, it will complete its work and submit a report to the President and Congress on its findings.

The Council's activities will generate valuable information to guide the development of health promotion and disease prevention programs.

I urge support for the amendment and passage of the legislation.

I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks.

Mr. RITTER. Mr. Speaker, I wish to commend the gentleman from California for bringing this bill to the floor at this time. Not only do I support this bill, but it is supported by the ranking Republican of the Subcommittee on Health and the Environment of the Energy and Commerce Committee, Mr. MADIGAN.

This bill to establish the President's Council on Health Promotion and Disease Prevention was introduced in the other body on February 6, 1986, by Senator HATCH, Senator LUGAR, and Senator KENNEDY. It was passed in the Senate under unanimous consent on June 16. I introduced a companion bill, H.R. 4723, in the House on April 30, 1986. The intent of this bill is to establish a council that will crystalize the value of prevention in the public mind.

Why shouldn't our most fitness-conscious, extremely healthy, senior-citizen President lead the charge of a prevention conscious America?

Because of the critical need and importance of prevention measures, the President of the United States, through the President's Council on Health Promotion and Disease Prevention, would focus national attention on health promotion and disease prevention while encouraging individual and joint efforts among government, business, health professionals, and community groups to take action in preventive activities.

The President's Council on Health Promotion and Disease Prevention will be one important part of this Congress' actions to improve the health of Americans. The President's Council of Health Promotion and Disease Prevention would—and this list is by no means complete—establish a council to:

First, crystalize the value of prevention in the public's mind;

Second, identify those populations who can benefit most from increased emphasis on prevention and health promotion and developing programs for them, especially for the elderly, poor, women, and minority population;

Third, encourage private sector participation in disease prevention and health promotion activities;

Fourth, develop and provide incentive plans to encourage the creation of programs in such places as schools, businesses, and community centers;

Fifth, encourage State and local governments to emphasize prevention activities and research; and

Sixth, evaluate available health promotion and disease prevention resources and suggest methods for better use of these resources.

Our Nation needs to continue and strengthen its commitment to preventive health measures. In a very real sense, Mr. Speaker, we can all benefit by giving the ounce of prevention that will provide a pound of cure.

Americans will spend nearly $1.2 billion evey day for health care. This enormous financial burden weighs heavily on individuals, businesses, and our society as a whole. And prevention—by looking to the future to avoid physical, emotional, and financial burdens—is an effective way to help address health concerns and costs.

Prevention has proven to work very well. The case with heart disease illustrates this. In the last 15 years, the mortality rate from coronary heart disease in persons aged 35 to 74 has fallen more than 20 percent. Healthier lifestyles played the biggest role in reducing this death rate. This means over 800,000 lives have been saved since 1968. And this translates into an annual dollars savings of 10 billion in direct costs for care and treatment, in addition to the immeasurable value of avoiding the trauma of those individuals and families affected by heart disease.

Public focus on prevention of consensus-acknowledged, health-damaging behaviors or risks also has the salutary effect of giving citizens some greater perspective on the hazards they face in a modern technological society. Prevention programs already underway have, most naturally, engaged in priority rankings of hazards and risks that allow individuals to view their risk environment in more logical perspective. Down the line this can only be helpful to the intelligence of the health, safety, and environment regulatory process. This result would not deflect efforts away from air and water pollution, hazardous waste, food additives, and so forth, but would allow a system with scarce resources to use those resources more effectively.

Many prevention methods can be promoted as simple, personal, voluntary acts: putting aside the salt shaker, watching one's diet, going out for regular, brisk walks, installing a smoke detector, buckling up a seatbelt.

Already several key sectors of our society have demonstrated an avid interest in prevention and recognized its significance. The Department of Health and Human Services has set up an Office of Disease Prevention and Health Promotion. The 1990 Health Promotion Objectives, established by the U.S Public Health Service, serve as an excellent blueprint for prevention actions on a national scale.

At the vanguard of focusing attention on prevention has been Robert Rodale, chairman of Rodale Press, which publishes Prevention—the world's largest health magazine—with a readership of 3 million people. Rodale Press also sponsors the Prevention Index, a survey of people's attitudes and actions toward health-promoting behavior defined by a cross-section of health experts, conducted by Lou Harris & Associates. The President's Council on Health Promotion and Disease Prevention, which Mr. Rodale wholeheartedly endorses, is a creative and potentially effective means to that goal.

The concept of individual action is realized in this important legislation. According to the Prevention Index 1985, 70 percent of adults say that information from the media has motivated them to improve their health habits in the last 5 years. Federal commitment to health prevention meas-

ures that will increase public awareness of disease prevention and health promotion is also important.

This administration prides itself on tapping local citizens efforts and then providing national coherence and motivation to such efforts. Such is the potential for a President's Council on Health Promotion and Disease Prevention.

Mr. RITTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

Mr. WALKER. Mr. Speaker, reserving the right to object, can the gentleman tell me what the cost of this bill is each year?

Mr. WAXMAN. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Speaker, this is a council that is being set up on the subject of prevention, and it is charged with a number of responsibilities to be composed of 15 members. I do not know that there is a cost to it.

Mr. WALKER. There is no cost involved in the bill?

Mr. WAXMAN. I do not know that there is any cost to it. Maybe the gentleman from Pennsylvania [Mr. RITTER] can tell us about the cost. This is his proposal introduced on the House side, and we think it is a good proposal.

Mr. MADIGAN. Mr. Speaker, I want to join my colleagues in supporting S. 2057, which unanimously passed the Senate on June 16, 1986. This bill will establish a Presidential level council to promote good health and disease prevention. This council will review current Federal health promotion and disease prevention recommendations and activities and determine their effect on the public.

I anticipate that the council will utilize much of the material already developed by the Departments of Health and Human Services, Agriculture, and Transportation in making their recommendations. With regard to the council's activities regarding adequate nutrition and diet, I would expect the council to follow the "Dietary Guidelines for Americans" which were issued jointly by the U.S. Department of Agriculture and the Department of Health and Human Services in 1985. These guidelines are the result of careful analysis by the Government, private industry and public health officials and should be included in the council's recommendations and future programs.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "President's Council on Heatlh Promotion and Disease Prevention Act of 1986".

ESTABLISHMENT OF COUNCIL

SEC. 2. Title XVII of the Public Health Service Act is amended by adding at the end thereof the following new section:

"PRESIDENT'S COUNCIL ON HEALTH PROMOTION AND DISEASE PREVENTION

"SEC. 1707. (a) There is established the President's Council on Health Promotion and Disease Prevention (hereafter in this section referred to as the 'Council').

"(b) The Council shall—

"(1) advise the President with respect to all matters concerning the building and maintaining of the maximal personal health of Americans;

"(2) advise the President with respect to State, local, and private activities relating to health promotion and disease prevention;

"(3) encourage State and local governments and private entities in the development and conduct of research relating to, and programs and activities to foster, health promotion and disease prevention;

"(4) prepare an inventory of Federal, State, local, and private programs and activities for promotion of health and the prevention of illness and injury, particularly programs and activities directed toward subgroups of the American population who have special risks to health;

"(5) assess which of the available health promotion and disease prevention resources are not being fully used by Americans and how such resources may be better targeted toward the subgroups described in paragraph (4); and

"(6) make recommendations to the President concerning—

"(A) appropriate methods to make available to the public information concerning available health promotion and disease prevention resources, including information concerning the programs and activities included in the inventory prepared under paragraph (4); and

"(B) additional health promotion and disease prevention programs and activities which should be undertaken to improve the personal health of Americans.

"(c) The Council shall be composed of fifteen members appointed by the President, of which—

"(1) five shall be Federal, State, and local officers and employees who have expertise and experience in health promotion or disease prevention;

"(2) four shall be representatives of academic institutions who have expertise and experience in health promotion or disease prevention;

"(3) four shall be representatives of public and private organizations who have expertise and experience in health promotion or disease prevention; and

"(4) two shall be representatives of the general public.

"(d) Members shall be appointed for the life of the Council. A vacancy in the Council shall be filled in the same manner as the original appointment was made.

"(e) The President shall designate a member of the Council as Chairperson.

"(f) The Council shall meet at the call of the Chairman,

"(g) Eight members of the Council shall constitute a quorum, but a lesser number may hold hearings. A vacancy in the Council shall not affect its powers.

"(h) Each member of the Council shall serve without compensation. While away from their homes or regular places of business in the performance of services for the Council, all members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under section 5702 of title 5, United States Code.

"(j)(1) The Secretary shall appoint and fix the compensation of an Executive Director for the Council. The Executive Director shall be an individual who has expertise and experience in health promotion or disease prevention. The Secretary shall provide the Council with such additional personnel, and with such additional support services and facilities, as the Secretary considers necessary to enable the Council to carry out its functions.

"(2) Any Federal employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(k)(1) The Council may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate.

"(2) The Council may secure directly from any department or agency of the United States information necessary to enable the Council to carry out this section. Upon request of the Chairman of the Council, the head of such department or agency shall furnish such information to the Council.

"(3) The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(l) Within eighteen months after the date of enactment of this section, the Council shall prepare and transmit to the President and the Congress a report which describes the activities of the Council under this section.

"(m) The Council shall terminate at the earlier of—

"(1) twenty-four months after the date of enactment of this section;

"(2) eighteen months after the first date on which all members have been appointed to the Council pursuant to subsection (c); or

"(3) thirty days after the date on which the President and the Congress receive the report of the Council pursuant to subsection (l).".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. WAXMAN:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "President's Council on Health Promotion and Disease Prevention Act of 1986".

SEC. 2. ESTABLISHMENT AND DUTIES OF COUNCIL.

(a) ESTABLISHMENT.—There is established the President's Council on Health Promotion and Disease Prevention (hereafter in this Act referred to as the "Council").

(b) DUTIES.—

(1) The Council shall study and report to the President and the Congress on appropriate steps individuals can take to—

(A) reduce the risk of cancer and heart disease,

(B) use properly and obtain the benefits of exercise with attention to the benefits and possible risks of exercise,

(C) obtain adequate nutrition in the diet and understand the relationship between proper nutrition and the prevention of disease and

(D) promote proper dental hygiene and reduce the incidence of oral disease.

(2) In carrying out paragraph (1), the Council shall—

(A) review current Federal health promotion and disease prevention recommendations,

(B) review the effects of Federal, State, local, and private health promotion and disease prevention programs on the public,

(C) prepare an inventory of successful and unsuccessful Federal, State, local, and private health promotion and disease prevention programs and activities,

(D) assess which of available Federal health promotion and disease prevention resources are not being fully used, how such resources may be better targeted to those at greatest risk, and the best means of informing the public about successful health promotion and disease prevention techniques and programs.

SEC. 3. COMPOSITION OF COUNCIL.

(a) IN GENERAL.—The Council shall be composed of 15 members appointed by the President, of which—

(1) 5 shall be State and local health officers and employees who have expertise and experience in the health promotion or disease prevention activities of the Council,

(2) 4 shall be representatives of academic institutions who have expertise and experience in the health promotion or disease prevention activities of the Council, and

(3) 6 shall be representatives of public and private voluntary organizations who have expertise and experience in the health promotion or disease prevention activities of the Council.

The President may also appoint nonvoting, ex officio members from Federal agencies with expertise in the health promotion or disease prevention activities of the Council, including the Centers for Disease Control, the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Institute of Dental Research, the Public Health Service, the Food and Drug Administration, the Consumer Product Safety Commission, the National Highway Traffic Safety Administration.

(b) TERMS.—Members shall be appointed for the life of the Council. A vacancy in the Council shall be filled in the same manner as the original appointment was made.

(c) COMPENSATION.—Each member of the Council shall serve without compensation. While away from their homes or regular places of business in the performance of services for the Council, all members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under section 5703 of title 5, United States Code.

SEC. 4. ADMINISTRATIVE MATTERS.

(a) CHAIRMAN.—The President shall designate a member of the Council as Chairman.

(b) MEETINGS.—The Council shall meet at the call of the Chairman.

(c) QUORUM.—Eight members of the Council shall constitute a quorum, but a lesser number may hold hearings. A vacancy in the Council shall not affect its powers.

(d) PERSONNEL.—

(1) The Secretary of Health and Human Services shall appoint and fix the compensation of an Executive Director for the Council. The Executive Director shall be an individual who has expertise and experience in the health promotion or disease prevention activities of the Council. The Secretary shall provide the Council with such additional personnel, and with such additional support services and facilities, as the Secretary considers necessary to enable the Council to carry out its functions.

(2) Any Federal employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) AUTHORITIES.—

(1) The Council may, for the purpose of carrying out section 2, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate.

(2) The Council may secure directly from any department or agency of the United States information necessary to enable the Council to carry out section 2. Upon request of the Chairman of the Council, the head of such department or agency shall furnish such information to the Council.

(3) The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 5. REPORT.

Within 18 months after the date all the members of the Council are appointed, the Council shall prepare and transmit to the President and the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate. A report which describes the activities of the Council under section 2 and the result of the study conducted under such section.

SEC. 6. TERMINATION.

The Council shall terminate at the earlier of—

(1) 24 months after the date of enactment of this Act,

(2) 18 months after the date on which all the members have been appointed to the Council, or

(3) 30 days after the date on which the President and the Congress receive the report of the Council pursuant to section 5.

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. WAXMAN].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHILD INJURY PREVENTION ACT OF 1986

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2648) to improve the public health through the prevention of injuries, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. RITTER. Mr. Speaker, reserving the right to object, I do not intend to follow through with my objection, but I yield to the gentleman from California for the purpose of explaining the bill to the Members of the House.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Speaker, the bill, as passed by the Senate, is intended to address the major public health problem of injuries in the United States. The National Academy of Sciences published a study in 1985 called, Injury in America, outlining the serious economic and health costs that are created by preventable injuries, such as burns, falls, and poisonings. The Academy concluded that "injury is the principal public health problem in America today."

This bill authorizes the Centers for Disease Control to continue its activities to research and control such injuries and requires that the Secretary prepare a report to Congress on the incidence and causes of childhood injury. The bill authorizes $10 million a year for fiscal years 1988 through 1990.

CDC has been working on these important and costly problems for the past 2 years now, and this legislation is needed to provide ongoing authority for those activities. I would note that CDC has worked cooperatively with a number of other agencies, including the Consumer Product Safety Commission, on injury control, and that we intend that the CDC continue to do so, perhaps, when appropriate, forming cooperative agreement or contracts with these agencies. I also think that it is important to note that this CDC Program does not now duplicate ongoing CPSC activities and that we do not intend it to do so; rather we would expect the CDC to continue its data exchange and cooperative efforts.

□ 1800

Mr. RITTER. Mr. Speaker, further reserving the right to object, I want to thank the gentleman for his explanation and concur with his remarks. S. 2648 will authorize funds for the Centers for Disease Control to continue their ongoing activities in injury prevention and control. The minority members of the Energy and Commerce Committee have no objection to House passage of S. 2648.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, I think I understood the gentleman to say that the bill would cost $10 million a year; is that correct?

Mr. Speaker, under my reservation of objection, I yield to the gentleman from California.

Mr. WAXMAN. The gentleman is correct. The bill authorizes $10 million a year for fiscal years 1988 through 1990.

Mr. WALKER. Could the gentleman tell me whether or not the spending was included in the budget?

Mr. WAXMAN. It is currently appropriated.

Mr. WALKER. The money is currently appropriated and included in the budget?

Mr. WAXMAN. That is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MILLER of California. Mr. Speaker, reserving the right to object, I rise in support of this legislation, and commend the gentleman from California for bringing this to the floor.

The accidents described in this legislation are now responsible for nearly 50 percent of the childhood deaths in America, and that is costing us some $100 billion a year in deaths and injuries to those young children. I think that this work is well worthwhile, and I support the legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2648

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Injury Prevention Act of 1986".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that:

(1) Injury is one of the principal public health problems in America, and causes over 140,000 deaths per year.

(2) Injury rates are particularly high for children and the elderly.

(3) Injury causes 50 percent of all deaths for children over the age of one year and two-thirds of all deaths for children over the age of 15 years, and is the leading cause of death for individuals under the age of 44 years. Individuals over the age of 65 years have the highest fatality rates for many injuries.

(4) Injury control has not been given high priority in the United States, and the research being conducted on injury control and the number of personnel involved in injury control activities are not adequate.

(b) The purposes of this Act are—

(1) to promote research into the causes, diagnosis, treatment, prevention, and control of injuries and rehabilitation from injuries;

(2) to promote cooperation between specialists in fields involved in injury research; and

(3) to promote coordination between Federal, State, and local governments and public and private entities in order to achieve a reduction in deaths from injuries.

PUBLIC HEALTH RESEARCH AND ACTIVITIES RELATING TO INJURY CONTROL

SEC. 3. Title III of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART J—INJURY CONTROL

"RESEARCH

"SEC. 391. (a) The Secretary, through the Director of the Centers for Disease Control, shall—

"(1) conduct, and give assistance to public and nonprofit private entities, scientific institutions, and individuals engaged in the conduct of, research relating to the causes, mechanisms, prevention, diagnosis, treatment of injuries, and rehabilitation from injuries; and

"(2) make grants to public and nonprofit private entities (including academic institutions, hospitals, and laboratories) and individuals for the conduct of such research.

"(b) The Secretary, through the Director of the Centers for Disease Control, shall collect and disseminate, through publications and other appropriate means, information concerning the practical applications of research conducted or assisted under subsection (a).

"CONTROL ACTIVITIES

"SEC. 392. (a) The Secretary, through the Director of the Centers for Disease Control, shall—

"(1) assist States and political subdivisions of States in activities for the prevention of injuries; and

"(2) encourage regional activities between States designated to reduce injury rates.

"(b) The Secretary, through the Director of the Centers for Disease Control, may—

"(1) enter into agreements between the Service and public and private community health agencies which provide for cooperative planning of activities to deal with problems relating to injuries and injury control; and

"(2) work in cooperation with Federal, State, and local agencies to promote injury control.

"STUDY

SEC. 393. By January 1, 1989, the Secretary, through the Director of the Centers for Disese Control, shall prepare and transmit to the Congress a report analyzing the incidence and causes of childhood injuries in the United States and containing recommendations for such legislation with respect to injury control as the Secretary considers approprate.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 394. (a) To carry out sections 391 and 392, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1988, 1989, and 1990. Of the amounts appropriated under this section for any fiscal year, not more than 20 percent may be used for Federal administrative expenses to carry out such section for such fiscal year.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered and adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMMENDING THE ROYAL THAI GOVERNMENT FOR ITS HUMANITARIAN CONTRIBUTION TO THE REFUGEE COMMUNITY IN THAILAND AND FOR ITS WILLINGNESS TO REMAIN A COUNTRY OF FIRST ASYLUM

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the resolution (H. Res. 594) commending the Royal Thai Government for its extraordinary humanitarian contribution to the large, diverse refugee community in Thailand and for its continued willingness to remain a country of first asylum open to those fleeing repressive regimes in Indochina, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. LEACH of Iowa. Mr. Speaker, reserving the right to object, I do so simply to ask the distinguished chairman of the subcommittee to explain the resolution.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Speaker, this resolution, which was introduced by my very good friend, the gentleman from Massachusetts [Mr. ATKINS] essentially pays tribute to the Government of Thailand which has been willing to serve as a country of first asylum for hundreds of thousands of refugees fleeing from the Communist regimes in Southeast Asia.

At this very moment, as we speak, there are 120,000 refugees still in Thailand, about a quarter of a million Cambodians along the border in border camps, and the willingness of the Thai Government to permit these people to remain and to be served by international agencies has made it possible for them to survive.

The resolution, I might add, also takes note of the long history of close and cooperative relationships between

our two governments, and expresses the profound appreciation of the United States to the Government of Thailand for the humanitarian contribution it is making to the welfare and well-being of hundreds of thousands of people in Southeast Asia.

Mr. LEACH of Iowa. Mr. Speaker, further reserving the right to object, I rise in support of House Resolution 594, commending the Royal Thai Government for its extraordinary humanitarian contribution to the large, diverse refugee community in Thailand and for its continued willingness to remain a country of first asylum open to those fleeing repressive regimes in Indochina.

As the ranking minority member of the Subcommittee on Asian and Pacific Affairs of the House Foreign Affairs Committee, I am pleased to be a cosponsor of the resolution introduced by our distinguished colleague, the gentleman from Massachusetts [Mr. ATKINS], and also cosponsored by the distinguished chairman of the subcommittee [Mr. SOLARZ].

It is both timely and appropriate to offer special recognition and appreciation to the Government and people of Thailand for providing a safe haven for nearly 2 million Indochinese who have fled from Vietnam, Cambodia, and Laos, in the wake of Communist takeover in those countries. The generous humanitarian response of the Thais has not been without great cost to that nation, in spite of outside assistance from the United States, the United Nations High Commissioner for Refugees and other governments and international refugee agencies. Congressional support in sustaining adequate U.S. assistance to these refugees is essential in ensuring that the United States fulfills its obligation to carry a fair share of the burden of caring for the thousands of Indochinese who remain in Thailand today.

Clearly, there are continuing concerns in Congress with respect to such matters as the safety and protection of individuals on the border, the review of rejected Khmer cases, family reunification, education, piracy, and a number of other issues. I would urge the administration to work closely with the Thai in ensuring a satisfactory resolution to these ongoing problems.

In this connection, I would also like to take the opportunity to commend the distinguished former Governor of Iowa, the Honorable Robert D. Ray, who recently chaired the Indo-China Refugee Panel established at the request of the Secretary of State, and which issued a report in April 1986, reviewing the refugee situation in Southeast Asia and making recommendations to ensure the responsiveness of U.S. refugee policies and programs to the humanitarian needs which still exist in that part of the world.

The United States, a new homeland for over 800,000 Indochinese refugees, is honored to be in partnership with the Thai in this endeavor and we hope to maintain that close working relationship in the future.

Again, Mr. Speaker, I want to express my strong support for House Resolution 594. It is my understanding that the administration has no objection to the resolution and I would urge my colleagues to give it their wholehearted endorsement.

Mr. Speaker, I withdraw my reservation of objection.

Mr. FISH. Mr. Speaker, I rise to support in the strongest possible terms House Resolution 594, commending the Royal Thai Government for their humanitarian role in the plight of refugees from the Indochinese Nations of Vietnam, Laos, and Cambodia.

Ever since those Nations fell under Communist oppression in 1975, the Royal Thai Government and the Thai people have exhibited a willingness to accept refugees from neighboring countries that serves as a model of humanitarianism for the entire world. In the face of a strained economy, Thailand has sacrificed much to accept hundreds of thousands of refugees, even during periods when third country resettlement was waning—threatening a potential large refugee population with no recourse other than remaining under care of the Thais.

I have had the pleasure of vissting Thailand and discussing the refugee situation with Thai officials on two separate occasions, and I came home both times impressed by their compassion.

Since 1975 over half a million refugees have benefited from Thai good will and have been resettled in third countries. Today nearly 150,000 refugees remain in Thailand, waiting for a future. Another 250,000 Cambodians are languishing on the Thai/Cambodian border, with no place to go.

Now, with "compassion fatigue" weighing on resettlement countries and on countries of first asylum, it is imperative that we assist the Thais in maintaining their traditional humanitarian approach to the refugee problem.

And problems do now exist, with the first asylum status of some threatened. We need to show to Thais, through trade policies, offtake of refugees through resettlement and immigrant visa processing, encouragement of resettlement by other countries, and assistance for protection programs, that we will not abandon them in continuing to deal with the problem. The Thais will then be encouraged to continue their longstanding humanitarian policies.

As the leader of the free world and the world's strongest economic power we can and should do no less. As ranking member of the Judiciary Committee and member of the Subcommittee on Refugees, Immigration and International Law with oversight responsibility over our refugee policy I am committed to continuance of a humanitarian response to the plight of Indochinese refugees.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 594

Whereas the people of the United States and the people of Thailand have a long and enduring history of friendship and mutual support;

Whereas the United States and the Royal Thai Government have a history of close cooperation and mutual respect;

Whereas the people of the United States and the people of Thailand share a strong commitment of freedom and democracy;

Whereas Thai and United States forces fought side by side in the conflicts in Korea and Vietnam;

Whereas the Royal Thai Government has demonstrated its commitment to the protection of internationally recognized human rights, particularly through its generous provision of first asylum to refugees fleeing repression in Indochina;

Whereas there are still large numbers of Indochinese refugees in Thailand ten years after the fall of Vietnam, Laos, and Cambodia;

Whereas the number of Indochinese seeking refuge in Thailand has increased in the past ten years due to the continuation of repressive regimes in their native lands;

Whereas the Royal Thai Government has played a vital and unselfish role in the care and protection of Indochinese refugees;

Whereas Thailand's continuing support for the key international agencies, particularly the United Nations High Commission on Refugees, has helped to preserve and protect the human rights of this large refugee population;

Whereas the generous provision of first asylum to literally hundreds of thousands of refugees has not been without cost to Thailand;

Whereas this humane policy has won for Thailand the respect and appreciation of all freedom loving peoples and helped preserve regional stability; and

Whereas the United States has recognized the burden which this large refugee population has imposed on Thailand by effectively supporting the international agencies providing relief and protection and by continuing to offer resettlement opportunities to refugees: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the Royal Thai Government for its extraordinary humanitarian contribution to the large, diverse refugee community in Thailand and for its continued willingness to remain a country of first asylum open to those fleeing repressive regimes in Indochina; and

(2) on behalf of the people of the United States, expresses strong support for the unselfish work of the Royal Thai Government to ensure greater stability in Southeast Asia, particularly through efforts to alleviate the plight of refugees from Indochina.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their re-

marks on the resolution just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I take this 1-minute speech so that the Members may have some idea when the 99th Congress will be freed at last.

Mr. Speaker, I would be glad to yield to the distinguished majority leader so the gentleman could give us information on the schedule. I understand that that is being considered right now.

But the Members would like to know what is going to be the next thing up on the floor. Is it the Boxing Commission here in this waning hour of this great Congress? We are going to take up the Boxing Commission? And what, heaven forbid, is going to be the schedule after that? Are we going to be here until 9 o'clock and recess? Are we going to be here until 10 o'clock? Are we going to finish, ever?

Mr. Speaker, I would be glad to yield to the distinguished majority leader and, at the appropriate time, I would be glad to present the gentleman with the new insignia here, the "Free the 99th" button, because I know the gentleman would want to wear one. The gentleman is trying to work with leadership and with the leadership in the other body to mercifully end this process.

Mr. Speaker, I yield to the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, we will proceed to consider the U.S. Boxing Commission, open rule, 1 hour of debate. Following that, we will propose that the House stand in recess to a time certain, at which point Members can be advised if there is any further program.

Mr. LOTT. Hello?

Mr. FOLEY. That is the end of my sentence.

Mr. LOTT. Is that it?

May I inquire, do we have any idea what issues might come up when we do reconvene after that recess?

Mr. FOLEY. We think it is possible that we may be coming up with the rule on the FIFRA, the Federal Insecticide, Fungicide and Rodenticide Act, which is, I will hasten to say, as I understand it, not controversial at this point. Agreements have been reached between the Committee on Energy and Commerce and the Committee on Agriculture in both parties.

Mr. LOTT. Let me ask some specifics then. Do we anticipate that the drug bill might be in a position to be considered tonight, or would that drug legislation instead come up sometime tomorrow?

□ 1810

Mr. FOLEY. I am advised that the drug bill will probably not be ready until tomorrow. There is a possibility of the reconciliation bill being brought up tonight. That was the matter I referred to with respect to a further program in addition to FIFRA.

What we would hope to do is complete the Boxing Commission which has an open rule, 1 hour of debate. I do not think that is a controversial bill. Following that, we would seek to take whatever unanimous consent requests might be undertaken and to recess the House until a time certain which we would consult with the minority about. At that juncture, members would either be given opportunity to return for that business or would be advised that there would be no further business until tomorrow.

I assume that we would be meeting tomorrow at 10 a.m., and we will be proceeding to consider any of the remaining matters, subject to their availability: The increase in the Public Statutory Debt; the Water Resources Conservation Development and Infrastructure Improvement and Rehabilitation Act; the Drug Enforcement Education and Control Act; the continuing appropriations bill, and the possible consideration, subsequently, of a veto override on the Superfund.

Mr. LOTT. Did the gentleman mention the continuing resolution.

Mr. FOLEY. Yes; the continuing appropriations.

Mr. LOTT. That would be tomorrow also?

Mr. FOLEY. It could be earlier if it is available.

Mr. LOTT. So the schedule tomorrow will be when things become available?

Mr. FOLEY. Someone has reminded me that it is a definition of maturity that one has the capacity to tolerate ambiguity.

Mr. LOTT. I hope I stay young forever if that is what it takes.

Mr. FOLEY. Members must call upon whatever reserves of maturity they may have.

Mr. LOTT. If I may inquire, we are going to have some unanimous consent requests and maybe some special orders before we go into recess; is that correct?

Mr. FOLEY. Yes; we would have special orders.

Mr. LOTT. I take it that would be the appropriate time for me to present my lament on the fall of the House; would that be the appropriate time?

Mr. FOLEY. I know that the gentleman is a poet of private distinction and public anonymity. I share his satisfaction on his debut tonight before the country and the Congress in this new role of poet laureate of the House of Representatives.

Mr. LOTT. I thank the gentleman very much. I know you will be waiting anxiously to hear my first effort at poetry.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AMENDMENTS

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 485) to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the treatment of submerged lands and ownership by the Alaskan Native Corp., and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Ohio?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, I do not intend to object but I yield to the gentleman from Ohio [Mr. SEIBERLING] for an explanation of the legislation.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the effect of the amendment would be to merely extend for 2 years the statute of limitations on certain challenges to decisions about the navigability of water bodies in Alaska. This will give Congress time to deal with the question of treatment of submerged lands in Alaska. This is not a new issue. We have dealt with it several times in recent years. Since our hearing on the present version of the bill, there have been discussions exploring whether there might be a basis for resolving some of the past disagreements about the legislation, so we could go forward with a noncontroversial proposal. So far those discussions have not reached a conclusion.

The issue is an important one. I believe that it deserves a serious effort to see if it can be resolved. However, it has become clear that more time and more information are needed before a substantive resolution of this problem can be developed.

Therefore, we are moving forward now with this extension of the statute of limitations. At the same time, Chairman UDALL and I are joining with the gentleman from Alaska in requesting that the Department of the Interior and the Congressional Research Service compile the information and do the studies necessary for us to return to this issue again and to dispose of it on an informed basis.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for his explanation.

I strongly support this legislation and compliment the gentleman for his leadership on this issue.

Mr. Speaker, this legislation is necessary to extend a statute of limitations in the Alaska Lands Act. Unless the statute of limitations is extended, we face the filing of many lawsuits in the State of Alaska solely to preserve rights which would be barred by the 5-year deadline.

I believe there is no compelling interest in having litigation filed to meet an arbitrary deadline. We will be able to settle the acreage issues next year. I believe we are close to resolving these issues, and I know that the chairman and staff have developed some working proposals after much deliberation. In the meantime, the extension in this legislation is a postive step forward. For these reasons I urge my colleagues to support this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 901 of the Alaska National Interest Lands Conservation Act (Public Law 96-487), as amended, is hereby amended by striking out the word "six years after the date of execution" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "eight years after the date of execution", and by striking the words "seven years after the date of enactment" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "nine years after the date of enactment".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unamimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REQUEST TO DISCHARGE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS AND COMMITTEE ON SCIENCE AND TECHNOLOGY FROM FURTHER CONSIDERATION OF S. 1026, CONTINENTAL SCIENTIFIC DRILLING AND EXPLORATION ACT

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs and the Committee on Science and Technology be discharged from further consideration of the Senate bill (S. 1026) to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so at this point to ask the gentleman from Arizona if he would give us a little information about the legislation.

Mr. UDALL. Mr. Speaker, if the gentleman will yield, this is a simple measure to establish a coordinated cooperative effort on the part of the Departments of Energy and Interior and the National Science Foundation to carry out a continental scientific drilling program.

S. 1026 authorizes no new funds but will give policy direction for this important scientific undertaking.

In addition, the bill requires that within 180 days of enactment a report be submitted to the Congress setting out the near and long-term goals of the program, a schedule of scientific and engineering events as well as a description of the benefits to be derived from these activities.

The bill is identical to H.R. 4523 introduced by the gentlelady from Rhode Island [Miss SCHNEIDER] and enjoys strong bi-partisan support.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I must admit that I have some concerns about this process because at least insofar as the Science and Technology Committee is concerned, there were no hearings held on this bill. It is a bill that has not been subject to any scrutiny by the committee at all, and it does refer to matters that are presently covered under House Joint Resolution 648, section 323, that was enacted into law on October 12, 1984.

Language concerning the obligation to carry out these kinds of activities is already a part of the law. It is a part of an interagency accord of April 2, 1984. It just does not see to me that we can countenance end runs around the processes of the committee to do things which are already covered, it seems to me, in a way which is sufficient.

I do have a concern about the bringing up of this legislation.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I can understand the gentleman's concern, however, if we look at the bill very carefully, it really does not do all that much. There is a feeling that the interest in the program is waning somewhat in that we are just giving it a little more oomph by highlighting it and saying within 180 days we do not think enough is being done, so within 180 days this coordinating group shall give us a report. There they should tell us about the objectives, the schedules, the funding, the benefits and those sorts of things just to kind of give it a little push.

It does not change the present law at all except that there is a concern that it is not moving as fast or as well as we would like for it to.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Arizona.

Mr. UDALL. I want to reassure my colleagues and the gentleman from Pennsylvania that this is intended to make no change in policy, it simply adds a little emphasis and tells the two Departments to get along and give us a report and telling us what they are going to do.

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Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, the fact is that it does make some changes in policy in this gentleman's opinion. I am sure the intent is not to do so, but it does call upon the agencies to implement it. It says "shall implement," and then on page 5 of the bill, it also talks about the "Coordinating Group deems practicable, maximum, minimum and intermediate levels of resources and funding that would be required."

That, in fact, is seen by OMB as being potentially an authorization process that could end up costing us money over a period of time. It seems to me that that is a concern, and particularly a concern that should have been addressed as a part of a regular hearing process, rather than having to come to us here at the last minute in the Congress on the floor.

Mr. LUJAN. Mr. Speaker, if I might address that particular point of funding, we are not recommending funding. What we are saying is that this interagency coordinating group shall prepare a report within those 180 days

that I talked about describing the amounts of money that should be needed and for how long, and submit it to the Congress.

The only objection that OMB would have, it seems to me, and not that it is authorizing any funding, but that there would be somebody else, other than OMB, also having some input into the funding process.

I would think it is a turf problem, rather than that we should be putting in any more money. What would happen, in effect, is that we would look at the interagency coordination group recommendations and we would look at OMB recommendations and balance both of them and the Congress would have to vote on them anyway.

Mr. WALKER. If the gentleman will yield further, I understand that the purpose of the act is to create that report. However, the language of the act in section 4 also calls upon the Director of the National Science Foundation that he "shall implement the policies of section 323," and then goes to the issue of the funding.

That is, in fact, a quasi-authorization, at least, and it causes my concern.

Therefore, Mr. Speaker, I feel constrained to object.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). Objection is heard.

NATIONAL AIR AND SPACE MUSEUM AUTHORIZATION

Mr. HOWARD. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1311) to authorize the Smithsonian Institution to plan, design, and construct facilities for the National Air and Space Museum.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. SHAW. Mr. Speaker, reserving the right to object, I will not object, but I would ask that the gentleman from New Jersey [Mr. HOWARD] be given an opportunity to describe what is in the bill.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Speaker, S. 1311, as amended, would authorize the Board of Regents of the Smithsonian to construct the Charles McC. Mathias, Jr., Laboratory for environmental research at the Smithsonian Environmental Research Center located at Edgewater, MD, at a cost of $1,000,000. This Research Center would house Smithsonian scientific research programs currently being conducted in commercially owned leased space in Rockville, MD.

The programs to be relocated include plant physiology, environmental engineering, and a visiting scientist laboratory.

Section two of the bill would designate that the U.S. Courthouse and Customhouse at 601 West Broadway, Louisville, KY, be known as the Gene Snyder United States Courthouse and Customhouse. As my colleagues are aware, in November 1962 and again in November 1966 GENE SNYDER was elected to the 90th Congress from the Fourth District of Kentucky and has served in each succeeding Congress and plans to retire at the end of this Congress.

Mr. Speaker, I urge enactment of S. 1311.

Ms. OAKAR. Mr. Speaker, S. 1311, as amended would provide for the construction of the Charles McC. Mathias, Jr., Laboratory for Environmental Research at the Smithsonian Environmental Research Center located at Edgewater, MD. Senator MATHIAS has been a leader in areas of science and technology, the arts and humanities and civil rights for many years, therefore, it is most fitting that we honor Senator CHARLES MCC. MATHIAS, JR., in this fashion.

In addition, the legislation would designate that the Federal building located in Louisville, KY, be named after the distinguished gentleman from Kentucky who plans to retire at the end of this Congress, Hon. GENE SYNDER.

I would like to commend the distinguished gentleman from New Jersey, [Mr. HOWARD] for the splendid work he has done on legislation relating to the Smithsonian Institution. In the past I have had the pleasure of working with Mr. HOWARD and his able staff of the Committee on Public Works and Transportation. His assistance and cooperation is always appreciated and warrants high praise from myself and my fellow colleagues on House Administration.

As the distinguished Chairman, Mr. HOWARD, is aware, the Committee on House Administration through its task force on libraries and memorials has jurisdiction over policy and administrative matters relating to the Smithsonian Institution and shares joint referral of S. 1311 with the Committee on Public Works and Transportation.

The Committee on House Administration will not have the opportunity to take further action on this legislation before adjournment and thus defers to the Committee on Public Works and Transportation for House consideration today.

This action, however, should not be construed as precedent for relinquishing jurisdiction of the Committee on House Administration over this and any future related matters. Once again, I urge my support of this bill and thank the distinguished Chairman, Mr. HOWARD for managing this bill on the floor.

Mr. SHAW. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Smithsonian Institution is authorized to plan, design, and construct facilities for the National Air and Space Museum at Washington Dulles International Airport.

SEC. 2. (a) The Smithsonian Institution is authorized to develop a master plan for expansion of the National Air and Space Museum at Washington Dulles International Airport as will not interfere with the operations of such airport.

(b) There are hereby authorized to be appropriated for fiscal years 1987 and 1988 a total of $1,000,000 to the Smithsonian Institution for master planning activities as provided in subsection (a).

SEC. 3. No federal funds are authorized for the construction of any facilities provided for by section 1 of this Act.

SEC. 4. (a) The Board of Regents of the Smithsonian Institution is authorized to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research.

(b) The Charles McC. Mathias, Jr. Laboratory for Environmental Research shall be located at the Smithsonian Environmental Research Center, a bureau of the Smithsonian Institution, located at Edgewater, Maryland.

(c) Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $1,000,000 to carry out the purposes of this section.

(d) Any portion of the sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

SEC. 5. (a) The Congress finds that—

(1) the crew of the space shuttle Challenger was dedicated to stimulating the interest of American children in space flight and science generally;

(2) the members of the crew gave their lives trying to benefit the education of American children;

(3) a fitting tribute to that effort and to the sacrifice of the Challenger crew and their families is needed; and

(4) an appropriate form for such tribute would be to expand educational opportunities in science by the creation of a center that will offer children and teachers activities and information derived from American space research.

(b) It is the sense of the Congress that—

(1) a Children's Challenger Center for Space Science should be established in conjunction with the Smithsonian Institution as a living memorial to the seven Challenger astronauts who died serving their country and to other individuals who gave their lives in exploration of the space frontier; and

(2) the Federal Government should, along with the Smithsonian Institution public and private organizations and persons, cooperate in the establishing of such a Center.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HOWARD: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. CONSTRUCTION OF CHARLES McC. MATHIAS, JR. LABORATORY FOR ENVIRONMENTAL RESEARCH.

(a) CONSTRUCTION AUTHORIZATION.—The Board of Regents of the Smithsonian Institution is authorized to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research.

(b) LOCATION.—The Charles McC. Mathias, Jr. Laboratory for Environmental Research shall be located at the Smithsonian Environmental Research Center, a bureau of the Smithsonian Institution, located at Edgewater, Maryland.

(c) AUTHORIZATION OF APPROPRIATIONS.—Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $1,000,000 to carry out the purposes of this section.

(d) TRANSFER OF FUNDS.—Any portion of the sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

SEC. 2. NAMING OF GENE SNYDER UNITED STATES COURTHOUSE AND CUSTOMHOUSE.

(a) DESIGNATION OF BUILDING.—The United States Courthouse and Customhouse at 601 West Broadway, Louisville, Kentucky, shall be known and designated as the "Gene Snyder United States Courthouse and Customhouse".

(b) LEGAL REFERENCES.—Each reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Gene Snyder United States Courthouse and Customhouse".

(c) EFFECTIVE DATE.—Subsections (a) and (b) of this section shall take effect on January 4, 1987.

Mr. HOWARD (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. HOWARD].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. HOWARD: Amend the title so as to read: "A bill to autorize the Board of Regents of the Smithsonian Institution to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research in Edgewater, Maryland, and to designate the United States Courthouse and Customhouse in Louisville, Kentucky, as the 'Gene Snyder United States Courthouse and Customhouse'.".

The amendment to the title was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

DISTRICT OF COLUMBIA STADIUM ACT OF 1957

Mr. FAUNTROY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2776) to amend the District of Columbia Stadium Act of 1957 to direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium to the District of Columbia, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, strike out all including line 1 over to and including line 12 on page 4, and insert:

"(b)(1) Not later than 180 days after the date of enactment of this subsection, the Secretary of the Interior shall—

"(A) convey without consideration to the government of the District of Columbia all right, title, and interest of the United States in and to the building comprising the stadium constructed under this Act; and

"(B) lease without consideration to the government of the District of Columbia—

"(i) the ground under; and

"(ii) the parking facilities associated with the stadium constructed under this Act.

"(2) The lease authorized by paragraph (1)(B) shall be for a period of 50 years.

"(c) The conveyance and lease of real property under subsection (b) shall be subject to such terms and conditions (which shall be set forth in the instrument of conveyance) as will ensure that title to the property shall not be transferred by the District to any person or entity other than the United States or any political subdivision or agency of the District of Columbia or the United States and that the property will be used only for—

"(1) stadium purposes;

"(2) providing recreational facilities, open space, or public outdoor recreation opportunities;

"(3) such other public purposes for which the property was used prior to June 1, 1985; and

"(4) such other public purposes for which the property was approved for use by the Secretary with the concurrence of the National Capital Planning Commission prior to June 1, 1985.

"(d)(1) The instrument of conveyance and the lease referred to in subsection (c) shall provide that all right, title, and interest conveyed to the District of Columbia pursuant to such instrument of conveyance shall revert to the United States and the lease shall terminate if—

"(A) the terms and conditions referred to in subsection (c) have not been complied with, as determined by the Secretary, and

"(B) such noncompliance has not been corrected within ninety days after written notice of such noncompliance has been received by the Mayor of the District of Columbia.

Such noncompliance shall be treated as corrected if the District of Columbia and the Secretary enter into an agreement, with the concurrence of the National Capital Planning Commission, which the Secretary considers adequate to ensure that the property will be used in a manner consistent with the purposes referred to in subsection (c).

"(2) No person may bring an action respecting a violation of any term or condition referred to in subsection (c) before the expiration of ninety days after the date on which such person has notified the Mayor of the District of Columbia of the alleged violation. The notice shall include notice of such person's intention to bring an action to declare a reversion and termination of the lease under paragraph (1) of this subsection.

"(3) The conveyance of real property under subsection (b) shall be made subject to the condition that the District of Columbia shall bear the cost of removing structures or rehabilitating the land or stadium should the stadium revert to the United States pursuant to this subsection.

"(4) Any property which reverts to the Secretary under this subsection shall be administered by the Secretary as part of the Park System of the Nation's Capital in accordance with the provisions of the Act of August 25, 1916 (16 U.S.C. 1, 2-4), and other provisions of law generally applicable to units of the national park system.".

SEC. 2. TECHNICAL AMENDMENT.

Section 11 of the District of Columbia Stadium Act of 1957 (D.C. Code, sec. 2-330) is amended by inserting "(including any area designated A, B, C, D, or E on the revised map entitled 'Map to Designate Transfer of Stadium and Lease of Parking Lots to the District', prepared jointly by the National Park Service (National Capital Region) and the District of Columbia Department of Public Works for site development and dated October 1986 (NPS drawing number 831/87284-A))," after "property of any kind".

Mr. FAUNTROY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

Mr. McKINNEY. Mr. Speaker, reserving the right to object, this bill has been passed by the House; correct?

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Speaker, yes, on June 24, 1985.

Mr. McKINNEY. Mr. Speaker, this bill has also had the corrections made in it which means that the District

may not sell the stadium to a third party and make money off it, but that it has to offer it back to the U.S. Government first.

Mr. FAUNTROY. Mr. Speaker, the gentleman is correct.

Mr. McKINNEY. This bill is agreed to the land status surrounding the stadium?

Mr. FAUNTROY. It has, Mr. Speaker.

Mr. McKINNEY. In other words, we have another turkey leaving the Federal fold, like the two airports, and going out to where they belong, to the people who operate them and use them and whose name they are under; right?

I know that you would not call it a turkey, but we are finally after, I believe, 12 years going to face this issue.

Everybody has agreed in the House and the other body?

Mr. FAUNTROY. Yes, Mr. Speaker, with an amendment, of course, that would have the land leased to the stadium for a 50-year period for a nominal fee. That certainly is acceptable.

Mr. McKINNEY. Mr. Speaker, I thank the gentleman from the District of Columbia [Mr. FAUNTROY] and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

Mr. WALKER. Mr. Speaker, reserving the right to object, I have a couple of questions.

First of all, the properties are being conveyed without cost. Does the Federal Government retain any obligation for maintenance of the properties or for liabilities on the properties?

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Speaker, under the Stadium Act of 1957, the District of Columbia has paid the entire cost, $20 million, of the structure on the land and, of course, will be responsible for its maintenance.

The land is leased to the District government for 50 years, so it does not convey the land, as was passed by the House in 1985, but the Senate amendment would require that it only be leased.

Mr. WALKER. Mr. Speaker, further reserving the right to object, what I am trying to ascertain here is the information that I have here is that all of this is being turned over to the D.C. government without cost to the D.C. government. Is that correct?

Mr. FAUNTROY. The D.C. government has paid the cost. It has paid for the stadium, $10 million, pursuant to the act.

Mr. WALKER. In fact, we are conveying property at this point to the D.C. government in trust. I am trying to find out whether or not the Federal Government retains any liabilities with regard to this property that we are basically giving to the D.C. government.

Mr. FAUNTROY. The Federal Government retains no liability with respect to the property.

Mr. WALKER. No liabilities. Now, as I understand it, the parking lot areas around the stadium will then be leased to the District government for a 50-year period. Is that right?

Mr. FAUNTROY. Fifty-year period, yes.

Mr. WALKER. Can the gentleman tell me what the cost of those leases are; what will the Federal Government be receiving in terms of payment on the lease?

Mr. FAUNTROY. The operating income from the stadium has been over $3 million a year from concessions and rent from the Redskins and others, using 1984 as a typical year. Under the 1957 law title to the stadium vests in the United States by the year 2007, so the stadium would have grossed $150,000,000 in those 50 years.

Mr. WALKER. Over the course of the 50 years, so that would be something on the order of $3 million a year?

Mr. FAUNTROY. Yes; of course, most of that $3 million a year has been used for personnel and maintenance. The stadium has never produced enough income to pay the annual interest on construction bonds. The city has had to pay that—$15 million for interest. And the stadium income was never enough to set up a sinking fund to pay the principal on the bonds. The city had to pay $10 million of that a few years ago.

The financial report of the stadium management is filed annually with the Speaker and he refers it to the House Committee on the District of Columbia.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from the District of Columbia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FAUNTROY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

COAST GUARD AUTHORIZATION ACT OF 1986

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4208) to authorize appropriations for the Coast Guard for fiscal year 1987, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Coast Guard Authorization Act of 1986".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1987, as follows:

(1) For the operations and maintenance of the Coast Guard, $1,862,800,000, of which not more than $20,000,000 may be made available to the Commandant of the Coast Guard for discretionary use in meeting unanticipated demands and needs for Coast Guard operation and maintenance; and for increases in salary, pay, and other employee benefits authorized by law, such sums as may be necessary.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $267,000,000, to remain available until expended.

(3) For research, development, test, and evaluation, $20,000,000, to remain available until expended.

(4) For retired pay, including the payment of obligations therefore otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $364,000,000.

(5) If funds are appropriated to any other officer of the United States for carrying out the purposes described in paragraphs (1) through (4) of this section, such officer may transfer to the Secretary of the department in which the Coast Guard is operating the full amount of such funds. Such funds shall be allocated by the Secretary to such purposes.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING

SEC. 3. (a) For fiscal year 1987, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,200. The authorized strength does not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

(b) For fiscal year 1987, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 3,200 student-years.

(2) For flight training, 110 student-years.

(3) For professional training in military and civilian institutions, 441 student-years.

(4) For officer acquisition, 925 student-years.

TRANSFER OF FUNDS

SEC. 4. (a) Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not to exceed 5 percent of the funds appropriated for the purposes described in section 2(2) of this Act to the Commandant at the Coast Guard for discretionary use in meeting unanticipated demands and needs for Coast Gaurd operations and maintenance under section 2(1) of this Act.

(b) No transfer of funds may occur under subsection (a) of the section until 15 days after the Secretary has provided written notification to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Appropriations Committees of the Senate and House of Representatives stating the reasons for such determination and a description of the purposes for which the funds proposed to be transferred will be used.

LIMITATIONS ON CONTRACTING PERFORMED BY THE COAST GUARD

SEC. 5. (a)(1) It is in the national interest for the Coast Guard to maintain a logistics capability (including personnel, equipment, and facilities) to provide a ready and controlled source of technical competence and resources necessary to ensure the effective and timely performance of Coast Guard missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(2)(A) The Secretary of the department in which the Coast Guard is operating shall identify those Coast Guard activities that are necessary to maintain the logistics capability described in paragraph (1) of this subsection. The Secretary shall provide a list of such activities to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives not later than January 31, 1987. If the Secretary does not provide such list by that date, no activity performed by Coast Guard personnel may be contracted for performance by non-government personnel after such date until the list is provided to such committees.

(B) The list submitted by the Secretary under this paragraph shall not include—

(i) any activity that is being performed under contract by non-government personnel on the date of enactment of this Act; or

(ii) any activity for which Congress received, prior to April 1, 1986, a written notification pursuant to section 14(b)(2) of the Coast Guard Authorization Act of 1984 (Public Law 98-557; 98 Stat. 2864) of intent to contract.

(b)(1) Except as provided in paragraph (2) of this subsection, performance of an activity identified by the Secretary under subsection (a)(2) of this section may not be contracted for performance by non-government personnel.

(2) The Secretary may waive paragraph (1) of this subsection with respect to any Coast Guard activity (other than an activity described in subsection (d) of this section), if the Secretary determines that the performance of such activity by Government personnel is no longer necessary to ensure the effective and timely performance of Coast Guard missions.

(3) A waiver under paragraph (2) of this subsection may not take effect until a period of 30 days in which either the Senate or House of Representatives is in session has expired after the Secretary has submitted in writing to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a full and complete statement concerning the waiver and the reasons therefor.

(c) Before the beginning of fiscal year 1987, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a list of Coast Guard activities that are to be considered for performance by contract by non-Government personnel under the procedures of Office of Management and Budget Circular A-76 during that fiscal year.

(d)(1) Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal year 1987 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of the department in which the Coast Guard is operating may waive the requirements of this subsection in the interest of national security or economic efficiency.

(2) As used in this subsection, the term "local resident" means an individual within daily commuting distance even if not a resident of the State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor), in accordance with paragraph (1) of this subsection.

MARITIME DEFENSE ZONE

SEC. 6. Section 2 of title 14, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", including the fulfillment of Maritime Defense Zone command responsibilities".

BOAT SAFETY PROGRAM

SEC. 7. (a) Section 9503(c)(4) of title 26, United States Code, is amended—

(1) in subparagraph (A), by striking "45,000,000" each place it appears and inserting in lieu thereof "60,000,000" for Fiscal Year 1987 only and $45,000,000 for each Fiscal Year thereafter;" and (2) by adding at the end thereof the following:

"(E) DETERMINATION.—The amount of payments made under this paragraph after October 1, 1986 shall be determined by the Secretary in accordance with the methodology described in the Treasury Department's Report to Congress of June 1986 entitled 'Gasoline Excise Tax Revenues Attributable to Fuel Used in Recreational Motorboats.' Further, a portion of the payments made by the Secretary from Fiscal Year 1987 motorfuel excise tax receipts shall be used to increase the funding for boating safety programs during Fiscal Year 1987 only."

(b) Section 13106(c) of title 46, United States Code, is amended by striking "one-third" and inserting in lieu thereof "one-half for Fiscal Year 1987 and one-third for each Fiscal Year thereafter."

(c) Section 13106(a) of title 46, United States Code, is amended by striking "two-thirds" and inserting in lieu thereof "one-half for Fiscal Year 1987 and two-thirds for each Fiscal Year thereafter".

(d) Before making any allocation under this section for a fiscal year, the Secretary shall retain not less than one percent nor more than two percent of the amount appropriated for that year for State recreational boating safety programs for the payment of costs of administration of this chapter.

PAYMENT OF INTEREST TO COAST GUARD AUXILIARY

SEC. 8. Section 830 of title 14, United States Code, is amended—

(1) by inserting "(a)" before "Appropriations"; and

(2) by adding at the end thereof the following:

"(b) The Secretary may pay interest on a claim under this section in any case in which a payment authorized under this section is not made within 60 days after the submission of the claim in a manner prescribed by the Secretary. The rate of interest for purposes of this section shall be the annual rate established under section 6621 of the Internal Revenue Code of 1954.".

USE OF COAST GUARD AUXILIARY

SEC. 9. (a) It is the sense of the Congress that the Coast Guard Auxiliary performs a broad range of services in behalf of the safety and security of the American people, and that the continued strength and vitality of the Coast Guard Auxiliary is important to the United States.

(b)(1) The Secretary of Transportation shall investigate and submit to the Congress a report within 1 year after the date of enactment of this Act regarding—

(A) the extent to which membership of the Coast Guard Auxiliary has declined in recent years and the causes of such decline;

(B) the effect, if any, on the maritime community of any such decline in the performance levels of the Coast Guard Auxiliary in the areas of life-saving, assistance to persons in distress, safety patrols and inspections, and support missions for the Coast Guard; and

(C) the effect, if any, of the Coast Guard's nonemergency assistance policy on the overall effectiveness of the Coast Guard Auxiliary.

(2) The report submitted by the Secretary under this section shall include such recommendations for legislative and administrative action as the Secretary considers appropriate to achieve and maintain the Coast Guard Auxiliary at its optimum strength.

MISCELLANEOUS AMENDMENTS TO TITLE 14 AND TITLE 46

SEC. 10. (a)(1) The analysis of parts, before section 1 of title 14, United States Code, is amended by striking

"II. Coast Guard Reserve and Auxiliary ..... 751"

and inserting in lieu thereof

"II. Coast Guard Reserve and Auxiliary ..... 701".

(2) The analysis of chapters of part II of title 14, United States Code, is amended by striking

"21. Coast Guard Reserve ..... 751"

and inserting in lieu thereof

"21. Coast Guard Reserve ..... 701".

(3) Section 82 of title 14, United States Code, is amended by striking "Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.)" and inserting in lieu thereof "Fed-

eral Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)".

(4) Section 91 of title 14, United States Code, is amended to read as follows:

"§ 91. Safety of naval vessels

"(a) The Secretary may control the anchorage and movement of any vessel in the navigable waters of the United States to ensure the safety or security of any United States naval vessel in those waters.

"(b) If the Secretary does not exercise the authority in subsection (a) of this section and immediate action is required, the senior naval officer present in command may control the anchorage or movement of any vessel in the navigable waters of the United States to ensure the safety and security of any United States naval vessel under the officer's command.

"(c) If a person violates, or a vessel is operated in violation of, this section or a regulation or order issued under this section, the person or vessel is subject to the enforcement provisions in section 13 of the Ports and Waterways Safety Act (33 U.S.C. 1232).".

(5) Section 146 of title 14, United States Code, is amended by striking "Postmaster General" and inserting in lieu thereof "United States Postal Service".

(6)(A) Sections 431, 433, 434, and 438 of title 14 United States Code, are repealed, except that the repeal of such sections shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun under such sections before the date of enactment of this Act.

(B) The analysis of chapter 11 of title 14, United States Code, is amended by striking the items relating to sections 431, 433, 434, and 438.

(7) Section 432(g) of title 14, United States Code, is amended—

(A) by inserting "(1)" immediately after "(g)"; and

(B) by striking the last paragraph and inserting in lieu thereof the following:

"(2) The additional compensation authorized by this subsection shall be included in any computation of compensation under section 6 of the Act of June 20, 1918 (33 U.S.C. 763).".

(8) Section 829 of title 14, United States Code, is amended by striking "Section" and inserting in lieu thereof "section".

(9) The first section of the Act entitled "An Act to require authorization for certain appropriations for the Coast Guard, and for other purposes", approved June 21, 1963 (77 Stat. 68; 14 U.S.C. 92, note), is repealed.

(b)(1) Section 2101(11b) of title 46, United States Code, is amended by inserting "freezing," immediately after "icing,".

(2)(A) Chapter 75 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 7504. Travel and expense reimbursement

"When a requirement to qualify for the issuance of, or endorsement on, a certificate, license, or document under this part is administered at a place at the request of an applicant or an applicant's representative, the applicant or representative may reimburse the Secretary for the travel and subsistence expenses incurred by the personnel assigned to perform the administration of the requirement. Amounts received as reimbursement under this section shall be credited to the appropriation for operating expenses of the Coast Guard.".

(B) The analysis of chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"7504. Travel and expense reimbursement.".

(3) Section 10101(1) and (3) of title 46, United States Code, is amended by striking "owned by a citizen of the United States".

(4) Sections 10313(e) and (h), 10314(e), 10504(a), and 10505(d) of title 46, United States Code, are amended by striking the last sentence.

(5) Section 10504(d)(3) of title 46, United States Code, is amended by striking "(except a vessel taking oysters)".

MANNING REQUIREMENTS OF MOBILE OFFSHORE DRILLING UNITS

SEC. 11. (a) Section 2101 of title 46, United States Code, is amended by inserting immediately after paragraph (15) the following:

"(15a) 'mobile offshore drilling unit' means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources.".

(b) Section 8101(a) of title 46, United States Code, is amended to read as follows:

"(a) The certificate of inspection issued to a vessel under part B of this subtitle shall state the complement of licensed individuals and crew (including lifeboatmen) considered by the Secretary to be necessary for safe operation. A manning requirement imposed on—

"(1) a sailing school vessel shall consider the participation of sailing school instructors and sailing school students in the operation of that vessel; and

"(2) a mobile offshore drilling unit shall consider the specialized nature of the unit.".

(c) Section 8701(a) of title 46, United States Code, is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(8) a mobile offshore drilling unit with respect to individuals, other than crew members required by the certificate of inspection, engaged on board the unit for the sole purpose of carrying out the industrial business or function of the unit.".

(d) Section 8301(c) of title 46, United States Code, is amended by inserting ", a mobile offshore drilling unit when on location"; immediately after "vessel".

TOWING LICENSE

SEC. 12. (a) Section 8904 of title 46, United States Code, is amended—

(1) by inserting "(a)" immediately before "A towing"; and

(2) by adding at the end thereof the following:

"(b) A vessel that tows a disabled vessel for consideration shall be operated by an individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed regulations.".

(b) The amendments made by subsection (a) of this section shall take effect on January 1, 1988.

FORFEITED VESSELS

SEC. 13. (a) Whenever a vessel is forfeited to the United States, the vessel may be donated, in accordance with procedures under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), to an educational institution with a commercial fishing vessel safety program or other vessel safety, education and training program, if the institution has certified to the Federal officer referred to in subsection (b) of this section that the program includes at a minimum the following courses in vessel safety;

(1) vessel stability;

(2) firefighting;

(3) shipboard first aid;

(4) marine safety and survival; and

(5) seamanship and rules of the road.

(b) The donation of a vessel under this section shall be made on terms and conditions considered appropriate by the Federal officer making such donation, including requirements that—

(1) the educational institution must accept the vessel as is, where it is, and without warranty of any kind and without any representation as to its condition or suitability for use;

(2) the educational institution shall be responsible for maintaining the vessel;

(3) the vessel shall be used only for instructing students in vessel safety education and training programs;

(4) if the vessel is eligible to be documented, it must be documented by the educational institution as a vessel of the United States under chapter 121 of title 46, United States, Code, and the requirements of paragraph (5) of this subsection shall be noted on the permanent record of the vessel;

(5) the educational institution must obtain the prior approval of the Administrator of General Services before disposing of the vessel, and any proceeds from the disposal of the vessel shall be payable to the United States Government; and

(6) the vessel shall be inspected or regulated in the same manner as a nautical school vessel under chapter 33 of title 46, United States Code.

(c) The United States shall not be liable in an action arising out of the transfer or use of a vessel that has been transferred under this section.

(d) Section 2101(17) of title 46, United States Code, is amended by inserting immediately before the period the following: "or an educational institution under section 13 of the Coast Guard Authorization Act of 1986".

(e) Section 3305(c) of title 46, United States Code, is amended by inserting immediately after "school" the second place it appears the following: "or by an educational institution under section 13 of the Coast Guard Authorization Act of 1986".

LIMITATION ON TRAINING

SEC. 14. Notwithstanding any other provision of law, no training or course of instruction may be provided by the Coast Guard to employees of the government or to members of the armed services of the Republic of South Africa during fiscal year 1987.

STATUS REPORTS ON POLAR ICEBREAKIIG VESSELS

SEC. 15. The Secretary of the department in which the Coast Guard is operating shall provide detailed reports to Congress concerning the status of design and construction plans for the procurement of at least two new polar icebreaking vessels. Such reports shall be included in the Cutter Plan required annually by section 663 of title 14, United States Code, and shall be submitted each year until at least two new polar icebreaking vessels have been delivered to the Coast Guard.

VESSEL SAFETY

SEC. 16. Section 4102 of title 46, United States Code, is amended by adding at the end thereof the following:

"(e) Each uninspected fishing, fish processing, or fish tender vessel operating on the high seas shall be equipped with the number and type of emergency position in-

dicating radio beacons prescribed by regulation.".

PROSECUTIONS OF MARITIME DRUG TRAFFICKERS

SEC 17. The Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (Public Law 96-350; 94 Stat. 1159) is amended by striking everything immediately after the enacting clause and inserting in lieu thereof the following:

"That this Act may be cited as the 'Maritime Drug Law Enforcement Act'.

"SEC. 2. The Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem and is universally condemned. Moreover, such trafficking presents a specific threat to the security and societal well-being of the United States.

"SEC. 3. (a) It is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

"(b) For purposes of this section, a 'vessel of the United States' means—

"(1) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title;

"(2) a vessel owned in whole or part by—

"(A) the United States or a territory, commonwealth, or possession of the United States;

"(B) a State or political subdivision thereof;

"(C) a citizen or national of the United States; or

"(D) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with article 5 of the 1958 Convention on the High Seas; and

"(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

"(c)(1) For purposes of this section, a 'vessel subject to the jurisdiction of the United States' includes—

"(A) a vessel without nationality;

"(B) a vessel assimilated to a vessel without nationality, in acccordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas;

"(C) a vessel registered in a foreign nation where the flag nation has consented or waived objection to the enforcement of United States law by the United States;

"(D) a vessel located within the customs waters of the United States; and

"(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States.

Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under subparagraph (C) or (2) of this paragraph may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(2) For purposes of this section, a 'vessel without nationality' includes—

"(A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed; and

"(B) any vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel.

A claim of registry under subparagraph (A) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such claim of registry by the claimed flag nation may be proved by certification of the Secretary of State or the Secretary's designee.

"(3) For purposes of this section, a claim of nationality or registry only includes:

"(A) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the 1958 Convention on the High Seas.

"(B) flying its flag nation's ensign or flag; or

"(C) a verbal claim of nationality or registry by the master or person in charge of the vessel.

"(d) A claim of failure to comply with international law in the enforcement of this Act may be invoked solely by a foreign nation, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this Act.

"(e) This section does not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of such person's duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

"(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court of the District of Columbia.

"(g)(1) Any person who commits an offense defined in this section shall be punished in accordance with the penalties set forth in section 101 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).

"(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 962) if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

"(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

"(i) The definitions in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to terms used in this Act.

"(j) Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

SEC. 4. Any property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881).".

AUTHORITY TO ISSUE CERTAIN CERTIFICATES

SEC. 18. Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: Dunes Spirit, United States official number 690176; Kodiak Queen, United States official number 507891; La Reina, United States official number 230115; Northwind, United States official number 230147; and Wanderbird, United States official number 229607.

□ 1830

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, and I will not object, I yield to the distinguished chairman of the Coast Guard Subcommittee for an explanation of this action.

Mr. STUDDS. Mr. Speaker, I thank the gentleman.

Let me just say to the Members that this is the basic Coast Guard authorization for the next fiscal year. It is in large measure identical to the bill which passed this House by a vote of 374 to nothing on May 6 of this year.

The bill is $48 million below the authorized level approved in that House-passed bill and the numbers are consistent with the administration's request and with the budget resolution.

There were some minor changes at the request of the Senate agreed in conference, or agreed between the two bodies, which I will go into if the gentleman wishes.

Mr. Speaker, this legislation authorizes funds for the Coast Guard for fiscal year 1987 at a level that reflects the conviction of the House that the Coast Guard should have the resources it needs to operate at a level the public expects and the national interest demands. The Coast Guard was last year forced to absorb reductions of approximately $140 million below a freeze budget, requiring it to cancel all routine patrols, and to cut back on training, on maintenance of equipment, and on small scale construction projects.

The enactment and implementation of this bill will restore the Coast Guard's muscle; it will permit the full use of the people and equipment the Coast Guard now has on hand, and it will put an end, for 1 year, at least, to further erosion in the size or capabilities of the service. This legislation was approved by the House on May 6 by a vote of 374 to 0.

In addition to the central question of funding, a number of important policy questions are addressed in the bill, as well. In particular, it will:

Reduce Coast Guard costs by making the administration of State boating safety programs entirely self-supporting;

Give the Secretary of Transportation the flexibility to transfer funds from one Coast Guard account to another in order to make the most efficient possible use of available resources;

Allow schools with fishing or other maritime safety programs to make use of vessels that have been confiscated in the drug trade; and it will

Extend Coast Guard licensing requirements to the operators of all commercial vessels that tow disabled recreational vessels.

There are several differences between the bill originally passed by the House and the bill approved by the other body. For example:

The House passed bill included a provision that prohibited the construction of Coast Guard vessels in foreign shipyards. The prohibition paralleled current law regarding the construction of naval vessels. This prohibition is not in the bill before us today. I want the record to reflect that I strongly opposed the deletion of this section and will do all I can to see that it is inserted in law at a future time.

The bill now contains a provision regarding contracting which is similar, but not identical to that in the House passed bill. It would require the Secretary of Transportation to identify those "core logistic functions" of the Coast Guard which are necessary to ensure that the Coast Guard can perform its missions in behalf of the security and economic well-being of the United States. Under this provision, these activities could not be considered for contracting by the private sector. The House passed bill also required that the Coast Guard's industrial activities at its shipyard in Curtis Bay, MD, and at the Aircraft Repair and Supply Center in Elizabeth City, NC, be included in the Secretary's list of core logistic functions. The bill before us today does not require that these two activities be specifically identified as core logistic functions. The absence of language specifically requiring that these activities be listed as core logistic functions, however, is not a substantive change in the legislation. It is the view of the House that the activities carried out at these two locations are, by their very nature, necessary for the maintenance of the Coast Guard's core logistics capability, and that language specifically identifying them as such would be redundant.

The bill approved by the other body provides for the U.S. documentation of several vessels that would otherwise be ineligible for documentation. It is the policy of the House Committee on Merchant Marine and Fisheries that foreign vessels not be allowed into our domestic trade unless there are extenuating circumstances that warrent such an action. This provision permits the documentation of two foreign-built vessels under circumstances that—in the view of the committee—would not ordinarily warrant an exception to normal practice.

The bill passed by the other body also requires that fishing vessels carry emergency locating devices, and it includes a provision that seeks to enhance the Coast Guard's ability to prosecute violations of drug laws in court.

But the fundamental purpose of this legislation is to restore the Coast Guard to full strength. This bill, in combination with the omnibus drug bill, the omnibus antiterrorism bill, and the appropriations legislation soon to become law will bolster the Coast Guard's personnel strength, provide adequate equipment, and guarantee the ability of the Coast Guard to meet the many challenges it will face in the years to come.

Mr. YOUNG of Alaska. Further reserving the right to object, Mr. Speaker, if I am correct, this is less than what the House passed on by about $58 million?

Mr. STUDDS. Mr. Speaker, the gentleman is correct. It is some $48 million below the authorizing level in the House-passed bill.

Mr. YOUNG of Alaska. It is about the money that was requested by the administration?

Mr. STUDDS. The gentleman is correct.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the consideration of the Coast Guard Authorization Act of 1986, H.R. 4208. This bill addresses certain Coast Guard budget and policy issues. These include funding for 1987, maritime safety, drug enforcement, and certain technical and conforming amendments in laws and programs administered by the Coast Guard.

In the technical amendments to title 46, U.S. Code, the term "freezing" is added to the list of activities in the definition of "fish processing vessel" that differentiate such a vessel from a fishing vessel. In making this change, we are clarifying that a vessel that freezes fish on board as part of normal operations qualifies as a fishing vessel for all purposes under title 46.

It is important that the Coast Guard receive an adequate and appropriate budget for fiscal year 1987. This bill provides funding that will ensure that the Coast Guard has the people and equipment to carry out its important missions of search and rescue, law enforcement, maritime safety, and military readiness. The Coast Guard is one of the most useful and cost-effective agencies that we have in our Government and deserves our support.

Mr. Speaker, I urge all of my colleagues to enact H.R. 4208.

Mr. WALKER. Mr. Speaker, will the gentleman yield just for a quick question?

Mr. YOUNG of Alaska. Further reserving the right to object, Mr. Speaker, I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, there is nothing in here that would be incompatible with the Coast Guard activities that are contemplated under the Drug Act that we passed in the House and in the Senate?

Mr. YOUNG of Alaska. No. In fact, I think it would be compatible.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

ESTABLISHING A UNITED STATES BOXING COMMISSION

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 595 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 595

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2127) to establish a United States Boxing Commission, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Education and Labor and Energy and Commerce now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 5654, if offered by Representative Williams of Montana, as an original bill for the purpose of amendment under the five-minute rule, and each section of said substitute shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may

have been adopted, and any member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee, Mr. QUILLEN, pending which I yield to myself such time as I may consume.

House Resolution 595 is an open rule providing for consideration of H.R. 2127, a bill to establish a U.S. Boxing Commission. The rule provides for 1 hour of debate to be equally divided between the chairman and ranking minority member of the Committee on Education and Labor, and the chairman and ranking minority member of the Committee on Energy and Commerce.

After general debate, the bill shall be considered for amendment under the 5-minute rule.

In lieu of the amendments recommended by the Committees on Education and Labor and Energy and Commerce, which are now printed in the bill, the rule makes in order an amendment in the nature of a substitute consisting of the text of the bill H.R. 5654, if offered by Representative WILLIAMS of Montana. This amendment in the nature of a substitute shall be considered as an original bill for the purpose of amendment under the 5-minute rule.

The rule provides that each section of said substitute shall be considered as having been read.

Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, this rule makes in order legislation that will help move us toward significant and long overdue reforms for the sport of professional boxing. The substitute to be offered represents a broad agreement between the two committees involved. It sets forth national minimum health and safety standards for the sport, but in no way infringes on the States' rights to regulate.

Mr. Speaker, I urge adoption of the rule, and support for this important legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am sure that Congress is looking for a knockout blow and we have it in this bill.

Mr. Speaker, I have no requests for time, and yield back the balance of my time.

Mr. BONIOR of Michigan. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 337, nays 28, not voting 67, as follows:

[Roll No. 483]

YEAS—337

Abercrombie	Darden	Hamilton
Ackerman	Daschle	Hammerschmidt
Akaka	Daub	Hatcher
Alexander	Dellums	Hawkins
Anderson	DeWine	Henry
Andrews	Dicks	Hertel
Annunzio	Dingell	Hiler
Anthony	DioGuardi	Hopkins
Applegate	Dixon	Horton
Armey	Donnelly	Howard
Aspin	Dorgan (ND)	Hoyer
Atkins	Dowdy	Hubbard
AuCoin	Downey	Hughes
Badham	Dreier	Hutto
Barnard	Duncan	Ireland
Barnes	Durbin	Jacobs
Bartlett	Dwyer	Jeffords
Bateman	Dymally	Jenkins
Bates	Dyson	Johnson
Bedell	Early	Jones (NC)
Beilenson	Eckart (OH)	Kanjorski
Bennett	Eckert (NY)	Kasich
Bentley	Edgar	Kastenmeier
Bereuter	Edwards (CA)	Kildee
Berman	Edwards (OK)	Kleczka
Bevill	Emerson	Kolbe
Bliley	English	Kostmayer
Boehlert	Erdreich	Kramer
Boggs	Evans (IA)	LaFalce
Boland	Evans (IL)	Lagomarsino
Bonior (MI)	Fascell	Lantos
Bonker	Fawell	Latta
Borski	Fazio	Leach (IA)
Bosco	Feighan	Leath (TX)
Boucher	Fields	Lehman (CA)
Boulter	Fish	Lehman (FL)
Boxer	Flippo	Leland
Brown (CO)	Florio	Lent
Bruce	Foglietta	Levin (MI)
Bryant	Foley	Levine (CA)
Bustamante	Ford (MI)	Lewis (FL)
Byron	Ford (TN)	Lightfoot
Callahan	Fowler	Lipinski
Carper	Franklin	Livingston
Carr	Frenzel	Long
Chandler	Frost	Lowery (CA)
Chapman	Fuqua	Lowry (WA)
Chappie	Gallo	Lujan
Clay	Garcia	Luken
Clinger	Gaydos	Lungren
Coats	Gejdenson	Madigan
Cobey	Gekas	Markey
Coble	Gibbons	Martin (IL)
Coelho	Gilman	Martinez
Coleman (MO)	Glickman	Matsui
Coleman (TX)	Gonzalez	Mazzoli
Collins	Goodling	McCloskey
Conte	Gordon	McCollum
Coughlin	Gradison	McCurdy
Courter	Gray (IL)	McDade
Coyne	Green	McEwen
Craig	Guarini	McHugh
Crane	Gunderson	McKernan
Daniel	Hall (OH)	McKinney
Dannemeyer	Hall, Ralph	McMillan
Meyers	Roberts	Stenholm
Mica	Robinson	Stokes
Michel	Rodino	Strang
Miller (CA)	Roe	Stratton
Miller (OH)	Roemer	Studds
Miller (WA)	Rogers	Sundquist
Mineta	Roth	Swift
Moakley	Roukema	Swindall
Molinari	Rowland (CT)	Synar
Mollohan	Rowland (GA)	Tauke
Montgomery	Roybal	Tauzin
Moorhead	Russo	Taylor
Morrison (CT)	Sabo	Thomas (CA)
Morrison (WA)	Savage	Thomas (GA)
Mrazek	Saxton	Torres
Murphy	Scheuer	Torricelli
Myers	Schneider	Towns
Natcher	Schroeder	Traficant
Neal	Schuette	Traxler
Nelson	Schulze	Udall
Nielson	Schumer	Valentine
Nowak	Sensenbrenner	Vander Jagt
Oakar	Sharp	Vento
Oberstar	Shaw	Visclosky
Obey	Shelby	Volkmer
Olin	Shumway	Walgren
Ortiz	Sikorski	Walker
Owens	Siljander	Watkins
Packard	Sisisky	Waxman
Panetta	Skeen	Weaver
Parris	Skelton	Wheat
Pashayan	Slattery	Whitley
Pease	Slaughter	Whittaker
Penny	Smith (FL)	Williams
Pepper	Smith (IA)	Wilson
Perkins	Smith (NE)	Wirth
Petri	Smith (NJ)	Wise
Porter	Smith, Robert (NH)	Wolf
Price	Smith, Robert (OR)	Wolpe
Pursell	Snowe	Wortley
Rahall	Solomon	Wright
Rangel	Spence	Wyden
Ray	Spratt	Wylie
Regula	St Germain	Yates
Reid	Staggers	Yatron
Richardson	Stallings	Young (AK)
Rinaldo		Young (MO)
Ritter		Zschau

NAYS—28

Bilirakis	Hunter	Schaefer
Burton (IN)	Lewis (CA)	Shuster
Cheney	Loeffler	Smith, Denny (OR)
Combest	Lott	Stangeland
Dickinson	Mack	Stump
Dornan (CA)	Marlenee	Vucanovich
Frank	McCandless	Weber
Gregg	Monson	Young (FL)
Hendon	Oxley	
Huckaby	Quillen	

NOT VOTING—67

Archer	Grotberg	Mikulski
Barton	Hansen	Mitchell
Biaggi	Hartnett	Moody
Boner (TN)	Hayes	Moore
Breaux	Hefner	Murtha
Brooks	Hillis	Nichols
Broomfield	Holt	Pickle
Brown (CA)	Hyde	Ridge
Burton (CA)	Jones (OK)	Rose
Campbell	Jones (TN)	Rostenkowski
Carney	Kaptur	Rudd
Chappell	Kemp	Seiberling
Conyers	Kennelly	Snyder
Cooper	Kindness	Solarz
Crockett	Kolter	Stark
Davis	Lloyd	Sweeney
de la Garza	Lundine	Tallon
DeLay	MacKay	Waldon
Derrick	Manton	Weiss
Fiedler	Martin (NY)	Whitehurst
Gephardt	Mavroules	Whitten
Gingrich	McCain	
Gray (PA)	McGrath	

□ 1845

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 595 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2127.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2127) to establish a U.S. Boxing Commission, and for other purposes, with Mr. FLIPPO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Montana [Mr. WILLIAMS] will be recognized for 15 minutes, the gentleman from Wisconsin [Mr. PETRI] will be recognized for 15 minutes, the gentleman from New Jersey [Mr. FLORIO] will be recognized for 15 minutes, and the gentleman from Kansas [Mr. WHITTAKER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to rise today in support of H.R. 2127, and later this evening will rise in support of a substitute amendment to this legislation.

The Congress this year recognizes more than a quarter of a century which has passed since the Congress first embarked on an effort to bring some needed, necessary, essential reform to the sport of boxing. The first Member of Congress to begin to move on necessary reform of this sport was former Senator Estes Kefauver. There have been numerous efforts to legislate on this matter during these past 26 years, and during those more than 2 decades something else has also occurred in boxing, and that is the death of almost 200 fighters as a result directly of injuries they have received in the ring.

This quarter of a century of attempted congressional action to reform boxing has witnessed a long and bitter litany of mismatched fights, needless injuries and a mounting toll of tragic ring deaths, as I say, almost 200, with countless unnecessary injuries added to that number of deaths.

Many people in the United States as well as many Members of the Congress ask why this sport needs the regulatory hand of the Federal Government, even lightly applied as this legislation and the substitute attempts to do. Across the country sports fans, including, or course, boxing fans, as well as Members of this House, have wondered what is it that is different about boxing that requires regulation there when it is not required for such sports as baseball or basketball or tennis. The difference is that boxing does not have leagues. Boxing does not have the type of structure that lends itself well to self-regulation, and the boxing community throughout the history of boxing has attempted to reform itself. Those have been promises year after year of self-regulation, but unfortunately, and through no particular fault of the boxing community, those promises have gone unfulfilled, again because of the structure of boxing and the fact that it is regulated by literally hundreds of various regulations across the country which does not allow real, necessary needed reform and since it does not permit the type of model health and safety standards that we need, particularly for the boxers who find their workplace to be in the prize-fighting arena.

I think it is a near certainty now that the Congress' attention has followed the attention of the American people to the necessity of meaningful reform on this sport, and that is what has brought the House tonight, in its final hours of this 99th Congress, to focus itself, at least in this House, if not in the entire Congress, on moving legislation which will be a major step in efforts to reform the sport.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] has consumed 3 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman. I yield myself such time as I may consume.

Mr. Chairman, I wonder if the gentleman from Montana would answer a question. I understand the gentleman and a number of his colleagues entered into a Dear Colleague letter describing a substitute that has generally been agreed to and seems like a good resolution of some of the controversy that at one time surrounded this bill.

Can the gentleman tell me if he is planning at some time in this hour to offer that substitute?

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I will offer the substitute when the gentleman's side and our side have finished what I think will be a limited general debate.

Mr. PETRI. Mr. Chairman, I have no requests for time, and I yield my time to the gentleman from Kansas [Mr. WHITTAKER] of the Committee on Energy and Commerce.

The CHAIRMAN. Without objection, the gentleman from Wisconsin [Mr. PETRI] yields his time to the gentleman from Kansas [Mr. WHITTAKER].

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2127, a bill to establish a U.S. Boxing Corporation.

Mr. Chairman, since 1918 an estimated 449 boxers have died as a result of injuries received in the ring. Legislation that would have begun to address this problem was defeated on the House Floor 2 years ago when opponents claimed, wrongly I might add, that the bill would lead to Federal regulation of professional sports.

Mr. RICHARDSON's bill that is before us now is also a voluntary approach to this problem. It does not regulate boxing, nor does it in any way affect the ability of States or localities to regulate boxing.

Instead, it simply provides a mechanism by which uniform health and safety standards may be developed and provides incentives to comply with those standards.

I think this approach makes sense, and I congratulate our colleagues BILL RICHARDSON of New Mexico and PAT WILLIAMS of Montana, the two principal sponsors of boxing reform legislation, for their good work. Through their skillful and tireless efforts we have reached agreement on a bill that I believe will make professional boxing a much safer sport.

The key elements of this agreement include provisons that would:

Ensure the establishment of national minimum health and safety standards which the States could then implement through their own regulatory mechanisms;

Set up a computerized national data registry to track health and other information on boxers and other key individuals involved in boxing;

Provide for the certification of professional boxers and others involved in the sport; and

Establish a national entity to be known as the U.S. Boxing Corporation with a board of 12 members.

Mr. Chairman, it is our hope and expectation that the States will choose to comply with these guidelines in order to bring greater uniformity to the health and safety standards applicable to professional boxing. Currently, 42 States and the District of Columbia have athletic commissions which regulate both amateur and professional boxing. Kansas, North Carolina, Nebraska, and Oregon regulate boxing at the local level only. Colorado, Oklahoma, South Dakota, and Wyoming do not regulate professional boxing at all.

Finally, Mr. Chairman, this bill is supported by boxing promoters, State commissioners, and others involved in the sport. We believe it is long overdue

and can be the beginning of true reform in professional boxing that we all seek.

□ 1905

Mr. Chairman, I reserve the balance of my time.

Mr. WHITTAKER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we are considering H.R. 2127, establishing the U.S. Boxing Commission. I am opposed to this legislation because it is inappropriate for the Federal Government to be involved in professional sports.

An agreement has been reached between the proponents of this legislation on the Energy and Commerce Committee and those on the Education and Labor Committee. As I understand it, that agreement has been introduced as H.R. 5654 and will be offered today as an amendment in the nature of a substitute. Although that substitute improves on the current form of H.R. 2127, it does not resolve the fundamental problem I have with the legislation—which is the issue of Federal involvement in a professional sport.

Professional and amateur sports traditionally have been self-policing. Amateur boxing has been self-regulated successfully by the United States of America Amateur Boxing Federation [USA/ABF]. This federation is a nonprofit organization that has jurisdiction over the administration, eligibility, sanctioning, representation, and rules of competition for men's amateur boxing in the United States. The USA/ABF is also a central source of data for amateur boxing.

Professional boxing has not been shown to have special problems warranting Federal intervention. The public can hold professional boxing accountable by refusing either to attend matches or to watch television.

Mr. Chairman, I yield 3 minutes to our minority whip for some very momentous and sobering thoughts.

Mr. LOTT. Mr. Chairman, I had hoped for a more propitious moment in which to offer this lament "On the Fall of the House," but somehow or other, perhaps this seems like an appropriate time. I know the gentlemen who are involved with this boxing commission are very sincere and dedicated, but it really strikes me as somewhat humorous, I guess, in a tragic sort of way that here, on what may be one of the last 3 or 4 nights or so of this session, we are involved in a discussion of a boxing commission that would impose itself over State laws, I guess; but at any rate we are getting into a boxing commission.

We were supposed to have ended this session about 2 weeks ago, and I have been scratching my neck sort of wondering, how we ever end it. Have we lost our ability to even adjourn any more?

I want to thank the distinguished majority whip for showing up for this effort, and I am sure he has now prepared some responding, corresponding poetry.

It seems that all the Members are singing the tune, "We've Got to Get Out of This Place," while the majority leadership is singing a different tune called, "Never Can Say Good-bye."

I've even tried to follow that old Indian advice of walking a mile in Democrat moccasins. And, I think as a result of that little exercise in empathy, I have come up with an explanation for all our slow-motion madness.

I have taken the trouble of couching that explanation in a poem written from the viewpoint of the majority leadership. My poem is entitled, "A Democratic Leadership Lament on the Fall of the House." Here's how it goes:

A DEMOCRATIC LEADERSHIP LAMENT ON THE FALL OF THE HOUSE

(By Congressman Trent Lott)

(IN EMPATHY)

We're leaving, Yes, We're leaving,
But we can't quite bring the gavel down;
It's Fall, and we are grieving,
'Cause we can't quite leave this crazy town.

We're adjourning, yes, adjourning,
But we can't quite finally say good-bye;
It's Fall, and leaves are turning,
But we can't quite pass a sine die.

We're continuing, yes, continuing,
This Government from day to day;
It's Fall, and we're opinioning,
On just how this House will get away.

We're procrastinating, yes, procrastinating,
On just how to close this silly place;
It's Fall, we're fast deflating,
All the egos that have a campaign race.

They're running, yes, they're running,
For reelection to the House next year;
It's Fall, and we're so cunning,
To keep all those bad Republicans here.

But wait now, that's not so great now,
We've got Democrats out on that campaign trail;
It's Fall, and getting late now,
What if our little party plot should fail?

So, we're quitting, yes, we're quitting,
To go home and beat the Reagan band;
It's Fall, and we'll be hitting,
Their contribution to this land.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. WHITTAKER. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I am not going to make an extended reply to the distinguished gentleman from Mississippi [Mr. LOTT].

I think it may be called the commendable first effort.

But I would not advise him on a midlife change of career.

Mr. WHITTAKER. Mr. Chairman, I reserve the balance of my time.

Mr. FLORIO. Mr. Chairman, I yield 4 minutes to the principal cosponsor of the bill, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I would like to thank you for allowing the consideration of H.R. 2127, a bill to establish a United States Boxing Commission. I would like to extend a special thanks to Congressman JIM FLORIO, who shares my interest in boxing and who has assisted me with this legislation in every way possible. I would also like to thank my colleagues PAT WILLIAMS and JACK FIELDS, who have been working with us for the last 2 years to come up with the legislation we are considering here today.

Mr. Chairman, Gil Clancy, veteran exboxing manager and CBS boxing sportscaster had this to say when asked about H.R. 2127.

Boxing is a healthy sport today because cable TV has helped bring boxing to many homes, but things can't stay that way for long if there isn't a national board. * * * States like Nevada, New Jersey and California are working together to bring some order within the sport. But we need to standardize not only safety and officiating rules but everything else in pro boxing.

H.R. 2127, a bipartisan compromise, would establish the United States Boxing Commission, a federally chartered, private nonprofit corporation—the U.S. Olympic Commission is similarly chartered and organized.

Mr. Chairman, over 460 professional boxers have died in the ring. Countless others have been seriously injured and incapacitated. While the Muhammed Ali's and the Marvin Hagler's of the world have the money and managers to hire the best ringside physicians and to provide for themselves and their families should they have to retire from the ring, many boxers are very young, poor, and have few educational opportunities—boxing is a way out for them, but the current disorganization and lack of uniform health and safety standards make it a dangerous way out.

The nonsystem for professional boxing provides young boxers with additional pitfalls. Boxing is regulated in 42 States and localities—some States have no regulations, others only license boxers—many provide boxers with no guidance or protections at all. A boxer can fight in Texas, get knocked out, go to New Mexico the next day and fight again—endangering his own health, the health of others, and, utimately, the health of the sport itself.

In the 98th Congress, the AMA endorsed the establishment of a national commission to establish minimum health and safety standards for professional boxing. When Congress failed to act, the AMA called for an outright ban on boxing. I think I am speaking for most of my colleagues when I say this is too extreme a measure—boxing is big business, has a very large following in the country and provides many young men, many from Hispanic and black neighborhoods,

with a way out. But I also think most of my colleagues would agree that boxing needs to be cleaned up.

In the 99th Congress, bills have been introduced which range from an outright ban of professional boxing to total Federal regulation of the sport—we feel H.R. 2127, with the changes incorporated into a friendly substitute to be offered by Mr. WILLIAMS, achieves the middle ground between these two extremes. While the Commission would be chartered by the Federal Government, it would not be run by it or provide for Federal regulation of the sport in any way—participation by States and individuals would be entirely voluntary. The bill deals strictly with health and safety standards—it does not promote fights, rank boxers or get involved in business that is the legitimate purview of promoters, broadcasters, boxing organizations, or States; this bill would, in no way, preempt State authority—it would assist the States and, in fact has been endorsed by the State Boxing Commissioners. Also, there would be no authorization of Federal funds under the compromise worked out between the Education and Labor and Energy and Commerce versions of the bill.

While this bill accomplishes many purposes, the most important purpose it accomplishes is to set up an effective framework to improve the health and safety standards for professinal boxers everywhere.

Mr. Chairman, the very nature of the sport of boxing points to the need for a centralized organization, charged solely with the health and safety of boxers. Existing boxing organizations promote fights and rank boxers—it seems inappropriate that these organizations also be responsible for maintaining health and safety standards. Further, the myriad of State and local boxing regulations make it possible for boxers to move from State-to-State, and match-to-match, endangering their own health and the health of others.

Again, this bill has been endorsed by the association of State Boxing Commissioners and has broad support within the boxing community. I believe this to be an important and timely bill and urge my colleagues to support it.

(1) What this bill does:

Both the original bill and the substitute establish a federally chartered, private nonprofit corporation to establish minimum health and safety standards for professional boxing.

Original bill calls it the United States Boxing Commission, substitute calls it the United States Boxing Corporation.

Point: This is not Federal regulation of boxing.

It sets up an organization similar to the U.S. Olympic Commission. Participation in the organization is entirely voluntary.

Point: Why this bill is needed?

To those who ask why the Federal Government should be involved in sports in any way—boxing is regulated on a State-by-State basis. Eight States have no regulation of the sport at all. This causes real health problems as boxers can go from State to State, and participate in fights which may endanger both themselves and others in the ring. A centralized organization is needed although Federal regulation is not the way to go. This bill would allow the sport to regulate itself and simply provides the sport with the organizational framework and gentle nudge it needs to regulate itself.

(2) Purposes of the organization.

Commission would do the following:

A. propose rule changes in ensure safety of participants

B. establish a uniform set of rules which may be adopted by various State boxing authorities

C. establish minimum standards for physical and mental examinations, medical standards at ringside

D. provide for voluntary life, accident and health insurance fund for professional boxers and others in the boxing community

Note: this does not mean the Corporation will pay for—only that it will assist in organizing and establishing one

E. research and establish minimum standards for boxing equipment

F. conduct discussions and enter into agreements with foreign boxing communities on methods for applying minimum health and safety standards

G. assist States in achieving minimum health and safety standards.

H. prescribe standards for the making of contracts, agreements, arrangements, and understanding pertaining to bout agreements between boxers and promoters.

(3) Corporation would also provide grants to States to Assist State boxing commission or appropriate entities in establishing and maintaining model State boxing commission standards. Funds raised for this purpose and the dispensing of these funds would be the responsibility of the corporation.

(4) Certification.

Corporation would certify boxing professionals and States as having met minimum health and safety standards established by the USBC. Corporation would maintain a central information system to assist them in this certification process. These features are essential to the organization and its ability to maintain minimum health and safety standards.

Certification provisions had the strongest support from boxers, promoters, State commissioners and business interests and are viewed as essential to the success of the voluntary organization they give it its teeth.

(5) Decertification.

Corporation would have the authority to decertify those who do not comply with the minimum health and safety standards established by the Commission—this provision is viewed by the boxing community both State commissions and promoters, to be crucial to the success of the voluntary approach.

Note: The decertification would be in effect for a minimum of 6 months—everyone at the meeting wanted to ensure that it had punch and was not a simple slap on the wrist.

(6) Makeup of the Commission.

Makeup of the Commission is as follows:

Eight voting members appointed by the President from lists of six per slot supplied in equal numbers by the Speaker of the House and the majority leader in the Senate, as follows:

Two acting State commissioners (at time of appointment).

Two current participants in the sport (could be managers, boxers, referees, et cetera.)

Four persons, with an interest in the sport but no current financial interest.

One voting member appointed exclusively by the President with no financial interest in the sport.

Total of nine voting members—four from House lists, four from Senate lists, one from President, exclusively.

Three nonvoting members.

One media representative.

One amateur.

One foreign representative.

All appointed by the President exclusively so essentially, President gets four, House gets four, Senate gets four.

The Chairman of the Corporation is elected by the Board. Chairman may have no financial interest.

Bill gives those with no financial interest a controlling vote—there are five voting with no financial interest—on the Corporation and at the same time allow for the input of current participants in the sport.

Board members are appointed for 5-year terms. It is the intent that, when appointed, State commissioners be acting State commissioners. If, over the course of their tenure on the corporation, they cease to be acting State commissioners, you intend that they be allowed to finish their term.

(7) Support for the bill.

Bill has the support of the State Boxing Commissioners Association [the ABC] and was endorsed by them. You have worked with promoters, managers, networks, et cetera. To get a consensus—the substitute accomplishes this. Networks have voiced no objections. Has bipartisan support in the Congress.

(9) No use of Federal funds in the bill.

(10) Additional views, dissenting views.

In the substitute, many of the problems filed as additional views have been taken care of—dropping the Members of Congress as ex officio members.

Also, many objected to Federal funds being used—this is taken care of in the WILLIAMS' substitute.

(11) Bill would not rank boxers, promote fight or interfere with broadcast contracts.

(12) Bill and the substitute would prohibit the certification of promoters, managers and matchmakers who have served in prison for more than a year. Provision is not retroactive (grandfather clause) and does not apply to boxers. This was done because the business end of the sport needs to be cleaned up.

The reason why the bill says one year and not felony is because there is no consistent definition of felony in the 50 States. Also there are no consistent definitions of types of crimes—that is, manslaughter—and no consistent definition of moral turpitude.

(13) International participation.

Bill includes nonvoting international boxing representation and empower the Corporation to work out agreements on the health and safety standards with foreign boxing entities.

(14) Audit and report to Congress.

Comptroller General shall audit the organization annually—this is how conflict of interest in fundraising could be carefully monitored.

USBC's annual report shall include information about progress of the States, the organization and the results of GAO's audit.

Substitute requires that the report be submitted to Congress—does not specify which committees.

(15) Salaries.

The substitute limits salaries and per diem of Corporation members and staff so that the bulk of this money can go to grants to States.

Chairman receives a salary of no more than $72,000 per year.

Other Board members receive per diem of no more than the equivalent of $55,000 per year (no salary) and expenses.

Staff can receive salary of no more than $55,000 per year.

□ 1915

Mr. WHITTAKER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I rise in support of H.R. 2127, a bill to establish the United States Boxing Commission.

I have been intensively involved in the refinement of this legislation for the past year. I am very pleased to see all of the months of negotiation culminating in floor consideration prior to the adjournment of the 99th Congress.

Mr. Chairman, in the past, legislation which sought to deal with the acknowledged problems in the sport of professional boxing was fraught with controversy over the appropriate role, if any, of the Federal Government in the conduct of a professional sport. Specifically, past legislation was opposed due to concerns that it would regulate boxing. H.R. 2127 does not regulate boxing.

Critics of a Federal role in professional boxing have pointed to the lack of such a role in the conduct of other professional sports. I submit to my colleagues that the state of professional boxing warrants special consideration at the Federal level.

From 1972 to 1984, 78 professional boxers in the United States died from injuries incurred during matches. Many in the sport feel this situation exists because there are no uniform health and safety standards. Consequently, there are no means to adequately assess the health history and status of boxers in a consistent way.

Colleagues, I wish that this legislation were not necessary. But, I sincerely believe that it is. I am not one who generally advocates Federal intervention into business operations, nor do I generally advocate a governmental role where the appropriate actor is the private sector. However, all past efforts by those involved in professional boxing to form an active national leadership body to focus on health and safety issues have failed.

What has been needed is something on the order of the National Football League or the National Basketball Association to at least develop uniform health and safety standards to be adopted at the State and local levels.

I know that some of my colleagues fundamentally are opposed to this legislation. However, H.R. 2127 should silence the critics of past boxing commission legislation that was characterized by a Federal Government regulatory role, for H.R. 2127 does not regulate boxing. Rather, the legislation creates a federally chartered, voluntary corporation to provide leadership in the development of uniform health and safety standards in professional boxing.

BILL RICHARDSON, PAT WILLIAMS, and I have worked intensively on H.R. 2127 to address many of the concerns that have been raised about the bill. I believe that we have come a long way in allaying most of the concerns that were brought to our attention.

This is evident upon examining the amendment in the nature of a substitute that will be offered by Mr. WILLIAMS. My colleagues will note that the substitute no longer contains an authorization for appropriations, which was a point of controversy. Additionally, the board of directors will not include Members of Congress in either voting or nonvoting positions.

In conclusion, Mr. Chairman, I reiterate my unwavering support of H.R. 2127 and urge my colleagues to join me in voting for this legislation.

Mr. WHITTAKER. Mr. Chairman, I reserve the balance of my time.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. Mr. Chairman, several years ago, I had the honor of speaking before the National Veteran Boxers Association. It was attended by retired and active boxers, 3 former world champions, trainers, doctors, sports writers, and many others who love the sport of boxing.

Everyone at the conference supported the establishment of a National Boxing Commission and felt it would be very beneficial for the fighters and the sport itself.

I certainly agree and want to express my appreciation to my distinguished colleague from Montana, PAT WILLIAMS, for all his hard work and commitment to this idea.

I also thank my distinguished colleague from New Jersey, Mr. FLORIO, for managing this legislation today.

I know a United States Boxing Commission will help keep fighters healthier and safer and I know it will also be a very good thing for the sport itself.

I hope all my colleagues will join in supporting the creation of the United States Boxing Commission.

Mr. WHITTAKER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. I thank the gentleman for yielding time to me.

Mr. Chairman, even though the bill before us tonight establishing a U.S. Boxing Commission is much better than the one reported out by the House Energy and Commerce Committee on which I serve, I still am compelled to speak out against it. Yes, the Education and Labor Committee has shown the wisdom of knocking out the authorization for $750,000 for fiscal years 1987 and 1988, which was provided in the original bill. I spoke against this bill in committee for several reasons: First, being the cost, and second, whether the Federal Government needs to be involved in professional boxing. I don't think so. Every time we turn around there is a new idea for a Federal commission. When will we wise up to the continuing encroachment of the Federal Government into our lives? Just a few weeks ago I offered an amendment on this floor during debate on the drug bill to knock out a fully federally funded commission to study recruiting practices and the impact of television on college athletes. Enough is enough.

The other body in its deliberations chose to do what the House refused to do and that was to strike the college commission. I would urge my col-

leagues to vote against this new commission before us tonight. The bottom line is that we ask ourselves whether the Federal Government needs to be involved in any way with professional boxing. If this passes, I have no doubt that the next commission will be to study, under the guise of improved foreign relations, polo players and the injuries sustained by the horses and players. I might add that there is nothing in this bill that prevents this commission from subsequently coming to the Congress for an appropriation.

My colleagues, let's vote down this further intrusion by the Federal Government.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is obviously at least some minsunderstanding about this bill. First, this does not create a Federal commission. There is no commission under this bill. Second, there is no Federal authority being created at all under this bill. So, there is not a Federal commission. There is no Federal authority.

This is not Federal regulation.

This simply creates a corporation of boxing people who create a board and if your State boxing commission wants to voluntarily join that corporation and they vote to do so, they simply come under the minimum health and safety standards that that corporation establishes. But do not make the mistake that this is the heavy hand of the Federal Government and you are voting for or against creating a Federal boxing commission.

That is not what this bill is all about.

Mr. Chairman, I reserve the balance of my time.

Mr. WHITTAKER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I rise in support of H.R. 2127, establishing a U.S. Boxing Commission. An agreement has been reached between the supporters of this legislation on the Committee on Energy and Commerce and the Committee on Education and Labor. That agreement has been introduced as H.R. 5654 and will be offered as an amendment in the nature of a substitute to H.R. 2127. I was involved in the negotiations on the substitute and I support that substitute.

The Subcommittee on Commerce, Transportation, and Tourism has held a series of hearing on this issue over the past few years which have demonstrated the need for this legislation.

During the last several years, there have been a number of tragic ring-related deaths and injuries, which have raised questions about the effectiveness of the present system for protecting the health and safety of professional boxers. After reviewing the present system, it is apparent that there is no uniform or centralized system of regulation.

Additionally, there is no central method of collecting information on injury or ring records, in professional boxing. This makes it difficult, if not impossible, for authorities to implement and enforce uniform standards.

The legislation we are considering today will correct this situation. The amendment in the nature of a substitute that will be offered establishes a nonprofit corporation to be known as the U.S. Boxing Corporation. This corporation will:

First, establish a uniform set of rules for professional boxing that may be adopted by the States;

Second, provide a national computer source for the collection of data pertinent to professional boxing;

Third, certify as meeting the minimum standards those persons having a role in professional boxing;

Fourth, establish a grant program to encourage compliance by States with standards established by the commission; and

Fifth, review "bout" agreements between boxers and promoters.

Some of my colleagues have argued that there is no need for such a commission. They have argued that boxing should follow the precedents of self-regulation established by football, baseball, and other sports. There are, however, fundamental differences between professional boxing and other sports.

Professional football and baseball players are usually recruited from colleges and universities. Professional boxer often have not had opportunities to obtain a higher education. They do not have the protection provided by the guidance of athletic coaches. Professional boxers are often young men who by pursuing a career in boxing, are taking advantage of one of the few opportunities they have to excel. It is important that there be a uniform system of State laws and regulations protecting such young boxers.

There are many issues involved when one considers how or whether to regulate an activity where men choose willingly to fight and others choose willingly to watch. But I believe that at a minimum, there should be an attempt made to establish uniform standards and conditions under which boxing matches are fought and promoted.

The legislation we are considering today strikes the delicate balance necessary to maintain the proper Federal and State relationship appropriate for regulating professional boxing. It establishes a federally chartered nonprofit corporation to coordinate States' efforts to regulate professional boxing. However, States' participation in the corporation is voluntary.

The States have many incentives to participate in such a corporation. By providing uniform health and safety standards, it will decrease the number of boxing related injuries and deaths. In fact, the States have expressed their support for this legislation through the Association of Boxing Commissioners, which represents 37 States.

Additionally, boxers, including Louis Rodriquez who is a former professional boxer from Pennsylvania, promoters and managers have testified before the subcommittee in support of the legislation.

H.R. 2127, as amended, will not only improve the regulation of professional boxing, but it will also improve its image in the public eye. I believe this legislation is necessary and urge my colleagues to vote in favor of it.

Mr. WHITTAKER. Mr. Chairman, I have one last request for time. In the spirit of bipartisanship, I yield 4 minutes to the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Mr. Chairman, let me first say that I think the purpose of this proposed legislation is indeed commendable, and most of what it proposes, I think, is very necessary. It recognizes some serious problems. However, it also does some things that I want to bring to your attention which will explain why I, who have at one time been associated with the sport, oppose it and urge my colleagues to do so. It goes far beyond what it needs to do.

Let me give you some examples from the bill. It says—and it does, incidentally, create a U.S. Boxing Commission which involves our Government because some of the directors, it says, of the USBC would be appointed by the President; it involves the Congress, the House and the Senate in setting it up and it does things such as this: it says the USBC "shall provide a unified national computer source for the collection of business associates of boxers." Well, you see the danger in that, if you understand the sport, since it is a very, very brutal sport, it involves a disproportionate number of people out of the worst kind of slum and ghetto conditions.

And people who come out of such conditions, and some of the finest boxers have come out of such conditions, in fact most have; when you come out of those conditions it is natural that you would have, whether you are a boxer or not, business associates who might be considered unsavory. You cannot avoid it. To computerize that information can deter the development of some of our Nation's finest fighters.

It says also that the USBC "shall issue a certificate to each boxer." You are going to certify boxers.

Well, when the Government starts certifying boxers, it makes me recall what happened to one of the greatest boxing champions in the history of this world who was stripped of his title, which was a kind of certification, and I am talking about Muhammad Ali, stripped of his title because of the unpopularity of his political views.

I do not want to see this Government or anything associated with this Government going around and putting a stamp of acceptance on a boxer beyond that which is deserved by his skills.

Mr. WHITTAKER. If the gentleman would yield, I believe an explanation to your concerns might be addressed by the gentleman from New Mexico, who is on his feet.

Mr. SAVAGE. I have not finished with my concerns. I want to give them all to him and let him address them all.

Let me state further: "the USBC shall withdraw certification if it finds such withdrawal may be in the public interest." The withdrawal that may be in the public interest should be more specific, for example if it has to do with the health and welfare of that boxer. But not generally. It says, "certify an individual boxer," and so forth, "if the individual has not been convicted of a crime."

Well, many, many of those involved in this sport have been convicted of a crime, not only the promoters but the boxers themselves. Boxing has been a way for them to rehabilitate themselves.

I think this is drafted by a person with good intent but really, really, whether he has been in the sport or not, I do not think he understands the sport.

I urge my colleagues to reject it and send it back so they can then improve it because it is needed but not in its present form.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I just want to correct a couple of statements made by my colleague.

First of all, some of the concerns he addressed are taken care of in the substitute. There is no reference whatsoever on the collection of information on business associates in the substitute that the gentleman from Montana is going to offer. Second, this commission has nothing to do with certifying boxers whatsoever. The Federal Government has no role whatsoever.

I would like to point out to my colleague from Illinois that the bill has been endorsed by some several leading people in the boxing industry, Mr. "Butch" Lewis, a promoter, Bob Aram of Top Rank, a promoter, and the issue that he raised, the felony, the 1-year jail serving, is being taken care of, it is being clarified by the gentleman from Texas who will be offering an amendment to the substitute.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to my colleague from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, I just want to note that the Association of Boxing Commissioners representing the boxing commissions of 37 of our States have endorsed this specific piece of legislation.

Mr. WHITTAKER. I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I will ask the gentleman from Montana briefly to respond to some questions. I think the gentleman from New Jersey partially cleared it up.

My understanding of the substitute legislation is that model State boxing standards will be developed and it will be up to the States to adopt them or not. Although these commissions have worked with you, do we have any indication that those leading boxing States, California, Nevada, New York, New Jersey will in fact cooperate? Because if they are not willing to cooperate, it really does not mean much to develop the standards.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Montana.

Mr. WILLIAMS. I thank the gentleman for yielding.

Mr. Chairman, the answer to the gentleman is, that is correct. We have worked closely with both associations of State commissioners and with individual State commissioners. They have been involved continually for 8 years but particularly during this past year in the development of this legislation.

Mr. THOMAS of California. Mr. Chairman, I think this is long overdue. I commend those who wrote it. It is done in a very reasonable fashion. There needs to be some kind of standard set, and this seems to be good legislation.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman for yielding. I will not take the 2 minutes.

But let me underscore the fact that this is not Federal regulation of boxing. Some in this Chamber may think that that is what is necessary. I happen to think we ought to have something much stronger than what we have here this evening. But this established a structure by which the States and the boxing community itself can cooperate with each other and develop some approaches to establish some order out of chaos. This is not Federal regulation of boxing.

We are facilitating a structure by which some improvement can be made in a sport where improvements are desperately needed at this point.

This is a very modest step, and I hope the House of Representatives will take the opportunity to pass this legislation.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Texas.

Mr. FIELDS. Mr. Chairman, is the gentleman aware that between 1972 and 1984, 78 professional boxers in the United States died from injuries incurred during matches?

Mr. DORGAN of North Dakota. Absolutely, and that is precisely why there needs to be something done in this area. The heavy hand of Federal regulation is not what we are talking about. Many people object to that. We are talking here about giving the boxing community and the State governments and local communities an opportunity to do for themselves what we all know is necessary.

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Mr. WHITTAKER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FLORIO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to House Resolution 595, it is in order to consider an amendment in the nature of a substitute consisting of the text of H.R. 5654 as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments recommended by the Committees on Education and Labor and Energy and Commerce printed in the reported bill, if offered by Representative WILLIAMS.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. Under the rule, each section of the amendment in the nature of a substitute is considered as having been read.

The Clerk will designate section 1.

Mr. WILLIAMS. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is, as follows:

Amendment in the nature of a substitute offered by Mr. WILLIAMS:

SECTION 1. ESTABLISHMENT OF USBC.

There is established a nonprofit corporation to be known as the United States Boxing Corporation (hereinafter in this Act referred to as the "USBC"). The USBC shall maintain its principal office in Washington, District of Columbia.

SEC. 2. PURPOSES OF THE USBC.

(a) MODEL STATE BOXING STANDARDS.—For the purpose of establishing criteria for States to meet in order to receive assistance under this section and to encourage the nationwide implementation of uniform boxing regulation at the State level, the USBC shall develop model State boxing standards.

(b) GRANTS TO STATES TO IMPLEMENT MODEL STATE BOXING STANDARDS.—(1) The USBC shall make grants, provide technical assistance, or both, to assist States in the adoption and implementation of a plan—

(A) to establish or maintain an appropriate State agency charged with the regulation of professional boxing (hereinafter in this Act referred to as a "State boxing authority") which meets the model State boxing standards developed under subsection (a); and

(B) to comply with such other requirements as the USBC considers necessary or appropriate for a State boxing authority.

(2) Each State that desires to receive a grant or technical assistance, or both, under this subsection shall apply to the USBC. The USBC shall approve an application if it contains the information and assurances that the USBC considers necessary to demonstrate that the State has an effective plan for meeting the requirements under paragraph (1).

(c) ESTABLISHMENT OF NATIONAL REGISTRY AND CERTIFICATION.—(1) The USBC shall provide a unified national computer source for the collection, storage, and retrieval of (A) a list of professional boxers, (B) the medical records, won-loss records, size, weight, and business associates of such boxers, and (C) information pertinent to the sport of boxing on boxing promoters, boxing matchmakers, boxing managers, trainers, cut men, referees, physicians, and any other personnel determined by the USBC to have a professional role in boxing.

(2) The USBC shall issue a certificate, either through State boxing authorities or through the manner deemed most appropriate by the USBC, on an annual renewable basis, to each boxer, cut man, referee, and physician which meets USBC minimum standards, and shall issue for certified boxers an accurate record of their medical history, biographical information, and won-loss boxing record.

(3) The USBC shall issue a certificate, either through State boxing authorities or through the manner deemed most appropriate by the USBC, at least every three years, to each boxing promoter, boxing matchmaker, boxing manager, trainer, and other person determined by the USBC to have a professional role in boxing, which meets USBC minimum standards.

(4) The USBC shall issue a certificate to each State, on an annual, renewable basis, that adopts and implements the model State boxing standards developed under subsection (a).

(d) ADDITIONAL PURPOSES.—In addition to the purposes described under subsections (a) through (c), the purposes of the USBC shall be to—

(1) propose changes in the rules of the sport of professional boxing to ensure the safety of participants and establish a uniform set of rules which may be adopted by the various State boxing authorities to follow;

(2) establish minimum standards and procedures for physical and mental examinations to be given boxers;

(3) establish minimum standards for the availability of medical services at professional boxing matches;

(4) provide for a life, accident, and health insurance fund for professional boxers and other members of the professional boxing community;

(5) research and establish minimum standards for the manufacturing and use of boxing equipment, including gloves, head gear, ring ropes, and all other boxing-related equipment;

(6) conduct discussions and enter into agreements with foreign boxing entities on methods for applying minimum health and safety standards to foreign boxing events and foreign boxers, trainers, cut men, referees, judges, ringside physicians, and other professional boxing assistants;

(7) review existing State boxing authority rules and regulations for professional boxing and provide assistance to such authorities in meeting USBC minimum health and safety standards; and

(8) prescribe standards for the making of contracts, agreements, arrangements, and understandings pertaining to bout agreements between boxers and promoters.

SEC. 3. WITHDRAWAL OF USBC CERTIFICATION.

The USBC shall withdraw any certification made under this Act, at any time—

(1) if it finds such withdrawal is in the public interest and that there exist reasonable grounds for belief that standards prescribed by the USBC under section 2 are not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have been used in connection with such certification; and

(2) with respect to any boxer, promoter, or referee who participates in a bout in a State which is not certified by the USBC.

Any withdrawal of certification under this section shall be for a period of not less than six months.

SEC. 4. POWERS OF USBC.

(a) IN GENERAL.—The USBC shall be subject to the District of Columbia Nonprofit Corporation Act and shall have the usual powers conferred upon a nonprofit corporation by that Act. In addition, the USBC may—

(1) serve as the coordinating body for all efforts in the United States to establish and maintain uniform minimum health and safety standards for professional boxing;

(2) charge dues for membership and reasonable fees for services it performs, and use any revenue from such dues or fees which exceeds expenditures for other authorized purposes under this Act for grants under section 2(b);

(3) establish, regulate, and discontinue subordinate organizations;

(4) establish criteria for membership in the USBC, determine benefits and responsibilities which pertain to membership, and receive and expel as members such States, existing organizations, and individuals as may be deemed desirable and proper to carry out the corporate purposes;

(5) publish a newspaper, magazine, or other publication consistent with the corporate purposes; and

(6) do any and all things necessary and proper for a nonprofit corporation to accomplish the purposes set forth in section 2, consistent with the provisions of this Act, the constitution and bylaws of the USBC, and the District of Columbia Nonprofit Corporation Act.

(b) PROHIBITIONS.—The USBC shall not—

(1) effect contracts for the television distribution of boxing events,

(2) promote boxing events or rank professional boxers,

(3) certify an individual as a boxing promoter, boxing matchmaker, or boxing manager meeting USBC standards if the individual was not a boxing promoter, boxing matchmaker, or boxing manager before the date of the enactment of this Act and has been convicted in a State or Federal court of a crime for which imprisonment of more than one year was authorized unless the individual has received a State or Federal pardon for such conviction or has had the record of such conviction expunged, or

(4) provide grants or technical assistance to, or authorize the use of the name of the USBC by, States which do not comply with requirements of the USBC.

(c) NAME.—The USBC shall have the exclusive right to use the names "United States Boxing Commission" and "USBC", and any person who, without the permission of the USBC, uses such name or any other exclusive name, trademark, emblem, symbol, or insignia of the USBC for the purpose of inducing the sale of any goods or services, or to promote any exhibition, performance, or sporting event, shall be subject to suit in a civil action by the USBC for the remedies provided in the Act of July 5, 1946 (60 Stat. 427; 15 U.S.C. 1051 et seq., popularly known as the Trademark Act of 1946).

SEC. 5. BOARD OF DIRECTORS.

(a) IN GENERAL.—The USBC shall have a Board of Directors. The Board of Directors shall, except as provided in paragraph (6)(B), consist of citizens of the United States as follows:

(1) One boxer, boxing trainer, judge, promoter, or sports medicine physician, currently active in the sport, to be appointed by the President from a list of six persons recommended by the Speaker of the House of Representatives.

(2) One boxer, boxing trainer, judge, promoter, or sports medicine physician, currently active in the sport, to be appointed by the President from a list of six persons recommended by the majority leader of the Senate.

(3) One acting State Athletic or Boxing Commissioner to be appointed by the President from a list of six persons recommended by the Speaker of the House of Representatives.

(4) One acting State Athletic or Boxing Commissioner to be appointed by the President from a list of six persons recommended by the majority leader of the Senate.

(5) Five persons with an interest in and knowledge of the sport of boxing, but with no current financial interest in that sport, of which—

(A) two shall be appointed by the President from a list of twelve persons recommended by the Speaker of the House of Representatives;

(B) two shall be appointed by the President from a list of twelve persons recommended by the majority leader of the Senate; and

(C) one shall be appointed by the President.

(6) Three nonvoting members, appointed by the President, of whom—

(A) one shall be a member of the boxing media;

(B) one shall be a citizen of a foreign country with an interest in and knowledge of the sport of boxing, but with no current financial interest in that sport; and

(C) one shall be a member of the U.S.A. Amateur Boxing Federation.

(b) INITIAL APPOINTMENTS.—Initial appointments under subsection (a) shall be made within sixty days after the date of enactment of this Act.

(c) TERMS.—Members of the Board of Directors shall be appointed to five-year terms.

(d) SUCCESSORS.—If any member of the Board of Directors is unable to serve his full term of office or becomes unqualified to serve in such position, a new member shall be appointed to serve the remainder of such term of office in the same manner in which the original appointment was made.

(e) INITIAL MEETING.—The initial meeting of the Board of Directors shall be held within ninety days after the date of enactment of this Act.

(f) ORGANIZATION.—The Board of Directors shall, as soon as practicable after being appointed and qualified, adopt a constitution and bylaws and take whatever other steps are necessary to complete the organization of the USBC.

(g) CHAIRMAN.—At the initial meeting of the Board of Directors the Board shall elect one of the members appointed under subsection (a)(5) to be the chairman. The chairman shall have administrative responsibility for the USBC.

(h) COMPENSATION.—

(1) The chairman of the USBC shall be paid at a rate determined by the Board of Directors, not to exceed $72,000 per year, plus expenses.

(2) All other voting members of the Board of Directors shall be paid at a rate not to exceed the daily equivalent of an annual rate of pay of $55,000 for each day, including traveltime, during which such member is engaged in the actual performance of the official business of the USBC, and shall be reimbursed for all travel and other expenses incurred in the performance of such business.

SEC. 6. STAFF.

The USBC may hire such staff as may be necessary to enable it to accomplish its purposes under this Act. No member of such staff shall receive a salary in excess of $55,000 per year.

SEC. 7. NONINTERFERENCE WITH STATE BOXING AUTHORITIES.

Nothing in this Act shall prohibit any board, commission, or other agency created by or pursuant to the law of any State or political subdivision of any State from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or boxing matches.

SEC. 8. AUDIT AND REPORT.

(a) AUDIT.—The Comptroller General shall conduct an annual audit of the finances of the USBC, to be completed in time for inclusion in the report required by subsection (b).

(b) REPORT.—The USBC shall submit a report to the Congress within one year after the date of enactment of this Act and annually thereafter. Such report shall detail the activities of the USBC for the preceding year and shall include—

(1) a description of the State boxing authority in each State, if any;

(2) a description of the degree to which each State is implementing the model State boxing standards developed under section 2(a); and

(3) the results of the audit required by subsection (a).

SEC. 9. DISTRIBUTION OF ASSETS TO MEMBERS.

(a) IN GENERAL.—No part of the income or assets of the USBC shall inure to the benefit of any member, officer, or director, or be distributed to any such person during the life of the USBC or upon dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of reasonable compensation to officers of the USBC in amounts approved by the Board of Directors of the USBC.

(b) LOANS.—The USBC shall not make loans to its officers, directors, or employees. Any director who votes for or assents to the making of a loan to an officer, director, or employee of the USBC, and any officer who participates in the making of such loan, shall be jointly and severally liable to the USBC for the amount of such loan until the repayment of such loan.

SEC. 10. NONPOLITICAL NATURE OF USBC.

The USBC shall be nonpolitical and, as an organization, shall not promote the candidacy of any person seeking public office.

SEC. 11. LIABILITY FOR ACTS OF OFFICERS AND AGENTS.

The USBC shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 12. BOOKS AND RECORDS; INSPECTION.

The USBC shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, Board of Directors, and committees having any of the authority of the Board of Directors. It also shall keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the USBC may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

SEC. 13. USE OF ASSETS ON DISSOLUTION OR LIQUIDATION.

Upon final dissolution or liquidation of the USBC, and after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the USBC may be distributed in accordance with the determination of the Board of Directors of the USBC and in compliance with the constitution and bylaws of the USBC and all Federal and State laws applicable thereto.

SEC. 14. STATE DEFINED.

As used in this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States.

AMENDMENT OFFERED BY MR. RALPH M. HALL

Mr. RALPH M. HALL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by RALPH M. HALL: Page 7, lines 9 through 18, amend paragraph (3) to read as follows:

(3) certify as a boxing promoter, boxing matchmaker, or boxing manager any applicant who has been convicted of a crime, other than a misdemeanor, under Federal or State law, for which imprisonment of more than 1 year is authorized, unless the applicant—

(A) was a boxing promoter, boxing matchmaker, or boxing manager before the date of the enactment of this Act;

(B) has received a Federal or State pardon for such conviction; or

(C) has had the record of such conviction expunged; or

Mr. RALPH M. HALL. Mr. Chairman, the amendment I am offering today will clarify and make more consistent a provision that I inserted in the bill during its consideration before the Energy and Commerce Committee. Under this provision—section 4(b)(3)—as reported from the committee, the U.S. Boxing Commission would not be authorized to certify as a boxing promoter, boxing matchmaker, or boxing manager any person who had been convicted of a crime carrying a sentence of more than 1 year. At the outset we first included everyone—then watered the requirement down by, in effect, grandfathering all present convicted felons. Now we have agreed to water it down further with the exceptions agreed to in this amendment.

I want to make it clear that this provision does not affect anyone who is currently engaged in these activities. However, an important exception is included—and that exception provides that any such person who has received a pardon or has had the conviction expunged from his record will be eligible for certification, as in the bill as reported.

Since the bill was reported from the committee we have been told that there are some States in which misdemeanor convictions carry sentencing provisions of more than 1 year. My intent with this provision was to make convicted felons ineligible for certification, unless they had been pardoned or had their record expunged, but not prohibit from certification persons convicted of misdemeanors. What we found when we first attempted to draft this provision was the utter lack of consistency among the States in the classification of crimes between felonies and misdemeanors as well as in sentencing provisions.

I believe this amendment clears up a problem that has concerned a number of Members. The amendment makes it clear that in any State in which a misdemeanor conviction under State law provides for a sentence of more than 1 year, then the 1-year provision will not apply. Thus, a person convicted of such a crime will be eligible for certification.

Mr. Chairman , in closing I want to respond to another of the criticisms that has been raised about this subsection of the bill. There are some members, I understand, that feel the 1 year of imprisonment sentencing provision should be higher, perhaps 2 or as much as 3 years. They feel the 1 year is arbitrary and is set too low. As I mentioned, with the complete lack of consistency among the States, we selected 1 year because 1 year of impris-

onment is used to classify Federal crimes as either felonies or misdemeanors. I think the Federal standard is useful here, and although it, too, may be arbitrary, there is considerable precedent. I also suspect we would find that, if we were to carefully survey the States, 1 year would be closer to the breakpoint between major and minor crimes than sentences of 2 or 3 years. For that reason, I urge my colleagues to support my amendment and to oppose any attempts to liberalize the 1-year provision.

Mr. Chairman, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. RALPH M. HALL. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, this side has no problem with this amendment. I think it clarifies very specifically what was a little bit of a loophole in the bill. I commend the gentleman for offering it.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. RALPH M. HALL. I yield to the gentleman from Texas.

Mr. FIELDS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas.

The substitute the House is considering provides the Commission with the authority to certify boxing professionals.

The substitute also prohibits the Commission from certifying as a boxing promoter, matchmaker, or manager any applicant who has been convicted of a crime for which imprisonment of more than 1 year is authorized, unless the applicant: First, was a boxing promoter, matchmaker, or manager before enactment of the bill; second, receives a pardon for such conviction; or third, has the record of such conviction expunged.

The intent of that provision is to ensure that the certification by the Commission carries the message that the applicant is an ethical boxing promoter, matchmaker, or manager who meets the Commission's high standards.

A denial of certification will not prohibit a boxing promoter, matchmaker, or manager from participation in the sport of boxing or deny that person of his livelihood. However, that person will not be able to claim the respect that certification by the Commission will carry.

In order to command such respect, high standards must be set for certification by the Boxing Commission.

In the same light, we do not want to deny an ethical boxing promoter, matchmaker of manager certification because he has been convicted of a crime that will not affect his ability to be an ethical boxing professional.

These interests are difficult to balance. I believe the amendment offered by the gentleman from Texas assists us in reaching this delicate balance.

Therefore, I urge my colleagues to support the Hall amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. RALPH M. HALL].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer three amendments, and I ask unanimous consent they be considered en bloc.

The CHARIMAN. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. DORGAN of North Dakota: Page 3, line 10, strike "which" and insert in lieu thereof "who".

Page 7, line 23, strike "Commission" and insert in lieu thereof "Corporation".

Page 3, line 19, strike "which" and insert in lieu thereof "who".

Mr. DORGAN of North Dakota (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, the gentleman's amendments are purely technical amendments, so we have no objection to them.

Mr. WHITTAKER. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Kansas.

Mr. WHITTAKER. Mr. Chairman, we have reviewed the amendments on this side of the aisle and have no objection to them.

The CHAIRMAN. The question is on the amendments offered by the gentleman from the North Dakota [Mr. DORGAN].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. SAVAGE

Mr. SAVAGE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAVAGE: Page 3, lines 1 and 2, strike-out "weight, and business associates of such boxers" and insert in lieu thereof "and weight."

Mr. SAVAGE. Mr. Chairman, as I had pointed out, the problem with that is that most boxers, because they come from such deprived living conditions, most of their friends and business associates, whether they were boxers or not, are what many people would consider unsavory.

So when you see the, "USBC shall provide a unified computer source of information about the associates of a boxer," in such broad terms, it will be harmful for those boxers to get matches, and so forth.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. SAVAGE. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, if the gentleman is amending the correct portion of the legislation, then this side, in review of the gentleman's amendment, thinks this is a worthy amendment and would be prepared to accept it. I think it clarifies something that needs to be clarified, and I want to commend the gentleman from Illinois for offering it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. SAVAGE].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY), having assumed the chair, Mr. FLIPPO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2127) to establish a U.S Boxing Commission, and for other purposes, pursuant to House Resolution 595, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2127, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana.

There was no objection.

FURTHER LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

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Mr. FOLEY. Is is the plan of the leadership to call up next the Federal Insecticide, Fungicide, and Rodenticide Act under a unanimous-consent request. After the consideration of that bill, to make a judgment about whether further legislation will be considered tonight.

There in the possibility of the consideration of the drug legislation tonight. We are not in a position to inform the Members yet about whether that bill will be ready. So Members should be advised that there may be further legislation considered tonight. We should, within an hour, have the ability to inform Members about that and either go into recess awaiting that bill's availability for the floor or adjourn the House until tomorrow.

I would caution Members not to assume that the legislative program is over until further notice.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. RUSSO. Is the gentleman indicating that on FIFRA we are going to go by unanimous consent and probably would not have any votes within the next hour?

Mr. FOLEY. Yes.

Mr. RUSSO. And then after FIFRA is over, we are going to make a judgment call at that point whether or not we are going to recess?

Mr. FOLEY. Yes, and whether legislation will be considered later in the evening.

Mr. RUSSO. So for at least the next hour we are free from rollcall votes?

Mr. FOLEY. I think Members can be confident that it will mean no substantive votes for the next hour and we will consider the FIFRA legislation under unanimous consent.

Mr. RUSSO. I thank the gentleman.

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it shall be in order to consider at any time today or any day thereafter the conference report on H.R. 5300, the Budget Reconciliation Act of 1986, that all points of order be waived against the confernce report and against its consideration, and the conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. FOLEY. Mr. Speaker, we will have a similar motion, it has not been prepared, we will have a similar motion with respect to the drug bill which I will offer as soon as it is received.

I would ask the indulgence of the House to interrupt the proceedings for that purpose at that time.

INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT AMENDMENTS OF 1985

Mr. BEDELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2482) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

(For text of the Senate amendment, see proceedings of the Senate of Monday, October 6, 1986.)

The Clerk read the House amendment to the Senate amendment as follows:

HOUSE AMENDMENT TO SENATE AMENDMENT:

In lieu of the matter inserted by the Senate amendment insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. References to the Federal Insecticide, Fungicide, and Rodenticide Act.

TITLE I—REGISTRATION

Sec. 101. Preregistration access to data.
Sec. 102. Criminal penalties for disclosure of information.
Sec. 103. Conditional registration.
Sec. 104. Definition of outstanding data requirement.
Sec. 105. Reregistration of registered pesticides.
Sec. 106. Administrator's authority to require data on inert ingredients.
Sec. 107. Definition of ingredient statement.
Sec. 108. Disclosure of inert ingredients.
Sec. 109. Compensation for data on inert ingredients.

TITLE II—INFORMATION DISCLOSURE

Sec. 201. Public right to know.
Sec. 202. Data disclosure to States.

TITLE III—REVIEW AND CANCELLATION

Sec. 301. Public interim administrative review.
Sec. 302. Hearing procedures after public interim administrative review.
Sec. 303. Cancellation and change in classification or labels.
Sec. 304. Public hearings and scientific review.
Sec. 305. Administrative changes.
Sec. 306. Cancellation of registration based on false or invalid data.

TITLE IV—RECORDS AND INSPECTIONS

Sec. 401. Records.
Sec. 402. Inspections.

TITLE V—EXPORTS

Sec. 501. Definition of misbranded.
Sec. 502. Definition of importing country.
Sec. 503. Pesticides and devices intended for export.
Sec. 504. Cancellation notices furnished to foreign governments.
Sec. 505. Cooperation in international efforts.

TITLE VI—CERTIFICATION, TRAINING, AND RECORDKEEPING FOR PESTICIDE APPLICATORS

Sec. 601. Certification, training, and recordkeeping for pesticide applicators.

TITLE VII—ADDITIONAL DATA, DATA COMPENSATION, AND PATENTS

Sec. 701. Additional data to support existing registrations.
Sec. 702. Data compensation and arbitration.
Sec. 703. Restoration of patent term for certain agricultural and chemical products.

TITLE VIII—GENERAL

Subtitle A—Amendments to the Federal Insecticide, Fungicide, and Rodenticide Act

Sec. 801. Authority of States.
Sec. 802. Definitions.
Sec. 803. Information requested.
Sec. 804. Cooperative agreements.
Sec. 805. Scientific Advisory Panel.
Sec. 806. Authority for EPA action.
Sec. 807. Expiration of State primary enforcement responsibility.
Sec. 808. Unlawful acts.
Sec. 809. Penalties and subpoenas.
Sec. 810. Congressional review.
Sec. 811. Review of regulations.
Sec. 812. Delegation and cooperation.
Sec. 813. Indemnification by EPA.
Sec. 814. Ground water authority.
Sec. 815. Worker health and safety.
Sec. 816. Antimicrobial standards.
Sec. 817. Neurotoxicological and behavioral effects testing of pesticides.
Sec. 818. Pesticide containers.
Sec. 819. Notice for stored pesticides with canceled or suspended registrations.
Sec. 820. Authorization for appropriations.

Subtitle B—Other Provisions

Sec. 825. Liability for lawful application.
Sec. 826. Tolerances for agricultural commodities.
Sec. 827. IR4 program.
Sec. 828. Pesticide risk rating.
Sec. 829. Evaluation by the Comptroller General.
Sec. 830. Study of nonagricultural pesticides.
Sec. 831. Pesticide drift.
Sec. 832. Survey of naturally occurring agents that act as pesticides.
Sec. 833. Pesticide Resistance Management Program.
Sec. 834. DDT study.
Sec. 835. Salinity laboratory, Riverside, California.

TITLE IX—CLARIFYING AND TECHNICAL AMENDMENTS

Sec. 901. Clarifying amendments.
Sec. 902. Technical amendments.
Sec. 903. Table of contents amendments.

TITLE X—EFFECTIVE DATE

Sec. 1001. Effective date.

TITLE XI—HOMELESS ELIGIBILITY CLARIFICATION ACT

Sec. 1101. Short title.

Subtitle A—Emergency Food for the Homeless
Sec. 1111. Meals served to homeless individuals.
Subtitle B—Job Training for the Homeless
Sec. 1121. Job training for the homeless.
Subtitle C—Entitlements Eligibility
Sec. 1131. Treatment of homeless individuals eligible under SSI program.
Sec. 1132. Application for SSI and food stamp benefits by SSI pre-release individuals.
Sec. 1133. Delivery of veterans' benefits payments.

SEC. 2. REFERENCES TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

TITLE I—REGISTRATION

SEC. 101. PREREGISTRATION ACCESS TO DATA.

(a) IN GENERAL.—Section 3(c) (7 U.S.C. 136a(c)) is amended by adding at the end thereof the following new paragraph:

"(9) PREREGISTRATION ACCESS TO DATA.—

"(A) If an application for—

"(i) a registration of a pesticide containing a new active ingredient; or

"(ii) a registration of a pesticide to authorize the initial food use of a pesticide active ingredient,

is submitted to the Administrator, the Administrator, before acting on such application, shall provide, in accordance with this paragraph, public access to health, safety, and environmental data that are submitted or cited in support of such application.

"(B) To obtain access to the data referred to in subparagraph (A), a person shall send by certified mail—

"(i) not later than 30 days after the publication under paragraph (4) of a notice of the application referred to in subparagraph (A); and

"(ii) simultaneously to the Administrator and to the applicant for the registration of the pesticide,

a request for such access and the affirmation required by subparagraph (D).

"(C)(i) Unless within 15 days after the receipt by the Administrator of a request for access to such data and of an affirmation complying with subparagraph (D) the applicant submits to the Administrator an objection to the request asserting that the affirmation is inaccurate and the reasons for the objection, the Administrator shall grant the request. If an objection to a request is submitted to the Administrator within such 15-day period, the Administrator shall determine whether to grant the request within 5 days after the receipt of the objection. If the Administrator determines to grant the request, access shall not be permitted until 5 days after the applicant making the objection has been notified that access has been granted.

"(ii) If access to data is denied under clause (i), comments on the application for which such data were submitted or cited shall be filed within 60 days after the decision of the Administrator denying access.

"(D)(i) Data referred to in subparagraph (A) may be made available only to a person who provides an affirmation (and such supporting evidence as the Administrator considers necessary) containing the information prescribed by clause (ii).

"(ii) The affirmation required under clause (i) shall—

"(I) state that the person is not engaged in, and is neither employed by nor acting (directly or indirectly) on behalf of any other person or affiliate thereof engaged in, the production, sale, or distribution of a pesticide;

"(II) identify any business, employer, or other person, if any, on whose behalf the person is requesting access to the data; and

"(III) state that the person will not intentionally or recklessly violate this paragraph.

"(iii) For purposes of clause (ii), an affiliate of a person is a person who directly or indirectly, through one or more intermediates, controls or is controlled by or is under common control with the other person.

"(iv) Section 1001 of title 18, United States Code, shall apply to an affirmation made under this subparagraph.

"(E)(i) Data supporting an application may be made available under subparagraph (A) to a person only for the purpose of permitting the person to comment to the Administrator on such application. Such comments may reasonably quote data submitted to the Administrator. No person, including the Administrator, may make such comments public before the decision of the Administrator on the application for the registration of the pesticide for which such data were submitted or after such decision if the application for registration is denied.

"(ii) Except as provided in clause (iii), a person who obtains data under subparagraph (A) (directly or indirectly) may not—

"(I) publish, copy, or transfer the data to any other person to obtain approval to sell, manufacture, or distribute a pesticide anywhere in the world; or

"(II) use the data for any purpose in any court or agency of the United States or any State or political subdivision thereof before the decision of the Administrator on the application for the registration of the pesticide for which such data were submitted or after such decision if the application for registration is denied.

"(iii) Such data and comments may be disclosed consistent with section 10 after registration of the pesticide for which such data were submitted.

"(F)(i) Data made available under this paragraph may be examined at an office of the Environmental Protection Agency or an appropriate State agency under the conditions prescribed by this paragraph and may not be removed from such office.

"(ii) The Administrator shall maintain a record of the persons who inspect data. A copy of such record shall be sent to the data submitter on request.

"(G) Once access to data respecting an application is granted, the data may be examined and notes may be taken for use in developing comments on the application. Such comments on the application shall be filed within 60 days after the decision of the Administrator granting access, unless the comment period is extended by the Administrator for an additional 30 days for good cause.".

(b) NOTICE OF APPLICATION.—Section 3(c)(4) (7 U.S.C. 136a(c)(4)) is amended—

(1) in the first sentence, by striking out "promptly" and inserting in lieu thereof "not later than 30 days"; and

(2) in the second sentence—

(A) by striking out "The notice" and inserting in lieu thereof "Except as provided in paragraph (9), the notice"; and

(B) by striking out "30" and inserting in lieu thereof "60".

SEC. 102. CRIMINAL PENALTIES FOR DISCLOSURE OF INFORMATION.

Paragraph (3) of section 14(b) (7 U.S.C. 136l(b)(3)) is amended to read as follows:

"(3) DISCLOSURE OF INFORMATION.—

"(A) Any person who, with intent to defraud, uses or reveals information relative to the formula of a product acquired under section 3 shall be fined not more than $25,000 or imprisoned for not more than 3 years, or both.

"(B) Any person, including any officer, contractor, or employee of the United States or a State, who—

"(i) is granted access to data under section 3(c)(9); and

"(ii) in furtherance of a commercial purpose involving the production, registration, distribution, or sale of a pesticide—

"(I) knowingly violates such section; or

"(II) knowingly allows data to be made available in violation of such section,

shall be fined not more than $100,000 or imprisoned for not more than 3 years, or both.".

SEC. 103. CONDITIONAL REGISTRATION.

Subparagraphs (B) and (C) of section 3(c)(7) (7 U.S.C. 136a(c)(7) (B) and (C)) are amended to read as follows:

"(B)(i) The Administrator may conditionally amend the registration of a pesticide under this subparagraph to permit additional uses of such pesticide notwithstanding the fact that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that—

"(I) the applicant has submitted or cited additional data that the Administrator may require solely for the proposed additional use;

"(II) amending the registration in the manner proposed by the applicant would not materially increase the risk of any unreasonable adverse effect on the environment; and

"(III) the additional use is in the public interest.

"(ii)(I) Except as provided in subclause (II), if the Administrator has issued a notice stating that a pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure and specified in regulations issued under paragraph (8), no registration of the pesticide may be amended under clause (i) to add any food or feed use during the pendency of any evaluation by the Administrator initiated by such notice.

"(II) If the Administrator has issued a notice stating that a pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure and specified in regulations issued under paragraph (8), the Administrator may amend the registration of the pesticide under clause (i) to add a minor food or feed use if the Administrator determines, with the concurrence of the Secretary of Agriculture, that there is not available an effective alternative pesticide that does not meet or exceed such risk criteria.

"(iii) An applicant seeking an amended registration of a pesticide under this subparagraph shall submit or cite to the Administrator such data as would be required to obtain a registration of a similar pesticide under paragraph (5). Except as provided in clause (iv), if the applicant is unable to submit or cite an item of such data because it has not yet been generated, the Adminis-

trator may amend the registration of the pesticide under such conditions as will require the submission or citation of such data not later than the time such data are required to be submitted for the maintenance of a registration of the similar pesticide under this section.

"(iv) If data concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity are required to support the registration of a pesticide and if a period reasonably sufficient for the generation and submission of such data has elapsed since the Administrator first imposed the data requirement, a conditional amendment to permit an additional use of the pesticide for other than a minor use shall not be granted under clause (i) unless such data have been submitted.

"(C)(i) The Administrator may conditionally register a pesticide under this subparagraph containing an active ingredient not contained in any registered pesticide for a period reasonably sufficient for generation and submission of required data that have not been submitted because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement—

"(I) on the conditions that by the end of such period the Administrator receives such data and that the data that the Administrator receives do not meet or exceed risk criteria enumerated in regulations issued under paragraph (8); and

"(II) on such other conditions as the Administrator may prescribe.

"(ii) A conditional registration under this subparagraph shall be granted only if the Administrator determines that—

"(I) use of the pesticide during the period referred to in clause (i) will not cause any unreasonable adverse effect on the environment; and

"(II) use of the pesticide is in the public interest.

"(iii) The Administrator shall not conditionally register a pesticide under this subparagraph if—

"(I) data concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity would be required for registration of such a pesticide under paragraph (5);

"(II) a period reasonably sufficient for generation of such data has elapsed since the Administrator first imposed the data requirement; and

"(III) such data have not been submitted to the Administrator.".

SEC. 104. DEFINITION OF OUTSTANDING DATA REQUIREMENT.

Section 2 (7 U.S.C. 136) is amended by adding at the end thereof the following new subsection:

"(ff) OUTSTANDING DATA REQUIREMENT.—

"(1) IN GENERAL.—The term 'outstanding data requirement' means a requirement for any study, information, or data that is necessary to make a determination under section 3(c)(5) and which study, information, or data—

"(A) has not been submitted to the Administrator; or

"(B) if submitted to the Administrator, the Administrator has determined must be resubmitted because it is not valid, complete, or adequate to make a determination under section 3(c)(5) and the regulations and guidelines issued under such section, as determined by the Administrator.

"(2) FACTORS.—In making a determination under paragraph (1)(B) respecting a study, the Administrator shall examine, at a minimum, relevant protocols, documentation of the conduct and analysis of the study, and the results of the study to determine whether the study and the results of the study fulfill the data requirement for which the study was submitted to the Administrator.".

SEC. 105. REREGISTRATION OF REGISTERED PESTICIDES.

(a) IN GENERAL.—The Act is amended by inserting after section 3 (7 U.S.C. 136a) the following new section:

"SEC. 3A. REREGISTRATION OF REGISTERED PESTICIDES.

"(a) GENERAL RULE.—The Administrator shall reregister, in accordance with this section, each registered pesticide containing any active ingredient contained in any pesticide first registered before November 1, 1984, except for any pesticide as to which the Administrator has determined, after November 1, 1984, and before the effective date of this section, that—

"(1) there are no outstanding data requirements; and

"(2) the requirements of section 3(c)(5) have been satisfied.

"(b) SPECIAL AUTHORITIES OF ADMINISTRATOR.—

"(1) GUIDELINES.—

"(A) Not later than 1 year after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator, by order, shall issue guidelines to be followed by registrants in accordance with subsection (f)(1) in—

"(i) summarizing studies;

"(ii) reformatting studies;

"(iii) identifying adverse information; and

"(iv) identifying studies that have been submitted previously that may not meet the requirements of section 3 or regulations issued under such section.

"(B) Guidelines issued under this paragraph shall not be subject to judicial review.

"(2) MONITORING.—The Administrator shall monitor the progress of registrants in acquiring and submitting the data required under this section.

"(3) SUSPENSIONS AND PENALTIES.—

"(A) The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if—

"(i) the Administrator determines that progress is insufficient to ensure the submission of the data required for such pesticide under a commitment made under subsection (e)(3)(B) or (f)(1)(H) within the time period prescribed by subsection (e)(4)(B) or (f)(2)(B) or the registrant has not submitted such data to the Administrator within such time period;

"(ii) the Administrator determines that tests necessary to fill an outstanding data requirement for such pesticide have not been initiated within 1 year after the issuance of a notice under subsection (g)(1)(B);

"(iii) the Administrator determines that progress is insufficient to ensure submission of the data referred to in clause (ii) within the time period prescribed by subsection (g)(2)(B) or the required data have not been submitted to the Administrator within such time period; or

"(iv) a registrant fails to comply with clause (ii) or (iii) of section 3(c)(2)(B).

"(B) A registrant who submits a certification under subsection (f)(1)(G) that is false shall be considered to have violated this Act and shall be subject to the penalties prescribed by section 14.

"(c) REREGISTRATION PHASES.—Reregistrations of pesticides under this section shall be carried out in the following phases:

"(1) The first phase shall include the listing under subsection (d) of the active ingredients of the pesticides that will be reregistered.

"(2) The second phase shall include the submission to the Administrator under subsection (e) of notices by registrants respecting their intention to seek reregistration, identification by registrants of missing and inadequate data for such pesticides, and commitments by registrants to replace such missing or inadequate data within the applicable time period.

"(3) The third phase shall include submission to the Administrator by registrants of the information required under subsection (f).

"(4) The fourth phase shall include an independent, initial review by the Administrator under subsection (g) of submissions under phases two and three, identification of outstanding data requirements, and the issuance, as necessary, of requests for additional data.

"(5) The fifth phase shall include the review by the Administrator under subsection (h) of data submitted for reregistration and appropriate regulatory action by the Administrator.

"(d) PHASE ONE.—

"(1) PRIORITY FOR REREGISTRATION.—For purposes of the reregistration of the pesticides described in subsection (a), the Administrator shall list the active ingredients of pesticides and shall give priority to, among others, active ingredients (other than active ingredients for which registration standards have been issued before the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986) that—

"(A) are in use on or in food or feed and may result in postharvest residues;

"(B) may result in residues of potential toxicological concern in potable ground water, edible fish, or shellfish;

"(C) have been determined by the Administrator before the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 to have significant outstanding data requirements; or

"(D) are used on crops, including in greenhouses and nurseries, where worker exposure is most likely to occur.

"(2) REREGISTRATION LISTS.—For purposes of reregistration under this section, the Administrator shall by order—

"(A) not later than 70 days after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list pesticide active ingredients for which registration standards have been issued before such date;

"(B) not later than 4 months after such effective date, list the first 150 pesticide active ingredients, as determined under paragraph (1);

"(C) not later than 7 months after such effective date, list the second 150 pesticide active ingredients, as determined under paragraph (1); and

"(D) not later than 10 months after such effective date, list the remainder of the pesticide active ingredients, as determined under paragraph (1).

Each list shall be published in the Federal Register.

"(3) JUDICIAL REVIEW.—The content of a list issued by the Administrator under paragraph (2) shall not be subject to judicial review.

"(4) NOTICE TO REGISTRANTS.—On the publication of a list of pesticide active ingredients under paragraph (2), the Administrator shall send by certified mail to the registrants of the pesticides containing such active ingredients a notice of the time by which the registrants are to notify the Administrator under subsection (e) whether the registrants intend to seek or not to seek reregistration of such pesticides.

"(e) PHASE TWO.—

"(1) IN GENERAL.—The registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) shall submit to the Administrator, within the time period prescribed by paragraph (4), the notice described in paragraph (2) and any information, commitment, or offer described in paragraph (3).

"(2) NOTICE OF INTENT TO SEEK OR NOT TO SEEK REREGISTRATION.—

"(A) The registrant of a pesticide containing an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) shall notify the Administrator by certified mail whether the registrant intends to seek or does not intend to seek reregistration of the pesticide.

"(B) If a registrant submits a notice under subparagraph (A) of an intention not to seek reregistration of a pesticide, the Administrator shall publish a notice in the Federal Register stating that such a notice has been submitted.

"(3) MISSING OR INADEQUATE DATA.—Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) and for which the registrant submitted a notice under paragraph (2) of an intention to seek reregistration of such pesticide shall submit to the Administrator—

"(A) in accordance with regulations issued by the Administrator under section 3, an identification of—

"(i) all data that are required by regulation to support the registration of the pesticide with respect to such active ingredient;

"(ii) data that were submitted by the registrant previously in support of the registration of the pesticide that are inadequate to meet such regulations; and

"(iii) data identified under clause (i) that have not been submitted to the Administrator; and

"(B) either—

"(i) a commitment to replace the data identified under subparagraph (A)(ii) and submit the data identified under subparagraph (A)(iii) within the applicable time period prescribed by paragraph (4)(B); or

"(ii) an offer to share in the cost to be incurred by a person who has made a commitment under clause (i) to replace or submit the data and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing.

For purposes of a submission by a registrant under subparagraph (A)(ii), data are inadequate if the data are derived from a study with respect to which the registrant is unable to make the certification prescribed by subsection (f)(1)(G) that the registrant possesses or has access to the raw data used in or generated by such study. For purposes of a submission by a registrant under such subparagraph, data shall be considered to be inadequate if the data are derived from a study submitted before January 1, 1970, unless it is demonstrated to the satisfaction of the Administrator that such data should be considered to support the registration of the pesticide that is to be reregistered.

"(4) TIME PERIODS.—

"(A) A submission under paragraph (2) or (3) shall be made—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 3 months after the date of publication of the listing of such active ingredient;

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 3 months after the date of publication of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 3 months after the date of publication of the listing of such active ingredient.

On application, the Administrator may extend a time period prescribed by this subparagraph if the Administrator determines that factors beyond the control of the registrant prevent the registrant from complying with such period.

"(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (3)(B) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(5) CANCELLATION AND REMOVAL.—

"(A) If the registrant of a pesticide does not submit a notice under paragraph (2) or (3) within the time prescribed by paragraph (4)(A), the Administrator shall issue a notice of intent to cancel the registration of such registrant for such pesticide and shall publish the notice in the Federal Register and allow 60 days for the submission of comments on the notice. On expiration of such 60 days, the Administrator, by order and without a hearing, may cancel the registration or take such other action, including extension of applicable time periods, as may be necessary to enable reregistration of such pesticide by another person.

"(B)(i) If—

"(I) no registrant of a pesticide containing an active ingredient listed under subsection (d)(2) notifies the Administrator under paragraph (2) that the registrant intends to seek reregistration of any pesticide containing that active ingredient;

"(II) no such registrant complies with paragraph (3)(A);

"(III) no such registrant makes a commitment under paragraph (3)(B) to replace or submit all data described in clauses (ii) and (iii) of paragraph (3)(A); or

"(IV) the fee prescribed by subsection (j)(1) has not been paid with regard to the active ingredient,

the Administrator shall publish in the Federal Register a notice of intent to remove the active ingredient from the list established under subsection (d)(2) and a notice of intent to cancel the registrations of all pesticides containing such active ingredient and shall provide 60 days for comment on such notice.

"(ii) After the 60-day period has expired, the Administrator, by order, may cancel any such registration without hearing, except that the Administrator shall not cancel a registration under this subparagraph if—

"(I) during the comment period a person acquires the rights of the registrant in that registration;

"(II) during the comment period that person furnishes a notice of intent to reregister the pesticide in accordance with paragraph (2); and

"(III) not later than 120 days after the publication of the notice under this subparagraph, that person has complied with paragraph (3) and the fee prescribed by subsection (j)(1) has been paid.

"(f) PHASE THREE.—

"(1) INFORMATION ABOUT STUDIES.—Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) who has submitted a notice under subsection (e)(2) of an intent to seek the reregistration of such pesticide shall submit, in accordance with the guidelines issued under subsection (b)(1), to the Administrator—

"(A) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient and considered by the registrant to be adequate to meet the requirements of section 3 and the regulations issued under such section;

"(B) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient that may not comply with the requirements of section 3 and the regulations issued under such section but which the registrant asserts should be deemed to comply with such requirements and regulations;

"(C) a reformat of the data from each study summarized under subparagraph (A) or (B) by the registrant concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, teratogenicity, or residue chemistry of the active ingredient that were submitted to the Administrator before January 1, 1982;

"(D) where data described in subparagraph (C) are not required for the active ingredient by regulations issued under section 3, a reformat of acute and subchronic dosing data submitted by the registrant to the Administrator before January 1, 1982, that the registrant considers to be adequate to meet the requirements of section 3 and the regulations issued under such section;

"(E) an identification of data that are required to be submitted to the Administrator under section 6(g)(4) indicating an adverse effect of the pesticide;

"(F) an identification of any other information available that in the view of the registrant supports the registration;

"(G) a certification that the registrant or the Administrator possesses or has access to the raw data used in or generated by the studies that the registrant summarized under subparagraph (A) or (B);

"(H) either—

"(i) a commitment to submit data to fill each outstanding data requirement identified by the registrant; or

"(ii) an offer to share in the cost of developing such data to be incurred by a person who has made a commitment under clause (i) to submit such data, and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing; and

"(I) evidence of compliance with section 3(c)(1)(D)(ii) and regulations issued thereunder with regard to previously submitted data as if the registrant were now seeking the original registration of the pesticide.

"(2) TIME PERIODS.—

"(A) The information required by paragraph (1) shall be submitted to the Administrator—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 12 months after the date of publication of the listing of such active ingredient;

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 12 months after the date of publication of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 12 months after the date of publication of the listing of such active ingredient.

"(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (1)(H) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment under such paragraph. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(3) CANCELLATION.—

"(A) If the registrant of a pesticide fails to submit the information required by paragraph (1) within the time prescribed by paragraph (2), the Administrator, by order and without hearing, shall cancel the registration of such pesticide.

"(B)(i) If the registrant of a pesticide submits the information required by paragraph (1) within the time prescribed by paragraph (2) and such information does not conform to the guidelines for submissions established by the Administrator, the Administrator shall determine whether the registrant made a good faith attempt to conform its submission to such guidelines.

"(ii) If the Administrator determines that the registrant made a good faith attempt to conform its submission to such guidelines, the Administrator shall provide the registrant a reasonable period of time to make any necessary changes or corrections.

"(iii)(I) If the Administrator determines that the registrant did not make a good faith attempt to conform its submission to such guidelines, the Administrator may issue a notice of intent to cancel the registration. Such a notice shall be sent to the registrant by certified mail.

"(II) The registration shall be canceled without a hearing or further notice at the end of 30 days after receipt by the registrant of the notice unless during that time a request for a hearing is made by the registrant.

"(III) If a hearing is requested, a hearing shall be conducted under section 6(d), except that the only matter for resolution at the hearing shall be whether the registrant made a good faith attempt to conform its submission to such guidelines. The hearing shall be held and a determination made within 75 days after receipt of a request for hearing.

"(g) PHASE FOUR.—

"(1) INDEPENDENT REVIEW AND IDENTIFICATION OF OUTSTANDING DATA REQUIREMENTS.—

"(A) The Administrator shall review the submissions of all registrants of pesticides containing a particular active ingredient under subsections (e)(3) and (f)(1) to determine if such submissions identified all the data that are missing or inadequate for such active ingredient. To assist the review of the Administrator under this section, the Administrator may require a registrant seeking reregistration to submit complete copies of studies summarized under subsection (f)(1).

"(B) The Administrator shall independently identify and publish in the Federal Register the outstanding data requirements for each active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is contained in a pesticide to be reregistered under this section. The Administrator, at the same time, shall issue a notice under section 3(c)(2)(B) for the submission of the additional data that are required to meet such requirements.

"(2) TIME PERIODS.—

"(A) The Administrator shall take the action required by paragraph (1)—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 18 months after the date of the listing of such active ingredient;

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 24 months after the date of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 33 months after the date of the listing of such active ingredient.

"(B) If the Administrator issues a notice to a registrant under paragraph (1)(B) for the submission of additional data, the registrant shall submit such data within a reasonable period of time, as determined by the Administrator, but not to exceed 48 months after the issuance of such notice. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(h) PHASE FIVE.—

"(1) DATA REVIEW.—The Administrator shall conduct a thorough examination of all data submitted under this section concerning an active ingredient listed under subsection (d)(2) and of all other available data found by the Administrator to be relevant.

"(2) REREGISTRATION AND OTHER ACTIONS.—

"(A) Within 1 year after the submission of all data concerning an active ingredient of a pesticide under subsection (g), the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration. For extraordinary circumstances, the Administrator may extend such period for not more than 1 additional year.

"(B) Before reregistering a pesticide, the Administrator shall obtain any needed product-specific data regarding the pesticide by use of section 3(c)(2)(B) and shall review such data within 90 days after its submission. The Administrator shall require that data under this subparagraph be submitted to the Administrator not later than 8 months after a determination of eligibility under subparagraph (A) has been made for each active ingredient of the pesticide, unless the Administrator determines that a longer period is required for the generation of the data.

"(C) After conducting the review required by paragraph (1) for each active ingredient of a pesticide and the review required by subparagraph (B) of this paragraph, the Administrator shall determine whether to reregister a pesticide by determining whether such pesticide meets the requirements of section 3(c)(5). If the Administrator determines that a pesticide is eligible to be reregistered, the Administrator shall reregister such pesticide within 6 months after the submission of the data concerning such pesticide under subparagraph (B).

"(D) If after conducting a review under paragraph (1) or subparagraph (B) of this paragraph the Administrator determines that a pesticide should not be reregistered, the Administrator shall take appropriate regulatory action.

"(i) COMPENSATION OF DATA SUBMITTER.—If data that are submitted by a registrant under subsection (e), (f), (g), or (h) are used to support the application of another person under section 3, the registrant who submitted such data shall be entitled to compensation for the use of such data as prescribed by section 3(c)(1)(D). In determining the amount of such compensation, the fees paid by the registrant under this section shall be taken into account.

"(j) FEES.—

"(1) INITIAL FEE FOR FOOD OR FEED PESTICIDE ACTIVE INGREDIENTS.—The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $50,000 on submission of information under paragraphs (2) and (3) of subsection (e) for such ingredient.

"(2) FINAL FEE FOR FOOD OR FEED PESTICIDE ACTIVE INGREDIENTS.—

"(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $100,000—

"(i) on submission of information for such ingredient under subsection (f)(1) if data are reformatted under subsection (f)(1)(C); or

"(ii) on submission of data for such ingredient under subsection (f)(2)(B) if data are not reformatted under subsection (f)(1)(C).

"(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (d)(2)(A) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $150,000 at such time as the Administrator shall prescribe.

"(3) FEES FOR OTHER PESTICIDE ACTIVE INGREDIENTS.—

"(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is not an active ingredient of any pesticide registered for a major food or feed use shall collectively pay fees in amounts determined by the Administrator. Such fees may not be less than one-half of, nor greater than, the fees required by paragraphs (1) and (2). A registrant shall pay such fees at the times corresponding to the times fees prescribed by paragraphs (1) and (2) are to be paid.

"(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (d)(2)(A) and that is not an active ingredient of any pesticide that is registered for a major food or feed use shall collectively pay a fee of not more than $100,000 and not less than $50,000 at such time as the Administrator shall prescribe.

"(4) REDUCTION OR WAIVER OF FEES FOR MINOR USE AND OTHER PESTICIDES.—

"(A) In the case of an active ingredient of a pesticide that is registered solely for an ag-

ricultural or nonagricultural minor use or in the case of a pesticide the value or volume of use of which is small, the Administrator, on application and in the sole discretion of the Administrator, may reduce or waive the fees prescribed by paragraph (3).

"(B) In the case of an antimicrobial active ingredient for which the production level does not exceed 1,000,000 pounds per year, the Administrator, on application and in the sole discretion of the Administrator, may reduce or waive the fees prescribed by paragraph (3).

"(C)(i) Notwithstanding any other provision of this subsection, in the case of a small business registrant of a pesticide, the registrant shall pay a fee for the reregistration of each active ingredient of the pesticide that does not exceed an amount determined in accordance with this subparagraph.

"(ii) If during the 3-year period prior to reregistration the average annual gross revenue of the registrant from pesticides containing such active ingredient is—

"(I) less than $5,000,000, the registrant shall pay 0.5 percent of such revenue;

"(II) $5,000,000 or more but less than $10,000,000, the registrant shall pay 1 percent of such revenue; or

"(III) $10,000,000 or more, the registrant shall pay 1.5 percent of such revenue, but not more than $150,000.

"(iii) For the purpose of this subparagraph, a small business registrant is a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to reregistration, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(5) OTHER FEES.—On payment of fees for the reregistration of a pesticide in accordance with paragraph (1), (2), (3), or (4), the Administrator may not levy any other fees for the reregistration with respect to that active ingredient.

"(6) APPORTIONMENT.—

"(A) If two or more registrants are required to pay any fee prescribed by paragraph (1), (2), or (3) with respect to a particular active ingredient, the fees for such active ingredient shall be apportioned among such registrants on the basis of the market share in United States sales of the active ingredient for the 3 calendar years preceding the date of payment of such fee, except that—

"(i) small business registrants that produce the active ingredient shall pay fees in accordance with paragraph (4)(C); and

"(ii) registrants who have not marketed the active ingredient during such 3 calendar years but who choose to reregister such active ingredient shall pay 15 percent of such fees.

"(B) The Administrator, by order, may require registrants referred to in subparagraph (A) to submit such reports as the Administrator determines to be necessary to allow the Administrator to determine and apportion fees under this subsection.

"(C) If any such report is not submitted by a registrant after receiving notice of such report requirement, or if any fee prescribed by this subsection for an active ingredient is not paid by a registrant to the Administrator by the time prescribed under this subsection, the Administrator, by order and without hearing, may cancel each registration held by such registrant of a pesticide containing the active ingredient with respect to which the fee is imposed. The Administrator shall reapportion the fee among the remaining registrants and notify the registrants that the registrants are required to pay to the Administrator any unpaid balance of the fee within 30 days after receipt of such notice.

"(k) EXEMPTION OF CERTAIN REGISTRANTS.—The requirements of subsections (e), (f), (g), and (j) regarding data concerning an active ingredient and fees for review of such data shall not apply to any person who is the registrant of a pesticide to the extent that, under section 3(c)(2)(D), the person would not be required to submit or cite such data to obtain an initial registration of such pesticide.

"(l) REREGISTRATION FUND.—

"(1) ESTABLISHMENT.—There shall be established in the Treasury of the United States a reregistration fund.

"(2) SOURCE AND USE.—All fees collected by the Administrator under subsection (j) shall be deposited into the fund and shall be available to the Administrator, without fiscal year limitation, to carry out this section.

"(3) UNUSED FUNDS.—Money in the fund not currently needed to carry out this section shall be—

"(A) maintained on hand or on deposit;

"(B) invested in obligations of the United States or guaranteed thereby; or

"(C) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

"(4) ACCOUNTING.—The Administrator shall—

"(A) provide an annual accounting of the fees collected and disbursed from the fund; and

"(B) take all steps necessary to ensure that expenditures of such funds are used only to carry out this section.

"(m) JUDICIAL REVIEW.—Any failure of the Administrator to take any action required by this section shall be subject to judicial review under the procedures prescribed by section 16(b).".

(b) CONFORMING AMENDMENT.—Section 3 (7 U.S.C. 136a(g)) is amended by striking out subsection (g).

(c) DEFINITIONS.—

(1) ANTIMICROBIAL.—Section 2 (7 U.S.C. 136) (as amended by section 104 of this Act) is further amended by adding at the end thereof the following new subsection:

"(gg) ANTIMICROBIAL.—The term 'antimicrobial' means any active ingredient that is contained only in pesticides that are not registered for any food or feed use and that are—

"(1) sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces or in water or air;

"(2) bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;

"(3) disinfectants intended to destroy or irreversibly inactivate bacteria, fungi, or viruses on surfaces or inanimate objects;

"(4) sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores on inanimate surfaces; or

"(5) fungicides or fungistats.".

(2) PESTICIDE.—Section 2(u) (7 U.S.C. 136(u)) is amended—

(A) by striking out "and" before the first clause (2); and

(B) by inserting after "desiccant" the following: ", and (3) any substance or mixture of substances intended for a purpose described in subsection (gg)".

SEC. 106. ADMINISTRATOR'S AUTHORITY TO REQUIRE DATA ON INERT INGREDIENTS.

(a) DATA IN SUPPORT OF REGISTRATION.—The second sentence of section 3(c)(2)(A) (7 U.S.C. 136a(c)(2)(A)) is amended by inserting "(including information concerning an inert ingredient in a pesticide)" after "paragraph".

(b) PRIORITY LIST AND DATA REQUIREMENTS.—Section 3 (7 U.S.C. 136a) (as amended by section 105(b) of this Act) is further amended by adding at the end thereof the following new subsection:

"(g) PRIORITY LIST AND DATA REQUIREMENTS FOR INERT INGREDIENTS.—

"(1) ESTABLISHMENT OF LIST.—

"(A) Subject to paragraph (4), the Administrator shall establish a priority list of inert ingredients consisting of—

"(i) inert ingredients that appear to cause a pesticide to meet or exceed a criterion for initiating a public interim administrative review under subsection (c)(8);

"(ii) inert ingredients—

"(I) for which additional data are reasonably necessary to assess the risk that the inert ingredient may result in a pesticide causing an unreasonable adverse effect on the environment;

"(II) that are similar in molecular structure to a chemical that is oncogenic, mutagenic, or teratogenic or causes another similarly significant adverse effect; and

"(III) that have significant use in pesticides or to which there is significant exposure from pesticides; and

"(iii) inert ingredients for which additional data are reasonably necessary to assess the risk that the inert ingredient may result in a pesticide causing an unreasonable adverse effect on the environment and to which there is significant exposure from pesticides.

"(B) In establishing the priority list, the Administrator may take into account—

"(i) the differences in concept, usage, and environmental risk between various classes of pesticides; and

"(ii) data for evaluating such risk between agricultural and nonagricultural pesticides.

"(2) PUBLICATION OF LIST.—Not later than 90 days after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator shall publish the priority list required under paragraph (1). The Administrator shall publish revisions to such list at least annually.

"(3) JUDICIAL REVIEW.—The priority list under paragraph (1), the inclusion or exclusion of an ingredient on or from the priority list, and any revision of the priority list shall not be subject to judicial review.

"(4) NUMBER OF INGREDIENTS.—The priority list under paragraph (1) shall consist of not less than 50 inert ingredients unless the Administrator determines that there is not a sufficient number of inert ingredients meeting the requirements for listing under paragraph (1) to reach such minimum number. Such list may not exceed 75 inert ingredients.

"(5) ADDITIONAL DATA.—

"(A)(i) The Administrator shall determine whether additional data are required for an inert ingredient in a registered pesticide not later than 1 year after the inert ingredient is placed on the priority list under paragraph (1).

"(ii) The Administrator shall require submission of such data from each registrant of such pesticide under this Act or from manufacturers and processors of the inert ingredient under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(iii) Such data shall be submitted within a reasonable time but not later than 4 years after the date of the request. The Administrator may extend the period for the submission of data by not more than 2 years if extraordinary circumstances beyond the control of the registrant or producer prevent the submission of the necessary data.

"(B) Data requirements imposed under subparagraph (A) or a decision not to require data for an inert ingredient shall be subject to judicial review under section 16(b).

"(6) EVALUATION.—Within 1 year after the receipt of additional data under paragraph (5) for an inert ingredient, the Administrator shall evaluate the data and take such steps as are appropriate to prevent unreasonable adverse effects on the environment caused by pesticides containing such inert ingredient. Under exceptional circumstances, the Administrator may extend the period for evaluation by not more than 1 year.

"(7) CONSTRUCTION.—This subsection shall not be construed to affect the authority of the Administrator—

"(A) to regulate under this Act impurities, contaminants, degradants, or other ingredients of pesticides that have not been deliberately added to the pesticides;

"(B) to regulate under this Act any deliberately added inert ingredient that has not previously been used in a pesticide or a significant new use in a pesticide of a deliberately added inert ingredient;

"(C) to require the submission of short-term, environmental fate, or residue studies for deliberately added inert ingredients; or

"(D) to require the submission of revised formula statements under subsection (c)(2)(B).".

(c) DATA COMPENSATION.—Section 3(c)(1)(D)(ii) (7 U.S.C. 136a(c)(1)(D)(ii)) is amended—

(1) by striking out "or for reregistration" and inserting in lieu thereof "for reregistration, or to support the safety of an inert ingredient"; and

(2) by inserting "or in support of the safety of an inert ingredient" before "by any other person".

SEC. 107. DEFINITION OF INGREDIENT STATEMENT.

Subsection (n) of section 2 (7 U.S.C. 136(n)) is amended to read as follows:

"(n) INGREDIENT STATEMENT.—The term 'ingredient statement' means a statement that contains—

"(1) the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in a pesticide;

"(2) the name of each inert ingredient in the pesticide that the Administrator determines must appear in the ingredient statement because of the hazard that the Administrator has determined may be posed by the toxicity, use pattern, and concentration level of the inert ingredient in the pesticide;

"(3) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic;

"(4) any other information concerning the chemical composition or identity of any active ingredient of the pesticide, including information on chemical equivalency, that the Administrator requires to appear in the ingredient statement so that the nature of the active ingredient is accurately represented; and

"(5) the name of any inert ingredient for which the Administrator has required additional data under section 3(g)(5) because such ingredient is listed under section 3(g)(1)(A) as appearing to cause a pesticide to meet or exceed a criterion for initiating a public interim administrative review under section 3(c)(8).".

SEC. 108. DISCLOSURE OF INERT INGREDIENTS.

The first sentence of section 10(d)(3) (7 U.S.C. 136h(d)(3)) is amended by striking out "If" and inserting in lieu thereof "Except with respect to disclosure of information on inert ingredients in ingredient statements in accordance with section 2(n), if".

SEC. 109. COMPENSATION FOR DATA ON INERT INGREDIENTS.

Subparagraph (D) of section 3(c)(2) (7 U.S.C. 136a(c)(2)) is amended to read as follows:

"(D)(i) No applicant for registration or amended registration of a pesticide who proposes to purchase a registered pesticide from another producer to formulate such purchased pesticide into the pesticide that is the subject of the application shall be required to—

"(I) submit or cite data pertaining to such purchased pesticide; or

"(II) offer to pay reasonable compensation otherwise required by paragraph (1)(D) for the use of any such data.

"(ii) No applicant for registration or amended registration of a pesticide who proposes to purchase an inert ingredient from another person to formulate the pesticide shall be required to offer to pay reasonable compensation otherwise required by paragraph (1)(D) for a study concerning such ingredient if any portion of the cost of the study will be or could be included in the price of the purchased ingredient.".

TITLE II—INFORMATION DISCLOSURE

SEC. 201. PUBLIC RIGHT TO KNOW.

(a) FACT SHEETS AND REPORTS.—Section 7 (7 U.S.C. 136e) is amended by adding at the end thereof the following new subsection:

"(e) PUBLIC RIGHT TO KNOW.—

"(1) FACT SHEETS.—Any producer operating an establishment in any State shall prepare or obtain a fact sheet complying with this subsection for each active ingredient manufactured or used at the establishment. The producer shall maintain copies of the fact sheet at the establishment and shall furnish a copy to any person on request.

"(2) CONTENTS.—

"(A) Each fact sheet for an ingredient required under paragraph (1) shall—

"(i) contain the chemical name, each common name, and any trade name of the ingredient and a summary of relevant health, safety, and environmental data concerning the ingredient; and

"(ii) be revised as often as is necessary to reflect current information about the ingredient.

"(B) The Administrator may require a fact sheet to be amended to provide accurate and clear information to the public.

"(3) REPORTS.—Each producer to whom this subsection applies shall furnish to the Administrator annually, in accordance with regulations published by the Administrator, a report that includes—

"(A) for each establishment operated by the producer in any State, the name of each ingredient for which a fact sheet is required that is manufactured or used at that establishment;

"(B) for each ingredient for which a fact sheet is required, the location of each establishment where such ingredient is manufactured or used by the producer; and

"(C) a current copy of each required fact sheet.

"(4) PUBLIC AVAILABILITY.—The fact sheets required by paragraph (1) and the annual reports required by paragraph (3) shall be available to the public.".

(b) CONFIDENTIAL INFORMATION.—Section 7(d) (7 U.S.C. 136e(d)) is amended by inserting "and production locations" after "names".

SEC. 202. DATA DISCLOSURE TO STATES.

Section 10 (7 U.S.C. 136h) is amended by adding at the end thereof the following new subsection:

"(h) DATA DISCLOSURE TO STATES.—

"(1) IN GENERAL.—The Administrator may disclose to a State any data or information acquired under this Act if the State assures the Administrator, and the Administrator determines, that the submitter of the data or information will receive no less protection with respect to the disclosure and use of the data or information by the State than is provided by section 3 and this section.

"(2) ACTION FOR JUST COMPENSATION.—For the purpose of any action that may lie against the United States for just compensation under section 1491 of title 28, United States Code—

"(A) the disclosure or use of data or information provided by the Administrator under paragraph (1) to a State in a manner inconsistent with this section or section 3 shall be considered a taking of property; and

"(B) the act of a State with respect to such data or information shall be considered an act of the United States.

"(3) REQUIRED DISCLOSURE.—The Administrator shall disclose to a State any data or information acquired under this Act if the State assures the Administrator, and the Administrator determines, that—

"(A) the submitter of the data or information will receive no less protection with respect to the disclosure and use of the data or information by the State than is provided by section 3 and this section; and

"(B) the law of the State allows the submitter of the data or information to recover just compensation in a civil action against the State for losses resulting from the disclosure or use of the data or information by the State or its employees or agents in a manner inconsistent with section 3 or this section.".

TITLE III—REVIEW AND CANCELLATION

SEC. 301. PUBLIC INTERIM ADMINISTRATIVE REVIEW.

(a) IN GENERAL.—Paragraph (8) of section 3(c) (7 U.S.C. 136a(c)(8)) is amended to read as follows:

"(8) PUBLIC INTERIM ADMINISTRATIVE REVIEW.—

"(A) A public interim administrative review process to determine whether the use of a pesticide (including a category of pesticides) may cause unreasonable adverse effects on the environment shall be conducted in accordance with this paragraph.

"(B)(i) Criteria for initiating a public interim administrative review of a pesticide shall be set forth in regulations published by the Administrator.

"(ii) Such criteria shall be established on the basis of levels of risk and may include consideration of currently available exposure data.

"(iii) Absence of exposure data shall not delay or preclude initiation of a public interim administrative review. The Administrator may decline to initiate a public interim administrative review solely on the basis of exposure only if adequate data on all relevant means of exposure have been considered.

"(C) The Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of a pesticide or any of its uses before initiating a formal action to cancel, suspend, or deny the registration of such pesticide required under this Act unless such public interim administrative review process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment.

"(D)(i) On receipt of information respecting a pesticide demonstrating that the criteria for initiating a public interim administrative review established under subparagraph (B) have been met, the Administrator shall immediately notify all registrants of such pesticide and provide the registrants with appropriate information and an explanation of the manner in which the criteria have been met.

"(ii) Not later than 30 days after receipt of a notice provided under clause (i), a registrant may respond to such notice.

"(iii) Not later than 60 days after the Administrator provides a notice under clause (i) concerning a pesticide, the Administrator shall determine whether a public interim administrative review of the pesticide shall be initiated.

"(E) If the Administrator intends to initiate a public interim administrative review of a pesticide that is registered for agricultural uses, the Administrator shall notify the Secretary of Agriculture of the intention to initiate such review and the reasons therefor.

"(F)(i) Any public interim administrative review proceeding shall be initiated and conducted in accordance with regulations published by the Administrator. Such regulations shall provide that a public interim administrative review shall include—

"(I) a notice of initiation of the public interim administrative review and opportunity for public comment on such notice;

"(II) a notice of a preliminary determination and opportunity for public comment on such notice; and

"(III) a notice of a final determination,

except that such regulations may authorize the Administrator to combine or forgo any such notice.

"(ii) Any proposed determination of the Administrator shall be submitted to the Scientific Advisory Panel established under section 25(d) at its next scheduled meeting for comment solely on relevant scientific issues. The public may submit comments to the Scientific Advisory Panel concerning such issues.

"(iii)(I) The notice of the initiation of a public interim administrative review or the notice of a preliminary determination shall state the basis for such review or determination and include a request for any additional data needed and a bibliography of all scientific data and studies and expert analyses concerning the risks or benefits of the pesticide that are under review.

"(II) Information in the bibliography shall be made available to the public consistent with section 10. The Administrator shall determine, to the extent feasible, before the initiation of the public interim administrative review which data in the bibliography may be disclosed to the public under section 10(d)(1).

"(III) If the Administrator receives additional data concerning such risks or benefits, the Administrator, within 30 days after receiving the additional data, shall revise the bibliography to reflect such data and make the revised bibliography available to the public.

"(iv)(I) Not later than 90 days after the publication of a notice of the initiation of a public interim administrative review or a notice of a preliminary determination, comments may be submitted on such review or determination. Any person who submits comments shall disclose to the Administrator all scientific data and studies and expert analyses in the possession of such person concerning the risks or benefits of the uses of the pesticide that are under review that were not included in the bibliography included in such notice.

"(II) If such person receives additional scientific data or studies or expert analyses of such data or studies that were not included in such bibliography, the person shall disclose such scientific data, studies, and expert analysis to the Administrator within 30 days after receipt.

"(v) Not later than 18 months after the initiation of a review, the Administrator shall decide which regulatory action (if any) to take regarding the pesticide that is the subject of the review and shall publish the decision.

"(vi) The time limits specified in this subparagraph may not be extended, except in exceptional circumstances in which—

"(I) additional data critical to a fair and accurate determination of risks posed by the pesticide subject to review are required;

"(II) the extension is for a period limited to the time required to obtain such data on an expedited basis and in no event to exceed 1 year; and

"(III) the Administrator acted to obtain the additional data at the time the public interim administrative review was initiated unless the Administrator could not have reasonably known of the need for such data at such time.

"(G) Any person may seek judicial review under section 16(a) of the failure of the Administrator to act within the time period prescribed under this paragraph.".

(b) SCIENTIFIC ADVISORY PANEL.—The first sentence of section 25(d) (7 U.S.C. 136w(d)) is amended by striking out "The" and inserting in lieu thereof "Except with respect to a referral under section 3(c)(8)(F), the".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply to public interim administrative reviews under section 3(c)(8) of the Federal Insecticide, Fungicide, and Rodenticide Act initiated after January 1, 1987.

SEC. 302. HEARING PROCEDURES AFTER PUBLIC INTERIM ADMINISTRATIVE REVIEW.

Section 6 (7 U.S.C 136d) is amended—

(1) by redesignating subsection (j) as subsection (i); and

(2) by inserting after subsection (e) the following new subsection:

"(f) HEARING PROCEDURES AFTER PUBLIC INTERIM ADMINISTRATIVE REVIEW.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), subsection (d) shall govern any hearing under such subsection—

"(A) that results from the final determination of the Administrator in a public interim administrative review proceeding under section 3(c)(8) that is initiated after January 1, 1987;

"(B) that includes an opportunity for comment on a notice of preliminary determination issued in connection with such review; and

"(C) for which the time between the first public notice for such review under section 3(c)(8)(F) and the close of the last comment period provided for such review is not less than 180 days.

"(2) REQUEST FOR HEARING.—Any person who is adversely affected by a decision of the Administrator respecting a pesticide (including a person without an economic interest in such pesticide) following a public interim administrative review described by paragraph (1) may request, or intervene in, a hearing in the manner provided by subsection (b)(2)(B) within 30 days after such decision. A person may request a hearing, or intervene in a hearing, only if that person submitted comments during the public interim administrative review proceeding and otherwise complied with section 3(c)(8)(F).

"(3) PROCEDURES.—

"(A) At the request of a party, an administrative law judge conducting a hearing may receive into evidence portions of a public interim administrative review record and other evidence, if the party demonstrates that such portions of the record and other evidence are relevant and material to the disputed issues and are not unduly repetitious, and if a competent witness is made available to be cross-examined on all matters relating to such evidence. Direct testimony of witnesses concerning scientific data or studies that were not, but could have been, obtained and submitted in the public interim administrative review proceeding by the exercise of due diligence by the offering party shall not be admissible.

"(B) The right of other parties to confront and cross-examine witnesses with respect to such evidence shall be preserved with respect to material issues of adjudicative fact, so long as such cross-examination is not unduly repetitious.

"(C)(i) Not later than 120 days after an administrative law judge is appointed, prehearing matters shall be completed and the hearing shall commence.

"(ii) The administrative law judge may establish a schedule for prehearing matters, including discovery and motions, and shall ensure that the hearing schedule is met. The administrative law judge shall issue such orders as are appropriate for the purpose of simplifying and clarifying issues, specifying the order of presentation of witnesses, and allocating the time for cross-examination, briefing, and decision.

"(iii) Discovery shall be permitted after the expiration of 120 days after the appointment of the administrative law judge on a determination by the administrative law judge that—

"(I) such discovery shall not in any way unreasonably delay the proceeding;

"(II) the information to be obtained is not otherwise obtainable; and

"(III) such information has significant probative value and is necessary to obtain relevant evidence needed to resolve a material issue in dispute.

"(D) Any challenge to—

"(i) the authority to issue; or

"(ii) the procedural correctness of the issuance of,

any notice of intent to cancel or change classification or to any request for a hearing or motion to intervene shall be filed with the administrative law judge not later than 30 days before the commencement of the evidentiary phase of the hearing.

"(E) Not later than 30 days before the hearing commences, each party shall make available to the other parties the names of the expert and other witnesses the party expects to call, together with a brief narrative summary of their expected testimony and a list of all documents and exhibits that the party expects to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and narrative summaries of

expected testimony amended on motion by a party.

"(F) If new studies become available that were not available during the public interim administrative review, the administrative law judge, on request of any party and when in the judgment of the administrative law judge it is necessary, may submit such studies to the Scientific Advisory Panel established under section 25(d) for supplemental comment on an expedited basis under such time limits as may be established by the administrative law judge.

"(G) The administrative law judge shall schedule the presentation and examination of witnesses so that the presentation of evidence is completed within 60 days after the commencement of the hearing, except that the schedule shall not prejudice the right of a party to present evidence. The person who requested a hearing on an issue shall have the burden of going forward to present an affirmative case and shall have the burden of proof as to that issue.

"(H) A hearing conducted in accordance with this subsection shall be completed and the Administrator shall make a final decision within 300 days after the issuance of the notice that gave rise to the hearing. The time limit imposed by this subparagraph may not be extended, except in exceptional circumstances in which such extension is essential for a fair and accurate determination of pivotal facts central to the proceeding. In no event may such time limit be extended more than 180 days. Any other time limit imposed by this paragraph may be extended for good cause.

"(I) Failure to complete a hearing and make a final decision within the time period prescribed by subparagraph (H) shall be grounds for a civil action in a district court of the United States seeking an order to establish a schedule requiring the prompt completion of the hearing, but shall not be grounds for termination of the hearing or for making a final decision respecting the pesticide that is the subject of the hearing.".

SEC. 303. CANCELLATION AND CHANGE IN CLASSIFICATION OR LABELS.

Subsection (b) of section 6 (7 U.S.C. 136d(b)) is amended to read as follows:

"(b) CANCELLATION AND CHANGE IN CLASSIFICATION OR LABELS.—

"(1) NOTICE OF CANCELLATION OR CHANGE IN CLASSIFICATION.—

"(A) If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted does not comply with this Act or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of intent—

"(i) to cancel its registration or to change its classification, together with the reasons (including the factual basis) for the action of the Administrator; or

"(ii) to hold a hearing to determine whether or not its registration should be canceled or its classification changed.

"(B) A notice issued under subparagraph (A) shall be sent to each registrant of the pesticide with respect to which the notice is issued and shall be made public.

"(C) In determining whether to issue a notice under subparagraph (A), the Administrator shall include among those factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy.

"(D)(i) Not later than 60 days before sending a notice to a registrant or making public such notice under subparagraph (B), whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of the proposed notice under subparagraph (A) and an analysis of the impact of the proposed action on the agricultural economy. The Secretary of Agriculture shall provide comments on such notice and analysis to the Administrator within 30 days after receiving the copy of such notice.

"(ii)(I) If the Secretary of Agriculture provides such comments in writing within 30 days after receiving the copy of such notice, the Administrator shall publish in the Federal Register (with the notice) the comments of the Secretary and the response of the Administrator with regard to the comments of the Secretary.

"(II) If the Secretary of Agriculture does not provide such comments in writing within 30 days after receiving the copy of such notice, the Administrator may notify the registrant and make public the notice at any time after such 30-day period.

"(iii) The time requirements imposed by this subparagraph may be waived or modified to the extent agreed on by the Administrator and the Secretary of Agriculture.

"(E) If the Administrator finds that suspension of a pesticide registration is necessary to prevent an imminent hazard to human health, the Administrator may waive the requirements of notice to the Secretary of Agriculture prescribed by subparagraph (D) and submission to the Scientific Advisory Panel under section 25(d) and proceed in accordance with subsection (c).

"(2) HEARING.—

"(A) The action proposed in a notice issued under paragraph (1)(A) shall become final and effective at the end of 30 days after receipt by the registrant or publication of a notice issued under paragraph (1)(B), whichever occurs later, unless within that time—

"(i) the registrant makes the necessary corrections, if possible; or

"(ii) a request for a hearing is made by a person adversely affected by the notice.

"(B) Whenever a request for a hearing is made, the request shall—

"(i) identify with particularity the findings and conclusions of the decision of the Administrator that are disputed; and

"(ii) include a complete statement of the reasons and factual basis that support the request for a hearing.

"(C) Any party to the proceeding may identify findings and conclusions in dispute.

"(D) If a hearing is held pursuant to such a request or the determination of the Administrator under paragraph (1)(A)(ii), a decision pertaining to registration or classification issued after completion of such hearing shall be final.

"(E) On receipt of a request for a hearing from a person without an economic interest in the pesticide with respect to which the hearing is requested, the Administrator shall convene such hearing if the request presents a substantial issue of fact, as determined by the Administrator, pertaining to whether such pesticide poses an unreasonable risk to man or the environment.

"(3) FACTORS.—In taking any action under paragraph (1), the Administrator shall—

"(A) consider restricting a use or uses of a pesticide as an alternative to cancellation and fully explain the reasons for such restriction; and

"(B) consider the impact of such action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and publish in the Federal Register an analysis of such impact.

"(4) LABEL CHANGES.—

"(A)(i) The Administrator may—

"(I) notify the registrant of a pesticide of a label change proposed by the Administrator that may be made by rulemaking under subparagraph (B); and

"(II) provide that the registrant may submit comments to the Administrator on such proposed change during the 30-day period beginning on the date of the receipt of such notice.

"(ii) If a registrant who is notified by the Administrator of a proposed label change notifies the Administrator that the registrant does not object to such change, such change shall take effect as prescribed by the Administrator.

"(iii) If a registrant who is notified by the Administrator of a proposed label change does not submit comments to the Administrator in such 30-day period, the Administrator shall send such registrant a second notice stating that, if such registrant does not submit any comments to the Administrator in the 30-day period beginning on the date the registrant receives the second notice, the registration of such registrant shall be canceled without a hearing or further notice. The registration of a registrant who does not submit comments on a second notice within such 30-day period shall be canceled without a hearing or further notice.

"(iv) If in response to a notice under this subparagraph a registrant submits comments to the Administrator objecting to a proposed label change, the Administrator may proceed under subparagraph (B).

"(B)(i) The Administrator may require changes to the label of a pesticide by informal rulemaking under this paragraph unless the changes—

"(I) are equivalent to a cancellation of a use;

"(II) render the pesticide unmarketable; or

"(III) otherwise have a major economic impact on persons affected by such changes.

"(ii) If the Administrator may not require changes to the label of a pesticide by informal rulemaking under this paragraph because of subclause (I), (II), or (III) of clause (i), the Administrator may only require such changes by a proceeding authorized by other provisions of this Act.

"(C)(i) After the promulgation of a regulation under subparagraph (B), the Administrator shall—

"(I) notify each registrant of the pesticide subject to the regulation of the label change required by the regulation; and

"(II) provide a 30-day period for each registrant to apply to the Administrator for an amendment to the registration to comply with the regulation.

"(ii) If a registrant does not apply for such an amendment within such period, the Administrator shall issue a notice of intent to cancel the registration of such registrant in accordance with paragraph (2). For purposes of paragraph (2), such notice shall be deemed to have been issued under paragraph (1).

"(D) A registrant or user of a pesticide subject to a regulation issued under subparagraph (B) may request a hearing under subsection (d) on such regulation in accordance with paragraph (2). The scope of the hearing shall be limited to—

"(i) whether the pesticide complies with the regulation;

"(ii) whether the regulation by its terms is applicable to such pesticide; and

"(iii) whether, because of significant information that was not (and could not reasonably have been) presented in the proceeding wherein the regulation was promulgated, it would be unreasonable to require such pesticide to comply with the regulation.

"(E)(i) Except as provided in clause (ii), in an action under 16(e) for review of a regulation issued under subparagraph (B), the court, on request, shall postpone the effective date of the regulation until completion of the review action if the petitioner shows—

"(I) a likelihood of success on the merits in such action; and

"(II) that the implementation of the regulation before completion of the action would cause a risk of substantial harm to the petitioner.

"(ii) A court in a review action under section 16(e) shall not postpone the effective date of a regulation issued under subparagraph (B) if the Administrator shows that failure to implement the regulation before completion of the action would cause a risk of substantial harm to health or the environment.".

SEC. 304. PUBLIC HEARINGS AND SCIENTIFIC REVIEW.

Section 6(d) (7 U.S.C. 136d(d)) is amended—

(1) by striking out the fifth through ninth sentences;

(2) in the tenth sentence—

(A) by striking out "(including the report of the Academy)"; and

(B) by striking out "90 days thereafter" and inserting in lieu thereof "18 months after issuance of the notice that gave rise to the hearing";

(3) by inserting before the last sentence the following new sentence: "The time period prescribed by the preceding sentence may be extended by the Administrator under extraordinary circumstances for not more than 1 year."; and

(4) in the heading, by striking out "AND SCIENTIFIC REVIEW".

SEC. 305. ADMINISTRATIVE CHANGES.

(a) ADMINISTRATIVE REVIEW.—Section 6 (7 U.S.C. 136d) (as amended by section 302 of this Act) is further amended by inserting after subsection (f) the following new subsection:

"(g) GENERAL PROVISIONS.—

"(1) VOLUNTARY CANCELLATION.—A registrant at any time may request that any of its pesticide registrations be canceled or be amended to delete one or more uses. Before acting on such request, the Administrator shall publish in the Federal Register a notice of the receipt of the request. Thereafter, the Administrator may approve such a request.

"(2) PUBLICATION OF NOTICE.—A notice of denial of registration, intent to cancel, suspension, or intent to suspend issued under this Act, a notice issued under subsection (d)(4) or (e)(5)(A) of section 3A, or a notice issued under the third sentence of subsection (b)(4)(A) shall be published in the Federal Register and shall be sent by certified mail, return receipt requested, to the registrant's or applicant's address of record on file with the Administrator. If the mailed notice is returned to the Administrator as undeliverable at that address, if delivery is refused, or if the Administrator otherwise is unable to accomplish delivery of the notice to the registrant or applicant after making reasonable efforts to do so, the notice shall be deemed to have been received by the registrant or applicant on the date the notice was published in the Federal Register.

"(3) EXISTING STOCKS.—The Administrator may permit the continued use, distribution, or sale, or any combination thereof, of existing stocks of a pesticide whose registration is canceled under this Act to such extent, under such conditions, during such periods, and for such uses as the Administrator may specify if the Administrator determines that such distribution, sale, or use is not inconsistent with the purposes of this Act and will not cause unreasonable adverse effects on the environment.

"(4) ADDITIONAL INFORMATION.—If at any time after the registration of a pesticide the registrant has additional information regarding unreasonable adverse effects on the environment of the pesticide, the registrant shall submit such information to the Administrator. For purposes of this paragraph, the term 'information' includes factual information and expert opinion regarding risks or benefits.".

(b) CONFORMING AMENDMENTS.—

(1) DENIAL OF REGISTRATION.—Section 3(c)(6) (7 U.S.C. 136a(c)(6)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "except as otherwise provided in this paragraph. A request for a hearing under section 6 shall be made within 30 days after the receipt of such notification. The Administrator may issue regulations governing the right to a hearing under section 6 with regard to the denial of any application for the registration of a pesticide containing an ingredient that was canceled under section 6. Under such regulations, due weight shall be given to the desirability of finality of prior proceedings and determinations and the extent that the applicant had an opportunity to participate in earlier proceedings. Section 6(g)(2) applies with respect to the publication of a notice of a denial of a registration.".

(2) CANCELLATION AFTER FIVE YEARS.—Section 6(a) (7 U.S.C. 136d(a)) is amended—

(A) by striking out paragraph (2); and

(B) in paragraph (1)—

(i) by striking out "(1) PROCEDURE.—";

(ii) by striking out ": Provided" and all that follows in the first sentence and inserting in lieu thereof a period; and

(iii) by inserting the matter in such paragraph after the subsection heading so that it is flush with the full left-hand margin of the section.

(3) CONDITIONAL REGISTRATION.—Section 6(e)(1) (7 U.S.C. 136d(e)(1)) is amended by striking out ": Provided" and all that follows and inserting in lieu thereof a period.

SEC. 306. CANCELLATION OF REGISTRATION BASED ON FALSE OR INVALID DATA.

Section 6 (7 U.S.C. 136d) (as amended by section 305(a) of this Act) is further amended by inserting after subsection (g) the following new subsection:

"(h) SUSPENSION AND CANCELLATION OF REGISTRATION BASED ON FALSE OR INVALID DATA.—

"(1) NOTICE.—

"(A) The Administrator shall immediately issue an order of suspension and a notice of intent to cancel the registration of a pesticide if—

"(i) before the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator has previously determined in the Industrial Biotest validation process conducted by the Administrator that data submitted by the registrant of the pesticide to the Administrator in support of such registration were invalid;

"(ii) the data referred to in clause (i)—

"(I) have not been replaced as of the effective date of such Act; or

"(II) are in the process of being replaced on the effective date of such Act but are not submitted to the Administrator by April 1, 1988; and

"(iii) such data are material to the registration.

"(B) The Administrator may issue an order of suspension and a notice of intent to cancel the registration of a pesticide by a registrant who cited data described in subparagraph (A) in support of the registration of the pesticide.

"(2) INVALID DATA.—

"(A) If, after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator determines that invalid data are submitted by a registrant to the Administrator in support of a registration of a pesticide, the Administrator may—

"(i) require the registrant to submit valid replacement studies or data on an expedited schedule and to submit interim progress reports; or

"(ii) issue a notice of intent to cancel such registration if the Administrator determines that such action would be in the public interest, taking into account the scope of the invalid data and the need to use the data to determine whether the pesticide may cause unreasonable adverse effects on the environment.

"(B) If, after the effective date of such Act, the Administrator determines that invalid data are cited by a registrant to the Administrator in support of a registration of a pesticide, the Administrator may—

"(i) require the registrant to submit valid replacement studies or data on an expedited schedule and to submit interim progress reports; or

"(ii) issue a notice of intent to cancel such registration if the Administrator determines that such action would be in the public interest, taking into account the scope of the invalid data and the need to use the data to determine whether the pesticide may cause unreasonable adverse effects on the environment.

"(3) FALSE DATA.—If a registrant willfully submits material data known to be false in support of the registration of a pesticide, the Administrator shall immediately issue notices of intent to suspend and cancel such registration.

"(4) HEARING.—

"(A) Any suspension or cancellation under this subsection shall become final and effective at the end of the 30-day period beginning on the date of receipt by the registrant of a notice issued under this subsection unless during such period a request for a hearing is made by a person adversely affected.

"(B) A hearing under this paragraph shall be conducted in accordance with the procedures prescribed by subsection (c) or (d), as appropriate.

"(C) In the case of a hearing held with respect to action proposed to be taken under paragraph (1), the only matters for resolution shall be whether—

"(i) in response to a notice of the Administrator issued under section 3(c)(2)(B) or other formal notice, data previously determined by the Administrator to be invalid—

"(I) have not been replaced as of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986; or

"(II) are in the process of being replaced on the effective date of such Act but are not submitted to the Administrator by April 1, 1988; and

"(ii) the data are material to the registration.

"(D) In the case of a hearing held with respect to action proposed to be taken under paragraph (2), the only matters for resolution shall be whether data are invalid, material, and necessary to adequately determine whether a pesticide may cause unreasonable adverse effects on the environment.

"(E) In the case of a hearing held with respect to action proposed to be taken under paragraph (3), the only matters for resolution shall be whether a registrant willfully submitted material data known to be false.

"(F) A decision after completion of a hearing conducted under this paragraph shall be final.

"(G) Notwithstanding any other provision of this Act, a hearing shall be held, and a determination made, under this subsection within 75 days after the receipt of a request for such hearing.".

TITLE IV—RECORDS AND INSPECTIONS

SEC. 401. RECORDS.

(a) IN GENERAL.—Section 8 (7 U.S.C. 136f) is amended to read as follows:

"SEC. 8. RECORDS.

"(a) AUTHORITY TO REQUIRE RECORDS.—

"(1) IN GENERAL.—The Administrator, by regulation, may require any producer or exporter of pesticides, registrant, applicant for registration, applicant for or holder of an experimental use permit, pesticide testing facility, or commercial applicator, or any person who distributes or sells any pesticide—

"(A) to prepare, and to maintain for reasonable periods of time, such records as the Administrator finds to be necessary for the effective implementation or enforcement of this Act;

"(B) to furnish to the Administrator reports stating the location where the records are maintained; and

"(C) to furnish a copy of any such record to the Administrator on written request.

"(2) RETAIL DISTRIBUTION OR SALE.—Except as provided in subsections (c), (d), and (e), the Administrator may not require any person who distributes or sells at retail a registered pesticide that is not subject to a restricted use classification under section 3 to prepare, maintain, or furnish any record under this subsection with respect to such pesticide.

"(b) LIMITATIONS.—The Administrator may not, under the authority of subsection (a), require any person to maintain records of—

"(1) financial data, sales data, or pricing data;

"(2) personnel data, except for data concerning exposure of employees to pesticides or ingredients of pesticides, or concerning health effects on employees that could reasonably be attributable to such exposure; or

"(3) research or test data (other than data relating to a registered pesticide, data relating to any pesticide for which an application for registration or for an experimental use permit has been filed, or data relating to testing at a pesticide testing facility).".

(b) DEFINITION OF PESTICIDE TESTING FACILITY.—Section 2 (7 U.S.C. 136) (as amended by section 105(c)(1) of this Act) is further amended by adding at the end thereof the following new subsection:

"(hh) PESTICIDE TESTING FACILITY.—The term 'pesticide testing facility' means any person that conducts any test, study, survey, or investigation of the properties, effects, or behavior of any pesticide (or any ingredient, metabolite, or degradation product thereof) on its own behalf or on behalf of any registrant, applicant for registration, or other person who sells or distributes the pesticide (or contemplates selling or distributing the pesticide). The term does not include any person solely on account of the participation of such person as a cooperator in field testing of a pesticide in compliance with an experimental use permit issued under section 5.".

(c) CONFORMING AMENDMENTS.—The second sentence of section 26(c) (7 U.S.C. 136w-1(c)) is amended—

(1) by striking out "Notwithstanding the provisions of section 2(e)(1) of this Act" and inserting in lieu thereof "Notwithstanding section 2(kk)";

(2) by striking out "8(b) of this Act" and inserting in lieu thereof "9"; and

(3) by striking out "9(a) of this Act" and inserting in lieu thereof "9".

SEC. 402. INSPECTIONS.

(a) AUTHORITY TO ENTER, INSPECT, AND COPY.—Subsection (a) of section 9 (7 U.S.C. 136g(a)) is amended to read as follows:

"(a) AUTHORITY TO ENTER, INSPECT, AND COPY.—An officer or employee of the United States or of any State, duly designated by the Administrator, is authorized at reasonable times, as provided by this section—

"(1) to enter any place where any pesticide, active ingredient, or device is distributed or sold, to inspect and obtain samples of any pesticide, active ingredient, or device being distributed or sold at such place or of any packaging or labeling of any such pesticide, active ingredient, or device;

"(2) in the case of a pesticide the registration of which has been canceled or suspended under section 6 and that the Administrator has reasonable cause to believe may pose a danger to public health or safety, to enter any place where the pesticide is stored to inspect and obtain samples of any pesticide, active ingredient, or device being stored at such place or of any packaging or labeling of any such pesticide, active ingredient, or device;

"(3) to enter any place where there are located any records required under this Act or any place reported under section 8(a) as a location where such records are maintained, to inspect and obtain copies of such records;

"(4) to enter any pesticide testing facility—

"(A) to inspect the facility and the testing being conducted at the facility; and

"(B) to inspect and obtain copies of any records required by or under the authority of this Act to be maintained by the pesticide testing facility; and

"(5) to enter any place where such officer or employee has reason to believe that this Act has been or is being violated by any person other than a person acting in the capacity of a private applicator, to inspect such place to obtain evidence of such violation.".

(b) WARRANTS.—Subsection (b) of section 9 (7 U.S.C. 136g(b)) is amended to read as follows:

"(b) WARRANTS.—An officer or employee of the United States or of any State, duly designated by the Administrator, is empowered to obtain and execute warrants authorizing—

"(1) entry, inspection, and obtaining of evidence for the purposes of this section;

"(2) inspection and copying of all records required under this Act; and

"(3) seizure of any pesticide or device that is in violation of this Act.".

(c) PROCEDURE, COORDINATION, AND CRIMINAL VIOLATIONS.—Section 9 (7 U.S.C. 136g) is amended by adding at the end thereof the following new subsections:

"(d) PROCEDURE.—

"(1) CREDENTIALS AND STATEMENTS.—Before any entry or inspection of any premises not open to the general public is made under this section, the person conducting the inspection shall present to the person in charge of the premises appropriate credentials, and a written statement of the reason for the entry or inspection and whether a violation of this Act is suspected.

"(2) PROMPTNESS.—Each entry or inspection shall be commenced and completed with reasonable promptness.

"(3) SAMPLES.—If the person conducting the entry or inspection obtains a sample of a pesticide or device, before leaving the premises such person shall give to the person in charge of the premises a receipt describing the sample and, if requested and practicable, a portion of each such sample equal in volume or weight to the portion retained. If an analysis of any such sample is made, a copy of the results of such analysis shall be furnished on request to the person in charge of the premises.

"(e) COORDINATION.—The Administrator shall coordinate actions taken under this section with actions taken under other Federal laws for the purpose of avoiding duplication of inspections.

"(f) CRIMINAL VIOLATIONS.—An officer or employee of the United States or of any State, duly designated by the Attorney General, may obtain and execute a warrant in accordance with rule 41 of the Federal Rules of Criminal Procedure if a court or magistrate determines under such rule that there is probable cause to believe that—

"(1) a criminal violation of this Act has occurred or is occurring on the property to be entered or searched; or

"(2) evidence of a criminal violation of this Act will be found on such property.".

TITLE V—EXPORTS

SEC. 501. DEFINITION OF MISBRANDED.

Section 2(q)(1) (7 U.S.C. 136(q)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (G);

(2) by striking out the period at the end of subparagraph (H) and inserting after the close quotation marks "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(I) in the case of a pesticide intended for export that is substantially similar in composition and use pattern to a pesticide registered under section 3, the label—

"(i) is not written in an appropriate language as required by section 17(a)(4)(A); or

"(ii) does not contain the same health, safety, and hazard precautions as the pesticide registered under section 3, unless such precautions on the label are in conflict with the law of the importing country.".

SEC. 502. DEFINITION OF IMPORTING COUNTRY.

Section 2 (7 U.S.C. 136) (as amended by section 401(b) of this Act) is further amended by adding at the end thereof the following new subsection:

"(ii) IMPORTING COUNTRY.—The term 'importing country' means the first country to which a pesticide, device, or active ingredient, subject to the notification requirements of section 17(a), is exported from the United States.".

SEC. 503. PESTICIDES AND DEVICES INTENDED FOR EXPORT.

(a) IN GENERAL.—Subsection (a) of section 17 (7 U.S.C. 136o(a)) is amended to read as follows:

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—

"(1) VIOLATIONS.—Notwithstanding any other provision of this Act, no pesticide or device, or active ingredient used in producing a pesticide, intended solely for export to any foreign country shall be considered in violation of this Act when prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to section 2(p), subparagraphs (A), (C), (D), (E), (G), (H), and (I) of section 2(q)(1), subparagraphs (A), (B), (C)(i), (C)(iii), and (D) of section 2(q)(2), sections 7 and 8, and paragraphs (2), (3), and (4) of this subsection.

"(2) EXPORT OF RESTRICTED USE OR UNREGISTERED PESTICIDES.—

"(A) This paragraph applies to a pesticide, device, or active ingredient—

"(i) for which a restricted use classification has become effective under section 3;

"(ii) for which a cancellation or suspension has become effective under section 6;

"(iii) the registration of which has been voluntarily withdrawn by the registrant, if such withdrawal is associated with concern over potential adverse public health or environmental effects; or

"(iv) that is not registered under section 3 for any use.

"(B) No pesticide, device, or active ingredient described in subparagraph (A) may be exported to any foreign country by any person unless, at least 30 days before the first shipment each year of such pesticides, devices, or active ingredients to such country, such person has—

"(i) notified, under paragraph (3), the person importing the pesticide, device, or active ingredient and the appropriate government regulatory office in the importing country;

"(ii) received written evidence that the notification was delivered to the appropriate government regulatory office; and

"(iii) submitted a copy of the notification (in English) and evidence of delivery to the Administrator.

"(C) Documents referred to in subparagraph (B) shall be made available to the public, on request.

"(3) NOTIFICATION SPECIFICATIONS.—The notification required under paragraph (2) shall be made in an appropriate language and shall contain—

"(A) the name of the pesticide and the common and chemical names of each active ingredient;

"(B) the name and address of the person exporting the pesticide, device, or active ingredient;

"(C) the name and address of the person importing the pesticide, device, or active ingredient;

"(D) the name and address of the appropriate government regulatory office in the importing country;

"(E) a statement of the reasons why the registration of the pesticide was canceled, suspended, voluntarily withdrawn, or the pesticide, is not registered in the United States, or is classified for restricted use, and the list of restrictions; and

"(F) the name and address of the office of the United States Environmental Protection Agency that, on request by the importer or official of the importing country, can provide additional information on the pesticide, device, or active ingredient.

"(4) LABELS.—

"(A) The label of a pesticide intended for export from the United States shall be written in an appropriate language.

"(B) Except as provided in section 2(q)(1)(H), such label may not refer to compliance with the laws of the United States unless the label also contains or is accompanied by a description of the relevant requirements of such laws.

"(5) RECORDS.—The Administrator, by regulation, may require any person subject to this subsection to prepare, maintain, and submit such records as may be necessary to carry out this subsection.".

(b) EFFECTIVE DATES AND IMPLEMENTATION.—

(1) IN GENERAL.—Paragraphs (2) and (3) of section 17(a) of the Federal Insecticide, Rodenticide, and Fungicide Act (as amended by subsection (a) of this section) shall become effective 90 days after the effective date of this Act.

(2) PUBLICATION OF LIST.—Not later than 30 days after the effective date of this Act, the Administrator of the Environmental Protection Agency shall publish in the Federal Register a list of the names, addresses, and international telecommunications codes of appropriate regulatory offices required to receive notices under section 17(a)(2)(B) of the Federal Insecticide, Rodenticide, and Fungicide Act (as amended by subsection (a)).

(3) REVISION OF LIST.—Not later than 180 days after the effective date of this Act, and annually thereafter, the Administrator shall revise the list required under paragraph (2).

(4) PRELIMINARY GUIDELINES.—Not later than 90 days after the effective date of this Act, the Administrator shall publish in the Federal Register preliminary guidelines regarding—

(A) the form of the notification required under section 17(a) of the Federal Insecticide, Rodenticide, and Fungicide Act (as amended by subsection (a));

(B) translation of the notification and labels required under such section 17(a) into the appropriate language;

(C) preparation and retention of records under such section 17(a); and

(D) procedures for public access to documents submitted by exporters under such section.

SEC. 504. CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.

Subsection (b) of section 17 (7 U.S.C. 136o(b)) is amended to read as follows:

"(b) NOTICES OF REGULATORY ACTION FURNISHED TO FOREIGN GOVERNMENTS.—

"(1) ISSUANCE.—The Administrator shall promptly transmit through the Secretary of State a notice, at such time and annually thereafter, to the appropriate governmental regulatory offices of other countries and to appropriate international agencies whenever—

"(A) a registration, or a cancellation or suspension of the registration, of a pesticide becomes effective or ceases to be effective; or

"(B) a pesticide is classified for restricted use.

"(2) CONTENTS.—A notice under paragraph (1) shall include—

"(A) the reasons for the regulatory action taken;

"(B) in the case of a canceled or suspended registration of a pesticide, information concerning other pesticides that are registered under section 3 and that could be used in lieu of such pesticide; and

"(C) the name and address of the office of the United States Environmental Protection Agency that, on request, can provide additional information on the pesticide.".

SEC. 505. COOPERATION IN INTERNATIONAL EFFORTS.

Subsection (d) of section 17 (7 U.S.C. 136o(d)) is amended to read as follows:

"(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator shall—

"(1) in cooperation with the Secretary of State, other appropriate Federal agencies, and nongovernmental and international organizations, actively participate in international efforts to develop improved pesticide research and regulatory programs,

"(2) provide foreign countries with technical assistance to develop comprehensive pesticide regulatory programs,

"(3) within 1 year after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, and every 3 years thereafter, conduct and publish a survey of all countries that import pesticides from United States exporters or from which the United States imports agricultural commodities, to ascertain what procedures are in place in each country—

"(A) regarding registration, labeling, and training to ensure safe handling, transportation, application, and disposal of pesticides, and

"(B) to control residues on foods to meet tolerances established under United States law, and

"(4) report to Congress annually on the activities conducted under this subsection and the results thereof.".

TITLE VI—CERTIFICATION, TRAINING, AND RECORDKEEPING FOR PESTICIDE APPLICATORS

SEC. 601. CERTIFICATION, TRAINING, AND RECORDKEEPING FOR PESTICIDE APPLICATORS.

(a) DEFINITIONS.—

(1) APPLICATOR.—Subsection (e) of section 2 (7 U.S.C. 136(e)) is amended to read as follows:

"(e) APPLICATOR.—

"(1) COMMERCIAL APPLICATOR.—

"(A) Except as provided in subparagraph (B), the term 'commercial applicator' means a person (whether or not the person is a private applicator with respect to some uses) who—

"(i) uses or supervises the use, for any purpose or on any property, of any pesticide that is classified for restricted use;

"(ii) uses or supervises the use of any pesticide (other than a pesticide that the Administrator determines may be applied without the need for training) for hire as the principal part of the business or work of the person; or

"(iii) as an employee of a person described in clause (ii), uses or supervises the use of any pesticide.

"(B) The term does not include a person who uses or supervises the use of a pesticide as described in paragraph (2).

"(2) PRIVATE APPLICATOR.—The term 'private applicator' means a person who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural commodity—

"(A) on property owned or rented by such person or the employer of such person; or

"(B) on other property if applied without compensation (other than trading of personal services between producers of agricultural commodities).

"(3) CERTIFIED APPLICATOR.—The term 'certified applicator' means a commercial or private applicator who is certified under section 4.

"(4) UNDER THE DIRECT SUPERVISION OF A CERTIFIED APPLICATOR.—Unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if the pesticide is applied by a person acting under

the direct supervision and the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is used.".

(2) PESTICIDE DEALER.—Section 2 (as amended by section 502 of this Act) is further amended by adding at the end thereof the following new subsection:

"(jj) PESTICIDE DEALER.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'pesticide dealer' means any person who, in the ordinary course of business, distributes or sells any pesticide that is classified for restricted use or designated under section 8(d)(2).

"(2) EXCEPTION.—Such term does not include a person who only distributes or sells pesticides that are classified for general use and that are not designated under section 8(d)(2).".

(b) CERTIFICATION AND TRAINING FOR PESTICIDE APPLICATORS.—

(1) IN GENERAL.—Section 4 (7 U.S.C. 136b) is amended by adding at the end thereof the following new subsections:

"(d) USE BY COMMERCIAL APPLICATORS.—

"(1) IN GENERAL.—It shall be a violation of this Act for any person to use any pesticide as a commercial applicator unless such person is—

"(A) a certified commercial applicator; or

"(B) a registered commercial applicator under the direct supervision of a certified commercial applicator.

"(2) CERTIFIED COMMERCIAL APPLICATORS.—To be considered to be a certified commercial applicator, a person, at a minimum, shall—

"(A) have met the standards prescribed under subsection (a) and have received training—

"(i) prescribed by the State agency, including training in the material referred to in subsection (g);

"(ii) conducted by a trainer who has met the requirements prescribed under subsection (h); and

"(iii) that satisfies the minimum standards for training programs prescribed under subsection (h);

"(B) have had field, institutional, or industrial experience in pesticide use and application;

"(C) have passed an examination prescribed by such State agency; and

"(D) possess a valid commercial applicator certification issued by such State agency.

"(3) REGISTERED COMMERCIAL APPLICATORS.—

"(A) To be considered to be a registered commercial applicator, a person, at a minimum, shall—

"(i) have received training—

"(I) prescribed by the State agency, including training in the material referred to in subsection (g); and

"(II) conducted by a trainer who has met the requirements prescribed under subsection (h); and

"(ii) possess a valid registration issued by such State agency.

"(B) A person may obtain a registration by providing to the State agency a report, signed and dated by the trainer and by the person who received the training, stating that the prescribed minimum training has been provided and received.

"(e) USE BY PRIVATE APPLICATORS.—

"(1) IN GENERAL.—A restricted use pesticide shall be considered to have been applied by, or under the direct supervision of, a certified private applicator only if the pesticide is applied by a person who is either—

"(A) a certified private applicator; or

"(B) a supervised private applicator who uses the pesticide under the direct supervision of a certified private applicator.

"(2) CERTIFIED PRIVATE APPLICATORS.—To be considered to be a certified private applicator, a person, at a minimum, shall—

"(A) have met the standards prescribed under subsection (a) and have received training—

"(i) prescribed by the State agency, including training in the material described in subsection (g);

"(ii) conducted by a trainer who has met the requirements prescribed under subsection (h); and

"(iii) that satisfies the minimum standards for training prescribed under subsection (h); and

"(B) possess a valid private applicator certification issued by such State agency.

"(3) SUPERVISED PRIVATE APPLICATORS.—

"(A) To be considered to be a supervised private applicator, a person, at a minimum, shall have received basic instruction—

"(i) prescribed by the State agency or based on material prescribed by such State agency, including basic instruction material concerning the use of appropriate pesticide application and safety procedures, appropriate clothing and protective equipment for pesticide applications, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, hazards posed by pesticides to workers, the public health, and the environment, and the requirements of applicable laws, regulations, and labeling; and

"(ii) given by a certified private applicator, a commercial applicator who is certified in the pest control category appropriate for the instruction being provided, or a trainer who has met the requirements prescribed under subsection (h).

"(B) The State agency may require the employer of a supervised private applicator to confirm that the basic instruction described in subparagraph (A)(i) has been received.

"(f) RECERTIFICATION AND REREGISTRATION.—

"(1) IN GENERAL.—Each certified applicator and each registered commercial applicator within a State shall undergo refresher training and be recertified or reregistered within a period established by the State agency of such State of not more than 5 years.

"(2) TRAINING MATERIAL.—The refresher training shall be prescribed by the State agency and shall include training in the materials referred to in subsection (g) and in the relevant requirements of other subsections of this section and sections 3(d), 12, and 14.

"(3) RECERTIFICATION.—To be recertified, an applicator, at a minimum, shall meet—

"(A) the requirements of subparagraphs (A), (B), and (D) of subsection (d)(2); or

"(B) the requirements of paragraphs (1) and (2) of subsection (e).

"(4) REREGISTRATION.—To be reregistered, a commercial applicator, at a minimum, shall meet the requirements of subsection (d)(3).

"(g) TRAINING MATERIAL.—

"(1) DEVELOPMENT.—The Administrator, in consultation with the Secretary of Agriculture, shall develop training material on the use of appropriate procedures for the application of pesticides, safety procedures for pesticide application, clothing and protective equipment for pesticide application, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, hazards posed by pesticides to workers, the public health, and the environment, specific commercial application categories, and the requirements of applicable laws, regulations, and labeling.

"(2) REVISIONS.—Within 12 months after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator, in consultation with the Secretary of Agriculture, shall revise and make current such material and thereafter shall update such material as needed.

"(h) MINIMUM STANDARDS FOR TRAINERS AND TRAINING PROGRAMS.—

"(1) TRAINING OF COMMERCIAL APPLICATORS.—

"(A) The Administrator shall establish within 1 year after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986—

"(i) minimum standards of competency, and experience or expertise, for trainers referred to in subsection (d); and

"(ii) minimum standards for the training programs referred to in subsection (d).

"(B) Training programs prescribed by any State under subsection (d) shall comply with the minimum standards established by the Administrator under subparagraph (A) not later than 2 years after the effective date of such standards. If on the expiration of such 2-year period a State's training program fails to meet such minimum standards, or if a State fails to prescribe such a program, the Administrator shall notify the State of such failure. After receipt of a notice, a State shall have 90 days to bring the training program of the State into compliance with such standards. If on expiration of such 90-day period, the training program of the State does not meet such standards, the Administrator shall prescribe such training programs referred to in subsection (d) for use in such State.

"(2) TRAINING OF PRIVATE APPLICATORS.—

"(A) The Administrator shall establish within 2 years after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986—

"(i) minimum standards of competency, and experience or expertise, for trainers referred to in subsection (e); and

"(ii) minimum standards for the training programs referred to in subsection (e).

"(B) Training programs prescribed by any State under subsection (e) shall comply with the minimum standards established by the Administrator under subparagraph (A) not later than 2 years after the effective date of such standards. If on the expiration of such 2-year period the training program of a State fails to meet such minimum standards, or if a State fails to prescribe such a program, the Administrator shall notify the State of such failure. After receipt of a notice, a State shall have 90 days to bring the training program of the State into compliance with such standards. If on expiration of such 90-day period the training program of the State does not meet such standards, the Administrator shall prescribe the training programs referred to in subsection (e) for use in such State.

"(i) PRIVATELY ADMINISTERED TRAINING PROGRAMS.—A State agency may approve any privately administered training program that the Administrator determines meets the more stringent of—

"(1) requirements established under this section; or

"(2) requirements established by the State agency.

"(j) ENFORCEMENT OFFICER TRAINING.—Federal and State field personnel responsible for on-site observations and inspections of pesticide use shall have training that, at a minimum, includes training covering materials specified in subsection (g) for the commercial application categories for which they are assigned enforcement responsibility.

"(k) SEPARATE STANDARDS.—In establishing standards under this section applicable to applicators, the Administrator shall establish separate standards for commercial applicators and private applicators.

"(l) DEFINITION OF STATE AGENCY.—For purposes of this section, the term 'State agency' means the agency of a State that is designated under subsection (a)(2)(A) if the State has primary enforcement responsibility for pesticide use violations, as provided for by section 26. In the case of a State that does not have such primary enforcement responsibility or that does not have an agency designated under subsection (a)(2)(A), a reference to a State agency shall be considered a reference to the Administrator.".

(2) EFFECTIVE DATES.—

(A) COMMERCIAL APPLICATORS.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), subsection (d) of section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by paragraph (1)) shall become effective in a State on the expiration of the period prescribed by subsection (h) of such section within which training programs of such State under subsection (d) are required to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under subsection (h).

(ii) CERTIFIED COMMERCIAL APPLICATORS.—If an applicator in a State is certified as a commercial applicator under subsection (a) of section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act before the effective date prescribed by clause (i) and the Administrator has determined that the previous certification or recertification requirements in that State do not conform to the requirements of subsection (d) of such section, such applicator shall be recertified—

(I) within 2 years after the date the training programs of such State under subsection (d) comply with such minimum standards of the Administrator; or

(II) within such earlier time as the State may prescribe.

(iii) REGISTERED COMMERCIAL APPLICATORS.—The requirements of subsection (d) of section 4 for registered commercial applicators shall become effective 1 year after the expiration of the period prescribed by subsection (h) of such section within which training programs of such State under subsection (d) are required to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under subsection (h).

(B) PRIVATE APPLICATORS.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), subsection (e) of section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by paragraph (1)) shall become effective in a State on the expiration of the period prescribed by subsection (h) of such section within which training programs of such State under subsection (e) are required to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under subsection (h).

(ii) CERTIFIED PRIVATE APPLICATORS.—If an applicator in a State is certified as a private applicator under subsection (a) of section 4 before the effective date prescribed by clause (i) and the Administrator has determined that the previous certification or recertification requirements in such State do not conform to the requirements of subsection (d) of such section, such applicator shall be recertified—

(I) within 2 years after the date the training programs of such State under subsection (e) comply with such minimum standards of the Administrator; or

(II) within such earlier time as the State may prescribe.

(iii) SUPERVISED PRIVATE APPLICATORS.—The requirements of subsection (e) of section 4 for supervised private applicators shall become effective 1 year after the expiration of the period prescribed by subsection (h) of such section within which training programs of such State under subsection (e) are required to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under such subsection.

(C) ENFORCEMENT OFFICER TRAINING.—The requirements of subsection (j) of section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by paragraph (1)) shall become effective 1 year after the Administrator issues the training materials specified in subsection (g) of such section.

(c) RECORDS OF PESTICIDE APPLICATORS AND DEALERS.—

(1) IN GENERAL.—Section 8 (7 U.S.C. 136f) (as amended by section 401 of this Act) is further amended by adding at the end thereof the following new subsections:

"(c) RECORDS OF APPLICATORS.—

"(1) COMMERCIAL APPLICATORS.—The Administrator shall require each commercial applicator to maintain records of each pesticide application, including the identity and quantity of pesticide applied and the date and location of such application, for a period of 2 years after each such application.

"(2) PRIVATE APPLICATORS.—No regulations issued by the Administrator to carry out this Act may require any private applicator to maintain any records or file any reports or other documents.

"(d) RECORDS OF PESTICIDE DEALERS.—

"(1) IN GENERAL.—The Administrator, by regulation, shall require each pesticide dealer to maintain a record of each sale or distribution of—

"(A) a pesticide classified for restricted use; and

"(B) any other pesticide designated for purposes of this subsection by the Administrator by regulation because the pesticide may cause significant adverse effects on health or the environment.

"(2) CONTENTS.—Such records shall include the identity of the pesticide sold or distributed, the identity of the person to whom the pesticide was distributed or sold, the date of the distribution or sale, and the amount of the pesticide distributed or sold.

"(3) DURATION.—A pesticide dealer shall maintain the records required under this subsection for 3 years after the date of the distribution or sale.

"(e) ACCESS.—

"(1) EMPLOYEES, CUSTOMERS, AND COMPLAINANTS.—

"(A) A pesticide dealer or commercial applicator shall afford to an employee or former employee of such dealer or applicator access to records required to be kept under subsections (c) and (d) that directly relate to the employment duties of the employee.

"(B) A pesticide dealer or commercial applicator shall afford to a customer of such dealer or applicator access to the records that directly relate to any pesticide that the customer purchased from the dealer or that relate to any pesticide application made by such an applicator at the request of the customer or under a contract with a customer.

"(C) Each State enforcement agency, as part of an investigation or enforcement action in response to a formal complaint, shall make available reports of the findings of such investigation or action to the complainant. On the request of a complainant, such agency shall provide in a timely manner a progress report or interim report that contains, at a minimum, the records required to be kept under subsections (c) and (d) and obtained in the investigation or action.

"(D) The records for which access is provided under subparagraph (A), (B), or (C) shall be accessible within 30 days after a request made under such subparagraph, except that if necessary to protect the public health or in a medical emergency, such records shall be provided as soon as possible, but no later than 24 hours, after the request is made.

"(2) STATE AGENCIES.—A copy of any record to be required to be maintained under subsection (c) or (d) shall be submitted to a State agency that has primary enforcement authority under section 26 on request by such State agency to the commercial applicator or dealer required to maintain such records.

"(f) INFORMATION FOR EMPLOYEES.—An employer who uses or supervises the use of a pesticide shall—

"(1) know or have access to the brand name and common or chemical name of each ingredient listed on the labeling of the pesticide, and to the safety, first aid, and antidote information listed on the labeling of the pesticide; and

"(2) be responsible for promptly making such information available, on request, to any employee exposed to the pesticide and to treating medical personnel.".

(2) CONFORMING AMENDMENT.—Section 11 (7 U.S.C. 136i) is repealed.

(d) UNLAWFUL ACTS.—Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended—

(1) by striking out "or" at the end of subparagraph (O);

(2) by striking out the period at the end of subparagraph (P) and inserting in lieu thereof a semicolon; and

(3) by adding after subparagraph (P) the following new subparagraph:

"(Q) to obtain or use records acquired under section 8(e) in furtherance of a commercial purpose;".

TITLE VII—ADDITIONAL DATA, DATA COMPENSATION, AND PATENTS

SEC. 701. ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATIONS.

Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)) is amended—

(1) by striking out clauses (i) and (ii) and inserting in lieu thereof the following new clauses:

"(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide or the existing registrations of a group of pesticides, the Administrator shall notify the registrant of each pesticide to which the determination relates and provide a list of such registrants to any person.

"(ii)(I) Each registrant of such a pesticide shall provide evidence within 90 days after receipt of notification that the registrant is taking appropriate steps to secure and

submit the additional data that are required.

"(II) Two or more registrants may agree to develop jointly, or to share in the cost of development of, such data. Any registrant who enters into such an agreement, or who offers to agree to share in the cost of development of such data, shall be entitled to examine such data and rely on such data to maintain or obtain registrations under this Act or under the law of any State. An offer to enter into such an agreement may be accepted at any time and may not be withdrawn without the consent of the person to whom the offer was made."; and

(2) in clause (iii), by striking out the first sentence and inserting in lieu thereof the following new sentence: "If at the end of 60 days after two or more registrants have entered into an agreement under clause (ii) the registrants have not further agreed on the terms of the data development or cost-sharing agreement or on a procedure for reaching such agreement, any of such registrants may initiate binding arbitration proceedings to fix such terms by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by the Service.".

SEC. 702. DATA COMPENSATION AND ARBITRATION.

Section 3(c)(1)(D) (7 U.S.C. 136a(c)(1)(D)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

"(iii)(I) In the case of a pesticide the term of the patent for which has expired, the terms and amount of compensation, for data that was submitted for such pesticide, to be paid by a person who intends to file an application for registration of a pesticide that cites such data may be fixed before the submission of such application by arbitration under clause (ii) initiated by such person.

"(II) The arbitration shall be binding on the original data submitter and shall be binding on such person after the date the application of such person is submitted.

"(III) No official or court of the United States shall have power or jurisdiction to review any such finding or determination of the arbitrator, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint, with supporting affidavits, attesting to specific instances of such fraud, misrepresentation, or other misconduct.

"(IV) Each party to the first arbitration under this clause to determine the terms and amount of compensation for the use of particular data shall share equally in the payment of the fees and expenses of the arbitrators and shall each pay its own attorney's fees.

"(V) In all subsequent arbitrations under this clause to determine the terms and amount of compensation for the use of such data, the party to such subsequent arbitration who seeks to cite the data of the original data submitter shall pay the fees and expenses of the arbitrators and the attorney's fees of the original data submitter.

"(VI) Clause (ii) shall apply to arbitrations under this clause, except as otherwise provided in this clause.".

SEC. 703. RESTORATION OF PATENT TERM FOR CERTAIN AGRICULTURAL AND CHEMICAL PRODUCTS.

Chapter 14 of title 35 of the United States Code is amended by adding after section 157 the following:

"§158. Restoration of patent term for certain agricultural and chemical products

"(a) The term of a patent which claims a product subject to a regulatory review period, a method for using such a product, or a method for manufacturing such a product shall be extended, in accordance with this section, from the original expiration date of the patent if—

"(1) the owner of record of the patent or its agent notifies the Commissioner in compliance with subsection (d),

"(2) the product has been subject to a regulatory review period before its commercial marketing or use,

"(3) the term of the patent has never been extended under this section,

"(4) the term of the patent has not expired before the Commissioner is notified under subsection (d), and

"(5)(A) except as provided in subparagraph (B), the permission for the commercial marketing or use of the product after such regulatory review period is the first permitted commercial marketing or use of the product under the provision of law under which such regulatory review period occurred, or

"(B) in the case of a patent which claims a method of manufacturing the product which primarily uses recombinant DNA or hybridoma technology in the manufacture of the product, the permission for the commercial marketing or use of the product after such regulatory review period is the first permitted commercial marketing or use of a product manufactured under the process claimed in the patent.

"(b) The rights derived from any patent the term of which is extended under this section shall during the period during which the patent is extended—

"(1) in the case of any patent which claims a product, be limited to any use approved for the product before the expiration of the term of the patent under the provision of law under which the applicable regulatory review occurred,

"(2) in the case of a patent which claims a method of using a product, be limited to any use claimed by the patent and approved for the product before the expiration of the term of the patent under the provision of law under which the applicable regulatory review occurred,

"(3) in the case of a patent which claims a method of manufacturing a product, be limited to the method of manufacturing as used to make the product.

"(c)(1) Subject to paragraph (2), the term of a patent shall be extended by the time equal to the regulatory review period which occurred after such patent was granted, except that—

"(A) the term of any patent may not be extended for more than 5 years,

"(B) no term of any extended patent may exceed 17 years from the date the product for which the patent was issued was first permitted to be commercially marketed or used,

"(C) if the regulatory review period for a product began before the date of enactment of this section and if on such date the regulatory review period had not ended, the period of extension for the patent shall not exceed 2 years, and

"(D) if the regulatory review period for a product began before the date of enactment of this section and if on such date the regulatory review period had been completed, there shall be no extension of the patent.

"(2) In determining a regulatory review period for purposes of paragraph (1)—

"(A) if an application or notice described in subparagraph (A)(ii), (B), or (C) of paragraph (4) of subsection (g) was rejected because of insufficiency of data or other required information, the period beginning on the date the application or notice was rejected for insufficiency of data and ending on the date the application or notice was subsequently accepted shall be excluded, except that if during such period the product sponsor conducts a major health or environmental effects test, the period during which such test is conducted shall not be excluded, and

"(B) the regulatory review period shall be reduced by any period determined under subsection (e) during which the product sponsor did not act with due diligence.

"(3) In no event shall more than one patent be extended for the same regulatory review period for any product.

"(4) In the case of a pesticide, all formulations of such pesticide containing the identical active ingredient shall be considered the same pesticide and no pesticide may be the subject of more than one patent extension.

"(d) To obtain an extension of the term of a patent under subsection (a), the owner of record of the patent or its agent shall notify the Commissioner, within 60 days after the termination of the regulatory review period for the product to which the patent relates, that the regulatory review period has ended. Such notification shall be in writing and shall—

"(1) identify the Federal statute under which regulatory review occurred,

"(2) state the dates on which the regulatory review period commenced and ended and identify the event which caused such period to begin,

"(3) identify the product for which regulatory review was required,

"(4) state that the requirements of the statute under which the regulatory review referred to in subsection (a)(2) occurred have been satisfied and commercial marketing or use of the product is not prohibited under the Federal statute identified under paragraph (1),

"(5) identify the patent and any claim thereof to which the extension is applicable, identify any uses previously authorized, and state that the term of the patent has never been extended under this section and that no other patent has been extended for the regulatory review period for the product, and

"(6) include such patent or other information as the Commissioner may require.

"(e)(1) Within 60 days of the submittal of the extension notification under subsection (d), the Commissioner shall notify—

"(A) the Secretary of Agriculture if the patent claims a plant or plant product or a method of using or manufacturing a plant or plant product, and

"(B) the Administrator of the Environmental Protection Agency if the patent claims a pesticide subject to the Federal Insecticide, Fungicide, and Rodenticide Act, a chemical substance or mixture subject to the Toxic Substances Control Act, or a method of using or manufacturing such a pesticide, substance, or mixture,

of the extension notification and shall submit to the Secretary or Administrator who is so notified a copy of the extension notification. Not later than 30 days after the receipt of the extension notification from the Commissioner, the Secretary or Administrator receiving the extension notice shall review the dates contained in such notification and determine the applicable regulatory review period, shall notify the Commissioner of the determination, and shall pub-

lish in the Federal Register a notice of such determination.

"(2)(A) If a petition is submitted to the Secretary or Administrator making the determination under paragraph (1) not later than 180 days after the publication of a determination under paragraph (1) upon which it may reasonably be determined that a product sponsor did not act with due diligence during an applicable regulatory review period, the Secretary or Administrator making the determination shall, in accordance with regulations promulgated by the Secretary or Administrator, determine if the product sponsor acted with due diligence during the applicable regulatory review period. The Secretary or Administrator shall make such determination not later than 90 days after the receipt of a petition. The Administrator may not delegate the authority to make such determination to an office below the Assistant Administrator for Pesticides and Toxic Substances.

"(B) The Secretary or Administrator making a determination under subparagraph (A) shall notify the Commissioner of the determination and shall publish in the Federal Register a notice of such determination, together with the factual and legal basis for such determination. Any interested person may request, within the 60-day period beginning on the publication of a determination, the Secretary or Administrator making the determination to hold a hearing on the determination. Such a hearing shall be an informal hearing which is not subject to section 554, 556, or 557 of title 5, United States Code. If such a request is made within such period, the such Secretary or Administrator shall hold such hearing not later than 30 days after the date of the request, or at the request of the person making the request, not later than 60 days after such date. The Secretary or Administrator who is holding the hearing shall provide notice of the hearing to the product sponsor and to any interested person and provide the product sponsor and any interested person an opportunity to participate in the hearing. Within 30 days after the completion of the hearing, such Secretary or Administrator shall affirm or revise the determination which was the subject of the hearing and notify the Commissioner of such affirmation or any revision of the determination and shall publish such affirmation or revision in the Federal Register.

"(C) Failure of a product sponsor to act with due diligence during a regulatory review period shall not be a defense in any action involving the infringement of a patent.

"(D) In a proceeding under this paragraph, the Secretary or Administrator may take into consideration the failure of a product sponsor to submit data which the product sponsor knew or reasonably should have known was necessary to support an application or notice described in paragraph (4) of subsection (g).

"(E) For purposes of this paragraph, the term 'due diligence' means that degree of attention, sustained directed effort, and timeliness as may reasonably be expected from, and are ordinarily exercised by, a person during a regulatory review period.

"(f)(1) The Commissioner shall determine that a patent is eligible for extension under subsection (a) and that the requirements of subsection (d) have been complied with. A determination that a patent is eligible for extension may be made by the Commissioner solely on the basis of the representations contained in the notification under subsection (d). If the Commissioner determines that the patent is eligible for extension and upon receipt of a determination of the applicable regulatory review period under subsection (e), the Commissioner shall issue to the owner of record of the patent a certificate of extension, under seal, for the period prescribed by subsection (c). Such certificate shall be recorded in the official file of the patent and shall be considered as part of the original patent. The Commissioner shall publish in the Official Gazette of the Patent and Trademark Office a notice of such extension.

"(2) If the term of a patent for which a notification has been submitted under subsection (d) would expire before a certificate of extension is issued or denied under paragraph (1), the Commissioner shall extend, until such determination is made, the term of the patent for periods of up to 1 year if the Commissioner determines that the patent is eligible for extension. Such periods of extension shall not exceed the regulatory review period calculated from the information provided in the notification submitted under subsection (d).

"(g) As used in this section:

"(1) The term 'product' means:

"(A) Any pesticide subject to regulation under the Federal Insecticide, Fungicide, and Rodenticide Act.

"(B) Any chemical substance or mixture subject to regulation under the Toxic Substances Control Act.

"(C) Any plant or plant product that (i) is genetically altered, (ii) is defined as a plant pest or potential plant pest under the Federal Plant Pest Act (7 U.S.C. 150aa–150jj), and (iii) is subject to regulation under that Act.

"(2) The term 'major health or environmental effects test' means an experiment or study to determine or evaluate health or environmental effects which requires at least six months to conduct, not including any period for analysis or conclusions, and the data from which is submitted to receive permission for commercial marketing or use.

"(3) The term 'product sponsor' means any person who, with the consent of the patent owner, initiates testing or investigations, claims an exemption, or submits an application or notice described in paragraph (4) of this subsection.

"(4) The term 'regulatory review period' has the following meaning:

"(A) With respect to a product which is a pesticide, the term means the sum of—

"(i) the period beginning on the earlier of the date the product sponsor (I) initiates a major health or environmental effects test on such pesticide, or (II) requests, in accordance with regulations issued by the Administrator, the grant of an experimental use permit for the pesticide under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, and ending on the date an application is submitted for registration of such pesticide pursuant to section 3 of such Act, and

"(ii) the period beginning on the date an application is submitted, in accordance with regulations issued by the Administrator, for registration of such pesticide pursuant to section 3 of such Act and ending on the date such pesticide is first registered, either conditionally or fully, under such section.

"(B) With respect to a product which is a chemical substance for which notice is required under section 5 of the Toxic Substances Control Act or which is a mixture which contains a substance for which such notice is required and—

"(i) which is subject to a rule requiring testing under section 4(a) of such Act, the term means a period commencing on the date the product sponsor has initiated the testing required in such rule and ending on the expiration of the notice period for such chemical substance or mixture under section 5 of such Act, or if an order or injunction is issued under section 5(e) or 5(f) of such Act, the date on which such order or injunction is dissolved or set aside, or

"(ii) which is not subject to a testing rule under section 4 of such Act, the term means a period commencing on the earlier of the date the product sponsor—

"(I) submits, in accordance with regulations issued by the Administrator, a notice under section 5 of such Act, or

"(II) initiates a major health or environmental effects test on such chemical substance or mixture,

and ending on the expiration of the notice period for such substance under section 5 of such Act or if an order or injunction is issued under section 5(e) or 5(f) of such Act, the date on which such order or such injunction is dissolved or set aside.

"(C) With respect to a product which is a plant or plant product, the term means the period beginning on the date an application is submitted under section 103 of the Federal Plant Pest Act for permission to move the plant or plant product in interstate commerce and ending on the date such application is approved.

"(h) If information submitted by a product sponsor during a regulatory review period is considered a trade secret or confidential commercial or financial information under the law under which such regulatory review occurred, such information may only be disclosed under this section in accordance with such law. This subsection does not prohibit the Commissioner or the Administrator from identifying the patent owner, the product sponsor, the product, the patent, and any other information necessary to identify, describe, and calculate the regulatory review period in any notification, publication, or public record required by this section.

"(i) The Commissioner, the Administrator, and the Secretary of Agriculture may establish such fees as appropriate to cover the costs of carrying out their respective duties and functions under this section.

"(j)(1) Except as provided in paragraph (2), this section shall cease to be in effect upon the expiration of 15 years after the date of the enactment of this section.

"(2) This section shall continue to apply to any patent that claims a product subject to a regulatory review period, a method for using such a product, or a method of manufacturing such a product if the patent was issued before the expiration of 15 years after such date.

(b) CONFORMING AMENDMENT.—The last sentence of section 282 of title 35, United States Code, is amended by inserting "or 158(e)" after "(2)".

(c) ANALYSIS.—The analysis for chapter 14 of title 35 of the United States Code is amended by adding after the item relating to section 157 the following:

"158. Restoration of patent term for certain agricultural and chemical products.".

(d) SECTION 271.—Section 271(e) of title 35, United States Code, is amended by adding at the end the following:

"(5)(A) Except as provided in subparagraph (B), during the last 2 years of the term of a patent relating to a pesticide (including

a patent which claims a pesticide, a method for using a pesticide, or a method of manufacturing a pesticide) which is or has been registered under the Federal Insecticide, Fungicide, and Rodenticide Act or which is marketed with the permission of the holder of such patent, it shall not be an act of infringement of such patent to make, use, or sell such pesticide solely for testing reasonably related to the development and submission of data—

"(i) to meet regulatory requirements under the Federal Insecticide, Fungicide, and Rodenticide Act,

"(ii) to obtain a tolerance or an exemption from a tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act, or

"(iii) to obtain a food additive regulation or an exemption from a food additive regulation under section 409 of the Federal Food, Drug, and Cosmetic Act.

"(B)(i) Subparagraph (A) applies only to the first patent issued for a pesticide, a method of using a pesticide, or a method of manufacturing a pesticide which makes the unlicensed manufacture, use, or sale of the pesticide a patent infringement.

"(ii) Subparagraph (A) does not apply to a patent which claims a method of manufacturing a pesticide which uses recombinant DNA or hybridoma technology in the manufacture of the pesticide.

"(C) It shall be an act of infringement for any person to submit any application under the Federal Insecticide, Fungicide, and Rodenticide Act or section 408 or 409 of the Federal Food, Drug, and Cosmetic Act for a pesticide covered by the first composition of matter patent, method of use patent, or method of manufacturing patent issued for the pesticide if such application is submitted before the expiration of the term of such first patent unless such person is the holder of such patent or a licensee of the holder.

"(D) For purposes of this paragraph, all formulations of a pesticide containing the identical active ingredient shall be considered the same pesticide.".

TITLE VIII—GENERAL

Subtitle A—Amendments to the Federal Insecticide, Fungicide, and Rodenticide Act

SEC. 801. AUTHORITY OF STATES.

(a) STATE REGULATION, HOUSEHOLD ANTIMICROBIAL PESTICIDES.—Subsection (a) of section 24 (7 U.S.C. 136v(a)) is amended to read as follows:—

"(a) STATE REGULATION.—

"(1) IN GENERAL.—A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this Act.

"(2) HOUSEHOLD ANTIMICROBIAL PESTICIDES.—

"(A) This paragraph shall apply to any household antimicrobial pesticide where—

"(i) the pesticide is a formulated end-use product which, as registered, is not intended for use on food or feed;

"(ii) the pesticide has been registered under section 3(c)(5), or reregistered under section 3A, after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986;

"(iii) the Administrator has determined that the product as so registered or reregistered poses no significant toxicological concern when used in accordance with its labeling;

"(iv) the Administrator has published the determination of no significant toxicological concern in the Federal Register;

"(v) the registrant of the product has offered, at the time the registrant provides the final product label to the Administrator, to provide under the conditions of this Act to the appropriate State authority any data submitted by the registrant to the Administrator in support of the registration; and

"(vi) at least 45 days have elapsed from the date upon which an application for State registration has been filed.

"(B) A State may not prohibit any sale or use permitted under this Act of a pesticide described in subparagraph (A) for which an application for State registration has been filed unless and until the State has finally acted on such application pursuant to applicable State law.

"(C) This paragraph shall cease to be effective 5 years after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 and shall not be construed during the 5 year effective period to (i) preclude a State from requiring in the State registration process submission of additional data beyond that required by the Administrator, or (ii) otherwise affect State authority to regulate the sale or use of a pesticide when final action is taken under State law.

(b) STATE REGISTRATIONS.—Section 24(c) is amended—

(1) in paragraph (1), by adding at the end thereof the following new sentence: "Such registration shall expire and be of no further effect, without further action by the Administrator—

"(A) at the end of the period, if any, provided as the duration of the registration by the State that approved it; or

"(B) 10 days after the date the Administrator publishes in the Federal Register a notice stating that the State that issued the registration has informed the Administrator that the State no longer desires the registration to continue in effect."; and

(2) in paragraph (2), by adding at the end thereof the following new sentence: "The Administrator shall establish criteria that define the conditions under which a special local needs registration may be disapproved, taking into account geographic patterns of use.".

(c) DIFFERENCES IN USAGE AND RISK.—Section 24 is amended by adding at the end thereof the following new subsection:

"(d) DIFFERENCES IN USAGE AND RISK.—In promulgating any regulations or policies pertaining to the sale or use of pesticides within a State, the State may take into account the difference in concept and usage between various classes of pesticides and the differences in environmental risk and the appropriate data for evaluating such risk between agricultural and nonagricultural pesticides.".

SEC. 802. DEFINITIONS.

(a) IN GENERAL.—

(1) TO USE ANY REGISTERED PESTICIDE IN A MANNER INCONSISTENT WITH ITS LABELING.—The first proviso of section 2(ee) (7 U.S.C. 136(ee)) is amended—

(A) in clause (1), by inserting before the comma at the end thereof the following: "unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency"; and

(B) in clause (3), by inserting before the comma at the end thereof the following: "unless the labeling specifically states that the product may be applied only by the methods specified on the labeling".

(2) TO DISTRIBUTE OR SELL.—Section 2 (as amended by section 601(a)(2) of this Act) is further amended by adding at the end thereof the following new subsection:

"(kk) TO DISTRIBUTE OR SELL.—The term 'to distribute or sell' means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. The term does not include the holding or application of registered pesticides or use dilutions thereof by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.".

(b) CONFORMING AMENDMENTS.—

(1) REGISTRATION OF PESTICIDES.—Subsection (a) of section 3 (7 U.S.C. 136a(a)) is amended to read as follows:

"(a) REQUIREMENT OF REGISTRATION.—Except as provided by this Act, no person in any State may distribute or sell to any person any pesticide that is not registered under this Act.".

(2) UNLAWFUL ACTS.—Section 12(a) (7 U.S.C. 136j(a)) is amended—

(A) in paragraph (1), by striking out "distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—" and inserting in lieu thereof "distribute or sell to any person—"; and

(B) in paragraph (2)(F), by striking out "to make" and inserting in lieu thereof "to distribute or sell, or to make".

SEC. 803. INFORMATION REQUESTED.

Section 7 (7 U.S.C. 136e) (as amended by section 201(a) of this Act) is further amended by adding at the end thereof the following new subsection:

"(f) INFORMATION REQUESTS.—Consistent with section 3507(a)(1) of title 44, United States Code, the Administrator shall catalog and retrieve data in such a manner as to eliminate or reduce burdensome requests to registrants for submission of information, particularly requests that require the submission of duplicate confidential data.".

SEC. 804. COOPERATIVE AGREEMENTS.

Subsection (a) of section 23 (7 U.S.C. 136u(a)) is amended to read as follows:

"(a) COOPERATIVE AGREEMENTS.—

"(1) PURPOSES.—The Administrator may enter into cooperative agreements with States and Indian Tribes for the following:

"(A) To delegate to any State or Indian Tribe the authority to cooperate in the enforcement of this Act through the use of its personnel or facilities, to train personnel of the State or Indian Tribe to cooperate in the enforcement of this Act, and to assist States and Indian Tribes in implementing cooperative enforcement programs through grants.

"(B) To provide an amount equal to 50 percent of the anticipated cost of each State or Indian tribe, as agreed under such cooperative agreements, of conducting training programs for certification of applicators. Funds shall be distributed among States and Indian tribes on a formula basis, as developed cooperatively between the Secretary of Agriculture and the Administrator.

"(C) To provide an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed under such cooperative agreements, of conducting pesticide certification and licensing programs, and in the case of a State, for administering the State plan of each State approved under section 4(a)(2). Funds shall be distributed among the States and Indian tribes on a formula basis as specified by the Administrator.

"(2) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for cooperative agreements and grants under this subsection.".

SEC. 805. SCIENTIFIC ADVISORY PANEL.

Section 25(d) (7 U.S.C. 136w(d)) is amended—

(1) by striking out "consist of 7 members" and inserting in lieu thereof "be permanent and consist of 9 members"; and

(2) by striking out the sentence beginning "The advisory panel established".

SEC. 806. AUTHORITY FOR EPA ACTION.

The second sentence of section 27(a) (7 U.S.C. 136w-2(a)) is amended to read as follows: "If a State—

"(1) does not promptly initiate appropriate investigative action after receiving such referral; or

"(2) does not initiate appropriate enforcement action within 90 days after receipt of such referral,

the Administrator may act on such complaint or information in accordance with this Act.".

SEC. 807. EXPIRATION OF STATE PRIMARY ENFORCEMENT RESPONSIBILITY.

Section 26 (7 U.S.C. 136w-1) is amended by adding at the end thereof the following new subsection:

"(d) EXPIRATION.—Notwithstanding subsections (a) and (b), the primary enforcement responsibility of a State under this section for pesticide use violations shall expire on September 1, 1990, unless the Administrator determines that the State has the authority to impose civil and criminal penalties at least equal to those provided in section 14.".

SEC. 808. UNLAWFUL ACTS.

(a) IN GENERAL.—Section 12(a) (7 U.S.C. 136j(a)) (as amended by section 601(d) of this Act) is further amended—

(1) in paragraph (1), by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) any pesticide that is not registered under section 3 or whose registration has been canceled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this Act;"; and

(2) in paragraph (2)—

(A) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) to refuse to—

"(i) prepare, maintain, or submit any records required by or under this Act;

"(ii) submit any reports required by or under this Act; or

"(iii) allow any entry, inspection, copying of records, or sampling authorized by this Act;";

(B) by striking out subparagraphs (J) and (K) and inserting in lieu thereof the following new subparagraphs:

"(J) to violate any suspension order issued under section 3(c)(2)(B), 3A, or 6;";

"(K) to violate any cancellation order issued under this Act;";

(C) in subparagraph (M), by striking out "section 8" and inserting in lieu thereof "this Act"; and

(D) by adding at the end thereof the following new subparagraphs:

"(R) to falsify all or part of any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed, submitted to the Administrator, or that the person knows will be furnished to the Administrator or will become a part of any records required to be maintained by this Act;

"(S) to submit to the Administrator data known to be false in support of a registration;

"(T) to violate any regulation issued under section 3(a), 19(a), 25(c)(3), or 25(f); or".

(b) ACTS OF OFFICERS, AGENTS, ETC.—

(1) IN GENERAL.—Section 12 (7 U.S.C. 136j) is amended by adding at the end thereof the following new subsection:

"(c) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, employee, agent, or other person acting for or employed by any person shall be deemed to be the act, omission, or failure of such person as well as that of the person employed.".

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 14(b) (7 U.S.C. 136l(b)) is repealed.

SEC. 809. PENALTIES AND SUBPOENAS.

(a) CIVIL PENALTIES.—Section 14(a) (7 U.S.C. 136l(a)) is amended—

(1) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraphs:

"(1) IN GENERAL.—

"(A) Any registrant, applicant for a registration, producer, or pesticide testing facility that violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $25,000 for each offense. If a registrant, applicant for a registration, producer, or pesticide testing facility violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $50,000 for such subsequent violation.

"(B) Any—

"(i) commercial applicator of restricted use pesticides; or

"(ii) any other person not described in subparagraph (A) who distributes or sells pesticides or devices,

that violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $10,000 for each offense. If such person violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $20,000 for such subsequent violation.

"(2) PRIVATE APPLICATOR.—Any private applicator who violates any provision of this Act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, and any other person not included in paragraph (1) that violates any provision of this Act, may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense. If such person violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $2,000 for such subsequent violation. The Administrator may waive the requirement for a warning or citation for a first offense by a private applicator if the Administrator determines that the violation was intentional or caused significant harm to health or the environment.";

(2) in paragraph (3), by adding at the end thereof the following new sentence: "If the person neither resides nor has a principal place of business in the United States, the Administrator may designate a site for the hearing in the United States that is reasonably convenient for the parties."; and

(3) in the first sentence of paragraph (4), by inserting "the economic benefit (if any) resulting from the violation," after "to continue in business,".

(b) CRIMINAL PENALTIES.—Section 14(b) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) IN GENERAL.—

"(A) Any registrant, applicant for a registration, producer, or pesticide testing facility that knowingly violates any provision of this Act shall be fined not more than $50,000 or imprisoned for not more than 1 year, or both.

"(B) Any commercial applicator of a restricted use pesticide, or any other person not described in subparagraph (A) who distributes or sells pesticides or devices, that knowingly violates any provision of this Act shall be fined not more than $25,000 or imprisoned for not more than 1 year, or both."; and

(2) in paragraph (2)—

(A) by striking out "$1,000" and inserting in lieu thereof "$2,000"; and

(B) by striking out "30" and inserting in lieu thereof "60".

(c) SUBPOENAS.—Section 14(a) is amended by adding at the end thereof the following new paragraph:

"(6) SUBPOENAS.—The Administrator, in connection with administrative proceedings under this subsection, may issue subpoenas compelling the attendance and testimony of witnesses and subpoenas duces tecum and may request the Attorney General to bring an action to enforce any subpoena issued under this paragraph. The district courts of the United States shall have jurisdiction to enforce such subpoenas and impose sanctions.".

SEC. 810. CONGRESSIONAL REVIEW.

Paragraph (4) of section 25(a) (7 U.S.C. 136w(a)(4)) is amended to read as follows:

"(4) CONGRESSIONAL REVIEW OF REGULATIONS.—Simultaneously with the promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation shall not become effective until the passage of 60 calendar days after the rule or regulation is so transmitted.".

SEC. 811. REVIEW OF REGULATIONS.

Section 16 (7 U.S.C. 136n) is amended by adding at the end thereof the following new subsection:

"(e) REVIEW OF REGULATIONS.—

"(1) IN GENERAL.—

"(A) Any regulation issued under this Act and first published in the Federal Register in final form after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 shall be reviewable only as provided by this subsection. Any person may obtain judicial review of the regulation by filing a petition for review in the United States court of appeals for the circuit wherein the person resides or has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Any petition under this paragraph for review of a regulation shall be filed within 120 days after the date of promulgation of the regulation as designated by the Administrator in the Federal Register.

"(B) Any refusal by the Administrator of a petition to modify or rescind a regulation issued under this Act shall be reviewable only as provided by this subsection. Any person may obtain judicial review of the refusal by filing a petition for review in the United States court of appeals for the circuit wherein the person resides or has its principal place of business or in the United States

Court of Appeals for the District of Columbia Circuit. Any such petition for review of a refusal to modify or rescind a regulation shall be filed within 120 days after such refusal.

"(C) The scope of review under subparagraph (A) or (B) shall be as specified in section 706 of title 5, United States Code. The commencement of a proceeding under subparagraph (A) or (B), unless specifically ordered by the court to the contrary, shall not operate as a stay of the regulation.

"(2) JUDICIAL REVIEW.—A regulation issued by the Administrator or a refusal by the Administrator of a petition to modify or rescind a regulation issued under this Act shall not be subject to judicial review—

"(A) in any suspension, cancellation, or denial proceeding under this Act or in any appeal therefrom; or

"(B) in any proceeding under section 13 or 14(a), or subsection (c), or in any appeal therefrom except on request of a person who, as an agricultural producer, is adversely affected by such action.

"(3) STAYS.—If a person who is a party to a proceeding described in subparagraph (A) or (B) of paragraph (2) that is based on a regulation issued under this Act petitions the Administrator to modify or rescind such regulation, the application of such regulation in the proceeding shall be stayed until the Administrator issues a final decision on the petition.

"(4) DEFINITION OF AGRICULTURAL PRODUCER.—As used in this subsection, the term 'agricultural producer' means a nongovernmental producer of agricultural commodities who—

"(A) uses or supervises the use of any pesticide for the production of such commodities on property owned or rented by the producer or the employer of the producer; or

"(B) without compensation other than the trading of personal services, assists another agricultural producer with the application of pesticides on the land of the producer.".

SEC. 812. DELEGATION AND COOPERATION.

Section 22 (7 U.S.C. 136t) is amended by adding at the end thereof the following new subsection:

"(c) EFFECT ON CERTAIN OTHER LAWS.—

"(1) IN GENERAL.—In exercising any authority under this Act, the Administrator shall not, for the purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health to the extent that the Administrator and the Secretary of Labor by agreement specify that such exercise of authority by the Administrator under this Act is not to be considered an exercise of statutory authority for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970.

"(2) COORDINATION.—To ensure the safety and health of workers, the Administrator and the Secretary of Labor shall seek to reach such agreements and to coordinate the exercise of their statutory authority.".

SEC. 813. INDEMNIFICATION BY EPA.

Section 15 (7 U.S.C. 136m) is amended by adding at the end thereof the following subsection:

"(c) INDEMNIFICATION.—If the Administrator takes an action that under subsection (a) requires the payment of indemnification, the Administrator shall report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate—

"(1) the action taken that requires the payment of indemnification;

"(2) the reasons for taking such action;

"(3) the estimated cost of the payment; and

"(4) a request for the appropriation of funds for such payment.".

SEC. 814. GROUND WATER AUTHORITY.

(a) DEFINITIONS.—Section 2 (7 U.S.C. 136) (as amended by section 802(a)(2) of this Act) is further amended by adding at the end thereof the following new subsections:

"(ll) DRINKING WATER WELL.—The term 'drinking water well' means a well or spring currently supplying water for human consumption.

"(mm) GROUND WATER.—The term 'ground water' means water below the land surface in a zone of saturation.

"(nn) GROUND WATER SAMPLING POINT.—The term 'ground water sampling point' means a public or community water supply, a private water supply, a spring, or a monitoring well or other ground water source, if the well or source is reasonably designed and of adequate depth to permit the collection of representative ground water samples.

"(oo) POTENTIAL SOURCES OF DRINKING WATER.—The term 'potential sources of drinking water' means an aquifer or portion of an aquifer system that may supply a drinking water well. Any determination as to whether an aquifer or its portion is a potential source of drinking water shall include—

"(1) whether there is water of sufficient quantity and quality to supply a drinking water well;

"(2) hydrogeological considerations and depth to drinking water; and

"(3) geographic considerations including any State criteria or guidelines established under section 1428 of the Public Health Service Act (42 U.S.C. 300h-7) or other State authority.

"(pp) RELIABLE ANALYTICAL DATA.—The term 'reliable analytical data' means scientific information that verifies the presence of a pesticide in a ground water sample and that is of a reliable scientific quality according to generally recognized standards and good laboratory practices for sampling and analysis of pesticides in ground water.

"(qq) GROUND WATER RESIDUE GUIDANCE LEVEL.—The term 'ground water residue guidance level' means a ground water residue guidance level established under section 1429 of the Public Health Service Act (42 U.S.C. 300h-8).".

(b) PROTECTION OF GROUND WATER.—The Act is amended—

(1) by redesignating section 31 (7 U.S.C. 136y) as section 32; and

(2) by inserting after section 30 (7 U.S.C. 136x) the following new section:

"SEC. 31. PROTECTION OF GROUND WATER.

"(a) LEACHING POTENTIAL.—

"(1) CRITERIA.—The Administrator shall publish and seek comment on criteria to determine whether a pesticide has the potential to leach into ground water. Such criteria may include factors such as—

"(A) the intended use of the pesticide;

"(B) the timing, rate, and method of application for the pesticide;

"(C) the mobility of the pesticide in soil and water under various conditions; and

"(D) the rates of degradation of the pesticide in soil and water under various conditions.

"(2) INFORMATION.—Each person seeking to register or reregister a pesticide under this Act shall submit such data and information as the Administrator shall require with respect to the potential for the pesticide to leach into ground water and the destination and method of transportation of the pesticide.

"(3) DETERMINATION OF POTENTIAL TO LEACH.—At the time of registering or reregistering a pesticide (and using the criteria developed under paragraph (1)) the Administrator shall determine whether the pesticide has the potential to leach into ground water.

"(4) DETERMINATION OF NECESSITY FOR MONITORING DATA.—If the Administrator determines that a pesticide has the potential to leach into ground water as described in this subsection or the pesticide has been detected at ground water sampling points in 3 or more locations, the Administrator shall also determine whether monitoring data on the presence of the pesticide in ground water are required to register or maintain in effect an existing registration of the pesticide.

"(b) NOTIFICATION.—

"(1) REQUIREMENT.—When a registrant of a pesticide obtains or learns of reliable analytical data that a pesticide has—

"(A) been detected at any ground water sampling point and no ground water residue guidance level has been issued for the pesticide under section 1429 of the Public Health Service Act;

"(B) has been detected at a ground water sampling point at a concentration higher than known previously to have been reported to the Administrator at such ground water sampling point; or

"(C) has been detected at any ground water sampling point at a concentration at or greater than 20 percent of the ground water residue guidance level issued for the pesticide under section 1429 of the Public Health Service Act;

the registrant shall file a report containing such information within 15 working days with both the Administrator, the State in which the ground water sampling point is located, and the owner of the property in which the ground water sampling point is located, if known.

"(2) CONTENT OF REPORT.—A report required by paragraph (1) for detection of a pesticide shall contain information known to the registrant of the pesticide on the level of detection of the pesticide, the frequency of detection of the pesticide, location (including depth) where the pesticide was detected, date of the pesticide detection, well construction if the pesticide was detected in a well, soil type where the pesticide was detected, and analytical method used to make the pesticide detection, including information on the precision, accuracy, and limits of the method of detection and any quality assurance and control procedures used in the pesticide detection.

"(c) REVIEW FOR FURTHER ACTION.—Upon receiving information of a detection of a pesticide at any ground water sampling point, the Administrator shall promptly review the information to determine the reliability of the detection and to determine whether further action should be taken to protect ground water.

"(d) MONITORING.—

"(1) CONFIRMATION OF DETECTIONS.—If the Administrator receives reliable, analytical data indicating that—

"(A) a pesticide has been detected in a drinking water well;

"(B) the concentration of the pesticide equals or exceeds any ground water residue guidance level issued under subsection (d) for that pesticide, and

"(C) the presence of the pesticide in the drinking water well may be the result of use of the pesticide in accordance with the labeling on the pesticide or widespread and commonly recognized practices involving the pesticide,

the Administrator may require the registrant of the pesticide detected to conduct such analysis of samples of ground water from the drinking water well involved as is necessary to determine whether the pesticide is present at a concentration that equals or exceeds such ground water residue guidance level. A monitoring requirement imposed under this paragraph shall be completed within 90 days of notice to the registrant. The procedures of section 3(c)(2)(B) shall govern any monitoring requirement imposed under this paragraph.

"(2) REQUIREMENT FOR MONITORING.—If the Administrator determines that additional data on the presence of a pesticide in ground water are required to maintain in effect an existing registration of the pesticide, the Administrator may, under section 3(c)(2)(B), require the registrant of the pesticide to conduct ground water monitoring. The Administrator shall consult with the Secretary of Agriculture, the heads of other appropriate Federal agencies, and the States concerning the design and scope of monitoring requirements imposed under this paragraph. The design and the scope of the monitoring requirement should take into account all relevant information, including the magnitude and frequency of the detection of the pesticide involved, pattern of pesticide use and soil types involved in the detection, physical and chemical properties of the pesticide, rainfall patterns, well construction if the pesticide was detected in a well, rates of degradation, reliability and analytical accuracy of the detection, and results of State or other sponsored monitoring. To the extent feasible, monitoring should be at representative geographical and hydrogeological areas associated with locations and conditions of concern as determined by the Administrator.

"(3) JUDICIAL REVIEW.—Monitoring requirements imposed under paragraph (2) shall be subject to judicial review under section 16.

"(e) REGISTRATION AMENDMENTS.—

"(1) REQUIREMENT.—

"(A)(i) After reviewing reliable analytical data, the Administrator shall determine whether there is a reasonable likelihood that the ground water residue guidance level for a pesticide will be exceeded in drinking water wells in different localities. The Administrator shall provide for notice and opportunity for public comment on any determination under this clause and shall publish the determination in the Federal Register.

"(ii) If the Administrator determines that there is a reasonable likelihood of exceeding such level in different localities, the Administrator shall promptly require amendments to the registration of the pesticide involved that are reasonably necessary to assure that the use of the pesticide in accordance with the amended registration will not cause the final ground water residue guidance level to be exceeded in drinking water wells.

"(iii) The Administrator shall make such a determination public.

"(iv) If the Administrator proposes to require registration amendments under this paragraph, the Administrator shall notify registrants of such amendments and shall publish notice of the determination in the Federal Register. Such notice shall include the determination of the Administrator whether the presence of the pesticide in drinking water wells appears to have been the result of use of the pesticide in accordance with the labeling or widespread and generally recognized practice.

"(B)(i) After reviewing reliable analytical data, the Administrator shall determine whether there is a reasonable likelihood that the ground water residue guidance level for a pesticide will be exceeded in potential sources of drinking water in different localities.

"(ii) If the Administrator determines that there is a reasonable likelihood that such level will be exceeded in different localities, the Administrator shall promptly require amendments to the registration of a pesticide involved that are reasonably necessary to ensure that use of the pesticide in accordance with the amended registration will not cause the final ground water residue guidance level to be exceeded in potential sources of drinking water.

"(iii) If the Administrator proposes to require amendments under this paragraph, the Administrator shall notify registrants of such amendments.

"(iv) In establishing such amendments, the Administrator shall—

"(I) meet the requirements of subparagraph (A);

"(II) take into account information submitted by States on land and ground water use classification or other governmental actions that could affect when ground water may be used for drinking water; and

"(III) consider the views of the Secretary of Agriculture, other heads of appropriate Federal agencies, and States as required in paragraph (2).

"(2) CONSULTATION.—

"(A) In taking action under paragraph (1), the Administrator shall consult with the Secretary of Agriculture and the State where the pesticide involved has been detected in any ground water sampling point and each other State in which there is significant use of the pesticide.

"(B) The Administrator shall notify such State of the determination of the Administrator that there is a reasonable likelihood that the ground water residue guidance level will be exceeded and shall provide the State with all information relevant to this determination subject to section 10(h).

"(C) States shall promptly provide the Administrator with information relevant to taking action under this section and shall make recommendations regarding necessary registration amendments with respect to that State.

"(3) REASONABLE LIKELIHOOD.—

"(A) For purposes of paragraph (1), there shall be a presumption that there is a reasonable likelihood that a ground water residue guidance level for a pesticide will be exceeded in drinking water wells if the pesticide is detected above 30 percent of the ground water residue guidance level, unless considering the other factors described in subparagraph (B), the Administrator determines, after notice and opportunity for public comment, that there is not such a reasonable likelihood.

"(B) The circumstances surrounding the presence of the pesticide in ground water, taking into account all relevant information, include the frequency and time of occurrence at the site of detection and elsewhere, use patterns, soil types, physical and chemical properties of the pesticide, rainfall patterns, well construction, analytical accuracy, and rates of degradation.

"(4) SCOPE OF AMENDMENTS.—

"(A) Amendments to the registration of a pesticide may include—

"(i) limitations on the purposes for and location at which the pesticide may be used, considering factors such as environmentally sensitive areas and conditions;

"(ii) limitations on the rate at which the pesticide is applied;

"(iii) limitations on the time or frequency of pesticide use;

"(iv) limitations on the method of pesticide application, storage, handling, or disposal;

"(v) reporting or other requirements, including label changes or changes in classification;

"(vi) requirements for the training or certification of pesticide applicators or other persons using the pesticide;

"(vii) required site-specific responses; or

"(viii) any other requirement under this Act to ensure that the ground water residue guidance level for such pesticide will not be exceeded.

"(B) The amendments to the registration of a pesticide should, to the extent feasible, be directed to the same or similar uses of the pesticide, similar geographical and hydrogeological areas, and other similar conditions that led to the determination under subparagraph (A) or (B) of paragraph (1).

"(C) In taking regulatory action under this subsection, the Administrator may utilize recommendations provided by the States under paragraph (2).

"(D) In requiring such amendments, the Administrator shall consider the effect of any voluntary actions by registrants or other persons, including actions by the State to prevent the ground water residue guidance level from being exceeded, and compliance with other environmental laws.

"(5) EFFECTIVENESS AMENDMENTS.—If the Administrator has imposed registration amendments on the use of a pesticide according to this subsection, the Administrator shall—

"(A) periodically review reliable analytical data on the occurrence of the pesticide at ground water sampling points representative of the locations at which the pesticide is used to determine whether such amendments are effective in meeting the requirements of paragraph (1);

"(B) require additional registration amendments, if such amendments are necessary to assure that the ground water residue guidance level for such pesticide will not be exceeded in drinking water wells and potential sources of drinking water; and

"(C) report to the Congress not later than January 31, 1989, and every 2 years thereafter, on whether any such initial or additional amendments have been effective in meeting the requirements of paragraph (1) of this subsection, and make the report available to affected States on request.

"(6) PROCEDURES.—Registration amendments under paragraph (1) shall be imposed in accordance with the procedures required by this Act.

"(f) RESPONSE TO GROUND WATER CONTAMINATION.—

"(1) REQUIREMENT.—

"(A) If the Administrator determines that a pesticide is present in a drinking water well in a concentration that exceeds the final ground water residue guidance level and that the presence of the pesticide in a drinking water well may be the result of use of the pesticide in accordance with the labeling on the pesticide or as a result of widespread and commonly recognized practice involving the pesticide, the Administrator shall—

"(i) notify the State in which the drinking water well is located of the determination of the Administrator; and

"(ii) provide the State, subject to section 10(h), with all information relevant to the determination.

"(B) Such State shall take action within 90 days of such notification to prevent potential adverse effects on human health and the environment from such pesticide. In taking such action, the State shall take appropriate action regarding the sale or use of the pesticide detected at such drinking water well to bring and retain concentrations of the pesticide at such drinking water well at or below the final ground water residue guidance level applicable to the pesticide.

"(2) ACTION BY THE ADMINISTRATOR.—

"(A) If—

"(i) a State does not have the authority to take action required by paragraph (1) with respect to a pesticide detected in a drinking water well or fails to take such action within the time period prescribed by such paragraph;

"(ii) a pesticide is present in a drinking water well in the State at a concentration that exceeds the final ground water residue guidance level; and

"(iii) the presence of the pesticide may be the result of use in accordance with the labeling or of widespread and commonly recognized practice,

the Administrator shall take appropriate action under this Act to bring and retain the concentration detected at such drinking water well at or below the final ground water residue guidance level applicable to the pesticide and may take such other action under this Act as the Administrator considers necessary to prevent potential adverse effects on human health and the environment from the pesticide at such drinking water well.

"(B) The Administrator shall publish notice of the action in the Federal Register and take appropriate steps to inform all registrants, potentially affected persons, and interested members of the public. Such notice shall specify the factual findings and conclusions relied on in support of the decision.

"(C) Any person adversely affected by an action or failure to act under this paragraph shall have an opportunity for an expedited hearing, pursuant to the procedures of section 6(c)(2), to determine whether the action was taken in accordance with this paragraph or whether the Administrator was required to take action.

"(D) Notwithstanding any other provision of this Act, a hearing shall be held and a determination made under this subsection within 75 days after receipt of the request for such a hearing.

"(E) The Administrator shall provide reasonable procedures for a petition to modify or terminate the action of the Administrator under this paragraph, if the concentration of the pesticide in the water from the drinking water well no longer exceeds the applicable ground water residue guidance level and will likely remain below such level.

"(3) JUDICIAL REVIEW.—Judicial review of actions taken under this subsection shall be governed by section 16.

"(g) INFORMATION ON PESTICIDES IN GROUND WATER.—The Administrator may collect and make available through a public information file information concerning the detection of pesticides in any ground water sampling point. The file may summarize for each pesticide that has been detected in ground water, based on reliable analytical data, whether the pesticide has been detected at a concentration that exceeds the applicable ground water residue guidance level and whether the presence of the pesticide in ground water appears to have been caused by use of the pesticide in compliance with this Act.

"(h) TECHNICAL ASSISTANCE TO STATES.—The Administrator shall provide technical information to a Governor of a State for the purpose of implementing this section. Subject to section 10(h), the technical information shall include data on the toxicity, environmental fate, physical or chemical pesticide ingredient characteristics, predictive modeling, exposure and other relevant subjects. In addition, the Administrator shall provide information, to the extent reasonably available, on the alternative methods of pest control and on agricultural or other management practices that could minimize the presence of pesticides in ground water.

"(i) SPECIAL REVIEW.—On receiving reliable analytical data that a pesticide has been detected above the ground water residue guidance level in ground water in a drinking water well or potential source of drinking water, the Administrator may initiate a public interim administrative review under section 3(c)(8) to determine whether the pesticide may cause unreasonable adverse effects on the environment from such use.

"(j) SITE-SPECIFIC INFORMATION.—

"(1) AVAILABILITY OF INFORMATION.—The Administrator shall enter into a memorandum of understanding with the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior, for the purpose of developing information management systems and other techniques designed to make available information more useful to State and local officials and agricultural producers, applicators, and other persons using the pesticide information on the soil, hydrology, climate, and other characteristics or specific sites of pesticide application to be used by such officials and users in developing practices and making application decisions that will prevent the contamination of ground water by pesticides.

"(2) ESTABLISHMENT OF COUNCIL.—

"(A) Under the direction of the Administrator, a council shall be established to assist the Environmental Protection Agency in developing a site-specific pesticide information system.

"(B) The council shall consist of experts on information management who have experience with information retrieval from the Environmental Protection Agency, the National Agricultural Library, the Soil Conservation Service, the United States Geological Survey, and the National Oceanographic and Atmospheric Administration.

"(C) The council shall—

"(i) review existing information retrieval and referral services that may be used to access information on soil, hydrology, climate, and other characteristics at specific sites important to pesticide application;

"(ii) determine what information relevant to making site-specific pesticide decisions is available directly from existing data banks; and

"(iii) based on these determinations develop and submit to the Administrator a plan for an information management system that would direct and assist users in gaining access to site-specific information available in printed and electronic form.

"(3) CONSIDERATION BY ADMINISTRATOR.—The Administrator shall take the plans developed by the council into consideration when developing the site-specific pesticide information management system.

"(4) AUTHORIZATION.—

"(A) This subsection shall take effect to the extent that appropriations are made for it under subparagraph (B).

"(B) To carry out this subsection, there are authorized to be appropriated $2,500,000 for each of the fiscal years 1987, 1988, 1989, 1990, and 1991.

"(k) EFFECT ON OTHER PROVISIONS.—Nothing in this section shall limit the authority of the Administrator or of any State under other provisions of this Act or under any other law.".

(c) UNLAWFUL ACTS.—Section 12(a)(2) (7 U.S.C. 136j(a)(2)) (as amended by section 808(a)(2)(D) of this Act) is further amended by adding at the end thereof the following new subparagraph:

"(U) to violate an order issued under section 31(f)(2).".

(d) GROUND WATER RESIDUE GUIDANCE LEVEL.—Part C of title XIV of the Public Health Service Act is amended by inserting after section 1428 (42 U.S.C. 300h-7) the following new section:

"SEC. 1429. GROUND WATER RESIDUE GUIDANCE LEVEL.

"(a) ISSUANCE OF LEVELS.—

"(1) PERMISSIVE ISSUANCE FOR REGISTERED PESTICIDES.—The Administrator, on the Administrator's own initiative, may issue a ground water residue guidance level for a pesticide registered under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

"(2) MANDATORY ISSUANCE FOR CERTAIN PESTICIDES.—The Administrator shall issue a ground water residue guidance level for a pesticide whenever the Administrator registers or reregisters a pesticide under such Act if the Administrator determines that the pesticide has the potential to leach into ground water.

"(3) MANDATORY ISSUANCE BASED ON CERTAIN DATA.—In addition, the Administrator shall issue a ground water residue guidance level for a pesticide if—

"(A) based on reliable analytical data, the pesticide has been detected at ground water sampling points in three or more different geographical areas;

"(B) based on reliable analytical data, the pesticide has been detected in a drinking water well or wellfield that serves a population of over 500 people; or

"(C) a Federal agency or a State petitions the Administrator to set a ground water residue guidance level for the pesticide.

"(b) LEVELS.—

"(1) MAXIMUM CONTAMINANT LEVELS.—If the Administrator has promulgated or promulgates a maximum contaminant level under section 1412(b)(3) that applies to a pesticide the ground water residue guidance level required under subsection (a) for the pesticide shall be set at such level within 30 days of being required under such section.

"(2) ESTABLISHING LEVEL IN ABSENCE OF MAXIMUM CONTAMINANT LEVEL.—

"(A) USE OF HEALTH ADVISORY LEVELS.—If a maximum contaminant level that would be applicable to a pesticide for which a ground water residue guidance level is required by subsection (a) has not been established under section 1412, the Administrator, in the Administrator's discretion, may use a health advisory level in establishing such ground water residue guidance level.

"(B) FACTORS FOR DETERMINING LEVEL.—The ground water residue guidance level established under this paragraph by the Adminis-

trator for such pesticide shall reflect the level of the pesticide in drinking water at which no known or anticipated adverse effect on the health of persons occur, the need for an adequate margin of safety, the nature of the toxic effects caused by the pesticide, and the validity, completeness, and adequacy of data about the pesticide.

"(C) ALL ABSENT OR INVALID DATA.—If all required chronic, oncogenicity, reproduction, or teratogenicity data are absent or invalid for the pesticide, the ground water residue guidance level for the pesticide established under this paragraph shall be set at the limit of detection.

"(D) CERTAIN ABSENT OR INVALID DATA.—If any required chronic, oncogenicity, reproduction, or teratogenicity data are absent or invalid for the pesticide, the ground water residue guidance level established under this paragraph for the pesticide shall include an additional margin of safety that takes into account the absence of such data.

"(c) PROCEDURE.—

"(1) INTERIM LEVELS FOR GENERAL PESTICIDES.—Before issuing a final ground water residue guidance level for a pesticide, the Administrator shall publish an interim ground water residue guidance level for the pesticide in the Federal Register and allow public comment for at least 30 days. During the public comment period, the Administrator shall invite comment on the level from the Secretary of Agriculture and States.

"(2) INTERIM LEVELS FOR PESTICIDES WITH HEALTH ADVISORY LEVELS.—If the Administrator is required under subsection (a) to issue a ground water residue guidance level for a pesticide and the ground water residue guidance level is to be issued pursuant to subsection (b)(2), the Administrator shall issue an interim ground water residue guidance level within 30 days after the requirement to issue the ground water residue guidance level takes effect.

"(3) FINAL LEVELS.—Within 3 months after establishing an interim ground water residue guidance level, the Administrator shall establish a final ground water residue guidance level. Until a final ground water residue guidance level is established under subsection (a) for a pesticide, an interim ground water residue guidance level established for the pesticide shall remain in effect.

"(d) REVISION OF LEVELS.—The Administrator may revise a ground water residue guidance level for a pesticide. The Administrator shall allow at least 30 days for public comment on any proposed revision.

"(e) JUDICIAL REVIEW.—An interim ground water residue guidance level shall not be subject to judicial review before the expiration of 3 months after its issuance. Judicial review of any final ground water residue guidance level or failure to establish an interim or final ground water residue guidance level shall be governed by section 1448. A ground water residue guidance level established under subsection (b)(1) shall not be subject to judicial review.".

SEC. 815. WORKER HEALTH AND SAFETY.

Section 25 (7 U.S.C. 136w) is amended by adding at the end thereof the following new subsection:

"(f) WORKER HEALTH AND SAFETY.—

"(1) IN GENERAL.—

"(A) The Administrator, as soon as practicable after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, shall promulgate regulations that require the protection, as appropriate and necessary, of employees who mix, load, or apply pesticides and agricultural employees who work in pesticide-treated areas.

"(B) The Administrator shall promulgate regulations that provide for the training, as appropriate and necessary, of employees who mix, load, or apply pesticides. Any training requirement that may be established by the Administrator under this subparagraph shall not apply to any person who is required to receive the training described in subsection (d) or (e) of section 4.

"(C) For purposes of subparagraphs (A) and (B), the term 'employees' does not include employees occupationally exposed to pesticides or pesticide residues as a result of the use of pesticides on livestock or other animals.

"(2) RULEMAKING PROCEDURES.—

"(A) The Administrator shall promulgate regulations under paragraph (1) for employees not described in subparagraph (B) not later than 3 years after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986.

"(B) The Administrator shall provide a period of at least 6 months for comments on proposed regulations issued under paragraph (1) that apply to agricultural employees who mix, load, or apply pesticides or who work in pesticide-treated areas. Such regulations shall be promulgated not later than 2 years after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986.

"(3) REPORT ON REGULATIONS.—Not later than 6 months after the date of the publication of the notice of proposed rulemaking issued for the regulations for employees described in paragraph (2)(B) to be promulgated under paragraph (1), the Secretary of Agriculture shall submit to the Administrator a report on the impact, cost, and effectiveness of such regulations on the agricultural community. The Secretary shall submit a copy of such report to Congress.

"(4) COPY OF REGULATIONS.—Simultaneously with the promulgation of regulations under paragraph (1), the Administrator shall transmit a copy of such regulations to the Secretary of the Senate and the Clerk of the House of Representatives. Such regulations may not become effective until the expiration of 120 days after the date such regulations are so transmitted.".

SEC. 816. ANTIMICROBIAL STANDARDS.

(a) GENERAL.—Section 3 (7 U.S.C. 136a) (as amended by section 106(b) of this Act) is further amended by adding at the end thereof the following new subsection:

"(h) ANTIMICROBIAL STANDARDS.—

"(1) STANDARDS.—The Administrator shall—

"(A) establish efficacy standards for antimicrobial control agents (including disinfectants) used to control pest microorganisms that pose a threat to human health, including standards for disinfectants used in hospitals and other health care facilities;

"(B) conduct, or require to be conducted, representative monitoring (including testing) of the compliance of the agents with the standards; and

"(C) implement an enforcement program under which the agents must comply with the standards or be prohibited from sale or distribution as an antimicrobial agent.

"(2) DEFINITION.—As used in paragraph (1), the term 'efficacy' means the capacity of an antimicrobial control agent (including a disinfectant) to produce the desired effect or the effectiveness of such an agent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

SEC. 817. NEUROTOXICOLOGICAL AND BEHAVIORAL EFFECTS TESTING.

Section 3 (7 U.S.C. 136a) (as amended by section 816 of this Act) is further amended by adding at the end the following:

"(i) NEUROTOXICOLOGICAL AND BEHAVIORAL EFFECTS TESTING.—The Administrator shall develop methods for testing to accurately detect neurotoxicological and behavioral effects of pesticides, and their ingredients, and shall, as such methods are developed, require to the extent appropriate and necessary, that data from such testing be submitted by persons seeking to obtain or maintain pesticide registrations.".

SEC. 818. PESTICIDE CONTAINERS.

(a) IN GENERAL.—Section 19 (7 U.S.C. 136q) is amended by adding at the end thereof the following new subsections:

"(d) CONTAINER DESIGN.—

"(1) PROCEDURES.—

"(A) Not later than 3 years after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations for the design of pesticide containers that will promote the safe storage and disposal of pesticides.

"(B) The regulations shall assure, to the fullest extent practicable, that the containers—

"(i) accommodate procedures used for the removal of pesticides from the containers and the rinsing of the containers;

"(ii) facilitate the safe use of the containers, including elimination of splash and leakage of pesticides from the containers;

"(iii) facilitate the safe disposal of the containers; and

"(iv) facilitate the safe refill and reuse of the containers.

"(2) COMPLIANCE.—The Administrator shall require compliance with the regulations referred to in paragraph (1) not later than 5 years after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986.

"(e) PESTICIDE RESIDUE REMOVAL.—

"(1) PROCEDURES.—

"(A) Not later than 3 years after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations prescribing procedures and standards for the removal of pesticides from containers prior to disposal.

"(B) The regulations may—

"(i) specify, for each major type of pesticide container, procedures and standards providing for, at a minimum, triple rinsing or the equivalent degree of pesticide removal;

"(ii) specify procedures that can be implemented promptly and easily in various circumstances and conditions;

"(iii) provide for reuse, whenever practicable, or disposal of rinse water and residue; and

"(iv) be coordinated with requirements for the rinsing of containers imposed under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

"(C) Nothing in this subsection shall affect the authorities or requirements concerning pesticide containers under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et. seq.).

"(D) The Administrator may, at the discretion of the Administrator, exempt products

intended solely for household use from the requirements of this subsection.

"(2) COMPLIANCE.—Effective beginning 5 years after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, a State may not exercise primary enforcement responsibility under section 26, or certify an applicator under section 4, unless the Administrator determines that the State is carrying out an adequate program to assure compliance with this subsection.

"(f) PESTICIDE CONTAINER STUDY.—

"(1) STUDY.—

"(A) The Administrator shall conduct a study of options to encourage or require—

"(i) the return, refill, and reuse of pesticide containers;

"(ii) the development and use of pesticide formulations that facilitate the removal of pesticide residues from containers; and

"(iii) the use of bulk storage facilities to reduce the number of pesticide containers requiring disposal.

"(B) In conducting the study, the Administrator shall—

"(i) consult with the heads of other interested Federal agencies, State agencies, industry groups, and environmental organizations; and

"(ii) assess the feasibility, costs, and environmental benefits of encouraging or requiring various measures or actions.

"(2) REPORT.—Not later than 2 years after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator shall submit to Congress a report describing the results of the study required under paragraph (1).".

(b) DEFINITION OF CONTAINER.—Section 2 (7 U.S.C. 136) (as amended by section 814(a) of this Act) is further amended by adding at the end thereof the following new subsection):

"(rr) CONTAINER.—The term 'container' means any package, can, bottle, bag, barrel, drum, tank, or other containing-device (excluding spray applicator tanks) used to enclose a pesticide or pesticide-related waste.".

SEC. 819. NOTICE FOR STORED PESTICIDES WITH CANCELED OR SUSPENDED REGISTRATIONS.

(a) NOTICE.—Section 6 (7 U.S.C. 136d) (as amended by section 306 of this Act) is amended by adding at the end the following:

"(i) NOTICE FOR STORED PESTICIDES WITH CANCELED OR SUSPENDED REGISTRATIONS.—

"(1) IN GENERAL.—Any producer or exporter of pesticides, registrant of a pesticide, applicant for registration of a pesticide, applicant for or holder of an experimental use permit, pesticide testing facility, commercial applicator, or any person who distributes or sells any pesticide which has in its possession any pesticide which has had its registration canceled or suspended under this section shall notify the Administrator and appropriate State and local officials of—

"(A) such possession,

"(B) the quantity of such pesticide in its possession, and

"(C) the place at which such pesticide is stored.

"(2) COPIES.—The Administrator shall transmit a copy of each notice submitted under this subsection to the regional office of the Environmental Protection Agency which has jurisdiction over the place of pesticide storage identified in the notice.".

(b) ENFORCEMENT.—Subparagraph (K) of section 12(a)(2) (7 U.S.C. 136j) (as amended by section 808(a)(2)(B)) is amended by inserting after "Act" the following: "or to fail to submit a notice in accordance with section 6(i)".

SEC. 820. AUTHORIZATION FOR APPROPRIATIONS.

Effective October 1, 1986, section 32 (7 U.S.C. 136y) (as redesignated by section 814(b)(1) of this Act) is further amended to read as follows:

"SEC. 32. AUTHORIZATION FOR APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act (other than sections 23(a) and 31(j))—

"(1) $103,363,500 for fiscal year 1987, of which not more than $13,735,500 shall be available for research under this Act and of which $22,500,000 shall be available to carry out section 31;

"(2) $112,414,200 for fiscal year 1988, of which not more than $14,343,600 shall be available for research under this Act and of which $22,500,000 shall be available to carry out section 31;

"(3) $116,673,400 for fiscal year 1989, of which not more than $14,978,200 shall be available for research under this Act and of which $22,500,000 shall be available to carry out section 31;

"(4) $123,305,800 for fiscal year 1990, of which not more than $15,625,900 shall be available for research under this Act and of which $22,500,000 shall be available to carry out section 31; and

"(5) $131,808,700 for fiscal year 1991, of which not more than $16,300,100 shall be available for research under this Act and of which $22,500,000 shall be available to carry out section 31.".

Subtitle B—Other Provisions

SEC. 825. LIABILITY FOR LAWFUL APPLICATION.

(a) PESTICIDE USE AND NO PRIVATE RIGHT OF ACTION.—

(1) GENERAL RULE.—Liability under Federal environmental statutes for—

(A) the costs of response to a release of a pesticide into the environment, or

(B) damages incurred with respect to a release or threatened release into the environment of a pesticide,

shall not be imposed on the agricultural producer involved in the release if, as shown by the agricultural producer, the application was in compliance with label instructions and applicable law unless the agricultural producer acted negligently, recklessly, or with the intent to misuse such pesticide but shall, to the extent provided under such statutes, be imposed on any other responsible parties.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed, interpreted, or applied—

(A) to preempt or, except as provided in paragraph (1), assign or transfer liability under Federal or State laws, whether statutory or common,

(B) to affect the provisions of Federal environmental statutes to prohibit a release or threatened release of a pesticide into the environment, or

(C) as creating a new liability or as conferring a private right of action on any person for the purposes of the Federal Insecticide, Fungicide, or Rodenticide Act or any other Federal law.

(b) DEFINITION.—As used in subsection (a)—

(1) the term "agricultural producer" means a nongovernmental producer of agricultural commodities who (A) uses or supervises the use of any pesticide for the production of such commodities on property owned or rented by the producer or the producer's employer, or (B) without compensation other than the trading of personal services, assists another agricultural producer with the application of pesticides on such producer's land,

(2) the term "Federal environmental statutes" includes the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Clean Water Act, the Resource Conservation and Recovery Act, title XIV of the Public Health Service Act, and the Federal Insecticide, Fungicide, or Rodenticide Act, and

(3) the terms "damages", "response", "release", and "environment" shall have the meanings assigned them by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

SEC. 826. TOLERANCES FOR AGRICULTURAL COMMODITIES.

(a) REVOCATIONS AND SUSPENSIONS.—Section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) is amended by adding at the end the following:

"(p)(1)(A) If the registration of each pesticide containing a specific active or inert ingredient registered for use on a particular raw agricultural commodity—

"(i) has been canceled by the Administrator under the Federal Insecticide, Fungicide, and Rodenticide Act,

"(ii) has voluntarily been canceled under such Act, or

"(iii) has voluntarily been withdrawn under such Act,

due in whole or in part to dietary risks to humans, the Administrator, not later than 60 days after the effective date of such cancellation or after receipt of information of such withdrawal, shall revoke any tolerance established under subsection (b) for residues of such pesticide chemical in or on such commodity or any exemption from the need for such tolerance established under subsection (c). In revoking a tolerance or an exemption from a tolerance, the procedures required under section 553 of title 5, United States Code, shall be used.

"(B) The effective date of a revocation under subparagraph (A) may be delayed to permit distribution in commerce of food that bears residues of the active or inert ingredient as the result of—

"(i) the use of the canceled pesticide before the date of its cancellation,

"(ii) the use of existing stocks of such pesticide as authorized under the order cancelling the registration of the pesticide, or

"(iii) unavoidable residual environmental contamination.

"(2) If the registration of each pesticide containing a specific active or inert ingredient registered for use on a particular raw agricultural commodity has been suspended by the Administrator under the Federal Insecticide, Fungicide, and Rodenticide Act due in whole or in part to dietary risks to humans, the Administrator, not later than 60 days after the effective date of such suspension, shall suspend any tolerance established under subsection (b) for residues of such pesticide chemical in or on such commodity or any exemption from the need for such tolerance established under subsection (c). The effective date of such suspension may be delayed to permit distribution in commerce of food that bears residues of the active or inert ingredient as the result of—

"(A) the use of the suspended pesticide before the date of its suspension,

"(B) the use of existing stocks of such pesticide as authorized under the order suspending the registration of the pesticide, or

"(C) unavoidable residual environmental contamination.

In suspending a tolerance or an exemption from a tolerance, the procedures required under section 553 of title 5, United States Code, shall be used. The suspension of a tolerance or an exemption from a tolerance for a pesticide chemical shall be effective as long as the registration of the pesticide to which the tolerance or exemption is applicable is suspended under the Federal Insecticide, Fungicide, and Rodenticide Act. If the registration of the pesticide ceases to be suspended and is not canceled under such Act, the Administrator shall rescind any such suspension of a tolerance or exemption.

"(3)(A) At the time the Administrator makes a determination under section 3A(h)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act regarding an ingredient of a pesticide—

"(i) any tolerance established under subsection (b) for residues of a pesticide chemical that is or contains such ingredient or any exemption from the need for such a tolerance established under subsection (c) or a food additive regulation for residues of a pesticide chemical established under section 409 shall be reassessed.

"(ii) the Administrator shall—

"(I) make a determination whether such tolerance, exemption from tolerance, or regulation meets the requirements of this Act; and

"(II) confirm, establish, amend, or revoke such tolerance, exemption, or regulation in accordance with the requirements of this section.

"(B) Any tolerance, exemption, or regulation which is confirmed, established, or amended under subparagraph (A)(ii)(II) shall not become effective until the Administrator determines that a practical method for detecting residues in or on food or feed is available in order to enforce such tolerance, exemption, or regulation.

"(4) Notwithstanding the foregoing provisions of this subsection, the Administrator, by regulation, may reasonably limit the application of a revocation or suspension of a tolerance or exemption from a tolerance as necessary to prevent the imposition of restrictions on the imports of a particular agricultural commodity from a particular country, except that no such limitation may be effected unless the Administrator determines—

"(A) the tolerance or exemption satisfies the criteria of subsection (b) or (c); and

"(B) there is not available an effective alternative pesticide that may legally be used on the particular agricultural commodity in such country.".

(b) PROCEDURE.—Section 408(m) of such Act (21 U.S.C. 346a(m)) is amended by striking out "The" and inserting in lieu thereof "Except as provided in subsection (p), the".

(c) UNIFORMITY.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) is amended by adding after section 412 the following:

"UNIFORMITY IN TOLERANCES AND FOOD ADDITIVE REGULATIONS

"SEC. 413. (a) To the extent provided in this section, a residue level issued under section 408 or 409 for a pesticide chemical described in subsection (b)(3), and a statement of the residue level below which enforcement action will not be taken under this Act with respect to such a chemical shall be uniform throughout the States.

"(b)(1) After December 31, 1986—

"(A) before the Administrator, acting under section 408 or 409, prescribes a permissible residue level for a pesticide chemical described in paragraph (3), or

"(B) before the Secretary issues a generally applicable statement of the residue level below which enforcement action will not be taken under this Act with respect to such a chemical,

the Administrator or Secretary shall, in accordance with section 553 of title 5, United States Code, propose a regulation prescribing that such level or statement shall be uniform throughout the States. Such regulation shall be made final if, after the consideration of comments on such proposed regulation, the Administrator or Secretary determines that such level or statement protects human health, including the health of identifiable population groups with special food consumption patterns.

"(2) In the case of a permissible residue level for a pesticide chemical described in paragraph (3) issued under section 408 or 409 that is in effect on December 31, 1986, or a generally applicable statement of the residue level below which enforcement action will not be taken under this Act with respect to such a chemical and that is in effect on such date, the Administrator or Secretary shall, in accordance with section 553 of title 5, United States Code, propose a regulation prescribing that such level or statement shall be uniform throughout the States. Such regulation shall be made final if, after the consideration of comments on such proposed regulation, the Administrator or Secretary determines that such level or statement protects human health, including the health of identifiable population groups with special food consumption patterns.

"(3) Paragraphs (1) and (2) shall apply to any pesticide chemical that is an active ingredient of a pesticide if—

"(A) the initial registration for a food use of any pesticide containing such pesticide chemical was issued—

"(i) under section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act on or after April 25, 1985, or

"(ii) on the basis of data determined by the Administrator to meet the requirements of part 158 of subchapter E of chapter I of title 40, Code of Federal Regulations, or

"(B) the pesticide containing such pesticide chemical as an active ingredient has been reregistered for food use under such section 3(c)(5) on or after April 25, 1985.

"(c) Except as provided in subsections (d) and (e), no State or political subdivision may establish or enforce any regulatory limit on residues of a pesticide chemical in or on food that is not identical to—

"(1) a permissible residue level established by regulation issued under section 408 or 409, or

"(2) any statement of the residue level below which enforcement action will not be taken under this Act,

after the Administrator or Secretary has prescribed uniformity for the residue level or statement under paragraph (1) or (2) of subsection (b) and the residues result from use of a pesticide containing a pesticide chemical described in paragraph (3) of such subsection.

"(d)(1) Notwithstanding any other provision of this section, no limit imposed by a State on the level of a residue of a pesticide chemical that may appear in or on any article of food as a result of the application of a pesticide shall apply if, at the time of the application of the pesticide, the sale of such an article of food with such level of residue of such pesticide chemical was lawful under section 408 or 409 and the law of such State unless the State determines the limit is necessary to prevent unreasonable risk to human health in such State.

"(2) The Administrator, in consultation with the Secretary of Agriculture, shall consider feasible actions to minimize the duration of distribution of existing stocks of food that contain pesticide chemical residues that comply with sections 408 and 409 and all applicable State laws at the time of the use of the pesticide chemical but that fail to comply with a new State regulatory limit.

"(3) The Administrator, in consultation with the Secretary of Agriculture, shall determine on an annual basis if feasible actions have been taken to minimize the duration of distribution of such stocks of food.

"(e)(1) A State may petition the Administrator or Secretary for authority to establish in the State a regulatory limit on residues of a pesticide chemical that is more stringent than the residue level or other statement for such pesticide chemical for which uniformity is prescribed under subsection (b).

"(2)(A) A petition under paragraph (1) shall be supported by—

"(i) scientific data about the pesticide chemical that is the subject of the residue level or other statement referred to in such paragraph or chemically related pesticide chemicals, data on the consumption of food treated with the pesticide chemical, data on exposure of humans to the pesticide chemical, or information about the pesticide chemical that reasonably raises concerns about the effect of the pesticide chemical on human health, and

"(ii) data or information described in clause (i) that has been developed since uniformity for the residue level or other statement referred to in paragraph (1) took effect, that was unavailable at the time the uniformity took effect, that was not considered by the Administrator or Secretary at the time the uniformity took effect, or that shows that the uniformity prescribed for the residue level or other statement referred to in such paragraph cannot be supported by the data or information used by the Administrator or Secretary in determining that such residue level or other statement should be uniform.

"(B) The Administrator or Secretary shall, upon the receipt of a petition submitted under paragraph (1), publish the petition in the Federal Register.

"(C) The Administrator or Secretary shall submit any petition submitted under paragraph (1) to the Scientific Advisory Panel established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act.

"(3) Not later than the expiration of 180 days after the date a petition that meets the requirements of paragraph (2) is filed with the Administrator or Secretary, the Administrator or Secretary shall by order authorize the action requested by the petition or deny the petition. The Administrator may deny a petition only if the Administrator determines that the level or statement for which uniformity was prescribed under subsection (b) protects, in the State of the petitioner, human health, including the health of identifiable population groups with special food consumption patterns. Such order shall include a statement of the reasons for the order.".

SEC. 827. IR4 PROGRAM.

Section 2(c) of the Act entitled "An Act to facilitate the work of the Department of Agriculture, and for other purposes", approved August 4, 1965 (7 U.S.C. 450i(c)), is amended by inserting before the first sentence after paragraph (2) the following new sentence: "The Secretary in making grants under paragraph (2)(B) shall provide support for

the interregional project number 4 program (commonly referred to as the 'IR4 program').".

SEC. 828. PESTICIDE RISK RATING.

(a) STUDY.—

(1) IN GENERAL.—Subject to subsection (b), the Administrator of the Environmental Protection Agency may contract with the Board of Agriculture of the National Academy of Sciences to conduct a study to determine the feasibility of establishing an environmental risk rating for pesticides used in the production of agricultural commodities.

(2) RISK RATING FACTORS.—Such risk rating shall take into consideration methods of application, chronic and acute toxicity, and anticipated losses to and persistence in the environment.

(3) PUBLIC INPUT.—In conducting the study, the National Academy of Sciences shall seek information and advice from recognized public and private sector scientists and provide opportunity for public comment on the preliminary findings relating to the development of a risk rating.

(4) REPORT.—The National Academy of Sciences shall report the findings of such study to the Administrator and to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 18 months after entering into the contract referred to in paragraph (1).

(b) LIMITATION.—The study required by subsection (a) shall be conducted at such cost as the Administrator, in consultation with the National Academy of Sciences, may establish.

(c) CONTRACT AUTHORITY.—The authority of the Administrator to enter into contracts under this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 829. EVALUATION BY THE COMPTROLLER GENERAL.

(a) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the programs and activities authorized by the amendments to the Federal Insecticide, Fungicide, and Rodenticide Act made by this Act and shall make a final report of such evaluation to Congress no later than December 31, 1988. The Comptroller General shall include in such evaluation the effect that the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by this Act, is having on the cost and availability of pesticides to farmers as well as other producers of food and fiber. Such evaluation shall include an analysis of the reregistration program under such Act and any program conducted by the Administrator of the Environmental Protection Agency under such Act relating to ground water.

(b) RECORDS.—For the purpose of conducting program evaluations required under subsection (a), the Comptroller General, or the duly authorized representatives of the Comptroller General, shall have access to and the right to examine all documents, papers, records, data, pesticide study documentation, or other recorded information within the possession or control of the Administrator of the Environmental Protection Agency or within the possession or control of pesticide registrants subject to regulation under the Federal Insecticide, Fungicide, and Rodenticide Act. The Comptroller General and the representatives of the Comptroller General shall be subject to the same restrictions regarding the disclosure of trade secret information as are the employees of the Environmental Protection Agency.

SEC. 830. STUDY OF NONAGRICULTURAL PESTICIDES.

The Administrator of the Environmental Protection Agency shall study and report to Congress within 1 year after the date of the enactment of this Act on the pesticide volume, use sites, and target insects for nonagricultural pesticides.

SEC. 831. PESTICIDE DRIFT.

The Administrator of the Environmental Protection Agency, within 2 years after the date of enactment of this Act, shall report to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate on the incidence and potential adverse effects on human health and the environment of the drift of pesticides from the site of application at the time of application.

SEC. 832. SURVEY OF NATURALLY OCCURRING AGENTS THAT ACT AS PESTICIDES.

The Administrator of the Environmental Protection Agency shall conduct a survey to determine what research has been, or is being, conducted to establish the extent to which agents that act as pesticides are manufactured by plants and thereby exist naturally in fruits, vegetables, grains, legumes, and oilseeds commonly consumed by persons in the United States. The Administrator shall provide a report on the findings of the survey to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than December 31, 1987, and shall release such findings to the public. The report shall include information on the extent to which such naturally occurring agents have been identified, the nature of such agents, and the extent to which such agents have been shown to be toxic, carcinogenic, or mutagenic.

SEC. 833. PESTICIDE RESISTANCE MANAGEMENT PROGRAM.

(a) PROGRAM.—The Administrator of the Environmental Protection Agency shall establish a Pesticide Resistance Management Program—

(1) to conduct research on pesticide resistance and pesticide resistance management techniques to control or reduce the development of pesticide resistance,

(2) to develop and demonstrate such management techniques, and

(3) in cooperation with the Secretary of Agriculture, to disseminate information obtained from the Program to appropriate entities, including growers and their organizations, manufacturers, pesticide advisors, pesticide applicators, State agriculture officials, and cooperative State extension services.

In establishing and conducting the Program the Administrator may, as appropriate, consult with the Science Advisory Panel established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(d)).

(b) TRAINING REQUIREMENTS.—The Administrator may include training in pesticide resistance and pesticide resistance management techniques as part of the minimum standards established for commercial pesticide applicators by the Administrator under section 4(h) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136b(h)).

SEC. 834. DDT STUDY.

The Administrator of the Environmental Protection Agency, in cooperation with the Commissioner of the Food and Drug Administration, shall conduct a thorough evaluation of the health effects of DDT and other contamination of fish in Santa Monica Bay, California and in surrounding waters. The evaluation shall include an assessment of—

(1) the level of contamination of edible fish caught in the Bay and surrounding waters,

(2) the rate of consumption of contaminated fish from the Bay and surrounding waters by residents of Santa Monica and Los Angeles, California, and surrounding communities, and

(3) the health risks associated with the consumption of such contaminated fish.

The Administrator shall complete the evaluation within 6 months of the date of the enactment of this Act and shall report the results of the evaluation to the Congress.

SEC. 835. SALINITY LABORATORY, RIVERSIDE, CALIFORNIA.

Notwithstanding section 1431(a) of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1556), there are authorized to be appropriated, beginning in fiscal year 1987, such sums as may be necessary for the planning, construction, and acquisition, by the Secretary of Agriculture, acting through the Agricultural Research Service, of buildings and equipment to establish a salinity laboratory to be located at Riverside, California. Sums appropriated under this section shall remain available without fiscal year limitation.

TITLE IX—CLARIFYING AND TECHNICAL AMENDMENTS

SEC. 901. CLARIFYING AMENDMENTS.

(a) REGISTRATION OF PESTICIDES.—

(1) LIMITATION ON UNREGISTERED PESTICIDES.—Section 3(a) (7 U.S.C. 136a(a)) (as amended by section 802(b)(1) of this Act) is further amended by adding at the end thereof the following new sentence: "To the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use in any State of any pesticide that is not registered under this Act and that is not the subject of an experimental use permit under section 5 or an emergency exemption under section 18.".

(2) REGISTRATION UNDER SPECIAL CIRCUMSTANCES.—The second sentence of section 3(c)(7)(A) (7 U.S.C. 136a(c)(7)(A)) is amended—

(A) by striking out "submit" each place it appears and inserting in lieu thereof "submit or cite";

(B) by striking out "submission" and inserting in lieu thereof "submission or citation"; and

(C) by striking out "submitted" and inserting in lieu thereof "submitted or cited".

(3) CLASSIFICATION OF PESTICIDES.—Section 3(d)(1) (7 U.S.C. 136a(d)(1)) is amended—

(A) in the second sentence of subparagraph (A), by striking out "on the initial classification"; and

(B) in subparagraph (C)—

(i) by striking out the colon preceding clause (i) and inserting in lieu thereof a period;

(ii) by striking out clause (i);

(iii) by striking out "(ii)"; and

(iv) by running in the material after "restricted use." so that the margin is the same as the margin of paragraph (1)(C).

(b) CERTIFICATION OF PESTICIDE DEALERS.—The last sentence of section 4(a)(1) (7 U.S.C. 136b(a)(1)) is amended by inserting "by regulation" after "may".

(c) REGISTRATION OF ESTABLISHMENTS.—Section 7(c)(1) (7 U.S.C. 136e(c)(1)) is amended—

(1) in the first sentence, by striking out "shall inform the Administrator" and insert-

ing in lieu thereof "shall, in accordance with regulations promulgated by the Administrator, submit to the Administrator a report";

(2) in the first sentence, by striking out "of the" and inserting in lieu thereof "describing"; and

(3) in the second sentence, by striking out "information" and inserting in lieu thereof "report".

(d) AUTHORITY OF ADMINISTRATOR.—Section 25(c) (7 U.S.C. 136w(c)) is amended—

(1) by inserting "or by regulation" after "hearing"; and

(2) in paragraph (5), by striking out "prescribe regulations requiring" and inserting in lieu thereof "require".

SEC. 902. TECHNICAL AMENDMENTS.

(a) SECTION 2.—Section 2 (7 U.S.C. 136) is amended—

(1) in subsection (c), by striking out "if:" and inserting in lieu thereof "if—";

(2) in subsection (p)(2), by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services";

(3) in subsection (q)(2)(A), by striking out "if:" and inserting in lieu thereof "if—";

(4) in subsection (q)(2)(C)(iii), by striking out ": Provided, That" and inserting in lieu thereof ", except that";

(5) in subsection (u)—

(A) by striking out ": Provided, That" and inserting in lieu thereof ", except that";

(B) by striking out "(1)(a)";

(C) by striking out "or (b)";

(D) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services";

(E) by striking out "(2) that" and inserting in lieu thereof "that"; and

(F) by striking out "an article covered by clause (1) of this proviso" and inserting in lieu thereof "a new animal drug"; and

(6) in subsection (ee)—

(A) by striking out ": Provided, That the term" and inserting in lieu thereof ", except that the term";

(B) by striking out "or" before clause (4);

(C) by striking out ": Provided further, That the term also shall not include" and inserting in lieu thereof ", (5)";

(D) by striking out "or any use" and inserting in lieu thereof "or (6) any use"; and

(E) by striking out ": And provided further, That after" and inserting in lieu thereof a period and "After".

(b) SECTION 3.—Section 3 (7 U.S.C. 136a) is amended—

(1) in subsection (c)(1)(D), by striking out "subsection (c)(2)(D) of this section" and inserting in lieu thereof "paragraph (2)(D)";

(2) in subsection (c)(1)(D)(i)—

(A) by striking out ": Provided, That such" and inserting in lieu thereof a period and "Such"; and

(B) by striking out the semicolon at the end thereof and inserting in lieu thereof a period;

(3) in subsection (c)(1)(D)(ii)—

(A) by striking out "except as" and inserting in lieu thereof "Except as";

(B) by striking out "subparagraph (D)(i) of this paragraph" and inserting in lieu thereof "clause (i)"; and

(C) by striking out the semicolon at the end thereof and inserting in lieu thereof a period;

(4) in subsection (c)(1)(D)(iv) (as redesignated by section 702(1) of this Act)—

(A) by striking out "after expiration" and inserting in lieu thereof "After expiration";

(B) by striking out "subparagraphs (D)(i) and (D)(ii) of this paragraph" and inserting in lieu thereof "clauses (i), (ii), and (iii)"; and

(C) by striking out the semicolon at the end thereof and inserting in lieu thereof a period;

(5) in subsection (c)(2)—

(A) by striking out "(2)(A) DATA IN SUPPORT OF REGISTRATION.—The" and inserting in lieu thereof the following:

"(2) DATA IN SUPPORT OF REGISTRATION.—

"(A) The";

(B) by indenting all of subparagraph (A) (as amended by the preceding provisions of this Act) two ems, so as to align its left margin with the margin of subparagraph (A) of section 3(d)(1);

(C) in subparagraph (B), by striking out "(B)" and all that follows through "(i) If" and inserting in lieu thereof the following:

"(B)(i) If";

(D) by realigning clauses (iii), (iv), and (v) of subparagraph (B) (as amended by the preceding provisions of this Act) two ems to the left, so as to align the left margin of each clause with the margin of subparagraph (A) (as amended by subparagraph (B) of this paragraph);

(E) in the fourth sentence of subparagraph (B)(iv), by striking out ": Provided, That the" and inserting in lieu thereof a period and "The";

(F) in the first sentence of subparagraph (B)(v), by striking out "subsection (c)(1)(D) of this section" and inserting in lieu thereof "paragraph (1)(D)";

(G) in subparagraph (C), by striking out "SIMPLIFIED PROCEDURES.—"; and

(H) by indenting all of subparagraph (C) two ems, so as to align its left margin with the margin of subparagraph (A) (as amended by subparagraph (B) of this paragraph);

(6) in subsection (c)(7), by striking out "subsection (c)(5) of this section" each place it appears and inserting in lieu thereof "paragraph (5)";

(7) in the second sentence of subsection (c)(7)(A), by striking out ": Provided, That if" and inserting in lieu thereof a period and "If";

(8) in subsection (d)(1)(A)—

(A) in the first sentence, by striking out ", provided that if" and inserting in lieu thereof a period and "If"; and

(B) in the last sentence, by striking out ": Provided, however, That the" and inserting in lieu thereof a period and "The";

(9) in subsection (d)(1)(C)(ii), by striking out the last sentence and inserting in lieu thereof the following new sentence: "Any such regulation shall be reviewable in accordance with section 16(e).."; and

(10) in subsection (f)(2), by striking out ": Provided, That as" and inserting in lieu thereof a period and "As".

(c) SECTION 4.—Section 4(a)(1) (7 U.S.C. 136b(a)(1)) is amended—

(1) by striking out ": Provided, That such" and inserting in lieu thereof a period and "Such"; and

(2) by striking out ": Provided, however, That the" and inserting in lieu thereof a period and "The".

(d) SECTION 5.—The last sentence of section 5(g) (7 U.S.C. 136c(g)) is amended by striking out ": Provided, That such" and inserting in lieu thereof a period and "Such".

(e) SECTION 6.—Section 6 (7 U.S.C. 136d) is amended—

(1) in subsection (c), by striking out "Agency" each place it appears and inserting in lieu thereof "Administrator";

(2) in subsection (c)(1), by running into the second sentence the undesignated paragraph in that subsection;

(3) in the second sentence of subsection (c)(3)—

(A) by striking out "(i)" and inserting in lieu thereof "(A)"; and

(B) by striking out "(ii)" and inserting in lieu thereof "(B)"; and

(4) in the second sentence of subsection (e)(2), by striking out ": Provided, That the" and inserting in lieu thereof a period and "The".

(f) SECTION 10.—Section 10(d) (7 U.S.C. 136h(d)) is amended—

(1) in paragraph (1)—

(A) by striking out ": Provided, That the" and inserting in lieu thereof a period and "The"; and

(B) by striking out ": Provided further, That this" and inserting in lieu thereof a period and "This"; and

(2) in the second sentence of paragraph (3), by striking out ": Provided, That where" and inserting in lieu thereof a period and "Where".

(g) SECTION 12.—Section 12(a)(2)(F) (7 U.S.C. 136j(a)(2)(F)) is amended by striking out ": Provided, That it" and inserting in lieu thereof a period and "It".

(h) SECTION 13.—Section 13 (7 U.S.C. 136k) is amended—

(1) in subsection (b), by moving the last sentence in paragraph (3) after such paragraph as a full measure sentence; and

(2) in the first sentence of subsection (c), by striking out ": Provided, That upon" and inserting in lieu thereof a period and "On".

(i) SECTION 15.—Section 15(a) (7 U.S.C. 136m(a)) is amended by striking out "(i)" and "(ii)".

(j) SECTION 16.—Subsection (a) of section 16 (7 U.S.C. 136n) is amended to read as follows:

"(a) DISTRICT COURT REVIEW.—Except as otherwise provided in this Act, the refusal of the Administrator to cancel or suspend a registration or to change a classification not following a hearing and other final actions of the Administrator not committed to the discretion of the Administrator by law are judicially reviewable by the district courts of the United States.".

(k) SECTION 17.—Section 17(c) (7 U.S.C. 136o(c)) is amended—

(1) by striking out ": Provided, That the" and inserting in lieu thereof a period and "The"; and

(2) by striking out ": And provided further, That all" and inserting in lieu thereof a period and "All".

(l) SECTION 18.—Section 18 (7 U.S.C. 136p) is amended—

(1) in the heading, by inserting "AND STATE" after "FEDERAL"; and

(2) by running in the second sentence after the first sentence.

(m) SECTION 19.—Section 19(a) (7 U.S.C. 136q(a)) is amended by striking out "canceled under section 6(c)" and inserting in lieu thereof "suspended under section 6(c) and canceled".

(n) SECTION 21.—Section 21 (7 U.S.C. 136s) is amended—

(1) in subsection (a), by inserting "SECRETARY OF AGRICULTURE.—" after the subsection designation;

(2) in subsection (b), by inserting "VIEWS.—" after the subsection designation; and

(3) in subsection (c), by inserting "NOTICE.—" after the subsection designation.

(o) SECTION 24.—Section 24 (7 U.S.C. 136v) is amended—

(1) in subsection (b), by inserting "UNIFORMITY.—" after the subsection designation; and

(2) in subsection (c)—

(A) by striking out "(c)(1) A" and inserting in lieu thereof the following:

"(c) ADDITIONAL USES.—

"(1) A"; and

(B) by indenting each paragraph two ems, so as to align the left margin of each paragraph with the margin of paragraph (4) of section 25 (as added by section 810 of this Act).

(p) SECTION 25.—Section 25 (7 U.S.C. 136w) is amended—

(1) in subsection (a)—

(A) by striking out "(a)(1) REGULATIONS.—The" and inserting in lieu thereof the following:

"(a) IN GENERAL.—

"(1) REGULATIONS.—The";

(B) by indenting all of paragraphs (1) and (3) two ems, so as to align the left margin of each paragraph with the margin of paragraph (4) of such section (as added by section 810 of this Act);

(C) in paragraph (2), by striking out "(2) PROCEDURE.—" and inserting in lieu thereof the following:

"(2) PROCEDURE.—";

(D) by indenting each subparagraph of paragraph (2) two ems, so as to align the left margin of each subparagraph with the margin of subparagraph (A) of section 25(f)(1) (as added by section 815 of this Act);

(E) in paragraph (2)—

(i) in subparagraph (A), by striking out "PROPOSED REGULATIONS.—";

(ii) in subparagraph (B), by striking out "FINAL REGULATIONS.—";

(iii) in subparagraph (C), by striking out "TIME REQUIREMENTS.—"; and

(iv) in subparagraph (D), by striking out "PUBLICATION IN THE FEDERAL REGISTER.—"; and

(F) in paragraph (3), by striking out "Committee on Agriculture and Forestry" and inserting in lieu thereof "Committee on Agriculture, Nutrition, and Forestry"; and

(2) in the second sentence of subsection (e), by striking out ": Provided, That whenever" and inserting in lieu thereof a period and "Whenever".

(q) SECTION 26.—Section 26 (7 U.S.C. 136w-1) is amended—

(1) in subsection (a), by inserting "IN GENERAL.—" after the subsection designation;

(2) in subsection (a)(1), by striking out "; Provided, That the" and inserting in lieu thereof ", except that the";

(3) in subsection (b), by inserting "SPECIAL RULES.—" after the subsection designation; and

(4) in subsection (c), by inserting "ADMINISTRATOR.—" after the subsection designation.

(r) SECTION 27.—Section 27 (7 U.S.C. 136w-2) is amended—

(1) in subsection (a), by inserting "REFERRAL.—" after the subsection designation;

(2) in subsection (b), by inserting "NOTICE.—" after the subsection designation; and

(3) in subsection (c), by inserting "CONSTRUCTION.—" after the subsection designation.

(s) REDESIGNATION OF SECTIONS 3A AND 4.—

(1) REDESIGNATION OF SECTION 4 AS SECTION 11.—

(A) IN GENERAL.—Section 4 (7 U.S.C. 136b) (as amended by the preceding provisions of this Act) is redesignated as section 11 (as amended by section 601(c)(2)).

(B) CONFORMING AMENDMENTS.—Sections 2(e)(3) (as amended by section 601(a)(1) of this Act), 5(f), 19(e)(2) (as added by section 818(a) of this Act), 23(a)(1)(C) (as amended by section 804 of this Act), 25(f)(1)(B) (as added by section 815 of this Act), and 26(b) are each amended by striking out "section 4" and inserting in lieu thereof "section 11".

(2) REDESIGNATION OF SECTION 3A AS SECTION 4.—

(A) IN GENERAL.—Section 3A (as added by section 105(a) of this Act) is redesignated as section 4.

(B) CONFORMING AMENDMENTS.—Sections 6(g)(2) (as added by section 305(a) of this Act), 12(a)(2)(J) (as amended by section 808(a)(2)(B) of this Act), 24(a)(2)(A)(ii) (as amended by section 801(a) of this Act), and section 408(p)(3) of the Federal Food, Drug, and Cosmetic Act (as added by section 820 of this Act) are each amended by striking out "3A" and inserting in lieu thereof "4".

SEC. 903. TABLE OF CONTENTS AMENDMENTS.

Subsection (b) of section 1 (7 U.S.C. prec. 121) is amended to read as follows:

"(b) TABLE OF CONTENTS.—

"Section 1. Short title and table of contents.
"(a) Short title.
"(b) Table of contents.
"Sec. 2. Definitions.
"(a) Active ingredient.
"(b) Administrator.
"(c) Adulterated.
"(d) Animal.
"(e) Applicator.
"(1) Commercial applicator.
"(2) Private applicator.
"(3) Certified applicator.
"(4) Under the direct supervision of a certified applicator.
"(f) Defoliant.
"(g) Desiccant.
"(h) Device.
"(i) District court.
"(j) Environment.
"(k) Fungus.
"(l) Imminent hazard.
"(m) Inert ingredient.
"(n) Ingredient statement.
"(o) Insect.
"(p) Label and labeling.
"(1) Label.
"(2) Labeling.
"(q) Misbranded.
"(r) Nematode.
"(s) Person.
"(t) Pest.
"(u) Pesticide.
"(v) Plant regulator.
"(w) Producer and produce.
"(x) Protect health and the environment.
"(y) Registrant.
"(z) Registration.
"(aa) State.
"(bb) Unreasonable adverse effects on the environment.
"(cc) Weed.
"(dd) Establishment.
"(ee) To use any registered pesticide in a manner inconsistent with its labeling.
"(ff) Outstanding data requirement.
"(1) In general.
"(2) Factors.
"(gg) Antimicrobial.
"(hh) Pesticide testing facility.
"(ii) Importing country.
"(jj) Pesticide dealer.
"(1) In general.
"(2) Exception.
"(kk) To distribute or sell.
"(ll) Drinking water well.
"(mm) Ground water.
"(nn) Ground water sampling point.
"(oo) Potential sources of drinking water.
"(pp) Reliable analytical data.
"(qq) Ground water residue guidance level.
"(rr) Container.
"Sec. 3. Registration of pesticides.
"(a) Requirement of registration.
"(b) Exemptions.
"(c) Procedure for registration.
"(1) Statement required.
"(2) Data in support of registration.
"(3) Time for acting with respect to application.
"(4) Notice of application.
"(5) Approval of registration.
"(6) Denial of registration.
"(7) Registration under special circumstances.
"(8) Public interim administrative review.
"(9) Preregistration access to data.
"(d) Classification of pesticides.
"(1) Classification for general use, restricted use, or both.
"(2) Change in classification.
"(3) Change in classification from restricted use to general use.
"(e) Products with same formulation and claims.
"(f) Miscellaneous.
"(1) Effect of change of labeling or formulation.
"(2) Registration not a defense.
"(3) Authority to consult other Federal agencies.
"(g) Priority list and data requirements for inert ingredients.
"(1) Establishment of list.
"(2) Publication of list.
"(3) Judicial review.
"(4) Number of ingredients.
"(5) Additional data.
"(6) Evaluation.
"(7) Construction.
"(h) Antimicrobial standards.
"(1) Definition.
"(2) Standards.
"(i) Neurotoxicological and behavioral effects of pesticides.
"Sec. 4. Reregistration of registered pesticides.
"(a) General rule.
"(b) Special authorities of Administrator.
"(1) Guidelines.
"(2) Monitoring.
"(3) Suspensions and penalties.
"(c) Reregistration phases.
"(d) Phase one.
"(1) Priority for reregistration.
"(2) Reregistration lists.
"(3) Judicial review.
"(4) Notice to registrants.
"(e) Phase two.
"(1) In general.
"(2) Notice of intent to seek or not to seek reregistration.
"(3) Missing or inadequate data.
"(4) Time periods.
"(5) Cancellation and removal.
"(f) Phase three.
"(1) Information about studies.
"(2) Time periods.
"(3) Cancellation.
"(g) Phase four.
"(1) Independent review and identification of outstanding data requirements.
"(2) Time periods.
"(h) Phase five.
"(1) Data review.
"(2) Reregistration and other actions.
"(i) Compensation of data submitter.
"(j) Fees.

"(1) Initial fee for food or feed pesticide active ingredients.
"(2) Final fee for food or feed pesticide active ingredients.
"(3) Fees for other pesticide active ingredients.
"(4) Reduction or waiver of fees for minor use and other pesticides.
"(5) Other fees.
"(6) Apportionment.
"(k) Exemption of certain registrants.
"(l) Reregistration fund.
"(1) Establishment.
"(2) Source and use.
"(3) Unused funds.
"(4) Accounting.
"(m) Judicial review.
"Sec. 5. Experimental use permits.
"(a) Issuance.
"(b) Temporary tolerance level.
"(c) Use under permit.
"(d) Studies.
"(e) Revocation.
"(f) State issuance of permits.
"(g) Exemption for agricultural research agencies.
"Sec. 6. Administrative review; suspension.
"(a) Cancellation after five years.
"(b) Cancellation and change in classification or labels.
"(1) Notice of cancellation or change in classification.
"(2) Hearing.
"(3) Factors.
"(4) Label changes.
"(c) Suspension.
"(1) Order.
"(2) Expedite hearing.
"(3) Emergency order.
"(4) Judicial review.
"(d) Public hearings.
"(e) Conditional registration.
"(f) Hearing procedures after public interim administrative review.
"(1) General rule.
"(2) Request for hearing.
"(3) Procedures.
"(g) General provisions.
"(1) Voluntary cancellation
"(2) Publication of notice.
"(3) Existing stocks.
"(4) Additional information.
"(h) Suspension and cancellation of registration based on false or invalid data.
"(1) Notice.
"(2) Invalid data.
"(3) False data.
"(4) Hearing.
"(i) Notice for stored pesticides with canceled or suspended registrations.
"(j) Judicial review.
"Sec. 7. Registration of establishments.
"(a) Requirements.
"(b) Registration.
"(c) Information required.
"(d) Confidential records and information.
"(e) Public right to know.
"(1) Fact sheets.
"(2) Contents.
"(3) Reports.
"(4) Public availability.
"(f) Information requests.
"Sec. 8. Records.
"(a) Authority to require records.
"(1) In general.
"(2) Retail distribution or sale.
"(b) Limitations.
"(c) Records of applicators.
"(1) Commercial applicators.
"(2) Private applicators.
"(d) Records of pesticide dealers.
"(1) In general.
"(2) Contents.
"(3) Duration.
"(e) Access.
"(1) Employees, customers, and complainants.
"(2) State agencies.
"(f) Information for employees.
"Sec. 9. Inspection of establishments, etc.
"(a) Authority to enter, inspect, and copy.
"(b) Warrants.
"(c) Enforcement.
"(1) Certification of facts to Attorney General.
"(2) Notice not required.
"(3) Warning notices.
"(d) Procedure.
"(1) Credentials and statements.
"(2) Promptness.
"(3) Samples.
"(e) Coordination.
"(f) Criminal violations.
"Sec. 10. Protection of trade secrets and other information.
"(a) In general.
"(b) Disclosure.
"(c) Disputes.
"(d) Limitations.
"(e) Disclosure to contractors.
"(f) Penalty for disclosure by Federal employees.
"(g) Disclosure to foreign and multinational pesticide producers.
"(h) Data disclosure to States.
"(1) In general.
"(2) Action for just compensation.
"(3) Required disclosure.
"Sec. 11. Use of restricted use pesticides; certified applicators.
"(a) Certification procedure.
"(1) Federal certification.
"(2) State certification.
"(b) State plans.
"(c) Instruction in integrated pest management techniques.
"(d) Use by commercial applicators.
"(1) In general.
"(2) Certified commercial applicators.
"(3) Registered commercial applicators.
"(e) Use by private applicators.
"(1) In general.
"(2) Certified private applicators.
"(3) Supervised private applicators.
"(f) Recertification and reregistration.
"(1) In general.
"(2) Training material.
"(3) Recertification.
"(4) Reregistration.
"(g) Training material.
"(1) Development.
"(2) Revisions.
"(h) Minimum standards for trainers and training programs.
"(1) Training of commercial applicators.
"(2) Training of private applicators.
"(i) Privately administered training programs.
"(j) Enforcement officer training.
"(k) Separate standards.
"(l) Definition of State agency.
"Sec. 12. Unlawful acts.
"(a) In general.
"(b) Exemptions.
"(c) Acts of officers, agents, etc.
"Sec. 13. Stop sale, use, removal, and seizure.
"(a) Stop sale, etc., orders.
"(b) Seizure.
"(c) Disposition after condemnation.
"(d) Court costs, etc.
"Sec. 14. Penalties.
"(a) Civil penalties.
"(1) In general.
"(2) Private applicator.
"(3) Hearing.
"(4) Determination of penalty.
"(5) References to Attorney General.
"(6) Subpoenas.
"(b) Criminal penalties.
"(1) In general.
"(2) Private applicator.
"(3) Disclosure of information.
"Sec. 15. Indemnities.
"(a) Requirement.
"(b) Amount of payment.
"(1) In general.
"(2) Special rule.
"(c) Indemnification.
"(1) Reports.
"(2) Appropriation required.
"Sec. 16. Administrative procedure; judicial review.
"(a) District court review.
"(b) Review by Court of Appeals.
"(c) Jurisdiction of district courts.
"(d) Notice of judgments.
"(e) Review of regulations.
"(1) In general.
"(2) Judicial review.
"(3) Stays.
"(4) Definition of agricultural producer.
"Sec. 17. Imports and exports.
"(a) Pesticides and devices intended for export.
"(1) Violations.
"(2) Export of restricted use or unregistered pesticides.
"(3) Notification specifications.
"(4) Labels.
"(5) Records.
"(b) Notices of regulatory action furnished to foreign governments.
"(1) Issuance.
"(2) Contents.
"(c) Importation of pesticides and devices.
"(d) Cooperation in international efforts.
"(e) Regulations.
"Sec. 18. Exemption of Federal and State agencies.
"Sec. 19. Disposal and transportation.
"(a) Procedures.
"(b) Advice to Secretary of Transportation.
"(c) Provisions for unused quantities.
"(d) Container design.
"(1) Procedures.
"(2) Compliance.
"(e) Pesticide residue removal.
"(1) Procedures.
"(2) Compliance.
"(f) Pesticide container study.
"(1) Study.
"(2) Report.
"Sec. 20. Research and monitoring.
"(a) Research.
"(b) National monitoring plan.
"(c) Monitoring.
"Sec. 21. Solicitation of comments; notice of public hearings.
"(a) Secretary of Agriculture.
"(b) Views.
"(c) Notice.
"Sec. 22. Delegation and cooperation.
"(a) Delegation.
"(b) Cooperation.
"(c) Effect on certain other laws.
"(1) In general.
"(2) Coordination.
"Sec. 23. State cooperation, aid, and training.
"(a) Cooperative agreements.

"(1) Purposes.
"(2) Authorization for appropriations.
"(b) Contracts for training.
"(c) Information and education.
"Sec. 24. Authority of States.
"(a) State regulation.
"(1) In General.
"(2) House or garden pesticides.
"(b) Uniformity.
"(c) Additional uses.
"(d) Differences in usage and risk.
"Sec. 25. Authority of Administrator.
"(a) In General.
"(1) Regulations.
"(2) Procedure.
"(3) Congressional committees.
"(4) Congressional review of regulations.
"(b) Exemption of pesticides.
"(c) Other authority.
"(d) Scientific advisory panel.
"(e) Peer review.
"(f) Worker health and safety.
"(1) In general.
"(2) Rulemaking procedures.
"(3) Report on regulations.
"(4) Copy of regulations.
"Sec. 26. State primary enforcement responsibility.
"(a) In general.
"(b) Special rules.
"(c) Administrator.
"(d) Expiration.
"Sec. 27. Failure by the State to assure enforcement of State pesticide use regulations.
"(a) Referral.
"(b) Notice.
"(c) Construction.
"Sec. 28. Identification of pests; cooperation with Department of Agriculture's program.
"Sec. 29. Annual report.
"Sec. 30. Severability.
"Sec. 31. Protection of ground water.
"(a) Leaching potential.
"(1) Criteria.
"(2) Information.
"(3) Determination of potential to leach.
"(4) Determination of necessity for monitoring.
"(b) Monitoring.
"(1) Requirement for monitoring.
"(2) Judicial review.
"(c) Notification.
"(1) Requirement.
"(2) Content of report.
"(d) Review for further action.
"(e) Registration amendments.
"(1) Requirement.
"(2) Consultation.
"(3) Reasonable likelihood.
"(4) Scope of amendments.
"(5) Effectiveness amendments.
"(6) Procedures.
"(f) Site-specific response.
"(1) Requirement.
"(2) Action by the Administrator.
"(3) Judicial review.
"(g) Information on pesticides in ground water.
"(h) Technical assistance to States.
"(i) Special review.
"(j) Site specific information.
"(1) Availability of information.
"(2) Establishment of Council.
"(3) Consideration by Administrator.
"(k) Effect on other provisions.
"Sec. 32. Authorization for appropriations.".
TITLE X—EFFECTIVE DATE
SEC. 1001. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the expiration of 60 days after the date of enactment of this Act.

TITLE XI—HOMELESS ELIGIBILITY CLARIFICATION ACT

SEC. 1101. SHORT TITLE.

This title may be cited as the "Homeless Eligibility Clarification Act".

Subtitle A—Emergency Food for the Homeless

SEC. 1111. MEALS SERVED TO HOMELESS INDIVIDUALS.

(a) DEFINITION OF FOOD.—Section 3(g) of the Food Stamp Act of 1977 (7 U.S.C. 2012(g)) is amended—

(1) in clause (1), by striking out "and (8)" and inserting in lieu thereof "(8), and (9)";

(2) by striking out "and" at the end of clause (7); and

(3) by inserting before the period at the end thereof the following: ", and (9) in the case of households that do not reside in permanent dwellings and households that have no fixed mailing addresses, meals prepared for and served by a public or private nonprofit establishment (approved by an appropriate State or local agency) that feeds such individuals and by a public or private nonprofit shelter (approved by an appropriate State or local agency) in which such households temporarily reside (except that such establishments and shelters may only request voluntary use of food stamps by such individuals and may not request such households to pay more than the average cost of the food contained in a meal served by the establishment or shelter)".

(b) DEFINITION OF HOUSEHOLD.—The last sentence of section 3(i) of such Act (7 U.S.C. 2012(i)) is amended by inserting after "battered women and children," the following: "residents of public or private nonprofit shelters for individuals who do not reside in permanent dwellings or have no fixed mailing addresses, who are otherwise eligible for coupons,".

(c) DEFINITION OF RETAIL FOOD STORE.—Section 3(k)(2) of such Act (7 U.S.C. 2012(k)(2)) is amended by striking "and (8)" and inserting in lieu thereof "(8), and (9)".

(d) PARTICIPATION OF ESTABLISHMENTS AND SHELTERS.—Section 9 of such Act (7 U.S.C. 2018) is amended by adding at the end thereof the following new subsection:

"(g) In an area in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the participation of an establishment or shelter described in section 3(g)(9) damages the program's integrity, the Secretary shall limit the participation of such establishment or shelter in the food stamp program, unless the establishment or shelter is the only establishment or shelter serving the area.".

(e) REDEMPTION OF COUPONS.—The first sentence of section 10 of such Act (7 U.S.C. 2019) is amended—

(1) by striking out "and" after "battered women and children,"; and

(2) by inserting after "blind residents" the following: ", and public or private nonprofit establishments, or public or private nonprofit shelters that feed individuals who do not reside in permanent dwellings and individuals who have no fixed mailing addresses".

(f)(1) The amendments made by this section shall become effective, and be implemented by issuance of final regulations, not later than April 1, 1987.

(2) Not later than September 30, 1988, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the program established by the amendments made by this section, including any proposed legislative recommendations.

(3) The amendments made by this section shall cease to be effective after September 30, 1990.

Subtitle B—Job Training for the Homeless

SEC. 1121. JOB TRAINING FOR THE HOMELESS.

(a) ECONOMICALLY DISADVANTAGED TO INCLUDE HOMELESS.—Section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)) is amended—

(1) by striking out "or" at the end of clause (D);

(2) by striking out the period at the end of clause (E) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof "(F) is homeless and whose total income is not in excess of the income levels described in subparagraph (B).".

(b) JOB TRAINING PLAN.—Section 104(b) of the Job Training Partnership Act (29 U.S.C. 1514(b)) is amended by redesignating paragraphs (3) through (10) as paragraphs (4) through (11), respectively, and by inserting after paragraph (2) the following:

"(3) and a description of how the program will provide services to the homeless;".

(c) BARRIERS TO EMPLOYMENT RULE.—Section 203(a)(2) of the Job Training Partnership Act (29 U.S.C. 1603(a)(2)) is amended by inserting "homeless," after "older workers,".

Subtitle C—Entitlements Eligibility

SEC. 1131. TREATMENT OF HOMELESS INDIVIDUALS ELIGIBLE UNDER SSI PROGRAM.

Section 1631(e) of the Social Security Act (42 U.S.C. 1383(e)) is amended by adding at the end the following:

"(3) The Secretary shall provide a method of making payments under this title to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.".

SEC. 1132. APPLICATION FOR SSI AND FOOD STAMP BENEFITS BY SSI PRE-RELEASE INDIVIDUALS.

Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following:

"Pre-Release Procedures for Institutionalized Persons

"(j) The Secretary shall develop a system under which an individual can apply for supplemental security income benefits under this title before discharge or release of the individual from a public institution. The Secretary and the Secretary of Agriculture shall develop a procedure under which an individual who applies for supplemental security income benefits under this title shall also be permitted to apply for participation in the food stamp program by executing a single application.".

SEC. 1133. DELIVERY OF VETERANS' BENEFITS PAYMENTS.

(a) IN GENERAL.—(1) Section 3003 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Benefits under laws administered by the Veterans' Administration may not be denied an applicant on the basis that the applicant does not have a mailing address.".

(2) Section 3020 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) In the case of a payee who does not have a mailing address, payments of mone-

tary benefits under laws administered by the Veterans' Administration shall be delivered under an appropriate method prescribed pursuant to paragraph (2) of this subsection.

"(2) The Administrator shall prescribe an appropriate method or methods for the delivery of payments of monetary benefits under laws administered by the Veterans' Administration in cases described in paragraph (1) of this subsection. To the maximum extent practicable, such method or methods shall be designed to ensure the delivery of payments in such cases.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall take effect on the date of enactment of this Act.

(2) The amendment made by subsection (a)(2) shall take effect with respect to payments made on or after October 1, 1986.

Mr. BEDELL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I will not object, I will yield to my friend and colleague for the purpose of informing our colleagues of the nature of this legislation and why we are yea passing the FIFRA bill for the third time.

Mr. Speaker, the House will shortly pass and send to the other body a package of amendments to the FIFRA bill, S. 2792. This package is the result of hard and lengthy negotiations between the Agriculture and Energy and Commerce Committees.

Since we are adopting this package by unanimous consent, there will be no conference report and no formal legislative history. The national uniformity provisions of the package contain language new to the House. As a principal author of the bill and as ranking minority member of the Agriculture Subcommittee that developed the bill, I want to make sure there is no misunderstanding as to the intent of the uniformity provisions:

First, under the bill, uniformity is required for a broad range of pesticide residue limits established under the Federal Food, Drug, and Cosmetic Act. These include tolerances issued under section 408 of the act for pesticide residues on raw agricultural commodities, food additive regulations issued under section 409 for pesticide residues in processed food, and tolerances issued under section 406 for unavoidable pesticide residues resulting from environmental contamination. Uniformity is also required for any generally applicable statement of the level of residues of the pesticide in food below which enforcement action will not be taken. This encompasses enforcement action levels employed by FDA and covers permissible residues in processed food subject to the passthrough provision of section 402 of the act. Under the passthrough provision, pesticide residues in a processed food are legal as long as the level of such residues is no greater than the tolerance for the pesticide on the raw agricultural commodity from which the processed food was derived.

Second, uniformity applies to any pesticide residue resulting from a use of the pesticide that was lawful under Federal law, the law of the State where the pesticide was applied, and the law of the State where the food containing the residue is distributed, as of the time that the pesticide was in fact used on the food crop. This is a "pipeline" provision, which prevents a State from retroactively applying new residue limitations after a pesticide has lawfully been used by the farmer. Under this provision, such limitations can be prospective, but not retroactive, that is, they can apply only to residues resulting from pesticide use after the limitation has been adopted. Thus, farmers will be able to rely on existing State requirements at the time they use a pesticide and need not fear that those requirements will later be changed.

The unreasonable risk exception to the pipeline provision would permit a State to impose a new pesticide residue limit on existing stocks of food only where the State can demonstrate a significant risk of harm to its citizens from residue levels meeting Federal law during the short time required for the food in question to work itself through the pipeline.

Third, the uniformity provisions become effective on January 1, 1987. However, there are a number of chemicals that have been registered or registered since April 25, 1985, that meet very rigorous scientific criteria—tests which are on the cutting edge of science. In my judgment, EPA should move rapidly to establish uniformity for any chemical that meets the April 25, 1985, data requirements.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. I thank the gentleman.

Mr. Speaker, I am sure that the amendment that the gentleman presents is that to which we agreed this morning. Am I correct?

Mr. BEDELL. The gentleman is correct.

Mr. ROBERTS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Iowa [Mr. BEDELL].

Mr. BEDELL. I thank the gentleman.

Mr. Speaker, this amendment represents hours and hours of work and negotiation by the people from the Commerce Committee who have been most cooperative. By Mr. ROBERTS, by Mr. STENHOLM, by a large number of our colleagues who have worked and worked hours and hours and hours on this bill.

This bill in my opinion is a very important bill in the regulation of the pesticides and chemicals in our environment. It is a giant step forward and I urge its passage.

Mr. ROBERTS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. WAXMAN] for purposes of a colloquy.

Mr. WAXMAN. I thank the gentleman for yielding to me.

Mr. Speaker, I would like you to explain what happens under the pipeline provision contained in subsection (d)(1) of the proposed section 413. If there is review by a court, what law applies to the State determination?

Mr. BEDELL. The requirements of this provision would be satisfied if a State makes the determination specified in the provision. In addition, the State would have to make the determination in accordance with applicable procedural requirements and any substantive requirements in the State law.

Mr. WAXMAN. Thus, when the State makes its determination in compliance with applicable State law, the State action would stand.

Mr. BEDELL. That is correct.

Mr. ROBERTS. Mr. Speaker, under my reservation of objection, I yield to the gentleman from New Jersey [Mr. FLORIO] for purposes of a colloquy.

Mr. FLORIO. I thank the gentleman for yielding to me.

Mr. Speaker, as regards section 825 of the bill, it provides a limitation on the liability of the agricultural producer under other Federal environmental statutes provided that the producer can prove affirmatively that he applied the pesticide in conformance with label instructions. Once the producer has met that burden of proof, he can be held liable only if he acted negligently, recklessly or with intent to misuse such pesticide. Is my understanding of this provision correct?

Mr. BEDELL. Yes, my colleague is absolutely correct in his interpretation of this provision.

Mr. FLORIO. I would also like to inquire of my colleague from Texas about the intent of two other aspects of section 825 of the bill, dealing with liability under Federal environmental laws. The bill says liability shall be imposed on "any responsible party." It further says that such liability is "to the extent provided under such statutes."

As for the categories of responsible parties that could be included here, we intend to cover, among other parties, any person who has distributed a pesticide in commerce.

Mr. BEDELL. That is correct. Responsible parties could include those parties who are involved with the distribution of the pesticide that caused the contamination.

Mr. FLORIO. As for the language that says liability shall be "to the extent provided under such statutes," we intend for this provision to apply the standards of liability which exist under other applicable Federal environmental laws to any responsible party.

Mr. BEDELL. That is correct.

Mr. ROBERTS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Iowa [Mr. BEDELL].

Mr. BEDELL. I thank the gentleman.

Mr. Speaker, we are short on time, but I cannot help but thank the staff that has worked many, many, many hours on this effort. The Members of Congress who have worked out our various differences and spent so much time, my friend from Kansas and all of those who have been involved in this effort.

Mr. ROBERTS. I thank the gentleman for his comments.

Mr. Speaker, under my reservation, I would simply add only that this bill would not have been possible without the leadership and the perseverance of my dear friend and colleague from Iowa [Mr. BEDELL].

Mr. KASTENMEIER. Mr. Chairman, today the House is considering an important pesticide reform bill. One section of the bill includes a patent term provision like H.R. 5536 introduced by our colleague from Virginia, Mr. BOUCHER, a member of my subcommittee.

The patent term provisions of this bill differ from the earlier House passed bill, H.R. 5536, House Report 99–895, in two respects:

(1) The patent term provisions are sunsetted after 15 years. Thus, any substance patented during that time period will be eligible for extension regardless of when the regulatory review period occurred.

(2) The provision provides up to 2 years of patent term extension for substances in the pipeline at the date of enactment rather than the 3 years provided for in H.R. 5536.

These changes were agreed to as an accommodation to the other body who had included similar provisions. The other body had a 7-year sunset in their version of FIFRA reform. We agreed with Senator MATHIAS who said:

Such a short-term sunset would largely undermine the goal of patent term restoration for pesticide inventions; to stimulate long-range research and development projects in this industry. Under . . . the amendment, the patent restoration would be available only to new agrichemicals which complete regulatory review at the EPA in the next seven years. Such a provision could have little impact on the investment decisions to be made in the next few years on agrichemical research projects because uncertainty as to whether they will result in a product approved by the EPA in time to apply for a patent term restoration to compensate for the time lost during the lengthy approval process. Far from stimulating innovation, the provision would only reward innovation that has already been achieved, that is, products that have been patented and are about to enter the lengthy regulatory review process at the EPA.

A sunset would also run contrary to the most basic argument for patent term restoration in this industry, namely that pesticide inventions ought to receive the same 17-year patent term that is enjoyed by any other type of invention, and should not be denied full patent life because of the lengthy premarket regulatory review at the EPA.

Despite these reservations we have gone more than halfway to meet the position of the other body.

The patent term provisions of this bill differ from the Senate passed provisions in minor respects. The House bill is more consistent with current patent term law, and is slightly more inclusive in that genetically altered plants, and plant products are eligible for extension.

This legislation is the result of more than 6 years of legislative work. The Carter administration first proposed patent term restoration as a way to stimulate investment in research and development and to compensate for lost patent life due to Federal regulatory delay. After several legislative attempts at enacting patent term legislation, an Office of Technology Assessment study justifying the need for legislation, Congress finally acted in 1984 to create a patent term statute. Unfortunately, for a variety of reasons, agricultural chemicals, toxic substances and genetically altered plants were excluded from that legislation. This bill is an attempt to redress that omission.

The bill permits patent owners or their agents to apply for an extension of patent term when their product has been prevented from being commercially marketed or used because of a regulatory review period imposed by Federal law. Patent term extension under this bill is authorized for three different types of substances: agricultural chemicals; toxic substances; and genetically altered plant and plant products. These three types of products are required to undergo substantial health and safety testing before they can be commercially marketed or used. To compensate for this testing—while under patent but not on the market—the bill provides that an extension can be granted for a period of up to 5 years.

The bill also assists generic pesticide producers by permitting them to use the patented substances during the last 2 years of patent life to conduct health and safety testing. This will permit the more rapid approval of generic substitutues.

Finally, the bill provides procedures to guard against potential abuses for the patent term extension system. The bill compensates only for tests conducted with due diligence and excludes time spent by agencies reviewing insufficient data. Challenge procedures are also specified for parties adversely affected by the extension process when they believe that the patent holder has acted without due diligence.

It seems beyond dispute that once Congress has enacted a set of rules which afford patent term extension to a certain type of products, say, human drugs, which already compensated for regulatory delay, that other similarly situated substances should be granted similar benefits. To do so is a matter of simple consistency.

The National Agricultural Chemical Association [NACA] has compiled statistics on the effective patent life of agricultural chemicals. That data shows an average life of 15.5 years for the top 20 chemicals, but the more recent chemicals have an effective life of only 10½ years. These troubling statistics lead me to conclude that patent term restoration for time lost due to Federal regulatory delay is a matter of fairness and equity. Fairness in that existence of valid and useful health and safety tests which delay market entry should not punish the owner of intellectual property. Equity in that agricultural chemicals and products should not be treated worse than their human drug counterparts.

The Committee on the Judiciary concluded that patent term extension was appropriate as a means of encouraging increased expenditures on research and development. As the patent owners showed the costs of getting a new pesticide to the market have increased dramatically over recent years. In order to recoup this investment, a more complete patent life may be necessary. Thus, in the view of the committee, this bill serves to stimulate innovation.

I would like to thank Congressmen BOUCHER, MOORHEAD, DEWINE, GLICKMAN, and SYNAR for their leadership on this issue. Moreover the willingness of the industry to negotiate and agree with public interest and environmental groups on FIFRA reform is commendable.[1] These negotiations were the definitive step that brought us this far. Perhaps by acting today we can encourage such negotiations on other issues.

I urge my colleagues to support this bill.

Mr. BEDELL. Mr. Speaker, the House amendment to the Senate amendment consists of a substitute bill that is a compromise with respect to the various differences between the Senate- and House-passed bills. I believe it would be helpful, so that all who are interested in the FIFRA legislation can understand the compromise nature of the House amendment, for me to review, in some detail, the major provisions of the House amendment.

PREREGISTRATION ACCESS TO DATA

The bill provides for public access to health and safety data submitted to support an application for the registration of a pesticide containing a new active ingredient, or to authorize the initial food use of a pesticide active ingredient. Public access would only be granted for the purpose of allowing public comment on the application. A person seeking access to data supporting an application for registration must affirm that the person is not directly or indirectly, acting on behalf of someone, in the pesticide business. Criminal penalties would be required for wrongful disclosures of information. (Secs. 101 and 102.)

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[1] In this regard special note should be made of the good work done on this issue by Nancy Drabble of Public Citizen, Dr. Jack Early of NACA, Bill Lyons of Ciba-Gigy and Tom Sager and David Modi of Dupont.

CONDITIONAL REGISTRATIONS

The bill will prohibit conditional registration amendments of a pesticide for additional uses unless the additional use is in the public interest. A conditional amendment to add a use not be granted if data concerning possible chronic effects have not been submitted, and the registrant has had a reasonable time to submit the data, unless the amendment is to add a minor use. (Sec. 103.)

REREGISTRATION OF REGISTERED PESTICIDES

The bill will require the Administrator of the Environmental Protection Agency to reregister pesticides with active ingredients contained in pesticides registered before November 1, 1984, with outstanding data requirements. Reregistration would be completed in five phases:

First, EPA would publish a priority list of the active ingredients contained in pesticides that must be reregistered. Priority would be given to active ingredients that have not already been assigned reregistration requirements, and that are in use on or in food or feed and may result in postharvest residues or residues of potential toxicological concern in potable ground water, edible fish or shell fish, have significant outstanding data requirements, or are used where workers exposure is most likely.

Second, registrants must notify the Administrator whether or not the registrant intends to seek reregistration of a listed pesticide. Registrants must also identify and agree to replace missing and inadequate data for the pesticide.

Third, registrants must summarize studies previously submitted in support of reregistration, reformat certain data in the studies according to EPA guidelines, and promise to fill outstanding data requirements.

Fourth, The Administrator must review submissions to determine if all data that are missing or inadequate were identified. Outstanding data requirements for each active ingredient must be published, and 4 years would be allowed for the submission of required data.

Fifth, EPA must conduct a thorough examination of all data, and determine if the pesticide is eligible for reregistration. Applicants for reregistration of the pesticide must then supply supplemental product-specific data. The Administrator must make a final decision on reregistration not later than 1 year after the submission of all required data.

The bill provides for the payment of reregistration fees based on active ingredients. Collectively, registrants of each pesticide registered for a major use on food or feed must pay an initial fee of $50,000 with the phase two submission. A final fee of $100,000 would be paid under phase 3.

Registrants of each pesticide registered for a major use on food or feed for which registration requirements already have been issued, must collectively pay a fee of $150,000 at a time to be determined by the Administrator.

Registrants of each pesticide not registered for a major food or feed use must collectively pay a fee determined by the Administrator—but not greater than $50,000 or less than $75,000. If registration requirements already have been issued for the pesticide, the fee could not be greater than $100,000 or less than $50,000.

Fees could be reduced or waived for minor use pesticides, pesticides for which the value or volume of use is small, certain small businesses, and antimicrobial active ingredients for which production levels do not exceed 1 million pounds per year. Fees are to be apportioned, according to domestic market share, among registrants.

The bill also provides that certain small business registrants will pay fees based on the gross revenue from sales of a pesticide during the 3-year period prior to reregistration.

Registrants who have not marketed a pesticide in the 3 years prior to reregistration will pay 15 percent of the prescribed fees if they choose to reregister. (Secs. 104 and 105.)

INERT INGREDIENTS

The bill will direct the Administrator to establish a priority list of between 50 and 75 inert ingredients. Listed would be first, inerts that appear to cause a pesticide to trigger a public interim administrative review; second, inerts for which additional data are reasonably necessary to assess whether they may cause unreasonable adverse effects, that are similar in molecular structure to chemicals known to cause unreasonable adverse effects, and that have significant use in pesticides or to which there is significant exposure from pesticides; and third, inerts for which additional data are needed to assess whether they may result in unreasonable adverse effects and to which there is significant exposure from pesticides.

The bill authorizes the Administrator, when establishing the priority list, to take into account, first, the differences in concept, usage, and environmental risk between various classes of pesticides, and second, data for evaluating the risk between agricultural and nonagricultural pesticides.

Within 1 year, the Administrator must determine if additional data on a listed inert ingredient are needed, and such data must be submitted within 4 years. Within 1 year after submission of the data, the Administrator must take appropriate regulatory action.

The bill would require modification of pesticide ingredient statements to show the name of each inert ingredient in a pesticide that the Administrator determines must appear in the statement because of the hazard that may be posed by the use pattern and concentration level of the inert ingredient, and the name of any inert ingredient for which the Administrator has required additional data because it appears to cause a pesticide to trigger a public interim administrative review. (Secs. 106 through 109.)

PUBLIC RIGHT TO KNOW

The bill will require that any producer operating a pesticide production establishment to prepare or obtain a fact sheet, summarizing relevant health, safety, and environmental data for each active ingredient manufactured or used at the establishment. The producer must furnish a copy of the factsheet to any person on request. Producers must furnish to EPA annual reports that include the name of each ingredient for which a factsheet is required, the location of the establishment, and a copy of the most current factsheet. Factsheets and annual reports must be made available to the public. (Sec. 201.)

DATA DISCLOSURE TO STATES

The bill will require the Administrator to disclose to a State data or information acquired under the act if the State provides at least the same protections as the act with respect to the disclosure and use of the data or information, and State law allows the data submitter to recover just compensation for losses that result from wrongful disclosure, as provided by the act. (Sec. 202.)

PUBLIC INTERIM ADMINISTRATIVE REVIEW

The bill provides that a public interim administrative review initiated after January 1, 1987, on whether the use of a currently registered pesticide or category of pesticides poses unreasonable adverse effects to the environment must be conducted as follows:

First, the Administrator must publish criteria for initiating a review. The criteria must be based on levels of risk and could include consideration of currently available exposure data. Absence of exposure data would not delay initiation of a review. The Administrator could decline to initiate a review solely on the basis of exposure only if adequate data on all relevant means of exposure have been considered.

Second, as under current law, the Administrator could not initiate a review to develop a risk-benefit evaluation of a pesticide or any of its uses before initiating a formal action to cancel, suspend, or deny the registration of the pesticide unless the review is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to the environment.

Third, on receipt of information about a pesticide demonstrating that the criteria for initiating a review have been met, the Administrator must notify all registrants of the pesticide and provide information and an explanation.

Fourth, if the Administrator intends to initiate a review of a pesticide registered for agricultural uses, the Administrator must notify the Secretary of Agriculture.

Fifth, any review must be conducted in accordance with published regulations. The regulations must provide that a review will include a notice of initiation of the review; a notice of preliminary determination; and a notice of final determination. Public comment must be provided for in the notice of initiation and the notice of preliminary determination.

Sixth, the notice of initiation or the notice of preliminary determination must state the basis for the review or determination and include a request for any additional data needed, and a bibliography of all scientific data, studies, and expert analysis concerning those risks or ben-

efits of the pesticide that are under review. A person must submit comments within 90 days and disclose all scientific data, studies, and expert analyses in the person's possession about the pesticide that were not included in the bibliography.

Seventh, within 18 months after initiating a review, the Administrator must decide what further regulatory action—if any—to take. (Sec. 301.)

PUBLIC HEARINGS RESULTING FROM A PUBLIC INTERIM ADMINISTRATIVE REVIEW

The bill will establish the following special rules to govern hearings that result from the final decision of the Administrator in a public interim administrative review initiated after January 1, 1987:

First, any person who is adversely affected by a decision of the Administrator, including a person without an economic interest in the pesticide, could request a hearing within 30 days of the decision. A person could request a hearing, or intervene in a hearing, only if that person submitted comments during the review.

Second, at the request of a party to the hearing, the administrative law judge [ALJ] could receive into evidence portions of the review record and other evidence if the party demonstrates the evidence is relevant and material to the disputed issues, is not unduly repetitious, and a competent witness is made available to be cross-examined about the evidence. Direct testimony of witnesses concerning scientific data or studies that were not, but could have been, obtained and submitted in the review would not be admissible at the hearing. The right of parties to confront and cross-examine witnesses would be preserved on material issues of adjudicative facts.

Third, not later than 120 days after the ALJ is appointed, prehearing matters must be completed and the hearing begun. The ALJ could establish a schedule for prehearing matters, and must ensure that the hearing schedule is met.

Fourth, any challenge to the notice of intent to cancel or change classification stemming from the review, or to any request for a hearing or motion to intervene, must be filed with the ALJ before the evidentiary phase of the hearing. Not later than 30 days before the hearing begins, the parties must exchange witness lists, a summary of testimony, and a list of all documents and exhibits to be introduced at the hearing. The presentation of evidence must be completed within 60 days after commencement of the hearing. The person who requested a hearing on an issue will have the burden of going forward to present an affirmative case and have the burden of proof on that issue.

Fifth, a hearing must be completed and the Administrator must make a final decision within 300 days of the issuance of the final review notice that gave rise to the hearing. (Sec. 302.)

CANCELLATION AND CHANGE IN CLASSIFICATION ON LABELS

The bill will add a new provision to current law to require that any request for a hearing on cancellation must identify the findings and conclusions of the Administrator that are disputed, and include a complete statement of the reasons and factual basis that support the request for a hearing. Any party may identify findings and conclusions in dispute. Before convening a hearing on the request of a person without an economic interest in the pesticide, the Administrator must determine that the request presents a substantial issue of fact pertaining to whether the pesticide poses an unreasonable risk to man or the environment.

The bill also will authorize pesticide label changes through informal rulemaking, as follows:

First, the Administrator could not require label changes that are equivalent to a cancellation of a use, render the product unmarketable, or otherwise have a major economic effect on persons affected by the changes.

Second, once a regulation is promulgated, the Administrator must notify each registrant or user of the pesticide of the label change required by the regulation. Thirty days must be provided for registrants to apply for amendments to registrations to comply with the regulation.

Third, at a hearing requested by a registrant or user of a pesticide that is subject to the regulation, the scope of the hearing will be limited to whether, first, the pesticide complies with the regulation; second, the regulation by its terms is applicable to the pesticide; and third, because of significant new information it would be unreasonable to require compliance with the regulation.

Fourth, in an action for review of a label regulation, on request, the court must stay the regulation if the petitioner shows a likelihood of success on the merits, and that implementation of the regulation would cause a risk of substantial harm to the petitioner. The court could not stay the regulation if the Administrator shows that failure to implement the regulation would cause a risk of substantial harm to health or the environment. (Sec. 303.)

PUBLIC HEARINGS ON CANCELLATION

The bill provides that, as soon as practicable after completion of a hearing on the cancellation of a pesticide registration—but not later than 18 months after the issuance of the cancellation notice that gave rise to the hearing—the Administrator must evaluate the data and reports and take appropriate regulatory action. This time period could be extended by the Administrator under extraordinary circumstances for not more than one year. (Sec. 304.)

ADMINISTRATIVE CHANGES

The bill will allow a pesticide registrant any time to request that any of its registrations be cancelled or amended to delete one or more uses. Before acting upon the request, the Administrator would be required to publish a notice of the receipt of the request.

The bill will specify that notices of certain regulatory action under the act must be published in the Federal Register and sent by certified mail, return receipt requested, to the registrant's or applicant's address of record.

The bill will restate and clarify existing law to require that if, at any time after registration a registrant has additional information regarding unreasonable adverse effects of his pesticide on the environment, the information must be submitted to the Administrator. Information would include factual information and expert opinion regarding risks or benefits.

The bill provides that, if the Administrator issues a notice of the denial of registration, a request for a hearing under the act must be made within 30 days after receipt of the notification. The Administrator could issue regulations governing the right to a hearing on denial with respect to a product containing an ingredient that already has been cancelled under the act. The regulations could give due weight to the desirability of finality of prior proceedings and the extent the applicant had an opportunity to participate in earlier proceedings. (Sec. 305.)

CANCELLATION OF REGISTRATION BASED ON FALSE OR INVALID DATA

The bill will require the Administrator to immediately issue an order of suspension and a notice of intent to cancel a pesticide registration if the Administrator has determined in the industrial biotest validation process that the data submitted in support of the registration were invalid and have not been replaced, or are in the process of being replaced but are not submitted by April 1, 1988, and are material to the registration.

The bill specifies that, if the Administrator determines that invalid data have been submitted or cited in support of a registration, the Administrator could either require the registrant to submit valid replacement data on an expedited schedule, or issue a notice of intent to cancel the registration. If a registrant willfully submits material data known to be false in support of registration, the Administrator must immediately issue a notice of intent to suspend or cancel the registration.

The bill will make a suspension or cancellation based on false or invalid data effective 30 days after receipt by the registrant of a notice of the proposed action unless, during the 30-day period, a request for a hearing is made by a person adversely affected.

The bill will limit the matters for resolution at hearings held with respect to false or invalid data and impose a 75-day time limit on the hearing. (Sec. 306.)

INSPECTIONS

The bill will clarify existing law to provide that officers or employees of the United States or of any State, duly designated by the Administrator are authorized to:

First, conduct inspections at pesticide distribution and sales facilities, other places where pesticide records are located, and pesticide testing facilities;

Second, enter any place where the officer or employee has reason to believe that the act has been or is being violated by any person other than a private applicator;

Third, enter, inspect, and obtain samples at any place where pesticides with canceled or suspended registrations are stored, if the Administrator has reasonable cause to believe there is a danger to public health or safety;

Fourth, obtain and execute warrants authorizing entry and obtaining of evidence for inspection purposes, inspection and copying of records, and seizure of any pesticide or device that is in violation of the act; and

Fifth, obtain and execute warrants in accordance with Federal law if a court or magistrate determines there is probable cause to believe that a criminal violation of the act has occurred or is occurring on the property.

The bill will require the Administrator to coordinate inspections with actions taken under other Federal laws. (Sec. 402.)

EXPORT OF PESTICIDES

The bill specifies that a pesticide will be considered misbranded if the pesticide is intended for export and is substantially similar in composition and use pattern to a registered pesticide but the label is not written in an appropriate language or does not contain the same health, safety, and hazard precautions as a registered pesticide, unless the precautions on the label would be in conflict with laws of the importing country.

This bill will restrict the export of a pesticide that is classified for restricted use, canceled, suspended, or not registered for any use. Export of the pesticide would be allowed if 30 days before the first shipment each year, the exporter, first, provides the notice described below to the person importing the pesticide and the appropriate government regulatory office in the importing country, second, receives written evidence that the notice was delivered to the appropriate government regulatory office, and third, submits a copy of the notice in English and evidence of delivery to the Administrator.

The Administrator must promptly transmit through the Secretary of State a notice to the appropriate governmental regulatory office of other countries and to appropriate international agencies whenever a registration, or a cancellation or suspension of a registration, becomes effective or ceases to be effective, or a pesticide is classified for restricted use. An annual notice must also be transmitted.

The Administrator must: First, actively participate in international efforts to develop and improve pesticide research and regulatory programs; second, provide foreign countries with technical assistance to develop comprehensive pesticide regulatory programs; third, conduct and publish a survey of all countries that import pesticides from the United States or from which the United States imports agricultural commodities, to ascertain what procedures exist in each country regarding the registration, labeling, and training to ensure safe handling, transportation, application, and disposal of pesticides, and to control residues on foods in order to meet tolerances established under United States law. (Secs. 501 through 505.)

CERTIFICATION, TRAINING, AND RECORDKEEPING

The bill will make it a violation of the act for any person to use any pesticides as a commercial applicator unless the person is a certified commercial applicator, or a registered commercial applicator under the direct supervision of a certified commercial applicator. To be considered to be a certified commercial applicator or a registered commercial applicator a person must meet certain requirements and standards.

The bill provides that a restricted use pesticide must be considered to have been applied by, or under the direct supervision of, a certified private applicator only if it is applied by a person who is either a certified private applicator, or a supervised private applicator who uses the pesticide under the direct supervision of a certified private applicator. To be considered to be a certified private applicator or supervised private applicator a person must meet certain minimum requirements and standards.

The bill will impose a requirement that each certified applicator and each registered commercial applicator undergo refresher training and be recertified or reregistered within a period established by the State agency but not to exceed 5 years.

The bill will require the Administrator in consultation with the Secretary of Agriculture to develop certain training material on the use of appropriate procedures for the application of pesticides, safety procedures for pesticide application, clothing and protective equipment for pesticide application, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, hazards posed by pesticides to workers, the public health, and the environment, specific commercial application categories, and the requirements of applicable law, regulations, and labeling. The bill also will require the Administrator to establish minimum standards of competency, and experience or expertise, for trainers and minimum standards for training programs.

A State agency could approve any privately administered training program that it determines meets the requirements established under the act, or requirements established by the State agency, whichever are more stringent.

Federal and State field personnel responsible for onsite observations and inspections of pesticide use must have training that includes training covering materials specified for the commercial application categories for which they are assigned enforcement responsibility.

The bill also will clarify that, in establishing standards applicable to applicators, the Administrator must establish separate standards for commercial applicators and private applicators. (Sec. 601.)

The bill will require each commercial applicator to maintain records of pesticide applications, including the identity and amount of the pesticides applied and the date and location of the applications, for a period of 2 years. No regulation could require any private applicator to maintain any records or file any reports or other documents.

Each pesticide dealer would have to maintain a record of each sale or distribution of a pesticide classified for restricted use and pesticides designated because they may cause significant adverse effects on health or the environment. The records must include the identity of the pesticide sold, identity of the person to whom the pesticide was distributed or sold, the date of the distribution or sale, and the amount of the pesticide distributed or sold. A pesticide dealer must maintain the records for 3 years.

A pesticide dealer or commercial applicator must afford to any employee or former employee access to records required to be kept that directly relate to the employee's employment duties. Customers of the dealer or applicator must also have access to records that directly relate to a purchase or application.

State enforcement agencies, as part of an investigation or enforcement action in response to a formal complaint, must make available a report of the findings of the investigation or action to the complainant. At a minimum, the report must include the records required by this section.

An employer who uses or supervises the use of a pesticide must know or have access to the brand name and common or medical name of the pesticide, and know or have access to the safety, first aid, and antidote information listed on the labeling, and make the information available, on request, to any employee exposed to a pesticide and to treating medical personnel.

Records obtained under these provisions of the bill that are used for commercial purposes would be a violation of the act. (Sec. 601.)

DATA DEVELOPMENT

The bill provides that if the Administrator determines that additional data are required to maintain an existing registration of a pesticide or a group of pesticides, the Administrator must notify the registrant of each pesticide and provide a list of the registrants to any person. Within 90 days of receiving notice, registrants must provide evidence that appropriate steps are being taken to secure and submit the additional required data.

The bill also authorizes two or more registrants to agree to develop jointly, or to share in the cost of development of, data to maintain a registration. An offer to enter into such an agreement may be accepted at any time but may not be withdrawn without the consent of the person to whom the offer is made. Registrants making joint data development, or cost sharing, agreements will be entitled to examine and rely on the data to maintain or obtain registrations under the act or the law of any State. If 60 days after entering into a joint data agreement the registrants have not further agreed to the terms of the agreement, then any of the registrants may move to fix the terms by the initiation of arbitration proceedings. (Sec. 701.)

DATA COMPENSATION AND ARBITRATION

For pesticides with expired patents, the bill provides a new procedure for fixing the amount of compensation to be paid for the use of another person's health and safety data. Under this provision, before the filing of an application for registration that cites another person's data, compensation could be fixed by arbitration that is binding on the original data submitter and binding on the person seeking to use the data only after the application is submitted. There would be no court review of the arbitration finding except for fraud or misrepresentation. Each party to the first arbitration would share equally in the payment of the fees and expenses of the arbitrators and pay its own attorney's fees. In all subsequent arbitrations the party who seeks to use the data would pay all fees, including attorney's fees. (Sec. 702.)

PATENT TERM RESTORATION AND PATENT INFRINGEMENT

The bill grants patent extensions to certain pesticides, chemical, and plant products that must undergo regulatory review prior to commerical marketing. A patent could be extended for up to 5 years based on the period that the patented product was subject to a statutorily mandated review period prior to commercial marketing or use. Patent extension would not be available if the patent has previously been extended under this authority,

or if the patent is already expired. If a regulatory review period for a product begins before the date of enactment of the bill, the period of patent extension could not exceed 2 years. If the regulatory review period for a product began before the date of enactment and if regulatory review had been completed on or before date of enactment there will be no extension of the patent. The period of regulatory review used to calculate patent extension would be reduced by any period during which the product sponsor fails to act with due diligence during the regulatory review period. The patent term extension authority provided in the bill would expire 15 years after the date of enactment of the bill, except that patent term extension would still be available for products that are patented during the 15-year period.

The bill also provides that, with certain exceptions, during the last 2 years of a patent relating to a pesticide—including a patent which claims a pesticide, a method for using a pesticide, or a method of manufacturing a pesticide—which is or has been registered under the act or which has been marketed with the permission of the holder of the patent, it will not be an act of patent infringement to make, use, or sell the pesticide solely for testing reasonably related to the development and submission of data to meet certain regulatory requirements.

It woud be an act of patent infringement for any person to submit any application under the act for a pesticide covered by the first composition of matter patent, method of use patent, or method of manufacturing patent issued for the pesticide before the expiration of the first such patent, unless such person is the holder of the patent or a licensee thereof. (Sec. 703.)

STATE AUTHORITY AND REGISTRATIONS

For a period of 5 years, the bill will restrict the authority of a State to prohibit any sale or use of certain household antimicrobial pesticides, otherwise allowed under the act, for which an application for a State registration is pending unless and until the State has made a final determination on the application. The bill will specify that when a State provides a registration for additional uses of a federally registered pesticide to meet special local needs, the registration will expire and be of no further effect at the end of the period, if any, provided by the State, or 10 days after the date the Administrator publishes a notice that the State no longer desires the registration to continue in effect.

The Administrator must establish criteria that define the conditions under which a special local needs registration may be disapproved by the Administrator, taking into account geographic patterns of use.

The bill also provides that in promulgating pesticide regulations, States may take into account, first, the difference in concept and usage between various classes of pesticides, and second, the differences in environmental risk and the appropriate data for evaluating the risk between agricultural and nonagricultural pesticides. (Sec. 801.)

DEFINITIONS

The bill will clarify that the term "to use any registered pesticide in a manner inconsistent with its labeling" does not include, first, applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, unless the labeling specifically prohibits a deviation; or second, employing any method of application not prohibited by the labeling specifically states that the product may be applied only by the methods specified on the labeling. (Sec. 802.)

INFORMATION REQUESTED

The bill will require the Administrator to catalog and retrieve data under the act in a manner to eliminate or reduce burdensome requests to registrants for submission of information, particularly those requests that require the submission of duplicate confidential data. (Sec. 803.)

SCIENTIFIC ADVISORY PANEL

The bill will make the scientific advisory panel under the act permanent and expand the panel from seven members to nine members. (Sec. 805.)

AUTHORITY FOR EPA ACTION

The bill provides that the Administrator could act on complaints or information, if a State does not promptly initiate appropriate investigative action after receiving a referral from the Administrator, or does not initiate appropriate enforcement action within 90 days of receipt of the referral. (Sec. 806.)

EXPIRATION OF STATE PRIMARY ENFORCEMENT RESPONSIBILITY

The bill provides that the primary enforcement responsibility of a State with respect to pesticide use violations will expire on September 1, 1990, unless the Administrator determines that the State has the authority to impose civil and criminal penalties at least equal to those provided in the act. (Sec. 807.)

UNLAWFUL ACTS

The bill provides that it would be unlawful for any person to, first, falsify all or part of any information relating to the testing of any pesticide; second, submit data known to be false to the Administrator in support of a registration; or third, violate certain regulations issued under the act. (Sec. 808.)

PENALTIES AND SUBPENAS

The bill provides that:

First, any registrant, applicant for a registration, producer, or pesticide testing facility that violates any provision of the act could be assessed a civil penalty by the Administrator of not more than $25,000 for each offense, and not more than $50,000 for a subsequent violation;

Second, any commercial applicator of restricted use pesticides, or any other person who distributes or sells pesticides or devices, that violates any provision of the act could be assessed a civil penalty by the Administrator of not more than $10,000 for each offense, and not more than $20,000 for a subsequent violation;

Third, any private applicator who violates any provision of the act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense, and not more than $2,000 for a subsequent violation. The Administrator could waive the requirement for a warning or citation for a first offense by a private applicator if the violation was intentional or caused significant harm to health or the environment; and

Fourth, any registrant, applicant for a registration, producer, or pesticide testing facility that knowingly violates any provision of the act can be fined not more than $50,000 or imprisoned for not more than 1 year, or both. Any commercial applicator of restricted use pesticides, or any person—not including a registrant, applicant for a registration, producer, or pesticide testing facility—who distributes or sells pesticides or devices that knowingly violates any provision of the act can be fined not more than $25,000 or imprisoned for not more than 1 year, or both.

The maximum penalty for the knowing violation of the act by a private applicator would be increased from $1,000 to $2,000, and the possible term of imprisonment from 30 to 60 days.

The Administrator could issue subpenas compelling the attendance and testimony of witnesses, and production of documents. (Sec. 809.)

CONGRESSIONAL REVIEW

The bill will repeal current congressional veto provisions applicable to regulations under the act. Substitute provisions would be provided for the Administrator, simultaneously with the promulgation of any rule or regulation, to transmit a copy to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation would not become effective until 60 calendar days after the rule or regulation is transmitted. (Sec. 810.)

REVIEW OF REGULATIONS

The bill will allow any person to obtain judicial review of a regulation promulgated by the Administrator, or the refusal by the Adminstrator of a petition to modify or rescind a regulation, by filing a petition for review in the U.S. Court of Appeals within 120 days after the date of promulgation or refusal.

A regulation issued by the Administrator or a refusal by the Administrator of a petition to modify or rescind a regulation issued under the act would not be subject to judicial review in, first, any suspension, cancellation, or denial proceeding, or in any appeal therefrom, or second, certain enforcement proceedings under the act or in any appeal therefrom except on request of an agricultural producer who is adversely affected by the action. If a person petitions the Administrator to modify or rescind a regulation in the enforcement proceeding, the application of the regulation must be stayed until the Administrator issues a final decision on the petition. (Sec. 811.)

DELEGATION AND COOPERATION

The bill will establish that regulatory actions of the Administrator will not preempt the Secretary of Labor from acting under the Occupational Safety and Health Act to prescribe or enforce standards or regulations to the extent that the Administrator and the Secretary of Labor so agree. To ensure the safety and health of workers, the Administrator and the Secretary of Labor must seek to reach agreements and to coordinate the exercise of their statutory authority. (Sec. 812.)

INDEMNITY REPORT

The bill provides that if the Administrator has taken an action that requires the payment of indemnification, the Administrator must provide a report to the House and Senate Agri-

culture Committees and the House and Senate Appropriations Committees. (Sec. 813.)

GROUND WATER AUTHORITY

The bill will add a new section to the act and amend the Public Health Service Act to provide for protection of ground water under the Federal pesticide program. The new section of the act would provide for, first, determinations by the Administrator as to whether a pesticide has the potential for leaching into ground water, second, registrant notification, to the Administrator, of detection of pesticides in ground water, third, monitoring of ground water by registrants, fourth, pesticide registration amendments—based on reasonable likelihood, fifth, response to the presence of excessive levels of pesticides in ground water, sixth, making information available to the public, seventh, technical information to the States, eighth, public interim administrative review, and ninth, information management systems, as follows:

The Administrator will be required to publish and seek comment on criteria to determine whether a pesticide has the potential to leach into ground water. Each applicant for pesticide registration or reregistration under the act would be required to submit any information required by the Administrator regarding such leaching potential for the pesticide involved and the destination and method of transportation of the pesticide; and at the time of registration or reregistration, the Administrator would have to determine whether the pesticide has such potential. Also, the Administrator would be required, if he determines that a pesticide has leaching potential or has been detected at three or more ground water sampling points, to decide whether monitoring data on the presence of the pesticide in ground water are needed for the registration.

Whenever a pesticide registrant obtains or learns of reliable data that a pesticide has been detected first, at a ground water sampling point and no ground water residue guidance level has been issued for the pesticide; or second, at a ground water sampling point at a concentration higher than previously reported from that sampling point, or at a concentration that is 20 percent (or more) of the guidance level, the registrant must file a report of the information, within 15 working days, with the Administrator, the State involved, and the owner of the property in which the sampling point is located, if known. The report must provide the information known to the registrant relating to the detection. The Administrator, on receiving a report, must promptly review the information reported to determine, first, the reliability of the detection, and second, whether further action should be taken to protect ground water.

If the Administrator receives reliable data that, first, a pesticide has been detected in a drinking water well; second, the concentration of the pesticide equals or exceeds the ground water residue guidance level, and third, the presence of the pesticide in the drinking water well may be the result of use of the pesticide in accordance with the label or recognized practices involving the pesticide, the Administrator could require the registrant to analyze samples of ground water from the well involved as necessary to determine whether the pesticide is present at a concentration that equals or exceeds the guidance level for the pesticide. The monitoring would have to be completed within 90 days after notice. In addition, the Administrator—if he determines that additional data on the presence of a pesticide in ground water are required to maintain in effect a registration of a pesticide—could require the pesticide registrant to conduct ground water monitoring. He would have to consult with the Secretary of Agriculture, heads of other appropriate Federal agencies, and the States concerning the design and scope of such monitoring requirements.

The Administrator would be required, after reviewing reliable data, to determine whether there is a "reasonable likelihood"—which term is described in the bill—that the ground water residue guidance level for a pesticide will be exceeded in drinking water wells in different localities. If he determines that there is a reasonable likelihood, he must promptly require amendments to the pesticide's registration as reasonably necessary to ensure that use of the pesticide in accordance with the amended registration will not cause the final guidance level for the pesticide involved in the finding to be exceeded in drinking water wells. The Administrator's determination must be made public. The Administrator would have to notify the pesticide registrant of the proposed amendments and publish notice in the Federal Register. The notice must include the Administrator's determination whether the presence of the pesticide in wells appears to have been the result of the use of the pesticide in accordance with its label or the result of recognized practices.

The Administrator would be required to make a similar determination of "reasonable likelihood" with respect to potential drinking water, and similarly mandate amendments to a pesticide's registration—with notice to the registrant of the proposed amendments. In making a determination relating to potential drinking water, the Administrator would, first, not be required to make the determination public; second, be required to take into account information submitted by States on land or ground water use classification or other governmental actions that could affect when ground water can be used for drinking water; and third, consider the views of the Secretary of Agriculture, heads of other appropriate Federal agencies, and States.

Amendments to a registration could include, first limitations on, first, the purposes for, and locations at, which the pesticide might be used, considering factors such as environmentally sensitive areas and conditions, second, the rate at which the pesticide is applied, third, the time or frequency of pesticide use, or fourth, the method of pesticide application, storage, handling, or disposal; second, reporting or other requirements, including label changes or changes in classification; third, requirements for the training or certification of pesticide applicators or other persons using the pesticide; fourth, required site-specific responses; or fifth, any other requirement to ensure that the applicable ground water residue guidance level will not be exceeded. In requiring registration amendments, the Administrator would have to consider the effect of any voluntary actions by registrants or other persons, including actions by a State to prevent the ground water residue guidance level involved from being exceeded and to comply with other environmental laws. The Administrator would be required to review data periodically to determine if the registration amendments are effective, make additional amendments—if necessary—and report to Congress periodically on the effectiveness of the amendments.

If the Administrator determines that first, a pesticide is present in a drinking water well at a concentration that exceeds the final ground water residue guidance level applicable to the pesticide, and second, the presence of the pesticide in the well may be the result of the use of the pesticide in accordance with its label or as a result of recognized practice involving the pesticide, he would be required to notify the State in which the well is located and provide the State with all information relevant to his determinations. The State, in turn, would be required to take action, within 90 days, to prevent potential adverse effects on human health and the environment from the pesticide. If the State does not have the authority to take action, or fails to take action within 90 days, the Administrator would be required to take appropriate action, under the act, to bring down concentration levels.

The Administrator could take other action under the act as necessary to prevent potential adverse effects on human health and the environment from the pesticide at the well. If the Administrator acts, he must publish notice of his action in the Federal Register and take appropriate steps to notify the registrant, potentially affected persons, and interested members of the public. Any person adversely affected by an action taken by a State or the Administrator, or a failure of the Administrator to act, could request an expedited hearing—under the procedures of section 6(c)(2) of the act, dealing with expendited judicial procedures—to determine if, first, the action was taken in accord with this provision of the bill, or second, whether the Administrator was required to take action. The hearing would have to be held, and a determination made, within 75 days after the request for the hearing is received. The Administrator would be required to provide reasonable procedures for petitions to modify or terminate an action taken by a State or the Administrator when the drinking water well involved no longer has the pesticide in a concentration that exceeds the applicable ground water residue guidance level and likely will remain below such level.

The Administrator would be authorized to collect and make available, through a public information file, information concerning the detection of pesticides in any ground water sampling point.

The Administrator would be required to provide technical information to the States in implementing this new ground water provision. The Administrator also would have to provide information, to the extent reasonably available, on alternative methods of pest control and on agricultural or other management practices that could minimize the presence of pesticides in ground water.

On receiving reliable data that a pesticide has been detected above the applicable

ground water residue guidance level in a drinking water well or potential drinking water, the Administrator could initiate a public interim administrative review to determine whether the pesticide may cause unreasonable adverse effects on the environment from such use.

The Administrator would be authorized to work with the Secretaries of Agriculture, Commerce, and the Interior to develop information management systems and other techniques to make available information to prevent ground water contamination by pesticides. A council of experts would be formed to assist in developing the information system; and appropriations of up to $2,500,000 for each of the fiscal year 1987 through 1991 would be authorized for the information system.

The violation of an order of the Administrator issued in response to ground water contamination would be a violation of the act. (Secs. 814(a)–814(c).)

The bill also would amend the Public Health Service Act to provide for the issuance of ground water residue guidance levels. A guidance level would have to be issued for a pesticide, first, when the Administrator registers or reregisters the pesticide if he determines it has the potential to leach into ground water; second, if based on reliable data, the pesticide has been detected at three or more water sampling points, or in a drinking water well or well field that serves over 500 people; or third, a Federal agency or State petitions him to set a guidance level. Procedures would be established for setting guidance levels based on maximum contaminant levels [MCL's] and health advisory levels, for setting interim and final guidance levels, and for judicial review of guidance levels. (Sec. 814(d).)

WORKER HEALTH AND SAFETY

The bill will require the Administrator to promulgate regulations for the protection of employees who mix, load, or apply pesticides and agricultural employees who work in pesticide-treated areas. The Administrator also must promulgate regulations that provide for the training of employees who mix, load, or apply pesticides. (Sec. 815.)

ANTIMICROBIAL STANDARDS

Effective 60 days after the date of enactment, the bill will require the Administrator to establish efficacy standards for antimicrobial control agents—including disinfectants—used to control pest micro-organisms that pose a threat to human health, including standards for disinfectants used in hospitals and other health care facilities. He also would be required to, first, have representative monitoring—including testing—conducted, regarding compliance of antimicrobial control agents with the standards; and second, implement an enforcement program under which agents not in compliance with the standards would be prohibited from sale or distribution as an antimicrobial agent. (Sec. 816.)

NEUROTOXIC AND BEHAVIORAL EFFECTS TESTING

The bill will require the Administrator to, first, develop methods for testing to more accurately detect neurotoxic and behavioral effects of pesticides and pesticide ingredients; and second, as such methods are developed, provide—to the extent appropriate and necessary—that testing data be submitted by persons seeking to obtain or maintain pesticide registrations. (Sec. 817.)

PESTICIDE CONTAINERS

The bill will require the Administrator, within 3 years after the effective date of the bill, to promulgate regulations for the design of pesticide containers that will promote the safe storage and disposal of pesticides and regulations prescribing procedures and standards for the removal of pesticides from containers prior to disposal. The Administrator is to ensure compliance with the regulations not later than 5 years after the effective date. The bill also will require the Administrator to conduct a study of options concerning pesticide containers and to report to Congress the results of the study not later than 2 years after the effective date. (Sec. 818.)

NOTICE FOR STORED PESTICIDES

The bill will require any producer or marketer of pesticides, pesticide registrant, or applicant under the act who has in his possession a pesticide with a canceled or suspended registration to notify the Administrator and appropriate State and local officials of such possession, the quantity of the pesticide involved, and the place it is being stored. Copies of each such notice will be submitted to the EPA regional office that has jurisdiction over the place where the pesticide is stored. Failure of a person to submit a notice to the authorities will be a violation of the act. (Sec. 819.)

AUTHORIZATION FOR APPROPRIATIONS

The bill will authorize appropriations to carry out the act—including most of the new ground water provision to be added to the act by the bill, but excluding, first, State enforcement, training, certification, and licensing, and, second, the ground water information management program—which have separate authorizations—for each of the 1987 through 1991 fiscal years. (Sec. 821.)

LIABILITY

The bill will establish that an agricultural producer will not be liable in any action brought under any Federal environmental statute for the costs of response to a release of a pesticide into the environment or damages incurred with respect to a release—or threatened release—of a pesticide into the environment if the pesticide was applied in accordance with label instructions, unless the producer has acted negligently, recklessly, or with intent to misuse the pesticide. However, such liability would be imposed on any other responsible party, to the extent provided in the environmental statute involved. These provisions would not, first, preempt or, except as described above, transfer or assign liability under any statutory or common law; second, affect authorities under the environmental laws to prohibit the release—or threatened release—of a pesticide into the environment; or third, be construed as creating a new liability or conferring a private right of action on any person for the purposes of the act or any other Federal law. The terms "damages," "response," "release," and "environment" would have the meanings assigned them by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. (Sec. 825.)

TOLERANCES FOR AGRICULTURAL COMMODITIES

The bill will require that when pesticide registrations are canceled, withdrawn, or suspended, due to dietary risks to humans, the Administrator must withdraw any tolerance for residues of the pesticide, or any exemption from the need for a tolerance. The effective date of withdrawal could be delayed under limited circumstances. The bill provides that, when a pesticide is reviewed under phase 5 of reregistration, any tolerance for residues of the pesticide or any exemption from the need for tolerance must be reassessed and confirmed, established, amended, and or revoked as necessary. The bill also authorizes the Administrator to reasonably limit the application of a withdrawal of a tolerance or exemption to prevent the imposition of restrictions on the imports of a particular agricultural commodity from a particular country. The preceding sentence would apply only if the tolerance or exemption meets the other criteria of the Federal Food, Drug, and Cosmetic Act and there is no effective alternative pesticide available in the other country. (Sec. 826(a).)

The bill provides for a system of uniform tolerances for residues of pesticides. Beginning on January 1, 1987, before the Administrator sets a tolerance, he will have to propose a regulation prescribing that the tolerance be uniform throughout the United States. The regulation would become final only if the Administrator determines, after consideration of comments on the proposal, that the tolerance protects human health, including the health of identifiable population groups with special food consumption patterns. The same procedure would apply to tolerances in effect on December 31, 1986, if the tolerance applies for, first, a pesticide registered after April 25, 1985, or under 40 CFR part 158, or second, a pesticide reregistered under the act after April 24, 1985. The above procedures also would apply equally to action levels—statements of the residue level below which enforcement action will not be taken under the Federal Food, Drug, and Cosmetic Act.

The uniform tolerance—or action level—requirement described above would apply to each State, and no State could set a tolerance or action level that is not identical to the Federal level, except that a State could petition for a more stringent residue level. A petition would have to be based on, first, scientific data that reasonably raises concerns about the effect of the pesticide chemical involvement on human health and second, new data not considered when the uniformity decision was made or data that shows that the uniformity decision is insupportable. The petition would be published in the Federal Register and submitted to the FIFRA scientific advisory panel. Within 180 days after a completed petition is filed, a decision on the petition must be made. A petition could be denied only if the Administrator finds that the uniform residue level protects human health, including the health of identifiable population groups with special food consumption patterns, in the State involved.

The bill also provides that no limit imposed by a State on the level of a residue of a pesticide that may appear on food articles will apply if, at the time the pesticide involved was

applied to the agricultural commodity involved, the sale of food articles with a residue level in excess of the new limit set by the State was lawful under Federal and State tolerance laws. However, the preceding sentence would not apply if the State determines that the new limit is necessary to prevent an unreasonable increase in risk to human health in the State.

The Administrator, in consultation with the Secretary of Agriculture, would have to consider feasible actions to minimize the time during which distribution of existing stocks of food—that contain residues at levels in excess of the newly established State levels—occurs. The Administrator, annually, would have to determine if feasible actions, as decribed above, have been taken. (Secs. 826(b) and 826(c).)

IR–4 PROGRAM

The bill will require the Secretary of Agriculture to provide support for the interregional project No. 4 program—commonly referred to as the IR–4 program.

PESTICIDE RISK RATING

The bill will permit the Administrator to contract with the Board of Agriculture of National Academy of Sciences to conduct a study to determine the feasibility of establishing an environmental risk rating for pesticides used in the production of agricultural commodities and report the findings of the study to the Administrator and to the House and Senate Agriculture Committees within 18 months after entering into the contract. (Sec. 828.)

EVALUATION BY THE COMPTROLLER GENERAL

The bill will require the Comptroller General of the United States to conduct an evaluation of the programs and activities authorized by the bill and make a final report to Congress no later than December 31, 1988. (Sec. 829.)

STUDY OF NONAGRICULTURAL PESTICIDES

The bill will require the Administrator to study and report to Congress within 1 year after the date of the enactment on the pesticide volume, use sites, and target insects for nonagricultural pesticides. (Sec. 830.)

PESTICIDE DRIFT

The bill will require the Administrator, within 2 years after the date of enactment, to report to the House and Senate Agriculture Committees on the incidence and potential adverse effects on the environment of the drift of pesticides from the site of application at the time of application. (Sec. 831.)

SURVEY OF NATURALLY OCCURRING AGENTS THAT ACT AS PESTICIDES

The bill will require the Administrator to conduct a survey to determine what research has been, or is being, conducted to establish the extent to which agents that act as pesticides are manufactured by plants. The Administrator must provide a report on the findings of the survey to the House and Senate Agriculture Committees not later than December 31, 1987, and release the findings to the public. The report must include information on the extent to which the naturally occurring agents have been identified, the nature of the agents, and the extent to which the agents have been shown to be toxic, carcinogenic, or mutagenic.

PESTICIDE RESISTANCE MANAGEMENT PROGRAM

The bill will require the Administrator to establish a Pesticide Resistance Management Program to develop, demonstrate, and disseminate—in cooperation with the Secretary of Agriculture—information on management techniques to control or reduce the development of pesticide resistance. The Administrator also would be authorized to include training in such management techniques as part of the minimum standards for commercial pesticide applicator under the act. (Sec. 833.)

DDT STUDY

The bill will require the Administrator, in cooperation with the Commissioner of the Food and Drug Administration, to conduct a thorough evaluation of the health effects of DDT and other contamination of fish in Santa Monica Bay, CA, and in surrounding waters, and to report the results of the evaluation within 6 months after the bill is enacted. (Sec. 834.)

RIVERSIDE, CA, SALINITY LABORATORY

The bill will authorize appropriations of funds for the planning, construction, and acquisition of buildings and equipment to establish a salinity research laboratory to be located in Riverside, CA. (Sec. 835.)

HOMELESS ELIGIBILITY CLARIFICATION ACT

The bill will make several amendments to the Food Stamp Act of 1977 to facilitate the provision of nutrition benefits under the Food Stamp Program to homeless individuals. The food stamp amendments would sunset on September 30, 1990. The bill will similarly amend the Job Training Partnership Act and the Social Security Act to allow homeless individuals to participate in job training programs and receive supplemental security income benefits, respectively, under such acts. Further, a system will be developed to enable individuals in public institutions to apply for SSI benefits before release from the institution, and a procedure will be developed under which a person who applies for SSI benefits also can apply for participation in the Food Stamp Program by executing a single application. Finally, the bill will amend the veterans laws to ensure that veterans benefits are made available to homeless persons. (Title XI.)

Mr. ROBERTS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Iowa?

There was no objection.

A motion to reconsider was laid on the table.

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LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, the conclusion of the FIFRA legislation will mark the end of any recorded votes that we expect in the House tonight.

There may be additional business considered under unanimous consent, but we do not anticipate any other rollcall votes and Members can be advised at this point that this will conclude any likelihood of rollcall votes for the remainder of the evening.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, could the gentleman advise us as to what time the House will meet tomorrow. Is it 10 o'clock?

Mr. FOLEY. Yes, we will meet tomorrow at 10 o'clock.

Mr. TORRES. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. TORRES. Mr. Speaker, does the gentleman believe the issue of immigration will come up again?

Mr. FOLEY. I know of no further action with respect to immigration tonight.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill, H.R. 4244, which passed the House today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GRAY of Illinois). The Chair would like to announce, before calling special orders, that the Chair reserves the right, without prejudice, to entertain other business upon the call of the Chair.

ADMIRAL FREEMAN H. CARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, I reserved this 1-hour special order for, I think, a very laudable purpose. I have been requested and have had requests directed my way from many of our Members that it was time, at this late stage of the session, that we take a little time to recognize and spread on the RECORD the consensus of opinion, the feelings that prevail in the House regarding Admiral Cary.

Admiral Cary, from roughly July of this year, saw fit to take his retirement. He served this House for 13 years. As I mentioned earlier, there are many Members here who had such a personal contact with him, and it goes beyond saying that every citizen, every person, probably has closer contact than they do in instances of pro-

fessional advice and business acquaintances and personal acquaintances. Outside of their spiritual adviser, he is probably one of the most important people in their lives.

I think that that has been properly said about Admiral Cary, and let me give some statistics to start off this hour that I think would serve us well.

Dr. Cary was born on September 14, 1926. He received his B.S. from Emory University, Atlanta, in 1946 and his M.D. from Emory in 1950. From 1950–54, he completed his internship and residency at Grady Hospital in Atlanta. His medical specialty is cardiology.

He joined the Navy as a lieutenant in the Naval Reserve in 1954 and served until 1956. He activated his commission in 1971 when he joined the office of the attending physician and was promoted to rear admiral when he took over as the attending physician in 1973. He was only the fourth attending physician in history and resigned on June 25, 1986.

From 1953–60, he served as an instructor and later an associate in medicine at Emory University, and, at the same time was director of the stroke rehabilitation clinic at Grady Hospital. From 1960–71 he was director of medical education at Orange Memorial Hospital in Orlando, FL, and from 1968–71 he was clinical professor at the University of South Florida Medical School and clinical professor of allied health sciences at Florida Technical University.

Member of Georgia Heart Association; Central Florida Heart Association—also served as president.

Dr. Cary is a fellow in the American College of Physicians; the American Heart Association's Council of Clinical Cardiology; American College of Chest Physicians; American College of Cardiology. He is certified by the American Board of Internal Medicine and its subspecialty Board in Cardiovascular Disease. He received a Bronze Medallion from the Georgia Heart Association, a Silver Medallion from the Florida Heart Association, and served on the Board of Directors of the American Heart Association from 1980–83.

□ 2000

I thought at the beginning that that background of Dr. Cary should be put into the RECORD. I think it indicates beyond saying that this man was a most qualified man. What I did to this professional man in person, a close friend of many Members, who knew the workings of the House and spent much time on the floor, I think to determine in his professional capacity the stresses that the Members were under, to develop a close acquaintanceship with them so that when and if they sought his advice and his professional services that he would know them as a person. That is very scarce in the outside world. You do not have an opportunity generally in the public to develop that type of repartee with your physician.

Seeing him everyday, letting him know the stresses of the occupation that you have, working with you very closely, all these things I think were factors that culminated in Dr. Cary being able to practice his profession and to give those exquisite services on a timely basis.

I just wanted the record to show that I thought it essential that I contact personally some past Members. I chose particularly Dr. Morgan, a doctor himself, a medical professional who served in the House 32 years, a very close friend of Dr. Cary. I called him yesterday. I mentioned to Doc Morgan that I was about to take out a special order and Dr. Morgan was so emphatic, he said, "I want you, and please listen carefully, I want you to put into the RECORD what I would like to say if I had the opportunity to say it."

He said that of all the attending Capitol physicians that we have had, in his professional conclusion and opinion, he said that Dr. Cary was the best. He worked with him off and on for all those years that he served.

I mentioned before that Dr. Cary, Admiral Cary, had served for roughly 13 years. Doc Morgan again said, "Joe, I want you to spread on the record my intense personal feeling about this man, his professionalism, his ability."

He said that he was one of the doctors most closely associated with all the Members, knew them personally. He was outstanding in his field, his credentials unquestioned, and he said, "I liked him as an individual and I had high respect for him, very high regard." I wanted to spread that on the record.

Then after I concluded that telephone conversation, I called my good friend, John Dent, who served in this body 20 years—not 32, but 20 years. Congressman Dent told me again the same as Doc Morgan had concluded. He said, "Joe, please put on the record, and you listen to me very carefully because I can't be there," and he told me in detail some of the different treatments that he was under and how Dr. Cary in many instances had advised him, treated him, and we all know that Congressman Dent ended up his career and had to leave here because he had an accident and lost the sight of one eye. It had to be removed.

He told me that throughout his 20 years serving here in the Congress that he had nothing but the highest respect and that the doctor's services were of such a nature that he felt that he sustained his 20 years here because of what Dr. Cary did and how he treated him and how he administered medicine and the advice he gave him.

So not being satisfied, then I called my good friend, Mr. Rooney, Fred Rooney, who served in this House 18 years. He is here on the Hill and I asked him, I said, "Fred, I am taking out this special order. Would you like to be heard as far as Admiral Cary? He had been your treating physician for the 13 years you were here."

And he said, "Yes, I most definitely would." He said, "I want you to put in the RECORD exactly what happened to me," and he went on to tell me: I promised that I would reiterate his remarks and put them in the RECORD. He had through his yearly examinations, was told by Dr. Cary that he had a swelling in the area of his throat. As consequences occurred and situations being what they were, he treated him over a period of 2 years.

Mr. Rooney unqualifiedly and unhesitatingly stated that he thought it was Dr. Cary who saved him and saved his life, because eventually his problem diagnosed in the area of his throat was diagnosed as a malignancy. This was in the face of another diagnosis that was offered indicating that it was benign; so he always attributed to Admiral Cary that he had saved his life and he wanted me to make that very specific in the RECORD.

I could go on and with informal remarks on the record here in the House and asking many of our Members what they thought about Dr. Cary, Admiral Cary, and believe me, I think that I state it accurately and I want the RECORD to show that in unison and without one exception, Dr. Cary's reputation was lauded to no end and his professionalism was attested to repeatedly and his personality was just unequaled. All of our Members have said that it was just so great to have a doctor so close to you, working with you and serving with you on the floor of the House and knowing all your problems and being able in that capacity to deliver medicine and all the requirements related thereto because he knows you personally.

Mr. Speaker, I yield to my colleague, the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I want to thank my chairman and good friend from Pennsylvania for yielding.

Let me just say that I want to join the gentleman in the rather personal tribute that we are trying to pay to Dr. Cary.

You know, Government service and military service is sometimes the least thankful job. I think that in Dr. Cary's case, at least from my own personal knowledge, he has really been one of the most dedicated people that I have run into since I have been on the Hill, which is 10 years in public service as a Congresswoman.

I think I am a little more sensitive now to the role of a doctor since I have my sister's son, Philip, who is a young resident doctor, and I know all

the kinds of pressures that doctors are under today to be perfect.

The only thing I wanted to say and I want to say this for the RECORD is that I personally do not think that Members should use the wonderful facilities that are here, not only for Members, but for all the people who visit Capitol Hill having those emergency kinds of health problems for our people, our American people. I do not think we really should use these wonderful dedicated health providers for our personal physicians. I think that they are there to give ambulatory care and that is the extent to which I came in contact with Dr. Cary.

I want to say that I think he is one of the finest, most sensible and most sensitive health providers that I have ever met. He is a kind, decent person, who dedicated virtually his whole adult life to public service. We were so fortunate to have him here as a physician serving not only Members of Congress for hopefully ambulatory reasons, but also if there were emergencies that the public had.

I really want to say to Dr. Cary, if by any chance he has an opportunity to hear our remarks or see our presentation or read them in the CONGRESSIONAL RECORD that the majority of Members of Congress really respect and revere you. We really want to say very belatedly, because we did not know you were retiring, most of us did not, a sincere real thank you, and not only thank you to Dr. Cary, but to what you symbolize.

The other night about a week and a half ago my class was celebrating a dinner. It was our 10th anniversary dinner and one of my colleagues, TED WEISS, was at the dinner. He had a little difficulty and he walked out of the dinner and had to have some ambulatory care, emergency care. I must say that the staff who was on call when we were in session for the American people responded immediately. Frankly, they probably saved my colleague's life, because they were right there with the oxygen he needed for his apparent heart ailment and so forth. That is something that really is extraordinarily irreplaceable.

For all the negatives that are sometimes unfolded about those people in the medical profession, there are so many positives. I think in Dr. Cary's case it is somewhat belated, but thanks to my chairman and many other Members of Congress, all of us really want to say thank you to you Dr. Cary. God bless you and good health to you and thanks for all the lovely deeds that you did to so many of us over the years of public service that you gave to not only this body and the people who serve in and around Congress, but to the American people.

Mr. Speaker, I thank the gentleman for yielding.

Mr. GAYDOS. Mr. Speaker, I wish to take this opportunity to thank the able gentlewoman from Ohio for participating in this special order and for her sincere and meaningful remarks.

I yield to my good friend, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I thank my good friend from Pennsylvania.

Earlier this evening the gentleman trapped me back there in the corner on the majority side. I usually move quickly through that corner, but the gentleman got me and he said, "What do you think of Dr. Cary?"

I said, "I think he is terrific."

He asked me if I would say it publicly, and I am proud to. I want to associate myself with the good gentlewoman from the Western Case Reserve area of the Indian country there in Ohio.

I agree that he was a sensitive, excellent man. I am 64½ years of age. Do I look that? No, I am 53½, and I do not look a day older, because although the gentlewoman is correct, we should not rely on our physician's office here to be our personal physician, I have not had another doctor for 10 years. Even during my unfortunate undeserved break in service, I came in here and checked in with Dr. Cary for 10 years, just because I had no need to go anywhere else, but he was my personal physician.

I just think he was excellent. I am proud to have known him, proud to have had him as my doctor, and proud to have had him as a friend.

I hope that his successor will come onto this House floor and stand in the back here working both sides of the street and talk to us at the back of this House the way Dr. Cary did.

I went on one trip, a trip that I will probably be coming up absentmindedly about in the next 3 weeks, I do not even remember where it was, probably to help some constituents trapped in some dungeon somewhere, but he was on that trip with us. Several Members became ill on that trip. His care was excellent.

I just think that because he did give all of us services throughout his life as a naval officer, that I cannot think of any finer thing to say to that doctor than that I salute you, Admiral, and I thank you for the good care that I received for a decade.

I thank the gentleman for taking this much deserved special order to give some honor to this excellent man of medicine, this excellent man of the U.S. Navy.

Mr. GAYDOS. Mr. Speaker, I thank my colleague from California for his very valued opinion.

Let me just state this, that Doc Morgan had asked me to put into the RECORD his conclusion as a fellow professional, that these are the most trying circumstances under which a physician can operate and practice his profession, because the Members are coming and going, they have so many conflicting responsibilities, they do not practice what they preach many times and they have their own personal physicians and are traveling throughout the world under very trying circumstances.

Doc Morgan concludes that if a man can operate here for 13 years, he is quite a professional.

Mr. Speaker, I yield to the majority whip, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I thank the distinguished gentleman from Pennsylvania for yielding.

I would like to add my words to those that have been expressed on both sides of the aisle, expressions of thanks to Dr. Cary and to his wife, Sarah Cary, for the service that they rendered to this House over so many years.

As the gentleman has said, this is a difficult institution in which to serve, difficult for Members, often more difficult for those who serve the institution in other capacities.

□ 2015

There is no more important, central, or difficult task than to be the attending physician of the Capitol. But Dr. Cary took that responsibility with great care and concern over the years in which he served in that position, and he did it in a way that has earned the deep gratitude of Members and their families.

All that we can say in return is thank you to him, and thank you to Mrs. Cary, his wife. I thank you for those years of service, thank you for those years of care and concern, and all of us who have had the pleasure and honor of serving with him know how much he gave of time and of professional service to this House, and no special order can adequately express that obligation and gratitude that we feel to them for it.

Mr. GAYDOS. Mr. Speaker, I want to thank the majority whip for his most valued opinion, and I think that it exemplifies what he is trying to say by saying that I remember Dr. Cary telling me, "Here I give you a pill, you are supposed to be sedated somewhat and take it easy, and you are running up there and trying to handle a bill or trying to support some argument." So you see that things are antagonistic. So I think that the gentleman makes a good point, and I am very glad that he is here.

Mr. FOLEY. Again I congratulate the gentleman for taking this special order.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I appreciate the gentleman's allowing me to join in his special order. I think that I may have something of a record in terms of the number of visits that I have made to the Naval Hospital in Bethesda, as well as to the attending physician's office here in the Capitol.

Dr. Cary was not only on alert when we were proceeding in a late session, and the gentlewoman from Ohio [Ms. OAKAR] indicated earlier that he was standing back of the railing and talking to Members at that time, and probably making sure that no one was overdoing these late-night sessions.

In addition to that I think that we have to recognize that Dr. Cary was a very eminent cardiologist, and one of the major problems that have arisen for Members of the House has been in heart attacks, cardiology. And in the 28 years that I have been here I think one or two Members have dropped in the well, and at that time we did not have the kind of efficient response that later Dr. Cary instituted for both the House and the Senate.

He also I think has done a remarkable job taking over the pharmacy, which is also a very important part of the medical services that are provided here in the Congress. Oftentimes we are told that we have a kind of free medical service, but in fact the responsibilities of the Members of the House I think are major enough so that their health should be protected, and particularly from types of situations that might aggravate whatever their condition might be.

One other thing I think that is extremely effective and was done under the leadership of Dr. Cary was the voluminous keeping of charts. That may seem to be a pain in the neck, but when a doctor can go through the charts and find out what the patient had or what his condition was a few years ago, it helps a great deal to make a proper diagnosis when he is required very rapidly on the spot.

I also had the opportunity as the chairman of several trips to Egypt and to Israel to have Dr. Cary along as the physician, and he not only took good care of the members of the committee, but he was also an avid jogger and also a very fine photographer, and came back with a number of pictures of the trip.

So he was part of the Congress, and I think that we regarded him as a very faithful servant of the Congress, and a friend, and I certainly salute the gentleman from Pennsylvania for making it possible for us to indicate the service that Dr. Cary has genuinely performed. Nobody can be perfect, and the difficulties as has already been mentioned of trying to diagnose something on the spur of the moment when you have not only Members coming in but former Members and oftentimes perhaps even wives and families, this is a tough responsibility that he had, and he carried it out, and I think that we are proper to salute him for his services here as a medical physician.

Mr. GAYDOS. Mr. Speaker, I want to thank my colleague from New York for his valuable contribution.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I thank my colleague from Pennsylvania for taking this time, a classmate of mine.

Mr. Speaker, I did not know Dr. Cary professionally very well. I do not frequent the doctor any more often than I have to. I cannot say that I have not appeared in the doctor's office for sniffles or some little thing like this, but he was always a friend. Frequently he would be standing this hour of the night, which is late, in the back of the room or up here, watching over his flock—not an easy job.

As we all know, the constituency here, both in the other body and this body, travels all over the world, coming back with all types of symptoms and diseases, and it was a most difficult job to care on an emergency basis, as he had to, for Members of the House and the Senate. But he did an excellent professional job in my experience here.

The important thing, I think, is that he cared that he was here, and was always here saying, "Is there anything that I can help you with?" Of course, all of us were busy, we are here late tonight, and the doctors' offices in the country are all closed except the emergency rooms, and he had to perform if necessary, as often he did, under extreme conditions.

I do not have a regular doctor. My last regular doctor was a gynecologist—my battalion surgeon. Professionally he was a gynecologist. He said he did not know anything about men, but he only practiced on us men for practice, to get experience. So I do not have a regular doctor, but when I had something wrong, I always went to Dr. Cary or his appointees here, which was not too often, but he was a friend. I think that that is the important thing.

I am certainly pleased that we have taken this time to thank him for the service that he did give to us and to the country in his Navy service and his service to us here. So we wish him well as he pursues his future life, and we thank the gentleman for taking this time.

Mr. GAYDOS. I want to thank my colleague for making those practical observations part of the official record. I think what the gentleman says is right. All of us know that if he had spent 13 years in private practice, his monetary rewards would be substantially more than he earned as an admiral here among all of us people.

Mrs. LONG. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to the gentlewoman from Louisiana.

Mrs. LONG. I thank the gentleman for yielding.

Mr. Speaker, I very much appreciate the gentleman's giving us this opportunity to say a few words about this wonderful, wonderful gentleman, Dr. Cary. I did not know that we were having special orders for him today, but I was in my office watching the proceedings, so I put on my running shoes and came right over so that I could take part in this tribute to him.

Dr. Cary has been a good friend of mine, and was a very great friend to my husband, the late Congressman Gillis Long. No one that we have ever had contact with in our lives was better to us than he was.

As most of the Members know, Gillis had had a serious heart attack, and it was followed several years later by open-heart surgery. Dr. Cary was available night or day to help either one of us. He was so conscientious and so kind and considerate to us during all the terrible times that we suffered through Gillis' illness. Many is the time that we called him in the middle of the night. Gillis had a private physician, too, and he was just as good to him, but you do not make those calls in the middle of the night to just every doctor.

□ 2025

Also, we had had the pleasure of traveling with Dr. Cary and with his wife, Sarah. As Gillis used to say about me when I was a congressional wife, that the U.S. Government got two for the price of one. Well, with Sarah and Freeman Cary you got two for the price of one too, because Sarah was right in there pitching, and if you could not get Freeman she would get him for you in a minute's notice.

So to both of them I owe a deep, deep debt of gratitude for wonderful, wonderful care and consideration that they gave to Gillis and that Dr. Cary has given to me. He has been my friend too. I have gone to him on many occasions, just when I needed someone to talk to, and we all know how important that is in our lives.

So I wish both Sarah and Freeman the best there is to come in the years ahead because they deserve every minute of happiness.

Thank you so much for the opportunity to say my few words of appreciation to this fine man.

Mr. GAYDOS. Mr. Speaker, I thank the gentlewoman from Louisiana for her most sincere remarks.

I yield to the gentleman from Texas [Mr. WRIGHT] the majority leader.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman for yielding.

Freeman Cary is a man who has given much of his life, much of his time, effort, and energy in helping people. Few of us appreciate good health until it begins to wane. Only as we suffer the effects of ill health do we know how wondrous a blessing is good health.

Freeman Cary has possessed all the qualities of a family practitioner in the sense that he has taken care of this big legislative family. He has known something and cared something about each one of us, and I think it is highly appropriate that on this occasion we wish him well in his retirement and express our thanks and our deepest appreciation for the time and energy that he has devoted to our physical well-being.

Mr. GAYDOS. I want to thank the majority leader.

I had mentioned earlier Dr. Morgan from Pennsylvania and his remarks, and Congressman Dent, a former Member, and Congressman Rooney, and also I want to mention Congressman Flood. He has reiterated on many occasions that he thought he is living today, well past 80, because of Dr. Cary. When I first came to Congress, Dan Flood at that time was having some very personal physical problems, and I remember saying, gee, our friend over there is not going to be with us in 6 months. And here it is 25 years later and Dan Flood is 85 years of age and is still going strong. So I just want you to know that I think a great portion of that is attributable to the professionalism of Dr. Cary and his dedication.

I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from Pennsylvania for taking this special order.

Let me just say in the 4 years that I have been in this body I have learned to really admire and respect Dr. Cary, not only as my colleagues have because of his prowess as a physician, but also as a great human being. Dr. Cary has helped all of us with medical problems and maladies that we have had over the past many years, but in addition to that he is a very caring individual outside his function as a medical doctor.

I have had the privilege and pleasure of playing golf with Dr. Cary, and incidentally, he is an excellent golfer, and very competitive, and I am sure that he is going to be more competitive now that he has a few more hours to devote to practice.

But in addition to that, if any individual Member of Congress with whom he had a close association had a personal problem, Dr. Cary was always willing to sit down and talk to you about that problem, not just physical problems but personal problems as well. I am one of those individuals that had a personal problem and I talked to Dr. Cary about it one day after we had had a round of gold. And without blinking an eye, without my even asking, Dr. Cary said, what can I do to help, and he did help me. He helped me a great deal.

Dr. Cary, if you are watching tonight, I want you to know that I really appreciate your concern and help, not only as a doctor but as a good friend, and I along with my colleagues here assembled tonight wish you the very best and hope that you will come back and see us again real soon.

Once again I thank the gentleman for yielding.

Mr. GAYDOS. Mr. Speaker, I would just like to add to what the gentleman has said, and want to thank him, that Dr. Cary was like a mother hen. If you did not make your physical, he made sure he reminded you, and reminded you, and reminded you. He got you down there one way or another, though subterfuge or whatever other methodology he had to use.

I yield to the gentleman from California [Mr. ROYBAL], my good friend.

Mr. ROYBAL. Mr. Speaker, I thank the gentleman for yielding. I would like to associate myself with the remarks that have been made with regard to Dr. Cary, a doctor that I knew very well. I knew him professionally and I knew him as a friend.

I knew him professionally because I went to him as often as I possibly could, not because I was ill but because I wanted to stay well. He is a strong advocate of exercise and good eating habits. We talked about exercising, about jogging and walking. I remember that at one time we were discussing the one subject of which is best, is it best to jog or walk. We finally concluded that if you do it correctly both are just as good. But if you jog in excess, it could be harmful.

Walking, of course, in this discussion, was a subject matter that was discussed only to the point of determining how many paces per minute one would walk. We finally concluded, I remember, in that little conversation, that if you walk 122 to 124 paces per minute, and you keep that up for 2 to 5 miles, that you have done your day's work insofar as exercise is concerned.

Now anyone that does that at any time will also have to conclude that you are better off exercise wise walking 124 paces a minute for 2 to 5 miles than you are jogging. That, of course, is my opinion, not the doctor's.

But I am bringing this to your attention because he took the time to talk about these particular things after he had examined you, and he was constantly looking after our health. I remember that during the years that I have been here receiving letters every year that is time now for your annual physical examination, constantly reminding us that it was time.

But I remember also that when I first came here he was not the head doctor, but it was the ability, the professional ability of this individual that placed him and made him the head doctor, the man who took care of the Members of Congress, both the House and the Senate, an individual that I believe deserves the thanks of each and every one of us who has served in the Congress of the United States.

I am grateful for that friendship because there was a time when he did place me in the hospital, and there was a time also when as a patient at that particular hospital he was constantly in touch during those 3 days I was there, constantly in touch with the doctor that was attending me to find out my condition. Fortunately, it was not a big problem.

But nevertheless, it showed the compassion of an individual, of a doctor, a capable doctor who was interested in the welfare of his patients.

Where else can one get that kind of attention? I think only from a man like Dr. Cary, a man well qualified for the job that he had, and a man that cared and cares still for every Member of the House and the Senate.

I am most grateful for having known him and having been associated with him in any manner.

Mr. GAYDOS. I want to thank my colleague, and I am very grateful that he has participated in this special order, because he is going to be with us a long time. Your vitality and effervescence speaks for itself. So your association that you have had with the good admiral has paid off well, and it is good to hear remarks such as those.

Mr. Speaker I yield to the gentleman from Minnesota [Mr. FRENZEL].

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

□ 2035

Mr. FRENZEL. Mr. Speaker, I, too, am thankful to the gentleman from Pennsylvania [Mr. GAYDOS] for taking this time so that all of us can remember the splendid service of Adm. Freeman Cary to this institution and to all of us personally, and to thank him for all of the personal courtesies and services that he provided for all of the people who came near the Capitol.

He was here long before I got here, and I am not a recent arrival; so obviously his work has affected and touched thousands of people who have come in to this Congress and who have come through the Capitol and required medical attention.

In addition, although we think of him as the personification of the medical unit in the Capitol, which fortunately I did not have to use very much, he ran a squad of people in the

medical unit of younger doctors, nurses, technicians of various kinds in a way I think that was exemplary and many of us remember services which were provided by the people who he directed and often recruited to serve the people of the United States in that particular unit.

I am grateful for having had the opportunity to work with Dr. Cary. This is a strange institution; we operate on strange hours, as has been noted; I note we are here at 8:30, waiting for something to happen, and that sort of thing did not phase Freeman Cary. He was here when he was needed, and available when needed, and a good sailor at all times as well as a good doctor.

I am privileged to have known him, I thank him for his service. I wish him the happiest sort of retirement. I hope he gets all the holes in one or catches all the fish that any human can do, and I hope the process is enjoyable.

Mr. GAYDOS. I thank my colleague for joining us in the special order, and I would like to observe at this time that the admiral could have been noninterested and nonchalant, and left the facilities we have go as is. However, he was progressive, he made sure he modernized it; he always came up and asked us for budgetary considerations; he really made a top notch medical facility, and for that we are grateful.

I yield to my friend from Texas [Mr. WILSON].

Mr. WILSON. Mr. Speaker, like all the other Members, I want to thank the gentleman from Pennsylvania [Mr. GAYDOS] for his thoughtfulness in arranging this special order.

Mr. Speaker, I, like the gentlewoman from Louisiana, had forgotten about this special order tonight, and just happened to see it on my television, and was so grateful that I had an opportunity to come over here, because I have had an extremely guilty conscience about Dr. Cary, because I believe, I hope I was out of town or had some reasonable excuse, but I may be the only Member of Congress that will admit to being an admirer of the Washington Post.

I love the Post; I cannot wait to pick it up in the morning; and I really miss it when I am out of town; but on this occasion, I really felt that the Post was unfair to Dr. Cary; and I want to say a couple of words in defense that I would, that I have had a guilty conscience that I did not write a letter to the editor, and so I want to say some of the things I would have said in that letter to the editor.

Dr. Cary took an extremely bum rap. He was criticized in articles in which it was absolutely impossible for him to defend himself. He was criticized in one case by someone who took their own life which, by definition indicates a certain amount of depression; and then he was criticized also in the case of a very senior Member that had a fatal heart attack.

Now, nothing could be more unfair than that. Like Gillis Long, I have had a heart problem of some severity, and I remember when Gillis was here and I was having my problems, we talked about our problems together; but Dr. Cary never walked on this floor that he did not walk up to Gillis and take his pulse or ask him how he was doing.

I do not mean that from the standpoint of what a personable fellow he was; I mean that from the standpoint of what a conscientious physician he was.

In my own case, before I had the heart problem, Dr. Cary explained to me that I had probably had my share of whiskey in my 50 years, at the time; I probably had had my share and I ought to let somebody else take care of that. He nagged me about that for about 3 years, and I finally got persuaded that he was right, and that is probably why I am here tonight.

Dr. Cary was a splendid physician in every sense of the word. He harangued his patients when they did not do what they should have been doing to take care of themselves; he ran an absolutely splendid organization, and he himself was not only caring but extremely competent.

We have in this body, as the gentleman from Minnesota [Mr. FRENZEL] mentioned, we have in this body extremely difficult and unusual hours; we have many Members who are advanced in years; we have many Members, as you would with any group of 435 or 535, you have many people with many different kinds of ailments.

I do not know of anybody, Mr. Speaker, that in their lifetime has complained that the care that they got from the attending physician was anything less than excellent.

I remember Senator KENNEDY once, in discussing Medicaid in the context of reducing Medicaid, and he was trying to make the point that the Members of Congress, of the House and the Senate, get such good medical care from Dr. Cary that we tend to take it for granted and think that everybody, perhaps, got as good care as we do.

The newspaper articles were cruel, unfair, and the kind of thing that you cannot possibly defend yourself against, because the accusers are gone.

Nothing could be more unfair than that, and I would just like to say that in my 14 years in this body, this is my second special order. The other one was on the occasion of the death of Wright Patman. I cannot say enough about the competency and the conscientiousness of Dr. Cary that has kept many Members alive longer than they would have been had he not been here, and has kept many of us feeling a whole lot better than we would have, had he not been here.

I, myself, am ashamed that I did not leap to his defense in print sooner, and I am extremely grateful to the gentleman from Pennsylvania [Mr. GAYDOS] for giving me the opportunity to try to make up for that deficiency on my part.

Mr. GAYDOS. Mr. Speaker, I am glad that our colleague appeared here today.

I yield to my good friend from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding to me and I thank him, as others have tonight, for taking this special order for a very special person, Dr. Freeman Cary.

We have heard tonight about his excellent training, his exemplary conduct, his fine professionalism, his very special caring for the Members of the Congress and for the members of their families.

We have heard all of these wonderful things about Freeman Cary, and I am happy to say also about his very competent as well as lovely wife, Sarah.

One of the things that I would like to point out that has not really been said tonight, was the kind of rapport that Dr. Cary had with the congressional spouses; except in personal instances, we have not heard that tonight.

My first memory of Dr. Cary as a physician for the Congress was when a group of congressional wives were very concerned about cholesterol and the amount of cholesterol that was in the menus in the House dining room.

It was an interesting encounter that the wives had with Dr. Cary. As a cardiologist, he had already written a book with suggested menus for people who had heart problems. So he shared this book of menus with us and then we were able to get a hearing before the House restaurant committee, and the chairman of the committee was very much surprised that we wanted to do anything to change the menus, with the wonderful butter and cream and good fats that were in the menus of the House restaurant.

□ 2045

But the wives called themselves "The Committee on Carrots and Sticks" and we were able to have a hearing. It was under Dr. Cary's influence and his fine testimony at that hearing that you now see always at least one menu every day in the House restaurant that is low in cholesterol content. It was this kind of rapport that he had with the wives, with the spouses, because there are, of course, male spouses as well, that gave us such confidence in his care of the Members of Congress.

It was with such gratitude that I was able to know that he was on trips with the Members of Congress, with the leaders of the Congress because it is so important not only to have a physician of the caliber of Dr. Cary on the trip with the Members of Congress and with the leaders of Congress but also it is a very, very fine outreach, an ambassadorship as far as the other countries are concerned. To have a man of Dr. Cary's standing with us on official trips really raised the attitudes of the people of the host countries in American medicine and in American care for their public officials.

I was on the historic trip in 1972 to China when President Nixon had been, and then Senators Mansfield and Scott had been for the Senate. My husband, Hale, was the majority leader of the House, and Gerald Ford was the minority leader of the House.

With Betty and Mr. Ford, we went to China on this historic trip. Dr. Cary had not only his reputation precede him in China but when he arrived, there were many, many medical institutions who asked if we could share his time with them for advice and counsel on setting up their cardiology units.

Dr. Cary went back to China on many occasions and was very helpful to the medical institutions in China. But on that trip it was so important because we were feeling our way to a new kind of relationship with a country that we had been estranged from for so long. He was one of the Ambassadors who was able to make the transition for us.

Mr. Speaker, today is the anniversary of my husband's disappearance in a plane over Alaska. I could not let the day go by without saying how perfectly wonderful Dr. Cary and Sarah were to me, to all the members of our family and to Hale's memory.

He kept our spirits alive and he kept our health intact during the long weeks and months of waiting, hoping, searching.

We all owe him a great, great debt of gratitude for those kinds of family remembrances that we all have. This Nation owes him a great debt of gratitude for the excellent service this great public servant has rendered to us.

I thank the gentleman in the well so much for giving us the privilege of saying so.

Mr. GAYDOS. I want to thank my friend for participating. I want her to know that those of us who served with Hale share your bereavement even at this late hour of times past because we had the privilege of working with him. It is just so nice that you make the connection between that and the subject we are discussing today.

In conclusion let me say I think what is testament to the man's professionalism and his dispensation of medicine in these hallowed halls is best exemplified by the fact that we had so many Members come here and extemporaneously, I want to emphasize that, extemporaneously bared their hearts, talked about their personal problems and spread their conclusions on the RECORD in an unabashed manner, not prepared but extemporaneous. I think that is significant.

Second, let me say I relied upon Doc Morgan's opinion for many things, and he is the one I want to emphasize, he told me to make sure that the RECORD shows that this man comes from a highly accepted profession. You do not become a fellow because you have nice friends. You have to earn it, as the saying goes.

I yield at this time to my friend from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding because, I too, want to join in the special order. Dr. Cary was certainly someone whom I enjoyed working with. He took good care of the Members of this body. I found him an outstanding gentleman who listened often to many of us, and so on, who did not know quite what was wrong and he always seemed to have the answer.

I appreciate the gentleman's taking out this special order so that we all have a chance to say "thank you" to him.

Mr. GAYDOS. I thank my colleague from Pennsylvania.

Let me conclude by saying that, when you have the attestations we have had today from people whom you served in the most difficult profession of all, medicine, when they get up and say what they have said, I think that is proof of what Dr. Morgan said, the professionalism of this individual. I think it is only proper that we met here today in special orders and say what should have been said maybe months ago, but I think it is a most opportune time to say it. You let things gel for a while, let things pass and then we can voice in unison our sincere appreciation for having a man responsible for overseeing our health, our best interests for the 13 years that he served. I think I speak on behalf of all the Members, even those who are not here tonight who may submit written remarks, that we all wish the great doctor, the great admiral a lot of good health, good happiness in his retirement. But I do not think he is going to retire. He is going to be very active because he is just too much of a professional.

I want to thank all of my colleagues for participating in these remarks today and yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my friend and colleague, Congressman JOSEPH GAYDOS, in paying tribute to Dr. Freeman H. Cary, the attending physician of the U.S. Congress, who is retiring after 14 years of dedicated service.

Dr. Cary has discharged his professional responsibilities with a devotion and commitment which has earned the admiration and respect of all of us in the House of Representatives who have had the privilege to know him as a friend, and to count on his advice, counsel, and judgment.

Before coming to Congress, Dr. Cary was director of the Cardiac and Stroke Rehabilitation Clinics at Emory University and Grady Hospital in Atlanta, and also served as clinical professor at the University of Southern Florida and Florida Tech. He is a world renowned cardiologist, and is an excellent teacher, who has selflessly devoted thousands of hours of service to our Nation.

As the attending physician to the U.S. Congress, Dr. Cary has been a conscientious and caring individual who has provided the very best in health care services for the thousands of elected Members of Congress whom he has served during the last 14 years, and has supervised the emergency treatment of the more than 80,000 patients who are seen by the congressional clinic each year.

Dr. Cary has received the Silver and Bronze Medallions from the Georgia and Florida Heart Associations in recognition of his contributions to the prevention and treatment of heart disease, and in addition to his many professional and community activities, Dr. Cary has remained active in the U.S. Naval Reserve, rising to the rank of rear admiral.

Mr. Speaker, Dr. Cary has been a compassionate and competent physician who has provided exemplary professional service to the Members of Congress. He will be sorely missed by all of us in the House of Representatives who have had the privilege to know him as a friend.

I join with my colleagues in the House of Representatives in congratulating Dr. Cary on his 14 years of outstanding service, and to extend to him my best wishes for success in all of his future endeavors in devotion to the highest principles.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. VOLKMER). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONCURRING IN THE SENATE AMENDMENT TO THE HOUSE AMENDMENT TO THE SENATE AMENDMENT TO H.R. 5484 DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT OF 1986, WITH AN AMENDMENT

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a priv-

ileged report (Rept. No. 99-1010) on the resolution (H. Res. 597) providing for taking from the Speaker's table the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, concurring in the Senate amendment to the House amendment to the Senate amendment with an amendment, and for other purposes, which was referred to the House Calendar and ordered printed.

PERMISSION FOR COMMITTEE ON RULES TO FILE A PRIVILEGED REPORT ON HOUSE CONCURRENT RESOLUTION 395 CORRECTING THE ENROLLMENT OF H.R. 3838, TAX REFORM ACT OF 1985

Mr. BONIOR of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report on House Concurrent Resolution 395, correcting the enrollment of H.R. 3838, the Tax Reform Act of 1985.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, can the gentleman advise us if this has been cleared with the minority?

Mr. BONIOR of Michigan. Mr. Speaker, it is my understanding that it has been cleared with the minority. The committee is at present considering the rule on that bill, this very moment, and it has been cleared with the minority.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR TAKING FROM SPEAKER'S TABLE HOUSE CONCURRENT RESOLUTION 395 TAX REFORM ACT OF 1985 WITH SENATE AMENDMENTS AND DISPOSING OF THE SENATE AMENDMENTS

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 99-1011) on the resolution (H. Res. 598) providing for taking the concurrent resolution (H. Con. Res. 395) to correct technical errors in the enrollment of the bill H.R. 3838, from the Speaker's table with the Senate amendments and disposing of the Senate amendments, which was referred to the House Calendar and ordered printed.

ORDER OF BUSINESS

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent to be permitted to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana [Mr. BURTON]?

There was no objection.

U.S. AID TO COMMUNISTS IN CENTRAL AMERICA BY WAY OF INDIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleagues for letting me take my special order out of order.

Mr. Speaker, last week I brought to the attention of the House that we were giving, in aid to India approximately $600 million, and it was reported in Indiana Abroad in September that Rajiv Gandhi, the chief of state in India, had just authorized $10.4 million in aid to Nicaragua, Communist Nicaragua. We give them $600 million, and they turn around and give $10.4 million to Communist Nicaragua for fighting the freedom fighters whom we are going to be supporting. It makes it look as though the United States is indirectly supporting what we consider to be an enemy of the free world.

When Rajiv Gandhi received Mr. Ortega, Daniel Ortega in New Delhi, Daniel Ortega pinned upon him the country's, Nicaragua's highest honor, the Order of Augusto Cesar Sandino.

Mr. Gandhi was very pleased to accept this. He immediately turned around and gave him $10.4 million and bid him farewell as he flew away to Beijing, probably to buy weapons with which to fight the freedom fighters.

Now, I have some real problems with the support we are giving for Mr. Gandhi in view of the fact that he is supporting people like Mr. Ortega. Mr. Gandhi was reported in September, as well, in the Washington Times as one of the biggest recipients of military assistance from the Soviet Union. As a matter of fact, India is the first country outside of the Warsaw Pact countries to be ordered the MI-26 helicopter, just as it was the first to get the Mig-29 fighter bomber, indications of India's importance to the Soviet Union and the Soviet confidence in their long-term relationship.

Last month the two countries celebrated the 15th anniversary of their friendship and cooperation treaty.

Now, India is a close ally of the Soviet Union. We gave them $600 million, and they gave $10.4 million to a Communist Soviet satellite in our hemisphere, Nicaragua. India votes with us in the United Nations 8.9 percent of the time. The Soviet Union votes with us 12.2 percent of the time. So, India votes with us less than the Soviet Union, our major enemy in this world.

In addition to that, Mr. Gandi has two children who are being educated in the Soviet Union. Now, I would say from a layman's point of view that Mr. Gandhi is inextricably tied to the Soviet Union.

So, I was very alarmed when on October 12 I read in the papers throughout this country that our Secretary of Defense, Caspar Weinberger, went to New Delhi and met with Mr. Gandhi. And this was just not a friendly meeting, folks. At this meeting Mr. Weinberger agreed to sell so-called supercomputers to India. Let me read you what it says:

> The sale of the large, multifunciton computer has in the past been approved only for close U.S. allies because of its potential use in military and nuclear weapons programs.

So, we are now selling to India, a very close ally of the Soviet Union, not just high technology but computers that can be used in nuclear weaponry. But that is not all, folks.

In addition to that, Mr. Weinberger agreed to go into a joint venture to produce military aircraft engines, jet engines. So we are now getting into bed with Mr. Gandhi, who is inextricably tied to the Soviet Union so far that we are actually going to be co-producing military equipment.

I might end up by saying that the Soviet Union, in addition to selling the Mig-29 fighter bomber, has been sending other aid to Mr. Gandhi.

Weinberger said the United States and India recognized the necessity that high technology sold by Washington "should not fall into the hands of the Soviet Union."

Now, I would like to ask how a Secretary of Defense, in whom I have the greatest confidence, why, Mr. Secretary, are we giving them this high technology? Why are we going to build military aircraft equipment in India jointly with the Indian Government when they are so inextricably tied to the Soviet Union? I do not understand this. If we are concerned about the Soviet Union getting these computers, if we are concerned about the Soviet Union acquiring high technology that they could use against us at some point in the future, why would we give it to such a close ally of theirs? I think these questions should be answered by

Mr. Weinberger. I hope he will contact those of us in Congress and give us a full explanation. I have the highest respect for Mr. Weinberger, as I said, but I think it is something that should be explained to the Congress so we will understand better.

□ 2100

Most of my colleagues want to support the Defense Department. Most of my colleagues want to support a strong defense for this Nation. But if we are going to give money to the Defense Department that is going to create this high technology, and it is going to in turn be given to an ally of the Soviet Union when we do not want it to fall into Soviet hands, then there has got to be an answer, and I cannot find one in the articles that have been presented to us in the paper.

So, Mr. Weinberger, Mr. Secretary, will you please contact us and let us know. We would really appreciate a response. I do not think we should be aiding Mr. Gandhi at a time he is aiding the Communist Sandinista government and is such a close ally of the Soviet Union.

TRIBUTE TO HON. GENE CHAPPIE, HON. ROBBI FIEDLER AND HON. ED ZSCHAU

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MOORHEAD] is recognized for 60 minutes.

Mr. MOORHEAD. Mr. Speaker, the California Republican delegation is the largest Republican delegation in the Congress. We have 18 Members strong. We are losing 3 of our key Members at the end of this Congress. Two of them decided to run for the U.S. Senate, and one of them is our Republican candidate for the U.S. Senate from California this year.

The other one, GENE CHAPPIE, has been in public office for 28 years. He was a member of the California State Legislature for many years before he came back here to the U.S. Congress.

Certainly GENE is a friend of everyone who has ever met him. He has been the humorous of our delegation, always light hearted with something to add to make us feel better. Wherever he has gone, he has improved the feeling of the people, regardless of who they were, always kind in his comments, but always getting to the point of the business at hand. He was someone who could look through any kind of pretense. Anyone who was feeling that they were better than others, GENE would have the right words to make them realize that really they might not be that important altogether, but they really were important to him, as everyone was that he met.

I first met GENE when he went to Sacramento as a member of the State legislature back in 1967. He represented a mountain area of California. Each and every week GENE would take off to those hills of the High Sierras, and down as far as San Bernardino County so that he would get an opportunity to meet his constituents and would be of service to them, putting in thousands of miles each year covering that district.

He was an important member of the State legislature, because he was chairman of the Rules Committee and active in agriculture working with many of the problems that affected our great State of California.

He has been here in Washington, DC for 6 years, and GENE has made a mark in the Agriculture Committee of the U.S. Congress. He is a person whom we will all miss. We will miss what he has added to our caucus, and we will miss what he has added to the people of the State of California and to the United States.

GENE was recently given a high honor in an award that he was presented by the folks in the Claremont Colleges in California, which recognizes leadership in our California delegation each year.

BOBBI FIEDLER became a Congresswoman when she beat an entrenched incumbent back in 1980. She did not have a chance to win, according to most people, but she fought a hard battle as she always does, and she was able to come through victorious.

She had previously served as a member of the community college board of education in Los Angeles County, and had been one of the leaders in the State of California in the fight against forced busing. BOBBI FIEDLER fought hard for whatever she believed in.

Here in the Congress she served on the Budget Committee, where anyone who served with her knew her tremendous knowledge of the subjects with which she dealt

I served on one conference committee with BOBBI, and I was amazed at the overall grasp that she had of everything that was being done on that Budget Committee and in the budget of the U.S. Government.

We will truly miss BOBBI as she leaves to go back to California, and she has served the people of her State well in this place.

Our last Member that we are losing is ED ZSCHAU, and he is certainly not the least, because ED ZSCHAU is running very close to the incumbent U.S. Senator in his race for the U.S. Senate, and he well may be coming back to us in the Congress, the 100th Congress, to represent the people of California.

He is a highly intelligent Member of the Congress. He has been a tremendous success in the Silicone Valley where he founded his own company and has made a reputation that is envied by all who are in business in the State of California. I know that people who are in industry of any kind know how hard he has worked to build up the quality of our economic environment in our State and throughout the Nation.

We wish all three of these tremendous Members of the California delegation Godspeed as they go on to new endeavors.

Mr. Speaker, I yield to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, it's often said that Congress is a reflection of the national electorate. And I guess it's true that in any group of 435 individuals, even an elected group, you're bound to find every type of personality and character.

Now I don't want anyone to get the wrong idea. I think our three honorees today are as fine a collection of individuals as you'll find anywhere. My good friend and neighbor, Mrs. FIEDLER, has been an asset to this body since the day she joined it nearly 6 years ago. A prominent citizen of that great metropolitan area to the south of my district, BOBBI was already famous the day she got here. Her career as a citizen activist in the field of education equipped her to deal decisively and effectively with this sometimes unruly body, just as a teacher might deal with an overly rambunctious classroom.

After her first term, she was named the outstanding freshman of the 97th Congress, and she has served her party and her Nation well as a member of the House Budget Committee and the Republican Committee on Committees.

I'm going to miss her on the House floor, but I know she will find even more prestigious outlets for her energies in the years to come, and so I won't say good-bye, but only "be see'in you."

ED ZSCHAU likewise arrived on the scene in Washington and flared like a comet, destined for even greater things. He is a man who has been a success at every task he has turned his hand to—in academe, in business, in public life. Soon, the voters willing, he will be the newest citizen of our great State to sit in that other body across the Capitol from us.

What can you say of a man whose name no one could even pronounce 4 years ago, but is now a household word—at least in households of the Golden State? I know a little bit about that problem. Good luck, ED, and I'll see you back here in January.

Finally, what can I say of my long time good friend and compatriot, fellow Italian-American GENE CHAPPIE. He's a man who can literally leave you speechless. When I served with him in the California Legislature, I was con-

stantly amazed at his ability to analyze a situation and sum it up in a few succinct words—some of them even printable. I knew that Congress would never be the same after he got here. And I know that it will never be the same after he leaves. GENO, best of luck!

GENE, ED, BOBBI—what can I say about three of the most unforgettable characters I ever met. Not a lot, except we're all going to miss you. But our loss will be California's gain. So keep up the good work, and don't ever forget your friends and colleagues back here in this Babylon by the Potomac.

□ 2110

Mr. MOORHEAD. Mr. Speaker, I yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding to me.

Mr. Speaker, I thank the gentleman for taking this time to give this Member from southern California an opportunity to express my thoughts on three of the Members of our delegation who will be leaving us at the end of the 99th Congress, whenever that day may come.

We have 45 Members of the House from California; 18 Republicans and 27 Democrats. As has been pointed out here this evening, our delegation to the House of Representatives from California represents, I suspect, just about every philosophical point of view in the spectrum. We Republicans also fit within that definition of representing different points of view; persons from different backgrounds. I think that diversity is part of the strength of our delegation here in the Nation's capital.

GENE CHAPPIE is a man who is from the northern part of our State, very close to the Oregon and Nevada border, a man that I served with in Sacramento. He is the gentleman that, when the fight starts, you want him around because he is a man in the very sense of the word; just what that word entails.

GENE saw extensive combat service in World War II. He was a commissioned officer. He never lost the ability to be fair with anybody he encountered. If someone exhibited attitudes of stuffiness, GENE had the ability to bring them down with tact. Sometimes less than tact, but always with humor. GENE was a leader in our delegation in Sacramento; he was a leader here in the House.

He had an empathy for people in the agricultural business. He was in the farming business himself in the Roseville area. He was recognized as a spokesman for the cause of agriculture in California and we are going to miss him here as a Member of the House of Representatives.

BOBBI FIEDLER comes from the field of small business to her service here in the House of Representatives. She completed 6 years in the House. She contributed a great deal to our delegation because she was the only female Member of our delegation from California, at least on the Republican side. She brought an openness and a viewpoint that I think improved the lot of all of us.

BOBBI had the capacity to speak succinctly to issues and she was not afraid to do so. She was aggressive but not in an arrogant way but she let you know where she stood and she was willing to fight for the causes in which she believed.

She did some outstanding work on the Budget Committee here in the House and contributed much to the work that some of us here on the Republican side are seeking to do with respect to controlling runaway spending.

ED ZSCHAU is a big contributing Member to our delegation. He comes from academia, from the business side of the private sector. He was a successful entrepreneur. I think the base for his senatorial bid was developed when he was active in the movement to drive down capital gains tax rates in the late 1970's, which the Congress adopted in 1978.

Because of that contact, I think Mr. ZSCHAU was able to expand persons in the electronic field in the State of California. Our State is known for its deep infrastructure of electronic industry. As a result of that contact, ED developed a base for the senatorial bid in which he is now participating.

ED was not a person to participate extensively in House debate relative to bills or amendments, but he was always a person who was very thoughtful, and I think he is recognized as a member of our delegation who sincerely believed that the way for America to develop an expanding economic base is through driving down marginal tax rates by increasing productivity and providing incentives in the work force so that the entrepreneurial spirit of America is alive and will prosper.

We are going to miss all three of these Members. I will look forward to keeping in contact with them. I know that our delegation will miss their talents in a very material and substantial way.

Mr. MOORHEAD. Mr. Speaker, I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. I thank the gentleman for yielding to me.

Mr. Speaker, I would like to congratulate the fine leader of our delegation for taking out this special order. He in his own inimitable way has provided a spectacular degree of leadership for all of us and he has provided leadership for the three retiring Members whom we are honoring this evening.

First of all, I want to follow up on the comments made about our colleague, BOBBI FIEDLER. BOBBI and I are classmates. We were both elected as Members of that historic 97th Congress. You will remember that that was the Congress which saw 33 Members of the other side of the aisle defeated when our great President, Ronald Reagan, came sweeping in, and, as we all know, took over control of the other body. BOBBI was a very strong and dynamic leader of that 97th Congress. I was pleased to serve with her as a classmate.

As was said earlier, she was well known before she came to the Congress because of her leadership on the crusade to bring an end to forced busing in southern California and she always has been known as a person who fights for what she believes in. She has relentless energy. I will never forget that on an issue that was near and dear to the dean of the delegation and myself, construction of the Los Angeles Metrorail, that our colleague, Ms. FIEDLER, was not only on the other side of that issue, but she led the charge because she believed very strongly that her constituents did not want to see the subway built up the Wilshire corridor and into the San Fernando Valley.

Needless to say, I am pleased that we were successful in that one but no one could in any way doubt the tenacity that BOBBI FIEDLER applied on that issue. She has demonstrated that kind of leadership on a wide range of issues and she certainly will be missed as she leaves this House and returns to Los Angeles.

I also want to say that it is with mixed emotions that I say that our colleague, ED ZSCHAU, who I believe will remain a colleague in the other body is leaving. ED has, as our friend, Mr. DANNEMEYER, said earlier, provided very strong leadership on the issues of bringing about reduction in the area of capital gains tax. He epitomizes that term "entrepreneurial." He is a very successful businessman who has taken that expertise and applied it to politics and in his service here in the Congress.

We certainly wish him well in his attempt to win that very important seat in the largest State in the Union in the U.S. Senate.

□ 2120

I also thought that I would take a few moments to talk about another classmate of mine, GENE CHAPPIE. GENE prides himself on being a person who speaks his mind. GENE has often been labeled irreverent and he refuses to deny that label.

He sent a letter to several of us just recently, and I would like to share

that letter with the House, Mr. Speaker.

This one says: "Dear David, as the monkey said when his tail got caught in the lawnmower, it won't be long now. With the days running out for this short-timer, I wanted to take a minute to thank you for your counsel, friendship and support on those issues of importance to northern California."

He goes on to talk about what a privilege it was to serve with us. He said, "Will Rogers once said there is no trick to being a humorist when you have the whole Government working for you."

With that in mind, he, and I assume a member of his staff, put together a rendition of the tune "My Favorite Things," which we all remember very well from "The Sound of Music."

I would like to yield for a comment specifically on that to my distinguished colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Thanks awfully, DAVID.

These three honored people are in the gallery enjoying every precious moment, every treasured word. They are not here.

Mr. DREIER of California. We are not to refer to the gallery.

Mr. DORNAN of California. Oh, they are watching from their offices, bless their little hearts.

Mr. DREIER of California. But we are not to address them in their offices, based on House rules.

Mr. DORNAN of California. That is right; there is no television here. I keep forgetting.

Mr. DREIER of California. That is right.

Mr. DORNAN of California. Reality keeps impinging upon the truth, as we know it in the House.

I am ready, DAVID.

Mr. DREIER of California. This is called GENE CHAPPIE's ode to Congress, or these are a few of the funniest things.

Mr. DORNAN of California. Do we sing? Again, a violation of House rules.

Mr. DREIER of California. Mr. Speaker——

Mr. DORNAN of California. Yes, we would never even think of singing. Mr. Speaker, forget the mere mention of it.

Mr. DREIER of California. Mr. Speaker, is it a violation of House rules to sing on the House floor?

The SPEAKER pro tempore. If the gentlemen wish to do so, the Chair will not infringe upon the vocal attributes of the gentlemen from California.

Mr. DORNAN of California. You have caved in too easily, Mr. Speaker. I thought you would save us from this temptation. Maybe a Richard-Burton-in-Camelot compromise, sort of talk singing. You have done dinner theater, DAVID, have you not?

Mr. DREIER of California. No.

Mr. DORNAN of California. My distinguished colleague from Pomona.

Mr. DREIER of California. I would like to yield to the gentleman from Fresno.

Mr. PASHAYAN. Thank you very much. I wish I could stay to join the chorus here, but if I might be given a minute of solo——

Mr. DORNAN of California. Your voice is tightening up, I understand. If you sing, you will lose for sure.

Mr. PASHAYAN. I understand that, but I want to point out simply the unusual proportion of the Members that we are unfortunately losing from the great State of California, one from the southern part and two from the northern. By the mathematics of the population that exists in the State and the proportions opportunate thereunto, it ought to be, of course, the reverse.

Mr. DORNAN of California. Oh, no. To the contrary, Mr. Northerner.

Mr. PASHAYAN. I am Mr. Central, thank you.

Mr. DORNAN of California. Right.

Mr. PASHAYAN. These three have——

Mr. DORNAN of California. You moderate.

Mr. PASHAYAN. Absolutely. These three have left their marks, individually, on this great body. As for our colleague, BOBBI FIEDLER, I think her marks have been made principally in the areas of the budget. I know she faces a very bright future.

As for our Congressman, ED ZSCHAU, he obviously is seeking a bright political future, and if that should fail, I am sure other doors will be opened.

As for the last that I choose to mention, and it might well be in violation of the old adage that the last shall be first, in this case, the last shall be last.

Mr. DORNAN of California. You biblical scholar, you.

Mr. PASHAYAN. As for the last to be mentioned, the one and only, Mr. CHAPPIE, the one and only from the most northern reaches of the State, I think we can have little to say of him other than the general ruckus that usually surrounds his presence, wherever he is, will be largely transferred now from Washington back to the west coast.

I know he plans to hide out in the upper reaches of the Sierra Nevada, to engage in activities of roaring around the mountains in his vehicles and——

Mr. DREIER. If the gentleman will yield for one moment, if I could reclaim the dean's time, I would just like to say that he has a couple of other things in mind which incorporate——

Mr. PASHAYAN. Shooting road signs.

Mr. DREIER of California. Thank you. I thank the gentleman.

Mr. PASHAYAN. But in any case, we wish this man of the law well. When he goes back to his native habitat, he will be living on that fine line between formal law and informal law. We wish all three well.

I yield back my time.

Mr. DREIER of California. The time is controlled by the distinguished gentleman from Glendale.

Mr. DORNAN of California. Was the distinguished gentleman from Pomona?

Were you not going to, in sort of a Richard Burton style, talk/sing this great poem?

Mr. DREIER of California. What I would like to ask the dean is if he might demonstrate his leadership by leading us and also, I have for my friend from San Diego a copy of this very interesting rendition of "My Favorite Things," which has been composed by our colleague from California, GENE CHAPPIE.

I would like to ask the dean if he would care to lead us——

Mr. DORNAN of California. Lead off.

Mr. DREIER of California [continuing]. In this because we have been given permission by the Speaker to——

Mr. DORNAN of California. Dean MOORHEAD.

Mr. MOORHEAD. I think our great Member from Orange County here, ROBERT DORNAN, has the most mellow voice and will be able to do the best job in leading us. ROBERT, why don't you go ahead.

Mr. DREIER of California. Having gotten permission to sing it——

Mr. DORNAN of California. I will lead off. We might get into this. I will lead off, asking the people to think of "These are a few of my favorite things." So this is the melody to the tune of "My Favorite Things," a poem, stolen musically, but written, the book, as we say on Broadway, the lyrics, written in the manner of Rodgers and Hammerstein, by GENE CHAPPIE.

Wait a minute, we cannot go together or they will never hear it.

Mr. DREIER of California. No, no, we are singing this together.

Mr. DORNAN of California. I am 20 years older than you; I will go first and you take the second one. DUNCAN, you take the third one.

Tuesdays through Thursdays, and half-hour sessions.
Rollcalls and quorums, and eighty suspensions.
Boll Weevils, Young Turks, right and left wings.
These are a few of the funniest things.
When the bell rings,
When the whip calls,
When I'm on the floor,
I simply remember the funniest things, and wonder why I ask for more.
Lawyers and lobbyists and those who want money.
Balancing the budget, Isn't that funny?
National Brick Week, This and that day.
Can anyone think of a better way?

When the letters come,
When the press calls,
When there are meetings all day.
I simply remember the funniest things, and tomorrow may bring what it may.
Presidents and Secretaries, urge your support.
Flying the red eye, to get back and forth.
Constituents who need help, Bureaucrats who won't.
For those seeking office, my advice is "Don't"
When the money's gone,
When the government closes,
When the CR fails
I'll pack my bags, let the phone ring, and always remember the funniest things.

As GENO fades into the distance in his camper, stealing one old Henny Youngman joke after another, I say, as the Sun sets in the high Sierras, fond adieu, GENO, you Italian-American happy guy, you brought us hours and hours of riotous laughter in the House.

But when the chips were down, when agriculture was jeopardized, GENO was in the front line, fighting for his great Golden State. We truly are going to miss him.

As far as the other two are concerned, let me go down, if the dean will yield to me.

Mr. MOORHEAD. I yield to the gentleman from California [Mr. DORNAN].

□ 2130

Mr. DORNAN of California. Mr. Speaker, I just wrote down a few things that most voters when they go to the polls 2 weeks from next Tuesday, here is what they want in a Congressman or Congresswoman. I think as I read this list that I have just jotted down that the magnificent trio we are talking about, this terrific trio, they fit this description to a tee, to perfection.

Everybody would like to think that their Member was smart. When we think of ED ZSCHAU you think of somebody so smart, he creates hundreds of jobs for people. He is a professor in the arcane ways of business and world economics. That is why he is going to be over in the U.S. Senate, sworn in as the junior Senator from California on the first Monday following the first Sunday in January.

Second thing, they want their Member to be hard working. When you say hard working, then you think of ED ZSCHAU. You think of GENO, as we said. But has any Member worked harder than BOBBI FIEDLER on the budget? She cleared the decks for the last 6 years so that she could concentrate on this one thing that is bedeviling this House and has us here 13 days past our promised date of departure, Mr. Speaker, October 3. We are all wrestling with this budget, and she is going to be sorely missed.

If David Stockman's successor, Mr. Miller, ever coughs over at OMB and decides he has had enough, I know our whole delegation of 18 Republicans, and maybe a few on the other side, would say, "Mr. President, consider BOBBI FIEDLER to balance your books."

The third thing that I think they want to see in Members is dedication to making our beloved United States stronger and more economically prosperous so that families have those jobs out there and the money to educate the young Americans coming up in the generations ahead.

All three of our departing Members again fit that to a tee. Every one of them had demonstrated dedication to duty around here, to their districts, their constitutents, and they are hard working and smart.

Now, the extra ingredient that the voters really could not care less about, whether it was an Abraham Lincoln or John F. Kennedy or our great President now, is a sense of humor. They do not really vote for that. That is something extra that comes with some and does not come with others.

GENO had it in spades.

BOBBI FIEDLER, no matter how tough the hours late at night, working on that budget conference, she was always in a good mood. Never did one of these three ever take themselves so seriously that you would say, "Well, there's another Member full of himself or herself."

As far as ED ZSCHAU is concerned, he went through the primary, and I think that is why he blew away some good friends of ours who we thought might be the winner, he went through that whole campaign singing in the face of terrible reviews.

I have seen ED's daughter just 3 nights ago out campaigning for him. I watched his son precede me in an auction in Anaheim auctioning off all sorts of items to raise money for a good cause, a medical cause. A man sometimes can be judged by his children. I do not know all of ED's children, I think there are three, but those two, his oldest son and his daughter, are just absolutely splendid young Americans and a fine tribute to Mr. and Mrs. ED ZSCHAU.

So I think we are proud of all of these people. GENO will be back. He will win his way to this coast in that camper of his, bringing a lot of wisdom and mirth with him.

BOBBI as has been said before me, will land on her feet. I have never seen her knocked off her feet, so she will turn up somewhere in government helping again to strengthen her country, and as I said, we expect to see ED ZSCHAU I hope occasionally coming over here to visit us as a U.S. Senator.

I have always felt the best of the breed over there are those who started here in the House.

Now, there is one thing I would like to add. I have been through one of these drills before when six outstanding Members and one that we are not too sure about, me, left in 1982.

Mr. HUNTER. Known as the magnificent seven, I might say.

Mr. DORNAN of California. Seven of us left in 1982. Congressman HUNTER was here on the floor, and we were all here. We sat down there blushing like young brides, or at least the way young brides used to blush about 20 years ago. We sat down there blushing and the gentleman over there saying all these wonderful things, we felt sort of a warm trickle running down our backs. It just made us feel squiggly and happy and warm all over.

I am a little hurt that our terrific trio did not show up tonight, but we will make them read these remarks and it will go into their family Bibles and almanacs and memoirs.

I truly in seriousness can say they will be missed and those three charging Republicans, because these are all safe seats, they have left their districts in such phenomenal condition that Mr. Rabbit is not questioning one of those three districts. The gentleman from Fresno, Mr. Rabbit, is saying, "Take them, they are yours."

So they have some big shoes to fill, Mr. Konnyu, Mr. Herger and Mr. Gallegly.

I am just sorry to see our three comrades leaving us. If any of them choose to come back, like Mr. DANNEMEYER threatened the other side that DORNAN will be back, and thank the stars he turned out to be correct. If they want to come back, they are welcome.

If Mr. ZSCHAU wants to resign the Senate after 6 years and come back to the House, we will be happy to have him back, too.

I am just so thrilled to be here with my pals talking about these three great people, these two fine gentlemen and this lady. It is probably the best night I have spent in the House in the 2 years since I have been back.

I say thanks a lot to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman.

You know, the year that BOBBI FIEDLER pulled her big upset, there was another gentleman from California who did not have a chance to win, but when the votes were counted he did win, and that is the next speaker, the gentleman from California [Mr. HUNTER], and I am happy to yield to the gentleman.

Mr. HUNTER. Mr. Speaker, I appreciate the gentleman yielding.

I hesitate to follow the guy that I consider to be the best extemporaneous speaker in the House or the other body, Mr. DORNAN, but I agree with everything that he said about our three friends.

I am reminded that Mr. ZSCHAU, and I would like to start with him, is a guy

who represents to the people of California, and particularly the people who have families, who are trying to climb the ladder and make some economic opportunity, he represents the proposition that we can expand our economy, that we can get more high-technology jobs, more high-technology facilities in California, that we can produce the wherewithal to educate our children, to build homes, to carry out our lives with better opportunity for our children and our grandchildren.

Particularly, Mr. ZSCHAU is the guy who is going to keep the lid on taxes. Although his opponent is slightly ahead in the polls right now, he started with almost nothing and he developed his high-technology business into a very flourishing establishment. He became a leader of the high-technology community. He came back to Washington, DC, worked for deregulation, worked for lower taxes, and produced a boom in California that has brought many other industries into California; so I think if you try to define what Mr. ZSCHAU stands for, that the California people would say one word and that is jobs and maybe opportunity, opportunity to build a better world for our children and for our children's children. He has made quite a mark in this Congress and I have to admit that I have stood on the other side of the debate a number of times when issues have come up with regard to import or export of technology to other countries. I have sometimes worked the national security dimensions of that problem and Mr. ZSCHAU has worked to expand our exports and to help our balance of payments; but we always have seen in his debates on the House floor a keen intellect and a refusal to become personal, to become mean in arguments or debate on the floor. He has always persevered on an intellectual level and I think all Members have appreciated that.

It is a great thing to be able to stand with a colleague, go toe to toe with him on an issue, and later shake hands and work on the next issue, perhaps as allies rather than adversaries. That is one quality that I think of when I think of ED ZSCHAU. He was a person with a vision. He brought that vision to Washington to create more opportunity for Californians to develop high technology, to work for deregulating our Government, particularly in our exports, so that we could beat the rest of the world in this very important area.

I think he is going to become the next Senator from California. I think when he attains that position, he is going to carry that same leadership over to the other body and move this country toward a positon where we have a balance-of-trade surplus with Japan, rather than the other way around, and many other countries also.

Let me say about GENO CHAPPIE, and I agree with all the great characterizations that have indicated that Mr. CHAPPIE is somewhat irreverent and not really in awe of the institutions in Washington when he came here. I think that is good and I think it is healthy.

I notice that GENO had one very important goal in mind when he came to Washington. That was to serve his people and they always came first. He never forgot that there are very few people in Washington who vote in our congressional districts, who live in our congressional districts. I saw GENO go head to head, toe to toe, many times with bureaucrats to do things for the people of his district, particularly his people in agriculture and timber. He fought hard for them even when it won him animosity sometimes from the administration, from the bureaucracy, and put him at odds many times with other Members of Congress, some on this side of the aisle, some on the other side of the aisle.

GENO CHAPPIE was dedicated to the people of his congressional district with a dedication that was unmatched by any other Member of the House.

Now, let me say about BOBBI FIEDLER, there are many people who come to Washington, DC, who participate in the executive branch of our Government or in the legislative branch of the Government, in the bureaucracy that regulates and runs this town, and when you see those people and take a first analysis, you see a great deal of promise. You see courage. You think you see courage and you see reliability and you think you see loyalty. Sometimes you are pleasantly surprised to see that they end up being what you hoped they would be and other times you are a little disappointed. That is human nature. That is a constant process we go through.

When BOBBI FIEDLER came to this city and started working as a Member of Congress, came from that very close race from California and came in as a classmate of mine, I saw somebody with an incredible quality of leadership and courage and loyalty. That loyalty has remained right through her tenure.

I have seen her in position when she had incredible pressures placed upon her and you could always go to BOBBI FIEDLER and talk to her and ask her what her position was, what she would do, and she told you. She was incredibly straight and true. It is only because of that that she was able to become a prominent political leader in a very tough political arena in Los Angeles.

You cannot talk out of both sides of your mouth, especially if you are in a minority position in a difficult political arena like that and survive. You can only do it if you are vey loyal to your friends, very straightforward, very courageous and willing to take chances. BOBBI FIEDLER has always been willing to take chances. I admire her very much for that.

I have to agree with the gentleman from Orange County, Mr. DORNAN, when he said BOBBI FIEDLER will land on her feet. She will because she has vision. She has courage and she has a great quality of leadership.

I think the Members of this delegation will see her exhibit that quality of leadership in the years to come.

So to BOBBI and to GENO and to ED ZSCHAU, whose star is rising in the Senate race, I wish them my best. I know the rest of the delegation wishes them Godspeed.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I think you can tell why the people of California and the people of our delegation have so much respect and admiration for our colleagues who are now going to be leaving us. Each has established himself or herself in their own way. They have done an outstanding job and made a contribution to the people of the United States.

We are proud of our delegation. We are proud of our Members and we are proud of the accomplishments that they take part in. I appreciate having this hour of time.

Mr. SHUMWAY. Mr. Speaker, I very much appreciate having this opportunity to pay tribute to a friend, colleague, and fellow Californian, ED ZSCHAU, as his days of service in the House wind to a close.

I have always felt a special affinity for ED because we are two of only a few Republicans from northern California, and because I am quite familiar with his district. ED's predecessor was a friend and supporter of mine, who introduced me to ED some years ago. In turn ED ZSCHAU made it possible for me to meet and get to know those he is privileged to represent, and to learn of their concerns.

From the beginning, I have respected and admired ED for the record of achievement he has acquired not only in business, but also in academics. Indeed, few individuals have quite such an impressive record of success in academia and the business world—a track record which has always given ED leadership status in my eyes.

ED's independence also marked him as a leader and a statesman. While some have criticized him for that independent thinking, I believe he has demonstrated qualities imperative to sound leadership by making up his own mind, sticking to his guns, and acting as a well-educated and experienced individual who is confident and at peace with his decision-making ability.

ED will be missed in the House, but I am certain that his outstanding abilities will continue to benefit California and the Nation in the years to come. He has my very best wishes.

Mr. Speaker, not only Californians, but all House Members will be sorry to lose the able

service of BOBBI FIEDLER as she prepares to leave the House. I am pleased to have this opportunity to pay tribute to her, and to wish her well in her future endeavors.

As the only woman in the California Republican delegation, BOBBI brought a needed female perspective and influence to our discussions. Her comments and suggestions were very helpful not only because she is a woman, but also because of her fine experience in business. She shared with all of us a pragmatic viewpoint, something from which the legislative process can always benefit.

I have always admired BOBBI's assertiveness, and respected her tenacious ability to take on even the most controversial of issues. Indeed, she proved herself committed to those causes in which she believed long before coming to Congress, with her outspoken opposition to mandatory busing. Her work in that arena, to my mind, has been exemplary. When she joined us in the House, she brought with her not only a sensible approach, but also a proven record of achievement. That record served her district and State very well.

I would like to express my appreciation to BOBBI for her many contributions to the House, and to extend every best wish to her as she leaves this body. She will be truly missed.

Mr. Speaker, whenever a friend and colleague leaves the House, it is tempting to say that no one will ever fill his or her shoes. In the case of GENE CHAPPIE, it is the truth. GENE is one of a kind, remembered by all of us who were privileged to serve with him and, as I told him earlier this month, quoted by those who dare.

GENE's colorful and outspoken presence enlivened our delegation meetings and endeared him to our respective staffs. He brought to Congress a down-home practicality which often saw through excessive bureaucracy and redtape with sparkling clarity. GENE has been a good and loyal friend to those of us who were privileged to know and serve with him, and I will never forget the invaluable help he offered to me when reapportionment expanded the boundaries of my district into much of what had been his. GENE made that transition smooth and easy, ensuring that I met new constituents throughut the area and offering the benefit of his experience.

California has benefited from GENE's dedicated service at virtually every level of government, and his contributions as a legislator will not be forgotten. More importantly, his very special personality, embodying his love for his homestate, will always be warmly remembered.

I will miss serving with GENE CHAPPIE, and I will always consider him my friend. I know that we all join in extending every best wish to GENE and his wife, Nancy, as they return to the beautiful area they call home.

Mr. BADHAM. Mr. Speaker, I rise today to offer my very best wishes to my friend and colleague, BOBBI FIEDLER, who leaves the House after this term to return to my great State of California.

Above all, I think, this House will miss BOBBI's dynamic, agressive, and tenacious style of legislative leadership. It was this set of attributes that caused her to burst upon the public consciousness as a Los Angeles school board member in the late 1970's, where she made her mark as an untiring opponent of busing to achieve racial balance in the schools.

BOBBI FIEDLER, is indeed the personification of the much hallowed citizen activist who attacks the system head-on when it is wrong, rather than sitting on the sidelines complaining endlessly but failing to act. It was her activism as a citizen and a parent that won her a seat on the school board and ultimately a seat in Congress.

Mr. Speaker, it is this self-same courage and strong personal commitment that carried her into the battle against wasteful Federal spending on Metrorail, despite powerful forces aligned against her. It is this independent spirit that leads her to stand up and vocally argue on behalf of feminist concerns. And while I do not always agree with her on certain issues, I have gained tremendous respect and admiration for her strength of character.

I think it can be safety said that the citizens of California and this Nation have not heard the last of BOBBI FIEDLER, in the political arena. I know that whatever course she now chooses will add new accomplishments and achievements to an already stellar record of public service.

Mr. Speaker, as one Member who has come from a background in private business, it was particularly pleasing for me to welcome ED ZSCHAU to this House, where we often seem oblivious to the fact that there is a real world out there that is impacted by the decisions we make.

I say ED's arrival was a pleasure because he brought with him not only a distinguished background in higher education, including studies and a professorship at my own alma mater, Stanford University, but also an entrepreneur's ingenuity, enthusiasm, and understanding of pragmatic decisionmaking.

Today, ED ZSCHAU is working diligently to win election to a seat in the other body and I know from my firsthand experience with him of the great benefits that body will gain through his presence there.

Mr. Speaker, I have been troubled at times by some of the critics of ED ZSCHAU, who unjustly attempt to capitalize on his independence of throught on complex issues. In fact, one of the things I admire the most about ED is his willingness to take a stand based on his own evaluation of an issue, even if it means bucking the popular tide.

ED ZSCHAU has bought a special dimension to his service in the House not only because of his integrity and scholarly approach to many issues but also because he knows very personally from his real-world exposure that we in government often are the architects of disorder, despite all best intentions. ED knows that the engine that makes this country the most powerful nation on Earth is its industrial and business base, fueled by the energies of hard-working Americans. He has fought during his time here to preserve these fundamental principles and for that, I applaud him.

Mr. Speaker, when GENE CHAPPIE arrived in this House several years ago, it brought back a flood of special memories to me of my own service to the people of California in elected office. I had the great pleasure of serving with GENE in the California State Assembly for more than 10 years until my election to Congress in 1976. More than anything, I have enjoyed and will miss GENE's salty and irreverent sense of humor because if we lose the ability to laugh at ourselves, this Nation is in big trouble.

GENE and I also share an impatience with the seemingly endless speeches and posturing that have become so large a part of our official duties. We share a desire to do the best we can for the people who elected us and for the Nation as a whole.

Mr. Speaker, there can be little doubt that GENE CHAPPIE knows what his constituents want and need from the Federal Government. He has been their elected representative for more than 35 years, first as a county supervisor, then as an assemblyman and finally as a member of the House of Representatives.

By focusing his considerable energies on the problems at hand, rather than becoming distracted by the peripheral trappings of office, GENE has gone to bat for farm and timber interests, for the preservation of the Trinity River and other matters that impinge specifically on the residents and businesses of his northern California district.

Obviously, his constituents know very well that they have a good thing in GENE CHAPPIE because, Mr. Speaker, he never once has lost an election in his 3½ decades of elective office.

Mr. Speaker, I will miss GENE CHAPPIE here in the House not only because of our long and valued friendship but because of the work ethic and devotion he brings to his office.

GENERAL LEAVE

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore (Mr. VOLKMER). Is there objection to the request of the gentleman from California?

There was no objection.

□ 2145

TRIBUTE TO THE HONORABLE MARK SILJANDER

The SPEAKER pro tempore (Mr. VOLKMER). Under a previous order of the House, the gentleman from Georgia [Mr. SWINDALL] is recognized for 60 minutes.

GENERAL LEAVE

Mr. SWINDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. SWINDALL. Mr. Speaker, as the 99th Congress wanes to its end, I have requested this special order for a very special Member of Congress who was

elected in a special election in 1981. That Member is MARK SILJANDER, from the Fourth District of Michigan, who will not be a part of the 100th Congress, but certainly will be a part of the history of this great body.

MARK was elected to succeed David Stockman in 1981 after David was appointed by the President to become the head of the OMB, and MARK came here obviously with big shoes to fill. MARK has served this Congress in a number of capacities, but probably he will be best known for his offerings in terms of the Committee on Foreign Affairs, where he served very well in the very complicated area of Africa.

I happen to know MARK best, though, because of his activity with respect to tax reform. MARK offered the 10-percent flat-tax bill known as the Siljander bill, and he has worked very hard to see that passed, and of course was very instrumental in the tax reform bill that recently passed this House.

While both MARK and I were disappointed that we did not see a flat tax, certainly it was his efforts that brought much of the flat-tax type of proposals into the tax reform that recently passed the House.

I might also add that MARK will also and always be very special to me, because MARK came to my district very early on in my challenger race, and as most individuals in this body know, it is very difficult to find incumbent Members of Congress who will come in and campaign for an individual who is running against a five-term incumbent. However, MARK came in May 1984 to my district, and not only helped me raise money, but also helped me raise a great deal of support, because MARK has that gift of sincerity and earnestness that he is able to transmit and literally transfer to other individuals.

After MARK left our district, we had a whole new cadre of individuals who wanted to get involved in my campaign primarily because of MARK SILJANDER. I might add that even to this day individuals come to me and mention to me that they want to know what is happening with MARK SILJANDER.

I think that one of the greatest disappointments in my district was when the news of MARK's defeat in his own primary this past summer was passed along to his friends in my district.

I also think of MARK SILJANDER when I think of all the other places that I have traveled with MARK. Just recently MARK and I went out to Orange County, CA, to help there in terms of the conservative movement that MARK has been so closely identified with.

But also I think of MARK in terms of probably his greatest legacy to this body, and that legacy is that all of us can be magnanimous in victory, but what impressed me most about MARK SILJANDER was that he was magnanimous in defeat. I can still remember standing in the back of the Chamber here the day after MARK was defeated in Michigan in his primary and talking with a number of my colleagues, some of whom are here tonight to participate in this special order.

Each of us was talking to the others saying, "When MARK comes back"—and we frankly did not expect him to come back for a week or so—"what are we going to say to MARK?" About that time, MARK came walking into the Chamber—I know that he had been up all night the night before—and he was literally smiling, and it was he who came and ministered to us.

I guess I will never forget that, because to me that really showed what kind of man MARK SILJANDER is and will continue to be. He is the only person whom I know who can literally come full circle in less than 24 hours to the realization that unquestionably God has greater things in mind for MARK SILJANDER. There is no question in my mind that as incredible as the contributions are that MARK has made to this House, he has got even greater contributions to make in the future, not only to this Nation, but probably to the world.

I know that my other colleagues join me in saying that while we are selfishly disappointed that he will not be here next Congress, because he has been such a friend, such an exhorter, such a source of personal consultation to each and every one of us, we know that our loss is, quite frankly, everyone else's gain, because MARK is certainly going to make his mark as soon as he leaves this body.

One last point that I would like to make is that so frequently we look at Members of Congress and we think of those Members only in the context of their legislative prowess. MARK certainly was an incredible legislator, one who gained the respect of individuals on both sides of the aisle, but MARK is also a family man. MARK is the husband of a very beautiful bride named Nancy, and the father of Elizabeth Marquette, and soon he will have either a child that is a daughter or a son. I wish for him either, frankly. I have a daughter myself, and recently had a son, and would have been happy with either.

MARK is a loving father and a loving husband, and that is something that we can all emulate, but more importantly, he has left his mark in this body just by his example in terms of being a family man, not only in terms of the outward appearance, but also in terms of his actual practice.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I think it is very nice of the gentleman from Georgia to take this special order tonight. I recall when I first came to Congress, one of the first people who extended the hand of friendship to me was MARK SILJANDER, and I think the first week that I was here he said, "DAN, why don't you come up to our weekly Bible study?" For about a couple of years, even though I am a strong Christian, I did not feel compelled to go to the Bible study meetings that we have on Thursday. But finally, after MARK pushed and pushed, he finally prevailed, and after about 2 years I did start going.

I want to say that it has been a real wonderful experience for me. I think that it has been a real blessing for everybody who goes up there. The problems that we face in this body—I know that people across the country probably think that Congress and congressional work is not all that difficult—but the pressures here are extremely severe, especially in the waning hours of Congress, and many times tempers flare and people start feeling that pressure, and they start to crack, and they need something to hold onto.

These meetings that we have had once a week, thanks to MARK SILJANDER's leadership, have been a real help to those of us who attend. I think that when things get tough and the pressure grows, I think most of us feel a little more peace than we would have otherwise. So I really want to thank MARK SILJANDER for leading me to the meetings and to a better understanding of what my faith is all about, and getting to know people like the gentleman in the well better, because had it not been for this experience, I would not feel the close kinship to him and the other Members that we attend with that I do feel.

Mr. SWINDALL. If the gentleman will yield, I am sure that I speak for not only him but every Member of that small group that is bipartisan that meets in a small room here in the Capitol every Thursday, when I say that MARK's presence will probably be most felt in terms of the loss, I should say, next year, when we have our first Bible study again, and we both today encourage MARK, as every Member did, to please continue to come, because that would be a tremendous loss.

Mr. BURTON of Indiana. I think that the gentleman makes a good point. Tom Barrett, our leader, who does such a tremendous job, has said, I think, every week since MARK had his unfortunate loss, "Who's going to take MARK's place? Who's going to make sure that we get everybody up here? Who's going to fill MARK's shoes?" I do not think that anybody really can.

So I think that there is a genuine concern. I think that the gentleman in the well may be the one who is best suited for that task, and I urge him to pick up the mantle of leadership and herd us all up there every Thursday.

Mr. SWINDALL. If the gentleman will yield, I only function well when MARK comes first and tells me to go out and work the floor and get everybody there. So I will need somebody to replace MARK in that capacity.

Mr. BURTON of Indiana. I do not want to impose upon the gentleman's time too long, but I would like to say that I consider MARK SILJANDER a friend, I consider him to be a man of impeccable integrity, and a very strong Christian whose faith is, I believe, unshakable. He has gone through some tremendous pressures and pain, and he has gone through it like a real champ, and I think that without the foundation in Jesus Christ that he has, he would not have been able to do it. And so he is a real example to all of us.

I personally am going to miss MARK SILJANDER, and I hope that he comes back and visits a lot, because his leadership and his fellowship is something that is an inspiration to us all, and MARK, if you are watching tonight, we love you, and we wish you the very best in the future.

□ 2155

Mr. SWINDALL. I thank the gentleman. Mentioning his faith also reminds me that MARK is very well known as being a strong supporter of Israel. The gentleman mentions that he is a Christian, but I think that it is important that MARK has the respect of the Jewish community throughout this country because of his strong support for Israel. And one of the first times that I spoke with MARK about foreign policy we talked at length about Israel and how vital Israel is in terms of our Middle Eastern policy.

I am sure that MARK's advice and leadership in that area is going to be greatly missed as well.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. SWINDALL. I am happy to yield to the gentleman from California.

Mr. HUNTER. I thank my friend for yielding and I appreciated when my friend talked about the vibrance and the vitality of MARK SILJANDER, and the way he came in and energized that campaign in Georgia, because MARK SILJANDER has energized Members of this House in a way that had not happened before his arrival in this Congress. I can remember, I think it was in 1982, and I know my friend from California [Mr. DORNAN] with his great mind for facts will probably place the debate precisely on the calendar, but I remember during the nuclear freeze debate when we started the debate and the Speaker of the House told the House that this debate would probably be over very quickly, there was no reason to drag it out, he thought the votes were there to pass it, and I can remember that the Republican side, the conservative side had just about resigned itself to defeat. We threw a few amendments up and we lost by many, many votes, huge margins, and MARK SILJANDER came on the floor. He offered the first Siljander amendment, and although it failed it only failed by two votes.

But the way he laid that amendment out, and the way he fought for it, motivated a lot of other Members of Congress to come on the floor, and all of a sudden there were Members, conservative Members streaming through the doors. We came out and we started fighting, and 5 weeks later we were still debating the nuclear freeze, and we had amended it something like 30 times, and there were a whole passel full of amendments that were called appropriately sons of SILJANDER because they all emanated from the same basic proposition that MARK had laid out on the House floor.

I remember how surprised some Members were to see this junior Congressman come out here with an idea, and with the will to talk about that idea, not worry about what the world would say, or whether he would look foolish in front of his colleagues, and give it everything he had, gave it 100 percent. Because of his dedication and his absolute feeling that this was right, his genuineness, I guess is the best way to describe it, it motivated us to come out and to help.

Mr. SWINDALL. Often I have cited that as an example of what 1 Member out of 435 can do, and so frequently we think that to make a legislative mark it takes literally weeks and sometimes years of research and staff help and what have you. MARK was able to implement that foreign policy decision purely from his own creativity right here on the floor, and having the courage, as you say, to step forward without weighing the consequences in terms of what if it is defeated, or what if only one other person votes with me. He had the courage, not knowing what the ultimate votes would be, to step forward at a time that literally had he not done so we may well have passed a nuclear freeze bill that very day.

Mr. HUNTER. That is absolutely right. The gentleman is correct in saying that MARK SILJANDER in his first amendment, which is the first substantial amendment that he offered that really had a chance of winning, effectively derailed the nuclear freeze and, of course, we have some friends on this side of the aisle that might not have been pleased about that. But I think it is a fact that the wind was taken out of that particular effort which had been building for months, and which would have had major ramifications for the national security of this country. MARK SILJANDER strode out on this House floor and changed things.

And let me tell you he changed things in my life also. MARK SILJANDER is a moral leader. He is a guy who wants to help. He is never too busy to help with a friend's problem.

He is absolutely honest. In fact, he is not really a very good politician in that sense, because MARK SILJANDER tells you precisely what he is going to do, and he always tells you the truth, even if it does not work to his benefit.

I want to say that his wife, Nancy, is a great person, too. She is so sweet. I can recall when MARK got married, and you know a few funny things happened. I hope MARK forgives me for relaying these things.

Mr. DORNAN of California. December 10, 1983. It was a great day.

Mr. HUNTER. Ultimately it was advertised, and it was made known on national radio that MARK SILJANDER was looking for a wife.

Mr. SWINDALL. I remember that.

Mr. HUNTER. And the press I think in this particular episode took full retribution on MARK SILJANDER. But the upshot was he and Nancy were not deterred, and they are presently the happiest couple, one of the happiest couples I have ever seen in this city.

Mr. DORNAN of California. If the gentleman will yield, they did something so touching. MARK said that his friendship with me meant so much that they had a red-headed baby the first time around. I thought that was really touching. The baby's hair is as red as fire. I was very touched by that.

Mr. HUNTER. It was the Paul Harvey show that talked about the fact that MARK SILJANDER had not been married yet, and he had hundreds and hundreds of letters and cards coming into his office. I think it all started when a newspaperman said that MARK and his preacher were looking for a suitable wife.

Mr. DORNAN of California. And Nancy left the convent a week later and went looking for him.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. SWINDALL. I am happy to yield to the other gentleman from California.

Mr. DORNAN of California. Mr. Speaker, there are about I guess a couple of dozen very special people on both sides of the aisle, and MARK is a very, very special person as a Member of Congress.

Earlier we were having the order called special for our three departing California colleagues, and I was just sitting here writing down things that I thought most voters wanted in a man or woman who represents them in this

great deliberative body. And I wrote down smart, hard working, dedicated. Those three are just like MARK's middle name.

He speaks several languages. Whenever he would go to a group to meet with them he would always learn how that group would say in their language, "How are you, how do you do. How's it going. Good to see you again."

He is one of the few Members in this House that was studying Hebrew. The gentleman alluded to his great love and respect for the existence of Israel, and that was one of the reasons MARK studied Hebrew.

The gentleman mentioned his deep faith. But it is that hard working description, I have never seen somebody that had so much energy, that would put so much work and commitment into serving his constituency. I traveled through his district with him about 8 days before he lost, and it came as a great shock to me because I could feel this great affection that his district had for him. And, of course, things happened after that that he blamed on no one but himself, a very overly eager radio spot that he in a very manly and forthright way said, hey, I goofed, one goof, and that was it, nobody to blame but me. And that dedication that MARK has on defense, making this a stronger country, but also on things that are such treacherous grounds for Members of this body to venture out into, human rights and far off corners of the globe, I do not care if people were suffering in the Soviet Union, Jewish Pentecostal, Helsinki basket civil rights workers, Romania, the Baltic States, pick your African country, down in Central America, anyplace on this globe, if somebody was in trouble or one of the Members on either side of the aisle was passing around a letter that alluded to any type of human rights or civil rights violations, MARK would jump for that letter and say, let me get on that. Then he would go that extra mile and say, what can I do to help.

I went to MARK's retirement party and spoke for a few brief moments. There were a lot of tears in the eyes of people in that room looking over at MARK, wishing that he were not leaving, and MARK pointed out that he had won 14 elections in a row since he was a very young man and his father had called him into the room and pointed out for umpteenth time what a fantastic country this is, and how somebody in their family maybe should give something back, and to consider public service. And he said, so what is wrong, you win 14 in a row and you lose 1. I believe that losses are character strengthening, he said, and they are. We all know that. We only have to go back to our first great Republican President, Abraham Lincoln. He lost more than he won.

□ 2205

If he had had 14 wins in a row, he would have been the President 10 years sooner and long out of office and probably not cost him his life, with the War Between the States.

Mark is going to be sorely missed around here. People are casting rumors around that there are sore feelings and his replacement is going to take some heat in the Cloakroom. Forget all that. It is just the guy has big shoes to fill. I love MARK SILJANDER and always will: Special, dedicated, hard-working, committed, and good-natured Congressman.

I honestly think, with all due respect to my other colleagues, and they will concede this, MARK had the biggest smile in the House of Representatives.

If I got off the redeye and staggered in here some Monday or Tuesday morning, unable to sleep on the plane because I stupidly started reading something and did not put it down when the sleep first came on me, I would walk in here and see that big smiling face; and he would say "Parachalo!" and I would say, "What is this? "Greek," he says. He would be into some new language and he would have some human rights letter, and off he would go from economics, domestic issues, foreign issues, defense issues, and beloved social issues, to defend the American family and keep it strong.

MARK SILJANDER, wherever you go, God will be guiding your career; and if it is your will to come back here, we will be here just as He was there for you and you and I were there for Him. We will bring him back with bells on.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman.

Mr. HUNTER. Once again, I am sorry that I am having to follow the guy that I consider to be the best speaker, the best orator in this body.

You mentioned, BOB, that there have been rumors that there is going to be ill feeling, perhaps, because MARK was a popular guy and is leaving, and it was a tough, hard-fought campaign; but you know, there will not be.

Mr. DORNAN of California. Ill-founded rumors.

Mr. HUNTER. The reason there will not be is because MARK SILJANDER would never let that happen, and I know that when the results came in on that election night, the first person that MARK SILJANDER called was his opponent, to wish him well, and the best in his coming term in Congress.

I think that all of us will do precisely the same thing; and we will welcome him, and we will work with him, and MARK would not have it any other way.

Mr. DORNAN of California. There is an irony, if I can add one thought. MARK broke that young person into politics, who turned around to bite him; and although it will be forgotten because of the rough and tumble around here and the goal that we are all focused on, I hope that the young man who replaces him will remember what he learned about dedication and commitment and good spiritedness and gentlemanliness, and that class that MARK showed on the night of his defeat.

I repeat, the young man coming here has big shoes to fill, and if his voting record, which he promises, is an absolute mirror image of Mr. SILJANDER's, he will be in pretty good shape and he will also be in pretty good shape with the White House down there, which thought a lot of MARK.

The President himself sent a beautiful letter to MARK SILJANDER, thanking him for his nearly 6 years of service; a little bit shortened because he replaced David Stockman; but his over 5¾ years the White House was aware always that MARK SILJANDER was here, and on the President's team and a strong right hand to the President's policies.

Mr. SWINDALL. Mr. Speaker, the gentleman mentioned that MARK SILJANDER is probably best known in this body for his compassion for human rights, but we have not talked about where probably MARK's greatest commitment, and greatest dedication when it comes to human rights is: And that is with the unborn.

MARK has for many, many years been at the forefront of the battle to reverse the Roe versus Wade decision; and as each of you gentlemen know, MARK was at the forefront in this body of calling Members together to pray and to fast about the tragedy of abortion.

We talk a lot about MARK's being a spiritual leader, but certainly there is no place more prevalent than in his role with respect to the abortion issue; because he has been very faithful in the area of exhorting the rest of us to continue in that fight.

It is a fight, and I think it is very appropriate that the gentleman from California made the analogy between Abraham Lincoln and MARK SILJANDER, because it was Abraham Lincoln who lost in one battle, in 1858, in a senatorial battle with Stephen Douglas.

The issue there revolved on one very similar to the abortion issue. It was the slavery issue. The difference was, that decision of course had to do with Dred Scott, a very controversial Supreme Court decision that had been made in 1957; and there, because by a 7-to-2 split, the Supreme Court had held that the blacks in this country were not entitled to constitutional protection because they were not persons, but rather property.

We were allowing the tragedy of slavery to continue, and it took the courage of an Abraham Lincoln to challenge that decision even though it was not popular because of the socio-economic conditions of the time. Of course we all know the rest of that story.

Abraham Lincoln went on to become President of the United States, and I certainly do not think it would be stretching to say that MARK SILJANDER has taken equally unpopular positions frequently with respect to the 18 million unborn that have lost their lives since the Roe versus Wade decision, the 4,000 unborn that lose their lives everyday.

I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. The gentleman mentioned the Dred Scott decision. I have often thought of that as the first pro-choice decision, because the Court said in its decision, as I recall, that although they did not agree with the idea of owning slaves, they thought that that was a choice that was up to the individual, and that every landowner should make his own choice, and if he decided to have slaves, then the Government was not going to inhibit his exercise of what they construed to be a right; a right of choice.

You know, the gentleman mentioned that it is unpopular in many, many quarters to be prolife. I think one reason that is the case is because things move in this body because of votes and because of people who go to cast their votes for or against politicians who have pleased or displeased them.

It is very difficult for an individual like MARK SILJANDER to go out and be an advocate for unborn children who have no votes, when there is an enormously powerful bloc of people who would make the other decision and go the other way who do have votes and who do have money and who do campaign against people like MARK.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman.

Mr. DORNAN of California. Mr. Speaker, I pictured people who are unable to visit us in this Chamber, but take advantage of watching us through other means; national technical means—NTM—and personally owned national technical means, and I pictured some of them suddenly looking at the set, turning up the volume when you said, that a Member, MARK SILJANDER, would suggest that other Members of Congress pray and fast.

Now, they know that we pray here; we begin every day with a prayer here and in the other body, but the thought of some Member asking other Members to fast I am sure jolts some people.

To show you how good-natured MARK was, he was sitting down here in the front row, shortly after the election, and feeling a little hurt and stunned, but that big smile was still there; and I said, "MARK, I figured out what did you in." I said, "It wasn't that little thing about calling for evil to be broken in your district that was so badly misinterpreted." I said, "Didn't you call for the people in your district to fast and pray?" He said yes. I said, "I think you violated a political rule. It's OK to ask Members to fast, and you can ask the people in your district to pray; the President asks us all the time to pray for peace," I said, "but I think we must never ask voters to fast. If you had said, 'Pray and feast' for my primary victory coming up, that would have turned the corner."

He laughed, he roared with laughter and he said, "Well, I'm relieved. Now I know what to correct the next time. I will tell them to kill the fatted calf and pray like all gangbusters, and I'll never again ask them to fast."

I am going to miss his great sense of humor and his self-effacing ability to humbly realize that we are all frail humans who walk and peep about and think that maybe we are creating bigger waves than we are. In the end, every talent, every little minuscule gift we have come from our Creator; and MARK was one of those that by his very lifestyle reminded us all that we are servants of the Lord and very, very lucky to be in the greatest parliament in the freest country that ever existed.

Mr. SWINDALL. Mr. Speaker, one of the remarkable things about MARK is, I am certain the gentleman was talking about people that are going and turning up their sets, many of them have probably never met, nor even seen MARK SILJANDER.

Perhaps the most incredible thing about MARK is, you just mentioned that he has had 14 consecutive election victories.

Mr. DORNAN of California. Going back to school.

Mr. SWINDALL. He served in this body for 5½ years; yet remarkably, he is only 35.

Mr. DORNAN of California. Right.

Mr. SWINDALL. So certainly if we sound as though we are euologizing a colleague, let me say very quickly for the record, this is certainly not a euology. MARK SILJANDER is a very young man with a very bright future.

Mr. HUNTER. Mr. Speaker, if the gentleman will yield, I agree with the gentleman completely; there is nobody who has a better intellect in this House than MARK SILJANDER, and more enthusiasm and more energy and more wherewithal to move this country or to move other governments; whether they are State or local or even if he should decide to become a part of the administration and work in the bureaucracy, MARK SILJANDER, has more opportunity ahead of him than the great majority of Congressmen who come through this door.

□ 2215

He was elected when, I think, he was 29, when we won that election to this body.

Mr. SWINDALL. He was one of the youngest Members of this body.

Mr. HUNTER. Absolutely, one of the youngest Members of Congress.

He is going to go places. We wish him well and we wish that great companion wife of his, Nancy, well.

Mr. DORNAN of California. And that red-headed baby.

Mr. HUNTER. And all the red-headed babies to come.

Mr. SWINDALL. I want to thank all of my colleagues who participated and say to MARK that certainly there were many, many others who, because of the peculiar schedule here tonight, many individuals have already gone home, but they have assured me that they are going to place their remarks in the RECORD.

I would just like to close by saying, MARK, I think we can all summarize what we have been saying here by the fact that, yes, we do love you, we love Nancy, but most importantly I think the greatest compliment that we can pay to you, MARK, is the fact that in your 5½ years in this body and even in your defeat this summer you have been a man who has watched your talk, and we thank you for that.

Mr. HALL of Ohio. Mr. Speaker, I rise to pay tribute to our friend and colleague from Michigan's Fourth District, MARK D. SILJANDER, who will be leaving the House of Representatives at the conclusion of the 99th Congress.

Few men in or out of public life have demonstrated the deep faith and conviction of MARK SILJANDER. His personal strength and courage are espcially rare in an elected official.

MARK has been led by deeply held personal beliefs that have often been challenging. The result has been an increased diversity of views represented in the Congress.

He has never been afraid to stand up for his views, and he has been unswerving in his efforts to improve our Government and our society.

MARK has been a steadfast defender of Israel and has frequently led the charge to protect the welfare of that nation. As a member of the Foreign Affairs Committee, he has been particularly effective in influencing U.S. policy to insure the safety of Israel.

As a man committed to the highest ideals of service, MARK has represented the people of Michigan with diligence and responsiveness. He has always sought the best for his constituents.

It has been an honor for me to be among MARK's friends, and I look forward to continuing that friendship in the future. Still, he will be missed in these Chambers, and the role he

has carved for himself as a spokesman for his faith is one not likely to be immediately filled.

I wish MARK the best of success in his future endeavors.

NOBEL PEACE PRIZE TO ELIE WIESEL

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, I, along with many of our colleagues, was pleased to learn yesterday that the Nobel Committee in Norway had chosen to award the Peace Prize for 1986 to Elie Wiesel. Mr. Wiesel, a professor at Boston University and author of more than 25 books, is truly a fitting recipient of the Nobel Peace Prize.

A survivor of the Nazi death camps, he had dedicated his life to keeping alive the memory of the victims. He considers himself a storyteller and his duty to bear witness. Through his eloquent words, both written and spoken, he pays homage to the millions who perished. His works are compelling and disturbing. He rivets our attention to the horrors that we would prefer to forget in the conviction that, in order to prevent another holocaust, we must never forget. Through his efforts as chairman of the U.S. Holocaust Memorial Council, he has ensured that all visitors to our Nation's Capital will be aware of the greatest example of man's inhumanity to man. In awarding the Peace Prize, the Nobel Committee said: "Wiesel is a messenger to mankind. His message is one of peace, atonement and human dignity."

Elie Wiesel is concerned not only with the injustices of the past but of the present as well. He was among the first to draw our attention to the plight of the Jewish minority in the Soviet Union, the world's third largest Jewish community. Over 20 years ago, he visited the U.S.S.R. and his then-silent Jewish brethren there. His play, "Zalman or The Madness of God", alerted the West to the conditions of Jews in the Soviet Union and their attempts to sustain their cultural and religious identity. He continues to work tirelessly in behalf of freedom for Soviet Jewry.

Mr. Speaker, the Nobel Committee has chosen wisely. Through the receipt of the 1986 Peace Prize, Elie Wiesel joins the ranks of Andrei Sakharov, Mother Teresa, Lech Walesa and Bishop Desmond Tutu and is rightly recognized as one of this century's greatest champions of human dignity and human rights. I am honored to pay him tribute.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LAGOMARSINO) to revise and extend their remarks and include extraneous material:)

Mr. MOORHEAD, for 60 minutes, today.

Mr. DREIER of California, for 60 minutes, today.

Mr. SWINDALL, for 60 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. WALKER, for 60 minutes, today.

Mr. GINGRICH, for 60 minutes, today.

Mr. LEACH of Iowa, for 5 minutes, October 17.

(The following Members (at the request of Mr. GAYDOS) to revise and extend their remarks and include extraneous material:)

Mrs. KENNELLY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FRENZEL, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,476.

(The following Members (at the request of Mr. LAGOMARSINO) and to include extraneous matter:)

Mr. GILMAN in three instances.
Mr. PASHAYAN.
Mr. MCDADE.
Mr. PORTER.
Mr. FRENZEL in five instances.
Mr. KEMP in two instances.
Ms. FIEDLER.
Mr. FISH in two instances.
Mr. DORNAN of California.
Mr. MADIGAN.
Mr. MCGRATH.
Mr. ROWLAND of Connecticut.
Mr. CRANE in three instances.
Mr. CARNEY.
Mr. BEREUTER.
Mr. LAGOMARSINO in two instances.
Mrs. BENTLEY in two instances.
Mr. CONTE in two instances.
Mr. WEBER.
Mrs. ROUKEMA.
Mr. FIELDS.
Mr. BOEHLERT.

(The following Members (at the request of Mr. GAYDOS) and to include extraneous matter:)

Mr. FASCELL in two instances.
Mr. ROE in two instances.
Mr. FORD of Michigan.
Mr. LANTOS.
Mr. MAZZOLI.
Mr. HAMILTON.
Mrs. SCHROEDER.
Mr. MORRISON of Connecticut.
Mr. COELHO.
Mr. HAYES in two instances.
Mr. WOLPE.
Mr. MARKEY.
Mr. BORSKI in two instances.
Mr. PICKLE.
Mr. SCHEUER.
Mr. FRANK.
Mr. MOAKLEY.
Mr. DYSON.
Mr. ATKINS.
Mr. YATRON.
Ms. OAKAR.
Mr. PEASE.
Mr. HAWKINS.
Mr. TORRES.
Mr. FLORIO in two instances.
Mr. TORRICELLI.
Mr. WHEAT.
Mr. LELAND.

ENROLLED BILLS AND A JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2067. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Co.;

H.R. 3113. An act to implement the Coordinated Operations Agreement, the Suisun March Preservation Agreement, and to amend the Small Reclamation Projects Act of 1956, as amended, and for other purposes;

H.R. 3352. An act to transfer certain real property to the city of Mesquite, NV;

H.R. 4175. An act to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission; and

H.J. Res. 753. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

ADJOURNMENT

Mr. SWINDALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 17 minutes p.m.), the House adjourned until tomorrow, Friday, October 17, 1986, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4337. A letter from the Deputy Assistant Secretary (Logistics and Communications), Department of the Air Force, transmitting notification of the Air Force's decision to study the conversion of several functions from civilian employees to private contractor performance, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

4338. A letter from the Assistant Secretary of the Army (Installations and Logistics), Department of Defense, transmitting a report of the recent discovery and emergency disposal of suspected chemical munitions at Dugway Proving Ground, UT, pursuant to 50 U.S.C. 1518; to the Committee on Armed Services.

4339. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, Department of State, transmitting a report on the extent to which the Government of Haiti is cooperating in: halting illegal emigration, imple-

menting U.S. development, food, and economic assistance programs, and improving human rights and political reforms, pursuant to Public Law 99-83, section 705(c) (99 Stat. 242); to the Committee on Foreign Affairs.

4340. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report of political contributions by Arnold Lewis Raphael, of New Jersey, Ambassador Extraordinary and Plenipotentiary of the United States-designate, to the Islamic Republic of Pakistan, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4341. A letter from the Assistant Secretary for Administration, Department of Transportation, transmitting notification of a proposed new system of Federal records relating to telephone station message detail, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. BOGGS: Commission on the United States House of Representatives bicentenary report of the Commission on the Bicentenary of the U.S. House of Representatives (Rept. 99-1008). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. Report on projects for sustainable development in sub-Saharan Africa (Rept. 99-1009). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. H. Res. 597. Resolution providing for taking from the Speaker's table the bill H.R. 5484 to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, concurring in the Senate amendment to the House amendment to the Senate amendment with an amendment, and for other purposes. (Rept. 99-1010). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. H. Res. 598. Resolution providing for taking the concurrent resolution H. Con. Res. 395 to correct technical errors in the enrollment of the bill H.R. 3838, from the Speaker's table with the Senate amendments and disposing of the Senate amendments. (Rept. 99-1011). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 5717. A bill to promote economic competitiveness in the United States, and for other purposes; jointly, to the Committees on Science and Technology, Education and Labor, Ways and Means, and Banking, Finance and Urban Affairs.

By Mr. CRANE:

H.R. 5718. A bill to require that the U.S. Government prepare and make public annual consolidated financial statements utilizing the accrual method of accounting, and for other purposes; to the Committee on Government Operations.

By Mr. DORNAN of California:

H.R. 5719. A bill to amend the Export Administration Act of 1979 to allow gifts of not less than $400 to be exported under a general license; to the Committee on Foreign Affairs.

By Mr. LEVIN of Michigan (for himself, Mr. GEPHARDT, Mr. MURTHA, Mrs. KENNELLY, Mr. MACKAY, Mr. SPRATT, Mr. OBERSTAR, Mr. DURBIN, Ms. KAPTUR, Mr. ATKINS, and Mr. SEIBERLING):

H.R. 5720. A bill to improve and establish Federal programs concerning unemployment compensation, job training and retraining, and other matters relating to employment and unemployment; jointly, to the Committees on Ways and Means, and Education and Labor.

By Mr. McDADE:

H.R. 5721. A bill to require the Secretary of the Treasury to establish a national lottery and to provide that not less than 50 percent of the receipts from such lottery be used to reduce the Federal debt; to the Committee on Ways and Means.

By Mr. MARKEY:

H.R. 5722. A bill to amend the copyright law to secure the rights of artists of pictorial, graphic, or sculptural works to prevent the distortion, mutilation, or other alteration of such works, to provide for resale royalties, and for other purposes; to the Committee on the Judiciary.

By Ms. OAKAR (for herself and Mr. SIKORSKI):

H.R. 5723. A bill to provide that a demonstration project be conducted to determine the feasibility and desirability of providing benefits relating to certain social and long-term health services under the Federal employees health benefits program; to the Committee on Post Office and Civil Service.

By Mr. PEASE:

H.R. 5724. A bill relating to the enforcement of the Steel Import Stabilization Act; to the Committee on Ways and Means.

By Mr. PORTER:

H.R. 5725. A bill to provide that the disaster relief personnel of the Small Business Administration shall be treated as performing essential services for purposes of allowing such Administration to operate for temporary periods without budget authority; to the Committee on Small Business.

By Mr. RICHARDSON:

H.R. 5726. A bill to establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STALLINGS (for himself, Mr. WEAVER, Mr. LOWRY of Washington, and Mr. WYDEN):

H.R. 5727. A bill to enable certain States affected by the siting of repositories for high-level radioactive waste to participate in the site selection, review, and approval process, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Energy and Commerce.

By Mr. WORTLEY:

H.R. 5728. A bill to authorize national banks to trade in precious metals; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RODINO:

H. Con. Res. 414. Concurrent resolution to correct the enrollment of the bill S. 1200; considered and agreed to.

By Mr. GARCIA (for himself and Mr. GREEN):

H. Res. 599. Resolution congratulating human rights activist Elie Wiesel on being chosen the 1986 recipient of the Nobel Peace Prize; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 77: Mr. TRAFICANT, Mr. YOUNG of Missouri, and Mrs. JOHNSON.

H.R. 214: Mrs. BYRON.

H.R. 1345: Mr. LOWERY of California and Mr. MACK.

H.R. 1632: Mrs. BURTON of California.

H.R. 1633: Mrs. BURTON of California.

H.R. 1634: Mrs. BURTON of California.

H.R. 1668: Mr. SABO and Mr. FISH.

H.R. 3582: Mr. COURTER.

H.R. 3599: Mr. SHUMWAY.

H.R. 4439: Mr. WISE.

H.R. 4523: Mr. BARTON of Texas and Mr. BUSTAMANTE.

H.R. 4831: Mr. CARPER.

H.R. 5021: Mr. VENTO, Mr. CHAPMAN, Mr. ROBINSON, Mr. LIPINSKI, Mr. HUCKABY, Mr. STALLINGS, Mr. ANDREWS, Mr. BUSTAMANTE, Mr. GEKAS, Mr. CRAIG, and Mr. ARMEY.

H.R. 5062: Mr. EMERSON and Mr. DAUB.

H.R. 5196: Mr. ROBERT F. SMITH and Mr. PACKARD.

H.R. 5509: Mr. MILLER of Washington.

H.R. 5510: Mr. MYERS of Indiana, Mr. DURBIN, Mr. SKELTON, Mr. HORTON, Mr. ERDREICH, Mr. OWENS, Mr. WEISS, Mr. BRYANT, Mr. ATKINS, Mr. REID, Mr. LIPINSKI, Mr. MCKERNAN, Mr. MANTON, Mr. PRICE, Mr. PERKINS, Mr. PEPPER, Mr. SMITH of Florida, Mr. LEVIN of Michigan, Mr. RICHARDSON, Mr. LEHMAN of California, Mr. COLEMAN of Texas, Mr. CHAPPIE, Mr. RANGEL, Mr. WHEAT, Mr. FEIGHAN, Mr. MARTINEZ, Mr. COELHO, Mr. CHANDLER, and Mr. COATS.

H.R. 5600: Mr. WHITEHURST, Mr. ROSE, Mr. DAUB, Mr. DE LUGO, Mr. LEHMAN of California, Mr. OWENS, and Mr. BONIOR of Michigan.

H.R. 5608: Mr. FISH and Mrs. JOHNSON.

H.R. 5642: Mr. STANGELAND.

H.R. 5661: Mr. VENTO and Mrs. BOXER.

H.R. 5698: Mr. ATKINS.

H.J. Res. 167: Mr. ORTIZ.

H.J. Res. 638: Mr. COATS, Mr. ANTHONY, Mr. GEJDENSON, Mr. CAMPBELL, Mr. CHANDLER, Mr. CARPER, Mr. DAVIS, Mr. HUBBARD, Mr. WAXMAN, Mr. TALLON, Mr. GEPHARDT, Mr. DERRICK, Mr. APPLEGATE, Mr. LUNDINE, Mr. MCMILLAN, Mr. LENT, Mr. HOPKINS, Mr. FOGLIETTA, Mrs. KENNELLY, Mr. FORD of Tennessee, Mr. GUNDERSON, Mr. OBERSTAR, Mr. RODINO, Mr. SILJANDER, Mr. ZSCHAU, Mr. WIRTH, Mr. PARRIS, Mr. FLORIO, Mr. WALGREN, Mr. HANSEN, Mr. ROBERT F. SMITH, Mr. TORRICELLI, Mr. WOLPE, Mr. DE LUGO, and Mr. ST GERMAIN.

H.J. Res. 703: Mr. COELHO, Mr. DANNEMEYER, Mr. FAZIO, Mr. HORTON, Mr. LEVIN of Michigan, Mr. LIPINSKI, Mr. MINETA, Mr. ROBERTS, and Mr. SUNIA.

H.J. Res. 706: Mr. CARR, Mr. DINGELL, and Mr. ANDERSON.

H. Con. Res. 15: Mr. MCHUGH and Mr. WISE.

H. Con. Res. 54: Mr. MCHUGH.

H. Con. Res. 334: Mr. MARKEY.

H. Con. Res. 351: Mr. WALDON and Mr. MACKAY.

H. Con. Res. 407: Mr. TOWNS, Mr. BURTON of Indiana, Mr. LUKEN, Mr. HAYES, Mr. LENT, and Mr. SMITH of Florida.

H. Con. Res. 408: Mr. SMITH of Florida, Mrs. KENNELLY, Mr. OWENS, Mr. FORD of Michigan, Mr. FAZIO, Mr. CONYERS, Mr. PURSELL, Mr. GUARINI, Mr. COELHO, Mr. TAUKE, Mr. HUGHES, Mr. LEVIN of Michigan, Mr. WOLPE, and Mr. HOYER.

H. Res. 564: Mr. FUQUA, Mr. SMITH of Florida, Mr. FEIGHAN, Mr. HOWARD, and Mr. DE LA GARZA.

SENATE—*Thursday, October 16, 1986*

(Legislative day of Tuesday, October 14, 1986)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Mighty God, Ruler of history, Lord of the nations, I confess we have been so secularized that we do not believe in miracles anymore. But gracious God, I pray for a miracle on Capitol Hill. You know what is frustrating the best intentions and earnest efforts of the leadership to bring the 99th Congress to adjournment sine die. Whatever it is, Lord, do what God alone can do, work a miracle. Dissolve resistance, break deadlocks, generate movement, eliminate roadblocks. Be God in this place. Be glorified in our midst. Help burdened Senators who have so few days left to wrap up their campaigns successfully. Provide the rest so sorely needed by Your weary servants. Hallowed be Thy name. Thy kingdom come, Thy will be done on Earth as it is in heaven. Through Jesus Christ our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, of Kansas, is now recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, the senior Senator from South Carolina, the President pro tempore, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, today ought to be a big day. I will say at the outset it seems to me we have many opportunities in line with the prayer this morning to maybe not have a miracle but we might almost complete our action today.

I would hope we could do the immigration conference report first thing, after we do a little short continuing resolution so the Government will not shut down at noon, and we need to do that hopefully between now and 9:30 a.m.

Then I am still going to believe that Senator PACKWOOD will get unanimous consent to do his little concurrent resolution to take care of some of the errors to make corrections in the tax bill. I would urge my colleagues to give Senator PACKWOOD that agreement.

There are 31 States involved in that little agreement. It means a great deal to many of our colleagues on both sides of the aisle. It is not a partisan matter at all.

I would urge my colleagues who wait for these opportunities to gain an extra ounce of flesh that they just back off and let us proceed with our work. There will be other opportunities, I would think, for those who feel constrained to always be there to see if they cannot leverage one more amendment before we adjourn.

So I would hope that Senator PACKWOOD can reach that agreement. It is important. I have had Senators on both sides say what can we do. I said we can talk to our colleagues and tell them not to insist on offering amendments, or whatever, but that I think will be up again.

Reconciliation is still mired down with two or three provisions. I am not certain that will be worked out.

We do have the continuing resolution conference report and the clean water conference report. The debt limit conference report has not yet come over.

But aside from the continuing resolution conference report, I do not think anything is going to take any great deal of time.

So I am prepared as soon as we can, and again I want to thank my colleagues for all their cooperation on the antidrug bill. It seemed yesterday that we were going to be bogged down again on that. Cloture was not invoked. It probably did not make a great deal of difference about the cloture vote. The important thing was that members of our staff, Republicans and Democrats, went off and sat down and worked it out in a matter of 2 hours and passed on a voice vote last night a $1.7 billion Antidrug Program that I believe is a very credible program.

Some people did not get all they wanted. Some would insist on the death penalty. I thought the voluntary tax checkoff was a good idea, but in my view the better idea was to pass the drug bill, and that was also the view of the distinguished Presiding Officer, who is the chairman of the Judiciary Committee, who indicated that next year we will have another opportunity to vote on some of the matters that we were not able to complete last evening.

PUBLIC SUPPORTS REAGAN ON REYKJAVIK MEETING

Mr. DOLE. Mr. President, last week I suggested to the press and broadcast media that, with all the handwringing over a captive American soldier of fortune, they were missing the real story of a Marxist nightmare in Nicaragua. Now, if I may quote the President: "There you go again."

For the past few days, all of us have been subjected to screaming headlines about the "collapse" of the Reykjavik talks because of—and I will quote a typical line from the press—"Because of the President's refusal to give up star wars." That was the headline. But while the headline writers have been busy at their work, some far more important things have been going on.

First, the President gave us an authoritative, comprehensive account of what really happened in Reykjavik. Other administration officials—including the Secretary of State, came up here 2 days ago and provided additional details of the talks. They set straight a record that the media had gotten very, very wrong.

Then the Geneva arms control talks resumed, right on schedule, and with the full participation of the Soviet delegation and, of course, our own delegation, and the Soviet side arrived back in Geneva amid reports that the "official Politburo position" in Moscow was that the door was still open for progress on arms control.

And now, last evening, we begin to get the returns in on what the American people believe about the Iceland presummit meeting. As usual, the public seems to be taking in what happened with a great deal more calm, perspective, and a great deal more common sense than we have seen in the press and—sad to say—from some people up here on Capitol Hill.

Here is what the brandnew ABC-Washington Post poll tells us: Do the American people approve of the President's handling of the Reykjavik talks? Some 64 percent say yes, while only 22 percent say no. Three times as many support the actions the President took as oppose them.

What about Gorbachev's role? The headlines say the President's position on SDI sunk an accord. But the people, thank goodness, know better. Only 16 percent of those polled indicated the President should shoulder the blame. Four times as many—four times as many—put the blame where it belongs: on Gorbachev's doorstep.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

And what about SDI? The media would have you believe that SDI's only supporters live at 1600 Pennsylvania Avenue. But the polls say otherwise. Nearly three out of five of all respondents characterized SDI as "essential" to the United States—essential, meaning, you do not give it away just so you can get Gorbachev's signature on some kind of agreement.

Mr. President, last week, in discussing arms control issues, I asked the Congress to "let the President be the President." Today, I want to add: Thank goodness that the American people are being the American people—wise, tough and, as always, united behind their President.

Finally, Mr. President, I would like to include in the RECORD results from public opinion polls taken by the Wall Street Journal and the New York Times.

When asked by the Wall Street Journal: "Do you think Ronald Reagan should have made concessions on star wars so that a formal agreement could have been reached; or don't you think so?" 31 percent said he should have made concessions, while 60 percent said he should not have.

The New York Times asked who was to blame for the summit failure. Of those polled, 17 percent blamed President Reagan, 44 percent blamed General Secretary Gorbachev.

I ask unanimous consent that the previously mentioned articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 16, 1986]

PUBLIC BROADLY BACKS REAGAN'S SUMMIT STANCE, POLL SHOWS, SUGGESTING PUBLICITY BLITZ WORKED

(By Albert R. Hunt and Jane Mayer)

WASHINGTON.—President Reagan wins impressive public support for his performance at the Iceland summit, according to a new Wall Street Journal/NBC News poll, suggesting a smashing success for the administration's unprecedented public-relations blitz.

More than 70% of the public approves both the general way the president handled his meeting with Soviet leader Mikhail Gorbachev and his specific refusal to limit the U.S.'s Strategic Defense Initiative. Even when asked specifically if Ronald Reagan should have made "concessions" so that a formal agreement with the Soviets could have been reached, 60% said no.

What's especially remarkable about this support is that initially the summit was viewed as a failure and a disappointment, both by administration officials and the media, since the negotiations broke down at the end. But after early expressions of disappointment, even anger, the Reagan administration decided to declare a victory and has worked relentlessly and effectively the past three days to spread that idea.

Flying back last Sunday night from Iceland, top Reagan advisers decided they shouldn't return "with our tails between our legs, acting like we just lost the World Series," recalled White House chief of staff Donald Regan. "We made a conscious decision on Monday morning at the White House, let's tell everybody how far we got."

Mr. Regan made these remarks in a lunch at the Wall Street Journal's Washington bureau yesterday, one of dozens of sessions with the media this week, most of which he initiated. And Secretary of State George Shultz yesterday went on a whirlwind selling job in New York, meeting with top news executives of the three television networks, the New York Times and this newspaper.

IMPLICATIONS FOR POLICY

The upshot is that the Reagan White House has taken a potential political and policy disaster and turned it into a near-term triumph. This may have substantive policy implications, in that initially it appeared the president would be under heavy pressure at home and from European allies to go back and make concessions to get a deal with the Soviets. It's now clear, however, that won't be the case at least in the short run.

Instead, the public appears to strongly support the president's decision to reject a Soviet offer to make deep reductions in long-range and intermediate-range nuclear weapons in return for severe constraints on the development of the futuristic SDI.

Whether this public support actually translates into Republican gains in the congressional elections in less than three weeks is less certain. Democrats insist it won't. Yesterday, House Speaker Thomas O'Neill (D., Mass.) said it would only have a "relatively small" effect, and Rep. Tony Coelho (D., Calif.), who runs the Democrats' House campaign committee, said he has gotten only seven inquiries from candidates about how to handle the summit issue.

But top GOP political strategists, who only three days ago saw political peril, now see possible gains. Yesterday, campaigning for Maryland Senate candidate Linda Chavez, the president charged it would be a "terrible tragedy" if congressional Democratic critics cut funds for the Strategic Defense Initiative, popularly known as Star Wars, and "hand over to the Soviet Union free of charge what we refused to hand over across the negotiating table in Reykjavik."

Privately, top Republican politicians are considering trying to make the summit and support for Star Wars an important national theme in the closing days of this campaign. Yesterday, in another White House-arranged session with reporters, Richard Wirthlin, the president's pollster, suggested Mr. Reagan will "talk about the summit as he continues to campaign" and that, this will help Republican candidates.

To be sure, the poll was taken only a day after the president's nationally televised address Monday night, and thus some drop-off in support seems inevitable. But the Reagan support starts from a high base.

RELATIONS WITH SOVIETS

By better than 4-to-1 margins, the Wall Street Journal/NBC News poll shows the public approves of the president's actions at the summit. Support for the way he handles relations with the Soviets showed a modest but significant rise from pre-summit levels; 60% of the public believes that as a result of the summit, relations with the Soviets will stay the same, 26% think relations actually will get better and only 9% think they'll get worse.

The president's Star Wars initiative also fares well in this survey. Fully 60% say they favor the development of Star Wars, with only 26% in opposition. Further, 53% of the public think it's important to elect members of Congress who'll back the president on Star Wars.

It appears, however, that the public isn't as optimistic as the president about the political benefits of his antimissile defense research program. Mr. Reagan contends Star Wars can make nuclear weapons obsolete, but according to the Wall Street Journal/NBC News poll the public, by a 58% to 23% margin, rejects that contention.

'EXTRAORDINARY GAINS'

The reversal in White House psychology was dramatically evident in Donald Regan. On Sunday, after the summit ended, the White House chief of staff angrily assailed the Soviets, charging the outcome "shows them up for what they are." But at lunch yesterday he confidently spoke of the "extraordinary gains" made in last weekend's negotiations and suggested "this period is really a pause or an interlude in the negotiations."

Separately, White House communications chief Patrick Buchanan crowed that the extraordinary public-relations effort "is working. It doesn't have to be all that complex. The average guy doesn't know about INF (intermediate-range nuclear forces). All he knows is that the Russians wanted us to give up SDI, and Dutch Reagan said blankety-blank, no way. That's the level it's on for the average guy.

"By the end of the week, it's going to be the Triumph of Reykjavik," Mr. Buchanan predicted.

Certainly, the administration is sparing no effort toward that goal. Even the stolid, secretive National Security Adviser John Poindexter has been trotted out from one media event to another. Coming home from Iceland on Air Force One Sunday night, he briefed reporters for more than an hour; on Tuesday he held sessions with two more groups; and yesterday he appeared on NBC's "Today" TV show and gave an interview to a group of British, French, German, Turkish and Norwegian TV stations.

"Hey you know," Donald Regan cracked, noting Adm. Poindexter's new high profile, "a star is born."

[From the New York Times, Oct. 16, 1986]

FIRST REACTION: POLL SHOWS ARMS-CONTROL OPTIMISM AND SUPPORT FOR REAGAN

SUMMIT AFTERMATH: WHAT THE PUBLIC THINKS

(By Adam Clymer)

The American public's initial reaction to the Reykjavik summit meeting is quite supportive of President Reagan and very optimistic about the future of arms control, a New York Times/CBS News Poll shows.

But there was no indication in the survey that this support had translated into advantages for Republicans in the November elections. Voting preferences among the 767 Americans interviewed by telephone Tuesday and on Wednesday morning were unchanged from the views of those same respondents two weeks earlier.

Public reactions may deepen or swerve as the issue is debated, but the survey suggested that Mr. Reagan had, at the least, put his stamp on the first impressions in the mind of an American public that rarely focuses intently on foreign-policy issues.

The poll was conducted as Administration officials, after President Reagan's nationally broadcast speech Monday night, have been offering their view of events through dozens of newspaper and television inter-

views in what they describe as one of their most intense public-relations campaigns.

REAGAN POPULARITY REPORTED UP

Yesterday, continuing that effort, Secretary of State George P. Shultz visited the New York Times, and Richard B. Wirthlin, Mr. Reagan's poll taker, said overall approval of Mr. Reagan's handling of his job had jumped from 64 percent among 1,000 people interviewed Oct. 9 and 10 to 73 percent among 500 interviewed on Oct. 14.

In the Times-CBS News Poll, 44 percent said the blame for the failure of the meeting to produce an arms-control agreement rested on Mikhail S. Gorbachev, the Soviet leader, and only 17 percent blamed both, 4 percent neither and the rest had no opinion. The poll had a margin of sampling error of plus or minus four percentage points.

Moreover, only 20 percent said the President "should have given up the Strategic Defense Initiative—'Star Wars'—in order to get Gorbachev to agree to a big reduction in Soviet and U.S. nuclear weapons," while 68 percent sided with Mr. Reagan and said he should not.

OPTIMISM ON ARMS ACCORD

The most striking single comparison with past surveys emerged from the answers to the question: "Even though no agreement was reached at the Iceland summit, do you think that meeting will eventually lead to real arms-control agreements, or not?

Fifty-seven percent said such agreements would result, and 31 percent said they would not.

Past Times/CBS News Polls, including those taken around the summit meeting last November in Geneva, had never found more than two Americans in five optimistic. In January 1986, 41 percent said the Geneva meeting would lead to agreements, and 47 percent said it would not.

Another important comparison showed 72 percent approving of Mr. Reagan's handling of relations with the Soviet Union, up from 61 percent in a Sept. 28-Oct. 1 Times/CBS News Poll. Approval by women increased very sharply, from 58 percent in the earlier poll to 69 percent in this one.

Although the public blamed Mr. Gorbachev much more than Mr. Reagan for the outcome in Reykjavik, its confidence in the Soviet leader's desire for arms control was unchanged. In the poll two weeks ago, 33 percent said they thought he "wants an arms-control agreement enough to make real concessions to the United States in order to get it." This time, 34 percent said that.

But the poll clearly indicated that the public support and optimism were making no difference yet in the November election races. Asked if they preferred or leaned toward the Democrat or Republican House candidate in their district, prospective voters in the sample divided, 48 to 46 percent, for the Democrats. Two weeks ago, this same group preferred Democrats, 47 to 46 percent; the difference is not statistically significant.

And although 12 percent of the probable electorate said yes when asked if the events in Iceland would "make a difference in how you vote this fall for Congress," among that group only 3 percent, or 15 individuals, reported a different voting intention than they offered two weeks earlier. Five were switching from Republican to Democrat, and five from Democrat to Republican; two went from Republican to "don't know" and two from Democrat to "don't know" or other, and one went from "don't know" to Republican.

The respondents were also asked which party they would like to see control the Senate. The prospective voters divided, 47 to 42 percent, for the Democrats. The entire probable electorate in the Sept. 28-Oct. 1 poll preferred the Democrats by only 43 to 42 percent, and the particular respondents who were reached in the poll this week had wanted a Democratic Senate by a margin of 45 to 41 percent. For these respondents there was thus no statistically significant change.

FOREIGN AFFAIRS OF LITTLE INTEREST

Two key reasons for what was apparently the lack of political impact was measured in questions asked in the earlier poll. When asked if the main reason for a vote for a House candidate was a national issue, a state or local issue, the candidate's character or experience, only 5 percent of the probable electorate gave answers related to foreign affairs or the military. Even when asked what was the most important problem facing the nation, only 30 percent gave such answers.

Still, this issue, and the intense publicity it is getting, has a political potential because of the breadth of support for Mr. Reagan.

In almost all population groups, more than twice as many blamed Mr. Gorbachev as blamed the President for the lack of an agreement in Reykjavik. Blacks, however, were about evenly divided. But 39 percent of Democrats, for example, blamed the Soviet leader, and only 22 percent of them blamed Mr. Reagan.

The poll also demonstrated continued, and perhaps stronger, confidence in the Strategic Defense Initiative, or "Star Wars" plan. Sixty percent said they believed it was likely to work, while 21 percent said it would not. When a similar question was asked before the Geneva summit meeting, 58 percent said the system was likely to work but 27 percent said it would not.

The belief that the Iceland meeting would eventually lead to real arms agreements also did not vary greatly among different groups. Republicans (62 percent of whom believed) and college graduates (65 percent of whom did) were most optimistic. Blacks and those with less than a high school education or family incomes under $12,500 a year and those who live in small towns were least optimistic, although in all those groups more respondents expected an eventual agreement than did not.

A majority said they felt Mr. Reagan wanted arms control enough to make concessions to the Soviet Union to achieve it. Fifty-three percent felt that way, and 37 percent disagreed.

Along with the question that found that 34 percent believed Mr. Gorbachev wanted an agreement enough to make concessions, the survey found that 51 percent of the public said that both leaders were equally interested in negotiating an arms pact. Thirty-five percent said Mr. Reagan was more interested, and 9 percent said Mr. Gorbachev was. All three groups were about equally optimistic about an eventual agreement.

HOW THE POLL WAS CONDUCTED

The latest New York Times/CBS News Poll is based on telephone interviews conducted Oct. 14 and 15 with 767 adults around the United States, excluding Alaska and Hawaii.

The people who were called were randomly selected from two-thirds of the 1,525 people interviewed in a poll conducted from Sept. 28 to Oct. 1, a process that permitted precise examinations of shifts in opinion. The earlier 1,525 were called from a sample of telephone exchanges selected by a computer from a complete list of exchanges in the country. The exchanges were chosen so as to insure that each region of the country was represented in proportion to its population. For each exchange, the telephone numbers were formed by random digits, thus permitting access to both listed and unlisted residential numbers.

The results have been weighted to take account of household size and number of residential telephones and to adjust for variations in the sample relating to region, race, sex, age and education. Some election-related findings are reported in terms of an overall "probable electorate," which uses responses to questions dealing with voter registration, past voting history and the likelihood of voting in 1986 as a measure of the probability of particular respondents' voting in November.

In theory, in 19 cases out of 20 the results based on such samples will differ by no more than 4 percentage points in either direction from what would have been obtained by interviewing all adult Americans registered to vote. The error for smaller subgroups is larger. For example, for men or women, the margin of sampling error is plus or minus five percentage points.

In addition to sampling error, the practical difficulties of conducting any survey of public opinion may introduce other sources of error into the poll.

[From the USA Today, Oct. 16, 1986]

POLLS GIVE REAGAN HIGH REYKJAVIK RATING

The White House is touting polls that show its public relations blitz on the Reykjavik summit is paying off. "The more people know about what happened in Iceland, the more they support the president," said Reagan's pollster, Richard Wirthlin. His numbers: Reagan's approval rating—64 percent before the summit—jumped to 73 percent Tuesday; 75 percent think Reagan's Strategic Defense Initiative ("star wars" missile defense system) is a good idea, 23 percent say it's a bad idea. It was 62- to 36-percent approval before the summit. Other polls:

41% say summit was a failure, 30% say it was successful; 55% support SDI—Business Week/Harris Poll.

44% blame Soviet leader Mikhail Gorbachev for no agreement, 17% cite Reagan. 68% agree Reagan shouldn't give up SDI for big reductions in nuclear weapons, 20% disagree—CBS New/New York Times.

64% approve of Reagan's handling of summit; 22% disapprove—ABC News/Washington Post.

[From the Washington Post, Oct. 16, 1986]

REAGAN UNDAMAGED BY SUMMIT

(By John M. Goshko)

More than 60 percent of Americans approve of President Reagan's handling of relations with the Soviet Union, including his stance at the Reykjavik summit, according to a Washington Post-ABC News poll. But 49 percent also believe that he could do more to further nuclear arms control.

The poll, conducted Tuesday, indicates that the failure of Reagan and Soviet leader Mikhail Gorbachev to break the arms-control impasse will not significantly affect the Nov. 4 congressional elections.

Of those polled, 78 percent said the summit would make no difference in how

they vote, while 10 percent said they were more likely to vote Democratic and 9 percent said the summit was likely to turn them toward the Republican column.

Poll results were based on 768 interviews in different parts of the country, and their accuracy is subject to a variation of 4 percentage points in either direction.

The poll showed that 64 percent approved of Reagan's handling of the summit, while 22 percent disapproved. Similarly, 55 percent backed his decision not to accept limits on the Strategic Defense Initiative, with 16 percent dissenting and 27 percent saying they did not know enough about the space-based missile defense to have an opinion.

Responses to other questions directly related to the summit showed that 53 percent believe that Gorbachev was more to blame for the failure to reach an arms accord, while 16 percent said Reagan should be blamed.

Reagan was described as the better negotiator by 55 percent, while 15 percent said that distinction belonged to Gorbachev and the other respondents either had no opinion or said the leaders demonstrated equal negotiating ability.

In assessing the impact of the summit's failure to produce an agreement, 55 percent said the fact that Reagan and Gorbachev came close was a step forward, but 36 percent described it as a step backward.

The poll gave Reagan an approval rating of 62 percent for his overall handling of U.S.-Soviet relations, and 74 percent said they believe that the president seriously seeks progress in arms control. These figures were relatively consistent with Reagan's ratings on the same questions in other polls over the last year.

But the question of whether he has done as much as he should to limit nuclear arms buildups caused a sharp division among respondents, with 49 percent saying he has not and 42 percent endorsing his accomplishments. Other polls taken periodically since 1982 have reflected a similar division.

The poll indicated that 44 percent think Gorbachev wants arms-control progress, while 47 percent suspect his motives. Eleven months ago, a Washington Post-ABC News poll showed 56 percent believing that Gorbachev was sincere about arms control, while only 35 percent mistrusted him.

□ 0910

SENATOR GARY HART

Mr. DOLE. Mr. President, I wish to make a statement on another one of my neighbors, another one of my colleagues, in fact, a colleague who was born in Kansas, who may be spending his last week in the Senate—he is retiring—Senator GARY HART.

Senator HART has taken unique approaches in dealing with many of the pivotal issues of our time. While some are willing to rely on well-worn solutions to our problems, GARY has had the courage to explore and offer new solutions. Whether it was military reform, arms control, or education, Senator HART has provided this body and the Nation with food for thought.

Success in this institution should not be measured merely by the number of bills passed. There is success in prodding Members to looking at new and different directions, and that Senator HART has done time and time again.

I look forward to hearing about and from Senator HART in the coming months. Who knows, two native Kansans may just happen to bump into each other on the road to 1988. The other Kansan, of course, being Senator KASSEBAUM. [Laughter.]

But, in any event, I say to my friend and my neighbor from Colorado, and a native born Kansan, I again say with pride, that I wish Senator HART well. He is a man of great wisdom, integrity, and character. Whatever he may do, I wish him almost complete success. [Laughter.]

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The able and distinguished acting Democratic leader, Senator PROXMIRE, is now recognized.

WHY SDI WILL WEAKEN THIS COUNTRY'S MILITARY STRENGTH

Mr. PROXMIRE. Mr. President, if this Congress decides to go ahead with the strategic defense initiative [SDI] or star wars, how much will it cost? And where is that money coming from? The testimony before the Appropriations Committee has produced not even a ballpark estimate of SDI costs from the administration. Their answer when asked is that they don't know what the cost will be.

Mr. President, in my 25 years on the Appropriations Committee I can recall no other major program—none—where an administration called for a major program, secured billions of dollars of appropriations for it and could not even give a rough estimate of how much it would cost to complete. It is even worse that the committee has permitted Congress to get away with this.

General Abrahamson, the Director of SDI, has told the Appropriations Committee that it is "too early to tell." Defense Secretary Weinberger has said that it will be some time before the administration can make a judgment on the extent and even the nature of the strategic defense initiative. That will be essential to any useful judgment on the project's cost. And yet Secretary Weinberger insists that SDI will be a nationwide defensive system designed to protect our cities and the great bulk of our population. The Secretary has repeatedly denied that SDI will be scaled back to simply provide protection for our missile sites and command centers. Mr. President, this is outrageous. Our taxpayers have every right to know how much SDI can be expected to cost. The Congress is appropriating $3½ billion for research for SDI for the fiscal year that began October 1. That brings SDI costs to more than $9 billion already appropriated and we still don't know where we are going with this project or what the ultimate cost will be. We do know we will be called on by the administration to appropriate sharply increasing sums in coming years. This money will be largely wasted if the Congress determines 5 or 6 years from now that the tens of billions required every year is simply too much.

So if the administration draws a blank, where can the Congress go to get some notion of what this burden is likely to be? The Appropriations Committee has turned to former Defense Secretaries as military experts and to outstanding scientists. How do they estimate the cost? Former Secretaries Schlesinger, Brown, and McNamara have weighed in at about a trillion dollars. The magazine Physics Today representing the experts in the most relevant scientific discipline for SDI estimates the cost at $2 trillion. Former Defense Secretary Brown who is a world class physicist and who has served as the Director of the Livermore Weapons lab where much of the advance work for SDI has been done has given us a further insight into the cost of SDI. He estimates that the perpetual annual cost of maintaining and modernizing star wars after we deploy it will range from $100 to $200 billion per year in 1986 dollars. So we might expect to spend roughly one-third or more of the defense budget per year to keep star wars operating.

Now, Mr. President, all of us in the Congress are well aware of the great pressure to hold down spending. In the past year the pressure has been especially strong to hold down military spending. So where would this $100 to $200 billion per year come from? Isn't it obvious? It almost certainly would come from other military spending. This would mean a roughly one-third slash in spending for the Army, Navy, and Air Force. It would require a sharp reduction in our military personnel. It would mean we would have to forgo the dream of a 600- or even a 500-ship Navy. We would have to scrap our plans to modernize and improve our submarine fleet. It would mean no new aircraft carriers. We would curtail our plans to improve our fighter planes and bombers. We would have to cut back the advanced weapons for our Marines. A proportionate allocation of the one-third cutback would knock out a third of this country's military bases. We would have to withdraw a large segment of our military forces from the NATO command in Europe. We would cut severely into the funding of our vital National Guard and Reserve Forces. Is there any doubt that overall we would have to weaken this country's military force and severely

weaken it? And we would have to do all of this without any corresponding reduction in the military capability of our prime adversary—the Soviet Union?

Mr. President, previously this Senator asserted on the floor of the Senate that Secretary Gorbachev might very well want the United States to proceed with SDI. Why? Because he knows that he can almost certainly overwhelm it and because he knows that SDI will weaken this country's overall military capability. Mr. President, anyone who has served in this Congress long enough to know what a fiscal bind we are in, anyone who knows the pressure the Congress is under to cut costs, anyone who understands how that pressure will concentrate on holding down military spending, must know that, whether Mr. Gorbachev knows it or not, we will serve the interests of the Soviet Union and disserve the interests of our country if this Congress insists on moving ahead as the administration has asked us to do with SDI.

MYTH OF THE DAY: REHNQUIST COURT WILL BE DIFFERENT

Mr. PROXMIRE. Mr. President, the myth of the day is that the new "Rehnquist Court" will somehow be radically different from its predecessor, the "Burger Court."

This is a myth, pure and simple. Those who propagate this myth are overlooking two basic facts.

First, William Rehnquist has been a member of the Supreme Court for many years. He is not a new arrival on the Court. He has been handing down decisions over the years, and the direction and substance of his views are well known.

Will Justice Rehnquist's views suddenly change now that he has been elevated to the position of Chief Justice of the United States? No. We can logically expect the Rehnquist positions and opinions to remain basically the same, regardless of the fact that he is now the Chief Justice. As a result, there will be no radical change brought about by the movement of Justice Rehnquist to fill the post of Chief Justice. Things will remain pretty much the same on that score.

Second, how about Judge Scalia as a substitute for Warren Burger on the Supreme Court? Here again, little change in the Court's direction can reasonably be anticipated. After all, Judge Scalia comes to the Supreme Court with a well-known background. He has a track record, and it shows that he is and will very likely remain a conservative jurist. Exactly the same can be said regarding the recently departed Chief Justice, Mr. Burger. Once again, there is what might be called an even exchange: Scalia for Burger, one conservative for another.

So, what we have here, Mr. President, is a Supreme Court that will simply give us more of the same. Mr. Rehnquist is still there, and he will be handing down decisions that follow a well-worn path. He represents a constant. And, in getting Justice Scalia and losing Chief Justice Burger, we are simply getting one conservative in lieu of another conservative.

In view of these facts, Mr. President, those who foresee a radical change in direction on the U.S. Supreme Court are believers in a myth. The Supreme Court, as now constituted, should provide no great surprises.

Mr. LAUTENBERG. Mr. President, is there leadership time available from our side, I ask the Senator from Wisconsin?

Mr. PROXMIRE. I just do not know. May I ask the Presiding Officer, do we now go into a period of morning business with time allotted to Senators?

The PRESIDENT pro tempore. There is morning business specified after the leadership time.

Mr. PROXMIRE. There is no morning business?

The PRESIDENT pro tempore. There is morning business after the leaders' time.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the remainder of the Democratic leader's time be reserved for his use later in the day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 9:30 a.m., with statements therein limited to 5 minutes each.

TECHNICAL CORRECTIONS TO THE TAX BILL

Mr. MELCHER. Mr. President, would the majority leader yield to me?

Mr. DOLE. I am happy to yield to the Senator from Montana.

Mr. MELCHER. I thank the majority leader for yielding to me.

I want to tell the majority leader that the difficulty in getting up the technical corrections to the tax bill has been complicated so much by one Senator after another hoping to add some amendment to it. I wanted to make clear to the majority leader and to all other Senators that the amendment that I sought to offer to it, income averaging for farmers, truly a tax proposal, I will offer that amendment to some other piece of legislation that remains before us before we adjourn.

I make that announcement so that all Senators may become aware of that, that if my proposal complicates the procedure of the Senate considering the technical corrections to the tax bill, that at least mine will be removed from that complication.

I well understand a number of Senators whose States are in the so-called bond pool provision of the technical corrections, that it is extremely important to those Senators that this technical correction bill pass. And so, I do not know whether that will free up the consideration of that measure, but at least I will not complicate it.

I understand the Senator from New Jersey, Senator BRADLEY, late yesterday evening entered an objection if my amendment were to be considered, which seemed to ruin the opportunity for unanimous-consent requests to bring it up at this time today.

□ 0920

If I had known about the Senator from New Jersey's objection earlier, I would have taken this step earlier so that the work of the Senate would not be complicated; as complicated as it is.

Mr. DOLE. Mr. President, I want to thank the distinguished Senator from Montana. I know this will be good news to the distinguished chairman of the Finance Committee as well as the distinguished ranking member, Senator LONG, and others. This will, I think, make it possible to obtain the agreement, and it is an indication that the Senator from Montana, and many other Senators have decided they would like to put an amendment on there but if they do that they are going to torpedo a number of other amendments that have been considered that mean a great deal not just to Senators but to their States. I am advised there are 31 States—I do not know if there are 31—that are affected by this little concurrent resolution.

So I would encourage Senator PACKWOOD maybe to come back to the floor after a while and renew his unanimous-consent request. I again thank the Senator from Montana for his thoughtfulness.

FURTHER CONTINUING APPROPRIATIONS, 1987

Mr. DOLE. I wonder if we might be able to act on the short continuing resolution.

Mr. BYRD. Yes.

Mr. DOLE. I thank the distinguished minority leader. I ask unanimous consent that the Senate now turn to the consideration of House Joint Resolution 753, the continuing resolution extension which is at the desk.

The PRESIDING OFFICER (Mr. MURKOWSKI). Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 753) making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 753) was ordered to a third reading, was read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of October 11, 1986 (Public Law 99-465) is hereby amended by striking out "October 15, 1986" and inserting in lieu thereof "October 16, 1986".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Let me indicate that this expires at midnight tonight. It will be delivered to the President for his signature before noon. The Government will continue to function as smoothly as in the past.

SCHEDULE

Mr. BYRD. Mr. President, would the distinguished majority leader yield?

Mr. DOLE. I am happy to.

Mr. BYRD. I wish to ask the majority leader as to how he sees the operation of the Senate today, what the schedule is going to be, how late he would expect us to be in, and what he sees for tomorrow.

Mr. DOLE. I was asked earlier by someone in the press if we would finish today. I doubt it. It seems to me we might be able to do the immigration conference report this morning; the clean water conference report I understand will soon be available. Hopefully we can go to the technical corrections that Senator PACKWOOD has an interest in doing. I think all of those can be done very quickly. Then we would move to the main event today, which would be the continuing resolution conference report which has arrived. I do not know precisely how many amendments there will be in disagreement. As I understand, there are four that are amendable. So we could make some pretty good time today. That would leave reconciliation, and debt limit. That is all we would have left. There is a glimmer, at least.

I understand, again, the Speaker would like to finish this evening. They still have the debt limit and reconciliation. We have the continuing resolution, debt limit, reconciliation, water, and immigration. But I do not believe any of those will take a great deal of time.

Mr. BYRD. What is the outlook for the signing of the Superfund bill?

Mr. DOLE. I have been urging the White House to do that. I have been suggesting to the White House, and I have been helping circulate a letter which would indicate to the President that if he would sign the Superfund there would not be an effort here next year to come back and again raise the ante by raising additional taxes because there are some people in the business, the oil business, chemical business, and business in general who feel they have been taxed about enough.

I hope to be able to demonstrate that there is some bipartisan support for that effort, and I believe if we could deliver a letter to the President, with a pretty good number of signatures, that would give him the encouragement to sign the bill.

Mr. BYRD. May I also add a note that I am urging the majority leader on the other side of the Capitol not to send over the adjournment resolution until Tuesday so that the Congress will be around in the event the President pocket-vetoes that bill, unless in the meantime we would get some assurances from the White House that that bill will not be pocket-vetoed.

The bill has passed both Houses by wide majorities. It is much-needed legislation. I hope we can get that assurance from the White House so that when we complete our other work we would not have to stay around. I share the majority leader's feeling that we do not want to come back next year and revisit this matter with higher taxes, but I also feel that it is incumbent upon us to do everything we can to see that this bill is enacted into law, it having passed both Houses by great majorities. It is very much needed, I think. I can speak for my own State and the chemical companies therein. I would hope we could get that assurance from the White House.

Mr. DOLE. I would hope the bill would be signed. I am going to work very hard today on the letter. I hope to have Republicans and Democrats. It does not bind anybody. It just indicates, we believe, the level of funding is not going to be increased by more taxes. I have had some Democrats who indicated they will sign the letter.

So, I think, if we want the President to indicate his good faith, maybe we could show that we believe this is a good bill, it ought to be signed, and we are not about to, and we are willing to restrain ourselves on raising taxes.

Mr. BYRD. The majority leader feels, does he, there is a good likelihood that the Senate will still be in tomorrow?

Mr. DOLE. I would rather err on the side of being cautious. I would say yes.

Mr. BYRD. I thank the majority leader.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I would like to extend morning business. I think it is until 9:30.

The PRESIDING OFFICER. The leader is correct. Morning business is until 9:30.

Mr. DOLE. I ask unanimous consent to extend morning business until 10. I know there are some speakers who have not spoken. I have been asked by the Senator from Delaware if he might have 15 minutes if the minority leader has no objection.

The PRESIDING OFFICER. Without objection, morning business will be extended until 10 o'clock.

Mr. DOLE. We will reserve the time.

Mr. ROTH addressed the Chair.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I would ask if my colleague from Delaware would allow me about 5 minutes, Mr. President, if there is no objection.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I thank my colleague from Delaware, the majority leader, and I thank the minority leader for his views on the Superfund bill.

SUPERFUND

Mr. LAUTENBERG. Mr. President, the fate of Superfund still hangs in the balance, as we await action by the President.

The Senate passed the conference report by 88 to 8. The House by 386 to 27. Industry, labor, public health, and environmental groups have rallied behind the bill. Eighty-one Senators joined in a letter to the President urging him to sign this historic legislation. And public opinion polls consistently show that an overwhelming majority of the public is committed to toxic waste cleanup.

After almost 3 years of work, Congress has crafted a Superfund bill that will get the job done, and which is supported by a broad cross section of interests in this country. This consensus did not come easily. Literally thousands of hours of work went into this bill. It was considered by eight committees in the House and Senate.

Yet we have heard that President Reagan is being advised by some to veto the bill. With such an action the President would be turning his back on the environment. Rejecting new,

tough cleanup standards; community right to know requirements; protection from radon; citizen suits; a leaking underground tank program; and many other breakthroughs in the bill that is sitting on his desk.

Mr. President, I hope that President Reagan will sign this bill. But, we are running against a clock. If the President wants to try and wait the Congress out, and pocket-veto this bill, he just needs to delay action until we adjourn, if we adjourn today or tomorrow, or even Saturday. This, Mr. President, would be unacceptable, in my judgment.

So, Mr. President, I want to reiterate that there is another option on Superfund. And, that is to stay in session long enough to override a veto. I know that suggestion will not be welcomed by some. All of us have canceled visits with our constituents as the session has dragged on. I know that everyone here would like to finish our work and go home. But, if the President decides to wait out the Congress, then I think we have no choice but to wait out the President.

Last week, 55 of our colleagues joined me and Senator CRANSTON in a letter to the majority leader asking that the Senate be accorded the opportunity to override a potential veto. The Democratic caucus agreed on Tuesday that, if necessary, we should follow such a course of action.

Also on Tuesday, the Democratic leadership in the House announced its intention to stay in session long enough to prevent a pocket veto, by staying in session until the President takes action on the bill. My understanding is that, under the Constitution, the Senate cannot adjourn sine die until the House does. So, the decision by the House leadership should assure that the Senate would stay in session, as well, if necessary, to vote on a veto override. It would be a comfort to know that our leadership is in accord with that recommendation.

Mr. President, I believe the Senate has no choice. We are here to do the work of the people. It would be unconscionable to walk away from this bill. Already we have 900 sites on the national priority list, 99 of which are in my home State of New Jersey. Estimates suggest that there may be as many as 10,000 abandoned toxic waste sites. They threaten the air we breathe, our soil, our ground water. They scar our Nation and jeopardize the health of our citizens.

And while the cleanup tasks ahead continue to mount, the very means of taking on the challenge—Superfund—is dying a slow death. EPA sent termination notices to cleanup contractors on October 1. And the agency will be forced to cancel remedial work at over 100 sites across the Nation in 2 weeks, if Superfund is not reauthorized.

The time has come to put our shoulders to the wheel. To push forward with an historic new program of toxic waste cleanup. To tell people across the Nation that this Government is committed to protecting them, their children, and their grandchildren from the insidious threats of toxic waste sites.

This is what Superfund is all about. This is what is at stake. That is why I hope the President will sign the bill. But, if he chooses to veto it, that is why the Congress should be here to override that veto.

We cannot adjourn, we cannot go home, until we take final action on a strong and reauthorized Superfund. This Nation deserves no less.

Mr. President, I yield the floor. I ask unanimous consent that three editorials recently appearing the Camden Courier-Post, the Bridgeton Evening News, and the Central New Jersey Home News, be printed in the RECORD following my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Camden Courier-Post, Oct. 13, 1986]

THE LAST HURDLE FOR SUPERFUND

Ronald Reagan, back from the summit that wasn't a summit, has waiting for his signature the Superfund bill that may never be. Mr. Reagan has been urged to veto the legislation by Treasury Secretary James A. Baker and budget director James Miller. Rather than be persuaded by Jimmies-come-lately to the Superfund debate, Mr. Reagan should give careful attention to the advice he is getting from Senate Republicans.

"I hope the president and presidential advisers will study the bill carefully, and I hope that it will be signed and not vetoed," said Senate Majority Leader Robert Dole. Added Wyoming Republican Alan Simpson during floor debate in the Senate Oct. 3: "I think it would be a very bad mistake if the president of the United States were to veto this."

Indeed, if only from a partisan perspective, the president's veto would be a major political blunder. Twenty-two of 34 senators up for re-election are Republicans, and the GOP leadership concedes that the going will be tough for some of them, as it always is for the majority party in mid-term elections. Those senators will have to explain to their constituents why Mr. Reagan scuttled the Superfund and with it their best chance to get toxic waste dumps in their state cleaned up. The Senate's 88-8 vote for the expanded $9-million Superfund suggests that senators of both parties prefer to confront the voters with a "yes" vote recorded on the major environmental issue to come before this Congress.

Mr. Reagan might also pause to consider the bipartisan efforts that went into building the unique coalition that supports the Superfund bill. It includes the Chemical Manufacturers Association and environmental groups such as the National Audubon Society. None of the supporters is absolutely satisfied with the bill, and that in itself is testimony to the compromise that it represents.

The administration's objections to the Superfund center around its size—too big to be effectively managed, detractors say—and the inclusion of a broad-based tax that will require industries other than petroleum and chemicals to pay a share of the cleanup. Neither objection stands up to scrutiny. The $9 billion, to be spend over five years, is not too much considering the hundreds of sites that need attention; and the broad-based tax is simple recognition not only of the need for equitable tax policy but also of the fact that cleaning up the nation's worst dumps is everyone's problem.

Mr. Reagan won't decide the fate of Superfund with New Jersey uppermost in his mind, but should he veto, he should be aware that this state, with the most sites on the Superfund list, will lose the most. Work already begun under the original Superfund will stop. Once it does, it won't simply be a matter of starting again. Contractors, EPA employees, complementary state programs—everything that has been set in place to attack toxic waste—will fall apart, as will the political compromise on which the legislation is based. By time the pieces are picked up and put back together, toxic pollution will have won another round.

[From the Bridgeton Evening News, Sept. 29, 1986]

RENEW SUPERFUND

Let's save the Superfund that was originated to clean up scores of hazardous toxic waste sites, many of them in New Jersey.

Congress must act on legislation to continue the Superfund before the end of next month or it will cost millions of extra dollars to terminate it and to get a new bill passed next year, according to Environmental Protection Agency chief Lee Thomas.

If the fund dies for lack of continuing legislation and appropriation of funds, Thomas says that as many as 1,500 EPA employees may have to be terminated. That will not only be a hardship to them but to the thousands who suffer from the proximity of toxic waste sites to their homes and businesses and could greatly delay implementation of any new efforts at toxic waste removal.

It is proposed that the fund be renewed for $8.5 billion for the next five years. Such sums frighten congressmen in the face of the Gramm-Rudman budget limitations and coming elections but failure to renew the fund may prove a worse threat in states where toxic wastes are a public health threat.

It is just plain stupid to put off the inevitable in such a case. The removal of toxic waste hazards from antiquated dumps is essential and will have to be faced sooner or later. Only a fraction of the needed cleanup has been done and we can't rest until it has all been cleaned up.

Congress must act before it adjourns in October to stump for re-election or the fund will automatically terminate. It must be renewed. Waiting to enact a new toxic waste dump cleanup law next year will both increase the hazard and the cost.

Time is running out and with it the public's patience.

R.E.B.

[From the Central New Jersey Home News, Oct. 6, 1986]

LAST PUSH FOR SUPERFUND

Now that congressional negotiators at long last have resolved their differences over the reauthorization of the federal Su-

perfund, Americans ought to be able to breathe a sign of relief for a renewed commitment to cleaning up the worst toxic sites in America.

Alas, congressional agreement—which came a year and a day after the original five-year Superfund expired—is not the final hurdle for the program. All along, the Reagan administration has threatened to veto any Superfund renewal financed with a broad-based tax or with a price tag as high as the $9 billion Senate-House proposal. And there is no indication the administration has changed its mind.

It should. The Superfund renewal may not be a perfect bill. It probably calls for a bigger program and more money than the Environmental Protection Agency can spend efficiently and effectively, and it almost certainly is overspecific in its instructions to the EPA on toxic-waste cleanup. Congress has a bad habit of imposing overstrict and unrealistic rules and conditions on environmental legislation.

But the alternative to the compromise congressional bill—a presidential veto or pocket veto that would put the Superfund out of business—is unacceptable.

Congress is making a last push to persuade President Reagan to go along with this Superfund renewal. It can do more than that. It can stay in session long enough to prevent a presidential pocket veto and be prepared to vote a veto override. The Superfund cannot be allowed to shut down.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

NEED FOR A STRONG JAPANESE ROLE IN PHILIPPINE DEVELOPMENT

Mr. ROTH. Mr. President, 3 weeks ago we heard a most moving and an effective speech by President Corazon Aquino, regarding the situation in the Philippines and Filipino-American relations. The American people have followed closely the developments which brought Mrs. Aquino to power for many reasons—the historical and ethnic ties between the Philippines and the United States, our security relationship, but, most importantly, because we admired the dramatic rebirth of democracy almost 15 years after former President Marcos had declared martial law. That the change of leadership ultimately occurred peacefully and that the vast majority of the Filipino people supported a democratic rather than Communist alternative was very gratifying to us. We certainly want to help the new Government and the Filipino people, but our means are limited. I believe that we should seek a strong joint approach with the Japanese to assist the Philippines.

As President Aquino pointed out in her speech before this body, the struggle for freedom in the Philippines did not end with the flight of Mr. Marcos and the restoration of civil liberties. All of us in politics know that it is easier to "kick the bums out" than it is to design meaningful alternative programs and carry them out effectively. The new leadership has faced and continues to confront a variety of acute challenges. The viability of what must be regarded as a fledgling democracy in the Philippines depends on the new Government's success in dealing with the growing Communist insurgency, in working out acceptable arrangements with Muslim and tribal ethnic minorities, in rooting out corruption, in providing more effective delivery of Government services, and above all in restoring economic growth and improving standards of living in both urban and rural areas. Since 1983, there has been negative economic growth in the Philippines, while population has continued to grow. Many desperately poor Filipinos will be loyal to whatever government offers the best prospect of a decent livelihood.

The challenges facing the Philippines are long term, but the time available to President Aquino to begin making significant progress may not be that long. That is the reason she made an early visit to the United States. She realizes that the challenges facing her government must be basically solved at home, but she also knows that the Philippines needs the help of its friends abroad. If she, with our support, can offer a clear strategy for the long-term growth of the Philippines and begin to implement it, she will have taken a major stride in consolidating the democratic revolution she began.

The United States is responding generously to the Philippines' needs. We have humanitarian concerns and important political, strategic, and economic interests in the Philippines. Aside from governmental assistance programs, under which millions of dollars have been committed in economic and military assistance already this year, other resources are flowing from the United States to the Philippines under private auspices. These include spending by United States-based foundations, contributions by charitable and religious organizations, and individual remittances to friends and relatives in the Philippines. This public and private response comes at a time when the United States is facing enormous deficits in the Federal budget and in its current balance-of-payments account with the rest of the world.

There is another developed country whose stake in the Philippines is equal or greater to that of the United States; this is Japan. Japan and the Philippines are among the very few democratic nations in Asia. Japan is the Philippines' second largest trading partner. The vast majority of Japan's petroleum and many other raw materials pass through the South China Sea between the Philippines and Vietnam. Economic progress, the evolution of democratic institutions, and political stability in the Philippines will make a major contribution to the East and Southeast Asian political, economic, and security environment so important to Japan's own security and growth. If democracy fails in the Philippines and the Communists ultimately come to power, Japan's economic lifeline to the Middle East and Europe might be flanked by Soviet bases on both sides. Many in the Japanese Government recognize their country's stake in the success of the Aquino government, and Japan is currently providing more foreign economic assistance to the Philippines than does the United States. Aside from its aid, however, the Japanese role is more limited. For example, private foundation activities, markets for Philippine manufactured goods, new Japanese investments, and educational opportunities for Filipino students in Japan, are not well-developed.

Japan's role in the Philippines should be regarded as an important test of Japan's ability to assume increased international responsibilities and contribute to the comprehensive security of free countries in the Asia-Pacific region. The external requirements of the Philippines are principally economic in nature, and the Japanese have long argued that they can best assist free world security through economic means. I hope that Japan will design a special and generous policy toward the Philippines to help that country recover economically and thus contribute to political stability and the strengthening of Philippine democracy.

This policy should go beyond foreign aid. There are frequent calls by Japanese and other Asians for a Japanese "Marshall plan" for this or that country or countries, and these frequently place too much stress on the foreign aid, and forget that even the original Marshall plan was not simply a United States foreign aid program for Europe, but also involved the development of regional institutions and European plans of self-help and cooperation. Indeed too great a stress of foreign aid can be detrimental when projects are not well thought out and aid leads to corruption and cynicism.

The biggest foreign exchange earner for the Philippines as for most developing countries is exports. Japan has been a good market for Filipino raw materials and primary products, but it is a small market for Filipino manufactures. As manufactured goods have become an increasingly large share of Philippine exports, Japan's share of Philippine exports have dropped from almost 40 percent in the early 1970's to only 20 percent today. The Philippines and other Southeast Asian nations face major barriers to marketing their products in Japan, a problem Japan is only beginning to address.

Japan should regard the Philippines as a priority country in its foreign

policy and develop a comprehensive strategy of help in aid, trade, investment, technical assistance, and education. It seems to me that it makes a lot of sense if that strategy evolves in close collaboration and consultation with not only the Philippines, but also with the United States. Japan and the United States are the Philippines' main external partners. Coordination by these two partners on external assistance programs agreed to with Philippines will permit a more effective use of external resources. Moreover, a triangular dialog may contribute to the better flow of communication than separate bilateral dialogs. This may be particularly true in the Japanese-Filipino relationship, where wartime legacies and other factors appear to place a heavy negative psychological load on the relationship. In my judgment, a triangular discussion should involve the private sectors as well as the governments and be carried out in a low-keyed manner, exploring Filipino needs, Filipino domestic policy options, and the kinds of Japanese or American policies that can complement Filipino policies.

□ 0940

Some Filipinos may fear that a triangular dialog would reduce their bargaining power with the two economic giants. This dialog would not substitute for bilateral negotiations or more multinational efforts involving the international financial institutions, but be complementary to these discussions. The triangular approach would encourage a more forthcoming policy by the Japanese than would otherwise be the case. Japan still lacks confidence in its foreign policies and the development of a comprehensive policy of support for the Philippines would certainly be sidetracked and delayed by squabbles within the Japanese bureaucracy. A triangular arrangement will not only give the Japanese more confidence, but also provide a continuing source of political pressure for the development of a forthcoming and broad policy direction. Of course, a forthcoming policy will also depend very much upon Filipino progress in understanding domestic policies and policy reforms that ensure the effectiveness of foreign help.

Some Americans also may be skeptical of a triangular approach, fearing that it would be cumbersome and slow down assistance programs that Americans would find more convenient to handle by themselves. I believe, however, that if we want our allies to share burdens as we say we do, we need to develop stronger habits of meaningful consultations and complementary policy arrangements. I also believe that a tripartite program involving Japan as a key factor and the chief financier would provide a stronger basis of political support for the United States program toward the Philippines. Finally, existing programs and shorter term emergency assistance need not wait while we develop a longer term Japanese-United States effort. I would agree, however, that major new support should be carefully planned on the basis of trilateral consultation.

Some Japanese might be fearful that a triangular approach would entangle Japan in bilateral United States-Philippine questions, such as the future of the United States bases. Our triangular approach should be limited to economic development plans for the Philippines, understanding, of course, that successful economic development provides a more favorable climate in which a variety of political and security questions, including the bases, the insurgency, and the minority questions, can be resolved by the party or parties directly involved.

I do not mean to imply that Japan and the United States are not already in touch on the situation in the Philippines. A rather broad dialog on many issues, including the Philippines, is taking place between the two governments, but our efforts are essentially separate, focused on meeting emergency problems such as debt rescheduling, and there is nothing approaching a long-term coordinated strategy to assist Philippine economic development. Such a strategy would provide a basic consensus on policy for the three parties; obviously policy details and implementation must be nationally determined.

The Aquino government offers civil liberties, political participation, and new hope to the Filipino people. The United States and Japan want this government to succeed. Japan has a golden opportunity to help the Philippines and, in so doing, contribute to regional development and security. This would help strengthen its relationship with the United States. I hope, Mr. President, that Japan will join with us and with the Philippines in a historic effort to develop new policies that give maximum opportunity for the Aquino government to succeed and allow the frail plant of Philippine democracy to develop deep and strong roots.

Mr. President, I yield back the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. EXPORT CONTROLS

Mr. BAUCUS. Mr. President, I have risen repeatedly on this floor to speak about the need to improve America's international competitiveness.

I am concerned that sometimes the issue of competitiveness is just an abstraction—just a collection of generalities, masked in unclear terms like "productivity," "innovation" and "capital costs."

Today I would like to explain what our lack of a clear competitiveness policy has meant to one specific business in the United States. The plight of this company, Silicon Technology Corp., is described in the October 1986, copy of INC. magazine in an article entitled "Kachajian's Rebellion".

The article tells the story of George Kachajian and his fight against the unnecessary and cumbersome export control regulations that burden some of America's most competitive exporters.

Export controls are those regulations governing whether U.S. high technology can be shipped abroad. Export controls exist primarily to protect our national security.

Let us be clear about something from the start. We all strongly support national security. We must restrict some exports to ensure that militarily sensitive technology does not fall into the wrong hands.

But this administration has unnecessarily burdened U.S. exporters who want to sell low-level technology that is generally available throughout the world. And that is undermining our competitiveness.

George Kachajian's story makes this clear. During the 1970's, Kachajian exported wafering saws, which are used to cut silicon chips, to the Soviet Union and Poland. These saws were readily available from Switzerland, so if Kachajian did not sell them, Switzerland would.

In other words, it was not a question of whether these countries would get the saws; it was only a question of whether the United States or some other country would make the sales.

From 1974 to 1980, Kachajian had sold 57 saws to Eastern bloc countries. But in August 1980, the Commerce Department suddenly denied his application for an export license based solely upon redtape and bureaucracy, claiming, however, it was for national security reasons. As a result, the Swiss got the sales Kachajian lost.

But our friend Kachajian did not give up, a testament to the determination of American competitors, despite government roadblocks.

Kachajian generated 1,000 pages of correspondence, made 30 trips to Washington, and spent $60,000 in legal fees. That is $60,000 he could have spent on research and development, but he was forced to spend it on overcoming barriers the Government was erecting to trade.

Because of Kachajian's efforts, the White House finally decontrolled the saws for sale to non-Communist countries, but sales to Communist countries must still get final approval from COCOM.

After 6 years, Kachajian is still unable to sell to the one market he had requested in the first place. Meanwhile, the Swiss are penetrating and monopolizing markets that should be ours. Moreover, they have used their strength to penetrate the U.S. market, eroding Kachajian's sales here.

Mr. President, George Kachajian's story is not unusual. High technology exporters throughout this country each have their litany of horror stories connected with seeking export licenses.

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Export controls are justified on the basis of national security. That is important. But is it not time we recognized that economic security is an equally important component of national security?

President John Kennedy once observed that the true strength of a nation was not reflected in its list of weapons but in its balance of trade. We must recognize that maintaining economic strength is central in the long run to funding our military strength.

I would not support revision of our export controls if I thought it would undermine in any sense our military strength.

I must say that in the case of George Kachajian there was no compelling national security reason given for refusing to grant him his license. It was redtape and bureaucracy.

The case of George Kachajian demonstrates that we can and must persevere to upgrade our export control policies. The case demonstrates in personal terms the competitiveness gap that we face in relation to other countries. That competitiveness gap is getting wider every day, as foreign competitors make inroads into markets that once were ours.

I hope George Kachajian's persuades us of the need to reverse the policies that led to that competitiveness gap. If we do not, we will find someday that not only our economic security, but also our national security, will have been seriously eroded.

Mr. President, I ask unanimous consent that the article from INC magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KACHAJIAN'S REBELLION

(By Lucien Rhodes)

Welcome to George Kachajian's Theater of the Absurd.

You will know you have arrived when you see the marquee, there above the front door of his corporate headquarters at the end of Spruce Street in Oakland, N.J. No, it wasn't planned that way, but it does capture the spirit and essence of the whole long, involved, and contentious drama that's been six years in the making and not finished yet.

Once, those large blue letters announced the company he started 16 years ago as Silicon Technology Corp. (STC). But some months ago, this sign broke in the middle, as if unable to stand the weight of the company's aching frustration any longer: the letters spelling "TECH" fell and shattered on the parking lot below. Now each morning when Kachajian sees this symbol of his plight, he cannot help but mentally review the script as he's lived it thus far. In a rising spiral of incredulity, he will recall how an abrupt shift in American foreign policy suddenly denied him access to foreign markets, and how a foreign competitor used the opportunity both to fill the vacuum overseas and to raid his market in the United States. And he will remember with bitterness the layoffs of workers in Oakland, and the mounting financial losses, and his long hegira through the federal bureaucracy in search of relief.

So it is that George Kachajian comes to work, his $10-million company still dangerously close to collapse. Looking at the marquee, he asks himself, "Who took the 'tech' from my technology?" to which he answers, amazed at the improbability of his own response: "My own government, that's who."

But please come inside: the featured attraction has a lot more to offer—senators, congressional subcommittees, the Western Alliance; also the Soviet Union and the Warsaw Pact. You will see that the story of George Kachajian's quest for an export license is really only a small vignette played out against a vast backdrop of international trade deficits, East-West competition, and political feuding within the Reagan Administration. Still, it is vignette that raises disturbing questions: Do the complex controls regulating U.S. exports sacrifice the international competitiveness of American companies, particularly hightech companies? If our export-control system causes our companies to lose markets, and worse yet, industries, to foreign competitors, then, in the long run are they really protecting our national security? With a trade deficit of $170 billion, can the United States afford to forgo exports that surely run into the billions of dollars that are lost each year to export controls?

The controversy has by no means spent its force, although George Kachajian has now won a victory of sorts against the deadening hand of the Export Administration Act—the first of its kind in history. And as the news of this victory spreads through the hightech community, he is being praised as the underdog who beat city hall. But Kachajian never wanted to star in his own melodrama. He wanted to be a businessman.

For 18 years, George S. Kachajian had worked for Dow Corning Corp. in various sales and marketing jobs, first selling silicones for oils, greases, and paint resins, and then silicon, the pure crystalline element used exclusively in the manufacture of semiconductors. His contacts within this new, rapidly growing industry were broad, he was well paid, and his prospects were very promising. But in 1969, he decided to quit. That fall, at a company plant in Hemlock, Mich., Kachajian watched an employee at work on an internal diameter wafering saw, which cuts silicon ingot into thin wafers, one of the first steps in creating semiconductors. For a second, the operator looked away from his work and the saw's diamond blade sliced through the back of his hand and cut off his fingers. Horrified and splattered with blood, Kachajian pulled the man away from the machine and applied a tourniquet. Then and there he decided that "there had to be a better way."

With almost $20,000 in personal savings, Kachajian turned to a machine-tool company in Massachusetts and financed the development of a prototype for a new saw that changed the orientation of the cutting blade, added a protective shield, and rearranged the work flow. In the fall of 1970, funded by $220,000 from friends and relatives and the refinancing of his house, he began to manufacture and sell his new machine. And it was not long before Kachajian realized that he would have to comply with U.S. export regulations, the vagaries of which could hardly be factored into any rational business plan or production schedule.

These days, business on the international level is rarely "strictly business," especially when it involves high tech. During World War II, export controls were used to ensure an adequate supply of various goods and commodities needed to sustain the war effort. But contrary to the original expectations, those controls were left in place long after peace had been declared—a weapon of the Cold War. The Export Control Act of 1949 finally made official what had been administrative practice, banning the export to communist countries of not only bona fide military equipment, but also dual-use commodities that might have military as well as commercial value. Beginning in 1969, Congresses and Presidents began relaxing those export restrictions, turning a more congenial and expansive face to trade with the Soviet Union and its allies. But this period of détente came to an abrupt halt with the Soviet invasion of Afghanistan in 1980. Caught up in the ebb and flow of the tensions between the superpowers was a small machine-tool company at the end of Spruce Street in Oakland, N.J.

During the 1970s, STC had prospered, controlling 80% of the domestic market in wafering saws. At the same time, Kachajian, encouraged by the prevailing attitude toward open East-West trade, had turned his attention to the demand coming from foreign markets, particularly from the Eastern Bloc, to which he traveled more than 20 times from 1974 to 1980. Because his saw is an integral part of the semiconductor manufacturing line whose end products are, in turn, essential to sophisticated weapons systems, the saws were classified as dual-use commodities requiring a validated export license. In those days, however, the only problems Kachajian encountered in the licensing procedure were delays—after a wait of up to nine months, his applications were all approved. As a result, he sold 53 wafering saws to the Soviet Union and 4 to Poland, machines that today go for $100,000 apiece.

Then suddenly, in August 1980, the U.S. Department of Commerce, for the first time, denied an export license application from STC. "One minute I was selling," Kachajian recalls, "and the next minute I was screwed. And there you are. You don't want to break the law, so you have to live with it." During the next year and a half, he made one futile call after another to the Commerce Department, only to be told cryptically that his licenses were being denied for national security reasons. Kachajian allowed himself brief interludes of opti-

mism in which he fantasized making up his lost sales with redoubled efforts in the U.S. market. But these, it turned out, were tranquil delusions, only possible because he had not yet heard all the bad news.

By mid-1981, Kachajian discovered that STC was losing not just overseas business, but domestic customers as well. His major competitor, Meyer & Burger A.G., in Switzerland, had suddenly appeared in the United States offering comparable wafering saws for less than STC's cost of production. At first, Kachajian could not understand how the Swiss firm could sustain such suicidal dumping, but he soon learned: lacking any competitive restraint, the Swiss company was selling saws in the Eastern Bloc for prices as much as triple those that had prevailed before the export controls went into effect. "They were using those excess profits to buy market share here and drive me out of business—and I couldn't fight back," Kachajian says. "It was absurd. It was outrageous. My hands were being tied by my own government."

What's more, Kachajian could not see how the country's national-security interests were served by denying him export licenses on a product that the Soviets could get in comparable quality and quantity from the Swiss. Instead, he felt he was the victim of capricious regulations, which, in effect, doomed him to extinction. Determined to correct the obvious illogic of his situation, Kachajian screwed up his courage and marched directly into the maw of the netherworld of export licensing.

What he found was a forbidding tangle of categories and classifications, or processes and procedures, of laws, regulations, and inscrutable interpretations. At its center was the Commodity Control List (CCL), which presents those commodities, goods, and technologies requiring export licenses for any of five criteria: national security, foreign policy, short supply, human rights, and nuclear nonproliferation. In many instances, the CCL is constructed not of products, per se, but of entries calculated according to general technical or performance standards. As a result, no one really knows how many specific products are, in fact, controlled, although estimates range to the hundreds of thousands. While nobody would argue that critical high technology should be sold to the Soviet Bloc, critics from industry, academia, and Congress have charged that the list is far too broad and that it includes items long since rendered technologically obsolete.

The complexity and ungainly sprawl of the CCL is replicated in the bureaucracy that has grown up around it. Today, an application to export a product that might be covered by the CCL is scrutinized not only by several divisions within the Department of Commerce, but frequently by several intelligence agencies and the Departments of State, Defense, and Energy. Nor is that the end of it. Even after applications for certain items have been reviewed by the appropriate roster of U.S. authorities, licenses still cannot be granted unless they are also approved by the 15 allies of the Coordinating Committee for Multilateral Export Controls (COCOM), a regulatory body headquartered in Paris. The intent of COCOM is to coordinate export controls with our allies, which is certainly understandable. But exporters complain that it adds yet another layer of uncertainty to the licensing system, causing delays that drive customers to the arms of competitors, either in non-COCOM countries or, even worse, in COCOM countries that interpret its restrictions more liberally than the United States. In fact, some American businesspeople charge that our allies have, on occasion, used the licensing apparatus to give a competitive advantage to their own manufacturers.

Admittedly, it is unclear how any government bureaucracy can effectively administer such a convoluted system. The General Accounting Office, the investigative arm of the Congress, once descibed the export controls as a "licensing system characterized more as a paper exercise than as an instrument of control." But should you get caught shipping items on the CCL without a valid license, the penalties for violating the export regulations are very real indeed: up to five years in jail, a minimum fine of $50,000, and the loss of all export privileges.

It was this phantasmagoria of licensing that nearly overwhelmed Kachajian's sensibilities. But the more he learned about it, the more he knew he was fighting for a cause that was not only empirically just, but one that was defensible under the law as well. Provisions of the Export Administration Act of 1979 had instructed the Commerce Department to establish a division of foreign availability. If this division were to determine that a product manufactured by a U.S. company was also available to proscribed countries in comparable quality and quantity, it could decontrol that product, and the exporter could ship without a license. If there ever were a case of foreign availability, Kachajian figured, his was it. What he did not figure was that it would take him nearly four more years to get the government to admit it.

Looking back, George Kachajian's plan of attack now seems fairly obvious: compiling the information needed to prove the matter of foreign availability; seeking the testimony of industry colleagues who found themselves in similar straits; enlisting the political support of the New Jersey congressional delegation. But at the time, the process was confusing, unpredictable, and enormously frustrating. When he has the need, Kachajian will arrange on the top of his office conference table, in eight indexed stacks, seemingly every piece of correspondence he has ever sent or received to or from anybody regarding some aspect of his case. If this collection were put under one cover, its more than 1,000 pages would tell a story roughly comparable, in its own way, to the voyage of Ulysses. In Kachajian's Bureaucrats' Baedeker, there are letters addressed to the chief of the policy division of the munitions control directorate, the deputy assistant secretary of commerce for export administration, the deputy to the deputy assistant secretary for export administration, the licensing officer of the electronic instrumentation branch of the office for export administration, the special assistant to the President for public liaison, the U.S. special trade representative, the special assistant to the President for intergovernmental affairs, the director of the office of International Economic Affairs, the director of the office of Investigations of the U.S. International Trade Commission, and the undersecretary of state for political affairs—to name just a few. Then, of course, there were all those phone calls beyond counting and some 30 trips to Washington, which cost him nearly $20,000 in hotel and travel expenses. And throw in maybe $60,000 in legal fees.

But Kachajian's odyssey was much more than inconvenient and expensive. It was also desperate. While the whole involved process—the dead-end leads, the false promises, the interminable discussions—dragged on and on, Kachajian's company was slowly bleeding to death, the victim of Meyer & Burger's persistent dumping. After a decade of growth in sales and profits, STC began to lose money—nearly a million dollars to date. In 1983, Kachajian was forced to lay off almost half his employees, and even as late as July 1986, he had to sell an acre and a quarter of land the company owned across the street just to bolster cash flow. "For six years," he says, "the upside of my business has been survival and the downside was bankruptcy. I never even thought about growth."

What he was thinking about most often was the Pentagon, which had persistently used the national-security issue in connection with the export of his wafering saws. Between 1982 and 1984, Kachajian had half a dozen meetings with various Defense Department officials, including Stephen D. Bryen, the deputy undersecretary for trade security policy. At each meeting, Kachajian would lay out his case, a Swiss competitor driving him out of business with the help of Eastern Bloc profits and counterproductive U.S. government restrictions. And at each meeting, Defense officials would tell him that an export license would jeopardize "national security." Kachajian was prepared to meet their argument head-on. He would first point out that his saws were really "glorified salami slicers" whose technology was so well known that they could hardly be considered a threat to national security. And furthermore that the Eastern Bloc could already get as many saws as it wanted from the Swiss. Then he would go on to say that the United States was in danger of losing its semiconductor manufacturing capability to foreign companies—where there were once five companies manufacturing saws in the States, now only two remained. That, he concluded, was the real threat to national security.

The Pentagon was not impressed, however, and Kachajian finally gave up in disgust. Says Wesley E. Charles, STC's president, who attended one such meeting: "They don't care about anything else, just don't give the Soviet Union anything. They wouldn't sell them a handful of sand. And if they could control that, they would."

Fortunately, as one door closed, another one opened. In the fall of 1984, Kachajian got a call from an investigator in the division of foreign availability, which only then had finally been staffed and funded as Congress had ordered back in 1979. Kachajian, hearing for the first time that a study was being done on internal diameter saws, was ecstatic. "Man, that was exciting," he says. "I had someone who was interested. I mean the guy asked questions for two hours." During the six months that it took the investigator to complete the study, Kachajian peppered the Commerce Department with information and stumped around Washington. "Because of George's involvement," says Toli Welihozkiy of the Office of Foreign Availability (OFA), "everybody became aware that this was an agenda item that needed to be moved quickly." But "quickly" has a special meaning in Washington. It was the spring of 1985, more than five years after the rejection of his first license, that the OFA determined that there was, in fact, foreign availability of wafering saws and that the item should be decontrolled.

With the OFA determination, Kachajian had established a beachhead within the bureaucracy, but the battle had only just begun. Under the procedures of the Export

Administration Act of 1985, OFA sent a draft of its report detailing its findings to the Department of Defense for review and comment, and, not surprisingly, Defense disagreed strongly with the specific findings, with their interpretation, and particularly with the impulse to decontrol the saws. The reaction touched off a fierce interagency squabble within an Administration equally committed to fighting back the Russians and fighting back government restrictions on business.

"Our view," explained deputy undersecretary Bryen, "is that we have very good intelligence, incontrovertible intelligence, that the items . . . will be put to use by the Soviets directly in military. You know, in the '70s we had this great experiment: we were going to trade with the Russians and try to improve relations. But the basic bottom line is that the bulk of this stuff went right to the Soviet military, and it was used by them to modernize their military forces."

Replied Paul Freedenberg, assistant secretary of Commerce for trade administration: "The Commerce Department sees to it that you have to make a balance in these types of cases. You have to decide to balance off immediate national security against the long-term loss of the defense-industrial base, which, in itself, has a national-security implication. If you lose, for example your semiconductor manufacturing capability, ultimately you're undermined, because you no longer have that defense base to build semiconductors. Now we're just talking in this case about one specific company, but it's a microcosm of a danger—not something that's immediate, but certainly something that, long range, could be very deleterious."

Confronted with implacable opposition from Defense once again, Kachajian's spirits wilted, but only for a moment. In September 1985, his forces were joined by fresh troops. Stanley T. Myers, president and chief executive officer of California-based Siltec Corp. and a member of the Semiconductor Technical Advisory Committee (TAC), one of nine such committees advising the Commerce Department in various high-tech areas, wrote a letter about STC's predicament to his fellow members. Myers, whose company uses wafering saws, knew firsthand about Meyer & Burgers's tactics. And in his letter, he carefuly outlined STC's plight and urged the committee to action on STC's and all U.S. manufacturers' behalf, ending with: "Unless we act quickly and decisively, we will face the ironic circumstance of having controlled an American technology into extinction."

The Advisory Committee did act quickly, using its powers under the Export Administration Act to force a decision on Kachajian's case, supposedly within 90 days. Kachajian responded by redoubling his lobbying efforts, enlisting New Jersey's two senators, Bill Bradley and Frank R. Lautenberg, and Representative Marge Roukema to put pressure on Commerce Secretary Malcolm Baldrige and his aides. "I was in the wilderness for four years," Kachajian recalls," and now I had big names."

Commerce was leaning toward a favorable decision, both because of the merits of Kachajian's case and because a positive decision was important to the credibility of the Office of Foreign Availability. Up to that point, the OFA had not produced one single case leading to the decontrol of any item or technology listed on the CCL. The business community was becoming openly critical. So was Congress, which had ordered the establishment of the office six years earlier. But there was still the problem of the Pentagon's unrelenting opposition. Finally, the standoff between an immovable object and an irresistible force had reached an impasse, and the case of George Kachajian and his little company at the end of Spruce Street in Oakland, N.J., was taken all the way to the White House.

On May 15 at 10:30 a.m., Kachajian was attending a meeting of the Semi-conductor Technical Advisory Committee in the huge Commerce building on Pennsylvania Avenue. As Kachajian remembers it, the 20 members of TAC were in their places around a large conference table while assorted guests and observers chatted from their seats around the edges of the room. Suddenly, assistant secretary Freedenberg came in and everyone fell silent as he announced that, earlier that morning, he had recommended to the National Security Council at the White House that wafering saws be decontrolled for reasons of foreign availability. "Everybody turned to look at me," Kachajian says. "Then they got up and started to congratulate me. I just sat there like the cat who swallowed a canary, but I was afraid to smile. I still couldn't believe it. . . . This happened after six years of busting my chops. When I left that place, I thought I was walking on air."

For the next month, Kachajian kept up his pressure with telephone calls, visits, and a letter campaign that involved all 45 employees of his company. Then, in late June, he got a call from a staff person in Representative Roukema's office. The congresswoman had just received a letter, the caller said, from John M. Poindexter, the assistant to the President for national-security affairs, which stated that the council had agreed with the Commerce Department's position that the internal diameter saws should be immediately decontrolled.

Kachajian's first reaction was to shout for joy, but he knew better. Long experience with the government had taught him that seldom were problems that easily dispatched. And he was right. The saws, the letter continued, would, in fact, be decontrolled immediately for sale only to noncommunist countries such as Sweden and South Korea. The letter went on to say that, "Subsequently, we will begin working with our allies to arrive at a mutually agreed upon and orderly removal of COCOM controls on these saws to controlled countries."

In short, Kachajian, who views the reopening of Eastern Bloc markets as the key to the survival of his company, still could not sell his saws to the one market he wanted in the first place. And, at this moment, that is still where he is: one hand clutching the collar of his company to keep it from going under, the other with all its fingers crossed while he waits for COCOM to consider the issue sometime this year.

Yet as painful as it is for him, Kachajian's current limbo is entirely expressive of the lack of consensus that the current Administration brings to the issue of export controls. And it is particularly expressive of a regulatory environment in which the word "resolution" seems oddly to imply a more or less permanent state of contentiousness.

At the Commerce Department, for example, James K. Pont, the director of the OFA, speaks for many of his colleagues when he says that the Kachajian case establishes an important precedent. Claiming that the OFA has finally "found a path through the bureaucratic jungle," he predicts that over the next three to six months there may be several more positive findings.

But at the Defense Department, the feeling is that if there is any kind of precedent involved, it is only of the worst possible kind. Pointing out that the Kachajian case involves "the most sensitive technology that the Bloc can acquire," deputy undersecretary Bryen sees the handling of the issue as an example of "poor leadership" that ignored "the national interest." In his opinion, Commerce should have negotiated aggressively with the Swiss to get them to stop sales in the Eastern Bloc rather than decontrolling U.S. shipments. "There are plenty of things the Swiss want from us," he argues, "and it's outrageous that what we have is the Commerce Department laying back and saying, 'Well, we informally asked them and they said no.' I mean, that's nonsense. They [the Swiss] don't informally ask when they want something."

Bryen also makes it quite clear that George Kachajian's long ordeal is far from over, at least as far as the Pentagon is concerned. "Some of them [the saws] he will be allowed to sell," he says, "but there will be restrictions, at least if we have anything to say about it, or what types of saws he will be able to sell, and for what size ingot, and so on. It won't be any open door."

Thus, while George Kachajian's victory has drawn the attention of the export community, it has not engendered much hope for a significantly more balanced export-control policy. If anything, many of Kachajian's fellow exporters look at his six-year ordeal and wonder if it only confirms their worst fears about controls and the future competitiveness of American manufacturers abroad. Larry L. Hansen, executive vice-president of Varian Associates Inc., manufacturers of such items as ion implanters and chemical vapor deposition reactors, responds to the Kachajian case with a mixture of admiration and horror: "George put in an enormous amount of effort to get that, and that's a very mundane piece of equipment. I mean who in the hell can't make a crystal slicer? For him to have had to put in that much effort, and get that many people involved to get the relief that he got is an incredible thing, absolutely incredible."

"Sometimes there's a little voice inside me," says Kachajian, "that asks: 'What are you so happy about? All this means is that you can do what you should've been able to do all along.' " Maybe.

WORLD INSPECTION OF NUCLEAR FACILITIES

Mr. COCHRAN. Mr. President, I am rising today to bring to the attention of the Senate a report which I am filing for the record describing my observations at the International Atomic Energy Agency meeting in Vienna last August where the report of the Soviet delegation on the Chernobyl accident was received and discussed by delegates from about 47 different countries. There were approximately 500 people—scientists and technicians mainly—who participated in this review of the facts surrounding the accident at Chernobyl. I am filing this report because to me it indicates that we need to assess the need for an international safety regime which would involve minimum standards and

onsite inspection of nuclear powerplants.

Mr. President, the International Atomic Energy Agency, which hosted this meeting in Vienna, was the agency that you may remember immediately after the Chernobyl accident was looked to for information and assistance by the Soviet Union. The Director General, Dr. Hans Blix, and two of his deputies were invited by the Soviets to actually inspect and review the situation at Chernobyl. These were the first visitors from outside the Soviet Union who were permitted at the site.

The International Atomic Energy Agency has as one of its primary functions the monitoring of safeguards to prevent the proliferation of nuclear weapons and the diversion of nuclear fuels for the purpose of weapons construction. It has worked in a very expert way, in a way that has attracted the support of nations all over the world. To me this is the agency that ought to have the additional authority and the additional resources that would enable it to adopt a set of minimum standards for international nuclear powerplant construction operation and to conduct onsite inspections to ensure that those standards are complied with by those who construct nuclear powerplants.

There are hundreds of nuclear powerplants around the world. Two are being constructed by the Soviet Union in Cuba right now. They do not have the same standards we have in the United States to protect safety and health and to ensure the proper operation of the reactors and powerplant. The Nuclear Regulatory Commission in the United States is the Federal agency with responsibility for policing and monitoring these activities. But enforcement of international standards is nonexistent. It has been the practice up until now that each nation which elects to construct and operate nuclear powerplants is responsible for its own regulations and enforcement. But Chernobyl showed us, and the whole world, that, as someone said, "A nuclear accident anywhere is a nuclear accident everywhere." So this is an international concern. We are concerned in the United States about the standards, or the lack of standards, surrounding the construction and operation of the nuclear plants in Cuba. An accident there could very easily jeopardize health and safety here in the United States. We learned in the accident last April at Chernobyl the damage was not just confined to the Soviet Union but extened to other nations.

So that is why, Mr. President, I think this report should be reviewed. It indicates the interest at least of this Senator as chairman of the subcommittee of the Governmental Affairs Committee that has jurisdiction over energy and nuclear proliferation issues that a greater role be assigned to the IAEA. It was under the auspices of the Governmental Affairs Committee that this trip to the meeting in Vienna was undertaken. I hope that the Senate will look at this issue area and adopt legislation, maybe a resolution at the beginning of our session next year, which would put us on record as favoring additional authority for the International Atomic Energy Agency and additional resources to help it do this job.

During the past 12 months, I have chaired five hearings on nonproliferation, nuclear safety, and the IAEA before the Governmental Affairs Subcommittee on Energy, Nuclear Proliferation, and Government Processes. Those hearings have convinced me that if nations are determined to construct nuclear power facilities, it is essential that they promise to abide by minimum international standards enforced by onsite inspections to ensure that those facilities are safe. Although technical and political objections will be heard from some, I am convinced that this is an idea whose time has come, one that merits the support of the U.S. Senate.

I was very encouraged by what I saw and heard in Vienna. The Soviet Union was surprisingly forthcoming in its Chernobyl report, and there was much discussion of improved nuclear safety. The task now is to turn this talk into concrete programs that will work. The visit confirmed my view that the IAEA is the organization to serve the nations in meeting this challenge.

Mr. President, I ask unanimous consent that my report on the visit to the International Atomic Energy Agency by printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF THE VISIT OF SENATOR THAD COCHRAN TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, AUGUST 24-29, 1986

PURPOSE

For the past thirty years, a major international effort has been made to protect materials at nuclear power reactors from diversion for the purpose of making explosives. The International Atomic Energy Agency (IAEA) has been effective in enforcing nonproliferation safeguards to give the world this protection.

The Chernobyl accident has made nuclear safety another international concern. Because of its nonproliferation experience, observers generally agree that IAEA is the logical body to develop an improved international nuclear safety regime.

The main purpose of the visit reported here was to discuss with IAEA officials the existing international nonproliferation effort and the evolving international nuclear safety regime. Another objective was to attend sessions of the Post Accident Review Meeting being held in Vienna the week of the visit.

AN OVERVIEW OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

IAEA, which now has 113 Member States, was established in 1957 as an outgrowth of President Eisenhower's "Atoms for Peace" initiative. It assists nations in the peaceful development of nuclear energy throughout the world. It advises governments on their nuclear programs, prepares studies of the market for nuclear plants and equipment, arranges the loan of equipment, finances research, and acts as an intermediary in arranging the supply of nuclear materials. It also advises Member States on the physical protection of such matter, and applies safeguards to materials at nuclear reactors to ensure that they are used only for their intended peaceful purposes. It organizes conferences and training courses, awards fellowships for advanced study, issues technical publications, establishes safety standards for all types of nuclear activity, and operates three laboratories.

The work of the Agency is directed by a General Conference, representing the entire membership, and by a 35-member Board of Governors. The General Conference is convened once a year for debate on the Agency's policies, programs, and budget. As the principal policy-making organ, the Board of Governors considers all major questions, including applications for membership and the Agency's program of work. Under its own authority, the Board approves all safeguards agreements, important projects, and safety standards. The Agency's annual budget requires approval by the Board before submission to the General Conference.

The Board holds two main meetings each year in February and June. it also meets immediately before and after regular sessions of the General Conference, usually held in September. The General Conference elects 25 of the Board's 35 members in accordance with rules prescribing a wide geographical distribution (11 of these seats fall vacant each year). The remainder are designated by the Board itself from among Member States which are advanced in nuclear technology.

Member States make assessed contributions to finance the regular budget. They may, in addition, make voluntary contributions to finance the technical assistance program.

The Secretariat is headed by a Director General responsible for overall administration and program implementation. He is assisted by five Deputy Directors General who head five Departments (Administration, Research and Isotopes, Safeguards, Technical Cooperation, and Nuclear Energy and Safety). The Director General consults on scientific and technical matters with a Scientific Advisory Committee, and a Standing Advisory Group on Safeguards Implementation advises him on technical aspects of safeguards.

MEETING WITH DIRECTOR GENERAL HANS BLIX

The Director General expressed pleasure for my visit, especially since it coincided with the week-long Chernobyl assessment. The accident and its consequences continue to attract enormous international interest and to influence public opinion on nuclear power in several countries. While Dr. Blix is convinced that nuclear power, which provides 15% of the world's electricity, will remain an important energy source, there is no doubt that in some nations public confidence has been seriously affected by Chernobyl. To restore this confidence will re-

quire prolonged safe operation of nuclear power plants worldwide as well as measures to minimize the health and environmental consequences of any future accidents. Dr. Blix said that over the following months IAEA would host other important international meetings to consider suggestions of ways to achieve greater safety.

The Director General noted that IAEA responded to Chernobyl in two ways: it was a center for information and analysis regarding the accident, and it sought to encourage the application and improvement of essential international response measures.

A week after the accident, he and two other Agency officials were invited to the Soviet Union and viewed the reactor destruction from the air. During the visit Soviet authorities declared their willingness to provide information to an IAEA post-accident symposium. In May and June, the Board of Governors and the International Nuclear Safety Advisory Group considered the accident's implications for the Agency, deciding upon a number of activities to be undertaken in 1986 and agreeing to consider an expanded nuclear safety program for 1987 and 1988. In July and August governmental experts met in Vienna and drafted two conventions on early notification and emergency assistance.

The Director General anticipated that the Post Accident Review Meeting would result in an authoritative factual base for use in discussions of future actions to be taken. After the review, the International Nuclear Safety Advisory Group and other experts would draft a report for submission to the Board of Governors, which would then decide what further Agency measures might be desirable.

The Director General noted that there is general agreement that nuclear safety is primarily the task of individual nations, since they possess both governmental power and direct responsibility to citizens. International measures can never be a substitute for essential national regulations. If governments and public opinion agree, however that certain safety standards should be implemented everywhere—and this might be a result of Chernobyl—more international cooperation will be indispensable.

After the meeting with the Director General I toured facilities at the Vienna International Center with Mr. Hans-Friedrich Meyer of the Division of Public Information. I also met with Deputy Director General Maurizio Zifferero for a briefing on the work of the Department of Research and Isotopes.

MEETING WITH DEPUTY DIRECTOR GENERAL NELSON SIEVERING

Mr. Sievering, an American with extensive prior U.S. governmental experience directs the IAEA Department of Administration in a complex institutional environment.

The Agency shares many of the organizational problems of other international bodies. The majority of its members are developing countries, and some resent technical programs, including plant safety initiatives, which they perceive as favoring richer nations. In the past, some highly political proposals have threatened to politicize IAEA and to divert attention and resources from the Agency's vital technical mission. The civil servants from various nations who come to work in Vienna often bring differing administrative perspectives to their new assignments.

Further complicating the administrative task is the fact that IAEA has operated on a "zero growth" budget since 1984. Tight management has preserved essential services, but there is little surplus on which the agency can draw as it attempts to improve nonproliferation safeguards on the growing number of nuclear facilities worldwide.

Mr. Sievering emphasized that IAEA needs more resources if there is to be a substantial increase in nuclear safety responsibilities. The quality and quantity of services will depend largely upon whether the United States, the Soviet Union, and other industrialized countries provide the necessary additional funds and political support to enable the Agency to keep pace with world nuclear development.

MEETING WITH DIRECTOR OF NUCLEAR SAFETY MORRIS ROSEN

Dr. Rosen was one of the IAEA officials invited to visit Chernobyl after the accident, and he presented a clear and detailed account of the circumstances surrounding the incident. He also reviewed the progress of the ongoing accident assessment sessions.

He noted that the principal IAEA nuclear safety programs are directed toward establishing safety standards, giving assistance to Member States, and fostering the exchange of information. The current Agency role is principally advisory, and each country is ultimately responsible for its own nuclear safety activities.

Guidelines for nuclear safety have been published since 1974. These are composed of codes of practice and safety guides developed for the areas of governmental organization, siting, design, operation, and quality assurance. Although voluntary, they are used widely by countries as a basis for developing their domestic safety regulations.

IAEA maintains a voluntary Incident Reporting System for the collection and examination of significant safety-related events. The United States participates in this system, but until Chernobyl the Soviet Union did not. The system is especially important to developing countries, who learn from the experiences of advanced nuclear nations.

IAEA has in place a voluntary program for reviewing nuclear power plant safety. Up to the present, neither of the superpowers has taken advantage of this Operational Safety Review Team program, in which Agency experts and outside consultants spend two to three weeks consulting with operators at a nuclear facility at the request of the host country. It is anticipated that by the end of 1986, reviews will have been held in Brazil, Finland, France, Mexico, the Netherlands, Pakistan, the Philippines, South Korea, Sweden, West Germany, and Yugoslavia. Dr. Rosen noted with pleasure that Czechoslovakia has agreed to receive a safety review team in the very near future, the first Eastern bloc nation to do so.

With enhanced resources over the near term, about 20 reviews per year will be feasible. The existing safety operation has a staff of approximately 50 professionals. Personnel will be increased somewhat as the result of Chernobyl, with $2 million more for safety activities in the 1987 budget. Major portions of this increase will be devoted to increased safety team inspections, creation of an IAEA emergency control center in 1987, and procurement of equipment for measuring radioactive contaminants.

Over the longer term, several safety developments are probable, including an improved reporting system for the feedback of operating experience; broader coverage and greater impact for the Operational Safety Review Team program; examination of existing safety standards with a view to implementing lessons learned from Chernobyl and other accidents; and consideration of the feasibility of transforming some safety standards into minimum binding rules which countries would commit themselves to follow.

At the conclusion of our conversation, Dr. Rosen introduced me to a panel of specialists with experience on Operational Safety Review Teams. The panel, composed of Agency personnel from Canada, Finland, the United States, and West Germany, discussed various aspects of a typical team operation and answered questions concerning the scope and effectiveness of the program.

MEETING WITH DEPUTY DIRECTOR GENERAL PETER TEMPUS

Dr. Tempus reported that his Department of Safeguards is a major component of the Agency's activities and accounts for over 25 percent of the budget. It is the product of a new form of international collaboration, combining simple techniques of nuclear materials accountancy with physical surveillance measures. The objective is to ensure that nuclear materials and equipment intended for peaceful use are not diverted to military purposes. There are 180 safeguards inspectors organized into three divisions based upon blocs of countries.

The basic nonproliferation approach has been to make nuclear material and technology available to countries in return for nonproliferation commitments which are verified through safeguards inspections. Safeguards are applied in such a way that industrial secrets are protected, and there is minimum intrusion into the operation of plants.

Safeguards are applied to facilities and materials in individual Member States in accordance with the provisions of bilateral or multilateral agreements or those of the Tlatelolco Treaty and of the Treaty on the Non-Proliferation of Nuclear Weapons. The latter treaty, which came into force in 1970, requires non-nuclear-weapon signatories to conclude safeguards agreements with the Agency covering nuclear materials in all their peaceful nuclear activities. The Treaty currently includes 134 nations.

Dr. Tempus believes that safeguards are effective and afford countries the opportunity to show they are living up to their nonproliferation commitments. Since the most difficult part of the fuel cycle to safeguard is reprocessing, especially close surveillance is required at reprocessing facilities. Another important question requiring attention and clarification is the matter of Agency liability for any damage to a plant during a safeguards inspection.

The Deputy Director General suggested that the evolution of safeguards will depend upon the rate of growth of nuclear power, future developments in the fuel cycle, and changes in safeguards concepts and approaches. The major refinements are expected to include greater standardization of safeguards procedures, the strengthening of safeguards requirements in connection with exports of nuclear material, and improved cost-effectiveness.

Following this visit Dr. Tempus, I met with staff members of the Department of Safeguards to discuss fundamental objectives and approaches used in safeguards inspections. The personnel were from Britain, Canada, East Germany, Finland, Nigeria, and the United States.

OTHER MEETINGS

The U.S. Mission to the United Nations System Organizations in Vienna (UNVIE),

headed by Ambassador Bruce Chapman, provides permanent U.S. representation to the U.N. organizations located in the Austrian capital. At two luncheons hosted by Ambassador Chapman, I heard presentations from representatives of the U.N. Industrial Development Organization, devoted to promotion of industrialization in the developing countries; the U.N. Relief and Works Agency, charged since 1949 with direct assistance to Palestinian refugees; the U.N. Fund for Drug Abuse Control, which receives voluntary contributions to help furnish assistance to national and international agencies in the field of drug control, the Division of Narcotic Drugs, the staff arm of the U.N. Commission on Narcotic Drugs; and the U.N. Center for Social Development and Humanitarian Affairs, which provides limited technical assistance to developing countries in such fields as women's affairs, aging, youth, and crime prevention.

Before leaving Vienna, I had a very informative meeting on U.S.-Austrian relations at the U.S. Embassy with Ambassador Ronald Lauder. On the morning of my departure, I was briefed by Ambassador Richard Kennedy and members of the U.S. delegation to the Post Accident Review Meeting on the outlook for the final plenary session scheduled for later that day, and I was given their assessment of the presentation the Soviet delegation had made to all the delegates.

CONCLUSION

The Chernobyl accident has increased public uncertainty concerning the safety of nuclear power. Each country must decide for itself whether it will develop nuclear energy; if it chooses to do so, it has an obligation to assure the entire international community that its power plants are operating safely. There is no better method for such assurance than creation of an international nuclear safety regime which includes inspections of all civilian nuclear power plants worldwide.

This trip confirmed that the International Atomic Energy Agency is the organization best suited to lead in the building of such a regime. It has for thirty years been the mainstay in the international nonproliferation effort, and it should be the forum for the consideration and implementation of improved nuclear safety standards and policies.

In order to serve this need, the Agency merits the continued and increasing moral and financial support of the nuclear nations, including the United States. The valuable insights gained and the views exchanged on this trip should enhance within our Government the cooperation so necessary to insure that the IAEA receives that support.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. MELCHER. Mr. President, it is my understanding that morning business is extended until 10 o'clock; is that correct?

The PRESIDING OFFICER. The Senator from Montana is correct.

Mr. MELCHER. Mr. President, I have a short statement but I would like to ask unanimous consent that morning business be extended 2 minutes beyond 10 o'clock.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

FARM INCOME TAX AVERAGING

Mr. MELCHER. Mr. President, a dozen or more of us in a bipartisan effort are sponsoring an amendment to the tax bill that earlier passed this Congress. It involves income tax averaging for farmers. That is the amendment. The reason we attempt to do that and catch up with the tax bill that has just passed is the obvious need of this provision in the current code which would be wiped out under the tax reform bill. The reason that it is so important is this, Mr. President. Because of the changes and the vagaries of nature, whether it is drought or flood or hail or fire, the incomes of farmers and ranchers vary considerably. More correctly put, their losses in a given year vary considerably.

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This year we have had the drought in the South, in the Southeast. We have had the flooding situation in over half of the country, in various States. Even our own State of Montana was affected by some very serious flooding in several of our counties this fall, which caused an unusual amount of loss at an unusual time of year. Fire and hail are easily understood, and that has happened in various localities throughout the country every year.

So the fact is that income averaging for farmers is extremely important. We thought we would offer this tax amendment to the technical corrections bill that has been at the desk whenever it was called up. Last night, in seeking to get unanimous consent to bring it before the Senate, the chairman of the Senate Finance Committee, the Senator from Oregon [Mr. PACKWOOD], very correctly and very considerately advised the Senate that he would ask for such unanimous consent. After having given that notice for at least an hour or two, he made that unanimous-consent request, making an order that there be a half-hour taken, equally divided, for consideration of this particular amendment.

At that time, the Senator from Iowa [Mr. HARKIN] brought forward his proposal as an amendment to be offered to this technical corrections bill, and that delayed the process. That was eventually worked out, to give the Senator from Iowa [Mr. HARKIN] a separate time for him to bring up his provision on Nicaragua.

So, at the last minute, after 3 or 4 hours of floating the unanimous-consent request by Senators, there was an objection from our side to my offering, on behalf of myself and the numerous cosponsors, the income averaging.

I do not want to further delay the process, and that is why I earlier announced that I would offer this amendment to some other piece of legislation before we adjourn. I only take this time now to describe why we think it is so important to offer that income-averaging amendment and let the Senate vote on it. It has been voted on before, and it carried before, and we would like to see if it will carry again, and the House might accept it—but not on the technical corrections bill.

Mr. PACKWOOD. Mr. President, I thank the Senator from Montana. He has correctly and accurately described what happened last night. We were within an iota of having an agreement.

As he is aware, the longer we stay and the more people are here and the later it gets at night, the more people want to add other things. I had two phone messages in my pocket last night, beyond the Senators on the floor, and they have amendments they want to offer if the Senator from Montana is going to offer his amendment. If he can offer his and they cannot offer theirs, they will object, and there would be no technical corrections tag bill on the tax bill.

There are about 30 States affected which have perfectly legitimate provisions. The Senator from Montana is very gracious to withdraw his amendment so that we can go ahead. If others will be as charitable as he is, we can go ahead with the technical corrections part.

Mr. MELCHER. I thank the Senator from Oregon [Mr. PACKWOOD] for his considerateness and graciousness and for his valiant efforts to bring the technical corrections bill to the floor and get it passed. I hope, as he does, that that can be done very promptly.

Mr. PACKWOOD. I thank my good friend.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATHIAS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCURRENT RESOLUTION RELATING TO TAX REFORM ACT OF 1986—CORRECTION OF ENROLLMENT

Mr. PACKWOOD. Mr. President, I am going to propose a unanimous-consent request. It is a package unanimous-consent request relating to House Concurrent Resolution 395, otherwise referred to as the concurrent resolution which is the tag bill

following the tax bill which has numerous corrections in it. I will read it.

I ask unanimous consent that when the Senate turns to the consideration of House Concurrent Resolution 395, it be considered under the following agreement:

That the only amendment in order shall be an amendment to be offered by Senator PACKWOOD, limited to 20 minutes, to be equally divided, in the usual form, and that following the conclusion or yielding back of time, the amendment be considered agreed to.

I further ask unanimous consent that following the disposition of the Packwood amendment, the Senate proceed to final passage of House Concurrent Resolution 395, without any intervening action, motion, or debate.

I ask unanimous consent that no motions to commit with or without instructions be in order.

Finally, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 395.

Mr. BYRD. Mr. President, reserving the right to object, do any of my colleagues wish to reserve the right to object?

Mr. HARKIN. Mr. President, reserving the right to object——

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, I just want to be assured that the Senator from Ohio will have 5 minutes to discuss the matter.

Mr. PACKWOOD. I will be happy to assure that. If it is not available from the managers on the other side, the Senator may have it from my time.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BYRD. Mr. President, reserving the right to object, will the Chair indulge me?

Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 395) to correct technical errors in the enrollment of H.R. 3838.

AMENDMENT NO. 3467

(Purpose: Making further technical corrections)

Mr. PACKWOOD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike lines 9 through 18.

On page 6, strike lines 1 through 7, and insert: comma and "and", and add at the end thereof the following new subparagraph:

(D) such facility is to serve Haverhill, Massachusetts.

On page 10, line 9, strike "1983" and insert "1993".

On page 13, line 20, strike "or (C)".

On page 14, line 10, strike "Samuel A. Hardage Enterprises" and insert "Interests of Samuel A. Hardage".

On page 16, between lines 16 and 17, insert:

(E) Subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986 shall not apply to property described in section 204(a)(4) of this Act.

On page 19, line 10, insert "Pittsburgh," after "in".

On page 19, between lines 17 and 18, insert:

(NN) Old Louisville Trust Project, Louisville, Kentucky.

(OO) Stewarts Rehabilitation Project, Louisville, Kentucky.

(PP) Bernheim Officenter, Louisville, Kentucky.

On page 25, after line 24, insert the following flush sentence:

In no event shall sections 382 (a) and (b) of such Code (as so in effect) apply to any ownership change described in subparagraph (A).

On page 27, line 9, strike "stock in such corporation" and insert "such stock".

On page 27, line 20, after "1989" insert ", without regard to whether such corporation is completely liquidated".

On page 36, strike lines 16 through 18.

On page 38, beginning with line 21, strike through page 39, line 19, and insert :

(116) On page 322, in subsection (d) (relating to treatment of certain market discount bonds)—

(A) strike "28 percent" in paragraph (1) and insert "32 percent", and

(B) strike paragraph (2) and insert:

(2) QUALIFIED LIFE INSURANCE COMPANY.—for purposes of paragraph (1), the term "qualified life insurance company" means any life insurance company subject to tax under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986.

On page 40, between lines 21 and 22, insert:

(c) REVENUE LOSS LIMITED.—The decrease in the amount of Federal revenue by reason of the amendment made by his section shall not exceed $300,000 per year.

On page 41, strike lines 1 through 4, and insert:

(B) in subparagraph (A)—

(i) strike out "a deferred compensation plan" and insert "employees on August 16, 1986,", and

(ii) insert "maintaining a deferred compensation plan" after "Alabama", and

On page 41, line 7, insert "to" before "individuals".

On page 47, line 8, strike "(b)(2)(D)" and insert "(b)(2)(B)".

On page 47, line 9, strike "884(b)(2)" and insert "884(d)(2)".

On page 52, strike lines 4 through 18.

On page 60, line 25, before "projects" insert "the construction of such diagnostic and treatment center, or to finance construction and renovation".

On page 62, beginning with line 21, strike through page 63, line 25.

On page 66, line 17 strike "subparagraphs (A) and (B)" and insert "subparagraphs (A), (B), and (C)".

On page 71, strike lines 4 through 7, and insert:

(243) On page 76, in paragraph (11) (relating to certain aircraft)—

(A) strike "aircraft" each place it appears in the text and heading and insert "airplane",

(B) strike "Kansas, Florida, Georgia, or Texas" in subparagraph (A) and insert "the United States";

(C) strike ", the date of conference committee action)" in subparagraph (B); and

(D) strike subparagraph (C) and insert:

(C) The aircraft is—

(i) purchased on or after August 16, 1986, and before January 1, 1987, or

(ii) is subject to a binding contract which was in effect on August 16, 1986, or entered into on or after August 16, 1986, and before January 1, 1987, and

is delivered and placed in service pursuant to such purchase or contract before July 1, 1987.

Any airplane which is one of 7 airplanes with respect to which an airline signed an airplane purchase agreement on January 20, 1986 (with respect to which the financing contingency was removed no later than February 7, 1986), the estimated cost of which is $2,900,000, and which was delivered before May 23, 1986, and placed in service by May 27, 1986, shall be treated as described in this paragraph.

On page 72, line 4, after "Industries" insert "after December 31, 1988".

On page 72, line 8, strike "paragraph" and insert "paragraphs".

On page 73, after line 25, insert the following:

(39) The amendments made by section 201 shall not apply to any facility for the manufacture of an improved particle board if a binding contract to purchase such equipment was executed March 3, 1986, such equipment will be placed in service by January 1, 1988, and such facility is located in or near Moncure, North Carolina.

On page 74, line 16, insert "(including repairs and maintenance)" before "of".

On page 74, line 20, strike "during 1986" and insert "(and allowable as a deduction) during 1986 and shall be treated as qualified rehabilitation expenditures made during 1986".

On page 76, between lines 17 and 18, insert:

(W) South Carolina Family Farm Development Authority.

(X) Clemson University Continuing Education and the Component Housing Project.

On page 78, strike lines 1 through 16, and insert after "1986" in line 17 "and the amendments made by section 1301 of the Tax Reform Act of 1986".

On page 80, line 12, strike "each place it appears" and insert "the second place it appears".

On page 80, between lines 19 and 20, insert the following:

( ) On page 31, in paragraph (4) of subsection (b) (relating to miscellaneous itemized deductions)—

(A) strike "deduction" and and insert the "deductions", and

(B) strike the comma at the end and insert "and section 642(c) (relating to deduction for amounts said or permanently set aside for a charitable purpose),".

( ) On page 32, in the heading of subsection (e), strike "Determination of Adjusted Gross Income in Case of" and insert "Special Rules for".

( ) On page 32, after the period at the end of subsection (e) and before the close quotation marks, insert "For purposes of

this section and section 56(b)(1), the deductions allowable to an estate or trust under sections 651 and 661 shall not be treated as itemized deductions.".

( ) On page 56, in subsection (b) (relating to system used for purposes of earnings and profits)—

(A) strike "Paragraph (3)" and insert:

(1) IN GENERAL.—Paragraph (3), and

(B) insert at the end of the following new paragraph:

(2) CONFORMING AMENDMENT.—Section 312(k)(4) is amended—

(A) by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraph (1)", and

(B) by striking out the last sentence.

( ) On page 61, immediately before section 202 (relating to expensing of depreciable assets), insert the following new paragraph:

(15) Subparagraph (D) of section 46(e)(4) is amended by striking out "paragraph (8) and (9) of section 168(j)" and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)".

( ) On page 62, the last line, insert after the end period the following new sentence: "No election may be made under this subparagraph with respect to property to which section 168 of the Internal Revenue Code of 1986 does not apply by reason of section 168(f)(5) of such Code."

( ) On page 65, at the end of subsection (d) (relating to mid-quarter convention), insert: "The preceding sentence shall only apply to property which would be taken into account if such amendments did apply."

( ) On page 67, in subparagraph (F), insert "either" after "if".

( ) On page 68, in the 21st line, strike "1993" and insert "1998".

( ) On page 81, in paragraph (29)—

(A) strike "January 18" in subparagraph (A) and insert "January 25", and

(B) strike "law suits filed on June 22, 1984, and November 21, 1985" in subparagraph (B) and insert "a law suit filed on October 25, 1985".

( ) On page 84, strike subparagraph (J) and insert the following:

(J) a 25.85 megowatt alternative energy facility located in Deblois, Maine, with respect to which certification by the Federal Energy Regulatory Commission was made on April 3, 1986, and".

( ) On page 84, immediately before subsection (b), insert the following new paragraph:

(40) The amendments made in section 201 shall not apply to trucks, tractor units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985 but only to the extent the aggregate reduction in Federal tax liability by reason of the application of this subparagraph does not exceed $8,500,000.

( ) On page 85, the first 12 lines—

(A) insert "and" at the end of subparagraph (B),

(B) strike subparagraph (C), and

(C) redesignate subparagraph (D) as subparagraph (C).

( ) On page 108, in subparagraph (B) of paragraph (3) (relating to certain additional rehabilitations), strike "Pontabla" and insert "Pontalba".

( ) On page 110, in subparagraph (T) of paragraph (4), strike "Louisville" and insert "Covington".

( ) On page 124, in paragraph (1) of subsection (k) (relating to application of at-risk rules)—

(A) strike "subparagraph (D)(iv)(I)" and insert "subparagraphs (D)(11)(II) and (D)(iv)(I)", and

(B) strike "qualified basis" and insert "eligible basis".

( ) On page 125, the 5th line, before the end period insert: ", except that this subparagraph shall not apply in the case of a Federally-assisted building described in subsection (d)(6)(B) if—

"(i) a security interest in such building is not permitted by a Government agency holding or insuring the mortgage secured by such building, and

"(ii) the proceeds from the financing (if any) are applied to acquire or improve such building."

( ) On page 127, in the third line, strike the period and insert ", and except for any building described in paragraph (2)(B), subsection (h)(4) shall not apply to any building placed in service after 1989.".

( ) On page 141, immediately before subsection (c) (relating to effective date) insert:

(14) Subparagraph (B) of section 172(d)(4) is amended by striking out ", (2)(B),".

( ) On page 167, between the fourth and fifth lines, insert:

(4) SPECIAL RULE FOR CERTAIN RURAL HOUSING.—In the case of any interest in a qualified low-income housing project which—

(A) is assisted under section 515 of the Housing Act of 1949 (relating to the Farmers Home Administration Program), and

(B) is located in a town with a population of less than 10,000 and which is not part of a metropolitan statistical area,

paragraph (1)(B) shall be applied by substituting "35 percent" for "50 percent" and subsection (b)(1) shall be applied by substituting "5th taxable year" for "6th taxable year". The preceding sentence shall not apply to any interest unless, on December 31, 1986, at least one-half of the number of payments required with respect to such interest remain to be paid.

( ) On page 177, the 11th line, insert "amount or" before "payment".

( ) On page 177, strike the last 4 lines, and insert:

"(B) except as provided in regulations, the only earnings and profits of such corporation were earnings and profits—

"(i) accumulated by such corporation (or any predecessor corporation) during such period, and

"(ii) not attributable to distributions from any other corporation unless the stock of such other corporation (or of any predecessor corporation) was held by such corporation during the entire period such other corporation (or predecessor corporation) was in existence, and

( ) On page 190, lines 8 and 9, strike "deposits described in subclause (II)" and insert "the amount of deposits in the new loss corporation immediately after the change".

( ) On page 190, in paragraph (6) (relating to special rule for insolvency transactions), strike "be the value of the new loss corporation immediately after the ownership change" and insert "shall reflect the increase (if any) in value of the old loss corporation resulting from any surrender or cancellation of creditor's claims in the transaction".

( ) On page 193, in the sentence immediately preceding paragraph (5) (relating to bankruptcy proceedings) strike "with respect to domestic building and loan transactions" and insert "with respect to transactions (including firm commitment underwritings) by institutions described in section 591 of such Code".

( ) On page 201, immediately before section 632 (relating to treatment of C corporations electing subchapter S status), insert the following new paragraph:

(18) Section 334(b)(2) is amended by striking out "332(c)" each place it appears in the text and heading and inserting in lieu thereof "337(b)(1)".

( ) On page 203, immediately before subsection (b) (relating to treatment of distributions), strike the end quotation marks and insert the following new paragraph:

"(5) TREATMENT OF TRANSFER OF ASSETS FROM C CORPORATION TO S CORPORATION.—

"(A) IN GENERAL.—Except to the extent provided in regulations, if—

"(i) an S corporation acquires any assets from a C corporation, and

"(ii) the S corporation's basis in such assets is determined (in whole or in part) by reference to the basis in the hands of the C corporation,

then this section (other than subsection (c)(1)) shall apply to any recognized built-in gain on the disposition of any such asset.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) paragraphs (1), (2), and (3) shall be applied by substituting the taxable year in which the assets were acquired for the taxable year referred to in such paragraphs, and

"(ii) the net unrealized build-in gain shall be computed by taking into account only such assets."

( ) On page 206, in paragraph (8), strike "becomes an S corporation for a taxable year beginning" and insert "makes an election to be an S corporation under section 1362 of such Code".

( ) On page 206, redesignate subsections (d) and (e) as subsections (e) and (f), respectively.

( ) On page 208, redesignate subsection (f) as subsection (g).

( ) On page 225, the 10th line, strike "contractual option" and insert "contractural obligation".

( ) On page 253, strike subparagraph (E) (relating to standard deduction not allowed) and insert:

"(E) STANDARD DEDUCTION AND PERSONAL EXEMPTION NOT ALLOWED.—The standard deduction under section 63(c) and the deduction for personal exemptions under section 151 shall not be allowed.

( ) On page 264, on paragraph (6)(A) (relating to appreciated property charitable deduction) insert "or 642(c)" after "section 170".

( ) On page 268, the 5th line from the bottom, strike the end quotation marks.

( ) On page 268, between the 4th and 5th lines from the bottom, insert:

"(1) TAXABLE INCOME FOR CERTAIN ORGANIZATIONS.—If the tax imposed by chapter 1 on any organization is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such organization for purposes of this part."

( ) On page 269, fifth line from the bottom, strike "earnings and profits" and insert "current earnings".

( ) On page 273, before the last line, insert:

(L) Section 511 is amended by striking out subsection (d).

( ) On page 295, the 7th line from the bottom, strike "Section 267(a)" and insert "Section 267(a)(2)."

( ) On page 313, in paragraph (3)(C) (relating to limitation on issuer), strike "qualified" the second place it appears.

( ) On page 315, strike subparagraph (P) and insert:

(P) Homewood, Alabama, the Club Apartments.

( ) On page 321, the 6th line, strike "June 20, 1986" and insert "the date of the enactment of this Act".

( ) On page 349, in clause (iv) of paragraph (4)(B) (relating to information required to be supplied), strike "with or within which the taxable year ends" and insert "in which the taxable year begins".

( ) On page 350, in subparagraph (C) of paragraph (2) (relating to special rules for applying section 72), strike "with or within which the taxable year ends" and insert "in which the taxable year begins".

( ) On page 383, the 9th line from the bottom, strike "414(f)(1)(B)" and insert "3(37)(A)(ii)".

( ) On page 384, the first line, strike "Section 202(B)(i)" and insert "Section 202(a)(1)(B)(i)".

( ) On page 398, in section 4979(c) (defining excess contributions), strike "408(k)(8)(B)" and insert "408(k)(6)(C)".

( ) On page 419, line 11, strike "at the end thereof" and insert "after section 4981".

( ) On page 419, line 13, strike "SEC. 4981." and insert "SEC. 4981A.".

( ) On page 421, line 18, strike "at the end thereof" and insert "after the item relating to section 4981".

( ) On page 421, in the matter following line 18, strike "Sec. 4981." and insert "Sec. 4981A.".

( ) On page 429, the 9th line, strike "(E)" and insert "D".

( ) On page 448, immediately before part II (relating to other provisions), insert:

(6) CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—If an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986 makes an election under this paragraph with respect to a plan described in section 125(c)(2)(C) of such Code, the amendments made by this section shall apply with respect to such plan for plan years beginning after the date of the enactment of this Act.

( ) On page 451, in section 134(b)(1) of the Internal Revenue Code of 1986, as added by section 1168(a) of the Act, insert "(other than personal use of a vehicle)" after "in-kind benefit".

( ) On page 453, in paragraph (1) of section 2057(b) (relating to qualified sale), strike "is".

( ) On page 455, in subclause (II) of paragraph (2)(B)(i) (relating to effective date for subsection (b)), strike "July 18" and insert "May 23".

( ) On page 463, in clause (ii) of subparagraph (I) (relating to transitional rule), strike "1986" and insert "1987".

( ) On page 484, immediately above subsection (d) (relating to effective dates), insert the following new subparagraph:

(D) Paragraph (1) of section 2195(b) (relating to bank deposits and certain other debt obligations) is amended by striking out "section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States" and inserting in lieu thereof "section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(2)".

( ) On page 488, in subparagraph (C) (relating to special rule), strike "to interest expenses paid or accrued".

( ) On page 511, in paragraph (2) of subsection (e) (relating to certain basis, etc. rules made applicable), strike "who was not" and insert "who was".

( ) On page 517, in the matter added by subsection (b) (relating to coordination of section 1246 with section 1248), strike "section 1248(g)(3)" and insert "section 1248(g)(2)".

( ) On page 543, immediately before part III (relating to cover of income taxes), insert the following new paragraph:

(9) Section 1444 is amended by striking out "(as modified by section 934A)".

( ) On page 546, insert immediately after subsection (e) the following new subsection:

(f) EXEMPTION FROM WITHHOLDING.—Notwithstanding subsections (b) and (c), the modification of section 884 of the Internal Revenue Code of 1986 by reason of the amendment to section 881 of such Code by section 1273(b)(1) of this Act shall apply to taxable years beginning after December 31, 1986.

( ) On page 606, in paragraph (2) of subsection (b) (relating to section 1301(f)), insert "with respect to non-issued bond amounts elected" after "issued".

( ) On page 610, immediately after subparagraph (F), insert the following new subparagraph:

(G) Except as provided in the last sentence of subsection (c)(2) of this section, the requirements of section 145(b) (relating to $150,000,000. limitation on bonds other than hospital bonds).

( ) On page 615, in line 8, insert "and as having a carryforward purpose described in section 146(f)(5) of such Code," immediately before "but".

( ) On page 653, in clause (ii) of paragraph (33)(A) (relating to application of $150,000,000 limitation for certain qualified 501(c)(3) bonds)—

(A) strike "on" in subclause (II) thereof and insert "dated", and

(B) insert "dated on December 1, 1985" after "(Series 1985 A and 1985 B)" in subclause (III) thereof.

( ) On page 656, the last line, strike "$80,000,000" and insert "$400,000,000".

( ) On page 658, in the second item in the table in paragraph (44) (relating to New Mexico Hospital pool bonds), strike "Bonds Pool" and insert "Equipment Loan Council".

( ) On page 662, strike the end quotation marks at the end of section 673 (relating to reversionary interests).

( ) On page 662, immediately before section 1402(b) (relating to conforming amendments), insert:

"(c) SPECIAL RULE FOR DETERMINING VALUE OF REVERSIONARY INTEREST.—For purposes of subsection (a), the value of the grantor's reversionary interest shall be determined by assuming the maximum exercise of discretion by the fiduciary in favor of the grantor."

( ) On page 682, the fifth line, insert "(or revocable trust)" after "will".

( ) On pages 723 and 724, strike section 1608 and conform the table of contents.

( ) On page 744, in the matter inserted by subparagraph (G)—

(A) strike "Registry of Deeds" each place it appears and insert "Register of Deed", and

(B) strike "May 7, 1985" and insert "May 7, 1984".

( ) On page 758, in paragraph (9)(B), strike "1986" and insert "1954".

On page 784, sixth line from the bottom, strike "1985" and insert "1986".

( ) On page 833, in clause (i) of subparagraph (B) (relating to operating corporation), strike "placement period" and insert "replacement period".

( ) On page 886, strike paragraph (8) (the first 31 lines).

( ) On page 910, the 13th line, strike "401(a)(11)" and insert "205".

( ) On page 910, in subparagraph (B) of paragraph (7) (relating to clarification of nonforfeitable accrued benefit), strike "Subparagraph (C) of section 205(b)(1)" and insert "Clause (1) of section 205(b)(1)(C)".

( ) On page 911, in clause (i) of subparagraph (B) of paragraph (9) (relating to amendments of ERISA), strike "nonforfeitable accrued benefit" and insert "nonforfeitable right (within the meaning of section 203)".

( ) On page 917, the 10th line, strike "means earlier of" and insert "means the earlier of".

( ) On page 917, the 12th line, strike "in".

( ) On page 917, the 14th line, strike "in".

( ) On page 918, the 7th line, strike "section 203" and insert "section 203(e)".

Mr. PACKWOOD. Mr. President, this is the amendment we talked about yesterday. I think the Senator from Ohio is fully aware of what it is. Some of the objections he had have been stricken out. I have talked with his aide. There is nothing in this amendment that was not there last night.

I know of no objections on either side to what is in the amendment. After the Senator from Ohio finishes, if there is no other request for time on his side, I will be prepared to yield back time on our side and go to a vote.

□ 1010

Mr. METZENBAUM. Mr. President, the Senator from Oregon states it very accurately.

When this matter was originally proposed as a unanimous-consent agreement yesterday, the Senator from Ohio indicated that I was not opposed to the general thrust of the concurrent resolution but did have some concerns about some of the specific provisions.

In discussions had with the manager of the bill as well as some of his staff and my staff as well, we were able to agree to delete certain of the provisions, and I believe that they are appropriate deletions.

One of them we had originally agreed to in the original tax bill. I guess it was in the corrections bill. We agreed that in connection with an item having to do with a Physician's Mutual that some change would be made amounting to $300,000. When we then submitted that to determine the actual value from the Joint Tax Committee, we were told it was $10 million. It now has a provision in it providing for limitation of $300,000 a year and that was our original understanding.

Under those circumstances, we have no objection.

Mr. PACKWOOD. I thank the Senator from Ohio.

I might say there was no change in the amendment from the time we had the original estimate on it until it suddenly cost $10 million.

Mr. METZENBAUM. That is absolutely correct.

Mr. PACKWOOD. I cannot explain why it once cost $300,000 and then it cost $10 million when it was the same amendment.

Mr. METZENBAUM. At least we are in the same agreement now.

In all fairness to the Senator from Nebraska, who was the proponent of the amendment, Senator EXON, he made it clear right from the beginning that he was talking about $300,000, not $10 million.

Mr. PACKWOOD. On this one there was no attempt by any Senator on either side of the aisle to blind-side any other Senator on the other side of the aisle.

Senator EXON from Nebraska was gracious last night saying he did not need $10 million, so we agreed to the $300,000 a year limit.

Mr. METZENBAUM. That is correct.

There are some provisions in the transition rules that provided for certain provisions having to do with WPPSS, the Washington Public Power Supply System.

There was some new language inserted by the House when that would have cost the Government $50 million additional. After our discussions, I am pleased to report that the Senator from Oregon, the manager of the bill, has agreed to drop that and that is part of this amendment.

Then there was a new lease-back arrangement for the Los Angeles library sale. That would have cost the Federal Government $2 million, and that would be an exemption from the current law. The manager of the bill has agreed to drop that.

Then there was a new project that the House put in—all of these projects I might say came from the House—the Tennessee solid waste project, I have no idea whether it is meritorious or not, but the point is it did not belong in this corrections measure, and that has been dropped for a total savings of $81 million plus the savings of $8½ million on the Physician's Mutual.

None of these matters were in either the House or Senate bill with exception of the Physician's Mutual matter.

Then in connection with the general aviation amendment, that amendment which originally was limited to certain aviation companies that were located in particular States, it was agreed that there was agreement that that would be generic but there were some provisions provided that as to the cost limitations and instead of it costing $25 million, it will not cost $14 million.

The total savings to the Treasury in all of them amounts to $92 million and that, around here, maybe is not a lot of money, but when you are trying to get $4 million for orphan drugs or a few million dollars for a WIC program or a few million dollars for some other research program, it is a lot of money, and to this Senator, and I am sure the manager of the bill, it is a lot of money, and I think we have agreed on that.

Then there was another measure that came into this bill and this is one of those unusual ones that nobody claims any parenthood, nobody is willing to describe where it came from, and that had to do with a freight forwarders amendment. It so happens that is a very good amendment and the manager of the bill indicated publicly the other day that he supports it. I support it.

It really does not belong in this bill because it sort of comes in from left field, but notwithstanding that, it was a very good amendment and I had hoped we could keep it in.

The chairman of the committee, Senator DANFORTH, has indicated and made a commitment, and I think I speak correctly, and I hope the manager will correct me since I see Senator DANFORTH is not on the floor at the moment, if I am wrong, that he agreed that if the matter is dropped there would be early hearings in the committee, that the matter would not only have hearings but would be brought to a vote in the committee or there would be a markup. On that basis, although I feel very strongly that the measure does have a lot of merit to it, I have agreed that I would not concern myself about that deletion.

Mr. PACKWOOD. The Senator from Ohio is correct. As a matter of fact, I even talked to the Senator from Missouri, Senator DANFORTH, last night and again reconfirmed that we would have hearings on it.

I agree with the Senator from Ohio. I think it is a good provision. I think on the merits it is a good provision. It was put in the bill by the method we have not yet determined. I felt badly. It was his jurisdiction, and I appreciate the Senator from Ohio, even though he and I agree on the merits, taking it out.

Mr. METZENBAUM. I say to the Senator from Oregon, the manager of the bill, that he has been very reasonable in our discussions that we had in connection with these negotiations and deletions. There was some effort on his part last night to move forward with this unanimous consent and there was, I think, some possible misunderstanding with my staff. I was out of the city for a couple of hours. But I appreciate his consideration and cooperation, and I think we are going forward and I think many of the problems that he wants to resolve in this concurrent resolution will now be resolved.

Mr. MOYNIHAN. Mr. President, there does not appear to be any Member on this side who wishes to speak.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, what happened is that in the changing of the effective date on the insurance issues from June 20 to the date of the enactment of the act, the June 20 date appears in three places in the bill. The amendment that is before the body changes the date in only one place.

So I ask unanimous consent that my amendment may be modified on page 17, line 7, after the word "the" and before the number "Sixth" that the words "third, fourth, and" may be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I take a moment just to thank the distinguished chairman and our indefatigable staff for having put together this collection of basically corrections to a large document which was inevitably subject to the kinds of drafting errors and typographical errors that will happen and also the simple oversights. In the interests of full disclosure which we have had throughout this, there are two provisions in this measure, one having to do with a development of the Flushing Center in the county of Queens in New York and the other the Eastman Place in Rochester, NY. Both have been fully agreed with in conference and there was no question about their appropriateness as transition rules. A piece of paper fell on the floor somewhere in the course of the drafting and these now are restored. I just want to make that point clear.

□ 1020

Mr. President, how much time do we have on this side?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. MOYNIHAN. I yield 1 minute to the Senator from Kentucky.

Mr. FORD. I thank my distinguished friend. Mr. President, I want to compliment the chairman, Mr. PACKWOOD, for his effort in resolving the problem we had as it relates to the technical corrections, and my distinguished friend from New York. I would like to thank Senator MELCHER for working out his problem that was delaying the consideration of this legislation today. He was amenable to the

concerns of his colleagues and I am grateful for that. And also Senator METZENBAUM for allowing it to go forward. I do thank all of those who are involved. It is an important piece of legislation for the people of my State and I am grateful.

Mr. MOYNIHAN. Mr. President, we yield back the balance of our time.

Mr. PACKWOOD. I yield back the balance of the time on our side.

The PRESIDING OFFICER. All time having been yielded back, in accordance with the terms of the unanimous-consent agreement, upon yielding back of all time, the amendment is considered agreed to.

The amendment (No. 3467) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the provisions of the agreement, the question now recurs on the adoption of the concurrent resolution, as amended.

The concurrent resolution (H. Con. Res. 395), as amended, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I will just take 1 minute to thank the distinguished chairman of the Finance Committee for not giving up and we now have that behind us. So that is one thing off the list, one big item that is gone, disappeared in 10 minutes.

The immigration bill will be next. I hope we could complete that by noon. Then I assume we would turn to the continuing resolution which will probably take some time, but at least we are starting to move.

Mr. HATCH. Mr. President, the 1984 tax bill had the unintended effect of creating an incentive for U.S gold miners to use foreign refineries in order to qualify for foreign sales corporation tax benefits. This provision of the Tax Code threatens the existence of the precious metals refining industry in the United States. Unless Congress acts, our domestic industry will be harmed irreversibly, as more and more gold goes overseas for refining.

This challenge to our refining industry became apparent to domestic refiners only earlier this year. When the industry called this problem to my attention, it was too late for consideration by the Finance Committee, and relief was not included in the Tax Reform Act of 1986. I believe, however, that this problem deserves the attention of the Congress, and I will urge my colleagues to consider a resolution to it during the next session of Congress. In the meantime, I hope the gold mining, refining, and manufacturing industries themselves will consider the best way to accommodate the interests of individual companies with the goal of saving our domestic refining capacity.

Our mining industry has seen hard times in recent years, and to some profitable gold mining companies, FSC tax benefits are providing welcome financial support in the form of an income tax deduction. Gold prices are recovering, which should also help our miners. But regardless of the price of gold, I know that all U.S. mining companies support the concept of a healthy, competitive refining industry within our borders if for no other reason than because competition controls refining costs.

As another assist to the U.S. gold producers, Congress has approved an ambitious U.S. gold coin program, and required that newly mined U.S. gold be purchased to the fullest extent possible before U.S. gold reserves are tapped for coinage. It would undermine the purpose of the gold coin program, Mr. President, for the U.S. mint to be forced to buy U.S. gold abroad in the absence of domestic refining capacity, or to dig into our gold reserves, thereby increasing overall gold supplies and depressing gold prices.

There are only a handful of independent precious metals refineries in the United States and only one major precious metals refinery in the West, located in Salt Lake City. Even without the market distortion created by the Tax Code, the industry is intensely competitive. Yet the domestic refining industry cannot compete on an equal footing unless it is eligible for FSC benefits available for precious metals refined abroad.

Mr. President, let me provide some background about foreign sales corporations as they affect the domestic refining industry.

The 1984 Tax Reform Act established foreign sales corporations to replace DISC's. Reversing a policy established in the 1960's, Congress also made extracted minerals eligible for FSC benefits. Several gold miners have since transferred their business from domestic to foreign refineries in order to obtain the FSC tax benefits. Since gold is a fungible commodity, an equivalent amount of gold is soon reimported for use in the United States.

The United States is a net importer of precious metals. The United States produces 2 million ounces of gold and imports 7 million ounces annually. If FSC trends continue, the United States could actually export 2 million ounces of gold and import 9 million.

That is not what the Congress had in mind in 1984, Mr. President.

Just as the gold market is complex, so there is no simple solution to the refining crisis. Precious metals are totally fungible elemental commodities. Gold is seldom consumed. Rather, it is held and traded internationally for its intrinsic value. Physical gold is rarely shipped or delivered at time of sale. Gold enters the world market as soon as it reaches the refinery. A foreign buyer of gold from a western U.S. mine might actually receive title to physical gold stored in Toronto or London, even before the gold from the U.S. mine is refined.

The fungible nature of gold, and the impossibility of tracking any individual ounce of gold from the refinery gate to its ultimate user, make relief for the refiners difficult in the contest of foreign sales corporation requirements. One alternative would be to formally make U.S. refined gold eligible for FSC benefits. The Treasury Department, however, believes this legislative relief would undermine the fundamental FSC tests of delivery and use outside the United States.

Treasury would support excluding gold altogether from FSC benefits. But while the gold mining industry did not seek special export tax benefits in 1984, miners now using FSC's understandably do not want to give up the tax advantage. Others in the precious metals mining industry feel just as strongly that a U.S. capability to refine U.S. mined gold is in the public interest as well as in their economic interest.

Given the alternative of losing our domestic refining capacity—with the implications for the U.S. gold coin program—a solution must be found quickly. I urge the precious metals industry to consider the equities and counsel the Congress. And I look forward to working with my colleagues over the next several months to fashion a solution.

Mr. DOLE. Mr. President, I would like to take a few moments to address the issue of the general aviation transition rule contained in H.R. 3838 and modified in Senator PACKWOOD's amendment to the House concurrent resolution.

The transition rule, as originally drafted, was intended to allow our manufacturers of general aviation aircraft to offer buyers the investment credit and current law depreciation as an incentive to purchase planes before the end of the year. We intended to include all planes truly manufactured in the United States although the measure was drafted in a limited manner to satisfy the revenue estimators that the revenue loss would not be unexpectedly high.

As it turned out, we missed one major manufacturer by the way that

the conference report was drafted. The House concurrent resolution corrected that omission.

The modification proposed by the distinguished chairman of the Finance Committee would attempt to expand the transition rule to include aircraft which are not in any sense "manufactured" in the United States. I think this is wrong. However, I will not object to the unanimous-consent request because I know how important the truly technical corrections contained in this resolution are to many Members and their constituents.

Nevertheless, it is difficult for me to justify to myself or to explain to anyone else how we can consider a paint job, installation of part of an interior, or installation of some avionics to qualify an airplane for the benefits of this special rule. It seems to me to be a very strained definition of "final assembly" to allow planes that are flown over on their own from overseas to be considered "finally assembled" in the United States.

I can understand the desire of the chairman to adopt a generic rule that will not appear to prefer one State over another. However, I think that we should focus on why the provision exists in the first place. It was included in the bill because our domestic general aviation manufacturers are suffering from a severe recession. We are hoping that a short period when they can tell potential buyers that they will still be able to get an investment tax credit will give these manufacturers a chance to sell the planes they now have in inventory and those that they expect to complete before next July.

I would hope that the Internal Revenue Service will interpret the term "final assembly" in accordance with the common understanding of the term—that a plane will not qualify for this rule unless its final assembly is in the United States. It would seem odd that a plane could be considered finally assembled in the United States if it is capable of being flown and, in fact, is flown into this country from somewhere else.

THE ANTIDRUG BILL

Mr. DOLE. Mr. President, the Senate, in the truest sense of bipartisanship, passed the drug bill last night. It has been that way from the start. We had a couple of major differences, really only one. But we approved that bill by a voice vote last night.

I would just like to urge my House colleagues to take a hard look at that bill today and to accept it. It is very close to the House bill. There are some differences. I would just urge the House today to indicate that they are going to support the Senate bill which contains many of the provisions in the House bill. It is really a bicameral compromise, as well as a bipartisan compromise.

COMPARISON OF SENATE AND HOUSE ANTIDRUG BILLS

Mr. President, I have repeatedly stated that I believe Congress has a duty to approve antidrug legislation before we adjourn this year. The Senate has twice now addressed the issue—addressed it in a responsible and meaningful way.

On September 30, we approved the Drug Enforcement Act, and last night, after meeting the House more than half-way on a number of important issues, we passed a revised drug bill and sent it to the House for its consideration.

There never will be or could be a drug bill that would please every Member. Like any legislation that is as far-reaching and covers as many different concerns, there will be differences of opinion. But I believe the bill we passed last night is as close as we can come to a consensus between the two bodies. And I hope that the House, after looking at what we have done, will accept the Senate's bill.

Mr. President, I ask unanimous consent that a summary of the major differences in the bills be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

MAJOR SENATE CHANGES TO HOUSE AMENDMENT

TITLE I—ENFORCEMENT

Adds back certain Senate provisions dropped by the House:

Authority to reduce statutory minimum sentences in return for cooperation with police and prosecutors.

Federal Drug Law Enforcement Agent Protection Act.

Common carrier operations under the influence of drugs or alcohol.

Retains Senate money laundering.

Authorizes $230 million for grants to State and local law enforcement agencies, as opposed to a House level of $350 million and Senate level of $115 million.

TITLE II—INTERNATIONAL

Restores Senate level of $63 million for International Narcotics Control Assistance.

Retains Senate language on the location where the repeal of the Mansfield Amendment applies.

Strikes the $1 million reduction in narcotics assistance to Mexico added by the House, and instead lists a series of actions the Congress may take unless progress is made in the investigations on the death of DEA agent Camarena and the torture of DEA agent Cortez.

TITLE III—INTERDICTION

Provides (2) E2C Hawkeye Surveillance aircraft to U.S. Customs Service and (2) identical aircraft to U.S. Coast Guard.

Specifies that funds provided through Department of Defense are new authority and not out of existing authority.

Restores Senate language on FCC license revocation and equipment seizure.

Provides "up to $7 million" for the Civil Air Patrol as opposed to $3.5 million.

Provides two C-130 surveillance aircraft to U.S. Coast Guard.

TITLE IV—DEMAND REDUCTION

Increases by $15 million the existing ADAMHA block grant to a total of $515 million.

Authorizes $186 million for drug and alcohol treatment and rehabilitation.

Retains Senate language reauthorizing NIAAA at $69 million and NIDA at $129 million.

Provides $200 million in new educational funds. This compares to an original Senate level of $150 million and House level of $250 million.

Mr. DOLE. Mr. President, again, I strongly urge the House to take the responsible route, to accept the Senate drug bill, which is itself a compromise between the original House and Senate versions. This is the best possible way to offer the American people some of the help they have called on us to provide—help to combat the terrible tragedy of drug abuse.

ORDER OF PROCEDURE

Mr. SIMPSON. Mr. President, I believe we have some business to conduct and, after conferring with the Democratic leader, we can do some housekeeping matters that are important to both bodies in these last hours.

RELEASING CERTAIN CONDITIONS AND RESERVATIONS CONTAINED IN A CONVEYANCE OF LAND TO THE STATE OF UTAH

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 5459, dealing with certain land in the State of Utah, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to either the request to discharge from the committee or immediate consideration.

The PRESIDING OFFICER. Is there objection? There being no objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5459) to direct the release, on behalf of the United States, of certain conditions and reservations contained in a conveyance of land to the State of Utah, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Are there amendments? If not, the question is on the third reading and passage of the bill.

The bill (H.R. 5459) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COAST GUARD AUTHORIZATION ACT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 1086, H.R. 4208, the Coast Guard authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4208) to authorize appropriations for the Coast Guard for fiscal year 1987, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Coast Guard Authorization Act of 1986".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1987, as follows:

(1) For the operations and maintenance of the Coast Guard, $1,862,800,000, of which not more than $20,000,000 may be made available to the Commandant of the Coast Guard for discretionary use in meeting unanticipated demands and needs for Coast Guard operation and maintenance; and for increases in salary, pay, and other employee benefits authorized by law, such sums as may be necessary.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $267,000,000, to remain available until expended.

(3) For research, development, test, and evaluation, $20,000,000, to remain available until expended.

(4) For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $364,000,000.

(5) If funds are appropriated to any other officer of the United States for carrying out the purposes described in paragraphs (1) through (4) of this section, such officer may transfer to the Secretary of the department in which the Coast Guard is operating the full amount of such funds. Such funds shall be allocated by the Secretary to such purposes.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING

SEC. 3. (a) For fiscal year 1987, the Coast Guard is authorized in end-of-year strength for active duty personnel of 39,200. The authorized strength does not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

(b) For fiscal year 1987, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 3,200 student-years.

(2) For flight training, 110 student-years.

(3) For professional training in military and civilian institutions, 441 student-years.

(4) For officer acquisition, 925 student-years.

TRANSFER OF FUNDS

SEC. 4. (a) Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not to exceed 5 percent of the funds appropriated for the purposes described in section 2(2) of this Act to the Commandant of the Coast Guard for discretionary use in meeting unanticipated demands and needs for Coast Guard operations and maintenance under section 2(1) of this Act.

(b) No transfer of funds may occur under subsection (a) of this section until 15 days after the Secretary has provided written notification to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Appropriations Committees of the Senate and House of Representatives stating the reasons for such determination and a description of the purposes for which the funds proposed to be transferred will be used.

LIMITATIONS ON CONTRACTING PERFORMED BY THE COAST GUARD

SEC. 5. (a)(1) It is in the national interest for the Coast Guard to maintain a logistics capability (including personnel, equipment, and facilities) to provide a ready and controlled source of technical competence and resources necessary to ensure the effective and timely performance of Coast Guard missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(2)(A) The Secretary of the department in which the Coast Guard is operating shall identify those Coast Guard activities that are necessary to maintain the logistics capability described in paragraph (1) of this subsection. The Secretary shall provide a list of such activities to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives not later than January 31, 1987. If the Secretary does not provide such list by that date, no activity performed by Coast Guard personnel may be contracted for performance by non-government personnel after such date until the list is provided to such committees.

(B) The list submitted by the Secretary under this paragraph shall not include—

(i) any activity that is being performed under contract by non-government personnel on the date of enactment of this Act; or

(ii) any activity for which Congress received, prior to April 1, 1986, a written notification pursuant to section 14(b)(2) of the Coast Guard Authorization Act of 1984 (Public Law 98-557; 98 Stat. 2864) of intent to contract.

(b)(1) Except as provided in paragraph (2) of this subsection, performance of an activity identified by the Secretary under subsection (a)(2) of this section may not be contracted for performance by non-government personnel.

(2) The Secretary may waive paragraph (1) of this subsection with respect to any Coast Guard activity (other than an activity described in subsection (d) of this section), if the Secretary determines that the performance of such activity by Government personnel is no longer necessary to ensure the effective and timely performance of Coast Guard missions.

(3) A waiver under paragraph (2) of this subsection may not take effect until a period of 30 days in which either the Senate or House of Representatives is in session has expired after the Secretary has submitted in writing to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a full and complete statement concerning the waiver and the reasons therefor.

(c) Before the beginning of fiscal year 1987, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a list of Coast Guard activities that are to be considered for performance by contract by non-Government personnel under the procedures of Office of Management and Budget Circular A-76 during that fiscal year.

(d) The Secretary may not award any contract for the performance of any "commercial activity", as defined by paragraph 6.a. of the Office of Management and Budget Circular Memorandum A-76, which is performed by employees of the Coast Guard until at least 30 calendar days after the Secretary has presented, in writing, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a full and complete description of such proposed contract, together with supporting documentation. Such documentation shall include—

(1) a comparison of the cost of such activity as performed by employees of the Coast Guard and the cost of such activity as performed under the proposed contract;

(2) a comparison of the services performed by employees of the Coast Guard and the services to be performed under the proposed contract; and

(3) an assessment of the benefits to the Coast Guard of proceeding with the proposed contract.

(e)(1) Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal year 1987 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The secretary of the department in which the Coast Guard is operating may waive the requirements of this subsection in the interest of national security or economic efficiency.

(2) As used in this subsection, the term "local resident" means an individual within daily commuting distance even if not a resident of the State which has an unemployment rate in excess of the national average rate of unemployment (as determined by

the Secretary of Labor), in accordance with paragraph (1) of this subsection.

MARITIME DEFENSE ZONE

SEC. 6. Section 2 of title 14, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", including the fulfillment of Maritime Defense Zone command responsibilities".

BOAT SAFETY PROGRAM

SEC. 7. (a) Section 9503(c)(4) of title 26, United States Code, is amended—

(1) in subparagraph (A), by striking "$45,000,000" each place it appears and inserting in lieu thereof "$60,000,000"; and

(2) by adding at the end thereof the following:

"(E) DETERMINATION.—The amount of payments made under this paragraph after October 1, 1986 shall be determined by the Secretary in accordance with the Department of the Treasury's Report to Congress of June 1986 entitled 'Gasoline Excise Tax Revenues Attributable to Fuel Used in Recreational Motorboats'.".

(b) Section 13106 of title 46, United States Code, is amended—

(1) in subsection (a), by striking "two-thirds" and inserting in lieu thereof "one-half"; and

(2) in subsection (c), by striking "one-third" and inserting in lieu thereof "one-half".

(c) Section 13103 of title 46, United States Code, is amended by adding at the end thereof the following:

"(d) Before making any allocation under this section for a fiscal year, the Secretary shall retain not less than 1 percent nor more than 2 percent of the amount appropriated for that year for State recreational boating safety programs for the payment of costs of administration of this chapter.".

PAYMENT OF INTEREST TO COAST GUARD AUXILIARY

SEC. 8. Section 830 of title 14, United States Code, is amended—

(1) by inserting "(a)" before "Appropriations"; and

(2) by adding at the end thereof the following:

"(b) The Secretary may pay interest on a claim under this section in any case in which a payment authorized under this section is not made within 60 days after the submission of the claim in a manner prescribed by the Secretary. The rate of interest for purposes of this section shall be the annual rate established under section 6621 of the Internal Revenue Code of 1954.".

USE OF COAST GUARD AUXILIARY

SEC. 9. (a) It is the sense of the Congress that the Coast Guard Auxiliary performs a broad range of services in behalf of the safety and security of the American people, and that the continued strength and vitality of the Coast Guard Auxiliary is important to the United States.

(b)(1) The Secretary of Transportation shall investigate and submit to the Congress a report within 1 year after the date of enactment of this Act regarding—

(A) the extent to which membership of the Coast Guard Auxiliary has declined in recent years and the causes of such decline;

(B) the effect, if any, on the maritime community of any such decline in the performance levels of the Coast Guard Auxiliary in the areas of life-saving, assistance to persons in distress, safety patrols and inspections, and support missions for the Coast Guard;

(C) the effect, if any, of the Coast Guard's non-emergency assistance policy on the overall effectiveness of the Coast Guard Auxiliary.

(2) The report submitted by the Secretary under this section shall include such recommendations for legislative and administrative action as the Secretary considers appropriate to achieve and maintain the Coast Guard Auxiliary at its optimum strength.

MISCELLANEOUS AMENDMENTS TO TITLE 14 AND TITLE 46

SEC. 10. (a)(1) The analysis of parts, before section 1 of title 14, United States Code, is amended by striking

"II. Coast Guard Reserve and Auxiliary ..... 751"

and inserting in lieu thereof

"II. Coast Guard Reserve and Auxiliary ..... 701".

(2) The analysis of chapters of part II of title 14, United States Code, is amended by striking

"21. Coast Guard Reserve ..... 751"

and inserting in lieu thereof

"21. Coast Guard Reserve ..... 701".

(3) Section 82 of title 14, United States Code, is amended by striking "Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.)" and inserting in lieu thereof "Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)".

(4) Section 91 of title 14, United States Code, is amended to read as follows:

"§ 91. Safety of naval vessels

"(a) The Secretary may control the anchorage and movement of any vessel in the navigable waters of the United States to ensure the safety or security of any United States naval vessel in those waters.

"(b) If the Secretary does not exercise the authority in subsection (a) of this section and immediate action is required, the senior naval officer present in command may control the anchorage or movement of any vessel in the navigable waters of the United States to ensure the safety and security of any United States naval vessel under the officer's command.

"(c) If a person violates, or a vessel is operated in violation of, this section or a regulation or order issued under this section, the person or vessel is subject to the enforcement provisions in section 13 of the Ports and Waterways Safety Act (33 U.S.C. 1232).".

(5) Section 146 of title 14, United States Code, is amended by striking "Postmaster General" and inserting in lieu thereof "United States Postal Service."

(6)(A) Sections 431, 433, 434, and 438 of title 14, United States Code, are repealed, except that the repeal of such section shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun under such sections before the date of enactment of this Act.

(B) The analysis of chapter 11 of title 14, United States Code, is amended by striking the items relating to sections 431, 433, 434, and 438.

(7) Section 432(g) of title 14, United States Code, is amended—

(A) by inserting "(1)" immediately after "(g)"; and

(B) by striking the last paragraph and inserting in lieu thereof the following:

"(2) The additional compensation authorized by this subsection shall be included in any computation of compensation under section 6 of the Act of June 20, 1918 (33 U.S.C. 763).".

(8) Section 829 of title 14, United States Code, is amended by striking "Section" and inserting in lieu thereof "section."

(9) The first section of the Act entitled "An Act to require authorization for certain appropriations for the Coast Guard, and for other purposes", approved June 21, 1963 (77 Stat. 68; 14 U.S.C. 92, note), is repealed.

(b)(1) Section 2102(11b) of title 46, United States Code, is amended by inserting "freezing," immediately after "icing,".

(2)(A) Chapter 75 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 7504. Travel and expense reimbursement

"When a requirement to qualify for the issuance of, or endorsement on, a certificate, license, or document under this part is administered at a place at the request of an applicant or an applicant's representative, the applicant or representative may reimburse the Secretary for the travel and subsistence expenses incurred by the personnel assigned to perform the administration of the requirement. Amounts received as reimbursement under this section shall be credited to the appropriation for operating expenses of the Coast Guard.".

(B) The analysis of chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"7504. Travel and expense reimbursement.".

(3) Section 10101 (1) and (3) of title 46, United States Code, is amended by striking "owned by a citizen of the United States".

(4) Sections 10313 (e) and (h), 10314(e), 10504(a), and 10505(d) of title 46, United States Code, are amended by striking the last sentence.

(5) Section 10504(d)(3) of title 46, United States Code, is amended by striking "(except a vessel taking oysters)".

MANNING REQUIREMENTS OF MOBILE OFFSHORE DRILLING UNITS

SEC. 11. (a) Section 2101 of title 46, United States Code, is amended by inserting immediately after paragraph (15) the following:

"(15a) 'mobile offshore drilling unit' means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources.".

(b) Section 8101(a) of title 46, United States Code, is amended to read as follows:

"(a) The certificate of inspection issued to a vessel under part B of this subtitle shall state the complement of licensed individuals and crew (including lifeboatmen) considered by the Secretary to be necessary for safe operation. A manning requirement imposed on—

"(1) a sailing school vessel shall consider the participation of sailing school instructors and sailing school students in the operation of that vessel; and

"(2) a mobile offshore drilling unit shall consider the specialized nature of the unit.".

(c) Section 8701(a) of title 46, United States Code, is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(8) a mobile offshore drilling unit with respect to individuals, other than crew members required by the certificate of inspection, engaged on board the unit for the sole purpose of carrying out the industrial business or function of the unit.".

(d) Section 8301(c) of title 46, United States Code, is amended by inserting ", a mobile offshore drilling unit when on location," immediately after "vessel".

TOWING LICENSE

SEC. 12. (a) Section 8904 of title 46, United States Code, is amended—

(1) by inserting "(a)" immediately before "A towing"; and

(2) by adding at the end thereof the following:

"(b) A vessel that tows a disabled vessel for consideration shall be operated by individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed regulations.".

(b) The amendments made by subsection (a) of this section shall take effect on January 1, 1988.

FORFEITED VESSELS

SEC. 13. (a) Whenever a vessel is forfeited to the United States, the vessel may be donated, in accordance with procedures under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), to an educational institution with a commercial fishing vessel safety program or other vessel safety, education and training program, if the institution has certified to the Federal officer referred to in subsection (b) of this section that the program includes at a minimum the following courses in vessel safety:

(1) vessel stability;

(2) firefighting;

(3) shipboard first aid;

(4) marine safety and survival; and

(5) seamanship and rules of the road.

(b) The donation of a vessel under this section shall be made on terms and conditions considered appropriate by the Federal officer making such donation, including requirements that—

(1) the educational institution must accept the vessel as is, where it is, and without warranty of any kind and without any representation as to its condition or suitability for use;

(2) the educational institution shall be responsible for maintaining the vessel;

(3) the vessel shall be used only for instructing students in vessel safety education and training programs;

(4) if the vessel is eligible to be documented, it must be documented by the educational institution as a vessel of the United States under chapter 121 of title 46, United States Code, and the requirements of paragraph (5) of this subsection shall be noted on the permanent record of the vessel;

(5) the education institution must obtain the prior approval of the Administrator of General Services before disposing of the vessel, and any proceeds from the disposal of the vessel shall be payable to the United States Government; and

(6) the vessel shall be inspected or regulated in the same manner as a nautical school vessel under chapter 33 of title 46, United States Code.

(c) The United States shall not be liable in an action arising out of the transfer or use of a vessel that has been transferred under this section.

(d) Section 2101(17) of title 46, United States Code, is amended by inserting immediately before the period the following: "or an educational institution under section 13 of the Coast Guard Authorization Act of 1986".

(e) Section 3305(c) of title 46, United States Code, is amended by inserting immediately after "school" the second place it appears the following: "or by an educational institution under section 13 of the Coast Guard Authorization Act of 1986".

LIMITATION ON TRAINING

SEC. 14. Notwithstanding any other provision of law, no training or course of instruction may be provided by the Coast Guard to employees of the government or to members of the armed services of the Republic of South Africa during fiscal year 1987.

STATUS REPORTS ON POLAR ICEBREAKING VESSELS

SEC. 15. The Secretary of the department in which the Coast Guard is operating shall provide detailed reports to Congress concerning the status of design and construction plans for the procurement of at least two new polar icebreaking vessels. Such reports shall be included in the Cutter Plan required annually by section 663 of title 14, United States Code, and shall be submitted each year until at least two new polar icebreaking vessels have been delivered to the Coast Guard.

VESSEL SAFETY

SEC. 16. Section 4102 of title 46, United States Code, is amended by adding at the end thereof the following:

"(e) Each uninspected fishing, fish processing, or fish tender vessel operating on the high seas shall be equipped with the number and type of emergency position indicating radio beacons prescribed by regulation.".

PROSECUTIONS OF MARITIME DRUG TRAFFICKERS

SEC. 17. The Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (Public Law 96-350; 94 Stat. 1159) is amended by striking everything immediately after the enacting clause and inserting in lieu thereof the following:

"That this Act may be cited as the 'Maritime Drug Law Enforcement Act'.

"SEC. 2. The Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem and is universally condemned. Moreover, such trafficking presents a specific threat to the security and societal well-being of the United States.

"SEC. 3. (a) It is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

"(b) For purposes of this section a 'vessel of the United States' means—

"(1) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title;

"(2) a vessel owned in whole or part by—

"(A) the United States or a territory, commonwealth, or possession of the United States;

"(B) a State or political subdivision thereof;

"(C) a citizen or national of the United States; or

"(D) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with article 5 of the 1958 Convention of the High Seas; and

"(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

"(c)(1) For purposes of this section, a 'vessel subject to the jurisdiction of the United States' includes—

"(A) a vessel without nationality;

"(B) a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas;

"(C) a vessel registered in a foreign nation where the flag nation has consented or waived objection to the enforcement of United States law by the United States;

"(D) a vessel located within the customs waters of the United States; and

"(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States.

Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under subparagraph (C) or (E) of this paragraph may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(2) For purposes of this section, a 'vessel without nationality' includes—

"(A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed; and

"(B) any vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel.

A claim of registry under subparagraph (A) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such claim of registry by the claimed flag nation may be proved by certification of the Secretary of State or the Secretary's designee.

"(3) For purposes of this section, a claim of nationality or registry only includes:

"(A) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the 1958 Convention on the High Seas;

"(B) flying its flag nation's ensign or flag; or

"(C) a verbal claim of nationality or registry by the master or person in charge of the vessel.

"(d) A claim of failure to comply with international law in the enforcement of this Act may be invoked solely by a foreign nation, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this Act.

"(e) This section does not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of such person's duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the

country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

"(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court of the District of Columbia.

"(g)(1) Any person who commits an offense defined in this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).

"(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 962) if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

"(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

"(i) The definitions in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to terms used in this Act.

"(j) Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

"SEC. 4. Any property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881).".

AUTHORITY TO ISSUE CERTAIN CERTIFICATES

SEC. 18. Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: Dunes Spirit, United States official number 690176; Kodiak Queen, United States official number 507891; La Reina, United States official number 230115; Northwind, United States official number 230147; and Wanderbird, United States official number 229607.

AMENDMENT NO. 3468

(Purpose: Amend provision regarding the awarding of contracts for the performance of commercial activities)

Mr. SIMPSON. Mr. President, on behalf of Senator STEVENS, I send an amendment to the committee substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. STEVENS, proposes an amendment numbered 3468.

Strike subsection (d) of section 5, and redesignate subsection (e) of section 5 as subsection (d).

Mr. STEVENS. Mr. President, I am offering today for consideration H.R. 4208, a bill to authorize appropriations for the Coast Guard for fiscal year 1987. This legislation was reported by the Senate Committee on Commerce, Science, and Transportation without objection. I am also offering an amendment which has been cleared by the committee.

Congress has greatly expanded the Coast Guard's civilian and coastal defense responsibilities over the last 15 years, but actual funding to perform these activities has remained static. This has forced the Coast Guard to juggle numerous duties with limited funding and personnel.

This authorization corrects many of the more severe problems facing the Coast Guard by providing greater stability in the Coast Guard's funding for operations. H.R. 4208 as reported authorizes $2,513,000,000 for the Coast Guard in fiscal year 1987. This figure equals the President's request and is consistent with the levels set forth by the budget resolution.

The amendment relates to the contracting out of activities currently performed by Coast Guard personnel. It strikes section 5(d) from H.R. 4208 as reported by the committee. Section 5(d) would have required the Secretary of Transportation to report to Congress prior to the awarding of any contract to nongovernment personnel. This provision was in response to a growing concern that essential Coast Guard functions might suffer in the future if budgetary considerations become the driving force for these contract rewards in lieu of efficiency and performance.

I am withdrawing section 5(d) due to the objections of the administration and a fear expressed by Members of the House of Representatives that the provision will lead to a Presidential veto. I do intend to closely monitor the contracting out process next year to assure that essential Coast Guard functions are not eroded.

□ 1030

Mr. MATHIAS. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 3468) was agreed to.

AMENDMENT NO. 3469

(Purpose: Makes a technical amendment to section 10)

Mr. SIMPSON. Mr. President, I send an amendment to the desk in behalf of Senator STEVENS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. STEVENS, proposes an amendment numbered 3469.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 5, strike "2102(11b)" and insert in lieu thereof "2101(11b)".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 3469) was agreed to.

AMENDMENT NO. 3470

(Purpose: To correct the funding in the Wallop-Breaux fund)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator WALLOP to the committee substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. WALLOP, proposes an amendment numbered 3470.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 7 and insert in lieu thereof the following:

SEC. 7. (a) Section 9503(c)(4) of title 26, United States Code, is amended—

(1) in subparagraph (A), by striking "45,000,000" each place it appears and inserting in lieu thereof "60,000,000 for Fiscal Year 1987 only and $45,000,000 for each Fiscal Year thereafter;" and (2) by adding at the end thereof the following:

"(E) DETERMINATION.—The amount of payments made under this paragraph after October 1, 1986 shall be determined by the Secretary in accordance with the methodology described in the Treasury Department's Report to Congress on June 1986 entitled 'Gasoline Excise Tax Revenues Attributable to Fuel Used in Recreational Motorboats.' Further, a portion of the payments made by the Secretary from Fiscal Year 1987 motorfuel excise tax receipts shall be used to increase the funding for boating safety programs during Fiscal Year 1987 only."

(b) Section 13106(c) of Title 46, United States Code, is amended by striking "one-third" and inserting in lieu thereof "one-half for Fiscal Year 1987 and one-third for each Fiscal Year thereafter."

(c) Section 13106(a) of title 46, United States Code, is amended by striking "two-thirds" and inserting in lieu thereof "one-half for Fiscal Year 1987 and two-thirds for each Fiscal Year thereafter."

"(d) Before making any allocation under this section for a fiscal year, the Secretary shall retain not less than one percent nor more than two percent of the amount appropriated for that year for State recreational boating safety programs for the payment of costs of administration of this chapter."

Mr. WALLOP. Mr. President, I move to add a new section 7 to the act.

This amendment would correct a funding problem which has recently arisen with the Federal Aid in Sport Fish Restoration Act. Moneys for this act are provided by the Wallop-Breaux fund, which was created through the efforts of Congressman JOHN BREAUX and myself in 1984. Funding comes from an excise tax on fishing equipment and motorboat fuel taxes. The trust fund provides support for fish restoration projects organized by State wildlife agencies and for boat safety programs. This year, $110.4 million will go to the State wildlife agencies for their projects.

Our efforts to ensure proper funding of the Wallop-Breaux program have been disrupted by OMB machinations to capture portions of the Wallop-Breaux fund, to be used for other purposes. We have successfully preserved the integrity of the program, but one problem has remained. There has been a longstanding disagreement on the allocation of the gasoline excise tax to the Wallop-Breaux fund. As my colleagues know, most of the excise tax is directed to the highway trust fund. However, a portion of the tax is collected from boaters who use motor fuel. It is this portion which is supposed to be directed to the Wallop-Breaux fund. For years, the Treasury Department has earmarked only 0.75 percent of the collections to Wallop-Breaux.

Five years ago, Treasury was directed to do an analysis of the tax to determine a more accurate assessment of the boaters' contributions. Finally, last summer, Treasury admitted that previous estimates had understated the contribution by 50 percent. A more accurate allocation, according to Treasury, is 1.08 percent of the excise tax. For fiscal year 1987, this would amount to an additional $31 million.

One would think that distribution of this additional money would be straightforward. However, that is not the case. OMB argues that there can be no shift in funds between the highway trust fund and the Wallop-Breaux funds for fiscal year 1987 because the budgets were set last spring with the presentation of the administration's budget. The fact that Treasury, several years late, has finally developed a more realistic allocation formula for Wallop-Breaux is irrelevant in OMB's eyes. The only way Wallop-Breaux can receive the $31 million for fiscal year 1987 is through legislative authorization.

The second problem is a dispute between the fish restoration advocates and the boaters over the proper division of the additional $31 million. Fortunately, there exists an umbrella organization, the American League of Anglers and Boaters [ALAB], which serves as a consensus-building forum for the various groups involved with the Wallop-Breaux fund. ALAB has reached agreement on the distribution of the $31 million for fiscal year 1987, and this is explained in the letter from ALAB which I would ask be inserted at the end of my remarks.

The amendment I have proposed provides a solution to the $31 million funding problem. It requires that the additional allocation to the Wallop-Breaux fund as a result of the revised formula for the gasoline excise tax be provided for fiscal year 1987. Of the additional funds, $15 million would go to the boating safety program. The remainder, about $16 million, would go to fish restoration. This split would be for fiscal year 1987. This would provide an opportunity to develop a permanent solution to the distribution of new revenues.

I would like to thank my colleague from Alaska, Senator STEVENS, and ALAB for their assistance in resolving this matter. I would urge the adoption of my amendment.

Mr. HOLLINGS. Mr. President, I strongly support the amendment offered today by the Senator from Wyoming. After several years of delay, the Department of the Treasury has completed its investigation of the amount of fuel used by the Nation's boaters. The review revealed that the prior estimate used to compute the transfer from the highway trust fund to the Wallop-Breaux trust fund was too low. In fact, it now appears that we were underestimating the amount by nearly 50 percent.

As a result, the Senator has proposed a 1-year fix that would more accurately reflect the amount of money being collected in motor boat fuel taxes, meaning that an estimated $31 million in additional revenues would be available in fiscal year 1987 for the Wallop-Breaux fund. One effect of this change would be to increase the authorized level for the boating safety portion of the fund by roughly half the additional amount, some $15 million. These funds will be available to the Coast Guard to help pay for its recreational boating programs.

The remaining $16 million will be allocated to the States for use in fish restoration work. These funds will be available to the States for fiscal year 1988.

This temporary solution will provide us the time necessary to review the program and establish a permanent, equitable division of the moneys between boating safety and fisheries enhancement.

I support the Senator's amendment and urge my colleagues to join us in its approval.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (No. 3470) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. GORTON. Mr. President, I have one question that I would like to discuss with the distinguished chairman of the Commerce Committee, Senator DANFORTH. The House of Representatives included a provision in its authorization bill that would have prohibited the construction of Coast Guard vessels in foreign yards. This provision is not inlcuded in the Senate bill. I had planned to offer an amendment to include a provision similar to the House's in the Senate bill, but I understand that such a provision would be unacceptable to the chairman and to the administration at this time. I also understand that the House has agreed to accept the Senate bill without the "build-foreign" prohibition.

Bearing those things in mind, I am willing to withdraw my amendment if my colleagues can assure me that we will pursue this issue in the next Congress. At present, there is no such "build-American" requirement for Coast Guard vessels, although there is one for the Navy and other branches of the armed services. In light of the critical role that the Coast Guard plays in protecting our national security, and the need to maintain a viable, state-of-the-art shipbuilding industry, it is important to assure that future Coast Guard construction be done in this country.

My amendment would have provided that, during fiscal year 1987, no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed or contracted for construction in a foreign shipyard. It also would allow the President to waive this requirement if he determined that to do so would be in the national security interest of the United States. This is essentially the same provision that was included in the House bill, except that

it is limited to the 1-year authorization period of the bill.

As I mentioned earlier, in addition to its many other functions, such as maritime safety, search and rescue, and drug interdiction, the Coast Guard is a vital component in our overall national security picture. It participates in various Department of Defense activities, and in naval fleet and interservice exercises. It has participated in every national conflict as an arm of the U.S. Navy. I believe it is clear that we must retain the capability to build Coast Guard vessels at home. It makes no sense for us to leave open the possibility that our shipyards could lose this work, and the improvements in naval engineering that it will produce, when they are already reeling from the loss of other shipbuilding work to foreign yards.

There has been strong support in the Senate for efforts to maintain a viable U.S. shipbuilding industry and merchant marine fleet. I believe that this issue should be part of that effort. I therefore ask if the chairman would be willing to examine it further in the 100th Congress.

Mr. DANFORTH. I thank my colleague for his cooperation in expediting action on the Coast Guard authorization bill. As for the build foreign prohibition. I believe that it is bad trade policy and contrary to the national interest. I recognize, however, that national security considerations may require that some Coast Guard vessels be built in the United States. I assure my colleague that I would be prepared to consider during the 100th Congress the extent to which the national security interest might be jeopardized by construction abroad.

Mr. HOLLINGS. The Coast Guard has received its share of attention lately as one of the essential arms of defense in our war on drugs. This is only fitting. The Coast Guard is our chief maritime law enforcement agency and last year seized drugs valued at $4.1 billion.

The legislation we are considering today, H.R. 4208, provides the core authorizations for fiscal year 1987. We have already passed special authorizations to help beef up the Coast Guard's drug interdiction capability and to augment its capacity to carry out the coastal defense of the United States that is crucial to our national security. H.R. 4208 authorizes the appropriations needed for the Agency's full range of missions.

Under the bill, $1.862 billion is authorized for operating expenses. Together with operating funds provided for under the anti drug and Defense Department authorization bills, this amount will permit vital drug interdiction work in the Caribbean to continue without interruption. It will also enable the Coast Guard to carry out its many other important missions—from search and rescue activities in aid of distressed ships and aircraft, to such impromptu assignments as salvaging the debris from the *Challenger* accident or maintaining order and security at the Statue of Liberty celebrations in New York Harbor on July 4. Further, the bill authorizes $267 million in support of the congressional effort to modernize the Coast Guard's vessels, aircraft, and shore stations, plus $20 million to conduct research, development, testing, and evaluation activities.

This legislation includes in section 17 an amendment that was added to the Senate anti drug bill (H.R. 5484) at the Commerce Committee's request. This provision will further strengthen Public Law 96-350, which has been very successful in facilitating convictions for maritime drug trafficking. That law, which I strongly supported, was enacted in 1980 because existing criminal statutes did not explicitly prohibit the high seas possession of illegal drugs with intent to manufacture or distribute. With the increasing use of foreign-flag vessels and vessels of no registry (known as stateless vessels), which were manned by foreign crews, the 1980 law was carefully crafted to reach beyond U.S. citizens and U.S.-flag vessels.

The enactment of Public Law 96-350 made a major difference in the effective prosecution of drug smugglers. Prior to its enactment, only 64 percent of those apprehended by the Coast Guard were accepted for prosecution, and then only 45 percent of those tried were convicted. In contrast, Coast Guard statistics for 1985 in the seventh district, which is where most of the maritime drug prosecutions occur, indicated that 83 percent of those apprehended were accepted for prosecution, and of those cases, 94 percent resulted in guilty verdicts in Federal court. The law was particularly effective for prosecutions of foreign offenders, who, before 1980, were virtually all deported or repatriated to their countries of origin without punishment—at U.S. taxpayer expense.

Despite its clear success, Public Law 96-350 has encountered several difficulties in the courtroom. One such problem was brought to the Congress' attention last year. This involved a Federal district court ruling that threatened to undermine the Coast Guard's enforcement practices with respect to foreign-flag vessels suspected for drug trafficking.

The typical situation arises after the master of a foreign vessel refuses a Coast Guard cutter's request to board. The captain of the cutter then must send his boarding request and supporting information up the chain of command to Coast Guard Headquarters and the State Department. The State Department in turn, through the affected American Embassy, seeks the cooperation of the country whose registry is being claimed. The necessary consent for boarding and possible seizure normally consists of oral communications by the flag nation, confirmed by subsequent messages or diplomatic notes. The court ruling in question indicated that oral consent was insufficient and that a more formal agreement with the flag nation was required prior to Coast Guard enforcement action.

The less formal procedures now in place often consume days, sometimes enabling the suspect vessel to escape Coast Guard surveillance. Under the more formal consent system envisioned in the court ruling, these days of delay could turn into weeks. Enforcement against foreign vessels would be nearly impossible.

To correct this potentially calamitous legal interpretation, I cosponsored legislation last session to make clear that foreign boarding and seizing authority granted by agreement via telephone, radio, or similar means is a fully valid consent. I added that provision to H.R. 739, an omnibus Coast Guard and maritime bill that passed the Senate on April 24 and was signed into law on May 19 of this year.

The language set forth in the bill we are considering today will address a broader problem that has plagued prosecutions under Public Law 96-350 from its inception. I understand that Federal prosecutors in cases involving drug seizures more than 12 miles off the U.S. coast spend the lion's share of their time before and during trial ensuring that they can prove that the United States had jurisdiction to seize the illegal drugs. In the past 3 or 4 years, cases involving over $200 million in contraband resulted in plea bargains for minimum sentences or were dropped altogether because of difficulties in obtaining foreign documents to prove jurisdiction. it is estimated that acquiring the requisite documentation in cases entailing seizure of a foreign or stateless vessel consumes from 2.5 to 8 days of U.S. Government personnel time for each case.

In my view, these contests over the U.S. Government's international jurisdiction to carry out enforcement actions are inappropriate for the courtroom. International law does not call for the United States to provide compliance with international standards in a domestic criminal prosecution.

The nation whose flag a vessel is flying at the time of a Coast Guard seizure would naturally have a legitimate complaint if the U.S. Government has failed to obtain its prior consent. But what has been happening is that criminal defendants from seized vessels are using jurisdictional complexities as a device for escaping conviction. They have been insisting at trial that the Government present ju-

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dicially-admissible documentary evidence from the affected foreign nation to prove consent. Prosecutors are thus compelled to ensure that documents relating to the consent are sufficient to withstand evidentiary objections. This can be a tall order when a foreign government, unfamiliar with U.S. legal procedures, has to generate the required documents. And on occasion, delays by foreign governments in providing the necessary documents have jeopardized cases because of the U.S. constitutional requirement to afford defendants with a speedy trial.

This legislation will eliminate the need to prepare for battle over these jurisdictional questions every time a maritime drug smuggling case comes to trial. It declares clearly that trafficking in controlled substances aboard vessels is a serious international problem, is universally condemned, and presents a specific threat to the security and societal well-being of the United States.

And it permits questions of international jurisdiction to be raised only by a foreign nation, not by an individual defendant. Yet the Coast Guard and other law enforcement agencies will not be relieved of their obligation to follow international law in carrying out a seizure. Approval of the flag country will still have to be obtained before a boarding can commence. The current practice of going through the State Department to the foreign government to obtain consent should continue without alteration. Our purpose is not to relieve U.S. agencies of the need to acquire flag-nation consent. Rather, it is to allow prosecutors to concentrate less on technicalities and more on proving the commission of a crime: possession of an illegal substance with intent to manufacture or distribute. This bill will enable them to focus on the right things.

We have also added a new offense under Public Law 96-350. This makes it unlawful to possess with intent to distribute a controlled substance aboard a vessel located within the territorial sea of another country where that country affirmatively consents to enforcement action by the United States.

Mr. President, I urge Senate approval of H.R. 4208 as reported by the Commerce Committee, as well as the additional amendments offered today here on the Senate floor. The Coast Guard is an invaluable national asset and this authorization legislation will help it to maintain its standards of excellence.

Mr. SARBANES. Mr. President, I support H.R. 4208, the Coast Guard Authorization Act of 1986. The Coast Guard has served our country with pride and distinction for over 200 years. It has played a major role in maintaining navigational safety, enforcing environmental standards, and protecting our Nation's coastline and harbors. It must have the personnel, equipment and training to carry out its important missions and this bill provides the resources the Coast Guard needs to do its job.

The Coast Guard must also, in my view, maintain core logistics and industrial capabilities sufficent to ensure the timely and effective performance of its many important missions. Earlier this year, I had urged the committee to approve the restrictions on contracting out of industrial and logistics activities of the Coast Guard and specifically of the Coast Guard's Curtis Bay Yard, included in section 5 of H.R. 4208, as passed by the House on May 6.

These restrictions are similar to those which currently apply to the other armed services. They are particularly critical to the Coast Guard Yard at Curtis Bay because of the unique importance of the industrial activities carried out there. The Curtis Bay Yard is the only shipbuilding and repair facility operated by the service and is responsible for the construction, repair, and renovation of both vessels and aids to navigation peculiar to the Coast Guard. It is also the location of the service's ship inventory control point and provides worldwide logistics support for the Coast Guard. It enjoys an enviable reputation for the quality of its work and for the efficiency of its work force and I am certain that the contracting out of the functions currently being performed at Curtis Bay would result in a significant deterioration of the Coast Guard's ability to perform its mission.

While the limitations contracting approved by the Senate Commerce Committee are not as far-reaching as those contained in the House bill, I look forward to working with my colleagues on the Commerce Committee to ensure that the Coast Guard retains control of basic logistic and industrial capabilities and urge adoption of this authorization bill.

The PRESIDING OFFICER. Is there further debate on the bill? If not, the question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4208), as amended, was passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUEBLO OF ZIA LAND BILL

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 5167, the Pueblo of Zia land bill, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5167) to declare that the United States hold certain public domain lands or trusts for the Pueblo of Zia.

There being no objection, the Senate proceeded to the consideration of the bill.

AMENDMENT NO. 3471

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator DOMENICI and Senator BINGAMAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. DOMENICI and Mr. BINGAMAN, proposes an amendment numbered 3471.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 10, strike "situated within Sandoval County, New Mexico, which is under the jurisdiction of the Bureau of Land Management of the Department of the Interior," and insert in lieu thereof "under the jurisdiction of the Bureau of Land Management of the Department of the Interior situated within Sandoval County, New Mexico,".

On page 4, strike lines 8 through 16 and insert in lieu thereof:

"(2) Plains Electric Generation and Transmission Cooperative, Inc. and its successors and assigns, shall be permitted to renew the right-of-way described in paragraph (1) under rules and regulations of the Secretary to the same extent and in the same manner that such permit could have been renewed if this Act had not been enacted.".

On page 5, line 8, strike the word "subsisting" and insert in lieu thereof "existing".

On pages 5 and 6, strike paragraph (2) and insert in lieu thereof:

"(2) Subject to valid existing rights, the leases described in subsection 4(d)(1) shall be administered under rules and regulations of the Secretary to the same extent and in the same manner that such leases would be administered if this Act had not been enacted.".

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 3471) was agreed to.

Mr. DOMENICI. Mr. President, after careful review and close scrutiny by the Members of the New Mexico congressional delegation, we agreed to seek passage of this important legislation for the Pueblo of Zia, NM.

On June 25, 1986, Senator BINGAMAN and I introduced S. 2599 in the Senate. On July 15, 1986, Congressmen LUJAN, SKEEN, and RICHARDSON introduced a companion bill in the House of Representatives. The House Committee on Interior and Insular Affairs held hearings and a markup in August 1986. The Senate Subcommittee on Public Lands held a hearing on September 19, 1986. House passage with two amendments occurred on September 16, 1986.

PURPOSE OF S. 2599 AND H.R. 5167

These bills transfer 1,844 acres of BLM land to the Pueblo of Zia to be held in trust by the United States of America. The Pueblo of Zia is the current permit holder of this "Parada Piedra ("Standing Rock") Allotment."

This allotment is completely surrounded by the Zia Pueblo Indian Reservation. Passage of this bill as amended consolidates the Zia Pueblo lands, now totalling 118,000 acres.

Existing interests on the land are fully protected and no new water rights are given.

Several religious shrines will be protected by enactment of this bill. The two oil and gas leases on this land are also protected along with rights of access to conduct exploration and related activities. These claims have been inactive for several years. The Plains Electric easement is also protected and permission is given for renewal of this important right-of-way.

The House of Representatives passed H.R. 5167 on Tuesday, September 16, 1986, with two committee amendments:

First. The first amendment is a technical correction to the land description after the BIA survey was completed.

Second. The second amendment strikes section 3 of the bill. This section provided that the land to be held in trust not be subject to taxation. This language is redundant as, by current law, trust lands held by the United States for an Indian tribe are not subject to taxation.

PURPOSE OF THE SENATE AMENDMENT

The administration expressed concern in the Public Lands Subcommittee hearing and in the House hearing about the management of the above-named easements and leases. Since the trust land will managed by the Bureau of Indian Affairs at the U.S. Department of Interior, the Bureau of Land Management felt that the leases and easements should also be administered by the BIA. Our amendment accomplishes this purpose by requiring that NIA manage the easements and leases "to the same extent and in the same manner" that such permit or lease would have been renewed under the BLM. Thus, the terms of the renewal agreements are subject to existing BLM rules and regulations for the existing easement and leases.

The entire New Mexico delegation supports this legislation for the Pueblo of Zia. The Pueblo has come to us in good faith with a just request. We are happy to support this effort and we urge our colleagues to agree to final passage of H.R. 5167 as amended.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it Pass?

So the bill (H.R. 5167), as amended, was passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMMIGRATION OF NAUM MEIMAN AND INNA KITROSSKAYA-MEIMAN

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of House Concurrent Resolution 404, dealing with the immigration of Naum Meiman and Inna Kitrosskaya-Meiman, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 404) expressing the sense of the Congress that the Soviet Union should immediately provide for the immigration of Naum Meiman and Inna Kitrosskaya-Meiman and for the resolution of all divided family and emigration cases.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. HART. Mr. President, I am grateful to Chairman LUGAR and Senator PELL for bringing House Concurrent Resolution 404 to the floor today. This measure was introduced by Congressman TIM WIRTH and was passed by the House of Representatives on October 8. I introduced a similar measure which now has the cosponsorship of 28 Senate colleagues.

This resolution has special meaning for all Coloradans. It deals with the case of Dr. Naum Meiman and his wife who have been trying for years to leave the Soviet Union. Their daughter, Olga Plum, is a constituent of mine in Colorado. The Meimans repeatedly have been denied emigration visas to seek medical treatment and to be reunited with their daughter. They have been told repeatedly that Mrs. Meiman is too ill to travel; that satisfactory medical treatment for Mrs. Meiman is already available in the Soviet Union; that a Ministry of Health certificate, stating that treatment abroad is necessary, must be presented to Soviet emigration officials—only to be told by the Ministry of Health that such certificates do not exist.

Now it has become clear that treatments no longer exists in the Soviet Union which can effectively treat Inna Meiman's cancer. But the technology does exist in the West. And yet she is still denied an exit visa. It is beyond my understanding what the Soviet authorities have to gain by continuing to deny the necessary exit visas to the Meimans. The time is running short for Inna and Naum Meiman, while the climate is ripe for a humanitarian gesture from the Soviet Union.

In the past I have raised the Meiman's case directly with Soviet Foreign Minister Gromyko and other Soviet officials when I visited Moscow; I have pursued the case with Soviet Ambassador Dobrynin and have written to General Secretary Mikhail Gorbachev asking his help in securing an exist visa for the Meimans. Because time is such a critical factor, it is appropriate that the Senate is joining our call to the General Secretary to intervene on behalf of the Meimans.

It is of the greatest importance that the Meimans and other Soviet Jews who wish to emigrate be reminded constantly that they have friends and supporters around the world. It is equally important the Soviet Government be constantly reminded of that fact.

The House author of this measure is Congressman WIRTH. Congressman WIRTH has been a leader in the struggle for human rights and the battle to permit Soviet citizens to emigrate to freedom throughout his career in the Congress. We have worked together on the Meiman case, and I was pleased to introduce the Senate version of this resolution several months ago.

Mr. President, passage of this resolution will be a candle in the window for all Soviet refuseniks, a message of hope for the Meiman family, and a statement of conscience by the U.S. Congress. I urge its adoption.

Mr. SIMON. Mr. President, on October 9, 1986, the House of Representatives passed a resolution which urges the Soviet Union to allow Naum and Inna Meiman to emigrate to Israel.

The Senate has just done the same in passing House Concurrent Resolution 404. I want to commend my colleagues for their concern. The Congress of the United States could not send a stronger message of support of the Meimans to the Soviet Union.

The Meimans troubles began when they applied to emigrate to Israel 10 years ago. Applying to emigrate from the Soviet Union results in termination of employment, ostracism from Soviet society and harassment by the Government. Inna is now critically ill with cancer. She desperately needs medical treatment only available to her in the West.

This case demands immediate attention. Inna is slipping each day. Let us hope that the Government of the Soviet Union will grant Inna and Naum another chance at life.

I strongly urge the Soviets to heed the Congress' call and resolve the Meiman's case by permiting them to emigrate to Israel.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 404) was agreed to.

The preamble was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROBERT F. KENNEDY MEMORIAL STADIUM

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 459, H.R. 2776, the RFK Stadium bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2776), to amend the District of Columbia Stadium Act of 1957 to direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium to the District of Columbia government.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3472

(Purpose: To strike out provisions relating to the transfer of title of the stadium except for the building itself and to authorize the lease only of the stadium parking facilities)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator McCLURE, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. McCLURE, proposes an amendment numbered 3472.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, beginning with line 7, strike out all through line 16 on page 4 and insert in lieu thereof the following:

"(b)(1) Not later than 180 days after the date of enactment of this subsection, the Secretary of the Interior shall—

"(A) convey without consideration to the government of the District of Columbia all right, title, and interest of the United States in and to the building comprising the stadium constructed under this Act; and

"(B) lease without consideration to the government of the District of Columbia—

"(i) the ground under; and

"(ii) the parking facilities associated with the stadium construction under this Act.

"(2) The lease authorized by paragraph (1)(B) shall be for a period of 50 years.

"(c) The conveyance and lease of real property under subsection (b) shall be subject to such terms and conditions (which shall be set forth in the instrument of conveyance) as will ensure that title to the property shall not be transferred by the District to any person or entity other than the United States or any political subdivision or agency of the District of Columbia or the United States and that the property will be used only for—

"(1) stadium purposes;

"(2) providing recreational facilities, open space, or public outdoor recreation opportunities;

"(3) such other public purposes for which the property was used prior to June 1, 1985; and

"(4) such other public purposes for which the property was approved for use by the Secretary with the concurrence of the National Capital Planning Commission prior to June 1, 1985.

"(d)(1) The instrument of conveyance and the lease referred to in subsection (c) shall provide that all right, title, and interest conveyed to the District of Columbia pursuant to such instrument of conveyance shall revert to the United States and the lease shall terminate if—

"(A) the terms and conditions referred to in subsection (c) have not been complied with, as determined by the Secretary, and

"(B) such noncompliance has not been corrected within ninety days after written notice of such noncompliance has been received by the Mayor of the District of Columbia.

Such noncompliance shall be treated as corrected if the District of Columbia and the Secretary enter into an agreement, with the concurrence of the National Capital Planning Commission, which the Secretary considers adequate to ensure that the property will be used in a manner consistent with the purposes referred to in subsection (c).

"(2) No person may bring an action respecting a violation of any term or condition referred to in subsection (c) before the expiration of ninety days after the date on which such person has notified the Mayor of the District of Columbia of the alleged violation. The notice shall include notice of such person's intention to bring an action to declare a reversion and termination of the lease under paragraph (1) of this subsection.

"(3) The conveyance of real property under subsection (b) shall be made subject to the condition that the District of Columbia shall bear the cost of removing structures or rehabilitating the land or stadium should the stadium revert to the United States pursuant to this subsection.

"(4) Any property which reverts to the Secretary under this subsection shall be administered by the Secretary as part of the Park System of the Nation's Capital in accordance with the provisions of the Act of August 25, 1916 (16 U.S.C. 1, 2-4), and other provisions of law generally applicable to units of the national park system.".

SEC. 2. TECHNICAL AMENDMENT.

Section 11 of the District of Columbia Stadium Act of 1957 (D.C. Code, sec. 2-330) is amended by inserting "(including any area designated A, B, C, D, or E on the revised map entitled 'Map to Designate Transfer of Stadium and Lease of Parking Lots to the District', prepared jointly by the National Park Service (National Capital Region) and the District of Columbia Department of Public Works for site development and dated October 1986 (NPS drawing number 831/87284-A))," after "property of any kind".

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 3472) was agreed to.

Mr. WARNER. Mr. President, I rise in support of H.R. 2776, as amended, authorizing the Secretary of the Interior to convey title of the Robert F. Kennedy Memorial Stadium to the District of Columbia government.

I wish to express my heartfelt appreciation to the Senator from Oregon [Mr. HATFIELD], for his willingness to work with me to draft some modifications to the bill, which I introduced and was earlier passed by the House of Representatives, that are acceptable to the Senate and the District of Columbia government.

This legislation as modified preserves the core of my original legislation to transfer title of the Robert F. Kennedy Memorial Stadium to the District of Columbia. It will enable the District to compete fairly for a major league baseball franchise for our Nation's Capital.

A favorable stadium lease, including needed repairs, is a critical ingredient in determining the site of the new franchise.

This bill satisfies the District's full requirements for tax-exempt bond financing to pay for an estimated $16 million in stadium modifications to accommodate a baseball franchise.

Further, the bill directs the Secretary of the Interior to enter into a 50-year lease arrangement with the city on the property under and surrounding the stadium comprising the parking lots.

This bill brings to fruition a proposal that originated several years ago.

President Carter's Task Force on the District of Columbia in 1977 laid the foundation, and now the Department of the Interior and the District of Columbia government have supported this step to complete a transfer.

Although this bill does not fully comprise the recommendations of the 1977 Task Force on the District of Columbia, I believe the District has made a substantial financial investment in the stadium. The District has operated and maintained the stadium since its construction, and has financed two-thirds of the stadium costs—$22.7 million of the total $36.2 million.

Let me state for my colleagues that the Congressional Budget Office, in a letter to the House District of Columbia Committee on June 18, 1985, has determined that this transfer "will not affect the budgets of either the Federal Government or the District of Columbia."

I want to assure my colleagues that this title transfer will not be a departure from the normal use of the stadium, or its operating procedures.

Provisions are included which require the District of Columbia to operate the stadium for purposes previously approved by the Department of the Interior.

Should the terms and conditions of this agreement be violated, an orderly process for returning ownership to the Federal Government is provided.

Mr. President, first and foremost, the Federal Government is getting out of the business of operating a stadium facility, and returning to the District of Columbia a facility for which it has been financially responsible.

Second, assisting to return major league baseball to our Nation's Capital will be a unifying force for the entire Metropolitan Washington area.

I urge my colleagues to adopt this bill, as amended.

Mr. WARNER. If the distinguished Senator from Oregon, Mr. HATFIELD, would be willing to engage in a colloquy with me to clarify the intent of section (d) of the amendment. Section (d) provides for a reverter clause that would cause title to the property to revert to the Federal Government in the event that specified public purpose uses are not complied with by the District of Columbia.

If a reversion does occur, there is a question of the contractual rights of persons who have purchased bonds sold to finance the improvements to the stadium, or the rights of leaseholders who are using the stadium, are altered or nullified. I want all Senators, the administration, and the District of Columbia to understand that it is clearly not our intention to change the terms of the bonds sold to finance the improvements in the stadium.

May I inquire of the Senator from Oregon if that is his understanding of section (d) of his amendment?

Mr. HATFIELD. The Senator from Virginia, Mr. WARNER's understanding of section (d) of the amendment is correct. It is my intention that the bondholders and leaseholders will continue to have recourse in the unlikely event that the reversion clause is activated. If the Federal Government does take title to the stadium, such action does not disturb or impair those existing contracts, provided the contracts themselves are not the cause of the reversion.

Mr. McCLURE. I wish to concur in the remarks offered by the gentleman from Oregon, Senator HATFIELD, that section (d) will not interrupt the terms of the bonds or adversely affect the bondholders or leaseholders.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2776), as amended, was passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMPROVEMENT OF THE HEALTH STATUS OF NATIVE HAWAIIANS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1089, S. 2243, to improve the health status of native Hawaiians.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2243) to improve the health status of native Hawaiians, and for other purposes, reported with an amendment in the nature of a substitute.

At the appropriate place in the committee amendment, insert the following:

PACIFIC BASIN DISEASE RESEARCH INSTITUTE

SEC. . (a) The Secretary shall make a grant under section 720(a)(1) of the Public Health Service Act to the University of Hawaii in Honolulu, Hawaii, for the construction of a building for a Pacific Basin disease research institute. Notwithstanding sections 702(b) and 721(c) of such Act, the Secretary is not required to secure the advice of the National Advisory Council on Health Professions Education with respect to such grant.

(b) The Federal share of the necessary costs of construction, as determined by the Secretary, of the building described in subsection (a), shall be 50 percent.

(c) To carry out this section, there are authorized to be appropriated $5,000,000. Amounts appropriated under this section shall remain available until expended.

Mr. INOUYE. Mr. President, the amendment which Senator MATSUNAGA and I are offering today would provide $5 million for the construction of a Pacific Basin Disease Research Institute at the University of Hawaii.

This proposal follows up on a special hearing which the Senate Appropriations Committee held in Honolulu, HI. The facility is necessary for the University of Hawaii to continue its efforts throughout the Pacific basin and, given the pressing Federal interest involved, I honestly do not feel that it is appropriate that the State legislature be required to provide all of the funds necessary.

Mr. President, I would also like to express my personal appreciation to Senator ORRIN HATCH, chairman of the Senate Labor and Human Resources Committee, who earlier this session agreed with me that the establishment of this institute would be in our Nation's best interest.

The Pacific basin region is geographically quite remote from our Nation's Capital and I do appreciate the time Senator HATCH's committee took, not only to visit the State of Hawaii, but to discuss with the leadership of those who provide necessary health care for the region, the importance of providing an integrated approach to the underlying Federal responsibility.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 3473) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress finds that—

(1) the Federal Government retains the legal responsibility to enforce the administration of a public trust responsibility for the betterment of the conditions of Native Hawaiians by the State of Hawaii;

(2) in furtherance of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians, contributions by the Federal Government to the provision of health education and health services to maintain and improve the health status of Native Hawaiians are con-

sistent with the historical and unique legal relationship of the Federal Government with the government that represented the indigenous native people of Hawaii;

(3) it is the policy of the Federal Government to raise the health status of Native Hawaiians to the highest possible level and to encourage the maximum participation of Native Hawaiians in the planning and management of health services in order to achieve this objective;

(4) Federal support for programs that provide health care to Native Hawaiians has resulted in a reduction in the prevalence and incidence of preventable illnesses among Native Hawaiians and in a reduction in premature deaths of Native Hawaiians; and

(5) further improvement in the health status of Native Hawaiians is necessary on the basis of findings that—

(A) Native Hawaiians experience the highest age-sex standardized mortality rate in the State of Hawaii,

(B) Native Hawaiians experience a lower life expectancy than any other population group in the State of Hawaii,

(C) Native Hawaiians experience a higher rate of infant mortality, congenital abnormalities and underweight infants than any other population in the State of Hawaii,

(D) Native Hawaiians have the greatest risk of diabetes, heart disease, and some forms of cancer than any other population in the State of Hawaii,

(E) Native Hawaiians experience the onset of diabetes, heart disease, and hypertension at earlier ages than other populations in the State of Hawaii,

(F) Native Hawaiians have significantly higher rates of heart disease and hypertension than other populations in the State of Hawaii,

(G) Native Hawaiians have one of the highest cancer rates of any population in the United States and Native Hawaiians have the poorest survival rates from cancer than any other population in the State of Hawaii,

(H) Native Hawaiian pregnant women rank the highest of all populations of pregnant women in the State of Hawaii in—

(i) receiving late or no prenatal care,

(ii) smoking and alcohol consumption during pregnancy,

(iii) toxemia and urinary tract infections during pregnancy, and

(iv) complications of pregnancy over age 35,

(I) Native Hawaiians have higher rates of suicide among young adult and elderly males than the statewide population as a whole,

(J) Native Hawaiian children have one of the highest periodontal disease rates and the poorest dental hygiene of any other population in the State of Hawaii,

(K) Native Hawaiians have higher proportion of alcohol and narcotics use and school performance impairment than the statewide population as a whole,

(L) Native Hawaiians have higher levels of stress than the statewide population as a whole based on leading stress indicators,

(M) Native Hawaiians are underrepresented in rates of participation in health education, health promotion, screening, and referral programs,

(N) utilization of mental health services by Native Hawaiians is significantly below that of other populations in the State of Hawaii, and

(O) Native Hawaiians are underrepresented in the health professions.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "disease prevention" includes—

(A) immunizations,

(B) control of high blood pressure,

(C) control of sexually transmittable diseases,

(D) prevention and control of diabetes,

(E) pregnancy and infant care, including prevention of fetal alcohol syndrome,

(F) control of toxic agents,

(G) occupational safety and health,

(H) accident prevention,

(I) fluoridation of water, and

(J) control of infectious agents.

(2) The term "health promotion" includes—

(A) cessation of tobacco smoking,

(B) reduction in the misuse of alcohol and drugs,

(C) improvement of nutrition,

(D) improvement in physical fitness,

(E) family planning, and

(F) control of stress.

(3) The term "Native Hawaiian" means any individual who has any ancestors that were natives, prior to 1778, of the area that now comprises the State of Hawaii.

(4) The term "Native Hawaiian organization" means any organization—

(A) which serves and represents the interests of Native Hawaiians,

(B) which is recognized by the Office of Hawaiian Affairs of the State of Hawaii and E Ola Mau for the purpose of planning, conducting, or administering programs (or portion of programs) authorized under this Act, and

(C) in which Native Hawaiian health professionals significantly participate in the planning, management, monitoring, and evaluation of health services.

(5) The term "Native Hawaiian educational institution" means any educational institution that—

(A) serves and represents the interests of Native Hawaiians, and

(B) has as a primary and stated purpose the provision of educational services to Native Hawaiians.

(6) The term "Advisory Board" means the Native Hawaiian Health Promotion and Disease Prevention Advisory Board established under section 3(b).

(7) The term "Secretary" means the Secretary of Health and Human Services.

HEALTH PROMOTION AND DISEASE PREVENTION

SEC. 3. (a)(1) For fiscal year 1989, and for each fiscal year thereafter, the Secretary shall, in consultation with the Advisory Board established under subsection (b), enter into contracts with Native Hawaiian organizations under which the Secretary shall provide funds to Native Hawaiian organizations to establish and administer programs of health promotion and disease prevention designed to serve Native Hawaiians.

(2) The program that is to be established and administered under each contract entered into under paragraph (1) shall—

(A) provide necessary preventive-oriented health services, including maternal and child health care and mental health care, through the establishment of community health centers, subject to the availability of appropriations authorized under section 4(a)(3)(B);

(B) provide for the collection of data related to the prevention of diseases and illnesses among Native Hawaiians, including the prevention of fetal alcohol syndrome, hypertension, heart disease, and diabetes;

(C) provide for medical and general health-related research into the diseases that are most prevalent among Native Hawaiians including, but not limited to, heart disease, hypertension, cancer, and diabetes;

(D) provide for research into the mental health problems that are most prevalent among Native Hawaiians including, but not limited to, alcoholism, substance abuse, reduction of stress, and child abuse;

(E) provide for education in health promotion and disease prevention in the Native Hawaiian population by Native Hawaiian community outreach workers and Native Hawaiian nurses;

(F) provide for health planning in areas which shall include, but not be limited to, health planning in maternal and child health, nutrition, disease prevention, health promotion, health education, and mental health; and

(G) provide training for Native Hawaiian community health outreach workers as paraprofessionals in the provision of health care and health education in Native Hawaiian communities by means of a curriculum which—

(i) combines education in the theories of health care with supervised practical experience in the provision of health care,

(ii) provides instruction and practical experience in health promotion and disease prevention activities, particularly—

(I) nutrition,

(II) physical fitness,

(III) weight control,

(IV) cessation of tobacco smoking,

(V) stress management,

(VI) control of alcohol and substance abuse, including prevention of fetal alcohol syndrome,

(VII) control of high blood pressure,

(VIII) prevention and control of diabetes,

(IX) prevention of lifestyle related accidents,

(X) prenatal and postnatal infant health care, and

(XI) maternal health care, and

(iii) provides instruction in the most current and effective social, educational, and behavioral approaches to the establishment and maintenance of good health habits.

(b)(1) There is hereby established the Native Hawaiian Health Promotion and Disease Prevention Advisory Board.

(2)(A) The Advisory Board shall be composed of—

(i) an individual appointed to the Advisory Board by the Secretary from among nominations submitted to the Secretary by the Governor of the State of Hawaii, and

(ii) individuals representing each of the following organizations who are appointed to the Advisory Board by the Secretary from among nominations submitted by each of the following organizations:

(I) Alu Like, Inc.;

(II) the Office of Hawaiian Affairs of the State of Hawaii;

(III) E Ola Mau or any other organization composed of Native Hawaiian health care professionals;

(IV) the University of Hawaii School of Medicine;

(V) the University of Hawaii School of Public Health;

(VI) the University of Hawaii School of Nursing;

(VII) the Hawaii State Department of Health;

(VIII) the Kamehameha Schools, Bernice Pauahi Bishop Estate;

(IX) the Liliuokalani Trust;

(X) the Hawaii Nurses Association;

(XI) the Hawaii Medical Association;
(XII) the Hawaii State Department of Social Services and Housing;
(XIII) the Waianae Coast Comprehensive Health Center, or its successor organization, the Hawaii State Association of Community Health Centers;
(XIV) the Hawaii Psychological Association;
(XV) the Hawaii Psychiatric Association;
(XVI) the Hawaii Social Work Association;
(XVII) the Hawaii Society of Public Health Educators;
(XVIII) the Hawaii Dietetic Association;
(XIX) the Hawaii State Board of Education;
(XX) the Department of Hawaiian Home Lands;
(XXI) the Hawaii Dental Association; and
(XXII) any other organization designated by the Secretary for purposes of this subparagraph.

(B)(i) Except as provided in clause (ii), the term of office for each member of the Advisory Board shall be 3 years.

(ii) Of the initial members of the Advisory Board—

(I) the member representing the Governor of Hawaii and the members representing organizations listed in clauses (I), (II), (III), (IV), (V), and (VI) of subparagraph (A)(ii) shall have a term of 3 years,

(II) the members representing the organizations listed in clauses (VII), (VIII), (IX), (X), (XI), (XII), and (XIII) of subparagraph (A)(ii) shall have a term of 2 years, and

(III) the members representing all other organizations listed in subparagraph (A)(ii) shall have a term of 1 year.

(C) A vacancy on the Advisory Board shall be filled in the same manner in which the original appointment was made. A member so appointed shall serve for the remainder of the term of office to which such member is appointed.

(D) Individuals nominated for, and appointed to, the Advisory Board under subparagraph (A) should, to the extent feasible, be Native Hawaiians.

(E) The members of the Advisory Board shall elect a chairman from among the members of the Advisory Board.

(3) The Advisory Board—

(A) shall oversee—

(i) the awarding of contracts under subsection (a)(1),

(ii) the administration of programs for which contracts are entered into under subsection (a)(1), and

(iii) the grants awarded under subsection (c), and

(B) shall prepare and submit to the Secretary reports for each calendar quarter on the oversight conducted under subparagraph (A), and

(C) shall prepare and submit to the Congress, through the Secretary, annual reports containing recommendations on activities that—

(i) are designed to address the health care needs of Native Hawaiians, and

(ii) may be conducted by—

(I) the State of Hawaii,

(II) the Federal Government,

(III) community health centers,

(IV) Native Hawaiian organizations, or

(V) private health care providers.

(4) The provisions of section 14 and subsections (e) and (f) of section 10 of the Federal Advisory Committee Act (5 U.S.C. Appendix 2) shall not apply with respect to the Advisory Board.

(c)(1) Subject to the availability of funds appropriated under the authority of paragraph (3), the Secretary shall provide grants to Native Hawaiian organizations for the purpose of developing the management capabilities of such organizations to plan and operate the health promotion and disease prevention program that is to be established under contracts entered into in subsection (a).

(2) The total amount of grants that may be made to any Native Hawaiian organization under paragraph (1) shall not exceed $75,000.

(3) There are authorized to be appropriated $600,000 for fiscal year 1987, and each fiscal year thereafter, for the purpose of funding grants under paragraph (1).

(d)(1) The Secretary is authorized to enter into an agreement with any Native Hawaiian organization (or any Native Hawaiian educational institution) under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such Native Hawaiian organization (or such Native Hawaiian educational institution) to such Native Hawaiian organization (or to such Native Hawaiian educational institution) on detail for the purpose of providing education in health promotion and disease prevention to Native Hawaiian children who are underserved.

(2) Any assignment of personnel made by the Secretary under any agreement entered into under the authority of paragraph (1) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

(e)(1) The Secretary shall establish in the State of Hawaii, as a demonstration project, a Native Hawaiian Program for Health Promotion and Disease Prevention for the purpose of exploring ways to meet the unique health care needs of Native Hawaiians.

(2) The demonstration program that is to be established under paragraph (1) shall—

(A) provide necessary preventive-oriented health services, including health education and mental health care,

(B) develop innovative training and research projects,

(C) establish cooperative relationships with the leadership of the Native Hawaiian community, and

(D) ensure that a continuous effort is made to establish programs which can be of direct benefit to other Native American people.

(3) The Secretary is authorized to enter into contracts with Native Hawaiian organizations for the purpose of assisting the Secretary in meeting the objectives of the demonstration program that is to be established under paragraph (1).

(4) The Secretary shall submit to the Congress an annual report on the status and accomplishments of the program during each of the fiscal years 1987, 1988, and 1989.

(5) There are authorized to be appropriated $500,000 for each of the fiscal years 1987, 1988, and 1989, for the purpose of carrying out the provisions of this subsection.

(f)(1) The Secretary shall include in any contract which the Secretary enters into with any Native Hawaiian organization under this section such conditions as the Secretary considers necessary to ensure that the objectives of such contract are achieved.

(2) The Secretary shall develop procedures to evaluate compliance with, and performance of, contracts entered into by Native Hawaiian organizations under this section.

(3) The Secretary shall conduct an annual onsite evaluation of each Native Hawaiian organization which has entered into a contract under this section for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

(4) If, as a result of the evaluations conducted under paragraph (3), the Secretary determines that a Native Hawaiian organization has not complied with or satisfactorily performed a contract entered into under this section, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under this section with another Native Hawaiian organization that serves the same population of Native Hawaiians which is served by the Native Hawaiian organization whose contract is not renewed by reason of this paragraph.

(5) In determining whether to renew a contract entered into with a Native Hawaiian organization under this section, the Secretary shall—

(A) review the records of the Native Hawaiian organization and the reports submitted by the Advisory Board under subsection (b)(3)(B) with respect to such organization, and

(B) shall consider the results of the onsite evaluations conducted under paragraph (3).

(6) All contracts entered into by the Secretary under this section shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provision of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

(7) Payments made under any contract entered into under this section may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this section.

(8) Notwithstanding any other provision of law, the Secretary may, at the request or consent of a Native Hawaiian organization, revise or amend any contract entered into by the Secretary with such organization under this section as necessary to carry out the purposes of this section, except that whenever such organization requests retrocession of any contract entered into under this section, such retrocession shall become effective upon a date specified by the Secretary that is not more than 120 days after the date of the request by such organization or at such later date as may be mutually agreed to by the Secretary and such organization.

(9)(A) For each fiscal year during which a Native Hawaiian organization receives or expends funds pursuant to a contract entered into under this section, such organization shall submit to the Secretary a quarterly report on—

(i) activities conducted by the organization under the contract,

(ii) the amounts and purposes for which Federal funds were expended, and

(iii) such other information as the Secretary may request.

(B) The reports and records of any Native Hawaiian organization which concern any contract entered into under this section

shall be subject to audit by the Secretary and the Comptroller General of the United States.

(10) The Secretary shall allow as a cost of any contract entered into under this section the cost of an annual private audit conducted by a certified public accountant.

(11) The authority of the Secretary to enter into contracts under this section shall be to the extent, and in amounts, provided for in appropriation Acts.

COMMUNITY HEALTH CENTERS; NATIONAL HEALTH SERVICE CORPS PROGRAM

SEC. 4. (a)(1) The Secretary is authorized—

(A) to designate Native Hawaiians as a medically underserved population for purposes of section 330 of the Public Health Service Act (42 U.S.C. 254c),

(B) to provide planning grants (no more than 8 and of no more than $100,000 per grant) to Native Hawaiian organizations, or to any organization of health care professionals serving Native Hawaiians, for the purpose of planning community health centers to serve the health needs of Native Hawaiian communities, and

(C) to establish community health centers under section 330 of such Act to serve the health needs of Native Hawaiian communities.

(2) The Secretary shall consult with the Governor of Hawaii regarding any grants that may be made under section 330(c)(1) of the Public Health Service Act (42 U.S.C. 254c(c)(1)), or under paragraph (1)(B), for the planning and developing of community health centers to serve the health needs of Native Hawaiian communities.

(3) In addition to any other amounts authorized to be appropriated for carrying out section 330 of the Public Health Service Act, there are authorized to be appropriated for fiscal year 1987—

(A) $800,000 for the purpose of providing planning grants authorized under paragraph (1)(B), and

(B) $2,800,000 for the purpose of establishing under section 330 of the Public Health Service Act no more than 8 community health centers to serve the health needs of Native Hawaiian communities,

such sums to remain available until expended, without fiscal year limitation. No more than $350,000 of the funds authorized to be appropriated under subparagraph (B) may be expended for each community health center.

(b) The Secretary is authorized to designate Native Hawaiians as a population group which has a health manpower shortage for purposes of subpart II of part C of title III of the Public Health Service Act.

HEALTH SERVICE SCHOLARSHIP PROGRAM

SEC. 5. (a) Subject to the availability of funds appropriated under the authority of subsection (c), the Secretary shall provide scholarship assistance to students who—

(1) meet the requirements of section 338A(b) of the Public Health Service Act (42 U.S.C. 254l(b)), and

(2) are Native Hawaiians.

(b) The scholarship assistance provided under subsection (a) shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A of the Public Health Service Act (42 U.S.C. 254l).

(c) There are authorized to be appropriated $1,800,000 for fiscal year 1987, and for each fiscal year thereafter, for the purpose of funding the scholarship assistance provided under subsection (a).

HEALTH CARE REFERRAL SERVICES FOR NATIVE HAWAIIANS

SEC. 6. (a)(1) The Secretary shall enter into contracts with Native Hawaiian organizations for the provision of health care referral services for Native Hawaiians. Any such contract shall include requirements that the Native Hawaiian organization successfully undertake to—

(A) determine the population of Native Hawaiians who are, or could be, recipients of health care referral services,

(B) determine the current health status of Native Hawaiians served by the Native Hawaiian organization,

(C) determine the current health care needs of Native Hawaiians served by the Native Hawaiian organization,

(D) identify all public and private health services resources which are, or could be, available to Native Hawaiians,

(E) determine the use of public and private health services resources by Native Hawaiians,

(F) assist such health services resources in providing services to Native Hawaiians,

(G) assist Native Hawaiians in becoming familiar with such health services resources and in utilizing such health services resources,

(H) provide basic health education to Native Hawaiians, including education in health promotion and disease prevention through a community health outreach program that uses Native Hawaiian community health outreach workers,

(I) establish and implement manpower training programs to accomplish the referral and education tasks set forth in subparagraphs (F), (G), and (H),

(J) identify any disparity between the health needs of Native Hawaiians that are not being met and the resources available to meet such needs, and

(K) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of Native Hawaiians.

(2) The Secretary shall prescribe regulations which provide the criteria for selecting Native Hawaiian organizations to enter into contracts under this subsection. Such criteria shall, among other factors, include—

(A) the extent of the health care needs of Native Hawaiians served by the Native Hawaiian organization that are not being met,

(B) the size of the Native Hawaiian population served by the Native Hawaiian organization,

(C) the accessibility to, and utilization of, health care services by Native Hawaiians served by the Native Hawaiian organization,

(D) the extent, if any, to which the activities that are required to be undertaken under paragraph (1) would duplicate—

(i) any previous or current public or private health services project that was, or is, funded by any means other than a contract entered into under this section, or

(ii) any project funded by means of a contract entered into under this section,

(E) the capability of the Native Hawaiian organization to—

(i) perform the activities that are required to be undertaken under paragraph (1), and

(ii) enter into a contract with the Secretary under this subsection,

(F) the satisfactory performance and successful completion by the Native Hawaiian organization of other contracts entered into with the Secretary under this section,

(G) the appropriateness and likely effectiveness of conducting the activities that are required to be undertaken under paragraph (1), and

(H) the extent of existing participation, or likely future participation, in the activities that are required to be undertaken under paragraph (1) by appropriate health and health-related Federal, State, local, and other agencies.

(b)(1) The Secretary may enter into contracts under this subsection with Native Hawaiian organizations which have not entered into a contract with the Secretary under subsection (a). The purpose of entering into a contract under this subsection shall be to determine—

(A) the matters described in paragraph (2) in order to assist the Secretary in assessing the health status and health care needs of Native Hawaiians served by the Native Hawaiian organization, and

(B) whether the Secretary should enter into a contract under subsection (a) with the Native Hawaiian organization.

(2) Any contract entered into by the Secretary under this subsection shall include requirements that the Native Hawaiian organization—

(A) document the health care status and health care needs of Native Hawaiians served by the Native Hawaiian organization,

(B) with respect to Native Hawaiians served by the Native Hawaiian organization, determine the matters described in subparagraphs (B), (C), (D), and (H) of subsection (a)(2), and

(C) complete performance of the contract within one year after the date on which the Secretary and the Native Hawaiian organization enter into such contract.

(c)(1) The Secretary shall include in any contract which the Secretary enters into with any Native Hawaiian organization under this section such conditions as the Secretary considers necessary to encourage the establishment of programs which make health care services more accessible to Native Hawaiians.

(2) The Secretary shall develop procedures to evaluate compliance with, and performance of, contracts entered into by Native Hawaiian organizations under this section. Such procedures shall include provisions for carrying out the requirements of this section.

(3) The Secretary shall conduct an annual onsite evaluation of each Native Hawaiian organization which has entered into a contract under subsection (a) for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

(4) If, as a result of the evaluations conducted under paragraph (3), the Secretary determines that a Native Hawaiian organization has not complied with or satisfactorily performed a contract entered into under subsection (a), the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under subsection (a) with another Native Hawaiian organization that serves the same population of Native Hawaiians which is served by the Native Hawaiian organization whose

contract is not renewed by reason of this paragraph.

(5) In determining whether to renew a contract entered into with a Native Hawaiian organization under subsection (a), or whether to enter into a contract with a Native Hawaiian organization under subsection (a) which has completed performance of a contract entered into under subsection (b), the Secretary shall—

(A) review the records of the Native Hawaiian organization and the reports submitted under subsection (e), and

(B) in the case of a renewal of a contract entered into under subsection (a), shall consider the results of the onsite evaluations conducted under paragraph (3).

(d)(1) No contract entered into under this section may provide for a total amount of payments under the contract by the Federal Government that exceeds $125,000.

(2) All contracts entered into by the Secretary under this section shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provision of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

(3) Payments made under any contract entered into under this section may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this section.

(4) Notwithstanding any other provision of law, the Secretary may, at the request or consent of a Native Hawaiian organization, revise or amend any contract entered into by the Secretary with such organization under this section as necessary to carry out the purposes of this section, except that whenever such organization requests retrocession of any contract entered into under this section, such retrocession shall become effective upon a date specified by the Secretary that is not more than 120 days after the date of the request by such organization or at such later date as may be mutually agreed to by the Secretary and such organization.

(5) All contracts entered into under this section with Native Hawaiian organizations, and all regulations prescribed under this section, shall include provisions to assure the fair and uniform provision to Native Hawaiians of health care referral services and assistance under such contracts by such organizations.

(e)(1) For each fiscal year during which a Native Hawaiian organization receives or expends funds pursuant to a contract entered into under this section, such organization shall submit to the Secretary a quarterly report on—

(A) in the case of a contract entered into under subsection (b), disparities identified and recommendations made under subparagraphs (J) and (K) of subsection (a)(1),

(B) activities conducted by the organization under the contract,

(C) the amounts and purposes for which Federal funds were expended, and

(D) such other information as the Secretary may request.

(2) The reports and records of any Native Hawaiian organization which concern any contract entered into under this section shall be subject to audit by the Secretary and the Comptroller General of the United States.

(3) The Secretary shall allow as a cost of any contract entered into under subsection (a) the cost of an annual private audit conducted by a certified public accountant.

(f)(1) The authority of the Secretary to enter into contracts under this section shall be to the extent, and in an amount, provided for in appropriation Acts.

(2) There are authorized to be appropriated $625,000 for fiscal year 1987, and for each fiscal year thereafter, for the purpose of funding contracts entered into under this section.

ACCESS TO MEDICARE AND MEDICAID SERVICES

SEC. 7. (a) The Secretary shall, in consultation with Native Hawaiian organizations, conduct a study of any barriers which may exist to the participation of Native Hawaiians in programs established under title XVIII of the Social Security Act (medicare) or under title XIX of the Social Security Act (medicaid).

(b) By no later than the date which is one year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the study conducted under subsection (a). Such report shall include—

(1) recommendations for legislation which—

(A) would remove any barriers to participation identified in such study, and

(B) would encourage participation by Native Hawaiians in the programs described in subsection (a), and

(2) estimates of—

(A) the potential number of Native Hawaiians eligible for medicare,

(B) the potential number of Native Hawaiians eligible for medicaid,

(C) the number of Native Hawaiians participating in the medicare program, and

(D) the number of Native Hawaiians participating in the medicaid program.

GENERAL AUTHORIZATION

SEC. 8. There are authorized to be appropriated for fiscal year 1987, and for each fiscal year thereafter, such sums as may be necessary to carry out the provisions of this Act for which a specific authorization of appropriations is not otherwise provided for in this Act.

PACIFIC BASIN DISEASE RESEARCH INSTITUTE

SEC. 9. (a) The Secretary shall make a grant under section 720(a)(1) of the Public Health Service Act to the University of Hawaii in Honolulu, Hawaii, for the construction of a building for a Pacific Basin disease research institute. Notwithstanding sections 702(b) and 721(c) of such Act, the Secretary is not required to secure the advice of the National Advisory Council on Health Professions Education with respect to such grant.

(b) The Federal share of the necessary costs of construction, as determined by the Secretary, of the building described in subsection (a), shall be 50 percent.

(c) To carry out this section, there are authorized to be appropriated $5,000,000. Amounts appropriated under this section shall remain available until expended.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS TO THE WASHINGTON METRO AREA TRANSIT REGULATION COMPACT

Mr. SIMPSON. Mr. President, I send the enclosed joint resolution to the desk on behalf of Senators MATHIAS, SARBANES, and others, and ask for its immediate consideration.

□ 1040

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 428) granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the joint resolution.

Mr. MATHIAS. Mr. President. I am today introducing, for myself and Senators SARBANES, WARNER, and TRIBLE, legislation which gives consent to the amendments passed by Virginia, Maryland, and the District of Columbia modifying the Washington Metropolitan Area Transit Authority's interstate compact. I am inserting for the record background information on the WMATA compact.

These changes to the compact will facilitate the continuation of WMATA's current activities in a more efficient and orderly way.

They involve the public hearing requirements on matters relating to service changes and emergency situations; WMATA financial investments; Metro's procurement policies; and improvements in public safety.

With regard to the public hearing requirements, the amendments permit WMATA to make minor or experimental bus service changes, provide for emergency situations, and experiment with particular buslines without holding a public hearing. For example, if Maryland planners detect a market for a particular line, they can provide the service for a couple of months without having to go through the public hearing process. This change allows a more efficient method of sampling transit markets in the Washington metropolitan region.

These amendments also allow WMATA to deposit funds in a branch or subsidiary of any bank which operates within the transit zone. The present compact now says that WMATA can only deposit funds in the headquarters bank.

The Metro board currently is required to advertise for bids on any supply purchases above $2,500. These amendments raise the threshold for advertising contracts for supplies and equipment from $2,500 to $10,000 and for construction and reconstruction from $10,000 to $25,000. Raising the thresholds will increase procurement efficiency and reduce staff time and associated costs. The new thresholds will also make WMATA procurement policies more consistent with the practices of the Federal Government,

other transit agencies, and many local governments.

Finally, the public safety amendments to the compact in general permit the transit authority to have police jurisdiction at the Metrobus stops. Currently, Metro has no official authority to interfere with criminal acts at its bus stops and therefore can not adequately protect patrons or employees at the bus stops. The District of Columbia, Maryland, and Virginia police departments all support giving Metro jurisdiction at its bus stops. These amendments clarify and simplify the enforcement of WMATA rules.

It has been cleared on both sides of the aisle by the Judiciary Committee, which has jurisdiction over interstate compacts, and the Governmental Affairs Committee, which has substantive jurisdiction over Metro.

The purpose of the amendments to title III and a letter follow:

BACKGROUND AND PURPOSE OF THE 1986 AMENDMENTS TO TITLE III OF THE WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT.

PURPOSE

The purpose of the legislation is to amend Title III of the Washington Metropolitan Area Transit Regulation Compact, (WMATA Compact) Articles XIII and XVI, in order to (1) provide the Washington Metropolitan Area Transit Authority with more flexibility in instituting service changes on an emergency or experimental basis or in making minor changes in service, (2) permit deposits in banking institutions headquartered outside the Transit Zone but having branches located within the Transit Zone, (3) increase the dollar threshold at which the advertising of contracts for the purchase of supplies and equipment and construction, reconstruction and improvement of facilities is required, and (4) expand the jurisdiction for the Metro Transit Police to include bus stops, as defined in the bill.

BACKGROUND

This is the fourth time that the WMATA Compact has been amended. It was originally approved on November 6, 1966 (Washington Metropolitan Area Transit Authority Compact. Pub. L. 89-774, 80 Stat. 1324). In 1972 it was amended twice (National Capital Transportation Act of 1972. Pub. L. 92-349, 86 Stat. 464, and National Capital Area Transit Act of 1972, Pub. L. 92-517, 86 Stat. 999). Generally, those amendments were required to (1) make those necessary changes to the Compact to permit WMATA to provide transit service directly, (2) govern labor relations at WMATA, (3) provide for public acquisition of the then privately owned bus companies, (4) make other needed changes to the Compact with respect to definitions, temporary borrowing, interest on bonds, sale of bonds and reduced fares. The Compact was amended the third time in 1976 (Metro Transit Police Act of 1976, Pub. L. 94-306, 90 Stat. 672). In order to promote the safety of the riding public and to protect its employers and transit facilities, WMATA was authorized to establish a sworn police force fully empowered to enforce the signatory law on transit facilities owned, or operated or controlled by WMATA.

MAJOR PROVISIONS

The amendments Congress is consenting to in this resolution are summarized below:

Public hearings

Section 62(a).—This amendment provides that minor service changes, experimental service and emergency situations do not require a public hearing. The amendment clarifies current language, negates any potential challenges to current practices and reflects Urban Mass Transportation Administration (UMTA) public hearing requirements.

Public safety

Section 76(a).—This amendment gives the Metro Transit Police jurisdiction at Metrobus bus stops. Currently, local police have jurisdiction at bus stops. This change allows Metro police to provide protection for transit patrons at bus stops, thus increasing patron protection and safety.

Investment flexibility

Section 69(a).—This amendment allows WMATA to deposit funds in a branch or subsidiary of any bank which has operations within the Transit Zone. The change permits WMATA to take advantage of the greater flexibility in the banking industry as a result of deregulation.

Procurement

Section 73.—This amendment raises the threshold for advertising contracts for supplies and equipment from $2,500 to $10,000, and for construction and reconstruction from $10,000 to $25,000. Updating the thresholds will increase procurement efficiency and reduce staff time and associated costs. The new thresholds will also make WMATA procurement policies more consistent with the Federal government, other transit properties and many local governments.

U.S. SENATE,
Washington, DC, September 29, 1986.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER: We understand that Senator Mathias intends to introduce a resolution to approve the Washington Metropolitan Area Transit Authority's (WMATA) interstate compact.

Rather than referring this resolution to the Judiciary Committee, which has jurisdiction over interstate compacts, or the Governmental Affairs Committee, which has substantive jurisdiction over WMATA, we do not object to placing this legislation directly on the calendar for immediate action. Senator Mathias advises us that he will seek such an agreement, when the legislation is introduced.

Our view of this bill has found that the proposed amendments to WMATA's compact deal with noncontroversial, routine WMATA management activities. We agree that our Committee Members' scarce time would not be well served by further reviewing this legislation.

We appreciate your consideration of this legislation.

Sincerely,

JOSEPH R. BIDEN, Jr.,
THOMAS F. EAGLETON,
STROM THURMOND,
WILLIAM V. ROTH, Jr.,
U.S. Senators.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 428) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 428

Granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact.

Whereas the State of Maryland, the Commonwealth of Virginia, and the District of Columbia have adopted amendments to the Washington Metropolitan Area Transit Regulation Compact relating to public hearing requirements, investment flexibility, procurement and public safety; and

Whereas the Congress has reviewed such amendments and is willing to consent to such amendments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That consent of Congress is hereby given to the amendments of the State of Maryland (Chapters 674 and 675, 1984 Act of the Maryland General Assembly), the amendment of the Commonwealth of Virginia (Chapter 610, 1984 Acts of Assembly of Virginia), and the amendment of the District of Columbia (D.C. Law 5-122) to sections 62(a), 69(a), 73, and 76(a) of the Washington Metropolitan Area Transit Regulation Compact. Such amendments are as follows:

"62(a) The Board shall not make or change any fare or rate, nor establish or abandon any service except after holding a public hearing with respect thereto, except for service changes required by an emergency; minor service changes as defined by regulations promulgated by the Board; experimental service established to test the effect of such service, and in effect for not more than six months; and fare and service changes established for special events.

"69(a) The Board may provide for the creation and administration of such funds as may be required. The funds shall be disbursed in accordance with rules established by the Board and all payments from any fund shall be reported to the Board. Monies in such funds and other monies of the Authority shall be deposited, as directed by the Board, in any branch or subsidiary of any state or national bank which has operations within the Zone, and having a total paid-in capital of at least one million dollars ($1,000,000). The trust department of any such state or national bank may be designated as a depositary to receive any securities acquired or owned by the Authority. The restriction with respect to paid-in capital may be waived for any such bank which agrees to pledge federal securities to protect the funds and securities of the Authority in such amounts and pursuant to such arrangements as may be acceptable to the Board.

"73 Contracts for the construction, reconstruction or improvement of any facility when the expenditure required exceeds twenty five thousand dollars ($25,000) and contracts for the puchase of supplies, equipment and materials when the expenditure required exceeds ten thousand ($10,000) shall be advertised and let upon sealed bids to the lowest responsible bidder. Notice re-

questing such bids shall be published in a manner reasonably likely to attract prospective bidders, which publication shall be made at least ten days before bids are received and in at least two newspapers of general circulation in the Zone. The Board may reject any and all bids and readvertise in its discretion. If after rejecting bids the Board determines and resolves that, in its opinion, the supplies, equipment and materials may be purchased at lower price in the open market, the Board may give responsible bidder an opportunity to negotiate a price and may proceed to purchase the supplies, equipment and materials in the open market at a negotiated price which is lower than the lowest rejected bid of a responsible bidder, without further observance of the provision requiring bids or notice. The Board shall adopt rules and regulations to provide for purchasing from the lowest responsible bidder when sealed bids, notice and publication are not required by this section. The Board may suspend and waive the provisions of this section requiring competitive bids whenever:

"(a) the purchase is to be made from or the contract is to be made with the federal or any State government or any agency or political subdivision thereof or pursuant to any open end bulk purchase contract of any of them;

"(b) the public exigency requires the immediate delivery of the articles;

"(c) only one source of supply is available; or

"(d) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest.

"76(a) The Authority is authorized to establish and maintain a regular police force, to be known as the Metro Transit Police, to provide protection for its patrons, personnel, and transit facilities. The Metro Transit Police shall have the powers and duties and shall be subject to the limitations set forth in this section. It shall be composed of both uniformed and plainclothes personnel and shall be charged with the duty of enforcing the laws of the signatories, and the laws, ordinances and regulations of the political subdivisions thereof in the Transit Zone, and the rules and regulations of the Authority. The jurisdiction of the Metro Transit Police shall be limited to all the transit facilities (including bus stops) owned, controlled or operated by the Authority, but this restriction shall not limit the power of the Metro Transit Police to make arrests in the Transit Zone for violations committed upon, to or against such transit facilities committed from within or outside such transit facilities, while in hot or close pursuit or to execute traffic citations and criminal process in accordance with subsection (c) below. The members of the Metro Transit Police shall have concurrent jurisdiction in the performance of their duties with the duly constituted law enforcement agencies of the signatories and of the political subdivisions thereof in which any transit facility of the Authority is located or in which the Authority operates any transit service. Nothing contained in this section shall either relieve any signatory or political subdivision or agency thereof from its duty to provide police, fire and other public safety service and protection, or limit, restrict or interfere with the jurisdiction of or the performance of duties by the existing police, fire and other public safety agencies. For purposes of this section, "bus stop" means that area within 150 feet of a metrobus bus stop sign, excluding the interior of any building not owned, controlled, or operated by the Washington Metropolitan Area Transit Authority.".

SEC. 2. The right of Congress to alter, amend, or repeal this act is hereby expressly reserved.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING MINTING OF COINS OF THE BICENTENNIAL

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 3415, the commemorative coin bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3415) to authorize the minting of coins in commemoration of the bicentennial of the United States Constitution.

AMENDMENT NO. 3474

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator GARN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] for Mr. GARN, proposes an amendment numbered 3474.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 22, strike out "December 31, 1987" and insert in lieu thereof "June 30, 1988."

At the end of the bill, add the following new section: No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

Mr. SIMPSON. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3474) was agreed to.

Mr. McCLURE. Mr. President, the bicentennial of the United States Constitution is a day to be remembered by all. To help remind our citizens of this historic event, a Commission has been established to promote this day.

In addition to parades, educational seminars and picnics, the Congress will pass legislation which calls for the minting of commemorative coins. These coins may be purchased by the public and kept as a reminder of this historic event.

Mr. President, the bill before us requires the Secretary of the Treasury to mint and sell both gold and silver coins. The gold coins will be a $5 legal tender coin which contains 90 percent gold and 10 percent alloy. There will be a maximum of 1 million gold coins minted.

The silver coin will be a $1 legal tender coin which contains 90 percent silver and 10 percent alloy. There will be a maximum of 10 million coins minted and sold to the general public. The silver to be used in the coins will come from the National Defense Stockpile. It should be noted that the limitations of Public Law 96–41, as amended (50 U.S.C. 98d(b)) prohibiting disposal of material from the stockpile until the unobligated balance in the Transaction Fund falls below a certain statutory ceiling is inapplicable to the sale by the General Services Administration to Treasury authorized by H.R. 3415, and that any moneys received by the General Services Administration from Treasury shall be for deposit to the Transaction Fund.

Mr. President, I congratulate the great work of Chairman ANNUNZIO, the chairman of the House Banking Subcommittee on Consumer Affairs and Coinage, for his leadership in this matter. In addition, I appreciate the leadership of Senator GARN and his willingness to advance this important legislation.

Mr. President, I have been a strong advocate of coinage legislation and believe it is the solution to disposing of the National Defense Stockpile without further disrupting the silver markets. I am confident that many Americans will choose to purchase a gold or silver bicentennial coin as a reminder of this great Nation and in celebration of the Constitution.

● Mr. SYMMS. Mr. President, I commend my distinguished colleague, Senator GARN, the chairman of the Banking Committee for his willingness to call this measure up on short notice. This is important legislation and should be considered before the Congress recesses. Mr. ANNUNZIO introduced this bill in the other body and it passed by voice vote. This act is titled "Bicentennial of the Constitution Coins and Medals Act."

It grants the Secretary of the Treasury authority to issue gold and silver coins in honor of the bicentennial of our Constitution. It is entirely appropriate that these coins be struck to commemorate this great event. They will be a lasting reminder of this very important date in our history. This

bill authorizes the Secretary of the Treasury to mint 1 million $5 gold coins, weighing 8.359 grams each. In addition, the Secretary is authorized to issue 10 million $1 silver coins weighing 26.736 grams each.

The gold for the $5 coins will be minted under the authority the Secretary of the Treasury has under existing law. The silver coins will be minted from metal taken from the Strategic and Critical Minerals Stockpile.

Certainly, these metals will be of more benefit in coins than in a stockpile. The act fixes a $35 per coin surcharge on the $5 coins and a $7 per coin surcharge on the $1 coins. These surcharges will be deposited in the Treasury and used solely for the purpose of reducing the national debt. The Secretary is directed to take all actions necessary to ensure that this title shall result in no net cost to the United States Treasury.

In further recognition of the bicentennial of the Constitution the Secretary is instructed to strike and deliver to the Bicentennial Commission 750,000 medals with suitable emblems and inscriptions. The medals will be made from gold, silver, and bronze in sizes to be determined by the Bicentennial Commission.

Mr. President, this bill authorizes, in a modest way, commemoration of a major milestone in our development as a nation. I urge its adoption.●

Mr. McCLURE. Is it the understanding of the chairman that the limitations of Public Law 96–41, as amended (50 U.S.C. 98d(b)) prohibiting disposal of material from the stockpile until the unobligated balance in the Transaction Fund falls below a certain statutory ceiling is inapplicable to the sale by the General Services Administration to Treasury authorized by H.R. 3415, and that any moneys received by the General Services Administration from Treasury shall be for deposit to the Transaction Fund?

Mr. GARN. Yes; that is the intent of the committee.

Mr. McCLURE. I thank the chairman.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no further amendment, the question is on third reading and passage.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 2928—TO PROVIDE FOR MORE EFFECTIVE REGULATION OF VEHICLES

Mr. BYRD. Mr. President, I ask unanimous consent that I may send a bill to the desk on behalf of Mr. INOUYE and Mr. RUDMAN. I ask unanimous consent that the bill be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I rise today with the distinguished Senator from New Hampshire [Mr. RUDMAN] to offer legislation to regulate the automobile gray market. This legislation is quite similar to the measure which was agreed to earlier this year by unanimous consent as title IV of S. 863, the reauthorization bill for the National Highway Traffic Safety Administration [NHTSA]. As you will recall, after extensive negotiations, Mr. RUDMAN and I agreed on this legislation to provide for more effective regulation of the gray market in automobiles, and on May 15, 1986, the Senate passed our compromise legislation.

The House passed comparable legislation on October 6, 1986, as part of H.R. 2248, their NHTSA reauthorization bill. Currently, negotiations are ongoing to reconcile the House and Senate versions of the NHTSA bill. However, as consideration of such a compromise is not assured before adjournment of the 99th Congress, and given the importance to the American public and NHTSA itself of putting a more workable system into place to regulate the gray market, Senator RUDMAN and I are offering this bill and seeking its passage separately. As I indicated, the measure is very similar to the legislation agreed to in May by the Senate and just recently by the House. In developing this legislation, the Senator from New Hampshire and I have sought to ensure that gray market importers and modifiers are brought within the existing regulatory framework that governs the manufacturing and the sale of vehicles through authorized dealers. In short, we have sought to level the playing field and to assist the Department of Transportation in its effort to get a handle on the problems created by the present unworkable situation.

The Administrator of NHTSA has indicated her support for this type of legislation. In a recent letter, she stated:

> One of the major problems with the gray market program as it is now constituted is that the importer, rather than the modifier, is legally responsible for bringing the vehicle into compliance with the safety standards. The modifier has no direct legal responsibility for the success of his activities unless he is also the importer of record. Currently, 73 percent of importation of gray market vehicles are by individuals where the vehicles are for their own use as opposed to commercial importations for resale. The number of individual importations has always been greater than the number of commercial importations. The problems this creates are (1) the large number of entities we must deal with, (2) the lack of expertise of the importers in dealing with the legal and practical requirements of vehicle importation, and (3) the financial hardship placed on the individual importers if the vehicles must be exported, returned to Customs to be destroyed, or if full bond must be forfeited.
>
> These problems, and most others in this area, would be solved if the gray market program were restructured along the lines proposed in S. 863, which recently passed the Senate. We also understand that a similar proposal is being considered in the House of Representatives. We support legislation that would concentrate the program on registered commercial importers, which would afford tighter supervision of the modification process.

Unless we act now on this legislation, I fear that the opportunity will pass to accomplish these objectives. If we have to wait until the next Congress, thousands of vehicles will have continued to enter the United States without our beginning to put the controls in place that I believe we all agree are necessary.

Mr. President, under the program we are establishing, gray market vehicles may generally be imported into the United States only if they are substantially similar to a model manufactured for the U.S. market and are modified by a registered importer. We have included a special provision to ensure that military personnel and foreign service personnel returning from abroad may import an automobile for personal use and have it modified to meet U.S. safety and emission standards here in the United States, even if no substantially similar vehicle has been approved by the Secretary of Transportation for importation. We also have included a provision providing that, even in those instances in which a substantially similar U.S.-made vehicle does not exist, a vehicle made for a foreign market may be imported and then modified if the Secretary determines that the vehicle can be modified to comply with all applicable Federal motor vehicle safety standards. Finally, to meet the concerns of the Ways and Means Committee, we have included a provision that allows individuals, not just registered importers, to import a vehicle for personal use, but not for resale, as long as they agree to have it modified by a registered importer.

To ensure that this new program does not drain taxpayer resources, registered importers must pay upon registration and annually thereafter whatever fee the Secretary calculates is necessary to cover the new, additional costs of administering the entire program. Such fees must cover, among other things, the cost of processing bonds and making determinations. We felt it was appropriate in this limited

instance to require the payment of such fees because this new program is being established solely for the benefit of registered importers and will continue to permit them to stay in business.

Let me explain in greater detail how this new process works. In short, the Secretary of Transportation makes a determination whether a vehicle can be modified to meet all applicable safety standards. The registered importer—or modifier—must make the modifications as approved by the Secretary and then file a statement confirming he has done so. At that point, the Secretary, if she approves the certification statement, provides the necessary paperwork authorizing release of the Customs bond on the vehicle.

Once a determination has been made by the Secretary of Transportation with respect to a particular line or model of vehicle that the vehicle can meet the applicable standards, any other registered importer may, on the basis of that approval, modify the same line or model of vehicle. Of course, such a registered importer must perform the work in the same manner provided for in the approved petition. This should help lessen the regulatory burden that otherwise might have been imposed on the agency. We trust the Secretary will ensure that this provision is not abused to allow registered importers to make modifications without regard for the precise methods and procedures in the petition on which the determination was premised. Moreover, we trust the Secretary will be vigilant in ascertaining whether vehicles modified pursuant to the description provided for in petitions actually meet all applicable Federal motor vehicle safety standards. If she finds, for example, that modifications are not being made, we expect appropriate actions will be taken to remedy the situation. Once a determination has been revoked, vehicles of the same model or line may not be modified after a new determination is made pursuant to the procedures established for making the initial determination.

With respect to this process, we have not required that the Secretary make such determinations through traditional notice and comment rulemaking. However, while we have minimized the regulatory burden, the Secretary nonetheless must include the public in the process prior to making any determination on the merits. We do not want these determinations made solely on the basis of information supplied by petitioners. The petitions must be made available to the public, including original equipment manufacturers, so that they may submit comments and information relevant to the determination before it is made.

To monitor compliance with the law, the Secretary must conduct inspections and tests, including destructive tests, of vehicles imported under this new program. The status quo, under which voluntary compliance has been assumed, has proven to be ineffective in ensuring compliance with existing laws and regulations. We trust the Secretary will vigorously carry out her responsibilities to ensure that this pattern of noncompliance is brought to an end.

This bill addresses other concerns aired in hearings held before the Commerce Committee. As my colleagues are aware, one of the principal concerns that has been raised is the failure of gray market importers to pay the applicable gas guzzler tax due on each imported low-mileage vehicle. Recently, the Internal Revenue Service issued a revenue ruling confirming that the law has always required the payment of gas guzzler taxes on gray market vehicles. The provisions we have included do not address the retroactive application of the revenue ruling. I am sympathetic to the plight of those individuals who are covered by the ruling and recognize its application may have harsh, perhaps inequitable, application. To ensure that this tax avoidance comes to an end in the future and individuals are not later unfairly penalized, we have included two provisions in the amendment. The first requires these importers to have fuel economy ratings established on the vehicles they import for purposes of calculating the gas guzzler tax due. Once those ratings have been established and provided to the relevant government agencies, no basis will exist for avoiding payment of gas guzzler taxes. The second provision requires registered importers to document payment of this tax in order to maintain their registration. This should clarify any existing ambiguity as to the law's coverage.

As a related matter, the amendment provides that each registered importer will be treated as a manufacturer for purposes of C.A.F.E. Each registered importer will calculate a fleet fuel economy average on the basis of the vehicle he modifies during each calendar year. Thus, his fleet will include not only the vehicles he imports and modifies, but those imported by individuals for which he makes modifications. To preclude registered importers from avoiding the responsibilities that come with being treated as a manufacturer under the Motor Vehicle Information and Cost Savings Act, the amendment specifically precludes them from claiming to be "small volume" manufacturers. To maintain a registration, each registered importer must document payment of any C.A.F.E. penalties due for the prior year. We leave it to the Secretary to determine precisely how to apply the many provisions of the C.A.F.E. to registered importers.

Mr. President, there also has been a great deal of concern raised about vehicles being released to consumers before modifications have been made or in violation of the terms and conditions of the Customs bond placed on each vehicle. To get at this problem, the bill provides that it shall be unlawful to release custody of a vehicle, operate it—other than for testing—or ignore the conditions imposed by the applicable bond until the registered importer has filed a certification statement with the Secretary that the vehicle has been properly modified, the Secretary has reviewed the certification as valid, the Secretary has confirmed a consumer disclosure label has been placed on the vehicle, and the fuel economy ratings for the vehicle have been established and provided to the relevant government agencies. We have further provided that the Secretary may demand to inspect any vehicle prior to release by the registered importer.

In an effort to reduce the opportunities for the unscrupulous to avoid making the modifications required under existing law, we have built a number of additional safeguards into the system.

First, the types of vehicles which may be imported generally are limited to those which are substantially similar to vehicles originally manufactured and certified for importation into the United States and which are capable of being readily modified to meet all U.S. standards. For certain safety features of a motor vehicle, such as the structural features protecting the passenger compartment, it is impossible to assess compliance with U.S. safety regulations merely by visual inspection. Destructive crash testing is needed. Because substantially similar gray market vehicles will not be crash tested before importation, these concealed safety features of the gray market vehicles must be substantially the same as those on U.S. certified models before importation and modification.

Second, before any vehicles may be modified, a registered importer must first establish—with respect to the particular line or model of vehicle involved—that the vehicle can be modified to meet all applicable Federal motor vehicle safety standards and that any modifications made for the purpose of compliance with any applicable law or regulation will not appear to create a violation of these standards or a defect relating to motor vehicle safety. We would hope that the petition submitted to the Secretary could include an analysis by a qualified professional engineer certifying that this is the case with respect to the safety features of the vehicle.

Third, the Secretary must approve a certification statement filed by each registered importer before issuing the bond release letter applicable to each imported motor vehicle.

Finally, the Secretary by regulation must establish requirements to ensure that the registered importers who will be making these modifications have the financial capability to meet their obligations under our safety laws and regulations. The posting of a prepaid surety bond on each vehicle would be one means of protecting consumers from financially irresponsible importers.

So that we can monitor how this new program works in operation, this legislation requires the GAO to provide us with a report within 3 years. Also, the Secretary must conduct a study of the effectiveness of the program 18 months after promulgation of the regulations implementing this legislation. With these reports, the Congress will be in a good position to assess whether modifications to the program are necessary.

In closing, I might add that we remain quite concerned that the provisions in this legislation may not be put into effect as a result of a delay in the promulgation of implementing regulations. Thus, this bill explicitly provides that the Secretary must publish regulations implementing this amendment within 8 months. This is more than adequate time. If the Secretary has not done so, the legislation provides that any person may commence a civil action in the U.S. Court of Appeals for the District of Columbia Circuit. We have directed that the court grant an expedited hearing. We also have indicated that the court should award reasonable attorney fees to private litigants if the Government fails to promulgate these regulations. We hope this will provide a sufficient incentive for the agency to comply with the law and meet the deadline we have set. We do not want to be in a position where through inadvertence or negligence the current, unworkable program remains in effect beyond the prescribed period set out in the bill. We believe this would be unacceptable.

Mr. President, I want to remind my colleagues that many months of negotiations were necessary to craft this compromise. We have addressed the concerns of gray market participants, as well as those of concerned Members of the House. My colleague from New Hampshire and I have put a great deal of work into developing this legislation and we urge our colleagues to support us in its passage.

Mr. RUDMAN. Mr. President, I rise to join my colleague, the distinguished senior Senator from Hawaii, Mr. INOUYE, in introducing legislation to improve the statutory and regulatory framework under which vehicles not originally manufactured for sale in the United States are brought into compliance with U.S. standards. This legislation represents a compromise intended to ensure that so-called gray market cars fully comply with applicable Federal motor vehicle safety standards.

Direct import cars, often referred to as gray market cars, are foreign-manufactured cars that are imported directly by independent importers. This activity is entirely legal provided that certain procedures are followed to ensure that these cars, which may be different than vehicles originally manufactured for distribution in the United States, are brought into conformity with our Federal environmental and safety standards.

The gray market generally arises when foreign manufacturers implement discriminatory pricing policies whereby American consumers are charged a higher price for a product than is charged for the same or comparable item sold overseas. Independent importers take advantage of this dual-pricing system by purchasing products at the world price and selling the product to the American consumer at a price considerably below that offered by the foreign manufacturer's U.S. distributor. It should be noted that there is a gray market for many products other than automobiles. In my view, the gray market provides enormous benefits to the consumers of this country by providing price and choice competition.

In the case of automobiles, my good friend, Senator INOUYE, has expressed concerns that the current regulation of direct import vehicles is not sufficient to protect safety. Frankly, although our views differ on this contention, we have worked together to improve enforcement in this area while preserving the right of independent importers to market these automobiles. In fact, this bill is essentially similar to an amendment we successfully offered to S. 863, the national highway traffic safety reauthorization bill, passed by the Senate earlier this year. We believe that this bill improves upon the Senate amendment to S. 863 and also addresses some concerns raised by the other body.

Our bill has three main features. First, the bill includes provisions to ensure that vehicles imported into the United States are capable of meeting U.S. safety standards. Thus, the Secretary of Transportation must determine, pursuant to the petition of a registered importer, that a model of a vehicle is capable of being modified to comply with applicable U.S. safety standards. The Secretary may make such determinations based on one of two findings: The Secretary may make a determination that a vehicle is substantialy similar to a vehicle originally manufactured for sale in the United States and that it can be modified to meet our standards. Alternatively, where there is no substantially similar domestic vehicle, the Secretary may make a determination based on destructive test data or other information which demonstrates that the vehicle is capable of meeting all applicable U.S. standards. It is presumed that in most cases destructive test data will be necessary to make this determination. In some cases, however, other evidence may suffice. For example, if a petitioner can demonstrate that a vehicle is largely similar to an earlier model of a U.S. model vehicle certified as meeting our standards, destructive test data may not be necessary. Once a determination is made, other importers or individuals may import that model vehicle provided that it is modified by a registered importer pursuant to an approved petition.

The second feature is the requirement that vehicles imported pursuant to this bill be modified by an importer who is registered with the Secretary of Transportation. The registered importer must also pay user-fees as necessary to cover the costs of administering the main provisions of this program where such costs exceed current expenditures. Thus, implementation of this program will allow the Department to meet its obligations without adding to the Federal budget deficit.

Third, the bill provides that a properly registered importer submit a certification to the Secretary for each vehicle modified. The Secretary is provided an opportunity to inspect any vehicle prior to approval. If the Secretary has not given notice of its intention to inspect the vehicle within 30 days, the Secretary shall provide for the prompt release of the importer's bond. It should be noted that although the bill permits importation of automobiles by individuals, such vehicle must be modified by a registered importer pursuant to an approved petition.

Our bill also provides that the registered importer will be responsible for recordkeeping, payment of any applicable gas guzzler tax for cars imported pursuant to this legislation, and compliance with CAFE requirements. We have also called for reports on the effectiveness of the new program by the General Accounting Office and the Department of Transportation. The Secretary is directed to promulgate regulations within 8 months after enactment of this legislation. The provisions of this bill will take effect 3 months after the effective date of regulations. This 3-month grace period is intended to ensure that importers will be able to continue to import vehicles after the effective date of the regulations and while the Secretary is making determinations and registering importers.

I believe that this bill represents a reasonable compromise to improve the

regulation of direct import automobiles while ensuring that the American consumer continues to benefit from the price and choice competition provided by direct imports.

RESOLUTION PROVIDING FOR A POINT OF ORDER AGAINST EXTRANEOUS MATERIAL IN CERTAIN RECONCILIATION MEASURES

Mr. SIMPSON. Mr. President, I send a resolution to the desk on behalf of Senators ROTH, DOMENICI, and CHILES, dealing with a point of order on the reconciliation bill.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 509) providing for a point of order against extraneous material in certain reconciliation measures.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, on December 19, 1985, the Senate adopted Senate Resolution 286, which I authored. The purpose of Senate Resolution 286 was to extend the prohibition against extraneous matter in reconciliation bills and resolutions, popularly known as the Byrd rule after its distinguished author, to House language coming over to us either in a conference report or as a House amendment. But for Senate Resolution 286, the Senate would have been in a position of imposing a much needed discipline on itself while facing the prospect that the House could load down reconciliation bills and resolutions with all kinds of extraneous matter.

When the Senate considered Senate Resolution 286, I noted its similarity to rule XXVIII of the House rules by which the House seeks to protect itself against Senate provisions that would violate House rules on germaneness if offered there. Under Senate Resolution 286, when the point of order against extraneous matter is made and sustained, the offending language is deemed stricken and the Senate is permitted to consider the remainder "under the rules and practices of the Senate and applicable law."

In contrast, in the analogous situation under rule XXVIII of the House rules, after the offending language is deemed stricken, the opportunity to debate and to make further amendments is restricted under the rule and the practices of the House. In practical terms this means that one making a point of order does not have to overcome the burden that his or her success might unravel all the negotiations that led up to the conference report or amendment in question.

Therefore, on reflection, it is my considered opinion that Senate Resolution 286 needs to be amended so that successful points of order intended to surgically remove offending language, do not provide the occasion for unraveling the remaining language of conference reports which Senate conferees have worked out in conference.

The amendment to Senate Resolution 286 would preserve the original purpose of that resolution but would further refine the implementation, in the case of conference reports or House amendments, by limiting debate and, in the case of conference reports, by precluding amendments.

Conference reports as such are not subject to amendment. It would be highly inappropriate, therefore, to allow such language to become amendable once extraneous matter is removed by a successful point of order. Unfortunately, that result would occur without the adoption of the pending resolution because a conference report falls as a matter of parliamentary law when a successful point of order is made against it. And when the conference report falls, the last amendment or amendments are before this body subject to further debate and further action.

But this result is contrary to the special purpose of Senate Resolution 286. Such a result would make it more difficult to police our policy against extraneous matter. For if a Senator desiring to make a point of order against extraneous matter realizes that his success could cause the entire conference agreement to become amendable, then he would be inclined to go forward guided more by his position on the substance of the conference agreement than by his desire to enforce Senate policy on extraneous matter. That would be unfortunate.

The pending resolution would change that result. It would allow a successful point of order to excise the offending language in a conference report and would, in effect, treat the remaining language in the same way we treat conference reports, that is, as not subject to amendment.

House amendments, like conference reports, would be subject to the provision limiting debate. However, House amendments would be subject to further amendment since, unlike a conference report, they have not been agreed to by the Senate.

The resolution also treats the situation where the House has sent us an amendment containing extraneous matter and the Senate is considering a Senate amendment to the House amendment containing such extraneous matter. This kind of Senate amendment is included within the phrase "amendment between the Houses" in the pending resolution. This kind of Senate amendment to a House amendment would be subject to the same procedure as would the House amendment.

It should also be noted that more than one point of order may be made against a conference report or amendment between the Houses. In the case of Senate consideration of conference reports, it should be noted that a second point of order would be made against the resulting Senate amendment created by operation of this resolution upon a successful point of order being made. It cannot be made against the conference report because it is no longer before the body. That is why the phrase "Senate amendment derived from such conference report by operation of this resolution" is included in the resolution; such amendments are basically treated under the procedure for conference reports. This means they are not amendable.

In my opinion, the procedural refinements contained in the pending resolution are necessary to implement the original purpose of Senate Resolution 286 and should be adopted.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 509) was agreed to, as follows:

S. RES. 509

That Senate Resolution 286 (99th Congress, 2d Session), adopted December 19, 1985, is amended by striking out all after the resolving clause and inserting in lieu thereof the following:

"That (a) when the Senate is considering a conference report on, or an amendment between the Houses in relation to, a reconciliation bill or reconciliation resolution pursuant to section 310 of the Congressional Budget Act of 1974, upon—

"(1) a point of order being made by any Senator against extraneous material meeting the definition of subsections (d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, and

"(2) such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for 2 hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this resolution), no further amendment shall be in order.

"(b) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this resolution, as well as to waive or suspend the provisions of this resolution.

"(c) The provisions of this resolution shall remain in effect until the date of termina-

tion of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985.".

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TREATMENT OF CERTAIN SUBMERGED LANDS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 1030, S. 485, dealing with the Alaskan National Interest Lands Conservation Act of 1980.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 485) to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the treatment of submerged lands and ownership by the Alaska Native Corporation.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That section 901 of the Alaska National Interest Lands Conservation Act (94 Stat. 2430; Public Law 96-487) is amended by striking out the text of such section and inserting in lieu thereof:

"SEC. 901. (a)(1) Except as provided in paragraph (2), whenever the Secretary surveys land selected by a Native, a Native Corporation, or the State pursuant to the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or this Act, lakes, rivers, and streams shall be meandered in accordance with the principles in the Bureau of Land Management, 'Manual of Surveying Instructions' (1973).

"(2) If title to the lands beneath navigable waters of a lake less than fifty acres in size or a river or stream less than three chains in width did not vest in the State pursuant to the Submerged Lands Act, such lake, river, or stream shall not be meandered.

"(3) The Secretary is not required to determine the navigability of a lake, river, or stream which because of its size or width is required to be meandered or to compute the acreage of the land beneath such lake, river, or stream or to describe such land in any conveyance document.

"(4) Nothing in this subsection shall be construed to require ground survey or monumentation of meanderlines.

"(b)(1) Whenever, either before or after the date of enactment of this section, the Secretary conveys land to a Native, a Native Corporation, or the State pursuant to the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or this Act which abuts or surrounds a meanderable lake, river, or stream, all right, title, and interest of the United States, if any, in the land under such lake, river, or stream lying between the uplands and the median line or midpoint, as the case may be, shall vest in and shall not be charged against the acreage entitlement of such Native or Native Corporation or the State. The right, title, and interest vested in a Native or Native Corporation shall be no greater an estate than the estate he or it is conveyed in the land which abuts or surrounds the lake, river, or stream.

"(2) The specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled, 'Memorandum of Agreement between the United States Department of the Interior and the State of Alaska' dated March 28, 1984, signed by the Secretary and the Governor of Alaska and submitted to the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, are hereby incorporated in this section and are ratified as to the duties and obligations of the United States and the State, as a matter of Federal law.

"(c)(1) The execution of an interim conveyance or patent, as appropriate, by the Bureau of Land Management which conveys an area of land selected by a Native or Native Corporation which includes, surrounds, or abuts a lake, river, or stream, or any portion thereof, shall be the final agency action with respect to a decision of the Secretary of the Interior that such lake, river, or stream, is or is not navigable, unless such decision was validly appealed to an agency or board of the Department of the Interior on or before December 2, 1980.

"(2) No agency or board of the Department of the Interior other than the Bureau of Land Management shall have authority to determine the navigability of a lake, river, or stream within an area selected by a Native or Native Corporation pursuant to the Alaska Native Claims Settlement Act or this act unless a determination by the Bureau of Land Management that such lake, river, or stream, is or is not navigable, was validly appealed to such agency or board on or before December 2, 1980.

"(3) If title to land conveyed to a Native Corporation pursuant to the Alaska Native Claims Settlement Act or this Act which underlies a lake, river, or stream is challenged in a court of competent jurisdiction and such court determines that such land is owned by the Native Corporation, the Native Corporation shall be awarded a money judgment against the plaintiffs in an amount equal to its costs and attorney's fees, including costs and attorney's fees incurred on appeal.

"(d) For the purposes of this section, the terms 'navigable' and 'navigability' means navigable for the purpose of determining title to lands beneath navigable waters, as between the United States and the several States pursuant to the Submerged Lands Act and section 6(m) of the Alaska Statehood Act.".

SEC. 2. Nothing in this Act shall amend or alter any land exchange agreement to which the United States is a party, or any statute, including but not limited to the Act of January 2, 1976 (89 Stat. 1151) and section 506(c) of the Alaska National Interest Lands Conservation Act (94 Stat. 2409), that authorizes, ratifies or implements such an agreement.

AMENDMENT NO. 3475

(Purpose: To extend the Submerged Lands Statute of Limitations found in P.L. 96-487)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator MURKOWSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. MURKOWSKI, proposes an amendment numbered 3475.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That subsection (a) of section 901 of the Alaska National Interest Lands Conservation Act (Public Law 96-487), as amended, is hereby amended by striking out the words "six years after the date of execution" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "eight years after the date of execution", and by striking the words "seven years after the date of enactment" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "nine years after the date of enactment".

Mr. MURKOWSKI. Mr. President, I rise in support of this amendment in the nature of a substitute. This amendment replaces the text of S. 485. It simply extends the submerged lands statute of limitations found in section 901 of the Alaska National Interest Lands Conservation Act for 2 years.

Earlier this year in February, the statute was extended through December 2, 1986, in hopes that a comprehensive solution to the submerged lands issue could be resolved. Such a solution was reported out of the Energy and Natural Resources Committee in the form of S. 485. Unfortunately, there are still those who oppose such a solution.

In order to prevent the State of Alaska from being forced to file hundreds of lawsuits against Native corporations in December, this extension must be passed. It is noncontroversial and merely protects the status quo with respect to the submerged lands issue.

It is my full intention to pursue a final and equitable solution to this issue when Congress returns for the 100th Congress in January.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum to be sure that this bill we are passing is not another one that I do not want to have passed. It will not take but 1 minute.

The PRESIDING OFFICER. Does the Senator from Ohio have objection to the unanimous-consent request?

Mr. METZENBAUM. Reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I have no objection. I apologize to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I assume that was not the amendment the Senator from Ohio was looking for.

Mr. METZENBAUM. The Senator is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3475) was agreed to.

Mr. SIMPSON. Mr. President, I move adoption of the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. METZENBAUM. Mr. President, this legislation is limited in purpose and scope. It only grants the State of Alaska a simple extension of time in which to file judicial challenges to navigability determinations, pursuant to section 901(a) of ANILCA. The bill is not intended to, and does not, alter the language of section 901(d) of ANILCA which is based upon the premise that lands submerged beneath nonnavigable waters will be conveyed and charged against the State and Alaska Native corporation entitlements. The bill is not intended to delay or otherwise affect litigation pending in the U.S. Court of Appeals for the District of Columbia concerning the chargeability of submerged lands (Civil No. 86-5205).

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The committee amendment, as amended, the bill (S. 485) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 901 of the Alaska National Interest Lands Conservation Act (Public Law 96-487), as amended, is hereby amended by striking out the words "six years after the date of execution" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "eight years after the date of execution", and by striking the words "seven years after the date of enactment" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "nine years after the date of enactment".

STANDARDS FOR PLACEMENT OF COMMEMORATIVE WORKS IN THE DISTRICT OF COLUMBIA

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4378.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 4378) entitled "An Act to provide standards for placement of commemorative works on lands administered by the National Park Service in the District of Columbia, and for other purposes.".

Resolved, That the House agree to the amendment of the Senate to the text of the aforesaid bill, with amendments as follows:

(1) Page 3 of the Senate engrossed amendments, line 13, strike out "appropriate congressional authorizing Committees" and insert: *Committee on House Administration of the House of Representatives and the Energy and Natural Resources Committee of the Senate*

(2) Page 4 of the Senate engrossed amendments, strike out line 23 and all that follows through line 8 on page 5, and insert:

SEC. 6. (a) AREA I.—The conditions set forth in subsection (b) shall apply to the location of a commemorative work in Area I or in Area II. In addition, the Secretary or Administrator (as appropriate) may approve the location of a commemorative work in Area I only if he finds that the subject of the commemorative work is of preeminent historical and lasting significance to the Nation. The Secretary or Administrator (as appropriate) shall notify, after consultation with the National Capital Memorial Commission, the Congress of his determination that a commemorative work should be located in Area I. The location of a commemorative work in Area I shall be deemed disapproved, unless, not later than 150 days after such notification, the location is approved by law.

(3) Page 6 of the Senate engrossed amendments, line 15, strike out "of this section, such person shall submit" and insert: *, the Secretary or Administrator (as appropriate) shall submit, on behalf of such person,*

(4) Page 9 of the Senate engrossed amendments, strike out lines 8 through 21 and insert:

TEMPORARY SITE DESIGNATION

SEC. 9. (a) If the Secretary, in consultation with the National Capital Memorial Commission, determines that a site where commemorative works may be displayed on a temporary basis is necessary in order to aid in the preservation of the limited amount of open space available to residents of, and visitors to, the Nation's Capital, he may designate such a site on lands administered by him in the District of Columbia. A designation may not be made under the preceding sentence unless, at least 120 days before the designation, the Secretary, in consultation with the National Capital Memorial Commission, prepares and submits to the Congress a plan for the site. The plan shall include specifications for the location, construction, and administration of the site and criteria for displaying commemorative works at the site.

(b) Any commemorative work displayed at the site shall be installed, maintained, and removed at the sole expense and risk of the person authorized to display the commemorative work. Such person shall agree to indemnify the United States for any liability arising from the display of the commemorative work under this section.

(5) Page 10 of the Senate engrossed amendments, strike out lines 1 and 2, and insert: *the Secretary or the Administrator (as appropriate) and shall be permanently maintained in the manner provided by law.*

Mr. SIMPSON. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTING ENROLLMENT OF HOUSE JOINT RESOLUTION 626

Mr. SIMPSON. Mr. President, I send a concurrent resolution to the desk on behalf of Senator MCCLURE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 171) to correct the enrollment of H.J. Res. 626.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the concurrent resolution.

Mr. SIMPSON. Mr. President, I move adoption of the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 171) was agreed to, as follows:

S. CON. RES. 171

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the joint resolution (H.J. Res. 626) to approve the "Compact of Free Association" between the United States and the Government of Palau, the following corrections shall be made:

(1) In section 101(d)(1)(B), insert "the Committees on Interior and Insular Affairs and Foreign Affairs and other" before "appropriate Committees of the House of Representatives".

(2) In section 101(d)(2) strike "(B)" and insert "(C)".

(3) In section 102(b), add "as amended," after "Public Law 99-239,".

(4) In section 104(c), strike "fiscal year 1985" each time such words occur and in each instance insert in lieu thereof "fiscal year 1986".

(5) In section 104(f), strike "Public Law 99-396" and in lieu thereof insert "Public Law 99-366".

(6) In section 104(g), strike "preclude" and in lieu thereof insert "exclude, limit".

(7) In section 242(c)(4) of Title II, strike "chapter V" and insert "title V".

(8) Following Section 104(j) insert new subsection (k) as follows:

"(k) The Departments of Energy and Interior are directed to provide the Committees on Appropriations of the House and Senate with a report by December 1 of each fiscal year detailing how funds were spent during the previous fiscal year for the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Enewetak and Bikini as referenced in Section 103(h) of Public Law 99-239. The report shall also specify the anticipated needs during the current and following fiscal years in order to meet the radiological health care and logistical support program for Rongelap and Utrik and the planting, agricultural maintenance, and food programs for Enewetak and Bikini. It is the sense of the Congress that the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Enewetak and Bikini described in section 103(h) of Public Law 99-239 represent special and continuing moral commitments of the United States which will be annually funded to the extent of the need of the populations of such atolls for such assistance."

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVENING OF CONGRESS IN PHILADELPHIA, PA, ON JULY 16, 1987

Mr. SIMPSON. Mr. President, I send a concurrent resolution to the desk on behalf of Senator THURMOND, Senator DOLE, Senator BYRD, Senator STENNIS, Senator HATFIELD, Senator SIMON, and Senator KASSEBAUM, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 172) to convene the Congress in Philadelphia, Pennsylvania, on July 16, 1987, in order to commemorate the 200th anniversary of the Great Compromise creating the basis of representation between the Senate and the House of Representatives.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the concurrent resolution.

The Senate proceeded to consider the concurrent resolution.

Mr. THURMOND. Mr. President, today, along with Senators DOLE, BYRD, KASSEBAUM, HATFIELD, STENNIS, and SIMON, I am urging Senate passage of Senate Concurrent Resolution 172, a concurrent resolution providing that the House and Senate shall convene for the day of July 16, 1987, in Philadelphia, PA. The purpose of this very special session of Congress would be to commemorate the 200th anniversary of the "Great Compromise" creating the basis of representation in the House and Senate.

Mr. President, the sponsors of this proposal, as the members of the Commission on the Bicentennial of the Senate, are charged with the responsibility of coordinating the observance and celebration of the Senate bicentennial. We can think of no better date on which to commemorate the 200 years of the legislative branch than on the date that the framers crafted the plan establishing how the Senate and House were to be constituted. It was this question which bitterly divided the delegates to the Constitutional Convention and threatened to scuttle its mission.

The proposal to convene the Congress in Philadelphia has been developed primarily by Philadelphia's "We The People, 200" committee, which has already raised $1.5 million to underwrite the cost of the event. This special session of Congress would be an actual working session, rather than a purely ceremonial event. If held, it would be the first time in 187 years that Congress has met outside Washington and the first time the Congress has ever met outside the seat of government.

Mr. President, although much planning remains to be done, as this resolution specifies, Congress would convene in the Independence National Historical Park for 1 day, July 16, 1987. Plans are already being developed regarding erection of temporary structures for the House and Senate Chambers. Details regarding transportation, security, funding, and other matters related to this proposal are under study.

Only 9 months are left to prepare for this event—if it is to occur. Congress must decide very quickly if it wishes to commemorate its bicentennial in this fashion. I, therefore, urge my colleagues to approve this important concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 172) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 172

Whereas 1987 marks the two hundredth anniversary of the meeting of the Constitutional Convention in the City of Philadelphia, Pennsylvania from May 25 to September 17, 1787;

Whereas on July 16, 1787, the framers of the Constitution agreed to the "Great Compromise", which provided for States to be represented equally in the Senate and in the proportion to their populations in the House of Representatives;

Whereas that compromise established fundamental nature of the Senate and the House of Representatives;

Whereas the City of Philadelphia's "We the People 200" committee, an organization planning a year-long national celebration of the United States Constitution bicentennial, has invited the Congress of the United States to convene a special legislative session on July 16, 1787, at Independence National Historical Park; and

Whereas it is appropriate for Congress, as the First Branch of the Government under the Constitution, to provide for suitable commemoration of this significant anniversary to focus public attention on the unique role of the national legislature as a coequal branch of the Federal Government: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall convene for the day of July 16, 1987, in the city of Philadelphia, Pennsylvania, in the Independence National Historical Park.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING CERTAIN ACTIONS AFTER THE SINE DIE ADJOURNMENT OF THE PRESENT SESSION

Mr. SIMPSON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 510) authorizing the President of the Senate, the President of the Senate pro tempore, the majority leader of the Senate, and the minority leader of the Senate to make certain appointments after the sine die adjournment of the present session.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 510) was agreed to, as follows:

S. RES. 510

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the majority leader of the Senate, and the minority leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I greatly thank the Democratic leader for his presence here, enabling us to proceed with our business. I thank him.

Mr. BYRD. I thank the distinguished acting majority leader.

□ 1050

IMMIGRATION REFORM AND CONTROL ACT OF 1986—CONFERENCE REPORT

Mr. SIMPSON. Mr. President, I ask that the Senate turn to the consideration of the conference report on S. 1200.

The PRESIDING OFFICER. The conference report will be stated by title.

The bill clerk read as follows:

IMMIGRATION REFORM AND CONTROL ACT OF 1986—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

Mr. SIMPSON. Mr. President, before we proceed with the conference committee report, which was agreed to in the House yesterday, I see my colleague from New Mexico is on the floor. I have been informed by my good friend, the chairman of the Committee on the Budget, Senator PETE DOMENICI, that the conference report on S. 1200, the immigration reform bill, is subject to a point of order under the Budget Act, since the legislation before us would, after a 5-year moratorium, then allow legalized aliens to become eligible for certain Federal welfare programs. There is an exceedingly limited Federal benefit to these persons during that 5-year period. Consequently, this is considered then to be an expansion of an entitlement program in a year for which no budget resolution has been agreed to.

Shortly, I shall ask for unanimous consent that section 303 of the Budget Act be waived for consideration of the conference report. I want to inquire of the Senator from New Mexico, who is a most extraordinary and alert and productive Member of the Senate with regard to budget matters, if he has a further statement with regard to this matter.

Mr. DOMENICI. Mr. President, I believe the distinguished Senator from Wyoming has properly stated the case. At this point, the conference report that is before us would be subject to a section 303 point of order under the Budget Act. In essence, that point of order lies because the conference report expands entitlement programs beginning in fiscal year 1992, a year for which we do not have a budget resolution. There is a clear provision in the Budget Act, section 303, saying that new or expanded entitlements cannot be considered for the years for which there is no budget resolution in effect. We all understand why. That was a very prudent thing.

I see the minority leader on the floor. He had a hand in draftng that in the Budget Act when it was prepared. That was to prevent a willy-nilly kind backdoor expenditure where you get around the processes by saying, 3 years from now, here is a new add on to some entitlement program which causes automatic expenditures.

That is the explanation. Having said that, I want the distinguished Senator from Wyoming and the Senate to know that this is a 50-vote waiver; it is not a supermajority requirement. This is part of the Budget Act in its original content. Clearly, this kind of point of order was not enacted with the sense that it should never be violated or we should never use the waiver for it. The waiver provisions are there with the clear understanding that if the Senate of the United States looked the issue squarely in the eye and said, "We want to waive," they will have the choice.

So I say to my friend from Wyoming and to the U.S. Senate that I believe the issue of waiving section 303 is separate and distinct from whether you want to vote for the bill. If one chooses to say, "I don't like the new immigration bill," there will be a chance to say no. The Senator from New Mexico will probably be in that group. But basically, I believe it is an exact case for waiver.

I think you could not find a better example of a situation where you ought to waive section 303 so long as you understand the nature of the entitlement that is being created. I do. I think the Senate will find that taking the whole bill, the fact that immigration is a major national problem, the fact that it has been worked on for decades, the fact that for five sessions of Congress we have come close and failed, take all those things together and this bill is a remarkable accomplishment. If you had a list of five major American domestic problems, you would have to say immigration is one.

So I am going to support waiving section 303 of the Budget Act. I do not believe it is a major new expenditure of money. I believe it is far out in the future and when you look at that waiver in the context of whether you should deny the U.S. Congress an opportunity to pass a major immigration bill, you ought to say yes. If you are going to say yes, you ought to give them the opportunity to vote on that. Then you ought to waive.

So, if the distinguished Senator from Wyoming propounds a motion to waive, the Senator from New Mexico will be on his side.

I do not want my good friend from Wyoming to misunderstand. This does not mean that I am terribly sanguine about the bill. I know his diligent work and what he thinks about it and the fact that it is practical and pragmatic and compromises had to take place. But I, for one, think it might be a worse bill than what originally passed the Senate. I did not vote for that; consequently, I cannot vote for this one. But I am willing to join him in waiving if and when he moves to waive section 303 of the Budget Act.

Mr. SIMPSON. Mr. President, I do thank Senator DOMENICI very much. I now ask unanimous consent, in accordance with section 914 of the Budget Act, to waive section 303 of that act for consideration of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I reserve the right to object.

Mr. President, I think this is not a trivial matter before us. In a letter from the Congressional Budget Office dated October 15, Rudy Penner, the Director, reports that the direct spending provisions in the bill through 1991 total almost $4 billion. That is double the amount the administration set out as a goal. To commit to these direct expenditures now under Gramm-Rudman would require that cuts be made in other high-priority programs.

Mr. President, I am not going to debate the immigration bill now. We are going to have ample opportunity to do that. But I do not believe that a waiver of the Budget Act of the magnitude that we are discussing here ought to be done by unanimous consent. I believe it ought to be voted on. The distinguished Senator from New Mexico has made a clear cut case that this might be an instance where you want to vote a waiver, but I believe the waiver would be voted on. Therefore, I shall have to object to the unanimous consent request and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. SIMPSON. Mr. President, indeed, immigration reform, budgeting of it, is not an insignificant matter. It is a grueling, ghastly issue, filled with emotion, fear, guilt and racism. It makes it tough to pass something that has those things attached to it. But the provision here is waiver—I shall have a statement later on the bill. I do respect greatly the Senator from Texas, for what he tries to do for us in fiscal responsibility matters is extraordinary.

The cost to Americans, both financially and socially, will far outweigh the $4 billion in 4 years, when we have 1.8 million people coming across our

borders each and every year, undocumented, who then seek our services. But provision is made in the Budget Act for waiver. So I move, in accordance with section 904 of the Congressional Budget Act, to waive section 303 of that act for consideration of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

Mr. DOMENICI. Would the Senator withhold on that? I would like to make a comment on that.

Mr. GRAMM. I withhold, Mr. President.

Mr. DOMENICI. Mr. President, the motion is debatable, is it not?

Mr. SIMPSON. It is not debatable.

The PRESIDING OFFICER. The motion is debatable.

Mr. SIMPSON. I understood that motion was not debatable and time for debate would be had by unanimous consent agreement.

The PRESIDING OFFICER. Under the Budget Act, the motion to waive is a debatable motion.

Mr. DOMENICI. A parliamentary inquiry: Is time for debate limited by law?

The PRESIDING OFFICER. In this situation, the time for debate is not limited by law.

Mr. DOMENICI. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I hope the Senate, in short order, will move to waive. I would like quickly to address the issue that the distinguished Senator from Texas raised.

Actually, the $4 billion that the Senator from Texas is alluding to is a true statement by the Congressional Budget Office. But that part of this bill is not the reason for a point of order because, as a matter of fact, that program that has been alluded to in fact starts in a year for which there is a budget resolution, 1987. Consequently, it does not violate the provision that I spoke to. So it clearly is not the $4 billion item that we are waiving but, rather, a very remote outyear addition to an entitlement program because we do not have a budget resolution at this point in time.

I think that even adds to the significance of the position of the floor manager that we ought to get onto the substantive issue and waive the Budget Act. If ever there was a case for a piece of national legislation for which a waiver is judicious and prudent, this is one. I hope the Senate will proceed.

Mr. METZENBAUM. Will the Senator from New Mexico yield for a question?

Mr. DOMENICI. I shall be happy to yield.

□ 1100

Mr. METZENBAUM. Is the Senator from Ohio not correct in his understanding—and I would like to ask the attention of the Senator from Wyoming as well, if he will be good enough to listen to the question I am about to propound to the Senator from New Mexico. Is it not the fact that the cost features may become applicable in 1987 but as a reality, since legalization does not occur overnight, the actual cost figures are down the road even a piece beyond 1987? Am I not correct in that?

Mr. SIMPSON. Mr. President, that is absolutely correct. That is why in the Senate version of the bill we provided that the legalization funds would be $300 million in the first year and in the second year and then $600 million in the third, fourth, fifth, and sixth years. That formula was changed, but the figure was $4 billion; $1 billion a year in those outyears past that 4-year period will be increased expenditures which will have to be brought before this body under the appropriations process.

Mr. METZENBAUM. Is it not also the fact that the figures the Senator has used are maximums, not the appropriated amounts?

Mr. SIMPSON. Mr. President, the figures that are used in the conference committee report are maximum figures. That is a capped feature of the bill which was agreed to by the conferees.

Mr. METZENBAUM. So the figures actually might be substantially less that that?

Mr. SIMPSON. That is possible, I say to the Senator from Ohio.

Mr. METZENBAUM. I thank the Senator from Wyoming as well as the Senator from New Mexico.

Mr. GRAMM. Will the Senator from New Mexico yield?

Mr. DOMENICI. I do not have the floor, I say to my friend.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I would like to ask the Senator from New Mexico a couple of questions. I understand the 303 point of order has to do with creating new entitlements in a year where no budget has been adopted, and many of the provisions of this bill come into effect this first year. If we pass the continuing resolution later today, it is possible that there will be a 311 point of order that will lie against the bill, a point of order that will require 60 votes. But I would like to ask another question. As I read in the bill, it says in general:

Out of any money in the Treasury not otherwise appropriated, there are appropriated to carry out this section $1 billion for fiscal year 1988 and for each of the 3 succeeding fiscal years.

Now, obviously, the 303 point of order has to do with new entitlements created in the outyears. But would the distinguished chairman explain to the body how this $1 billion would feed into the budget process? My question is, what possibility there might be concerning a third point of order, not to 303 which the distinguished Senator from Wyoming has sought to waive, or the 311 point of order which clearly will not lie unless there is a continuing resolution, and may or may not lie at that point, but how does the $1 billion that is clearly appropriated here fit into the budget process?

Mr. DOMENICI. I would be pleased to respond. First of all, let me say, Mr. President and Members of the Senate, the Senator from Texas is correct. This pending conference report may or may not be subject to a section 311 point of order which requires a supermajority, depending upon how much the continuing resolution costs when it is finally sent to the President. The Senator is essentially correct. But we will not know the answer to that until both Houses have agreed to the continuing resolution.

With reference to the $1 billion that the Senator referred to in direct appropriations for the year 1988, it might sound strange but basically the reason there is no point of order for that is that there is a precedent which we have named the Long precedent after the distinguished Senator from Louisiana because in fact the Senate has voted on that issue and the point of order does not lie on that until the beginning of the calendar year in which that fiscal year begins—in other words, January of calendar year 1987.

Now, nonetheless, the substantive issue of budgeting and costs is terribly relevant to this bill and that is the point the Senator is making. Clearly we are saying we are going to mandate as the Senator has described, regardless of other provisions of law, the $1 billion the Senator has referred to in the manner he has referred to it in the future years for this program. You cannot escape it. I would assume in technical language, budget language, if this conference report is adopted, those who begin to project our budgets in the future will put in that beginning point for automatic expenditures for our Government that figure. In other words, we will have raised automatically the amount of expenditures in the so-called baseline—or starting point assumption of reality maybe is a better way of saying it—that $1 billion in each of those years. So it does indeed have a rather substantial impact.

Mr. GRAMM. I thank the distinguished chairman of the Budget Committee.

(Mr. GRASSLEY assumed the chair.)

IN OPPOSITION TO THE CONFERENCE REPORT ON THE IMMIGRATION REFORM AND CONTROL ACT

Mr. DENTON. Mr. President, I rise in opposition to the conference report on S. 1200, the Immigration Reform and Control Act. While I support the concept of general immigration reform which will allow this country to control its borders and applaud the herculean efforts of our distinguished colleague from Wyoming [Mr. SIMPSON], chairman of the Judiciary Subcommittee on Immigration and Refugee Policy, I do have a number of concerns with the conference report before us.

Let me first say that despite my concerns, I signed the conference report in order to allow the report to be debated by the full Senate. However, I must now register my opposition to the report.

Mr. President, the first area which engenders my concern is the so-called Frank antidiscrimination language. In short, the language would broaden the current provisions of title VII of the Civil Rights Act of 1964, create a new protected class by prohibiting employment discrimination based on alienage or citizenship status and create a new bureaucracy outside of Equal Employment Opportunity Commission for adjudication of complaints. Or, in the words of the U.S. Chamber of Commerce, the provision "give aliens—that is, permanent resident aliens, newly legalized aliens, refugees, and asylees—new job discrimination protections not available to U.S. citizens," and "bars employers from hiring only U.S. citizens." Further, it "makes small employers—employers of less than 15 people—currently exempt from the requirement of title VII of the Civil Rights Act of 1964, subject to laws granting new rights for noncitizens."

Mr. President, title VII currently covers discrimination based on national origin and the proponents of the provision are unable to cite examples of alienage discrimination. While I believe that existing law is sufficient to guard against any potential discrimination based on national origin, I fear that the Frank antidiscrimination provision will have the unintended effect of promoting discrimination against U.S. citizens.

The second area which gives me reason for concern is the legalization or amnesty provision. In sum, this provision provides temporary status—to be upgarded to permanent residence status after 1 year—to aliens who were in this country illegally prior to January 1, 1982, and who have resided continuously in the United States since that time.

By adopting this provision we reward lawbreakers—people who have been in this country illegally—and punish the thousands of would-be immigrants who have been in the process of petitioning to enter this country legally. Additionally, the millions and millions of illegal immigrants rewarded by the legalization provision would severely test the capacity of our institutions to absorb and assimilate them and adversely effect employment for U.S. citizens.

To soften the impact of legalization, the conference report provides for a capped entitlement for grants to States for $1 billion each year for 4 years. Certainly, if we are to have legalization we must ease the financial burden which will befall the State. Yet, I would ask, how in this era of Gramm-Rudman-Hollings can the country afford $4 billion? What program will have to be cut to pay for the cost of legalizing millions of illegal aliens? National defense? Education? Veterans programs?

Finally, Mr. President, the conference report specifies that nonimmigrant workers admitted or permitted to remain in the United States for agricultural labor or services shall be treated like lawful permanent resident aliens for purposes of eligibility for legal services under the Legal Services Corporation Act. Or in other words, the provision provides limited legal services for migrant farmworkers—workers who remain foreign nationals; services which would not be automatically provided for U.S. citizens similarly situated. I find this provision to be questionable.

Mr. President, for these reasons and for a desire to protect the American worker, I am compelled to vote "no" on the conference report on S. 1200, the Immigration Reform and Control Act.

Thank you, Mr. President.

Mr. KENNEDY. Mr. President, I intend to vote against this immigration bill. While the current version contains much that is worthwhile, I strongly oppose the employer sanctions provisions, which I regard as an unwarranted badge of discrimination against millions of law-abiding, hard-working American citizens of Hispanic descent.

Having said that, I also want to acknowledge that bad as this bill is, it might have been even worse. That it is not is a tribute to the dedication and endurance of the chairman of the Senate Immigration and Refugee Policy Subcommittee, Senator ALAN SIMPSON. We disagree about the merits of this bill, but he has worked hard to eliminate some of the most objectionable features in its prior incarnations. In fact, the current bill is a clear improvement over the measure that passed the Senate only a year ago.

Immigration reform is one of the most complex issues that any of us has ever faced—and it is also one of the most important, because it will shape the lives of millions of Americans in the years ahead.

There are many provisions in the current bill that I support, such as the generous amnesty date, the elimination of any massive temporary foreign agricultural worker program, the semisunset provision that I worked to have included in a stronger form, the new alienage civil right, and the breakthrough that ends the two decade old discrimination in current law against Irish and other European immigrants.

But these positive features fall well short of justifying this legislation. The resort to employer sanctions is a retreat from America's commitment to civil rights and our struggle against discrimination.

If one thing is clear in the history of the immigration laws, it is that whenever Congress enacts a measure with any potential for discrimination, the full potential is relentlessly realized and virulent discrimination results.

This bill has that potential and will inevitably have that result. It is an underserved slap at millions of Hispanic citizens. In our zeal to control our borders, we should resist the temptation to break faith with the noble ideals of America's immigrant heritage. This measure fails that test, and it should not be enacted into law.

Finally, it is illusory to believe that this bill can deal effectively with the migration pressures of the future, unless we are also prepared to deal with the economic forces behind those pressures. We must address the issues of economic growth and development in other nations if we are to gain control of our own borders. When the peso fell, migration soared. This bill deals only with the immigration law, but not the powerful forces driving illegal immigration.

Mr. THURMOND. Mr. President, I rise in support of the conference report on S. 1200, the proposed "Immigration Reform and Control Act of 1986." This legislation is the result of more than a decade of effort to reform the immigration laws of the United States.

Mr. President, no country in the world comes close to attracting or accepting immigrants at the rate that our Nation does. This has been the case throughout our history and is a tradition of which we are justly proud.

Today, however, the unfortunate truth is that immigration in the United States is out of control. It is estimated that illegal entrants now in our country number in the millions and continue to increase at a rate in the hundreds of thousands per year. This bill—while recognizing the great benefits the country obtains from new migrants—attempts to come to grips with the necessity that they be limited to an appropriate number, and be selected on the basis of family reunification priorities and preferences for skills needed in a highly developed nation.

Mr. President, as my colleagues are aware, this conference report is the result of hours upon hours of deliberations by House and Senate conferees and their staffs. Great credit and congratulations must go to the distinguished majority whip, Senator SIMPSON, who, in his role as chairman of the Subcommittee on Immigration and Refugee Policy, has labored tirelessly for 6 years to bring us to this point. He has been required to balance many divergent interests in crafting a bill to bring illegal immigration under control. My hat is off to him.

Although I believe that, overall, this conference report will result in positive immigration reform and I will vote for its passage, like most of those who have reviewed its contents, I do not support every provision of the report. One provision in particular, known as the Frank antidiscrimination amendment, causes me significant concern.

The Frank provision prohibits employment discrimination, not only on the basis of national origin, but also on the basis of status of citizenship. The practical effect of this provision is that an employer must hire an alien applicant for a position over an American citizen applicant if the alien is marginally better qualified. I do not question the appropriateness of the prohibition against discrimination of United States citizens on the basis of national origin—a policy which is a part of title VII of the Civil Rights Act of 1964. This prohibition, however, should apply only among the citizens of the United States and there should not be a policy which prevents an employer from granting a preference to an American citizen over an alien. I was, therefore, very disappointed that the House insisted on including this provision.

But, as I stated, Mr. President, the good in this bill and the great need for immigration reform outweighs the negatives in the bill and I urge the support of my colleagues for the conference report.

Mr. President, I want to take this opportunity to commend the staff of the Immigration Subcommittee for their outstanding work on this legislation. Chief counsel Dick Day has done an excellent job, not only this year, but over the last several Congresses, in assisting in the development of the bill. Staff counsel Carl Hampe and Jodi Brayton have also done fine work on the bill.

□ 1110

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Democratic leader may proceed.

SENATOR PAUL LAXALT

Mr. BYRD. Mr. President, with the retirement of Senator LAXALT, the U.S. Senate says farewell to a son of the modern American West. We say farewell to the individualism of a Western pioneer, and to a consistent advocate of the unfettering of individual drive, ambition, and potential.

With President Reagan and our esteemed colleague, Senator GOLDWATER, Senator LAXALT has been one the most eloquent and influential voices for his party's conservative wing in this decade.

Mr. LAXALT was elected to the Senate in 1974 after having served as Lieutenant Governor and Governor of the State of Nevada. He was the only member of his party to capture a Senate seat that year, and the first member of his party to represent the State of Nevada in the Senate since 1952. I am sure that he is also proud of the fact that he is the first Basque-American ever elected to the U.S. Senate.

His senatorial career has been distinguished by his service on the Senate Appropriations Committee and Senate Judiciary Committee.

His senatorial career also has been highlighted by his fights for regulatory reform, his vision of a "new federalism," his advocacy for fiscal prudence, his faith in the private sector, and his push for a strong national defense. One of the most important responsibilities of the U.S. Senate is to provide for the safety and security of the United States, and Senator LAXALT has been tenacious and eloquent in this quest.

I have always found him to be a trustworthy and honorable Senator. To his credit, Senator LAXALT has never allowed political differences to become personal—and this is an essential ingredient if this body is to care for the vital work of this Nation that is the responsibility of the Senate.

Senator LAXALT's career as a public official has involved many important duties and successes outside as well as inside this Chamber. He has performed important diplomatic duties for the President; he has served as the general chairman of the Republican Party, 1982, and was chairman of Ronald Reagan's 1976, 1980, and 1984 Presidential campaigns.

Futhermore, Senator LAXALT has served as an important bridge between his colleagues in the Senate and the White House. Steve Roberts accurately noted in the New York Times magazine:

> Senator LAXALT has been called the President's best friend so many times that the phrase is now practically part of his name.

As the leader of Senate Democrats, I know what an important link this has been, because Senator LAXALT has used his personal influence with the White House to assist Democratic as well as Republican Senators. I have always appreciated that, for that is the type of cooperative spirit and attitude that enables the Members of this Chamber to work effectively together despite our political differences.

The Senate will miss his talents and his unwavering commitment to the causes in which he believes. And the Senate loses a good man and effective Senator. My wife Erma and I extend our best wishes to him and his wife Carol as they prepare for the next stage in their lives.

□ 1120

I feel safe in saying, however, that we have not heard the last from this man who has distinguished himself with success in so much that he has undertaken. May his future years be bright.

Mr. President, while the quorum call was in progress, I decided that this might be a good time to speak about our departing colleagues.

When a Senator is ready to ask for the floor I will be happy to take my seat and if business is ready to be transacted, I will certainly yield the floor.

SENATOR BARRY GOLDWATER

Mr. BYRD. Mr. President, with the retirement of Senator BARRY GOLDWATER, an institution departs this Chamber. With his leaving, an important part of American history departs. He is the man and the Senator who made conservative political ideology an important and influential force in contemporary American politics.

In this Chamber, long before it became politically popular to do so, Senator GOLDWATER consistently and adamantly fought intrusions of Government into the lives of the American people; it made no difference if those invasions, as he saw them, were proposed by the political left or the political right; or whether those intrusions were proposed by Democrats or Republicans, he was there, and was calling the Nation's attention to them and denouncing them in his own eloquent style. His inherent belief in the American people and his faith in the American democratic process have touched and inspired us all.

In this body, Senator GOLDWATER has performed valuable service on the Senate's Commerce, Science, and Transportation Committee; the Select Indian Affairs Committee; and the Small Business Committee. He was chairman of the Intelligence Committee.

But in 1985 he realized one of his great ambitions—he became chairman of the Senate Armed Services Committee. Upon taking the position, Senator GOLDWATER said it was one of "the biggest challenges I've had in public life."

As usual, he met that challenge effectively and successfully. In this role, he has demonstrated a continual receptivity to changes in law and procedure where they will improve America's defense structure. Just this year, he and the distinguished senior Senator from Georgia, Mr. NUNN, proposed and guided to passage the Department of Defense Reorganization Act of 1986. As I said on the day the Senate approved that measure, this is "the most significant legislative effort to improve the Nation's civilian and military decisionmaking structure in the past 25 years."

Senator GOLDWATER's career has been filled with peaks and valleys, praise and criticism—there has been rarely a dull moment in his long and distinguished career. In 1964, he was his party's Presidential nominee. Although he was not elected, in the 1970's a Gallup Poll revealed that he was one of the 10 most admired men in the world.

In the 1964 Presidential election, when Senator GOLDWATER showed that a national campaign can be built around a powerful, committed political belief, he wrote in his book, "Conscience of a Conservative":

> If I should be attacked for neglecting my constituents' interests, I shall reply that I was informed their main interest is liberty and that in that cause I am doing the very best that I can.

And indeed he did do his best. The Members of this Chamber always respected him for it, and the people of his beloved State of Arizona must have appreciated it, too, for they kept sending him back to represent them.

Although some of the ideas that Senator GOLDWATER has promoted have been controversial, I have never once heard the Senator himself attacked. James J. Kilpatrick was certainly on target a few months ago when he wrote:

> I have never heard a mean or malicious word said about him [Senator GOLDWATER]. How can you hate a thoroughly honest man?

And as I said on May 7, 1986, the day the Senate approved the Department of Defense Reorganization Act:

> If we have differed from time to time, I have never misunderstood where Mr. GOLDWATER stood. I have never failed to have respect for his conviction or his position.

Mr. President, throughout his entire senatorial career, BARRY GOLDWATER was truly a choice, never an echo.

In his book, "With No Apologies," Senator GOLDWATER wrote:

> The world may seem dark and cold and beyond redemption for a moment—but only for a moment. We know Almighty God intended his children to be free.

Mr. President, I do not think that it is taking any credit away from the Good Lord to say that it is also because of the dedicated efforts of American public servants such as Senator BARRY GOLDWATER that the world is less dark, less cold, and people a little more free.

I now say goodbye to a good friend, a good man, and a good Senator as he begins another phase of his life.

May God's blessings continue to favor BARRY GOLDWATER.

Mr. President, I suggest the absence of a quorum and I yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1130

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Democratic leader.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, believing that the viewing public would prefer seeing a face on the screen, even if it is mine, over watching a quorum call, and hoping that the public will be somewhat more benefited, at least, I shall proceed at this time, ready to yield the floor at any time to any Senator who wishes to have the floor or if the majority leader or other Senators wish to transact business.

SENATOR GARY HART

Mr. BYRD. Mr. President, GARY HART was elected to the Senate in 1974, after having served as an attorney in the U.S. Justice Department in Washington, DC; special assistant to Secretary of Interior Stewart Udall; and national campaign director for Senator George McGovern's Presidential campaign in 1972.

It has been a pleasure to work with this Senator, and I know I am not alone in regretting his departure from this body. As I have said before on this floor—June 20, 1986—Senator HART has the ability to combine "intellectual freshness with a good dose of practicality."

Shortly before his first election as Senator, Mr. HART stated: "This Nation needs a new generation of thinkers and doers who will question old premises and disregard old alliances."

As a Senator he has been a "thinker" and a "doer." In 1984, when he seemed to have come from nowhere to almost capture the Democratic nomination for President, if anyone had asked me, I could have told them that he had been producing "new ideas" well before his Presidential campaign, and was respected for his creativity and fresh approach. Since his first days as a Senator, he has been proposing "new ideas" which have been filled with both careful thought and substance.

In so doing, Senator HART has played an active role in defining and shaping the national agenda for the 1980's, and he has occupied important roles in most of the legislative areas that affect the American quality of life.

In the environmental field, he has served as cochairman of the Congressional Environmental Study Conference, Chairman of the National Commission on Air Quality (NCAQ), and he authored several amendments to the Senate's rewrite of the Clean Air Act. Because of efforts in this field, the National Wildlife Federation once named him "Legislator of the Year."

In the area of energy, he is the former chairman of the Senate Budget Committee's Task Force on Synthetic Fuels, has served on the Energy and Public Works Committee, and has chaired the Nuclear Regulatory Subcommittee. And he authored "An Energy Plan for the 1980's"—a plan to enable the United States to achieve energy self-sufficiency by 1990.

Senator HART also has been a leader in attempts to devise a fair and reasonable Federal budget. He served as a member of the Senate Budget Committee. Even before the whopping additions to the Federal debt brought to us by the Reagan administration, Senator HART was expressing grave concern about the size of the Federal budget deficit. In 1981, he advocated and the Senate Budget Committee adopted a plan he proposed to balance the Federal budget.

In the area of national security, Senator HART was the founder and cochairman of the Congressional military reform caucus, serves on the Senate Armed Services Committee, and has authored a proposal for strategic talks on prevention [STOP] that offered firm measures to prevent the use of nuclear weapons.

Last June, Senator HART delivered a three-part series of lectures entitled "Enlightened Engagement: A Foreign Policy for the 21st Century," in which he outlined a comprehensive framework—a vision—of the challenges and opportunities for this country's foreign policy into the next century. Shortly after these lectures, Columnist George Will wrote, "HART has made a brave effort to think systematically about foreign policies which are necessarily episodic." I pointed out at the time that this was "precisely the kind of analysis which is obviously and sorely lacking in the fractured and drifting ad hoc militarism which characterizes the present administration's approach to the world."

And Senator HART has been a major advocate of programs that involve investing in American's future. He has stressed, for example, Government en-

couragement for growth of high-technology industries and retraining workers for them.

As early as 1979, Time magazine named Senator HART one of the "50 leaders for America's future." Senator HART's work in this Chamber, and his accomplishments for the people of his State of Colorado and of the United States have certainly made that prediction prophetic.

Senator HART now leaves this Chamber in order to pursue other endeavors. Those of us who have served with him, and have come to highly regard his vision and intelligence, are certain that he is not leaving the stage—he will not cease to be visible on the public scene.

My wife Erma and I wish him and his wife, Lee, well, and along with many others, will look forward to the products of this fertile mind and to his continued leadership in the future.

250TH ANNIVERSARY OF CHARITY HOSPITAL

Mr. LONG. Mr. President, it has been 250 years since Charity Hospital of Louisiana at New Orleans came into existence. Since its modest beginnings following the death in 1736 of Louisiana merchant Jean Louis—who ordered that his estate be used to found a hospital for the indigent—Charity Hospital has stood as a monument to my State's commitment to the people, regardless of their financial means.

Charity Hospital has a long proud history. In my lifetime alone, it has undergone drastic changes and improvements, each of which have increased the quality of health care available to the citizens of my State. I am proud to say that my father, the late Gov. Huey P. Long, put hospital care for the poor at the top of his list of priorities when he took office as Governor of Louisiana in 1928. Under his leadership, funds to Charity Hospital were dramatically increased and health care to the poor was vastly improved. Within a few short years, the infant mortality rate at the hospital dropped by more than one-fourth.

When Huey Long became Governor, the death rate at the hospital was 4.1 percent on admissions. But because of his efforts, that was reduced to 2.8 percent, or a reduction of 28 percent. If you consider it another way and assume that the death rate should have been 2.8 percent all along, then you could argue that it had been 48 percent too high prior to the time he was Governor.

When my father took office, admissions at charity Hospital were 1,600. He increased admissions to 3,000 and reduced the costs, on a per capita rate, by 19 percent. So what you had was a drastic per capita cost reduction and about twice as many people receiving better service than before.

Today, the hospital serves as the primary teaching hospital for the Tulane University School of Medicine and the LSU School of Medicine. Training more than 400 physicians annually, Charity Hospital also serves as a major training center for professionals in allied health fields with its own School of Diagnostic Ultrasound, School of Nurse Anesthesia, School of Nursing and School of X-ray Technology.

Fifty-seven percent of all emergency room services in Orleans Parish are provided by Charity Hospital. Sixty-four percent of all out-patient visits in Orleans Parish are handled at Charity Hospital.

Mr. President, Charity Hospital clearly serves as the hospital of last resort for the needy citizens of Louisiana and I am proud of that commitment to the health and well-being of our citizens. I commend the hundreds of health care professionals whose dedication has made Charity Hospital a shining example of human compassion. Their commitment to their fellow human beings is worthy of the highest praise we can offer.

WATER QUALITY ACT OF 1986—CONFERENCE REPORT

Mr. STAFFORD. Mr. President, we are waiting momentarily for the Democratic leader to come in the room, although I believe he is aware of our intention to go ahead with the Clean Water Act amendments conference report.

Mr. President, without actually turning to the conference report, I will say that last evening the House passed the conference report, which in my view is excellent legislation, by, I believe, a unanimous vote. There were over 400 votes in favor of the conference report and none in opposition to it. At the proper time, after we have called up the conference report, I will yield to my colleague, Senator CHAFEE, who has been the chairman of the Environment and Public Works Subcommittee which handled this legislation and who has been instrumental not only as a leader in environmental issues but instrumental in his subcommittee, in the full committee, and in the conference between the House and the Senate in developing the legislation which has resulted in the conference report that passed the House unanimously with over 400 votes last night, and I hope will pass with an equally resounding majority in the Senate.

Mr. President, I now ask that the Senate proceed to the consideration of the conference report to accompany S. 1128, the Clean Water Act amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1128) to amend the Clean Water Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 15, 1986.)

Mr. STAFFORD. Mr. President, I would now propose a unanimous consent request that the bill be allotted 40 minutes for debate to be equally divided between the majority and the minority.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I have conferred with my colleagues on the committee on the minority side. We find that a fair apportionment of time considering the pressures that we are under in the closing days of this Congress.

The PRESIDING OFFICER. Is there any objection? None is heard. The unanimous-consent request is granted.

Mr. STAFFORD. Mr. President, I rise in strong support of this bill. It represents over 4 years of hard work by the Congress, and it deserves the enthusiastic support of all my colleagues.

I especially want to acknowledge the leadership of my good friend from the State of Rhode Island, Senator CHAFEE, who served as floor manager of the Senate bill and leader of the Senate conferees. His tireless enthusiasm has been a major force in shaping the bill before us today. Senators BENTSEN and MITCHELL and other members of the Committee on Environment and Public Works have made extraordinary contributions as well.

Mr. President, this bill makes a number of needed improvements to the Clean Water Act.

It extends the Federal construction grants program and provides for an orderly transition to State revolving loan funds.

It establishes a new program for focusing regulatory attention on "toxic hot spots," where controls on toxic pollutants beyond those required by uniform best available technology requirements are needed to restore and protect water quality.

It narrows and restricts a number of loopholes, variances, modifications, and waivers in the Clean Water Act.

It generally prohibits "backsliding" in permit requirements.

It establishes a new program for managing nonpoint sources of pollu-

tion, such as polluted runoff from agricultural lands.

It establishes new requirements to prevent toxic contamination of sewage sludge.

And it establishes new programs to clean up estuaries and lakes.

Mr. President, I urge my colleagues to support this bill. There is no question that it makes needed revisions to the Clean Water Act and will improve the quality of our Nation's waters.

Mr. President, I will not take the time to provide an exhaustive description of this bill, but I do want to make a few remarks about parts of the bill that are particularly important.

The conference substitute establishes a new subsection 402(o) for the purpose of limiting backsliding in permits. Backsliding occurs when the effluent limits in permits are relaxed for any reason. Relaxation of permit effluent limits is fundamentally contrary to the spirit and intent of the Federal Water Pollution Control Act, which is supposed to restore and maintain the chemical physical and biological integrity of the Nation's waters by reducing the amount of pollutants being discharged.

The new provision establishes a general rule that permit limits may not be relaxed, then presents several exceptions. These exceptions are intended to be narrow, and they must be narrowly construed consistent with the objective described above.

With respect to revised waste load allocations or other means of translating water quality standards into effluent limits, backsliding is allowed in only one instance. That instance arises when a State decides to take a portion of allocated waste load away from one facility and give it to another. The recipient facility in this case would be entitled to a revised permit allowing an increase in discharge of the pollutant for which the load is being reallocated. This transfer can take place only if there is a net reduction in the amount of the pollutant in question. Of course, the recipient facility still cannot discharge more of the pollutant than is allowed by effluent limitations guidelines or water quality standards.

Mr. President, I want to be explicit about types of backsliding that definitely are not allowed by this exception. If a facility reduces its discharge of a pollutant because of permit requirements, a process change, decrease in production level, or even closing the facility altogether, other dischargers may not increase their discharges in response. Putting it simply, a polluter is not allowed to increase his amount of pollution because another polluter is reducing his. For another example, suppose the new nonpoint source program works as it should and as a result the level of, say, nitrate pollution in a river decreases. A downstream point source may not obtain a weaker permit with respect to nitrate, even if he could discharge more nitrate without violating water quality standards.

Mr. President, the key to understanding this issue is to recognize the difference between water quality and water quality standards. Water quality is measured by the level of pollution in a water body. A water quality standard defines a particular level of pollution that is the maximum allowable in a water body.

If one polluter discharges less, water quality improves. If another discharger discharges correspondingly more, that improvement is lost, although the water quality standard still is being met. The objective of the act is restore and maintain the integrity of the Nation's waters. That objective cannot be reached if water quality gains achieved on the one hand are yielded back on the other. If actual water quality improves for any reason, such as the examples given above, that gain must be captured. The improved level of water quality defines the water quality that is subject to the antidegradation policy of the act. Thus, water quality that is higher than the minimum level of quality needed to meet a water quality standard is protected from degradation.

Mr. President, stormwater runoff from urban areas contains large volumes of toxic materials and other pollutants. Since 1972, municipal separate storm sewers have been subject to the point source permit requirements of the Clean Water Act. However, EPA only recently began to develop a permit program for these sources. The conference substitute contains a provision that is intended to establish a transition period for promulgating rules for regulating municipal separate storm sewers.

The conference substitute differs from the provisions in the House and Senate bills. The conferees discussed the issue at considerable length, and both bodies offered written proposals. The provision that was adopted by the conferees is the one offered by the Senate conferees, with modifications respecting the sizes of cities affected and the scheduling of requirements requested by the House.

I would like to note the important contribution to the resolution of this issue made by my good friend and colleague, the Senator from Minnesota, Senator DURENBERGER. It was he who proposed the idea of phasing in the program, as a refinement to the Senate proposal.

This provision gives EPA and the States a schedule for developing permit program regulations. Generally, it focuses first on the larger storm sewer systems—those serving more than 250,000 people. All permits for these systems must be issued within 4 years of enactment. Then systems serving more than 100,000 persons must be permitted. Finally, after October 1, 1992, EPA and the States must issue permits for the remaining municipal separate storm sewer systems.

Mr. President, I would like to explain to my colleagues why a little more time is needed to develop a comprehensive municipal storm sewer program. These permits will not necessarily be like industrial discharge permits. Often, an end-of-the-pipe treatment technology is not appropriate for this type of discharge. As an EPA official explained in a meeting of the conferees:

> These are not permits in the normal sense we expect them to be. These are actual programs. These are permits that go far beyond the normal permits we would issue for an industry because they in effect are programs for stormwater management that we would be writing into these permits.

As my colleagues know, I generally do not support willingly any delays in environmental programs, especially a program to control a source of toxic pollutants as important as this one is. EPA should have developed this program long ago. Unfortunately, it did not. The conference substitute provides a short grace period during which EPA and the States generally may not require permits for municipal separate storm sewers. However, even during this period EPA and the States must require permits when either determines that a storm sewer contributes to a violation of water quality standards or is a significant contributor of pollutants to waters of the United States.

Mr. President, there is one aspect of this provision that could cause confusion, and I would like to take this opportunity to clear it up. With respect to storm sewer discharges associated with industrial activity, new subparagraph 402(p)(2)(B) states that these sources are excepted from the provision that EPA and the States generally will not require permits for certain storm water systems. Moreover, paragraph 402(p)(3) explicitly states that these sources must meet all applicable requirements of sections 301 and 402. This includes the permit application requirements of section 402. In other words, the provisions of sections 301 and 402 of the act continue to apply without interruption, and storm sewers with discharges associated with industrial activities are subject to the enforcement provisions of the act if they do not have a section 402 permit.

The conference substitute also requires EPA to establish regulations regarding these sources and municipal separate storm sewers 2 years after enactment, requires applications no later than 3 years after enactment, and requires permit issuance no later than 4 years after enactment. These dates are outside dates. The schedule for promulgating regulations does not over-

come the underlying statutory requirements of sections 301 and 402 respecting the need to have a permit. Congress expects the regulations for storm sewers associated with industrial activity to be published under the current schedule and to require permits for these sources as soon as possible.

Mr. President, I have undertaken this explanation out of concern that affected parties may argue that the schedule for promulgation of regulations indicates an intent on the part of Congress to defer permit requirements for storm sewers associated with industrial activities. This definitely is not the case. If that result had been intended, the conference substitute would not specify that these storm sewers must meet all applicable requirements of sections 301 and 402.

The conference substitute also establishes explicit but limited authority for the Administrator to issue "fundamentally different factors" variances to industrial dischargers. This FDF variance currently is not authorized explicitly by the act. The EPA created it administratively, and the Supreme Court subsequently ruled that it had not acted illegally in doing so. The purpose of this provision is to provide explicit statutory authority for this variance, but at the same time to limit its availability.

Generally, the effluent limits required of a particular facility are based on nationally uniform effluent limitation guidelines for the industrial category or subcategory of which the facility is a member. If an industrial category is diverse, EPA is supposed to subcategorize industries appropriately, so that each subcategory contains similar facilities.

In establishing a category or subcategory, however, EPA usually does not examine every facility. Occasionally, a particular facility argues that it is "fundamentally different" from the other facilities in the category and that it should be able to negotiate individual effluent limits apart from those required for the category. This provision allows such modifications, but constrains their use in several ways.

The Administrator is to use this new authority sparingly. Generally, differences within an industry should be accommodated by creation of an appropriate subcategory. This provision should not be used in place of complete definition of subcategories within an industry.

In establishing an effluent limitations guideline under section 304, the Administrator is allowed to consider a number of factors. One is the cost of achieving the effluent reductions for the entire category. EPA must consider aggregate cost for the industry in order to determine the best available technology economically achievable by the entire industry. The national effluent limitations guideline, however, is not intended to account for the economic impact on an individual facility. As the conferees stated in 1972 when section 304(b) was enacted, EPA is to "make the determination of the economic impact of an effluent limitation on the basis of classes and categories of point sources, as distinguished from a plant-by-plant determination."

If a facility faces higher individual cost than the industry average, that is a reflection of economic efficiency of the facility rather than the ability of the industry as a whole to meet the necessary pollution control costs. To establish individual effluent limits on the basis of plant-specific cost of compliance would be to vitiate the principle of industrywide minimum treatment levels.

For these reasons, Mr. President, the conferees agreed to adopt the Senate approach and exclude individual cost of compliance from the factors the Administrator may consider when deciding whether to grant an FDF variance to a particular facility. Although the act does not and should not provide a mechanism to modify the requirements of an effluent guideline on the basis of fundamentally different costs at an individual facility, section 301(c) of the act provides for modification of requirements in a case where such requirements are beyond the economic capability of the owner.

Section 301(c) does not allow the Administrator to modify treatment requirements based on a showing of fundamentally different costs to an individual facility, unless these costs are beyond the economic capability of the facility and, therefore, threaten its survival. In addition, section 301(c) is subject to section 301(l), which prohibits the Administrator from modifying any requirement as it applies to a toxic pollutant. This provision assures that toxic pollutants will be controlled, regardless of the economic capability of the discharger. The new authority for treatment modifications based on fundamentally different factors contained in the reported bill is not subject to section 301(l).

This provision does not, however, preclude the Administrator from considering the other factors enumerated in section 304(b), some of which may result in reduced cost to the facility.

The Administrator may not use the authority of this section to modify effluent standards pursuant to section 307(a)(2) of the act, the general prohibited discharge standard in 40 CFR sec. 403.5, or other requirements implementing such standards.

The Administrator's decision to promulgate or deny an alternative effluent limitation or standard under this subsection shall be subject to judicial review pursuant to section 509(b)(1) of the act.

The Administrator may not delegate the authority to grant FDF variances to any State or to regional EPA officials. It should be exercised only by the Administrator or the Assistant Administrator for Water.

Mr. President, I am pleased to note that the conference substitute includes a major new program to control runoff pollution from nonpoint sources.

Nonpoint sources contribute approximately 50 percent of the pollution entering our Nation's waters. Nonpoint pollution contains not only conventional pollutants, such as sediment, bacteria and oxygen-demanding materials, but also toxics like cadmium, arsenic, lead, and pesticides. The U.S. Department of Agriculture in a recently issued report estimates that nonpoint pollution costs this country in excess of $7 billion per year in environmental damage and repair, such as dredging channels and reservoirs.

A new section 319 establishes a program to begin the process of addressing this hitherto unregulated source of water degradation. While potentially far reaching in its scope and intent, the new nonpoint program, as a product of compromise, is not as strong as I would have wished for. For example, it does not contain a regulatory component. Instead, it gives States and persons who are responsible for nonpoint pollution considerable flexibility to determine the type of program that will be used.

I consider this nonpoint source pollution program to be only a first step in tackling the problem—a trial run, to see if allowing the States the option to develop a control program will indeed abate nonpoint source pollution across the Nation. I am sure Congress will monitor the results of this program closely as it progresses if this approach has been adequate to meet the task at hand.

Mr. President, the conference substitute contains many provisions that are taken from the Senate bill. These provisions were described at length in reports from the Committee on Environment and Public Works in this and the previous Congress, as well as my own floor statements on the subject during Senate consideration of bills to reauthorize and amend the Clean Water Act. An adequate legislative history exists regarding congressional intent behind these provisions, so I will not describe them further at this time.

Mr. President, industrial users dump millions of pounds of toxic pollutants into the sewerlines to publicly owned treatment works [POTW's] each year. Virtually all of the toxic metals which do not simply pass through the POTW collect in the POTW's sludge, as do many of the toxic organics. Hence, many POTW's report sludge contamination from industrial wastes.

This already serious environmental problem threatens to become even more serious in the near future. The extent of contaminated sludge is likely to increase as more POTW's employ secondary treatment. That is because secondary treatment generates five times the sludge produced by primary plants. In addition, the sludge at secondary plants is likely to collect more toxics in the POTW's waste stream. Also, in response to restrictions in the Resource Conservation and Recovery Act on land disposal of industrial wastes, some operators of industrial facilities may engage in illegal dumping of hazardous wastes into sewers, contrary to Congress' intent.

Contaminated sludge causes serious adverse environmental and economic effects. It prevents cities from using cheaper disposal or use options such as fertilizer or soil conditioner. If landfilled or land spread, contaminated sludge can leach toxics into ground water and drinking water supplies, or introduce toxics into the food chain. If incinerated, such sludge can contaminate the atmosphere, affecting the health of POTW workers and nearby residents.

Pretreatment by industrial users of sewers can dramatically improve sludge quality. For example, I understand that in Muncie, IN, the sludge concentration of chromium was reduced from 2,000 to 9.5 with pretreatment. That of copper went from 1,750 to 700; nickel from 8,500 to 150; and zinc from 5,800 to 2,700. Large reductions in toxic concentrations have also been reported in other cities. In fact, pretreatment is the principal means for reducing the toxicity of municipal sludge. Also, pretreatment assures that the cost of toxics removal is borne by the generators of the toxic materials. Industries that dump toxics into sewers are simply passing their treatment costs on to the town or city, and creating political headaches in the process.

Because the relative strength or weakness of pretreatment requirements directly affects the quality of municipal sludge, EPA must consider the impact of pretreatment requirements on municipal sludge at two stages: When setting pretreatment requirements in the first instance, and when approving the issuance of removal credits under section 307(b) because the latter reduce pretreatment requirements for industrial users. That is why Congress told EPA in the 1977 amendment to the Clean Water Act not to approve the issuance of removal credits unless the credits would not prevent sludge use or disposal in accordance with regulations issued under section 405 of the act. In other words, Congress intended the existence of sludge regulations, and compliance with those regulations, to be a precondition to the granting of removal credits.

Of course, Congress originally directed EPA to issue comprehensive regulations covering every sludge use and disposal method by 1978. If EPA had followed this schedule, it could approve municipal programs to issue removal credits without adversely affecting the environment.

EPA, however, utterly failed to heed this congressional directive. Although I am told that EPA has detected at least 76 toxic priority pollutants in POTW sludge, it has issued rules only for two pollutants: cadmium and PCB's—and only if these pollutants are landfilled or land spread. EPA has no limits whatsoever on the toxicity of marketed sewage sludge products, and no limits for the many other toxic pollutants in sewage sludge which is landfilled or land spread.

These skeletal rules do not even approximate compliance with section 405 of the act. Nor do they provide a basis for determining whether EPA may safety approve the issuance of removal credits for industrial users.

I therefore sponsored an amendment to the Senate bill which I am happy to say is incorporated in the conference substitute. This amendment has a twofold objective: First, it directs EPA to begin the long overdue task of promulgating sludge regulations under section 405 of the act. Second, it addresses the relationship between sludge rules and removal credits.

This provision deliberately retains the original 1978 deadline for issuing sludge rules pursuant to section 405. It also gives EPA additional deadlines which are merely intended to put EPA on a schedule to correct its failure to meet the 1978 promulgation deadline in section 405. The additional deadlines are not intended to excuse the agency from its failure to meet the original deadline, nor to eliminate any consequences which flow from the original deadline, such as the inability to issue removal credits until sludge rules are in place.

Thus, by August 31, 1987, EPA must identify those toxic pollutants which, on the basis of available information on their toxicity, persistence, concentration, mobility, or potential for exposure, may be present in sewage sludge in concentrations which may adversely affect public health or the environment. For each such pollutant, EPA must promulgate regulations specifying acceptable management practices for sewage sludge containing the pollutant. EPA's rules must also establish numerical limitations for each such pollutant. EPA's rules must protect public health and the environment with an ample margin of safety, and must take care to protect the health of individuals or populations which are at higher risk than the population as a whole.

EPA officials informed the Congress over 3 years ago that there were at that time sufficient data to regulate comprehensively approximately 20 of the most common toxic sludge pollutants. Congress expects EPA to regulate at least these 20 pollutants in the 1987 regulations.

By June 15, 1988, EPA must issue similar regulations for all toxic pollutants which are not addressed by the 1987 regulations and which may be present in sewage sludge in concentrations which may adversely affect public health or the environment. These rules must meet the same criteria as the 1987 rules; that is, they must specify acceptable management practices, establish numerical limitations, protect public health and the environment with an ample margin of safety, and protect individuals and populations at higher risk than the population as a whole.

At least every 2 years, or more often if the data indicate, EPA must review its section 405 regulations for the purpose of identifying additional toxic pollutants which may be present in sewage sludge and must promulgate regulations for these additional pollutants. This requirement ensures that EPA's rules keep pace with developing technical knowledge and adequately protect health and the environment. It does not, however, excuse EPA from the need to issue comprehensive regulations on the schedule set forth in this bill.

Finally, the bill addresses the relationship between removal credits and sludge regulations. A recent court case, *NRDC* v. *EPA*, No. 84-3530 (3d Cir. 1986), correctly held that EPA could not approve the issuance of removal credits until the agency issued comprehensive sludge regulations under section 405 of the act. Yet notwithstanding the absence of 405 sludge rules, EPA has already approved the issuance of removal credits for 12 POTW's. Industrial users of these POTW's many have relied on EPA's approval in planning their pollution control systems. In addition, EPA has received removal credit applications from approximately 14 POTW's which also may have relied on EPA's removal credit rules in developing their programs.

The bill includes a provision to prevent temporary inequities with respect to these industrial users and POTW's. It stays that part of the court's decision which addresses section 405(d) of the act until August 31, 1987, for these approved or pending applications only. This will give EPA adequate time to correct its failure to issue the necessary sludge regulations. It will also allow these POTW's to grant removal credits, assuming they meet all other criteria for credits. It is important to note that the bill does not stay any

other part of the court's decision. In other words, these 12 POTW's must meet the applicable parts of the court's decision on consistent removal, combined sewer overflows, and so forth to continue to grant credits. In addition, EPA must revise the permits for these POTW's to incorporate the sludge criteria required by subsection (d)(4). Likewise, EPA may approve the 14 pending removal credit applications under the same criteria and subject to the same permit conditions mandated by subsection (d)(4).

Interim removal credit authority for these 26 POTW's may not extend beyond August 31, 1987, nor may EPA approve applications for removal credit authority from any other POTW's or for any additional pollutants not covered by the approved or pending applications. This restriction is critical because any further expansion of removal credits or perpetuation of existing credits beyond August 31, 1987, may well exacerbate the adverse environmental consequences of EPA's failure to issue sludge regulations. In addition, EPA's sludge regulations may necessitate stricter pretreatment requirements at some POTW's, including the 26 which have applied for credits. Until EPA has published the comprehensive sludge regulations as required by section 405(d), as amended by the conference substitute, the Agency is prohibited from allowing any more cities to weaken pretreatment requirements for industrial users. Also, the Agency is prohibited from extending interim removal credits allowed by subsection 406(e) of the conference substitute beyond August 31, 1987.

The conference substitute addresses acid mine drainage as well as the discharge of iron and manganese from abandoned coal mines—those mines abandoned before enactment of the Surface Mining Reclamation and Control Act of 1977. Although this problem is largely confined to the Appalachian region of our country, it is a significant water quality problem in that area. Acid drainage and the flow of metals and soils from these abandoned workings cause severe water quality problems throughout Appalachia that persist long after mining has ceased, in some cases rendering entire watersheds biologically dead.

I am told that it is generally less costly to reopen an abandoned minesite than to open up a new area. However, both the Surface Mining and Clean Water Acts impose a best available technology requirement on new mine operations, and confusion has arisen as to whether that requirement applies when an operator reworks an area abandoned prior to enactment of the Surface Mining Act.

To clarify matters, the conference substitute provides that section 402 permits issued for preexisting discharges from remined areas contain binding specific numerical effluent limitations set on a case-by-case basis, with the permit writer using his best professional judgment as to what those limitations should be. This approach was intended to give the mine operator sufficient flexibility and thus incentive to rework these abandoned sites. However, water quality must not be degraded and State water quality standards must not be violated, either at remined site or in adjacent areas. Further, after the binding specific numerical limitations are set, an applicant for such a discharge permit must demonstrate, as a separate showing, to the satisfaction of EPA—or the State, where applicable—that the issuance of such a permit creates a potential for improvement to water quality. This means that EPA and the State must be satisfied based on a conviction that it is probably that there will be actual improvement in water quality as a result of the modified requirement. This determination must be based on a scientifically supported prediction, not mere speculation. Mere assertions unsupported by scientifically verifiable methods will not meet this standard. Such a factual showing is consistent with the goals of both the Surface Mining Act and the Clean Water Act that pollution to the Nation's waters not only be abated, but that the quality of the receiving waters be improved.

Mr. President, I am pleased to note that the conference substitute contains a provision that was placed in the Senate bill at the request of Senator MITCHELL and myself. I am referring to the new section 602(a)(4)(B), which allows a State to use its revolving loan fund for implementing its nonpoint source management under section 319. The State first must use funds directly made available by capitalization grants to assure maintenance of progress, as determined by the Governor, toward compliance with enforceable deadlines, goals, and requirements.

This flexibility afforded by this provision will be important to a largely rural State, such as my own State of Vermont. In my State, there may well be circumstances in which the State will decide that a loan to a dairy farmer for construction of a manure management facility, for example, may achieve a greater water quality gain than a loan for a publicly owned treatment works. The State may make such a loan when the Governor makes the determination described above.

I also am pleased to note that the conference substitute continues support for the national small flows clearinghouse located at the University of West Virginia. The clearinghouse assembles information on alternative sewage treatment technology for use in rural areas where conventional treatment systems are inappropriate. This is important for a highly rural State such as Vermont, where conventional systems sometimes are not the most cost-effective solution. The conference substitute is intended to provide a more reliable source of funding for the University of West Virginia clearinghouse. It is not intended that the designated funds be used by the Environmental Protection Agency in any other way.

Mr. President, this conference substitute contains a provision which is intended to reduce the paperwork and procedural burdens on log transfer facilities. The provision is essentially identical to the provision adopted on the Senate floor when the Senate considered S. 1128. That amendment was worked out between Senators STEVENS, MURKOWSKI, CHAFEE, and myself.

Some log transfer facilities in the State of Alaska have obtained permits from the Corps of Engineers under section 404 of the Clean Water Act for filling of navigable waters associated with construction of the facility. That is proper and indeed the issuance of such permits is the responsibility of the corps. However, the corps also wrote into the permits various conditions related to discharge of pollutants, such as tree bark, associated with the ongoing operation of the facility. The Clean Water Act does not authorize the corps to write permits for the discharge of pollutants other than dredged spoil and fill material and so absent legislative action, these facilities are in violation of sections 301 and 402 of the act.

The conference substitute excuses facilities that received a section 404 permit before October 22, 1985, from the need to apply for a permit under section 402. If the Administrator determines that the permit requirements regarding discharges of pollutants other than dredged or fill material meet the applicable requirements of the Clean Water Act, no subsequent section 402 application is required. If they do not meet the applicable requirements, however, the section 404 permit is to be modified by the Administrator to incorporate appropriate requirements.

This provision does not change current law with regard to the division of authority between the Secretary of the Army and the Administrator of the Environmental Protection Agency. An accurate description of current law was expressed in a letter to this Senator from EPA Administrator Lee Thomas on May 21, 1985. That letter was reprinted in the CONGRESSIONAL RECORD on June 13, 1985, in the context of Senate consideration of S. 1128. In corps-issued section 404 permits for log transfer facilities, permit limits for pollutants other than

dredged or fill material are considered to be section 402 permit limits, whether written by the corps and approved by EPA or whether written into the permit by EPA as a modification.

□ 1150

Mr. STAFFORD. Mr. President, I reserve the remainder of my time.

I yield the floor.

Mr. BENTSEN. Mr. President, it is with a great sense of accomplishment that the committee brings forth this series of amendments, the product of 4 years of very hard work and a very long and arduous conference with the House of Representatives.

The distinguished chairman of this committee has been one who has approached this in a very bipartisan manner in trying to do what he thought was best for our country and it has been a pleasure to work with him in that regard.

The distinguished Senator from Maine [Mr. MITCHELL] has spent incredible hours in very productive work in bringing this about, reconciling some of the different points of view, and we owe a debt of gratitude to him. I am most appreciative of that.

Then I look at my good friend, the able Senator from Rhode Island. I think Senator JOHN CHAFEE has, with his good humor and his ability to cut through to the heart of the problem, and his sense of fairness, made a major contribution. I really do not believe it could have been accomplished on our side without the Senator from Rhode Island and the Senator from Maine taking such a productive role.

This legislation is an outstanding example of the ability to solve major and very complicated problems through bipartisan cooperation in pursuit of an important national goal.

The recognition of clean water as a high priority in our Nation was a moving force behind this agreement. The effort to clean up our Nation's waters has the overwhelming support of the American public, who throughout the history of this country have recognized the responsibility to our neighbors, our children and ourselves to correct abuses to this critical aspect of the environment.

Hearings before the Environment and Public Works Committee clearly prove that the Clean Water Act is paying off with a substantial reduction in pollutants. Our rivers are cleaner and our water quality has improved.

But this legislation also reflects the fact that there is still work to be done—and it includes major new efforts to continue on a steady and productive course.

It took many months to work out an acceptable agreement on construction grants, but I am pleased to report that the House and Senate are of one mind on the final figures. It would be regretable and, in my mind, contrary to the will of Congress and the American people for the administration to consider a challenge to this provision. My colleagues will recall that in 1981, the administration agreed to fund this grant program at a level of $2.4 billion per year for the 10 years needed to complete core needs for treatment works based on available needs survey data. Then, early last year, OMB proposed to phase out the program by 1990, and to fund no new starts.

This legislation continues to shift the program to State and local governments, but it also recognizes that the OMB proposal to pull the rug out from under a national goal at a critical point of progress was too abrupt and poorly planned. The $18 billion authorization will support the construction grant and loan program through 1994, and it is a fair timetable. Under the grant program, it authorizes $2.4 billion for fiscal year 1986, for fiscal year 1987 and fiscal year 1988, and $1.2 billion each for fiscal year 1989 and fiscal year 1990. Under the revolving fund, $1.2 billion is authorized each year for fiscal year 1989 and fiscal year 1990, $2.4 billion for fiscal year 1991, $1.8 billion for fiscal year 1992, $1.2 billion for fiscal year 1993, and $600 million for fiscal year 1994. States are required to establish revolving loan programs and provide a 20 percent match for Federal funds. Equally important, the legislation sets up a more equitable allocation program, which more accurately reflects the needs of our growing States. During fiscal years 1987, 1988, 1989, and 1990, for example, my State of Texas will receive an increase of approximately $18 million annually over the current level. While this is still less than what the figure would be under an allocation based strictly on eligible needs, it is an acceptable step toward fairness. It is also a correction of an inadequacy in the current allocation formula that was known but unaccounted for in the 1981 legislation.

The construction grant program is an acknowledgement that we must work closely with the States to assure that the revolving fund mechanism is workable and to provide a period of transition to allow States with lengthy legislative cycles or difficult remaining needs to work out their problems. However, it will be the revolving loan program that will represent the real future of municipal wastewater treatment construction. Under this program States will be able to recycle these funds in perpetuity and can develop a planned approach for ongoing and changing construction needs. I am pleased that the conferees agreed on provisions to allow substantial transfer of construction grant funds to the revolving loan fund in the first years. Fifty percent of fiscal year 1987 grant funds, 75 percent of fiscal year 1988 grant funds, and all of the fiscal year 1989 and fiscal year 1990 grant funds may be transferred into revolving loan funds. Additionally, the loan program is more flexible than the grant program; for example, reserve capacity—which is so essential to growing States such as Texas—can be funded under the loan program.

This legislation also includes a new permitting program to control industrial and municipal stormwater discharges. EPA will promulgate stormwater discharge regulations, and the initial cities to be regulated are those over 250,000 population, with cities over 100,000 to be regulated later.

There is also a growing national concern over nonpoint pollution, and provisions are included to authorize the States $400 million to develop and implement nonpoint source pollution management programs to manage such problems as polluted runoff from city streets and farmland. This type of pollution represents a major source of sediments, pesticides, nutrients, toxic heavy metals and bacteria, and almost every State has identified it as a significant contributor to existing water quality problems. At the same time, nonpoint pollution is a very different problem to solve than discharges from point sources. It is not easily subjected to a harsh regulatory solution. While there are some cities and States which have successfully implemented ordinances that manage nonpoint runoff from various operations like excavation, the issue is vastly different in most rural areas. Farmers and ranchers have long had a stewardship role in the land. Their lives depend on it. It is my view that no successful nonpoint program can be developed without the full involvement and support of these citizens. Land conservation is the original version of nonpoint protection. It is equally my view that a program which captures the minds and imagination of farmers and ranchers is one that will depend on their initial involvement in its creation. It will not be one developed in Washington and sent to the States for implementation. One of the key aspects of the nonpoint program included in this bill is its heavy reliance on nonregulatory approaches to nonpoint pollution problems. I am pleased to see a program which envisions a cooperative problem solving approach instead of the usual Federal control and compliance theory. Nonpoint pollution is a different problem; it warrants a new solution.

Another provision of particular interest to my State provides for partial delegation of the permit program. Texas has been unable to obtain approval for the Texas program because the State divides wastewater permits between the Texas Department of Water Resources and the Texas Railroad Commission. The Railroad Commission, which regulates oil and gas

operations, has only in recent years sought permit delegation. Under this provision, the Texas Department of Water Resources, which has a fine permit program, will be in position to gain Federal approval for its portion of the program.

The bill also allows establishment of management conferences to solve pollution problems in many of the Nation's major estuaries. The levels of water quality in some of these estuaries are alarming, and demand prompt action. Point and nonpoint sources of pollution have actually closed some of our Nation's greatest natural resources to shellfishing and swimming, and others are declining. Under this provision, the EPA will convene management conferences for up to 5 years to identify pollution sources, conduct research, and develop conservation and mangement plans.

The legislation lists several of these estuaries for priority consideration under the program, ranging from Long Island Sound and Narragansett Bay to Galveston Bay, in my State of Texas. Galveston Bay is the largest of the seven major estuarine systems in Texas, and studies in 1975 showed it was the spawning and nursery grounds for 80 percent of the total fishery products taken from the Texas Gulf Coast. If this percentage remains similar today, Galveston and adjacent bays were ultimately responsible for approximately 82 million pounds of commercial fishery products worth $142 million in the 1985 total commercial Texas catch. In all, the Galveston Bay system receives runoff from Texas cities and towns totalling more than 6.75 million population and receives discharges from some of the most critical and vibrant industrial operations in the Nation. There will always be conflicts among the competing needs of the users of Galveston Bay. It is my hope that these conferences will facilitate the planning necessary to assure that sound judgments are made with regard to the use of these important estuarine systems.

The conference agreement addresses several other policy matters. Among these is modification of the use of fundamentally different factors in the effluent guideline and permitting programs. Generally, these changes follow the basic Senate approach. However, we have made several pragmatic adjustments that should make these changes work better. In particular, a sound approach has been defined to deal with industrial operations in which situations are not readily resolvable through the guideline development process. For example, in oil and gas production operations, wastewater conditions can differ from well to well. Generally, this water is reinjected under the UIC provisions of the Safe Drinking Water Act. However, there are situations in which it must be discharged and the guideline development process is not able to consider these situations before they occur. Consequently, the conference agreement directs the EPA to approach these situations by first, temporarily suspending the guidelines with respect to such facilities, second issuing Best Professional Judgment permits for such sources, and third, subsequently revising the guidelines to reflect these new situations. This will allow the necessary sensible case-by-case considerations to be made in these appropriate circumstances.

Another provision of the fundamentally different factors agreement relates to four fertilier plants in Louisiana. The conference substitute excludes from the effluent guidelines under 40 CFR, part 418, these four facilities under section 306(c)(1). Paragraph (2) of that subsection requires that EPA expeditiously, but not later than 180 days after enactment, issue permits for these four facilities based on best professional judgment under section 402(a)(1)(B) of the act. If EPA decides, after the date of enactment, to promulgate new effluent limitation guidelines for the facilities subject to the provisions of section 306(c) of this bill, the BPJ permits will remain in effect until issuance of new permits under the new effluent guidelines. Otherwise, permitting for these four facilities will continue under section 402(a)(1)(B).

The bill extends deadlines for compliance with the statutory requirement for the implementation of controls to achieve best available technology economically achievable. The bill would largely track the Senate approach including a final deadline date for compliance. However, it is clear that there are some guidelines, including the guidelines for the very complicated chemical industry, which will not be completed in time for all the facilities to comply with this deadline. There is administrative discretion available to address this type of situation; it is in use now. The conferees fully anticipate that EPA will continue judicious and equitable use of its administrative discretion in those instances where failure to comply with the deadline is related to limitations in the development of the guidelines by EPA.

The conference substitute also contains a provision closely modeled on the Senate bill, prohibiting backsliding or the weakening of effluent limitations in permits based on best professional judgment or water quality standards. While this provision is well explained in the statement of managers, there is one aspect on which additional comment may be helpful. The conference substitute contains five exceptions to the general rule prohibiting the weakening of effluent limitation. There are two matters addressed in EPA's current regulations on this subject, however, that although not included in the statutory exceptions, may still have an effect on particular situations. In certain circumstances effluent limitations may be established on a net basis for particular dischargers. Such a permit should be examined as to whether any modification does indeed involve a weakening of effluent limitation. Also, permits are occasionally based on production levels. Such permits can be examined in a similar manner.

Mr. President, we can all be justly proud of the advancements toward clean, safe water over the past 10 years. This legislation—which has broad support among all interested parties, the Congress and the people—recognizes there is still more to do. It is sound legislation, targeted with care toward the goal of cleaning up once and for all our Nation's waters. I urge the support of my colleagues.

Mr. President, I now defer to my distinguished colleague, a very valued member of the committee, the Senator from Maine [Mr. MITCHELL] to make such comments as he desires and to take control of the time for our side.

Mr. MITCHELL. Mr. President, I join Senators CHAFEE, STAFFORD, BENTSEN, and others in support of the conference report on the amendments to the Clean Water Act. Senator STAFFORD and Senator BENTSEN have worked very hard and displayed great leadership in this area.

I want to express my appreciation to Senator CHAFEE for his leadership in developing this important legislation. Through all our deliberations in the Environment Committee and with House conferees, Senator CHAFEE pressed for legislation to provide the best possible protection for the rivers, lakes, and estuaries of the country. Thanks in large part to Senator CHAFEE's leadership, we have achieved this goal. Every American who cares about clean water—and I believe that includes every American—owes a debt of gratitude to Senator CHAFEE.

I am pleased to have had the opportunity to participate in the various phases of the development of this legislation as the ranking minority member of the Subcommittee on Environmental Pollution of the Environment Committee and a member of the House-Senate conference on this legislation.

The 1972 Clean Water Act set an ambitious goal for the country: "To restore the chemical, physical, and biological integrity of the Nation's waters." We have, in fact, made substantial progress in cleaning up polluted waters. But serious problems still remain. In the State of Maine, there is evidence of both the success of the pollution control programs established in the Clean Water Act and of the se-

riousness of remaining pollution problems.

The Androscoggin River, once 1 of the 10 most polluted rivers in the country, received a waste load equal to that generated by New York City and virtually every mile was unfit for swimming or fishing. Today, almost 70 percent of the river is cleaned up. While this is an impressive accomplishment, we must continue our efforts to clean up the remaining 30 percent of the river.

The Maine commercial shell fishing industry declined for many years because the discharge of untreated sewage forced the closing of some 20 square miles of harvesting areas. We have been able to reclaim some 6 square miles of clam flats, but 14 square miles remain closed. These flats have a potential harvest value of over $30 million a year and could contribute a substantial return on our continued investment in clean water.

The great majority of Maine's lakes are remarkably clean. But some 36,000 acres of lakes have had pollution problems. While cleanup is underway at about half these lakes about 15,000 acres need further attention.

Virtually every State in this country has similar success stories and faces similar water quality challenges.

Our experiences over the past decade are evidence that the basic design of the Clean Water Act is still sound. The legislation before us today will build on the framework established by the original Clean Water Act and expand the act to address emerging pollution problems and changing conditions.

I would like to address a number of the amendments to the act.

The legislation will result in a second-generation program to achieve greater control of toxic water pollutants. Under the current law EPA is required to establish uniform, minimum controls for toxic pollutants. There is no assurance, however, that these controls will result in a safe level for a particular water body. Although the current law provides general authority for further control, this legislation initiates a specific process designed to control these toxic substances.

The legislation requires States to identify waters that do not meet water quality standards due to the discharge of toxic pollutants; to adopt numerical criteria for the pollutants in such waters; and to establish effluent limitations for individual discharges to such water bodies. This provision is an important addition to our ability to protect water quality and public health from increasing amounts of toxic chemicals.

The amendments also provide for new authority for modifying control requirements for industrial facilities which are fundamentally different from other facilities in an industrial class. This provision is complicated and I would like to provide a detailed description of the provision and its objectives.

The Clean Water Act provides for the development of minimum, national, technology-based treatment requirements for industrial dischargers. These requirements address a range of industrial categories and include effluent guidelines applying to direct dischargers and pretreatment categorical standards applying to indirect dischargers.

The amendments provide the EPA Administrator with new authority to modify a minimum, national treatment requirements for an individual facility within an industry if the facility is found to be fundamentally different from other facilities within the industry on the basis of certain factors considered by the Administrator in establishing the guidelines or standards.

The new provision provides that a facility may be found to be fundamentally different based on factors identified in sections 304 (b) and (g). These factors include the age of equipment and facilities, the process employed, the engineering aspects of the types of control techniques, process changes, and other factors deemed appropriate by the Administrator.

The Clean Water Act currently provides for establishment of minimum, national technology-based requirements on an industry-wide basis but does not allow modification of requirements on a plant-by-plant basis. The Administrator has been able to accommodate variation in an industry through development of different requirements for subcategories of an industry.

In addition, the Agency developed and implemented a procedure for establishing alternative treatment requirements for individual facilities based on a conclusion that the facility is fundamentally different from the industry. These regulations were recently upheld by the Supreme Court. While there is currently no basis for the regulations in the act, the conferees concluded that some expansion of the Administrator's authority in this area is an appropriate addition to the act.

This new provision provides a clearly defined and limited authority in the statute for modification of treatment requirements for individual facilities. The provision is intended to assist the Administrator in addressing variation in development and effective administration of the national effluent guidelines and standards.

The conferees intend, however, that the Administrator use the new authority in this section sparingly. Applications under this section should be assessed with the objective of accounting for unique situations encountered in implementing national, minimum treatment requirements. Unless the circumstances of a facility are unique, the Agency should accommodate fundamental differences among facilities through the establishment of subcategories within an effluent guideline. This section should not be used in place of complete definition and subcategorization of an industry.

The conferees recognize that this section will require the EPA Administrator to make difficult decisions with regard to the magnitude of differences among similar facilities within an industry. In exercising this judgment, the Administrator should place high priority on the principle that all industries within a category or subcategory are to meet national, minimum, treatment requirements. The authority of this section is intended only to provide the Administrator with the authority needed to implement this aspect of the statute effectively and should not be used to generally relax or retreat from national, minimum requirements for an industry.

This new provision places several important limits on this new authority. These limits concern consideration of costs to a facility and procedural and other limitations.

The bill specifically excludes consideration of costs as a basis for establishing a fundamental difference with regard to an individual facility. Section 304 of the Clean Water Act authorizes the EPA to consider the cost of achieving effluent reductions, in addition to other factors, in development of a guideline for an entire industry. The EPA needs to consider cost when developing a guideline for an industry in order to determine the best available technology for water pollution control which is economically achievable for an entire industry.

Individual facilities, however, may face costs which are higher than costs to the majority of other facilities in an industry. A facility might find that differences in costs cause it to be fundamentally different from other facilities and contend that these differences justify modified treatment requirements. For example, costs of labor, transport or materials might be presented as fundamentally different.

While a guideline is intended to account for economic impact on an entire industry, it is not intended to account for the economic impact on each individual facility. The 1972 Clean Water Act conference report stressed this point, directing EPA to "make the determination of the economic impact of an effluent limitation on the basis of classes and categories of point sources, as distinguished from a plant-by-plant determination."

If a facility facing higher costs than the overall industry is allowed to reduce treatment levels below the minimum level, the degree of pollution

control at a facility is linked to the economic efficiency of the facility, rather than the economic ability of the industry, and the principle of an industry-wide minimum level of treatment loses its meaning.

Although the act does not and should not provide a mechanism to modify the requirements of an effluent guideline on the basis of fundamentally different costs at an individual facility, section 301(c) of the act provides for modification of requirements in a case where such requirements are beyond the economic capability of the owner. Section 301(c) does not allow the Administrator to modify treatment requirements based on a showing of fundamentally different costs to an individual facility, unless these costs are beyond the economic capability of the facility and, therefore, threaten its survival.

In addition, section 301(c) is subject to section 301(1), which prohibits the Administrator from modifying any requirement as it applies to a toxic pollutant. This provision assures that toxic pollutants will be controlled, regardless of the economic capability of the discharger. The new authority for treatment modifications based on fundamentally different factors contained in the reported bill is not subject to section 301(1).

This provision is not intended to prohibit the EPA from modifying treatment requirements in a case where a fundamental difference in an aspect of a facility which is eligible for consideration—for example, age of facility, process employed—would result in a reduction in costs to a facility.

When such an eligible factor is under review, the EPA may consider the costs specifically associated with that factor, but must be able to justify a finding of a fundamental difference primarily on the basis of a substantive and technical assessment of eligible factors. The EPA shall not replace a substantive and technical assessment of eligible factors with a shortened cost test designed to indicate a fundamental difference—for example, when the costs of an eligible factor at an individual facility are twice the costs at average facilities, the factor is fundamentally different.

The reported bill specifies several procedural requirements and other limitations governing applications for modifications under this section.

Section (n)(1)(B) provides that an application be based solely on information and supporting data submitted to the Administrator during the development or revision of a guideline or on information the applicant did not have a reasonable opportunity to submit during the rulemaking. The lack of a reasonable opportunity to submit information is based solely on a lack of actual or constructive notice of the rulemaking.

This provision will assure that effluent limitations and standards are as comprehensive as possible, and thereby reduce the need for applications under this subsection. This provision will also discourage withholding of information during the rulemaking process for subsequent use in an application for treatment modification under this subsection.

In addition, where the record is already closed and an applicant has new information to present bearing on the guideline or standard, the applicant continues to have the right to petition the Administrator to reopen the rulemaking and record and consider creation of a subcategory. The Administrator's disposition of such a petition is subject to judicial review under section 509(b) of the act.

Section (n)(1)(C) provides that the alternative requirement imposed on the applicant can be no less stringent than justified by the applicant's fundamental difference from the rest of the category or subcategory with respect to eligible factors.

Section (n)(1)(D) provides that any alternative requirement shall not result in a nonwater quality environmental impact which is markedly more adverse than the impact considered by the Administrator.

Section (n)(2) requires that an application under this section shall be submitted within 180 days after the publication of the initial guideline or standard. Section (n)(3) provides that an application shall be approved by final Agency action within 180 days after submission. For the purposes of this section, final Agency action means the administrative decision issued by the EPA, following public notice and comment, as appropriate and including a statement of the basis for the decision. Section (n)(4) states that the Administrator may allow the applicant to submit clarifications with regard to information submitted in an application prior to the 180-day decision deadline.

Section (n)(5) provides that an application for an alternative requirement based on fundamentally different factors which is pending on the date of enactment may be amended by the applicant within 180 days after such date of enactment. This provision is intended to allow applicants with pending applications developed under EPA regulations pertaining to fundamentally different factors to revise the applications to reflect the requirements of this new section of the statute.

Section 301(n)(6) provides that an application for an alternative requirement under this section shall not stay the facility's obligation to comply with the effluent limitation guideline or standard which is the subject of the application.

This provision is intended to prevent EPA or the State, or the POTW in the case of indirect discharge, from delaying issuance of the permit or pretreatment mechanism during the pendency of an application. If an application for an alternative requirement is denied by the Administrator, the applicant must comply with the limitation or standard as established or revised. This section is subject to section 301(b) and 309 as to compliance dates.

This section shall apply to existing primary and secondary national effluent limitations and categorical pretreatment standards for industrial categories, such categories as may be identified in the future, and to any revisions of guidelines or standards for such categories.

The Administrator may not use the authority of this section to modify effluent standards issued pursuant to section 307(a)(2) of this act, the general prohibited discharge standard in 40 CFR sec. 403.5, or other requirements implementing such standards.

The owner or operator of a facility has the burden of proving to the satisfaction of the Administrator that the facility is eligible for an alternative requirement under this section. The Administrator's decision to promulgate or deny an alternative effluent limitation or standard under this subsection shall be subject to judicial review pursuant to section 509(b)(1) of the act.

This new authority is intended to provide for modifications of requirements for conventional, nonconventional, and toxic pollutants. Consistent with this objective, section 301(l) of the Act, which excludes toxic pollutants from modifications under this act, is amended to allow modifications under this section for toxic pollutants. This amendment to section 301(l) does not in any way weaken the application of the section to modifications of the act than provided under this subsection—301(n).

The Administrator may not delegate the authority provided by this subsection to any State. In addition, it is our intention that the authority of this section be exercised only by the Administrator or Assistant Administrator for Water, rather than regional or other officials. The Administrator shall obtain the concurrence of a State before approving any alternative requirements under this subsection.

All of these provisions are to be self-implementing and are to take effect upon enactment of the Clean Water Act Amendments of 1985. The Administrator is encouraged to amend the appropriate regulations to make them consistent with these requirements; however, the failure of the Administrator to make such revisions will not affect the implementation of these provisions.

A related provision provides new authority for the EPA to collect fees for the processing of various modifica-

tions of permits and other requirements.

Substantial Federal resources are being devoted to processing applications for modifications authorized by the Clean Water Act. Section 301(o) of the reported bill requires the Administrator to establish a system of fees to recover costs of reviewing and processing these applications. Applications, including resubmitted applications, are to be accompanied by an appropriate fee, as determined by the Administrator. The Administrator may develop a tiered or sliding scale fee structure so long as the aggregate amount of fees collected reflects the Federal resources actually expended in processing such applications.

Fees collected under this section shall be deposited into a special fund in the U.S. Treasury entitled "Water Permits and Other Services." Such funds are to be available for appropriation and to remain available until expended and are to be used to carry out the Agency activity for which the fee was charged. Creation of this special fund will assure that fees charged for processing of applications will be used to support water permit related activities, rather than other activities. The existence of this fund shall not be a basis for reductions in funding levels for related program activities.

EPA recently estimated that as much as half the remaining water pollution problems result from nonpoint sources. Controlling nonpoint pollution, however, has proven to be an extremely difficult, intractable problem.

This legislation includes a major amendment providing for State programs to identify and control nonpoint source pollution. States will identify waters affected by nonpoint sources of pollution and develop programs to implement best management practices for controlling this pollution. State programs will include a schedule for implementation and will be coordinated with related Federal projects. A total of $400 million is authorized over 4 years to support this important program.

It is the intention of the conferees that grants to States be used to implement nonpoint management plans developed under this section. Grants are not intended to be used to support the development of such programs or plans. The conferees expect that States will use State resources to develop nonpoint plans and programs. States may also use funds available under a new section 205(j) of the act to develop such plans, and once plans are approved, assist in the implementation of plans.

In using grant funds under this section for the implementation of approved programs or plans, States are not to provide assistance to individuals for construction of pollution control facilities unless such assistance is in the form of a demonstration program, as determined by the Administrator. State's may include other Federal assistance programs, including programs of the Department of Agriculture involving grant and loan assistance and cost sharing, in overall programs for control of nonpoint pollution.

States may use funds available in the new State revolving loan funds for the implementation of nonpoint programs developed under this section. Loan funds must be used in a manner consistent with all the provisions of title VI of this act.

For example, once a State has assured progress toward compliance with the deadline for construction of secondary treatment facilities, the State may make loans or provide otherwise eligible assistance to nonpoint pollution-related projects.

Such loan or other assistance may be made to individuals or organizations, as well as municipalities and other governmental units. For example, a State may provide a loan to a farmer to construct a manure storage facility if such facilities are called for in the approved State nonpoint pollution control program. A State might also provide assistance to a municipality to implement programs to control urban runoff.

Among the most significant issues addressed in this reauthorization of the Clean Water Act is the financing of wastewater treatment plant construction. This aspect of the reauthorization bill is important because it provides State and local governments with a clear statement of future Federal involvement in treatment plant financing and allows them to finalize plans to meet the compliance deadlines established in the law.

The act provides for a transition from the current grant program to a program providing Federal support for State revolving loan funds. The bill provides for an authorization of a total of $18 billion over the next 9 years to assist municipalities with these construction projects. Establishment of loan funds will complete the process of transfer to State control of the Municipal Treatment Construction Program.

The State revolving loan fund is important for the future financing of pollution control projects. It is a complicated provision and I would like to describe the intentions and objectives of the conferees.

The provision provides that the Administrator and States may enter into capitalization grant agreements under this title. States must agree to accept payments under a schedule to be developed jointly with the Administrator, must agree to provide a 20-percent match of Federal funds, and must agree to make binding commitments for assistance in an amount equal to 120 percent of the amount of the grant payment within 1 year. Moneys contributed by a State to match Federal capitalization grants under section 602(b)(2) are to be cash and not in kind.

The schedule under which payments are to be made by the Administrator to the State shall be developed jointly by the State and the Administrator. Such schedule shall be based on the State intended-use plan and shall provide that payments be made as expeditiously as possible, consistent with such plan. At a minimum, payments shall be made not later than the earlier of 8 quarters after the date funds were obligated by the State or 12 quarters after the date such funds were allotted to the State.

In addition, the State must agree to assure, as part of the intended-use plan submitted annually, that all Federal and State funds provided to the SRF will be committed in an expeditious and timely manner. This provision reinforces the requirement that States make binding commitments for funds within 1 year of any given payment to the fund.

Subsection 602(b)(5) refers to all Federal funds, in the form of capitalization grants, and all other funds in the SRF as a result of those capitalization grants, including repayments of loans originating from those grants and State funds contributed as the required match for those grants, and funds deposited in the fund under 205(m).

The State must use these funds first to assure maintenance of progress toward compliance with the enforceable deadlines, goals, and requirements of this act, including the municipal compliance deadline of July 1, 1988, or are on enforceable schedules of compliance after that date.

Progress toward compliance with enforceable deadlines, goals, and requirements of the act, in the case of treatment works that are not voluntarily on a schedule to achieve compliance, may be assured through a funding commitment or through establishment of an enforceable compliance schedule.

Thus, the requirement of subsection 602(b)(5) is met if treatment works in a State are on an enforceable schedule to achieve compliance with uniform secondary treatment requirements of the act, whether or not there is a commitment to fund such treatment works from a State revolving loan fund or with a grant under title II of this act. Governors of each State shall make the determination of progress toward compliance required under this subsection and the Administrator shall oversee such determinations.

Once a State has met the requirement of subsection 602(b)(5) funds from the SRF may be used for any other treatment works as defined by

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section 212 of the Act (subject to the restrictions of section 602(b)(6), programs and projects identified under the Nonpoint Source Pollution Control Program (section 319), or programs and projects identified under the National Estuaries Program (section 320).

The provision is intended to allow States the flexibility to utilize funds from the SRF to support a variety of measures that the State determines are needed to achieve water quality goals. States are free to fund a wide range of pollution control projects, other than municipal waste water treatment works, once the requirement for assuring progress toward compliance with the 1988 compliance date is met.

Further, a State must demonstrate that any treatment works which is constructed in whole or in part prior to fiscal year 1995 with funds directly made available by capitalization grants under this title or section 205(m), will meet the requirements of the sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1) and 513.

This restriction on the use of Federal capitalization grant funds does not apply to funds contributed by the State in accord with section 602(b)(2), moneys repaid to the fund, or other moneys. State Governors shall assure that the requirements of this subsection are met.

Section 201(g)(1) limits assistance to projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. This subsection also provides that State Governors may reserve 20 percent of a State's allotment for projects which meet the definition of treatment works in section 212(2) but are otherwise not eligible for assistance under this subsection. This Governor's reserve is intended to apply to funds made available under this title.

Section 201(n)(1) provides that funds under section 205 may be used to address water quality problems due to discharges of combined stormwater and sanitary sewer overflows, which are not otherwise eligible, if such discharges are a major priority in a State. This provision is intended to apply to use of funds under title VI as well as section 205.

As noted above, the fund may be used to assist publicly owned treatment works as defined by section 212 of the act, the development and implementation of a nonpoint source management program established under section 319 and development and implementation of an estuary program under section 320. This provision is intended to provide a basis for funding of projects to control nonpoint pollution and pollution to estuaries conducted by municipalities, a State, other public organizations, or individuals. All fund management provisions of this title apply to such projects.

The definition of projects eligible for funding under the loan program includes publicly owned treatment works as defined by section 212 of the act. This definition includes planning and design as defined in 212(1), treatment works as defined in 212(2) and replacement as defined in 212(3). Each of these aspects of treatment works is eligible for assistance under this title.

Funds under this title may be used to make loans as provided under section 603(d), but are not to be used to provide direct grants. If as a result of audits under this section, the Administrator finds a consistent and substantial failure to repay loans, he may take corrective action as provided under this title.

This section provides that loan funds may be used to refinance debt obligations of municipalities for eligible projects, where such obligations were incurred after March 7, 1985. This provision is a very important element of the loan fund program in that it allows municipalities and States to work out financing plans which will allow a community to proceed with financing and construction as soon as possible and to achieve water quality benefits as soon as possible. Based on this authority States may agree to participate in project financing at a later date. The requirement in subsection 603(g), providing that municipal waste water treatment projects be included on State priority lists is not intended to prevent a State from providing such refinancing assistance.

Section 603(h) limits the authority of subsection 603(d)(2) by providing that funds may not be used to make direct loans to support the non-Federal share of a project receiving assistance under title II of this act.

This limitation on direct loan assistance does not include ancillary assistance to the municipality which results in a lowering of costs of the obligation (for example guarantee of the local share obligation, insurance of the obligation, etc.). Such indirect assistance to support the costs of non-Federal share shall only be available to municipalities which face severe financial constraints preventing a project from proceeding.

The provision provides for the allotment of funds to States, reservation of funds for planning, and the reallotment of unobligated funds. Funds reserved for water quality management planning under this provision are to be used by the State agency which conducts environmental programs, rather than an agency established to manage the financing of projects with funds provided under this title.

Funds available to States under section 205(g) for the management of construction grant programs under title II may be used to assist the development of revolving loan funds under this title.

There are several other important provisions of the bill which I would like to describe and explain.

Section 210 of the amendments provides for set-aside of a small part of the construction grant fund to support projects for prevention of pollution to marine bays and estuaries resulting from combined storm water and sanitary sewer overflows. It is the intention of the conferees that, for the purposes of this section, the term "marine bays and estuaries" shall be defined consistent with the definition of estuarine zone in section 104(n)(4) of the act. It is not the intention of the Conferees that this set-aside be used for projects at the upper reaches of tidal influence of a river which eventually enters into an estuary.

Section 202(f) of the act provides that assistance made available by the Farmer's Home Administration may be used to provide the non-Federal share of a construction grant project under title II of the act. This provision states the policy of the conferees that such assistance in support of a local share is acceptable, and has been acceptable in the past. The adoption of the provision shall not be construed to imply that, prior to this action, such support for a local share was not acceptable or consistent with congressional intent and policy.

Another important amendment to the act provides that States are to passthrough at least 40 percent of funds made available under section 205(j)(1) to support water quality management planning at the areawide and interstate level. The provision was modified by the conferees to assure that a Governor, with the approval of the Administrator, could provide less than 40 percent of funds to such organizations if such funding would not significantly assist in water quality management planning. The conferees do not intend to imply that funding for areawide organizations should be limited to 40 percent of funds under seciton 205(j)(1). It is not the intention of the conferees that the requirement for passthrough of 40 percent of funds to areawide agencies apply to section 205(j)(5) funding.

The amendments also provide a specific period of 180 days in which communities may apply for variances under section 301(i). The conferees intend that no application whatsoever may be made under section 301(i) after the 180-day period following enactment of the amendment. In addition, the amendment provides that communities which are on a compliance schedule are not eligible to apply for a

variance under section 301(i) at any time.

This provision includes any community which is on a schedule established prior to enactment by a court order or an administrative order established by the EPA or a State agency. In addition, the Administrator has discretion in granting variances under section 301(i). The conferees encourage the Administrator to use this discretion to deny applications for variances under section 301(i) where necessary to preserve the stable and effective implementation of the National Municipal Policy and relted agency policies.

The amendments provide for new authority for the EPA to use administrative penalties in enforcement of the Clean Water Act. This provision will substantially increase the Agency's authority to assure full enforcement of the act. The amendments provide that the EPA may use the administrative penalty authority in enforcement cases related to activities which do not have permits as required under section 404 of the act. It is the intention of the conferees that EPA use this authority to provide for full and aggressive enforcement of section 404.

It is also the intention of the conferees that the EPA and the Corps of Engineers develop a memorandum of understanding to provide for the efficient coordination of enforcement activities related to section 404. Such an MOU should be developed as soon as possible, but not later than 6 months after the date of enactment. EPA has the authority to use administrative penalty authority prior to the development of such an MOU. In the event that the EPA and the ACE are not able to agree on an MOU, EPA retains the full authority to implement administrative penalty authority related to section 404 as provided in these amendments.

The amendments also provide new requirements for compliance with treatment requirements of the act. The conferees believe that these new dates are responsible and reasonable can be achieved in virtually all cases. In an unusual case where a date cannot be met despite the conscientious efforts by a facility, the conferees understand that the EPA is able to exercise its discretion with regard to enforcement and penalty authority.

In addition, it is the intention of the conferees that any action by a regulated industry to initiate litigation related to a control requirement which results in a delay in accomplishment of controls, is not a basis for the EPA to exercise its enforcement discretion.

Industries which choose to challenge pollution control regulations in court should not expect that the EPA will use its enforcement discretion and should expect that EPA will fully enforce requirements and compliance dates, regardless of court challenges.

In conclusion, I am confident that the basic design of the Clean Water Act is sound. We have before us badly needed amendments for fine tuning existing provisions of the act and addition of major programs to address emerging problems.

These proposals are consistent with the national consensus for clean water. The great majority of persons responding to a recent Harris survey either supported the Clean Water Act or wanted it strengthened, even considering the costs of pollution controls. This legislation is an important step toward carrying out this mandate.

I urge my colleagues to adopt the legislation, and I urge the President to sign it. It will be a tragic day, a sad day, for the Nation if the President vetoes this legislation.

Mr. President, I yield to the distinguished chairman of the subcommittee, the man singly most responsible for this legislation and for much of the progress made in this Nation in recent years on protecting the health and environment of this country, Senator CHAFEE.

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Mr. CHAFEE. I thank my distinguished friend and colleague, the Senator from Maine, for those generous comments. Throughout the work on this measure, working with Senator MITCHELL has been not only an intellectual pleasure but also a great personal pleasure. He is a man who knows the act, is truly dedicated to improving the quality of the waters of our Nation. At every step of the way, he was helpful and constructive. This act, in which he generously said I had a major hand, was the result of combined efforts, and his part in it was very significant.

I also thank the senior Senator from Texas [Mr. BENSTON], who was helpful overall in this project. Of course, our distinguished chairman of the committee, Senator STAFFORD, has made this a truly bipartisan matter. I thank the staffs as well.

So it has been a thorough pleasure dealing with this matter, which has gone on for a long time. We passed the bill in the Senate over a year ago.

Mr. President, this sweeping legislation provides a major overhaul of one of our Nation's key environmental laws, the Clean Water Act. Although we have made great strides in restoring our rivers, lakes, and estuaries, much work remains to be done. The legislation before us provides a framework which builds upon our past successes and will lead to major improvements in water quality well into the next decade.

The legislation assures compliance with a strong water quality standards programs and provides for great controls of toxic, conventional and nonconventional pollutants. It establishes a new program to control pollution from nonpoint sources. That is not a point discharge from a factory. Nonpoint means runoff from fields, from roads, and such instances. It continues funding of wastewater treatment works at the $2.4 billion level through fiscal year 1991 while establishing a revolving loan fund to ease the transition to full State and local sufficiency.

I would like to take a few minutes to explain in greater detail a few of the key provisions of the conference report.

The legislation tightens up several regulatory programs. One such program relates to nonconventional pollutants. Under current law modifications can be sought from strong discharge requirements for so-called nonconventional pollutants many of which can be highly toxic. In effort to severely limit the circumstances in which these weaker modifications can be given the conference report allows them for only five specific pollutants. If other pollutants are to be listed for a modification, EPA must go through a special procedure. This procedure requires the Administrator to first determine whether a pollutant meets the criteria of toxic pollutant. If it does, then the pollutant must be listed as toxic from which no variance can be received. If the pollutant is not found to be toxic, the Administrator must then determine whether it can be listed under section 301(g) as a nonconventional pollutant. If it meets that test, the Administrator must finally determine whether an applicant applying for a modification from the effluent guideline for that particular pollutant can meet the test contained in section 301(g). It is expected that each of these steps be conducted through the formal regulatory process. It is also important to note that a stay of requirements for control of pollutants other than the nonconventional pollutant for which the modification is being sought is prohibited.

The legislation also contains provisions which severely limits the opportunities for which discharges can get modifications for fundamentally different factors. A key provision under the fundamentally different factors section specifically excludes consideration of costs, independent of other eligible factors, as a basis for establishing a fundamental difference with regard to an individual facility. Section 304 of the Clean Water Act authorizes the EPA to consider the cost of achieving effluent reductions, in addition to other factors, in development of a guideline for an entire industry. The EPA needs to consider cost when developing a guideline for an industry in order to determine the best available technology for water pollution control which is economically achievable for an entire industry.

While a guideline is intended to account for economic impact on an entire industry, it is not intended to account for the economic impact on each individual facility. The 1972 Clean Water Act conference report stressed this point, directing EPA to "make the determination of the economic impact of an effluent limitation on the basis of classes and categories of point sources, as distinguished from a plant-by-plant determination." If a facility facing higher costs than the overall industry is allowed to reduce costs than the overall industry is allowed to reduce treatment levels below the minimum level, the degree of pollution control at a facility is linked to the economic efficiency of the facility, rather than the economic ability of the industry, and the principle of an industrywide minimum level of treatment loses its meaning.

Although the act does not and should not provide a mechanism to modify the requirements of an effluent guideline on the basis of fundamentally different costs at an individual facility, section 301(c) of the act provides for modification of requirements in a case where such requirements are beyond the economic capability of the owner. Section 301(c) does not allow the Administrator to modify treatment requirements based on a showing of fundamentally different costs to an individual facility, unless these costs are beyond the economic capability of the facility and, therefore, threaten its survival. In addition, section 301(c) is subject to section 301(l), which prohibits the Administrator from modifying any requirement as it applies to a toxic pollutant. This provision assures that toxic pollutants will be controlled, regardless of the economic capability of the discharger. The new authority for treatment modifications based on fundamentally different factors contained in the reported bill is not subject to section 301(l).

Section 301(n)(6) provides that an application for an alternative requirement under this section shall not stay the facility's obligation to comply with the effluent limitation guideline or standard which is the subject of the application. This provision is intended to prevent EPA or the State, or the POTW in the case of indirect discharge, from delaying issuance of the permit or pretreatment mechanism during the pendency of an application.

The owner or operator of a facility seeking an FDF modification has the burden of proving to the satisfaction of the Administrator that the facility is eligible for an alternative requirement under this section. The Administrator's decision to promulgate or deny an alternative effluent limitation or standard under this subsection shall be subject to judicial review pursuant to section 509(b)(1) of the act.

The Administrator may not delegate the authority provided by this subsection to any State. In addition, it is the intention of the conferees that the authority of this section be exercised only by the Administrator or Assistant Administrator for Water, rather than regional or other officials. The Administrator shall obtain the concurrence of a State before approving any alternative requirements under this subsection.

The conference agreement also contains provisions continuing the Chesapeake Bay Program; it establishes a Great Lakes Water Quality Program and sets up new National Estuary Program which provides that management conferences develop control strategies to assist in the clean up of estuaries. This is especially important to the Narragansett Bay in my State of Rhode Island which suffers from degradation of water quality. Funds are also set aside for correction of combined sewer overflows which cause serious pollution in the Narragansett and other estuaries around the Nation.

A new nonpoint source Pollution Control Program, which was contained in both bills, is included in the conference agreement. The program would authorize $400 million over 4 years for States to develop comprehensive programs to abate such pollution sources as runoff from urban areas and farmlands which often contaminated with toxic and other pollutants.

The legislation also beefs up the enforcement provisions of the act by increasing penalties for civil and criminals violations and adds a new authority for the Administrator to assess administrative penalties on violators. The EPA has new authority to assess penalties against unpermitted discharges. We expect the Agency to use this authority aggressively against illegal polluters even if a memorandum of agreement is not concluded with the Secretary of the Army. The corps enforcement record against illegal dumpers is not the strongest and now EPA has the authority to move against these polluters.

Compliance dates for industries for which effluent guidelines have not been promulgated have been extended to March of 1989 or 3 years from date of promulgation, which ever is sooner. EPA is strongly encouraged to get these guidelines finalized so industries can comply with discharge requirements as soon as possible. Until such guidelines are promulgated the Agency is expected to proceed under its current policy with respect to noncompliance of dischargers who will not meet the deadline.

A provision establishing a progressive Stormwater Control Program is included in the conference agreement. Although the law now requires EPA to establish discharge requirements for the stormwater point sources, the Agency has been unable to develop a final permit program for these sources. This legislation sets up a program whereby EPA must issue permits for stormwater point source discharges in municipalities with populations over 250,000 within 4 years of enactment. Within 5 years of enactment, permits for stormwater point source discharges are required in cities with populations between 100,000 and 250,000. These discharge requirements are to contain control technology or other techniques to control these discharges and should conform to water quality requirements. Requirements for stormwater discharges associated with industrial activities are unaffected by this provision. The Agency has been unable to move forward with a program because the current law did not give enough guidance to the Agency. This provision provides such guidance and the conferees expect EPA to move rapidly to implement this control program.

The legislation also contains the Senate provision relating to the Chicago tunnel and reservoir project. This provision only allows funding for this project under section 201(g)(1) without regard to the limitation contained in the provision if the Administrator determines that such project meets the cost-effective requirements of sections 217 and 218 of the act without any redesign or reconstruction. The Governor of Illinois must demonstrate to the satisfaction of the Administrator the water quality benefits of the project. This provision does not apply to the cost-sharing requirements under the other applicable provisions of the bill.

The conference agreement modifies the Senate-passed bill with respect to antibacksliding on best practical judgment and water quality-based permits. The thrust of this provision is to generally prohibit affected permittees from weakening their discharge requirements as a result of subsequently promulgated guidelines. Only in very narrow circumstances can backsliding be permitted, and in no event can it be permitted even if, after a discharger leaves a stream, there is an improvement in water quality, unless the antidegradation policy test is met. That test states that water quality may be lowered only if widespread adverse social and economic consequences can be demonstrated through a full intergovernmental review process.

The conference agreement also embodies much of the Senate-passed proposal with respect to the Construction Grants Program and newly created revolving loan fund. The conference agreement extends the current $2.4 billion annual authorization for title II construction grants for 3 years. In fiscal years 1989 and 1990, the annual authorization for title II would be re-

duced to $1.2 billion. No further authorizations would be made for title II after fiscal year 1990.

States would be provided with sufficient lead time to begin setting up State revolving loan programs. The committee bill encourages the creation of these self-sustaining financing entities at the earliest opportunity by providing each State with an option of converting title II construction grants funds into capitalization grants for SRF's.

Beginning in fiscal year 1989 and continuing in fiscal year 1990, $1.2 billion a year would be authorized specifically for capitalizing SRF's under the new title VI. In fiscal year 1991, the amount would be increased to $2.4 billion. Thereafter, the SRF authorization would gradually be reduced by providing $1.8 billion in fiscal year 1992, $1.2 billion in fiscal year 1993, and $600 million in fiscal year 1994. After fiscal year 1994, all authorizations for direct Federal contributions to municipal wastewater treatment or SRF's would be ended.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart showing the fiscal years and funding levels.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In billions of dollars]

	Construction grants (title II)	Revolving loan fund (title VI)
Fiscal year:		
1986	2.4	
1987	2.4	
1988	2.4	
1989	1.2	1.2
1990	1.2	1.2
1991		2.4
1992		1.8
1993		1.2
1994		.6

Mr. CHAFEE. Mr. President, the total authorizations for title II and VI amount to $18 billion and will ensure that the core treatment-related needs identified in the 1981 amendments will be met.

This approach lives up the commitment made by Congress and the administration to support an annual appropriation of $2.4 billion over the 10-year period of 1981 through 1991 to meet the needs for construction of wastewater treatment facilities. That commitment was restated by then EPA Administrator William Ruckelshaus at a budget hearing before the Environment and Public Works Committee. His statement is as follows:

I think that while there may be some at OMB who would prefer not to see this kind of program continue, I have not run in personally to those people at OMB, and there is an understanding that there is an agreement with the administration with the Congress that for 10 years this level of funding, at least, is a commitment. If you will note the difference between what we submitted to the President in terms of our budget and what we are now requesting is somewhat less. We went down to $2.4 billion as a result of that commitment. That was something the administration put back into our budget over our submission.

A compromise on the allotment formula for grants to the States is contained in the conference agreement. This compromise only makes minor changes in the present formula.

The revolving loan fund embodied in this legislation presents a great opportunity for the States to eventually assume full responsibility for construction of wastewater treatment facilities in their jurisdictions.

States must first use the funds in loan fund on projects needed to meet the 1988 municipal deadline requirement for secondary treatment. After that requirement is satisfied loan funds may also be spent on activities eligible under the nonpoint pollution program and the national estuary program.

In an effort to encourage cities to move forward with construction with treatment facilities to meet the 1988 deadline the legislation allows for refinancing under the loan program of projects which were begun after March 7, 1985. Although these projects should be on the State priority list to be eligible for refinancing, prior agreements between the State and the municipality should be honored in the event the project is no longer on the priority list.

Mr. President, I would like to conclude by saying passage of this legislation gives us an opportunity to renew our commitment to the national goal of making all of our waters fishable and swimmable. The Water Quality Improvement Act of 1986 strengthens the existing provisions of the Clean Water Act and establishes new cleanup programs which will greatly enable us to address a new generation of subtle—more devastating—problems posed by toxic pollution, stormwater discharges, nonpoint pollution, and contamination of sludges.

A year ago, the Senate passed the clean water bill by a vote of 94 to 0. I would hope my colleagues would give this conference agreement the same resounding show of support and vote "yes" to continue the job of cleaning up our Nation's waters.

There has been talk of the President vetoing this legislation. That would be a drastic mistake. This bill is within the agreed upon authorization level of $2.4 billion for wastewater treatment facilities passed by the Senate and contained in the budget resolution. It provides for an orderly transition for the construction grants program. And most importantly it gives the American people what has been reflected in public opinion polls conducted across the land—that they want clean water.

Finally, Mr. President, I wish to thank the chairman of our full Committee on Environment and Public Works, Senator STAFFORD, the ranking member of the Environmental Pollution Subcommittee, Senator MITCHELL, and the ranking member of the full committee, Senator BENTSEN for their hard work and diligent efforts to make this legislation possible. I would also like to thank the staff who labored long and hard in putting this legislation together, particularly Bob Hurley and Phil Cummings, Ron Outen, Jeff Peterson, Jimmie Powell, Steve Shimberg, and all the others who spent long hours and what seemed like endless days of negotiations on the bill.

Mr. MOYNIHAN. Mr. President, as New Yorkers, we have daily reminders of our dependence on water, although it is a resource that we too often take it for granted. The striped bass in the Hudson are too contaminated to be eaten safely. Long Island's aquifer which is the drinking water for 3 million New Yorkers is being depleted and polluted. And underneath New York City's streets old leaky mains are reluctantly dispursing water to city residents.

I am pleased to be able to offer some assurances today that we are making progress in cleaning up New York's water, and indeed, that of the entire Nation. The 99th Congress has already passed the Safe Drinking Water Act, which strengthens EPA's capacity to protect and improve our country's drinking water supplies, and which contains the Sole Source Aquifer Protection Act, which I first introduced in 1982, designed to protect irreplaceable aquifers like the one on Long Island.

With the passage of the Clean Water Act Amendments of 1986 we add another cornerstone in our Federal water policy, one that will build on the progress made since the Federal Water Pollution Control Act of 1972, which has come to be known as the "Clean Water Act."

GOALS AND STRATEGIES OF CLEAN WATER ACT OF 1972

The Federal Water Pollution Control Act was enacted in 1972 with an exuberantly optimistic set of goals. By 1983 the act envisioned clean rivers throughout the Nation; by 1985 it sought to eliminate altogether the discharge of pollutants into our waters.

Two major strategies were embodied in the act to achieve these goals. First, a large Federal grant program was established to help local areas construct sewage treatment plants. According to the Congressional Budget Office, $52 billion—in 1984 dollars—total has been spent by the Federal Government on this construction grant program since 1972.

Second, the act required that all municipal and industrial wastewater be treated before being discharged into

waterways, to remove pollutants ranging from organic materials, bacteria, and viruses to toxic chemicals and heavy metals.

Under the act's national pollutant discharge elimination system the Environmental Protection Agency established limits on the maximum allowable discharge of specific pollutants from treatment plants and industrial facilities. These limits were based on available detection and control technologies, and took into account the compliance costs to the regulated community. They are written into permits issued to all such discharging facilities.

Significant progress has been made toward cleaning up the Nation's waters. According to EPA's 1984 national water quality inventory, many of the most severe pollution problems of the 1960's and 1970's have been abated. Moreover, despite substantial growth in the Nation's population, industry, and development, overall water quality remained roughly stable between 1972 and 1982—a major accomplishment. A 1984 study by the Association of State and Interstate Water Pollution Control Adminstrators found that of 350,000 miles of streams and rivers monitored during this period, water quality improved in 13 percent, stayed the same in 84 percent, and declined in only 3 percent. We have been doing something—several things—right.

The Clean Water Act Amendments of 1986 strengthen and add to our current statutes. I will review briefly the most important provisions in these amendments.

CONSTRUCTION GRANTS FOR SEWAGE TREATMENT PLANTS

S. 1128 authorizes $18 billion in Federal support over 8 years for the construction grants program, on a 55-percent Federal, 45-percent basis. This program enables construction and upgrading of sewage treatment plants. The goal is to have all sewage treatment plants achieve secondary treatment by 1988—a process which removes 85 percent of solid and organic matter. In 1989, the revolving fund plan begins, the goal of which is to convert the States construction grants program into a self-financing program. Such an approach has worked extremely well in Texas and other States. The Governor will have the discretion to apportion grant funds and loan funds in order to meet the particular needs of his or her State. With wise planning, the States should make this transition without any disruption in their current schedules of priority work.

I am pleased that the current allocation formula for construction grants has been left virtually in place. This formula, which is based on the current EPA needs survey, correctly reflects the immediate needs in our urban areas in the Great Lakes and Chesapeake Bay regions. Our older cities, place the greatest population pressures on the water systems, which also tend to be the oldest systems. New York receives $267 million annually under this allocation.

NONPOINT SOURCE POLLUTION

This bill provides $400 million to initiate the first national program to control nonpoint source pollution, primarily runoff from agriculture and urban areas. Scientists at EPA have determined that nonpoint source pollution—pollution not from a single pipe or outfall—is a significant contributor to degredation of water quality. This includes runoff contaminated by fertilizers and other chemicals, as well as runoff from city streets which often contains high levels of salts and oils.

As part of this effort, conferees worked diligently with cities and counties as well as with environmental groups to devise a stormwater permit system that would improve water quality without being too costly or too cumbersome for EPA to administer. A recent court decision had ordered EPA to issue permits for virtually all storm sewers, which would have required EPA to issue 50,000 more permits on top of the 65,000 point source permits EPA already issues. This would have diverted EPA personnel efforts from control of toxic contaminants in water to a paper shuffling exercise that would not be result in environmental improvements in most cases. The conference agreed on a provision which would require permits from industrial discharges to storm sewers, and from cities over 250,000 in population where those discharges are significant contributors to pollution.

CLEAN LAKES PROGRAM

S. 1128 provides $85 million for a clean lakes program which States can use to clean up silted lakes, and to lime acidified lakes.

ESTUARIES PROGRAM

The bill provides $48 million for an estuary research program, which identifies several estuaries of national importance, including New York and New Jersey Harbor. Under this provision EPA can offer up to $10 million per year on a 50-percent matching basis to States to study and implement cleanup in the New York-New Jersey Harbor area.

BAN ON DUMPING OF SLUDGE IN THE NEW YORK BIGHT

The bill bans as of December 1987 any additional users from dumping sewage sludge in the New York Bight 12 miles off Sandy Hook, NJ. The bill also restricts the use of the site 106 miles off the coast to those currently using the 12-mile site.

FUNDS FOR BOSTON TREATMENT PLANTS

S. 1128 includes $100 million to fund sewage treatment plants in Boston Harbor, assisting Boston in complying with its court ordered directive to stop dumping sludge in the ocean.

GREAT LAKES OFFICE

The conferees agreed to establish a Great Lakes International Coordination Office within EPA to focus on control of toxic pollutants and achievements of goals in the Great Lakes Water Quality Agreement of 1978. The bill also establishes a Great Lakes Research Office with the National Oceanic and Atmospheric Administration to carry out a comprehensive Great Lakes Research Program, with special attention to sediment control projects.

All in all, this is a most worthy bill, which will improve upon the good work already begun by the Clean Water Act of 1972, I heartily support passage of the conference report, and I commend my fellow conferees for their good sense and hard work.

I ask unanimous consent that material summarizing the construction grants program in New York be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The House-Senate conference report on the Clean Water Act provides $267.9 million annually in federal grants for the construction of sewage treatment plants and sewers in New York State through 1990. The New York State Department of Environmental Conservation has identified the following for priority funding:

New York: Oakwood Beach (Staten Island); Owl's Head Treatment Plant (New York City); Fort Covington (St. Lawrence County); Schuylerville (Washington County); Village of Gowanda (Cattaraugus County); Village of Oxford (Chenango County); Village of Croghan (Lewis County); Cedar Creek Sewage Plant (Nassau County); Mamaroneck Sewer District (Westchester County); Dewey Eastman Tunnel (Monroe County); City of Gloversville (Fulton County); City of Batavia (Genesee County); Buffalo Sewer Authority (Erie County); Chautaugua Utility District (Chautauqua County); City of Binghamton (Broome County); Cheektowaga (Erie County); Village of South Glens Falls (Saratoga County); Village of Great Neck (Nassau County); and Great Neck Sewer District (Nassau County).

Mr. STAFFORD. Mr. President, I yield 2 minutes to the very able Senator from South Dakota [Mr. ABDNOR].

The PRESIDING OFFICER (Mr. BROYHILL). The Senator from South Dakota is recognized.

Mr. ABDNOR. I thank the chairman for yielding. I will be very brief.

Mr. President, the previous speaker, the gentleman who guided this clean water bill through the Senate and the conference committee, is far too modest. It is true that there are a lot of people who helped, particularly our full committee chairman and the very able staff of Senator CHAFEE, but I happen to know that a number of people said a week or so ago that this bill was dead, and they did not have

any hope for a final conference agreement on the Clean Water Act Amendments of 1986.

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How do I know? I know because I am the chairman of the Subcommittee on Water Resources that is conferencing the national water policy bill. As it often happens at the tail-end of a session, Members begin to look around for an opportunity to attach their legislation to another, nongermane bill.

This is exactly what happened as we tried to work out the differences between the House and Senate on the national water policy bill even as Members of both Houses were working to resolve their differences on the clean water bill.

I am happy to report that Senator CHAFEE has been successful in bringing his bill to the floor in final form. I am still striving to reach final agreement on my water policy bill so that it, too, may be passed in these closing days.

At one time we believed the conference report on the national water policy bill was more likely to be the first to reach the floor.

So it is a great credit to this gentleman. With the help, of course, of others he has developed a sound approach to addressing our remaining water pollution problems, whether they are the result of discharges from either point or nonpoint sources.

For this, I think, we all owe him a great deal of thanks. It is absolutely imperative that we pass this vital legislation. It is long overdue.

I join the other proponents of this legislation in urging our colleagues to say to Senator CHAFEE, Senator STAFFORD, and their fellow conferees, "It is a job well done," by voting to approve the Clean Water Act Amendments of 1986.

Mr. STAFFORD. I thank the very able Senator from South Dakota for his words.

In a very short minute we will be ready to yield back our time and vote on this issue.

But before we do that, in view of the kind things that have been said on both sides of the aisle, I do want to say as chairman of the Committee on Environment and Public Works that I have taken a great deal of pride in the work the committee has done this year on a bipartisan basis.

This really is one of a series of major pieces of legislation which thanks to the Senator from Rhode Island, the Senator from Maine, and Senator BENTSEN has been made possible. Much of the work that has made it possible has been accomplished in a bipartisan spirit by the Senators of the committee, including Senator ABDNOR, and as has been noted the very fine staff that has worked for the committee over the last several years.

One note of the fact that the staff has operated as well as the committee on a bipartisan basis is the fact I see in the back of the Chamber some of the Republican staff operators are seated with some of the Democratic staff operators which truly indicates a bipartisan support.

Mr. DURENBERGER. Mr. President, we have before us the third conference report on a major environmental bill in this session of the Congress. In May we sent the President a reauthorization of the Safe Drinking Water Act. Two weeks ago we were here on the floor with the conference report to reauthorize the Superfund Program. And tonight we will be concluding the legislative process on the Water Quality Act of 1986 which amends and extends the Clean Water Act protecting the surface waters of the Nation.

That we have been able to conclude work on these three major pieces of environmental legislation gives all of us a sense of accomplishment. And there may be more good news in the next few days. We may also add an omnibus water resources bill and a reauthorization of the Nation's pesticide law to this list of environmental achievements for the 99th Congress.

We are here tonight largely as a result of the tireless work of the distinguished Senator from Rhode Island [Mr. CHAFEE], who is chairman of the Environmental Pollution Subcommittee of the Senate. Along with Senator MITCHELL, the ranking member of the subcommittee, and Senator STAFFORD, the chairman of our full committee, the Senator from Rhode Island has spent long hours in hearings, markup and conference sessions and floor debate to bring this bill to this point in the legislative process. This is a major piece of legislation. It has been pending before the Congress for several years. And over that whole period, Senator CHAFEE, has been a consistent champion of the Nation's water resources. He has shown no inclination to compromise the goals of the Clean Water Act just to get a bill and tonight his dedication to those principles is rewarded with an excellent piece of legislation that adds much to a law which has already been quite effective in improving the quality of the Nations's surface waters.

Before turning to the substance of this legislation let me just mention the role of two of my fellow Minnesotans who serve in the other body and who were instrumental in developing this legislation. Both Congressman STANGELAND and Congressman OBERSTAR from Minnesota serve on the Water Resources Subcommittee of the House and were active members of the conference on this legislation. All of us from Minnesota are proud of the contribution they have made to this bill.

The principal feature of this bill is a reauthorization of the municipal wastewater treatment construction grants program. Title II of the Clean Water Act has provided more than $40 billion to the cities of our country to build sewage treatment systems over the past decade and one-half. We add another $18 billion to that commitment with the enactment of this bill. But we also begin the process of phasing out the construction grants program. During the phase down period, States will convert Federal grants into revolving loan programs so that Federal dollars can be recycled and will continue to protect the Nation's waters well into the future.

One controversial aspect of this legislation was the allocation formula for the construction grants program. In June of last year, when the Senate was considering this bill for the first time, I felt compelled to put together a coalition of members representing the Great Lakes States to protest the allocation formula that was included in the bill as reported by the Environment Committee.

The formula was grossly unfair to the Great Lakes States and would have threatened our efforts through the Water Quality Agreement of 1978, an international treaty with our closest friend in the community of nations, Canada, to restore and maintain the quality of the waters of this international treasure. I will have further comments on the Great Lakes at a later point in this statement, but for now let me simply say that I am very happy to tell the Senate tonight that the Senate provision on the construction grants allocation formula did not prevail in the conference.

The Senate was thoroughly whipped in the conference. We were so badly defeated, in fact, that my colleagues from the Great Lakes will be able to go home to their constituents and boast about this failure of the Senate. Each State in our region will lose only a small amount of funding as against the current formula, but in no case will it be more than 1 percent of the current allocation. These lost funds, amounting to approximately $18 million across the whole Nation, will be sent to Texas in what is best characterized as a compromise with political reality.

There are several other provisions of this legislation which should be mentioned in any thorough summary of its features: the Clean Lakes Program is reauthorized and extended to problems of acid mitigation for lakes damaged by acid rain; the bill contains a provision prohibiting backsliding from effluent limitations in existing permits; there is a new estuary program and a program to further the efforts to clean up the Chesapeake Bay; and we have established a new role for

Indian tribes in achieving the goals and requirements of the Clean Water Act.

There are three major provisions of the legislation relating to nonprofit sources of pollution, stormwater discharges and the Great Lakes which I will discuss at length this evening. Before doing so, let me, if I may Mr. President, make brief comment on the anti-backsliding provision of this legislation. The purpose of the anti-backsliding amendment is to assure that we keep the improvements in water quality that have already been accomplished under the act. I have listened to the description of this provision provided by the distinguished Chairman of our Committee, Senator STAFFORD, and am in complete accord with the statement he has made. There are exceptions to the anti-backsliding requirement, both for permits based on best practicable judgments and those based on water quality standards. But even with the exceptions, the intent and effect of the legislation is clear. Except in extraordinary circumstances those improvements in water quality which have been achieved as a result of permits issued under the Clean Water Act will be maintained and other factors including improvements in water quality due to additional efforts under the act, the promulgation of different and less stringent effluent guidelines, or other unrelated causes, cannot be used as a justification to shutdown pollution control technology that is in place and operating to meet effluent limitations in existing permits.

NONPOINT SOURCE POLLUTION

The legislation we are reporting today establishes a new program under the Clean Water Act to require development of management programs to control nonpoint source pollution.

The new section 319 of the act requires each State, individually or in combination with adjoining States, to submit a proposed nonpoint source pollution management program to the Administrator of the Environmental Protection Agency within 18 months of enactment of this legislation. These State programs will have seven principal elements.

First, they will identify waters within the State which are not expected to attain water quality standards or the goals of the Clean Water Act without control of nonpoint sources of pollution.

Second, the State programs will designate categories, subcategories, or particular nonpoint sources that contribute significant pollution to those waters.

Third, the State programs will identify best management practices, so-called BMP's which will be undertaken to reduce pollution in each category or subcategory taking into account the impact of the proposed practice on ground water quality.

Fourth, the programs will include nonregulatory or regulatory measures for enforcement, technical and financial assistance, education, training, technology transfer, and demonstration projects to assist in the development and implementation of BMP's.

Fifth, the programs will include a schedule containing annual milestones for utilization of the measures identified and implementation of the BMP's identified at the earliest practicable date.

Sixth, the programs will contain assurances that existing State laws are adequate to carry out the proposed program or contain a stated intent to seek additional needed authority together with a proposed schedule.

And finally, the State programs will identify Federal financial assistance programs and Federal development projects to be reviewed by the State for their consistency with its proposed program.

The provision that adjoining States may develop proposed programs together is intended to promote cooperative actions among States to deal with water quality problems in downstream States when those problems are, in part, a result of nonpoint source loading in upstream States. Downstream water quality problems may result from transboundary delivery of pollutants that are not sufficient to cause identification of the water body by the upstream State, but which nonetheless contribute substantially to water quality problems in the downstream State. Until those upstream sources of nonpoint pollution are brought into the program, the nonpoint source pollution problem in the downstream State may not be adequately addressed, as no measure of control applied in the downstream State will affect the pollution in the upstream State. In such cases, the upstream State may have little incentive to incur program costs that will result in water quality benefits primarily to the downstream State. The Administrator is given the authority to provide extra funding for such interstate cooperative efforts under the provisions of this act.

A joint or cooperative management program may also be appropriate when the affected water body is shared by more than one State, for instance, an estuary lying in two or more States or a lake or river that forms the boundary between two States.

In the conference, the Senate agreed to a House provision which provides for convening an interstate management conference when nonpoint pollution in one State causes water quality problems in another. Such conference can be convened at the request of a State or by the Administrator acting on information which is available. If the conference reaches any agreement with respect to reducing nonpoint pollution in the upstream State, the program of that State shall be modified to reflect the provisions of the agreement.

This legislation requires each State to identify those waters within its boundaries which, after implementation of point source controls, will not attain or maintain water quality standards or the goals and requirements in the act without controlling nonpoint sources of pollution. The State need not demonstrate that the nonpoint sources of pollution are the sole cause for the water quality standards are not being attained or maintained. The fact that the standards are not likely to be attained or maintained under existing conditions in the reasonably near future, and that there are loadings of pollutants from nonpoint sources of pollution that can reasonably be expected to be contributing to the water quality problems, should suffice for a State to identify such water under this act. In identifying such waters, the State should not focus only on the immediately adjacent waters to nonpoint sources, but also consider downstream segments, lakes, and other water bodies where such pollutants may accumulate and cause water degradation.

The reference both to water quality standards and to the goals and requirements of the Clean Water Act arises from the fact that not all water quality standards yet reflect the act's goals and requirements. In such cases, identification and control of nonpoint sources can contribute to improvement in water quality and upgrading of water quality standards.

In reference to specific nonpoint sources under section 319 the term "significant" is inserted to exclude trivial sources of pollutants or sources of pollutants which are not related to the water quality problems identified by the State program. The term "categories" in this subsection could include sources such as cropland, rangeland, pastureland, forestland, construction sites, industrial sites, mines, residential areas, streets, roads, highways, other developed land, and wild areas. Within each of these categories, subcategories can be defined on the basis of characteristics such as geographical location, type of activity, size of facility, topography, and other factors. The State has broad discretion to establish categories and subcategories that may be useful in terms of the types of nonpoint source pollution problems and the program that the State will implement to control them. However, the categorization must be sufficiently comprehensive to include all significant sources.

Particular nonpoint sources as referenced in this section could be identi-

fied when they, in and of themselves, are significant contributors of pollutants, or in some way are sufficiently unique that they cannot reasonably be included in one of the categories or subcategories.

The term best management practices is left undefined in this bill because of a concern that any definition would limit the States' flexibility and perhaps undercut existing programs in which best management practices have been identified, including conservation tillage, grassed waterways, cover crops, undisturbed field perimeters near waterways, and terracing. The selection of the appropriate BMP's in a particular instance would depend upon soil type, topography, desired crop, costs of implementation, and other factors. Simple and cost-free changes in agricultural practices, such as careful scheduling and application of fertilizer and pesticides, may reduce runoff of these pollutants thereby resulting in cost savings to the farmer.

Best management practices have also been identified for reducing runoff from urban areas including storm water containment structures construction areas including erosion barriers such as straw bales and dikes silviculture areas including careful road placement, culverting, grassing of abandoned roads and skid trails and grazing lands including herd and vegetation management.

States are required to consider the impact of management practices on ground water quality. Because of the intimate hydrologic relationship that often exists between surface and ground water, it is possible that measures taken to reduce runoff of surface water containing contaminants may increase transport of these contaminants to ground water. The State should be aware of this possibility when defining beat management practices especially in aquifer recharge areas.

Mr. President, this legislation allows a State great flexibility to design a management program containing regulatory or nonregulatory components, or a mixture of the two. The list of possible program elements is not intended to be exclusive. It is expected that States will differ in the program strategies they adopt. However, a State program must have a clear purpose which is to achieve implementation of best management practices by the identified sources as soon as practicable so as to reduce nonpoint pollutant loadings and improve water quality within that State. The State is expected to demonstrate that its management program will provide reasonable assurance that appropriate control measure will actually be adopted by the categories, subcategories and specific sources identified in the State's program. Further, the State is required to commit itself to a schedule containing milestones for implementation of BMP's by such source. This is a requirement that the State take responsibility for the effectiveness of its program in terms of implementing the best management practices by sources, as distinct from merely committing to carry out its identified program activities. The Administrator, in awarding subsequent program grants must consider the State's record in meeting these commitments and determine that the State is satisfactory implementing its program.

Milestones for both program implementation and the implementation of best management practices by sources must be established to provide for implementation at the earliest practicable date. This requirement reflects the importance of the nonpoint source pollution problem and is intended to demonstrate congressional intent that BMP's be implemented expeditiously. Consistent with this general requirement, States may establish different milestones for different categories of sources. No single date or statutory schedule is included in order to allow the State to take account of variations in the number and types of sources and pollutant reductions. Similarly, different States may commit to different schedules based on characteristics of the Senate program.

In the new section 319, the term "as expeditiously as practicable" takes into account the current laws of the State or local governments and the schedule for meetings of the legislature, but indicates that, taking account of these factors, the needed authorities will be adopted as soon as possible.

The bill also vests authority with the States to identify Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications and development projects for their effect on water quality to determine if they are consistent with the State's nonpoint source pollution management program.

This subsection is based on the provisions of Executive Order 12372. This Executive order, issued by President Reagan, replaces OMB Circular A-95 and establishes procedures by which State authorities may comment upon applications for Federal assistance and Federal development projects to assure that the federally supported activities and projects are consistent with State needs and objectives. This bill assures that the provisions of the Executive order, as in effect on September 17, 1983, will be applicable to the State's implementation of this review process, with respect to its nonpoint source management program, regardless of any subsequent revisions of the Executive order. The bill also allows States to designate any Federal assistance program or development project listed in the most recent Catalog of Federal Domestic Assistance, rather than just those programs and projects subject to the current Executive Order 12372. The purpose of this provision is to allow the State's to review any Federal program or project that the State determines needs to be reviewed for consistency with its nonpoint management program. This provision builds upon established procedures for State review of Federal activities. It will provide the States with an important tool to assure that proposed Federal assistance and development projects are implemented in a manner which the State deems consistent with its nonpoint source pollution management program.

In developing its program the States may use information developed under other pertinent sections of the Clean Water Act in the development of their programs, particularly the section 208(b) waste treatment management plans, if the State determines those plans to be consistent with the goals and objectives of this new section. States may also cooperate with local agencies or organizations in the development and implementation of their programs. This would include agencies receiving funding under section 205(j) of the Clean Water Act and soil conservation districts.

In many cases, information and institutional relationships developed under the section 208 planning process will be relevant to, and consistent with, the requirements and objectives of this bill. Many States relied upon regional organizations and the section 208 planning process to gather needed data about nonpoint source pollution and to promote local and regional cooperative pollution control efforts. The States are encouraged to build upon these program elements in constructing the program required by this bill. However, the bill does not require the use of section 208 plans or local agencies and organizations because some State programs have evolved well beyond the section 208 planning effort, and also because some States gave inadequate or inappropriate attention to nonpoint sources in their 208 plans. In any case, the State has the flexibility to select the program elements that will most effectively fulfill the requirements and objectives of this bill.

The States are authorized to develop their programs on a watershed-by-watershed basis as is appropriate in a program that focuses on water bodies or segments which are not meeting water quality standards. However, this provision should not result in fragmented programs farmed out to local agencies or organizations. We are establishing State programs in this section and expect central, policy-setting direction from the States in imple-

menting this program. In that regard, Mr. President, I would highlight a significant difference between the House and Senate bills. The House bill would have allowed the States to develop narrow programs for particular watersheds or categories of nonpoint pollution and satisfy the requirements of the legislation. The Senate bill included a broader scope—a full scope—including all water bodies within a State exhibiting nonpoint problems and all categories and subcategories contributing to those problems. The conference adopted the Senate approach.

As with any cooperative Federal-State program this legislation includes procedures for review and approval of the State program. The Administrator shall decide whether to approve or disapprove a State program within a 6-month period after it is received. If the Administrator determines that it does not comply with the requirements of this act, he must notify the State of any modifications necessary to obtain approval. The State is then given 3 additional months to submit a revised program, to be approved or disapproved by the Administrator. If the Administrator determines that a State management program meets certain requirements he will approve the program. Under the Senate legislation the Administrator was to examine the State program to assure that the seven elements which I described earlier are included. Under the House legislation the Administrator was also required to determine that the State program would meet the goals and requirements of the Clean Water Act, would improve water quality within the State, would reduce pollutant loadings from nonpoint sources and that there would be sufficient resources and authority at the State level to implement the program. The conference report adopts both the House and Senate criteria for reviewing and approving or disapproving State programs.

If the Administrator fails either to approve or request modification of a submitted State program within 6 months of receipt, the program is deemed to be approved. Likewise, if the Administrator fails to approve or disapprove a program revised at his request within 3 months of receipt, such a revised program is deemed to be approved. This provision is intended to assure that implementation of programs to control nonpoint sources of pollution are not delayed because of inaction on the part of the Administrator.

In determining whether the proposed program meets the requirements and objectives of the Clean Water Act, the Administrator should take into account any public comments he has received, including those of downstream States that may be affected by the program. The Administrator's review should involve considerably more than a checklist of required program elements. Under the legislation reported by the conference, the Administrator must review submitted programs in light of the goals of the Clean Water Act and the purpose of this new section which is to achieve reduction of nonpoint source pollutant loadings by the implementation of best management practices by sources and to do so at the earliest practicable date. Before approving the program and awarding Federal grants to support its implementation, the Administrator must be persuaded that the program is capable of meeting the objectives.

If a State fails to submit a nonpoint source management program consistent with the new section 319, the Administrator is to carry out some requirements of the act on behalf of that State. The Administrator is thus required to identify waters within the noncomplying State exhibiting nonpoint pollution problems and designate categories or subcategories of significant contributors to that pollution. Any actions of the Administrator pursuant to this subsection shall be reported to Congress.

Subsection (h), (i), and (j) of the new section 319 authorize Federal grants to States to assist in implementing approved management programs and authorizes funds to be appropriated to the Environmental Protection Agency for the administration of this program. The Federal grants are not to exceed 60 percent of the costs of implementing the management program of any State. Non-Federal funds must be equal to at least 40 percent of the costs of each State program. This requirement will ensure adequate State financial involvement while providing necessary Federal financial assistance.

The Senate bill contained a formula for the distribution of the authorized funds. The House bill did not. The conference report deletes the legislated formula. The Administrator is to determine the apportionment of funds among the States according to the needs of the States reflected in reports on the extent of nonpoint pollution problems and the quality and promptness of State programs to control nonpoint sources.

The legislation provides financial incentives to States to implement programs that address particularly difficult nonpoint source pollution problems. In such cases, the environmental benefits from controlling the pollution may be large, but the State may be reluctant to devote a disproportionate amount of its program funds to such problems. The Administrator is expected to use the authorized funds to achieve more effectively the objectives and requirements of this act. Additional funding to States with particularly difficult problems will result in more expeditious implementation schedules and more rapid reduction in nonpoint source pollutant loadings.

Interstate nonpoint source pollution problems may be difficult because the program costs to control the pollution may accrue mostly to the State while the environmental benefits accrue mostly to another. In such cases, the Administrator may supply additional discretionary grants to the appropriate State, or may provide additional funding to a joint or cooperative interstate program.

In addition, these funds may be used to assess the relationship between nonpoint source pollution and ground water quality. The conference report includes a provision of the House amendment which authorizes the Administrator to makes grants to States with approved nonpoint programs to protect ground water resources from nonpoint sources of contamination.

The conference report provides that any funds not obligated in the fiscal year for which they were appropriated shall be reallotted among the States in the following fiscal year.

The new section 319 provides that States may use Federal funds authorized by this bill for financial assistance to persons only insofar as the assistance is related to costs of implementing demonstration projects. These Federal funds are not to be used as a general subsidy or for general cost sharing to support implementation of best management practices by persons. However, a State is not precluded from using or directing other funds for cost sharing or other incentive programs if it so chooses.

The term "demonstration projects" includes projects designed to educate persons about the application of best management practices and to demonstrate their feasibility and utility as well as research projects to establish the feasibility or cost effectiveness of best management practices.

Initial program grants are required to be awarded to States whose programs are approved by the Administrator. Subsequent grants can only be made if the Administrator so determines that the State is satisfactorily implementing its management program consistent with its commitments to schedules and milestones. This annual review and determination is important to assure that States are effectively implementing their programs and that Federal funds obligated under this section are being used to achieve the goals and requirements of this Clean Water Act.

The conference report authorizes four years of funding for the nonpoint program: $70 million for fiscal year 1987; $100 million for fiscal year 1988; $100 million for fiscal year 1989 and $130 million for fiscal year 1990. These funds are authorized to be appropri-

ated for grants to the several States pursuant to the provisions of this section and for the payment of salaries and expenses of the Environmental Protection Agency necessary to administer the Agency's obligations under this new section.

Additional funding for the program is provided through set asides of funds that the States would otherwise receive under title II of the Clean Water Act. One percent or $100,000 of the construction grant funds allocated to each State shall be used to develop and implement this new nonpoint pollution program. In addition, nonpoint source control efforts may be financed by the Governor's discretionary set aside which is 20 percent of the construction grants funds.

The conference agreement requires each State to submit an annual report to the Administrator on its progress in meeting the schedule of milestones in its program and reductions in nonpoint source polluant loading and improvements in water quality resulting from implementation of the management program.

The Administrator is required to transmit to the Office of Management and Budget and appropriate Federal agencies a list of the assistance programs and development projects which each State has identified for review pursuant to the authority of this bill. Beginning no later than 60 days thereafter each Federal agency is required to amend applicable regulations so that individual assistance applications and projects for the identified programs and development projects are submitted for State review. The appropriate agencies and departments of the Federal Government are required to accommodate, according to the requirements and definitions of Executive Order 12372, as in effect on September 17, 1983, concerns the State may express about consistency of assisted projects or activities with the State's Nonpoint Source Pollution Management Program.

The intent of this provision was explained partially in the comments I made a moment ago with respect to State responsibilities under this new section. Where the earlier subsection authorized the State to identify Federal programs and development projects for review, this subsection establishes the Federal responsibilities in response to such identifications by the States.

The purpose of the State review is to assure consistency of these Federal Activities with the State's Nonpoint Source Management Program. If the State expresses a concern about consistency, the Federal agency is required to accommodate the State's concerns according to the requirements and definitions of Executive Order 12372 as in effect on September 17, 1983. The intent, therefore, is not to invent new procedures for Federal/State coordination, but rather to incorporate existing procedures by reference in the Clean Water Act. This is an important provision because, without adequate State review, Federal activities over which the State has no direct authority could undercut its program and its water quality goals, possibly jeopardizing the State's ability to meet its program commitments under this section.

It is important that we clarify the meaning of the term "accommodate" in this context. It is a term of art. It means that any project proposed to be developed by a Federal agency or for which any person is seeking assistance must be in conformance with State views, policies, regulations, and laws. If a State objects to any aspect of a proposed project, then that aspect must be modified to reflect the view communicated by the State. Accommodate means modify to take into account concerns expressed by a State or local government in the review process so as to satisfy and remove those concerns.

The Administrator is to establish an information clearinghouse for information pertaining to the costs and relative efficiencies of best management practices and the relationship between water quality improvement and the implementation of various practices. The purpose of this provision is to promote information sharing among the States and to provide the basis for technical assistance to State programs.

The Administrator is required not later than January 1, 1990, to submit to Congress a report, based on information submitted by the States and such other information as appropriate, describing the management programs being implemented by the States and their experience in adhering to schedules and implementing best management practices. This report must also describe the amount and purpose of grants awarded under this program; identify the progress made in reducing pollutant loads and improving water quality; and indicate what further actions need to be taken to reduce nonpoint source pollution in the context of the program.

The purpose of this report is to give Congress the information it will need to determine whether the approach taken in this legislation is adequate. This report will document the progress made under this approach and will provide information that will help determine the necessity of future statutory revisions.

Mr. President, this new section 319 represents a first step in controlling pollution from nonpoint sources. We have been persuaded to take a path somewhat different from that taken for point sources. States are given flexibility to identify priorities. And based on commitments made in this legislative cycle, it is the expectation of the Congress that this program will result in a significant improvement in water quality and nationwide reductions in pollutant loadings from nonpoint sources. We will, of course, revisit this question in the next legislative cycle on the Clean Water Act. We will not find this program adequate, if real improvement in water quality has not occurred. We are not so much interested in elements of a State program as we are concerned with meeting the goals and objectives of the Clean Water Act.

The bill requires the Administrator to enter into agreements with the Secretaries of Agriculture, Interior, and Army and the heads of other appropriate departments and agencies to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this act. This amendment would establish the same requirement in terms of management programs developed pursuant to the new section 319. Mr. President, I am especially interested in assuring that EPA and USDA make full use of the authority in this provision. Each year we spend hundreds of millions of dollars through USDA soil and water conservation programs. In the past, these soil conservation efforts have not given sufficient priority to improvements in water quality. It is the expectation of the conference that this provision will give rise to a memorandum of understanding between EPA and USDA which will significantly elevate the priority assigned to water quality protection in projects assisted by the USDA soil and water conservation programs.

As I said a moment ago, Mr. President, the Administrator is directed to reserve 1 percent of a State allocation under section 205(c) or $100,000, whichever is greater for purposes of carrying out the provisions of this nonpoint program in that State. The State may request the use of any amount of the amount reserved by the Administrator. If the State identifies an amount less than the full reserved amount but greater than $100,000, the State may use remaining reserved funds for other purposes under title II of the act. For example, the State would be able to use the funds for direct grants to municipalities for construction of treatment works. The Administrator may establish such administrative and procedural requirements as necessary to assure that funds available to States under this section and section 319 are properly coordinated. Further, the Administrator may require a single application for grants under this section and section 319.

Grants under section 205(j)(5) shall meet the Federal and non-Federal cost-sharing requirement set forth under section 319. In management of funds under this subsection, however, the Administrator shall not withhold any portion of funds to support special programs.

These funds are intended to be a supplement to the funds authorized by section 319, not to replace them. It is essential that adequate section 319 funds be appropriated in order to assure the development of a strong foundation of nonpoint management plans. In the event section 319 funds are not appropriated, the funds reserved under this subsection will permit modest nonpoint programs to be developed. However, the funds made available by this provision alone are too meager to support the level of program development that is needed to effectively and adequately manage nonpoint source pollution.

Mr. President, finally let me say that this new program to control nonpoint pollution is an addition to the Clean Water Act and not a substitute for the point source programs already in place under the act. As a nation we have made great progess in reducing the pollution of our surface waters. Much of the work that remains to be done is on the nonpoint side. And we begin that work here. But this is not an excuse to reduce the effort or relax the requirements on the point source side. Reductions in pollution already achieved through point source controls are to be maintained. Point sources not yet in compliance with the law are to be pursued. And on top of that effort we now have a nonpoint program that will bring us much closer to the goal of the Clean Water Act—to eliminate the discharge of pollutants into the Nation's waters.

STORMWATER RUNOFF

Runoff from municipal separate storm sewers and industrial sites contains significant volumes of both toxic and conventional pollutants. EPA's national urban runoff study found 63 toxic pollutants, including all 13 toxic metals, in the discharge from municipal separate storm sewers. Of these, lead, copper, and zinc were the most pervasive; EPA found these pollutants in at least 91 percent of its samples. The same study also estimated that municipal separate storm sewers discharge 10 times the total suspended solids that the Nation's secondary sewage treatment plants discharge.

Toxic and conventional stormwater contaminants may adversely affect public health, harm fish and other aquatic species, and prevent or retard water quality improvements even if the best available pollution controls are installed on other point sources.

The Federal Water Pollution Control Act of 1972 required all point sources, including stormwater dischargers, to apply for NPDES permits within 180 days of enactment by 1973. Despite this clear directive, EPA has failed to require most stormwater point sources to apply for permits which would control the pollutants in their discharge.

The conference bill therefore includes provisions which address industrial, municipal, and other stormwater point sources. I sponsored this provision because I believe that it is critical for the Environmental Protection Agency to begin addressing this serious environmental problem.

The bill establishes priorities, deadlines, and permit requirements for stormwater point sources. It affords municipal and nonindustrial dischargers some relief from the act's 1973 permit application deadline.

With respect to municipal separate storm sewers, the bill establishes three permitting priorities: First, those systems serving a population of 250,000 or more; second, those which contribute pollutants to a stream segment which does not attain or maintain a water quality standard; and third, those which are a significant contributor of pollutants to any waters of the United States. If a municipal separate storm sewer or storm sewer system meets any of these criteria, EPA or the State, where the State administers the NPDES Permit Program, must require the source to apply for a permit within 3 years of enactment. EPA or the State should use any available water quality or sampling data to determine whether the latter two criteria are met, and should require additional sampling as necessary to determine whether or not these criteria are met.

If a source is required to obtain a permit, EPA or the State must also act to issue or deny the permit application within 1 year of the application deadline. If no permit application is submitted by the deadline, or if the submitted application is denied, EPA or the State must commence immediate enforcement action against the discharger.

A permit for a municipal separate storm sewer may, where appropriate, be issued on a system or jurisdiction-wide basis for example, where all outfalls discharge to the same body of water. In writing any permit for a municipal separate storm sewer, EPA or the State should pay particular attention to the nature and uses of the drainage area and the location of any industrial facility, open dump, landfill, or hazardous waste treatment, storage, or disposal facility which may contribute pollutants to the discharge. Any such permit shall include a requirement to prohibit effectively nonstormwater discharges to municipal separate storm sewers. Any such nonstormwater discharges to municipal separate storm sewers are currently illegal under the act.

In addition, any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years from permit issuance and shall require controls to reduce the discharge of pollutants to the maximum extent practicable. Such controls include management practices, control techniques and systems, design and engineering methods, and such other provisions, as the Administrator determines appropriate for the control of pollutants in the stormwater discharge.

These requirements place EPA on an action program to control municipal separate storm sewers. Within 4 years of enactment or earlier if the water quality data warrants EPA shall commence control of storm sewer systems serving a population between 100,000 and 250,000. The latter provision reflects the continuing need to control these storm sewers, but gives EPA flexibility, in the first 4 years after enactment, to order its permitting priorities around those sources which are believed to be the most significant. However, it should be clear that storm sewer systems serving populations of 100,000 or less must be covered by the first round of permits where they contribute to water quality exceedance or significantly contribute pollutants to waters of the United States.

Finally, after October 1, 1992, all remaining, unpermitted stormwater point sources will return to current law status and will be required to obtain permits under section 402 of this act. Obviously, Congress will be taking another look at this whole question before and will be informed by the experience with stormwater controls which have been established under the provisions we adopt here.

EPA or the State, where appropriate should provide adequate opportunity for public participation in the development of any permit for a stormwater point source.

The bill also requires EPA to submit to Congress a study of any stormwater discharge or class of discharges which are not required to obtain a permit within the first 6 years of enactment. This study must determine, to the maximum extent practicable, the nature and extent of pollutants in such discharges and procedures and methods to control such discharges. This study will enable Congress to determine whether permitting of the remaining stormwater point sources should be expedited beyond the schedule provided in this bill.

GREAT LAKES

Mr. President, the Great Lakes are the heart of our continent. Over the last 200 years they have been the focal point for development of two great nations. They have been the source of food and drinking water. Today 26 million Americans drink water from the

Great Lakes. They are a mode of transportation. They are a reservoir of power and a vast resource for recreation and wildlife; 63 million Americans visit a park on the shores of the lakes each year.

All of these demands have taken their toll. The water quality of the lakes had declined sharply. Unfortunately, the natural unity of the lakes has been overlaid by a fragmentation of State and local governments that have been unable to organize people to protect what nature has provided.

In 1972 and again in 1978, the United States and Canada signed Great Lakes water quality agreements. These agreements require the United States and Canada to provide adequate wastewater treatment facilities for the sewered population on both sides of the border. Canada has met this requirement for 99 percent of its population. At last count, the United States was less than two-thirds of the way there.

In 1982 the General Accounting Office published a report on United States compliance with the Great Lakes Water Quality Agreement of 1978, an agreement with Canada that specifies detailed water pollution control goals. The report concluded that the United States is failing to meet its commitments, especially with respect to toxic chemicals and nonpoint source pollution. This is due in part to the absence of a comprehensive U.S. strategy to implement the Great Lakes Water Quality Agreement. We intend to correct that failing with this provision.

Mr. Presidsnt, the legislation reported by the conference contains at section 104 a new program to restore and maintain the quality of the waters in the Great Lakes. This program owes much to the work of the Senator from Wisconsin, Mr. KASTEN, and was sponsored in committee by the Senator from New York, Mr. MOYNIHAN, and myself.

The conference report contains a statement of purpose. The objective of this new provision of the Clean Water Act is to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978. The legislation establishes the Great Lakes National Program Office within the Environmental Protection Agency and specifies the duties and responsibilities of the program office.

The program office is to: Develop and implement action plans to carry out the duties of the United States under the Great Lakes Water Quality Agreement of 1978; establish a systemwide surveillance network; coordinate the activities of the Environmental Protection Agency with respect to the Great Lakes; and to work with other Federal agencies to achieve the objectives of the agreement.

The program office will develop a 5-year plan for reducing the amount of nutrients that enter into the Great Lakes and shall incorporate into that plan management programs for nonpoint sources of pollution developed pursuant to the new section 319 of this act.

The program office is to conduct a 5-year study of methods to remove toxic pollutants from the Great Lakes with emphasis on the removal of toxic pollutants from bottom sediments. Certain demonstration projects at specific sites are mentioned in the legislation. These projects are to be given high priority, but the Administrator is authorized to find other projects and this section is not a guarantee that those specific projects will be funded.

The annual budget submission of the Agency to the Congress is to include a line item for the Great Lakes Program Office. At the end of each fiscal year the Administrator is to submit to the Congress a comprehensive report on the achievements of the program office during the preceding fiscal year.

The conference substitute establishes a Great Lakes Research Office in the National Oceanic and Atmospheric Administration. The research office is to identify issues with respect to Great Lakes water quality on which research is needed and is to compile an inventory of ongoing research on those questions. The research office is to develop a comprehensive data base for the Great Lakes System and may conduct research and monitoring activities.

For each fiscal year the program office and the research office are to prepare a joint research program. The head of each Federal department, agency or instrumentality which is engaged in programs or activities which may have an impact on the quality of the Great Lakes shall submit an annual report to the Administrator of the Environmental Protection Agency with respect to those activities and their effect on compliance with the Great Lakes Water Quality Agreement of 1978.

The conference substitute provides an authorization to the Administrator of the Environmental Protection Agency of $11,000,000 for each of the fiscal years 1987 through 1991 to carry out the provisions of this section. Of the amounts appropriated, 40 percent is to be used by the program office to demonstrate the control and removal of toxic pollutants; 7 percent is to be used for nutrient monitoring; and 30 percent is to be transferred to the research office for its programs.

Mr. SIMPSON. Mr. President, I am pleased to support the reauthoriztion package of the Clean Water Act embodied in the conference report. Having been involved in the reauthorization process over the past 2 years, I have been impressed not only by the commitment of Senator CHAFEE, who ably led our work, but also by the willingness of both House and Senate conferees to work hard toward necessary compromises.

This year has been a landmark year for environmental legislation. We have seen the Senate pass a new Superfund, reauthorize the Clean Water Act, and pass an asbestos-in-schools bill. In addition, we have passed and the President has signed a reauthorization of the Safe Drinking Water Act.

I was pleased to be a member of the Clean Water Act conference committee and I trust the White House will sign this bill into law. We have made great progress in the past decade in cleaning up this Nation's streams and lakes. Many waters that were polluted years ago are now fishable and swimmable and we must continue to make diligent efforts to ensure that more lakes and streams are cleaned up and that the pristine waters we have in the West remain pristine.

Of course, the greatest compromise is that which the Congress has now struck with the White House: The administration has won its battle to phase out the predominant Federal role in financing construction grants. This is a major accomplishment on the part of the administration, and I believe it is in the national interest to move toward innovative financing mechanisms deriving their support, as far as possible, from the people who will benefit most directly from the new water treatment works. This bill does just that, and it does so while providing for proper adjustment for communities which may not have taken full advantage of the Federal aid available in the past.

The conference deleted several troublesome provisions, such as the section entitled "preservation of other rights" in the Senate bill, which could have led to some foreseeable as well as perhaps some unintended disruptions of the Nation's State-Federal partnership in water quality control and permitting. There are a number of very delicate yet critical questions concerning intergovernmental relations in water quality regulation, and I am pleased that the U.S. Supreme Court will take an opportunity in this term to wrestle with conflicting circuit court opinions concerning the laws applicable in cases where affected parties in downstream States are alleging harm from permitted discharges in upstream States. Along with other members of the Environment and Public Works Committee, I will anticipate and carefully examine the court's ultimate holding in International Paper versus Quelette, which is to be handed down early next year.

For the first time we have included a provision in the Clean Water Act re-

lated to "nonpoint" source pollution that comes from farm lands, timber operations, and other sources of runoff which are not considered "point" sources. All of us Western and Midwestern Senators worked extremely hard to ensure that we were not beginning a new full fledged regulatory program in this regard. Instead, we provided for a voluntary program were States may participate if they so desire. When States choose to participate in the nonpoint source program they will become eligible for grants to carry out nonpoint demonstration and education programs. If States do not choose to participate in the program the only penalty is the lack of Federal funds for nonpoint demonstration projects.

I believe some clarification is needed for a subsection in the nonpoint provision relating to interstate conferences. The statute allows downstream States to petition the EPA Administrator to convene a management conference of all States affected by pollution from nonpoint sources in another State. However, States are not required to participate in these management conferences. There is no penalty for not participating in such management conferences. If States do choose to participate in a management conference that the Administrator would convene, the States are not required to agree to any changes in their nonpoint source programs. If States do not agree to make changes in their nonpoint source programs, there is no penalty for this inattention of action.

The participation in interstate management conferences is totally voluntary, as are any agreements. The conferees discussed this provision at length and it was determined that management conferences would be provided as a vehicle for States to use in discussing pollution of a nonpoint nature that occurs in adjacent States. The statute is very clear that there is no "forcing mechanism," nor is there a provision for penalties for States that do not wish to participate or for States that participate but do not wish to make agreements with other States.

If a State chooses to reach an agreement with other States it is then expected that changes in that State's nonpoint pollution plan will reflect those agreements in the future. Where States are participating in a Federal nonpoint grant program, in no case will the grant moneys be withheld because a State refuses to participate in a mangement conference, or refuses to reach agreements with other States in such a management conference.

In addition, nothing in any agreements reached at a management conference shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees or State water laws, nor shall these agreements apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. This would include naturally occurring salts and other solids covered by the Colorado River Basin Salinity Control Act.

The nonpoint source pollution control program was formulated in such a manner that EPA would be granted great latitude in approving State management plans. Nonpoint pollution varies greatly from State-to-State and programs to control this pollution will also vary greatly. Therefore, EPA has the flexibility and authority to approve plans with varying complexity.

It should also be pointed out that the zero discharge goal listed under the Clean Water Act does not apply to nonpoint source pollution since this goal relates to point sources only.

This authorization of the Clean Water Act also contains provisions often referred to as antibacksliding sections. Deletion of House section 402(p)(2)(E) is not intended to prevent permittees that have a zero discharge limitation from successfully having their permits modified to allow discharges if it is found that the operation and maintenance costs of zero discharge were considered and rejected during guideline development as being excessive.

For example, if a general permit required reinjection of produced waters in an oil and gas operation and subsequent promulgated guidelines rejected this technology because its operation and maintenance costs are excessive, such general permits could then be modified based upon new information, such as the operation and maintenance costs. Similarly, if a general permit limitation had the practical effect of prohibiting discharges, such as compliance with overly stringent toxicity limitations on drilling fluids as subsequently promulgated guidelines establish less stringent limitations, this limit could be modified under the act.

The conferees also considered a series of issues related to the role of Indian tribes under the Clean Water Act. On the issue of authority under section 303, there are questions similar to those in the interstate arena, concerning the relationship between water quality standards and permitting by tribal governments and how they might be reconciled, where necessary, with those set by States. Our agreement includes direction to the Environmental Protection Agency to develop a mechanism for dispute resolution in this context, as well as a requirement that certain factors be explicitly included in the disposition of all situations requiring resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes on common bodies of water. The factors that must be considered, in addition to other relevant factors, include the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards.

As a Senator most deeply involved in developing the conference report language in this area, I am convinced that a workable situation will result from the application of this provision. In addition to the specific factors to be included in the resolution of such cases—factors which I believe will provide assurance to States and citizens concerned with the effects of new authority being granted to tribal Government—we have provided that the mechanism be used to resolve "any unreasonable consequences" that may arise from differing water quality standards adopted by tribal governments. The term "any unreasonable consequences" is necessarily broad, and the intention of the conferees in including this term is to have the dispute resolution mechanism—which includes the specified factors—triggered by a low threshold. This will serve the interests of the tribal governments and others who share in the hope that the Indian tribes provisions in this legislation can be made to work well.

With regard to sections dealing with fundamentally different factors [FDF], I find it curious that the oil and gas industry is being subjected to FDF regularly approaches that are different in different EPA regions. For instance, EPA regions IX and X have issued general permits covering numerous offshore facilities which provide for the discharge of EPA approved muds and additives. While EPA regions IV and VI have also issued general permits, they reject this approach and require muds and additives to meet certain toxicity base limitations. The difference between these approaches is that one sets up an end-of-pipe numeric limitation whereas the other controls what can be put into the pipe and later discharged.

There are other differences between EPA regions as well. Drilling muds and additives are subject to high pressure and temperature conditions down hole and frequently pick up materials from geologic zones drilled through. The existence of these factors and their precise affect upon toxicity results is little known at the present time because of antagonistic and synergistic affects. So we can see that one operator could use certain drilling muds and additives and find out weeks later that his discharge violated the end-of-pipe numeric limits whereas a second operator could use the very same drilling fluids and additives and satisfy the

same limit because of different underground conditions.

My hope is that EPA will correct this unfairness and adopt a logical, consistent, and common sense approach to regulating the discharges such as the approach being implemented by regions IX and X. I know of no persuasive reason why this should not be pursued by other EPA regions or why it should not be an essential element of EPA's soon to be promulgated effluent guidelines for this industry.

With regard to the intent of section 306(c), it appears that subsection (1) excludes from the provisions of 40 CFR, part 418, four facilities located in Louisiana. Subsection (2) requires that EPA expeditiously, but not later than 180 days after the effective date, issue permits based on best professional judgment under section 402(a) of the act for these facilities. If EPA decides, after the date of enactment, to promulgate new effluent limitations guidelines for the facilities subject to the provisions of subsections (1) and (2) the BPJ permits will remain in effect until issuance of new permits under the new effluent limitations guidelines.

In conclusion, I would like to thank my fine friend and dogged worker, Senator CHAFEE for his fine efforts during the Clean Water Act conference. I would also like to thank the very capable Senator BENTSEN for his role in the conference as well. Without the efforts of these two hard working Senators we would not be considering this conference report today.

Mr. ABDNOR. Mr. President, will the Senator yield?

Mr. STAFFORD. I am glad to yield to the Senator from South Dakota.

Mr. ABDNOR. I thank the Senator for yielding.

INDIAN TRIBES AMENDMENT

Mr. HART. Mr. President, I would like to engage several of my distinguished colleagues, including the chairman of the Clean Water Conference Committee, in a discussion of the amendments to this bill intended to help Indian tribes address their water quality problems. There is an urgent need for attention and assistance directed toward correcting problems which exist on a significant number of Indian reservations regarding insufficient sewage treatment works and lack of capability to implement programs to protect water quality. Indian tribes, by reason of their inherent sovereignty, have always had the legal authority to protect their reservation environments but have never truly had access to much needed technical assistance and program funding from the Environmental Protection Agency under the statute to effectuate this authority. This amendment is intended to integrate tribal and village governments within the programs of the act so that Indian and native waters will receive the same protection which is afforded non-Indian waters. Mr. President, I think the United States has a trust responsibility to help the Indian people remedy water quality problems, and that was my primary interest in originally cosponsoring this amendment to the Clean Water Act. I know the Ute Mountain Ute Tribe in my own State of Colorado is very grateful for this much needed amendment and is looking forward to alleviating sewage problems and developing program capabilities in cooperation with the EPA.

Mr. CHAFEE. I agree with my able colleague that we do have such a responsibility to the Indian people and expect that the amendment will focus the efforts of EPA, the Indian Health Service, the Bureau of Indian Affairs and other relevant agencies in aiding Indian tribes and native villages to improve their sewage treatment facilities and to protect the quality of their waters.

Mr. ABDNOR. Mr. President, I believe that significant progress will be made toward these objectives by providing the EPA Administrator the authority to treat Indian tribes as States under the act and to provide such tribes grant and contract assistance to carry out functions provided by this title. The EPA is also given discretion to find an alternative means of meeting the purposes of the act if treating a tribe as a State would be inappropriate. Moreover, consistent with the policy of Indian self-determination, the EPA should encourage the tribes, particularly in the area of construction of waste water facilities, to do as much of the work as is practicable on their own or under contract with the EPA.

The Indian sewage assessment required of EPA will serve as an important foundation of information for determining assistance priorities and charting progress. This survey is to be a thorough accounting of sewage problems for each Indian reservation or community.

Mr. BURDICK. As another of the original cosponsors of these amendments, I believe one of the principal ways in which problems will be effectively addressed is through the provision of grants to tribes to implement the requirements of the act. I want to underscore the fact that the administration is not restricted to matching grants in the case of Indian tribes. The tribes I represent in North Dakota could not afford to develop these problems if they were required to provide matching funds.

Mr. CHAFEE. I thank the Senator from North Dakota for making this point. The conferees recognized that many tribal governments, unlike State governments, do not yet have a regulatory program base, an underlying financial and budgetary foundation or a supporting tax infrastructure which could be used in cost-sharing on these programs. Furthermore, funding assistance priorities should be established according to the severity of the problems identified in the EPA survey.

Mr. BURDICK. Another key aspect of these amendments is the earmarking of construction grants for use by Indian tribes to improve the operation of their sewage systems. One-half percent of these funds are set aside for this purpose.

Mr. CHAFEE. I thank the Senator from North Dakota for his comments and join with him and Senators HART, ABDNOR, and ARMSTRONG in expressing strong interest in seeing that these amendments result in improved water quality for Indian tribes.

Mr. ABDNOR. Mr. President, I also wish to commend Senator MITCHELL and Senator BENTSEN, the distinguished ranking minority members of the subcommittee and full committee, respectively, for their tireless efforts in bringing about this excellent conference agreement. They, too, deserve our thanks.

Mr. President, I rise in strong support of the conference report on S. 1128, the Clean Water Act Amendments of 1986.

As a member of the Committee on Environment and Public Works, I was pleased to participate in the development of this significant environmental legislation. Of special interest to me, and included in this conference report, are vital new provisions to address nonpoint source pollution and water pollution problems on Indian lands.

Additionally, I remain committed to facilitating continued improvement in the quality of our Nation's waters through wastewater treatment grants. In my own State of South Dakota, these grants have proved invaluable to many of the larger communities' efforts to improve their water quality. With the 3-year extension of wastewater treatment grants contained in this conference report, at an authorization level of $2.4 billion per year, a number of South Dakota's smaller communities will now have the opportunity to make similar progress.

Mr. President, we would not be here today were it not for the efforts of the distinguished chairman of the Environmental Pollution Subcommittee, Senator CHAFEE. As the distinguished chairman of the full committee and others have stated, the Senator from Rhode Island is a valued member of our committee. We owe him a debt of gratitude for enabling us to reach this point.

In conclusion, I wish to express my strong support for this conference agreement. It is a balanced, fiscally sound approach to our Nation's water quality needs. I certainly hope Presi-

dent Reagan will agree that this legislation is indeed in the best interest of the American people, and will sign the Clean Water Act Amendments of 1986 at the earliest possible opportunity.

Mr. KENNEDY. Mr. President, I rise in support of S. 1128, the Water Quality Act of 1986. This bill will provide vital funding for communities to initiate and continue projects designed to combat pollution. In the past, insufficient money has been directed to antipollution construction and rehabilitation projects. With the enactment of this bill, communities across the country will have the resources to construct technologically advanced facilities that will address the growing problem of pollution facing cities and towns across our country.

I am especially pleased that the bill contains $100 million for the clean-up of the Boston Harbor. Few cities have a natural resource as magnificent as the harbor of Boston. It is a unique asset that has witnessed a significant part of the Nation's history. With its 180 miles of scenic shoreline, its 30 islands, and its thriving port facilities, it is a priceless economic and environmental treasure for the 3 million citizens of the area. As the city of Boston has prospered economically, the harbor has flourished too—but it has also been vulnerable to abuse and neglect. Today's antiquated sewerage facilities are inadequate to meet the demands of modern industrial and residential growth. The resulting pollution and decay has threatened the natural beauty of the harbor and jeopardized the prospects of future growth. For years, leaders in the city have recognized that a day of reckoning was imminent.

In 1977, I first introduced legislation to establish the Boston Harbor National Recreation Area, in order to revitalize the harbor and preserve it for the use and enjoyment of the public. In the years since then, we have moved closer to the goal of a harbor that is both economically prosperous and environmentally clean.

Now, with the new provision in the Clean Water Act, we have the chance to take another significant step. A clean, beautiful, prosperous harbor is within reach, with lasting benefits for Massachusetts, the Nation, and future generations.

Mr. HECHT. Mr. President, I voted in favor of the conference report on the Clean Water Act, although I have some misgivings about the provision relating to Indian tribes.

As I understand it, the conference report would give Indian tribes the status of States for purposes of setting water quality standards on waters that flow through both Indian and non-Indian land. This sounds good, but could lead to situations where a tribe might set an unreasonable standard in order to get leverage over a city on an unrelated matter, or to force a city to make water quality expenditures that would otherwise be considered unnecessary.

However, the conferees have assured me that the Administrator of EPA would settle any dispute between State and Indian tribe water quality standards, that the Administrator would take the economic consequences into account, and that he would not allow disputes over water quantity to cloud the water quality issue. Neither would the Administrator be expected to simply accept the more stringent of the Indian or State standard.

I further understand that any standard set by a tribe would be subject to judicial review, so a city or State that thought the tribe's standard was unfair, could challenge that standard in the courts.

With these assurances from the conferees, Mr. President, I feel comfortable supporting this measure.

Mrs. HAWKINS. Mr. President, I rise in strong support of the conference report on the Clean Water bill. This legislation is long overdue. The last major changes to the Clean Water Act occurred in 1981 and since then Congress has tried again and again, unsuccessfully, to pass further improvements to the act.

Absent of this reauthorization package, thousands of communities across the country will be unable to finance construction of secondary treatment facilities and will face State and Federal enforcement actions. We need this legislation to continue progress toward achieving fishable and swimmable water levels nationwide.

I am particularly pleased to note that section 317 of the conference agreement identifies Sarasota Bay for priority consideration under the National Estuary Program. This program is designed to identify nationally significant estuaries that are threatened by pollution, development, and overuse and to promote comprehensive planning for and conservation of such water bodies.

Sarasota Bay functions as the principal environmental resource in the Sarasota region. It is the centerpiece of Sarasota's $900 million economy. It contains a wide variety of seagrass and marine life. However, these precious resources are seriously threatened by point source discharges. The bay is a unique, shallow and slow moving estuarine system with little flushing. Pollutants are retained in larger quantities for longer periods of time, thus requiring more detailed management.

Existing sources of pollution in the bay are multifaceted: major urban development along the shoreline; nonpoint runoff from land development upstream; saltwater intrusion; sewage discharge; and boating use.

The management conferences established under the National Estuary Program would develop comprehensive conservation and management plans which recommend priority actions for the control of point and nonpoint sources of pollution in threatened estuarine systems. The conference report provides $12 million annually for these management conferences to conduct research, monitoring and modeling.

Estuaries are sensitive and diverse ecosystems. Their range of fish and wildlife species and their proximity to large urban areas provide numerous recreational and economic opportunities for millions of Americans. This conference report will provide better protection for these delicate resources.

Mr. WEICKER. Mr. President, I would like to take the opportunity to congratulate my colleagues on the Environment and Public Works Committee on their exhaustive efforts to reauthorize one of the most important environmental laws that Congress has ever contemplated. Mr. President, the dream of one day finding our Nation's lakes, streams, and estuaries clean and safe for all could not be realized without such legislation and efforts of the committee.

This bill is a significant renewal of our commitment to fight water pollution. $19.96 billion over the next 8 years is authorized with $3 billion committed for this fiscal year alone. In its traditional mission, a revision to the Sewer Construction Grants Program was agreed to. My own State of Connecticut will continue to receive over $29 million a year to construct treatment plants to protect the rivers of Connecticut from untreated sewage. Creation of construction revolving loan funds will allow funding of treatment plants throughout the country in the future.

With the reauthorization of the Clean Water Act, many new features have been incorporated into the program. For example, the Estuaries Program is established to address the pollution and health threat that is found within our Nation's estuaries. Within Connecticut, it has long been recognized that combined sewer overflows and failures to conduct a coordinated effort in studying and cleaning up Long Island Sound has led to a degradation of Connecticut's rivers and the sound and increased the risk to the States inhabitants. With the work of Senator CHAFEE and others, I feel that a significant step is being made today in focusing efforts on our Nation's estuaries.

Other provisions of the act are particularly noteworthy. This bill authorizes $400 million for a new, State-Federal program to control nonpoint source pollution—polluted runoff from the cities and rural areas of this country. Focus on this form of pollution is especially important since it is esti-

mated that half of all water pollution is from these nonpoint sources. Efforts to cleanup the Nation's lakes will receive $85 million within this reauthorization.

In closing, I would applaud my colleagues' efforts in producing this reauthorization. It is my hope that this bill will be rapidly signed into law to demonstrate congressional concerns for the environment of this country.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report on S. 1128, the Clean Water Act Amendments of 1986. This legislation, which the House passed by a vote of 408 to 0, is a significant step forward in protecting this Nation's waterways, and deserves our support today. And I commend the conferees for their hard work on this measure.

The bill is supported by environmentalists, water system construction companies, labor, and various industry groups. Unfortunately, however, as is the case with Superfund, there are indications from the White House that a veto may be forthcoming. The administration wrongly asserts that the bill's authorization for construction grants is excessive. These claims ignore the large tasks ahead for cleaning up this Nation's waterways and the fact that the $18 billion authorization is spread over a long period of time.

Mr. President, a veto would be out of step with the will of Congress and of the Nation, and I urge the President to sign this bill.

Indeed this is a nation committed to the principles embodied in this conference report. In the early 1970's the people of this country made a fundamental decision that they wanted a concerted effort to clean up the Nation's waters—waters that are used for fishing, swimming, recreation, and drinking water.

This decision was made because of our growing awareness of and concern about water pollution. News accounts told us about Lake Erie being "dead," the polluted Cuyahoga River in Ohio so filled with oil and debris that it caught fire, millions of gallons of raw wastewaters being dumped into the country's major rivers, such as the Hudson River, and many fish kills and oil spills.

The Congress responded by passing the Federal Water Pollution Control Act Amendments of 1972. This act established a goal—to restore and maintain the integrity of the Nation's waters—which captured the essence of the Nation's desire for clean water.

Mr. President, during the 13 years this act has been implemented, impressive strides have been made in cleaning up our Nation's waters. But much remains to be done. The Clean Water Act Amendments of 1986 include a number of provisions which address problems which are preventing us from achieving the goals of the Clean Water Act. The conference report also addresses a problem on which Congressman HOWARD and I have labored long and hard.

This legislation adopts a provision from a bill I introduced, S. 1838, and which Congressman HOWARD sponsored in the House, that prohibits new entrants from dumping sewage sludge at the 106-mile site, off the coast of New Jersey. This provision will clearly preclude any attempt by Boston to use this site. Although Boston had decided not to pursue this course of action, the court reviewing Boston's sewage disposal procedures had not spoken with finality on the question, and was apparently looking for some action from Congress on this question. Congress has indeed spoken, and Boston's plans, as well as those of any other municipality, to dump sludge off New Jersey's coasts are now clearly and unmistakably off limits.

Also of great importance is future funding for the Construction Grants Program. Since passage of the Clean Water Act in 1972, Federal, State and local sources have invested more than $56 billion in municipal wastewater treatment facilities resulting in the construction or improvement of approximately 3,500 treatment facilities. Properly running sewage treatment facilities are an essential component for cleaning up the Nation's waters. For example, sewage treatment plants in 1983 were removing 65 percent more of the two principal conventional pollutants—suspended solids and biological oxygen demand—than they were a decade earlier.

Yet it is clear that the existing Construction Grants Program is inadequate to meet remaining national needs. According to EPA, eligible construction needs through the year 2000 are $53 billion. Ineligible needs, those needs not eligible for Federal funding under the Clean Water Act, those needs not eligible for Federal funding under the Clean Water Act, are more than $50 billion. According to estimates, New Jersey alone has $4.5 billion in eligible funding needs. New Jersey only receives approximately $100 million per year in existing Federal construction grant funding. Therefore it is imperative that we implement a new method of financing sewage facilities. A creative framework, which had its origins in New Jersey, is the concept of revolving loans.

The Clean Water Act Amendments of 1986 adopted this concept and will move us closer to the goal of providing an adequate source of stable funding for sewage treatment facilities. S. 1128 would authorize $18 billion over 9 years of Federal sewer construction grants and loans. Under the bill, the Federal Government will gradually reduce categorical grants for sewage treatment facilities as it phases in a program of grants for States to capitalize State revolving loan funds.

These funds will provide the capital for municipal wastewater treatment facilities in the future. States can make low or no interest loans available to communities for construction of treatment facilities. As loans are repaid to the State revolving loan funds, the funds will be able to loan money to additional communities.

In addition, Mr. President, this bill will help spur the construction of needed sewerage facilities. In the case of municipalities which proceed to begin construction with their own funds, refinancing is permitted from a State revolving loan fund. Presently, most municipalities wait until it is their turn to receive Federal construction grant funding before they begin constructing needed facilities. This refinancing feature of the Revolving Loan Program would eliminate the disincentive for municipalities to move ahead quickly with construction that now exists with the grants program.

Municipalities are facing a 1988 deadline for installing sewage treatment facilities which provide secondary treatment. EPA has threatened to restrict development in municipalities which are not in compliance with the 1988 deadline. New Jersey imposed sewer bans in many municipalities and has warned others that they face such bans if the discharge from their sewerage plants will not comply with requirments of the Clean Water Act. The reimbursement provisions in the conference report to S. 1128 should stimulate cities to meet the 1988 deadline.

Under the bill, States will have to enact legislation to give a legal entity of the state the powers prescribed in the act. During consideration of S. 1128 in the Environmental Pollution Subcommittee, the committee agreed that this legal entity can be an existing or new State entity or agency. When the States enact legislation to implement State revolving loan funds, they will have the flexibility to determine how the fund will operate subject to the requirements of this provision of the Clean Water Act.

For example, States would be able to establish loan terms based on the financial needs of municipalities with easier loan terms available to poorer municipalities. States can decide to initiate their loan funds prior to fiscal year 1989, the year they are required to do so. When States enact revolving loan legislation, they can determine whether to begin using their construction grant funds to capitalize their revolving loan funds prior to fiscal year 1989 and if so, under what terms.

Mr. President, I believe that the revolving loan concept contained in the bill will provide a stable source of funding for the construction of sewerage facilities while providing states

with the flexibility to minimize the financial burden of these facilities on local municipalities.

The Clean Water Act amendments only slightly revised the allocation formula for construction grants. I would have preferred the Senate approach, which would have provided New Jersey with $15 million more in grant funds. But New Jersey stands to receive approximately the same amount it has been receiving—up to about $100 million—in such funds under the conference agreement.

The conference report to S. 1123 also includes S. 30, the Raw Sewage Abatement Act of 1985. This legislation, which I sponsored, limits the discharge of raw sewage by New York City. At the time I introduced this legislation, New York City was the only major municipality in the country which still discharged raw sewage and wastewater into surrounding waters, without preliminary treatment of its wastes. It did so because of the absence of sewage treatment facilities in two major drainage areas in New York City. Two court ordered deadlines to cease this practice were disregarded by the city.

The provision that I sponsored imposed a cap on raw sewage discharges from the drainage areas in New York City which were without treatment plants, if the city failed to meet the deadlines for achieving advanced preliminary treatment contained in its current consent decree. If these deadlines were met, the cap would be unnecessary because all raw sewage discharges will cease. If the city failed to meet these deadlines, a cap was to be imposed in the drainage area in violation of the decree. It was to stay in effect until the city brought the affected plant on-line and it operated successfully for 6 months.

The imposition of a cap on raw sewage discharges upon a violation of the consent decree in effect said to the city of New York, "You cannot continue to grow without restraint if you cannot treat your wastes."

Upon violation of the cap, the city would be subject to the enforcement provisions in section 309 of the Clean Water Act. These penalties would be addition to those provided for violation of the consent decree. They include tough civil and criminal penalties, and would enable EPA to seek a temporary or permanent injunction against the city, to bring civil actions against the city and to initiate criminal prosecution in cases of negligence or falsificaiton of records.

With the changes adopted in the conference report, to section 309 of the Clean Water Act, a violation of the cap imposed by this amendment could result in substantial penalities of up to $50,000 a day. A violation stemming from a criminal conviction could lead to imprisonment.

Finally, Mr. President, the legislation states that it is the sense of the Congress that EPA should not extend the deadlines in the city's existing consent decree any further.

I am pleased to note that following the adoption of my amendment, New York City come into compliance with court-ordered schedules for construction of its North River and Red Hook sewage facilities. North River is currently on schedule to attain secondary treatment by 1991. Red Hook is on schedule to attain primary treatment by 1989. While Red Hook is on schedule, the fact that it is not operational means that discharge of raw sewage into the East River still continues. This legislation will ensure that New York's facilities stay on present compliance schedules, with no more extensions, and move us toward eliminating the dumping of raw sewage in the waterways of New York and New Jersey.

New Jersey has had its share of water quality problems. But not one New Jersey municipality is discharging raw sewage. Treatment plants in northern New Jersey are all achieving advanced preliminary treatment, and the major plants serving northern New Jersey are achieving secondary treatment.

The New Jersey Department of Environmental Protection has imposed numerous sewer hookup bans in a number of New Jersey municipalities to improve compliance with the Clean Water Act. Several communities may finance the upgrading of their sewage treatment plants to secondary treatment without any Federal or State aid. In some cases, the Department of Environmental Protection in New Jersey required private sector parties to contribute to local efforts to upgrade sewage treatment facilities as the price of securing a sewer hookup permit and proceeding with planned development.

Mr. President, New Jersey and New York do not need to grow at each others' expense. Regional growth is good for both States. By the same token, Mr. President, this growth should be accompanied by appropriate environmental protection. It must not come at the expense of the environment. It must not come at the expense of New Jerseys tourist and commercial and recreational fishing industries.

Mr. President, these provisions in the conference report on S. 1128 will provide strong incentives for New York City to keep complying with its consent decree and bring its sewage treatment plants on line as quickly as possible.

The conference report on S. 1123 contains a number of other provisions which will strengthen this Nation's effort to clean up its water. These include:

Establishing a new program for cleaning up toxic "hot spots"—waters that will not meet water quality goals even after industrial dischargers have installed the best available cleanup technologies required under existing law;

Requiring States to develop plans for combating nonpoint source pollution, such as polluted runoff from city streets and farmland. Conferees agreed on a $400 million authorization to help States implement the plan;

Restricting the use of fundamentally different factor waivers from national discharge standards;

Prohibiting, except in certain narrowly defined circumstances, so-called "backsliding," or weakening of cleanup standards when industrial and municipal discharge permits are renewed or reissued;

Establishing a national estuary program to solve pollution problems in interstate estuaries such as Delaware Bay and the Hudson-Raritan estuary;

Requiring EPA to establish toxic contaminant criteria for sewage sludge use and disposal and to establish a public health and environmental protection basis for these criteria;

Authorizing a total of $85 million for lake water quality activities, including $30 million for the Clean Lakes Program and $15 million for acid mitigation projects; and

Retaining the existing law's requirement that discharge permits be renewed every 5 years. The House bill would have extended the permit term to 10 years for certain discharges.

Mr. President, I believe that enactment of the Clean Water Act Amendments of 1986 represents a positive step in the Nation's effort to clean up its water resources. Again, I commend the conferees that worked so hard to bring this bill to the floor. I urge the President to sign this bill.

Mr. STAFFORD. Mr. President, at this point I ask unanimous consent that the Senate recede from its disagreement to the amendment of the House to the title of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I am prepared to yield back the remaining time on this side.

Mr. MITCHELL. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. All time has expired.

Mr. STAFFORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Nevada [Mr. LAXALT] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Colorado [Mr. HART] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—96

Abdnor	Garn	Melcher
Andrews	Goldwater	Metzenbaum
Armstrong	Gore	Mitchell
Baucus	Gorton	Moynihan
Bentsen	Gramm	Murkowski
Biden	Grassley	Nickles
Bingaman	Harkin	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pell
Bradley	Hawkins	Pressler
Broyhill	Hecht	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd	Helms	Riegle
Chafee	Hollings	Rockefeller
Chiles	Humphrey	Roth
Cochran	Inouye	Rudman
Cohen	Johnston	Sarbanes
Cranston	Kassebaum	Sasser
D'Amato	Kasten	Simon
Danforth	Kennedy	Simpson
DeConcini	Kerry	Specter
Denton	Lautenberg	Stafford
Dixon	Leahy	Stennis
Dodd	Levin	Stevens
Dole	Long	Thurmond
Domenici	Lugar	Trible
Durenberger	Mathias	Wallop
Eagleton	Matsunaga	Warner
Evans	Mattingly	Weicker
Exon	McClure	Wilson
Ford	McConnell	Zorinsky

NAYS—0

NOT VOTING—4

Glenn	Laxalt
Hart	Symms

So the conference report was agreed to.

□ 1230

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. DOLE. May we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senators will take their seats. The Senate will be in order. Senators will cease conversations. The distinguished majority leader is recognized.

Mr. DOLE. Mr. President, if I could have the attention of my colleagues, I would like to make some statement on the program.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, the Senate is not yet in order.

The PRESIDING OFFICER. The Senate is not in order. The majority leader will not proceed until the Senate is in order. He has important announcements to make. We would like to hear about what the program is for the rest of the day.

The distinguished majority leader.

Mr. DOLE. Mr. President, first let me thank the managers of the bill which we just passed. That is another one off the laundry list we have before we can adjourn sine die. It is a major piece of legislation. It was disposed of in less than an hour. As I understand it, we are back on immigration.

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I understand there will be a budget waiver vote on that hopefully almost immediately. Then if we can reach some time agreement on that, we would like to do that.

If not, I promised the distinguished Senator from Iowa that he would be recognized to offer a resolution and an up or down vote. I hope that will not take much debate. At least we will have the vote.

Then we will turn to the continuing resolution. I hope we might be able to complete that rather rapidly. There could be four or five amendments, and maybe more that would require votes. That would leave only the reconciliation package, the debt ceiling, and other matters that may come over, conference reports and maybe other wrap-up matters that we can obtain consent from both sides.

Again, I believe it is possible if we continue to work as we have done since 9 o'clock this morning to really be in a position to tell Members late this evening that we might get out of here tomorrow sometime.

I want to thank all my colleagues for their cooperation.

□ 1240

I sort of sense that people have decided that it is about time to leave. One thing we hope to determine before we do that, of course, is whether or not the Superfund legislation will be signed. Again I would encourage my friends to sign a letter that I have circulated. It would be very helpful.

Mr. HATCH. Will the Senator yield?

Mr. DOLE. I yield.

Mr. HATCH. Under certain circumstances with some of the amendments in disagreement, it may be that that will take a little longer than contemplated. I hope not. I hope we can resolve these difficulties. But the issues are important, as the majority leader suggested.

Mr. DOLE. Let me indicate, I have discussed one particular item with the Senator from Utah, Senator HATCH, and I know of his concern. I hope that can be resolved in a satisfactory way.

Mr. BYRD. Will the Senator yield?

Mr. DOLE. I am happy to yield.

Mr. BYRD. I wonder if we can get a time limitation on the resolution which Mr. HARKIN will call up which will provide for no amendments.

Mr. DOLE. I think last evening he was agreeable to 10 minutes.

I ask unanimous consent that when the resolution of Mr. HARKIN is called up there be 20 minutes, equally divided, with no amendments to be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I would guess that could be pretty much the same resolution that we had yesterday.

Mr. STAFFORD. Mr. President, while the Senators are here and the leaders are here, I hope we might know the disposition of the White House on the Superfund. I would hope it might be possible for this body to stay in session, possibly pro forma, long enough so that a pocket veto would not occur. I would volunteer to be one of those who would remain around here, if that becomes a necessity.

Mr. LEAHY. Will the Senator yield?

Mr. DOLE. I yield.

Mr. LEAHY. I join with my distinguished colleague from Vermont. The senior Senator from Vermont has put together not only a superb piece of legislation but a bipartisan package. I have signed a letter which he and Senator DOLE have circulated. I would hope that others, Democrat and Republican, would sign the same letter. Then we might be able to get the President to agree to go along with this legislation. If not, I, for one, am prepared to come back for a vote on the veto override.

Mr. EXON. Will the majority leader yield for a question on another important matter, while the senior Senator from Vermont is here? Where are we on the highway bill?

Mr. DOLE. We are in the middle of the road.

Mr. STAFFORD. If the majority leader will yield to me, Mr. President, we are about to meet with the conferees in the House once more on the highway bill. I see my colleague and able Senator from Texas, Senator BENTSEN, is here, and I would say that the two Houses are far apart. We are far apart on demonstration projects, the 85-percent minimum, highway beautification, and one other which escapes me at the moment.

The other one is the speed limits. We are having great difficulty making any progress in those areas.

Mr. EXON. I thank the Senator.

Mr. BENTSEN. We have had an overwhelming majority for the bill in the Senate. We have found that we are getting nowhere at all in the House. I am not at all hopeful.

IMMIGRATION REFORM AND CONTROL ACT OF 1986—CONFERENCE REPORT

Mr. DOLE. Mr. President, a parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The motion to waive is the pending business.

Mr. DOLE. The budget waiver has been filed?

The PRESIDING OFFICER. It is pending.

Mr. DOLE. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we are about to have a vote on waiving the budget point of order. I want to be sure that everybody understands exactly what we are voting on here, not just technically what we are voting on, but what we are committing ourselves to.

Let me begin, Mr. President, by talking about the technical point of order.

The technical point of order here is a 303 point of order and it has to do with creating an entitlement in a year when no budget has been adopted.

The great wisdom of this point of order has been borne out many times in the last 20 years, as Congress has created entitlements in the future only to find when the future arrives that tremendous amounts of money have been obligated without anybody ever taking into account how they are going to pay for the program.

Mr. President, there is an additional point of order that may lie after the continuing resolution is passed if the adoption of this bill pushes us above the aggregate limits set out in the budget; that would be a 311 point of order, which would require 60 votes.

Were it not for the Long exception, there would be a third point of order and that point of order would be that this makes appropriations in a year for which no budget has been adopted.

We have come to a procedure which allows us to circumvent that. But I would ask my colleagues to take into account on this vote that a point of order would lie in 1988 on expenditures committed under this bill, but this bill would already be law. So by waiving the 303 point of order here we are committing ourselves not just to a new entitlement, but to new appropriations in 1988 and beyond.

What kind of money are we talking about here? What kind of decision are we making?

Let me remind my colleagues that we are under a binding constraint in the Gramm-Rudman-Hollings law that requires that the deficit be reduced to $108 billion next year and then reduced in three equal steps to zero in fiscal year 1991, calendar year 1990.

My purpose in asking for this vote is that if we waive this point of order and commit to move ahead with the immigration bill, which we may or may not choose to do, I want our colleagues to be on record. That way no one can come back next year or the year after and say, "Well, we cannot meet the targets of Gramm-Rudman because of the immigration bill."

I want everybody to be on record, if we waive this point of order today, that we know what we are committing to down the road, when a benefit has to be cut from some powerful interest group.

□ 1250

When people who are in need or who have entitlements are denied, or when some come forward and say we have to raise taxes because nobody anticipated what the immigration bill would cost, I want people on record as to where they stand on that issue.

Let me tell you how much money we are talking about, Mr. President. In the immigration bill, we have direct appropriations, appropriating on an authorization bill, of $4 billion in fiscal years 1988, 1989, and 1990; $4 billion in direct appropriations. We also have new entitlement programs which lie under the 303 point of order in addition to that.

In addition to both the new entitlement creation and direct appropriations made by this bill—appropriations that do not have to be contained in legislation adopted in fiscal years 1988, 1989, 1990, or 1991 in order for the taxpayers' money to be expended—in addition to the $4 billion of direct appropriations and the creation of new entitlements, we also have in this bill many actions that will lead to appropriations next year and through 1991 and in the future. In fact, we have had estimates on the cost of this bill overall, just in terms of the assumptions the bill makes—very conservative assumptions. The House bill was estimated to cost as much as $9 billion.

I submit, Mr. President, that we really do not know how much money we are talking about. We know this bill will legalize between 4 and 5 million people who are illegal aliens in the country today.

We are all familiar with the process it sets up, a process that means that if people were here prior to 1982—or can get a sufficient number of people to say they were here—then they move to become permanent resident aliens. Then, they are eligible for some forms of Medicaid, they are eligible for State and local welfare in the Federal portion of some of those programs. They are not initially eligible for AFDC, but they become eligible for AFDC.

However many people out of the initial 4 or 5 million are going to opt for those benefits, how much they are going to cost the taxpayers, I submit, Mr. President, nobody has the foggiest idea.

In addition to the 1982 legalization date, we are committing ourselves to one of the most bizarre proposals that I have ever seen in legislation adopted in my 8 years in Congress. I intend to debate this at great length as we debate the bill itself, but I have to allude to it here because it reflects on this budget figure. If someone worked in New Mexico or Texas or Arizona or California or anywhere else in agriculture only 90 days last year—just 90 days—they are eligible for permanent status. They move on track to become permanent resident aliens; they qualify for certain Medicaid benefits and certain State and local benefits on a faster track, then they ultimately qualify for AFDC.

I submit, Mr. President, that we have not the foggiest idea what that kind of amnesty is going to mean in terms of outlay on this bill. Now, so this is not the point at which I intend to have extended debate on these issues. I do intend to debate them at a later point because I think they are important. I realize that the odds of this bill passing and becoming law are overwhelming, but I am deeply concerned about it, and I think that Members of this body should hear full debate and they will.

The point of order that we will vote on here technically as a 303 point of order is a point of order that relates to new entitlements being created. Because of the Long exception, we are going to look the other way on $4 billion of appropriations in this bill over the next 4 years.

I ask my colleagues on this vote to realize that they are not just voting on this technical 303 point of order. This point of order may be the only one that we get an opportunity to vote on. What we are voting on here is, are we willing today to commit ourselves to waive the budget to commit a minimum of $4 billion in appropriations on this bill alone, without any other action on the part of the U.S. Congress in the future? Are we willing to create entitlements in the future, with

no clean-cut way of measuring what they are? And in addition, are we willing to say that under Gramm-Rudman over the next 4 years, we are going to cut domestic programs to pay for these things as 4 to 5 million people initially move to permanent resident alien status and qualify for some Medicaid benefits, some welfare benefits, and ultimately qualify for AFDC?

No one knows how much that is going to cost. I simply think it is important that we have a vote on waiving the Budget Act so that next year and the year after and the year after, when there are those who stand up and say we cannot meet the requirements of Gramm-Rudman because nobody ever knew what the immigration bill was going to cost, nobody ever told us, we will have it on the record.

Or when the time comes in the future to pay for this, are we going to have to cut the heart out of the family budget by raising taxes because, it will be said, nobody anticipated this, this was an act of the gods—I submit that it is not an act of the gods. It is an act that we are committing here today if we vote to waive 303 of the Budget Act.

I ask my colleagues to look at this bill. This is not a bill that we previously voted on. This is not just a bill that sets up blanket amnesty from 1982 on, no matter what you may think of that. I can assure you the American people do not support it. But this is a new and extraordinary bill that would move toward legalization of people who worked in this country for only 90 days—only 90 days. It has been a long time since I got married, but my guess is that there are some places where it is harder legally to get married than it is to move toward citizenship of this country and toward the benefits produced by the fruits of the labor of the working men and women in this country.

So when asked to vote for this waiver, Mr. President, I am giving people an opportunity to say here and now, whether we are willing to commit ourselves to billions of dollars of expenditures, knowing that under Gramm-Rudman, we will have to cut other benefits for citizens of the country?

Or are we committing ourselves to raise taxes on the working men and women of America as we set aside this budget waiver? I, therefore, ask my colleagues to vote not to waive section 303 of the Budget Act, to stand fast against this commitment of expenditures.

Mr. SIMPSON. Mr. President, I think that we should go to this vote. Senators heard the comments of Senator DOMENICI before. I share with my friend from Texas that I am perfectly willing to support a move to make these entitlement programs subject to the appropriations process. I am committed to that, but we are unable to do that in this conference report.

With that, the yeas and nays have been requested, Mr. President I think it appropriate that we go forward and vote on the waiver. I ask for that vote.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing to the motion to waive section 303 of the Budget Act.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Nevada [Mr. LAXALT] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "nay".

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Colorado [Mr. HART] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 75, nays 21, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—75

Andrews	Goldwater	Metzenbaum
Baucus	Gore	Moynihan
Bentsen	Gorton	Murkowski
Biden	Grassley	Nunn
Bingaman	Harkin	Packwood
Boren	Hatfield	Pell
Boschwitz	Hawkins	Proxmire
Bradley	Heinz	Pryor
Bumpers	Hollings	Quayle
Burdick	Inouye	Riegle
Byrd	Johnston	Rockefeller
Chafee	Kassebaum	Roth
Chiles	Kasten	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerry	Simon
Danforth	Lautenberg	Simpson
Dixon	Leahy	Specter
Dodd	Levin	Stafford
Dole	Long	Stennis
Domenici	Lugar	Stevens
Durenberger	Mathias	Thurmond
Eagleton	Matsunaga	Trible
Evans	Mattingly	Warner
Exon	McConnell	Weicker
Ford	Melcher	Wilson

NAYS—21

Abdnor	Garn	McClure
Armstrong	Gramm	Mitchell
Broyhill	Hatch	Nickles
Cochran	Hecht	Pressler
Cohen	Heflin	Rudman
DeConcini	Helms	Wallop
Denton	Humphrey	Zorinsky

NOT VOTING—4

Glenn	Laxalt
Hart	Symms

So the motion was agreed to.

□ 1320

If there is no further debate, the question is on the conference report.

Mr. GRAMM. Mr. President, I make a point of order: A quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the motion to waive the Budget Act was agreed to.

Mr. SIMON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, let me just make a brief statement.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, on October 14 of this year a conference committee of the House and Senate favorably reported a compromise version of the immigration bill.

This committee consisted in the House of Congressman RODINO, chairman of the House Judiciary Committee, Congressman HAMILTON FISH, Congressman MAZZOLI, Congressman LUNGREN, Congressman SCHUMER, Congressman PANETTA, Congressman BERMAN, and other five people who have been working diligently and with extraordinary effort toward resolving the issue of illegal immigration.

In the Senate, our fine and respected chairman, Senator THURMOND, was extraordinarily important in his role as chairman of the conference committee. It consisted of Chairman THURMOND, myself, Senator DENTON, Senator METZENBAUM, Senator KENNEDY, Senator MATHIAS, and Senator SIMON.

There were 31 House conferees and 7 of us from the Senate.

I can only assure you that a great many terribly tough issues were confronted there and tough issues were hammered out under the twin hammers of some pretty heavy debate and some spirited discussion.

All of the nine major issues were resolved by the members with dispatch. There were some 91 other differences where staff recommended changes and the members in most cases agreed to them.

The bill reported by the conference—and I assure my colleagues that this is correct—contained the same essential elements that had passed this body, this Senate in years past by a vote of 80 to 19, by a vote of 76 to 18, and by a vote of 69 to 30.

Those essential things are employer sanctions, meaning penalties against those who knowingly hire illegal undocumented persons, a secure system to determine worker eligibility in the United States, an increase in the enforcement resources of the Immigration and Naturalization Service and the border patrol and legalization.

Under this conference committee report the resources of the border

patrol will double together with assuring additional sums for the INS to perform their functions.

We provide a program for agriculture workers and a legalization program.

There were some issues indeed that I felt very strongly about, having worked in the area for so long, and yet I receded on certain segments along with the rest of my Senate conferees because of the strong feelings on the part of the House.

The House had some very strong feelings on extended voluntary departure. They receded there. Congressman JOE MOAKLEY presented his case magnificently and yet did not wish to slow the process of this bill and withdrew that subject to orderly processing of it next year.

Mr. RUDMAN assumed the chair.

Mr. SIMPSON. We have no cutoff date on employer sanctions. There is a legalization. That is very clear. The cutoff date for that was moved up to January 1, 1982.

Let me share with my colleagues that when we started this legislation in 1982, the legalization date was 1980. Now we have slipped the legalization date so that in this year, late 1986, the legalization date is January 1, 1982. I think that is quite fair and yet also more restrictive than what we started with. Because it is called legalization, or amnesty it seems to stick in the craw of Americans. I understand that. I do indeed, having grappled with this issue, as I say, an issue filled with emotion, fear, guilt, and racism.

But let me share with you that the alternative to legalization is to go hunt for them. If you couldn't find them coming in how do you find them to get them out? The alternative to legalization is deportation. And the only way you are going to find the persons to deport is to go find them.

And so I have often said to people who insist that this is a very treacherous thing, I say: Are you going to be part of the group that goes to a Mexican-American in Brownsville and taps on the door and says, "Are you deportable?"

I will skip that procedure. Because if that's what is demanded they can erase my name from this measure. Those that would not allow legalization know the alternative is deportation and hunting for them. That is what we would do. The hunt would be on. That is repugnant to me.

There were some other House provisions that were terribly troublesome to all of us. The House receded on them. The sunset on employer sanctions, extended voluntary departure, which as I said, was deleted. There are also some major provisions that this body has never considered before in as great a detail as we visited in conference.

Senator WILSON, Congressman PANETTA, and Congressman LUNGREN fashioned a proposal for temporary agricultural workers and then permanent resident aliens in agriculture. It grants temporary status to those who have performed 90 man-days of labor in agriculture alone during the previous 3 years in the United States—that must be 3 consecutive years—with the opportunity to convert to permanent residence after that time.

I think it would be interesting for you to know that Mexican nationals who come to the United States and obtain permanent resident alien status—which would then enable them to go into citizenship after 5 years—that the statistics of those who determined to go on to naturalize as U.S. citizens is between 5 and 12 percent. They do not go on to naturalize because they prefer to retain their citizenship of the United States of Mexico and yet have the full labor protection of working in the United States with a green card under permanent resident alien status. So I share that with you if you come to a concern about numbers, that through our history only 5 to 12 percent of these permanent resident aliens with 5 years or more already in toward citizenship ever go on to naturalize.

There is another provision that would create a new antidiscrimination agency in the Justice Department. It will be under the control of the Attorney General. The principal officer will be appointed by the President for a 4-year term. It would handle the issue of citizenship and national origin discrimination. It is very carefully tied down in the statement of managers to the effect that it is not to be a tool for harassment of employers. In no way will it be so. It is not a violation of the EEOC interpretation of title VII. The changes there do not open the door for additional expansion of discrimination based on sex or age or whatever it may be.

Neither of those provisions, I say, Mr. President, were something that I would have suggested or recommended, but it became quite apparent during the House and Senate conference consideration of this legislation that they were quite necessary for final passage.

So there is the package, Mr. President. I want to share with you that it is a work product of Congressman RODINO, who started with the issue in 1972, when he and the House passed employer sanctions without anything else, in an attempt to stop the exploitation of illegal, undocumented persons in the United States. Congressman RODINO and I were on the Select Commission on Immigration Refugee Policy. Senator MATHIAS, Senator DECONCINI, Senator KENNEDY, and myself served 2 years on that commission under the sterling leadership of a lovely friend father Ted Hesbergh of Notre Dame. This is the basic work product of it.

I share with you that there are things in here that cause me concern. There are things that caused the other conferees concern. But, on balance, you have the very absolute, quintessential essence of immigration reform. You have employer sanctions, strong penalties, verification, work authorization, legalization, increased enforcement, and protection of the employer and the employee.

So this is the presentation I make to you. This measure passed the House yesterday, the conference committee report, by a vote of 238 to 173; some 65 votes, having never enjoyed a margin before of that nature. All of the things that are centerpiece of immigration reform are in this bill.

The bill would so significantly improve the status quo with regard to illegal immigration that a failure to act, I think, would be a tragedy. And I am not obsessed by this legislation. I have lots to do around this place. If it should not go, I would wait again and see what we could do the next time. I shared that with my colleagues in the House. But I think this would be a sadly missed opportunity.

I talked to the President of the United States this morning—a marvelous half hour. He has been my greatest ally in this cause. Every time someone would lay the snares and traps, I would say, "I have to talk to the President." He was always there—perceptive, warm, responsive—saying, "We need immigration reform. I am committed to it. I am going to stick with you."

And so it was said again this morning with a condition that we clarify—and Congressman RODINO is doing that in the House at this moment—clarify exactly again what the conference committee determined with regard to the Frank amendment; that it is not a tool of harassment, that it is not something to put depression upon the hearts of the employers of America.

Let me share with you briefly what that is because I think it is very important. There is no intent under the Frank amendment—and I want to commend BARNEY FRANK—for he started with a very critically high spirited piece of legislation 2 years ago and, in the course of it all, he was courteous and understanding enough to watch us amend and yet keep many of the basic things that he wished and yet assure us all that this was not to be a tool of harassment and that it did not change the EEOC and its coverages. And so this is what we are doing. The statement of managers indicates it. The statute indicates it with regard to attorneys' fees, so that if there is a just defense, they are not burdened with attorneys' fees.

There is no intent whatever—and I emphasize this with the body—to permit the use of the special counsel provisions of the bill to harass employers; that is agricultural employers, business employers, or any others.

Let me review with you the statement of managers on this point.

The antidiscrimination provisions of this bill will only provide the broadened protection while the employer sanctions are in effect. It ties it tightly to sanctions. If the sanctions are repealed—and we have a sunset provision here where we can repeal this particular proposal—if they are repealed by joint resolution under expedited procedures the antidiscrimination provisions will also expire. That triggers the expiration because the justification then for that Frank provision will also have been removed.

□ 1340

The antidiscrimination provisions would also be repealed in the event of a joint resolution approving a GAO finding that the sanctions have resulted in no significant discrimination or that the administration of the antidiscrimination provisions has resulted in placing an unreasonable burden on employers.

With this provision we sought to make vividly clear that harassment litigation will not be tolerated. And there are some activist groups in the United States who I think have been off in the wings kind of slavering at the chops, waiting for their opportunity to go find a whole new crew of plaintiffs to begin a whole new exercise against employers in their national efforts. This is wholly discouraged. It will be the subject of the most careful oversight by myself, and by Congressman RODINO.

In this regard the conferees also expect that GAO would specifically inquire into the issue of whether antidiscrimination mechanisms and remedies are being utilized in a manner that is inconsistent with their original purpose, which is of course to guard against employment discrimination based on national origin or citizenship status.

The conferees wish to strongly emphasize that the antidiscrimination provision has been included solely in order to respond to the fears and concerns expressed by some that employer sanctions will result in employment discrimination based on national origin or citizenship status. Thus, this is all so very important.

The antidiscrimination provision does not in itself in any way set any precedent for the expansion of other title 7 priorities, or protections.

Furthermore, nothing in this bill shall prevent the use of language being a bona fide occupational qualification. If employers need only employees who speak English or Spanish, whatever it may be, or Danish that is not affected here.

This is a very narrow provision intended to address only employer sanctions, and not to provide this avenue for activist groups and organizations to harass employers with nuisance suits. We specifically address this possibility in the conference report by providing the sunset provision which would be triggered if the Frank amendment were to create an "unreasonable burden on employers." I want the Senate to hear that and to be very clear or that point.

I see my colleague from Ohio in the Chambers. My colleague from Ohio is on the floor presently. I want to inquire of my friend from Ohio who has served with me as a conferee in two separate conferences. I owe my friend a great deal of gratitude. He has followed the issue more closely than anyone could possibly follow it and not be a member of the subcommittee. The subcommittee consisted of myself, Senator KENNEDY, Senator GRASSLEY, Senator DENTON, and Senator SIMON. It has been a remarkable group to work with. Senator METZENBAUM I think has heard what I have just now been saying about the Frank amendment and the intent of what we were doing, and what we intended to do. And I would inquire as to whether what I have stated is also in full agreement with the understanding of the Senator from Ohio.

Mr. METZENBAUM. It certainly is the understanding. I do not know of any provision that was given more attention, and more time, or more negotiation and more fair consideration by parties on both sides in order to try to craft it in a fair way to all parties concerned.

I have heard the manager of the bill spell out exactly what he understands the antidiscrimination provision to mean, and I think that he reflected the views of all of those who are on that committee and certainly the views of the Senator from Ohio.

Mr. SIMPSON. I thank the Senator from Ohio. I again appreciate his extraordinary work in conference.

With that, Mr. President, I will not go on to say anything further. Asking Senator SIMPSON about immigration reform is like asking Noah about the flood. It may get a long response. So I would not want to get started up fully because the task has been a consuming one for some 6½ years.

It is a topic that has been before us, before Congressman RODINO and I, Congressman MAZZOLI, Congressman FISH. Senator KENNEDY has been most helpful. He has never been able to actually come to the final determination of support but he has been of most extraordinary assistance, and has been always gracious in dealing with the issue since he comes from a State that is just shredded with some of the problems of illegal immigration. I understand his position fully. He has been very accommodating, and very up front.

Senator GRASSLEY has just been an extraordinary sidekick on this issue all the way through.

Senator SIMON is a new member of the subcommittee and has taken it on with great vigor and interest. And Senator DENTON has been so very steady and helpful and has paid particular attention and followed it closely.

As we present that committee effort I cannot help but reflect and comment that Senator STROM THURMOND has been such a marvelous supporter and a most extraordinary proponent. He is the impeller behind me and he never let it sit still. He would often urge, "You have to keep it moving, and you must keep going." He always pressed me on.

Senator BYRD has also been remarkable in this instance. He has rendered me continual encouragement. I commend him for his continuing support.

My courageous and able majority leader has been in my corner from the beginning. He stayed the course. Arranging floor time, offering sage counsel, clearing the path. I owe him more than I can repay. Thanks to them all.

Mr. HATFIELD. Mr. President, I wish to call attention to provision under section 204 of the Immigration Reform and Control Act pertaining to State legalization impact assistance grants. This section not only creates a new entitlement program, but appropriates $1 billion for each of the fiscal years 1988 through 1991.

It is my intention to amend this provision in a subsequent appropriations measure to make this entitlement funding subject to the annual approprations process.

Mr. SIMPSON. I certainly understand concerns that State legalization impact assistance grants be subject to annual appropriations, and that this legislation be in compliance with the Budget Act. At the same time, I stress the President's commitment to sufficient funding for this legislation, and seek assurances that every effort will be made through the appropriation process to provide the amounts required.

Mr. HATFIELD. I wish to express my full support for providing necessary appropriations to fully implement this legislation, and will do all I can to ensure that sufficient funding is made available.

Mr. SIMPSON. With that assurance I thank the senior Senator from Oregon for his support, and assure him of my support for his efforts to make this program subject to annual appropriations.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to support this piece of legislation which I think might more appropriately be called the ultimate patience bill because I do not think any piece of legislation in my time in the Senate has had more hours spent on it, more tedium, more negotiation, more conferences broken up and then reconvened, or more willingness on the part of the Members to give of themselves in order to bring about this piece of legislation.

I am sure that no immigrant, legal or otherwise, no agricultural employer, or any other kind of employer, no future citizen who is not now legally in this country, whose presence may be legalized by reason of this legislation, will ever appreciate the effort that has gone into crafting this piece of legislation. It is to my mind almost a miracle in happening.

Of course, the one man who has been the miraclemaker, in addition to those on the House side, has been the Senator from Wyoming, who I know from many other dealings with him—and I want him to pay attention to what I am saying—that he is not always so patient, is not always so relaxed, is not always that willing to negotiate, but in this instance you cannot believe how patient he was, how willing he was to work back and forth, how willing he was never to throw up his hands and say, well, that is it, I am walking out.

I think it is a real tribute to him that the House has now passed this bill; and barring any unforeseen developments, which I would not anticipate in view of the vote on the motion to waive the Budget Act, I think it will become law with the President's signature affixed to it.

It is a real tribute to ALAN SIMPSON, and he has a right to stand tall and proud because in addition to all other factors that must be considered we must recognize that this is not a special kind of Wyoming problem. My guess is that there are not 50 votes in Wyoming that are really concerned one way or the other about the passage of this particular piece of legislation, but it was an example of his perseverence, his dedication, and his willingness to work with a host of groups, each one of which had their own position to sell. And he listened to them all, and worked with them all. And he and Congressman RODINO, and so many others on the House side whom he has already mention, have brought about this legislative development.

It was an exceptional effort to craft a bill. In all candor it is not a perfect bill. If you were to ask me to draft a more perfect bill, I think I could do it. But that legislative process is a process of giving and taking. It is a process of compromise.

□ 1350

I stand before this body and say it is not a perfect bill, but it is a good bill, a very good bill under the circumstances. In my view, it is too generous to the Western growers. I think we gave away a lot of the whole ballpark. But that was the price of being able to finally have a bill, and I think the totality is worth far more than some of the component parts.

Political reality is that the growers demanded concessions, and the growers had many spokespersons who were on the conference committee and many in the House, some in the Senate, who were concerned about their problems. I find no fault with their looking out for those growers. But I say for one that I think we went too far. Having said that, I think it is the price we had to pay to get this bill.

I believe that the good provisions outweigh the bad provisions.

I believe in the last analysis, when all is said and done, the crux of the issue, the real issue, is the question of gaining control of our borders, gaining control of our borders so that you will not have, literally, hordes of people coming across in one part of our Nation while others strive so hard to be permitted to enter this country.

I remember when I was down on the Mexican border and I saw people walking across the border. I said, "Is this not incredible? We have people who want to come from other parts of the world who cannot come in. But here are people walking back and forth and you cannot do anything about it, except with employer sanctions."

For once, we will have employer sanctions in place, and they are tough employer sanctions. Those sanctions are a key part of the bill. Without it, I do not think the bill would be worth passing.

But you cannot have a policy of enforcing immigration control in this country unless you have some control over those employers that sign the paychecks for the illegal immigrants who want to work for them.

The bill provides amnesty for those who have been here since 1982. I think that is fair to them. I think it ensures a better quality of life. I think you can make an argument against it; you can make an argument for it. This is the compromise solution that we have been able to bring about which is in the bill, and I think it makes the bill a better bill by reason of it.

The strong antidiscrimination provisions which became one of the most controversial parts of the bill as I have already said were negotiated long and hard. They are in the bill. I think they are fair. I think the Senator from Wyoming has appropriately described those antidiscrimination provisions. I am satisfied that the fear of discrimination is not warranted because of the protections that are now in the bill.

I am frank to say, I am pleased that we have finally taken this step. I think it is a great day for the American people. I think that we have an obligation to do something about illegal immigration in this country. We have been talking about it and talking about it while more and more immigrants, illegal immigrants, poured across our border.

I think finally we are coming to grips with the problem.

Congress has faced up to the issue of controlling our borders in a fair and sensible way, and I hope that shortly we will get on about the job of passing this bill and send it to the President for his signature. It will be a job well done and we will all have a right to be very proud of our achievement.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me begin by saying that I share many of the opinions expressed. I have a very high regard for Senator SIMPSON and the others who worked on this bill. This is a difficult issue. It is an issue that is emotion charged. It is an issue that will have profound impact on the country. It tries to deal with a problem which is a problem of crisis proportion. And it is an issue that in some way affects all of us, not just economically and socially, but because we are all people who have sprung as children and grandchildren and great-grandchildren of immigrants. My grandfather came to this country right after the turn of the century from Germany. My wife's father came to this country as an indigenous laborer to the sugar plantations, and her grandmother came as a picture bride. So I can identify with people who want to come to America, and I am very blessed, in a sense, as are all the others who are here in this body and many millions in the country, because their grandparents and great-grandparents came before there were any legal bars to coming to America.

My concern about this bill is not a concern about the sincerity of those who have written it. My concern is not a concern about the crisis proportions of the problem we face. The immigration problem is one of the most perplexing, difficult, and important problems in the country. It is a problem of crisis proportion.

Anybody who would assert that there is no problem clearly does not understand the problem.

That is not what we are debating here today. The debate on this bill is not a debate as to whether or not there is an illegal immigration crisis. Nobody knowledgeable of the problem or in their right mind could debate that subject, at least on the side of saying there is not one. The questions that this debate really boils down to

and the questions that I intend to pose as we move to a vote on this bill, are these:

Is this the best bill that can be written? Is there reason to believe that given one more try we cannot do better? Is there reason to believe that our colleagues and, in fact, our employers, the people of America, have their feet set in concrete on the amnesty provision? Is there reason to believe that the people of America really want these amnesty provisions, that they are the price we must pay to try to gain control of our borders?

I hope there are some who are persuaded that the answer is no by what I will have to say here, and hopefully what others will have to say.

The question is, Is this the best we can do?

I hear my colleagues talking about years of work. I have been here for 8 years and I have witnessed that work and I honor it and I respect it. But it reminds me a little of an old theory of value in economics that came into vogue with John Stuart Mills and with David Ricardo. It was called the labor theory of value. The theory was the longer something was worked on, the more labor it embodied, the more valuable it was.

Well, Mr. President, that theory of value was rejected long, long ago.

I ask my colleagues, do not judge this bill based on your respect for the people who did the work. If that were the issue, I would be a proponent of this bill.

Do not judge this bill based on the number of years we have worked on it. That is an indication of how difficult the problem is and how important it is, and, I think, an argument that after all that work we ought not to settle for this bill.

I ask my colleagues to judge this bill based on whether or not it solves the problem; whether or not it is the best we can do.

I would like to begin by talking about the amnesty provisions of this bill.

When we voted on this bill, we had amnesty provisions that sought to deal with a very real problem. What do you do about people who came here illegally, who have been here a long time, who have put down roots, who have become part of the fabric of our society?

The distinguished Senator from Wyoming talks about the alternative being expelling people from the country.

Well, I submit, Mr. President, the question ought to be put more clearly than that. The question is, who has put down roots? How much have they become part of the fabric of society?

Nobody is saying, no matter how we resolve the immigration issue, that there are not going to be some people who came here illegally, who, judged on any kind of individual merit basis, should not be allowed to remain in the country. In fact, we pass private bills every year making people citizens who came here 20, 30, or 15 years ago, who subsequently have served in the Armed Forces with great valor in defense of the Republic. It happens all the time.

No one is proposing, and I would never propose, that there are not any people who came here illegally who, because of their individual merit, because of what they have done since they came here, ought to be given permanent legal status. That is not the question. The question is, how do we decide who gets to stay? Of the people who violated the law in coming, who are in violation of the law by being here, who should get legal sanction to remain in America? That is the question. That is what the whole legalization or amnesty question is about.

I submit, Mr. President, that that is an important question. It is important for a lot of reasons. One of the reasons it is important is, just as was true when my grandfather and when many of your grandfathers came to this country, America is still a giant magnet of opportunity that attracts people to come here because they want to share in what we have. Mostly, they want to share in our freedom.

I thought it would be instructive in this debate to get records from the Immigration and Naturalization Service on how many people as of now have applied to come to America, how many people would like to come here legally if they were given the opportunity. I thought my colleagues would be interested in knowing that as of January 1986, 1,903,475 people from all over the world have sought through the legitimate channels to come to America. Many will have to wait for years, to hope and pray for the opportunity of coming to America under established patterns of immigration; 1,903,475 people. When we pass a bill that sets out a policy for legalization or amnesty, we are saying to these 1,903,475 people that those people who broke the law in coming here, who are here in violation of the law, are going to be given preference and status over you. People who came here illegally and who have stayed here in violation of the law are going to be given benefits that over 1.9 million people who sought to do it the legal way, probably will never have an opportunity to have.

I believe we should not do that. We have to set some standard for people who are already here. Even if we could stop the hemorrhaging of our borders, with millions of people coming across illegally, even if we could deal with the incentives of people to come, we still have to decide what to do about the people who are here.

The question is, Who gets to stay? I could go through a long list of the people who want to come to America. Interestingly enough, there are 366,820 people from Mexico who would like to come to America legally. They are waiting all over Mexico for that opportunity to come. Should those who came illegally, should those who have been here only 90 days be given preference over 366,820 people who sought to come legally? I submit, Mr. President, that if we submitted that to the American people, not 5 percent of the population would say that somebody who came into this country illegally for 90 days last year should be given preference over 366,820 people from Mexico who have been waiting years for an opportunity to come legally, or that they should be given preference over 1.9 million people all over the world who are following the rules—people from Mexico, the Philippines, Korea, Mainland China, Vietnam, Taiwan, Jamaica, the Dominican Republic, Hong Kong, and Pakistan, and the list goes on and on.

Where is fairness? Where is fairness for those who want to abide by the law versus those who have broken the law?

We have heard, Mr. President, that we have to take these blanket amnesty provisions in order to get a bill. Let me first outline what they are. There is great confusion in this body as to what this bill does. We still hear much of the debate on the basis of the bill that was adopted in the Senate or on the basis of moving the legalization date to 1982.

I say to my colleagues that, in the old traditional Southern way of expressing these things, I have prayed over this issue long and hard. If we were simply debating a legalization date of 1980, which was the provision in the Senate bill, or 1982, which was in the House bill, it is very doubtful—and I submit to my colleagues that this is a very difficult issue for me as I know it is for many of you—but it is very doubtful that if the threshold for legalization were having been here since 1980, the vast majority of the American people would say that it was sufficient.

They would say that that is not sufficient when 1.9 million people have been waiting, in many cases for longer than that, to come legally. That is not sufficient to be put on a fast track to become a citizen. But if that is what we were choosing, my guess is I would swallow hard and accept it. But that is not what we are choosing.

We are choosing here one of the most absurd proposals I have ever heard. In fact, try as I may to understand it, I did not. Quite frankly and not in any way trying to impugn the motives of anyone, it is almost as if there were a poison pill to kill the bill, only nobody ever took the pill and we

are on the verge of seeing an absurd proposal become law. I ask my colleagues' indulgence to think through this proposal with me. Let me start with the best parts of it first, the most reasonable parts first. Then I want to get down to the ultimate absurdity in the proposal.

Under the bill, anyone who has been here since 1982 can qualify to become a temporary resident alien, can qualify immediately for certain Medicaid benefits, State and local welfare benefits with some Federal matching, and move toward the receipt of some AFDC benefits after the expiration of a period of time.

(Mr. CHAFEE assumed the chair.)

Mr. SIMPSON. Mr. President, may I ask my colleague if he will yield for a question?

Mr. GRAMM. I shall be happy to yield, but I would like to go through this whole point, because it is the crux of my argument.

Mr. SIMPSON. I could have come over and handed that note to you. There is a message. I shall forget the question. Then you can share the information with your friend [Mr. RUDMAN].

Mr. GRAMM. None of the numbers listed here would be in the ballpark.

Mr. SIMPSON. I see. I thank the Senator very much. I shall save the question for later.

Mr. GRAMM. Mr. President, let me begin with the most reasonable of these new proposals, then go to the most absurd. I ask my colleagues, do we really want to make this the law of the land? Let me start with the most reasonable.

An individual who has worked in agriculture illegally for at least 90 days in each of the last 3 years would be eligible for temporary residency that may be adjusted to permanent residency after 1 year.

□ 1410

A person who has worked in agriculture in the United States illegally for 90 days a year for the last 3 years would be made a temporary resident. That can be adjusted to a permanent resident alien after 1 year, and then that person is on a fast track toward potential receipt of public assistance and citizenship.

This is a substantial departure from the whole argument for amnesty. What is the argument for legalization? I listened to my distinguished colleague from Wyoming, and I am impressed and I am in agreement when he says you cannot just throw out people who have put roots down in America. You have to have some kind of legalization program for people who made a life here.

But who is going to argue that someone who worked in agriculture for at least 90 days for the last 3 years has put roots down in America? Who is going to argue that somebody who has worked in agriculture at least for 90 days illegally is part of the fabric of America? Who is going to argue that they ought to be given preference over 1.9 million people all over the world who dream of coming to America? Nobody would make that argument, nobody in America, or no substantial number of people in America would ever buy that argument, but that is the argument this bill makes. The bill does not ask have you been here since 1982? Not, have you put down roots? Not, have you become a productive member of society? Not, are you gainfully employed? Not, have you had children or gotten married or become part of mainstream America, as many of our parents and grandparents did. But, did you work here for 90 days a year for the last 3 years illegally? What part of mainstream America is that?

I submit to my colleagues that is the best part of the proposal. That is the best part of the proposal. Let me go to the next best part. The next best part begins to border on absurdity. We argue for an amnesty provision to protect the people who have come here illegally, but who become part of America, who put down roots. We are not going to go in and drag people out of their houses and send them back to a foreign land that they have long ago given up. Nobody is for that. I am adamantly opposed to it.

But what does this bill propose? This bill proposes that if last year, if in 1985, you worked illegally in this country for 90 days in agriculture—or you can get somebody to say you did—then you are given preference over 1.9 million people from all over the world who go to bed every night dreaming about coming to America. This bill says that if you violated the law for 90 days last year, or can get somebody to say you did, you are given preference over almost 2 million human beings, some of whom have waited decades to try to come to America.

Now, what is right about that? There is nothing right about that, and everybody in this body knows it. That is an absurd proposal—that because somebody violated the law for 90 days last year we are going to claim that they are part of the fabric of America. That somehow they are being uprooted because they are not going to be given preference over 2 million people, many of whom have waited decades to come and be part of the American dream. That is an absolute absurdity.

Now, this bill may have been worked on for 6 days or 6 months or 6 years or 60 years or 600 years, but I do not care how long it has been worked on; that is an absurd proposal, and if the American people knew that this proposal was in this bill it would be laughed out of the country and laughed out of this body.

But that is not the most absurd proposal.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Texas has the floor.

Mr. GRAMM. Now, Mr. President, I have spoken in very strong words about this proposal, about this 90-day citizenship, but it is not the most absurd part of this proposal. And I hope my colleagues will listen carefully to this one, because if this one does not turn your stomach, then I submit you have a different perspective on this bill than I do.

Mr. DOMENICI. Will the Senator yield?

Mr. GRAMM. I will be happy to yield.

Mr. DOMENICI. Before the Senator goes to the next point, will he tell the Senator from New Mexico—on the 90 days the Senator said they are given preference—will the Senator explain to me, what kind of rights do they receive and do they have any further responsibilities?

Mr. GRAMM. If they have been here for 90 days, then they are eligible to be temporary resident aliens, which may be adjusted to permanent resident aliens after they have been here for 2 years. That is a clear and distinct preference over the 1.9 million people who are waiting to get an opportunity to come to America.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. GRAMM. I want to make my third point because it fits into what I am trying to say.

Mr. KENNEDY. Just on this very point.

Mr. GRAMM. I will be happy to yield.

Mr. KENNEDY. Can the Seantor share with us, how long do they have to remain as a permanent resident alien before they can become a citizen?

Mr. GRAMM. They could become a permanent resident alien in 2 years.

Mr. KENNEDY. Then how long do they have to wait before they can become a citizen?

Mr. GRAMM. I was getting ready to answer the question.

Mr. KENNEDY. Can the Senator tell me now what it is?

Mr. GRAMM. They have to wait 4 years.

Mr. KENNEDY. Five years.

Mr. GRAMM. Five years.

Mr. KENNEDY. I thank the Senator.

Mr. GRAMM. But those 5 years they are here, they are permanent resident aliens. They are eligible for Medicaid, they are eligible for State and local welfare, and they have benefits that these 1.9 million people do not have. So the fact that they have to wait to become citizens for 5 years is largely irrelevant; they are in America.

And let me assure you there are people who come to America to vote but that is fairly low on the priority. Most people come here to get a job, to have freedom, to build a life, to educate their children. Yes, these people have to wait 5 years for citizenship, but so do the people who get the visa to come. They have to wait 5 years, too. So the point is an interesting one but an irrelevant one.

But I have not gotten to the most absurd proposal. I ask my colleagues to listen to this one. Because we anticipate that the people who were here 90 days last year working in agriculture who became temporary resident aliens and then permanent resident aliens and then citizens are going to move on to other jobs, this bill provides a replenishment program.

Because we anticipate that having been legalized, after having been here for 1 year, people are going to move on just like my grandparents did and many of your grandparents did, there is going to have to be a replenishment program for agriculture.

Now, how is this replenishment program going to work? Well, the replenishment program is going to work in the following way: Beginning in 1989, when the people who have come in under this 90-day agreement would qualify to stay if they left agriculture, people will be allowed to come into the country if they work at least 90 days in agriculture for the first 3 years that they enter, and then they are eligible to become permanent resident aliens.

Now, listen to this a minute. If a person comes in under this replenishment program and works 90 days a year for 3 years in agriculture, then they become permanent and they are here legally during that period.

Now, my colleagues, this is reminiscent to me of an indenture. In fact, maybe because of my history and my family's history, it reminds me of the conditions under which my wife's grandfather came to America. Those conditions were basically that the plantation paid for him to come and in return he worked a certain number of years. When they were up, he quit.

□ 1420

Do we really want to go back to indenture of labor in agriculture? Do we really want to go back to a program where people who come to America have to commit to work in a certain industry for a certain period of time?

I am absolutely amazed that people who otherwise support labor laws and guarantees which in some cases go beyond the stretch of the imagination or the limited scope of government are willing to support a proposal that says to somebody who comes to America: "You can come to America, but you don't have the freedom to say where you work. You have to come to America and for 3 years you have to work in agriculture for 90 days, and then you can get the ticket that everybody wants as a permanent resident alien."

Are we going to have physicians coming from Germany, who will say, "I'm willing to work in agriculture for 3 years to get to come to America. I have been waiting. I'm one of these people on this waiting list. I've been waiting for decades to come to America."

Nearly 2 million people have applied to come to America. People who have been here 90 days are going to be given what those people have been waiting a lifetime for. Most of those people waiting will never get it. But we will say: "Because we have the special replenishment program, we are going to let you come: if you work in agriculture for 90 days a year for 3 years, you can be an American like all the rest of us."

Mr. President, one thing I am proud of is that when my grandfather came to this country from Germany, he was an American like everybody else. Nobody told him: "You have to work in a certain industry for a certain number of years before we are going to make you a real American."

This proposal is an absolute outrage—an absolute outrage—that we are going to say that people in this Replenishment Program will come here and will have to work in a specific industry for 90 days a year, for 3 years, in order to be Americans like everybody else.

What we are going to have, I would guess, if it is available to people from other parts of the world, is that people will be writing us from Germany, England, Italy, Mainland China, and Vietnam, saying: "How do we get into this replenishment program? I happen to be a nuclear engineer. I have won a Nobel Prize in engineering, but I want to come to America. I am one of these 1.9 million people. People violated the law last year, and you are giving them what I'm dreaming of having. I have a Nobel Prize, but I'll pick the berries for 3 years, let me come to America."

How absurd is that proposal! I do not understand why that provision was ever adopted. I just cannot believe that anybody meant for that to become law. I have to believe that this was a poison bill that nobody ever swallowed.

I hear my colleagues talking about having been to the border. I assure you that I have been to the border. This year, I went to El Paso and walked up and down between those fences. There were holes cut in the fences, with people ready to dart across at any moment.

We are concerned about how to deal with the problem. Does anybody think this bill is the way to deal with the problem? I submit that it is not.

I ask my colleagues to look at this fact in determining whether or not this is the best we can do.

My point is this: I hear that we have to take these absurd provisions, that we have a replenishment program, that we have to let people who work illegally for 90 days qualify to be here permanently and ultimately to be citizens, because the support for amnesty is so great. I would like to know where it is. I do not see it.

In fact, on October 9, in the House of Representatives Mr. MCCOLLUM, of Florida, offered an amendment, and his amendment was not to simply strike these absurd provisions I have outlined here. That was not what his amendment was. His amendment was to strike the entire legalization program. His amendment was to strike the entire amnesty provisions of the bill.

Our colleagues on the conference tell us that we have to take these provisions or else we cannot have a bill. Well, how strongly did the House feel about it? Not just about the 90-day provision. Not just about the replenishment program, which would turn an iron stomach. That was not what his amendment was.

Out of the clear, blue sky, with nobody lobbying on it, no groups which would support it back home, Representative MCCOLLUM, on October 9, offered an amendment that said strike all the legalization provisions. In other words, nobody who came here illegally will have any status, no matter how deep their roots may be in America.

I do not support that policy. But do you know what the vote was in the House of Representatives on that policy, much less this absurdity that I have been outlining here? The vote in the House of Representatives was 192 Members saying: "Let's strike the whole amnesty provision. Let's strike the whole legalization provision." If somebody has been here 40 years, had five children, two of them died in Korea and one of them in Vietnam and one of them won the Congressional Medal, they would still have no status whatsoever. On a vote on the basic legalization program, 192 said no legalization program; 199 leave the bill as it is, and 41 did not vote.

I submit to my colleagues that that is hardly a great mandate for legalization, much less the kind of absurdity that we are talking about here.

I see no basis of support for these sweeping provisions. I do not believe the American people are in favor of it; and I know that the House of Representatives, by a vote of 192 to 199, with 41 Members not voting, a swing vote of 4, came to the verge of stripping the whole amnesty provision.

Mr. President, this brings me to the fundamental point I want to make, and it is a simple point.

□ 1430

There is no basis of support in this country for those broad sweeping amnesty provisions. Most Americans would heartily reject a blanket amnesty for anybody who has been here illegally since 1980. Most Americans would reject out of hand an absolute blanket amnesty for people who have been here illegally since 1982. Most Americans would reject as absurd providing permanent residency and amnesty for people who worked in agriculture for 90 days a year for the last 3 years. I do not know how many Americans would support——

Mr. SIMPSON. Mr. President, will the Senator yield for a question?

Mr. GRAMM. I am happy to yield.

Mr. SIMPSON. As I recall during the debate on the floor of the Senate the last time I believe the Senator from Texas voted for the Wilson amendment which has a provision for temporary agricultural workers which in effect limited those workers to agriculture. Is that not correct?

Mr. GRAMM. I voted for the Wilson guest-worker program, that is correct.

Mr. SIMPSON. And that did limit those persons to agriculture only, a type of limitation without question binding them to the job?

Mr. GRAMM. Let me respond to that by saying, I voted for a guest-worker program that would have led up to a program that would have advertised in Mexico, that would have provided temporary employment and medical and housing guarantees for people who were willing to come on a seasonal basis and work in this country and then, under the supervision of the Department of Labor and the Department of Agriculture, when the work was done they were paid and they would go back to Mexico. That is certainly correct.

I see no inconsistency between that and the point that I have made here.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. SIMON. Mr. President, will the Senator yield on that point?

Mr. GRAMM. Mr. President, reserving my right to the floor, I yield to the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I hate to interrupt this very good discussion, and it is a good discussion. But we need to get on to the continuing resolution.

Much as I dislike setting this aside, I made a promise to the Senator from Iowa that if he would let us clear something early this morning, we would move to his resolution with 10 minutes on the side.

So I ask unanimous consent that we now go to the Harkin resolution.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I wonder, if the majority leader will yield for a question: Could we incorporate that perhaps we will go to the continuing resolution immediately following the Harkin amendment?

Mr. DOLE. Right. We are going to the CR immediately following.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The Senator from Kansas.

Mr. DOLE. As I understand there are 10 minutes on each side.

The PRESIDING OFFICER. The Senator is correct.

REPORT ON POSSIBLE NICARAGUAN INVOLVEMENT

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I have a joint resolution which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A joint resolution (S.J. Res. 429) to require a report by the President on possible involvement by U.S. Government personnel in the provision of military support by American citizens to the Nicaraguan democratic resistance.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, the joint resolution which I offer on behalf of myself and Senators KERRY and KENNEDY is very simple and direct.

My resolution adopted and signed into law would require the President by February 1, 1987, to transmit a report to Congress providing a full and complete accounting of all contacts, including advice, logistical support, and any other assistance to Eugene Hasenfus, Max Gomez, Wallace Sawyer, William Cooper, and all other private American citizens providing military support to the Contras or Nicaraguan democratic resistance.

I want to make it clear this joint resolution would not withhold any of the $100 million in aid that is in the continuing resolution. My resolution does not assign blame, nor does it declare this or that member of the administration provided support or assistance to the Contras and thus violated the law.

My joint resolution does require a full and complete disclosure of all contact, if any, with the United States Government personnel and members of the National Security Council and United States military group and United States Embassy in El Salvador, in the so-called private war in the Contra operation in Nicaragua.

Mr. President, I wish to make it clear that I understand that there will be investigations made into this by the appropriate intelligence committees and by the Foreign Relations Committees of both the House and Senate perhaps. But I believe that those investigations, of course, will be conducted basically on the staff level. It will be staff investigations.

Quite frankly, if you do not ask the right questions you do not get the right answers. That is why I think it is important for us to insist that the President make a full and complete report to Congress so that we can evaluate early next year whether or not any of the laws that were passed by Congress——

The PRESIDING OFFICER. The Senate is not in order.

The Senator is entitled to be heard.

The Senator from Iowa.

Mr. HARKIN. Thank you, Mr. President.

Because by having the administration report to us then we can really evaluate whether or not we have all the complete information that we need to assess whether or not any laws were broken.

I know that in the continuing resolution there is a provision for $100 million for aid to the Contras. My position opposed to that is quite clear. However, Congress has spoken and that I assume will go through.

That does not, however, absolve the administration in any way from having their feet held to the fire on observing the law that was in effect or will be in effect up until the time the continuing resolution is signed into law.

I believe there are a lot of allegations and indications that certain individuals within the administration, within the executive branch, perhaps some in the military branch of the armed services have violated those laws.

I believe it is incumbent upon us as Members of the Senate and House, Members of Congress, that if we are passing laws that we make sure that the administration follows those laws.

I believe that again we need this kind of information that this resolution would require the administration to report.

We have seen the downing of the plane in Nicaragua, the capture of Mr. Hasenfus, who I say I feel sorry for. I have no doubt in my mind Hasenfus thought he was working for the CIA and thought he had the backing of the United States Government and now he is in Nicaraguan hands and no one

knows of him, no one claims him. He is sort of like a man without a country. And the plane, where did the plane come from? No one claims any kind of support for the plane.

I think the administration should be more forthcoming on this incident and let us know all the facts and details surrounding any contacts, advice, any kind of support that may have been provided to this flight, to this mission or to any other missions in and over Nicaragua that were in violation of the laws passed by Congress.

Mr. President, I reserve the remainder of my time.

Could I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. HARKIN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Minnesota has 10 minutes.

Mr. DURENBERGER. Mr. President, I rise in opposition to the joint resolution of my colleague from Iowa. I remind my colleague that we had a colloquy here on the floor last night on this subject in which I tried to explore with my colleague from Iowa what might be different or distinctive about his resolution from the activity that is an ongoing activity on the part of either the Intelligence Committee and the Foreign Relations Committee, and I think we heard the answer in his first 5-minute presentation, and that is that he has some feeling that there might be inadequate investigations by either the Intelligence Committee or the Foreign Relations Committee and the suggestion was that we may not at the staff level or whatever be asking the right questions.

I cannot find in a reading of the Senator's resolution what questions ought to be asked. So in each of these cases we are left to ask our own questions.

Because we do not have time I am not going to take the Senator from Iowa through the various laws that are involved that relate to the Neutrality Act, that relate to the Arms Export Control Act and some of the other acts that might possibly regulate activities of American citizens in or against countries with whom we have recognized relations.

I think it might serve a useful end if I did but we do not have the time to go through that.

I will just say to my colleagues that this is no longer as far as I am concerned strictly an Intelligence committee issue. In our oversight functions since 1980 when the administration began its involvement in support of democratic resistance in Nicaragua, the Senate Select Committee on Intelligence and its House counterpart have spent a great deal of their time at the staff level and in particular at the Member level in overseeing the specific activities of the U.S. Government in Nicaragua or in adjacent countries in support of activities by others in Nicaragua.

We had the sad experience in 1984, as I recall it—actually it began in 1983 in July—with a decision in the White House and culminated in January 1984 with the planting of detonating mines in certain harbors in Nicaragua and then finally culminated in a little public explosion over here on the floor of the Senate in which the senior Senator from Massachusetts was a part in April of that year.

□ 1440

And it was sort of a vacuum, if you will, in total oversight during that period of time. And the result was that in June, and I think again in September 1984 the Congress, on behalf of the American people, acted in the best interest of this country to stop the covert, the overt-covert support of paramilitary activity in Nicaragua.

Now, there are some of us that feel that perhaps the administration has not gone far enough in actually stopping what support they could stop, because the President and everyone around the President had done as much as they possibly could to encourage the private involvement of American and other citizens in support of the democratic resistance. There is no question about that.

I am not sure that it was in the spirit of American democracy, as the Assistant Secretary of Latin American Affairs testified yesterday, in the words of de Tocqueville, "when government does not act, the American citizens go about acting," and liken that to the church building and the barn building and so forth that he observed in the 1830's. I think it is an inappropriate comparison.

But the point is that from April 1984 until today the Senate Select Committee on Intelligence and the House Committee on Intelligence have not left the intelligence community side of your Government up off the ground on the issue of their involvement in any way in support of Nicaraguan resistance, which they started but which, by law, they have been prohibited from assisting.

Now is there anybody else in the Government, as the Senator's resolution would suggest? We certainly have an interest on the intelligence side in who else there might be. We have, both of us, on the House and the Senate side, asked the predecessor to the current National Security Adviser of the President to appear before us in person when the allegations came out a year ago that members of the National Security Council were actually directing, supporting, providing some assistance to the Nicaraguan democratic resistance in their supply from the outside. And the adviser to the President came, appeared personally before both committees, and assured us on that occasion that the kind of support that the Senator from Iowa and I and others fear was not being directed in any way from the White House. And I believe him. And I believe the current adviser to the President when he says the same. I believe the President of the United States when he says the same.

Now, if somebody is going to go after some detailed particulars, perhaps somebody in Foreign Relations is going to want to explore that part of it. But on an ongoing basis, both of these committees are concerned about the implementation of national security and foreign policy in this country. They are both concerned, as the Senator from Iowa is, that those policies can be adversely affected by the acts of privateers and particularly if those privateers are being directed in some way from inside the Government.

So I certainly assure my colleagues that institutionally we have come to learn the problems that are involved for all of us in ignoring some of the problems created for all of us by the administration in Nicaragua. We have learned our lesson. We are discharging, I think, appropriately, as best we can, that function.

I do not think that voting for this joint resolution is going to add one piece of information for the American public or anybody here. In fact, probably it would be better if you did not vote for this joint resolution but did leave it to these two committees, which are very bipartisan committees—there are not two more nonpartisan committees in this place than the Intelligence Committee and the Foreign Relations Committee—leave to them the appropriate congressional oversight of who did what to whom as that fact relates to not only the past but in particular to our future. Because, as the Senator said, the future is probably more important today than the past, since we are about to vote for a continuing resolution which will in effect put our $100 million into this kind of activity.

So I would urge my colleagues to vote against this joint resolution. By doing so, you are not voting against an investigation, you are not voting against getting the facts out, you are not voting to not find out exactly what is going on, because you do have an institutional process at the present time that would do much the same.

I reserve my time. I think the chairman of the Foreign Relations Committee may be on his way.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEAHY. Would the Senator from Iowa yield me 1 minute?

Mr. HARKIN. I yield 1 minute to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I rarely, if ever, disagree with the distinguished Senator from Minnesota because of my respect for him and the way we work together.

I must say, I rise in support of this joint resolution. Senior intelligence officials with whom I have spoken categorically deny any activity by officials from the intelligence community any way helping the private benefactors. I have reported that to the Senate and have those assurances. But the press continues to dig up new information and new allegations. I think just for the sense of credibility of this Government about this operation we ought to have the report asked for by Senator HARKIN.

Mr. President, I rise in support of this resolution to require a report from the administration on the issue of alleged encouragement and cooperation by U.S. officials in private efforts to supply military equipment to the Contra rebels in Nicaragua.

I have been troubled for some time by continuing reports in the United States and foreign press of connections between administration officials, usually with military or intelligence backgrounds, and the various private organizations that are raising money and shipping supplies to the Contras. I have asked questions of senior intelligence officials about reported involvement. In every case, these officials categorically deny any activity by officials from the intelligence community in any way helpful to the private "benefactors."

Nevertheless, the press continues to dig up new information and new allegations. Perfunctory denials by administration spokesmen simply are not answering these disturbing reports.

Mr. President, why should any of us be concerned that U.S. officials may have been working with, advising and helping private supply efforts to the Contras? After all, Congress is on the verge of approving a new $100 million military aid program that takes us directly back into this war. I oppose that program, but it is going to become law very soon.

The reason every Member of this body, whether pro- or anti-aid to the Contras should be deeply concerned is that this alleged activity has been going on while Congress, by law, has banned U.S. assistance, direct or indirect, to the Contras. That ban was modified last year and again this year to allow so-called humanitarian aid, but the prohibition on assisting the Contra insurgency remains on the books.

This resolution by the distinguished Senator from Iowa simply asks for information from the executive branch. Did any U.S. officials, civilian or military, have any connections with the American civilians killed on the recent supply flight to Nicaragua? Were there any connections with Eugene Hasenfus? What about Mr. Gomez and Mr. Medina, whom Eugene Hasenfus named as those in charge of the supply flights? Who is paying for these flights and who is buying the supplies? Are the Neutrality and Arms Export Acts being violated? Are congressional prohibitions on direct or indirect assistance to the insurgency being circumvented?

Mr. President, these are reasonable questions, ones I would hope the administration is already asking of its own officials. Congress has both a right and a duty to find out the facts and to insist on compliance with the law.

I urge all Senators to support this resolution.

Mr. HARKIN. Mr. President, I thank the distinguished Senator from Vermont for his support.

I want to just respond to the points raised by the distinguished Senator from Minnesota. First of all, this joint resolution and report is in no way meant to substitute what the appropriate committees of the Congress are doing on this issue right now. Indeed, it is meant to complement those investigations, to help fill in the holes.

As I said, a lot of times the staff does not know exactly what questions to ask. I believe a report coming from the administration, as outlined in this joint resolution, will complement, not substitute the investigation that is now going on, but be a complement to it.

Second, we have a right to know if the laws have been obeyed by this administration. Now there is a difference. The distinguished Senator from Minnesota said about encouraging private support, the administration has been encouraging private support. Well, that is fine. There is no law against that.

But there is a difference between encouraging private support and actually aiding and abetting and provide funds and support and assistance to those groups that have been operating in and over Nicaragua.

Now the questions I have are not about the Central Intelligence Agency. I will admit openly that I am probably about 95 percent convinced that the Central Intelligence Agency's hands are clean on this. I really believe they did obey the law.

My questions really revolve around the inner workings of the White House and the National Security Council. I would just make the observation that the Intelligence Committees of the Senate and the House have oversight over the CIA, but not the National Security Council. They are not going to come forward unless we make them come forward with this kind of report to tell us what kind of contacts they have had right directly from the National Security Council to these private groups.

So it is not the Central Intelligence Agency that concerns me. It is the National Security Council. And that is why we need this kind of report from the administration.

We do not have to just sit back and hope that somehow we are going to get to the bottom of this. We have got to hold nonelected officials accountable for whether or not they have obeyed the law. We are all held accountable. In a couple of weeks, we will be held accountable in the polls, at least some of us will be. But these nonelected bureaucrats are never accountable. I believe we have to hold them accountable.

I see the distinguished Senator from Minnesota. I just say once again that it is not the Central Intelligence Agency that I am so concerned about. It is the National Security Council. What I am concerned about is that this investigation, either by the Foreign Relations Committee or by the Intelligence Committee, will not probe that area because that is not an area really under their jurisdiction.

This resolution would require the administration to come forward with the report detailing activities not just of the CIA, but of any individuals in the executive branch of Government. I think it is important for us to hold the administration's feet to the fire, to have them report to us so we can know and tell the American people, once and for all, that the administration either did or did not obey the laws.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 1½ minutes.

Mr. HARKIN. I reserve the balance of that time.

Mr. HATFIELD. Mr. President, they are part of what Assistant Secretary of State Elliot Abrams calls "a kind of old boy network," and their flight was one of many described by the administration as "quite in line with * * * a well established tradition in our country." Three U.S. citizens, part of a murky underworld of counterinsurgency experts, and an unidentified fourth took off last week in a plane loaded with military hardware: automatic rifles, ammunition, and an assortment of other tools of destruction. Their destination? Somewhere in the jungles of Nicaragua, where the rebels we so delicately call "freedom fighters" await their arrival. But before they can deliver, the Nicaraguan Armed Forces shoot the aged C-123 transport plane down. Three of the men perish—a fourth, a Wisconsin man named Eugene Hosenfus, is cap-

tured and quickly paraded around Managua.

As we wonder what to do about the first "unofficial" prisoner of our undeclared war against Nicaragua, Mr. President, the questions far outnumber the answers. Where did the flight originate? Who owns the plane? And who owns the cargo? The administration promises an investigation of these questions.

But, of course, the most important question raised by last week's incident is what degree of involvement the U.S. Government had with these men and their mission. Mr. President, I believe the people of this country have a right to know the answer to that question. Have we spent the past 9 months debating a $100 million assistance package to the Nicaraguan Contras while our Government has been a coconspirator in private efforts to supply them? I believe we ought to know the answer.

The truth is that regardless of whether Mr. Hosenfus and his colleagues were working with, or for, the Central Intelligence Agency or any other agency of the U.S. Government, they are part of what Assistant Secretary Abrams calls "a kind of old boy network." That network, which has been active since the Contra debate first surfaced in 1982 and has supplied the rebels with untold millions worth of both "freedom fighter friendship packs" as well as guns and ammunition, carries with it the tacit endorsement of the administration.

I am not convinced that administration support for, or collaboration with, this network's various organizations does not go far deeper than tacit endorsement. But at the very least, the administration has given those organizations the tacit endorsement, and that alone is too much.

Tacit endorsement means Assistant Secretary Abrams' salute to the heros who died last week. Tacit endorsement means convincing the leaders of Civilian Military Assistance, the organization which owned the helicopter shot down over Nicaragua in 1984 and to which the two United States citizens killed in the incident belonged, to change the group's name to Civilian Material Assistance. And tacit endorsement means looking the other way when potential violations of the neutrality laws are involved.

Mr. President, hostile expeditions of the sort Mr. Hosenfus clearly was a part, against a nation with which the United States is at peace, amount to a private usurpation of congressional authority to declare war, as well as the President's authority as Commander in Chief of the Armed Forces. While selective enforcement of the letter and intent of the neutrality laws in cases like this one may suit the immediate agenda of the administration. Anything short of strict enforcement of Federal authority in all matters of foreign policy ultimately will undermine the integrity of U.S. foreign policy around the globe.

Let me paint the scenario: the United States recognizes the Government of Nicaragua, and is officially at peace with the Sandinistas. And yet for several years, a debate has raged in Congress over the necessity for, and level of, United States military assistance to the Nicaraguan Contras, a motely crew attempting to overthrow that government. The assistance was the brainchild of the administration, and has become a cornerstone of the so-called Reagan doctrine. For several years, Congress resisted administration pressure and approved only so-called humanitarian assistance to the Contras. During that time, a variety of organizations formed in the United States to raise money for the Contras and their guerrilla war. Their members were U.S. citizens, and their warchests soon grew.

Of course the administration did not mind: The Contras were getting weapons and supplies, and just because they said "made in the USA" on the label did not mean congressional intent had been undermined and of course did not mean that the United States was a part of any effort to overthrow the Sandinistas. Now comes congressional approval of $100 million in military assistance to the Contras. We are, of course, still at peace with the Government of Nicaragua and Congress has not been asked to approve the deployment of United States troops. But why dirty the name of U.S. foreign policy—not to mention fight a fierce battle with Congress—with a declaration of war and the involvement of our boys in the jungles of Nicaragua? The private organizations seem more than willing to slide down that slippery slope, just so long as the administration looks the other way.

William Walker has returned, my friends.

Mr. President, there is something desperately wrong with that scenario. The peasants of Nicaragua can hardly be expected to distinguish a private citizen from a U.S. troop when the private citizen walks, talks, and offers his cargo of weapons like the U.S. troop. And the Government of Nicaragua is far too smart to think those private citizens would be free to execute their own foreign policy agendas without a little help from their friends in Washington.

It may not satisfy the de jure requirements, Mr. President, but what we have here is a de facto war against Nicaragua. The only problem is that we were never asked to declare it. Sound familiar? Go ask the four men fasting on the steps outside this Chamber if it sounds familiar to them.

We are entering a no man's land, a land without laws, Mr. President. And whether the Government of this country is directly involved or not, it has in its hands the power to retreat from that all too well trodden path before it is too late.

Mr. President, I support the resolution now before us—not because I believe it will halt United States involvement in Nicaragua but because the people of this country have a right to know just how dirty this little war is.

□ 1450

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, we are awaiting the arrival of the chairman of the Foreign Relations Committee. We are holding up the $600 billion continuing resolution. I hope we could vote on this mischievous joint resolution. It is just another effort to get at the President of the United States. If we are going to do this, we ought to include finding out who is helping the Sandinista government, Ortega's government, which is supported by Russia and Cuba. If we want to report, and if we want an investigation, let us make it fair and across the board instead of just aimed at those who are trying to fight for freedom and democracy in that part of the world.

I yield back the time on this side.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am sorry the distinguished majority leaders said this is mischievious. There is nothing mischievious about it. Darn it, if someone is wrong, and disobeys the law we ought to know about it. We ought to demand a full accounting. Sure, we should hold Moscow, Havana, and everybody else accountable. But they are beyond the purview of our laws.

Congress passed laws that they were not to do these things. And yet every indication we get from the press day after day is that individuals high up in the administration, and in the National Security Council, are heavily involved in this.

It is not mischievious to demand a full accounting from any administration—this one or any Democratic administration—as to whether or not they have obeyed the laws passed by the Congress.

I do not believe that is being mischievious, Mr. President.

I yield back the balance of my time.

Mr. BYRD. Mr. President, before the Senator yields his time back——

Mr. HARKIN. I yield to the distinguished minority leader.

Mr. BYRD. Mr. President, I ask unanimous consent to have my name added as a cosponsor of the joint resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I thank the distinguished minority leader.

WAR IN NICARAGUA

Mr. BYRD. Mr. President, I strongly support the resolution offered by the distinguished Senator from Iowa, Mr. HARKIN. The resolution requires a full report of the circumstances surrounding the incident which occurred on October 5, 1986, when a C-123 cargo plane was shot down in Nicaragua. As everyone knows, one American was captured, and two died when their plane was shot down after violating Nicaraguan airspace. From any perspective, the violation of Nicaraguan airspace by a plane clearly unfriendly to the Sandinista government was illegal. If Mr. Hasenfus was an employee of the CIA, he was in Nicaragua in violation of United States law. If he was a private individual pursuing his own war against the Sandinista government, he was in violation of another U.S. law.

There are many unanswered questions, allegations, and conflicting reports and assertions concerning this incident. I have withheld making a statement, and a judgment, on the downing of the aircraft. There have been assertions, and one may certainly draw inferences, that the U.S. Government is pursuing an illegal hidden war, not authorized by the Congress. I addressed this question directly in an amendment which I offered to the military construction authorization bill this past August. The amendment failed narrowly, 52 to 48, mainly on party lines.

My amendment would have prohibited all forms of assistance to the Contras except the $100 million authorized by Congress. It sought to prohibit the provision of assistance beyond the $100 million through such devices as bailment, credit, loan, lease, guaranty, insurance, or other services which would have the effect of providing additional unauthorized assistance. The principle behind the amendment was simple: Congress and the American people ought to know, and approve in advance, deepening involvement by the United States in the Central American conflict. Without a consensus behind such involvement, it certainly could not be sustained over the long run.

I withheld reoffering my amendment to the continuing resolution on the strength of assurances by the administration that they, indeed, would not provide additional assistance through the use of such devices. I am not accusing the administration today of doing so, or of planning to do so. But, the latest aircraft incident does raise disturbing inferences, and so, Mr. President, the report required by Mr. HARKIN's resolution will be useful in clearing the air and resolving many of the questions which have been raised regarding the C-123 incident.

In addition, Mr. President, I am today writing the distinguished chairmen of the Senate Foreign Relations Committee and the Senate Intelligence Committee, asking them to pursue vigorous oversight of the administration's program in Central America to ensure that the provision of unauthorized additional assistance is not occurring. In this way, the record of the next few months can be effectively reviewed early in the 100th Congress and appropriate action taken, if need be, expeditiously.

The PRESIDING OFFICER. All time having been yielded back, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

Mr. HARKIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The resolution having been read the third time, the question is, Shall the joint resolution pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Nevada [Mr. LAXALT] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAMM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—47

Baucus	Grassley	Mitchell
Biden	Harkin	Moynihan
Bingaman	Hart	Nunn
Boren	Hatfield	Packwood
Bradley	Heinz	Pell
Bumpers	Inouye	Proxmire
Burdick	Johnston	Pryor
Byrd	Kasten	Riegle
Chiles	Kennedy	Rockefeller
Cranston	Kerry	Sarbanes
DeConcini	Lautenberg	Sasser
Dodd	Leahy	Simon
Eagleton	Levin	Specter
Exon	Matsunaga	Stennis
Ford	Melcher	Weicker
Gore	Metzenbaum	

NAYS—50

Abdnor	Garn	McConnell
Andrews	Goldwater	Murkowski
Armstrong	Gorton	Nickles
Bentsen	Gramm	Pressler
Boschwitz	Hatch	Quayle
Broyhill	Hawkins	Roth
Chafee	Hecht	Rudman
Cochran	Heflin	Simpson
Cohen	Helms	Stafford
D'Amato	Hollings	Stevens
Danforth	Humphrey	Thurmond
Denton	Kassebaum	Trible
Dixon	Long	Wallop
Dole	Lugar	Warner
Domenici	Mathias	Wilson
Durenberger	Mattingly	Zorinsky
Evans	McClure	

NOT VOTING—3

Glenn Laxalt Symms

So the joint resolution (S.J. Res. 429) was rejected.

□ 1510

Mr. DOLE. I move to reconsider the vote by which the joint resolution was rejected.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1987—CONFERENCE REPORT

Mr. DOLE. Mr. President, I submit a report of the committee of conference on House Joint Resolution 738 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. GRAMM). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 738) making continuing appropriations for the fiscal year 1987, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 15, 1986.)

Mr. HATFIELD. Mr. President, the conference report on House Joint Resolution 738, the continuing resolution for fiscal year 1987, was adopted by the House last evening by a vote of 235 to 172. According to a letter from OMB Director Jim Miller received yesterday, the administration urges adoption of this conference report while remaining opposed to two of the six amendments remaining in disagreement. Echoing the language of Mr. Miller's letter, Mr. President, I urge adoption of this conference report, and I ask unanimous consent that Mr. Miller's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 15, 1986.

Hon. MARK O. HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Based on our preliminary analysis and representations made by the conferees, we urge adoption of the Conference Report.

During the course of negotiations, the conferees made substantial progress toward meeting the objections raised by the Administration. In particular, the Conference

Report reasonably holds the line on most spending; provides funding for defense and foreign assistance that has been agreed on with representatives of the Administration; provides essential aid for Contras and for Central America; and includes the carefully negotiated agreement on arms control.

However, to make the resolution acceptable to the President, I also urge Congress to delete two provisions that are in true disagreement. Both of these provisions—the so-called "Buy American-Outer Continental Shelf" and "Double Breasting" provisions—have been opposed consistently and most strongly by the Administration.

Sincerely yours,

JAMES C. MILLER III,
Director.

□ 1520

Mr. HATFIELD. Mr. President, we all know that this is the largest single appropriation measure ever considered by the Congress. It embraces the funding recommendations and general provisions normally covered in the 13 regular appropriations bills for fiscal year 1987. The conference agreement recommends funding levels of $557.2 billion, more than a half trillion dollars. The conference report and the accompanying statement of managers total more than 1,200 pages, and I might raise it for all to see. Over 8 inches high, it weighs 18¼ pounds. That is the funding mechanism for the coming year. Not to only say that it is a massive piece of legislation, but I agree with those who argue we should not deal with the financing of Government operations in this manner.

I do not know anyone who is happy about this process at this moment. But, Mr. President, notwithstanding where we are historically at this moment, this is a good piece of legislation and a satisfying result to a long and difficult year in the appropriations process. It is the product of a year of hearings by 13 subcommittees, 13 subcommittee markups, 13 full committee markups, 1 week of debate on the floor of the Senate, and 10 full days in conference with the House of Representatives. We have successfully removed from this conference agreement all the provisions of the now famous "A" list of the Office of Management and Budget with the exception of two amendments in true disagreement that we will deal with after adoption of this conference report.

This conference agreement provides funding levels on defense and foreign assistance that are acceptable to the administration, strikes a good balance on nondefense spending in a way that "reasonably holds the line," according to the administration, provides emergency assistance to the Philippines and El Salvador, and carries important provisions on arms control that have been negotiated with all sides. And it does all this, Mr. President, while remaining with the constraints of the budget resolution. This continuing resolution is within our 302(b) allocation under the budget resolution and within our revised subcommittee allocations.

Mr. President, I once again urge the adoption of this conference report. And may I say the manager on the Democratic side, our subcommittee chairman and ranking minority members and I are ready to respond to any questions Senators may have. I hope we can proceed in an expeditious way, adopt the conference report, act on the amendments remaining in true disagreement and conclude congressional action on this continuing resolution. I would like to yield to my very outstanding and treasured comanager and ranking member of the Appropriations Committee, the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I am sure we all want to thank the chairman for the excellent service he has rendered in the preparation of this bill, which is characteristic of him always, and all the other chairmen of subcommittees and other committees. The amount of work that has been carried on by them and their valuable staffs day and night is amazing. It is unbelievable. I feel they in their talented and dedicated way, with the knowledge they have of the subject matter, have put the parts of this entire matter in place and have a very strong bill, an adequate bill, in my opinion, with adequate funds, and the best selections that could be made.

At the same time, I want to make it clear that I do not approve of the idea of resorting to a method that puts 13 appropriations bills into the same bill before the body for debate and for passage or rejection. I think that will gradually erode and ruin the committee system. The committee system is what the Senate is better known for and its better work is done there.

However, we have a fact here rather than a theory. We have to pass on it. There are a few points where agreement was not reached. They are few and far-reaching. I think we can work out something on that, make the choice and vote on them. I am afraid it would hinder and delay and injure this bill if we do not proceed now to prompt consideration and I hope prompt passage.

I yield the floor.

DEFENSE CHAPTER OF THE FISCAL YEAR 1987 CONTINUING RESOLUTION

Mr. STEVENS. Mr. President, I am pleased to report that the defense appropriations contained in the continuing resolution for fiscal year 1987 are well below the budget resolution targets established in the 302(b) allocation. The new budget authority recommended totals $274 billion compared to $277.1 billion reported to the Senate last month in S. 2827. CBO estimates outlays of $262.5 billion which is well within the allocation for defense.

The original Senate Appropriations Committee recommendations in S. 2827 included $2.96 billion to replace the space shuttle *Challenger.* The conferees on the continuing resolution, however, propose that these funds be made available to NASA for the replacement orbiter, and therefore the HUD-Independent Agencies Appropriations chapter has been increased to reflect this adjustment. By originally proposing that the orbiter be funded in the defense chapter, the Senate successfully raised the issue and cut through several months of bureaucratic haggling over how to fund the orbiter. Now we can get on with the key element of the Space Recovery Program.

The recommendations of the conferees also include a rescission package totaling more than $5.3 billion. This is the first, comprehensive defense rescission package proposed in my tenure as chairman of the Defense Subcommittee. It is designed to achieve two objectives. First, rescinding prior year funds will have the effect of reducing outlays in fiscal year 1987 by $1.5 billion. This significantly contributes to our efforts to comply with, what I consider, the unrealistic outlay targets in the budget resolution. Second, rescinding prior year moneys will go a long way toward clearing the impression that persists that somehow there is a "slush fund" in the Department of Defense. The rescissions are derived from contract savings and lower costs from declining inflation. The rescission package was developed after exhaustive review by a GAO analyst on loan to the committee and the committee staff. By rescinding the money, the image that there is a DOD funding reserve should be put to rest.

Most of the Senate's key provisions pertaining to contract profit policy revisions have been retained. The conferees recommend a 5-percent reduction in progress payment rates, a requirement that defense contractors bear responsibility for 50 percent of the cost of production tooling, and most significantly, the provision contains a requirement that profits be calculated on the basis of investment and contractor risk. The objective of the provision is to reward efficiencies in productivity and reverse the trend of awarding profits based on increasing procurement unit cost.

In full compliance with the agreement struck between Congress and the administration, this bill also includes all the arms control provisions which are also included in the Defense Authorization Act passed last night. Although the appropriations conferees did not negotiate this agreement, it was our understanding that the agree-

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ment should be carried over to the continuing resolution and we have complied with that request.

With regard to other authorization agreements, we must recognize that both the authorization and appropriations bills have been moving concurrently. We've tried to coordinate information and data over the last few weeks to avoid accounting conflicts, but I have no doubt that differences will exist. Without a complete authorization agreement prior to our conference, I can only state that we have tried to minimize the differences. Aside from delaying consideration of the continuing resolution, there was no other alternative available.

In summary, the conference agreements for defense represents the absolute best settlement the Senate could expect. The appropriation levels recommended are adequate to continue the President's strategic modernization programs, support the existing force structure, and continue the high state of readiness which has been achieved over the last few years. It was a difficult task to achieve these results and also comply with the congressional budget requirements to cut $25 billion from defense. Several key programs and production rates had to be trimmed back significantly to meet these targets. In effect, the appropriations levels recommended in the conference agreement represent a "hard freeze" since we are at the same numerical levels as the fiscal year 1986 rate of spending. I am not sanguine that a repetition of this circumstance next year will yield similar results.

AIRPORT SLOT GIVEAWAY

Mr. HOLLINGS. Mr. President, I seek recognition not to offer any legislative proposal, but rather to note for the record one of my sincere disappointments of the 99th Congress. I am referring to the failure of Congress to override one of the most outrageous public policy initiatives ever perpetuated by the Department of Transportation, or for that matter, any Federal agency.

We are all fully aware of our current budgetary woes, being forced to sell off Federal assets, as well as to impose major funding reductions on important Federal programs. Yet, in late 1985, the Department of Transportation acted to willfully give away public assets, without charge, that have earned hundreds of millions of dollars for private companies.

I am referring to the rule allowing airlines to buy and sell, for their profit, landing slots at high density airports. This is a rule which the Senate correctly voted to repeal earlier this year, by an 82 to 12 margin. But unfortunately, time and a lack of action in the House have resulted in our inability to gain final enactment of legislation to remedy this insult to public policy.

I want my colleagues to clearly recall that we are talking about a rule which gave, free of charge, the landing rights at congested airports to the airlines fortunate enough to have been using them last December. The rule further said that after waiting a long and painful 90 days, those airlines could then sell the slots to other not-so-lucky airlines for any amount they can command, which, as it turns out, has amounted to hundreds of millions of dollars. In fact, in May of this year, some $65 million was paid from one airline to another as a part of a single package of landing slots!

How do we explain this generosity to a group of airlines when we stand here day after day making painful cuts to critical Federal programs?

I want to alert my colleagues that I intend to make sure that this rule is repealed as soon as official business begins in the 100th Congress. In fact, I intend to make sure that every piece of aviation legislation that comes out of the Commerce Committee next year will have an amendment on it to repeal this airline windfall profit rule.

This DOT rule is bad public policy. It was overwhelmingly rejected by the Senate. And I am committed to seeing it finally repealed in 1987.

Mrs. KASSEBAUM. As the original sponsor of legislation overturning DOT's "buy/sell" rule, S. 1966, I want to join my colleague on the Commerce Committee in expressing my continuing opposition to that provision. I have stated on a number of occasions that I do not believe that the DOT rule is good public policy or good transportation policy and I continue to feel that way.

There are some 4,200 total slots at the four airports in question. Exact figures as to the real value of these slots remain unknown, as carriers swapping slots are not required to report the value of such transactions. Suffice it to say, however, that these public assets amount to a very large windfall to the airlines that currently claim to own them.

I offered the text of my bill as an amendment to the National/Dulles Airport transfer bill in April of this year, believing that it was appropriate to link the two measures. My colleagues agreed overwhelmingly, both on substance and procedure, as the amendment was adopted by an 82 to 12 margin.

Since that time, the Senate bill stalled in the House of Representatives, forcing proponents of the transfer bill to separate the two measures. While that legislation was attached to the continuing resolution, I deferred, believing that it was inappropriate, at the late hour of this Congress, to add further to the weight of the omnibus funding bill.

Let no one think, however, that our inaction on this bill in this Congress, is a signal that we intend to let this issue die and fade away. On the contrary, I support the comments made by my friend from South Carolina on our need to act early next year, and wish to be associated with them entirely.

Mr. HOLLINGS. I want to thank the distinguished chairman of the Aviation Subcommittee for her statement of support. She has been a strong leader on aviation issues and I am pleased to be working with her on this particular matter.

I would now like to ask my friend, Senator EXON, the ranking Democrat on the Aviation Subcommittee, for his views on this matter. I know he has been a strong advocate of repealing the buy/sell rule, and is particularly concerned with the potential effect it could have on small community airline service.

Mr. EXON. I want to thank my distinguished colleague from South Carolina and join him in his remarks about the flaws of this preposterous regulation. I certainly think this rule will, in the long run, freeze many smaller communities out of any significant access to key airports in this country.

When the Aviation Subcommittee held hearings on this matter early in 1986, we heard testimony from airport executives, State and local officials, general aviation groups, and several airlines, all of whom agreed that small communities will end up the losers in this process.

Can anyone deny the fact, that once an airline pays millions of dollars for access to an airport, it will use those slots to serve the most lucrative markets? I think not. And as a result, the small communities that now rely on airline service to the major airports, will see the airlines take their slots, and begin service to major markets like Miami, Los Angeles, or Dallas.

I want my colleagues to know that I appreciate their intentions to repeal this outrageous rule, and I will be happy to join them in those efforts. Further, I would like to suggest that we consider making such amendments retroactive, so that the public, whose assets are being given away, does not lose out because of congressional inaction.

Finally, I hope that when we do take up legislation next year, we consider asking the Internal Revenue Service for a ruling on the tax consequences of any slot sales that may have been allowed to stand. Considering that the airlines selling the slots obtained them at no cost, I would be interested in hearing the IRS's interpretation of whether these transactions should stand alone for tax purposes, or if an airline should be allowed to expense other costs against these unearned profits and entirely avoid taxation on subsequent slot sales.

Mr. HOLLINGS. I thank my colleague from Nebraska for his comments. And I agree that we should examine the issues that he raises early next year.

Mr. FORD. If the Senator will yield, I would like to join him in his efforts to offer a friendly reminder that our work on this matter is not done. His efforts in ensuring that this issue is not forgotten are to be commended, along with those of the chairman and ranking Democrat of the Aviation Subcommittee.

The Senate overwhelmingly approved Senator KASSEBAUM's amendment to repeal this rule earlier this year. I think that sentiment has not changed, and I look forward to early enactment of similar legislation in the 100th Congress.

Mr. HOLLINGS. Mr. President, I appreciate the opportunity to address this issue here today. And I appreciate the comments made by my colleagues. With that, Mr. President, I yield the floor.

ECONOMIC DEVELOPMENT ADMINISTRATION SECTION OF THE CONTINUING RESOLUTION

Mr. D'AMATO. Mr. President, I rise to provide clarification on the section of the continuing resolution, House Joint Resolution 738, that concerns the Economic Development Administration and funding for projects in the city of New York. This clarification serves to avoid any questions as to the meaning or interpretation of this section of the bill.

Mr. President, at this time audits for approximately 22 projects remain to be closed out, and appeals by the city of New York concerning the disallowance of certain costs for other projects are still pending. Accordingly, the total amount of funds previously authorized and appropriated under title I of Public Law 94-369, but currently obligated and not disbursed, has yet to be finally determined. Such amounts can, and shall, only be determined through established audit close out guidelines, procedures, and practices. These include the city of New York's right of appeal in the event of the disallowance of cost concerning any specific project subject to audit.

In addition, reference was made to the availability of $14.1 million for New York, NY, in report language to accompany section 108(a) of last year's continuing resolution—Public Law 99-190. Such amount was provided the Economic Development Administration as a best estimate prior to audit close out of currently obligated, but undisbursed, funds available for reobligation and expenditure. As clearly indicated in section 108 (a) of last year's continuing resolution—Public Law 99-190—any funds currently obligated and not disbursed shall be available for reobligation and expenditure in New York, NY. Accordingly, the language referring to $14.1 million should not be interpreted to impose a limit on available funds to the city of New York. The total amount of funds shall be determined only through the established audit close out process.

Mr. President, the Economic Development Administration has been directed to provide these funds to the city of New York and to adhere to the purpose and intent of this legislation as stated.

Thank You, Mr. President.

FOREIGN OPERATIONS

● Mr. KASTEN. Mr. President, I would like to take just a few minutes to make some comments about the foreign assistance portion of the continuing resolution which is now before the Senate.

Mr. President, while the conference was deadlocked on the foreign assistance portion of the continuing resolution for several days, I am pleased to report that we were able to finally come to a resolution of our differences and more importantly, we were able to resolve most of those issues along the lines suggested by the Senate, especially with reference to increased funding for such important programs as the Child Survival Fund, the Agricultural Development Program, and the African Development Foundation.

In addition, while the conference did not agree to enact the F.M.S. reforms as passed by the Senate, the compromise agreement goes a significant way in that direction, and in addition, the managers, in the conference report, agree that the Senate proposals on F.M.S. reform have merit and should be considered by the administration and presented to Congress early next year.

This is a good compromise. The conferees recognized the potential problems pointed out by the Senate that something has to be done with the F.M.S. debt situation, or it potentially could cost the American taxpayers significant amounts of money.

Mr. President, I'm not going to go into all of the various items in the agreement, but I would like to point out that we agreed to provide $200 million in additional economic support funds for the Philippines, $50 million for emergency earthquake relief and rehabilitation for El Salvador, and once again this year we agreed to allow military assistance funds which are provided to Israel to be used for their aircraft program.

The language of the agreement with respect to the LAVI provides that not less than $300 million shall be for the procurement of defense articles related to that program in Israel, and for other activities if requested. It is assumed, however, that at least $250 million of the $300 million would be for the LAVI Program, with the potential for all of it being for the aircraft program.

Mr. President, two provisions in the continuing resolution entitled "limitation on development assistance" are intended to assure that obligations for Africa and Central America from fiscal year 1987 development assistance funds will be at least at the same percentage of total development assistance that each region received in fiscal year 1986. This does not preclude the total obligated for either region in fiscal year 1987 from exceeding the percentage that either region received last year.

Mr. President, a number of my colleagues have expressed concern that some of the funding for various programs is too low, but very frankly, with the budget situation, this is the best we can do.

Obviously, in these difficult budget times, foreign assistance must share cuts mandated by Gramm-Rudman-Hollings and the budget resolution.●

GIFT TO JACKSON FOUNDATION

Mr. STEVENS. Mr. President, I want to advise Members of the Senate that the continuing resolution includes an appropriation of $10 million for the Henry M. Jackson Foundation as a memorial to our late friend and colleague. This was proposed by Senator JOHNSTON and warmly endorsed by me and other members of the Defense Appropriations Subcommittee and the full Appropriations Committee.

The Jackson Foundation was established shortly after Senator Jackson's death on September 1, 1983. It has already raised more than $4 million in gifts and pledges from individuals, labor unions, corporations and governments. The Foundation hopes to raise its initial goal of $5 million by Scoop's 75th birthday on May 31, 1987. It has a long-term goal of raising $10 million from private sources.

Although there is no formal matching requirements for the appropriation to the Foundation, it is my hope that this Federal contribution will be viewed by Scoop's friends and supporters not as an end, but rather as a beginning: and that they will redouble their efforts to reach the Foundation's announced goal of $10 million from private sources, thereby matching the appropriation dollar for dollar.

The Foundation's program, focusing primarily on educational activities, sustains the Senator's belief in the basic importance of education in creating better understanding of the forces which shape our world today. It has already financed on an interim basis a chair in Modern Chinese Studies and support for graduate students in Chinese studies at the Jackson School of International Studies at the University of Washington.

Action by Congress in approving this appropriation to the Foundation will enable the Foundation, and its distinguished Board of Governors, to broad-

en its program of helping to educate the next generation of leaders in managing critical world relationships.

● Mr. ROTH. Mr. President, I would like to comment about some of the defense procurement reforms included in the fiscal year 1987 Department of Defense [DOD] appropriations bill, which is part of the fiscal year 1987 continuing resolution conference report.

I want to focus on those defense reforms which are part and parcel of the recommendations of the President's Blue Ribbon Commission on Defense Management otherwise known as the Packard Commission.

Mr. President, it's been 2 years since I went to the White House to recommend the creation of the Blue Ribbon Commission on Defense Management. In urging the creation of the Packard Commission, I set out an agenda of critical management and security issues I believe needed to be explored.

These issues included creating an independent civilian procurement office, ensuring the accuracy of cost estimates, and eliminating excessive defense contractor profits.

Mr. President, after the Packard Commission submitted its final report to the President, I introduced legislation which closely complemented many of the Commission's recommendations. The legislation, S. 2268, would establish in DOD the position of Under Secretary of Defense for Acquisition. It would also increase the efficiency of the management structure of major defense acquisition programs by reducing the number of officials to whom a weapons program manager must report.

It is encouraging to see a number of provisions of my bill incorporated in the fiscal year 1987 DOD appropriations bill that begin to implement the Packard Commission's recommendations. One provision includes creating the position of Under Secretary of Defense for Acquisition. The Under Secretary will be a civilian with significant authority to supervise the entire defense acquisition system. The Under Secretary will also have the responsibility to see that new programs are thoroughly researched, that military requirements are verified, and that realistic cost estimates are made before the start of full scale development.

How would such a proposal help improve the management of the defense acquisition process? It would ensure that someone—the Under Secretary of Defense for Acquisition—is identified and held accountable for the performance and cost of a weapon program. This person would have to answer for the cost increases and technical problems. This person would also enjoy the rewards and recognition of a job well done.

Other provisions in the Defense appropriations bill consistent with Packard Commission recommendations include a strategy for competition among prototypes of major weapons when the weapons are in development. The Packard Commission recommended competing prototypes and testing prototypes under simulated operational conditions, especially weapons systems involving unproven technology.

A third provision requires the Secretary of Defense to submit a plan to Congress on methods to enhance the professionalism, training, and education of acquisition personnel. This is consistent with the Commission's recommendation that DOD must be able to attract, retain, and motivate well qualified acquisition personnel.

Finally, a provision in the bill requires the DOD to establish cost, performance, and schedule data for all major acquisition programs.

There are other provisions consistent with the Commission's recommendations, Mr. President, but these are the ones in defense procurement that I believe are most important.

Mr. President, we've known for some time that DOD is in need of constructive reform. The acquisition process has been examined repeatedly over the years and we are all familiar with most of the many problems cited at one time or another as major factors in cost growth and mismanagement: Poor or overly optimistic cost estimates, "gold-plating", poor testing, lack of competition in contracts and schedule "stretchouts." Whether these are in fact the real causes of cost growth, or just symptoms of the problem, there is little doubt in my mind that 3 years of hearings on acquisition management in my Governmental Affairs Committee have convinced me of that fact.

In outlining the serious problems we face in improving the management of acquisition programs, it becomes apparent to me that the solutions of the past are no longer adequate. I believe we should consider more comprehensive and far-reaching changes which may threaten the status quo, but could help set the stage for real and lasting improvements.

That is why, Mr. President, I am encouraged by the reforms implementing the Packard Commission recommendations. With passage of the continuing resolution and the reforms it includes, we can finally see some action taken for lasting improvements to the defense acquisition system.●

ENERGY AND WATER DEVELOPMENT HIGH-LEVEL WASTE

● Mr. BENTSEN. Mr. President, I am pleased that the conferees resolved their differences on the funding level for the High-Level Waste Repository Program run by the Department of Energy [DOE]. The conferees agreed to a funding level of $420 million, with the possibility of an additional $79 million upon subcommittee approval. The approval is contingent upon DOE meeting the consultation requirements of the Nuclear Waste Policy Act.

This reduced funding level sends a strong signal to the Department of Energy that Congress is dissatisfied with the manner in which DOE has implemented the Nuclear Waste Policy Act. As I have stated repeatedly, Texas has had to bear the brunt of DOE's inability to carry out its responsibilities under the act.

The agreement reached by the conferees acknowledges these problems and puts a halt to site-specific activity at the first and second repository and the monitored retrievable storage facility. Clearly, DOE is prohibited from shutting down just the second repository and funneling the savings to the first repository program. Last May 28 DOE decided to abandon the second repository. Congress in this agreement rejects this determination and instead mandates that the entire High-Level Waste Program be scaled down until all of us have an opportunity to review the situation.

This agreement prohibits any site-specific activity, at first or second round sites. In Texas, this means that there can be no land acquisition, no drilling of bore holes, no sinking of exploratory shafts. The DOE is barred from undertaking any activity at the Deaf Smith County site during this fiscal year.

I plan on monitoring the situation closely to assure that DOE does not attempt again to contravene the will of Congress. As the conference agreement indicates, the concerns about DOE's implementation of the act, such as those I have expressed, are not just parochial concerns, but reflect concerns of the entire Congress. DOE would do well to heed the direction provided by Congress in this legislation.●

FUNDING LEVEL FOR THE DEPARTMENT OF ENERGY'S NUCLEAR WASTE PROGRAM

Mr. SIMPSON. Mr. President, I have just a few brief comments about the provisions contained in this continuing resolution affecting the Department of Energy's Nuclear Waste Program. I have been intimately involved with the nuclear waste disposal issue since virtually the day that I arrived in the Senate in 1979 and assumed my role as a member of the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works, first as ranking minority member and then, beginning in 1981, as chairman of that subcommittee.

In fact, as an original sponsor of the bill that led to the enactment of the Nuclear Waste Policy Act of 1982—the law which establishes the requirements that the Department of Energy must meet in carrying out this most crucial national program—I must say that I am deeply troubled by the

course that the Department of Energy has elected to take in carrying out this law. In May of this year, Mr. President, the Department indefinitely postponed work on the second geologic repository—a decision that is a clear violation of the act.

The provisions in the Nuclear Waste Policy Act requiring the Department of Energy to pursue a program for the development of two repositories were fashioned by the Subcommittee on Nuclear Regulation in 1981—with the leadership and perseverance of my fine friend, the exceedingly capable Senator GORTON—and I am intimately familiar with the delicate political and regional balance that we ultimately had to strike when we reported these provisions from the subcommittee. The basic two-repository structure was retained essentially intact by both Houses of Congress, and is now reflected in the provisions of the Nuclear Waste Policy Act.

A careful analysis of the legislative language makes it abundantly clear that the Department's decision to postpone indefinitely work on the second repository is a blatant violation of the act. In fact, both the General Accounting Office and the Department's own general counsel have advised that the decision taken last May violates the clear language of the Nuclear Waste Policy Act. In short, Mr. President, it is illegal.

I am not speaking today, though, Mr. President to address the question of whether DOE's action was illegal. The answer to that question is clear and I anticipate that, ultimately, the courts will so rule. I rise to address a much more fundamental problem facing DOE today—a problem that I think is reflectd in the decision that we are about to take in approving a substantial reduction in DOE's request for the Nuclear Waste Program. In short, Mr. President, the Congress no longer has confidence in the way that DOE is carrying out this program. It is abundantly clear to me, Mr. President, together with many of my colleagues who I worked alongside in fashioning the Nuclear Waste Policy Act in 1982, that decisions are being made in part—perhaps in very large part—based upon only the basest political ramifications of those decisions, and that, as a result, the entire program has been dangerously undermined and the technical credibility of this effort has been crudely sacrificed.

Accordingly, I endorse the decision reached by the conferees to reduce substantially the funds requested by DOE for carrying out this program, pending an opportunity for DOE to redouble its efforts to address the concerns that have been raised by the States and Indian tribes. Since I was not a conferee on this continuing resolution, though, Mr. President, I should like to ask the Senator from New Mexico, Mr. DOMENICI—who was not only a conferee on this bill, but also serves on both the Environment and Public Works and Energy and Natural Resources Committees, the two committees with jurisdiction over this program—if he could expand on the purpose of this provision and the underlying rationale for taking this drastic step.

Mr. DOMENICI. Mr. President, I certainly concur in everything that my good friend from Wyoming has said about the Nuclear Waste Policy Act, the rationale for requiring DOE to proceed with a program for the development of two repositories, and the purpose of this particular provision. He and I have been laboring in the trenches since the late 1970's on the issue of nuclear waste disposal and it is with great dismay that we are now witnessing the unravelling of this carefully crafted program and the disruption of the delicate political and geographic balance that is so essential to a successful program.

The conferees were deeply concerned about the course that this program is taking and the clear violation of the law as a result of DOE's decision to postpone indefinitely work on a second repository. Accordingly, we have reduced substantially the funds available for DOE in fiscal year 1987. The bill provides for a reduction from DOE's request of $769 million to a level of $499 million, with $79 million of this amount "fenced" until DOE certifies that a good faith effort has been made to comply with the requirements of section 117(c) of the Nuclear Waste Policy Act and both Subcommittees on Energy and Water Development appropriations of the House and Senate approve the expenditure of these funds. In addition, we have prohibited DOE from undertaking work involving the drilling of any exploratory shaft at any site in fiscal year 1987.

The conferees expect, Mr. President, that DOE will dedicate its efforts under this provision to addressing the concerns that the States and Indian tribes have raised, to resolving the pending litigation, and to restoring a strong measure of credibility to this program, rather than to charge forward with business as usual in the flawed course that DOE is now on.

The Continuing Resolution further provides that the funding reduction shall be taken against DOE's entire program effort. It would be my hope, Mr. President, that DOE will ensure that this reduction is applied uniformly to both the First and Second Repository Programs, as well as to all of the other programs, rather than to take disproportionate cuts in some programs, but not others. It is obvious to me, Mr. President, that we need to restore the work previously underway on the second repository program—and this uniform approach to allocating the reduction would enable DOE to move in that direction, by providing greater funding for the Second Repository Program. In fact, Mr. President, I specifically questioned my fellow conferees on this issue around the table at the time that it was discussed about whether the second repository work should move forward, and they all concurred that this effort should proceed in accordance with the requirements and schedules in the act.

In light of the decisions that have been taken by DOE this year, Mr. President, this program is now in deep trouble. Between now and the beginning of next session, DOE has an opportunity within the framework of this provision to restore a measure of credibility and technical soundness to this program, and to get this program back on track. From what I see, though, Mr. President, I am not optimistic—particularly since DOE persists in its view that the decision to postpone indefinitely the work on a second respository is not only legal, but a wise policy decision, even in the face of this program crumbling before their very eyes. Thus, unless fundamental changes are made between now and the beginning of the next Congress, Mr. President, I anticipate that we will see a major effort to reopen the Nuclear Waste Policy Act and that this effort will be successful.

Mr. SIMPSON. Mr. President, I thank the Senator from New Mexico for his comments. I might just add that unless a credible and adequately funded Second Repository Program is restored, I do not think that this program will succeed in the bizarre "one-legged" posture that DOE has it in now. In fact, if we return in the next Congress with no progress to restoring this program to the carefully balanced posture intended by Congress—and confirmed by the legal analyses undertaken by the General Accounting Office and the Department of Energy's general counsel—I intend to lead the effort to reopen the Nuclear Waste Policy Act and revisit the entire question of just how we intend to pursue nuclear waste disposal in this country. We can't duck this one. I trust that no one would find the present situation to be in the best interest of this program, but I see no other option for us in the face of DOE's insistence on heading along what I think is a reckless and shallow course.

DEFENSE SPENDING—MAKING TOUGH CHOICES AND SETTING REALISTIC PRIORITIES

Mr. LEAHY. Mr. President, as the 99th Congress draws to a close, it is important to reflect on what the past 5 years of defense buildup has accomplished. After spending over $1 trillion on defense, we must be stronger, but the question is, how much stronger? Have we made the difficult choices

and set the right priorities? Has an outpouring of the taxpayers' dollars bought us sound, balanced defense forces capable of deterring war or of fighting it if it comes?

Simply put, Mr. President, is our Nation as secure as it should be after the largest defense budgets in history?

Obviously, there have been important improvements. I am extremely pleased, for example, by the outstanding recruitment and retention rates of the All Volunteer Force. In absolute numbers, we have more weapons and more ammunition than 5 years ago. Nevertheless, it is clear that, given the massive resources committed to national defense, it is taking too long to see real gains in the capabilities of our general purpose forces. Our capability to wage conventional war is still well below what is needed to defend U.S. interests from the most likely challenges abroad. We are still far from reducing our excessive and dangerous overreliance on nuclear weapons to offset conventional imbalances with the Soviet Union.

These are not meant to be partisan observations. The roots of the present deficiencies in U.S. conventional forces go back through several administrations. Ultimately, they can be traced to the distortions and dislocations of the Vietnam war. However, a fundamental reason for the disturbing trends of recent years in defense spending priorities is the misplaced emphasis of the current administration on buying extremely costly and complex weapons, both nuclear and conventional, at the expense of conventional force readiness and combat sustainability. Between 1980 and 1985, spending for hardware grew by 95 percent, compared to only 37 percent for operations, training and other support, and a mere 13 percent in military pay. I am gratified that Congress this year has been able to slow down planned weapons purchases and to defer new program starts, while protecting and even increasing somewhat funding for operations and maintenance and for personnel.

Prior to this year, spending on equipment had gone up nearly three times as much as for the nuts and bolts of maintaining and operating the weapons. It had risen seven times as fast as the pay of the men and women who operate them. Congress has finally taken long overdue corrective action in bring weapons procurement and operations, maintenance, training, stockpiles, and pay into a more healthy balance.

Looked at in dollars, investment in new weapons programs has cumulatively totaled more than $470 billion from fiscal years 1981-86. The Pentagon now has unspent balances from prior year appropriations of more than $270 billion, exceeding by far estimates for this year's Federal deficit. Yet, despite this enormous sum, we are actually getting fewer and fewer weapons for more and more money. The Director of the Congressional Budget Office [CBO] recently testified that during the first 4 years of the current defense buildup, the United States spent over 150 percent more for tanks than under the Carter administration, but the number of tanks bought grew by only 30 percent. There are many, many examples of dollars spent yielding little in the way of increased defense capability. Despite 75 percent more dollars in the last 4 years for aircraft procurement than the Carter administration, the Reagan administration has bought 12 percent fewer airplanes. The present administration has bought 23 percent more ships in its first 4 years than the Carter administration, but spent 48 percent more to get them. In the last 4 years, the Army has bought 40 percent more helicopters but has paid 50 percent more for them. After spending over $1 trillion on defense in its first 5-year plan, the Reagan administration has managed to increase our uniformed personnel by only 70,000, while civilian bureaucrats in the Pentagon have mushroomed by nearly double that number.

Nor, unfortunately, have these larger investments resulted in economies of scale. According to the CBO, during the 1981-85 period, actual cost increases per unit for certain major weapons systems were higher than expected by anywhere between 9 to 64 percent. While these higher cost estimates were finally realistically projected in the last 2 years, resulting in a stabilization of prices for at least some systems, there is no doubt that unanticipated cost overruns accounted for a huge share of the tremendous spurt in procurement funding since 1981.

The marked tendency in the early years of the present administration to understate the real procurement costs of major systems led the CBO to conclude that investment accounts in the Pentagon have been underfunded by at least $100 billion—and when the bills came due much of that money was found in readiness, training, spare parts, operations and maintenance, and ammunition accounts. Unlike the big, multibillion-dollar weapons programs, there are no well-paid lobbyists to protect training or operations and maintenance, and these are the first to be sacrificed to pay for procurement.

Despite the huge expenditures of the last 5 years, the Soviets continue to enjoy numerical advantages in many major weapons categories. I am not a believer in the "bean counting" way of comparing military forces. However, the Pentagon's love affair with overengineered, excessively complicated, hard-to-maintain weapons could have very serious consequences for our men on the battlefield. Weapons will break down, replacements will be lacking, and our forces could be overwhelmed by sheer numbers.

After studying the results of the 5-year defense buildup, a defense specialist at the Congressional Research Service put it this way:

> The bottom line under wartime balance is that $1 trillion over the last 5 years did hardly anything to rectify the quantitative imbalance and it did a lot less to keep our technological superiority intact than we would like.

A study recently released by Congressman LES ASPIN, chairman of the House Armed Services Committee, concludes that the total spending on defense research and development had a real increase of 56 percent between 1980 and 1985. Yet, by the Pentagon's own comparison between the United States and the Soviet Union in 15 key military technologies in 1980 and again in 1985, there was no change in the relative standings in 11 of these categories. The U.S. position improved in one and declined in three—indicating, according to Congressman ASPIN, a "modest decline in the relative position of the United States overall despite the huge investment."

Where has all the money gone, or more appropriately, where has it not been spent?

As its first priority, the administration has emphasized the development and deployment of nuclear weapons. CBO estimates the President's strategic modernization program costs over $50 billion a year and will total more than $250 billion over fiscal years 1984-88. In the administration's first term, the share of the defense budget dedicated to strategic nuclear forces had an average annual real growth of 27 percent, compared to only 8.5 percent for general purpose or conventional forces and only 9 percent for the defense budget as a whole.

The 27 percent figure for strategic nuclear forces does not take into account the 15.5 percent average annual growth in the Department of Energy's nuclear warhead programs or the substantial amounts spent for ongoing research and development during the life of a major system such as the B-1 or the MX. It also does not reflect dollars going into the Strategic Defense Initiative or for so-called theater nuclear forces. The CBO estimates that cumulative real growth in spending for strategic weapons between 1980 and 1985 totals 182 percent, compared to 87 percent for conventional forces in that same period—more than twice as much, even though most defense experts agree the Nation's more urgent need is stronger conventional forces.

While the gap in real growth between nuclear and conventional forces has declined somewhat over the last 2 years, the improvements needed in conventional readiness will not be at-

tained without a substantial reordering of administration defense spending priorities.

The President's strategic modernization program has been justified on the basis of closing what he used to call the window of strategic vulnerability. Supposedly, that window was opened in the decade of neglect—the 1970's. That was the decade when the Trident submarine and Trident ballistic missile programs were begun. Five of the nine Trident submarines now operational were deployed before President Reagan took office. In that much maligned decade, the Minuteman II ICBM replaced the Minuteman I, the Minuteman III MIRVed ICBM was deployed, the B-52 began a major modernization program that extended its service life well into the 1990's, and the air-, ground-, and sea-launched cruise missile programs were started. The advanced technology stealth bomber, the most capable and sophisticated strategic system this Nation will have to maintain deterrence into the next century, was inaugurated and expended. The 1970's was the decade when the MX program was begun, a program intended to produce a mobile, survivable replacement to the silo-based and vulnerable Minuteman force. In what has to be one of the most dubious and illogical strategic decisions of the last 20 years, President Reagan has determined that MX will not be mobile and will in fact be placed in vulnerable Minuteman silos.

The hard truth is that neither the administration nor the military services have forced themselves to make difficult choices or set tough priorities in a fiscally restrained era. They continue to plan and budget for defense as though the Nation were not running staggering deficits and as though the national consensus in support of a major defense buildup had not been affected by the urgent need to get Federal spending under control. Rather than being guided by the principle of survivability, the administration has chosen to place first-strike MX missiles in vulnerable silos. That is easier than the painful decision to junk the MX as a costly failure, a dinosaur, from another age. We will spend almost $25 billion to buy 100 obsolete B-1 bombers, even though improved B-52 will remain effective until the 1990's—during which time the highly survivable stealth bomber will become operational. Rather than make the hard choice to kill the B-1 for good, the administration took the easy way out, and bought two new bombers when we need and can afford only one.

Despite the recommendations of the President's own Commission on Strategic Forces, the Scowcroft Panel, the administration is now starting to back away from the small, mobile, single warhead ICBM and is inching toward a bigger, MIRV'd version. But, to follow the Commission's recommendation to put strategic stability over mere warhead numbers is politically hard. So, the administration takes the path of least resistance. Fortunately, many in Congress are determined that our future modernization plans will include this small, single warhead, stabilizing missile, and are fighting hard to protect the program.

Unfortunately, starving conventional forces in order to spend more on nuclear weapons is not the only misplaced priority. Since the President's star wars speech in March 1983, the administration has poured billions into SDI research at the expense of basic technologies which affect the military balance between the United States and the Soviet Union. Massive funding increases for SDI in each of the last 3 fiscal years raise serious questions about the management, feasibility, and direction of this program. In a rare display of determination to resist the administration and the hordes of lobbyists for defense contractors roaming the halls, Congress has voted to cut this year's SDI request from $5.3 billion—a 75-percent increase over last year—to $3.2 billion. If Congress can hang tough next year, we will have gone a long way to getting this runaway money burner under some control.

There is more to the SDI story, and that is the impact it has had on conventional force readiness. Last year, the President exempted SDI from Gramm-Rudman cuts. In protecting SDI from Gramm-Rudman, the Secretary of Defense last year did not exempt readiness, training, spare parts, or ammunition from the cuts. This is a sad illustration of a pronounced bias to shortchange conventional forces in general, and politically unglamorous readiness accounts in particular, in order to protect high visibility programs like SDI.

A comparison of the administration's projections in the fiscal year 1986 defense budget with actual program requests in the fiscal year 1987 budget provides further evidence for just such a tendency.

In the fiscal year 1986 defense budget, the Air Force estimated it would ask for an increase of $2.5 billion in the fiscal year 1987 budget to cover needed initial and replenishment spare parts. However, in the actual fiscal year 1987 budget, that $2.5 billion increase was not requested. Perhaps not coincidentally $2.5 billion was approximately the increase the administration sought for SDI. Funding requested by the Air Force in the fiscal year 1987 budget will meet only 56 percent of replenishment requirements and 58 percent of fiscal year 1988 estimated rquirements. Such trends suggest that the Air Force will not have the spare parts it will need to sustain intensive combat operations for very long.

Looking at the Army, the actual fiscal year 1987 budget request for ammunition was $800 million below what Army planners had estimated in the fiscal year 1986 budget they would need for ammunition stocks. The actual fiscal year 1987 request was $243 million below the level appropriated in fiscal year 1986 for ammunition. In fact, if the current 5-year plan is followed, we will not attain the 1985 funding level for ammunition until 1991. Lawrence Korb, former Assistant Secretary of Defense for Manpower, Installations and Logistics, has publicly conceded that the Army itself has cut back on combat sustainability goals by lowering the requirement for a 60-day ammunition stockpile by 1988 to only a 50-day supply.

Some improvements are being made in munition reserves. CBO estimates that between 1981 and 1985 the Pentagon has spent $46 billion on ammunition stocks of all types. However, according to the CBO, "major gaps still exist between what the services have, and what they say they need." An analysis by the House and Senate Budget Committees, for example, indicates that by the end of 1987, the Army will still meet only 83 percent of its stated munitions requirements, the Navy 35 percent, the Air Force 42 percent, and the Marine Corps 57 percent.

These disturbing munitions shortages are exacerbated by the failure of our NATO allies to come even that close to meeting agreed ammunition stockpile targets, Commenting on the ammunition shortfall among the NATO allies, Lawrence Korb has said: "They don't have enough conventional munitions to fight the way as long as may be necessary to keep it from escalating. In the words of a former Pentagon official, 'ammunition always takes second place, until you get into combat.' "

Moreover, Pentagon officials have publicly questioned whether in a general mobilization U.S. industry would be able to make up for these years of neglect and misplaced priorities. The Pentagon's Assistant Secretary for Logistics, Readiness and Sustainability told Congress last year that "the capacity of U.S. industry is well short of the mobilization requirements."

While the administration takes pride the technological complexity and virtuosity of the equipment it is buying, unfortunately, it cannot justifiably claim that U.S. forces will either have the quantity of weapons required or, equally importantly, the necessary combat sustainability to wage large scale operations very long after the outbreak of a major conventional war.

Mr. President, I think it is fair to say the Defense Department has in large part been able to keep up major weap-

ons procurement even with tightening budgets only by stinting and cutting back on critical programs designed to make the United States capable of fighting and winning a large-scale conventional war. Another source of procurement funding is the so-called inflation dividend, the annual windfall the Pentagon receives thanks to padded inflation assumptions woven throughout the Defense budget. Because the Department of Defense contends that the prices of major weapons systems rise more rapidly than general prices, prior to the fiscal year 1986 budget inflation for such weapons was estimated at a rate 30 percent higher than overall inflation. The result, according to the General Accounting Office, has been the accummulation of a $44 billion slush fund over fiscal years 1982-86, not counting overestimates for the price of fuels.

Last month, Senators PRYOR, GRASSLEY, and I offered an amendment to require the Defense Department to use the same inflation estimates as all other agencies of the Federal Government. This amendment, which was endorsed by the National Taxpayers Union, would have also prohibited use of the Pentagon's special inflation "kicker," which adds on another 30 percent to the inflation adjustments in contracts for major weapons systems.

Mr. President, we simply can no longer afford to allow the Pentagon to conduct business like this. We can and we must control defense budgets better and set clearer spending priorities. We need what I have called a smart-defense philosophy to guide our basic defense spending decisions. The ingredients of a smart defense grow out of the many deficiencies in our current defense policy which I have described thus far.

First, and foremost, our strategic nuclear modernization should be based on three fundamental principles: stability, survivability, and deterrence. In our own security interests, we must avoid programs which depend on hair trigger launch for survivability, which themselves pose a first strike threat, and which are designed to wage rather than to deter nuclear war.

Second, the modernization of conventional forces must be the top national defense priority for a sustained period. The growth in weapons procurement should not outpace spending on key conventional force needs such as training, ammunition, spare parts, and operations and maintenance—and it most certainly should not be maintained at the expense of these programs. Our conventional forces must not only be modern, they must also be manned, maintained, and supplied in a manner which will give us the capability to sustain a major and prolonged conventional conflict without being forced to resort to nuclear weapons to avoid defeat.

Third, we can no longer allow research accounts to be so dominated by the strategic defense initiative. After all the massive spending on research and development since 1980, the technological balance between the United States and the Soviet Union remains essentially unchanged. This is unacceptable, especially when the West continues to rely so heavily on quality of weapons to offset quantitative disadvantages. Funding priorities need to be better balanced, particularly to achieve more progress in technologies which show real promise in improving our conventional capabilities against Soviet armor, artillery, tactical aircraft, attack submarines, and other categories in which they enjoy numerical leads.

Fourth, we should place much greater priority on buying simpler, more durable weapons in greater quantities if our forces are to have a chance of surviving the opening round of a conventional conflict with the Soviet Union. We must look to greater simplicity in weapons designs. For example, spending nearly $20 billion for one larger nuclear aircraft carrier and its supporting battle group makes no sense when, for the same price, we could buy several light carriers armed with Harrier VSTOL-type aircraft to meet our power projection needs. Spending half a billion dollars apiece to reactivate old World War II battleships—plus anywhere up to another billion and a half to arm them with cruise missiles and other weapons—isn't smart. We can get the most modern destroyers and cruisers for that money, without the huge manpower requirements to operate a battleship, and without its near total vulnerability in a major war at sea.

Fifth, the weapons we do buy should be tested under realistic battlefield conditions before they can be purchased in quantity. And, the troops which will have to operate them in combat should help design the tests. Let's stop letting the civilian and military bureaucrats in the Pentagon, helped by the weapons designers themselves, set up the tests. The people who are going to build the weapons should not be the ones to devise the tests the Pentagon will use to make its contract decisions.

Sixth, Congress and the President, in a constructive partnership, must act vigorously against massive waste, fraud, and abuse in the Defense Establishment. Timely implemenation of the Packard Commission recommendations would go a long way toward eliminating the horror stories about $800 hammers and $1,000 coffee pots.

Finally, being smart means having a coherent global defense strategy that matches commitments with capabilities. It means eliminating interservice rivalries over shares of the budget. It means providing the best military advice to the President without regard to parochial service interests. Congress has already taken a major step in this direction by enacting the Defense Reorganization Act under the courageous and enlightened leadership of Senators BARRY GOLDWATER and SAM NUNN.

Mr. President, there have been many improvements in our Nation's defense over the last 5 years—but we can do better, and we must do better so that our country is as secure as it can be.

URANIUM ENRICHMENT "OVERFEEDING"

Mr. SIMPSON. Mr. President, I should like to ask the Senator from New Mexico about a certain provision in the continuing resolution which he worked on in the conference. The provision that I have a question about deals with a practice which the Department of Energy has said it wishes to implement, and some claim they have been doing, at the uranium enrichment complex—a practice referred to as "overfeeding." This is a practice whereby DOE uses stockpile uranium to supplement the uranium delivered by its customers. I believe the Senator from New Mexico addressed this issue in the conference in a manner that prohibits DOE from engaging in this practice. Would the Senator from New Mexico be so kind as to explain to me this particular provision in the continuing resolution?

Mr. DOMENICI. Mr. President, I would be happy to. What we have done in the CR is selectively reject certain of the criteria for operating the uranium enrichment complex which were sent to us in July by the Department. The conferees agreed to restrict the ability of the Department to use stockpile uranium for overfeeding under both the Department's contractual and administrative authorities. In September 1985 when the Department found that the uranium mining and milling industry was not viable, the Secretary of Energy informed the Senate that he was going to postpone the Department's plans to do this overfeeding for 1 year. What we have done, in effect, is continue that moratorium on this practice. I will include the letter of the Secretary in the RECORD if that would be a help and I ask unanimous consent that it be included.

Mr. SIMPSON. I thank the Senator for his explanation.

The letter follows:

THE SECRETARY OF ENERGY,
Washington, DC, September 26, 1985.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Pursuant to the requirements set forth in section 170B of the Atomic Energy Act of 1954, 42 U.S.C. 2210b, I am transmitting the annual determination of the viability of the domestic uranium mining and milling industry.

Section 170B directs me to make an annual determination for the years 1983 to

1992. The attached determination covers calendar year 1984. The determination has been made in accordance with the criteria established by regulation (10 C.F.R. §§ 761.1-.8 (1984)). The annual assessment of the industry's condition, prepared by the Energy Information Administration, is also enclosed. This study, "Domestic Uranium Mining and Milling Industry: 1984 Viability Assessment," September 1985, provides the underlying information and analysis for this determination.

I have determined, in accordance with the provisions of the Act and the regulations, that for calendar year 1984 the domestic uranium mining and milling industry was not viable. In view of this determination, I have authorized the Department of Energy to offer its customers for enriched uranium an option that, if exercised, could have the effect of increasing domestic uranium sales. I have also directed the Department to postpone for one year a plan to feed some of its own uranium stockpile into enrichment plants.

In addition, I have requested the United States Trade Representative to examine this situation with a view to determining the appropriate available courses of action under U.S. trade laws. The Trade Representative has been requested to provide preliminary recommendations within three months.

Yours truly,

JOHN S. HERRINGTON.

DEPARTMENT OF ENERGY'S URANIUM ENRICHMENT REGULATIONS

Mr. SIMPSON. Mr. President, I am so very pleased to commend my good friend and colleague from the State of New Mexico, Senator DOMENICI, for the yeoman work that he has undertaken and the perseverance that he has shown in this bill in fashioning an approach that starts us down a most important road—the road to restoring our domestic uranium industry to a healthy, competitive position.

The provision contained in this bill addressing the Department of Energy's uranium enrichment criteria represents a most important step by this body in our efforts to get America's uranium industry back on its feet—for it is the first time that the Congress has acted since the Department of Energy declared that our domestic uranium industry is no longer viable. More importantly, it constitutes a firm message to the administration that we will not stand idly by as the Department of Energy presides at the funeral services for our domestic uranium industry.

Mr. President, it is time for the Congress to move forward swiftly and decisively to address the very serious problems that the domestic uranium industry faces today. Over the past 6 or 7 years, we have seen a steady and dramatic decline in the health and vitality of the uranium industry in this country. Wyoming employment in the industry has dropped to all-time lows, as mines and mills have been closed down, and we are on the verge of seeing this most valuable domestic resource go untapped or be regulated out of existence and lost indefinitely to foreign-supplied uranium.

In Wyoming, we have gone from over 5,000 employed in our mines and mills back in 1980 to only a few hundred toay. In fact, Mr. President, the State of Wyoming, which was once among the world leaders in production of yellowcake, now has only one uranium mill still in operation.

We cannot afford to continue down a road of ever-increasing reliance on foreign sources of energy. I have no legislative history as a protectionist, Mr. President, but our uranium industry is so vital to our country's efforts to achieve energy independence, as well as to assure our national security, and we must take all necessary steps to turn this grave situation around.

The provisions in this conference report constitute a solid beginning toward getting Wyoming's uranium industry back on its feet and Wyoming miners and millers back to work. We are prohibiting the use of uranium from the stockpile—a practice referred to as "overfeeding"; we are requiring the Department of Energy to offer its customers a free choice of transaction tails in the 0.2 percent to 0.3 percent range; We are prohibiting DOE, as they had proposed, from collecting the unrecouped costs associated with the enrichment enterprise, and declaring that Congress, not DOE, will make that determination; and we are sending a strong message of concern about DOE's approach to the enrichment of foreign origin uranium—the Department is under an obligation under section 161(V) of the Atomic Energy Act to address the ever-increasing flood of imported uranium.

This provision, Mr. President, is but a modest step—but I do think that it is an important step. Much work remains to be done, and I will continue to work for the enactment of the comprehensive package that Senator DOMENICI and I introduced in this Congress, S. 1004, so that we may get on with resolving many of the vexing and troublesome problems facing this vital domestic industry, ranging from the cleanup of the active uranium mill tailings sites, to the issue of imported uranium, to the issue of DOE's enrichment program. I commend my courageous colleague from New Mexico for the fine work that he has done on this provision before us today, and I look forward to a continued alliance with him as we seek to restore the domestic uranium industry to a healthy, competitive position.

Mr. McCLURE. Mr. President, the measure we are addressing today is not a provision to "Buy America" but an attempt by one industry to prop themselves up at the expense of another.

Nobody feels worse than I about the current situation of our domestic steel industry. I have been a strong proponent of our industrial and natural resource industries, especially as they relate to our national security. However, it makes little sense to use the argument that this provision will aid the steel industry and increase employment, when in fact it will do just the opposite.

The provision says that 50 percent of the materials and supplies on structures used for exploration and production activities on the Outer Continental Shelf [OCS] be of domestic origin and these structures be built in the United States.

A major purpose of the proposal is to protect domestic steel producers and fabricators of structures used in offshore production from foreign competition. However, the oil industry already purchases many of the most costly components of offshore platforms from domestic firms. And, over the life of a project, 90 percent of the total project cost is spent domestically, even if the jackets and piles are produced offshore.

As a result of this proposal, many marginal oil prospects will be abandoned, especially at today's oil prices, because the additional cost of the rig could not be justified in a benefit or cost ratio. For example, last year a major contract bid came in for a project offshore California in which the domestic bid of $200 million for the jacket and piles, was twice that of the nearest foreign bidder. Contrary to what many would like to believe, an additional $100 million in costs will cause most if not all oil companies to abandon even the best prospects for future development.

In addition, reduced offshore drilling and production would reduce employment directly in the oil and gas industry and indirectly in industries that supply inputs to petroleum drilling and production. According to a Battelle Pacific Northwest Laboratories study prepared for API in June 1985, up to 56,000 workers would be displaced by the year 2000 if "Buy American" requirements were imposed on OCS activities.

The ramifications of this provision are far reaching, not only affecting the worthy and necessary objectives of income and employment in other domestic industries, but also the U.S. exports of goods and technology and the national security objectives of offshore development of oil and gas resources.

To quote former Deputy Secretary of the Department of Energy, Kenneth Davis, at the recently held World Energy Conference in Cannes, France, "the oil outlook in the United States is bleak," the level of U.S. proved oil reserve additions is now just 600 million barrels a year, or roughly one-fifth of the country's annual production rate. Because of low oil prices, worldwide exploration investment is down consider-

ably. Spending on development has dropped another 20 percent this year and the number of exploration engineers has been cut by 10 to 20 percent.

The new "oil frontiers" are offshore. We cannot afford greater reliance on foreign sources by cutting off access to our own reserves.

Where would our steel industry be if we were to impose this so-called "Buy America on them? Let me tell you—while the increased cost of domestically produced jackets and piles to the oil industry would amount to $400 million to $500 million from 1986 to 2000—this represents 20 new planned platforms times the additional average costs of $20 to $25 million per platform—the cost to steel companies would be an additional $7 billion for domestic ferroalloys that are now imported over the same period of time at 1985 prices. This does not include the cost of imported metallurgical coal or coke which steel companies now use to process steel.

I do not use this example to suggest that I would support such an imposition on the steel industry any more than I support the proposal before us today. But I ask you, Mr. President, why should we be less concerned with the impact of this provision on our oil industry and the future of our domestic oil supply?

I implore my colleagues to vote with me in opposition to this ill-conceived provision.

URANIUM ENRICHMENT CRITERIA

Mr. GARN. On July 24, 1986, DOE submitted proposed new uranium enrichment criteria, as required by section 161v of the Atomic Energy Act, to relevant congressional committees for their consideration. I understand that two House committees and the Senate have disapproved the criteria as a package, and that now the joint conferees have enacted a section of the continuing resolution funding Government operations that withholds funds for implementation of some aspects of the criteria. As the Senator knows, I am extremely concerned about the adverse impact of the criteria on the domestic uranium industry; especially in light of the statutory requirement that DOE assure the maintenance of a viable domestic uranium industry and in view of DOE's acknowledgment that the industry is nonviable. What exactly have the joint conferees done?

Mr. DOMENICI. The Senate has now twice passed resolutions formally expressing its disapproval of DOE's proposed new criteria. As early as August of this year, the Senate passed section 612 of the House Joint Resolution 668, increasing the public debt limit. This section formally disapproved the criteria. More recently, the Senate adopted an amendment to continuing resolution House Joint Resolution 738 that prohibited the use of public funds for implementation of the criteria.

On the House side, both the House Committee on the Interior and the House Committee on Energy and Commerce passed resolutions with language similar to the language embodied in the Senate version of Senate Joint Resolution 699 rejecting the DOE criteria. It now appears that in Congress' rush to adjournment, a floor vote on the House resolution disapproving the criteria, much less coordination with the Senate, will not be possible.

As an interim measure, the conferees on the continuing resolution have today adopted a provision that prohibits use of Government funds for implementation of certain specific aspects of the enrichment program. Under the continuing resolution, Government funds will not be used to implement: First, unrestricted enrichment of foreign source uranium, except until such time as the pending court litigation on the proper interpretation of section 161v is resolved, at which time Government funds can be used for this purpose only if and to the extent such use is in accordance with the court's decision; second, limitations on free choice of transaction tails assays from 0.2 percent to 0.3 percent U-235 or imposition of an additional charge for selections in that range; third, the provision of the criteria purporting retroactively to validate enrichment contracts permitting unrestricted enrichment of foreign-source uranium for domestic end-use even in the event of a contrary court decision; fourth, any provision of the criteria that permits or results in reduction of feed material provided to DOE for enrichment by means of reduction of Government stockpiles; and fifth, any provision of the criteria that purports to determine the level of unrecouped costs that must be returned to the Treasury by the Enrichment Program.

Mr. GARN. How, if at all, does this affect the pending litigation between the domestic uranium industry and the Department of Energy?

Mr. DOMENICI. This legislation was intended to be neutral as far as the ongoing litigation goes—that is to say, we wish the court to resolve the litigation as if DOE had not issued its new criteria. The legislation allows the DOE to continue to run the Enrichment Program, with certain restrictions, pending the outcome of the litigation. It also allows DOE to continue to enrich foreign-source uranium for domestic end-use until the U.S. Court of Appeals for the Tenth Circuit rules on that issue. The legislation recognizes that the decision concerning the proper interpretation of section 161(v) is now pending before the court. But it makes very clear that Congress will allow DOE to continue such a practice only until the tenth circuit rules on the issue, and if the tenth circuit decides that section 161v requires restrictions on enrichment foreign source uranium, then DOE must abide by that judgment, and no Government funds may be used in any way inconsistent with that judgment.

As one who has been close to the section 161(v) issue for many years, and who was a cosponsor of the legislation that became section 170B of the Atomic Energy Act, I personally have no doubt that DOE's position that it has unfettered discretion under section 161v to withhold enrichment restrictions on foreign-source uranium for domestic end-use even if the domestic industry is nonviable is wrong as a matter of law. I believe that the plain language of section 161v, its legislative history, and prior administrative interpretation are very clear on this point. Indeed, as I've previously stated, section 170B was intended to reinforce DOE's obligation to take some action restricting enrichment of foreign-source uranium by requiring a formal annual viability determination to trigger such action in the event of a determination of nonviability.

Mr. GARN. I concur in the Senator's interpretation of sections 161v and 170B. Is there some sort of "legislative stay" provision in this legislation that could allow DOE to continue unrestricted enrichment of foreign-source uranium even in the event of a contrary ruling from the tenth circuit pending the time DOE could petition the Supreme Court to review that ruling?

Mr. DOMENICI. No, the language of section ——— is very clear. It says that Government funds may continue to be used to enrich foreign-source uranium for domestic end-use only "until final judgment or dismissal in the pending litigation." This means that, if the tenth circuit decides that section 161v requires imposition of enrichment restrictions on foreign-source uranium, DOE must impose those restrictions and cannot continue to use Government funds for unrestricted enrichment of foreign-source uranium.

Of course DOE would be free to petition the Supreme Court for certiorari, and could petition for stay of the tenth circuit decision pending disposition of its petition for certiorari.

Mr. GARN. Is the conference action in any way intended to alter the requirements of section 161v?

Mr. DOMENICI. No. We do not intend to alter section 161v, on the requirement that DOE assure the maintenance of a viable domestic uranium industry. This amendment should assure that the DOE cannot simply come in through the backdoor and overturn the legal requirement to have a viable domestic uranium industry. The district court in Colorado has

recognized this fact by its decision of last June.

Mr. GARN. I thank the Senator.

S. 2181 AND H.R. 281, THE CONSTRUCTION INDUSTRY LABOR LAW AMENDMENTS OF 1986

Mr. ABDNOR. Mr. President, I note with regret that the House of Representatives has again voted to support the inclusion of the Construction Industry Labor Law Amendments of 1986 in the continuing resolution for fiscal year 1987.

As a member of the conference committee working on the continuing resolution, I have strongly resisted all efforts to include this harmful measure in any funding bill.

That amendment would have far-reaching consequences for construction workers and could be easily extended beyond just this segment of workers.

Supporters of this legislation say that it simply clarifies current construction labor law. I don't equate clarification with mandatory union membership and this is exactly what this amendment would do. It would force thousands of construction workers across the Nation into joining a union in order to gain work.

One target of this measure is employers who operate both union and nonunion businesses under separate entities. This measure would make legitimate dual shops illegal, thereby eliminating "double breasting."

This amendment would also allow common situs picketing. A labor dispute with any subcontractor could result in the shutdown of the whole construction site. Clearly the sole purpose of this provision is to enhance the power of union leadership.

An even more dangerous weapon would be the legitimization of multisitus picketing. This would permit unions to strike a contractor, say in New Jersey, in response to a labor dispute with the same contractor in South Dakota. In other words, out of State pressure exerted by Eastern labor bosses could be used in any State to force both employers and employees into dealing with a union.

Enactment of this amendment would be tantamount to Federal repeal of State right to work laws. No worker in his right mind would refuse to join a union knowing he would be at its mercy under a union shop. His ability to freely choose the conditions of employment would be sharply restricted if not destroyed.

The people of South Dakota strongly support the right to work concept. They do not want South Dakota's right to work law, which expresses their will, compromised by legislation dictated by giant labor bosses. They do not want strikes and labor disputes encouraged by interests outside our State.

This amendment would also expand the use of compulsory union dues for political purposes by forcing union membership on these construction workers. Americans have always honored and treasured the principle of freedom of choice. This legislation would deny this right to thousands of workers across the Nation and set the stage for even larger union power grabs in the future.

I urge my colleagues in the Senate to resist the efforts of union bosses to force this legislation on the workers of our Nation.

CLARIFY THE LABOR/HHS APPROPRIATIONS CONFERENCE REPORT

Mr. WEICKER. Mr. President, I rise today to clarify a vital point regarding the Title Ten Family Planning Program. This issue was raised by House conferees to the Labor/HHS appropriations bill and I believe it merits further explanation.

As happens all too often around here, the administration—in this case, the Office of Population Affairs at the Department of Health and Human Services—is proposing significant changes to a program it would probably kill if it had the chance. Especially troubling to this Senator was the announcement of these changes just days before the scheduled adjournment of the 99th Congress.

First, as most of my colleagues know well, title 10 of the Public Health Service Act is the major family planning effort of the Federal Government. At a time when teenage pregnancy is at epidemic proportions, at a time when grinding poverty is the guaranteed lot of thousands of unwanted children each year, title 10 family planning is the linchpin of Federal involvement. Programs that receive Federal money in this effort are successful precisely because they offer what many non-Federal programs do not: That is, a full range of medically expert counseling and referral for such things as proper prenatal care, contraception and options for unintended pregnancy, including abortion. The importance of this full range of medical information is not just a good idea according to Congress, it's considered essential by the American College of Obstetricians and Gynecologists.

There has been a tremendous amount of activity regarding title 10 in the 99th Congress. Last year, the Senate Labor and Human Resources Committee passed unanimously a 3-year reauthorization of the program, which is currently on the Senate Calendar. If the bill was to come to the floor tomorrow, I know there would be serious and well-meaning attempts to change the Federal role in this area. I'm confident we could defeat those amendments, but apparently the time involved would be too great according to the leadership. That's unfortunate. The Senate should be permitted to address the issues covered under title 10 and I'm confident it will in the 100th Congress.

In the House of Representatives, two committees—the Committee on Appropriations and the Committee on Education and Labor—rejected by overwhelming margins efforts to restrict information available to women under title 10.

Now, despite defeat in the House and unanimous committee support of longstanding title 10 services in the Senate, the Department of Health and Human Services has decided to accomplish administratively some of the very changes opponents of the title 10 program have been unable to make legislatively.

First, without consulting Congress and providing only the barest information, the Department reportedly will make certain types of counseling optional for programs of family planning that want to receive Federal money. For the first time, agencies that refuse to mention abortion when counseling a woman with an unintended pregnancy could receive Federal money for this sort of so-called family planning service.

Second, HHS is proposing to change the title 10 funding allocation formula, a change that will benefit some regions, while hurting others, and is certain to produce a major disruption in family planning services in the interim. It would be one matter, Mr. President, if this funding change was proposed for fiscal 1988 and subject to review or comment, but it is not. It is instead to be made now in fiscal 1987. Again this is a change made unilaterally by the Department. Congress and constituents of family planning services were kept completely in the dark.

The conference report for the Labor/HHS appropriations bill contains language urging that the title 10 program be left intact pending action on the reauthorization bill, and directing the Secretary of HHS to administer the entire program for fiscal year 1987 in the same manner, and under the same allocation formula which governed program operations during fiscal year 1986.

As chairman of the House-Senate conference, I joined with my colleagues from the House in directing the Secretary to refrain from making any change—in either the guidelines or the allocation formula—at this time. If substantive changes are to be made in the Family Planning Program, the reauthorization bill is the place to make them, not through the back door by administrative fiat as the Department is attempting.

Mr. HATCH. Mr. President, as we turn to consideration of the continuing resolution, I would like to ask my friend and colleague, Senator WEICKER, for a clarification concerning the use of funds made available to

reduce the demand for new drugs. When the statement of the managers was written to accompany the continuing resolution, changes were being further refined to reflect a different distribution of the funds. This is why today I seek clarification that it is the intent of the managers of the conference that the authorizing legislation supersedes the language for distributing the new funds for treatment, rehabilitation, prevention, and education program.

Mr. WEICKER. That is certainly my understanding. We have every intention that the most recent agreements made between the House and the Senate shall be the method by which the funds appropriated shall be expended. There was no effort to proscribed the method by which these new funds should be distributed. As consideration of the continuing resolution proceeded, the authorization, a snapshot of the authorizing legislation as we believed it to exist at that time, is what is contained in the statement of the managers. Our intent is now, and has been, that the funds appropriated should follow the method of allocation outlined in the authorization.

Mr. HATCH. Thank you. There has been great concern expressed about this language and I appreciate your willingness to clarify this point.

Mrs. HAWKINS. Mr. President, I also want to thank my colleagues for clarifying that the authorizing legislation will indeed supersede the conference agreement to the continuing resolution. I appreciate my colleagues' willingness to increase the appropriation levels for the treatment and prevention provisions in our war against drugs. Certainly additional funds will provide the tools that the Federal Government and the States need to deliver essential services.

Mr. CHILES. Mr. President, I would like to join my colleagues in expressing concern about the conference report language accompanying the continuing resolution for the drug abuse education, prevention, treatment, and rehabilitation funds.

It was my understanding when we acted on title II, chapter IV to fund the programs to reduce the demand for drugs, that we were simply appropriating $200 million for the Department of Education and $241 million for the Department of Health and Human Services, leaving all the decisions on the purpose and allocations of those funds, and the shape and structure of those programs, to the authorizing process.

It is my understanding that report language was meant to be broadly descriptive of the types of activities and very general. My concern is that the language might be construed as prescriptive and allocating the funds along the lines of the House-passed version. And at the very time the conferees were adopting this on the continuing resolution, negotiations and movement toward a compromise on the issues were going on between the House and the Senate.

I would like to clarify two things with the leadership and the floor managers of this resolution:

First, that our legislation authorizing the demand reduction programs—education, prevention, treatment, and rehabilitation—supercedes and transcends the conference report accompanying the continuing resolution for these programs upon enactment; and

Second, that the report language is not the most current or authoritative documentation of congressional intent for the use of funds considering subsequent legislative activity.

Mr. CRANSTON. Mr. President, as I indicated when this omnibus drug legislation was first before the Senate and in separate remarks yesterday on the revised compromise version, I feel it is important that the Senate insist on providing for the VA's ongoing drug and alcohol treatment programs a reasonable amount of the drug and alcohol treatment funds that are being appropriated in this resolution. That is why I proposed the earmarking of funds that was adopted by the Senate both in its version of the continuing resolution and in the omnibus drug bill—$11 million in the former and $12 million in the latter—out of the additional treatment funds being provided for ADAMHA. Unfortunately, through a series of misadventures, specific provision for these VA treatment funds has fallen out of the conference report on the continuing resolution, but, as has just been made clear, it is intended and contemplated that the transfer of funds to the VA that is included in the most recent agreement on the omnibus drug bill is intended to be carried out—pursuant to section 2107 of the Public Health Service Act (42 U.S.C. 300aa-6) or other applicable authority—from the additional appropriations to ADAMHA contained in the continuing resolution.

I thank the Senators for this clarification.

Mr. DOLE. Mr. President, the conference report before us contains a 105 per centum limitation on per pupil payments under Public Law 81-874 to so-called super "A" districts. However, due to the fact the authorizing statute contains special provisions relating to the 5 school districts which are coterminous with military installations, including Fort Leavenworth, KS, as well as districts deemed eligible for sections 3(d)(2)(B) and 3(d)(3)(A) of Public Law 81-874, it is my understanding the payment cap is not intended to apply to the calculation of fiscal year 1987 payments to these categories of federally impacted school districts.

Mr. WEICKER. The distinguished majority leader is correct. The payment cap contained in this conference report is not intended to supercede the special provisions in the authorizing statute as amended relating to the calculation of payments made to coterminous districts and districts deemed eligible for payment under section 3(d)(2)(B) or section 3(d)(3)(A) of Public Law 81-874. Thus, the language in this conference report is not intended to reduce in any manner payments made to these heavily impacted local educational agencies.

Mr. DOLE. I thank the distinguished chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education and Related Agencies for clarifying this important matter.

OKLAHOMA UNIVERSITY ENERGY CENTER

Mr. NICKLES. Mr. President, I would like to ask the distinguished chairman of the Energy and Water Appropriations Subcommittee about the status of the Oklahoma University Energy Center project.

Mr. HATFIELD. Mr. President, I have assured my good friend from Oklahoma that I would assist him in securing a grant of up to $9 million to match 20 percent of the $34 million already committed by private sources and the State for construction of the remaining portion of the University of Oklahoma Energy Center.

Unfortunately, because of reasons beyond our control, it was not possible to appropriate additional money for this purpose during the conference on the continuing resolution.

However, I would like to assure my distinguished colleague from Oklahoma that we intended that the Department of Energy be encouraged to use up to $9 million from existing funds appropriated by this bill, if available, to provide for construction and capital equipment for the energy research center at the University of Oklahoma in Norman.

We realize the financial strain the industry and the people of Oklahoma have had from the oil downturn and want DOE to do all it can to help this fine project.

Mr. NICKLES. I thank the distinguished chairman of the Energy and Water Appropriations Subcommittee.

RIVERTON, WYOMING INACTIVE URANIUM MILL TAILINGS SITE CLEANUP

Mr. SIMPSON. Mr. President, I should like to ask the distinguished manager of this resolution, the Senator from Oregon, a question about the funding level provided in this bill for the Department of Energy's Uranium Mill Tailings Remedial Action Program. For some time now, DOE and the State of Wyoming have been engaged in extensive discussions with regard to the Susquehanna inactive uranium mill tailings site near Riverton, WY. This site, Mr. President, is one of the nine high-priority sites that

have been identified for priority attention by DOE. As I understand it, the State of Wyoming and DOE, after considerable effort and work by both sides, are near agreement on a remedial action plan for the Riverton site. If agreement is reached on an appropriate remedial action plan and if DOE and the State resolve the remaining questions on the appropriate cost-sharing arrangement, all parties should be in a position to proceed with remedial action in fiscal year 1987. Is it the understanding of the chairman of the Appropriations Committee that, within the overall funding level agreed upon by the conferees for DOE's remedial action program, this bill provides sufficient funding to undertake the remedial action work at the Riverton site?

Mr. HATFIELD. Yes, Mr. President, within the funding level agreed to by the conferees, we fully expect that the Department of Energy will be able to carry out those remedial actions contemplated in fiscal year 1987, if the State and DOE reach agreement on a remedial action plan. In fact, as one of the nine high-priority sites, we would expect DOE to allocate sufficient funding from the amount appropriated under this resolution to undertake remedial action involving the Riverton site in fiscal year 1987.

Mr. SIMPSON. I thank the Senator for his explanation.

URANIUM ENRICHMENT CRITERIA SUBMITTED BY THE DEPARTMENT OF ENERGY

Mr. HELMS. Is provision (iii) intended to modify existing utility service contracts between utilities and the Department of Energy?

Mr. DOMENICI. Provision (iii) is not intended to modify existing utility contracts. We are aware that numerous utility service contracts presently exist between U.S. utilities and the Department of Energy. It is our intention to stay neutral on the issue of contracts pending the judgment from the 10th Circuit Court of Appeals.

Mr. HELMS. Is it the intent of this provision to maintain the status quo of utility service contracts until such time as the present litigation concerning utility service contracts is resolved?

Mr. DOMENICI. It is the intent of this provision to remain neutral on the validity of utility service contracts. The validity of these contracts is presently being challenged in the Federal courts. It is not our intent to prejudge that litigation.

Mr. HELMS. Is provision (v) intended to declare congressional approval that a prior unrecouped Government cost exists and that the Department of Energy is entitled to recover such cost?

Mr. DOMENICI. It is not the intent of provision (v) to approve the Department of Energy's position that a prior unrecouped Government cost exists. This is a matter that has received a great deal of attention and should be determined by Congress next year.

Mr. HELMS. Is it the intent of this provision to prejudge litigation presently pending before the U.S. court of appeals questioning the appropriateness of the prior unrecouped Government cost provision of the Department of Energy's uranium enrichment criteria?

Mr. DOMENICI. It is not the intention of provision (v) to prejudge any litigation challenging the prior unrecouped Government cost provision. As noted above, this provision in the Department of Energy's uranium enrichment criteria drew a great deal of attention and has of yet not been resolved. This provision in no way should be viewed as resolving the matter, but rather indicates that the issue has been set aside until it can be taken up next year.

Mr. STEVENS. Mr. President, I would like to engage in a colloquy for a technical clarification in the continuing resolution provision allowing eligible Rural Electrification Administration [REA] borrowers to prepay all their REA-related debt.

A sentence in this provision which deals with direct or insured loans states that, "No guarantee or other financial assistance shall be available to the borrowers to refinance outstanding loans prepaid hereunder."

I would ask Senator ABDNOR, the chairman of the Subcommittee on Treasury and Postal Service Appropriations, to inform me that my understanding that the use of the word "hereunder" in the forementioned sentence refers only to the prepayment of direct or insured loans, and not to prepayment of guaranteed loans which are covered elsewhere in the provision.

Mr. ABDNOR. Mr. President, the Senator is correct in his understanding. The use of the word "hereunder" in the sentence he references, refers only to the prepayment of direct or insured loans.

REA PRIVATIZATION DEMONSTRATION PROGRAM

Mr. STEVENS. Mr. President, the continuing resolution, as agreed to by the conference committee Wednesday morning, would establish a Privatization Demonstration Program" for Rural Electrification Act [REA] borrowers. Under the conference committee's demonstration program, REA electric cooperatives with REA-guaranteed Federal Financing Bank [FFB] loans have the option of electing to prepay their high interest loans, without penalty. If refinancing is necessary, private capital must be used, and a 90-percent loan guarantee is made available.

In return, REA cooperatives choosing to participate in the demonstration program would be required to pay off all of their REA obligations, including their direct and insured loans from the REA revolving fund, and to forgo any future eligibility for REA loan programs.

The intent of this demonstration program as approved by the conference committee is twofold: First, to encourage and assist REA cooperatives to move into private capital markets for financing needs; and second to provide financial benefits through prepayment of high interest loans to the consumers of participating cooperatives.

The demonstration program amendment has the support of the administration. They were actively involved with my office in negotiations leading to its development. Loans prepaid under the demonstration program would result in significant outlay savings. These savings would be in addition to the $2 billion estimate for Federal Financing Bank refinancing by REA borrowers under the refinancing provisions reconciliation bill for needy cooperatives.

Mr. President, I ask unanimous consent that an October 14, 1986, letter on the demonstration program from the Director of the Office of Management and Budget be printed in the RECORD at the conclusion of my remarks.

Mr. President, I was extremely disappointed that late last night the House of Representatives adopted an amendment which would limit the demonstration program to REA Cooperatives in the State of Alaska. The House of Representatives' Alaska amendment will permit a demonstration by the Chugach Electric Association should Chugach decide to participate in the program. It is unfortunate, however, that the House will deny the benefits of this demonstration program to other cooperative utilities in other States.

I expect Congress and the administration next year to carefully review the results of this demonstration program, with an eye toward its expansion. The demonstration program is a very good idea that should result in very substantial outlay savings to the Federal Government and to consumers in the service area of participating utilities.

I and others eagerly await the privatization demonstration program's implementation and its results.

Mr. President, I ask to have printed in the CONGRESSIONAL RECORD a letter of October 14 from Chugach Electric Association, a fact sheet on the demonstration program, and a letter from the National Rural Electric Cooperative Association [NRECA] supporting this provision as modified by the House.

The letter follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 14, 1986.

Hon. TED STEVENS,
Committee on Appropriations,
U.S. Senate, Washington, DC.

DEAR TED: The Administration supports the amendment you sponsored to the Continuing Resolution which would establish a privatization demonstration program for electric and telephone Rural Electrification Administration (REA) borrowers with outstanding REA guaranteed Federal Financing Bank (FFB) loans. This program will provide an option to such borrowers to repay all outstanding REA-guaranteed FFB loans, without a prepayment premium, providing certain conditions are met.

Borrowers electing this option would be required to repay all outstanding REA insured and guaranteed FFB loans and to forgo future REA program eligibility. Under the demonstration program, any outlay savings would be in addition to the $2 billion estimate for FFB refinancing by REA borrowers under the Reconciliation bill.

We believe that your amendment provides an important opportunity for REA borrowers to make the voluntary transition from reliance on REA lending assistance to private capital markets. Under current law, this opportunity is virtually nonexistent. We therefore urge adoption of your amendment.

Sincerely yours,

JAMES C. MILLER III,
Director.

CHUGACH ELECTRIC ASSOCIATION, INC.
Anchorage, AL, October 14, 1986.

DEAR MEMBER OF CONGRESS: Chugach Electric Association strongly supports the provisions contained in the Reconciliation Act and in the Continuing Resolution [CR] permitting Rural Electrification Act [REA] borrowers to refinance their Federal Financing Bank [FFB] loans. These provisions are similar in purpose and operation and are deserving of the support of the Administration, the Congress, the public and the beneficiaries of REA loan programs.

By way of background, you will recall that the Supplemental Appropriations Act which became law on July 2, 1986, contained a provision which permitted all electric and telephone cooperatives to refinance their high interest loans from the FFB using private sector capital and without prepayment penalties. This provision of law was rendered ineffective when the Treasury Department issued implementing regulations on August 12, 1986, which, by their terms, disqualified all electric and telephone cooperatives except those which were bankrupt or virtually bankrupt.

The response of the Congress to this blatant failure of the Department of the Treasury to faithfully implement the law as enacted was twofold.

First, a provision was negotiated by some Members of Congress with the Administration in the Reconciliation Bill. This provision permitted, on the basis of "need," as determined by the Administrator of the REA, some REA borrowers to prepay their high interest loans with the FFB and to refinance these loans in the private sector using the Section 306 loan guarantee. This provision has a $2 billion "floor." However, in light of the refusal of the Administration to implement the language and policy contained in the Supplemental Act, it is abundantly clear that the legislative "floor" is also an Administration "ceiling."

Second, a further provision was negotiated by other Members of Congress with the Administration in the Treasury Appropriations Title of the Continuing Resolution [CR]. This provision extended to some REA borrowers the right to prepay, without penalty, all their high-interest loans with the FFB. This option would require those borrowers to prepay, using private sector capital, with a reduced 90 percent Section 306 loan guarantee. However, any REA borrower which chooses to exercise this option must also agree to other conditions: (1) the utility must refinance all of their loans, including two or five percent direct or insured loans, within one year of the first loan's prepayment; and (2) after once exercising this option, the utility is no longer eligible, at any time in the future, for any new loan under the REA program.

These provisions are consistent in purpose and constitute sound economic and public policy. While they do not achieve the full objectives Congress proposed in the earlier Supplemental Appropriations bill, it appears that they go as far as this Administration can be stretched in agreeing to a new option for refinancing federal loans to REA cooperatives.

The Reconciliation Bill provides important refinancing benefits to the nation's most needy electric utilities in the REA program. The CR provision opens this window a little further to give some other REA utilities with high interest FFB debt the one-time option to have the benefits of refinancing if they agree to forego all further loans under the REA program.

We urge your support for both of these measures. They provide important benefits and new refinancing options which will directly benefit the ratepayers of the nation's electric and telephone cooperatives.

Enclosed is a fact sheet on this subject for your use and information.

Sincerely,

RICHARD D. NEWLAND,
General Manager.

FACT SHEET

NEW REFINANCING OPTION FOR REA BORROWERS

The Treasury and Post Office Appropriations Title of the fiscal year 1987 Continuing Resolution adds a new Section 311 to the Rural Electrification Act (REA). This section permits electric and telephone borrowers the option to repay, without penalty, but with private capital, all of their high interest Federal loans. REA borrowers under this option must agree, however, to refinance all of their existing loans within one year and to forego any future access to REA loan programs.

Background information and the major elements of this new optional program, which enjoys the active support of the Administration, are set forth below:

The Supplemental Appropriation Act of July 2, 1986 would have permitted all REA borrowers to prepay Federal Financing Bank (FFB) loans without penalty and to refinance using private capital and the REA loan guarantee;

Implementing regulations issued by the Department of the Treasury on August 12, 1986, however, rendered this provision of law ineffective and would enable only bankrupt or near bankrupt REA borrowers to refinance;

The new program in the Continuing Resolution is totally optional for any utility borrower with REA-guaranteed FFB debt;

The optional program in the Continuing Resolution is similar in purpose and consistent with language contained in the pending Reconciliation Bill, which would permit the "neediest" REA borrowers to prepay and refinance their high interest FFB loans;

The optional program does not affect in any way the FFB refinancing provisions in the Reconciliation Bill. Any funds utilized under the optional program will be in addition to the $2 billion-plus authorized for refinancing of FFB debt by REA borrowers under the Reconciliation Bill and will reduce outlays;

Under the optional program, REA-guaranteed loans must be refinanced with private capital and will carry a Federal guarantee on only 90 percent of the outstanding balance refinanced. The 90 percent guarantee is not otherwise limited in its transferability or assignability;

REA direct or insured loans must also be prepaid under the optional program. Borrowers will be allowed to prepay their direct or insured loans at the lesser of the outstanding principal balance or at a discounted rate to be set by the Administrator of the REA. No Federal guarantee will be available for refinancing direct or insured loans;

The impacts of the optional program will be minimal on the REA revolving fund, from which direct and insured loans are made. This is because eligibility is restricted to those with outstanding high interest FFB debt guaranteed by REA. Only a few of these borrowers, which are mostly generation-and-transmission cooperatives, have any direct and insured loans. Similarly, relatively few distribution cooperatives have any guaranteed loans to qualify under the optional program. Refinancing that does occur under the optional program would result in an initial inflow of cash to the Revolving Fund, with little impact thereafter and would provide a tremendous benefit to the ratepayers of the eligible cooperatives.

Where a generation-and-transmission [G&T] borrower elects to prepay under the program, that G&T's distribution cooperative members would still be eligible for REA loan assistance for their retail consumer;

Borrowers electing to prepay under the program may still participate with eligible REA borrowers in joint projects, so long as the prepaying borrower uses private capital for its share of a project;

Borrowers prepaying under this program could, for example, sell power to a non-prepaying borrower, and could purchase REA-financed facilities with private capital; and

Prepaying borrowers could purchase power from non-paying borrowers for periods of up to 10 years.

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION,
Washington, DC, October 16, 1986.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: As I'm sure you are aware, NRECA has been intensely involved in efforts during this Congress to secure an opportunity for rural electric systems to reduce the interest cost burden on their consumer-members through the replacement of high-cost debt owed to the Federal Financing Bank with private capital. We are especially sensitive to the particular problems of rural electric systems in Alaska in this regard.

At the same time, we believe it is vital that the financing programs administered by REA be maintained and protected from those who would dismantle them if given any opportunity to do so.

We believe that the language you have proposed to amend the Rural Electrification Act through the creation of a "Privatization Program" is a reasonable approach to the rather unique and specific situation faced by the Alaska systems. We have serious concerns, however, about the implications it would have if applied nationally.

The clarifying amendment (House Amendment No. 59) offered last night by Chairman Whitten and others adequately addresses our concerns about the privitization proposal by specifically limiting its applicability to Alaska cooperatives only. NRECA therefore will not oppose the privitization language, so long as the clarifying House amendment is included therein.

Very truly yours.

JOHN B. DAVENPORT, Jr.,
Director of Government Relations.

Mr. HATFIELD. Mr. President, if there is no further debate, I urge adoption of the conference report.

The PRESIDING OFFICER. Is there further debate?

Mr. GOLDWATER. Mr. President, are we going to have a chance for amendments?

Mr. HATFIELD. We are adopting the conference report. Then we will take up the amendments.

The PRESIDING OFFICER. Is there further debate on the conference report? If not, the question occurs on agreeing to the conference report.

Mr. METZENBAUM. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Ohio.

There is no unanimous-consent request pending. Does the Senator wish the floor?

Mr. METZENBAUM. I do.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Do I understand the question at the moment is concurrence in all of the House amendments?

Mr. HATFIELD. No. No. The procedure is that when a conference report is received, we adopt the conference report and then go to the amendments in disagreement.

Mr. METZENBAUM. I thank the manager for his clarification.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the conference report was agreed to.

Mr. STENNIS. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I would ask for the first amendment to be read by the clerk.

The PRESIDING OFFICER. The clerk will report the first amendment in disagreement.

The legislative clerk read as follows:

The House recedes and concurs with amendment to Senate amendment numbered 19.

The text of amendment in disagreement follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered nineteen to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

and

Activities authorized by the "Construction Industry Labor Law Amendments of 1985" as passed by the House of Representatives on April 17, 1986.

Mr. STEVENS. Will the Senator yield for a moment?

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I move to table the House amendment to the Senate amendment numbered 19.

Mr. D'AMATO. Mr. President, I rise today to support an important amendment, added by the House, to the pending legislation. This amendment is the Construction Industry Labor Law Amendments of 1985, or H.R. 281. It is also known as the anti-double breasting bill. The Senate struck this amendment from House Joint Resolution 738, however the House yesterday voted to retain it in the final conference report.

H.R. 281 was the subject of hearings in the Subcommittee on Labor-Management Relations on May 21, 1985. The full Committee on Education and Labor reported the bill favorably last October. It was later amended on the House floor and passed by a vote of 229 to 173 on April 17, 1986. On March 11, I introduced S. 2181, which is identical to H.R. 281 before it was amended and passed by the House.

In response to growing claims of unfair practices in construction industry labor relations, this legislation was drafted to increase the stability of collective-bargaining in the building and construction industry. This amendment would change the National Labor Relations Act (NLRA) to effectively end the practice of setting up so-called "double-breasted" operations by construction firms seeking to avoid the application of collectively-bargained agreements. It defines a single employer in the following manner:

In the construction industry, any two or more business entities performing or otherwise conducting or supervising the same or similar work, in the same or in different geographic areas, and having, directly or indirectly—

(A) substantial common ownership;

(B) common management; or

(C) common control;

shall be deemed a single employer.

The practice of "double-breasting" by contractors undermines the fundamental right of workers to join a union and to gain collective-bargaining protection. This amendment would prohibit contractors from setting up dual-shop operations for the express purpose of circumventing their union agreements.

Sometimes employers set up separate subsidiary corporations for the purpose of bidding on construction work on both a union and nonunion basis, and the two divisions may compete against each other for the same work. Under these circumstances, employers can shift work previously performed under a collective-bargaining agreement to the nonunion affiliate corporation. When employers form a nonunion subsidiary to perform exactly the same work as a unionized subsidiary and in competition with that unionized subsidiary, the company violates current law if it is a "single employer" and it refused to apply the collective-bargaining agreement to both operations. The House amendment does not alter this basic principle of fair play. It simply makes the burden of proof easier and allows corrective action, if necessary, to be obtained in a more timely fashion.

I believe that this legislation has been misrepresented by some opponents who argue that it will authorize common situs picketing, cause union contractors to close their doors and operate exclusively on an open-shop basis, and erode union benefit and retirement funds. These individuals incorrectly say that this amendment is unconstitutional, and that it will coerce millions of individuals—both employers and workers—into unwanted collective-bargaining agreements.

This, of course, is wrong. I believe that when a construction contractor signs a collective-bargaining agreement with a union that both parties to that contract have a right to expect that it will be honored. It's that simple. I don't think it's unconstitutional to expect that people mean what they say when they enter into contracts. However, by cleverly setting up double-breasted companies with union and nonunion components, contractors are able to avoid their collective-bargaining agreements. These "alter-ego" companies perform the same work in the same areas—the only difference is that workers are not receiving the union wages and benefits that were agreed to by the contractors.

A construction worker who goes from one job to another during the year may not be fully aware that some jobs are controlled by the nonunion part of a "double-breasted" contractor. That worker is in for a rude awakening when he files a claim for medical benefits and finds out that he did not have the coverage he thought he had. This amendment does not seek to do

any more than to pierce the legal veil of separation between companies that really are one and the same.

The amendment also amends section 8(F) of the NLRA to grant lawful, prehire agreements in the construction industry the binding status of agreements reached with a majority representative. Under current law, prehire agreements may be repudiated by employers after they have taken full advantage of their benefits. These agreements enable employers to learn labor costs for placing bids in advance, and provide them with a readily available supply of skilled workers from hiring halls. It is unfair for contractors to reap the benefits of signing these agreements and then disregard them. Unions must now go through the time-consuming process of proving majority support at every job site. By the time this is accomplished and certified by the National Labor Relations Board, the jobs are often completed and the workers have moved on to other jobs.

Under the NLRA, as amended, prehire agreements recognizing the union as the collective-bargaining representative for the workers and establishing wages and working conditions may be signed before the workers to be covered by the contract are hired. There are logical reasons for this. The transient nature of construction work differs, for example, from factory work performed by a stable set of employees in a fixed location over long periods of time. Due to the very nature of construction projects, workers may work on several different projects for several different employers in a given year.

Problems, however, have arisen. Entering a prehire agreement is strictly voluntary. If the agreement is not recognized by the employer, then the union must seek recognition by petitioning the NLRB for an election. Since many projects last only for a few months. The NLRB often will not conduct a representation election. Further, NLRB and the courts have permitted employers to repudiate their prehire agreements. This amendment is necessary to fulfill the congressional intent of Federal labor law provisions for collective bargaining in the building trades industry. Prehire agreements were permitted in the construction industry because of the unique characteristics of the industry. This amendment will make enforcement of prehire agreements more equitable and workable.

Finally, this amendment provides for phased-in effective dates. For contracts entered into by an employer before, the date of enactment of the legislation, the new provisions will take effect 1 year after being signed into law. In the case of contracts entered into after the date of the enactment of this legislation, the provisions will take effect on the date on which the contract is signed. Provisions relating to prehire agreements would take effect upon the date of enactment of the legislation.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the House amendment to Senate amendment numbered 19.

The motion was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATFIELD. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate amendment numbered 59 in disagreement.

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The legislative clerk read as follows:

The House recedes and concurs with an amendment to Senate amendment numbered 59.

The amendment of the House to Senate amendment numbered 59 is as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 115. GENERAL SERVICES ADMINISTRATION.

FEDERAL BUILDING FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 201(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,385,856,000 of which (1) not to exceed $125,548,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Alabama:

Jasper, Federal Building, $3,376,000

New Jersey:

Paterson, Federal Building (site and design), $1,500,000

New Mexico:

Columbus, Border Station, $2,680,000

Pennsylvania:

Wilkes-Barre, Federal Building (Social Security Administration), $20,672,000

South Carolina:

Columbia, Federal Building, Courthouse, Claim, $1,057,000

Construction Projects, less than $500,000, $1,000,000

Purchase:

New York:

Wellesley Island, Border Station, $1,925,000

Other Selected Purchases, including options to purchase, $93,338,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $270,222,000, which shall remain available until expended, for repairs and alterations: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:

Arizona:

Phoenix, Federal Building, $762,000

California:

San Diego, Old Federal Building, $1,576,000

San Diego, Federal Building, Courthouse, $1,178,000

San Francisco, Post Office, Courthouse, $1,683,000

San Francisco, Burton Federal Building, $20,000,000

Colorado:

Denver, Federal Building, Courthouse, $8,540,000

District of Columbia:

Federal Building, New Post Office, $1,700,000

Federal Building #6, $1,213,000

Federal Building #8, $1,886,500

Federal Building #9, $1,712,500

Federal Building #10A, $1,121,000

General Accounting Office, $3,552,000

Justice, $599,000

State, $2,765,000

Steam Distribution System, $8,796,000

Hawaii:

Honolulu, Kalanianaole Federal Building, Courthouse, $1,850,000

Illinois:

Chicago, Railroad Retirement Board, $5,200,000

Kentucky:
Louisville, Post Office, Courthouse, $1,500,000
Missouri:
Kansas City, Federal Building, $4,408,000
St. Louis, Federal Building (Mart), Phase I, $20,000,000
Kansas City, 601 E. 12th, $997,000
Kansas City, 1500 Bannister, $2,560,000
St. Louis, 4300 Goodfellow, $2,176,000
Nevada:
Las Vegas, Federal Building, Courthouse, $2,197,000
Oregon:
Portland, Federal Building, $12,069,000
Texas:
Dallas, Federal Building, $1,600,000
Dallas, Terminal Annex, $4,600,000
Utah:
Salt Lake City, Post Office, Courthouse, $675,000
Virginia:
Arlington, Pentagon, $7,000,000
Wisconsin:
Milwaukee, Federal Building, Courthouse, $2,799,000
Wyoming:
Casper, Federal Building, Courthouse, $1,923,000
Minor Repairs and Alterations, $141,584,000:

Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $131,442,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $985,000,000 for rental of space; (5) not to exceed $753,219,000 for real property operations; (6) not to exceed $57,090,000 for program direction and centralized services; and (7) not to exceed $63,335,000 for design and construction services which shall remain available until expended: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056 as amended, shall be available from such revenues and collections: *Provided further,* That the Administrator of General Services is authorized under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire a building not to exceed 250,000 sq. ft. constructed or acquired by or on behalf of the State of Florida or a political subdivision thereof, by lease not to exceed 30 years, in Miami, Florida, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further,* That the Administrator of General Services is authorized under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire a building not to exceed 600,000 sq. ft. constructed or acquired by or on behalf of the State of Illinois or a political subdivision thereof, by lease not to exceed 30 years, in Chicago, Illinois, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease. *Provided further,* That revenues and collections and any other sums accruing to this fund during fiscal year 1987 excluding reimbursement under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6) in excess of $2,385,856,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts: *Provided further,* That notwithstanding this or any other provision of this Act, Section 623 of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Act shall apply only to the rural electrification program in the State of Alaska.

Mr. HATFIELD. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment No. 59.

Mr. ABDNOR addressed the Chair.

Mr. STEVENS. Will the Senator yield for just a moment.

I would like to ask my good friend a question. I am sorry to say that I did not understand that first request, that first motion to table on the first House amendment. Could we have a little more time to understand what the procedural aspects of this bill are? I think that was rather fast handling of that one amendment and I intended to make some remarks on it. As I understand, that was the double-breasting amendment that was just tabled?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. The Senator is correct.

Mr. President, let me say that I am happy to yield to any Senator at any time for any questions, as I indicated, or any comments. No one is attempting to cut off any debate on any issue. I have made a motion to concur in the House amendment to Senate amendment numbered 59. I will yield to my subcommittee chairman, the Senator from South Dakota.

□ 1530

AMENDMENT NO. 3476

Mr. ABDNOR. Mr. President, I move that the Senate concur in the House amendment to Senate amendment numbered 59 with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. ABDNOR] proposes an amendment numbered 3476.

Mr. ABDNOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. METZENBAUM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The legislative clerk read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 115. GENERAL SERVICES ADMINISTRATION.

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operations, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alternation of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites, maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,279,862,000, of which (1) not to exceed $120,672,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:
Columbus, Border Station, $2,680,000
Pennsylvania:

Wilkes-Barre, Federal Building (Social Security Administration) $20,672,000
South Carolina:
Columbia, Federal Building, Courthouse, Claim, $1,057,000
Construction Projects, less than $500,000, $1,000,000:
Purchase:
New York:
Wellesley Island, Border Station, $1,925,000:
Other Selected Purchases, including options to purchase, $93,338,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $180,166,000, which shall remain available until expended, for repairs and alterations: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:
District of Columbia:
Federal Building #6, $1,213,000
Federal Building #8, $1,886,500
Federal Building #9, $1,712,500
Federal Building #10A, $1,121,000
General Accounting Office, $3,552,000
Justice, $599,000
State, $2,765,000
Steam Distribution System, $8,796,000
Missouri:
St. Louis, Federal Building (Mart), Phase I, $20,000,000
Kansas City, 601 E. 12th, $997,000
Kansas City, 1500 Bannister, $2,560,000
St. Louis, 4300 Goodfellow, $2,176,000
Minor Repairs and Alterations, $141,584,000:

Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate. *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or o ther funds have been obligated in whole or in part prior to such date; (3) not to exceed $131,442,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $985,000,000 for rental of space; (5) not to exceed $753,219,000 for real property operations; (6) not to exceed $57,090,000 for program direction and centralized serives; and (7) not to exceed $52,273,000 for design and construction services which shall remain available until expended. *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under this control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus. *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency reparis when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to preform its protective functions pursuant to 18 U.S.C. 3056 as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums occruing to this fund during fiscal year 1987 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $2,279,862,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts: *Provided further,* That not withstanding this or any other provision of this Act, Section 623 of the Treasury, Postal Service, and General Government Appropriations Act, as contained in this Act shall apply only to the rural electrification program in the State of Alaska.

□ 1540

Mr. ABDNOR. Mr. President, I am offering an amendment.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABDNOR. Mr. President, I am simply offering an amendment to Amendment No. 59. The amendment, Mr. President, is relatively simple even though it took a long time in reading. Most of the words that were just spoken have nothing more than the generic form we use on any appropriation bill relating to Federal public buildings.

Let me tell you what this does very simply.

It will fund the Federal buildings fund at a level lower than the level presented by the other body by including only those new construction and repair and alteration projects which have been authorized by both the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

It seems to me only a very reasonable request inasmuch as we do have the authorizing committee on public works which I happen to be on, as well as the Appropriations Committee that feel very strongly that they should do the authorizing before we do the appropriating.

Mr. President, I assume many of my colleagues will want to know why I am offering this amendment. I would like to give the Senate a little background.

The conferees met several times on this issue and could not agree on a compromise. The President's budget submission did not include any major new construction projects for fiscal year 1987. The General Services Administration testified that its budget for this and the next 2 years would devote a substantial amount of funds for repair and alteration of Federal buildings, with a special emphasis on removal of asbestos, PCB's, and fire safety, something that should have been done long ago and we are trying to play catchup now and renovate and repair these buildings that we own all over the United States that have been sorely neglected.

The Public Works Committee in the other body chose to fund four new construction projects. In an effort to keep the Federal buildings fund solvent, they chose not to authorize several repair and alteration projects. Quite understandably, the Appropriations Committee has provided money for those projects on the other side.

Mr. President, my debate is not with my counterparts on the Treasury Subcommittee, for I have acted in the same manner by providing funding for projects authorized by the Senate Public Works Committee. The problems I have come with the fact that the House Public Works Committee authorized funding to begin construction on four new buildings. In the case of three of those buildings, money was provided for only site acquisition and design—not to fund the entire amount of construction at this time. The site acquisition and design totals over $36 million. Maybe this does not sound like a huge sum of money to you, but the General Services Administration tells me that site and design usually accounts for approximately 10 percent of the total cost of a project.

I use the figure once again that totals this year $36 million which is 10 percent of what we think it will be.

Mr. President, if that is true—these buildings alone will take $360 million out of the Federal buildings fund in future years. This kind of impact will

further delay the much needed safety issues which must be addressed.

Mr. President, the other body has not included funding for two of these projects—Chicago and Miami—but have opted to provide funding through a 30-year lease purchase agreement.

Mr. President, this makes the package a bit more palatable, but I do not believe it addresses the fundamental problem that the other body is funding a building in Chicago that will eventually cost nearly $300 million.

It has not been requested and it takes a considerable amount of money out of our building fund every year for the next 30 years. The GSA indicates they have not had an updated assessment of needs in Chicago for at least 5 years. The Senate Public Works Committee has not held any hearings at all on this project.

Quite frankly, Mr. President, I cannot believe that this is the way to legislate. Construction in Chicago may well be necessary, however, I cannot, in good conscience, approve of funding of this magnitude without having these and other questions answered.

Mr. President, I would, therefore, urge my colleagues to approve the substitute I am offering, which funds only those projects which have been reviewed and authorized by both the House and the Senate.

In addition, Mr. President, I also want to say this includes identical language which has been adopted in the other body last night with regard to the election of rural electric cooperatives in Alaska to seek prepayment and refinancing on loans.

Mr. President, this, to me, is a major issue that we need to decide. Are we going to do the work that the General Services does feel that needs to be done with a limited amount of dollars? As you know, these dollars do come out of the Federal building funds from the charges that we assess against them. That is all that we use to repair, to maintain, and operate our buildings—the heat, the light—that we have to do. Particularly, I think the time has come it is felt in the judgment at least of our committee and I think of GSA and most others that we should do the necessary things first.

They do have a priority list. And the buildings that I speak of that have not been authorized by the Senate Public Works Committee are extremely low and at the very bottom of the priority list.

So I do hope that the Senate will find it possible to go along with our recommendation and adopt this amendment.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I would like to put a question to the managers of the bill with regard to the REA, Rural Electrification Administration. I do not know whether the REA provision is tied in with or has anything whatsoever to do with the amendment which has just been offered by the Senator from South Dakota. But I understand that there were a whole series of negotiations going on, and I simply want to ask this question.

As to the motion that was made by the chairman of the Appropriations Committee to recede to the House provision with regard to REA, do I understand that to correctly mean that if we recede to the House's position on REA, specifically that language that I understand was offered by JAMIE WHITTEN, with regard to REA, would that be the position that REA would find itself in should we recede to the House as the chairman of the Appropriations Committee has moved?

Mr. ABDNOR. Yes, it is. This provision stands regardless of what we do here. If we totally concur in the House amendment or accept my amendment to that amendment, it would contain the REA provision.

Mr. EXON. May I ask this question then—I will be glad to address my remarks to the Senator from South Dakota—could he clarify for this Senator if there is any connection whatsoever between the possible partial or otherwise privatizing REA? Is there any connection with that and the amendment being offered by the Senator from South Dakota?

□ 1550

Mr. ABDNOR. Yes, only in Alaska.

Mr. EXON. Would you restate that?

Mr. ABDNOR. I said yes, it is, and it is only in Alaska that this language applies.

Mr. EXON. In other words, if I understand it, the way the continuing resolution would provide is that there would be one REA project in Alaska that would be allowed to be privatized if that were acceptable to the REA in Alaska; is that correct?

Mr. ABDNOR. That is correct.

Mr. EXON. And that it would not in any way, shape, or form be used as an instrument or an excuse, nor would it authorize any other privatizing of REA in any other place in Alaska or in the Continental United States; is that correct?

Mr. ABDNOR. That is correct.

Mr. EXON. I appreciate my friend's direct answer. And that basically was my question.

The amendment being offered by the Senator from South Dakota, as I understand it, has to do with the construction of a building someplace, that it is an amendment that you are offering to the Whitten language with REA that would allow the privatizing of one REA project in Alaska, is that correct?

Mr. ABDNOR. You heard the original amendment. This was brought back in disagreement because of the building differences that we have between the two bodies. But we had no difference of opinion with the REA language.

I am substituting my language. I guess it was necessary because of that to put the REA provision back into my amendment so it stays in its original form.

Mr. EXON. I have not heard the debate on the proposition that the Senator is offering with regard to the building of a building, but just so there is a clear understanding, whether the amendment of the Senator from South Dakota is adopted by the Senate or whether it fails, it would have no adverse effect on the understanding between the House and the Senate with regard to the REA matter, is that correct?

Mr. ABDNOR. That is absolutely correct.

Mr. EXON. I thank my friend from South Dakota.

Mr. ABDNOR. Again, I would point out for those who have not heard the discussion, this simply would permit the carrying through of the appropriations for those projects that have been authorized by both the House and the Senate. Of course, it would mean doing away with the four projects that the Senate Public Works Committee had not given authorization to.

I would ask for your support. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. The Senator has requested the yeas and nays. Is there a sufficient second?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GOLDWATER. I objected.

The PRESIDING OFFICER. So far as the Chair is aware, there is no way one can object to the request for the yeas and nays.

There is not a sufficient second.

Mr. ABDNOR. Mr. President, I am sorry there was not.

I ask unanimous consent that Mr. DECONCINI be listed as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I rise in strong support of Senator ABDNOR's proposal for dealing with the House amendment on the Federal building fund within GSA, and I urge the support of my colleagues.

Mr. President, Senator ABDNOR's proposal is fair and equitable. It treats everybody fairly without being partisan or parochial. He is recommending that only those projects—both construction and repair and alterations—that have been approved by both Houses be funded in fiscal year 1987. Nothing more, nothing less. Let me quickly add that the Senator from Arizona loses a $762,000 project under the Abdnor

plan, as does the chairman of our full Appropriations Committee, Senator HATFIELD. But I am willing to give up an important repair project in my State for the principle that my subcommittee chairman is establishing on the floor with his amendment.

Mr. President, let me briefly outline what the House-passed proposal does. First, it knocks out eight repair and alteration projects that have been tabbed by GSA as projects that could either slip into fiscal year 1988 or be reduced in fiscal year 1987. Those projects are:

REPAIR AND ALTERATION PROJECTS ONLY

Los Angeles Federal Building: $7.8 million.
Miami, Federal Building: $11.5 million.
Boston, Kennedy Federal Building: $13.5 million.
Trenton, Federal Building: $2.1 million.
New York City Customs House, $8 million.
Asheville, NC, Federal Building: $7.8 million.
San Antonio Post Office, Courthouse: $6.1 million.
Cut $5 million from a D.C. Steam Distribution System project, leaving $8.8 million.

Second, the House would fund all new construction projects funded in both the House and Senate Treasury, Postal Service bills. They are:

Jasper, Federal Building: $3.4 million (Alabama).
Paterson, NJ, Federal Building site and design: $1.5 million.
Columbus, NM, Border Station: $2.7 million.
Wilkes-Barre, PA, Federal Building (Social Security): $20.7 million.
Columbia Federal Building, SC (and Courthouse): $1.1 million.
New York, Wellesley Island, Border Station: $1.9 million.

The House would also fund all of the repair and alteration projects in both bills, with the exception of those I have outlined above. And finally, the House would fund a new Chicago, IL, Federal Building and a new Miami Federal Building through a lease/purchase plan, with size limitations placed on both buildings.

Mr. President, frankly, this House plan is somewhat better than what they were insisting on during our conference on the continuing resolution, but it still is unacceptable to this Senator. Let me try to explain why.

First, the House plan funds a number of Federal building projects that are so bad that they are not even in the top 50 percent of the General Services Administration list of priority capital improvements. And not making GSA's priority list means that your project must be a real stinker. Probably the worst project in this barrel of bad apples is the proposed Federal Building in Chicago, IL. The House is recommending $32 million just for site and design work on this monumental project. By the most conservative estimates, this building, if approved will cost $240 million and probably much closer to GSA's estimate of $343.5 million. I am informed that the site and design funding for the Chicago Federal Building is larger than the design work planned for refurbishing the Pentagon. I am also informed that the only requirement for additional Federal office space in Chicago is for the courts—a requirement that could be totally fixed with $25 million for the whole project.

Furthermore, GSA tells us that the only posible future requirement that could surface in Chicago for Federal employees, other than the courts, is for approximately 300,000 square feet of space once current leases expire in existing space around the city, We do not need a $300 million building to house 300,000 square feet of space. That would translate into $1,000 a square foot—rather exhorbitant even by Washington, DC, or Chicago standards:

Mr. President, let me briefly outline where some of the new construction and repair and alteration projects stack up in the GSA priority list:

(NC=NEW CONSTRUCTION—R&A=REPAIR AND ALTERATION)

Jasper, AL, NC, 44th out of 50 projects.
Miami, FL, NC, 45th.
Chicago, IL, NC, 46th.
Paterson, NJ, NC, 43rd.
Phoenix, AZ, R&A, 37th.
Honolulu, HA, R&A, 34th.
Casper, WY, R&A, 33rd.

In other words, none of the projects that the House insisted must stay in the package were of high priority. On the other hand, all of the projects contained in the Abdnor proposal are in the top 50 percent of the GSA priority list, with the one exception of Wilkes-Barre, PA, Social Security building project.

Senator ABDNOR's plan is fair and sets a good standard for both this continuing resolution and future deliberations with the House on these controversial public buildings. Every year the Appropriations Committee is whipsawed by the authorizing committees for moving ahead with Federal buildings projects that have not been authorized. On the other hand, the authorizers seem to be first in line at the Appropriations Committee table to take care of their little projects that somehow have not made it through the process. And I am not just talking about the authorizers on Public Works Committee: I am referring to authorizers on all committees who exercise their "turf" prerogatives until those "principles" conflict with their own personal piece of pork or legislation. Senator ABDNOR's proposal would set the standard that no one would misunderstand: "If it ain't authorized, it ain't built."

Now, Mr. President, I have been as guilty as the next guy around here in trying to tack on legislation or project that, for whatever reason, has not made it through the normal legislative approval process. And if this Federal buildings procedure is not adopted by the Senate today, I very well may try again in the future to take care of projects that are important to my constituents. But I am also willing to join with Senator ABDNOR now to set those ground rules with regard to Federal buildings projects and send that message back to the House.

Mr. President, we need to set this important precedent and take the burden off of the Appropriations Committee and put it back where it belongs: on the Public Works Committee. That committee has not done its job and should not expect our committee to bail them out. I urge the adoption of the Abdnor proposal.

I ask unanimous consent that a 1987 capital project priority list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FISCAL YEAR CAPITAL PROJECT PRIORITY LIST OCT. 7, 1986)

[In thousands of dollars]

	Project	Type	Remarks	Construction award	Fiscal year 1987			
					Construction cost	D&C cost	Total cost	Cumulative cost
1	Columbia SC Claim	NC	Required to pay claim		1,057	0	1,057	1,057
2	Small Construction Projects	NC	US/Canada agreement		1,000	350	1,250	2,307
3	St Louis, MO 4300 Goodfellow	R&A	Remove PCB health hazard	10/30/86E	2,176	163	2,339	4,646
4	Kansas City, MO 601 E 12th	R&A	Remove PCB health hazard	01/13/87	997	75	1,072	5,718
5	Kansas City, MO 1500 E Bann	R&A	Remove PCB health hazard	02/12/87	2,560	192	2,752	8,470
6	Wash, DC FOB #6	R&A	Remove PCB health hazard	05/15/87	1,213	91	1,304	9,774
7	Wash, DC FOB #10A	R&A	Remove PCB health hazard	8/15/87E	1,121	84	1,205	10,979
8	Wash, DC Justice	R&A	Remove PCB health hazard	08/15/87E	599	47	646	11,625
9	Wash, DC GAO	R&A	Remove PCB health hazard	08/15/87E	3,552	266	3,818	15,443
10	Wash, DC FOB #8	R&A	Remove PCB health hazard	09/15/87E	1,886	141	2,027	17,470
11	Wash, DC FOB #9	R&A	Remove PCB health hazard	09/15/87E	1,713	128	1,841	19,311
12	Wash, DC State	R&A	Remove PCB health hazard	09/15/87E	2,765	207	2,972	22,283

FISCAL YEAR CAPITAL PROJECT PRIORITY LIST OCT. 7, 1986)—Continued

[In thousands of dollars]

	Project	Type	Remarks	Construction award	Fiscal year 1987			
					Construction cost	D&C cost	Total cost	Cumulative cost
13	Arlington, VA Pentagon	R&A	Remove PCB health hazard	09/15/87E	7,000	420	7,420	29,703
14	Building Purchase Program	BP	Replace leased space		93,338	0	93,338	123,041
15	Dallas, TX Term Annex	R&A	Recapture vacant space	11/15/86E	4,600	0	4,600	127,641
16	St Louis, MO Mart (Ph I)	R&A	Recapture vacant space	07/28/87E	20,000	1,200	21,200	148,841
17	Portland, OR FB	R&A	Recapture vacant space	09/07/87E	12,069	1,750	13,819	162,660
18	Wash, DC Steam Distrib System	R&A	Critical repairs/safety items	06/15/87E	13,796	1,307	15,103	177,763
19	Wash, DC New Post Office	R&A	Elevator safety repairs	11/15/86E	1,700	128	1,828	179,591
20	San Francisco, CA 450GG (Ph I)	R&A	Asbestos removal	09/30/87E	20,000	1,876	21,876	201,467
21	Miami, FL FB	R&A	Asbestos removal	09/15/87E	11,481	989	12,470	213,937
22	Columbus, NM Border Station	NC	Replace deteriorated Border St		2,680	488	3,168	217,105
23	Arlington, VA FB #2	R&A	Emergency repairs	08/15/87E	4,400	264	4,664	221,769
24	San Diego, CA Old FB	R&A	Recapture vacant space	01/15/87E	1,576	292	1,868	223,637
25	Trenton, NJ PO/CT	R&A	Recapture vacant space	09/10/87E	2,070	215	2,285	225,922
26	Wellesley Is, NY Border Sta	BP	Recapture vacant space		1,925	0	1,925	227,847
27	Kansas City, MO 2306 E Bann	R&A	Repairs	09/03/87E	4,408	331	4,739	232,586
28	Milwaukee, WI fB/CT	R&A	Repairs	08/15/87E	2,799	210	3,009	235,595
29	Dallas, TX 1114 Commerce	R&A	Repairs	12/19/86E	1,600	120	1,720	237,315
30	Chicago, IL RRB	R&A	Repairs	06/01/87E	5,200	312	5,512	242,827
31	San Diego, CA FB/CT Courts	R&A	Omnibus Courts	04/10/87E	1,178	88	1,266	244,093
32	Salt Lake City, UT PO/CT	R&A	Omnibus Courts	04.10/87E	675	125	800	244,893
33	Casper, WY Po/CT	R&A	Omnibus Courts	04/01/87E	1,923	356	2,279	247,172
34	Honolulu, HI FB/CT	R&A	Omnibus Courts	06/15/87E	1,850	342	2,192	249,364
35	Los Vegas, NV FB/ CT	R&A	Omnibus Courts	06/03/87E	2,197	388	2,585	251,949
36	Denver, CO FB/CU	R&A	Courts expansion	12/05/86E	8,540	0	8,540	260,489
37	Phoenix, AZ PO-CT	R&A	Courts expansion	04/115/87E	762	57	819	262,308
38	East St Louis, IL FB/CT	R&A	Courts expansion	09/01/87E	3,762	282	4,044	265,352
39	San Francisco, CA Ct of App	R&A	Omnibus Courts-chambers only	06/15/87E	1,683	311	1,994	267,346
40	Boston, MA JFK FB (Ph I)	R&A	Repairs and firesafety	09/30/87E	13,544	1,001	14,545	281,891
41	Louisville, KY PO/VT	R&A	Courts expan-added by House		1,500	0	1,500	283,391
42	Wilkes-Barre, PA	NC	Added by House/Senate		20,672	0	20,672	304,063
43	Paterson NJ (Site & Design)	NC	Added by House		1,500	0	1,500	305,563
44	Jasper, AL	NC	Added by House		3,376	0	3,376	308,939
45	Miami, FL	NC	Added by House—critical need to be met by leased space		2,461	0	2,461	311,400
46	Chicago, IL (Site & Design)	NC	Added by House		32,087	0	32,087	343,487
47	Asheville, NC FB	R&A	Award delayed until FY 1988	10/30/87E	7,583	493	8,076	351,563
48	San Antonio, TX PO/CT	R&A	Award delayed until FY 1988	10/30/87E	8,154	196	8,350	359,913
49	Los Angeles, CA 300 N LA	R&A	Award delayed until FY 1988	10/30/87E	2,817	217	3,034	362,947
50	NYC, NY Customshouse	R&A	Property sched. for disposal		8,000	1,160	9,160	372,107

Mr. DIXON. Mr. President, will my friend from South Dakota yield for a question?

Mr. ABDNOR. Yes.

Mr. DIXON. I must apologize to my colleague, since I was not on the floor and my staff has just apprised me of what I think is taking place here.

Am I correct in inquiring of my distinguished friend from South Dakota that he is suggesting the elimination of a county building in the city of Chicago from this continuing resolution?

Mr. ABDNOR. Yes, that is correct, along with several others.

Mr. DIXON. Mr. President, that is going to cause a great deal of difficulty around here, I am afraid. I wonder if my colleague would explain to me his reasons for entering into this kind of a dialogue at this particular juncture since there has been no suggestion beforehand that this was going to take place.

Mr. ABDNOR. I do not understand the question, but I will say this: If I did not offer my amendment to the suggestion of the chairman of the Appropriations Committee that we concur in the House amendment, then this building will be fully authorized and allowed to go ahead with the construction. I pointed out that none of the buildings I am objecting to have ever been approved by the Senate Public Works Committee. As a matter of fact, we have no idea what the buildings are going to be like. I did mention that they usually tell us in GSA that site and planning usually amount to about 10 percent of the total cost of a building. In this case, we are allowing, I think it is, $32 million for site and preparation, $32.087 million.

Well, they finally agreed to go along. In fairness, I will say this: They do not know how they are going to do it. They do not have any plans for a building. They have not found the site. But they are going to go ahead in the House now under a lease provision.

I guess the city of Chicago would build a building to the specifications of the GSA, would limit it to 600,000 square feet.

But the point remains, whether it is a leased building or whether it is constructed by the Federal Government, it takes dollars out of the building fund. And GSA has implicitly told us constantly that they want these dollars to carry on some very much needed projects for repair and alterations; I am not sure, maybe even in your city. They have been neglected over the years. They are serious things like fire hazards, asbestos hazards, PCB's. They want to do that.

If you are going to put this money into buildings, then they have got that much less to go ahead and do the repair that is necessary. There is so many dollars in that Federal building fund and that comes from the rent that all these agencies pay into the building fund account.

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1600

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EVANS). Without objection, it is so ordered.

AMENDMENT NO. 3477

(Purpose: To prohibit funds for the T-46 trainer aircraft)

Mr. GOLDWATER. Mr. President, I have determined from the Parliamentarian that an amendment that I propose to offer can only be attached to the amendment being offered by the distinguished Senator from South Dakota. So I want to proceed, and I have to get the amendment on his amendment. Otherwise, I cannot submit my amendment.

I send the amendment to the desk, ask that it become a part of the amendment from the Senator from South Dakota, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. GOLDWATER] proposes an amendment numbered 3477 to amendment No. 3476.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following:

Notwithstanding any other provision in this or any other Act, none of the funds appropriated by this or any other act shall be available for the procurement of T-46 trainer aircraft. No funds appropriated to or for the use of the Department of Defense for fiscal year 1986 may be obligated or expended for the procurement of T-46 trainer aircraft until the Secretary of the Air Force has complied with all requirements relating to the T-46 aircraft contained in section 202(e) of the Department of Defense Authorization Act 1987.

Mr. GOLDWATER. Mr. President, I rise to offer an amendment to the continuing resolution that would prohibit the appropriation of funds in fiscal year 1987 for the procurement of T-46 trainer aircraft. Furthermore, my amendment would prohibit the expenditure of funds appropriated in fiscal year 1986 for the procurement of T-46 aircraft until after the Air Force has complied with all requirements of the fiscal year 1987 Defense Authorization Act relating to the T-46 aircraft.

Mr. President, I am fully aware of the unusual nature of this amendment. And I am fully aware, that by offering this amendment, the ultimate passage of the continuing resolution may be delayed. However, this is a very unusual issue and I am not going to sit quietly and allow billions of dollars to be committed to a program which the administration and the Pentagon say they do not want and which the Senate has voted overwhelmingly not to support.

Mr. President, let me explain briefly the action taken in the defense authorization conference regarding the T-46. In the Senate, we were firmly opposed to any funding for the T-46. The House, on the other hand, largely for political reasons, added $151 million for the procurement of the T-46. The House/Senate conferees reached a compromise on language that will do the following:

Prohibit the expenditure of fiscal year 1986 funds for the procurement of T-46 aircraft until after the completion of a fly-off competition among all the suitable candidate aircraft (the existing T-37, an upgraded T-37, and Navy's T-34C, T-45, and others).

Furthermore, the conferees agreed that no funds shall be authorized to be appropriated in fiscal year 1987 for the procurement of T-46 aircraft.

Mr. President, I think that our conference resolution on this issue was a good one. It recognized the fact the administration had not requested any money for the procurement of the T-46—but instead of terminating the program outright, we allowed for a competition that would keep the future of the T-46 viable. I think that was a pretty substantial compromise on the part of the Senate conferees, particularly when you consider that the Air Force has said repeatedly: They don't want the aircraft, they don't want the aircraft, they don't want the aircraft.

The appropriations conferees however, decided to go much further. What they have done in this continuing resolution, is the following:

They have made $170 million in fiscal year 1986 appropriations available only for the procurement of the T-46.

They have made $150 million in fiscal years 1987 available only for the procurement of the T-46.

They have prohibited the expenditure of any funds for the lot II production contract which effectively cancels a competitively negotiated contract favorable to the Government.

And they have directed in the statement of managers language that the Air Force proceed with the T-46 program, and that existing contracts be renegotiated thereby releasing the manufacturer from his current contract obligations.

Mr. President, I am outraged at this blatant attempt to commit billions of the taxpayers dollars to suit the selfish, parochial interests of a small group of politicians. It's wrong, it's wrong, it's wrong.

I say again, the administration requested no funds for this program and the Congress has authorized no funds for the program. I remind my colleagues, that as stewards of the taxpayer's dollars, our constitutional responsibility is to provide for the requirements of our national defense. We are not empowered to spend those precious dollars just to suit the interests of one State or one congressional district.

Mr. President, I am not going to debate the merits of the aircraft. I have flown it. I am not going to debate the test results or some of the minor faults that the aircraft had at the outset; only to say as a pilot that all new aircraft have little things wrong with them.

I only am going to debate the fact that the Air Force does not want the airplane, in fact the last Chief of Staff told me if we bought them, he would put them in the boneyard out in Tucson, AZ.

I ask unanimous consent, Mr. President, that a letter of September 24 from the current Commanding General of the Air Force, General Welch, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, DC, September 24, 1986.

Hon. BARRY M. GOLDWATER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: You have asked for our position on the T-46 issue as you enter the final phases of the FY 87 Authorization process.

As you are well aware, the T-46 was not included in the FY 87 President's Budget because of program schedule delays, manufacturing problems, and lack of affordability. The rationale behind this budget decision was discussed in testimony before both Armed Services Committees and both Defense Appropriation Subcommittees. Throughout the intervening months we have continued to review the program but nothing has changed to alter our decision.

In summary, we have carefully reviewed the programmatic and fiscal status of the T-46 program and we remain steadfast in our recommendation not to continue with the program.

We hope this information is useful. If we can provide any further information please let us know.

Sincerely,

TIDAL W. MCCOY,
Acting Secretary of the Air Force.
LARRY D. WELCH,
General, USAF, Chief of Staff.

Mr. GOLDWATER. Mr. President, what my amendment will do is bring the continuing resolution into compliance with the authorization legislation regarding the T-46. I believe it is the responsible thing to do, and I urge my colleagues to join me in this effort.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

□ 1610

Mr. D'AMATO. I have heard some of the most irresponsible charges made in regard to the T-46 going back many months ago. I heard some charges that this plane was dangerous, that it would not fly. I heard certain people say they would never fly in it. Yet the same people flew in it.

I have heard more concocted stories supposedly coming from the Air Force denigrating this plane, and yet when you actually go to the people who fly the plane, who are in charge of the command, they say the plane is good. They say we need the plane.

Do you want to talk about political pressure? Do you want to talk about partisan politics?

Well, let us understand where it is coming from. This plane won fair and square in a competition. There were some people who said the plane does not meet up to the standards, it does not meet up to the specifications.

"Let us get a GAO study. Let us see whether it does."

They sent for the GAO study.

"All this is going to finish the T-46, this will finish it."

But when they get the report of the GAO, what does it say? It says that

the plane meets the specifications and even exceeds.

I am going to suggest to my colleagues that we will read this report word by word, line by line. I am prepared to do it.

Let me read to you a letter that I have from General Osway. He is one of the pilots. He is not manipulated by the Defense Department. He is not told what to say and how to say it because of who is behind this and who wants this.

He says:

Dear Senator D'AMATO.

I never met the general. We sent a letter to him asking about the T-46.

Requirement for the replacement trainer for the T-37 is as valid today as it was when the mission needs statement was forwarded to the Air Force mission staff in 1979.

They requested a new trainer in 1979. We are talking about a trainer that is 30 years old. When people begin to say that for parochial, political interests we ask for the T-46, that is hokum. That is nonsense. That is irresponsible.

Maybe when certain generals do not get their way, or when former generals are not employed by certain companies, then something that looks pretty good all of a sudden does not look so good. Let us get to the bottom of it.

If we want to talk about partisanship, about patriotism, ask for the record.

When you ask for the General Accounting Office study, it says the T-46 meets the needs. This is not partisan. This is not politics. This does not come out of a committee because we want to make a chairman of a committee happy or someone else, or because the plane will be built someplace else.

I am sorry to have these statements made that it is a parochial interest. If you want to start engaging in that, this Senator is prepared to do that as well.

General Osway's letter says:

I have flown the T-46, as have many of my staff. Without exception all have said that it is a good training platform. The decision to cancel the T-46 was precipitated by manufacturer problems and budgetary restrictions. Many of Fairchild's problems have been corrected. The airplane is meeting our expectations in the test program.

They are meeting the expectations and that is exactly what the General Accounting Office says.

Let us talk about high-pressure politics. Where is it coming from? It is not coming from this Senator. But I will be darned if you think I have been sent to come down here and to be rolled because I am not going to be, not when the facts are as the General Accounting Office said, not when the need is still there, not when you have a 30-year-old plane that has to be rewinged or retooled and will cost the taxpayers billions of dollars.

Let me see what else he says:

Many of Fairchild's problems were corrected.

They were corrected. But you would not know that. They were corrected months ago when I had to endure a tirade on this floor and I did not say a word, a tirade in which I was told I was parochial, that this plane was not needed, that it was a waste of the taxpayers' money.

What are we going to do about a 30-year-old aged trainer that does not meet the needs of today? I would like to know.

Well, the problems have been corrected.

Due to the budgetary constraints, the Air Force is unable to afford the program, but the requirement still exists. I say this for a number of reasons. One, the T-46 is a good airplane which meets our needs: two, the T-37 is running out of time, and has many operational deficiencies.

What do we do when we have our first structural failure and it takes 6 to 7 years to get a plane into production?

Three, modification of the T-37 is not a long-term solution. It does not solve the operational problems and a replacement will be more expensive 5 to 10 years from now.

Talk about saving taxpayers money. Under the Defense Department, and under the Air Force, and, OK, we will find that there will be some who can say, "We can rewing, we can retool this, we can save money."

It is a stopgap measure and will not meet the needs of the Air Force and it is going to wind up costing the taxpayers billions of dollars.

Four, to date we have spent a half billion dollars on this program, if the 1986 funds are included.

What he is saying is we are going to lose a half billion dollars. Five hundred million dollars that was spent will be lost.

What about the taxpayers? Are we really talking about the taxpayers or are we talking about political considerations? Are we talking about friends and doing their business and their bidding? Or are we really talking about the interest of this country?

Mr. President, I am going to read the U.S. General Accounting Office report, because this Senator is going to put all that should be in the record into the RECORD, even if it takes the time of my colleagues in this body.

This report was requested. U.S. General Accounting Office, May 20, 1986.

Honorable ROBERT DOLE, U.S. Senate.

Mr. DOMENICI. May we have order, Mr. President?

□ 1620

The PRESIDING OFFICER. The Senate will be in order. Will those conversing in the back of the Chamber, please cease their conversations?

Mr. D'AMATO. I thank the Chair.

DEAR SENATOR DOLE: This report is in respcnse to your February 6, 1986, request to review certain aspects of the Air Force T-46A aircraft program. Specifically, you requested that we provide (1) a history of the contract difficulties associated with the T-46A program, (2) information on the current status of production, (3) data about the quality of aircraft from a performance and production standpoint, and (4) information on the extent that fiscal year 1986 funds are being expended.

In July 1982, the Air Force awarded the Fairchild Republic Company a fixed price incentive contract with a target price of $104 million to develop the airframe of the next generation trainer aircraft—the T-46A. The contract included priced production options for up to 65 aircraft. At the same time, the Air Force awarded the Garrett Turbine Engine Company a fixed price incentive contract with a target price of $121.2 million for development and initial production of the F-109 engine for the trainer. The T-46A was to replace the Cessna T-37B as the Air Force's primary trainer aircraft. As many as 650 new trainers with a total acquisition cost of over $3 billion were expected to be acquired over the life of the program.

In November 1984, the Air Force exercised the first production option for 10 aircraft, including support equipment and a data package at a price of $58.1 million. One development aircraft has been completed and is being flight tested. A second development aircraft is nearing completion. Ten production option aircraft are being produced.

Fairchild has experienced cost and schedule difficulties since shortly after the award of the T-46A development contract. An Air Foce Contract Management Division review of contractor operations at Fairchild in June 1985 identified major problems and numerous deficiencies. Fairchild has taken or is in the process of taking corrective actions. The Secretary of the Air Force, citing these problems and budget constraints, has decided not to continue the T-46A acquisition program. The Air Force withheld fiscal year 1986 funding for lot 2 production of 33 aircraft. The President did not request any T-46A production funding in the fiscal year 1987 budget. The Air Force states that sufficient funding has been provided to fulfill its financial obligations in completing T-46A development and production of the first 10 aircraft.

The Air Force states that it intends to extend the life of the T-37B approximately 5 years beyond its original life expectancy. Air Force Air Training Command officials state that there is a shortage of T-37B's in the inventory. During the next several months, the Air Force will explore options to meet its future trainer aircraft needs. Among its options are to resume or recompete the T-46A production.

The results of our review are summarized below and discussed in more detail in the appendixes.

CONTRACT DIFFICULTIES

Within several months of the 1982 award, Fairchild's actual costs were more than budgeted and its work was behind schedule. Although some milestones were met, several key milestones were completed later than originally scheduled. For example, first flight was completed 6 months later than originally scheduled. Air Force concerns about schedule delays led to a mutually agreed upon contract modification in late 1985 that extended milestone and delivery dates.

Air Force reviews during 1985 found many areas of Fairchild's operations to be unsatisfactory. Following an extensive contractor

operations review that reported 279 findings, the Air Force, in August 1985, began withholding 50 percent of Fairchild's progress payments. Air Force officials stated that the findings were not graded as to significance, and that the number of deficiencies found were not unusual for such reviews. However, they also stated that Fairchild was the first contractor to be rated unsatisfactory in all eight management areas reviewed.

On April 21, 1986, the Air Force, citing Fairchild's substantial progress in correcting these deficiencies, restored half of the withheld progress payments. Fairchild officials stated that corrections to all the prior deficiencies would be essentially completed by September 1986. See appendix II for discussion of contractor operations review findings and corrective actions taken.

The Air Force cost estimate as of December 31, 1985, for Fairchild to complete T-46A airframe development and the first production lot of 10 aircraft was about $122 million more than the Air Force is obligated to pay Fairchild under the terms of the contract. Fairchild will absorb those costs if the development and first production lot programs are completed.

STATUS OF T-46A PRODUCTION

The first T-46A test aircraft is undergoing flight testing. The second test aircraft is undergoing preliminary ground testing before beginning flight tests in July 1986. The first 10 production aircraft are being manufactured with delivery of the first aircraft scheduled for November 1986. However, Air Force program office officials believe the delivery of the first production aircraft will not be accomplished until early 1987. On March 28, 1986, the Secretary of the Air Force announced his intention not to exercise the option for the second production lot of T-46A's.

PRODUCTION QUALITY

The Air Force has made six assessments of Fairchild production capability since 1982. These reviews identified numerous deficiencies relating to or impacting production quality that needed corrective action. However, the reviews generally concluded that Fairchild was capable of manufacturing the T-46A. The three reviews conducted by the Air Force T-46A program office recommended that the production program be continued. In late 1985 the Air Force noted that Fairchild's manufacturing operations had improved.

So, Mr. President, I think that it is important to point out that after the Air Force made its most critical reviews, the General Accounting Office points out that the Air Force, by its own reviews, conducted in regard to the manufacturing and performance schedules of the T-46A, recommended that production be continued.

QUALITY OF AIRCRAFT PERFORMANCE

As of March 31, 1986, the first T-46A developmental aircraft had been flown about 110 hours during 74 of 221 planned test flights. Air Force and Fairchild officials said flight tests results have been very successful to date. The T-46A is expected to meet or exceed most of the Air Force Air Training Command's original performance requirements. However, it is not expected to meet some of the more stringent contract performance requirements.

Again, Mr. President, I point out that this is not an observation or conclusion reached by this Senator or by those who look to come out with a particular conclusion that would please them. I think the language is worthwhile going over.

It says:

As of March 31, 1986, the first T-46A developmental aircraft had been flown. * * * The T-46A is expected to meet or exceed most of the Air Force Air Training Command's original performance requirements."

That is not a statement that I solicited. I did not go and ask someone to make this finding. But I suggest that there have been lots of statements that have come forth indicating, well, we do not know if we need it; we can put it off as a result of the inquiries coming in a certain particular manner from certain department officials, with a predesigned concept for what they wanted to be answered.

If you ask the Air Force, what is your first requirement; we are going to give you fast, speedy fighter jets or a trainer, they are always going to come down on the side of fighter jets.

That is not the issue here. If you tell them, well, if you take this money, we are going to take it from someplace else, do you want the money? You preprogram your conclusion of what the answer is going to be. That is what is taking place. But if you look to see the performance of the plane, the need for the plane, it has never been controverted that we need this plane.

□ 1630

Flight testing has identified problems in aircraft drag, lack of adequate stall warning, primary flight controls, and speed break buffeting. Air Force officials said these types of problems are not unusual. * * *

So when we identify the problems, the Air Force says to the General Accounting Office people that these are not unusual problems, as we were led to believe when people came and said, "My gosh, this plane is dangerous." They said:

* * * at this stage of development and that they can be solved without major aircraft modifications and within the scope of the development contract. An Air Force training command official said that based on actual flights by their personnel, the T-46A's performance was exellent, * * *

They say it was excellent.

* * * met the command's needs for a modern trainer and—

something worth noting—

* * * would save millions of dollars in yearly maintenance cost.

So, unlike that which has been suggested, that this would be a costly boondoggle to the taxpayers of the country, here we find in a General Accounting Office report, "Air Force command says we need this modern trainer and that it would save millions of dollars in the yearly maintenance costs."

Mr. WARNER. Will the Senator yield for a question at an appropriate time?

Mr. D'AMATO. Yes, I will yield at the appropriate time for a question.

USE OF FISCAL YEAR 1986 FUNDS

As of April 30, 1986, about 51 percent of the $49.9 million appropriated for fiscal year 1986 research, development and testing funds for the T-46A had been committed to be obligated. The $169.9 million appropriated for T-46A production lot 2 in fiscal year 1986 has not been released to the program. The Air Force does not plan to request additional production funding for the T-46A program at this time.

After all, we heard that there were problems, so it is fair to say what actions were undertaken to correct these problems.

Fairchild has developed and is implementing actions to correct the deficiencies identified in the Air Force's contractor operations review. Corrective action has been completed and submitted to the Air Force for approval on 83 percent of the deficiencies. The Air Force has approved 61 percent of those actions as of March 31, 1986.

In conducting our work, we reviewed cost data, contract files, flight test data, correspondence files, and production readiness reports. We also interviewed officials from the Office of the Secretary of Defense and Air Force headquarters in Washington, DC; the T-46A System Program Office, Wright-Patterson Air Force Base, Ohio; Air Force Plant Representative Office at Fairchild Republic Company, Farmingdale, New York; Air Force Contract Management Division, Kirtland Air Force Base, New Mexico; Air Force Operational Test and Evaluation Center, Kirtland Air Force Base, New Mexico; Air Force Flight Test Center, Edwards Air Force Base, California; and Air Training Command, Randolph Air Force Base, Texas. We also obtained data from and interviewed officials of the T-46A airframe development contractor—Fairchild Republic Company, Farmingdale, New York.

It would seem that the GAO was rather thorough in taking a rather exhaustive review not only of documents but of those people in the production area, those people in the flight area, those people in the testing area, those people in the operational area. They did a pretty good job. Now, their findings again may not have come out as certain people maybe thought or as, given the benefit of the doubt, certain indications from Air Force may have led one to believe with respect to deficiencies, but their findings, nevertheless, were based upon exhaustive study, exhaustive, time-consuming study, the king of time-consuming introspection that we are going to do, my colleagues, with respect to this issue, because we are going to look at it very, very, very, very closely and we will take as much time as necessary, regardless of the fact that there are many who have pressing engagements in their home States. I have a pressing engagement in my home State, but I feel strongly about this matter, and I may not be able to see the Mets play

the Boston Red Sox there Saturday evening, notwithstanding my desire to do so. It may take us that long to examine all of the ramifications of this matter, and I may miss the Sunday evening game and the games to follow in the following days. So I would like to say that here we have an example of that kind of exhaustive review. Maybe people are not satisfied with this document from the General Accounting Office, but I think before we consider voting on the matter that is so important all of our Members should have the opportunity to review it and those who are busy doing other things, well, they will have their squawk boxes on and they can listen as we continue.

As agreed with your office—

This is the General Accounting Office people now setting up the parameters of their review, and this letter is in response to a legitimate inquiry from one of our Senators. It says:

As agreed with your office, we did not review the Garrett Turbine Engine Company's development, testing, and production of the F-109 engine used in the T-46A aircraft, or the development of the operational flight trainer by the Reflectone Company. Nor did we evaluate possible alternatives to fulfill Air Force trainer needs.

Mr. DOMENICI. Will the Senator yield for a question without losing his right to the floor?

Mr. D'AMATO. Certainly.

Mr. DOMENICI. If the Senator is going to stay here and talk until Saturday night, would he give me his ticket to the Mets game? He can stay here and I will go.

Mr. D'AMATO. If the Senator will go with my two sons, that will be the condition, yes.

Mr. DOMENICI. We have a deal.

Mr. D'AMATO. The Senator will have three tickets.

Mr. DOMENICI. The Senator can stay here and talk and I will go. All right.

Mr. WARNER. Mr. President, is it timely for me to ask a question of my good friend?

Mr. D'AMATO. Yes. I yield for purposes of a question.

Mr. WARNER. Mr. President, we all admire the courage with which our distinguished colleague from New York speaks and we cannot help but be envious that in fact, indeed, the plane in large part would be built in New York State and therefore we understand the Senator's interest. But my question is, Does the Senator happen to know where the corporate headquarters of the company that will build the plane is located?

Mr. D'AMATO. I believe that the corporate headquarters is in Maryland.

Mr. WARNER. No, the corporate headquarters is in Virginia.

Mr. D'AMATO. Virginia?

Mr. WARNER. Yes.

Mr. D'AMATO. That is a wonderful thing.

Mr. WARNER. That would lead the Senator——

Mr. D'AMATO. A great State.

Mr. WARNER. That would lead the good Senator to believe that I would be up here joining him.

Mr. D'AMATO. Oh, no. I know better.

Mr. WARNER. Then if I said I supported the amendment of the Senator from Arizona, I could not be doing it for political purposes, could I? Because I am committing suicide.

Mr. D'AMATO. Let me suggest that the great and distinguished Senator from Virginia undertakes his either support of an amendment or his opposition of an amendment based upon those matters which he feels are important, both those matters intrinsic to the development of the particular plane and those that go beyond.

Mr. WARNER. Mr. President, the next question I would have, having I think established credentials to speak on this in a nonpartisan way, would be, of course, the Senator is aware of the fact that for many years, 5, I was head of one of the military departments and familiar with the manner in which decisions are made to buy military aircraft, and I ask the Senator how many Secretaries of the Air Force approved the purchase of this plane?

As a matter of fact, I will answer the question. Three consecutive Secretaries of the Air Force—and, mind you, in the Pentagon these decisions are under civilian control, not military control—three successive Secretaries declined to put this aircraft into major production. In 1986 there was a limited buy of 10. But the current Secretary is opposed to it. And as the distinguished Senator from Arizona pointed out, the current Chief of Staff—he happens to be the second of two Chiefs of Staff—stated that he did not want to buy the plane.

□ 1640

Mr. D'AMATO. If the Senator is asking a question as to whether or not the Secretary of the Air Force, presently, or his predecessor, was in favor of continuing production, I am well aware of that, as the Senator is. That does not obviate the necessity or eliminate the necessity for a new trainer. It does not answer the question with regard to the outmoded trainer we have.

It does not answer the fact that initially the charges were made that this plane would not fulfill the mission, when that has never been true. We have been propagandized—this body and others—the most incredible propaganda about the deficiencies, when we have had, after careful examination, the fact that that has been refuted, and not by those of us on the floor but by a study requested, an impartial study, that I could not control nor anyone else could control. If the Defense Department had its way, there is no doubt that this study would not have come about with these results.

Mr. STEVENS. Mr. President, will the Senator yield for a question?

Mr. WARNER. And are we not asking the Senate to overrule the decision of three service Secretaries and two Chiefs of Staff?

Mr. D'AMATO. Since when has that become something this body is governed by?

Mr. STEVENS. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. I yield for a question.

Mr. STEVENS. I would not want the Senator from Virginia to leave the wrong impression.

From 1981 to 1985—and the Senator from New York was on the Appropriations Committee—every representative from the Air Force who came before our committee supported the T-46, including the then Chief, Kelly Burke.

Mr. D'AMATO. If I may respond, that happens to be the case. Not only is the Senator from Alaska correct in that, not only have we had it testified to, as to the quality of the T-46, but also, I have a book that says that the T-37 was very old. That was the testimony of Secretary of the Air Force, Vernon Orr, to the Senate Appropriations Committee, February 28, 1984.

The planes did not get any younger. The planes did not get any better.

The T-46 met the mission and met the requirements. Ask the General Accounting Office.

I suggest that some people, maybe for their own reasons, have seen a different way to come about this problem.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. D'AMATO. I yield for a question.

Mr. GOLDWATER. Is it not true, as I told the Senator, that I do not debate the merits of this airplane? It is a pretty good airplane. But the Air Force does not want it. Now answer that.

Mr. D'AMATO. I will be glad to answer it.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. I think that is an important observation Senator GOLDWATER made. He said it is a pretty good plane, and the Senator has told me privately, as he said here, that if the Air Force were to sign off—the Air Force has a different agenda, and it has been told why it does or does not like this plane.

The fact is that when you have a Secretary of the Air Force who says we need this plane in 1984 and now we do not need it—we had moneys that were appropriated, and never before

have we taken moneys that were appropriated and rescinded them from a program.

I suggest to you that we have seen some pretty heavy-handed maneuvering by the Defense Department as it relates to this plane.

My colleague from New York had a question, and I yield to him for a question.

Mr. MOYNIHAN. Mr. President, in that respect, I think the Senate would want to know—I am sure the Senator from New York would agree—that that is quite so, that the headquarters of the company involved here is located in Virginia.

While the plane is to be assembled in New York, is it not the case that the aircraft engine, which is the GA-100 turbofan, is to be manufactured in Arizona, and the original contract from the Air Force, the contract for the development to Fairchild in 1982, was $104 million? The contract for $121 million was for the larger component.

Is it not the case, I ask my friend, that under the regime of Gramm-Rudman, as was predicted on this side of the aisle with great explicitness, when the time came, the funds available to the Armed Forces, the Department of Defense, have been going down? In 1985, fiscal 1985, pre-Gramm-Rudman, the budget authority of the Department of Defense was $286.8 billion.

Mr. D'AMATO. I think my colleague would be correct——

Mr. MOYNIHAN. May I finish my question?

The PRESIDING OFFICER. The Senator from New York has the floor. Does he yield for a question?

Mr. MOYNIHAN. He had yielded for a question. I have another sentence.

Mr. D'AMATO. I yield for a question.

Mr. MOYNIHAN. In 1985, the budget authority of the Department of Defense was $286.8 billion. In 1986, it was $278 billion. That was the first decline since 1970–1971. The current provision is somewhat higher than last year but still not as high as 1985.

What we are seeing here, would he agree, is a decision driven by budget matters, not by Air Force matters, in that respect, a judgment which we could very well disagree with?

Mr. D'AMATO. I say to my learned and distinguished senior Senator from New York that it is as a result of the funding not increasing, as anticipated, that both the Air Force and other services are faced with choices of making appropriate adjustment.

Having said that, the kinds of things we have been faced with is that this plane was being built and being supported because it comes from a particular State or region, and I suggest that that is not why those of us who are here on the floor saying let us look at the record are here doing it. Yes, it happens to be in my hometown. But the fact of the matter is that the record amply demonstrates the need nationally.

I point out that Senator CHILES does not represent New York, where a good part of the plane is being manufactured, or the corporate headquarters.

So what we see is a political type of dimension being added, which is unfortunate. That is why I say let us look at the record. If we look at the record, we will see that this plane was supported by the Air Force, was supported by Vernon Orr, is supported by the men in the field.

We have tried to work out compromises, but we have had some people say that we are going to defeat this plane and we will either go out for a new plane or rebid this or retool it and rebuild an existing plane, notwithstanding the Air Force itself says it is going to cost a lot more money and I will try to get an Air Force official to say it now after the Pentagon has taken a particular position.

□ 1650

It gets pretty tough to get some general to say we want this as opposed to the F-15 or F-16 or to make another recommendation, particularly when a Secretary of Defense and others have taken a strong position in opposition.

But in any event, I would like to continue with this.

As agreed with your office, we did not review the Garrett Turbine Engine Company's development, testing, and production of the F-109 engine used in the T-46A aircraft, or the development of the operational flight trainer by the Reflectone Company. Nor did we evaluate possible alternatives to fulfill Air Force trainer needs. Also, as agreed with your office, we did not request official agency comments on this report. However, the views of Air Force and contractor officials were obtained and incorporated where appropriate.

So here we have in this report, which I say it is kind of like the Bible. You would have to take my statements with a grain of salt. There would be some who would say, after all, you have a parochial interest. This is manufactured in New York; therefore, that is a parochial interest.

I would suggest to the body that if I was convinced that this plane was not necessary, I would not take this position, I would not seek the time, the energy, of my colleagues in deciding this issue.

As a matter of fact, if Fairchild had not corrected the deficiencies as they did, I would not be here.

But I also suggest that that might not be plausible or believable for a number of my colleagues.

So do not take my word but let us look at some things or someone, not someone who may be attempting to bring about a different result for whatever reason but someone who was asked, an impartial group, the U.S. General Accounting Office, the GAO who was solicited. I did not solicit them. I did not set the conditions for their study. I did not tell them what to examine. The General Accounting Office after talking to everyone, interviewing them, the production people, the line people, the pilots who tested the plane, the command, they made their report and that is why we have to listen to it. We may not like it, but I am going to present it here in every graphic detail.

Fairchild officials advised us that the report is an accurate and balanced presentation. They observed, however, that because of the essentially historical nature of the questions, the report does not emphasize the motivation and professional character with which the company is operating today.

We conducted our work from February 1986 through April 1986 in accordance with generally accepted government auditing standards. We plan no further distribution of this report until 5 days after its issue date unless you publicly announce its contents earlier.

That is a general standard practice when one requests a report.

At that time, we will send copies to the House and Senate Committees on Appropriations and on Armed Services; House Committee on Government Operations; Senate Committee on Governmental Affairs; the Secretaries of Defense and Air Force; the Director, Office of Management and Budget; and other interested parties.

By the way I would note that the T-46-A has been approved by two of those committees. As a matter of fact, three of those committees—the House Committee on Appropriations, the Senate Committee on Defense Appropriations—and unfortunately we are mired in this situation—and the Senate Committee on Governmental Affairs, the Secretary of Defense has seen this, the Secretary of Air Force, the Director of Office of Management and Budget, and other interested parties.

Signed by Frank C. Conahan, Director.

I will skip the table of contents at this time and go to page 7, appendix A. Requested information——

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. Yes, certainly.

Mr. GOLDWATER. Has the Air Force approved this aircraft?

Mr. D'AMATO. Have they approved it?

Mr. GOLDWATER. Yes.

Mr. D'AMATO. To the extent I have indicated——

Mr. GOLDWATER. I am talking about the headquarters over the Potomac River.

Mr. D'AMATO. You mean did the Air Force say they want it?

Mr. GOLDWATER. The Commander of the Air Force.

Mr. D'AMATO. Well, when I spoke to them they have indicated recently

that for budgetary reasons they would not ask for the airplane. However, I would note that there have been more than one occasion——

Mr. GOLDWATER. Will the Senator yield for another question?

Mr. D'AMATO. Certainly.

Mr. GOLDWATER. Do you think that it is proper for a legislative body to tell any part of our armed services what weapons we are going to buy them?

Mr. D'AMATO. Oh, certainly. We do it regularly.

Mr. GOLDWATER. We do?

Mr. D'AMATO. Yes.

Mr. GOLDWATER. No, we do not do it regularly.

Mr. D'AMATO. Well, Senator——

Mr. GOLDWATER. No, we do not.

Mr. D'AMATO. With great respect and admiration, I have seen it in both the committee you chair, I have seen the number, the quality, the volumes, and disciplines, and I have seen it on the Defense Appropriations Committee and to suggest this time we do not——

Mr. GOLDWATER. You do not. Your subcommittee does a lot of foolish stuff.

Mr. D'AMATO. I see the Senator from Virginia laughing. I do not know if it is a result of my remark or absurdity of the proposition that we do not suggest to the military what they should buy at various times.

Mr. GOLDWATER. We might suggest it but we do not buy it.

Mr. D'AMATO. You know a suggestion from the Senator from Arizona carries a great deal of weight and might be interpreted as more than just a suggestion, almost an order.

Mr. GOLDWATER. Well, I disagree with the Senator.

Mr. D'AMATO. I think you are being too modest.

Mr. GOLDWATER. I still want the Senator to make the point. It is not the aircraft. I do not argue with him on the aircraft.

Mr. D'AMATO. You mean the suggestion it meets its needs.

Mr. GOLDWATER. They have not completed all the deficiencies. That is not important. The important thing is the Air Force does not want it.

Mr. D'AMATO. I think again my distinguished colleague from Arizona, someone for whom I have deep respect, makes a point again that this plane is not the older plane that it was made out to be. When I was here on this floor, when I heard my colleagues come up to me and say, "ALFONSE, how could we support this plane, when it is so dangerous, when it is so deficient," that is not the case. People were given a bill of goods. They were told and we had memoranda coming out of the Air Force that was suggesting that this plane could not fly and it should not fly.

That is from the same people who we are now supposed to rely on them, I told them that.

I think we have to worry about their reliability.

But I do believe this General Accounting Office report. I say to my colleagues if you are going to put stock in it, do not take my word for it, but certainly not those of the generals who have been programmed to come down to say we do not want it at this time. What kind of credibility do they have, when for 7 years they lobbied, for 7 years they come forth and testified before our committee we need it, we need it, put it out, bid it, we need this plane desperately. And then they come before this body and say, oh, no, we don't need it.

Then they go to the extent and say the plane is dangerous and it does not fly.

When you check into those reports you find out from the guys there doing it they say they send the letters—it meets our needs; we do need it. If we do not have it, it is going to be a terrible deficiency.

You want to talk about what happens to the American public. You wonder why they begin to say they lose credibility in which direction we are going to go. We need it one day. The next day we do not need it, we do not want it.

That is an oversimplification.

REQUESTED INFORMATION ON T-46A PROGRAM

In July 1982 the Fairchild Republic Company was awarded a fixed price incentive contract for the design, development, testing, and delivery of two T-46A trainer aircraft with support equipment and a data package.

I think that is interesting. In July 1982, after exhaustive studies, after exhaustive competition and bid the Air Force said go ahead. So we needed it then. The Secretary of the Air Force signed off then. The Secretary of Defense signed off then. We needed a new trainer not because it was being built in Long Island but because of the need that we had a 30-year-old trainer. So let us get that through once and for all because again I resent those implications that because someone is going to stand up and say let us look at the record, you are doing it to protect the parochial interest. The fact of the matter is if the same situation were taking place in any other place I would expect my colleagues who had particular knowledge to stand up and do the same thing I am doing here now.

We need it in 1982. So we put it out.

The contract included two fixed priced options for the production of up to 65 aircraft.

We said at that time we had a need for at least 65 planes.

Fairchild was selected for the contract award following the evaluation of competitive proposals from five companies.

So this was not a situation where the Senator from New York said give it to Fairchild or anyone else. You have an exhaustive competition from five companies.

□ 1700

The proposal evalution criteria, in order of importance, were (1) operational utility, (2) readiness and support, (3) life-cycle cost, (4) design approach, and (5) manufacturing/program management. The Secretary of the Air Force, in making the selection, stated that Fairchild's proposal offered significant advantages over the other proposals.

I did not say it. My colleague from New York did not say it. The Secretary of the Air Force said, after looking at these components, these five components—operation utility, readiness and support, life-cycle cost, design approach, and manufacturing/program management—I should have read this General Accounting report with more thoroughness before. He said:

Fairchild, you offer significant advantages over the other proposals.

And he specifically stated Fairchild's proposal "provided the best aircraft in terms of training effectiveness, operational safety, reliability, maintainability, and availability."

Now, that is a pretty strong endorsement. I would suggest that that endorsement came down in July 1982 absent those factors that would suggest that somehow the planes that should have been replaced in 1982 that we saw the need for, somehow that situation has changed and it would be valid today.

Now we are here in 1986, 4 years-plus later. Are we going to suggest to the American people that the trainer that 4 years ago was considered obsolete, aging, that should be taken out of service, that should be replaced for the training of our men and women, our pilots, that somehow that aged plane has gotten better in 4 years, that there is less of a need today after, by the way, we spent a half of a billion dollars? Incredible; absolutely.

"Its design met or exceeded all Air Force requirements." Here is the Secretary. He says:

Its design met or exceeded all Air Force requirements and (3) its manufacturing approach made it the leader in this area.

Contract difficulties.

Were there problems? Of course. But we were made to believe that these problems were somehow unique to Fairchild, to the trainer, that we do not see these problems in any new start-up program.

Within several months of the 1982 award, Fairchild began experiencing cost, schedule, and other difficulties. These problems and other events led to a 1985 restructuring of the contract delivery schedule, reduced progress payments, and a major contractor effort to correct identified problems in 1985.

COST DIFFICULTIES

At the time the development fixed priced incentive contract was awarded, both Fairchild and the Air Force recognized that Fairchild's cost proposal was optimistic; that is, lower than expected actual costs. Fairchild officials said their cost proposal had been influenced by the Request for Proposal which specified funding limitations.

The contract had an original target price of $104 million and a ceiling price of $125.3 million. Any costs beyond the ceiling price must be fully absorbed by the contractor. Contract modifications can result in increases to the target price and ceiling.

In October 1982, several months after the contract award, an Air Force independent cost estimate showed that the T-46A development and production estimates prepared by the Air Force program office were reasonable and considerably higher than the contractor estimate.

Beginning in September 1982, Fairchild started reporting cost variances in its monthly cost performance reports. Fairchild recognized in its September 1983 cost performance report that the estimated completion cost would exceed budgeted costs. Between September 1983 and July 1984, Fairchild increased its estimated completion costs several times from $116 million to $139.1 million, which at that time exceeded the July 1984 contract ceiling price of $127.1 million. Since that time, the contract ceiling price has increased due to contract modifications.

With cost estimates continuing to increase, Fairchild officials said they realized that the scope of work was greater than expected and that managing the program within the amounts in the original contract would not be possible.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. HATFIELD. I appreciate the Senator from New York yielding for a question. I would like to inquire of the subcommittee chairman of the Appropriations Committee, who has worked very hard on this continuing resolution, brought it thus far, if he could give us some indication as to when we might reach a point of disposing one way or the other of the Goldwater amendment that is an amendment to the Abdnor amendment that is hanging on amendment 59 in disagreement with the House.

Why I pose the question is, as the Senator from New York knows, we have run out of money for the Federal Government's operation. And this continuing resolution is going to have to go back to the House because we have already made one change in that, amendment 19. Therefore, it will have to go back to the House for their consideration and possibly it would have to come back here yet again. The White House, I know, is very anxious to give some signals to the Federal employees whether they should come to work tomorrow. And all of these things are sort of hanging in a very delicate balance.

And as the subcommittee chairman and I know, speaking as the chairman of the full committee, there are times when we have to get the institution moving to comply with our constitutional duties that are before us to keep this Government going.

Now all I am asking, basically, is to establish upon my question to set it in the context of the anxiety I am beginning to feel in the pit of my gut as to when we are going to get this bill moving back to the House. Would the Senator accommodate my request?

Mr. D'AMATO. Mr. President, speaking not as the subcommittee chairman, but as a member of that subcommittee——

Mr. HATFIELD. And a very excellent member who has upheld his duty in a very, very admirable fashion.

Mr. D'AMATO. I appreciate the Senator's comments.

I would suggest that the manner by which we could proceed expeditiously, immediately, would be if the Senator from Arizona would withdraw his amendment. Notwithstanding that, this Senator, and I know that at least four others, at least four others, will be making their points for an extended period of time. In consideration to the distinguished chairman and my dear friend, I would suggest that there would probably be no vote for quite a period of time.

So rather than the onus being placed on those of us who say this is not the appropriate vehicle or the time to undertake this action, I would suggest and hope that we could debate it and discuss it at another time on another vehicle.

But if those who propose this amendment continue to push for its consideration, then at least this Senator, and I do not mean to speak for others, but again I know of at least four others who will continue to deliberate before there is any action taken.

□ 1710

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. GOLDWATER. Would the Senator yield so I might comment?

Mr. D'AMATO. I yield to the Senator from Oregon for a question.

Mr. HATFIELD. I thank the Senator for responding to my question. It is not the answer that I would like to have heard to be very frank about it. It still does not remove us from the exigencies of this moment and the dire consequences of having to deal with an issue that transcends either New York State or Oregon or any other single State. It transcends even the institution of the Senate and the House of Representatives because it moves to the very heart of all our Government. That is why I am putting the question to the Senator in such a way that I am sure the Senator realizes that it is a fundamentally important issue to the State of New York. But I think there are times when I have found fundamentally important issues to the State of Oregon that I have had to have my day in court and move on.

Mr. D'AMATO. Mr. President, if I might suggest, I have not propounded this amendment. So if we come to the question of impeding the business of the institution, or that which faces the Nation, I would have to respectfully suggest that there are a number of ways to deal with that. One, and I am not suggesting but of course there are alternatives that the Senator is aware of what should be done to eliminate that. This Senator would then sit down.

Second, there is a question, if we wish to continue on the other parts of the bill, to lay this aside, and I would not object to that so we could continue on the other parts of the bill. Then if we could come back, that might provide a method, and I know tactically it may yield some advantage but we do not seek to unduly impede this body.

However, I think in all due regard to everyone's feelings that it would have been naive to think that this Senator or the senior Senator from New York or other Senators would not have taken this position that I am taking now.

So those who propose it who did not think that this would take place, obviously or if they wanted to make a point, I understand that. Sometimes we offer amendments to make points to indicate our displeasure.

Mr. HATFIELD. Would the Senator yield for one other question?

Mr. D'AMATO. Certainly.

Mr. HATFIELD. Would the Senator consider then, since he has this opportunity with the floor being in his possession and all, if the Senator from New York would try to bring this to some kind of conclusion by making a tabling motion on the Goldwater amendment, and at least getting a consensus or at least getting a decision made on that on the pending amendment, at least bring it to a point where we can make a judgment?

Mr. D'AMATO. I would suggest, given the facts as they presently exist in the overwhelming body, regardless of my attempting to rectify, they would still believe they would be voting if they did not vote to table or if they voted in opposition to tabling for some kind of a flying wreck that would endanger the lives of the young men and women that it is supposed to train—that somehow this flew in the face of the Defense Department's legitimate needs, and I do not believe that suggests that a matter which is so important to this project, this is life or death. There is no recall. There is no looking at this program next year. There is no reevaluating. There is no saying, all right, we will continue with part of a line, and then we will refurbish part or we will do something. This is a killer amendment that closes

that manufacturing facility down that recaptures those dollars, that for all time ends this institution, this industrial complex, and I suggest that flies in the face of the facts as presented by the General Accounting Office. That is why——

Mr. HATFIELD. Would the Senator yield for a third question?

Mr. D'AMATO. Yes, certainly.

Mr. HATFIELD. Would the Senator yield to the possibility—with the size of this bill that we have, and therefore he could have a good look into it. It is not going to escape him—that if we could get unanimous consent to temporarily lay aside this committee amendment and move on with the other amendments, the Senator has not lost any advantage that he now has because this bill is still going to have to be acted upon. Would the Senator consider yielding to a unanimous consent? I do not mean that he is the only person that I have to ask this question to. But I would like to propound that question, move on with the other committee amendments in disagreement, and then, obviously we have to come back where we are now.

Mr. D'AMATO. I am wondering at this point if we might not have an opportunity to consider this with those others who are involved in this matter. There are a number of my colleagues, and I would like to consult with them as I indicated.

I would yield with this proviso, that if this matter were to come back that I would have unanimous consent that I would be entitled to the floor on our return to it and that I still have to be entitled to two speeches, that I have not waived one of those two speeches, and that I would be recognized first on our return to it.

Mr. GOLDWATER. Reserving the right to object, Mr. President, the Senator from New York has not debated this subject. I said at the outset I am not going to debate the aircraft. I am the only one in this body that has ever flown it. I admit it is a pretty nice airplane. I am not going to go into the trouble we had at the outset with it. I am not going into the financial trouble of the corporation. I just asked the question, the Air Force does not want it.

Mr. D'AMATO. I might——

Mr. GOLDWATER. Wait a minute. Let me finish. I am talking right now.

If the Senator can give me a good reason why we should buy that airplane in spite of the fact that the Chief of Staff of the Air Force has said we do not want it, and one Chief told me if you buy it I am going to put them out in the dogpile out——

Mr. D'AMATO. He should be out in the dogpile for making a statement like that, Senator. Let me tell you why.

Mr. GOLDWATER. Wait a minute. You have not debated this thing. You want to talk about the airplane. It is very interesting. I read that book. I have read all the books.

Mr. D'AMATO. Senator, I have heard you on the floor before take this plane apart, hook by hook, piece by piece, and convince this body that the plane could not even fly.

Mr. GOLDWATER. You are out of your head.

Mr. D'AMATO. And you said it. I will read the record.

Mr. GOLDWATER. Read it. I never said that airplane would not fly.

Mr. D'AMATO. You said you would not fly it yourself.

Mr. GOLDWATER. I flew it.

Mr. D'AMATO. You said you would not, though, before you did.

Mr. GOLDWATER. I flew it.

Mr. D'AMATO. All right. Let me say this.

The PRESIDING OFFICER. The Senators are reminded not to refer to each other in the third person in the debate.

Mr. D'AMATO. Mr. President, I would like to make a point. That is in the meetings I have had with the Air Force Chief of Staff, I met with them, General Gabriel, and I was assured by him that if the Congress provided the funds, he would not ask for them, but the Air Force would support the T-46.

What we are seeing is a catch-22. Members of the Congress here said, "Oh, the Air Force doesn't ask." The Air Force says, "If the Congress gives us the funds, we will support it."

Mr. GOLDWATER. They do not have the funds.

Mr. D'AMATO. That is what we do.

Mr. GOLDWATER. Where do you get it?

Mr. D'AMATO. We provide the funds.

Mr. GOLDWATER. Where are you going to find all that money?

Mr. D'AMATO. Again, responding to the distinguished chairman, I do not think at 2 o'clock in the morning or 3 o'clock in the morning or 4 o'clock in the morning if we were going to return to this issue it is going to be any better. But what I do see is that there are going to be more cantankerous spirits, the Senate is going to be viewed as a greater obstructionist to the progress of this body now, and if we want to make progress on this bill, there is a manner in which to do it. That is to pull down this amendment.

Mr. HATFIELD. Would the Senator yield for a question?

Mr. D'AMATO. Yes. I will.

Mr. HATFIELD. I would like the Senator to yield to a proposal of a unanimous consent that I would like to propound that we have a brief quorum call after which the Senator would not have lost his right to the floor, just for a very brief time that I might consult with the Senator.

Mr. President, I do propound that unanimous-consent request, that we have a brief quorum call, that the Senator from New York not lose his right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1720

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCCONNELL). Without objection, it is so ordered.

Under the previous order, the Senator from New York has the floor.

Mr. D'AMATO. Mr. President——

Mr. HATFIELD. Mr. President, I am about to propound a unanimous-consent request that we temporarily lay aside the pending amendment and move on to dispose of the other committee amendments which will then bring this amendment back to the situation we basically are in now.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. I object. Reserving the right to object, and I will, I do not like to hold this bill up, but I did not offer this amendment at the Appropriations Committee. My good friend from Alaska did it after I begged him not to do it because we have been all through this thing in the authorization hearings. We have settled it. And here it comes again. I am going to have to object to that. I do not want to sit around here all night any more than anybody else. But this is not of my making. The Senator from New York has been reading out of a book, reading a lot of statistics that I agree with. But somebody has to call the Chief of the Air Force and tell him to pick up the phone and call GOLDWATER. Then I will go for it.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. D'AMATO. Mr. President, I think perhaps I will call him. I have spoken to him.

Mr. GOLDWATER. Go ahead.

Mr. D'AMATO. They keep saying that the money put in there for this program they will use. We have a question of, as some say, of testing the wills. I do not call it that. I do not see why you have a good, valid, bona fide contract, where everyone says it is necessary, the Air Force, the generals, the personnel up and down the line in 1982, in 1983, and 1984, "We need the plane because we have an aged trainer," and now somehow we do not need it. This need has dissipated.

I will tell you something. I am not going to sit by and allow that company to be closed because there is more at work than whether or not we need a new trainer. We need it. Senator

GOLDWATER himself has said the plane is a good plane. He says the Air Force said they do not want it. What are they going to do?

Are we going to rework the old plane? How long does that take? If we begin to rework it, how much more is that going to cost the taxpayers? Hundreds of millions. How many billions more 5 years from now when we start with a new trainer will it cost the American taxpayer? Whose interest have we met?

I am not arguing strictly from the point of view that this is a company in my State.

Were I not to do it, I would be remiss. Something would be wrong. The people there would say, "Why is it, Senator, that you are so quiet?" When it came to getting rid of a toxic dump, I stood up and said we have to appropriate some moneys and see to it that an agreement that a prior administration entered into in terms of West Valley in New York was completed.

It is nothing new for this Senator to go to the floor when he feels strongly. I will say let the record speak for itself, that there have been very few occasions, less than on one hand for this Senator, when this Senator has taken this kind of position in my 6 years here. I have not unduly taken the time of my colleagues. I have not thwarted the will of the majority. I have not used those important prerogatives that should be used very carefully in terms of taking the floor and using that which is a very important right for the minority but should not be unduly abused.

When I do, I do it out of a feeling of conviction. The record speaks for itself.

Why should we not look at the merits of the plane? What this amendment does is it kills the plane. It says that the plane is not necessary. It says that the plane is deficient or defective or we have a better way to deal with an obvious deficiency in our military arsenal now.

What is that better way? I think the people of the United States have a right to know. How are you going to meet the deficiencies of seeing to it, where you have a 30-year-old trainer, that you are going to give our young men and women a better deal?

Mr. GOLDWATER. Will the Senator yield?

Mr. D'AMATO. For a question, yes.

Mr. GOLDWATER. Does the Senator know that the T-38, which is our hottest jet fighter trainer, is going to go to the year 2010 and is already planned for that? Aircraft do not wear out because of age. They are not like us.

Mr. D'AMATO. I am wondering, if that is the case, why was it in 1979, 1980, and 1981 when the Air Force, the Defense Department, and all those who are involved in the procurement of new weapons systems and aircraft in particular, did not say, "Let us rework this plane" at that time.

Are we saying today, given life cycle costs that this report addresses, in terms of saving money, are we saying that the T-46 trainer is not necessary today because we found a better way to handle the T-37 that is very old and was old then, that Secretary Orr testified many of the generals said we need?

I wonder.

The question was asked of those who testified before the Appropriations Committee: "Is the T-37 extension viable?"

This, by the way, was before the House Armed Services Committee in March 1986. The answer was: "The number of available T-37B aircraft will not be sufficient to meet the projected pilot production rates beyond 1987."

What about additional moneys?

This was the general commander of the Air Training Command, General Osway.

□ 1730

He said, "Pouring any money into the T-37 is like pouring money into a rat hole."

I suggest the only thing that has changed is that the rat hole has gotten deeper and bigger and older. It has not improved.

I wonder why it is that the general's remarks then are something that we disregard now.

Mr. GRAMM. Would the distinguished Senator yield? I know he has been talking a long time.

Mr. D'AMATO. No; I will not yield.

Mr. GRAMM. If he would let me respond, perhaps I could answer his question.

Mr. D'AMATO. No; I will not yield. I have yielded a couple of times already. I think I am going to make some points that are appropriate and necessary because we have had about 1 year of a constant barrage and bombardment from the Defense Department, from the Air Force, and from others that would make one believe that obviously, this plane must have been designed by the politicians from New York; that somehow, we discovered a need for this; that we said you need a plane, a T-37; that we put the contract together; that we said it is the best and most efficient and it meets all these needs.

This was the Air Force doing it. I wonder why they changed their minds? It would be interesting to get the good general over and say, "General, you really don't need a new trainer? You can still keep flying this old, 30-year-old plane? How much is it going to cost to rewing it, to put new engines in, to bring it up to specifications? Are you really going to put a pressurized cabin in?

"Why, when we asked the question back in the early eighties and the seventies, didn't you say you could rewing that plane, and how is it you have changed your mind, and who has talked to you, and who has talked to the Defense Department? And why did the Defense Department come to those conclusions?"

Those are the questions, and when you look at the report, no one wants to discuss the merits of the report. You know why? Because the report said very simply that the T-46 is a good plane that exceeds the contract standards and we should really be doing the business of the people and continuing this instead of attempting to assert that one is scrapped or one is right for bona fide reasons.

Now, beginning on page 8:

APPENDIX I

Beginning in September 1982, Fairchild started reporting cost variances in its monthly cost performance reports. Fairchild recognized in its September 1983 cost performance report that the estimated completion cost would exceed budgeted costs. Between September 1983 and July 1984, Fairchild increased its estimated completion costs several times from $116 million to $139.1 million, which at that time exceeded the July 1984 contract ceiling price of $127.1 million. Since that time, the contract ceiling price has increased due to contract modifications.

With cost estimates continuing to increase, Fairchild officials said they realized that the scope of work was greater than expected and that managing the program within the amounts in the original contract would not be possible. Air Force officials said that the T-46A engineering, test, and manufacturing effort was underestimated and that Fairchild was not applying the required resources (personnel and funds) to complete development on schedule. Fairchild has been providing additional resources since January 1985.

I call to my colleagues' attention that this is a very well balanced report. The Senator from New York does not disagree. It points out the deficiencies. It points out the problems that Fairchild encountered. It also demonstrates where the company moved to correct those deficiencies.

Projected cost overruns resulted in the Air Force Plant Representative Office (AFPRO) reducing Fairchild's progress payments on the development portion of the contract in August 1984 and on the first production lot in January 1985. These reductions were made in accordance with procurement regulations to more closely match the progress payments with work progress.

As shown in table I.1, Fairchild's cost performance reports and Air Force cost performance data as of December 31, 1985, show that the estimated final cost for both T-46A development and first production lot will be substantially greater than the contract ceiling price.

TABLE I.1—T-46A COST ESTIMATES, DEC. 31, 1985

[In thousands of dollars]

Program phase	Contract		Estimate at completion	
	Target price	Ceiling price	Fairchild	Air Force
Development	111,832	134,354	220,308	220,308
Lot I production	58,053	64,241	91,521	100,441
Total	169,885	198,595	311,829	320,749

So that we can see even there the differentiations were not ones of extraordinarily large amounts but well within that which is experienced in other times.

Under the terms of the contract, the Air Force is obligated to pay up to the ceiling price or $198.6 million. Based on the Air Force estimate, Fairchild would absorb $122.2 million in excess of the ceiling.

SCHEDULE DIFFICULTIES

In addition to cost difficulties, the T-46A contractor experienced a number of missed schedule milestone dates. The T-46A development contract with Fairchild contained 10 demonstration milestones ranging from completion of preliminary design review on February 1, 1983, to first flight on April 15, 1985. As shown in table I.2, Fairchild did not meet the original scheduled date for 5 milestones, including first flight. The first flight milestone, originally scheduled for April 15, 1985, was made 6 months later, on October 15, 1985. Two milestone dates to begin structural testing were extended by contract modifications.

Table I.2: T-46A Contract Demonstration Milestones.

There are 10 milestones. I shall go over them.

Air vehicle preliminary design review (PDR) complete. The original contract date was February 1, 1983; the accomplished date was February 1, 1983.

So it was on time.

The air vehicle critical design review complete. Its original contract date was August 1, 1983. This is the review of the air vehicle preliminary design. It was modified in September 1983 and it was actually completed September 13, 1983, so it was 1 month behind its original contract date. Not too bad.

Organizational and Intermediate Support Equipment [PDR] Complete. Original contract date December 1, 1983. Actual date completed December 15, 1984. Not too good, 12 months behind.

First Test Aircraft Major Assembly Started. The original contract date was March 1, 1984. The date of completion, actual, was March 1, 1984; months behind, none.

□ 1740

Escape System Qualification Started: Original contract date, July 15, 1984; actual accomplished date, July 15, 1984. Months behind, it was on time.

Depot Support Equipment PDR Complete: Original contract date, December 1, 1984; accomplished date, December 1, 1984. Months behind, zero.

Start of Full-Scale Static Testing: December 1, 1984; modified, October 31, 1985. Actual date completed, October 31, 1985. Not too bad. That is 11 months behind.

First Test Aircraft Empennage (Tail) and Wing Assembly Delivered: Contract date, January 1, 1985. Accomplishment date, December 31, 1984. So it was right on time.

Start of Full-Scale Durability Testing: Here they ran into a little problem. The original date was January 1, 1985. It was modified to July 31, 1986. And they were 19 months behind. Estimated completion time, July 31, 1986.

First Flight: Estimated April 15, 1985. They moved that to October 15. It was actually accomplished October 15, 1985, so that is was 6 months behind.

Mr. President, I am wondering if I could not ask for order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. EXON addressed the Chair.

Mr. D'AMATO. Mr. President, the Air Force concern—let me give a recapitulation of that table: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10—10 contract items. We are talking about milestones. These are important, critical elements in weighing this. Out of those, No. 1 was on time. No. 2 was virtually on time; it was 1 month behind. No. 3 ran into a problem; it was 1 year behind. No. 4, first test, was OK. No. 5 was OK. No. 6, on time. We have actually 1, 2, 3, 4 out of the 10 ran into some time problems, some as little as 1 month, some as much as 5 months. One a little longer, the start of full-scale durability testing and for a number of reasons but that was 19 months. Not unusual. Not unusual. And yet we were led to believe from the Air Force that this was a situation that at certain times they felt would possibly never be rectified.

Now we talk about the Air Force concerns resulted in contract modification.

The Air Force concerns about the overall progress of the T-46A program and the missed first test flight milestone led to a modification of the Fairchild contract on October 1985.

In a January 29, 1985, letter to Fairchild, the Air Force T-46A Systems Program Office (SPO) stated that it was becoming increasingly concerned about Fairchild's progress in several areas of manufacturing and testing. The SPO stated that schedule delays appeared to be endangering the first flight milestone of April 15, 1985, and requested Fairchild to review the situation and provide a realistic revised schedule. On February 19, 1985, Fairchild responded and stated that its review indicated a revised first flight date of April 30, 1985.

On February 11, 1985, the first test aircraft was rolled-out. Air Force officials said that required parts were missing from the aircraft and some of the installed parts were not flight worthy. The roll-out was not a contractual requirement.

In an April 17, 1985——

By the way, Mr. President, I might add I was there at that time and that was not a very happy occasion for Fairchild. And I must say that the Air Force was absolutely correct in being annoyed—in being more than annoyed, being angered in terms of Fairchild's not meeting its responsibility and, more than that, attempting to conceal from the Air Force some of the problems that it encountered.

That was wrong. I told Fairchild that. I told them I was not going to support them in those kinds of efforts, that you do not try to deceive those, particularly the Government, that you have entered into contractual relations with, and I think they learned from that. That was a sorry time. I felt taken advantage of, and I must admit, to come to a rollout and find out later that some of the items of manufacture were indeed not as they should be, was, I think, a low point in the relationship.

Nonetheless, you do not take a mistake that someone makes and hold it against them forever. You see whether or not they are capable of curing that deficiency, and if they have the kind of people who are going to do the job.

In an April 17, 1985, letter to Fairchild, the SPO identified several schedule delinquencies, including the missed first flight milestone, which would severely affect the remainder of the development and production program. The SPO requested Fairchild to revise its schedule for accomplishing contract milestone requirements. During the next several months, the SPO and Fairchild discussed several schedules. These discussions culminated in an October 7, 1985, bilateral modification to the contract.

The contract modification listed seven contract requirements that Fairchild had not complied with, including not meeting several demonstration milestones established in the original contract, and not delivering the two development aircraft on schedule. The contract restructuring did not affect the target price but it did make the following changes.

So here they are attempting to deal with the deficiencies.

Established new demonstration milestone dates for conducting the first flight and starting full scale static and durability testing.

Established four new management milestones for measuring Fairchild's progress during the remaining development program.

Extended the planned date for exercising the second production option from December 1, 1985, to March 1, 1986. The Air Force also reserved the right to extend the exercise date for that option for a period equivalent to the longest period of delay experienced by Fairchild in meeting any of the demonstration milestones established in the original contract.

Extended the delivery date for the first development aircraft from March 1985 to August 1985 and the second aircraft from June 1985 to April 1986.

On February 28, 1986, the Air Force unilaterally extended the planned date for exercising the second production option from March 1, 1986, to May 3, 1986. However, the Air Force on March 28, 1986, announced its intention not to exercise that option.

There were contract or management difficulties, and we will go into those, and this report goes into those.

I hope that staff is getting me the additional appendices, so that when I conclude these, we have those to put into the RECORD.

If you have not sent for them, I hope you will send for them.

Air Force reviews in May and June 1985 found that a number of Fairchild's management systems and procedures were unsatisfactory.

In May 1985 the SPO conducted a Cost Schedule Control System Criteria Subsequent Application Review to determine if Fairchild's Management Control Information System was being properly applied to the T-46A production program. The review rated Fairchild's procedures unsatisfactory.

Again, I think this is interesting. Here is a report—and I say to my colleagues, take a look at it. It is fair; it is balanced. It does not come with a prejudice but, rather, a requirement to report truthfully and directly its findings, and it found management problems.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. I yield.

Mr. HATFIELD. I wonder if the Senator would permit me to propound a unanimous-consent request that would permit us to have a brief quorum call and the Senator would not lose his right to the floor.

Mr. D'AMATO. Provided this would still be a continuation of my first speech.

Mr. HATFIELD. I would incorporate that in my request.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, reserving the right to object, will the Senator state his request?

Mr. HATFIELD. My request would be to have a very brief quorum call so that I might confer with the Senator from New York, and that when the quorum call is ended, the Senator would not have lost his right to the floor, and his speech would not constitute a second speech.

Mr. EXON. At the end of that quorum call, the Senator will have the right to the floor?

Mr. HATFIELD. The Senator would.

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New York.

Mr. D'AMATO. The Air Force review that I referred to definitely came after that with various procedures that were found to be unsatisfactory.

For example, the report noted that estimated completion costs appeared unrealistic and material performance measurements were questionable. The SPO requested, and Fairchild agreed to implement, corrective operating procedures by May 30, 1986. Corrective procedures have since been agreed upon and implemented or are in the process of being implemented by Fairchild.

So it points out that there were deficiencies and indicates steps being taken to correct those deficiencies, and it then goes into those processes implemented by Fairchild.

In June 1985 the Air Force Contract Management Division conducted a detailed contractor operations review (COR) at Fairchild. This review, which focused on eight management areas, reported a total of 279 findings in the areas of manufacturing, industrial material management, contract management, industrial safety and fire protection, subcontract management, engineering, quality assurance, and product integrity.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. I yield.

Mr. HATFIELD. I would like to now propound my unanimous-consent request once more, that the Senator from New York not be denied his second speech and that he would have the right to the floor following a very brief quorum call.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Mr. President, reserving the right to object, I ask the distinguished Senator from Oregon if it would serve the Senator's purpose that he is attempting to accomplish if, during that period of a quorum call—say, not to exceed 7 minutes—I may be allowed to speak, without the Senator from New York losing his right to the floor at its conclusion. I do not want to complicate matters.

Mr. HATFIELD. I have no objection. I am trying to get to the point where I can have a private discussion with the Senator from New York.

Mr. PRYOR. I was trying to give the Senator from Oregon that opportunity.

Mr. HATFIELD. Mr. President, I withdraw my unanimous-consent request, and I ask unanimous consent that the Senator from Arkansas might be recognized for 6 minutes——

Mr. PRYOR. Let us say 8 minutes, and maybe I can yield back a couple of minutes.

Mr. HATFIELD. Eight minutes. And then the floor be returned to the Senator from New York, without a quorum call.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PRYOR. Mr. President, I rise today to make a few remarks within the category of "observations" or "food for thought."

The Senate is a very great institution, composed of dedicated people, and to have served here for these few years is a great honor for me that few people have been accorded.

I am one Member of this body, and I believe there are many more, who sincerely believes that the Senate can be a better place. I do not speak of "a better place" in terms of what some have characterized as an absence of "quality of life," but I speak of "a better place" in terms of an institution which can better serve the American people.

My observations today do not reflect on any individual or well-meant procedures we have adopted. I speak only of a system, Mr. President, which, for one reason or another, has strayed from its original purpose and intent.

Mr. President, the budget process has broken down. In its original inception in 1974, the new process was intended to bring about order, discipline, and efficiency into the budgetary system.

□ 1800

The Budget Act was intended not to substitute or to supplant the historic authorizing and appropriations process envisioned by our constitutional framers but rather to strengthen it.

Mr. President, let us admit it. The process has failed. It is not working and today I ask in public what many of us have been asking in private. Should we repeal the Budget Act of 1974? Should we change it or should we modify it?

Mr. President, I respectfully submit that the four massive steps in our budget process has brought us to a point of institutional overload. To have each calendar year a budget resolution, authorization, appropriations, reconciliation, and add to it Gramm-Rudman is at best an invitation to a legislative nightmare.

Yes, I know what some who favor the present budget process may argue, that what would be the deficit. The deficit cost today would be larger if we did not have a resolution and reconciliation procedure. Who would establish the ceiling of expenditures?

The fact is, Mr. President, for some 30 years prior to the Budget Act of 1974, the Senate Appropriations Committee, with one exception, funded fewer dollars than the President's request called for.

In fact, as a matter of history, our budget deficit in 1974, the very year that our budget system was adopted, our budget deficit was somewhere in the neighborhood of 6 billion. Today it is $200 billion.

The system was preposterously complicated. It is redundant to the point of absurdity. The process of authorization and appropriation has merged today into almost an identical twin.

Mr. President, could we have order in the Chamber, please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Arkansas.

Mr. PRYOR. In the past 9 years we have failed time and time again to meet the budget resolution guidelines. In 1978 and 1979, we missed the May 15 deadline imposed by law by only 2 days. However, in 1985 we were 105 days late. In 1986, 68 days late. This year we held our respective noses and voted for a reconciliation bill that many felt figures had been cooked to avoid the deep canyon of Gramm-Rudman. To add a debt ceiling bill each few months, that has not become a legislative vacuum cleaner sucking up all the leftovers from the Senate floor, has created yet another budget albatross around our necks.

Here we are, Mr. President, on October 16 and on the respective desks is yet another 18-pound white monument to our own failure and a system encumbered with institutional overload. I speak of a continuing resolution weighing 18 pounds containing most of the appropriations of our federal system. This year not one appropriation bill has passed and has been signed by the President to this date. The continuing resolution is instant government. It is a strained stew, not cooked on a stove but hastily put into a microwave. Many items contained here were never debated. Many were never the subject of committee hearings or discussion, and we are just hearing a debate today on an airplane that we understand the Air Force does not even want.

Mr. President, this continuing resolution represents the worst of our legislative process. I have no problem and certainly only respect for the distinguished chairman of the Appropriations Committee, Mr. HATFIELD, and the Appropriations Committee. But our system has made them a captive to the process.

In 1970, before the Budget Act was implemented, that Senate that year had 170 rollcall votes on budget related items. By 1975, 246 budget related votes in the Senate were cast. In 1981, 344 budget related votes were cast. In 1985, 67 percent, 67 percent of all of the rollcalls in the Senate were on budget related items.

Mr. President, the Senate has become a giant committee on the budget, overcome and overwhelmed by procedures that originally had a noble intent but ultimately has almost made a mockery of the authorization and appropriation process.

This year, Mr. President, the Senate has spent 43 hours on a continuing resolution. It has cast 27 votes on a continuing resolution. One hundred eleven motions and amendments were decided up or down. On the 1987 budget resolution, we have spent 11 days, 71 hours to be exact, with 42 votes, 44 motions and amendments.

The Senate this year has spent on the debt ceiling alone, Mr. President, 8 days, 41 hours of debate and quorums, 11 votes and 37 motions and amendments.

Once again, Mr. President, institutional overload.

As to this creature called a continuing resolution, since the 1974 Budget Act let us look at how we have treated appropriations.

Considering the 13 major appropriations bills in 1986, we have passed none. In 1985 we have passed five; in 1984, four; in 1983, one; in 1982, zero; in 1981, one; in 1980, three. Every year since the budget system that we now employ has been adopted fewer and fewer appropriation bills and more and more opting out for one more continuing resolution to keep the Government afloat.

Each year we say it is going to be better, Mr. President, and each year it gets worse.

Yes, Mr. President, we have stumbled through another year. We are not at the end. Next year I hope that we will resolve to do better. Maybe we should repeal the Budget Act. Maybe we should modify it. Maybe we should start over.

Whatever the course of action we choose, Mr. President, I hope that we will admit that this institution has a very severe problem and I hope that we will face that problem.

I respectfully submit that the worst thing we can do is to do nothing.

Our system is broken down and now we must fix it.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator's time has expired under the previous order.

Mr. PRYOR. If I could have 30 more seconds, Mr. President, I ask unanimous consent to proceed for 30 more seconds.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Do I yield time?

Mr. PRYOR. I am asking for 30 more additional seconds.

Mr. D'AMATO. Without objection, that I have the continued arrangement that I keep the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. PRYOR. Thank you, Mr. President.

Procedures are one thing, but the absence of will is another. Hopefully, Mr. President, 1987 will reinforce that will.

Mr. CHILES. I yield the Senator those 30 seconds. I like that. I like his closing statement.

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized.

Mr. D'AMATO. Mr. President, as I left off in my talk and review of the General Accounting Office report and finding, aircraft procurement development and production issues concerning the T-46A aircraft, we had reached appendix I, page 10. I listed five areas and then the contractor management difficulties that had been developed and the fact that Fairchild had indeed undertaken procedures to deal with these deficiencies.

In June 1985 the Air Force Contract Management Division conducted a detailed contractor operations review (COR) at Fairchild. This review, which focused on eight management areas, reported a total of 279 findings in the areas of manufacturing, industrial material management, contract management, industrial safety and fire protection, subcontract management, engineering, quality assurance, and product integrity.

As I indicated, they reported 279 findings in the area of manufacturing, industrial material management, contract management, industrial safety, fire protection, subcontract management, engineering, quality assurance, and product integrity. Quite an exhaustive study.

The major COR concerns in the contract management area were inadequacies in (1) contract administration procedures to assure compliance with the terms of the T-46A contract, (2) cost schedule control systems, criteria and procedures to provide accurate cost and schedule information, and (3) the estimating system to produce current, accurate, and complete data. The COR also identified a number of concerns in the subcontract management area.

As a result of the COR, the Air Force Administrative Contracting Officer advised Fairchild on August 29, 1985, that a 50-percent withholding in progress payments would be instituted and would remain in effect until satisfactory correction of the identified deficiencies. Fairchild has taken a number of actions to correct these problems, many of which have been accepted by the Air Force. On April 21, 1986, the Air Force plant representative at Fairchild, citing progress in correcting deficiencies restored half of the withheld progress payments.

□ 1810

So, as I have indicated before, there were problems, some serious, some distressful even to this Senator. But the fact of the matter is that the Air Force representatives themselves indicated that these deficiencies were being dealt with and to restore those payments.

The corrective actions taken by Fairchild in response to the COR, their current status, and Air Force views on these actions are discussed in appendix II.

PRODUCTION STATUS

Development aircraft

Two development test aircraft will be acquired for the T-46A flight test program. The flight test program will determine how well the aircraft meets performance, maintenance, and reliability requirements.

The first T-46A was delivered in August 1985 and has been undergoing flight testing at Edwards Air Force Base, California, since October 1985. This development test aircraft will be used to test air worthiness,

flying qualities, and other performance requirements.

The second development aircraft is being built. As of mid-March 1986, it was undergoing flight load calibration at Fairchild and was about a week ahead of the July 1, 1986, first flight schedule. The aircraft is scheduled to be flown to Edwards Air Force Base, California, in July 1986 for flight testing scheduled to begin on August 4, 1986. This development test aircraft will be used for air loads and climatic testing.

I hope I have the results of those tests because I think they would be interesting. We could put them into the RECORD so that we would again dispel the fact that this plane does not meet standards and is not a plane that should indeed be in the arsenal of America.

PRODUCTION AIRCRAFT

The first T-46A production lot is in various stages of manufacture and assembly. Fairchild noted that tooling for production is in place. The contractor's production schedule for the first production aircraft shows that the aircraft is basically on schedule to meet the contractually required delivery date of November 30, 1986. The remaining nine aircraft are to be delivered between December 1986 and July 1987. Although Fairchild representatives said that they would meet the delivery dates for the first production lot, Air Force officials believe the first aircraft delivery may not be accomplished until early 1987.

Under the terms of the contract, the second production lot option gives the Air Force the right to acquire between 22 to 44 aircraft at specified prices. The contract also gives the Air Force the right to extend the option exercise date in the event Fairchild failed to meet certain original contractual demonstration milestones. The Air Force had extended the second lot option exercise date to March 1, 1986, because, among other reasons, Fairchild had not started the full-scale durability testing and had not made the first flight by April 15, 1985, as required. Effective February 28, 1986, the Air Force unilaterally extended the option date by an additional 3 months, to May 31, 1986. Fairchild representatives told us that if the Air Force did not order the second production lot by the end of March, Fairchild would experience a break in production. The contractor also explained that if the third production lot was not included in the Air Force budget for fiscal year 1987, it would seriously impact the production program.

Mr. FORD. Mr. President, would the distinguished Senator from New York allow me 5 minutes without losing his right to the floor?

Mr. D'AMATO. Mr. President, if that were propounded as a unanimous-consent request and I would not lose my right to the floor and this would be considered my first speech, I would have no objection.

Mr. FORD. I ask unanimous consent that that be granted, Mr. President.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? If not, it is so ordered.

The Senator from Kentucky.

Mr. FORD. Mr. President, I thank the distinguished Senator from New York for allowing me this time. The reason I ask for it is the fact that my distinguished friend from Arkansas, Mr. PRYOR, made a statement relating to the continuing resolution and to our budget process.

HERE WE GO AGAIN

Mr. President, President Reagan is noted for a now famous phrase used in his debates with former President Carter—"There you go again!"

At the end of several sessions of Congress now, I have made a special point of calling attention to our failed annual appropriation system and the need for a change to a 2-year budget and appropriation system. On these occasions, and again now, I have said, "Here we go again!"

Primarily because of lack of time, we are now into a new fiscal year without any of our regular appropriation bills enacted. Again, we will struggle to produce an acceptable continuing resolution—now the largest money bill in the history of the Congress—to provide the funds needed for the Government to continue to operate.

Again, we will expose ourselves to the dangerous and costly process of legislating on the continuing resolution appropriation bill. If we are lucky, and members act with restraint, we will avoid serious harm. But only if we are lucky.

Certainly we cannot thank our annual appropriation process. It has long since failed to serve our needs. The time to move to a 2-year budget and appropriation cycle has passed, and I hope my colleagues now share this realization.

If the good people of Kentucky in November do me the honor of renewing my membership in this great institution, I shall again, at the beginning of the 100th Congress, re-introduce my bill to establish a 2-year budget and appropriation process. I hope this time most of my colleagues will join me in this effort.

The first time I introduced the bill, I had four or five that went along with me. This last time we had 20-some Senators that signed on and several tried to pick a bill and go forward as if it was theirs. I have no pride of authorship. I would just like to see this Senate move forward in a way where we can do our business in the best interests of our country.

As I have said before, repeatedly, a 2-year budget cycle will not alone solve or even lessen many of our most severe budget and fiscal problems. It will, however, relieve us from several serious dangers, and it will provide us with additional time—and that is what we need, additional time—to devote to those most severe obstacles that now drive us deeper and deeper into debt.

The 2-year budget process is not a gimmick or panacea. It is a simple means of providing Congress with the time it needs to do a reasonable and responsible job of planning, authorizing, budgeting, and appropriating.

Without it, in my opinion, we will continue to fail and continue to depend on unreliable last minute continuing resolutions. With it, we will at least give ourselves a fighting chance to climb out of this great dark hole of public debt in which we find ourselves, and which continues to grow deeper and darker.

□ 1820

Mr. President, several of our colleagues have been talking about the 2-year budget. Last year appropriations were not enacted until December 19. And the budget reconciliation bill for fiscal year 1986 was not passed until about half the fiscal year was over, by which point the fiscal year 1987 debate was well underway. Many of the States, 22 I believe, at last count, use biennial budgeting. The White House Chief of Staff, Donald Regan, told reporters in August that reform of the budget process——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. FORD. I ask unanimous consent for 2 more minutes under the same procedure.

Mr. STEVENS. Five. We would like to have a little colloquy.

Mr. FORD. Five minutes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. White House Chief of Staff Donald Regan told reporters in August that reform of the budget process, which he called "a crazy hodgepodge," will be a priority for the Administration, and mentioned a 2-year budget process as a possibility. Perhaps more significantly, Senate Budget Committee chairman PETE V. DOMENICI, recently gave the idea a strong endorsement.

It would seem to me if we want to really send some signals to our Members and to our people that we are organized in a way which is calculated to get the business done, we ought to have one budget resolution that is good for two years and that can be modified simply about every six months, and we ought to do away with annual appropriations and have them once every two years, and we ought to let Members of Congress spend a year doing other business and a year doing the business of the fiscal policy of the nation.

That was a statement of the distinguished chairman of our Budget Committee. And he also said, "I see no reason why we couldn't do it all on a 2-year cycle."

Defense Secretary Caspar W. Weinberger has said that biennial defense budgeting would save "a tremendous amount of time and resources," and Congress, bowing in that direction, has now required the Pentagon to submit 2-year budgets.

Our distinguished colleague from Arizona has been one of those that has pushed it.

Alice M. Rivlin, a former director of the Congressional Budget Office who is now with the Brookings Institution, is a leading advocate of biennial budgeting as part of a broad simplification of congressional fiscal procedures.

The idea behind 2-year budgeting is to clear out time every other year to get something besides the budget done. Agencies would plan 2 years at a time.

We would give our communities and our counties an opportunity to plan. Those States that receive Federal funds would have an opportunity to plan and know what was coming down the pike. They in turn could do a better job of getting more cents from a dollar.

Such planning goes on anyway; a spokesman for the Office of Management and Budget said that the second-year numbers in the President's budget are as precisely worked out as for the fiscal year at hand and serve as the ceilings for the next year's budget request.

So we are almost in that cycle.

Mr. President, I ask unanimous consent that a copy of the National Journal column "Washington Update" be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From National Journal, Sept. 27, 1986]

WASHINGTON UPDATE—BIENNIAL BUDGETING TAKING ROOT

(By Jonathan Rauch)

As most people have probably figured out by now, the fiscal year lasts 12 months. Funny thing, though, about Washington's yearly budget cycle—it takes more like 14 months, counting the time the President needs to put his fiscal proposal together. Sometimes the cycle takes longer, and rarely does Congress manage to finish its budgeting until the fiscal year at issue is well under way.

"You don't have time to catch your breath," Garland E. Ferrell, Indiana's deputy budget director, observed. "You're just going from one budget cycle to another."

It's all too true. Congress begins fighting over the budget in February, when the President sends his fiscal plan up to Capitol Hill, and the battling continues until well into the fall, when the last full-year appropriations measure is finally signed. Not long after Congress returns from the Christmas holidays, the whole process begins again. Last year appropriations weren't enacted until Dec. 19. And the budget reconciliation bill for fiscal 1986 was not passed until about half the year was over, by which point the fiscal 1987 debate was well under way.

Many of the states—22, at last count—use biennial budgeting as an alternative to seemingly unremitting budget wrangling, and recently Congress has shown a few signs, although only in the most preliminary way, of giving thought to a similar approach.

White House chief of staff Donald T. Regan told reporters in August that reform of the budget process, which he called "a crazy hodgepodge," will be a priority for the Administration, and mentioned a two-year budget process as a possibility. Perhaps more significantly, Senate Budget Committee chairman Pete V. Domenici, R-N.M., recently gave the idea a strong endorsement.

"The people of this country can't possibly know what we're doing," he said in July remarks before a Senate committee. "I mean, continuing resolutions confused with budget resolutions confused with appropriations bills, ad nauseum.

"It would seem to me if we want to really send some signals to our Members and to our people that we are organized in a way which is calculated to get the business done, we ought to have one budget resolution that is good for two years and that can be modified simply about every six months, and we ought to do away with annual appropriations and have them once every two years, and we ought to let Members of Congress spend a year doing other business and a year doing the business of the fiscal policy of the nation."

About 90 percent of the annual appropriations process, which controls about half of government spending, is a repetition of the previous year's work, Domenici said. "I see no reason why we couldn't do it all on a two-year cycle," he said.

Defense Secretary Caspar W. Weinberger has said that biennial defense budgeting would save "a tremendous amount of time and resources," and Congress, bowing in that direction, has now required the Pentagon to submit two-year budgets. (See this issue, p. 2302.) Weinberger and others argue that two-year budgets would allow the Defense Department to buy weapons and do other planning more efficiently.

Over the years, Members of Congress have filed a variety of bills to set up multiyear—usually biennial—budgeting, so far without getting anywhere. The idea is likely to keep appearing, given that the annual budget cycle has seemed to become almost interminable in recent years.

Currently, after the President submits his budget, Congress takes months to agree to a budget resolution, which is a fiscal plan setting targets for subsequent tax and spending legislation and, when necessary, requiring deficit cuts. It then takes months longer to approve annual appropriations bills and other budget bills that implement the resolution's goals. To call the process time-consuming or inefficient hardly does it justice.

Alice M. Rivlin, a former director of the Congressional Budget Office who is now with the Brookings Institution, is a leading advocate of biennial budgeting as part of a broad simplification of congressional fiscal procedures. "We spend enormous amounts of time going over the same decisions," she said. "In recent years, there hasn't been time for anything else."

The idea behind two-year budgeting is to clear out time every other year to get something besides the budget done. Agencies would plan two years at a time, and, Rivlin said, "They'd have to learn that if they make a mistake, they know they're going to eat it."

Such planning goes on anyway; a spokesman for the Office of Management and Budget said that the second-year numbers in the President's budget are as precisely worked out as for the fiscal year at hand and serve as the ceilings for the next year's budget request. In other words, the fiscal 1988 budget numbers in the President's fiscal 1987 budget proposal become the basis for the fiscal 1988 budget.

Biennial budgeting at the legislative level is an old idea that would take such planning a step further. And it is a familiar idea to many states. For some of them, it is a requirement of biennial legislative sessions; others use it to make budgeting less cumbersome and to force planning.

Smaller, more rural states tend to be the ones that use biennial budgeting, executive director Gerald H. Miller of the National Association of State Budget Officers said, although some big ones—Florida, Ohio, Texas and Wisconsin—also enact two-year budgets. The states take various approaches, many of them using an off-year adjustment process and reserve funds to take care of unforeseen spending.

Indiana, for example, sets aside emergency funds, and the legislature comes back for a shorter session in off years to take a second look at the budget. The whole budgeting process, Indiana's Ferrell said, takes about five months. "Having to go through the budget on an annual basis just takes forever," he said. "If it took us as much time as Congress, we'd need a full-time legislature."

Miller rejects categorically the assertion that the relative complexity of federal spending would make biennial federal budgets impractical; these days, he said, many states' budgets are every bit as complex. "If you properly measure the man-hours Congress takes on the budget this year, I believe biennial budgeting would reduce it significantly," he said. "It would be a positive step, not only for the federal government, but also for the states that have to deal with the federal government." For entities that rely on federal money, the annual last-minute scrambles to pass spending bills make planning difficult, he and many others have complained. (See NJ, 7/12/86, p. 1713.)

Others point to potential problems, though. The Appropriations Committees have never been crazy about the idea. A senior staff member of the Senate Appropriations Committee said that the appropriators' attitude has by and large been negative. "The proposed solution may not cure anything," he said.

In off years, he said, Congress might simply find most of its usual budget headaches transferred to massive tussles over supplemental spending bills, which might grow correspondingly bigger and more complex than they are now. Furthermore, he said, "If you give the executive branch two-year money, they can make more mischief." In many portions of the budget, the Appropriations Committees try to keep a tight rein on what can be spent when. Almost inevitably, he said, letting the President allocate bigger pots of money over longer periods would cost Congress some control.

Miller, of the state budget officers' group, said, "I would tend to agree that [a two-year budget] tends to give the executive more power, more influence, or whatever." But Rivlin, among others, questions whether it would really make much difference.

Another objection may be more fundamental: You can't cure political problems with procedural revisions. The Senate Appropriations staffer said, "We can tinker with the system all we want to, and it won't reform these guys."

On the other hand, it is hard to see how a biennial budget might slow things up much. You would have to work pretty hard, Miller

observed, to come up with a more convoluted and time-consuming system than the current one.

Mr. STEVENS. Would the Senator yield?

Mr. FORD. I would be delighted to yield.

Mr. STEVENS. I am delighted to have the comments of my good friend from Kentucky. I would hope he would also include in his recommendations, and he will have I am sure a similar thought to mine; that is, the feeling that we must have a reorganization of the Senate itself in order to achieve this goal. We addressed this once before before the Rules Committee. I hope next year the Senate will take the time to readjust and reform the Senate jurisdiction so it will eliminate some of the duplication.

My good friend from Arizona knows how we feel about the problems between the authorization committee and the Appropriations Committee on defense, for instance. This year for 5 years out of 6 we have presented an appropriations bill before the authorization bill was presented. That leads to just confusion all across the board. It comes also from the budget process because we have been through this in the budget process. It did not finalize the authorization process.

Mr. FORD. If the Senator will yield for just a moment, in the October 12, 1986 Washington Post, the distinguished Senator from Arizona [Mr. GOLDWATER] had an article printed, and one idea presented there says we should replace the current annual budgeting process with a more manageable 2-year budget. So he has seen this for some time and now proposes it. I think with what is happening in the Defense Department with these things, it is appropriate. I say to my distinguished friend from Alaska, I expect to be back here. I will be active on the Rules Committee. I surely will be working in the next session to get the 2-year budget in place, and to work with the Senator from Alaska to to do the restructuring necessary to make this a well-functioning Chamber.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. FORD. Mr. President, I thank my distinguished friend from New York [Mr. D'AMATO], for allowing me to present my statement at this time.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. D'AMATO. Thank you, Mr. President.

Mr. President, the area the report takes us to is the area of production quality.

The Air Force has conducted six assessments of Fairchild's production capability before and during development and initial production. These assessments identified a number of deficiencies relating to or impacting production quality that required corrective actions. The three assessments conducted by the Air Force T-46A program office recommended that the production program be continued. The other three assessments did not contain recommendations regarding program continuation. The results of these reviews are summarized below.

PRE-AWARD CONTRACT ASSESSMENT

In February 1982, prior to contract award, an Air Force Aeronautical Systems Division review team evaluated the Fairchild facilities in Farmingdale, New York, and Hagerstown, Maryland. The team concluded that Fairchild was qualified to produce a high quality trainer aircraft within the proposed cost and schedule. Although the team found that Fairchild met or exceeded minimum requirements in 12 of the 13 production areas reviewed, there was concern that Fairchild was not adequately considering producibility requirements during the design stage of the aircraft. A SPO official noted that extensive Fairchild producibility studies since contract award could result in cost savings.

PRODUCTION READINESS REVIEWS

In June 1983 and September 1984, T-46A SPO personnel conducted Production Readiness Reviews at Fairchild. The June 1983 review was performed at Fairchild's Farmingdale and Hagerstown facilities. SPO personnel evaluated Fairchild's manufacturing and quality assurance systems and assessed the adequacy of Fairchild's overall planning efforts to meet the T-46A production requirements. The SPO identified a number of deficiencies that required corrective action but recommended continuation of development.

So once again, we say that yes, there were problems. We acknowledge that there were problems. The Air Force knew that there were problems. And they said corrective action can deal with these problems, and development should be continued.

□ 1830

The September 1984 review was conducted only at Fairchild's Farmingdale plant to assess Fairchild's capability to begin low-rate production.

It identified a number of deficiencies that needed corrective action but concluded that they were not critical enough to delay funding approval for the first or second production lot. The review noted, among other deficiencies, that design instability was affecting manufacturing and procurement and that the development schedule was success oriented with no reserve time. It noted, however, that application of additional Fairchild resources could make it achievable. Fairchild officials stated that such additional resources were provided starting in January 1985.

INDEPENDENT MANUFACTURING ASSESSMENT REVIEW

From December 20, 1983, to January 10, 1984, the Aeronautical Systems Division assessed Fairchild's manufacturing and production quality. It did not find any manufacturing issues which would delay long lead funding for initial T-46A production.

I think that is important, very important, because, again, it was stated, implied, and otherwise, with these kinds of statements or innuendos, in some cases outright statements, that these areas of concern could not be dealt with.

However, there were concerns about the potential manufacturing cost and schedule impact of design changes that might be necessary to control system weight growth or to accommodate an engine inlet relocation. The contractor was required to and has taken corrective actions regarding these concerns.

Once again we see a concern and we see the contractor responding to that concern.

CONTRACTOR OPERATIONS REVIEW

As stated earlier, the Air Force's June 1985 COR at Fairchild identified major concerns in manufacturing, industrial material management, contract management, industrial safety and fire protection, subcontract management, engineering system, quality assurance, and product integrity. All eight functional areas reviewed were rated unsatisfactory.

Concerns in the product integrity area included failure to flow down contractual requirements to drawings and instructions; lack of accept/reject criteria for soldering; an excessive amount of nonconforming products being produced and not detected by inspection, failure to record nonconformances; and an apparent lack of consideration for the consequences of manufacturing debris and potential foreign object damage in electrical/mechanical and fuel compartments and systems.

Fairchild has since developed and begun implementing an extensive corrective action plan.

So once again we have a situation where there were acknowledged deficiencies, and what does the company do? Not by the company's own statements but by the findings of the General Accounting Office they implement an extensive correction action plan to deal with the deficiencies.

In developing this plan Fairchild identified seven underlying causes to its problems. These included reduced investment levels in plant facilities and equipment and inadequate emphasis on quality, safety, and schedule. This plan and Fairchild's progress is discussed in detail in appendix II.

I have been assured that I have appendix II and we will be able to go over that in detail and share it with you because I know you will be interested in hearing how we have dealt with these deficiencies.

MANUFACTURING ASSESSMENT REVIEW

In December 1985 SPO personnel conducted a manufacturing assessment review at Fairchild's Farmingdale plant. They evaluated Fairchild's development and initial production performance and their readiness to continue producing the T-46A. They identified high-rate production and manufacturing risks which could be expected to adversely affect schedules and costs. Program personnel evaluated a total of 20 areas in 5 categories. The team rated 10 areas satisfactory, 7 marginal, and 3 unsatisfactory. One of the three unsatisfactory ratings was rescinded, the other two areas were engine/manufacturing design interface and manufacturing engineering. The review team found that these risks and weaknesses could be reduced or negated if the contractor implemented the corrective actions recommended. They concluded, however, that Fairchild was adequately prepared to continue low-rate production and that the manufacturing effort was not at risk technologi-

cally. A SPO official said that Fairchild has made many production quality improvements since the review was conducted.

So once again, even in those areas where there is a question, where there is a deficiency, we find the Air Force review team saying, "Fairchild has made production quality improvements."

On a lot of weapon systems, we wonder about whether or not there have been the same kind of improvements when deficiencies have been pointed out in respect to their operation and their production and their cost overrun and their delay. Here we have a company that just attempted to get its product off the line and runs into these kinds of problems generally attendant with a new program, and even those who criticized have to admit they have taken corrective action to deal with those impediments and they have made quality improvements since the review.

What about the quality of the aircraft performance? That seems to me to be something that is rather important. We are going to get into the turkey. Do you know what the turkey is? The turkey is not the T-46A. The turkey is the T-37. We should be ashamed of it.

We have some reports over here: Hearings by the House Subcommittee on Defense Appropriations. We will talk about the T-37. All of a sudden we hear people saying it should be able to be permitted to fly until the year 2010.

It is interesting how we can come up with these performances and these figures. It is rather interesting.

□ 1840

What about the quality of aircraft performance? "As shown in table 1.3 below, Fairchild's predicted performance for the T-46A exceeds seven of the eight performance requirements established by the Air Force Air Training Command."

Let me say it again so we can listen, because I heard on this floor how bad this plane was. When I asked colleagues to support it, they said, "I am sorry, we can't support it because it is a bad plane, it is a turkey, it doesn't go."

This Senator gets rather annoyed, even at this point. I have been talking about 4 hours and when I see this, in light of what we saw before—and it is one thing to look at it with rather mythical—I want to tell you, we are not going to vote.

"Fairchild's predicted performance for the T-46A exceeds seven of the eight performance requirements established by the Air Force Air Training Command."

That is not what I heard. That is not what my colleagues were subjected to. We were told by everyone, "We don't want the plane, it is a bad plane, it doesn't work, it is dangerous, people take their life in their hands."

Is the GAO report inadequate? Is it wrong? Is it a bad plane? Or does it exceed those things that were asked for? And it does exceed.

I am sorry that I might have to take the time and a lot more time of my colleagues. We are going to do it.

However, Fairchild does not expect to meet six of the more demanding contract performance requirements. The more demanding contract requirements were proposed by Fairchild when competing for the T-46A contract. The table also shows that the Air Force's predicted T-46A performance is somewhat different than Fairchild's. Both are preliminary and based on early test data.

Whether or not it is this Senator who makes these statements or someone else, I want to say that it is going to be said in any event.

The T-46A began first test flights on October 15, 1985, at the Air Force Flight Test Center, Edwards Air Force Base, California. The aircraft is being used to test flying qualities and other performance requirements. The second aircraft, expected to be delivered in July 1986, will be used for air loads and climatic testing beginning in August 1986.

Mr. President, I understand that there are colleagues of mine who would like me to finish up. I am making my statement for one of them, but if I yield the floor, there are at least six other Senators, and I think it is fair to say that until this matter, the underlying amendment, is taken down, whether it is myself or someone else, we are going to continue. So it is not to belabor the issue but it is a fact. Se we shall continue.

The Air Force SPO and Flight Test Center officials, as well as the contractor test pilot, said that the T-46A's performances tests have been successful.

We were not led to believe that. It was said this was a terrible plane, the Air Force does not want it, it is a turkey, it is a bad one; we jeopardize the lives of the people. Those are the kinds of things we are led to believe.

Mr. ANDREWS. Mr. President, may we have order in the Senate? There is not order.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order. The staff will cease its conversations. Senators will retire to Cloakrooms.

Mr. D'AMATO. Quoting some more:

They also said that technical tests have been outstanding and reliability and maintainability significantly better than predicated. They believe the T-46A's air worthiness is excellent.

My gosh, I wonder who wrote this?

Did my staff? You did not write this? My staff did not write this. I did not write this. General Accounting Office did. Incredible.

I wonder how many of our weapons systems have exceeded the standards that the military asked them for. Exceeded them.

Mr. HATFIELD. Would the Senator yield for a question?

Mr. D'AMATO. Certainly, for a question.

Mr. HATFIELD. So I might propound a unanimous-consent request that the Senator yield for the purpose of a motion to challenge the germaneness of the amendment and the Senator can have his vote on it.

Mr. D'AMATO. Certainly, and I will continue thereafter as if——

Mr. HATFIELD. In the second speech.

Mr. D'AMATO. On the first speech.

Mr. HATFIELD. The first speech.

The PRESIDING OFFICER. Is there objection?

The Senator from Oregon is recognized.

Mr. HATFIELD. I propound that request.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Has the Chair ruled on my request?

Mr. President, let me propound my request.

The PRESIDING OFFICER. Without objection, it is so ordered that the Senator may propound his request.

Mr. HATFIELD. I have propounded such a request.

The PRESIDING OFFICER. Without objection.

Mr. METZENBAUM. Mr. President, objection.

The PRESIDING OFFICER. The Senator will suspend for a moment.

Has the Senator made his request on germaneness?

Mr. HATFIELD. I have not made that point. I have been waiting for the Chair to grant unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered that the Senator may make that request.

Mr. HATFIELD. I thank the Chair.

Now, Mr. President, I do raise the question of germaneness on the Goldwater amendment (No. 3477) now pending before the Senate.

The PRESIDING OFFICER. Under rule XVI, questions of germaneness are submitted directly to the Senate without debate.

Mr. HATFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Is the amendment (No. 3477) of the Senator from Arizona germane? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. BROYHILL], the Senator from New Hampshire [Mr. HUMPHREY], the Sen-

ator from Nevada [Mr. LAXALT], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Idaho [Mr. SYMMS], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

On this vote, the Senator from Idaho [Mr. SYMMS] is paired with the Senator from Wyoming [Mr. WALLOP].

If present and voting, the Senator from Idaho would vote "nay" and the Senator from Wyoming would vote "yea".

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Ohio [Mr. GLENN], the Senator from Vermont [Mr. LEAHY], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea".

The PRESIDING OFFICER (Mr. HECHT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 21, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—69

Abdnor	Exon	Mattingly
Armstrong	Ford	McConnell
Baucus	Garn	Melcher
Bentsen	Goldwater	Metzenbaum
Bingaman	Gorton	Mitchell
Boren	Gramm	Murkowski
Boschwitz	Grassley	Nickles
Bradley	Harkin	Nunn
Bumpers	Hart	Pressler
Burdick	Hatch	Proxmire
Byrd	Hecht	Pryor
Chafee	Heflin	Quayle
Cohen	Heinz	Rockefeller
Cranston	Helms	Roth
Danforth	Hollings	Rudman
Denton	Inouye	Simon
Dixon	Kassebaum	Simpson
Dodd	Kasten	Stafford
Dole	Kennedy	Thurmond
Domenici	Kerry	Trible
Durenberger	Levin	Warner
Eagleton	Long	Wilson
Evans	Lugar	Zorinsky

NAYS—21

Andrews	Hawkins	Packwood
Chiles	Johnston	Riegle
Cochran	Lautenberg	Sarbanes
D'Amato	Mathias	Sasser
DeConcini	Matsunaga	Stennis
Gore	McClure	Stevens
Hatfield	Moynihan	Weicker

NOT VOTING—10

Biden	Laxalt	Symms
Broyhill	Leahy	Wallop
Glenn	Pell	
Humphrey	Specter	

□ 1910

The PRESIDING OFFICER. The amendment is germane.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, while we have some of my colleagues here in the Chamber, let me suggest to you that not only this Senator but a number of others feel very strongly on this issue, so strongly because there have been two things created.

No. 1, the illusion that this plane is not a good plane and the Air Force does not want it.

The PRESIDING OFFICER. The Senate is not in order.

Mr. D'AMATO. I would ask my colleagues to bear with me and, of course, if they do not care to bear with me now maybe at 2 o'clock or 3 o'clock or 4 o'clock in the morning they will feel more apt to do it.

Mr. DOMENICI. Could we have order, Mr. President?

The PRESIDING OFFICER. Will the Senators please take their seats?

The Senate is not in order.

The Senator from New York.

Mr. D'AMATO. Mr. President, I am referring to a General Accounting Office report about the T-46. I am wondering how my colleagues can vote in good conscience to do away, to kill the planning that has taken place over 7 years when the Air Force said they wanted this plane, they needed this plane, it was necessary; the General Accounting Office, and I am quoting them:

The Air Force SPO and Flight Test Center officials, as well as the contractor test pilot, said that the T-46A's performance tests have been successful. They also said that technical tests have been outstanding and reliability and maintainability significantly better than predicted. They believe the T-46A's air worthiness is excellent.

That is not AL D'AMATO. That is the General Accounting Office.

I want to tell you something. I understand the nature of the pressure that has brought us to this point and the amendment that has been offered and, that is why this is the first time in 6 years that I have taken to the floor and used that right which is guaranteed to protect the minority view. It may be a minority view and there may be some who can say, "Look, I don't want to vote against the chairman," and I understand that. If I had a chairman who had the distinguished record and service of our chairman now, I would be reluctant to do so had I not become so involved in this particular issue.

So I am saying to my colleagues and my friends we are going to continue and because there may be those who say, "Senator, you are risking keeping us in an awful long time." There are those who want to do other things. There are those who want to finish the business of the people and then get back to their States.

I would like to do the same thing. I have a personal life, I have a family back at home, and there are things I would like to do, but I want to tell you right now I am not going to see this program, as far as I am concerned, killed on the altar of political expedience, and that is what it is, and when we go through the records, the records will substantiate that. The records will substantiate that, maybe not the Air Force now, but the rhetoric.

You know I think it is interesting when we say what does the Air Force want. It is interesting. The Air Force did not want reorganization, but they got it. So they do not always get what they want. That is a fact.

Now, all of a sudden for the first time we say what does the Air Force want? Why do we not recognize it for what it is? The Air Force all too often says what do those in the Defense Department want, what do they say, and they respond to this political body and other political bodies.

So all of a sudden to begin to say we will have the Air Force tell me that we want it, I had the very same Air Force Chief of Staff tell me that if we put the money in they would use it. I have the people out there on the front line and this report testifies to it that says we need the T-46 and we will examine the turkey of the T-37 that some would like us to rewire, rewing, retool, spend hundreds of millions of dollars and eventually billions of dollars more of taxpayers' money without regard to the consequences, the safety of our pilots now or what is best for the Air Force at this time.

So, Mr. President, we are going to continue this exercise if need be.

According to Air Force and contractor officials, T-46A test flights have produced some results which exceed expectations. For example, Air Force flight test personnel originally believed 20 hours of flight testing per month to be optimistic. However, because of rapid turnaround and high aircraft availability, they now believe it is possible to complete 26-29 hours of flight testing per month. Also eight maintainability and reliability parameters are expected to be exceeded, including maintenance hours per flight hour, a key measure of maintenance performance.

A Fairchild summary of an Air Force preliminary report on the T-46A testing, issued in December 1985, shows the aircraft performed well. The Air Force reported ease of flight, take-off, landing, and ground handling.

So we have a plane that is exceeding the standards, exceeding the parameters in area after area after area. Why do we want to kill it? Why? Are we going to be able to utilize the T-37? No. We are going to have to reengineer the T-37. We are going to have to spend hundreds of millions of dollars on the T-37.

Is anyone suggesting that the T-37 is not in need of substantial modifications costing hundreds of millions of dollars and then the question of how long will it be functional?

Will we get another 5 to 10 years? What about the initial reports, when the Air Force said putting additional money into the T-37 is like putting it into a rathole? Do we throw that out the window? That is not correct any more—and you expect me to fold up my tent and go away? Well, I am not,

and it is wrong and it is wrong not because I bring it up; it is wrong because it is not in keeping with what the record is and attempting to distort the record at this time to say the Air Force does not want it is to turn back and wipe out the pages of history where the Air Force lobbied for it, worked for it, built a case to substantiate its need, its necessity, and where the contractor has come forward and has exceeded, exceeded the expectations called for, when the Fairchild summary and the Air Force preliminary program demonstrates that quite clearly.

□ 1920

An Air Force Training Command official stated

and this is again, in the General Accounting Office report—

stated that the T-46 meets its needs for a modern trainer.

So, when we talk about need, when we talk about whether or not this plane is meeting the standards, again, turn to page 18, appendix I of a General Accounting Office report, Air Procurement, Development and Production Issues Concerning the T-46A Aircraft.

My staff did not reprint this. Maybe we reprinted it, but we did not print it. This is the GAO. It says:

An Air Force Training Command Official stated that

I wonder if they got in any trouble for stating what they stated—

the T-46 meets its needs for a modern trainer.

Maybe they should be censured. We should get ahold of them and find out who those Air Force officials are who dare utter the truth, who said in 1986 that it is a good plane and it meets its needs.

But I want to tell you something. I will not forget the night and the day we were here on this floor and I looked at some of my colleagues and they did not vote in support of this plane. They voted to trash this plane. And it was not in the last minute, it was months ago when they did not want to stand up and say, "No, it is wrong to turn our backs on this now," and they voted the other way.

An Air Force Training Command official stated that the T-46A meets it needs for a modern trainer. He also stated that based on logistic readiness and maintenance experience to date, the T-46A would save millions of dollars in yearly maintenance cost.

Page 18, the General Accounting Office report. How about it? It meets the needs and it saves money.

Well, let us throw it away. Let us bury it. Let us bury that industrial base, let us throw 7,000 people, both directly and indirectly, who are in the production of this out on the streets.

And what about our young men and women? Are we doing what is best for them?

So there are those who say, "I don't want to discuss the merits of this now if the Air Force does not want it."

There are lots of things the Air Force did not want that this body and the Congress did because they felt it was necessary.

Although test results have been good, several problems have emerged. An Air Force official said the number and type of deficiencies were not unusual in testing a new development aircraft. Furthermore, both Air Force and Fairchild officials believe that these problems can be readily solved without major aircraft changes or modifications and within the scope of the contract. The deficiencies are discussed below.

The most significant problem is the aircraft's drag which is higher than the Air Force desires and could impact aircraft performance and fuel consumption. Fairchild is developing changes which could be incorporated into the production line to reduce this problem. Air Force officials believe this condition can be reduced and are closely monitoring Fairchild's corrective action.

The T-46A does not give an adequate warning to the pilot when the air speed reduces to a point where the aircraft may stall. Many aircraft shake or vibrate when they are close to a stall situation. This serves as a warning to the pilot to take necessary action to prevent the stall. Although required by the specifications, the T-46A does not give timely warning to the pilot.

T-46A flight testing is continuing with its mild stall warning because experienced pilots are flying the aircraft. A more adequate stall warning is needed for use in student flight training. Fairchild plans to solve this deficiency by installing a warning device on the aircraft. The T-37B, the Air Force's current primary trainer, has such a device on it.

The Air Force is concerned with the primary flight controls, such as roll trim which involves the flight stability of the aircraft. Fairchild is studying trim devices which could be added to the aircraft to correct the residual trim problems.

The Air Force is concerned about the aircraft's speed brakes because when extended to slow the aircraft they create unacceptable buffet levels that shake the aircraft. Although this problem has not been totally solved, Air Force officials believe there are possible solutions which should be effective. Fairchild has proposed a solution which it plans to start testing in April 1986.

The expected weight of the first production T-46A is expected to be about 900 pounds more than Fairchild originally estimated. Air Force officials said this is not unusual for a new aircraft. Fairchild has a weight reduction program to reduce the weight of production aircraft. SPO officials said there is no specification weight for the T-46A but it is important to keep weight at a minimum because of the impact on other performance requirements.

USE OF FISCAL YEAR 1986 FUNDS

For fiscal year 1986, the Congress appropriated $169.9 million for the second production lot of T-46A airframes and engines as well as for advance purchases for the third lot of airframes and engines. Since the Air Force decided not to request additional T-46A procurement funding for fiscal year 1987, the production funds appropriated for fiscal year 1986 have been withheld from the program. According to an official of the Office of the Secretary of Defense, those funds have been placed in an account entitled "Resources Available for Reprogramming."

I wonder where they would be reprogrammed to. I wonder how many other meritorious programs will seek those dollars, if any.

Air Force program office information as of April 31, 1986, showed that for fiscal year 1986, $48.7 million of the $49.9 million research, development and testing appropriation for the T-46A airframe and engine had been released to the program office. These amounts reflect reductions mandated by the Balance Budget and Emergency Deficit Control Act of 1985. About $25.4 million of the funds released have been committed to be obligated. This left an uncommitted balance of $23.3 million. The program office plans for the uncommitted balance are shown in table I.4.

TABLE I.4.—*Planned Use of Uncommitted T-46A Research and Development Funds for 1986*

[Dollars in millions]

Use	*Amount*
Airframe contract—Fairchild	$3.9
Engine contract—Garrett	14.6
Mission support	1.9
Government furnished equipment	0.6
Test centers	2.3
Total	23.3

Air Force program office information as of January 31, 1986, shows the following status for the T-46A airframe and engine production funds.

TABLE I.5—STATUS OF T-46A PRODUCTION FUNDS

[In millions of dollars]

Fiscal year	Funds released to program office	Obligated funds	Committed to be obligated	Uncommitted balance
1984	$6.1	$6.1		(1)
1985	126.0	97.2	$8.6	$20.2

[1] Less than $100,000.

AIR FORCE CONTRACTOR OPERATIONS REVIEW OF FAIRCHILD MANAGEMENT

From June 3 to 14, 1985, the Air Force Contract Management Division, Kirtland Air Force Base, New Mexico, conducted a detailed contractor operations review (COR) at Fairchild's Farmingdale, New York, plant. This review was made to evaluate the overall effectiveness of Fairchild's management systems and the capability of these systems to meet contractual requirements.

As stated earlier the review identified 279 findings in the eight functional areas reviewed. Fairchild did not agree with 60, or about 22 percent, of the findings. However, in response to the COR results, Fairchild has developed and is implementing actions to correct all items reported.

In developing corrective action plans, Fairchild identified 218 specific causes and 7 underlying causes. An analysis of the 218 specific causes showed that about one-third represented inadequate procedures and two-thirds represented noncompliance with existing procedures.

The seven underlying causes included:

High turnover rate of senior management and organizational changes.

Reduced reinvestment levels in recent years in plant facilities, equipment, and centralized capabilities.

Deteriorated employee morale and dedication in recent years.

Mr. President, who would not have deteriorated employee morale if as it went along it saw its very future being threatened on almost a regular basis between the various actions by the Air Force in delaying the funding, and in the attempt to reprogram the dollars that had been provided for it by the Congress? So why should we not expect that there would be a lack of morale or a morale problem at the facility? Why would we not expect to see a high turnover of senior management when the course of action that has been undertaken would directly contribute to those problems?

Inadequate emphasis on quality, safety, and schedule in some products and systems.

Failure at most levels in the work force to meet productivity targets.

Optimism in forecasting, particularly in new program proposals, has caused overruns and schedule delays from the onset.

Failure to follow management development and succession plans.

STATUS OF CORRECTIVE ACTIONS

The contractor has established a continuous process to plan, implement, and resolve all COR related findings under the direction of a vice president who reports directly to the company president and interfaces with the AFPRO commander.

According to Fairchild the following corrective actions have been taken:

Appointed a new company president experienced in running an aerospace company.

Promoted capable employees from within.

Sold $200 million of corporate assets to provide funds.

Invested an additional $46 million in the T-46A program.

Devoted additional personnel to the program.

Ordered some new major equipment items.

Improved communication from top management to middle management.

Increased skills and supervisory training.

Increased emphasis on quality, safety, and schedule rather than on cost only.

Strengthened the quality function.

Corrective action plans have been submitted by Fairchild to AFPRO. The status of corrective actions as of March 31, 1986, are shown in the following table.

Fairchild corrective actions completed and submitted No. 231. That is 83 percent corrective actions in process, 48 and 17 percent. So that out of all of the problem areas corrective action completed and submitted, 83 percent, and the other 17 percent they were in the process of dealing with. That is 100 percent.

Correction actions approved and completed, AFPRO corrective actions, again approved and completed 61 percent, corrective actions in process, another 39 percent, again 100 percent.

So we are talking about a company that has had problems and has undertaken the proper steps necessary to deal with those problems and to eliminate them.

The report goes on to say that:

We noted that AFPRO approvals were about 60 to 90 days behind Fairchild submissions. An AFPRO official said that this represented the time needed to schedule and perform its review and an allowance of time after implementation to be sure Fairchild's correction was still in effect.

Fairchild representatives said that correction programs have been instituted and significant progress made in correcting all deficiencies. They said resolution of 97 percent of all deficiencies should be completed by September 30, 1986.

Mr. President, I would suggest that if one were to carefully, impartially review this report, and have no stake or interest or was not aware of the name Fairchild, had no interest in it, they would have to come up with the conclusion that the product they are turning out is a good one, that it is a necessary one, that it meets the standards and exceeds the standards in many different cases including costs, including maintenance, including overall cost cycle, and that it will save the American people millions of dollars annually, and that it is a much better product, and a much better plane than that which is probably being used by our young fliers.

So for all the reasons, Mr. President, it would seem apparent to me that there is something gone amiss. There is something gone amiss when the Air Force now says, well, we do not need this. We do not want this. I wonder how and why this has come about.

According to certain Air Force sources, the decision to terminate the T-46 was an emotional one made by Secretary Orr. Since then Assistant Secretary Cooper had said that canceling the T-46 was a mistake.

Now I do not think he would say it now. In An official Air Force document prepared by the Secretary for the Air Force shows that to extend the life of the T-37 and not bring on a new trainer until fiscal year 1999 will cost $1.96 billion more than it cost to build at T-46.

If that is correct, if we are talking about extending the life to the year 2000 and beyond, at a cost of $1.96 billion more than the cost of building the T-46, I wonder how that is that we could come to that point.

Mr. President, let me turn to some hearings, hearings before the subcommittee on appropriations, House of Representatives, 99th Congress, 2d Session.

Mr. President, I could turn to the question of the safety of the T-37. In the hearing before the House Appropriations Defense Subcommittee in March of this year, the safety record of the T-37 is brought to light.

□ 1940

Let us take a look at that safety record.

First we will start at page 65 of the report entitled "T-46 Program."

Mr. Chappell said:

The Secretary of the Air Force report states that the current Air Force primary trainer, the T-37, has recognized operational deficiencies and safety concerns. It also states that you proposed to cancel the T-46 which is to replace the obsolete T-37 due to fiscal constraints.

Dr. Cooper, why is the Air Force apparently willing to continue using a trainer, the T-37, which has operational deficiences and safety concerns?

That is the question.

Dr. Cooper. We are going to use the T-37 for some period of time regardless of whether or not we buy the T-46. We will continue to train safely. Aside from the T-46, if we went forward with the T-46, we are going to continue to use the T-37 for some period of time because there is a lag time between your budget for funds for the T-46 and bringing it into operational inventory. I believe the statement made by the Air Force in the past relative to the T-37 still stands today.

Dr. Cooper continues.

I need to point out to the committee that we did not recommend canceling the T-46 because of our view that the T-37 has suddenly changed.

So it changed. He goes on to say:

We recommended it not be funded in '87 and beyond because of budgetary pressures and also when we looked at the program made last year it was experiencing some technical difficulties. I think you are aware of the contractor operations review that was conducted at the facility.

Mr. CHAPPELL. I understand those have been corrected. I understand they have changed management. Fairchild has acted positively to bring back the program. They have cleaned up the shop and modernized the plant to do these things. I looked at the plant not too long ago myself and the impression I received from your Air Force officer who was on the spot was to the effect that while everything had not been completely straightened out that they were certain most of the things had been repaired.

Dr. Cooper then responds:

They have improved over where they were in the July time frame last year. There was an awful lot of room for improvement. The trend has gone up.

Mr. CHAPPELL. I initially proposed that program.

Dr. COOPER. I remember your question on the T-37.

Mr. CHAPPELL. You guys made a case for the tremendous deficiencies of the T-37. It could not climb out fast enough, therefore cutting down on training time, and you had to get out where you could get to instrument areas, work through the patterns, and you had to get out and back, and the T-37 just wouldn't do it. It was horrible. There was a tremendous necessity for change. You had to have this trainer. Were you telling us accurately then or now?

Dr. COOPER. I was not here. The Air Force will stand by those statements, Mr. Chairman, about the T-37. The T-37 is not the optimum trainer in the future for the Air Force. We would prefer to have a new trainer.

Mr. President, I think that statement puts it about as forthrightly and fairly as anyone could without going into whether or not the Air Force wants it or does not want it. They campaigned for it. It wanted it. It stated before the Armed Services Com-

mittee and the Defense Appropriations Committees of both Houses that it needed it. Now we get into some budgetary constraints.

Now we say it is the money. Yes, there are programs that have to be curtailed, cuts that have to be made, but when you make a cut in an area that will immediately necessitate a reprogram, an expenditure of hundreds of millions of dollars over and above—and as the figures indicate in order to keep the T-37 flying a cost effectiveness of $1.9 billion over what it would cost for a new plane—something is wrong, it smells, it is not right.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Will the Senator yield?

Mr. D'AMATO. No.

Mr. CHAFEE. I wonder if the Senator will yield without losing his right to the floor?

Mr. D'AMATO. Without it being a second speech.

Mr. CHAFEE. It not being a second speech. For 5 minutes.

The PRESIDING OFFICER. Without objection, the Senator from Rhode Island.

The remarks of Mr. CHAFEE appear elsewhere in the RECORD under Statements Introduced Bills and Joint Resolutions.

□ 1950

Mr. D'AMATO. Mr. President, an aspect of Dr. Cooper's testimony is rather important. Again, in talking to Mr. Chappell, he said, "Mr. Chairman, the T-37 is not the optimum trainer in the future for the Air Force. We would prefer to have a new trainer."

Then Representative DICKS says, "This has very serious safety problems."

Dr. Cooper says, "No, sir, Mr. DICKS. We will have to spend money on the T-37, though."

That is exactly the point I have been attempting to make. There will be some who would have us think that we are going to come out ahead of this process by killing the T-46 trainer. I say to my colleagues, that is not the case. We are not going to come out ahead. You are not voting for America. You are not voting to save money; you are not voting against a bad system. You are voting against a superior system that is going to save money. You are voting to maintain a bad system. That is the record, not the rhetoric.

I would like to see the record show me otherwise.

Oh, I get the Air Force that says, "We don't need it now for budgetary reasons," after they needed it, wanted it, campaigned for it and said we needed it for six or seven years.

Now, "Oh, no, we don't need it."

They don't need it because Cap called up and said, "Cut it." That's why you are going to cut it.

Are you going to save money? No. You are going to have to start spending hundreds of billions of dollars to take the plane that the general called the rat hole.

I did not call it the rat hole.

Where is O'Keefe? Where is that rat hole statement? I have it here someplace. We shall dig it out. I guess he had to take a little break. We are going a little long here. I do not know where he is. But we will dig out that statement where the general said to take the T-37 and to put more money in in 1984 is like pouring money down a rat hole.

But that is what you are going to have to do. And you all voted for it. Hooray, horray; we voted to put the money down a rat hole. That is great.

You did not vote against a bad system, you did not vote against a system we do not need. You voted against a superior plane, a superior training plane in terms of performance, in terms of cost, in terms of maintenance, in terms of safety for an old, beat-up plane that we are going to have to spend hundreds of millions of dollars on.

I want that general's statement where he talks about the rat hole. I want to hold it up here. I want to submit it as part of the RECORD because I do not think it should go in just on the altar of my record.

General Osway, who made the statement to the committee in 1984—which committee? The Appropriations Committee on Defense. He said, "Pouring any money into the T-37 is like pouring money into a rat hole." That was the general, commander of the Air Training Command. He made that statement. When did he make that statement? March of 1986? I do not believe that is correct. In any event, we will get a date and substantiate it and put it into the RECORD.

Let us continue. We have Mr. Dicks. He says, "This is a safety problem."

Dr. Cooper says, "No, sir, we will have to spend money on a T-37."

Mr. Chappell continues. He says, "General Randolph."

Oh, I know General Randolph. He does not want this plane.

"General Randolph, we have some correspondence you sent to the Chief of Staff of the Air Force, who was 'shocked' to learn that only 86 percent of the 100 ejections from the T-37 aircraft have been successful, unsuccessful means fatalities."

Gentlemen, are you hearing that? When you talk about a trainer, you have a trainer in operation today where 87 percent of the ejections are safe and the balance are not.

□ 2000

(Mr. MATTINGLY assumed the chair.)

Mr. D'AMATO. I do not know what kind of plane you want the boys to be flying in, but they are going to rewing this and retool this. General Randolph says, "I don't remember those numbers." Not much. I talked to Randolph. He is marching to a different drummer. He says, "But you are right the ejection seats"—here is General Randolph talking about the T-37. You want to keep it. You want to rewing it. You want to spend $2 billion more. Well, let us do it. Let us win one for the gipper. "But you are right, the ejection seats do have problems, and by the way, Dr. Cooper would agree with me, we are not saying there are not safety problems." They are saying, "Oh, there are safety problems."

"But we believe that it is not an unsafe airplane to fly. That is two different things." Mr. Chappell says "The T-37 crew is out of the ejection envelope 20 to 70 percent of the time, depending on the mission." Do we know that? They are out 20 to 70 percent of the time. "Is that true or not? Dr. Cooper." He is the great expert. He says, "I don't know, Mr. Chairman."

I do not know. I hope when you all have another chance to vote on this thing you will think about it. Maybe there will be some young man training over there. It will be one of those 20 times, 20 percent of the time that he has to use that ejection and it just does not go off because it only operates 86 percent of the time. Think about it.

General Randolph, here is what he says. Any by the ways, this is this year, 1986, before the committee. Here is what Randolph says. He will say whatever the powers want him to say. I have talked to him. He says, "I will have to check those numbers. It flies out of the envelope but I don't recall the specific numbers."

Would it not be good if we could call him up on the telephone. You are going to be here. You have some time. I would ask one of your staff to see if they can get him, find out if I am making this up. Find out, on the ejection, whether or not it is safe. Find out what they have to do to fix it, what they are going to have to do with it, how long will it take.

General RANDOLPH. I will have to check those numbers. It flies out of the envelope but I don't recall the specific numbers, but I can recheck that for the record and provide it, Mr. Chairman.

[The information follows by way of letter obviously]. And I will give you the information. This reminds me of my school days. I had not cracked a book. I would be undertaking a course, taking an exam the next day and I would start getting into it and I would say, "My gosh, this is interesting; why didn't I look at this before." This is absolutely fascinating. I am finding this more and more fascinating. And I find that I have a little more vigor. Do you

know why? Because the case for doing away with the T-46 is more outrageous as you begin to get the facts, absolutely more outrageous.

The general says:

Your information is correct. Since its introduction, the T-37 has had 110 ejections; 95 of those were successful. This number equates to the 86 percent rate you referred to.

In regard to your question on the amount of time the T-37 is out of the ejection envelope, 20 to 70 percent is also correct. This percentage is dependent on the mission being flown (pattern only where the percentage is high vs high altitude aerobatics where it is lower) and the climate conditions experienced at that time (hot days degrade aircraft performance which directly affects the ejection envelope).

Dr. COOPER. Mr. Chairman, if the issue is, would the Air Force rather have a T-46, if it was bought and paid for, in our inventory as opposed to a T-37? There is no question if that aircraft performs as advertised we would rather have a T-46.

Notice how carefully he has to answer the question because he will be on the carpet if it performs as advertised. He knows it performs. He understands. He rejects Osway's statements that it performs better than contract. He does not want to even acknowledge that. He has seen a copy of the General Accounting Office reports. So he has got to be very careful because this way when the big boys say to him, "What did you answer that way for? Why did you say that? You know we don't want that plane," he says, "Well, I qualified it. I said if it performs as advertised. Obviously it hasn't met the specifications." But the facts, not the rhetoric, indicate that it has met its specifications.

So when we vote here again—and I guess we will have a chance to vote here again because at the very least there will be a tabling motion—I wonder if we are going to have the same kind of vote. Maybe we will have a vote even worse. Maybe we will get less than 21, but I will tell you something. I would not vote for this no matter what. And the more I find out about it the more certain I am that this is a quick shuffle, a quick shuffle.

What does Mr. CHAPPELL say? He says, "Let me ask you about the test program. How is it going forward? How many airplanes have been delivered?"

He is now talking about the T-46.

Dr. COOPER. One.

Mr. CHAPPELL. How many hours have you flown the aircraft?

Dr. COOPER. I will supply that for the record.

The information comes as follows and it is:

As of March 12, 1986, the T-46 has completed 46 flight test sorties and amassed over 98 hours of productive flight test.

Dr. COOPER. We think we are probably about a year behind on the test program. We believe that the T-46 is fundamentally sound. Like all test programs, there have been some minor problems.

That is a far different statement than we have heard in the past. We were led to believe that there were significant problems. We were told that there were problems that really went to the core and the essence of whether or not the plane was flyable. Here is Dr. Cooper saying, no, it is fundamentally sound. And he says:

We see no show stoppers, and we think that the T-46 will perform as advertised. It is behind schedule, over cost, in terms of the full-scale development program, and there is a limit to Government liability on that chart, it has a ceiling on it, so to the extent it goes beyond that ceiling, Fairchild has to pay that bill. And it is substantial. I believe we estimated——

And then here is where General Randolph jumps in:

almost $200 million.

Dr. COOPER. About $65 million is out of their pocket. Our concern, though, is last year when our budget was cut, and it goes back to the point Mr. DICKS made where we see the budget going—we are going to have to live with some less than optimum solutions in the Air Force on some programs.

What we said about the T-46 in the past is still true. We would rather have it. It is just a budget program.

And so for those who have suggested that the Air Force does not want the plane, that is a vast oversimplification. That is not the case.

For those who suggest that I am impeding the progress of this body, let me suggest that I did not introduce this amendment. Let me suggest also that I did not introduce the underlying amendment. Let me also suggest that they would have to be somewhat naive to think that the very Senators in the States who are very much concerned about the underlying amendment are not going to do at least what I have done, and I understand the nature of their political training. And I would ask people to wake up and to see that even if we were to dispose of this amendment, that is, the second-degree amendment, which I am not inclined to do, the fact is I do not see any guarantee—and I see a long, protracted area of discourse and development on the underlying amendment.

Now, the reason I am mentioning this, Mr. President, is because I do not want to have for those who say, "You are delaying the orderly process of this body," that onus placed upon me without saying it did not introduce the underlying amendment. I certainly did not introduce the second-degree amendment and it would have been naive on the part of my colleagues to think they would not have done exactly what I am doing now.

□ 2010

I served fair notice. I did not do this by way of around the bush at the last minute. I did not indicate that I would do anything less than totally oppose and use all the means given to those of us in this body to protect the position that I am advocating. That is the retention of the T-46. I say so respectfully.

I hope that you understand that. Sometimes we cannot all agree. I have attempted to come together, and I have been more often than not on issue of importance, on issues concerning the well-being of this body, and issues in which I have subjected my own position to the legitimate concern of others, maybe things I did not necessarily agree with. That is one of the problems we face here.

I would like to suggest that if people would like some comity, there is a way to arrange it. I they want to proceed, we will proceed.

The more I look into this, the more convinced I am of the rightness of my position. I am not suggesting to you that you have to advocate every cause you feel is right, at the expense of others in the body. But I think that works two ways, and that is what we are suggesting here.

Although I feel badly about it—I do; I do not feel good about it—I am going to continue to press, and I will take the burden and I will take the responsibility and I will take the admonitions of those I admire and respect.

I hope there could be a way to work out of this, not only for this year but for the future of the program. I am not suggesting that a compromise cannot be reached. To cut down and turn out that program and that plant, I think, would be the wrong thing, and to do it in the manner which has come about.

Dr. Cooper says:

Dr. COOPER. About $65 million is out of their pocket. Our concern, though, is last year, when our budget was cut, and it goes back to the point Mr. Dicks made, where we see the budget going, we are going to have to live with some less than optimum solutions in the Air Force on some programs.

What we said about the T-46 in the past is still true. We would rather have it. It is just a budget problem.

Mr. CHAPPELL. General, have you flown this aircraft?

General RANDOLPH. No, sir, I have not flown the airplane. I was out at Andrews, sat in the cockpit. General Skantze, the Commander of Air Force Systems Command, flew the airplane and his report back to me was that it flies quite well.

He was quite satisfied with it. By the way, you asked how is the test program going. It is, of course, behind, but the test program itself is going quite well, quite smoothly.

Mr. CHAPPELL. That is what I understand, going very well, with no major bugs.

General RANDOLPH. There is one problem, and that is the drag count is much higher than it is supposed to be, and Fairchild is working that quite vigorously right now, but that is the only serious problem that I know about in the test program.

Mr. CHAPPELL. How much money have we spent on this program so far?

General RANDOLPH. As of the end of this year, with the monies that we have in the R&D program, but assuming that we do not

press forward with block two, which is still an open issue, $470 million.

My friends, we have spent almost a half a billion dollars and I doubt if we are going to retrieve very much of that R&D if we abandon this program now. But they would have us do it and then say that we are saving the American taxpayers money. Hokum. Nonsense. Maybe saving some people some pride, but we are not saving the American people money.

Mr. Chappell continues:

Mr. CHAPPELL. That you spent so far?

General RANDOLPH. Yes, sir.

Mr. CHAPPELL. What is the total program intended to be?

General RANDOLPH. It is about $5 billion when you buy all the airplanes, and the support equipment, et cetera.

T-37 PERFORMANCE DEFICIENCIES

Mr. CHAPPELL. I have a paper that comments on the T-46, dated June 26 of 1979, six years ago. I read you a pertinent part under paragraph five, page 6 of that report on constraints.

A, affordability and relative priority. The sophistication and capabilities of Air Force weapons systems beyond fiscal year 1987 dictate the need for a fully supportive undergraduate pilot training program. The modification and replacement of the T-37, a key element of that program, must be considered a priority, no less than equal to producing the prime weapons systems. Modernization to the primary undergraduate system can be accomplished within 1 percent of current level—budget funding on an annual basis over the life of the program.

Here is Congressman CHAPPELL pointing out the Air Force's absolute commitment in a paper which says it is necessary to see that this be accomplished. It points out how critical this thing was in the beginning. Now we are talking about abandoning it. If you start over again, you talk about slippages and that sort of thing. It does not make sense to me. I cannot see it.

Those are Congressman CHAPPELL's words, and I think he is correct, and I wonder how we deal with that. We say we are not dealing with the merits of the plane, of the system, of the T-46. What about the deficiencies of the T-37? What about that? What about the cost attendant to keeping it? Let us keep it all going. We do not want to rock the boat.

Mr. CHAPPELL. Tell us whether that is true or not.

General RANDOLPH. We will check that, and it is not a bad airplane. The performance—there are performance deficiencies, and there are things that we would like to improve, and the T-46 does that, but the decision was made as has already been stated.

[The information follows:]

As General Randolph stated, deploying the T-46 would resolve T-37 performance deficiencies. However, primarily because of budgetary constraints, we deleted T-46 funding from the FY 87 budget. Alternatives to address current trainer aircraft deficiencies are under review. One option is the modification of the T-37 aircraft to extend its service life, increase its performance and solve related safety concerns under a wider range of temperatures and flight regimes. In the interim, we will continue to stress the safety programs which have resulted in the excellent Air Training Command accident rate of 0.4 mishaps per 100,000 flying hours for the last five years. As a comparison, the Air Force overall average for 1985 was 1.5 mishaps per 100,000 hours which was the safest year in Air Force history.

Mr. CHAPPELL. The current Air Force five-year plan is to buy 1590 new fighter aircraft, and these are high-performance sophisticated aircraft, and increase of 258 aircraft from last year's plan.

How can the Air Force afford to buy more fighters which cost at least three times as much as trainers, but no trainer aircraft for the pilots flying these sophisticated aircraft, and need to have the best training they can to give them the best capability?

I can't follow the logic.

Dr. COOPER. Your numbers are relative to the numbers a year ago on the tactical fighter roadmap. I would like to take you back to two years ago. As I mentioned earlier, it is a very high priority in the Department of Defense, and you may disagree with those, but it is a very high priority to both modernize and build to 40 tactical fighter wings in the tactical fighter force.

That is why those numbers increased. Again——

Mr. CHAPPELL. I am not fussing about it. I am making some comparisons. How many dollars are we talking about if we go forward with this year's program, rather than cutting it off.

How many dollars would be necessary to sustain this program as you had planned during this fical year?

Dr. COOPER. If you wanted to resurrect the program, how much money?

Mr. CHAPPELL. Yes, sir.

Dr. COOPER. I don't have a number off the top of my head. Last year at this time, we told you that in the 1987 budget, we were going to be asking for $569 million.

Mr. CHAPPELL. Obviously with the slippages, so forth, it can't be anything like that to get us through this year?

Dr. COOPER. You could probably use fewer dollars this year.

Mr. CHAPPELL. It you got any corrections, you gave us a lot of information on the cost of operating the T-37, the cost of maintaining that T-37 as compared to what you intended to have, and tell us where those figures were in error then, if they were, and what they realistically should have been, and compare it with this aircraft, the T-46, compare it for us, and let's see, the facts have not been matching.

Maybe the Air Force doesn't need a trainer, period?

□ 2020

Dr. Cooper says: "I don't think we have changed our facts on the T-37.

And, of course, at this point I would like to interject not much. First they say it is like pouring money into a rat hole, that it is unsafe, that we need a new plane, that it is not fair to deploy, and they build that rhetoric for 7 years and then they have you think that this plane was the optimum.

Oh, well, we could do, you know, with a new plane but it is really not necessary.

Well, maybe the Air Force does not need a new trainer, period. Dr. Cooper says, "I don't think we changed our facts on the T-37. This decision was made independent of the T-37. We can continue with the T-37 with relatively modest investments."

Very interesting the way they can change from how something is very costly on one hand and takes so much money, how you are wasting money to attempt to modernize it, and then on the other hand just simply say, "Oh, we can do it for a modestly small sum."

"In fact, we are going to continue because the T-46 wasn't going to hit the ramp for some period of years."

Of course, Cooper and company fought like the devil to stop it. They worked their tail off to stop it. They testified in front of us. I mean, this was a decision to impede the progress of the T-46 and then they say it is not going to hit the ramp for some time. That is in the vernacular some in New York call chutzpah. It really is incredible. You wonder about the morale in the plant and the high turnover in the plant, and yet you threaten to destroy the plant, the manufacturing facility, and you wonder why people do not have high morale. You wonder about the delays. When you fence off the money, you say you cannot use the money, and then you wonder why they do not have any production.

That is incredible. That takes something. And then you say, "Well, you know, we would have to keep the T-37 because they are behind and they would not hit the ramp for a period of time, probably 5 or 6 years."

More accurately, if Dr. Cooper responded, he would have said, "Probably never if we get our way."

"Beyond that, we will start to have to make relatively major investments in the T-37 to extend its operational life. That can be done."

So now he is saying, in essence, that they are not going to have to make major investments in the T-37, if they can keep it flying for 5 years without any major investments. They are not going to make any major investments and sometime 5 years from now they are going to start making investments. That is what the essence of their argument is and it is a lot of nonsense. It does not bear out with the facts and it does not bear out with their prior argument.

He said, "Beyond that, we start to have to make relatively major investments."

"Will it be done as good as the T-46?" is the question, Mr. CHAPPELL asks, and he says, "No, it will not be as good as a T-46, and at some point regardless of what you do to the T-37 you will run out of useful life, maybe 10 years from now."

We have Dr. Cooper saying that we will have to make major investments, maybe 5 years from now. He said it is not going to be as good as the T-46

and we would get a life increase of maybe up to 10 years.

Now, I suggest to my colleagues I am wondering what you are voting on. Do you really want to vote to do that? Is that really what you are saying? Do you really want to put a plane up there that is operationally deficient at the present time, continue it with all of its problems and say maybe we can get by for 5 years when the test is that we cannot get by and only have to put in modest sums and I would like to know what we call modest sums and 10 years from now we will have to have a new plane.

That really makes sense, and that is where the cost comes into $1.9 billion more for the taxpayers, and that is when we say about your throwing away half a billion dollars worth of money, and then there are those who will say to me you are being partisan, you are parochial. This company is located in New York. It just seems to me no matter where the company is located you should be concerned and you are darn right I am partisan and concerned when I see it taking place unfairly to an installation that is in my home town.

Will it be done as good? No. At some point regardless, regardless, at some point, he says we are going to have to do away with the T-37 and it runs out of a useful life maybe 10 years from now.

Well, if you want to vote for it, vote for it.

But he says, "I would like to make sure with you the environment we were in when we made the decision on the T-46"

Now he is going to tell you the rationale why he came out with the decision.

Verne Orr, Secretary of the Air Force, and I am not speaking for Russ Rourke right now, he has called for a major review very shortly, and he wants to take an independent look at it. . . .

Well, that is interesting. Verne Orr is going to take an independent look at it.

. . but at the same time the cut was made, Verne Orr and Charlie Gabriel decided rather than stretch out programs which we have been admonished to not do, they were going to make a couple of vertical cuts, to cut back on the programs.

The T-46 had its head up above the foxhole because of technical reviews, the confluence of those two things, the fact that the T-46 was on its back, and we were not happy with what we saw at that plant and the budget pressures, . . .

Of course, they were not happy because a certain general when he came there was not received with the ordinary and customary tradition and the people at the plant were pretty silly in not receiving a four-star general as they should have, but they were silly and the plant was amiss and they did have problems and he was pretty ticked off when he came and visited and he was kept waiting 40 minutes. He was darn annoyed. Nobody was there to meet him or show him.

After all he would have been proud. He advocated this contract. The whole Air Force advocated this contract.

He took that as a good swift kick you-know-where and he did not like it. I did not blame him. He went back and he decided he was going to show these people who was boss. He promptly reported that this was the worst operation he had ever seen, and this is the genesis for the beginning of this problem. The people went ahead and did some darn right silly things. They fired some people they should not have fired. They compounded the problem.

Boy, now we really got the pot boiling. Now we begin to see this is an easy program to kill. We do not have to bring this T-46 on. We have the general mad and I spoke to him and he admitted there were deficiencies. He said they got it cleared up. Once they got the ball rolling there were other forces that began to push it on.

□ 2030

And push they did, push to the point that you are going to vote to keep a turkey T-37 flying that should be replaced. We should be ashamed of ourselves. Twenty-one votes; incredible.

Well, people will do anything to get home sometimes. So we will consider it again and again.

The T-46 had its head up above the foxhole because of technical reviews, the confluence of those two things, the fact that the T-46 was on its back, and we were not happy with what we saw at that plant and the budget pressures, back in the October-November time frame, caused this to be a casualty.

I don't paint such a rosy picture for the T-46. I think it is improved, but it will be over ceiling.

Of course, if you hold up a plane production for 2 years, what do you think will happen? This is going to happen. That is nothing new. I want to know what program have we seen come under ceiling here.

. . . and we know Fairchild is going through the ceiling by about $88 million on the FSD program, and will come out of their pocket, and go through ceiling on lot one, we know that, and we suspect they will go through ceiling on lot two.

That is what the language which was carefully crafted in the Appropriatons Committee was designed to handle. It was designed to handle something because the authorizing committees did not want to do it. They wanted to kill this program and handle it in a way in which the taxpayers' dollars would be protected, in which there was a ceiling, in which there was reasonable renegotiations on lot one or on lot two, certainly on lot two.

We have contracts in hand. That means the contractor has to bear that burden. In lot three, we were open, in an open negotiated position. Our concern is that that cost will continue to go up, so it is the confluence of all those things that caused the T-46 to be a casualty.

That is why the House and Senate Defense Appropriations Committees arrived at language that would provide a ceiling upon which no one could intrude, a ceiling and call for negotiations. That is nothing new.

Mr. CHAPPELL. Why don't you put in the record your best estimate of the program, and what is wrong with it at the present time?

Dr. COOPER. Yes, sir, there will be a program review that comes in within a week, so we will report back to you on that.

[The information follows:]

The flight test program has confirmed our judgment that the T-46 will be an excellent flying training platform. It has pointed out the need for augmented stall warning, reduced speed brake buffet, and reduced drag from the current design. These are significant but manageable problems.

That almost sounds like the General Accounting Office talking.

More significant are the schedule delays and contractor cost growth we have seen recently on the program. The program is now about a year behind schedule for delivery of the second test aircraft, and similar delays are occurring in the first production lot that we ordered in December 1984. No near term schedule recovery appears achievable. Contractor cost performance has also caused us concern. Costs well above ceiling in development, but more importantly in initial production, cause us concern for our cost estimates for the total program. The contractor will have to implement aggressive cost reduction efforts in production to assuage this concern.

Why, he could not begin to do that unless he began to get the cooperation of the Air Force, instead of the steady drumbeat that we are going to put you out of business.

Mr. CHAPPELL. Mr. Miller.

Mr. MILLER. Talking about aircraft capability

Well, now we are getting into the C-17

Mr. President, I have another report on the T-46 by the Congressional Budget Office that basically found that the T-46 operating and support costs also are far below the Cessna T-37 alternative. I would like to share that with my colleagues as well.

CBO finds the T-46 O/S costs far below T-37 alternatives.

I think when we begin to say we are going to kill the T-46, we better look to see what the alternative is. Nobody here has suggested that we are not going to improve the present plane. So let us take a look at it because I know you are all concerned about the issue.

A Congressional Budget Office study has found that the Fairchild Republic T-46A trainer would have twenty-years operating and support (O/S) costs far below the Cessna T-37 alternatives.

The higher O/S costs of the T-37 alternatives in turn push the total cost of the alter-

natives' programs to comparable levels with the T-46A, while demanding major modifications or extended utilization of the aging T-37.

In 1986 dollars, discounted at four percent, the total 20-year costs of the T-46 is estimated at $6.1 billion. By making major modifications to the T-37 and adding some new aircraft, the twenty-year cost of the T-37 program is estimated at $6.2 billion.

So here we have the Congressional Budget Office making a study—not me, not my office, not Fairchild, but the CBO—and what do they come up with? They say you can keep an aging, inferior plane, a plane that has been admitted to by the Air Force, they would like to have a different plane, but they say in the lifetime cycle of retooling this plane, keeping an inferior plane, it will cost you approximately the same, $6.2 billion as compared to $6.1 billion. Now, we will concede it is approximately the same.

In an assessment of the alternatives, at a three percent discount rate, the costs, in 1986 dollars, of the T-46 for a twenty-year program is $2.4 billion in investment, $4.0 billion in operating and support, for a total of $6.4 billion. By modifying the T-37 to extend its service life through the year 2006 (the T-37 has been in the Air Force inventory since 1956).

It is a 30-year-old plane.

The costs would be $0.7 billion for investment and $5.3 billion for operating and support, for a total of $6.0 billion for a twenty-year life cycle.

If the T-37 is modified and reengined, the costs are $1.4 billion, $5.1 billion, and $6.5 billion. If modified, reengined, and upgraded, the T-37 costs are $1.7 billion, $5.1 billion, and $6.8 billion.

So we begin to get a cost factor that if we are talking about reengining, modifying, it is going to cost more money, anywhere from $700 million to $900 million more for the T-37. So if we want to talk about economies, why, the T-46 is the area of economy.

Now, CBO explains—and we will get into this because this is an interesting report. It has taken them quite a bit of time and I would not want you to just believe me and take my analysis. We have some staff workpapers here that we wish to share with you in some detail. It says:

CBO explains: "If funds are stringent over the next few years, Air Force needs could be met at least partially through less extensive modifications of the T-37, such as modifications necessary to extend the life of the aircraft or those plus new engines. While these alternatives would be 35 to 69 percent cheaper in terms of total investment than continuing with the T-46 or making major modifications of the T-37, they would be only three percent to twelve percent cheaper in terms of two-year costs as lower investment costs are offset by higher operating costs. Moreover, in the long run, past the 20 years of this analysis, the advantages of lower investment costs would be outweighed by higher operating costs for these alternatives. Also these more limited modifications would not provide the improvements in safety and utilization that the Air Force believes are important." Also these more limited modifications would not provide the improvements in safety and utilization that the Air Force believes are important."

MANNED HYPERSONIC ESCAPE SYSTEM SOUGHT

Exploratory development and evaluation of concepts for crew escape systems for vehicles capable of hypersonic flight in the upper atmosphere as well as in space is called for in an RFP to be issued March 28 by the Air Force Aeronautical Systems Division. The concepts developed are to provide emergency escape and recovery for man throughout the vehicles' total mission from launch to landing.

□ 2040

We have heard from the Congressional Budget Office, March 10 memo, from Bob Hale; subject: analysis of Air Force trainer alternatives.

Unless otherwise noted, all years referred to in this paper are fiscal years.

Details in the text, tables, and figures of this report may not add to the total because of rounding.

All costs expressed in current dollars use the Administration's February 1986 economic assumptions.

Should the Congress add funding for the Air Force's new primary trainer, the T-46? Or would modifications to the current trainer, the T-37, suffice? How would such a decision affect the cost and capabilities of the trainer fleet? These will be important questions as the Congress continues debate over the Department of Defense budget for 1987. This analysis by the Congressional Budget Office (CBO) assesses the costs and effects of alternative procurement or modification profiles that could result from these decisions. The study was done at the request of the House Committee on Armed Services. In keeping with CBO's mandate to provide objective analysis, the study contains no recommendations.

Lane Pierrot, of CBO's National Security Division, and William P. Myers, of CBO's Budget Analysis Division, prepared the analysis under the general supervision of Robert F. Hale and John D. Mayer, Jr. Robert Kornfeld, of CBO, provided extensive assistance during the study's preparation. The authors gratefully acknowledge the contributions of Wayne Glass, Diane Griffith, Rebecca J. Kees, and Francis Pierce.

RUDOLPH G. PENNER,
Director.

Each year the U.S. Air Force trains about 2,100 new pilots. Early phases of that training currently take place in a T-37 aircraft. But the T-37 is old and lacks features the Air Force believes are important. So in 1982 the Air Force contracted with Fairchild Republic Company to produce a new trainer aircraft, the T-46. Fairchild, however, has suffered major losses due to cost overruns and management problems in developing the T-46. The Air Force has also had to hold down its planned spending. For these and possibly other reasons, the Air Force has not put any money into its 1987 budget for further purchases of the T-46 and is considering alternatives.

This paper analyzes the costs and effects of several alternative approaches that meet Air Force trainer needs, including:

Continued procurement of T-46 aircraft;

Major modification of existing T-37 aircraft coupled with purchases of some additional trainer aircraft other than the T-46;

Minor modifications of the T-37 coupled with purchases of other aircraft.

THE T-46 APPROACH

The T-46 would meet Air Force needs for a new trainer with a new, more capable aircraft. It would have a better engine than the existing T-37, a pressurized cockpit allowing flight at higher altitudes less congested with civilian aircraft, better bad-weather capability, improved ejection seats for safety, and other advantages like improvements in reliability and maintainability. These improvements, the Air Force argues, would allow the T-46 to provide better training for more hours per month than the existing T-37 but at less operating cost per hour.

Costs to design and buy 650 T-46s would total about $2.6 billion, more than the costs to modify the T-37s. Costs to operate the T-46 would, however, be lower than the T-37. Thus 20-year costs for the T-46 would total about $6.1 billion (see the Summary Table and Alternative I in the text). These costs include investment and costs to operate the fleet for 20 years (1987-2006), discounted at an annual real rate of 4 percent. (Alternative discount rates of 3 and 5 percent do not alter the relative rankings of the options considered in most cases.)

I think that is important.

There is considerable risk of growth in T-46 investment costs, however. These investments costs reflect the funding that was included in the 1986 budget submission. Fairchild's cost difficulties in lot 1 of production suggest that actual investment costs could be higher than those assumed here, though it is difficult to assess the amount of the increase.

MAJOR MODIFICATION OF THE T-37

An alternative approach would buy no more T-46s and instead make major modifications of the T-37 to give it many of the same capabilities as the T-46. These would include altering it to extend its service life into the next century, providing a new engine, pressurizing its cockpit, and improving its ejection seat and up-grading its avionics. In addition, this approach entails buying 100 of a new trainer to offset the limited size of the T-37 fleet. For specificity in costing, the new trainer is assumed to be additional purchases of the TTB trainer aircraft that the Air Force already plans to buy for other missions.

This option would eventually meet all Air Force requirements for training capacity with a modified T-37 designed to be nearly as capable as the T-46. It is not, however, identical in capability to the T-46 approach. Most importantly, this approach would not meet all needs until the mid or late 1990s because of the time needed to design and implement modifications and to buy the new TTB aircraft. The T-46—if it stays on the schedule assumed in last year's budget—would avoid most near-term shortfalls.

Given Air Force assumptions about the "utilization" hours that modified T-37s would be flown each month, total costs of this approach would be similar to those for the T-46, though investment costs would be less. This approach would cost much less in investment over the next five years that continuing to buy the T-46 because it would take more time to accomplish the modifications and buy TTB aircraft than to buy new T-46s that are already designed and under construction. Total investment costs for this option would also be less than for the T-46 by 23 percent. Twenty-year costs, however, would be 2 percent higher because invest-

ment savings are offset by higher operating costs.

□ 2050

So, Mr. President, we come down to the point once again, you can keep an older plane flying and the cost over the 20-year life cycle will be more for keeping the older plane flying.

I did not come up with this budget report. This is the Congressional Budget Office. We can continue to move ahead on this, to examine it. I will conclude on this:

On the other hand, if the Air Force obtained improvements in utilization similar to those it expects for the T-46, this option would be substantially cheaper in terms of total investment (46 percent) and in terms of 20-year costs (16 percent). Currently, the Air Force believes that the T-46 can be operated 60 hours per month, but tht the T-37—even though extensively improved—could not get above its current level of 45 hours per month.

Once again we find it makes no sense to continue to make these improvements.

What about the minor modifications in the T-37?

If funds are stringent over the next few years, Air Force needs could be met at least partially through less extensive modifications of the T-37, such as modifications necessary to extend the life of the aircraft or those plus new engines. While these alternatives would be 35 to 69 percent cheaper in terms of total investment than continuing with the T-46 or making major modifications of the T-37, they would only be 3 percent to 12 percent cheaper in terms of 20-year costs as lower investment costs are offset by higher operating costs. Moreover, in the long run, past the 20 years of this analysis, the advanatges of lower investment costs would be outweighted by higher operating costs for these alternatives. Also, these more limited modifications would not provide the improvements in safety and utilization that the Air Force believes are important.

Mr. President, I hope we have begun to make some kind of impact about my commitment to this issue. Some would characterize it as parochial. I would ask others, maybe even those who say it is taking a step backward, or maybe putting themselves in the position that I find myself in, ask what would they really do? Would they really handle it differently? I have suggested some alternatives, a compromise. I met with the Air Force. Their hands are tied. There is no doubt in my mind that they are tied. So we find ourselves at 9 o'clock on a Thursday evening with this amendment that would once and for all, I believe, commit us to a course that is not prudent, a course that would wind up in retaining an outmoded plane that would have to be modified, that would cost the taxpayers more in the long run, and would deprive the Air Force of the plane that they wanted, that they have certified meets their needs. Not only have they certified, but the Congressional Budget Office has indicated it meets its standards, and the General Accounting Office has indicated meets their standards.

While I yield the floor at this time, understand that I have just begun. I would hope that some reason would find its way into this situation.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am not going to take much time, but I thought I would outline why this issue is before the Senate. Several Members have inquired of me, as the Senate's representative on the conference committee from the majority, as to why we did put the compromise language in the continuing resolution that authorizes the funds for the production of the T-46 aircraft.

First, let me say I think it ought to be clear to everyone concerned that we had no authorization bill when we in the committee. We had repeatedly requested an authorization bill. We did everything we could to urge the authorization committee to complete its action and withheld action on our conference report until the very last minute so that we could get that authorization bill.

Our committee and the Appropriations Committee have been very slow to support the T-46. Beginning in 1981 we had a request for what was then called the next generation trainer, and the NGT was a subject of great concern to us.

The committee requested the Air Force to review all options before we committed to this new trainer. We urged that the Air Force consider using the trainer that the Navy was using at that time to try and find a common aircraft for a trainer. It was after that that the Air Force persuaded all four committees that dealt with this subject in the House and Senate that it was essential the Air Force have its own primary trainer.

The Air Force has requested funds each year from 1981 through 1986 for the T-46. To date, we have appropriated almost three-quarters of a billion dollars and spent $500 million on this aircraft. It is once again to me a question of having been involved in pursuit of a goal, and having been very skeptical about that goal. But we were finally convinced and committed the money. Now in the fall of 1985 the Air Force, under rather severe pressure, has decided to abandon its goal for this next generation trainer and it will have a concept of upgrading, refurbishing, the T-37.

In 1982 we asked the Secretary of the Air Force if this was possible. It was not possible.

I have a series of quotes beginning in 1981. In 1981, the Air Force said, "Extending the T-37 service life will not correct any of the aircraft's operational deficiencies nor will it overcome fleet insufficiency."

In 1983 we inquired again, and again the Air Force said, "We need to replace the aging T-37 as quickly as possible. The T-37 introduced in the 1950's is fast approaching the end of its service life. In addition to being old and difficult to maintain, the T-37 has several operational deficiencies."

In 1984, the Air Force told us, "The T-46 has an excellent single engine performance in comparison with the T-37. We have to restrict the T-37 today in terms of flying in certain weather conditions at high altitude air fields or on hot days."

In 1984, when we suggested we ought to make certain what was going on, the Air Force said, "The operational impact of delaying even by 1 year extends beyond the obvious delay in the initial operational capacity, the IOC, and would require an undesirable extension of the phaseout of the cost inefficient and operationally deficient T-37's."

We have pursued through this whole period of time a concept of why we needed a T-46. It was the authorization committee in both the House and the Senate that insisted that we go ahead, that we pursue the T-46.

In 1982 we had the GAO review this and the GAO reviewed the contract and said the source evaluation and selection was done according to the Department of Defense and Air Force instructions.

□ 2100

In 1983, again, we had the GAO review the Air Force plans to buy the T-46. They concluded the program schedule called for a considerable overlap between production and development. They predicted delays and problems would increase costs and they were right.

The Air Force said to us again in 1984, the T-37 is not pressurized, the T-46 can operate at higher altitudes. The T-46 is more fuel efficient. The T-46 had safety features that the T-37 did not have.

The T-46 is a new design versus 1950 technology of the T-37. And most importantly to our committee, the T-46 would meet EPA and FAA noise standards that the T-37 does not meet. This is an operational aircraft for training jet pilots at home, in our country. We were seeking to have the Air Force comply with EPA and noise standard restrictions.

The T-46 they told us would be less expensive to operate and maintain. Again in 1985, all four committees—the authorization committee of the House, the authorization committee of the Senate, the two Appropriations Committees, one in the House and one in the Senate—approved the first lot production of the 10 aircraft, T-46.

The fiscal year we are in right now, all committees approved the continuation of this production. But in April, the Air Force canceled the contract. They cited schedule delays. We have had the GAO report read to us tonight by the Senator from New York and they concluded that there was still a requirement for the new trainer.

This T-46 contract has been on hold since April 1986. Our problem in our conference was to determine whether it could go forward under the circumstances and stay within the original bid requirement. So let me emphasize the language that is before us in the bill, that the Senator from Arizona seeks to delete.

That language provides that none of the funds provided in this or any prior act may be used for the T-46 airframe production contract which existed on October 1, 1986, for other than the lot one production.

In other words, there must be a competition. There must be at least a new contract, which assures that the maximum production unit cost for each aircraft will be what it was estimated to be in 1986 dollars and that the total cost of the aircraft program will be the limit originally set.

That total cost, Mr. President, includes the moneys already made available for expenditure.

Now, Mr. President, I think this is fiscally sound. We know we are going to have to have a new trainer. What is being suggested now is that we abandon this program which has been underway since 1981, that we just flush three-quarters of a billion dollars down the drain again. It is the same story we have heard on so many systems: After it has gone along for a while, someone questions it and on the basis of political pressures from somewhere else in the country, the system is put down and a new aircraft will come along.

We have an absolute demand for a new aircraft. We cannot maintain our proficiency in jet aircraft without a new trainer. Everyone knows that. If we abandon this one, what is it going to be? Is it going to be the Hawk that the Navy uses that is built in Great Britain? Is it going to be the de Saulte trainer that I flew when I was in France 2 years ago? It is a very good trainer, and it is available to us.

Where is the next generation trainer that is built in the United States, if it is not the T-46? Because the T-37 certainly is not a next-generation trainer. If we put this kind of money that people are suggesting into the T-37 to upgrade it and try continuous utilization, we will have at most a plane that will last for 2 or 3 years. This plane will last for 15 or more years. If we go ahead with it, we will not have lost the three-quarters of a billion dollars we have made available already.

I am sad to see us in this dispute once again. It is unfair, however, for those involved in the authorization process to come here in October and tell us, is this not sad, the Appropriations Committee once more is seizing the direction of the Air Force or the Department of Defense and they are trying to tell us what to do.

All we needed was an authorization bill. Had we had an authorization bill and these funds not been in there, we had agreed and we absolutely agreed we would live up to the authorization limitations this year. We pleaded with them to get us a bill.

Now, here we are. That authorization bill has not become law. This is not something that is subject to limitations. As a matter of fact, I am told now the authorization bill is not even going to be submitted to the President until this bill is signed by the President. So, as a matter of fact, there will be no authorization for any single unit in this bill when it passes.

Let me repeat that, Mr. President: There is no problem here about authorization because this bill will be the authorization bill at the time it passes until that other one is submitted to the President.

There have been problems with this trainer, there has been no question about it. But we have been the ones in the appropriations process who, all along, have urged that this be totally examined and once we were convinced, we made the moneys available. After we become convinced and made the moneys available, the authorizing committee started to shut off the supply and questioned this trainer.

No one in this body, as I have said before, has greater love or admiration for our good friend from Arizona. He knows that. This is not something personal between us. We are both pilots. He has flown it. He had flown the T-46 and I remember the day he came back and told me it is a good airplane.

It is not a question of whether it is a good airplane. It is a question of whether or not the Air Force wants it. I say to the Senate now that the Air Force, before our Appropriations Committee, has never, never denied the desire to have the T-46. Even this year, Dr. Cooper said, if you buy it and you pay for it, we want it; certainly, we want it more than the T-37 upgrade.

When you look at this today, I tell you, Mr. President, we cannot have the best-trained pilots in the world unless we are willing to provide them with the best fighter trainer that is available. This is the best one, the best one that is available.

The question now is not whether it should be made available, because we have already put up money for 10 of them. We already put up $500 million for R&D. Now, we are asked to abandon that and go off and start a new competition, a competition which will include at least a plane from Brazil, another one from Israel, another one from France and Germany, another one from England, and I say we should keep to the commitment we made at the time we made the original commitment for production. GAO has examined into this. And even with the mistakes and the problem it has, the contractor can go ahead with this plane. I think any further delay in making the funds available to assure its construction will, in fact, cause severe difficulties for the contractor. I do not know any defense contractor who is not in that position after having been strung out as this one has been.

Our compromise language before the Senate ensures that program costs for the T-46A will not increase. If they do increase, the Air Force must in fact do what the authorizers seek now. They must recompute the contract.

I think we cannot expect our pilots to be able to defend this country unless they have the best training available. We cannot afford to turn loose new pilots, trainees, in F-16's and F-17's and F-18's. The difference in cost is very great. They need this trainer, in my opinion. I urge the Senate, despite what it has repeatedly done here, to reconsider.

Let me say this in closing, Mr. President. Some people have said why is it that this was the last item agreed to in conference, the last item agreed to in the conference with the House on this continuing resolution in the defense portion of the bill. The reason is obvious. This is a provision the House wanted most. I think anyone who was there knows that. Although there was not one member of that conference from the State of New York, the House Appropriations Committee has been committed to the T-46. They told us in the beginning of the conference they had to have the T-46. That was their desire.

In order to make sure that we gained the Senate's position on some things—and I challenge anyone to look at this bill from the point of view of the Senate's position. We substantially prevailed in terms of the Senate position, in terms of the systems and the funds we thought were necessary for defense for the fiscal year 1987.

My good friend from Mississippi found a saving in the Navy shipbuilding account and, by virtue of the changes that he made, instead of building a new destroyer, we are building a new cruiser and taking advantage of those funds. That was a Senate change in the whole process. Everyone now has admitted that that was a very, very good suggestion.

□ 2110

We have had a series of other compromises that were made, primarily to

carry out the Senate position. The T-46 was an item the House insisted had to be in this bill. It was put in there, if you look at the debate on the floor over in the other body last night, with the full approval of the appropriations and authorization committees. And now at the last minute we are told, "No, do not do this, do not put up the money for the T-46. Go ahead, waste three-quarters of a billion dollars. Do not proceed."

Mr. GOLDWATER. Will the Senator yield?

Mr. STEVENS. I do yield. Again I say it is with great respect and extreme reluctance that I oppose the amendment of the Senator from Arizona, because I know no one in the Senate who wants a strong Air Force and a strong defense more than I unless it be the Senator from Arizona.

Mr. GOLDWATER. I thank my friend. I would like to remind my good friend from Alaska that when we started this—I do not know how many hours ago it was—I said to the Senator from New York that I did not want to debate the merits of the airplane; I wanted to talk about the fact that the Air Force does not want this airplane.

Now, if somebody will get the commanding general of the Air Force to call me and say, "I want it," I can make more noise in favor of it than anybody here. But the Air Force does not want it.

I have never run into a situation like this. I do not know what we do when we run into a commander of a unit of our military who says he does not want this particular weapon. I do not think the Congress should ever, ever get in the position of buying weapons for our military that the military does not want.

This is a good airplane. I wanted the Senator from New York to yield when he had a little question about the stall characteristics. It had admirable stall characteristics, but the GAO is not a particularly well-noted group of test pilots, so they do not understand those little things.

I just wanted to tell my friend from Alaska that that is still the problem. Nobody is arguing about the merits of the airplane. We are arguing about the fact that the Air Force said no. And I do not know what to do about it. It would be like the Navy calling over and saying, "We are not going to take that submarine if you build it," or the Army saying, "We are not going to take that tank if you build it."

Well, here we have an airplane that all of us, including myself, thought the Air Force was going to take, but that is the word. And until you fellows can change the mind of the Air Force, I do not know what we can do. We can let my friend from New York stand here and talk until 10 o'clock tomorrow morning. He can deny pay for every civil employee in this country and every man in uniform, but that is up to him. We are not solving the problem. If my friend from Alaska wants to call the general and ask him to come over here and sit in the room and talk, maybe we can bend his arm. I do not know if you can. But I just wanted my friend from Alaska to know we are not debating an airplane's merits or lack of merits. We are debating the fact that a military organization in this country just says, "We do not want it." It is a hard thing to overcome.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. ABDNOR). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to respond at some length if necessary to the very careful, very thoughtful remarks of the Senator from Arizona, a treasured friend, as he knows. We have been associated in many of these enterprises.

Might I first say, Mr. President, with respect to the situation we find ourselves in, it is a quarter past 9 o'clock on a day when the continuing resolution that keeps the Government in operation this 15 days past the outset of the fiscal year expires at midnight, and we well know that. There has been some question in the Chamber, and it is understandable, why would the Senators from New York—and there will be other Senators speaking—wish to push the body to that midnight moment of crisis over such a specific issue.

May I even so say that we gave in my view fair notice of this matter. Yesterday early evening, speaking on the Defense Authorization Act, I noted that the continuing resolution provided funds for the T-46 trainer, as the Senator from Alaska has made clear. I said, if I may quote: "Mr. President, the continuing resolution which we will be dealing with tomorrow," as I hoped we would do and as indeed we have done, and are doing, "provides funds in the amount of $151 million for the production of the trainer, the T-46, in fiscal year 1987 and specifically provides for the release of $169.9 million that had already been appropriated for fiscal 1986 but have not yet been released. That is the continuing resolution. That is a measure we will pass and it will become law," as indeed we will pass this measure and it will become law.

I then said, Mr. President, and again I quote: "I hate to say something I have not ever before said, I believe, on the floor of the U.S. Senate, which is that the continuing resolution must pass as it is now written or I cannot anticipate the time when we will be able to vote on it."

If I could say again, Mr. President, I said, as we passed the defense authorization bill, "A bill is not likely to become law which contains a prohibition on the funds for the T-46 trainer." "And as we looked forward the next day to the continuing resolution which provides funds for the present fiscal year and unfences, as the term is, the funds from the last fiscal year, I said that "It must pass as it is now written or I cannot anticipate the time when we would be able to vote on it."

That, of course, is what is happening this evening. The Senator from Alaska noted the great specific concern on the House side that the funding for the T-46 contained in this measure go through. The Senator from Alaska noted that it was the last measure agreed to in the conference committee, it was something the House wanted and which year after year in one form or another the Senate has agreed to provide funds for, in all, some six-tenths of a billion dollars in funds just in the development of this plane, which plane is clearly needed and which clearly is going to be built. The question is when and where and by which company.

Now, what is our problem? Not to understand our problem in the large is not to give us any opportunity to resolve it in the detail. Our problem, Mr. President, is that the funds for defense in the U.S. budget have now commenced to decline. They have commenced the inexorable decline which a number of us stood on this floor during a long week in October, then November, and then still later December 1985 and said would happen were the Gramm-Rudman legislation to be enacted. The steady path of increase in defense budget authority and outlays which began in the late 1970's would come to an end and we would go through a crunching experience of cutting, of doing without, of choosing between equally undesirable choices, of facing the prospect of putting out of mind $600 million for the development of a necessary military vehicle. Here are the numbers, Mr. President.

□ 2120

In fiscal year 1985, the budget authority for the Department of Defense was $286.8 billion. That was its peak—fiscal 1985, which of course began in calendar year 1984. The next year, fiscal 1986, budget authority dropped to $278.4 billion.

Mr. President, this is not an unimportant event. The decline in defense budget authority between 1985 and 1986 was the first such decline since 1970–71, at the effective end of the Vietnam war. We have had a nominal dollar increase every year since that time.

In 1970, our budget authority was 74.1. It dropped to 71.2 on 1971. We have now begun to decline again. This year, we rise a little bit from 1986 to $282 billion, but we are still not at the level of fiscal year 1985. The much

heralded return to a steady path—and I do not think I will be contradicted—which has left us in the 5-year budget projection of President Carter, in 1981, has come to an end, just as Senator HART and I and others said it would do. We asked during the initial debates on Gramm-Rudman-Hollings if that ought to be allowed, to the sometimes derisive responses that "surely nothing like that would happen," and yet that is exactly what has happened.

I am moved, Mr. President, and distressed to read the lead story on the front page of today's Los Angeles Times. I show it to the Presiding Officer, my good friend from South Dakota [Mr. ABDNOR]. It says:

> Congress okays 3 percent Pentagon spending cut. Votes $292 billion for defense. Avoids arms confrontation.

The story, by Sarah Fritz, a Times staff writer, datelined Washington, says:

> Congress stepped back from a confrontation over President Reagan's arms control policy in the wake of the Iceland summit when it passed a $292 billion defense spending bill that provides for a three percent real reduction in Pentagon spending.

Let us be clear—a 3-percent real reduction in Pentagon spending.

I skip a paragraph, and it goes on:

> The smaller Pentagon bill is the last hurrah for retiring Chairman Barry Goldwater, who noted that for the second consecutive year, Congress has failed to increase defense spending enough to account for inflation.

If I may repeat that paragraph, it ought to sink into the heads of each of us in this body:

> The smaller Pentagon bill is the last hurrah for retiring Chairman Barry Goldwater, who noted that for the second consecutive year, Congress has failed to increase defense spending even enough to account for inflation.

As I read that, I realize that when I first read the paragraph, I left out the word "even"—"even enough to account for inflation."

The Los Angeles Times quotes Senator GOLDWATER:

> We are cutting too much from defense. Now, let's not kid ourselves. Anyone who thinks we can go on cutting the defense budget to the point where we actually have declining growth rates of more than 3 percent a year without undermining our defense posture is indulging in a happy but unrealistic delusion. I have a terrible sense that we are returning to the irresponsible policies of the late 1970's.

I know that my dear friend will not mind if I say that it was the early and mid-1970's he was talking about. In the late 1970's, the present path of growth commenced and had continued until 2 years ago. I see that, with his unfailing sense of fairness and his complete grasp of these matters, he is nodding in agreement with me.

BARRY GOLDWATER, in his last statement to the Nation about defense, said this:

> We are cutting too much from defense. Now, let's not kid ourselves. Anyone who thinks we can go on cutting the defense budget to the point where we actually have declining growth rates of more than 3 percent a year without undermining our defense posture is indulging in a happy but unrealistic illusion. I have a terrible sense that we are returning to the irresponsible policies of the 1970's.

I edit it to leave out the word "late."

That is what is happening. That is what was destined to happen the moment the U.S. Senate and the House and the administration, in the early part of this decade, commenced to incur enormous deficits, commenced to spend moneys we did not have at levels never known in our history, and doubled the national debt in 5 years.

It took 39 Presidents to reach a $1 trillion debt, and in little more than one Presidential term we went to $2 trillion. Tomorrow, we will have to provide yet another increase in the debt ceiling, a debt now grown so large that it begins to immobilize the American Government.

The elemental numbers are that the Federal Government spends about 24 percent of the gross national product each year.

□ 2130

Our revenues are about 19 percent. On a long glidepath from the mid-1950's when the operating revenues of the Federal Government were at about 15.5 percent of GNP, they are now down to 12.6 percent.

The revenues of the Social Security Trust Funds have grown, and those are dedicated taxes for dedicated purposes, but what we have to run the rest of our Government with goes down and down.

The largest item in our budget today is the defense program. If you leave Social Security aside, the second largest item is debt service—interest payments on the $2 trillion debt.

It is now about $150 billion and gaining on the defense program. You could reach a point in time not 10 years out where we will be paying more in interest payments than we have in defense outlays. We will not be paying them to ourselves as we once did when the debt, no matter what its size, was owed to Americans.

It increasingly is owed abroad and increasingly will have to be paid abroad.

We have put this Nation on a course——

Mr. GRAMM. Mr. President, could we have order?

The PRESIDING OFFICER. The Senator is correct. There will be order in the Senate. Those who wish to visit will have to step into the Cloakroom.

There will be order in the Senate.

Mr. MOYNIHAN. Mr. President, the result of this fiscal policy and the extraordinary legislation we adopted in 1985—legislation which the well-known and well-regarded columnist George Will has called the most irresponsible act enacted by the Congress since the Missouri Compromise which led so inexorably to the Civil War—has been the decline of the defenses of the United States.

We have first in our outlays the defense budget, then, excluding Social Security which is funded by a dedicated tax, interest payments. As these interest payments grow, the defense budget has commenced to decline: down 3 percent in real terms this year, down for the first time in 1986 since 1971.

And that is the context in which this present crisis arises. It is in the context in which a dozen and a dozen dozen crises will arise in the years ahead of us.

Here is the particular and specific set of circumstances surrounding the present condition of the T-46 program.

The fiscal 1986 continuing resolution states that the Air Force has testified on the need to replace obsolete training aircraft operated by Training Command. Congress has responded to this need and ratified this requirement by providing over $600 million in T-46 research and development and procurement funds to date.

The conferees to the continuing resolution agreed to provide not only full funding for fiscal year 1986 T-46 procurement, except for a minor inflation adjustment, but also the $151 million needed to procure T-46 aircraft through fiscal year 1987.

The conferees expected the Air Force to budget for and procure the T-46 aircraft in fiscal year 1987 and in subsequent years to meet this critical and well-justified requirement.

Mr. President, there is not any sensible person who will doubt the need for a new trainer. The one we now train our Air Force pilots on was put in service 25 years ago. Since that time, a whole new generation of fighter craft have come on line—a whole new Air Force has developed. We are still training with a small plane developed in the 1950's. A new one has been developed. It will be in use until the 21st century and this plane, Mr. President, will be built. There is no question about what plane the Air Force wants, when it can make the choice to procure it. That is what happened after Gramm-Rudman.

Given the force reductions which we talked about on this side of the aisle hour after hour, day after day during the debate on Gramm-Rudman-Hollings, to the indifference or derision of many Members of this Chamber—and, as I recall, we got 24 votes in opposition—the next thing, less than 1 year later in August 1986, the Air Force was told to cut approximately $30 billion from the 5-year defense plan and $6

billion from the immediately present fiscal 1987 budget.

The Secretary of the Air Force indicated that the T-46 should be considered as a budget-cutting candidate. The air staff subsequently proposed that the program be eliminated.

This is budget cutting. This is not defense planning. This is Gramm-Rudman. This is not a realistic approach to what the Air Force needs and if the Air Force needs it the country needs it.

In September the 5-year defense plan carried the T-46 at zero. The program would be cut after producing just two prototypes.

The Air Training Command found that to continue with the T-37, even with modification, would yield high operating costs and pilot safety would remain in question.

Mr. President, my colleague from New York has spoken at length about the operating qualities of the existing trainer and the Senator from Arizona who has flown the new plane has said, as he has repeatedly said, "If I could only get a telephone call from the Secretary of the Air Force to build the plane, I will build it."

And anyone who suggests there is anything personal about his decision is going to have to answer to this Senator on the floor because there has never been a thing, in his unparalleled career in the U.S. Senate, that BARRY GOLDWATER has made a personal decision about national defense, not 1 minute, not one thing.

If there is one person in this Chamber who suggests as much let him stand right now and say so. I will say again if there is one person who thinks that BARRY GOLDWATER has made a personal decision about national defense let him stand. I look about me, Mr. President. I wish the cameras could look about me. There is not a person standing. There is not a person who would not be ashamed to do so. Indeed, this is a body that with pride would reject any such proposal.

But when Senator HART of Colorado said this was what was going to happen to the defense program in those long weeks at the end of 1985 he was right. It is happening now.

These are choices forced upon us by our indecision about budget matters. Indecision which has led to this incredible mass of the largest spending bill in history.

If you would drop it out of an Air Force plane, even pre-World War II, it could do great damage to most enemies just by virtue of its size. But it does most damage to us in its incomprehensibility and the need to make decisions such as this, which we know we should not be making.

Funding for the T-46 is an investment, an elemental investment in the training of pilots.

It has been on line for a good decade, and $600 million has been spent developing it. Only because of the rigidities this Congress has imposed on the Air Force are they now saying they have to have fuel and they have to have rations and they have to have maintenance and they will put this off until, they hope, a better day comes.

Is there anyone in this Chamber who would say to me that if in the aftermath of the Gramm-Rudman legislation the Air Force had not been told to cut $30 billion from its 5-year defense plan, they would not today be asking to continue the T-46 program as it was in place and indeed a decision already made, settled, done?

Is there anyone who wishes to say they would not?

Mr. GOLDWATER. Mr. President, will the Senator yield at that point?

Mr. MOYNIHAN. I am happy to yield for a question.

Mr. GOLDWATER. What the Senator has just said is really the guts of this whole problem. The Air Force, as you know, cut the T-46 and when they started cutting the military budget the first one was $18 billion and then it was a few more billion and then it got up to $30 billion, and the Air Force at that time had to start reneging and they reneged on the T-46 for the simple reason and they stated it at that time they did not have the funds.

□ 2140

I honestly believe that is the trouble today. And, as the Senator has pointed out, we have had a minus 3-percent situation in the defense budget. And, as he correctly said, if we continue in this direction—and I do not see any reason to think it is going to stop, because we have too many people in the other body that think the military can take all the cuts. We cut $30 billion this year and in domestic programs added about $17 billion or $18 billion.

If we are going to start cutting, it has got to be across the board, not just cut the military, but cut everything. If we ever have the courage to do that, we can start balancing budgets and cutting down the deficit.

Mr. MOYNIHAN. I think once again the Senator from Arizona spoke the truth. He knows the language. He makes the point that the Congress has, of necessity, in the continuing resolution before us, cut $30 billion in defense budget authority from the requested amount from the Executive, from the President—$30 billion.

I have served in the executive branch of this Government when the entire defense budget was $50 billion and now we are getting to the time when we will have to cut it by that much. And, again, we knew this was coming. We ask: Is this a sensible decision? Is this an equitable one?

Now, I know, Mr. President, there is a question of parochialism, of State interests here. And I grant that there is. But might I make a statement here, because in the past, over the years, the Senator from Arizona has been very open and very generous-minded in this regard.

I represent New York State, as does my distinguished associate, Senator D'AMATO. For a very great many years, we have found ourselves sending a very great deal more money to Washington than we receive back. And the real source of disparity is in the defense area.

The State of New York, with some 7.5 percent, rounded, 8 percent of the population, never receives much more than 5 percent of the total defense outlays in the country. We had 5 percent in 1976 and 5.8 in 1977 and averaged 5.4 for the last second half of that decade. In the first half of this decade, it has gone down to 5.0 percent. In 1985, we dropped below the 5-percent mark, to 4.9 percent.

Our contracts are not all that bad. It is basically in salaries and wages where we lose out. In 1985, for example, the State of New York had 1.7 percent of all the defense salary and wages. We understand that in some measure. I mean, having fought three Pacific wars, over one, or if you like, two generations, we are going to have a great many naval bases in the Pacific, the climate being what it is. The Army installations tend to be in the sunnier parts of the world.

Although I can recall in 1977, not perhaps knowing whether I would be anticipating more than I knew, I remarked that if you looked at the deployment of the U.S. Army in the continental United States, the lower 48, you would think we were planning to fight the next war in Nicaragua. I said, "You know, there are parts of the world where sometimes it snows and even freezes."

I am happy to say the Army has responded by deploying the newly formed 10th Mountain Division in northern New York State.

We understand those things. But we also understand a decision being driven by budgetary considerations, all together extraneous to Air Force concerns or needs, a decision forced upon them, which would have the effect of closing an honored and valuable defense contractor on Long Island: Fairchild Republic. Its corporate headquarters, in this, the world of mergers, is now to be found in Virginia. The engine for this plane is built in Arizona.

And note in particular, Mr. President, that this engine is built in Arizona and the man doing what he feels to be his responsibility in this Chamber is from Arizona. That is another aspect of the qualities of BARRY GOLD-

WATER. I do not know another person in this body who would do it.

But we ask: Does it make sense? Are we letting our mistakes about budget and fiscal policy drive us into yet a further mistake with respect to defense policy? And we say we think we are.

I see my distinguished friend, the chairman of the Budget Committee, has risen. If he would like me to yield for a question, I would be happy to do so.

Mr. DOMENICI. I would be delighted if you would yield for a question without losing your right to the floor.

Mr. MOYNIHAN. I am happy to do so.

Mr. DOMENICI. Provided you permit a bit of liberty. My question may be slightly lengthy, maybe not more than 3 or 4 minutes. Is that all right with the Senator?

Mr. MOYNIHAN. His remarks can scarcely be more lengthy than the continuing resolution.

Mr. DOMENICI. Let me just say this. I do not want the Senator from New York to answer this question, but I doubt very much if the U.S. Senate or the U.S. House, with or without Gramm-Rudman-Hollings, would add $30 billion to the defense budget. What are we talking about? Gramm-Rudman-Hollings cut the defense budget $30 billion over the President's request. That is absolutely incredible.

Are we suggesting that, if we did not have the targets of Gramm-Rudman-Hollings, this year we would have given the President his entire budget request on defense? We have not done it since 1981. We did not do it in 1982. We did not do it in 1983. We did not do it in 1984. We did not do it in 1985.

As a matter of fact, over the course of recent years we cut about $190 billion in budget authority from the President's budget request on defense and Gramm-Rudman-Hollings was not even around. Gramm-Rudman-Hollings does not have anything to do with it.

Now let me talk about this document that we might drop from an airplane and would cause an explosion. Is it reasonable to say that there is something wrong with this bill because it is gigantic, 13 total appropriation bills. But there is nothing wrong with a tax bill that is three times as big, with 14 other things waiting around for us to read later, not driven by the Gramm-Rudman-Hollings budget processes. It is good legislation and we ought to pass it quickly and we can understand it. Why, everybody knows that is not the truth.

Let we tell you what I think about this continuing resolution. I think it is almost high time that the U.S. Congress have one appropriations bill. As a matter of fact, this is not the continuing resolution. This is an excellent experiment in one omnibus appropriations bill. And it is not bad. I tell you, it is not any worse than if you had 13 shots at it. As a matter of fact, it is better.

We got to put far less goodies on it. We did not amend it with everyone's requests, because those requests were out of order under the new budget procedures. If you offered them, you had to cut something. And we did not find one single one that succeeded, as I recall. As I recall, not one.

Now, let me tell the good Senator from New York and those others who have spoken about it is high time we cut the rest of Government, not only defense, let me tell you this: This is as fine a year in terms of fiscal responsibility—let me repeat—as fine a year in terms of fiscal responsibility across the board since when? Since 1955. Dwight David Eisenhower's balanced budget is the only time in the last 30 years that the entire budget of the United States grew less year after year than this budget.

This year, this budget will be negative 2.3 percent in terms of real growth. This means it will not even grow as much as inflation. Inflation is 2.9 percent and, in nominal terms, the budget this year will grow only about one-half of 1 percent.

Mr. MOYNIHAN. I wonder if the Senator would tell me what his question is.

Mr. DOMENICI. My question will be here soon, I say to my friend from New York.

Now let me tell you something else, and we will put this one in the record. For those who think this year we are only cutting defense, let me tell you this is a phenomenal year. In terms of the chairman of this Appropriations Committee, he deserves absolute, unequivocal congratulations.

□ 2150

Let me tell you what this budget does to the expenditures of the United States for those who think it is only defense that is getting cut. Let us just look at outlays. That is what counts. National defense will go up minus seven-tenths of 1 percent in real terms. It will not even be growing at the rate of inflation.

Entitlements, Mr. President, about which we have been complaining forever because they are growing so much. They have declined this year like defense; they are down 0.5 percent in real terms. That means that even with cost-of-living indexes built in, the reforms in these programs has caused entitlements to grow at less than inflation by a substantial margin.

What about the nondefense discretionary accounts? We hear everyone saying those appropriators ought to cut more. We hear the President of the United States saying when are they going to cut the budget? Well, let me tell you about it. These programs are declining 5.4 percent in real terms. Where is the growth? There is not any.

I repeat, the expenditures in this budget are as restrained as any budget since 1955. And is Gramm-Rudman-Hollings working? Well, it might be coincidence, but this is the first year when we had the threat of a sequestration and we achieved this restraint. What is the next best year we have had?

Mr. MOYNIHAN. Could I ask my friend once again what is his question?

Mr. DOMENICI. It will get there. Thirty seconds. My distinguished leader asks that I ought to ask you what the time is.

Mr. MOYNIHAN. It is 30 seconds from the time you are going to stop talking. [Laughter.]

Mr. DOMENICI. Now I have another question. Let me just finish this. Let us talk about the next best year in terms of growth reduction in the Federal budget. You might have said it was 1981 that the revolution began. That is not right. You might have said it was 1982. That is not right. You might have said 1985. We were really busting the bank when we should have enacted cuts. Not at all. In fiscal year 1985 Federal spending grew 7½ percent on the plus side in real terms. What year was that? The year preceding Gramm-Rudman-Hollings. You know what it grew the next year? One point seven percent and declining.

So for those who are wondering when will we reduce the expenditures enough to get a balanced budget, we will not unless you are prepared to cut defense of the United States by 10 percent. It only declined seven-tenths in real terms this year. You have to cut it to 10 percent or more. You will have to cut the real spending in the discretionary accounts not 5 percent, which we already did this year, but you will have to cut them 25 percent or more. Then you will have to take the entitlements, Social Security, Medicare, pensions, and you will have to cut real spending for these programs 15 percent. Then you will get a balanced budget.

Mr. MOYNIHAN. Five, four, three, two, one.

Mr. DOMENICI. All I had to say was I cannot believe anybody would seriously say we are in some kind of a jam over this trainer aircraft because of Gramm-Rudman-Hollings, unless they are prepared to say that we were really going to give the President everything in defense he has asked for. It was not in the cards. Whether you had Gramm-Rudman-Hollings or not, you had to begin to restrain the military.

Mr. MOYNIHAN. Mr. President, who has the floor?

Mr. DOMENICI. And they must make the choices here.

I thank the Senator for yielding.

Mr. MOYNIHAN. I thank him for his remarks. I hope, if we are going to hear talk about how we had to cut the defense budget, and we have cut this, we have cut that, and particularly the defense budget, these remarks will be remembered the next time it becomes the routine to return to the rhetoric of the last 30 years.

I listened to the Senator from New Mexico. Perhaps he would have the kindness to listen to me.

Mr. DOMENICI. Indeed.

Mr. MOYNIHAN. He is my friend, and he is my chairman. He said this. No growth in this budget. There most surely is. Interest payments continue to grow. They were $129 billion in fiscal 1985; they are about $143 billion in fiscal 1986; and the President's budget contemplated about $148 billion in 1987. I earlier rounded that to $150 billion—gaining on defense, passing everything else save Social Security. That is the result of borrowing $1 trillion from the Japanese and giving a party in the 1980's.

That is what we have done, Mr. President. The plain fact is the CBO-OMB estimate of the deficit for the coming year is about $154 billion. That includes the expectation that a reconciliation bill will still be passed by us tomorrow of perhaps another $13 odd billion, an expectation that is not necessarily to be consummated in which event we would be $25 billion over the nominal Gramm-Rudman target of $144 billion. That is scarcely discipline. But increasingly this body will find itself incapable of discipline without bankruptcy because we have borrowed so much it commences to consume us. All that talk about America, strong again, back on its feet, and here we are presiding over a real reduction in defense of 3 percent this year, following a reduction in fiscal year 1985, a very tiny increase in fiscal year 1986. We are going down that slope again which we heard so much about with such anguished concern from the other side of the aisle. But it goes on and on.

Now, what we said would happen is happening. All kinds of talk are going on about how it does not matter, or it might be a good thing. The Senator from Arizona said nothing of the sort. He did not explicitly say a statute was responsible but he said to me in my clear understanding, and I am always willing to be corrected by him, that if the Air Force had not been forced to take the $30 billion out of its programs, of course it would be asking to continue with this existing established sensible program—a program to replace a 25-year-old trainer plane with a new one. I mean, the most ordinary sensible thing, a matter in which six-tenths of a billion dollars has already been sunk.

We throw these numbers around, a billion, a trillion. there is a nice number, if you like, Mr. President. A billion minutes ago St. Peter was 17 years dead. A billion is a large number, and six-tenths of a billion is a large number as well.

We are asking, will we not, in fact, be throwing away the money? I think we will be just wasting a good portion of it.

Mr. DECONCINI. Mr. President, will the Senator yield for a question?

Mr. MOYNIHAN. Mr. President, I am happy to yield for a question.

Mr. DECONCINI. Mr. President, I ask unanimous consent that I may ask the Senator from New York a question without this being considered my first speech on this subject matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask my good friend from New York from what I hear went on, the Senator, my distinguished colleague from Arizona, says the defense budget has had to take a cut of some $30 billion.

Mr. MOYNIHAN. Yes, from the President's request.

Mr. DECONCINI. The Senator from New York has very, I think, eloquently explained that the Gramm-Rudman legislation had a lot to do with that, that this trainer and other national security needs might not be subject to the cuts we are having to witness today and go through this effort tonight in trying to restore as some of us believe we should.

My question to the Senator from New York is what would happen? Does the Senator from New York know what would happen if Gramm-Rudman caused this kind of cut next year or as I understand it might be even greater if we go into 1988 with Gramm-Rudman on the books and having to cut our national security any further?

□ 2200

Does the Senator care to comment on what he believes may happen to not only this trainer and other items that have been cut but other weapons systems as well?

Mr. MOYNIHAN. I am a little bit beyond my precise knowledge, but if we were to go down to the prescribed legal budget deficit which I understand to be $108 billion in this coming fiscal year—am I correct?

Mr. DECONCINI. I believe that is correct.

Mr. MOYNIHAN. To get to that deficit level from where I think we will be, with a deficit this year, which I estimate will come out to about $180 billion, I think we would have a simple solution to the question of the Senator from Arizona. He very accurately portrays that if we are going to follow Gramm-Rudman-Hollings next year, instead of eliminating the Air Force trainer we may simply eliminate the Air Force or some large fraction of it.

Mr. DECONCINI. If the Senator will yield, and I appreciate his answer, it seems to me if we are talking about a $70 billion cut across the board, the defense budget being $29 billion-some and likely to be at least that much requested and approved for 1988. You are talking about a heck of a chunk of money out of the defense and national security because of Gramm-Rudman.

Mr. MOYNIHAN. I see no alternative but to say that is my understanding. You know, we can talk about abolishing the Marine Corps and pick up, I am sorry to say, only about $8 billion that way. You have to start thinking, can we do without an Air Force? That may give us a hidden insight into the negotiations in Reykjavik.

Mr. President, the desperation of our public financing is on display—Mr. President, may we have order?

The PRESIDING OFFICER. Let us have order in the Senate so the Senator from New York can be heard.

Mr. MOYNIHAN. I thank my friend.

I want to say that the question we have before us, as the junior Senator from Arizona makes so clear in his question, is we have in small detail, an example of a problem we are going to have to deal with in massive proportions in the years ahead if we give ourselves a situation where we cannot raise revenues. We must pay ever increasing debt service, which is eating us alive, and the necessary and desirable functions of government—and I think they are distinguishable—will slowly commence to erode.

The senior Senator from Arizona pleaded on the front page of the Los Angeles Times this morning, "Do we realize what we are doing?"

He was not one to ask for a sufficient defense simply when he was in opposition. He has asked for a sufficient defense when he is in the majority, and he has been right. He has had to see this inexorable machine slicing away at matters no one in the defense establishment, no one in the Senate, would reasonably ask to happen had we not created this condition of necessity in our own financing. We created the crisis and we thought we could get out of it by having a machine do it. We thought, as the distinguished senior Senator from Maryland has said, we could do all these cuts by "anonymous consent," that a machine would do it, the Comptroller General would do it. When the Supreme Court said that was not constitutional, we were faced with the most bizarre proposition of all, which is that the President's Office of Management and Budget would do it. Everyone would do it but us, we who have the constitutional responsibility.

Instead, we find ourselves dealing with measures such as the one before us.

Mr. President, I do not think the Senate should behave this way.

Here we are, and our primary responsibility is the power of the purse. For 5 centuries and more, the British Parliament struggled with the King to establish the fact that only the place of representative government could levy taxes and authorize expenditures. In 5 years we want to give those powers back to the crown in the person and in the institution of the Executive on the eve of the 200th anniversary of the Constitution. We lapse into a passive attitude of letting somebody else make the decision which we are constitutionally sworn to make but institutionally seemingly incapable of doing.

Mr. DECONCINI. Will the Senator yield for another question?

Mr. MOYNIHAN. I am happy to yield.

Mr. DECONCINI. I ask unanimous consent that I may ask a question without the Senator's losing his right to the floor.

The Senator from New York is pointing out that what is going to happen, in accordance with what our discussion was in the last question I asked, if there would be as much as a $70 billion need to try to satisfy the budget reduction. But as this thing proceeds down the path that the legislation calls for, we may not make that judgment. That judgment may be made by the fact that there is certain legislation on the books now and that means that the cuts come, and in defense they will take the biggest share of the cuts because they are the biggest share of the budget, and you and I and the rest of this body will not have the chance to cut on that. Is that what the Senator is saying?

Mr. MOYNIHAN. I think it is the hope of many that we will not have to vote on it, but we can say somebody else did it. That is the day when this institution, the United States Senate, which has grown over two centuries, will have somebody else make the decision, and we will thus ignore our constitutionally sworn duty.

Mr. DECONCINI. This is the legislative balancing of the budget which we are into, which will cause, if it comes about, real damage to our national security just as I feel today the T-46 cut causing damage to our national security which the Senator said will cause us to talk about wiping out the whole Air Force or at least half of it. Where are we going to be? Somebody else will make that decision. I have to agree with the Senator from New York, that that is not what this Senator feels. I appreciate his comments.

Mr. MOYNIHAN. I appreciate the comments of the Senator from Arizona.

Mr. President, we do not believe in this decision. The Senate is capable of providing funds for operations we deem necessary, but we have put ourselves into a form of passive acceptance of rules that have no real relation to reality, and then we come up against absurdities, such as taking a clearly necessary event—the development after a quarter of a century of a new training plane for the Air Force, after having spent a half-billion dollars on it—and saying, "Stop, stop, we cannot afford it."

Of course you are going to do it. You have to do it. You cannot afford not to. The training of Air Force pilots is the beginning and the absolutely indispensable condition of having manned aircraft in the Air Force. Here we are saying we cannot do that.

How do we get to this condition? How do we get to the circumstance where, as the first time since 1970, we break all the steady momentum, the necessary progressivity of a defense budget restoration which does not have to go on forever—indeed, should not go on forever—but ought to reach a steady state somewhere in the 1990's? Exactly as we predicted, it is being broken in mid-flight, and the consequences are going to be great and they are going to be enduring, and they are going to be denied. I will repeat that. They are going to be grave, they are going to be enduring, and they are going to be denied.

I look forward to a new variety of friend here in the Chamber who having spent the first half of their political lives in trying to resolve inadequacies of the defense policies of others by not providing enough will now proclaim the superiorities of their own policies which provide even less.

That will not work. The time will come when we will ask, "what happened and who did it?"

What happened is that in this body, in this decade, probably irresponsible mistakes were made, or if mistakes were made and then recognized and not changed, a profoundly irresponsible decision was made not to rectify them.

We are all capable of mistakes. It is one thing that is necessary to do, to recognize them and acknowledge them, and not to glory in them.

□ 2210

None of us desire that, nor should we.

Mr. President, the hours pass. It is now 10 minutes after 10 p.m. I see the distinguished chairman of the Committee on Appropriations is on the floor. I wonder if there is any possibility that we shall have some resolution of this matter before we enter a situation which would be critical and which need not be if we simply take this amendment down. I would like it if, without losing my right to the floor, I could yield to the Senator from Oregon. He is engaged in colloquy with the distinguished minority leader.

Seeing the Senator from Oregon, the chairman of the Committee on Appropriations, on the floor, I ask if, without yielding my right to the floor, he had some thoughts as to how we might proceed.

Mr. HATFIELD. Mr. President, I respond to the Senator from New York by saying that we are hopeful that in the next few minutes, we shall have an alternative, an option to what we are now considering.

Mr. MOYNIHAN. Well, that is good news. I hope by "the next few minutes," he means something like an hour and 47. Otherwise we will find ourselves in the sad situation of seeing the official existence of the U.S. Government expire, which we would not want to have happen and should not have happen and we will not have happen. We should be able to work this out. I have not known of a situation in which the Senator from Oregon was involved, in which there were strongly-held views, conflicting views which he could not somehow accommodate us.

The Senator from Mississippi, the master of that great art of accommodation, is present. So while we wait for that resolution, I would like to speak just a little more about this particular airplane that we are discussing.

The U.S. Air Force, in the most normal and professional manner, in the 1970's began to anticipate the need for a trainer to succeed the one which had begun development in the mid-1950's. The next generation trainer would be deployed in the late 1980's and early 1990's and would be in service well into the next century. The concerns about the T-37 were genuine, were professional. At that time, Lt. Gen. Kelly Burke, who was Deputy Chief of Staff of the Air Force for Research, Development, and Acquisition, testified before the House, in 1981, that "it worries us because we cannot predict with great precision when an aircraft is going to wear out."

The Senator from Arizona earlier today pointed out that aircraft have a long life and they have many more replacement parts than we do as individuals. Even so, there are stress factors, metal fatigue and things of that kind which are so structural to the aircraft that you did not want to put——

Mr. STENNIS. Mr. President, will the Senator yield to me so I can make a brief announcement?

Mr. MOYNIHAN. Yes, with great happiness, without yielding my right to the floor.

Mr. STENNIS. I thank the Senator.

Mr. President, we have had quite a few calls. Senators are waiting. Several have been waiting here concerning the pending matter, this bill that we have up. I think there has been some

progress made in getting some adjustments made there. If we could get to those now, I believe it would pay off very generously in time saved and sound suggestions, too. Of course, that would be handled by the Senator from Oregon. It would be well if we could send out the word.

Mr. MOYNIHAN. If I could say to my friend, the distinguished Senator from Mississippi, I understand the chairman of the Appropriations Committee to say that a resolution seemed about to be at hand and he will have something to say shortly, in a few minutes.

Mr. STENNIS. Well, he is making a trial run on something.

Mr. MOYNIHAN. Whatever he wishes, I shall be happy to accommodate him.

Mr. STENNIS. I thank the Senator and I thank the Senator from Oregon, too.

He is tied up in another way now.

Mr. MOYNIHAN. Well, that is what he is supposed to be doing.

Mr. STENNIS. Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President——

Mr. DOLE addressed the Chair.

Mr. GRAMM addressed the Chair.

(Mr. DANFORTH assumed the chair.)

Mr. MOYNIHAN. Mr. President, I yielded the floor to the Senator from Mississippi. I am happy to yield to the majority leader.

Has the majority leader asked that I yield for a question without losing my right to the floor?

Mr. STENNIS. I thought they were ready, Mr. President, but it seems like it will take a little more time.

Mr. DOLE. I did not want to make a speech, but I do want to make a comment.

Mr. MOYNIHAN. Without losing my right to the floor——

Mr. DOLE. I wanted to announce that we are making progress. It is fairly hard to discern that. We are not certain ourselves, but we are going to announce that we are making progress.

I do believe we have worked out reconciliation. That has been completed now. So that is the remaining biggie that we have. I understand it has been worked out with Senator PACKWOOD and the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, the Presiding Officer, and others. We appreciate that.

It is my understanding that we are going to set this aside at the appropriate time and try to go to other matters in disagreement. That is progress. I want my colleagues who may be wondering what we are doing and why we have not voted to know that it is still the intention of the chairman and the ranking member that we wind this up. I indicate that they are right. At midnight, the Government technically will close. That would not really happen, I guess, until tomorrow noon, according to OMB.

I am also of the impression that the House does not intend to send us any more short continuing resolutions. They can change their minds, but they would like to go home tomorrow. That is a funny thing, but they would like to go home. They may be a little reluctant to send us another extension. I hope we keep that in mind while we continue here.

I thank the Senator from New York.

Mr. MOYNIHAN. I thank the majority leader. The Senator from New York has four tickets for the World Series on Saturday night and two sons and one daughter-in-law. He would like, if not to go home, at least to go to New York for that occasion.

The Presiding Officer indicates—it is not the first indication I have had in these last few days—that perhaps he might be there or perhaps he would like provisions that make it possible for him to be there.

All these things are possible. As a matter of fact, the sooner we resolve this matter in favor of New York, the more box seats there are going to be available without any question. How can we doubt that a grateful State will want to respond with the courtesies that we like to think we are associated with and on occasion, we are?

I am holding the floor, Mr. President, in the absence of my colleague from New York and my colleague from Arizona—not for any purpose of prolonging this discussion, but rather awaiting the expected proposal.

Mr. GRAMM. Will the Senator yield?

Mr. MOYNIHAN. The Senator will not yield. He will yield for a question without losing his right to the floor.

Mr. GRAMM. Mr. President, the question is that there are others waiting to speak on this subject; I would like to ask unanimous consent that at the end of those speeches, the Senator have the floor back unless he just wants to control the floor for the remainder of the debate.

Mr. MOYNIHAN. The Senator wants to control the floor until his colleague from New York comes to the floor and his colleague from Arizona, who has not spoken and I do believe wishes to speak and is preparing himself to do that.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to do that.

□ 2220

Mr. HATFIELD. The Senator indicated a while ago that he was waiting for perhaps another option to what we are now considering. I would inform the Senator if he would be willing to yield the floor for a unanimous-consent request——

Mr. MOYNIHAN. I am happy to.

Mr. HATFIELD.—I think we can then move to other matters that we must dispose of. Then we will return to this subject where the Senator from Arizona, the Senator from New York, and others have agreed to his procedure and will be in a position to make their comments.

Mr. MOYNIHAN. Mr. President, how can I propound a unanimous-consent request that would be in accordance with the distinguished chairman's proposal?

Mr. President, I ask unanimous consent that if I now could yield the floor so that we move to other amendments in disagreement, I believe that would be the case—is that the intention of the chairman?

Mr. GRAMM. Reserving the right to object——

Mr. MOYNIHAN. Why does the good Senator from Texas not let me make the request and then decide whether he wishes to object?

Mr. HATFIELD addressed the Chair.

Mr. MOYNIHAN. Mr. President, could I just continue?

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. HATFIELD. Will the Senator from New York yield to me to make a unanimous-consent request?

Mr. MOYNIHAN. Without yielding my right to the floor subsequently.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, before I ask unanimous consent, let me briefly explain what the overall strategy is at this time so as to explain more clearly why I am asking for this unanimous consent.

The Senate has acted on one of the five amendments that are in disagreement with the House of Representatives. We have four remaining, obviously. It is the expectation that we can dispose of these other amendments rather expeditiously, perhaps having at least one rollcall on one of these amendments that has been requested, and we can get that out of the way very quickly.

And then we would return to where we are now, but in returning to where we are now in terms of the current amendment No. 59, as amended by Senator ABDNOR, as amended by Senator GOLDWATER, that vehicle would remain then the vehicle for I know of two amendments, one by the Senator from Ohio, one by the Senator from Montana, and there may be others that I am not aware of who want to offer an amendment, and then that vehicle would be open at appropriate times as we dispose of one of those amendments to the amendment that is pending presently.

So that no one is being precluded from offering an amendment on other matters, they will have that vehicle.

As you know—Mr. President, if I am not correct, please correct me—no Senator is in a position at this moment to offer an amendment on another subject because the Goldwater pending amendment has to be disposed of, which then opens the Abdnor amendment for another secondary amendment from any other Senator.

So we are not foreclosing any possibility of other amendments being considered. But it would, I think, perhaps assist the body as a whole to move to some kind of a compromise and to resolve the issue at hand.

Mr. MOYNIHAN. Could I ask my friend just one question.

Mr. HATFIELD. Yes.

Mr. MOYNIHAN. Would it be possible for him to include in his request that at that point when the amendments in disagreement other than the one we are on have been disposed of, and we return to the one we are on, that I receive the floor again for the simple purpose basically of seeing that my friends from Arizona and New York have an opportunity to speak as well?

Mr. HATFIELD. Mr. President, I would include that but at the same time I might observe, if I am not mistaken, that there would be no way to accommodate Senators unless the Senator from South Dakota [Mr. ABDNOR] withdrew his amendment, which would bring down the Goldwater amendment, opening up everything.

Mr. METZENBAUM. Will the Senator from Oregon make the assurance to the Senator from Ohio which I previously had indicated that there will be a vehicle, if the Senator from South Dakota will not be taking down his amendment, so that those of us who wish to offer an amendment will not be put in the position——

Mr. HATFIELD. The Senator from South Dakota has assured me that he is going to insist on his amendment until it is disposed of in one way or another.

Mr. DECONCINI. Will the Senator from Oregon yield for a question?

Mr. HATFIELD. Yes, I will be happy to yield for a question.

Mr. DECONCINI. It is my understanding that the Senator is proposing a unanimous-consent request that we set aside the Abdnor-Goldwater amendments?

Mr. HATFIELD. In effect yes, but I am going to phrase it using amendment No. 59, which is the basic amendment that is being used as the vehicle on which to build these others.

Mr. DECONCINI. Now, if that is accomplished, then if the Senator from Ohio or someone else wanted to offer amendments they could do it to these other amendments in disagreement; is the Senator from Arizona correct?

Mr. HATFIELD. That is correct.

Mr. DECONCINI. And therefore if we come back to amendment No. 59 and the Goldwater and Abdnor amendments, we will just be where we are now?

Mr. HATFIELD. When we come back we are still on the Goldwater amendment that will have to be disposed of one way or another.

Mr. MOYNIHAN. And the Senator from New York will then assume the floor once again.

Mr. DECONCINI. Yes. If the Senator will yield for a further question, if I understand the request of the Senator from New York as part of the unanimous consent, when we come back on amendment No. 59 and the Goldwater-Abdnor amendments, the Senator from New York would then be recognized to have the floor and it would still be considered his first speech on the subject matter?

Mr. MOYNIHAN. This Senator has no desire other than to assure his colleague from New York and his colleague from Arizona have an opportunity to speak.

Mr. EXON. Reserving the right to object——

Mr. HATFIELD. I have not made the request yet.

Mr. EXON. Does the Senator want me to state what my potential objection would be if he does propound it?

Mr. HATFIELD. I would be happy to hear the Senator, yes.

Mr. EXON. Since 4 o'clock this afternoon this place has been tied up, and I do not know that anyone is trying to prevent either one of the Senators from New York or the Senator from Arizona or any other Senator from pursuing their interests, legitimate or otherwise, to protect defense industries in their States. But I do feel, since no one has been trying to shut off debate that I know of, that it might be appropriate to recognize some of us who do not happen to agree with their proposition. And I for one may object to the fact that we have been going through a charade here for a long, long time that is about to be successful in the Senate caving in, as it usually does, to unnecessary spending in defense or somewhere else, and I therefore, when the Senator propounds the request, may object only from the standpoint that the Senator from New York be recognized again for his stated purpose of attempting to turn the floor back to only one side of this debate. So I thought it would only be appropriate for this Senator to state what his objection might be.

Mr. HATFIELD. I thank the Senator for alerting me to the problem.

Mr. President, I will suggest the following, and I would ask hopefully that the Senator from New York would understand that we are trying to expedite as well as protect every other Senator and not deny any Senator any right.

Mr. President, I will propound two unanimous consent agreements hoping that one of them will be accepted, and I am asking for the most generous outpouring of spirit on all sides to the issue.

First, I would propose a unanimous consent request that we temporarily lay aside the amendment No. 59, which is the current amendment under consideration, as amended, in order that we may proceed to the consideration of the other remaining amendments, and that the Senator from New York be recognized when we return to the current amendment that would be set aside.

Mr. GRAMM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will object, because I have waited here for 2 hours to have an opportunity to respond while others are not being denied a voice. Nobody is trying to bring this to a vote, but I think for Members to continually hold the floor while entering into long dialogs, blaming the death of this poor plane that nobody wants to buy on Gramm-Rudman, is simply an abuse of the basic courtesies that we extend to each other.

□ 2230

I am going to object until I have simply 5 minutes—not 2 hours. I do not need equal time to respond to that argument. But until I have 5 minutes to respond to these arguments, I intend to object to all unanimous-consent requests, and I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD. Mr. President, I now propound a second unanimous-consent request, and that is that we temporarily lay aside the current pending amendment, No. 59, in order that we may proceed to the consideration of the other amendments in disagreement.

Mr. GRAMM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD. I have not included the Senator from New York's——

Mr. GRAMM. Will the Senator restate the request?

Mr. HATFIELD. I asked that we temporarily lay aside the pending amendment, No. 59, in order that we may proceed to the consideration of other amendments.

Mr. GRAMM. I withdraw my objection.

Mr. MOYNIHAN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MOYNIHAN. I can make another proposal. The Senator from

Texas asked that he have 5 minutes to speak on this matter. I would be happy, when we return to the subject, if I can have the floor, and the first thing I would do is ask unanimous consent to yield to the Senator from Texas 5 minutes or as much time as he wants.

Mr. HATFIELD. Mr. President, I ask unanimous consent that we temporarily lay aside the pending amendment, No. 59, in order that we may proceed to the consideration of other amendments; and that when we return to No. 59, the Senator from New York will be recognized as having the floor, and immediately thereafter the Senator from Texas would be yielded to by the Senator from New York for 15 minutes.

Mr. GRAMM. Five.

Mr. HATFIELD. Five minutes for his presentation.

Mr. MOYNIHAN. Without the Senator from new York losing his right to the floor.

Mr. HATFIELD. Certainly.

Mr. RUDMAN. Mr. President, reserving the right to object——

Mr. EXON. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I object to an arrangement of any type. We are here now on a matter of importance to the country—this continuing resolution. I have heard a number of people on this floor—and I say this with the utmost respect to the Democratic leader, whom I respect deeply—talk about the management of time, and I have agreed with him on occasions, probably to his surprise.

Nobody is filibustering this except the Senators from New York. No one is saying that they cannot speak all night and into next week. But, quite frankly, I will take my direction from the President of the United States Senate, not from any Senator, as to my right to speak.

I do not like unanimous-consent agreements at this time of night, at the last hour, in which I have to, at my sufference, get permission to speak. So I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New York.

Mr. HATFIELD. Mr. President, I have run out of unanimous-consent requests.

Mr. MOYNIHAN. Mr. President, we have had observations about the defense program generally in the course of this conversation this evening. I had not thought I would be speaking. I have not anything further to say in anticipation of a resolution which the Senator from Oregon said may shortly be at hand, and indeed it may shortly be at hand, in any event. But I would like to go back to a statement——

The PRESIDING OFFICER. If the Senator will withhold, the Senate is not in order.

The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I should like to go back, in the spirit of conciliation and in the hope that we are going to see this resolved, to make the point I did at the outset, when I referred to my comments yesterday in this regard. I said:

> I hate to say something I have not ever said before, I believe, on the floor, but the continuing resolution must pass as it is now written, or I cannot anticipate the time when we will be able to vote.

That was certainly a good faith statement. In 10 years in this Chamber, I have never made one such, that I am aware of, and I find myself speaking now, not out of any desire to prolong these activities—rather, in the expectation that we may be resolving them—but because others have made it impossible.

I see that the Senator from Arizona is on his feet.

Mr. President, would I be correct in saying that if I yield the floor—there are three Senators on their feet now. I would hope that I might allow the Senator from Arizona—not me allow; only the Presiding Officer can do that—but I hope he can contribute to the debate. He has been patiently waiting for that to be done since 9 o'clock.

In the expectation that goodwill will prevail, I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I thank the Chair, and I thank the distinguished Senator from New York.

Mr. President, let me say that I have been here for an hour. The Senator from New York has been discussing at great length the economic problems this country faces as it relates to the T-46, but also as it relates to our defense.

Although I missed the first few minutes of the Senator's remarks, I compliment him on what he has laid out, because I think it has been excellent to understand why we are even discussing tonight the T-46.

Mr. President, amid all the discussions and debate on the T-46, there are several facts about which there can be no disagreement.

First, the Air Force needs something other than the present fleet of T-37 aircraft to meet its current and future training requirements.

Second, a new generation trainer was defined by the Air Force some years ago. A competition was held, and the Fairchild T-46 emerged the clear winner. That was the competitive basis, not sole sourcing. I should note here that the GAO substantiated the results of that competition.

Third, while there is no dispute about the facts that the program in its formative stage was troubled in a number of ways, it is equally clear that the manufacturer has taken the steps necessary to eliminate virtually all those problems.

Fourth, there can be no doubt that the economics of the situation—from the standpoint of what the American taxpayer has already invested in this program, as well as the projected relative costs of the alternatives—all reflect favorably on the T-46.

I would like to elaborate on each of these facts, the sum total of which is an extremely compelling argument for the T-46.

First, the Air Force needs something other than the T-37 trainer.

In 1979, during the Carter administration, the Deputy Secretary of Defense approved an Air Force Mission Element Needs Statement for a T-37 replacement. The replacement was accorded a "priority no less than equal to producing the prime weapons systems."

The T-37 shortcomings cited in this and subsequent Air Force statements remain valid today as they did in 1979. Among the deficiencies was that it was approaching the end of the service life with pilot shortfalls after 1988—that is a short time away, a year and a half—excessive fuel consumption and related high costs; excessive maintenance and related high costs; engine noise double that allowed by Federal aviation regulations; limited range/endurance; limited to altitudes below 25,000 feet; limited weather capability. That plane has flown in Arizona a lot. We do not have a lot of problem weather, but our pilots once they are trained have to be able to fly in all kinds of weather; out dated instruments. That was part of the problem of the T-46.

I would submit to my colleagues that one could hardly make a more comprehensive case for replacing the T-37 than that needs study that was put out by the Air Force and demonstrated that the T-37 had seen its day.

Second, the T-46 won the original competition for the replacement and is still the answer to the Air Force's training problem.

This statement requires no further elaboration, for as the following remarks illustrate, the T-46 test flight program is proving that the next generation trainer aircraft can meet or exceed the ambitious programmatic and financial goals set out for it. To quote the Congressional Research Service: "Both the Fairchild T-46 and Cessna T-37 are twin-engine, two-seat aircraft with the side-by-side seating of instructor and trainee that the Air Force prefers (in contrast to the Navy's preference for front-to-back

tandem seating). The T-46 has better performance capabilities than the T-37 in many respects, with a range of 1,200 vs. 500 nautical miles (nmi), a speed of 430 vs. 370 knots (nmi/h), and an altitude of 47,000 vs 25,000 ft. In contrast to the T-37, the T-46 has a pressurized cockpit, improved ejector-seats and avionics, and the more fuel-efficient F-109 turbofan engine."

Third, manufacturer has overcome early difficulties. The Commander of the Air Force Contracts Management Division, Major General Weiss, recently noted the remarkable turnaround at Fairchild. This resulted from substantial corrective actions—actions initiated and paid for by the company. They did a number of things and let me cite some of them. They appointed a new company president. Any of us who have been involved in the corporate world know that is not something easy and is just not done overnight. They promoted capable employees from within that have proven capacity.

They sold $200 million of corporate assets to provide needed funds so that they could complete this project. They invested over $110 million of stockholder funds in the T-46A Program. They devoted additional personnel to the program. They ordered new major equipment. They improved communication from top to middle management.

They increased skills and supervisory training.

They increased emphasis on quality, safety, and schedule rather than on cost only.

They strengthened the quality analysis function as part of their whole operation.

This effort resulted in a highly favorable GAO report on the T-46 Program. Defense News boldly stated: "A Clean Bill of Health." Defense Daily headlined, "GAO Issues Favorable Report on Fairchild T-46A." The New York Times reported, "Cancelled Jet Apparently Met Air Force Needs."

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. DECONCINI. I am happy to yield.

Mr. HATFIELD. The Senator will yield so I might propound a unanimous-consent request without the Senator losing his right to the floor and following the request and the approval of the request hopefully the Senator would have the floor back.

Mr. DECONCINI. And still be considered as a first speech on the subject matter.

Mr. HATFIELD. Yes.

Mr. President, I propose the unanimous-consent request that we temporarily lay aside the amendment No. 59, the current pending amendment, in order that we may take up other amendments on this list and that when we return to No. 59, the Senator from Arizona will have his right to the floor.

Mr. DECONCINI. The Senator will add, it will still be considered the first speech on the subject matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I thank the Chair and I thank the Senator from Arizona.

AMENDMENT IN DISAGREEMENT TO NO. 117

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The assistant legislative clerk read as follows:

The House recedes and concurs with an amendment in Senate amendment No. 117.

The amendment of the House to Senate amendment numbered 117 follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 117 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 155. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended (without regard to the limitation contained in section 102) by adding at the end the following new subsection:

"(j)(1) Any rig, platform, or other structure used for the purpose of exploration or production of oil and gas on the Outer Continental Shelf south of 49 degrees North latitude shall be built—

"(A) in the United States either by a United States chartered corporation or a joint venture between a United States chartered corporation and a foreign corporation, with at least 50 percent of total man hours expended in the United States; and

"(B) from articles, materials, or supplies at least 50 percent of which by cost, shall have been mined, produced, or manufactured, as the case may be, in the United States.

"(2) The requirements of paragraph (1) shall not apply to any rig, platform, or other structure which was built, which is being built, or for which a building contract has been executed, or on before October 1, 1986, and shall expire with respect to any rig, platform, or other structure for which either the bidding or award process has commenced on or after September 30, 1991.

"(3) The Secretary may waive—

"(A) the requirement in paragraph (1)(B) whenever the Secretary determines that 50 percent of the articles, materials, or supplies for a rig, platform, or other structure cannot be mined, produced, or manufactured, as the case may be, in the United States; and

"(B) the requirement in paragraph (1)(A) upon application, with respect to any classification of rigs, platforms, or other structures on a specific lease, when the Secretary determines that at least 50 percent of such classification, as calculated by number and by weight, which are to be built for exploration or production activities under such lease will be built in the United States in compliance with the requirements of paragraph (1)(A).".

Mr. HATFIELD. No. 117 is the amendment the Chair will report.

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. Mr. President, I am now going to ask for a unanimous consent request that has been again cleared by the major parties, that we have a 20-minute time agreement to be equally divided under control of the two managers of the bill on No. 117 that has now been reported and that I would then respond to the request of a number of Senators that we have a rollcall vote.

I would have that as a vote on a tabling motion that I will make on No. 117.

So that is the strategy that I want to lay out clearly for any questions before I either propound the request for time agreement or before I would make a motion to table the amendment.

Mr. HEINZ. Mr. President, will the Senator yield for an inquiry?

Mr. HATFIELD. I am happy to yield for a question.

Mr. HEINZ. Is amendment 117 the so-called Buy America offshore drilling amendment?

Mr. HATFIELD. The Senator from Pennsylvania is correct and had informed me that he wished to be heard on the amendment. That is why I am asking for the 20 minutes to be equally divided.

Mr. HEINZ. It is the view of the Senator from Pennsylvania that that should be an adequate amount of time, and I appreciate the Senator from Oregon's willingness to insure that there be a vote on it. I appreciate that very much.

Mr. CHAFEE. Mr. President, will the Senator yield?

Mr. HATFIELD. I am happy to yield for a question. I am going to hold the floor.

Mr. CHAFEE. Yes; a question. I would like to be heard in opposition to the Buy America amendment for, say, 4 minutes.

Is there going to be adequate time for that in what you propounded, 20 minutes equally divided?

Mr. HATFIELD. Mr. President, 20 minutes equally divided, and I do not want to cut anyone off and, again, if we have to go further, certainly we would have unanimous consent to go further than that time. I would not object to a reasonable extension.

Mr. CHAFEE. Except you cannot guarantee that you are going to get the unanimous consent. I notice that the Presiding Officer would like some time. It is my understanding he would like 4 minutes also.

Mr. McCLURE. He said 3.

Mr. HATFIELD. We seek to accommodate everyone in a reasonable timeframe to be heard on this subject. We will not make that broad invitation for Senators to come to be heard.

Mr. CHAFEE. We are not expecting an invitation this time of night. People

have to move forward. Those who are awake are welcome to be heard.

Mr. HATFIELD. Did the Senator understand, too, there will be a motion to table this and the yeas and nays will be asked on that?

Mr. CHAFEE. May I understand this: the motion will be to table the House amendment.

As long as the manager will guarantee this Senator 4 minutes, the Presiding Officer 3 minutes, that is all I have to ask at this time.

Mr. HATFIELD. I will guarantee only within the timeframe I will be allowed under the unanimous-consent request. If a Senator at that point wanted to extend it he will ask his own unanimous consent and I will not object to 2 or 3 minutes more.

Mr. CHAFEE. Let me ask of this manager, does he know of any other Senator who desires to speak?

Mr. HATFIELD. No.

I only know of one Senator, the Senator from Ohio, who I believe wanted to say a few words briefly.

Mr. CHAFEE. In opposition or favor of the amendment?

Mr. METZENBAUM. If I speak it will be in the same side as the Senator from Pennsylvania, in favor if I speak.

Mr. CHAFEE. Who is going to control the time in opposition?

Mr. HATFIELD. The two managers of the bill, or I would be very happy to designate Senators on my side, the Senator from Ohio, for instance, who wants to speak in favor of it, the Senator from Rhode Island wants to speak in opposition. I will be very happy to suggest to the manager that we yield the time to those two Senators.

Mr. CHAFEE. Mr. President, I ascertain that there are two others.

Mr. HATFIELD. A half hour. Would the Senator feel more confortable with a half hour equally divided?

Mr. CHAFEE. I think that would be fair.

Mr. DOMENICI. Good.

Mr. HATFIELD. Now, Mr. President, if there is no other request about this unanimous consent request on time.

□ 2250

Mr. President, I now ask unanimous consent that on amendment No. 117 debate the limited to one-half hour, equally divided between the Senator from Ohio and the Senator from Rhode Island.

Mr. BYRD. Mr. President, I reserve the right to object. I do have a Senator who wishes to speak. We are trying to inquire as to how much time he would want. Therefore, I could not agree at the moment. I wonder if the Senator could proceed and be speaking on the amendment.

AMENDMENT IN DISAGREEMENT TO NO. 124

Mr. HATFIELD. Mr. President, may I ask unanimous consent to temporarily lay aside No. 117 in order that we may go to No. 4 on the list?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The House recedes and concurs with an amendment to Senate amendment No. 124.

The text of the amendment in disagreement follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

TITLE VI—METROPOLITAN WASHINGTON AIRPORTS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act of 1986".

SEC. 6002. FINDINGS.

The Congress finds that—

(1) the two federally owned airports in the metropolitan area of Washington, District of Columbia, constitute an important and growing part of the commerce, transportation, and economic patterns of the Commonwealth of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by the State of Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the two federally owned airports, and timely Federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet the growing air traffic needs and to compete with other airports on a fair basis;

(3) the Federal Government has a continuing but limited interest in the operation of the two federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local agency will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95-504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the two airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the Federal Government and State governments involved;

(7) in recognition of a perceived limited need for a Federal role in the management of these airports and the growing local interest, the Secretary has recommended a transfer of authority from the Federal to the local/State level that is consistent with the management of major airports elsewhere in the Nation;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by the Commonwealth of Virginia and the District of Columbia; and

(10) the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

SEC. 6003. PURPOSE.

(a) IN GENERAL.—It is therefore declared to be the purpose of the Congress in this title to authorize the transfer of operating responsibility under long-term lease of the two Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by the Commonwealth of Virginia and the District of Columbia, in order to achieve local control, management, operation, and development of these important transportation assets.

(b) INCLUSION OF BWI NOT PRECLUDED.—Nothing in this title shall be construed to prohibit the Airports Authority and the State of Maryland from entering into an agreement whereby Baltimore/Washington International Airport may be made part of a regional airports authority, subject to terms and conditions agreed to by the Airports Authority, the Secretary, the Commonwealth of Virginia, the District of Columbia, and the State of Maryland.

SEC. 6004. DEFINITIONS.

In this title—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIRPORTS AUTHORITY.—The term "Airports Authority" means the Metropolitan Washington Airports Authority, a public body to be created by the Commonwealth of Virginia and the District of Columbia consistent with the requirements of section 6007.

(3) EMPLOYEES.—The term "employees" means all permanent Federal Aviation Administration personnel employed on the date the lease under section 6005 takes effect by the Metropolitan Washington Airports, an organization within the Federal Aviation Administration.

(4) METROPOLITAN WASHINGTON AIRPORTS.—The term "Metropolitan Washington Airports" means Washington National Airport and Washington Dulles International Airport.

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(6) WASHINGTON DULLES INTERNATIONAL AIRPORT.—The term "Washington Dulles International Airport" means the airport constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between the Interstate Routes I-495 and I-66.

(7) WASHINGTON NATIONAL AIRPORT.—The term "Washington National Airport" means the airport described in the Act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686).

SEC. 6005. LEASE OF METROPOLITAN WASHINGTON AIRPORTS.

(a) AUTHORITY TO ENTER INTO LEASE.—The Secretary is authorized to enter into a lease of the Metropolitan Washington Airports with the Airports Authority for a 50-year term and to enter into any related agreement necessary for the transfer of authority and property to the Airports Authority. Authority to enter into a lease and agreement under this section shall lapse two years after the date of the enactment of this title.

(b) PAYMENTS.—

(1) LEASE PAYMENTS.—The lease shall provide for the Airports Authority to pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator, to equal $3,000,000 in 1987 dollars. The Secretary and the Airports Authority may renegotiate the level of lease payments attributable to inflation costs every ten years.

(2) RETIREMENT OBLIGATIONS.—

(A) DISCONTINUED SERVICE.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the actual added costs incurred by the Fund due to discontinued service retirement under section 8336(d)(1) of title 5, United States Code, of employees who elect not to transfer to the Airports Authority.

(B) UNFUNDED LIABILITY.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the present value of the difference between (i) the future cost of benefits payable from the Fund and due the employees covered under section 6008(e) of this title that are attributable to the period of employment following the date the lease takes effect, and (ii) the contributions made by the employees and the Airports Authority under section 6008(e). In determining the amount due, the Office of Personnel Management shall take into consideration the actual interest such amount can be expected to earn when invested in the Treasury of the United States.

(c) MINIMUM TERMS AND CONDITIONS.—The Airports Authority shall agree, at a minimum, to the following conditions and requirements in the lease:

(1) OPERATION OF AIRPORTS AS A UNIT.—The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2) AIRPORT PURPOSES.—The real property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. For the purposes of this paragraph, the term "airport purposes" means a use of property interests (other than a sale) for aviation business or activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities. If the Secretary determines that any portion of the real property leased to the Airports Authority pursuant to this Act is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of real property in conformity with airport purposes, and (B) retake possession of such portion of real property if the Airports Authority fails to bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

(3) AIP REQUIREMENTS.—The Airports Authority shall be subject to the requirements of section 511(a) of the Airport and Airway Improvement Act of 1982 and the assurances and conditions required of grant recipients under such Act as of the date the lease takes effect. Notwithstanding section 511(a)(12) of such Act, all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of such airports.

(4) CONTRACTS.—In acquiring by contract supplies or services for an amount estimated to be in excess of $200,000, or awarding concession contracts, the Airports Authority shall obtain, to the maximum extent practicable, full and open competition through the use of published competitive procedures. By a vote of seven members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5) CONTINUATION OF REGULATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all regulations of the Metropolitan Washington Airports (14 C.F.R. part 159) shall become regulations of the Airports Authority on the date the lease takes effect and shall remain in effect until modified or revoked by the Airports Authority in accordance with procedures of the Airports Authority.

(B) EXCEPTIONS.—The following regulations shall cease to be in effect on the date the lease takes effect:

(i) section 159.59(a) of title 14, Code of Federal Regulations (relating to new-technology aircraft); and

(ii) section 159.191 of title 14, Code of Federal Regulations (relating to violations of Federal Aviation Administration regulations as Federal misdemeanors).

(C) OPERATIONS.—The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this Act and may not impose a limitation after the date the lease takes effect on the number of passengers taking off or landing at Washington National Airport.

(6) TRANSFER OF RIGHTS, LIABILITIES, AND OBLIGATIONS.—

(A) IN GENERAL.—Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations (tangible and incorporeal, present and executory) of the Metropolitan Washington Airports on the date the lease takes effect, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation relating to such rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of functions related to the period before the effectiveness of the lease. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) EXCEPTIONS.—The procedure for disputes resolution contained in any contract entered into on behalf of the United States before the date the lease takes effect shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the United States as the owner and operator of the Metropolitan Washington Airports, arising before the date the lease takes effect shall be adjudicated as if the lease had not been entered into.

(C) PAYMENTS INTO EMPLOYEES' COMPENSATION FUND.—The Federal Aviation Administration shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United States Code, for compensation paid or payable after the date the lease takes effect in accordance with chapter 81 of title 5, United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(D) COLLECTIVE BARGAINING RIGHTS.—The Airports Authority shall continue all collective bargaining rights enjoyed before the date the lease takes effect by employees of the Metropolitan Washington Airports.

(7) AUDITS.—The Comptroller General of the United States may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General may deem appropriate. All books, accounts, records, reports, files, papers, and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) CODE OF ETHICS.—The Airports Authority shall develop a code of ethics and financial disclosure in order to assure the integrity of all decisions made by its board of directors and employees.

(9) RESTRICTION ON USE OF CERTAIN REVENUES.—Notwithstanding any other provision of law, no landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington National Airport; or

(B) at Washington National Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) GENERAL AVIATION FEES.—The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee not in excess of the landing fee for aircraft weighing 12,500 pounds.

(11) OTHER TERMS.—The Secretary shall include such other terms and conditions applicable to the parties to the lease as are consistent with and carry out the provisions of this title.

(d) SUBMISSION TO CONGRESS.—The Secretary shall submit the lease entered into under this section to Congress. The lease may not take effect before the passage of (1) 30 days, or (2) 10 days in which either

House of Congress is in session, whichever occurs later.

(e) ENFORCEMENT OF LEASE PROVISIONS.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.

SEC. 6006. CAPITAL IMPROVEMENTS, CONSTRUCTION, AND REHABILITATION.

(a) IMPROVEMENTS.—It is the sense of the Congress that the Airports Authority should—

(1) pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) to the extent practicable, cause the improvement, construction, and rehabilitation proposed by the Secretary to be completed at both of such Airports within 5 years after the earliest date on which the Airports Authority issues bonds under the authority required by section 6007 of this title for any such improvement, construction, or rehabilitation.

(b) SECRETARY'S ASSISTANCE.—The Secretary shall assist the three airports serving the Washington, D.C. metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for Federal financial assistance by whichever of the three airports is most in need of increasing airside capacity.

SEC. 6007. AIRPORTS AUTHORITY.

(a) POWERS CONFERRED BY VIRGINIA AND THE DISTRICT OF COLUMBIA.—The Airports Authority shall be a public body corporate and politic, having the powers and jurisdiction as are conferred upon it jointly by the legislative authority of the Commonwealth of Virginia and the District of Columbia or by either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction, but at a minimum meeting the requirements of this section.

(b) PURPOSE.—The Airports Authority shall be—

(1) independent of the Commonwealth of Virginia and its local governments, the District of Columbia, and the Federal Government; and

(2) a political subdivision constituted solely to operate and improve both Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(c) GENERAL AUTHORITIES.—The Airports Authority shall be authorized—

(1) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(2) to issue bonds from time to time in its discretion for public purposes, including the purposes of paying all or any part of the cost of airport improvements, construction, and rehabilitation, and the acquisition of real and personal property, including operating equipment for the airports, which bonds—

(A) shall not constitute a debt of either jurisdiction or a political subdivision thereof; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or part from the proceeds of such bonds;

(3) to acquire real and personal property by purchase, lease, transfer, or exchange, and to exercise such powers of eminent domain within the Commonwealth of Virginia as are conferred upon it by the Commonwealth of Virginia;

(4) to levy fees or other charges; and

(5) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration is so authorized on the date of enactment of this title.

(d) CONFLICT-OF-INTEREST PROVISIONS.—The Airports Authority shall be subject to a conflict-of-interest provision providing that members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions to requirements of the preceding sentence may be made by the official appointing a member at the time the member is appointed, if the financial interest is fully disclosed and so long as the member does not participate in board decisions that directly affect such interest. The Airports Authority shall include in its code developed under section 6005(c)(8) of this title the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted.

(e) BOARD OF DIRECTORS.—

(1) APPOINTMENT.—The Airports Authority shall be governed by a board of directors of 11 members, as follows:

(A) five members shall be appointed by the Governor of Virginia;

(B) three members shall be appointed by the Mayor of the District of Columbia;

(C) two members shall be appointed by the Governor of Maryland; and

(D) one member shall be appointed by the President with the advice and consent of the Senate.

The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) RESTRICTIONS.—Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Area, except that the member appointed by the President shall not be required to reside in that area.

(3) TERMS.—Members shall be appointed to the board for a term of 6 years, except that of members first appointed—

(A) by the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) by the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; and

(C) by the Governor of Maryland, 1 shall be appointed for 4 years.

(4) REMOVAL OF PRESIDENTIAL APPOINTEES.—A member of the board appointed by the President shall be subject to removal by the President for cause.

(5) REQUIRED NUMBER OF VOTES.—Seven votes shall be required to approve bond issues and the annual budget.

(f) BOARD OF REVIEW.—

(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. Such Board of Review shall be established by the board of directors and shall consist of the following, in their individual capacities, as representatives of users of the Metropolitan Washington Airports:

(A) two members of the Public Works and Transportation Committee and two members of the Appropriations Committee of the House of Representatives from a list provided by the Speaker of the House;

(B) two members of the Commerce, Science, and Transportation Committee and two members of the Appropriations Committee of the Senate from a list provided by the President pro tempore of the Senate; and

(C) one member chosen alternately from members of the House of Representatives and members of the Senate, from a list provided by the Speaker of the House or the President pro tempore of the Senate, respectively.

The members of the Board of Review shall elect a chairman. A member of the House of Representatives or the Senate from Maryland or Virginia and the Delegate from the District of Columbia may not serve on the Board of Review.

(2) TERMS.—Members of the Board of Review appointed under subparagraphs (A) and (B) of paragraph (1) shall be appointed for terms of six years, except that of the members first appointed, one member under each of subparagraphs (A) and (B) shall be appointed for a term of two years and one member under each of subparagraphs (A) and (B) shall be appointed for a term of four years. Members of the Board of Review appointed under subparagraph (C) shall be appointed for terms of two years. A vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(3) PROCEDURES.—The Board of Review shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting. The Board shall meet at least once each year and shall meet at the call of the chairman or 3 members of the Board. Any decision of the Board of Review under paragraph (4) or (5) shall be by a vote of 5 members of the Board.

(4) DISAPPROVAL PROCEDURE.—

(A) SUBMISSION REQUIRED.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Board of Review at least 30 days (or at least 60 days in the case of the annual budget) before it is to become effective.

(B) ACTIONS AFFECTED.—The following are the actions referred to in subparagraph (A):

(i) the adoption of an annual budget;

(ii) the authorization for the issuance of bonds;

(iii) the adoption, amendment, or repeal of a regulation;

(iv) the adoption or revision of a master plan, including any proposal for land acquisition; and

(v) the appointment of the chief executive officer.

(C) 30-DAY DISAPPROVAL PERIOD.—If the Board of Review does not disapprove an action within 30 days of its submission under this paragraph, the action may take effect. If the Board of Review disapproves any such action, it shall notify the Airports

Authority and shall give reasons for the disapproval.

(D) EFFECT OF DISAPPROVAL.—An action disapproved under this paragraph shall not take effect. Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

(5) REQUEST FOR CONSIDERATION OF OTHER MATTERS.—The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

(6) PARTICIPATION IN MEETINGS OF AIRPORTS AUTHORITY.—Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.

(7) STAFF.—The Board of Review may hire two staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the Board may require.

(8) LIABILITY.—A member of the Board of Review shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the Board.

(g) CERTAIN ACTIONS TO BE TAKEN BY REGULATION.—Any action of the Airports Authority changing, or having the effect of changing, the hours of operation of or the type of aircraft serving either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(h) LIMITATION ON AUTHORITY.—If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (f)(4) to be submitted to the Board of Review.

SEC. 6008. FEDERAL EMPLOYEES AT THE METROPOLITAN WASHINGTON AIRPORTS.

(a) EMPLOYEE PROTECTION.—Not later than the date the lease under section 6005 takes effect, the Secretary shall ensure that the Airports Authority has established arrangements to protect the employment interests of employees during the 5-year period beginning on such date. These arrangements shall include provisions—

(1) which ensure that the Airports Authority will adopt labor agreements in accordance with the provisions of subsection (b) of this section;

(2) for the transfer and retention of all employees who agree to transfer to the Airports Authority in their same positions for the 5-year period commencing on the date the lease under section 6005 takes effect except in cases of reassignment, separation for cause, resignation, or retirement;

(3) for the payment by the Airports Authority of basic and premium pay to transferred employees, except in cases of separation for cause, resignation, or retirement, for 5 years commencing on the date the lease takes effect at or above the rates of pay in effect for such employees on such date;

(4) for credit during the 5-year period commencing on the date the lease takes effect for accrued annual and sick leave and seniority rights which have been accrued during the period of Federal employment by transferred employees retained by the Airports Authority; and

(5) for an offering of not less than one life insurance and three health insurance programs for transferred employees retained by the Airports Authority during the 5-year period beginning on the date the lease takes effect which are reasonably comparable with respect to employee premium cost and coverage to the Federal health and life insurance programs available to employees on the day before such date.

(b) LABOR AGREEMENTS.—

(1) ADOPTION.—The Airports Authority shall adopt all labor agreements which are in effect on the date the lease under section 6005 takes effect. Such agreements shall continue in effect for the 5-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree to the contrary before the expiration of that 5-year period. Such agreements shall be renegotiated during the 5-year period, unless the parties agree otherwise. Any labor-management negotiation impasse declared before the date the lease takes effect shall be settled in accordance with chapter 71 of title 5, United States Code.

(2) CONTINUATION.—The arrangements made pursuant to this section shall assure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(c) RIGHTS OF TERMINATED EMPLOYEES.—Any transferred employee whose employment with the Airports Authority is terminated during the 5-year period beginning on the date the lease under section 6005 takes effect shall be entitled, as a condition of any lease entered into in accordance with section 6005 of this title, to rights and benefits to be provided by the Airports Authority that are similar to those such employee would have had under Federal law if termination had occurred immediately before such date.

(d) ANNUAL AND SICK LEAVE.—Any employee who transfers to the Airports Authority under this section shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Airports Authority with the unused annual leave balance on the date the lease under section 6005 takes effect, along with any unused sick leave balance on such date. During the 5-year period beginning on such date, annual and sick leave shall be earned at the same rates permitted on the day before such date, and observed official holidays shall be the same as those specified in section 6103 of title 5, United States Code.

(e) CIVIL SERVICE RETIREMENT.—Any Federal employee who transfers to the Airports Authority and who on the day before the date the lease under section 6005 takes effect is subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Airports Authority without a break in service, continue to be subject to such subchapter or chapter, as the case may be. Employment by the Airports Authority without a break in continuity of service shall be considered to be employment by the United States Government for purposes of such subchapter and chapter. The Airports Authority shall be the employing agency for purposes of such subchapter and chapter and shall contribute to the Civil Service Retirement and Disability Fund such sums as are required by such subchapter and chapter.

(f) SEPARATED EMPLOYEES.—An employee who does not transfer to the Airports Authority and who does not otherwise remain a Federal employee shall be entitled to all of the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Airports Authority of work substantially similar to that performed for the Federal Government.

(g) ACCESS TO RECORDS.—The Airports Authority shall allow representatives of the Secretary adequate access to employees and employee records of the Airports Authority when needed for the performance of functions related to the period before the date the lease under section 6005 takes effect. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

SEC. 6009. RELATIONSHIP TO AND EFFECT OF OTHER LAWS.

(a) OTHER LAWS.—In order to assure that the Airports Authority has the same proprietary powers and is subject to the same restrictions with respect to Federal law as any other airport except as otherwise provided in this title, during the period that the lease authorized by section 6005 of this title is in effect—

(1) the Metropolitan Washington Airports shall be considered public airports for purposes of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2201 et seq.); and

(2) the Acts entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686), "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and "An act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes", approved October 9, 1940 (54 Stat. 1030), shall not apply to the operation of the Metropolitan Washington Airports, and the Secretary shall be relieved of all responsibility under those Acts.

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of the fee simple title to such airports or by reason of the authority of the Board of Review under subsection 6007(f).

(c) POLICE POWER.—The Commonwealth of Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of the Commonwealth of Virginia may exercise jurisdiction over Washington National Airport.

(d) PLANNING.—

(1) IN GENERAL.—The authority of the National Capital Planning Commission under section 5 of the Act of June 6, 1924 (40 U.S.C. 71d) shall not apply to the Airports Authority.

(2) CONSULTATION.—The Airports Authority shall consult—

(A) with the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport, and

(B) with the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(e) OPERATION LIMITATIONS.—

(1) HIGH DENSITY RULE.—The Administrator may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this title and may not decrease the number of such takeoffs and landings except for reasons of safety.

(2) ANNUAL PASSENGER LIMITATIONS.—The Federal Aviation Administration air traffic regulation entitled "Modification of Allocation: Washington National Airport" (14 C.F.R. 93.124) shall cease to be in effect on the date of the enactment of this title.

SEC. 6010. AUTHORITY TO NEGOTIATE EXTENSION OF LEASE.

The Secretary and the Airports Authority may at any time negotiate an extension of the lease entered into under section 6005(a).

SEC. 6011. SEPARABILITY.

Except as provided in section 6007(h), if any provision of this title or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 6012. NONSTOP FLIGHTS.

PERIMETER RULE.—An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 statute miles away from Washington National Airport.

Mr. HATFIELD. Mr. President, I move that the Senate concur in the House amendment to Senate amendment No. 124.

Mr. METZENBAUM. Mr. President, would the Senator be good enough to tell us what that is?

Mr. HATFIELD. This is the amendment on the Dulles-National Airport.

Mr. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Oregon.

Mr. BYRD. Would the Senator put in a quorum so that we can get a Senator on the phone?

Mr. HATFIELD. Mr. President, may I then ask unanimous consent to temporarily lay aside No. 124? I so make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the next amendment.

The assistant legislative clerk read as follows:

The House insists on its disagreement with Senate Amendment No. 23.

Mr. HATFIELD. Mr. President, No. 23 is the amendment dealing with a cap on farm payments that was insisted on by the House. I now move that the Senate recede from its amendment which would then, in effect, establish the House position.

The PRESIDING OFFICER. The question is on the motion.

Mr. CHAFEE. Could I ask the manager of the bill, what are these caps? What is the limitation?

Mr. HATFIELD. The limitation is $250,000.

Mr. CHAFEE. Per recipient?

Mr. HATFIELD. That is correct.

Senator COCHRAN is the chairman of the subcommittee.

Mr. COCHRAN. Mr. President, if the Senator will yield, the chairman has accurately answered. It is payment limitation put on the CR by the House of Representatives.

Mr. CHAFEE. Are there any provisions preventing people from setting up all sorts of, if you want to call them, dummy corporations so that they can get multiple payments of $200,000 or one-quarter of a million dollars? Any limitation?

Mr. COCHRAN. There is no limitation except that for individual payment benefit purposes there is a $50,000 payment limitation that is a matter of law in the 1985 farm bill. This amendment does not seek to amend that in any respect. An entity is defined as a person or a partnership or a corporation.

So, to respond to the Senator's question, this amendment does not seek to reform or impose any new restrictions or redefine entities entitled to those benefits.

Mr. ANDREWS. Would my colleague yield?

Mr. COCHRAN. The Senator from Rhode Island has the floor.

Mr. CHAFEE. I am not sure I understand. Currently in the law there is a $50,000 payment limitation for individuals.

Mr. COCHRAN. The Senator is correct.

Mr. CHAFEE. For cotton, wheat payments. What is the $250,000 cap?

Mr. COCHRAN. If the Senator will yield, this is a limitation on payments defined very elaborately by the House in an amendment that we recommended be rejected and has been rejected all along by the Senate. It is loosely defined. And I will say to the Senator, if he is looking for an amendment to support that would seek to restrict, as I know he would like to restrict, these payments, this is not it. It has been estimated that this is going to reduce the cost of the Farm Program by about $26 million.

So you can see, by comparison of that figure with the total cost of $30 billion, that there is not going to be much restriction on payments.

Mr. CHAFEE. It is pretty loose.

Mr. ANDREWS. Would my colleague yield?

Mr. CHAFEE. Yes.

Mr. ANDREWS. What we are trying to do, however, is to get away from these multimillion dollar payments we are reading about in the papers. As my colleague, the Senator from Mississippi points out, this in no way changes the $50,000 payment limitation for payments that we now have. It does put a $250,000 overall cap on the assemblage of payments that have been giving us all these newspaper headlines. I think it would do us a lot of good in the farm country to make sure that these abuses that have been written up time after time cease, which is the reason we hope we can get this amendment agreed to.

Mr. CHAFEE. Thank you.

The PRESIDING OFFICER. The question is on the motion.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Nebraska.

Mr. EXON. Could I inquire as to what the motion is?

The PRESIDING OFFICER. The motion is to recede from the Senate amendment No. 23.

Mr. EXON. Mr. President, I see that the filibuster has paid off once again. I have been on this floor for most of the last 5 or 6 hours. I am going to take about 10 or 15 minutes to explain to the Senate why they are making the wrong move.

It is always clear, is it not, that if we can just hang on long enough and talk long enough about what we need to do to take care of a certain constituency, we can get the job done in the U.S. Senate, regardless of what it does to the defense program.

Now, there have been speeches made on this floor that the U.S. Air Force has indicated that if we buy this airplane for them, the airplane we are talking about here, that all kinds of negotiations are going on about, that if we buy this airplane, what they are going to do is they would put it in the boneyard; they would not use it.

Well, when we get back to this matter of the trainer airplane, I would hope that the Members of the U.S. Senate would understand that under the constraints that we are going to be under in the years to come on the whole matter of procurement for the Air Force, the Navy, the Army, the Marines, and the other departments of our armed services, we are going to have to start exercising some restraint on how they do things. If we go ahead and cave in on the T-46, as we seem to be moving toward slowly but surely, we are going to continue to authorize the use of three trainer planes for beginning pilots. The T-37 and the T-46 for the Air Force, the latter the Air Force says they do not want, do not need, will not use and put in a boneyard if we buy it for them. Meanwhile, the Navy goes merrily ahead with their T-46, the Navy trainer.

We are talking about the basic training aircraft the pilots of our services go into in the initial instance. It seems to me that what we should do when we get back to the trainer matter—and I throw this in now for consideration for those who are making the compromise that we are or are not going to accept—that this would be a good time for us to say no. This would be a good time for us to say, "Let us not do anything more with the T-46 now. Let us direct the Pentagon, the Secretary of Defense, the Secretaries of the various services, to come forth within the next 6 months and agree on one trainer aircraft, one trainer aircraft, that could be used for the beginning trainer of all of the various services." What is wrong with that?

□ 2300

I do not think there is anything wrong with it except the Congress has not had the courage to stand up to the various demands of the various services. They all want a trainer aircraft built only to their specifications. I do not know what aircraft Tom Cruise used in portraying that great pilot in the popular movie today called Top Gun, but whatever that trainer was, it must have been a pretty good one if they turn out the Tom Cruises of the world to serve the national defense needs of the United States of America.

I would simply hope that we would realize and recognize that because of the various pressures that are brought to bear in the Congress that we have had great evidence of here tonight to protect every defense industry in every State in the Union, we have so proliferated our defense expenditures and our procurement policies, both as a Congress to the extent that even the executive branch and the Pentagon itself cannot stop any kind of a program whether they want it or not, and whether they say they are going to send it right to the boneyard, if I can believe, and I do believe, my distinguished friend from Arizona, the chairman of the Armed Services Committee.

I would simply say, Mr. President, that this is the time maybe for a historic turn in the U.S. Senate.

If we could have a little order, Mr. President.

This is a time, Mr. President, when we turn to the consideration of this trainer aircraft for the U.S. Senate to take a historic move and say enough is enough is enough. We do not need three trainer aircraft for the training of beginning pilots. We only need one. And you, Pentagon, come forth and tell us which one you want. Maybe it is the T-46. I do not have any serious feelings about that one way or the other. Maybe the Air Force will change their mind and decide not to send it to the boneyard.

Maybe we should put whatever trainer we come up with and under whatever specification, put it up for bid to all of the possible contractors so we can get the cost down. If we could do that, we would save billions and billions and billions of taxpayers' dollars because not only would we buy the airplanes cheaper, but we would not have to buy the expensive simulators, the hundreds of simulators that we have to train the pilots on the simulators before they get into the three different trainers we have.

Mr. President, I simply say that I think the discussion on the T-46 tonight indicates that there is hardly any kind of a defense program that we cannot develop enough constituency for and if we cannot develop the constituency for it we can always handle it through a filibuster in the U.S. Senate, supposedly the most deliberative body in the world.

I will not take any more time now. I have been patiently waiting to make these brief remarks that I hope a few people will listen to. While the discussions are going on to hurry through this, and get the CR passed which I agree is necessary, I hope maybe for just once, maybe just once, Mr. President, we would say let us not go ahead and authorize a T-46 for expenditures when the measure was not authorized by the authorizing committee; namely, the Armed Services Committee.

I yield the floor.

The PRESIDING OFFICER. The question is on the motion.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 124

Mr. HATFIELD. Mr. President, I ask unanimous consent that we temporarily lay aside the current pending amendment No. 23 in order that we may go to amendment No. 124 which has now been cleared on both sides of the aisle.

Mr. BYRD. Yes. Mr. President, that amendment a little while ago I had to clear with two Senators. That has been done. So there is no objection.

Mr. METZENBAUM. Mr. President, would the Senator tell us——

Mr. HATFIELD. This is the airport one.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The House recedes and concurs with Senate Amendment No. 124, with an amendment.

Mr. HATFIELD. Mr. President, I move the Senate concur in the House amendment to Senate amendment No. 124.

The motion was agreed to.

Mr. DOLE. I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF THE HOUSE TO SENATE AMENDMENT NO. 23

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of amendment No. 23.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

Mr. HATFIELD. Mr. President, would the Chair state the motion that is now pending on this amendment at the current moment?

The PRESIDING OFFICER. The clerk will report the amendment first.

The assistant legislative clerk read as follows:

The House insists upon its disagreement with the Senate amendment No. 23.

The PRESIDING OFFICER. The Senator's motion is to recede from the Senate amendment.

Mr. HATFIELD. I thank the Chair.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry: Is the motion to recede to the House position?

The PRESIDING OFFICER. It is a motion to recede from the Senate position.

Mr. HARKIN. Mr. President, I rise in support of the motion to recede to the House position in this matter of the payment limitation of $250,000 which the House had put on, a cap on payments to farmers under the present farm bill.

I want to point out, Mr. President, that under the existing payment cap and listening to part of the debate in my office, there is some confusion as to why there is a $50,000 payment limitation, and yet farmers are getting upwards of maybe 50——

Mr. STENNIS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER (Mr. STEVENS). The Senator is correct. The Senate is not in order.

The Senator will suspend.

The Senator from Iowa.

Mr. HARKIN. Mr. President, thank you.

There is some confusion I think among those who have not been around the farm program for a long time as to why we have a $50,000 payment limitation, and yet, we read stories about large farms getting as much as $15 or $20 million in payments. That is because in the last farm bill that passed the Congress a number of provisions were added which opened a lot of loopholes to get around the $50,000 payment limitation. I would just read a list of those again just to inform Members as to how they get around these payment limitations.

The following payments that go to farmers that are not included in the $50,000 payment limitation: deficiency payments and land diversion payments, No. 1; disaster payments, No. 2; the so-called Findley payments, No. 3; inventory reduction payments, No. 4; gain from marketing loans, No. 5; loan deficiency payments, No. 6; resource adjustment and public access payments, No. 7; also No. 8, nonrecourse loans.

Mr. President, the amendment added on the House side would effectively cover all of those eight exemptions that I just mentioned with one exception. That exception is a loophole that can be big enough to drive a Mack truck through. That is the exception for the nonrecourse loans.

Mr. President, again I am supporting the Senate's position in receding to the House because I believe it is better than what we have right now.

□ 2310

But I do not want any Senator to believe that adopting the House position is going to limit payments to every farmer to a maximum of $250,000 because it simply will not do that.

I do not want anyone to think they are going to vote for this and say, "Well, that is the end of it, no farmer can get more than $250,000."

What will happen is that the loophole that is left is the nonrecourse loans.

Normally I would not be in favor of limiting nonrecourse loans at all. However, under the new program in the farm bill, the nonrecourse loan program is being used as a payment program, especially when you couple it with the marketing loan program.

Therefore, the nonrecourse loan program really becomes a payment program and not a loan payment as it was first envisioned.

I know to many Senators that may sound very convoluted, but I wanted to make the record on this point, that the $250,000 cap is not an absolute cap. It will take care of about seven of the exemptions that are in the bill now. That is a big step in the right direction.

But the big culprit is the nonrecourse loan coupled with the marketing loan program, which is allowing many of these large farms to get these $15 and $20 million payments.

Again, it is, as I said, a step in the right direction.

I know the hour is late and I know that Senators want to get on to other business and bring this continuing resolution to a close, but there is one other issue that I want to bring up because it closely correlates with these huge payments that farmers are getting.

I am one of those who believe very strongly that come next year, early next year, we are going to be under the gun in trying to save anything resembling a farm program.

One of the reasons is because we are going to see headlines next month, the month after, December and January, when the final payments come in, we are going to see the Boswell Farm in California getting a payment of $20 million; we are going to see other farms getting $15, $5, $6 million. People will say, "What do you mean farmers are going broke? Farmers are not going broke. Look, they are getting multi-million-dollar payments."

I think adopting this amendment will not solve the problem this year but at least it will help solve the problem next year, as we go into next year.

One other thing I think is going to hurt us is the use of PIK certificates and the way they are being used right now.

As I say, this is not directly into this amendment but it strongly correlates to this amendment.

We have a situation right now in the countryside where farmers are making more money by rolling PIK certificates around than from selling their crops. Yesterday corn was selling in Iowa for $1 a bushel.

What farmers are doing is they are going into the local ASCS office and getting the loan rate of $1.85 and then they are buying PIK certificates, let us say at $1.55. They are using the PIK certificates to pay off their loan and they are walking out of the ASCS office with 30 cents a bushel in their pocket and they still have all the grain which they are going to dump on the marketplace at the present prices.

This is not the time or place to debate that issue but I only wanted to bring it up to point out that we are going to see a plethora of stories between now and next January about big deficiency payments to farmers, and we will hear more about farmers who walk into an ASCS office and 10 minutes later walk out with $30,000 in their pockets and still have all the grain.

It is a scam of the worst sort. It is depressing the marketplace prices. It is doing nothing to resolving the problems that we have out there. We will march right down the same road next year.

I make these comments only to alert Senators that early next year we are going to have to make some very drastic changes in the existing farm bill, some drastic changes.

The PRESIDING OFFICER. Will the Senator withhold? The Senate is not in order.

The Senator from Iowa.

Mr. HARKIN. I thank the Chair.

Again I say that we have to take these steps. We have to take this first step of receding to the House, but we are going to have to take some next steps early next year to make some drastic changes in the farm bill if we hope to preserve anything at all of any kind of a farm program for our beleaguered farmers in the countryside.

I will sum up by saying this, that the $250,000 payment limitation is a big step in the right direction, but I do not want any Senator to believe that no farmer will ever receive a payment of over $250,000 because they will, because there is one big loophole left in it which is the nonrecourse loan coupled with the marketing loan program. Hopefully, maybe next year we can take the step to close that loophole also.

Mr. ANDREWS. Mr. President, I totally agree with what my colleague has said. I think it ought to be pointed out that my colleague and I in the Appropriations Committee meeting, discussed this proposed payment limitation that had a few more teeth in it. My amendment, as amended by the Senator from Iowa, ended up being an amendment that would have had those teeth that he talks about now, but it failed by a one-vote margin.

So this is what we have, and it is, as the Senator from Iowa points out quite properly, a step in the right direction because if these excessive payments continue, we are going to see it extremely difficult to hold a farm program of any type next year.

Mr. HARKIN. If the distinguished Senator will yield, I thank the Senator for making those comments. I only want to make it clear here that it was the distinguished Senator from North Dakota who really first proposed this in committee. I did join with him in that effort to try to get that done. It was the Senator from North Dakota who first pointed out quite clearly the different loopholes that existed, those seven or eight loopholes that existed in the law. We attempted, as the distinguished Senator from North Dakota said, or he attempted, to get more teeth into it. He lost it, if I am not mistaken, by, I think, one vote.

The distinguished Senator from North Dakota has really done yeoman's work on this in bringing this to the attention of the Senate. I want to thank him publicly for all of his efforts in this regard, to bring some sanity to this kind of payment pro-

gram. I compliment the Senator from North Dakota for his actions in this regard.

Mr. ANDREWS. I appreciate the comments of the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I am now informed by one of our colleagues that he would request a rollcall on this amendment, the Senator from Arkansas.

So, Mr. President, in order to alert those Senators who may not be on the Hill at the moment that a rollcall will be taken on this amendment, I would like to suggest a procedure by which we lay this aside temporarily and go back to take up an agreement that we will propound on the No. 117, the Buy America, which has now been cleared on both sides of the aisle for a unanimous-consent request.

Therefore, I ask unanimous consent that we—I wonder if I can have the attention of the Senator from Arkansas.

Would the Senator from Arkansas like to put the request in for the yeas and nays now or wait until after we return to the amendment?

Mr. BUMPERS. It is absolutely immaterial to me, Mr. President. I will defer to the chairman.

Mr. HATFIELD. I suggest that we ask for the yeas and nays at this time.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Iowa has the floor. Does he yield for that purpose?

Mr. HATFIELD. I will not put that request at this time.

Mr. METZENBAUM. Will the Senator yield?

Mr. HATFIELD. I yield.

Mr. METZENBAUM. He knows he will have a rollcall on the Buy America amendment. Does the Senator think he can work it out so that both of those rollcalls can be one after another?

Mr. HATFIELD. That is precisely what we are attempting to do. I believe that most of the comments have been made on the pending amendment No. 23, the agriculture amendment. I am told that there will have to be a period of time given for alerting Senators off the Hill before any rollcall can begin.

Therefore, not to waste that time, we would like to move now to the half-hour request for the Buy America, which we can now give the alert in, take that half hour that is required to make that alert possible, and then have this amendment of Buy America and move back to amendment 23.

Mr. METZENBAUM. I thank the Senator.

□ 2320

Mr. HATFIELD. Mr. President, I believe I have made a unanimous-consent request to temporarily lay aside amendment No. 23 and take up No. 117.

The PRESIDING OFFICER. Is there objection to the Senator's request to temporarily lay aside this amendment and take up the amendment that deals with Buy America concepts?

Is there objection to the Senator's request?

Mr. EXON. Reserving the right to object, Mr. President, does this mean that we are closing off debate on the farm amendment?

The PRESIDING OFFICER. There is no such request pending before the Chair.

Mr. EXON. So if we want some additional time to debate the farm amendment, we could come back to that, is that correct?

Mr. HATFIELD. Yes, Mr. President.

Mr. EXON. I have no objection.

The PRESIDING OFFICER. Is there objection to the Senator's request? Without objection, it is so ordered.

This amendment (No. 23) is temporarily laid aside.

We will take up amendment numbered 117.

HOUSE AMENDMENT TO SENATE AMENDMENT NUMBERED 117

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The House concurs with an amendment to Senate amendment numbered 117.

Mr. HATFIELD. Mr. President, I ask unanimous consent that a half-hour time limit be agreed to, to be equally divided between the Senator from Ohio [Mr. METZENBAUM] and the Senator from Rhode Island [Mr. CHAFEE].

The PRESIDING OFFICER. Is there objection to the Senator's request? Hearing no objection, it is so ordered.

Mr. HATFIELD. Mr. President, I inquire of the Chair at this time, it is my intention to offer a tabling motion with the yeas and nays. I would like to make that motion now, if I understand the situation, but still provide for the debate.

The PRESIDING OFFICER. That would take unanimous consent. That would not be in order until all time has been used or yielded back.

Mr. HATFIELD. I ask unanimous consent that I may make such a motion.

The PRESIDING OFFICER. Is there objection to the request? Hearing no objection, it is so ordered.

Mr. HATFIELD. Mr. President, with the understanding that debate will proceed, I now move to table the House amendment to the Senate amendment numbered 117.

The PRESIDING OFFICER. Does the Senator wish for the yeas and nays?

Mr. HATFIELD. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There are 30 minutes' time on this amendment. Who yields time?

Mr. CHAFEE. Mr. President, I yield myself 4 minutes.

Mr. President, the Buy America provision in the House-passed continuing resolution regarding offshore oil rigs is bad for American trade. If put into effect, this provision could amount to a complete ban on imports of vessels and platforms used for oil exploration and production on the Outer Continental Shelf. While in the short term, accepting this provision may result in more contracts for a few American firms, in the long run, it undoubtedly will hurt our international trade. Also, Mr. President, I want to stress this: It undoubtedly will lead to retaliation on the part of our international trading partners. In the long term, this provision will hurt, not help, American business.

Mr. President, I think we have been down this track before and clearly, by taking an action such as is proposed in the reconciliation measure, we are going to hurt, not help, American jobs. That is what we are trying to do, provide for more American jobs. The Buy America legislation of this sort is a violation of our obligations under the General Agreement on Tariffs and Trade, the so-called GATT. A likely consequence of this protectionist legislation is the prospect of mirror legislation by our trading partners. And why should they not?

This quickly becomes a vicious circle. If the United States were to pass this measure, other governments such as the United Kingdom, Norway, the Netherlands, and Denmark, all of which have offshore rigs, would have little choice but to reciprocate by excluding or severely limiting United States exploration or production equipment in their respective countries.

This legislation does not help American industry. On the contrary, retaliation will reduce business opportunities abroad and set a dangerous precedent for other restrictive procurement practices. So I urge my colleagues to join with me in striking this provision from the continuing resolution.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, does the Senator from Pennsylvania wish to be recognized?

Mr. HEINZ. Mr. President, I ask for 4 minutes.

Mr. METZENBAUM. I yield 4 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 4 minutes.

Mr. HEINZ. Mr. President, let me describe very briefly what the House amendment is that we are debating. It is an amendment to give American firms, American labor, American materials a preference in the construction of offshore drilling rigs, the kind of rigs and platforms that we use to explore and complete wells off the continental United States. This is extremely important technology. It is very sensitive, important technology. It is vital to our national security.

The problem is a very simple one. We have not been able to win an award of a drilling rig since 1982. Since 1979, there has been a total of 10 oil rigs awarded. We have won exactly one of them. The Japanese won six, the Koreans have won five. Two of them have been in other parts of the world.

You might ask, why should we worry about this? If the Koreans or the Japanese are making these rigs more cheaply, if they can sell them to our people more cheaply, what is the problem? The problem is that they are cheating. The problem is that they are dumping and subsidizing. And you do not have to take my word for it. Ten months ago, I said that it was my judgment that there were subsidies and dumping by the Japanese and the Koreans, the two suppliers. I could not prove that case last year when we debated this same amendment. Today, I can prove that case because Japan has been found to be dumping; Korea has been found to be dumping. A hefty 22 percent dumping of subsidy margin has been determined.

Mr. President, fair is fair. But when two countries engage in the kind of unfair trading practices that, for all intents and purposes, wipe out not only these jobs, not only these purchases vital to many industries, but wipe out our ability to replicate this technology, it is time to do something about it. That is the purpose of the House amendment.

Let me make one last point—two points. I heard an argument that there would be something improper about this. I direct my colleagues' attention to article 21 of the GATT, which contains a specific national security exemption for issues of this kind. It has also been argued that were we to prevail with this amendment, somebody would retaliate against us. Mr. President, there are essentially only two countries that are selling us these rigs. Let me just say there are no United States drilling rigs being sold to Japan and Korea. And if, by some stretch of the imagination, they should ever find oil off of Japan or off of Korea, if anybody thinks the Japanese or the Koreans would ever let the Americans, the French, the British or anybody else bid on these platforms, they have another think coming.

□ 2330

I thank my colleague from Ohio for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, will the Senator yield me 3 minutes?

Mr. CHAFEE. Which side is the Senator going to be on?

Mr. JOHNSTON. Against Buy America.

Mr. CHAFEE. I yield 3 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 3 minutes.

Mr. JOHNSTON. Mr. President, ordinarily I would be on the side of Buy American because I think this country has been made a chump in a lot of its trade policy. But, Mr. President, I wonder if all of my colleagues from all of the country recognize how sick this oil industry really is. It is on its very last legs. There are no wells being drilled offshore at this particular time. There is one rather rich area off California, probably the richest area in the country. But there is no real competition off California. You still have Exxon and Chevron and Standard Oil that are interested in that area. Shell has withdrawn from the area because they say it is, No. 1, too expensive; No. 2, too big a pain to fool with the Californians and all their regulations, so they have withdrawn altogether.

Now, what we do, Mr. President, by putting in a Buy American provision is double the cost of drilling offshore. Why do I say doubling the cost? Because an API study indicates that the cost of a platform is one-half the cost of offshore exploration. A full one-half of the cost is the cost of that platform. Now, last year Exxon purchased two offshore platforms for $100 million. They actually got a bid from Kaiser Steel which was for $200 million. So that the cost from Kaiser was exactly twice what it was to buy those platforms offshore.

Mr. President, what you have is half the cost is the cost of the platform. If you put in this Buy American provision, you are going to double the cost.

Well, now that sounds like a pretty good deal because we will create American jobs, right? Wrong. All you are going to do is drive these people out of the country and what last prospect there is for drilling off the Outer Continental Shelf of the United States is going to be gone, just as simple as that, because without this Buy American provision you have already had Shell Oil Co., one of the biggest international oil companies in the world, that has withdrawn altogether.

Mr. President, the point has been made, but it bears repeating, that this would violate the GATT agreements and it would call for retaliation under GATT by other countries against us.

This is the one area, probably the only area I know of where our trade agreements are working. Last year ITA ruled——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSTON. One minute.

Last year ITA ruled for the steel industry and enacted tariffs from 9 to 21 percent against Koreans and others. So this is one area where the trade laws are working.

One final point, Mr. President, and this I think ought to be the real clincher. That is that this is a category one veto bait item. The President has indicated that this, and I think one other item, will cause a veto of this bill. Now, if we want to put ourselves through the self-flagellation of a late night session, enacting a bill and having to come back tomorrow, Friday or Saturday or whenever the vetoed bill returns, then this is the way to do it. Let us do the right thing and kill this Buy American provision.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. METZENBAUM. I yield 4 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 4 minutes.

Mr. SPECTER. Mr. President. I rise in support of this Buy American provision. The propriety of this provision, Mr. President, I think is established because it is the U.S. Government which is doing the leasing. There are property rights which inhere in our Government and it is fair and appropriate for the Government to make a determination as to the circumstances of the drilling and to impose this Buy American provision.

I associate myself with the remarks of my distinguished colleague from Pennsylvania, Senator HEINZ, on the very basic point that we need a Buy American provision to achieve fundamental justice.

The Koreans and the Japanese and others who are commanding these contracts at the present time are engaging in subsidies and in dumping, and when the distinguished Senator from Louisiana comments about having the price one-half, that is because these other countries are engaging in predatory pricing practices. Free tade means fair trade and that is the cost of production plus a reasonable profit. Korea and Japan in gaining these contracts are not engaging in fair trade practices or in free trade practices. That is why the Congress of the United States ought to insist that these Buy American provisions be inserted.

Mr. President, this is one issue of a larger program. We have not taken an appropirately rough stand in our dealings in international trade to insist on two basic propositions consistent with free trade principles. One is that there ought to be reciprocity. If Japan wants access to United States markets, we ought to have equal access to Japanese markets, and we do not have that access. The second point, again consistent with free trade principles, is that we ought not be victimized by subsidies and dumping which are costing tens of thousands of jobs in the steel industry, of one, a subject about which Senator HEINZ and I, as Senators from a steel-producing State, or once a steel-producing State, are very much concerned.

If we had a trade policy which gave basic justice to the steel industry and which did not allow the steel industry to be victimized by these predatory pricing practices, then it might not be necessary to come in on this kind of a specific item and insist on a Buy American provision. But until that is done, our only recourse is a step at a time to insist on Buy American, and that is why this provision provides for fundamental justice and ought to be adopted. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I yield 4 minutes to the Senator from Missouri.

Mr. DANFORTH. Mr. President, first, in answer to the Senators from Pennsylvania, this provision in the House bill has nothing whatever to do with unfair trade practices—nothing. This is directed at fair trade, not unfair trade. We have already had a successful antidumping case against Japanese and Korean offshore jackets and piles. That was the successful case against unfair trade practices, against dumping. This Buy American provision is aimed at shutting out fair trade, not unfair trade.

A second point that should be made is that if we agree to the House provision, this would mark the first time in the history of our country we have had a Buy America requirement that has extended beyond requirements on Government to the private sector. So this is truly a breakthrough in protectionism if we do it. It is special interest legislation in the extreme. It would benefit a handful of west coast steel companies, having no effect on the rest of the steel industry, at least no positive effect. At the very most it would increase domestic steel production by one-twentieth of 1 percent.

Now, Mr. President, there is a zero sum gain in trade. There is never any situation where there is a pure victory, and the losers, as the Senator from Louisiana has pointed out, are the oil producers. This is a measure which is designed to help a few steel companies at the expense of the oil industry. I would suggest that if there is one beleaguered industry in this country right now, it is oil.

It is projected that the effect of adopting this provision would be the loss of somewhere between 16,000 and 25,000 American jobs.

As domestic oil production becomes less attractive, as it becomes more expensive because of this provision, so Government revenues would decline by an estimated $2 billion over the next 15 years from less money paid to the Federal Government for offshore leases.

□ 2340

It was pointed out earlier that this is a clear violation of the General Agreement on Tariffs and Trade. There is absolutely no question about it. It would make the United States vulnerable to retaliation, to compensation to other countries. They would not even have to retaliate. They have an absolute right, under GATT, to be compensated by the United States, and that would cost American jobs.

Also, Mr. President, at a time when the United States is making so much noise about unfair trade practices in other countries, certainly the power of such an argument would be reduced very significantly if the United States now were to lead the way in GATT violations.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. CHAFEE. Mr. President, I reserve the remainder of my time.

Mr. METZENBAUM. Mr. President, how much time does each side have?

The PRESIDING OFFICER. The Senator has 8 minutes and 22 seconds, and the opposition has 4 minutes and 54 seconds.

Mr. METZENBAUM. I yield myself 4½ minutes.

The PRESIDING OFFICER. The Senator is recognized for 4½ minutes.

Mr. METZENBAUM. Mr. President, I think the issue is well stated by the Senator from Missouri. It is not a question of unfair trade; it is a question of fair trade. I think the question is what really is fair about this entire matter.

The Senator from Louisiana has talked about how sick the oil industry is. As a matter of fact, it was only yesterday that about an hour was spent on the floor of the Senate during which Members pointed out the problems of the oil industry. Although I have had my differences with the oil industry on more than one occasion, I make no bones about it, that I think it is an imperative that we all join together in protecting the oil industry and seeing to it that we have an oil industry in the future.

So, too, I am concerned about the steel industry. I would hate the day to arrive in the country when there no longer was a viable steel industry.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is entitled to order. Time will stop running.

Will the Senators and staff in the rear of the Chamber withdraw from the Chamber, please?

Mr. METZENBAUM. I thank the Chair.

I cannot think of an industry that is hurting more than the steel industry in this country. I think we have to recognize that we need an oil industry and we need a steel industry, and I hope the day never comes in this country when either of them is nonexistent. But the fact is that we do not want to have an oil industry at the price of the steel industry.

Since 1978, Korean and Japanese producers have all but obliterated the west coast market for offshore production of rigs and platforms used for energy development on the United States Outer Continental Shelf, costing this country literally tens of thousands of domestic jobs. Thirteen out of fourteen west coast platform construction contracts have been issued to Japan and Korea since 1979.

That trend has now extended into the gulf coast as well, where two out of the last five deck houses were awarded to Korea since 1983 alone.

In May 1986, the United States International Trade Commission ruled unanimously that Korean and Japanese dumping of offshore platform jackets had seriously injured the American offshore fabrication industry. The ITC also ruled that American industry had been injured by dumping of platform pilings and as a result of Korean subsidies.

Frankly, I believe in the basic proposition of free trade, and that has been a longstanding position I have taken. But I have seen what has happened to American industry as we have supported free trade in this country, and free trade has developed into a posture of unfair trade throughout the world. It is a reality. We have not been permitted to compete on an equal basis with the Korean steel companies, with the Japanese steel companies; and, as a consequence, our own steel industry is hurting and it is costing us jobs in Ohio. It is costing us jobs in Pennsylvania. It is costing us jobs in every part of the Nation where there is a steel industry.

Let us take a look at this whole situation. The regulations for the Outer Continental Shelf leasing program, as promulgated by the Minerals Management Service, permit issuance of leases—that is a preferential basis, and listen to this—only to U.S. citizens and nationals, aliens with permanent resident status, and U.S. corporations.

I do not take issue with that, nor do I take issue with the fact that the Jones Act requires the use of U.S.-built ships and U.S. crews and extends the crew requirement to include offshore platforms operating on the U.S. Outer Continental Shelf. If we are going to provide that kind of preference with respect to the matter of obtaining the leases, is it not only fair and reasonable that we expect that U.S. companies will be permitted and in a position to sell their steel?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. METZENBAUM. I yield myself 1 more minute.

I think the Buy American provision that is provided in the house amendment is right. It is proper. It is in the best interests of our country, and I do not think we ought to call upon the American steel industry to stand back on behalf of the oil industry, notwithstanding the fact that I think all of us in this body agree we want to do everything possible to help the oil industry as well as the steel industry.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I will say that everybody obviously has their parochial interests to represent, and we have heard from one parochial section of the country.

The point has been well made by the Senator from Missouri—that for the first time we are saying to private individuals, "You must buy American." We are not going through the normal tariff procedure. We are not going through a normal quota procedure. In tariffs, the tariffs go to the Government.

We are saying to a private individual, those who buy oil equipment, "You can't buy oil rigs unless 50 percent of that steel has come from the United States." We previously tried that with Government: The U.S. Government must buy American. But we have not tried it before with private individuals.

I think these are dangerous waters. Clearly, they are contrary to GATT, and clearly they are going to invite retaliation and will hurt one sector of the country—namely, the oil business.

Mr. President, I yield 1 minute to the Senator from Idaho.

Mr. McCLURE. I thank the Senator.

Mr. President, the measure we are addressing today is not a provision to "Buy America" but an attempt by one industry to prop themselves up at the expense of another.

Nobody feels worse than I about the current situation of our domestic steel industry. I have been a strong proponent of our industrial and natural resource industries, especially as they relate to our national security. However, it makes little sense to use the argument that this provision will aid the steel industry and increase employment, when in fact it will do just the opposite.

The provision says that 50 percent of the materials and supplies on structures used for exploration and production activities on the Outer Continental Shelf [OCS] be of domestic origin and these structures be built in the United States.

A major purpose of the proposal is to protect domestic steel producers and fabricators of structures used in offshore production from foreign competition. However, the oil industry already purchases many of the most costly components of offshore platforms from domestic firms. And, over the life of a project, 90 percent of the total project cost is spent domestically, even if the jackets and piles are produced offshore.

As a result of this proposal, many marginal oil prospects will be abandoned, especially at today's oil prices, because the additional cost of the rig could not be justified in a benefit/cost ratio. For example, last year a major contract bid came in for a project offshore California in which the domestic bid for $200 million for the jacket and piles, was twice that of the nearest foreign bidder. Contrary to what many would like to believe, an additional $100 million in costs will cause most if not all oil companies to abandon even the best prospects for future development.

In addition, reduced offshore drilling and production would reduce employment directly in the oil and gas industry and indirectly in industries that supply inputs to petroleum drilling and production. According to a Battelle Pacific Northwest Laboratories study prepared for API in June 1985, up to 56,000 workers would be displaced by the year 2000 if "Buy American" requirements were imposed on OCS activities.

The ramifications of this provision are far reaching, not only affecting the worthy and necessary objectives of income and employment in other domestic industries, but also the U.S. exports of goods and technology and the national security objectives of offshore development of oil and gas resources.

To quote former Deputy Secretary of the Department of Energy, Kenneth Davis, at the recently held World Energy Conference in Cannes, France, "the oil outlook in the United States is bleak," the level of U.S. proved oil reserve additions is now just 600 million barrels a year, or roughly one-fifth of the country's annual production rate. Because of low oil prices, worldwide exploration investment is down considerably. Spending on development has dropped another 20 percent this year and the number of exploration engineers has been cut by 10 to 20 percent.

The new oil frontiers are offshore. We cannot afford greater reliance on foreign sources by cutting off access to our own reserves.

Where would our steel industry be if we were to impose this so-called Buy America on them? Let me tell the Senate. While the increased cost of domestically produced jackets and piles to the oil industry would amount to $400 million to $500 million from 1986 to 2000—this represents 20 new planned platforms times the additional average costs of $20 to $25 million per platform—the cost to steel companies would be an additional $7 billion for domestic ferroalloys that are now imported over the same period of time at 1985 prices. This does not include the cost of imported metallurgical coal or coke which steel companies now use to process steel.

I do not use this example to suggest that I would support such an imposition on the steel industry any more than I support the proposal before us today. But I ask you, Mr. President, why should we be less concerned with the impact of this provision on our oil industry and the future of our domestic oil supply?

I implore my colleagues to vote with me in opposition to this ill-conceived provision.

Mr. President, I ask unanimous consent to have a letter in connection with this subject, from Mr. Clayton Yeutter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, October 16, 1986.

Hon. JAMES A. McCLURE,
U.S. Senate,
Washington, DC

DEAR JIM: I am writing in regard to the Outer Continental Shelf "Buy America" amendment which is contained in the House-passed FY 1987 continuing resolution. This provision, if retained, would require that 50 percent of the materials and supplies on vessels and structures used for exploration and production activities on the Outer Continental Shelf be of domestic origin and these structures be built in the United States. I expressed opposition to this provision last year when it was offered as part of the fiscal year 1986 Interior Department Appropriations bill and the Omnibus Budget Reconciliation bill. My position has not changed.

First, It will result in significantly increased costs for exploration and development of offshore oil and gas resources. Drilling activity has already fallen to historic lows in the United States. This further negative factor will exacerbate the problem with implications for our energy supply security in the future. Furthermore, the waiver provision contained in section 6901 of Subtitle J appears to be an ineffective way to provide relief to the domestic petroleum industry. Moreover, I believe that existing U.S. trade laws provide effective recourse for domestic industries injured from unfair competition. In addition, as you know, the U.S. International Trade Commission rules in May that industries in the

United States are materially injured by imports from Korea and Japan of offshore jackets and piles. Consequently, the U.S. Department of Commerce imposed a dumping margin of 17.34 percent for Korea and 8.8–9.1 percent for Japan on these products.

Second, it is possible that the amendment, if adopted, could lead to foreign retaliation which could affect other sectors of the U.S. economy. U.S. oil producers already face potential "buy national" laws which are under consideration in the United Kingdom, Norway, the Netherlands and Denmark. If the United States were to adopt a "Buy America" provision, foreign governments would be less willing to resist similar provisions, and would be likely to retaliate against U.S. products. Such retaliation would hurt other sectors of the U.S. economy, since any retaliation would not be confined to the old equipment sector.

Third, this kind of "Buy America" legislation is contrary to United States obligations under the General Agreement on Tariffs and Trade (GATT). Under Article III.4, the United States is committed to maintaining national treatment for products covered by the agreement. Eliminating foreign access to the U.S. market for any product used by domestic oil companies in connection with exploration activities on the Outer Continental Shelf would violate this agreement and could ultimately require the United States to compensate injured parties in sectors not related to drilling. We cannot expect our trading partners to uphold their obligations in the face of blatant violations such as those represented by this amendent.

Finally, I am concerned that enactment of such legislation will undermine the U.S. position of leadership in expanding and strengthening the international trading system. We are currently engaged in an effort to renegotiate the Government Procurement Code, with the goal of improving the competitive process by which governments procure goods and expanding the coverage of the Code. If successful, these efforts will provide even greater access for American goods, and the jobs which support them, to foreign markets. However, our credibility would be sorely tested if we are put in the position of calling for greater access to foreign markets while, at the same time, placing new restrictions on access to our own markets.

In summary, the Administration believes the potential negative economic and employment consequences of this amendment are overwhelming and far outweigh the intended benefits of the amendment. For these reasons, the Administration is strongly opposed to this "Buy America" provision. I appreciate your taking the time to consider these concerns and urge that the "Buy America" provision be rejected.

Should this provision be included in the continuing resolution which reaches the President, I would strongly recommend a veto.

The Office of Management and Budget advises that, from the standpoint of the President's program, there is no objection to the submission of this report to the Congress.

Sincerely,

CLAYTON YEUTTER.

Mr. McCLURE. Mr. President, I support the motion, but I will make two points that have not been made. I hope I will not be repetitious.

The Senator from Ohio says that we are in a cruel dilemma of choosing between oil and steel, sacrificing steel in order to help oil. Unfortunately, that is not the choice, because if this provision is enacted, it kills both, not at the expense of one or the other. It hurts both because you do not get more jobs in this instance by increasing the cost of operation. You simply kill the economic activity that creates the jobs.

□ 2350

There will be no increase in jobs in the steel industry in this country, unfortunately, I would say.

So if you want to help the steel industry this is not the way to do it. It will not help the steel industry and it will hurt oil exploration.

If you want us to be more dependent upon foreign oil, adopt this amendment. I hope we will not.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, will the Senator yield me 1 minute?

Mr. METZENBAUM. Certainly.

Mr. HEINZ. I want to make three quick points.

The first is when we are talking about jobs here they do not involve just one region of the country. It is not just Ohio and Pennsylvania, but it is Indiana, Illinois, Louisiana, Alabama, California, Colordao, and Utah, and a lot of other States. Whether those are steel jobs or oil rig worker jobs, they are both important.

Second, there was an argument made about the cost of this amendment. The fact is that even if the argument of the Senator from Louisiana were accurate—and I dispute his figures—that this amendment would double the cost of oil rigs, even with that inflated assumption, the fact is that the cost of oil would rise a maximum of 6 cents a barrel, that is one-seventh of a cent of a gallon.

Finally, may I have 30 seconds?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HEINZ. May I have 30 seconds?

Mr. METZENBAUM. Yes.

Mr. HEINZ. Finally, the politics of this issue are fairly clear. People who are against this amendment are the oil companies. As has been referred to a moment ago, we only let U.S. corporations, U.S.-led joint ventures, and U.S. persons bid on oil leases. The oil companies have to buy America for their oil leases, and I do not think we should allow them to have their cake and eat it too.

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. METZENBAUM. The Senator from Pennsylvania may conclude if he wishes.

Mr. HEINZ. No, I have concluded.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I yield myself 1 minute.

The statement was recently made by the Senator from Pennsylvania that those who are against this amendment represent the oil interests. I can assure everybody here, there is not a drop of oil to be found under the surface in the State of Rhode Island. We tried offshore. We have not succeeded in getting anything.

So any suggestion that this is oil versus fair trade or steel or whatever you want to call it is completely off the mark.

The point is those of us who are opposed to this are concerned about the trade situation in the United States and we are concerned about the trade situation in the world in which the United States is the leader.

We do not want to get started down that spiraling path of retaliation versus retaliation which surely legislation like this will incur.

We are for free trade. We are for open trade. If those who are opposed feel that the Koreans or the Japanese are bringing—30 seconds more, Mr. President—are bringing in steel, they can bring dumping cases and indeed they have brought them and in connection with this. But they cannot succeed in those measures so they are going around sideways and trying to come in through legislation like this.

Finally, I reiterate what the Senator from Louisiana said and the Senator from Oregon would say if he were here, the floor manager of this measure, that this is clearly veto bait.

The PRESIDING OFFICER. Fifty seconds remaining.

Mr. CHAFEE. If this amendment remains in the bill, the dangers of the President vetoing the whole measure are extreme.

So I would hope that we would join with the Senator from Oregon and table this amendment.

Mr. CRANSTON. Mr. President I reluctantly support this amendment.

I support it because I believe the Federal Government has an obligation to act in a meaningful and effective way once it has found that illegal and unfair foreign trading practices are devastating American industries.

I have always been, and will continue to be an advocate of the freest possible trade. But to be free, trade must be fair.

We must not unilaterally disarm in the face of blatantly unfair foreign trading practices. And we have an obligation to our citizens to act when an industry is being systematically cannibalized and destroyed.

I reject illogical and excessive retaliation. But I support a specific trade response that seeks to provide justice.

And that is precisely what the amendment before us seeks to accomplish.

Illegal dumping is a serious problem. The United States has yet to come to terms with an economic reality in which effective targeting strategies, often advanced by unfair trading practices by foreign countries, are the the primary industrial development strategy in the postwar period.

I believe we are now in danger of losing our domestic market for offshore production of rigs and platforms used for energy development because of blatantly illegal dumping. No U.S. company has built a mobile oil rig since 1982. In May 1986, the U.S. International Trade Commission ruled unanimously that Korean and Japanese dumping of offshore platform jackets had seriously injured the American offshore fabrication industry. The ITC also ruled that American industry had been injured by the dumping of platform pilings, and by Korean subsidies.

So our Government is clearly on record saying the foreign practices are unfair and illegal. The only question before us is whether we are going to do nothing, or whether we are going to prescribe specific and effective action to defend American businesses and workers who have come to us for relief. We have seen repeatedly that the penalties imposed in dumping rulings have proven to be too little, too late. I fear that unless Congress acts, this might now be the case with offshore oil rig production. In many cases, U.S. industry has been irreversibly injured before any action was taken by our Government.

I believe a better solution would be to address the problem of dumping in a broader way since many, many industries are being adversely effected by these illegal trade practices. To permit these unfair trading practices to continue without an effective response is unconscionable. That is why my colleague, Senator BAUCUS, and I introduced legislation earlier this year to deter this practice. We proposed dramatically increasing penalties for repeat offenders of dumping. Our measure would allow U.S. companies to seek compensation for damages they suffered due to illegal dumping practices.

The United States is a victim of foreign dumping practices time and time again. We either respond too late—or in some cases, we don't respond at all. The lack of an effective response to the escalating trade deficit and the lack of our ability to enforce and to strengthen our own trade laws to deal with blatantly unfair trade practices jeopardizes free trade around the world. It is becoming increasingly difficult to promote free trade when foreign countries flagrantly and defiantly violate our own laws. And we let them get away with it time and time and time again. We have sacrificed too many jobs already. We must act now.

Mr. HEINZ. Mr. President, this amendment addresses an issue that has significant implications for both our national security as well as significant benefits in terms of the domestic economy.

The issue is that of the development of offshore oil and gas deposits on the U.S. Outer Continental Shelf. This issue comes before us now as amendment 117 to the continuing resolution as passed by the House of Representatives.

It is no surprise, Mr. President, that the development of our offshore oil and gas deposits is a vital component of U.S. national security. In 1983, offshore production represented 13.7 percent of total U.S. crude petroleum production. The maintenance of the technology necessary for this development—a technology developed in the United States—is therefore critical to U.S. energy independence.

Since 1979, however, 13 of 14 fixed platform projects on the west coast have been awarded to Japan and Korea. No new mobile offshore drilling rigs have been constructed in this country since 1982. And again, Mr. President, as we have seen in countless other situations involving our basic industries, dumping and subsidization have played a major role in the flow of offshore projects overseas and in the subsequent erosion of the domestic jobs base.

In fact, in May of this year, the U.S. International Trade Commission, in a case filed by Kaiser Steel Corp., ruled unanimously that Japanese and Korean dumping of offshore platform jackets had seriously injured the American offshore fabrication industry. The ITC further ruled that American industry had been injured by dumping of offshore platform pilings and as a result of Korean subsidies. As a result, new duties on offshore platform jackets and pilings are being assessed on imported platforms in addition to a 6-percent duty required by existing trade law.

Despite the ITC decision, the dominance of Korean and Japanese producers of offshore oil equipment in the U.S. market is expected to continue, if not accelerate. Already, our Asian trading partners have made significant inroads into the gulf coast area in terms of the deck house portion of platforms—traditionally a domestic market stronghold—with two out of the last five decks having been awarded to Korea.

So again, we are faced with the prospect of losing another basic industry—one critical to this Nation's ability to effectively develop and produce the energy resources that lie within our territories. The sophisticated engineering skills and production techniques, along with the manufacturing capacity, are quickly being eroded. Further, the potential loss of our capability to design and construct structures to meet future challenges in offshore oil and gas exploration and production could seriously undermine our ability to respond to a national energy emergency.

In addition to exporting the offshore projects overseas, we are also exporting the OCS-related jobs so critical to the Offshore Leasing Program. The equipment necessary for OCS energy development can translate to roughly 1,000 to 1,300 jobs for a production platform and up to 1,500 jobs for a mobile drilling unit, with some $200 million in revenue generated for the domestic economy.

In closing, let me suggest to my distinguished colleagues that the Buy American amendment to the continuing resolution is no more protectionist than the OCS leasing program already approved and implemented by our Government. In fact, this provision is entirely consistent with the current national orientation of the policy governing the U.S. Outer Continental Shelf. The regulations for the OCS leasing program, as promulgated by the Minerals Management Service—30 CFR 256.35 [b] [2] and [4]—permit issuance of leases only to U.S. citizens and nationals, aliens with permanent resident status, and U.S. corporations.

Further, the Jones Act requires the use of U.S.-built ships and U.S. crews between coastwise points, and extends the crew requirement to include offshore platforms operating on the U.S. Outer Continental Shelf.

Further, the oil produced and developed in conjunction with the OCS leasing program can only be used domestically unless specifically stated by the President.

This amendment, then, merely represents a logical extension of the OCS leasing program into the manufacturing sector of this country. Our opponents charge that this is protectionist. So is the entire OCS leasing program. Perhaps our opposition would prefer that we seek an amendment opening the OCS leases to bids from foreign companies? I doubt they would.

I ask my colleagues to vote to maintain the same level of consistency in the OCS leasing program for the manufacturing sector as already enjoyed by other sectors involved in our offshore energy development and to please join me in supporting this amendment.

Mr. WILSON. Mr. President, the provision before us is one that has many facets to it. It is not a simple matter, for while superficially a question of protectionism versus free trade, we really are presented with an issue of national security.

We do not now allow and, presumably, will not allow foreign companies

to bid for offshore oil leases. This is a clear result of the decision that the control of our offshore oil deposits is a matter of national security, and we do not want foreign entities controlling any aspect of our national security.

Mr. President, it makes no sense to say that for purposes of national security we must control our offshore oil fields and yet put under foreign control our ability to get to the oil. Yet, the present situation is leading us to that very situation. If we do not maintain a domestic industry capable of building drilling rigs, not only will we have a blatant contradiction in our energy policy, we will have put our energy security at risk.

Mr. President, it may be in order to review our present energy security policy and its impact on our leasing policy. But, I believe that the restrictions on leasing tracts only to U.S. companies makes sense, and for the same reasons I support the House amendment.

Mr. BYRD. Mr. President, the question this amendment presents is very straightforward: do we want to rely solely on foreign oil rig production, or do we want at least half of each oil rig to be made in the United States? Do we want to maintain the capacity to assure that we can exploit our own energy resources, or are we content to rely on imported oil rigs?

The House amendment before us provides that our offshore oil rigs must be built in America from materials 50 percent of which, by cost, have been produced in this country. Let us be clear about what is happening to our capacity to produce oil rigs. In the past several years, Japanese and Korean firms have become the dominant force in oil rig production. Thirteen out of 14 west coast platform construction contracts have been issued to Japan and Korea since 1979. On our gulf coast, two of the last five contracts for equipment went to Korean firms.

This is part of a pattern of growing foreign dominance over our domestic steel market. It is a trend that has broad-ranging consequences for American security, and nowhere are those consequences more apparent than in the offshore oil rig area.

Why is the problem so serious? Mr. President, the Government has recognized the importance of a strong domestic capacity to develop our coastal resources in several ways. We have required that offshore oil leases be issued only to U.S. persons and corporations. We have, through the Jones Act, required the use of U.S.-built ships and of U.S. crews between coastwise points, and extended that crew requirement to include offshore oil rigs.

Why this concern? Because we recognize the importance of American independence in oil production. We are not alone in the world in doing so. Britain and Mexico both maintain "buy national" requirements for offshore development activity.

A nation needs to have its own capacity to develop its strategic resources. As it is, foreign producers are garnering a growing share of the U.S. oil rig market. If we wake up and find ourselves without the capacity to make these rigs, we have compromised our independence.

Now, what would the House amendment do to address this problem? It will require that any rig or structure used to develop resources on our continental shelf, pursuant to Federal leasing, must be built in the United States from materials 50 percent of which have been produced in this country. That is the meaning of "Buy America" here.

What will it mean for the American worker, and the American steel industry? Construction of each of these huge platforms would generate between 1,000 and 1,300 jobs. Each platform costs between $80 million and $300 million, and at least half of that amount would be kept in this country, giving our steel industry much-needed business.

What is this amendment going to cost? Based on figures that oil companies themselves have developed, it may add around 6 cents to the price of a barrel of oil. That is a small price to pay when he consider that we are talking about the very survival of this important segment of our steel industry. The price is small indeed when we look at the issue of how this domestic production capacity contributes to our energy independence.

If we fail enact this legislation, we not only suffer the immediate job loss, but we set ourselves up for a permanent loss of engineering skills, production techniques, and manufacturing capacity. If we put an industry or a segment of an industry out of business through reliance on imports, we no longer train people or teach those skills in this country. We—as a people—forget how to perform that job.

I support the House provision, and I urge my colleague to join with me. This is a clear question of national security. It has domestic employment benefits, to be sure. But the real benefit of the House provision is to be found in the fact that it offers an insurance policy for our future.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield myself the remainder of the time.

Mr. President, I am not going to get into this discussion of whether the President will or will not veto it. I have a lot of confidence that if we keep this measure in as the House passed it we provide for buying American steel that Ronald Reagan is about the last President I could possibly imagine who would veto a bill because it had a "Buy American" provision in it.

I am just not willing to concede that point. I think we ought to either adopt or defeat the amendment based on the merits but not on the concern of whether the President will or will not veto it.

I am prepared to yield back the time I have.

The PRESIDING OFFICER. The proponents have 35 seconds and opposition 29 seconds remaining.

Mr. CHAFEE. I yield back my time.

Mr. METZENBAUM. I yield back my remaining time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the motion to lay on the table the House amendment to Senate amendment numbered 117.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. BROYHILL], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. LAXALT], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Vermont [Mr. LEAHY] and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

The PRESIDING OFFICER (Mr. SIMPSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 31, as follows:

[Rollcall Vote No. 351]

YEAS—63

Andrews	Gorton	McConnell
Armstrong	Gramm	Mitchell
Baucus	Grassley	Murkowski
Bentsen	Hart	Nickles
Bingaman	Hatch	Nunn
Boren	Hatfield	Packwood
Boschwitz	Hawkins	Pressler
Bradley	Hecht	Pryor
Bumpers	Heflin	Quayle
Chafee	Helms	Roth
Chiles	Humphrey	Rudman
Cochran	Inouye	Simpson
Cohen	Johnston	Stafford
Danforth	Kassebaum	Stennis
Denton	Kerry	Stevens
Dole	Lautenberg	Thurmond
Domenici	Long	Trible
Eagleton	Lugar	Wallop
Evans	Mathias	Warner
Exon	Mattingly	Weicker
Goldwater	McClure	Zorinsky

NAYS—31

Abdnor	Glenn	Moynihan
Biden	Gore	Proxmire
Burdick	Harkin	Riegle
Byrd	Heinz	Rockefeller
Cranston	Hollings	Sarbanes
D'Amato	Kasten	Sasser
DeConcini	Kennedy	Simon
Dixon	Levin	Specter
Dodd	Matsunaga	Wilson
Durenberger	Melcher	
Ford	Metzenbaum	

NOT VOTING—6

Broyhill	Laxalt	Pell
Garn	Leahy	Symms

So the motion to lay on the table the House amendment to Senate amendment No. 117 was agreed to.

□ 0005

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

SENATE AMENDMENT NO. 23

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Oregon to recede from the Senate amendment No. 23.

Mr. BUMPERS. addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Is the amendment No. 23 to put a cap on the farm——

The PRESIDING OFFICER. May we have order, please?

Mr. BUMPERS. Mr. President, I wanted to get into a discussion, if I may, with the chief opponent of this move to recede, the Senator from Iowa, and to find out in light of some of the Senators of farm States here as to exactly——

The PRESIDING OFFICER. The Senate is not in order.

Will staff please retire to the Chambers?

Mr. BUMPERS. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. Will Senators please retire to the cloakroom? The Senate will not proceed until the Senators clear the aisle and are retired to the cloakrooms.

The Senator may proceed.

Mr. BUMPERS. Mr. President, you will recall that the Senate voted on an amendment of the Senator from Iowa when the continuing resolution was before the Senate, when we attempted to put a $500,000 cap on all governmental payments to any farm unit and the Senate on a germaneness question by a vote of about 54 to 40 rejected it and accepted the germaneness argument. So his amendment was ruled out of order.

The House in their continuing resolution had put a $250,000 limit on payments but as I understand it, either that amendment or the one that is now before us in this resolution did not include nonrecourse loans.

Could the Senator from Iowa verify that?

Mr. HARKIN. If the distinguished Senator will yield, I will respond by saying that the amendment, the House provision that the distinguished chairman of the Appropriations Committee wants us to recede to, does not include nonrecourse loans in the payment limitation of $250,000. It does not include nonrecourse loans.

Mr. BUMPERS. The amendment that the Senator offered here which was defeated on a germaneness ruling did include nonrecourse loans; is that correct?

Mr. HARKIN. That is correct.

Mr. BUMPERS. I want to go through a scenario with the Senator and ask him if he can tell us how it would apply to this particular provision because let me tell you something. I am very apprehensive about amending something as important as this on a continuing resolution at 12:15 a.m. without knowing more about it. I think most of the Senators here, particularly from farm States, had better be paying attention here.

No. 1, the Senator from Iowa is representing to this body that the Department of Agriculture says that if this amendment passes, the total savings to the Government is $20 million; is that correct?

Mr. HARKIN. If I remember right, they said something like over 4 years, about $23 million. That sticks in my mind, something like that, between $20 and $25 million over a 4-year period. Someone else may have a different figure.

Mr. BUMPERS. Are you talking about an annual savings?

Mr. HARKIN. No.

Mr. BUMPERS. You are talking about total cost of $23 million over a 4-year period.

Mr. HARKIN. I believe I am correct. I would yield, if anyone else has any different information. But I think it was over a 4-year period of time, somewhere between $20 and $25 million. I think the exact figure was $23 million for the 4 years.

Mr. BUMPERS. Could the Senator from Mississippi, Mr. COCHRAN, enlighten us on that? Is that his understanding?

Mr. COCHRAN. Mr. President, if the Senator would yield, I was distracted by my friend from Minnesota.

Mr. BUMPERS. My question of the Senator from Iowa was, and he has said yes—I would like to know if he could verify the total cost of savings this amendment would yield to the U.S. Treasury over a 4-year period is $23 million. Is that the Senator's understanding?

Mr. COCHRAN. Mr. President, if the Senator would yield, my understanding is the Department of Agriculture has estimated that it would run about $26 million. That is my recollection.

Mr. BUMPERS. Over a 4-year period?

Mr. COCHRAN. That is right. To put it in perspective, you calculate the cost of the entire farm program over that period of time and you are talking about maybe $50 billion, compared with $26 million savings. So you are really not making a major reform although I agree with the Senator from Arkansas. It is an unfortunate way to legislate change in the farm bill.

I, along with the Senator, have voted in the Appropriations Committee against it and here on the floor—that it was not germane. I still have that view. But the Senator is correct. The cost is minimal. It is a lot different in the way it will apply to the farm programs than the amendment that was offered here in the Senate by the distinguished Senators from Iowa and North Dakota when we first discussed this issue.

Mr. BUMPERS. The final question, I want to be sure of, and of course the answer is obviously no if these savings are correct, because you are talking about roughly $6 million to $7 million a year which, by the scale of the kind of expenditures we are putting out on the farm programs is not very much. I want to be sure that this is absolutely on the record and that everybody understands what we are voting or not voting on here this evening depending on whether we ask for a rollcall. And it is this: Let us take in the case of rice. The loan price of rice is $7.20 a hundred. The world market price right now is about $3.50.

□ 0020

That is the floor. It may be a little lower than that, but that is the floor on the world market price, as far as the Department of Agriculture is concerned. So the loan price is $7.20, and the world market price is $3.50, so there is $3.70 a hundredweight.

My question is, when a farmer takes his rice and puts it in the loan program, he gets $7.20. If he does not want to redeem it, and in 99 percent of the cases he will not, he will just forfeit it. In that case what he has gotten, that $3.70, will not apply toward the $250,000 cap. Is that correct?

Mr. HARKIN. Yes.

Mr. BUMPERS. Let us assume further that under the Loan Marketing Program he has a chance to sell his rice for a little more than the world price of $3.50. Let us assume he has a buyer overseas who will pay $4 per hundredweight for it. He can go down and redeem that rice at the world price of $3.50. Is that not correct?

Mr. HARKIN. It would be $2.40.

Mr. BUMPERS. No. I am saying that the world market price is $3.50. If he forfeits it, he keeps his $7.20 that he got for his loan, but if he wants to redeem it, he can redeem it at the world price of $3.50. Is that correct?

Mr. HARKIN. That is correct.

Mr. BUMPERS. My point is I do not want him to get caught in a technical-

ity. If he redeems it, that still would not count. The difference between what he got on loan and the redemption price, that difference will still not apply on this cap. Is that not correct?

Mr. COCHRAN. Mr. President, if the Senator would yield, I would argue in behalf of that producer that he had a nonrecourse loan, that the marketing loan is a nonrecourse loan. It may be subject to dispute, as to whether or not the $250,000 limitation or cap would apply to him.

I would argue that it should not, even under this amendment of the House. I do not think it is clear by the terms of the amendment itself what the answer would be. I think it is going to be subjected to litigation, to lawsuits.

The Senator has certainly pointed out what could be a technicality that adversely affects our effort to market aggressively and competitively rice in the international marketplace, and if we adopt this it will undermine our efforts to be competitive again.

If we adopt this, will it get us back into the world market? I don't like the amendment, but I do not think we can get a better deal out of the House.

Mr. BUMPERS. It occurs to me that the Department of Agriculture certainly does not intend that to be the case. Otherwise, this $26 million you can see is just peanuts compared to what I am talking about. It is my impression that the Department of Agriculture, if they say this cap of $250,000 will only save $26 million over a 4-year period, could not possibly be anticipating that if this farmer redeems that rice so that he can sell it in the world market for a little bit more, they certainly would not intend for him to be penalized on a technicality simply because he redeemed his rice. In addition to that, you would totally torpedo one of the major provisions of the farm bill that we passed just 1 year ago, which set up the world loan marketing arrangements in the first place.

Does the Senator agree with that?

Mr. COCHRAN. If the Senator will yield, I do agree with him. He makes a good point. I hope that those who will have to interpret and apply this amendment, if it becomes law, will listen to that kind of argument and interpret it that way, that a nonrecourse marketing loan should not be subject to that cap.

Mr. BUMPERS. I yield the floor, Mr. President.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, the hour is late and I will not speak over 60 seconds.

The worst thing about this amendment, I say, Mr. President, is that even though Senator COCHRAN of Mississippi knows as much about the agricultural program as any person in this body, none of us can say with any degree of certainty what this amendment sent from the House actually does. It is, in fact, an undoing of what we did in 1985.

All of us are sitting here at 12:30 at night trying to see how this is going to impact rice, cotton, wheat, or any other crops. Since we have no information about this item, I hope the House amendment will not prevail.

Mr. BOREN. Mr. President, I agree with what has been said by other Senators. I think we are not talking about the impact of this amendment. I have heard the discussion on the floor between the Senator from Mississippi and the senior Senator from Arkansas. I think it is not absolutely clear as to the impact of this amendment. I would agree with what the Senator from Mississippi has said. The likely anticipated saving would appear to be the intent. The language is not exactly clear. I think it is unwise to be legislating in this manner.

I would also point out that there is no fairness between the various commodity groups under this amendment. There are payment limitations that apply to certain commodities of wheat, cotton, and rice that do not apply to dairy, sugar, and tobacco. There is not the necessary equity here between the various commodities.

We also have to consider what happens to the price of commodities like cotton. We do not know what will happen, really, over the next few months in terms of what will develop in the cotton price. A lot of this depends on what goes on in China, for example,

If the cotton prices were to go down substantially, you are talking about impacting farms that are much smaller. If the price goes down significantly, deficiency payments will go up and that means that you are talking about cotton farms, for example, particularly like in areas in western Oklahoma where irrigation is practiced. You are talking about catching farmers that are very small and perhaps discouraging the Marketing Loan Program.

To put the loan program into effect, we told producers they would not have to bear the cost of seeing the loan rate fall further down to lower than whatever the world price is.

Now we are talking about putting on limitations that at least potentially could penalize the farmer if the Government makes the decision to further lower the rate under a marketing program.

So we are making significant changes in a farm program that was just passed this year. We are not applying the changes to all commodities across the board, to tobacco, for example, to dairy, or to other essential commodities.

I just think it is unwise for us to be doing that.

I have heard the debate among my colleagues on and off the floor about whether or not we should seek a rollcall of this matter. I was wondering about it. I think the Senator from Mississippi has pointed out that we do know how the House would react. It is possible that we could have an even more damaging provision or one that is even less clear than this provision in return if we send it back to the House.

I do want to go on record as saying that I think it is unwise for us to take the leap in the dark and not know the full impact or the full meaning of this provision at this time.

If we have a voice vote, I certainly intend to vote against it. I want to be on record at this point as being in opposition to it and thinking this is not the place to do it, this is not the hour to make this kind of change. It deserves careful study.

We need to know what size farms are impacted before we do it. I hope that we would not keep this provision in the bill.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I will be very brief. Very often I have heard it said on the floor that the Farm Program is making payments only to the very large farmers and we are not really helping the family farmers. I would point out to my colleagues that while I think the estimates by the Department of Agriculture are terribly low, the savings in 4 years of $23 million would indicate that indeed most payments do go to reasonably-sized family farms and that these large payments that are always hyped in the press really only occupy a very small portion of the overall Farm Program.

I say that because this figure is $23 million over a 4-year period. I think that is low.

But even if the figure were perhaps more realistic, and I have heard one of my colleagues say $200 million over 4 years, it still would not be 1 percent of the overall program. I just make that by way of observation and I yield the floor.

□ 2430

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the motion to recede.

The motion to recede was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the motion was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORATORIUM ON PREPAYMENTS OF SECTION 515 MORTGAGES

Mr. DOLE. Mr. President, I would like to ask the distinguished Senator from Mississippi [Mr. COCHRAN] a question about a provision in the continuing resolution that provides for a moratorium on prepayments of section 515 Farmers Home Administration mortgages.

Mr. COCHRAN. I would be happy to respond to the majority leader.

Mr. DOLE. As I understand the provision, it is designed to give time to review the impact of prepayments of this type on the availability of low-cost housing intended to be encouraged by the 515 program. However, I am somewhat concerned that the effective date might be construed to adversely impact some transactions that are not abusive by any reasonable definition of the term.

For instance, I am concerned that this amendment might inadvertantly affect refinancings that have already occurred where there will be no resulting changes in rents or the policy for the running of a project. May I ask the distinguished Senator from Mississippi if a mortgage were refinanced, the closing on the mortgage to prepay the FmHA mortgage occurred today and the mortgagee had assured the Farmers Home Administration that, among other items, all existing leases would continue to be honored and the applicable rent subsidy agreement would remain in effect, would the new provision apply in the event that the actual discharge of the Farmers Home Administration mortgage does not occur until several days from today?

Mr. COCHRAN. It would seem to me that a refinancing under the facts presented by the majority leader would not be affected by the moratorium contained in the continuing resolution.

AMENDMENT NO. 3477

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Arizona, amendment No. 3477.

Mr. HATFIELD. Mr. President, let me describe for a moment the situation. I shall then ask unanimous consent to temporarily lay aside a certain matter.

We are now back to the one remaining amendment, amendment No. 59, relating to the funding for Federal buildings.

This amendment has been amended by the Senator from South Dakota [Mr. ABDNOR] in the first degree. It has been amended by the Senator from Arizona [Mr. GOLDWATER] in the second degree. We are now locked into a situation where no other amendment is possible—and I believe the Senator from Montana and the Senator from Ohio have other amendments that they wish to offer.

We are still in the process of trying to work out a compromise on the matter of the amendment relating to the subject of the amendment offered by the Senator from Arizona [Mr. GOLDWATER]. If we could get unanimous consent agreed to at this moment to lay aside temporarily the amendment in the second degree, the amendment of Mr. GOLDWATER, then the amendment pending by Mr. ABDNOR would be subject to another second-degree amendment, which would open up the opportunity for the Senators who wish to offer amendments on this continuing resolution.

I believe we could handle those two, and I am not aware of others. There may be, but I would hope to be able to handle those two amendments that are going to be presented by the Senators from Ohio and Montana and dispose of them. Then I would defer to the leadership as to what our decision would be after that. There is a possibility then, if we have not arrived at some kind of agreement on the compromise on the Goldwater amendment, there may be some possibility of setting that over until tomorrow morning. But I would certainly like to clear the deck tonight of all other amendments that may be offered in the second degree that would be possible after we set aside the Goldwater amendment.

If there are questions, I would like to respond to them. If not, I shall set the point into issue.

I ask unanimous consent to set aside temporarily the second-degree amendment by Senator GOLDWATER in order that other Senators may offer their amendments in the second degree to the pending Abdnor amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I do not know of any objection. The distinguished Senator from Arizona is meeting right now with Senators D'AMATO, MOYNIHAN, DECONCINI, the Chief of Staff of the Air Force, the Air Force Secretary, several colonels, privates, to see if they can work out something. But this would expedite the matter. I just make that note that this would not prejudice the right of Senator GOLDWATER to reoffer the second-degree amendment.

Is that correct, Mr. President?

The PRESIDING OFFICER. The amendment would recur.

Mr. DOLE. Regardless of the disposition of the second-degree amendments.

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. Mr. President, I would like to ask what the amendments are that we can expect. The Senator mentioned one from the Senator from Montana and one from the Senator from Ohio. What are they?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, in a moment, I shall be prepared to offer the so-called compromise on the RICO amendment. If the Senator from Rhode Island needs further description, I shall be happy to provide it.

Mr. HATFIELD. Mr. President, I would like to pose a question to the Chair.

By temporarily laying aside the Goldwater amendment, that in no way prejudices any of the parties to that amendment, because it would automatically come back at the complete of any intervening amendments that might be offered. Is that correct?

The PRESIDING OFFICER. The Senator is correct. And the amendment would recur automatically as each amendment is disposed of unless a complete substitute were to be offered for the Abdnor amendment.

Mr. METZENBAUM. Mr. President, is the Senator from Utah [Mr. HATCH] on the floor? He has an interest in this amendment. I indicated I would make every effort to protect him so he might be called to the floor.

Will the Senator from Oregon yield for a question?

Mr. HATFIELD. Yes, Mr. President.

Mr. METZENBAUM. Is the floor now open and would he make his unanimous-consent request so I may offer the amendment?

Mr. HATFIELD. I say to the Senator from Ohio that we are delaying momentarily to make one final check before I propound that unanimous-consent request. Then I shall be very happy to yield the floor, and it will be open for the Senator from Ohio to offer an amendment.

Mr. METZENBAUM. Has the majority leader sent word to Senator HATCH?

Mr. DOLE. Yes.

Mr. METZENBAUM. I thank him.

Mr. DOMENICI. Mr. President, I wonder if the distinguished chairman would mind if I took a few minutes with reference to the budgetary effects of the 13 appropriations bills?

Mr. HATFIELD. I shall be happy to do that.

Mr. DOMENICI. Mr. President, I rise in support of the conference report on the continuing appropriations bill. As my colleagues know, this bill contains all 13 regular appropriation bills which the Congress has been unable to pass separately. It also funds the new bipartisan antidrug legislation.

This bill provides $559.6 billion in budget authority and $353.5 billion in outlays to fund all activities of the Federal Government for fiscal year 1987.

When outlays from prior-year budget authority and other adjustments are taken into account, the bill

is $4.9 billion in budget authority and $0.1 billion in outlays under the Senate Appropriations Committee's overall 302(a) allocation.

DRUG BILL FUNDING

Mr. President, it is important to note that these totals include funding for the bipartisan antidrug bill. The continuing resolution provides $1.7 billion in budget authority and $0.8 billion in outlays in fiscal year 1987 to combat the flow and use of drugs in the United States.

Although funding for the drug control initiative was not part of the budget resolution, the Appropriations Committee has brought back a conference report that is under the overall budget resolution levels. The distinguished chairman and members of the committee should be congratulated on this considerable achievement.

OTHER DOMESTIC APPROPRIATIONS

Mr. President, I also want to commend my colleagues for their work on the domestic side of the continuing appropriations resolution, other than the drug bill. The subcommittees has to make many hard choices on which programs to fund and which to cut.

Many of the nondefense subcommittees completed action consistent with their 302(b) allocation, and I congratulate them on their fine efforts. For the few subcommittees that will require a revised section 302(b) allocation, I know what difficult constraints they had to work under, and I am pleased that such adjustments can be accommodated within the overall budget totals for the Appropriations Committee.

Much of the credit for the overall budget reductions we are achieving belongs to Chairman HATFIELD and the Appropriations Committee. This continuing resolution continues to hold the line on spending for nondefense discretionary programs, which has declined by 25 percent under the able chairmanship of my good friend and distinguished colleague, Senator HATFIELD.

FOREIGN ASSISTANCE

The foreign assistance title is consistent with both the subcommittee 302(b) allocation and the budget resolution assumptions.

The conference agreement begins much needed reform of financing for foreign military sales by discontinuing treasury-rate loans in favor of increased grants and low-interest loans.

The conferees agreed to add $50 million for disaster and reconstruction assistance to victims of the recent earthquake in San Salvador; additional amounts may be requested later when damage assessments are completed.

I believe it should also be noted that economic assistance for Central America is expected to be no lower than the fiscal year 1986 level, and it is specifically exempted from the conference provision that no region may receive a greater percentage of global assistance totals in fiscal year 1987 than it did in fiscal year 1986.

Overall, funding for foreign aid in fiscal year 1987 is 6 percent less than the fiscal year 1986 level. I am concerned that congressional decisions to increasingly earmark amounts for individual countries and activities does more to hamper foreign policy than the scarcity of resources.

In this regard, I am pleased that the conferees accepted an amendment by Senator KASSEBAUM, requiring the administration to submit new legislation restructuring U.S. foreign aid programs to more effectively utilize diminishing resources.

DEFENSE

The conference agreement provides $268.8 billion in budget authority for the Department of Defense. When the other function 050 portions of the continuing resolution are included, the total appropriation for defense activities is approximately $284 billion in budget authority and $277 billion in outlays.

The funding levels for the overall defense function are under the targets in the budget resolution by $8 billion in budget authority and $2 billion in outlays. This makes defense a major "bill payer" in the continuing resolution.

I support the continuing resolution, but I would have preferred a higher level of funding for our nation's defenses.

CONCLUSION

Mr. President, this first year of complying with the mandates of the Balanced Budget Act has been challenging. But I am greatly encouraged by the final continuing resolution before us today. I sincerely congratulate the distinguished chairman and ranking member of the Appropriations Committee for the outstanding job they have done.

Mr. President, I ask unanimous consent that tables showing the relationship of the reported bill to the Appropriations Committee's section 302(a) allocation, the President's request, and the Senate-and House-passed levels, and summaries of total appropriations action to date and congressional action to date, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

APPROPRIATIONS COMMITTEE CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1987 SPENDING TOTALS—CONFERENCE AGREEMENT

[Dollars in billions]

	Fiscal year 1987	
	Budget authority	Outlays
Outlays from prior-year budget authority, permanent and advance appropriations, and other actions completed this session	12.7	205.5
H.J. Res. 738, conference report	559.6	353.5
Possible later requirements:		
Veterans Compensation COLA	[1]	0.2
ACIF/Net realized losses	0.7	
RHIF/Net realized losses	0.4	
RDIF/Net realized losses	0.1	
Civilian agency pay raises	0.4	0.4
Totals PLR's	1.6	0.5
Adjustment to conform mandatory programs to budget resolution assumptions and other adjustments [2]	−19.5	+0.8
Adjusted committee total	554.4	560.3
Senate appropriations 302(a) allocation	559.3	560.4
President's request [2]	574.9	577.6
House-passed level [2]	548.6	558.8
Senate-passed level	553.6	560.9
Adjusted committee total compared to:		
Senate appropriations 302(b) allocation	−4.9	−0.1
President's request	−20.4	−17.3
House-passed level	+5.9	+1.5
Senate-passed level	+0.8	−0.7

[1] Less than $50 million.
[2] Includes adjustment for CCC for comparability with Senate crosswalk.
Note.—Details may not add to totals due to rounding.

CONGRESSIONAL ACTION TO DATE—CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1987—HOUSE JOINT RESOLUTION 738, CONFERENCE REPORT

[In billions of dollars]

	Fiscal year 1987	
	Budget authority	Outlays
Congressional action to date [1]	567.2	670.7
House Joint Resolution 738, conference report	559.6	353.5
Offsetting receipts	−26.1	−26.1
Possible later requirements [2]: (see attached table for details)	1.2	1.0
Adjustment for CCC	−19.8	
Total	1,082.1	999.1
Budget Resolution (S. Con. Res. 120)	1,093.4	995.0
Over (+)/under (−) Budget resolution	−11.3	+4.1

[1] This figure reflects legislation enacted in previous sessions of Congress, legislation enacted this session, and conference reports agreed to by both Houses as of October 14, 1986.
[2] CBO estimates that entitlements and other rmandatory programs will need the additional funding shown here based on the assumptions contained in the fiscal year 1987 budget resolution (S. Con. Res. 120).
Note.—Details may not add to totals due to rounding.

CONGRESSIONAL ACTION TO DATE—CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1987—HOUSE JOINT RESOLUTION 738, CONFERENCE REPORT—POSSIBLE LATER REQUIREMENTS

[In billions of dollars]

	Fiscal year 1987	
	Budget authority	Outlays
Possible later requirements [2]:		
Claims, defense	[1]	[1]
Payments to air carriers, DOT	[1]	[1]
Retired Pay, Coast Guard	[1]	[1]
Guaranteed student loans	0.1	
Special milk	[1]	
Advances to unemployment trust fund [3]	[1]	[1]
Black lung trust fund	0.3	0.3
Special benefits for disabled coal miners	[1]	
Assistance payments	0.3	0.3
Readjustment benefits	[1]	[1]

CONGRESSIONAL ACTION TO DATE—CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1987—HOUSE JOINT RESOLUTION 738, CONFERENCE REPORT—POSSIBLE LATER REQUIREMENTS—Continued

[In billions of dollars]

	Fiscal year 1987	
	Budget authority	Outlays
Civilian agency pay raises	0.4	0.4

CONGRESSIONAL ACTION TO DATE—CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1987—HOUSE JOINT RESOLUTION 738, CONFERENCE REPORT—POSSIBLE LATER REQUIREMENTS—Continued

[In billions of dollars]

	Fiscal year 1987	
	Budget authority	Outlays
Total—possible later requirements	1.2	1.0

[1] Less than $50 million.
[2] CBO estimates that entitlements and other mandatory programs will need the additional funding shown here based on the assumptions contained in the fiscal year 1987 budget resolution (S. Con. Res. 120).
[3] This is an interfund transaction that does not add to budget totals.
Note.—Details may not add to totals due to rounding.

HOUSE JOINT RESOLUTION 738, CONTINUING RESOLUTION FOR FISCAL YEAR 1987—CONFERENCE AGREEMENT

[Dollars in billions]

Subcommittee	Senate appns. revised 302 (b) allocation		Adjusted subcommittee totals[2]		Subcommittee compared to allocation	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture	31.5	24.1	31.5	24.1	−[1]	+[1]
Commerce-Justice	12.2	12.3	12.1	12.3	−0.1	−[1]
Defense	268.8	262.6	268.8	262.5	−[1]	−0.1
District of Columbia	0.6	0.6	0.6	0.6	−[1]	−[1]
Energy-Water	15.0	15.2	15.0	15.2	−[1]	−[1]
Foreign Operations	13.0	10.8	12.9	10.8	−0.1	+[1]
HUD-Independent	56.2	56.5	56.2	56.5	−[1]	+[1]
Interior	8.1	9.1	8.1	9.1	−[1]	+[1]
Labor-HHS	113.7	117.9	113.6	117.9	−0.1	−[1]
Legislative Branch	1.6	1.6	1.6	1.6	+[1]	+[1]
Military Construction	8.2	7.9	8.2	7.9	−[1]	−[1]
Transportation	10.3	26.9	10.2	26.9	−0.1	−[1]
Treasury-Postal Service	13.6	13.7	13.6	13.7	+[1]	+[1]
Deficiencies and Supplementals	6.5	1.2	2.1	1.2	−4.4	−[1]
Total, Appropriations Committee	559.3	560.4	554.4	560.3	−4.9	−0.1

[1] Less than $50 million.
[2] In addition to the bill, includes outlays from budget authority enacted in prior years, possible later requirements, adjustments to conform mandatory items to budget resolution level, and other adjustments.
Note.—Details may not add to totals due to rounding.

Mr. COCHRAN. Mr. President, would the distinguished manager of the bill yield?

Mr. HATFIELD. I yield.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

Mr. COCHRAN. Mr. President, the Agriculture, Rural Development, and Related Agencies Act for fiscal year 1987 (H.R. 5177), is included in its entirely in amendment No. 1 in the conference report on the continuing resolution.

As chairman of the subcommittee with jurisdiction over that bill, I am proud to report to the Senate that the agriculture section of the conference agreement is within the subcommittee's original 302(b) allocation for outlays. This was a difficult task in this time of budget constraints, given the current economic conditions facing our farmers.

As Senators will recall, the House version of the continuing resolution included, by reference, the House-passed version of H.R. 5177. The Senate amended the continuing resolution to include, by reference, H.R. 5177, as reported to the Senate by the Appropriations Committee on September 11, 1986. When the continuing resolution was considered, there were a number of amendments adopted in both the House and the Senate which would alter H.R. 5177 or existing laws related to agriculture. The conferees included most of these provisions in the text of amendment No. 1 in order to consolidate the various agriculture amendments which were scattered throughout the continuing resolution. I will highlight some of the conference agreements on H.R. 5177 and related provisions of the continuing resolution.

The feeding program for women, infants, and children [WIC] will be funded at $1,663,497,000 for fiscal year 1987. This is an $8 million increase over the Senate bill and a $43 million increase over current services. Also included is a provision which prohibits the implementation of regulations which were proposed in September which would alter the WIC funding formula. The conference agreement does, however, require implementation of regulations concerning this issue in time for States to conform to the new regulations by the beginning of fiscal year 1988.

For Public Law 480 title II programs, the conferees agreed to increase the amount provided in the Senate bill by approximately $100 million. As a supporter of the Public Law 480 programs, I was pleased that we could provide this increase and remain within our 302(b) allocation.

For the Commodity Credit Corporation, the House insisted that we provide a direct appropriation for net realized losses, rather than a current, indefinite appropriation as proposed by the Senate. We provide a total of $19.8 billion, including $3 billion which shall be available only to the extent that an official budget request is transmitted to the Congress. This will allow reimbursement for any advance deficiency payments which the Secretary may choose to make in 1987.

The House bill included limitations on CCC spending for certain programs. The conferees agreed to those limitations with two exceptions upon which the Senate conferees insisted: First, the limitation on borrowing by the Federal Crop Insurance Corporation was increased from $100 million to $375 million; and second, the limitation on the Conservation Reserve Program was increased from $550 million to $700 million.

The conferees agreed to include a disaster provision in the bill. During the appropriations Committee's markup of the agriculture appropriations bill, the Senator from Georgia, Senator MATTINGLY, offered an amendment designed to alleviate the devastating effects of the drought which plagued the Southeast this past summer. During floor consideration of the continuing resolution, the Senator from Georgia expanded that amendment to include assistance for all farmers who suffered from not only the drought, but also floods and hail storms in other parts of the country. The conference agreement includes those amendments, as well as $20 million for emergency conservation measures, and other discretionary provisions related to the Farmers Home Administration.

The conference report on the continuing resolution includes the full text of the conference agreement on amendments to the Child Nutrition and School Lunch Acts, commonly known as H.R. 7. One adjustment to that conference report is an amendment which was in the House version of the continuing resolution and which will eliminate the cap on tuition which schools may charge and still participate in the School Lunch Program.

Mr. President, there is one provision upon which the conferees were not able to agree. This provision was a matter included in the House version of the continuing resolution and it was deleted by the Senate. It involved a limitation on payments which farmers may receive under the various programs authorized in the 1985 farm bill. The Senate conferees in the subconference on agricultural issues in the continuing resolution voted 7 to 2 to reject the House provision. Because the House conferees insisted on their position, the amendment was reported from the conference in true disagreement. The House further insisted on that position last night during consideration of the amendment in disagreement. Thus, we will be faced with that issue later.

Mr. President, I support the conference report on the continuing resolution and I recommend its immediate adoption.

Mr. President, in subconference and in the full conference, we prevailed in many of the positions that the Senate had taken in the markup of the bill.

□ 0040

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent further proceeding under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I believe we have clearance from all parties on both sides of the aisle and therefore I would propound a unanimous-consent request that we temporarily lay aside the Goldwater amendment in the second degree to the Abdnor amendment in the first degree without prejudicing the rights of any parties thereto in order for other Senators to be free to offer amendments in the second degree.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, one comment. I want to say, without addressing the merits of any amendment—and I want to be very straightforward—the order of the business that we have before us is to complete the continuing resolution. We have disposed now of four of the five amendments. I will move to table any other business of the Senate that is attempted to be put on this continuing resolution, just as a matter of course, in order to get this appropriation completed. Again, I say that without any derogation of the merits of any issue that any Senator may wish and has every right to raise. But I also want to be very clear we are not here to do the legislative business of the past session. We are not here to try to pick up the unfinished agendas. We are not here to try to work out the final compromises.

I am saying this without any prejudice to any Senator or impinging upon the right of any Senator, but I will move to table any amendment that is offered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am about to send to the desk an amendment which reforms the Racketeer Influence and Corrupt Organizations Act, more commonly known as RICO. RICO was originally enacted to fight organized crime but it has been used to attack legitimate business practices. The amendment I am offering is very similar to S. 2907, a measure I introduced on October 3 of this year. This amendment is identical to the bill passed by the House overwhelmingly 371 to 28.

Now, that has to do with the RICO portions of the bill. It is not identical in connection with two add-ons to my amendment which will be more fully described by the Senator from Utah, and I will not attempt to describe that portion of the amendment but will yield the floor to him in order that he may do so at an appropriate time.

The purpose of the RICO amendment, not including the Hatch add-ons, is to make sure RICO is still a powerful tool for attacking corporate abuse but that it is not used—may we have order in the Senate?

Mr. HATCH. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Let us not add the Hatch add-ons. I will be happy to speak in favor of the amendment for just a minute when the Senator finishes. We will not add on anything. I do have a great deal of sympathy with the distinguished Senator from Oregon about adding legislation on the bill. The RICO add-on would be a very good thing and I will speak to that, but let us not add the other two.

Mr. METZENBAUM. Whatever the Senator from Utah wants. As he well knows, I was adding it at his request. I will not add it also at his request.

Now, RICO has mushroomed into a litigation explosion and frankly we need to put some fair and sensible limits on it. The American business community is being harassed by RICO lawsuits and I am frank to say to my colleagues that originally there were those who proposed that we practically throw out the entire RICO legislation.

Mr. President, there is not order in the Senate.

Mr. HATFIELD. Mr. President, I move to table the amendment.

Mr. BUMPERS. Mr. President, will the Senator withhold for just a moment? I want to be added as a cosponsor to this amendment.

Mr. METZENBAUM. I am happy to have the Senator from Arkansas as a cosponsor.

Mr. HATFIELD. Mr. President, I will withhold the motion to table the amendment, but I would like to make that motion as soon as possible. The Senator from Utah and any other Senator who wishes to speak, I will not try to foreclose them.

Mr. METZENBAUM. I was still speaking but I asked for order in the Senate.

Mr. HATFIELD. I am sorry; I did not understand. I thought the Senator yielded the floor and I was given recognition.

Will the Senator indicate how much time he needs?

□ 0050

Mr. METZENBAUM. Three or four minutes. I do not intend to keep this body long on this issue.

In essence, all the amendment is all about is the fact that we are providing to this bill—the Senator from Oregon has some merit to his proposition as to whether this is the proper place to add it. The fact is that there are so many abuses occurring today under RICO that the American business community, major portions of it, is crying out for relief.

It is fair to point out that they would like more relief than is provided in this bill. But the fact is that the accounting profession, the securities profession, many of the largest corporations in America, have been around these halls saying "We need this bill."

I would not be totally frank with this body if I did not indicate that there is some objection, because some segments of the business community feel that it does not go far enough. But nobody says that it is not a major step in the right direction.

This amendment reforms the Racketeer Influenced and Corrupt Organizations Act, more commonly known as RICO.

The amendment I am offering is very similar to S. 2907, the measure I introduced on October 3 of this year. This amendment is identical to the bill

passed by the House overwhelmingly, 371 to 28.

The purpose of this amendment is to make sure RICO is still a powerful tool for attacking corporate abuse, but that it is not used against legitimate business practices.

RICO has mushroomed into a litigation explosion; we need to put some fair and sensible limits on it.

The amendment retains RICO as a strong tool for Government criminal and civil actions; it limits the use of RICO in business litigation cases where other remedies are available; and it retains the opportunity for consumers to obtain punitive damages in cases where the conduct has been particularly bad.

The amendment retains strong remedies for harm to individual consumers. And it reduces the incentives to use RICO for ordinary commercial disputes. In order to accomplish this objective, the bill divides RICO cases into three basic categories, each with different remedies.

First, in the case where the defendant has been convicted of criminal offenses, the current provisions for treble damages and attorneys fees to successful plaintiffs is retained. There is also no change in the case of civil or criminal actions by the Government.

Second, in the case where individual consumers have been harmed in the purchase or lease of a product, service, or investment, the purchase of real property, and the purchase of a contract, including an installment sales contract or other extension of credit, for their own use, the remedy would be actual damages, attorneys fees, and discretionary damages up to twice the level of actual damages, depending on the seriousness of the conduct. This approach means that in the case of the most egregious conduct by a defendant, treble damages could still be awarded. However, in the case where the conduct is less egregious, punitive damages would be much less.

Finally, for other cases, the remedy would only be actual damages plus attorneys fees. This last category of cases would include commercial disputes which now make up the great majority of RICO legislation. By reducing the remedy to actual damages, the incentive to use RICO would be greatly reduced.

A cause of action under RICO, whether brought under the civil or criminal provisions of the statue, is predicated on violations of other Federal or State statutes. RICO does not, however, allow a plaintiff to recover treble damages, attorney's fees, and costs if he successfully proves only a violation of these underlying Federal or State causes of action. Instead, a successful suit under RICO must prove the existence of a "pattern" of criminal violations committed in relation to an enterprise. It is thus inaccurate to state that the U.S. statute displaces or evades other Federal or State causes of action. RICO offers enhanced penalties because its provisions are violated by especially egregious behavior.

While the amendment does eliminate the award of automatic treble damages in certain cases, it does not alter current law concerning entitlement to costs and a reasonable attorney's fee in all cases. *See Aetna Cas. & Ins. Co.* v. *Liebowitz*, 730 F.2d 905 (2d Cir. 1984). This entitlement is mandatory, not discretionary.

The amendment divides civil RICO plaintiffs into four categories: Government plaintiffs, private plaintiffs who sue persons who have been convicted of an illicit activity or a violation of RICO, consumer plaintiffs, and nonconsumer plaintiffs.

The first two categories of plaintiffs are readily understandable. The last two categories need further explanation.

Recent statistics of the U.S. Department of Justice estimate that white-collar crime costs American citizens $200 billion annually. Civil RICO is currently consumers' best defense against this crime wave since it allows them to seek compensation for their losses. The amendments are designed to preserve the use of civil RICO for consumers who are victimized by ongoing criminal behavior, including criminal frauds. Thus, any person who suffers RICO cognizable injury in connection with a contract for personal or household use or investment, or the purchase or lease of a product, service, investment, or other property for personal or household use or investment may bring an action for damages, costs, attorney's fees, and punitive damages up to twice the level of actual damages. This remedy is available to all persons who meet the criteria in the amendments, whether or not they are unsuspecting and highly vulnerable or impoverished. The set of facts underlying *Gregory* v. *Atlantic Permanent Savings and Loan Ass'n.*, No. 84-620-N (E.D. Va. 1984) is just one example of the many circumstances in which a plaintiff would be able to maintain a civil action under RICO as a consumer. Other fact situations, for example, arising in connection with an extension of credit, refinancing, or any consumer transaction are meant to qualify for punitive damages under the amendment.

The provision that punitive damages are available if "neither State nor Federal securities laws make available an express or implied remedy for the type of behavior on which the claim of the plaintiff is based" is meant to preclude a plaintiff from recovering under the punitive damages section of the amendments if he or she is eligible to recover damages under the securities laws based on the facts underlying the civil RICO case and if the civil RICO case were filed under the securities laws instead. It is not designed to insure that no punitive damages are available as long as the securities laws regulate the conduct, whether or not the plaintiff himself or herself would have standing to press the claim.

Behavior is done in "wanton" disregard of the plaintiff's rights if it is done in reckless or callous disregard of the rights of the plaintiff. The term is intended to be applied as it is traditionally applied and is not intended to require a different standard of proof than in traditional cases involving other Federal and State courses of action.

A plaintiff who meets the requirements for eligibility to recover punitive damages need not prove viciousness or egregiousness in order to recover punitive damages. Nor is it the intent of the amendments that substantial punitive damages should be reserved only for the most extreme cases of misconduct because all wanton and willful conduct is extreme, vicious, and egregious. *See, e.g., Phillips* v. *Hunter Trails Community Ass'n.*, 685 F.2d 184 (7th Cir. 1982), *Meyer* v. *Nottger*, 241 N.W.2d 911 (Iowa 1976), *Stroud* v. *Denny's Restaurant, Inc.*, 271 Ore. 430, 532 P.2d 790 (1975), *General Motors Acceptance Corp.* v. *Froelich*, 273 F.2d 92 (D.C.Cir. 1959), *Woodard* v. *City Stores*, 334 A.2d 189 (D.C.App. 1975).

The factors which the trier of fact should consider in establishing the level of punitive damages are aggravating, not mitigating, factors. The purpose of listing solely aggravating factors is to make sure that the trier of fact has proper guidance on the kinds of factors that should be considered in the award of punitive damages. The second factor, the "degree of disparity of bargaining power" means that the trier should consider the difference in bargaining power between the plaintiff and the defendant. It does not mean that the punitive damage award should be affected only if the disparity was so great that the defendant's actions were unconscionable, although an unconscionable disparity is certainly a fact that the trier of fact should consider. The other factors should also be interpreted in light of common meaning and understanding and in the light most favorable to the award of double actual damages for the plaintiff.

The scope of suits for which punitive damages are available should be interpreted liberally in favor of the plaintiff.

The pattern definition in the amendment should be interpreted in light of footnote 14 in *Sedima, S.P.R.L.* v. *Imrex Co., Inc.*, 105 S.Ct. 3275 (1985). The word "episode" in the statute was specifically selected and should not be

confused with "scheme" or "transaction." *United States* v. *Buscaro*, 742 F.2d 1335 (11th Cir. 1984), *cert. denied*, 105 S.Ct. 3476 (1985), and *Holmberg* v. *Morrisette*, 2 Civil RICO Rptr. No. 15, p. 4 (8th Cir. 1986), for example, are rejected. The reasoning of *United States* v. *Moeller*, 402 F.Supp. 49 (D.C.Conn. 1975) is adopted.

The statute of limitations starts to run from when the "cause of action accrues," "the conduct causing injury to the plaintiff terminates," or the date of the criminal conviction. The "conduct" refers to the pattern of illicit activity. The result of *Bowling* v. *Founders Title Co.*, 773 F.2d 1175 (11th Cir. 1985) is not possible under the amendment. The running of the statute of limitations is tolled during the pendency of a governmental civil or criminal action. It also includes the usual rules about bars, such as tolling for fraud and duress.

The requirement of pleading with particularity should be interpreted in light of rule 9 of the Federal Rules of Civil Procedure. Probable cause pleading is not required.

The amendment does not address the issue of respondeat superior or derivative liability nor is it intended to affect current law on this issue.

The amendment I am offering is the result of extensive discussions with business groups, labor, consumer representatives, and many others. It is supported by a wide spectrum of groups and individuals who have a strong interest in how RICO is reformed. A number of provisions were adopted in a spirit of compromise in order to bring all sides closer to consensus. I believe it represents a fair and sensible compromise, and I urge its adoption.

I particularly appreciate the cooperation of Senator LEAHY, who contributed substantially to the final drafting and who played a major role in helping achieve consensus, Congressman RODINO, chairman of the House Judiciary Committee; Congressman BOUCHER, who introduced legislation on this subject, and others who cooperated in these discussions.

This identical bill passed overwhelmingly in the House. I strongly urge the Senate to pass it as well.

I hope that at this late hour the U.S. Senate will see fit to adopt this amendment. It may not be all that some would like it to be, but I believe that it is good legislation and would help the American business community, would help many segments of it. I think we would be remiss if we did not take advantage of this opportunity.

Mr. HATCH. Mr. President, I will take very little time on this, because I understand the ordeal that the Senator from Oregon is under; and I hope my colleagues will start to recognize that ordeal.

Since the distinguished Senator from Ohio has brought this up, as to the RICO bill—which is what this amendment is—it would be better had we had a broad-based bill that would take care of all the injustices that are going on under civil RICO in this country today.

This bill basically takes care of accountants and securities dealers. It does not take care of bankers. It does not take care of insurers. It does not take care of a whole raft of others who nobody ever contemplated would be sued under the racketeering laws of this country. We all know that these laws have been used to extort throughout this country. Banks are sued, and they pay settlements because they do not want to be called racketeers. Nobody ever thought this was going to happen.

Whether this passes tonight or not, I intend to do everything I can to resolve the civil RICO problem next year. I mean that we need to resolve it across the board, not just in specialized cases, as this will be.

The distinguished Senator from Ohio knows that the people in the House will not take anything else. This is the best we can do this year. Therefore, I recommend that we vote for this bill, and I hope it will be the last legislative amendment offered to this continuing resolution. I feel duty bound to support it.

I have sympathy for the Senator from Oregon. I understand what the distinguished Senator from South Carolina is going to say: If they take the word "security" out, it would be broad-based and would take care of everybody. But I understand that the House will not take it.

I support the Senator from Ohio. I hope we will vote this bill through in this form, and I hope everybody will consider helping us to do it next year on a fair basis, for all businesses.

Mr. BIDEN. Mr. President, No. 1, the Senator from Ohio is being much too modest. This is not just an OK bill. This is a significant bill. This is a very good bill.

I know that most of my colleagues, unless they serve on the Judiciary Committee, probably do not know RICO from "SHMICO," any more than I would know some of the farm programs or some of the programs in the tax bill.

RICO is in fact a significant weapon that the Justice Department has available to it, and the civil application of RICO is important, notwithstanding the criticisms that have been made of it.

We have been trying to negotiate this proposal for two years. It was not until the Senator from Ohio decided that he would take it on essentially full time, along with the Senator from Utah, that we got this far. It is a very significant piece of legislation.

Those of you who are concerned about whether or not the American business community is being unfairly treated should understand that although they may not have called you on it, you will be called if you vote to table, because this is a big, big, big deal to a big segment of the American business community, as it should be. There is nothing wrong with that.

The reason why the Senator from Ohio—and I do not deign to speak for him—but I suspect, being able to read his mind, as I always am able to do, that the reason he wants to do it tonight is that this is something that is without controversy on the House side. If you all had a chance to look at it in detail, it probably would be without controversy here.

This is not an inappropriate vehicle to put it on. It will go through like a hot knife through butter if you let it. Just keep in mind that if you do not, there will be a lot of people upset, with good reason, who have worked a long time.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. BIDEN. I yield.

Mr. CHILES. Will the Senator tell the Senator from Florida, if this bill is so noncontroversial and everybody wants it and the House has passed the measure and sent it over here, what is to prevent the Senate, on a unanimous-consent agreement, from taking up the House measure and passing that?

We are dealing now with a conference report. A conference report, the Senator from Florida always felt, you voted yes or no. The only reason to hold a conference is to bring the parties together and to force some resolution.

We had the continuing resolution here, and we worked on it for days. Anybody who had an amendment had a shot at putting it on. The Senator from Florida had some; the Senator from Delaware had some.

Mr. BIDEN. The Senator from Delaware is probably the only person here in 14 years who not one time had an amendment to a continuing resolution, and I will tell the Senator why now. The reason why now is that a few Senators just saw the light a half hour ago.

Mr. CHILES. If they saw the light a half hour ago, why do not those same Senators that the Senator from Delaware is talking about, with the power of the Judiciary Committee—why does not somebody from the Judiciary Committee stand up and say: "I have a unanimous-consent agreement; I want to take the House bill off the calendar; and let's take it up and pass it as a freestanding bill"?

Mr. BIDEN. Mr. President, do I have the floor?

The PRESIDING OFFICER (Mr. WILSON). The Senator from Delaware has the floor.

Mr. BIDEN. Mr. President, I ask unanimous consent that we temporarily set aside the continuing resolution, and I ask unanimous consent that we take the RICO bill off the desk and that we pass it. That is my unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Mr. President, reserving the right to object——

Mr. HATFIELD. Mr. President, reserving the right to object, under what time limitation?

Mr. BIDEN. Twenty seconds.

Mr. D'AMATO. Mr. President, will the Senator yield for an inquiry?

Mr. BIDEN. I yield.

Mr. D'AMATO. I share the Senator's thought with respect to RICO and its misapplication. We have a great deal of concern in the city of New York, and that relates to whether or not they would be precluded—they being the city or any other municipalities—from bringing an action where there is no conviction, a civil action where there is no conviction.

I believe that is the case in the House bill. If it is, I would suggest that it would be appropriate to amend that to give those municipalities a 2-year grace period so that they could obtain legal authority from their legislatures and not be precluded from actions they are contemplating or undertaking at the present time. I hope we can deal with that deficiency.

Mr. BIDEN. I will answer the question by suggesting that I do not think we begin to amend any of this. I respectfully suggest that if the unanimous-consent request cannot be agreed to, we withhold that until immediately when we get back here.

□ 0100

The Senator from Utah or the Senator from South Carolina or the Senator from Massachusetts will be chairman of the Judiciary Committee next year, and I can assure you that they will likely bring that up. So I would not want to do that.

Mr. CHAFEE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The distinguished manager, the Senator from Oregon.

Mr. HATFIELD. I move to table the Metzenbaum amendment.

Mr. THURMOND. Give me one-half minute.

The PRESIDING OFFICER. The amendment has not yet been offered.

Mr. HATFIELD. Mr. President, the Senator asked for 1 minute.

Mr. METZENBAUM. A slight detail.

The PRESIDING OFFICER. The Senator will suspend.

Mr. HATFIELD. I believe the Senator has not even submitted the amendment.

Mr. METZENBAUM. I believe that is right, a slight detail.

Mr. HATFIELD. Does the Senator intend to submit the amendment?

Mr. METZENBAUM. Yes; I do. I have every intention to.

AMENDMENT NO. 3479

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 3479.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the pending amendment:

SECTION 1. PATTERN OF ILLICIT ACTIVITY.

(a) CHAPTER 96 HEADING.—The heading for chapter 96 of title 18, United States Code, is amended by striking out "RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS" and inserting in lieu thereof "PATTERN OF ILLICIT ACTIVITY."

(b) SECTION 1961.—Section 1961 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking our "racketeering" the first place it appears and inserting "illicit" in lieu thereof;

(2) in paragraph (5), by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof;

(3) in paragraph (7) by striking out "racketeering" each place it appears and inserting "criminal" in lieu thereof; and

(4) in paragraph (8)—

(A) by striking out "racketeering" the first place it appears and inserting "illicit activity" in lieu thereof; and

(B) by striking out "racketeering" the second place it appears and inserting" criminal" in lieu thereof.

(c) SECTION 1962.—Section 1962 of title 18. United States Code, is amended by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof.

(d) SECTION 1963.—Paragraph (3) of section 1983(a) of title 18, United States Code. is amended by striking out "racketeering" and inserting "illicit" in lieu thereof.

(e) SECTION 1968.—Section 1968 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "a racketeering investigation" and inserting "an illicit activity investigation" in lieu thereof;

(2) in subsection (b), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof;

(3) in subsection (c), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof; and

(4) in subsection (f)—

(A) by striking out "racketeering" the first, second, and fifth places it appears and inserting "criminal" in lieu thereof;

(B) by striking out "racketeering" each other place it appears and inserting "illicit activity" in lieu therof; and

(C) by striking out "racketeer" and inserting "illicit activity" in lieu thereof.

Subsection (c) of section 1964 of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) A governmental entity whose business or property is injured by conduct in violation of section 1962 of this title may bring in any appropriate United States district court, a civil action against the person who engaged in such conduct to recover threefold the actual damages that the governmental entity sustained by reason of such injury, and the costs of the civil action, including a reasonable attorney's fee.

"(B) A civil action under subparagraph (A) of this paragraph must be brought by—

"(i) the Attorney General, if the injury is to the business or property of a governmental entity of the United States;

"(ii) the chief legal officer of the State, if the injury is to the business or property of a governmental entity of the State; or

"(iii) the chief legal officer of a subdivision of a State, if the injury is to the business or property of the subdivision and if such officer is specifically authorized by statute of the State to bring actions under this subsection.

"(2) A person, other than a governmental entity, whose business or property is injured by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action against the person who engaged in the conduct and shall recover—

"(A) threefold the actual damages that such person whose property or business is injured sustained by reason of such injury, and the costs of the civil action, including a reasonable attorney's fee, if the person who engaged in the conduct was, with respect to such conduct, convicted of an illicit activity or of a violation of section 1962 of this title; or

"(B)(i) the actual damages that such person whose property or business is injured sustained by reason of such injury, and the costs of the civil action including a reasonable attorney's fee, and

"(ii) punitive damages of up to twice the actual damages if—

"(I) the person whose business or property is injured is a natural person and the injury occurred in connection with a purchase or lease, for personal or household use or investment of a product, service, investment, or other property; or a contract for personal or household use or investment;

"(II) neither State nor Federal securities laws make available an express or implied remedy for the type of behavior on which the claim of the plaintiff is based; and

"(III) the defendant acted in wanton disregard of plaintiff's rights (but conduct of the defendant in good faith and in reliance upon a directly applicable regulatory action, approval, or interpretation of law by an authorized State agency is not in wanton disregard of plaintiff's rights for the purposes of this subclause).

(3) In a civil action involving a claim for punitive damages under paragraph (2)(B) of this subsection, the trier of fact, in determining the amount of punitive damages, shall consider—

"(I) the degree of culpability of the defendant;

"(II) the vulnerability of the victim;

"(III) any history of similar conduct by the defendant;

(IV) the benefits derived from the unlawful conduct by the defendant;

(V) the number of persons victimized;

"(VI) any prior decision by a court or State or Federal agency as to whether the defendant violated applicable law or acted in bad faith; and

"(VII) any other factor the court deems to be an equitable consideration bearing on the appropriate amount of punitive damages.

"(4) For a civil action under paragraph (2) of this subsection seeking damages under subparagraph (B) of such paragraph (2), the term "pattern of illicit activity" requires at least two acts of illicit activity—

"(A) one of which occurred not more than five years after the prior act of illicit activity;

"(A) one of which occurred not more than five years after the prior act of illicit activity;

"(B) that are not so closely related in time and place that together the acts constitute a single episode; and

"(C) (for actions based on a violation of section 1962(c) of this title) each of which is related to the affairs of the enterprise.

"(5)(A) A civil aciton under this subsection may not be commenced after the latest of—

"(i) three years after the date the cause of action accrues;

"(ii) three years after the conduct causing injury to the plaintiff terminates; or

"(iii) two years after the date of the criminal conviction required for an action under paragraph (2)(A) of this subsection.

"(B) The period of limitation provided in subparagraph (A) of this paragraph on a cause of action does not run during the pendency of a government civil action or criminal case relating to the conduct upon which such cause of action is based.

"(6) As used in this subsection, the term 'governmental entity' means the United States or a State, and includes any department, agency, or government corporation of the United States or a State, any political subdivision of a State, and any enterprise for which a trustee has been appointed by a United States district court under section 1964(a) of this title (but only during the tenure of such trustee).

"(7) The court shall award a reasonable attorney's fee to a prevailing plaintiff in a cause of action under paragraph (2)(B) of this subsection."

SEC. 3. FEDERAL RULES OF CIVIL PROCEDURES AMENDMENTS.

Rule 9(b) of the Federal Rules of Civil Procedure is amended—

(1) in the caption, by inserting, and Suits under 18 U.S.C. 1964(c)" after "Mind"; and

(2) by inserting after the first sentence the following: "In an action under 18 U.S.C. 1964(c), facts supporting the claim against each defendant shall be averred with particularity.".

SEC. 4. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this Act shall apply to any civil action commenced after the date of enactment.

(b) EXCEPTION.—In any pending action under section 1964(c) of title 18, United States Code, in which a person would be eligible to recover only under paragraph (2)(B)(ii) of section 1964(c) as amended by this Act, if this Act had been enacted before the commencement of that action, the recovery of that person shall be limited to the recovery provided under such paragraph (2)(B)(ii), unless in the pending action—

(1) there has been a jury verdict or district court judgment, establishing the defendant's liability, or settlement has occurred; or

(2) the court determines that, in light of all the circumstances, such limitation of recovery would be clearly unjust.

LEGISLATION TO REFORM CIVIL RICO

● Mr. LEAHY. Mr. President, in 1970, Congress enacted the Racketeering Influenced Corrupt Organizations [RICO] statute. It contained criminal sanctions which included enhanced penalties and asset forfeiture where the Government could show a pattern of criminal activities associated with a group or organization. The law also established a civil RICO cause of action, the purpose of which was to create "private attorneys general" who would supplement criminal RICO prosecutions by suing organized crime elements. Use of civil RICO is attractive because it provides for treble damages and attorneys fees.

Problems have arisen because the statute contains very broad language as to what constitutes a civil RICO violation. The Justice Department has adopted guidelines to avoid abusive and excessive use of the broad language in the criminal context. But no similar mechanism exists to confine private civil suits to cases involving the activities of "organized crime."

Last summer, the Supreme Court in the Sedima case gave a very broad interpretation as to what constitutes a civil RICO cause of action. There have been a flood of civil RICO claims filed before, and especially since, the Sedima decision, in cases which were never contemplated by Congress back when the law was passed. Most of these involve commercial disputes where the plaintiff adds a count alleging mail, wire or securities fraud. Most of these cases are not decided on the RICO claim, but the plaintiff gets a substantial litigation advantage because he threatens the defendant with treble damages and attorneys fees and gets the public relations advantage of claiming his opponent is a racketeer. These suits are not limited to cross business claims. Many have been filed against labor unions for what are really National Labor Relations Act violations. Claims have even been filed in domestic relations cases, and one was filed by a dissident group of a church parish that sought control of the church.

Recently, the House passed a bill sponsored by Congressman BOUCHER to reform civil RICO.

This bill was the product of extensive negotiations between Senators METZENBAUM, BIDEN, and myself, Congressmen BOUCHER and RODINO, and representatives of business, labor, and consumer groups, as well as representatives of State and local governments. These negotiations were spearheaded by Senator METZENBAUM, and I compliment him for his efforts. These negotiations have produced a compromise bill which deserves the support of all Senators.

I believe that RICO reform is needed now. While the compromise legislation does not deal with all of my concerns. I believe it is a fair compromise, and one that we should act on before Congress adjourns.

In particular, the following elements of the bill are critical to the widespread support that this measure has received:

First, automatic treble damages only in actions for injuries to Government entities and cases in which the defendent against whom the damages are sought has been convicted previously of certain criminal charges;

Second, single damages in most other civil RICO actions;

Third, a limited discretionary additional award in one narrow group of cases, in which an individual has suffered damages to his or her business or property in connection with certain consumer transactions;

Fourth, the limitation to single damages of any civil RICO case in which Federal or State securities laws provide a remedy for the type of behavior on which the plaintiff's claims are based, whether or not the securities laws provide that particular plaintiff with the remedy and whether or not the plaintiff's remedy has lapsed or otherwise been lost;

Fifth, a 3-year statute of limitations that runs, in most cases, from when the plaintiff's claim accrued or the injury to him or her ended, not from the last act in any alleged "pattern" when the injury to the plaintiff had already ended and the plaintiff's RICO cause of action had already accrued;

Sixth, a requirement that a plaintiff plead every element of a civil RICO claim with particularity as to each defendant;

Seventh, the addition of certain specific minimum requirements for allegations of a "pattern" of illicit activity for certain civil RICO actions, requirements which are not intended to limit the development of the judicial interpretation of the "pattern" requirement that has occurred in the response to the Supreme Court's discussion of "pattern" in the Sedima decision; and

Eighth, the immediate effectiveness of the detrebling provisions of the bill, with exceptions only where there has been a jury verdict or court judgment assessing liability against the defendant or in the extraordinary case in which, because of special circumstances, it would be clearly or manifestly unjust to deprive the plaintiff of treble damages.

This legislation will refocus civil RICO on Congress' original intent—suits against parties engaged in a wide-scale pattern of fraudulent or other criminal activity. At the same time, claimants would retain all of the other

statutory and common law remedies for the various forms of alleged misconduct.

It's a good compromise. I compliment Senators METZENBAUM and BIDEN and Congressman BOUCHER and RODINO. I was pleased to participate in the development of this legislation and urge all Senators to support it.●

Mr. SIMON. Mr. President, this bill responds to a distress flag raised by numerous Federal courts across the country. These courts are warning us that civil actions under RICO, created as a part of the Organized Crime Control Act of 1970 to combat infiltration by organized crime into legitimate businesses, are being stretched far beyond that purpose.

Instead, treble damage civil RICO claims are being routinely asserted in business and commercial lawsuits, regardless of whether the defendants have any connection to what is commonly considered organized crime. The threat of treble damage liability gives plaintiffs an unfair advantage because it often forces defendants into early settlement of cases they might otherwise take to trial or settle at a later stage of the litigation.

Judge Abner Mikva, an old friend and former House colleague of mine, has described RICO as a small cottage industry for Federal prosecutors that has become a commonplace weapon in the civil litigator's arsenal. As Judge Mikva stated in his testimony before the House Subcommittee on Criminal Justice last year, "RICO makes an appearance in everthing from divorce suits to religious disputes to suits against one of the national candidates and a major political party, to garden variety contractual suits between businessmen, to corporate raids, to defenses against corporate raids, to State efforts to collect taxes from local businessmen."

While there are few who disagree that civil RICO is being abused, consumer groups and others were concerned that Congress would go too far in changing the statute. They felt that some of the reform proposals would reduce the deterrent effect of the statute and deprive victims of genuinely criminal conduct of a powerful means of obtaining redress for their injuries.

I think this bill represents a carefully crafted response to these concerns. The bill preserves a civil cause of action for treble damages for governmental entities and for private plaintiffs where a defendant has been convicted of criminal acts. Individual consumers suing in connection with a personal or household transaction would retain the opportunity to obtain punitive damages in an amount up to twice the amount of their actual damages if the conduct of the defendant is deemed to be flagrant in nature.

The bill eliminates automatic treble damages in that category of cases where the threat of such liability has been used in harmful and unjust ways—suits involving only commercial entities. Both businesses and consumers would still be able to recover actual damages and attorneys fees for civil RICO violations. The bill also provides sensible relief for businesses now defending suits involving billions of dollars in liability under civil RICO.

Unlike many of the so-called tort reform proposals that have come before the Senate, this bill limits lawsuits in ways that protect the rights of all litigants, not solely those of defendants. It preserves civil RICO as a weapon against both organized crime and all types of business fraud, especially that which victimizes ordinary American consumers.

Finally, I commend Senator METZENBAUM, Senator LEAHY, and Senator HATCH for all their hard work on this difficult and important issue.

Mr. MURKOWSKI. Mr. President, one of the primary purposes of the civil RICO bill (H.R. 5445) is to restrict the inappropriate uses made of present Federal racketeering laws in private civil litigation.

I wholeheartedly support that purpose, but I fear that in pursuit of that purpose, local governments will be needlessly restricted in their ability to pursue legitimate claims under present Federal racketeering laws.

Mr. President, there is a particular provision in sec. 2 of the bill that requires modification. Under sec. 2 a civil RICO action cannot be brought by a municipality unless specifically authorized by State statute. Alaska has no such specific statute it is not now needed because under the current law a municipality can file a civil RICO action under its own authority.

If the proposed bill is left unchanged it will have a devastating effect on several communities in Alaska. Take for example, the North Slope Borough, where the U.S. Department of Justice and the attorney general of Alaska are in the process of investigating criminal RICO violations. The investigation has been going on for more than 2 years, and it is considered the largest and most complicated RICO case in the Nation.

The North Slope Borough should be allowed to pursue its own civil remedies against those who have wrongfully diverted borough revenues. It can now do so under present law, but not under the proposed civil RICO bill. While such actions under the bill could be brought on behalf of the borough by the attorney general, the borough's hands should not be tied in this manner.

It is doubtful that a State would be inclined to engage in expensive prolonged complex civil litigation when any cash recoveries would go to a different political entity. In fact, there is a serious question whether Alaska law would enable the State to turn over recovered civil RICO money to a municipality in such cases.

Mr. President, I request that the bill be amended to allow local governments to pursue their own legal actions. To do so will not only enhance the sovereignty and integrity of local governments, but acknowledge a basic confidence and faith in local government.

There is no reasonable basis to deny local government this right. It is being denied out of a fear or speculation that a local government will abuse the right. I suggest Mr. President that local government will no more abuse this right any more than any other Government entity—be it a Federal or State entity.

With this in mind Mr. President, I just cannot support the civil RICO bill now before this body.

Mr. DENTON. Mr. President, I believe that reform of the civil recovery provisions of the Racketeer Influenced and Corrupt Organizations Act [RICO] is long overdue. However, I am concerned that S. 2907, as the bill was introduced, would not curb sufficiently abuse of civil RICO, and might even exacerbate the problem.

Furthermore, S. 2907 has not yet been reviewed by the Judiciary Committee, which has been working for some time on the issue of civil RICO reform. I believe that it is unwise to consider the bill until its provisions have undergone critical examination in the committee process.

The civil recovery provisions of RICO are greatly in need of reform. The extraordinary remedy provided by RICO has been abused in an ever-increasing number of civil suits based on claims that were never intended to be actionable under RICO, such as small time fraud and simple breach of contract. Armed with the treble damages remedy, plaintiffs in such cases are frequently able to coerce settlements from defendants who are concerned not only about the potential for treble damages but also about the negative publicity attendant to being labeled a "racketeer" in a RICO suit.

This scenario has prompted the Supreme Court Justice Thurgood Marshall to note that "it is not surprising that civil RICO has been used for extensive purposes, giving rise to the very evils that it was designed to combat."

To curb such abuse, a bipartisan effort has been conducted in the Judiciary Committee to focus the RICO civil remedy on its originally intended target: criminal racketeering. A proposed bipartisan amendment to RICO is being discussed by committee members which would require that, before a RICO civil suit may be brought in most cases, the defendant first must have been convicted of a criminal

RICO offense. The amendment would preserve the ability of Federal and State governmental units to sue for treble damages under RICO without the requirement of a prior criminal conviction. Such an amendment has not yet been considered by the full Judiciary Committee and is still being studied.

I believe that the prior conviction prerequisite to civil RICO suits would restore the original intent of the Congress in providing a civil remedy under RICO as an additional weapon in the fight against organized crime.

However, I am concerned that S. 2907 would not reduce significantly the number of civil suits filed under RICO which are more properly actionable under State law. In fact, by merely replacing the treble damages remedy with a punitive damages scheme for consumer actions, the bill would continue to encourage plaintiffs to sue under RICO when a State court would be the more appropriate forum. This problem could be alleviated somewhat by an amendment which would permit the recovery of such punitive damages only where the plaintiff has no other remedy available under State or Federal law.

Mr. President, although S. 2907 is a step in the right direction, it does not attack the root of the problem: The availability of civil RICO for a broad range of causes of action not related to criminal racketeering. Furthermore, the bill contains new civil remedy provisions, the advisability of which has not been considered by the Judiciary Committee. As with other bills introduced to reform RICO, S. 2907 should undergo strict scrutiny by the Judiciary Committee before being considered on the Senate floor.

Thank you, Mr. President.

Mr. THURMOND. Mr. President, I rise in opposition to this RICO amendment.

The original purpose of title 18, section 1964(c) was to provide government and private parties a mechanism against the infiltration of legitimate businesses by corrupt forces. Organized crime was a prime target of this legislation.

The problem has arisen by virtue of innovative private plaintiffs who have brought actions against legitimate businesses, not those influenced or infiltrated by organized crime. These legitimate businesses are being abused by private actions that turn ordinary commercial disputes, securities litigation, banking transactions, insurance claims, and landlord-tenant disputes into RICO actions. Settlements are being extorted by some private actions because legitimate businesses have no choice but to settle out of court to avoid public disclosure of baseless racketeering allegations. I have no doubt that there is a need for reform. But the need demands that the reform be appropriate.

The amendment before this body is seriously flawed in several respects:

First. It does not solve the problem. Consumers can still bring RICO actions and recover actual damages plus punitive damages up to twice the actual damages. This is nothing more than treble damages, which are recoverable under current law, in disguise.

Second. Local municipalities may not bring RICO actions unless their State legislature gives them legislative authority to do so, or the State attorney general is willing to bring the RICO action on behalf of the municipality. This means that large cities across this country—that is, New York—could not bring a RICO action to fight organized crime and corruption.

Third. There is a loophole which does not allow Federal action to recover punitive damages against RICO defendants for securities claims. It is manifestly unfair to protect only securities related businesses and no others from RICO abuse.

Fourth. This proposal unnecessarily federalizes broad areas of State common law and State statutory causes of action.

Fifth. There have been several proposals throughout the 99th session of Congress to deal with the RICO problem. H.R. 2943, the original Boucher bill, required a prior conviction for a predicate act before a private action could be brought. S. 1521, the Hatch bill, required that one of the predicate acts be an act other than fraud and swindling, wire, radio, television, or securities fraud. RICO is a difficult problem. As this Congress nears end, the last proposal on the table should not be rushed through until all affected parties have had the opportunity to examine and respond to it.

I must point out that the Department of Justice opposes this proposal. Their position is that this amendment does not go far enough to solve the RICO abuse problem.

In conclusion, this amendment is not the solution to the RICO problem. Any measure considered by the Senate must be carefully worked out after all affected parties have had the full and fair opportunity to participate in the process. I urge my colleagues to vote against this amendment.

Mr. President, I ask unanimous consent that a copy of a letter sent to me which voices the Department of Justice's objection to this proposal be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,

Washington, DC, October 14, 1986.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is to express the opposition of the Department of Justice to H.R. 5445, a bill to amend Chapter 96 of title 18, United States Code. The subject bill seeks to curb the widespread abuses of 18 U.S.C. 1964(c), the so-called private civil RICO statute.

Our objection to current law springs from basic principles of federalism: most suits now being filed under the civil RICO statute should be brought in state court rather than federal court. To the extent that the poorly drafted civil RICO law inadvertently makes windfall remedies available to plaintiffs, it overrides the considered action of state legislatures and courts. While H.R. 5445 would to some extent curb abuses of the civil RICO law, we believe that it fails to achieve the degree of reform needed and is thus unacceptable. More specifically, H.R. 5445 positively encourages litigants to sue in federal court even where a state remedy is clearly available to them. As presently drafted, therefore, there is considerable sentiment to recommend Executive disapproval of H.R. 5445 if it is approved by the Senate.

Should it be determined to act on this issue this year, we believe that, at a minimum the bill should be amended to strike the word "securities" in proposed new 18 U.S.C. 1964(c)(2)(B)(ii)(II). Such an amendment would clarify that the special federal punitive damages remedy would be available only where there is no state legal remedy available. Such an amendment would significantly strengthen the bill and overcome our serious reservations about H.R. 5445 as presently drafted.

Sincerely,

——— ———,
(For John R. Bolton,
Assistant Attorney General).

Mr. MOYNIHAN. Although I recognize the need for the reform of RICO laws as embodied in the amendment offered by my distinguished colleague from Ohio, I am concerned over the requirement that State legislatures give authority to municipalities before they may bring civil RICO actions.

I look to my colleagues for assurance that consideration will be given to delaying the effective date of this requirement for 2 years, or until such time as the State legislature can act.

Mr. METZENBAUM. This provision was the result of lengthy investigations and was reached in the spirit of compromise in order to achieve as sound a consensus as possible. I support future congressional review of this provision in order to ensure that municipalities can bring RICO actions in appropriate cases.

Mr. SPECTER. Mr. President, when Congress passed the Racketeer Influenced and Corrupt Organizations Act [RICO] in 1970, it intended to provide a powerful new weapon in the war against organized crime. In the hands of Government prosecutors, RICO has, indeed, been such a weapon. As the Supreme Court noted 2 years ago, however, private—civil—RICO actions against racketeers for alleged damages

have evolved "into something quite different from the original conception of its enactors."

In short, because of the extremely loose language with which Congress enacted the private RICO provisions 16 years ago, private plaintiffs have—quite understandably—attempted to convert ordinary fraud cases into racketeering claims. The availability of treble damages under the RICO statute provides more than adequate incentive for plaintiffs to append RICO claims to what frequently are ordinary civil actions—actions for breach of contract, securities violations, antitrust and commodities disputes, labor-management grievences, landlord-tenant disputes, even family, or marital squabbles.

As a result of this misuse, there have been thousands of civil RICO suits brought in the already overcrowded Federal courts. Even a casual reading of the cases makes clear, however, that very few actually involve organized crime or racketeers in the sense that the Congress understood those terms. So abused have been the civil RICO provisions that the Federal courts adopted limitations on the statute. In rejecting these judicially imposed standing and evidentiary requirements in the Sedima and Haroco cases, the Supreme Court did not reject the underlying premise that the civil RICO statute has been greatly abused and is desperately in need of reform. The Court simply stated that it is for Congress, not the courts, to reform the RICO statute.

Mr. President, we need to preserve the true purpose of the civil RICO statute—aggressive actions, both civil and criminal, against organized criminals. It is essential, however, that Congress act to end the destructive and unfair use of the RICO provisions, in garden variety disputes, where the most upright of defendants is likely to be branded as a racketeer.

The opinions of the courts of appeals set forth lengthy and scholarly analyses of the manifest defects of the current RICO statute. The Supreme Court did nothing to question those conclusions; indeed, it virtually invited Congress to amend the statute. I urge my colleagues to support the compromise proposal as an urgently needed, albeit imperfect, reform of a much abused statute.

Mr. HATFIELD. Mr. President, I yield a minute to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, this amendment has no place here.

If this amendment is accepted, I am going to offer my amendment on lobbying. That is a very important amendment. I have not been able to get it up.

If you are going to take up a lot of things here that have not been taken up heretofore and have not gotten through, then let us open it up and continue to take matters.

This amendment is discriminatory. It singles out certain things and leaves out others.

For instance, it takes care of the security people. It does not take care of the insurance people; it does not take care of the city of New York as mentioned there, and other reasons.

It is purely discriminatory and should not pass.

If a motion to table does not carry, I am going into more detail and explain further why it should not pass.

Mr. HATFIELD. Mr. President, I want to say in my motion to table I will ask initially for a voice vote only.

I move to table the Metzenbaum amendment.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. BROYHILL], the Senator from Utah [Mr. GARN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Nevada [Mr. LAXALT], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Idaho [Mr. SYMMS], are necessarily absent.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Vermont [Mr. LEAHY], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont [Mr. LEAHY] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 44, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—47

Armstrong	Hatfield	Pressler
Boschwitz	Hawkins	Quayle
Chafee	Hecht	Roth
Cochran	Heflin	Rudman
Cohen	Helms	Simpson
D'Amato	Hollings	Stafford
Danforth	Humphrey	Stennis
Denton	Kassebaum	Stevens
Dodd	Kasten	Thurmond
Dole	Lugar	Trible
Domenici	Mathias	Wallop
Evans	Mattingly	Warner
Exon	McClure	Weicker
Goldwater	McConnell	Wilson
Gramm	Murkowski	Zorinsky
Grassley	Nickles	

NAYS—44

Abdnor	Eagleton	Matsunaga
Andrews	Ford	Melcher
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Harkin	Nunn
Boren	Hart	Proxmire
Bradley	Hatch	Pryor
Bumpers	Inouye	Riegle
Burdick	Johnston	Rockefeller
Byrd	Kennedy	Sarbanes
Chiles	Kerry	Sasser
DeConcini	Lautenberg	Simon
Dixon	Levin	Specter
Durenberger	Long	

NOT VOTING—9

Broyhill	Heinz	Packwood
Cranston	Laxalt	Pell
Garn	Leahy	Symms

So the motion to lay on the table amendment No. 3479 was agreed to.

□ 2320

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

The Senator will suspend. There will be order in the Senate. Senators desiring to converse will take their conversations off the floor.

Senators will please take their seats. Senators desiring to converse will do so off the floor. The Senator from Oregon.

Mr. HATFIELD. Mr. President, may I make an inquiry of the Chair? Does the unanimous consent request that I made prior to the consideration of this amendment, still stand so that other amendments may be offered or does that have to be made for each amendment?

The PRESIDING OFFICER. It must be renewed at each amendment.

Mr. HATFIELD. I now renew that unanimous consent to temporarily lay aside the Goldwater amendment in order that other amendments may be considered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 3480

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I will be very brief on this. This is an amendment that I hope will be accepted. It deals with $50 million increase in the so-called TEFAA Program. That is the Temporary Emergency Food Assistance Act. That program takes surplus commodities such as dried powdered milk or flour, corn meal, cheese, and distributes it to the poor through the Community Action Program,

through the Salvation Army, or through church food banks.

A few weeks ago, if I had known what I know now, I would have attempted to get the committee itself when it was working on the agricultural appropriations to take note of this and to make the increase there. But it was only a few weeks ago when I was in Montana at a time when we had wheat piled on the ground out in the countryside that I learned to my dismay that in the Community Action Program, commodity distribution program, there simply was no flour available for distribution.

I draw that to your attention, my colleagues, because the contrast of wheat laying on the ground and yet there is no flour to be distributed to poor families or to the Salvation Army or to the church food banks seems morally wrong. Why was there no flour? Because the Department of Agriculture explained to me that under the $50 million that is available during this past fiscal year they simply did not have sufficient money to process it; in other words, to mill it into flour, and to put it in the pipeline.

The same I am afraid will be true this coming year. We make one improvement as a result of the Farm Act. The transportation costs beginning January 1, will be borne half by the States. That helps. But there is not sufficient funds in the program under the $50 million to cover all the needs that arise during the course of the year.

The commodities themselves, whether it is corn meal or dairy products or the wheat are not charged. They are out of surplus, and they are provided without charge. The money that is required is for the processing and the transportation. I will repeat half of that transportation costs will be borne by the States.

It is that simple. I hope the amendment can be accepted. It is budget neutral. I am glad to yield to my friend from Illinois.

Mr. SIMON. The Senator just answered the one question I was going to ask. It is budget neutral.

The second question, this legislative day, though not this calendar day, since we are 1:30 a.m., I believe is also coincidentally World Food Day when we try and remember that there are less fortunate people here in our country and around the world. It seems to me this is the small modest step that we can take to use this huge surplus that we have that we are going to have to pay storage on if we do not distribute it; get it to people who need it. I commend my colleague.

Mr. MELCHER. I thank my friend from Illinois. The point about storage is true. We do have to pay storage on these commodities. It is a $50 million outlay leveraged into providing for the poor through these various mechanisms. Every State of this land has the opportunity to have a little better nutrition. The storage from the reduction and disposal of this for a very worthy need reduces the storage cost.

The money that is used to offset this is derived by authorizing the Secretary to sell some notes and obligations held in the Rural Development Insurance Fund established under section 309(a) of the Consolidated Farm and Rural Development Act; $50 million is a small amount of sales out of that $8 billion portfolio.

I would hope that there is no vote necessary on this. I would hope that the amendment can be accepted. It is a very modest step and a very worthy one to help the nutrition of the poor here in our own country. Charity does belong at home. This is a very basic charity from funds, $50 million that is leveraged into a great amount of food because, after all, the $50 million is for the processing, and part of the transportation. And it leverages into a great amount of food.

□ 0130

Mr. President, I ask unanimous consent that Senator BURDICK be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator send his amendment to the desk?

The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. MELCHER], for himself and Mr. BURDICK, proposes an amendment numbered 3480.

At the end of the amendment, insert the following new section:

"SEC. . Notwithstanding any other provisions of this act, in addition to any sales required under any other act, the Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than $50,000,000, and funds for necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, shall be $100,000,000.".

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I can only say we have been through the appropriations process and this matter has been considered carefully. The amendment would exceed the authorization for this program. Therefore, I move to table the amendment of the Senator from Montana.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Montana.

Mr. MELCHER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Montana. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. BROYHILL], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. LAXALT], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Vermont [Mr. LEAHY], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—47

Armstrong	Gramm	Proxmire
Boschwitz	Grassley	Quayle
Chafee	Hatch	Roth
Chiles	Hatfield	Rudman
Cochran	Hawkins	Simpson
Cohen	Hecht	Stafford
D'Amato	Helms	Stennis
Danforth	Humphrey	Stevens
Denton	Kassebaum	Thurmond
Dole	Kasten	Trible
Domenici	Lugar	Wallop
Durenberger	Mathias	Warner
Evans	Mattingly	Weicker
Glenn	McClure	Wilson
Goldwater	McConnell	Zorinsky
Gorton	Murkowski	

NAYS—45

Abdnor	Exon	Matsunaga
Andrews	Ford	Melcher
Baucus	Gore	Metzenbaum
Bentsen	Harkin	Mitchell
Biden	Hart	Moynihan
Bingaman	Heflin	Nickles
Boren	Heinz	Nunn
Bradley	Hollings	Pressler
Bumpers	Inouye	Pryor
Burdick	Johnston	Riegle
Byrd	Kennedy	Rockefeller
DeConcini	Kerry	Sarbanes
Dixon	Lautenberg	Sasser
Dodd	Levin	Simon
Eagleton	Long	Specter

NOT VOTING—8

Broyhill	Laxalt	Pell
Cranston	Leahy	Symms
Garn	Packwood	

So the motion to lay on the table amendment No. 3480 was agreed to.

□ 0140

Mr. HATFIELD. I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

Mr. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The point is well taken. There is no order in the Senate. Senators will please

take their conversations off the floor and take their seats.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to make an inquiry. I inquire as to whether or not any other Senator is expecting to present an amendment that would be presented in the second degree to the Abdnor amendment after we ask unanimous consent to set aside temporarily the Goldwater amendment.

Mr. President, I assume that there are no other amendments.

We are now in a unanimous consent situation, where the floor will revert to the Senator from Arizona [Mr. DECONCINI] under a unanimous-consent agreement that was entered into.

I ask if the Senator from Arizona will yield to me without losing his right to the floor in order to propound a motion.

Mr. DECONCINI. Mr. President, before I yield, I wonder if the Senator wants to tell us what that is going to be. What is he going to move to?

Mr. HATFIELD. I shall explain the motion before I make it in order to make sure all Senators know.

Mr. DECONCINI. I yield the floor, Mr. President, with the understanding that I do not lose my right to the floor after the vote if there is a vote and after the Senator has made his motion.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, this is the situation we are in. At 4:03 this afternoon, an amendment was offered by the Senator from Arizona [Mr. GOLDWATER] in the second degree to an amendment that has been offered by the Senator from South Dakota relating to Federal buildings. The amendment that was offered by Senator GOLDWATER related to one of the planes, the T-46, which is being discussed and has been discussed since 4:03.

Approximately 5 hours ago, there was a beginning effort to resolve this conflict by staff. We had, as the majority leader indicated, the Secretary of the Air Force, a number of generals, sergeants, colonels, members of the Armed Services Committee, many interested parties, all huddled together to try to solve this problem. As of about some hour or so ago, that process broke down. There is no apparent agreement that has been reached or is in the process of being reached.

In addition to that, the amendment in the first degree offered by the Senator from South Dakota [Mr. ABDNOR], relating to public buildings, would exclude from the continuing resolution that is before us, the House portion of that, some 25 or 30 public buildings. Because the amendment would require that these buildings be authorized by both Chambers before construction money would be released, a number of Senators have indicated great concern about that for different reasons.

□ 0150

A number of Senators have indicated great concern about that for different reasons, the Senator from Alabama, and other Senators, and it looks as though, even if we resolve the Goldwater amendment at this moment by some miracle, we still have an unresolved amendment in the first degree that will have to be fought out and ultimately resolved.

Now, again, this is not a position I like, but it is in order to move this continuing resolution. I am informed that we are going to inform the public employees that by noon tomorrow they will have to stay home; we will not have the money to pay them. Therefore, there would be action to shut down the Government, in that sense shutting down the Government. I do not think that reflects well on the political institution in general or the Senate in particular or the Appropriations Committee in specific. I think the public expects us to conduct the Nation's business in an orderly fashion, and these all-night sessions and other things that we engage in I do not think is befitting to the dignity of the Senate and to the expectations of the public.

Having explained that, I will move to table the underlying amendment.

Now, what that in effect would do, when I make that motion—and I am sure there would be a rollcall on that—would be to address the Abdnor amendment in the first degree relating to public buildings. And if that motion should prevail, then that would automatically bring down as well the Goldwater amendment in the second degree. So that the vote would be on basically the issue of the Abdnor amendment but in voting that, one would have to be aware that one is in effect voting for two at one time; you are going to determine the outcome of the Goldwater amendment as well as the Abdnor amendment. I know no other way out. We could adjourn and go home. The floor belongs to one of the parties to this dispute, and they have talked and developed their case over a period of time. There have been some responses in a lesser timeframe. But it seems to me that there would be no possibility at this time to get a unanimous consent on a time agreement of laying this over until tomorrow with a time certain to vote or limited time, that we would be rested, revived by a portion of the night for sleep and back where we are now.

That is the background, that is the reason, that is the logic that I feel prevails at this time that requires me as the comanager of the bill with the assent of my colleague, the Senator from Mississippi, and that is why I asked the Senator from Arizona to yield the floor, to move to table the Abdnor amendment.

The PRESIDING OFFICER. Is the Senator presently making the motion to table?

Mr. HATFIELD. I have made the motion to table.

Mr. ABDNOR. Will the Senator yield?

Mr. HATFIELD. I would be happy to yield.

Mr. ABDNOR. I would like to ask a parliamentary inquiry. If the Senator made that motion, I cannot repeat a couple little pieces of information I think this body should know before they make that vote. As I understand it, if the Senator makes the motion to table, that precludes me from doing so; is that correct?

Mr. HATFIELD. I certainly, Mr. President, would be willing to ask unanimous consent for 5 minutes to a side to discuss the Abdnor amendment, since we have been far removed from that amendment in the time, if I withheld my motion to table.

Mr. DIXON. I would object to a time agreement without having some conversations about this, Mr. President.

Mr. HATFIELD. I see. Well, Mr. President, I think that answers the question. I make the motion to table the Abdnor amendment

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. STEVENS. Yeas and nays.

The PRESIDING OFFICER. All those in favor——

Mr. STEVENS. Yeas and nays.

Mr. EXON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? A sufficient second exists.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. BROYHILL], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. LAXALT], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Missouri [Mr. EAGLETON], the Senator from Vermont [Mr. LEAHY], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

The PRESIDING OFFICER (Mr. DURENBERGER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 29, nays 62, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—29

Biden	Hatfield	Moynihan
Bradley	Hawkins	Murkowski
Chiles	Heflin	Sarbanes
Cochran	Inouye	Sasser
D'Amato	Johnston	Simon
DeConcini	Lautenberg	Specter
Dixon	Long	Stennis
Dodd	Mathias	Stevens
Gore	Matsunaga	Weicker
Hart	McClure	

NAYS—62

Abdnor	Glenn	Metzenbaum
Andrews	Goldwater	Mitchell
Armstrong	Gorton	Nickles
Baucus	Gramm	Nunn
Bentsen	Grassley	Pressler
Bingaman	Harkin	Proxmire
Boren	Hatch	Pryor
Boschwitz	Hecht	Quayle
Bumpers	Heinz	Riegle
Burdick	Helms	Rockefeller
Byrd	Hollings	Roth
Chafee	Humphrey	Rudman
Cohen	Kassebaum	Simpson
Danforth	Kasten	Stafford
Denton	Kennedy	Thurmond
Dole	Kerry	Trible
Domenici	Levin	Wallop
Durenberger	Lugar	Warner
Evans	Mattingly	Wilson
Exon	McConnell	Zorinsky
Ford	Melcher	

NOT VOTING—9

Broyhill	Garn	Packwood
Cranston	Laxalt	Pell
Eagleton	Leahy	Symms

So the motion to table the amendment (No. 3477) was rejected.

□ 0210

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona (Mr. DECONCINI) is recognized.

Mr. DECONCINI. Mr. President, I would like to talk at some length. I wish to have the attention of the majority leader and ask him a question.

I ask unanimous consent that I can do that without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I thank the Chair.

My question to the majority leader is, Would it not be wise for us to fold up this morning and come back tomorrow at a civilized hour and continue this debate on this issue? Because it is 2 o'clock now and we have seen the damage that these all-night sessions do to the health of people, to the temperament of people, and the quality of life around here has been slipping a great deal, I say the last week or two, and I do not want the majority leader to go down as the majority leader that is not really interested in the welfare of all Members and the quality of life, and I would hope that the majority leader would ask for unanimous consent that we go out tonight and come back tomorrow morning and it sure would make me feel much better.

Mr. DOLE. That is important to me.

Mr. DECONCINI. Thank you.

I think we will come back tomorrow morning.

Mr. DOLE. He is one of the key players in this little trio here. I think it has just been suggested by the manager if we get some agreement that no other amendments be in order so we come back in the morning and we would have this issue before us and give some of us a little time between now and 9 o'clock to try to work out. If we could get unanimous consent that there be no further amendment in order I think the manager might be willing to do that.

Mr. HATFIELD. Mr. President, I ask unanimous consent that no other amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, there will be no more votes tonight. We will be in at 9:30.

Mr. LAUTENBERG. Mr. President, will the majority leader yield for a unanimous consent request?

Mr. DOLE. I yield.

CHANGE OF VOTE

Mr. LAUTENBERG. I ask unanimous consent that a vote that I cast on the Melcher amendment be changed from "yes" to "no". It would not change the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, I would like to ask a question. I thought we were trying to work out and I thought we did have some kind of agreement last year—I confess I am not sure whatever it was—about changing votes. It is nothing obviously personal with people involved.

I think changing votes afterward is not good, and I just hate to see it done. I thought we had some kind of agreement last year. I do not remember exactly what it was dealing with this matter. Some will have a better memory than I.

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, there is simple precedents for changing a vote by unanimous consent as long as it does not change the outcome of the vote.

If a Senator has not voted, of course, he cannot vote and the Chair cannot even entertain a unanimous-consent request that the Senator be allowed to vote after the Chair has announced the vote.

But even though the Chair has announced the vote, I do not think I have heard any objections to a Senator wanting to change his vote. After all, he represents his people. He wants to vote in a way that he thinks best represents his people, and as long as it does not change the outcome of the vote I would hope we would not object.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Let me say, Mr. President, that I will not object, but I am going to review. I thought we had some kind of announcement. Actually, it was more than last year. I think Senator Baker was involved with it.

I just hope this does not occur too often.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator for not objecting.

(The foregoing vote has been changed in accordance with the above order.)

Mr. DOLE. Mr. President, there is a cloture vote to occur tomorrow at 1 hour after we come in.

I ask unanimous consent that that cloture vote occur at 1 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, obviously at this time in the evening we cannot run the Cloakroom wires, but in view of the fact if there were an objection the majority leader would have to do one of two things. One, he would have to bring the Senate in at noon in order to have a vote at 1 o'clock or a little past 1, or he would have to come in and if the cloture motion carried that would mean that the Senate would have to continue with that business to the exclusion of all other business which would mean the continuing resolution would have to await the final outcome on the immigration bill and, thus, the closing down of the Government would be accelerated. So I am going to take the liberty on this side, having stated that for the Record, that we have not objection.

□ 0220

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me thank the distinguished minority leader. He is correct. If cloture was obtained, and I think it would be, on the immigration bill, I assume we would get unanimous consent to pass the short continuing resolution. We may not have a short continuing resolution. I am not certain the House will send us one. They want to go home tomorrow. They believe the best way to do that is to keep our nose to the grindstone on the big continuing resolution.

As I understand it, nonessential Government employees will be notified at noon unless there is some resolution of the pending Goldwater amendment. Unless there is some temporary relief, they will not work until we fix it up.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS FISCAL YEAR 1987

Mr. McCLURE. Mr. President, the conference on the fiscal year 1987 Department of the Interior and Related Agencies appropriations bill has concluded work and has reached agreement on all items.

The Senate Budget Committee scores the conference report on this bill with $8,079,000,000 in budget authority and $9,109,000,000 in outlays. This represents a decrease of nearly $200 million in budget authority below the adjusted fiscal year 1986 level. In addition, the revenues this budget authority generates is estimated to be over $10 billion.

The conference agreement on House Joint Resolution 738 incorporates some of the provisions of both the House and Senate versions of the Department of the Interior and Related Agencies Appropriations Act, 1987, and has the effect of enacting the act into law. The departments and agencies funded by this act shall comply with the language and allocations set forth in the House Report 99-714 and Senate Report 99-397 unless specifically addressed to the contrary in the joint resolution and accompanying statement of the managers.

In the Bureau of Indian Affairs, the managers have agreed to reprogram some of the remaining balances in the irrigation construction account which were originally appropriated in the Emergency Jobs bill. The two projects from which funds are to be reprogrammed are the Colorado River power project and the Uintah and Ouray irrigation project.

The conference report also provides funds in the Bureau of Indian Affairs, Forest Service, and the Bureau of Land Management for forest firefighting. In the past, these funds were provided in the supplemental but were provided now because of the probability that an offset would be required in the fiscal year 1987 supplemental appropriations bill.

Details of the agreements are listed in the conference report and I ask unanimous consent that the accompanying detail table be inserted in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
TITLE I - DEPARTMENT OF THE INTERIOR									
BUREAU OF LAND MANAGEMENT									
Management of Lands and Resources									
Onshore Energy and Minerals Management									
Energy Resources									
Coal Leasing	19,338	13,695	13,695	13,695	13,695	-5,643	---	---	---
Oil & Gas Leasing	44,545	46,519	46,519	45,049	46,019	+1,474	-500	-500	+970
Geothermal leasing	2,758	2,475	2,475	2,475	2,475	-283	---	---	---
Oil Shale and Tar Sands leasing	2,098	---	---	---	---	-2,098	---	---	---
Subtotal, Energy Resources	68,739	62,689	62,689	61,219	62,189	-6,550	-500	-500	+970
Non-Energy Minerals									
Mineral Material Sales	2,184	2,184	2,184	2,184	2,184	---	---	---	---
Mining Law Administration	8,151	8,210	8,810	8,710	9,010	+859	+800	+200	+300
Mineral Leasing	4,208	3,868	3,868	3,868	3,868	-340	---	---	---
Uranium operations	621	621	621	621	621	---	---	---	---
Subtotal, Non-Energy Minerals	15,164	14,883	15,483	15,383	15,683	+519	+800	+200	+300
Subtotal, Energy and Minerals Management	83,903	77,572	78,172	76,602	77,872	-6,031	+300	-300	+1,270
nds and Realty Management									
Realty Operations									
Energy Realty	7,776	8,063	8,063	8,063	8,063	+287	---	---	---
Non-Energy Realty	16,799	16,725	16,725	16,725	16,725	-74	---	---	---
Alaska Lands program	13,398	10,434	10,434	14,054	13,684	+286	+3,250	+3,250	-370
Subtotal, Realty operations	37,973	35,222	35,222	38,842	38,472	+499	+3,250	+3,250	-370
Withdrawal Processing and Review	3,744	3,732	3,732	3,732	3,732	-12	---	---	---
Subtotal, Lands and Realty Management	41,717	38,954	38,954	42,574	42,204	+487	+3,250	+3,250	-370
newable Resources Management									
Forest Management									
Public Domain	6,814	5,106	5,106	6,796	6,106	-708	+1,000	+1,000	-690
Western Oregon	914	---	914	914	914	---	+914	---	---
Subtotal, Forest Management	7,728	5,106	6,020	7,710	7,020	-708	+1,914	+1,000	-690
Range Management									
Wild Horse & Burro Management	16,964	15,200	12,777	18,100	17,777	+813	+2,577	+5,000	-323
Grazing Management	30,636	30,860	30,860	36,360	36,360	+5,724	+5,500	+5,500	---
Subtotal, Range Management	47,600	46,060	43,637	54,460	54,137	+6,537	+8,077	+10,500	-323
Soil, Water, & Air Management	16,391	14,469	15,119	14,469	15,119	-1,272	+650	---	+650
Wildlife Habitat Management	16,054	13,801	15,961	16,261	16,111	+57	+2,310	+150	-150
Recreation Management									
Cultural Resources Management	6,043	5,078	6,018	6,618	6,618	+575	+1,540	+600	---
Wilderness Management	7,280	7,254	7,254	7,254	7,254	-26	---	---	---
Recreation Resources Management	8,074	7,198	8,042	8,898	9,092	+1,018	+1,894	+1,050	+194
Subtotal, Recreation Management	21,397	19,530	21,314	22,770	22,964	+1,567	+3,434	+1,650	+194

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Fire Management	8,824	8,847	8,847	8,847	8,847	+23	---	---	---
Subtotal, Renewable Resources Management	117,994	107,813	110,898	124,517	124,198	+6,204	+16,385	+13,300	-319
Planning and Data Management									
Planning	9,453	9,525	9,525	9,525	9,525	+72	---	---	---
Data Management	13,695	14,888	14,888	14,888	14,888	+1,193	---	---	---
Subtotal, Planning and Data Management	23,148	24,413	24,413	24,413	24,413	+1,265	---	---	---
Cadastral Survey									
Alaska	15,083	11,069	11,069	15,059	15,059	-24	+3,990	+3,990	---
Other States	11,673	11,622	11,622	11,622	11,622	-51	---	---	---
Subtotal, Cadastral Survey	26,756	22,691	22,691	26,681	26,681	-75	+3,990	+3,990	---
Fire control									
Firefighting & Presuppression	3,492	3,492	3,492	78,492	86,492	+83,000	+83,000	+83,000	+8,000
Rehabilitation	584	584	584	584	584	---	---	---	---
Subtotal, Fire Control	4,076	4,076	4,076	79,076	87,076	+83,000	+83,000	+83,000	+8,000
chnical Services									
Resource Protection	3,320	3,320	3,320	3,320	3,320	---	---	---	---
Maintenance and engineeering services									
Buildings	3,421	3,421	3,421	3,421	3,421	---	---	---	---
Recreation	4,096	3,681	3,681	3,681	3,681	-415	---	---	---
Transportation	3,483	3,483	3,483	3,483	3,483	---	---	---	---
Maintenance improvement	---	---	1,000	---	1,000	+1,000	+1,000	---	+1,000
Engineering services	1,160	1,160	1,160	1,160	1,160	---	---	---	---
Subtotal, Maintenance and engineering services	12,160	11,745	12,745	11,745	12,745	+585	+1,000	---	+1,000
Subtotal, Technical Services	15,480	15,065	16,065	15,065	16,065	+585	+1,000	---	+1,000
neral Administration									
Executive and managerial direction	5,567	5,525	5,525	5,525	5,525	-42	---	---	---
Equal employment opportunity	2,064	2,056	2,056	2,056	2,056	-8	---	---	---
Administrative services support	31,894	30,680	30,680	30,680	30,680	-1,214	---	---	---
Bureauwide fixed costs	43,576	46,840	46,840	46,840	46,840	+3,264	---	---	---
Subtotal, General Administration	83,101	85,101	85,101	85,101	85,101	+2,000	---	---	---
M/FS interchange	---	3,400	---	---	---	---	-3,400	---	---
Total, Management of Lands and Resources	396,175	379,085	380,370	474,029	483,610	+87,435	+104,525	+103,240	+9,581
Construction and Access									
cess	1,395	1,200	1,200	1,200	1,200	-195	---	---	---
nstruction	---	---	---	1,600	1,600	+1,600	+1,600	+1,600	---
Total, Construction and Access	1,395	1,200	1,200	2,800	2,800	+1,405	+1,600	+1,600	---
Payments in Lieu of Taxes									
yments to Local Governments	104,370	105,000	105,000	105,000	105,000	+630	---	---	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Land Acquisition									
Bureau of Land Management:									
Acquisitions	1,988	---	3,550	500	5,920	+3,932	+5,920	+2,370	+5,420
Acquisition Management	298	---	300	300	300	+2	+300	---	---
Prior year deferral	---	---	-3,000	---	---	---	---	+3,000	---
Subtotal, Land Acquisition	2,286	---	850	800	6,220	+3,934	+6,220	+5,370	+5,420
Rescission	---	---	---	---	-3,200	-3,200	-3,200	-3,200	-3,200
Total, Land Acquisition	2,286	---	850	800	3,020	+734	+3,020	+2,170	+2,220
Oregon & California Grant Lands									
Construction and Acquisition	528	528	528	528	528	---	---	---	---
Maintenance	3,981	3,620	4,120	4,120	4,120	+139	+500	---	---
Renewable Resource Management	50,873	46,617	47,567	50,599	48,931	-1,942	+2,314	+1,364	-1,668
anning and Data Management	395	395	945	395	945	+550	+550	---	+550
obligated balance adjustment	---	---	1,100	---	---	---	---	-1,100	---
Total, Oregon & California Grant Lands	55,777	51,160	54,260	55,642	54,524	-1,253	+3,364	+264	-1,118
Range Improvement Fund									
provement to Public Lands	8,000	6,956	6,956	8,450	7,703	-297	+747	+747	-747
rm Tenant Act Lands	1,400	950	950	950	950	-450	---	---	---
ministrative expenses	600	600	600	600	600	---	---	---	---
Total, Range Improvements	10,000	8,506	8,506	10,000	9,253	-747	+747	+747	-747
Service Charges, Deposits, and Forfeitures									
ghts-of-way Processing	1,690	2,695	2,695	2,695	2,695	+1,005	---	---	---
opt-a-horse program	865	500	500	500	500	-365	---	---	---
pair of Damaged Lands	1,342	1,650	1,650	1,650	1,650	+308	---	---	---
st recoverable realty cases	350	350	350	350	350	---	---	---	---
Total, Service Charges, Deposits, and Forfeitures	4,247	5,195	5,195	5,195	5,195	+948	---	---	---
Miscellaneous Trust Funds									
se Program	100	100	100	100	100	---	---	---	---
Total, Bureau of Land Management	574,350	550,246	555,481	653,566	663,502	+89,152	+113,256	+108,021	+9,936
U.S. FISH AND WILDLIFE SERVICE									
Resource Management									
bitat Resources									
Field Operations	22,315	23,167	23,167	23,167	23,467	+1,152	+300	+300	+300
National Wetlands Inventory	5,355	5,313	5,313	5,313	5,313	-42	---	---	---
Research and Development	15,477	16,028	18,028	18,528	18,028	+2,551	+2,000	---	-500
Cooperative units	4,665	4,564	4,564	4,564	4,564	-101	---	---	---
Subtotal, Habitat Resources	47,812	49,072	51,072	51,572	51,372	+3,560	+2,300	+300	-200

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Wildlife Resources									
Refuge operations and maintenance	106,737	96,275	107,573	109,217	108,975	+2,238	+12,700	+1,402	-242
Law enforcement and protection	10,004	9,708	9,708	9,908	9,908	-96	+200	+200	---
Population management	7,237	9,180	9,289	9,389	8,789	+1,552	-391	-500	-600
Research and Development	10,156	13,060	13,380	12,410	13,960	+3,804	+900	+580	+1,550
Alaska subsistance	974	---	---	974	974	---	+974	+974	---
Subtotal, Wildlife Resources	135,108	128,223	139,950	141,898	142,606	+7,498	+14,383	+2,656	+708
Fishery Resources									
Hatcheries operations and maintenance	26,373	23,861	25,422	25,197	25,457	-916	+1,596	+35	+260
Lower Snake River Compensation Fund	5,631	6,411	6,411	6,411	6,411	+780	---	---	---
Refuge operations and maintenance	2,164	2,148	2,148	2,148	2,148	-16	---	---	---
Law enforcement and protection	2,153	2,075	2,075	2,075	2,075	-78	---	---	---
Population management	2,149	2,285	2,285	2,071	2,171	+22	-114	-114	+100
Research and Development	12,127	11,259	11,409	12,009	12,149	+22	+890	+740	+140
Subtotal, Fishery Resources	50,597	48,039	49,750	49,911	50,411	-186	+2,372	+661	+500
ıdangered Species									
Listing	3,225	2,937	3,187	3,437	3,437	+212	+500	+250	---
Law enforcment and protection	8,648	7,240	7,990	7,590	7,890	-758	+650	-100	+300
Consultation	2,614	2,588	2,888	2,588	2,888	+274	+300	---	+300
Recovery	6,884	6,030	6,165	6,605	6,740	-144	+710	+575	+135
Research and Development	4,545	4,365	4,565	4,565	4,565	+20	+200	---	---
Cooperation with states	4,393	---	4,300	4,300	4,300	-93	+4,300	---	---
Subtotal, Endangered Species	30,309	23,160	29,095	29,085	29,820	-489	+6,660	+725	+735
neral Administration									
Executive Direction	7,306	7,306	7,306	7,306	7,306	---	---	---	---
Administrative services	10,251	10,217	10,217	12,117	11,964	+1,713	+1,747	+1,747	-153
Related support services	16,839	19,110	19,110	20,963	20,963	+4,124	+1,853	+1,853	---
Unemployment Compensation	1,193	---	---	---	---	-1,193	---	---	---
Fish and Wildlife Foundation Matching grants	---	---	---	500	250	+250	+250	+250	-250
Subtotal, General Administration	35,589	36,633	36,633	40,886	40,483	+4,894	+3,850	+3,850	-403
Total, Resource Management	299,415	285,127	306,500	313,352	314,692	+15,277	+29,565	+8,192	+1,340
Construction and Anadromous Fish									
ıstruction and rehabilitation									
Refuges	5,622	---	3,720	3,600	7,320	+1,698	+7,320	+3,600	+3,720
Hatcheries	10,354	---	9,300	6,800	7,213	-3,141	+7,213	-2,087	+413
Fishery research facilities	125	---	953	6,340	4,840	+4,715	+4,840	+3,887	-1,500
Dam safety	2,017	2,790	2,790	2,790	2,790	+773	---	---	---
Wildlife research facility	75	---	---	1,750	1,750	+1,675	+1,750	+1,750	---
Endangered species facility	---	---	1,750	---	---	---	---	-1,750	---
Anadromous fish grants	1,988	---	2,000	2,000	2,000	+12	+2,000	---	---
Capital development & maintenance management	987	323	600	323	600	-387	+277	---	+277
Total, Construction and Anadromous Fish	21,168	3,113	21,113	23,603	26,513	+5,345	+23,400	+5,400	+2,910
Migratory Bird Conservation Account									
ance Appropriation	14,910	---	3,000	10,561	7,000	-7,910	+7,000	+4,000	-3,561

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Land Acquisition									
Fish and Wildlife Service:									
Acquisitions - Federal refuge lands	41,209	---	31,475	40,175	40,675	-534	+40,675	+9,200	+500
Acquisition Management	1,590	1,500	1,750	1,600	1,750	+160	+250	---	+150
Total, Land Acquisition	42,799	1,500	33,225	41,775	42,425	-374	+40,925	+9,200	+650
National Wildlife Refuge Fund									
Payments in Lieu of Taxes	5,611	5,645	5,645	5,645	5,645	+34	---	---	---
Total, Fish and Wildlife Service	383,903	295,385	369,483	394,936	396,275	+12,372	+100,890	+26,792	+1,339
NATIONAL PARK SERVICE									
Operation of the National Park System									
Park Management									
Management of park areas	61,544	62,518	62,705	62,518	62,705	+1,161	+187	---	+187
Concessions management	3,548	3,548	3,548	3,548	3,548	---	---	---	---
Interpretation and Visitor Services	65,119	57,413	67,717	67,704	68,019	+2,900	+10,606	+302	+315
Visitor protection and safety	81,990	76,361	83,222	85,017	83,307	+1,317	+6,946	+85	-1,710
Maintenance	239,070	233,826	242,580	243,360	243,360	+4,290	+9,534	+780	---
Resources management	98,841	86,437	100,491	99,053	100,943	+2,102	+14,506	+452	+1,890
Information publications	2,890	---	3,400	2,890	3,400	+510	+3,400	---	+510
International Park Affairs	771	403	771	771	771	---	+368	---	---
Volunteers-in-parks	487	---	1,000	500	500	+13	+500	-500	---
Enhanced park operation	---	---	---	---	15,000	+15,000	+15,000	+15,000	+15,000
Subtotal, Park Management	554,260	520,506	565,434	565,361	581,553	+27,293	+61,047	+16,119	+16,192
rest Fire Suppression and Presuppression	10,669	1,319	1,319	1,319	1,319	-9,350	---	---	---
rk Recreation and Wilderness Planning									
Water resources	1,909	2,909	2,909	2,909	2,909	+1,000	---	---	---
General management plans	2,332	2,332	2,332	2,332	2,332	---	---	---	---
Subtotal, Park Recreation & Wilderness Planning.	4,241	5,241	5,241	5,241	5,241	+1,000	---	---	---
atutory or Contractual Aid for Other Activities									
Roosevelt Campobello International Park Commission	408	408	408	408	408	---	---	---	---
Ice Age National Scientific Reserve	573	573	573	573	573	---	---	---	---
Lowell Historic Preservation Canal Commission	537	537	537	537	537	---	---	---	---
Folger Theater	174	---	---	---	---	-174	---	---	---
Corcoran Gallery	174	---	---	---	---	-174	---	---	---
Mary McLeod Bethune NHS	99	99	199	199	199	+100	+100	---	---
Martin Luther King, Jr. Center	199	199	199	199	199	---	---	---	---
Phillips Gallery	174	---	---	---	---	-174	---	---	---
Arena Stage	174	---	---	---	---	-174	---	---	---
National Building Museum	174	---	---	---	---	-174	---	---	---
National Capital Children's Museum	174	---	---	---	---	-174	---	---	---
William McKinley Tomb	447	---	---	---	---	-447	---	---	---
Fisk University, Jubilee Hall	168	---	168	168	168	---	+168	---	---
James Garfield NHS	---	---	468	---	468	+468	+468	---	+468
Johnstown Flood Museum	---	---	398	---	398	+398	+398	---	+398
Harding Home and Tomb State Memorial	---	---	538	538	538	+538	+538	---	---
Steamtown USA NHS	---	---	---	---	8,000	+8,000	+8,000	+8,000	+8,000
Subtotal, Statutory or Contractual Aid	3,475	1,816	3,488	2,622	11,488	+8,013	+9,672	+8,000	+8,866

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
General Administration									
Central office	5,820	5,820	5,820	5,820	5,820	---	---	---	---
Regional offices	14,993	14,993	14,993	14,993	14,993	---	---	---	---
Automatic data processing	4,827	4,827	4,827	4,827	4,827	---	---	---	---
Service wide administrative support	6,561	7,161	7,605	8,010	7,935	+1,374	+774	+330	-75
General services	390	390	390	390	390	---	---	---	---
Employee compensation payment	4,345	5,355	5,355	5,381	5,381	+1,036	+26	+26	---
Unemployment compensation for federal employees	7,892	7,892	7,892	7,892	7,892	---	---	---	---
GSA space rental	11,696	12,865	13,500	14,135	14,135	+2,439	+1,270	+635	---
Executive direction	6,544	6,544	6,544	6,544	6,544	---	---	---	---
Public Affairs	1,753	1,753	1,678	1,678	1,753	---	---	+75	+75
Alaska Land Use Council	---	---	-53	---	---	---	---	+53	---
Enhanced fee colleciton	---	---	---	---	3,500	+3,500	+3,500	+3,500	+3,500
Subtotal, General Administration	64,821	67,600	68,551	69,670	73,170	+8,349	+5,570	+4,619	+3,500
Recreation fee programs (propsd for later trans)	---	59,000	---	---	---	---	-59,000	---	---
Temporary Fee Legislation	---	---	---	-50,000	-54,000	-54,000	-54,000	-54,000	-4,000
Transfer from Planning, Development and Operation of Facilities	---	---	-15,158	-15,158	-15,158	-15,158	-15,158	---	---
Total, Operation of the National Park System	637,466	655,482	628,875	579,055	603,613	-33,853	-51,869	-25,262	+24,558
National Recreation and Preservation									
creation Programs	627	284	600	284	600	-27	+316	---	+316
tural Programs	1,653	541	1,582	1,582	1,582	-71	+1,041	---	---
tional Register	6,843	6,843	6,843	6,549	6,584	-259	-259	-259	+35
vironmental and Compliance Review	400	400	400	383	383	-17	-17	-17	---
ant administration	1,506	1,479	1,479	1,479	1,479	-27	---	---	---
Total, National Recreation and Preservation	11,029	9,547	10,904	10,277	10,628	-401	+1,081	-276	+351
Historic Preservation Fund									
ants-in-aid	20,411	---	20,000	20,000	20,000	-411	+20,000	---	---
tional Trust for Historic Preservation	4,384	---	4,200	4,300	4,250	-134	+4,250	+50	-50
Total, Historic Preservation Fund	24,795	---	24,200	24,300	24,250	-545	+24,250	+50	-50
Construction									
ildings and Utilities									
Emergency and Unscheduled (Lump Sum) Projects	2,981	2,000	3,000	3,000	3,000	+19	+1,000	---	---
Advance Planning	5,798	2,800	4,600	4,600	4,600	-1,198	+1,800	---	---
Project Planning	9,294	4,996	8,500	8,500	8,500	-794	+3,504	---	---
Line Item Construction Projects	99,213	19,318	59,889	60,418	71,995	-27,218	+52,677	+12,106	+11,577
Total, Construction	117,286	29,114	75,989	76,518	88,095	-29,191	+58,981	+12,106	+11,577
Federal Highway Administration									
deral-aid highways (liquidation of contract authority) (trust fund)	(10,300)	---	(12,500)	(10,000)	(12,500)	(+2,200)	(+12,500)	---	(+2,500)
Land Acquisition and State Assistance									
sistance to States									
Matching grants	48,060	---	47,730	40,200	32,700	-15,360	+32,700	-15,030	-7,500
Administrative expenses	1,640	2,270	2,270	2,300	2,270	+630	---	---	-30
tional Park Service									
Acquisitions	43,140	8,000	44,900	25,900	47,250	+4,110	+39,250	+2,350	+21,350
Acquisition management	4,970	5,000	6,200	5,000	5,000	+30	---	-1,200	---
Total, Land acquisition and state assistance	97,810	15,270	101,100	73,400	87,220	-10,590	+71,950	-13,880	+13,820

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
John F. Kennedy Center for the Performing Arts									
Base program	4,771	4,771	4,771	4,771	4,771	---	---	---	---
Illinois and Michigan Canal National Heritage Corridor Commission									
Base program	248	---	250	---	250	+2	+250	---	+250
Jefferson National Expansion Memorial Commission									
Base program	75	---	75	---	75	---	+75	---	+75
Total, National Park Service	893,480	714,184	846,164	768,321	818,902	-74,578	+104,718	-27,262	+50,581
GEOLOGICAL SURVEY									
Surveys, Investigations, and Research									
"ıtional Mapping, Geography and Surveys									
Primary mapping and revision	37,636	33,266	33,266	33,266	33,266	-4,370	---	---	---
Digital cartography	13,449	13,499	13,499	13,499	13,499	+50	---	---	---
Receipts for printing and distribution	9,500	---	---	---	---	-9,500	---	---	---
Small intermediate and special mapping	14,528	11,948	13,798	11,948	13,798	-730	+1,850	---	+1,850
Advanced cartographic systems	7,406	12,206	12,206	12,206	12,206	+4,800	---	---	---
Earth resources observation system	9,368	8,888	8,888	8,888	8,888	-480	---	---	---
Cartographic and geographic Information	3,522	3,620	3,620	3,371	3,371	-151	-249	-249	---
Side looking airborne radar	1,988	---	1,500	---	1,500	-488	+1,500	---	+1,500
Subtotal, National Mapping, Geography & Surveys	97,397	83,427	86,777	83,178	86,528	-10,869	+3,101	-249	+3,350
ːologic and Mineral Resource Surveys and Mapping									
Earthquake hazards reduction	35,875	33,275	35,275	33,275	34,775	-1,100	+1,500	-500	+1,500
Volcano Hazards	10,618	10,667	10,667	10,667	10,667	+49	---	---	---
Landslide hazards	2,982	2,058	2,958	2,058	2,058	-924	---	-900	---
Geologic framework	19,472	18,862	19,362	20,362	20,862	+1,390	+2,000	+1,500	+500
Geomagnetism	2,146	1,629	2,129	1,629	2,129	-17	+500	---	+500
Climate change	988	992	992	992	992	+4	---	---	---
Mineral resource surveys	46,578	42,033	44,033	44,033	44,033	-2,545	+2,000	---	---
Energy geologic surveys	27,926	25,072	26,772	25,072	25,772	-2,154	+700	-1,000	+700
Offshore geologic surveys	26,429	24,428	24,428	24,428	24,428	-2,001	---	---	---
Subtotal, Geologic & Mineral Surveys & Mapping	173,014	159,016	166,616	162,516	165,716	-7,298	+6,700	-900	+3,200
ter Resources Investigations									
Federal Program	73,665	64,015	67,765	64,015	65,765	-7,900	+1,750	-2,000	+1,750
Water resources research institutes	12,699	7,164	9,664	12,150	11,258	-1,441	+4,094	+1,594	-892
Federal-State program	52,010	50,499	52,835	50,195	52,835	+825	+2,336	---	+2,640
National water quality assessment	2,485	3,000	10,000	2,500	7,000	+4,515	+4,000	-3,000	+4,500
Subtotal, Water Resources Investigations	140,859	124,678	140,264	128,860	136,858	-4,001	+12,180	-3,406	+7,998
ıeral Administration	13,422	13,356	14,540	13,356	14,540	+1,118	+1,184	---	+1,184
ːilities	14,177	15,023	15,023	15,023	15,023	+846	---	---	---
› sales receipts	-9,500	---	---	---	---	+9,500	---	---	---
ŧA payments	1,400	---	---	---	---	-1,400	---	---	---
Total, Geological Survey	430,769	395,500	423,220	402,933	418,665	-12,104	+23,165	-4,555	+15,732

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
MINERALS MANAGEMENT SERVICE									
Leasing and Royalty Management									
OCS Lands									
Leasing Outer Continental Shelf Lands and environmental program	43,660	39,132	39,132	37,545	38,632	-5,028	-500	-500	+1,087
Resource evaluation	24,004	23,459	23,459	23,895	23,459	-545	---	---	-436
Regulatory program	31,902	30,938	30,938	29,748	30,748	-1,154	-190	-190	+1,000
Subtotal, OCS Lands	99,566	93,529	93,529	91,188	92,839	-6,727	-690	-690	+1,651
Royalty Management									
Mineral Revenue Collection (onshore royalty) 2/	15,279	14,893	15,238	14,370	14,788	-491	-105	-450	+418
Mineral Revenue Compliance (offshore royalty)	10,463	10,382	12,882	10,013	12,882	+2,419	+2,500	---	+2,869
Systems development and maintenance	19,448	17,234	17,234	17,234	17,234	-2,214	---	---	---
Subtotal, Royalty Management	45,190	42,509	45,354	41,617	44,904	-286	+2,395	-450	+3,287
General Administration									
Executive direction	3,259	3,223	3,223	3,119	3,119	-140	-104	-104	---
Administration operations 2/	9,408	9,392	9,392	9,064	9,064	-344	-328	-328	---
General support services	9,787	11,447	11,395	10,199	10,771	+984	-676	-624	+572
Subtotal, General Administration	22,454	24,062	24,010	22,382	22,954	+500	-1,108	-1,056	+572
nterest on refunds (propsd for later trans)	---	200	---	---	---	---	-200	---	---
Total, Leasing and Royalty Management 1/	167,210	160,300	162,893	155,187	160,697	-6,513	+397	-2,196	+5,510
ayments to States from receipts under Mineral Leasing	---	800	---	---	---	---	-800	---	---
Total, Minerals Management Service	167,210	161,100	162,893	155,187	160,697	-6,513	-403	-2,196	+5,510
BUREAU OF MINES									
Mines and Minerals									
nerals Research									
Health and Safety Technology	33,602	26,121	35,371	29,621	34,921	+1,319	+8,800	-450	+5,300
Mining Technology									
Advanced Mining Technology	10,106	8,189	9,689	10,689	11,189	+1,083	+3,000	+1,500	+500
Resource Conservation Technology	3,039	1,555	5,430	3,955	6,355	+3,316	+4,800	+925	+2,400
Subtotal, Mining Technology	13,145	9,744	15,119	14,644	17,544	+4,399	+7,800	+2,425	+2,900
Minerals and Materials Research	32,515	25,315	27,015	30,815	30,665	-1,850	+5,350	+3,650	-150
Subtotal, Minerals Research	79,262	61,180	77,505	75,080	83,130	+3,868	+21,950	+5,625	+8,050
nerals Information and Analysis									
Minerals Information	10,554	9,856	9,856	9,856	9,856	-698	---	---	---
Mineral Data Analysis	18,431	16,714	16,714	18,214	18,214	-217	+1,500	+1,500	---
Subtotal, Minerals Information and Analysis	28,985	26,570	26,570	28,070	28,070	-915	+1,500	+1,500	---
neral Institutes	7,950	---	3,004	10,000	7,612	-338	+7,612	+4,608	-2,388
neral Administration	18,607	19,350	19,350	17,815	19,350	+743	---	---	+1,535
ogram offset	-1,355	---	---	---	---	+1,355	---	---	---
Total, Bureau of Mines	133,449	107,100	126,429	130,965	138,162	+4,713	+31,062	+11,733	+7,197

Reflects transfer of 15 FTEs, $922,000 to U.S.G.S. FY86 Adjusted amount is reflection of realignment of an ADP security function ($63,000)

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INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT									
Regulation and Technology									
State Regulatory Program Grants	36,977	45,110	45,110	42,110	45,110	+8,133	---	---	+3,000
Federal Regulatory Programs									
Regulatory program operations	19,018	17,578	20,171	17,578	19,221	+203	+1,643	-950	+1,643
Technical services, training and research	13,210	15,931	12,706	14,181	13,681	+471	-2,250	+975	-500
Assessments and collections	7,250	7,929	7,929	7,929	7,929	+679	---	---	---
Subtotal, Federal Regulatory Programs	39,478	41,438	40,806	39,688	40,831	+1,353	-607	+25	+1,143
General Administration									
Executive direction	1,430	1,734	1,614	1,734	1,664	+234	-70	+50	-70
Administrative support	3,579	6,297	6,297	6,297	6,297	+2,718	---	---	---
General services	3,468	6,301	5,251	6,301	6,101	+2,633	-200	+850	-200
Subtotal, General Administration	8,477	14,332	13,162	14,332	14,062	+5,585	-270	+900	-270
Total, Regulation and Technology 1/	84,932	100,880	99,078	96,130	100,003	+15,071	-877	+925	+3,873
Abandoned Mine Reclamation Fund									
tate Reclamation Program Grants 2/	156,156	150,600	186,100	150,600	160,600	+4,444	+10,000	-25,500	+10,000
ederal Reclamation Programs									
Fee compliance 1/2/	2,800	3,482	3,482	3,482	3,482	+682	---	---	---
Reclamation program operations 1/2/	30,005	29,992	28,092	26,492	24,592	-5,413	-5,400	-3,500	-1,900
Rural lands reclamation program	9,424	800	9,400	800	9,400	-24	+8,600	---	+8,600
Subtotal, Federal Reclamation Programs	42,229	34,274	40,974	30,774	37,474	-4,755	+3,200	-3,500	+6,700
mall Operator Assistance	3,082	---	---	---	---	-3,082	---	---	---
neral Administration									
Executive direction 2/	830	825	825	825	825	-5	---	---	---
Administrative support 2/	1,998	1,992	1,992	1,992	1,992	-6	---	---	---
General services 2/	1,846	2,829	2,829	2,829	2,829	+983	---	---	---
Subtotal, General Administration	4,674	5,646	5,646	5,646	5,646	+972	---	---	---
distributed reduction 2/	(-4)	---	---	---	---	(+4)	---	---	---
y restoration	---	---	---	---	---	---	---	---	---
ogram offset 2/	(-3,233)	---	---	---	---	(+3,233)	---	---	---
Total, Abandoned Mine Reclamation Fund	206,141	190,520	232,720	187,020	203,720	-2,421	+13,200	-29,000	+16,700
Total, Office of Surface Mining Reclamation and Enforcement	291,073	291,400	331,798	283,150	303,723	+12,650	+12,323	-28,075	+20,573

FY86 Accounts reflect new budget structure

FY86 Accounts reflect reduction of $2,900 in State Reclamation Program Grants and reduction of $50 from fee compliance, $225 from reclamation program grants, $10 executive direction, $15 from administrative support and $37 from general services.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
BUREAU OF INDIAN AFFAIRS									
Operation of Indian Programs									
Education									
School Operations	189,378	185,596	186,596	181,661	185,471	-3,907	-125	-1,125	+3,810
Johnson O'Malley Educational Assistance	23,044	---	23,500	22,000	22,750	-294	+22,750	-750	+750
Continuing Education	56,438	20,212	23,212	57,559	58,559	+2,121	+38,347	+35,347	+1,000
Transfer from Department of Education	---	11,500	---	---	---	---	-11,500	---	---
Subtotal, Education	268,860	217,308	233,308	261,220	266,780	-2,080	+49,472	+33,472	+5,560
Indian Services									
Tribal Government Services	32,233	5,604	5,554	31,479	31,429	-804	+25,825	+25,875	-50
Social Services	115,903	93,103	95,713	109,701	111,601	-4,302	+18,498	+15,888	+1,900
Law Enforcement	48,570	3,101	4,016	49,148	49,813	+1,243	+46,712	+45,797	+665
Self-Determination Services	21,337	12,262	12,162	16,986	21,624	+287	+9,362	+9,462	+4,638
Navajo-Hopi Settlement Program	2,931	2,931	2,931	2,431	2,431	-500	-500	-500	---
Subtotal, Indian Services	220,974	117,001	120,376	209,745	216,898	-4,076	+99,897	+96,522	+7,153
onomic Development and Employment Programs									
Employment Development	26,698	2,593	2,593	26,182	26,182	-516	+23,589	+23,589	---
Business Enterprise Development	13,775	11,643	10,643	14,296	14,296	+521	+2,653	+3,653	---
Road Maintenance	23,069	314	747	22,949	23,157	+88	+22,843	+22,410	+208
Subtotal, Economic Development & Employment	63,542	14,550	13,983	63,427	63,635	+93	+49,085	+49,652	+208
tural Resources Development									
Natural Resources, General	2,407	1,570	1,570	2,630	2,630	+223	+1,060	+1,060	---
Agriculture	23,259	2,819	2,819	22,820	22,820	-439	+20,001	+20,001	---
Forestry	33,382	6,061	12,211	32,554	33,304	-78	+27,243	+21,093	+750
Water Resources	10,783	465	9,465	2,012	11,012	+229	+10,547	+1,547	+9,000
Wildlife & Parks	27,283	8,797	10,413	28,019	29,582	+2,299	+20,785	+19,169	+1,563
Fire Suppression	25,419	---	415	20,000	25,200	-219	+25,200	+24,785	+5,200
Minerals and Mining	9,589	7,741	8,701	9,459	10,259	+670	+2,518	+1,558	+800
Irrigation and Power	7,940	7,587	7,587	7,587	7,587	-353	---	---	---
Subtotal, Natural Resources Development	140,062	35,040	53,181	125,081	142,394	+2,332	+107,354	+89,213	+17,313
ist Responsibilities									
Rights Protection	21,408	17,408	11,408	24,515	17,815	-3,593	+407	+6,407	-6,700
Real Estate and Financial Trust Services	29,852	12,851	12,351	32,312	32,312	+2,460	+19,461	+19,961	---
Subtotal, Trust Responsibilities	51,260	30,259	23,759	56,827	50,127	-1,133	+19,868	+26,368	-6,700
ilities Management	91,298	88,597	88,786	89,845	89,845	-1,453	+1,248	+1,059	---
eral Administration									
anagement and Administration	49,240	31,530	31,480	49,726	49,726	+486	+18,196	+18,246	---
DP Services	17,934	17,651	17,551	17,651	17,551	-383	-100	---	-100
rogram management	4,520	6,148	6,148	5,648	5,848	+1,328	-300	-300	+200
mployee compensation payments	7,478	7,538	7,538	7,538	7,538	+60	---	---	---
onsolidated training program	---	1,350	990	1,000	840	+840	-510	-150	-160
Subtotal, General Administration	79,172	64,217	63,707	81,563	81,503	+2,331	+17,286	+17,796	-60
be/Agency operations	---	295,088	295,228	---	---	---	-295,088	-295,228	---
gency hay relief	5,964	---	---	---	---	-5,964	---	---	---
Total, Operation of Indian Programs	921,132	862,060	892,328	887,708	911,182	-9,950	+49,122	+18,854	+23,474

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Construction									
Buildings and Utilities	40,865	28,960	39,760	31,460	35,610	-5,255	+6,650	-4,150	+4,150
Irrigation Systems	18,221	13,900	23,700	13,885	17,885	-336	+3,985	-5,815	+4,000
Housing	44,476	16,295	22,606	22,606	22,606	-21,870	+6,311	---	---
Land acquisition	2,386	---	---	---	---	-2,386	---	---	---
Program offset	-3,000	---	---	---	---	+3,000	---	---	---
Total, Construction	102,948	59,155	86,066	67,951	76,101	-26,847	+16,946	-9,965	+8,150
Road Construction									
Base Program	---	---	2,500	---	---	---	---	-2,500	---
Alaska Native Escrow Account	7,830	---	---	---	---	-7,830	---	---	---
White Earth Trust Fund	---	---	---	6,600	6,600	+6,600	+6,600	+6,600	---
Trust Funds									
Definite	4,000	1,000	1,000	1,000	1,000	-3,000	---	---	---
Revolving Fund for Loans									
mitation on direct loans	(16,300)	(16,320)	(16,320)	(16,320)	(16,320)	(+20)	---	---	---
Indian Loan Guaranty and Insurance Fund									
se program	2,197	2,485	2,652	2,485	2,452	+255	-33	-200	-33
mitation on guaranteed loans	---	(30,000)	---	---	---	---	(-30,000)	---	---
Total, Bureau of Indian Affairs	1,038,107	924,700	984,546	965,744	997,335	-40,772	+72,635	+12,789	+31,591
TERRITORIAL AFFAIRS									
Administration of Territories									
am									
Construction grants	4,556	3,500	6,400	5,500	5,500	+944	+2,000	-900	---
erican Samoa									
Operations grants	20,651	20,776	20,776	19,763	20,776	+125	---	---	+1,013
Construction grants	5,886	2,730	4,313	3,730	4,313	-1,573	+1,583	---	+583
Subtotal, American Samoa	26,537	23,506	25,089	23,493	25,089	-1,448	+1,583	---	+1,596
rthern Marianas									
Covenant grants	27,726	35,344	35,344	35,344	35,344	+7,618	---	---	---
Construction grants, other	3,330	---	---	---	---	-3,330	---	---	---
Subtotal, Northern Marianas	31,056	35,344	35,344	35,344	35,344	+4,288	---	---	---
rgin Islands									
Loan	1,988	---	---	---	---	-1,988	---	---	---
Construction grants	---	2,900	2,900	2,900	2,900	+2,900	---	---	---
Subtotal, Virgin Islands	1,988	2,900	2,900	2,900	2,900	+912	---	---	---
rritorial Administration									
Office of Territorial Affairs	2,458	2,473	2,473	2,473	2,723	+265	+250	+250	+250
Technical Assistance	4,871	2,200	4,700	4,700	4,700	-171	+2,500	---	---
Guam Power Authority Loan Assistance	8,428	1,606	1,968	1,606	1,968	-6,460	+362	---	+362
Subtotal, Territorial Administration	15,757	6,279	9,141	8,779	9,391	-6,366	+3,112	+250	+612
Total, Administration of Territories	79,894	71,529	78,874	76,016	78,224	-1,670	+6,695	-650	+2,208

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Trust Territory of the Pacific Islands									
Trust Territory operations	4,457	2,450	2,740	5,200	5,200	+743	+2,750	+2,460	---
Federated States of Micronesia	1,742	---	---	38,763	38,763	+37,021	+38,763	+38,763	---
Republic of the Marshall Islands	492	---	---	10,940	10,940	+10,448	+10,940	+10,940	---
Republic of Palau Operations	453	10,600	10,600	10,084	10,084	+9,631	-516	-516	---
Subtotal, Operations	7,144	13,050	13,340	64,987	64,987	+57,843	+51,937	+51,647	---
Construction									
Capital Improvements	9,393	---	---	2,000	---	-9,393	---	---	-2,000
Capitol Relocations	---	---	---	---	---	---	---	---	---
Subtotal, Construction	9,393	---	---	2,000	---	-9,393	---	---	-2,000
Enewetak support	895	---	---	---	900	+5	+900	+900	+900
Bikini resettlement	1,739	---	1,000	---	1,500	-239	+1,500	+500	+1,500
Total, Trust Territory of the Pacific Islands	19,171	13,050	14,340	66,987	67,387	+48,216	+54,337	+53,047	+400
Compact of Free Association									
mpact of Free Association	208,090	27,920	27,320	27,920	---	-208,090	-27,920	-27,320	-27,920
ewetak support	---	---	1,100	---	---	---	---	-1,100	---
jebi Trust Fund	2,750	---	7,250	---	2,250	-500	+2,250	-5,000	+2,250
kini	---	---	500	---	---	---	---	-500	---
Subtotal, Compact of Free Association	210,840	27,920	36,170	27,920	2,250	-208,590	-25,670	-33,920	-25,670
Total, Territorial Affairs	309,905	112,499	129,384	170,923	147,861	-162,044	+35,362	+18,477	-23,062
DEPARTMENTAL OFFICES									
Office of the Secretary									
partmental Direction									
Secretary's immediate Office	1,426	1,426	1,365	1,776	1,586	+160	+160	+221	-190
Executive Secretariat	210	210	201	374	374	+164	+164	+173	---
Cong. & Legis. Affairs	1,093	1,093	1,046	1,046	1,046	-47	-47	---	---
Equal Opportunity	1,292	1,197	1,197	1,267	1,274	-18	+77	+77	+7
Public Affairs	696	696	666	784	784	+88	+88	+118	---
Small & Disadvantaged Business Utilization	398	398	381	381	381	-17	-17	---	---
Subtotal, Departmental Direction	5,115	5,020	4,856	5,628	5,445	+330	+425	+589	-183
ogram Direction and Coordination									
A/S Water and Science	745	691	691	625	625	-120	-66	-66	---
A/S Land and Minerals Management	785	729	729	840	840	+55	+111	+111	---
A/S Fish and Wildlife and Parks	766	711	564	650	600	-166	-111	+36	-50
A/S Indian Affairs	739	686	686	575	600	-139	-86	-86	+25
A/S Territorial and International Affairs	548	508	508	508	508	-40	---	---	---
A/S Policy, Budget & Administration	790	733	660	825	825	+35	+92	+165	---
Subtotal, Program Direction and Coordination	4,373	4,058	3,838	4,023	3,998	-375	-60	+160	-25

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Administration									
Environmental Project Review	1,491	1,404	1,404	1,404	1,404	-87	---	---	---
Acquisition & Property Management	1,342	1,264	1,264	1,264	1,264	-78	---	---	---
Office of personnel	1,610	1,517	1,617	1,517	1,617	+7	+100	---	+100
Administrative Services	3,230	1,032	982	1,032	1,032	-2,198	---	+50	---
Information Resources Management	4,672	4,397	4,397	4,397	4,450	-222	+53	+53	+53
Policy Analysis	2,286	2,151	2,151	1,901	1,950	-336	-201	-201	+49
Office of Budget	1,516	1,426	1,426	1,404	1,404	-112	-22	-22	---
Financial management	1,014	954	954	954	954	-60	---	---	---
Subtotal, Administration	17,161	14,145	14,195	13,873	14,075	-3,086	-70	-120	+202
Hearings and Appeals	5,766	5,339	5,339	5,200	5,200	-566	-139	-139	---
Aircraft Services	1,889	1,814	1,814	1,658	1,658	-231	-156	-156	---
ıtral Services	8,847	12,440	12,440	12,440	12,440	+3,593	---	---	---
Total, Office of the Secretary	43,151	42,816	42,482	42,822	42,816	-335	---	+334	-6
Office of the Solicitor									
ɡal Services	17,210	17,646	18,301	16,470	17,930	+720	+284	-371	+1,460
ıeral Administration	3,046	3,154	2,954	2,915	2,950	-96	-204	-4	+35
Total, Office of the Solicitor	20,256	20,800	21,255	19,385	20,880	+624	+80	-375	+1,495
Office of the Inspector General									
ıit	12,922	10,916	10,916	10,304	10,916	-2,006	---	---	+612
ʼestigations	2,260	2,430	2,430	2,296	2,430	+170	---	---	+134
ıinistration	935	2,954	2,954	2,824	2,954	+2,019	---	---	+130
Total, Office of the Inspector General	16,117	16,300	16,300	15,424	16,300	+183	---	---	+876
Construction Management									
aries and Expenses	775	684	684	684	684	-91	---	---	---
Special Foreign Currency Program									
aries and Expenses	994	---	---	---	---	-994	---	---	---
Total, Secretarial Offices	81,293	80,600	80,721	78,315	80,680	-613	+80	-41	+2,365
Grand Total, Department of the Interior	4,303,539	3,632,714	4,010,119	4,004,040	4,125,802	-177,737	+493,088	+115,683	+121,762

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
TITLE II - RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
FOREST SERVICE									
Forest Research									
Fire and atmospheric science	8,063	7,546	8,246	7,546	8,046	-17	+500	-200	+500
Forest insect and disease	21,093	20,178	22,178	20,178	21,500	+407	+1,322	-678	+1,322
Forest inventory and analysis	17,049	14,222	17,222	17,316	17,322	+273	+3,100	+100	+6
Renewable resource economics	4,566	4,456	4,856	4,370	4,370	-196	-86	-486	---
Trees and timber management	22,467	21,339	24,289	21,501	23,302	+835	+1,963	-987	+1,801
Forest watershed managment and rehabilitation	15,517	14,858	16,110	15,108	16,110	+593	+1,252	---	+1,002
Wildlife, range and fish habitat	9,480	9,291	11,891	10,672	11,491	+2,011	+2,200	-400	+819
Forest recreation	2,141	2,077	2,377	2,077	2,377	+236	+300	---	+300
Forest products and harvesting	18,349	17,514	18,614	18,014	18,364	+15	+850	-250	+350
Competitive grants	6,800	---	3,400	6,500	6,000	-800	+6,000	+2,600	-500
Total, Forest Research	125,525	111,481	129,183	123,282	128,882	+3,357	+17,401	-301	+5,600
State and Private Forestry									
orest Pest Management									
Federal lands	20,710	17,995	20,695	20,645	20,645	-65	+2,650	-50	---
Cooperative lands	8,884	676	8,776	10,376	10,376	+1,492	+9,700	+1,600	---
Subtotal, Forest pest management	29,594	18,671	29,471	31,021	31,021	+1,427	+12,350	+1,550	---
ire protection	13,618	3,400	13,600	13,600	13,600	-18	+10,200	---	---
orest Management and Utilization									
Forest resource management	5,205	---	5,200	5,200	5,200	-5	+5,200	---	---
Wood utilization	954	---	1,000	5,950	1,000	+46	+1,000	---	-4,950
Seedlings, nursery and tree improvement	1,798	---	1,800	1,800	1,800	+2	+1,800	---	---
Urban forestry	1,988	---	2,000	---	1,925	-63	+1,925	-75	+1,925
Subtotal, Forest Management and Utilization	9,945	---	10,000	12,950	9,925	-20	+9,925	-75	-3,025
pecial Projects									
Boundary Waters Canoe Area	2,982	2,800	3,000	2,800	2,800	-182	---	-200	---
Gifford Pinchot Institute	199	---	200	---	200	+1	+200	---	+200
Lake Tahoe	1,461	---	1,400	1,400	1,400	-61	+1,400	---	---
Subtotal, Special Projects	4,642	2,800	4,600	4,200	4,400	-242	+1,600	-200	+200
Total, State and Private Forestry	57,799	24,871	57,671	61,771	58,946	+1,147	+34,075	+1,275	-2,825
National Forest System									
.nerals and General Land Activities									
Minerals	28,341	26,025	26,025	26,025	26,025	-2,316	---	---	---
Real estate management	20,844	19,845	19,845	19,845	19,845	-999	---	---	---
Land Line Location	28,586	23,011	26,411	23,011	24,711	-3,875	+1,700	-1,700	+1,700
Maintenance of Facilities	14,736	14,735	14,735	14,735	14,735	-1	---	---	---
Subtotal, Minerals & General Land Activities	92,507	83,616	87,016	83,616	85,316	-7,191	+1,700	-1,700	+1,700

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Resource Protection and Maintenance									
Fire protection	158,240	147,225	151,225	155,991	153,725	-4,515	+6,500	+2,500	-2,266
Fighting forest fires	166,694	1,000	1,000	101,000	125,000	-41,694	+124,000	+124,000	+24,000
Cooperative law enforcement	6,959	2,450	2,450	7,000	6,660	-299	+4,210	+4,210	-340
Road maintenance	64,647	49,270	61,770	64,270	61,770	-2,877	+12,500	---	-2,500
Trail maintenance	9,968	8,365	12,000	8,365	11,000	+1,032	+2,635	-1,000	+2,635
Subtotal, Resource Protection & Maintenance	406,508	208,310	228,445	336,626	358,155	-48,353	+149,845	+129,710	+21,529
Timber Sales									
Timber resource inventory	12,544	13,280	13,280	13,280	13,280	+736	---	---	---
Silvicultural examination	20,445	20,870	20,870	20,870	20,870	+425	---	---	---
Sales preparation and harvest administration	148,556	136,942	140,319	165,242	156,850	+8,294	+19,908	+16,531	-8,392
Subtotal, Timber Sales	181,545	171,092	174,469	199,392	191,000	+9,455	+19,908	+16,531	-8,392
Reforestation and Stand Improvement									
Reforestation	53,877	28,393	32,511	51,561	47,511	-6,366	+19,118	+15,000	-4,050
(Reforestation trust fund)	---	---	---	---	---	---	---	---	---
Stand improvement	30,340	15,938	21,833	29,035	26,833	-3,507	+10,895	+5,000	-2,202
(Reforestation trust fund)	---	---	---	---	---	---	---	---	---
Nurseries	15,203	13,617	14,203	14,549	14,549	-654	+932	+346	---
Subtotal, Reforestation & Stand Improvement	99,420	57,948	68,547	95,145	88,893	-10,527	+30,945	+20,346	-6,252
ecreation Use									
Recreation management	85,779	33,742	93,742	82,090	89,242	+3,463	+55,500	-4,500	+7,152
Wilderness	7,845	8,030	10,030	8,030	10,030	+2,185	+2,000	---	+2,000
Cultural resources	9,683	9,368	9,368	9,368	9,368	-315	---	---	---
Subtotal, Recreation Use	103,307	51,140	113,140	99,488	108,640	+5,333	+57,500	-4,500	+9,152
ldlife and Fish Habitat Management									
Wildlife and fisheries support	23,682	23,360	24,360	23,360	24,360	+678	+1,000	---	+1,000
Habitat improvement	15,012	10,420	14,765	16,665	16,265	+1,253	+5,845	+1,500	-400
Subtotal, Wildlife & Fish Habitat Management	38,694	33,780	39,125	40,025	40,625	+1,931	+6,845	+1,500	+600
nge Management									
Grazing	24,238	25,595	24,238	25,375	24,238	---	-1,357	---	-1,137
Range improvements	2,182	769	769	769	769	-1,413	---	---	---
Wild horse and burro management	274	275	275	275	275	+1	---	---	---
Noxious weed control	1,366	1,180	1,180	1,400	1,400	+34	+220	+220	---
Subtotal, Range Management	28,060	27,819	26,462	27,819	26,682	-1,378	-1,137	+220	-1,137
il, Water and Air Management									
Soil, water and air administration	22,157	22,797	22,797	22,797	22,797	+640	---	---	---
Soil and water resource improvements	3,117	1,225	3,125	1,225	3,125	+8	+1,900	---	+1,900
Soil and water resource inventories	6,572	4,765	6,565	4,765	6,065	-507	+1,300	-500	+1,300
Subtotal, Soil, Water and Air Management	31,846	28,787	32,487	28,787	31,987	+141	+3,200	-500	+3,200
ieral Administration	262,114	256,996	256,996	256,996	256,996	-5,118	---	---	---
est level information processing system	(-2,500)	---	---	---	---	---	---	---	---
BLM Interchange	---	5,000	---	---	---	---	-5,000	---	---
orestation trust fund transfer	-30,000	-30,000	-30,000	-30,000	-30,000	---	---	---	---
Total, National Forest System	1,214,001	894,488	996,687	1,137,894	1,158,294	-55,707	+263,806	+161,607	+20,400

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Construction									
Facilities	28,984	11,736	36,736	15,476	25,632	-3,352	+13,896	-11,104	+10,156
Roads and trails									
Direct road construction	188,205	178,485	148,072	245,923	228,803	+40,598	+50,318	+80,731	-17,120
Trail construction	7,033	4,976	7,601	6,731	7,301	+268	+2,325	-300	+570
Subtotal, Construction	224,222	195,197	192,409	268,130	261,736	+37,514	+66,539	+69,327	-6,394
Timber Receipts Transfer (transfer to General Fund)	(-55,491)	(-86,815)	(-86,815)	(-86,815)	(-86,815)	(-31,324)	---	---	---
Timber Purchaser Credits	---	(154,321)	---	(154,321)	---	---	(-154,321)	---	(-154,321)
Total, Construction	224,222	195,197	192,409	268,130	261,736	+37,514	+66,539	+69,327	-6,394
Land Acquisition									
Forest Service									
Acquisitions	29,087	---	39,730	36,700	49,030	+19,943	+49,030	+9,300	+12,330
Acquisition Management	3,479	3,206	3,206	3,206	3,206	-273	---	---	---
Total, Land Acquisition	32,566	3,206	42,936	39,906	52,236	+19,670	+49,030	+9,300	+12,330
Youth Conservation Corps									
se program	---	---	---	---	---	---	---	---	---
Operation and Maintenance of Recreation Facilities									
se program	---	52,000	---	---	---	---	-52,000	---	---
Acquisition of Lands for National Forests, Special Acts									
se Program	777	966	966	966	966	+189	---	---	---
Acquisition of Lands to Complete Land Exchanges									
se Program	20	895	895	895	895	+875	---	---	---
Range Betterment									
se program	3,798	3,800	3,800	3,800	3,800	+2	---	---	---
Miscellaneous Trust Funds									
scellaneous trust fund	89	90	90	90	90	+1	---	---	---
Total, Forest Service	1,658,797	1,286,994	1,424,637	1,636,734	1,665,845	+7,048	+378,851	+241,208	+29,111
DEPARTMENT OF THE TREASURY									
rgy Security Reserve (rescission) 1/	(-6,900,000)	---	---	---	---	(+6,900,000)	---	---	---

FY86 amount is an est. of an indefinite rescission.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
DEPARTMENT OF ENERGY									
Clean Coal Technology Reserve									
Base program FY 1986 1/	(99,400)	---	---	---	---	(-99,400)	---	---	---
Base program FY 1987 1/	(149,100)	---	---	---	---	(-149,100)	---	---	---
Base program FY 1988 1/	(149,100)	---	---	---	---	(-149,100)	---	---	---
Total, Clean Coal Technology Reserve 1/	(397,600)	---	---	---	---	(-397,600)	---	---	---
Fossil Energy Research and Development									
Coal									
Control Technology and Coal Preparation									
Coal preparation and analysis	13,236	6,443	11,932	7,443	11,182	-2,054	+4,739	-750	+3,739
Flue gas cleanup	11,400	7,541	12,673	11,541	13,144	+1,744	+5,603	+471	+1,603
Gas stream cleanup	7,395	3,839	8,916	12,125	13,215	+5,820	+9,376	+4,299	+1,090
Waste management technology	1,225	324	1,200	324	858	-367	+534	-342	+534
Subtotal, Control Technology & Coal Preparation	33,256	18,147	34,721	31,433	38,399	+5,143	+20,252	+3,678	+6,966
Advanced Research & Technology Development	35,233	27,224	31,807	29,724	32,114	-3,119	+4,890	+307	+2,390
Coal Liquefaction									
Advanced research	5,368	2,620	5,000	2,620	4,475	-893	+1,855	-525	+1,855
Direct Liquefaction	13,330	2,996	13,790	4,696	11,790	-1,540	+8,794	-2,000	+7,094
Indirect liquefaction	9,706	2,539	8,100	2,539	6,300	-3,406	+3,761	-1,800	+3,761
Support studies and engineering evaluations	4,508	992	1,392	992	1,392	-3,116	+400	---	+400
Subtotal, Coal Liquefaction	32,912	9,147	28,282	10,847	23,957	-8,955	+14,810	-4,325	+13,110
Combustion Systems									
Atmospheric fluidized beds	17,249	1,590	4,008	1,590	3,308	-13,941	+1,718	-700	+1,718
Pressurized fluidized beds	5,268	3,686	5,662	5,286	5,923	+655	+2,237	+261	+637
Advanced combustion technology	3,548	1,882	3,059	2,882	2,882	-666	+1,000	-177	---
Alternate fuel utilization	4,237	2,011	4,069	2,011	3,358	-879	+1,347	-711	+1,347
Subtotal, Combustion Systems	30,302	9,169	16,798	11,769	15,471	-14,831	+6,302	-1,327	+3,702
Fuel Cells									
Phosphoric acid systems	21,187	---	19,000	11,900	15,500	-5,687	+15,500	-3,500	+3,600
Molten carbonate systems	10,338	3,400	7,700	7,200	7,700	-2,638	+4,300	---	+500
Advanced concepts	3,924	1,600	6,000	4,600	5,000	+1,076	+3,400	-1,000	+400
Subtotal, Fuel Cells	35,449	5,000	32,700	23,700	28,200	-7,249	+23,200	-4,500	+4,500
Heat engines	12,817	7,942	13,900	10,000	12,300	-517	+4,358	-1,600	+2,300
Underground coal gasification	4,238	---	4,070	---	2,370	-1,868	+2,370	-1,700	+2,370
Magnetohydrodynamics	28,850	---	30,000	23,500	26,500	-2,350	+26,500	-3,500	+3,000
Surface Coal Gasification									
Advanced research	3,517	968	3,000	2,568	2,786	-731	+1,818	-214	+218
Advanced Process Development	5,443	1,689	4,577	4,689	5,077	-366	+3,388	+500	+388
Systems engineering concepts	29,091	1,373	13,537	5,173	14,567	-14,524	+13,194	+1,030	+9,394
Environmental and engineering analyses	2,199	1,131	1,683	1,131	1,683	-516	+552	---	+552
Great Plains gasification project	2,761	437	437	437	437	-2,324	---	---	---
Subtotal, Surface Coal Gasification	43,011	5,598	23,234	13,998	24,550	-18,461	+18,952	+1,316	+10,552
Subtotal, Coal	256,068	82,227	215,512	154,971	203,861	-52,207	+121,634	-11,651	+48,890

Proposed in Energy Security Reserve (Synthetic Fuels Corporation).

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Petroleum									
Advanced Process Technology									
Advanced exploratory research	4,669	1,576	3,834	1,576	3,290	-1,379	+1,714	-544	+1,714
Arctic and offshore research	1,079	235	500	1,235	500	-579	+265	---	-735
Subtotal, Advanced Process Technology	5,748	1,811	4,334	2,811	3,790	-1,958	+1,979	-544	+979
Enhanced Oil Recovery									
Heavy oil	2,869	608	2,800	1,900	2,350	-519	+1,742	-450	+450
Light oil	7,683	3,876	7,100	7,000	7,100	-583	+3,224	---	+100
Tar sands	1,371	---	1,650	1,100	1,650	+279	+1,650	---	+550
Subtotal, Enhanced Oil Recovery	11,923	4,484	11,550	10,000	11,100	-823	+6,616	-450	+1,100
Oil shale	12,632	3,595	12,000	7,500	11,000	-1,632	+7,405	-1,000	+3,500
Subtotal, Petroleum	30,303	9,890	27,884	20,311	25,890	-4,413	+16,000	-1,994	+5,579
ıs									
Unconventional gas recovery	8,850	5,252	8,932	6,752	8,092	-758	+2,840	-840	+1,340
ɹuipment not related to construction	2,982	---	3,000	---	1,500	-1,482	+1,500	-1,500	+1,500
ıssil Energy Construction									
General plant projects	3,469	---	3,500	---	1,750	-1,719	+1,750	-1,750	+1,750
ıoperative Agreements									
UNDERC	---	---	---	5,300	---	---	---	---	-5,300
WRI	---	---	---	5,751	---	---	---	---	-5,751
adquarters program direction	13,927	11,260	12,575	11,960	12,575	-1,352	+1,315	---	+615
ergy Technology Center program direction	40,870	28,740	38,447	33,740	38,447	-2,423	+9,707	---	+4,707
e of prior year deferrals - OE	-18,015	-64,812	-2,607	-3,107	-3,107	+14,908	+61,705	-500	---
vance appropriation made in FY 1984	-15,000	---	---	---	---	+15,000	---	---	---
transfer	-10,240	-2,074	-2,074	-2,074	-2,485	+7,755	-411	-411	-411
ansfer from Energy Security Reserve	-2,775	-437	-437	-437	-437	+2,338	---	---	---
deral Inspector for the Alaska Gas Pipeline	532	221	221	221	221	-311	---	---	---
operative R&D venture pool	---	12,500	---	---	---	---	-12,500	---	---
ployment floor costs	---	---	9,559	9,559	9,559	+9,559	+9,559	---	---
Total, Fossil Energy Research and Development	310,971	82,767	314,512	242,947	295,866	-15,105	+213,099	-18,646	+52,919
Naval Petroleum and Oil Shale Reserves									
l Reserves									
Naval petroleum reserves Nos. 1 & 2	130,736	130,340	130,340	130,340	130,340	-396	---	---	---
Naval petroleum reserve No. 3	29,170	22,614	22,614	22,614	22,614	-6,556	---	---	---
Program direction (headquarters)	5,665	5,374	5,374	5,374	5,374	-291	---	---	---
Subtotal, Oil Reserves	165,571	158,328	158,328	158,328	158,328	-7,243	---	---	---
ıle oil development program									
ɜhale reserves development	3,863	5,241	310	310	310	-3,553	-4,931	---	---
ɜ of prior year balance	-155,848	-36,461	-36,461	-36,461	-36,461	+119,387	---	---	---
Total, Naval Petroleum and Oil Shale Reserves	13,586	127,108	122,177	122,177	122,177	+108,591	-4,931	---	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Energy Conservation									
Buildings & Community Systems									
Building systems	12,922	3,500	9,350	6,850	8,950	-3,972	+5,450	-400	+2,100
Community systems	3,980	---	2,900	900	2,900	-1,080	+2,900	---	+2,000
Technology and consumer products	10,737	5,000	10,000	5,000	9,250	-1,487	+4,250	-750	+4,250
Analysis & technology transfer	2,733	1,000	2,500	1,000	2,000	-733	+1,000	-500	+1,000
Appliance standards	1,990	1,200	2,000	1,200	2,000	+10	+800	---	+800
Federal energy management program	1,267	1,050	1,050	950	950	-317	-100	-100	---
Residential conservation service	398	---	---	---	---	-398	---	---	---
Capital equipment	1,990	---	1,500	---	750	-1,240	+750	-750	+750
Program direction	3,799	2,400	3,650	3,500	3,650	-149	+1,250	---	+150
Subtotal, Buildings & Community Systems	39,816	14,150	32,950	19,400	30,450	-9,366	+16,300	-2,500	+11,050
Industrial									
Waste energy reduction	11,934	6,300	12,656	9,200	12,256	+322	+5,956	-400	+3,056
Process efficiency	20,881	5,479	14,979	10,979	13,300	-7,581	+7,821	-1,679	+2,321
Cogeneration	4,675	1,500	5,000	5,000	5,000	+325	+3,500	---	---
Implementation and deployment	3,181	500	2,400	1,900	2,400	-781	+1,900	---	+500
Capital equipment	---	---	---	---	---	---	---	---	---
Program direction	2,153	1,844	2,070	2,070	2,070	-83	+226	---	---
Subtotal, Industrial	42,824	15,623	37,105	29,149	35,026	-7,798	+19,403	-2,079	+5,877
Transportation									
Vehicle Propulsion R&D	34,268	6,500	24,000	23,500	23,500	-10,768	+17,000	-500	---
Alternative fuels utilization	1,590	1,260	1,750	1,460	1,260	-330	---	-490	-200
Electric/hybrid vehicle program	9,170	4,140	12,475	11,815	13,400	+4,230	+9,260	+925	+1,585
Transportation systems utilization	947	---	840	700	700	-247	+700	-140	---
Advanced materials development	9,234	6,500	13,000	6,500	13,000	+3,766	+6,500	---	+6,500
High temperature materials lab	2,995	---	1,000	---	1,000	-1,995	+1,000	---	+1,000
Capital equipment	---	---	---	1,000	1,000	+1,000	+1,000	+1,000	---
Program direction	2,286	1,400	2,195	2,195	2,195	-91	+795	---	---
Subtotal, Transportation	60,490	19,800	55,260	47,170	56,055	-4,435	+36,255	+795	+8,885
ate/Local Programs									
Energy policy and conservation grants (EPCA)	18,689	---	---	---	---	-18,689	---	---	---
Energy extension service	7,794	---	---	---	---	-7,794	---	---	---
Schools & hospitals	46,859	---	2,250	6,000	2,250	-44,609	+2,250	---	-3,750
Grant monitoring	---	---	3,000	---	---	---	---	-3,000	---
Weatherization	190,080	---	110,200	110,000	110,200	-79,880	+110,200	---	+200
Territories assistance	497	---	---	---	---	-497	---	---	---
Program Direction	10,173	5,000	10,700	13,500	13,500	+3,327	+8,500	+2,800	---
Subtotal, State/Local Programs	274,092	5,000	126,150	129,500	125,950	-148,142	+120,950	-200	-3,550
lti Sector									
Energy Conversion and Utilization Technology	19,328	15,200	20,808	18,900	20,358	+1,030	+5,158	-450	+1,458
Inventors program	4,970	3,300	5,300	5,000	5,000	+30	+1,700	-300	---
National Appropriate Technology Assistance Service	1,491	750	1,400	1,400	1,400	-91	+650	---	---
Capital equipment	994	100	1,000	1,000	1,000	+6	+900	---	---
Program direction	532	500	546	550	546	+14	+46	---	-4
Subtotal, Multi Sector	27,315	19,850	29,054	26,850	28,304	+989	+8,454	-750	+1,454
icy and Management									
olicy analysis	---	---	---	---	---	---	---	---	---
rogram direction	1,802	1,792	1,862	1,862	1,862	+60	+70	---	---
Subtotal, Policy and Management	1,802	1,792	1,862	1,862	1,862	+60	+70	---	---
ilities	10,262	---	10,000	---	10,000	-262	+10,000	---	+10,000
e of prior year deferrals)	-9,880	-36,782	-6,556	-7,518	-7,518	+2,362	+29,264	-962	---
Total, Energy Conservation	446,721	39,433	285,825	246,413	280,129	-166,592	+240,696	-5,696	+33,716

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Economic Regulation									
Compliance	14,922	13,685	13,685	13,685	13,685	-1,237	---	---	---
Fuels Conversion	1,193	---	2,000	2,000	2,000	+807	+2,000	---	---
Natural gas and electricity operations	2,173	2,060	2,060	2,060	2,060	-113	---	---	---
Program administration	675	1,105	655	655	655	-20	-450	---	---
Office of Hearings and Appeals	5,512	5,000	5,000	5,000	5,000	-512	---	---	---
Total, Economic Regulation	24,475	21,850	23,400	23,400	23,400	-1,075	+1,550	---	---
Emergency Preparedness									
Emergency preparedness	6,008	6,044	6,044	6,044	6,044	+36	---	---	---
Strategic Petroleum Reserve									
Planning	4,544	---	---	---	---	-4,544	---	---	---
Storage facilities development	366,779	136,521	196,996	134,021	134,021	-232,758	-2,500	-62,975	---
Management	11,726	13,423	15,406	13,412	13,412	+1,686	-11	-1,994	---
Use of prior year funds	-270,684	-149,944	-64,969	---	---	+270,684	+149,944	+64,969	---
Total, Strategic Petroleum Reserve	112,365	---	147,433	147,433	147,433	+35,068	+147,433	---	---
SPR Petroleum Account									
troleum acquisition and transportation	---	---	220,000	---	---	---	---	-220,000	---
Energy Information Administration									
tional Energy Information System	52,248	49,128	49,838	49,128	49,778	-2,470	+650	-60	+650
licy and management	8,070	10,523	10,523	10,523	10,523	+2,453	---	---	---
Total, Energy Information Administration	60,318	59,651	60,361	59,651	60,301	-17	+650	-60	+650
Total, Department of Energy	974,444	336,853	1,179,752	848,065	935,350	-39,094	+598,497	-244,402	+87,285
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
HEALTH RESOURCES AND SERVICES ADMINISTRATION									
Indian Health Services									
inical services									
IHS and tribal health delivery									
Hospital and health clinic programs	443,098	409,614	466,649	459,807	463,567	+20,469	+53,953	-3,082	+3,760
Dental health program	25,879	25,692	26,099	25,756	25,849	-30	+157	-250	+93
Mental health program	11,449	11,399	11,462	11,307	11,362	-87	-37	-100	+55
Alcoholism program	24,627	26,263	27,705	26,405	27,705	+3,078	+1,442	---	+1,300
Maintenance and repair	8,621	9,025	9,025	9,025	9,025	+404	---	---	---
Contract care	174,040	138,000	176,531	183,713	183,713	+9,673	+45,713	+7,182	---
Subtotal, Clinical services	687,714	619,993	717,471	716,013	721,221	+33,507	+101,228	+3,750	+5,208
eventive health									
Sanitation	20,804	21,334	22,260	22,307	22,307	+1,503	+973	+47	---
Public health nursing	12,441	12,851	12,802	12,887	12,887	+446	+36	+85	---
Health education	3,614	3,742	3,792	3,883	3,883	+269	+141	+91	---
Community health representative program	25,844	---	26,500	24,000	26,000	+156	+26,000	-500	+2,000
Immunization	2,705	395	395	395	395	-2,310	---	---	---
Subtotal, Preventative health	65,408	38,322	65,749	63,472	65,472	+64	+27,150	-277	+2,000

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Urban health projects	9,741	---	10,000	8,800	9,000	-741	+9,000	-1,000	+200
Indian health manpower	6,460	5,418	7,018	5,418	7,018	+558	+1,600	---	+1,600
Tribal management	1,988	---	2,688	2,688	2,688	+700	+2,688	---	---
Direct operations	60,383	56,195	33,410	36,715	36,410	-23,973	-19,785	+3,000	-305
Indian health facilities	---	2,450	---	---	---	---	-2,450	---	---
Medicare/Medicaid Reimbursements									
Hospital and clinic accreditation	(44,100)	(43,860)	(43,860)	(43,860)	(43,860)	(-240)	---	---	---
Offset to appropriations	---	(17,240)	---	---	---	---	(-17,240)	---	---
Subtotal	(44,100)	(61,100)	(43,860)	(43,860)	(43,860)	(-240)	(-17,240)	---	---
Total, Indian Health Services	831,694	722,378	836,336	833,106	841,809	+10,115	+119,431	+5,473	+8,703
Indian Health Facilities									
Hospitals									
New and Replacement	12,386	---	21,383	34,660	34,560	+22,174	+34,560	+13,177	-100
Modernization and repair	3,081	---	2,450	3,950	2,450	-631	+2,450	---	-1,500
Subtotal, Hospitals	15,467	---	23,833	38,610	37,010	+21,543	+37,010	+13,177	-1,600
ıtpatient Care Facilities	722	---	828	850	2,085	+1,363	+2,085	+1,257	+1,235
ınitation Facilities	24,850	---	25,000	15,000	20,000	-4,850	+20,000	-5,000	+5,000
Hospital and health clinic programs									
ırsonnel Quarters	5,626	---	6,760	6,460	6,460	+834	+6,460	-300	---
·ogram offset	---	---	-1,500	---	---	---	---	+1,500	---
Total, Indian Health Facilities	46,665	---	54,921	60,920	65,555	+18,890	+65,555	+10,634	+4,635
Total, Health Services Administration	878,359	722,378	891,257	894,026	907,364	+29,005	+184,986	+16,107	+13,338
DEPARTMENT OF EDUCATION									
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION									
Indian Education									
rt A-Payments to School Districts	50,021	---	50,021	46,832	47,200	-2,821	+47,200	-2,821	+368
ate Grants	---	70,323	---	---	---	---	-70,323	---	---
rt B-Special Projects for Indian Students	11,809	---	11,809	9,900	11,568	-241	+11,568	-241	+1,668
rt C-Special Projects for Indian Adults	2,922	2,940	2,940	3,000	3,000	+78	+60	+60	---
ministration	2,319	2,466	2,466	2,268	2,268	-51	-198	-198	---
Total, Indian Education	67,071	75,729	67,236	62,000	64,036	-3,035	-11,693	-3,200	+2,036
OTHER RELATED AGENCIES									
NAVAJO/HOPI INDIAN RELOCATION COMMISSION									
Salaries and Expenses									
ɜration of the Commission	22,356	22,335	22,289	22,335	22,335	-21	---	+46	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
SMITHSONIAN INSTITUTION									
Salaries and Expenses									
Science									
Assistant Secretary for Science	589	497	497	494	495	-94	-2	-2	+1
National Museum of Natural History	21,179	21,888	21,868	21,541	21,696	+517	-192	-172	+155
Astrophysical Observatory	8,724	9,291	9,441	8,980	9,181	+457	-110	-260	+201
Tropical Research Institute	3,807	4,243	4,235	3,858	4,072	+265	-171	-163	+214
Environmental Research Center	3,535	3,614	3,614	3,266	2,570	-965	-1,044	-1,044	-696
National Air and Space Museum	8,538	8,712	8,712	8,635	8,662	+124	-50	-50	+27
National Zoological Park	11,539	11,747	11,897	12,068	12,045	+506	+298	+148	-23
Equipment	(-250)	---	---	---	---	(+250)	---	---	---
Subtotal, Science	57,911	59,992	60,264	58,842	58,721	+810	-1,271	-1,543	-121
History and Art									
Assistant Secretary for History and Art	443	370	370	370	370	-73	---	---	---
National Museum of American History	11,852	12,357	12,357	12,124	12,795	+943	+438	+438	+671
National Museum of American Art	4,807	4,959	4,959	4,579	4,865	+58	-94	-94	+286
National Portrait Gallery	3,601	3,770	3,770	3,359	3,738	+137	-32	-32	+379
Hirshhorn Museum and Sculpture Garden	3,119	3,233	3,233	3,043	3,207	+88	-26	-26	+164
Center for Asian Art	3,078	4,106	4,031	3,930	4,076	+998	-30	+45	+146
Archives of American Art	897	931	931	924	926	+29	-5	-5	+2
Cooper-Hewitt Museum	943	1,011	986	955	957	+14	-54	-29	+2
Museum of African Art	2,626	3,342	3,336	3,165	3,302	+676	-40	-34	+137
Anacostia Neighborhood Museum	890	910	910	898	902	+12	-8	-8	+4
Automation	(-217)	---	---	---	---	(+217)	---	---	---
Subtotal, History and Art	32,256	34,989	34,883	33,347	35,138	+2,882	+149	+255	+1,791
blic Service									
Assistant Secretary for Public Service	1,243	1,257	1,247	1,246	1,250	+7	-7	+3	+4
Smithsonian Institution Press	1,126	1,147	1,147	1,140	1,145	+19	-2	-2	+5
Subtotal, Public Service	2,369	2,404	2,394	2,386	2,395	+26	-9	+1	+9
seum Programs									
Assistant Secretary for Museum Programs	735	748	748	743	746	+11	-2	-2	+3
Office of the Registrar	99	102	102	100	102	+3	---	---	+2
Conservation-Analytical Laboratory	2,033	2,069	2,069	2,041	2,351	+318	+282	+282	+310
Smithsonian Institution Libraries	4,655	4,836	4,836	4,760	4,806	+151	-30	-30	+46
Office of Exhibits Central	1,613	1,774	1,759	1,765	1,768	+155	-6	+9	+3
Traveling Exhibition Service	379	601	601	596	598	+219	-3	-3	+2
Smithsonian Archives	541	552	552	549	551	+10	-1	-1	+2
National Museum Act	772	772	772	---	---	-772	-772	-772	---
Subtotal, Museum Programs	10,827	11,454	11,439	10,554	10,922	+95	-532	-517	+368
rectorate of International Activities	461	1,027	927	1,020	1,022	+561	-5	+95	+2
scial Programs									
merican and Folklife Studies	712	735	735	722	727	+15	-8	-8	+5
nternational Environmental Science Program	728	752	752	732	738	+10	-14	-14	+6
cademic and Educational Programs	771	828	828	823	826	+55	-2	-2	+3
ollections Management Inventory	1,121	1,145	1,145	724	831	-290	-314	-314	+107
useum Support Center	4,891	6,366	6,366	3,490	4,426	-465	-1,940	-1,940	+936
FK Center Trustee Grant	348	---	---	---	---	-348	---	---	---
Subtotal, Special Programs	8,571	9,826	9,826	6,491	7,548	-1,023	-2,278	-2,278	+1,057
inistration	11,949	12,504	12,504	12,396	12,432	+483	-72	-72	+36

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Support Activities									
Office of Design and Construction	2,099	2,123	2,123	2,105	2,111	+12	-12	-12	+6
Office of Protection Services	18,145	19,340	19,340	19,193	19,242	+1,097	-98	-98	+49
Office of Plant Services	32,407	36,402	35,908	35,743	35,389	+2,982	-1,013	-519	-354
Subtotal, Support Activities	52,651	57,865	57,371	57,041	56,742	+4,091	-1,123	-629	-299
Inflation allowance	---	---	-290	---	---	---	---	+290	---
Quadrangle operations	---	---	---	-1,527	-1,000	-1,000	-1,000	-1,000	+527
Total, Salaries and Expenses	176,995	190,061	189,318	180,550	183,920	+6,925	-6,141	-5,398	+3,370
Museum Programs and Related Research (SFCP)									
Grant Program	2,485	---	---	---	---	-2,485	---	---	---
Construction and Improvements National Zoological Park									
Base Program	5,518	4,851	4,851	2,500	2,500	-3,018	-2,351	-2,351	---
Restoration and Renovation of Buildings									
se Program	11,009	12,828	12,113	12,028	12,975	+1,966	+147	+862	+947
Construction									
uth Quadrangle Development	3,976	4,000	3,315	2,630	3,315	-661	-685	---	+685
ithsonian Tropical Research Institute	---	3,500	2,780	3,500	2,780	+2,780	-720	---	-720
Total, Construction	3,976	7,500	6,095	6,130	6,095	+2,119	-1,405	---	-35
Total, Smithsonian Institution	199,983	215,240	212,377	201,208	205,490	+5,507	-9,750	-6,887	+4,282
NATIONAL GALLERY OF ART									
Salaries and Expenses									
re and Utilization of Art Collections	11,574	12,173	12,173	12,173	12,173	+599	---	---	---
eration and Maintenance of Buildings and Grounds	11,021	11,451	11,451	11,451	11,451	+430	---	---	---
otection of Buildings, Grounds, and Contents	6,830	6,638	6,638	6,638	6,638	-192	---	---	---
neral Administration	4,162	4,345	4,345	4,345	4,345	+183	---	---	---
Total, Salaries and expenses	33,587	34,607	34,607	34,607	34,607	+1,020	---	---	---
Repair, Restoration and Renovation of Buildings									
se program	3,244	2,400	2,400	2,400	2,400	-844	---	---	---
Total, National Gallery of Art	36,831	37,007	37,007	37,007	37,007	+176	---	---	---
WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS									
Salaries and Expenses									
lowship Program	1,263	1,316	1,316	1,316	1,316	+53	---	---	---
olar Support	243	294	256	274	266	+23	-28	+10	-8
lic Services	745	780	780	759	759	+14	-21	-21	---
eral Administration	509	801	656	714	706	+197	-95	+50	-8
lding Requirements	125	75	75	75	75	-50	---	---	---
ference Planning	487	---	300	---	200	-287	+200	-100	+200
Total, Salaries and expenses	3,372	3,266	3,383	3,138	3,322	-50	+56	-61	+184

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Endowment Challenge Fund									
Base program	994	---	---	300	---	-994	---	---	-300
Total, Woodrow Wilson Center	4,366	3,266	3,383	3,438	3,322	-1,044	+56	-61	-116
NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES									
National Endowment for the Arts									
Grants and Administration									
Grants									
Program Grants									
Artists-in-Schools	5,309	4,800	5,300	5,400	5,300	-9	+500	---	-100
Educational program	97	---	---	---	---	-97	---	---	---
Dance	8,847	7,300	8,847	8,700	8,847	---	+1,547	---	+147
Design Arts	4,286	3,800	4,286	4,000	4,276	-10	+476	-10	+276
Expansion Arts	6,673	5,450	6,675	5,950	6,655	-18	+1,205	-20	+705
Folk Arts	2,982	3,000	2,982	3,100	2,982	---	-18	---	-118
Inter Arts	3,976	3,600	3,935	4,000	3,885	-91	+285	-50	-115
Literature	5,114	4,600	5,100	5,000	5,100	-14	+500	---	+100
Media Arts	11,993	9,050	12,000	11,000	12,000	+7	+2,950	---	+1,000
Museums	11,302	9,100	11,400	11,000	11,400	+98	+2,300	---	+400
Music	12,236	9,600	12,236	11,500	12,236	---	+2,636	---	+736
Opera / Musical Theatre	4,241	3,100	4,200	4,100	4,200	-41	+1,100	---	+100
Locals Test	2,187	2,200	2,100	2,200	2,180	-7	-20	+80	-20
Theatre	10,815	9,200	10,800	10,400	10,800	-15	+1,600	---	+400
Visual Arts	6,234	5,500	6,200	5,800	6,200	-34	+700	---	+400
Advancement	199	200	200	200	200	+1	---	---	---
Subtotal, Program Grants	96,491	80,500	96,261	92,350	96,261	-230	+15,761	---	+3,911
itate Programs	24,457	21,500	24,500	24,600	24,500	+43	+3,000	---	-100
Subtotal, Grants	120,948	102,000	120,761	116,950	120,761	-187	+18,761	---	+3,811
inistrative Areas									
olicy Planning & Research	975	1,000	1,000	1,000	1,000	+25	---	---	---
dministration	14,514	14,900	14,900	15,000	14,900	+386	---	---	-100
Subtotal, Administrative Areas	15,489	15,900	15,900	16,000	15,900	+411	---	---	-100
Total, Grants and Administration	136,437	117,900	136,661	132,950	136,661	+224	+18,761	---	+3,711
Matching Grants									
ching Grants	8,767	9,000	8,420	9,000	8,420	-347	-580	---	-580
llenge Grants	20,457	18,000	20,580	18,000	20,000	-457	+2,000	-580	+2,000
Total, Matching Grants	29,224	27,000	29,000	27,000	28,420	-804	+1,420	-580	+1,420
Total, Arts	165,661	144,900	165,661	159,950	165,081	-580	+20,181	-580	+5,131
Arts and Artifacts Indemnity Fund									
e program	298	---	---	---	---	-298	---	---	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
National Endowment for the Humanities									
Grants and Administration									
Grants									
Program Grants									
Public Programs									
Media Grants	8,864	7,000	8,900	8,500	8,900	+36	+1,900	---	+400
Museums and Historical Organizations	8,767	5,800	8,780	8,000	8,780	+13	+2,980	---	+780
Humanities programs for youth	745	---	---	---	---	-745	---	---	---
Humanities programs for adults	1,889	2,000	2,000	2,000	2,000	+111	---	---	---
Humanities projects in libraries	2,922	1,400	2,900	2,000	2,900	-22	+1,500	---	+900
Subtotal, Public Programs	23,187	16,200	22,580	20,500	22,580	-607	+6,380	---	+2,080
Education Programs									
Education programs	16,401	15,150	16,400	16,200	16,350	-51	+1,200	-50	+150
Fellowships									
Fellowships and seminars	14,987	15,460	15,460	16,500	15,460	+473	---	---	-1,040
Research Grants	16,401	15,700	16,400	16,300	16,400	-1	+700	---	+100
Subtotal, Program Grants	70,976	62,510	70,840	69,500	70,790	-186	+8,280	-50	+1,290
State Programs	21,086	16,630	21,000	20,000	21,000	-86	+4,370	---	+1,000
Office of Preservation	3,976	4,000	4,000	4,000	4,000	+24	---	---	---
Subtotal, Grants	96,038	83,140	95,840	93,500	95,790	-248	+12,650	-50	+2,290
dministrative Areas									
Administration	14,115	14,300	14,301	14,200	14,200	+85	-100	-101	---
Total, Grants and administration	110,153	97,440	110,141	107,700	109,990	-163	+12,550	-151	+2,290
Matching Grants									
tching Grants	11,590	12,500	12,000	12,500	12,000	+410	-500	---	-500
allenge Grants	16,898	16,500	16,500	16,500	16,500	-398	---	---	---
Total, Matching Grants	28,488	29,000	28,500	29,000	28,500	+12	-500	---	-500
Total, Humanities	138,641	126,440	138,641	136,700	138,490	-151	+12,050	-151	+1,790
National Capital Arts and Cultural Affairs									
ants	1,988	---	3,500	4,000	4,000	+2,012	+4,000	+500	---
Institute of Museum Services									
ants to Museums									
Operating Support Grants	17,120	---	17,120	15,000	16,962	-158	+16,962	-158	+1,962
Conservation Grants	3,409	---	3,309	3,000	3,400	-9	+3,400	+91	+400
Museum Services Board	70	---	70	58	58	-12	+58	-12	---
Subtotal, Grants to Museums	20,599	---	20,499	18,058	20,420	-179	+20,420	-79	+2,362
gram Administration	795	330	895	830	830	+35	+500	-65	---
Total, Institute of Museum Services	21,394	330	21,394	18,888	21,250	-144	+20,920	-144	+2,362
Total, National Foundation on the Arts and Humanities	327,982	271,670	329,196	319,538	328,821	+839	+57,151	-375	+9,283

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
COMMISSION OF FINE ARTS									
Salaries and Expenses									
Base Programs	380	420	420	450	450	+70	+30	+30	---
ADVISORY COUNCIL ON HISTORIC PRESERVATION									
Salaries and Expenses									
Advisory Services	1,575	1,417	1,533	1,533	1,533	-42	+116	---	---
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and Expenses									
Base Program	2,696	2,684	2,684	2,684	2,684	-12	---	---	---
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and Expenses									
ıse Program	21	---	5	5	5	-16	+5	---	---
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and Expenses									
ılaries and Expenses	2,315	2,437	2,342	2,437	2,397	+82	-40	+55	-40
Public Development									
blic Improvements	3,230	3,774	3,869	3,924	3,924	+694	+150	+55	---
Total, Pennsylvania Avenue Development Corporation	5,545	6,211	6,211	6,361	6,321	+776	+110	+110	-40
UNITED STATES HOLOCAUST MEMORIAL COUNCIL									
locaust Memorial Council	2,112	2,057	2,040	2,057	2,040	-72	-17	---	-17
Total, Title II, Related Agencies	4,182,518	2,984,261	4,180,027	4,037,441	4,182,603	+85	+1,198,342	+2,576	+145,162
TITLE I - DEPARTMENT OF THE INTERIOR									
reau of Land Management	574,350	550,246	555,481	653,566	663,502	+89,152	+113,256	+108,021	+9,936
sh and Wildlife Service	383,903	295,385	369,483	394,936	396,275	+12,372	+100,890	+26,792	+1,339
tional Park Service	893,480	714,184	846,164	768,321	818,902	-74,578	+104,718	-27,262	+50,581
ological Survey	430,769	395,500	423,220	402,933	418,665	-12,104	+23,165	-4,555	+15,732
nerals Management Service	167,210	161,100	162,893	155,187	160,697	-6,513	-403	-2,196	+5,510
reau of Mines	133,449	107,100	126,429	130,965	138,162	+4,713	+31,062	+11,733	+7,197
fice of Surface Mining Reclamation and Enforcement	291,073	291,400	331,798	283,150	303,723	+12,650	+12,323	-28,075	+20,573
reau of Indian Affairs	1,038,107	924,700	984,546	965,744	997,335	-40,772	+72,635	+12,789	+31,591
rritorial Affairs	309,905	112,499	129,384	170,923	147,861	-162,044	+35,362	+18,477	-23,062
retarial Offices	81,293	80,600	80,721	78,315	80,680	-613	+80	-41	+2,365
Total, Title I - Department of the Interior	4,303,539	3,632,714	4,010,119	4,004,040	4,125,802	-177,737	+493,088	+115,683	+121,762

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1986 Enacted	FY 1987 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
TITLE II - RELATED AGENCIES									
Forest Service	1,658,797	1,286,994	1,424,637	1,636,734	1,665,845	+7,048	+378,851	+241,208	+29,111
Department of the Treasury	(-6,900,000)	---	---	---	---	(+6,900,000)	---	---	---
Department of Energy	(974,444)	(336,853)	(1,179,752)	(848,065)	(935,350)	(-39,094)	(+598,497)	(-244,402)	(+87,285)
Alternative Fuels Production	---	---	---	---	---	---	---	---	---
Clean Coal Technology	---	---	---	---	---	---	---	---	---
(By transfer)	(397,600)	---	---	---	---	(-397,600)	---	---	---
Fossil Energy	310,971	82,767	314,512	242,947	295,866	-15,105	+213,099	-18,646	+52,919
Naval Petroleum and Oil Shale Reserves	13,586	127,108	122,177	122,177	122,177	+108,591	-4,931	---	---
Energy Conservation	446,721	39,433	285,825	246,413	280,129	-166,592	+240,696	-5,696	+33,716
Economic Regulation	24,475	21,850	23,400	23,400	23,400	-1,075	+1,550	---	---
Emergency Preparedness	6,008	6,044	6,044	6,044	6,044	+36	---	---	---
Strategic Petroleum Reserve	112,365	---	147,433	147,433	147,433	+35,068	+147,433	---	---
SPR Petroleum Account	---	---	220,000	---	---	---	---	-220,000	---
Energy Information Administration	60,318	59,651	60,361	59,651	60,301	-17	+650	-60	+650
dian Health	878,359	722,378	891,257	894,026	907,364	+29,005	+184,986	+16,107	+13,338
dian Education	67,071	75,729	67,236	62,000	64,036	-3,035	-11,693	-3,200	+2,036
vajo and Hopi Indian Relocation Commission	22,356	22,335	22,289	22,335	22,335	-21	---	+46	---
ithsonian	199,983	215,240	212,377	201,208	205,490	+5,507	-9,750	-6,887	+4,282
tional Gallery of Art	36,831	37,007	37,007	37,007	37,007	+176	---	---	---
odrow Wilson International Center for Scholars	4,366	3,266	3,383	3,438	3,322	-1,044	+56	-61	-116
tional Endowment for the Arts	165,661	144,900	165,661	159,950	165,081	-580	+20,181	-580	+5,131
ts and Artifacts Indemnity Fund	298	---	---	---	---	-298	---	---	---
tional Endowment for the Humanities	138,641	126,440	138,641	136,700	138,490	-151	+12,050	-151	+1,790
tional Capital Arts and Cultural Affairs	1,988	---	3,500	4,000	4,000	+2,012	+4,000	+500	---
stitute of Museum Services	21,394	330	21,394	18,888	21,250	-144	+20,920	-144	+2,362
mmission of Fine Arts	380	420	420	450	450	+70	+30	+30	---
visory Council on Historic Preservation	1,575	1,417	1,533	1,533	1,533	-42	+116	---	---
tional Capital Planning Commission	2,696	2,684	2,684	2,684	2,684	-12	---	---	---
anklin Delano Roosevelt Memorial Commission	21	---	5	5	5	-16	+5	---	---
nnsylvania Avenue Development Corporation	5,545	6,211	6,211	6,361	6,321	+776	+110	+110	-40
locaust Memorial Council	2,112	2,057	2,040	2,057	2,040	-72	-17	---	-17
Total, Title II - Related Agencies	4,182,518	2,984,261	4,180,027	4,037,441	4,182,603	+85	+1,198,342	+2,576	+145,162
Grand total	8,486,057	6,616,975	8,190,146	8,041,481	8,308,405	-177,652	+1,691,430	+118,259	+266,924
Grand total 1/	8,486,057	6,616,975	8,190,146	8,041,481	8,308,405	-177,652	+1,691,430	+118,259	+266,924
FY 1986 (by transfer)	(99,400)	---	---	---	---	(-99,400)	---	---	---
Advance appropriation-FY 1987 (by transfer)	(149,100)	---	---	---	---	(-149,100)	---	---	---
Advance appropriation-FY 1988 (by transfer)	(149,100)	---	---	---	---	(-149,100)	---	---	---

FY 1985 enacted amount excludes $459,190,000 appropriated in FY 1984 Supplemental for FY 1985 SPR program.

URANIUM ENRICHMENT PROVISIONS IN THE CONTINUING RESOLUTION

Mr. BINGAMAN. Mr. President, I rise to comment on the provision in the continuing resolution dealing with the Department of Energy's Uranium Enrichment Program. Let me, first, thank my colleague, the distinguished senior Senator from New Mexico for his help in securing this important language. Although the DOE's new criteria became effective Tuesday, October 14, and it is difficult to totally repeal it now, the language added to the continuing resolution does selectively reject key provisions of the criteria.

Mr. President, the DOE has a statutory obligation under section 161(v) of the Atomic Energy Act to limit enrichment of foreign source uranium for domestic end use to the extent necessary to assure the maintenance of a viable domestic uranium industry. Alternatively, the DOE can impose regulation, or request the Nuclear Regulatory Commission to impose regulations for a similar purpose under sections 161(b) or 161(p) of the act. The DOE acknowledges that the domestic industry is nonviable but still refuses to act. As a result, 18,000 of the industry's 20,000 workers are unemployed. This has caused severe economic dislocation in my State of New Mexico.

The Senate has already adopted language disapproving new uranium enrichment criteria embodying this DOE refusal. The two House authorizing committees with jurisdiction have also acted. I am happy to see that in response to this action the conferees on the continuing resolution have adopted provisions which will neutralize, for the term of the resolution, some of the worst aspects of the DOE's new criteria. The road should now remain clear to enforce existing law requiring the DOE to limit enrichment to the extent necessary to preserve a viable domestic industry or to take comparable action under other provisions of the Atomic Energy Act. The DOE has no excuse for its continued failure to obey the law.

Thank you, Mr. President.

Mr. NICKLES. Mr. President, I would like to ask my friend from Idaho if he would be willing to engage in a brief colloquy.

Management of federally sponsored petroleum and petroleum-related research is currently highly fragmented. In fact, at least four different research centers are being used to perform various portions of the petroleum research program, Bartlesville, OK (enhanced oil recovery and advanced exploratory research), San Francisco, CA (heavy oil), Laramie, WY (tar sands and oil shale), and Morgantown, WV (unconventional gas, arctic research, and management and oversight of Laramie). There are numerous, substantive synergies and commonalities among the technologies being investigated. From a technological and economic perspective, it is apparent that consolidation and integration of these programs would result in more rapid advances in our national petroleum technologies achieved in a more cost-effective manner.

To encourage communications and sharing of results with other petroleum researchers active in these areas and with the operators and service companies who will commercialize and apply these technologies, any consolidated management of these research programs must be in the "oil patch."

The obvious choice for a "home base" for consolidation of petroleum research programs would appear to be the Department of Energy's Bartlesville Project Office. The vast majority of the relevant resources lie in the midcontinent, southwestern, and western States. Consolidation of research management at Bartlesville would strengthen all of the various petroleum research programs by creating a single point of coordination and integration. Further, consolidated management would permit more effective articulation of priorities within DOE and would facilitate broader cooperation and communication between the Federal Government and the various oil-producing States. These States have a large stake in the efficient development of these resources.

My distinguished colleague from Idaho has had a long interest and a respected record in advancing solutions to our national energy problems and has been a leader in promoting cost-effective, efficient government R&D. I wonder if the Senator from Idaho would help to clarify these matters.

Mr. McCLURE. I would be happy to clarify this issue for my friend and colleague from Oklahoma. I am keenly aware of the effects of the oil price decline on domestic production, State and local revenues, and our national energy security. My State, too, has been hard hit. It is the intention of this legislation to address our major energy concerns and I am pleased to assist the Senator from Oklahoma in whatever way I can. Fundamental petroleum research to increase domestic production is a primary concern.

Mr. NICKLES. Does the Interior section of House Joint Resolution 738 provide the Department of Energy with adequate funds to continue the important petroleum research at Bartlesville?

Mr. McCLURE. It is the intent of the bill that the petroleum research program will continue at Bartlesville. Given the presence there of the National Institute for Petroleum and Energy Research [NIPER] and the nature of the work at that site, it is important that the research continue.

Mr. NICKLES. Is the Department of Energy investigating the consolidation of management of oil, gas, and shale research and development at the Bartlesville Project Office?

Mr. McCLURE. It is the understanding of the committee that the Department investigates carriers consolidation plans periodically may make sense to consolidate the coordination of these activities at one site and we would analyze their recommendation in the budget process.

Mr. NICKLES. I thank my colleague from Idaho for his clarification of the intent of his bill. His leadership in advancing this bill to assist a beleaguered industry and to assure national energy security is greatly appreciated.

Mr. President, I yield the floor.

Mr. BINGAMAN. Mr. President, the conference agreement to accompany the Continuing Appropriations Act for 1987, is the largest spending bill in American history. It provides approximately $558 billion in funding for the entire Federal Government to continue its operations through the next fiscal year. Without it, the entire Government would shut down, and as we speak, we face another midnight deadline. This continuing appropriation agreement is needed because not one of the 13 permanent appropriations bills have yet been passed by the Congress. However, I voted against this bill when it was considered by the Senate, and I intend to oppose the conference agreement for the same reasons. I am not opposed to a continuing resolution; I am opposed to the bill in its present form and believe it should be changed. It should be limited to the original purpose for which it was intended which is to continue the Government funding without any extraneous, new legislative language.

While I don't fault the work of the members of the Appropriations Committees of the House and Senate, this agreement represents the worst of the Congress. It is both substantively and procedurally flawed. It is massive in both size and scope, and very few know what is in it. Each year, in fact, the bill gets larger and each year we get further from the original purpose of the continuing resolution. Instead of just continuing the funding for Government, we use it to authorize more and more programs. As a result, the bill has turned into a mammoth legislative vehicle which gets more and more difficult to pass.

I must vote against this agreement for both substantive and procedural reasons. There are a number of provisions in it which I find extremely objectionable on policy grounds. First, I am opposed to the $100 million in aid to the Contras in Nicaragua. This money is just a downpayment on an unwise and counterproductive military intrusion in Central America.

I am opposed to the cuts this bill makes in military readiness. Such cuts

put us on a path toward a hollow, toothless military despite the massive overall increase in military spending in the first half of this decade.

I am glad to see that one provision which was in the Senate bill was struck. That provision would have given the President the discretion to forgive loans made under the Foreign Military Sales [FMS] Program. It applies to unobligated funds appropriated by Congress for the FMS Program in 1985 and 1986, an amount totaling $3.5 billion. The effect of this section would have been to turn a program which Congress created as a loan program into a free grant program, to be used to give away U.S. arms. I opposed this provision, but my amendment to delete it was unfortunately defeated by the Senate. I am glad that it was eliminated in conference.

I am also concerned with many of the domestic spending cuts carried out in this bill. It cuts important education, health, and other human spending programs in many cases beyond the levels needed to sustain these important programs.

There are a number of other questionable legislative provisions attached to this funding bill, which include: private relief legislation; specific weapons; programs not otherwise authorized; direct Federal payments to specific localities; subsidies to individual farms; new labor law provisions; buy-American trade provisions; and many other equally troublesome provisions. Most troubling, however, is the fact that we are not really sure exactly what is in this bill.

The fact of the matter is that not only don't we know what is in the legislation, that very little consideration has been given to its parts. Many of the bills incorporated in the continuing resolution were passed by the House with very little debate and most have never before reached the Senate floor. As a result, we are being asked to vote for bills which have not been previously considered by the Senate.

There are other procedural problems with this bill besides its size, its lack of due consideration, and the lack of knowledge of what is in it. The distinguished chairman of the Appropriations Committee has asked that no authorizing legislation be added to this measure, but he failed to mention that the bill is full of authorizing language added by the Appropriations Committee, some of which I have already mentioned. As a result, much of this bill should also be ruled out of order.

Mr. President, I think it is time we begin to examine our legislative practices. It is time we begin to examine how we conduct our business. We must ask ourselves why we cannot pass any of our permanent appropriations bills and we must ask ourselves why we have so much legislation on an appropriations bill. We must ask ourselves: How can we begin to address these questions and start to improve our practices?

Because of these problems, I feel compelled to vote against this conference agreement. It has provisions troubling to me, and I fear it has other provisions of which I am not aware, which would also be objectionable. I also feel that the agreement is the product o a flawed process that needs drastic overhaul.

I urge my colleagues to oppose the agreement.

Mr. HOLLINGS. Mr. President, as part of the report on fiscal year 1987 appropriations for the Department of Commerce, Justice, and State, the judiciary, and related agencies, we included language on international telecommunications. This language arose out of a concern we had about the development of policy and strategy and about the extent of coordination among the various executive agencies invovled in developing and implementing internal communications policy. Senator RUDMAN and I just received a letter from the Departments of State and Commerce and the Federal Communications Commission about our report language and how they intend to address our concerns. The proposals in this letter meet the objectives set forth in our report language. I ask that the letter I referred to be inserted in the RECORD.

The letter follows:

U.S. DEPARTMENT OF COMMERCE,
Washington, DC

Hon. WARREN RUDMAN,
Hon. ERNEST F. HOLLINGS,
Washington, DC.

DEAR SENATORS: We share your interest in improved coordination of U.S. international communications policy. We are concerned, however, about language included in Senate Report No. 99-425, which accompanied the fiscal year 1987 appropriations bill for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies (H.R. 5161).

The language at issue seeks to establish a new interagency coordinating process and to mandage monthly meetings of designated Commerce, State, and Federal Communications Commissions (FCC) officials. In addition, an official of the U.S. Trade Representative's Office (USTR) would be required to participate in the proposed communications policy coordinating group (S. Rep. No. 99-425 at pp.5-6).

We recognize the important role that international communications plays and will play in the U.S. economy. The United States today confronts critical choices including how expeditiously to establish U.S.-based international satellite systems, the appropriate role of the United States in the International Telecommunications Satellite Organization given the changing character of its signatories, and the feasibility of linking U.S. policy actions in one telecommunications sector with those proposed in another.

Closer coordination and collaboration among the agencies with primary responsibilities in international communications is highly desirable. As we address current and future issues, there should be full appreciation of the totality of U.S. interests at stake, and an understanding of all strategic and tactical policy options.

Toward this end, we propose the following measures. First, State, Commerce, and FCC officials will plan to meet on a bimonthly basis, if not more frequently, to ensure our efforts in this important area are more effective. Second, when issues with significant trade policy implications arise, USTR will be included. Third, Commerce, State, and FCC staff will continue to coordinate their efforts on a formal and informal basis between meetings of their principals.

We believe that this would meet the objectives set forth in the committee report. We thus urge that the language in the Senate report which concerns us not be included in any final conference report on this bill.

Sincerely,

ALFRED C. SIKES,
Assistant Secretary of Commerce for Communications and Information.
WILLIAM SCHNEIDER, Jr.,
Under Secretary of State for Security Assistance, Science, and Technology.
MARK S. FOWLER,
Chairman,
Federal Communications Commission.

FAIRNESS DOCTRINE

Mr. HOLLINGS. Mr. President, in this legislation we have included a provision requiring the Federal Communications Commission to conduct an inquiry into alternative means of administering and enforcing the fairness doctrine. We do this to determine whether the spirit of the fairness doctrine can be carried out while lessening any burdens that might exist. No one should imply from this language that we in Congress have lessened our support in any way for the fairness doctrine. Our support—as stated in the Senate's report on this legislation—remains as strong as ever. The FCC should not make any material changes in the regulation implementing the fairness doctrine. This would be counter to the direction of the conferees.

In addition to the statutory requirement included in this legislation, in the second paragraph under the Federal Communications Commission section, the "Statement of Mangers" contains language that refers to this statutory provision. It is not the intent of the conferees by the inclusion of this language to support or permit repeal of the fairness doctrine at any tme, even after the required report is filed. In fact, just the opposite is the case. The conferees continue to strongly support the fairness doctrine. I would like to ask my colleague from New Hampshire, Senator RUDMAN, the chairman of our subcommittee, whether this is correct.

Mr. RUDMAN. Mr. President, the Senator from South Carolina is completely correct. This language in the "Statement of Managers" should not be read in any way to support or permit repeal of the fairness doctrine at any time.

Mr. HOLLINGS. I thank the Senator from New Hampshire. The Members of the Senate-House conference were particularly concerned that during the pendency of the report required in this legislation that the FCC take no action to make materials changes in regard to the fairness doctrine. The Members also believed the Commission should not even take such action after the report is required. The FCC should have no doubt about the strong support of the Congress for the Fairness Doctrine and should take no action without Congressional authorization.

Mr. WILSON. Mr. President, I wish to express my appreciation to the distinguished Senator from South Dakota for his support and cooperation in drawing the attention of the House and Senate conferees on this resolution to the need for the General Services Administration to pursue this acquisition of a new Federal building in San Francisco and reduce its reliance on costly leased office space for Federal employees. This is a matter we discussed during the Senate's consideration of House Joint Resolution 738 on October 3.

I am pleased to see that the report contains language directing GSA to initiate a process which upon completion could result in the acquisition of a Federal office building in San Francisco. This is precisely the thrust of our colloquy on this subject of October 3, 1986. The Environment and Public Works Committee has stated repeatedly that GSA should curtail the trend toward increased leasing of high cost office space by using its Building Purchase Program authority to acquire the space needed for Federal activities. The Appropriations Committee has shared the same view, as the long-term cost advantage of converting to Government-owned buildings can be substantial in the long run. This is especially true in cities such as San Francisco where the rental costs to the Government are extremely high.

With the direction given by the conferees, we should look forward to GSA moving promptly to study the alternatives available in terms of existing buildings that might be offered to the Government in response to a solicitation of competitive offers, and to provide an analysis of the cost of purchase as compared to leasing. GSA ought to be able to accomplish that process over the next 3 to 4 months and report to the appropriate committees. That timetable would permit GSA, if it identifies a suitable building that offers a cost advantage over leased space, to commence the acquisition process shortly thereafter.

I understand that the appropriations provided in this resolution may not be sufficient to allow GSA to complete the final acquisition process during the current fiscal year, and yet it would be most unfortunate if it were unable to take early advantage of an attractive purchase opportunity that its study identifies. Fortunately, GSA's existing authority permits it not only to purchase buildings but also to take an option to purchase, or to enter into a short-term lease with an option to purchase, and it should certainly give serious consideration to exercising that authority so that rental savings to the Government can commence as soon as possible. Consummation of the purchase could then occur early in the next fiscal year.

Mr. ABDNOR. Mr. President, I appreciate the interest in this matter expressed by the distinguished Senator from California and concur in his remarks. As a member of both the Environment and Public Works Committee and of the Appropriations Committee, I note that his remarks are entirely consistent with the approach we have been advocating for some time. I have no doubt that both committees will play an important role in assisting GSA in following that approach in this case. I am also certain that the House will play an equally active and supportive role in assisting GSA's process of acquiring a building in San Francisco. During our conference deliberations last week, the House Members shared our view of the need to reduce high cost rents in San Francisco and strongly supported the need to direct GSA to initiate the acquisition process this year.

Mr. WILSON. Mr. President, I thank the distinguished Senator for sharing this explanation of the conference action and commend him for his fine efforts.

LANGUAGE FOR CONFERENCE REPORT ON H.J. RES. 738 TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

Study of Federal Buildings—San Francisco

The GSA is directed under the Building Purchase Program to use a portion of its funds to study the need and availability of existing buildings meeting Federal office building requirements in San Francisco and report to the committee with specific recommendations on alternatives as to cost, space, and locations prior to February 1987.

T-46 TRAINER

Mr. CHILES. Mr. President, it appears the T-46 Trainer Program has become a political football, and this concerns me, because it shouldn't be.

We have heard the argument against funding for this program from the chairman of the Senate Armed Services Committee, whose opinion on these matters, I have the greatest respect. We have also heard arguments from others on the floor today who support the continuation of the T-46 Program.

But, what does the Air Force say? The Senator from Arizona claims the Secretary of the Air Force told him he does not want this new trainer and, if Congress gives it to him, he will put the plane in mothballs. On the other hand, I have spoken to blue suiters in the Air Force who were very impressed after flying the T-46, and told me they need this trainer very badly. If given the funds to purchase the aircraft they will put it to good use in training new pilots.

So, it seems there is a controversy in the Air Force also over this issue.

Some of the arguments against the T-46 Program revolve around contractor design and production problems. It is true that the T-46 Program has had its share of problems. However the number of deficiencies found during the contractor operations review [COR] were not unusual for a brand-new sophisticated small airplane.

I am told great progress has been made in correcting these problems. Over 60 percent of COR deficiencies were corrected by the contractor by March of this year; 97 percent of the identified deficiencies have now been corrected, and the remaining deficiencies should be corrected by the end of this year.

I am also of the understanding that the contractor will be able to meet the Air Force's delivery schedule which calls for the first two production aircraft to be delivered early next year.

Mr. President, U.S. Air Force pilots are flying the most advanced, sophisticated aircraft in the world today. Can we afford not to train these pilots with an aircraft that has similar up-to-date technology?

The Air Force has a critical need for a new trainer. The trainer they are flying today, the T-37, was first introduced 30 years ago and the average age of this fleet is 25 years.

Several months ago the senior Senator from New York was kind enough to include in the RECORD my statement at that time on the T-46 Program. I'd like to take this opportunity to reiterate some of the points I made then.

The American taxpayer has made a substantial investment in the RDT&E of a next generation trainer for the Air Force. To cancel this program now when these aircraft are about to go into production just doesn't make good sense to me. Especially when it appears the selection alternative to continuing the T-46 program will cost an additional $900 million. The T-46A represents an important new asset in the Air Force inventory. With the T-46's ability to train new pilots quickly, effectively and at reduced costs in maintenance and fuel savings, our defense posture should be significantly improved.

Mr. President, it appears what we are trying to decide here today is whether or not to go with an existing 30-year-old training aircraft that has a long list of expensive deficiencies which I won't go into and is quickly approaching the end of its certified

service life, or whether to go with a new more capable aircraft that either meets or exceeds all air training command needs.

I personally think the answer to this question is to go forward with the new T-46 trainer.

THE ABDNOR AMENDMENT

Mr. CHILES. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from South Dakota. If I understand my colleague correctly, his amendment would prohibit the General Services Administration from even entering into lease construction arrangements in a number of areas where the need for additional Federal space has been well documented. In Miami, for example, the General Services Administration has reported that additional space is very much needed.

At present, Federal workers are housed in 55 separate locations in the Greater Miami area. Of the 6,083 employees in the area, 69 percent are housed in rented space. Federal rental has doubled since 1972.

These rental costs alone drain $8.6 million a year from the Treasury. But the cost does not stop there. Security costs for scattered Federal employees are an additional burden. The GSA has recommended that new space adjacent to the present courthouse complex be provided, and reports that such an arrangement would be very beneficial for both cost and security reasons.

In the GSA's report, made at the request of the House Committee on Public Works and Transportation, an increase of 7 percent in the number of Federal employees in the Miami area is projected over the next 3 to 5 years. A particular increase is expected for the Judiciary and the Department of Justice.

As I am sure other Members realize, south Florida has grown tremendously in recent years. Miami is the center of booming trade with the Caribbean and Latin America. The demand on Federal services has grown even beyond the population growth. The influx of refugees, for example, has caused special problems for Miami and Dade County.

Mr. President, the General Services Administration determined that additional space in the Miami area was needed and should be provided. The only question was whether this new space should be provided by Federal construction or lease construction. There is every reason to believe that Federal construction is justified and would be cost-efficient. Given the current policy of GSA, however, the agency's recommendation was that lease construction be pursued. If this option is eliminated, the currently unacceptable situation in Miami will grow worse.

The House Committee on Public Works and Transportation approved a resolution authorizing Federal construction. The House Appropriations Committee recommended that $2.461 million be provided in fiscal year 1987 for planning and design. I understand that a proposal has been made that the lease construction alternative be pursued, and that this money could be used to acquire land upon which local authorities could construct the needed building for lease to the General Service Administration. Language in the bill provides the appropriate legal authority to the Administrator of the General Services Administration to enter into a lease for a building constructed on Government-owned property for a period not to exceed 30 years.

I must strongly oppose any measure which would threaten this alternative method of construction. The need is there. It has been documented by the General Services Administration and recognized by the House Public Works Committee. The people of south Florida know all to well that the need is there. I urge my colleagues to reject the amendment offered by the Senator from South Dakota.

IN OPPOSITION TO THE ABDNOR AMENDMENT TO AMENDMENT NO. 59

Mr. LAUTENBERG. Mr. President, I rise in opposition to the amendment offered by the Senator from South Dakota.

Mr. President, it is quite common in the Senate to hear that a provision, although not included in a bill before the Senate, is in the House companion measure and will be considered in conference. There is a certain solace in that situation, because almost never does a bill escape a conference without being modified on both sides. The Senate wins on some points; the House on others. This amendment says that unless a project was included by the Senate, it cannot be included in the conference report.

I strongly support one project which was included in the House bill, but not in the Senate bill. The project is a Federal building for Paterson, NJ. The House bill included $1.5 million for planning and design work on the proposed facility.

Construction of a Federal building in Paterson is needed to serve the people of Passaic, Bergen, and Morris Counties in New Jersey. At the present time, the Federal Government leases space throughout the area. Residents are faced with traveling to Clifton, Lodi, Paramus, and Fairlawn for access to offices not in Paterson. A Federal building in Paterson will provide convenient access to the Internal Revenue Service, the Labor Department and the Social Security Administration, which are currently located in leased space in Paterson. In addition, the building will consolidate space for the Defense Logistics Agency, the Occupational Safety and Health Administration, the Small Business Administration, the Defense Contract Audit Agency and the FBI. Such a Federal building could serve as a focal point for the Federal activities in the area.

In addition, construction of a Federal building will provide much-needed stimulus to revitalize downtown Paterson. Paterson, NJ, is the poorest city of its size in the United States. Consolidation of Federal offices will provide a critical mass of workers in the downtown area which will stimulate further construction and revitalization.

Construction of a Federal building is also cost-effective in the long run. The current leasing plan will cost the Federal Government $15 million over the next 30 years. Building a new Federal building is estimated to cost $7.6 million. In the long run, it will save the taxpayers money if the Federal Government owns its building instead of continuing to rent space.

Mr. President, it has been the policy of the Senate, as outlined in public buildings authorization bills passed by this body, to move away from the expensive leasing of space and toward housing Federal agencies in federally-owned buildings. The House provision to construct a new Federal building in Paterson, NJ, is consistent with that policy.

The Senator from South Dakota objects to any building unless it is authorized by both the House and the Senate. It is very difficult to get authorization here in the Senate for any structure unless it is approved by the Administration. Are we simply saying that the Congress is abdicating any role in public buildings and leaving it up to GSA to decide what gets leased and what gets built?

The principle being employed in this case is an unusual one. We are saying that we will only agree to fund public buildings agreed to by the Senate. The usual give and take, which is the essence of the conference committee process, is not being respected in this case.

Mr. President, I am defending the house position in this matter. In addition, I am defending the normal conference committee process in which provisions from both the House and Senate are incorporated in a compromise bill.

Mr. President, I strongly support inclusion of the Paterson Federal Building in the conference report. I oppose the Abdnor amendment and I urge its defeat.

Mr. KERRY. Mr. President let me first state that I fully concur with the remarks made by my distinguished colleagues from Ohio, New Hampshire, and Oregon and I commend them on their tireless efforts on this very critical issue. In addition I would like to reiterate the sentiments of my col-

leagues from Ohio and Oregon that it is likely that we will revisit this issue in the future. They can both be assured that I will be working with them to defeat such dangerous provisions.

Mr. President, I rise in opposition to a provision added to the continuing budget resolution during the conference committee between the House and the Senate. This provision which was not in the Senate passed Commerce, Justice, and State appropriations bill in the continuing resolution, will inhibit the right of women in Federal prisons to have abortions. Although I have no intentions on holding up the continuing budget resolution at this late stage in the session, I want to make it absolutely clear that my opposition to this specific provision is based on two factors. First this provision is unconstitutional and second, this action represents legislating on an appropriations bill.

Federal prisoners do not lose their constitutional rights when they are incarcerated. Last year the Senate was quite clear on this issue when they voted a similar measure unconstitutional. Furthermore, this has been upheld in numerous instances. For example in the case of *Wolff* v. *McDonnell,* 418 U.S. 539, 555-556 (1974), Justice White stated, "There is no iron curtain drawn between the Constitution and the prisons of this country."

In *Roe* v. *Wade,* 410 U.S. 113 (1973), the Supreme Court stated that up to the point of viability "the abortion decision is inherently, and primarily a medical decision . . ." and found that the Government cannot deny a patient the right to obtain an abortion. Moreover an incarcerated woman's right to appropriate medical care is unquestionably protected under the Constitution. This could not be more clearly portrayed than in the U.S. Supreme Court decision *Estelle* v. *Gamble* 429 U.S. 97 (1976), where the Court ruled that the eighth amendment's ban on cruel and unusual punishment requires prisons to provide medical services for inmates; particularly in situations where the denial of elective medical treatment would cause an "irreparable" condition. Preventing a woman from being able to choose to have an abortion in a timely and safe manner is undoubtably "irreparable". This was most recently upheld in a New Jersey court case *Monmouth County Correctional Institution Inmates* v. *Lanzaro,* Civil No. 82-1924 (D.N.J. May 29, 1986). In this case, the court was determining whether it is appropriate for prisons to offer abortions as a medical service. They concluded in their ruling that inmates not only have the constitutional right to an abortion for medical reasons, but that abortions must be paid for by the Government. In sum, this ruling clearly points out the fact that by denying Federal dollars for women in Federal prisons who choose to have abortions we are blatantly denying essential medical services.

I have clearly demonstrated that this provision is unconstitutional. Let us turn our thoughts for a moment to some actual facts about the living conditions in prisons and ask ourselves, should women really be forced to carry a pregnancy to term in a Federal prison if they choose not to? Fact—66 percent of the women in prison were unemployed prior to imprisonment; fact—58 percent of women in prisons lived on less than $3,000 a year prior to imprisonment and 92 percent had less than $10,000 yearly income; fact—the majority of women in prison are single parent mothers; fact—gynecological and prenatal care is inadequate in most prisons; fact—in prisons there is little to no medical care provided for new born children; fact—50 percent of all children do not see their mother after incarceration; fact—prisons have limited support programs for child-inmate relations. Circumstances as grim as this must certainly be studied in depth to assess its impact on the health and welfare of a pregnant woman and her unborn child, before we pass laws in this area.

Mr. President, in conclusion let me say that the constitutionality of a woman's right to abortion was determined in the case Roe versus Wade. Furthermore, the issues of abortion, and access to health care for women in prisons should be carefully examined by the appropriate authorizing committees. Issues of such far-reaching consequences should be fully addressed and not cavalierly placed on a spending bill in the closing moments of this Congress.

THE PAPERWORK REDUCTION REAUTHORIZATION ACT OF 1986

Mr. CHILES. Mr. President, I want to comment on title VIII of the continuing resolution which amounts to the Paperwork Reduction Reauthorization Act of 1986.

This legislation will strengthen the Federal Government's ability to minimize the paperwork and regulatory burden upon the public. It will reduce the number of taxpayer dollars which go to the acquisition and use of information technology by the Federal agencies.

In 1980 I sponsored the Paperwork Reduction Act here in the Senate. Since 1983 the respective authorizing committees of the House and Senate Government Operations and Governmental Affairs, have been working on: First, reauthorizing the 3-year authorization associated with the financing of the Office of Information and Regulatory Affairs [OIRA]; and second, amending the act to correct problems which both committees have examined in oversight hearings. For various reasons that effort has been unsuccessful until now.

The Paperwork Reduction Reauthorization Act of 1986 represents a successful culmination of the 3-year process. It represents a reaffirmation of what Congress intended in 1980 when it passed the Paperwork Reduction Act and a fresh agreement between the Congress and the Executive on how things should proceed under the act in the future.

During the Senate floor debate on the continuing resolution I engaged in a colloquy with Senators HATFIELD, ABDNOR, and ROTH; the respective appropriations and authorizing committee chairmen over the need to respond to the House language relating to the Office of Information and Regulatory Affairs. In brief, my view was that the House had not only zeroed the funding for OIRA but had legislated on the appropriations bill in a way which would have affected substantive laws other than just the Paperwork Act. That colloquy can be found on page 28474 of the October 3 CONGRESSIONAL RECORD.

At that time, I mentioned that Chairman BROOKS of the House Government Operations Committee, Congressman HORTON, the administration and I were working on an agreement on the issues which have surrounded the Office of Information and Regulatory Affairs. The hope was to bring that agreement to the conferees in order to resolve the differences between the House and Senate.

An agreement was reached. Reauthorization language for both OIRA and the General Services Administration Board of Contract Appeals was incorporated. Clarifications to the Paperwork Act and related laws were made. Statutory lines were drawn. The language in title VIII, the Paperwork Reauthorization Act of 1986, represents the agreement which was brought to the conference. Senator ROTH, the Chairman of the Senate Governmental Affairs Committee, participated in bringing about and concurred with this language.

I want to compliment and thank the participants to the 1986 amendments for a job done well. I also want to especially thank Senator DANFORTH whose work as chairman of the Subcommittee on Information Management and Regulatory Affairs during the 98th Congress helped bring about many of the provisions in this 1986 Reauthorization Act.

As I have stated previously, my biggest disappointments since passage of the 1980 act concerned efforts by the executive branch to frustrate both the opportunities for meaningful public participation and mechanisms for accountability to the Congress and the public the law established.

More recently, I sensed to a greater degree than ever, the extent to which these efforts have worked to erode the feeling of trust between the executive and legislative branches of Government. It is critical that this erosion be stopped and reversed. These amendments enable us to avoid the train wreck which was imminent. They provide a basis to build trust, confidence, and accountability for the processes which underpin the Paperwork Act.

For example, this legislation contains several new additional "sunshine" provisions which require more openness on the part of both the agencies and the OIRA in the way decisions under the act are made. Written communications to and from OIRA relating to information collection requests, including those contained in regulations, will be available to the public. The Director of OMB will be required to make an explanation of his reasoning to disapprove or approve requests publicly available. Additionally, as part of the Senate sponsors reaching agreement with the administration on this legislation, the administration agreed to institute sunshine procedures administratively which will make OMB's review of regulations under Executive Order 12291 more accessible to the public.

Open and timely decisions on regulatory as well as other kinds of reviews is the principle to which OIRA is to adhere.

Second, several amendments which will enhance public participation in the decisions which are made as a result of the act have been made. Federal agencies will be required to announce in the Federal Register their understanding of who will be affected and their estimate of what the burden of proposed information demands will be.

This standardization of Federal Register announcements should increase and improve public comments on the proposals. Since agency information requests will be reviewed at least every 3 years, there will be a continuing opportunity for the public to comment on all reporting and recordkeeping requirements.

Most importantly, the potential loophole to section 3512, the public protection section of the act, has been closed. That provision of the law declares that information requests, whether they are forms, recordkeeping requirements, or regulations, must display a control number indicating they have been checked for need. Absent such a control number the request is a "bootleg" and can be ignored by the public. With a control number the justification and need for the requirement can be reviewed by all.

A fundamental premise of the Paperwork Reduction Act is that every citizen in entitled to have their Government check the need for information requests made of them. Duplicative or unnecessarily burdensome requests should be avoided. The Justice Department issued a legal opinion in June 1982 which purported to interpret the paperwork statute. A major effect of that ruling was to confuse the public over what paperwork requirements were and were not covered by the public protection section. The 1986 amendments clarify Congress' original intent. The opinion is specifically overturned. This action should lead to more assertions by the public of the right intended by the public protection section.

Third, this legislation will make activities of OIRA more accountable to Congress. Future administrators of OIRA are to be appointed by the President, with the advice and consent of the Senate.

Additionally, authorization language was agreed to which specifically requires a separate appropriation account for funding OIRA's activities under the act. Funding for carrying out functions assigned to the Director of OMB by the act must come from this account. Separate funding must be obtained for OIRA activities which are not related to the functions assigned by the act.

The effect of this authorization provision will be to enable Congress to focus upon how funds appropriated annually to OIRA are used. The use of funds from this account for reviewing rules or regulations is limited to carrying out the Director's responsibilities regarding information collection requests. To the extent the review of regulations is consequent to such responsibilities funding must come from the newly established account.

In my view, the Paperwork Reduction Act of 1980 was intended as a regulatory reform as well as an information management reform. A key to this understanding is that the framers appreciated the relationship and linkage between the two. Caution was expressed that the authorities contained in the act were not to be abused nor used to extend beyond the scope of the act. Indeed, the initial authorization language of 1980 limited OIRA to no other purposes but to those authorized by the act. Director Stockman moved quickly in 1981 to avoid the establishment of a separate appropriation account for OIRA which would have enabled Congress to provide proper oversight.

But the aspect of new technology for example, and how it could be used to both save money and reduce public burden was and remains a very exciting potential. My fervent hope and intent are this reauthorization act and the amendments incorporated will provide an even better basis to realize this potential.

The oversight mechanism created by the separate account will reveal annually to the Congress the Director's determination of the extent to which OMB's review of regulations is or is not a function of carrying out the information management responsibilities established by the Paperwork Reduction Act.

The requirements for more sunshine, more public participation, and better accountability to Congress were essential to the agreement the Paperwork Reduction Reauthorization Act of 1986 represents. I believe a foundation for success has been rebuilt. OIRA's performance in the upcoming year will say a lot about whether the results the Congress, the Executive, and the American public want can be obtained; whether a modicum of trust can be maintained between the OMB, Congress, and the public; and whether there will be a renewed attempt to eliminate funding.

Mr. President, legislative history for the Paperwork Reduction Reauthorization Act can be found in the following report: the conference report on title VIII accompanying the continuing resolution; (H. Rept. 98-147), (S. Rept. 98-576), and (H. Conf. Rept. 98-861, pp. 1421-1438) of the 98th Congress; and (S. Rept. 99-347) of this Congress accompanying S. 2230. The relevant language of (S. Rept. 99-347) concerns title VI of S. 2230.

I want to place attention on pages 16 and 17 of the Senate committee report of the 99th Congress. This report language amounts to an expression of committee intent that Senator MATHIAS and I drafted for the report. The late Senator Jacob Javits highlighted the Committee on Governmental Affairs special responsibility to provide oversight of the relationship of the Paperwork Reduction Act to civil rights acts during the Senate floor consideration of the Paperwork Act in 1980. Both Senator MATHIAS and I believe Senator Javits admonition should be a constant reminder.

In both the 98th and this Congress I filed an additional statement regarding amendments in which I played a specific role. My purpose was to add to the legislative history behind the amendments. I want to submit for the record a copy of my statement made earlier this year.

The only correction needed concerns the section entitled "Senate Confirmation of the Administrator of the Office of Information and Regulatory Affairs." Language clearly requiring a separate appropriation account was agreed to after the Senate Governmental Affairs Committee reported title VI of S. 2230. The language requiring reporting by function of how resources were used by OIRA referred to in the statement was dropped. I already commented on why the specific provision of a separate account will

provide better accountability to Congress.

An additional comment I offer regarding the language limiting funding to activities "specifically authorized or required by the chapter" is that the issue of whether the information collection budget, a process first established by President Carter by way of executive order, met this standing was discussed by representatives of both the House and Senate authorizing committees. There was agreement that OIRA's present role in the ICB process did meet the standard and would be funded by funds in the separate appropriation account.

Mr. President, let me also include for the RECORD a summary of the act and three newspaper editorials. One is from the Jacksonville Times-Union of August 10, 1982. A second is from the Wall Street Journal of June 3, 1986. The third is from the Washington Post of August 27, 1986.

I ask unanimous consent that those materials be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

SUMMARY OF PAPERWORK REDUCTION REAUTHORIZATION ACT OF 1986

Establishes new goals for reducing the paperwork burden upon the public—5 percent for each of the next three years for a total goal of 15 percent by the end of three years.

Requires future Administrators of the Office of Information and Regulartory Affairs (OIRA) be appointed by the President with the advice and consent of the Senate.

Eliminates confusion over what paperwork requirements are covered by the public protection section of the act. Clarifies that all information demands upon the public, including all reporting and recordkeeping requirements contained in new or existing regulations are covered by the public protection section.

Facilitates additional public participation in the paperwork review process by specifying agencies must include who will be affected, how often they will be affected, and what the estimate of burden is in their Federal Register notices of proposed information collection requests.

Requires all written communications between the agencies and OIRA and between the public and OIRA shall be made publicly available.

Authorizes funds for OIRA for three years—5.5 million dollars for each of the fiscal years 1987, 1988, and 1989.

Establishes a separate appropriation account to fund activities of OIRA related to the functions contained in the Paperwork Act in order to enhance accountability to the Congress.

Clarifies the relationship of the act's authorities to the review of rules for information policy purposes.

Establishes a Federal information locator system within OIRA which shall serve as a comprehensive register of all information requests. The system shall be designed to help agencies and the public in locating Government information.

Requires the Director of OMB to appoint a chief statistician to develop and oversee statistical policies and programs.

Combines the existing Federal telecommunications fund and automatic data processing fund in order to improve the acquisition by agencies of new information technology.

Extends authorization for the General Service Administration board of contract appeals for three years.

Redefines automatic data processing equipment as that term is used in P.L. 89-306, the Brooks Act, in order to recognize the merging of ADP, telecommunications, and other technical resources used in the management of information by Federal agencies.

Clarifies the roles and authorities of the Director of OMB, the Administrator of GSA, and the GSA board of contract appeals as those authorities and roles relate to each other under the Brooks Act and Competition and Contracting Act.

[From Senate Report 99-347]

ADDITIONAL VIEWS OF SENATOR LAWTON CHILES

Title VI of S. 2230 contains language which reauthorizes funds for the Office of Information and Regulatory Affairs and which provides needed amendments to the Paperwork Reduction Act of 1980. The provisions of title VI as amended by the Committee are similar to the provisions of S. 2433, a bill in the 98th Congress which Senator Danforth and I sponsored and which this Committee passed on a unanimous vote of 16 to 0. (Senate Report 98-576.)

At the time of the Committee's action in the 98th Congress I provided additional views on amendments undertaken, supported, and passed by the Committee in which I had a specific role. I want to update and repeat those remarks for the purposes of the 99th Congress.

As I mentioned in my views in 1984, the reauthorization process by the Senate Committee on Governmental Affairs concentrated more upon what problems existed in the act's implementation since 1981 than upon what accomplishments were obtained. This is a proper focus for congressional oversight and congressional oversight is an essential part of the reauthorization process.

However, a perspective should be placed on the achievements. By the end of 1985 some 630 million hours of paperwork requests were eliminated. Time spent fulfilling paperwork requests is used as a proxy measure for cost. At $20 an hour, this amounts to a savings of some $12.6 billion. This savings in and of itself demonstrates the act has made a difference in how the Government works.

But as the experience of the past five years reveal and as the hearings by both the House and Senate document, there is much progress yet to be made if the management and accountability structure created by the 1980 act are to lead to the achievements envisioned by the framers of the Paperwork Act. As I have stated frequently, the ultimate test in my own mind will be when I can travel through Florida and get a sense from the people they feel Government's paperwork demands are not out of control. This still has not happened to me.

The biggest disappointments of the past five years concern efforts by the executive branch to frustrate both the opportunities for meaningful public participation and the mechanisms for accountability to the Congress and the public the law establishes.

What I sense now to a greater degree than two years ago is the extent to which these efforts have worked to erode the feeling of trust between the executive and legislative branches of Government. It is critical that this erosion be stopped and reversed. Several of the amendments contained in title VI are designed to enhance public participation and accountability to Congress. I believe these amendments will go a long way to fulfilling the need.

THE OFFICE OF LEGAL COUNSEL OPINION

The Committee amended the definition of "information collection request" to include the term "collection of information requirement," term used in section 3504(H) in the act. This amendment clarifies what the term "collection of information requirement" was intended to mean when the act was passed in 1980. A specific intent of this amendment is to establish that the legal opinion issued by the Justice Department in June of 1982 provides an invalid interpretation of the law.

I have previously characterized this opinion as a flagrant example by unelected officials in the bowels of the Federal office building to rewrite and change a law passed by Congress and signed by the President. (Congressional Record, July 1, 1982.) It is an opinion which serves to distort and change the congressional intent expressed in the Paperwork Reduction Act. Moreover, the opinion causes more problems than it purports to solve.

According to the opinion, its conclusion is based on, among other things, a thorough analysis "* * * of the language and history of section 3504(H), the language and history of the act's other provisions, and the statute's general scheme * * *". The clarifying amendment to the definition of information collection request makes clear that not only did the opinion reach a false conclusion, it also was based on a selective and false analysis of language and legislative history. Despite its 56 pages, and 101 footnotes, the analysis of the opinion is so flawed, it should not be relied upon for any future efforts to interpret the statute.

The opinion misconstrues the general scheme of the statute. The law was intended to be comprehensive in its coverage of federally sponsored "collections of information." Exemptions to this coverage, either by agency or by class of information were specifically set out in the definitions of section 3502 or the savings provisions of section 3518. The notion the law was dedicated primarily to "forms, questionnaires, and surveys" and not to other instruments such as reporting, recordkeeping, and disclosure requirements which are means to carry out federally "sponsored collections of information" is a fundamental misreading of what the law states, what the Congress of 1980 intended, and what this Committee affirms in the amendments of 1986 contained in title VI of S. 2230.

The opinion does not reflect a thorough analysis of either the language or the legislative history of the act's provisions. It is a limited and selective analysis. The scholarship reflected by the analysis is deficient. The following aspects of the legislative history which were not included in the OLC opinion should be considered in any future interpretations of the act.

1. The Congress used the reports and work of the Federal Paperwork Commission in drafting the law. The Commission's reports on the "history of paperwork reforms" and on the "reports clearance process" specifically instructed the Congress on the legal and policy issues associated with the responsibilities contained in the Federal Reports

Act and the Administrative Procedure Act. (The OLC opinion did not acknowledge any relationship between the Commission's work and the drafting of the act.)

2. The Paperwork Reduction Act of 1980 amended the Federal Reports Act of 1942. The Administrative Procedure Act was passed in 1946. These two laws had co-existed for some 30 years. What the history was and, most importantly, what the prevailing practice of the executive branch, the General Accounting Office, and independent regulatory commissions were in regards to the laws were known to the Congres when the Paperwork Act was deliberated upon. Much of the language of the 1942 law was deliberately incorporated in the Paperwork Reduction Act in order to preserve the traditional understandings of the authority contained in the 1942 law. (The OLC opinion made no reference to the prevailing practice or understanding of the agencies, the Comptroller General, or the Director of OMB.)

3. In 1973 the Congress amended the Federal Reports Act and required the General Accounting Office to be responsible for clearing the information requests of independent regulatory commissions. The amendment was motivated by a concern over the integrity of the rulemaking process. (How the 96th Congress studied the issues raised and responded to the concern of Congress reflected by the 1973 amendment was ignored by the OLC opinion.)

4. The language of section 3504(h) was part of an amendment proposed by Senator Kennedy and accepted and introduced by myself during full Senate consideration of the act. Senator Kennedy's amendment included amendments to other sections of the act, including section 3507 wherein substantive language was added requiring all decisions of the Director of OMB to be made publicly available. (The OLC opinion construed Senator Kennedy's amendment and explanatory comments to relate only to the language of 3504(H). This is inaccurate.)

5. The most definitive statement on the relationship of section 3504(H) and information collection requirements to the procedural requirements of other sections of the act upon information collection requests was made by Senator Kennedy on December 15, 1980. (Congressional Record, December 15, 1980, S 16700.) The OLC opinion does not acknowledge this explanation.)

Federal agencies will continue to try to find ways, including unfounded interpretations of what Congress intended, to limit the scope of the Paperwork Act's requirements and assurances the law is intended to provide the public. The Committee's amendment to the definition of information collection request exposes the attempt which culminated in the OLC opinion of June 1982.

SENATE CONFIRMATION OF THE ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS (OIRA)

The Committee amendment to require advise and consent of the Senate in the selection of the Administrator of OIRA is designed to strengthen accountability to Congress.

During development of the 1980 Paperwork Act the Senate agreed to President Carter's request to drop the idea of Senate confirmation of the head of OIRA in exchange for his support of a separate authorization and appropriation account for the office's activities. This administration chose not to abide by what I regard. the language of the act to mandate. A separate appropriation account consistent with the separate authorization has not as yet been created. In addition, the issue of how resources have been used and what resources are needed to accomplish the ambitious strategy Congress incorporated in the 1980 act has been a point of continuing contention between the administration and OIRA's oversight committees in the House and Senate.

The 1986 amendments will require Presidential appointment and Senate confirmation of the head of OIRA in the future. They retain the language which I believe mandates a separate appropriation account. They also require a reporting by function of how resources are to be used by OIRA which will be tied to the annual budget process. Accountability to Congress will be strengthened by these steps.

IMPROVEMENTS FOR PUBLIC PARTICIPATION

The amendment to section 3507(a)(2)(B) which requires agencies to set forth a title, a brief description of the need for the information and its proposed use, a description of the likely respondents and proposed frequency of response, and an estimate of the burden, is designed to enhance public participation in commenting upon proposed agency requests for information. Since approvals for continuing requests are required every 3 years, this minimum amount of information is particularly important if the affected public is to become a meaningful part of the justification process.

Prior to and shortly after the act's passage the OMB gathered agency notices, complete with the above information, and published them in the Federal Register under OMB auspices. This practice was dropped and agencies were left to their own descretion to meet the act's requirement to give notice in the Federal Register. Testimony from small businesses, individuals, universities, and State and local governments supports the idea that standardizing the requirements for minimal information will improve both the number and quality of comments.

While the Committee amendment does not specifically require OIRA to publish agency notices, I do want to note that the House version of section 3507(a)(2)(B) in 1980 was amended by the Senate at the specific request of OMB. The request was to provide language which would enable all paperwork notices to be aggregated in one location in the Federal Register. At the time the view was that this approach made for more participation by the public in the comment process.

It is my hope that this standardization of what minimal information should be contained in the notices will lead to more thoughtful efforts by the agencies and OIRA to encourage public participation in the process of justifying agency requests.

The Committee amended section 3505 to include the task for the Director of OMB to report to the Congress in a year upon the feasibility and means of enhancing public access, including access by electronic media, to information relating to information collection requests required by the law to be made available to the public.

The administration agreed to this assignment after lengthy discussions on the need to improve public access to the decision making process surrounding agency justification and OIRA review of paperwork requirements. It is my view that with the explosion in computer and telecommunications technology, great strides can be made in improving the ease upon which persons can access the information relating to decisions on paperwork requirements which are publicly available. ORIA can seize this opportunity to demonstrate how new information technology can be used to expand meaningful public participation in how Government makes decisions concerning paperwork burdens. My hope is this opportunity will not be missed.

FEDERAL GRANT PROGRAMS—A MISSING INVENTORY OF PAPERWORK REQUIREMENTS

The Committee also amended section 3505 to require the Director of OMB identify further initiatives to reduce the burden of Federal collections of information associated with the administration of Federal grant programs.

The intent of this amendment is to continue specific statutory attention to paperwork demands associated with grant programs that was highlighted by section 3505(1)(E) of the 1980 act, which has expired.

My view is that there remains a large number of federally sponsored reporting and recordkeeping requirements associated with the management and audit of grants which has not been identified and subjected to the discipline of the Paperwork Reduction Act. A major area of requirements which has not been inventoried concerns reporting and recordkeeping demands that result from OMB's own circulars. Historically, OMB has taken the position that its circulars constitute policy guidance to the agencies and it is agency implementation of OMB's guidance which is subject to the clearance requirements of the act. Agencies have found this view easy to ignore. For many reporting and recordkeeping requirements which are established by the circulars, this position is inconsistent with the requirements of the act and inconsistent with the specific regulation the Director of OMB has promulgated to implement the act. (See 5 CFR Part 1320. 15(B).)

A result has been to confuse recipients of grant programs who seek the assurances of the public protection section of the act, and to permit agencies to find loopholes in the act's coverage.

Enclosed is recent correspondence between Director Miller and myself which concerns this very point in regards to OMB circular A-21. That circular regulates the documentation required of institutions of higher education who receive funds for federally sponsored research.

Circular A-21 has been controversial for some ten years and I have always believed the reporting and recordkeeping demands which flow from it should be subject to the discipline and requirements of the paperwork clearance process. I read Mr. Miller's response to be a commitment to see to it that the Paperwork Act requirements will be complied with in regards to the requirements which flow from A-21.

I expect OIRA to follow up on this commitment on Circular A-21. All other OMB circulars which lead to collections of information should be examined for their practical utility as well.

LAWTON CHILES.

U.S. SENATE,
Washington, DC, March 11, 1986.

Mr. JAMES MILLER,
Director, Office of Management and Budget, Old Executive Office Building, Washington, DC.

DEAR JIM: The Chancellor of the State University System of Florida has brought to my attention your office's proposal in the February 12 Federal Register to change

OMB Circular A-21. He indicates to me he has written to you as well.

As you know, the circular concerns governmentwide accounting principles for educational institutions who are engaged in federally sponsored research. The proposal announces that agencies will limit federal reimbursement for allocated administrative overhead to 26 percent by April 1, 1986; to 20 percent by April 1, 1987. The estimated savings are 100 million in fiscal year 1987, and over 200 million in fiscal year 1988.

Chancellor Reed's essential concern is the manner in which this policy change is being brought about. I am confident you agree the conduct of the federal government's overall relationship to institutions of higher education is an important aspect of our country's infrastructure for the conduct of basic research. Our foundation for basic research is an important factor in those things which contribute to our national security, a growth economy, and a national ability to compete in international markets.

While I understand one justification for this proposal in the need to respond to Congressional concerns, and another is the estimated budget savings. I do share the Chancellor's concern about the manner in which the federal government is pursuing this regulatory role and what it means for the future relationship between the government and the college and university community.

I am reminded this is not the first time the issue of changes to A-21 have arisen. I find myself asking questions similar to those I asked previous Directors of OMB almost a decade ago and repeatedly since. Recall that in your previous position as head of OIRA I had occasion to ask you just these sort of questions.

What is the relationship of the proposed change to A-21 to the need for OMB to comply with the Paperwork Reduction Act and its implementing regulations?

What is the relationship of the proposed change to Executive Order 12291 on Federal regulation? As a major architect of that Executive Order you bring a unique expertise to that question.

A primary purpose behind both the Act and the Executive Order is to ensure the federal government examine its alternatives when undertaking a federal role. Despite previous assurances, I remain unconvinced that the requirements of the Paperwork Reduction Act have been complied with in implementing A-21. I find no burden estimates with either direct or indirect costs associated with reporting or recordkeeping burdens which flow from the circular. Given the public protection section of the law, the proposed change once again raises the serious consequences which result from any failure on the part of agencies to comply.

I also believe the proposed change is subject to the Executive Order on Federal regulation. The 100 and 200 million dollar saving estimates suggest the "major rule" criteria for a regulatory analysis and exploration of alternatives has been triggered. I find little indication that the purpose and spirit, much less the letter of the Executive Order, has been met.

I am enclosing a copy of a letter sent to Chris DeMuth back in 1982 concerning these same questions. His response is also enclosed. As I commented then, I am confident the present A-21 discussion will not be the last time the question of whether a federally imposed burden is appropriate will occur. Establishing and maintaining a cost-effectiveness discipline is an important precedent to set and keep.

I request you do not implement the A-21 proposal until you are satisfied that executive branch agencies are in compliance with the Paperwork Reduction Act and the Executive Order in regard to this circular. I would appreciate your providing me such an assurance. If we are going to have an effective partnership with the university and college community, I think we should assure ourselves the federal government is conducting itself in a manner that makes sense and is consistent with its own rules.

Let me add that the university community does need to strive to reduce administrative costs associated with federally sponsored research. The institutions in my state do understand this point.

Let me suggest that an examination of alternative ways to achieve cost reductions in this area should include the demonstration several agencies and the Florida State system have underway presently. The National Academy of Science's Government-University-industry Research Roundtable is monitoring this effort. The work builds on an experiment first conducted by the National Science Foundation in my state and which was endorsed by the Grace Commission as a means to reduce administrative costs.

Senator Danforth and I have had an interest in this work for the past three years and I am very encouraged by the results so far. It is this Florida experience that I invited you to look at during your confirmation proceedings. The idea of applying the Florida experience nationally could make a significant contribution to research productivity. I believe administrative cost savings which would equal those assumed in the proposed A-21 change would not be an unreasonable expectation. I view this initiative as a target of opportunity for regulatory relief as well and would welcome working with you to explore the usefulness of this particular alternative.

I look forward to your response.

With warm regards,

Sincerely yours,

LAWTON CHILES.

MARCH 15, 1982.

CHRISTOPHER DEMUTH,
Administrator, Office of Information and Regulatory Affairs, Old Executive Office Building, Washington, DC.

DEAR CHRIS: Enclosed is a letter I received from Gus Turnbull of Florida State University.

I would appreciate your response to the two questions posed by Mr. Turnbull.

I am sure you have heard a great deal about the growing federal role in University activities. Both the broad issue of federal-University relationships and the specific issue of Circular A-21 were highlighted in Senate paperwork hearings before and after passage of the Paperwork Reduction Act in 1980. Interestingly, modifications to A-21 were a subject matter of the Subcommittee on Federal Spending Practices first paperwork hearing in June of 1978 and of its successor committee's last paperwork hearing in March of 1981. The A-21 effort reporting issue was specifically referred to your office for review as one of the burdensome demands listed to the Subcommittee on Federal Expenditures by the University community.

It is my firm opinion the reporting and recordkeeping burdens of the Circular are subject to the requirements of the Paperwork Reduction Act. Now that the Public Protection section is in effect, this point is critical. Presently, Circular A-21 does not display a control number.

It has also been my belief that consistent with both Presidents' Carter and Reagan Executive Orders on regulations, A-21 should be subjected to a regulatory analysis. To date the government does not have an estimate of what the compliance costs are for meeting the requirements of A-21, much less an assessment of what the relative costs of alternatives would be. To my knowledge, a regulatory analysis of A-21 has never been conducted.

Whether the Office of Management and Budget considers OMB circulars resulting in substantial economic consequences as regulations subject to the President's Executive Order on Regulations and whether OMB considers circulars which create collections of information subject to the requirements of the Paperwork Reduction Act are important policy questions. Regarding the University research community, I am confident the present A-21 discussion will not be the last time the question of whether a federally imposed burden is appropriate will occur. I believe that establishing a cost-effectiveness discipline is an important precedent to set. Certainly, that was a purpose of the Paperwork Reduction Act for reporting and recordkeeping requirements.

I would also appreciate the Administration's view on the relationship of OMB Circulars to Executive Order 12291 and the Paperwork Reduction Act.

With kind regards, I am

Most sincerely,

LAWTON CHILES.

Enclosure.

THE FLORIDA STATE UNIVERSITY,
Tallahassee, FL, February 24, 1982.

Senator LAWTON M. CHILES,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR CHILES: Knowing of your continuing interest in governmental efficiency, especially as related to governmental paper work, I would like to raise a question on the current status of OMB Circular A-21 as it relates to the Paperwork Reduction Act of 1980. The *Federal Register* of January 7, 1982, contains a long-awaited and apparently useful revision of A-21. Universities and related research associations have long objected to the unreasonable requirements of A-21 and consequent demands of federal auditors acting under its structures. These resulted in a major paper work burden substantially counterproductive of accomplishing the missions of the universities and the objectives of the U.S. Government.

Accordingly, first reactions to the revised A-21 seem favorable. My university and others are preparing a detailed response which will probably praise the improvements while suggesting some additional refinements.

I would like to raise for your consideration, however, another point. Why has the revision of A-21 not been subjected to the provisions of P.L. 96-511, the Paperwork Reduction Act of 1980? The reporting requirements seem to fall under section 3502(4) and thus should bring A-21 under the explicit review provisions of the act.

If the requirements of Circular A-21 are not so reviewed and the A-21 procedures posesses neither the "control number" nor "state that the request is not subject to P.L. 3512," would a university be within its legal right to decline to maintain or provide the requested information as provided under section 3512 of the law?

It would be helpful to the Florida University to have an authoritative interpretation of these points.

Sincerely,

AUGUSTUS B. TURNBULL III,
Vice President for Academic Affairs.

OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, April 14, 1982.

Hon. LAWTON CHILES,
U.S. Senate, Washington, DC.

DEAR SENATOR CHILES: This is in response to your letter of March 15, 1982 which asked that we respond to two questions raised in a February 24 letter from Gus Turnbull of Florida State University and asked about the relationship of OMB Circulars to Executive Order 12291 and the Paperwork Reduction Act (P.L. 96-511).

In his letter, Mr. Turnbull is specifically concerned about the applicability of the Paperwork Reduction Act to reporting and recordkeeping requirements contained in a recently proposed revision to OMB Circular No. A-21, "Cost Principles for Educational Institutions." The letter goes on to ask whether a university would be within its legal right to decline to maintain or provide information requested by the Circular, as provided under the public protection clause of the Paperwork Reduction Act of 1980 (44 USC 3512), since the A-21 procedures neither display a control number nor state that the request is not subject to the Act.

Circular No. A-21 establishes basic principles and requires agencies to implement those principles by establishing appropriate rules and procedures. In establishing such requirements the agencies have considerable latitude. The Circular does not explicitly require answers to identical questions by 10 or more members of the public. However, to the extent that the agencies' implementing regulations require reporting or recordkeeping subject to the Paperwork Reduction Act, they are required to be cleared. Accordingly, on August 21, 1980, we issued an instruction to each agency informing them that before they incorporate the principles of A-21 into their regulations, they had to have the information collection component reviewed and approved by OMB.

While the A-21 procedures do not display an OMB control number, agency implementing regulations which establish reporting or recordkeeping requirements should. In cases where they do not, it appears that the public protection clause of the Paperwork Reduction Act would apply.

Regarding your more general question about the relationship of OMB Circulars to P.L. 96-511 and E.O. 12291, Circulars are subject to the requirements of both. Each OMB Circular that calls for the collection of information involving answers to identical questions by 10 or more members of the public should and does undergo a Paperwork Reduction Act review. Furthermore, each OMB Circular (e.g., A-102 "Uniform Requirements for Grants to State and Local Governments") that requires agencies to obtain answers to identical questions has an OMB control number printed in the Circular where the requirement is set forth.

Under internal OMB procedures, proposed OMB Circulars are also reviewed for compliance with E.O. 12291 by my office. Any Circular designed to implement, interpret or prescribe law or policy or describe the procedure or practice requirements of an agency is subject to such a review (e.g., A-40 "Management of Federal reporting requirements"). Excluded from those requirements, however, are directives that outline procedures to be followed by the President's budget and legislative programs, or for matters affecting only the internal functions, management or personnel of Federal agencies (e.g., A-19, "Legislative coordination and clearance"). In a recent review of existing OMB Circulars, it was determined that twenty-three were covered by the Executive Order.

I am pleased we could be of assistance on this matter. I look forward to a continued close working relationship as we move toward effective management of Federal information resources.

Sincerely,

CHRISTOPHER DEMUTH,
Administrator for Information and Regulatory Affairs.

OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 4, 1986.

Hon. LAWTON CHILES,
U.S. Senate, Washington, DC.

DEAR LAWTON: Thank you for your letter concerning the proposed revision of OMB Circular No. A-21, "Cost Principles for Educational Institutions."

As you may know, Federal payments for university allocated overhead rose from 24 percent of total Federal support for research in 1974 to 31 percent in 1984. I believe this disproportionate growth of Federal payments for university allocated overhead is damaging to our efforts to encourage important scientific research.

Congress itself recognizes the problem of rising overhead payments, and has expressed its concern on a number of occasions. In 1981, the Senate Committee on Appropriations, in reporting the FY 1982 Labor-HHS Appropriations bill, expressed concern over the rising level of Federal overhead payment rates, and predicted that should these rates continue to increase, "the amount of money appropriated by the Congress will finance less and less actual research." In 1983, the House expressed its concern about "the rate at which these (overhead) costs are escalating" and that it was "not convinced that the present system for calculating these costs is equitable. . . ." Both this report and the companion Senate report urged the Administration, in consultation with scientists and administrators, to formulate a governmentwide policy to address the issue of rising overhead payments. Last year, conferees for the 1986 Labor-HHS Appropriations bill directed the Administration to take steps to contain both research costs and overhead costs.

Coupled with this longstanding concern of both the executive branch and the Congress, a number of other groups have addressed the issue of rising payments for overhead. Reforms have been proposed in studies prepared by the General Accounting Office, the National Academy of Sciences, the President's Private Sector Survey on Cost Control, the White House Office of Science and Technology Policy, the Department of Health and Human Services, and the White House Science Council. Several of these reports, as well as audits performed by Federal staff of university allocated overhead claims, documented cases where the Federal government was clearly paying more than its fair share of universities' overhead.

In developing proposed changes to OMB Circular No. A-21, we determined that a 26 percent limit represented the average rate for Federal payments to universities for their four allocated administrative overhead pools, with one-half of the major universities exceeding the 26 percent rate. We believe implementation of this rate, followed by a subsequent adjustment to 20 percent, will strengthen efforts to maintain a stable and sustainable program of Federal support for research and development at universities. Especially in light of current budget constraints underscored by the congressionally initiated Gramm-Rudman-Hollings legislation, continuation of the current trend of more for university overhead and less for research is unacceptable. Thus, our primary interest in restoring an appropriate balance between research and overhead is to protect the Nation's research efforts during a period of budgetary restraint.

We welcome alternative approaches to restore an appropriate balance between research and overhead. As noted above, the issue of rising university overhead payments is not new, and we recognize that other alternatives may exist. In seeking the broadest public comment possible, we have sought to ensure that such alternatives would be brought to our attention.

Let me now turn to your concerns regarding the applicability of the Paperwork Reduction Act and Executive Order No. 12291 to proposed changes to OMB Circular No. A-21. The procedural issues you raise are important ones and relate to the ultimate implementation of any changes.

As you know, we have traditionally taken the position that data collection related to OMB Circular No. A-21 occurs only through implementation by agencies. Our position has been that this results from promulgation of instructions, regulations and other implementing guidance by the agencies and that agencies must individually receive Paperwork Reduction Act approval for such collections of information even though they are driven by A-21. In light of the concerns you have raised, we are currently reassessing this interpretation and reviewing all data collection issues related to A-21 and the proposed changes. We hope to conclude this review before any final action on changing A-21 is taken. Regardless of the outcome of the proposed changes to A-21, we intend seriously to deal with these procedural questions relating to the Paperwork Reduction Act as quickly as possible.

You have asked about the relationship between Executive Order No. 12291 and the proposed revisions to A-21. Prior to any final implementation of the proposed or other changes to OMB Circular No. A-21, I assure you that we will conduct a thorough review of the changes, taking into account the President's regulatory principles as contained in Executive Order No. 12291.

The Administration is committed to the importance of discussing OMB Circular No. A-21 revision with the widest possible audience. As you are aware, we have delayed the proposed implementation date of the A-21 revisions in order to fully consult with the university community on how to most effectively curb university allocated overhead. Any final decisions in this area, I assure you, will reflect full consideration of the opinions of the affected public.

Sincerely yours,

JAMES C. MILLER III,
Director.

[From the Jacksonville (FL) Times Union, Aug. 10, 1982]

PAPERWORK REDUCTION ACT RENDERED USELESS BY RULING

Democracy in action: The public protests excessive federally mandated paperwork: Congress finally responds by the Paperwork Reduction Act of 1981. The president signs the bill into law.

So what happens?

Immediately the worst offenders get to work trying to circumvent the law.

That describes, in a nutshell, what's happening in Washington today.

The Internal Revenue Service is by far the worst offender in demanding excessive paperwork. But the IRS has somehow persuaded the Justice Department into giving a ruling that the Paperwork Reduction Act does not, in effect, apply to any regulations adopted before Dec. 31, 1981, the effective date of the act.

This effectively ties the hands of the Office of Management and Budget, the agency charged with enforcing the paperwork reduction law.

OMB officials responded with such reactions as "preposterous" and "bizarre" and "incredible."

Sen. Lawton Chiles, D-Fla., author of the paperwork reduction law, blasted the Justice Department.

"[This] decision serves to distort . . . the congressional intent. . . ."

Chiles has asked the comptroller general to issue a formal legal opinion, which he can take to court, in answer to the Justice Department ruling.

There is a double irony involved.

This IRS determination to defeat the intent of Congress, to block any overview of its continued proliferation of paperwork, is important in itself because the IRS generates about 50 percent of all federal paperwork.

But it also serves as a precedent to inspire any and every other federal agency to seize the ruling the Justice Department gave to the IRS and use it to frustrate the Paperwork Reduction Act in other federal agencies as well.

[From the Wall Street Journal, June 3, 1986]

RED TAPE REVIVERS

With only $5 million to spend and 70 employees, the Office of Information and Regulatory Affairs in the Office of Management and Budget is a mite-sized federal agency. But some congresspersons are accusing it of "intimidating" the entire federal regulatory empire, a colossus with 114,500 rule makers and rule-maker helpers, $9 billion to spend and powerful supporting lobbies. Is the tiny little OIRA really that tough?

Not really, but that's mostly beside the point. OIRA's troubles have to do with a much bigger issue, whether Congress or the president will manage the day-to-day business of the U.S. government. The fight here is over how much red tape Washington will be allowed to inflict on American citizens. It's important to President Reagan because he needs to prevent slippage from his early successes in reducing the regulatory burden. Deregulation, readers will remember, was one of the four pillars of Mr. Reagan's successful economic program, along with tax cuts, spending control and sound money.

To understand OIRA's role, think of it as a pesky machine-gun nest defending the prerogatives of the White House. Week before last, a bipartisan congressional assault team, led by Reps. Dingell, Brooks, and Whitten and Sens. Durenberger and Levin, targeted OIRA. It was accused, as the Washington Post phrased it, of "sitting on regulations, weakening them, intimidating bureaucrats not to impose them, undermining their implementation, holding private meetings with industry and operating in secret." The congresspersons wanted to withhold OIRA's funding.

A point at issue is whether OIRA, created by legislation, can legitimately carry out broader assignments for the president. OIRA was set up by the Paperwork Reduction Act of 1980 primarily to review all information requested by federal agencies from the American public to see if the information was really needed, was duplicative of some other agency's work and could be collected efficiently. Passage was helped along when one witness taped together the federal forms needed to start a small business and stretched them across a congressional hearing room. Nobody doubted that federal paper-work demands had gone round the bend.

Ronald Reagan, less than a month after becoming President, launched a far broader assault. His Executive Order 12291 demanded that all federal agencies weigh regulatory moves in terms of whether sufficient need had been demonstrated, benefits outweighed costs and some less costly and intrusive method might be found to achieve the same result. OIRA was assigned to review agency actions to test their compliance with EO 12291. Among the early achievements: The Department of Education dropped a rule barring federal funds for schools with dress codes that distinguish between girls and boys.

Just before Mr. Reagan took office, Murray Weidenbaum of Washington University's Center for the Study of American Business had estimated that compliance with federal regulation cost American business nearly $100 billion a year. Mr. Weidenbaum, who returned to the center after having served two years as Mr. Reagan's chief economic adviser, hasn't done a recent compliance cost estimate, but he still keeps track of the size of the regulatory apparatus. And after Mr. Reagan's initial pruning, it has been growing again. Estimated employment in the 56 regulatory agencies this fiscal year is 114,566, up 2,622 jobs from fiscal 1985. Budgeting, in real terms, last year returned to the 1980 level and this year will exceed it.

One of the fastest-growing regulatory enterprises is the Environmental Protection Agency. Environmental laws have yielded public benefits but they also now are widely used to obstruct development. Most of the complaints about OIRA come from the so-called "environmental lobby."

The administration tells congressional complainers that even if they wipe out OIRA, the White House will continue to screen out regulatory nonsense. So even if the machine-gun nest goes, the war won't end. But it would be a shame if a doughty little agency that has done so much for rule-plagued Americans were wiped out.

[From the Washington Post, Aug. 27, 1986]

WHO REGULATES THE REGULATORS?

In the 1960s and 1970s, Congress passed an ambitious series of acts to regulate the cleanliness and safety of the air, water, work place, highways, pesticides, waste disposal sites, consumer products and much more. Because the issues involved were often technical, and because it could not always agree, Congress tended in these acts to enunciate broad regulatory standards, leaving to executive agencies the job not just of enforcing them but of refining what they meant. The regulation-writing that has ensued has blurred the textbook distinction between the legislative and executive branches, creating a new realm of government not wholly either. There is now an enormous fight over the extent to which the President controls this.

Beginning with Richard Nixon, four successive Presidents have tried to exercise greater control. In part these have been the usual efforts of Presidents to master and direct the sprawl of agencies beneath them. But there has also been a sense that the benefits of regulation need to be better balanced against the costs. That was the view of some even in the Carter administration. In the Reagan administration, where regulation is almost always referred to as a burden, the view is that benefits often fail to equal costs.

In two executive orders, one at the start of his first term, one at the start of his second, the President has centralized and seized control of the regulatory process as never before. His instrument has been OIRA, the Office of Information and Regulatory Affairs in the Office of Management and Budget. It is no longer possible for a line agency, without the approval of OIRA, even to gather information about whether a problem exists that might in the future require regulation. No regulation can be proposed, much less promulgated in binding form, unless this little-known agency agrees; every regulation must pass what OIRA regards as a properly constructed cost-benefit test.

In many areas and ways, the administration is now regulating less, or trying to. OIRA has become the target for those both in and out of Congress who are fighting this. They say the OIRA operation is unconstitutional; that no such regulatory switchyard has been authorized; that OMB has improperly displaced line agencies with greater commitment to, and expertise in, the regulatory areas involved; and that in reversing those agencies, as it often does, it fronts for industry. They complain that it operates furtively, has clandestine contacts with industry representatives, imposes ideology on scientific judgments, rigs the cost-benefit calculus and unfairly uses delay as an ultimate weapon. The House has voted to cut off OIRA's funds.

The White House has responded that it will continue to control the issuance of regulations in some other way if funds are cut off; that the President has both right and duty to guide the regulatory decisions of his appointees as he does all other important aspects of his administration; that regulations do have costs and that if Congress doesn't want these costs weighed, it should come out and say so, which it generally has not done. The President's people say the constitutional and other procedural arguments made against OIRA are mainly an expression of unhappiness with the last election returns.

There is some merit on both sides of this argument. Congress, often for lack of majorities to strengthen them, has left most of the regulatory statutes open to interpretation. The President is accountable; he should take and have control, and there is no way to deny it to him in any case. But OIRA has, on a number of well-documented occasions, gone too far. Secret dealings and delay are the ugly problems. If there is an

open and timely decision and it is wrong, it can be attacked in court. Various senators, rather than go through the confrontational exercise of cutting off OIRA's funds, are trying to force the agency into the sunshine (it has now adopted some sunshine rules) and subject it to the clock. Those are homely steps, but they are the right kind of solution to this problem.

CHILD NUTRITION COLLOQUY

Mr. BOSCHWITZ. It is my understanding that H.R. 7, the School Lunch and Child Nutrition Act Amendments of 1986, may be passed by Congress as part of two different pieces of legislation.

I am concerned that the Department of Defense authorization bill and the continuing resolution for fiscal year 1987 have different effective dates for the child nutrition provisions. Which dates are controlling?

Mrs. HAWKINS. As the sponsor of both amendments, and as a member of the Senate Agriculture Committee I believe that our intent was to provide the Nation's schoolchildren with benefits as soon as possible. Therefore, I believe that the intent of Congress is to take the earliest effective date. If both bills are signed into law, it is the intent of the Agriculture Committee that the earliest effective date prevails.

THE NORTHERN VIRGINIA COMMUNITY FOUNDATION FOUNDER'S AWARD

Mr. WARNER. Mr. President, I rise to recognize the presentation of the Northern Virginia Community Foundation 1986 Founder's Award to Mr. James T. Lewis of McLean, VA.

The award will be presented to Mr. Lewis at a dinner gala at the Sheraton Tysons Corner Hotel in Tysons Corner, VA, on October 25, 1986.

Each year, the Northern Virginia Community Foundation presents the Founder's Award, its most prestigious award, to a northern Virginian in recognition of outstanding community service and dedication to the improvement of northern Virginia.

The foundation salutes individual achievement to promote awareness of the importance of an individual contribution to the community as a whole.

The Northern Virginia Community Foundation has been in existence since 1978, when it was started by a group of northern Virginia residents who wanted to build and improve on the quality of life in the region. The foundation receives gifts from individuals as well as national corporations and foundations and channels them into the community in the areas of the arts, education, youth, health, and civic improvement, exclusively in the area of northern Virginia.

The recipient of this year's Founder's Award, James T. Lewis, has made significant contributions to the northern Virginia area, both through his professional activities and his community involvements.

He is president and chairman of the board of James T. Lewis Enterprises, Ltd. The partners of James T. Lewis Enterprises and its affiliated companies have initiated and constructed more than 2.5 million square feet of new commercial office space in the last decade.

James Lewis serves as vice president and board member of the Tysons Transportation Association, which is dedicated to the improvement of Tysons Corner transportation; as a director of the Fairfax County Council of the Arts; as president of the McLean Citizens Foundation; chairman of the Community Development Bureau of the Greater Washington Board of Trade; and member of the Fairfax County Chamber of Commerce.

In addition, Mr. Lewis has contributed to the northern Virginia community through his involvement in the International Children's Festival and Gala, the RACE Against MS and the American Heart Association's cardiac arrest.

James T. Lewis indeed has been a driving force in the improvement of the northern Virginia community, both through his business leadership and his civic contributions. Please join me and the Northern Virginia Community Foundation in saluting the deserving recipient of the 1986 Founder's Award, Mr. James T. Lewis.

TRIBUTE TO SENATOR BARRY GOLDWATER

Mr. LAUTENBERG. Mr. President, I rise in tribute to Senator BARRY GOLDWATER, who will retire from the Senate at the end of this session of Congress.

Senator GOLDWATER has served this body, the State of Arizona, and his country with distinction and dedication for 56 years—as a soldier, a Senator, and a statesman. He defended his country in military combat. He has represented the State of Arizona ably in the Senate for 30 years. And, as past chairman of the Senate Intelligence Committee, and current chairman of the Senate Armed Services Committee, he has worked hard to keep our Armed Forces strong and effective. His expertise in national defense matters is undisputed, as is his integrity and dedication to his country.

His views may not have paralleled my own on many issues. But I never doubted for a moment that he arrived at them after careful deliberation, and with the good of his country foremost in his mind.

It is with regret that I bid farewell to a great leader and a great American, Senator BARRY GOLDWATER.

PRODUCT LIABILITY LAWS STIFLE INNOVATION

Mr. PRESSLER. Mr. President, as a cosponsor of the Product Liability Reform Act and a long time advocate of product liability and other tort reform, I have often argued that our current tort laws stifle innovation. As a result they often have an adverse effect on safety innovations as well. A recent article from the October 6 edition of the Journal of Commerce, entitled "Product Liability Law Stifling Creativity?" illustrates the point very well. I ask unanimous consent that the article appear in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRODUCT LIABILITY LAW STIFLING CREATIVITY?

(By Leah R. Young)

WASHINGTON.—A Japanese academy of engineering would not have five lawyers on a meeting program, an attorney-engineer told the U.S. Academy of Engineering.

Instead, Peter W. Huber said, a Japanese program would have sessions that would be on ceramics, genetic and other engineering topics.

Mr. Huber used the comment to explain to the U.S. academy last week why he believes that product liability law and safety regulations by federal agencies is stifling creativity by U.S. engineers.

"The legal system is pounding a message—don't innovate," Mr. Huber said. The risk is great, he added, that U.S. technology will fall "irretrievably" behind the technology of other countries because of liability problems.

Technological productivity would thrive best in an atmosphere in which the courts abandoned the rules of strict liability and returned to the negligence standard, Mr. Huber suggested.

But realistically, he said, engineers will have to settle for "more modest changes." He suggested a goal of inserting into the law the idea that complete compliance with federal standards established by competent agencies should be a total defense in product liability lawsuits.

Under the current legal regime, he pointed out, "knowledge of the law is no excuse" and meeting all federal safety criteria is not a defense in a product liability action.

He also argued that regulatory agencies must be reconstituted. Since the 1960s, he said, they have seen themselves as "gate keepers" regulating on the side of what is "acceptably safe."

Prior to this time, regulatory authorities considered only what was "an unacceptable hazard."

The consequence of the new regulatory zeal is an environment in which it is much harder to recognize the benefits of products being developed. Mr. Huber noted that 10 years ago there was a movement to curtail the techniques of genetic engineering.

There is no way, he said, to assess the benefits that the nation will forgo if research is not undertaken, he stressed.

The regulatory agencies have "an inordinate fear of what is new" while tort law weighs not the technologist and his care or competence, but the technology itself. He pointed out that juries are much less likely to condemn the familiar—such as pesticides from new recombinant DNA technology.

Why else, he asked, have familiar tobacco products escaped verdicts on defects while new pharmaceuticals are constantly challenged?

David G. Owen, professor of law at the University of South Carolina, noted that juries in product liability cases are valuing human lives at monetary levels far in excess of that assigned by the individual himself when he purchases life insurance.

The reality, Edward G. Jefferson, former Chairman of E.I. du Pont de Nemours & Co., said, is that this year Du Pont will experience product liability claims outnumbering its legal cases of all kinds seven or eight year ago.

THOMAS H. CANDON OF VERMONT

Mr. LEAHY. Mr. President, it was not that long ago that Democratic conventions in my State of Vermont could be held in telephone booths without disturbing the person making the call.

The early Democrats in our State were tolerated as eccentrics and were concentrated in the more populated areas. In those days, before the one man, one vote decision, the city of Burlington, with a population of more than 30,000 cast one vote as did the representative of Granby, population 24. The folks in Granby had two things in common. They were all Republicans and most of them shared the same surname.

It was not particularly difficult to get the Democratic nomination for legislative office. Most likely you would run unopposed. But only very close members of your family would vote for you. And you could not even count on that.

This was pretty much the situation when a very good friend of mine, Thomas H. Candon, of Rutland, ran for the Vermont House of Representatives more than 20 years ago.

Now, Tom had a couple of strikes against him. He was not born in Rutland—he was born down the road in Pittsford. And even though he had a distinguished military record—he worked for the Federal Government and was a Roman Catholic, a combination of vices that would not only deny one election in Vermont, but absolution itself in some folk's minds.

Well, Tom got elected to the legislature, and made so much sense that people got to thinking that having Democrats represent them was not the end of the world after all. Other heresies followed, and Vermonters discovered a two-party system made some real sense because it offered some alternatives to previously accepted doctrines which had gone untested for decades.

The fact that people like Tom Candon ran as Democrats—and made no bones about it—was a turning point in our State. Soon we were electing Governors—and for the first time in our history—a U.S. Senator.

Mr. Candon retired from a long and distinguished career in the Vermont General Assembly recently—and there were Republicans and Democrats at his retirement dinner. And you could not have told one from the other because they all loved and respected Tom Candon and listened to him when he talked about economic growth and jobs and homes for Vermont families.

He was minority leader, and actually became majority leader—that is how popular Democrats had become—in Vermont House.

He also provided inspiration, to me and others who later sought and won elective office on the local and State levels.

I was sorry the Senate stayed in session and I missed Tom's retirement dinner in Vermont, because so many good friends were there to thank Tom and his good wife, Margaret for more than 20 years of exemplary public service to the people of our State. My wife told me it was one of the outstanding gatherings in Vermont.

I know that all Senators can trace their desire to run for public office back to people and events that inspired them.

The standards of honest and dedicated public service set by Thomas Henry Candon remains an inspiration to those of us in public office in Vermont today.

His long record of achievement as a legislator will benefit Vermonters for years to come.

REEXAMINING THE STRATEGIC DEFENSE INITIATIVE

Mr. MATHIAS. Mr. President, President Reagan is on the right track when he asks the American people to reflect on the critical questions that are raised by the Strategic Defense Initiative. In fact, one of the great benefits of the Reagan-Gorbachev talks in Iceland could be the renewed interest of the American people in star wars and what it could mean to them both positively and negatively.

One specific question that the President asks the American people to consider is "how does a defense of the United States threaten the Soviet Union or anyone else?" It is a central question and one that must be understood with all its implications if the events in Iceland are to have any meaning. So let us respond to the President's request by working through this issue step by step.

In the first place, the ambitious defense that we seek to build called SDI or star wars, will probably be somewhat limited in its scope. The shield, if it is constructed, is unlikely to cover the entire country, but only afford protection to our own missiles to protect them from an incoming attack, although more ambitious hopes are sometimes expressed for it.

I have talked with defense officials in the Soviet Union and have a clear idea of their response to such a proposal. In fact, this reaction is similar to our own position at the time they were threatening to build an antiballistic missile system that might intercept incoming missiles.

What both the United States and the Soviet Union have said is that if one nation has both offensive weapons and a defensive system it has the potential to launch an attack against an undefended nation without suffering a retaliatory response. In short, a defensive system could confer a first strike capability.

We did not want the Soviet Union to gain such a first-strike capability by deploying a nationwide ABM system and they do not want us to acquire it through SDI. Thus what may appear at first glance to be a matter of defense for them or for us, clearly has implications for the other side.

If the Soviet Union believes that our technology is 5 or 10 years ahead of theirs in this field, they could see that we would have a strategic advantage for at least that period of time. It would be for them a window of vulnerability.

Should it come to that, the response of the Soviet Union is predictable. If star wars could eliminate 50 percent of incoming missiles, they could restore the strategic balance by doubling the number of warheads in their arsenals. That is a development that should concern us deeply.

There are, of course, collateral questions that must be present in Russian minds about star wars. The concept involves vast systems of very high-technology equipment, some of it equipped with lethal weaponry. While these weapons may have been designed to kill missiles in space, any prudent general in the Kremlin will be bound to ask "what else will they kill?" The answers are likely to conjure up another vision of a new window of vulnerability. No matter how many labels "For Defense Only" we stick on the star wars weapons we cannot expect to reassure them.

The window of vulnerability that we feared in the early 1980's was the Soviet Union's arsenal of massive missiles. They have now offered to reduce that arsenal and consequently the perception of vulnerability if we do the same for them.

It is something to ponder, and President Reagan is right to urge the American people to think about it seriously. The opportunity is too important and

too rare to lose over unnecessary disagreements.

The conference in Iceland failed to come to the point of agreement over the question of whether the United States could or could not test star wars in space within the next 10 years. It was agreed that laboratory testing and other research would go forward.

I suspect that the issue could be defined differently and more accurately. The Soviet Union is saying, if you test in space you may open our window of vulnerability, you may place us at a strategic disadvantage.

President Reagan has said many times that he has no such intention. I fully believe him. But given the logic that has animated the whole subject of defense systems for years it may be difficult to make the Soviet Union believe him. By our own ABM arguments, strongly expressed, he should be willing to revise his thinking about star wars. But that may not be necessary, although I think it would be desirable. The fact is that the Soviet Union, for its own reasons, is ready to accept star wars research as legitimate so neither party has to forego all such activity. What we now need is a solution like the ABM Treaty which recognized the basic logic that defensive systems are not productive of better defense, but at the same time allowed each party a symbol instead of a system.

So my advice is to put the experts to work, to sketch the kind of guidelines that will let us do what we need to do to prove or disprove our theories without acquiring a strategic advantage that the President says we do not want.

That should be a task within the grasp of human ingenuity and we should get on with it while the positive aspects of the Iceland meeting are still visible.

PLANS TO FIGHT THE KILLER BEE

Mr. MATHIAS. Mr. President, Senators may recall that during the Senate's earlier consideration of the continuing resolution I had offered an amendment to earmark $1 million of agriculture funds to be used to curb the advance of the Africanized or killer bee.

My amendment would have directed the United States Animal and Plant Health Inspection Service to use the money to establish a biological barrier across the Mexican isthmus of Tehuantepec that could have blocked the northward migration of this dangerous insect. I was gratified that the Senate shared my concern and passed my amendment.

I regret, however, that my amendment has not survived the conference committee. I appreciate the pressures faced by the conferees as they struggled to reach agreement on a bill as massive and complex as this continuing resolution, and I can understand how my amendment may have fallen by the wayside in the crush. In place of my legislative earmark, the conferees added language to the conference report expressing the Congress' concern and directing USDA to conduct additional study with available funds and to make recommendations for action to the Congress next year.

I am pleased that the conferees underscored congressional concern about the Africanized bees, but I think it is important to point out that if USDA waits until next year to propose a plan for dealing with the bees, it may well be too late. Scientists within the United States Animal and Plant Health Inspection Service have already drafted a proposal for protecting agriculture and human health by establishing a biological barrier across a narrow isthmus in Mexico. They have sound reason to believe such a barrier could actually prevent the bees from migrating further north toward the United States.

There is a catch, however. USDA must move immediately if the plan is to work, because the bees will reach the isthmus in 3 to 6 months. If USDA chooses to delay, the bees will have already crossed the isthmus and the opportunity will be lost.

Further study of the bees is important, but study alone will not head off the agricultural disaster the bees will bring. I hope that USDA officials will take notice of this very worthwhile plan within their own department and make the decision to commit the funds necessary to move ahead with the barrier.

RETIRING SENATORS

TRIBUTE TO SENATOR RUSSELL B. LONG

Mr. HEFLIN. Mr. President, the U.S. Senate is widely acclaimed as the greatest deliberative body in the world. I believe that this reputation is largely a result of the truly outstanding contributions of a few Senators who have provided this country with such leadership, counsel, and guidance that their actions have reflected on the name of the Senate as a whole. The names of Calhoun, Clay, Webster, Lodge, Adams, and LaFollette are among the most prominent.

RUSSELL B. LONG, who has announced his retirement after 38 years of service to his country in the U.S. Senate, is one man whose name belongs among those legends of our past. Throughout his tenure in the Senate, RUSSELL LONG has been the Senator's Senator. He is the "Old Master." When many of the present Members of this Chamber were just graduating from college or establishing a career, and when a few others were children or adolescents, RUSSELL LONG was already serving his Nation with the likes of Richard Russell, John Stennis, and Carl Hayden. Indeed, the Senate as an institution has changed dramatically since he was first elected, and Senator LONG has provided needed continuity, and direction during this change. Whether this change has been for good or bad is not at question—what is most evident about this period of history in the Senate is that RUSSELL LONG has served throughout this time to provide an example that others could follow. His presence, attitude, outlook, and concern has been a definitive factor in determining the manner in which every Member of this body behaves. His sense of humor defuses even the most heated debate even at the latest hour. Somehow, Senator LONG is always able to direct our attention to humorous factors which are evident in any political or legislative question—while still making an important point and even underscoring its importance. This is a highly effective technique, and adds to his unrivaled powers of persuasion. He has been repeatedly recognized for his influence and persuasion in several surveys of his colleagues conducted by such publications as U.S. News & World Report, and Washingtonian magazine. He has been chosen as the "Most Respected Senator" and the "Best Senate Debater" by the public television program "The Lawmakers." These are great honors, and I am sure that our colleague views them with a grain of salt, but I agree with their accuracy.

Throughout his service as a U.S. Senator, RUSSELL LONG has distinguished himself with his knowledge of finance. His tenure as chairman of the Senate Committee on Finance spanned 14 years. I have heard it said that he has learned so much about finance during his years in the Senate that he has forgotten more than most Members have ever known. I must doubt this, however, for I have never known RUSSELL LONG to forget very much. I believe that he may let us think that he has forgotten certain things so as not to show off. If he ever revealed to us how much he actually does know about finance, I imagine that there may emerge a mandate among Members which would require him to stay. And I know that he is ready to return to his home.

There are many legislative accomplishments of which RUSSELL LONG can be very proud. He has been the leading congressional champion of the employee stock ownership plans, which encourage greater productivity, job satisfaction, and company interest by providing the employee with a share of the company for which he or she works. Another is the Child Support Enforcement Program which has helped children and their mothers while saving the Government more

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than $5 billion in welfare costs by locating "runaway" fathers and requiring them to contribute to the support of their children. Among those achievements which are, doubtless, most important to him are the reforms and advancements made in the field of Social Security, and Medicare. When he took office in this body, many of the Nation's aged, blind, disabled, and truly needy had no means of adequate financial support or medical care. Senator LONG worked to champion their cause. However, he has also led the fight against a "DOLE" which would have guaranteed annual income for able-bodied persons who refuse to work, thereby ensuring the survival of the incentive to work and to do a job well done.

Mr. President, I have greatly appreciated and enjoyed having the opportunity to serve in the Senate with RUSSELL LONG. He is truly a modern day hero, and a legend of our time. His contribution, which is evident in so many programs and laws, is nothing less than outstanding. I am sure that each one of my colleagues joins me in thanking him for the friendship that he has provided to each Member, and to the direction that he has given to the Senate and to the Nation as a whole.

TRIBUTE TO SENATOR PAUL LAXALT

Mr. HEFLIN. Mr. President, I rise, today, to pay tribute to my colleague and friend PAUL LAXALT, who has announced that he will retire from the Senate at the end of this, the 99th Congress. I am sorry to see him leave, for with his departure, the U.S. Senate will lose a trusted friend and valued adviser.

PAUL LAXALT was born in Reno, NV, and then raised in the small State capital town of Carson City. He learned two things while growing up, that, it is apparent, remain with him still. The first is the strong importance which he learned to place on the family. The second is the strong work ethic which was instilled in him by his father, who was a sheep herder, and his mother, who ran a small boardinghouse in town. I know that each of these qualities has been of great benefit to him during his entire life. They are evident in his attitude, and in his outlook.

Like so many before him, the first time that PAUL LAXALT served his country was during World War II, when he served as a U.S. Army corpsman and saw combat duty in the South Pacific. After the war, he continued to serve the public interest as the district attorney of Ormsby County and, then, he set up a private law practice. In 1962, our distinguished colleague decided to return to public service, and was elected as Nevada's Lieutenant Governor. He so impressed the people of his State that 4 years later, they elected him as their Governor. PAUL LAXALT was a highly effective Governor, advocating a policy of self-reliance and fiscal prudence, which resulted in the largest fiscal surplus in Nevada's history up to that time. In 1970, he momentarily stepped out of the public limelight to continue his law practice and conduct family business interests.

However, in 1974, PAUL LAXALT ran and was elected to the U.S. Senate. As he had done so often in the past, and as he continues to do, PAUL used the experience he had gained in previous office and occupations to provide background experience for his work as a U.S. Senator. I know that he serves the citizens of the State of Nevada well while earning the respect of his colleagues here in this body. I have been honored to have served with him on the Senate Committee on the Judiciary, where he has been instrumental in the passage of several key legislative packages, including the Omnibus Crime Control Act of 1984.

Mr. President, PAUL LAXALT has served his country in an excellent capacity. He has provided great leadership and guidance to the citizens of his State, and to the Members of this body. Additionally, he has been a very close friend and adviser to the President of the United States. His career is truly remarkable, and his efforts have been tireless. I wish him the best of luck and happiness in the future. This country has benefited from his past contributions and, I am sure, will benefit from future accomplishments.

TRIBUTE TO SENATOR THOMAS F. EAGLETON

Mr. HEFLIN. Mr. President, I rise, today, to bid farewell to my good friend and colleague, Senator TOM EAGLETON. The senior Senator from Missouri has announced that he will retire at the end of this, the 99th Congress. All Members of this body will miss his good sense, his outspoken, frank opinion, and his enthusiastic energy. He has served his Nation well.

THOMAS F. EAGLETON grew up in St. Louis, the second son of a prominent figure in St. Louis politics. After graduating from high school, he demonstrated his keen intellect by earning a B.A. degree, cum laude, from Amherst College, and a law degree, also cum laude, from Harvard. He served a stint in the U.S. Navy, and then returned to St. Louis to pursue a career in law and politics.

In November of 1956, he was elected to his first public office, the circuit attorney of the city of St. Louis. He then served for one term as chief prosecutor for the city, and in 1960 was elected attorney general of Missouri. In 1964, TOM EAGLETON was elected Lieutenant Governor of Missouri, and finally, in 1968, he was elected to the U.S. Senate. He was reelected in 1974 and in 1980.

Throughout his career in the Senate, THOMAS EAGLETON has possessed a moral passion and a sense of moral justice that are unrivaled and unquestioned. He is incredibly committed to what he believes in, and will fight to the end to oppose any matter which is not right or just. His character displays his sense of leadership and guidance with which he has provided a clear voice for justice. This voice is logical and persuasive. His convictions, his eloquence, and his impeccable integrity have distinguished him as a Member of this body. His effectiveness in the Senate is well known.

Mr. President, we will miss the service of THOMAS EAGLETON, yet he is not leaving the realm of public service entirely. The students of Washington University in St. Louis will be very fortunate to learn of his qualities. I hope that he is able to find better students there than he did here in this Chamber.

TRIBUTE TO CHARLES MC C. MATHIAS, JR.

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Senator CHARLES MCC. MATHIAS, JR., who announced that he would retire from the Senate at the end of this Congress. Thoughout his life, whether as an attorney, Congressman or Senator, MAC MATHIAS has never been one to forsake his conscience for the purpose of party politics or personal ambition. His attitude is refreshing and inspiring. His voice has been one of wisdom and reason—he will be greatly missed.

During his entire adult life, Senator MATHIAS has been an outstanding servant of the people of Maryland in many different ways, and as the holder of many different elective offices. After receiving his law degree, he was elected as the assistant attorney general of Maryland. He then served as the city attorney for the city of Frederick, was later elected to the Maryland House of Delegates, and then, in 1958, was elected to the U.S. House of Representatives, where he served for three terms. Finally, in 1968, CHARLES MATHIAS was first elected as a Member of this Chamber. Looking back through this truly unselfish record of public service, one is reminded of the similar examples of public service established by our forefathers—for the life of CHARLES MATHIAS was cast in the same mold.

Throughout his history of service to the people of Maryland, and to each citizen of this Nation, CHARLES MATHIAS is probably best known as a strong advocate of civil rights. During his tenure in both Houses of Congress, he has always been in the forefront of the fight for equality among all American citizens. He is one of the chief sponsors, as a Member of the House of Representatives, of the civil rights legislation which was passed by Congress in 1964 and 1965. In 1968, after being elected as Senator, CHARLES MATHIAS introduced the Fair Housing Act. He has since that time fought to strength-

en the act in an effort to further protect both the elderly and the handicapped. Additionally, he was instrumental in the 1975 and 1982 extensions of the Voting Rights Act. His tenure in the Senate will be remembered for both his courage and wisdom.

CHARLES MATHIAS is also known for his great work in other areas vital to our national interests. He has served for years as a member of the Senate Foreign Relations Committee, and has worked with NATO members to assure our national security. I recently had the pleasure to serve on the Impeachment Committee of Judge Harry Claiborne which Senator MATHIAS chaired. I must say that I was impressed with his efforts to provide the defense with all legitimate requests while still preserving the sanctity of the Senate. Senator MATHIAS provided tremendous leadership and direction during the implementation of this archaic impeachment process.

The moral character of Senator MATHIAS is unquestionable. He often serves as a defender of the citizen who has no voice. He will not tolerate any injustice, or impropriety. His service has been long and valuable. He has helped to provide the Senate with an irreproachable conscience. His contribution, voice, and good nature will be missed. His friendship will also be missed.

TRIBUTE TO SENATOR BARRY M. GOLDWATER

Mr. HEFLIN. Mr. President, I rise today to pay tribute to a truly outstanding American, BARRY M. GOLDWATER, with whom I have been lucky to have served in the U.S. Senate. Few men in our history have contributed so much or have dedicated themselves with such vigor to the welfare of these United States. His sage counsel, and wise advice will certainly be missed.

An examination of the career of Senator GOLDWATER impresses upon one the truly outstanding nature of his service. He began his service for our country in 1930 when he was commissioned as a second lieutenant in the Infantry Reserve attached to the 25th Infantry. In 1941, at the beginning of World War II, he volunteered for duty and was subsequently attached to the air training command, ferrying command, and air transport command. As a transport pilot, he ferried P-47 fighters and flew air transport command missions to China and India. After World War II, BARRY GOLDWATER was instrumental in organizing the Arizona Air National Guard and served there until his first election to this body. He reitred as a major general in the Air Force Reserve after serving in the Army and Air Force Reserves from 1930 to 1967. He is a graduate of the Air War College, and an honorary member of the Air Force Academy Association of Graduates.

Senator GOLDWATER began his political career in 1949, when he was elected to the city council of Phoenix. In 1952, he was elected to his first term in the U.S. Senate. He was reelected in 1958, but did not seek reelection to the Senate in 1964 as he ran as the Republican Presidential nominee. In 1968, he was again elected to the U.S. Senate, and was assigned to the Senate Armed Services Committee, of which he is now the chairman. I believe that the entire Nation is aware of his tireless efforts to provide for the common defense of the people of this country. Additionally, Senator GOLDWATER has provided great leadership to the Senate as a member of the Commerce Committee, the Committee on Small Business, and the Select Committee on Indian Affairs.

Senator GOLDWATER is admired throughout this Nation as a great patriot, and strong defender of the liberties, freedoms, and values possessed by all citizens. He has the strongest sense of moral justice, and is a staunch supporter and defender of the qualities that made this Nation great. Even during our involvement in Vietnam—a period in our Nation's history when it was not always fashionable to defend the qualities of this Nation—he forever labored to, again, lead people to a pride in their country.

Among his other many talents, our colleague is a talented author. The books which he has written relate both to his ideology and outlook as well as to his interests. "The Conscience of a Conservative," "Why Not Victory?," "Where I Stand," "Down the Green and Colorado Rivers," and "With No Apologies" are just a few of them.

This Chamber will, indeed, be left lacking after the departure of Senator BARRY GOLDWATER. His experience and expertise in military affairs is unrivaled, and his opinion in all matters is highly valued. Yet, each Member of this body has learned much from his example, and his instruction. Many are in his debt, and no one will forget his example. In the future, the Members of this body will have the honor and the duty to build on his achievements—and our task is easier because of his efforts. We have also been fortunate to have known the loyal friendship of our colleague from Arizona. In the years to come, I hope that he will experience the greatest happiness.

TRIBUTE TO SENATOR GARY HART

Mr. HEFLIN. I am pleased to rise, today, to pay tribute to my distinguished colleague, Senator GARY HART, who has announced that he will retire from the Senate at the end of this Congress. Throughout his career, he has been a fine Senator who has represented the people of Colorado well. He is a man of conscience and of strong feelings. His voice will be missed as a part of this body.

Though my opinion often differed from those of Senator HART, his viewpoint in any debate was important and necessary, for it aided the deliberative process. He always argued with conviction, reason, and passion. A well-based decision on legislation cannot be made without first considering all facets of a problem, and our distinguished colleague, Senator HART, always made his point of view known to all Members of this body. Throughout his service, he has brought forth new ideas, and new approaches which will continue after his departure. People throughout the Nation have been affected by his approach, and he has helped to initiate a reexamination of the issues crucial to our country.

After receiving both a divinity degree and a law degree from Yale University, GARY HART began his career in public service after being appointed to the U.S. Justice Department. He then served as the special assistant to the Secretary of the U.S. Department of the Interior. He was elected to the U.S. Senate in 1974, and has been serving since that time.

The service that Senator HART has provided has been very valuable. As a member of Senate Armed Services Committee, he has helped to lead the fight for military reform, and founded the bipartisan military reform caucus. He has helped to protect against wasteful spending through his work on the Committee on the Budget, and with the Committee on Environment and Public Works, he has been a strong advocate of legislation which has been designed to protect our land from pollution, and to preserve our national parks for many generations to come.

Additionally, throughout his career, Senator HART has been an active author, and I admire him for the many books, and writings he has published. Among these are, "America Can Win," and a contemporary spy thriller which he coauthored with Senator WILIAM COHEN of Maine, "The Double Man."

I anticipate that Senator HART will somehow be involved in a future race for the Presidency and wish him luck in any such venture. We are sorry to see him leave this body, and wish him and his family the best of happiness in the future.

CALICO ROCK, AR

Mr. BUMPERS. Mr. President, I wish to take a few minutes to pay tribute to an extraordinary place in the fine State of Arkansas, the town of Calico Rock. This town is a shining example of the virtues of small town life in this country.

I recently had the good fortune to visit Calico Rock, a lovely town which takes its name from the color of the

bluffs of the Ozarks mountains. Glenn Bennett, the mayor of the city of Calico Rock, has described in a letter to me what is special about his hometown:

> We hope you will have recorded • • • that you visited a place this summer, a place in your home state in North Central Arkansas, across the river and beyond the mountains—a town of 1,100 people, by the name of Calico Rock, nestled in the foot hills of the Ozarks on the banks of the White River. You found a happy people in a town where the city jail has been closed for over 25 years. There is no town marshall or city police. There are no beer joints but there are 14 active churches in the general vicinity. You have found a place called Calico Rock that is alive and well and striving with all its heart, mind, body, and soul to be a better place to live.

The mayor's description of Calico Rock is indeed accurate. The White River he mentions is a crystal clear stream, and its trout attract fishermen from across the country. The peaceful but breathtaking beauty of the Ozark National Forest, on whose border the town rests, tends to melt away the stress of modern life. Calico Rock has held onto the best of the past and looks forward to the best the future has to offer.

RETIREMENT OF SENATOR CHARLES McC. MATHIAS, JR.

Mr. MITCHELL. Mr. President, although I have not had the privilege of serving on a committee with Senator MATHIAS—indeed, although we have served on separate sides of the aisle in the Senate—I believe his retirement this year marks a major loss to this body.

Senator MATHIAS has exemplified the kind of reasoned debate, civility and thoughtfulness that give meaning to the idea of the Senate as the world's greatest deliberative body.

His principled approach to issues as volatile as criminal code reform and as close to home as the administration of the Senate itself has earned the respect of those who differ with him as well as those who do not.

Senator MATHIAS has acted on principle throughout his public life. In the early 1960's, he was one of three Republican Congressmen who introduced the bill which ultimately became the law we know as the Civil Rights Act of 1964. Throughout his Senate career he has pursued the strengthening of that law and its companion voting rights and fair housing statutes.

He has sought to pursue and to guide our Nation's foreign policies in ways that serve our Nation's long term interests, under Republican and Democratic Presidents alike. His far sighted view of our national interests was particularly aptly recognized last year, when he was unanimously elected president of the North Atlantic Assembly, a legislative body of NATO members. He is the first U.S. Senator to have been so honored.

And he has remained a champion of constitutional values and constitutional protections throughout his career. Whether the issue is as misunderstood as the exclusionary rule which serves to buttress the fourth amendment or as controversial as capital punishment, Senator MATHIAS has never sought refuge in stridency or in silence. His has been a voice of reason, of political courage and of sanity in the Senate.

It has been a privilege to work with him. His loss will be felt on both sides of the aisle.

RETIREMENT OF SENATOR GARY HART

Mr. MITCHELL. Mr. President, the retirement of Senator GARY HART of Colorado is a loss to the entire Senate. Senator HART's 12 years of service in this body have enriched its deliberations and broadened its perspective on a broad variety of issues, ranging from defense preparedness and arms control to environmental and energy policy.

It has been my personal pleasure to serve with Senator HART on the Environment and Public Works Committee, working on issues such as Superfund and nuclear powerplant safety.

Senator HART's contribution to public safety through his work on the Three Mile Island disaster is incontestable. His willingness to review in depth the steps needed to improve the security of nuclear powerplants and the safety of the people whose homes abut them will protect thousands of Americans in communities around the country for decades into the future.

In 1978, in the aftermath of one of the most fiercely contested environmental debates in its history, the Senate appointed GARY HART chairman of the National Commission on Air Quality, a bipartisan and interdisciplinary group which studied the Clean Air Act, its implementation, and its regulatory effects for over 2 years.

The conclusions drawn from that Commission's work, under Senator HART's guidance, have been an essential element in preserving the consensus for strong environmental legislation which exists today. It is a consensus that has ensured the fight to maintain environmental standards will not be derailed, even in the face of neglect and outright hostility.

Senator HART's work on our Nation's defense policies, ranging from his insistence on a strategic buildup based on sense and effectiveness, not dollar amounts, have brought balance and rationality to the debate over defense procurement and strategic posture.

Senator HART's pathbreaking efforts in the late 1970's to alert us to the potentially devastating shortcomings in our early warning system have helped put into place necessary corrections to help prevent the worst nightmare, an accidental nuclear war.

And his recent lucid lectures on "Enlightened Engagement" have helped recommence the national policy debate that is so clearly needed if we are to move from a foreign policy that is based on reaction and policy lurches to an understanding of international change and the opportunities and dangers it presents to our Nation.

Senator HART's role in the Senate, as a leader of difficult causes, whether it was ratification of Salt II in 1979 or his principled opposition to the popular Gramm-Rudman bill, has always sprung from his personal examination of the issues and his commitment to pursuing what he saw as right, not what was politically expedient.

His hard work has earned him a role as a leader of the national Democratic Party. As a candidate in the 1984 primary campaign, Senator HART won 27 primaries and caucuses. He led 1,200 delegates to the National Democratic Convention.

He will pursue the rational debate and deliberation of public policy when his Senate career ends. I know his contribution to the policy debates of our time will energize and elucidate all Americans, as they have his colleagues in the Senate.

SOUTH DAKOTA PARKS VISITATION DOWN IN BOOM YEAR—REASONS UNCLEAR

Mr. PRESSLER. Mr. President, 9 percent fewer visitors have visited Mount Rushmore this year compared to last year, but we lack the tools to say why. With my home State of South Dakota embarked upon a promotional plan to increase tourism by 20 percent during the next 4 years, this is a matter of real concern.

Witnesses appearing before my Subcommittee on Business, Trade, and Tourism during an October 1 hearing on the adequacy of Federal data collection activities testified that this concern is prevalent throughout the travel and tourism industry. They believe the Federal Government has dropped the ball in this area, and that the industry is suffering as a result.

The message delivered during that hearing was clear: travel and tourism related businesses, State, and local governments, and even Federal agencies need more information if they are to make the best use of their shrinking budgets.

The Mount Rushmore situation is a good case in point. Before there can be a cure, one must pinpoint a cause. The drop in attendance at that monument has been attributed to a variety of potential causes, none of which can be confirmed without a better picture of what is happening on a nationwide basis.

Potential visitors may have been scared off by early predictions of overcrowding at our national parks. The economic problems faced by the farm families in South Dakota and bordering States—which contribute the most visitors to the monument—have undoubtedly played a large role. The real reasons may never be known, unless the Federal Government begins to take seriously the need for better travel and tourism statistics.

During the subcommittee hearing, we were told that most Federal and private policymakers are frustrated by the lack of a standardized and recurring survey which would help them analyze changes as they occur. Many travel and tourism statistics users feel that the last year for which we had an accurate picture of what was happening in travel and tourism in America was 1977. That was the last year in which a national travel survey [NTS] was undertaken by the Bureau of the Census.

The impact felt in the absence of the NTS, or similar data collection activity, was described by the witnesses at the hearing as follows:

Mr. Roger Whyte, Deputy Undersecretary for Travel and Tourism, U.S. Travel and Tourism Administration [USTTA], testified that his agency finds it difficult to analyze international travel to individual States in order to help them develop effective marketing plans.

Mr. Richard Walsh, Director of the Office of Economics, Office of the Assistant Secretary for Policy and International Affairs, Department of Transportation [DOT], testified that his Department lacks the ability to analyze travel patterns related to trips of over 100 miles from home—which account for almost 20 percent of all highway vehicle miles traveled annually.

Mr. Ken Hornback, chief of the statistical unit for the National Park Service, testified that his office lacks the tools with which to understand the changing characteristics of the average family in this country so appropriate planning can take place to prepare our parks for the recreational needs of the future. There is a new generation of travelers arriving on the scene: two-income families with one or no children, a week or two to spend on vacation, and a preference for traveling by plane. Understanding and responding to such changes demands analysis which is not currently possible.

Dr. Douglas C. Frechtling, director of the privately sponsored U.S. Travel Data Center, testified that only the Federal Government has the ability to obtain information of the scope and level of detail that is required for planning decisions to be made by State travel offices, city convention and visitors bureaus, and thousands of small businesses. Vital information on origin and destination related travel patterns by region and State has not been available since the NTS was last conducted in 1977.

Statements such as these provide considerable evidence that the travel and tourism industry in this country is operating what might be called a statistical black box. What is necessary for its illumination is our Nation's reinvestment in gathering accurate and timely data, such as that once collected by the NTS.

This is not to say that the NTS is the only vehicle that should be considered for collecting needed information. The hearing I conducted last Wednesday is only the beginning of a process to learn what information is available and how people can obtain it, and what actual data gaps exist and how they might be filled.

If States are to reap the economic benefits from promoting attractions like Mount Rushmore, they need to be able to understand why people across the country are coming to visit them, or not. They need to know when trends are developing that will affect the way they should do business. They need to know how to invest limited resources in the most effective marketing efforts.

During the upcoming Congress I will be consulting with representatives of Federal, State, local, and private organizations to consider possible options for developing and funding a survey which would fill the data gaps that exist. A number of approaches will be explored ranging from full Federal responsibility to the possibility of building a consortium of private and public data users.

The future is only a step away. I urge my colleagues to join me in working to ensure that the travel and tourism industry in this country is equipped to face it successfully.

TRIBUTE TO DEPARTING SENATORS

CHARLES MC C. MATHIAS, JR.

Mr. PRYOR. Mr. President, when Senator McC. MATHIAS leaves the Senate at the end of the current session, we will be losing one of the true gentlemen scholars this body has known. Senator MATHIAS is my friend, and he is the friend of all Americans who cherish what's good and decent and upright in this country.

Senator MATHIAS has distinguished the Foreign Relations Committee with his experience and wisdom, as well as the Aeronautical and Space Sciences Committee, the Joint Committee on the Library, the Government Affairs Committee, and the District of Columbia Committee.

And, probably more crucial for those of us serving every day in the Senate, he has been chairman of the Rules Committee—that sensitive body that determines administration and operating procedures, and budgets, and laws governing campaign finance. On a daily basis, this nuts-and-bolts committee has tremendous sway over our lives.

Always, Mr. President, and without fail, Senator MATHIAS has been courteous and fair and equitable in this sensitive area. I have seen him under great pressure, and he has always dispatched this difficult job with a balance of judgment and good sense that's called for in such a chairman.

I want to mention, finally, the record Senator MATHIAS has put together in controlling the spread of nuclear weapons. He has been a staunch and fearless advocate of arms control legislation since he first came to Congress. He was an adviser to the SALT II delegation and an observer at the START talks in Geneva. Although active in other foreign policy matters, this issue has always been important to Senator MATHIAS, and we owe him our thanks and recognition for those tireless efforts.

Mr. President, we will miss McC. MATHIAS in this Chamber. I wish him well as he retires to that beautiful farm, "Bullskin," in the countryside he loves so much. His accomplishments will always be a part of the history of the Senate.

GARY HART

Mr. PRYOR. Mr. President, the close of this session marks the end of an illustrious Senate career for our colleague, GARY HART. First elected to the Senate in 1974, Senator HART has served with distinction as a member of the Budget, Environment and Public Works, and Armed Services Committees.

He was Congress' earliest voice for military reform and a cofounder of the Congressional Military Reform Caucus, the chair of which it has been my privilege to serve this session of the Congress. GARY HART spoke the loudest and got the attention of a number of us who share his view that the Pentagon is not above continued scrutiny of the performance of its programs and its personnel.

GARY HART and I have labored together on another issue about which we both feel quite deeply. We share a belief that the moratorium this Government has observed with respect to the production of lethal nerve gas weapons must be continued. We must not allow these terrible weapons to be restockpiled. The Senate will miss his leadership on this issue, but I want him to know that there will be a number of us who will continue speaking out for that cause.

On January 4, 1986, GARY HART announced his plans to retire from the Senate. I doubt that he will confine his activities to writing, a profession

for which he also has immense talents. I fully expect that he will continue to be a national voice in our party—a man whose thoughts and ideas will be sought as our party prepares for the future.

PAUL LAXALT

Mr. PRYOR. Mr. President, PAUL LAXALT has chosen to leave this body when the 99th Congress adjourns. I want to add my words of tribute to those he has already received.

Though we are not of the same political party, I have continually been impressed with the manner in which Senator PAUL LAXALT has discharged his role as the recognized "best friend" of President Reagan. When called upon by our President to represent this Nation as a foreign emissary, PAUL LAXALT, in every instance, without hesitation, has accepted. Without exception, we, on both sides of the aisle, respect PAUL LAXALT.

The manner in which he handled the delicate situation in the Philippines during the upheaval in that country is clear evidence of PAUL LAXALT's strength and steadiness.

A Senator of many legislative accomplishments, PAUL LAXALT will be particularly remembered for his work on the Comprehensive Crime Control Act of 1984—legislation regarded by most as the most sweeping piece of anti-crime legislation in the history of the Congress.

The people of Nevada are fortunate to have been served so well by PAUL LAXALT's quiet determinations.

BARRY GOLDWATER

Mr. PRYOR. Mr. President, few of us will ever be able to amass even a small portion of the legislative legacy of retiring Senator BARRY GOLDWATER.

From serving on the Phoenix, AZ, City Council to chairing the Senate Armed Services Committee, Senator GOLDWATER has given 37 years of his life to service in government. Probably his finest hour in the legislative battlefield came earlier this year with the passage of the Defense Reorganization Act of 1986—a measure which appropriately is named for him. In the years to come, our children will recognize the importance of this legislation in revamping our military services and their programs and procedures.

We owe him a debt of gratitude for his service as chairman of the Senate Select Committee on Intelligence and for his stewardship as a member of the Commerce, Science and Transportation Committee, the Small Business Committee, the Select Committee on Indian Affairs, and the Aeronautical and Space Sciences Committee.

BARRY GOLDWATER is certainly deserving or more time with his family. Their gain is the Senate's loss. We will miss his persistence in reminding us regularly of the need for a strong national defense, a fiscally sound budgetary policy, and vigilance in protecting our cherished freedoms.

I hope that we can count on BARRY GOLDWATER to admonish us in the future should we be straying from that course, in the inimitable way that he has done so for almost 40 years.

RUSSELL LONG

Mr. PRYOR. Mr. President, in 1979, the Reader's Digest described Senator RUSSELL LONG in this way: "A consummate strategist and persuasive advocate, power broker and wheeler-dealer par excellence, he has become, in ways rarely understood by the public, one of this country's greatest movers and shakers."

I want to associate myself with those remarks, Mr. President, and stand here today to pay tribute to my friend and mentor, Senator RUSSELL LONG, with genuine regret that he is leaving the Senate. But let me add that I wish him the very best in his new challenges when he returns to his beloved Louisiana.

It is hard to imagine the U.S. Senate without RUSSELL LONG. It is hard to imagine the Senate Finance Committee without RUSSELL LONG. Our colleague, Senator BOB DOLE, said at one time that "RUSSELL LONG knows more about the Tax Code than all of us combined." And I believe this to be true.

When I came to the Finance Committee in 1983, Senator LONG was not only my model but my friend as well. Faced with a bewildering array of figures and issues and questions of public policy that ranged from taxes to trade, I was in need of leadership and guidance. And it came from the senior Senator from Louisiana. I will never forget his example, his willingness to be the coaxing nudger when that was so clearly what I needed.

Senator LONG came to the Senate in 1948, one day before his 30th birthday. And what changes and developments he has seen since that time. Our post-war economy was fashioned in those years, with the guidance of Senators such as RUSSELL LONG. Our present strong defense was defined and executed then, and our health care system, and our network of public education, and the transportation improvements that have made this country accessible in all its corners.

Someone asked me once who was the founder and defender of the ESOP Program—the Employee Stock Ownership Plan that gives tax advantages to corporations that allow their employees ownership of company stock. Of course, it is RUSSELL LONG. And then I thought of other programs he might be grandfather to—revenue sharing, child support enforcement, financial election checkoff plans, and numerous benefits under Medicare. The list goes on and on.

What I will personally remember RUSSELL LONG for is his shrewd understanding of the workings of the Senate and the sense of humor he is always able to employ when describing them. There are many times in this body, Mr. President, when we must laugh and appreciate what is humorous and funny in order to avoid becoming cynical and fall into despair over the world and its troubles. Never have I seen RUSSELL LONG give up on the Senate. Never have I seen him give up on the American people or the country he loves and has served so faithfully throughout the years.

THOMAS F. EAGLETON

Mr. PRYOR. Mr. President, I recall the shock and dismay all of us felt in the summer of 1984 when our friend and colleague, TOM EAGLETON, made the announcement that he would not seek reelection to the Senate. At the same time, we championed this decision as one that came from someone who had worked long and hard and who wanted to move on to other areas of contribution and participation.

Now the time has come for our colleague, TOM EAGLETON, to make that move, and for that reason I am sorry to see the end of this session of Congress come. Senator EAGLETON has been a personal example to me—an example of dedication and public spirit, of fairness, and of good judgment in the face of great pressures.

The work Senator EAGLETON has done on the Government Affairs Committee was an inspiration when I first came to the Senate in 1979. He knows how the Government works better than anybody. He understands the bureaucracy and the frustrations all of us meet in cutting through redtape and getting down to bare-bones service to the people. Time and again, I have seen TOM EAGLETON bore into an issue and come out with clean evidence that fraud and abuse have indeed occurred, that an inspector general is now more necessary than ever before, and that the recovery of lost dollars and hours is possible after all.

Senator TOM EAGLETON has always waged a fearless fight for the handicapped, the poor, the elderly, and those oppressed by big power wherever it occurs. He was a guiding light in putting together the National Institute on Aging and in making available extended services under the Older Americans Act. These are typical of the courage and dedication he has shown as a Senator. They are only part of what distinguishes his record and the legacy of TOM EAGLETON in the Senate.

In addition to his public record, TOM EAGLETON will be missed because he is a warm and personable colleague. He is my friend, Mr. President, and I will miss seeing him daily in this Chamber. His decision to move into law and teaching is a fortunate one for his

native Missouri, and I can only wish him well in this new challenge.

PRESIDENT KYPRIANOU SPEAKS TO THE UNITED NATIONS ON THE SITUATION IN CYPRUS

Mr. PRESSLER. Mr. President, recently President Kyprianou of Cyprus spoke to the members of the U.N. General Assembly about the plight of Cyprus, and I ask that his speech be inserted in the RECORD following my remarks. His statement makes clear that Turkey has refused to abide by the demands of the international community for the withdrawal of troops, respect for the territorial integrity of Cyprus, withdrawal of colonizers sent from the Turkish mainland to occupy Greek-Cypriot homes and property taken in the 1974 invasion, and resolution of the cases of the five missing Americans and 1,600 Greek Cypriots missing from 1974. President Kyprianou states:

"Despite the oppressive presence of the Turkish occupation troops and settlers which makes mockery of free negotiations as provided for in the landmark General Assembly resolution 3212, we have not refused to negotiate. We have been negotiating for the past 12 years under duress and under all sorts of pressures."

He is absolutely right. The Republic of Cyprus has a population just slightly more than that of a typical U.S. congressional district. Yet 37 percent of its territory is occupied illegally. And do we really expect a government in such a situation, with a gun pointed at its head, to give up its sovereignty and dissolve itself with only a promise of future troop withdrawal? Of course not. Yet that is what the most recent U.N. settlement proposal called for.

Cyprus deserves better. The United States must stand for the rule of law and respect for human rights and territorial inviolability, and if that requires more active United States involvement in the effort to reach a fair settlement for Cyprus, then that should be the next and urgent step for the United States Government to take.

The speech follows:

STATEMENT OF PRESIDENT SPIROS KIPRIANOU BEFORE U.N. GENERAL ASSEMBLY, SEPTEMBER 25, 1986

Mr. President, when we gathered in this hall last year to celebrate the 40th anniversary of the United Nations and evaluate the progress achieved in translating its principles and purposes into living realities, we concluded that the record was still far from being satisfactory. Now, a year later, the record is not much better.

The situation prevailing in the world continues to be more often one of affront and violation of the very principles and purposes of the UN Charter rather than one of commitment and adherence to them. Thus, the use or threat of use of force in international relations, aggression, military occupation, and foreign interference in the internal affairs of states as well as the persistent violation of human rights in many parts of the world are still frequent phenomena. No one can deny that if this frightening vulnerability of the international political system remains unchecked, it would vitiate the very concept of collective security which lies at the heart of the Charter, not to speak of the ultimate disastrous consequences on humanity as a whole. [passage omitted]

Mr. President, I now finally turn to the grave situation we are confronted with in Cyprus, a situation with which the General Assembly and the Security Council are only too familiar. In fact the reason why the Cyprus problem still exists is the nonimplementation of the resolutions of the General Assembly and the Security Council. This is an example of the weakness of our organization I referred to at the beginning of my statement. But if the Cyprus problem is to be properly and reasonably solved the implementation of the resolutions of the United Nations constitutes an absolute necessity. There is no alternative. Various attempts have been made to solve the Cyprus problem away from the provisions of the charter and the resolutions of the United Nations. These attempts have unavoidably contributed to the perpetuation of the unresolved crisis and indeed to the worsening of the situation. It is only when all efforts are concentrated on implementing the provisions of the relevant resolutions of the United Nations that progress toward a just and lasting solution can be achieved.

The elements contained in the UN resolutions for a solution to the Cyprus problem represent the only realistic approach. We are ourselves in the process of considering what should be done next on our part in pursuance of the implementation of the UN resolutions.

Twelve years have gone by since the inhuman invasion of Cyprus by Turkey. Despite the condemnation of the aggression, 37 percent of our territory is still under the occupation of Turkish troops, one third of our population are still refugees forcibly prevented from returning to their homes and ancestral lands, the missing persons are still unaccounted for, while the occupying power persists in its calculated policy of consolidating the occupation and the division of the country.

Turkey still maintains an occupation of about 30,000 men. She has implanted in the occupied part 60,000 colonist settlers from her Anatolian provinces. In fact the Turkish Cypriot community itself is now submerged under the vocal colonist element and one of the most ominous recent developments, ominous for Cyprus and for the Turkish Cypriot themselves, is the fact that the political party which was formed by the settlers is now playing a determining role in the so-called government in the occupied area of Cyprus. The systematic large-scale implantation of colonist settlers from Turkey in a calculated attempt to change the age-long demographic character of Cyprus, in addition to the presence of the Turkish troops of occupation and the solution she envisages, is a manifest attempt by Turkey to place our country under her permanent political and military control. Throughout this period Turkey has been taking a series of partitionist steps culminating in the 1983 blatant attempt at secession which was condemned by the United Nations in Security Council Resolutions 541 and 550.

Neither Security Council Resolutions 541 and 550 calling for the reversal of all secessionist acts nor the other resolutions of the Security General and of the General Assembly calling for the withdrawal of the occupation troops, for the respect of the sovereignty, territorial integrity, unity, and nonalignment of Cyprus, calling for the return of the refugees to their homes, condemning the influx into the occupied area of colonist settlers from Turkey, calling for the cessation of foreign intervention in the internal affairs of Cyprus have been respected by Turkey.

Turkey has been able to ignore with impunity every principle and norm of justice and morality. Turkey felt in a position to ignore completely the General Assembly and the Security Council. It is obvious that free from any real pressure Turkey has not so far felt the necessity to give up her expansionist and partitionist plans against the small, defenseless and nonaligned Republic of Cyprus.

Mr. President, occasionally an attempt is made by some to present the Cyprus problem as a dispute between the Greek Cypriots and the Turkish Cypriots. Nothing could be further from the truth. The problem of Cyprus in its essence is a problem of invasion and occupation aiming at the imposition of a solution that will serve the expanionist designs and other interests of Turkey in the region. There may be internal differences to be settled between the Greek Cypriots and the Turkish Cypriots. I am convinced, however, that these differences would have been solved many years ago if it were not for the presence of the occupation troops and the foreign intervention.

Despite the oppressive presence of the Turkish occupation troops and settlers which makes mockery of free negotiations as provided for in the landmark General Assembly Resolution 3212, we have not refused to negotiate. We have been negotiating for the past 12 years under duress and under all sorts of pressures. In our genuine desire to reach a peaceful solution we have made a series of concessions to an extent that no other government I believe would have ever gone in similar circumstances. In fact if the concessions we have offered in connection with the constitutional and territorial aspects of the Cyprus problem were applied to other states having ethnic minorities with separatist inclinations a large number of states would be confronted with permanent instability and even complete disintegration. And yet all the concessions we have offered, away from such internationally recognized and accepted democratic principles as majority rule and one man one vote, have not been considered enough. They now want us to make even further concessions to the point that it would mean the legalization of the results of the invasion and a prescription for new deadlocks and conflicts, with reprecussions beyond Cyprus.

Mr. President, I have to be very frank. Unfortunately the mentality prevailing in certain quarters, which we very much resent, is that pressure must be exercised on the victim being the weak side and not on the stronger party, namely Turkey, irrespective of the fact that she is the aggressor and the wrongdoer. Some consider this more practical. They consider a solution easier through continuous conscessions on the part of the weak side, irrespective of the merits of the case or the principles and moral issues invovled. But even if we suppose that this attitude prevails and succeeds the net result would not be a just and viable solution, but instead it would be the beginning of a new crisis with far-reaching consequences. Let me at this point make clear that despite the

many difficulties we are encountering, despite our weaknesses and the different pressures, we cannot under any circumstances agree to a solution which will place Cyprus directly or indirectly under the military and political control of Turkey, or a solution that because of its inequity and unworkability would lead to a new Cyprus problem, to new conflicts, and to new tragedies. The solution must be just, viable, and workable and in full conformity with the charter and the resolutions of the United Nations.

Mr. President, we have extended our sincere cooperation to the secretary general of the United Nations in the exercise of his mission of good offices, which is well defined in the resolutions of the United Nations. We have done this motivated by a genuine desire to achieve a peaceful and fair solution in strict conformity with the Charter and the resolutions of the United Nations. We shall continue the dialogue with the secretary general in the same spirit.

The internal aspect of the Cyprus problem is of course important. We have been negotiating on the internal aspects, namely the constitutional and territorial, for a federal system for almost 12 years. We all know where both sides stand on these. But we do not know where the Turkish side stands with regard to the basic issue of the withdrawal of the occupation troops and settlers, the question of international guarantees, and the question of the application of fundamental freedoms and human rights for all Cypriots.

In a letter I addressed to the general on 10 June 1986, I explained to him our position with regard to his latest initiative and I suggested to him how we might proceed forward. Progress cannot be made by demanding more and more concessions from one side to the point that an arrangement will be both totally unjust and unworkable. In fact all the concessions we made in the past which, I repeat, no other government in my humble view in our position would have made, were contingent upon acceptance of the position that the subject matter of the resolutions of the United Nations relating to the withdrawal of the occupation troops and settlers, the question of the effective international guarantees with no spurious claims of rights of unilateral interventions, and the application of the fundamental freedoms and human rights for all Cypriots were priority questions to be discussed and settled urgently. If agreement on these three fundamental issues is not possible there is no point in discussing further the constitutional aspect of the problem. If on the other hand agreement on the three vital issues proves possible that will facilitate an overall agreement as provided for in the resolutions of the United Nations. The way out, therefore, would be without further delay and as a matter of priority to tackle the important issues of the Cyprus problem.

Mr. President, the problem of Cyprus is a problem of the United Nations and it should be solved within its framework and in conformity with its Charter and its resolutions. This has always been our position and it will continue to be so, but it is only natural and I hope understandable to expect efforts and initiatives which will preclude the realization by Turkey of her sinister designs at the expense of Cyprus or any arrangement that might lead, because of its unworkablility, to new conflicts and new crises.

If progress is to be made the international community must at last find the way to make Turkey feel the necessity to abandon her expansionist and partitionist plans at the expense of Cyprus. Meaningful and effective efforts toward checking Ankara's intransigence are necessary and fully consistent with the obligations of all the members of the United Nations to ensure the implementation of its resolutions. Equally, we welcome any proposals from any side that contribute toward finding a just solution to the Cyprus problem. In this connection I wish to reiterate that we welcome the proposals made by the Soviet Union last January on the principles of a Cyprus settlement and ways to reach it. These proposals are fully consistent with the principles of the Charter and the resolutions of the United Nations. In order to address the major components of the Cyprus problem the proposals call for the convening of a representative international conference under the auspices of the United Nations. We urge all concerned to consider this suggestion, which we fully support, seriously and urgently.

Mr. President, It is not the first time I address the General Assembly and it is not the first time that I speak in this hall about the Cyprus problem. I repeatedly appealed to the General Assembly and the Security Council to take concrete steps for the implementation of the UN resolutions. I repeatedly appealed to all the members to place the Cyprus problem higher on their list of priorities.

For how long will the occupation of a large part of our territory continue? For how long more the refugees will forcibly remain away from their homes and for how long more the fate of the missing persons will remain unknown? For how long more the human rights of our people will be denied? For how long more the people of Cyprus will live in agony about their future and their very survival?

The Cyprus problem may appear to be a complicated problem, but in its essence is a simple one. If Turkey is made to see reason and the resolutions of the United Nations are implemented the Cyprus problem will be solved. Cyprus is a small island but it has all the possibilities to be a happy place for all its inhabitants irrespective of ethnic origin. This can be achieved without the presence of occupation troops and without dividing lines. This can be achieved without foreign interferences and interventions. We want peace, security, and stability in Cyprus. We want freedom. We want human rights for all our citizens. Cyprus is truly a test case for the United Nations.

KIPRIANOU COMMENTS ON MEETINGS AT UN TO HELLENIC RADIO TELEVISION, ERT, SEPTEMBER 27, 1986

My talks with the UN secretary general, the U.S. secretary of state, and the Soviet foreign minister have all been substantive. I had the opportunity to explain our views on the latest developments in the Cyprus issue in detail, as well as present our opinions about what should be done.

In all my meetings, I have emphasized that Cyprus cannot accept a solution which would place it either directly or indirectly under Turkey's political or military control. Cyprus also cannot accept a solution that will only collapse and lead the country into new tragedies. These were the main points which I made during my talks with the UN secretary general and the foreign ministers of the two superpowers. I also stressed these points in all my other meetings.

During my talks with the UN secretary general, I naturally explained our reply to his recent proposals. I pointed out why it is now imperative to give priority to the well-known basic question; namely, the withdrawal of troops and settlers, the need for effective guarantees, and the protection of human rights. It is impossible to have an endless discussion about the constitutional aspects of the Cyprus issue. This has been going on for 12 years and look where it has led us. We must achieve some sort of substantive progress, or I should say agreement, on the basic aspects of the Cyprus issue that will constitute prerequisites for an overall Cyprus solution.

The UN secretary general listened very carefully to my analysis. I gave a similar presentation during my other talks. We must now wait and see what the UN secretary general's next step will be. He has given me some indications in this regard, but at this stage I should not make any further comment.

I would like to add something else, however. As a result of my various meetings, I have noted a greater interest in the Cyprus issue this year as compared to last year. Perhaps this is due to the nonaligned conference, or to developments in general. Maybe it is the result of efforts on the part of the Greek and Cyprus Governments. I cannot predict future developments. We must keep a close watch on the situation. I would not like to rule out the possibility of a debate at the UN General Assembly if developments so warrant.

RETIRING SENATORS

TRIBUTE TO THOMAS F. EAGLETON

Mr. PRESSLER. Mr. President, when the 99th Congress stands in adjournment, the Senate will bid farewell to Senator THOMAS EAGLETON, the senior Senator from Missouri. I have had the privilege and pleasure to work with Senator EAGLETON on the Foreign Relations Committee and regret that he is retiring after 18 years in the U.S. Senate.

TOM EAGLETON seemed destined for a successful political career soon after receiving his law degree from Harvard. In 1953, he was elected circuit attorney of St. Louis and quickly became State attorney general and Lieutenant Governor of Missouri. He first won election to the Senate in 1968.

He is the ranking Democratic member on the Governmental Affairs Committee and also is a member of the Foreign Relations and Select Intelligence Committees. As a member of the Appropriations and Labor and Human Resources Committees until the 99th Congress, Senator EAGLETON played a paramount role in writing much of the social legislation of the 1970's. He demonstrated his concern for the elderly and policies affecting this special segment of our society by helping to create the National Institute on Aging. In addition, Senator EAGLETON was instrumental in expanding the services offered under the Older Americans Act.

I appreciate the opportunity I've had to work with TOM EAGLETON in the U.S. Senate. His empathy for others compelled him to apply his scholarship and political expertise to the writ-

ing of law assisting the less fortunate. No amount of praise would be adequate to commend Senator EAGLETON's effective efforts in the Senate. I wish him life's best in all his future activities.

TRIBUTE TO PAUL LAXALT

Mr. PRESSLER. Mr. President, I am honored to have worked with my friend and colleague, Senator PAUL LAXALT of Nevada, who will not be seeking reelection this year.

A dedicated public servant, he can be credited with numerous legislative accomplishments. During his two terms as U.S. Senator, PAUL LAXALT worked diligently on regulatory reform and crime control legislation. He fought long and hard to defeat a picketing bill and won. A close friend of President Reagan, Senator LAXALT was instrumental in persuading the President to modify a questionable MX missile deployment proposal in 1981.

After completing law school in 1949, PAUL LAXALT was elected Ormsby County District Attorney and was later a city attorney in Carson City, NV. He also was elected Lieutenant Governor and Governor of Nevada. Senator LAXALT's outstanding U.S. Senate career began when he was elected to this body in 1974.

During the 99th Congress, Senator LAXALT has been an effective member of the Appropriations Committee, where he chaired the Commerce, Justice, State and Judiciary Subcommittee. While serving on the Judiciary Committee, he chaired the Criminal Law Subcommittee.

The Senate will be losing one of its best and most personable members when the 99th Congress adjourns. PAUL LAXALT's wisdom, dedication and legislative talent are enduring assets which will make him a successful leader in all his future endeavors.

I commend Senator LAXALT for 12 years of exemplary work as a U.S. Senator, and wish him the best of luck in the years to come.

TRIBUTE TO GARY HART

Mr. PRESSLER. Mr. President, Senator GARY HART of Colorado will not be seeking reelection this year in order to devote more time to the pursuit of other interests. This gentleman has made great contributions to the Nation during the two terms he has served in the Senate. It has been an honor and a pleasure to serve with Senator HART and I am certain he will work hard to carry out the priorities he has established for himself in the Senate in all his future endeavors.

Defense and energy were two issues that received major amounts of Senator HART's time and effort. In the area of defense, he focused our attention on the over-reliance on sophisticated weaponry where emphasis on small, maneuverable ships and airplanes might be more effective. He also staunchly supported policies lessening U.S. dependence upon imported oil long before this issue dominated the political scene.

After graduating from Yale University Law School in 1964, he was an attorney for the U.S. Justice Department for a short period of time. Then the future Senator worked as a special attorney for the U.S. Department of the Interior and later practiced law in Colorado. He immersed himself in politics as the national campaign director for Senator GEORGE MCGOVERN's bid for the Presidency in 1972. His experience as a campaign manager helped in 1974 when his own bid for the Senate was successful. During the last Presidential election, GARY HART sought the democratic nomination. Through all of these efforts, GARY HART has proved himself to be one of the foremost players on the American political stage.

Senator GARY HART has displayed an ardent interest in the future of our Nation's environment and our Nation's defense. He is to be commended for his consciousness-raising efforts within this body and across the Nation. Although the Senate will be losing the benefit of this intellect and ideals, we are indebted to Senator HART for the fresh insights he brought to this institution.

TRIBUTE TO RUSSELL LONG

Mr. PRESSLER. Mr. President, the Long family has been an institution in Louisiana politics for many, many years. Today it is my privilege to pay tribute to the retiring senior Senator from Louisiana, RUSSELL LONG. After having served 38 years in the Senate, he is leaving this distinguished body to enjoy a much deserved retirement.

Senator RUSSELL LONG has a very impressive career and is held in the highest esteem by his friends and colleagues. After receiving his law degree in 1942 from Louisiana State University and practicing law for a few years, he was elected to the U.S. Senate in 1948 to finish the term of John Overton, who died while in office. Six successful reelection bids followed RUSSELL LONG's introduction to the Senate—a powerful recognition of his hard work for the citizens of Louisiana and the Nation. He also served as the Senate majority whip from 1965 to 1968.

Senator LONG is renowned for his accomplishments as chairman of the Senate Finance Committee from 1966 to 1980. His unquestionable mastery of the Tax Code helped to shape important tax reform initiatives, perhaps more than any other Senator. Two of LONG's many accomplishments as chairman of the Senate Finance Committee include the voluntary tax check-off provision that provides public funds to Presidential campaigns and the tax credit program for companies that offer stock ownership plans to their employees. He also worked tirelessly to implement tax policies to help the working poor.

During the 99th Congress, Senator LONG has held the prestigious position of ranking Democrat on the Finance Committee and on the Surface Transportation Subcommittee. The Select Committee on Ethics and the Joint Committee on Taxation also were graced with RUSSELL LONG's intellect and talent, and I am honored to have served with him on the Commerce, Science, and Transportation Committee.

Senator RUSSELL LONG is leaving the Senate, but his impeccable reputation as a warrior for the common person will not be retired. I join my colleagues in lauding this great man for his 38 years of dedicated work on behalf of a better, fairer nation. The world is a better place because of men like RUSSELL LONG, and the principles he advanced, and I extend my congratulations to him for a job well done.

TRIBUTE TO BARRY GOLDWATER

Mr. PRESSLER. Mr. President, one of the privileges I have enjoyed during my nearly 8 years in the U.S. Senate is working with the senior Senator from Arizona, BARRY GOLDWATER. As the 99th Congress draws to a close, this body will bid a fond farewell to a great man and a great patriot. I would like to take a few moments to reflect briefly upon Senator GOLDWATER's impressive career.

From 1930 to 1967, he was a member of the U.S. Army Reserve and the Air Force Reserve. Senator GOLDWATER began his political career in 1949 when he was elected to the Phoenix City Council. In 1952, he was elected to the first of two successive terms in the U.S. Senate. Senator GOLDWATER did not seek a third term when he won the Republican candidacy in the Presidential election of 1964. He returned to his position of U.S. Senator from Arizona in 1968 and has held that office ever since.

Throughout his tenure in the Senate, Senator GOLDWATER has adhered sincerely to his political philosophies and worked hard to fulfill the goals he set for himself. When he became chairman of the Commerce Subcommittee on Communications in 1981, he continued to carry out his belief in less government by working toward the removal of excessive governmental bureaucracy from broadcasting. Similarly, he has carried out his interest in and dedication to our Nation's military personnel and his conviction in the need for a strong national defense through his chairmanship of the Senate Armed Services Committee.

He is justifiably proud of his service to Native Americans through his active leadership on the Indian Affairs Committee.

I have been fortunate to have had the opportunity to serve on the Commerce, Science, and Transportation Committee and the Small Business Committee with such a distinguished and respected Member of this body.

One of the highlights of my association with him was his visit to South Dakota with me in 1984. South Dakotans strongly supported him and continue to regard him with the highest respect and affection, as I do.

Senator BARRY GOLDWATER has devoted his life to the service of his country and I applaud him for his unfailing and successful efforts. While we will miss BARRY GOLDWATER's presence greatly, the ideals and principles he espoused will continue to guide the Senate and constantly remind us and future generations that the greatness of man arises from faithful commitment to those noble values.

TRIBUTE TO CHARLES MCC. MATHIAS, JR.

After 18 years in the U.S. Senate, Senator CHARLES (MAC) MATHIAS is retiring to devote his keen skills to teaching and practicing law, as well as spending more time with his family. This body is honored to have claimed MAC MATHIAS as a Member, and the citizens of the State of Maryland are fortunate to have been so conscientiously represented. I personally have enjoyed working with my colleague from Maryland, and it has been a pleasure and an education to serve with him on the Foreign Relations Committee.

MAC MATHIAS is famous for his concern for justice and equality for the needy and disadvantaged. A staunch advocate of civil rights legislation, he also has been a leading supporter of many social programs, such as the Job Corps. His knowledge of the law and the Constitution has always guided him when Senate business presented him with difficult decisions. Senator MATHIAS fought to keep the ever-growing defense budget in perspective, and searched tirelessly for ways to bring an end to the escalation of the arms race.

CHARLES MATHIAS began his illustrious career with the study of law. After receiving his law degree from the University of Maryland in 1949, he spent a year as assistant attorney general of Maryland, 4 years as city attorney in Frederick, and 2 years in the Maryland Legislature. His political career expanded to the national level where he served in the U.S. House of Representatives from 1961 to 1969, and in 1968 he was elected to the U.S. Senate.

Senator MATHIAS is completing his Senate service as chairman of the powerful Rules and Administration Committee and as a valuable member of the Governmental Affairs, Judiciary, and Foreign Relations Committees. His dedicated service in Congress also culminates in other leadership positions, as chairman of the Joint Committee on Printing and as one of the vice chairmen of the Joint Committee on the Library.

I congratulate this learned scholar on his outstanding and distinguished performance as a U.S. Senator. MAC MATHIAS's life and leadership in this body have been characterized by intelligence and compassion. After leaving the Senate I hope he continues to find his path filled with the same success and good fortune that have marked his career among us.

FOCUS ON LIBYA

Mr. DENTON. Mr. President, much concern has been expressed in the news media over the reported administration deception plan to help destabilize the regime of Mu'ammar Qadhafi in Libya. While we applaud the determination of the administration to take effective action to bring to an end Libya's outrageous behavior as a prime sponsor of international terrorism, we must take issue with the judgment that any alternative to Qadhafi would be better for U.S. interests.

Mr. President, such a judgment obscures the high probability that were Qadhafi to be toppled as a consequence of U.S. actions, his most probable immediate successor would be Maj. Abdel Salem Jalloud. Jalloud has long been identified as Moscow's man in Libya. Thus, to facilitate Jalloud's rise to power may well mean the ultimate transformation of Libya into a Soviet base on the southern flank of NATO.

Mr. President, I have an advance copy of the October issue of "Focus on Libya" which points out most clearly that while the United States has focused its attention almost exclusively on the terrorist antics of Qadhafi, he has been working aggressively and astutely to destabilize Egypt, and establish a commanding influence in sub-Saharan Africa, a region of vital strategic importance to us and our allies.

Mr. President, there is substantial cause for concern over the apparent failure to develop an acceptable alternative to Qadhafi beforehand, rather than precipitate Qadhafi's downfall and trust to serendipity to prevent a Soviet-backed takeover. As observed in the article I have referred to, "it would be a tragedy if the seeds of empire that Qadhafi has so carefully planted in strategically important Africa were to be harvested by the Soviet Union, aided and abetted by a United States that couldn't quite see the forest because of the trees."

Mr. President, I ask unanimous concern that the attached article entitled "Focus on Libya," by Dr. Martin Sicker, be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOCUS ON LIBYA—OCTOBER 1986

WHOSE DECEPTION PLAN?

The strong media reaction to the revelation in the Washington Post on October 2 of a secret Reagan administration deception plan to destablize the Qaddafi regime focused entirely on the question of whether Washington was providing disinformaton to the American press. Completely ignored were the grave implications of the premises of the plan as outlined in the memorandum by National Security Advisor Admiral John Poindexter to the President in preparation for the meeting of the National Security Planning Group.

Poindexter's memo stated: "Most intelligence estimates conclude that in spite of new tensions and Gadhafi's own shock, depression and impaired performance following the April 14 raids he is still firmly in control in Libya." The memo noted further that while there were risks involved, "the benefits of a successful policy demand that every appropriate effort be made to achieve our objectives." Finally, the memo stated that the purpose of taking steps against Qaddafi was to deter terrorism and ultimately to "bring about a change in leadership in Libya . . . *any alternative leadership to Gadhafi would be better for U.S. interests and international order*" (emphasis supplied).

This judgement clearly indicates a serious failure to grasp the realities of the Libyan situation. While any alternative to Qaddafi might indeed reduce Libyan sponsorship of terrorism, or at least reduce its visibility, there is much more at stake in Libya than its support of terrorism. As pointed out in August's "Focus," the critical question is who will take control in Libya if Qaddafi is ousted. It is highly improbable that any of Qaddafi's leading lieutenants have the independent standing or capacity to assume control. Each of them is inextricably linked to Qaddafi they all have Libyan blood on their hands and lack the charisma necessary to exercise unchallenged control of the country. What this means is that if Qaddafi is toppled, his successor will need substantial support from the outside. At the moment, only the Soviet Union is in a position to render such support. As has been pointed out previously in these pages, Qaddafi's longtime second-in-command, Jalloud, would probably move to seize power in the event of his collapse, in conjunction with the other remaining original members of the Revolutionary Command Council and with the backing of the Soviets and the East Germans who continue to have their hands on Libya's internal security apparatus.

While the desire and the will to strike back at international terrorism is commendable, prudence dictates that the longer range consequences of such action be thoroughly understood. The phenomenon we are concerned with is state-supported terrorism, and equal attention must be given to the "state" aspect of the problem. It would be a pyrrhic victory to stop Libyan-backed terrorism by precipitating the overthrow of Qaddafi and in the process swing that strategically located country more firmly into the Soviet orbit. A Soviet dominated Libya would have a dramatic impact not only on the security of the Mediterranean and NATO's southern flank, but also on the future of Africa.

The United States should move decisively to provide a political alternative to Soviet proxy control of Libya, rather than precipitate Qaddafi's downfall and trust to seren-

dipity to prevent a Soviet-backed takeover. Such a takeover would hardly "be better for U.S. interests and international order."

Terrorism, and state-sponsored terrorism in particular, is indeed a most serious problem and significant steps must be taken by the international community against both its perpetrators and backers. However, the Reagan administrations' focus on Libya in this regard is overdrawn. It has obscured not only the fact that the primary sponsors of international terrorism today are Syria and Iran, but also that it is Qaddafi's sponsorship of radicalism that far overshadows in importance his involvement in terrorism per se. Indeed, one could make a persuasive case that Qaddaffi's support of some of the more outrageous terrorist incidents over the past several years are part of his own deception scheme, calculated to draw the attention of the United States away from his more historically important moves in Africa and elsewhere. After all it is only a little more than two years since President Reagan felt compelled to publicly embarass France into taking action in Chad to prevent the collapse of the pro-Western government and the conquest of the country by Qaddafi proxies backed by Libyan troops.

While the United States seems to be preoccupied with Libya's role in terrorism, Qaddafi has been moving aggressively to alter the political map of sub-Saharan Africa, a region of immense strategic importance to the West.

SUDAN: A HIGH PRIORITY TARGET

Even as the Sudanese prepared to go to the polls on April 1 of this year, in the first multi-party election in 18 years, there were already clear signs that Libyan political influence in the country, on the rise since the overthrow of Jaafar Nimeiri a year earlier, had already reached dramatic dimensions. A report from Khartoum on March 29 by Radio France International observed, "it is clear that Libyan influence has taken on proportions much larger than what has been imagined abroad, and that the future Sudanese regime will be closer to the Libyan regime than the current one."

In mid-March, the Sudanese Defense Minister General Usman Abdullah and Prime Minister Dafaalah Djazouli visited Tripoli and concluded a defense agreement. Libya promptly lent the Khartoum government two TU-22 medium range bombers which were immediately used in attacks upon the southern Sudanese rebels. On April 17, obscured by the uproar over the U.S. attack on Tripoli and Benghazi a few days earlier, the Washington Post reported that,

"Greasing its entry with free oil, foreign employment and, most recently, shipments of military equipment, Libya has transformed its image from pariah to powerful patron . . . . In recent years, the United States has been willing to commit more resources to Sudan than to any African country south of the Sahara. According to a senior western diplomat here, the spending is intended to guarantee that Sudan is a pro-American buffer 'of a million square miles that Saudi Arabia and Egypt don't have to worry about.'

"But after a year of head-to-head competition against Libya, a well-placed western official conceded that the Americans' buffer 'has lost a lot of its resiliency. It was Libya that Sudan was supposed to be a buffer against. Now there is a cat among the pigeons.'

"Sudanese officials and western diplomats agree that there is a widespread public feeling in Khartoum that the United States has abandoned the government here in its time of need as civil war escalates in the south against rebels armed and supported by the Ethiopian government.

"Libya, in the meantime, has lent Sudan at least two Soviet-made bombers that have flown raids against southern towns held by rebels of the Sudanese People's Liberation Army. A senior western diplomat here said the United States was never asked by Sudan to provide bombers for the war, but he added that such a request would have been turned down.

"The hostilities between the Reagan administration and Qaddafi have fueled northern Sudanese concern over what they see as anti-Arab intentions of the United States.

"Sudan's defense minister, Lt. General Osman Abdullah, recently described the U.S. confrontation with the 'brotherly Libyans' as part of an American campaign in the region 'that is really against Arabs.'

"'The Americans' timing, in the case of Sudan, is most unfortunate,' a senior western diplomat here said. 'For at the same time as the U.S. is more critical than ever of Qaddafi, Sudan's relations with him are warmer than ever. When Reagan plays to his domestic audience, he loses the people of Khartoum.'"

On September 9, Qaddafi spoke to a rally at Omdurman while on an official visit to Sudan. Among many other points of great interest he asserted:

"There must be a resumption of the call for Arab unity under the banner of Arab nationalism, with all strength and force. We must be prepared to change the map of the Arab homeland. Time will be working against us if we hesitate in realizing this demand . . . A union must be established immediately between Sudan and Libya. Any force from among the people that opposes such a union must be identified, exposed, and fought because it is the enemy of this nation, its future, and its aspirations. Unity o' brothers, at the present stage is not an emotional demand, but it is a necessity, a necessity for survival, a necessity for our survival . . . Unity is the only way by which we can confront not only the United States and Israel and also famine, drought, disease and underdevelopment. Come and take Libya's oil and Sudan's Nile, and let us mix them together for the Libyan and Sudanese peoples."

Qaddafi amplified on this at Khartoum University on September 13:

"I call for the establishment of a union between the two countries. Any action other than unity is a waste of time and a blurring of the issue, and will lead to dangers in the future. There would be danger from pan-Arabism and our existence if Arab unity is not established. Now the atmosphere is suitable for establishing a union between Sudan and Libya. Regardless of the time needed for the establishment of a union, there are huge potentials between the two countries. We can achieve economic integration and benefits for both peoples. Libya has oil and oil derivatives, cement and chemical industries, and 2000 km of coast on the Mediterranean; Sudan has the Nile and rain. Sudan has a large population; Libya has only a small population. Sudan is on the Red Sea and is in the heart of Africa; we are close to Europe and Sudan is close to Africa. This is a great thing. Both countries could complement each other. There are many things we need from Sudan, and Sudan needs things from Libya."

QADDAFI'S STRATEGY

Qaddafi's reach for Sudan has very dire implications for both Egypt and sub-Saharan Africa. With regard to Egypt, Qaddafi is committed to undermining the already shaky rgime of Hosni Mubarak and overturning the Camp David Accords. His elusive goal remains the integration of Libya and Egypt, the leading country of the Arab world, into a new Arab empire. Since he cannot attack Egypt frontally, he is pursuing a strategy of applying pressure through Sudan which controls the head waters of the Nile, Egypt's lifeline.

The transformation of Sudan into a Libyan appendage would isolate Egypt in Africa and threaten its very viability. It would also provide a means of resolving one of Libya's chronic resource problems, the lack of adequate water to sustain a self-sufficient agricultural capability, a problem made worse by the gross mismanagement of Libya's water resources by the revolutionary regime. The optimum way of achieving this would be, as noted in Cairo's Al-Ahram on March 29, 1984, by "the digging of a canal from Lake Nasser to the Kufra oasis and the building of a pipeline from Kufra to Tobruk and from Tobruk to Tripoli, the Libyan capital to carry fresh water from the Nile." On August 7, 1985, Qaddafi reaffirmed this idea in an interview with Cairo's Al-Ahali:

"I believe that the Arab nation can become a paradise. It can become one powerful state. I imagine that it is possible to link the Nile to the great man-made river in Libya, that the Libyan and Egyptian deserts can turn green, and that the western desert can yield fruits and become a green carpet . . . I would imagine that Lake Nasser will be linked to al-Kufra, the source of the great man-made river. Will we not thus create paradise on earth?"

Failing Egyptian acquiesence, Qaddafi would divert the Nile from Sudan to Kufra. This would extend the necessary canal by several hundred kilometers, but would be quite feasible given Qaddafi's willingness to expend the required sums for construction.

However, the key to Egyptian compliance with Qaddafi's wishes lies in the Sudan. Ten days after Nimeiri's ouster, Qaddafi warned:

"Any regime in Sudan that is hostile to Egypt can harm Egypt . . . For who really needs the other? Sudan or Egypt? Egypt needs Sudan. Then Egypt should be the one attached to Sudan, which could impose on Egypt anything that Sudan wants. Because in the final analysis, it is Sudan that can choke the Nile and stop the Nile's resources and dominate it. How can Sudan, which controls the resources of the Nile, be subservient to Egypt which needs it? . . . We believe, however, that the situation will be redressed . . . and that Egypt will become attached to the Sudan . . . This is because Sudan controls the resources of the Nile and Egypt needs Sudan."

While it is unquestionably true that a hostile Qaddafi-dominated regime could strangle Egypt by blocking the Nile, it is also inconceivable that Egypt would sit still for such a threat to its life line. Surely any serious attempt to tamper with the flow of the Nile to Egypt should provoke an Egyptian military intervention. However, it seems that Qaddafi is prepared to gamble that Mubarak is in no position to intervene in Sudan, given the rising concern over the viability of his government. On the other hand, failure by Mubarak to mitigate the growing rhetorical threat to Egypt's life

line, which may after all only be a plausible ploy to pressure Mubarak, could help bring him down. By seeking to extend a controlling influence over Khartoum, Qaddafi is engaged in a very high risk game which could engulf the whole region in conflict.

As suggested, however, getting at Egypt is only one of Qaddafi's aims in Sudan. Another of equal if not greater consequence is to become the dominant influence in all of sub-Saharan Africa. An entrenched position in Sudan would enable Libya to capitalize on its investments in Uganda and the small states of Rwanda and Burundi, providing a direct wedge from Tripoli to the very heart of Central Africa. As noted by Intelligence Digest (September 24, 1986): "Gaddafi's route southwards lies either through West Africa or East Africa. He tried hard to force his way into West Africa through Chad but was brought to a halt principally by Nigerian opposition and active resistance, including Nigerian military aid to Chad. The further result was Nigerian determination to keep Gaddafi out of the entire West Africa, and an unwritten West African anti-Libyan alliance, but de facto without doubt, now exists. That left East Africa, of which Uganda is an integral part, offering also easy access to Kenya and Tanzania as well as Zaire."

On his return from his tour de force at the Nonaligned Movement summit in Zimbabwe, Qaddafi stated on September 14:

"Regardless of the sacrifices and the battles won and lost, after a number of years passed, we finally came out the victors in Uganda. We defeated our enemies, the racists such as Obote, the fascists such as Obote, the fascists and the agents of colonialism hostile to the revolutionary policy and to the Jamihiriyah. Thousands of Ugandan fighters welcomed me in Uganda. They were trained in Libya. They are the fighters who entered Kampala and liberated it from the enemies of the Jamahiriyah, enemies of the Ugandan people, at the top of whom is our friend Museveni, who was in Libya. We used to meet with him and struggle together to liberate Uganda, to recover this position; it has been recovered. Now Uganda is a semi-jamahiriyah, its system is revolutionary-popular; people's congresses and people's committees have been established in every village, and the formation of revolutionary committees has begun. All of this needs time to emerge and be firmly established. A new jamahiriyah, in fact, has started to be formed in East Africa—i.e. Uganda—which at one time was a hostile post to us and in which we fought. They thought they had won the battle; however, in the end it was we who have won the long struggle in Uganda."

What Qaddafi appears to be concocting is a far-flung Libyan-dominated Arab-Muslim empire with an African colonial system which can be exploited to serve the needs of the imperial center—Libya. Thus, in reference to the states of sub-Saharan Africa, Qaddafi observed:

"All those countries are rich; they are not poor and do not need charity but need joint programs between them and the people of the Great Jamahiriyah so the Libyan Arab people and those countries would benefit. They are countries very rich with all the materials needed by Libya, and which it is importing from countries very far away, sometimes from colonial markets. These materials are abundant and only need to be exploited in Sudan, Uganda, Ethiopia, Zimbabwe, Tanzania, Burundi and Zambia."

Finally, in a remark pregnant with geopolitical significance, Qaddafi stated that "from Bab al-Mandeb, from Yemen and Aden to Ethiopia and Sudan and to Libya, from the Arabian Sea to the Mediterranean, all these have become forces allied with each other. In fact colonialism was pinning hopes on Sudan in breaking this axis and this bridge, which links Aden with Addis Ababa and Tripoli in a single chain of allied liberated peoples."

There can be little question that the removal of Qaddafi from power by virturally any means is necessary and it is in the interests of the free world. However, who takes his place is critical. It would be a tragedy if the seeds of empire that Qadddafi has so carefully planted in strategically important Africa were to be harvested by the Soviet Union, aided and abetted by a United States that couldn't quite see the forest because of the trees.

TOWARD AN ENDING OF MARTIAL LAW ON TAIWAN AND OPENING OF POLITICAL PROCESS

Mr. DENTON. Mr. President, last week the President of the Republic of China, Chiang Ching-kuo, gave a remarkable interview to the Washington Post. He discussed widely and forthrightly each of the major issues facing the Republic of China.

During the course of the interview, the President discussed steps toward ending martial law on Taiwan, a move which he indicated would be consistent with the enormous economic maturity which Taiwan has gained in the past several decades.

President Chiang Ching-kuo also addressed the complex question of legalizing new political parties on Taiwan. The President offered the view that he would support legalization for parties which subscribed to several fundamental national premises. These premises include: the three principles of nationalism, democracy, and social welfare advanced by Dr. Sun Yat-sen; anticommunism; and noninvolvement in the Taiwan independence movement.

Mr. President, every nation in the world possesses a fundamental framework within which political debate and disagreement take place. Without this framework of shared commitment, one simply does not have a nation. In the United States, for example, our Constitution provides this structure. All political issues must be settled within the bounds and procedures of the Constitution. Even the act of amending the Constitution must occur in a fashion which is prescribed by the Constitution itself.

How would we view an individual or a group which set itself apart from this fundamental structure and which did not recognize its authority? How would we view a State which denied its citizens a republican form of government? How, in fact, did we view States which proposed to secede from the Union? We fought a bitter civil war over this latter question.

Mr. President, what Chiang Ching-kuo is attempting to do is to define the broad premises of the political life of the Republic of China. He is open to further developments in the evolution of a broad political consensus. At the same time, he is sensitive to the need for these developments to occur in a way that is consistent with the overall security and preservation of the nation.

Mr. President, I believe that President Chiang Ching-kuo's interview merits the attention of all colleagues. For that reason, I ask unanimous consent that the interview, as well as several articles about it, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHIANG ENVISIONS CHANGE FOR TAIWAN

(By Daniel Southerland)

TAIPEI, TAIWAN—Chiang Ching-kuo, the president of Taiwan, is an affable, chunky, round-faced man not given to dramatic gestures or public muscle flexing.

When it comes to tough issues, Chiang usually lets his prime minister or others fight the day-to-day battles. They take the flak. The smiling, unruffled Chiang seems above it all.

But the benign-looking Chiang, the eldest son of the late president Chiang Kai-shek, is now fighting to bring limited changes to Taiwan's authoritarian political system. If he succeeds in doing half of what he promises, the changes could prove to be dramatic over the long run.

In the end, those changes may require every bit of political muscle Chiang can exert.

Thanks partly to its economic success, Taiwan has reached a political turning point. The 76-year-old Chiang has been pressing for reforms that would include not only the lifting of martial law but also the end to a longstanding ban on organized political opposition.

The opposition to reforms from the right wing of Chiang's ruling party is so strong that only a leader of his standing is likely to be able to bring even the beginnings of meaningful change.

To get his way, Chiang is having to apply quiet but steady pressure. The main resistance comes from some of the elders within his own party and from leaders of the military as well as the police and intelligence organizations.

The problem for Chiang, it would appear, is to give the more than 80 percent of the population that is native Taiwanese a greater voice in affairs, but to do so without creating instability or a real loss of power.

Opposition politicians and Taiwan human-rights activists, some of whom have spent time in prison or seen their publications repeatedly censored, are skeptical.

You Chiang, a founding member of an opposition party formed two weeks ago in defiance of the ban, said this week that he detects nothing more than a change of tactics by the president. Another opposition leader calls it "old wine in a new bottle."

No one expects major changes before the Dec. 6 legislative elections. Even while lifting martial law, the ruling Kuomintang, or Nationalist Party, is expected to propose a

new national security law that could be nearly as stringent, critics say.

But some critics grudingly acknowledge that taboos are being dismantled. An opposition politician who dared even talk about lifting martial law or forming a new party might have found himself under arrest a few years ago.

Some critics also recognzie that the opposition to change is such that unless Chiang Ching-kuo puts his strength and prestige on the line, little is likely to happen.

Chiang is clearly not aiming for anything like western-style democracy. The Kuomintang is organized along Soviet lines, with a Central Committee at the top and party cells below.

But Chiang has been trying to move the island, as opposition politician You Ching describes it, from "hard authoritarianism" to "soft authoritarianism."

Chiang's motives seem to include a desire to create a more broadly based political framework that would, in theory at least, provide a more stable base for Taiwan's remarkable economic progress once the president leaves the scene.

Because of health problems and his advanced age. Chiang may also be thinking of his place in history. He may have an eye on Taiwan's image—none too good in some parts of the world because of past crackdowns on opponents. And Chiang must realize that once he goes, no leader is likely to have the standing required to make the changes he is now pursuing.

Chiang's likely successor, Vice President Lee Teng-hui, an agricultural economist and native-born Taiwanese, is widely liked but lacks Chiang's experience and influence.

All of this matters much more than it might seem at first glance to the outside world. The island may look like a mere dot on the map, but its more than 19 million inhabitants have turned Taiwan into a major exporter. Its location, not far from China, Hong Kong, Japan and the Philippines, adds to its importance.

In Peking, Chinese leaders watch every move Chiang makes. They appear to be more comfortable with the idea of dealing with Chiang, anticommunist that he is, than with his successors.

If Chiang's current strategy works, Peking will be facing a more broadly based and thus more complicated political entity on Taiwan. The president's successors may be even less interested than he in Peking's proposals for "reunification" with the mainland.

Chiang is apparently encouraging political change, in the meantime, not only for reasons of his own but also because of pressure coming from three directions—from his opponents, from an expanding Taiwanese middle class that wants more representative government, and from the younger members of his own political party. In their view, Taiwan's politics are a few decades behind its economics.

But while the long-range change may prove dramatic, Chiang can move only gradually in the short run. The president cannot make a move without consulting the Kuomintang patriarchs.

Chiang long ago brought the generals under control, but he cannot ignore them. There unhappiness is reflected in a Defense Ministry publication, the Youth Daily News, which over the past two weeks has published 25 editorials and commentaries against legalizing the new opposition political party.

Chiang said in an interview last week that the termination of martial law would mean an end to trials of civilians in military courts.

Most observers have concluded that an end to martial law will also mean diminished influence for the Taiwan Garrison Command, which now carries out much of the censorship. But censorship and restrictions on opposition activities in elections may continue under other laws.

Chiang has shown in the past that he can deal with tough opponents in the military and police. But even if he can get the military and police to work within a new system, he will face challenges from the political opposition. The newly formed Democratic Progressive Party includes some members who favor Taiwan independence, a taboo for Chiang.

Those who support Taiwan independence question the legitimacy of mainland-born Chiang's rule and propose instead that Taiwan be governed by those who were born on Taiwan. Mainlanders make up little more than 10 percent ofthe island's population.

TAIWAN: THE WINDS OF CHANGE

More than ever, those are only words. Communist rule in Peking has been a fait accompli almost since 1949, the year the Red Army pushed the bedraggled Nationalist forces to retreat to Taiwan. But in the minds of the Kuomintang hard-liners who have ruled in Taipei since then, the struggle to reconquer the lost empire has never really ended. For more than a quarter of a century Chiang Kai-shek kept the country on a civil-war footing with his "Temporary Provisions Effective During the Period of Communist Rebellion," martial-law regulations forbidding the formation of political parties and giving the government nearly unlimited authority. Since the generalissimo died in 1975, his son, Chiang Ching-kuo, has ruled with the same authoritarian powers.

Now at the age of 76, Chiang has no doubt begun to reflect on the legacy he will leave behind—and he evidently does not like what he sees. As things stand now, his government is unable to meet the demands of Taiwan's increasingly pluralistic and educated population. Reforms may be the only way to guarantee stability in the future. Chiang is also apparently unhappy at the prospect that he might be remembered as a dictator, and he has orchestrated a remarkable outreach to his political opposition in recent months—remarkable in Taiwanese political terms at least. Last April he appointed a three-member committee from the Kuomintang (KMT) party to hold ground-breaking talks with the *tangwai*, Taiwan's opposition. In an interview last week with Newsweek and The Washington Post, Chiang confirmed publicly for the first time that he plans to lift martial law (box). The president said at one point that the government had "decided to terminate the emergency decrees."

That hardly amounts to a pledge to inaugurate a Western-style democracy in Taiwan. Chiang set no firm timetable for implementing the changes, and he made it plain that new national-security legislation will replace some of the old provisions of the emergency decrees. But if his vow to end martial law is not *derailed or compromised* it will institutionalize the concept of a legitimate opposition to the KMT's one-party rule. "We've never before had an organized political opposition," tangwai member Antonio Chiang said last week. "This will be an experiment." If it works, it will almost certainly lead to further political liberalization, a home—and perhaps, eventually, *to an end to Taiwan's four decades of enmity toward Peking.*

Whatever the outcome of Chiang's promise, the pressure of change on the KMT will only increase. Just three weeks ago a group of 135 opposition members dared to form what they are calling the Democratic Progressive Party (DPP). That was technically a violation of Taipei's martial-law rules—aimed, at the very least, at preempting the government's reforms, with an eye toward the Dec. 6 legislative elections. Internationally Taiwan's diplomatic isolation continues to grow; the list of countries still recognizing the KMT as the legitimate rulers of China has dwindled to just 23. And inevitably, many Taiwan residents have come to question the relentless fearmongering over the communist menace from Peking. In fact many business leaders see the mainland as a perfect market for expanding Taiwan's export-driven economy.

Against that background, Chiang has begun remaking his own image. The president suffers from diabetes and eye ailments, and last April he had an operation to implant a pacemaker. He moves slowly, with apparent pain, and his hands tremble. Still, Chiang's mind remains keen, and at last week's National Day festivities his message was firm even though his voice was feeble. "We must be united!" he rasped before crew-cut soldiers and banner-waving students. "Long live the Republic of China!"

In spite of the rhetoric Chiang began practicing the art of cautious compromise years ago. At the very time he assumed office he brought into the government scores of native Taiwanes, who make up 85 percent of the island's population. That incensed some of the mainland-born KMT establishment but helped assure the party's grip on the government. Now Chiang is apparently betting that the same pragmatic approach to politics will lead to a smooth transition, and continued KMT rule, after he is gone.

Lifting martial law makes the first step in that process. As Chiang explained to NEWSWEEK, the proposed modifications in the country's legal system will first go to the Legislative Yuan, the country's highest legislative body. Under the new laws, civilians will probably no longer be tried by Taipei's strict military courts. Such crimes as sedition—which currently has no precise definition in Taiwan—will likely be spelled out in detail. But the biggest change beyond doubt will be the legalization of political parties. Until now opposition candidates could run for office, but only as independents with no party affiliation. The whole campaign process heavily favors the KMT. (Two other legal—but insignificant—parties rarely, if ever, front candidates against the KMT.) In truth, the opposition has been given slight leeway this year. But in the past, members had to go through elaborate charades—calling their political meetings "birthday parties," for example—to avoid violating martial law.

Understandably, all this resulted in a deeply divided and fractious opposition. Although a few opposition politicians have been elected to national office, the largest turnout the opposition ever received was 27 percent. The 135 founding members of the DPP hope to begin changing all that. It remains unclear whether the government will give the fledgling party a chance. According to top KMT officials, the Army and right-wing party members wanted to arrest the DPP founders the day they issued their

manifesto. Fearing the international criticism that followed an opposition roundup after a bloody riot in 1979, party moderates managed to persuade the extreme rightists to back down. Chiang himself has tried to ignore the group as best he can, dismissing it as a "so-called party"—a convenient rhetorical side step.

MAXIMUM FLEXIBILITY

In fact, the government has apparently concluded that no quick action is the wisest response to the DPP. Last week Prime Minister Yu Kuo-hwa attacked the party during a session of the Legislative Yuan, warning ominously that DPP members would be "dealt with in accordance with the law." The following day Chiang cut a different tack, conceding that some KMT members might see the government's response to "certain problems" as weak. But he went on to say that in order "to attain more important goals, priorities should not be confused." Such deliberately mixed signals from the top give the government maximum flexibility on the DPP issue, and help keep the opposition off balance. If the DPP stirs up trouble, nothing will prevent a swift, hard crackdown. If the opposition sinks into its previous state of confusion, the KMT can probably ignore the DPP. "Let the opposition form their party," scoffed one young high-level KMT pragmatist. "They have little support, and we have nothing to fear."

Taiwan's economic prosperity helps support such bluster. Shortly after their arrival, the Nationalists cut an unspoken deal with the longtime residents of the island, reserving the fields of government and security for themselves but leaving the operation of business largely to the Taiwanese. Concentrating on low-tech exports, the country has built a robust $60 billion economy with almost no inflation or unemployment. The income of Taiwan's citizen, now an average of more than $3,000 annually, is more than 10 times the amount the typical mainland worker makes.

Still, prosperity has its price. Although wages in Taiwan remain low, especially when compared with those in the United States or Japan, such countries as Thailand and China now easily undercut Taiwan's labor costs on big international contracts. Such nations have begun to compete with Taiwan in the production of low-end consumer electronics, textiles and toys. Taiwan has had little success in upgrading its exports to more sophisticated products that rely more on technology than cheap labor. Spending for research and development remains alarmingly low. That, combined with a generally low investment rate, spells almost certain trouble for the future. And the very efficiency of the export machine has created problems. Last year, for example, Taiwan recorded a $13 billion trade surplus with the United States, its biggest export customer, touching off fears over a growing protectionist drive in Washington.

CREATURE COMFORTS

The economic miracle also has high social costs. Taiwan's growing middle class enjoys such creature comforts as refrigerators, color televisions and VCRs. Many also have money to spend on such pleasures as, say, foreign travel. The exposure to other, more liberal systems of government has prompted many people to ask why things cannot be as free at home. Economic achievement has also brought a sense of security in Taiwan's business community on the question of relations with Peking. China's 1 billion potential consumers are barely 100 miles away across the Formosa Strait. They seem natural customers for Taiwan's finished products and could in turn supply huge amounts of much-needed raw materials. "We must stop looking at the mainland as our enemy and start dealing with it as our strong competitor," says one daring young government official. Peking can't possibly swallow Taiwan without an international uproar, the argument goes, so why not put the past to rest and start talking?

The very question sets off panic among KMT stalwarts. Their entire lives have been constructed around a rigid policy known as the three noes—no negotiations, no compromise and no contact—with what they regard as the communist usurpers on the mainland. Even as he discussed the eventual end to martial law last week, Chiang remained adamant about Chinese intentions toward Taiwan. "They have not abandoned their desire to invade or incorporate us," he insisted. Indeed, Peking refuses to rule out a military solution to the Taiwan question.

However, the Chinese have also made very public and increasingly peaceful overtures aimed at reconciliation. Seven years ago Peking's Marshal Ye Jianying even announced a proposal for reunification that would have allowed Taipei to maintain its capitalist economy and its own military. The KMT rejected the offer out of hand, although that stance made Taiwan look like the stubborn party. Since then, Peking has continued its so-called smiling offensive, repeatedly reiterating the offer to establish a plan modeled on the "one country, two systems" settlement worked out with Britain over the future of Hong Kong. Taipei has rejected each proposal.

Yet cracks may have begun to appear in Taipei's resolve. Last May, after a pilot from Taiwan's China Airlines diverted a cargo plane to Canton, CAL representatives sat down with their counterparts from CAAC, Peking's state airline, and worked out an agreement for the return of two other crewmen and the $60 million Boeing 747. Taipei insisted the talks amounted to nothing more than "businesslike" dealings over "a single aviation case," but for the first time since 1949 the biggest of the three noes had been breached. In other, smaller ways, Taipei now gives a nod to unofficial contacts between its citizens and those on the mainland. A burgeoning unofficial trade with Chinese companies, conducted mostly through Hong Kong middlemen, accounts for more than $1.2 billion in two-way trade each year.

Although the government would never acknowledge it, Taiwan now has little choice in dealing with the China issue. Peking's extensive formal relations with foreign governments give it a distinct advantage in the elaborate game of international diplomacy. Still, Taipei has found dozens of ways to compensate for the loss of official ties. Contacts with Washington, which broke ties with Taiwan in 1979, fall under the purview of the Coordination Council for North American Affairs, an aggressive, well-oiled lobbying group. The United States, in turn, operates the American Institute in Taiwan, staffed by career diplomats who temporarily "resign" from the diplomatic corps to avoid ruffling feathers in Peking. Taiwan's assiduous courting of the Americans pays off; until recently, for example, the U.S. Congress made little fuss over the big trade imbalance with Taipei.

"UNOFFICIAL" FRIENDS

Such attempts to maintain good relations overseas has helped to assure Taiwan a significant reservoir of good will, albeit from "unofficial" friends. The foreign outreach is led by a coterie of young, mostly Western-educated advisers who surround Chiang. These young technocrats, says Lu Ya-li, a political science professor at National Taiwan University, "are not theoretic, but pragmatic," and their cleareyed approach to statecraft "does not reflect liberalism of any kind." A decade ago Taipei felt obligated to pull out of any organization that recognized Peking. Now, although the government denies that there has been an official policy change, Taipei has stopped such knee-jerk reactions, preferring to remain in those organizations. Since China was admitted to the Asian Development Bank last March, for example, Taiwan curtailed its participation but has not officially withdrawn.

There is little question about the source of such reforms. They are the will of Chiang Ching-kuo," says one longtime foreign resident to Tapei. "He wants to bequeath a stable and long-lasting system before he dies." Chiang has only recently begun preparing for his succession. In 1985 he ruled out the possibility of a "Chiang Dynasty," vowing that none of his children would run for president. But Chiang has yet to point to a successor as head of the KMT, where real power lies. Officially, should anything happen to Chiang, Vice President Lee Teng-hui will take over. The 63-year-old Cornell-trained agronomist is one of the first Taiwanese to reach such a high government position. He enjoys enormous popularity among Taiwanese, but has little support within the KMT and the powerful military. For that reason, says Taiwan University's Lu, "he will be a titular ruler only." Academics and opposition leaders expect some sort of collective leadership after Chiang dies.

The possibility of political change in Taiwan many make it impossible for Chiang to handpick a successor. The KMT, says tangwai member Antonio Chiang, is only moving "from hard authoritarian to soft authoritarian." Yet even he concedes that an end to martial law may signal a new beginning for the country. "Martial law has handicapped our thinking," Chiang says. "There was supposedly a civil war going on. Once you remove martial law, that mentality will have to go." Chiang Ching-kuo has no doubt considered just that-and the other repercussions that inevitably accompany reform. Now, in the autumn of his life, he has apparently concluded that the advantages of moving forward outweigh the risks of standing still.

TRIBUTES TO RETIRING SENATORS

SENATOR EAGLETON

Mr. SASSER. Mr. President, politicians are often criticized for speaking out on issues only when they know it's politically safe to do so. But I cannot recall anyone ever accusing TOM EAGLETON of such reticence. He is a man who is unafraid to speak his mind. More important, when he does he is usually right.

TOM EAGLETON came to the Senate when this Nation was bitterly divided over the Vietnam war. He could have

played it safe and stayed in the background on one of the most controversial political issues of this century. Instead, he became one of the most outspoken critics of America's involvement in the war. Senator EAGLETON believed in his heart and in his mind that America was in the wrong war, at the wrong place, at the wrong time; and he did everything in his power to extract us from that troubling conflict. In fact, his amendment to a 1973 appropriations bill effectively ended U.S. involvement in the Indochina war by cutting off all funds for combat activity in Cambodia and Laos.

TOM EAGLETON has displayed this remarkable talent for speaking out with a clear voice of reason time and time again throughout his 18 years in the Senate. He has never been one to lie low on matters of vital importance to the American people—whether it be the Vietnam war, civil rights, abortion, or school busing. His candor and forthright style have brought him much deserved respect and admiration from both sides of the aisle. No one, even those who disagree with him, can help but admire his enormous political courage.

I am going to miss TOM EAGLETON and I am sure the Senate will miss this extraordinary man as well. But our loss is Washington University's gain. The students at this fine St. Louis university will have the unique opportunity to learn from an experienced politician and 18-year veteran of the U.S. Senate who has not lost his youthful idealism and candor.

Thus, it is with mixed feelings that we say farewell to TOM EAGLETON. His presence in the Senate will be sorely missed. However, I take solace and comfort in knowing that TOM EAGLETON will be a living example of true statesmanship to his students at Washington University. I am confident that TOM's example will prompt others to follow his path of public service. And for that we can all be grateful.

SENATOR LONG

Mr. SASSER. Mr. President, with the closing of the 99th Congress, the Senate will lose one of its true legislative giants, RUSSELL LONG. Since his arrival in the Senate in 1948, RUSSELL LONG has been at the forefront of many important issues. Indeed, over a 36-year career of service in the Senate, RUSSELL LONG has witnessed a parade of critical events and issues in this Chamber. Many times he has been at the center of these historic debates.

Impressive as this record of service is, we all know what RUSSELL LONG will be best remembered for. For over 20 years, RUSSELL LONG has played a central role in shaping tax policy for this country. It is these significant contributions to the critical area of tax policy for which RUSSELL LONG will stand out as a historic figure for years to come.

RUSSELL LONG became the chairman of the Senate Finance Committee in 1966. He served as chairman of this important and very influential committee for the next 15 years. During that tenure and in the capacity of the ranking minority member on the Finance Committee, RUSSELL LONG has molded many a tax bill.

Among the host of tax bills that RUSSELL LONG has seen during his years in the Senate, several major issues stand out. Some suggest that tax reform was a new idea this year. Well RUSSELL LONG has helped push through the Senate not one, but three separate tax reform bills. In 1969, 1976 and again this year, RUSSELL LONG has shephered tax reform measures through this Chamber. In addition, he can point with pride to his landmark efforts in establishing the Revenue Sharing Program.

The one issue for which RUSSELL LONG will be most fondly remembered is employee stock ownership plans. Quite literally, Mr. President, RUSSELL LONG is the father of this important concept. It is through ESOPS that we actually see democratic ownership of capital throughout America. It is through ESOPS that more Americans are able to more fully reap the fruits of their labor.

ESOPS are saving thousands of jobs across America. They are giving American workers a greater sense of pride and interest in their work. Something we desperately need as we strive to compete in today's world markets. As I pointed out earlier this year, ESOPS are doing much for many workers in Tennessee and other States.

For championing this important program, we are all indebted to RUSSELL LONG. We will miss his leadership on this and many other important issues of the day. I join my colleagues in thanking RUSSELL LONG for all that he has brought to this body. I wish him well in the days ahead.

SENATOR HART

Mr. SASSER. Mr. President, when we pay tribute to a retiring Senator, we normally reflect on the end of a political career. However, I feel sure the remarks my colleagues and I make about GARY HART in the final days of this session will not show up in the final chapter of his political career. Senator HART is too talented, too energetic, and too interested in America's well-being to remove himself permanently from the political arena and the policymaking process.

GARY HART exemplifies a generation of Democratic leaders who feel unbound by the ideas and the policies of the past. Building on the base within our party established by Franklin Roosevelt and John Kennedy, he has helped rekindle a sense of compassion and commitment to innovation. His 1984 Presidential campaign helped inspire the belief among young and old Americans that the Federal Government should have a positive impact on people's lives.

But GARY HART has brought more than vitality and new ideas to the political process. In his 12 year career in the Senate, he has developed a level of knowledge and expertise on the issues that is unsurpassed. Nowhere is his expertise more evident than on defense issues. On the Armed Services Committee, he is an acknowledged expert on military tactics and strategy. He helped found the military reform caucus and has become one of the Senate's most knowledgeable spokesmen on arms control.

GARY HART's years of public service will likely not end as the 99th Congress comes to an end. But, even in the unlikely event that that the Senator from Colorado does retreat forever to a private life in his beautiful State, he can take great pride in his major accomplishments over the last 12 years. He has done much to set the agenda of his party and the Nation for years to come.

I congratulate Senator HART on an excellent career in the Senate and thank him for his outstanding service to the American people.

JAPANESE JOINT VENTURE JOURNALISM

Mr. HEINZ. Mr. President, it has been some time since I took the floor to criticize the Japanese for the one-sided nature of our trade relationship and their failure to act to rectify current inequities. I might say that my voluntary restraint on harsh criticism or even on incendiary rhetoric was based in part on my belief that limiting public attacks on the Japanese might encourage the resolution of some of our serious and outstanding trade problems. But now I have learned that the Japanese would rather manipulate American attitudes about Japan through public relations gimmicks than deal with our concerns seriously.

The best evidence of this comes from a recent article in the Japanese daily Mainichi, which details the plans of the Japanese Government's Ministry of International Trade and Industry, [MITI] to hire American reporters to promote the image of Japan as a benevolent ally and trading partner.

I repeat that: To hire members of the American news media to manipulate American opinion in favor of the Japanese.

Apparently, the Ministry of International Trade and Industry has decided to pursue a joint venture in journalism, one that would paper over with propaganda the serious differences be-

tween our nations instead of trying to resolve them.

It seems that now that the Japanese have established themselves in every market, MITI and the Japanese are going to market a "new and improved" image of Japan, a Japan that is supposed to really care about its major trading partners.

Mr. President, I am not buying that, and I do not think the American people are either. Leaving aside the implications this effort to manipulate American public opinion has for the integrity of American journalism, by even proposing such a scheme the Japanese demonstrate to this Senator that they are not interested in taking the difficult steps necessary to promote improved and equitable and fair trade relations. Instead, MITI likes the present state of affairs and wants to paper over any disagreements.

Japanese filmmaker Akira Kurosawa pointed out in his award winning film, "Rashomon," that reality is a matter of perception and perspective. It is past time that the Japanese realize that our perception of Japan will not change until our perspective changes. The only way this can occur is if the Japanese pursue, in good faith, an improved, balanced trade relationship. A $200,000 investment in the fourth estate will not undo the damage of a $70 billion trade imbalance. As Americans, we value action over words. If MITI and the rest of the Japanese Government were smart, they would invest in real improvements in Japan's relationship with the United States, rather than trying to buy a positive image by buying American journalists and opinion makers.

Mr. President, I ask unanimous consent that the article detailing this ill-inspired effort be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"FRICTION REPORTERS" TO BE ASSIGNED TO US; MITI PLANNING "LOCAL HIRE" IN 10 STATES WITH STRONG CRITICISM AGAINST JAPAN

MITI will consolidate a "grass-roots information network" in the US to cope with the intensifying economic friction. It is a local-reporter system, which MITI will carry out through the Japan External Trade Organization (JETRO) as a new project from the next fiscal year, and MITI will conclude contracts directly with US local economic-world persons and will take up live voices closely connected with local communities. In the initial year, MITI plans to establish it in ten states, including states which have deep-rooted criticism against Japan. In this connection, MITI has submitted a budget estimate of 30 million yen.

MITI and JETRO are both entertaining a sense of crisis, because Japan's trade surplus with the US this year is likely to break the level of 70 billion dollars. Also, there is self-reflection upon the fact that the Japanese side was driven into difficult negotiations, due to its lack of US local information, on such occasions as the inter-governmental semi-conductor consultations since last year, and partly because of this, MITI and JETRO decided to set about hiring foreign reporters for the first time.

As reporters, MITI and JETRO have already prepared a listing of enterprise managers, executive officials of local chambers of commerce and industry, lawyers, and newspaper editorial staff members in local areas. MITI and JETRO are planning to have one reporter in each of ten states, including Missouri, Oregon, and Michigan, in which JETRO has no branch office.

Making a contract with Japan is a side-job for reporters, but the Japanese side is aiming at collecting information about local enterprises while making use of their "faces." MITI and JETRO are attaching expectations on them, while thinking that it will be possible to probe the background of the US Congressional bill for retaliation against Japan and it will also be possible to collect information for the purpose of helping Japanese enterprises advance into the United States. Also, MITI and JETRO will try to persuade American citizens who are angry at the expanding of the trade imbalance, by asking these reporters to conduct PR on Japan's market-opening measures.

THE 10TH ANNIVERSARY OF NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Mr. STEVENS. Mr. President, the North Pacific Fishery Management Council recently celebrated its 10th anniversary. The North Pacific Council is one of eight regional councils which develop management plans and policies for our domestic fisheries.

Attendees at the historic 10th anniversary celebration were treated by the presence of a very special person, Elmer Rasmuson. As the first chairman of the North Pacific Fishery Management Council, Elmer began a tradition of effectiveness and dedication which subsequent chairmen were able to continue. Elmer delivered insightful remarks on his impressions of the first 10 years of the regional fishery management process which provide us with valuable suggestions for future improvements.

Mr. President, I request that the following remarks by my good friend Elmer Rasmuson be submitted for publication in the CONGRESSIONAL RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY ELMER RASMUSON ON THE OCCASION OF THE 10TH ANNIVERSARY OF THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Dr. Calio, Chairman Campbell, ladies and gentlemen: This is a birthday party and, having just returned from Harvard's 350th, I am very conscious of the occasion. It is a point in time for both a recollection of the past and appraisal of the future.

Now, looking backwards and forwards at the same time is not only hard on the neck but is probably the most difficult task in public service—keeping the right balance.

As we observe this decennial, it is indeed appreciated that a comprehensive review of the council system is taking place to consider needed improvements.

The council system, created under the Magnuson Act, is unique in that for the first time in the history of our nation, the Federal Government entrusted management decisions to a lay body and on a decentralized basis. It did this in response to the needs of the great and growing diversity of fishing interests. Recognizing that the differences were legitimate and complex, there was nevertheless a necessity to provide for some apparatus that would mold them in an agreeable course of action.

Conceptually the council system is ingeniously simple. It funnels through the wants and wisdoms of all the interested parties on a localized basis because this is where the decision impact falls. The necessary coordination with state responsibilities is provided for in council membership and selection. Then to recognize national and international interests and maintain some degree of unity in policy, a review procedure is provided for in Washington.

I doubt many people would want to scrap this arrangement. It is only in the administration of the Act that disagreements and sometimes friction arise. The overall success depends upon the degree of cooperation extended by the participants.

I share the feeling that the early success of the North Pacific Council was due to the training and association so many of us had on the International North Pacific Fisheries Commission. Most of us had worked together. Stability and longevity on a council is not adequately appreciated. We had accepted the biologists' findings as a foundation. We were raised in the principle of extended jurisdiction because that is basically the meaning of the abstention line. We understand the importance of working together as between states and the Federal Government and sovereign nations. In setting up the council, we adopted the advisory committee system that had worked so well under INPFC. In other words, when we organized the North Pacific Council, we hit the decks running.

Certainly the council concept is worth keeping. Because the acceptability of any legislative Act depends upon the men and women who administer it, the composition of the attendant officials in both Washington and the states is extremely important and should not be treated as political plums. Nor in council decisions is there any place for strictly parochial voting.

However, there are certain technical changes that can be helpful in achieving the desired cooperation. A shortening of the review time in Washington would be desirable. This can be achieved in two ways without weakening the benefits of the national overview. The first is by having the fishery and environmental authorities work earlier and more closely in the drafting of the management plans. The second is to have all reviews as concurrent as possible.

A second suggestion is to borrow a concept from our judicial system. That is to regard the council as the sole determinant of the management facts and leave the Washington review to matters of policy and law. This can be done if the recommended early participation in the development of a management plan is adopted.

A statutory distinction between voting and non-voting members on the council has always bothered me. If an individual is qualified for membership, he should actively participate in the deliberations and not just as an observer. If qualified to help

shape the dialogue, he should participate in the final decision process which is voting.

I have appeared before your Council as a member of the U.S. Arctic Research Commission. This Commission has no operational or funding authority but was created by the Congress to achieve a cooperation in Arctic research between the various cabinet offices, state and local authorities, indigenous peoples and foreign countries. Because the enabling Act defines the Arctic in such broad terms as to encompass the western coast of Alaska, including the Aleutian Islands, fishery research is of prime concern. As a matter of fact, the first agreed direction for joint research between the state of Alaska and the Commission is in fisheries. This is another vehicle for bridging the gaps between disciplines and line authorities.

My concluding comment is that we live in a shrinking world where separateness has ever decreasing importance. We must respect the integrity of diverse views but nevertheless achieve a working unity. In my experience, this is best accomplished by concentrating on long range goals for the greatest public benefit but administered with patience and through the use of informed common sense.

TRIBUTE TO J. BATES GERALD

Mr. THURMOND. Mr. President, I was saddened to learn of the recent death of my good friend J. Bates Gerald of Charleston, SC. Mr. Gerald was a fine man, who accomplished much in the service of his State during his lifetime.

He was born August 30, 1894, in Manning, SC, and earned two degrees from the Blackstone School of Law. Among his many enterprises, he was a very successful businessman, and retired president of North State Lumber Co.

Mr. Gerald was elected to the South Carolina General Assembly in 1928. During his brief term in office, he was instrumental in helping to create the State highway department, which later became the South Carolina Department of Highways and Public Transportation. He also helped to write the bonds bill which led to the paving of highways in South Carolina.

The achievement for which he was best known, however, was the founding of the South Carolina Republican Party in 1938. He was a dedicated Republican, not only serving as the chairman of the South Carolina party for 12 years, but paying for its certification; serving as chairman of the State delegation to four national conventions; and working as a member of the Republican National Committee for 8 years.

Mr. Gerald's warmth and good humor were constantly evident to those around him, to whom he was fond of saying that he had been a Republican when there were only two in the State, and he had lit a lantern and walked down Broad Street looking for a third.

Always active, he helped to organize the Veterans of World War I and the American Legion, and was a member of the Episcopal Church.

His political activities and his many personal attributes brought him numerous friends, including several Presidents. I will remember Bates for his integrity and energy, and his true kindness and concern for his fellow man.

I will always be grateful that I had the opportunity to know Bates Gerald, and I would like to extend my deepest sympathy to his fine family.

DEATH OF J. WILLIS CANTEY OF COLUMBIA, SC

Mr. THURMOND. Mr. President, on October 15, 1986, South Carolina lost one of its most outstanding citizens. J. Willis Cantey, a heavily decorated veteran of World War II and a dedicated citizen, died after a lengthy battle with cancer.

Willis Cantey was my good friend, a man in whom I had the greatest confidence. However, he was a friend to everyone in my State who knew him. His accomplishments, as a soldier and as a civilian, helped him develop a reputation as an individual who served his State and his Nation with honor and distinction in war and peace.

While his contributions to the fields of banking and financial management were very noteworthy, Willis Cantey is best known for his distinguished military service. At 25, he became the youngest battalion commander in the U.S. Army, serving in World War II and winning three Silver Stars for gallantry in action, four Bronze Stars for heroic achievement, a Purple Heart, the Legion of Merit for exceptional meritorious service, and the French Croix de Guerre.

He was later promoted to the rank of colonel and in 1981, retired from military duty. I had the high privilege and great pleasure in recommending Willis to be the civilian aide to the Secretary of the Army for my State in 1981, and he was reappointed to that post 2 years later. After resigning for health reasons, Willis served as civilian aide emeritus.

As a civilian, Willis Cantey fought hard for improvements in higher education and was one of the most public-spirited people I have ever known, serving on the South Carolina Ports Authority Board, the last 2 years as its chairman; and as director of the National Safety Council. His love for his State, his Nation, and his fellow citizens was boundless. So was the love and devotion he had his lovely wife, Nancy, and his devoted family.

All who knew Willis Cantey will miss him greatly. Our State, and indeed our entire Nation, have lost a true friend, a devoted patriot, a brave soldier, and distinguished citizen.

So that my colleagues might know more about the accomplishments of Willis Cantey, I ask unanimous consent that a newspaper story about his life be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The State (Columbia, SC), Oct. 16, 1986]

COLUMBIA LEADER CANTEY, 69, DIES

Businessman, banker and much-decorated World War II hero James Willis Cantey died Wednesday at the age of 69.

Born March 3, 1917, in Columbia, Mr. Cantey was a son of John Manning and Elizabeth Childs Cantey.

Mr. Cantey, of 1400 Westminster Drive, joined Columbia Outdoor Advertising Co. during the 1940s and served as its president until 1958, when he became chairman of the board. In 1960, he was named president of Citizens & Southern National Bank of South Carolina. He served as chairman of C&S from 1971 until 1974, and later served as a director of the bank.

Mr. Cantey was a decorated combat veteran of World War II. At 25, he became the youngest battalion commander in the U.S. Army. He was later promoted to colonel. In 1981, decades after he retired from military service, Mr. Cantey was appointed the Civilian Aide for South Carolina to the Secretary of the Army. He was reappointed to the post in 1983. After resigning for health reasons, Mr, Cantey was made Civilian Aide Emeritus.

For his leadership in banking and financial affairs, his efforts to improve higher education, and for his work in the public interest, Mr. Cantey was awarded an honorary doctor of laws degree by the University of South Carolina in 1985.

His accomplishments and public service were praised Wednesday by Sen. Strom Thurmond, R-S.C., and James B. Holderman, president of USC.

"I am deeply saddened by the death of my good friend, J. Willis Cantey," Thurmond said.

"He was a man who served his nation with honor in both war and peace. South Carolina and, indeed, our entire nation have lost an outstanding leader."

Holderman said Mr. Cantey's death was a loss to Columbia and USC.

"From his childhood days when his father was part of the university family through his distinguished later years, Mr. Cantey was an important part of the Carolina community," Holderman said.

"We will miss the wisdom and keen intelligence he brought us through his active participation in a variety of university groups."

He attended the University of South Carolina, where he enlisted in the S.C. National Guard in 1935. He graduated and was commissioned as an infantry lieutenant in 1938. His unit was mobilized in 1940 as part of the 30th "Old Hickory" Division, which distinguished itself in Europe.

As an infantry troop leader in combat, Mr. Cantey was awarded three Silver Star medals for gallantry in action, four Bronze Star medals for heroic achievement, a Purple Heart, the Legion of Merit for exceptional meritorious service and the French Croix de Guerre (War Cross) for bravery.

At the war's end, Mr. Cantey joined Columbia Outdoor Advertising Co., which he later purchased.

He joined C&S bank as assistant to the president in 1958.

During his tenure with C&S, the bank grew substantially. In 1958, loans were $56 million, deposits were $110 million and total assets were $121 million. There was a net operating profit of $950,000. C&S then operated in five cities.

By 1974, loans totaled $344 million, deposits were $464 million and assets were $604 million. There was a net operating profit of $5,170,000. C&S Corp. had been formed, with seven subsidiaries operating in four states. There were 76 branches in 25 cities. Mr. Cantey was credited with negotiating seven mergers.

While with C&S, Mr. Cantey served as president of the S.C. Bankers Association and president of the association's Past Presidents' Club. He was a member of the Banking, Monetary and Fiscal Affairs Committee of the U.S. Chamber of Commerce and served as a director of the Federal Reserve Bank of Richmond, Va., Charlotte Branch, 1967-72.

The Southern Banker named him "Banker of the Year" in 1971.

Mr. Cantey also was active as a director of various companies in South Carolina, including The State-Record Co., Standard Savings and Loan Association, Liberty Life Insurance Co. and Carolina Freight Carriers with headquarters in North Carolina.

He served for eight years on the board of the South Carolina State Ports Authority, acting as chairman for the last two years of his tenure. He also served as director of the National Safety Council.

Mr. Cantey was committed to advancing higher education in South Carolina. He was a founding member of the USC-Business Partnership Foundation and served as chairman and secretary-treasurer of the Investment Committee of the foundation. He served on the President's Council at USC Alumni Association, where he was awarded the Algernon Sidney Sullivan Award in 1970 and the university's Distinguished Alumni Award in 1984.

Mr. Cantey also was active in civic affairs. He served as president of the United Way campaign in Columbia and worked to bring business and investment to his home city. The Columbia Chamber of Commerce named him Ambassador of the Year in 1972, and he was chairman of Capital City Development Foundation.

He was a member of the Cotillion, the Centurion Society, Forest Lake Club, the Summit Club, the Palmetto Club, Sigma Alpha Epsilon, Omicron Delta Kappa, Kappa Sigma Kappa, Beta Gamma Sigma, the Kiwanis Club and Trinity Episcopal Cathedral.

Surviving are his wife, the former Nancy Moorer, formerly of Walterboro; three sons, James W. Cantey, Jr., Joseph M. Cantey and John C. Cantey; a brother, Dr. William C. Cantey, all of Columbia; a sister, Mrs. Stewart W. (Elizabeth C.) Heath of Spartanburg; grandchildren; and nieces and nephews.

Services, with military rites, will be held at 4 p.m. today in Elmwood Cemetery, conducted by the Very Rev. John E. Banks and the Rev. Susan Heath.

Memorials may be made to the Charity of one's choice.

THE NOBEL PRIZE FOR ECONOMICS

Mr. DOLE. Mr. President, I want to bring to the attention of my colleagues an outstanding decision by the Royal Swedish Academy of Sciences. The Academy announced this morning that the 1986 Nobel Prize in economics will be awarded to Dr. James Buchanan of George Mason University.

This is an extraordinary and groundbreaking decision, and not just for reasons of civic and regional pride. Of course, we are proud that Dr. Buchanan is working right here in the Washington area. But more importantly, his work has vital lessons for those of us in the Congress, lessons that have profound significance, as the Nobel award recognizes.

POLICY AND POLITICS

James Buchanan has made a big, big difference in the way we look at economic policy and at the political leaders who shape that policy. His unique contribution has been to focus our attention on why political leaders come to certain decisions, and on the forces that shape political decisionmaking. In other words, Dr. Buchanan emphasizes the rules that shape the political game, and goes on to analyze what those rules mean for economic policy.

When you think about it, Mr. President, that is a logical, commonsense way to looking at economic policy—but it was not obvious at all, until men like Jim Buchanan moved so-called public choice theory to a leading position in the world of economics. And for those who think this is a matter only of interest to the academic world, let's look at some of the implications Dr. Buchanan's work has for the work we do in the Senate, each and every day.

THE WAY WE ARE

Jim Buchanan tends to believe that politicians vote their self-interest, and that more often than not, a politician's self-interest won't be the best thing for the public as a whole. For that reason, the Buchanan approach is to look at ways to restrain the actions of politicians.

And that, Mr. President, is what constitutions are all about. The Bill of Rights is probably the most celebrated text in the world that serves to restrict the power of the Government, in order to protect the freedoms we all enjoy. In the sphere of economics, Dr. Buchanan's public choice approach is the driving force behind the campaign for a balanced budget amendment to the Constitution—a discipline we dearly need, in the opinion of this Senator. And public choice analysis also is keenly relevant to initiatives like the line-item veto, the Gramm-Rudman law, and limits on tax rates and on the scope of taxation in general.

These are not just important economic issues, Mr. President. They are critical pocketbook issues for each and every American. That's why the work of Jim Buchanan and his colleagues is so important to all of us, and to the American voter. Dr. Buchanan has changed the way we try to shape economic policy; in my view, our thinking on economic subjects is sounder as a result of his work.

I congratulate Dr. James Buchanan on his award—and I congratulate the Nobel Prize Committee for its exceptionally good judgment.

TRIBUTE TO SENATOR MATHIAS

Mr. LAUTENBERG. Mr. President, I rise to bid farewell to the senior Senator from Maryland [Mr. MATHIAS] who will retire from the Senate after this session of Congress.

MAC MATHIAS has served three terms in this body. His record is one that has the respect not just of the people of Maryland, whom he has so ably represented, but also of the Nation as a whole.

Mr. President, during the years he has served in the Senate, political tides have changed, Presidents have changed, and control of the Senate has changed. But, in the face of these changes, Senator MATHIAS has stood firm in his convictions.

MAC MATHIAS has stood firm in support of civil rights and civil liberties. He has stood firm in support of the Constitution and the separation of powers. He has stood firm in support of a judiciary that is above reproach. In defense of his convictions, he has at times stood alone in his party. At times he has stood alone in the Senate.

His convictions have cost him opportunities that would otherwise have been his. But, they have won him a place in history.

Mr. President, I have worked most closely with MAC MATHIAS on issues concerning intellectual property. That is an interest of mine. It is one I have shared with the Senator from Maryland.

As chairman of the Subcommittee on Patents, Copyrights and Trademarks, Senator MATHIAS has helped revise and modernize our law, to protect innovative ideas, and to preserve to their authors the fruits of their invention. The effective protection of intellectual property provides a critical incentive to invest in research and to expand our knowledge. There are few steps we can take that can have a greater impact in maintaining America's economic competitiveness than rewarding and encouraging technological innovation.

Just in the years I have served with Senator MATHIAS, he has played a leading role in the enactment of legislation to create a new form of intellectual property protection for semiconductor masks; to extend the patent term for pharmaceuticals, to compensate for time lost because of regulatory review; and to strengthen the law against counterfeiting of trademark goods.

I have worked most closely with Senator MATHIAS in our continuing effort to revise the law on process patents. Our goal has been to make it an infringement of a U.S. process patent to make, use, or sell a product in the United States made outside the United States through the unauthorized use of a process patent. Our legislation would bring American law in line with that of our major trading partners. It would provide important protection against foreign piracy of our most innovative processes.

Mr. President, Senator MATHIAS' persistence and wisdom brought the legislation through Senate passage last week. And if, as I hope, the Congress completes action on the legislation and sends it to the President for enactment, it will be due in large part to the work of the Senator from Maryland.

Mr. President, I will miss the Senator from Maryland. The Nation will miss him as well. I will miss his thoughtfulness, and his insights. His service to the Senate and his service to American ideals has been and will remain a model to us all.

RETIRING SENATORS

TRIBUTE TO SENATOR BARRY GOLDWATER

Mr. INOUYE. Mr. President, it is with great difficulty that I say farewell to one of our great statesmen and one for whom I hold a deep and abiding affection. As he departs this great body of the Senate, the gentleman from Arizona—the Honorable BARRY GOLDWATER—leaves with us a magnificent friendship, his unfailing good humor, and his wise and excellent counsel.

He leaves us uplifted and so much the better for having served with him. He leaves the U.S. Senate a classier institution than when he entered it.

And what does he leave the rest of America?

Voting rights for 18-year-olds.

Overseas and absentee ballot voting rights.

Awareness of the plight and special status of the American Indian and ultimately all native Americans.

His wisom as a student of history and an abiding belief that the "Past is Prologue."

Comprehensive DOD reorganization.

Grand Canyon Park Enlargement Act.

I cite these few, of the many achievements of the great Senator because I know they are especially dear to his heart.

Above all, we will be left with his inspirational gifts of courage and devotion.

I recall graffiti scribbled many years ago during his Presidential campaign which gave the chemical formula for gold and water: "AU H20=formula for courage."

At a time during the Vietnam-era when it was politically disastrous, he dared to pique the conscience of America and questioned our involvement in the war. At a time when it was not mandatory for him to resign from Senate office to run for the Presidency, he set precedent by his own example in order that his beloved State of Arizona would not be served less as a result of his higher political aspirations.

I will miss the courage of this great man in the Senate. Whether we fought together or on opposite sides he was always honorable, always courageous and always my friend.

A TRIBUTE TO SENATOR GARY HART

Mr. INOUYE. Mr. President, I wish to pay tribute to a great American and a fine leader, GARY HART, who in the coming days will be ending an outstanding 12-year career in the U.S. Senate.

While Senator HART's insight and leadership will be solely missed upon his departure from this body, I do not feel great sadness at this occasion, as I feel he is moving forward to new frontiers of service for this Nation. I am certain that although we are losing a strong and creative voice in the Senate, the country will continue to gain from Senator HART's vision and leadership.

During his tenure in the Senate, GARY HART has been an inspiration to us all through his thoughtful and creative approach to matters of national importance. By going beyond stereotyped responses and established positions, Senator HART has opened our eyes to fresh and promising avenues of endeavor. His willingness to make hard choices and take tough but necessary positions has forced us all to recognize and address the new challenges this Nation faces in the modern world.

In his work on the Armed Services Committee, Senator HART has delved deeply into the military policy of the United States, looking for the most effective approaches and strategies for the defense of our Nation. By broadening the debate on military strategy, he has encouraged the military leaders of this Nation to consider different options and prepare for different scenarios. In this role, Senator HART's contribution has been invaluable and his dedication to the task extraordinary. Indeed, it was demonstrative of GARY HART's commitment that, at the age of 44, he joined the Naval Reserve to serve the country in yet another capacity.

In conclusion, I know I am joined by all my colleagues in wishing GARY HART the best as he leaves the Senate to pursue other avenues of public service. Although his absence will leave a void in the Senate, I hope that he will continue to provide us with the benefit of his wisdom and insight when issues of supreme national importance are debated in these Chambers. I am certain GARY HART will continue his keen interest and involvement in these matters, and I feel the Nation will be the greater for it.

TRIBUTE TO SENATOR CHARLES MCC. MATHIAS, JR.

Mr. INOUYE. Mr. President, every 2 years, the press of business at the end of another Congress and the happiness of returning home is overshadowed by the sad task of saying farewell to some of our colleagues. This year is especially difficult since the U.S. Senate is losing one of its most respected and prominent Members, Senator CHARLES MCC. MATHIAS from Maryland.

It has been an honor and a privilege to work with Senator MATHIAS over the last 18 years, and I view his departure with deep regret. Popular with his constituents, esteemed by his colleagues, and admired by his staff, MAC MATHIAS contributed greatly to the business of this Nation. Democrats and Republicans alike sought his counsel and benefited from his advice. During his tenure on the Foreign Relations Committee, the Rules Committee, and the Judiciary Committee, our Nation's legislation passed through the hands of an individual who had a keen sense of the rule of law, fairness, and the place of the United States in a modern world. He made significant contributions to both our domestic and foreign policy, a fact rewarded by the people of Maryland who ignored party registration and returned this man to the Senate by ever-widening margins. As chairman of the Rules Committee, he has also made unique contributions to the Senate by overseeing its transition to the electronic age. His constituents and fellow Senators would have welcomed him back next year, but he has chosen new horizons, a decision we can all appreciate and admire.

Mr. President, I look forward to hearing about the future accomplishments of this great man and trust that I may benefit from them. The U.S. Senate will not be the same without MAC MATHIAS, and I join my colleagues in wishing him Godspeed.

SENATOR RUSSELL B. LONG

Mr. INOUYE. Mr. President, in 1948, Harry Truman was President of the United States, the Nation was in the process of recovering from World War II, and RUSSELL B. LONG, at the age of 30, was elected to the U.S. Senate from the State of Louisiana.

In the 38 years since that time, the world has changed a great deal, but at least one thing has remained constant, the people of Lousiana have had the wisdom and good fortune to return RUSSELL LONG to the U.S. Senate. Few who have served in this body during

this period of time would question that wisdom.

This year my good friend has decided to deprive the people of Louisiana of that privilege. While none can fault that decision, I personally look upon it with great regret because RUSSELL LONG has come to represent not only what the Senate was, but what it might be at its best.

Included among the values that RUSSELL LONG's senatorial career has manifested is a commitment to maintaining the dignity of this body and comity among its Members. He has relied for his substantial success, not upon image creation or demogagory, but rather upon knowledge, courtesy, respect, and patience. These values and traits reflect the Senate that RUSSELL LONG has believed in and constantly tried to make real. By these traits and values he has earned the respect and trust of every Member of this body.

To those of us who have had the privilege of serving with him between 1965 and 1980, RUSSELL LONG will be remembered as the chairman of the Senate Finance Committee. No chairman has ever had a better grasp of his subject matter or greater ability to efficiently and effectively manage a complex pastiche of interests and personalities. And as ranking minority member of this same committee, no one would deny that his abilities and knowledge have been invaluable in our current tax reform efforts.

The State of Hawaii owes a special debt to fairness and foresight of RUSSELL LONG. For in 1959, a concern regarding the abilities and inclinations of our multiracial society was shared by many Senators. RUSSELL LONG took the time to learn and had the courage to enable Hawaii's statehood bill to be considered by the full Senate. In the minds of those of us who were involved in Hawaii's quest for statehood, Senator LONG's courage and fairness was firmly established. And in the 27 years since, I have never been disappointed.

Mr. President, by the retirement of RUSSELL LONG, this body will lose the accumulated wisdom and ability gained by almost four decades of hard work and commitment. I hope that as we attempt to fill this void, we do so in a manner which reflects the genuine affection and great energy that the great Senator from Louisiana invested in this institution and Nation.

TRIBUTE TO SENATOR PAUL LAXALT

Mr. INOUYE. Mr. President, I wish to express my sentiments on the impending retirement of PAUL LAXALT from this body. We will lose a respected and able Senator, and I will lose a dear friend.

Senator LAXALT and I have both served on the Appropriations Committee throughout the past 12 years of his service in the Senate. During that time we have on most occasions been on the same side of issues, but frequently found ourselves in opposite positions. I would speculate that our voting records are probably as divergent as any other two Senators.

I point out our contrasts as an illustration of how the U.S. Senate can and should serve as a deliberative body that places the interests of our Nation above political differences. Where we have differed, we have done so within the Senate rules of discourse and debate that encourage the full discussion of legislation, and done so within a spirit of collegiality that promotes rather than hinders the work of this body.

Senator LAXALT has left his imprint in the legislative record in domestic and international affairs. His sensitive handling of a diplomatic mission to the Philippines earlier this year helped to avoid bloodshed while preserving United States relations with this ally. He is a man of his word; an individual of integrity.

Mr. President, I am certain that we have not seen the last of PAUL LAXALT. Wherever his future endeavors may lead him, I wish to express my good wishes to PAUL LAXALT and the sense of loss that will be felt by his departure.

UNMASKING THE FACE OF TERROR

Mr. DENTON. Mr. President, as many in this body may know, the Security and Terrorism Subcommittee on the Committee of the Judiciary, has held numerous hearings on terrorism related security issues. One series of hearings has dealt very specifically with the Palestine Liberation Organization and its support for, and practice of the most heinous terrorist acts.

In the past 20 years, the PLO has fashioned a cult of righteous violence, an ideology of terrorism. Terrorism has not only been justified as a military necessity but has been glorified as a reclamation of Arab dignity. But where is the dignity of taking innocent lives, whether it be the murder of Leon Klinghoffer aboard the *Achille Lauro*, the murder of 15 innocent bystanders in the Rome and Vienna airports or the murder of five passengers aboard TWA flight 840, including an 8-month baby and a yet-to-be-born child or the murders of helpless worshipers in an Istanbul synagogue?

It is clear that the PLO is a terrorist organization. As then candidate Ronald Reagan stated on September 3, 1980, "President Carter refuses to brand the PLO as a terrorist organization. I have no hesitation in doing so." During the same campaign, GEORGE BUSH noted:

> The PLO—and let there be no doubt this—is nothing more or less than international Ku Klux Klan, pledged to hatred, violence and the destruction of the values and free institutions we hold dear.

More recently, on April 8, 1986, Attorney General Edwin Meese declared:

> We know that various elements of the PLO and its allies and affiliates are in the thick of international terror. And the leader of the PLO, Yasser Arafat must ultimately be held responsible for their actions.

Referring to the fight against terror, Mr. Meese states:

> You don't make real progress until you close in on the kingpins.

Mr. President, there is no mistake about it, Yasser Arafat is one of the kingpins of world terror. He is ultimately responsible for terrorism committed by Fatah the main wing of the PLO directed at Americans, Israelis and other innocent citizens. For example:

According to the public record, Arafat's wing of the PLO and affiliated factions have been responsible for the murder of at least 35 Americans, the wounding of at least 40 Americans and the kidnaping of at least 6 Americans.

Arafat is directly linked, through his top aides, to such major atrocities as the murder of U.S. Ambassador Cleo Noel, the *Achille Lauro* piracy and the murder of Leon Klinghoffer, and the terror campaign of the Black September. Black September is nothing more than a non d'guerre for the PLO.

Over the past year, Arafat's anti-American threats have been explicit. On November 13, 1985, he stated:

> We are on the threshold of a fierce battle—not an Israeli—Palestinian battle but a Palestinian—U.S. battle. (*AL-Ahali*, 11/13/85).

This past January, Arafat reasserted his hostile position on the United States:

> The Arab "strategy should take into consideration that . . . the enemy is the same, be he Israeli or the United States." (*KUNA*, 1/3/86).

Arafat has continued to call for the destruction of Israel through terrorism. Recently, he reiterated these orders;

> I don't simply want, I demand, more (commando) operations, and more resistance against this occupation. (*Arab News*, 11/11/85).

As President Reagan noted in a July 8, 1985, address to the ABA:

> We must act against the criminal menace of terrorism with the full weight of the law, both domestic and international. We must act to indict, apprehend and prosecute those who commit the kind of atrocities the world has witnessed in recent weeks.

Mr. President, yesterday PLO terrorists struck again. They hurled hand grenades near the western wall of King Solomon's Temple in Jerusalem. These grenades were thrown at a group of 300 new Israeli Army recruits of the Givanti Infantry Brigade who had just completed a swearing-in ceremony at the wall, the last remnant of

the temple that was effectively destroyed by the Romans in 70 AD.

These grenades killed one civilian and injured 66 people gathered for the ceremony. Among those injured were 32 civilians, including 13 women and 7 children.

Full responsibility for this despicable attack was claimed by the military spokesman for the PLO from the Palestine Center in Cairo. He said:

> This heroic act confirms the decision on escalation adopted by the Palestinian leadership at its last meeting when it undertook to continue the policy of armed struggle against the Zionists and colonialist cancer throughout our Palestinian soil.

The PLO representative in Cairo, Tayat Abd Al-Rahim, told the French News Agency on October 15, that the decision under which the Jerusalem attack was carried out was taken by the Supreme Military Council of the Palestinian Center in Baghdad 10 days ago.

Mr. President, we must recognize the PLO for what it is—we must deny it acceptance or legitimacy at every turn. We should make every effort to close its office in the Nation's Capital and treat its representatives and leaders with the contempt and disdain they so richly deserve. This is an issue which I will continue to follow closely and I urge my colleagues to do likewise.

Thank you, Mr. President.

RETIRING SENATORS

TRIBUTE TO SENATOR HART

Mr. LAUTENBERG. Mr. President, with the retirement from this body of the senior Senator from Colorado [Mr. HART], the Senate will lose one of its most creative thinkers. But, fortunately, the Nation will continue to hear from the Senator. His will be a voice to be reckoned with in the next Presidential elections.

The Senator has distinguished himself as a critic of our Nation's military policy. He has been a leader in the so-called military reform movement. He has raised important questions about whether buying increasingly expensive and complex weaponry necessarily buys us a more effective defense. He has stressed the importance of high morale, cohesion, skill, and the readiness of our troops to successfully fight when called upon.

I have served with Senator HART on the Senate Budget Committee. There have been few voices in the Senate who have spoken more clearly about what this Nation's budgetary priorities ought to be. Senator HART has been an advocate for investment in this Nation's future. That means investment in education, science, and research. It means investment in the infrastructure upon which economic activity depends. We cannot leave the generations to follow impoverished by a mountain of debt. But, we cannot leave them impoverished, by failing to make the necessary investments, to equip them for the future.

To make these investments, we will need the people's approval, because they will bear the cost. That takes leadership of the kind that Senator HART has offered.

He has been willing to take tough political positions. He has proposed taxes to pay for the spending he believes we need. He has cautioned the Senate to resist the temptation to accept substitutes for the exercise of our own judgment. He was a leader in what, unfortunately, proved to be the unsuccessful opposition to the Gramm-Rudman-Hollings budget law.

Mr. President, the Senate will miss Senator HART's contribution to the development of our Nation's budget policy.

It will also miss his contribution to the development of an economic policy that will ensure this Nation's competitiveness. Part of that depends upon investments in science and education. Senator HART has proposed new approaches to enhance the education of our youth, to retrain our work force, and to encourage technological innovation. He has advocated a trade policy that is built on opening markets and boosting world economic growth.

Senator HART has consistently applied fresh insights and imagination to the problems this Nation faces. He has not been afraid to question the accepted wisdom. He has recognized that among our responsibilities is the responsibility to lead, to marshall the public's support for the choices that must be made.

We have known each other since 1972 when we worked together to support the Democratic nominee for President. History acknowledges the defeat of a candidate and the birth of an ideal that propelled GARY HART into the national spotlight.

Mr. President, while the Senate will be without Senator HART's voice, it is my hope that the Nation will continue to hear from him for many years to come.

TRIBUTE TO SENATOR LONG

Mr. LAUTENBERG. Mr. President, the end of the 99th Congress will mark the end of the Senate career of Senator RUSSELL LONG of Louisiana. Elected in 1948 at the young age of 30, Senator LONG has become a Senate institution. I know that for me, he has been a source of valuable advice and information about the Senate and its traditions.

Senator LONG is well known for his contribution to the formation of the Nation's tax laws. While I did not serve in the Senate during his tenure as chairman of the Finance Committee, he continued to make his mark from his position as ranking Democratic member. His important contribution to the development of the tax reform legislation that passed the Senate this year is viewed as a critical factor in its enactment.

RUSSELL LONG also has been a leader in the development, through the tax laws, of employee stock ownership plans. I was pleased to support his efforts to provide employees a greater stake in a company's success. When I was in the private sector, as chairman of a large company, I saw firsthand the benefits of employees investing in their company and sharing in its growth. The company gains from increased employee commitment and productivity and employees gain from their share in the company's success.

Mr. President, Senator LONG has accumulated a legislative record that is difficult to categorize. He is neither a conservative nor a liberal. But, he has cast key votes, perhaps unusual for a Senator from his region of the country, that have had a broader national impact than the impact of a single vote. I have heard my colleague from Hawaii, Senator MATSUNAGA, describe the key role Senator LONG played in securing statehood for Hawaii. Senator LONG also played a pivotal role in the debate on the ratification of the Panama Canal Treaty.

Mr. President, I would like to share with the Senate a personal story, that says a lot about the man, RUSSELL LONG. He and I happened to cross paths during separate visits to Israel. We met in Jerusalem where he was seeking understanding of the situation there. He later met with representatives of the Arab community. They were making a case on behalf of the Arabs in the West Bank. They argued that the Arabs there had just grievances. And the Senator from Louisiana was giving them a fair hearing. But, one Arab gentleman then sought to persuade the Senator that these grievances excused, if not justified, the violence that has plagued the West Bank. Terrorist acts continue to plague not only Israel but many nations of the world.

At this suggestion, Senator LONG responded. He responded by rejecting this justification for violence, as I think any Member of this body would have responded. But, he responded also as no other Member of this body could. He responded with the personal knowledge and experience of politically motivated violence. We can only hope that the eloquence of his message will someday be heeded.

Mr. President, RUSSELL LONG has enriched this body with his wisdom, his knowledge, his humor and his respect for its traditions and institutions. I have gained from his contribution and so has every present or past Member of the U.S. Senate who has served with him. While he will no longer serve in this body, I will continue to count him as a friend.

I wish him and his wife Carolyn well on their return to Louisiana.

200 MONTAGNARD REFUGEES TO RESETTLE IN NORTH CAROLINA

Mr. HELMS. Mr. President, admirable efforts are being made in North Carolina to assist a group of 200 Montagnard refugees who will be settling there in mid-November. The 200 Montagnards are originally from Vietnam but are coming to North Carolina from the Philippines.

Lutheran Family Services in Raleigh and Greensboro, with assistance from Catholic Social Services in Charlotte, is coordinating and administering the search for appropriate sponsors, willing volunteers, housing, jobs, and donations of cash and household goods. These groups will also oversee lessons in acculturation and training in English as a second language.

In assisting the Montagnards settle in the United States, the American people are fulfilling commitments made 25 years ago in the course of our military campaign in Vietnam. The Montagnard tribes were told that if they supported our efforts and the Government of the Republic of South Vietnam and denounced the Vietnamese Communists, we in turn would help secure their long-term interests.

Tragically, when the war ceased, the Montagnard people were left to suffer and die at the hands of the Communists on account of their support of our efforts to win freedom in Vietnam. Today, after 25 years, thousands of Montagnards continue to be persecuted by the Vietnamese Communists. The 200 Montagnards coming to the United States from the Philippines next month represent in a real sense the thousands of Montagnards who fought and gave their lives along with American and South Vietnamese soldiers. We, as a people and a nation, owe them a tremendous debt of gratitude. The Montagnards, in every sense, are Vietnam veterans.

Mr. President, many in North Carolina are ready and eager to make the upcoming resettlement of the Montagnards an answer to previously overlooked promises. But they cannot do it alone. They need the help of other Americans, and I urge my fellow citizens to assist in the North Carolina effort.

Readers of the CONGRESSIONAL RECORD who would like to help should contact Lutheran Family Services Refugee Program, P.O. Box 13147, Greensboro, NC 27415; telephone 919-275-2719.

OMNIBUS ANTIDRUG BILL

Mr. ROCKEFELLER. Mr. President, I applaud last night's action—the passage of what I hope will serve as the final version of major antidrug legislation. I urge my colleagues in the House of Representatives to also approve this bill and send it to the President for immediate enactment into law.

As I have said on the floor before, the American people expect, and should expect us to respond to the country's drug abuse problem. Thanks to the leadership on both sides of the aisle and in both bodies of Congress, comprehensive antidrug legislation was developed in the past 2 months swiftly and, for the most part, cooperatively.

I stress, again, that many of the proposals in this bill stem from years of thought and analysis—their chief proponents, however, had to wait for the time when drug abuse was recognized as an urgent priority by the President and Congress. Other measures represent more recent efforts to address aspects of the drug problem. But they also are the result of indepth research and deliberations. For example, I have been actively involved in drafting education provisions of this bill which were developed through a process of talking with numerous educators, experts in drug abuse prevention, and members of the Senate and the House about the best approach to take in supporting drug education programs nationwide.

Because of my overriding commitment to insuring the passage of this antidrug legislation during this Congress, I voted against cloture yesterday. I did so with the understanding that the failure to achieve cloture would provide the necessary signal to the majority leader and to the House leadership to persuade them to drop those measures which continue to stand in the way of enacting this legislation. It was clear to me that we were not going to pass a comprehensive drug bill with provisions that are strongly opposed by some of our Democratic and Republican colleagues. In my view, the responsible thing to do is to save the controversial questions for early next year when we have far more time for debate, discussion, and action. We must not—and thankfully, will not—miss the opportunity to adopt this year those measures which enjoy a consensus and should have a significant impact on curtailing drug abuse.

I sincerely hope that we will see the Anti-Drug Act become law in the next several days. Across the country and in my State of West Virginia, elected officials, law enforcement officers, school administrators, teachers, parents, and many others are anxiously waiting to know whether more Federal support is on its way to combat the drug problem. There is a great deal of work to do to curb the supply and use of illicit drugs—with this legislation, the Senate is taking essential action to assist in getting the job done.

STATE TERRORISM IN INDIA

Mr. HELMS. Mr. President, the recent assassination attempt against President Rajiv Ghandi of India has not yet been satisfactorily explained to the public. It is not clear whether the assassin was a deranged man, acting alone, as appears from the circumstances, or whether he was the instrument of a larger plot to destabilize the Indian Government. Nevertheless, the incident serves as a reminder that Mr. Ghandi has been marked for death by those who killed his mother, Indira Ghandi.

Political assassination is a technique of terrorism which is abhorred by all men, and is rightly condemned in the modern state. Indeed, even though Mrs. Ghandi's assassins were Sikh extremists, the Sikhs themselves condemn terrorism and do not support such measures in their struggle to retain their national and cultural identity. Nevertheless, the Sikh nation itself has been the victim of organized State terrorism by the Government of India. Thousands of Sikhs in India, innocent of any antistate plotting, have been brutalized, tortured, and even murdered by the State security apparatus in its attempt to assimilate and destroy Sikh religious, cultural, and economic achievements.

It is only recently that most Americans are coming to understand the distinctive achievements of the Sikh people, particularly with the arrival of many Sikhs to the United States where they have set to work with energy and dedication to become citizens of this country. A number of Sikhs have settled in North Carolina, and I have been impressed in talking to them by the ways in which they have contributed their formidable talents to our economic and political system.

Indeed, Mr. President, as Americans get to know the Sikhs better, they understand why the Sikhs have played such a dramatic role in the affairs of India, far out of proportion to their numbers. It is well-known that Sikh farmers have vastly out-produced their Hindu neighbors, that Sikh officers and soldiers have been the backbone of the Indian military, that Sikh civil servants have kept the Indian Government service operating despite the bureaucratic burdens imposed, and that Sikh lawyers and doctors stand at the very top of their professions. The Sikh people are strong for private property, individual initiative, and anticommunism.

These qualities have not made them beloved among their Hindu neighbors, for whom the vague, Third World, pro-Soviet socialism of Rajiv Ghandi

holds an inexplicable attraction. Moreover, the fact that the religion of Sikism believes strongly in one God, like the monotheism of Islam and Christianity, stands in stark contrast to the infinite array of Hindu gods and goddesses. Although Hindus and Sikhs have historically lived in mutual peace, the fact remains that the Sikhs are a national group, marked by their faith, and set aside from the religion and culture of the Hindu majority. The failure of the secular state to dominate the Sikhs economically and politically has made the Sikhs appear to be a threat to the unchallenged rule of the Congress I party, the party of the late Mrs. Ghandi and her son.

Indeed, the attempts of the Ghandis to exploit the Sikhs' economic power, to crush them politically, and to control and infiltrate the Sikh religion through penetration have accentuated the division. The Sikhs have reacted by asserting their individuality, greater autonomy and freedom in their affairs, and even political independence. It was Mrs. Ghandi's oppressive tactics which resuscitated and gave credence to the Sikh dreams of reviving the ancient Sikh republic of Khalistan.

In order to crush the Sikh spirit, Mrs. Ghandi conceived and organized the assult on the holiest of Sikh religious shrines, the Golden Temple in Amritsar, Punjab, on June 4, 1984. On that date, the Indian Army mounted an armed offensive against a group of Sikh militants who had taken refuge in the Temple. Despite the fact that thousands of religious pilgrims—men, women, and children—the Indian Army launched an artillery and tank attack that resulted in the death of thousands of innocents. Even the official version admitted by the Indian Government placed the dead at over 900. It was thought that the truth would never be known, since the Indian Government immediately placed Punjab under tight military rule, with a total news blackout. Only a handful of government-favored journalists were allowed in.

However, in April 1985, a factfinding team of five distinguished citizens, sponsored by the Citizens for Democracy, spent 13 days in the Punjab, taking firsthand accounts from eyewitnesses of what happened. The participants were Mrs. Amiya Rao, Mr. Aurobindo Ghosh, Mr. Sunil Bhattacharya, Mr. Teijinder Singh Ahuja, and Mr. N.D. Pancholi. The result was an account of atrocities, murder, and deception that amounted to a bill of indictment against the so-called democracy of India. Indeed, it is an account not just of repression, but of genocide.

It is noteworthy that only one of the five members of the team was a Sikh. The foreword was written by a distinguished Indian jurist, Justice V.M. Tarkunde. No sooner was the report published than the Indian Government, on September 13, 1985, immediately sought the arrest on sedition charges of the five authors, along with Justice Tarkunde. Justice Tarkunde wrote:

> The report * * * describes the inhuman barbarities to which the people of a particular community in Punjab were subjected. It is a terrible tale, carefully documented, of sadistic torture, ruthless killings, fake encounters, calculated ill-treatment of women and children, and corruption and graft on a large scale.* * * The story shows that although the relations between the Hindus and Sikhs in Punjab are not as cordial as before, the basic unity even in villages where the Hindus were in a hopeless minority * * * The story gives the impression that such extremism as one finds among the Sikhs is largely the result of the acute dissatisfaction and resentment caused by army and police atrocities.

Mr. President, this statement by Justice Tarkunde, gives the lie to the claim of India that it operates a democracy that protects minority communities. Indeed, I believe that the United States should reexamine its relationship with India, and use what influence we may possess to work for the restoration of freedom and civil liberties in that country.

Mr. President, I ask unanimous consent that the introduction to this report, "Oppression in Punjab," be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION

In 1923 the National All India Congress had rushed a three-member fact-finding team to Punjab when hundreds of Sikhs protesting against the illegal takeover of the Nabha State by the British administration were sent to jail without any warrant and tortured inside the Nabha prison. Jawahar Lal Nehru, who had headed the team and his two colleagues were also jailed after their arrival in Nabha; all the facts they had gone to find they found inside the jail itself. After India attained independence, however, the All India Congress lost this admirable zeal for probe for verification of truth; and with the passing of time fact-finding teams were considered by it as irrelevant, since the Congress party was in power and the "Congress Government could do no wrong"; thus even after the massacre of the Muslims in Moradabad, blinding of prisoners in Bihar, killing of political activists in Kerala, dishonour of a woman in the open marketplace of Bagphat by the police in broad daylight and now after the incredible violence in Gujarat, the Congress party has not thought it necessary to send a team to any of these places.

The onerous duty of reaching the oppressed people at their hour of trial, and equally important, to present after meticulous investigation a correct picture to the public of hundreds of men, women and children living under duress; has fallen on those who staunchly believe that no violation of civil liberty and human rights can be tolerated and democratic principles India swears by must be observed in action and not merely remain on paper. They do not share the comfortable notion that because a prestigious party is in power things cannot go wrong.

Now in 1984 after the Operation Blue Star, suddenly the Government clamped down on Punjab an undeclared emergency. Punjab was cut off from the rest of the country for days, censorship was declared, all press men-both foreign and Indian—were expelled. There was total black-out of news excepting what was told by the Government-run All India Radio and Doordashan, again bringing back the unpleasant memories of Emergency days. One heard that "there was unprovoked firing from inside the Golden Temple on June 1 and the Security Forces showed extreme restraint and did not fire a single shot, a variety of Government sponsored news items informed us how the Army took the Golden Temple complex with the utmost care bordering on reverence (they even took their boots off while entering the Temple), how the city remained untouched and undamaged. Without a scrap of evidence we were expected to believe that it was Pakistan which was responsible for the growth of terrorism in Punjab and there was a seizure of highly sophisticated weapons. In July 1984 the White Paper carried the story of a modern Arms Factory located inside the Complex. Days after when we were assured of calm and normalcy in the Temple, the expulsion order regarding the foreign press was not withdrawn and even the Indian Press was not allowed to move about freely, a guided tour was arranged for them as if Amritsar had been an enemy territory recently captured. It is only on July 26 this year that there has been a temporary and partial relaxation of the ban on some foreign correspondents to enter Punjab for the specific purpose of covering the Akali Dal meeting after the announcement of the award of Chandigarh to Punjab. Obviously the Government has a lot to hide still.

That the ruling party was anxious to hide something earlier also was amply clear from the Government vendetta which the foreign correspondent of the Associated Press Mr. Brahma Chellany had to face. He was under intensive interrogation by the Police and the Army Intelligence Bureau and was charged with sedition, because he was the first pressman of standing who exploded the myth of Army's "human behaviour" towards the "militant" Sikhs who were arrested, unturbaned, hands tied behind their backs and then at least 13 of them shot in cold blood; and it was again he who gave some tentative figure of the dead—both the Sikhs and the Army—since the number of the Sikhs killed "was not of much concern to the authorities and the number of the army men killed was, Chellany's 200 soliders dead had to be whittled down to 96, but Shri Rajiv Gandhi while addressing the Nagpur session of the National Students Union in September 1984 raised the figure to 700; so far it has not been contradicted; it could be like his other famous utterance that Sant Jarnail Singh Bhindranwale was a religious teacher.

Under these circumstances rumours held sway—so much so that thousands of Sikh soldiers far away from home imagined the worst and became emotionally overwhelmed and today are undergoing painful punishment for no fault of theirs excepting that they had placed their faith above everything else in the world.

Extremely harsh laws have been promulgated covering the whole country but ever since the President's rule in Punjab and particularly after the Army Action, some of

these laws have been devised specially for Punjab—to teach the Sikhs a lesson: Punjab Disturbed Areas Act, Chandigarh Disturbed Areas Act, Armed Forces (Punjab & Chandigarh) Act, Terrorist Affected Areas (Special Courts) Act, 1984. The Code of Criminal Procedure (Punjab Amendment) Act. All these have given enormous power to the police and the Army. How vindictive the Government meant to be towards the Sikhs would be clear the way Punjab Government violated the National Security Act (NSA) provisions. In a number of cases the serving of revocation order recommended by the Advisory Board was held up for over 2 months. According to a report the Home Department in a letter marked "secret" to the I.G.P. (Intelligence) stated that while forwarding orders of revocation of some detenues, to the District Magistrates, the S.D.M. should be asked to consider re-detention if necessary and "serve revocation and fresh detention orders simultaneously". The Home Department of the police were keen on over-ruling the opinion of the Advisory Board recommendation releasing an Akali leader. The Home Department also issued instructions to the District Magistrates to keep a "close watch" on all those who had been detained under NSA but released and "apprehend such people without any loss of time" if they were found indulging in prejudicial activities, a list of such released persons was sent to the District Magistrates. Even the Supreme Court's order to Punjab Government for the immediate release of 22 minor children and 4 women held in Ludhiana jail since Army Action in 1984 was not given effect to. The minors continued to remain in jail and later when released again under orders of the Supreme Court two were rearrested and sent to Nabha jail. It was obvious that in Punjab violation of the rule of law had become the norm. The District & Sessions Judge, Patiala, Mr. Cheema's report on torture of detenues in Ladha Kothi in Sangrur District was too shocking for words. (Annexure No. 5).

The Government propaganda was perfect. The Punjab had become a dangerous place because of extremists roaming around with rifles and pistols and hand-grenades ready to kill and had been fairly accepted by the people; reports of encounter deaths were fairly frequent—the dead were always the Sikh terrorists; though no particular communal incident could be reported, the media never tired of communalism in Punjab. One heard how thousands of Sikhs were demanding Khalistan but for some reason the Khalistan flag was never described though it had been hoisted by those who are out to destroy the country! Even the national dailies had succumbed to the propaganda. Though they had no means of verifying the truth—the Temple being out of bound, one of them wrote in an impressive editorial about "the very magnitude and calibre of the weapons found in the Temple complex, some of foreign origin, the eleborate fortifications discovered within the holy temple." Terms like "Command Headquarters", "trained guerillas" used in real wars were just dropped casually like small pebbles in reams of learned articles.

One had a tremendous urge to rush to Punjab, to Amritsar's Golden Temple, to other Gurdwaras where army action had taken place, to various towns and villages in Punjab and using one's eyes and ears try to reach the truth. The team was expected to find out if there had been any erosion of civil liberty after the promulgation of the oppressive laws and the Operation Blue Star; if the Army's mopping up operations which was extended to the villages—known by the pretty name "Woodrose" Operation, which had begun simultaneously with the Army Action in Golden Temple, had affected the lives of the rural people adversely; how far the communal virus had spread and if the Hindus were really migrating from Punjab out of fear of the Sikhs; how deep was the alienation of the Sikhs from the Hindus, and if Khalistan was just a vague concept or if people were preparing for a new State called Khalistan—for that would obviously mean a bloody civil war.

The report has attempted to cover mostly these points. It is based entirely on interviews, which were held mostly on village common, sometimes under a tree or in a school compound—but always in the open. It was only after talking to these people we realise with a shock that most of the facts on which we had been fed for the last one year through articles and the media were highly exaggerated or mostly false; many vital facts touching the common man's daily life had been totally suppressed. Truth, it is well known, is the biggest casualty in war and few may be aware or though aware would not like to admit that a war is on—an undeclared, unilateral ruthless war—against hundreds of innocent defenceless men and women in far-away tiny villages of Punjab from where their voices do not reach the rest of India.

Though many of these villagers were on bail and some had come out of jail only a couple of days before they met us, they showed amazing self-control and fearlessness and without any hesitation told us their story mentioning the names of police officers who had tortured them and had demanded and in several instances accepted huge bribes, if they wanted their women not to be molested or their sons and brothers not to be killed in "encounters."

The Report has gathered that in the name of curbing terrorism unabashed State terrorism has been unreleased on the Sikhs branding them as criminals, arbitrary arrests and McCarthy style witch-hunt, sadistic torture of Amritdhari [1] Sikhs and cold-blooded shooting down of youngmen in false encounters, are common occurrences; even village women are not spared, they are being harassed and beaten up, dishonoured and taken away to Police Stations or to unknown destinations and kept there, sometime for more than a month. It is all male-police—there was no sign of woman-police in the villages. The demand is that the women must produce their missing or absconding husbands and sons; women after women came to meet us from different villages to tell us what they had been facing for the last one and half year; fields are not cultivated, the police whisk away the servants, cattle is not fed, crops cannot be harvested; a woman saddled with children with no man in the house to help and all the time the police-fear haunting her is a common story in the villages.

The Army never made a list of the dead after the Operation Blue Star nor returned the bodies—so none knows whether these men who had gone to the Guru Parb on June 3 either as pilgrims or with gifts of corn for the 'langar'—are dead or have absconded for fear of being arrested and tortured. Swinging between hope and hopelessness, afraid of the police, in many villages women have locked up their houses and have disappeared; in Verka village, for instance, houses were not even locked—they were lying empty, deserted. The situation is really desperate and it will be surprising if the brutal torture by the police does not encourage retaliation and fresh violence and create fresh terrorists. People who had undergone terrible torture came to see us and described these to us in detail. With these gruesome details reminding one of the medieval days we are marching toward the 21st century. Who can tell what is in store? We have included some of these descriptions in our appendix for better comprehension of what the army and the police have been doing to our people. There is a distinct pattern in the atrocities committed by the police; repeated raids in a particular house, repeated arrests of a particular person, removal of his agricultural implements, carrying away of the women to some unknown destination, threats to set on fire the house and the crops, harassment of relations, and finally extortion of money. Amritdhari Sikhs are not "dangerous criminals" as the obsessed Army has declared, but the Amritdhari Sikhs are in danger—their fate is uncertain.

We have pointed out, perhaps for the first time and with proper evidence, that the story about the so called "highly sophisticated arms" which were used to fight back the Army is totally baseless. A number of responsible men and women who were inside the Golden Temple throughout the Army action, described to us how innocent people were slaughtered like rats—first letting them enter the Complex and then declaring the curfew which prevented them from going out—thousands were thus caught unawares; finally when the survivors were asked to surrender they were shot in cold blood; our photograph would show how the hands of men were tied at their back with their own turbans, some of whom were shot. The post mortem reports show how the bullets had pierced their bodies. The eye witnesses witnessed the use of gas by the Army, the pile of dead bodies on the 'parikarma', the arrival of tanks which some of them thought were the ambulance, the hovering of helicopter at night, throwing their search-light on targets which were bombed, the wanton destruction of the Akal Takht, the Research Library and the Museum, and finally the killing of the 4 Sikhs of the Bunga Jassa Singh Ramgarhia in the basement of the Akal Takht—Bhindranwale was not definitely one of them. Of these eyewitnesses some were arrested and one is still inside jail, one was on the point of being shot but was saved almost miraculously. The facts have exposed the Army's 'restraint' we heard so much of and have proved conclusively that the White-paper is after all not so white. We learnt for the first time with amazement that the Red Cross

[1] Amritdhari. This tradition of Amritdhari was started by Guru Gobind Singh when he initiated "Panch Pyaras" (Five Beloved ones) as true Khalsas. Water and 'Batashas' (Sugar tablets) were put in a steel pot and it was mixed with a Khanda (two edged 'Kirpan'). Gurbanis were recited and this mixture was called Amrit (nectar). 'Panch Pyaras' stood in one line and drank the said 'Amrit' one by one from the same pot. This tradition is followed and all those Sikhs who are baptised in the above manner are called 'Amritdharis. They have to follow strict rules of discipline and a rigorous life. They have to keep always five things on their body *i.e.* 'Kachha', 'Kada', 'Kesh' and 'Kangha' (Underwear, steel ring on hand, sword, hair and comb.) They are required not to take any wine or any other intoxicant, never to look at other's women with bad intentions, never to eat 'Halal Meat', never to tell lies, never to attack first. They are also required to defend the oppressed and the exploited, and never to tolerate injustice.

was not allowed even to enter the Complex to attend to the wounded, many not allowed any water to drink died of thirst; on June 7,28 people were pushed inside a strong room without any ventilation and locked up, and when the room was opened, 14 of them were dead. Bodies were left to rot, inside the room and then burnt. This was free India's Jallianwala Bagh—leaving the old Jallianwala Bagh of the British days far behind in the number of killed and in the manner of killing.

We interviewed the sorrowing parents of some youngmen who are now in Jodhpur Jail as 'dangerous terrorists'. They showed us the photographs of these 'guerillas' gentle, innocent faces—all between 20 and 23, looked at us through the framed photos. One was a good musician, fond of books, a serious student in college—completely apolitical' another an excellent chess player, well qualified, looking for job in the State Bank of India, yet another a designer of steel furniture—there is not even a shred of evidence against most of these boys. Some were arrested because they happened to live in the Golden Temple Complex and were young.

We visited some special courts from outside and met a few who were being tried under the Arms Act. We were told that there were about 5,000 such cases—contemptuously called pen-knife cases. To make the cases look more prestigious revolvers and pistols are sometimes planted on the boys; even one cartridge would do the job; One of these extremists we met in the court holding up his tattered 'banyan' asked us "where could I have hidden a revolver?" Under the Terrorists Affected Areas (Special Courts) Act, the accused had to prove his innocence and virtually there was no appeal since the appeal was only to the Supreme Court, as far off as the moon in the heaven for the rural poor; so he had to rot in jail—much longer than the punishment called for. But the Government was happy with performance of the police—it is the number that counted—being utterly oblivious of the hardship the families had to face during absence of the men. Thus circumstances have forced many of these innocent people to stand before the Court and "confess their guilt", only to have the period of their detention reduced and then released. The Black Laws have virtually nullified the functioning of ordinary criminal laws ensuring fair trial and some kind of level justice.

For months the civil authorities had almost ceased to function. It is only under a military dictatorship, army officers could drag a Sarpanch to the Army Camp—and order him to produce some weapons which he was suspected to possess and when he could not, made to stand in a deep pit and earth piled inside till it reached his neck. We found that the Army was hated not only by the common villager but by their own retired Havaldars and Captains, for in several cases they were the targets being Amritdharis. Today the image of the Army is of a communal, corrupt, cruel and a grossly insensitive force. Its drunken revelry did not amuse the villager either. We have included some interviews in the Appendix on the behaviour of the Army—they are revealing and ask for no further comment.

Regarding communalism in Punjab we had interviewed several people both Hindus and Sikhs—excepting a few Hindus who appeared to communal and made some unsavoury remarks about the Sikhs, we never came across any positive evidence of communal feeling and there certainly was no migration of the Hindus from Punjab; but what we did find was alienation—that old trust, that spontaneous affection is gone, just now there is distrust and bitterness; unfortunately some Congress (I) when are fomenting this distrust. In the villages, on the other hand, there is harmony and friendship—as a villager remarked "bad things always come from cities". The interviews held in different villages gave us ample proof that the villages have still remained unspoilt.

As regards Khalistan it is on record that even Bhindranwale did not have a clear conception of Khalistan. According to a recent report, Harminder Singh Sandbu—a close associate of Bhindranwale has stuck to his statement that Bhindranwale never wanted a separate state called Khalistan. Those who are asking for a separate state they do not live in Punjab; and one must not take their words as the words of those who are here and all that they mean by Khalistan is to be able to live, with dignity and honour, inside India. We have recorded some interview on this subject—which has been falsely projected to lower down the Sikhs—who are no less patriotic than any other Indian.

In our Report we have not made any comment on the Anandpur Sahib Resolution, since reporting truthfully is our primary function, we have to say that those days when we were in Punjab, nobody talked about the Resolution. It could be because the people were much too harassed by the police and the army to think about the Anandpur Sahib Resolution.

But now that Sant Longowal and the Prime Minister Rajiv Gandhi have signed an agreement which includes transfer of Chandigarh to Punjab and also a reference of the Anandpur Sahib Resolution to the Sarkaria Commission, it is necessary perhaps to write a few words.

The 'historical accord' as it has been hailed could have been reached 4 years ago without much trouble at all—without destroying the holy shrine Akal Takht causing so much pain and anguish to those who hold their faith above everything else in life. One could have reached Chandigarh without having to wade through blood of thousands of men, women and children since 1982.

But all this did not happen. What has happened one might perhaps examine with some care.

While efforts to achieve the accord should be appreciated, it cannot be disputed that no accord can bring lasting peace in Punjab which ignore the burning issues over which the Sikhs feel deeply agitated. The Rajiv-Longowal accord has seemingly forgotten.

(1) The thousands of so-called Army deserters.

(2) and thousands of Sikh youth languishing in different jails of the country,

(3) and also the families of those—again running into thousands—who have allegedly gone to Pakistan but actually have been killed by the police and the Army.

(4) The problem of absconders who are underground, and who have fled under duress;

(5) Rajiv-Longowal accord has not said one word about the Police-Lawlessness or the repeal of most of the Black Laws; nor has it dealt with the withdrawal of the Army from Punjab.

(6) The accord is silent about adequate compensation for the November '84 riot victims.

Will the accord bring solace to those hundreds of men and women who have lost their peace of mind because of the constant terror of police they have been living in? As a poor village woman told us in Dera Baba Nanak—it is the poor who suffer when big people fight for their 'Kursi'.

We place our report before the Government and the people and demand that to bring back normalcy in Punjab, a General Amnesty must be declared without much delay, police repression should be stopped and all the black laws should be repealed forthwith.

THE PROMOTION OF AMBASSADOR CORR

Mr. HELMS. Mr. President, yesterday the Senate confirmed the nomination of Mr. Edwin G. Corr to the rank of Career Minister in the Foreign Service. Ambassador Corr's nomination was received by the Senate on October 25, 1985, and has remained there until the Senate acted yesterday.

Some of my colleagues have wondered why Ambassador Corr's promotion in the Foreign Service was delayed so long. The fact is that Ambassador Corr's promotion was delayed because the Department of State has been attempting for 15 months to evade the law with regard to the appointment of an independent Inspector General at the Department of State.

Indeed, it is a law which the Congress passed, and the President signed, not once but twice in that period. Yet it is just now that Congress has received satisfaction from the Department that it no longer considers itself above the law, and that an independent Inspector General will actually be named. It is too late, of course, for the Senate actually to receive the nomination for Inspector General, to hold hearings, and to get assurances from the nominee of the way in which he will conduct the office. At least he will be named, and the State Department is no longer claiming, as it did in an official letter, that Gramm-Rudman reducitons left no funds to for the appointment of an independent Inspector General.

A week ago, I wrote to President Reagan, and outlined the reluctance of the State Department to submit to independent inspection under the provisions of the law. I pointed out the dangers of the situation which has existed up to the present time, namely, that the State Department was the only agency of Government which claimed the right to have colleagues examining the actions of colleagues.

Mr. President, I ask unanimous consent that my letter to President Reagan be printed in the RECORD at the conclusion of my remarks.

However, I have been assured by Deputy Secretary of State John Whitehead, that the New Inspector General will actually be named in a few days.

Mr. President, I raised this issue on July 15, 1985, when Mr. Corr's name was before the Senate as the nominee to be the U.S. Ambassador to El Salvador. At that time, I said:

A large number of responsible people have come to me in recent weeks to tell me they do not believe that Mr. Corr deserves the President's trust. They have raised very serious charges. They have told me of incidents involving Mr. Corr's actions which go far beyond a question of philosophy or capability, if these reports are accurate, and I am inclined to believe they are, Mr. President, because the people who have come to me are responsible Americans, they are knowledgeable Americans, and they know what has been going on.

It gives me no pleasure, Mr. President, to raise such questions on the floor of the Senate when there has been no independent investigation of charges against Mr. Corr. The key word is "independent." There has been no independent investigation of the charges. That is precisely the point. Why is the Senate acting on this nomination when there has been no independent investigation?

I could go into detail concerning these issues on the Senate floor. I would have the protection of Senate immunity. But I do not want to do that. And I should not. But I say, Mr. President, that the charges should be examined by competent, independent authority.

I regret to say that has not been done. Just this afternoon I have been informed that the matters to which I refer have already been investigated by the Inspector General of the State Department. But the Inspector General's report has not been sent to the committee, nor is the Inspector General of the State Department a truly independent authority. Of course he is not. The State Department's Inspector General office is the only such office in the Government which is under the authority of the Cabinet officer in charge of the Department.

Moreover, the head of the Inspector General's office—that is, the State Department, and get this, Mr. President—is the former President of the Foreign Service Association, the State Department union. So you see, Mr. President, why I find suspect any benign report from this gentleman. In my judgment he is part of the problem, a problem that has existed for a quarter of a century.

Mr. President, as I pointed out in these remarks last year, it was only at the last moment that I had access to the Inspector General's report on Mr. Corr. After that speech, I had an opportunity to consider the report more carefully, and I was appalled—not only at the methodology of the investigation, but at the slipshod and erroneous work involved. Moreover, in addition to the issues which the Foreign Service-connected Inspector General had looked at, there were other, even more serious allegations which called into question not only Mr. Corr's performance in his former post in Bolivia, but also actions which would reflect adversely upon Mr. Corr and upon the United States.

The case of Mr. Corr, then, is a perfect example of why an independent Inspector General is needed. I cannot prejudge any independent investigation, but, in fairness to Mr. Corr, I am willing to accept the outcome of any investigation that is independent and complete. Indeed, as soon as the new Inspector General is named, as promised by Mr. Whitehead, I intend to submit a formal request that the long-delayed investigation of Mr. Corr be undertaken. Perhaps the new Inspector General will be able to submit a progress report when the name is officially submitted to the Senate in January and the nominee is brought before the committee.

It is unfortunate that the State Department delayed action on Mr. Corr's nomination so long by declining to obey the law. Indeed, the delay itself ought to be the subject of another investigation by the incoming Inspector General. It is curious that the former Inspector General, Mr. Harrop, who so botched the report on Mr. Corr, and who reportedly resisted the appointment of an independent Inspector General, was rewarded by his colleagues with a $20,000 bonus, courtesy of the U.S. taxpayer. That inspection could also study the role of the Under Secretary for Management, Mr. Spiers, in opposing the appointment of an independent Inspector General, and who received a $20,000 bonus voted by his colleagues the year before.

However, the prospect of an Independent Inspector General does seems to be close at hand at last. Therefore, I no longer had any objections to the consideration of Mr. Corr's promotion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

October 8, 1986.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: It has been 15 months since you signed into law Public Law 99-93, the Foreign Relations Authorization Act for fiscal year 1986-87. This legislation included provisions requiring the establishment of an independent Inspector General at the Department of State under the terms of the Inspector Generals Act of 1978. No action was taken by the Department of State to implement these provisions.

Congress once again passed legislation this year requiring the Department of State of appoint an independent Inspector General as part of Public Law 99-399, the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986. Mr. President, you signed this bill into law on August 27, 1986, but the Department of State, 6 weeks later, still has not moved to send a nominee for Inspector General to the Senate.

This failure of the Department of State to act when under a specific statutory mandate by Congress, not once, but twice, constitutes a grave dereliction of duty. Under the Inspector Generals Act, incorporation by reference into the recent directives by Congress, the head of the agency involved is required to recommend the name of an Inspector General nominee directly, without the participation of subordinates who might in the future come within the purview of the IG's investigations.

Although the State Department in the past has had an official with the title of Inspector General, that position was an internal position only, and not regulated by the strict standards of independence mandated by the Inspector Generals Act. A number of practices called out for reform:

—the old IG's office was staffed with career State Department employees, many of them not qualified as auditors or investigators, rotated in and out of the office from other State Department positions. Because these employees were called upon to investigate former and future colleagues and superiors, they were placed in a situation of actual or potential conflict of interest.

—furthermore, when these investigators were themselves Foreign Service officers, and member of the American Foreign Service Association (AFSA, the State Department union), they faced a further conflict of interest problem in attempting to separate individual wrong-doing from the needs of an organization dedicated to furthering career advancement. Non-union employees of the Department particularly doubted the objectivity of investigations conducted under such circumstances. This problem became particularly acute when the most recent occupant of the Inspector General's post was the past President of AFSA.

—finally, Inspectors General were formerly chosen not directly by the Secretary of State, but by the same career apparatus that controlled administration and career advancement throughout the Department. Thus any nominee for the post was inevitably open to the suspicion of being part of an insider's network, with professional and collegial ties that excluded the majority of State Department employees.

It is to avoid situations such as these that every other agency of government has an independent Inspector General. That is why the abolition of the old Inspector General's office, and the creation of an independent Inspector General is a very important reform in the State Department. It is deeply disturbing that the State Department has not only failed to act, but has actively resisted implementing the law. We have now come almost to the end of the 99th Congress, and no nominee has been sent to the Senate to fill this important position.

Mr. President, since the Secretary of State has failed to act on this important matter, I urge you to act directly and send a name of a qualified Inspector General for the State Department to the Senate in the hours that remain. While it is perhaps too late for the Senate to give its advice and consent in this matter, your nominee at least can be made known, and appointed an interim until the convening of the 100th Congress. Alternatively, I suggest that you designate the Inspector General of the Department of Agricultural, an independent and eminently capable individual known to many members of the Committee on Foreign Relations and the Committee on Agriculture, to handle matters involving the State Department, until an appropriate nominee to the State Department slot is nominated and confirmed next year.

There are a number of reform issues pending at the State Department which require immediate, thorough, and independent investigation, including issues relating to the State Department's unreasonable resistance to implementation of this legislation. I will be happy to discuss these in detail with whomever you designate to act as Inspector

General for the State Department. However, if we are to retain public confidence in our government, we cannot postpone reform for another 4 months until the new Congress convenes.

Sincerely,

JESSE HELMS

THE SEARCH FOR PEACE IN NORTHERN IRELAND

Mr. MOYNIHAN. Mr. President, I rise today to share with this body an insightful analysis of the search for peace in Northern Ireland. Mark J. Hurley, bishop of Santa Rosa, CA, has written an essay examining the attempts made in this century by Great Britain to resolve the Irish Question, including the most recent effort: the November 15, 1985 agreement signed in Hillsborough by Prime Minister Margaret Thatcher of the United Kingdom and Prime Minister Garret FitzGerald of Ireland.

That agreement—commonly referred to as the Anglo-Irish agreement—includes the acceptance of three fundamental principles. First, that "Any change in the status of Northern Ireland would come about only with the consent of a majority of the people of Northern Ireland." Second, that "the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland." And third, that "if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland—the Governments of Ireland and the United Kingdom—will introduce and support in the respective Parliaments legislation to give effect to that wish."

The agreement also established the Anglo-Irish Intergovernmental Council to give the Government of Ireland a consultative role in dealing with political matters, the administration of justice, and other affairs in Northern Ireland. And in signing this agreement, both Governments reaffirmed "their total rejection of any attempt to promote political objectives by violence" and "their determination to insure that those who adopt or support such methods do not succeed."

But in testimony to the moderation—and the promise—of this agreement, extremists on both sides of the conflict are intensifying their efforts to destroy the accord. The Irish Republican Army has redoubled its campaign of terror. On August 5, 1986, the IRA announced that its gunmen would henceforth target telephone technicians, civil servants, and other workers deemed to be cooperating with the British "war machine" or doing business with the Royal Ulster Constabulary. The IRA advised displaced workers to find "alternative sites of employment."

This was described as a "sick joke" by Terry Carlin, nothern executive of the Irish Congress of Trade Unions, who pointed out that massive unemployment already exists in Northern Ireland. Indeed, the Irish Government estimates that Northern Ireland suffers from an unemployment rate of 21 percent, and that unemployment in some Catholic areas reaches 60 percent.

Irish Prime Minister Garret FitzGerald also denounced the new IRA threats as a "most indiscriminate and wholesale onslaught on the right to life of decent people." Mr. FitzGerald added that it was evident that the IRA was fearful that progress was being made toward peaceful reconciliation under the Anglo-Irish agreement.

As Bishop Hurley makes clear in his essay, Unionist extremists have also been doing their utmost to destroy this agreement. The virulence of their opposition stems in part from Unionist fears of being abandoned by the rest of Great Britain—more, than the rest of Great Britain does not consider Unionists truly British. Bishop Hurley quotes the Lord Mayor of Belfast, Sammy Wilson, as stating that "We've always had it lorded over us. They're—that is, the British—so superior * * * their accents and everything. * * *" And in a May 1986 poll, 61 percent of mainland Britons stated that they saw Northern Ireland's future as lying outside the United Kingdom.

We must not dismiss the potential impact of Unionist opposition to the agreement. As Bishop Hurley points out, Unionists have succeeded in overturning previous attempts to negotiate a political settlement to the conflict, including the Home Rule Bill of 1914 and the Sunningdale Agreement of 1973.

Yet, Bishop Hurley also reports that there are grounds for hope. The agreement has survived the "marching season" in Ulster; there is evidence that the British Government is working to meet some longstanding concerns of the Catholic community, including that of establishing tighter control over the Ulster Defense Regiment.

Mr. President, I ask that Bishop Hurley's essay be entered into the RECORD.

The essay follows:

THE THIRD TRY, THE CHARM?

The Hillsborough Treaty, that Anglo-Irish agreement, forged between the Thatcher government of Great Britain and the Fitzgerald government of Ireland, now eight months ago, has just survived, some say "just barely," the "marching season" in Ulster. The Orangemen's 1986 celebration of the Battle of Boyne where, in 1690, the forces of King William the Protestant defeated the forces of King James the Catholic, has dictated caution to any prophecy of the future survival of the treaty itself.

Predictably the extremists have pronounced it dead, with only proper burial left. Both the Provisional IRA and the Paisleyite Democratic Unionist Party, the DUP., bitterly oppose it but for utterly contrary reasons: the former because it will keep Britain in Ulster indefinitely, the latter because it will keep the Irish Republic there indefinitely. As the French proverb puts it: "The more things change, the more they are the same."

The Hillsborough Treaty is the third attempt in this century in which Great Britain has seriously attempted to meet the "Irish Question," which has bedeviled it not for years but for many centuries. Will the third time be the charm? or is it three strikes and you're out?

THE FIRST AGREEMENT, 1914

The British parliament toyed with the notion of Home Rule for Ireland from 1886 onwards, with the hopes of the Irish being regularly raised and regularly dashed. In 1912 under Prime Minister Asquith, who relied on Irish members of parliament to keep him in power, the Home Rule Bill came to maturity, with Royal Assent granted on Sept. 18, 1914.

From all over the world came a chorus of praise: Irish overseas rejoiced; Irish in Ireland sang the anthem "A Nation Once Again." Winston Churchill had already enthused that Ireland would no longer be the same "fierce and tragic" island because "rebellion, murder, and dynamite, these have vanished from Ireland." There seemed to be a true balance of interests even in Ulster where a 1910 vote in its nine counties was 103,367 Unionist and 94,073 Nationalist. But the cultural descendants of the victors at Boyne were irredentist and implacably so.

Led by the Masonic Orange Lodges, by Edward Carson and Sir James Craig, who later was to say as Grand Master of the Orange Lodge of County Down: "far more than I do being Prime Minister . . . I have always said that I am an Orangeman first and a politician and member of parliament afterwards . . . all I boast is that we are a Protestant parliament in a Protestant state," the Unionists mounted a counter-offensive to Irish Home Rule.

Carson proposed cutting six counties off from the nine in Ulster; to back up his intention he even imported rifles to arm civilians. Caparisoned with black bowler hats, walking sticks, broad orange stoles and phylacteries around their shoulders, to the tune of fifes and drums, the Unionists paraded through the streets in a determined campaign against the law. Carson even put the newly organized Ulster Defense Force of some 100,000 "on a war footing."

Meanwhile, General Hubert Gough, the commandant of the Curragh Brigade (near Dublin) and 57 of his officers publicly proclaimed that they would resign their military commissions rather than coerce Ulster to obey the new law. Strictly speaking, no direct orders from London were disobeyed but the event became commonly known as "The Mutiny of the Curragh." Some parliamentarians called for prosecution of the rebellious leaders but in vain.

Asquith and his government backed down, condoning the "mutiny" and winking at the mass importation of firearms for the UDF which, on April 25, 1914, consisted of 24,600 rifles and three million rounds of ammunition purchased from Germany. Even in the face of this retreat 132,454 Irishmen of whom 79,511 were Catholic, joined the British armed forces in the war against Germany in 1915, at the same time that Catholic Bishop Fogarty was pronouncing the obsequies: "Home Rule is dead and buried."

The 1916 Easter armed rebellion which ultimately secured freedom for 26 of the 32

counties in Ireland seemed fore-ordained and quite predictable in the sequence of events. Strike one, the umpire might have signaled.

THE SECOND AGREEMENT, 1973

The second attempt at an "Irish settlement" came in the 1973 Sunningdale Agreement. Not only had Ireland been partitioned in the meanwhile, but Carson's initiative to partition Ulster itself with six of the nine counties excised, had been implemented.

Ulster became a gerrymandered constituency without "one man, one vote," a paradigm of religious, judicial, and political oppression wherein not a single Catholic was ever chosen to be in the government, e.g. as a cabinet member, in over fifty years, where religious and political discrimination in housing, employment, and commerce could not have but eventually brought Great Britain into disrepute.

Civil rights associations such as the European Human Rights Commission, the London based Amnesty International and others began to raise serious questions about the legal system, the police and public security, the treatment of political prisoners, the denial of suffrage and assembly. Nationalist peaceful marches were banned; Unonists were police-protected. The seeds of yet another explosion like that of 1916 were sowed. The new Provisional IRA was born; The British Army, some 16,000 troops, was moved into Ulster on Aug. 14, 1969 "to protect both sides." In 1971 the Provo IRA had killed their first British soldier in the streets of Belfast; 1972 saw the British army wantonly shooting down 13 innocent unarmed civilians in their Bogside ghetto in Derry. The results again were predictable.

The Stormont government of Ulster was suspended by Westminster; Great Britain itself took over direct rule of the six counties, a rule which has perdured to the present day.

In 1973 the second major attempt at settlement was made. The Sunningdale Agreement proposed a sharing of power between majority and minority populations. One man one vote became law, the Royal Ulster Constabulary police were disarmed and the para-military "B" specials officially disbanded. A new Council of Northern Ireland, to seek cooperation with the Irish Republic, was proposed, as was a "devolved" local government sharing cabinet posts and administrative positions between Unionists and Nationalists, between the Protestant majority in the six counties and the Catholic minority. Of such proposals demagogues are born in Ulster; Ian Paisley, described as "a brilliant mob orator" rode to power, fame, and election to the London Parliament and the DUC became a source of power.

For the second time in the 20th century Great Britain had taken an initiative to bring at least a modicum of democracy into what it calls its "province." But the question then (as now) was not its willingness to pass legislation and to formulate agreements but whether it had the will power to enforce them. The clear answer, in the face of the Unionist recusant onslaught, was in the negative.

With relative ease in 1974 the whole scheme was subverted by a political strike called by the Workers Union of Ulster. This act of massive resistance and civil disobedience paralyzed the Province for about a week. The RUC police force and the British Army stood idly by unwilling to move against the Unionist protesters. Power-sharing which had been the notable feature of Sunningdale was not acceptable; good will was not translated into commensurate action. Northern Ireland had once again reverted to type, drifting aimlessly into more violence, murder, terrorism and heart-break on all sides.

Again folk heroes were born. Bernadette Devlin, to be shot by Unionists in her own home; Bobby Sands on hunger strike at the Long Kesh prison were elected to the Westminster Parliament in London. Policemen, British soldiers, judges, among each group some Catholics, were ruthlessly murdered by the Provo who publicly "took credit." Just seventeen days after Bobby Sands died on May 5, 1981 Carol Ann Kelly, aged 12, was shot down by British troopers just outside the Sands' family home in Twinbrook, Belfast, with plastic bullets, the allegedly "non-lethal" missiles which had already killed twelve people, all of them Catholics.

On April 5, James Prior, the British Secretary for Northern Ireland, issued a "white paper proposing to put an end to bloodshed, a proposal which he called "novel, fair, and flexible." It was repudiated by all sides.

Sunningdale with all its works and promises was dead and buried. The Unionists still held de facto veto power over the British Parliament; Great Britain would not enforce its own laws, treaties, and agreements in a divided Ulster.

"Strike two" the umpire might have signaled.

THE THIRD ATTEMPT, 1985

A new dynamic was at work in the beautiful green village of Hillsborough, near Belfast, in Dec. 1985 as the third agreement of this century was signed by the two prime ministers, Mrs. Margaret Thatcher for the United Kingdom and Dr. Garret Fitzgerald for the Republic of Ireland. For the first time in the tortured history of a partitioned Ulster, the Irish government had been conceded a role, albeit a consultative one only, in the affairs of the Province.

Violence as a policy and coercion as a means were ruled out by the Hillsborough Agreement. Thatcher promised to support a United Ireland when and only when "the majority" (unfortunately not specified as to meaning) so wished; Fitzgerald foreswore any use of force as licit for the reconciliation of the two sides. The U.K. and the Republic pledged to cooperate jointly to build a just society as prelude to peace wherein both majority and minority rights were respected and sustained. A joint commission from north and south of the border would work together to revive the local legislature at Stormont as a step towards good government.

As usual, the extremists on both sides violently opposed Hillsborough but for contrary reasons: Paisley and the DUP because it would keep Dublin in Ulster's future indefinitely; Adams and the IRA because it would keep London there. On June 26 Paisley declared that "we are on the verge of civil war;" at the same time the Provo IRA took "credit" for the killing of two British soldiers. The Unionists replied with the murder of a young Catholic man, Brian Leonard, aged 20 of the Shankhill area of Belfast, "in retaliation."

Paisley dipped back into history urging the officers of the Royal Ulster Constabulary to resign their commissions rather than enforce the law; he called up the ghosts of General Gough and the "Mutiny of the Curragh." He suggested that he would lead hand-to-hand fighting in the streets, with blood flowing as in 1914. The newspapers were quick to label his actions: "Paisley Urges RUC Revolt." Hours later he said he was not fomenting revolution or mutiny but merely predicting them.

Councilwoman Dodie McGuinness in defiance of the RUC addressed an illegal assembly of 1,000 on June 30 in Derry (Derry Journal, July 1). A Sinn Fein city official, she openly supported violence and the IRA, heaping scorn on the supporters of the Hillsborough Agreement:

"Thatcher only started to take Ireland seriously when the IRA put a bomb under her backside in Brighton, and history has shown that Britain like all colonial aggressors only listens to force." On July 10, the IRA admitted yet another killing: of John McVitty of the RUC in front of his 10 year old son.

The Lord Mayor of Belfast, Sammy Wilson, called for a repudiation of the British as well as the Irish governments: "We've always had it lorded over us. They're (i.e. the British) so superior . . . their accents and everything . . . Unionists see the role of the Irish government and the SDLP (the Nationalist party) as being not too far from the position of the Sinn Fein (Provisional IRA). Instead of using IRA guns, they're using British guns." (Sunday Tribune, July 13, Belfast).

Editorials both north and south of the border grew increasingly pessimistic as "the marching season" came into the spotlight. July 12 did not come off exactly as in the past. There were the customary marches under the patronage of the Masonic lodges; the black bowler hats, the walking sticks, the broad orange stoles, and the fife and drum corps a la 1914, but the Unionists were not granted carte blanche to do as they pleased.

Parades were routed around and away from Catholic areas in many cases; compromises were effected. John Hume, the moderate leader of the SDLP vigorously protested the "compromise" in Portadown on July 12, which kept the Orange marchers out of their customary parade through the Nationalist Tunnel area, but which permitted the marchers to strut their stuff in a much larger Catholic area Hume interpreted this "compromise" a "victory for Paisley" and "a boost for bully boys."

Editorialists were cautious in their assessments of the situation, and somewhat on the pessimistic side. The Irish Times, July 10, accused Paisley of dangerous words in calling on "the police, in effect, to mutiny, picturing him as having spent "a good part of his life skating on the fringes of the law . . . coming very close to sedition—and incitement to violence." The Derry Journal, July 11, noted that "today the police and the British army are threatened by forces on both sides of the divide. The people in general are threatened by security forces and paramilitaries within their respective communities. In such conditions is it any wonder that more and more people ask, despairingly, what are the chances for peace?"

The Sunday Tribune, July 10, entitled its editorial "Meaningless Agreement," expressing disappointment: "There nonetheless must be concern that the means of political resolution of the problems of Northern Ireland have begun to appear a good deal less effective than we had been led to believe some eight months ago. The Anglo-Irish Agreement was welcomed largely on a perception of how it would resolve the grievances of the minority. The reality is that since its signing it has done almost nothing on that account."

The Irish Press, July 10, in its editorial "Powder Keg," put its finger on the key point: "We will discover whether the British

government's writ still runs and whether the RUC is willing and able to enforce the law."

There are some signs of hope contrary to the pessimism engendered by the last eight months; some things have indeed changed. All of Ireland and Great Britain saw with their own eyes, Dr. Paisley being hauled bodily and unceremoniously out of the Stormont legislature kicking and shouting, and twenty-one of his legislative associates with him. Protestant mobs attacked the RUC police with sticks and stones and, more ominously, with petrol bombs formerly known as Molotov cocktails—Protestant against Protestant. Perhaps the most startling of all was the use of plastic bullets by the RUC against the Unionist protesters, bullets which were reserved only for Nationalist marchers in early times. The "marching season" did not follow previous patterns of untrammeled flaunting of Orange ascendancy. The Orange Order in Belfast, for example, refused to cooperate with Paisley's call for massive marches "bad tactics," they said.

Britain's BBC presented, June 30, a documentary on the Unionist mentality in Portadown, re-enforcing the perception, as the polls in Great Britain clearly indicate: the British people are sick and tired of Northern Ireland, its toll on British troops, and its cost to British taxpayers. They don't feel drawn to defend more Portadowns.

Many leaders in state and church in Ireland, North and South, have not yet given up on the Anglo-Irish Agreement of Hillsborough. They see clear signs that the Thatcher government means to stand by it and up to it. Parliament at Westminster also sees its "ultimate authority" (Great Britain has no written Constitution) being seriously challenged and eroded.

Moderate politicians are looking for speedy amelioration of some classic grievances which are not *ex professo* addressed in the Agreement but can help support it if ameliorated or even solved.

They expect that the current practices of the Diplock courts, with its single judge sitting without jury, can now be changed to a three judge court. Snorted the IRA Provos: "What's the difference between one Unionist judge and three Unionist judges?" There is a bill introduced in Westminster by Seamus Mallon of Armagh to curb the use of "supergrass," the convicted paid informers whose uncorroborated testimony, which would never be accepted in England, is in Northern Ireland.

New measures of control of security forces are also expected, particularly the mode of operations of the Ulster Defense Regiment. Under present arrangements these reserve officers, weekend police, and auxiliaries to the regular RUC are not supposed to work or engage in police actions without the presence of a fully professional policeman of the RUC. When asked how this assignment was working a prominent politician said "about one-third of the time;" a Catholic bishop assured "about half the time."

It seems fair to say that most leaders still think it is too early to judge whether Ulster will for the third time hold veto power over the Westminster Parliament. Nationalists and Unionists of moderate stripe are skeptical, but in most cases not cynical; give the Hillsborough Agreement a chance for at least one year but not more than two, they say.

Will the third time be the charm? Or is it three strikes and you're out?

It's too early to tell.

MESSAGES FROM THE HOUSE

At 9:10 a.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 738) making continuing appropriations for the fiscal year 1987, and for other purposes; it recedes from its disagreement to the amendment of the Senate numbered 60 to the joint resolution, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 19, 59, 117, and 124 to the joint resolution, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and it insists upon its disagreement to the amendment of the Senate numbered 23 to the joint resolution.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 753. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

At 10:30 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1128) to amend the Clean Water Act, and for other purposes; and that the House insists upon its amendment to the title of the bill.

The message also announced that the House agrees to the amendments of the Senate numbered 1 through 4, and 6 through 11 to the bill (H.R. 5028) entitled "The Lower Colorado Water Supply Act"; and that the House disagrees to the amendment of the Senate numbered 5 to the bill.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3614) to restrict the use of Government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes.

The message also announced that the House has passed the bill (S. 1374) to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3004) to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5495) to authorize appropriations to the National Aeronautics and Space Administration and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 411. Concurrent resolution to correct a technical error in the enrollment of the bill S. 475.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:56 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2067. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company;

H.R. 3113. An act to implement the Coordinated Operations Agreement, the Suisun Marsh Preservation Agreement, and to amend the Small Reclamation Projects Act of 1956, as amended, and for other purposes;

H.R. 3352. An act to transfer certain real property to the city of Mesquite, Nevada;

H.R. 4175. An act to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission; and

H.J. Res. 753. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

At 4:57 p.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks, announced that the House has passed the following bills and joint resolutions, without amendment:

S. 511. An act to change the name of the Loxahatchee National Wildlife Refuge, Florida, to the Arthur R. Marshall Loxahatchee National Wildlife Refuge;

S. 2864. An act to provide for a Deputy Secretary of Labor, an Assistant Secretary of Labor for Administration and Management, three additional Assistant Secretaries of Labor, and for other purposes; and

S.J. Res. 427. Joint resolution reaffirming our friendship and sympathy with the people of El Salvador following the devastating earthquake of October 10, 1986.

The message also announced that the House has agreed to the following

concurrent resolutions, without amendment:

S. Con. Res. 168. Concurrent resolution authorizing a technical correction to be made in the enrollment of the bill S. 2250; and

S. Con. Res. 171. Concurrent resolution to correct the enrollment of H.J. Res. 626.

The message further announced that the House agrees to the amendment of the Senate to the amendments of the House to the amendment of the Senate to the bill (H.R. 4350) to amend the Wild and Scenic Rivers Act, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the following bills and joint resolution:

H.R. 4244. An act to authorize funds to preserve the official papers of Joseph W. Martin, Jr.;

H.R. 4961. An act to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, 1989, and for other purposes; and

H.J. Res. 626. Joint resolution to approve the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 5167) to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia.

The message also announced the House has passed the joint resolution (S.J. Res. 43) to authorize the Armored Force Monument Committee, the U.S. Armor Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, the 11th Armored Cavalry Regiment Association, the Tank Destroyer Association, the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, and 16th Armored Division Associations, and the Council of Armored Division Associations jointly to erect a memorial to the "American Armored Force" on U.S. Government property in Arlington, VA, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4899) to amend title 35, United States Code, with respect to patented processes and the patent cooperation treaty; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the title of the bill (H.R. 5595) to amend title XVI of the Social Security Act to make necessary improvements in the SSI Program with the objective of assuring that such program (including the work incentive provisions in section 1619 of such act) will more realistically and more equitably reflect the needs and circumstances of applicants and recipients thereunder; and that the House agrees to the amendment of the Senate to the text of the bill, with amendments, in which it requests the concurrence of the Senate.

At 9:17 p.m., a message from the House of Representatives, delivered by Mr. Allen, one of its clerks, announced that the House has passed the following bills, without amendment:

S. 485. An act to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the treatment of submerged land and ownership by the Alaska Native Corporation; and

S. 2648. An act to improve the public health through the prevention of injuries.

The message also announced that the House agrees to the amendment of the Senate to the following bills:

H.R. 2776. An act to amend the District of Columbia Stadium Act of 1957 to direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium to the District of Columbia; and

H.R. 4208. An act to authorize appropriations for the Coast Guard for fiscal year 1987, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2482) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (H.R. 2057) to establish the President's Council on Health Promotion and Disease Prevention; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 1311) to authorize the Smithsonian Institution to plan, design, and construct facilities for the National Air and Space Museum; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the title of the bill (S. 991) to provide authorization of appropriations for certain fisheries activities; and that the House agrees to the amendment of the Senate to the amendment of the House to the text of the bill, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests concurrence of the Senate:

H.R. 2127. An act to establish a United States Boxing Commission, and for other purposes; and

H.R. 5705. An act to protect and provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 414. Concurrent resolution to correct the enrollment of the bill S. 1200.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5705. An act to provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes.

The Committee on the Judiciary was discharged from the further consideration of the following bill; which was placed on the calendar:

H.R. 2652. An act for the relief of Kumari Rajlakshmi Bais.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, October 16, 1986, she had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 209. An act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services on the case of indebtedness owed the United States;

S. 1895. An act for the relief of Marlboro County General Hospital Charity of Bennettsville, South Carolina;

S. 2266. An act to establish a ski area permit system on national forest lands, and for other purposes;

S. 2506. An act to establish a Great Basin National Park in the State of Nevada, and for other purposes;

S. 2750. An act to establish a property tax fund for the Houlton Band of Maliseet Indians in furtherance of the Maine Indian Claims Settlement Act of 1980, and for other purposes;

S.J. Res. 169. Joint resolution to commemorate the bicentennial anniversary of the first patent and the first copyright laws;

S.J. Res. 232. Joint resolution to designate October 6 through October 10, 1986, as "National Social Studies Week";

S.J. Res. 299. Joint resolution to designate the week of December 7 through December 13, 1986, as "National Alopecia Areata Awareness Week";

S.J. Res. 304. Joint resolution to designate the week of November 16 through November 22, 1986, as "National Arts Week";

S.J. Res. 306. Joint resolution to designate the week beginning November 23, 1986, as "National Adoption Week";

S.J. Res. 308. Joint resolution to designate March 25, 1987, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy";

S.J. Res. 311. Joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week";

S.J. Res. 322. Joint resolution to designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor;

S.J. Res. 392. Joint resolution to designate the month of December 1986 as "Made in America Month";

S.J. Res. 396. Joint resolution to designate the week October 26 through November 1, 1986, as "National Adult Immunization Awareness Week";

S.J. Res. 410. Joint resolution to designate the period commencing February 9 and ending February 15, 1987, as "National Burn Awareness Week";

S.J. Res. 414. Joint resolution to designate March 16, 1987, as "Freedom of Information Day"; and

S.J. Res. 418. Joint resolution to designate February 4, 1987, as "National Women in Sports Day".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations;

Special report entitled "Revise Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1987 (Rept. No. 99-540).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Treaty Doc. 99-12. 1984 Protocols amending the Civil Liability and Fund Conventions on Oil Pollution Damage (Exec. Rept. 99-28); and resolutions of advice and consent to ratification thereto:

TEXT OF RESOLUTION OF RATIFICATION PROTOCOL OF 1984 TO AMEND THE INTERNATIONAL CONVENTION OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE, 1969

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol of 1984 to Amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (Civil Liability Convention), subject to the following reservation, understandings and declaration:

RESERVATION

Notwithstanding Article III, paragraph 4, of the Convention of Civil Liability for Oil Pollution Damage, 1969, as amended, to the extent that oil pollution damages in respect of any one incident may exceed the total amount recoverable under said Convention (Liability Convention), the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention), as amended, and the applicable U.S. Federal oil pollution liability and compensation statute, claimants may seek recovery of their uncompensated damages in courts of competent jurisdiction of the States of the United States, including its territories and possessions and the District of Columbia, pursuant to applicable State statutes and common law, after remedies available under the Liability Convention, the Fund Convention, and the applicable U.S. Federal Oil pollution liability and compensation statute have been exhausted, except that in any such section under a State statute or common law for such uncompensated damages, no claimant shall be entitled to assert any substantive or procedural right based on any provision of the Liability Convention for the Fund Convention.

UNDERSTANDINGS

(1) The United States understands that the definition of pollution damage in Article I, paragraph 6 of the International Convention of Civil Liability for Oil Pollution Damage, 1969, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto, does not exclude reasonable and directly related loss of tax revenue to the United States, its States and territories and subdivisions thereof, and the District of Columbia.

(2) The United States understands that nothing in the Protocol of 1984 to Amend the International Convention of Civil Liability for Oil Pollution Damage, 1969, prevents any claimant from combining damage awards from two or more incidents which have injured the same or adjacent resources to fund a restoration project which addresses those incidents.

(3) The United States understands that the definition of pollution damage in Article I, paragraph 6 of the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto, includes loss of profit or impairment of earning capacity caused by damage of the environment by an oil pollution incident.

(4) Any damages not compensable due to the definition of pollution damage in Article I, paragraph 6 of the International Convention on Civil Liability for Oil Pollution Damage, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto, or by any future interpretation of the Liability Convention as so amended, may be provided for by laws of the United States, its States, territories or the District of Columbia.

(5) The United States understands the definition of pollution damage in Article I, paragraph 6 of the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto, to include loss of use of subsistence resources.

(6) The United States understands the definition of pollution damage in Article I, paragraph 6 of the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto to include directly related and reasonable costs of investigation, assessment of damage and court costs, excluding defense costs.

DECLARATION

In accordance with Article 13 of the Protocol of 1984 to Amend the International Convention on Civil Liability for Oil Pollution Damage, 1969, the United States declares that its instrument of ratification of that Protocol shall be deemed not to be effective for the purpose of said Article 13 until the end of the 6-month period described in Article 31 of the Protocol of 1984 to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.

TEXT OF RESOLUTION OF RATIFICATION PROTOCOL OF 1984 TO AMEND THE INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE, 1971

Resolve, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol of 1984 to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, (Fund Convention), subject to the following understandings and declarations:

UNDERSTANDINGS

(1) The United States understands that nothing in the Protocol of 1984 to Amend the International Convention on the Establishment of an International Fund for compensation for Oil Pollution Damage prevents any claimant from combining damage awards from two or more incidents which have injured the same or adjacent resources to fund a restoration project which addresses those incidents.

(2) Any damages not compensable due to the definition of pollution damage in Article I, paragraph 6 of the International Convention on Civil Liability for Oil Pollution Damage, as amended by Article 2, paragraph 3 of the 1984 Protocol thereto, or by any future interpretation of the Liability Convention as so amended, or of the International Convention on the Establishment of an International Fund for Compensation of Oil Pollution Damage, as amended by the 1984 Protocol thereto, may be provided for by laws of the United States, its States, territories or the District of Columbia.

DECLARATIONS

(1) In accordance with Article 30 of the Protocol of 1984 to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, the United States declares that its instrument of ratification of that Protocol shall not take effect for the purpose of said Article 30 until the end of the 6-month period described in Article 31 of that Protocol.

(2) In accordance with Article 14 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended, the United States declares that it assumes itself all obligations that are incumbent under the Convention on all persons who are liable to contribute to the International Oil Pollution Compensation Fund 1984 (the Fund) in accordance with Article 10, paragraph 1, in respect of oil received within, the territory of the United States. The Fund shall be entitled to enforce all such obligations exclusively under the applicable U.S. Federal oil pollution liability and compensation statute.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BYRD (for Mr. INOUYE (for himself and Mr. RUDMAN)):

S. 2928. A bill to provide for more effective regulation of vehicles not originally manufactured to meet Federal safety standards; ordered held at the desk.

By Mr. MOYNIHAN:

S. 2929. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber ammunition; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 2930. A bill entitled the Department of Energy Environmental Compliance Act of 1986; to the Committee on Environment and Public Works.

S. 2931. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin Project, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2932. A bill to establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MOYNIHAN (for himself and Mr. HEINZ):

S. 2933. A bill to charter the National Academy of Social Insurance; to the Committee on the Judiciary.

By Mr. DOLE:

S. 2934. A bill to establish a Commission and National Advisory Committee to study a constitutional amendment regarding impeachment; to the Committee on the Judiciary.

By Mr. CHAFEE:

S. 2935. A bill to prohibit the use of subtherapeutic doses of penicillin, chlortetracycline, and oxytetracycline in animal feed; to the Committee on Labor and Human Resources.

By Mr. PELL (for himself, Mr. CHAFEE and Mr. WEICKER):

S. 2936. A bill granting the consent of Congress to the Connecticut, Rhode Island, Massachusetts, and New York Rail Improvements Compact; to the Committee on the Judiciary.

By Mr. NUNN (for himself and Mr. COCHRAN):

S. 2937. A bill to amend the Food Security Act of 1985 to increase the number of acres placed in the conservation reserve program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SPECTER:

S. 2938. A bill entitled the "Logan Relief Act"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER:

S. 2939. A bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMPSON (for Mr. MATHIAS (for himself, Mr. SARBANES, Mr. WARNER, and Mr. TRIBLE)):

S.J. Res. 428. A joint resolution granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact; considered and passed.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. KERRY, Mr. BYRD, Mr. MELCHER, and Mr. LEAHY):

S.J. Res. 429. A joint resolution to require a report by the President on possible involvement by U.S. government personnel in the provision of military support by American citizens to the Nicaraguan democratic resistance.

By Mr. DOLE (for himself, Mr. BYRD, Mr. THURMOND, Mr. CRANSTON, Mr. SIMPSON, Mr. COCHRAN, Mr. SARBANES, Mr. BOSCHWITZ, Mr. HATCH, Mr. BOREN, Mr. BENTSEN, Mr. LEAHY, Mr. WILSON, Mr. GOLDWATER, Mr. LUGAR, Mr. FORD, Mr. HEINZ, Mr. STAFFORD, Mr. DOMENICI, Mr. CHILES, Mr. NUNN, Mr. LEVIN, Mr. DECONCINI, Mr. BROYHILL, Mr. BURDICK, Mr. DODD, Mr. DURENBERGER, Mr. INOUYE, Mr. GORE, Mr. HOLLINGS, Mr. TRIBLE, Mr. WARNER, Mr. PACKWOOD, Mr. STEVENS, Mr. LAUTENBERG, Mr. WEICKER, Mr. GRASSLEY, Mr. MURKOWSKI, Mr. EAGLETON, Mr. ANDREWS, Mr. ABDNOR, Mr. D'AMATO, Mr. JOHNSTON, Mr. ROCKEFELLER, Mr. SIMON, Mr. RIEGLE, and Mr. PRYOR):

S.J. Res. 430. Joint resolution to commemorate the United Way of America on its centennial; considered and indefinitely postponed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMPSON (for Mr. ROTH (for himself, Mr. DOMENICI, and Mr. CHILES)):

S. Res. 509. A resolution providing for a point of order against extraneous material in certain reconciliation measures; considered and agreed to.

By Mr. SIMPSON (for Mr. DOLE (for himself and Mr. BYRD)):

S. Res. 510. A resolution authorizing the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate to make certain appointments after the sine die adjournment of the present session; considered and agreed to.

By Mr. BOSCHWITZ:

S. Res. 511. A resolution expressing the sense of the Senate that the Joint Political-Military Group should develop policies and programs which promote strategic cooperation between the United States and Israel; to the Committee on Foreign Relations.

By Mr. SIMPSON (for Mr. DOLE) for himself and Mr. BYRD)):

S. Res. 512. A resolution to direct the Senate Legal Counsel to represent the staff of Senator DOLE and to authorize the testimony of such staff in the case of United States v. Michael Evan Bardoff, et al.

By Mr. SIMPSON (for Mr. MCCLURE):

S. Con. Res. 171. A concurrent resolution to correct the enrollment of H. J. Res. 626; considered and agreed to.

By Mr. SIMPSON (for Mr. THURMOND (for himself, Mr. DOLE, Mr. BYRD, Mr. STENNIS, Mr. HATFIELD, Mr. SIMON, and Mrs. KASSEBAUM)):

S. Con. Res. 172. A concurrent resolution to convene the Congress in Philadelphia, Pennsylvania, on July 16, 1987, in order to commemorate the 200th anniversary of the Great Compromise creating the basis of representation between the Senate and the House of Representatives; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN:

S. 2929. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber ammunition; to the Committee on the Judiciary.

VIOLENT CRIME PREVENTION ACT

● Mr. MOYNIHAN. Mr. President, handgun control has not worked. The Gun Control Act of 1968 has been evaded by foreign imports. On top of that, the Firearms Owners Protection Act of 1986 repealed provisions of the Gun Control Act restricting the sale of guns. Now, we learn from the FBI this week that serious crimes reported to police rose 8 percent in the first half of 1986. Violent crimes led the way with a 14-percent jump.

Today there are an estimated 60 million handguns in this country a number which is likely to climb to 100 million by the turn of the century. Handgun control has not worked and it cannot work. A handgun is a simple machine with a technology worked out before the Civil War. The average "Saturday Night Special" has some 40 parts. The Model T, on the other hand, had 5,000 parts, and the antiques still operate today. Unless it wears out, which is surely rare, or seizes up with rust, which is easily prevented, a handgun has a near infinite lifetime. Let us say the United States now has something like a two century supply of firearms.

On the other hand we have about a 7-year supply of handgun ammunition. Each year 4 billion rounds of ammunition are manufactured and approximately 2 billion rounds are consumed. If ammunition has a shelf life of 5 to 10 years this gives us around a 7-year supply of ammunition. But mind you my statistics are somewhat sketchy. Recordkeeping has always been restricted and following passage of the Firearms Owners Protection Act it is now nonexistent for ammunition sales. With only 7 years of ammunition out there at any one time, and 60 million hand guns, is it not a more realistic hypothesis to control ammunition as a means of controlling violent crime than it is to control handguns.

This is a simple proposition: A handgun without ammunition is out of commission. Why not try this strategy? It could just work.

In 1986, the same year the Congress passed the Firearms Owners Protection Act, Congress passed the first legislation in history forbidding the manufacture, import, and sale of a particular type of handgun ammunition, armor-piercing ammunition—the so-called cop-killer bullet. This round jacketed with tungsten alloys, steel, brass, or any number of other metals, has been demonstrated to penetrate no less than four police flak jackets and an additional five Los Angeles County phone books at one time. In 1982 the New York Police Benevolent Association came to me and Representative BIAGGI and asked us to do something about this. The result was the Law Enforcement Officers Protection Act, which we introduced in 1982, 1983, and for the last time during the 99th Congress. In the end, with the tacit support of the National Rifle Association the measure passed the Con-

gress and was signed by the President as Public Law 99-408 on August 28.

Now it is time to do something about the Saturday Night Special, a phrase coined by Detroit police to describe the weekend traffic in cheap guns from Ohio. Saturday Night Specials, or snubbies, are for the most part of small caliber, .22, .25, and .32, and they are easily concealed. As Cox Newspapers ably documented in 1981, these small caliber weapons are the overwhelming choice of criminals. They are not the choice of sportsmen as trail guns, and marksmen don't use them in competition.

Back to my proposition about controlling ammunition as a means of controlling violent crime. Let us ban the manufacture and importation of the ammunition for these weapons, and here I speak specifically of .25 and .32 caliber ammunition. In 5 or 7 or 10 years anywhere from 10 to 20 percent of the crime guns in the United States will be out of commission. Will there be others? Of course. But President Reagan survived a .22 caliber wound. President Ford very likely would not have survived the .32 round that was fired at him. President McKinley, Huey Long, and George Moscone did not. The armed services are just now switching over from their .45 pistol (those 1911 automatics work well to this day) to a .9 millimeter round, about the size of a .32 and intended of course to be a deadly weapon. The .22 is too small to be automatically deadly, the .45 too large to conceal (and Alaskan guides need them for bear attacks). In between we could just save a couple of thousand lives a year.

It is a new thought. But remember, we have already passed one ammunition bill. Why not a second. It is called the Violent Crime Prevention Act introduced on what appears to be the next to last day of the 99th Congress, which enacted the first, and is due to be introduced on the first day of the 100th.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2929

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Violent Crime Prevention Act".

SEC. 2. Section 922(a) of title 18, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5);

(2) striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(3) adding at the end thereof the following:

"(7) for any person to manufacture, transfer, or import .25 or .32 caliber ammunition, except that this paragraph shall not apply to—

"(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) any manufacture or importation for testing or for experimenting authorized by the Secretary; and

"(8) for any manufacturer or importer to sell or deliver .25 or .32 caliber ammunition, except that this paragraph shall not apply to—

"(A) the sale or delivery by a manufacturer or importer of such ammunition for use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) the sale or delivery by a manufacturer or importer of such ammunition for testing or for experimenting authorized by the Secretary.".

SEC. 3. Section 923(a)(1)(A) of title 18, United States Code, is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices, or .25 or .32 caliber ammunition, a fee of $1,000 per year;".

SEC. 4. Section 923(a)(1)(C) of title 18, United States Code, is amended to read as follows:

"(C) of ammunition for firearms other than destructive devices, or .25 or .32 caliber ammunition for any firearm, a fee of $10 per year.".

SEC. 5. Section 923(a)(2) of title 18, United States Code, is amended to read as follows:

"(2) If the applicant is an importer—

"(A) of destructive devices, ammunition for destructive devices, or .25 or .32 caliber ammunition for any firearm, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or .25 or .32 caliber ammunition for any firearm, a fee of $50 per year.".

SEC. 6. Section 923 of title 18, United States Code, is amended by adding at the end thereof the following:

"(k) Licensed importers and manufacturers shall mark all .25 and .32 caliber ammunition and packages containing such ammunition for distribution, in the manner prescribed by the Secretary by regulation.".

SEC. 7. Section 929(a)(1) of title 18, United States Code, is amended by—

(1) inserting ", or with .25 or .32 caliber ammunition" after "as defined in subsection (b),"; and

(2) inserting ", or .25 or .32 caliber ammunition" after "armor-piercing handgun ammunition".

SEC. 8. This Act and the amendments made by this Act shall take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of this Act.●

By Mr. HATFIELD:

S. 2930. A bill entitled the "Department of Energy Environmental Compliance Act of 1986"; to the Committee on Environment and Public Works.

DEPARTMENT OF ENERGY ENVIRONMENTAL COMPLIANCE ACT OF 1986

● Mr. HATFIELD. Mr. President, today I am introducing the Department of Energy Environmental Compliance Act of 1986. This legislation would reform the Department of Energy's [DOE] management of radioactive and hazardous wastes at all DOE installations, including the Hanford Nuclear Reservation in the State of Washington. The text of this legislation is identical to a substitute version of H.R. 4848 which was introduced by Congressman WYDEN from Oregon. The original text of H.R. 4848 was introduced in the House of Representatives on May 19, 1986.

The management of both radioactive and hazardous wastes at the DOE's defense facilities was regulated by the Department until a 1984 U.S. court ruling gave the Environmental Protection Agency [EPA] jurisdiction over hazardous waste management under the Resource Conservation and Recovery Act of 1976 [RCRA]. Consequently, the waste produced by the DOE's defense facilities currently is under dual management, with the Department self-regulating radioactive waste and the EPA regulating hazardous waste. Mixed waste, a combination of both radioactive and hazardous wastes, falls under the regulatory powers of both the DOE and the EPA. Needless to say, the current management strategy for the three types of waste causes confusion over the ultimate environmental responsibility.

At the Hanford Nuclear Reservation, the DOE has compiled a poor record of self-regulation regarding the proper disposal of radioactive and hazardous wastes. For example, the Department's own guidelines disapproving soil dumping of radioactive liquids have been set aside continuously at the Hanford site. According to a 1985 report by the Rockwell Corp., which operates Hanford's waste activities, the total volume of liquid wastes dumped on the ground at Hanford since 1943 is in excess of 200 billion gallons. That is enough liquid to cover Manhattan Island to a depth of 40 feet. It is obvious to me that such a practice never would be allowed at a commercial operation. Why then do we allow it at a federally operated facility?

The management of hazardous waste is another source of contention at Hanford. The State of Washington recently assessed fines in the amount of $49,000 against the DOE for violations in the handling of hazardous wastes at the Hanford site. The DOE allegedly falsely certified that it was in compliance with RCRA provisions at these facilities in a RCRA permit application. This incident led to a criminal investigation of the DOE's actions by the EPA, and marked the first time that a Federal facility has been under criminal investigation as a potential lawbreaker for hazardous waste management violations.

This legislation is designed to reform current radioactive and hazardous waste management techniques em-

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ployed by the DOE. The first title gives the EPA an extension of its current regulatory authority over the DOE's defense facilities waste management operations. The EPA would have authority to regulate public exposure to all radioactive wastes, including the radioactive component of mixed waste. By limiting annual public exposure to radiation from DOE sources and setting aggregate limits for lifetime exposure to radiation, the EPA could ensure a consistent management program at the DOE's defense facilities.

The legislation's second title requires the EPA to monitor the DOE's compliance with environmental laws and to report annually to Congress on this matter. The Department would be required to cease dumping radioactive wastes into the soil, as is the current method of disposal at Hanford. Also, the DOE would be required to estimate the cost for cleanup and safe disposal of its current waste output, and to provide quality assurance at all facilities, including Hanford.

Mr. President, the time has come for a more comprehensive approach to waste management at the Department of Energy's defense facilities. The proper management at the Hanford site is critical to the image that the Federal Government projects in the Pacific Northwest, as well as the eminent safety of the citizens of that region. This bill would ensure that both concerns would be properly addressed and subsequently carried out.

Mr. President, I ask unanimous consent that the text of this legislation appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2930

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy Environmental Compliance Act of 1986".

SEC. 2. DEFINITIONS.

For purposes of this Act;

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "environment" includes air, water, soil, rock, sediment, and living things, both on and off the premises of any facility.

(3) The term "Governor" means the chief executive officer of a State.

(4) The term "hazardous waste" has the meaning given such term in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(5) The term "monitoring" means sampling and measurement of environmental compliance parameters, or review, inspection, and testing of in-place sampling and measurement devices and methods adequate to establish the thoroughness and accuracy of such devices.

(6) The term "person" includes an individual, corporate entity, partnership, association, State, political subdivision of a State, Federal Government, and any department, agency, or instrumentality of the Federal Government.

(7) The term "radioactive" means spontaneously emitting ionizing radiation through a process of nuclear decay at a level detectable above the natural background level.

(8) The term "radioactive waste" means radioactive materials that are intended for discard or disposal, or radioactive materials that are sometimes discarded or disposed of and that must be reprocessed before being further used. Such term does not include material undergoing reprocessing.

(9) The term "Secretary" means the Secretary of Energy.

(10) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

TITLE I—STANDARDS FOR PROTECTION FROM RADIOACTIVE EMISSIONS FROM FACILITIES OF DEPARTMENT OF ENERGY

SEC. 101. ISSUANCE OF STANDARDS.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency shall, by rule, issue and periodically revise standards for the protection of the public health and safety and the environment from radioactive emissions from facilities of the Department of Energy not subject to regulation by the Nuclear Regulatory Commission, or by an agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021).

(b) LEVEL OF PROTECTION.—The standards under subsection (a) shall provide for a level of protection of the public health and safety and the environment at least as great as the level of protection provided by the standards regulating radioactive emissions at facilities licensed by the Nuclear Regulatory Commission, as such standards may be revised from time to time.

(c) SPECIFIC STANDARDS.—The standards issued under subsection (a) shall include—

(1) annual limits for whole body and organ exposure to radioactive emissions resulting from activities of the Department of Energy, which limits shall be issued not later than 6 months after the date of the enactment of this Act;

(2) aggregate limits for lifetime public exposure to such radioactive emissions, which limits shall be issued not later than 12 months after the date of the enactment of this Act; and

(3) models for calculating public exposure to such radioactive emissions, which models—

(A) shall assume that the public is not excluded from any location greater than 0.5 miles from the specific source of such emissions; and

(B) shall be issued not later than 24 months after the date of the enactment of this Act.

(d) NONPREEMPTION.—The issuance of standards under this section shall not preempt any authority of the Federal Government or a State under other Federal law to issue standards that are more protective of the public health and safety and the environment.

SEC. 102. MONITORING OF COMPLIANCE BY DEPARTMENT OF ENERGY.

Not later than 24 months after the date of the enactment of this Act, the Secretary of Energy shall conduct such monitoring as the Administrator determines is necessary to ascertain compliance with the standards issued under section 101.

SEC.103. INFORMATION AND INSPECTIONS.

(a) SUBMISSION OF INFORMATION.—Any owner or operator of a facility subject to the standards issued under section 101 shall, upon request of the Administrator, submit such information as the Administrator determines to be necessary to carry out this title.

(b) INSPECTIONS BY ADMINISTRATOR.—The Administrator may conduct such onsite and offsite inspections of facilities subject to the standards issued under section 101 as the Administrator determines to be necessary to carry out this title. The Administrator shall comply with such applicable legal procedures (including, if necessary, the obtaining of a warrant) as are necessary to obtain samples of wastes or discharges from public or private property.

SEC. 104. ENFORCEMENT.

(a) IN GENERAL.—Whenever the Administrator determines that any person is in violation of any standard issued under section 101, the Administrator may—

(1) issue an order assessing a civil penalty for such violation, requiring compliance immediately or within a specified time, or both, or

(2) commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief.

(b) CIVIL PENALTIES IMPOSED BY ADMINISTRATOR.—

(1) Any order issued under this section shall state the nature of the violation. Any civil penalty assessed in the order shall not exceed $1,000,000.

(2) After making a finding of a violation by any person, the Administrator may suspend action on any request for a permit or a license by the person or the Federal agency employing the person pending before the Administrator under any law. The Administrator may continue such suspension until the person is no longer in violation and has complied with all administrative and judicial orders issued under this section.

(3) Any order issued under this subsection shall become final unless, not later than 30 days after the order is served, the person or persons named in such order request a public hearing.

(4) The Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures in connection with any proceeding under this subsection.

(5) If a person in violation of any standard issued under section 101 fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance.

(c) CIVIL PENALTIES IMPOSED BY COURT.—Any person who violates any standard issued under section 101 shall be liable to the United States for a civil penalty in an amount not to exceed $1,000,000.

(d) LIMITATION.—No amount assessed against any contractor of the Department of Energy (or any subcontractor or supplier of such contractor) under this section may be reimbursed directly or indirectly by the Secretary of Energy.

SEC. 105. APPLICABILITY OF STANDARDS TO FEDERAL FACILITIES.

Neither the United States nor any agent, employee, or officer of the United States shall be exempt or immune from any process or sanction of any Federal or State court

for violation of any standard issued under section 101.

SEC. 106. COOPERATION OF FEDERAL AGENCIES.

All Federal agencies shall assist the Administrator in carrying out the functions of the Administrator under this title and shall promptly make available any requested information concerning radioactive materials management activities in such form as is determined by the Administrator to be appropriate.

SEC. 107. COOPERATION WITH STATES.

(a) AGREEMENT.—The Administrator may, by agreement with the Governor of any State, authorize such State to exercise the powers of the Administrator under sections 103 and 104.

(b) LIMITATION.—The Administrator shall enter into an agreement under subsection (a) only if the Administrator finds that the State is able to devote adequate resources to the program to protect the public health and safety and the environment. The Administrator shall reserve the right to terminate such an agreement upon a finding by the Administrator that the State is not adequately protecting the public health and safety and the environment.

(c) STATE ENFORCEMENT AND INSPECTION POWERS.—A State acting under an agreement under subsection (a) shall share the inspection and enforcement powers and duties granted to the Administrator under this title, including—

(1) the power to make findings of violation;

(2) the power to issue an order assessing a civil penalty for such violation (payable to the Treasury of the United States), requiring compliance immediately or within a specified time, or both;

(3) the duty to hold hearings on any such assessment; and

(4) the power to commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief.

TITLE II—COMPLIANCE OF FACILITIES OF DEPARTMENT OF ENERGY WITH FEDERAL AND STATE ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. MONITORING BY ENVIRONMENTAL PROTECTION AGENCY.

(a) IN GENERAL.—The Administrator shall conduct such monitoring activities as the Administrator determines to be necessary to assess the extent of compliance of all facilities of the Department of Energy with Federal and State environmental laws. If the Administrator has delegated the implementation of any Federal law to a State, the Administrator may also delegate to such State any monitoring functions necessary to ensure compliance with such law.

(b) SPECIFIC MONITORING ACTIVITIES.—The monitoring conducted under this section shall include the monitoring of—

(1) onsite stack, effluent, and leachate;

(2) offsite areas, including surface waters, for radiation;

(3) cumulative levels of radioactive or hazardous substances in sediments of offsite surface waters; and

(4) any additional parameters that the Administrator determines to be necesssary to protect the public health and safety and the environment.

(c) UNANNOUNCED INSPECTIONS.—The Administrator shall conduct unannounced, onsite inspections at each of the facilities subject to the standards issued under section 101.

(d) ANNUAL REPORT.—The Administrator shall annually submit to the Congress a report on the findings and conclusions of the Administrator as a result of the monitoring conducted under this section. Each report shall include—

(1) a brief description of the actions taken to comply with subsection (a);

(2) a summary of the data, findings, assessments, and characterizations made by the Administrator under this section;

(3) an analysis of the extent of compliance of facilities subject to the standards issued under section 101 with Federal and State environmental laws; and

(4) any recommendations of the Administrator for legislative or other action to ensure compliance with such laws.

(e) REIMBURSEMENT.—The Secretary shall reimburse the Administrator for any expense certified by the Administrator to have been incurred by the Environmental Protection Agency in carrying out the provisions of this section. The Secretary shall not be responsible for costs incurred by the States in carrying out any delegated duties under this section.

SEC. 202. TERMINATION OF USE OF SOIL COLUMNS FOR DISPOSAL OF WASTES.

(a) TERMINATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall terminate the use of soil columns as a method for the disposal of liquid radioactive waste or hazardous waste at facilities of the Department of Energy.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Congress an estimate of the cost of complying with this section and a report on technological alternatives to soil disposal of liquid wastes.

SEC. 203. ENVIRONMENTAL AUDIT AND DISCLOSURE OF COSTS.

(a) AUDIT AND DISCLOSURE OF PRESENT OBLIGATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing—

(1) all sites that present a threat to the public health and safety or the environment due to past disposal of hazardous wastes of radioactive wastes from activities carried out by the Department of Energy or its predecessors, including an estimate of the costs of abating the hazards posed by such sites and schedule under which the Secretary shall abate such hazards;

(2) the estimated costs of safe treatment, storage, and ultimate disposal of the current annual production of hazardous wastes and radioactive wastes at facilities of the Department of Energy; and

(3) for existing facilities of the Department of Energy, the estimated costs of safe disposal of any hazardous waste or radioactive waste, including contaminated structures, equipment, or soils, remaining after the end of the useful life of the facility.

(b) DISCLOSURE OF FUTURE COSTS.—

(1) When making a request to Congress for funds for the Department of Energy for an improvement to real property that may be used to generate either radioactive waste or hazardous waste, the President shall submit to the Congress—

(A) an estimate of the total cost of the safe disposal of such waste generated during the useful life of the improvement; and

(B) an estimate of the total cost of the safe disposal of such waste, including contaminated structures, equipment, or soils, remaining after the end of the useful life of the improvement.

(2) For purposes of this subsection, the terms "radioactive waste" and "hazardous waste" do not include materials contaminated—

(A) by military use of weapons;

(B) during an extraordinary nuclear occurrence, as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014); or

(C) by unintentional release of hazardous substances, as such term is defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601).

SEC. 204. QUALITY ASSURANCE OF ENVIRONMENTAL COMPLIANCE.

(a) GENERAL AUTHORITY.—In order to maintain and improve safety and compliance with environmental laws, the Secretary shall establish and operate, for all activities of the Department of Energy that may affect the public health and safety or the environment, quality assurance programs that provide for internal independent reviews to identify problems that may affect the public health and safety or the environment, determine the causes of such problems, provide for remedies for such problems, and ensure that such remedies are carried out.

(b) PERSONNEL POLICIES.—

(1) The Secretary may not allow personnel performing an activity subject to a quality assurance program to also carry out the quality assurance reviews of such activity.

(2) The Secretary shall provide persons performing quality assurance functions sufficient authority and organizational freedom to identify problems, to initiate, recommend, or provide solutions, and to verify implementation of solutions. The Secretary shall ensure that persons and organizations performing quality assurance functions have sufficient authority and organizational freedom, including sufficient independence from cost, schedule, and production pressure, to effectively protect the public health and safety and the environment. Such authority shall include the power to order immediate cessation of an activity that poses an imminent threat to the public health and safety or the environment. Such orders may subsequently be rescinded by the Secretary, but the Secretary may not delegate the authority to rescind such orders to persons directly or indirectly responsible for carrying out the activity posing the threat.

(c) CHARTER OF QUALITY ASSURANCE PROGRAMS.—

(1) The Secretary shall establish written policies, procedures, or instructions governing quality assurance programs within the Department of Energy.

(2) For each quality assurance program, the Secretary shall identify in writing the activities to be overseen by the program, the persons or organizations responsible for carrying out the activities, and the persons or organizations responsible for the quality assurance program. If a quality assurance program is to be implemented by 2 or more independent persons or organizations, the Secretary shall also identify the designated functions of each implementor.

(d) REVIEW OF ACTIVITIES.—In implementing quality assurance programs, the Secretary shall examine activities affecting or potentially affecting the public health and safety or the environment to detemine, at a minimum—

(1) whether personnel are sufficiently indoctrinated and trained to ensure that they achieve and maintain proficiency in their duties;

(2) whether personnel are conforming with the documented instructions and procedures for accomplishing the activity;

(3) whether tools, gauges, instruments, and other measuring and testing devices are properly controlled, calibrated, and adjusted at specified periods to maintain accuracy within necessary, specified limits;

(4) whether the products, wastes, or other outputs from the activity are handled in a manner necessary to achieve compliance with applicable environmental quality standards; and

(5) whether accidents and unexpected events are duly recorded, documents, investigated, explained, and subject to adequate remedial actions.

(e) CORRECTIVE ACTION.—

(1) When a condition adverse to quality is identified (including accidents and unexpected events whose direct effect on quality is not apparent), the Secretary shall determine and make a record of the cause of the condition, including the root or programmatic cause.

(2) The Secretary shall—

(A) promptly correct any condition adverse to quality; and

(B) take reasonable steps to seek out and correct similar conditions and to preclude repetition of the problem at the facility involved and at any other facility of the Department of Energy where the finding may be applicable.

(f) RECORDS.—

(1) The Secretary shall maintain records, and indexes of records, furnishing evidence of activities affecting environmental quality. Such records shall include inspection and test records identifying the inspector or data recorder, the type of observation, the results, the acceptability, and the corrective and other action taken in connection with any deficiencies noted.

(2) The Secretary shall establish requirements concerning recordkeeping. Such requirements shall assign responsibility for creating and holding the records and shall specify how long and where the records will be retained.

(g) AUDITS.—

(1) The Secretary shall establish a comprehensive system of planned and periodic audits of departmental quality assurance programs to determine the effectiveness of the programs. The Secretary shall conduct such audits in accordance with written procedures using appropriately trained personnel not having direct responsibilities in the work or inspections of work being audited. As part of such audits, the Secretary shall invite public commentary on the quality of environmental protection efforts involved.

(2) The Secretary shall document and retain audit results, and indexes of such results, and shall require management in the area being audited to review and respond to the audits. The Secretary shall take follow-up action, including reaudit of deficient areas, where indicated.

SEC. 205. CITIZEN ADVISORY GROUPS.

(a) ESTABLISHMENT.—At the request of the Governor of any State, the Secretary shall establish a citizen advisory group to assist the Secretary in maintaining environmental quality at any Federal site at which there is located 1 or more facilities of the Department of Energy. An advisory group shall not be considered to be a Federal advisory committee or other Federal entity.

(b) MEMBERSHIP.—An advisory group established under subsection (a) shall consist of not more than 10 citizens appointed by the Governor of the State involved. If 2 or more States request to participate in an advisory group, the Governors of such States shall appoint such members jointly.

(c) MEETINGS AND EXPENSES.—The Secretary shall provide meeting space for monthy meetings of each advisory group established under subsection (a). The Secretary may require participating States to defray the expenses of an advisory group, except that the Secretary may not require reimbursement for services the Department of Energy provides to an advisory group.

(d) REPRESENTATIVE OF DEPARTMENT OF ENERGY.—The Secretary shall send a representative to the meetings of each advisory group established under subsection (a) to provide such advisory group with all possible information and to transmit to the Secretary the concerns and suggestions of the advisory group regarding the management of the facilities involved.

(e) WRITTEN RESPONSE.—The Secretary shall respond promptly in writing to all concerns of advisory groups transmitted to the Secretary in writing.

SEC. 206. GRANTING OF EXEMPTIONS.

(a) IN GENERAL.—The President may exempt any facility of the Department of Energy from any requirement established under this Act, if the President determines such exemption to be in the paramount interest of the United States. No such exemption may be granted due to lack of an appropriation, unless the President shall have specifically requested such appropriation as part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption under this section shall be for a period of not more than 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon a determination by the President that an additional exemption is in the interest of the United States.

(b) ANNUAL REPORT.—The President shall submit to the Congress in January of each year a report setting forth all exemptions granted under this section during the preceding calendar year, together with the reasons of the President for granting each such exemption.

TITLE III—REGULATION OF SOLID WASTE MIXED WITH RADIOACTIVE MATERIALS

SEC. 301. FINDINGS AND PURPOSE.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the generation, transportation, treatment, and storage of solid waste mixed with radioactive material poses potential hazards to public health and safety unless carefully planned and managed;

(2) the Atomic Energy Act facilities of the Department of Energy are real or potential producers of such solid waste mixed with radioactive material; and

(3) the authority of the Environmental Protection Agency to regulate the disposal of solid waste mixed with radioactive material at the Atomic Energy Act facilities of the Department of Energy should be clarified.

(b) STATEMENT OF PURPOSE.—The purpose of this title is to clarify the intent of the Congress that—

(1) the generation, transportation, treatment, and storage of solid waste mixed with radioactive material is subject to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); and

(2) the disposal of solid waste mixed with radioactive material at the Atomic Energy Act facilities of the Department of Energy, and at other facilities not licensed for the disposal of radioactive materials, is subject to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

SEC. 302. AMENDMENT TO SOLID WASTE DISPOSAL ACT.

Section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)) is amended—

(1) by inserting "(A)" after "(27)";

(2) by striking the following: ", or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923)"; and

(3) by adding at the end the following new subparagraphs:

"(B) Except as otherwise provided in subparagraph (C), the term 'solid waste' does not include source material, special nuclear material, or byproduct material, as such terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

"(C) The term 'solid waste' includes materials described in subparagraph (B) if—

"(i) such materials are part of any mixture or combination, if the other constituent part of such mixture or combination is a solid waste within the meaning of subparagraph (A); and

"(ii) such materials (I) are in the stage of generation, transportation, storage, or treatment; or (II) are disposed of at an Atomic Energy Act facility of the Department of Energy or other unlicensed location;

except that this subparagraph shall not apply to wastes disposed of at a repository, as defined in section 2(18) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(18)).".

SEC. 303. APPLICABILITY.

The provisions of, and amendments made by, this title may not be construed—

(1) to alter the intent of the Congress as to whether the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect prior to the amendments made by this title, applies to mixtures and combinations of solid waste that contain radioactive materials that are disposed of at facilities licensed by a State or by the Nuclear Regulatory Comission;

(2) to alter the applicability of any standards or requirements issued pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); or

(3) to affect, modify, or amend the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.).●

By Mr. HATFIELD:

S. 2931. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin project, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

UMATILLA BASIN PROJECT ACT

● Mr. HATFIELD. Mr. President, today I am introducing legislation authorizing the Umatilla Basin Project in my home State. The Umatilla Basin lies in the northeastern section of Oregon, near the Columbia River, and is an area long known for its bountiful agricultural production. As with all other fertile areas on this Earth, the Umatilla Basin is dependent upon a fresh and abundant supply of water for irrigation. While this need has been met for the farming community through access to the water in the Umatilla River—a tributary to the Columbia River—the use of this vital re-

source has been the cause of considerable conflict for the past several decades between the irrigators and the Umatilla Indians, whose reservation lies within the Umatilla Basin.

This water distribution dispute stems from conflicting commitments made by the Federal Government over the last 131 years. In 1855, the U.S. Government, in exchange for vast areas of the Umatilla Indians' tribal land, promised to protect Indian hunting and fishing rights within the reservation and at the "usual and accustomed" places outside the reservation. However, at the turn of the century, the Department of the Interior's Bureau of Land Reclamation, began an irrigation project in the Umatilla Basin which strained the water resources of the area and has severely reduced the salmon and steelhead runs upon which the Umatilla Indians depend, and the Federal Government guaranteed.

The Pacific Northwest long has been known for its plentiful anadromous fish runs, and the Indian tribes in the area have based their traditional lifestyles, at least partly, on their ability to take advantage of salmon and steelhead runs in the Columbia River and its tributaries. Resource development in the Columbia and Umatilla River basins has adversely affected habitat once available to salmon and steelhead. These developments have reduced Umatilla River fish runs to a mere fraction of what they once were, and many of the traditional Indian fisheries throughout the area have been depleted.

Over the years, the Federal courts have confirmed the intent of Indian treaty reserved rights. For example, in 1980, the court held that a treaty right to fish is meaningless if most of the fish are destroyed by a hostile environment such as a dewatered stream channel. The court emphasized that the States, the Federal Government and others have the obligation to refrain from degrading habitat to the extent that tribes would be deprived of moderate living needs. With this in mind, it is admirable that the Umatilla Indians have continued to work together with competing interest groups to arrive at an acceptable solution for all involved parties. The Indians and other interested groups have cooperated in the development of this proposed project and see its implementation as a major step toward overcoming the water supply conflicts that trouble the Umatilla Basin.

The project authorized by this legislation would be completed in accordance with the recommended plan developed by the U.S. Department of the Interior, Bureau of Reclamation, and presented in the proposed planning report/draft environmental statement, "Umatilla Basin Project," dated July 21, 1986. Construction of this project would ease the tensions between the agriculture community and the Umatilla Indians by providing the mechanisms whereby approximately 38,000 acre-feet of water per year would be pumped from the Columbia River into existing irrigation storage and distribution facilities. This would permit some Umatilla River water now diverted or stored for irrigation to remain in the river to improve flow conditions for fish, while at the same time meeting Federal commitments to supply irrigation water.

The structural features authorized would include a major pumping plant on the Columbia River, a relift pumping station and water carriage facilities. Smaller pumping facilities would be installed downstream of the existing Three Mile Falls Diversion Dam to further improve flows in the lower section of the river. In addition to the pumping facilities, improvements would be made to fish passage and screen installations at several existing irrigation diversions, and a seasonal fish barrier would be installed at the mouth of McKay Creek.

Fishery agencies have reported that the projected level of flow in the Umatilla River and the fish passage and screen improvements resulting from this undertaking would make restoration fall and spring chinook salmon runs possible and improve steelhead runs. The economic benefits of reviving these salmon runs are substantial. The Umatilla Tribe would receive an estimated $4.9 million per year from restored fish runs, and sport and commercial fisheries on the Umatilla and Columbia Rivers and on the Pacific coast could expect $2.2 million per year in additional revenue. Moreover, by securing a water supply for the farmers of the Umatilla Basin, the project would support an $8 million per year farm economy.

Mr. President, I want to emphasize that substantial non-Federal funding commitments are being made for this project under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 and programs of the State of Oregon and other entities. For example, the Bonneville Power Administration is considering a potential investment of approximately $15 million for fish passage and production measures under the Northwest Power Planning Council's Columbia River Basin Fish and Wildlife Program. To date, $1.7 million of non-Federal funds have been expended, and additional projects costing about $5 million are in the final design stages.

There is no doubt that this is a very ambitious project, Mr. President, but it is a vital blueprint for the well-being of the economy of the Umatilla Basin and the proper recognition of the original treaty rights of the Umatilla Indians. Both the farmers and the tribe are exercising patience in this matter while they wait for Federal aid to ease the situation. While I do not preclude the possibility that future input may make it necessary to amend some aspects of this bill, I do believe that this legislation provides a good starting point for discussion on this subject.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Umatilla Basin Project Act".

SEC. 2. AUTHORIZATION OF PROJECT.

For the purposes of mitigating losses to anadromous fishery resources and continuing irrigation water service to lands of the Umatilla Project authorized on December 4, 1905, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto), is authorized to construct, operate, and maintain the Umatilla Basin Project, Oregon, substantially in accordance with the recommended plan presented in the proposed planning report/draft environmental statement Umatilla Basin Project dated July 21, 1986. The principal works of the project shall consist of—

(1) pumping plants and related conveyance and distribution features;

(2) works incidental to the rehabilitation or modification of existing irrigation systems necessary to accomplish a water exchange;

(3) fish passage and protective facilities and other necessary fishery resources mitigation measures;

(4) a program to monitor and regulate project operations; and

(5) a program to evaluate fishery resource mitigation measures.

SEC. 3. INTEGRATION AND OPERATION OF PROJECT.

Project facilities and features authorized by this Act shall be integrated and coordinated, from an operational standpoint, into other features of the existing Umatilla Project, and shall be operated in a manner consistent with Federal reclamation laws and water rights established pursuant to State law including the contract rights of water users. Prior to the initiation of project construction, the Secretary shall secure the necessary State and local permits and other authorities for the operation of project facilities, and through the conclusion of appropriate agreements with the State of Oregon provide for the monitoring and regulation of project-related water supplies for the purposes herein identified.

SEC. 4. POWER FOR PROJECT PUMPING.

Power for project pumping shall be made available through the Federal Columbia River Power System at charges determined by the Secretary of Energy.

SEC. 5. RATE FOR CONSTRUCTION CHARGES.

The rate used for computing interest during construction, and where appropriate, interest on the unpaid balance of the reimbursable cost of the project, shall be deter-

mined by the Secretary of the Treasury, as of the beginning of the fiscal year in which funds for construction of the project are first disbursed, taking into consideration the computed average market yields on outstanding marketable obligations of the United States which are neither due nor callable for 15 years from date of issue.

SEC. 6. FISHERY RESOURCE FACILITIES.

Facilities and any other project features which furnish fishery resource benefits in connection with the project shall be constructed, operated, and maintained in accordance with the Federal Water Project Recreation Act (Public Law 89-72; 79 Stat. 213), as amended, except that costs allocated to the mitigation of anadromous fish species shall be nonreimbursable.

SEC. 7. NON-FEDERAL OBLIGATIONS.

The Secretary shall negotiate and enter into agreements which specify appropriate non-Federal obligations for the operation and maintenance of project facilities authorized in this Act. The Federal responsibility for operation and maintenance shall be limited to those costs in excess of non-Federal obligations as established by such agreements.

SEC. 8. INTERIM FLOW AUGMENTATION.

Until the facilities authorized in this Act are constructed and in operation, and as an interim measure to provide flow augmentation in the Umatilla River, funds are authorized to be appropriated to the Secretary for that portion of the operation and maintenance, including power, of the existing West Extension Irrigation District pumping facility allocated to anadromous fish and resulting from the interim operation.

SEC. 9. NON-FEDERAL COSTS.

(a) CREDIT FOR NON-FEDERAL FISHERY RESOURCE IMPROVEMENTS.—The Umatilla Basin Project authorized by this Act is a Federal action to improve streamflow and fish passage conditions, and shall be considered part of a comprehensive program to restore Umatilla River Basin anadromous fishery resource. Related fishery resource improvement facilities which utilize non-Federal funding sources under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Public Law 96-501; 94 Stat. 2697) and programs of the State of Oregon and other entities, shall be consolidated in any final calculation of required cost-sharing.

(b) TREATMENT OF NON-FEDERAL COSTS INCURRED BEFORE APPROPRIATION.—Where any public or private entity shares in the cost of or constructs any feature of the authorized project or portion thereof prior to the appropriation of funds for construction of such feature, the costs incurred shall be credited to the total amount of any non-Federal costs required to be borne for the project, except that no credit may be given without prior approval of the Secretary. The Secretary shall grant such approval upon a determination that the proposed action would be in connection with a feature that will constitute an integral part of the project. The Secretary is authorized to accept title to facilities appropriate to the project without compensation and thereafer to operate and maintain such facilities.

SEC. 10. STUDY ON GROUND WATER CONDITIONS.

The Secretary is directed to evaluate measures and programs to address ground water conditions within the Umatilla River Basin, including conjunctive uses of ground and surface waters, and to report findings and recommendations to the President and the Congress within three years after the date of enactment of this Act.

SEC. 11. AUTHORIZATION.

There is hereby authorized to be appropriated for construction of the Umatilla Basin Project, the sum of $37,700,000 (October 1985 prices), plus or minus such amounts as may be required by reason of changes in the cost of construction work of the types involved therein as shown by applicable engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project.●

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2932. A bill to establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

MASAU TRAIL ACT

● Mr. DOMENICI. Mr. President, today, I am introducing the Masau Trail Act. This act, which will establish the Masau Trail, the El Malpais National Monument, and the Grants National Conservation Area, will provide protection to some of New Mexico's most unique natural resources and also will promote tourism in the Grants, NM area, which has suffered greatly from the decline in the energy industries, especially the uranium industry.

The act is named after Masau, the great God-Man who welcomed the Indian people to the Earth from the underworld as they came through the sipapu, or place of emergence. According to the history of the Pueblo Indians, mankind has existed since the beginning of time, but they lived for a long, long time underground. Eventually, they emerged from the underworld and were welcomed by Masau. The Pueblo people then followed Masau's huge footprints, which were as large as a man's arm, across the Earth.

It is fitting that the act be named after Masau, as modern day travelers will be able to follow in the footprints of the Indian people who traveled across northwestern New Mexico in ancient times as they travel along the Masau Trail, which will be created by this legislation.

Masau has characteristics similar to the legislation that I am introducing. Masau means many things to many people. He is god of life; the god of death; the god of travelers; the god of boundaries; the god of fertility; the god of war. Likewise, this legislation will mean many things to many people. It will accomplish several very important objectives for the State of New Mexico:

First. It will establish the Masau Trail, an automobile touring route linking a number of historic and cultural sites in northwestern New Mexico;

Second. It will provide a significant tourist attraction for the Grants area in the form of a new unit of the National Park Service to be called the El Malpais National Monument;

Third. It will provide Federal protection to over 379,000 acres of lands; and

Fourth. It will place over 115,000 acres of Federal land in wilderness status.

Mr. President, I am compelled to point out that renowned travel expert Arthur Frommer has recently declared New Mexico to be one of the 10 best vacation spots in the world. It is an area of magnificent beauty and proud history. This bill will increase New Mexico's attraction to travelers from all over the world. Additionally, this bill will help the community of Grants, NM, which has lost 7,000 jobs in recent years due to the collapse of the uranium industry.

THE MASAU TRAIL

The Masau Trail will be an automoble touring route which will link a number of prehistoric and historic sites in northwestern New Mexico. These sites will include Aztec Ruins, Bandelier, Canyon de Chelly, Chaco Canyon, El Malpais, El Morro, Salinas National Monuments, as well as other national, State, and local sites of interest. The trail is a multigovernmental, multiagency concept. On the Federal level, the National Park Service, the Bureau of Land Management, and the National Forest Service include lands under their control in the trail. The State of New Mexico and various local governments, as well as the Indian tribes in the area, will be invited to participate in the trail.

The purpose of this trail is to introduce visitors to the wealth of historic, cultural, and natural sites in northwestern New Mexico and to give them a comprehensive perspective on the history of the Indian peoples who populate the region. It will allow visitors to the region to appreciate the continuum of history and culture, from ancient times to modern day, which is represented in the region. The Masau Trail will emphasize the interrelationship of all of the sites along the trail.

The trail will be marked by signs with giant footprints, the footprints of Masau. One can see examples of Masau's footprints in the ancient petroglyphs which cover the volcanic escarpment on the west side of Albuquerque. I have been working on finding ways to provide protection to this area, which includes over 10,000 ancient Indian and Hispanic rock carvings in a 17-mile stretch, and hopefully in the coming year we will be able to incorporate the Albuquerque petroglyphs into the Masau Trail.

A multigovernmental, multiagency visitors center, bringing together all of the entities that are participating in the trail, will be constructed along

Interstate 40 near Grants. This center will introduce travelers to the Masau Trail and give them an overview of the history and culture of this fascinating region. It also will provide tourists with information on the various components of the trail and directions on how to reach those sites.

EL MALPAIS NATIONAL MONUMENT

This legislation will also create a new unit of the National Park Service, the El Malpais National Monument, at the lava flows south of Grants known as El Malpais.

Last summer, I had the opportunity to tour El Malpais with William Mott, the Director of the National Park Service. Following that visit, Mr. Mott recommended to me that Congress designate approximately 126,000 acres of the El Malpais lava flows and surrounding lands as a National Monument under the supervision of the Park Service. The bill I introduce today will do that. The Monument will encompass the Bandera, Laguna, and McCarty's lava flows, the ice caves, Bandera Crater, the Sandstone Bluffs overlook, the Dominquez-Escalante Trail, the natural sandstone arch, the Narrows, La Vieja rock formation, McCarty's Crater, and a multitude of other resources. A visitors center will be constructed in the vicinity of Bandera Crater and the ice caves, where most of the visitor use is expected to be concentrated.

El Malpais is a large volcanic region located near Grants, NM, approximately 75 miles west of Albuquerque. "El Malpais," which means "bad country," is the historic Spanish name for the lava formation.

El Malpais consists of at least 5 different lava flows, the most recent of which is estimated to be only 600 to 1,300 years old, making it one of the most recent lava flows in the continental United States. The lava flows contain a number of unusual and unique physical features of lava eruptions, including pahoehoe, aa, blocky flows, grooved lava, squeeze ups, collapsed depressions, pressure ridges, kipukas, spatter cones, lava tubes, ice caves, and large cinder cones. El Malpais contains the longest known lava tubes in North America. One tube has been measured to be 16 miles in length.

The Bandera Crater area and associated lava flows and ice caves have been characterized by many geologists as outstanding geological features with superior interpretive and educational value. Bandera Crater is nearly a half a mile wide, 1,000 feet deep, and is considered a classic example of its type of volcanic activity. Ice caves occur within the flow associated with the Bandera Crater area. Some ice caves have magnificent 30- to 50-foot ice crystals on the ceilings.

The eastern edge of the El Malpais area includes a high-sandstone ridge and bluff area which encompasses a highly scenic landscape with tremendous contrast between the black lava flows and the pink sandstone bluffs. This bluff area contains the largest and most dramatic natural arch in New Mexico. Also found in this area is the Las Ventanas site, an established unit of the Chaco Culture Archeological Protection Site System, and La Vieja ("The Old Woman"), a rock formation that looks like the profile of a woman.

The Dominquez-Escalante Trail crosses the lava flow. This was the route pioneered by Father Silvestre Velez de Escalante and his Franciscan superior, Francisco Atanasio Dominguez, as they sought a route from Santa Fe to California in 1776, in order to unite the northern and western portions of Spain's American empire. This marked trail offers interpretive opportunities and an excellent cross-lava trail corridor.

The establishment of the El Malpais National Monument will provide visitors with a magnificent window on the unique geologic, natural, and cultural features of the El Malpais area. I am happy that the National Park Service, the premier agency in the world for presenting natural resources to the public, will be administering this area. They will bring their expertise to this project and will assure that visitors to this area get a first-class experience.

THE GRANTS NATIONAL CONSERVATION AREA

The legislation I introduce today also will designate approximately 253,000 acres of land surrounding the El Malpais National Monument as the Grants National Conservation Area.

This area will be administered by the Bureau of Land Management. The Bureau has protected this area, including the area to be designated as a national monument, for a number of years. They have done an excellent job and this will allow them to continue to manage the majority of these lands.

The conservation area will encompass the string of volcanic craters known as Chain of Craters, portions of the various lava flows, the areas known as Hole in the Wall and Little Hole in the Wall, and surrounding grazing lands.

This area lies within the the zone known as the Acoma cultural province. It is aproximately 25 miles from the famed Acoma Pueblo and its Sky City. The conservation area contains extremely high value, high density archeological resources in thousands of separate archeological sites. Many of these sites are associated with the prehistoric Chacoan system and the related, but more recent, Acoma cultural province. This region was an area of interface between the prehistoric Mogollon and Anasazi cultures.

The conservation area contains numerous sites and site communities, including pithouses, single room field house, water control features, and abundance of rock art, Chacoan road segments, Chacoan outliers with attendant surrounding communities, great kivas, and large pueblo masonry strutures.

The high density and diversity of cultural resources along the east side of the lava combined with the relative short distances created by the physical features that concentrated settlement between the lava flows to the west and the high-rugged sandstone mesas to the east create a major research and visitor use opportunity. The bill provides direction to the Bureau of Land Management to develop special management plans for the protection and study of these archeological resources. A similar directive is provided to the National Park Service for those archeological resources within the El Malpais National Monument.

This legislation will designate approximately 115,000 acres of BLM wilderness within the conservation area. These areas, known as the Rimrock, Little Rimrock, Sand Canyon, Pinyon, and West Malpais Wilderness Study Areas, as well as the area known as Hole in the Wall. These areas contain some of the most stunning natural resources in New Mexico and deserve to be protected for the enjoyment of future generations.

Mr. President, I am extremely excited about this legislation. I believe that it will provide much-needed protection to one of the most unusual and unique natural and cultural areas of the United States. It also will provide visitors to northwestern New Mexico with an incredibly comprehensive and rewarding education on the history of this region. Finally, it will give an area of the State of New Mexico which has suffered much from the collapse of the uranium industry a much-deserved shot in the arm in the form of increased tourism. The magificient thing about this legislation is that it can do each of these things without excluding the others.

This proposal is the product of much work. My colleague from New Mexico, Senator BINGAMAN, and I have worked with the Representative from this area in order to fashion legislation which will achieve the ambitious goals that we have set. I am pleased that we have met these goals. This legislation is the product of some very tough negotiations and I think it is the better for it.

However, this proposal is by no means perfect. When hearings are held on this legislation in the next Congress, we must address the issue of water rights. Although very little, if any, water is present in this area, the withdrawal of lands for a national monument and for the creation of wilderness units brings into question the status of water rights in the area. This

has become a very contentious issue. I am aware that some Members of the Senate feel that any legislation creating a national monument or wilderness units must include language addressing water rights. The bill that I am introducing today, however, does not address the issue of water rights. Therefore, as I introduce this legislation today, I am also filing an amendment (No. 3478) to clarify the status of existing water rights in the lands covered by this bill. Hopefully, this amendment will serve as the basis of further discussions on this issue.

Another area that will need close examination is grazing. A number of individuals have historically conducted grazing in the areas covered by this bill. The Park Service boundaries have been drawn so as to exclude grazing areas to the maximum extent possible without diminishing the resource to be protected, as grazing within the national monument will be phased out within 10 years. However, we must closely examine the boundaries to make sure that we haven't overlooked anything in this area.

Additionally, this legislation does not address the future of subsurface mineral rights which underlie lands to be designated as wilderness. The creation of wilderness effectively denies the owner of the subsurface estate the possibility of ever developing the mineral potential of the land or even of discovering what minerals are present there. I believe that Congress must treat the owners of the subsurface estate fairly and provide an efficient process for exchanging mineral rights which underlie wilderness lands for other Federal mineral rights.

Of course, I am under no illusion that we can enact this legislation into law in the short time left in this Congress. This is a major piece of legislation and it deserves to have full hearing and an opportunity for refinement. I intend to reintroduce this legislation in the 100th Congress when it convenes in January. I look forward to holding hearings in New Mexico, so that all interested parties, including the citizens of the Grants area, local landowners, ranchers, the environmental community, the State of New Mexico, Indian tribes, and others, have the opportunity to contribute to this legislation. I am pleased that the staff of the Senate Energy Committee will be travelling to the Grants area after Congress recesses in order to view the area and pave the way for quick approval of this legislation next Congress.

Finally, Mr. President, I would like to thank Mr. Mott and his staff at the National Park Service and Robert Burford, the Director of the Bureau of Land Management, and his staff for their assistance in putting this package together. Without their help, it would not have been possible to create this legislation.

Mr. President, I ask unanimous consent to print the bill in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EL MALPAIS NATIONAL MONUMENT

SECTION 101. (a) In order to preserve for the benefit and enjoyment of present and future generations that area in western New Mexico containing the nationally significant Grants Lava Flow, the Las Ventanas Chacoan Archeological Site, and other significant natural and cultural resources, there is hereby established the El Malpais National Monument (hereinafter referred to as the "monument"). The monument shall consist of approximately 126,000 acres as generally depicted on the map entitled "Boundary Map, El Malpais National Monument" numbered NM-ELMA-80000-A and dated October 1986. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) As soon as practicable after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall file a legal description of the monument designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 102. Lands and waters, and interests therein, within the boundaries of the monument which were administered by the Forest Service, United States Department of Agriculture, prior to the date of enactment of this Act are hereby transferred to the administrative jurisdiction of the Secretary to be administered as part of the monument in accordance with this Act. The boundaries of the Cibola National Forest shall be adjusted accordingly.

SEC. 103. The Secretary, acting through the Director of the National Park Service, shall administer the monument in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.). The Secretary shall protect, manage, and administer the monument in such a manner as to preserve the scenery, the natural, historic, and cultural resources of the monument and to provide for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

SEC. 104. Where any lands included within the boundary of the monument on the map referred to in section 101(a) are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(1) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(2) scheduled for termination before December 31, 1996,

the Secretary shall allow, notwithstanding any other provision of law, the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1996, subject to such limitations, conditions, or regulations as the Secretary may prescribe to insure proper range management.

TITLE II—MASAU TRAIL

SEC. 201. In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally significant sites of antiquity in western New Mexico which are accessible by public road, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary"), with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a description thereof in the Federal Register, a vehicular tour route along existing public roads linking prehistoric and historic cultural sites in western New Mexico. Such route shall be known as the Masau Trail (hereinafter referred to as the "trail"), and shall be marked with an appropriate marker to guide members of the visiting public. With the concurrence of the State or local entity having jurisdiction over such roads so designated, the Secretary may erect thereon and maintain signs and other informational devices displaying the Masau Trail Marker.

SEC. 202. The trail as initially designated shall include public roads linking El Malpais National Monument as established pursuant to title II of this Act, El Morro National Monument, Chaco Culture National Historical Park, Aztec Ruins National Monument, Salinas National Monument, Bandelier National Monument, and Canyon De Chelly National Monument. The Secretary may, in the manner set forth in section 201, designate additional segments of the trail from time to time as appropriate to link the foregoing sites with other cultural sites or sites of natural significance when such sites are designated and protected by Federal, State, or local governments, Indian tribes, or nonprofit entities. With respect to sites linked by segments of the trail which are administered by other Federal, State, local, tribal, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the natural and cultural resources of the sites along the trail.

TITLE III—GRANTS NATIONAL CONSERVATION AREA

SEC. 301. (a) In order to protect for the benefit and enjoyment of future generations that area in Western New Mexico containing the unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flow, there is hereby established the Grants National Conservation Area (hereinafter referred to as the "conservation area"). The conservation area shall consist of approximately 253,000 acres of publicly owned land as generally depicted on a map entitled "Grants National Conservation Area—Proposed", dated October 1986.

(b) As soon as practicable after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall file a map and legal

description of the conservation area designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such map and legal description. The map and legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

SEC. 302. (a) In order to protect for the benefit and enjoyment of future generations that area in Western New Mexico containing the unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flow, the Secretary, acting through the Director of the Bureau of Land Management, shall administer the conservation area as a unit within the Albuquerque District in accordance with this Act and in accordance with the laws pertaining to the public lands managed by the Bureau of Land Management, including those provisions relating to grazing on public lands.

(b) The Secretary shall permit hunting and trapping within the conservation area in accordance with applicable laws and regulations of the United States and the State of New Mexico; except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) Collection of green or dead wood for sale or other commerical purposes shall not be permitted in the conservation area.

TITLE IV—WILDERNESS DESIGNATION

SEC. 401. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 131), there is hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System, approximately 115,000 acres as generally depicted on the map entitled "Grants National Conservation Area—Proposed Wilderness and dated October 1986.

(b) As soon as practicable after the enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such map and legal description. The map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior.

SEC. 402. (a) Subject to valid existing rights, each wilderness area designated under this section shall be administered by the Secretary, through the Director of the Bureau of Land Management, in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) Within the wilderness area designated by this Act, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 1133 note).

TITLE V—GENERAL PROVISIONS

SEC. 501. (a) Within two years from the date of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate separate general management plans for the monument and the conservation area which shall describe the appropriate uses and development of the monument and the conservation area consistent with the purposes of this Act. The plans shall include but not be limited to each of the following:

(1) Implementation plans for a continuing program of interpretation and public education about the resources and values of the monument and the conservation area.

(2) Proposals for public facilities to be developed for the conservation area or the monument, including a visitors center in the vicinity of Bandera Crater and a multiagency orientation center, to be located in or near Grants, New Mexico, and adjacent to Interstate 40, to accommodate visitors to western New Mexico.

(3) Natural and cultural resources management plans for the monument and the conservation area, with a particular emphasis on the preservation of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act within the monument and the conservation area.

The natural and cultural resources management plans shall be prepared in close consultation with the Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Office, and the Pueblo of Acoma and their traditional cultural and religious authorities, and shall provide for long-term scientific use of archeological resources in the monument and the conservation area, including the wilderness areas designated by this Act.

(b)(1) The general management plan for the conservation area shall review and recommend the suitability or nonsuitability for preservation as wilderness those lands comprising approximately 16,600 acres, identified as "Bureau of Land Management Wilderness Study Area 020-001C" (hereinafter in this title referred to as the "WSA") in the Draft Environmental Impact Statement and Wilderness Study Report for Wilderness Designation of El Malpais, as filed with the Environmental Protection Agency on August 9, 1981.

(2) Pending submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, acting through the Director of the Bureau of Land Management, shall manage the lands within the WSA so as to maintain their potential for inclusion within the national wilderness preservation system.

(c)(1) The general management plan for the monument shall review and recommend the suitability or nonsuitability for preservation as wilderness those roadless lands within the boundaries of the monument.

(2) Pending the submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, through the Director of the National Park Service, shall manage those roadless lands within the boundaries of the monument so as to maintain their potential for inclusion in the National Wilderness Preservation System.

SEC. 502. (a) Within the monument and the conservation area, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that lands or interests therein owned by the State of New Mexico or a political subdivision thereof may be acquired only by donation or exchange.

(b) The Secretary of the Interior shall exchange such public lands or interests in lands, as are of approximately equal value and selected by the State of New Mexico, acting through its Commissioner of Public Lands, for any State lands or interests therein located within the boundaries of the monument or the conservation area.

(c) Within 6 months after enactment of this Act, the Secretary of the Interior shall notify the New Mexico Commissioner of Public Lands what State lands or interests therein are within the monument or the conservation area. The notice shall include notice of the Secretary's duty to exchange public lands selected by the State for any State land contained within the boundaries of the monument or conservation area. The notice shall contain a listing of all public lands within the boundaries of the State, which have not been withdrawn from entry and which the Secretary identifies as available to the State in exchange for State lands within the monument or the conservation area.

(d) After the receipt of the list of available public lands, if the Commissioner of Public Lands gives notice to the Secretary of the State's selection of lands, the Secretary shall notify the State in writing as to whether the Department of the Interior considers the State Federal lands to be of approximately equal value. In case of disagreement between the Secretary and the Commissioner as to relative value of the acquired and selected lands, the Secretary and the Commissioner shall agree on the appointment of a disinterested independent appraiser who will review valuation data presented by both parties and determine the amount of selected land which best represents approximate equal value. Such determination will be binding on the Secretary and the Commissioner. The transfer of title to lands or interests therein to the State of New Mexico shall be completed within 2 years after the enactment of this Act.

SEC. 503. Subject to valid existing rights, all Federal lands within the monument and the conservation area, and all Federal lands and mineral rights acquired within the monument and conservation area, are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, and from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Any activity carried out pursuant to valid existing mineral rights shall be conducted in accordance with applicable Federal and State law.

SEC. 504. In recognition of the past use of the monument and the conservation area by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to the monument and the conservation area by Indian people for such traditional cultural and religious purposes, including the harvest of pine nuts. Such direction shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996). As a part of the plans prepared pursuant to section 501, the Secretary shall, in consultation with appropriate Indian tribes and their traditional cultural and religious authorities, define the past cultural and religious uses of the monument and the conservation area by Indian people.

SEC. 505. In order to encourage unified and cost effective interpretation of prehistoric and historic civilizations in western New Mexico, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of prehistoric and historic civilizations in western New Mexico. The Secretary may, pursuant to such agreements, cooperate in the development and operation of a multiagency orientation center and programs on lands and interests in lands inside and outside of the boundaries of the monument and the conservation area generally, with the concurrence of the owner or administrator thereof, and specifically in or near Grants, New Mexico, adjacent to Interstate 40 in accordance with the plan required pursuant to section 501.

TITLE VI—APPROPRIATION AUTHORIZATION

SEC. 601. There is hereby authorized to be appropriated such sums as may be necessary for the purposes of this Act.●

● Mr. BINGAMAN. Mr. President, I am pleased to join the distinguished senior Senator from New Mexico in introducing the El Malpais/Masau Trail bill.

This legislation is identical to legislation being introduced in the House of Representatives today by Congressman RICHARDSON. The bill is the result of several weeks' work to reach compromise language.

The proposal establishes a 126,000-acre El Malpais National Monument to be administered by the National Park Service. It includes an El Malpais Visitor Center. It calls for the designation of the Masau Trail, an auto-touring route to link prehistoric and historic cultural sites in western New Mexico. It authorizes a Masau Trail Visitors Center in Grants, NM.

The bill creates a 254,000-acre National Conservation Area to be administered by the Bureau of Land Management. Grazing, hunting, trapping, and noncommercial wood gathering would be permitted in the BLM area. The bill also creates 115,000 acres of BLM wilderness, including Rimrock, Little Rimrock, Sand Canyon, Pinon, and West Malpais wilderness study areas, and an area known as the Hole-In-The-Wall. The bill calls for the study of roadless areas of the National Monument and the restudy of the Chain of Craters Wilderness Study Area for possible designation as wilderness. The legislation also protects Native American uses and directs the BLM and the Park Service to develop management plans for the protection of areas with valued archeological resources.

This bill is a delicate balance which will foster important economic development and increased tourism in the Grants area and provides important environmental protection of this region of the country.

The Malpais is a unique area of the State of New Mexico and the Nation and it is deserving of Park Service and wilderness protection. The name Malpais is the historic Spanish name meaning "bad country." It is the name of the lava formation located in western New Mexico also known as the Grants Lava Flow. It actually consists of three flows which have been described by the Park Service as "a beautiful, fresh, black lava flow * * * as fresh and unweathered as the historic flows of the Hawaiian Islands, Vesuvius and other areas." It also contains a variety of "beautiful volcanic features, including some of the largest and most extensive lava tubes reported in the United States; many cinder cones of classic symmetry; and some astonishingly magnificent ice caves, full of ice stalagmites crystalline ceilings, and other unique formations." It also contains lava tube sinkholes and uniquely angled formations not found anywhere else on the North American Continent.

The surrounding wilderness areas are also deserving of protection as they shield beautiful natural areas of tall pines and pinons, as well as sandstone bluffs and extinct volcanoes.

There is much local, public support for protecting these scenic areas. The package that has been developed takes the best features of the proposals by the Park Service and the BLM and combines them into a well-organized management plan for the area.

I strongly support the measure and I encourage its immediate passage.●

By Mr. MOYNIHAN (for himself and Mr. HEINZ):

S. 2933. A bill to charter the National Academy of Social Insurance; to the Committee on the Judiciary.

NATIONAL ACADEMY OF SOCIAL INSURANCE

● Mr. MOYNIHAN. Mr. President, I rise today to offer a bill to grant a Federal charter to the National Academy of Social Insurance. The Academy was established in May 1986 by a distinguished group of individuals from business, labor, government, and the academic community. Although their professional backgrounds are diverse, each has achieved distinction in the field of social insurance. I am honored to serve as a member of the Academy's organizing committee, together with my colleague, and the cosponsor of this bill, Senator HEINZ.

Mr. President, the Social Security Act of 1935 is perhaps the greatest piece of domestic legislation of this century. The original act and its subsequent amendments—including Survivors, Disability, and Health Insurance—affect nearly every American family.

In 1986, our Social Security System will pay nearly $200 billion in benefits to an average of 37 million retired and disabled individuals, their spouses and children, and to survivors of deceased workers. Annual payroll tax contributions of some $210 billion will be collected this year from about 125 million workers and 6 million employers. Together, the Old Age, Survivors, Disability, and Health Insurance [OASDHI] programs account for approximately 48 percent of all domestic expenditures made by the Federal Government.

The Social Security Act, Mr. President, represents a deliberate Federal policy to strengthen American families. In the not-so-distant past, the family that lost a breadwinner through death, disability, or advanced age was left to fend for itself. The very fortunate might manage on their own savings or with the help of relatives and friends. Charitable contributions and locally funded public assistance, if available, might help. But when these alternatives failed—as they too often did—families broke down and frequently broke up.

It was to these problems that the Social Security Act addressed itself. In the original act and in succeeding amendments, Congress sought to help insulate family members from the disruption caused by the loss of a worker's earned income. This objective is laudable. It deserves great effort. Our social insurance programs make that effort, Mr. President, and they succeed. How else can we explain the unprecedented public and bipartisan political support enjoyed by a system that raises Federal revenues in sums second only to those raised by the income tax?

But neither problems nor solutions remain static. Today, Mr. President, our social insurance programs operate in an environment vastly changed from that of 50 years ago: changes in our economy and labor market, changes in our expectations concerning women and work, and perhaps most dramatic, changes in the demography of our population. The aging of America has been much discussed, but less well understood is the fact, that some 14 years ago, the American birthrate dropped below the reproduction level. Well below. It does not take any great insight to realize that this dieing back of the American population has profound implications for the

aged. In a word: who will provide for them? Clearly, all of these changes pose new and serious challenges to our Social Security System.

That is why, Mr. President, the National Academy of Social Insurance is long overdue. Until now, there has been no organization of scholars and experts to plan and carry out a long-term education and research agenda, to promote an exchange of ideas, or to develop informed policy proposals.

If we are to assure the future health of the Social Security System, we ought to bring together experts from diverse disciplines. We ought to provide a forum for unfettered and bipartisan debate. We ought to provide clear, objective information to the millions of Americans who contribute toward and benefit from our social insurance programs.

Finally, Mr. President, we have a group of distinguished individuals intending to do all these things. I ask my colleagues to join with me and Senator HEINZ in formally recognizing and granting a charter to the National Academy of Social Insurance. In doing so, we encourage serious and ongoing study of the maturation and evolution of our Social Security System, we increase the availability of essential information to the public, and we signal congressional resolve to continue our social insurance programs, on a sound basis, into the 21st century and beyond.

Mr. President, I ask unanimous consent that a copy of the bill and a list of the Academy's organizing committee members be printed in the RECORD.

There being no objection, the bill and list were ordered to be printed in the RECORD, as follows:

S. 2933

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The National Academy of Social Insurance, organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a charter.

SEC 2. POWERS.

The National Academy of Social Insurance (in this Act referred to as the "Academy") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of which the Academy is organized shall be those provided in its articles of incorporation and shall include—

(1) promoting an informed and nonpartisan study of, and education with respect to, social insurance,

(2) bringing together experts with diverse backgrounds to consider social insurance issues in an interdisciplinary way,

(3) assisting in the development of social insurance scholars and administrators,

(4) encouraging research and studies on topics of relevance to social insurance, and

(5) sponsoring seminars and other public meetings.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the Academy shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the Academy and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The board of directors of the Academy and the responsibilities thereof shall be as provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

The officers of the Academy, and the election of such officers, shall be as is provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States wherein it is incorporated.

SEC. 8. RESTRICTIONS.

(a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the Academy or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers and members of the Academy or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The Academy shall not make any loan to any officer, director, or employee of the corporation.

(c) The Academy and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The Academy shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The Academy shall not claim congressional approval or Federal Government authority for any of its activities, other than by mutual agreement.

(f) The Academy shall retain and maintain its status as a corporation organized and incorporated under the laws of the District of Columbia.

SEC. 9. LIABILITY.

The Academy shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. BOOKS AND RECORDS; INSPECTION.

The Academy shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the Academy involving any of its members, the board of directors, or any committee having authority under the board of directors. The Academy shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal laws", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(17) National Academy of Social Insurance.".

SEC. 12. ANNUAL REPORT.

The Academy shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 14. DEFINITION OF "STATE".

For purpose of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

SEC. 16. TERMINATION.

If the corporation shall fail to compy with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

NATIONAL ACADEMY OF SOCIAL INSURANCE—MEMBERS OF ORGANIZING COMMITTEE

Robert M. Ball, Henry Aaron, William Arnone, Merton C. Bernstein, Lisle Carter, Jr., Wilbur J. Cohen, John Heinz, Erwin Hytner, Eric Kingson, Lane Kirkland.

Nancy Altman Lupu, Theodore Marmor, Daniel Patrick Moynihan, Alicia H. Munnell, Robert J. Myers, Bert Seidman, Lawrence H. Thompson, Alexander B. Trowbridge, Elizabeth Wickenden, Howard Young.●

By Mr. DOLE:

S. 2934. A bill to establish a Commission and National Advisory Committee to study a constitutional amendment regarding impeachment; to the Committee on the Judiciary.

COMMISSION ON A CONSTITUTIONAL AMENDMENT REGARDING IMPEACHMENT ACT

Mr. DOLE. Mr. President, in the wake of the impeachment and removal of Harry T. Claiborne from the Federal bench, it seems appropriate to reflect on the process by which the Congress handled this matter. After all, it was the first in 50 years in which a member of the Federal judiciary was actually impeached, although the first steps of formal impeachment were taken against President Nixon in 1974.

A special set of impeachment rules apply to these proceedings in the Senate. Work had begun in 1974 to revise and streamline the procedures that had been developed across two centuries, but which had been used very sparingly during that period. For the first time the Senate designated a committee of 12 to take testimony and gather evidence. The committee,

under the effective leadership of the delegation from Maryland—Senator MATHIAS as chairman and Senator SARBANES as vice chairman—held 7 days of hearings and amassed a record of more than 2,300 pages. Under the provisions of the rule, the committee had no charter to make recommendations to the Senate.

This delegation of authority by the Senate was not without its critics. In fact almost a third of the Senate voted to take testimony on the Senate floor.

Even without testimony, the Senate floor consideration on the matter took almost 18 hours. The managers on the part of the House presented their case. The respondent and his attorney marshaled the defense then the Senate went into closed session to consider the matter.

I must say, Mr. President, that the debate on this impeachment was of the highest order. It was quite obvious that the Senators individually and the Senate collectively discharged these functions under the Constitution in a most solemn and serious manner. This unique role as both judge and jury was initially met with some concern and uncertainty. Perhaps it was because we were sailing uncharted waters—at least for this generation of the Senate. Perhaps it was because of the novel aspects of the case. Here was a Federal judge, convicted and serving time in a Federal penitentiary, who had not resigned and who was determined to see a full congressional inquiry into his conviction. In any event, more attention was given to removing one judge from the Federal bench than is given to all but the most major issues. Very few legislative proposals receive as much consideration. Having said this, the question arises: "Where do we go from here?"

AMENDING THE IMPEACHMENT RULES

Mr. President, while the details of Claiborne impeachment are still fresh in mind, it seems appropriate that the Senate Rules Committee review the rules which were modernized for the proceeding. Several decisions were made which perhaps should now be reconsidered. For example, is the referral to a committee of 12 appropriate? Should the deliberations of the Senate be in closed session? Is it necessary, after one article of impeachment has been affirmed, for the Senate to vote on subsequent articles?

These and other related questions need to be addressed. Unfortunately it appears that we may face the prospect of yet another impeachment proceeding in the near future. I believe any changes should be made before new articles of impeachment are drawn up against another civil official. I am therefore requesting the Rules Committee to conduct a review at the earliest possible moment.

AMENDING THE CONSTITUTION

In the long run, Mr. President, it seems to me that some hard questions should be posed as to whether impeachment by the Congress is appropriate for Federal judges. It is a time-consuming, expensive and elaborate procedure. It necessarily commands much time and attention if impeachment is to be fair and afford a semblance of due process—even though there is no constitutional requirement for due process as such. Already Senators HEFLIN and DECONCINI are beginning preparations for introduction of appropriate resolutions next year. Several States have independent commissions with removal powers. Others empower judicial tribunals for this purpose. In other States where judges are elected, recall is a remedy available to the voters.

In 1979 and 1980 the Congress processed judicial fitness and tenure legislation under the able leadership of the Senator from Arizona, Mr. DECONCINI, who chaired the Judiciary Subcommittee on Improvements in Judicial Machinery—now the Subcommittee on Courts. During consideration of that legislation attention was given to a possible amendment to the Constitution to establish alternate methods of removing Federal judges. Although nothing more resulted than the building of a hearing record on the issue, it was a good beginning. Now, however, the issues have been framed in sharper focus. It is not a mere academic exercise. One impeachment has been concluded. One or two more are distinct possibilities in the immediate future. The time has arrived to give a proposed amendment very serious consideration.

JUDICIARY COMMITTEE CONSIDERATION

It is my hope that the Committee on the Judiciary would move to give proposals for a constitutional amendment early consideration. I have conferred with the chairmen of the two subcommittees involved, the distinguished Senator from Utah [Mr. HATCH] who chairs the Constitution Subcommittee, and the distinguished Senator from Kentucky [Mr. MCCONNELL] the chairman of the Courts Subcommittee. They assure me that they will give the proposals early and joint consideration. The hearing record from the DeConcini subcommittee is a very good place to start.

IMPEACHMENT AMENDMENT COMMISSION

In addition to the consideration by the Committee on the Judiciary, it may well be appropriate to create a Commission to give a thorough and expeditious consideration to the matter. If the question of a proposed amendment to the Constitution is to be seriously addressed in the short term, it would seem appropriate to authorize an ad hoc group to explore the options of alternative remedies to impeachment and to fashion an appropriate amendment to the Constitution. A joint resolution has been prepared for introduction which would accomplish that end. It creates a 12-member Commission, 3 of whom would be appointed by the Senate, 3 by the House, 3 by the President, and 3 by the Chief Justice. A chairman would be selected from among the group.

In addition an advisory committee of not more than 12 persons could be formed to assist the Commission. This was the format followed in 1966 when created the National Advisory Commission on the Reform of the Federal Criminal Code. This group had an advisory committee of academics and representatives from State and local organizations providing advice and counsel to the Commission. With an undertaking as important as a proposed amendment to the Constitution, it seems like an appropriate step. The resolution calls for the Commission to be appointed within 30 days and for it to begin its work no later than 60 days after enactment. If this occurs, the Commission would be well underway and ready to report to the Congress shortly after the next Congress begins its work. It is my view that this Commission should be truly nonpartisan or rather bipartisan fashion.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on a Constitutional Amendment Regarding Impeachment Act".

PURPOSE

SEC. 2. It is the purpose of this Act to establish a bipartisan Commission, supported by a National Advisory Committee, to investigate and study the constitutional problems of impeaching an Article III judge, and the advisability of proposing an amendment to the Constitution regarding the possible impeachment of such judges.

ESTABLISHMENT

SEC. 3. There is hereby established a Commission to be known as the "Commission to Study Impeachment of Judges" (hereafter in this Act referred to as the "Commission").

MEMBERSHIP

SEC. 4. (a) The Commission shall be composed of twelve members. Three of such members shall be appointed by the Majority Leader of the Senate, three shall be appointed by the Speaker of the House of Representatives, three shall be appointed by the Chief Justice of the Supreme Court, and three shall be appointed by the President.

(b) Members of the Commission shall be appointed for the life of the Commission.

(c) Six members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) The members of the Commission shall select one of such members to be the Chairman.

(e) All appointments made pursuant to this Act shall be made within 30 days after the date of enactment of this Act.

(f) The first meeting of the Commission shall be called by the President and shall be held within 60 days after the date of enactment of this Act.

(g) A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

ADVISORY COMMITTEE

SEC. 5. (a) There shall be appointed an advisory committee (hereafter in this Act referred to as the "committee") of twelve individuals with expertise or experience in areas being investigated or studied by the Commission. Such Committee shall provide expertise for, and perform such duties as determined by the Commission.

(b) Such Committee shall be appointed in the same manner as the Commission.

DUTIES OF THE COMMISSION

SEC. 6. (a) The Commission shall investigate and study the constitutional problems and issues involved in the impeachment of an Article III judge, evaluate the possibility of a constitutional amendment, and may propose a possible constitutional amendment regarding such impeachments.

(b) The Commission shall prepare and submit to the President and the Congress a report on their investigation and recommendations.

COMPENSATION OF THE COMMISSION AND COMMITTEE

SEC. 7. Each member of the Commission or Committee who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day he or she is engaged in the actual performance of his or her duties as a member of the Commission or Committee. A member of the Commission or Committee who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission and Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 8. (a) The Commission is authorized to obtain, in addition to the members of the Committee, the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(b) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services.

(c) The Commission is authorized to procure supplies, services, and property, and make contracts in any fiscal year, only to such extent or in such amounts as are provided in appropriation Acts.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) The Commission or, on the authorization of the Commission, a member thereof, may, for the purpose of carrying out the provisions of the Act, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of books, records, memoranda, papers, and documents as the Commission or such member deems advisable.

(f) The Commission, or on the authorization of the Commission, any member thereof, may, for the purpose of carrying out the provisions of this Act, have such printing and binding done, enter into contracts and other arrangements to such extent or in such amounts as are provided in appropriation Acts, and make such expenditures as the Commission or such member deems advisable.

(g) The Commission may acquire directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request by the Chairman.

(h) The Chairman of the Commission is authorized to appoint, terminate, and fix the compensation, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, of an Executive Director and such additional personnel as the Chairman finds necessary to enable the Commission to carry out its duties. The annual rate of compensation of the Executive Director may not exceed a rate equal to the rate provided for level V of the Executive Schedule under section 5316 of such title and the annual rate of compensation of all other personnel may not exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(i) Upon request of the Commission, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Commission or to detail any of the personnel of such agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out its duties under this section, unless the head of such agency determines that overriding reasons will not permit the agency to make such facilities, services, or personnel available to the Commission and so notifies the Chairman in writing.

(j) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(k) Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member.

(l) The Commission may expend funds made available for purposes of this Act for printing and binding, notwithstanding any other provision of law.

REPORT AND TERMINATION

SEC. 9. (a) The Commission shall, within 6 months after the date of its first meeting, transmit a final report to the President and the Congress concerning its study, investigation, findings, and recommendations.

(b) The Commission shall cease to exist on the date 30 days after the date it transmits its final report to the President and the Congress.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are authorized to be appropriated $500,000 to carry out the provisions of this Act, including the printing and binding of the report required to be prepared by the Commission pursuant to this Act.

By Mr. CHAFEE:

S. 2935. A bill to prohibit the use of subtherapeutic doses of penicillin, chlortetracycline, and oxytetracycline in animal feed; to the Committee on Labor and Human Resoources.

ANTIBIOTIC SAFETY ACT

Mr. CHAFEE. Mr. President, today I am introducing legislation to curb a practice which poses a grave threat to the public health—the widespread use of antibiotic drugs to promote growth in livestock. The continuous and heavy use of antibiotics in this way threatens both human and animal health by cultivating bacteria which are resistant to antibiotic treatment.

The use of antibiotic drugs in animal feed has increased dramatically since the 1950's, when it was found that low but continuous—or subtherapeutic—doses of these drugs promote growth in livestock and poultry. Today, according to estimates by the Office of Technology Assessment, most of the livestock raised in the United States receive antibiotic-medicated feed: 60 percent of all cattle, 90 percent of all swine and veal calves, and nearly 100 percent of all poultry. Nearly one-half of all the antibiotics produced in the United States each year goes into animal feed, and it is estimated that only a small fraction of that amount is used to treat actual disease. The bulk goes for subtherapeutic uses— that is, where the intent is simply to promote growth, rather than to treat disease.

Antibiotics have been called wonder drugs, but this uncontrolled and inappropriate use threatens to render them powerless. As recent studies have confirmed, the continuous presence in the bacterial environment of antibiotic drugs in such large quantities fosters the development of highly resistant strains of bacteria. These resistant bacteria lead to conditions—both in humans and in animals—which cannot be treated with antibiotic therapy. Even more alarming is the fact that once resistant bacteria develop, the resistance characteristic can be passed to bacteria of other species—and even to those never exposed to antibiotics.

To treat an infection which is resistant to one or more antibiotics, the physician must try to identify an anti-

biotic to which that infection is susceptible—possibly one of the newer and invariably more costly antibiotics that are being developed at the rate of approximately one per year. But since developing and testing new drugs is a costly process, this treatment can run to eight times the cost of treatment with one of the older, more commonly prescribed antibiotics.

This all adds yet more pressure to the cost of health care: hospital stays are longer, treatment is more complicated, and the drugs needed are more expensive. Where an ordinary infection would yield quite easily to 2 weeks' treatment with antibiotics, a resistant infection is considerably more complicated, resulting more frequently in death or serious illness.

Clearly the solution is not to rely on the development of new antibiotics, but rather to preserve the effectiveness of the antibiotics we now have by using them prudently. This bill would take one small step in that direction by banning the subtherapeutic use in animal feed of the two antibiotics most important to the treatment of human disease: penicillin and tetracycline. Many scientists consider these drugs to be more effective and to have fewer side effects than any of the newer antibiotics, and thus as the most wondrous of the wonder drugs.

The case for banning the subtherapeutic use of penicillin and tetracycline is well documented. This was the course of action initiated in 1977 by the Food and Drug Administration [FDA], when, based on data collected from independent studies and from the drug industry, it found these uses to pose a serious health threat. It began proceedings to ban all feed uses of penicillin and most feed uses of tetracycline. The proposed ban, however, was held in abeyance by Congress pending further study.

Since that time, new studies have offered more conclusive evidence of the link between the subtherapeutic use of antibiotics and the growth of antibiotic resistance. Based on these findings, the Natural Resources Defense Council has estimated the health risk posed by subtherapeutic use of penicillin and tetracycline for one type of resistant infection: salmonella. For each year of continued subtherapeutic feed uses of these two drugs, NRDC projected more than 2,700 reported cases of resistant salmonella, more than 270,000 unreported cases, and between 100 and 300 deaths.

While questions may still remain about the extent of antibiotic resistance and the relative contributions of different uses of antibiotics, prudence would dictate that we resolve these questions on the side of caution. Must the evidence of harm be irrefutable before we take reasonable precautions?

Mr. President, it is time for us to get serious about the problem of antibiotic resistance, and a reasonable place to start is the use of antibiotics as growth promoters. Using our most powerful antibiotic drugs in this way is both unnecessary and highly inappropriate. In short, it squanders one of our most precious resources for fighting disease.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being on objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antibiotic Safety Act of 1986".

SEC. 2. (a) Section 501 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new paragraph:

"(j)(1) If it is an animal feed and it bears or contains a subtherapeutic dose of penicillin, chlortetracycline, or oxytetracycline.

"(2) For purposes of subparagraph (1), the term 'subtherapeutic dose' means a dose of penicillin, chlortetracycline, or oxytetracycline which is administered for a purpose other than the treatment of a specific disease or disorder, including for the purposes of promoting the growth of an animal or preventing disease in an animal.".

(b) Section 201(x) of such Act is amended by inserting "in section 501(j)," before "in section 512".

By Mr. PELL (for himself, Mr. CHAFEE, and Mr. WEICKER):

S. 2936. A bill granting the consent of Congress to the Connecticut, Rhode Island, Massachusetts, and New York Rail Improvements Compact; to the Committee on the Judiciary.

CONNECTICUT, RHODE ISLAND, MASSACHUSETTS, AND NEW YORK RAIL IMPROVEMENTS COMPACT

● Mr. PELL. Mr. President, I am today introducing legislation to authorize an interstate compact between the States of Connecticut, Massachusetts, New York, and Rhode Island for the purpose of undertaking improvements in the Northeast corridor.

My legislation would enable the four States to initiate long overdue capital improvements, curve straightening, and electrification of the main line between New Haven and Boston. As the grandfather of the original Northeast corridor legislation, I am proud of the progress that has been made over the past decade in improving rail service between Washington and Boston. We can point to the success of Metroliner service between New York and Washington—which serves roughly one-third of the heavily traveled commuter market between those two cities—as a model of what can be achieved in making rail transportation a viable and attractive alternative to the overcongested highways and air routes.

Despite the progress made by the Northeast corridor project, much, much more needs to be done, especially in the segment of the corridor north of New York City. Budget cuts in the Northeast corridor project resulted in the eli[illegible] proven[illegible] the competitiveness of rail service in the commuter market between New York and Boston. Among the improvements eliminated from the Northeast corridor project was the electrification of the mainline between New Haven and Boston. The need to avert the changeover from electric to diesel power is crucial to reducing the triptime between New York and Boston, which currently takes almost 5 hours. Also necessary are capital improvements to the tracks themselves. If all the curves between Boston and New York were put together end to end the tracks would spiral through 16¾ full circles. Station improvements and signaling are other areas where rail passenger service is in need of new capital investment.

I believe the Federal Government has a very real responsibility in improving rail passenger service, especially in light of the high level of funding expended annually on air transportation and highways. Ultimately, I would like to see the Federal Government undertake a program of direct loans and loan guarantees for high speed rail improvements in emerging transportation corridors across the country.

Recognizing the very real threat of an airborne and highway gridlock in the Northeast, and as a first step in the direction of making rail service a competitive force in the Boston-New York market, I believe the time has come for the southern New England States and New York to form a compact for rail improvements. My legislation authorizes the compact to issue tax-exempt, State-backed securities to finance rail improvements. My view is that while bonds backed by the four States would be the initial source of capital improvements, the compact would also be empowered to receive Federal funding, loans, or loan guarantees. Under the compact, the States themselves through their representation on the Compact Commission would plan and manage the rail improvements, award contracts, and coordinate scheduling with commuter rail operations in the four States. The powers and duties of the Commission itself I have left purposely vague, because the views of the four States should be paramount in this area. It is my intention in the coming months to seek the advice and counsel of the Governors and to work specifically with the Coalition of Northeastern Governors [CONEG] with the objective of developing a consensus approach in a bill to be introduced at the very outset of the 100th Congress in January.

Here I would like to specifically commend the leadership of Massachusetts Gov. Michael Dukakis, who has spoken out forcefully for rail improvements in New England and who sponsored a resolution in the Coalition of

work toward a Boston-New York rail traveltime of 3 hours. Governor Dukakis will cochair the task force with Gov. William O'Neill of Connecticut, another strong advocate of rail improvements. Both the Rhode Island Gov. Edward DiPrete and New York Gov. Mario Cuomo have signaled their enthusiastic support for further improvements in the Northeast corridor.

As one who has long been concerned with rail service in the Northeast, I firmly believe that future economic growth in our region is tied directly to our ability to provide a viable alternative to the overcrowded highways and air routes. The original vision of a Northeast corridor "megalopolis" I articulated exactly 20 years ago has already materialized. The area between New York and Boston is a chain of interconnected cities and towns stretching along Long Island Sound and extending by the Connecticut River Valley, then moving in an easterly direction through the suburbs of Providence and Boston. Air travelers between New York and Boston sometimes face long delays in the air and even longer delays on the ground. It is not unusual for a business traveler to be hopelessly late, held up for many hours in the air or stuck in traffic trying to get from the airport. Daily commuters and intercity drivers compete with one another for space on the region's roadway bringing motorists to a crawl on an interstate system designed for high speed travel.

For the Northeast, the risks of continuing in this way are too large to ignore. Without a well-thought-out strategy for improving the region's transportation system, our economy may choke itself, strangled by an inadequate transportation network. The initiative for rail improvements must lie, in the final analysis, with the States in our own region. An interstate compact along the lines envisioned in my legislation will spur badly needed capital improvements to our rail transportation system and strengthen the infrastructure that underlies our regional economy. I look forward to working with the Governors of Connecticut, Massachusetts, New York, and Rhode Island in refining this proposal over the next few months and moving ahead early when the 100th Congress convenes in January.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the States of Connecticut, Rhode Island, Massachusetts, and New York, to enter into the Connecticut, Rhode Island, Massachusetts, and New York Rail Improvements Compact. Such compact reads substantially as follows:

"CONNECTICUT, RHODE ISLAND, MASSACHUSETTS, AND NEW YORK RAIL IMPROVEMENT COMPACT

"ARTICLE I. PURPOSE

"The purpose of this compact is to promote the undertaking of rail improvements in the Northeast Corridor (as such term is used in the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.)) of the compacting States, (including capital improvements to the Northeast Corridor between New York, New York and Boston, Massachusetts, and the electrification of certain track between New Haven, Connecticut and Boston, Massachusetts), to reduce travel time for rail passenger service between New York, New York and Boston, Massachusetts, and to establish a joint interstate commission to coordinate and control the implementation of such improvements.

"ARTICLE II. EFFECTIVE DATE

"This compact shall become effective upon the adoption of such into law by the participating States, and shall continue in force and remain binding upon such States until six months after any such State has given notice to each other participating State of the repeal thereof. Such withdrawal shall not be construed to relieve any participating State from any obligation incurred prior to the end of participation by such State in the compact as provided herein.

"ARTICLE III. JOINT INTERSTATE COMMISSION

"(a) The States which are parties to this compact (hereinafter referred to as 'Party States') do hereby establish and create a joint interstate commission which shall be known as the Connecticut, Rhode Island, Massachusetts, and New York Rail Improvements Compact Commission (hereinafter referred to as the 'Commission'). The membership of the Commission shall consist of three members from each of the Party States, to be appointed by the Governor in accordance with the laws of the Party State which each member represents, and such members are subject to removal in accordance with such laws. Each member of the Commission shall be appointed for a term of three years. If a vacancy occurs during the term of a member, the Governor of the Party State from which such member was appointed, shall make an appointment to fill the vacancy for the remainder of such term.

"(b) The Commission shall annually elect from its members a chairman and vice chairman, and appoint such officers or employees necessary to implement the provisions of this compact, and shall fix and determine their qualifications and duties. The Commission shall adopt such by-laws needed for the conduct of its business, and shall meet at times and places as agreed to by a majority of the members of such, but such Commission must meet at least once in each calendar year of its existence.

"(c) A majority of the Commissioners shall constitute a quorum for the purpose of conducting business. each Commissionerer shall have one vote.

"(d) It shall be the duty of the Commission, in general, to promote, encourage, coordinate, and oversee the efforts of the Party States to implement the rail improvements as specified by such Commission, and the Commission shall have the power to undertake planning for rail improvement in consultation with Federal agencies, including the National Railroad Passenger Corporation and the Federal Railroad Administration. The Commission shall also undertake planning with local commuter rail operations in the Party States, and shall assign a high priority to operational considerations, including the coordination of schedules with commuter operations.

"(e) The Commission shall be authorized to issue bonds, not to exceed one billion dollars in value, for the purpose of paying all or any part of the cost of rail improvements, if such authority is conferred upon it jointly by the legislative authority of the Party States. The Party States shall give full faith and credit to any bonds issued by the Commission. When other appropriations for the support of the Commission and its efforts are necessary, the Commission shall allocate the costs evenly among the Party States. The Commission may receive Federal funding for rail transportation purposes.

"ARTICLE IV. COMPACT EFFECT

"Nothing in this compact shall abridge, limit or be construed so as to conflict with any existing State statute, or to repeal or prevent legislation, or to affect any existing or future cooperative arrangement or relationship between any Federal agency and a Party State.".

SEC. 2. The consent to the Connecticut, Rhode Island, Massachusetts, and New York Rail Improvements Compact shall extend to any and all supplementary agreements entered into pursuant to carrying out the purpose of such compact.

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

By Mr. NUNN (for himself and Mr. COCHRAN):

S. 2937. A bill to amend the Food Security Act of 1985 to increase the number of acres placed in the conservation reserve program, and for other purposes: to the Committee on Agriculture, Nutrition, and Forestry.

INCREASE IN NUMBER OF ACRES IN THE CONSERVATION RESERVE PROGRAM

● Mr. NUNN. Mr. President, despite record Government expenditures made to farmers through our commodity programs, the economic crisis in agriculture persists, and may even grow more serious. The 100th Congress will face early in 1987 some very tough budgetary decisions, including the possible need to save the Farm Credit System through a multi-billion-dollar infusion of funds. Regrettably, to address these critical problems, it now appears to me that Congress must reconsider decisions made just a year ago upon passage of the 1985 farm bill.

The programs authorized by that bill have already proven far too costly and ineffective. Moreover, costs will go

up even higher next year without action by Congress. Commodity program expenditures also threaten to set back other vital missions of the Department of Agriculture which would, in the long run, contribute far more to the prosperity and sustainability of U.S. agriculture. We are falling short in export promotion efforts, in research and education, in our grain inspection and other quality assurance programs, and in conservation.

This legislation I introduce today on behalf of myself and Senator COCHRAN would accelerate accomplishment of one long overdue adjustment in our agricultural policy, an adjustment authorized and set in motion in the historic conservation title of the 1985 farm bill. It will both help in our ongoing efforts to control erosion, and contribute to pressing near-term production adjustment and income support efforts.

We introduce this bill today because we are convinced that the Conservation Reserve Program [CRP] authorized by subtitle D of section XII in the Food Security Act of 1985 can play an increasingly vital role in controlling soil erosion, protecting water quality, and supporting farm income. Indeed, the tremendous success of the program to date has led us to propose this legislation. We have three major goals in mind in offering this legislation:

First, accelerating enrollment into the CRP in 1987, with a goal of enrolling at least 35 million additional acres in the reserve;

Second, authorizing expansion of the reserve to 65 million acres, assuming the need exists to draw out of cultivation additional highly erodible cropland; and

Third, mandating the Secretary of Agriculture to begin, at least on a pilot program basis, the use of the reserve in addressing serious regional water quality or supply problems. Critical ground water quality problems in northwestern Iowa, and parts of Nebraska with sandy soils, are prime candidates for pilot projects.

We recognize that passage of this legislation is not possible in the 99th Congress. We are introducing the bill now, however, to alert our colleagues on the Committee on Agriculture, Nutrition, and Forestry and other Senators of our conviction that expansion of the conservation reserve should be vigorously pursued. We are also anxious to hear from the Department of Agriculture regarding this legislation, and encourage the executive branch to advise the Congress as soon as possible about its plans and intentions to expand CRP enrollment in early 1987, while also pursuing the other goals of this legislation.

My hope is that this legislation will help alert the agricultural community to a major opportunity that I believe now exists. Clearly, farmers across the Nation will benefit from strong steps to further reduce acreage planted to surplus crops, particularly in feedgrain producing regions. For this reason, and because the rate of signup has been disappointing in the Midwest, the legislation provides the Secretary with a clear mandate, and new authority to provide prospective CRP enrollees with adequate incentives to assure that the target level of enrollment is reached. This authority includes the following:

First, for producers with Farmers Home Administration financing, debt restructuring plans may include special provisions for advance CRP payments in cash or kind.

Second, the Secretary may offer a base acreage retirement bonus payment in cash or kind, to producers willing to surrender upon signup into the CRP commodity program base acres proportional to the acreage enrolled in the CRP.

Third, the Secretary may offer up to 50 percent of total 10-year CRP payments upon signup, in cash or kind, subject to a suitable mechanism to assure that the provisions of the CRP contract will be enforced.

Fourth, the Secretary may, on a State-by-State basis, authorize the use of CRP lands for grass, hay, and pasture uses, if the Secretary determines that such uses will not have an adverse affect on established operations in the State currently producing livestock, hay, or grass based silage.

We offer this legislation now to give the many individuals or organizations vitally interested in the conservation reserve time to fully study and reflect upon the best ways to achieve the legislation's basic intent, before major farm program changes are debated in early 1987. The shared sense of commitment expressed by a board diversity of groups and agricultural leaders toward the basic goals of the CRP has deeply impressed us, and has been a very positive force in bringing this new program into place. Let's build on this common ground, and follow the sound principles of the CRP in addressing additional problems related to water use and other environmental problems associated with agricultural production. By moving ahead with new ideas, we feel confident that the conservation reserve will meet the very high expectations of the Congress and the agricultural community.

To more fully explain the purpose and need for this legislation, I attach a report by two USDA economists summarizing the results of the first three CRP signup periods and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks. I ask my colleagues to note the remarkable estimated average reduction in erosion rates on land enrolled in the CRP—about 25 tons per acre—and the net reductions in commodity program supply control costs, estimated by USDA to equal about 40 percent of annual CRP rental payments.

I also wish to direct the attention of interested individuals to an insightful report recently issued by the Board on Agriculture of the National Research Council. This two-volume report, entitled "Soil Conservation: Assessing the National Resources Inventory," includes a convincing discussion of the extent of the erosion problem, and the concepts and policy strategies that should be used in attacking the problems. I wish to commend the Department of Agriculture for largely adopting the recommendations of the distinguished committee of experts who authored the report. Last, I am also attaching a recent speech by the board on agriculture's executive director, Dr. Charles Benbrook, discussing the current situation and directions in Federal soil and water conservation policy, which focuses on options to expand the reserve. I have met with Dr. Benbrook and discussed these matters with him at length. His assistance has been invaluable in preparing this legislation, and I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPLEMENTING THE CONSERVATION RESERVE PROGRAM [1]

(By Michael Dicks and Katherine Reichelderfer)

The objectives of the Conservation Reserve Program, as established by Title XII of the 1985 Food Security Act, are to: (1) Reduce water and wind erosion, (2) protect our long-term capability to produce food and fiber, (3) reduce sedimentation, (4) improve water quality, (5) create better habitat for fish and wildlife through improved food and cover, (6) curb production of surplus commodities, and (7) provide needed income support for farmers. Owners/operators of any land defined for the Conservation Reserve Program as "highly erodible" may submit bids for enrollment of their eligible acreage. Appendix A provides detail on the legislation which enables a conservation reserve.

The performance of the Conservation Reserve Program [CRP] has shown both significant erosion reduction and supply control. Sign-ups conducted in March, May, and August 1986 have resulted in enrollment of 8.9 million acres, with about 25 tons of soil erosion saved per acre, and over 60 percent of the acres enrolled were reductions to commodity program acreage bases. The direct CCC commodity program savings from CRP participation offset nearly 40 percent of the rental payments. Analysis of sector-wide effects indicates that direct plus indirect CCC cost savings may remain sufficient to offset the costs of the CRP.

However, the eventual success of the CRP in meeting its multiple objectives depends heavily upon how the program is imple-

[1] This summary is based on research conducted by William Boggess, Michael Dicks, Anthony Grano, and Katherine Reichelderfer.

mented over the remaining 4 years of acreage enrollment. Title XII allows the Secretary of Agriculture a great deal of discretion in implementing the CRP. This report summarizes various analyses of the effects of discretionary factors on the performance of the CRP.

DISCRETIONARY FACTORS IN IMPLEMENTING THE CRP

Among the principal factors that may be manipulated to target or improve effectiveness of the CRP are:

Eligibility requirements for participation;

Bid pool size—the regional delineation of the area(s) that receive allotments for total bid quantities; and

Bid selection criteria.

Decisions regarding CRP eligibility, bid pool size, and bid selection criteria have a direct effect on the program's performance in terms of:

Erosion reduction;

Program crop supply control (or supply control cost savings); and

Program outlays.

Eligibility, bid solicitation, and bid selection criteria may be modified at any point prior to an announced sign-up.

The effects of eligibility and bid selection criteria on CRP performance are interdependent. It is the combination of decisions on these factors that affects the economic efficiency of the program in terms of the degree of erosion and supply control achieved per dollar outlay, and the net program savings of a conservation reserve.

The implications of these discretionary factors for CRP performance are summarized in the following material.

ELIGIBILITY

Popular options for eligibility criteria include the following working definitions of "highly erodible" land:

1. Cropland in Land Capability Classes (LCC) II-V which is eroding at greater than 3 times the tolerance level (T) and all cropland in LCC's VI-VII (to be referred to as "3T"; includes 69 million acres);

2. Cropland in LCC's II-V which is eroding at greater than 2 times the tolerance level (T) and all cropland in LCC's VI-VIII (to be referred to as "2T"; includes 104 million acres);

3. All cropland with an Erodibility Index (EI=RKLS/T) greater than or equal to 8—an indication of potential erosion (includes 118 million acres).

While 3T is a subset of 2T, EI>8 acreage includes land that is not currently eroding at or above 2T. The EI>8 land that does not overlap with the 2T set is land which has the potential to highly erode but which is currently being managed in ways that prevent excessive erosion.

For March, May, and August 1986 CRP sign-up periods, eligibility was restricted to "3T" land. At least two-thirds of the area of any field offered for bid was required to meet the 3T erosion rate or include other eligible land classes.

In general, employment of a restrictive definition of "highly erodible" will limit the number of acres eligible and favor erosion reduction over supply control. However, increasing the number of acres eligible for CRP allows greater flexibility in targeting highly eroding, highly erodible, or highly productive acrege. The greater the number of eligible acres, the greater will be the likely number of bids received, and the range of characteristics of the land associated with those bids. With greater number and variety comes the opportunity for selection of bids most likely to achieve specific goals. Eligibility criteria also have implications for the efficiency of the CRP bidding process and the equity of CRP participation opportunities as explained below.

Broad eligibility encourages competitive bidding: Because the CRP is not an entitlement program, eligibility does not imply selection. However, by widening eligibility as much as is legally possible (either by using a broader definition of "highly erodible" or by reducing the percentage of a field which must be highly erodible in order for the field to be considered eligible) more active and competitive bidding would be encouraged; thereby allowing for selection of those acres most likely to meet program objectives.

Inconsistency with Conservation Compliance raises equity issue: If CRP eligibility is restricted to 3T cropland (69.5 million acres), and the Conservation Compliance provision applies to EI>8 cropland (118 million acres), only 49 million acres will meet both definitions. Under strict adherence to a 1T erosion limit for conservation plans, farmers on 34 million acres will be told that their land is not considered "highly erodible" to the extent necessary for benefits available from the CRP. But, by 1990 these same farmers will be told their land is so "highly erodible" they must implement a conservation plan or forfeit eligibility to all future commodity program benefits. By the same token owner/operators on 20 million acres who are eligible for CRP benefits would not be faced with compliance.

BID POOL ALLOCATION

Because soil erodibility is a regional phenomenon, use of the largest possible bid pool size (a national pool) also provides a high degree of flexibility in targeting acreage with specific characteristics. The most highly erodible (or productive) acres drawn from a national pool could be clustered in relatively few regions. However, as bid pool size is decreased (to State or substate levels), total CRP acres would be more evenly distributed nationwide. As will be demonstrated later in this report, there is a high program cost associated with assuring equitable geographical distribution of CRP benefits.

BID SELECTION CRITERIA

There are many options for establishing bid selection criteria. Bids may be selected on the basis of their contribution to erosion reduction, the degree to which they reduce program crop base acreage or production, their rental cost, or any of numerous combinations of the erosion, supply, and rental cost values. Specific bid selection formulas can be used with or without an upper limit on rental fee bids.

For the March, May, and August 1986 sign-up periods, all bids at or below pool caps on rental cost were accepted. This is consistent with a bid selection strategy which minimizes rental cost of CRP enrollment.

Some alternative bid selection criteria which have been examined include:

Maximize erosion reduction: Select bids on the basis of from highest to lowest erosion on cropland bids until the budget limit (actual expenditures for sign-up periods) is reached.

Maximize supply control: Select bids on the basis of from highest to lowest value of supply control (program crop base acreage reduction) until the budget limit is reached.

Minimize net cost per ton of erosion: Select bids on the basis of lowest to highest net dollar cost of preventing erosion. Net costs are equal to rental costs minus supply control benefits. Supply control benefits equal the value of program crop base reductions achieved through enrollment of commodity program participants' acreage. (These are reductions to the base on which deficiency, diversion, and related commodity program payments would otherwise be made.)

These are only a few of the possibilities for alternative bid selection strategies. Their potential effect on CRP performance is significant.

1. Minimizing rental cost, the strategy followed thus far, enrolls the greatest number of acres for a given program outlay. However, the erosion control and supply control achieved with this strategy are less than that which could be accomplished by the use of alternative bid selection criteria.

2. Focusing on erosion by using the "Maximize Erosion Reduction" selection criterion increases erosion control benefits of a CRP, but these benefits are offset by a loss of supply control cost savings. Also, the administrative costs of strategies relying on erosion measures for bid selection may be greater than for other strategies because of the need to obtain and confirm erosion levels on parcels of cropland bid.

3. Focusing on maximization of supply control benefits involves a tradeoff in erosion reduction.

4. Minimizing net cost per ton of erosion retains high benefits in the form of supply control and low per acre net program costs, but also performs well in achieving high levels of erosion reduction.

Other decisions affect the sensitivity of CRP performance to bid selection criteria: Two basic factors determine the extent to which formulas can be used to increase program effectiveness and efficiency:

1. Number of bid received: The greater the number of bids received, the greater the effectiveness of the formula in targeting desirable acreage for enrollment. The number of bids received is influenced by eligibility as well as by other program benefits and costs. Broadening eligibility, lowering commodity program benefits, and/or better advertising the impending costs of conservation compliance should encourage more CRP bidding.

2. Number of bids which can/must be accepted: If every acre bid is needed to meet acreage constraints or allotments, formula use is a moot point. The smaller the percentage of bids that must be selected, the greater the effectiveness of formulas in targeting appropriate acreage. Thus, constraints imposed by bid pool acreage goals, the 25 percent per county maximum and maximum rental rates accepted are important in determining the effect of a formula.

The key point is that the interactions of eligibility criteria, pool allocation criteria, and use of a formula for bid selection must be taken into account. None of these controls operates in isolation of the others nor can the effects be analyzed in isolation.

INTERDEPENDENCE OF IMPLEMENTATION DECISIONS

Simulation of a 40-million acre reserve under alternative combinations of control variable levels illustrates the extent to which administrative decisions affect program effectiveness. Under the low cost bid selection criteria:

It is the EI>8 definition which provides the greatest erosion control, but this eligibility option also requires high program outlays.

The "2T" definition has the lowest program costs when bids are selected from a national pool, but this advantage is diminished by the selection of bids from State allotments.

The cost of assuring that CRP program benefits are equitably distributed among States is between $6-10 billion.

State bid pooling enhances supply control aspects of the CRP without sacrificing erosion control benefits.

For a nationally pooled Conservation Reserve drawn from "2T" cropland:

Selecting bids to maximize either erosion control or supply control significantly raises program cost over the current strategy of minimizing rental payment. Maximizing supply control is most expensive.

But, if bids were selected to maximize supply control potential, the acreage set aside in the CRP would be highly productive, with average yields 13 percent higher than the national average.

Selecting bids to maximize erosion control would improve program performance by increasing annual soil savings per acre over other bid selection alternatives. Bid selection to maximize erosion reduction for a "2T" eligibility criterion performs better (in controlling erosion) than using either "3T" or EI>8 eligibility definitions when erosion is not targeted.

INTERRELATIONSHIP WITH COMMODITY PROGRAMS

The Conservation Reserve, by retiring highly erodible land, has the potential to offset CCC outlays made in the form of deficiency payments. This potential arises both from:

1. Direct cost savings in the form of base acreage reduction required by CRP enrollment; and

2. Indirect cost savings which may result from commodity market price increases, spurred by reduced production, and consequential reduction in deficiency payment levels.

A complicating factor arises, however, from the fact that when commodity program benefits are high, there is a disincentive for participation in the CRP at current levels of accepted bids. Greater than average cash rent values will be required to compensate many commodity program participants for the loss of base and program benefits they incur as a result of CRP enrollment. As long as CRP benefits are low relative to commodity program benefits, commodity programs will pose strong competition with the CRP and the CRP may not enroll a large quantity of base acreage.

CONCLUSIONS.

It is clear that the CRP can be designed to favor erosion reduction, supply control, or budget reduction to various degrees above one another. However, the use of discretionary factors to weight the program's multiple objectives is neither simple nor straightforward. Decisions regarding eligibility, bid solicitation, and bid selection are interdependent. Each of various strategies for CRP implementation has unique advantages and disadvantages. Furthermore, the operation and success of the CRP are closely linked with other provisions of the Conservation Title as well as with the commodity programs it complements.

APPENDIX A

CONSERVATION RESERVE PROGRAM LEGISLATION

The conservation reserve provision proposes to assist, through contract, owners and operators of highly erodible cropland in conserving and improving the soil and water resources of their farms and ranches. This purpose will be met by establishing a conservation reserve of 40 to 45 million acres by 1990. Highly erodible cropland acreage will be placed into the reserve at the rates shown in table A-1. The Secretary may also include lands not highly erodible, but which pose a serious environmental threat or suffer continued degradation of productivity due to salinity. No more than 25 percent of the cropland in any one county may be placed in the reserve except where it is determined that to do so would have no adverse effect on the local economy. Where practicable, at least one-eighth of the total conservation reserve acreage should be devoted to trees.

Landowners or operators desiring to participate in the conservation reserve must agree to implement a plan approved by the local conservation district to place highly erodible cropland into grasses, trees, and other acceptable vegetative covers for 10 to 15 years. They must further agree not to harvest, graze, or make other commercial use of the forage for the duration of the contract, except where the Secretary permits, as in a drought or similar emergency. The conservation plan must describe the measures and practices required; the commercial use, if any, to be permitted; and the amount of cropland base and allotment history, if any, to be permanently retired. The amount of the reduction in cropland base acreage and allotment history, during the life of the contract, will be based on the ratio between acreage placed in the reserve and total cropland acreage on the farm for those crops which have production adjustment programs in place. The Secretary, however, may preserve the cropland base and allotment history on the acreage placed in the reserve for the purpose of any Federal program unless the owner and operator agree under the contract to retire that cropland base and allotment history permanently.

The Secretary must pay an annual fee sufficient to compensate for the conversion of highly erodible land to grass and trees and the retirement of any cropland base and allotment history. The compensation, in the form of annual rental payments, may be determined through the submission of bids. The acceptability of each bid may be based on the extent of erosion and the productivity of the acreage diverted. Different criteria may be established in various States and regions to determine the extent to which erosion may be abated. Priority may be given to owners and operators with the highest level of economic stress, and where appropriate, for the establishment of shelterbelts, windbreaks, stream borders, filter strips of permanent grass or trees that significantly reduce erosion.

The annual rental payments may be made in cash or in-kind and may be made prior to the implementation of the contract by owners or operators. The total payment may not exceed $50,000 per year, and will not affect the total amount of payments that are available under other programs. USDA must make the payments as soon as possible after October 1 of each year. The Secretary must also provide technical assistance and 50 percent of the cost of establishing conservation practices. These payments must be made as soon after the expenses occur as is feasible.

Land on which ownership has changed in the 3-year period preceding the first year of the contract will be ineligible for the conservation reserve unless the land was acquired by will or succession as a result of death, or prior to January 1, 1985, or where the Secretary determines that the land was acquired under circumstances that provide adequate assurance that it was not purchased for the purpose of being placed in the reserve. Ownership is not a requirement for eligibility provided the person has operated the land for the 3-year period preceding the first year of the contract and will continue to control the land for the duration of the contract.

The Secretary may modify or terminate an individual contract if the owner or operator agrees to the change and if the action is in the public interest. If the contract is violated, the owner or operator forfeits all rights to past, present, and future rental and cost-share payments or must accept adjustments to payments that the Secretary determines appropriate. On transfer of ownership or lease, the new owner or operator has the option to continue the current contract, enter into a new contract, or refuse to participate.

Title XII authorizes the Secretary to carry out the conservation reserve program through the CCC in fiscal years 1986-87. In fiscal year 1988 and subsequent years, the Secretary may use CCC facilities, services, and funds only if the CCC has received funds targeted for the conservation reserve.

TABLE A-1.—CONSERVATION RESERVE ACREAGE, CROP YEARS 1986-90

[In million of acres]

Range	1986	1987	1988	1989	1990
Minimum [1]	5	15	25	35	40
Maximum	45	45	45	45	45

[1] The Secretary may reduce the number of acres placed in the reserve by up to 25 percent if rental payments are likely to be significantly lower in the following year.

FEDERAL SOIL AND WATER CONSERVATION POLICY; CURRENT SITUATION AND DIRECTIONS

(By Charles M. Benbrook)

Soil and water conservation policy tops the list of encouraging developments in the agricultural arena, although that list is indeed a short one. Some analysts have been critical of the progress made to date in implementing the Conservation Reserve Program (CRP)—too critical in my view. Surely some tough problems stand in the way of expanding CRP enrollment in feedgrain producing areas. But there is nothing wrong with the CRP concept. With some 9 million acres and 60,000 farmers already enrolled, the program has thus far been a tremendous success. It is ready to deliver on some very big promises.

I believe that within two years, over 60 million acres could be enrolled in the reserve, of which over 5 million could be enrolled under special, targeted state-federal programs designed to address water quality/quantity problems.

The focus of this conference on information and administrative issues is very timely. Solid, reliable, nationally consistent information, utilized in a practical and fair administrative process is a necessary condition for the CRP to work as intended. The two other essential ingredients—common sense and wisdom in the political and budgetary arenas—are sometimes harder to come by. But so far, so good.

Next February the 100th Congress will be forced to review the projected cost overruns

of the commodity programs. Presumably, steps will have to be taken to reduce the cost of these programs by about one-third, bringing projected costs down from about $25 billion to about $18 billion, the amount provided in the fiscal year 1987 appropriation bill. Alternatively, Congress could pass a supplemental appropriation to cover the cost-overrun—a not too likely prospect.

Assuming program costs are trimmed, the economic attractiveness of the commodity programs will be somewhat reduced relative to enrollment in the CRP. While some steps are likely to cut costs, I also expect that Congress will take other, new steps to address persistent surplus and income problems. In all likelihood, an effort will be made to retire more acreage in 1987 than now called for in the Food Security Act of 1985. As I perceive the political landscape, the only two viable options are a paid diversion, or accelerating enrollment in the CRP. Because of budget considerations, the CRP option could emerge as the preferred course of action. But the question remains—are we really ready to enroll perhaps 35 million additional acres in the CRP in the next six months? The answer will be determined by how well the policy community deals with a half-dozen critical issues.

CRITICAL AND PRESSING ISSUES

1. The size of the eligible pool for CRP enrollment as set by the definition of highly erodible land

Persuasive arguments can—and have—been made for keeping the pool of eligible cropland small relative to CRP enrollments. In recent months, support has grown somewhat for enlarging the pool as a step toward encouraging more competitive bidding and greater enrollments. I question the logic and analysis underlying the notion that expanding the pool of eligible land will bring down bids, since such an expansion would involve more productive land likely to bring somewhat higher acreage rental rates. Notwithstanding uncertainty about this point, the one and only really good reason to expand the pool is expanding the target and rate of CRP enrollment. If the Department and Congress make a firm commitment to enrolling 20 million acres or more in the next 12 months, I would not argue against an EI>8 definition of highly erodible land. Such a definition is attractive on other grounds.

It assures consistency with the conservation compliance and the sodbuster provisions, thereby greatly diminishing future administrative hassles, costs, and challenges.

It is based on the most technically defensible concept for the classification of cropland with respect to inherent erosivity and vulnerability to erosion-induced productivity damages.

The definition can readily accommodate improved USLE data on expected erosion rates, or more accurate T-values based on new data and models involving erosion-productivity impacts. Such improved data could be generated, and incorporated in an EI-based definition at the state or national level.

If such a commitment to expand the CRP fails to materialize, highly erodible land should be restricted to cultivated cropland now eroding more than twice the soil loss tolerance limit, with EI>8. This definition yields a pool of about 65 million acres.

2. Achieving a more even pattern of CRP enrollment

The CRP has done particularly well in arid regions growing cotton, sorghum, and wheat and small grains. It is easy to understand why—CRP rental rates have approached or exceeded cash rental rates. Moreover, enrollees receive their CRP payments every year without the need to summerfallow.

The reason acceptable bid levels reached a level above cash rents in some areas can be explained by looking at USDA's formula for setting maximum accepted bid levels. Cash rental rates are the dominant factor used within a pool in setting maximum acceptable bids. The rent on dryland acres is averaged with the much higher rent on irrigated land in regions with both types of cropland. As a result, USDA allows dryland acreage to enter the reserve at unnecessarily inflated prices. This problem is surfacing in Texas, the West, and the Plains' States.

To get the economics right in the Midwest, the economic attractiveness of reserve enrollment must rise relative to participation in the feedgrain program. This won't happen by natural processes, and is, in my judgment, the most worrisome issue standing in the way of rapid expansion of CRP enrollments.

3. Commodity Program—CRP interactions: Is competition inevitable?

The answer is, no. Without important program reforms, the answer is, yes, Clearly, a balanced approach will involve steps to reduce somewhat the economic attractiveness of the commodity programs, while increasing somewhat the lure of the CRP. Possible and improbable steps toward the first goal are outlined below.

Reducing the economic attractiveness of the commodity programs for land eligible for the CRP:

Continue to require maximum acreage set-asides allowed in law (20 percent for the feedgrain program), or, even increase percentage set-asides.

Driven by budgetary concerns, the Congress may choose to reduce the corn support price to about $1.75, a step which will also be credited with making U.S. commodities more competitive in international markets. At the same time, target prices would also be cut back somewhat more on a percentage basis, to perhaps about $2.50. Deficiency payments would, as a result, fall to perhaps 75 cents per bushel, from about $1.20. Politically, a 53-cent reduction in the corn target price will clearly prove extremely unpalatable, despite over $2 billion in probable savings. Compared to the alternatives though, such a drastic step could emerge as the only course of action that can gain the support of a majority in Congress. Similar changes would probably be adopted in other commodity programs.

Impose and enforce much stricter payment limitation provisions in conjunction with a higher, more realistic cap on payments.

As suggested by Taft and Runge, forbid the use of "highly erodible" land in satisfying set-aside requirements. While novel, this idea could have adverse consequences in areas where a high percent of land meets the definition of highly erodible. It could compel farmers to plant program crops on highly erodible land, while setting aside better cropland. This idea will also require considerable oratorical skills when brought before the Committee on Agriculture.

Strictly monitor established yields and base acreage to assure no increases are allowed in either.

Require cross-compliance—farmers enrolling in one commodity program (say wheat) must comply with the pertinent provisions of other programs (feedgrains) on all farms operated by them.

Adopt program changes that impose equal costs of program participation in areas where acreage is summerfallowed in alternate years, in contrast to regions where continuous cropping patterns are used.

4. Increasing the attractiveness of CRP enrollment for "highly erodible" cropland also eligible for Commodity Program participation

The most direct approach would be raising the acceptable bid levels in pools with a relatively high portion of commodity program base acres. Because of budget exposure, this option may be among the last given serious consideration, and can only be evaluated in terms of net costs once the provisions of the 1987 commodity programs are fully specified. Indeed, higher acceptable bid levels may prove the cheapest alternative to achieve more ambitious 1987 production adjustment goals. The scuttlebut in the halls of USDA on a paid diversion is that a payment on the order of $1.75 to $2.00 per bushel of corn base yield could be required. Such a rich offer would surely have a profound and negative impact on CRP enrollment.

I suppose it would also be possible to modify or eliminate the provision in the CRP which reduces a farm's base acres proportional to CRP enrollment. Since such a change would undercut an important aspect of the supply control benefits of the CRP, this option is not likely to be favorably received, even though it makes sense if the only goal is to increase CRP enrollment.

Another approach would be to convince farmers that the projected 10-year benefit stream from traditional commodity programs will shrink as (if?) the Congress gets serious about budget deficits. Without a cut next year in target prices though, farmers are not likely to take seriously the notion that program benefits are vulnerable politically.

Steps to educate farmers about the consequences in 1990 of conservation compliance could be initiated. (A tough task since it will remain inherently unclear in many regions what the consequences will be, at least until the definition of highly erodible land and other administrative program requirements are settled.)

Several other program reforms merit consideration next spring if a serious effort is made to accelerate CRP enrollment:

Move toward larger substate bidding pools to allow greater flexibility and choice within pools.

Raise the 25 percent cap on CRP acreage enrollment in a county to 50 percent.

Allow in some states, where adverse affects on the cattle industry can be avoided, the use of CRP lands for haying and grazing, in addition to forestry uses. This option is attractive on budgetary grounds since average acceptable bids would probably fall $20 to $30 per acre if haying or grazing were allowed. A recent survey by the American Farmland Trust of farmers considering enrollment in the CRP identified the prohibition against economic use as the most common concern keeping farmers from enrolling more land.

For farmers in serious financial trouble, allow upfront payment of CRP benefits for debt retirement as part of debt-restructuring agreements.

Offer farmers bonus payments for giving up base acres in excess of what is required as a condition of CRP enrollment.

CHALLENGES IN THE FIELD

The conservation title of the farm bill breathes new life into the mission of SCS and conservation districts. For the first time in decades, programs and policies are in place that provide a realistic set of tools to bring soil erosion largely under control. I think the conservation community is gearing up now, and will be able to bear the very heavy burdens which will soon fall upon them.

One key to the success of conservation compliance and sodbuster is the timely development of a new generation of farm conservation plans. Because these plans, and compliance with them, will determine eligibility for government program benefits, farmers and conservationists will have to take them far more seriously. Moreover, they will also need to be realistic and flexible, taking into account the special problems faced by certain farmers in some areas.

I must admit some concern about the future of conservation plans in light of new program needs. The type of a plan needed to make sodbuster/conservation compliance administratively viable is very different from the elaborate, whole farm plans of the past. Yet, there remains considerable hesitancy among some to change conservation plans. Problems could arise if SCS is slow to break with tradition because field personnel will soon become overwhelmed by the workload.

I have another concern. Implementation of sodbuster, swampbuster, and conservation compliance will require clear and strict rules, and adherence to them. Yet, good judgment and a degree of local flexibility will also be necessary to avoid unnecessary and unjustifiably harsh consequences. For example, suppose cotton producers in the panhandle of Texas can bring erosion rates down from an average of 40 tons per acre to 10 tons, on land with T values of 3 tons. Technically, this would fall short by 4 tons of the 2T goal in conservation compliance.

I do not think it makes sense to, in effect, shut down an operator in situations where 20, 30 or more tons of erosion reduction is agreed upon, yet the 2T goal is missed by a few tons. Nonetheless, it is no easy matter to balance the need for equity across regions in achieving consistent national goals, with a degree of flexibility at the local level. Unless a workable accommodation can be reached between these two critical goals, conservation compliance and sodbuster will remain vulnerable to political and/or legal challenge.

Similar concerns have arisen in reference to the definition of "commenced" in the sodbuster/swampbuster regulations. I think these tricky issues can be resolved in a reasonable, timely way without undermining the integrity of the new conservation provisions, or political support for this major new change in direction. At times, antagonists may have to trust each other more than they are accustomed to, but I am convinced common sense can lead to solutions as long as all parties continue to share the goal of conserving our soil and water resources.

There are a host of other, more pragmatic challenges that SCS, ASCS, and conservation district offices now face. They must: identify in the next 24 months what lands meet the definition of "highly erodible," and inform landowners and operators associated with these lands; greatly simplify the content and process of developing a conservation plan; become much more expert in use of the USLE, and in understanding from a farmer's perspective the pros/cons/impacts of various erosion control options; systematically explore the potential role of crop rotations as a valuable, often necessary, erosion control practice; and incorporate water quality concerns and practices into plans.

5. Continue to improve the cost-effectiveness of the targeting effort, particularly in the Agricultural Conservation Program (ACP)

Steady improvement in the cost-effectiveness of ACP remains an untold conservation success story. This program continues to demonstrate the capacity and willingness to meet emerging needs. To the credit of program administrators, problems have been studied and steps taken to overcome shortcomings.

These efforts should continue, and deserve greater support. I hope that OMB will finally recognize and reward the Department for these accomplishments by foregoing the bogus budget savings entailed in zeroing ACP out of the FY 1988 budget. Everyone remotely knowledgeable about this program realizes that the Honorable Mr. Whitten will restore ACP funds if missing when the budget is submitted to Congress.

In summary, the critical issues on the agenda right now that will make heavy information demands on the conservation community are: defining and identifying "highly erodible" lands; getting the economics right to assure adequate CRP enrollment in the Midwest; providing new technical data and analytical concepts to allow a modernization of conservation plans; and developing concepts and data needed to incorporate water quality concerns into the overall conservation policy agenda.

NEW DIRECTIONS

I see many important new directions on the horizon that could markedly change how we, administer soil and water conservation policy. They include:

1. Last week, Senator Sam Nunn introduced legislation to accelerate the rate of enrollment of land into the CRP, and to expand the size of the reserve to 65 million acres. While not a new direction, this legislation suggests a much more immediate and prominent role for the CRP.

2. A strong case can be made for states assuming a leadership role in initiating water quality/water conservation initiatives in the context of the CRP/conservation compliance/sodbuster/swampbuster. I see many possibilities, and sense that a few key states—including Minnesota—are about ready to move ahead. States might:

Cooperate with SCS in improving the accuracy, or adjusting the technical concepts used in identifying highly erodible lands in order to take water quality concerns into account;

Demonstrate how to incorporate water quality into conservation plans; and

Petition USDA to block-grant a portion of CRP funds destined for a state into a special fund to be administered through a targetted federal-state program designed to enroll into the CRP croplands irrigated from threatened aquifers (quality or quantity concerns, or both); or contributing disproportionally to non-point pollution problems (either surface or groundwater).

3. In several parts of the United States, farmers are growing crops that should not be produced, and indeed cannot be produced in a profitable manner given current market conditions. These crops, moreover, are often those associated with some of the most egregious abuses of our natural resources. Sound conservation policies—and the flow of dollars associated with the new programs—could help U.S. agriculture make some difficult adjustments which ultimately could be forced upon the sector by economic forces.

I foresee the prospect for conservation-driven policy to substantially contribute to the resolution of at least some of agriculture's most pressing economic weaknesses. The policies are already proven winners in terms of erosion control. If others come to share this view and see this added potential, we just might deliver on those very big promises made for the conservation title of the 1985 farm bill.

Thanks, I enjoyed the chance to visit with you this afternoon.●

By Mr. SPECTER:

S. 2938. A bill entitled the "Logan Relief Act;" to the Committee on Banking, Housing, and Urban Affairs.

LOGAN RELIEF ACT

Mr. SPECTER. Mr. President, I am today introducing legislation which would authorize the Federal Government to assist residents of the Logan area of Philadelphia by purchasing homes endangered by the disaster that has occurred there.

My purpose in introducing this bill is to focus Congress attention on the urgent plight of Logan residents as a prelude for action next year. Although I understand full well that passage of this bill will not be possible in the 99th Congress, the subject of this bill is of such major importance that I wish to call the attention of my colleagues to it without delay.

Hundreds of homes in the Logan area are situated in low land and a flood plain of the Wingohocking Creek that were filled many years ago with ash and cinders. A recent engineering study contracted by the city of Philadelphia identified 11 homes as imminently dangerous and another 29 as dangerous due to a severe sinking condition caused by the settlement, disintegration and shifting of the ash and cinders. Some 957 homes in all are affected by the subsidence, and many are now or will soon be uninhabitable.

According to the summary of the final report of the Logan geotechnical study, conducted by Lippincott Engineering Associates, one of the contributing factors to the subsidence of the Logan area was mild earthquakes, which caused the "ash and cinder to lose strength and volume."

Since the problem began, I have actively sought assistance for Logan area residents. At my request, Secretary of Housing and Urban Development Samuel Pierce provided mortgage relief to affected homeowners, relieving the debt obligations of FHA-guaranteed loans. I also sought and received a similar commitment from the Veterans' Administration. Clearly,

however, this leaves a great many people in the lurch.

The engineering study estimates that the total cost of resolving the Logan problem—buying the dangerous homes, providing relocation assistance and doing remedial work where possible—is in the range of $30 to $40 million. On Friday, September 26, 1986, Gov. Dick Thornburgh declared the Logan section an emergency and requested Federal disaster assistance. If the President provides the requested assistance, that will be extremely helpful. But it is unlikely to be enough because the usual forms of disaster assistance do not include the authority to purchase the homes and relocate the residents to new houses. My bill would fill this gap by providing the necessary authority to purchase homes.

Logan residents are like many other Americans in that their homes are their primary financial assets. The widely published subsidence problem in the Logan neighborhood has reduced or eliminated the market value of many of these homes. This is a major financial blow to the position in life of many Logan residents. My bill would mitigate this blow by authorizing the Federal Government to purchase the homes at their market value before the subsidence problem began.

There is ample precedent for Federal intervention and legislation in emergency situations such as this one. A case in point is that of the Centralia, PA mine fire. At my urging, the Senate earmarked an appropriation of $42 million for the abandoned mine reclamation fund to provide for the purchase of homes and relocation of Centralia residents. Thus, in addition to providing an example of general Federal involvement in an emergency situation that is partially manmade, the Centralia case also serves as a precedent for Federal involvement in the purchase of homes and provision of relocation assistance. The special appropriation for Centralia was used precisely for these purposes.

In the case of Love Canal, a community endangered by highly toxic waste in the 1970's, a disaster declaration along with an earmarked appropriation sponsored by Senators MOYNIHAN and Javits provided Federal assistance in mitigating the environmental danger. Of course, the Love Canal tragedy ultimately led to the establishment of Superfund, a massive Federal program to respond to certain kinds of man-made environmental problems which neither State nor local authorities can adequately address.

Another instance of Federal involvement in a man-made emergency came in response to a series of sewer explosions in Louisville, KY, in 1981. In that case, President Reagan declared a major disaster to assist homeowners with property damage.

Mr. President, there is, in short, a history of Federal involvement in situations analogous to the one that Logan residents are now facing. This is a worthy subject for legislation at the first available opportunity.

It is my hope that the introduction of this legislation at this time will serve notice to FEMA and the administration about the urgency and seriousness of the conditions of the Logan area.

By Mr. ROCKEFELLER:

S. 2939. A bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol; to the Committee on Commerce, Science, and Transportation.

METHANOL VEHICLE PROMOTION ACT

Mr. ROCKEFELLER. Mr. President, I am today introducing the Methanol Vehicle Promotion Act of 1986, an act that would encourage and promote the development of methanol capable automobiles. In this bill, I have collected the ideas of several colleagues, including the chairman of the Commerce Committee, Senator DANFORTH—who initiated the idea of a methanol vehicle incentive program—as well as several of my own. This is an idea that I have been working on at great length this year, and an idea that I feel confident that the next Congress will embrace early in the next session.

Although this is the very end of the session, Mr. President, I am introducing this bill in order to maintain the interest and momentum in this very exciting technology. To some degree this bill is also a progress report on intensive negotiations that have encompassed S. 1097, a bill reported by the Senate Commerce Committee in 1985, during the 99th Congress. I believe that significant progress has been made—both within the Senate, and in discussions with the House. I am convinced that it is merely for the lack of time that we are unable to complete this process this Congress.

The bill I am introducing is more narrow than S. 1097, both with regard to the potential size of the incentive and with regard to the fuels to which it would apply. The earlier bill, S. 1097, included incentives for the production of vehicles using both ethanol and natural gas as well as methanol. I realize that several Members might wish to look at these fuels when we consider this bill next year, but my focus has been the promotion of methanol.

This approach would also not preclude passage of legislation similar to that passed by the other body, H.R. 3355, providing for a methanol vehicle demonstration program, under the very fine leadership of Congressman PHIL SHARP and Chairman JOHN DINGELL. Although it had been my hope that we might pass that bill in the Senate by unanimous consent this session, it now appears that on that matter also, we will have to pick up where we left off next year.

In my view, Mr. President, methanol is the fuel of the future. Not only can it be derived from our plentiful domestic supplies of coal, but its use could also result in a substantial reduction of pollutants from automobiles. In sum, the use of methanol and a push in the transition to the production and use of methanol vehicles is worth the attention of Congress.

Mr. President, ever since 1973, when the Organization of Petroleum Exporting Countries—OPEC—cut oil supplies to the West, our consciousness of energy matters, especially the availability and price of gasoline, has been profound. Throughout most of the 1970's we searched in vain for energy alternatives—greater uses of coal, synthetic fuels, solar energy, conservation, and so forth.

In the 1980's, the availability of energy resources has been relatively stable. There are many reasons for this fact, but it should not keep us from exploring future alternatives, especially alternatives to fuel our transportation sector.

The transportation sector accounts for more than 60 percent of the oil consumption in the United States. To a large extent, the laws and programs passed in the 1970's sought to conserve or find new sources of gasoline to fuel that sector. But little effort went into development of a replacement—or into the massive effort it will take to encourage the production of vehicles that can use alternative fuels.

The Methanol Vehicle Promotion Act of 1986, without any cost to the Government, seeks to break the so-called chicken and egg problem of transition to the alternative fuel of methanol. As it stands, the auto companies won't build methanol capable or dual fuel—cars that can adjust to any blend of methanol and gasoline—automobiles until methanol is being sold in the corner service station. On the other hand, the local service station isn't going to make the investment in the pumps, hoses, and tanks, to offer methanol, or a methanol blend, until these vehicles are on the road.

This bill builds on the foundation of S. 1097, the Methanol and Ethanol Vehicle Incentives Act of 1985. It uses the incentive of modest relief from one Federal energy statute; namely, the Motor Vehicle Information and Cost Savings Act—the so-called CAFE [corporate average fuel economy] law, in order to promote the development of vehicles that will reduce our use of, and dependence on gasoline.

My approach in this bill is to hold out a substantial incentive for the auto companies to build both methanol only and dual fuel automobiles, but to stay away from, and neutral to the debate about the underlying CAFE law. My bill would allow automobiles that run on methanol exclusively, and dual fuel automobiles—those that are designed to adjust to a combination of gasoline and methanol—to receive a miles-per-gallon rating based on an assumed 15 percent fuel content. Such a formula provides a powerful incentive to an auto maker to invest in methanol in order to avoid any application of penalties from the CAFE law on the rest of its fleet.

Mr. President, what distinguishes my bill from S. 1097 is that it effectively deals with numerous concerns that have been raised about the open-ended approach taken in that bill regarding the dual fuel automobile. By placing a cap on the amount of maximum credit that can be received by an automobile manufacturer as well as phasing out and phasing down the credit over a 10-year period, my bill prevents the circumstance where a relatively small amount of automobile production could undermine the existing CAFE statute.

In my bill, I have also included a provision to prevent a double counting of benefit, another concern raised about earlier proposals. This provision would reduce by an equivalent level the amount of benefit from the methanol incentive if the Secretary of Transportation reduces the corporate average fuel economy standard below the current statutorily mandated level.

Mr. President, I have also tried to improve upon the definition of the dual fuel automobile that was contained in S. 1097. To address the concern that such a definition might give auto manufacturers a loophole to produce cars that might not actually use methanol, I have tried to make it clear that their design and operation must allow for operation over the entire range of methanol and gasoline blends.

Mr. President, legislating in this area is difficult because it touches an area of the law and regulation already extremely complex. Nevertheless, I think it is an effort worth making. I think with this concept and with the protections of this bill, there is the opportunity to promote a very fundamental change in the transportation and energy sectors of our economy. Our declining domestic supply of oil, the continued reliance on foreign oil supplies, and the growing need to use a fuel for transportation that will result in cleaner air, all point in the direction of methanol.

Mr. President, I intend to continue my work on this bill and to forge a compromise among the differing but legitimate points of view. I am optimistic about the prospects for passage in the next Congress, and it is my hope that by introducing legislation at this time, we will continue to make progress prior to the beginning of the 100th Congress.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Methanol Vehicle Promotion Act of 1986".

FINDINGS

SEC. 2. The Congress finds that—

(1) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(2) continued reliance on imported oil is detrimental to the economy and security of the United States;

(3) methanol is a proven transportation fuel that burns more cleanly and efficiently than gasoline; and

(4) conversion of a portion of the transportation fleet of the Nation to methanol would stimulate development of a domestic coal-to-methanol industry, create jobs, reduce air pollution, and enhance national security.

PURPOSES

SEC. 3. The purposes of this Act are to—

(1) provide for the appropriate application of fuel economy standards to methanol powered automobiles; and

(2) increase the use of methanol by consumers and the production of methanol powered vehicles.

MANUFACTURING INCENTIVES FOR AUTOMOBILES

SEC. 4. (a) Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) is amended—

(1) in paragraph (1), by inserting immediately after "fuel" the first time it appears the following: "or methanol mixture"; and

(2) by adding at the end thereof the following new paragraphs:

"(15) The term 'methanol mixture' means the mixture of methanol with other fuel, if any, used to operate a methanol powered automobile.

"(16) The term 'methanol powered automobile' means an automobile designed to operate on not less than 85 percent methanol.

"(17) The term 'dual fuel automobile' means an automobile which—

"(A) is capable of operating on methanol and which is designed to make appropriate instantaneous adjustments to the air-fuel ratio for the entire range of blends (from 0.0 percent methanol to at least 85 percent methanol) of gasoline and methanol; and

"(B) achieves a driving range of at least 250 miles, based upon the combined EPA city/highway fuel economy, as determined for Corporate Average Fuel Economy purposes for such automobile when operating on an 85 percent methanol mixture.".

(b) Section 502(l)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(l)(1)) is amended—

(1) by redesignating subparagraph (E) as subparagraph (H); and

(2) by inserting immediately after subparagraph (D) the following new subparagraphs:

"(E) As specified in this subparagraph, for any 10 consecutive model years between 1993 and 2005, a manufacturer of dual fuel automobiles shall receive a Corporate Average Fuel Economy increase in accordance with section 503(d)(4)—

"(i) for the initial five model years, up to 1.2 miles-per-gallon or a Corporate Average Fuel Economy increase based on 100,000 dual fuel automobiles, whichever is higher, but in no event shall such Corporate Average Fuel Economy increase be greater than 1.5 miles per gallon;

"(ii) for the period of 2 years after such five model years, up to 1.0 miles-per-gallon or a Corporate Average Fuel Economy increase based on 100,000 dual fuel automobiles, whichever is higher, but in no event shall such Corporate Average Fuel Economy increase be greater than 1.5 miles-per-gallon; and

"(iii) for the period of 3 years after such 2-year period, up to 0.8 mile-per-gallon or a Corporate Average Fuel Economy increase based on 100,000 dual fuel automobiles, whichever is higher, but in no event shall such Corporate Average Fuel Economy increase be greater than 1.0 mile-per-gallon.

"(F) Notwithstanding the provisions of subparagraph (E) of this paragraph, if the Secretary reduces the Corporate Average Fuel Economy standard for any model year below 27.5 miles per gallon, the Corporate Average Fuel Economy increase to which any manufacturer of dual fuel automobiles would otherwise be entitled under this subsection in any model year shall be reduced by the amount of the reduction in the Corporate Average Fuel Economy standard.".

"(c) Section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)) is amended by adding at the end thereof the following new paragraph:

"(4) If a manufacturer manufactures methanol powered automobiles or dual fuel automobiles specified in section 501(21)(A), the fuel economy shall be based on the fuel content of the methanol mixture used to operate such automobiles. For purposes of this section, a gallon of the methanol mixture used to operate such automobiles shall be considered to contain 15 one-hundredths of a gallon of fuel.".

AUTOMOBILE LABELING

SEC. 5. Section 506(a)(1)(A) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(A)) is amended—

(1) by striking "and" in clause (ii); and

(2) by inserting immediately after clause (iii) the following:

"(iv) in the case of a methanol powered automobile the fuel economy of such automobile when operated on the methanol mixture calculated under section 503(d)(4) multiplied by 15 percent, and

"(v) in the case of a dual fuel automobile, the fuel economy of such automobile calculated under section 503(d)(4) multiplied by 15 percent, as well as the fuel economy of such automobile when operated on gasoline,".

REPORT

SEC. 6. Section 512 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(d)(1) Beginning in January 1993 and annually thereafter, the Secretary, after consultation with the Secretary of Energy, shall submit to the Congress a report which

contains the information specified in paragraph (2) of this subsection, together with such other information and recommendations as the Secretary considers necessary or appropriate to carry out the purposes of the Methanol Vehicle Promotion Act of 1986.

"(2) As part of such report, the Secretary shall—

"(A) include information regarding the effects, if any, of the amendments made by such Act on the consumption of methanol and gasoline on an industrywide and manufacturer-specific basis;

"(B) in consultation with the EPA Administrator, include information regarding the effects, if any, of the amendments made by such Act on the achievement of fuel economy standards specified in section 502 on an industrywide and manufacturer-specific basis; and

"(C) in consultation with the EPA Administrator, recommend changes in the definition of 'dual fuel automobile' in section 501(21) as technological developments warrant, in order to promote the actual use of methanol and ethanol, and to further the purposes of the Methanol Vehicle Promotion Act of 1986.".

CONFORMING AMENDMENT

SEC. 7. The determination under section 4064(b) of the Internal Revenue Code of 1954 (26 U.S.C. 4064(b)) with respect to a methanol powered automobile or dual fuel automobile shall be based on the fuel economy rating established under section 503(d)(4) of the Motor Vehicle Information and Cost Savings Act.

ADDITIONAL COSPONSORS

S. 2222

At the request of Mr. GORTON, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 2222, a bill to amend the Tariff Schedules of the United States to clarify the duty treatment of certain types of plywood.

S. 2597

At the request of Mr. DANFORTH, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2597, a bill to amend the Tariff Schedules of the United States to provide a temporary suspension of the duties imposed on certain extracorporeal shock wave lithotripters.

S. 2611

At the request of Mr. STEVENS, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2611, a bill to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets.

S. 2857

At the request of Mr. GRAMM, the names of the Senator from North Dakota [Mr. ANDREWS] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 2857, a bill to revitalize oil and gas production in the United States.

SENATE JOINT RESOLUTION 112

At the request of Mr. PELL, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 112, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 403

At the request of Mr. ROTH, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of Senate Joint Resolution 403, a joint resolution to designate 1988 as the "National Year of Friendship with Finland".

SENATE JOINT RESOLUTION 408

At the request of Mr. DOLE, the names of the Senator from Alabama [Mr. DENTON], the Senator from California [Mr. CRANSTON], the Senator from California [Mr. WILSON], the Senator from Florida [Mr. CHILES], the Senator from Florida [Mrs. HAWKINS], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Illinois [Mr. SIMON], the Senator from Illinois [Mr. DIXON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Kentucky [Mr. FORD], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts, [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from North Dakota [Mr. BURDICK], the Senator from Rhode Island [Mr. CHAFEE], the Senator from South Dakota [Mr. ABDNOR], the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Vermont [Mr. STAFFORD], the Senator from Virginia [Mr. WARNER], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of Senate Joint Resolution 408, a joint resolution designating "American Physiologists Week".

SENATE CONCURRENT RESOLUTION 163

At the request of Mr. DECONCINI, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 163, a concurrent resolution expressing the sense of the Congress that the total number of Soviet diplomatic agents and consular officers in Washington, DC, and San Francisco should be reduced to equal the total number of American diplomatic agents and consular officers in Moscow and Leningrad.

SENATE CONCURRENT RESOLUTION 171—CORRECTING THE ENROLLMENT OF HOUSE JOINT RESOLUTION 626

Mr. SIMPSON (for Mr. MCCLURE) submitted the following concurrent resolution, which was considered and agreed to:

S. CON. RES. 171

Resolved by the Senate (the House or Representatives concurring), That in the enrollment of the joint resolution (H.J. Res. 626) to approve the "Compact of Free Association" between the United States and the Government of Palau, the following corrections shall be made:

(1) In section 101(d)(1)(B), insert "the Committees on Interior and Insular Affairs and Foreign Affairs and other" before "appropriate Committees of the House of Representatives".

(2) In section 101(d)(2) strike "(B)" and insert "(C)".

(3) In section 102(b), add "as amended," after "Public Law 99-239,".

(4) In section 104(c), strike "fiscal year 1985" each time such words occur and in each instance insert in lieu thereof "fiscal year 1986".

(5) In section 104(f), strike "Public Law 99-396" and in lieu thereof insert "Public Law 99-366".

(6) In section 104(g), strike "preclude" and in lieu thereof insert "exclude, limit".

(7) In section 242(c)(4) of Title II, strike "chapter V" and insert "title V".

(8) Following section 104(j) insert new subsection (k) as follows:

"(k) The Departments of Energy and Interior are directed to provide the Committees on Appropriations of the House and Senate with a report by Decemeber 1 of each fiscal year detailing how funds were spent during the previous fiscal year for the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Enewetak and Bikini as referenced in Section 103(h) of Public Law 99-239. The report shall also specify the anticipated needs during the current and following fiscal years in order to meet the radiological health care and logistical support program for Rongelap and Utrik and the planting, agricultural maintenance, and food programs for Enewetak and Bikini. It is the sense of the Congress that the special medical care and logistical support program for Rongelap and Utrik and for the agriculture and food programs for Enewetak and Bikini described in section 103(h) of Public Law 99-239 represent special and continuing moral commitments of the United States which will be annually funded to the extent of the need of the populations of such atolls for such assistance."

SENATE CONCURRENT RESOLUTION 172—TO PROVIDE FOR A SESSION OF THE CONGRESS IN PHILADELPHIA, PA, ON JULY 16, 1987

Mr. SIMPSON (for Mr. THURMOND, for himself, Mr. DOLE, Mr. BYRD, Mr. STENNIS, Mr. HATFIELD, Mr. SIMON, and Mr. KASSEBAUM) submitted the following concurrent resolution which was considered and agreed to:

S. CON. RES. 172

Whereas 1987 marks the two hundredth anniversary of the meeting of the Constitutional Convention in the City of Philadelphia, Pennsylvania from May 25 to September 17, 1787;

Whereas on July 16, 1787, the framers of the Constitution agreed to the "Great Compromise", which provided for States to be represented equally in the Senate and in the proportion to their populations in the House of Representatives;

Whereas the compromise established fundamental nature of the Senate and the House of Representatives;

Whereas the City of Philadelphia's "We the People 200" committee, an organization planning a year-long national celebration of

the United States Constitution bicentennial, has invited the Congress of the United States to convene a special legislative session on July 16, 1787, at Independence National Historical Park; and

Whereas it is appropriate for Congress, as the First Branch of the Government under the Constitution, to provide for suitable commemoration of this significant anniversary to focus public attention on the unique role of the national legislature as a coequal branch of the Federal Government: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall convene for the day of July 16, 1987, in the city of Philadelphia, Pennsylvania, in the Independence National Historical Park.

SENATE RESOLUTION 509—PROVIDING FOR A POINT OF ORDER AGAINST EXTRANEOUS MATERIAL IN CERTAIN RECONCILIATION MEASURES

Mr. SIMPSON (for Mr. ROTH, for himself, Mr. DOMENICI, and Mr. CHILES) submitted the following resolution, which was considered and agreed to:

S. RES. 509

That Senate Resolution 286 (99th Congress, 2d Session), adopted December 19, 1985, is amended by striking out all after the resolving clause and inserting in lieu thereof the following:

"That (a) when the Senate is considering a conference report on, or an amendment between the Houses in relation to, a reconciliation bill or reconciliation resolution pursuant to section 310 of the Congressional Budget Act of 1974, upon—

"(1) a point of order being made by any Senator against extraneous material meeting the definition of subsections (d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, and

"(2) such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for 2 hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this resolution), no further amendment shall be in order.

"(b) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this resolution, as well as to waive or suspend the provisions of this resolution.

"(c) The provisions of this resolution shall remain in effect until the date of termination of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985.".

SENATE RESOLUTION 510—AUTHORIZING CERTAIN APPOINTMENTS DURING SINE DIE ADJOURNMENT

Mr. SIMPSON. (for Mr. DOLE, for himself, and Mr. BYRD) proposed the following resolution, which was considered and agreed to:

S. RES. 510

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

SENATE RESOLUTION 511—RELATING TO STRATEGIC COOPERATION BETWEEN THE UNITED STATES AND ISRAEL

Mr. BOSCHWITZ submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 511

Whereas President Reagan has declared that a strong relationship with Israel is a strategic asset of the foreign policy of the United States;

Whereas the United States and Israel have established a Joint Political-Military Group to facilitate and promote cooperation between our two countries;

Whereas the Joint Political-Military Group has contributed to strategic cooperation between, and promoted the mutual interests of, the United States and Israel; and

Whereas the United States and other nations with which we share a strategic interest benefit from consultation in defense research programs, cooperation in the production of defense material, competition in defense acquisition policies, and access to mutual defense industries and manfacturers: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Joint Political-Military Group should develop and recommend additional policies and programs which would promote further defense cooperation between the United States and Israel and establish a relationship between the United States and Israel similar to the relationship that exists between the United States and its other allies; and

(2) the Secretary of State and the Secretary of Defense should report to the Chairman of the Senate Committee on Foreign Relations and the Chairman of the Senate Committee on Armed Services on what actions have been taken to implement the recommendations of the Joint Political-Military Group and what additional legislation might be required to implement those recommendations.

● Mr. BOSCHWITZ. Mr. President, I am submitting today a Senate resolution that would encourage the United States-Israel Joint Political-Military Group to pursue new avenues to strengthen the strategic cooperation between our two countries. The resolution serves as a companion resolution to the one introduced by Congressman ED ZSCHAU of California.

The Joint Political-Military Group has played a helpful role in promoting our mutual interests. It is an important mechanism that provides benefits to both countries. It does seem to me, however, that the time has come to recognize Israel's value to us in a way consistent with those nations with whom we may have a more formal alliance.

It would be my hope that the Joint Political-Military Group will explore areas with Israel that would provide the benefits extended to such other close friends. This resolution is intended to encourage that end.●

SENATE RESOLUTION 512—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. SIMPSON (for Mr. DOLE, for himself and Mr. BYRD) submitted the following resolution, which was considered and agreed to:

S. RES. 512

Whereas, in the case of *United States* v. *Michael Evan Bardoff, et al.,* Crim. No. M-9508-86, *et al.,* pending in the Superior Court of the District of Columbia, the United States Attorney has requested the testimony of Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage and Jennifer Schumacher of the personal office staff of Senator Dole;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent employees of the Senate with respect to testimony requests made of them in their official capacity;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of employees of the Senate is or may be needful for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate; Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to represent Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage, Jennifer Schumacher and any other staff assistant of Senator Dole who may be asked to testify in the case of *United States* v. *Michael Evan Bardoff, et al.,* or subsequent related proceedings.

SEC. 2. That Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage, Jennifer Schumacher, and any other staff assistant of Senator Dole who may be asked is authorized to testify in the case of *United States* v. *Michael Evan Bardoff, et al.,* except concerning matters which may be privileged.

AMENDMENTS SUBMITTED

TECHNICAL CORRECTIONS ON THE ENROLLMENT OF THE BILL H.R. 3838

PACKWOOD AMENDMENT NO. 3467

Mr. PACKWOOD proposed an amendment to the concurrent resolution (H. Con. Res. 395) to correct technical errors in the enrollment of the bill H.R. 3838, as follows:

Viz:

On page 3, strike lines 9 through 18.

On page 6, strike lines 1 through 7, and insert:

comma and "and", and add at the end thereof the following new subparagraph:

(D) such facility is to serve Haverhill, Massachusetts.

On page 10, line 9, strike "1983" and insert "1993".

On page 13, line 20, strike "or (C)".

On page 14, line 10, strike "Samuel A. Hardage Enterprises" and insert "Interests of Samuel A. Hardage".

On page 16, between lines 16 and 17, insert:

(E) Subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986 shall not apply to property described in section 204(a)(4) of this Act.

On page 19, line 10, insert "Pittsburgh," after "in".

On page 19, between lines 17 and 18, insert:

(NN) Old Louisville Trust Project, Louisville, Kentucky.

(OO) Stewarts Rehabilitation Project, Louisville, Kentucky.

(PP) Bernheim Officenter, Louisville, Kentucky.

On page 25, after line 24, insert the following flush sentence:

In no event shall sections 382(a) and (b) of such Code (as so in effect) apply to any ownership change described in subparagraph (A).

On page 27, line 9, strike "stock in such corporation" and insert "such stock".

On page 27, line 20, after "1989" insert ", without regard to whether such corporation is completely liquidated".

On page 36, strike lines 16 through 18.

On page 38, beginning with line 21, strike through page 39, line 19, and insert:

(116) On page 322, in subsection (d) (relating to treatment of certain market discount bonds)—

(A) strike "28 percent" in paragraph (1) and insert "32 percent", and

(B) strike paragraph (2) and insert:

(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of paragraph (1), the term "qualified life insurance company" means any life insurance company subject to tax under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986.

On page 40, between lines 21 and 22, insert:

(c) REVENUE LOSS LIMITED.—The decrease in the amount of Federal revenue by reason of the amendment made by this section shall not exceed $300,000.

On page 41, strike lines 1 through 4, and insert:

(B) in subparagraph (A)—

(i) strike out "a deferred compensation plan" and insert "employees on August 16, 1986,", and

(ii) insert "maintaining a deferred compensation plan" after "Alabama", and

On page 41, line 7, insert "to" before "individuals".

On page 47, line 8, strike "(b)(2)(D)" and insert "(b)(2)(B)".

On page 47, line 9, strike "884(b)(2)" and insert "884(d)(2)".

On page 52, strike lines 4 through 18.

On page 60, line 25, before "projects" insert "the construction of such diagnostic and treatment center, or to finance construction and renovation".

On page 62, beginning with line 21, strike through page 63, line 25.

On page 66, line 17, strike "subparagraphs (A) and (B)" and insert "subparagraphs (A), (B), and (C)".

On page 71, strike lines 4 through 7, and insert:

(243) On page 76, in paragraph (11) (relating to certain aircraft)—

(A) strike "aircraft" each place it appears in the text and heading and insert "airplane",

(B) strike "Kansas, Florida, Georgia, or Texas" in subparagraph (A) and insert "the United States";

(C) strike ", the date of conference committee action)" in subparagraph (B); and

(D) strike subparagraph (C) and insert:

(C) The aircraft is—

(i) purchased on or after August 16, 1986, and before January 1, 1987, or

(ii) is subject to a binding contract which was in effect on August 16, 1986, or entered into after August 16, 1986, and before January 1, 1987, and

is delivered and placed in service pursuant to such purchase or contract before July 1, 1987.

Any airplane which is one of 7 airplanes with respect to which an airline signed an airplane purchase agreement on January 20, 1986 (with respect to which the financing contingency was removed no later February 7, 1986), the estimated cost of which is $2,900,000, and which was delivered before May 23, 1986, and placed in service by May 27, 1986, shall be treated as described in this paragraph.

On page 72, line 4, after "Industries" insert "after December 31, 1988".

On page 72, line 8, strike "paragraph" and insert "paragraphs".

On page 73, after line 25, insert the following:

(39) The amendments made by section 201 shall not apply to any facility for the manufacture of an improved particle board if a binding contract to purchase such equipment was executed March 3, 1986, such equipment will be placed in service by January 1, 1988, and such facility is located in or near Moncure, North Carolina.

On page 74, line 16, insert "(including repairs and maintenance)" before "of".

On page 74, line 20, strike "during 1986" and insert "(and allowable as a deduction) during 1986 and shall be treated as qualified rehabilitation expenditures made during 1986".

On page 76, between lines 17 and 18, insert:

(W) South Carolina Family Farm Development Authority.

(X) Clemson University Continuing Education and the Component Housing Project.

On page 78, strike lines 1 through 16, and insert after "1986" in line 17 "and the amendments made by section 1301 of the Tax Reform Act of 1986".

On page 80, line 12, strike "each place it appears" and insert "the second place it appears".

On page 80, between lines 19 and 20, insert the following:

( ) On page 31, in paragraph (4) of subsection (b) (relating to miscellaneous itemized deductions)—

(A) strike "deduction" and insert "deductions", and

(B) strike the comma at the end and insert "and section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose),".

( ) On page 32, in the heading of subsection (e), strike "DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF" and insert "SPECIAL RULES FOR".

( ) On page 32, after the period at the end of subsection (e) and before the close quotation marks, insert "For purposes of this section and section 56(b)(1), the deductions allowable to an estate or trust under sections 651 and 661 shall not be treated as itemized deductions.".

( ) On page 56, in subsection (b) (relating to system used for purposes of earnings and profits)—

(A) strike "Paragraph (3)" and insert:

(1) IN GENERAL.—Paragraph (3), and

(B) insert at the end the following new paragraph:

(2) CONFORMING AMENDMENT.—Section 312(k)(4) is amended—

(A) by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraph (1)", and

(B) by striking out the last sentence.

( ) On page 61, immediately before section 202 (relating to expensing of depreciable assets), insert the following new paragraph:

(15) Subparagraph (D) of section 46(e)(4) is amended by striking out "paragraphs (8) and (9) of section 168(j)" and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)".

( ) On page 62, the last line, insert after the end period the following new sentence: "No election may be made under this subparagraph with respect to property to which section 168 of the Internal Revenue Code of 1986 does not apply by reason of section 168(f)(5) of such Code."

( ) On page 65, at the end of subsection (d) (relating to mid-quarter convention), insert: "The preceding sentence shall only apply to property which would be taken into account if such amendments did apply."

( ) On page 67, in subparagraph (F), insert "either" after "if".

( ) On page 68, in the 21st line, strike "1993" and insert "1998".

( ) On page 81, in paragraph (29)—

(A) strike "January 18" in subparagraph (A) and insert "January 25", and

(B) strike "law suits filed on June 22, 1984, and November 21, 1985" in subparagraph (B) and insert "a law suit filed on October 25, 1985".

( ) On page 84, strike subparagraph (J) and insert the following:

(J) a 25.85 megowatt alternative energy facility located in Deblois, Maine, with respect to which certification by the Federal Energy Regulatory Commission was made on April 3, 1986, and".

( ) On page 84, immediately before subsection (b), insert the following new paragraph:

(40) The amendments made section 201 shall not apply to trucks, tractor units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985 but only to the extent the aggregate

reduction in Federal tax liability by reason of the application of this subparagraph does not exceed $8,500,000.

( ) On page 85, the first 12 lines—

(A) insert "and" at the end of subparagraph (B),

(B) strike subparagraph (C), and

(C) redesignate subparagraph (D) as subparagraph (C).

( ) On page 108, in subparagraph (B) of paragraph (3) (relating to certain additional rehabilitations), strike "Pontabla" and insert "Pontalba".

( ) On page 110, in subparagraph (T) of paragraph (4), strike "Louisville" and insert "Covington".

( ) On page 124, in paragraph (1) of subsection (k) (relating to application of at-risk rules)—

(A) strike "subparagraph (D)(iv)(I)" and insert "subparagraphs (D)(ii)(II) and (D)(iv)(I)", and

(B) strike "qualified basis" and insert "eligible basis".

( ) On page 125, the 5th line, before the end period insert: ", except that this subparagraph shall not apply in the case of a Federally-assisted building described in subsection (d)(6)(B) if—

"(i) a security interest in such building is not permitted by a Government agency holding or insuring the mortgage secured by such building, and

"(ii) the proceeds from the financing (if any) are applied to acquire or improve such building."

( ) On page 127, in the third line, strike the period and insert ", and except for any building described in paragraph (2)(B), subsection (h)(4) shall not apply to any building placed in service after 1989.".

( ) On page 141, immediately before subsection (c) (relating to effective date) insert:

(14) Subparagraph (B) of section 172(d)(4) is amended by striking out ", (2)(B),".

( ) On page 167, between the fourth and fifth lines, insert:

(4) SPECIAL RULE FOR CERTAIN RURAL HOUSING.—In the case of any interest in a qualified low-income housing project which—

(A) is assisted under section 515 of the Housing Act of 1949 (relating to the Farmers Home Administration Program), and

(B) is located in a town with a population of less than 10,000 and which is not part of a metropolitan statistical area,

paragraph (1)(B) shall be applied by substituting "35 percent" for "50 percent" and subsection (b)(1) shall be applied by substituting "5th taxable year" for "6th taxable year". The preceding sentence shall not apply to any interest unless, on December 31, 1986, at least one-half of the number of payments required with respect to such interest remain to be paid.

( ) On page 177, the 11th line, insert "amount or" before "payment".

( ) On page 177, strike the last 4 lines, and insert:

"(B) except as provided in regulations, the only earnings and profits of such corporation were earnings and profits—

"(i) accumulated by such corporation (or any predecessor corporation) during such period, and

"(ii) not attributable to distributions from any other corporation unless the stock of such other corporation (or of any predecessor corporation) was held by such corporation during the entire period such other corporation (or predecessor corporation) was in existence, and

( ) On page 190, lines 8 and 9, strike "deposits described in subclause (II)" and insert "the amount of deposits in the new loss corporation immediately after the change".

( ) On page 190, in paragraph (6) (relating to special rule for insolvency transactions), strike "be the value of the new loss corporation immediately after the ownership change" and insert "shall reflect the increase (if any) in value of the old loss corporation resulting from any surrender or cancellation of creditor's claims in the transaction".

( ) On page 193, in the sentence immediately preceding paragraph (5) (relating to bankruptcy proceedings) strike "with respect to domestic building and loan transactions" and insert "with respect to transactions (including firm commitment underwritings) by institutions described in section 591 of such Code".

( ) On page 201, immediately before section 632 (relating to treatment of C corporations electing subchapter S status), insert the following new paragraph:

(18) Section 334(b)(2) is amended by striking out "332(c)" each place it appears in the text and heading and inserting in lieu thereof "337(b)(1)".

( ) On page 203, immediately before subsection (b) (relating to treatment of distributions), strike the end quotation marks and insert the following new paragraph:

"(5) TREATMENT OF TRANSFER OF ASSETS FROM C CORPORATION TO S CORPORATION.—

"(A) IN GENERAL.—Except to the extent provided in regulations, if—

"(i) an S corporation acquires any assets from a C corporation, and

"(ii) the S corporation's basis in such assets is determined (in whole or in part) by reference to the basis in the hands of the C corporation,

then this section (other than subsection (c)(1)) shall apply to any recognized built-in gain on the disposition of any such asset.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) paragraphs (1), (2), and (3) shall be applied by substituting the taxable year in which the assets were acquired for the taxable year referred to in such paragraphs, and

"(ii) the net unrealized build-in gain shall be computed by taking into account only such assets."

( ) On page 206, in paragraph (8), strike "becomes an S corporation for a taxable year beginning" and insert "makes an election to be an S corporation under section 1362 of such Code".

( ) On page 206, redesignate subsections (d) and (e) as subsections (e) and (f), respectively.

( ) On page 208, redesignate subsection (f) as subsection (g).

( ) On page 225, the 10th line, strike "contractual option" and insert "contractual obligation".

( ) On page 253, strike subparagraph (E) (relating to standard deduction not allowed) and insert:

"(E) STANDARD DEDUCTION AND PERSONAL EXEMPTION NOT ALLOWED.—The standard deduction under section 63(c) and the deduction for personal exemptions under section 151 shall not be allowed.

( ) On page 264, in paragraph (6)(A) (relating to appreciated property charitable deduction) insert "or 642(c)" after "section 170".

( ) On page 268, the 5th line from the bottom, strike the end quotation marks.

( ) On page 268, between the 4th and 5th lines from the bottom, insert:

"(j) TAXABLE INCOME FOR CERTAIN ORGANIZATIONS.—If the tax imposed by chapter 1 on any organization is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such organization for purposes of this part."

( ) On page 269, fifth line from the bottom, strike "earnings and profits" and insert "current earnings".

( ) On page 273, before the last line, insert:

(L) Section 511 is amended by striking out subsection (d).

( ) On page 295, the 7th line from the bottom, strike "Section 267(a)" and insert "Section 267(a)(2)".

( ) On page 313, in paragraph (3)(C) (relating to limitation on issuer), strike "qualified" the second place it appears.

( ) On page 315, strike subparagraph (P) and insert:

(P) Homewood, Alabama, the Club Apartments.

( ) On page 321, the 3rd, 4th, and 6th line, strike "June 20, 1986" and insert "the date of the enactment of this Act".

( ) On page 349, in clause (iv) of paragraph (4)(B) (relating to information required to be supplied), strike "with or within which the taxable year ends" and insert "in which the taxable year begins".

( ) On page 350, in subparagraph (C) of paragraph (2) (relating to special rules for applying section 72), strike "with or within which the taxable year ends" and insert "in which the taxable year begins".

( ) On page 383, the 9th line from the bottom, strike "414(f)(1)(B)" and insert "3(37)(A)(ii)".

( ) On page 384, the first line, strike "Section 202(B)(i)" and insert "Section 202(a)(1)(B)(i)".

( ) On page 398, in section 4979(c) (defining excess contributions), strike "408(k)(8)(B)" and insert "408(k)(6)(C)".

( ) On page 419, line 11, strike "at the end thereof" and insert "after section 4981".

( ) On page 419, line 13, strike "SEC. 4981." and insert "SEC. 4981A.".

( ) On page 421, line 18, strike "at the end thereof" and insert "after the item relating to section 4981".

( ) On page 421, in the matter following line 18, strike "Sec. 4981." and insert "Sec. 4981A.".

( ) On page 429, the 9th line, strike "(E)" and insert "(D)".

( ) On page 448, immediately before part II (relating to other provisions), insert:

(6) CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—If an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986 makes an election under this paragraph with respect to a plan described in section 125(c)(2)(C) of such Code, the amendments made by this section shall apply with respect to such plan for plan years beginning after the date of the enactment of this Act.

( ) On page 451, in section 134(b)(1) of the Internal Revenue Code of 1986, as added by section 1168(a) of the Act, insert "(other than personal use of a vehicle)" after "in-kind benefit".

( ) On page 453, in paragraph (1) of section 2057(b) (relating to qualified sale), strike "is".

( ) On page 455, in subclause (II) of paragraph (2)(B)(i) (relating to effective date for subsection (b)), strike "July 18" and insert "May 23".

( ) On page 463, in clause (ii) of subparagraph (I) (relating to transitional rule), strike "1986" and insert "1987".

( ) On page 484, immediately above subsection (d) (relating to effective dates), insert the following new subparagraph:

(D) Paragraph (1) of section 2105(b) (relating to bank deposits and certain other debt obligations) is amended by striking out "section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States" and inserting in lieu thereof "section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(2)".

( ) On page 488, in subparagraph (C) (relating to special rule), strike "to interest expenses paid or accrued".

( ) On page 511, in paragraph (2) of subsection (e) (relating to certain basis, etc. rules made applicable), strike "who was not" and insert "who was".

( ) On page 517, in the matter added by subsection (b) (relating to coordination of section 1246 with section 1248), strike "section 1248(g)(3)" and insert "section 1248(g)(2)".

( ) On page 543, immediately before part III (relating to cover over of income taxes), insert the following new paragraph:

(9) Section 1444 is amended by striking out "(as modified by section 934A)".

( ) On page 546, insert immediately after subsection (e) the following new subsection:

(f) EXEMPTION FROM WITHHOLDING.—Notwithstanding subsections (b) and (c), the modification of section 884 of the Internal Revenue Code of 1986 by reason of the amendment to section 881 of such Code by section 1273(b)(1) of this Act shall apply to taxable years beginning after December 31, 1986.

( ) On page 606, in paragraph (2) of subsection (b) (relating to section 1301(f)), insert "with respect to non-issued bond amounts elected" after "issued".

( ) On page 610, immediately after subparagraph (F), insert the following new subparagraph:

(G) Except as provided in the last sentence of subsection (c)(2) of this section, the requirements of section 145(b) (relating to $150,000,000 limitation on bonds other than hospital bonds).

( ) On page 615, in line 8, insert "and as having a carryforward purpose described in section 146(f)(5) of such Code," immediately before "but".

( ) On page 653, in clause (ii) of paragraph (33)(A) (relating to application of $150,000,000 limitation for certain qualified 501(c)(3) bonds)—

(A) strike "on" in subclause (II) thereof and insert "dated", and

(B) insert "dated on December 1, 1985" after "(Series 1985 A and 1985 B)" in subclause (III) thereof.

( ) On page 656, the last line, strike "$80,000,000" and insert "$400,000,000".

( ) On page 658, in the second item in the table in paragraph (44) (relating to New Mexico Hospital pool bonds), strike "Bonds Pool" and insert "Equipment Loan Council".

( ) On page 662, strike the end quotation marks at the end of section 673 (relating to reversionary interests).

( ) On page 662, immediately before section 1402(b) (relating to conforming amendments), insert:

"(c) SPECIAL RULE FOR DETERMINING VALUE OF REVERSIONARY INTEREST.—For purposes of subsection (a), the value of the grantor's reversionary interest shall be determined by assuming the maximum exercise of discretion by the fiduciary in favor of the grantor."

( ) On page 682, the fifth line, insert "(or revocable trust)" after "will".

( ) On pages 723 and 724, strike section 1608 and conform the table of contents.

( ) On page 744, in the matter inserted by subparagraph (G)—

(A) strike "Registry of Deeds" each place it appears and insert "Register of Deed", and

(B) strike "May 7, 1985" and insert "May 7, 1984".

( ) On page 758, in paragraph (9)(B), strike "1986" and insert "1954".

On page 784, sixth line from the bottom, strike "1985" and insert "1986".

( ) On page 833, in clause (i) of subparagraph (B) (relating to operating corporation), strike "placement period" and insert "replacement period".

( ) On page 886, strike paragraph (8) (the first 31 lines).

( ) On page 910, the 13th line, strike "401(a)(11)" and insert "205".

( ) On page 910, in subparagraph (B) of paragraph (7) (relating to clarification of nonforfeitable accrued benefit), strike "Subparagraph (C) of section 205(b)(1)" and insert "Clause (i) of section 205(b)(1)(C)".

( ) On page 911, in clause (i) of subparagraph (B) of paragraph (9) (relating to amendments of ERISA), strike "nonforfeitable accrued benefit" and insert "nonforfeitable right (within the meaning of section 203)".

( ) On page 917, the 10th line, strike "means earlier of" and insert "means the earlier of".

( ) On page 917, the 12th line, strike "in".

( ) On page 917, the 14th line, strike "in".

( ) On page 918, the 7th line, strike "section 203" and insert "section 203(e)".

COAST GUARD AUTHORIZATION

STEVENS AMENDMENT NOS. 3468 AND 3469

Mr. SIMPSON (for Mr. STEVENS) proposed two amendments to the bill (H.R. 4208) to authorize appropriations for the Coast Guard for fiscal year 1987, and for other purposes.

AMENDMENT No. 3468

Strike subsection (d) of section 5, and redesignate subsection (e) of section 5 as subsection (d).

AMENDMENT No. 3469

On page 31, line 5, strike "2102(11b)" and insert in lieu thereof "2101(11b)".

WALLOP AMENDMENT NO. 3270

Mr. SIMPSON (for Mr. WALLOP) proposed an amendment to the bill H.R. 4208, supra, as follows:

Strike Section 7 and insert in lieu thereof the following:

SEC. 7. (a) Section 9503(c)(4) of title 26, United States Code, is amended—

(1) in subparagraph (A), by striking "45,000,000" each place it appears and inserting in lieu thereof "60,000,000" for Fiscal Year 1987 only and $45,000,000 for each Fiscal Year thereafter;" and (2) by adding at the end thereof the following:

"(E) DETERMINATION.—The amount of payments made under this paragraph after October 1, 1986 shall be determined by the Secretary in accordance with the methodology described in the Treasury Department's Report to Congress of June 1986 entitled 'Gasoline Excise Tax Revenues Attributable to Fuel Used in Recreational Motorboats.' Further, a portion of the payments made by the Secretary from Fiscal Year 1987 motorfuel excise tax receipts shall be used to increase the funding for boating safety programs during Fiscal Year 1987 only."

(b) Section 13106(c) of Title 46, United States Code, is amended by striking "one-third" and inserting in lieu thereof "one-half for Fiscal Year 1987 and one-third for each Fiscal Year thereafter."

(c) Section 13106(a) of title 46, United States Code, is amended by striking "two-thirds" and inserting in lieu thereof "one-half for Fiscal Year 1987 and two-thirds for each Fiscal Year thereafter."

"(d) Before making any allocation under this section for a fiscal year, the Secretary shall retain not less than one percent nor more than two percent of the amount appropriated for that year for State recreational boating safety programs for the payment of costs of administration of this chapter."

PUBLIC DOMAIN LANDS FOR THE PUEBLO OF ZIA

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3471

Mr. SIMPSON (for Mr. BINGAMAN and Mr. DOMENICI) proposed an amendment to the bill (H.R. 5167) to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia as follows:

1. On page 1, line 10, strike "situated within Sandolval County, New Mexico, which is under the jurisdiction of the Bureau of Land Management of the Department of the Interior," and insert in lieu thereof "under the jurisdiction of the Bureau of Land Management of the Department of the Interior situated within Sandoval County, New Mexico,".

2. On page 4, strike lines 8 through 16 and insert in lieu thereof:

"(2) Plains Electric Generation and Transmission Cooperative, Inc. and its successors and assigns, shall be permitted to renew the right-of-way described in paragraph (1) under rules and regulations of the Secretary to the same extent and in the same manner that such permit could have been renewed if this Act had not been enacted.".

3. On page 5, line 8, strike the word "subsisting" and insert in lieu thereof "existing".

4. On pages 5 and 6, strike paragraph (2) and insert in lieu thereof:

"(2) Subject to valid existing rights, the leases described in subsection 4(d)(1) shall be administered under rules and regulations of the Secretary to the same extent and in the same manner that such leases would be administered if this Act has not been enacted.".

TRANSFER OF ROBERT F. KENNEDY MEMORIAL STADIUM

McCLURE AMENDMENT NO. 3472

Mr. SIMPSON (for Mr. MCCLURE) proposed an amendment to the bill (H.R. 2776) to amend the District of Columbia Stadium Act of 1957 to

direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium to the District of Columbia; as follows:

On page 2, beginning with line 7, strike out all through line 16 on page 4 and insert in lieu thereof the following:

"(b)(1) Not later than 180 days after the date of enactment of this subsection, the Secretary of the Interior shall—

"(A) convey without consideration to the government of the District of Columbia all right, title, and interest of the United States in and to the building comprising the stadium constructed under this Act; and

"(B) lease without consideration to the government of the District of Columbia—

"(i) the ground under; and

"(ii) the parking facilities associated with the stadium constructed under this Act.

"(2) The lease authorized by paragraph (1)(B) shall be for a period of 50 years.

"(c) The conveyance and lease of real property under subsection (b) shall be subject to such terms and conditions (which shall be set forth in the instrument of conveyance) as will ensure that title to the property shall not be transferred by the District to any person or entity other than the United States or any political subdivision or agency of the District of Columbia or the United States and that the property will be used only for—

"(1) stadium purposes;

"(2) providing recreational facilities, open space, or public outdoor recreation opportunities;

"(3) such other public purposes for which the property was used prior to June 1, 1985; and

"(4) such other public purposes for which the property was approved for use by the Secretary with the concurrence of the National Capital Planning Commission prior to June 1, 1985.

"(d)(1) The instrument of conveyance and the lease referred to in subsection (c) shall provide that all right, title, and interest conveyed to the District of Columbia pursuant to such instrument of conveyance shall revert to the United States and the lease shall terminate if—

"(A) the terms and conditions referred to in subsection (c) have not been complied with, as determined by the Secretary, and

"(B) such noncompliance has not been corrected within ninety days after written notice of such noncompliance has been received by the Mayor of the District of Columbia.

Such noncompliance shall be treated as corrected if the District of Columbia and the Secretary enter into an agreement, with the concurrence of the National Capital Planning Commission, which the Secretary considers adequate to ensure that the property will be used in a manner consistent with the purposes referred to in subsection (c).

"(2) No person may bring an action respecting a violation of any term or condition referred to in subsection (c) before the expiration of ninety days after the date on which such person has notified the Mayor of the District of Columbia of the alleged violation. The notice shall include notice of such person's intention to bring an action to declare a reversion and termination of the lease under paragraph (1) of this subsection.

"(3) The conveyance of real property under subsection (b) shall be made subject to the condition that the District of Columbia shall bear the cost of removing structures or rehabilitating the land or stadium should the stadium revert to the United States pursuant to this subsection.

"(4) Any property which reverts to the Secretary under this subsection shall be administered by the Secretary as part of the Park System of the Nation's Capital in accordance with the provisions of the Act of August 25, 1916 (16 U.S.C. 1, 2-4), and other provisions of law generally applicable to units of the national park system.".

SEC. 2. TECHNICAL AMENDMENT.

Section 11 of the District of Columbia Stadium Act of 1957 (D.C. Code, sec. 2-330) is amended by inserting "(including any area designated A, B, C, D, or E on the revised map entitled 'Map to Designate Transfer of Stadium and Lease of Parking Lots to the District', prepared jointly by the National Park Service (National Capital Region) and the District of Columbia Department of Public Works for site development and dated October 1986 (NPS drawing number 831/87284-A))," after "property of any kind".

HEALTH STATUS IMPROVEMENTS FOR NATIVE HAWAIIANS

INOUYE (AND MATSUNAGA) AMENDMENT NO. 3473

Mr. BYRD (for Mr. INOUYE and Mr. MATSUNAGA) proposed an amendment to the bill (S. 2243) to improve the health status of Native Hawaiians, and for other purposes, as follows:

At the appropriate place in the committee amendment, insert the following:

PACIFIC BASIN DISEASE RESEARCH INSTITUTE

SEC. . (a) The Secretary shall make a grant under section 720(a)(1) of the Public Health Service Act to the University of Hawaii in Honolulu, Hawaii, for the construction of a building for a Pacific Basin disease research institute. Notwithstanding sections 702(b) and 721(c) of such Act, the Secretary is not required to secure the advice of the National Advisory Council on Health Professions Education with respect to such grant.

(b) The Federal share of the necessary costs of construction, as determined by the Secretary, of the building described in subsection (a), shall be 50 percent.

(c) To carry out this section, there are authorized to be appropriated $5,000,000. Amounts appropriated under this section shall remain available until expended.

BICENTENNIAL COMMEMORATIVE COINS

GARN AMENDMENT NO. 3474

Mr. SIMPSON (for Mr. GARN) proposed an amendment to the bill (H.R. 3415) to authorize the minting of coins in commemoration of the bicentennial of the United States Constitution, as follows:

On page 4, line 22, strike out "December 31, 1987" and insert in lieu thereof "June 30, 1988."

At the end of the bill, add the following new section:

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

MURKOWSKI AMENDMENT NO. 3475

Mr. SIMPSON (for Mr. MURKOWSKI) proposed an amendment to the bill (S. 485) to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the treatment of submerged lands and ownerhip by the Alaskan Native Corporation, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That subsection (a) of section 901 of the Alaska National Interest Lands Conservation Act (Public Law 96-487), as amended, is hereby amended by striking out the word "six years after the date of execution" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "eight years after the date of execution", and by striking the words "seven years after the date of enactment" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "nine years after the date of enactment".

CONTINUING APPROPRIATIONS, FISCAL YEAR 1987

ABDNOR AMENDMENT NO. 3476

Mr. ABDNOR (for himself and Mr. DECONCINI) proposed an amendment to the amendment of the House to the amendment of the Senate numbered 59 (in disagreement) to the joint resolution (H.J. Res. 738) making continuing appropriations for the fiscal year 1987, and for other purposes as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 115. GENERAL SERVICES ADMINISTRATION.

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition

of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,279.862,000 of which (1) not to exceed $120,672,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

New Mexico:

Columbus, Border Station, $2,680,000

Pennsylvania:

Wilkes-Barre, Federal Building (Social Security Administration),$20,672,000

South Carolina:

Columbia, Federal Building, Courthouse, Claim, $1,057,000

Construction Projects, less than $500,000, $1,000,000: Purchase:

New York:

Wellesley Island, Border Station, $1,925,000

Other Selected Purchases, including options to purchase, $93,338,000: *Provided*, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $180,166,000, which shall remain available until expended, for repairs and alterations: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:

District of Columbia:

Federal Building #6, $1,213,000

Federal Building #8, $1,886,500

Federal Building #9, $1,712,500

Federal Building #10A, $1,121,000

General Accounting Office, $3,552,000

Justice, $599,000

State, $2,765,000

Steam Distribution System, $8,796,000

Missouri:

St. Louis, Federal Building (Mart), Phase I, $20,000,000

Kansas City, 601 E. 12th, $997,000

Kansas City, 1500 Bannister, $2,560,000

St. Louis, 4300 Goodfellow, $2,176,000

Minor Repairs and Alterations, $141,584,000:

Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $131,442,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $985,000,000 for rental of space; (5) not to exceed $753,219,000 for real property operations; (6) not to exceed $57,090,000 for program direction and centralized services; and (7) not to exceed $52,273,000 for design and construction services which shall remain available until expended: *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That none of the funds available to the General Services Administration shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056 as amended, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this fund during fiscal year 1987 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $2,279,862,000, shall remain in the fund and shall not be available for expenditure except as authorized in appropriation Acts: *Provided further*, That not withstanding this or any other provision of this Act, Section 623 of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Act shall apply only to the rural electrification program in the State of Alaska.

GOLDWATER AMENDMENT NO. 3477

Mr. GOLDWATER proposed an amendment to amendment No. 3476 proposed by Mr. ABDNOR to the amendment of the House to the amendment of the Senate numbered 59 (in disagreement) to the joint resolution (H.J. Res. 738), supra, as follows:

At the end of the amendment add the following:

Notwithstanding any other provision in this or any other Act, none of the funds appropriated by this or any other Act shall be available for the procurement of T-46 trainer aircraft. No funds appropriated to or for the use of the Department of Defense for fiscal year 1986 may be obligated or expended for the procurement of T-46 trainer aircraft until the Secretary of the Air Force has complied with all requirements relating to the T-46 aircraft contained in section 202(e) of the Department of Defense Authorization Act, 1987.

MASAU TRAIL ACT

DOMENICI (AND BINGAMAN) AMENDMENT NO. 3478

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill (S. 2932 to establish the Malpais National Monument, the Masau Trail, and the Grants National Conservation Area in the State of New Mexico, and for other purposes, as follows:

At the end of the bill, insert the following:

TITLE VII—WATER RIGHTS

SEC. 701. Nothing in this Act shall be construed to a new express or implied reservation to the United States of any water or water-related right with respect to the lands described in this Act. No provision of this Act shall be construed as authorizing the appropriation of water, except in accordance with the substantive and procedural law of the State of New Mexico.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1987

METZENBAUM (AND BUMPERS) ADMENDMENT NO. 3479

Mr. METZENBAUM (for himself and Mr. BUMPERS) proposed an amendment to amendment No. 3476 proposed by Mr. ABDNOR to the amendment of the House to the amendment of the Senate numbered 59 (in disagreement) to the joint resolution (H.J. Res. 738), supra, as follows:

Add at the end of the pending amendment:

SECTION 1. PATTERN OF ILLICIT ACTIVITY.

(a) CHAPTER 96 HEADING.—The heading for chapter 96 of title 18, United States Code, is amended by striking out "RACKETEER, INFLUENCED AND CORRUPT ORGANIZATIONS" and inserting in lieu thereof "PATTERN OF ILLICIT ACTIVITY".

(b) SECTION 1961.—Section 1961 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "racketeering" the first place it appears and inserting "illicit" in lieu thereof;

(2) in paragraph (5), by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof

(3) in paragraph (7), by striking out "racketeering" each place it appears and inserting "criminal" in lieu thereof; and

(4) in paragraph (8)—

(A) by striking out "racketeering" the first place it appears and inserting "illicit activity" in lieu thereof; and

(B) by striking out "racketeering" the second place it appears and inserting "criminal" in lieu thereof.

(c) SECTION 1962.—Section 1962 of title 18, United States Code, is amended by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof.

(d) SECTION 1963.—Paragraph (3) of section 1963(a) of title 18, United States Code, is amended by striking out "racketeering" and inserting "illicit" in lieu thereof.

(e) SECTION 1968.—Section 1968 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "a racketeering investigation" and inserting "an illicit activity investigation" in lieu thereof;

(2) in subsection (b), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof;

(3) in subsection (c), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof; and

(4) in subsection (f)—

(A) by striking out "racketeering" the first, second, and fifth places it appears and inserting "criminal" in lieu thereof;

(B) by striking out "racketeering" each other place it appears and inserting "illicit activity" in lieu thereof; and

(C) by striking out "racketeer" and inserting "illict activity" in lieu thereof.

* * * * *

Subsection (c) of section 1964 of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) A governmental entity whose business or property is injured by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action against the person who engaged in such conduct to recover threefold the actual damages that the governmental entity sustained by reason of such injury, and the costs of the civil action, including a reasonable attorney's fee.

"(B) A civil action under subparagraph (A) of this paragraph must be brought by—

"(i) the Attorney General, if the injury is to the business or property of a governmental entity of the United States;

"(ii) the chief legal officer of the State, if the injury is to the business or property of a governmental entity of the State; or

"(iii) the chief legal officer of a subdivision of a State, if the injury is to the business or property of the subdivision and if such officer is specifically authorized by statute of the State to bring actions under this subsection.

"(2) A person, other than a governmental entity, whose business or property is injury by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action against the person who engaged in the conduct and shall recover—

"(A) threefold the actual damages that such person whose property or business is injured sustained by reason of such injury, and the costs of the civil action, including a reasonable attorney's fee, if the person who engaged in the conduct was, with respect to such conduct, convicted of an illicit activity or of a violation of section 1962 of this title; or

"(B)(i) the actual damages that such person whose property or business is injured sustained by reason of such injury, and the costs of the civil action including a reasonable attorney's fee, and

"(ii) punitive damages of up to twice the actual damages if—

"(I) the person whose business or property is injured is a natural person and the injury occurred in connection with a purchase or lease, for personal or household use or investment, of a product, services, investment, or other property; or a contract for personal or household use or investment;

"(II) neither State nor Federal securities laws make available an express or implied remedy for the type of behavior on which the claim of the plaintiff is based; and

"(III) the defendant acted in wanton disregard of plaintiff's rights (but conduct of the defendant in good faith and in reliance upon a directly applicable regulatory action, approval, or interpretation of law by an authorized State agency is not in wanton disregard of plaintiff's rights for the purposes of this subclause).

* * * * *

"(I) the degree of culpability of the defendant;

"(II) the vulnerability of the victim;

"(III) any history of similar conduct by the defendant;

"(IV) the benefits derived from the unlawful conduct by the defendant;

"(V) the number of persons victimized;

"(VI) any prior decision by a court or State or Federal agency as to whether the defendant violated applicable law or acted in bad faith; and

"(VII) any other factor the court deems to be an equitable consideration bearing on the appropriate amount of punitive damages.

"(4) For a civil action under paragraph (2) of this subsection seeking damages under subparagraph (B) of such paragraph (2), the term "pattern of illicit activity" requires at least two acts of illicit activity—

"(A) one of which occurred not more than five years after the prior act of illicit activity;

"(B) that are not so closely related in time and place that together the acts constitute a single episode; and

"(C) (for actions based on a violation of section 1962(c) of this title) each of which is related to the affairs of the enterprise.

"(5)(A) A civil action under this subsection may not be commenced after the latest of—

"(i) three years after the date the cause of action accrues;

"(ii) three years after the conduct causing injury to the plaintiff terminates; or

"(iii) two years after the date of the criminal conviction required for an action under paragraph (2)(A) of this subsection.

"(B) The period of limitation provided in subparagraph (A) of this paragraph on a cause of action does not run during the pendency of a government civil action or criminal case relating to the conduct upon which such cause of action is based.

"(6) As used in this subsection, the term 'governmental entity' means the United States or a State, and includes any department, agency, or government corporation of the United States or a State, any political subdivision of a State, and any enterprise for which a trustee has been appointed by a United States district court under section 1964(a) of this title (but only during the tenure of such trustee).

"(7) The court shall award a reasonable attorney's fee to a prevailing plaintiff in a cause of action under paragraph (2)(B) of this subsection."

SEC. 3. FEDERAL RULES OF CIVIL PROCEDURES AMENDMENTS.

Rule 9(b) of the Federal Rules of Civil Procedure is amended—

(1) in the caption, by inserting ", and Suits under 18 U.S.C. 1904(c)" after "Mind"; and

(2) by inserting after the first sentence the following: "In an action under 18 U.S.C. 1964(c), facts supporting the claim against each defendant shall be averted with particularity.".

SEC. 4. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this Act shall apply to any civil action commenced after the date of enactment.

(b) EXCEPTION.—In any pending action under section 1964(c) of title 18, United States Code, in which a person would be eligible to recover only under paragraph (2)(B)(ii) of section 1964(c) as amended by this Act, if this Act had been enacted before the commencement of that action, the recovery of that person shall be limited to the recovery provided under such paragraph (2)(B)(ii), unless in the pending action—

(1) there has been a jury verdict or district court judgment, establishing the defendant's liability, or settlement has occurred; or

(2) the court determines that, in light of all the circumstances, such limitation of recovery would be clearly unjust.

MELCHER (AND OTHERS) AMENDMENT NO. 3480

Mr. MELCHER (for himself and Mr. BURDICK) proposed an amendment to amendment No. 3476 proposed by Mr. ABDNOR to the amendment of the House to the amendment of the Senate numbered 59 (in disagreement) to the joint resolution (H.J. Res. 738), supra as follows:

At the end of the amendment, insert the following new section:

"SEC. . Notwithstanding any other provisions of this Act, in addition to any sales required under any other Act, the Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than $50,000,000, and funds for necessary expenses to carry out Temporary Emergency Food Assistance Act of 1983, as amended, shall be $100,000,000.".

MEMORIAL TO WOMEN WHO HAVE SERVED IN THE ARMED SERVICES

McCLURE AMENDMENT NO. 3481

Mr. SIMPSON (for Mr. McCLURE) proposed an amendment to the joint resolution (H.J. Res. 36) authorizing establishment of a memorial to honor women who have served in or with the

Armed Forces of the United States, as follows:

On page 2, line 22, of H.J. Res. 36 as reported by the Committee on Energy and Natural Resources, strike "There is hereby authorized to be established on Federal land in the District of Columbia and its environs, by any organization or organizations approved by the Secretary of the Interior, a memorial" and insert in lieu thereof "The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs".

On page 3, line 2, of H.J. Res. 36 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

On page 3, line 5 of H.J. Res. 36, as reported by the Committee on Energy and Natural Resources, strike "The organization or organizations approved by the Secretary" and insert in lieu thereof "The Women in Military Service for America Memorial Foundation".

MEMORIAL TO BLACK HEROES OF THE AMERICAN REVOLUTION

McCLURE AMENDMENT NO. 3482

Mr. SIMPSON (for Mr. McCLURE) proposed an amendment to the joint resolution (H.J. Res. 142) authorizing establishment of a memorial to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom; as follows:

On page 3, line 14, strike all after "the" and insert "House of Representatives on September 29, 1986".

DECLARATION OF TAKING ACT

DURENBERGER (AND OTHERS) AMENDMENT NO. 3483

Mr. SIMPSON (for Mr. DURENBERGER, Mr. BOSCHWITZ, and Mr. THURMOND) proposed an amendment to the bill (S. 2424) to amend the interest provisions of the Declaration of Taking Act as follows:

At the end of the bill add the following:

SEC. 2. (a) Notwithstanding any other provision of chapter 11 of title 11, United States Code, the bankruptcy trustee in each case described in subsection (b) shall pay benefits until May 15, 1987, to retired former employees under a plan, fund, or program maintained or established by the debtor in such case prior to filing a petition (through the purchase of insurance or otherwise) for the purpose of providing medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death.

(b) This section is effective with respect to—

(1) cases commenced under chapter 11 of title 11, United States Code, in which a plan for reorganization has not been confirmed by the court and in which any such benefit is still being paid on October 2, 1986;

(2) in cases under which an order for relief is entered under chapter 11 of title 11, United States Code, after October 2, 1986, while such case is a case under chapter 11; or

(3) in cases under title 11, United States Code, involving a partnership which was in existence prior to July 17, 1986, and was the subject of a petition under chapter 11 of title 11, United States Code, upon which an order for relief was entered by a bankruptcy court on August 7, 1986, and where one of the partners received bankruptcy court authorization on August 6, 1986, approving rejection of a partnership agreement.

(c) If any provision of this section or the application thereof to any person of circumstance is held invalid, the provisions of every other part of this section and the first section shall not be affected thereby.

On page 3, line 14, of H.J. Res. 142 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

AGE DISCRIMINATION IN EMPLOYMENT ACT

HEINZ (AND OTHERS) AMENDMENT NO. 3484

Mr. SIMPSON (for Mr. HEINZ, Mr. METZENBAUM, Mr. FORD, Mr. BRADLEY, Mr. KENNEDY, Mr. GRASSLEY, Mrs. HAWKINS, and Mr. COHEN) proposed an amendment to the bill (H.R. 4154) to amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination in Employment Amendments of 1986".

SEC. 2. AMENDMENTS RELATING TO MAXIMUM AGE.

(a) COVERAGE UNDER GROUP HEALTH PLANS.—Subsection (g)(1) of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)), as added by section 116(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "through 69" each place it appears and inserting in lieu thereof "or older".

(b) TECHNICAL AMENDMENT.—Subsection (g) of section 4 of the Age Discrimination in Employment Act of 1967, as added by section 802(b)(2) of the Older Americans Act Amendments of 1984, is amended by striking out "(g)(1)" in inserting in lieu thereof "(h)(1)".

(c) REMOVAL OF MAXIMUM AGE LIMITATION.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended—

(1) in subsection (a) by striking out "but less than seventy years of age", and

(2) in subsection (c)(1) by striking out "but not seventy years of age,".

SEC. 3. EMPLOYMENT AS FIREFIGHTER OR LAW ENFORCEMENT OFFICER.

(a) GENERAL RULE.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end thereof the following new subsection:

"(i) It shall not be unlawful for an employer which is a State, a political subdivision of a State, an agency or instrumentality of a State or a political subdivision of a State, or an interstate agency to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken—

"(1) with respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable State or local law on March 3, 1983, and

"(2) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purposes of this Act.".

(b) TERMINATION PROVISION.—The amendment made by subsection (a) of this section is repealed December 31, 1993.

SEC. 4. DEFINITIONS.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end thereof the following new subsections:

"(j) The term 'firefighter' means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

"(k) The term 'law enforcement officer' means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of a State, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this subsection, 'detention' includes the duties of employees assigned to guard individuals incarcerated in any penal institution.".

SEC. 5. STUDY AND PROPOSED GUIDELINES RELATING TO POLICE OFFICERS AND FIREFIGHTERS

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Secretary of Labor and the Equal Employment Opportunity Commission, jointly, shall—

(1) conduct a study—

(A) to determine whether physical and mental fitness tests are valid measurements of the ability and competency of police officers and firefighters to perform the requirements of their jobs,

(B) if such tests are found to be valid measurements of such ability and competency, to determine which particular types of tests most effectively measure such ability and competency, and

(C) to develop recommendations with respect to specific standards that such tests, and the administration of such tests should satisfy, and

(2) submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate that includes—

(A) a description of the results of such study, and

(B) a statement of the recommendations developed under paragraph (1)(C).

(b) Consultation Requirement.— The Secretary of Labor and the Equal Employment

Opportunity Commission shall, during the conduct of the study required under subsection (a) and prior to the development of recommendations under paragraph (1)(C), consult with the United States Fire Administration, the Federal Emergency Management Agency, organizations representing law enforcement officers, firefighters, and their employers, and organizations representing older Americans.

(c) Proposed Guidelines.—Not later than 5 years after the date of the enactment of this Act, the Equal Employment Opportunity Commission shall propose, in accordance with subchapter II of chapter 5 of title 5 of the United States Code, guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of police officers and firefighters to perform the requirements of their jobs.

SEC. 6. SPECIAL RULE AND TENURED FACULTY.

(a) Special Rule.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).".

(b) TERMINATION PROVISION.—The amendment made by subsection (a) of this section is repealed December 31, 1993.

(c) STUDY REQUIRED.—(1) The Equal Employment Opportunity Commission shall, not later than 12 months after the date of enactment of this Act, enter into an agreement with the National Academy of Sciences for the conduct of a study to analyze the potential consequences of the elimination of mandatory retirement on institutions of higher education.

(2) The study required by paragraph (1) of this subsection shall be conducted under the general supervision of the National Academy of Sciences by a study panel composed of 9 members. The study panel shall consist of—

(A) 4 members who shall be administrators at institutions of higher education selected by the National Academy of Sciences after Consultation with the American Council of Education, the Association of American Universities, and the National Association of State Universities and Land Grant Colleges;

(B) 4 members who shall be teachers or retired teachers at institutions of higher education (who do not serve in an administrative capacity at such institutions), selected by the National Academy of Sciences after consultation with the American Federation of Teachers, the National Education Association, the American Association of University Professors, and the American Association of Retired Persons; and

(C) one member selected by the National Academy of Sciences.

(3) The results of the study shall be reported, with recommendations, to the President and to the Congress not later than 5 years after the date of enactment of this Act.

(4) The expenses of the study required by this subsection shall be paid from funds available to the Equal Employment Opportunity Commission.

SEC. 7. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement—

(1) which is in effect on June 30, 1986,

(2) which terminates after January 1, 1987,

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

(4) which contains any provision that would be superseded by such amendments, but for the operation of this section,

such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.

(b) Effect on Existing Causes of Action.—The amendments made by sections 3 and 4 of this Act shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 as in effect before January 1, 1987.

RELIEF OF AUDREY LEWIS AND EMERSON VEREEN

THURMOND AMENDMENT NO. 3485

Mr. SIMPSON (for Mr. THURMOND) proposed an amendment to the bill (H.R. 1010) for the relief of Audrey O. Lewis and Emerson B. Vereen, as follows:

On page 1, line 6, strike out "$140,500" and insert in lieu thereof "$70,250".

On page 1, line 8, strike out "$43,750" and insert in lieu thereof "$18,275".

On page 2, line 23, strike out "$9,100" and insert in lieu thereof "$4,550".

NATIONAL WILDERNESS PRESERVATION SYSTEM

HELMS AMENDMENT NO. 3486

Mr. SIMPSON (for Mr. HELMS) proposed an amendment to the bill (H.R. 4685) to adjust the boundaries of areas of the National Wilderness Preservation System in the State of Texas, as follows:

On page 1, line 10, strike out "June" and insert in lieu thereof "October".

EXCEPTION TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT

McCLURE AMENDMENT NO. 3487

Mr. SIMPSON (for Mr. MCCLURE) proposed an amendment to the bill (S. 2921) to amend the Public Law 99-396 exception to the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"Section 19(b) of Public Law 99-396 (100 Stat. 837, 844) is amended by:

"(1) inserting 'section 30 of' immediately before 'the Organic Act of Guam';

"(2) inserting 'section 3 of' immediately before 'the Joint Resolution to approve';

"(3) inserting 'section 4 of the Act of April 12, 1900 (31 Stat. 78, 48 U.S.C. 740), as amended, and section 9 of the Act of March 2, 1917 (39 Stat. 954, 48 U.S.C. 734), as amended, which became a part of' immediately before 'The Puerto Rican';

"(4) inserting 'section 28 (a) and (b) of' immediately before 'the Revised Organic'; and

"(5) inserting 'section 4(c)(2) of' immediately before 'an Act to authorize'."

INDIANA DUNES NATIONAL LAKESHORE

QUAYLE (AND LUGAR) AMENDMENT NO. 3488

Mr. SIMPSON (for Mr. QUAYLE and Mr. LUGAR) proposed an amendment to the bill (H.R. 4037) relating to the Indiana Dunes National Lakeshore, and for other purposes, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. INDIANA DUNES NATIONAL LAKESHORE.

(a) BOUNDARY CHANGES.—The first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u), is amended by striking out "December 1980, and bearing the number 626-91014" and inserting in lieu thereof "October 1986, and numbered 626-80,033-B".

(b) DEFINITION OF IMPROVED PROPERTY.—Section 4 of such Act is amended by striking out the first sentence and substituting "As used in this Act, the term 'improved property' means a detached, one-family dwelling which meets each of the following criteria:

"(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

"(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

"(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term 'appropriate map', means a map identified as 'Boundary Map—Indiana Dunes National Lakeshore' (or 'A Proposed Indiana Dunes National Lakeshore' in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table.

Property within boundaries of map	Construction began before
Dated October 1986, #626-80,033-B.	February 1, 1986
Dated December 1980, #626-91014.	January 1, 1981
Dated September 1976, #626-91007.	February 1, 1973
Dated September 1966, #LNPNE-1008-ID.	January 4, 1965

the term 'improved property' also includes the lands on which the dwelling is situated which meets both of the following criteria:

"(A) The land is in the same ownership as the dwelling.

"(B) The Secretary has designated the lands as reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B).".

(c) RETAINED RIGHTS.—Section 5(a) of such Act (16 U.S.C. 460u-5a) is amended as follows:

(1) Strike out "the first section" and insert in lieu thereof "section 4, dated December 1980, and numbered 626-91014."

(2) Strike out "; *Provided*, That" and substitute a period followed by "In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014".

(3) After "(a)" strike "Except for" and insert "(1) Except for owners described in paragraph (2) and".

(4) Strike "(1)" in each place it appears and substitute "(A)" and strike "(2)" and substitute "(B)".

(5) Add the following at the end thereof:

"(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

"(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

"(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991, to sell to the Secretary.".

(d) AUTHORIZATION.—Section 9 of such Act (16 U.S.C. 460u-9) is amended as follows:

(1) In the first sentence strike "$11,000,000" and insert in lieu thereof "$20,000,000".

(2) Add after the last paragraph "In addition to any other sums authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act there are authorized to be appropriated an additional $3,500,000 to be used for such purposes. The Secretary shall conduct a feasibility study of establishing United States Highway 12 as the 'Indiana Dunes Parkway' under the jurisdiction of the National Park Service. The Secretary shall submit the results of such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this sentence. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the feasibility study.".

(e) EXISTING PROPERTY RIGHTS.—Section 10 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end thereof: "Nothing in this Act shall be construed to diminish the existing property rights of Northern Indiana Public Service Company (as of October 1, 1986) with respect to—

"(1) a parcel of land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes, beginning at said Company's Dune Acres substation and extending east to said Company's Michigan City Generating Station, which parcel by this Act is included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-I on National Park Service Boundary Map No. 626-80033-B, dated October 1986, excluding that certain parcel of approximately 6.0 acres adjacent Mineral Springs Road in areas II-I, and

(2) land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes as has by this Act been included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-B on said National Park Service Boundary Map No. 626-80,033-B."

(f) OWNER CONSENT REQUIRED.—Section 13 of such Act (16 U.S.C. 460u-13) is amended by changing "Sec. 13." to "Sec. 13. (a)", by striking out "the first section" and inserting in lieu thereof, "section 4, dated December 1980 and numbered 626-91014", and by adding a new subsection (b) as follows:

"(b) The Secretary may acquire that portion of area IV-B in private ownership on the map referred to in section 1 of this Act only with the consent of the owner: *Provided*, That the Secretary may acquire an agricultural easement should the owner change the use in existence as of September 19, 1986, through eminent domain.".

(g) MAP REFERENCE.—Section 16 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end of the first sentence "on the map referred to in section 4, dated October 1976, and numbered 626-9100".

(h) RIGHTS-OF-WAY.—Section 15 of such Act is amended by adding the following at the end thereof: "The Secretary may acquire only such interest in the rights-of-way designated 'Crossing B' and 'Crossing C' on the map dated October 1986 and numbered 626-80, 033-B as he determines to be necessary to assure public access to the banks of the Little Calumet River and the banks of Salt Creek within fifty feet on either side of the centerline of said river and creek.".

(i) COOPERATIVE AGREEMENT AND STUDY.—Add the following new section at the end of such Act:

"SEC. 24. LITTLE CALUMET RIVER AND BURNS/PORTAGE WATERWAY.

"(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Little Calumet River Basin Development Commission, the State of Indiana or any political subdivision thereof for the planning, management, and interpretation of recreational facilities on the tract within the boundaries of Indiana Dunes National Lakeshore identified as tract numbered 09-117 or on lands under the jurisdiction of the State of Indiana or political subdivision thereof along the Little Calumet River and Burns Waterway. The cooperative agreement may include provision for the planning of public facilities for boating, canoeing, fishing, hiking, bicycling, and other compatible recreational activities. Any recreational developments on lands under their jurisdiction of the National Park Service planned pursuant to this cooperative agreement shall be in a manner consistent with the purposes of this Act, including section 6(b).

"(b) STUDY.—The Secretary shall conduct a study regarding the options available for linking the portions of the lakeshore which are divided by the Little Calumet River and Burns/Portage Waterway so as to coordinate the management and recreational use of the lakeshore. The Secretary shall submit the results of the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this section. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purpose of conducting the study.".

ADDITIONAL STATEMENTS

TRIBUTE TO MAYOR RICHARD E. NEAL OF SPRINGFIELD, MA

● Mr. KERRY. Mr. President, I would like to pay tribute today to Richard E. Neal, mayor of Springfield, MA, for his distinguished community leadership. Mayor Neal will be honored at a State of Israel Bonds Tribute Dinner on October 26 in Springfield, for his outstanding leadership and long-time support of the State of Israel. Mayor Neal will be the recipient of the Medal of Peace, Israel's highest award.

Mayor Richard Neal has served the citizens of Springfield for over a decade, and has been an outstanding and dedicated public servant. He has a well-deserved reputation for high integrity, quality, and for a deep commitment to humanitarian causes.

Richard Neal began his career in public service in 1973, as an assistant to the mayor of Springfield, MA. He served as a city councillor in Springfield from 1978 to 1983, and was president of the city council in 1979. From 1979 to 1983, Mr. Neal also served as an instructor at Western New England College, Springfield College, and American International College. He also worked as a grant director for Springfield Technical Community College.

In 1984, Richard Neal was elected mayor of Springfield, MA. He currently serves as president of the Massachusetts Mayors' Association.

Mayor Neal took part in 1984 in an interfaith mission to Israel. In Israel, he made a visit to Kiryat Ata, which is Springfield's sister city in Israel. The mayor of Kiryat Ata, the Honorable Yaacov Ben Daniel, will be present and participate in the award of the Medal of Peace to Mayor Neal next week in Springfield.

This award to Mayor Neal is highly appropriate and well deserved. Mayor Neal has demonstrated a deep commitment to the State of Israel, and to the special relationship which exists between the peoples of Israel and the United States.

71-059 O-87-44 (Pt. 22)

The Medal of Peace is a prestigious award, and is not bestowed lightly. In this year which marks the 350th anniversary of the founding of Springfield, MA, it is especially appropriate that Richard Neal should be honored for his work in establishing and furthering ties between the people of Springfield and the people of Israel. I congratulate Mayor Neal on this important award. I look forward to being present with Mayor Neal next week for the occasion of the bestowing of the Medal of Peace.

RECOGNITION OF THE RCA SCHOOL OF BENSALEM, PA

● Mr. SPECTER. Mr. President, I wish to give special recognition and acknowledgement to the staff of the RCA School at the Youth Development Center in Bensalem, PA, for their outstanding efforts to provide quality educational services for adjudicated delinquents throughout Philadelphia and southeastern Pennsylvania. This school has a history of excellent achievement and has received two national awards including the Phi Delta Kappa Award for excellence in discipline. RCA is the only correctional school in the Commonwealth of Pennsylvania where security and open residential students attend school together. The school provides basic, vocational, bilingual, computer and special education, and varsity sports. Through the dedication of the teachers and the assistance of the Bucks County Intermediate Unit No. 22, under the direction of Dr. A. William Vantine, who has rendered tremendous support throughout the school's history, many young lives are getting back on the right track. Utilizing individual instruction combined with small classes, many learning barriers are removed and student motivation is stimulated.

Mr. President, in our information oriented, highly mechanized society, young people who are functionally illiterate, who do not have basic cognitive and reasoning skills, and who lack technical skills and motivation will be unable to compete for jobs and will therefore be locked out of the labor pool. Without steady employment and the hope of a better life, juvenile delinquents are likely to become adult offenders. My dear friend, Harvey N. Schmidt, retired judge of the court of common pleas in Philadelphia, and crusader for academic excellence at this facility, has acclaimed this program for its success in improving math and reading levels as well as teaching "respect for others, self-respect, honor, self-discipline, spiritual development, and dignity." This is why the educational program at the RCA School is so vital. The teachers and administrators at the school are committed to helping students gain the educational skills which will enable them to seek and maintain steady employment. The primary goal is to send students back into society with the skills, habits, and attitudes which will enable them to be a productive member of society.

Mr. President, as chairman of the Senate Juvenile Justice Subcommittee and cochairman of the Senate children's caucus, I know the importance of the work taking place at the RCA School. Without the dedication and commitment of the faculty along with the guidance and support of RCA Service Co. administrators Al Androlewicz, Dr. Laverne C. Cook, and Valaida W. Randolph, many adjudicated delinquents from Philadelphia and southeastern Pennsylvania would have no hope for the future.

I extend my warm regards and thanks to the RCA School for the service being rendered to the Commonwealth of Pennsylvania.

Mr. President, I ask that the names of the staff of the RCA School appear in the RECORD immediately following my statement:

STAFF OF RCA SCHOOL

Chief school administrator, Wylie J. Hinson, Jr.; vice principal, Bryant L. Horsley, Sr.; dean of students, William F. Brown; supervisors, Jeanene I. Anker, Nina Apfelbaum, Jeffrey Brown, Thomas C. Burst, Ronald V. Edwards, and William Simmons; guidance counselors, Victoria Meyers, Michelle Roberts, and Carol Thompson; instructors, Jack Boyd, Bobby Clark, Samuel Cook, Mary Dunbar, Cindy Golden, Warren Hartz, III, Tanya Morgan, Carl Penxa, Valerie Slott, Steven Snyderman, Rhoda Stein, William Stokes, and Leroy White; and teacher aides, Walker Boardley, Craig Hodges, Norman Hodo, James Nash, and Norman Whitehead.●

FUTURE ISSUES IN EMPLOYMENT AND TRAINING

● Mr. QUAYLE. Mr. President, on Monday, October 13, I celebrated the fourth anniversary of the enactment of the Job Training Partnership Act [JTPA] in Indianapolis, IN with a gathering of employment and training policymakers from around the State. In addition to recognizing the achievements of the State and the 17 awards for exceeding their performance standards, we discussed future challenges.

In my remarks, I focused on three areas which present a challenge to the employment and training community as future issues of national concern. These problems are not really addressed by JTPA and they have been with us for some time. I believe that in order to solve them we must take a fresh approach. I ask to have the text of my remarks inserted in the RECORD because, on this anniversary of JTPA, I want to share these thoughts with my colleagues as we begin to look at the challenges we will face in the next Congress.

The remarks follow:

A LOOK AT THE FUTURE

Today we come together to commemorate an event of the past. Just four years ago, President Reagan signed the Job Training Partnership Act into law. We can all be proud to be associated with JTPA from its beginnings to a point where it is a vital part of our economic development strategy and our policy for local and regional growth. But I do not want to dwell on the past today because, as has been often been said, the past is just prologue to the future.

The JTPA in the development of which I am proud to have played the major role, was a significant development in the evolution of our job training laws. It is built on sound principles: a partnership between business and government; a recognition of the differing functions played by local, State and Federal governments; and an emphasis on achieving results rather than regulating process. The fact that this Act was soundly conceived is shown by the fact that even four years later only modest amendments were required—amendments which I am happy to say will soon be signed into law by the President.

We can be proud of the achievements of JTPA since we created it. Nationally, over 5 million people have participated in JTPA programs. More importantly, over 71 percent of its adult participants and 57 percent of its youth participants have found meaningful jobs.

Indiana has done even better than this, with over 79 percent of the adult and 59 percent of the youth participants being successfully placed. It is a tribute to John Mutz and all of you that each SDA in Indiana received incentive awards in the 1985 program year. Over 163,000 people have been enrolled in JTPA in Indiana; and I believe the program has been a vital part of the economic recovery in Indiana that has seen a historic high in the number of people employed in the state and unemployment levels at their lowest point since 1980.

As a final tribute to JTPA, I would emphasize that we are doing a good job of reaching targeted groups who are most in need of usable job training skills: 53 percent of program participants are women, 42 percent are youth under the age of 22, 45 percent are minorities and 40 percent were receiving other forms of public assistance when they entered the program.

But I have not come here only to celebrate the achievements of the past and to honor those of you who have already accomplished so much with JTPA—rather I want to point to the training and education problems of the future and see if we can work together in the same cooperative spirit to find solutions to them. This is especially appropriate today since this is National Job Skills Week (October 12-18). I was the chief Senate cosponsor of this resolution introduced by Senator Gore. The purpose of National Job Skills Week is to focus public attention on training and retraining issues that require national attention and to raise citizen awareness about the need to take individual efforts to develop and continually revamp our human resources.

From where I stand, I see three major unresolved issues relating to labor market policies. I do not have answers to any of them, and I think it will take considerable time, study, and effort until we are in a position to enact remedial legislation. But I would like to outline my ideas to people like you who are involved in the real world of chang-

ing labor markets every day, so that we can work out creative new ideas in the same spirit of partnership that has marked JTPA from its inception.

First, we need to deal with the wasteful duplication and lack of coordination in the effort to train and place persons who lack the necessary qualifications for work.

Especially at the Federal level we have too many agencies and programs to deal with job preparation and placement; agencies and programs which are marked by a lack of coordination and central purpose. I applaud the efforts being made at the State level to deal with this problem and particularly I commend Lt. Governor Mutz's program to implement the five-year strategic plan for employment and training. However, the problem is created at the Federal level and we in Federal government cannot shrink from contributing to the solution.

I do not need to tell you how many separate Federal efforts there are to train those unprepared or unqualified for the labor market; besides JTPA, we have the Work Incentive Program (WIN) and vocational rehabilitation and vocational education and adult education and trade adjustment assistance, not to speak of the Targeted Jobs Credit, community service block grants and Food Stamp workfare programs and welfare demonstration projects. In addition, practically every one of these programs has a placement effort that overlaps with that of the employment service.

I will not shock you when I say we cannot afford the waste of resources that accompanies such duplication of effort—but I do shock all of those who have a vested interest in preserving their particular program. I have introduced and held hearings on a bill that would ameliorate this problem, (S. 1990, the Education and Training Partnership Act) but to be candid we are a long way from developing a consensus that any action should be taken—much less consensus on any specific proposal.

This is an especially difficult problem to face because most of these programs have been around—and done good work—for years, and consequently have years of old habits and entrenched interests to protect them. But we must face the fact that better coordination is needed and make the hard decisions in a cooperative spirit to streamline and better focus our efforts.

Second, we must develop policies to ensure that welfare does not become a condition of life rather than a temporary relief from unavoidable hardship.

For the last thirty years, Congress has struggled to find a way to move employable persons off the welfare rolls to the economic independence of employment. This has become an ever more pressing task as the nature of the AFDC population has changed. The program was started as a way of helping widows, who were not considered employable, support their children; it has become a system of support for the unmarried, divorced or separated who are unable to care for their children, but who by current standards are employable. In 1940 (the first year for which we have data), 69 percent of all the children receiving support were in need because of the death or incapacity of a parent; in 1983 (the last year for which we have data), that number had dropped to 4 percent. The rest have parents for whom employment should provide the route to independence.

Other statistics indicate that among some AFDC recipients, welfare dependency becomes a way of life for the parent during the most formative years of a child's life. The average number of years of receiving AFDC assistance ranges between 5 and 8 and it is highest for those who first receive welfare relief before the age of 22. About 33 percent of those receiving assistance before age 22 are likely to have AFDC assistance for periods of 10 years or more. This percentage drops as the age of first assistance increases going from 26 percent for the 22 to 30 age bracket down to 15 percent or 16 percent for those in age brackets over 30.

We have experimented with work requirements and work incentives; child support enforcement and earned income tax credits and still the single-parent family continues as the greatest cause of poverty in the United States. This is a problem greater than job training; though job training must be a part of the solution. It is a problem of family values and of work ethic; it is a problem that requires government help but also self-help and community help. We see an ever growing body of data that shows that a part of our society is being left behind—and it is imperative that we do not permit the development in this society of a permanent underclass that does not share in the American dream.

I want to insist here that there probably is no government solution to this problem—we can only work at the margins to help those who want to make the effort to break the cycle of dependence. The really important work must be done by society as a whole—we must make sure that our value structure as well as our system of incentives works to encourage strong families and the desire for independence.

Third, a growing percentage of our youth are unprepared for the labor market due to illiteracy or deficiency in other skills—and even more unprepared for the labor market of the future which will demand even greater skills.

While the percentage and even the absolute number of youth in the labor market is declining, an ever larger share of that population is experiencing greater and greater difficulty in finding employment. The percentage of 16 to 24 year olds in the U.S. is projected to drop from a high of 23 percent in 1978 to 16 percent by 1995. Minority youth unemployment rates are astronomical and even those rates do not show the full extent of the problem because an increasing percentage are not even looking for work (and therefore not counted as unemployed).

For September 1986, while overall unemployment stood at 7 percent, it was 16 percent for white youth aged 16 to 19, while the corresponding rate for blacks was near 40 percent. In 1985, 50 percent of all white youths were employed compared to 33 percent of Hispanics and 24 percent of blacks. Minorities are increasing as a percentage of the total youth population. Of those aged 16 to 19, fully 18 percent are now minorities.

We focus on the minority youth and overall youth unemployment problem only to draw attention to the increasing complexity of the problem. Obviously, a multifaceted approach to our effort of bringing youth into the job market is needed. Again job training must be a part of the solution to this problem—but much more than job training is needed. The growing emphasis on the basics in our elementary schools is a welcome development but that development bypasses too many. But we need to focus on more than education and training: the strength of the family, the pervasive battle against drugs, the dependency dilemma, all must be considered as part of the effort to combat youth unemployment.

Each of these issues present a major challenge to our country. Each has a long history of unsuccessful attempts to remedy the problem but that is no reason to be of faint heart. I assure you that when I was first faced with the problem of rewriting our job training laws, I had no solution in hand. But by concentrating on basic principles, seeking the contribution of knowledgeable and interested parties and by searching for consensus among conflicting views, we created a system that works. I am convinced that the same approach can solve other problems—and I can assure you that I will at least try.●

ABORTION AND INFORMED CONSENT: MISSOURI

● Mr. HUMPHREY. Mr. President, imagine receiving a list of potential physical complications of a surgical procedure after the procedure had been performed on you. This is precisely what occurs on a daily basis for thousands of women who have abortions. In her letter Karen paints an outrageous picture of the counseling given to women before they opt for an abortion.

I hope my colleagues will read her letter and sympathize with her final sentence: "How can we be so cruel to the women of our great Nation, not giving all the facts and leaving them to suffer alone?" I urge my colleagues to cosponsor S. 2791 providing for informed consent before abortion.

The letter follows:

KANSAS CITY, MO,
July 2, 1986.

DEAR SENATOR HUMPHREY: I am writing about a matter that is most important to me, informed consent. The prenatal facts and the facts about abortion procedures must be told to a woman before having an abortion. As a woman who has had an abortion, here is my story in part.

What a blow it was at 17, pregnant and unmarried, with unsupportive parents. With nowhere to turn, afraid of losing my parents' love and a roof over my head, I had an abortion. My parents being under the same deception as I, and lacking knowledge of the baby's development, drove me to a three story, dingy, dirty hospital that was used during the Civil War. This was a legal abortion?

The third floor was full of girls who seemed to range between the ages of 13 and 25 or so. I knew in my heart what I was about to do was wrong, but I didn't know how to stop it from happening. I was scared and trapped, screaming in my mind, but nothing coming from my mouth.

The counseling I received at the hospital was of no help. The girl I talked with wasn't much older than myself and all she did was ask me why I wanted the abortion. She either wanted a list of reasons or was waiting to hear how I couldn't afford to raise a child on my own. If I would have known it was a developed baby, and not a blob of tissue (product of conception), I would have had the ammunition to fight with. Never once did she tell me about any assistance I might be able to receive that would help me to bring my baby to term (i.e., homes for unwed mothers). The abortion procedure was explained to me on the table as the doctor was doing the abortion.

As the machine was turned on, my mind went blank. What was happening here? I couldn't believe it was happening to me. This is what my parents thought was best? For me? For them? Definitely not for the innocent baby inside my womb.

The physical complications that might arise were explained to me on a sheet of paper as I was leaving. They never mentioned the emotional problems I would have, nor the spiritual wounds.

How can we be so cruel to the women of our great nation, not giving all the facts and leaving them to suffer alone?

In His Healing Love,

KAREN J. RODERICK.[1]

BILATERAL INVESTMENT TREATIES

● Mr. DODD. Mr. President, over the past 5 years, the Office of the U.S. Trade Representative has negotiated a number of bilateral investment treaties. These treaties are designed to provide added protection for the United States business community and its investments in Bangladesh, Cameroon, Egypt, Grenada, Haiti, Morocco, Panama, Senegal, Turkey, and Zaire. According to the Trade Representative's Office, this is just the first batch of investment agreements. More are sure to follow as negotiations are finalized.

The agreements that have already been negotiated are currently pending before the Foreign Relations Committee, where they have been since the spring of this year. Because of the committee's heavy workload, however, hearings on these treaties could not be held until just a few weeks ago.

In the course of those hearings, I took the opportunity to underscore my support in principle for these agreements and for the efforts by the Trade Representative's Office to secure additional guarantees and safeguards for U.S. business operations abroad. I was convinced then and I believe now that, on balance, these treaties are fine documents, and will serve the commercial interests of the U.S. business community. Clearly, they encourage and facilitate U.S. companies to invest in developing countries friendly to us. They do this by providing a stronger framework within which corporations can operate with a greater degree of certainty.

These goals and objectives are all to the good and they have my full support. But as laudatory and deserving as they are, they do not encompass the full range of U.S. interests overseas. In other words, as I think my colleagues understand, our international economic and commercial interests are not synonymous with the totality of our foreign policy interests. Recent actions taken by either the Congress or the executive branch against South Africa, Libya, and Nicaragua make that very clear. And just as clearly, I think we all realize that as circumstances change internationally, as developments alter and reshape the course of events, as new governments emerge with new leadership, our perception of U.S. interests will be reexamined and will also undergo change and redirection.

Regrettably, Mr. President, the bilateral investment agreements being considered by the Foreign Relations Committee do not recognize the inevitability of such changes and the impact those changes may have on the conduct of U.S. foreign policy. Rather these agreements assume a long-term status quo and provide for future modification only after the passage of a stipulated 10-year period. In other words, were this body to approve these agreements as presented, the United States would be locked into them with virtually no legal escape hatch available to us.

To my way of thinking such an arrangement is both unacceptable and inadmissible. The world is not static. It's not static in South Africa and it's not static in Zaire. It's not static in Libya and it's not static in Egypt. And it's certainly not static in Haiti or Turkey or Bangladesh, or anywhere else for that matter. And no agreement, whether it's designed to advance our commercial interests, secure our military posture or enhance our political standing can alter this basic fact—change is as unpredictable as the weather.

I raised this concern in the course of the committee's hearings on the investment treaties. And I intend to keep raising it until these treaties are modified in such a way that would allow us to terminate them because of over-riding foreign policy considerations or national security reasons. Such a termination clause is fairly standard procedure in most treaty arrangements, whether bilateral or multilateral. It's a standard feature in our mutual security treaties, such as NATO. It's a standard feature of our tax agreements. It should be a standard feature of our investment agreements.

Mr. President, I would like to see the pending agreements approved before the end of session. And I am prepared to accept a modified termination clause, one that would apply to prospective business activity only, providing that such clause not be subject to the arbitration requirements contained in these agreements. I regret that such a formulation has been unacceptable to the appropriate officials in the Trade Representative's Office. My hope is that they will reconsider this matter, thus clearing the way for us to act on these agreements in the closing days of the session.

To put this issue in its proper context, Mr. President, let's look at it this way: Flexibility in foreign policy is both desirable and essential. It is desirable because it permits us to choose among a variety of options. And it is essential because of the hourly, daily, weekly, monthly changes—often dramatic changes—that occur throughout the international community. The bilateral investment treaties that have been presented to the Senate do not allow for the measure of flexibility that is necessary for the successful conduct of foreign policy. By their very terms, they are to remain in force for no less than 10 years—regardless of virtually any other developments that may occur during that period. I am hopeful that U.S. Trade Representative officials will, upon reflection, recognize this shortcoming in the agreements submitted to us, and will move expeditiously to rectify it. U.S. foreign policy interests demand it, and the American business community deserves it.

ELIE WIESEL—NOBEL PEACE PRIZE RECIPIENT

● Mr. KERRY. Mr. President, I am very pleased today to congratulate Elie Wiesel on becoming the recipient of the Nobel Peace Prize for 1986, and to pay tribute to him. Surely there could be no more deserving recipient of the Nobel Peace Prize than Elie Wiesel. As the Nobel Committee stated in bestowing this award, "Elie Wiesel is a messager to mankind. His message is one of peace, atonement, and human dignity." It is highly appropriate that this award was bestowed on the day following Yom Kippur, the holiest day of the year of the Jewish people, which is a day of remembrance and atonement.

I take special pleasure in this award to Elie Wiesel because he is a member of the faculty at Boston University in Massachusetts, where he is the Andrew W. Mellon professor of humanities and professor of religion. I had occasion earlier this year to speak at Boston University during a week of remembrance of the Holocaust, and to meet and talk with Elie Wiesel. Like so many others, I was deeply inspired by my encounter with this humble and spiritual man.

I was also deeply moved by Elie Wiesel when he testified before the Senate Foreign Relations Committee on March 5, 1985, in support of the International Convention on Genocide. He said to us, "Above all, I speak as a witness. I speak as someone who has seen genocide at work.* * * What I have seen from 40-odd years ago should not be seen or endured by anyone alive ever. * * * I have seen the flames. I have seen the flames rising to the nocturnal heavens; I have seen parents and children, teachers and their disciples, dreamers and their dreams and woe unto me, I have seen children thrown alive in flames. I have seen all of them vanish in the night as

part of a plan, of a program conceived and executed by criminal minds that have corrupted the law and poisoned the hearts in their own land and the lands that they had criminally occupied. Then it was called the Final Solution. Today it is called genocide."

Mr. President, I am proud that the U.S. Senate heeded the words of Elie Wiesel, and chose to ratify the Genocide Treaty in this Congress. But I also am saddened that the President of the United States was unable to heed the plea of Elie Wiesel, when he implored the President to reconsider, and to cancel his trip to a Nazi cemetery at Bitburg. In both instances, Elie Wiesel acted as a voice of conscience, in reminding us that we must never forget the horrors of the Holocaust, or allow them to be repeated in the modern world.

Elie Wiesel has been an eloquent moral voice of remembrance, and an inspiration to millions of people. From the publication of his first novel, "Night," in 1958 he has established himself as a powerful moral spokesman for those who cannot speak for themselves, and those who are forever silent. He has been a powerful and eloquent spokesman for the "Jews of Silence," the Jews of the Soviet Union. He has spoken out for the Miskito Indians of Nicaragua, and for the disappeared in Argentina. And he has called upon the conscience of the world to witness and remember the modern-day holocaust in Cambodia.

Elie Wiesel has truly been the conscience of the modern world. All of us owe him an enormous debt of gratitude for his selfless and heroic efforts. I ask that an article describing the life and work of Elie Wiesel, which appeared in today's Washington Post, be printed in the RECORD. I congratulate Elie Wiesel on receiving the Nobel Peace Prize, and I give him my deep appreciation for his inspiration and his example.

I ask that an article about Elie Wiesel be printed in the RECORD.

The article follows:

[From the Washington Post, Oct. 16, 1986]

THE RESTLESS WITNESS

(By Jane Leavy)

When the call came at 5 a.m. yesterday, Elie Wiesel was lying in bed thinking of his mother, his father and sister who died, along with six million other Jews, in Nazi concentration camps more than 40 years ago.

For Wiesel, there was no euphoria in learning that he had won the 1986 Nobel Peace Prize. "I felt melancholy," he said, "I was thinking of the people I lost. Yesterday was Yom Kippur. I was in the mood of Yom Kippur. Would they know? I want so much that they know. I have to do something to justify them. Do they know?"

Knowing is his mission, his life's work. He is a survivor, the witness of the dead, their voice, their son, the one who never forgets. Remembering is his obsession and his burden. He did not ask for it anymore than he can relinquish it. It is his fate.

"For the first time in history, being became a crime," he said at a 1981 ceremony honoring those who died. "We must tell the tale. We must bear witness."

Yesterday, he said, "I would have fallen into total despair if I gave up on this duty. I have to. It's my life. I have to find out. Hundreds died and I did not. Why not?"

In bestowing the award, the Nobel committee answered that question: "Wiesel is a messenger to mankind. His message is one of peace, atonement and human dignity."

He has carried his message in the more than 25 books he has written, in the courses he has taught and in the deeds he has performed as chairman of the U.S. Holocaust Memorial Council. He calls himself a storyteller. Twenty-five years ago he used the word "holocaust" and gave a name to the unspeakable.

In April 1985 he went to the White House to accept the Congressional Gold Medal and implored President Reagan not to lay a wreath at Bitburg cemetery, where Nazi soldiers lie. "That place, Mr. President is not your place," he said, "Your place is with the victims of the SS." This year he chastised the United States, the Soviet Union and Yugoslavia for not exposing the past of former U.N. Secretary General Kurt Waldheim, and letting him find "refuge in oblivion."

He has become "*the* survivor," the irrefutable voice of an absent generation. "Naturally, it is a burden. It is also a privilege," he said. "It is a burden when people don't listen. But you have to go on. Here and there, there is always one who understands, one whose life changes. I am both humble and ambitiously arrogant. I cannot do much. I am one man. But I still hope that there will be one here and there that will be moved and changed. That's enough for me."

He paused and laughed. "Of course, it is nice if the person who is moved is in a position of power."

It is a daunting prospect to be the conscience of a forgetful world. He scoffs at the notion. "If I am my own conscience, it is enough," he said. "I want everyone to have their own conscience."

For 40 years he has grappled with the absence of conscience that allowed the systematic extermination of his people and millions of others. "All in all, the major questions, the essential questions, have not been answered," he has said, "What was it of the nature of man that this was possible? Why so many victims? Why so many killers? Why so many bystanders? All the real questions. Except the questions become deeper and deeper."

Eliezer Wiesel was born on Sept. 30, 1928, in the town of Sighet, now in Romania. He was 15 when his parents and three sisters were taken from their home in the spring of 1944. His mother and his younger sister died at Auschwitz. He was sent to Buchenwald with his father, who died there. He lost track of his older sisters and presumed them dead. When Buchenwald was liberated, he was one of 400 children who refused to be sent back to their homelands. "I saw the lists of the known survivors," he said in 1970. "And I didn't see my sisters' names on them, so I had no reason to want to go home. I wanted to try Palestine, but the British weren't letting us in."

He was shipped to a camp in Normandy, where he was interviewed and photographed by journalists. Soon after, the camp director called him into his office. "He was talking on the phone," Wiesel said. "And I heard my name mentioned. When he hung up, I said, 'Who was that?' He said, 'Your sister.' I didn't believe it. How would she know I was alive and in France? She had seen the article and picture, of course."

Both sisters were alive. He had learned the value of words and images.

He went to Paris, and then to the United States in 1956 (he became a citizen in 1963). His first book, "Night," was published in 1958. "Never shall I forget that first night, the first night in camp, which has turned my life into one long night," he wrote. "Never shall I forget that smoke. Never shall I forget the little faces of the children, whose bodies I saw turned into wreaths of smoke beneath a silent blue sky."

He has told the story of a young boy, who thought he was leaving on a grand adventure, watching a man at the station as the train pulled away: "He got smaller and smaller, and he just stood there looking rather nostalgic, as if he was sorry to see us go, sorry that the job was done now."

The man was Adolf Eichmann. The boy was Elie Wiesel. He has accepted, as his trust, the responsibility for never letting those memories fade. His challenge is to preserve them without desecrating them. He no longer uses the word "holocaust" because, he says, it has been cheapened by repetition.

The paradox envelops even the monument he has worked to build, the U.S. Holocaust Memorial Museum. "My dilemma is I'm not sure what we are doing," he said in 1983. "I know we must bear witness. On the other hand, I see what is being done with our testimony and I despair . . . It's the inherent difficulty in it, that once you turn something so personal and it becomes public, it is threatened by compromise . . . I don't want it to become routine . . . It's too personal."

So, too, there is honor in winning the Nobel Prize, but not exaltation. "I was stunned," he said. ". . . Happy? No. Reflective. Happy is a difficult word to use, but I am very grateful and conscious of the responsibility of the symbolism involved."

He said he hopes the award will add momentum to "my causes, Russian Jews and others who wait for doors to open."

To celebrate, he said, "we'll have tea and coffee."

Wiesel will not be deterred by adulation. "Do you think anything can change me?" he said. "The war didn't change me. Nothing can change me."

In the mid/1960s he returned to Sighet. Twenty years after the war, it was still as he remembered. But instead of a population of 15,000 Jews, there were 50.

"The whole town was exactly the same—the same trees, the same streets, the same houses," he has written. "The same church bells. My own home was the same home as before. I opened the gate and it had the same squeak.

"I looked into my home. They hadn't even moved the furniture. I said, 'Time hasn't changed.' Is it my life? Maybe it's a dream and I'll wake up. Maybe some boy who is 13, 14 years old will come out and he will look exactly the way I used to and will say, 'What are you doing here, stranger? What are you giving to my dream?' "

The lesson was clear. "That people can be removed from life, and unfortunately they don't leave any trace."

Sometimes, he wonders what he would have been had there been no war, no holocaust.

"It has been haunting me," he said. "I probably would have remained in my town. My ideal was to become a Rosh Yeshiva and

to write. I would have written different things, commentaries on the Bible. And I would have been a teacher.

"Strangely enough, I am a writer and a teacher."

He is a professor at Boston University, and lives in New York with his wife Marion, who is also a survivor. They have a son and a daughter.

"Of course, there are reasons to make one happy," said the man who has described himself as having the stare of a corpse. "Joy is contagious."

Still, the memories remain vivid. "Even more so this morning," he said yesterday. "But this doesn't mean I live in a cemetery. I am alive."●

THE PRESIDENT'S COMMISSION ON AMERICANS OUTDOORS

● Mr. CHAFEE. Mr. President, in January 1985 President Reagan appointed a Commission on Americans Outdoors which was to study current outdoor recreation policies and opportunities and make recommendations on how to meet the future outdoor needs of the American public.

The Commission will likely be the focal point for the development of natural resource policy for the rest of the century. This 15-member panel not only must produce a reasoned analysis of the present, it also will have to outline an effective and feasible plan for the future.

The most important challenge facing the Commission will be to recommend a mechanism, involving either modification of the Land and Water Conservation Fund or creation of a new trust fund, which will ensure adequate and reliable, long-term funding for land preservation and outdoor recreation.

The next few months will be decisive. The Commission is due to make its recommendations by the end of the year. As this panel makes its final proposals to the President, I hope they will incorporate the ideas articulated by Robert L. Bendick, Jr., director of Rhode Island's Department of Environmental Management, in last Sunday's New York Times. Over the past year, Bob Bendick has actively sought to ensure that we have a clear and focused program for the remainder of this century which will save America's open space.

Mr. President, I ask that Bob Bendick's article in the New York Times be printed in the RECORD so that we all may understand the importance of the matters being weighed by the President's Commission on Americans Outdoors and the need to see that they chart a course for which future generations will thank us.

The article follows:

THE LAND IS OUR LAND

(By Robert L. Bendick, Jr.)

PROVIDENCE, R.I.—I was standing in a field of wildflowers on Beavertail Point at the entrance to Rhode Island's Narragansett Bay. The sun was sparkling on the water and, just offshore, terns were diving above a school of bluefish. A car with out-of-state plates pulled into the parking lot behind me. A couple got out, walked over and after only a few minutes of small talk the man said: "You know, it's beautiful here. Is any of this land for sale?" I replied, "This is a state park." But I knew they wouldn't give up, because up the road, across the bay and all along the New England coast the land is for sale and somewhere they would find a piece of a farm, beach or bluff to buy, build on and make their own.

Since the landing of the first European settlers on our coast more than 350 years ago, much of American history has been a close (often passionate) relationship with a varied, beautiful and powerful land. That relationship continues to define how we think of ourselves. Watch the soft drink, fast food, beer and car ads on television—filled with farmers, cowboys, sunsets and mountains, with fishing at the lake and driving down country roads. The advertising people have examined how Americans think more carefully than anyone else. They know we associate the outdoors with family, good times and good feelings about ourselves.

But the image of this country seen on those ads has become increasingly hard to find in the real America. Around the metropolitan areas where most of us live, and near the oceans, lakes and mountains where we go to relax, the countryside is being consumed by urban sprawl and by second homes and resort townhouses that only a few can afford.

Fueled by a growing national population, the decentralization of economic activity and increasing affluence, these development trends will continue until, in many parts of the country, there will be far too little open land for far too many people. And there is more to all this than simply losing a nice view or a place for a father and child to go fishing on Sunday afternoon. We are learning that healthy natural system process pollution and reduce its impact. As the shores of our rivers and bays are developed, wetlands filled and trees cut down, we damage the water and air quality upon which we depend.

The loss of our rural and open space is irrevocable. Once subdivided and built on, beaches, river banks, foothills and lake shores will never in our lifetimes be restored. Yet despite the finality of land development, despite the accelerating loss of open land, despite the place we hold in our hearts for the outdoors, we have no functioning national program for preserving open space.

In 1985, President Reagan appointed a Commission on Americans Outdoors, which was charged with gathering information and making recommendations on the future of outdoor America. The commission is now discussing its final proposals for presentation to the President by the end of this year. Some options seem promising:

1. A grassroots effort administered by state and local governments to determine what open land should be saved and how it can be made accessible to and usable by the public.

2. Creation of a permanent National Trust Fund that could provide up to $2 billion a year for preserving and caring for open space.

3. Establishing a system of greenway parks along mountains, rivers, lakes and ocean coasts that would provide large-scale outdoor recreation opportunities to metropolitan area residents while also protecting water quality.

4. A broadening of traditional park concepts to include farms and other privately held land as part of greenway districts.

5. Design of transportation systems to allow urban area residents to more easily use regional open land reserves.

The commission should recommend these ideas to the President and to Congress. In doing so, it can seize the last opportunity to complete the unfinished work of the 19th century conservation movement—to save the open land people will need in the centuries to come—to fish, to canoe, to walk, to be alone, to feel the spirit of the pioneers who defined our national character.●

REDUCTION IN SOVIET DIPLOMATIC MISSION

● Mr. D'AMATO. Mr. President, I am pleased to cosponsor Senate Concurrent Resolution 163, a resolution expressing the sense of the Congress that the total number of Soviet diplomatic agents and consular officers in Washington, DC, and San Francisco be reduced to equal the total number of American diplomatic agents and consular officers serving in Moscow and Leningrad.

The Soviets currently have 274 diplomats at their Embassy in Washington and 39 at their consulate in San Francisco. At the same time, there are 221 American diplomats serving at our Embassy in Moscow and 28 at our consulate in Leningrad. In addition, there are about 218 Soviet diplomats at the missions to the United Nations and 174 Soviet citizens working for the U.N. Secretariat in New York. The next largest mission to the United Nations is that of the People's Republic of China, with 125 officials. In total, there are more than 1,400 Soviet officials in the United States. Meanwhile, there are only 249 Americans in the Soviet Union.

As the recent arrest of Gennadi Zakharov points out, many of these so-called diplomats are actually involved in espionage. In fact, Judge William Webster, Director of the FBI, estimates that nearly 40 percent of the roughly 2,500 East bloc diplomats currently in the United States are spies operating under the cloak of diplomatic immunity. Many, like Zakharov, are involved in operations designed to steal Western technology to enhance Soviet and East bloc weaponry. In testimony before the Permanent Subcommittee on Investigations last year, Judge Webster noted that "the Soviet collection effort is the largest, and in terms of capabilities, the most difficult to counter."

During the early 1970's, the Soviet Union established the Military Industrial Commission, made up of representatives from the Council of Ministers, the Foreign Trade Ministry, the KGB, and the GRU, the Soviet military intelligence organization. According to a report produced by the French, the Soviets transfer 10,000

pieces of equipment and 100,000 sensitive documents from the West to the Soviet Union each year. This flow represents not only an economic drain, but also, and more importantly, a direct threat to our national security.

While adoption of Senate Concurrent Resolution 163 will not solve the problem, it is an important first step. The way to avoid a repeat of the recent Zakharov-Daniloff imbroglio is to prevent Soviet spies from entering the United States in the first place. The inflated Soviet diplomatic presence must be reduced now. I urge my colleagues to support adoption of this resolution to compliment existing language, passed and signed into law last year as part of the State Department Authorization Act, calling for a reduction in the size of the Soviet missions to the United Nations.●

THE DISTRESS SALE POLICY

● Mr. WEICKER. Mr. President, in 1978 the Federal Communications Commission adopted the distress sale policy. I believe that this policy is a wise and beneficial one and I would oppose any attempt to weaken or abandon it.

The Federal Communications Commission awards television and radio broadcast licenses. Television licenses are granted for 5 years and radio licenses for 7 years. If a licensee allegedly acts in such a way as to disqualify him as broadcaster, the FCC may hold a hearing to revoke the license or deny renewal. If the license in revoked or renewal is denied, the broadcaster receives no compensation.

The distress sale policy allows a broadcaster that is under question for his actions to sell his license to a minority buyer under two conditions. First, the sales price must be 75 percent or less of fair market value. Second, the sale must occur prior to the commencement of a hearing.

Mr. President, the distress sale policy has many benefits. No. 1, it promotes the ownership of broadcast licenses by minorities, who are grossly underrepresented—1.8 percent—in the industry at present. So far, the policy has resulted in the sale of 25 stations to minority businesses. No. 2, the policy benefits the FCC. The Commission avoids costly and protracted procedures. No. 3, the public benefits by a relatively smooth and quick transition from one licensee to another. The alternative of a comparative hearing could result in a long period of time without the station being operational. No. 4, the selling licensee benefits by receiving some compensation for the license. He is punished, however, since he receives at most 75 percent of fair market value.

In the State of Connecticut, such a distress sale occurred in 1985. The previous owner of the station engaged in behavior that clearly violated the conditions of its license. The people of the Hartford area suffered, because channel 18 was not being used to its capacity. Astroline Communications Co., an Hispanic owned and operated business, offered to buy Channel 18. In December 1985, the FCC gave the go ahead for this sale. Since buying the station, Astroline has updated the facilities and created new jobs. In addition Connecticut television viewers have a new option in programming that is attracting a growing audience. The people of Connecticut have certainly benefited from this distress sale.

The distress sale policy works. It benefits minorities. It allows qualified broadcasters the opportunity to break into a tough, highly competitive industry.

Mr. President, I believe the distress sale policy should remain unchanged and I know the people of the State of Connecticut who have enjoyed Channel 18 agree.●

MILITARY RULES OF ENGAGEMENT

● Mr. GOLDWATER. Mr. President, the American Bar Association Standing Committee on Law and National Security, and the Center for Law and National Security of the University of Virginia, are cosponsoring a special conference on October 17 and 18 on the subject: "The Vietnam Debate: A Fresh Look at the Arguments."

In particular, I am pleased to note that one of the major topics to be reviewed at the conference is the rules of engagement, the detailed restrictions imposed on American fighting forces in North Vietnam, Laos, Cambodia, and South Vietnam. I have long been convinced that these strict rules, in part motivated by humanitarian reasons, but primarily reflective of civilian political decisions, denied our military forces the victory that would otherwise have followed in Southeast Asia.

It is only last year, almost two decades after the event, that I was finally able to persuade the Department of Defense to downgrade the rules and certain related military studies. These materials were placed in the RECORD in March 1985 so that they might be readily available for the press and the public as a source of documentation and information of how the Armed Forces were handcuffed in the Vietnam War.

Today I wish to offer for the RECORD a valuable analysis and summary of the rules of engagement prepared by Mr. Terry Emerson of my staff, who has been invited to give one of the presentations at the national conference which will be held in Charlottesville tomorrow. To my knowledge, his is the first address to draw on the new information which has become available, and I think it contributes to public discussion and knowledge of the subject. I ask that his paper appear in the RECORD.

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MAKING WAR WITHOUT WILL: VIETNAM RULES OF ENGAGEMENT

(By J. Terry Emerson, Counsel to U.S. Senator Barry Goldwater)

INTRODUCTION

Neither a dovish Congress, nor an ineffective military, lost the war in Vietnam. Rules of Engagement, imposed by civilian officials, did.

Although Congress and Watergate share blame for thwarting Presidential ability to enforce the peace agreement with Hanoi after January 1973, civilian managers in the Executive Branch had long before prevented a military victory by dictating Rules of Engagement which were overly specific, inconsistent and unresponsive to the best professional military judgment.[1]

This is the conclusion of Senator Barry Goldwater and of other critics based on newly declassified documents revealing the incredibly complex and comprehensive set of self-imposed restrictions that governed the conduct of the war.

THREE CATEGORIES OF RULES

The controls fell into three categories, with those formally termed Rules of Engagement being promulgated by the Joint Chiefs of Staff pursuant to political policies imposed by the President and Secretary of Defense.[2] These Rules were designed to keep the war limited and avoid international incidents, in particular the possibility of direct confrontation with Communist China or the Soviet Union. The Rules dealt with operations in border areas and countries, with the Demilitarized Zone and with air operations conducted over North Vietnam. An unusual situation existed in Laos where, by Presidential directive, theater responsibility for all U.S. military operations was vested in the American Embassy, Vietnam, which validated all targets and areas of operation.[3]

A second set of restrictions, known as Operating Rules, were the responsibility of COMUSMACV (Commander, United States Military Assistance Command, Vietnam), who delegated most of the authority to the Commander, Seventh Air Force. These limitations governed the conduct of the ground war, tactical air operations and Naval gun fire missions.[4]

A third set of rules were designated Operating Restrictions. They were contained in the CINCPAC (Commander-in-Chief, Pacific Command) Basic Operations Orders and included prohibtions against striking locks, dams, dikes, hydro-electric plants and fishing boats.

POLICIES REPRESENTED BY RULES

Many of the Rules were designed to safeguard the lives and property of non-combatants. For example, the requirement to vali-

[1] In May 1984, before an earlier ABA Conference on Vietnam, I documented the numerous statutes in which Congress had collaborated with the Executive in making national policy for Indochina, beginning with 1949 when Congress literally shoved funds on President Truman to support anti-communist forces in the region.

[2] See discussion of three types of ROE in foreward to USAF Project CHECO 1966-69, reprinted in 131 Cong. Rec. (daily ed. Mar. 14, 1985), S. 2982.

[3] Project CHECO 1966-69, id., at S 2985.

[4] In an attempt to make target validation and clearance procedures for all Allied Forces consistent, American advisors were directed to insure that their Vietnamese counterparts adhered to all Rules of Engagement. American fire missions in support of South Vietnamese operations were restricted to those falling within the guidelines, and the Rules

date and approve potential targets for air strikes in South Vietnam permeated the entire system for command and control of United States air power used in a ground support role. Fire missions against villages and hamlets were required to be preceded by warnings made by leafelts or loud speakers, controlled by an airborne or ground observer, and executed only after approval by the Province Chief directly, even when hostile free fire was received from the area.[5]

In addition to humanitarian interests and the goal of keeping or winning the loyalty of the population, the Rules were cognizant of the law of war. Directives were published "to reaffirm the prohibition against commission of war crimes and related acts" and to establish a system for reporting suspected serious crimes or incidents, whether inflicted upon U.S. military or civilian personnal "or by U.S. military personnel upon hostile miliary or civilian personnel." [6]

It is not my purpose to focus on the law of war or command criminal responsibility, although it should be pointed out that in 1955 the United States ratified four Geneva Conventions relating to international conflicts and in 1977 signed two Protocols governing the conduct of war, which remain unratified.[7] Rather, I will look at the practical consequences of implementing a rigid code of self-imposed, and some would say, self-defeating restrictions, such as those which bound the U.S. military force in Vietnam.

DECLASSIFICATION OF RULES

The Rules evolved into an extensive, detailed set of restrictions, not easily committed to memory or to being implemented under moments of extreme stress. Even so, Seventh Air Force required all strike air crews and Forward Air Controllers to demonstrate a thorough knowledge of the Rules before assuming operational duties and to complete a written examination.[8]

For years the details of these Rules were classified "top secret." It is only in 1985, after the repeated and persistent efforts of Senator Goldwater and with the personal involvement of Secretary Weinberger, that the actual text of the Rules and certain related official studies were declassified. Of particular interest is Project CHECO (Contemporary Historical Examination of Current Operations), a scholarly historical documentation and examination of United States Air Force combat operations in Southeast Asia covering the period from 1960 to September 1972. The activity was managed by Headquarters, Pacific Air Forces, and provides an ongoing report on USAF policies and experiences prepared on a contemporary basis during the Vietnam War.

The actual Rules for operations in North Vietnam, Laos and Cambodia were issued in the form of daily message traffic and were not retained. They are described, however, in the three volume CHECO report. The detailed Rules for South Vietnam were issued as official directives and were preserved. These materials were placed in the CONGRESSIONAL RECORD by Senator Goldwater as a series of publications on March 6, 14, 18 and 26, 1985.[9]

DETAILED RESTRICTIONS

These documents reveal just how comprehensive the restrictions were that bound our forces in Vietnam. For example, one rule told American pilots they were not permitted to attack a North Vietnam Mig sitting on the runway. The only time it could be attacked was after it was in flight, was clearly identified and showed hostile intentions. For most of the war, our pilots were not authorized to attack North Vietnam military air bases even when engaged in immediate hot pursuit of hostile enemy aircraft. As late as May 1971, no North Vietnam airfield on which third nation aircraft were present could be attacked. A "hostile intention" rule applied to truck convoys driving on highways in Laos and North Vietnam. In some areas, enemy trucks could escape attack under the Rules simply by driving off the road. Military truck parks located more than 200 meters from a road were not destroyed under this Rule.

Another Rule provided that SAM missile sites and supporting radar systems could not be struck while they were under construction, but only after they became operational and actually fired at Allied aircraft. Moreover, targets were to be attacked only when weather conditions permitted their positive identification. Until the end of 1971, aircrews in South Vietnam had to refer to at least four basic sources of operation orders to find the applicable Rules. In Laos, photographic reconnaissance was prohibited on weather flights. According to Seventh Air Force records, the average time consumed between identification of a target area in Laos and the clearance to strike was 15.5 days. In order to get validation for restrike, another five or eight days were required. Since success of the missions required timely strikes in response to the most recent intelligence, the effectiveness of the bombing was lost.[10]

When the Rules were relaxed, the changes were gradual and not strong enough to serve strategic ends. Many times, limited extensions of target areas were granted, only to be withdrawn soon afterwards. Numerous bombing halts interrupted the effectiveness of earlier air operations.

PREPAREDNESS INVESTIGATING SUBCOMMITTEE REPORT

In 1967, the Preparedness Investigating Subcommittee of the Senate Armed Services Committee conducted extensive hearings relative to the conduct of the air war against North Vietnam. After gathering the facts, the Subcommittee issued a report on August 31 which was strongly critical of the Rules of Engagement.

The Subcommittee concluded: "That the air campaign has not achieved its objectives to a greater extent cannot be attributed to inability or impotence of air power. It attests, rather, to the fragmentation of our air might by overly restrictive controls, limitations, and the doctrine of "gradualism" placed on our aviation forces which prevented them from waging the air campaign in the manner and according to the timetable which was best calculated to achieve maximum results." [11]

The same report observed that Secretary of Defense McNamara and the Johnson Administration had discounted the unanimous professional judgment of our military commanders and the Joint Chiefs and substituted civilian judgment in the details of target selection and the timing of strikes. The Subcommittee charged these civilian managers with having "shackled the true potential of air power and permitted the buildup of what has become the world's most formidable antiaircraft defenses." [12] An important source of disagreement between the Subcommittee and Secretary McNamara arose out of its discovery that the Rules of Engagement were directly attributable for the fact that *"during the entire year of 1966 less than 1 percent of the total sorties flown against North Vietnam were against fixed targets on the JCS target list."* [13] Here the Subcommittee was referring to the fact that none of the targets could be hit without specific approval of the Secretary of Defense or other high civilian authority.

IMPACT ON MILITARY OPERATIONS

In military eyes, the concentration of the air war to areas well south of the vital Hanoi-Haiphong regions left the important targets untouched and created a large haven into which the enemy could with impunity import war materials, construct sanctuaries for his aircraft and install anti-aircraft defenses. By failing to close the major ports, prohibiting aerial mining of coastal water lines of communication and forbidding a bombing attack cutting off rail and road lines to China, air operations were piecemealed.[14] The result was to allow North Vietnam to adjust to the air campaign by importing war materials from Communist countries through routes immune from attack and then disbursing and storing this material in sanctuaries. From these safe areas North Vietnam infiltrated the material to South Vietnam and Laos. Thus, the Rules permitted the enemy to protect its forces and material, provided it with secure military training and staging areas and placed outside the reach of American air power precisely those areas which military judgment considered most essential to strike.[15]

One of the tragic consequences of the Rules of Engagement was the impact on American aircraft and pilot losses by giving North Vietnam time to build up its sophisticated air defense system and to disburse its stocks of war supplies. The point on which

[5] Hq., USMACV, Directive 525-13(C); 7AF Regulation 55-49.

[6] Hq., USMACV, Directive 20-4, "Inspections and Investigations; War Crimes and Similar Prohibitive Acts."

[7] Geneva Conventions of Aug. 12, 1949, 6 U.S.T. 3114, 3217, 3316, 3516, 1977 Geneva Protocols I and II, 72 Am.J. Int'l. L. 457, 502.

[8] Project CHECO 1969-72, reprinted in 131 Cong. Rec. (daily ed., Mar. 18, 1985) S 3012.

[9] 131 Cong. Rec. (daily ed.) S 2632-2641 (Mar. 6, 1985, Project CHECO 1960-65), S 2982-2990 (Mar. 14, 1985, Project CHECO 1966-69), S 3011-3018 (Mar. 18, 1985, Project CHECO 1969-72), S 3511-3520 (Mar. 26, 1985, ROE, Republic of Vietnam). Also see substantial portions of ROE declassified in 1975 at request of Senator Goldwater, 121 Cong. Rec. 17551-17558. Although the actual Rules have been downgraded, many pertinent studies on deposit in the military services' schools are still classified.

[10] All restrictions highlighted in the text at pages 4 and 5 are discussed and documented in the three Project CHECO reports or text of ROE cited in note 9, id.

[11] Preparedness Investigating Subcomm. of the U.S. Senate Comm. on Armed Services, Report on Air War Against North Vietnam, p. 2, 90th Cong., 1st Sess. (1967).

[12] Id., at 9.

[13] Id., at 4. (Emphasis in original.)

[14] The ineffectiveness of piecemeal bombing has been graphically revealed by Albert Speer, director of Nazi Germany's wartime economy, who insists that the allies could have brought armaments production "completely to a standstill" in 1943 by making concerted attacks on the ball-bearing industry. Instead, Speer writes, the attacks on that industry ceased abruptly and "the allies threw away success when it was already in their hand." A. Speer, "Inside The Third Reich," at 285-286, The MacMillan Co., N.Y. (1970).

[15] Project CHECO 1966-69, supra note 9, at S 2983-2985.

military experts disagreed most vehemently with civilian managers was the certainty among professional military men that these self-imposed restrictions greatly increased U.S. casualties.[16]

JOINT CHIEFS ARGUE FOR STRONGER ACTION

Some writers have editorialized that military leaders did not convey to civilian officials the depth of their concern with the Rules. However, both the Pentagon Papers and the newly declassified documents reveal that the Joint Chiefs repeatedly argued against the artificial limitations impeding the military mission in Indochina. A handful of civilian advisors, such as Walt Rostow, agreed with military professionals that systematic and continued bombing of war making resources in North Vietnam would have decisive results, but Secretaries of Defense McNamara and Clifford refused to relax the Rules.

The Joint Chiefs and commanders in the field pressed time after time for changes. For example, a message from CINCPACAF on March 28, 1968, challenged the restrictions in the North as being inconsistent with the build up and reenforcement of U.S. forces in South Vietnam.[17] Also in early 1968, this view was pressed on Secretary of Defense Clark Clifford, who had convened a senior group of advisors on the war from the State and Defense Departments, CIA and White House. General Wheeler submitted a paper to this group on behalf of the Joint Chiefs. The cover memo for his paper noted that "General Wheeler would favor action to close the Port of Haiphong through mining or otherwise." But he did not present a specific paper on that item because President Johnson had already indicated that closing the ports was not an action he was going to consider, even as part of a new, comprehensive review.[18]

JCS BOMBING PAPER

What remained in the Joint Chief's paper was clear enough. It recommended:

"An integrated interdiction campaign should be undertaken against the road, rail and waterway lines of communication with the objective of isolating the logistics base of Hanoi and Haiphong from each other and the rest of North Vietnam." [19]

To achieve this objective, the Chiefs advised it was necessary to reduce the restricted and prohibited areas around Hanoi and Haiphong and to delete the Speical Northeast Coastal Armed Reconnaissance area which limited attacks on North Vietnamese craft to those within three nautical miles of the coast.

The Joint Chiefs explained how North Vietnam had taken advantage of the sanctuaries given them in the cities. The JCS paper stated:

"There have been repeated and reliable intelligence reports that indicate civilians not engaged in essential war supporting activities have been evacuated from the cities of Hanoi and Haiphong. Photographic intelligence, particularly of Haiphong, clearly shows that materials of war are stockpiled in all open storage areas and along the streets throughout almost one-half of the city. Rather than an area for urban living, the city has become an armed camp and a large logistics storage base." [20]

CHRISTMAS BOMBING AND PEACE AGREEMENT

But the Joint Chiefs' paper fell on deaf ears. On March 31, 1968, President Johnson announced he would not seek reelection and, at the same time, he restricted air strikes on North Vietnam to a line south of the 19th parallel. On December 1, he ordered the total halt of bombing and of B-52 overflights of North Vietnam, even during the conduct of authorized strikes within the Demilitarized Zone. From then until May of 1972, not even preemptive strikes against the maturing North Vietnamese Air Defense System south of the 20th parallel were authorized. This permitted the system to reach a high level of sophistication in which the North Vietnamese linked GCI (Ground Controlled Intercept) radars with the lock-on radar capability of SAM sites, allowing the enemy to aim SAMs undetected by our aircrews until the instant of firing.[21]

During the last week of March 1972, General Lavelle, Commander of the Seventh Air Force, was recalled for allegedly violating these restrictions. The same week North Vietnam launched a major offensive against South Vietnam and the Rules he was charged with offending were soon obsolete. Air operating authorities were steadily broadened through April until May 9, when President Nixon announced the mining of Haiphong Harbor and permitted interdiction bombing throughout North Vietnam below the Communist China buffer zone.[22] These attacks culminated with twelve consecutive days of B-52 strikes starting on December 18, 1972, and the rapid settlement of peace talks with Hanoi.[23]

CONCLUSION

Were the political considerations which initiated the Rules of Engagement well founded? Or might the architects of these restrictions be fairly criticized for lacking sufficient confidence and will?

In "Years of Upheaval", Henry Kissinger writes:

"The Kennedy and Johnson administrations trapped themselves between their convictions and their inhibitions, making a commitment large enough to hazard our global position but then executing it with so much hesitation as to defeat their purpose. They engaged us in Indochina for the objective of defeating a global conspiracy and then failed to press a military solution for fear of sparking a global conflict—a fear that was probably as exaggerated as the original assessment."[24]

Without derogating the principle of civilian control of the military, it should be recognized that once diplomacy has failed and civilian policy makers have decided on war, the result of placing military strategy and tactical operations under the day-to-day direction of unskilled amateurs may be a greater sacrifice in blood and the denial of a military victory. The lesson of Vietnam is that once Americans forces are committed, there is no logical goal except to prevail.●

[16] These concerns echoed the admonition given by President Eisenhower, who a decade earlier had instructed a National Security Council meeting on United States policy toward the Far East, that "he wanted no more sanctuaries as had existed for the Communists in Manchuria during the Korean War." NSC Meeting of Dec. 1, 1954, Foreign Relations of the United States 1952-54, vol. XII, part 1, at 1006, U.S. Government Printing Office, Washington, DC (1984).

[17] Project CHECO 1966-69, supra note 9, at S2984-2985.

[18] U.S. House Comm. on Armed Services, "United States-Vietnam Relations 1945-1967" (Pentagon Papers), Book 6 of 12, "The Air War in North Vietnam," vol. II, p. 174, 92nd Cong., 1st sess., U.S. Government Printing Office (1971).

[19] Id., at 174.

[20] Id., at 176. Also see the Joint Chief's major memorandum for the Secretary of Defense calling for increased pressures on North Vietnam, dated Oct. 17, 1967, id., at 108-112, and the JCS air interdiction plan forwarded to Secretary McNamara on Apr. 14, 1966, id., vol. I, at 78-79.

[21] Project CHECO 1969-72, supra note 9, at S3015-3016.

[22] Id. at S3017.

[23] Hanoi rushed back to the negotiating table even with the certainty of a congressional cut off of aid soon after the new legislative session began Jan. 3, 1973. The bombing ended on Dec. 30, 1972, and the Peace Agreement was initialled on Jan. 23 1973. H. Kissinger, "White House Years", at 1446-1461, Little, Brown & Co., Boston (1979).

[24] H. Kissinger," Years of Upheaval," at 82, Little, Brown & Co.,

JOB TRAINING FOR ALL AMERICA'S YOUTH: THE ESCALATING NEED

● Mr. GORE. Mr. President, this week, October 12-18, has been designated National Job Skills Week. At a recent press conference on National Job Skills Week, Larry Brown, who serves as both president of the 70001 Training and Development Institute and chairman of the National Youth Employment Coalition made remarks about youth unemployment and school dropout rates in conjunction with the issues of job training and job skills. I want to share Mr. Brown's statement with my colleagues, and I ask that it be printed in the RECORD.

The statement follows:

REMARKS BY LARRY BROWN, PRESIDENT, 70001 TRAINING AND EMPLOYMENT INSTITUTE; CHAIRMAN, NATIONAL YOUTH EMPLOYMENT COALITION

For years, youth unemployment and excessive school dropout rates have been considered a serious social problem with economic overtones. But if the demographers are to be believed, during the next ten years these problems will become America's principal economic shortcoming as well as a tinderbox for explosive social upheaval.

The size of the labor force will not meet the demand and the skills, both basic and occupational, of new workers will fall woefully short of the fundamentals required in the workplace.

The implications on productivity are evident. The cost of goods and services will be driven up by the added expense of employer supplied education, day care, and retraining, while output is slowed by a workforce unable to efficiently manipulate new technology. Skilled workers, high in demand, will change employers regularly.

Wrenching social pressure will create unfortunate ironies. Youth unemployment will stay high, although many fewer youth enter the labor market. General unemployment will continue while jobs remain unfilled because skills do not match demand. U.S. workers will remain idle while additional jobs are sent off-shore or skilled immigrants are invited in as guest workers and dislocation continues in some areas and industries while others experience shortages. Single mothers will decline opportunities to work because of the unavailability of affordable daycare, making unemployment and welfare the only alternative.

Small business will face a novel threat from large companies. It won't be competition for financial capital, but for human re-

sources. The corporations that will be able to afford company schools, in-house daycare, and similar incentives, will be the ones able to attract skilled workers in scarce supply.

The statistics which describe the problem and the population are bleak, but we deceive ouselves if we conclude that somehow its the people we are discussing that are flawed—that they are unable or unwilling to be a part of the American workplace. Quite the contrary, 70001 Training and Employment Institute has had the privilege of serving over 60,000 high school dropouts and we come away from that experience with optimism.

These young people have dreams, hope, resilience, and determination. They are also reasonable and practical. They do not expect to have a job or a paycheck handed to them, but neither are they willing to pursue help that is inaccessible or unobtainable. They will walk out of schools that are insensitive or unsafe. They will have babies if that's the only way to care or be cared about and they will remain unskilled if the hurdles into a job training program are too severe or too impractical.

National Job Skills Week is part of both a simple and complex story. The simple one is that jobs now and tomorrow require people who are trained and always prepared for retraining. The complex story involves preschool education, dropout prevention and recovery, adult literacy, teen parenting programs, subsidized child care, welfare reform, and rational immigration policy. They are all part of the narrative that will characterize America's workforce, for better or worse, in the year 2000.●

GREEK INDEPENDENCE DAY

● Mr. SPECTER. On October 8, 1986, the Senate passed Senate Joint Resolution 308, as amended by the House, to commemorate March 15, 1987, as Greek Independence Day in the United States. I was pleased to sponsor the original version which passed the Senate earlier this year, commemorating March 25, 1986, as the 165th anniversary; and to work with Senator LAUTENBERG to see that the amended resolution was enacted.

Over 165 years ago the Greeks began the revolution that would free them from the Ottoman Empire and return Greece to its democratic heritage. It was, of course, the ancient Greeks who developed the concept of democracy in which the supreme power to govern was vested in the people. Our Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy. How fitting, then, that we should recognize the anniversary of the beginning of their effort to return to that democratic tradition.

This democratic form of government is only the most obvious of the many benefits we gained from the Greek people. The ancient Greeks contributed a great deal to the modern world and particularly to the United States of America, including art and philosophy, science, and law. Today, Greek Americans continue to enrich our culture and to make valuable contributions to American society, business, and government.

By this resolution, we are saluting the accomplishments of Greek-Americans in every field. And we are confident that United States-Greek relations will continue to improve strongly in the years ahead.●

SUPERFUND

● Mr. MITCHELL. Mr. President, 2 weeks ago, the Senate passed the Superfund conference report by a vote of 88 to 8. Last week, the House also passed the reauthorization package by a vote of 386 to 27. These votes demonstrate beyond any doubt that this legislation has the strong support of the entire Congress.

We have labored long and hard to produce an agreement that would garner this kind of overwhelming support. The issues are complex, but the need is critical. Congress has already consumed much time in completing this reauthorization process, but we have finally accomplished our task in a manner that is acceptable to about everyone.

Regrettably, however, we have been told that the President is seriously considering a pocket veto of this legislation.

It is clearly the prerogative of the President to veto legislation he opposes. It is also the prerogative of the Congress to override the veto. A pocket veto, however, thwarts the will of Congress. This is particularly true in the case of Superfund, where Congress has made its will known so clearly.

Rather than permit the President to pocket veto this essential legislation, I urge the majority leader to not adjourn sine die until Congress has a chance to vote on an override of a Presidential veto, if there is one. I understand the House is interested in staying in session, and 81 Senators signed a letter in support of no adjournment until the President signs or vetoes the bill.

The effect of a pocket veto of Superfund would be devastating. Everyone concerned about cleaning up toxic waste sites agrees that there are thousands of sites, far more than we first estimated. This massive problems will continue unabated if the President refuses to sign the legislation.

Superfund protects public health. If the President vetoes Superfund, the program will be shut down. Without Superfund, children near Superfund sites will continue to drink contaminated water and play in contaminated soil and will become ill from the exposure to the hazardous substances.

Many of us have worked to prevent such an outcome. We believe that there should be a program in place to protect people from exposure to hazardous substances. It will be a sad day if the President vetoes Congress' decision to provide for such a program. The public health would be at risk if the President vetos this legislation without giving Congress a chance to override the veto.

I urge the President to consider the pleas of the public and of the members of Congress and sign the Superfund legislation.

I also urge the majority leader to keep the Senate in session so we will have a chance to respond to a Presidential veto, should one occur.●

CEREMONIAL DEDICATION FOR THE NEW NAACP HEADQUARTERS

● Mr. SPECTER. Mr. President, on Saturday, October 18, 1986, for the first time in the history of its 77 years of existence, the National Association for the Advancement of Colored People [NAACP] shall open the doors of its new permanent national headquarters and conference center in Baltimore, MD.

This important landmark will provide additional facilities for a library, research, and archives center. According to Dr. Benjamin L. Hooks, executive director of this prominent civil rights organization, "buying our own building is symbolic of its efforts to promote economic equality and would serve as 'the Camp David of Black America.'"

FROM THE NIAGARA MOVEMENT TO NOW

The history of the NAACP is one that is well known. As noted by Dr. John Hope Franklin, a renowned black historian in "From Slavery to Freedom: A History of Negro Americans,"

> The sordid picture of Negro life in America in the 20th century had moved a group of young blacks as early as 1905 to reorganize for determined and aggressive action in order to secure full citizenship. They reasoned that the day of temporizing was over; a war was on and they decided to fight to the finish. This group, under the leadership of W. E. B. Dubois met at Niagara Falls, Canada in June 1905 and drew up a platform for aggressive action. Among other things, they demanded freedom of speech and criticism, manhood, suffrage, the abolition of all distinctions based on race, the recognition of the basic principles of human brotherhood, and respect for the working man.

Despite an open attack made on them for their radicalism, this group incorporated themselves as the Niagara Movement and met at Harpers Ferry in the following year.

In 1909, on the birthday of President Abraham Lincoln and in the spirit of abolition, a conference was held to address the issue of the "Negro question," which was extremely prevalent due to the high intensity of race wars in the North. It was a distinguished gathering of educators, professors, publicists, bishops, judges, and social workers.

After many long hours of discussion and debate, plans were made to establish a permanent organization, which came to be known as the National As-

sociation for the Advancement of Colored People.

The organization pledged itself to work for the abolition of all forced segregation, equal education for black and white children, the complete enfranchisement of blacks, and the enforcement of the 14th and 15th amendments.

In the first year of its existence the NAACP launched a program to widen the industrial opportunities for blacks, to seek greater police protection for blacks in the South and to carry on a crusade against lynching and lawlessness. Important instrumentalities in carrying out its program were the publication The Crisis and the Legal Redress Committee. It was the primary task of DuBois to get the magazine going.

In 1910 the NAACP launched its first successful legal effort to have a Baltimore statute declared unconstitutional, legalizing residential segregation. During the same year the organization won the release of two young black men held in New Jersey on trumped up murder charges.

In 1917 riots broke out in East St. Louis, IL, in Waco, TX and Memphis, TN. In response, black writer James Weldon Johnson, NAACP field secretary, organized an antilynching parade in New York. The huge demonstration attracted 15,000 black marchers who paraded down Fifth Avenue. It was the first of many such protests.

The organization reached new heights in the 1950's and early 1960's. In 1954, the NAACP took part in the historic Supreme Court cases, *Brown* versus *Board of Education of Topeka, Kansas,* which marked the end of legal segregation in education. During the following decade the NAACP reached its peak. Its membership soared from less than a quarter of a million to more than 500,000.

PUSHING A PROGRAM OF BLACK SELF-HELP

Today, under the leadership of Dr. Hooks, the NAACP has directed a significant level of emphasis on reducing the economic gap between blacks and whites. They are calling on blacks to recognize the potential of their consumer dollar as economic clout and to regenerate this capital in the black community to develop economic self-sufficiency.

Building on the economic accomplishments over the years the NAACP is currently engaged in "fair share" hiring and contracting accords with 32 firms, and has actively participated in boycotts to protest U.S. corporation involvement in South Africa.

In the political arena, the NAACP leadership has inspired a new emphasis on organizing the black community, particularly on voter registration and education, and the development of voting blocs during local and congressional elections.

Despite critics' charges that the NAACP has outlived its usefulness, it is my strong belief that we can never abandon the banner for human and civil rights for blacks and other minorities in America.

The NAACP has done invaluable work. It has put forth consistent and unwavering efforts in litigating cases over the years. It is the NAACP which has been at the forefront of recording the racial implications of one legal case after another. Its role in the history of the black struggle is unmistaken and indispensable.

Mr. President, I urge my colleagues to join me in commemorating this joyous historical occasion and to encourage the work for its continued success.●

SALUTE THE BOYS OF VIETNAM

● Mr. SASSER. Mr. President, I would like to bring to the attention of my colleagues in the Senate a song written by a man in Florida and dedicated to the veterans of the Vietnam conflict.

Entitled "Salute the Boys of Vietnam," the song is currently being distributed by the Fischer & Lucas Co. of Nashville, TN.

I had the pleasure of meeting Mr. Fischer recently and receiving a copy of the song and a note from J.C. Weaver, its author.

This song was written for the boys of Vietnam because of the strong feeling I have in my heart . . . . for every time I see a boy with an arm missing, a leg missing, or even blind, he tells me he was in the Vietnam war—I know they didn't choose to go there, but they did to represent America. May God bless them!

Mr. President, I would like to share the lyrics of this song with the Senate, and I ask that the lyrics be printed in the RECORD.

The lyrics follow:

SALUTE THE BOYS OF VIETNAM

Leaving home with papers in hand
To fight a war that no one understands
Trying to be a man in this strange land
Crawling through the jungles of Vietnam

We salute the boys of Vietnam
We salute the ones that gave it all
We salute the boys of Vietnam
We salute the ones that had to fall

Shiny medals and ribbons of a war
Memories of a battle that is no more
Fighting boys of America who stood tall
Remember those whose names are on the wall

We salute the boys of Vietnam
We salute the ones that gave it all
We salute the boys of Vietnam
We salute the ones that had to fall

We salute the boys of Vietnam
We salute the ones that gave it all
We salute the boys of Vietnam
We salute the ones that had to fall

HONORING MS. CLAUDIA DEWANE, DIRECTOR OF THE VIETNAM VETERANS OUTREACH CENTER IN HARRISBURG

● Mr. SPECTER. Mr. President, 11 years after the United States conflict with Vietnam has ended, our Nation still struggles to understand one of the most turbulent eras in American history. It is therefore with great pride that I recognize Ms. Claudia Dewane and her efforts on behalf of Vietnam veterans in central Pennsylvania.

As director of the Vietnam Veterans Outreach Center in Harrisburg, PA. Ms. Dewane is contributing to the healing process that our Nation is now experiencing following the Vietnam conflict. Addressing what she views as an unresolved sadness concerning Vietnam, Ms. Dewane works with veterans, especially female veterans, whose service has been largely overlooked. The outreach center attempts to work out the feelings of rage, helplessness, fear, guilt, and depression that many veterans have faced after the end of the war. These emotions, symptoms of what is termed posttraumatic stress disorder, can get in the way of having a normal, happy and whole life for many veterans.

Through counseling and the formation of support groups, Ms. Dewane has helped many women who served during the Vietnam war work through their fears and sadness.

Thanks to Ms. Dewane, many veterans are receiving the assistance necessary to make their lives whole again.●

ARMS CONTROL PROGRESS

● Mr. LUGAR. Mr. President, I rise to salute President Reagan for the very real progress that he was able to achieve in arms control at the Reykjavik summit. We Americans often like to pick winners and losers quickly, but in this case, we would do better to take a longer view. We and the Soviets have been engaged in a gradual arms negotiations process over a number of years. Reykjavik represents one more important milestone on the road to meaningful arms reduction.

In one sense, both sides emerged as "winners." Arms control was discussed in greater detail and at a higher level than ever before. Important new ground was broken, offers and apparent agreement to very deep arms reductions were progressed to where a concluding agreement seems inevitable and the two sides narrowed their differences on several key issues. It is my hope that the progress made in Reykjavik can now be built upon at the bargaining table in Geneva.

The President was, in my judgment, absolutely right in refusing to kill SDI, as the Soviets demanded. The Soviets for over 20 years have been in-

volved in their own strategic defense program. Fully half of Soviet expenditures in strategic arms have been spent on strategic defense. Although some people question whether SDI will work, the Soviets' strenuous objections to it indicate they believe it will, and so do I.

The President did offer to suspend deployment of SDI for a 10-year period, during which both sides would reduce, and then eliminate, their strategic missile forces. At that point, we would be willing to share SDI with the Soviets so that both would be protected from any third country that chooses to go nuclear. I am hopeful that the Soviets will reconsider this offer. If both sides eliminate their strategic missiles, neither would have anything to fear from SDI deployment.

In any event, I am optimistic about the arms control process. Reykjavik may yet be viewed as a decisive turning point. We would all do well, therefore, from making quick judgments and to resist the temptation to pick winners and losers too hastily.●

EXAMPLE OF A POSITIVE TRANSITION RULE

● Mr. KASTEN. Mr. President, there has been considerable discussion about the role of transition rules as part of the tax package. I would like to give one example of where a transition rule is the only equitable action and is entirely appropriate.

The city of Kenosha, several years ago, entered into a contract with the Corps of Engineers regarding the operation of a confined dredge facility. That contract specified the Corps of Engineers would turn over a newly created island to the city for its use.

Unfortunately, the corps did not fulfill its end of the deal. The city was unable to proceed with a planned redevelopment project that was contingent on the corps completing its work. This year, with the adoption of major tax reform, many of the incentives for that project would be lost. The transition rule adopted for the city of Kenosha simply gave them the same incentives that were lost because the Government failed to live up to a contract.

I ask that a letter from the city describing how this rule will work be printed at this point in the RECORD.

The letter follows:

CITY OF KENOSHA,
Kenosha, WI, October 7, 1986.

Hon. LES ASPIN,
House of Representatives, Cannon Building, Washington, DC.
Hon. WILLIAM PROXMIRE,
U.S Senate, Dirksen Building, Washington, DC.
Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Re: Kenosha Harbor, in Kenosha, Wisconsin (Subparagraphs 204 (a)(32)(M) and 1317(6)(W) of H.S. 3838 as Reported By the Conference Committee and Passed By the United States House of Representatives and Senate).

DEAR GENTLEMEN: On behalf of the City of Kenosha, Wisconsin, its taxpayers and residents, I wish to personally thank all of you for your tireless efforts in obtaining Transition Rules in H.S. 3838 (Tax Reform Act of 1986) for our downtown redevelopment project which is identified in Subparagraphs 204(a)(32)(M) of such 1986 Act as "Kenosha Harbor, in Kenosha, Wisconsin" and some features of which are set out in Subparagraph 1317 (6)(W) of such 1986 Act.

I ask that you convey our deep appreciation to all of the members of the 99th Congress who voted for H.S. 3838 and our project's Transition Rules.

We here in Kenosha have been working for a long time on our multistage downtown redevelopment project, the first portion of which involves the creation of a lakefront park, recreational area and marina on the site of the Army Corps of Engineers confined spoils disposal facility and adjacent lands. The Kenosha project also includes redevelopment of adjacent areas, the corridor between the Kenosha lakefront and central business district, as well as the Kenosha downtown itself. Our redevelopment project will include new and rehabilitated residential, commercial, office and mixed-use facilities developed and redeveloped during the years to come by Link Programs, Inc. (presently the developer of record for the Kenosha project's first stage) and other developer(s).

Subparagraph 1317(6)(W) of the Act refers to the Kenosha project as being located on lands presently or formerly submerged under the waters of Lake Michigan. Like most other cities on the Great Lakes, at various times in the past substantially all of what is now the City of Kenosha is on land which was submerged under the waters of Lake Michigan. As you will recall from your recent trip to Kenosha, the project's land area is bounded on the east by the east wall of the Corps confined spoils disposal facility (extended), bounded on the north by 48th Street (extended), bounded on the west by the present Chicago-Northwestern railroad tracks, and bounded on the south by the north line of Eichelman Park (60th Street) (extended). This area is substantially smaller than the total area in the City of Kenosha which formerly was submerged under the waters of Lake Michigan.

A part of the Kenosha project's land area formerly was improved with the Kenosh Stadium, which we demolished prior to December 31, 1983. Also legislation for the parts of the project's land granted to the City by the State of Wisconsin was included in the State's biennium budget prior to December 31, 1983. The balance of our downtown redevelopment project's land is areas adjacent to these parts, that is, within the project's overall land area described above, so that the entire area and all of the project's various stages are intended to benefit from the Transition Rule in Section 1317(6)(W) of the 1986 Act.

Finally, we understand that the $105,000,000 mentioned in Subparagraph 1317(6)(W) of the 1986 Act does not apply to the Transition Rule contained in Subparagraph 204(a)(32)(M) of such Act, and that the $105,000,000 limitation only applies to private activity bonds which are qualified redevelopment bonds solely by reason of the Transition Rule, Subparagraph 1317(6)(W) and does not apply to any bond the interest of which is not exempt from federal income tax or to any bond which is a qualified bond without application of such Transition Rules.

While the Transition Rules for our downtown redevelopment project included in H.R. 3838 do not completely place the City of Kenosha in the position it would have been had the Corps completed filling and closure of the CDF in Kenosha Harbor in April of 1984 at the end of its stipulated 10-year lifetime, the Transition Rules are certainly steps in the right direction. The economic impact of the adverse changes not covered by our project's Transition Rules remain a part of the City's claim against the Corps, which with your continued support, we hope can be finally and favorably resolved in the near future.

Very truly yours,

JOHN D. BILOTTI,
Mayor.

CITY OF KENOSHA,
Kenosha, WI, October 7, 1986.

Hon. LES ASPIN,
House of Representatives, Cannon Building, Washington, DC.
Hon. WILLIAM PROXMIRE,
U.S. Senate, Dirksen Building, Washington, DC.
Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Hart Senate Office Building, Washington, DC.

GENTLEMEN: While the cryptic nature of the two references to Kenosha's project in the Tax Reform Act of 1986 forming its Transition Rules certainly presents unique opportunities for the City, when employed aggressively, the City's Special Counsel, Messrs. Bierman and Fleck of Foley & Lardner, are concerned that subsequent bond counsel (typically a conservative lot) will take exactly the opposite tact and interpret the Kenosha Transition Rules so as to defeat their intent and purpose.

Essentially the problem is one of lack of legislative history at the Federal Government level. At this juncture the legislative history consists of the Kasten-Packwood colloquy in the Congressional Record of June 24, 1986, and correspondence from my office and our special counsel. It would be a real chore to put together a paper trail which would satisfy a conservative bond counsel.

Therefore, at the suggestion of our special counsel, I am writing to you under separate cover describing our Project, and request that you do two things:

(1) Arrange for my descriptive letter to you to be read into the Congressional Record in both the Senate and House of Representatives, before the coming adjournment;

(2) Send me a confirmatory letter acknowledging that your understanding of the Kenosha Project is as described in my letter, and that such Project is the Project intended to benefit from the two Transition Rules included in H.R. 3838 (a draft of confirmatory letter is enclosed), and arrange for the confirmatory letter to appear in the Congressional Record along with my descriptive letter. It would really be helpful if the concurrence of Senator Packwood and Congressman Rostenkowski also could be obtained and put in the Congressional Record—truly the icing on the cake.

We will need a copy of the pages from the Congressional Record, and will retain same, together with your confirmatory letter, in our records for use in the future. We have all worked so hard to get this far, that it would be a crime to jeopardize our progress by failing to take these additional steps.

I know that I can count on you for this additional assistance.

Best personal regards,

JOHN D. BILOTTI,
Mayor.●

DISCOUNTING OF PROPERTY-CASUALTY LOSS RESERVES

● Mr. WALLOP. Mr. President, as a conferee on the tax bill, one of the things I have found most troublesome is the wide latitude granted staff to develop policy on issues never formally considered by the conferees. I have spent some time here on the floor of the Senate trying to highlight such issues, as I am sure, as Senators, we will have to answer to our constituents in the future when the full impact of these staff decisions becomes known. As a further example of the types of concerns I have today, I would like to raise questions on the fairness of the final version of H.R. 3838 with regard to so-called fresh start as it relates to the discounting of property-casualty loss reserves.

Title X of the conference agreement contains a significant revision of the tax treatment of property and casualty insurance companies. Within that section, the reserve strengthening feature of the fresh start adjustment was significantly modified in conference. According to the conference agreement reserve strengthening that occurs in 1986 for accident years 1985 and prior is, in effect, disallowed as a result of the application of so-call fresh start accounting provisions.

Presumably, the intent is to prevent insurers from artificially increasing the opening reserve in order to increase income forgiven under fresh start. Implicit in this provision is the notion that reserve strengthening actions taken by insurance companies during 1986 for prior accident years is heavily motivated by the desire to avoid Federal income taxes. Nothing could be further from the truth. While it certainly can be acknowledged that increases in reserves decrease an insurance company's Federal tax burden, there are substantial and legitimate nontax reasons for increasing the provisions for unpaid losses in prior accident years. First, reserves are estimates made in many cases by the employment of statistical models. Models are subject to many types of errors such as parameter error, specification error and statistical error. Reserves estimates are subject to reevaluation. When reserves are initially underestimated, they must be revalued at a higher level. This reevaluation is what you characterize as reserve strengthening.

Second, reserve strengthening occurs only when reserves are inadequate. The weakness of reserves in the property-casualty industry has been the focus of public attention in recent years. Insurance availability and the cost has, indeed, been much discussed on the floor of this body. The industry's financial condition now is very fragile. Sound financial management and honest financial reporting demands that reserves be strengthened where appropriate.

A review of an Analysis of Loss and Loss Adjustment Expense Development exhibits contained in 10-K Forms filed by property-casualty insurers would clearly show that many companies have been historically underreserved and reserve strengthening for them is a normal part of doing business.

These companies have already reported too much income by underreserving in the first place. Insurance companies should not be penalized by the tax laws where reserves are strengthened in accordance with sound actuarial reserving practices. These companies have a responsibility to accurately and fairly report their financial condition. It is not in the public interest to provide them with a perverse incentive for maintaining inadequate reserves either. The reserve strengthening definition as currently written in the conference report is arbitrary and inconsistent with one of the goals of tax reform, that is, fostering positive behavioral response from corporate and individual taxpayers toward the Federal tax system.

The Senate bill's reserve strengthening provision was fair. The Internal Revenue Service, as it does under current law, would combat abusive reserving practices. The conference modification substitutes a simplistic, cookbook approach that is entirely inappropriate and will likely create tensions causing companies to underreserve to the potential detriment of their policyholders.●

TRIBUTE TO THE BOSTON RED SOX

● Mr. PELL. Mr. President, I wish to join with all of New England today in tipping my hat to the Boston Red Sox, the winners last night of their first American League pennant since 1975. The Red Sox have brought great pleasure and excitement to their fans, and I am particularly proud of the fact that 14 of the 24 players on the Red Sox team previously played for the Pawtucket Red Sox farm club. Included in this group are Roger Clemens, the winner of last night's pennant clinching game and a 24-game winner during the regular season, Marty Barrett, the Most Valuable Player in the just concluded playoffs, and Jim Rice, the captain of the Red Sox and successor to Ted Williams and Carl Yastremski as the left fielder and leader of the Boston club. Pawtucket, RI, has played a real role in the success of this year's team by serving as a training ground for so many future players and I am proud that my State is an integral part of the Boston Red Sox organization.

Autumn is always a beautiful season in New England, and it is an especially memorable time of year whenever the Red Sox hoist the American League flag high over Fenway Park in Boston. I join the thousands of baseball fans in my State in wishing the Red Sox well in the upcoming World Series against the New York Mets.●

THE TRIAL OF JUDGE HARRY E. CLAIBORNE

● Mr. EVANS. Mr. President, when the Senate tries an impeachment case, we take upon our shoulders the most weighty of the responsibilities U.S. Senators are obliged to bear. In the recent Claiborne trial, we were asked to cast our votes to acquit or convict a man whom the House of Representatives had voted unanimously to impeach. I trust that these votes were not easy for any Member.

No person delights in passing judgment on another. Even with appropriate standards of review, the task is difficult. That is why citizens sitting as jurors in criminal trials are given elaborate instructions and clear guidance. Senators sitting as jurors in an impeachment trial have little guidance. But what guidance we are given should be followed.

In a matter of this gravity it is wholly right and proper that we avail ourselves of all resources which might assist us in reasoned deliberations. Yet, in this case we chose to make do with incomplete information and a nonstandard of review. Although all 100 of us sat in judgment, only a chosen few heard testimony or examined witnesses.

A cardinal precept of the criminal law is that a conviction is proper only when judgment is rendered by a jury which has had full and complete exposure to the presentations of the prosecution and defense. An incomplete record is flatly insufficient as a basis for a final decision. But we voted not to have the full Senate hear witnesses or have an opportunity to question the accused.

Moreover, I believe that once the case has been presented to us, we should apply a consistent standard of review. While it is of course proper for the Senate to decide for itself what the standard it, once determined it should be applied by all. But we voted to deny to ourselves the benefit of an explicit standard of review.

Under the Constitution, "the Senate shall have the sole power to try all impeachments." What is left unanswered is whether judgment in cases of impeachment can be rendered without the Senate actually having had a chance to take sufficient time to hear

testimony, evaluate the credibility of witnesses, and assess the full range of evidence. If the Founding Fathers had foreseen that election year haste was a potential impediment to careful consideration in the Senate it is likely they would have handed down to us more detailed instructions.

In prior impeachment cases, the full Senate had an opportunity to receive all the evidence directly. No committee was appointed to serve as a buffer between the accused and those responsible for making the final judgment. This case was also unprecedented in another respect. While more judges have been tried than any other class of civil officer, this case apparently was the first one in which the accused had already been convicted in a court of law. Neither the Constitution nor previous cases shed much light on the path which is to be followed under such circumstances.

It is generally acknowleged that the framers of our Constitution borrowed heavily from the British when drafting the impeachment provisions. Yet, while a Senate impeachment trial is procedurally analogous to a trial before the House of Lords, the object of the proceedings is decidedly different. English impeachments contemplate imposition of criminal penalties upon conviction. In the case of Archbishop Laud, the lords went so far as to impose the death penalty.

Under our Constitution the penalty for conviction is limited to removal from office. Subsequent civil or criminal actions are not precluded, nor are they required. Once convicted, a civil officer must be removed from office because neither immunity from prosecution nor Presidential pardon are available to those whom the Senate has voted to convict.

Our vote was the final word on Judge Claiborne's career. We were the trial court and the appellate court at the same time. It was thus incumbent upon us to take the utmost care to ensure that our proceedings were proper. I believe we lost sight of the fact that the procedures of justice are often more important than the substance of the laws in creating the perception of fairness.

That brings us to a discussion of the actual charges. We considered four articles of impeachment. It was our obligation to decide whether any of those articles warranted conviction.

But what constitutes an impeachable offense? Article 2, section 4 of the Constitution states that civil officers "shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." In this case, neither of the specifically enumerated crimes—treason and bribery—were alleged. We were limited then to considering whether the misconduct of Judge Claiborne was sufficiently egregious that it falls within the ambit of the general term.

Constitutional scholars generally agree that only a limited group of offenses qualify as "high crimes and misdemeanors." Evidence suggests that the framers intended that the English "great offenses" define the range of misconduct contemplated by our Constitution. At common law in England, misapplication of funds, abuse of official power, neglect of duty, encroachment on or contempt of legislative prerogatives, and corruption were impeachable offenses. Whether the list is exclusive is open to question.

During the impeachment trial of President Andrew Johnson, House manager John Bingham suggested that it may be inappropriate to take an overly narrow view of what constitutes impermissible behavior.

An impeachable high crime or misdemeanor is one in its nature or consequences subversive of some fundamental or essential principle of government or highly prejudicial to the public interest, and this may consist of a violation of the Constitution, of law, of an official oath, or of duty, by an act committed or omitted, or, without violating a positive law, by the abuse of discretionary powers from improper motives or for an improper purpose.

Clearly, our object here should have been to ensure that we took a balanced and fair approach to evaluating the acts for which Judge Claiborne was impeached. In making that evaluation, it was important to keep in mind that the stakes were higher than removal of a judge from office. The real issue was whether we would do more harm to the cause of justice by acting in undo haste than we might contribute to the cause of justice by removing a convicted felon from the Federal bench.

Under article III, section 1, judges "shall hold their offices during good behavior." Thus, it may have been appropriate to hold Judge Claiborne to a higher standard than that which might apply to civil officers generally. The judiciary play a critical role in our system of government and nothing would be more destructive than to permit the taint of official indifference to law to permeate the judicial system. It is equally true that we should not have allowed the Senate proceedings to adhere to any but the highest standards.

One critical question was whether the mere fact of conviction so besmirches the judicial facade that a thorough independent investigation was unnecessary. If so, what was the real point of these proceedings? I felt that we were bound to do more than simply ratify a decision already made.

Lawrence Tribe, an eminent constitutional scholar, has stated that "a showing of criminality is neither necessary nor sufficient for the specification of an impeachable offense." Certainly, violation of a speed limit would be insufficient by itself to warrant an impeachment. At the same time, a willing violation of the code of judicial conduct may be. In every instance, it is up to the Senate to evaluate all of the circumstances surrounding the conduct at issue. Only then can we truly say that we have discharged our responsibilities in full accord with the oath we have taken.

It may be that a full examination of the facts of this case would have lead me to a clear conclusion that Judge Claiborne acted with criminal intent and that conviction was justified. But, it may also be true that such an examination would have raised sufficient doubts in the minds of at least 34 Senators that we would have voted to acquit. The trial of an impeachment is no place for shortcuts or haste. Justice may be elusive, but that is no excuse for a half-hearted try to find it.●

OMB-AAU NEGOTIATED REVISION OF CIRCULAR A-21

● Mr. EVANS. Mr. President, recently, the Office of Management and Budget [OMB], and the Association of American Universities reached agreement on revision of circular A-21. This agreement marks the culmination of a long and arduous negotiation process that has involved Congress, OMB and the biomedical research community.

Circular A-21 governs reimbursement of indirect costs to grantees in support of Federal research grants. While there was general agreement by all that the circular needed revision to reflect changes in university administration affecting biomedical research, there was no clear consensus on how it could be redrafted.

I, along with the senior Senator from Washington [Mr. GORTON], and others have insisted that any OMB revision of A-21 be done in careful consultation with the university research community. I am pleased to report that a mutually accepted revision has been agreed to, in principle. I believe this agreement reflects much hard work and diligence by both OMB and the university research community. I am hopeful that it will be a final solution so we can move ahead to strengthen the capacity for research and advanced training in the nation's universities.

Mr. President, I ask unanimous consent that a statement in support of the agreed revision by Robert Rosenzweig, president of the Association of American Universities, and a description of the new proposal be inserted in the RECORD.

The material follows:

STATEMENT ON PROPOSED REVISION OF OMB CIRCULAR A-21

(Robert M. Rosenzweig, President, Association of American Universities, September 29, 1986)

The decision of OMB to amend its June 9 revision of Circular A-21 is welcome news. The new proposal (attached) is an improvement over earlier versions.

Reaching this agreement has been a long and difficult process. We are grateful for the assistance of OMB Deputy Director Joseph R. Wright, who helped, through discussions with the Government-University-Industry Research Roundtable, to seek balance among the concerns of government officials, university administrators, and faculty. The efforts of OMB to respond to university concerns affirm the importance of working together on important national research policy issues. We are extremely grateful to Members of Congress who encouraged and aided resolution of this contentious and complicated issue.

The original February proposal was published with no advance consultation with universities. Discussions since that time have improved the proposed revision. Nevertheless, it was clear from the start that the motivation for the change was budgetary and that a set of cost principles, developed over the years and closely linked to the nature of our peculiar system of higher education, was being used to "save" $100 million without regard to any other consequences.

It is important to understand that university people view A-21 as a document grounded in management considerations that have fiscal implications, rather than the other way around. To reverse those, as seems to have happened this year, exposes universities to the risk of sudden, uncontrollable, and unpredictable change. That sense of risk was compounded by the fact that the people in OMB who have historically been concerned with A-21 changes were not involved in this one, and those who were involved, able as they are, were largely unfamiliar with the issues and were impelled by their view of what the budget required.

On one point there is unanimity among university presidents, and that is that future changes in A-21 must be considered outside the framework of the annual budget. Obviously, budgetary consequences are relevant, but changes proposed primarily in order to meet a budgetary target will be strongly resisted. The proper way to deal with the budget is through the budget and appropriations process, not by manipulating the accounting principles.

The special studies on which OMB and the universities have agreed to cooperate will help lay the foundation for better policy. Additionally, the work of the Government-University-Industry Research Roundtable shows promise of producing more efficient and effective relationships in the area of research administration. We hope that we can now move forward to improve the system so that basic scientific research and the universities in which it takes place will remain strong and vital.

DESCRIPTION OF PROPOSED REVISION OF OMB CIRCULAR A-21

This revision of OMB Circular A-21 excludes from cost-based reimbursement the administrative activities of faculty, department heads, and other academic personnel with responsibilities equivalent to those of regular faculty (professional personnel conducting research and instruction) and substitutes a fixed rate of 3.6 percent of modified total direct costs. In effect, this revision concludes that the activities of these persons are too difficult and onerous to measure and to attribute to the costs of research and, therefore, it is best to substitute a fixed reimbursement for the current system of trying to measure actual costs through "effort reporting." This proposed revision will reduce "faculty effort reporting" that has long been considered by faculty to be one of the most unnecessary and burdensome of paperwork provisions.

PROPOSED REVISION OF OMB CIRCULAR A-21

Department administration expenses

Revise F.4.a.(2)(a):

(2) Academic departments—

(a) Salaries and fringe benefits attributable to the administrative work (including bid and proposal costs) of faculty (including department heads) and other professional personnel conducting research and/or instructin shall be allowed at a rate of 3.6 percent of modified total direct costs. This does not include professional business or professional administrative officers. This allowance shall be added to the computation of the indirect cost rate for major functions in section G; the expenses covered by the allowance shall be excluded from the departmental administration cost pool. No documentation is required to support this allowance.

General administration and general expenses

Add the following sentence to F.3.a.:

General administration and general expenses shall not include expenses incurred within non-university-wide dean's offices, academic departments, organized research units, or similar organizational units. (See section F.4., departmental administration expenses.)

Universities (in cooperation with OMB) will: collect data on actual costs covered by the 3.6 percent allowance; collect data on the extent of institutional cost sharing in federally sponsored research; collect data on the costs to universities of federal requirements.

OPINION OF SENATOR LEVIN ON THE CLAIBORNE IMPEACHMENT

● Mr. LEVIN. Mr. President, there is a legal maxim which holds that "hard cases make bad law." But I fear that the Senate's recently concluded impeachment proceedings in the case of Judge Claiborne provided us with a new piece of folk wisdom: "easy cases can make bad law too."

On its face, this appeared to be a relatively simple matter. The respondent, Judge Harry Claiborne, had been found guilty by a jury of his peers, his case had been appealed and those appeals had been denied. And while he still has additional motions pending—and may have them pending for years—they do not focus as much on the facts which contributed to the verdict of guilt as on the processes used to assemble those facts.

Given all that, there was, I fear, a natural tendency for members of the public and perhaps even some Members of the House and Senate, to believe that Mr. Claiborne did not deserve very much of our time or attention. In fact, in discussing the scheduling of the impeachment proceedings in the Senate, the operating assumption was always that it ought not take more than 2 days. The theory seems to have been that we should act quickly. But the Constitution requires that we act in other ways.

THE CONCEPT OF A TRIAL

I believe our constitutional role requires us to take adequate time—in any case brought before us—to reach a judgment ourselves; to determine as individuals and as a body whether or not the respondent is guilty of high crimes and misdemeanors so as to require removal from office.

The Constitution is clear: "the Senate shall have the sole power to *try* all impeachments," article I, section 3; it also provides that "the *trial* of all crimes except impeachment shall be by jury," article II, section 2. (Emphasis added.)

It seems clear from those constitutional requirements that in an impeachment, the Senate is required to act as a fact finder—for fact finding is the heart of trying any case. The respondent in this case made that point repeatedly. In briefs which are part of the record, the Senate is characterized again and again as "a finder of the facts." The House, in its briefs, never challenged that characterization. Indeed, the House seemed to accept it when they argued that the record before the Senate contained enough information to allow us to make a judgment on the facts—and those facts, they believed, required us to find that Harry Claiborne "willfully and knowingly" filed tax returns which he "did not believe to be true and correct."

So the Constitution gives the Senate the "sole power" to try impeachments, and it seems clear to all that the Senate's constitutional mandate is to independently evaluate both the disputed and the undisputed facts involved in any case brought before us.

THE ROLE OF WITNESSES BEFORE THE SENATE AS RELATED TO ARTICLES I AND II

When facts are in dispute—as they were in article I and II of the impeachment resolution as brought to us by the House—a finder of fact can reach a resolution of that dispute only if he or she is able to evaluate the credibility of key witnesses.

For 500 years, the law has recognized that the way in which a witness offers testimony—the nonverbal cues or demeanor of the witness—is an important element is evaluating credibility. That is why Wigmore, in his classic text on evidence, pointed out that the demeanor of a witness is "always assumed to be in evidence."

I believe this point is so well established that extended comment about its centrality to legal theory is not essential. But, for the record, let me cite

just a few statements which illustrate the point. Ullman, in a study of "Medieval Principles of Evidence" writes that the 14th century Postglossators held that the "indispensable requisite for the judge to form an opinion on the trustworthiness of witnesses was that they appear before him personally * * *. The personal impressions made upon the judge by the witnesses, their way of answering questions, their reactions and behavior in court, were the only means of ascertaining whether their statements were trustworthy or not." Judge Frank has commented that "a deposition has always been, and still is, treated as a substitute, a second-best, not to be used when the original is at hand for it deprives—justice—of the advantage of having the witness before the jury." And as Sir John Coleridge observed, a cold record "cannot give the look or manner of the witness: his hesitation, his doubts, his variations of language, his confidence or precipitancy, his calmness or consideration * * * it may be the dead body of the evidence without its spirit."

In his briefs, Judge Claiborne asked for a full trial before the Senate, by which he meant the right to call witnesses and have them questioned under oath before the Senate so that Senators could observe their demeanor. Clearly impeachment trials in the past have involved witnesses being heard by the full Senate. Yet only the "rule 11" committee heard the witnesses in this case and the committee did not make any formal findings relative to demeanor. Contrast that with the fact that even a master in equity must report to the court recommendations and findings on demeanor of witnesses if such findings are based at all on demeanor.

In opposition to both the respondent's argument and history, the House argued that a full trial was not required. They asserted that demeanor is simply one of a number of factors which make up credibility and, given the weight of evidence available—and the demeanor related judgments which we can assume the jury made. There was no need for the full Senate to see and hear witnesses directly. The record alone will suffice, they argued.

The House is partly right: demeanor is just one factor. But it can be a crucial factor, a deciding factor. And that is why we require witnesses to testify in open court and why we should have required them to testify before the Senate. As Judge Frank once wrote, "demeanor, to be sure, is no infallible guide to reliability of testimony; yet, as matters now stand, it is one of the best guides available." To a degree, even the Senate recognized the value of demeanor evidence when it authorized the "rule 11" committee to hold a hearing. After all, that hearing essentially covered the same ground that had already been covered in the courts. In other words, the Senate felt a need to develop its own record—as a result, 12 of us did hear and see witnesses, even though those 12 could have simply read their testimony in the record of a previous proceeding, the trial before the Federal jury.

The "rule 11" committee did an excellent job of developing a record. I have the greatest respect for the members and staff of the committee—they had a difficult job and they discharged it with dignity and devotion. The record they developed is essential to understanding the case. But, in my view, it was not adequate to let the Senate make findings in those disputed areas where witness demeanor or credibility is critical to the process of determining what the facts are. The Senate, as a finder of fact, did not hear or see a single witness. And, as a result, our ability to fairly reach decisions, when the facts were in dispute, was restricted.

To reach a judgment on issues involving disputed facts where the demeanor and credibility of the witnesses are important, I believe the Senate needed to see the witnesses—as the "rule 11" committee did—and not just see a record or even tapes of witnesses testifying.

When we voted not to hear any additional witnesses, we set up a process which made it impossible for the Senate, as the finder of fact, to fully and fairly evaluate the credibility of witnesses.

Now some might say that we did hear Judge Claiborne. He spoke to us. However, he did not appear before us as a witness; he was simply exercising his right to "participate in the summation" as Vice President BUSH explained to the Senate. And while some have suggested that Judge Claiborne did not take the opportunity in his speech to answer specific allegations, the Senate did not ask him any questions about those allegations and his failure to respond specifically and in detail can not be held against him. Indeed, the request, made in executive sessions by one Senator, to have Judge Claiborne appear as a witness and answer questions was rejected by the Senate.

So, as Judge Claiborne said, he was speaking primarily to let the Senate see him—which suggests that Judge Claiborne felt that there was some value in presenting his demeanor to the Senate. A similar value would have been attached to the appearance of a number of other witnesses.

ARTICLES III AND IV

While I could not on principle vote for a conviction on articles I and II, I believe that articles III and IV were proven. Let me discuss them briefly.

Article III asserts that Judge Claiborne was found guilty by a jury. His conviction, article III alleged, was indisputable evidence of misbehavior and high crimes in office. In my view, the record was more than sufficient to support the conviction.

Many of my colleagues had, it appears, concerns about this article. Two such concerns were expressed. First, it was argued that the Senate was, in essence, abdicating to the courts its responsibility as the sole authority to try impeachments and second, that this might set a precedent which suggests that any conviction must result in impeachment or, conversely, that any "not guilty" verdict would be grounds for a refusal to impeach a public official. Let me respond to both concerns.

As to abdication of responsibility, I must confess that I find it ironic that some are bothered about abdicating our responsibility by giving credibility to a final court judgment—if supported by the record—when, by refusing to hear witnesses, we in essence abdicated our responsibility as finders of fact—but, in this case, abdicated not in favor of a court but rather in favor of no one.

The record before the courts and the "rule 11" committee made it clear that the Senate could reach the conclusion that the conviction of the defendant was final and well supported by the record. That is precisely the conclusion I did reach in regard to article III. While the defense of Government misconduct is still pending, nothing in that appeal would alter the facts which were at the core of the judicial process that has been completed. And the results clearly established that Judge Claiborne was legally "found guilty by a 12-person jury of making and subscribing a false tax return. * * *"

As to the belief that conviction based on the fact of prior judicial determinations sets a precedent, that simply is not true. Again, the record before the "rule 11" committee and the House briefs made it clear that the even in the face of a conviction, the Senate must satisfy itself relative to the guilt of the defendant. We may chose to take a final court verdict of guilty as evidence of guilt, provided that we are satisfied that the record supports that finding. We are not bound to so utilize a court judgment—but surely we are free to do so. And if we do so, no precedent is established thereby. To satisfy myself on that point, I solicited the views of Chairman RODINO. In his capacity as a House manager, he clearly did not advance a claim of of precedent.

In my letter to the chairman, I asked the following question:

Would a conviction by the Senate on article III set a precedent, or be used for argument in later impeachment proceedings, that the House of Representatives is bound to impeach and the Senate is bound to con-

vict, following a Federal court conviction of a public official?

Chairman RODINO's response to me in a letter of October 9, 1986 was as follows:

You have asked me to address whether a conviction on article III would bind the Senate to convict in future cases, in which a public official similarly had been convicted. On behalf of the House of Representatives, I respectfully submit that the answer to this question is no.

My letter and Chairman RODINO's response were made part of the record during our deliberations.

It seems clear, then, that the Senate, as the sole authority over impeachment, can, in essence, decide to credit or ignore a jury verdict for whatever reasons it thinks adequate.

It is also clear that a verdict of "not guilty" in a trial court does not restrict the Senate's freedom to act on articles of impeachment sent over from the House. Senator HEFLIN's question on this point and the Presiding Officer's answer in open session make it clear that the Senate has freedom to act as it deems fit even if a House-impeached official comes before us armed with a "not guilty" verdict rendered by a court or jury. We all know that a "not guilty" verdict by a jury is far different from a finding of innocent. And while a person may be "not guilty" in a court of law, that does not mean that they are or should be found "not guilty" of the high crimes and misdemeanors which justify a conviction in the Senate.

Finally, article IV asked the Senate to agree that Judge Claiborne's actions have "betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the judiciary, thereby bringing disrepute to the Federal courts and the administration of justice by the courts." I believe that article IV can be fairly construed as incorporating the article III reference to the jury finding and, as I have indicated earlier, my review makes it clear that the jury verdict was amply supported by the record.

In addition, in the past, article IV type language has been viewed as a "catch all" or "character" charge. Such articles serve the function of stating that conviction is desirable because the respondent has engaged in misbehavior sufficient to justify removal from office by the Senate. In that context, I believe that Mr. Claiborne deserved to be convicted by the Senate on article IV.

CONCLUDING COMMENTS

Having discussed the specific articles and the process which was used by the Senate to conduct this trial, I have three final observations to make.

First, I was greatly disturbed by the conduct that the Government was alleged to have exhibited in this case. The evidence clearly suggests that the Government engaged in a pattern of selective prosecution, prosecutorial overreaching, and perhaps intimidation of witnesses and other improprieties. I support a full investigation of those charges as they relate to Mr. Claiborne in particular and other cases as well. I should hasten to add that even if such conduct is proven to have existed, that would not alter my votes on the various articles of impeachment. While such Government action might bring Mr. Claiborne a reversal in the courts, the Senate, acting as a Court of Impeachment, operates under different standards. The exclusionary rule, for example, does not apply in these proceedings and in other areas our laws differ from those applied by the courts. So while Mr. Claiborne may or may not deserve judicial relief, he is entitled to no relief from the judgment of the Senate.

Second, I feel compelled to register my strong objection to the manner in which the question on article III was put to the Senate by the Presiding Officer. On articles I, II and IV, the question put to the Senate was phrased as required by the rules: "Senators, how say you? Is the respondent, Harry E. Claiborne, guilty or not guilty?" But on article III, the question was put this way: "Senators, how say you? Is the respondent, Harry E. Claiborne, guilty or not guilty or do you vote present? The results which followed, with 35 Senators voting present, may or not have resulted from the way in which the question was presented—but the form in which the question was put was erroneous and violative of both the rules and the unanimous-consent agreement under which we were operating.

Third, while I have criticized the Senate for refusing to allow certain witnesses to be called and for other failures which I observed, I also want to compliment this body and my colleagues for their honest concern about commitment to the process. I have already indicated that the "rule 11" committee functioned magnificently; I indicate now that the staff of the Office of the Senate Legal Counsel and the Rules and Ethics Committees were also most supportive. And while my colleagues and I agreed on some issues and disagreed on others, I believe we shared a common desire to achieve justice as we understood it. Those who observed the seriousness with which the Senate viewed these proceedings will observed a free society at its best.

DR. J.C. WILLKE'S ARTICLE ON ASSAULT RAPE, AND PREGNANCY

● Mr. HATFIELD, the Senate has been the arena for countless debates on the issue of abortion since the Supreme Court handed down its Roe versus Wade decision. During the past 13 years, the Nation and Congress have not reconciled themselves to this fateful, far-reaching decision of our Nation's highest court.

Sadly, few of our discussions face the issue squarely: Should abortion on demand be legal in the United States? We have allowed ourselves to be limited to questions of Federal funding for elective abortions, to questions of the propriety of tax-exempt status for abortion providers, to questions of parental notification and informed consent. Most of these debates are void of important discussions as to why abortion is an acceptable alternative for the pregnant woman, and what pressures cause her to terminate the life of her unborn child.

One of the most emotional debates within the abortion issue is the rare case of abortion by a woman who becomes pregnant as a result of rape. Certainly, rape is a horrifying, dehumanizing crime which demands a compassionate response to the victim and swift punishment of the offender. But the undeniably traumatic experience of rape is being thrown about by abortion supporters as a key reason why abortion on demand should be available to every woman, regardless of the circumstances of conception.

In one of the most thoughtful pieces I have read on assault rape, and pregnancy, Dr. J.C. Willke expands the discussion of this narrow issue beyond the question of whether a woman should be allowed to abort the child conceived as a result of rape. He reveals some of the complex, conflicting emotions racing through the victim's mind. Also discussed is society's role in the victim's decisionmaking process. Dr. Willke lists options which should be made available to the pregnant woman. And finally, he voices the view, which I share, that the innocent child should not receive the death penalty for the crime of the father.

Mr. President, I ask that Dr. Willke's article, "Assault Rape, and Pregnancy" be printed in the RECORD.

The article follows:

[From the National Right to Life News, Oct. 9, 1986]

ASSAULT RAPE, AND PREGNANCY

(By J.C. Willke, M.D.)

When talking about assault-rape pregnancy, there are important considerations other than those we discussed in my two previous columns, little known but crucial facts.

For example, how would most people respond to the question, what—from the woman's point of view—is the worse thing about an assault rape for that tiny percentage of women who become pregnant?

Almost without thinking, most would say, "Well, of course, her main problem is the fact that she's pregnant." In fact, this is not true. Well-done studies show us that her chief complaint is not the fact of being pregnant, but rather how others treat her.

This is a sobering thought. If true, it is a terrible indictment of the society in which

we live. Do we treat these poor women with compassion and love? Do we invite them into our homes; into our arms? Have we given them the support they need? Or have we, as these studies suggest, treated these victims with contempt or suspicion? Have we too often "blamed the victim?" If we have, we have failed our obligations in a most profound way.

Why is this so important? Because no victim of an assault rape should be stigmatized for something that happened through no fault of her own. Furthermore, experience has shown that if we treat her with charity, with love, with tenderness, and with concern, there will be far less chance she will abort.

There's another aspect of assault rape that is really only now becoming an area that is discussed: How the woman will react later if she does have an abortion? The core fact here is one that few of us even thought of ten years ago, but one that we are learning about very effectively both from women who have carried to term and from those who have aborted babies in this situation. It is this.

The rape was something done to her. If the victim is treated with charity, compassion, and love, she may well have very little guilt later, or none at all. She may (they don't all) be able to fully accept the fact that the rape was not in any way her fault, but rather was a totally unjust assault upon her.

If, however, she gets an abortion, the results are far different. This is a very deliberate action, one that was done by her to another.

She may often bear a burden of guilt later for having had the abortion, similar to that so often experienced by women after any other abortion. She will have one of two memories. "I did the loving thing. I carried my baby. I gave him life." Or, the other memory, "I killed my baby."

Coincident with this is a biologic fact that women, pregnant from rape, have at least unconsciously always known, but that the men who advised them seemed completely unaware of. It is summed up in the simple statement, "The baby is also half hers."

Yes, this is the "rapist's child" but also her child. A woman pregnant from rape instinctively knows this. Unthinking men and other women, advising her, too often seem unaware of it. This simple biologic fact, to her undeniable, can and often does add to the burden of guilt that she may bear if she goes on to have an abortion.

Another factor that relates to this is that some women may not be able to bear the fact of "looking at that child every day of my life." They feel, "I could not bear to raise that child." If so, we understand. What is also obviously true, however, is that there are literally hundreds of thousands of outstretched arms aching to accept that child and love him or her for a lifetime. To deliver a child in such a situation must never be equated with keeping and raising the child, for that baby can be adopted into a loving home.

It is somewhat automatically assumed by most people that a woman, pregnant from assault rape, will always get an abortion if it is available. As a matter of fact, this is also not true. In the case of assault-rape pregnancy, where abortion was freely available and offered, and compassionate help is offered to her, only half of the women will choose to get an abortion. Interesting? Yes, and I think it is a real compliment to the women involved.

In an earlier column I discussed the fact that there was a very, very small number of women who got pregnant from assault rape, perhaps as few as 100 or 200 per year in the U.S. If only half of those who did get pregnant went on to choose an abortion, we can cut this number in half again.

One interesting minor argument that is sometimes posed relates to the issue of capital punishment. We in the Right-to-Life movement do not take an official position on capital punishment, for we limit our concern to the protection of innocent life. However, if we were to ask an average audience how many of them favor capital punishment, we would find a cross sectional break quite comparable to that of the general population—some for, some against. On the other hand, if we were to extend that question and ask "How many of you think there ought to be capital punishment for the rapist?" we find the number dropping way off, sometimes to zero. The question then to pose is, "If you do not favor capital punishment for the crime of assault rape, would you favor capital punishment for the innocent child conceived by that assault rape?" A rather interesting argument. It does make us think.

Let's finally, though, get back to our original argument, one that overshadows all of the others. That original statement is so clear and so concise that it simply says it all.

Should we kill an innocent baby for the crime of his father?●

RSVVP PROGRAM IS A SUCCESS

● Mr. SARBANES. Mr. President, earlier this week I brought to the attention of my colleagues the very important contribution being made by concerned Marylanders to alleviate hunger both here in the United States and abroad. The program, called "RSVVP"—Restaurants Sharing Ten Percent—was held on October 15 in connection with the observance of World Food Day, and involved the donation by participating restaurants of 10 percent of their gross receipts on that day. I understand from the organizers of the event that well over $30,000 was raised this year, a remarkable achievement.

Mr. President, I would once again like to thank and congratulate all who participated, and I submit the following articles about the program for the RECORD:

[The Baltimore Sun, Oct. 15, 1986]

HUNGER PAINS

(By Nora Frenkiel)

Jan Houbolt says he never goes to sleep at night wondering if his life has any meaning. As a longtime community organizer, advocate for the underprivileged and current executive director of the Maryland Food Committee, he has spent hours finding creative solutions for feeding the estimated 700,000 in this state who may go to sleep at night wondering where their next meals are coming from.

Today, thousands of patrons will dine at restaurants participating in the RSVVP program, another creative solution, which stands for Restaurants Sharing Ten Percent. Last year almost 200 restaurants—about the same number involved this year—turned over 10 percent of a day's receipts, which raised $34,000 or enough to feed 60,000 people for one day.

This year the organizers are hoping for an even better turnout. "It's easy for people to go out and do it," Mr. Houbolt says. "The restaurants are the ones being generous. The alternative is saying, 'Let's all fast for a day and give up the proceeds to fight hunger.' Frankly, that wouldn't raise as much money. And part of my job is to channel funds from those who have to those who don't have."

The people scanning menus can feel good about themselves and about feeding the hungry, which has been a fashionable cause for several years. But it's not quite as trendy as it once was. "It's already become less fashionable than it was two years ago," says Mr. Houbolt. "Two years ago there was a presidential task force on hunger. Now the concerns are drugs and child abuse. We're not in the front as we were, and it's partly due to the economic recovery. Yet for a number of people, life is much worse than it ever was."

Ann Miller, longtime advocate of the cause and a founder of the Maryland Food Committee, admits the struggle goes on. "We're very good at this business of making statements and making it sound as if we're terribly concerned, but when the opportunity arises to actually do the work, very few people do. It's very difficult to do good and Jan does good. And he has a long hard road ahead of him."

At 40, Jan Houbolt, despite a few wrinkles, retains his boyishness. In his small Mount Vernon office, where the paint is peeling, he talks about a renewed energy to continue his work. Three years ago he came aboard as the executive director of the Food Committee, which has a dual approach—direct service and funding to organization that feed the hungry, and a lobbying effort to encourage change in legislation affecting the poor.

"We were nearly bankrupt," he says. "We had a staff of three and a small budget." Today the picture is one of success: 10 employees, an annual budget of $500,000 (almost all of it privately raised) and the funding of 53 soup kitchens and emergency food centers across the state.

"I credit this turnaround all to Jan," says Eileen Yoffe, president of the organization's board of directors. "He's a real go-getter and he cares tremendously about the work he's doing. Although he's very aggressive about solving problems, he's also one of the most compassionate people I've ever met."

Ms. Miller credits the director with "a sensitivity and ability to reach out into the community." Part of that outreach is a hand outstretched asking for money, since all but $29,000 funded from a federal block grant through the Department of Human Resources, is raised from the private sector—from churches and synagogues, from corporations and individuals.

"At first I didn't like asking people for money," Mr. Houbolt admits. "It's hard to do. But now I take a hard look and think about how much I believe in what I'm doing. Some people make it very easy. But for others you really have to jump through that hoop. I'll do it now if they require it," he says with a grin.

One day he'll find himself power-lunching at the Centre Club with a Food Committee supporter. And then he'll turn around, with all that boyish charm, and say, "Let me treat you to lunch next time." And so he takes the CEO to Paul's Place Soup Kitchen in Southwest Baltimore, where lunch might

be a peanut butter and jelly sandwich and sweet potatoes, and the utensil a sturdy plastic spoon. It's a power lunch and results more often than not with a generous donation.

Spending time with those CEOs led to a brief crisis in Mr. Houbolt's life within the last year. The man who says, "I didn't seek out a career, I followed my values and this just happened," now says, "I took a look at my life and realized that I was turning 40 and I was asking myself whether or not I could afford a washer and dryer." He listened to his colleagues on the Greater Baltimore Leadership Committee, who told him in earnest voices: "You've done your part. You've done your good work. Why don't you think about switching to private industry?"

He talked with his wife, Rachel Wohl, who works at Urban Services and is completing a law degree at the University of Maryland. "She operates out of the same tradition that I do," he says. They live in a row house in South Baltimore.

He took time to review his life: son of an immigrant from the Netherlands who worked for the State Department, he grew up in Taiwan, Okinawa, New York and finally in Arlington, Va. His parents currently live in Loudoun County, Va., and he says, "My mother is one of those great do-gooders." She was named Woman of the Year in her community last year.

His background: a bachelor's degree from Howard University in Washington, "where I learned what it was like to be in the minority and learned about the civil rights struggle," and a Ph.D. in sociology from American University in 1981, with teaching stints in New York and at the University of Baltimore. Grassroots work—with the Northeast Baltimore Community organization and the Neighborhood Rental Services—led to the job at the Maryland Food Committee. And somehow, as he sees it now, values matched the job.

"I look at older people, blue-collar people, who've been working all their lives and now they're retired and they've been wiped out by medical bills and they're poor. And I realized I don't have a pension. And I don't want to end up that way."

Crisis, however, was resolved. "I decided this is the path for me. This is the work I want to be doing." Yet there still are occasional moments of disappointment. "The thing about this," says Ms. Miller, "is that you do get terribly discouraged and you start writing an annual report and you realize how much has happened. Only on the small gains do you get what you finally achieve and be awfully grateful."

Frustration, however, comes and goes. "On the one hand," says Mr. Houbolt, "we're a big success with an annual budget of $500,000. But on the other hand that's worth three months for Joanne Carson's alimony payment."

Yet, Mr. Houbolt doesn't dwell on that inequity for long. "I'm confident enough the world can be a more reasonable place than it is. There may always be hungry people. But there's always something that can be done."

[The Baltimore Evening Sun, Oct. 15, 1986]

RSVVP

Last October Marylanders had the opportunity to celebrate World Food Day by participating in an unusual fundraising technique. RSVVP stands for Restaurants Sharing 10 Percent (the two V's represent the Roman numeral five—totaling 10). The project, initiated by the Maryland Food Committee, sparked national attention and raised enough money through participating restaurants to help feed 60,000 people.

This year about 200 restaurants in central Maryland have agreed to participate by donating 10 percent of today's gross receipts. The proceeds will be divided between the Maryland Food Committee and the Emergency Taskforce on Africa.

RSVVP is one of those welcome fundraising events in which everybody can come out ahead. Restaurant patrons can help those in need while enjoying a restaurant meal at the usual prices, while restaurants are likely to see an increase in customers to cover the donation of part of their proceeds.

That's the reason enough to go out to dinner—RSVVP.●

DR. ABEL WOLMAN

● Mr. SARBANES. Mr. President, today Baltimore honors an international expert in health and sanitation who for more than 50 years has been a pioneer for the safer and more efficient water and sewer systems necessary in the modern world. Dr. Abel Wolman, an extraordinary and remarkable man who served the people of the world for more than 50 years, is receiving a high and fitting recognition for his continuing work.

Dr. Wolman, the man responsible for designing water and sewer systems in cities around the world and who designed an outstanding system which has served Baltimore for half a century of growth and which has been held up as a model for other cities to emulate, was recognized for his contributions to Maryland and the public water systems of many cities around the world.

Today the city of Baltimore renamed the municipal office building, where Dr. Wolman continues to work on sanitation problems facing our people, in honor of this pioneering engineer and Baltimore native. Now an active 94 years of age, Dr. Wolman was born and educated in Baltimore, where he received both his undergraduate and engineering degrees from the Johns Hopkins University. Dr. Wolman has traveled around the world representing the United States at public health policy conferences and consulting with leaders on water and health problems.

Mr. President, I ask that two articles, from today's Baltimore Sun and Baltimore Evening Sun, describing some of Dr. Wolman's many achievements and today's honor, be reprinted in the RECORD.

The articles follow:

[From the Baltimore Sun, Oct. 16, 1986]

BUILDING NAMED AFTER SANITARY ENGINEER

(By Ann LoLordo)

When he wasn't in Geneva devising ways to get clean water to the world's 2.5 billion people who don't have it or in California addressing 600 engineers who make their living studying water problems too, Dr. Abel Wolman might well have been found in a conference room in the city's Municipal Building.

After all these years of telling local governments and foreign leaders everything they've ever wanted to know about water, the 94-year-old sanitary engineer still returns monthly to the seventh floor of 200 N. Holliday St. And, over a tongue sandwich and a piece of pie, he talks to public works officials about the water and waste water systems perhaps he knows best—Baltimore's.

"It is my city. I happen to love it. The city of Baltimore and every other city in the world is a going concern. I quote Mencken, 'We've always got solutions—mostly wrong.'"

When Dr. Wolman arrives at the Municipal Building today, he will come not as a consultant but as an honored guest. The limestone structure in which he has met with public works officials for more than 40 years will be rededicated as the Abel Wolman Municipal Building."

It seems a fitting tribute to the veteran Johns Hopkins University professor who as a boy in East Baltimore had to carry water from a well, a diminutive man who designed a water works system for his hometown that to date outshines its counterparts.

The dedication was supposed to be a surprise—but an invitation arrived at his North Charles Street town house last Friday. "I was absolutely stunned. It was an amazing tribute," Dr. Wolman said.

Up until he opened his mail, he knew only that he was to keep the date open. Mayor William Donald Schaefer had "told me. 'Put down Oct. 16 in your black book,'" Dr. Wolman said.

He returned the invitation, saying he would attend the dedication.

Throughout his long and illustrious career. Dr. Wolman has searched for water in the Negev desert in Israel and walked the crowded streets of Calcutta to determine how the city could bring clean water to its people. And the people with whom he works marvel at the genuine concern and devotion with which he performs his work.

"Even with all the knowledge that he has, he attacks a problem as if it's the first time in his life he's ever encountered it," remarked Francis W. Kuchta, the city's public works director for the past 12 years. "He has this long experience, not only in this country but in many countries around the world, in water and waste water problems and can bring it to bear on the problems that we have in the city of Baltimore."

When the two men met on Friday, they talked about the drought that has plagued Maryland, the city's reliance on the Susquehanna River for its water, and the problems at the Back River and Patapsco waste water treatment plans.

Dr. Wolman finds amusing the technological terms that have developed in the industry: "Waste water is good old sewage," he says, "Solid wastes are good old garbage."

But he said the problems plaguing waste water treatment plants are indeed serious.

"Under the flood of capital money from the Environmental Protection Agency, now approaching $60 billion in waste water treatment, we built—in a hurry—plants throughout the United States of the highest sophistication," he said. "Having done so we woke up with the reality that with very few exceptions we did not have the skill to operate them. Period.

"Nobody knows what to do with sludge," he said, pausing, "in the world."

When Abel Wolman was a student at Johns Hopkins University, his interest was medicine, not water.

"I was headed for that until the day I got my bachelors degree," he said. "When I came home, my family announced to me they had had the usual family conclave—to which I was not invited—and it was announced it would be a good thing for me to enter the engineering school [at Hopkins]. You're looking at the first graduate."

What does he think of now of the city water system he designed more than 50 years ago? "One of the best in the United States."

[From the Baltimore Evening Sun, Oct. 16, 1986]

CITY RENAMING MUNICIPAL BUILDING FOR ABEL WOLMAN

(By Kaye Thompson)

Abel Wolman, the sanitary engineer responsible for designing the city's water system and many other cities around the world, will be honored today when the Municipal Building is renamed in his honor.

The building, at 200 N. Holliday St., now will be known as the Abel Wolman Municipal Building.

Wolman, 94, has been a consultant to the city on issues of water supply, sewerage and refuse disposal since 1931. He is also a professor emeritus of engineering at Johns Hopkins University.

A slight man with snow white hair and a gaunt face, Wolman has been a leader in the public health field for more than seven decades. He has also applied his keen mind and wit to a range of other topical problems confronting both his native Baltimore and countries as foreign and far away as India and Israel.

Wolman first distinguished himself as an engineer in the 1920s and 30s when, along with a Johns Hopkins classmate, he devised a method for standardized chlorination of drinking water and implemented the method at the city's Montebello Filtration Plant. This treatment of water has been cited as the single most important factor in controlling diseases caused by waterborne bacteria and viruses.

It has been adopted by most municipal water systems in this country and many abroad.

Wolman is also credited for designing a water system in the city that has adequately met the needs of a growing population for more than 50 years and has been held up as a model for other cities to emulate.

Wolman has traveled around the world to help other countries with their water and public health problems and represented the United States at world conferences. He has also sat on multiple task forces looking into everything from sludge to the dilemma of "white flight" out of the city to a governor-appointed task force on graft in the early 1970s.

Wolman was born in Baltimore in 1892 and graudated from Johns Hopkins University twice—first with a bachelor of arts degree and later with a degree in engineering. He has been awarded an honorary doctorate in engineering from Hopkins, the National Medal of Science, the Tyler Ecology Award and, just this year, the John Wesley Powell Award of the U.S. Geological Survey.

IMPEACHMENT TRIAL OF JUDGE HARRY E. CLAIBORNE

● Mr. GORE. Mr. President, the Constitution of the United States establishes that Federal judges shall serve during "good behaviour." Article III, section 1. It further provides that:

The President, the Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

Article II, section 4. The House of Representatives is empowered to draft articles of impeachment and the Senate possesses "the sole Power to try all Impeachments." Article I, section 6.

When the framers adopted the British model and assigned the impeachment power to the House and Senate, they recognized the important and difficult role that impeachments serve in protecting the public trust:

A well-constituted court for the trial of impeachments is an object not more to be desired than difficult to be obtained in a government wholly elective. The subjects of its jurisdiction are those offences which proceed from the misconduct of public men, or, in other words, from a nature which may with peculiar propriety be denominated "political," as they relate chiefly to injuries done immediately to the society itself. The prosecution of them, for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused. In many it will connect itself with the preexisting factions, and will enlist all their animosities, partialities, influence, and interest on one side or on the other; and in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of the parties, than by the real demonstrations of innocence or guilt. * * * The convention, it appears, thought the Senate the most fit depositary of this important trust. Those who can best discern the intrinsic difficulty of the thing, will be least hasty in condemning that opinion, and will be most inclined to allow due weight to the arguments which may be supposed to have produced it.

Federalist No. 65. Six centuries of experience with impeachments in Great Britain and the United States serve as a guide.

Impeachment Articles have been brought against 12 Federal officials. Of those, six resulted in acquittal, four in removal and two in dismissal.

Prior to the Senate floor proceeding concerning this matter, I served as a member of the Senate Impeachment Trial Committee established pursuant to rule XI of the Senate Rules. Though never used prior to this proceeding, the committee process was established in anticipation of the last impeachment proceeding to come before the Senate, some 50 years ago. The procedure is consistent with the British system as well as the Supreme Court's practice when considering cases pursuant to its Article III original jurisdiciton provision. Compare N. Williams, "The Historical and Constitutional Bases for the Senate's Power to Use Masters or Committees to Receive Evidence in Impeachment Trials," 50 N.Y.U. L. Rev. 512 (1975) with R. Berger "Impeachment, the Constitutional Problems" (Harv. Univ. Press 1973). The committee heard testimony of witnesses called by the House managers and Judge Claiborne over a period of 7 days. Over a dozen witnesses testified, including Claiborne. Transcripts and videotape recordings of the committee proceedings have been made available to the full Senate.

Based on the testimony adduced, the numerous exhibits and pleadings submitted in this proceeding, and the arguments of counsel, I have voted in favor of conviction on Articles I, II, and IV of the Articles of Impeachment. Because Claiborne has been afforded a full trial before the Senate, consideration of the third article is not necessary.

BACKGROUND

Claiborne was convicted on two tax charges and sentenced to 2 years in prison plus fines in October 1984. He had been indicted in early 1984 on bribery, tax, and Ethics in Government Act charges. His first trial resulted in a hung jury and he was retried on the tax and Ethics Act charges. The conviction after the second trial was affirmed by the ninth circuit court of appeals and the Supreme Court declined to review the case. He has exhausted his direct appeals. He began serving his sentence in May of this year and has filed two motions for collateral relief in Federal district court.

ANALYSIS

The House of Representatives presented four articles of impeachment of the Senate. A two-thirds vote in favor of conviction on any one of the articles is sufficient to warrant removal from office. The first two articles stem from the facts giving rise to Claiborne's conviction under 26 U.S.C. 7206(1) for willfully making and subscribing false tax returns in 1979 and 1980. The third article seeks removal from office because of the felony conviction. The fourth article urges removal because Claiborne's false income statements on his 1979 and 1980 Federal tax returns "betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the judiciary."

The elements of an offense under Section 7206(1) are as follows:

(1) the defendant made and subscribed a return, statement, or other document that was incorrect as to a material matter; (2) the return, statement, or other document subscribed by the defendant contained a written declaration that it was made under the penalties of perjury; (3) the defendant did not believe the return, statement, or other document to be true and correct as to every material matter; and (4) the defendant falsely subscribed to the return, statement, or other document willfully, with the specific intent to violate the law.

United States v. *Marabelles*, 724 F.2d 1374, 1380 (9th Cir. 1984). Since there is virtually no dispute that the tax returns at issue failed to report taxable income, the gravamen of the offense in this instance is the element of "willfullness."

The Supreme Court has concluded that willfulness does not require a finding of a bad purpose or evil motive, but rather that "willfulness simply means a voluntary, intentional violation of a known legal duty." *United States* v. *Pomponio*, 429 U.S. 10, 12 (1976). Just as "willfullness" does not connote an evil motive on the one hand, it does not embrace conduct which is merely negligent or mistaken on the other. E.g., *United States* v. *Daniels*, 617 F.2d 146, 148 (5th Cir. 1980).

Courts infer willfulness from the presence of any of a variety of factors in cases under 26 U.S.C. 7206, including, for example:

/S/uch circumstantial evidence as "a consistent pattern of understating large amounts of income, coupled with evidence of falsehood, surreptitious cash transactions and inadequate records kept by the taxpayer," substantial understatement of taxable income and tax liability for the years in question, the withholding of material information from the taxpayer's bookkeepers by giving them only summary sheets of the records in question, and the expenditure of large amounts of cash that cannot be reconciled with the amount of income reported.

United States v. *Hughes*, 766 F.2d 875, 878 (5th Cir. 1985). Virtually all of these factors are present in this case.

A. THE 1979 TAX RETURN

In addition to his 1979 judicial salary, Claiborne received $41,072.93 in ordinary income, pursuant to a legitimate feesplitting arrangement with his former business associates. Only half of the additional income was reported on his 1979 tax return. His conduct leading to the preparation and filing of the return virtually assured that some or all of his fee income would go unreported.

The money was received in the form of 14 checks, cashed at local casinos. This was a significant departure from his financial practice over the three previous decades. Prior to assuming the bench, all of his legal fee checks were deposited into bank accounts which were tracked by his accountant who, in turn, received bank statements for the accounts and copies of deposit records. Claiborne directed Joseph Wright, an accountant who kept the books for his law practice and prepared his tax returns, to treat all deposits as income unless specifically directed otherwise. Wright also understood that he was to give the Government the benefit of the doubt if questions arose.

The respondent opted for this practice in order to "show every penny" that passed through his office. After adhering steadfastly to the practice for many years, he abandoned it in favor of cashing the checks at casinos in 1979 for, as he claimed, convenience and the need for "pocket money." Claiborne did not inform Wright that he had begun cashing legal fee checks at casinos, and he stopped providing Wright with any information setting forth his additional income. He instead chose to record the amounts periodically in a personal diary he began keeping.

Claiborne eventually provided Wright with conflicting information regarding the precise amount of his 1979 income. In March 1980 he crafted a memorandum for Wright which purported to detail his 1979 fee earnings. Curiously, he based the figures upon "bank deposits" that he believed were fee income, apparently forgetting that the fee checks in question included many which had been cashed rather than deposited. Claiborne prepared the memorandum in order to secure a bank loan with Wright's help. Composed from memory because he had misplaced his financial diary, the memorandum estimated the fee income as about $46,000, roughly twice the amount later reported on his taxes and twice the amount he later told Wright.

To compound matters, Claiborne later suggested to Wright over the telephone that only four of the seven items listed in the March 1980 memorandum could be characterized as fees. The four items totaled $22,332.87. He listed a similar amount on his judicial ethics disclosure. He told Wright the remaining items in the memorandum constituted interest income, proceeds from a time certificate of deposit and the sale of an airplane.

Though unsure of the details of the conversation, Claiborne acknowledges that he described at least one item as nonfee income. Wright had no other means of ascertaining Claiborne's income; his notations on the document itself are consistent with his testimony and could have been generated either through guesswork or through the telephone conversation he had with his client. Finally, Wright's testimony is consistent with the prior practice of treating all deposits as income unless directed otherwise.

Claiborne interposes a number of claims in defense. He asserts, for example, that he cashed the fee checks in 1979 rather than depositing them in his bank accounts in order to obtain "pocket money." While $40,000 over the course of several months may resemble pocket money to some, the significance of Claiborne's behavior lies in its stark departure from a history of depositing fee checks in bank accounts so as to allow his accountant to maintain accurate income records. Whatever the reason for the change, the record clearly shows that its effect was to leave no bank record of the receipt or cashing of these checks. Claiborne thereby denied Wright the very information necessary to account for the additional income.

The lynchpin of his defense to the 1979 tax charge is his claim that on April 11, 1980, he sent Wright a letter stating his fee income, together with his W-2 form and a check. Wright neither recalls requesting the letter nor has a recollection of it. He has not been able to produce a copy from his files. Judy Ahlstrom, Claiborne's secretary, apparently delivered the information to Wright and she corroborates Claiborne's claim regarding the delivery of the information and its general contents. This testimony, however, is at odds with common sense and with the testimony of Wright and his wife who also worked in the accounting office.

None of the witnesses on this issue was particularly compelling, although the evidence suggests that Ahlstrom delivered something to Wright's office on April 11, 1980; whether the delivery included the April 11 letter is not clear. Claiborne did not see the completed tax return, having signed it in blank prior to leaving town on business.

Although several possible scenarios suggest themselves, only one seems plausible. On the one hand, the April 11 letter could have been delivered to Wright's office, only to be the one item from the relevant file which was later lost or stolen, leaving Wright with only the earlier memorandum and telephone data from Claiborne as to his income. Under these scenarios, Claiborne gave his accountant conflicting information, at best.

The more plausible scenario is that the self-serving story behind Claiborne's April 11 letter is fictitious. By April 11, his accountant had at least two statements of his 1979 fee income, a circumstance fully consistent with Wright's contention that the April 11 letter was not requested. Claiborne questions the credibility of the Government's witnesses on this issue, pointing to their failure to recall burglaries of their premises and a move which could have caused the loss of the April 11 letter; he has not, however, suggested a convincing motive which would explain why they would adjust their stories. Moreover, no other documents from the file were misplaced.

Too many leaps of logic are required to accept his defense. Many of the factors surrounding the preparation and filing of his 1979 return are factors from which courts readily infer willfulness. Most important, if he did not know precisely what was reported in the 1979 tax return, he certainly should have known that his behavior served only to confuse his accountant

and prevent him from developing an accurate picture of his true income.

B. THE 1980 TAX RETURN

Claiborne's 1980 tax return also underreported his income. That discrepancy allowed him to pay only $1,103 in taxes rather than $97,864. The difference was attributable to his failure to report $87,912 in legal fee income and the improper treatment of the tax consequences flowing from the sale of his home.

Although the precise facts are not entirely clear, the record demonstrates that Claiborne abandoned his longtime accountant, Joseph Wright, and retained Creative Tax Consultants, headed by Jerry Watson. In contrast to the $600 annual fee charged by Wright for bookkeeping and preparation of tax returns, Watson earned $2,000 for his work on the 1980 tax return. That fee was measured in part by the size of the refund Watson was able to generate.

The change in accountants was the result of a belief that Wright was no longer interested in keeping the respondent as a client, combined with the fact that Watson happened to impress the respondent with his ability. While Claiborne was apparently unaware of Watson's nefarious reputation in the community, Watson held himself out as one willing to generate tax savings through "innovative" means. Since Claiborne was well aware of the substantial tax liability he faced in 1980, Watson's "talents" certainly factored into the decision to retain him and discard Wright. That conclusion is buttressed by the timing of Claiborne's decision to change accountants: after Watson suggested that he could dramatically reduce Claiborne's tax liability.

Watson developed a method to treat the sale of Claiborne's home as a tax free transaction, notwithstanding a taxable gain of over $200,000. Despite the fact that his erstwhile law practice did not have the requisite cost basis to substantiate such a claim, Watson also recorded a "loss" based upon the termination of Claiborne's law practice when he became a judge. The two men discussed these plans.

Chief among his claims in response, Claiborne rejects the inference that he abruptly switched accountants in order to gain the services of someone more willing to engage in tax law brinksmanship. He adds that he neither read the completed 1980 tax return, nor understood or was aware of the import of Watson's dubious calculations. Whether he read the return prior to filing, he acknowledges discussing with Watson the notions of claiming the gain from the home sale as a tax free transaction and taking a loss on his former law practice. He recognized within days after the filing that the return may well have been faulty, but was assured by Watson that two experienced Internal Revenue Service officials had vouched for the accuracy of the calculations. Notwithstanding his uneasiness with the return and the sizable refund it yielded, Claiborne retained Watson's services for 2 additional years and took no steps to check the 1980 tax return further.

Claiborne's conduct compels the conclusion that he willfully understated his 1980 income. Whether he was truly unaware of how incorrect his tax return was, he certainly turned a blind eye to questionable circumstances which otherwise would have been obvious to him. His change in accountants suggests a desire to conceal income. He resorted to extensive cash transactions. He underreported a significant amount for a second year in a row.

CLAIMS OF GOVERNMENTAL MISCONDUCT

Claiborne has urged the Senate to permit him to call several dozen witnesses ranging from prosecutors and investigators to the trail judge in his criminal proceeding. He contends that their testimony will reveal a vendetta which led to his conviction, and an unwillingness of several dozen Federal judges to expose its illegality out of fear that public opinion would question whether the vendetta issue was a mere subterfuge erected to protect a fellow jurist.

Even assuming all of Claiborne's allegations of governmental misconduct to be true, the same conclusions as to his conduct obtain. No individual claim or combination of claims can or should detract from the conclusion that he willfully submitted false income tax returns in 1979 and 1980. The Senate need go no further than it already has in assessing the merits of these claims. Although Claiborne views these theories as the overarching issue in this proceeding, he is mistaken.

His contention seems to be that but for a vast conspiratorial vendetta, his innocence would have been proven or the charges would never have been brought. Claiborne contends that full consideration of his claims on this score leads to several conclusions which will exonerate him. Specifically, he suggests that Federal prosecutors pursued him so relentlessly and unscrupulously that they bargained for perjured testimony from a known criminal and spearheaded an illegal burglary of his home in search of inculpatory evidence. He claims that exculpatory evidence was withheld and that witnesses were either intimidated or unfairly coached. If accurate, these claims warrant serious scrutiny and I have cosponsored legislation to establish a special subcommittee to investigate the issue further. If the claims have merit, steps should be taken to rectify the wrong. Remedial measures, however, will in no way abrogate the finding that Claiborne engaged in impeachable conduct.

He further asserts that he could not have had the requisite willful intent, given the predisposition of Federal prosecutors; that claim rests on the notion that no one whose every move is under intense scrutiny by Federal prosecutors would willfully violate the law or knowingly submit such faulty tax returns. This assertion is untenable, given the clear findings regarding Claiborne's conduct.

Claiborne alleges that sympathy for prosecutors and fear of public criticism led several dozen Federal judges to gloss over his defenses. He points to two dissenting appellate opinions in his case suggesting that some of the members of the reviewing panel may have rendered their decision without fully examining the record. Conveniently, Claiborne fails to address the fact that the Supreme Court, when presented with the full record in his case and the dissenting opinions upon which Claiborne now relies, also refused to overturn his criminal convictions.

Finally, Claiborne points to the departure from typical tax investigation procedures as an indication that he received uniquely harsh treatment. He contends that he was denied opportunities to negotiate with the Internal Revenue Service which would have obviated the need to resort to a criminal indictment. In so claiming, the respondent joins the many who believe that the discretion of the Internal Revenue Service and Federal prosecutors in deciding whether to pursue criminal charges is overbroad and should be curtailed. The law currently provides that discretion. Whether it should is a question which may well warrant inquiry but does not alter the finding in this proceeding.

CONCLUSION

The conclusion is inescapable that Claiborne filed false income tax returns and that he did so willfully rather than negligently. While I do not believe that the Senate must apply a reasonable doubt standard in impeachment proceedings, I nevertheless believe that Claiborne has advanced no reason to doubt the conclusions that I have reached about his conduct.

Although a convicted felon, Claiborne arrived before the Senate as a member of the Federal judiciary. He has been afforded the procedural protections which the constitution reserves for that important position. Given the circumstances, it is incumbent upon the Senate to fulfill its constitutional responsibility and strip this man of his title. An individual who has knowingly falsified tax returns has no business receiving a salary derived from the tax dollars of honest citizens. More importantly, an individual guilty of such reprehensible conduct ought

not be permitted to exercise the awesome powers which the constitution entrusts to the Federal judiciary.●

FEDERALISM ACT OF 1986

Mr. EVANS. Mr. President, yesterday I joined with my good friend and colleague Senator DURENBERGER to introduce S. 2926, the Federalism Act of 1986. I ask that this bill be printed in the CONGRESSIONAL RECORD.

The bill is as follows:

S. 2926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Federalism Act of 1986".

SEC. 2. STATEMENT OF POLICY AND PURPOSE.

(a) STATEMENT OF POLICY.—It is the policy of the United States that—

(1) the Federal Government should assume responsibility if—

(A) nationwide uniformity of policy, finance, or administration is important to the solution of a problem, or

(B) it is necessary to raise revenues from the Nation as a whole and to distribute them to the various parts of the Nation;

(2) State and local governments should assume responsibility if—

(A) diversity of policy, finance, or administration is important to the solution of a problem, or

(B) experimentation by State and local officials with a knowledge of local conditions is important to meeting public needs; and

(3) State governments, rather than local governments, should assume responsibility if—

(A) the State constitution does not assign responsibility with specificity to the State government or to local governments,

(B) the multiplicity and diversity of local governments create barriers to raising revenues and delivering services effectively, or

(C) there is no compelling reason for the Federal Government to determine the distribution of resources and responsibilities.

(b) PURPOSE.—In furtherance of the principles set forth in subsection (a), it is the purpose of this Act—

(1) to terminate a number of shared programs and allow States to set their own priorities;

(2) to create greater nationwide uniformity of benefits in the Federal "safety-net" programs;

(3) to promote the employment of welfare recipients;

(4) to remove the tangled web of regulations imposed by the Federal government on State and local governments;

(5) to level the fiscal disparities between the poorest and wealthiest States and localities; and

(6) to reform intergovernmental relationships while assisting in the elimination of the Federal deficit crisis.

(c) BUDGET NEUTRALITY.—The principles and purposes set forth in subsections (a) and (b) shall be implemented gradually and on a fiscally neutral basis.

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN

SUBTITLE A—BENEFITS AND FEDERAL PARTICIPATION

SEC. 101. AFDC MINIMUM BENEFIT AMOUNT.

(a) MINIMUM BENEFIT AMOUNT.—

(1) Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(A) by striking "and" at the end of paragraph (38),

(B) by striking the period at the end of paragraph (39) and inserting in lieu thereof "; and", and

(C) by inserting after paragraph (39) and before the matter following such paragraph the following new paragraph:

"(40) provide that aid provided under the plan shall be equal to or greater than the minimum benefit amount specified in section 411.".

(2) Part A of title IV of such Act is amended by inserting between sections 410 and 412 the following new section:

"MINIMUM BENEFIT AMOUNT

"SEC. 411. (a) The minimum monthly benefit amount for aid furnished in any month under a plan approved under this part with respect to any dependent child (including the relative with whom the child is living and any other individual in the same home as the child, whose needs are taken into account in making the determination under section 402(a)(7)) shall be an amount that, when added to the value of any food stamp allotment to which the family or its household is entitled for such month, is equal to the applicable percentage of the nonfarm income official poverty line established by the Office of Management and Budget (and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) for a family of the same size.

"(b) For purposes of this section—

"(1) the term 'applicable percentage' means—

"(A) 50 percent with respect to months beginning in fiscal year 1989,

"(B) 52 percent with respect to months beginning in fiscal year 1990,

"(C) 54 percent with respect to months beginning in fiscal year 1991,

"(D) 56 percent with respect to months beginning in fiscal year 1992,

"(E) 58 percent with respect to months beginning in fiscal year 1993,

"(F) 60 percent with respect to months beginning in fiscal year 1994, and

"(G) 62 percent with respect to months beginning in any fiscal year after fiscal year 1994; and

"(2) the term 'fiscal year' has the meaning given to such term in section 1102 of title 31, United States Code.".

(b) FEDERAL MATCHING RATE.—Section 1118 of the Act (42 U.S.C. 1318) is amended—

(1) by striking the second sentence,

(2) by inserting "(a)" after "Sec. 1118.", and

(3) by striking the last sentence, and

(4) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a), the term 'Federal medical assistance percentage' shall mean—

"(1) 90 per centum with respect to any amounts expended by the State (as aid to families with dependent children) to meet the minimum benefit requirements of section 402(a)(40), and

"(2) the Federal medical assistance percentage (as defined in section 1905) with respect to any amounts (expended by the State as aid to families with dependent children) in excess of the amounts necessary to meet such requirements.".

(c) EFFECTIVE DATE.—Except as otherwise specifically provided, the amendments made by subsections (a) and (b) shall become effective October 1, 1988.

SEC. 102. MANDATORY PROVISION OF AID WITH RESPECT TO DEPENDENT CHILDREN IN TWO-PARENT FAMILIES.

REQUIREMENT THAT AID BE PROVIDED.—Section 402(a) of the Social Security Act, as amended by section 101 of this Act, is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (39);

(2) by striking out the period at the end of pararaph (40) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (40) the following new paragraph:

"(41) provide that payments of aid will be made under the plan with respect to dependent children of unemployed parents, in accordance with section 407.".

(b) CONFORMING AMENDMENTS—

(1) Section 407(b) of such Act is amended by striking out "(b) The provisions" and all that follows down through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the payment of aid under the State's plan approved under section 402 in the case of families which include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(41), the State's plan—

"(1) shall require".

(2) Section 407(b)(2) of such Act is amended by striking out "provides—" and inserting in lieu thereof "shall provide—".

(c) EFFECTIVE DATE.—Except as otherwise specifically provided, the amendments made by subsections (a) and (b) shall become effective October 1, 1988.

SEC. 102. MANDATORY PROVISION OF AID WITH RESPECT TO DEPENDENT CHILDREN IN TWO-PARENT FAMILIES.

(a) REQUIREMENT THAT AID BE PROVIDED.—Section 402(a) of the Social Security Act, as amended by section 101 of this Act, is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (40) the following new paragraph:

"(41) provide that payments of aid will be made under the plan with respect to dependent children of unemployed parents, in accordance with section 407.".

(b) CONFORMING AMENDMENTS.—

(1) Section 407(b) of such Act is amended by striking out "(b) The provisions" and all that follows down through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the payment of aid under the State's plan approved under section 402 in the case of families which include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(41), the State's plan—

"(1) shall require".

(2) Section 407(b)(2) of such Act is amended by striking out "provides—" and inserting in lieu thereof "shall provide—".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1988.

Subtitle B—Work-Related Requirements

SEC. 111. STATE PLAN REQUIREMENTS; REGISTRATION OF AFDC APPLICANTS AND RECIPIENTS FOR WORK-RELATED COUNSELING, ASSESSMENT, AND ASSIGNMENT.

(a) REQUIREMENT OF REGISTRATION.—Section 402(a)(19) of the Social Security Act is amended—

(1) in subparagraph (A)—

(A) by striking out "shall register" and all that follows down through "regulations issued by him," in the matter preceding clause (i) and inserting in lieu thereof "shall register with the State agency designated under section 416, in accordance with regulations issued by the Secretary, for work-related counseling, assessment, and assignment to employment, training, education, and other employment-related activities as described in section 416(b),";

(B) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) a person so remote from appropriate employment related activities that his or her effective participation in such activities is precluded;";

(C) in clause (v) by inserting "(or such younger age as the State may designate)" after "six";

(D) by striking out "to participate under a work incentive program or accept" in clause (vi) and inserting in lieu thereof "to participate in good faith in counseling and assessment with such agency and in employment, training, or education pursuant to an assignment under that section, or to accept";

(E) by striking out "the Secretary of Labor" in clause (v) and inserting in lieu thereof "the State agency designated under section 416";

(F) by striking out "or" at the end of clause (viii);

(G) by adding "or" after the semicolon at the end of clause (ix);

(H) by inserting after clause (ix) and before the matter following such clause the following new clause:

"(x) any individual with respect to whom the State agency designated under section 416 makes the determination that counseling, assessment, and the employment-related activities described in section 416(b) will not improve the employment prospects of the individual;"; and

(I) in the matter following clause (x)—

(i) by striking out "any individual referred to in clause (v)" in the matter following clause (ix) and inserting in lieu thereof "(I) any individual exempt from registration under the preceding provisions of this subparagraph", and

(ii) by striking out "register;" the second place it appears and inserting in lieu thereof "register, and (II) no individual providing care for a child under the age of six shall be required to register by reason of the parenthetical expression in clause (v) unless the State agency designated under section 416 is able to make necessary transportation and child care arrangements available to such individual;";

(2) in subparagraph (B), by striking out "or the individual's certification" and all that follows and inserting in lieu thereof "or the individual's certification under subparagraph (G) of this paragraph to the State agency designated under section 416, or by reason of an individual's participation in employment, training, or education pursuant to an assignment made by such agency under section 416(b)(3);";

(3) in subparagraph (C), by striking out "a non-Federal contribution to the work incentive programs" and all that follows and inserting in lieu thereof "a non-Federal contribution by appropriate State and local agencies and private organizations to the work incentive programs established by part C, and to any other work-related programs to which individuals are assigned under section 416(b)(3), as specified in section 416(e);";

(4) in subparagraph (D), by striking out "under section 434" and "a program established by section 432(b) (2) or (3)" and inserting in lieu thereof "under a program to which individuals are assigned by the State agency designated under section 416" and "such a program", respectively;

(5) in subparagraph (F)—

(A) by striking out "that if" and all that follows down through "purposes of such part C" (in the matter preceding clause (i)) and inserting in lieu thereof "that if (and for such period as is prescribed under regulations of the Secretary) any child, relative, or individual required to register under subparagraph (A) has been found by the State agency designated under section 416 to have refused without good cause to so register, or has refused without good cause to participate in good faith in counseling and assessment with the State agency designated under section 416 or in employment, training, or education pursuant to an assignment made by such agency under section 416(b)(3),"; and

(B) by adding after and below clause (v) the following:

"and for purposes of this subparagraph a refusal by an individual to accept employment shall be considered to have been made with good cause if the acceptance of such employment would result in a net loss of income by such individual;".

(6) in subparagraph (G)—

(A) by striking out "for the administration of programs established pursuant to section 432(b) (1), (2), or (3)" and inserting in lieu thereof "by the State agency designated under section 416";

(B) by striking out "the order of priority listed in section 433(a)" and inserting in lieu thereof "with the order of priority determined by the State";

(C) by striking out "under section 432(b) (1), (2), or (3)" each place it appears and inserting in lieu thereof "under the work-related program involved";

(D) by striking out "the Secretary of Labor" each place it appears and inserting in lieu thereof "the State agency designated under section 416";

(E) by striking out "accepts employment" and "retain such employment" and inserting in lieu "accepts counseling, assessment, job search, employment, training, or education" and "continue such counseling, assessment, job search, employment, training, or education", respectively; and

(F) by striking out clause (iii) and redesignating clause (iv) as clause (iii); and

(7) in subparagraph (H), by striking out "under section 432(b) (1), (2), or (3)" and inserting in lieu thereof "under section 416".

(b) REQUIREMENT OF CONSOLIDATED ADMINISTRATION OF WORK-RELATED PROGRAMS.—Section 402(a) of such Act is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (38);

(2) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) consolidate the administration of the State's work-related functions under this part, by providing for the assignment of registered individuals by the State agency designated under section 416 to work-related counseling, assessment, and to employment and training programs (as described in such section) and for the performance by such agency of its other duties under that section and under paragraph (19) of this subsection.".

SEC. 112. CONSOLIDATED ADMINISTRATION OF WORK-RELATED PROGRAMS.

Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"CONSOLIDATED ADMINISTRATION OF WORK-RELATED PROGRAMS

"SEC. 416. (a)(1) The Governor of each State with a plan under this part shall designate a State agency to perform the functions specified in this section and in section 402(a)(19).

"(2) It shall be the purpose of the State agency designated under this subsection to assist applicants for and recipients of aid to families with dependent children in finding gainful employment and in obtaining any training and education which may be necessary to enable them to perform such employment, with the objective of reducing the number of individuals on the welfare rolls by providing such applicants and recipients with a realistic opportunity to become self-sufficient.

"(b) In carrying out the purpose described in subsection (a)(2), the State agency designated under subsection (a) shall—

"(1) provide for the registration of all applicants for and recipients of aid to families with dependent children, consistent with section 402(a)(19), and for the determination of the appropriate employment-related activities (including counseling, assessment, and job search) with respect to each such individual;

"(2) administer, or enter into arrangements with administering authorities for, the participation of such applicants and recipients in employment, training, and education activities determined by the State agency designated under subsection (a) to be in furtherance of the objective stated in subsection (a)(2), including—

"(A) the work incentive program under part C of this title,

"(B) the work incentive demonstration program under section 445,

"(C) the State's community work experience program under section 409,

"(D) the State's work supplementation program under section 414, and

"(E) a work demonstration program under section 1115;

"(F) any program under the Job Training Partnership Act,

"(G) any program of job search and related services, including services offered by vocational education agencies and the public employment offices of the State, and

"(H) any other program (Federal, State, local, or private) which could be made effectively available to such applicants and recipients and participation in which would further such objective;

"(3) assign each such applicant or recipient to activities or programs with respect to which arrangements have been entered into under paragraph (2) and which are determined by the State agency designated under subsection (a), to be appropriate for such applicant or recipient, and provide all possible assistance to such applicant or recipient in preparing for, enrolling in, and participating in such program or programs; and

"(4) take all other actions, not inconsistent with the provisions of this section or of the law governing the program or programs involved, which may be necessary or appropriate to achieve the objective stated in subsection (a)(2).

"(c)(1) The terms and conditions of participation in employment, training, and education activities as described in subsection (b)(2), and the manner in which the provisions of the programs involved are to apply with respect to applicants and recipients registered under section 402(a)(19), shall be determined (subject to the specific requirements of this title and of such programs) by the State agency designated under subsection (a) in consultation with the administering authorities of such programs.

"(2) To the maximum extent possible, the steps taken in providing for participation in counseling, assessment, and job search, and the employment, training, and education activities as described in subsection (b)(2) shall include coordination of the services furnished and activities conducted under the various programs involved with respect to registered applicants and recipients in order to avoid inefficiency and duplication of effort and to assure the widest possible availability to such applicants and recipients of services and activities which will further the objective stated in subsection (a)(2). Under regulations prescribed by the Secretary, this section and all functions performed by State agencies and entities under this section shall be coordinated with the work and training requirements which apply to applicants for and recipients of benefits under the Food Stamp Act of 1977.

"(d) The State agency designated under subsection (a) shall make available to registered applicants and recipients who are assigned for employment, training, or education under subsection (b)(3) such child care services and transportation, and such other assistance not inconsistent with law, as may be necessary or appropriate to achieve the objective stated in subsection (a)(2).

"(e)(1) Notwithstanding any other provision of law, and except as provided in paragraphs (4) and (5), the Federal contribution to the costs incurred by the State agency designated under subsection (a) in any fiscal year, and to the costs incurred by any other State agency or entity in carrying out a program referred to in subsection (b)(2) with respect to individuals assigned to that program under subsection (b)(3) in any fiscal year shall be equal to the applicable percentage of such costs as determined under paragraph (2).

"(2)(A) For purposes of paragraph (1), the applicable percentage of the costs described in that paragraph which are incurred by any State agency or entity in fiscal year 1988 shall be 90 percent.

"(B) For purposes of paragraph (1), the applicable percentage of the costs described in paragraph (1) which are incurred by any State agency or entity in a fiscal year beginning after fiscal year 1988 shall be—

"(i) 90 percent, with respect to so much of a State's allotment for such fiscal year under subsection (f) as does not exceed the amount allotted to the State under such subsection for fiscal year 1988,

"(ii) 70 percent, with respect to one-half of the amount by which the amount allotted to the State for the fiscal year under subsection (f) exceeds the amount allotted to the State under such subsection for fiscal year 1988, and

"(iii) a percentage (not more than 90 percent and not less than 70 percent) specified by the Secretary on the basis of the performance of the State agency designated under subsection (a), with respect to one-half of the amount by which the amount allotted to the State for the fiscal year under subsection (f) exceeds the amount allotted to the State under such subsection for fiscal year 1988.

"(3)(A) In any fiscal year beginning after fiscal year 1988, the percentage specified by the Secretary under paragraph (2)(B)(iii) shall be determined in accordance with performance standards developed and prescribed by the Secretary of Health and Human Services, in consultation with the Secretary of Labor, appropriate State officials designated for purposes of this paragraph by the Governors of the several States, and other appropriate experts.

"(B) Such performance standards (which shall be coordinated with the corresponding performance standards under the Job Training Partnership Act)—

"(i) shall be measured by outcomes and not by levels of activity or participation, and shall be based on the degree of success which may reasonably be expected of States (in carrying out their employment-related programs with respect to registered individuals assigned under subsection (b)(3)) in helping such individuals to achieve self-sufficiency and reducing welfare costs;

"(ii) shall take into account the greater difficulties in achieving self-sufficiency that face individuals with limited prior employment experience; and

"(iii) shall encourage States to give appropriate recognition to the greater difficulties in achieving self-sufficiency that face individuals with limited prior employment experience.

"(4) The Federal contribution for administrative costs shall be 50 percent.

"(5) The Federal contribution for the costs of providing (or making available) transportation, child care, and other employment-related support services (as defined by the Secretary in regulations) to registered individuals assigned to a program under subsection (b)(3) shall be 90 percent.

"(f)(1) Notwithstanding any other provision of law, there are authorized to be appropriated—

"(A) $500,000,000 for fiscal year 1988,

"(B) $600,000,000 for fiscal year 1989,

"(C) $700,000,000 for fiscal year 1990,

"(D) $800,000,000 for fiscal year 1991,

"(E) $900,000,000 for fiscal year 1992, and

"(F) $1,000,000,000 for each of the fiscal years 1993, 1994, and 1995,

to carry out the activities under this section.

"(2) The amount allotted to a State under paragraph (1) for a fiscal year shall be an amount that bears the same ratio to the amount appropriated under such paragraph for such fiscal year as—

"(A) the average number of AFDC recipients in such State during the most recent 12-month period preceding the commencement of such fiscal year for which satisfactory data are available, bears to

"(B) the average number of AFDC recipients during such period in all the States.

SEC. 113. OPTIONAL COVERAGE OF EMPLOYMENT-RELATED SUPPORT SERVICES FOR CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 402(a) of the Social Security Act, as amended by sections 101 and 102 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (40);

(2) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (41) the following new paragraph:

"(42) at the option of the State, provide that, in any case where a family has ceased, by reason of increased income from employment, to be eligible for aid under the State plan approved under this part (A) payment under the plan for child care, transportation, and other employment-related support services (as defined by the Secretary in regulations) will continue for such family for a period of up to twelve months after the family has ceased to be eligible for such aid, and (B) at the option of the State, a family contribution for such services (determined in accordance with a sliding scale based on income) will be required.".

(b) REIMBURSEMENT.—Section 416(e)(5) of such Act, as added by section 112 of this Act, is amended by inserting "(and to other individuals eligible for such services in accordance with section 402(a)(42))" after "subsection (b)(5)".

SEC. 114. TECHNICAL, CONFORMING, AND MISCELLANEOUS AMENDMENTS.

(a) AMENDMENTS TO PART A OF TITLE IV.—(1) Section 402(a)(8)(A)(iv)(II) of the Social Security Act is amended by striking out "under the programs established by section 432(b) (2) and (3)" and inserting in lieu thereof "under any training, education, or public service employment program to which such child or relative has been assigned pursuant to section 416(b)(3)".

(2) Section 403(c) of such Act is amended by striking out "certified to the local employment office of the State as being ready for employment or training under section 432(b) (1), (2), or (3)" and inserting in lieu thereof "assigned by the State agency designated under section 416(a) for counseling, assessment, or job search, or for any employment, training, or education activities pursuant to section 416(b)(3)".

(3) Section 407(b)(2)(C)(i) of such Act is amended by striking out "for the work incentive program" and all that follows and inserting in lieu thereof ", and".

(4) Section 407(d)(1) of such Act is amended by striking out "a community work experience program under section 409, or the work incentive program established under part C" and inserting in lieu thereof "a program with respect to which the State agency designated under section 416(a) has provided under section 416(b)(2) for participation by registered individuals in employment, training, and education activities".

(5) Section 407(e) of such Act is amended—

(A) by striking out "and the Secretary of Labor shall jointly" and inserting in lieu thereof "shall";

(B) by striking out "for the work incentive program" and all that follows down through "or in connection" and inserting in lieu thereof "and in connection"; and

(C) by striking out "both the work incentive program" and inserting in lieu thereof "both the programs referred to in section 416(b)(2)".

(6) Section 414(h) of such Act is amended by striking out "or part C".

(b) AMENDMENTS TO PART C OF TITLE IV.—(1) Part C of title IV of such Act is amended—

(A) by striking out section 431;

(B) in section 432(a), by striking out "The Secretary of Labor (hereinafter in this part referred to as the Secretary)" and inserting in lieu thereof "The Secretary";

(C) in section 436(b), by striking out "prescribed jointly by him and the Secretary of Health and Human Services" and inserting in lieu thereof "prescribed by him";

(D) in section 439—

(i) by striking out "and the Secretary of Health and Human Services" where it first appears, and

(ii) by striking out ", jointly by the Secretary and the Secretary of Health and Human Services," and inserting in lieu thereof "by the Secretary";

(E) in section 441, by striking out "(jointly with the Secretary of Health and Human Services)";

(F) in section 443—

(i) by striking out "of Health and Human Services" in the first and second sentences, and

(ii) by striking out "and shall be paid by the Secretary of Health and Human Services to the Secretary" in the fourth sentence;

(G) in section 444(a), by striking out "by the Secretary of Health and Human Services"; and

(H) in section 445—

(i) by striking out "of Health and Human Services" each place it appears in paragraphs (1) and (2) of subsection (b) and in subsection (e), and

(ii) by striking out paragraph (3) of subsection (b).

(2) Section 433(a) of such Act is amended—

(A) by striking out "certified to him by a State, pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)"; and

(B) by striking out "certified to him under section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)".

(3) Section 433(b)(3) of such Act is amended by striking out "certified to him pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)".

(4) Section 433(g) of such Act is amended by striking out "certified to the Secretary pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(3)".

(5) Section 435(a) of such Act is amended by striking out "shall not exceed 90 per centum of the costs of carrying out this part" and inserting in lieu thereof "shall be equal to the applicable percentage of the costs of carrying out this part as determined under section 416(e)".

(6) Section 444(a) of such Act is amended by striking out "individuals certified" and all that follows and inserting in lieu thereof "individuals assigned to the work incentive program pursuant to section 416(b)(3).".

(7) Section 444(d) of such Act is amended by striking out "certified to the Secretary by such agency under section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the State agency designated under section 416".

(8) Section 445 of such Act is amended—

(A) by striking out "Not later than June 30, 1985, the" in subsection (b)(1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "The";

(B) by striking out ", and shall be required to participate in," in subsection (b)(1)(B); and

(C) by striking out "shall be in force for a three-year period" in subsection (d) and inserting in lieu thereof "shall be in force for such period as may be specified in the letter of application submitted under subsection (b)(1), and may be renewed (upon the submission by the Governor of an appropriate letter of application, subject to approval in the manner described in subsection (b)(2)) for an additional period or periods".

(c) RELATIONSHIP WITH OTHER WORK-RELATED PROGRAMS.—Whenever a provision of section 416 of the Social Security Act, or any other provision of such Act which is amended by the preceding provisions of this Act, is determined to be inconsistent with a provision of any of the work-related programs referred to in section 416(b)(2) of such Act or of any other work-related program which may involve or affect individuals who have registered under section 402(a)(19) of such Act and are assigned to such program under section 416(b)(3) of such Act, the provision of section 416 of the Social Security Act (or other provision of such Act as amended by this Act) shall govern.

SEC. 115. EFFECTIVE DATE.

Except to the extent otherwise specifically provided, the amendments made by this subtitle shall take effect October 1, 1987.

Subtitle C—Hold Harmless

SEC. 121. HOLD HARMLESS.

Notwithstanding any other provision of title IV or XI of the Social Security Act, the Federal percentage shall be 100 per centum with respect to—

(1) amounts expended by a State as aid to families with dependent children (or for employment-related activities consolidated under part A of title IV) in calendar quarters beginning in fiscal year 1988, and

(2) amounts expended by a State as aid to families with dependent children (or for employment-related activities consolidated under part A of title IV) in calendar quarters beginning in fiscal year 1989,

that are in excess of the amounts expended by the State for such aid and activities for calendar quarters beginning in fiscal year 1987 and that are attributable to the amendments made by this Act.

TITLE II—MEDICAID

SEC. 201. MEDICAID ELIGIBILITY FOR POOR CHILDREN AND PREGNANT WOMEN.

(a) QUALIFIED PREGNANT WOMEN AND CHILDREN.—

(1) Section 1905(n) of the Social Security Act (42 U.S.C. 1396f(n)) is amended to read as follows:

"(n)(1) The term 'qualified pregnant woman or child' means—

"(A) women during pregnancy (and during the 60-day period following pregnancy),

"(B) infants and children under five years of age,

"(C) children who have attained five years of age but have not attained six years of age,

"(D) children who have attained six years of age but have not attained seven years of age,

"(E) children who have attained seven years of age but have not attained eight years of age,

"(F) children who have attained eight years of age but have not yet attained nine years of age,

"(G) children who have attained nine years of age but have not yet attained ten years of age,

"(H) children who have attained ten years of age but have not yet attained eleven years of age, and

"(I) children who have attained eleven years of age but have not yet attained twelve years of age,

whose family income does not exceed 100 percent of the nonfarm income official poverty line defined by the Office of Management and Budget (and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) Notwithstanding subsection (a)(17), for purposes of this subsection family income shall be determined in accordance with the methodology employed under section 5 of the Food Stamp Act of 1977. Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.".

(2)(A) Section 1902(a)(17) of such Act (42 U.S.C. 1396a(a)(17)) is amended by inserting "except as provided in subsection (n)," after "(17)".

(B) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "for any individual described in section 1902(f)(1) or" after "as medical assistance".

(b) REQUIRED SERVICES.—Section 1902 of such Act (42 U.S.C. 1396a), as amended by subsection (a), is further amended by adding at the end thereof the following new subsection:

"(l) The Secretary shall establish uniform national minimum standards with respect to the types of care and services described in section 1905(a) that shall be made available to qualified women and children under State plans approved under this title. Such services shall include, with respect to pregnant women, at least the services described in subsections (a)(10)(C)(iii)(II) and (e)(5).".

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by this Act shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1987.

(2)(A) Subparagraph (C) of section 1902(n)(1) of the Social Security Act, as added by subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

(B) Subparagraph (D) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1989.

(C) Subparagraph (E) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1990.

(D) Subparagraph (F) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1991.

(E) Subparagraph (G) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1992.

(F) Subparagraph (H) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1993.

(G) Subparagraph (I) of section 1902(n)(1) of the Social Security Act, subsection (a), shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1994.

(3) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to

comply with the requirements of such title solely on the basis of its failure to meet such additional requirements until the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after October 1, 1987.

(4) The amendments made by this section shall become effective without regard to whether the Secretary of Health and Human Services has promulgated final regulations with respect to the standards required by section 1902(l) of the Social Security Act.

SEC. 202. MEDICAID ELIGIBILITY FOR CERTAIN OTHER INDIVIDUALS.

(a) IN GENERAL.—

(1) Subsection (f) of section 1902 of the Social Security Act (42 U.S.C. 1396a(F) is repealed.

(2) Section 1902(a)(10)(A)(i) of the Social Security Act, as amended by section 201, is further amended—

(A) by striking "or" at the end of subclause (II),

(B) by striking the semicolon at the end of subclause (III) and inserting in lieu thereof a comma, and

(C) by adding at the end thereof the following new subclauses:

"(IV) who are eligible to have paid with respect to them supplemental security income benefits under title XVI, or

"(V) who would be eligible (if they were not in a medical institution) to have paid with respect to them, aid or assistance under the appropriate State plan described in subclause (I), supplemental security income benefits under title XVI.".

(3)(A) Section 1843(b) of such Act (42 U.S.C. 1395v(b)) is amended by striking "subject to section 1902(f),".

(B) Section 1902(a)(10)(A)(ii)(IV) of such Act is amended to read as follows:

"(IV) with respect to whom there is being paid, or who are eligible to have paid with respect to them, aid or assistance under the appropriate State plan described in clause (i);".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

SEC. 203. MEDICALLY NEEDY PROGRAM REQUIRED.

(a) IN GENERAL.—Section 1902 of the Social Security Act, as amended by sections 201 and 202, is further amended by adding at the end thereof the following new subsection:

"(m) In order to be approved under this section, a State plan shall, pursuant to subsection (a)(1)(C), include medical assistance for one or more groups of individuals described in section 1905(a) who are not described in subsection (a)(1)(A) of this section.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

SEC. 204. FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

Section 1905(b) of the Social Security Act 942 U.S.C. 1396d(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by inserting "(1)" after "(b)",

(3) by striking "Hawaii;" and inserting in lieu thereof "Hawaii, decreased by the applicable number of percentage points;",

(4) by striking "83 per centum" and inserting in lieu thereof "90 per centum",

(5) by striking "Act)." and inserting in lieu thereof "Act). Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be 80 per centum with respect to amounts expended as medical assistance for qualified pregnant women and children (as defined in section 1902(n)) for calendar quarters beginning on or after October 1, 1987, and before October 1, 1988, and 90 per centum with respect to amounts so expended in calendar quarters beginning on or after October 1, 1988.", and

(6) by adding at the end thereof the following new paragraph:

"(2) For purposes of paragraph (1), the applicable number of percentage points (by which a State percentage shall be reduced) is—

"(A) in the case of calendar quarters beginning on or after October 1, 1988, and before October 1, 1989, 2 percentage points,

"(B) in the case of calendar quarters beginning on or after October 1, 1989, and before October 1, 1990, 4 percentage points,

"(C) in the case of calendar quarters beginning on or after October 1, 1990, and before October 1, 1991, 6 percentage points,

"(D) in the case of calendar quarters beginning on or after October 1, 1991, and before October 1, 1992, 8 percentage points,

"(E) in the case of calendar quarters beginning on or after October 1, 1992, and before October 1, 1993, 10 percentage points, and

"(F) in the case of calendar quarters beginning on or after October 1, 1993, and before October 1, 1994, 12 percentage points, and

"(F) in the case of calendar quarters beginning on or after October 1, 1994, 14 percentage points.".

SEC. 205. HOLD HARMLESS.

Notwithstanding any other provision of title XI or XIX of the Social Security Act, the Federal medical assistance percentage shall be 100 per centum with respect to—

(1) amounts expended by a State for medical assistance furnished in calendar quarters beginning in fiscal year 1988, and

(2) amounts expended by a State for medical assistance furnished in calendar quarters beginning in fiscal year 1989,

that are in excess of the amounts expended by the State for medical assistance for calendar quarters beginning in fiscal year 1987 and that are attributable to the amendments made by this Act.

TITLE III—TERMINATION OR REDUCTION OF CERTAIN FEDERAL PROGRAMS

SEC. 301. REPEAL OF CERTAIN STATUTES.

The following provisions of law are hereby repealed:

(1) APPALACHIAN REGIONAL COMMISSION.—Section 101 of the Appalachian Regional Development Act of 1965 (Public Law 89-4; 79 Stat. 5).

(2) ECONOMIC DEVELOPMENT ADMINISTRATION.—Public Works and Economic Development Act of 1965 (Public Law 89-136; 79 Stat. 552).

(3) URBAN MASS TRANSIT INTERSTATE TRANSFER.—Section 4(g) of the Urban Mass Transportation Act of 1964.

(4) URBAN MASS TRANSIT FORMULA GRANTS.—Section 9 of the Urban Mass Transportation Act of 1964.

(5) URBAN MASS TRANSIT RESEARCH.—Section 11 of the Urban Mass Transportation Act of 1964.

(6) UDAG AND CDBG.—Title I of the Housing and Community Development Act of 1974.

(7) IMPACT AID.—

(A) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress).

(B) The Act of September 23, 1950 (Public Law 815, Eighty-first Congress).

(8) CONSOLIDATION OF EDUCATION PROGRAMS.—Chapter 2 of the Education Consolidation and Improvement Act of 1981.

(9) VOCATIONAL EDUCATION.—Carl D. Perkins Vocational Education Act.

(10) COMMUNITY SERVICES BLOCK GRANTS.—Community Services Block Grant Act.

(11) WASTEWATER.—Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.).

(12) RURAL WATER WASTE DISPOSAL.—Section 306 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1926).

SEC. 302. REDUCTION IN HOUSING ASSISTANCE PROGRAM OUTLAYS.

(a) PROGRAMS TO WHICH REDUCTIONS APPLY.—The reductions required by subsection (b) shall apply to the following housing assistance programs:

(1) Housing assistance payments under section 8 of the United States Housing Act of 1937.

(2) Public housing assistance and loans under the United States Housing Act of 1937.

(3) Rental housing assistance under section 236 of the National Housing Act.

(4) Loans for the development of housing for the elderly and handicapped under section 202 of the Housing Act of 1959.

(5) Congregate services assistance under the Congregate Housing Services Act of 1978.

(6) Operating assistance under section 201 of the Housing and Community Development Amendments of 1978.

(b) AMOUNT OF REDUCTIONS.—The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall report legislation to their respective Houses reducing the aggregate outlays for the programs referred to in subsection (a) from the fiscal year 1986 aggregate baseline outlay amount, as determined by the Director of the Congressional Budget Office, by the following cumulative amounts:

(1) For fiscal year 1987, $700,000,000.
(2) For fiscal year 1988, $800,000,000.
(3) For fiscal year 1989, $900,000,000.
(4) For fiscal year 1990, $1,000,000,000.
(5) For fiscal year 1991, $1,000,000,000.
(6) For fiscal year 1992, $1,200,000,000.
(7) For fiscal year 1993, $1,300,000,000.
(8) For fiscal year 1994, $1,400,000,000.

SEC. 303. REDUCTION AND TERMINATION OF SOCIAL SERVICES BLOCK GRANT.

(a) REDUCTION.—Section 2003(c)(3) of the Social Security Act (42 U.S.C. 1397b(c)(3)) is amended to read as follows:

"(3) $2,000,000,000 for each of the fiscal years 1988 and 1989.".

(b) TERMINATION.—Effective October 1, 1989, title XX of the Social Security Act is repealed.

TITLE IV—FISCAL CAPACITY GRANTS

SEC. 401. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) with the same level of tax effort, high fiscal capacity communities can generate twice the tax revenues of low fiscal capacity communities;

(2) such unevenness in revenue raising ability is responsible for substantial differences in the level and quality of basic community services such as public safety, emergency services, assistance to the homeless,

indigent and elderly public health, and transportation;

(3) low-income communities generally have higher concentrations of poor individuals who have above average needs for public services and place additional burdens on local governments;

(4) these communities are further burdened by the numerous, unfunded Federal mandates with which they must comply;

(5) it is a responsibility of the Federal government to help ensure that all citizens enjoy a minimum level of basic public services;

(6) it is in the national interest to strengthen the weaker partners in the Federal system by lessening the fiscal disparities that exist among communities;

(7) overall, the current system of Federal aid is only mildly targeted to needy State and local government and does little to lessen fiscal disparities; and

(8) a well-targeted program of general purpose fiscal assistance, with a moderate funding level, could reduce fiscal disparities between high-income and low-income local governments.

(b) PURPOSE.—It is the purpose of this title to establish a program that will—

(1) reduce fiscal disparities among State and local governments, and

(2) ensure that all communities can provide their citizens with a safety net of basic public services,

by providing general purpose fiscal assistance to needy communities.

SEC. 402. DEFINITIONS AND SPECIAL RULES OF APPLICATION.

(a) DEFINITIONS.—For purposes of this title—

(1) The term "unit of general local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(B) except under sections 407(b), 408, and 409(a)(2), the District of Columbia and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(2) The term "entitlement period" means each one-year period beginning on October 1 of 1987, 1988, 1989, 1990, 1991, 1992, and 1993.

(3) The term "State and local taxes" means taxes imposed by a State government or unit of general local government or other political subdivision of the State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes.

(4) The term "other charges" means the other charges imposed by a State government or unit of general local government as determined by the Secretary of Commerce for general statistical purposes.

(5) The term "adjusted taxes of a unit of general local government" means the taxes imposed by the unit of general local government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary of the Treasury) to exclude amounts properly allocated to education expenses.

(6) The term "income" means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes.

(7) The term "per capita income" means—

(A) in the case of the United States, the income of the United States divided by the population of the United States;

(B) in the case of a State, the income of that State, divided by the population of that State; and

(C) in the case of a unit of general local government, the income of that unit of general local government divided by the population of the unit of general local government.

(8) The term "finding of discrimination" means a decision by the Secretary of the Treasury about a complaint described in section 419(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of general local government has not complied with subsection (a) or (b) of section 414.

(9) The term "holding of discrimination" means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, that a State government or unit of general local government expending amounts received under this Act has—

(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

(B) violated a prohibition against discrimination described in section 414(b) of this Act.

(10) The term "Trust Fund" means the General Fiscal Assistance Trust Fund.

(11) The term "Secretary" means the Secretary of the Treasury.

(b) BOUNDARY AND OTHER CHANGES.—When a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of this Act in a way that does not carry out the purposes of this Act, the Secretary shall apply this Act under regulations of the Secretary in a way that is consistent with those purposes.

SEC. 403. PAYMENTS TO STATE AND LOCAL GOVERNMENTS.

(a) PAYMENT OF ENTITLEMENTS.—Each State government and unit of general local government is entitled to an amount equal to the amount allocated to such government under this Act for each entitlement period. The Secretary of the Treasury shall pay each amount out of the General Fiscal Assistance Trust Fund.

(b) TIMING OF PAYMENTS.—Except as provided under regulations of the Secretary, the Secretary shall determine allocations under this Act for an entitlement period by the first day of the third month before the beginning of the entitlement period. The Secretary shall pay such allocations in installments. An installment shall be paid at least once a quarter by the fifth day after the end of the quarter. The Secretary initially may estimate the amount of each installment.

(c) ADJUSTMENTS.—The Secretary shall adjust a payment under this Act to a State government or unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid. However, the Secretary may increase or decrease a payment to the government only when the Secretary or the government demands the increase or decrease within one year after the end of the entitlement period for which the payment was made.

(d) RESERVATION FOR ADJUSTMENTS.—The Secretary may reserve a percentage (of not more than 0.5 percent) of the amounts otherwise required to be paid under this section for an entitlement period for a State government and units of general local government in the State when the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

SEC. 404. GENERAL FISCAL ASSISTANCE TRUST FUND.

(a) ADMINISTRATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the "General Fiscal Assistance Trust Fund". The Secretary of the Treasury shall be the trustee of the Trust Fund. Amounts in the Trust Fund—

(1) except as provided in this Act, may be used only for payments to State governments and units of general local government under this Act; and

(2) remain available until expended.

(b) APPROPRIATIONS.—(1) The Trust Fund shall consist of amounts appropriated to the Trust Fund.

(2) There are authorized to be appropriated to the Trust Fund for each entitlement period—

(A) $2,500,000,000 for the purpose of making payments to State governments under this Act, and

(B) $1,500,000,000 for the purpose of making payments to units of general local government under this Act.

(c) TRANSFER OF EXCESS TO GENERAL FUND.—The Secretary shall transfer to the general fund of the Treasury amounts in the Trust Fund the Secretary decides are not necessary for payments to State governments and units of general local government under this Act.

(d) APPROPRIATION AUTHORIZED FOR CERTAIN ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Department of Commerce for each entitlement period $500,000 for the purpose of making the determinations required under sections 402(a)(4) and 407(c)(3).

SEC. 405. QUALIFICATIONS.

(a) IN GENERAL.—Under regulations prescribed by the Secretary, a State government or unit of general local government qualifies for payment under this Act for an entitlement period only after establishing to the satisfaction of the Secretary that—

(1) the government will establish a trust fund in which the government will deposit all payments received under this Act;

(2) the government will use amounts in the trust fund (including interest) during a reasonable period provided in such regulations;

(3) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

(4) if at least 25 percent of the costs of a construction project are paid out of the trust fund, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.), and the Secretary of Labor shall act on labor standards under this clause in a way that is in accordance with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

(5) the government will use accounting, audit, and fiscal procedures conforming to guidelines prescribed by the Secretary of the Treasury (after the Secretary consults with the Comptroller General of the United States);

(6) after reasonable notice to the government, the government will make available to the Secretary of the Treasury and the Comptroller General, with the right to inspect, records the Secretary reasonably requires to review compliance with this Act or the Comptroller General of the United States reasonably requires to review compliance and operations under section 421(d) of this Act;

(7) the government will make reports the Secretary of the Treasury reasonably requires, in addition to the annual reports required under section 422(b) of this Act; and

(8) the government will comply with the requirements of sections 413 and 421.

(b) REVIEW BY GOVERNORS.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (a).

(c) SANCTIONS FOR NONCOMPLIANCE.—

(1) When the Secretary of the Treasury decides that a State government or unit of general local government has not complied substantially with subsection (a) or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the date that is 60 days after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current entitlement period and later entitlement periods until the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) and regulations prescribed under subsection (a).

(2) Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the State government or unit of general local government reasonable notice and an opportunity for a proceeding.

(3) The Secretary may make a payment to the government notified under paragraph (1) of this subsection only when the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) and regulations prescribed under subsection (a).

SEC. 406. SPECIAL ENTITLEMENTS FOR INDIAN TRIBES, ALASKAN NATIVE VILLAGES, AND THE DISTRICT OF COLUMBIA.

(a) ALLOCATION BASED ON POPULATION.—For each entitlement period, the Secretary shall allocate out of the amount authorized for such entitlement period under section 404(b)(2)(B) to—

(1) each Indian tribe and Alaskan Native village having a recognized governing body carrying out substantial governmental duties and powers, and

(2) the District of Columbia,

an amount bearing the same ratio to the special allocation amount for such entitlement period as the population of such tribe or village, or of the District of Columbia, bears to the total population of all of such tribes, villages, and the District of Columbia.

(b) SPECIAL ALLOCATION AMOUNT.—For purposes of this section, the term "special allocation amount" means, for any entitlement period, the amount determined by multiplying—

(1) the total population of all Indian tribes, Alaskan Native villages, and the District of Columbia, by

(2) 150 percent of the amount determined by dividing—

(A) the amount authorized for such entitlement period under section 404(b)(2)(B), by

(B) the total population of the United States.

SEC. 407. STATE AREA ALLOCATIONS FOR UNITS OF GENERAL LOCAL GOVERNMENT.

(a) IN GENERAL.—

(1) For each entitlement period, the Secretary shall allocate to each State out of the amount authorized for the period under section 404(b)(2)(B) (after deduction of the amount allocated under section 406) an amount bearing the same ratio to such amount authorized (after such deduction) as—

(A) the amount determined by multiplying—

(i) the population of the State, by

(ii) the general tax effort factor of the State, by

(iii) the relative fiscal capacity factor of the State; bears to

(B) the sum of the amounts determined under subparagraph (A) for all the States.

(2)(A) The amount of funds allocated to a State under this subsection for any entitlement period shall equal or exceed an amount determined by multiplying—

(i) the population of such State, by

(ii) 20 percent of an amount determined by dividing—

(I) the amount of funds authorized to be appropriated for such entitlement period under section 404(b)(2)(B), by

(II) the total population of the United States.

(B) The Secretary shall increase the amount allocated to any State under paragraph (1) for any entitlement period by the amount necessary to ensure that the allocation to such State under this subsection for the entitlement period meets the requirements of subparagraph (A). The Secretary shall reduce the allocations made under this subsection to all other States by the amount of such increase in proportion to the amount of funds each of such other States was allocated under paragraph (1) for the entitlement period, but only to the extent the allocations made to each of such other States under this subsection for the entitlement period after such reduction meets the requirements of subparagraph (A).

(b) STATE AREA ALLOCATION TO BE ALLOCATED AMONG UNITS OF GENERAL LOCAL GOVERNMENT.—The Secretary shall allocate the amount allocated to a State under subsection (a) among the units of local government in that State under section 408 or 410.

(c) DEFINITIONS.—For purposes of the section—

(1)(A) The general tax effort factor of a State for an entitlement period is an amount determined by dividing—

(i) the sum of—

(I) State and local government taxes, and

(II) other charges imposed by State and local government, by

(ii) the total taxable resources of the State.

(B) The general tax effort factor for any State shall not exceed an amount determined by dividing—

(i) the total of the sums determined under subparagraph (A)(i) for all the States, by

(ii) the sum of the total taxable resources for all the States.

(2)(A) The relative fiscal capacity factor of a State for an entitlement period is the excess, if any, of—

(i) 150 percent of the adjusted total taxable resources of all the States; over

(ii) an amount determined by dividing—

(I) the total taxable resources of such State, by

(II) the population of such State.

If the amount determined under clause (i) does not exceed the amount determined under clause (ii), the relative fiscal capacity factor is zero.

(B) The adjusted total taxable resources of all the States is an amount equal to the sum of—

(i) 20 percent of the amount determined by dividing—

(I) the total taxable resources of the State for which the relative fiscal capacity factor is being determined, by

(II) the population of the State for which the relative fiscal capacity factor is being determined, plus

(ii) 80 percent of the amount determined by dividing—

(I) the sum of the total taxable resources of all the States, by

(II) the sum of the population of all the States.

(3)(A) The total taxable resources of a State is equal to the average, during the most recent 3 years, of the sum of—

(i) the gross State product of such State, plus

(ii) other resources which are potentially taxable by such State or units of general local government within such State, but which originate in the economies of other States.

(B) For purposes of subparagraph (A)—

(i) the Secretary of the Treasury shall, by regulation, define the resources that shall be taken into account for purposes of clause (ii) of subparagraph (A), and

(ii) the Secretary of Commerce shall compute gross State products and such other resources on an annual basis.

SEC. 408. ALLOCATIONS TO UNITS OF GENERAL LOCAL GOVERNMENT IN THE SAME STATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, each unit of general local government in any State (other than the District of Columbia and any Indian tribe and Alaskan Native village which is eligible to receive an entitlement under section 406) shall be allocated for each entitlement period an amount bearing the same ratio to the amount allocated to such State under section 407(a) as—

(1) the amount determined by multiplying—

(A) the population of such unit of general local government, by

(B) the general tax effort factor of such unit of general local government, by

(C) the income factor of such unit of general local government; bears to

(2) the sum of the amounts determined under paragraph (1) for all units of the general local government located in such State.

(b) DEFINITIONS.—For purposes of this section—

(1)(A) The general tax effort factor of a unit of general local government for an entitlement period is the amount determined by dividing—

(i) the revenues of the unit of general local government, by

(ii) the income of such unit.

(B) The revenues of a unit of general local government are the sum of—

(i) the adjusted taxes of the unit of general local government, and

(ii) the other charges imposed by the unit of general local government.

(C) The Secretary shall include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in a geographic area of a unit of general local government as taxes of the unit of general local government under subparagraph (A) when—

(i) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

(ii) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this subparagraph.

(D) Notwithstanding subparagraph (C)—

(i) the revenues of a township shall not exceed 200 percent of the amount determined by multiplying—

(I) the per capita revenues of all township governments in the State, by

(II) the population of such township government;

(ii) the revenues of a municipal government shall not exceed 200 percent of an amount determined by multiplying—

(I) the per capita revenues of all municipal governments in the State, by

(II) the population of such municipal government;

(iii) the per capita revenues of a county government shall not exceed 200 percent of an amount determined by multiplying—

(I) the per capita revenues of all county governments in the State, by—

(II) the population of such county government; and

(iv) the per capita revenues of a unified city/county government (as defined by the Bureau of the Census) shall not exceed 200 percent of the amount determined by multiplying—

(I) the per capita revenues of all units of unified city/county governments in the State, by

(II) the population of such unified city/county governments.

(E) The per capita revenues of any unit of general local government is the amount determined by dividing—

(i) the revenues of such unit of general local government, by

(ii) the population of such unit of general local government.

(2)(A) The income factor of a unit of general local government for an entitlement period is equal to the excess, if any, of—

(i) 120 percent of the adjusted State per capita income, over

(ii) the per capita income of such unit of general local government.

If the amount determined under clause (i) does not exceed the amount described in clause (ii), the relative income factor of such unit of general local government is zero.

(B) The adjusted State per capita income is equal to the sum of—

(i) 20 percent of the per capita income of the State in which such unit of general local government is located, plus

(ii) 80 percent of the per capita income of the United States.

SEC. 409. ADJUSTMENTS OF LOCAL GOVERNMENT ALLOCATIONS MADE UNDER SECTION 408.

(a) LIMITATIONS ON PAYMENTS.—

(1) Subject to paragraph (2), the per capita allocation under section 408 of any unit of general local government in a State for any entitlement period shall not exceed 300 percent of the amount determined by dividing—

(A) the amount authorized for such entitlement period under section 404(b)(2)(B), by—

(B) the total population of the United States.

(2) Notwithstanding any other provision of this Act, if—

(A) the amount allocated under section 408 to any unit of general local government for an entitlement period is less than $5,000; or

(B) such allocation is waived by the governing authority of the unit of general local government,

the Secretary shall not pay such allocation to such unit of general local government.

(b) Any amounts which may not be paid to a unit of general local government by reason of subsection (a) shall be reallocated among the other units of general local government in the same State in proportion to the amounts allocated under section 408 to such other units, but no reallocation shall cause the entitlement of any such other unit to exceed the amount to which that unit is limited by subsection (a).

SEC. 410. ALTERNATIVE DISTRIBUTION OF FUNDS TO LOCAL GOVERNMENTS.

(a) ESTABLISHMENT OF COMMISSION.—

(1) Each State which receives funds under this Act shall establish a commission to investigate—

(A) the public service needs and fiscal capacities of units of general local government in such State, and

(B) alternative means of allocating among the units of general local government in such State the funds allocated to such State under section 407.

(2)(A) Subject to the provisions of subparagraph (B), the membership of the commission which is to be established under paragraph (1) shall be representative of the forms of units of general local government in the State and the populations served by such units of general local government.

(B) At least 50 percent of the membership of the commission which is to be established under paragraph (1) shall represent units of general local government which have income that is less than 90 percent of the per capita income of the United States.

(3) No funds may be paid under this Act to a State government or to a unit of general local government with the State after the date that is 3 years after the date of enactment of this Act until the State government establishes a commission under paragraph (1) that complies with the requirements of this section.

(b) RECOMMENDATIONS.—

(1) The commission established under subsection (a)(1) shall recommend to the legislature of the State, as an alternative to the allocation provided under section 408, a method of allocating among the units of general local government in the State the funds that are allocated to the State under section 407.

(2) The allocation method recommended by the commission under paragraph (1) shall provide what the commission determines to be the best means of allocating funds to reduce, among all units of general local government in the State, the excess of—

(A) the amount of funds each unit of general local government in the State needs to provide public services, over

(B) the fiscal capacity of such unit of general local government.

(c) IMPLEMENTATION OF ALTERNATIVE ALLOCATION METHOD.—If—

(1) a State government enacts a law which provides, as an alternative to the allocation under section 408, a method of allocating among units of general local government in such State the funds that are allocated to the State under section 407, and

(2) the other requirements of subsections (a) and (b) have been met,

the Secretary shall use such alternative allocation method, in lieu of the provisions of section 408, in allocating among units of general local government in such State the funds allocated to such State under section 407.

SEC. 411. ALLOCATIONS TO STATE GOVERNMENTS.

(a) IN GENERAL.—For each entitlement period, the Secretary shall allocate to each State government out of the amount authorized for the period under section 404(b)(2)(A) an amount bearing the same ratio to such amount authorized as—

(1) the amount determined by multiplying—

(A) the population of the State, by

(B) the general tax effort factor of the State, by

(C) the relative fiscal capacity factor of the State; bears to

(2) the sum of the amounts determined under paragraph (1) for all the States.

(b) LIMITATION.—

(1) Notwithstanding any other provision of this Act, the Secretary shall not make any payment under this Act to a State government for an entitlement period if the amount allocated to such State government under subsection (a) for such entitlement period is less than $1,000,000.

(2) Any amounts which may not be paid to a State government by reason of paragraph (1) shall be allocated among the other State governments in proportion to the amounts allocated to such other State governments under subsection (a).

(c) DEFINITIONS.—For purposes of the section—

(1)(A) The general tax effort factor of a State for an entitlement period is an amount determined by dividing—

(i) the sum of—

(I) State and local government taxes, and

(II) other charges imposed by State and local government, by

(ii) the total taxable resources of the State.

(B) The general tax effort factor for any State shall not exceed an amount determined by dividing—

(i) the total of the sums determined under subparagraph (A)(i) for all the States, by

(ii) the sum of the total taxable resources for all the States.

(2)(A) The relative fiscal capacity factor of a State for an entitlement period is the excess, if any, of—

(i) 90 percent of the adjusted total taxable resources of all the States; over

(ii) an amount determined by dividing—

(I) the total taxable resources of such State, by

(II) the population of such State.

If the amount determined under clause (i) does not exceed the amount determined under clause (ii), the relative fiscal capacity factor is zero.

(B) The adjusted total taxable resources of all the States is an amount equal to the sum of—

(i) 20 percent of the amount determined by dividing—

(I) the total taxable resources of the State for which the relative fiscal capacity factor is being determined, by

(II) the population of the State for which the relative fiscal capacity factor is being determined, plus

(ii) 80 percent of the amount determined by dividing—

(I) the sum of the total taxable resources of all the States, by

(II) the sum of the population of all the States.

(3)(A) The total taxable resources of a State shall be determined in accordance with section 407(c)(3).

SEC. 412. INFORMATION USED IN ALLOCATION FORMULAS.

(a) USE OF MOST RECENT INFORMATION.—Except as provided in this section, the Secretary shall use the most recent available information provided by the Secretary of Commerce and the Secretary of Labor before the beginning of the entitlement period to determine an allocation under this Act. When the Secretary of the Treasury decides that the information is not current or complete enough to provide for a fair allocation, the Secretary may use additional information (including information based on estimates) as provided under regulations of the Secretary.

(b) POPULATION DATA.—

(1) The Secretary shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes, except that—

(A) the population of the United States includes the population of the District of Columbia and the population of Indian tribes and native villages; and

(B) the population of a State does not include the population of Indian tribes and native villages.

(2) The Secretary of the Treasury shall request the Secretary of Commerce to adjust the population information provided to the Secretary of the Treasury as soon as practicable to include a reasonable estimate of the number of resident individuals not counted in the 1980 census or revisions of the census. The Secretary of the Treasury shall use the estimates in determining allocations for the entitlement period beginning after the Secretary of the Treasury receives the estimates. The Secretary of the Treasury shall adjust population information to reflect adjustments made under section 118 of Public Law 96-369.

(c) ADDITIONAL DATA LIMITATIONS.—The Secretary of the Treasury may not—

(1) in determining an allocation for an entitlement period, use information on tax collections for years more recent than the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of that period;

(2) consider a change in information used to determine an allocation for a period of 60 months when the change—

(A) results from a major disaster declared by the President under section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141); and

(B) reduces the amount of an allocation; and

(3) for purposes of allocations under sections 407, 408, 409, and 410, consider any reduction in the amount of adjusted taxes of any State government or unit of general local government if such reduction—

(A) results from a specific economic dislocation which causes—

(i) the closing of places of employment,

(ii) declines in assessed values of, or receipt of taxes from, real property, or

(iii) declines in sales or income tax collections of such government, and

(B) would reduce the allocation of the State government or unit of general local government for an entitlement period by an amount equal to or greater than 20 percent of such allocation for the preceding entitlement period.

SEC. 413. ACCOUNTABILITY.

(a) HEARING ON PROPOSED USE OF FUNDS.—A State government or unit of general local government expending payments under this Act shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

(b) DISCLOSURE OF INFORMATION.—

(1) At least 10 days before a hearing required under subsection (a)(1) is held, a State government or unit of general local government shall—

(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

(2) By the 30th day after adoption of the budget under State or local law, the government shall—

(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

(B) publish in at least one newspaper of general circulation a notice that the information referred to in clause (A) of this paragraph is available for inspection.

(c) WAIVERS OF REQUIREMENTS.—Under regulations of the Secretary of the Treasury, a requirement under subsection (a)(1) of this section may be waived if the budget process required under the applicable State or local law or charter provisions—

(1) ensures the opportunity for public attendance and participation contemplated by subsection (a); and

(2) includes a hearing on the proposed use of a payment received under this Act in relation to the entire budget of the government.

(d) EXCEPTION TO 10-DAY LIMITATION.—When the Secretary is satisfied that the State government or unit of general local government will provide adequate notice of the proposed use of a payment received under this Act, the 10-day period under subsection (b)(1) of this section may be changed to the greatest extent necessary to comply with applicable State or local law.

(e) APPLICATION TO GOVERNMENTS WITHOUT BUDGETS.—The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

SEC. 414. PROHIBITED DISCRIMINATION.

(a) GENERAL PROHIBITION.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a State government or unit of general local government because of race, color, national origin, or sex if the government receives a payment under this Act.

(b) ADDITIONAL PROHIBITIONS.—The following prohibitions and exemptions also apply to a program or activity of a State government or unit of general local government if the government receives a payment under this Act:

(1) a prohibition against discrimination because of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.),

(2) a prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and

(3) a prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.) or title VIII of the Act of April 11, 1968 (known as the Civil Rights Act of 1968) (42 U.S.C. 3601 et seq.).

(c) LIMITATIONS ON APPLICABILITY OF PROHIBITIONS.—Subsections (a) and (b) of this section do not apply when the State government or unit of general local government shows, by clear and convincing evidence, that a payment received under this Act is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

(d) INVESTIGATION AGREEMENTS.—The Secretary shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a State government or unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

SEC. 415. DISCRIMINATION PROCEEDINGS.

(a) NOTICE OF NONCOMPLIANCE.—By the 10th day after the Secretary makes a finding of discrimination or receives a holding of discrimination about a State government or unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

(b) INFORMAL PRESENTATION OF EVIDENCE.—The State government or unit of general local government may present evidence in-

formally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e) of this section, the government may present evidence on whether—

(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 414(a) of this Act;

(2) the program or activity of the government violated a prohibition described in section 414(b) of this Act; and

(3) any part of that program or activity has been paid for with a payment received under this Act.

(c) TEMPORARY SUSPENSION OF PAYMENTS.—By the end of the 30-day period under subsection (b) of this section, the Secretary shall decide whether the State government or unit of general local government has not complied with section 414 (a) or (b) of this Act, unless the government has made a compliance agreement under section 417 of this Act. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this Act unless, within 10 days after the government receives notice of the decision, the government—

(1) makes a compliance agreement under section 417 of this Act; or

(2) requests a proceeding under subsection (d)(1) of this section.

(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—

(1) A proceeding requested under subsection (c)(2) of this section shall begin by the 30th day after the Secretary receives a request for the proceeding. The hearing shall be before an administrative law judge appointed under section 3105 of title 5. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the State government or unit of general local government is likely to prevail in showing compliance with section 414 (a) or (b) of this Act.

(2) When the administrative law judge decides at the end of a proceeding under paragraph (1) of this subsection that the State government or unit of general local government has—

(A) not complied with section 414 (a) or (b) of this Act, the judge may order payments to the government under this Act terminated; or

(B) complied with section 414 (a) or (b) of this Act, a suspension under section 416(a)(1)(A) of this Act shall be discontinued promptly.

(3) An administrative law judge may not issue a preliminary decision that the government is not likely to prevail when the judge has issued a decision described in paragraph (2)(A) of this subsection.

(e) BASIS FOR REVIEW.—In a proceeding under subsection (b), (c), or (d) of this section on a program or activity of a State government or unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this Act was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

SEC. 416. SUSPENSION AND TERMINATION OF PAYMENTS IN DISCRIMINATION PROCEEDINGS.

(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

(1) The Secretary shall suspend payment under this Act to a State government or unit of general local government—

(A) if an administrative law judge appointed under section 3105 of title 5 issues a preliminary decision in a proceeding under section 415(d)(1) of this Act that the government is not likely to prevail in showing compliance with section 414 (a) and (b) of this Act;

(B) except as provided in section 415(d)(2)(B) of this Act, when the administrative law judge decides at the end of the proceeding that the government has not complied with section 414 (a) or (b) of this Act, unless the government makes a compliance agreement under section 417 of this Act by the 30th day after the decision; or

(C) when required under section 415(c) of this Act.

(2) Except as provided in section 415(d)(2) of this Act, a suspension already ordered under paragraph (1)(A) of this subsection continues in effect when the administrative law judge makes a decision under paragraph (1)(B) of this subsection.

(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—When a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a State government or unit of general local government of payments suspended by the Secretary only—

(1) at the time and under the conditions stated in—

(A) the approval by the Secretary of a compliance agreement under section 417(a)(1) of this Act; or

(B) a compliance agreement under section 417(a) of this Act;

(2) when the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 415(a) of this Act;

(3) when a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 415(d)(1) of this Act), that the government has complied with section 414 (a) and (b) of this Act; or

(4) when a suspension is discontinued under subsection (b) of this section.

(d) PAYMENT OF DAMAGES AS COMPLIANCE.—Compliance by the government under subsection (c) of this section may include paying restitution to the person injured because the government did not comply with section 414 (a) or (b) of this Act.

(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a State government or unit of general local government of payments terminated under section 415(d)(2) of this Act only when the decision resulting in the termination is reversed by an appellate court.

SEC. 417. COMPLIANCE AGREEMENTS.

(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

(1) approved by the Secretary between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the State government or unit of general local government that has not complied with section 414 (a) or (b) of this Act; or

(2) between the Secretary and such chief executive officer.

(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

(1) shall state the conditions the State government or unit of general local government has agreed to comply with that would satisfy the obligations of the government under section 414 (a) and (b) of this Act;

(2) shall cover each matter that has been found not to comply, or would not comply, with section 414 (a) or (b) of this Act; and

(3) may be a series of agreements that dispose of those matters.

(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of the compliance agreement to each person who filed a complaint referred to in section 415(b) of this Act, or, if an agreement under subsection (a)(1) of this section, each person who filed a complaint with a governmental authority, about a failure to comply with section 414 (a) or (b) of this Act. The Secretary shall submit the copy by the 15th day after an agreement is made. However, when the Secretary approves an agreement under subsection (a)(1) of this section after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

SEC. 418. ENFORCEMENT BY THE ATTORNEY GENERAL OF PROHIBITIONS ON DISCRIMINATION.

The Attorney General may bring a civil action in an appropriate district court of the United States against a State government or unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 414 (a) or (b) of this Act. The court may grant—

(1) a temporary restraining order;

(2) an injunction; or

(3) an appropriate order to ensure enjoyment of rights under section 414 (a) or (b) of this Act, including an order suspending, terminating, or requiring repayment of, payments under this Act or placing additional payments under this Act in escrow pending the outcome of the action.

SEC. 419. CIVIL ACTION BY A PERSON ADVERSELY AFFECTED.

(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—When a State government or unit of general local government, or an officer or employee of a State government or unit of general local government acting in an official capacity, engages in a practice prohibited by this Act, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b) of this section.

(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected must file an administrative complaint with the Secretary of the Treasury or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 414(d) of this Act. Administrative remedies are deemed to be exhausted after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

(1) issues a decision that the government has not failed to comply with this Act; or

(2) does not issue a decision on the complaint.

(c) AUTHORITY OF COURT.—In an action under this section, the court—

(1) may grant—

(A) a temporary restraining order;

(B) an injunction; or

(C) another order, including suspension, termination, or repayment of, payments under this Act or placement of additional payments under this Act in escrow pending the outcome of the action; and

(2) to enforce compliance with section 414 (a) or (b) of this Act, may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with section 414 (a) or (b) of this Act, the Attorney General may intervene in the action when the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

SEC. 420. JUDICIAL REVIEW.

(a) APPEALS IN FEDERAL COURT OF APPEALS.—A State government or unit of general local government receiving notice from the Secretary of the Treasury about withholding payments under section 405(c) of this Act, suspending payments under section 416(a)(1)(B) of this Act, or terminating payments under section 415(d)(2)(A) of this Act, may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition must be filed by the 60th day after the notice is received. The clerk of the court immediately shall send a copy of the petition to the Secretary and the Attorney General.

(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

(c) AUTHORITY OF GRANT.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. When a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. The Secretary may make new or modified findings and shall certify additional proceedings to the court.

(d) REVIEW ONLY BY SUPREME COURT.—A judgment of the court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

SEC. 421. AUDITS, INVESTIGATIONS, AND REVIEWS.

(a) AUDIT REQUIREMENTS.—Except as otherwise provided in this section, a State government or unit of general local government which receives a payment under this Act shall have an audit made in accordance with chapter 75 of title 31, United States Code.

(b) WAIVER BY SECRETARY.—Under regulations of the Secretary, the Secretary may waive the requirement of subsection (a) for a State government or unit of general local government for a fiscal year when the Secretary decides that the financial statements of the government for the year cannot be audited, and the government shows substantial progress in making the statements auditable.

(c) INVESTIGATIONS BY SECRETARY.—

(1) The Secretary shall maintain regulations providing reasonable and specific time limits for the Secretary to—

(A) carry out an investigation and make a finding after receiving a complaint referred to in section 419(b) of this Act, a determination by a State or local administrative agency, or other information about a possible violation of this Act;

(B) carry out audits and reviews (including investigations of allegations) about possible violations of this Act; and

(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 414 (a) or (b) of this Act or other provision of this Act.

(2) The maximum time limit under paragraph (1)(A) of this subsection is 90 days.

(d) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for Congress to evaluate compliance and operations under this Act.

SEC. 422. REPORTS.

(a) REPORTS BY SECRETARY TO CONGRESS.—Before June 2 of each year, the Secretary personally shall report to Congress on—

(1) the status and operation of the Fiscal Assistance Trust Fund during the prior fiscal year; and

(2) the administration of this Act, including a complete and detailed analysis of—

(A) actions taken to comply with sections 414, 415, 416, 417, and 418, including a description of the kind and extent of noncompliance and the status of pending complaints;

(B) the extent to which State governments and units of general local government receiving payments under this Act have complied with sections 405 and 421 (a), (b), and (d) of this Act, including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under section 421 (a), (b), and (d);

(C) the way in which payments under this Act have been distributed in the jurisdictions receiving payments; and

(D) significant problems in carrying out this Act and recommendations for legislation to remedy the problems.

(b) REPORTS BY STATE GOVERNMENTS AND UNITS OF GENERAL LOCAL GOVERNMENT TO SECRETARY.—

(1) At the end of each fiscal year, each State government or unit of general local government receiving a payment under this Act shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated during the fiscal year;

(B) the relationship of the payment to the relevant functional items in the budget of the government; and

(C) the differences between the actual and proposed use of the payment.

(2) The Secretary shall provide a copy of a report submitted under paragraph (1) of this subsection by a State government or unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the way and form prescribed by the Secretary.

(c) REGULATIONS.—The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

TITLE V—BLOCK GRANTS TO STATES FOR LONG-TERM HEALTH CARE SERVICES.

SEC. 501. ESTABLISHMENT OF BLOCK GRANT PROGRAM WITH RESPECT TO LONG-TERM HEALTH CARE.

Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new sections:

"ESTABLISHMENT OF BLOCK GRANT PROGRAM WITH RESPECT TO LONG-TERM HEALTH CARE

"SEC. 1921. (a) TERMINATION OF PROGRAM OF REIMBURSEMENT.—Notwithstanding any other provision of law—

"(1) no provision of this title may, with respect to any State plan referred to in section 1902, be construed as requiring any State to provide for medical assistance for long-term health care; and

"(2) the Secretary may not, under section 1903, pay any amount to any State with respect to any amount expended by a State in providing medical assistance for long-term health care.

"(b) ESTABLISHMENT OF BLOCK GRANT PROGRAM.—

"(1) The Secretary shall, for each fiscal year, pay to any State described in paragraph (3) an amount determined in accordance with section 1922. Such amount may be used by a State only for the provision of long-term health care. Subject to paragraph (2), each State may determine such criteria for eligibility for long-term health care as the State involved determines to be appropriate.

"(2) A State must extend eligibility for long-term care to individuals entitled to medical assistance under the State plan approved under section 1902 before it may extend eligibility for such care to other categories of individuals.

"(3) Any State referred to in paragraph (1) is any State that—

"(A) with respect to health care and services other than long-term health care, has a plan approved under this title; and

"(B) provides to the Secretary such information as the Secretary determines to be necessary to make the computation described in section 1922.

"(c) DEFINITION OF LONG-TERM HEALTH CARE.—For purposes of this section, the term 'long-term health care' means skilled nursing facility services, intermediate care facility services, inpatient psychiatric hospital services, home health care services and other services necessary to prevent or terminate the institutionalization of eligible individuals.

"(d) EFFECTIVE DATE.—This section shall take effect on the expiration of the 2-year period beginning on the 1st day of the 1st fiscal year beginning after the date of the enactment of the Federalism Act of 1986.

"COMPUTATION OF AMOUNT OF BLOCK GRANT FOR LONG-TERM HEALTH CARE

"SEC. 1922. (a) IN GENERAL.—With respect to the State involved, the amount referred to in section 1921(b) is the lesser of—

"(1) an amount described in subsection (f); and

"(2) an amount equal to the sum of—

"(A) an amount equal to the product of—

"(i) the primary adjusted Federal medical assistance percentage (as defined in subsection (b)) for the fiscal year; and

"(ii) the qualifying amount (as defined in subsection (c)); and

"(B) an amount equal to the product of—

"(i) the secondary adjusted Federal medical assistance percentage (as defined in subsection (d)) for the fiscal year; and

"(ii) the compensatory amount (as defined in subsection (e)).

"(b) DEFINITION OF PRIMARY ADJUSTED FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—For purposes of this section:

"(1) The term 'primary adjusted Federal medical assistance percentage' means a percentage equal to the sum of the Federal medical assistance percentage and the primary adjustment percentage for the fiscal year.

"(2) The term 'primary adjustment percentage' means—

"(A) for the fiscal year in which section 1921 takes effect, 5 percent; and

"(B) for each subsequent fiscal year, a percentage equal to the sum of 3 percent and the primary adjustment percentage for the immediately preceding fiscal year.

"(c) DEFINITION OF QUALIFYING AMOUNT.—For purposes of this section:

"(1) The term 'qualifying amount' means an amount equal to the larger of—

"(A) the sum of the 5 adjusted health service category amounts, or

"(B) 50 percent of the total amount expended by the State involved in the base year for all 5 adjusted health service categories.

"(2) The term 'health service category' means each of the following:—

"(A) Skilled nursing facility services.

"(B) Intermediate care facility services with respect to mentally retarded individuals or individuals with related conditions.

"(C) Intermediate care facility services other than the services described in subparagraph (B).

"(D) Inpatient psychiatric hospital services.

"(E) Home health care services.

"(3) The term 'adjusted health service category amount' means—

"(A) with respect to a health service category described in subparagraph (A), (B), (C), or (D) of paragraph (2), the product of—

"(i) an amount equal to the total amount expended in the base year by the State involved for such category, and

"(ii) the national per capita care day ratio for such category; and

"(B) with respect to the health service category described in subparagraph (E) of paragraph (2), an amount equal to the total amount expended in the base year by the State involved for such category.

"(4) The term 'base year' means the fiscal year immediately preceding the fiscal year in which section 1921 takes effect.

"(5) The term 'care day' means a day on which a service referred to in paragraph (2) has been provided.

"(6) The term 'national per capita care day ratio' means, with respect to the health service category involved, an amount equal to the lesser of 1.5 and—

"(A) the national median number of care days provided per individual in the base year; divided by

"(B) the mean number of care days per individual provided in the base year by the State involved.

"(7) The term 'national median number' means, with respect to the category of health service involved, the median of the respective means of care days per individual provided in the base year by the States.

"(d) DEFINITION OF SECONDARY ADJUSTED FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—For purposes of this section:

"(1) The term 'secondary adjusted Federal medical assistance percentage' means a percentage equal to the difference between the Federal medical assistance percentage and the secondary adjustment percentage for the fiscal year.

"(2) The term 'secondary adjustment percentage' means—

"(A) for the fiscal year in which section 1921 takes effect, 2.5 percent; and

"(B) for each subsequent fiscal year, a percentage equal to the sum of 1.5 percent and the secondary adjustment percentage for the immediately preceding fiscal year.

"(e) DEFINITION OF COMPENSATORY AMOUNT.—

"(1) For purposes of this section, the term 'compensatory amount' means the difference between—

"(A) the aggregate total of amounts expended in the base year by the State involved for the 5 health service categories ; and

"(B) the qualifying amount for such State.

"(2) The compensatory amount may be a negative number.

"(f) LIMITATION ON AMOUNT OF GRANT.—

"(1) The amount referred to in subsection (a)(1) is the sum of—

"(A) an amount equal to the product of 90 percent and the qualifying amount; and

"(B) an amount equal to the product of—

"(i) the percentage described in paragraph (2); and

"(ii) the greater of 0 and the compensatory amount.

"(2) The percentage referred to in paragraph (1)(B)(i) is a percentage equal to the difference between—

"(A) the Federal medical assistance percentage; and

"(B) the product of—

"(i) 50 percent; and

"(ii) the difference between 90 percent and the Federal medical assistance percentage.

"(g) ADJUSTMENT BY SECRETARY OF QUALIFYING AMOUNT.—

"(1) If the Secretary makes the determination described in paragraph (2), the Secretary shall increase the qualifying amount of the State involved to the extent determined by the Secretary to be appropriate.

"(2) The determination referred to in paragraph (1) is a determination that—

"(A) with respect to the State involved, the number of poor elderly individuals residing in the State has increased, or

"(B) the cost of providing long-term health care has increased, since the base year due to inflation and other factors.

"STATE ADMINISTRATION

"SEC. 1923. Prior to expenditure by a State of payments made to it under section 1921 for any fiscal year, the State shall report on the intended use of the payments the State is to receive under such section, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be transmitted to the Secretary and made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this title, and any revision shall be subject to the requirements of the previous sentence.".

SEC. 502. REPORT BY SECRETARY WITH RESPECT TO TECHNICAL AND CONFORMING CHANGES.

With respect to the amendments to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) made by this Act, the Secretary of Health and Human Services shall, before the expiration of the 180-day period beginning on the date of the enactment of this Act, submit to the Congress a report describing such technical and conforming changes in such title XIX as the Secretary determines to be appropriate.●

IMMIGRATION REFORM—CONFERENCE REPORT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived with regard to the cloture vote today at 1 o'clock.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE CALENDAR

Mr. SIMPSON. Mr. President, after conferring with the acting Democratic leader, my friend Senator MATSUNAGA, we have business to do that must be performed tonight or this morning in order that the House and Senate can complete their coordinated efforts on the passage of this legislation of various types and sorts.

With that, after conferring, as I say, with the acting Democratic leader, I would like to inquire if he is in a position to pass or definitely postpone any or all of the following Calendar items: Calendar Nos. 456, 498, 862, 865, 867, 868, 1052, and 1095.

Mr. MATSUNAGA. Not 1052, no. The others we have no objection to.

Mr. SIMPSON. You do have an objection to 1052?

Mr. MATSUNAGA. Yes; we have an objection to that.

Mr. SIMPSON. Mr. President, with the deletion of Calendar item No. 1052, is the acting minority leader in a position to pass or indefinitely postpone any of those other items?

Mr. MATSUNAGA. We have no objection on this side.

Mr. SIMPSON. Then, I ask unanimous consent that we pass en bloc or indefinitely postpone en bloc these items and that all committee-reported amendments, preambles, and title amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT OF PATENT COOPERATION TREATY IMPLEMENTATION LAWS

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1230) to amend the patent laws implementing the Patent Cooperation Treaty.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MATHIAS. The Patent Cooperation Treaty is an international patent agreement aimed at harmonizing the patent application procedures in member countries around the world. The treaty was ratified by the President with the advice and consent of the Senate in 1973, and eventually went into effect for our country in 1978.

At time of the Senate's consideration of the treaty in 1973, we placed a reservation on chapter 2, due to the belief that the procedures in that chapter would place an undue burden on our Patent and Trademark Office at that time because of differences between the patent systems of the various countries that would participate in the treaty. Since that time, however, there has been tremendous progress, partly as a result of the treaty, in making those systems more compatible, and consequently we are now in a position to take advantage of the benefits of chapter 2.

Accordingly in the 98th Congress the President asked for the advice and consent of the Senate to withdraw the reservation on chapter 2. That request—Treaty Document 98-29—was favorably reported this year from the Foreign Relations Committee after a hearing, and passed the Senate by unanimous consent last Thursday. The bill before us today, S. 1230, is the implementing legislation, making the changes necessary in our domestic patent statutes for conforming to chapter 2 of the Patent Cooperation Treaty, if the Senate acts on the President's request as expected.

The substantive portions of the treaty, chapters 1 and 2, allow inventors to file preliminary international patent applications prior to committing the money and technical resources necessary to formulate a formal patent application. Under these chapters, inventors are given more lead time and informal assessments of the prospect of obtaining a patent on their inventions in other countries.

Under chapter 1, an inventor receives an international search report citing all prior art that might have a bearing on the patentability of the invention, and also is allowed 20 months before having to decide whether to submit a formal, full-scale patent application. After that, he would forfeit the priority date established when he filed the international application.

If the inventor enters chapter 2 procedures, the lead period is extended by 10 months, and the applicant is provided with an international preliminary examination report. Such reports are prepared by the patent office in one of the member countries, assessing whether the invention is novel, nonobvious, and useful—the three standard criteria around the world for patentability. The preliminary examination report is also circulated to the patent offices in all the member countries, for their possible use if the inventor decides to proceed with a patent application in those countries.

There is a solid consensus that withdrawing our reservation and submitting to chapter 2 of the Treaty is in the interest of promoting innovation in our country. As it stands, U.S. inventors have been the largest users by far of chapter 1 of the Treaty. Furthermore, it is now universally agreed that entering chapter 2 would not place undue burdens on the U.S. Patent and Trademark Office. The European Patent Office has agreed to assist the U.S. Patent and Trademark Office during the transition period after we withdraw our reservation. This assistance will be particularly valuable during the interim next year when our Patent and Trademark Office is completing its drive to reduce patent pendency time to 18 months.

The Judiciary Committee ordered S. 1230 favorably reported by unanimous consent on December 5, 1985. We are aware of no opposition to the bill, and I urge its adoption.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Act to authorize the United States to participate in chapter II of the Patent Cooperation Treaty".

SEC. 2. (a) Section 351(a) of title 35, United States Code, is amended by striking out ", excluding chapter II thereof".

(b) Section 351(b) of title 35, United States Code, is amended by striking out "excluding part C thereof".

(c) Section 351(g) of title 35, United States Code, is amended by—

(1) striking out "term" and inserting in lieu thereof "terms";

(2) inserting "and 'International Preliminary Examining Authority' " after "Authority"; and

(3) striking out "means" and inserting in lieu thereof "mean".

(d) Section 361(d) of title 35, United States Code, is amended to read as follows:

"(d) The international fee, and the transmittal and search fees prescribed under section 376(a) of this part, shall either be paid on filing of an international application or within such later time as may be fixed by the Commissioner.".

SEC. 3. The item relating to section 362 in the analysis for chapter 36 of title 35, United States Code, is amended to read as follows:

"362. International Searching Authority and International Preliminary Examining Authority.".

SEC. 4. Section 362 of title 35, United States Code, is amended to read as follows:

"§ 362. International Searching Authority and International Preliminary Examining Authority

"(a) The Patent and Trademark Office may act as an International Searching Authority and International Preliminary Examining Authority with respect to international applications in accordance with the terms and conditions of an agreement which may be concluded with the International Bureau, and may discharge all duties required of such Authorities, including the collection of handling fees and their transmittal to the International Bureau.

"(b) The handling fee, preliminary examination fee, and any additional fees due for international preliminary examination shall be paid within such time as may be fixed by the Commissioner.".

SEC. 5. Section 364(a) of title 35, United States Code, is amended by—

(a) striking out "or", first occurrence and inserting in lieu thereof ",";

(b) inserting "International Preliminary Examining Authority" after "Authority, or"; and

(c) striking out "both".

SEC. 6. Section 368(c) of title 35, United States Code, is amended by—

(a) striking out the second occurrence of "or" and inserting in lieu thereof ","; and

(b) striking out "both" and inserting in lieu thereof "International Preliminary Examining Authority".

SEC. 7. (a) Section 371(a) of title 35, United States Code, is amended to read as follows:

"(a) Receipt from the International Bureau of copies of international applications with any amendments to the claims, international search reports, and international preliminary examination reports including any annexes thereto may be required in the case of international applications designating or electing the United States.".

(b) Section 371(b) of title 35, United States Code, is amended to read as follows:

"(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2), or under article 39(1)(a) of the treaty.".

(c) Section 371(c)(4) of title 35, United States Code, is amended by striking the "." and inserting in lieu thereof ",".

(d) Section 371(c) of title 35, United States Code, is amended by adding at the end thereof the following new paragraph (5):

"(5) a translation into the English language of any annexes to the international preliminary examination report, if such annexes were made in another language.".

(e) Section 371(d) of title 35, United States Code, is amended by adding at the end thereof the following sentence: "The requirement of subsection (c)(5) shall be complied with at such time as may be fixed by the Commissioner and failure to do so shall be regarded as cancellation of the amendments made under article 34(2)(b) of the treaty.".

(f) Section 371(e) of title 35, United States Code, is amended by inserting "or article 41" after "28".

SEC. 8. (a) Section 376(a) of title 35, United States Code, is amended by—

(1) inserting "and the handling fee" after the first occurrence of "fee";

(2) striking "amount is" and inserting in lieu thereof "amounts are";

(3) redesignating paragraph (5) as paragraph (6); and

(4) inserting the following new paragraph (5):

"(5) A preliminary examination fee and any additional fees (see section 362(b))."

(b) Section 376(b) of title 35, United States Code, is amended by—

(1) inserting "and the handling fee" after the first occurrence of "fee" in the first sentence; and

(2) inserting "the preliminary examination fee and any additional fees," after "fee," in the third sentence.

SEC. 9. Sections 2 through 8 of this Act shall come into force on the same day as the effective date of entry into force of chapter II of the Patent Cooperation Treaty with respect to the United States, by virtue of the withdrawal of the declaration under article 64(1)(a) of the Patent Cooperation Treaty. It shall apply to all international applications pending before or after its effective date.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WILDLIFE SANCTUARY FOR HUMPBACK WHALES IN THE WEST INDIES

The joint resolution (H.J. Res. 67) calling for a wildlife sanctuary for humpback whales in the West Indies, was considered, ordered to a third reading, read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO INDEFINITELY POSTPONE CERTAIN MEASURES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the following calendar items be indefinitely postponed: Calendar Order No. 498, S. 595; Calendar Order No. 862, S. 2635; Calendar Order No. 865, S. 2287; Calendar Order No. 867, S. 2466; and Calendar Order No. 868, S. 2532.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEMORIAL TO HONOR WOMEN WHO HAVE SERVED IN THE ARMED FORCES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 945, House Joint Resolution 36, the memorial to honor women who have served in the Armed Forces.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 36) authorizing establishment of a memorial to honor women who have served in or with the Armed Forces of the United States.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause, and insert the following:

AUTHORIZATION OF MEMORIAL

SECTION 1. There is hereby authorized to be established on Federal land in the District of Columbia and its environs, by any organization or organizations approved by the Secretary of the Interior, a memorial to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the Senate on September 10, 1986 (S. Rpt. 99-421).

FUNDING

SEC. 2. The organization or organizations approved by the Secretary shall establish the memorial with non-Federal funds.

AMENDMENT NO. 3481

Mr. SIMPSON. Mr. President, I send an amendment to the desk of the committee substitute on behalf of Senator MCCLURE and ask for its immediate consideration.

The PRESIDING OFFICER. Will the clerk report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] on behalf of Mr. MCCLURE, proposes an amendment numbered 3481.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

1. On page 2, line 22, of H.J. Res. 36 as reported by the Committee on Energy and Natural Resources, strike "There is hereby authorized to be established on Federal land in the District of Columbia and its environs, by any organization or organizations approved by the Secretary of the Interior, a memorial" and insert in lieu thereof "The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs".

2. On page 3, line 2, of H.J. Res. 36 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

3. On page 3, line 5 of H.J. Res. 36, as reported by the Committee on Energy and Natural Resources, strike "The organization or organizations approved by the Secretary" and insert in lieu thereof "The Women in Military Service for America Memorial Foundation".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3481) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read a third time, the question is, shall it pass?

So the joint resolution (H.J. Res. 36) was passed.

The title was amended so as to read "A joint resolution to authorize the establishment of a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States.".

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ERECTION OF A MEMORIAL TO BLACK REVOLUTIONARY WAR VETERANS AND BLACK MEN, WOMEN, AND CHILDREN WHO RAN AWAY FROM SLAVERY

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar item No. 946, H.J. Res. 142, dealing with the black Revolutionary War veterans.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 142) authorizing establishment of a memorial to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom, which had been reported from the Committee on Energy and Natural Resources, with an

amendment to strike out all after the enacting clause, and insert the following:

AUTHORIZATION OF MEMORIAL

SECTION 1. The Black Revolutionary War Patiots Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the Senate on September 10, 1986 (S. Rpt. 99-421).

FUNDING

SEC. 2. The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

The amendments were agreed to.

The amendments were ordered to be engrossed, the bill was read the third time, and passed.

The title was amended so as to read: "A joint resolution to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor the estimated 5,000 courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom.".

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 3482

Mr. SIMPSON. Mr. President, I send an amendment to the desk to the committee substitute on behalf of Senator MCCLURE, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] for Mr. MCCLURE, proposes an amendment numbered 3482.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 14, strike all after the word "the" and insert in lieu thereof "House of Representatives on September 29, 1986.".

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 3482) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The committee amendment, as amended, was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution, as amended, was read a third time.

The PRESIDING OFFICER. The joint resolution, as amended, having been read the third time, the question is, Shall it pass?

The joint resolution (H.J. Res. 142), as amended, was passed.

The amendment to the title was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTEREST PROVISIONS OF THE DECLARATION OF TAKING ACT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar item 986, S. 2424, to amend the interest provisions of the Declaration of Taking Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2424) to amend the interest provisions of the Declaration of Taking Act.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3483

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator DURENBERGER and Senator BOSCHWITZ, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. DURENBERGER, Mr. BOSCHWITZ, and Mr. THURMOND, proposes an amendment numbered 3483.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

SEC. 2. (a) Notwithstanding any other provision of chapter 11 of title 11, United States Code, the bankruptcy trustee in each case described in subsection (b) shall pay benefits until May 15, 1987, to retired former employees under a plan, fund, or program maintained or established by the debtor in such case prior to filing a petition (through the purchase of insurance or otherwise) for the purpose of providing medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death.

(b) This section is effective with respect to—

(1) cases commenced under chapter 11 of title 11, United States Code, in which a plan for reorganization has not been confirmed by the court and in which any such benefit is still being paid on October 2, 1986;

(2) in cases under which an order for relief is entered under chapter 11 of title 11, United States Code, after October 2, 1986, while such case is a case under chapter 11; or

(3) in cases under title 11, United States Code, involving a partnership which was in existence prior to July 17, 1986, and was the subject of a petition under chapter 11 of title 11, United States Code, upon which an order for relief was entered by a bankruptcy court on August 7, 1986, and where one of the partners received bankruptcy court authorization on August 6, 1986, approving rejection of a partnership agreement.

(c) If any provision of this section or the application thereof to any person or circumstance is held invalid, the provisions of every other part of this section and the first section shall not be affected thereby.

On page 3, line 14, of H.J. Res. 142 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 3483) was agreed to.

Mr. GORTON. Mr. President, I have a concern about this bill that I would like to explore with the distinguished Senator from South Carolina responding on behalf of the Committee on the Judiciary. I expect that my concern can be alleviated through this colloquy.

Mr. THURMOND. I would be pleased to respond to the distinguished Senator from Washington.

Mr. GORTON. This bill would provide a formula for determining interest payments in cases where the Federal Government acquires land pursuant to a Declaration of Taking. Would this bill have any effect in situations where the Federal Government acquires land pursuant to a legislative taking?

Mr. THURMOND. The bill does not in any way affect legislative takings. It is an amendment to the Declaration of Taking Act. That act is concerned only with the acquisition of any land or easement or right of way in land for the public use through a procedure that involves the filing in Federal court of a document called a Declaration of Taking, which is signed by the authority empowered by law to ac-

quire the land. A Declaration of Taking is not utilized when the Government acquires land pursuant to a legislative taking.

Mr. GORTON. I understand that the Department of Justice asked for this bill. Does the Department agree that this bill has no impact whatsoever on a legislative taking?

Mr. THURMOND. The committee has talked with the Department about your point, and the Department has given its complete assurance that the bill concerns only takings under the Declaration of Taking Act, and that neither the bill nor the act have any effect on legislative takings.

Mr. GORTON. I am pleased to hear that. I was concerned because I am aware of proceedings which have been going on for some years to determine compensation in connection with the Government's legislative taking pursuant to the Redwood National Park Act, as amended, (16 U.S.C. 79a-q). That act contains provisions concerning compensation and interest, and refers to the Declaration of Taking Act only to incorporate an administrative procedure for deposits into the registry of the court. I did not think it appropriate that any of the ground rules underlying those Redwood National Park proceedings should be changed by the bill this late in the game. Am I correct, then, in understanding that the Federal court's determination of compensation and interest for the Redwood National Park legislative takings will in no way be affected by this bill?

Mr. THURMOND. Based on both the assurance that the Department of Justice has given me on this particular point and my understanding of the bill and the Redwood National Park Act, as amended, the Senator is correct; no court determination in these cases will be affected; and, the settlement agreement reached prior to this date between United States and Louisiana Pacific Corp., including the option to elect between rates, is not altered and may be exercised.

Mr. GORTON. I thank the Senator, and have no objection to the passage of the bill.

Mr. DURENBERGER. Mr. President, I send an amendment to the desk on behalf of myself, Mr. BOSCHWITZ and the distinguished chairman of the Judiciary Committee, Mr. THURMOND. This amendment is intended to protect the life, health and disability benefits of retired employees whose benefits have been unilaterally terminated when a company has filed for bankruptcy.

I believe this amendment has been cleared on both sides. I especially want to thank the distinguished chairman of the Judiciary Committee Mr. THURMOND, for working out this amendment and contributing his expertise in drafting the provision.

The amendment I am offering today prevents companies that have filed for bankruptcy from terminating the life, health and disability benefits of retired employees until May 15, 1987. This amendment is similar to a provision contained in the continuing resolution, but broadens the scope of that amendment so as to ensure that these benefits must be continued in cases where the Bankruptcy Court entered an order for relief on August 7.

Mr. THURMOND. Mr. President, this amendment creates a new provision in the Bankruptcy Code that will protect the health and life insurance benefits of retirees when their former employers file for bankruptcy. It is designed to continue this protection until May 15, 1987, in order to give Congress time to act on the broader question of how retiree benefits are to be treated under the Bankruptcy Code, and especially under section 1113.

I stress that this new provision is not to be read or interpreted as affecting the interpretation of section 1113 of the code. I have participated in drafting this amendment with that purpose in mind, and I know that is the intent of both Senator DURENBERGER and Senator BOSCHWITZ, who worked with me in the drafting of this amendment. It was only with this understanding that I have consented to allow the Senate to consider this amendment in the closing days of the session.

Mr. President, I want to make it completely clear, as Senators DURENBERGER and BOSCHWITZ understand, that this amendment does not affect the interpretation of section 1113 in any way.

Mr. BOSCHWITZ. Mr. President, we sometimes refer to certain legislation as "must" legislation. That is, legislation which must be passed as a top priority. I consider this amendment to be "must" legislation.

When LTV Corp. filed for bankruptcy under chapter 11 of the bankruptcy laws on July 17 of this year, the health, disability, and death benefits of over 78,000 retirees of that company and its subsidiaries were put in jeopardy. Recognizing the catastrophe that a discontinuance of these benefits could be for retired workers and their families, Congress acted on several pieces of legislation to prevent any interruption in the payment of these benefits. I supported those legislative efforts.

Most recently, on October 3, 1986, the Senate added an amendment to the continuing resolution which would require LTV Corp. to continue health, disability and death benefits to it's retirees until May 15, 1987. The intention was that these benefits should be protected until Congress has an opportunity to study the bankruptcy laws and determine what further action it wants to take to protect these retirees.

Subsequently, we have been informed that, under the language used in the amendment to the continuing resolution, the health, disability, and death benefits of over 1,000 retirees on the severely depressed Minnesota Iron Range would not be protected. The amendment we are offering today would amend the language of the earlier amendment to the continuing resolution to make clear that the benefits of these retirees would be protected in the same fashion as those of other retirees affected by the LTV Corp. bankruptcy.

Again, I consider this to be "must" legislation. I want to thank the distinguished chairman of the Judiciary Committee, President Pro Tempore THURMOND, for his efforts in helping us to pass this legislation to protect these retirees.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 2424), as amended, was ordered to be engrossed for a third reading, and was read the third time.

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Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 1014, H.R. 5363, the House companion bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5363) to amend the interest provision of the Declaration of Taking Act.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. SIMPSON. Mr. President, I move to strike all after the enacting clause and insert the text of S. 2424, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. If there be no further amendment, the question is on third reading and passage.

The bill (HR. 5363), as amended, was ordered to a third reading, read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent that S. 2424 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PINE RIDGE INDIAN RESERVATION CLAIMS SETTLEMENT ACT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar 1087, dealing with the Pine Ridge Indian Reservation.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2260) to settle claims arising out of activities on the Pine Ridge Indian Reservation.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with amendments, as follows:

(The parts of the bill intended to be stricken are shown in bold face brackets, and the parts of the bill intended to be inserted are shown in italics:)

S. 2260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in full settlement of all claims, legal and equitable, against the United States arising out of activities on the Pine Ridge Indian Reservation that were the subject of the findings of fact and recommendations submitted to the Senate by the Chief Commissioner of the United States Court of Claims (Congressional Reference 4-76) in response to a request of the Senate made in Senate Resolution 378 (94th Congress, agreed to on August 9, 1976), the Secretary of the Treasury is authorized and directed to pay, out of funds in the Treasury of the United States not otherwise appropriated, the following amounts:

(1) $731.05 to Joe Leavitt (claimant No. 1),

(2) $118,771.10 to William Leavitt (claimant No. 3),

(3) $10,954.48 to Dwight W. and Francis Afraid of Hawk (claimant No. 3),

(4) $15,073.31 to Stella Bear Shield (claimant No. 4),

(5) $3,582.00 to Samuel Crocked Eyes (claimant No. 5),

(6) $2,955.00 to Seth Eagle Bear (claimant No. 6),

(7) $4,095.00 to Frank and Gonne A. Grooms (claimant No. 7),

(8) $2,537.00 to Vera High Hawk (claimant No. 8),

(9) $21,092.00 to John and Nancy Hussman (claimant No. 9),

(10) $2,245.00 to Jackson and Carolyn Iron Horse (claimant No. 10),

(11) $4,467.00 to Frances Ice Chase (claimant No. 11),

(12) $1,838.60 to Eugene Kills in Water (claimant No. 12),

(13) $3,161.00 to Victoria Little Moon (claimant No. 13),

(14) $4.929.00 to Clement and Verla Locke (claimant No. 14),

[(15) $12,021.56 to Frank and Gladys Locke (claimant No. 15),**]**

[(16)**]** *(15)* **[**$11,672.50**]** *$11,672.50* to Charles and Martha Moose (claimant No. 16),

[(17)**]** *(16)* $12,812.00 to Warfield Moose (claimant No. 17),

[(18)**]** *(17)* $8,025.00 to Patrick and Sophie Pumpkin Seed (claimant No. 18),

[(19)**]** *(18)* $6,161.25 to Oliver and Margaret Red Eagle (claimant No. 19),

[(20)**]** *(19)* $24,562.00 to Paul and Eva Red Star (claimant No. 20),

[(21)**]** *(20)* $7,768.00 to Lillian and Steve Sitting Eagle (claimant No. 21),

[(22)**]** *(21)* $1,685.10 to Joseph Spotted Bear (claimant No. 22),

[(23)**]** *(22)* $5,897.25 to Elizabeth Breast (claimant No. 23),

[(24)**]** *(23)* $3,340.33 to Elmer and Nettie Two Two (claimant No. 24),

[(25)**]** *(24)* $7,653.00 to Francis and Marie Randall (claimant No. 25),

[(26)**]** *(25)* $5,603.00 to Fannie Bear Eagle (claimant No. 26),

[(27)**]** *(26)* $3,597.00 to Eugene Black Bear, Jr. (claimant No. 27),

[(28)**]** *(27)* $2,571.00 to Anthony and Linda Black Elk (claimant No. 28),

[(29)**]** *(28)* $15,833.90 to Homer and Irene Black Elk (claimant No. 29),

[(30)**]** *(29)* $8,762.75 to Rachel Eagle Bull (claimant No. 30),

[(31)**]** *(30)* $4,723.00 to Florine (Ice) Hollow Horn (claimant No. 32),

[(32)**]** *(31)* $6,050.40 to Oscar and Rachel Hollow Horn (claimant No. 33),

[(33)**]** *(32)* $4,134.40 to Verlean Ice (claimant No. 34),

[(34)**]** *(33)* $6,880.00 to Claudia Iron Hawk Sully (claimant No. 36),

[(35)**]** *(34)* $7,735.55 to Paul R. Littlebear-Taylor (claimant No. 37),

[(36)**]** *(35)* $3,248.10 to Hobart Keith (claimant No. 38),

[(37)**]** *(36)* $1,350.00 to Mathew H. King (claimant No. 39),

[(38)**]** *(37)* $4,285.00 to Dallas and Roselyn Little Bear (claimant No. 41),

[(39)**]** *(38)* $3,053.60 to Julia Little Bear (claimant No. 42),

[(40)**]** *(39)* $2,083.09 to Mrs. Theresa R. Means (claimant No. 43),

[(41)**]** *(40)* $3,842.00 to Carol E. Red Star (claimant No. 44),

[(42)**]** *(41)* $1,194.00 to John Mark Red Star (claimant No. 45),

[(43)**]** *(42)* $3,793.50 to Neville C. Red Star, Sr. (claimant No. 46),

[(44)**]** *(43)* $3,525.00 to Darlene Rosane (claimant No. 47),

[(45)**]** *(44)* $14,882.00 to Garry Rowland (claimant No. 48),

[(46)**]** *(45)* $2,485.00 to Beverly Running Bear (claimant No. 49),

[(47)**]** *(46)* $4,025.00 to Rose Shott (claimant No. 50),

[(48)**]** *(47)* $24,276.00 to Sub-Community of Wounded Knee (claimant No. 51),

[(49)**]** *(48)* $3,750.00 to Paul Thunder Horse (claimant No. 52),

[(50)**]***(49)* $3,593.00 to Robert E. & Lorene E. Thunder Horse (claimant No. 53),

[(51)**]***(50)* $5,949.22 to Timothy H. and Audrey K. Thunder Horse (claimant No. 54),

[(52)**]***(51)* $1,900.00 to Lester White Butterfly (claimant No. 55),

[(53)**]***(52)* $1,455.00 to Daniel Dodge (claimant No. 56),

[(54)**]***(53)* $1,100.00 to Mr. & Mrs. Manfred Fast Horse (claimant No. 57),

[(55)**]***(54)* $2,207.00 to Helen S. Grant (claimant No. 58),

[(56)**]***(55)* $4,715.00 to Florine Hollow Horn *ex rel.* Bernard Ice, Sr. (claimant No. 59),

[(57)**]***(56)* $1,245.00 to Frank Jealous of Him (claimant No. 60),

[(58)**]***(57)* $5,756.10 to Matthew and Bessie J. High Pine (claimant No. 61),

[(59)**]***(58)* $5,305.00 to Cecilia (Little Moon) Fast Horse (claimant No. 62),

[(60)**]***(59)* $4,901.50 to Mabel I. Whiteface (claimant No. 63),

[(61)**]***(60)* $3,288.00 to Rachel White Dress (claimant No. 64),

[(62)**]***(61)* $2,422.30 to Dorothy Fast Wolf (claimant No. 65),

[(63)**]***(62)* $13,018.40 to Frank H. and Wilma Grooms (claimant No. 66),

[(64)**]***(63)* $4,334.67 to Jessie and Raymond Red Shirt (claimant No. 68),

[(65)**]***(64)* $28,467.95 to Carol J. Deckert Sager (claimant No. 69),

[(66)**]***(65)* $2,484.45 to LeRoy "Sunshine" Janis (claimant No. 70),

[(67)**]***(66)* $16,754.70 to Rudolph Fire Thunder (claimant No. 71),

[(68)**]***(67)* $1,535.50 to Messiah Episcopal Church (claimant No. 72),

(68) $600 to Faye Yellow Bird Steele (claimant No. 73),

(69) $1,984.26 to Ivy Goings (claimant No. 74),

(70) $2,679.60 to Dorothy Mae Richards (claimant No. 75),

(71) $1,640.00 to Elizabeth Bradshaw (claimant No. 77),

(72) $6,184.00 to Charles Dixon Sasse (claimant No. 78),

(73) $5,740.70 to Orville and Emma Lansberry (claimant No. 79),

(74) $2,129.00 to Oscar Jealous of Him (claimant No. 80),

(75) $1,984.26 to Delores Apple (claimant No. 82),

(76) $2,502.80 to Chris Patchett (claimant No. 83),

(77) $1,920.00 to Gilbert L. and Mary A. Matthews (claimant No. 85),

(78) $5,623.00 to Irene Jumping Eagle (claimant No. 86),

(79) $69,461.83 to St. Paul Insurance Companies (claimant No. 87),

(80) $1,850.00 to John Seirs (claimant No. 88),

(81) $5,505.00 to Ameilia M. Clark (claimant No. 89),

(82) $50,975.94 to George and Violet Coats (claimant No. 90),

(83) $51,290.45 to James A. Czywczynski & Jeanette, J. Czywczynski (claimant No. 91),

(84) $18,436.58 to Federal Insurance Co. (claimant No. 92),

(85) $1,650.00 to Stephen E. and JoAnne Ferace (claimant No. 93),

(86) $12,331.14 to Guv and Jean Fritze (claimant No. 94),

(87) $7,000.00 to C and F Trucking (claimant No. 95),

(88) $16,615.00 to Olive A. and Agnes Gildersleeve (claimant No. 96),

(89) $12,763.08 to Gordon G. and Lorraine F. Greenamyre (claimant No. 97),

(90) $21,917.51 to H and R Plumbing and Heating, Inc. (claimant No. 98),

(91) $39,298.25 to Home Insurance Co. (claimant No. 99),

(92) $21,457.92 to Janis Roofing (claimant No. 100),

(93) $6,431.95 to Milbank Mutual Insurance Company (claimant No. 101),

(94) $4,468.00 to Marv F. Pike (claimant No. 102),

(95) $67,511.54 to R and S Construction Company (claimant No. 103),

(96) $12,405.00 to Estate of Wilbur A. Riegert (claimant No. 104),
(97) $19,620.00 to Orville G. Schwarting (claimant No. 105),
(98) $490,934.44 to Sioux, Inc. (claimant No. 106),
(99) $8,275.02 to Stuyvesant Insurance Co. (claimant No. 107),
(100) $8,028.65 to Oglala Sioux Tribe (claimant No. 108),
(101) $28,374.00 to Oglala Sioux Housing Authority (claimant No. 109),
(102) $37,697.50 to Aaron DeSersa-Sron (claimant No. 110),
(103) $5,181.45 to Ivdia Black Bear (claimant No. 111),
(104) $887.50 to Thomas Casey (claimant No. 112),
(105) $3,984.00 to Roy and Pauline White Butterfly (claimant No. 113),
(106) $3,495.00 to Eleanor Pig Owl for George Iron Teeth (claimant No. 114),
(107) $3,168.09 to Standard Oil (Indiana) (claimant No. 115),
(108) $7,335.00 to Shirley Blunt Horn (claimant No. 116),
(109) $1,866.00 to Eugene and Vera Hunts Horse (claimant No. 118),
(110) $2,650.40 to Claytor and Vernice Jealous of Him (claimant No. 119),
(111) $1,021.00 to Keva A. and Reuben R. Mesteth (claimant No. 120),
(112) $4,234.70 to Hobart Spotted Bear (claimant No. 121), and
(113) $1,425.00 to Employers Mutual Companies (claimant No. 122).

(b)(1) No part of any amount paid to any person under subsection (a) in excess of 10 percent of such amount shall be paid or delivered to, or received by, any agent or attorney on account of services rendered in connection with the claim for which such payment is made, and the same shall be unlawful, notwithstanding any contract to the contrary. Violation of the provisions of this paragraph is a misdeameanor punishable by a fine not to exceed $1,000.

(2) Notwithstanding any other provision of law, no amount of any payment made to a person under this Act shall be included in the income of such person for purposes of any Federal, State, or local income tax. Notwithstanding any other provision of law, payments made to a person under this Act may not be considered as income or resources or otherwise used as the basis for denying or reducing—

(A) any financial assistance or other benefit under the Social Security Act—

(i) to which such person, or the household of such person, is otherwise entitled, or

(ii) for which such person, or the household of such person, is otherwise eligible, or

(B) any other financial assistance or benefit—

(i) to which such person, or the household of such person, is otherwise entitled, or

(ii) for which such person, or the household of such person, is otherwise eligible, under any program part or all of the funding for which is provided by the Federal Government.

(2)(c) Pursuant to the recommendations of the Chief Commissioner of the United States Court of Claims, the Secretary of the Treasury is authorized and directed to pay out of funds in the Treasury of the United States not otherwise appropriated, $26,486.44 to the Dakota Plains Legal Services, formerly South Dakota Legal Services Corporation for services rendered in connection with the proceeding conducted pursuant to section 2509 of title 28, United States Code, which was initiated by reason of Senate Rescolution 378 (94th Congress, agreed to on August 9, 1976).

The PRESIDING OFFICER. Without objection, the amendments are considered en bloc and agreed to en bloc.

The committee amendments were agreed to en bloc.

The PRESIDING OFFICER. Are there further amendments?

If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF RAMZI AND MARIE SALLOMY

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 332.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 332) entitled "An Act for the relief of Ramzi Sallomy and Marie Sallomy", do pass with the following amendment:

Page 2, line 6, strike out [Act.], and insert: *Act: Provided further, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited on behalf of Ramzi Sallomy as prescribed by section 213 of the said Act.*

Mr. SIMPSON. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXEMPTIVE AUTHORITY OF THE SECURITIES AND EXCHANGE COMMISSION

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2000.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2000) entitled "An Act to clarify the exemptive authority of the Securities and Exchange Commission", do pass with the following amendment:

Strike out all after the enacting clause, and insert: Notwithstanding section 3(a) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79c(a)), a holding company which has only one subsidiary company that is solely a gas utility company, as defined in said Act, shall be exempt from all provisions, except section 9(a)(2), of said Act if neither the holding company nor any other subsidiary company is a public utility company, the operations of such subsidiary gas utility company do not exceed beyond the State in which it is organized, the subsidiary company was incorporated on June 16, 1986, for the express purpose of operating as a gas utility company, and all of whose voting securities are owned by the holding company, and neither the holding company, nor any of its subsidiary companies are engaged in residential or commercial plumbing, heating, refrigeration, airconditioning, or in the sale, installation or servicing of such or related equipment.

Mr. BYRD. Mr. President, S. 2000 passed the Senate on August 14. The purpose of this measure is to ensure that the Securities and Exchange Commission be given very narrow authority to except a single company, Cabot Corp., from the strictures of the Public Utility Holding Company Act. The exception is needed so that Cabot Corp. can comply with an order of the West Virginia Public Service Commission to reorganize part of its operations. On reflection of the Senate's original action, it became apparent that the effective date of the measure would unintentionally except others. The House of Representatives amended S. 2000 to set the effective date as a date applicable only to Cabot. The House further refined our intentions by additional language which legislative counsel informs me better states the exception; substituting the word "if" for the words "provided that."

I urge my colleagues to join with Senator ROCKEFELLER and me in supporting S. 2000. The legislation is necessary and beneficial to the citizens of West Virginia. It does not compromise the protections Congress intends to preserve under the Public Utility Holding Company Act.

Mr. SIMPSON. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CRIMINAL JUSTICE ACT REVISION

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3004.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3004) entitled "An Act to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes", with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

TITLE I—CRIMINAL JUSTICE ACT REVISION

SEC. 101. SHORT TITLE.

This title may be referred to as the "Criminal Justice Act Revision of 1986".

SEC. 102. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out "(1) who is" and all that follows through "subsection (h)," and inserting in lieu thereof the following: "in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation. Each plan shall provide the following:

"(1) Representation shall be provided for any financially eligible person who—

"(A) is charged with a felony or a misdemeanor (other than a petty offense as defined in section 1 of this title);

"(B) is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of this title;

"(C) is charged with a violation of probation;

"(D) is under arrest, when such representation is required by law;

"(E) is entitled to appointment of counsel in parole proceedings under chapter 311 of this title;

"(F) is subject to a mental condition hearing under chapter 313 of this title;

"(G) is in custody as a material witness;

"(H) is entitled to appointment of counsel under the sixth amendment to the Constitution; or

"(I) faces loss of liberty in a case, and Federal law requires the appointment of counsel.

"(2) Whenever the United States magistrate or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who—

"(A) is charged with a petty offense for which a sentence to confinement is authorized; or

"(B) is seeking relief under section 2241, 2254, or 2255 of title 28.

"(3) Private attorneys shall be appointed in a substantial proportion of the cases. Each plan may include, in addition to the provisions for private attorneys, either of the following or both:

"(A) Attorneys furnished by a bar association or a legal aid agency.

"(B) Attorney furnished by a defender organization established in accordance with the provisions of subsection (g).".

(2) Subsection (b) is amended—

(A) in the second sentence—

(i) by striking out "In every criminal case" and all that follows through "violation of probation and" and inserting in lieu thereof "In every case in which a person entitled to representation under a plan approved under subsection (a)"; and

(ii) by striking out "defendant" and inserting in lieu thereof "person";

(B) in the third sentence by striking out "defendant" each place it appears and inserting in lieu thereof "person"; and

(C) in the fifth sentence by striking out "defendants" and inserting in lieu thereof "persons".

(3)(A) Subsection (d)(1) is amended by striking out "court. Such attorney" and inserting in lieu thereof "court, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a United States magistrate and for time expended out of court. The Judicial Conference shall develop guidelines for determining the maximum hourly rates for each circuit in accordance with the preceding sentence, with variations by district, where appropriate, taking into account such factors as the minimum range of the prevailing hourly rates for qualified attorneys in the district in which the representation is provided and the recommendations of the judicial councils of the circuits. Not less than 3 years after the effective date of the Criminal Justice Act Revision of 1986, the Judicial Conference is authorized to raise the maximum hourly rates specified in this paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay under the General Schedule made pursuant to section 5305 of title 5 on or after such effective date. After the rates are raised under the preceding sentence, such maximum hourly rates may be raised at intervals of not less than 1 year each, up to the aggregate of the overall average percentages of such adjustments made since the last raise was made under this paragraph. Attorneys".

(B) Subsection (d)(2) is amended—

(i) in the first sentence—

(I) by striking out "$2,000" and inserting in lieu thereof "$3,500"; and

(II) by striking out "$800" and inserting in lieu thereof "$1,000";

(ii) in the second sentence by striking out "$2,000" and inserting in lieu thereof "$2,500", and

(iii) by striking out the third sentence and inserting in lieu thereof the following: "For any other representation required or authorized by this section, the compensation shall not exceed $750 for each attorney in each proceeding.".

(C) Subsection (d)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(D) Subsection (d)(4) is amended in the first sentence by striking out "represented the defendant" and inserting in lieu thereof "provided representation to the person involved".

(4)(A) Subsection (e)(1) is amended in the first sentence by striking out "an adequate defense" and inserting in lieu thereof "adequate representation".

(B) Subsection (e)(2) is amended to read as follows:

"(2) WITHOUT PRIOR REQUEST.—(A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed $300 and expenses reasonably incurred.

"(B) The court, or the United States magistrate (if the services were rendered in a case disposed of entirely before the United States magistrate), may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds $300.".

(C)(i) Subsection (e)(3) is amended by striking out "$300" and inserting in lieu thereof "$1,000".

(ii) Subsection (e)(3) is amended by adding at the end thereof the following: "The chief judge of the circuit may delegate such approval authority to an active circuit judge.".

(5)(A)(i) Subsection (h)(2)(A) is amended by striking out "similarly as under title 28, United States Code, section 605, and subject to the conditions of that section" and inserting in lieu thereof "in accordance with section 605 of title 28".

(ii) Subsection (h)(2)(A) is amended by inserting after the fourth sentence the following: "Upon the expiration of his term, a Federal Public Defender may, by a majority vote of the judges of the court of appeals, continue to perform the duties of his office until his successor is appointed, or until one year after the expiration of such Defender's term, whichever is earlier.".

(B) Subsection (h)(2)(B) is amended in the third sentence by striking out "coming" and inserting in lieu thereof "next fiscal".

(C) Subsection (h) is further amended by adding at the end thereof the following:

"(3) MALPRACTICE AND NEGLIGENCE SUITS.—The Director of the Administrative Office of the United States Courts shall, to the extent the Director considers appropriate, provide representation for and hold harmless, or provide liability insurance for, any person who is an officer or employee of a Federal Public Defender Organization established under this subsection, or a Community Defender Organization established under this subsection which is receiving periodic sustaining grants, for money damages for injury, loss of liberty, loss of property, or personal injury or death arising from malpractice or negligence of any such officer or employee in furnishing representational services under this section while acting within the scope of that person's office or employment.".

(6) Subsection (i) is amended by inserting immediately before the period at the end of the first sentence the following: ", including funds for the continuing education and training of persons providing representational services under this section".

(7) Subsection (l) is amended—

(A) by striking out ", other than subsection (h) of section 1,"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "section".

(b) ADDITIONAL AMENDMENTS.—(1) Section 3006A of title 18, United States Code, is further amended by striking out subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively.

(2) Subsection (j), as redesignated by paragraph (1), is amended to read as follows:

"(j) DISTRICTS INCLUDED.—As used in this section, the term 'district court' means each district court of the United States created by chapter 5 of title 28, the District Court of the Virgin Islands, the District Court for the Northern Mariana Islands, and the District Court of Guam.".

SEC. 103. TECHNICAL AMENDMENTS.

Section 223(e) of the Comprehensive Crime Control Act of 1984 (Public Law 98-473; 98 Stat. 2028) is amended to read as follows:

"(e) Section 3006A(a) is amended—

"(1) in paragraph (1)(A) by striking out 'misdemeanor (other than a petty offense as defined in section 1 of this title)' and inserting in lieu thereof 'Class A misdemeanor';

"(2) in paragraph (1) by striking out subparagraph (E) and redesignating subparagraphs (F) through (D as subparagraphs (E) through (H), respectively; and

"(3) in paragraph (2)(A) by striking out 'petty offense' and inserting in lieu thereof 'Class B or C misdemeanor, or an infraction'.".

SEC. 104. WITNESS FEES.

Section 1825 of title 28, United States Code, is amended to read as follows:

"§ 1825. Payment of fees

"(a) In any case in which the United States or an officer or agency of the United States is a party, the United States marshal for the district shall pay all fees of witnesses on the certificate of the United States attorney or assistant United States attorney, and in the proceedings before a United States magistrate, on the certificate of such magistrate, except: that any fees of defense witnesses, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in a criminal case in which the defendant is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in a criminal case in which a defendant is represented by such other counsel.

"(b) In proceedings in forma pauperis for a writ of habeas corpus, and in proceedings in forma pauperis under section 2255 of this title, the United States marshal for the district shall pay, on the certificate of the district judge, all fees of witnesses for the party authorized to proceed in forma pauperis, except that any fees of witnesses for such party, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in any such proceedings in which a party is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in any such proceedings in which a party is represented by such other counsel.

"(c) Fees and mileage need not be tendered to a witness upon service of a subpoena issued on behalf of the United States or an officer or agency of the United States, upon service of a subpoena issued on behalf of a defendant represented by a Fedeal public defender, assistant Federal public defender, or other attorney appointed pursuant to section 3006A of title 18, or upon service of a subpoena issued on behalf of a party authorized to proceed in forma pauperis, if the payment of such fees and mileage is to be made by the United States marshal under this section.".

SEC. 105. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 120 days after the date of enactment of this Act. The maximum hourly rates provided in section 3006A(d)(1) of title 18, United States Code, as amended by section 102(a)(3)(A) of this Act, shall apply only to services performed on or after the effective date of this title. The maximum allowed for compensation for a case, as provided in section 3006A(d)(2) of title 18, United States Code, as amended by section 101(a)(3)(B) of this Act, shall apply only to compensation claims in which some portion of the claim is for the services performed on or after the effective date of this title. The maximum compensation allowed pursuant to section 3006A(e) of title 18, United States Code, as amended by subparagraphs (B) and (C) of section 102(a)(4) of this Act, shall apply only to services obtained on or after the effective date of this title.

TITLE II—RECALL OF CERTAIN JUDICIAL OFFICERS

SEC. 201. RECALL OF CERTAIN RETIRED JUDICIAL OFFICERS.

(a) MAGISTRATES.—(1) Section 631(d) of title 28, United States Code, is amended—

(A) by striking out "No" and inserting in lieu thereof "Except as otherwise provided in sections 375 and 636(h) of this title, no";

(B) by striking out "the unanimous" and inserting in lieu thereof "a majority"; and

(C) by inserting after "courts," the following: "which is taken upon the magistrate's attaining age seventy and upon each subsequent anniversary thereof,".

(2) Section 636 of title 28, United States Code, is amended by adding at the end the following:

"(h) A United States magistrate who has retired may, upon the consent of the chief judge of the district involved, be recalled to serve as a magistrate in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a magistrate may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference, subject to the restrictions on the payment of an annuity set forth in subchapter III of chapter 83, and chapter 84, of title 5. The requirements set forth in subsections (a), (b)(3), and (d) of section 631, and paragraph (1) of subsection (b) of such section to the extent such paragraph requires membership of the bar of the location in which an individual is to serve as a magistrate, shall not apply to the recall of a retired magistrate under this subsection or section 375 of this title. Any other requirement set forth in section 631(b) shall apply to the recall of a retired magistrate under this subsection or section 375 of this title unless such retired magistrate met such requirement upon appointment or reappointment as a magistrate under section 631.".

(b) ALTERNATIVE RECALL OF CERTAIN JUDGES AND MAGISTRATES.—(1) Chapter 17 of title 28, United States Code, is amended by inserting after section 374 the following new section:

"§ 375. Recall of certain judges and magistrates

"(a)(1) A bankruptcy judge, a judge of the Claims Court, or a United States magistrate appointed under chapter 43 of this title, who has retired under the applicable provisions of title 5 upon attaining the age and years of service requirements established in section 371(c) of this title, may agree to be recalled to serve under this section for a period of five years as a bankruptcy judge, judge of the Claims Court, or magistrate, as the case may be, upon certification that substantial service is expected to be performed by such retired judge or magistrate during such 5-year period. With the agreement of the judge or magistrate involved, a certification under this subsection may be renewed for successive 5-year periods.

"(2) For purposes of paragraph (1) of this subsection, a certification may be made—

"(A) in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located; and

"(B) in the case of a judge of the Claims Court, by the chief judge of the United States Claims Court.

"(3) For purposes of this section—

"(A) the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984; and

"(B) the term 'judge of the Claims Court' means a judge of the United States Claims Court who is appointed under chapter 7 of this title or who has served under section 167 of the Federal Courts Improvement Act of 1982.

"(b) A judge or magistrate recalled under this section may exercise all of the powers and duties of the office of judge or magistrate held at the time of retirement, including the ability to serve in any other judicial district to the extent applicable, but may not engage in the practice of law or engage in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of duties as a judicial officer.

"(c) During the 5-year period in which a certification under subsection (a) is in effect, the judge or magistrate involved shall receive, in addition to the annuity provided under the applicable provisions of title 5, an amount equal to the difference between that annuity and the current salary of the office to which the judge or magistrate is recalled.

"(d) A certification under subsection (a) may be terminated in accordance with section 372(c) of this title, and such a certification shall be terminated upon the death of the recalled judge or magistrate involved.

"(e) Except as provided in subsection (b), nothing in this section shall affect the right of judges and magistrates who retire under the provisions of chapter 83 or chapter 84 of title 5 to serve as reemployed annuitants in accordance with the provisions of title 5. A judge or magistrate to whom this section applies may be recalled under section 155, 636(h), or 797 of this title, as the case may be, other than during a 5-year period in which a certification under subsection (a) is in effect with respect to that judge or magistrate.

"(f) For purposes of determining the years of service requirements in order to be eligible of recall under this section, any service as a bankruptcy judge, a judge of the Claims Court, or a United States magistrate, and any prior service as a referee in bankruptcy, a commission of the Court of Claims, or a United States commissioner, may be credited.

"(g) Except as provided in subsection (c), a judge or magistrate recalled under this section shall be considered to be a reemployed annuitant under chapter 83 or chapter 84, as the case may be, of title 5.

"(h) The Judicial Conference of the United States may promulgate regulations to implement this section.".

(2) The item relating to section 375 in the table of sections for chapter 17 of title 28, United States Code, is amended to read as follows:

"375. Recall of certain judges and magistrates.".

SEC. 202. TECHNICAL AMENDMENTS.

(a) RECALL OF BANKRUPTCY JUDGES.—Section 155(b) of title 28, United States Code, is amended by inserting ", and chapter 84," after "chapter 83".

(b) OFFICIAL DUTY STATION.—Section 374 of title 28, United States Code, is amended by adding at the end the following: "The place where a judge or magistrate recalled under section 155, 375, 636, or 797 of this title maintains the actual abode in which the judge or magistrate customarily lives shall be deemed to be the official station of such judge or magistrate for purposes of section 604(a)(7) of this title.".

(c) RECALL OF CLAIMS COURT JUDGES.—Section 797(a) of title 28, United States Code, is amended by inserting ", or chapter 84," after "chapter 83".

(d) CLERICAL AMENDMENT.—Section 633(b) of title 28, United State Code, is amended by striking out "643" and inserting in lieu thereof "634".

SEC. 203. EFFECTIVE DATE.

This title and the amendments made by this title take effect on January 1, 1987.

Mr. SIMPSON. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION OF TECHNICAL ERROR IN ENROLLMENT OF S. 475

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to consideration of House Concurrent Resolution 411, making technical corrections in S. 475, to amend the Motor Vehicle Information and Cost Savings Act.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 411) to correct a technical error in the enrollment of the bill S. 475.

There being no objection, the concurrent resolution (H. Con. Res. 411) was considered and agreed to.

Mr. SIMPSON. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TESTIMONY OF SENATE EMPLOYEES

Mr. SIMPSON. Mr. President, I send a resolution to the desk on behalf of Senators DOLE and BYRD and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 512) to direct the Senate Legal Counsel to represent the staff of Senator Dole and to authorize the testimony of such staff in the case of *United States* v. *Michael Evan Bardoff, et al.*

Mr. SIMPSON. Mr. President, on August 4, 1986, a number of Senate offices were the targets of political demonstrations by groups wanting to express their views on United States aid to anti-Sandinista forces in Nicaragua. One of those was the personal office in the Hart Building of the majority leader, whose staff called the Capitol Police resulting in the arrests of 18 protestors who were ultimately charged under the D.C. Code with unlawful entry and unlawful conduct.

Fifteen of those individuals subsequently pled guilty, but the remaining three demanded a jury trial which is scheduled to begin in the D.C. Superior Court tomorrow afternoon. The assistant U.S. attorney who is prosecuting the case has subpoenaed five Capitol Police officers to appear as witnesses at the trial and has in addition requested the testimony of four of Senator DOLE's staff assistants who were present during the sit-in.

Since Senate employees cannot appear in their official capacity at a judicial proceeding without permisson of the Senate, this resolution would authorize those staff members to comply with the U.S. attorney's request. It would also direct the Senate legal counsel to represent them during all phases of the action in question in order to assure that the privileges and rights of the Senate are protected.

Mr. President, I move adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 512) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 512

Whereas, in the case of *United States* v. *Michael Evan Bardoff, et al.*, Crim. No. M-9508-86, et al., pending in the Superior Court of the District of Columbia, the United States Attorney has requested the testimony of Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage and Jennifer Schumacher of the personal office staff of Senator Dole;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent employees of the Senate with respect to testimony requests made of them in their official capacity;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of employees of the Senate is or may be needful for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate; Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to represent Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage, Jennifer Schumacher and any other staff assistant of Senator Dole who may be asked to testify in the case of *United States* v. *Michael Evan Bardoff, et al.* or subsequent related proceedings.

SEC. 2. That Elizabeth Meyer, Mariam Bechtel, Janeal Cabbage, Jennifer Schumacher, and any other staff assistant of Senator Dole who may be asked is authorized to testify in the case of *United States* v. *Michael Evan Bardoff, et al.*, except concerning matters which may be privileged.

Mr. SIMPSON. I move to reconsider the vote by which the resolution was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table. The motion to lay on the table was agreed to.

QUIET TITLE ACTIONS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 2484, dealing with Quiet Title, just received from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2484) to amend title 28, United States Code, relating to quiet title actions against the United States, with respect to actions brought by States.

The Senate proceeded to consider the bill.

Mr. INOUYE. I ask Senator MCCLURE, is it his and the committee's understanding that the notice provision in H.R. 2484 would neither apply to nor begin to run against a State or a party which has given the United States express permission or express consent to go upon a parcel of land by virtue of license, lease, Executive order, grant or any other form of authority?

Mr. MCCLURE. Yes, that is correct.

Mr. INOUYE. Is it also the intent and purpose of the committee that where a State has given the United States express permission to go upon the land, improvements or investments made by the United States even in a defense facility do not give a State notice that the United States claims the right or title to the land and that a State should not be barred at the courthouse door by the statute of limi-

tations from the opportunity to prove its title in court * * * whatever the merits of its claim?

Mr. McCLURE. That is right. It is not the purpose or intent of this bill to prohibit a quiet title action or to challenge the title of lands where the United States has entered by the express consent or permission of a State or private party. Were that the case, no State would ever give the United States a lease, license, Executive order, or any kind of permission to use property for fear that the United States, by improving the land, would bar a fair determination of ownership.

Mr. INOUYE. Am I correct in assuming that while this bill would not allow the relitigation of any case on the merits, it would also not preclude a State from bringing a quiet title action unless the United States had made it clear to a State or a private party for more than 12 years that the United States was claiming right, title, and ownership of the land and not merely that it used or was in possession of the land?

Mr. WALLOP. This is our intention.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 2484) was ordered to a third reading, was read a third time, and passed.

Mr. SIMPSON. I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to consideration of H.R. 4154, dealing with mandatory retirement.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4154) to amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3484

(Purpose: To amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator HEINZ and others in the nature of a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. HEINZ, Mr. METZENBAUM, Mr. FORD, Mr. BRADLEY, Mr. KENNEDY, Mr. GRASSLEY, Mrs. HAWKINS, Mr. COHEN, and Mr. CHILES, proposes an amendment in the nature of a substitute numbered 3484.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination in Employment Amendments of 1986".

SEC. 2. AMENDMENTS RELATING TO MAXIMUM AGE.

(a) COVERAGE UNDER GROUP HEALTH PLANS.—Subsection (g)(1) of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)), as added by section 116(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "through 69" each place it appears and inserting in lieu thereof "or older".

(b) TECHNICAL AMENDMENT.—Subsection (g) of section 4 of the Age Discrimination in Employment Act of 1967, as added by section 802(b)(2) of the Older Americans Act Amendments of 1984, is amended by striking out "(g)(1)" in inserting in lieu thereof "(h)(1)".

(c) REMOVAL OF MAXIMUM AGE LIMITATION.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended—

(1) in subsection (a) by striking out "but less than seventy years of age", and

(2) in subsection (c)(1) by striking out "but not seventy years of age,".

SEC. 3. EMPLOYMENT AS FIREFIGHTER OR LAW ENFORCEMENT OFFICER.

(a) GENERAL RULE.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end thereof the following new subsection:

"(i) It shall not be unlawful for an employer which is a State, a political subdivision of a State, an agency or instrumentality of a State or a political subdivision of a State, or an interstate agency to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken—

"(1) with respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable State or local law on March 3, 1983, and

"(2) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purposes of this Act.".

(b) TERMINATION PROVISION.—The amendment made by subsection (a) of this section is repealed December 31, 1993.

SEC. 4. DEFINITIONS.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end thereof the following new subsections:

"(j) The term 'firefighter' means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

"(k) The term 'law enforcement officer' means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of a State, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this subsection, 'detention' includes the duties of employees assigned to guard individuals incarcerated in any penal institution.".

SEC. 5. STUDY AND PROPOSED GUIDELINES RELATING TO POLICE OFFICERS AND FIREFIGHTERS.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Secretary of Labor and the Equal Employment Opportunity Commission, jointly, shall—

(1) conduct a study—

(A) to determine whether physical and mental fitness tests are valid measurements of the ability and competency of police officers and firefighters to perform the requirements of their jobs,

(B) if such tests are found to be valid measurements of such ability and competency, to determine which particular types of tests most effectively measure such ability and competency, and

(C) to develop recommendations with respect to specific standards that such tests, and the administration of such tests should satisfy, and

(2) submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate that includes—

(A) a description of the results of such study, and

(B) a statement of the recommendations developed under paragraph (1)(C).

(b) CONSULTATION REQUIREMENT.—The Secretary of Labor and the Equal Employment Opportunity Commission shall, during the conduct of the study required under subsection (a) and prior to the development of recommendations under paragraph (1)(C), consult with the United States Fire Administration, the Federal Emergency Management Agency, organizations representing law enforcement officers, firefighters, and their employers, and organizations representing older Americans.

(c) PROPOSED GUIDELINES.—Not later than 5 years after the date of the enactment of this Act, the Equal Employment Opportunity Commission shall propose, in accordance with subchapter II of chapter 5 of title 5 of the United States Code, guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of police officers and firefighters to perform the requirements of their jobs.

SEC. 6. SPECIAL RULE FOR TENURED FACULTY.

(a) SPECIAL RULE.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).".

(b) TERMINATION PROVISION.—The amendment made by subsection (a) of this section is repealed December 31, 1993.

(c) STUDY REQUIRED.—The Equal Employment Opportunity Commission shall, not

later than 12 months after the date of enactment of this Act, enter into an agreement with the National Academy of Sciences for the conduct of a study to analyze the potential consequences of the elimination of mandatory retirement on institutions of higher education.

(2) The study required by paragraph (1) of this subsection shall be conducted under the general supervision of the National Academy of Sciences by a study panel composed of 9 members. The study panel shall consist of—

(A) 4 members who shall be administrators at institutions of higher education selected by the National Academy of Sciences after consultation with the American Council of Education, the Association of American Universities, and the National Association of State Universities and Land Grant Colleges;

(B) 4 members who shall be teachers or retired teachers at institutions of higher education (who do not serve in an administrative capacity at such institutions), selected by the National Academy of Sciences after consultation with the American Federation of Teachers, the National Education Association, the American Association of University Professors, and the American Association of Retired Persons; and

(C) one member selected by the National Academy of Sciences.

(3) The results of the study shall be reported, with recommendations, to the President and to the Congress not later than 5 years after the date of enactment of this Act.

(4) The expenses of the study required by this subsection shall be paid from funds available to the Equal Employment Opportunity Commission.

SEC. 7. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement—

(1) which is in effect on June 30, 1986,

(2) which terminates after January 1, 1987,

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

(4) which contains any provision that would be superseded by such amendments, but for the operation of this section,

such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.

(b) Effect on Existing Causes of Action.—The amendments made by sections 3 and 4 of this Act shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 as in effect before January 1, 1987.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment in the nature of a substitute (No. 3484) was agreed to.

Mr. HEINZ. Mr. President, I rise in support of H.R. 4154, the Age Discrimination in Employment Amendments of 1986. This amendment would prohibit mandatory retirement by removing the age 70 cap in the Age Discrimination in Employment Act [ADEA]. This amendment is similar to legislation which I introduced in 1985 and to H.R. 4154, introduced by Congressman CLAUDE PEPPER and unanimously passed by the House of Representatives on September 23, 1986. The importance of removing the age 70 cap is its messsage to present and future older workers: you are to be employed on the basis of your ability, not on the basis of your birth date.

The problems associated with age discrimination are not new to the Congress. The first ADEA bill, enacted in 1967, stemmed from the Congress' determination that age discrimination, like discrimination based upon race, religion, or sex, is inherently contrary to the principle of individual merit. The original act was designed to protect workers between the ages of 40 to 65. In 1978, the Age Discrimination in Employment Act was amended to eliminate mandatory retirement for nearly all Federal workers and to increase to 70 the age at which non-Federal workers could be forcibly retired. This bill will abolish that age 70 cap and will reverse a policy that implicitly sanctions arbitrary discrimination against working men and women over the age of 70. While it is a simple change in the law, it will make an enormous difference in the lives of those who will soon face the devastating effects of age discrimination.

There are 1.1 million Americans age 70 and over in our work force. Many of these people want to continue working—sometimes for reasons of self-fulfillment, but more often for reasons of economic necessity. Federal law now deprives these people of the same guarantees of equal opportunity in employment that other citizens enjoy. They are deprived of this protection not on the basis of who they are and what they can do, but solely on the basis of their age.

At a hearing I chaired before the special Committee on Aging in June, I learned of the severe psychological and financial impact of forced retirement on older workers. I heard first hand how this policy, if left to stand, would silence the strings of a concert violinist from Philadelphia, would close the schoolbooks of a dedicated teacher from Connecticut, and were it not for the Older Americans Act, would sentence a productive, willing worker from my hometown of Pittsburgh to years of financial hardship and social isolation.

Age discrimination is unfair and we should rid our society of it without further delay. More than 4 years ago, on April 2, 1982, President Reagan endorsed the abolition of mandatory retirement saying, "when it comes to retirement, the criterion should be fitness for work, not year of birth." And public opinion in this country clearly supports the elimination of mandatory retirement. A recent Harris poll found that by a 9 to 1 margin, the majority of all ages feel that, "nobody should be forced to retire because of age."

In addition to the compelling civil rights arguments for the elimination of forced retirement, there are sound economic arguments for increasing the labor force participation rates among older workers. Age discrimination is not only a threat to the well-being of older individuals, but it also undermines the economic stability of the Nation's retirement income systems and, to a lesser extent, the larger economy as well.

Passage of this legislation will encourage more older workers to remain employed longer and will help to prepare us for the inevitable work force changes that will occur in the future. Our Nation will need these productive older workers. As you are aware, Mr. President, the age distribution of the population will be shifting dramatically over the coming decades. The younger working-age population has ceased its rapid growth and, between now and 1995, will actually show marked declines. What this means is that our standard of living is threatened due to possible future labor shortages unless we continue to increase the size of our work force. And since everyone who will be a younger worker during the next 20 years has already been born, we know that the only way that we will be able to grow and prosper is if able bodied, productive older workers, who are today in their late forties or fifties or even early sixties, have the opportunity and incentive to continue working. The behavior of this group of older workers will be vital to our continued economic growth.

Allowing older people to remain productive will also lessen the strains on our retirement income programs. If those now forced to retire were working, the overall obligation of the Social Security Trust Fund would be decreased, and the number contributing would increase. Official cost estimates show that by 2020, the increase in the total tax revenues to Social Security and Medicare, will reach about $100 million.

According to the Department of Labor, if mandatory retirement were abolished, 195,000 more workers would be in the labor force in the year 2000. The Employee Benefit Research Institute estimates that the impact of legislation to abolish mandatory retirement would have only affected between 41,000 and 77,000 people in 1985. The study by the Department of Labor on the impact of totally eliminating mandatory retirement also indicates that it would not produce any work force dislocations. Thus, lifting the age cap will have a negligible impact on worker behavior and on new

entrants into the labor force, such as younger minorities and women.

Arbitrary age limits are repugnant to the letter and spirit of the ADEA, which was enacted to promote employment of older persons based on their ability rather than age and to prohibit arbitrary age discrimination in employment. Simply stated, it was Congress' intention that age should not be used as the principal determinant of an individual's ability to perform a job, but that this determination, to the greatest extent feasible, should be made on an individual basis. Age limitations conflict with this intent because they are based on notions of age-based incapacity and do not consider an individual's potential or job performance.

Mr. President, the ADEA does not require employers to keep unfit or unproductive employees. All that the ADEA requires is that the employer make individualized assessments where it is possible and practical to do so. I believe that such determinations are possible and that it is reasonable to require them rather than imposing age limits based solely on age.

Special concerns about the public safety and the tenure system at colleges and universities have been raised. To address those concerns, this bill includes temporary exemptions for State and local public safety officers and for tenured faculty to allow them to adjust to uncapping. These temporary exemtions should not be regarded as an encroachment on the fundamental principles of the ADEA. During the 7-year exemption period, studies will be undertaken to evaluate and propose criteria for physical and mental fitness tests for police officers and firefighters and to evaluate the consequences of the elimination of mandatory retirement on institutions of higher education. The compromise reached on the exemption for police and firefighters is the result of the diligent efforts of Senators NICKLES, FORD, METZENBAUM, and BRADLEY along with police and firefighters unions and representatives. Likewise, the temporary exemption for academies was facilitated by the diligent efforts of Senator HATCH, chairman of the Labor and Human Resources Committee. The Agreements they have reached have made possible the passage of this bill.

Mr. President, passage of this mandatory retirement bill will not end age discrimination. This form of discrimination has persisted in this country on the basis of misconceptions concerning the aging process and unfounded stereotypes about older people. But with this new legislation we can begin to reeducate the American public, and especially employers, about the vast reservoir of talent and expertise that older Americans have to offer to the social and economic development of our society.

The continued use of mandatory retirement policies is both morally unsupportable and contrary to the economic interests of employees, employers, and the American public. Eliminating this type of discrimination will signal our recognition of the value of older workers in the work place and will signal our intention to reject all barriers to their full participation.

We have fought long and hard to combat discriminatory employment practices in the areas of race, sex, religion, national origin, and age. Forcing older workers out of their jobs at age 70 robs society of the contribution and productivity of an increasingly important segment of our work force, and it robs these individuals of the dignity and self-sufficiency which comes from working. Every worker ought to have the right to be judged on the basis of his or her abilities. The issue is one of basic civil rights and fairness.

Mr. President, I wish to thank the cosponsors of this amendment, and their staffs, especially Jim Brudney and Kennie Gill, for their tireless efforts with regard to this legislation. Without their willingness to reach compromise, this bill would not have come to the floor. I commend Senator NICKLES, the chairman of the Subcommittee on Labor, the subcommittee which has jurisdiction of the provisions of this bill, for his cooperation. Senator METZENBAUM played a special role in ironing out the differences over the bill.

Many older worker advocates and organizations, including the American Association of Retired Persons, the National Senior Citizens Law Center, the Gray Panthers, the National Council of Senior Citizens, the American Bar Association, and the AFL–CIO, support the elimination of forced retirement, and have contributed much to this effort.

I thank my colleagues for their support.

Mr. METZENBAUM. Mr. President, I rise in support of the Heinz-Metzenbaum substitute, amending the Age Discrimination in Employment Act.

In 1978, Congress amended the ADEA by raising the cap from age 65 to age 70. This amendment would take the important further step of eliminating the age cap altogether.

Age alone has nothing to do with an employee's ability to work. Justice Oliver Wendall Holmes served with distinction on the Supreme Court into his 90's. Congressman CLAUDE PEPPER, the father of age discrimination law in this country, is still going strong at age 86. Millions of Americans over 70 are ready, willing, and able to earn their keep if given a chance.

Today, 11 percent of our population is over age 65. We cannot afford to ignore this valuable human resource. Premature retirement results in additional years of reduced income, which can drag older Americans into poverty. At the same time, premature retirement increases the burden on an already strained Social Security System.

In our society, work defines not only access to income but also self-esteem and social status. By establishing a national retirement policy based on ability and performance rather than the arbitrary factor of age, this bill recognizes and protects the dignity of older Americans.

Although the Heinz-Metzenbaum substitute lifts the age cap for all workers in the private sector, it also creates a 7-year phasein period—through December 31, 1993—for two groups of employees.

First, public safety employees—police and firefighters—are subject to applicable State laws that set uniform policies governing maximum ages of hire or retirement. Second, tenured faculty at colleges and universities may still be covered by the age 70 limit of current Federal law.

The substitute also provides for a thorough study of the issues underlying each set of claims. At present, the case for a permanent exemption has not been made. I, for one, am not certain that such a case can be made. But when the two studies are complete, Congress will at least have better information before it from which to decide.

The substitute is supported by organizations representing older Americans, including the American Association of Retired Persons and the National Council of Senior Citizens. It also has the the support of organizations representing police and firefighters, including the international Union of Police Associations, the Fraternal Order of Police, the International Association of Chiefs of Police, and the International Association of Firefighters, and by the major public employer groups, including the National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties. And the 7-year phase-in period for tenured faculty has the support of a majority of the university community as well as the American Federation of Teachers and the National Education Association.

The House bill removing the age cap, H.R. 4154, was approved by the House late last month, on a vote of 394 to 0. H.R. 4154 made no provision for institutions of higher education, but included a permanent exemption for police and firefighters that was vigorously opposed by groups representing older Americans.

The Heinz-Metzenbaum substitute for H.R. 4154 adopts a narrower, temporary exemption for police and firefighters while providing a similar temporary exemption for institutions of higher education. After discussions involving the Democratic managers of

H.R. 4154, notably Congressmen PEPPER and HAWKINS, I can say that those two leaders will support and recommend acceptance of the Senate version of the legislation should this amendment reach the other body.

As many of my colleagues know, this bill is dramatic proof that legislation is indeed the art of compromise. Every group affected by the bill has had to make some concessions, and I think the bill is stronger because of that.

I also want to pay homage to several of my colleagues for their efforts on this bill. Senator FORD was instrumental in pressing for a bill that would protect the interests of public safety employees. Senators BRADLEY and NICKLES also played key roles in working out a compromise on the public safety issue. Senators HATCH and QUAYLE helped develop a compromise that would address tenured faculty. Senators SIMON, PELL, and DODD also were active on that issue. And Senator HEINZ, who participated on all fronts, helped pull together the entire package.

Finally, the staffs of all these Senators, as well as my own staff, are to be congratulated for their negotiating skills, their patience, and their perseverance. Special thanks are due to James Brudney of my office; to Stephen McConnell and Terri Parker with Senator HEINZ; to Kennie Gill with Senator FORD; to Ken Apfel with Senator BRADLEY; and to Richard Lawson with Senator NICKLES.

Mr. FORD. Mr. President, I am most pleased that the Senate is taking action today to pass these important changes in the Age Discrimination In Employment Act. This compromise provides for the lifting of the age cap, while providing an important exemption for State and local police and firefighters and tenured faculty. I am pleased to have been a part of the negotiations on this bill which have allowed it to finally move forward.

I commend my colleagues who have been a part of this process for their work. I would like to particularly thank Senator BRADLEY, who shared my concerns about the need for relief for State and local safety and health personnel, and Senator NICKLES, chairman of the Labor Subcommittee with jurisdiction over this issue, who held hearings on this issue at my request earlier this year and who has worked very closely with the Fraternal Order of Police to bring this compromise about. Additionally, I would like to thank my colleagues who have been involved in reaching this compromise, including Senators HEINZ, METZENBAUM, KENNEDY, HATCH, HELMS, and QUAYLE, and their staff, for their willingness to keep this issue alive so we could take action this Congress.

I have always been a strong supporter of the ADEA. I supported raising the cap from 65 to 70, and I support this move to eliminate the cap entirely. It is past time that Congress recognize the important contribution older workers can make to the economic base of this Nation. We cannot afford to prematurely shelve the talents of many of our older workers by subjecting them to mandatory retirement. The legislation we are adopting today ensures that we do not lose one of the most valuable human resources our Nation has—our older workers.

While I completely support lifting the cap, I also recognize that if Congress is to eliminate mandatory retirement, we must also bring some certainty to State and local governments who, because of recent Supreme Court decisions, are unable to structure hiring and retirement requirements for safety personnel and firefighters. This compromise provides for such certainty.

The House passed similar legislation on September 23 by a unanimous vote. The House-passed bill lifts the age cap and provides a permanent exemption for State and local police, firefighters and penal institution employees, the so-called Murphy amendment, and a study by the EEOC to be followed by proposals on the availability of fitness tests to adequately measure ability and competency of these safety exployees. This exemption was adopted by the House by almost a 3-to-1 vote.

When the bill came over to the Senate, concerns were raised about the potential scope of the Murphy amendment. It became apparent that those of us who felt strongly that we should end discrimination against our older workers once and for all, but should also address the concerns of our State and local governments had a great deal of work to do in the few remaining days of the session. We began negotiations with the clock running, but with a firm resolve to achieve a compromise which would allow the cap to be lifted and provide a realistic exemption for State and local government safety and health personnel. The compromise we have before us today achieves these goals. It is supported by the American Association of Retired Persons, the International Association of Chiefs of Police, the Fraternal Order of Police, the International Association of Fire Fighters, the International Union of Police Associations, the National Governors Association, the National League of Cities, and the National Association of Counties.

The compromise reached on the State and local police and firefighter issue is a fair one. This exemption will allow State and local governments to set hiring and retirement requirements for these safety and health personnel according to their specific needs. The compromise provides a 7-year exemption, which expires at the end of 1993, for State and local police, firefighters, and prison guards. This compromise allows State and local governments to set hiring and retirement ages for these workers, provided such a plan is not a subterfuge to evade the purposes of the ADEA. It is important to note that it was not the intention of those negotiating this provision that such a plan be either a specific legislative enactment or a detailed written plan, but that it be a bona fide hiring or retirement plan which was established for legitimate governmental reasons and not merely as a way to evade the purposes of the ADEA.

A further component of this compromise establishes a floor for the hiring and retirement requirements which a State or local government can set. The hiring and retirement age requirements of a plan in effect as of March 3, 1983 become the floor for allowable plans. This is the date that the EEOC versus Wyoming case was decided. If jurisdictions have raised or eliminated mandatory retirement ages after this date, they have the choice of either moving back to the plan requirements in effect on March 3, 1983, or remaining where they are. However, State and local governments would not be able to lower retirement age requirements below what was in effect as of March 3, 1983. The purpose of this provision is to provide relief to those jurisdictions which were forced to respond to the Wyoming case, while at the same time ensuring that no lesser discrimination protection will be provided for these workers than what was in effect at the time the Wyoming case was decided.

I have long maintained that elected State and local officials are in the best position to determine the public safety needs of their constituencies. I do not believe that these elected officials fashion hiring and retirement policies to purposely evade the requirements of the ADEA. Our elected counterparts in State and local governments are no less committed to eliminating age discrimination than are Members of this Congress, and I do not believe that they will use this exemption to arbitrarily discriminate against older workers. The requirement that hiring and retirement ages be based on a bona fide plan also ensures that such discrimination will not occur.

The compromise on State and local safety and health personnel also modifies language in the House-passed bill which requires a study of this issue and proposed guidelines by the EEOC on the administration and use of fitness tests for these workers. The compromise provides for a 4-year study by the EEOC and the Secretary of Labor to determine whether physical and mental fitness tests can measure the ability of police officers and firefighters to do their job, and to make recommendations with respect to standards

which should be applied to such tests. The purpose of this provision is to try to establish a workable alternative to the current maze of litigation and conflicting court decisions on the issue of testing that have plagued our State and local governments since the Supreme Court reached its decision in 1983 in the case of EEOC versus Wyoming. Following this study, not later than 5 years after the enactment of this act, the EEOC is required to propose these guidelines.

An important modification which we included in the compromise is a requirement that the EEOC and the Secretary of Labor consult with various affected groups during the course of the study and prior to the development of recommendations. Those of us who support an exemption for these State and local safety and health personnel were concerned that the EEOC study would end up being either a restatement of current law or would totally ignore the practical aspects and needs of law enforcement management in general. I am therefore pleased that we were able to include in this compromise a requirement that the EEOC and the Secretary of Labor consult with groups and independent agencies which are affected by this exemption. In particular, the U.S. Fire Administration and the Federal Emergency Management Agency must be consulted. Additionally, organizations representing law enforcement officers and firefighters, and their employers, must also be a part of the study. To ensure a balanced study, groups representing older Americans will also be consulted.

While it is left to EEOC and the Secretary to determine which such groups will be contacted, there were several organizations which were intimately involved in reaching this compromise and would be appropriately consulted with, including the National Association of Fire Fighters, the International Association of Chiefs of Police and the State and Provisional Division of IACP, the Fraternal Order of Police and the International Union of Police Associations. Employers of these groups which would be appropriately consulted with should include representatives of State and local governments, including the National Association of Counties, the National League of Cities, and the National Governors Association. This list does not represent all such groups that are affected by this exemption, but provides a guideline of those organizations that were involved in these negotiations on the safety and health personnel exemption. Those of us who have been involved in these negotiations will be closely watching the progress of this study to ensure that all concerns are adequately represented.

The need for an exemption for State and local safety health personnel first came to my attention in 1983 following the Wyoming decision when former Kentucky Governor John Y. Brown, Jr., requested my assistance in obtaining relief for the State Police. Governor Martha Layne Collins reiterated that request in 1984 and I introduced legislation in the 98th Congress designed to bring relief to this group. No action was taken on that bill and at the beginning of the 99th Congress I reintroduced the legislation. Chairman NICKLES agreed to hold hearings on my proposal, and those of Senator BRADLEY and Senator QUAYLE, in March of this year. The testimony at that hearing showed a clear need for some type of exemption for State and local safety and health personnel.

I was pleased when the House then voted to include the Murphy amendment in H.R. 4154, legislation which lifts the age cap under the ADEA. While I strongly support lifting the age cap, I would not be able to support such a move without some type of exemption for State and local police and firefighters. The compromise we are adopting today satisfies my concerns and provides a realistic approach to such relief.

I commend my colleagues for allowing this measure to pass. It is my understanding that the House is prepared to accept our compromise and I encourage the House to move promptly to pass this measure and send it to the President for his signature.

Mr. BRADLEY. Mr. President, I rise as a cosponsor of this compromise package to eliminate the mandatory retirement cap and to exempt public safety officers from the Age Discrimination in Employment Act.

Mr. President, last year I introduced S. 698, which amends the Age Discrimination in Employment Act to allow States and municipalities the flexibility to determine entry and retirement ages for their public safety officers and firefighters. The amendment before us provides this exemption for the next 7 years and establishes a comprehensive study to help us determine what permanent Federal policy should be in this area.

Mr. President, Congress has already exempted from ADEA certain classes of Federal Government workers who regularly face unique mental and physical demands. Since 1974, Federal firefighters and law enforcement officers, including members of the FBI, secret service and Federal prisons, must retire at age 55. This amendment extends the exemption for the next 7 years to States and municipalities to allow them to determine retirement and entry ages for their own public safety officers and firefighters, just as Congress has done for similarly situated Federal employees.

The Supreme Court had held in EEOC against Wyoming that the Age Discrimination in Employment Act covers States and political subdivisions. Based on this decision, the laws of States and local governments which set retirement ages of less than 70 for public safety officers and firefighters have been invalidated. Needless to say, the Supreme Court decision has caused disarray in many State and local jurisdictions.

This issue was brought to my attention 2 years ago by the Governor of New Jersey and the head of the New Jersey State Police, Colonel Clinton L. Pagano. In addition to their support, the National Governors Association, National Association of Attorneys General, the Fraternal Order of Police, the International Association of Chiefs of Police, the National Troopers Coalition, the Firefighters and numerous other public safety organizations have passed resolutions calling on Congress to exempt certain public safety officers from the ADEA.

Mr. President, I am a strong proponent of the Age Discrimination in Employment Act. This exemption should not be construed as an invitation to start eroding those protections. But older Americans have as much reason as anyone to insure that those who perform emergency services are physically able to do so. Congress has already determined that age is a significant factor in job performance for a very select group of occupations to be exempted. This compromise package merely offers State and local governments the option to exempt these same occupations regardless of whether the person works for the Federal Government or a State or local government. I urge my colleagues to support this compromise package.

Mr. KENNEDY. Mr. President, it is with great pride that I join my colleagues in support of the Age Discrimination in Employment Amendments of 1986. This legislation passed the House last month by a vote of 394–0. That margin of victory is a much deserved tribute to the bill's author, the distinguished chairman of the House Rules Committee, Mr. CLAUDE PEPPER.

This legislation also serves as a tribute to our Nation's senior citizens. Today we recognize the outstanding accomplishments, in every field of endeavor, of this vital segment of our work force. Today we say as a nation that age alone is not the measure of a worker's worth, and that discrimination based on age is as invidious as that based on race, or sex, or national origin. Today we make these truths the law of our land.

We know too well from our experience as a nation that biases are often difficult to overcome. Age bias is no different from other biases, but now the time has come for mandatory retirement of mandatory retirement. Nineteen years ago Congress first passed the Age Discrimination in Em-

ployment Act, prohibiting age discrimination against employees between the ages of 40 and 65. Eight years ago we raised the age cap from 65 to 70. Today we take the next logical step, and remove that cap entirely.

George Bernard Shaw once said: "Some people are old at 17; others are young at 70." We only have to look around us to see just how true that is. We have a President, distinguished colleagues in the House of Representatives and distinguished colleagues here in the Senate who are making enormous contributions on a daily basis running this country, well past the age of 70. Yet under current law in other occupations, these same active and energetic men and women might be forcibly retired. The Nation would be worse off without their contributions, just as it is worse off without the contributions of the hundreds of thousands of workers who are forced into premature retirement under current law.

At the turn of this century, only 5 percent of our population was over 65 years of age. Today, 11 percent are over 65, and in 50 years it is projected that over 20 percent of our population will be over 65. As a nation we cannot afford to squander the talent, energy, and contribution of our fastest growing age group. We must not permit mandatory retirement to rob those seniors of their dignity, their self-esteem, and their opportunity to work.

I commend the managers of this bill and all the Senators whose cooperation was necessary so that the Senate could join the House and pass this important legislation in the last days of this Congress.

Mr. GRASSLEY. Mr. President, I rise in support of H.R. 4154, a bill to abolish mandatory retirement and other forms of age discrimination in employment. I have supported the elimination of mandatory retirement since my days as a Member of the House of Representatives. I have been privileged to support the efforts of the distinguished Senator from Pennsylvania [Senator HEINZ] and Representative PEPPER to remove the age 70 cap on the Age Discrimination in Employment Act. Both of these gentlemen, and others, deserve a great deal of credit for clearing the way for the consideration of the measure before the Senate today.

The Age Discrimination in Employment Act [ADEA] protects individuals between the ages of 40 and 70 from age discrimination in the workplace. The ADEA prohibits employers from discriminating because of age in such matters as hiring, job retention, compensation, and other terms, conditions, and privileges of employment. I was a Member of the House of Representatives in 1977, when Congress raised the age cap on the ADEA from 65 to 70. I supported that effort, although I did not think it went far enough. I am pleased that we are here today to completely remove the age cap on the ADEA.

There are compelling public policy reasons for eliminating mandatory retirement and encouraging persons to remain in the work force longer. Demographers tell us that the population of the United States is growing older. This is also true in the workplace, where the "baby boom" cohort is growing older while the number of younger people entering the work force is declining. We therefore need to change public policies that discourage people from working beyond what we have considered in the past to be the normal retirement age. Of course, it goes without saying that the longer a person works, the less the drain on Social Security and private pension funds. In some cases, individuals may need to work because their economic situations dictate that they need the income from a job.

There is more than enough empirical evidence to demonstrate that old age does not necessarily mean a decline in a person's ability to work. That myth has been exploded, and it is time for the law of the land to conform to reality. In the vast majority of jobs, older workers can compete on an equal footing with younger workers. Rather than choosing some arbitrary age where we say the law against age discrimination in the workplace no longer applies, with the passage of this bill we are saying that if a person can do a job, he has a right to continue to work for as long as he wants to.

As far as I am concerned, the real issue with regard to mandatory retirement is whether we should consider older persons as individuals or as part of a group. I believe strongly that we ought to consider people as individuals. We ought not to judge people, in the workplace or anywhere else, on the basis of whether they are black or white, male or female, old or young. That is why I reject the idea that just because someone has arrived at a certain age he or she ought to be "turned out to pasture." And that is why I support the measure before the Senate.

Mrs. HAWKINS. Mr. President, I applaud the Senate's efforts to focus national attention on the shortcomings of our present national policies with respect to mandatory retirement and I rise in support of legislation which will ensure that our senior citizens are allowed to work as long as they please.

My home State of Florida boasts the largest number of elderly citizens per capita. And I am well aware that those who are productively busy—whether in the work force or in volunteer service—make a tremendous contribution not only to themselves but also to their community.

It has been said that a mind is a terrible thing to waste. And truly this axiom can be applied to our Nation's senior citizens. We so often forget that with the graying hair and the aging joints come decades of experience—learning—and wisdom. Many of these citizens have lived through the Depression. Many have seen the world wars. And are now holding great-grand-children—after raising families of their own. All of us would benefit to sit at their feet and listen.

I was pleased to see that the Department of Labor released statistics verifying that the retention of qualified senior citizens in our work force would not have an adverse effect upon other segments seeking employment. Within the beltway, it is always gratifying to see common sense supported by statistics.

Mr. President, too often we have heard with respect to our Nation's elderly that you can't teach an old dog new tricks. Well, this Senator doesn't think that it is plausible to compare aging dogs and our grandparents. With current job training programs and a variety of social services already in place, there is no reason why our senior citizens cannot receive up-to-date skills.

I wholeheartedly support this legislation which will ensure equal employment opportunities for our Nation's elderly and I urge my colleagues to join me to this end.

Mr. HATCH. Mr. President, I am pleased that an agreement has been reached which will allow the Senate to act favorably on legislation to upcap the Age Discrimination in Employment Act. I have supported this goal for many years, because I believe that individuals should be judged based on their abilities and not on arbitrary factors such as age.

Our Nation counts among its work force many valuable, experienced workers who are approaching age 70 and who may choose to continue working. We can ill afford to sacrifice arbitrarily the skill and dedication of these workers simply because they have reached an age threshold, especially at a time when many industries are facing skilled labor shortages.

This bill contains an effective compromise involving public safety officers and tenured university faculty. The measure exempts police and firefighters as well as tenured faculty for a 7-year period and mandates a comprehensive study on the consequences of eliminating an age cap for these occupational classifications. I, for one, will review this report with great interest. It will help determine whether further amendments will be necessary in order to maintain the delicate balance between the right of every individual to be judged on the basis of his or her skill and experience and the interests of the general public.

I believe the bill before the Senate today adequately addresses the legitimate concerns of all the groups and organizations which participated in the hearings and deliberations on this issue, particularly public employers and the academic community. I hope that my colleagues will join me in supporting this compromise and vote in favor of this long-overdue reform of the Age Discrimination in Employment Act.

Mr. MOYNIHAN. Mr. President, I rise to support H.R. 4154, the Age Discrimination in Employment Amendments of 1986. This bill removes the specific mandatory retirement age of 70 for non-Federal employees, established by the Age Discrimination in Employment Amendments of 1978. This bill will allow the 78,000 Americans over 70 who are still working to continue to do so—and it will permit the 177,000 Americans between 65 to 70, who are still working—but might have had to retire in the next 5 years—to do so as well. For as long as they are able and so desire.

I must note, however, that I am troubled by the application of this change to the unique situation of tenured faculty members at colleges and universities. In order for these institutions to remain effective centers of teaching and scholarship, they must have a balance of old and new faculty. Hence, universities must ensure that older faculty members retire at an appropriate age, not simply to "make room" for younger faculty, but to maintain a contemporary, innovative and creative atmosphere where students can obtain the fullest education.

Unfortunately, I am not at all certain that this bill adequately takes into account the history of academia since the late 1950's. As a result of vast expansion in the number of individuals pursuing careers in academia at this time, there is now a bulge of faculty members who will not be retiring before the end of this century—even if they retire at the current mandatory age of 70.

This is certainly not to criticize in any way these undoubtedly qualified faculty members. But there does appear to be a severe shortage of teaching positions available for today's scholars. And the situation at this time is such that most new faculty openings occur as a result of retirement. We should be very careful, I think, about eliminating the retirement age altogether, unless we can be sure that this Nation's education will not suffer as a result.

Therefore, I note that the legislation before us today provides a temporary exemption, for 7 years, for tenured faculty from the provisions of this bill. In other words, tenured faculty or the equivalent, will still have to retire at 70 for the next 7 years. I would have perferred an even longer period—12 or 15 years—but note that the House inexplicably chose not to provide any exemption.

Importantly, during this 7-year period, the bill calls upon the National Academy of Sciences to appoint—within a year of enactment—a nine-member Commission to study the impact of removing the mandatory retirement age on colleges and universities. This study will be due in 5 years, allowing the Congress to adequately review the effects of this bill on academic communities, and make the appropriate changes in order to protect the vital national resource embodied in education.

Mr. HELMS. I am primarily concerned about two aspects of this bill—the effect it will have on our State and local police and firefighters and the effect it will have on small business. When the bill passed the House, it contained a permanent exemption for law enforcement personnel and firefighters. Is the Senator from Kentucky satisfied that the compromise he has reached will give our law enforcement officers and firefighters sufficient leeway to establish acceptable retirement policies?

Mr. FORD. Let me assure my good colleague from North Carolina that I firmly believe the compromise before us is a good one and is the best possible solution under the circumstances. While I would have preferred the Murphy language, there were some legitimate problems with its scope that came to our attention after the House bill passed. This compromise is supported by the major police and firefighting groups and the organizations representing State and local governments. As with any compromise, it is no one's perfect answer. I am confident that we have provided the necessary relief for our public safety and health personnel and a reasonable amount of time to completely study this issue.

The compromise provides for a 7-year exemption which will allow State and local governments the ability to set hiring and retirement plans suited to their individual needs. At the same time, we provide for a study of whether physical and mental fitness tests can measure the ability and competency of these workers. During this study, representatives of police and firefighting groups will be consulted, as well as their employers, which includes State and local governments.

There is a very strong need for this exemption at this time. As of March of this year 33 States or localities were facing litigation by the EEOC on this issue. Numerous other private suits have also been filed, threatening fiscally pressed State and local governments with potential added litigation costs. There is no uniformity in this litigation and much uncertainty of how a bona fide occupational qualification [BFOQ] defense will be treated.

I commend my colleague for raising these issues and appreciate his willingness to let this compromise move forward. Our State and local governments desperately need this relief.

Mr. HELMS. I thank my good friend from Kentucky. I am also concerned about the potential increase in litigation and litigation costs for small businesses. Has the Senator from Pennsylvania taken that potential problem into consideration?

Mr. HEINZ. Yes, I have. We are fortunate to have several excellent examples of situations where raising the age cap has made no significant change in the number of age discrimination cases. Since 1978 when the cap was lifted for Federal workers from age 65 to age 70, there has been no appreciable increase in the number of Federal complaints, according to the National Senior Citizens Law Center.

We have also looked at the experience of two States which have large elderly populations, California and Florida, and which have outlawed mandatory retirement. There is no evidence in these States of an increase in age discrimination lawsuits. In California, in 1984, of the 1,400 age complaints filed, 28 complaints or a mere 2 percent were filed by persons 69 years of age or older. Data from Florida in 1985 suggests a similar trend. Of the 756 age discrimination in employment cases filed, only two charges were made by individuals over age 70. These examples bolster the information collected by the EEOC in 1981, which revealed that of the total charges filed—9,100—only 22 percent were filed by persons 60 and over. The remaining 78 percent were filed by persons 59 and under. In addition a recent Syracuse University study of ADEA litigants, found that 73 percent of plaintiffs were under age 59.

These points lead one to be very confident that this legislation which lifts the mandatory retirement age 70 cap will not significantly increase the number of age discrimination cases filed.

I want to thank my distinguished colleague from North Carolina for his interest and cooperation in this matter and I hope that my responses to his questions have been helpful.

Mr. HELMS. I thank my distinguished colleagues for their straightfoward responses. I commend them for the tremendous work they have done on this issue, and I especially appreciate the efforts they have made to allay my concerns. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and the bill to be read a third time. The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4154) was passed.

Mr. SIMPSON. I move to reconsider the vote by which the bill passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF AUDREY O. LEWIS AND EMERSON B. VEREEN

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 1010, for the relief of Audrey O. Lewis and Emerson B. Vereen, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1010) for the relief of Audrey O. Lewis and Emerson B. Vereen.

AMENDMENT NO. 3485

(Purpose: To reduce certain awards.)

Mr. SIMPSON. I send an amendment to the desk on behalf of Senator THURMOND and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] for Mr. THURMOND, proposes an amendment numbered 3485.

On page 1, line 6, strike out "$140,500" and insert in lieu thereof "$70,250".

On page 1, line 8, strike out "$43,750" and insert in lieu thereof "$18,275".

On page 2, line 23, strike out "$9,100" and insert in lieu thereof "$4,550".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3485) was agreed to.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendment, the question is on the engrossment and third reading of the bill.

The amendment was ordered to be engrossed for a third reading and read the third time.

The bill was read the third time and passed.

Mr. SIMPSON. I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 2652

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 2652, a bill for the relief of Kumari Rajlakshmi Bais, and that it be placed on the Senate Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF UNITED WAY'S 100TH ANNIVERSARY

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 684, calling for recognition of the United Way's 100th anniversary, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the resolution will be stated by title.

The assistant legislative clerk read as follows:

A House joint resolution (H.J. Res. 684) calling for recognition of United Way's one hundredth anniversary.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time by title.

Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. DOLE. Mr. President, this year, the United Way, an organization known for its outstanding volunteer work will be celebrating its 100th anniversary. Today, along with many of my colleagues, I am introducing this resolution to commemorate the United Way's centennial, as well as its many superlative achievements.

CENTENNIAL CELEBRATION

Over 2,200 United Ways across America have been established in its 100-year existence. These offices have been helping individual communities provide for critical health and human care needs. In addition to direct services, the United Way has also contributed to, and supported, over 37,000 different groups and programs through a vast network of local charitable groups and volunteers. As a result of this comprehensive involvement in the needs of communities throughout this country, the effects of the United Way's activities can be felt in all parts of this Nation.

SECOND CENTURY CHALLENGES

The United Way's second century promises to be more successful than its first, as it challenges itself to look forward beyond its past accomplishments toward the new challenges and opportunities that lie ahead. As Members of Congress, we should applaud the United Way's efforts and congratulate the attempts of its dedicated workers to reach out and involve new agencies and new people in order to improve the quality of life for all Americans.

With this resolution, the Congress of the United States can encourage the spirit of voluntarism exemplified by this organization and express our gratitude to the United Way on a very outstanding 100 years of community service.

Mr. D'AMATO. Mr. President, I rise today to express my support as an original cosponsor of a joint resolution being introduced by the distinguished majority leader, Senator DOLE. The purpose of this resolution is to express congressional admiration of the United Way of America on the occasion of its 100th anniversary.

One of the most important concerns facing the strength and durability of our Nation as a people, is the stability of American family and community life. It is important, therefore, that, as we offer our thanks and appreciation to the United Way, Americans rededicate themselves to the basic values of family and community upon which our great Nation was founded. The United Way long has promoted these values.

Established in 1918 as the Community Chests and Councils of America, the United Way, since its inception, has operated with a stated mission: to increase the organized capacity of people to care for one another. The United Way is primarily made up of volunteers who support a broad range of human-care programs and service organizations in their local community. Through its nationwide organization the United Way raises funds, mainly through the workplace, that are distributed among a broad range of services to the surrounding community.

Beyond this invaluable fundraising capacity, the United Way's strong community presence long has served as a focal point in pulling together key business, political, and religious leaders to address critical problems affecting the country as a whole. On issues such as teenage pregnancy, drug abuse, shelters for the homeless, and hunger, the United Way has long been a leader in addressing the problems at hand and seeing that coordinated action is taken to address these problems.

Providing assistance to more than 37,000 human-care-related organizations throughout the United States, the United Way represents the best of America's volunteer and charitable spirit. In light of the increasing budgetary constraints that we face as a nation, however, it is going to become even more important to have a strong United Way acting to support the many essential human care organiza-

tions that exist in every community in this Nation.

It is for all of these reasons, Mr. President, that I salute the more than 2,200 United Ways operating throughout America and the individuals and organizations that support them. The United Way is a unique organization and deserves the vigorous support of every Member of this body, the House of Representatives, and, indeed, the Nation.

Thank you, Mr. President.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 684) was ordered to a third reading, read the third time, and passed.

Mr. SIMPSON. I move to reconsider the vote by which the joint resolution was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate companion bill introduced by Senator DOLE be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER TO COMPETITIVE SERVICE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 5218 dealing with competitive status and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5218) to amend title 5, United States Code, to provide that certain individuals be accorded competitive status for purposes of transferring to the competitive service.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5218) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

TEXAS WILDERNESS ACT AMENDMENTS OF 1986

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 4685, the Texas Wilderness Act Amendments of 1986, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4685) to adjust the boundaries of areas of the National Wilderness Preservation System in the State of Texas.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3486

The PRESIDING OFFICER. Are there amendments?

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator HELMS.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. HELMS, proposes an amendment numbered 3486.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 10, strike out "June" and insert in lieu thereof "October".

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 3486) was agreed to.

Mr. BENTSEN. Mr. President, I thank the distinguished chairman of the Agriculture Committee [Mr. HELMS] for his assistance in arranging for consideration and passage of this bill.

The Texas wilderness bill, which I introduced together with Congressman CHARLIE WILSON of Texas will make some needed adjustments in the boundaries of the wilderness areas in Texas. The suggested changes would even out jagged boundaries and move those boundaries to make them more easily marked and recognizable. The bill would also provide additional acreage to the east Texas wilderness areas of Upland Island, Big Slough, Turkey Hill, Indian Mounds, and Little Lake Creek.

In 1984, I introduced and helped pass the legislation to establish these wilderness areas. The original measure designated 34,000 acres of Federal land as components of the National Wilderness Preservation System. This insured the continued protection of these unique ecosystems, assuring that they would remain unspoiled for the enjoyment of future generations.

The alterations originally proposed in this bill would have added a total of 1,770 acres to these areas; 1,080 of these acres would come from existing U.S. Forest Service lands, and 690 acres from the acquisition of private lands, but only from willing sellers. The private landowners would have been compensated through exchange of U.S. forest lands of comparable value, so there would have been no Treasury outlays.

Objections have been raised to certain parts of this bill, and I am pleased to report that an accommodation has been reached which is agreeable to all parties concerned. This compromise would entail deleting the 690 acres of private lands from the bill, leaving only the boundary adjustments involving Federal lands. These remaining adjustments will still improve the existing wilderness areas from both an environmental and managerial standpoint.

Mr. President, in the national forest units in Texas the surface of the land is owned by the Federal Government, but in many cases the mineral rights are in private ownership. The law originally establishing these wilderness areas recognized and preserved the right of access of the mineral owners.

It was my intent in introducing this legislation that the rights of the private mineral owners would be preserved. If I might ask a question of the chairman of the Agriculture Committee, has any change been made through this legislation which would change that right of access from that which now exists for these Texas wilderness areas?

Mr. HELMS. Mr. President, if I might respond briefly to my colleague from Texas, it is my understanding that this bill makes no change in the treatment of private mineral owners or any rights of access to minerals underneath units of the National Wilderness Preservation System in Texas. It merely revises the boundaries of these units somewhat, in the process bringing in some small additional acreage which is already under Federal ownership.

Mr. BENTSEN. I thank the distinguished chairman of the Agriculture Committee. It is my understanding that this bill as amended is acceptable to all the other parties involved in this legislation, and I urge the adoption of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

PUBLIC LAW 99-396 AMENDMENT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Energy be discharged from further consideration of S. 2921, the Omnibus Territories bill, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2921) to amend the Public Law 99-396 exception to the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3487

The PRESIDING OFFICER. Are there amendments?

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator McCLURE in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. McCLURE, proposes an amendment numbered 3487.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"Section 19 (b) of Public Law 99-396 (100 Stat. 837, 844) is amended by:

"1) inserting 'section 30 of' immediately before 'the Organic Act of Guam';

"2) inserting 'section 3 of' immediately before 'the Joint Resolution to approve';

"3) inserting 'section 4 of the Act of April 12, 1900 (31 Stat. 78, 48 U.S.C. 740), as amended, and section 9 of the Act of March 2, 1917 (39 Stat. 954, 48 U.S.C. 734), as amended, which became a part of' immediately before 'The Puerto Rican';

"4) inserting 'section 28 (a) and (b) of' immediately before 'the Revised Organic'; and

"5) inserting 'section 4(c)(2) of' immediately before 'an Act to authorize'."

Mr. McCLURE. Mr. President, this legislation was transmitted by the administration last week to make certain technical amendments to section 19 of the omnibus territories measure, Public Law 99-396, which was enacted earlier this year. Although the administration had seen the language of section 19 prior to its passage by the Congress, after it had been sent to the President and Congress had recessed, questions were raised regarding the interpretation of the language. Without going through the episode in detail, I do want to express my appreciation to Pam Turner who alerted us to the problem and the general counsel's office at OMB which helped resolve the matter. The President agreed to sign the measure and we agreed to make the necessary technical corrections as soon as possible. I ask unanimous consent that a copy of a letter which Senator JOHNSTON and I sent to the President be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. McCLURE. The amendment in the nature of a substitute reflects further discussions with the Department of the Interior and it fully conforms with the intent to resolve this technical problem as had been agreed to by myself, Senator JOHNSTON and the administration. I urge adoption of the amendment and passage of S. 2921, as amended.

Mr. JOHNSTON. I would like to join with Senator McCLURE in urging passage of this legislation, as amended. The bill will resolve a technical problem in the Omnibus territories legislation which was passed earlier this year. The substitute amendment is consistent with the intent of the original language of section 19 of the Omnibus Territories bill; language which had been cleared by OMB, the Department of the Interior and the Budget Committee and I understand that this language has been cleared by all concerned.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
WASHINGTON, DC, AUGUST 27, 1986.

The PRESIDENT,
The White House
Washington, DC.

DEAR MR. PRESIDENT: We are writing with respect to H.R. 2478, the omnibus territories measure. Subsequent to final Congressional action and the adjournment of the Congress, the Committee was informed that the Administration was considering a veto of the measure as a result of a possible interpretation by the Department of Justice of certain language in section 19 of the bill. The Department apparently believes that the reference to the 1978 Omnibus Territories Act contained in section 19 could be interpreted to include any appropriations made pursuant to that Act.

The language of section 19, however, does not mention either authorizations or appropriations pursuant to the 1978 Act. Section 19 addresses only amounts "covered into the treasuries of said islands or paid pursuant to said laws". Sections 1(c) and 4(c) of the 1978 Act deal with the timing of payments to Guam and the Virgin Islands and are the only provisions of that Act which form the basis for such payments. All other grants or transfers are mere authorizations and require the enactment of an appropriation. There is no reference to any appropriation in sectic
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decisions with respect to the distinction between authorizations and appropriations.

The Committee staff have reviewed the issue, and it remains our view, as well as that of the Budget Committees which approved the language, that the interpretation offered by the agencies is completely contrary to the legislative history, the clear meaning of the statutory language, and principles of statutory construction.

It remains our view, as expressed in the explanation of the legislation during Senate consideration on August 9, 1986, that section 19 applies only to the section 30 funds for Guam, those funds covered over to Puerto Rico under the Federal Relations and Foraker Acts, the section 28(b) funds for the Virgin Islands, and those funds for the Northern Mariana Islands which are backed by a pledge of the Full Faith and Credit of the United States. As OMB Director Miller testified before the Budget Committee, these funds "appear in the Federal budget as an incidental matter for convenience of administration rather than as a means of resource allocation." Section 19 was drafted and approved by the Budget Committee to address those and only those accounts.

Accordingly, we urge you to sign H.R. 2478. If the Administration continues to believe that a clarification of section 19 is necessary, we would be happy to work with you to secure the prompt enactment of such amendments to section 19 which you request and which are consistent with the intent of H.R. 2478.

Sincerely,

J. BENNETT JOHNSTON,
Ranking Minority.
JAMES A. McCLURE,
Chairman.

The PRESIDING OFFICER. Are there amendments to the substitute? If not, the question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 3487) was agreed to.

The bill was ordered to be engrossed for a third time, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

INDIANA DUNES NATIONAL LAKESHORE

Mr. SIMPSON. Mr. President, I ask unanimous consent the Energy Committee be discharged from further consideration of H.R. 4037, the Indiana Dunes bill and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read the bill as follows:

A bill (H.R. 4037) relating to the Indiana Dunes National Lake Shore, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3488

an amendment to the desk on behalf of Senators QUAYLE and LUGAR in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) on behalf of Mr. QUAYLE and Mr. LUGAR, proposes an amendment numbered 3488.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert:

SECTION 1. INDIANA DUNES NATIONAL LAKESHORE.

(a) BOUNDARY CHANGES.—The first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u), is amended by striking out "December 1980, and bearing the number 626-91014" and inserting in lieu thereof "October 1986, and numbered 626-80,033-B".

(b) DEFINITION OF IMPROVED PROPERTY.—Section 4 of such Act is amended by striking out the first sentence and substituting "As used in this Act, the term 'improved property' means a detached, one-family dwelling which meets each of the following criteria:

"(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

"(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

"(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term 'appropriate map', means a map identified as 'Boundary Map—Indiana Dunes National Lakeshore' (for 'A Proposed Indiana Dunes National Lakeshore' in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table:

Property within boundaries of map	Construction began before
Dated October 1986, #626-80,033-B.	February 1, 1986
Dated December 1980, #626-91014.	January 1, 1981
Dated September 1976, #626-91007.	February 1, 1973
Dated September 1966, #LNPNE-1008-ID.	January 4, 1965

The term 'improved property' also includes the lands on which the dwelling is situated which meets both of the following criteria:

"(A) The land is in the same ownership as the dwelling.

"(B) The Secretary has designated the lands as reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B).".

(c) RETAINED RIGHTS.—Section 5(a) of such Act (16 U.S.C. 460u-5a) is amended as follows:

(1) Strike out "the first section" and insert in lieu thereof "section 4, dated December 1980, and numbered 626-91014."

(2) Strike out ": *Provided*, That" and substitute a period followed by "In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014".

(3) After "(a)" strike "Except for" and insert "(1) Except for owners described in paragraph (2) and".

(4) Strike "(1)" in each place it appears and substitute "(A)" and strike "(2)" and substitute "(B)".

(5) Add the following at the end thereof:

"(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

"(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

"(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991, to sell to the Secretary.".

(d) AUTHORIZATION.—Section 9 of such Act (16 U.S.C. 460u-9) is amended as follows:

(1) In the first sentence strike "$11,000,000" and insert in lieu thereof "$20,000,000".

(2) Add after the last paragraph "In addition to any other sums authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act there are authorized to be appropriated an additional $3,500,000 to be used for such purposes. The Secretary shall conduct a feasibility study of establishing United States Highway 12 as the 'Indiana Dunes Parkway' under the jurisdiction of the National Park Service. The Secretary shall submit the results of such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Commerce on Energy and Natural Resources of the United States Senate within two years after the enactment of this sentence.

Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the feasibility study.".

(e) EXISTING PROPERTY RIGHTS.—Section 10 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end thereof: "Nothing in this Act shall be construed to diminish the existing property rights of Northern Indiana Public Service Company (as of October 1, 1986) with respect to—

"(1) a parcel of land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes, beginning at said Company's Dune Acres substation and extending east to said Company's Michigan City Generating Station, which parcel by this Act is included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-I on National Park Service Boundary Map No. 626-80,033-B, dated October 1986, excluding that certain parcel of approximately 6.0 acres adjacent Mineral Springs Road in areas II-I, and

(2) land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes as has by this Act been included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-H on said National Park Service Boundary Map No. 626-80,033-B."

(f) OWNER CONSENT REQUIRED.—Section 13 of such Act (16 U.S.C. 460u-13) is amended by changing "SEC. 13." to "SEC. 13. (a)", by striking out "the first section" and inserting in lieu thereof "section 4, dated December 1980 and numbered 626-91014", and by adding a new subsection (b) as follows:

"(b) The Secretary may acquire that portion of area IV-B in private ownership on the map referred to in section 1 of this Act only with the consent of the owner: *Provided*, That the Secretary may acquire an agricultural easement should the owner change the use in existence as of September 19, 1986, through eminent domain.".

(g) MAP REFERENCE.—Section 16 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end of the first sentence "on the map referred to in section 4, dated October 1976, and numbered 626-9100".

(h) RIGHTS-OF-WAY.—Section 15 of such Act is amended by adding the following at the end thereof: "The Secretary may acquire only such interest in the rights-of-way designated 'Crossing B' and 'Crossing C' on the map dated October 1986 and numbered 626-80,033-B as he determines to be necessary to assure public access to the banks of the Little Calumet River and the banks of Salt Creek within fifty feet on either side of the centerline of said river and creek.".

(i) COOPERATIVE AGREEMENT AND STUDY.—Add the following new section at the end of such Act:

"SEC. 24. LITTLE CALUMET RIVER AND BURNS/PORTAGE WATERWAY.

"(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Little Calumet River Basin Development Commission, the State of Indiana or any political subdivision thereof for the planning, management, and interpretation of recreational facilities on the tract within the boundaries of Indiana Dunes National Lakeshore identified as tract numbered 09-117 or on lands under the jurisdiction of the State of Indiana or political subdivision thereof along the Little Calumet River and Burns Waterway. The cooperative agreement may include provision for the planning of public facilities for boating, canoeing, fishing, hiking, bicycling, and other compatible recreational activities. Any recreational developments on lands under the jurisdiction of the National Park Service

planned pursuant to this cooperative agreement shall be in a manner consistent with the purposes of this Act, including section 6(b).

"(b) STUDY.—The Secretary shall conduct a study regarding the options available for linking the portions of the lakeshore which are divided by the Little Calumet River and Burns/Portage Waterway so as to coordinate the management and recreational use of the lakeshore. The Secretary shall submit the results of the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this section. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the study.".

Mr. LUGAR. Mr. President, I rise in support of this important legislation, which would authorize the acquisition of key land parcels for the Indiana Dunes National Lakeshore.

This substitute amendment to H.R. 4037 would also increase the authorized limit on development projects in the lakeshore from the current level of $11 to $20 million. This would accommodate a prudent portion of the development projects which have been planned for the lakeshore. And this legislation would also require the National Park Service to complete a study of the idea of making all or portions of U.S. 12 within park boundaries a scenic "Indiana Dunes Parkway."

I am impressed by the wide support which this bill enjoys among citizens groups, local officials, and affected industries in Indiana. This legislation is well coordinated with stringent Federal budgetary limitations. These will necessarily require that the land acquisitions and developments that the bill permits will occur over a period of years as Indiana receives its fair share of scarce park funds. This bill will further improve one of our Nation's most heavily used and unique natural parks. It will enhance and lead to better future planning of the lakeshore.

I wish to commend Senator QUAYLE and Congressman VISCLOSKY for their hard work and concerted efforts in fashioning this legislation. I urge its passage by the Senate.

Mr. QUAYLE. Mr. President, before the Senate today is legislation to address the management, development and environmental needs of the Indiana Dunes National Lakeshore.

H.R. 4037 was passed by the House of Representatives and this measure has become a basis for the legislation before the Senate now. I appreciate the support and assistance that I have received from Senator LUGAR, a cosponsor of this substitute. This measure has evolved based in part upon a meeting I conducted in Chesterton, IN, with individuals actively concerned about the Indiana Dunes; and in part upon conversations I have had since that time. I believe the substitute under consideration is a design for the next decade.

This substitute differs from the House bill in a number of respects. First, where the House bill authorizes the acquisition of 853 acres, the Senate proposal increases this figure by approximately 30 acres. This addition conforms with an agreement reached by Bethlehem Steel, environmentalists and Portage Mayor Robert E. Goin to increase the acreage along the Salt Creek corridor. This addition could be used to facilitate access for such recreational activities as fishing and canoeing.

Not all of the acres slated to be included within the boundaries of the lakeshore will be acquired by fee purchase. In the Heron Rookery, for example, the House-passed bill proposes two parcels of property for acquisition, one to the south owned by the State of Indiana and one to the north owned by private landowners. Several of these landowners have expressed reservations about selling their lands and concern over the consequent loss to the local tax base. Because the current owners have no plans to use the land for any purpose but agriculture, one the lakeshore finds consistent with protection of the herons, I believe a trigger mechanism is a more appropriate approach to acquiring this parcel than fee purchase. The Senate substitute provides that the Park Service would be authorized to negotiate for an agricultural easement for this land only in the event a landowner decides not to conduct farming operations on it any longer. Otherwise, landowners could continue their current practice of farming this property, and there would be no loss to the local tax base.

The Senate substitute also includes language clarifying the property rights of the Northern Indiana Public Service Co. (Nipsco) with regard to land to be included within the boundaries of the lakeshore by this legislation. This language is acceptable to both Nipsco and environmentalists. The legislation includes within the boundaries of the lakeshore the Nipsco/South Shore Railroad corridor. Including this corridor within the lakeshore would give the Park Service both management responsibility for trails along this strip and enable the Park Service to coordinate better its development of a system of trails within the dunes.

Finally, this substitute raises the authorization from the current $11 million threshold to $20 million. The existing ceiling has been breached, therefore, it is appropriate to address this matter. I believe that a $20 million authorization ceiling will permit adequate development activities to take place within the lakeshore for the foreseeable future.

There are two issues that the Senate substitute does not address. First, three parcels of land within the city of Gary corporate limits are not included. While I originally proposed these parcels for acquisition because of their environmental significance, particularly the Woodlake Dune Savannah, local concern and opposition by the Gary City Administration that having these parcels within the boundaries of the park would delay or hamper local marina development prevented their inclusion here.

Second, several constituents brought to my attention their concerns over leaseback arrangements held by homeowners within the park boundaries and raised the possibility of lengthening the time when the leases would expire. I certainly understand the attachment of these homeowners to the beauty of the area. This legislation does not address this issue because of the great difficulty in determining an equitable solution. Opposition was raised to this proposal by those who believed that creating a uniform lease termination would further delay the access of the general public to these lands. Considering the need for a consensus package, it was not possible to address this issue in this legislation.

To meet other management needs of the park besides acquisition, this substitute incorporates several features of the House-passed bill. Two studies are to be conducted under this legislation. The first would be a study of the feasibility of establishing portions of U.S. 12 as a scenic parkway. The second study would examine linking the west and east units of the lakeshore. While I certainly believe this needs to be studied, it is my hope the emphasis would be on assessing nonacquisition means of linkage, such as through easements or cooperative agreements, wherever possible.

This legislation also gives the Secretary of the Interior the authority to participate in planning recreational activities along the Little Calumet River and Burns Waterway. This is warranted because any development of recreational facilities outside the park boundaries will have an effect on the number of visitors to the park and the services it provides.

The Indiana Dunes National Lakeshore is an important asset to the northwest Indiana region and to the State as a whole. Already an enhancement to the quality of life in the region, the park can also act as a drawing card for increased economic activity there. I believe this legislation makes improvements to the management, development, and environmental quality of the lakeshore that will carry it forward into the next decade.

The PRESIDING OFFICER. Are there further amendments to the substitute. If not, the question is on

agreeing to the amendment in the nature of a substitute.

The amendment (No. 3488) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed, as follows:

H.R. 4037

SECTION 1. INDIANA DUNES NATIONAL LAKESHORE.

(a) BOUNDARY CHANGES.—The first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u), is amended by striking out "December 1980, and bearing the number 626-91014" and inserting in lieu thereof "October 1986, and numbered 626-80,033-B".

(b) DEFINITION OF IMPROVED PROPERTY.—Section 4 of such Act is amended by striking out the first sentence and substituting "As used in this Act, the term 'improved property' means a detached, one-family dwelling which meets each of the following criteria:

"(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

"(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

"(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term 'appropriate map', means a map identified as 'Boundary Map—Indiana Dunes National Lakeshore' (or 'A Proposed Indiana Dunes National Lakeshore' in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table.

Property Within Boundaries of Map	*Construction Began Before*
Dated October 1986, #626-80,033-B.	*February 1, 1986*
Dated December 1980, #626-91014.	*January 1, 1981*
Dated September 1976, #626-91007.	*February 1, 1973*
Dated September 1966, #LNPNE-1008-ID.	*January 4, 1965*

The term 'improved property' also includes the lands on which the dwelling is situated which meets both of the following criteria:

"(A) The land is in the same ownership as the dwelling.

"(B) The Secretary has designated the lands as reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B).".

(c) RETAINED RIGHTS.—Section 5(a) of such Act (16 U.S.C. 460u-5a) is amended as follows:

(1) Strike out "the first section" and insert in lieu thereof "section 4, dated December 1980, and numbered 626-91014."

(2) Strike out ": Provided, That" and substitute a period followed by "In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014".

(3) After "(a)" strike "Except for" and insert "(1) Except for owners described in paragraph (2) and".

(4) Strike "(1)" in each place it appears and substitute "(A)" and strike "(2)" and substitute "(B)".

(5) Add the following at the end thereof:

"(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

"(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

"(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991, to sell to the Secretary.".

(d) AUTHORIZATION.—Section 9 of such Act (16 U.S.C. 460u-9) is amended as follows:

(1) In the first sentence strike "$11,000,000" and insert in lieu thereof "$20,000,000".

(2) Add after the last paragraph "In addition to any other sums authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act there are authorized to be appropriated an additional $3,500,000 to be used for such purposes. The Secretary shall conduct a feasibility study of establishing United States Highway 12 as the 'Indiana Dunes Parkway' under the jurisdiction of the National Park Service. The Secretary shall submit the results of such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this sentence. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the feasibility study.".

(e) EXISTING PROPERTY RIGHTS.—Section 10 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end thereof: "Nothing in this Act shall be construed to diminish the existing property rights of Northern Indiana Public Service Company (as of October 1, 1986) with respect to—

"(1) a parcel of land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes, beginning at said Company's Dune Acres substation and extending east to said Company's Michigan City Generating Station, which parcel by this Act is included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-I on National Park Service Boundary Map No. 626-80,033-B, dated October 1986, excluding that certain parcel of approximately 6.0 acres adjacent Mineral Springs Road in areas II-I, and

(2) land owned in fee by the Northern Indiana Public Service Company and used for high voltage electrical transmission lines, pipelines, and utility purposes as has by this Act been included within the boundaries of the Indiana Dunes National Lakeshore and herein designated as area II-H on said National Park Service Boundary Map No. 626-80,033-B."

(f) OWNER CONSENT REQUIRED.—Section 13 of such Act (16 U.S.C. 460u-13) is amended by changing "SEC. 13." to "SEC. 13. (a)", by striking out "the first section" and inserting in lieu thereof "section 4, dated December 1980 and numbered 626-91014", and by adding a new subsection (b) as follows:

"(b) The Secretary may acquire that portion of area IV-B in private ownership on the map referred to in section 1 of this Act only with the consent of the owner: Provided, That the Secretary may acquire an agricultural easement should the owner change the use in existence as of September 19, 1986, through eminent domain.".

(g) MAP REFERENCE.—Section 16 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end of the first sentence "on the map referred to in section 4, dated October 1976, and numbered 626-9100".

(h) RIGHTS-OF-WAY.—Section 15 of such Act is amended by adding the following at the end thereof: "The Secretary may acquire only such interest in the rights-of-way designated 'Crossing B' and 'Crossing C' on the map dated October 1986 and numbered 626-80,033-B as he determines to be necessary to assure public access to the banks of the Little Calumet River and the banks of Salt Creek within fifty feet on either side of the centerline of said river and creek.".

(i) COOPERATIVE AGREEMENT AND STUDY.—Add the following new section at the end of such Act:

"SEC. 24. LITTLE CALUMET RIVER AND BURNS/PORTAGE WATERWAY.

"(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Little Calumet River Basin Development Commission, the State of Indiana or any political subdivision thereof for the planning, management, and interpretation of recreational facilities on the tract within the boundaries of Indiana Dunes National Lakeshore identified as tract numbered 09-177 or on lands under the jurisdiction of the State of Indiana or political subdivision thereof along the Little Calumet River and Burns Waterway. The cooperative agreement may include provision for the planning of public facilities for boating, canoeing, fishing, hiking, bicycling, and other compatible recreational activities. Any recreational developments on lands under the jurisdiction of the National Park Service planned pursuant to this cooperative agreement shall be in a manner consistent with the purposes of this Act, including section 6(b).

"(b) STUDY.—The Secretary shall conduct a study regarding the options available for linking the portions of the lakeshore which are divided by the Little Calumet River and Burns/Portage Waterway so as to coordi-

nate the management and recreational use of the lakeshore. The Secretary shall submit the results of the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within two years after the enactment of this section. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the study.".

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS UNTIL 9:30 A.M., FRIDAY, OCTOBER 17, 1986

Mr. SIMPSON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., later today, Friday, October 17, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. SIMPSON. Mr. President, following recognition of the two leaders under the standing order, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SIMPSON. Mr. President, at 10:30 a.m., the Senate will resume consideration of (H.J. Res. 738) the continuing resolution. Rollcall votes can be expected and could occur well before 12 noon.

At 1 p.m., by unanimous consent, a vote will occur on the motion to invoke cloture on the immigration bill conference report.

Also, during the day, the Senate can be expected to turn to the consideration of any of the following items: Reconciliation conference report, the debt limit conference report, any conference reports available for action, any legislative or executive items cleared for action.

Votes can be expected to occur throughout the day on Friday, October 17, 1986.

I inquire of the acting Democratic leader if he has any further business.

Mr. MATSUNAGA. Mr. President, we have nothing further to bring up.

I congratulate the acting majority leader. In all my 24 years here, I have never seen so many bills passed in so short a time. Congratulations.

Mr. SIMPSON. I thank the acting Democratic leader.

I thank the staff. I think that sometimes, while we in the Senate complain a bit about our duty, we forget the remarkable people before us, who spend an inordinate amount of time long after we have left these Chambers. I appreciate what they do, and I thank them.

RECESS UNTIL 9:30 A.M., FRIDAY OCTOBER 17, 1986

Mr. SIMPSON. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 9:30 a.m., Friday, October 17, 1986.

The motion was agreed to, and at 2:46 a.m., the Senate recessed until 9:30 a.m., Friday, October 17, 1986.

NOMINATIONS

Executive nominations received by the Senate October 15, 1986:

DEPARTMENT OF STATE

Arnold Lewis Raphel, of New Jersey, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

James H. Duff, of Pennsylvania, to be a member of the National Museum Services Board for a term expiring December 6, 1991. (Reappointment)

CONFIRMATIONS

Executive nominations confirmed by the Senate October 15, 1986:

DEPARTMENT OF STATE

L. Paul Bremer III, of Connecticut, a career member of the Senior Foreign Service, Class of Career Minister, to be Ambassador at Large for Counter-Terrorism.

David C. Fields, of California, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

Alexander Fletcher Watson, of Maryland, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Peru.

Charles J. Pilliod, Jr., of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

James Daniel Phillips, of Kansas, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Burundi.

Peter O. Murphy, of the District of Columbia, for the rank of Ambassador during the tenure of his service as Special Negotiator for United States-Canada Trade and Investment Issues.

James Roderick Lilley, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

Ronald DeWayne Palmer, of the District of Columbia, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius.

David A. Korn, of the District of Columbia, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

James Wilson Rawlings, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Zimbabwe.

Everet E. Bierman, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

Everett Ellis Briggs, of New Hampshire, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Honduras.

Theodore E. Gildred, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

Frank Shakespeare, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Holy See.

James Edward Nolan, Jr., of Maryland, to be Director of the Office of Foreign Missions, with the rank of Ambassador.

Donald K. Petterson, of California, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Walter Edward Stadtler, of New York, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Benin.

Edward Joseph Perkins, of Oregon, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of South Africa.

Elinor Greer Constable, of New York, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

UNITED NATIONS

Joan Clark, of California, to be an Alternate Representative of the United States of America to the Forty-first Session of the General Assembly of the United Nations.

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the Forty-first Session of the General Assembly of the United Nations:

Representatives:

Vernon A. Walters, of Florida.

Herbert Stuart Okun, of the District of Columbia.

Thomas F. Eagleton, U.S. Senator from the State of Missouri.

Larry Pressler, U.S. Senator from the State of South Dakota.

Helen Marie Taylor, of Virginia.

Alternate Representatives:

Patricia Mary Byrne, of Ohio.

Hugh Montgomery, of Virginia.

Joseph Verner Reed, of New York.

John Kerry, U.S. Senator from the State of Massachusetts.

Paul S. Trible, Jr., U.S. Senator from the State of Virginia.

EXECUTIVE OFFICE OF THE PRESIDENT

Jorge L. Mas, of Florida, to be a Member of the Advisory Board for Radio Broadcasting to Cuba for a term expiring August 12, 1989.

WORLD HEALTH ORGANIZATION

Frank E. Young, of Maryland, to be Representative of the United States on the Executive Board of the World Health Organization.

DEPARTMENT OF AGRICULTURE

Peter C. Myers, of Missouri, to be a Member of the Board of Directors of the Commodity Credit Corporation.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

SENIOR FOREIGN SERVICE

The following-named Career Member of the Senior Foreign Service of the Department of State for promotion in the Senior Foreign Service to the class indicated:

Career Member of the Senior Foreign Service of the United States of America, Class of Career Minister:

Edwin G. Corr, of Oklahoma.

EXTENSIONS OF REMARKS

MEDICARE SKILLED NURSING HOME QUALITY CARE AMENDMENTS OF 1986

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. STARK. Mr. Speaker, today I am pleased to introduce along with Mr. WAXMAN, the chairman of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, the Medicare Skilled Nursing Home Quality Care Amendments of 1986. This bill is a companion to H.R. 5450, the Medicaid Nursing Home Quality Care Amendment of 1986. Like H.R. 5450, it is designed to improve the quality of care and quality of life for our Nation's elderly and disabled in skilled nursing facilities.

With the aging of the population, an increase in chronic illnesses, and the move to shorter lengths of stay in hospitals, more and more Americans will spend some time in a skilled nursing facility. It projected that the elderly nursing home population will increase by more than 50 percent from 1978 to 2003. Presently, Medicare and Medicaid account for over half of the payments for nursing home care on behalf of about 1.5 million residents. To protect these elderly and disabled Americans, a Federal-State regulatory system was developed. Unfortunately, according to studies in California and other States this system is not working.

When the Reagan administration attempted to add insult to injury by deregulating this already inadequate regulatory system, the Institute of Medicine, at the urging of Congress, was commissioned to study the nursing home industry. After 2 years of study, in March 1986, the Institute of Medicine released its report entitled "Improving the Quality of Care in Nursing Homes." This prestigious institute concluded that the present regulatory system is apparently unable either to force substandard facilities to improve their performance or to eliminate them.

A nursing home regulatory system should ensure that any person requiring nursing home care be able to receive appropriate care, be treated with courtesy, and enjoy continued civil and legal rights. The Institute of Medicine found that:

This happens in many nursing homes in all parts of the country. But in many other government-certified nursing homes, individuals who are admitted receive very inadequate—sometimes shockingly deficient—care that is likely to hasten the deterioration of their physical, mental, and emotional health. They also are likely to have their rights ignored or violated, and may even be subject to physical abuse.

Mr. Speaker, this deplorable situation must not be allowed to continue. In its report, the Institute of Medicine made several recommendations for reforming the current regulatory system. These recommendations have been endorsed by a wide coalition of senior citizens and nursing home reform organizations.

At the heart of the institute's recommendations is the recognition that the regulatory system has been overconcerned with paper compliance and far too little concerned with what kind of care the elderly actually receive.

This legislation seeks to implement many of the institute's legislative proposals and assure our Nation's elderly and disabled that they will live in an environment that maintains or enhances the quality of their lives. In all, more than a dozen requirements for medicare participation are outlined in the bill. To promote quality of care, nursing facilities would have to develop a plan of care for each resident, conduct resident assessments, protect and enhance residents' rights, provide appropriate access and visitation rights and provide equitable admission, transfer, and discharge policies. The bill would also restructure the current survey and certification and inspection of care processes. Equally important, this legislation would expand the range of enforcement options available to both the Federal and State governments.

We have decided to introduce the bill at this time in order to allow those interested in nursing home reform to consider the specific proposals and make their recommendations known. As chairman of the Subcommittee on Health, with jurisdiction over Medicare, I plan on holding hearings early in the 100th Congress on ways to strengthen and improve these provisions in order to assure quality of care in nursing homes.

Mr. Speaker, we must not turn our backs on our Nation's elderly and disabled nursing home residents. I look forward to working with my colleagues in the next session on making sure that Medicare and Medicaid nursing home residents receive the kind of care they deserve and are entitled to receive.

TRIBUTE TO THE HONORABLE G. WILLIAM WHITEHURST

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. FUQUA. Mr. Speaker, I am delighted to have the opportunity to say a few words in tribute to BILL WHITEHURST. As a member of the Armed Services Committee, he has served his Nation well and been a strong advocate for America's military needs. As a member of the Committee on Standards of Official Conduct he has not only served his Nation but his colleagues in this body with his fair and honest decisions on difficult issues.

BILL is not only my colleague in this House but we are also neighbors in nearby houses in northern Virginia. Many is the time he has graciously given me a ride home late at night after a long House session. For this reason, too, I am grateful to him.

I wish BILL the very best in the years to come. He has been an outstanding Member of Congress and will be an outstanding professor as well.

CORPORATE AVERAGE FUEL ECONOMY—CAFE STANDARDS

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. COATS. Mr. Speaker, recently, the National Highway Traffic Safety Administration [NHTSA] issued its final rule regarding reduction of the corporate average fuel economy [CAFE] standards for the 1987 and 1988 model years. The Agency wisely lowered the standards to 26.0 miles per gallon for these years, noting in its press release accompanying the decision that "a higher standard would have resulted in the loss of jobs for tens of thousands of workers in the domestic auto industry." Clearly this is a victory for American consumers and auto workers alike.

NHTSA concluded in the rule that GM and Ford, which constitute a substantial part of the industry, took or planned appropriate steps to meet the 27.5 miles per gallon standard for the 1987 and 1988 model years, but they were prevented from fully implementing those steps by unforeseen events. NHTSA's analysis found that the only actions now available to those manufacturers to raise their CAFE levels to 27.5 miles per gallon would involve a combination of production restrictions, including substantial job losses, and transferral of production of large cars outside of the United States. Obviously these steps would not have been in the best interest of the companies, their employees and suppliers, and American consumers.

NHTSA stated in the rule that the maximum hypothetical difference in gasoline consumption by lowering the standard is less than one half of 1 percent of the projected national passenger car gasoline consumption over the life of those cars. The Agency also noted that the average fuel economy of the total fleet of new cars sold in the United States is expected to exceed 27.5 miles per gallon during 1987 and 1988, despite GM and Ford falling below this level.

Many arguments were presented in favor of reducing the CAFE standards temporarily, but one which has been less frequently and fully articulated is the consideration of vehicle sizes and their relationships to fuel economy and safety. A March 24, 1986 letter from Brian O'Neill, president of the Insurance Institute for Highway Safety [IIHS], to NHTSA clearly presents this point. The letter observes that weight has more of an effect on fuel economy than does vehicle size, so cars can be made

more fuel efficient without compromising safety to a degree by reducing weight without reducing vehicle size. However, there is a point beyond which weight cannot be effectively reduced without making vehicles smaller and thereby compromising safety. Mr. O'Neill points out in this regard that "occupants of smaller cars are at much greater risk of death and injury than occupants of larger cars."

While the IIHS letter does not specifically endorse a reduction in the CAFE standards, it does point out NHTSA should review this issue very carefully when choosing appropriate standards and where fuel economy targets begin to conflict with safety concerns, the Agency has no alternative under its mandate than to defer to safety.

I would ask that the text of the IIHS letter be printed in the RECORD at this point.

INSURANCE INSTITUTE FOR HIGHWAY SAFETY,
Washington, DC, March 24, 1986.

[Comments of the Insurance Institute for Highway Safety on Passenger Automobile Average Fuel Economy Standards (MY 1987-1988) Docket No. FE-85-01, Notice 4]

MS. DIANE STEED,
Administrator, National Highway Traffic Safety Administration, Washington, DC.

DEAR MS. STEED: In a recent Notice of Proposed Rulemaking, the National Highway Traffic Safety Administration (NHTSA) solicited comments on numerous issues raised by a proposal to reduce the corporate average fuel economy (CAFE) target figure from 27.5 miles per gallon (mpg) to 26.0 mpg for the model years 1987 and 1988 (51 *Federal Register* 2912, January 22, 1986).

Although NHTSA did not pose any questions specifically addressing the impact of CAFE on vehicle safety, as the federal agency responsible for new car safety, it cannot overlook relationships between fuel economy and car safety. NHTSA has recognized this in the current CAFE Notice, which states that the agency does not wish "its fuel economy standard to serve as a disincentive to the sale of motorized belts or air bags" (51 *Federal Register* 2920).

CAFE standards can have a potentially adverse effect on vehicle safety independent of their influence on safety standards. This is because vehicle size is an extremely important factor in safety—occupants of smaller cars are at much greater risk of death and injury than occupants of larger cars. Therefore, it is not sufficient that NHTSA concern itself exclusively with the relationship between CAFE standards and safety standards. Because weight has more effect on fuel economy than does size, cars can be made more fuel efficient without compromising safety by reducing weight without substantially reducing vehicle size. However there is a point beyond which weight cannot be reduced without making vehicles smaller and thereby compromising safety.

Enclosed are two special issues of *Status report* on small cars (Attachments A and B) showing that small car occupants have a substantially greater risk of serious or fatal injury than the occupants of large cars. Data from Maryland crashes from 1974-80 show that twice as many drivers in subcompacts (wheelbase of 97-101 inches) suffered crash injuries as those in full size cars (wheelbase over 120 inches). Data from NHTSA's Fatal Accident Reporting System (FARS) confirm this disparity. For passenger cars one to five years old in the period 1978-80, there were more than twice the number of deaths per 100,000 registered vehicles in small subcompacts (96-inch wheelbase or less) as in full size cars (Wheelbase over 120 inches). During this period, the disparity in deaths per car registered for small and large cars held for all crash configurations. In addition, insurance injury claims data show that small cars produce many more occupant injury claims than do large cars (Attachment C).

These results cannot be explained by the differences in the mass of small and large cars because small car occupants in single-vehicle crashes suffer greater and more frequent injuries than do the occupants of larger cars in such crashes. Neither can they be explained by differences in driver age. Although older drivers more frequently operate larger cars, the pattern of relative safety in small and large cars remains for all driver age groups.

A listing of publications relevant to the issue of the injury risk in small cars is provided in Attachment D. The Institute urges NHTSA to review and consider this material when choosing an appropriate CAFE target. Where fuel economy targets begin to conflict with safety the agency has no alternative under its mandate than to defer to safety.

Sincerely,

BRIAN O'NEILL,
President.

RIGHT FROM THE START: A RECORD OF PRIDE

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. TORRICELLI. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding record on labor issues of our colleague in the other body, the Senator from Colorado, Mr. HART.

GARY HART: A RECORD OF PRIDE

Gary Hart's 12-year record in the Senate is one of active and consistent support for American workers and their issues: from minimum wage protection to double-breasting, from right-to-work to Davis-Bacon, and from unemployment benefits to Reaganomics.

But Gary Hart doesn't just play defense. In an often-hostile Senate, he has fought hard to increase job opportunities.

Gary Hart has fought to put America's tax money and America's muscle to work where America needs it: rebuilding roads and bridges, improving schools and training to renew America's competitive edge.

That's why COPE has scored Gary Hart's votes "right" better than four times out of five—throughout his Senate career.

THE 99TH CONGRESS: 1985 AND 1986

Hart led the fight against the Gramm-Rudman budget law and stopped the transfer of ever greater power to the Office of Management and Budget—David Stockman's old agency.

Hart opposed and stopped legislation that would let the Administration reneg on hard-won health and safety regulations.

Hart introduced a comprehensive trade reform bill to toughen trade sanctions and increase our industrial competitiveness.

Hart co-sponsored bills to protect workers from toxics on the job and to protect workers and their children from exposure to hazardous asbestos in schools and other buildings.

Hart voted to maintain Davis-Bacon and Service Contract Act protections as written for U.S. contracts.

Hart co-sponsored legislation restricting "double-breasting"—a ploy used by union contractors to pay non-union wages.

Hart sponsored legislation to restore America's crumbling roads and bridges, enable states to pay for the work and revive related construction trades (the National Infrastructure Act).

Hart proposed, with Florida Senator Lawton Chiles, the Growth and investment Initiative ($17 billion to promote education, training, and economic development). And Hart won $400 million in the 1987 federal budget for training programs—a downpayment on the Growth and Investment Initiative.

Hart pushed three other bills increasing support for education and training (American Defense Education Act, National Individual Training Account Act, High Technology Morrill Act).

Hart spoke out in support of USX workers who have been locked out of their jobs.

Hart co-sponsored a bill correcting inequities in the bargaining rights of the International Federation of Musicians.

Hart backed bills to help working families (Family Day Care Provider Assistance Act, Business Meals to School Lunches).

Hart pushed legislation to improve federal job banks, and won improvements that are now being enacted.

Hart joined with labor organizations the world over in fighting the racist apartheid system in South Africa.

Hart provided key support for the tax reform effort, by defending the "Packwood-Bradley" approach on the floor of the Senate. Hart has supported the kind of reform that lowers rates, closes loopholes and taxes investment earnings just like wages. To hold the compromise together, Hart opposed all amendments—resulting in his only two votes contrary to AFL-CIO positions.

THE 98TH CONGRESS: 1983 AND 1984

Hart introduced the Community Assistance and Revitalization Act to promote jobs and development in depressed communities.

Hart pushed for increased support for education, training and unemployment programs.

Hart proposed legislation to open foreign markets to American exports and report unfair trade practices.

Hart voted to protect laid-off workers from mortgage foreclosure or the loss of health insurance.

Hart endorsed legislation requiring industries to notify workers to plant closings in advance and assisting employes and communities that want to keep plants open on their own.

THE 97TH CONGRESS: 1981 AND 1982

Hart opposed all aspects of Reaganomics, especially the tax plan that resulted in the biggest federal deficits ever and the David Stockman assault on all health and education programs.

Hart supported aid to education, introducing a comprehensive education bill and voting for federal support in key areas.

Hart proposed a capital budget to highlight the benefits of public works and long term investment projects, and a tax expenditure budget to make clear the cost of tax loopholes.

Hart opposed a plan to apply a means-testing requirements as an obstacle to Medicare benefits.

Hart voted to protect union political rights.

Hart voted against the creation of a sub-minimum wage.

Hart voted to extend emergency unemployment benefits.

Hart voted against Social Security cuts for workers and their dependents.

Hart voted to protect jobs in the U.S. maritime industry.

THE 96TH CONGRESS: 1979 AND 1980

Hart was endorsed for re-election by the Colorado AFL-CIO and the National AFL-CIO.

Hart voted to maintain legal safeguards for the rights of migrant workers.

Hart fought attempts to roll back Davis-Bacon protections for workers on federal contracts.

Hart opposed attempts at national "right to work" legislation.

Hart worked for public service and public works programs to provide jobs for America's unemployed.

THE 95TH CONGRESS: 1977 AND 1978

Hart fought for Labor law reform, voting six times to break an anti-labor filibuster of the most important labor law revisions since the Wagner Act of 1935.

Hart opposed efforts to deny food stamps to striking workers and their families.

Hart voted against creating red-tape obstacles to the enforcement of health and safety regulations.

THE 94TH CONGRESS: 1975 AND 1976

Hart supported union political rights.

Hart voted to protect Davis-Bacon protections for workers under federal contacts.

Hart voted with labor throughout the struggle over situs picketing rights.

THE REVIVAL OF LAKE ERIE AND WESTERN NEW YORK'S WATERFRONT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. KEMP. Mr. Speaker, 20 years ago scientists predicted that the death of Lake Erie was imminent and inevitable. Today record numbers of fishermen, boaters, and tourists are enjoying a renewed and revitalized Lake Erie. Although we have come a long way since the days when the Great Lakes were clouded with pollutants and harmful chemicals, we must remain vigilant and committed to the work that still needs to be done. Since my election to Congress, I have actively supported efforts, such as the Clean Water Act, to restore and preserve our priceless natural resources. Our health, jobs, and the quality of our lives are affected by the quality of these waters. The vital effort to clean up the Great Lakes must continue, but I am pleased and excited by the spectacular revival that has taken place thus far.

Until recently, Lake Erie was only an untapped resource. Now, waterfront development is booming, as smokestacks and factories give way to marinas and parks. Recreational fishing and boating has become a multimillion dollar business, stimulating economic growth and expanding job opportunities for western New Yorkers. Fishermen have spent an estimated $1.5 billion a year in all the Great Lakes, with a total economic impact on the regional economy of about $4 billion. This "new" industry has been creating the need for more retail stores, hotels and motels, and restaurants.

Western New York is in the midst of this waterfront development boom. In the lakeshore community of Evans, NY, residents and local and State officials are working together to rehabilitate and expand a marina that is badly in need of repair. Plans call for the number of boat slips at the marina to be increased from 80 to about 200, enabling a greater number of fishermen and recreational boaters to take advantage of this vast resource. Construction of the Sturgeon Point Marina is crucial to the economic revitalization of the western New York area and deserves full congressional support. Waterfront development will not only enhance access to the lake, but will provide significant economic benefits to the entire region in terms of more jobs, a healthier tourism industry, and higher revenues for local and State governments.

Lake Erie is alive and well again, as are the communities that surround it and I urge my colleagues to read the following New York Times article about the rebirth that has taken place along this Great Lake:

A RENEWED LAKE ERIE AGAIN ONE OF THE GREATS

(By John Holusha)

PUT-IN-BAY, OHIO.—Twenty years ago, the western end of Lake Erie was choked with foulsmelling algae, and dead fish littered the shoreline. Some scientists predicted that the lake's death was imminent. But as Gov. Richard Celeste of Ohio proclaimed in a ceremony on an excursion boat in this South Bass Island port last week, Lake Erie has made a comeback. As in testimonial, dozens of boats bodded nearby, filled with fishermen.

In fact, the water in all the Great Lakes is cleaner now than at any time in recent history, officials say. Although environmentalists warn that more needs to be done the change is having an important impact on a region struggling to shift its economy away from the declining heavy industries that were so dominant in the past.

Cities throughout the Great Lakes basin are tearing down the abandoned mills that lined their waterfronts and putting up more than $1 billion in housing, offices, restaurants and parks. Detroit, for example, has been encouraging development along the Detroit River, between Lake Erie and Lake Huron. Cleveland is digging through a century's worth of steel mill slag to create a marina and lakefront park. In Buffalo last week, slabs of concrete were dropped into Lake Erie to create reefs aimed at attracting fish.

Most of the benefits of such efforts are still in the future, but the cities that started early are already reaping rewards. A renewal of Toledo's Maumee River waterfront is generating $10 million a year in tax revenues and has added 4,000 jobs to the 20,000 in what was a declining downtown.

Sport fishing has returned, although concern about toxic chemical accumulations in some species remains. More than 800 charter fishing boats are operating on Lake Erie today, compared with 40 in 1975. Sports fishermen spend $1.5 billion a year in all the Great Lakes. Litter-strewn beaches that were virtually abondoned are being cleaned. An estimated 63 million people visit the state, Federal and, on the Canadian side, provincial parks along the lakes each year.

"People relate to clean water," said Donna Wise, the president of the Center for the Great Lakes in Chicago. "When the water is clean, people want to go to the beaches or fish or build next to the water's edge."

Much of the improvement in the lakes' quality is attributed to the $7 billion that has been invested in waste-water treatment plants since environmental laws began to take effect in the early 1970's. A ban on phosphorus detergents in most states and Canadian provinces in the basin has also helped, officials say, along with the decline of heavy industries. And high water levels have diluted the pollutants that are still flowing into the lakes.

"Dilution has been the solution to pollution, particularly in a shallow lake like Erie," said David Edgington, director of the Center for Great Lakes Studies at the University of Wisconsin. "There is simply a much greater volume of water there now to accept the environmental insult." Unlike the other lakes, which are hundreds of feet deep, the average depth of Lake Erie is only 62 feet, and in the western part it is much shallower than that.

RETURN OF THE WALLEYE

Nevertheless, the lessening of phosphorous pollution and a ban on commercial fishing in Lake Erie have contributed to soaring stocks of the walleye, a popular sport fish. From a low of about four million in 1970, the walleye population in the lake has increased to 30 million, and the species is reproducing without assistance from hatcheries. Other types of fish, such as the white bass, small-mouth bass and catfish, are also being caught in large numbers.

Environmentalists note, however, that much of what has been cleaned up so far is the visible pollution. Still lurking in the water and in the bottom sediment are toxic chemicals, the legacy of the region's industrial heritage. Most states have restrictions on the consumption of some lake fish, particularly predatory species that accumulate toxins by devouring bottom feeders. "The biggest impact of the toxics is the limitations they put on the fishery," Professor Edgington said. "The PCB concentrations are measured in parts per billion, so they don't affect how the water looks or whether you swim in it. But at the top of the food chain, with a big trout or salmon, it is a problem."

But the lingering presence of toxic chemicals is not preventing lakeside communities from taking advantage of their water resources. At the end of a day spent cruising Lake Erie, Governor Celeste stopped at Sandusky, where the G. A. Boeckling, a turn-of-the-century paddle-wheel steamer, is being restored for lake excursions. "Ten years ago," the Governor said, "I doubt you could have drummed up support for restoring the Boeckling—or for being out on the lake."

SWAN FALLS WATER RIGHTS AGREEMENT

HON. RICHARD STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. STALLINGS. Mr. Speaker, after several weeks of negotiations and hard work, an agreement has been reached on legislation to approve the Swan Falls Water Rights Agreement. This vital compromise marks a landmark day for the citizens of Idaho.

After many years of heated controversy and public debate, an agreement between the State of Idaho and Idaho Power Co. was reached on October 25, 1984. Incorporated in H.R. 5465, the National Appliance Energy Conservation Act of 1986, is language to implement this important agreement.

The Swan Falls agreement is the result of a dedicated effort and hard work from many Idahoans. Special recognition and thanks to Idaho Gov. John Evans, Attorney General Jim Jones, Idaho Power Co. officials, water users, conservation leaders, and many others who have played an integral role in this process.

The Snake River serves as the lifeblood of Idaho's economy and quality of life. It is one of our priceless natural treasures. Idaho and the Pacific Northwest have been blessed with abundant water resources from our great hydroelectric dams of the Columbia and Snake Rivers. Our economic growth and prosperity depends upon a stable, reliable, and reasonably priced electric power.

Furthermore, the Swan Falls agreement is in the public interest and will help the State of Idaho better manage its water resources. It also should serve as a sound management plan for the Snake River and its many valuable resources. Irrigation, energy production, recreation, and fish and wildlife all benefit from effective stewardship of Idaho's Snake River.

On behalf of the State of Idaho, Idaho Power Co., and all Idaho citizens, I would like to express our personal appreciation and thanks to the distinguished chairman of the House Energy and Commerce Committee, Mr. JOHN DINGELL, and Congressman ED MARKEY.

Without their personal interest and strong commitment to work out an acceptable compromise, this agreement would not have been implemented. Both Members deserve special acknowledgement for their consideration, leadership, and support.

Idaho Senator JIM MCCLURE deserves credit and thanks for his important role and work in working out a solution to resolve this longstanding dispute over Snake River water rights. This process truly was a team effort and had the support of the entire Idaho delegation.

Several key staff members also devoted a great deal of time and effort in working with the Idaho delegation to resolve this issue. Dave Finnegan, Gil Sperling, and Gary Ellsworth provided needed guidance and direction during our discussions.

This legislative solution is more than just a bipartisan settlement. It represents an effective partnership in Congress that has paid off for Idaho citizens. The process also serves as an excellent example of government working at its best.

The Swan Falls agreement represents an important roadmap to Idaho's future and is an important step toward improving our State's economic health and quality of life. House approval today completes the final chapter of a long and difficult struggle that has confronted Idaho for many years.

A TRIBUTE TO ASSISTANT FIRE CHIEF PAUL ORDUNA

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. DYMALLY. Mr. Speaker, early this year the Los Angeles Fire Department, as it began to celebrate its 100th anniversary, took an important and historic action by promoting Mr. Paul Orduna to the position of assistant fire chief. In the history of the Los Angeles Fire Department, Mr. Orduna is the first black person to achieve this high rank.

The story of how Mr. Orduna and the department arrived at this point could serve as the archetypal story of the black struggle to achieve the American dream in postwar America. The humble beginning is there, as is the dedication to hard work. The bitter prejudice is there. But so is the iron-strong will to overcome that prejudice. Finally, the triumph is there. In his achievement, Paul Orduna is proof to all who will follow him that one person with conviction can change the world.

For Paul Orduna, the introduction to racial prejudice occurred relatively late in life. He was born in Omaha, NE in an entirely integrated neighborhood that contained Serbians, Germans, Czechoslovakians, Bulgarians, Hungarians, Bohemians, Mexicans, Japanese, and blacks. His father is Mexican, his mother black. He attended racially integrated elementary and secondaray schools. Before and immediately after World War II he worked in the meat packing industry in Omaha. But after his marriage in 1950, and the birth a year later of a daughter, Chief Orduna considered seriously what he wanted to do as a lifelong career.

The relative job security presented by firefighting was attractive to Chief Orduna. He took the fire department entrance examination and passed. He was 15th on the eligibility list. Unfortunately, the eligibility period expired before Paul Orduna was hired. Paul Orduna is not easily put off. He took the exam again, this time placing No. 2 on the list. He was hired in 1952 and worked 4½ very happy years with the Omaha Fire Department.

When he moved to Los Angeles, he again took the examination. As in Omaha, it took two tries to finally be hired. Unlike Omaha, however, the Los Angeles Fire Department had been placed under court order to integrate. In 1957 that court order was greeted with anger, resentment, and resistence. Paul Orduna bore the brunt of that anger and resistence. The then chief of the department had chosen to resign rather than enforce the integration order. White firefighters made a number of attempts to provoke black firefighters into confrontations to demonstrate the ineffectiveness of integration.

Chief Orduna serving his probationary period in this time of unrest was isolated by his fellow firefighters. At this probationary time when cooperation and mentoring was crucial to learning the fine points of the job, Chief Orduna was transferred to three separate stations. Only the captain would speak to him, and spoke only to give orders. Orduna learned the operating techniques at each station on his own.

Eventually a chief who believed in integration was brought on board, and he began to turn the department around. Paul Orduna says now that his early upbringing in an atmosphere of racial and ethnic tolerance helped him through the tough times and enabled him to adjust well to the Los Angeles Fire Department despite the initial prejudice shown him.

During the Watts riots Paul Orduna's presence became a strong asset for the department. Wherever he and his crew answered a call in the Watts area they were accepted and escaped harassment and harm even during the height of the rioting. That experience convinced Chief Orduna that he could offer his services as an intermediary between the community and the fire department. His efforts involved him deeply in community activities, improved minority recruitment for the department and was markedly beneficial to the department's affirmative action efforts. His special talents were noticed.

He was promoted to captain, and after commanding a station for several years, he became an instructor at the drill academy. For Chief Orduna, this work with new firefighters was one of the most fulfilling experiences in his long career. Turning raw recruits into accomplished firefighters was a challenge he accepted with relish.

His work in the black community eventually helped him to win the post of affirmative action officer for the Los Angeles Fire Department. His progress in that post earned him the rank of battalion chief. After several years in command of two separate battalions, Orduna became the department's career development officer. He recognized his personal need for formal training in management and enrolled at the University of Redlands where he earned a bachelor of arts degree in management.

Armed with both the degree and extensive practical experience, Paul Orduna took the examination for assistant chief of the department. When he was appointed to that rank on February 28, 1986, the final day of Black History Month, he became a part of black history himself as the only black person ever to achieve the rank of assistant chief of the Los Angeles Fire Department. Along with the singular distinction came the chance to return to the area of work he enjoyed so much in earlier years, training; only this time he returns as commander of the training division. Chief Orduna, we in the Congress of the United States salute your accomplishment. Your success is a milestone on the path toward equal opportunity.

JIM BALUKEVICH INDUCTED INTO WASHINGTON, DC BOXING HALL OF FAME

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. LANTOS. Mr. Speaker, on November 14, 1986, Jim Balukevich, a graduate of George Washington University, will be inducted into the Washington, DC Boxing Hall of Fame at the Redskins Touchdown Club.

Jim Balukevich, has been a boxer, and a staunch supporter of boxing, since his youth as a Golden Gloves participant. He won a bronze medal while boxing in the U.S. Army in 1937–38 while serving in Hawaii. More recently he won the Senior Olympic Middleweight Boxing Championship of America.

Jim's leadership in this field of sports has included encouraging young men to develop their skill, strength, and fortitude by facing combat by the rules of the ring. He views boxing as an activity that can build the strength and character of American youth regardless of race, ethnicity, socioeconomic level, or physical characteristics. He sees boxing as the world's toughest sport, calling on the physical and mental resources of stamina, courage, and quick thought.

Jim recalls that Heavyweight Boxing Champion Gene Tunney, who defeated Jack Dempsey for that title, said that during World War I only 15 Marines out of 5,000 volunteered for the boxing team. Gene Tunney, the fighting Marine, commented that "marines were not afraid to fight and die in battle, but were in fear of battle in the boxing ring!"

One of Jim Balukevich's achievements in this field of sports was the founding of the Washington, DC Boxing Hall of Fame which will honor him next month. He also serves as vice president of the New Jersey Boxing Hall of Fame, and is an active member of the Washington, DC Boxing Commission.

Jim exemplifies the humanistic spirit, blending sensitivity with strength, that is rare enough in today's world. An example of this sensitivity is found in the poem of prayer he wrote for the boxer:

THE BOXER'S PRAYER

Look God, I have not spoken to you
But now I must say Hello.
Some say you do not exist,
And some believe thus.
Here I am in the boxing ring with only a prayer
To you. I shall put out my hand
And if you take it we'll both understand.
While I have no fear, my moment of truth is near.
And if I pray you are always here.
There's the bell!
I must come out fighting like hell!
With you as guardian I must do well.
Well, God, it is time to go.
I just want you to know
I met you tonight.

For Jim Balukevich, who serves with dignity, cheerfulness, and strength as he responds to the call of Congress by operating the Longworth House Office Building Members' elevator—a position he has held reliably for close to a decade, we recognize him today. On behalf of my colleagues in the Longworth Building, and in the House of Representatives, I offer warm congratulations to Jim Balukevich on the honor of the occasion of his induction into the Washington, DC, Boxing Hall of Fame.

A DRUG-FREE CULVER MIDDLE SCHOOL

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. MACKAY. Mr. Speaker, I rise before my colleagues today to honor an exceptional group of young people from Culver Middle School in Leesburg, FL.

At the initiative of the student government, led by Miss Shae Adams, student body president, all 944 students, which is the entire student population, signed a petition promising that they will not bring any drugs to school nor will they use any drugs during the entire school year. This action is an outstanding example of the caliber of our youth today.

With the drug problem approaching the epidemic proportions it has in recent years, the commitment of these young people to provide a drug-free environment for their peers to learn and grow in is a highly commendable action.

I am proud to represent this group in Congress. They have set an example worthy of praise, and one which I hope will be met by others who will pledge to do their part in our fight against drugs.

The text of their pledge is as follows:

In order to create a drug-free campus at Culver Middle School, I voluntarily pledge to myself not to bring any controlled substance on campus during the 1986–87 school year.

A TRIBUTE TO OUR EMERGENCY PHYSICIANS

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. HANSEN. Mr. Speaker, I recently spent several hours at the Baltimore Franklin Center Hospital in Baltimore, MD, with an emergency physician to experience, firsthand, the treatment and environment with which emergency physicians must deal on a day-to-day basis. Let me say, Mr. Speaker, that it was extremely revealing to me to see this special field of medicine.

We all have received care from our family physicians, or our ophthalmologist to treat specific problems. However, I don't believe that we understand the real life drama that emergency room physicians encounter on a daily basis. Emergency physicians are trained to expect the unexpected—any illness, any injury, any number of patients; from sore throats, broken bones, heart attacks, to all manner of life-and-death scenarios.

The selective training they receive aptly separates them from all other classes of physicians. Emergency room physicians must complete 3 years of training beyond medical school devoted exclusively to acute medical care. To keep up with the latest developments in emergency medicine, emergency physicians must complete 150 hours of continuing medical education every 3 years. They are highly skilled, trained, and qualified to treat every patient who comes through their emergency room doors. If it were not for this group of professionals, many people needing emergency, on-the-spot care, would not be living today.

I urge every one of my colleagues to take a few hours of their time to observe, firsthand, the operations of emergency room physicians. It will be time well spent.

KILDEE PAYS TRIBUTE TO OUR LADY OF LEBANON MARONITE CATHOLIC CHURCH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. KILDEE. Mr. Speaker, I rise today to bring to the attention of my colleagues and the Nation the celebration of the 10th anniversary of the consecration and dedication of Our Lady of Lebanon Maronite Catholic Church complex which will be held November 8, 1986, in Flint, MI.

Our Lady of Lebanon Catholic Church can trace its beginnings to the undaunted efforts of many dedicated individuals within Flint's Lebanese-American community. As a result of their selfless efforts, the church celebrated its first Maronite Liturgy on August 26, 1973. The parishioners continued to worship together at various locations while efforts to raise funds and locate a building site began. On June 29, 1975, at a ceremony which I had the privilege of attending, the then-Bishop Francis Zayek broke ground at the site of the beautiful new church center. Since the completion of the church building in 1976, Our Lady of Lebanon Catholic Church has served as an unwavering source of spiritual strength for its parishioners as well as enriching our community with its rich Arab culture. As a member of the Latin Rite of the Roman Catholic Church, I appreciate the eastern approach to spirituality that the Maronite Rite has brought to the Universal Church.

Mr. Speaker, Our Lady of Lebanon Maronite Catholic Church continues to serve as a sacred temple of worship and as an abode of faith and inspiration for its parishioners. Under the spiritual leadership of its current rector, Father Anthony Mike, Our Lady of Lebanon remains a portrait of Christian fellowship and continues to foster both Christian and ethnic values within the community. It is indeed a great honor and privilege for me to pay tribute to such an esteemed church on the 10th anniversary of its consecration and dedication.

JOHN HOY NOMINATED TO RECEIVE VOLUNTEER ACTION AWARD

HON. JOHN HILER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. HILER. Mr. Speaker, I would like to take this opportunity to recognize an outstanding individual who has accomplished a great deal in the name of friendship. The goodness in his heart and the strength of his convictions compels me to once again call your attention to his efforts to enrich the lives of others.

As countless fellow Hoosiers can attest, a finer friend than John Hoy is mightly hard to find. His A Rose For Friendship Society has served to express the genuine ideal of friendship through the symbol of peace, friendship, courage, and devotion, the rose.

Many years ago, John Hoy learned that the single act of presenting a rose to a total stranger could break down the outside barriers of formality leaving a lasting impression of goodwill. This concept of commitment and caring led to the formation of A Rose For Friendship Society; a belief in the innate goodness to be found in every person.

It is my special pleasure to be able to nominate John Hoy this year for the Volunteer Action Award. I believe that his untiring devotion to A Rose For Friendship—his relentless pursuit of friendship for all mankind—makes him deserving of this honor. As I pointed out to the officials overseeing the award, A Rose For Friendship merits national recognition.

Last month, after a century of debate over our Nation's floral emblem, Congress finally selected the rose, thus elevating it to prominence alongside the stars and stripes and the bald eagle. John Hoy must be smiling having discovered long ago the virtuous qualities of a flower that can turn a stranger into a friend.

CONGRESSMAN JIM WEAVER

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. BENNETT. Mr. Speaker, when I think of JIM WEAVER I think of his sparkling smile, his courage, and his able mind. All these qualities and many other fine ones he has brought here to the Halls of Congress during his service here. We will surely miss him, and we all hope that all his paths in the future will be pleasant and productive for him, for he deserves that and more.

THE OMNIBUS DRUG BILL

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. CHAPPELL. Mr. Speaker, last Wednesday, in an effort to sustain progress toward the enactment of meaningful drug legislation, the House returned to the Senate the Drug Enforcement, Education and Control Act, H.R. 5484, after making modifications to the Senate's amendments. While I was unavoidably detained from the House floor for the vote on the House amendments, I want to state for the record my continued support for this legislation and for the action taken by the House.

The need for this legislation is clear. The pervasive effects of drug abuse are felt throughout our society. Drug-related crime threatens our communities and is taxing the resources of local law enforcement agencies. Drugs are entering our schools at lower and lower grade levels, and drug abuse costs our economy millions of dollars each year due to lost worker productivity.

As one of the original cosponsors of H.R. 5484, it is my hope that the Senate will accept the changes made by the House in order that this important legislation can be sent to the President and signed into law.

WHAT $100 MILLION FOR THE CONTRAS WILL ACHIEVE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. HAMILTON. Mr. Speaker, on July 14, 1986 I initiated correspondence with the Department of State concerning United States policy toward Nicaragua, in view of likely final action on the administration's request of $100 million for assistance to the Contras. I sought to obtain a clearer understanding of what this program is expected to accomplish. The administration makes no prediction of when pressure will bring the Sandinistas to the bargaining table, and it does not speculate on future aid requirements for the Contra program. The administration's lack of precision in detailing the timetable for negotiations or the goals of this assistance points up the need for the continuation of careful congressional oversight now and in the next Congress.

The text of my letter to the Department of State and the October 3, 1986, reply follow:

CONGRESS OF THE UNITED STATES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, July 14, 1986.

Hon. GEORGE P. SHULTZ,
Secretary, Department of State,
Washington, DC.

DEAR MR. SECRETARY: In the aftermath of the June 25, 1986 vote on Nicaragua in the House of Representatives, Congress will take final action to provide $100 million in economic and military assistance to Contra rebels opposed to the Sandinista government.

I write to you concerning U.S. policy toward Nicaragua in light of this assistance program to obtain a clearer understanding of precisely what you expect this program to accomplish.

1. What changes, if any, do you expect in the policies of the Sandinista government within the next year because of this U.S. assistance?

What changes do you expect in Nicaragua's internal and foreign policies?

What changes or trends do you expect in the size of its armed forces, the reliance of the Sandinistas on Cuban, Soviet and other Soviet bloc advisers, and repression of pluralistic forces inside Nicaragua?

2. Do you expect that this assistance will force the Sandinistas to negotiate a settlement acceptable to the Contras?

If not within a year, by when?

Do you expect that this assistance will, at a minimum, force the Sandinistas to open negotiations with the Contras?

3. Do you anticipate that this assistance will promote democracy and a pluralistic political system in Nicaragua?

If so, could you outline the series of events through which the provision of this assistance would lead to the achievement of democracy and a pluralistic political system in Nicaragua?

Is it your view that this assistance program will not lead to greater repression within Nicaragua?

4. If the provision of this assistance does not achieve U.S. policy goals or a suitable alteration of Sandinista policies within the next year, what will you seek next from the Congress?

Will there be another request for funds for the Contras next year?

What will be the size of this request?

Can you assure us that there will not be a request early in the 100th Congress?

5. How long will it take to achieve U.S. policy goals in Nicaragua?

On an annual basis, what level of funding for the Contras is required to achieve U.S. goals?

6. How do you expect this $100 million in assistance will affect the Contras' military performance within the next year?

What size military force will this program support?

Do you anticipate that this $100 million will enable the Contras to capture and hold territory inside of Nicaragua?

What other military gains by the Contras do you expect?

7. How will this $100 million affect political support for the Contras inside of Nicaragua?

Do you expect that this program will lead Nicaraguans to rally around the banner of the Contras?

What tangible evidence would you expect of growing political support for the Contras inside Nicaragua?

8. Do you expect this assistance program to lead to greater financial support for the Contras from third country and private sources?

Which countries and groups do you expect to provide this further assistance?

How much financial support for the Contras from other sources do you expect?

9. What impact do you expect this U.S. assistance program to have on the policies of our Latin, European and Japanese friends, many of whom continue to have financial, commercial and political ties with the Sandinistas?

10. What do you anticipate will be the Soviet and Cuban reaction to the provision of this $100 million to the Contras?

Do you expect the Soviets and Cubans, as one high Administration official said, to "back off?"

Do you expect increasing levels of military hardware flowing from the Soviets and Cubans to the Sandinista government?

Do you expect the provision of increasing numbers of helicopters and helicopter gunships beyond those apparently delivered in early July, 1986?

Do you expect the provision of advanced fighter aircraft?

Do you expect increasing numbers of Soviet and Cuban advisers in Nicaragua?

Do you expect increasing security commitments by the Soviets and Cubans to Nicaragua?

11. Where do you intend to provide U.S. training for the Contras and precisely what training and logistical support will be provided in Central America?

Precisely what role do you expect to be played by non-governmental, U.S. contractors?

12. What is your estimate of the total costs to the United States of its efforts in support of the Contras against the Sandinista government?

13. Do you consider the provision of this assistance by the United States to the Contras to be tantamount to a declaration of war against the Sandinistas?

I appreciate your willingness to address these questions, and I look forward to your early reply.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. DEPARTMENT OF STATE,
Washington, DC, 20520 October 3, 1986.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: This letter provides answers to the questions contained in your letter of July 14, acknowledged by us on July 22. The answers are keyed by number to the questions in your letter.

1. The Sandinistas will continue their present internal and foreign policies until they realize that opposition to them is too strong to be ignored or successfully repressed by application of force. At that point they would hopefully move to accommodate opposition forces, including the democratic resistance. Until that time, we expect opposition political parties, the media, and the Church to face continued repression. There are no signs that the Sandinistas are decreasing the role of Cuban and Soviet bloc advisers.

2. Experience shows that the Sandinistas only negotiate when forced to. Our aid will allow the resistance to provide the needed pressure to bring the Sandinistas into dialogue. We are unable to predict with accuracy when this will happen, but we believe at some point the Sandinistas will have to accommodate the discontent represented by the opposition forces or face being overwhelmed by popular discontent.

3. Our aid to the resistance is intended to lead at some point to a dialogue between the resistance and the Sandinistas. While we cannot provide a detailed outline of the steps leading to a democratic government in Nicaragua, suspension of the state of emergency—including lifting censorship and other curtailments of civil liberties—would be a logical starting point. This would hopefully lead to free and fair elections.

4. We are reluctant to speculate on future aid requirements until we can evaluate the effectiveness of the current program.

5. We are reluctant to provide a timetable or estimate funding needs until we can evaluate the effectiveness of the current program.

6. The $100 million will support the current level of forces—around 20,000. Some force expansion is expected as more Nicaraguans despair of voluntary action by the Sandinistas to live up to their 1979 promises of freedom in Nicaragua.

It is possible that the resistance will be able to capture and hold towns for short periods of time. This, however, is not essential to success. I would point out that during the years of the National Liberation Front's efforts to unseat Somoza, its forces never took and held territory. What is essential is that the resistance establish a presence and publicize its political program so as to be viewed as a realistic alternative to the Sandinistas.

7. The $100 million is a sign that the resistance is assured of much-needed support. It will allow the resistance to more effectively publicize its political program and to establish an increased presence in Nicaragua. This will lead to it's being seen as a realistic alternative to the Sandinistas by the Nicaraguan people, a necessary development if the Sandinistas are to participate in any genuine effort at internal reconciliation.

Support for the resistance will be evidenced by increased recruitment and logistical support from the populace. In addition, there would be increased restiveness about Sandinista controls and rationing.

8. We are reluctant to speculate on amounts and sources of private and other aid to the resistance since it does not flow through U.S. channels.

9. The Sandinistas' repressive policies have come under increasing attack and criticism from nearly all non-Soviet bloc countries. While we may disagree somewhat about tactics, these countries would welcome any move toward a more open, pluralistic society in Nicaragua. Specifically, we would like to see more aid directed toward the region's democracies and calls for dialogue with the resistance.

10. The Soviet bloc and Cuba will continue to provide economic and military support to the Sandinistas until convinced it is a losing cause. There may be deliveries of more helicopters, but we doubt that there will be a major increase in either quantity or quality of equipment provided.

We do not expect a major increase in numbers of advisers in Nicaragua.

Our position that the introduction of advanced combat aircraft into Nicaragua would be unacceptable has been made clear to the Soviets.

The Soviets have not made a security guarantee to the Sandinistas. We believe they recognize that the Caribbean is of vital strategic importance to us, but only of peripheral interest to them. They also recognize the disadvantages they face based on the realities of geography.

11. We would be pleased to provide you with a classified briefing on the details of training and logistical support, including the role of non-governmental contractors.

12. We cannot make such an estimate until we can evaluate the program.

13. We do not consider the provision of assistance to the Nicaraguan democratic resistance to be tantamount to a declaration of war. Assistance is provided pursuant to federal statute in accordance with the terms and conditions of such law.

I hope this provides the information you require. Be assured that the Administration intends to work closely with the appropriate Congressional committees in the development and implementation of the program. In this regard, we will be able to provide more detailed information about the implementation of United States assistance to the Nicaraguan democratic resistance to you and your colleagues on the Permanent Select Committee on Intelligence.

With best wishes,

Sincerely,

J. EDWARD FOX,
Assistant Secretary, Legislative and Intergovernmental Affairs.

THE "THEATER AT WILLIAMSBURG" AND A COMMEMORATIVE POSTAGE STAMP

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. BATEMAN. Mr. Speaker, this year marks the 270th anniversary of the founding of the first theater in America. I would like to share with my colleagues some thoughts on this anniversary and on the importance of recognizing the history of theater in America with a commemorative postage stamp.

The first theater in America was built in Williamsburg, VA, by a merchant named William Levingston. Two performers, Charles and Mary Stagg, had been bound to Mr. Levingston as indentured servants for the purpose of providing dance instruction for his family. Soon dance instruction was being provided for the general public, and its popularity led to plans for theatrical performances. In 1716, Mr. Levingston released the Staggs from their servitude and, on July 11, a contract was recorded by which William Levingston agreed with Charles and Mary Stagg to build a theater in Williamsburg.

By November 1716, Levingston had "at his own proper Cost & Charge sent to England for Actors & Musicians for the better Performance of the sd. Plays." In early 1718, he completed constuction of a theater 86 feet long and 30 feet wide, and on May 28 Gov. Alexander Spotswood sponsored its first production, a play in celebration of the birthday of King George I.

The establishment of professional theater so early in our Nation's history is a testament to the important role the theater has played, and continues to play, in America. That is why it is important to pay tribute to the long history of the theater in America with a commemorative postage stamp. I encourage my distinguished colleagues and their constituents to urge the Citizens' Stamp Advisory Committee to commission a theater stamp, and provide well-deserved recognition for the many contributions the theater has made to the cultural development of our great Nation.

CONGRESSMAN MILLER PRAISES "PROS FOR KIDS"

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. MILLER of California. Mr. Speaker, in late July of this year, I had the great pleasure of opening the first "Pros for Kids" camp in Contra Costa County with its director, Chuck Latting, and Delvin Williams, formerly with the

San Francisco 49'ers and now the group's president.

Both Chuck and Delvin are to be commended for their dedicated efforts on behalf of our young people. "Pros for Kids" was established over 3 years ago as a vehicle for professional athletes and kids to communicate about the hazards of drug and alcohol abuse. Their involvement and commitment to our young people and their communities is outlined in the following Contra Costa Times' article. I look forward to making "Pros for Kids" an integral part of our children's lives, and there are no finer examples of how to succeed than Chuck Latting and Delvin Williams.

[From the Contra Costa Times, Oct. 11, 1986]

NANCY REAGAN, EX-BRONCO, ON DRUG WARPATH

(By Jon Bashor)

MARTINEZ.—When Charles Latting joins First Lady Nancy Reagan for dinner in San Francisco in three weeks, they'll have plenty in common and plenty of company.

Latting, who's lived with his family in Martinez for 17 years, and Reagan both devote much of their time fighting drug abuse. Their paths will converge at the St. Francis Hotel for a banquet to raise money for drug abuse prevention. Seven thousand invitations have been mailed asking other Northern Californians to join them.

The dinner benefits "Pros for Kids," a group formed 3½ years ago by former San Francisco 49er running back Delvin Williams after his career was cut short by cocaine abuse. Latting, who played four seasons as defensive back for the Denver Broncos, is a leader of the Contra Costa chapter.

But it wasn't his years on the gridiron, nor his duty as a Marine Infantry commander in Vietnam, that led Latting to declare his own personal war on drug and alcohol abuse.

A special agent with the FBI since 1969, Latting said he has seen drugs take their toll on every level of society, including "corporate presidents who are so stoned they can't dial their phone, to a street junkie with a needle hanging out of his arm."

For the past three years, Latting has been a member of President Reagan's Narcotics Task Force. Based in the Concord office of the FBI, Latting spends most of his 50-hour work weeks investigating drug dealing.

"As an investigator, it became evident to me that we have to do something," said Latting, who at 51, is tan and fit. "We're going to lose this country if we don't do something about the demand for substances."

The impressions he got at work were reinforced at home, as Latting and his wife, Rhoda, raised three sons. A graduate of—and football All-American at—Iowa State University, Latting said he was taught that facts are the most important part of an education.

Though he wanted his sons to study science, all three majored in the liberal arts. The oldest, Chuck, is 29 and working on his doctorate degree at the University of Arizona, John 21, is a senior at Stanford University and Robert, 19, is a sophomore at Pacific Lutheran University in Tacoma, Wash.

"Now I understand that they had the answer and I didn't" Latting said. "Learning to think is more important than learning to be good scientists."

Thinking is the best defense against social and peer pressure, Latting said. Society's trend toward equating success with money, a breakdown in communication between generations and easily available drugs have combined to create a danger that is greater than anything else the United States faces, he believes.

Foreign powers and terrorism pale by comparison, said Latting, who trained many Northern California police departments in SWAT and anti-terrorist tactics for eight years. During his career, he's been called out to 14 skyjackings.

"I'm not a liberal or a conservative, but, boy! something's got to be done," said the Tennessee native.

Pros For Kids arranges for pro athletes to talk to junior and senior high school students about the hazards of drug and alcohol abuse. The group just got a $1.2 million grant from the state of California to develop pilot programs at four schools each in Northern and Southern California. The money will pay for semester-long classes taught by trained athletes.

The San Mateo-based group also sponsors the Teen Alternative Program, student-run clubs on campuses that develop and present their own drug abuse messages, and sponsor assemblies and rallies at schools.

This summer a five-day football camp sponsored at Los Medanos Community College by Pros For Kids drew 90 Contra Costa youngsters, teaching them about the sport and about drug abuse. The program is getting off the ground in Contra Costa County, but Latting said more help is needed from local businesses and current and former professional athletes in the county.

Latting said fighting the drug problem should start at home, but that society cannot impose guidelines on parents. The alternative, then, is to reach young people in school.

"If there's going to be any change, it's going to have to happen in the schools," he said. "Parents, teachers and students need to spend time learning to communicate."

Athletes are asked to help as volunteers because they attract young people.

"We're not in the business of glamorizing athletes, but the athlete does capture the imagination of the kids." Joe Montana would outdraw a Nobel laureate scientist at a school assembly, he said.

The programs are aimed at teaching young people to prepare for their goals in life, whether they are career or family oriented, Latting said. "Life's like an athletic contest—the person who prepares best wins. If you want to get to the Super Bowl of life, you have to prepare better than anyone else—then play one game at a time."

"Some people want life in the fast lane, but lights are sometimes yellow and sometimes red," he said. "Life's sometimes tedious and mundane."

Knowing that life is not always easy and getting by without drugs is what the program teaches. Messages delivered by athletes may not reach every student, but it's a way to start tackling the issue, he said.

"You've got to peck away at the problem. You can't go out there and fight all the windmills in the world at one time."

The Oct. 29 $200-a-seat banquet, at which the first lady will be the honored guest, is expected to raise about $500,000 for the program.

Joe Montana and 49er teammates, and baseball stars Steve Garvey and George Brett are among the sports figures expected to be on hand.

Still, with all the big names and big money involved, Latting said it is the young people who make the program worthwhile.

"When you see one kid you know was headed in the wrong direction and your efforts create an environment where that kid can turn himself around . . . You see that happen one time and that's all it takes."

OUTSTANDING ACCOMPLISHMENTS OF HANS DOE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. PACKARD. Mr. Speaker, Mr. Hans H. Doe, a Vista, CA, resident since 1946, will be retiring from the board of directors of the Metropolitan Water District of southern California on October 20, 1986.

Mr. Doe has served the water community of California faithfully for over 35 years, the last 27 years of which he served continuously as a member of the MWD board representing the San Diego County Water Authority.

Some of the projects of benefit to San Diego County during his tenure include the construction of the State water project at a cost of over $2 billion, construction of Lake Skinner and its Robert A. Skinner Treatment Plant at a cost of over $30 million and, most importantly, the development of a water system allowing MWD to deliver an ample supply of imported water to nearly 13 million persons in the counties of Los Angeles, Orange, Riverside, San Bernardino, Ventura, and San Diego.

Mr. Doe started this extensive water career in 1950 on a temporary basis—the rest is history.

I would like to salute the outstanding accomplishments of Mr. Hans Doe and his wife, Margaret. It is through dedication to service, foresight, and long-range planning that the citizens of San Diego County enjoy the fruits of his labor.

JIM WEAVER

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. LEHMAN of Florida. Mr. Speaker, no one ever said JIM WEAVER is just a average Congressman. He is indeed very out of the ordinary.

JIM has always acted on the strength of his convictions, no matter how powerful the opposition. He recognized the importance of protecting our public lands even though that meant taking on the big timber interests in his own State. He was somewhat of a prophet when he warned of the financial disaster that would follow the issuance of the now infamous WPPSS bonds. He has never been deterred from doing what he believes is right.

His willingness to take an unpopular stance may have made it difficult for some Members to get to really know him. Yet, if one took the time to break through his reserve, he was a delightful companion.

Institutions like the Congress can become pretty stuffy at times, but because of JIM,

Congress is less self-satisfied, less rigid, and at times more fun. I will miss my friend JIM WEAVER, and I wish him all the best in the future.

RETIRED SENIOR VOLUNTEER PROGRAM

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. MAVROULES. Mr. Speaker, I rise today to bring to the attention of my colleagues the 15th anniversary of the Retired Senior Volunteer Program [RSVP], and to commend those individuals who have made this program such a tremendous success. As we all know, RSVP is a nonprofit, community-based program designed to recruit, refer, and support elderly volunteers who serve both private and public agencies in local communities.

RSVP, initially composed of 10 chapters located throughout the United States, is an outgrowth of a 1971 White House Conference on Aging. By 1973, the time at which ACTION was created to fund all Federal service programs, RSVP had expanded to 660 chapters. Today, there are more than 760 chapters in the United States, employing more than 500,000 elderly volunteers. Each year, these volunteers provide in excess of 64 million hours of volunteer services to over 50,000 community organizations and nonprofit agencies across the Nation. They represent a spirit of volunteerism in which all Americans can truly take pride.

The volunteers of RSVP touch the lives of thousands of Americans each day. The services they offer are far-reaching, affecting all Americans, both young and old. You may find an RSVP volunteer serving food for Meals-on-Wheels, or counseling a confused teenager. Programs which benefit from RSVP include those offering assistance for battered and abused children, as well as for runaways. The program is involved with home repair, food banks, crime prevention, education, and in-home care. The insight and wisdom offered by the elderly are valuable to people with questions on topics ranging from insurance and taxes to family planning and consumer protection.

Mr. Speaker, the success of the Retired Senior Volunteer Program is to be commended by all. Not only has RSVP succeeded in providing volunteer services, it is also one of the most cost effective federally funded programs in existence today. For a minimal investment, the Government and citizens of the United States receive over $200 million of volunteer services every year. The return on Federal investment averages $7.50 worth of service for every Federal dollar spent. Moreover, RSVP has not requested or received an increase in its Federal grant money for over 8 years. This is truly remarkable when one considers the increases in the cost of living which have occurred over this period.

It is important to note that while touching the lives of those Americans in need of volunteer services, RSVP simultaneously offers an invaluable and rewarding experience to elderly volunteers. It allows America's senior citizens to give to the community a knowledge and insight which is only gained through life's experiences. The program provides our elderly with a sense of accomplishment and pride, providing them with an opportunity to really make a difference.

As I have already said, RSVP is a program in which we can all take great pride. Every individual involved in this valuable program should be commended for taking an active role in the improvement of American society.

TRIBUTE TO OLIVER HAAB

HON. JOHN HILER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. HILER. Mr. Speaker, it is with special pride that I bring to my colleagues' attention the story of a very remarkable man, Mr. Oliver Haab, of Milford, IN.

On October 2, 1986, Mr. Haab, known as Ollie to his friends and coworkers, celebrated his 25th anniversary of working with Brock Manufacturing. This, alone, may not seem like an exceptional achievement, however, Ollie is 87 years old and he first began working for Brock Manufacturing at the age of 62. His "first" job was at a local greenhouse where he worked for 33 years.

At Brock Manufacturing, Ollie involves himself with all stages of his work. His supervisors note that he does everything from setup operations to equipment maintenance. In addition, Ollie is active in the plant's "Doing It Better"—quality circle—program, and takes it upon himself to train young workers on how they can most effectively perform their jobs.

Ollie has no plans to retire and states that he works, quite simply, because he likes to work. In fact, Ollie often puts in overtime. Clearly, Oliver Haab demonstrates the true American spirit and appreciation for a time-honored work ethic. Furthermore, Ollie reminds us all of the great wealth of knowledge our senior citizens possess and is an example of the many ways older Americans enhance our daily lives.

Again, I am very proud to represent Mr. Oliver Haab, and I am honored to share his outstanding accomplishments with you. Please join me in wishing Ollie continued happiness in his long and successful career.

TRADE AND COMPETITIVENESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 15, 1986, into the CONGRESSIONAL RECORD.

TRADE AND COMPETITIVENESS

America is in the economic fight of its life. We are beset by a trade crisis that threatens the further loss of jobs and national wealth and the steady decay of our economy's underlying strength. U.S. businesses in nearly every manufacturing sector have lost market share at home while exports face market barriers and unfair trade practices abroad. Two million workers have lost jobs in a flood of imports, from textiles and steel to electronics and biotechnology. The trade deficit could reach $185 billion this year, up from $30 billion just 5 years ago. Despite a year in which trade policy was one of the most talked about issues, the President and the Congress have yet to develop a hard-hitting program to deal with our trade problems. America, once the preeminent player in world trade, finds itself today playing second or third string in every market.

There are several reasons for this decline. We have not kept our economic policies in order. We have been slow to develop a comprehensive trade policy. We have proceeded on a case by case basis making decisions first about steel imports, then about textiles, then about exchange rates, but we have had no game plan for winning world trade. We have sat by while many nations fudged on the rules of fair trade, through dumping, subsidies, and closed markets. Unfair trade practices account for less than 20% of our trade deficit, but those practices are an irritant and they are important.

We simply have to take charge on trade and competitiveness. We can no longer ignore the global economic challenge. We have to develop an effective strategy to lower our trade deficit, to become more competitive, and to help those, particularly workers, who are hurt by imports.

First, Congress and the President must work together to shape up our basic economic policies. The best trade policy is a good economic policy. The new tax bill—which makes taxes fairer and reduces tax distortions of investment decisions—was a step in the right direction, but much more can be done. On the broadest policy level, the federal budget deficit must come down, interest rates must be reduced and we should work toward a more stable and balanced fiscal and monetary policy mix. Lower federal deficits should free capital for productive investment. Lower real interest rates should bring the dollar back into balance with other currencies. We should also review and, where necessary, revise specific tax provisions, regulations and anti-trust laws that hinder competitiveness or distort capital flows.

Second, our long-term strength in trade depends, in a word, on investment, both public and private, in productivity: in research, technology, infrastructure, education, plants and equipment. Our competitive edge hinges on a solid foundation of science and technology. However, U.S. productivity growth is now the weakest of all industrialized nations, and we are quickly losing the technical edge that enables our industries to pay higher wages than other countries yet still compete in world markets. We certainly have to invest more in human resources, by improving public education, attacking adult illiteracy, and expanding job retraining. America need not become poorer in order to compete, but America must become more productive in order to prosper.

Third, the President and Congress must work to develop a comprehensive trade policy. The President's top priority should be the new round of multi-lateral trade talks to strengthen the world trading system, the General Agreement on Tariffs and Trade (GATT), and to further reduce barriers to world trade. The upcoming GATT talks should open trade in agriculture and services, two major sources of ex-

ports for the U.S., but the talks may not conclude until the mid-1990's. In the shorter term, the President must respond swiftly and forcefully to protectionist policies of foreign governments even if that means temporarily denying access to our domestic market. Foreign markets should be as open as ours.

U.S. trade laws have not been overhauled for a decade, and Congress should make passage of a comprehensive trade bill a top priority when it reconvenes in 1987. Current laws do not adequately address the trade problems we now face, and their complexity discourages many U.S. firms from exporting. Any trade bill passed by Congress should include: centralization of trade policymaking in one government agency, probably the Commerce Department; tougher laws against unfair foreign trade practices; a new requirement that the President grant relief to industries and workers injured by foreign imports; enhanced trade adjustment assistance; and simplified export regulations and licensing laws.

Finally, a comprehensive trade policy should include greater efforts to promote U.S. exports. Less than 1% of U.S. firms account for 80% of our manufacturing exports. Americans must become more export-minded. Besides opening foreign markets and improving productivity and competitiveness, we need to expand export credit and loan guarantee programs for U.S. farm exports. We must use the Export-Import Bank to offset the use of export subsidies and mixed credits by our trade rivals. We have to improve the collection and distribution of market information. We should also work to resolve the debt problem in developing countries, like those in Latin America which are our largest potential export markets.

There's no mystery about what we have to do. We have to out-produce, out-sell and out-smart our trade rivals. Much is at stake: Our position as a world leader our standard of living, our national security and our ability to fund domestic programs all depend on our competitiveness in the global marketplace.

Government, of course, cannot legislate success. Success in trade depends primarily on the private sector, but government can highlight the importance of competitiveness and promote consensus-building dialogue among leaders in industry, labor academia, and the public sector. Government needs to provide stable economic policies, an educational system that prepares our people for the future, a marketplace that nurtures technological innovation, fair world trading systems, and policies to help U.S. firms and workers adjust in a changing world market.

REYKJAVIK IN RETROSPECT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. FLORIO. Mr. Speaker, the recent discussions held by the leaders of the United States and the Soviet Union in Reykjavik, Iceland, have spurred intensified debate on the prospects of reaching an arms control agreement and averting nuclear disaster. The events surrounding this meeting have further reinforced the need for continued negotiations to break the impasse we find ourselves in.

During my recent visit to the Soviet Union, I met with Mr. Donald Kimelman, the Philadelphia Inquirer Bureau Chief in Moscow. Mr. Kimelman has since returned to the United States and has joined the Editorial Board of the Philadelphia Inquirer. I welcome Mr. Kimelman back and look forward to continuing to benefit from his views. I was pleased to see his recent op-ed relating to the Reykjavik meeting and I would like to commend his insight to the attention of my colleagues:

GORBACHEV GOT WHAT HE WAS AFTER

(By Donald Kimelman)

If President Reagan's advisers did not smell trouble immediately when Mikhail S. Gorbachev proposed an unchoreographed get-together in Iceland, they should have realized the full extent of their peril when word got out that Raisa Gorbachev was coming. Here supposedly was a low-key "working meeting" between the two heads of state—a mere prelude to a real summit in Washington a few months hence—and the Soviets were moving in the heaviest artillery in their high-tech p.r. arsenal.

In retrospect, the inclusion of Raisa should have been the tip-off that the Soviets had decided on a two-track strategy for Reykjavik. Either they would go home with an arms deal of historic proportions or they would be positioned ideally to blame the failure to reach agreement on the Reaganites' intransigence.

The deal fell apart over "Star Wars," as the Soviets might have suspected from the outset, but Gorbachev did not leave Reykjavik a loser. He simply switched to the parallel track, the one on which image matters more than substance. No longer Nick Daniloff's surly kidnapper, Gorbachev emerged from the summit having refurbished his image as a new kind of Soviet leader who, with his attractive wife at his side, seems willing to go the extra mile to bring peace to the planet.

At a press conference Sunday night, Gorbachev told the people of the world that the two leaders were on the "verge of taking major, history-making decisions." Medium-range missiles were to be eliminated from Europe and sharply reduced in Asia. Strategic missiles were to be cut by half and eventually phased out completely. The documents were drawn up and ready for signature, but, alas, the Americans could not part with their dream of achieving military superiority by placing weapons in space.

The President's response—that the Strategic Defense Initiative is too precious to the nation's future security to trade away—is controversial enough in this country. One can imagine how well it will play in Europe now that is clear that Reagan passed up the opportunity to eliminate the greatest perceived threat to European security—Soviet medium-range missiles—in exchange for a program that is widely viewed as protecting America lives at the expenses of all others.

The general assumption prior to the wild weekend at Hofdi House was that the meeting would nail down the terms for an "interim" agreement of medium-range missiles while finessing the intractable differences on Star Wars. The way would then be cleared for Gorbachev's trip to Washington, which in turn would set the course for the hard bargaining on strategic and space weapons.

But Gorbachev changed the script and went for broke in Iceland. Not out of desperation, but in a cleverly calculated way. Having surprisingly agreed in Geneva last November to pursue a separate agreement on medium-range missiles, he reverted to the previous Soviet line that all nuclear-arms matters had to be decided in unison and that the entire outcome was dependent on an ironclad agreement to prevent the militarization of space.

What gave new life to that once-tiresome refrain was the setting. In a development that had seemed inconceivable two weeks earlier, the two leaders suddenly were together again on the remote shores of a storybook island-nation (choice of site and timing Gorbachev's), thrashing, out the central issues of our time. The Soviets brought new proposals and soon let it be known through leaks that infuriated White House spokesman Larry Speakes that something momentous was at hand.

Imagine the sinking feeling Sunday afternoon when the Reagan camp realized how Gorbachev's surprising flexibility on a range of issues that had bedeviled negotiators for many months was all contingent on the one step Reagan had said time and again he would never take—abandonment of Star Wars. Until that point, the notion of a grand trade of offensive missiles for defensive potential had seemed more a long-term goal than an immediate possibility, something for the negotiators to chisel away at. But with a giant press corps on hand to record the outcome, Gorbachev forced the President into making an unambiguous choice.

After the meeting broke up, a glum Secretary of State George P. Shultz said that the Soviets had demanded something that "predictably was not possible for us." The Soviets might not have been dead certain that the President would say no, but they clearly were ready to capitalize on that eventuality.

Robert Legvole, director of Columbia University's Harriman Institute for the Advanced Study of the Soviet Union, said yesterday that Gorbachev achieved at Reykjavik what he had been unable to do with his 14-month-long unilateral moratorium on nuclear testing or his grandiose plan for nuclear disarmament by the year 2000.

Gorbachev finally seems to have created serious divisions within the American foreign policy establishment and quite possibly within the European alliance as well. A wedge has been driven between those who supported Star Wars as the ultimate bargaining chip and those who still view it as the ultimate weapon.

Gorbachev eventually may decide to strike a compromise on Star Wars, but for now he can simply sit tight and see how it plays out.

"I feel the President probably would have to seek the advice of Congress, of American political leaders, of the American public," Gorbachev said Sunday night, invoking all the forces that a democratic leader must contend with. "Let America think. We are waiting."

BILL AMBROGIO HONORED FOR SERVICE TO COMMUNITY

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. MORRISON of Connecticut. Mr. Speaker, on October 17 I will be joining friends and colleagues at a testimonial dinner in West Haven, CT, to honor William Ambrogio, who is

completing a 2-year term as Exalted Ruler of the West Haven Elks.

At 82, Bill Ambrogio still exhibits all of the extraordinary energy, dedication, and community spirit that have made him a leader in the Greater New Haven area for more than half a century.

In addition to being an active businessman for 45 years, Bill Ambrogio served as a State representative for two terms representing Connecticut's 95th District, as Democratic ward chairman for the 8th Ward in New Haven, as a member of the boards of the New Haven Rehabilitation Center and the Cerebral Palsy Association, and for many years as president of the board of the Elder newspaper, among many other community activities. He has been an active parishioner of Sacred Heart Church and has served on its parish council.

I have worked closely with two of Bill Ambrogio's sons, are good friends and respected colleagues of mine, John Ambrogio, Chief of Police in Hamden, CT, and Pat Ambrogio, deputy commissioner of administrative services for the State of Connecticut.

Bill Ambrogio has always been guided by the values of friendship, family, church, and community. He has given a great deal to all of us who live in the Greater New Haven area, and I take great pride in sharing his accomplishments with my colleagues today.

TRIBUTE TO THE VERMONTVILLE-GRESHAM UNITED METHODIST CHURCH

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. WOLPE. Mr. Speaker, I want to pay special tribute to the Vermontville-Gresham United Methodist Church in Vermontville, MI, on the occasion of the dedication of its historical marker on October 19, 1986.

In 1839, with the visit of Rev. Isaac Bennett, the first Methodist sermon was given in Vermontville. The first Methodist class was conducted in March 1845, when the congregation became a part of the Eaton circuit of the Methodist Episcopal Church. The Methodist Episcopal Church was renamed the Vermontville-Gresham United Methodist Church in 1868. The church is currently being served by Rev. Glen Litchfield who is the 59th pastor to follow Rev. Josiah Fowler, the church's original pastor.

There are many dates important to the history of the Vermontville-Gresham United Methodist Church: 1839, when the Michigan Conference established Vermontville as a separate charge; 1862, when the church building was erected 2 miles northeast of the village of Vermontville; 1877, when the church building was moved to its current location in the town square in Vermontville and the belfry and tower were constructed; 1878, when the Vermontville-Gresham United Methodist Church was rededicated on its new site. The church is particularly proud of its tooled metal ceiling with its intricate scrolling and artwork believed to have been created by Mr. Frank Bailey, a Vermontville tinsmith.

Mr. Speaker, the dedication of the historical marker commemorating the founding of Vermontville-Gresham United Methodist Church is a very special event, reflective of the church's sense of its own history and its confidence in its future. I feel privileged to represent the members of the Vermontville-Gresham United Methodist Church and to work with constituents who use the celebration of their history as a means of rededicating themselves to their religious heritage and to their community.

THE RETIRING OF CONGRESSMAN G. WILLIAM WHITEHURST

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 14, 1986

Mr. BENNETT. Mr. Speaker, WILLIAM WHITEHURST has been a Congressman's Congressman in the sense that his wisdom and good common sense are so well accepted here that he is frequently sought out for advice. A member of the House Armed Services Committee, he has been close to me in many discussions in that committee. He is always sincere, forthright and intelligent in his approach to questions before Congress. We will miss all those good things when he leaves. However, we know that in his return to the college campus many young people, leaders of the future, will be helped by him. As we lose him here, they will be the gainers, and it is typical of him that he thus projects his good deeds for the future. We hope he will often return to visit with us.

THE GLORY OF THE ROSE

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. CHAPPELL. Mr. Speaker, today, I would like to submit for the RECORD a beautiful written essay on the rose, our newly proclaimed natinal flower. This outstanding piece of literature, entitled "The Glory of the Rose," was provided to me by Cherie Gardner, a personal friend of mine for many years. The completion of Cherie's extenisve research comes at a most appropriate time and serves to educate its readers on the intriguing history of this precious flower. As a cosponsor of House Joint Resolution 385, the House version of the resolution to declare the rose as our national floral emblem, I invite you to peruse this well-done narrative and discover the countless attributes of the rose.

THE GLORY OF THE ROSE

(By Cherie Gardner)

The rose has been known to man from the earliest hours of history. It has been mentioned in story and song in all ages. It is the eternal flower of love, the emblem of sentiment. "All the world loves the lover," said Emerson. And it is true that all the world loves roses, probably for the same reason. Cherished in the palaces and gardens of the rich and mighty, it is nevertheless, the flower of all classes and stations in life.

The fancier may differ in his tastes; the pocketbook may dictate the choice of many; the wealthy gardener may have the most exquisite flowers of every land and clime at his beck and call, but all unite in claiming the rose as the first flower. And this universal love for the rose is unequaled elsewhere in all the things Nature has given us.

It grows wild in the temperate zone throughout the world. When the pioneers poured down over the Allegheny mountains and into the plains of Kentucky and Ohio, later upon the Prairies of Illinois, Iowa and the West, they found the wild rose everywhere. Many a prairie home was gladdened and enriched in those troublesome days by the splendor and color of the wild rose. It brought a vision of peace and of lofty sentiment to those sturdy souls in their hours of struggle; it gladdened the hearts of the lovers and brightened frontier weddings without number. The first flower that the bride planted in her dooryard, whether in the forest of Kentucky or in the sod huts of Kansas, was the queen of the prairie, the wild rose.

The rose has left an imperishable imprint upon the literature of all times and races. During the days of feudalism and chivalry, it was the accepted badge of favor. Sturdy knights and mighty warriors battled the one with the other in contests of strength to win the rose of some fair lady. To have this gift from the gentler sex was a higher tribute than any that royalty might bestow.

In the period of the Renaissance, when the blight of the dark ages was lifting before the dawn of modern literature, we find the rose still the favorite of mankind. When Dante thought of queenly Beatrice, he sang sonnets to the rose.

To trace the rose in literature would be to produce a compilation of the work of all authors and poets. Never has man or woman achieved fame in letters without writing of the rose. The literature of France, of Spain, of England, of sturdy old Scotland, of Scandinavia, of America, is replete with it.

We find it even in the fables of antiquity. Among the ancients it was held sacred to Cupid and Venus, called Eros and Aphrodite, respectively, by the Greeks. They considered it the emblem of joy and love, and at the same time, of prudence.

The Romans placed it over the door when a feast was in progress and whoever passed under it brought upon themselves a solemn obligation not to reveal what was seen or overheard. From this custom the term sub rosa, meaning "under the rose," as applied to anything revealed in confidence.

Later, it was placed at the entrance to confessionals at Rome, as a symbol of secrecy. In poetry, it has always stood as a symbol of purity and innocence. Anacreon, the great lyric poet of the sixth century before Christ, wrote of the origin of the rose, which he claimed sprang from bathing Venus' blushes when she caught Jupiter spying on her. Shakespeare mentions the rose at least 70 times. His Juliet asks, "What's in a name? That which we call a rose by any other name would smell as sweet." Also well known in Gertrude Stein's rhythmic phrase, "Rose is a rose is a rose," which she had printed in a circle.

In art, as literature, we find it going back to the very dawn of the Aryan race. It is seen in the art of the Greeks, the Romans, the Egyptians, the Assyrians. The Etruscan rose is almost as famous as the Etruscan vase. The rose has been distinctly a favorite of the Western world, as distinguished against the Orient. It is strikingly absent in

the horticultural affairs of the early Chinese and Japanese.

In history, the rose has played an important part. In the days of Heraldry, it was a badge worn by whole armies. The badge of the House of Lancaster was the rose gules and the rose argent of the House of York, Henry VI, King of England, was surrounded and supported by loyalists of the House of Lancaster in his claim to the throne. Richard, Duke of York, had a better claim to the throne by descent and his supporters provoked one quarrel after another with the Lancastrians, in the hope of ultimately placing Richard on the throne. The personal emblem of the Duke of York was a white rose, which his followers adopted in order to distinguish friend from enemy. The House of Lancaster promptly adopted the red rose as its emblem. From this fact, the struggle between the two families for the throne of England, which lasted several years, came to be known as "War of the Roses." Thus, the rose played an important part in at least one war, one which destroyed the flower of English manhood and eventually made it possible for the French to drive the English off the continent forever.

As years progressed, roses became better understood by the people at large; they became more common in family gardens and the uses to which they were devoted in addition to their bloom, brings a fuller realization of the glory and beauty of the rose to every lover of Nature. It needed time for the impression that rose culture was not for the masses; that this queen of the florists' art was distinctly a creature of skill and intricate care.

The rush of commercialism in the early days of the present industrial age seemed to sweep all sentiment, all love for the leisurely joy of growing things and enriching life and home with flowers, out of our lives. But the advent of universal prosperity, the coming of the thought that of all attainments, the home is the most important, the settling down of America to dignify and enrich herself in the worthier things, has swept back that old desire, that old longing, for the "vine over the door."

And never before have we all been so favored whether here of elsewhere. The modest gardens in most cities outrank those of the aristocracy of yesterday. Many homes today boast of more ingenious planting—larger and better gardens than those of her Colonial grandmother.

The natural love for the rose has had a great deal to do with this revival of interest in floriculture. Hardly has sod been turned before thoughts of roses blooming in the garden come to the garden lover. It assumes expression often before a shrub is planted or lawn established.

The rose stands for permanency. It has none of the disadvantages of annual flowers which endure for a season and must be planted again each succeeding spring. It endures from year to year, blooming each season and attaining a varying growth depending upon variety. It blooms the first season, if properly established, and continues to repay the gardener throughout the years. The Teas and Hybrid Teas are, as a general rule, continuous in the blooming habit and Hybid Perpetuals display the same admirable trait.

There is a rose for every climate where people live in any considerable numbers. Wild varieties are found in Lapland and Labrador. Even the delicate teas are successfully grown outdoors in Canada, where thousands of them are to be found in public parks.

As there is a rose for every climate, so there is a rose for every purpose, susceptible of outdoor cultivation. From the tiny polyanthus to the giant and rugged rugosas and climbing varieties, there is a wide selection for almost any condition that may be present. Unsightly terraces or bare spots in lawn or park or cemetery may be made a place of beauty with the creeping varieties.

In the rose, we find all the variations which climate, nature and skill a person can combine. It is not extraordinary, then, that the rose should have the universal place it holds in the hearts of so many people in all classes and in all climes. It is the universal flower and its appeal in that direction is only indicative of its merits.

TRIBUTE TO TOM LOEFFLER

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1986

Mr. LIVINGSTON. Mr. Speaker, TOM LOEFFLER's departure from this institution will be a tremendous loss to all of us, but particularly to this administration and the people of Texas and this country. TOM's effectiveness, influence, and abilities in the House of Representatives rank him among the best leaders of this institution. I say this sincerely. Though TOM never received a great deal of national attention, his quiet effectiveness behind the scenes was directly responsible for every major Reagan administration victory since the beginning of 1981.

From Gramm-Latta to Gramm-Rudman, TOM was there to formulate the strategy, count the votes and get the votes this administration needed in a democratically controlled House to achieve one of the best records of any administration in recent history.

Mr. Speaker, TOM has been the epitomy of a great legislator, and I have no doubt that while his political career may be temporarily interrupted, it will bloom with even greater vigor in years to come.

TOM is a personal friend of mine, as a former neighbor and colleague, I will miss him. But his presence in this House has benefited and will continue to benefit our Republican Conference, the Reagan administration and the Nation well into the future.

CONGRESSMAN MILLER URGES INDIA PROTECT SIKH MINORITY RIGHTS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. MILLER of California. Mr. Speaker, last year, Indian Prime Minister Rajiv Ghandi visited the Congress and afforded many of us an opportunity to discuss issues concerning the relations between our two nations.

For those of us who believe that human rights should remain a significant priority in the foreign affairs of this Nation, the continuing actions of the Indian Government with respect to the civil and political rights of the Sikh minority are very troublesome.

There is little question that there has been violence and other illegal acts on each side. The Government's assault on the Golden Temple in 1984 and the political and press crackdown which followed, and acts of violence committed by Sikh extremists have produced an atmosphere in which there is no winner.

Sikhs compose just 2 percent of the population of India, but that is equal to 16 million people. Clearly, it is folly for any government to attempt to deprive so significant a number of its countrymen of their basic political and civil rights. Nor is it just.

Despite their tiny minority status, Sikhs are among India's most productive and influential minorities. They produce more than half of the country's wheat crop, and 26 percent of its gross national product.

It is true that many Sikhs serve in the Government, and some at the highest levels. Yet millions of Sikhs are living in Punjab under conditions which, according to many reports, approach martial law. Police and the military have been granted widespread rights of arrest and detention. There are also serious allegations about religious intolerance and political persecution.

The accuracy of these allegations could better be determined if the world press were allowed free access to Punjab so that an independent assessment of the conditions there could be explored. Unfortunately, the Government of India continues to maintain a virtual ban on foreign access to Punjab by members of the press and human rights organizations.

I do not think that anyone in this Chamber denies that it is in our national interest to maintain a close relationship with the Government of India. But neither do I believe that, because of that desire, we should ignore the kinds of reports about repression of the Sikh minority.

Religious and political division has too long characterized India. The Government should be making constructive steps toward bringing the nation together under the laws and rights which are guaranteed to all Indians, Hindu, Sikh, and other minority groups alike. I would hope that our own Government would send that message to Prime Minister Ghandi, and reflect this concern for human rights in our future dealings with the Indian Government.

TRIBUTE TO JOSEPH R. FERRARA

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. GRAY of Pennsylvania. Mr. Speaker, a great and generous man has retired from the UAW after 40 years of service to working men and women in the metropolitan Philadelphia area.

I know my colleagues will want to join me in paying tribute to Joseph R. Ferrara, who, as the union's area director of Sub-Region 9, labored diligently to protect the rights and benefits of the rank and file.

Those who worked with Mr. Ferrara when he presided over the UAW local at Budd Co. plan in north Philadelphia remember him as a caring individual. They remember his helping people get their Social Security checks and helping others to get their kids into college.

Mr. Speaker, it has been my good fortune to work with this remarkable man and to see firsthand his commitment to building a better community, a better world for all.

As a top official of one of the most progressive unions in the country, he has been at the forefront of social issues, including civil rights and women's rights.

We hope that Joe Ferrara will continue to be an asset in both the labor and political arenas. His humanitarism, his wise counsel, and unselfish dedication to his fellow Americans are sorely needed.

IN TRIBUTE TO THE PORT OF STOCKTON NATIONAL PORT WEEK

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. LEHMAN of California. Mr. Speaker, during the first week in October, virtually every American port city celebrates the importance of our Nation's ports. In special tribute to the Port of Stockton, located in my California district, I have joined in cosponsoring House Joint Resolution 714. This resolution authorizes President Reagan to officially recognize, during the first week of October, the importance of our Nation's ports.

The coastal, Great Lakes, and inland river ports are expressways through which goods worth billions of dollars pass each year. Since most goods in international trade are transported by ship and passthrough ports, they are the single-most important aspects of international trade and ocean transportation. Additionally, the commitment of our ports to building and maintaining modern and efficient shoreside facilities is an important contribution to the movement of international cargo. Our modern and efficient system of ports helps U.S. farmers and manufacturers to compete in the international marketplace.

For 55 years, the inland port in Stockton, CA, has been an important facilitator of trade and ocean transportation between American markets and many nations abroad. The Port of Stockton's deepwater facilities and operations link truck, flight, and rail systems with ocean carriers, shippers, and receivers on regional, national, and international levels.

Originally, the port district was created and developed to provide waterborne transportation for the abundance of products harvested from the fertile soil of the San Joaquin Valley. Through the years, the very existence of the port has had a profound effect upon the local economy and industry, with nearly 1 million tons of agricultural and related products currently moving across its docks each year for shipment to or from California and elsewhere abroad the world's bulk fleet.

Agriculture still plays an important an integral part of the port's present day operations, however, the port of Stockton's influence now extends far beyond that historical origin. Under the stewardship of Port Director Alexander Krygsman, the operation of Stockton's seaport has expanded to encompass the administration of vast capital resources and the operation and maintenance of a comprehensive physical plant capable of handling a wide variety of cargoes ranging from molasses and fertilizer to jet fuel and other petroleum products, clay, coal, sulfur, cement, cartons, finished steel, steel scrap, paper products, bagged grain, and more.

The Port of Stockton generates over 1,000 jobs directly, with an annual payroll of approximately $15 million. Another 3,000 to 4,000 jobs are generated indirectly for a total payroll impact of over $50 million.

The capricious nature of supply and demand, inherent to international trade, requires a flexible approach to business, both technologically and philosophically. In response to the contantly changing needs of shippers who must respond quickly to the whims of world commerce and a fluctuating economy, the Port of Stockton has innovatively designed, constructed, and installed multipurpose equipment which provides highly productive, cost-effective services to port customers.

This week I join many of my colleagues in the House of Representatives to pay tribute to all of the ports of our Nation, especially to the Port of Stockton. In declaring the first week of October as National Port Week, it is my hope that the citizens of our Nation will grow more aware of the vital link that the port system plays in our Nation's economy.

STAR WARS EQUALS ARMS RACE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. STARK. Mr. Speaker, star wars is a trillion dollar addition to the arms race.

It may never work—but that doesn't matter: It is a trillion dollar addition to the arms race.

If anyone questions that, they should just ask themselves how the United States would view star wars if the Soviets were developing it and we were not. The Pentagon, most editorial writers, indeed most of the country would demand that the President and the Congress either develop a similar system or find a way to overwhelm the enemy's system—that is, build more and different types of penetrating missiles.

The Soviets see star wars as a huge addition to the arms race. If they have to, they will match it—just like we would if we were in their shoes.

Let's stop this arms race. Let's not build star wars.

U.S. COMPETITIVENESS: AMERICA'S ECONOMIC CHALLENGE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 15, 1986

Mr. LAFALCE. Mr. Speaker, in the October 5, 1986 Washington Post, it was reported that more than 100 leaders from universities, business, and organized labor had joined together in an effort to make the restoration of U.S. industrial competitiveness a top national priority. Year after year of record trade deficits may be finally having an effect in convincing business that something must be done to ensure the competitiveness of U.S. industries in the global marketplace.

While this is a welcome development, we are already much too late in responding to what is the most important economic challenge facing this country in the next decade. Failure to meet this goal will preclude needed economic growth and ultimately reduce our standard of living. Yet we have still not genuinely responded to this formidable challenge.

Since first coming to Congress in 1975 I have worked to promote an awareness of these issues. For example, in October 1982 I obtained passage of a bill that I introduced to create a White House Conference on Productivity. This legislation was designed to focus the attention of both the public and private sectors on this vital issue, which so directly affects our economic performance. The White House Conference on Productivity was held in 1983, but even then it was apparent to me that our economic problems went far beyond productivity, important as that issue was.

I concluded that the key problem underlying our declining trade position is the deteriorating competitiveness of U.S. industry in international markets. The problem is not confined to the "older" industries targeted in the past as the sole focus of any competitive difficulties. It extends to the high technology and service sectors once viewed as the country's economic salvation.

Unfortunately, however, not everyone was willing to listen at the time, as election year politics successfully obscured our underlying competitiveness difficulties. The administration chose both to deny the existence of a competitiveness problem, and, at the same time, to accuse those who were concerned about it of advocating an industrial policy which would subject the American economy to central planning and stifling bureaucratic control.

Many traditional Keynesian liberals also felt ill at ease with the notion of a competitiveness strategy. These critics, too, disputed the fundamental premise that the American economy had a competitiveness problem. The alarming increase in the U.S. trade deficit was not being caused by a lack of competitiveness, according to these experts, but by the overvalued dollar that taxed American exports and subsidized foreign imports. If the United States could only manage its macroeconomic policy more efficiently and responsibly, the dollar would come down to reasonable levels and the trade imbalance would magically be reduced, if not eliminated. Both traditional lib-

eral and conservative economists agreed that competitiveness was not the problem, and that an industrial competitiveness strategy was not the solution.

Many of those who disagreed with this analysis proposed creating institutions such as an Economic Cooperation Council and a National Development Bank as solutions to the problem. These proposals were however, easy prey to their detractors, the defenders of the status quo. They also were misdirected because they did not focus our energies squarely on the problem of competitiveness. Thus, what we needed was not an Economic Cooperation Council and a National Development Bank, but a Council on Industrial Competitiveness and a Bank for Industrial Competitiveness, both of which I proposed in an effort to direct our attention to the fundamental problem of competitiveness.

The debate that occurred in 1983–84 should not have been about industrial policy—that was a phony issue—but industrial competitiveness.

If competitiveness once again emerges as a critical issue in 1987, as I believe it must, we will not be able to so easily dismiss it. The trade deficit has soared to $150 billion in 1985, and is expected to be even higher in 1986. A variety of reasons have been advanced to explain the trade deficit: the high dollar; unfair foreign trade practices; the U.S. budget deficit. But we have made some progress in rectifying those problems. The dollar has come down substantially from former peaks. Significant progress has been made in curbing the unfair trading practices of some of our fiercest competitors, most notably Japan. We are beginning to tackle, albeit only in the most preliminary way, our enormous budget deficit.

Despite these accomplishments, the trade crisis is not abating. The decline in U.S. competitiveness is more evident and widespread than it has ever been. The salvation offered by our high-technology and service sectors has not so easily been achieved. It is time for us to stop perpetually identifying the problem and start doing something about it.

But first, it is important that we learn from our past experience with this issue, so allow me to recount for you the history of the debate on this issue and discuss where I believe we must go from here.

THE HISTORY OF THE DEBATE

Beginning in May of 1983, the House Banking Subcommittee on Economic Stabilization, which I chair, embarked on an extensive series of hearings on U.S. industrial competitiveness. We examined the competitive problems facing both mature industries in transition and new and emerging high technology and service sectors.

During over 30 days of hearings, more than 150 witnesses representing all segments of our economy testified before the subcommittee, including: representatives of all levels of government; members of the business community from major corporations as well as small and medium size firms; labor leaders; representatives of an array of industries including steel, autos, semiconductors and computers, and machine tools; members of the financial community; advocates of entrepreneurialism; educators; scientists; economists; research specialists; community and citizens groups; agricultural specialists; representatives of the military and defense analysts; representatives of the administration; and Members of Congress. Additional information and data were obtained from a series of meetings and private breakfasts held with experts from the business, labor, academic and government communities, and from a number of studies conducted under the auspices of the subcommittee.

One fundamental fact became clear: both mature and emerging U.S. industries were facing serious competitive difficulties when measured against their international competition. Those problems were being—and continue to be—exacerbated by structural deficiencies that impede the adjustment of older industries and the rapid development of emerging ones. Among the most serious of these deficiencies is unnecessary adversarial relationships between business, labor and Government.

Based on the knowledge and insights gained from these hearings and related activities, I introduced legislation in November 1983—H.R. 4360—designed to create a comprehensive competitiveness strategy for this country. That legislation was favorably reported by the Banking Committee in April 1984. Opposition from the administration and the business community precluded any further efforts.

AN EMERGING CONSENSUS

But the subcommittee's deliberations did mark the beginning of a closer examination of the competitive problems facing this country. Since the subcommittee turned its attention to U.S. competitiveness problems in early 1983, there have been dozens of studies on long-term U.S. competitiveness and the need to improve the quality and focus of Government decisionmaking. The blue-ribbon panels performing these studies involved leaders from virtually all of the leading companies—large and small—unions, academe, public policy institutes and foundations, and hundreds of private citizens.

There emerged clear consensus that the stunning confusion that characterizes the U.S. policymaking process is a major obstacle to improving U.S. competitiveness. Groups as diverse as the Business-Higher Education Forum, the AFL-CIO, and the White House Conference on Productivity, which my legislation had created, concurred that we need an institutional mechanism to focus attention on competitiveness issues in the policymaking process and develop consensus regarding Government policies affecting industry.

These varied studies all emphasized the need to improve the coherence of Government decisionmaking, regardless of whether the size and influence of Government is larger or smaller. The Center for National Policy reported that a missing ingredient in America's competitive efforts is "an effective process for making policy decisions," and called for an Industrial Development Board, composed of Government, labor and business leaders. The Committee on the Next Agenda informed the President that "there is an overriding need for a clearly developed and articulated comprehensive foreign economic and trade policy. . . . The current fragmented system needs to be rationalized or replaced by mechanisms that promote the formulation of coherent, long term and thoughtful approaches to foreign economic and trade issues."

Distinguished leaders from business, Government, unions and academe thus sent a clear message to the President and Congress that Government must give much more attention to the management of its affairs and how those affairs affect the competitiveness of our Nation's economy. That message was sent yet again by President Reagan's own Commission on Industrial Competitiveness.

THE PRESIDENT'S COMMISSION ON INDUSTRIAL COMPETITIVENESS

Despite the growing consensus that something needed to be done to address our declining competitiveness, the administration continued to ignore the problem until I introduced legislation in 1983 calling for the creation of a National Commission on Industrial Competitiveness. Shortly thereafter, President Reagan finally acknowledged the growing concern about our competitive position and appointed his own Commission on Industrial Competitiveness, chaired by John Young and consisting of 30 distinguished Americans from business, labor, Government, academia and the public. This Commission, which called attention to the new reality of global competition faced by American industry at home and abroad, was charged with developing recommendations on ways to improve the Nation's ability to compete.

The President's Commission studied the global economy for 15 months and reported unanimously in January 1985. The report served only to substantiate the subcommittee's own findings that the U.S. economy continued to suffer from declining competitiveness and a failure to heed the signs of a changing global marketplace. The Commission gave us an unflinching picture of where we are and where we must go. The report concluded:

Our ability to compete internationally faces unprecedented challenge from abroad. Our world leadership is at stake, and so is our ability to provide for our people the standard of living and opportunites to which they aspire.

The President's Commission then offered a series of thoughtful proposals for Government and private action: to develop mechanisms for building a consensus among key sectors of society to better respond to our competitive challenges; to better create, apply, and protect new technology; to increase the supply of productive capital; to develop a more skilled, flexible, and motivated workforce; and to make competitiveness a national priority. The Commission noted that "government decisionmaking can be strengthened significantly by providing a forum in which consensus can be reached on the facts of an issue and in which the implicit tradeoffs among policy options can be made explicit."

The President's Commission did some vital work for this Nation. That Commission's work should have been persuasive because it was the work of a blue-ribbon commission, representing a diversity of interests. The Commission's report could have been a focal point for a national debate and the foundation on which to build a new consensus for needed policies.

Instead, this administration has ignored the findings and recommendations of the Commission. The President has done virtually nothing in the 20 months since the Commission unanimously called on America to grasp the challenge of this competition and to make it the primary economic agenda for the next decade.

RECENT LEGISLATIVE EFFORTS: THE COUNCIL ON INDUSTRIAL COMPETITIVENESS AND THE COMPETITIVE EXCHANGE RATE ACT

In the face of this neglect, the subcommittee continued its exploration of the competitive problems facing U.S. industry in several months of hearings on trade, debt, and competitiveness held during the 99th Congress. By this time, our competitive position had only gone from bad to worse.

It was also apparent that at a time when it was increasingly imperative that Government, business, labor, academia, and public interest groups act together to develop long-term competitiveness strategies, counterproductive adversarial relationships remained the order of the day. No high level forum existed for developing a consensus on economic policies.

In May 1985, I introduced H.R. 2373, the Council on Industrial Competitiveness Act, a bill substantively similar in concept to title I of the Industrial Competitiveness Act which I had introduced in the previous Congress. This legislation was specifically designed to create the high level institutionalized forum that was necessary to enable us to fashion a comprehensive and rational industrial competitiveness strategy.

The bill would establish a Council on Industrial Competitiveness as an independent advisory body within the Government. The Council would have 16 members appointed by the President: 4 from business; 4 from labor; 4 from Government; and 4 from the academic and public interest communities. The Council would create an essential forum in which these groups could work cooperatively to identify economic problems inhibiting the competitiveness of U.S. industries and develop strategies to enhance the performance of those industries in the world market. Such a Council would provide the catalyst for a serious and sustained national effort to enhance this Nation's competitive position.

I had hoped that the findings and recommendations of the numerous blue-ribbon panels and the President's own Commission would finally secure the ready passage of this important initiative. Yet again little progress has been made.

In addition to our failure to create an institutional mechanism capable of developing an industrial competitiveness strategy, it was also clear that the overvalued U.S. dollar, which for years the administration touted as a symbol of our economic leadership, was causing enormous problems for U.S. industries in world markets, and was one of the principal factors behind our declining competitiveness.

Consequently, in December 1985, I introduced the Competitive Exchange Rate Act, which was specifically designed to deal with the damage that the overvalued dollar was doing to our competitiveness. Under the act, the Secretary of the Treasury is made accountable for developing a strategy to move the dollar to a competitive level and minimize the destabilizing fluctuations in exchange rates that have become all too common over the last several years. This proposal would also significantly increase the accountability of the President for the impact of exchange rates on trade competitiveness.

Both the Competitive Exchange Rate Act and the Council on Industrial Competitiveness Act were reported out of the House Banking Committee on April 22, 1986, and became part of the omnibus trade bill passed by the House in May. Senate inattention and White House indifference to the trade issue, and indeed to competitiveness issues generally, continue to preclude passage of this vital legislation.

Just a few weeks ago, I met with President Reagan to discuss the continuing need for a high-level forum to address competitiveness issues and to urge his support for the creation of the Council. I informed him that it was imperative that the United States develop an industrial competitiveness strategy as an alternative to protectionism; that his own Presidential Commission had concluded that "mechanisms should be developed for building consensus among key sectors of society to better respond to our competitive challenges"; that our competitiveness difficulties will persist unless we deal with the problem on both a macro- and microeconomic level; and that a Council on Industrial Competitiveness was an alternative to bad trade legislation and a mechanism that will enable the Government to work with, and not against, labor and management. But all this was to no avail. The President was not ready to listen.

A NEW "COALITION"

Now we see on the horizon yet another effort to "raise competitiveness to the top of the national agenda." According to the October 5, 1986, Washington Post, business and labor leaders have now formed a new "Council on Competitiveness," which will try once again to make U.S. industrial competitiveness a national priority. The new private sector council is to be linked to a privately funded research institute and to a congressional coalition, in the hopes of developing a firmer legislative agenda.

I am, of course, pleased to see that others in the business community and in government share my continuing concerns about the competitive problems facing this country. But let us not fool ourselves. We have only to read the article to see how little progress has actually been made and the obstacles that still confront us.

Much was made of the fact that this new private sector group represents a "new" widespread interest in the business community in competitiveness problems, even among companies "not threatened" by foreign competition, in contrast to the earlier "industrial policy" debate which focused on older, declining industries. That is revisionist history. The same companies and business organizations leading the way in this new effort—including the Business-Higher Education Forum, the American Business Conference, and numerous representatives of the high technology and service sectors—testified many times before my subcommittee over 3 years ago, and expressed their concern regarding the competitive problems we face. These groups also met, under my auspices, with Members of Congress on a more informal basis, including at monthly breakfasts hosted by the subcommittee, to discuss competitiveness issues.

John Young, CEO of one of the major high-technology companies in this country, heads the new effort. As Chairman of the President's Commission on Industrial Competitiveness, he identified the serious competitive problems facing this country and advanced a concrete policy agenda before my subcommittee well over a year and a half ago.

Then, as now, it was clear that all of the U.S. business community was threatened by the newly competitive international economic environment. The interest in the business community is not new. The problem is not new. The only news here is old news: We have done nothing to confront the serious economic problems we face. If we must once again go about the arduous process of reidentifying the problem, I fear for our future. Conventional wisdom has it that Nero fiddled while Rome burned. I am increasingly convinced he was busily building coalitions.

Hopefully, we will this time move farther and faster. But the structure of this new group may make that impossible. This coalition is missing a key ingredient: those who develop and implement Government policy. We should be long past the stage where a group of business and labor leaders sit in one room, a group of Congressmen in another, and Government policymakers in a third to muse separately about our competitive problems. We need to coalesce these interests in an institutional mechanism with stature and visibility that will provide the necessary forum in which Government, business, labor and public interest groups can work cooperatively together, not to indentify, but to solve the competitive problems we face. A Council on Competitiveness comprise only of private sector representatives cannot hope to form the consensus necessary to develop and secure the implementation of the necessary policy initiatives.

What will constrain this new effort is the same shibboleth that has inhibited past efforts to deal with our competititive problems: that Government should stay out of business affairs. Those who continue this line of argument totally ignore current reality. Government makes policy having a direct impact on industrial performance and prospects all the time. In fact, experts estimate that half of all actions taken by business are in direct response to the decisions of Government. The problem is that the techniques of public administration have not kept pace with this reality. I do not recommend the imposition of industrial plans by administrative fiat, but the initiation of a cooperative process through which all parties with an economic interest can coordinate efforts so as to enhance the competitive position of U.S. industry.

The Council on Industrial Competitiveness, which I have proposed, is precisely the type of mechanism we need. It would help the President and other policymakers focus on the diverse concerns—such as trade and investment regulatory reform, technological innovation, and the development of human resources—basic to an effective competition effort. This initiative would begin the long

overdue process of improving the coherence of Federal decisionmaking, particularly as it influences the competitiveness of U.S. industries. It would elevate the issue of trade and competitiveness to a parity with foreign policy and national defense—an acknowledgement of the critical nature of competitiveness concerns that has been too long in coming.

What the Council would provide is not central planning but a brokering mechanism which would play an important coordination and consensus-building role. This mechanism would institutionalize an economic policy apparatus that would integrate domestic and international considerations, eleminate redundances, and have sufficient visibility to make its concerns a national priority.

SOLUTIONS TO OUR COMPETITIVENESS PROBLEM

The Post article on the supposedly new concern about U.S. competitiveness raised once again the old strawman of whether a competitiveness strategy is simply protectionism in another guise. The truth of the matter is precisely the opposite. A competitiveness strategy is our only realistic alternative to self-defeating protectionism. Our industries are hurting badly, and unless something is done to improve their competitive position, the political pressure for trade relief will grow. In the last year, the Congress considered legislation providing import protectlon for the Textile, shoe and copper industries. Virtually every week, another plea for sector-specific trade relief appears. Such pleas are becoming so extensive as to be unmanageable.

Indeed, if protection were the solution, then a number of U.S. industries would have no problems. The textile industry is heavily protected by more than 300 import quotas and average tariffs of 22 percent, yet the industry is suffering severely. Despite years of voluntary restraints, there is an increasingly cynical view that American automobile companies risk becoming merely the marketing agents for foreign producers. The steel industry has still been demonstrably unable to rationalize and modernize, despite years of protection in various forms.

Pressures to shield industries from foreign competition are strongest in economies that face slow growth, rapid transition, the emergency of new competitors, and few alternatives. That description fits the United States only too well. Policies aimed at sustained economic growth, effective adjustment to structural changes and higher productivity can reduce, and even eliminate those pressures. If the worldwide drift to protectionism is to be curbed, the United States itself must set an example of reasonable self-restraint.

It is time to adopt a strategy, not build a wall. It is also long since time for us to stop needless quarreling over the impact of macro- versus micro-economic policy, the dollar versus unfair trade practices, free trade versus protection. Our problems do not need classification, they need solutions.

CONCLUSION

If the United States does not begin to take the necessary steps to deal with the issue of competitiveness, the problems we confront will only worsen. There will never be a day when a clear crisis arrives. It does not work that way. Great Britian did not awake one day to discover that its competitiveness and its standard of living were declining. Rather, it was a gradual deterioration over many years, eventually resulting in second-rate economic status for the Nation. Some of that deterioration has taken place here already; according to the Post 61 percent of all CEO's surveyed now say that the U.S. competitive position is growing worse; this trend will continue to take place unless we dedicate ourselves to reversing it. But we have great assets as a nation, and with a growing awareness on the part of business, labor and Government that competitiveness is, in fact, a major economic problem, a concerted effort can be mounted to insure a bright economic future for our country and our people.

ATTACKING OUR TRADE DEFICIT—IN EARNEST

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. BROWN of California. Mr. Speaker, this fall, the House has passed several important legislative programs. We have passed the most sweeping tax reform bill in history, we have finally reached a compromise on Superfund, and we passed a comprehensive new package to combat drug abuse.

However, as we adjourn, we are aware that many problems will be waiting for us at the beginning of the 100th Congress. One of the most severe and growing problems our country faces today is the diminishing ability of our industries to compete in the world marketplace.

Mr. Speaker, in the past, we have prided ourselves on being world leaders in science and technology. We attained this position because, first, we had the resources to commit to research, and, second, because our country placed a much higher priority on new and high quality commercial products than did our international neighbors.

Today, this situation has changed. Other countries, such as Japan and West Germany, have committed growth portions of their resources toward technology development and innovation, and have taken the lead in transforming the best research ideas worldwide into high quality state-of-the-art commercial products. They have placed a high priority on outcompeting the United States in the marketplace, and in some fields, such as auto industry and electrical, general, and precision machinery, they have succeeded. Moreover, through the use of technology, they have developed their automated manufacturing and quality control processes to an extent that many of our traditional industries can no longer compete.

I feel very strongly that it is time to address the root causes of our growing trade deficit. Additionally, I believe that without a change in direction within Federal technology policy, a recovery of our international competitiveness will be impossible and our economic condition will continue to erode. Today, I am introducing a comprehensive package to improve the ability of our industries to compete in the international marketplace. This is the third major legislative approach I have introduced since 1980. I have introduced these bills for the purposes of drawing attention to some of the problems, as well as to serve as discussion vehicles from which we can begin to develop an acceptable approach.

In my statement today, I will briefly mention some of the reasons why I feel it is essential for us to analyze the position of the United States in the international marketplace. I will also list some of the excellent reports and studies which have been conducted on this problem in the last few years. I would like to encourage all of my colleagues to take some time in the coming months to study some of the proposals and reports which I will mention today. This fall, I will be working with several other concerned Members of Congress and representatives of industry and academia to develop legislation on this issue introduction in the 100th Congress. I will be happy to discuss these proposals, as well as others, with my colleagues at any time.

THE GROWING TRADE DEFICIT: THE PROBLEMS

Mr. Speaker, last year, our trade deficit rose to nearly $175 billion. The most recent trade statistics showed our exports running at half the dollar value of imports. In other words, we are importing twice as much as we sell abroad.

Since 1960, or productivity growth has been outstripped by most of our trading partners. Japan's productivity growth has been five times greater than our own.

The United States has lost market shares in many traditional industries such as textiles and steel. In high technology industries, the United States has lost its world market share in 7 out of 10 sectors. Industries such as ceramics, pharmaceuticals, and even home construction are undergoing technological revolutions and are vulnerable if we, as a nation, do not respond.

Since 1960, America's standard of living has grown more slowly than that of Canada, Germany, France, Italy, and Japan. Real hourly compensation in the United States has remained virtually stagnant since 1973. Since 1979, it has decreased.

Mr. Speaker, it is time we address these problems in earnest.

THE GROWING CONCERN ABOUT U.S. DIMINISHING COMPETITIVENESS

Our growing trade deficit has triggered alarms in many sectors of our society. In the past, reactions and efforts to improve this situation have occurred on a piecemeal basis. However, this has changed. In recognition of the immensity of the problem, and the need to develop an integrated program, a coalition is being formed to address the issue. Below is a summary of the Washington-based groups or agencies that are working on agendas to strengthen U.S. economic competitiveness. This list is reprinted from an article in the October 5, 1986, Washington Post titled, "Coalition Growing to Boost Level of U.S. Competitiveness."

[From the Washington Post, Oct. 5, 1986]

THE COMPETITIVENESS COALITION

Washington-based groups or agencies that are working on agendas to strengthen U.S. economic competitiveness:

American Business Conference: Chairman, Arthur Levitt Jr., chairman of American

Stock Exchange; William Lilley III, president; members are the heads of 100 midsized, high-growth companies; sponsoring research on trade and export issues; competitiveness is now its top policy priority.

Business-Higher Education Forum: Chairman, Edward Donley, chairman of Air Products and Chemicals Inc.; acting president, Don Blandin; membership is 89 corporate chief executives and university presidents; has sponsored yearlong study of competitiveness problems, and last month, issued action proposals with the Northeast-Midwest Coalition and the Congressional Clearinghouse of the Future.

Center for National Policy: Chairman, former Maine senator Edmund S. Muskie; president, Kirk O'Donnell; board members include Stuart Eizenstat, President Carter's chief domestic adviser, Sidney Harmon, chairman of Harman International Corp., and Robert Rubin, partner, Goldman, Sachs & Co.; will sponsor studies and seek a consensus between Congress, business and labor on policies.

Congressional Caucus on Competitiveness: Chairmen, Sen. Max S. Baucus (D-Mont.), Sen. John H. Chafee (R-R.I.), Rep. Buddy MacKay (D-Fla.) and Rep. Claudine Schneider (R-R.I.); will raise competitiveness issues and seek legislation.

Congressional Economic Leadership Institute: Executive director, Laurence Zabar; private, nonprofit organization backed by TRW Inc. and other corporations, labor unions and organizations; will analyze legislative proposals and seek congressional action; allied with the Congressional Caucus and the Council on Competitiveness.

Council on Competitiveness: Chairman, John Young, president of Hewlett-Packard Co.; president, Alan H. Magazine; forming a group of business, labor and other private-sector leaders to publicize issues and support legislation.

Democratic Working Group on Competitiveness: Chairman, Sen. Jeff Bingaman (D-N.M.); appointed by the Senate Democratic Policy Committee; issued report last month saying strengthening competitiveness should be the government's top priority.

National Academy of Engineering: Chairman, John Welch Jr., chairman of General Electric Corp., president, Robert M. White; in cooperation with the White House Office of Science and Technology Policy and the National Science Foundation, will establish a government-industry-university project on manufacturing technology.

National Association of Manufacturers: President, Alexander B. Trowbridge; executive vice president, Jerry Jasinowski; will seek policy and legislative action on competitiveness and stress need for better corporate management of the manufacturing process.

Northeast-Midwest Congressional Coalition: Cochairmen, Rep. Howard Wolpe (D-Mich.) and Frank Horton (R-N.Y.); acting executive director, Shelley Amdur; will support legislation.

STUDIES AND PROPOSALS FOR IMPROVING AMERICAN COMPETITIVENESS

Our diminishing lead in technology is not a new or an unforeseen event. This issue has been examined for several years. As early as 1976, a GAO report to Congress, titled "Manufacturing Technology—A Changing Challenge to Improve Productivity," stated, "The United States needs to make manufacturing productivity a national priorty to remain internationally competitive and to maintain strong industries."

In 1979, the Advisory Committee on Industrial Innovation—called for by President Carter in 1978—which included more than 150 senior representatives from industry, public interest, labor, scientific, and academic communities, stated: "An increase in industrial innovation will contribute significantly to the reduction of inflation, the creation of jobs, the improvement of the country's balance of trade position, and the ability of the Nation to conserve natural resources and reduce reliance on nonrenewable energy resources."

In 1985, the President's Commission on Industrial Competitiveness stated, "After more than a year of close scrutiny, the Commission has concluded that America's ability to compete in world markets must be improved, that we should view the challenge as immediate, and that the positive effects of the recommendations we make will be felt far into the future."

Over the past few years, concern about our trade deficit has increased to crisis proportions. According to the Clearing House on the Future, in its summer 1986 report titled "An Action Agenda for American Competitiveness," 17 major reports on competitiveness have been prepared in the past 30 months on the diminishing ability of the United States to compete. A small sampling of such reports includes:

"Productivity Policy: Key to Nation's Economic Future," Committee for Economic Development, April 1983;

"America's Competitive Challenge: The Need for a National Response," a report to the President of the United States, Business-Higher Education Forum, 1983;

"Global Competition: The New Reality," the Report of the President's Commission on Industrial Competitiveness (the Young Commission), January 1985;

"Targeting the Process of Innovation: an Agenda for Meeting America's Competitive Challenge," House Republican Research Committee Task Force on High Technology Initiatives, December 1985;

"U.S. International Competitiveness: Perception and Reality," New York Stock Exchange;

"Competitiveness in the World Economy," edited by Bruce R. Scott and George C. Lodge. Harvard Business School Press, 1985;

"A Competitive Assessment of the U.S. Information Services Industry," U.S. Department of Commerce:

U.S. High Technology Trade and Competitiveness," U.S. Department of Commerce;

"International Competition in Advanced Technology: Decisions for America," National Research Council;

"An Action Agenda for American Competitiveness," prepared by the Business-Higher Education Forum, the Northeast-Midwest Congressional Coalition, and the Congressional Clearinghouse on the Future, summer 1986; and

"Economic Competitiveness; Promoting America's Living Standards," Senate Democratic Working Group on Economic Competitiveness, September 1986.

Although the list of studies conducted on U.S. competitiveness is long, the underlying message of most of these studies remains the same. The United States must place a higher priority on technology development, innovation, manufacturing productivity, and commercialization of technological products.

Yet, for the most part, many of the recommendations offered by these reports have been ignored.

CONGRESSIONAL ACTION TOWARD IMPROVING AMERICAN COMPETITIVENESS

In Congress, there have been several efforts to address isolated factors which contribute to our decreasing competitiveness. Several excellent CRS issue briefs have been prepared which contain analyses of congressional actions.

"Establishing a Department of Science and Technology: An Analysis of the Proposal of the President's Commission on Industrial Competitiveness," CRS, May 30, 1985. This historical review reveals that Members of Congress have been concerned about our technology policy for decades. The brief states: "The idea of reorganizing Federal science and technology programs is not new. After World War II, there were a number of reports which addressed the question of the future organization for Federal research and development activities. The basic rationale woven within each of the reports for reorganizing Federal science activities was the need for an agency to provide for efficient coordination of the rapidly expanding federally funded research and development programs."

"Industrial Innovation: Debate Over Government Policy," CRS, August 1986, states, "Recent policy developments * * * have established a precedent for Federal action in the area of industrial innovation. However, at the present time, the U.S. Government does not have a formal delineated national policy for innovation and high technology development. It may be the only major industrialized country does not have such a program."

This is very true. While Congress has tried to address some of the barriers to increased productivity and innovation through the enactment of the Stevenson-Wydler Technology Innovation Act, Amendments to the Patent and Trademark Act, Title II of the Economic Recovery Tax Act, the Japanese Technical Literature Act, and the Small Business Innovation Development Act, these bills have addressed only small portions of the problem, and we still lack a coordinated, broad-based agenda for encouraging U.S. technology, productivity, and competitiveness.

Part of the problem has been that technology policy and industrial competitiveness issues extend through several committee jurisdictions. Since 1978, several committees in both the House and Senate have held hearings on aspects of U.S. competitiveness and Federal technology policy. Below is a partial list:

REPORTS AND CONGRESSIONAL DOCUMENTS

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U.S. Congresss. House. Industrial innovation, message from the President of the United States transmitting proposals for fostering industrial innovation. Oct. 31, 1979. Washington, U.S. Govt. Print. Off., 1979, 8 p. (96th Congress, 1st session. House. Document no. 96-214)

U.S. Congress. House. Committee on Banking, Finance, and Urban Affairs. Sub-

committee on Economic Stabilization. An industrial policy for America: is it needed? April 1983. Washington, U.S. Govt. Print. Off., 1983. At head of title: 98th Congress, 1st session. Committee print.

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However, there has long been a recognition that a forum for developing integrated Federal policies would be beneficial, and several such comprehensive approaches have been proposed, dating back to the 1940's when the Bush report recommended the establishment of a National Research Foundation.

On an individual level, several such comprehensive approaches have been introduced in the 99th Congress to improve our ability to compete in technology-oriented markets. These bills include: the Advanced Technology Foundation Act (H.R. 2374) introduced by Representative LAFALCE; the National Bureau of Standards and Industrial Competitiveness Act, a proposal by Representative RITTER; the Department of International Trade and Industry Act of 1985 (H.R. 1928) introduced by Representative WATKINS; and the America's Living Standard Act of 1986 (S. 2810), introduced by Senator BINGAMAN.

As many of my colleagues know, I have also introduced proposals and discussion vehicles to improve our country's technology ability for years. Since 1980, I have introduced the National Technology Foundation Act (H.R. 745), which would bring many of our existing Federal technology programs under one umbrella, as well as increase our Federal efforts to encourage innovation and technology development. I have also introduced the National Technology and Policy Foundation (H.R. 3997) which would offer a similar "broad perspective" approach. To improve our ability to utilize and disseminate information, an area which is vital to maintaining a healthy economy in today's society, I have also introduced the Information Science and Technology Act (H.R. 744).

AMERICA'S LIVING STANDARD ACT OF 1986

Today, I am introducing yet another approach to addressing this problem. The package I am introducing today was compiled by the Senate Democratic Working Group on Economic Competitiveness, chaired by Senator JEFF BINGAMAN of New Mexico. This legislation was introduced in the Senate, S. 2810, and currently has 23 cosponsors. It is a well-thought-out approach, and I encourage my colleagues to review this proposal. This legislation addresses the following five mine areas:

ESSENTIAL FIRST STEPS

I. Information on Foreign Technologies

We must provide better and much more broadly disseminated information on the rapid changes in technologies occurring abroad:

A. Establish within the U.S. Patent Office a new Office of Technology Assessment, Forecast and Outreach.

B. Establish within the Department of Commerce a new on-site function for monitoring developments in foreign science and technology.

II. Technological Excellence

We must support excellence in the development of U.S. technology:

A. Expand and diversify the engineering research centers of the National Science Foundation.

B. Establish an economic competitiveness program to grant 500 graduate fellowships in science and engineering.

C. Establish a fund to assist America's colleges and universities rebuild their R&D infrastructures.

III. Educational Improvement

We must strive for excellence in education and training:

A. Establish a graduate fellowship program for teacher training.

B. Expand Federal funding to develop and disseminate quality instructional software and video technologies, and train teachers to use them.

IV. Work Force Mobility

We must encourage participation and mobility of the workforce:

A. Provide the States with additional resources to help the unemployed to become fully productive members of society.

B. Provide the Department of Labor with sufficient funding to fully implement a nationwide computerized job bank.

C. Examine the merits and the costs of initiating a personal portable pension for all Americans.

V. Forum for National Consensus Building

We must create a single independent body to provide an on-going forum for national leadership and cooperation to address the competitiveness challenge.

Establish a National Council on Industrial Competitiveness to:

A. Collect and analyze data about current and future economic trends and market opportunities.

B. Monitor the changing nature of the United States economy and its international competitive capacity.

C. Create a forum where national leaders in business, labor, academia, public interest groups, and Government will identify national economic problems, develop recommendations to address such problems, and create a broad public consensus to support the recommendations.

D. Develop and promote a national vision and specific policies which enhance U.S. productivity.

E. Assess private sector requests for governmental assistance or relief and to recommend any reciprocal actions or conditions of such assistance or relief.

F. Establish industry subcouncils of public and private leaders to develop similar long-term forecasts and visions for sectors of the economy.

G. Review legislative and executive policies which affect national economic competitiveness.

H. Report annually to the President and Congress on ways to increase American competitiveness in world markets.

I. Examine all international agreements on foreign trade agreed to by the United States monitoring the effect of imports on U.S. industries.

CONCLUSION

There are several factors which contribute to our growing trade deficit and, likewise, several approaches we can take to reduce this threat to our economy. However, if we are to achieve lasting improvements in our trade balance, we must address all of the areas which have weakened our country's ability to remain competitive.

Today, I have introduced a possible approach for addressing this problem. I bring this proposal to the attention of my colleagues as one of several options. I have also tried to provide a road map to some of the excellent reports and studies which have already been conducted on U.S. technology policy and industrial competitiveness.

My friends, I feel that this is a very important issue, one on which action cannot be delayed. Again, I encourage my colleagues to review some of these works, and join the growing coalition in addressing one of the most important issues of our time in the 100th Congress.

BICENTENNIAL OF THE CONSTITUTION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. FRENZEL. Mr. Speaker, many organizations across the land are making plans to commemorate the Bicentennial of the Constitution in 1987. The Congress, itself, will take part in this great national celebration.

Few, if any, organizations have planned longer and more tirelessly for this upcoming celebration than the U.S. Capitol Historical Society.

At the annual meeting of the Historical Society held in the Old Senate Chamber on September 17, 1986, two excellent speeches on ways and means to celebrate both the Bicentennials of the Constitution and that of the Congress in 1989 were given by Dr. Richard A. Bakee, Senate Historian, and Dr. Raymond W. Smock, Director of the Office for the Bicentennial of the House of Representatives.

The speeches of the Senate and House Historians follow:

REMARKS BEFORE THE ANNUAL MEETING OF THE CAPITOL HISTORICAL SOCIETY, SEPTEMBER 17, 1986, BY DR. RAYMOND W. SMOCK, HISTORIAN AND DIRECTOR

President Schwengel, members of the U.S. Capitol Historical Society, and distinguished guests. It is a great privilege to be able to speak before the Capitol Historical Society in this historic room that has been the scene of the making of so much of American history. Fred has asked the Senate historian and myself to talk to you about the upcoming Bicentennial of the Constitution and the Federal Government and to tell you what the House and Senate history offices are planning for this great celebration. I will begin by giving an overview of the national bicentennial celebration, and Dick Baker will focus on what the Congress will be doing.

Before I do that I want to take a moment to publicly thank Fred Schwengel for all he has done to preserve and promote the history of this great institution. Most of you in this room already know Fred well, and know that he has devoted the past quarter century to his love affair with the Congress. He has done more than any one individual to share the art and history of this place with the American people. What some of you may not know is that Fred was one of the first to call for the creation of the History Office in the House of Representatives, and that he has wholeheartedly supported our efforts to expand the scope of historical activities related to the Congress. One of the real pleasures of my position is having the opportunity to work closely with Fred and his fine staff on a number of projects. Thank you, Fred, for all that you have done and will continue to do.

When the Office for the Bicentennial of the House opened its doors for the first time three years ago, many persons came by and said: "Bicentennial? Isn't that over?" The Revolutionary Era Bicentennial is over. The Constitutional Era Bicentennial is just beginning. What we all celebrated and gloried in back in 1976 was a commemoration of our Declaration of Independence from Great Britain, and that is something that should not be dismissed as insignificant. What we will be celebrating for the next few years, however, is even more important.

Think about it for a minute. What we did on July 4, 1776, was to state that we planned to fight for our place as an independent nation. We'd actually been doing that for over a year. Remember Lexington and Concord and the "shot heard round the world?" What happened *after* the Declaration of Independence and *after* our victory in the Revolutionary War was even more significant to the development of this nation.

We became an independent country. The national government after the Revolution, however, was under the "Articles of Confederation," a very weak government that did not even have the power to levy taxes.

What we had was not a national government so much as it was a loose collection of near-autonomous states, a "league of friendship" they called it. The Articles of Confederation took effect in 1781, but the national government under the Articles was almost impotent, unable even to maintain much of an army or a navy. It is not too much to suggest that the continuation of this form of government would have led to the Balkanization of this country and its ultimate degeneration into a collection of third-rate powers.

No, the United States did not end up that way, and *that* is the reason we have such an important bicentennial to celebrate. What we will begin celebrating in 1987 and extending through 1989 is the drafting of our U.S. Constitution, its ratification by the states, and the beginning of the new government in 1789. Part of the celebration will extend to 1991, the 200th anniversary of the Bill of Rights. Without the Constitution, and the subsequent convening of the first House of Representatives, and the first Senate, and the election and inauguration of our first President and the creation of the Supreme Court, the Revolutionary War would not have meant very much. There have been many revolutions in world history, but Revolution is one thing, while the creation of a successful government is another.

It's a little harder to get people as excited about this bicentennial as they were about the last one. Somehow the image of men sitting down at a table and arguing about the powers of the House of Representatives does not seem terribly exciting when compared with the brave deeds of the Revolution.

Those of us who are planning the bicentennial for the House of Representatives believe that we can demonstrate to the American people the importance of this celebration and that the country will get excited about the meaning of this bicentennial. We have some specific projects in mind. And we have some less tangible things we hope to get from the bicentennial, such as an increased interest in the role the House of Representatives and the Senate have played in our country's history.

It may be a little harder to identify with these events than it was with the heroes of the American Revolution. But we are confident that the American people understand that 200 years of uninterrupted democracy is an enterprise well worth celebrating. The framing of the United States Constitution and the establishment of a govenment under the Constitution almost 200 years ago has had a profound effect on the history of the world and has shaped our politics, our society, and our culture perhaps more than any other event in American history. If we can help another generation of Americans to understand and appreciate the meaning of the American Constitution and the role of the federal government under that Constitution, we will have performed an important service to the Congress and to the country.

Let me give you an idea of how the United States has mobilized for this event. The granddaddy of all bicentennial organizations, Project '87, was begun nine years ago to help plan for the bicentennial. This is the joint enterprise of the American Historical Association and the American Political Science Association. This fine organization has provided academic scholars and the schoolteachers of America with much needed background information to see to it that this celebration is based on solid historical information. We all owe a debt to them for their outstanding work. Project '87 has just produced a series of twelve historical posters that are excellent introductions to the Constitution. Their wonderful magazine, this Constitution, is a first-class publication.

The Congress responded well to the Bicentennial as early as 1982 when the Senate created a Bicentennial Study Group to begin planning for what the Senate would do for the commemoration. In December 1982 the House passed a resolution creating the office for the Bicentennial of the House of Representatives. Then in 1983 the Congress passed legislation to create a Commission on the Bicentennial of the United States Constitution. This bill was signed by the President on September 29, 1983, but, unfortunately, the Commission was not sworn in until July 30, 1985. Despite this delay, the 23-member Commission, chaired by the Chief Justice of the United States, Warren E. Burger, went quickly into action once it was appointed. It outlined a three-pronged strategy for the Bicentennial.

Nineteen hundered and eighty-seven will be the year of the "Framing of the Constitution"—dedicated to the memory of the Founders and the great document they drafted in Philadelphia, which was adopted 199 years ago today.

Nineteen hundred and eighty-eight will be the year of the "Ratification of the Constitution," the time, 200 year ago, when the states examined and approved of the work of their delegates to the Philadelphia Convention. This will be a year when all 50 states, not just those who originally ratified the Constitution, will focus on the state process or ratification or their admission to the Union.

Nineteen hundred and eighty-nine will be the 200th anniversary of the establishment of the federal government under the Constitution. The three branches of government as we know them today began operation in 1789 beginning with the first Congress, which convened on March 4 of that year. The inauguration of the first President, George Washington, took place on April 30, 1789, and the passage of the Judiciary Act of 1789 created the federal court system, including the Supreme Court on September 24, 1789. If the Commission on the Bicentennial of the Constitution has its life extended to 1991, their celebration will also include the 200th anniversary of the Bill of Rights, which was adopted as the first 10 amendments to the Constitution on December 15, 1791. The U.S. Commission has received about $13 million so far to conduct its work, and a bill has already passed the House to provide about $13 million more toward the effort.

In the meantime, in 1985 the House created a separate Commission to focus on the House of Representatives' part of the celebration, and this year the Senate created a Senate Bicentennial Commission. Both of these Commissions are composed of distinguished Members of the House and Senate, including the leadership of both parties, all of whom have an abiding interest in the history of the Congress. Some of the membership of the House and Senate Commissions and the U.S. Commission overlap, so there is good communication between these groups. For example, the Chairman of the Commission on the Bicentenary of the House is Congresswoman Lindy Boggs, who also serves on the U.S. Commission. Senator Strom Thurmond, President pro tem of the Senate, also serves on both the Senate and U.S. Commission.

On the state level, 45 of the 50 states have already appointed state commissions, and we expect the other five to follow suit in the future. There still needs to be greater commitment of money by the states since all 45 state commissions have total funding of less than $2 million, and 23 of the 45 have no funds whatsoever right now. Many of the State Humanities Councils have taken a lead with creative bicentennial programs, but, like the state commission, they lack the money to carry out some of their plans.

In the private sector we have heard from a number of corporations who want to help. But we need much more support than we have now. A few major corporations have launched important bicentennial projects. One is Merrill Lynch, which has agreed to sponsor a $2 million, 4-part public television series on Contemporary constitutional issues, and they also plan to sponsor 50 State Ratification Bills to help raise money for state educational projects related to the Constitution. Dick Baker will tell you more about an excellent program sponsored by Ameritech, whch will be a major congressional bicentennial project.

I am tremendously excited by all the activities that are under way or in the planning stages. We have the potential to develop a truly great bicentennial celebration over the next few years. If I have any worries or criticisms to make about what I have seen thus far, it is a concern that was expressed so eloquently by Dr. Ronald Hoffman in his address before this Society exactly one year ago. When Ron made his remarks the Commission on the Bicentennial of the United States Constitution was only a few months old and had only a meager appropriation from the Congress. Now, when that same Commission is on the verge of receiving a second appropriation that will bring its total funding to over $26 million, Professor Hoffman's words ring even more urgently than they did a year ago.

I can do no better at this juncture than to quote from Ron's speech that many of you heard last year. This is not history repeating itself—this is historians repeating themselves. These are Ron Hoffman's words:

"What we need is a renewal of the federal government's commitment to the preservation and publication of the documents that are the building stones of our knowledge and appreciation of our history. I fully expect that the Commission for the Bicentennial of the United States Constitution will receive substantial funding for its activities, and I hope that it will choose to invest a meaningful portion of it in the work of preserving and making widely available the records of our past."

Ron Hoffman's vision of a great historical legacy coming out of this Bicentennial is one that I share. We should have great ceremonies, and fireworks, and galas, because the Constitution of the United States deserves a great celebration. But I suggest, as Ron did, that the things that made this country great were important deeds that left a legacy for future generations. We will remember the fact that the Statute of Liberty was restored long after we have forgotten the multi-million dollar fireworks display on the Fourth of July. What will we remember from the Bicentennial of the Constitution? What legacy will we leave to the youngsters who will be the stewards of the Constitution in the 21st century? The best thing we can preserve and pass on is the memory of this nation itself.

Two years ago I had the pleasure of meeting former Senator Eugene McCarthy at a reception in the Capitol. We got to talking about history and he told me a story about his 95-year old father. Senator McCarthy said that the records of the families that settled in Minnesota a hundred years ago were mostly kept in the area churches built of wood. One by one, over the years the old churches burned down and the fires consumed not only the buildings, but the records of those who build them. History was left to the oldtimers who preserved it in their own fading memories. Senator McCarthy said if someone asked his father about an individual and his father didn't like that person he could choose not to remember him! What a power over history Senator McCarthy's father has. His memory is the last surviving record.

The history of the United States and its people is contained in the rich documentary heritage of 200 years of Constitutional government. Many of the records at the federal, state, and local levels are not well preserved and are decaying before our very eyes. We can't let our historical memory fade, because it is a story that will be worth telling for thousands of years to come. Our country and our times will shape the world as much as ancient Greece and Rome shaped the Western world. We are the temporary custodians of that memory and we owe it to the ages to see that it is preserved and understood. The U.S. Capitol Historical Society, the Senate History Office, the Office for the Bicentennial of the House, the Commission on the Bicentennial of the U.S. Constitution, the State Commissions, the private sector, none of these can do the job alone, but together we can leave a legacy that will have our ancestors pointing back in time to the 1980's and saying, "There was a time when Americans appreciated their history and did all they could to save it for us." Now that's what I call an enduring legacy.

REMARKS OF DR. RICHARD A. BAKER, ANNUAL MEETING U.S. CAPITAL HISTORICAL SOCIETY: PLANNING FOR THE BICENTENNIAL OF CONGRESS

Mr. President, distinguished members and guests. I am delighted to have the opportunity to address this most distinguished group. Looking around this room, I see individuals who have devoted a great deal of their time, energy and financial resources toward the promotion of broader public understanding of Congress's historical and contemporary role.

Take a moment and admire this beautifully restored Old Senate Chamber that serves as our meeting site today. Without question this room stands as an enduring Senate contribution to the 1976 bicentennial of American Independence. It offers a wonderful example of the test we should apply to all projects—great and modest—executed in the name of such major commemorative opportunities. The test is "Will the effort be remembered and have meaning after the immediate celebrations have passed?" Certainly, for this project, the answer is a resounding "Yes!"

Joining us today are representatives of many offices and organizations concerned with planning for the bicentennial of the United States Congress. A brief inventory of just those groups housed on Capitol Hill would include, of course, the Capitol Historical Society, the historical offices of the House and Senate, the curators of the Senate and of the Architect of the Capitol, the Library of Congress Manuscript Division, and the Congressional Research Service. Looking beyond the Hill, we know of plans underway at the Legislative Archives Division of the National Archives, the First Federal Congress Project at the George Washington University, the Georgetown University Law Center, the Carl Albert Congressional Studies Center at the University of Oklahoma, the Dirksen Congressional Research Center in Pekin, Illinois, and the D. B. Hardeman Project at the Lyndon B. Johnson Library in Austin, Texas.

In addition, major private corporations across the United States have expressed a willingness to participate in funding substantial projects for the congressional bicentennial. To offer one example, last week the Ameritech Corporation of Chicago announced a $750,000 grant to Washington public television station WETA. That station has in turn contracted with Academy Award nominee Ken Burns to produce an hour-long documentary film on the history of Congress. Mr. Burns has won numerous awards for his documentaries on the Statue of Liberty, the Shakers, the Brooklyn Bridge, and most recently for film on Huey Long that will premier this October 15 on the PBS network. This will be the first such effort to provide a film history of congressional development over two centuries. It will be a monumental understanding. While the House and Senate share a common constitutional mandate, they are, in many respects, profoundly different institutions. We wish Mr. Burns and his associates well.

Closer to home, plans for Senate and House bicentennial activities have been underway in the above-mentioned congressional offices for quite some time. Recently each house established its own bicentennial commission to guide these activities. In the House, the commission is chaired by Rep. Lindy Boggs. On the Senate side, Sen. Strom Thurmond serves as chairman with Sen. John Stennis as vice chairman.

House and Senate plans fall into four major categories: publications, conferences, exhibits, and ceremonial events.

Publications: Guides to members' papers. If a researcher wishes to determine the location of President Franklin Roosevelt's papers, he or she can do so very quickly. To locate the papers of Senate Majority Leader Joseph Robinson, who served in the early years of Roosevelt's presidency, is another matter. Even more difficult is the challenge of uncovering personal papers of committee chairmen and members who served during, let's say, the period of intense legislative activity in 1933 known as the "First Hundred Days." I can assure you, that such an investigation would consume many frustrating hours and would yield only a tiny portion of the available material. Historians are pretty much like anyone else when it comes to following the path of least resistance. The result is that congressional papers in repositories across the nation are neglected, as these researchers instead mine the resources of comfortable presidential libraries. To write of legislative matters from the executive perspective, I submit, leaves a key portion of the story either distorted or untold.

In 1983 the Senate Historical Office published its "Guide to Research Collections of Former United States Senators, 1789-1982." This 360-page reference book provides the location of papers, photographs, oral histories, and memorabilia for most of the Senate's 1650 former members. These materials are housed in 350 libraries, museums, and historical societies in every state of the Union. We plan to issue an updated edition

in 1989. The new edition will include photographs or other pictorial likenesses of these members. The Office of the Bicentennial of the House of Representatives is currently at work on a similar volume. Under the skilled editorship of Cynthina Pease Miller, that work will include a great majority of the 11,000 men and women who have served in the House.

Guide to official congressional records at the National Archives. The official records of the House and Senate are located at the National Archives. There a staff of fifteen professionals, under the direction of Archives veteran R. Michael McReynolds, cares for more than 50,000 cubic feet of files dating back to the First Congress. Surprisingly, there is no guide to these uniquely important documents. Consequently, the historians of the House and Senate, working with their respective commissions and the Archivist of the United States, have agreed that such a guide will be prepared and published in time for the 1989 commemorations. In 1982, the Archivist reported to a Senate bicentennial planning group that many of Congress's records in his custody were deteriorating and in need of serious preservation attention. As a result of his plea, the Senate and House appropriated $600,000 to restore these irreplaceable records.

Biographical Directory of the United States Congress. In 1859 the first edition appeared of a congressional biographical directory that has since become an invaluable reference source in libraries throughout the country. Unfortunately, the volume's most recent edition was last updated in 1971. Accordingly, both congressional bicentennial commissions have agreed to support funding for a thoroughly revised edition. This edition, to be published in 1989, will include all members serving in the first one hundred Congresses. It will also include, for the first time, citations to books and articles by and about each member, as well as information on members' committee chairmanships and significant legislative accomplishments. Dr. Kathryn Jacob is editor for the nearly 1800 members who have served in the Senate, including the more than 660 who have served in both chambers. Dr. Bruce Ragsdale edits entries for the nearly 10,000 individuals who have served only in the House. All of the data for the new edition has been computerized to reduce cost of this and future revisions.

Senator Robert C. Byrd's Addresses on the History of the Senate. Since March 1980 Senate Democratic leader Robert C. Byrd has, on more that 85 occasions, addressed the Senate on topics related to its history. He has covered the chronological history for the years since 1789 and he has treated such official Senate positions as the Secretary of the Senate, the Sergeant at Arms, and the Chaplain, along with Senate pages and Capitol Police. When he completes the series during the 100th Congress, it will include approximately 100 separate addresses. These will be edited, indexed and published as a major contribution to the 1989 festivities.

Other publications: There will be other publications as well. They will include brochures, for distribution to gallery visitors, describing the House and Senate chambers. The Senate plans to publish a historical almanac containing brief accounts of that body's significant events and personalities since 1789. The House Bicentennial Office intends to update two popular booklets first issued during the 1976 bicentennial. One is entitled "Black Americans in Congress" and the other is "Women in Congress."

CONFERENCES

Many organizations are planning conferences in connection with the bicentennial of the Constitution and the Federal Government. We do not wish to crowd the field, as these undertakings are expensive. Also they frequently fail to pass our test of enduring value. Accordingly, we cannot be as specific about plans for such events as we have been for the publications I've just described. We are looking for private sponsors to provide suitable funding and thus our plans will remain flexible to accommodate these sponsors.

We are considering, for 1988, a conference of Pulitzer Prize winners in history and biography. These distinguished writers would present at the conference essays related to the history of Congress. The essays would then be published to reach the widest possible audience. We are also thinking of a conference whose participants—members, journalists, historians, and political scientists—would discuss opportunities and problems associated with conducting research on Congress.

Exhibits: A number of exhibitions are planned. The National Portrait Gallery will cosponsor with the Congress in 1989 an exhibition of likenesses of many of the First Congress' members. The Senate Curator and the curator in the Architect of the Capitol's office have other displays in the works that will draw on the rich documentary resources related to Congress.

Ceremonies: July 16, 1987. July 16, 1987 marks the 200th anniversary of the Consitutional Convention's "Great Compromise" that provided for states to be represented equally in the Senate and in proportion to their populations in the House. That compromise determined the fundamental nature of both legislative chambers. Each House of Congress is currently considering an invitation by Philadelphia's "We the People 200" committee, an organization planning a year-long national celebration of the Constitution's bicentennial, to convene a regular legislative session in that city. Private foundations have offered $1.5 million to defray the cost to this event. If the trip is realized, it would be the first time that the Congress has ever met outside the seat of government and the first time in 187 years that it has met away from Washington, DC. This extraordinary session would focus national attention on the unique role of Congress as a coequal branch of the Federal Government.

March 4, 1989. A joint session of Congress is being planned for March 4, 1989. This was the date, in 1789, set for the first meeting of both Houses. Difficult winter travel conditions delayed the arrival of many members for several weeks. Consequently, the House will hold special ceremonies on April 1, 1989, the bicentennial of the day on which it established its first quorum. The Senate will conduct similar activities on April 6, the date of its initial quorum.

I have outlined many of the projects being planned within the Senate and House historical offices. There are opportunities for related activities to be accomplished by individual scholars and private organizations. There is no published narrative history of Congress currently available. In 1938, on the eve of Congress's 150th anniversary, Professor George Haynes published a monumental two-volume history of the Senate. Several years later George Galloway, of the Library of Congress, issued his own "History of the House of Representatives." Although that volume is not actually a history, it does develop important historical themes. Now is the time for latter day Hayneses and Galloways to come forward with independent accounts that will, it is hoped, reach a popular as well as a scholarly audience. Unlike the situation fifty years ago, today there are ample research support facilities available to such authors.

There is a need for a historical encyclopedia of Congress—a ready reference book that would do much to enlighten the public about Congress' past and present. It would bring together the scholarship of literally hundreds of specialists on Congress. I am sure that corporate funding could be found for such a valuable enterprise.

We know little about the origin and development of congressional committees. I am aware that the Capitol Historical Society has been considering commissioning a series of committee histories. Why not consider publishing a bibliography of writings about the hundreds of standing, select, and special committees that have existed since 1789? This would serve as a worthy companion to the Society's recently published bibliography on Speakers of the House.

The forthcoming bicentennial offers a once-in-a-lifetime opportunity to establish programs that will truly enrich our nation's understanding and appreciation of Congress. I suggest, once again, that we look around this beautiful chamber as a reminder of what can be done in the name of this institution's history and traditions. Working together we can ensure that generations to come will deeply value this commemoration's legacy.

IN HONOR OF RAOUL WALLENBERG—PLAQUE UNVEILED ON RAOUL WALLENBERG PLACE AT HOLOCAUST MUSEUM SITE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. LANTOS. Mr. Speaker, on October 8, a bronze plaque honoring Swedish Diplomat Raoul Wallenberg was dedicated and unveiled on Raoul Wallenberg Place—in the section of 15th Street SW. between Independence and Maine Avenues in Washington, DC, opposite the site of the U.S. Holocaust Memorial Museum. Last year, my distinguished colleague and fellow Californian BILL LOWERY and I introduced legislation to rename this section of 15th Street "Raoul Wallenberg Place."

As you, Mr. Speaker and my colleagues in the House know, Raoul Wallenberg risked his life to save tens of thousands of Hungarian Jews from extermination by German Nazis and Hungarian Facists in the chaotic closing days of World War II. Wallenberg was seized by the Soviet Armed Forces in January 1945, and he has been a prisoner in the Soviet Union since that time. Other Soviet prisoners have reported seeing Wallenberg as recently as 5 years ago, and he may still be alive in a Soviet prison.

By naming the street on which the Holocaust Museum will stand in honor of Raoul Wallenberg and by dedicating this memorial

plaque to him, we are honoring a hero in an age which is so profoundly devoid of true heroes. Many become heroes when heroism is thrust upon them, but this is a man who voluntarily assumed a daring and dangerous assignment. He went out of his way, leaving behind the comfort and affluence, the safety and security of Stockholm to go to Budapest—and I know what Budapest was like in those last hellishly ugly months of World War II, because I was there. Wallenberg put his life on the line day in and day out for people he did not know because he believed in the right of every human being to live. My wife, Annette, and I were two of those people.

Neither of us, nor our children nor our grandchildren would be here today if it were not for Raoul Wallenberg. During that whole dark nightmare, no one else directly confronted Nazi cruelty. No one else had the audacity to follow the death marches, to jump in front of guns leveled at Jews, to pull people off deportation trains. Raoul Wallenberg not only saved 100,000 lives, he saved our faith in humanity.

The plaque dedication ceremony had special significance since it took place during the week of the fifth anniversary of President Reagan's signing of legislation making Raoul Wallenberg an honorary citizen of the United States. Wallenberg is the second person in our Nation's history after Sir Winston Churchill to receive honorary citizenship.

Mr. Speaker, almost 15 years ago my wife, Annette, began the effort to call attention to the magnitude of what Wallenberg did and to win his release from the Soviet gulag. She more than anyone else was responsible for bringing international attention to Raoul Wallenberg. During the ceremony last week, as founder and chairperson of the International Free Wallenberg Committee, she read the text of the plaque after it was unveiled by the distinguished participants in the program.

The text of the plaque reads as follows:

RAOUL WALLENBERG PLACE

Raoul Wallenberg's mission of mercy on behalf of the United States behind enemy lines during World War II is unprecedented in the history of mankind. He is responsible for saving tens of thousands of lives during the Holocaust. A shining light in a dark and depraved world, he proved that one person who has the courage to care can make a difference.

This street was named in honor of Raoul Wallenberg by act of Congress on December 19, 1985.

Many distinguished Members of this House and other leaders participated in this ceremony honoring Raoul Wallenberg: Interior Secretary Donald P. Hodel; Washington, DC, Mayor Marion Barry; Sweden's Ambassador to the United States, Count Wilhelm Wachtmeister; Senator CLAIBORNE PELL; Congressman BILL LOWERY; Congressman BENJAMIN A. GILMAN; Congressman STENY HOYER, who is Cochairman of the U.S. Helsinki Commission; and executive director of the U.S. Holocaust Memorial Council Richard Krieger. Also taking part in the ceremony were Rabbi Yitzchak Merkin Principal of the Yeshiva of Greater Washington, DC; and the Reverend Dr. James D. Ford, Chaplain of the U.S. House of Representatives. Congressman RON PACKARD also joined us for this special event.

Mr. Speaker, I would like to place in the record the statements of these distinguished participants.

The statements follow:

REMARKS OF THE HONORABLE DONALD P. HODEL, SECRETARY OF THE INTERIOR

I am enthusiastic and honored to be with you this morning. This is an important event. Part of its importance lies in the fact that, by placing a bronze plaque to mark the street which bears his name, we honor a good man, a courageous man. But, of at least equal significance, is the message that is being sent to all who care to listen: America cares about Raoul Wallenberg, and cares about the principles for which he stood—and for which he may have died.

A year ago, I was privileged to speak at the groundbreaking ceremonies for the United States Holocaust Memorial Musem, which with the support of Americans from across our great land, will be constructed on Raoul Wallenberg Place. In those remarks, and in subsequent speeches in support of the effort to build the Memorial Museum, I have asked the rhetorical question: Why do we have need for this memorial and museum? Why do we seek to *remember* such a painful episode in history?

The first answer is that we need to remember the Holocaust not merely because of that specific event in itself, but to help us remember what can happen if we forget about man's capacity to be inhuman. As Secretary of State George Shultz put it so well, we must remember the Holocaust because we must remember that man's capacity for evil did not die in the bunker with Hitler.

The second reason why we must remember the Holocaust is that we must never forget that the Holocaust was significant not only because some evil people perpetrated crimes against humanity that almost defy description. Rather, it is that so many otherwise decent people let them do it. If we will remember that lesson, we never again will sit mutely, as so many people did when they first sensed, or should have sensed, what Hitler was up to.

We lose our right to proclaim we are children of God when, as happened in the 30's and 40's, leaders in government, in churches, in the academic community—and, yes, just plain, ordinary people—consciously and deliberately refused to react to the repeated eye-witness accounts of Nazi horror. It was a classic case of Edmund Burke's dictum that all that is necessary for evil to triumph is that good men and women do nothing.

But, against that dark conspiracy of silence, there stood out one man—Raoul Wallenberg. He stood out much in the same way a dazzlingly bright star that is virtually alone stands out against the black sky at night.

The stories about how Wallenberg saved as many as 100,000 Jewish men, women and children are now legion. Perhaps the miraculous nature of his courageous efforts was best captured by Tommy Lapid, who was 13 when he was saved by Wallenberg. Said Tommy, "in the complete and total hell in which we lived, there was a savior-angel somewhere, moving around."

We dedicate a bronze plaque today to honor Raoul Wallenberg, just as the Nation paid tribute to him by making him an honorary citizen five years ago this week. We would pay him—and what he stood for—even higher honor if American public opinion were mobilized to send a powerful message to the masters of the Soviet gulag: we mean business about learning the fate of Raoul Wallenberg.

President Reagan has gone on record. He publicly has decried what he sadly called "the reward [Wallenberg] received for his selfless humanitarianism." Secretary of State Shultz, Ambassador Kampelman and Ambassador Novak—all have made plain to the Soviets that we will not be satisfied until we learn the truth about this great man.

But when the subject is diplomat Wallenberg's arrest by Soviet authorities in what President Reagan aptly has called a "violation of international law," where are the editorial writers and the television commentators who so properly and passionately attacked the Soviet's arrest of Nicholas Daniloff?

When the subject is Wallenberg's imprisonment and his disappearance, where is the Congress that is so quick to act when it has a sense of moral outrage on other matters? I call upon those members of the Congress present today to call upon their colleagues to put the force of Congress' expressed moral indignation on record to the Soviet Union: we demand to know the fate of Raoul Wallenberg.

To be sure, some have spoken out on this important subject. We should be grateful for the tireless efforts of the Raoul Wallenberg Committee of the United States and for the voices of the journalists and individual members of Congress who have refused to remain silent. But we, the people, must do more.

Raoul Wallenberg is more than a hero. he was a symbol of honor when all too few acted very honorably. He is an inspiration to good people to speak out and to do what is right. Let us honor him by doing just that.

REMARKS OF THE HONORABLE MARION BARRY, JR., MAYOR OF WASHINGTON, DC

Raoul Wallenberg was one of our century's true heroes. While much of the Western world refused to see the truth about the fate of Europe's Jews or, seeing, refused to act, he saw the horrible truth with great clarity, and he acted with total commitment and great personal courage. He saved tens of thousands of lives with few weapons beyond threats and bluffery, and he did this at great risk to his own life.

The Holocaust Memorial Museum will soon be built here on Raoul Wallenberg Place. This national museum will mark both darkness and light. It will serve as a memorial to the six million Jews murdered during the Holocaust and to the millions of other victims of Nazism. It will tell the story of one of the most monstrous crimes of recorded history.

In telling that story, it must in honesty tell of the American and Allied failure to act decisively to prevent the Holocaust. It will also, however, honor the American GIs, as well as the Allied soldiers, who broke into the concentration camps and stopped the killing. It will honor, as well, the righteous gentiles who risked their lives—and sometimes gave their lives—to save Jews from the gas chambers. Pre-eminent among them, of course, is Raoul Wallenberg, whom we honor today.

It is throughly appropriate that this national museum be located on our National Mall, in the presence of our great monuments of democracy, honoring those who fought and, indeed, died for democracy and for human dignity. This Museum will recall

the persecutions of fanatical totalitarianism and those righteous few who opposed it.

In the same way, the U.S. Holocaust Memorial Museum will ensure that never will we forget the six million Jewish dead and the millions of others victimized by the Nazi murderers. The museum will ensure as well that never will we forget the brave men who at last put an end to the murders. The Holocaust is a subject which must be studied and restudied through the generations until perhaps one day we will understand it. This museum will be a place of study and learning situated among the great collections and archives which are our national treasures.

It is appropriate that this museum, dedicated to international understanding, will find its home in the great capital city of the free world. The District is not only the national capital, it is also a city of many groups, of many origins, all united in their love of freedom, their love of this beautiful city. It is fitting that this city be home to a memorial recalling gruesome inhumanity and dedicated to human dignity.

Remarks of Count Wilhelm Wachtmeister, Ambassador of Sweden

Ladies and gentlemen, as Ambassador of Sweden and Honorary Chairman of the Raoul Wallenberg Committee of the United States and as somebody who for 40 years has personally participated in the Swedish Government's relentless efforts—so far in vain—to clarify Raoul Wallenberg's fate, it is a moving experience to be with you here today on this beautiful spot in the Nation's capital.

At a time when Man behaved against Man with brutality on a gigantic scale, when human beings behaved with insanity, Raoul Wallenberg acted as a beacon of hope to the tens of thousands. His deeds were heroic because he was carried by deep humanitarian consideration for those that suffered.

In the midst of darkness 41 years ago, Raoul Wallenberg showed through his hard and unselfish work what one compassionate and brave individual can achieve almost single-handedly for his fellow men.

No wonder, therefore, that Wallenberg and his fate continue to this day to fascinate people the world over. He will go down in Swedish history as a symbol for compassion and courage in saving persecuted people from the jaws of their tormentors.

During more than four decades the Swedish Government has relentlessly pursued efforts to clarify Raoul Wallenberg's fate. The activities in other countries for Raoul Wallenberg is a strong and important support in this endeavour. We will not shrink from our responsibility to our national as long as any doubt remains as to his fate.

For the Swedish Government and people Raoul Wallenberg is alive until evidence to the contrary is produced. The memory of his deeds, to which we pay tribute today in the capital of the United States, lives on by its own force. May that memory continue to be an inspiring light to persecuted men, women and children all over the world.

To pay tribute to what Raoul Wallenberg did is not to forget the horrible fact that people disappear even today. On the contrary, our praise to Raoul Wallenberg brings their fates to the force.

Thank you.

Remarks by Senator Claiborne Pell

I am very pleased to be here today and to join my good friend, Congressman Tom Lantos, in dedicating this street as "Wallenberg Place." This is the second time that Tom and I have had the pleasure of being together honoring Raoul Wallenberg, the "lost hero of the Holocaust". A little more than a year ago, we laid a commemorative wreath at Raoul Wallenberg Street in Budapest.

My interest in the Raoul Wallenberg case goes back to my father's service as the American Minister to Hungary before World War II and subsequently as the U.S. Representative to the U.N. War Crimes Commission, where he was responsible for the State Department reversing itself and agreeing that Genocide would be considered a war crime. As the Senate sponsor of the legislation giving Raoul Wallenberg honorary U.S. citizenship, I think that it is fitting that "Wallenberg Place" be dedicated on this, the fifth anniversary of the signing of that law by President Reagan.

Raoul Wallenberg is one of the great humanitarian heroes of World War II. His courageous and selfless efforts to save thousands of Hungarian Jews from death at the hands of the Nazis have proven to be a unique contribution in the history of the salvation of European Jews from the Holocaust. Wallenberg undertook these deeds at the behest of his and our government. We have a responsibility to remember him, as we are doing today, and to solve the mystery of his tragic disappearance. I know that we will be relentless in our effort to resolve the question of his fate and to save him as he saved so many others so that the "lost hero of the Holocaust" will be lost to us no more.

Remarks of Congressman Bill Lowery

More than 40 years ago we were a world at war, itself an exercise in man's inhumanity to man. But beyond that, there was a plague alive in the lands Hitler occupied. Bergen-Belsen, Dachau, Auschwitz: all death camps that attested to a concerted plan of genocide—a Holocaust that left six million Jews dead.

Few believed it was happening, even fewer did anything about it.

Raoul Wallenberg was a notable exception.

We stand here near the sight of the Holocaust Memorial that will say to the world, "Never again." While the memorial symbolizes the death and inhumanity of the Hitler regime, perhaps Raoul Wallenberg Place will symbolize a road to sanity and salvation.

Wallenberg was sent to Budapest in 1944 by the Swedish and U.S. governments to save Jewish people from Nazi concentration camps. He set up "safe houses" for them and dragged them from cattle trucks bound for the death camps. Using the ploy of Swedish passports, he was able to save the lives of tens of thousands of Hungarian Jews. His reward was arrest by the Russians and imprisonment, possibly until his death.

This memorial cannot illustrate the horror that was the Holocaust nor can a small segment of street portray the unselfish and heroic works of Raoul Wallenberg. But it was my hope in writing the legislation renaming the street, that each time someone reads "Raoul Wallenberg Place", they will remember the Swedish man who not only put the lives of thousands ahead of his own but was a touch of sanity in a world gone mad.

Through memory perhaps we can prevent a recurrence of that madness so well described by Martin Niemoeller:

"In Germany they came first for the Communists, and I didn't speak up because I wasn't a Communist. Then they came for the Jews, and I didn't speak up because I wasn't a Jew. Then they came for the trade unionists, and I didn't speak up because I wasn't a trade unionist. Then they came for the Catholics, and I didn't speak up because I was a Protestant. Then they came for me, and by that time no one was left to speak up."

Remarks of Congressman Benjamin A. Gilman

The plaque which we dedicate today is in honor and remembrance of a man who gave of himself so that others might live. Raoul Wallenberg was a unique individual, whose courageous actions still stand today as a beacon for others. The Talmud says, "He who has saved one life, it is as if he has saved thousands." Raoul Wallenberg's mission saved thousands. Therefore, it is as if hundreds of thousands had been rescued from the gas chambers.

The Holocaust Memorial Museum, whose construction is now underway, is a potent symbol that man cannot forget what happened just a few decades ago. We cannot allow the world to forget what happened, nor can we allow the world to forget Raoul Wallenberg.

To this day, we have never been convinced that Raoul Wallenberg died as the Soviets claim he did. Rumors continue to circulate throughout the Soviet gulag that a Swede remains alive. Just as we continue to press for the release of Soviet Jewish prisoners of conscience and persecuted Christians, we must maintain pressure for a full accounting of Raoul Wallenberg's whereabouts.

Throughout the dark years of the Holocaust, individual made the difference. Lives were saved one by one, in farms and villages and attics and basements around Europe. What makes Raoul Wallenberg's contribution unique is that he saved thousands in open defiance of the Nazis. This plaque honors that selfless commitment, and brings to mind the words of the great rabbi, Hillel: "If I am not for myself, who will be for me? But if I am only for myself, what am I? And if not now, when?" Raoul Wallenberg's deserves our continued dedication, not only because he is one man who made the supreme sacrifice, but in honor of all those innocent men and women who were saved by his mission of mercy.

Remarks of Congressman Steny Hoyer, Cochairman of the Helsinki Commission

Ambassador Wachtmeister, Secretary Hodel, Mayor Barry, fellow Members of Congress, and all of you here on behalf of the Holocaust Memorial Council:

Robert Kennedy once observed that in this often cruel world of ours, there are many who see things as they are, and ask why. But few are the ones who see things as they can be, and ask why not.

Raoul Wallenberg was one of the few—he is one of the quiet heroes of this difficult century.

We all know the sorry history. We know that many witnessed the murder of Europe's Jewish community—and with horror and disbelief they could only ask why. But Raoul Wallenberg was different. He saw that Jewish lives could be saved, and asked why not.

He knew that the secret of life could be found in the courage to act on what's right. And so with great risk to himself, he returned the gift of life to thousands of Jews—to people whose lives meant so much to him, and so little to their executioners.

We are now in the midst of the Jewish High Holidays—a time to reflect on the past and welcome the new—a time to explore the painful and celebrate the bountiful. It is only fitting that we pay tribute to Raoul Wallenberg during these Holidays. Few men better represent the tragedy, the promise, the fulfillness of life.

As a man of principle, as one who kept his covenant with the family of man, may Raoul Wallenberg be written into the Book of Life. May his sacrifice restore our faith in what an individual can do for the integrity of the world. And may his example give us the inspiration and courage to continue his struggle—to pull life and liberty out of the angry jaws of oppression.

Thank you.

REMARKS BY RICHARD KRIEGER, EXECUTIVE DIRECTOR, U.S. HOLOCAUST MEMORIAL COUNCIL

Thank you Congressman Lantos, Annette, ladies and gentlemen:

It is my pleasure to be here today to honor Raoul Wallenberg, whose selfless devotion to justice, freedom and compassion serves today—and for all time—as a true example of the nobility of the human spirit. In the midst of the Nazi realm of terror and hatred, any act of kindness towards those marked for death was an act of heroism, Any act of compassion which broke through the wall of indifference was an act of righteousness. We cannot even begin to measure the righteousness and heroism of the Swedish diplomat whose acts of steadfastness and strength in the cause of humanity saved tens of thousands of lives.

It is the obligation of all of us to remember both the good and the evil, the heroism and the horror of the events which transpired in Europe during the late 30's and early 40's. Only by remembering can we assure that such atrocities will never again be committed. Only by remembering can we honor those brave souls who risked everything for the cause of justice.

Unfortunately, throughout the world, there are those who would deny the courage and the struggle of Raoul Wallenberg and those that comprise the Righteous among the nations. Some would go so far as to deny that the Holocaust ever happened. And these so called "scholars" are not the only ones who manipulate the facts to serve their own perverted purposes. For more than forty years, the Soviet Union has hidden the truth of Raoul Wallenberg's fate behind a veil of evasion and distortion. This veil must be lifted. The conscience of the world will not rest until President Ronald Reagan has said, "In the depths of the horrors of World War II, Raoul Wallenberg was one shining light of inspiration, upholding the honor of the human race. The world owes a tremendous and eternal debt to this great man. The Soviet Union owes the world a full (and) complete accounting of his fate."

The plaque we dedicate today is a symbolic and visible affirmation of this nation's will to remember its honorary and honored citizen, Roaul Wallenberg. We are proud that the United States Holocaust Memorial Museum, a building commemorating the victims of the Holocaust, will have its address on the street named "Wallenberg Place." We are proud that the story of Raoul Wallenberg will be told within the Museum.

In conclusion, let this dedication ceremony and the words uttered here today, signal a warning and a reminder to every totalitarian fascist and communist state that the spirit of Raoul Wallenberg will neither expire nor be consumed. In every place where innocent lives are threatened, Wallenberg's acts of protection and rescue will be remembered and reenacted and in every generation, men and women will gather to recount to their children the heroic story of Raoul Wallenberg. He will continue to live throughout the ages long after the dictators and tyranny he struggled against have faded into infamy for all of us here and everywhere else in the world. Raoul Wallenberg will always live.

BENEDICTION BY THE HONORABLE JAMES DAVID FORD, CHAPLAIN OF THE U.S. HOUSE OF REPRESENTATIVES

Gracious God, even as we gather in freedom this day, we thank you that you raise up faithful people to do your good works, to set the captives free, and to raise the hopes and dignity of every person.

As we honor Raoul Wallenberg, may we recall that each person is created in your image and thus has the potential and the responsibility to do the things that make for peace in our time.

Now, may the Lord bless us and keep us,
The Lord make his face shine upon us and be gracious unto us,
The Lord lift up his countenance upon us and give us peace. Amen.

THE FEDERAL GOVERNMENT NEEDS GAAP

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. CRANE. Mr. Speaker, today I am introducing legislation that will establish an accrual-basis accounting system for the National Government and its agencies. By implementing this accounting system and requiring the publication and distribution of annual financial statements, the reliability and accountability of the National Government will be enhanced.

Presently, the U.S. Government requires no publication of the financial statements of its various entitiles, and uses the cash basis of accounting for budget reporting. This presents some serious problems. According to one of the world's largest accounting firms, Arthur Andersen & Co., cash-basis accounting "hides the costs of current programs, and results in misinformation and misunderstanding."

Cash-basis accounting keeps track of all money which an organization receives and pays out. It ignores money which an organization will both earn and owe in the future. It is an accounting method tailored to the needs of small businesses. When applied to a large government, it falls short of providing reliable information needed for sound policymaking decisions and therefore creates a clouded financial picture. A more appropriate alternative to cash-basis accounting is accrual-basis accounting or GAAP.

Applying GAAP [generally accepted accounting procedures] produces a more accurate picture of our Government's financial health. Accrual-based accounting matches expenses with their associated revenues; in other words, it recognizes financial events as they occur. Hence, it keeps track of all assets and liabilities. It provides the tools to evaluate both the current and future financial picture of an organization. The U.S. Government requires numerous State and local governments and all publicly held companies to prepare financial statements in accordance with GAAP. This ensures that these organizations will use the most sophisticated accounting methods presently available.

A study conducted by Arthur Andersen & Co. compared consolidated financial statements under cash-basis accounting with statements under GAAP. Under GAAP, the more accurate of the two, the deficit for 1984 was $148.1 billion higher than under cash-basis accounting. In fact, GAAP accounting shows that the National Government has been running deficits for the last decade which have exceeded the reported deficits by as much as 200 and 300 percent.

These deficits manifest a profound problem: a lack of accountability of elected officials to their constituents. Members of Congress, under present accounting methods, are able to adopt programs which provide benefits currently without providing funding until later years. Individual citizens are therefore unable to judge whether their representatives are creating and maintaining programs in a fiscally responsible manner.

The legislation I am introducing, the Truth in Government Accounting Act of 1986, will make the national Government fiscally responsible to the people. It requires the Secretary of the Treasury to prepare and make public, for each fiscal year, consolidated financial statements for the United States based on accrual accounting procedures. These statements shall include reports on the operations of all instrumentalities of the United States Government. This will force the National Government to stop using the cash-basis of accounting and start using the GAAP method.

It also requires that the Secretary of the Treasury publish these statements each year. He will also notify the people about the existence of these statements and make them public by placing a notice on all tax forms that copies of these statements are available and will be sent to all who request them. This will ensure that all citizens have the opportunity to evaluate whether their tax dollars are being spent wisely.

This act also requires the Comptroller General to use the accrual method of accounting to audit the financial statements prepared by the Secretary of the Treasury. The Secretary of the Treasury will provide the Comptroller General with all the necessary information and facilities needed to insure a successful audit. This will ensure that the financial statements of the national Government are prepared properly and that they meet the highest standards of the accounting profession.

Finally, my bill requires the President, when submitting his budget, to provide a summary of how the use of GAAP procedures would effect estimated expenditures, appropriations, and receipts of the Government in the year for which the budget is submitted. The Director of the Office of Management and Budget shall also prepare all budgets submitted to the President according to both the cash and accrual accounting methods. This will enable the public and its elected officials to judge the value of GAAP method of accounting.

The time has now come to return our country to the path of fiscal responsibility. We must also make our representatives more accountable to their constituents. By forcing the National Government to adopt GAAP accounting procedures, we can further these noble goals. I urge my colleagues to consider my bill and support it. I believe the financial integrity of our country is at stake. We must act now.

WORLD FOOD DAY

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. LELAND. Mr. Speaker, today is World Food Day. World Food Day was instituted by the Food and Agriculture Organization to mobilize awareness and support for the long-term effort needed to overcome world hunger and malnutrition. We in Congress, have a crucial role to play in ensuring that the U.S. Government and the U.S. people work together to address these serious concerns.

Hunger affects hundreds of millions of people. Over 15 million lives are lost annually due to malnutrition-related illness and death. An estimated 40,000 people die daily from the effects of hunger. And in the United States, the 20 million people who live in poverty are at daily risk of hunger.

Hunger in its starkest reality is manifested in the wasted bodies of children living in wartorn Sudan. We must respond to these desperate and immediate needs. However, World Food Day also calls attention to the chronic hunger of those hundreds of millions who, while not visibly starving, are still leading lives of hunger, sickness, and reduced physical and mental capability.

This year, special attention is focused on the importance of fisheries resources in eradicating world hunger. Many poor and undernourished people around the world could be assisted to improve their diets with fish and fish products. Aquaculture development substantially increase the permanent food supply at low cost. Programs to expand these opportunities are supported through the Department of Agriculture, the Agency for International Development [AID], and the Peace Corps. Several universities and private voluntary organizations are also developing programs. At the Select Committee on Hunger, we will continue to explore these opportunities to alleviate hunger.

As chairman of the Select Committee on Hunger, I have been honored to be a part of many important initiatives supported by Members of Congress and the American people to reduce hunger. This year the Child Survival Fund of AID will be increased to $75 million, allowing for expansion of basic health care services to millions of malnourished children and their mothers. Furthermore, additional funding for agriculture projects targeted to people in the poorest countries, particularly in Africa, will be made available through the International Fund for Agricultural Development [IFAD] and the International Development Association of the World Bank.

On the domestic front, we have been successful in our efforts to allow poor and homeless people in this country access to additional food assistance in nonprofit soup kitchens and shelters through the Food Stamp Program. This could greatly enhance the ability of private groups; to meet the needs of the poor and unemployed, many of whom are children and single parents. Another significant achievement this year was a substantial increase for the Women, Infant and Children [WIC] Program, which targets food benefits to poor children and pregnant and breastfeeding women.

There are important milestones in our battle to alleviate hunger and the conditions which perpetuate hunger. However, we are very far from eliminating hunger in our world. In 1974, the first world food conference was convened by the United Nations in Rome. The conference adopted recommendations and pledged to eliminate hunger within 10 years. The failure to achieve that goal is self-evident. Clearly the task is difficult and requires more than rhetoric. It requires hard choices and sacrifice. I call on each of you to assist in achieving this goal.

ARMS CONTROL ACTIVITIES AND ACCOMPLISHMENTS OF THE HOUSE FOREIGN AFFAIRS COMMITTEE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. FASCELL. Mr. Speaker, during the 99th Congress, the House Foreign Affairs Committee and its Subcommittee on Arms Control, International Security and Science, under my chairmanship, considered and acted on a wide range of arms control issues which led to decisive and constructive House action on several key arms control issues including: limitations on nuclear testing, continued adherence to the sublimits of the SALT II Treaty, budgetary limitations on the strategic defense initiative, reaffirmation of the ABM Treaty, preservation of the ban on antisatellite [ASAT] weapons testing, and prohibitions on the production of binary chemical weapons.

What follows is a description of the House action in these areas as well as an account of the evolution of these issues by the subcommittee, through the committee and onto the floor. A brief account of other related arms control issues the committee has and will continue to address is also contained in this report.

NUCLEAR TESTING

FOREIGN AFFAIRS COMMITTEE HISTORY

The Subcommittee on Arms Control, International Security and Science conducted several hearings on proposals to ban nuclear testing. Members of the House and Senate were heard from in a subcommittee hearing conducted on February 26, 1985, on House Joint Resolution 3, legislation urging the President to seek the advice and consent of the Senate on the ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, and to resume negotiations with the Soviet Union on a comprehensive test ban treaty.

During a May 1, 1985, hearing and markup testimony was received from a representative of ACDA as well as private experts with scientific expertise relating to nuclear testing. The measure was subsequently approved by voice vote for full committee action.

The full committee marked up House Joint Resolution 3 on May 15, 1985, and ordered it favorably reported by voice vote. (H.Rept. 99–221.)

In passing this resolution by a strong bipartisan vote of 268 to 148, the House expressed its firm commitment to bring an end to nuclear testing. The House, in fact, added its voice to the Senate's which in 1984 passed the exact language of House Joint Resolution 3 as an amendment to the Defense authorization bill by a vote of 77 to 22. With both houses taking similar action, Congress is firmly on record in favor of negotiation rather than endless escalation as the way to end the costly arms race.

This decisive House vote reflected a call for a commonsense arms control policy. We should return to the longstanding established policy—pursued by every President since Eisenhower—that test bans are necessary to stop the nuclear arms race. Reductions in our nuclear arsenals without a nuclear test ban to prevent the introduction of newer, more deadly weapons into our arsenals, is at best an incomplete and tentative national security and arms control policy.

HOUSE ACTION ON THE FISCAL YEAR 1987 DEFENSE AUTHORIZATION BILL

The House acted strongly to limit nuclear testing in an amendment to the fiscal year 1986 Defense authorization bill. The House by a vote of 234 to 156 on August 8, 1986, prohibited funds for conducting nuclear weapons tests over 1 kiloton unless the President certifies to the Congress that the Soviets have conducted a test over 1 kiloton and unless the Soviets refuse to accept in-country monitoring arrangements.

The strong action of the House reflects an overriding desire to bring an end to nuclear testing as a way to control the escalating nuclear arms race. Reducing nuclear weapons is meaningless if we do not also refrain from adding new nuclear weapons to our arsenals.

Moreover, pursuit to a nuclear test ban enhances United States credibility with our allies and offsets the propaganda advantage that Soviet Leader Gorbachev has exploited since the summer of 1985 when he declared a unilateral Soviet moratorium on nuclear testing and asked the United States to join that moratorium.

CONFERENCE REPORT ON THE FISCAL YEAR 1987 DOD AUTHORIZATION ACT

On October 15, 1986, the House approved conference report language that rejected the 1-year ban on nuclear testing above 1 kiloton. Under a separate agreement, the President has indicated that he will submit to the Senate two unratified treaties—the 1974 Threshold Test Ban Treaty and the 1976 Peaceful Nuclear Explosions Treaty—and to recommend their ratification. While the President's decision to submit the two treaties to the Senate for ratification at the beginning of the next Congress represents a significant step in the right direction, a number of potential stumbling blocks remain in the way of Senate ratification

of the treaties and the resumption of United States-Soviet discussions that would lead to a comprehensive test ban agreement. It will, therefore, be incumbent upon the next Congress to continue to monitor closely the test ban issue if the ultimate goal of a total cessation in nuclear testing by both sides is to be achieved.

ADHERENCE TO SALT AGREEMENTS

FOREIGN AFFAIRS COMMITTEE HISTORY

The committee has considered the merits of continuing United States adherence to the SALT arms control agreements in numerous hearings and briefings, including the April 15, 1986, Arms Control Subcommittee hearing on the "Implications of Abandoning SALT."

In the aftermath of the President's May 27, 1986, decision to abandon United States adherence to the SALT agreements in the future, on June 11, 1986, I introduced House Concurrent Resolution 350, a resolution providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements for as long as the Soviet Union does likewise. It was my hope that the resolution would provide a vehicle for the Congress to urge the President to honor his commitment to the SALT agreements.

On June 12, 1986, the committee approved House Concurrent Resolution 350 after adopting an amendment in the nature of a substitute by a vote of 29 to 11. (House Report 99-634.)

Floor debate on this measure occurred in the House of Representatives on June 19, 1986 and was passed by a bipartisan vote of 256-145. In passing this legislation, the Congress expressed its opposition to United States abandonment of the SALT arms control regime with nothing to replace it and expressed its strong support for maintaining the existing restraints on United States and Soviet forces found in the SALT agreements.

HOUSE ACTION ON THE FISCAL YEAR 1987 DEFENSE AUTHORIZATION BILL

By a vote of 225 to 186, on August 12, 1986, the House attached to the fiscal year 1986 Defense authorization bill strong policy language and funding limitations regarding the SALT Treaty. The House voted to prohibit the expenditure of funds for nuclear weapons that exceed the sublimits of the SALT II agreement unless the President certifies to the Congress that the Soviet Union has exceeded those sublimits.

Such action reflects the wisdom that some constraints on the Soviet nuclear arsenal are better than no constraints on their arsenal. Since SALT II was signed, neither the United States nor the Soviet Union have exceeded the sublimits. By supporting this measure, the House reaffirmed the logic of maintaining adherence to the sublimits while our negotiators in Geneva attempt to draft a better arms control agreement that results in greater reductions and strategic stability. The House saw no logic in abandoning existing constraints before there is something to supercede them. Preservation of the existing constraints on the Soviets is simply common sense.

CONFERENCE REPORT ON THE FISCAL YEAR 1987 DOD AUTHORIZATION ACT

On October 15, 1986, the House approved a conference report containing strong policy language that urges the President to continue observing the SALT II Treaty sublimits, provided that the Soviet Union continues to adhere to those sublimits. The conference language reflects congressional opposition to the United States abandonment of the SALT arms control regime and congressional support for continued United States and Soviet adherence to the numerical sublimits of the treaty. In view of the current arms control impasse, as reflected in the recently concluded United States-Soviet summit in Iceland, it is even more incumbent upon the President to preserve the arms control limitations as embodied in the SALT agreement.

STRATEGIC DEFENSE INITIATIVE [SDI]

FOREIGN AFFAIRS COMMITTEE HISTORY

The Arms Control Subcommittee has conducted an extensive series of ongoing hearings on the administration's strategic defense initiative [SDI]. Based on our first series of hearings, the subcommittee concluded that the SDI would be extremely costly, probably technically unworkable, with adverse implications for arms control. Serious concerns were expressed during our hearings concerning a likely outcome of the SDI: A dual arms race that will render the ABM Treaty meaningless.

There is a general consensus in the Congress for maintaining an adequate level of SDI research. But many believe that the levels the administration has been requesting for SDI research are inordinately high and that SDI research should be conducted within the terms of the longstanding interpretation of the ABM Treaty.

When the administration attempted to reinterpret the ABM Treaty last year, the committee immediately held a hearing to examine the President's policy. Testimony from the U.S. negotiator to the ABM Treaty negotiations and others confirmed that the ABM Treaty was clear in its prohibition of the testing, development and deployment of space-based, air-based, sea-based, and mobile land-based ABM systems and components. The administration disputed this longstanding interpretation of the ABM Treaty and then attempted to mollify the opposition to its decision by stating that it would adhere to the longstanding interpretation of the ABM Treaty even though it contended that it was legally free to broadly interpret the Treaty.

As many of us in Congress seriously question the broad interpretation, we therefore welcome current administration policy which is to abide by the longstanding, interpretation of the ABM Treaty as it pursues research into SDI technologies.

The committee also examined the impact of the SDI on our allies. Specifically, we explored the issue of technology transfer between the United States, our NATO allies and Japan relative to the SDI in a joint hearing by the Arms Control Subcommittee, the Europe and the Middle East Subcommittee, and International Economic Policy and Trade Subcommittee on December 10, 1985.

HOUSE ACTION ON THE FISCAL YEAR 1987 DEFENSE AUTHORIZATION BILL

On August 12, 1986, the House adopted an amendment to the fiscal year Defense authorization bill to maintain SDI funding essentially at current levels with an adjustment for inflation. This resulted in a cut in SDI funding from the administration's request of $5.4 billion to $3.1 billion—including DOE money. This measure passed by a vote of 239 to 176.

In supporting this measure, the House concluded that the administration request was excessive. The House went on record in support of continued research into SDI technologies but at a level consistent with budgetary concerns and within the parameters of the ABM Treaty.

CONFERENCE REPORT ON THE FISCAL YEAR 1987 DOD AUTHORIZATION ACT

On October 15, 1986, the House approved conference language cutting the President's funding request to $3.5 billion, approximately halfway between the House and Senate approved versions. While there still remains in Congress a general consensus for maintaining an adequate level of SDI research, the cut in SDI funds from the President's original request of $5.4 billion reflects a belief by many that the level the administration has requested is much too high for an adequate research program alone and also reflects congressional interest in assuring that the SDI program be conducted within the confines of the longstanding interpretation of the ABM Treaty.

In this regard, it is important to note that the conference agreement contains a provision which stipulates that action by the Congress in approving SDI funds does not express or imply an intention on the part of the Congress that the United States should abrogate, violate, or otherwise erode the ABM Treaty, and does not express or imply any determination or commitment on the part of the Congress that the United States develop, test, or deploy ballistic missile strategic defense weaponry that would contravene the ABM Treaty.

ANTISATELLITE [ASAT] WEAPONS POLICY

FOREIGN AFFAIRS COMMITTEE HISTORY

The committee has conducted several hearings to examine the arms control implications of pursuing an ASAT weapons system. In my view, instead of spending money on another weapons system, we should be working with the Soviet Union at the Geneva Arms Control Talks to reach an agreement to ban ASAT weapons as a way to prevent an arms race in space. The congressional action on ASAT represents a major step toward averting an arms race in space and demonstrates congressional support toward improving the climate of negotiation between the United States and the Soviet Union in avoiding an extension of the arms race into space.

HOUSE ACTION ON THE FISCAL YEAR 1987 DEFENSE AUTHORIZATION BILL

The House, on August 13, 1986, voted 222 to 197 for an amendment to the fiscal year 1986 Defense authorization bill to retain current law which bans ASAT tests against objects in space unless the President certifies that the Soviets have conducted such a test.

CONFERENCE REPORT ON THE FISCAL YEAR 1987 DOD AUTHORIZATION ACT

On October 15, 1986, the House agreed to conference report language that preserves the ban on the production and deployment of antisatellite weapons. Continuation of the ASAT weapons ban reaffirms congressional belief that an agreement between the United States and the Soviet Union on banning ASAT's would represent a major step toward averting a costly and destabilizing arms race in space.

Continuation of this mutual ASAT ban represents the only significant arms control achievement of the past 6 years which can be directly attributed to House insistence.

BINARY CHEMICAL WEAPONS

LEGISLATIVE HISTORY

Over the last few years, I have led a bipartisan group in Congress—Representatives JOHN PORTER, Illinois, and MARGE ROUKEMA, New Jersey, in the House and Senators MARK HATFIELD, Oregon, and DAVID PRYOR, Arkansas, in the Senate—against the production of new lethal nerve gas chemical weapons—that is binary.

In June 1986, a GAO report, was released that found that binary chemical weapons are undergoing persistent test failures, don't work now, and probably never will work properly.

Reflecting my views on this important issue, I am a cosponsor of bipartisan-supported legislation that: bans the production of binary chemical weapons; calls for a negotiated arms control ban on the use and production of chemical weapons; and calls for the preservation of the U.S. chemical deterrent by improving U.S. defenses against chemical weapons.

HOUSE ACTION ON THE FISCAL YEAR 1987 DEFENSE AUTHORIZATION BILL

On August 3, a bipartisan majority of the House of Representatives adopted the Porter-Fascell amendment that bans funding for binary production during fiscal year 1987 and prohibits the unilateral withdrawal of U.S. chemical weapons now in Europe. For the fifth consecutive time, the House of Representatives said "no" to a flawed strategy based on a flawed weapon. We wisely rejected the Pentagon's request to produce binary nerve gas weapons for sound foreign policy, defense, budgetary, and arms control reasons. Rather than producing chemical nerve gas weapons, we should be negotiating an arms control agreement that bans the production and usage of nerve gas chemical weapons.

CONFERENCE REPORT ON THE FISCAL YEAR 1987 DOD AUTHORIZATION ACT

On October 15, 1986, the House approved conference report language on binary chemical weapons which contains the following main elements: Prohibits funding for the Bigeye Bomb Production Program, and Bigeye components during fiscal year 1987; and prohibits final assembly of the 155-mm. artillery binary shell during fiscal year 1987.

In short, an operational 155-mm. binary chemical weapon is not possible for at least 1 year—fiscal year 1987—and an operational Bigeye chemical bomb is not possible for at least 2 years—fiscal year 1987 and fiscal year 1988.

While not as conclusive as many of us would like, the conference position on chemical weapons reaffirms Congress' position that we should not be funding a weapons system that does not work, is not proven safe for our troops, needlessly adds billions of dollars to the deficit, unilaterally eliminates the present chemical deterrent in Europe, and undermines efforts of the superpowers to agree to an arms control agreement that bans chemcial weapons.

As we address this problem in the next Congress, we should not fund a full and final binary chemical production program unless: progress on an arms control agreement with the Soviets proves impossible; an independent assessment by GAO concludes that binary weapons are technically ready for production and operationally safe and usable; and our European allies agree to replace unitary chemical weapons on their soil with binary chemical weapons.

GENEVA ARMS CONTROL TALKS

As a member of the House Observers Group to the Geneva Arms Control Talks, one of my responsibilities is to monitor the status of each round of talks. As new United States and Soviet proposals are tabled in Geneva, those proposals are reviewed in the CONGRESSIONAL RECORD—most recently on September 10 on page E-3035—pointing out areas of agreement between the United States and Soviet proposals and remaining areas of contention.

I have also organized numerous closed briefings for the House Observers, House Foreign Affairs Committee members and Members of Congress on the status of the Geneva Arms Control Talks, the summit preparatory meetings between U.S. and Soviet officials in Moscow on August 11 and 12 and in the United States on September 5 and 6, and the preparations for the Reagan-Gorbachev presummit in Iceland. Members have been briefed by Secretary of State Shultz, our negotiators to the Geneva Arms Control Talks, Ambassador at Large Paul Nitze, and other administration representatives.

ARMS CONTROL AND THE ATOMIC BOMB: 40 YEARS LATER

In conjunction with the 40th anniversary of the dropping of the first atomic bomb, a hearing was held on May 13, 1985, to discuss the arms control implications of the atomic bomb some 40 years later. The subcommittee heard testimony from three world-renowned nuclear physicists: Hans Bethe, professor of physics, Cornell University, and Bernard Feld and Philip Morrison, professors of physics at the Massachusetts Institute of Technology, all of whom were involved in the development of the atomic bomb and the Manhattan project. These nuclear physicists underscored the necessity to control the nuclear arms race by pursuing nuclear testing bans and keeping the SDI Program fully consistent with the longstanding interpretation of the ABM Treaty.

ARMS CONTROL WORKSHOPS

In cooperation with the Congressional Research Service, the Foreign Affairs Committee and its Subcommittee on Arms Control, International Security and Science sponsored nine informal workshops for Members of Congress to discuss the role and importance of arms control as an integral part of our country's national security policy. Key outside national security and arms control experts joined House Members to discuss such topics as:

First. Nuclear Arms Control: A Brief Historical Survey.

Second. Goals of U.S. Nuclear Arms Control Policy.

Third. Structuring Nuclear Arms Control Policy.

Fourth. Treaty Compliance and Nuclear Arms Control.

Fifth. The Internal Dynamics of U.S. Nuclear Arms Control Policymaking.

Sixth. Soviet Attitudes and Objectives in Negotiations.

Seventh. The Impact of Technology on Nuclear Arms Control.

Eighth. Linkage: Nuclear Arms Control in the Broader Context of United States-Soviet Relations.

Ninth. The Role of Congress in Nuclear Arms Control.

RESOLUTION COMMENDING THE ARMS CONTROL AND DISARMAMENT AGENCY'S [ACDA] 25 YEARS OF SERVICE

On September 16, 1986, I and the ranking minority member of the committee, Representative BROOMFIELD introduced House Resolution 551, commending ACDA for its 25 years of service.

The resolution was approved by the committee on the same day by a voice vote and subsequently passed by the full House on September 22, 1986.

The purpose of this agency is to make arms control an integral part of U.S. national security policy. Our hope in passing this resolution is that ACDA in the next 25 years will be even more successful in integrating arms control into U.S. policy than it was in its first 25 years.

NEED FOR A COMPREHENSIVE ARMS CONTROL POLICY

As should be clear, 1986 was a very active year with respect to arms control issues for us in Congress. In view of persistent evidence that the administration's arms control policy remains inconclusive, incomplete, and uncertain, it is incumbent for the Congress to call upon the administration to pursue a more meaningful, consistent, and comprehensive arms control policy.

In this respect, the United States should specifically:

First. Seek the resumption of bilateral comprehensive test ban [CTB] negotiations;

Second. Propose a comprehensive verification package that would force the Soviets into concrete action on Gorbachev's offer of onsite inspections and "any other additional verification measures";

Third. Obtain a mutual reaffirmation by both superpowers of adherence to SALT II and to the longstanding interpretation of the ABM Treaty;

Fourth. Press United States concerns on Soviet compliance through the private diplomatic channels of the Standing Consultative Commission [SCC] and reject Pentagon recommendations to abandon United States adherence to existing arms control agreements; and

Fifth. Accelerate efforts to achieve a verifiable ban on chemical weapons by agreeing as a first step to prohibit the production of new chemical weapons and to impose common export controls.

Such an approach would be a marked improvement from continuation of the administration's current arms control approach that is primarily based on rhetoric and which has resulted in not one negotiated arms control agreement over the past 6 years.

As the next Congress convenes early next year, I pledge to continue my efforts in support of a comprehensive arms control policy that increases stability, reduces the threat of nuclear war, and enhances U.S. and world security.

COMPETITION VERSUS THE COMMONWEAL

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. FORD of Michigan. Mr. Speaker, I would like to commend to my fellow colleagues the following speech made on October 7, 1986, by Robert Atwell, president of the American Council on Education. Mr. Atwell observes that under the right circumstances, competition plays a vital role in creating a powerful and diverse system of higher education in our country, but when gone awry, as may be the case today, this same force dulls the very lines of distinction among institutions it so carefully crafted. I believe Mr. Atwell's remarks are thought provoking and timely in light of the 5-year reauthorization of the Higher Education Act recently enacted by Congress.

COMPETITION VERSUS THE COMMONWEAL

[Remarks of Robert H. Atwell, President, American Council on Education, Given at American Council on Education Annual Meeting, San Francisco, October 7, 1986]

My comments today are in keeping with the spirit of this annual meeting, which invites you to examine some current American social realities and speculate about the future we face. I would like to offer reflections on the current tension between competition and cooperation within the various sectors of higher education. For we will pay if it goes too far. American history has shown competition to be healthy, but it has also shown that too much competition can be destructive. I believe it is necessary to rein in the more unproductive forces of competition, which are on the verge of going out of control. At the moment, the failure to exercise restraint will weaken our public policy credibility and will invite further unwelcome and intrusive regulatory actions by government. Strengthening the commonweal is not simply a noble idea, though nobility should surely justify it. It is an imperative if we are to be a social force in this Nation rather than mere vendors of educational services.

The choices we face today are rooted in a fundamental tension in American society that is a source of strength to our Nation but at the same time imperils our collective welfare. The tension is between the pursuit of individual goals and commitment to the collective good. In a concrete way, it is expressed as competition among organizations, groups, and industries, as opposed to cooperation to achieve larger, shared goals.

Surely, this country would not be the great and rich democracy that it is without its traditions of individualism and free enterprise. But neither society as a whole, nor higher education is best served by the unregulated pursuit of self-interest. I am dismayed by the now-popular notion that obedience to market forces is the best approach to public policy, economic life, or individual transactions. I am frightened by the growing public acceptance of the idea that these market forces will somehow sort things out and that the most economically and socially fit will survive.

Pulling against these competitive forces is the reality that we live in an increasingly global village where we must work together to reduce conflict and to see to the equitable distribution of resources. Redressing the balance between the individual and the larger society, between nationalism and the global village, between competition and cooperation, between the pursuit of our own self-interest and our responsibilities to others should be major agenda items for American society, and for higher education as well in the late 20th century. For I fear that if we do not attend to these values, we will undo much of the progress we have made in the last 200 years toward fulfilling the American dream.

America was born in a spirit of revolution and rebellion, and the pursuit of individual freedom has had an illustrious history in this Nation. We have leaned toward individualism, competition, and free enterprise. Beginning with the New Deal and extending essentially until the beginning of the Reagan Presidency, the United States took modest and halting steps in the direction of the cooperative or egalitarian approach. We are at a crossroad today.

The subject of individualism and the commonwealth has taken on a new urgency for all of us citizens and educators. We have a great deal at stake and the American people continue to be ambivalent about this issue. There are both encouraging and dangerous signs on the horizon.

The current administration, reflecting in part, but not entirely, the mood of the American people, has made its position clear. It has rejected the social welfare experiments of the previous 50 years, turning us backward toward what it believes is our historic free enterprise heritage in which the role of the Government is limited to national defense and to the delivery of the mail. The administration believes that the untrammeled pursuit of self-interest will give us more economic growth and a generally more productive society than would result from a more activist government.

The policies of this administration have clearly reflected a diminished commitment to investing in the overall social good—through education, through attention to the growing underclass in American society, and through other social programs designed to help those who, for whatever reason, have been deprived of their share of the bountiful American pie. As a result, during the first 4 years of the Reagan administration, the richest one-fifth of our families gained $25 billion in disposable income, and the poorest one-fifth lost $7 billion. Any society that concentrates 30 percent of the wealth in less than 5 percent of the population must seriously examine its definition of fairness.

The pursuit of self-interest will inevitably widen the gap between rich and poor, the educated and the uneducated, the powerful and the disenfranchised. A recent article in the New York Times pointed out that the growing polarization of our society and the rapid expansion of the underclass creates its own dynamic: The haves do what they can to avoid contact with the have-nots. The haves do not use public schools, parks, or mass transit, and thus they do not support expenditures for these services. As author Barbara Ehrenreich says, "If you send your children to private school, commute to work by taxi, and find your clean air at Aspen, you are likely to prefer a tax cut to the expansion of Government services."

By defining the common good as national defense, this administration has rationalized abandoning the individual and has chosen guns over butter. Reducing the Federal deficit has become a smokescreen. The administration helped to create the present deficit by vast increases in defense spending, coupled with an excessive 1981 tax cut. It has now proposed to solve the problem it helped to create by massive cuts in discretionary domestic spending. Discretionary domestic spending, only a small part of which is for education, did not cause the budget problem. It has been a declining share of federal spending for years and yet this administration proposes to balance the budget with that 17 percent of expenditures. Fortunately, the Congress does not agree. It is generally accepted on both sides of the political aisle that this budget problem will be solved by a combination of moderating growth in defense spending, moderating growth in entitlements, and levying a tax increase.

The administration's ideology and its budgetary priorities have made education a rhetorical bonanza but a low priority. The Congress, believing that the administration has misread the American people, has saved the Federal role in education from destruction, but there has been steady erosion. The result is not only a lesser Federal role, but a misplaced notion that education is simply a transaction between an institution and somebody called a consumer. Yet, our heritage reflects the very strong conviction that society benefits in countless ways from an educated citizenry.

There is much that is great about the American higher education system. No other country provides so many opportunities for so many to learn. The diversity of our system makes it a rich resource not only to students but to the entire Nation. But we urgently need to get our own house in order, to sort out our struggle with the conflicting values of competition and the commonwealth. Higher education is not immune to self-interest or less than lofty behavior. The world of scarcity in which we find ourselves has clearly driven us too far in the direction of unhealthy competition. Students are scarce for many institutions because of inexorable demographic trends. The faculty, staff, and facilities remain static in size and are aging. A dwindling of financial resources has aggravated the problem and brought institutional self-interest, if not survival, to the forefront.

And these pressures have driven some institutions to behaviors that are not only unbecoming to our mission, but which ultimately will weaken the entire higher education enterprise. Let me cite a few examples.

The competition for high achieving traditional-age students has become unseemly. Recruiting has become expensive and flashy. The cost of attracting students continues to escalate and every dollar spent on recruiting reduces what can be spent on instruction. These days, recruiting has taken a new twist as we compete with each other for the better student with lures of financial aid. I believe that there is nothing wrong with wooing good students by offering financial aid on a basis other than need, but when the bidding war becomes so expensive that it cuts into academic quality or into the ability of institutions to attract and aid the neediest students, it has gone too far.

Competition has also obscured our vision of purpose and misguided many 4-year institutions to embrace a single model of excellence—that of the research university. It is understandable that we would have this as an ideal since most faculty members attended such institutions where their graduate school mentors were the research-oriented and highly-published barons of their field. When these faculty members find them-

selves in what should be a teaching institution, they often behave as though it were a research university, in part because they are rewarded for doing so. All too often, the incentive and reward system in teaching institutions looks suspiciously like that of research universities. Responsibility for this problem resides as well with the academic administrators, chancellors, and presidents who too often embrace the single model of excellence and enter the bidding wars for superstar professors, who reward research more than teaching, and who initiate graduate programs despite the surplus of Ph.D's in most fields. I am by no means arguing that undergraduate teaching institutions should not engage in graduate and professional education, but rather that we need multiple models of excellence which reflect pluralistic educational goals and social demands.

The single model of excellence promotes internecine warfare among institutions, particularly in the public sector where the regional State universities try to emulate the flagship institutions in the hope of improving their share of State funding. While institutional leaders have resented externally-imposed efforts to distribute programs and centers of excellence around State systems, the logic is compelling that not all institutions can excel in all areas. We must recognize this and act voluntarily to target our institutional efforts and resources. Control of the free market will enable undergraduate State institutions to truly excel in undergraduate instruction, for that is simply not the forte of research universities. To a lesser extent, the single model of excellence problem is found in some community colleges which look to the 4-year institutions for their models of excellence as the regionals look to the research universities.

More pernicious fallout from the single model of competition is found in athletics. There is an assumption that good universities offer big-time athletics. Thus to be a "real university," an institution must offer Division 1 sports. Rather than orienting athletics to maximizing student participation in intramural and club sports, institutions striving for this single model invariably seek the holy grail of athletic prominence. A president or governing board usually sends strong messages to that effect to coaches whose jobs depend on producing what the bosses want.

Some problems associated with competition haunt us over time. The tension between public and private institutions is not a new issue, but it has worsened in recent years. Private institutions are now heavily dependent on Federal financial aid funds and are increasingly aggressive in obtaining State dollars. Hard-pressed State institutions resent this, especially the increasing access of private institutions to the State treasuries. The resultant escalation of conflict has caused considerable bitterness in many States. That bitterness is aggravated by the increasing success of public institutions in private fund-raising, formerly the exclusive domain of independent institutions.

Competition has escalated the war among institutions of all kinds to obtain earmarked Federal appropriations. Partly to blame is the fact that for many years, there have been too few Federal programs with too few dollars to support physical facilities and equipment. The success of a few institutions, often assisted by very high-priced Washington lobbyists, has encouraged others to compete individually. This has buttressed the growing conviction on the part of the "have-not" but aspiring institutions that their potential for greatness—as determined by the single model of excellence—is being systematically thwarted by the peer review systems for distributing Federal science funds. The allegation against the peer review system, which is dominated by the faculty of research institutions, is that it is not a merit review but simply a closed club, whose members come from 100 research universities, and who hand out money to each other. Those institutional leaders that believe that their campuses cannot successfully compete in that arena not surprisingly are tempted to seek legislative redress.

Finally, our notions about leadership have fallen prey to the single model of excellence. It is no accident that the majority of our leaders have the same profile: White males who have emerged from the faculty ranks. Surely, that is only one model of leadership. Women, minorities, individuals with nontraditional credentials are still seen as different, as other in a system that has defined the norm by a subset of its people. Leadership in higher education must reflect its current and growing diversity, its staggering complexity. The single model no longer serves us well.

Where does all this lead us? We educators excel in stating and restating the problem. Practical solutions are harder to come by. It would be premature and presumptuous to end today with a series of proposed solutions, but it is certainly not presumptuous to begin the process of formulating them. And as ACE members, you have choices to make about the role ACE plays in renewing higher education's commitment to collaboration for the common good.

Earlier, I referred to the paradoxical nature of ACE—as an organization of leaders and followers, speakers and listeners. It also serves as a two-day conduit, both representing the interests of our constituents to Government officials and communicating to institutional leaders the concerns of those who make public policy. On the one hand, we work to fulfill your expectations of keeping Federal dollars flowing with a minimum of regulatory intrusion, of defending self-regulatory mechanisms in accreditation or in athletics. On the other hand, we have an obligation to inform you on campuses of the concerns of those public policymakers about how the higher education enterprise is managing itself. The depth of their concerns and some of the proposals they set forth indicate that Congress—and the voters—believe that competition has gotten out of hand. The Higher Education Act reauthorization contains a number of provisions that signal a public loss of confidence in our ability to police ourselves. For example:

There will be a National Commission on Family Responsibility for financing postsecondary education, reflecting the belief of some Members of Congress that too many families who are able to pay for their children's education are not doing so and that the present financial aid system offers no positive incentives for saving for college.

The reauthorization proposes that students receiving Federal aid must have a C average or an institutionally-determined standard of satisfactory progress. While not a particularly intrusive provision, this does reflect the belief on the part of some of our friends that our progress standards are inadequate.

Institutions receiving Federal financial aid will have to certify that they have a viable drug abuse program.

The Secretary of Education will be required to conduct a study of the escalating cost of higher education and recommend legislation, thus raising the specter of Government measures for cost containment in our institutions.

A Joint Study Commission on Accreditation will be created, which is a clear statement that voluntary accreditation—our most important self-regulatory instrument—is not satisfactorily addressing minimum standards or educational outcomes.

A drug bill which passed the House calls for a politically appointed national commission to look at abuses in intercollegiate athletics.

The time is past when ACE can simply bring the earnest message from our members to the public, to Government officials and to lawmakers: "Trust us." Things have simply gone too far, our house is too conspicuously in disorder. That message will have to be accompanied by evidence that we are grappling with issues of containing our prices, measuring our outcomes, and assessing and ensuring the quality of our institutions.

And that brings me to a second aspect of the ACE dichotomy. ACE is both the voice of the diversity of our constituents and an organization that provides leadership for our constituents. That means that at times our decisions will be difficult, our stands will be unpopular with some of you. We have difficult tasks ahead, positions and actions to take that do not lend themselves to easy consensus among our very diverse membership. Thus, for ACE to represent all the interests of higher education while developing equitable and meaningful solutions is our great challenge. Few policies or strategies can satisfy everyone; satisfying the common denominator produces solutions at such a level of generality and banality as to be meaningless. Yet practical solutions with teeth are bound to alienate some constituents. So we found when ACE presidents met to work on the problem of collegiate athletics. The outcomes of that process clearly made some of our members angry. Yet the strategies you embrace to strengthen the commonweal raise the fundamental question of your expectations of ACE and of yourselves as citizens of the higher education community. ACE is the only national forum that brings together presidents and chancellors from all segments of higher education. As such, it is uniquely suited to the task of devising cooperative solutions to strengthen the commonweal.

But the question that I put before you today is whether you have the will to confront the tough issues and the commitments to sacrifice individual institutional interests, or the interests of the various segments of higher education, in order to forge a new agenda. It is now up to you, the ACE members, to decide if you will mobilize and take action, with all the attendant risks, or if you will continue our current course of fragmentation and avoidance. You can expect ACE to work toward building the consensus which is so essential on so many issues, but I hope that you will also expect us to take risks, step on a few toes, and prod this wonderfully diverse community to become even better.

TRIBUTE TO QUEEN MARLA AND THE TYLER ROSE FESTIVAL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. HALL of Texas. Mr. Speaker, in these troubled times when much of the world is tormented by violence, it is refreshing to know that beauty still abounds in out great country, and especially in Tyler, TX, where Texas Rose Festival Queen Marla Kathryn Hughes is opening the Tyler Rose Pageant as we meet this afternoon.

This beauty is no more evident than in Tyler, TX, the "Rose Capital of the World" where the beauty of the roses, our national flower, is annually celebrated. The festival this year is especially important because Congress and the President have officially adopted the rose as the Nation's flower.

For many years Tyler has been known for its production of field-grown rose bushes. It continues to be the Nation's largest rose bush growing area, producing some 20 million bushes annually, more than 50 percent of the national supply; thus highlighting the signal honor bestowed on the beautiful Queen Maria.

Tyler will again host the Texas Rose Festival October 15 through October 19 with 4 days of pageantry. Marla Kathryn Hughes, daughter of Mr. and Mrs. W.M. "Bill" Hughes of Tyler, is the reigning queen of the 1986 Texas Rose Festival. She is a sophomore business major at Baylor University in Waco, TX, where she served in the Freshman Leadership Organization and is a member of Pi Beta Phi sorority.

Queen Marla, a beauty with dark brown hair, light blue eyes, and standing 5 feet 7 inches tall, is not only a lovely lady but is also blessed with inner beauty. Upon being selected as the 1986 queen, she said: "The honor of serving as the 1986 Rose Queen will forever be a high point in my life." She was born in Tyler and has taken part in many Rose Festivals in the past. She is a leader in her church and plays piano for her greatest form of entertainment.

Each year the Rose Festival invites a host of young ladies from all over the world to become dutchesses and represent their country or hometown. These ladies are to be joined by a collection of local Tyler girls who serve as ladies-in-waiting with the queen and make up the queen's court. Queen Marla has decreed that every one of the out of town dutchesses and her family will be assured of a warm welcome and a fun-filled festival by her court. This same provision will be extended to all visitors to the 1986 Texas Rose Festival by the community of Tyler. She especially welcomes visitors and guests to come and enjoy, not only the festival, but this loveliest of cities, Tyler, TX, the queen's hometown.

The purpose of this speech is to congratulate the city of Tyler, the Tyler Rose Festival Committee, the county of Smith, and all of east Texas—for reflecting and sharing God's gift of beauty that abounds there—and especially for sharing the loveliness, the grace, and the eloquence of our beautiful Queen Marla Kathryn Hughes—during this festive occasion.

Mr. Speaker, I ask, that as we adjourn Congress this 16th day of October, that we do so in honor of Queen Marla and the Tyler Rose Festival.

UNFINISHED BUSINESS: PLANT CLOSING

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. BIAGGI. Mr. Speaker, for more than 10 years now, Congress has considered measures aimed at easing the negative impact of plant closings on local economies and the workforce. This Congress was no exception. On November 21, 1985, this body considered, but failed to pass a bill (H.R. 1616) that would have required 3 months' prenotification to workers prior to plant closings or indefinite layoffs extending for longer than 6 months.

So, the issue of plant closing prenotification will once again go into the history books as "unfinished business" of yet another Congress. As a ranking member on the House Education and Labor Committee I would strongly urge that this issue be revisited early in the 100th Congress. My plea comes from firsthand exposure to the problem. In 1983, the Otis Elevator Co., which is owned by United Technologies Corp., closed its plant in my home district of Yonkers (NY) after operating there for more than 130 years. Most of the 1200 Otis workers—some of whom had been with the company 30 and 40 years—were caught by surprise; and needless to say, the substantial number of lost jobs and tax dollars has left the city of Yonkers still reeling in the wake of the Otis plant closing.

However, poorly handled plant closings are not unique to Yonkers. A General Accounting Office survey of plant closings that occurred during 1983 and 1984 found that a mere 9 percent of companies gave advance notice of 3 months or more before a permanent shutdown. Moreover, approximately one in four workers discovered their termination on the day they lost their jobs. Nearly two-thirds of blue-collar workers received just 2 weeks or less notice.

Mr. Speaker, these and other deeply troubling statistics are contained in a report prepared earlier this year by the Industrial Union Department of the AFL–CIO. It clearly points to the need for a basic and reasonable national policy on the issue of plant closings. This should be at the top of next year's legislative priority list.

At this time, Mr. Speaker, I wish to insert the full text of the Industrial Union Department's report on plant closings, entitled "Advance Notice: An Emerging Consensus":

ADVANCE NOTICE: AN EMERGING CONSENSUS

There have been several important studies which confirm the importance of advance notice and demonstrate that the majority of workers facing a layoff or plant closing are provided either no or very little notice.

CONFERENCE BOARD

The Conference Board recently concluded a study on business practices regarding plant closings. This study (pp. 7–8) points out:

Both survey and interview participants note that advance notice is beneficial to employees and is an essential element in a plant-closure program. This finding concurs with other studies . . . Notice is also critical because a functioning plant is, perhaps, the program's single most important resource.

Regarding the practice of advance notice, the Conference Board finds:

Company managers responsible for closure believe that advance notice, combined with generous severance plans, reduces pressure and anxiety, generates good will, and contributes to improved productivity.

The Conference Board study also notes that most companies offering retraining or outplacement services also provided at least three months notice. Those giving less notice tended to restrict their programs to salaried workers.

GENERAL ACCOUNTING OFFICE

The General Accounting Office (GAO) has just released a preliminary report on "U.S. Business Closures and Permanent Layoffs During 1983 and 1984." The findings regarding the number of workers receiving little or no notice are astounding (see the attached tables from the report). The report distinguishes two types of notice—a "general" notice which "does not specify the exact date or the particular workers affected" and a "specific notice" which informs particular workers their date of termination. The GAO surveyed establishments with over 100 employees which closed during 1983 and 1984.

The GAO's findings regarding plants which closed or had permanent layoffs are:

General Notice—For blue collar workers, nearly 25 percent of the establishments provided no notice, while 55 percent gave notice of two weeks or less.

Specific Notice—Twenty-three percent of the establishments provided no specific notice to their workers. That is, nearly one in four workers discovered their job loss on the day they lost it. Thirty percent of the establishments gave blue collar workers no notice of their impending layoff.

More than Three Months Notice—Only nine percent of the establishments gave specific notice of at least three months. General notice of more than three months was given by 18 percent of the establishments.

Union versus Nonunion—Twenty-nine percent of nonunion establishments provided absolutely no notice.

Unionized employers, however, gave no notice sixteen percent of the time. On average, nonunion establishments provided three days specific notice, while unionized establishments provided 14 days specific notice.

Closures—Of facilities that closed, only 32 percent provided their workers more than three months notice.

BUREAU OF LABOR STATISTICS

Some information on notice is available from the Displaced Worker Survey conducted by BLS in January, 1984. A recent study of this data was conducted by the Department of Labor.

The BLS survey defined dislocated workers as those workers over 20 years old who "lost or left a job because of a plant closing, an employer going out of business, a layoff, from which (they) were not recalled, or other similar reason."

The survey showed that 11.5 million workers were displaced in the years 1979 through 1983. The DOL study focused on the 9.5 million full-time workers who were displaced (5.8 million blue collar and 3.8 million white

collar and service workers). In this survey, each respondent was asked "Did (you) expect or had (you) received advance notice of a layoff or a plant or business closing?" The percentage of workers having either an expectation or formal notice of job loss is as follows:

Blue Collar: Male, 53.9 percent; Female, 55 percent.

White Collar and Service: Male, 50 percent; Female, 52.4 percent.

Thus, only half of the displaced workers had any suspicion that they were about to lose their jobs. The number that received formal advance notice is not known but clearly must be less than half. Unfortunately, this survey does not tell us the amount of notice (weeks or months), either formal or otherwise, that workers had.

Other tabulations (see attached table) from the BLS survey indicate that no group of workers received notice or expected their layoff to any great extent. At least 44 percent of the following groups had no expectation of layoff: workers with more than three years tenure on the job, workers whose plant closed, manufacturing workers, workers who were from 30–39, 40–49, or 50–61 years of age.

CONCLUSION

There have now been several studies based on representative samples of workers and establishments. These studies overwhelmingly point out that the vast majority of workers receive inadequate notice. Moreover, there is a broad consensus that advance notice is an essential element of a plant closure program.

ADVANCE NOTICE AMONG PRIVATE SECTOR WORKERS DISLOCATED BETWEEN 1979 to 1983 [1]

[In percent]

	Received advance notice or expected layoff	No notice or expectation of layoff
By type of layoff:		
Plant closing	56.6	43.4
Other layoff	46.4	53.6
By tenure:		
Three years or more	55.5	44.5
Less than 3 years	47.0	53.0
Manufacturing	53.9	46.1
By age:		
30–39	55.7	44.3
40–49	54.9	45.1
50–61	52.5	47.5

[1] Tabulation from the January 1984 BLS Dislocated Worker Survey.

[Attachment V]

NUMBER AND PERCENT OF ESTABLISHMENTS PROVIDING VARIOUS LENGTHS OF GENERAL NOTICE BY TYPE OF WORKER

Days	White collar		Blue collar		Overall	
	Number	percent	Number	percent	Number	percent
0	67	23	65	24	62	20
1 to 14	60	21	85	31	75	25
15 to 30	54	19	48	17	60	19
31 to 90	51	18	37	14	53	18
91 to 180	30	11	19	7	29	10
181 or over	22	8	19	7	23	8
Total	284	100	273	100	302	100
Missing value	71		82		53	
Total	355		355		355	

Reprinted from GAO Preliminary Analysis of U.S. Business Closures and Permanent Layoffs During 1983 and 1984.

[Attachment VI]

NUMBER AND PERCENT OF ESTABLISHMENTS PROVIDING VARIOUS LENGTHS OF SPECIFIC NOTICE BY TYPE OF WORKER

Days	White collar		Blue collar		Overall	
	Number	percent	Number	percent	Number	percent
0	72	26	77	30	66	23
1 to 14	76	28	92	34	92	31
15 to 30	53	19	41	16	57	20
31 to 90	46	17	33	13	50	17
91 to 180	18	7	13	5	19	6
181 or over	9	3	4	2	9	3
Total	274	100	260	100	293	100
Missing value	81		95		62	
total	355		355		355	

Reprinted from GAO Preliminary Analysis of U.S. Business Closures and Permanent layoffs During 1983 and 1984.

CORPORATE FINANCIAL STATEMENTS AND THE TAX BILL

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. GEPHARDT. Mr. Speaker, I rise today to indicate my concern regarding the actions of the Financial Accounting Standards Board relating to the tax reform measure recently passed by the House and Senate.

Under current accounting standards, any of the changes in the tax reform bill must be reflected in the corporate financial statements in the year the legislation is enacted, that is, 1986. As a result, some corporations will have to reduce earnings and net worth in 1986. For many corporations, the possible adverse effects they might experience from certain changes in the bill would be more than offset if the book provisions for deferred taxes payable in 1987 and later years were adjusted to reflect the fact that the rate at which those taxes will in fact be paid will be substantially less than that provided for in the deferred tax account. It is important that the enactment of tax reform not unnecessarily have an adverse effect on corporate financial statements.

I know my colleagues share my belief that the Financial Accounting Standards Board and other regulatory bodies and agencies should take into account all of the financial effects of tax reform—including the positive effects of tax rate reduction—when drafting accounting standards and regulations for 1986 and later years.

ALLERTON CO-OPS ENTERED IN REGISTRY OF HISTORIC PLACES

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. SCHEUER. Mr. Speaker, the Allerton Co-ops have been named to the National Registry of Historic Places, a designation which marks their significance in architectual and social history. The Allerton Co-ops unique history and cooperative ownership of apartments is being recognized as a forerunner in what today is a growing trend.

Founded by the United Workers Cooperative Association, the 700-apartment complex on two square blocks at Allerton Avenue and Bronx Park East was built as a nonprofit cooperative between 1926 and 1929 for Jewish needle trade workers, many of whom had been living in stifling Lower East Side tenements.

The United Workers shared a Socialist political ideology which carried over to the management of their buildings as well as the unique lifestyle they developed there. The complex, the first cooperative in the Bronx and a forerunner in the worker cooperative movement, was built without philanthropy. Instead it was built and run, not for profit, but for the service of the occupants. Residents shared more than just an address; they shared a social network, a tightly knit community and a way of life. The cooperative also sponsored a nursery for the children of working mothers, as well as cooperative stores on Allerton Avenue, and several clubs for children and adults, whose members gathered in basement meeting rooms provided for this purpose.

While some of the original members still live at the co-ops, the buildings have been privately owned since 1943 when the Workers Colony Corp. was dissolved due to insolvency and the effects of the Depression. Other cooperative housing projects, however, greatly benefited from the experience of the Allerton Co-ops. The co-op buildings remain today as the physical manifestation of an important chapter of American socio-political history.

FEDERAL AND POSTAL ADVISORY COMMITTEE PROVIDES INVALUABLE HELP

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. MORRISON of Connecticut. Mr. Speaker, as the 99th Congress comes to a close, I rise to express my thanks to a particular group of individuals in my district who have helped me greatly over the past 4 years. These are the members of my Federal and Postal Advisory Committee.

In a time which has been marked by unfair and unfortunate attacks on the rights, job benefits, and working conditions of these employees, I have been extremely fortunate in having the benefit of the cooperation and information provided to me by the members of the committee to fight these attacks.

I believe that it is essential that Members of Congress be knowledgeable of the circumstances of Federal workers and supportive of the notion of the Federal Government as a first-class employer. As the board of directors of the Federal Government, we owe our employees the respect and support that will enhance their morale and performance on behalf of our constituents.

Credit for the creation and successful operations of my advisory committee is especially

due to John Dirzius, president of the Greater Connecticut Area Local of the American Postal Workers Union. Beginning after my election to Congress in 1982, John spearheaded the effort to create this group and begin the ongoing process of meeting with me and my district staff to discuss and act on both State and local problems faced by Federal and postal workers and retirees, such as workers compensation, contracting out, pension benefits, and collective bargaining rights.

Also very active in the creation and development of the advisory committee have been Jim Halligan, who recently retired as president of Branch 19 of the National Association of Letter Carriers Union, and Peter Grossi, former president of American Federation of Government Employees First District and now national vice president of AFGE's District 1. Federal and postal workers in my district are fortunate to have had the leadership of these able and articulate spokesmen.

Mr. Speaker, this administration has made no secret of its desire to cut Federal and postal benefits and to let inflation reduce wage scales, and has consistently tried to make Federal and postal workers and retirees the scapegoats for the budget crisis. I am proud of my record of working to block these attacks, and to have had the help and support of such committed and effective associates at home in Connecticut. I commend the creation and use of such advisory committees to my colleagues.

THE SECOND ANNUAL CONFERENCE ON GAMBLING BEHAVIOR

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. BORSKI. Mr. Speaker, the expansion of legalized gambling in the United States has led to increased concern about the problem of compulsive gambling, and its impact on our society. Since 1972, the National Council on Compulsive Gambling has served as a disseminator of information on gambling as an illness and as a public health problem.

In November, the Pennsylvania Council on Compulsive Gambling and Valley Forge Medical Center and Hospital of Norristown, PA will sponsor a national gathering to address the social, economic, and business issues involved in the gaming industry.

This meeting, the Second Annual Conference on Gambling Behavior, will bring legislators, administrators, educators, researchers, criminal justice personnel, and other professionals to Philadelphia to address these serious and timely concerns.

Mr. Speaker, I wish to bring this important conference and this issue to the attention of the Congress, and to encourage greater public awareness about the problem of compulsive gambling.

UNIONIZATION WINS A ROUND IN THE SOUTH

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. HAYES. Mr. Speaker, on Friday, October 10, a large majority of the 1,050 workers at Delta Catfish Processors, Inc., in Indianola, MS, voted in a National Labor Relations Board election to make the United Food and Commercial Workers International Union [AFL–CIO] their collective-bargaining agent. That vote is extremely significant.

It took place in the Mississippi Delta, which is an area considered unfriendly to union organizing. The workers are overwhelmingly black, poverty stricken, and concerned about losing their jobs. The company launched an extensive and expensive campaign to beat the union.

Yet, the UFCW, won 58 percent of the vote.

Mr. Speaker, I know the UFCW well. Before coming to Congress, I was one of its vice presidents and regional directors. I spent virtually all of my adult years in the service of the UFCW and its predecessor unions.

It is an excellent organization which is strong, smart, and pragmatic. It never forgets its purpose, which is to improve the wages and working conditions of workers. It bargains hard on behalf of its members and works hard to see that the contract is observed. But it, too, tenaciously observes the letter of its contracts and its every agreement.

Mr. Speaker, I sincerely hope that Delta Processors will negotiate in good faith with the UFCW. I hope the company's antagonism to the union can be put away. I hope a new era can come to the Delta which will improve the conditions of the workers and everyone else in the area.

I have already talked with the UFCW about the need for agreement and harmony. It agrees. It will do its utmost to negotiate a mutually satisfactory agreement.

Mr. Speaker, I ask unanimous consent to place in the RECORD the news story from the Washington Post of October 12 concerning the NLRB vote at Delta Pride.

[From the Washington Post, Oct. 12, 1986]

UNIONIZATION WINS A ROUND IN SOUTH

(By Peter Perl)

INDIANOLA, MS.—Just 24 hours before the largest union organizing vote ever held in the Mississippi Delta, the owners of Delta Catfish Processors Inc. brought out their final persuaders: hundreds of pounds of barbecue and $182,000 in cash, escorted to the plant by five Sunflower County sheriff's cruisers in an armored truck.

This was the final salvo in a bitter, year long attempt by the company to persuade its 1,050 workers to vote against forming a labor union. The pile of cash represented the money the company said workers would be squandering in dues over the next year if they formed a union.

In case the work force—90 percent of it black—missed the message, Delta Catfish had hired Mayor Charles Evers of Fayette, brother of slain civil rights leader Medgar Evers, to urge the workers to vote no, explaining that they didn't need unions and could use the $182,000 for better purposes than dues. Evers was paid a speaker's fee by the company.

Delta Catfish then allowed workers to leave work early to prepare for a gala preelection company barbecue. The evening featured live entertainment, all the ribs-and-fixings employees could eat, prizes including cash and a color television set, antiunion literature, posters and vote "NO" baseball caps.

But when the election results were tabulated late Friday night by the National Labor Relations Board, the AFL–CIO's largest private sector union scored one of the biggest victories ever among black workers of the Deep South. With a 90 percent voter turnout, the union received 58 percent of the vote and will now begin trying to negotiate a labor contract with Delta Catfish.

The United Food and Commercial Workers Union (UFCW)—building an unusual coalition with black clergy, business people and civil rights leaders—overcame an intense and well-funded antiunion campaign that the NLRB charged included firings of prounion workers, threats, surveillance and other illegal practices. The company denied the charges.

"This is the beginning of a second era of civil rights for us here. We are going past public accommodations and the right to vote, and looking at economic power. We have let management and the power structure have the money," Cleve McDowell, state field director of the Mississippi NAACP, said yesterday.

". . . We joined this campaign because here was a labor union finally doing what we had always hoped they would be doing. I hope this will be a signal to unions all over the country that black people are important, and poor people in the Deep South need help, too," McDowell said.

The AFL–CIO has long been active in supporting civil rights, "but unions didn't do it inside their own union halls," which remain overwhelmingly white, said Willie Baker, vice president of the 1.1 million-member UFCW. Baker, who is one of the highest-ranking blacks in organized labor, said, "We are reaching out in new directions," particularly in historically antiunion southern states where UFCW plans to expand.

Baker joined the UFCW after he was involved in the 1960s civil rights battles to integrate public accommodations on Maryland's Eastern Shore while he was a University of Maryland student. In the Mississippi union campaign, he was among a team of 22 organizers, most of them black, who were dispatched from around the country to Indianola.

The union drive began after UFCW conducted an unusual direct-mail solicitation last November that targeted more than 100,000 homes in the Delta, in a state that ranks 48th in union membership at 9 percent of the work force.

The campaign at Delta Catfish was fueled by complaints of pay averaging about $3.90 an hour, heavy-handed discipline, including punishment for unauthorized bathroom visits, lack of sick leave, and other issues including the absence of doors on toilets.

Catfish workers, who kill, fillet and freeze up to 400,000 pounds a day, were sometimes required to punch out when the plant ran out of fish, and wait, unpaid, for the next truckload. The union filed a lawsuit last week alleging violation of federal wage laws and is seeking a $6 million payment for workers.

Living in a motel for the past nine months, members of UFCW's organizing

team used a computer installed in a motel "war room" to aid them in mailings, in tracking the leanings of each worker and in making house calls. They made hundreds of visits to public housing projects, backwoods cottages and churches to try to persuade workers that a union could give them power to raise wages, improve benefits and working conditions and create "dignity on the job."

The union, which estimated it spent nearly $500,000, also attempted to sell the black community on the idea that unionism could provide everyone a boost through a sort of "trickle-up" version of economics: If the UFCW could succeed in putting a little more money in the pockets of workers, every local business would benefit.

"This is still a plantation-type economy," Baker said. "We have emphasized that low-income workers are spending 99 percent of their wages at every corner store, supermarket and barbershop . . . and they all stand to benefit."

The union message hit home to people such as the Rev. Edward Shields, who is the pastor of Mount Carmen Baptist Church and the proprietor of Soul Brothers Barber Shop. Shields, who also hosts a local Sunday radio show, said he is one of four local ministers who has preached support of unionism on moral and economic grounds.

"People are getting unfair treatment. Conditions are bad and pay is low. . . . People are tired of doing two men's work for a half-man's pay," Shields said. As a shop owner, he said, "These workers have put money in my pocket and steak on my table, and I should help put some money in their pockets."

That money, however, would come at the expense of Delta Catfish, a company owned by about 160 Delta farmers who are the heart of the white business establishment. Delta hired Kullman, Inman, Bee & Downing, a prominent New Orleans law firm that specializes in defeating unions. An antiunion campaign of radio ads, mailings and posters throughout the plant highlighted the threat that voting for a union could lead to strikes, layoffs and possibly a plant-closing.

Sales of "farm-raised" catfish, grown in more than 70,000 acres of man-made ponds, has grown remarkably in the Sun Belt. Catfish, in just a decade, has become a $300-million-a-year business and has made Delta Catfish the largest employer in Sunflower County. Catfish is the third-largest farm crop in the Delta, behind cotton and soybeans.

"We do not need a union," said Samuel I. Hinote, president of Delta since its founding in 1980. "We have done more for our employes than any company around here." In a highly competitive business, he said, union demands could jeopardize the firm's future. Starting from minimum wages and no benefits, Hinote said, Delta now offers better wages than comparable firms, a Christmas bonus of a week's pay, a one-week vacation, a health plan and a life insurance plan that Hinote said he started "after some workers died and couldn't even afford a funeral."

Hinote, whose firm posted five-foot posters showing union officials' income of up to $100,000 a year, portrayed the UFCW as being primarily interested in workers' dues and accused the union of raising "dignity" issues only to stir up racial discontent. "We have made some mistakes in labor-management relations, but it has been blown out of proportion," he said, when compared to Delta's record of creating 1,000 jobs in a county that has 18 percent unemployment.

The NLRB regional office accused the company of illegally firing eight union supporters and asking employes to spy on their colleagues' union activities as part of a "coordinated and orchestrated effort" to defeat the union. A hearing is scheduled for December.

"A lot of people were really scared of losing jobs", said Diane Williams, a filletcutter who became a union activist. "People were very concerned. But they were more tired of being pushed around and treated like kids. . . . We believe in what we are doing."

SOUTH AFRICA'S POLICY ON APARTHEID

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. MAZZOLI. Mr. Speaker, American citizens—from all walks of life—have joined together in protest of the repugnant human rights policy of apartheid in South Africa. Through such actions as embassy pickets, demonstrations, and vigils, they made their voices heard. The message was loud and clear, the American people would no longer stand idly by and passively accept apartheid.

This message did not fall on deaf ears here in Congress. Last month, Congress approved legislation which imposes economic sanctions against the South African Government. Among other things, the measure bans new loans and investments in South Africa, imposes a trade embargo against certain South African goods, and denies landing rights in the United States for any South African-owned airline.

The President vetoed the measure. However, I am proud to have joined the overwhelming majority of my colleagues in the House and Senate in voting 313 to 83 to override the Presidential veto.

Some argue the measure is too strong and rigid, while others say it is too weak. All in all, I feel that the program is a step in the right direction and expresses a balanced reaction of the United States to apartheid.

South Africa's policy of racial segregation is unacceptable not just by United States standards but by world standards. And the world is watching us. We as a nation cannot take the posture of the ostrich and bury our heads in the sand, hoping the challenge will pass us by. We must continue to make clear our objection to the abominable human rights policy of apartheid, as well as confirm our commitment toward its abolition.

OUTSTANDING SUCCESSES ACHIEVED BY WASHINGTON AND JEFFERSON COLLEGE

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. MURPHY. Mr. Speaker, in this time of enrollment declines in higher education and increasing competition for financial support from both the public and private sector, I am pleased to call attention to an independent college from my district which has achieved outstanding successes in both enrollment and support.

Washington and Jefferson College, the 11th oldest college in the United States, announced this past weekend that their Century III Fund Program has surpassed its $10 million goal. Relying on the voluntary support of alumni and friends who believe in the value of a traditional liberal arts curriculum, Washington and Jefferson College sought $4.5 million in support for the endowment of faculty excellence, curriculum development and scholarships, $4 million for the renovation of four buildings which have played central roles in the 205-year history of the college, and $1.5 million for support of current operations.

Through the generosity and special commitment of its donors, W&J has been able to meet its $10 million goal in only 2 years—1 year ahead of schedule. At the same time, the college has received a $1 million gift from an anonymous benefactor in the form of a one-for-two challenge: In order to receive the $1 million gift, W&J alumni and friends must contribute an additional $2 million. By successfully meeting this challenge, and the challenge presented to the college in 1985 through the Endowment for the Humanities, W&J's Century III Fund will pass the $13 million mark, and may exceed $15 million.

This record of achievement represents votes of confidence by donors in the programs and goals of Washington and Jefferson College.

I am also pleased to learn that Washington and Jefferson College has welcomed one of the largest freshman classes in its history this fall. W&J is listed in the New York Times Guide to competitive colleges and in the highly respected Peterson's Guide to competitive colleges, and this fall's freshman class maintains the W&J tradition of academic excellence.

I am submitting an article from the Observer-Reporter Newspaper of October 11, 1986.

REACHES CENTURY III FUND GOAL—A YEAR AHEAD OF SCHEDULE

Washington and Jefferson College has exceeded the $10 million goal in its Century III Fund—one full year ahead of schedule.

Kenneth M. Mason, chairman of the Board of Trustees at W&J, made the announcement Friday as part of W&J's annual homecoming activities. Mason noted that the college is entering a special challenge-grant phase that could raise the Century III Fund to more than $13 million.

Speaking to an alumni group, Mason said the $10 million Century III Fund goal is the largest in W&J's history. The fund timetable called for the goal to be reached in three or more years.

"I am pleased to announce today that, though the special commitment of W&J alumni and friends, the goals of the Century III Fund are fully subscribed," Mason said. "We are most encuraged that the goals have been reached in only two years."

Mason also announced that W&J has received a $1 million gift from a friend of the college that will be used to stimulate additional support for the Century III Fund goals. The gift will be matched on a two-for-

one basis by gifts from alumni and friends, thus generating an additional $3 million.

Combined with the support already received, the Century III Fund would pass $13 million, making it the most successful fundraising effort in the college's 205-year history.

"W&J entered the Century III Fund program with the realization that sustaining and further developing already strong progams in athletics, academics and student services require an increasing financial commitment," said Mason. "Through the unprecedented success of the Century III Fund, W&J will be able to continue its record of excellence."

The Century III Fund goals included $4.5 million for faculty, scholarship and curriculum endowment; $4 million for renovation of Thompson Memorial, Administration Building, McIlvaine Memorial and Old Main; and $1.5 million for operating support.

In making the announcement, Mason pointed to the leadership roles played by Leo Wright of the Class of 1952, who is serving as campaign chairman; Ronald Sandmeyer, Class of 1957, leadership gifts chairman;/ and Anica Rawnsley, memorial gifts chairman.

VISUAL ARTISTS RIGHTS AMENDMENTS OF 1986

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. MARKEY. Mr. Speaker, today I am introducing legislation to strengthen the copyright protections for artists of pictorial, graphic, or sculptural works. It addresses problems which affect not only the visual arts community but all of us who have an appreciation for the arts.

The Constitution is the basis for our copyright laws. Article 1, section 8 states that the Congress shall have the power to "promote the Progress of Science and useful Arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." Unfortunately, unlike the great strides made to bring copyright protections up to date with new technology, little has been done to protect the rights of visual artists.

This bill has three major components. First, it would give artists the legal right to claim authorship of publicly displayed works or disclaim authorship of such works where they have been altered. This would codify in Federal statute provisions presently in force in several States, including Massachusetts, New York, and California. Under current law artists are discouraged from participating in outdoor displays of artwork because there is no protection or remedy under law in most States for destruction, mutilation, or distortion of their work.

Along with the right to claim or disclaim authorship due to tampering, the artist would be able to seek compensation for the wrong. This remedy is available to writers, computer programmers, and other creators. There is no reason for neglecting the visual artist.

Second, the bill addresses a related area of copyright law concerning the aesthetics of artwork. The bill would exempt an artist from the requirement to display the copyright seal on the outside of the creation. The artwork would still have to be registered with the copyright office thus preventing any mistake in authorship.

Third, this bill would establish royalty rights for the visual artist. This is a common economic principle applied to other creative endeavors, which gives the author the right to claim a small percentage of the increased value of a work when it is sold. As it now stands, artists often find that paintings or sculptures completed years ago have become quite valuable and are now bought and sold by dealers and collectors for far more than the original price. The bill would provide the artist a small but significant financial benefit from the increasing value of the artwork.

The rights granted by this measure are well known in most foreign countries especially in Europe. Furthermore, the bill is supported by Artists Equity, the American Council for the Arts, the Graphics Artists Guild, the New York Volunteer Lawyers for the Arts, the Visual Artists and Galleries Association, and the Boston Visual Artists Union. It is my hope that this legislation will not only rectify some of the problems facing artists in the United States, but also provide a more accurate reflection of their invaluable contribution to our society.

SOCIAL SECURITY NOTCH

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. HAMILTON. Mr. Speaker, hundreds of my constituents recently signed a petition urging the House to support H.R. 1917, a House bill to eliminate the Social Security notch between the benefit levels of workers reaching age 65 in or after 1982 and the corresponding benefit levels of persons who reached age 65 before 1982. I wanted to share their concerns with you and my colleagues, and urge serious and careful consideration of efforts to alleviate the notch problem.

As you know, the Social Security notch results from a law enacted in 1977 that was signed to correct a flaw in the benefit formula that threatened to bankrupt the entire Social Security System. When Congress decided in 1972 to index Social Security benefit increases to the cost-of-living, a technical mistake was made that led to new retirees receiving benefits that reflected the same period of inflation twice. This double-benefit increase meant that overall benefit levels increased far more than anyone had ever anticipated, and much more than the Social Security System could afford. It also meant that, if left unchecked, many future retirees would receive benefits higher than the wages they earned while working.

Congress could not ignore the financial crisis created by this mistake. In 1977, a bill was passed to correct the double-benefit increase that was threatening the system. The resulting formula affects all people born after 1916. Under the new formula the average worker's benefit replaces about 42 percent of his or her preretirement lifetime earnings. This is a higher rate of return than the 35 to 38 percent received under the formula used from the beginning of the system through the early 1970's.

To ease the transition from the old to the new formula, the amendments included special computation provisions for people nearing age 62 when the new system was implemented—those born in 1917–21. Their benefits are figured under the new law and under the transitional provisions. They are paid the higher of these two benefits. Benefits for many of these people are somewhat greater than they would have been under the new formula without these special rules but not as large as they would have been under the old law. Benefits for people born in 1922 and later are computed just under the new benefit formula. Congress chose not to scale back the unusually high benefits provided to those born in the years 1912 through 1916, since these persons had already become eligible.

In general, bills that have so far been introduced to address the notch would partially or fully extend the flawed 1972 benefit formula to beneficiaries who come under the transitional or new rules. Any approach along these lines could be very costly.

I believe any legislative solution to alleviate the notch must be fair both to present and future retirees. It should ensure a more equitable treatment of those who, because of their birthdate, receive less in Social Security benefits than someone with an identical work history. At the same time, a solution cannot undermine the long-term financial stability of the Social Security System.

The notch has become a major source of controversy, confusion, and misinformation in the Congress, the media, and the public. The debate has become very emotional. To clear the air, the General Accounting Office has been asked to conduct a thorough study of the entire notch issue, including an analysis of its causes, a detailed review of its actual effect on beneficiaries, and an examination of the financial implications of lessening or eliminating the notch.

I want to urge my colleagues to follow closely the work of the General Accounting Office, and to support reasonable solution to lessen the effect of the notch.

INTRODUCTION OF THE EL MALPAIS NATIONAL MONUMENT, MASAU TRAIL AND GRANTS NATIONAL CONSERVATION AREA ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 16, 1986

Mr. RICHARDSON. Mr. Speaker, I want to take this opportunity to share with my colleagues my introduction today of the El Malpais National Monument, Masau Trail and Grants National Conservation Area Act. This comprehensive and energetic proposal expands on the House-passed El Malpais National Monument bill, H.R. 3684. It is a pro-

posal designed to protect a sensitive and unique environmental area in western New Mexico and stimulate tourism-related development. My New Mexico colleagues on the Senate side, Senator PETE DOMENICI and Senator JEFF BINGAMAN, are introducing a companion bill today.

The El Malpais bill represents a compromise—balancing community needs and national interests. The bill will establish a national monument run by the National Park Service, a grants national conservation area run by the Bureau of Land Management, and the establishment of the Masau Trail. The Masau Trail will highlight an auto-touring route linking prehistoric and historic cultural sites in western New Mexico. The bill also provides wilderness protection for sensitive lands and archaeological resources, recognizes the unique land uses in the area and authorized the establishment of a visitors and multipurpose center.

Mr. Speaker, the El Malpais lava flow is truly deserving of national protection. Some of the most outstanding examples of volcanic landscapes in the world will receive permanent protection and the legislation will stimulate tourism-related development in an area of New Mexico that has been suffering the adverse effects of the decline of our domestic mining industries. The El Malpais bill is extremely important to the people of the Third Congressional District of New Mexico, has a broad base of support from a coalition of local citizens, local and State governments, national environmental organizations and myself and New Mexico's Senators.

I am delighted that Senators DOMENICI, BINGAMAN, and myself have been able to come up with a good, solid plan providing the necessary elements to promote tourism, economic development, and recovery in the region and provide national protection for sensitive lands in the El Malpais area. I hope that my colleagues will take the opportunity to review the legislation and support this energetic proposal. Thank you.